CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER

VOLUME: 39

ISSUES: 85-95
pages 15087-17422

DATE May 1-15, 1974
Reel 8 of 20

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Xerox University Microfilms, Ann Arbor, Michigan

MICROFILMED – 1975

VOL 39

federal register

index



May 1974

Volume 39–Numbers 85–106

Pages 15087–19435

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The FEDERAL REGISTER INDEX is published monthly and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are also carried.

A numerical finding aid keyed to the Code of Federal Regulations (List of CFR Sections Affected), is published monthly and is cumulated each month, coordinated with the revision dates of the Code Volumes.

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LIST OF SECTIONS AFFECTED

WHAT IT IS

The List of Sections Affected is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. It should be shelved with current Code volumes. Entries indicate the nature of the changes. Certain terms used are defined in the glossary below. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The Code of Federal Regulations may be brought up to immediate date by the following steps:

1. Consult this List of Sections Affected for any changes, deletions, or additions published after the revision date of the volume you are using.
2. Check the "Cumulative List of Parts Affected" appearing at the end of the latest issue of the Federal Register for changes published after the last date covered by this issue of the List of Sections Affected.
3. If the latest edition of the Code of Federal Regulations is not yet available, use the previous year's edition and consult the 1973 Annual List of Sections Affected before beginning with step 1 above.

For an explanation of the structure and numbering of the Code, see 1 CFR Part 21.

GLOSSARY

Amended—A typographical unit of the CFR was partially set forth.
Recodified—Major portions of CFR were restructured or rearranged, or both.
Redesignated—A typographical unit or larger was renumbered and transferred from one place to another place in the CFR with no change in text.
Removed—A typographical unit was removed from the CFR.
Revised—A typographical unit of the CFR was set forth in full.
Superseded—An existing CFR unit was replaced by regulations appearing under another CFR unit.
Suspended—The entire CFR unit was not in effect for the period of time indicated.
Suspended in part—A portion of the CFR unit was not in effect for the period of time indicated.
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Inquiries concerning this and other publications of the office and suggestions for improvements will be welcomed by the Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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243.3 Revised 16881
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290.50 (a) and (c)(1)(vi) and (1a)(v) revised; (c)(1)(x) and (1a)(ix) and (d) removed 9173
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20 Removed 12091
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2.121 (n) amended 18771
3.96 Added 13774
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36.4326 Revised 20832
36.4326 *Revised 7785
36.4402 *(f) added 7785
36.4502 Revised 33772
36.4503 (a) revised 18373, 20616, 23519, 33772
36.4503 *(a) revised 3258, 14505, 17441
36.4509 (b) revised 33772
36.4511 (a) revised 33772
36.4512 *(b) revised 7785
36.4600 *(c)(3) revised 7785

Proposed Rules:

1 22904, 28959, 34746, 35023
1* 15, 18667
2* 5211
3 21188, 21946, 22561, 22650, 22986, 29610, 34129
3* 2775, 4673, 9559, 11202, 11442, 12898, 12899
13* 18667
17 22904, 26393, 31846
17* 3292, 5211, 10918, 18667
21 19417, 23541, 26944, 27228, 28844, 32519, 33104
21* 1644

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service

111 Removed 17841
113.3 (a) revised 21496
121 Revised 19030
122.4 *(c)(4) revised 5488
124.3 (c)(1)(xiv) added 21496
124.6 (b) removed; (c) and (d) redesignated as (b) and (c) 19123
125.6 *(e) amended; (f)(1) and (3), (g), (h), and (i) revised 14202
125.7 *(d)(1) and (3) amended; (d)(2) revised 14203
126.1 (f)(1)(ii) revised 18373
(e)(2) and (4) revised 18655
126.1 *(f)(1)(ii) revised 7579
126.2 Revised 18655
131.1 *Revised 14203
132.1 *(b)(2)(iii) revised 7580
*(a)(1) and (2), (b)(1), (2), (3), and (4), (c), (d), and (e) revised 14203
*(a)(1) table and (b)(1)(ii)(a) corrected 15272
132.4 *(g)(3)(v) revised; (g)(3)(vi) and (vii) added; (h)(2) removed; (h)(3) through (7) redesignated as (h)(2) through (6) 8617
*(g)(3)(v), (vi), and (vii) effective date postponed 17949
133.1 *Revised 14204
133.2 *(a) and (b) revised 14204
134.1 *Revised 14204
135.1 *Revised 14205
*(d) table corrected 15272
136.1 *Revised 14207
*(b) table corrected 15272
141.2 (b) amended; (c)(1) and (2), (d)(1), and (e)(1) revised: (e)(2) redesignated as (e)(4) and amended; (f) redesignated as (g) and revised; (g) redesignated as (h); new (e)(2) and (3) and (f) added 22384
142.1 (a) revised 22384
143.2 (f)(1) and (2) and (g) revised 20076
144 Revised 19033
144.3 (d)(4)(i) amended 22385
144.4 *(i) revised 7580
144.6 (b) redesignated as (c); new (b) added 22385
145.1 (b) added 18548
148 Removed 17841
154.1 (d)(4) and (5) added 20076
154.2 (a)(2) revised 22385
156.5 (a)(5) amended 18877, 33082
(a)(6) added 19041

Note: Asterisk (*) identifies changes published in 1974.

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159.7 *(b)(2)(iii), (3), and (9)(ii) revised; (e) and (f) removed 7580
162.1 (c)(4) amended 21496
164 Revised 19041
164.1 (b)(2) corrected 19911
164.1 *Revised 10132
164.2 *Revised 10133
*Corrected 10566
164.3 *Revised 10134
164.4 Revised 10134
164.5 *Revised 10134
171.2 (b)(2)(iv) added 18878
Table No. 1 revised 18878
211 Provisions transferred to Part 221; new Part 211 added 20402
212 Removed (provisions transferred to Part 222) 20402
213 Removed (provisions transferred to Part 223) 20402
221 Added (provisions derived from Part 211) 20403
221.6 (d) revised 31007
222 Provisions transferred to Part 224; revised (provisions derived from Part 212) 20404
223 Provisions transferred to Part 225; revised (provisions derived from Part 213) 20406
224 Provisions transferred to Part 226; revised (provisions derived from Part 222) 20406
225 Added (provisions derived from Part 223) 20410
226 Added (provisions derived from Part 224) 20414
Authority citation corrected 21265
226.4 Corrected 21265
232.4 (g) revised 19911
232.5 (b) revised 19124
232.6 (h)(2) and (3) revised 27824
235 Revised 20415, 26193
243.2 *(g)(6) added (provisions derived from 743.5) 1989
244.1 Removed; redesignated from 244.2 20327
244.2 Redesignated as 244.1 20327
256 Removed 17841
447 *Redesignated from 742 and revised 1990
447.22 *Introductory text of (b) corrected; (b)(6) and (7) added 3677
447.23 *(b) corrected 3677
447.25 *(f) note corrected 3677
447.81 *(c) corrected 4081
742 *Redesignated as Part 447 1990
743 *Removed 1989
743.5 *Redesignated as 243.2 (g)(6) 1989
747 Removed 17841
952.17 (a) amended 20263
953.11 Amended 20263
954.14 (a) amended 20263
958.7 Amended 20263

Chapter III—Postal Rate Commission

3000.735–501 Revised 24899
3000.735–502 Amended 24899
3001.7 (a) revised 24899
3001.10 (c) revised 19045
3002.2 *(e) revised 11523
3002.12 *Added 2481

Proposed Rules:

123* 9203, 13563, 13788
132 27304
152 17512
152* 3968
310 17512
310* 3968
320 17512
320* 3968
777* 10449

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

2.107a Revised 22473
4 *Revised 10362
5 Revised 32806
7 Added 17968
8 *Added 3258
14 *Added 9664
15 Added 35311
35.400—35.560–2 (Subpart B) *Interim regulations 7785
*Effective date corrected 9439
35.505 *(c) corrected 9439
35.850—35.895 (Subpart D) Added 26882
35.850—35.895 (Subpart D) *Revised 3678
35.900—35.960 (Subpart E) *Revised 5253
35.910–1 *Revised 1847
35.910–2 *Revised 1847

Note: Asterisk (*) identifies changes published in 1974.

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	Page
35.910–3 *Added	1847
(b) table corrected	15760
*(c) table corrected	15761
35.910–4 *Added	1847
*(b) table and (c) corrected	15761
35.917–7 *Corrected	15761
35.935–12 *Heading correctly added	15761
35.935–13 *(b)(1) corrected	15761
35.938–5 *(g) corrected	15761
35.1050—35.1080 (Subpart F) *Added	17202
35 Appendix A added	24639
35 *Appendix A revised	5269
*Appendix B added	5270
50.5 Revised	25681
51.5 *(a)(1) note added	16122
51.7 Revised	20834
51.12 *(e)(2), (f), and (g) revised	16344
51.14 *(c)(2) revised; (c)(3) removed	16122
51.16 (c) removed; (f) amended	20835
51.33 Added	22026
(a)(2) and (6), (b)(2)(iv), (c)(1), (4), and (5), (d)(2), and (u)(2) revised	27286
52.01 *(f) removed	7276
52.09 (c) added	30877
52.22 *Revised	7276
52.23 Added	30633
52.50 *(c) revised	7279
*(c)(2) amended	14338
52.53 *Revised	7279
52.54 *Table amended	16345
52.56 *Added	7279
52.70 (c) revised	22738
52.74 *(b) added	7279
52.78 *Added	7279
52.81 Table amended	32659
52.82 (b) added	32659
52.83 Removed	32659
52.84 (b) revised; (c) and (d) added	22738
(b)(9) revised	24342
52.85 Added	32659
52.86 Added	32659
52.86 *(c), (d), and (h) amended	1849
52.87 Added	32660
52.88 Added	32660
52.89 Added	32661
52.90 Added	32661
52.91 Added	32662
52.92 Added	32662
52.93 Added	32662
52.120 (c) revised	33373
52.121 *Table amended	16346
52.122 (d) added	33373
52.122 *(e) added	10583
52.123 Revised	33373
52.125 *(c) revised	10584
52.127 *Removed	16346
52.129 *(e) and (f) added	7279
52.131 Table amended	33373
52.131 *Amended	10584
*Table amended	16346
52.132 Removed; new 52.132 added	33373
52.134 *(a)(2) amended; (b) added	10584
52.136 Revised	33374
52.137 Added	33374
52.138 Added	33375
52.139 Added	33375
52.139 *(c), (d), (h), and (k) amended	1849
52.140 Added	33376
52.171 *Table amended	16346
52.176 *Table amended	16346
52.177 *Added	7280
52.221 *Table amended	16346
52.222 (b) and (c) added	31244
52.233 *(h) and (i) added	7280
52.237 Removed	31245
52.238 Amended	31245
52.239 Removed	31245
52.240 (d)(1)(i)(f) revised	33973
52.241 Added	31245
52.242 Added	31245
52.243 Added	31245
52.244 Added	31246
52.245 Added	31246
52.246 Added	31246
52.247 Added	31246
52.248 Added	31247
52.248 *Removed	1849
52.249 Added	31247
52.249 *Removed	1849
52.250 Added	31247
52.250 *Removed	1849
52.251 Added	31248
52.251 *Revised	1025
*(c), (d), (g), and (j) amended	1849
52.252 Added	31248
52.253 Added	31248
52.254 Added	31249
52.255 Added	31251

Note: Asterisk (*) identifies changes published in 1974.

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52.255 *(d)(2), (e)(1), and (f)(1) and (3) amended	4881
*(c)(3)(iii) revised	16888
52.256 Added	31251
52.256 *(g) (1) and (2) and (h)(1) and (3) amended	4881
52.257 Added	31252
52.258 Added	31252
52.259 Added	31253
52.260 Added	31253
52.261 Added	31253
(d) amended	35467
52.262 Added	31254
52.263 Added	31254
52.264 Added	31254
52.265 Added	31254
52.266 Added	31255
52.320 (c) revised	30820
52.321 *Table amended	16346
52.322 (b) added	30820
52.325 Table amended	30820
52.325 *Table amended	16346
52.326 (a) revised	30820
52.327 (b) added	22739
(b)(5) revised	24342
(38 FR 16564) redesignated as 52.328	30821
52.328 Redesignated from 52.327 (38 FR 16564) and revised	30821
52.329 Added	20754, 30821
52.330 Added	20755, 30821
52.331 Added	20755, 30821
52.332 Added	20755, 30821
52.333 Added	20756, 30821
52.334 Added	20756, 30822
52.335 Added	20756, 30823
52.336 Added	20757, 30823
52.336 *(e) (1), (2) and (3) and (f) (1) and (3) amended	4881
52.337 Added	20757, 30824
52.337 *(g) (1) and (2) and (h)(1) and (3) amended	4881
52.338 Added	20757, 30824
52.339 Added	30824
52.340 *Added	7280
52.370 *(c) revised	7280
52.371 *Table amended	16346
52.373 *Revised	7280
52.374 *Table amended	16346
52.375 *Added	7280
*Table amended	13651
52.421 *Table amended	16346
52.422 *Revised	7280
52.426 *Added	7280
52.428 *Table amended	16346
52.470 (d) added	29296
(c)(2) and (3) revised	33709
52.471 *Table amended	16346
52.472 Revised	33709
52.474 Revised	33709
52.476 (b) added	22740
(b)(5) revised	24342
(c) through (h) added	33709
52.476 *(d)(3) removed	1849
52.478 *Added	7280
52.479 (b) and (c) added	33710
52.481 Table amended	33711
52.481 *Table amended	16346
52.482 Revised	33711
52.483 Revised	33711
52.484 Removed	33711
52.485 Removed	33711
52.486 Added	33711
52.487 Added	33711
52.487 *(e) (1) and (2) and (f)(1) and (3) amended	4881
52.488 Added	33712
52.488 *(g) (1) and (2) and (h)(1) and (3) amended	4881
52.489 Added	33713
52.490 Added	33713
52.491 Added	33713
52.492 Added	33714
52.493 Added	31536
52.493 *(c) and (d) amended	1849
52.494 Added	33715
52.495 Added	33715
52.496 Added	33716
52.520 (c) revised	22740
52.520 *(c) revised	7280
52.521 *Table amended	16346
52.523 *Table amended	16346
52.524 (b) added	22740
(c) added	24333
(b)(6) revised	24342
(c) tables revised	26325
52.571 *Table amended	16346
52.572 *Revised	7280
52.574 *Added	7280
52.575 *Table amended	16346
52.620 (c)(2) revised	30877
52.623 *Amended	7280
52.626 *Added	16348
52.629 *Added	7280
52.670 (c) revised	22741, 29296
52.670 *(c) revised	7280
52.677 Revised	22741
(d)(5) revised	24342
52.679 *Added	7280
52.720 (c) revised	29296

Note: Asterisk (*) identifies changes published in 1974.

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		Page
52.721	*Table amended	16346
52.723	Removed	29297
52.726	(a) revised	17726
52.727	Table amended	33561
	Table corrected	29297
52.727	*Table amended	16346
52.728	Removed	33561
52.730	(b) added	22742
	(b)(3) revised	24342
52.731	Added	33561
52.732	Added	33562
52.733	Added	33562
52.734	Added	33562
52.736	*Added	7281
52.770	*(c)(3) added	4663
	*(c) revised	12348
52.771	*Table amended	16346
52.772	*(b) revised	12348
52.780	*(a) and (d) (1) and (2) revised; (b), (c), and (d)(9) removed	4663
	*(e) and (f) added	7281
52.783	*Table amended	16346
52.786	*Revised	12348
52.787	*Added	12349
52.791	*Added	4663
52.821	*Table amended	16346
52.824	*(b) added	7281
52.827	*Table amended	16346
52.828	Added	30877
52.829	Added	30877
52.830	*Added	7281
52.870	(c) revised; (d) added	30877
52.873	Tables amended	17682
52.874	*(c) added	7281
52.875	Removed	30877
52.876	(b)(1) amended	30877
52.877	Removed	30878
52.878	Removed	30878
52.878	*Added	7281
52.880	Removed	17682
52.881	Removed	17682
52.920	*(c) revised	7281
52.921	*Table amended	16346
52.926	*Table amended	16346
52.928	*Added	7281
52.970	(c) revised	17682, 18652
52.973	Removed	17682
52.976	Removed	18652
52.976	*(c) and (d) added	7281
52.979	Table amended	17682
52.980	Removed	17682
52.1020	(d) added	22474
52.1020	*(c) revised	7281
52.1022	*Revised	7281
52.1023	Added	22474
52.1025	Added	22474
52.1026	*Added	7281
52.1070	(c) revised	33716
52.1071	*Table amended	16346
52.1072	(b) revised	33716, 34247
52.1073	Revised	33716
	(d) and (e) added	34247
52.1074	Revised	33716
	(a) and (b) revised	34248
52.1075	*Removed	16346
52.1076	*Added	7281
52.1077	(b) amended; (c) added	33716
	(c)(2) and (3) amended	34248
52.1078	Table amended	33717, 34248
52.1078	*Table amended	16346
52.1079	Removed	33717
52.1080	(b) added	22743
	(b)(5) revised	24342
	(c) through (h) added	33717
	(38 FR 16566) Correctly designated as 52.1081	33718
	(i), (j), and (k) added	34248
52.1080	*(d)(3) removed	1849
52.1081	Correctly designated from 52.1080 (38 FR 16566) and revised	33718
	(c) and (d) added	34248
52.1082	Added	33718
	(b) added	34249
52.1084	Revised	33718
52.1085	Added	33718
52.1086	Added	33719
52.1086	*(a) (1) and (2) and (f) (1) and (3) amended	4881
52.1087	Added	33719
52.1087	*(g) (1) and (2) and (h) (1) and (3) amended	4881
52.1088	Added	33720
52.1089	Added	33720
52.1090	Added	33721
52.1091	Added	33721
52.1092	Added	33722
52.1093	Added	33722
52.1094	Added	33723
52.1095	Added	34249
52.1096	Added	34249
52.1097	Added	34250
52.1098	Added	34250
52.1099	Added	34251
52.1100	Added	34251
52.1101	Added	34252

Note: Asterisk (*) identifies changes published in 1974.

		Page
52.1101	*(e) (1) and (2), (f) (1) and (3), and (g) (1) and (2) amended	4881
52.1102	Added	34253
52.1102	*(h) (1) and (3) amended	4881
52.1103	Added	31537
52.1103	*(c) and (d) amended	1849
52.1104	Added	34253
52.1105	Added	34253
52.1106	Added	34254
52.1107	Added	34255
52.1108	Added	34255
52.1109	Added	34256
52.1110	Added	34256
52.1111	Added	34256
52.1111	*(c), (d), and (j) amended	1849
52.1112	Added	34257
52.1121	*Table amended	16346
52.1122	(b) added	30963
52.1124	*Added	7281
	*Removed	16346
52.1125	(a) revised; (b) table amended	20835
	(a) and (b) tables amended	21919
	(b) table amended	32808, 34116
52.1125	*(b) table amended	3823, 15272, 17442, 17443, 17840
	*(a) and (b) tables amended	14339
52.1127	Table amended	30964
52.1127	*Table amended	16346
52.1128	Revised	30964
52.1129	Added	18879
	(38 FR 18879) redesignated as 52.1133	30878
52.1130	Added	18879
	(b) added	18880
52.1131	Added	18879
	(b) added	18880
52.1132	Added	18880
52.1133	Redesignated from 52.1129 (38 FR 18879)	30878, 30964
52.1134	Added	30964
52.1135	Added	30964
52.1135	*(d) amended	1849
52.1136	Added	30966
52.1136	*(b), (c), and (d) removed; (e), (f), and (g) redesignated as (b), (c), and (d)	1849
52.1137	Added	30966
52.1137	*Removed	1849
52.1138	Added	30966
52.1139	Added	30967
52.1140	Added	30967
52.1141	Added	30968
52.1142	Added	30968
52.1143	Added	30968
52.1144	Added	30969
52.1145	Added	30969
52.1146	Added	30969
52.1147	Added	30970
52.1147	*(a) (1), (2), and (3) and (c)(3) revised; (b) (1) and (2), (c)(1), and (d) (1) and (3) amended; (c)(4) added	4881
52.1148	Added	30830
52.1149	Added	30830
52.1150	Added	30830
52.1150	*Removed	1849
52.1151	Added	30830
52.1152	Added	30831
52.1153	Added	30831
52.1154	Added	30831
52.1155	Added	30831
52.1160	Added	30971
52.1171	*Table amended	16346
52.1174	*Removed	16346
52.1175	(d) added	22743
	(d)(3) revised	24342
52.1175	*(d)(3)(i) revised	9177
52.1176	*(c) and (d) added	7282
52.1177	*Table amended	16346
52.1220	(c) revised	30833
52.1221	*Table amended	16346
52.1225	*Added	7282
52.1226	*Table amended	16347
52.1227	(a)(1) revised; (a)(2) and (3) removed	30833
52.1228	Removed	30833
52.1271	*Table amended	16347
52.1272	*Revised	7282
52.1273	*Table amended	16347
52.1275	*Added	7282
52.1276	*Added	7282
52.1320	(c) revised	30878
52.1321	*Table amended	16347
52.1325	*(c) added	7282
52.1326	*Removed	16347
52.1328	*Added	7282
52.1332	Table amended	17682
52.1332	*Table amended	16347
52.1333	Removed	17682
52.1334	Removed	17682
52.1374	*Added	7282
52.1421	*Table amended	16347
52.1428	*(f) and (g) added	7282
52.1431	*Table amended	16347

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		Page
52.1433	*Removed	16347
52.1471	*Table amended	16347
52.1478	*(c) and (d) added	7282
52.1482	*(b) and (c) added	14209
52.1520—52.1525	(Subpart EE) *See FR Doc. 74-7887	12350
52.1520	*(c) revised	7282
52.1524	(d) added	22744
52.1525	*Added	7282
52.1570	*(c)(4) added	1439
52.1571	*Table revised	16347
52.1572	(b) added	31392
52.1576	*Amended	16347
52.1578	*Added	7282
52.1580	Revised	31392
52.1580	*Table amended	16347
52.1581	Removed	31393
52.1583	Added	31393
52.1583	*(c) and (f) amended	12101
52.1584	Added	31393
52.1584	*(c) and (g) amended	12101
52.1585	Added	31394
52.1585	*(c) and (f) revised	12101
52.1586	Added	31394
52.1587	Added	31394
52.1587	*(b), (c), (d), and (e)(2) amended	12101
52.1588	Added	31395
52.1588	*(c), (d), and (g) amended	1849
52.1589	Added	31395
52.1589	*(d) and (i) amended	12101
52.1590	Added	31396
52.1590	*Removed	1849
52.1591	Added	31397
52.1591	*(c) and (d) amended	12101
52.1592	Added	31397
52.1593	Added	31397
52.1593	*(c) amended	12101
52.1594	Added	31397
52.1595	Added	31398
52.1596	Added	31398
52.1597	Added	31399
52.1597	*(b)(1), (2), and (3) and (c)(1) and (3) revised	12101
	*(b)(1), (2), and (3) and (c)(1) and (3) amended	12865
52.1598	Added	31399
52.1598	*(e)(1) and (2) and (f)(1) and (3) amended	4881
52.1599	Added	31400
52.1599	*(f) (1) and (2) amended	4881
	*(g)(1) and (3) amended	4882
	*(b) and (d) revised; (e) through (i) redesignated as (f) through (j); new (e) added	12102
52.1600	Added	31400
52.1600	*(c)(1) and (3) amended	12102
52.1601	*Added	1439
52.1621	*Table amended	16347
52.1624	(c)(1) revised	29296
52.1624	*(c) revised	10584
52.1626	*(c)(3) amended	10585
52.1628	*Added	7282
52.1630	*Amended	10585
52.1631	*(a) revised	10585
52.1670	*(c)(3) added	1441, 9666
	*(c)(2) revised	7283
52.1671	*Table amended	16347
52.1675	*(f) revised	1441, 9666
52.1676	*Amended	16347
52.1677	(d) added	22744
	(d)(12) revised	24342
52.1680	*Added	7283
52.1682	*Table amended	16347
52.1770	*(c) revised	7283
52.1775	*Added	7283
52.1822	*Revised	7283
52.1824	*Added	7283
52.1870	(c) revised	30974
52.1870	*(c)(4) added	13542
52.1871	*Table amended	16347
52.1873	*Revised	7283, 13542
52.1875	Footnote f removed	30974
52.1875	*Table amended	16347
52.1876	Removed	30974
52.1877	(a) revised; (b) and (c) removed	30974
52.1877	*Amended	13542
52.1878	Added	30974
52.1879	*Added	7283
	*(c) and (d) added	13542
52.1880	*Added	13542
52.1881	*Added	13542
52.1922	*Revised	7283
52.1924	*Added	7283
52.1970	(c) revised	22746, 30827
52.1970	*(c) revised	7283
52.1973	Table amended	30827
52.1973	*Table amended	16347
52.1974	Revised	30827
52.1975	(b) and (c) added	22746
	(c)(11) revised	24342
52.1976	Removed	30827
52.1977	Removed	30827

Note: Asterisk (*) identifies changes published in 1974.

		Page
52.1978	Removed	30827
52.1981	Added	30827
52.1982	*Added	7283
52.2021	*Table amended	16347
52.2022	(b) added	32893
52.2023	Revised	32893
52.2027	*Removed	16347
52.2034	Table amended	32893
52.2034	*Table amended	16347
52.2036	Revised	32893
52.2036	*(38 FR 16568, 32893) Correctly designated as 52.-2037	2483
	*(a) table amended	12102, 16123
52.2037	*Correctly designated from 52.2036 (38 FR 16568, 32893)	2483
52.2038	Added	32893
52.2039	Added	32894
52.2040	Added	32894
52.2040	*(c), (d), and (h) amended	1849
52.2041	Added	32895
52.2042	Added	32896
52.2042	*(e)(1) and (2) and (f)(1) and (3) amended	4882
	*(c)(2) and (3)(ii) revised	13543
52.2043	Added	32897
52.2044	Added	32897
52.2045	Added	32897
52.2046	Added	32898
52.2047	Added	32898
52.2048	Added	32899
52.2049	Added	32900
52.2050	Added	32900
52.2051	Added	32901
52.2052	Added	32901
52.2053	Added	32902
52.2055	*Added	7283
52.2070—52.2076	(Subpart 00) Effective date revised	32257
52.2070	(d) revised	29297
52.2071	Table amended	34325
52.2071	*Table amended	16347
52.2074	*(c) added	7283
	*Correctly removed	12350
52.2076	*Table amended	16347
52.2077	Added	18879
	(b) added	18880
	(b) table amended; (c) and (d) added	22747
	(38 FR 18879) redesignated as 52.2080	30878
	(b) (38 FR 18880) redesignated as 52.2080 (b)	30878
52.2077	*(c) table amended	3824
52.2078	Added	18879
	(b) added	18880
52.2079	Added	18879
	(b) added	18880
52.2080	Redesignated from 52.-2077 (38 FR 18879)	30878
	(b) redesignated from 52.2077 (b) (38 FR 18880)	30878
52.2081	*Added	7283
52.2120	*(c) revised	4082
52.2123	(b) table amended; (c) added	22747
	(c)(14) revised	24342
52.2123	*(a) and (c) removed	4082
52.2124	*(d) added	7284
52.2125	*Added	7284
52.2175	*Added	7284
52.2220	(c)(4) added	22748
52.2220	*(c) revised	9668
52.2221	*Table amended	16347
52.2223	(a) and (e) added	22748
	(a)(1) and (2) revised; (a)(4), (5), and (6) redesignated as (a)(5), (6), and (7); new (a)(4) added	24341
	(a)(5) and (e)(16) revised	24342
52.2224	*(b) added	7284
52.2228	*Added	7284
52.2230	*Table amended	16347
52.2271	*Table amended	16347
52.2272	Added	30642
52.2275	Added	30642
52.2276	*Removed	16347
52.2278	Removed	30642
52.2279	Table amended	30642
52.2279	*Table amended	16347
52.2280	Removed	30642
52.2283	Added	30643
52.2284	Added	30643
52.2285	Added	30643
52.2285	*(f) (1) and (3) amended	4882
52.2286	Added	30644
52.2286	*(e) (1), (2), and (3) and (f) (1) and (3) amended	4882
52.2287	Added	30645
52.2288	Added	30645
52.2288	*(c)(2) and (d) revised; (g) (1), (2), and (3), (h)(3), (i) (1) and (3), and (k) amended: (e) through (k) redesignated as (f) through (l); new (e) added	4882
52.2289	Added	30646

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		Page
52.2289	*(g) (1) and (3) and (i) amended	4882
	*(d) revised; (e) through (i) redesignated as (f) through (j); new (e) added	4883
52.2290	Added	30647
52.2291	Added	30647
52.2292	Added	30647
52.2293	Added	30647
52.2294	Added	30647
52.2295	Added	30648
52.2295	*(c), (d), and (l) amended	1849
52.2296	Added	30649
52.2297	Added	30650
52.2297	*(b) revised; (f) amended	4884
52.2298	Added	30650
52.2299	*Added	7284
52.2320	(c) revised	32666
52.2321	*Table amended	16347
52.2322	(e) added	32666
52.2328	*Added	7284
52.2331	Table amended	32666
52.2331	*Table amended	16347
52.2332	Removed	32666
52.2337	Added	32666
52.2338	Added	32667
52.2339	Added	32667
52.2340	Added	32667
52.2341	Added	32668
52.2342	Added	32668
52.2343	Added	32668
52.2370	*(c) revised	7284
52.2376	Added	20836
52.2377	*Added	7284
52.2420	(c) revised	33723
52.2420	*(c)(2) revised	7284
52.2421	*Table amended	16347
52.2422	Existing text designated as (a); (b) added	33723
52.2423	Revised	33724
52.2424	(b) corrected	33724
52.2426	*Removed	16347
52.2427	(c) amended; (d) added	33724
52.2429	Table amended	33724
52.2429	*Table amended	16347
52.2430	Revised	33724
52.2431	Revised	33724
52.2432	Removed	33724
52.2434	Removed	33724
52.2435	Added	33724
52.2435	*(b)(3) removed	1849
52.2436	Added	33725
52.2437	Added	33725
52.2438	Added	33726
52.2438	*(e)(1) and (2) and (f)(1) and (3) amended	4882
	(38 FR 33726) *Redesignated as 52.2439	4882
52.2439	*Redesignated from 52.2438 (38 FR 33726) and (g)(1) and (2) and (h)(1) and (3) amended	4882
52.2440	Added	33727
52.2441	Added	33727
52.2442	Added	33728
52.2443	Added	31538
52.2443	*(c) and (d) amended	1849
52.2444	Added	33729
52.2445	Added	33729
52.2446	Added	33729
52.2447	Added	33730
52.2448	*Added	7284
52.2460	(c) revised	22750
	(38 FR 22750) Correctly designated as 52.2470	32674
52.2470	Correctly designated from 52.2460 (38 FR 22750) and (c) revised	32674
52.2470	*(c) revised	7284
52.2471	*Table amended	16347
52.2472	Added	32674
52.2473	Revised	32674
52.2475	Added	32674
52.2477	Revised	32674
52.2478	Table amended	32675
52.2478	*Table amended	16347
52.2479	Removed	32675
52.2481	(a) and (b) revised; (c) removed; (d) added	22751
	(d)(3) revised	24342
	(38 FR 16569) Correctly designated as 52.2484	32675
52.2484	Correctly designated from 52.2481 (38 FR 16569) and heading amended and text revised	32675
52.2485	Added	32675
52.2486	Added	32675
52.2486	*(c), (d), and (h) amended	1849
52.2488	Added	32677
52.2488	*Removed	1849
52.2489	Added	32677
52.2490	Added	32677
52.2491	Added	32678
52.2492	Added	32678

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		Page
52.2493	Added	32679
52.2494	Added	32679
52.2495	*Added	7284
52.2524	(b) added	22751
	(b)(9)(i), (ii), and (iii) revised	24342
52.2525	*Added	7284
52.2570	(c)(2) amended	30878
52.2571	*Table amended	16348
52.2577	*Table amended	16348
52.2578	(a) redesignated as (b); (c) added	22752
52.2579	*Added	7285
52.2620	(c) revised; (d) added	29297
52.2625	*(c) and (d) added	7285
52.2627	Removed	29297
52.2670	*(c) added	7285
52.2722	*Revised	7285
52.2724	*Added	7285
52.2758	(c)(3) revised	24342
52.2775	*(c) and (d) added	7285
52.2822	*Correctly revised	8617
52.2824	*Correctly added	8617
60.2	(p), (q), and (r) added	28565
60.2	*(i) and (l) revised; (s) through (w) added	9313
60.3	*Revised	9313
60.4	*Revised	9313
60.6	*(b) revised	9314
60.7	(c) added	28565
60.7	*(d) added	9314
60.8	(c) revised	28565
60.8	*(b) and (f) revised; (d) amended	9314
60.11	Added	28565
60.12	*Added	9314
60.45	(g) added	28566
60.73	(e) added	28566
60.84	(e) added	28566
60.90—60.93 (Subpart I)	*Added	9314
60.100—60.106 (Subpart J)	*Added	9315
60.110—60.112 (Subpart K)	*Added	9317
60.111	*(e) corrected	13776
60.112	*Correctly designated from 61.112	13776
60.120—60.122 (Subpart L)	*Added	9317
60.121	*(c) corrected	13776
60.130—60.133 (Subpart M)	*Added	9318
60.140—60.144 (Subpart N)	*Added	9318
60.150—60.154 (Subpart O)	*Added	9319
60.154	*(c)(3)(i) and (ii) and (d) corrected	13776
	*(d) corrected	15396
60	*Appendix amended	9319
	*Appendix corrected	13776
61.02	*(c) revised	15398
61.21	*(g), (h), (i), and (j) added	15398
61.22	*(a) and (d)(1), (2)(i), and (4) revised; (g) added	15398
61.112	*Correctly designated as 60.112	13776
80.1	Amended	33741
80.1	*Effective date corrected	2267
80.2	(m) added	33741
80.2	*(m) effective date corrected	2267
80.20	Added	33741
80.20	*Effective date corrected	2267
80.22	*(c) revised; (h) added	16125
80.24	Revised	26450
80.25	Added	33741
80.25	*Effective date corrected	2267
80.26	Added	33741
80.26	*Effective date corrected	2267
85.002	(a)(5) revised	21363
85.002	*(a) (28), (29), and (30) added	7548
85.005	*(a) (1) and (3) and (b)(1) revised; (a)(4) added	7549
85.006	*(a) and (c) revised	7549
85.073–30	*(a) (1) and (2) revised; (b)(3) amended; (c) added	7552
85.074–2	*(b)(1) revised; (c) added	7551
85.074–3	*Revised	7551
85.074–4	(c) revised	32258
85.074–12	(c) revised	30080
85.074–13	*Introductory text amended; (b)(1) revised, (d) added	18076
85.074–14	*(b) revised	18076
85.074–15	*(j) revised	18076
85.074–19	(d), (e), and (f) redesignated (e), (f), and (g); new (d) added	30080
85.074–20	Corrected	19683
85.074–20	*(b)(1) and (2) revised	18076
85.074–22	(f) revised	30080
85.074–22	*(g) and (j) revised	18076

Note: Asterisk (*) identifies changes published in 1974.

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85.074–23 (a)(3) and (6)(vii) revised	30080
(a)(6)(vii) corrected	31428
85.074–23 *(a)(6) revised, Figure A74–8 added	18076
85.074–26 (c) amended	30080
85.074–29 *(b)(2) amended	7552
85.074–30 (b)(1)(ii) revised	30080
85.074–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7552
85.075–1 (a) revised	17441
85.075–2 *(b)(1) revised; (c) added	7550
85.075–3 *Revised	7550
85.075–4 (c) revised	32258
85.075–10 *(a) and (b) revised	2364
85.075–11 (a)(1) revised	30080
85.075–12 (c) revised	30080
85.075–13 *Introductory text amended; (b)(1) revised; (d) added	18077
85.075–14 *(b) revised	18077
85.075–15 *(a) and (j) revised	18078
85.075–19 (e) and (f) redesignated as (f) and (g)	30080
85.075–20 *(a), (b)(1) and (2), (c), and Figure A75–2 revised	18078
85.075–21 *(b)(2)(iii) revised	18079
85.075–22 (f) revised	30081
85.075–22 *(g), (j), and (n) revised	18079
85.075–23 (a)(2) and (6)(vii) revised	30081
85.075–23 *(a) revised; Figure A75–8 added	18079
85.075–24 (b)(14), (15), (16), and (17) revised	30081
85.075–26 (c) amended	30081
85.075–26 *(c) revised	18080
85.075–28 (c)(1)(i)(a) revised	30081
85.075–29 *(b)(2) amended	7550
85.075–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7551
*(b)(1)(iii) corrected	18080
85.075–38 (b) and (b)(3) removed	30081
85.076–1 Revised	22474
85.101—85.176–1 (Subpart B) Revised	21348
85.102 *(a)(21), (22), and (23) added	7553
85.105 *(a) (1) and (3) and (b) (1) revised; (a)(4) added	7553
85.106 *(a) and (c) revised	7553
85.175–2 *(b)(1) revised; (c) added	7555
85.175–3 *Revised	7555
85.175–4 (c) revised	32258
85.175–6 (a)(1)(i) revised	30081
85.175–12 *(b) revised	18080
85.175–13 *(a) and (j) revised	18080
85.175–18 *(a), (b)(1) and (2), (c), (d), and Figures B175–2 and B175–3 revised	18081
85.175–19 (f) revised	30081
85.175–19 *(g), (j), and (m) revised	18082
85.175–20 *(a) revised; Figure B175–8 added	18082
85.175–21 *(b)(15) revised; (b)(16) removed; (b)(17)–(21) redesignated as (b)(16)–(20)	18083
85.175–23 *(c) revised	18083
85.175–29 *(b)(2) amended	7555
85.175–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7555
85.201—85.276–1 (Subpart C) Added	21363
85.202 *(a) (26), (27), and (28) added	7556
85.205 *(a) (1) and (3) and (b) (1) revised; (a)(4) added	7556
85.206 *(a) and (c) revised	7556
85.275–2 *(b)(1) revised; (c) added	7558
85.275–3 *Revised	7558
85.275–4 (c) revised	32258
85.275–5 *(b)(2) amended	18084
85.275–10 *(a) and (b) revised	2364
85.275–11 (a)(1) revised	30081
85.275–12 (c) revised	30081
85.275–13 *Introductory text amended; (b)(1) revised; (d) added	18084
85.275–14 *(b) revised	18084
85.275–15 (d) table corrected	30439
85.275–15 *(a) and (j) revised	18084
85.275–19 (e) and (f) redesignated as (f) and (g)	30081
85.275–20 *(a), (b)(1) and (2), (c), and Figure C75–2 revised	18085
85.275–21 *(b)(2)(iii) revised	18086
85.275–22 (f) revised	30081
85.275–22 *(g), (j), and (n) revised	18086

Note: Asterisk (*) identifies changes published in 1974.

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85.275–23 (a)(2) and (6)(vii) revised	30082
(a)(6)(vii) corrected	31428
85.275–23 *(a) revised; Figure C75–8 added	18086
85.275–24 (b)(14), (15), (16), and (17) revised	30082
85.275–26 (c) amended	30082, 31428
85.275–26 *(c) revised	18087
85.275–28 (c)(1)(i)(a) revised	30082
85.275–29 *(b)(2) amended	7558
85.275–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7558
*(b)(1)(ii) amended	18087
85.275–38 (b) and (b)(3) removed	30082
85.702 *(a) (20), (21), and (22) added	7559
85.705 *(a) (1) and (3) and (b) (1) revised; (a)(4) added	7559
85.706 *(a) and (c) revised	7559
85.773–4 (c) revised	32258
85.773–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7561
85.774–2 *(b)(1) revised; (c) added	7560
85.774–3 *Revised	7560
85.774–4 (c) revised	32258
85.774–5 *(c)(2) removed	18087
85.774–9 (b) revised	30082
85.774–29 *(b)(2) amended	7561
85.774–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7561
85.775–10 *(a) and (b) revised	2364
85.802 *(a) (25), (26), and (27) added	7562
85.805 *(a) (1) and (3) and (b) (1) revised (a)(4) added	7562
85.806 *(a) and (c) revised	7562
85.873–4 (c) revised	32258
85.873–30 *(a) (1) and (3) revised; (b)(3) amended; (c) added	7565
85.874–2 *(b)(1) revised; (c) added	7564
85.874–3 *Revised	7564
85.874–4 (c) revised	32258
85.874–5 *(b)(2) and (c)(1) revised; (b)(3) added	18087
85.874–7 Heading amended; (e) added; (i) removed	30082
85.874–29 *(b)(2) amended	7564
85.874–30 (b)(1)(ii) redesignated as (b)(1)(i) and revised	30082
85.874–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7564
*(b)(1)(i) and (ii) revised	18088
vised	18088
85.902 (a)(23) revised	30082
85.902 *(a) (25), (26), and (27) added	7565
85.905 *(a) (1) and (3) and (b) (1) revised; (a)(4) added	7566
85.906 *(a) and (c) revised	7566
85.974–2 *(b)(1) revised; (c) added	7567
85.974–3 *Revised	7567
85.974–4 (c) revised	32258
85.974–16 (b)(6) [revised] redesignated as (c)(6)	30082
85.974–18 (c) revised	30082
(c) corrected	32138
85.974–28 (c)(1)(i)(a) and (b) revised	30082
85.974–29 *(b)(2) amended	7567
85.974–30 (b)(1)(i), (ii), and (iii) revised	30082
85.974–30 *(a) (1) and (2) revised; (b)(3) amended; (c) added	7567
*(b)(1)(i) and (ii) revised	18088
85 Appendix III amended	30083
*Appendix V and schematic removed	18088
87 Added	19090
87.11 *(a) revised	4884
87 64 (c)(1)(2)(c) revised	34734
87.66 (a)(6)(i) and (vi) revised	34734
87.70 (a)(2) and (3), (b)(4), and (d) table corrected; (e) (4)(iii) revised	34734
87.93 (d) corrected	34734
87.96 (a) corrected	34734
87.99 (e)(2)(ii) and (5)(i) revised	34734
87.101–87.102 (Subpart J) Added	35001
87 Appendix A corrected	34734, 34735
104 Removed	31174
104 *Added	1027
104.5 *Amended	8325
104.10 *(f) revised; (g) removed	8326
105 Added	22757

Note: Asterisk (*) identifies changes published in 1974.

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106 Removed	31174
107 Removed	31174
108 *Added	12866, 15398
112 Added	34165
113 Added	25440
120.10 Amended	26359
122 Removed	22893
124.1 (u) and (v) added; (h) removed; new (h), (i), and (j) added	18002, 19895
124.10—124.11 (Subpart B) Revised	18002
124.21 Added; Removed	19895, 28758
125.1 (ii) and (jj) added; (g) through (gg) redesignated as (h) through (hh); new (g) added	18003, 19895
125.4 (j) added	18003
125.12 (b), (h)(1) introductory text, (h)(1)(iii)(C) and (D), (h)(2) introductory text, (h)(2)(i) and (iii), (h)(3), and (i)(5) amended; (h)(2)(ii) removed; (h)(2)(iii) redesignated as (h)(2)(ii) and amended	18896
126 Added	25681
128 Added	30983
129 Added	24344
133 Added	22298
136 Added	28758
162.14 (a)(5) revised	26360
162.19 *Added	3939
164 Revised	19371
164.20 (c) revised	34117
164.40 (e) revised	34117
164.50 *(d)(4) corrected	11884
165 *Added	15237
166 Added	33305
167 Added	30558
168 Added	26361
170 *Added	16890
180.1 (j)(8) added	31174
180.3 (e)(6) amended; (e)(5) amended	27523, 28664, 33398
180.3 *(e)(5) amended	13971, 19208
180.120 Amended	28663
180.121 Amended	26450
180.133 *Amended	13776
180.140 *Revised	13776
180.142 (a) revised	29589
180.144 *Amended	13260
180.150 *Amended	9177
180.153 Heading revised; text amended; Corrected	23781, 26913
180.169 Amended	18548
180.185 Heading revised; text amended	34117
180.198 Amended	31174
180.200 Amended	23404
180.206 *Amended	7421
180.213 Amended	28664
180.221 *Amended	3679, 7929
180.223 *Amended	5765
180.224 Revised	22475
180.227 *Amended	15126
180.234 *Amended	2585
180.242 Amended	35467
180.245 Revised	31539
180.246 Amended	28937
180.249 Revised	32909
180.249 *Amended	7422
180.254a *Added; *Effective date corrected	6608, 7929
180.259 Revised	22124
180.263 *Amended	3679, 17443
180.269 *Amended	13259
180.285 *Amended	7930
180.294 Amended; Corrected	26450, 29589
180.294 *Amended	7422, 16888
180.298 Heading revised; text amended	23404
180.300 Amended	18442
180.301 *Revised	7568
180.303 *Removed	11268
180.304 Added	27524
180.315 Amended	35314
180.317 Revised; Amended	27524, 33973
180.317 *Amended	18280
180.319 Table amended	18548, 22894, 28663, 31539, 33974
180.319 *Table amended	12008, 13971
180.319a Added; Amended	21783, 32909
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124.34 Removed	30659
125.1 (c) removed	30659
129.1 (b), (e), (f), (h), (i) and (m) removed	30659
129.3 Amended	30659
129.6 (a) removed	30659
129.9 Removed	30659
129.10 Removed	30659
129.11 Removed	30659
129.12 Removed	30659
129.13 Removed	30659
129.14 Removed	30659
129.15 Removed	30659
129.16 Removed	30659
129.17 Removed	30659
129.18 Removed	30659
129.19 Removed	30659
130.2 Removed	30659
130.3 (b), (d), (f), and (g) removed	30659
130.5 (b)(1) through (6) and (8) through (16) removed	30659
130.22 (c) removed	30659
130.31 Removed	30659
130.32 Removed	30659
130.33 Removed	30659
130.34 Removed	30659
130.35 Removed	30659
130.36 Removed	30659
130.37 Removed	30659

Note: Asterisk (*) identifies changes published in 1974.

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130.38 Removed	30659
130.39 Removed	30659
130.40 Removed	30659
130.41 Removed	30659
130.43 Removed	30659
130.44 Removed	30659
130.52 Removed	30659
130.53 Removed	30659
130.55 Removed	30659
131.1 Revised	30659
131.2 (e), (f) and (n) removed	30660
131.6 Removed	30660
131.10 Removed	30660
131.12 Removed	30660
131.13 Removed	30660
131.14 Removed	30660
131.15 Removed	30660
131.16 Removed	30660
131.17 Removed	30660
132 *Revised	17540
132.1 Revised	30660
132.2 (b), (c), (d), and (e) removed	30660
132.5 Removed	30660
132.6 Removed	30660
132.7 Removed	30660
132.8 Removed	30660
132.9 Removed	30660
132.10 Removed	30660
132.11 Removed	30660
132.12 Removed	30660
132.14 Removed	30660
132.16 Removed	30660
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132.18 Removed	30660
132.19 Removed	30660
132.20 Removed	30660
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132.22 Removed	30660
132.23 Removed	30660
132.24 Removed	30660
132.25 Removed	30660
132.26 Removed	30660
132.27 Removed	30660
133 *Added	17546
141.1 (c), (d), (e), (f), (g), (h), and (k) removed	30660
141.8 Removed	30660
141.11 (d)(4) removed	30660
141.12 Removed	30660
141.13 Removed	30660
141.14 Removed	30660
141.15 Removed	30660
141.16 Removed	30660
141.17 Removed	30660
141.18 Removed	30660
141.21—141.23 (Subpart E) Removed	30660
142.2 (c), (e), (f), (g), (j), (k), (l), (m), (n), and (p) removed	30660
144.2 (d), (e), (f), (v), (w), and (y) removed	30660
145.1 (d), (e), and (i) removed	30660
147.2 (e) and (f) removed	30660
150.1 (f) removed	30660
151.2 (b), (d), (h), (j), (k), and (n) removed	30660
151.4 Removed	30660
151.5 (b) removed	30660
151.7 Removed	30660
151.8 Removed	30660
151.9 Removed	30660
151.11 Removed	30660
151.13 Removed	30660
151.14 Removed	30660
151.15 Removed	30660
151.16 Removed	30660
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151.22 Removed	30660
151.23 Removed	30660
151.31 Removed	30660
151.32 Removed	30660
151.33 Removed	30660
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151.38 Removed	30660
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151.40 Removed	30660
151.42 Removed	30660
151.43 Removed	30660
151.44 Removed	30660
151.46 Removed	30660
151.47 Removed	30660
154 *Added	14945
155.2 (b), (d), and (g) removed	30660
155.3 Removed	30660
155.7 (c) and (f) removed	30660
155.7 *Revised	19216
155.9 (a) removed	30660
155.11 Removed	30660
155.12 Removed	30660
155.13 Removed	30660

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155.14 Removed	30660
160.2 (f), (q), (r), and (u) removed	30660
160.10 (a), (b), (f), and (g) removed	30660
160.11 Removed	30660
160.12 Removed	30660
160.13 Removed	30660
160.14 Removed	30660
160.16 Removed	36060
160.17 Removed	30660
160.19 Removed	30660
160.20 Removed	30660
160.21 Removed	30660
160.22 Removed	30660
160 Appendix amended	30660
166.2 Removed	30660
166.3 (f), (g), (h), and (k) removed	30660
166.11 *(a) revised	18074
166.16 (a) removed	36060
166.21 (a) removed	30660
166.22 Removed	30660
166.23 Removed	30660
166.24 Removed	30660
166.25 Removed	30660
166.26 Removed	30660
166.27 Removed	30660
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166.29 Removed	30660
166.30 Removed	30660
166.31 Removed	30660
166.33 Removed	30660
166.34 Removed	30660
166.35 Removed	30660
166.36 Removed	30660
166.43 Removed	30660
166.44 Removed	30660
166.46 Removed	30660
166.47 Removed	30660
167 *Revised	18390
167.2 Removed	30660
167.3 (f), (g), (h), (k), and (l) removed	30660
167.7 (a) removed	30660
167.8 Removed	30660
167.9 Removed	30660
167.10 Removed	30660
167.11 (a) and (b) removed	30660
167.12 Removed	30660
167.13 Removed	30660
167.15 Removed	30660
167.17 Removed	30660
167.18 Removed	30660
167.19 Removed	30660
167.20 Removed	30660
167.24 Removed	30660
167.25 Removed	30660
167.26 Removed	30660
167.27 Removed	30660
167 Appendix A added	34560
169 *Added	18650
170.1 (f) and (l) removed	30660
170.2 Removed	30660
170.3 Removed	30660
170.4 Removed	30660
170.5 (b) removed	30660
170.6 (b)(1) and (2) and (c) removed	30660
170.8 Removed	30660
170.13 (a)(4) removed	30660
170.14 (b) amended	30660
170.18 (a) and (c) removed	30660
170.19 Removed	30660
170.45 Removed	30660
171 *Revised	12950
171.1 (h), (j), (p), and (q) removed	30660
171.4 (b) amended	30660
171.7 (b) removed	30660
171.8 Removed	30660
171.10 Removed	30660
171.11 Removed	30660
171.12 Removed	30660
173.1 (b), (d), (e), (g), and (i) removed	30660
173.14 Revised	30660
173.16 Removed	30660
173.23 Removed	30660
173.24 Removed	30660
173.25 Removed	30660
173.26 Removed	30660
173.27 Removed	30660
173.28 Removed	30660
173.29 Removed	30660
173.30 Removed	30660
173.31 Removed	30660
173.32 Removed	30660
173.33 Removed	30660
173.37 Removed	30660
174 *Added	10567
175.2 (d), (h), and (s) removed	30660
175.3a *Revised	17547
175.15 Removed	30660
175.16 (b) and (c) removed	30660
175.17 Removed	30660
177.1 (d) and (i) removed	30661
177.4 (c)(3)(xvii) added	27935
177.4 *(c)(3)(xviii) added	1849
*(c)(3)(xix) added	17104

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178.1 (d) and (i) removed	30661
180.02 (a), (h), and (k) removed	30661
180.03 Removed	30661
180.04 Removed	30661
190.05 Removed	30661
180.06 Removed	30661
180.13 *(a) revised	16886
180.22 *(b)(1) revised	16887
180.23 *(a) revised	16887
180.24 *(a) revised	16887
181.1 (a), (e), and (h) removed	30661
181.13 Removed	30061
181.14 Removed	30661
181.16 Removed	30661
181 Appendix A removed	30661
183 *Added	17842
185.02 (b), (c), (h), (l), and (m) removed	30661
185.03 Revised	30661
185.71 *Revised	13268
185.72 *Revised	13268
185.73 *Revised	13269
185.74 *Amended	13269
185.75 *Revised	13270
185.76 *Revised	13270
185.91 *(a) revised	13270
185.91–1 *Added	17547
185.92 *(b)(4) added	13270
185.92–1 *Added	17548
185.93–1 *Added	17548
185.94–1 *Added	17549
185.95 *(b)(1) and (3) revised	13270
185 Appendix A removed	30661
186.2 Amended	30661
186.31—186.34 (Subpart D) Removed	30661
187.2 Amended	30661
187.3 Added	30661
187.21 Introductory text revised; (e), (f), (g), (h), (i), and (j) removed	30661
187.31—187.34 (Subpart D) Removed	30661
188.3 Added	30661
188.15 Introductory text revised; (c), (d), (e), and (f) removed	30661
188.21—188.24 (Subpart D) Removed	30661
189 Added	27825
189 *Revised	15481
192 *Added	19213

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

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201.0 *Added	8326
205.10 *(a)(4)(i)(A), (5)(v), and (11) revised; (a)(4)(iv) added	12009
205.25 Added	34324
205.25 *Effective date changed to 7–1–74	3824
205.35 *Added	4733
*Effective date changed	5315, 9178, 10432
*Revised	13887
205.100 *Revised	9513
205.101 *Revised	16970
205.120 *Revised	16971
205.190 *(a) introductory text and (a)(1) and (2) revised	2254
206.10 (a)(6) revised	33380
206.10 *(a)(6) revised	1443
*(a)(2) revised	12009
220 *Reinstated until 1–1–75 and amended	1443
220.60 Removed; provisions transferred to Part 221	30072
220.61 (a) through (f) removed; provisions transferred to Part 221	10782, 30072
220.65 (a) removed; provisions transferred to Part 221	30072
221 *Effective date postponed to 1–1–75	1443
222 Removed; provisions transferred to Part 221	30072
222 *Reinstated until 1–1–75 and amended	1443
226 Removed; provisions transferred to Part 221	30072
226 *Reinstated until 1–1–75 and amended	1443
233.50 Revised	30259
Effective date corrected	31174
233.120 *(b)(2) revised	5316
233.145 (c) added	32912
234.130 *(a) introductory text and (c) revised	2220
237.50 Revised	32913
248.1 *Added	9513
248.2 *Added	9515
248.3 *Added	9516
248.4 *Added	9517

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248.10 (a)(1), (b)(2)(ii) and (iv), and (d)(1) and (2) revised; (b)(3) and (4) redesignated as (b)(5) and (6); (b)(5) redesignated as (b)(7) and revised; new (b)(3) and (4) added	33380
248.10 *Introductory text added	9518
*(b)(4) revised	16971
248.11 *Existing text designated as (b); (a) added	9518
248.21 (a) revised; (b) redesignated as (c) and revised; new (b) added	33382
248.21 *(a) revised	5552
*Introductory text added	9518
248.30 (b)(1) revised	33382
248.30 *Revised	9518
248.50 Revised	30259
248.50 *Revised	9518
248.60 (a)(1), (2), and (3)(iv) revised	33383
Effective date corrected	31174
248.60 *(a)(1) revised; (b)(9) and (10) added	2221
248.70 *Revised	9518
248.80 *Revised	9518
*(c) corrected	10253
249.10 *(b)(14) and (c) revised; (b)(15) redesignated as (b)(17), new (b)(15) added; (b)(16) reserved; (d)(1)(iv), (v), and (vi) added	2221
*(b)(4)(i) revised	2257
*(b)(15)(i)(e), (ii) introductory text, (ii)(a), (iii)(b) and (d)(1)(vi) corrected	8918
*(a)(1), (2), (5), and (6) and (b)(7), (11), and (17) revised; (a)(9) removed; new (a)(9) and (10) added	16971
249.11 *Redesignated as 249.20	2223
249.12 *Added	2223
*(a)(1)(ii)(B) and (9)(iii) and (c)(2) and (3)(v) corrected	8918
249.13 *Added	2226
*(c)(6)(ii)(C)(1) and (12)(ii)(E) corrected; (h)(i) through (x) correctly designated as (h)(1) through (10); (h)(10) revised	8918
249.20 *Redesignated from 249.11 and revised	2223
249.31 *Added	12866
249.32 *Revised	16972
249.33 *Revised	2254
*(a)(1)(i), (iii), (2), (4)(iii)(B), and (8)(i)(B) corrected	8918
*(a)(3)(i) revised	16972
249.40 *Revised	5553
249.41 *Revised	16972
249.81 Revised	33383
250.24 *Added	2234
*(a)(1) and (3)(v)(B) corrected	8918
250.30 *(a)(6) revised; (b)(3)(iii) added	2235
250.70 *Added	16973
250.80 *Revised	7930
250.90 *Added	17763
250.100 *Added	2256
250.120 *Revised	16973
270 *Removed	11886

Chapter IV—Social and Rehabilitation Service (Rehabilitation Programs), Department of Health, Education, and Welfare

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401 *Revised	898
401.116 *(b)(2) added	7931
402 *Removed	898
403 *Revised	914
404 *Revised	918
405 *Revised	926
406 *Revised	929
407 *Revised	932
408 *Revised	933

Chapter VI—National Science Foundation

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602 *Added	4664
640 *Revised	3545

Chapter IX—Administration on Aging, Department of Health, Education, and Welfare

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901.5 *Revised	17912
903 Revised	28042
903.0 *Correctly promulgated	7790
903.16 *Revised	17912
903.34 Corrected	29809
910 Added	30878
910 *Revised	17912
910.6 Corrected	31680

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Chapter X—Office of Economic Opportunity

1060 *Revised 17969
1062 *Added 8856
1068.9–1—1068.9–5 (Subpart 1068.9) *Added 10253
1069.3–4 *(a)(2) amended 12109
1069.3–5 *Revised 17549
1069.3–6 *Revised 17550
1069.3–7 *Removed 17550
1070.3–1—1070.3–3 (Subpart) *Superseded by Part 71 13882
1071 *Added 13882

Chapter XII—ACTION

1204 Added 34118
1205 *Added 1037
1206 *Added 1996
1207 *Added 5770

Chapter XIII—Office of Human Development, Department of Health, Education, and Welfare

*Chapter heading revised 11886
1350 *Added 11886

Chapter XIV—National Institute of Education, Department of Health, Education, and Welfare

Chapter established 15485
1450 (Subchapter B) *Added 15485

Chapter XV—Fund for the Improvement of Postsecondary Education, Department of Health, Education, and Welfare

1501 *Revised 1593

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57* 17106
101* 9546
103 ..... 30747, 33566
103* 815, 15295
118* 5321
121 28230
121a* 1614
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121i 28230
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127* 10257
130* 15299
131* 17856
132* 8334
133* 8927
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149 33089
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176* 8624
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401* 5248, 18562
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1302* 8723
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TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

1.10 Revised 32448
1.20 (c)(1)(ii) and (e)(2) amended 32448
(c)(2) [amended] correctly designated from (e)(2) [amended] 34644
(e)(2) [amended] correctly designated as (c)(2) [amended] 34644
1.23 (b) amended 32448
1.25 (b) revised 32449
10.05–33 (a)(3)(ii) revised 29320
10.05–39 (b)(1a) added 29320

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10.16–71 *Amended 17970
25.05–15 *(b) and (c) removed; (d) revised 3270
26.03–1 *Removed 8919
26.05–1—26.05–5 (Subpart 26.05) *Removed 8919
30.01–6 Revised 29320
30.10–36 Removed 29320
33.60–1 (Subpart 33.60) *Added 10138
34.20–15 *(c) revised 7790
34.20–20 *(b) revised; (c) added 7790
35.01–40 *Revised 18767
35.10–25 *Added 10139
35.30–20 Revised 27354
35.40–40 *(a) amended 10139
54.25–10 *(c) revised 9178
54.25–15 *(c) revised 9178
54.25–20 *(e) revised 9179
54.05–30 *Added 9179
56.50–50 *(n) revised 18767
70.05–10 Revised 29320
70.10–21 Removed 29320
74.15–10 *(b) amended 18767
75.60–1 (Subpart 75.60) *Added 10139
77.35–5 (c) revised 33475
78.17–35 *Added 10139
78.47–72 *Added 10139
78.85–1 *Revised 18767
90.05–10 Revised 29320
90.10–17 Removed 29320
93.13–10 *(b) revised 18767
94.60–1 (Subpart 94.60) *Added 10139
96.35–5 (c) revised 33475
97.15–65 *Added 10139
97.37–55 *Added 10139
97.75–1 *Revised 18767
111.80–5 (a)(7) table corrected 32914
137.01–5 (d) added 32449
137.02–1 Revised 32449
137.30–1 *(g) corrected 10432
146.02–12 *(e) redesignated from 146.02–13 (a) 14709
146.02–13 *Removed and (a) redesignated as 146.02–12 (e) 14709
146.02–14 *(d) revised; (e) removed 14709
146.02–15 *(b) amended; (d) added 14709
146.02–35 *(c) added 14709
146.04–5 *Table amended 13277, 14708
146.05–3 *(a) and (b) revised 14708
146.05–5 *(b) and (c) revised 14708
146.05–10 *Revised 14708
146.05–10a *Added 14708
146.07–1—146.07–40 (Subpart 146.07) *Heading amended 14709
146.07–1 *(a) amended 14709
146.07–40 *(b) revised 14709
146.09–2 *(f) amended 14709
146.10–2 *Amended 14709
146.19–12 *(h) added 14710
146.20–35 *(b) amended 14709
146.20–51 *(c) and (d) removed 14709
146.20–300 *Table C amended 14709, 14710
146.21–100 *Table D amended 13277, 14709
146.22–100 *Table E amended 14709
146.22–200 *Table E amended 14709
146.23–1 *Heading and (a)(1) revised; Notes 1 and 2 added 13279
146.23–10 *(c) removed 14709
146.23–30 *(a)(2) revised 13279
146.23–100 *Table amended 13278, 13279
146.24–20 *(c)(4) removed; (c)(5) redesignated as (c)(4) 14709
146.24–75 *Removed 14709
146.24–100 *Table G amended 14709
146.26–100 *Table J amended 14709
146.27–1 *(b) amended 14709
146.27–32 *(a) amended 14709
146.27–100 *Table K amended 13277, 14709
154 *Effective date changed 1596
160.015–3 *(j)(1) removed; (l) amended 11273
160.035–5 *Introductory text of (a)(3) revised 12747
160.051–1 *(c) added 9669
160.051–5 *(c)(4) amended; (e)(11) revised 9669
160.051–7 (b)(5) revised 31297
161.011–1—161.011–10 (Subpart 161.011 *Added 10139
162.028–3 (j)(1) removed 27354
162.039–3 (h) removed 27354
166.01 (b) revised 29320
167.35–72 *Added 10139
167.55–5 *(j)(1) amended 10139
167.65–1 *(c)(3) added 10140
180.05–1 *(b)(10) added 10140
180.40–1 (Subpart 180–40) *Added 10140
184.15–15 *(b) and (c) removed; (d) revised 3270
185.25–20 *Added 10140
185.30–30 *Added 10140

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188.05–10 Revised	29320
188.05–37 Removed	29321
191.25–10 *(b) revised	18768
192.65–1 (Subpart 192.65) *Added	10140
195.35–5 (c) revised	33475
196.15–65 *Added	10140
196.37–49 *Added	10140
196.75–1 *Revised	18768

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221.4 *(a), (b), (c), and (d) revised	10572
221.7 *Appendix amended	10573
282 *Revised	16445
294.8 (b)(1) revised	30880
294.9 (a)(3)(i) and (ii) revised	30879
(b)(2)(iii) revised	30880
308.6 Amended	27525
308.6 *Amended	9669
308.106 Amended	27525
308.106 *Amended	9669
308.206 Amended	27525
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308.305 Amended	27525
308.305 *Amended	9669
309.1 *Revised	3952
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309.5 *Revised	3953
309.6 *Revised	3953
309.7 *Revised	3953
309.8 *Revised	3953
309.101 *Revised	3953
310.52 *(c) revised	2760
310.53 Revised	27525
310.53 *(a) amended	2760
310.58 (c) amended	34118
310.60 (b) revised	34118
310.64 *(c)(1) revised	2760
350 Revised	27525
390 *See 26 CFR 3.1	12

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542 Revised	28829
542 *Amended	9542
542.10 *Added	9542

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34*	16364
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56*	1861
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0.84 Redesignated from 0.85 and revised	33598
0.85 Redesignated as 0.84; redesignated from 0.86 and revised	33598
0.86 Redesignated as 0.85; new 0.86 added	33598
0.87 Added	33598
0.88 Added	33598
0.89 Added	33598
0.90 Added	33598
0.93 *Revised	10432
0.111 Introductory text revised	31298
0.111 *Revised	13543
0.112 Revised	31298
0.112 *Revised	13543
0.113 Revised	31298

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0.113 *Revised	13543
0.114 Revised	31298
0.114 *Revised	13544
0.115 Revised	31298
0.115 *Revised	13544
0.116 Revised	31298
0.116 *Revised	13544
0.117 *Added	13545
0.281 Revised	31175
0.282 Added	31176
0.311 Heading, (a) introductory text, (a)(1) and (b) revised	31298
0.311 *(a)(13) removed	7423
0.314 *(b) revised	10574
0.351 (h) added	30559
0.371 *(g) added	4571
0.403 *Revised	14593
0.457 *(d) revised	5918
0.465 *(a) revised	19216
0.485 (c) revised	33974
1.4 *(c) and (d) revised	14593
1.83 *(a) (1) and (2) revised; (a)(3) removed	7423
*(a)(1) corrected	8617
1.294 *(c)(2) removed	10909
1.516 (e)(1) amended	28788
1.526 (a) introductory text and (e) introductory text revised; (a) (6), (7), (8), and (9) added	28788
(a)(6) effective stayed; (a)(9) and introductory text of (e) amended	35411
1.526 *(a)(10) added	1767
1.539 (a) revised	28789
1.547 *(a) and (c)(4) revised; (d) removed	10574
1.550 (c)(1) corrected	27595
1.573 *Note 1 revised	12990
1.580 (c) and (i) amended; (d), (j) introductory text, and (m) revised	28789
(d) introductory text and (d)(2) and (3)(iii) revised; (d)(5) redesignated as (d)(6); new (d)(5) added	35411
1.804 Revised	33475
1.912 (d) amended	33302
1.922 Amended	33302
1.926 (b)(10) amended	33302
1.993 (b) revised	35320
1.1113 *Amended	2765
1.1207 *Introductory text revised	18280
2.1 *Amended	2765
2.106 Table amended	29081, 30742
Footnote revised	32449
Footnote amended	30001
2.106 *Table amended	2765, 6706, 10142, 16843
*Footnote revised	10145
2.551—2.593 (Subpart F) *Removed	5919
2.601 *Revised	7130
2.603 *(a) and (b) revised	7130
*(a) table and (b) table corrected	13781
2.901—2.1065 (Subpart J *Added	5919
2.903 *(a) and (b) corrected	8617
2.905 *(a) and (b) corrected	8617
2.925 *Effective date stayed until 6/25/74	12351, 12867
2.969 *Effective date stayed until 6/25/74	12351, 12867
2.1003 *Effective date stayed until 6/25/74	12351, 12867
2.1045 *Effective date stayed until 6/25/74	12351, 12867
5.55 (d) and (f) revised	32138
13.4 *(c) revised	7424
13.11 *(b)(1)(iii), (2), and (3) revised	7424
13.21 *(b) added	7580
13.28 *Revised	7424
13.61 *(d)(2), (f)(6), and (g)(1) and (3) revised	3553
*(e)(2) and (f)(7) removed; (h)(4) revised	15129
13.62 *(c) introductory text and (c)(1), (2), and (3) revised	3553
15.66 *(b) revised	14347
15.68 (b)(3) and (d)(3) revised	29813
(d)(4) added	30265
15.71 *(b) removed	14347
15.201 *(e) added	12748
15.214 *(c) revised	1768
15.216 *(a), (b), and (c) revised	12748
15.307 *Revised	1768
15.309 Revised	27822
15.309 *(a) and (c) revised	1768
17.7 *Revised	7581
17.14 *(c) revised	7581
17.57 *Revised	7581
18.13 *Revised	1769
18.14 *Revised	1769
18.141 *(a) revised	1769
18.144 *Note revised	1769
21.1 *Amended	2765

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21.15	(r)(2) corrected	27218
21.35	*(a) revised	2765
21.107	*(b) amended	2765
21.108	*(b) amended	2765
21.501	*(e) revised	2765
21.701	*(a) table amended	2766
21.703	*(g) table amended	2766
21.900—21.908	(Subpart K) *Added	2766
21.901	*(c) corrected	7134
23.16	Corrected	27386
23.20	(d)(2) corrected	27218
43.72	*Added	2768
64.202—64.298	(Subpart B) Revised	33475
73.18	(c)(2) corrected	27218
73.52	*(a) revised	10574
73.60	(a) revised	30266
73.63	(g) revised	30266
73.71	*(b) revised	10574
73.93	*(h)(4)(iv) revised	10575
73.98	*(b) and (g) revised	3901
73.113	*(e) revised	10575
73.114	*(b) revised	10575
73.202	(b) table amended	28833, 32450, 33602, 34119
	(a) amended	28834
73.202	*(b) table amended	804, 1474, 1478, 1772, 1851, 4885, 7791, 10578, 11082, 13548, 14506, 19216
73.204	*(a) revised	12990
73.207	*(a) note amended	12990
	*(b) table corrected	2768
73.215	(c)(2) corrected	27218
73.252	(a) revised	30266
73.255	(f) revised	30266
73.261	*(b) revised	10575
73.265	*(d)(5)(iv) revised	10575
73.267	*(c) revised	10575
73.283	*(e) revised	10575
73.284	*(b) revised	10575
73.295	(g) revised	30266
73.297	(b) revised	30266
73.298	*(b) and (f) revised	3901
73.310	*(a) amended	10575
73.501	(c) added	28834
73.504	*Note added	12990
73.507	Added	28834
73.515	(c)(3) corrected	27218
73.552	(a) revised	30266
73.555	(f) revised	30266
73.565	*(d)(5)(iv) revised	10575
73.567	*(c) revised	10576
73.583	*(e) revised	10576
73.595	(g) revised	30266
73.596	(b) revised	30266
73.597	*(b) and (f) revised	3901
73.603	*(a) table amended	10576
73.606	*(b) table amended	10433, 16467
73.623	(c)(2) corrected	27218
73.644	*(a)(10) removed	5775
73.651	*(a)(3) revised	10576
73.658	Heading revised; (m) added	27218
	(m) effective date stayed	31680, 34325
73.658	*(k) revised	5611, 12748
	*(m) revised	16352
73.674	*Existing text designated as (a); (b) and (c) added	1767
73.675	*(b) and (f) revised	3901
73.682	*(a)(22) revised	802
73.689	*(b)(3) revised	10576
73.690	(a) revised	30266
73.712	(c)(2) corrected	27218
73.901—73.962	(Subpart G) *Revised	3901
73.911	*(a), (b), and (c) revised	14710
	*Republished	17443
73.931	*(a)(3) corrected	6610
73.1201	*(c) revised	6707
	*(c) corrected	9442
73.1202	Added	28790
	(a), (d)(1)(ii) and (iii) and (2)(ii) and (iii), and (e) revised	35412
74.12	(c)(2) corrected	27218
74.533	*(b)(4) revised	10576
74.635	*(a)(4) revised	10576
74.1202	*Note added	12990
76.7	*(b) and (d) revised	6707
76.11	(a) revised	33398
76.13	*(a)(6), (b)(6) and (c)(4) revised	6707
76.95	*(c) added	12993
76.306	*Added	9443
76.601	(e) revised	29085
78.15	(a) revised; (b) removed	29321
78.19	(e)(2) corrected	27218
78.23	(a) revised	29321
78.25	(a) revised	29321
81.3	(t) added	29815
81.132	*(a)(2)(ii) amended	2001
	*(a)(3) revised	12749
81.134	*(e) revised	12749
81.193	*Revised	2586
81.194	*(d) added	2586

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81.330	Added	29815
81.361	*(b)(1) removed	11082
81.708	(b)(20) revised	29323
81.708	*(a) table amended	5488
83.3	*(q) added	10142
83.7	*(l) added	10142
83.39	*(b)(3) revised	2267
83.68	*Revised	10142
83.131	*Introductory text of (c) revised; (c)(3) added	10142
83.132	*(a)(1)(iii) and (iv) added; (a)(2)(ii) revised	10142
83.133	*(a) table amended	10142
83.134	(f) footnote 3 added	28941
83.134	*(f) revised	4578
	*(i) added	10142
83.137	*(i) added	10142
83.139	*(b) revised	10142
83.141	*(a)(4) and (b) revised; (d) added	10142
83.144	*Added	10142
83.145	*Added	10143
83.164	*(b) revised	10143
83.178	*(e) added	10143
83.233	*Table revised	10144
83.252	*Added	10144
83.322	*(c) revised; (d) added	10144
83.326	*(c) added	10144
83.351	*(a) table amended	5489
83.352	*(b) revised; (c) added	10144
83.354	(b) table heading amended	28053
	(b)(7) removed	28053
83.360	*(b)(1) and (3) removed	11082
83.401	*(c) revised	10144
	*(c) corrected	13781
83.517	(c)(2) revised	31008
83.518	Revised	28941
83.542	(d)(2) revised	31008
87.29	*(a)(5) added	5316
87.31	(f)(2) corrected	27218
87.65	(a)(5) and footnote 1 revised; footnote 2 added	29081
87.65	*(c) revised	14210
87.67	(b)(1) footnotes 5, 6, and 7 revised	29081
87.67	*(b)(1) footnote 7 revised	6706
87.79	(a) revised	29081
87.115	*(e)(1)(iii) revised	11083
87.183	(i) revised	29081
87.201	(b) revised	29082
87.295	(b) amended; (c) added	29082
87.331	(a) and (b) amended; (a) footnote 3 removed	29082
87.331	*(a) and (b) revised; (d) added	6706
	*(a) corrected	10909
87.341	(a) revised	29082
87.401	(a) and (c) revised	29082
87.431	Revised	29083
87.431	*Revised	6707
87.501	(h)(5) and (8) revised; footnote 3 added	33975
89.3	(b) amended	27823
89.12	(e) added	27823
89.15	(e)(2) corrected	27218
89.103	*(a) table amended	16843
89.105	*(a) revised; (e) added	16843
89.107	*(b)(2) table amended	16843
89.109	*(d) and (i) revised	16843
89.111	*(b) table revised	16843
89.117	*(b) revised	7134
89.123	Introductory text of (c) revised; (e) and (f) added	32929
89.156	Revised	28835
89.307	(f) removed	27823
89.357	(e) removed	27823
89.459	(d) table amended; (e)(17) added	30742
89.511	*(a) and (d) revised	15129
89.601—89.804	(Subpart S) *Added	16843
89.751	*(g) table corrected	18461
91.3	Amended	27823
91.7	(e) added	27823
91.8	(m)(2) corrected	27218
91.102	*(a) table amended	16848
91.103	*(a) revised; (c) added	16849
91.104	*(b)(2) table amended	16849
91.105	*(f) and (h) revised	16849
91.106	*(b) table revised	16849
91.114	Introductory texts of (c), (d), (e), and (f) revised; (h) and (i) added	32929
91.116	*Added	16849
91.162	Revised	28835
91.504	(a) table amended; (b)(37) and (38) added	30742
91.554	(b)(32) and (41) revised	27823
91.604	*(a) table amended; (b)(19) added	10145
93.7	Amended	27823
93.9	(c)(2) corrected	27218
93.10	Added	27824
93.102	*(a) table amended	16849
93.103	*(a) revised; (c) added	16849
93.104	*(b)(2) table amended	16849
93.105	*(f) and (h) revised	16849

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93.106 *(b) table revised	16849
93.109 *(b) revised	7134
93.114 (c) introductory text and (d) introductory text revised; (c) footnote 2 and (d) footnote 2 amended; (f) and (g) added	32930
93.116 *Added	16850
93.164 Revised	28836
95.3 (b) and (c) amended	29325
95.5 (a) amended	33302
95.6 (b) amended	33302
95.13 (a) and (c) amended	33302
95.15 (b) amended; (b) footnote removed	33302
95.19 (a) introductory text and (a)(3) amended	33302
95.35 Heading, introductory text, and (c) revised; (d) and (e) added	29325
(b) amended	33302
95.37 (c) amended	33302
95.41 (b) removed	33302
95.43 Revised	29326
95.45 Revised	29326
95.47 (d) revised	29326
(b) removed	33302
95.49 (c) and (d) revised	29326
(b) removed	33302
95.51 Revised	29326
95.55 Revised	29326
95.57 Heading, (a), and (b) revised; (d) added	29327
95.58 Added	29327
Introductory text of (c) amended	34325
95.59 Revised	29327
95.63 Introductory text revised	29327
95.69 Removed	29327
95.83 (a)(7) note amended	33302
95.97 Introductory text of (c) revised	29327
Introductory text of (c) amended	34325
95.101 (a) amended	33302
95.117 (c) amended	33302
95.119 (d) amended	33302
97.41 *(f) removed	2002
97.61 *(a) table and (b) (8), (9), and (10) revised; (b) (11) and (12) added	12995
97.108 *(a)(4) revised	2002
97.111 *(c) revised; (f) added	2002
97.112 *Existing text designated as (a); (b) added	9444
97 Appendix 1 amended	33974
Proposed Rules:	
1*	1064, 6620
2	29318, 33604, 33617
2*	1280, 1642, 2275, 4931, 6620, 7805, 8932, 9462, 10448, 11109, 11196, 14225, 15315, 15507, 16481, 17566
5*	14225
13	31018, 34479
15	29818
17*	6130
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73	27303, 27624, 27844, 27845, 28305, 28573, 28574, 28840, 28947, 29820, 30283, 30748, 31018, 31019, 31184, 31455, 31456, 31845, 32518, 32946, 32950, 32951, 33405, 33406, 34129, 34897, 35332, 35495
73*	827, 1070, 1073, 1075, 1077, 1283, 1516, 1642, 3290, 3573, 4117, 4586, 4592, 4670, 4671, 5641, 6620, 7181, 7433, 7596, 8935, 9466, 9551–9554, 9675, 9676, 9987, 9989, 9991, 11111, 11112, 11309, 11931–11933, 12035, 12872, 13007, 13557–13559, 13778, 14227, 14228, 14230, 15145, 15317, 15324, 15509, 16482–16484, 17865, 17866, 17982, 18664, 18665, 19230
74*	1643, 1867, 7434, 12771
76	29342, 30565, 31019
76*	9467, 11117, 12878, 13179, 13561, 14288, 15327, 16484
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81*	1280, 2275, 7805, 8932, 16481, 18470
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83*	1280, 2275, 9462, 10448
87	7402, 8284, 29821, 33604, 33618
87*	1280, 1642, 2275, 7434, 7805, 16481, 17566
89*	1280, 1642, 2275, 4931, 11109, 14232, 15507
91	29818, 30282, 33604
91*	1280, 2275, 7805, 11109, 14232, 15315, 15507, 15509, 16481
93*	1280, 2275, 7805, 11109, 14232, 15507, 16481
94	33604, 35495
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97	30566
97*	1280, 1643, 2275

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1.24 (f) revised	29881
1.41 Revised	29881
1.46 *(l) and (m) revised	4083
*(o)(6) and (r) added	10585
*(o)(7) added	17847
1.48 (b), (c), and (n) revised	31497
1.48 *(b)(33) and (c)(1) amended	3680
*(c)(15) added	5767
*(p) added	7791
*(q) added	10585
*(b)(1) revised	13781
1.49 *(p) added	7791
*(q) added	8919
*(r) added	10585
1.50 (f) and (g) added	31498
1.50 *(g) amended	3680
*(f)(2) revised	13781
1.50a *Revised	10585
1.51 (b) revised; (g) added	31498
1.53 *(m) added	7425
1.57 *(j) added	7791
1.58 *Heading revised; (g) added	10585
*(d)(1) revised	11423
1.59 (n) added	29881
1.59 *(o) added	7425
1.60 *(l) added	8919
7.85 (g)(2) revised	32580
7 Appendix H amended	34112
73 Added	34877
85 *Appendix amended	4085
*Appendix corrected	5190
99 Appendix C amended	33975
Chapter I—Department of Transportation	
171 Compliance date amended	28292
171.7 *(c)(18) and (d)(13) added; (d) (1) and (7)(iv) revised	10910
*(c)(19) added	12750
172 Compliance date amended	28292
172.4 *(a) amended	2770
172.5 (a) table amended	35469
172.5 *(a) table corrected	1851
*(a) table amended	2770, 12750, 15034, 17314, 18462
*(a) effective date corrected	17970
173 Compliance date amended	28292
*Effective date corrected	17970
173.28 Introductory text of (m) revised	35470
173.31 *(c) (7) and (10) revised	15034
173.32 *(a)(3) added	17315
173.33 (e) introductory text, (e)(1), (g) introductory text, (g)(1), (2), (3), (4), and (8), and (i) exception, (i)(1), (2), and (3) revised; (e)(5), (g)(5), and (i)(3) note 1 removed; (e)(6) through (10) redesignated as (e)(5) through (9); (g)(6) through (11) redesignated as (g)(5) through (10)	27596
173.60 *(a)(1) removed	17315
173.64 *(a)(3) removed	17315
173.65 *(a)(3) and (e)(1) removed	17315
173.70 *(b) introductory text and (d) revised	17315
*(d) corrected	17847
173.71 *(b) and (d) revised	17315
*(d) corrected	17847
173.72 *(b) and (d) revised	17315
173.73 *(b) and (d) revised	17315
173.74 *(b) and (d) revised	17315
173.75 *(b) introductory text and (d) revised	17316
173.76 *(b) and (c) revised	17316
173.77 *(b) and (d) revised	17316
173.78 *(b) and (d) revised	17316
173.91 *(a)(1) removed	17316
173.93 *(a)(1), (b)(2), and (d)(2) removed	17316
173.108 *(a)(1) removed	17316
173.115 *Heading, (a), and (c) revised	2770
173.118 *Heading revised; (a)(3), (b), (c), and (d) added	2770
173.119 (m)(16) and (17) added	35470
173.119 *(b) introductory text and (l) introductory text revised	2770
*(a)(12) amended; (e)(2), (f)(3) and (4), and (h) revised	15035
*(a)(5) and (6) removed; (b)(3) and (e)(1) and (3) revised	17316
173.121 *(a)(1) removed	17317
173.123 *(a)(5) revised	15035
*(a)(5) corrected	16887
173.128 *(b)(1) removed	17317
173.131 *(a)(2) removed	17317

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173.132 *(a)(1) revised; (a)(1) note 1 removed	17317
173.141 *(a)(7) revised	15035
*(a)(10) added	17317
173.145 *(a)(6) revised	15035
173.154 *(a)(15) added	15035
*(a)(3), (4), and (5) removed	17317
173.155 *(a)(2) removed	17317
173.163 *(a)(4) amended	17317
173.182 *(a) introductory text, (b) introductory text, and (b)(3), (4), (5), and (6) revised; (b)(7) added	12751
173.184 *(a)(1) removed	17317
173.187 *(a)(1) revised	17317
173.188 *(a)(1) revised	17317
173.191 *(a)(1) revised; (a)(3) removed	17317
173.195 *(a)(3) removed	17317
173.201 *(a)(3) removed	17317
173.204 *(a)(1) revised; (a)(8) added	17317
173.205 *(a)(2) removed	17317
173.206 *(a)(1) and (c)(4) revised; (a)(11) added	17317
173.214 *(a)(2) and (c)(2) removed; (c)(4) added	17318
173.216 *(a)(2) removed	17318
173.217 *Heading and introductory text of (a) revised; (a)(6) added	12751
173.240 (a) revised	35470
173.245 (a)(4) revised; (a)(34) added	35470
173.245 *(a)(5) and (6) removed	17318
173.245a *(a) table amended	15035
173.246 *Heading and (a) revised	17318
173.247 Heading and (a) introductory text revised	35471
173.247 *Heading, (a) introductory text, and (a)(13) and (14) revised	15037
*(a)(2) removed	17318
*Heading and text amended	18462
173.248 *(a)(4) revised	15036
173.249 Heading and (a) introductory text revised	35471
173.249 *(a)(5) revised	15036
173.249a Added	35471
173.252 *(a)(3) and (4) revised; (a)(5) removed	17318
173.253 *(a)(7) revised	15036
173.254 *(a)(4) revised	15036
*(a)(3) removed	17318
173.262 *(a)(6) revised	15036
*(a)(3) removed	17318
173.263 *(a)(9) and (12) revised	15036
*(a)(9) corrected	16887
*(a)(4) and (8) and (b)(1) removed	17319
173.264 Heading and (a) introductory text revised	35471
173.264 *(a)(8) and (11) and (b)(2) revised	15036
173.265 *(b)(3) revised	15036
*(a)(2) and (3) removed	17319
173.266 *(f)(1) revised	15036
*(d)(1) removed	17319
173.267 *(a)(3) revised	15036
173.268 *(b)(1) and (c)(2) revised	15036
*(d)(1) and (e)(1) revised	17319
173.270 *(a)(2) removed	17319
173.271 *(a)(9) and (11) revised	15037
*(a)(3) removed	17319
173.272 *(i)(22), (26), and (27) revised	15037
173.273 *(a)(4) revised	15037
173.274 *(a)(3) revised	15037
*(a)(4) added	17319
173.276 *(a)(4) and (5) revised	15037
173.280 Heading and (a) introductory text revised	35471
173.280 *(a)(7) revised	15037
173.283 *Removed	17319
173.284 Heading and (a) introductory text revised	35471
173.284 *Removed	17319
173.285 *Removed	17319
173.289 *(a)(3) removed	17319
173.291 *(a)(8) revised	15037
*(a)(4) and (5) removed	17319
173.294 *(a)(2) and (b) revised	15037
173.295 *(a)(11) and (12) revised	15037
*(a)(2) removed	17319
173.296 *(a)(3) revised	15037
173.297 *(a)(4) added	12751
*(a)(2) revised	15037
173.304 *(a)(2) table amended	12751
*(d)(3)(ii) table amended	17391

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173.401 *(a)(2) added	2771
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178 *Appendix B Table I amended	12752
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WEDNESDAY, MAY 1, 1974

WASHINGTON, D.C.

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federal register
Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 1745 ..... Pub. Law 93–270
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Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1974 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1974. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

The rate for subscription service to all revised volumes issued for 1974 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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1 (§§ 1.641–1.850)	4.00
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Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lime Reg. 34, Amdt. 2]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Shipments

The amendment to Lime Regulation 34 continues on and after May 1, 1974, the same grade and size requirements for the handling of fresh Florida limes as are currently in effect through April 30, 1974. The amendment reflects the composition of the currently available supply of limes and is necessary to provide consumers with acceptable size and quality fruit. The amended regulation is issued pursuant to Marketing Order No. 911. This program is effective under the agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

On April 18, 1974, notice of a proposed amendment to said regulation was pub-

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lished in the FEDERAL REGISTER (39 FR 13889). As proposed, the amendment would have continued the same grade requirement for Persian type limes to 2 but would have raised the minimum size requirement for Persian type limes to 2 inches in diameter effective on May 1, 1974.

The notice allowed interested persons until April 23, 1974, to submit written data, views, or arguments for consideration in connection with the proposed amended regulation. None were received. However, the committee met on April 24, and recommended that the currently effective minimum size of 1⅞ inches in diameter for Persian type limes be continued, as the current supply of limes 2 inches in diameter and larger is insufficient. Reports indicate that there has been inadequate rainfall throughout much of the production area. As a result there is only a limited quantity of limes that have attained a minimum diameter of two inches. Such quantity is insufficient to supply the demand. Weekly shipments this season are about 3,000 to 4,000 bushels below weekly shipments last season. Limes 1⅞ inches in diameter, which have a juice content of at least 42 percent, are available and if placed on the market would provide satisfaction to consumers. Therefore, it is concluded that the minimum size for Persian limes should be 1⅞ inches instead of 2 inches as proposed in the notice so as to provide a sufficient volume of limes for the fresh market.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Florida Lime Administrative Committee, and other available information, it is hereby found and determined that the amended regulation, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give additional notice and engage in further public rulemaking procedure with respect to a minimum size of 1⅞ inches instead of 2 inches as set forth in the notice published in the FEDERAL REGISTER (39 FR 13889), and good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which it is based became available and the time when it must become effective in order to effectuate the declared policy of the act is insufficient; and a reasonable time is permitted, under the circumstances, for preparation for such effective time. Shipments of Florida limes are presently subject to regulation by grade, size, pack and container, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation were promptly submitted to the Department after an open meeting of the Florida Lime Administrative Committee on April 10, 1974; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting and thereafter with respect to the April 18, 1974, notice of proposed rulemaking; the committee met on April 24, 1974, to reappraise the situation and recommended that the 1⅞ inches minimum size be continued; it is necessary, in order to effectuate the declared policy of the act, to make the amended regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of Florida limes, and compliance with the amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The amended regulation is based upon an appraisal of current and prospective crop and market conditions for Florida limes. Florida lime production for the 1974–75 season is estimated at 1.84 million bushels, 4.5 percent larger than the previous record. Fresh shipments for the 1974–75 season, began on April 1, 1974, and shipments in limited volume are now being made. Total fresh shipments are expected to require about 770,000 bushels of such production. Ample supplies of desirable sizes and grades of limes are available to fill fresh market demands. The amended regulation is designed to prevent the handling of lower grade and smaller limes which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

The provisions of § 911.336 (Lime Regulation 34; 38 FR 12324; 13385) are hereby amended to read as follows:

§ 911.336 Lime Regulation 34.

(a) Order: During the period May 1, 1974, through April 30, 1975, no handler shall handle:

(1) Any limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 Grade for Persian (Tahiti) limes, except as to color: *Provided*, That true limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and minimum juice content requirement prescribed in the U.S. Standards for Persian (Tahiti) limes, and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof;

(2) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color: *Provided*, That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) limes shall apply: *Provided further*, That Persian limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and meet the same minimum juice content requirement prescribed in the U.S. Standards for such limes and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof; or

(3) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1⅞ inches in diameter.

(b) Notwithstanding the provisions of paragraph (a)(3) of this section, not more than 10 percent, by count, of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided*, That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Persian (Tahiti) limes (§§ 51.1000–51.1016).

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated April 26, 1974, to become effective May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10038 Filed 4-29-74;12:26 pm]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1434—HONEY

Subpart—1974 Crop Honey Loan and Purchase Program

On January 17, 1974, notice of proposed rulemaking regarding loan and purchase rates for 1974-crop honey and detailed operating provisions to carry out the 1974 honey loan program were published in the FEDERAL REGISTER (39 FR 2104). Two responses were received one from an interested individual honey producer and the other from a marketing association. The responses recommended an increase in loan and purchase rates. It has been determined that such an increase is not warranted and the loan and purchase rate has been set at 60% parity which is the legal minimum. Other operating procedures will remain the same as for the 1973 program. The Honey Price Support Regulations for 1970 and Subsequent Crops (35 FR 11773), as amended, which contain regulations of a general nature with respect to loan and purchase operations, are supplemented for the 1974 crop of honey as herein stated. The material previously appearing in this subpart in §§ 1434.40 through 1434.44 remains in full force and effect as to the crops to which it was applicable.

Sec.
1434.40 Purpose.
1434.41 Availability.
1434.42 Maturity of loans.
1434.43 Loan and purchase rates.
1434.44 Discounts.

AUTHORITY: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b). Interpret or apply sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, 1054 (15 U.S.C. 714c, U.S. 1446, 1421).

§ 1434.40 Purpose.

This subpart contains program provisions which, together with (a) the Honey Price Support Regulations for 1970 and Subsequent Crops, (b) the Cooperative Marketing Association Eligibility Requirements for Price Support in part 1425 of this chapter, and (c) any amendments to such regulations, set forth the requirements with respect to loans and purchases for 1974-crop honey.

§ 1434.41 Availability.

(a) *Loans.* Producers must request a loan on 1974 crop eligible honey on or before March 31, 1975.

(b) *Purchases.* Producers desiring to offer eligible honey not under loan for purchase must complete a purchase agreement at the county ASCS office on or before June 30, 1975.

§ 1434.42 Maturity of loans.

Unless demand is made earlier, loans on honey will mature on June 30, 1975.

§ 1434.43 Loan and purchase rates.

(a) *Table and nontable honey.* The rate for the quantity of 1974-crop honey placed under loan or acquired under loan or purchase shall be the rate for the respective class and color set forth below:

Class and color: Table honey:	Cents per pound
1. White and lighter	21.4
2. Extra light amber	20.4
3. Light amber	19.4
4. Other table honey	17.4
Nontable honey	17.4

(b) *Objectionable flavor, fermentation, or caramelization.* The settlment value for a lot of honey delivered under loan or for purchase which grades substandard on account of objectionable flavor, fermentation, or caramelization shall be the lower of its market value as determined by CCC or a value determined on the basis of the loan and purchase rate for nontable honey.

(c) *Grade not certified.* The settlement value for a lot of honey, delivered under loan or for purchase, on which the grade cannot be certified shall be the lower of its market value as determined by CCC or a value as determined on the basis of the loan and purchase rate for nontable honey.

(d) *Substandard.* The rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects or moisture or a combination of defects and moisture shall be adjusted by the discounts in § 1434.44.

§ 1434.44 Discounts.

(a) *Defects.* The loan and purchase rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects shall be adjusted by the following discount:

Substandard account of:	Discount (cents per pound)
Defects	2

(b) *Moisture.* The loan and purchase rate for a lot of honey delivered under a loan or for purchase which contains moisture in excess of 18.5 percent shall be adjusted by the following discounts which shall be in addition to the discount for defects:

Moisture (percent):	Discount (cents per pound)
18.5	$0.0
19.0	0.5
19.5	1.0
20.0	1.5
20.5	2.0
21.0	2.5
21.5	3.0
22.0	3.5
22.5	4.0
23.0	4.5
23.5	5.0
24.0	5.5
24.5	6.0

(c) *Commingled storage.* The loan and purchase rate for a lot of honey tendered for loan or purchase by CCC while stored commingled in a warehouse, or delivered to a warehouse in bulk in satisfaction of a form storage loan, shall be adjusted by the following discount:

	Discount (cents per pound)
Bulk commingled	1.5

Effective date: May 1, 1974.

Signed at Washington, D.C. on April 19, 1974.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.74-9883 Filed 4-30-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74–SW–7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Tulsa, Okla. (Riverside Airport), control zone and the Tulsa, Okla., transition area.

On March 14, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 9837) stating the Federal Aviation Administration proposed to alter the Tulsa, Okla. (Riverside Airport), control zone and the Tulsa, Okla., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

(1) In § 71.171 (39 FR 354), the Tulsa, Okla. (Riverside Airport), control zone is amended to read:

TULSA, OKLA. (RIVERSIDE AIRPORT)

Within a 5-mile radius of Riverside Airport (latitude 36°02'19" N., longitude 95°59'00" W.) and within 2 miles each side of the Riverside TVOR 349° radial extending from the 5-mile radius zone to the TVOR. This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (39 FR 440), the Tulsa, Okla., transition area is amended to read:

TULSA, OKLA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Tulsa International Airport (latitude 36°12'00" N., longitude 95°53'15" W.); within 8 miles west and 5 miles east of the Tulsa ILS localizer north course extending from the OM to 12 miles north; and within 8 miles north and 5 miles south of the Tulsa VORTAC 088° radial extending from the 9-mile radius area to 33 miles east of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, Tex., on April 22, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74-9902 Filed 4-30-74;8:45 am]

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 254]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Alabama	Sumter	Livingston, city of				Apr. 26, 1974, Emergency.
Illinois	St. Clair	Alorton, village of				Do.
Iowa	Ida	Ida Grove, city of				Do.
Minnesota	Carlton	Cloquet, city of				Do.
Do	Cass	Unincorporated areas.				Do.
Do	Jackson	do				Do.
Do	Lake	Two Harbors, city of.				Do.
Do	Marshall	Stephen, city of				Do.
Do	Perley	Perley, city of				Do.
Do	Pine	Willow River, city of.				Do.
Do	Pipestone	Pipestone, city of				Do.
Do	Roseau	Unincorporated areas.				Do.
Do	do	Roseau, city of				Do.
New York	Chenango	Norwich, city of				Do.
Do	Suffolk	Northport, village of.				Do.
Do	Ulster	Kingston, city of				Do.
Ohio	Hocking	Murray City, village of.				Do.
Oklahoma	Tulsa	Owasso, city of				Do.
Oregon	Columbia	Vernonia, city of				Do.
Pennsylvania	Adams	Latimore, township of.				Do.
Do	do	Tyrone, township of.				Do.
Do	Allegheny	Kennedy, township of.				Do.
Do	do	South Park, township of.				Do.
Do	do	West View, borough of.				Do.
Do	Columbia	Mifflin, township of.				Do.
Do	Lebanon	West Lebanon, township of.				Do.
Do	Mifflin	Derry, township of.				Do.
Tennessee	Hamblen	Morristown, city of.				Do.
Texas	Hidalgo	Weslaco, city of				Do.
Utah	Carbon	Price, city of				Do.
Washington	Yakima	Grandview city of.				Do.
Wisconsin	Douglas	Unincorporated areas.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 19, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-9808 Filed 4-30-74;8:45 am]

[Docket No. FI 255]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Kansas	Republic	Scandia, city of				Apr. 24, 1974, Emergency.
Minnesota	Chippewa	Unincorporated areas.				Do.
Do	Fillmore	Lanesboro, city of.				Do.
Do	do	Spring Valley, city of.				Do.
Do	Lake	Unincorporated areas.				Do.
Do	Marshall	Argyle, city of				Do.
Do	Pennington	Thief River Falls, city of.				Do.
Do	Scott	Savage, city of				Do.
New Hampshire	Cheshire	Keene, city of				Do.
Oregon	Josephine	Grants Pass, city of.				Do.
Pennsylvania	Adams	Berwick, township of.				Do.
Do	Beaver	North Sewickley, township of.				Do.
Washington	Clark	Camas, city of				Do.
Do	Grays Harbor	Unincorporated areas.				Do.
Do	Okanogan	Riverside, town of.				Do.
Do	Lewis	Chehalis, city of				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 17, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-9809 Filed 4-30-74;8:45 am]

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[Docket No. FI 256]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Jackson	Stevenson, city of	H 01 071 2850 01 through H 01 071 2850 10.	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453 Administrative Bldg., Montgomery, Ala. 36104.	Mayor, City Hall, Stevenson, Ala. 35772.	May 10, 1974.
Do	Jefferson	Brighton, town of	H 01 073 0490 01 through H 01 073 0490 02	do	Mayor, City Hall, Brighton, Ala. 35020.	Do.
Do	do	Vestavia Hills, town of	H 01 073 3125 01 through H 01 073 3125 02	do	Mayor, City Hall, Vestavia, Ala. 35216.	Do.
Do	Marion	Winfield, city of	H 01 093 3300 01 through H 01 093 3300 07	do	Mayor, City of Winfield, Winfield, Ala. 35594.	Do.
Do	Morgan	Hartselle, city of	H 01 103 1590 01 through H 01 103 1590 10	do	Municipal Building Department, 200 North Sparkman St., Hartselle, Ala. 35640.	Do.
Arkansas	Benton	Bentonville, city of	H 05 007 0340 01 through H 05 007 0340 04	do	Mayor, Bentonville, Ark. 72712	Do.
Do	do	Siloam Springs, city of	H 05 007 3610 01 through H 05 007 3610 02	do	Mayor, Siloam, Springs, Ark. 72761	Do.
Do	Dallas	Sparkman, city of	H 05 039 3660 01 through H 05 039 3660 02	do	Mayor, City Hall, Sparkman, Ark. 71763.	Do.
Do	Desha	Arkansas City, city of	H 05 041 0140 01	do	Mayor, Arkansas City, Ark. 71630	Do.
Do	do	Dumas, city of	H 05 041 1150 01	do	Mayor, City Hall, Dumas, Ark. 71639.	Do.
Do	Jefferson	Altheimer, city of	H 05 069 0080 01	do	Mayor, City Hall, Altheimer, Ark. 72004.	Do.
Do	do	Wabbaseka, city of	H 05 069 3970 01	do	Mayor, City Hall, Wabbaseka, Ark. 72175.	Do.
Do	Lawrence	Hoxie, city of	H 05 075 1930 01 through H 05 075 1930 02	do	Mayor, City Hall, Hoxie, Ark. 72433	Do.
Do	do	Walnut Ridge, city of	H 05 075 4010 01	do	Mayor, City Hall, Walnut Ridge, Ark. 72476.	Do.
Do	Lincoln	Grady, city of	H 05 079 1550 01	do	Mayor, Grady, Ark. 71644	Do.
Do	Lonoke	England, city of	H 05 085 1250 01	do	Mayor, England, Ark. 72046	Do.
Do	Monroe	Brinkley, city of	H 05 095 0550 01 through H 05 095 0550 02	do	Mayor, City Hall, Brinkley, Ark. 72021.	Do.
Do	Poinsett	Harrisburg, city of	H 05 111 1740 01	do	Mayor, City Hall, Harrisburg, Ark. 72432.	Do.
Do	Sebastian	Lavaca, town of	H 05 131 2230 01 through H 05 131 2230 02	do	Mayor, Lavaca, Ark. 72941	Do.
California	Fresno	Orange Cove, city of	H 06 019 2570 01	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012.	Mayor, City Hall, 555 6th St., Orange Cove, Calif. 93646.	Do.
Do	do	San Joaquin, city of	H 06 019 3330 01	do	Mayor, City Hall, Colorado and 9th Sts., San Joaquin, Calif. 93660.	Do.
Do	Kern	Shafter, city of	H 06 029 3600 01	do	Mayor, City Hall, 320 James St., Shafter, Calif. 93263.	Do.
Do	Napa	Calistoga, city of	H 06 055 0540 01 through H 06 055 0540 02	do	Mayor, City Hall, 1232 Washington St., Calistoga, Calif. 94515.	Do.
Do	Orange	San Juan Capistrano, city of	H 06 059 3351 01 through H 06 059 3351 06	do	Mayor, City Hall, 32400 Paseo Adelanto, San Juan Capistrano, Calif. 92675.	Do.
Do	Riverside	Blythe, city of	H 06 065 0410 01	do	Mayor, City Hall, 220 North Spring St., Blythe, Calif. 92225.	Do.
Colorado	Arapahoe	Cherry Hills Village, city of	H 08 005 0380 01 through H 08 005 0380 02	Colorado Water Conservation, Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80230.	Village Center, Office of City Clerk, 2450 East Quincy Ave., Englewood, Colo. 80110.	Do.
Do	Phillips	Haxton, town of	H 08 095 1140 01	do	Mayor, Haxton, Colo. 80731	Do.
Do	Weld	Eaton, town of	H 08 123 0690 01	do	Mayor, Eaton, Colo. 80615	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Connecticut	Hartford	Southington, town of	H 09 003 0680 01 through H 09 003 0680 11	Department of Environmental, Protection, Division of Water and Related Resources, Room 207, State Office Bldg., Hartford, Conn. 06155. Connecticut Insurance Department, State Capitol Bldg., 165 Capitol Ave., Hartford, Conn. 06155.	Town Manager, Town Office Bldg., Southington, Conn. 06489.	Do.
Do	Middlesex	East Hampton, town of	H 09 007 0220 01 through H 09 007 0220 03	do	Mayor, City Hall, East Hampton, Conn. 06424.	Do.
Do	New London	Sprague, town of	H 09 011 0020 01 through H 09 011 0020 02	do	Mayor, Town Hall, Sprague, Conn.	Do.
Do	Windham	Willimantic, city of	H 09 015 0840 01 through H 09 015 0840 03	do	Mayor, Willimantic, Conn. 06226	Do.
Delaware	Kent	Smyrna, city of	H 10 001 0450 01	Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control, Tatnall Bldg., Capital Complex, Dover, Del. 19901. Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	Mayor, City Hall, Smyrna, Del. 19977	Do.
Georgia	Bryan	Pembroke, city of	H 13 029 4300 01 through H 13 029 4300 02	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	City Clerk, City Hall, Pembroke, Ga. 31321.	Do.
Do	Clayton	Mountain View, city of	H 13 063 3824 01	do	Mayor, City Hall, Mountain View, Ga. 30070.	Do.
Do	Heard	Franklin, town of	H 13 149 2230 01 through H 13 149 2230 02	do	Mayor, City Hall, Franklin, Ga. 30217.	Do.
Do	Jefferson	Wrens, city of	H 13 163 6070 01 through H 13 163 6070 02	do	Mayor, City Hall, Wrens, Ga. 30883	Do.
Do	Liberty	Riceboro, city of	H 13 179 4640 01 through H 13 179 4640 02	do	Liberty County Board of Supervisors Courthouse, city of Riceboro, Hinesville, Ga. 31313.	Do.
Do	McIntosh	Darien, city of	H 13 191 1560 01 through H 13 191 1560 02	do	City Council, City Hall, Darien, Ga. 31305.	Do.
Do	Worth	Sylvester, city of	H 13 321 5340 01 through H 13 321 5340 02	do	Mayor, City Hall, Sylvester, Ga. 31791.	Do.
Idaho	Latah	Troy, city of	H 16 057 1820 01	Department of Water Administration, State House—Annex 2, Boise, Idaho 83707. Idaho Department of Insurance, Room 206—Statehouse, Boise, Idaho 83707.	Mayor, City Hall, Troy, Idaho 83871	Do.
Illinois	Alexander	Tamms, village of	H 17 003 8490 01	Governor's Task Force on Flood Control, P.O. Box 475, Lisle, Ill. 60532. Illinois Insurance Department, 509 State Office Bldg., Springfield, Ill. 62702.	Mayor, City Hall, Tamms, Ill. 62988	Do.
Do	Cook	Summit, village of	H 17 031 8410 01	do	President, Village Hall, 5810 South Archer Rd., village of Summit, Argo, Ill. 60501.	Do.
Do	Du Page	Winfield, village of	H 17 043 9440 01	do	President, OS 165 Church St., Winfield, Ill. 60190.	Do.
Do	Gallatin	Omaha, village of	H 17 059 6530 01	do	President of Village Board, Village Hall, Omaha, Ill. 62871.	Do.
Do	Lake	Deerfield, village of	H 17 097 2270 01 through H 17 097 2270 03	do	President, 850 Waukegan Rd., Deerfield, Ill. 60015.	June 15, 1973, May 10, 1974.
Do	Ogle	Byron, city of	H 17 141 1230 01	do	Mayor, City Hall, Byron, Ill. 61010	Do.
Do	Rock Island	Milan, village of	H 17 161 5560 01 through H 17 161 5560 04	do	Mayor, City Hall, Milan, Ill. 61261	Do.
Indiana	Clinton	Frankfort, city of	H 18 023 1640 01 through H 18 023 1640 02	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Mayor, Courthouse, Frankfort, Ind. 46041.	Do.
Do	De Kalb	Garrett, city of	H 18 033 1720 01	do	City Plan Commission, City Hall, Garrett, Ind. 46738.	Do.
Do	Gibson	Oakland City, city of	H 18 051 3690 01	do	City Council, City Bldg., Oakland City, Ind. 47660.	Do.
Do	Kosciusko	Warsaw, city of	H 18 085 5110 01 through H 18 085 5110 03	do	Warsaw Plan Commission, West Center Bldg., Warsaw, Ind. 46580.	Do.
Do	Wayne	Fountain City, city of	H 18 177 1890 01	do	Town Board, City Bldg., Walnut St., Fountain City, Ind. 47341.	Do.
Do	do	Richmond, city of	H 18 177 4120 01 through H 18 177 4120 07	do	City Council, Richmond, Ind. 47374	Do.
Iowa	Audubon	Exira, town of	H 19 009 2830 01	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Mayor, City Hall, Exira, Iowa 50076	Do.
Do	Buena Vista	Sioux Rapids, town of	H 19 021 7860 01	do	Mayor, City Hall, Sioux Rapids, Iowa 50585.	Do.
Do	Johnson	Oxford, town of	H 19 103 6510 01	do	Mayor, Town Hall, Oxford, Iowa 52322.	Do.
Do	Lee	Donnellson, town of	H 19 111 2370 01	do	Mayor, City Hall, Donnellson, Iowa 52625.	Do.
Do	Worth	Northwood, town of	H 19 195 6200 01 through H 19 195 6200 02	do	Mayor, City Hall, Northwood, Iowa 50459.	Do.

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State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Kansas	Butler	El Dorado, city of.	H 20 015 1540 01 through H 20 015 1540 03	Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612. Kansas Insurance Department, 1st floor, Statehouse, Topeka, Kans. 66612.	Mayor, City Hall, El Dorado, Kans. 67042.	May 10, 1937.
Do	Dickinson	Herington, city of.	H 20 041 2420 01	do	City Manager, 715 South Broadway, Herington, Kans. 67449.	Do.
Do	Republic	Scandia, city of.	H 20 157 4950 01	do	Mayor, City Hall, Scandia, Kans. 66966.	Do
Kentucky	Bourbon	Millersburg, city of.	H 21 017 2240 01	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza, Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Mayor, Millersburg, Ky. 40348.	Do.
Do	Clinton	Albany, city of.	H 21 053 0040 01 through H 21 053 0040 02	do	Mayor, Albany, Ky. 42602.	Do.
Do	Floyd	Prestonburg, city of.	H 21 071 2670 01 through H 21 071 2670 02	do	Mayor, Prestonburg, Ky. 41653.	Do.
Do	Grayson	Caneyville, town of.	H 21 085 0550 01	do	Mayor, Caneyville, Ky. 42721.	Do.
Do	do	Leitchfield, town of.	H 21 085 1940 01	do	Mayor, Leitchfield, Ky. 42754.	Do.
Do	Harlan	Lynch, city of.	H 21 095 2120 01 through H 21 095 2120 02	do	Judge, Lynch, Ky. 40831.	Do.
Do	Madison	Richmond, city of.	H 21 151 2750 01 through H 21 151 2750 04	do	Mayor, Richmond, Ky. 40475.	Do.
Do	Marion	Bradfordsville, city of.	H 21 155 0358 01	do	Chairman, Bradfordsville, Ky. 40009.	Do.
Do	Marshall	Hardin, town of.	H 21 157 1400 01	do	Mayor, Hardin, Ky. 42048.	Do.
Do	Mercer	Burgin, city of.	H 21 167 0140 01 through H 21 167 0140 02	do	Chairman, Burgin, Ky. 40330.	Do.
Do	do	Harrodsburg, city of.	H 21 167 1430 01	do	Chairman, Harrodsburg, Ky. 40330.	Do.
Do	Montgomery	Mount Sterling, city of.	H 21 173 2320 01 through H 21 173 2320 03	do	Mayor, Mount Sterling, Ky. 40353.	Do.
Do	Nelson	Bloomfield, city of.	H 21 179 0320 01 through H 21 179 0320 03	do	Mayor, Bloomfield, Ky. 40008.	Do.
Do	Perry	Vicco, city of.	H 21 193 3368 01 through H 21 193 3368 02	do	Chairman, Vicco, Ky. 41773.	Do.
Do	Russell	Jamestown, city of.	H 21 207 1730 01 through H 21 207 1730 02	do	Mayor, Jamestown, Ky. 42629.	Do.
Louisiana	Richland Parish	Rayville, town of.	H 22 083 1980 01	State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Town of Rayville, corner U.S. 80 and Julia St., Rayville, La. 71269.	Do.
Maryland	Washington	Hagerstown, city of.	H 24 043 0730 01 through H 24 043 0730 03	Department of Resources, State Office Bldg., Annapolis, Md. 21401. Maryland Insurance Department, 301 West Preston St., Baltimore, Md. 21201.	Washington County Court House, 24 Summit Ave., City Hall, 1 East Franklin St., Hagerstown, Md. 21740.	Do
Massachusetts	Berkshire	Pittsfield, city of.	H 25 003 1030 01 through H 25 003 1030 11	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of, 100 Cambridge St., Boston, Mass. 02202.	Planning Board, City Hall, 66 Allen St., Pittsfield, Mass.	Do.
Michigan	Gratiot	Alma, city of.	H 26 057 0160 01 through H 26 057 0160 02	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Mosmer St., Lansing, Mich. 48913.	City Commission, Alma, Mich. 48801.	Do.
Do	Kalamazoo	Parchment, city of.	H 26 077 3820 01	do	Mayor, Parchment, Mich. 49001.	Do.
Do	Kent	Lowell, city of.	H 26 081 2960 01	do	Mayor, Lowell, Mich. 49331.	Do.
Do	Lapeer	Almont, village of.	H 26 087 0110 01 through H 26 087 0110 02	do	Village Administrator, Almont, Mich. 48003.	Do.
Do	Oakland	Milford, village of.	H 26 125 3260 01 through H 26 125 3260 02	do	President, Milford, Mich. 48042.	Do.
Minnesota	Anoka	Columbia Heights, city of.	H 26 003 1440 01 through H 26 003 1440 05	Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	City Manager, Columbia Heights, Minn. 55421.	Do.
Do	do	Spring Lake Park, city of.	H 27 003 6672 01	do	Mayor, Spring Lake Park, Minn. 55432.	Do.
Do	Chisago	North Branch, city of.	H 27 025 5260 01	do	Mayor, North Branch, Minn. 55056.	Do.
Do	do	Rush City, city of.	H 27 025 6110 01 through H 27 025 6110 02	do	Mayor, Rush City, Minn. 55069.	Do.
Do	Clay	Barnesville, city of.	H 27 027 0360 01 through H 27 027 0360 02	do	Mayor, Barnesville, Minn. 56514.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	Dakota	South St. Paul, city of.	H 27 037 6620 01 through H 27 037 6620 03	do	Mayor, South St. Paul, Minn. 55075.	Do.
Do	Faribault	Elmore, village of.	H 27 043 2160 01	do	Mayor, Elmore, Minn. 56027.	Do.
Do	do	Kiester, village of.	H 27 043 3800 01	do	Mayor, Kiester, Minn. 56051.	Do.
Do	do	Wells, city of.	H 27 043 7460 01	do	Mayor, Wells, Minn. 56097.	Do.
Do	Fillmore	Preston, city of.	H 27 045 5750 01 through H 27 045 5750 02	do	Mayor, Preston, Minn. 55965.	Do.
Do	Goodhue	Wanamingo, city of.	H 27 049 7320 01	do	Mayor, Wanamingo, Minn. 55983.	Do.
Do	Lake	Two Harbors, city of.	H 27 075 7030 01 through H 27 075 7030 02	do	Mayor, Two Harbors, Minn. 55616.	Do.
Do	Le Sueur and Scott.	New Prague, city of.	H 27 079 5160 01	do	Mayor, New Prague, Minn. 56058.	Do.
Do	Martin	Welcome, city of.	H 27 091 7450 01	do	Mayor, Welcome, Minn. 56181.	Do.
Do	Mille Lacs	Milaca, city of.	H 27 095 4700 01 through H 27 095 4700 02	do	Zoning Administrator, Milaca, Minn. 56353.	Do.
Do	do	Onamia, city of.	H 27 095 5410 01	do	Mayor, Onamia, Minn. 56359.	Do.
Do	do	Princeton, city of.	H 27 095 5760 01	do	Planning Commission, Princeton, Minn. 55371.	Do.
Do	Mower	Brownsdale, city of.	H 27 099 0870 01	do	Mayor, Brownsdale, Minn. 55918.	Do.
Do	Norman	Ada, city of.	H 27 107 0010 01	do	Mayor, Ada, Minn. 56510.	Do.
Do	Olmsted	Oronoco, city of.	H 27 109 5424 01	do	Mayor, Oronoco, Minn. 55960.	Do.
Do	Pine	Sandstone, city of.	H 27 115 6400 01 through H 27 115 6400 02	do	Mayor, Sandstone, Minn. 55072.	Do.
Do	Ramsey	Lauderdale, city of.	H 27 123 4980 01	do	Mayor, Lauderdale, Minn. 55113.	Do.
Do	Redwood	Sanborn, city of.	H 27 127 6370 01	do	Mayor, Sanborn, Minn 56083.	Do.
Do	Stevens	Morris, city of.	H 27 149 4980 01 through H 27 149 4980 02	do	City Manager, Morris, Minn. 56267.	Do.
Do	Traverse	Browns, city of.	H 27 155 0880 01	do	Mayor, Browns, Minn. 56219.	Do.
Mississippi	Bolivar	Cleveland, city of.	H 28 011 0480 01 through H 28 011 0480 04	Mississippi Research and Development Center, P.O. Box Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	City Clerk, City Hall, Cleveland, Miss. 38732.	Do.
Do	Sunflower	Drew, city of.	H 28 133 0710 01	do	City Hall, Drew, Miss. 38737.	Do.
Do	do	Moorhead, city of.	H 28 133 1660 01	do	City Clerk's Office, Moorhead, Miss. 38761.	Do.
Do	do	Ruleville, town of.	H 28 133 2200 01	do	City Clerk, Town of Ruleville, Ruleville, Miss. 38771.	Do.
Missouri	Atchinson	Fairfax, town of.	H 29 005 2620 01	Water Resources Board, P.O. Box 271, Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	Mayor, City Hall, Fairfax, Mo. 64445.	Do.
Do	Bollinger	Lutesville, city of.	H 29 017 4780 01 through H 29 017 4780 02	do	Mayor, City Hall, Lutesville, Mo. 63762.	Do.
Do	do	Marble Hill, town of.	H 29 017 4910 01	do	Mayor, City Hall, Marble Hill, Mo. 63764.	Do.
Do	Daviess	Pattonsburg, town of.	H 29 061 6140 01 through H 29 061 6140 02	do	Mayor, City Hall, Pattonsburg, Mo. 64670.	Do.
Do	Gasconade	Owensville, city of.	H 29 073 6010 01 through H 29 073 6010 02	do	Mayor and City Council, Owensville, Mo. 65066.	Do.
Do	Howell	Mountain View, city of.	H 29 091 5490 01	do	Mayor, Mountain View, Mo. 65548.	Do.
Do	Laclede	Conway, town of.	H 29 105 1850 01	do	Mayor, City Hall, Conway, Mo. 65632.	Do.
Do	Lawrence	Aurora, city of.	H 29 109 0420 01	do	Mayor and City Council, City Hall, Aurora, Mo. 65605.	Do.
Do	Lincoln	Elsberry, city of.	H 29 113 2320 01	do	Mayor, city of Elsberry, Elsberry, Mo. 63343.	Do.
Do	St. Louis	Ellisville, city of.	H 29 189 2460 01	do	Mayor, City Hall, No. 1 Wolf, Ellisville, Mo. 63011.	Do.
Do	do	Lakeshire, city of.	H 29 189 4330 01	do	City Hall and Community Center, 1000 Pattington Dr., Lakeshire, Mo. 63123.	Do.
Do	Saline	Slater, city of.	H 29 195 7340 01	do	Mayor, City Hall, Slater, Mo. 65349.	Do.
Do	Stoddard	Dexter, city of.	H 29 207 2230 01 through H 29 207 2230 04	do	Mayor, City Hall, Dexter, Mo. 63941.	Do.
Montana	Chouteau	Fort Benton, city of.	H 30 015 0440 01	Montana Department of Natural Resources and Conservation, Water Resources Division, Sam W. Mitchell Bldg., Helena, Mont. 59601. Montana Insurance Department, Capitol Bldg., Helena, Mont. 59601.	Mayor, City Hall, Fort Benton, Mont. 59442.	Do.
Do	Liberty	Chester, town of.	H 30 051 0210 01	do	Mayor, Chester, Mont. 59522.	Do.
Nebraska	Adams	Hastings, city of.	H 31 001 2280 01 through H 31 001 2280 03	Nebraska Natural Resources Commission, P.O. Box 94725, State House Station, Lincoln, Nebr. 68509. Nebraska Insurance Department, 1335 L St., Lincoln, Nebr. 68509.	Mayor, City Hall, Hastings, Nebr. 68901.	Do.
Do	Cass	Louisville, village of.	H 31 025 2910 01	do	Chairman of Town Board, Louisville, Nebr. 68037.	Do.
Do	do	Plattsmouth, city of.	H 31 025 3920 01 through H 31 025 3920 02	do	Mayor, Plattsmouth, Nebr. 68048.	Do.
Do	Hitchcock	Colbertson, village of.	H 31 087 1280 01	do	Chairman, Board of Trustees, c/o Village Clerk, Colbertson, Nebr. 69024.	Do.
Do	Merrick	Central City, city of.	H 31 121 0940 01 through H 31 121 0940 02	do	City Council, Central City, Nebr. 68826.	Do.

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State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
New Hampshire.	Hillsborough	Hillsborough, town of.	H 33 011 0220 01 through H 33 011 0220 12	Office of State Planning, Division of Community Planning, State House Annex, Concord, N.H. 03301. New Hampshire Insurance Department, 78 North Main St., Concord, N.H. 03301.	Selectmen, Hillsborough, N.H. 03244	Do.
New Jersey	Camden	Haddon Heights, borough of.	H 34 007 1235 01 through H 34 007 1235 03	Bureau of Water Control, Department, of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, 625 Station Ave., Haddon Heights, N.H. 08035.	Do.
Do	Cumberland	Fairfield, township of.	H 34 011 0351 01 through H 34 011 0364 07	do	Township Clerk, Main St., Fairton, N.J.	Do.
Do	Middlesex	Cranbury, township of.	H 34 023 0706 01 through H 34 023 0706 03	do	Mayor, 51 North Main St., Cranbury, N.J. 08512.	Do.
Do	Ocean	Little Egg Harbor, township of.	H 34 029 1724 01 through H 34 029 1724 07	do	Little Egg Harbor, Municipal Bldg., Gilford Lane, Tuckerton, N.J. 08087	Do.
Do	Passaic	Maledon, borough of.	H 34 031 1250 01	do	Mayor, 407 Belmont Ave., Maledon, N.J. 07508.	Do.
New Mexico	Taos	Red River, town of.	H 35 055 0661 01	State Engineer's Office, Bataan Memorial Bldg., Santa Fe, N. Mex. 87501. New Mexico Department of Insurance, P.O. Box 1269, Santa Fe, N. Mex. 87501.	Mayor, town of Red River, Red River, N. Mex. 87558.	Do.
New York	Allegany	Canaseraga, village of.	H 36 003 0840 01	New York State Department of Environmental Conservation, Division of Resources Management Services, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038.	Mayor, Canaseraga, N.Y. 14822	Do.
Do	Chautauqua	Cherry Creek, village of.	H 36 013 1120 01	do	Village Board, Village Hall, Cherry Creek, N.Y. 14723.	Do.
Do	do	Sinclairville, village of.	H 36 013 5730 01	do	Village Board, Village Office, Sinclairville, N.Y. 14782.	Do.
Do	Erie	Wales, town of.	H 36 029 6341 01	do	Supervisor, Town Hall, 12345 Big Tree Rd., Wales, N.Y. 14169.	Do.
Do	Herkimer	Herkimer, village of.	H 36 043 2610 01 through H 36 043 2610 02	do	Village Hall, Village of Herkimer, 120 Green St., Herkimer, N.Y. 13350.	Do.
Do	Jefferson	Brownville, village of.	H 36 045 0720 01	do	Mayor, Brownville, N.Y. 13615	Do.
Do	do	Carthage, village of.	H 36 045 0910 01	do	Mayor, Carthage, N.Y. 13619	Do.
Do	do	Lorraine, town of.	H 36 045 3066 01 through H 36 045 3066 03	do	Supervisor, Lorraine, N.Y. 13659	Do.
Do	do	Theresa, village of.	H 36 045 6050 01	do	Mayor, Theresa, N.Y. 13691	Do.
Do	do	West Carthage, village of.	H 36 045 6560 01	do	Mayor, West Carthage, N.Y. 13619	Do.
Do	Lewis	Copenhagen, village of.	H 36 049 1330 01	do	Town Board—Denmark, Town Clerk, Copenhagen, N.Y. 13626.	Do.
Do	Livingston	Avon, village of.	H 36 051 0350 01 through H 36 951 0350 04	do	Avon Town Hall, 70 Genesse St., Avon, N.Y. 14414.	Do.
Do	Madison	Lenox, town of.	H 36 053 3202 01 through H 36 053 3202 10	do	Town Supervisor, Village Hall, town of Lenox, 126 East Center St., Canastota, N.Y. 13032.	Do.
Do	Oswego	Pulaski, village of.	H 36 075 5060 01 through H 36 075 5060 02	do	Mayor, Pulaski, N.Y. 13142	Do.
Do	do	Schroeppel, town of.	H 36 075 5576 01 through H 36 075 5576 13	do	Town Supervisor, Town Hall, Town of Schroeppel, Pennellville, N.Y. 13132.	Do.
Do	Rensselaer	Nooslek, village of.	H 36 083 2780 01	do	Village Board, Nooslek Falls, N.Y. 12090.	Do.
Do	Rockland	Orangetown, town of.	H 36 087 4384 01 through H 36 087 4384 07	do	Supervisor, Town Hall, Orangeburg, N.Y. 10962.	Do.
Do	do	Stony Point, town of.	H 36 087 5982 01 through H 36 087 5982 04	do	Supervisor, 74 East Main St., Stony Point, N.Y. 10980.	Do.
Do	Schenectady	Schenectady, city of.	H 36 093 5550 01 through H 36 093 5550 06	do	City Manager, City Hall, Schenectady, N.Y. 12305.	Do.
Do	Steuben	Pulteney, town of.	H 36 101 5064 01 through H 36 101 5064 01	do	Mr. Fred Wright, Town Supervisor, rural delivery No. 2, Hammondsport, N.Y. 14840.	Do.
Do	do	Urbana, town of.	H 36 101 6217 01 through H 36 101 6217 06	do	Town of Urbana, Municipal Bldg., corner Lake and Main St., Hammondsport, N.Y. 14840.	Do.
Do	Westchester	Eastchester, town of.	H 36 119 1644 01 through H 36 119 1644 02	do	Supervisor, 40 Mill Rd., Eastchester, N.Y. 10709.	Do.
Do	do	Larchmont, village of.	H 36 119 3150 01	do	Mayor, Municipal Bldg., Larchmont, N.Y. 10538.	Nov. 23, 1973. May 10, 1974.
Do	do	Pelham Manor, village of.	H 36 119 4720 01	do	Mayor, 4 Penfield, Place, Pelham Manor, N.Y. 10803.	May 10, 1974.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
North Carolina	Onslow	Jacksonville, city of.	H 37 133 2330 01 through H 37 133 2330 03	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Mayor, Jacksonville, N.C. 28540	Do.
North Dakota	Trail	Hatton, city of.	H 38 097 1460 01	State Water Commission, State Office Bldg., 900 East Blvd., Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Mayor, Hatton, N. Dak. 58240	Do.
Do	do	Portland, city of.	H 38 097 2390 01	do	Mayor, Portland, N. Dak. 58274	Do.
Ohio	Athens	Nelsonville, village of.	H 39 009 5520 01 through H 39 009 5520 02	Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43215. Ohio Insurance Department, 115 East Rich St., Columbus, Ohio 43215.	Mayor, Nelsonville, Ohio 45764	Do.
Do	Butler	Oxford, city of.	H 39 017 6310 01 through H 39 017 6310 03	do	Mayor, Oxford, Ohio 45011	Do.
Do	do	Trenton, city of.	H 39 017 8160 01 through H 39 017 8160 02	do	Commissioners, Trenton, Ohio 45011	Do.
Do	Darke	New Madison, village of.	H 39 037 5720 01	do	Mayor, New Madison, Ohio 45346	Do.
Do	Hamilton	St. Bernard, city of.	H 39 061 7190 01	do	Mayor, St. Bernard, Ohio 45217	Do.
Do	Hancock	McComb, village of	H 39 063 4520 01	do	Mayor, McComb, Ohio 45858	Do.
Do	Hardin	McGuffey, village of.	H 39 065 4550 01	do	Mayor, McGuffey, Ohio 45859	Do.
Do	Jefferson	Adena, village of.	H 39 081 0060 01	do	Mayor's Office, Adena, Ohio 43901	Do.
Do	Lake	Madison, village of.	H 39 085 4580 01 through H 39 085 4580 02	do	Mayor, Madison, Ohio 44057	Do.
Do	Madison	London, city of.	H 39 097 4350 01 through H 39 097 4350 05	do	Mayor, London, Ohio 43140	Do.
Do	Miami	Tipp City, city of.	H 39 109 8100 01 through H 39 109 8100 02	do	City Manager, Tipp City, Ohio 45371	Do.
Do	Paulding	Paulding, village of.	H 39 125 6410 01	do	Village Administrator, Paulding, Ohio 45879.	Do.
Do	Perry	Corning, village of.	H 39 127 1890 01	do	Mayor Corning, Ohio 43730	Do.
Do	Pickaway	Ashville, village of.	H 39 129 0340 01 through H 39 129 0340 02	do	Mayor, Ashville, Ohio 43103	Do.
Do	Portage	Aurora, city of.	H 39 133 0380 01 through H 39 133 0380 06	do	Mayor, Aurora, Ohio 44202	Do.
Do	Preble	Camden, village of.	H 39 135 1270 01 through H 39 135 1270 03	do	Mayor, Camden, Ohio 45311	Do.
Do	Shelby	Sidney, city of.	H 39 149 7550 01 through H 39 149 7550 05	do	City Manager, Sidney, Ohio 45365	Do.
Do	Warren	Lebanon, city of.	H 39 165 4120 01 through H 39 165 4120 06	do	City Manager, Lebanon, Ohio 45036	Do.
Do	Wood	Cygnet, village of.	H 39 173 2030 01	do	Mayor, Cygnet, Ohio 43413	Do.
Oklahoma	Bryan	Durant, city of.	H 40 013 1430 01 through H 40 013 1430 04	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73112. Oklahoma Insurance Department, Room 408 Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	City Manager, City Hall, Durant, Okla. 73701.	Do.
Do	Logan	Crescent, city of.	H 40 083 1180 01	do	Mayor, City Hall, Crescent, Okla. 73028.	Do.
Do	Rogers	Inola, city of.	H 40 131 2410 01	do	Director, City-County Planning Commission, Inola, Okla. 74036.	Do.
Oregon	Lane	Junction City, city of.	H 41 039 1150 01 through H 41 039 1150 03	Executive Department State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St., N.E., Salem, Oreg. 97310.	Mayor, City Hall, Junction City, Oreg. 97448.	Do.
Do	do	Oakridge, city of.	H 41 039 1550 01	do	Mayor, City Hall, Oakridge, Oreg. 97463.	Do.
Do	Marion	Aumsville, city of	H 41 047 0100 01	do	Mayor, City Hall, Aumsville, Oreg. 97325.	Do.
Do	do	Hubbard, city of.	H 41 047 1030 01	do	Mayor, City Hall, Hubbard, Oreg. 97032.	Do.
Do	do	Silverton, city of.	H 41 047 1920 01 through H 41 047 1920 02	do	Mayor, City Hall, Silverton, Oreg. 97381.	Do.
Do	Multnomah	Fairview, city of.	H 41 051 0670 01	do	Mayor, Fairview, Oreg. 97024	Do.
Do	do	Wood Village, city of.	H 41 051 2264 01	do	Mayor, city of Wood Village, Troutdale, Oreg. 97060.	Do.

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State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	Polk	Falls City, city of	H 41 053 0080 01	do	Mayor, Falls City, Oreg. 97344	Do.
Pennsylvania	Allegheny	Braddock Hills, borough of.	H 42 003 0880 01	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Mayor, Columbia and Brinton Rd., borough of Braddock Hills, Pittsburgh, Pa. 15221.	Do.
Do	do	Forest Hills, borough of.	H 42 003 2940 01	do	Borough of Forest Hills, Municipal Bldg., 2071 Ardmore Blvd., Pittsburg, Pa. 15221.	Do.
Do	do	Aleppo, township of.	H 42 003 7510 01	do	Township Manager, Weber Rd., rural delivery No. 2, Aleppo Township, Sewickley, Pa. 15143.	Do.
Do	do	Wilkins, township of.	H 42 003 9350 01 through H 42 003 9350 05	do	Wilkins Township Bldg., 110 Peffer Rd., Turtle Creek, Pa. 15145.	Do.
Do	Armstrong	Leechburg, borough of.	H 42 005 4360 01	do	Borough Secretary, Box 543, Leechburg, Pa. 15656.	Do.
Do	Bradford	Troy, borough of	H 42 015 8600 01 through H 42 015 8600 03	do	Troy Borough Council, Troy, Pa. 16947.	Do.
Do	Centre	Millheim, borough of.	H 42 027 5290 01 through H 42 027 5290 03	do	Borough Council, Millheim, Pa. 16854.	Do.
Do	Clinton	Beech Creek, borough of.	H 42 035 0530 01	do	Mayor, Municipal Bldg., Beech Creek, Pa. 16822.	Do.
Do	Erie	Waterford, borough of.	H 42 049 8890 01 through H 42 049 8890 02	do	Mayor, West 2d St., Waterford, Pa. 16441.	Do.
Do	Jefferson	Brookville, borough of.	H 42 065 0960 01 through H 42 065 0960 06	do	Council President, Borough Bldg., Brookville, Pa. 15825.	Do.
Do	do	Summerville, borough of.	H 42 065 8250 01 through H 42 065 8250 02	do	Council President, Summerville, Pa. 15864.	Do.
Do	Juniata	Walker, township of.	H 42 067 8816 01 through H 42 067 8816 08	do	Mr. Randall Davis, Walker Township, Municipal Bldg., rural delivery No. 1, Thompsontown, Pa. 17094.	Do.
Do	Lackawanna	Ransom, township of.	H 42 069 6892 01 through H 42 069 6892 08	do	Township of Ransom, Township Bldg., Ransom, Pa. 18433.	Do.
Do	Lancaster	Brecknock, township of.	H 42 071 0856 01 through H 42 071 0856 06	do	Chairman Board of Supervisors, Township of Brecknock, Bowmansville, Pa. 17507.	Do.
Do	Luzerne	Conyngham, borough of.	H 42 079 1450 01 through H 42 079 1450 02	do	Conyngham Borough Bldg., Main St., Conyngham, Pa. 18219.	Do.
Do	Lycoming	Hepburn, township of.	H 42 081 1318 01 through H 42 081 1518 05	do	Mr. Neil Mutchler, Township Secretary, rural delivery No. 2, Cogan Station, Pa. 17729.	Do.
Do	McKean	Bradford, township of.	H 42 083 0840 01 through H 42 083 0840 13	do	Chairman, Township Supervisor, Bradford, Pa. 16701.	Do.
Do	Montgomery	Upper Merion, township of.	H 42 091 4086 01 through H 42 091 4086 07	do	Upper Merion Township, 175 Valley Forge Rd., King of Prussia, Pa. 19406.	Do.
Do	Northumberland	West Chillisquaque, township of.	H 42 097 1318 01 through H 42 097 1318 02	do	Office of Secretary-Treasurer, township of West Chillisquaque, Box 57, Montandon, Pa. 17857.	Do.
Do	do	Shamokin, city of	H 42 097 7530 01 through H 42 097 7530 02	do	Shamokin City Council, City Hall, Shamokin, Pa. 17872.	Do.
Do	Westmoreland	Rostraver, township of.	H 42 129 7188 01 through H 42 129 7188 05	do	Chairman, Board of Commissioners, Township of Rostraver, rural delivery No. 2, Belle Vernon, Pa. 15012.	Do.
Do	York	Spring Garden, township of.	H 42 133 9680 01 through H 42 133 9680 02	do	Spring Gardee Township, 558 South Ogontz St., York, Pa. 17403.	Do.
South Carolina	Florence	Pamplico, town of	H 45 041 1920 01	South Carolina Resources Commission, P.O. Drawer 164, 700 Knox Abbott Dr., Cayce, S.C. 29033. South Carolina Insurance Department, 2711 Middleburg St., Columbia, S.C. 29204.	Mayor, Pamplico, S.C. 29583	Do.
South Dakota	Hamlin	Estelline, town of	H 46 057 0920 01	South Dakota Planning Agency, State Capitol Bldg., Pierre, S. Dak. 57501. South Dakota Department of Insurance, Insurance Department, Pierre, S. Dak. 57501.	Mayor, Estelline, S. Dak. 57234	Do.
Do	Tripp	Colome, city of	H 46 123 0620 01	do	Mayor, Town Hall, Colome, S. Dak. 57528.	Do.
Tennessee	Blount	Townsend, city of.	H 47 009 2410 01 through H 47 009 2410 04	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Mayor, City Hall, Townsend, Tenn. 37882.	Do.
Do	Fayette	Moscow, town of	H 47 047 1710 01	do	J. B. Brunson, Mayor, Moscow, Tenn. 38057.	Do.
Do	Grundy	Tracy City, city of.	H 47 061 2420 01 through H 47 061 2420 05	do	Mayor, City Hall, Tracy City, Tenn. 37387.	Do.
Do	Hawkins	Church Hill, city of.	H 47 073 0450 01 through H 47 073 0450 06	do	Mayor, City Hall, Church Hill, Tenn. 37642.	Do.
Do	Polk	Copperhill, city of.	H 47 139 0490 01 through H 47 139 0490 02	do	Mayor, City Hall, Copperhill, Tenn. 37317.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Texas	Bee	Beeville, city of	H 48 025 0510 01 through H 48 025 0510 04	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	City Hall, 100 West Corpus Christi, Beeville, Tex. 78102.	Do.
Do	Bexar	Alamo Heights, city of.	H 48 029 0060 01	do	City Engineer's Office, City Hall, city of Alamo Heights, 6116 Broadway, Alamo Heights Tex. 78209.	Do.
Do	Brazoria	Clute, city of	H 48 039 1395 01 through H 48 039 1395 02	do	City of Clute, P.O. Box 997, Clute, Tex. 77531.	Do.
Do	Cameron	Combes, town of	H 48 061 1481 01 through H 48 061 1481 02	do	Mayor, Combes, Tex. 78535	Do.
Do	do	La Feria, city of	H 48 061 3780 01	do	City Hall, 115 Commercial Ave., La. Feria, Tex. 78559.	Do.
Do	Colorado	Eagle Lake, city of.	H 48 089 2020 01	do	Mayor, City Hall, Eagle Lake, Tex. 77434.	Do.
Do	Frio	Dilley, city of	H 48 163 1930 01	do	Mayor, City Hall, Dilley, Tex. 78017.	Do.
Do	Gray	Lefors, town of	H 48 179 3080 01	do	Mayor, Box 248, Lefors, Tex. 79054	Do.
Do	do	Pampa, city of	H 48 179 5190 01 through H 48 179 5190 02	do	Mayor, Box 2499, Pampa, Tex. 79065	Do.
Do	Hale	Hale Center, city of.	H 48 189 2960 01	do	Mayor, 702 Main, Hale Center, Tex. 79041.	Do.
Do	Harris	Hunters Creek Village, city of.	H 48 201 3328 01 through H 48 201 3328 02	do	Mayor, city of Hunters Creek, 8811 Gaylord, No. 107, Houston, Tex. 77024.	Do.
Do	Hidalgo	Edcouch, town of	H 48 215 2080 01	do	Mayor, 206 Hill, Edcouch, Tex. 78538	Do.
Do	Houston	Crockett, city of	H 48 225 1620 01 through H 48 225 1620 05	do	City Administrator, Box 55, Crockett, Tex. 75835.	Do.
Do	Jasper	Kirbyville, city of.	H 48 241 3710 01 through H 48 241 3710 03	do	Mayor, Kirbyville, Tex. 75956	Do.
Do	Jones	Hamlin, city of	H 48 253 3010 01 through H 48 253 3010 03	do	City Manager, P.O. Box N, Hamlin, Tex. 79520.	Do.
Do	Hale	Abernathy, city of.	H 48 303 0020 01	do	Mayor, P.O. Box 310, Abernathy, Tex. 79311.	Do.
Do	Milam	Rockdale, city of	H 48 331 5880 01 through H 48 331 5880 02	do	Mayor, City Hall, Rockdale, Tex. 76567.	Do.
Do	Montague	Nacona, city of	H 48 337 4920 01 through H 48 337 4920 04	do	Mayor, Nacona, Tex. 76255	Do.
Do	Tarrant	Colleyville, city of.	H 48 439 1442 01 through H 49 439 1442 09	do	Mayor, P.O. Box 185, Colleyville, Tex. 76034.	Do.
Do	Upton	Rankin, city of	H 48 461 5650 01 through H 48 461 5650 02	do	Mayor, Rankin, Tex. 79778	Do.
Do	Van Zandt	Canton, city of	H 48 467 1140 01 through H 48 467 1140 04	do	Mayor, City Hall, Canton, Tex. 75103	Do.
Do	do	Grand Saline, city of.	H 48 467 2810 01	do	Mayor, City Hall, Grand Saline, Tex. 75140.	Do.
Vermont	Chittenden	Richmond, village of.	H 50 007 0570 01	Management and Engineering Division, Water Resources Department, State Office Bldg., Montpelier, Vt. 05602. Vermont Insurance Department, State Office Bldg., Montpelier, Vt. 05602.	Chairman, Richmond Village Trustees, Richmond, Vt. 05477.	Do.
Do	Washington	Waterbury, village of.	H 50 023 0680 01 through H 50 023 0680 02	do	Chairman, Waterbury Village Trustees, Waterbury, Vt. 05676.	Do.
Virginia	Russell	Honaker, town of	H 51 167 1280 01 through H 51 167 1280 02	Bureau of Water Control Management, State Water Control Board, 2d floor, Davenport Bldg., 11 South 10th St., Richmond, Va. 23219. Virginia Insurance Department, 200 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	Mayor, City Hall, town of Honaker, Va. 24260.	Do.
Do	do	Lebanon, town of	H 51 167 1430 01 through H 51 167 1430 04	do	Mayor, City Hall, Lebanon, Va. 24266.	Do.
Do	Scott	Gate City, town of.	H 51 169 1060 01 through H 51 169 1060 04	do	Scott County Board of Supervisors, Gate City, Va. 24251.	Do.
Do	do	Weber City, town of.	H 51 169 2613 01 through H 51 169 2613 03	do	Scott County Board of Supervisors, town of Weber City, Gate City, Va. 24251.	Do.
Do	Smyth	Chilhowie, town of.	H 51 173 0480 01 through H 51 173 0480 02	do	Town Hall, Chilhowie, Va. 24319	Do.
Do	do	Saltville, town of	H 51 173 2180 01 through H 51 173 2810 11	do	Town Hall, town of Saltville, Saltville, Saltville, Va. 24370.	Do.
Do	Tazewell	Cedar Bluff, town of.	H 51 185 0420 01 through H 51 185 0420 03	do	Mayor, Town Hall, Cedar Bluff, Va. 24609.	Do.
Do	Washington	Glade Springs, town of.	H 51 191 1070 01 through H 51 191 1070 03	do	Mayor, City Hall, Glade Springs, Va. 24340.	Do.
Do	Wise	Appalachia, town of.	H 51 195 0080 01 through H 51 195 0080 02	do	Mayor, City Hall, town of Appalachia, Va. 24216.	Do.
Do	do	Coeburn, town of	H 51 195 0600 01 through H 51 195 0600 04	do	Mayor Town Hall, Coeburn, Va. 24230.	Do.
Do	do	Wise, town of	H 51 195 2660 01 through H 51 195 2660 05	do	Mayor, Town Hall, Wise, Va. 24293	Do.

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State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
West Virginia	Kanawha	Charleston, city of.	H 54 039 0480 01 through H 54 039 0480 10	Office of Federal-State Relations, Room West 115., Capitol Bldg., Charleston, W. Va. 25305. West Virginia Insurance Department, State Capitol, Charleston, W. Va. 25305.	Mayor, City Bldg., Charleston, W. Va. 25301.	Do.
Wisconsin	Eau Claire	Augusta, village of.	H 55 035 0250 01	Department of Natural Resources, P.O. Box 450, Madospm, Wis. 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53703.	Mayor, Augusta, Wis. 54722	Do.
Do	Grant	Muscoda, village of.	H 55 043 3250 01	do	Village President, Muscoda, Wis. 53573	Do.
Do	Green Lake	Markeson, city of.	H 55 047 2800 01	do	Mayor, Markeson, Wis. 53946	Do.
Do	Iron	Montreal, city of.	H 55 051 3190 01	do	Mayor, Montreal, Wis. 54550	Do.
Do	Kewaunee	Luxemburg, village of.	H 55 061 2740 01	do	Village President, Luxemburg, Wis. 54217.	Do.
Do	St. Croix	Baldwin, village of.	H 55 109 0280 01 through H 55 109 0280 02	do	President, Baldwin, Wis. 54002	Do.
Do	do	Hammond, village of.	H 55 109 2050 01	do	President Hammond, Wis. 54015	Do.
Do	Sauk	Plain, village of.	H 55 111 3770 01	do	Village President, Plain, Wis. 53577	Do.
Wyoming	Teton	Jackson, town of.	H 56 039 0410 01	Wyoming Disaster and Civil Defense Agency, P.O. Box 1709, Cheyenne, Wyo. 82001. Department of Insurance, State of Wyoming, State Office Bldg., Cheyenne, Wyo. 82001.	Mayor, City Courthouse, Jackson, Wyo. 83001.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 23, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–9810 Filed 4–30–74;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Waiving the Road Test Requirement

Part 930 is amended to waive the road test requirement for operators and to authorize agencies to waive the road test for incidental operators when the applicant or employee has a license to operate motor vehicles of the type used on the job issued by the State, District of Columbia, or Puerto Rico, in which he is principally employed or domiciled.

Effective on May 1, 1974, § 930.102(h) is updated, §§ 930.107 and 930.110 are amended in their entirety, and the reference in § 930.112(b)(3) is amended to conform with the revision.

§ 930.102 Definitions.

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(h) "Practical road test" means the Commission's Test No. 544.

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§ 930.107 Waiver of practical road test.

(a) The Commission waives the practical road test requirement for operators of vehicles of one ton load capacity or less who possess a current driver's license from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed except for operators of buses, and vehicles used for (1) transportation of dangerous materials, (2) law enforcement, or (3) emergency services.

(b) The Commission waives the practical road test requirement for operators of any class of vehicle who possess a current driver's license from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed, for the specific type of vehicle to be operated.

(c) The Commission, on agency request, may waive the practical road test requirement for operators not covered in paragraph (a) or (b) of this section when qualified examiners or test facilities are not available in the area and the operator position is to be filled by (1) temporary appointment pending establishment of a register, (2) temporary limited appointment, (3) noncompetitive temporary appointment, (4) reinstatement, (5) position change, or (6) transfer.

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§ 930.110 Incidental operator.

(a) To qualify as an incidental operator an employee shall (1) meet the physical standards established by the Commission; (2) qualify on a road test determined by the agency to be appropriate; and (3) possess a state license.

(b) An agency head or his designated representative may waive the road test for incidental operators of vehicles of one ton load capacity or less who possess a current driver's license from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed except for incidental operators of buses, and vehicles used for (1) transportation of dangerous materials, (2) law enforcement, or (3) emergency services.

(c) An agency head or his designated representative may waive the road test for incidental operators of any class of vehicle who possess a current driver's license from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed, for the specific type of vehicle to be operated.

(d) An agency head or his designated representative may waive the road test for incidental operators not covered by paragraphs (b) and (c) of this section, but only when in his opinion it is impractical to apply it, and then only for an employee whose competence as a driver has been established by his past driving record.

(e) An agency head or his designated representative may waive the requirement for possession of a State license only under the circumstances set out in, and in accordance with, a specific authorization by the Commission to the agency concerned.

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§ 930.112 To whom issued.

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(b) • • •

(3) For one month or less, to other employees who are taking training to satisfy requirements as operators or incidental operators or under such circumstances as in the judgment of the agency is necessary in the interests of the Government.

An agency may issue an identification card under authority of this paragraph only to an employee who is in possession of a State license, except when this requirement is waived under section 930.110(e). An identification card issued under this paragraph shall include the time restriction imposed.

(5 U.S.C. secs. 1302, 3301, 3302, 7301; 40 U.S.C. 491; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR 1964–1965 Comp., p. 306)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–9950 Filed 4–30–74;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 74–309]

PART 545—OPERATIONS

Application Procedures for Branch Offices of Federal Savings and Loan Associations

APRIL 17, 1974.

Section 545.14 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.14) contains the regulations relating to application procedures for branch offices of Federal savings and loan associations. Section 545.14(g)(3) requires the "Principal Supervisory Agent" to give written advice to any protestant and the applicant as to whether such protestant's communication is "substantial". Section 545.14(k) delegates to the "Principal Supervisory Agent" the authority to approve applications for branch offices (including limited facility branch offices) in a case in which no "substantial" protest has been filed. The term "Principal Supervisory Agent" is defined in § 545.14(a)(3) as meaning "the President of the Federal Home Loan Bank of the district in which the applicant's home office is located."

The Federal Home Loan Bank Board considers it advisable to provide for the designation of a "Principal Supervisory Agent" to act in the event of prolonged absence or incapacity of the Federal Home Loan Bank President. Accordingly, on the basis of such consideration and for such purpose, the Board hereby amends § 545.14(a)(3) to provide for such designation, to read as set forth below. This amendment expands the definition of "Principal Supervisory Agent" to include, in the event of the absence or incapacity of the Federal Home Loan Bank President for a period exceeding 10 business days, any other officer or employee of such Bank designated (with respect to the specific absence or incapacity) by such President with the written consent of at least two of the Members of the Federal Home Loan Bank Board.

Since the amendment applies to rules of Board organization, procedure, or practice, the Board hereby finds that notice and public procedure with respect thereto are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 12 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board be unnecessary because said amendment relates to a procedural matter which does not affect the rights of applicants, the Board hereby provides that said amendment shall become effective on May 1, 1974.

The text of amended § 545.14(a)(3) is as follows:

§ 545.14 Branch office.

(a) *General provisions.* • • •

(3) All requests by a Federal association for advice or instructions with respect to any matter arising under this section shall be addressed to a Supervisory Agent of the Board. As used in this section: (i) The term "Principal Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the applicant's home office is located or, during the absence or incapacity of such President for a period exceeding ten business days, any other officer or employee of such Bank designated (with respect to the specific absence or incapacity) by such President with the written consent of at least two of the Members of the Board; and (ii) the term "Supervisory Agent" means the Principal Supervisory Agent or any other officer or employee of such bank designated by the Board as agent as provided by § 501.10 and § 501.11 of this chapter. All recommendations by Supervisory Agents and by officers and employees of the Board in connection with branch office applications shall be deemed to be privileged and confidential and subject to the provisions of § 505.6 of this chapter.

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(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74–10060 Filed 4–30–74;8:45 am]

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN ASSOCIATIONS AND BRANCH OFFICES

[No. 74–310]

PART 581—DEFINITIONS

Definition of Principal Supervisory Agent

APRIL 17, 1974.

Section 582.1 of the Regulations for District of Columbia Savings and Loan Associations and Branch Offices (12 CFR 582.1) contains the regulations relating to application procedures for branch offices of District of Columbia savings and loan associations. Section 582.1(g)(3) requires the "Principal Supervisory Agent" to give written advice to any protestant and the applicant as to whether such protestant's communication is "substantial". Section 582.1(k) delegates to the "Principal Supervisory Agent" the authority to approve applications for branch offices (including limited facility branch offices) in a case in which no "substantial" protest has been filed. The term "Principal Supervisory Agent" is defined in § 581.5 of such regulations (12 CFR 581.5) as meaning "the President of the Federal Home Loan Bank of Atlanta".

The Federal Home Loan Bank Board considers it advisable to provide for the designation of a "Principal Supervisory Agent" to act in the event of prolonged absence or incapacity of such Federal Home Loan Bank President. Accordingly, on the basis of such consideration and for such purpose, the Board hereby amends said § 581.5 to provide for such designation, to read as set forth below. This amendment expands the definition of "Principal Supervisory Agent" to include, in the event of the absence or incapacity of such Federal Home Loan Bank President for a period exceeding 10 business days, any other officer or employee of such Bank designated (with respect to the specific absence or incapacity) by such President with the written consent of at least two of the Members of the Federal Home Loan Bank Board.

Since the amendment applies to rules of Board organization, procedure, or practice, the Board hereby finds that notice and public procedure with respect thereto are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 12 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board be unnecessary because said amendment relates to a procedural matter which does not affect the rights of applicants, the Board hereby provides that said amendment shall become effective on May 1, 1974.

The text of amended § 581.5 is as follows:

§ 581.5 Principal Supervisory Agent; Supervisory Agent.

The term "Principal Supervisory Agent" means the President of the Federal Home Loan Bank of Atlanta or, during the absence or incapacity of such President for a period exceeding ten business days, any other officer or employee of such Bank designated (with respect to the specific absence or incapacity) by such President with the written consent of at least two of the Members of the Board. The term "Supervisory Agent" means the Principal Supervisory Agent or any other officer or employee of such bank designated by the Board as Agent as provided by §§ 501.10 and 501.11 of this chapter.

(Sec. 5, 48 Stat. 132, as amended; sec. 8, 48 Stat. 132, as added by sec. 913, 64 Stat. 1615; (12 U.S.C. 1464,1468a). Reorg. Plan No. 3 of 1947, 12 F.R. 4961, 3 CFR, 1943–48 Comp., p. 1071)

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By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-10061 Filed 4-30-74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER B—EXPORT REGUATIONS

PART 377—SHORT SUPPLY CONTROLS

Licensing Exports of Ferrous Scrap In the Second Quarter, 1974

The FEDERAL REGISTER of December 6, 1973, announced that a quota system would be established for exports of ferrous scrap during 1974 in order to provide for a more equitable distribution of export licenses. The FEDERAL REGISTER also advised that in order for an exporter to be eligible to receive shares of the quotas to be established, he should submit statements of past participation.

The FEDERAL REGISTER of January 16, 1974, announced (a) details of a system for allocating shares of country quotas to individual exporters and (b) the method of issuing licenses for the first quarter of 1974. The FEDERAL REGISTER of March 13, 1974 amplified the new system.

This issuance announces the ferrous scrap quotas by country for the second quarter of 1974. The overall quota will again be 2,100,000 short tons. Of this amount, 150,000 short tons will be reserved for contingencies and 50,000 short tons for vessels sold by the U.S. Maritime Administration for scrapping abroad. The remaining 1,900,000 short tons will be alloted to most countries in the same amounts as in the first quarter. The major changes for the second quarter are that (a) the quota for Japan has been reduced by 100,000 short tons and (b) the quota for the European Community has, pursuant to the request of the Community, been redistributed among member countries.

Although the first quarter global quota of 2,100,000 short tons will apply in the second quarter as well, differences between first and second quarter exporter company shares will occur. Audits of past participation statements of several exporting companies have resulted in numerous, and in some cases substantial, revisions in the data used in computing individual company shares of country quotas. Past participation statements submitted after the filing deadline for the first quarter, but prior to the second quarter filing deadline, will further affect second quarter individual company quota shares.

Licenses will continue to be valid for 90 days from the date of issuance, which should allow ample time to make shipping arrangements. Consequently, requests for extensions of the validity period for ferrous scrap licenses will normally not be approved. Submissions of amendment requests on Form IA-763, "Request For and Notice of Amendment Action," are not precluded, however, as extensions will be considered in extenuating circumstances.

§ 377.4 [Deleted]

Accordingly, the *Export Administration Regulations* (15 CFR Part 377) are amended by deleting § 377.4, and by revising paragraph (c) (1) of § 377.4a and the portion of Supplement No. 1 to Part 377 that relates to "Ferrous Scrap" to read as follows:

§ 377.4a Ferrous scrap licensing system for 1974.

* * * * *

(c) *Issuance of Export Licenses.* * * * (1) a photocopy or certified copy of the contract, which calls for export shipment during the calendar quarter for which such application was filed, and * * *

* * * * *

SUPPLEMENT NO. 1 TO PART 377

COMMODITIES SUBJECT TO SHORT SUPPLY LICENSING CONTROLS

Schedule B Number	*Commodity Description*
	Ferrous scrap subject to quotas
	Type A[1]
282.0010	No. 1 heavy-melting steel scrap, except stainless.
282.0020	No. 2 heavy-melting steel scrap, except stainless.
282.0030	No. 1 bundles steel scrap, except stainless.
282.0080	Iron scrap, except borings, shovelings, and turnings.
	Type B
282.0040	No. 2 bundles steel scrap, except stainless.
282.0050	Borings, shovelings and turnings, iron or steel, except stainless.
282.0065	Shredded steel scrap.
282.0078	Other steel scrap, including tin-plated and terne plate.
282.0090	Rerolling material of iron or steel.

[1] Cut plate and structurals are included in Type A.

	Ferrous scrap not subject to quotas
282.0060	Stainless steel scrap.

Submission dates:

Orders for shipment during the quarter indicated; submit applications no earlier than first day of the quarter and not later than dates indicated below:

Second Quarter, 1974

Historical Exporters	June 10, 1974.
Hardships	June 28, 1974.
Stainless Steel Scrap Exporters	At any time.

Shipping tolerance: 5 percent.

Individual foreign country quotas (in short tons):

Country:	
Angola	900
Argentina	34,800
Bangladesh	3,880
Brazil	5,200
Canada	200,300
Chile	1,800
China, People's Republic of	2,400
Colombia	700
Dominican Republic	1,300
European Community:	
Italy	146,800
United Kingdom	25,000
France	23,600
Belgium	2,000
Greece	22,800
Hong Kong	2,600
Japan	723,300
Korean Republic	123,700
Mexico	165,000
New Zealand	5,200
Pakistan	4,340
Peru	1,000
Philippines	2,600
Singapore	1,900
Spain	182,000
Sweden	7,700
Taiwan	100,700
Thailand	14,800
Turkey	27,600
Venezuela	50,000
Yugoslavia	7,000
All Other Countries	2,400
Ships for scrapping (Maritime Administration)	50,000
Contingencies	150,000

Effective date of action: April 11, 1974.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.74-9754 Filed 4-30-74;8:45 am]

PART 377—SHORT SUPPLY CONTROLS

Method of Licensing Exports of Petroleum and Petroleum Products in the Second Quarter 1974

The FEDERAL REGISTER of January 4, 1974, announced that a quota system would be established for exports of petroleum and petroleum products during 1974. The Register advised exporters that in order to be eligible to receive shares of the quotas to be established, they should submit properly executed statements of past participation in the manner and by the dates specified in that Bulletin.

PETROLEUM PRODUCTS OTHER THAN CRUDE OIL

The FEDERAL REGISTER of January 29, 1974, announced (a) these petroleum commodities which would be placed under quota restriction, (b) details of a system for allocating shares of country quotas to individual exporters, and (c) the method of issuing licenses for the first quarter of 1974. The FEDERAL REGISTER of February 12, 1974, placed additional petroleum commodities under quota restriction and amplified the new system.

The licensing system adopted for the first quarter for exports of petroleum products other than crude oil is, with certain exceptions, generally continued on the same basis for the second quarter of 1974. This issuance also announces the country quotas for each Petroleum Commodity Group that will be available in the second quarter. As during the first quarter, 5 percent of the overall quota for each Group will be reserved for contingencies.

The regulations are revised in several other respects to reflect procedural and policy changes based on experience during the first months of administering petroleum commodity export quota controls. In an extension of the original deadline, past participation statements received by March 22, 1974, will be considered timely filed with respect to the assignment of second quarter quotas. Exporters who timely filed such statements for the first quarter need not make a further submission. Their statements will automatically be considered for the assignment of quotas in the second and all subsequent quarters. The base period for determining exporters' shares of the country quotas for exports of products in Petroleum Commodity Group I (butane, propane, and natural gas liquids) is changed from January 1, 1971–June 30, 1973 to the period April 1, 1973–June 30, 1973, to reflect the fact that a substantial number of exporters began exporting those products after June 30, 1972. Further, starting with the second quarter, an exporter of carbon black feedstock oils will be permitted to combine into a single shipment to one country, two or more of the various individual country quotas that have been allocated to him for a calendar quarter. However, as a condition to licensing in such cases, the exporter will be required to assure the Office of Export Administration that, on an annual basis, each affected country will receive its historic share of the exporter's shipments. This new rule will allow efficient and economical use of the large tankers in which carbon black feedstock oils are shipped.

CRUDE OIL

A technical deficiency with respect to the rules pertaining to the licensing of crude oils (Petroleum Commodity Group A) is resolved herein through a revision of the regulations. Previously, exports of crude oil not transported by pipeline over Federal rights-of-way and therefore not subject to the export restrictions of section 28(u) of the Mineral Leasing Act of 1920, as amended by the Alaskan Pipeline Act of November 16, 1973 (P.L. 93–153), were subject to a validated license requirement but no criteria were specified for licensing of such exports. Also, the criteria specified for licensing exports of crude oil subject to the restrictions of the Alaskan Pipeline Act were stated in terms of not diminishing the total quantity or quality of petroleum available to the United States, without expressly providing that the overall transaction should not result in a net reduction of crude oil supplies available to the United States. This issuance provides criteria and clarifies the rules for the licensing of exports of all crude oil, whether or not subject to the restrictions of the Alaskan Pipeline Act. Generally, exports of crude oil will be licensed to reflect the policies of the Alaskan Pipeline Act and the Emergency Petroleum Allocation Act of 1973 (P.L. 93–159) as implemented by the Federal Energy Office (FEO). The revised regulations are designed to assure that any export of crude oil will be part of a transaction which will result in either—(a) an interchange for an equal or greater quantity of crude oil; (b) or in the case of crude oil not transported by pipeline over a Federal right-of-way, an exchange for an equivalent quantity of imported petroleum products under conditions which will not deter from the FEO goal of raising the utilization of U.S. refinery capacity to optimum levels.

Thus, with respect to all crude oil, a validated license for export may be granted to the extent that it is demonstrated to the satisfaction of the Office of Export Administration that such export—(a) will directly result in the importation into the United States of an equal or greater quantity of crude oil, such transaction being carried out for convenience or increased efficiency of transportation, or (b) will be temporary, the crude oil being exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and shall reenter the United States in the same form.

With respect to crude oil not transported by pipeline over Federal rights-of-way, a validated license for export may be granted only to the extent that it is demonstrated to the satisfaction of the Office of Export Administration that—(a) the crude oil was not and will not be in fact so transported, and (b) the proposed export is part of an overall transaction which will directly result in the importation into the United States of a quantity of petroleum products not less than the quantity of petroleum products which would be derived from the refining of the crude oil for which an export license is sought, and (c) the exporter has made reasonable efforts to dispose of this crude oil domestically and due to particular circumstances beyond his control, such oil cannot be disposed of domestically without his incurring substantial economic hardship. A mere showing that there is an opportunity to sell at a higher price in a foreign market shall not be deemed, by itself, to constitute an economic hardship.

Accordingly, the Export Administration Regulations (15 CFR Part 377) are amended as follows:

1. Section 377.6 is amended:

a. By revising paragraphs (a), (d)(1), (e)(1), and (f) to read as set forth below:

b. By striking the last sentence of paragraph (b) and inserting in lieu thereof "Such documentation, to be considered timely filed, must be submitted in accordance with the instructions and deadlines set forth in paragraph (a) of this section."

c. By striking the words "the first quarter 1974" each time they appear in paragraph (c) and inserting in lieu thereof "each quarter;"

d. By adding at the end of the sentence in paragraph (c) that reads "The base period used for quota determinations is the period from January 1, 1971 to June 30, 1973" the following: ", except that, beginning with the second quarter 1974, the base period for determinations of exporters' shares of the country quotas for exports with respect to Petroleum Commodity Group I is the period from April 1, 1973 to June 30, 1973."

e. By adding at the end of paragraph (c) the following sentence: "In the case of Petroleum Commodity Group H only, an exporter will be permitted to combine into a single shipment to one country, two or more of the various individual country quotas that have been allocated to him for a calendar quarter. Provided, however, that in such cases the exporter will, as a condition to licensing, be required to satisfy the Office of Export Administration that, on an annual basis, each affected country will receive its historic share of the exporter's shipments from such Group."

§ 377.6 Petroleum and petroleum products.

(a) *Statement of past participation.* Shares of quarterly quotas for the petroleum commodities (other than crude oils) listed in Supplement No. 1 as subject to quota restriction are, pursuant to the rules of this section, assigned to exporters who have submitted statements of past participation, Form DIB-669P, covering their exports of such commodities during the base period January 1, 1971 to June 30, 1973. To be considered for shares in any particular calendar quarter and, automatically, in all subsequent quarters, exporters must have timely filed a properly executed statement in accordance with the provisions of this paragraph and § 377.2. Such statements must be actually received by the Office of Exports Administration, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044, by the 17th day of the month prior to the start of a calendar quarter in order to be considered timely filed with respect to the allocation of quotas for such quarter and all succeeding quarters, except that statements of past participation for purposes of allocation of quota shares for the second quarter, if not already filed, will be accepted until March 22, 1974. Forms not received by the dates specified herein will be held over until the succeeding quarter in the event quotas are established therefor. The statement on Form DIB-669P shall indicate (separately for each foreign country of destination, including Canada) the quantities (in the units specified in Supplement No. 1) of each petroleum commodity, by Schedule B number, that the exporter exported to each such country during each calendar month of 1971, 1972, and the first six months of 1973. The statement must be signed by an authorized representative of the exporter. The statement will be treated as confidential information under section 7(c) of the Export Administration Act of 1969, as amended. A separate Form DIB-669P shall be submitted for each of the petroleum commodity Schedule B classifications for which the exporter is seeking a quota share. For purposes of the statement, a party normally shall be considered to have been the

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exporter with respect to those shipments during the base period for which such party was named as the exporter on the Shipper's Export Declaration (Commerce Form 7525–V) filed in accordance with Part 386 of this chapter.

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(b) [Amended]

(c) [Amended]

(d) *Issuance of export licenses.*—(1) *Group A.* An application for validated license to export a commodity from Petroleum Commodity Group A as established in Supplement No. 1 to this Part 377 will be considered under the rules of this subparagraph, if submitted with supporting documentation as required by paragraph (e)(1) of this section by the date specified in Supplement No. 1, to the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230. Such a license may be issued if it is demonstrated to the satisfaction of the Office of Export Administration—

(i) That such export—(*a*) Will directly result in the importation into the United States of an equal or greater quantity of that same commodity, such transaction being carried out for convenience or increased efficiency of transportation, *or* (*b*) will be temporary, the commodity being exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and shall reenter the United States in the same form; *or*

(ii) That—(*a*) The commodity was not and will not be transported over rights-of-way granted pursuant to section 28 of the Mineral Leasing Act of 1920, *and* (*b*) such commodity will be exported as part of an overall transaction which will directly result in the importation into the United States of a quantity of commodities from Petroleum Commodity Groups other than Group A which is not less than the quantity of such commodities which would be derived from the refining of the commodity for which an export license is sought, *and* (c) the exporter has made reasonable efforts to dispose of the commodity domestically and due to particular circumstances beyond his control such commodity cannot be disposed of domestically without his incurring substantial economic hardship.

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(e) *Documentation*—(1) *Group A.* An application for a validated license to export a commodity from Petroleum Commodity Group A as established in Supplement No. 1 to this Part 377, must be submitted on Forms FC–419 (or DIB–622) and FC–420[1] and accompanied by:

(i) A photocopy or certified copy of the contract of sale for export to a foreign buyer calling for shipment during the quarter for which such application was filed.

(ii) A sworn affidavit by the applicant as to the amount previously exported against such contract, if any, and

(iii) A sworn affidavit, signed by an authorized representative of the exporter, which demonstrates (in conjunction with such supporting evidence as may be appropriate) to the satisfaction of the Office of Export Administration that the applicable criteria of paragraph (d)(1) of this section are satisfied.

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(f) *Hardship.* Consideration may be given to hardship situations under exceptional circumstances not contemplated by these regulations, where the export would advance the national interest. A quota set-aside of 5 percent of the total quota for each commodity group subject to quota restriction has been earmarked for use during each quarter for contingencies, including situations involving applicants without an exporting history during the base period who would suffer particular hardship if denied any quota shares. Those parties who feel they qualify under the criteria of this paragraph may submit an application under the rules of § 377.5, accompanied by a full and complete statement of the merits of their case. Such application must be clearly labeled "Hardship Application."

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2. That portion of Supplement No. 1 to Part 377 that relates to "petroleum and petroleum products" is revised to read as follows:

COMMODITIES SUBJECT TO SHORT SUPPLY LICENSING CONTROLS

Schedule B Number	*Description Commodity*
	Petroleum and Petroleum Products
	Group A
331.0100	Crude petroleum.
331.0200	Petroleum partly refined for further refining.
	Group B
332.1015	Aviation gasoline.
	Group C
332.1030	Gasoline, n.e.c.
332.1050	Gasoline blending agents, hydrocarbon compounds only, n.e.c.
	Group D
332.2010	Kerosene, except kerosene-type jet fuel.
	Group E
332.2020	Jet fuel.
	Group F
332.3000	Distillate fuel oils.
	Group G
332.4000	Residual fuel oils.
	Group H
332.9160	Carbon black feedstock oil.
	Group I
341.1025	Butane.
341.1030	Propane.
341.1040	Natural gas liquids, including LPG, n.e.c.

Quantities: Report the above commodities in barrels of 42 gallons.

Shipping Tolerance: 10 percent.

Submission Dates: Not prior to the beginning of the applicable quarter, and not later than:

	Second Quarter, 1974
Historical exporters of petroleum commodities other than crude oils.	June 20, 1974
Hardships and crude oil exporters.	At any time.

Country Quotas: Second Quarter 1974.

COUNTRY QUOTAS FOR GROUP B

(Schedule B No. 332.1015, Aviation Gasoline)

Country:	*Quota (barrels)*
Bahamas	1,676
Belgium	78
Bolivia	2,761
Cameroon	65
Canada	3,313
Dahomey	58
French Pacific Islands	3,853
Gabon	115
Holland	18,940
Honduras	307
India	12,743
Ivory Coast	98
Mexico	10,509
Singapore	14,788
All Other Countries	165

COUNTRY QUOTAS FOR GROUP C

(Schedule B No. 332.1030, Gasoline, n.e.c.) (Schedule B No. 332.1050, Gasoline blending agents, hydrocarbon compounds only, n.e.c.)

Country:	*Quota (barrels)*
Australia	554
Austria	100
Bahamas	872
Belgium	3,929
Brazil	29,061
Canada	76,078
Denmark	76
Finland	162
France	635
French Pacific Islands	18,523
Holland	48,039
India	143
Iran	106
Italy	314
Japan	299
Leeward & Windward Islands	1,109
Mexico	149,791
Mozambique	66
Nigeria	143
Philippines	137
South Africa	556
Sweden	56
United Kingdom	3,111
Venezula	165
West Germany	3,966
All Other Countries	513

COUNTRY QUOTAS FOR GROUP D

(Schedule B No. 332.2010, Kerosene, except kerosene-type jet fuel)

Country:	*Quotas (barrels)*
Australia	1,118
Brazil	150
Canada	1,667
Chile	122
Congo	56
Egypt	88
France	59
French Pacific Islands	3,046
Gabon	266
Holland	349
Israel	586
Italy	467
Japan	2,354
Mexico	72
Nigeria	740

[1] Forms are available from any of the Commerce Department's Domestic and International Business Administration District Offices, or from the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Country:	*Quota (barrels)*
Peru	71
Philippines	89
Singapore	442
South Africa	371
United Kingdom	9,391
Venezula	454
West Germany	7,047
All Other Countries	252

COUNTRY QUOTAS FOR GROUP E

(Schedule B No. 332.2020, Jet Fuel)

Country:	*Quotas (barrels)*
Bahamas	31
Canada	42,797
Mexico	48,794

COUNTRY QUOTAS FOR GROUP F

(Schedule B No. 332.3000, Distillate fuel oils)

Country:	*Quotas (barrels)*
Bahamas	3,126
Canada	98,156
Colombia	36,385
Denmark	22,413
French Pacific Islands	10,086
Holland	58,895
Japan	11,636
Mexico	190,448
Netherlands Antilles	34,072
Peru	13,577
Surinam	327
All Other Countries	1,359

COUNTRY QUOTAS FOR GROUP G

(Schedule B No. 332.4000, Residual fuel oils)

Country:	*Quota (barrels)*
Bahamas	110,780
Barbados	11,275
Belgium	12,865
Brazil	63,662
Canada	833,224
Canary Islands	14,162
Denmark	22,003
France	2,493
French Pacific Islands	16,967
Greece	19,798
Holland	50,108
Ireland	11,626
Italy	181,979
Jamaica	152,086
Japan	266,105
Leeward & Windward Islands	12,745
Mexico	643,500
Netherlands Antilles	99,078
Panama	74,793
Peru	30,821
Philippines	26,937
Poland	2,070
Singapore	15,455
South Africa	21,432
Spain	36,283
Sweden	75,413
United Kingdom	227,631
All Other Countries	814

COUNTRY QUOTAS FOR GROUP H

(Schedule B No. 332.9160, Carbon black feedstock oil)

Country:	*Quota (barrels)*
Australia	152,380
Brazil	94,497
Canada	211,235
France	151,937
Holland	273,747
Israel	1,727
Italy	334,460
Philippines	28,899
South Africa	62,978
Spain	151,135
Sweden	28,427
United Kingdom	344,279
West Germany	8,199

COUNTRY QUOTAS FOR GROUP I

(Schedule B No. 341.1025, Butane)

(Schedule B No. 341.1030, Propane)

(Schedule B No. 341.1040, Natural gas liquids)

Country:	*Quota (barrels)*
Algeria	74
Australia	409
Bahamas	9,142
Barbados	6,151
Bermuda	92
Brazil	9,915
Canada	30,291
Chile	270
Colombia	221
Costa Rica	193
Denmark	176
Dominican Republic	3,173
Ecuador	116
Finland	72
France	2,722
French Pacific Islands	154
French West Indies	1,277
Guatemala	2,878
Guyana	1,845
Haiti	54
Holland	1,108
Honduras	68
India	97
Israel	145
Italy	296
Jamaica	54
Japan	123,766
Korea	55
Leeward & Windward Islands	4,163
Mexico	2,309,978
Netherlands Antilles	1,023
New Zealand	673
Nicaragua	120
Peru	91
South Africa	267
Spain	138
Surinam	4,204
Switzerland	204
Thailand	75
Trinidad & Tobago	395
United Kingdom	3,121
West Germany	170
All Other	324

Effective date of action: April 18, 1974.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.74-9755 Filed 4-30-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2507]

PART 13—PROHIBITED TRADE PRACTICES

Al Fradkin Co. and Ronald Fradkin

Subpart—Advertising falsely or misleading: § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act. § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act:—Prices. § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act: § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1606) [Cease and desist order, Al Fradkin Company, et al., Baltimore, Md., Docket C–2507, March 25, 1974]

In the Matter of The Al Fradkin Company, a Corporation, and Ronald Fradkin, Individually and as an Officer of Said Corporation

Consent order requiring a Baltimore, Md., retailer of furniture, appliances and clothing, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents The Al Fradkin Company, a corporation, its successors and assigns, and its officers, and Ronald Fradkin, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Pub. L. 90–321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to disclose the annual percentage rate with an accuracy at least to the nearest quarter of 1 percent, in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

2. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

3. Failing to identify the amount or the method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by § 226.8(b)(4) of Regulation Z.

4. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

5. Failing in any consumer credit transaction or advertisement to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by §§ 226.6, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, and that respondents secure a

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signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in respondents' business such as dissolution, assignment or sale resulting in the emergence of a successor business, corporate or otherwise, the creation of subsidiaries or any other change which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: March 25, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74-9877 Filed 4-30-74;8:45 am]

[Docket No. C-2510]

PART 13—PROHIBITED TRADE PRACTICES

M. B. Johnson Development Co.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73–92 Truth in Lending Act; § 13.155 *Prices;* 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13–1623 *Formal regulatory and statutory requirements;* 13.1623–95 Truth in Lending Act—Prices; § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure; § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–75 Truth in Lending Act; § 13.1905 Terms and conditions; 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, M. B. Johnson Development Co., Buena Park, Calif., Docket C-2510, April 5, 1974]

In the Matter of M. B. Johnson Development Co., a Corporation

Consent order requiring a Buena Park, Calif., seller of townhouses and condominiums, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith is as follows:

It is ordered, That respondent M. B. Johnson Development Co., a corporation, its successors and assigns, and respondent's agents, representatives, salesmen and employees, directly or through any corporation, subsidiary, division or other device, in connection with any advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Stating the amount of the downpayment required, or that no downpayment is required, unless it states, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) thereof, all of the following items:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; and

(d) The amount of the finance charge expressed as an annual percentage rate.

2. Failing to state the annual percentage rate, using the term "annual percentage rate", as "annual percentage rate" is defined in § 226.2 of Regulation Z, in a more conspicuous manner than other terminology required to be stated by § 226.10(d)(1) of Regulation Z as prescribed by §226.6(a) thereof.

3. Failing to state the rate of a finance charge unless said rate is expressed as an annual percentage rate, using the term "annual percentage rate", as "finance charge" and "annual percentage rate" are defined in § 226.2 of Regulation Z, as prescribed by § 226.10(d)(1) of Regulation Z.

4. Failing, in any advertisement, to make all disclosures as required by § 226.10 of Regulation Z and in the manner prescribed therein.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in any corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: April 5, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74-9878 Filed 4-30-74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74-140]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Exemption From Entry and Clearance Requirements and Customs Charges for Yachts of the St. Christopher-Nevis-Anguilla Islands

The Department of State advised the Department of the Treasury on January 16, 1974, that yachts of the United States are permitted to cruise in the territorial waters of the St. Christopher-Nevis-Anguilla Islands, a Caribbean entity under British jurisdiction, without charges for entering or clearance, dues, duty per ton, tonnage taxes, or charges for cruising licenses.

Pursuant to section 5 of the Act of May 28, 1908, as amended (section 5, 35 Stat. 425, as amended; 46 U.S.C. 104), following a finding by the Secretary of the Treasury that a foreign nation has granted the above-described exemptions to yachts of the United States, the Commissioner of Customs may issue cruising licenses to yachts of that nation.

It has been demonstrated to the satisfaction of the Secretary of the Treasury that yachts of the United States are granted the above-described reciprocal privileges by the St. Christopher-Nevis-Anguilla Islands.

Accordingly, § 4.94(b) of the Customs Regulations is amended by amending the parenthetical material after "Great Britain" in the list of countries granting the previously-described reciprocal privileges to yachts of the United States to read "(including Turks and Caicos Islands, St. Vincent (including the territorial waters of the Northern Grenadine Islands), the Cayman Islands, and the St. Christopher-Nevis-Anguilla Islands)".

(Sec. 3, 23 Stat. 119, as amended, sec. 5, 35 Stat. 425, as amended (5 U.S.C. 301, 46 U.S.C. 3, 104))

There is statutory authority for this exemption after a finding has been made that such reciprocity exists. Therefore, good cause exists for dispensing with notice and public procedure thereon as unnecessary, and good cause is found for the amendment to become effective at the earliest date possible under 5 U.S.C. 553.

Effective date. This amendment shall become effective on May 1, 1974.

[SEAL] LEONARD LEHMAN, *Acting Commissioner of Customs.*

Approved: April 22, 1974.

MATTHEW J. MARKS, *Acting Assistant Secretary of the Treasury.*

[FR Doc.74-9948 Filed 4-30-74;8:45 am]

[T.D. 74-139]

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

Reimbursable Charge for Temporary Employees

On November 12, 1973, there was published in the FEDERAL REGISTER (38 FR 31179), a notice of a proposed amendment to § 19.5(b) of the Customs Regulations (19 CFR 19.5(b)), to provide for an increase in the reimbursable charge to bonded warehouse proprietors for the services of an intermittent when-actually-employed employee (temporary Customs employee), when such employee performs the duties of a Customs warehouse officer, or is temporarily assigned to act as a Customs warehouse officer at a bonded warehouse.

The reimbursable charge for this service would be increased from 107 percent to 108 percent of the hourly rate of the employee's regular pay.

The citations of authority in the text of § 19.5(b) and at the end of § 19.5 would also be changed to reflect the current citations.

No comments were received in response to the notice of the proposed amendment.

Accordingly, § 19.5 of the Customs Regulations is amended as set forth below.

Effective date. This amendment shall become effective on May 31, 1974.

[SEAL] VERNON D. ACREE, *Commissioner of Customs.*

Approved: April 18, 1974.

JAMES B. CLAWSON, *Acting Assistant Secretary of the Treasury.*

In § 19.5, the third and fourth sentences of paragraph (b) are amended to read as follows:

§ 19.5 Customs warehouse officer; compensation of.

* * * * *

(b) * * *. The charge to be made for the services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse on a holiday or outside his established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 5542 (a), 5548), or the Customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. When services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 108 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government's contribution under the Federal Insurance Contributions Act, as amended (26 U.S.C. 3101, *et seq.*), and employee uniform allowance. * * *.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

The citation of authority for § 19.5 is amended to read:

(Sec. 5, 36 Stat. 901, as amended, secs. 451, 555, 556, 46 Stat. 715, as amended, 743, as amended, 68A Stat. 416, as amended; 5 U.S.C. 5332, 5504, 5542, 5545, 5546, 6101, 19 U.S.C. 267, 1451, 1555, 1556, 26 U.S.C. 3111)

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc.74-9947 Filed 4-30-74;8:45 am]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 519—EMPLOYMENT OF FULL-TIME STUDENTS AT SUBMINIMUM WAGES

Changes Reflecting the Fair Labor Standards Amendments of 1974

Pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; 29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1945–53 Comp., p. 1004), and Secretary Orders 13–71 and 15–71 (36 FR 8755 and 8756), I hereby revise 29 CFR Part 519, as set out below. The purpose of the revision is to adapt the part to the Fair Labor Standards Amendments of 1974 (P.L. 93–259).

In order that there will be a valid basis for issuing certificates to be in effect on and after May 1, 1974, the effective date of the statutory amendments, it is necessary that the revision become effective on May 1, 1974. However, interested parties may present written data, views, and argument in quadruplicate to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, not later than May 31, 1974. Such submissions may bear on both the substance and details of this revision. Upon consideration of such submissions, any changes as are appropriate will be made in this part and published in the FEDERAL REGISTER. Meanwhile, these regulations remain in full force.

Since there will be insufficient time before May 1, 1974, for application forms to be distributed, completed, and acted on, a grace period is hereby established through June 30, 1974, permitting the employment of full-time students at subminimum wages by agricultural or retail service establishment employers or by institutions of higher education, without certificates. This grace period is conditional upon: (a) Full-time student employment not exceeding the proportions permitted in § 519.6 of this part; (b) payment of not less than 85 percent of the minimum wage applicable under section 6 of the Act; (c) compliance with the requirements in § 519.6 (or in § 519.16, for institutions of higher education) respecting permissible hours of employment during the day or week, oppressive child labor, employment only outside of school hours, abnormal labor conditions, and higher wage standards in other laws or in agreements; and (d) provisions for the payment of back wages to fulltime students if a certificate is denied or if employment in the grace period exceeds the eventual allowance.

Part 519 is revised as follows:

Subpart A—Retail or Service Establishments, and Agriculture

Sec.
519.1 Applicability of the regulations in this subpart.
519.2 Definitions.
519.3 Application for a full-time student certificate.
519.4 Procedure for action upon an application.
519.5 Conditions governing issuance of full-time student certificates.
519.6 Terms and conditions of employment under full-time student certificates and under temporary authorization.
519.7 Records to be kept.
519.8 Amendment or replacement of a full-time student certificate.
519.9 Reconsideration and review.
519.10 Amendment or revocation of the regulations in this subpart.

Subpart B—Institutions of Higher Education

519.11 Applicability of the regulations in this subpart.
519.12 Definitions.
519.13 Application for a full-time student certificate.
519.14 Procedure for action upon an application.
519.15 Conditions governing issuance of full-time student certificates.
519.16 Terms and conditions of employment under full-time student certificates and under temporary authorization.
519.17 Records to be kept.
519.18 Amendment or replacement of a full-time student certificate.
519.19 Reconsideration and review.
519.20 Amendment or revocation of the regulations in this subpart.

AUTHORITY: Secs. 11 and 14, 52 Stat. 1068; sec. 11, 75 Stat. 74; secs. 501 and 602, 80 Stat. 843, 844 (29 U.S.C. 211, 214).

Subpart A—Retail or Service Establishments, and Agriculture

§ 519.1 Applicability of the regulations in this subpart.

(a) *Statutory provisions.* Under section 14 of the Fair Labor Standards Act of 1938, as amended, and the authority and responsibility delegated to him by the Secretary of Labor (36 F.R. 8755–6), the Administrator of the Wage and Hour Division is authorized and directed, to the extent necessary in order to prevent curtailment of opportunities for employment, to provide by regulation or order for the employment, under certificates, of full-time students in retail or service

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establishments, or in agriculture. That section contains provisions requiring a wage rate in such certificates of not less than 85 percent of the minimum wage applicable under section 6 of the Act, limiting weekly hours of employment, stipulating compliance with the applicable child-labor standards, and safeguarding against the reduction of the full-time employment opportunities of employees other than full-time students employed under certificates.

(b) *Source of limitations.* Some of the limitations in this subpart are specifically required in section 14(b) of the Act. The other limitations implement the provisions in that section relating to employment opportunities, i.e., the "extent necessary to prevent curtailment of opportunities for employment" and the avoidance of a "substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized" under section 14(b) is applicable.

§ 519.2 Definitions.

(a) *Full-time students.* A "full-time student" for the purpose of this subpart is defined as a student who receives primarily daytime instruction at the physical location of a bona fide educational institution, in accordance with the institution's accepted definition of a full-time student. A full-time student retains that status during the student's Christmas, summer and other vacations. An individual who was such a student immediately prior to vacation will be presumed not to have discontinued such status during vacation if local law requires his attendance at the end of the vacation. In the absence of such requirement, his status during vacation will be governed by his intention as last communicated to his employer. The phrase in section 14(b) of the statute "regardless of age but in compliance with applicable child-labor laws," among other things, restricts the employment in a retail or service establishment to full-time students who are at least 14 years of age because of the application of section 3(l) of the Act. There is a minimum age requirement of 16 years in agriculture for employment during school hours and in any occupation declared hazardous by the Secretary of Labor (Subpart E–1 of Part 570 of this Title.) In addition, there is a minimum age restriction of 14 years generally for employment in agriculture of a full-time student outside school hours for the school district where such employee is living while so employed, except (a) minors 12 or 13 years of age may be employed with written parental or guardian consent or they may work on farms where their parents or guardians are employed, and (b) minors under 12 may work on farms owned or operated by their parents or with parental or guardian consent on farms whose employees are exempt from section 6 by section 13(a)(6)(A) of the Act.

(b) *Bona fide educational institution.* A "bona fide educational institution" is ordinarily an accredited institution. However, a school which is not accredited may be considered a "bona fide educational institution" in exceptional circumstances, such as when the school is too recently established to have received accreditation.

(c) *Retail or service establishment.* "Retail or service establishment" means a retail or service establishment as defined in section 13(a)(2) of the Fair Labor Standards Act. The statutory definition is interpreted in Part 779 of this chapter.

(d) *Agriculture.* "Agriculture" means agriculture as defined in section 3(f) of the Fair Labor Standards Act. The statutory definition is interpreted in Part 780 of this chapter.

(e) *Student hours of employment.* "Student hours of employment" means hours during which students are employed under full-time student certificates issued under this part and is distinguished from "hours of employment of students".

(f) *Employer.* Section 519.4(a) of this subpart permits an agricultural or retail or service establishment employer to employ not more than four full-time students at subminimum wages on forwarding an application but before certification. For this purpose, the term "employer" looks to the highest structure of ownership or control, and hence may be more than a single retail or service establishment or farm, e.g., the controlling conglomerate or enterprise would be the "employer". With respect to public employers who operate retail or service establishments (see 29 CFR Part 779), the "employer" means the highest structure of control such as the State, municipality, county or other political subdivision.

§ 519.3 Application for a full-time student certificate.

(a) Whenever the employment of full-time students working outside of school hours in agriculture or in a retail or service establishment at wages lower than the minimum applicable under section 6 of the Fair Labor Standards Act is believed to be necessary to prevent curtailment of opportunities for employment and employment of them will not create a substantial probability of reducing the full-time employment opportunities of the other workers, an application for a certificate may be filed by their employer with the appropriate Regional Office (or in the Caribbean Office for the area it covers) of the Wage and Hour Division. Such application shall be signed by an authorized representative of the employer.

(b) The application must be filed in duplicate on official forms or exact copies thereof. The forms are available at the offices mentioned in paragraph (a) of this section. The application must contain the information as to the type of products sold or services rendered by the establishment, hours of employment during the preceding twelve-month period or data from previous certificates (or applications) as pertinent to the application, and other information for which request is made on the form.

(c) Separate application must be made for each farm or establishment in which authority to employ full-time students at subminimum wage rates is sought.

(d) Application for renewal of a certificate shall be made either on the same type of form as is used for a new application or on an alternate official form. No certificate in effect shall expire until action on such an application shall have been finally determined, provided that such application has been properly executed, and is received by the office specified in paragraph (a) of this section not less than 15 nor more than 30 days prior to the expiration date. A properly executed application is one which fully and accurately contains the information required on the form, and the required certification by an authorized representative of the employer.

§ 519.4 Procedure for action upon an application.

(a) Under certain conditions, an agricultural or retail or service establishment employer may obtain temporary authorization to employ full-time students at subminimum wages. These conditions are: (1) Attestation by the employer that he will employ no more than four full-time students at subminimum wages on any workday and that the employment of such students will not reduce the full-time employment opportunities of other persons, *and* (2) forwarding a properly completed application to the Wage and Hour Division not later than the start of such employment, *and* (3) posting a notice of such filing at the place(s) specified in paragraph (a) of § 519.6 of this subpart, *and* (4) compliance during the temporary authorization period with the requirements set forth in paragraphs (b) and (l) through (n) of § 519.6 of this subpart.

(b) Temporary authorization under the conditions set forth in paragraph (a) of this section is effective from the date the application is forwarded to the Wage and Hour Division in conformance with § 519.3 of this subpart. This authorization shall continue in effect for one year from the date of forwarding of the application unless, within 30 days the Administrator or his authorized representative denies the application, issues a certificate with modified terms and conditions, or expressly extends the 30-day period of review.

(c) Upon receipt of an application for a certificate, the officer authorized to act upon such application shall issue a certificate if the terms and conditions specified in this subpart are satisfied. To the extent he deems appropriate, the authorized officer may provide an opportunity to other interested persons to present data, views, or argument on the application prior to granting or denying a certificate.

(d) Applications and certificates for full-time student employment at subminimum wages in agriculture and in retail or service establishments are on file in Washington, D.C., and in each Regional Office and in the Caribbean Office of the Wage and Hour Division for farms and for retail or service establishments in its area. Although notice of issuance is not published for these certificates, the applications and certificates may be examined in these offices and copies made as desired, in accordance with the applicable regulations. Since notices will not be published for certificates issued to agricultural employers or to retail or service establishments, a period of 60 days is hereby provided after certificate issuance during which any interested person may file a written request for reconsideration or review.

(e) If a certificate is denied, notice of such denial shall be sent to the employer, stating the reason or reasons for the denial. Such denial shall be without prejudice to the filing of any subsequent application.

§ 519.5 Conditions governing issuance of full-time student certificates.

Certificates authorizing the employment of full-time students at subminimum wage rates shall not be issued unless the following conditions are met:

(a) Full-time students are available for employment at subminimum rates; the granting of a certificate is necessary in order to prevent curtailment of opportunities for employment.

(b) The employment of more than four full-time students by an employer will not create a substantial probability of reducing the employment opportunities for persons other than those employed under such certificates.

(c) Abnormal labor conditions such as a strike or lockout do not exist at the farm or establishment for which a full-time student certificate is requested.

(d) The data given on the application are accurate and based on available records.

(e) The farms or establishments on whose experience the applicant relies meet the requirements of paragraph (g) of § 519.6.

(f) There are no serious outstanding violations of the provisions of a full-time student certificate previously issued to the employer, nor have there been any serious violations of the Fair Labor Standards Act (including Child-Labor Regulation No. 3 and the Hazardous Occupations Orders published in Part 570 of this Chapter) which provide reasonable grounds to conclude that the terms of a certificate may not be complied with, if issued.

(g) The subminimum wage rate(s) proposed to be paid full-time students under temporary authorization or under certificate is not less than 85 percent of the minimum wage applicable under section 6 of the Act.

(h) Certificates will not be issued where such issuance will result in a reduction of the wage rate paid to a current employee.

§ 519.6 Terms and conditions of employment under full-time student certificates and under temporary authorization.

(a) A full-time student certificate will not be issued for a period longer than 1 year, nor will it be issued retroactively. It shall specify its effective and expiration dates. A copy of the certificate shall be posted during its effective period in a conspicuous place or places in the establishment or at the farm readily visible to all employees, for example, adjacent to the time clock or on the bulletin board used for notices to the employees. If temporary authorization is in effect under paragraph (a) of § 519.4 of this subpart, a notice thereof shall be similarly posted during the effective period of such authorization.

(b) Full-time students may not be employed under a certificate at less than 85 percent of the minimum wage applicable under section 6 of the Act.

(c) For retail or service establishment employers or agricultural employers, the allowable extent of full-time student employment under certificates varies under the 1974 Amendments, depending on whether: (1) The employer proposes to employ no more than 4 full-time students at subminimum wages on any workday, (2) there are records of hours of employment of students *and* coverage by the Act before May 1974, (3) there are records of hours of employment of students *and* there is new coverage under the 1974 Amendments, or (4) no records of hours of employment of students are available. (For agricultural employers, the month of full-time student certificated employment may vary somewhat from the month in a previous year on which the certificate is based, depending on seasonal factors.)

(d) *Retail or service establishment employers or agricultural employers requesting authorization to employ not more than 4 full-time students at subminimum wages on any workday.* An application from such an applicant provides temporary authorization for the employment of full-time students at subminimum wages, provided the conditions set forth in paragraph (a) of § 519.4 of this subpart are met. Upon review of the application by the Administrator or his authorized representative the extent of the temporary authority may be modified.

(e) *Retail or service establishments or farms with records of hours of employment of students and coverage by the Act prior to May 1974:* For such an applicant, certificates may not authorize full-time student employment at subminimum wages in excess of the highest ratio under any of these three formulas: (1) The proportion of student hours of employment (i.e., of full-time students under certificates) to total hours of all employees for the corresponding month of the preceding twelve-month period; (2) the maximum proportion of student hours of employment to total hours of all employees (in any corresponding month), applicable to the issuance of full-time student certificates before May 1974; or (3) 10 percent of the total hours of all employees, during any month. For example, an establishment which has not previously held a certificate may be authorized 10 percent of the total hours of all employees during any month. Similarly, an establishment which has held a prior certificate with monthly allowances ranging from 5 to 20 percent may be authorized 10 percent for those months which were less than 10 percent and retain the higher allowances for those months above 10 percent.

(f) *Retail or service establishments or farms with records of hours of employment of students and new coverage under the 1974 Amendments:* For such an applicant, the highest permissible allowance under a certificate during any month is the highest ratio under any of these three formulas: (1) The proportion of hours of employment of full-time students to total hours of all employees during the corresponding month from May 1973 through April 1974; (2) the proportion of student hours of employment (i.e., of hours of full-time students under certificates) to total hours of all employees during the corresponding month of the preceding twelve-month period (an alternative which is not applicable to all months of the year until 12 months after May 1, 1974); or (3) 10 percent of the total hours of all employees, during any month.

(g) *Retail or service establishments or farms without records of student hours worked:* For such an applicant, the permissible proportion under certificate of full-time student hours at subminimum wages to total hours of all employees is based on the "practice" during the preceding twelve-month period of: (1) Similar establishments of the same employer in the same general metropolitan areas in which such establishment is located; (2) similar establishments in the same or nearby communities if such establishment is not in a metropolitan area; or (3) other establishments of the same general character operating in the community or the nearest comparable community. ("Practice" means either the certificate allowances or the proportion between the actual student hours of employment to the total hours of all employees.)

(h) An overestimate of total hours of employment of all employees for a current month resulting in the employment of the full-time students in excess of the hours authorized in paragraph (e), (f), or (g) of this section may be corrected by compensating them for the difference between the subminimum wages actually paid and the applicable minimum under section 6 of the Act for the excess hours. Similarly, if an agricultural employer or a retail or service establishment employer has authorization to employ no more than 4 full-time students at subminimum

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wages on any workday but exceeds that number, the excess may be corrected by compensating the additional full-time students for the difference between the subminimum wages actually paid and the applicable minimum under section 6 of the Act. This additional compensation shall be paid on the regular payday next after the end of the period.

(i) Full-time students shall not be permitted to work at subminimum wages for more than 8 hours a day, nor for more than 40 hours a week when school is not in session, nor more than 20 hours a week when school is in session (apart from a full-time student's summer vacation), except that when a full-day school holiday occurs on a day when the establishment is open for business, the weekly limitation on the maximum number of hours which may be worked shall be increased by 8 hours for each such holiday but in no event shall the 40-hour limitation be exceeded. Whenever a full-time student is employed for more than 20 hours in any workweek in conformance with this paragraph, the employer shall note in his payroll records that school was not in session during all or part of that workweek or the student was in his summer vacation.

(j) Neither oppressive child labor as defined in section 3(l) of the Act and regulations issued under the Act nor any other employment in violation of a Federal, State or local child labor law or ordinance shall come within the terms of any certificate issued under this subpart.

(k) Full-time students shall be employed at subminimum wages under this subpart only outside of their school hours, i.e., only outside of the scheduled hours of instruction of the individual student, or, in the case of agriculture, only outside of school hours for the school district where the employee is living while so employed, if the employee is under 16 years of age.

(l) No full-time student shall be hired under a full-time student certificate while abnormal labor conditions, such as a strike or lockout, exist at the establishment or farm.

(m) No provision of any full-time student certificate shall excuse noncompliance with higher standards applicable to full-time students which may be established under the Walsh-Healey Public Contracts Act or any other Federal law, State law, local ordinance, or union or other agreement. Thus, certificates issued under this law have no application to employment under the Service Contract Act.

(n) No full-time student certificate shall apply to any employee to whom a certificate issued under section 14 (a) or (c) of the Act has application.

§ 519.7 Records to be kept.

(a) The employer shall designate each worker employed as a full-time student under a full-time student certificate at subminimum wages, as provided under Part 516 of this chapter.

(b) (1) In addition to the records required under Part 516 of this chapter and this subpart, the employer shall keep the records specified in paragraph (b) (2) and (3) of this section specifically relating to full-time students employed at subminimum wages.

(2) The employer shall obtain at the time of hiring and keep in his records information from the school attended that the employee receives primarily daytime instruction at the physical location of the school in accordance with the school's accepted definition of a full-time student. During a period between attendance at different schools not longer than the usual summer vacation, a certificate from the school next to be attended that the student has been accepted as a full-time student will satisfy the requirements of this subparagraph.

(3) The employer operating any farm or retail or service establishment shall maintain records of the monthly hours of employment of full-time students at subminimum wages and of the total hours of employment during the month of all employees in the establishment, who in cases of employment in agriculture, do not come within one of the other exemptions from the minimum wage provisions of the Act. The records shall show the total hours worked in the establishment by all full-time students of the type defined in § 519.2(a) at less than the minimum wage otherwise applicable under the Act, and the total hours of employment of all employees in the establishment, to whom, in cases of employment in agriculture, the minimum wage provision of the Act applies.

(c) The records required in this section, including a copy of any full-time student certificate issued, shall be kept for a period of 3 years at the place and made available for inspection, both as provided in Part 516 of this chapter.

§ 519.8 Amendment or replacement of a full-time student certificate.

In the absence of an objection by the employer (which may be resolved in the manner provided in Part 528 of this chapter), the authorized officer upon his own motion may amend the provisions of a certificate when it is necessary by reason of the amendment of these regulations, or may withdraw a certificate and issue a replacement certificate when necessary to correct omissions or apparent defects in the original certificate.

§ 519.9 Reconsideration and review.

(a) Within 15 days after being informed of a denial of an application for a full-time student certificate or within 60 days of issuance of certificates for agricultural or retail or service establishment employers, any person aggrieved by the action of an authorized officer in denying or granting a certificate may: (1) File a written request for reconsideration thereof by the authorized officer who made the decision in the first instance, or (2) file with the Administrator a written request for review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision and a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsideration determination of an authorized officer may, within 15 days after such determination, file with the Administrator a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted, the authorized office or the Administrator may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data, views, or argument.

§ 519.10 Amendment or revocation of the regulations in this subpart.

The Administrator may at any time upon his own motion or upon written request of any interested person or persons setting forth reasonable grounds therefore, and after opportunity has been given to interested persons to present data, views, or argument, amend or revoke any of the regulations of this subpart.

Subpart B—Institutions of Higher Education

§ 519.11 Applicability of the regulations in this subpart.

(a) *Statutory provisions.* Under section 14 of the Fair Labor Standards Act of 1938, as amended, and the authority and responsibility delegated to him by the Secretary of Labor (36 FR 8755–6), the Administrator of the Wage and Hour Division is authorized and directed, to the extent necessary in order to prevent curtailment of opportunities for employment, to provide by regulation or order for the employment, under certificates, of full-time students in institutions of higher education. That section contains provisions requiring a wage rate in such certificates of not less than 85 percent of the minimum wage applicable under section 6 of the Act, limiting weekly hours of employment, stipulating compliance with the applicable child-labor standards, and safeguarding against the reduction of the full-time employment opportunities of employees other than full-time students employed under certificates.

(b) *Source of limitations.* Some of the limitations expressed in this subpart are specifically required in section 14(b) of the Act. The other limitations implement the provisions relating to employment opportunities, i.e., the "extent necessary in order to prevent curtailment of opportunities for employment" and the requirement that the regulations shall "prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by" section 14(b) of the Act is applicable.

§ 519.12 Definitions.

(a) *Full-time students.* A "full-time student" for the purpose of this subpart is defined as one who meets the accepted definition of a full-time student of the institution of higher education which employs him. A full-time student retains that status during the student's Christmas, summer and other vacations. The phrase in section 14(b) of the statute "regardless of age but in compliance with applicable child labor laws", among other things, restricts the employment in an institution of higher education to full-time students who are at least 14 years of age because of the application of section 3(l) of the Act.

(b) *Institution of higher education.* An "institution of higher education" is an institution above the secondary level, such as a college or university, a junior college, or a professional school of engineering, law, library science, social work, etc. It is one that is recognized by a national accrediting agency or association as determined by the U.S. Commissioner of Education. Generally, an institution of higher education: (1) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate, and (2) is legally authorized within a State to provide a program of education beyond high school; and (3) provides an educational program for which it normally awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

§ 519.13 Application for a full-time student certificate.

(a) Whenever the employment of its full-time students working in an institution at wages lower than the minimum wage applicable under section 6 of the Fair Labor Standards Act is believed to be necessary to prevent curtailment of opportunities for employment and employment of them will not create a substantial probability of reducing the full-time employment opportunities of other workers, an application for a certificate may be filed by their employer with the appropriate Regional Office (or in the Caribbean Office for the area it covers) of the Wage and Hour Division. Such an application shall be signed by an authorized representative of the employer.

(b) The application provided for under § 519.14 must be filed in duplicate on official forms or exact copies thereof. The forms are available at the offices mentioned in paragraph (a) of this section. The application must contain the information on numbers of full-time students and full-time employees (other than full-time students), minimum full-time student wages, types of work performed by full-time students, and other information for which request is made on the form.

(c) Separate application must be made for each campus of an institution of higher education in which authority to employ full-time students at subminimum wage rates is sought.

(d) Application for renewal of a certificate shall be made on the same type of form as is used for a new application. No certificate in effect shall expire until action on such an application shall have been finally determined, provided that such application has been properly executed, and is received by the office specified in paragraph (a) of this section not less than 15 nor more than 30 days prior to the expiration date. A properly executed application is one which fully and accurately contains the information required on the form, and the required certification by an authorized representative of the employer.

§ 519.14 Procedure for action upon an application.

(a) Under certain conditions, an institution of higher education has temporary authorization to employ full-time students at subminimum wages. These conditions are: (1) Absence of an effective finding by the Secretary that the institution has been employing full-time students under certificates in violation of the requirements of section 14(b)(3) of the Act or of these regulations; and (2) forwarding of a properly completed application to the Wage and Hour Division not later than the start of employment of full-time students at subminimum wages, and (3) posting a notice of such filing at the place(s) specified in paragraph (a) of § 519.16 of this subpart, and (4) compliance during the temporary authorization period with the requirements set forth in paragraphs (b) and (e) through (j) of § 519.16 of this subpart.

(b) Temporary authorization under the conditions set forth in paragraph (a) of this section is effective from the date the application is forwarded to the Wage and Hour Division in conformance with § 519.13 of this subpart. This authorization shall continue in effect for one year from the date of forwarding of the application unless, within 30 days, the Administrator or his authorized representative denies the application, issues a certificate with modified terms and conditions, or expressly extends the 30-day period of review.

(c) Upon receipt of an application for a certificate, the officer authorized to act upon such application shall issue a certificate if the terms and conditions specified in this subpart are satisfied. To the extent he deems appropriate, the authorized officer may provide an opportunity to other interested persons to present data, views, or argument on the application prior to granting or denying a certificate.

(d) If a certificate is issued, there shall be published in the FEDERAL REGISTER a general statement of the terms of such certificate together with a notice that, pursuant to § 519.19, for thirty (30) days following such publication any interested person may file a written request for reconsideration or review.

(e) If a certificate is denied, notice of such denial shall be sent to the employer, stating the reason or reasons for the denial. Such denial shall be without prejudice to the filing of any subsequent application.

§ 519.15 Conditions governing issuance of full-time student certificates.

Certificates authorizing the employment of full-time students at subminimum wage rates shall not be issued unless the following conditions are met:

(a) Full-time students are available for employment at subminimum rates; the granting of a certificate is necessary in order to prevent curtailment of opportunities for employment.

(b) The employment of full-time students will not create a substantial probability of reducing the full-time employment opportunities for persons other than those employed under such certificates.

(c) Abnormal labor conditions such as a strike or lockout do not exist in the units of the campus for which a full-time student certificate is requested.

(d) The data given on the application are accurate and based on available records.

(e) There are no serious outstanding violations of the provisions of a full-time student certificate previously issued to the employer, nor have there been any serious violations of the Fair Labor Standards Act (including Child-Labor Regulation No. 3 and the Hazardous Occupations Orders published in Part 570 of this chapter) which provide reasonable grounds to conclude that the terms of a certificate may not be complied with, if issued.

(f) The subminimum wage rate(s) proposed to be paid full-time students under temporary authorization or under certificate is not less than 85 percent of the minimum wage applicable under section 6 of the Act.

(g) Full-time students are not to be employed by an institution of higher education at subminimum wages under this subpart in unrelated trades or businesses as defined and applied under sections 511 through 515 of the Internal Revenue Code, such as apartment houses, stores, or other businesses not primarily catering to the students of the institution.

§ 519.16 Terms and conditions of employment under full-time student certificates and under temporary authorization.

(a) A full-time student certificate will not be issued for a period longer than 1 year, nor will it be issued retroactively. It shall specify its effective and expiration dates. A copy of the certificate shall be posted during its effective period in a conspicuous place or places in the institution of higher education readily visible to all employees, for example, adjacent to the time clock or on the bulletin board used for notices to the employees. If temporary authorization is in effect

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under paragraph (a) of § 519.14, a notice thereof shall be similarly posted during the effective period of such authorization.

(b) Full-time students may not be employed under a certificate at less than 85 percent of the minimum wage applicable under section 6 of the Act.

(c) An institution of higher education shall not employ full-time students at subminimum wages under this subpart in unrelated trades or businesses as defined and applied under sections 511 through 515 of the Internal Revenue Code.

(d) An institution of higher education subject to a finding by the Secretary that it is in violation of the requirements of section 14(b)(3) of the Act or of this subpart must be issued a full-time student certificate before it can employ full-time students at wages below those required by section 6 of the Act. The Administrator or his authorized representative will not issue a full-time student certificate to such an institution without adequate assurances and safeguards to insure that the violations found by the Secretary will not continue.

(e) Full-time students shall not be permitted to work at subminimum wages for more than 8 hours a day, nor for more than 40 hours a week when school is not in session, nor more than 20 hours a week when school is in session (apart from a full-time student's summer vacation), except that when a full-day school holiday occurs the weekly limitation on the maximum hours which may be worked shall be increased by 8 hours for each such holiday but in no event shall the 40-hour limitation be exceeded. Whenever a full-time student is employed for more than 20 hours in any workweek in conformance with this paragraph, the employer shall note in his payroll that school was not in session during all or part of that workweek or the student was in his summer vacation.

(f) Neither oppressive child labor as defined in section 3(l) of the Act and regulations issued under the Act nor any other employment in violation of a Federal, State or local child labor law or ordinance shall come within the terms of any certificate issued under this subpart.

(g) Full-time students shall be employed at subminimum wages under this subpart only outside of their school hours, i.e., only outside of the scheduled hours of instruction of the individual full-time student.

(h) No full-time student shall be hired under a full-time student certificate for work in a unit or units of the campus where abnormal labor conditions, such as a strike or lockout, exist.

(i) No provision of any full-time student certificate shall excuse noncompliance with higher standards applicable to full-time students which may be established under the Walsh-Healey Public Contracts Act or any other Federal law, State law, local ordinance, or union or other agreement. Thus, certificates issued under this subpart have no application to employment under the Service Contract Act.

(j) No full-time student certificate shall apply to any employee to whom a certificate issued under section 14 (a) or (c) of the Act has application.

§ 519.17 Records to be kept.

(a) The employer shall designate each worker employed as a full-time student under a full-time student certificate at subminimum wages, as provided under Part 516 of this chapter.

(b) (1) In addition to the records required under Part 516 of this chapter and this subpart, the employer shall keep the records specified in paragraph (b) (2), (3) and (4) of this section specifically relating to full-time students employed at subminimum wages.

(2) The institution shall obtain at the time of hiring and keep in its records information that the employee is its full-time student at the physical location of the institution in accordance with its accepted definition of a full-time student. During a period between attendance at different schools not longer than the usual summer vacation, the acceptance by the institution of the full-time student for its next term will satisfy the requirements of this subparagraph.

(3) An institution of higher education shall maintain records of the monthly hours of employment of full-time students at subminimum wages and of the total hours during the month of all employees at the campus. The records shall show the total hours worked at the campus of the institution by all full-time students of the type defined in § 519.12 (a) at less than the minimum wage otherwise applicable under the Act, and the total hours of employees of all employees at the campus.

(4) An institution of higher education with authorization to pay subminimum wages to full-time students shall maintain information, by occupation, on the number of full-time students and others employed during the year, together with their rates of pay.

(c) The records required in this section, including a copy of any full-time student certificate issued, shall be kept for a period of 3 years at the place and made available for inspection, both as provided in Part 516 of this chapter.

§ 519.18 Amendment or replacement of a full-time student certificate.

In the absence of an objection by the employer (which may be resolved in the manner provided in Part 528 of this chapter) the authorized officer upon his own motion may amend the provisions of a certificate when it is necessary by reason of the amendment of these regulations, or may withdraw a certificate and issue a replacement certificate when necessary to correct omissions or apparent defects in the original certificates.

§ 519.19 Reconsideration and review.

(a) Within 15 days after being informed of a denial of an application for a full-time student certificate or within 30 days after FEDERAL REGISTER publication of a statement of the terms of the certificate granted, any person aggrieved by the action of an authorized officer in denying or granting a certificate may: (1) File a written request for reconsideration thereof by the authorized officer who made the decision in the first instance, or (2) file with the Administrator a written request for review.

(b) A request for reconsideration shall be accompanied by a statement of the additional evidence which the applicant believes may materially affect the decision and a showing that there were reasonable grounds for failure to present such evidence in the original proceedings.

(c) Any person aggrieved by the reconsideration determination of an authorized officer may, within 15 days after such determination, file with the Administrator a written request for review.

(d) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(e) If a request for reconsideration or review is granted, the authorized officer or the Administrator may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data, views, or argument.

§ 519.20 Amendment or revocation of the regulations in this subpart.

The Administrator may at any time upon his own motion or upon written request of any interested person or persons setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present data, views, or argument, amend or revoke any of the regulations of this subpart.

Signed at Washington, D.C. this 29th day of April, 1974.

WARREN D. LANDIS,
Acting Administrator,
Wage and Hour Division.

[FR Doc.74-10052 Filed 4-30-74;8:45 am]

PART 522—EMPLOYMENT OF LEARNERS

Changes Reflecting the Fair Labor Standards Amendments of 1974

Pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; 29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1945–53 Comp., p. 1004), and Secretary Orders 13–71 and 15–71 (36 FR 8755 and 8756), I hereby revise 29 CFR 522, as set out below. The purpose of the revision is to adapt the part to the Fair Labor Standards Amendments of 1974 (P.L. 93–259).

In order that there will be a valid basis for issuing certificates to be in effect on and after May 1, 1974, and for employing learners thereunder, it is necessary that the revision become effective on May 1, 1974, inasmuch as increased minimums under section 6 of the Act become effective on May 1, 1974. However, interested parties may present written data, views, and argument in quadruplicate to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, not later than May 31, 1974. Upon consideration of such submissions any changes as are appropriate will be made in this part and published in the FEDERAL REGISTER. Meanwhile, these regulations remain in full force.

In paragraphs (a), (b), and (d) of § 522.24 (apparel), subparagraphs (1), (2), (3), (4), and (5) of paragraph (a) of § 522.43 (hosiery), paragraph (a) of § 522.65 (gloves), and paragraph (a) of § 522.85 (cigars), wherever the rate of $1.45 appears, it is hereby changed to $1.85, effective May 1, 1974; to $1.95 effective January 1, 1975; and to $2.15 effective January 1, 1976.

In paragraphs (b) and (c) of § 522.24 (apparel), paragraph (a) of § 522.35 (knitted wear), subparagraphs (6), (7), (8), and (9) of paragraph (a) of § 522.43 (hosiery), and paragraph (a) of § 522.65 (gloves), wherever the rate of $1.50 appears, it is hereby changed to $1.90 effective May 1, 1974; to $2.00 effective January 1, 1975; and to $2.20 effective January 1, 1976.

In paragraphs (1) and (2) of para- § 522.43 (hosiery) and in paragraph (a) of § 522.85 (cigars), wherever the rate of § 552.85 (cigars), wherever the rate of $1.525 appears, it is hereby changed to $1.925 effective May 1, 1974; to $2.025 effective January 1, 1975; and to $2.225 effective January 1, 1976.

In paragraph (a) of § 522.65 (gloves), wherever the rate of $1.55 appears, it is hereby changed to $1.95 effective May 1, 1974; to $2.05 effective January 1, 1975; and to $2.25 effective January 1, 1976.

In subparagraphs (6) and (7) of paragraph (a) and in paragraph (d) of § 522.43 (hosiery), wherever $1.575 appears, it is hereby changed to $1.975 effective May 1, 1974; to $2.075 effective January 1, 1975; and to $2.275 effective January 1, 1976.

The above increases in minimum certificate rates conform to the increases in minimum rates in section 6 of the Act as of the above dates, for coverage of the type represented by these learner industries.

Signed at Washington, D.C. this 26th day of April 1974.

WARREN D. LANDIS,
Acting Administrator,
Wage and Hour Division.

§ 522.24 Special minimum wage rates.

(a) The special minimum rates of learners employed in occupations for which a 320-hour period is authorized under § 522.23(a) shall during that period be not less than $1.85 an hour until December 31, 1974, at not less than $1.95 an hour between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 an hour.

(b) The rates for experienced workers in any one of the occupations shown in § 522.23(a) for which a 320-hour learning period is authorized, who are being retrained under the terms of a learner certificate in any other occupation shown in that paragraph having such a 320-hour maximum period, shall be not less than $1.85 an hour for the first 160 hours and not less than $1.90 an hour for the remaining 160 hours until December 31, 1974, not less than $1.95 an hour for the first 160 hours and not less than $2.00 an hour for the remaining 160 hours between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 an hour for the first 160 hours of the 320-hour learning period and not less than $2.20 an hour for the remaining 160 hours.

(c) The rates for learners employed in the occupation of final inspection of assembled garments under § 522.23(b) shall be not less than $1.90 an hour during the authorized 160-hour learning period until December 31, 1975, not less than $2.00 an hour during such authorized learning period between January 1, 1975 and December 31, 1975, and thereafter not less than $2.20 an hour during such authorized learning period.

(d) The rates for learners employed in any occupation, other than final inspection of assembled garments, for which a 160-hour learning period is authorized in § 522.23 (a) or (b) shall be not less than $1.85 an hour during such period until December 31, 1974, not less than $1.95 an hour during such period between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 an hour during such learning period.

(e) The earnings of learners employed in occupations in which experienced workers are compensated on a piece-rate basis shall be based on those piece rates when they yield more than the authorized special minimum wage rates, in accordance with § 552.6(j).

(f) No experienced worker shall be employed under the terms of a learner certificate, except as provided in paragraph (b) of this section and in paragraph (c) of § 522.23.

§ 522.35 Special minimum rates.

(a) The special minimum rate which may be authorized in special certificates issued in the knitted wear industry shall be not less than $1.90 an hour until December 31, 1974, not less than $2.00 an hour between January 1, 1975 and December 31, 1975, and thereafter not less than $2.20 an hour.

§ 522.43 Learner occupations, learning periods and special minimum rates.

(a) A person who has had no previous experience in any of the following occupations in the hosiery industry may be employed as a learner in any one of the occupations for the maximum number of hours and at the special rates set out in subparagraphs (1) through (9) of this paragraph.

(1) In the seamless branch, knitting (transfer top only) and looping, for 960 hours, at not less than $1.85 an hour for the first 480 hours and at not less than $1.925 for the remaining 480 hours until December 31, 1974, not less than $1.95 an hour for the first 480 hours and not less than $2.025 for the remaining 480 hours between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 for the first 480 hours and not less than $2.225 for the remaining 480 hours.

(2) In the seamless branch, pairing (women's nylon) and mending (women's nylon), for 720 hours at not less than $1.85 an hour for the first 360 hours and at not less than $1.925 for the remaining 360 hours until December 31, 1974, not less than $1.95 an hour for the first 360 hours and not less than $2.025 for the remaining 360 hours between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 for the first 360 hours and not less than $2.225 for the remaining 360 hours.

(3) In the seamless branch, topping, welting, and mending (other than women's nylon), for 480 hours, at not less than $1.85 an hour until December 31, 1974, not less than $1.95 between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 an hour.

(4) In the seamless branch, boarding (women's nylon), folding (women's nylon and rayon) and pairing (other than women's nylon), for 360 hours, at not less than $1.85 an hour until December 31, 1974, at not less than $1.95 an hour between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.15 an hour.

(5) In the seamless branch, knitting (except transfer top), seaming, examining and inspection, folding (other than women's nylon and rayon), and boarding (other than women's nylon), for 240 hours, at not less than $1.85 an hour until December 31, 1974, at not less than $1.95 an hour between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.15 an hour.

(6) In the full-fashioned branch, seaming (leg and foot), for 960 hours, at not less than $1.90 for the first 480 hours and $1.975 for the remaining 480 hours until December 31, 1974, at not less than $2.00 for the first 480 hours and $2.075 for the remaining 480 hours between January 1, 1975 and December 1975, and thereafter at not less than $2.20 for the first 480 hours and at not less than $2.275 for the remaining 480 hours.

(7) In the full-fashioned branch, pairing and mending, for 720 hours, at not less than $1.90 an hour for the first 360 hours and not less than $1.975 an hour for the remaining 360 hours until December 31, 1974, at not less than $2.00 an hour for the first 360 hours and at not less than $2.075 for the remaining 36 hours between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.20 for the first 360 hours and at not less than $2.275 for the remaining 360 hours.

(8) In the full-fashioned branch, boarding and folding, for 360 hours, at not less than $1.90 an hour until December 31, 1974, at not less than $2.00 an hour between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.20 an hour.

(9) In the full-fashioned branch, examining and inspecting, and seaming (sewing—other than leg and foot), for 240 hours, at not less than $1.90 an hour

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until December 31, 1974, at not less than $2.00 an hour between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.20 an hour.

(10) For purposes of subparagraphs (2) and (7) of this paragraph, the occupation of mending is defined as the process of hand-mending hosiery, either in the greige or finished condition, excluding snagging or scratching performed as a full-time and continuous process, and excluding the operation of various types of mending machines, such as Vitos, Vanitas, Stelos or Marvel, except where the operation of such machines is incidental to the hand-mending operation and the use of such machinery is an adjunct to the hand-mending process. For purposes of subparagraphs (6) and (9) of this paragraph, the occupation of seaming (leg and foot) is defined as the joining of the sides of full-fashioned fabric from toe to the top of the welt, to form the hosiery.

(d) A worker who has had full training in any authorized learner occupation may be transferred to any other learner occupation for a period not to exceed one-half of the learning period authorized for the occupation at not less than $1.925 an hour in the seamless branch and at not less than $1.975 an hour in the full-fashioned branch until December 31, 1974, at not less than $2.025 an hour in the seamless branch and at not less than $2.075 an hour in the full-fashioned branch between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.225 an hour in the seamless branch and at not less than $2.275 an hour in the full-fashioned branch. A worker who has had partial training in any authorized learner occupation may be transferred to any other learner occupation for either: (1) A period not to exceed one-half of the learning period authorized for that occupation, at not less than $1.925 an hour in the seamless branch and at not less than $1.975 an hour in the full-fashioned branch until December 31, 1974, at not less than $2.025 an hour in the seamless branch and at not less than $2.075 an hour in the full-fashioned branch between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.225 an hour in the seamless branch and at not less than $2.275 an hour in the full-fashioned branch; or (2) the balance of the number of hours permitted as a learning period for the occupation to which he or she is being transferred, at the applicable special minimum rates set forth in paragraph (a) of this section: *Provided, however,* That (i) no worker may be employed as a learner at learner rates in more than two authorized occupations; (ii) no worker who has completed the authorized learning period in the occupation of pairing may be employed as a learner at learner rates in the occupations of folding or inspection; and (iii) no worker who has completed the authorized learning period may be employed as a learner at learner rates when transferring from the seamless branch of the hosiery industry to the full-fashioned or from the full-fashioned branch to the seamless, if the worker is employed in the same occupation as that in which he or she has been previously employed.

§ 522.65 Special minimum rates.

(a) The special minimum rates which may be authorized in special certificates issued in the glove industry shall be as follows: (1) In the leather glove, woven or knit fabric glove, and knitted glove branches of the industry, not less than $1.85 an hour for the first 320 hours and at not less than $1.95 an hour for the remaining 160 hours until December 31, 1974, at not less than $1.95 an hour for the first 320 hours and at not less than $2.05 an hour for the remaining 160 hours between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.15 for the first 320 hours and not less than $2.25 for the remaining 160 hours; and (2) in the work glove branch of the industry, not less than $1.85 an hour for the first 320 hours and not less than $1.90 an hour for the remaining 160 hours until December 31, 1974, at not less than $1.95 an hour for the first 320 hours and not less than $2.00 an hour for the remaining 160 hours between January 1, 1975 and December 31, 1975, and thereafter at not less than $2.15 for the first 320 hours and not less than $2.20 an hour for the remaining 160 hours.

§ 522.85 Special minimum rates.

(a) The special minimum rates which may be authorized in special certificates issued in the cigar industry shall be: (1) In the occupations of cigar machine operating and cigar packing, not less than $1.85 an hour until December 31, 1974, not less than $1.95 an hour between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 an hour; (2) in the occupations of hand rolling and hand bunch making, not less than $1.85 an hour for the first 480 hours and $1.925 for the second 480 hours until December 31, 1974, not less than $1.95 an hour for the first 480 hours and $2.025 for the second 480 hours between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 for the first 480 hours and $2.225 for the second 480 hours; (3) in the occupation of hand making Italian stogies, not less than $1.85 an hour for the first 320 hours and $1.925 an hour for the second 320 hours until December 31, 1974, not less than $1.95 an hour for the first 320 hours and $2.025 an hour for the second 320 hours and between January 1, 1975 and December 31, 1975, and thereafter not less than $2.15 an hour for the first 320 hours and $2.225 an hour for the second 320 hours; and (4) in the occupations of hand stripping and machine stripping, not less than $1.85 an hour until December 31, 1974, not less than $1.95 an hour between January 1, 1975 and December 31, 1975, thereafter not less than $2.15 an hour.

[FR Doc.74-9925 Filed 4-30-74;8:45 am]

CHAPTER XVII OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

MARITIME SAFETY AND HEALTH REGULATIONS

Protection Against Drowning

A notice was published in the FEDERAL REGISTER on August 23, 1973 (38 FR 22632) proposing that employees be provided with personal flotation devices as a method of protection against drowning, instead of the presently required buoyant work vests. The proposal was made to conform to U.S. Coast Guard requirements for life-saving equipment since the Coast Guard is the approving agency for all such devices required under the Department of Labor's Maritime Standards. The proposal was to change all reference to "work vests," "buoyant vest," or "buoyant work vests" to read "personal flotation devices" to reflect the change in terminology already adopted by the U.S. Coast Guard.

Also, the proposal recognized that jacket type life preservers and certain special purpose water safety buoyant devices would serve the purposes of protecting maritime workers against drowning as adequately as the work vests presently required. Further, the types of personal flotation devices specified in the proposal provide a greater selection for the users of lifesaving equipment.

The notice invited interested persons to submit written data, views, and arguments concerning the proposal. Interested persons also were afforded an opportunity to file objections to any part of the proposal and to request a hearing on the objection. No objections and no requests for a hearing have been received. Written comments received unanimously supported the adoption of the proposal.

Accordingly, pursuant to authority in section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended; 33 U.S.C. 941), Secretary of Labor's Orter No. 12–71 (36 FR 8754), and 29 CFR Part 1911, the proposed amendments are adopted for the reasons stated above and are set forth below with one change: in §§ 1915.84(a), 1916.84(a), 1917.84(a), and 1918.106(a) the words "used after November 1, 1973" are deleted, so that the amendments apply to devices used on and after the effective date of the amendments.

Effective date. These amendments shall become effective on May 31, 1974.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); sec. 41, 44 Stat. 1444 (33 U.S.C. 941); Secretary of Labor's Order No. 12–71, 36 FR 8754; 29 CFR Part 1911)

Signed at Washington, D.C. this 24th day of April 1974.

JOHN STENDER,
Assistant Secretary of Labor.

PART 1915—SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

1. In § 1915.43, paragraph (d) is revised to read as follows:

§ 1915.43 Guarding of deck openings and edges.

• • • • • •

(d) When employees are working near the unguarded edges of decks of vessels afloat, they shall be protected by personal flotation devices meeting the requirements of § 1915.84(a).

• • • • • •

2. In § 1915.47, paragraph (d) is revised to read as follows:

§ 1915.47 Working surfaces.

• • • • • •

(d) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by personal flotation devices meeting the requirements of § 1915.84(a).

3. In § 1915.84, paragraph (a) is revised to read as follows:

§ 1915.84 Lifesaving equipment.

(a) *Personal flotation devices.* (1) Any personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices).

(2) Prior to each use, personal flotation devices shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective personal flotation devices shall not be used.

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PART 1916—SAFETY AND HEALTH REGULATIONS FOR SHIPBUILDING

4. In § 1916.43, paragraph (d) is revised to read as follows:

§ 1916.43 Guarding of deck openings and edges.

• • • • • •

(d) When employees are working near the unguarded edges of decks of vessels afloat, they shall be protected by personal flotation devices meeting the requirements of § 1916.84(a).

• • • • • •

5. In § 1916.47, paragraph (d) is revised to read as follows:

§ 1916.47 Working surfaces.

• • • • • •

(d) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by personal flotation devices meeting the requirements of § 1916.84(a).

6. In § 1916.84, paragraph (a), is revised to read as follows:

§ 1916.84 Lifesaving equipment.

(a) *Personal flotation devices.* (1) Any personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices).

(2) Prior to each use, personal flotation devices shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective personal flotation devices shall not be used.

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PART 1917—SAFETY AND HEALTH REGULATIONS FOR SHIPBREAKING

7. Section 1917.47 is revised to read as follows:

§ 1917.47 Working surfaces.

When employees are boarding, leaving, or working from small boats or floats, they shall be protected by personal flotation devices meeting the requirements of § 1917.84(a).

8. In § 1917.84, paragraph (a) is revised to read as follows:

§ 1917.84 Lifesaving equipment.

(a) *Personal flotation devices.* (1) Any personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices).

(2) Prior to each use, personal flotation devices shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective personal flotation devices shall not be used.

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PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

9. Section 1918.106 is revised to read as follows:

§ 1918.106 Protection against drowning.

(a) *Personal flotation devices.* Any personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices).

(b) Employees working on log booms shall be protected by personal flotation devices meaning the requirements of § 1918.106(a).

(c) Except when engaged in loading or discharging ocean going vessels, employees walking or working on the decks of barges on the Mississippi River System and the Gulf Intracoastal Waterway shall be protected by personal flotation devices meeting the requirements of § 1918.106(a).

(d) Personal flotation devices shall be maintained in good condition and shall be considered unserviceable when damaged so as to affect their buoyant properties or capability of being fastened.

[FR Doc.74-9953 Filed 4-30-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation and Dependency and Indemnity Compensation

CLOTHING ALLOWANCE PAYMENTS TO DEPENDENTS OF DECEASED VETERANS

On page 9559 of the FEDERAL REGISTER of March 12, 1974, there was published a notice of proposed regulatory development to amend § 3.1000 to implement the determination that the clothing allowance provided by Public Law 92–328 is a periodic monetary benefit within the purview of 38 U.S.C. 3021 which provides for payment to his dependents of accrued benefits due a deceased veteran. It was also proposed to amend § 3.1001 to implement 38 U.S.C. 3203 as amended by Public Law 92–328 which repealed the requirement for reducing awards of compensation and retirement pay to competent veterans without wives or children who are furnished hospital treatment, institutional, or domiciliary care by the Veterans Administration. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. Section 3.1000(h) and the introductory portion of paragraph (a) in § 3.1001 are effective August 1, 1972.

Approved: April 24, 1974

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
Deputy Administrator.

1. In § 3.1000, paragraph (f) is amended and paragraph (h) is added so that the amended and added material reads as follows:

§ 3.1000 Under 38 U.S.C. 3021.

• • • • • •

(f) *Dependents' educational assistance.* Educational assistance allowance or special restorative training allowance under 38 U.S.C. ch. 35, remaining due and unpaid at the date of death of an eligible widow or widower or eligible child is payable to a child or children of the veteran (see paragraphs (a)(2), (a)(3) and (d)(2) of this section), or on the expenses of last sickness and burial (see paragraph (a)(4) of this section). Benefits due and unpaid at the date of death of an eligible wife or husband are payable only on the expenses of last sickness and burial (see paragraph (a)(4) of this section).

• • • • • •

(h) *Clothing allowance.* Clothing allowance under 38 U.S.C. 362 remaining due and unpaid at the date of the veteran's death is payable under the provisions of this section.

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2. In § 3.1001, paragraphs (a) (1), (2) and (3) and (c) are amended to read as follows:

§ 3.1001 Hospitalized competent veterans.

The provisions of this section apply only to the payment of amounts actually withheld on a running award under § 3.551(b) which are payable in a lump sum after the veteran's death.

(a) *Basic entitlement.* Where an award of disability pension for a competent veteran without dependents was reduced because of hospital treatment or institutional or domiciliary care by the Veterans Administration and the veteran dies while receiving such treatment or care or before payment of amounts withheld, the lump sum is payable to the living person first listed as follows:

(1) The veteran's spouse, as defined in § 3.1000(d)(1);

(2) The veteran's children (in equal shares), as defined in § 3.57 but without regard to their age or marital status;

(3) The veteran's dependent parents (in equal shares), or the surviving dependent parent, as defined in § 3.1000(d)(3);

* * * * *

(c) *Lump sum withheld after discharge from institution.* The provisions of paragraphs (a) and (b) of this section will apply in the event of the death of any veteran prior to receiving a lump sum which was withheld because treatment or care was terminated against medical advice or as the result of disciplinary action. (38 U.S.C. 3203).

3. Section 3.1002 is revised to read as follows:

§ 3.1002 Political subdivisions of United States.

No part of any accrued benefits will be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary. (See § 3.1(o)). (38 U.S.C. 3021(b) and 3202(d)).

[FR Doc.74-9908 Filed 4-30-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Dicamba

A petition (PP 1F1131) was filed by Velsicol Chemical Corp., 341 East Ohio Street, Chicago, IL 60611, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for combined residues of the herbicide dicamba and its metabolite 3,6-dichloro-5-hydroxy-o-anisic acid in or on the raw agricultural commodity asparagus at 1 part per million.

Subsequently, the petitioner amended the petition by proposing establishment of a tolerance for combined residues of dicamba and its metabolite 3,6-dichloro-5-hydroxy-o-anisic acid in or on asparagus at 3 parts per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of dicamba residues in eggs, meat, milk or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.227 is amended by revising the paragraph "3 parts per million * * *" to read as follows:

§ 180.227 Dicamba; tolerances for residues.

* * * * *

3 parts per million in or on asparagus and sorghum (grain, fodder, and forage).

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before May 31, 1974 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on May 1, 1974.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))

Dated: April 26, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-9921 Filed 4-30-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

PART 5A-16—PROCUREMENT FORMS

Notification of Proposed Substantial Awards, and Awards Involving Congressional Interest

The following change to the General Services Administration Procurement Regulations (GSPR) prescribes revised instructions and a new form for the notification of proposed substantial contract awards and awards involving Congressional interest.

Subpart 5A-2.4—Opening of Bids and Award of Contracts

Sections 5A-2.407-84 and 5A-2.407-85 are revised as follows:

§ 5A-2.407-84 Notification of proposed substantial awards and awards involving Congressional interest.

(a) Applicability: This section applies to notification of proposed awards resulting from either advertised or negotiated solicitations including modifications and renewals (1) when the dollar value exceeds or is estimated to exceed $100,000 except as shown in (b) below, and (2) when there is Congressional interest regardless of dollar value.

(1) When Congressional interest is involved, GSA Form 2932, Proposed Substantial Contract Awards (see § 5A-16.950-2932), or a facsimile message shall be prepared for transmittal to the Assistant Administrator (AL) containing the following information:

Congressional Interest—(Name of Congressman or Senator)—(State)—Control No. ——In behalf of (Name of firm and complete address)—If award is not proposed to that bidder, explain why).

(2) In addition to the requirement set forth in (a)(1) above (and in OAD 5410.1, chap. 5), where a Congressional inquiry is made orally with a contracting officer, and award or other information has been promised to a Congressman or Senator, GSA Form 2932, or the facsimile message shall contain the following statement:

Unless notified to the contrary, we will assume that the (Congressman or Senator) has been advised by AL.

(b) Notification of proposed awards exceeding or estimated to exceed $100,000 is not required for products whose points of origin are not readily identifiable or which involve foreign production points.

(c) Codes: The following codes shall be used in the appropriate columns of GSA Form 2932 or in the facsimile message, as applicable.

(1) DO for definite quantity contract;
(2) FSS for Federal Supply Schedule contract;
(3) TC for term contract other than Federal Supply Schedule;
(4) S for small business concern;
(5) O for other than small business concern;
(6) NLS for not labor surplus area;
(7) SLS for substantial labor surplus area;
(8) PLS for persistent labor surplus area;
(9) CUE for concentrated unemployment or underemployment area; and
(10) CEC for certified-eligible concern.

(d) Notification procedure:

(1) The Director (or his equivalent) of the procurement activity (Central Office or regional office) shall be responsible for submitting directly to the Office of the Assistant Administrator (AL) complete and factual data pertinent to any proposed award of the type described in (a) above.

(2) Regional offices (except Region 3) and the Office Supplies and Paper Products Division (FPO) (New York) shall prepare GSA Form 2932 and transmit the notification directly to the Office of the Assistant Administrator (AL) by facsimile machine except as shown in (4) below.

(i) Telephone numbers for transmittal of facsimile messages of the notifications are as follows:

Area code	*Telephone number*
202	343-5970
202	632-3626
202	632-7944
202	632-7945

(ii) Messages should be directed to the attention of AL, GS Building, Room 6108.

(3) Central Office (except FPO) and Region 3 procurement activities shall prepare GSA Form 2932 and transmit the notification (original only) directly to the Office of the Assistant Administrator (AL). The notification(s) shall be placed in a messenger envelope and addressed as follows:

"PLEASE HAND CARRY Attention: AL GS Bldg. Room 6108."

(4) Notifications covering regional and FPO proposed awards which require Central Office concurrence or approval pursuant to the GSA Delegations of Authority Manual (ADM P 5450.39), shall be submitted as part of the case file to the Central Office. The notification shall be transmitted to the Office of the Assistant Administrator (AL) by the office rendering final concurrence in the proposed award.

(5) The following additional information shall be furnished on the GSA Form 2932 as applicable:

(i) Under Type of Contract insert "A" for advertised and "N" for negotiated, including the applicable negotiation authority in parentheses, i.e., N(2) for negotiated public exigency.

(ii) Under Point of Production show the name (plant or operational unit), address (including county), and the dollar value for each production point. When the name of the supplier (subcontractor) is different from the contractor, show the supplier's or subcontractor's name, address (including county), and applicable dollar value for each point of production. When the offer does not clearly indicate a specific production point for the item(s) (i.e., several sources shown for one item), the word undeterminable shall be stated in the Point of Production column, and the various production points (name, address, and county) will be listed. Where there are multiple production points and specific items and their points of production are not shown, or when the number of production points exceeds 10, show the word multiple and indicate immediately after in parentheses the total number of production points.

(iii) For definite quantity awards only, show (a) the quantity(s) and unit(s) in parentheses under each production point, (b) the name of the requisitioning activity(s) adjacent to the applicable quantity(s), and (c) the requirement or portion thereof for overseas use.

(iv) The contracting officer shall print or type his name and telephone number at the bottom of each report in the event additional information is required by the Office of the Assistant Administrator (AL).

(e) Release of awards.

(1) Unless notified to the contrary, regional and Central Office procurement activities may release awards of the type described in (2) through (4) above, or information pertinent thereto, upon the expiration of 2 full workdays (48 hours) after the time and date of transmittal of the GSA Form 2932 or the facsimile message to the Office of the Assistant Administrator (AL).

(2) Regional and Central Office procurement activities shall be responsible for submission of a copy of GSA Form 2932 marked COPY to FPE after release of the award. The copy of the notification shall indicate the date of award and shall include the contract number assigned.

(3) Pre-award release inquiries from offerors shall be processed in accordance with § 5A-2.407-1(c).

(f) Proposed exigency or emergency awards and cases where the acceptance time in an offer is about to expire.

(1) Regional and Central Office procurement activities shall transmit notifications as determined by the Director (or his equivalent) of the Central Office or regional procurement activity directly to the Office of the Assistant Administrator (AL) by telephone (Area Code 202-343-4072) followed by a completed GSA Form 2932 annotated confirming notification.

(2) Release of notifications which require priority processing by the Office of the Assistant Administrator (AL) shall be at the time and date specified by the Office of the Assistant Administrator (AL).

5A-2.407-85 Erroneous award to higher bidder.

(a) *If no deliveries have been made.* If, through error, award is made to other than the lowest responsible bidder and no delivery has been made prior to the discovery of the error, the vendor should be advised of the error and should be requested to consent to a cancellation of the award. In all cases, the contracting officer shall secure advice from the Office of the General Counsel or Regional Counsel, as appropriate, before requesting cancellation. If, in the case of a regional award approved by the Central Office, a vendor refuses to consent to cancellation, complete details of the case shall be submitted to the appropriate division Director for a decision and the vendor shall be advised to suspend action pending the receipt of such decision.

(b) *If partial delivery has been made.* If, through error, award is made to other than the lowest responsible bidder and partial delivery has been made prior to discovery of the error, the vendor shall be advised immediately of such error and instructed to make no further deliveries. In all cases, the contracting officer shall secure advice from the Office of the General or Regional Counsel, as appropriate, before taking any other action. Depending on the final decision and if it changes the contractual relationship, the appropriate Finance Division shall be advised accordingly in writing. A copy of the document containing the decision on the case shall also be forwarded to the Director, Procurement Division, as appropriate, for information.

(c) *If delivery has been completed.* If, through error, award is made to other than the lowest responsible bidder and delivery has been completed prior to discovery of the error, all pertinent details of the case shall be submitted in writing to the appropriate Finance Division and to the Office of General Counsel or Regional Counsel, as appropriate, for advice on necessary action.

The table of contents for Part 5A-16 is amended to delete § 5A-16.950-6380 and to add the following new entry:

5A-16.950-2932 GSA Form 2932, Proposed Substantial Contract Awards.

NOTE: A copy of the form illustrated in § 5A-16.950-2932 is filed with the original document.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); 41 CFR 5-1.101(c))

Effective date. These regulations are effective on the date shown below.

Dated: April 9, 1974.

M. J. TIMBERS,
Commissioner, Federal Supply Service.

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PROPOSED SUBSTANTIAL CONTRACT AWARDS

FSS FILE	TYPE OF CONTRACT	CONTRACT PERIOD	NAME AND ADDRESS OF COMPANY	SIZE OF BUSINESS	COMMODITY	POINT OF PRODUCTION (Including county)	LABOR AREA CLASS.	ESTIMATED VALUE
			(See § 5A-2.407-84.)					$

INFORMATION CALL - NAME | TITLE | TELEPHONE NO. (Incl. area)

AL SERVICES ADMINISTRATION GSA FORM 2932 (3-74)

§5A-16.950-2932 GSA Form 2932, Proposed Substantial Contract Awards.

SUBPART 5A-16.9 ILLUSTRATIONS OF FORMS

5A-16.950-2932

[FR Doc.74-9801 Filed 4-30-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19856; FCC 74-388]

PART 13—COMMERCIAL RADIO OPERATORS

Deletion of Certain Limitations on Scope of Operating Authority of Ship Radiotelephone Operator Permits

1. On November 5, 1973, we released a notice of proposed rulemaking in the above-entitled matter (38 FR 31018, November 9, 1973). The notice provided for the filing of comments and reply comments, and the time allowed, as extended, for such filings has expired.

2. The Notice proposed to delete the paragraphs (e) (2) and (f) (7) in Section 13.61 of our rules as obsolete, and to amend § 13.61(h) (4), essentially, so as to permit the operation of a ship radiotelephone station by a person holding a restricted operator permit for a station with no more than 100 watts power (400 watts peak envelope power), and thus make Part 13 consistent with an existing provision in Part 83 of our rules. These changes were considered to be mostly noncontroversial and of an editorial, nonsubstantive nature.

3. Two comments were received in response to our Notice, one from the Northern California Marine Radio Council (NCMRC), and one from the Southern California Marine Radio Council (SCMRC). Both commenters concurred generally in the proposed amendments to Part 13 of the rules, but SCMRC suggested that the change in Section 13.61(h) (4) be further revised to include coast as well as ship stations. As we understand the SCMRC suggestion, it desires rule changes to provide that the specified maximum power output for a station that may be operated by a person holding a restricted operator permit be the same, generally, for both a coast and a ship station. In short, we understand that SCMRC desires that the operator requirements for a coast station not be greater by class than for a ship station. SCMRC stated that if this revision would be beyond the scope of the Notice of Proposed Rule Making, then it requested its comment to be treated as a Petition for Further Rule Making.

4. At present, our rules specify, with certain exceptions not relevant here (e.g. coast stations employing a frequency below 30 MHz) in § 13.61(h) (4) as herein amended, and § 83.159, that a ship station with power output up to 100 watts (400 watts PEP) may be operated by a person holding a restricted operator permit; whereas a person holding that class of operator permit may operate a very high frequency (VHF) coast station on frequencies with a power output up to 250 watts (1,000 watts PEP) pursuant to §§ 13.61(h) (7) and 81.152(d) of the rules.

5. With respect to the request of SCMRC, concerning VHF operation, we point out that under our present rules a coast station with an output power up to 250 watts (1000 watts PEP) may be operated by a person holding a restricted operator permit as provided for in §§ 13.61(h) (7) and 81.152(d) of the rules. To adopt the further change suggested by SCMRC to § 13.6(h) (4) would, in that section, essentially, require that coast stations, if any, operating at more than 100 watts (400 watts PEP) and up to 250 watts (1000 watts PEP) use an operator holding at least a third class operator permit, instead of a restricted operator permit as now allowed. Additionally, any such provision in subparagraph (4) of § 13.61(h) would conflict with the existing provisions in subparagraph (7) and the provisions of § 81.152 (d) of the rules. We do not believe this is, substantively, what SCMRC desires, and it appears to us the relief requested by SCMRC for VHF coast stations already exists in the rules as herein explained. With respect to the SCMRC request as it applies to coast station operations on frequencies below 30 MHz, the potential for interference on these lower frequencies is much greater than in the VHF (156–162 MHz) maritime band. Consequently, we believe it is not advisable, at this time, for safety and operational reasons, to lower the operator requirements for these coast stations. Accordingly, we will not adopt the SCMRC suggestion or grant its request for a Further Notice of Proposed Rule Making, as they apply to coast stations operating on frequencies below 30 MHz.

6. In view of the froegoing, we find the proposed rule changes to be necessary and in the public interest.

7. *Accordingly, it is ordered*, Pursuant to sections 4(i), 303(l) (1) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules are amended effective May 31, 1974 as set forth below.

8. *It is further ordered*, That the Petition for Further Rule Making filed by SCMRC is denied.

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Adopted: April 16, 1974.

Released: April 25, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

1. Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 13.61, paragraphs (e) (2) and (f) (7) are deleted and shown as reserved and paragraph (h) (4) is amended to read as follows:

§ 13.61 Operating authority.

. . . . . .

(e) . . .

(2) [Reserved]

. . . . . .

(f) . . .

(7) [Reserved]

(h) . . .

(4) Ship stations licensed to use telephony at which the power is more than 100 watts carrier power or 400 watts peak envelope power, or

. . . . . .

[FR Doc.74-9912 Filed 4-30-74;8:45 am]

[Docket No. 19730; FCC 74-394]

PART 89—PUBLIC SAFETY RADIO SERVICES

Licensing of School Bus Operators

1. On May 8, 1973, the Commission issued a notice of proposed rulemaking in the above-entitled matter. The notice was published in the FEDERAL REGISTER on May 14, 1973 (38 FR 12619). These regulations govern eligibility of school bus operators and permissible communications in radio systems authorized in the Special Emergency Radio Service. Comments were requested by July 10, 1973, and reply comments on or before July 25, 1973. Five comments were similarly filed with the Commission: Boulder County Sheriffs Departments, California Association of Public School Business Officials, Northern California Chapter of the Association of Public Safety Communications Officers, Inc.

2. In the notice, we proposed to amend § 89.511 (a) and (d) of Subpart P to make persons or organizations operating school buses on a regular basis, over regular routes, eligible within this service, and to permit communication equipment authorized for use by school bus operators to be used for the transmission of messages pertaining to either the efficient operation of the school bus or the safety and general welfare of the students they are engaged in transporting. Section 89.511(a) presently permits only school bus operations in rural areas to obtain authorization to operate a communication system in the Special Emergency Radio Service. Under the provisions of § 89.511(d), the communications system may be used for the "transmission of messages pertaining to the safety of life or property or urgent messages relating to buses which have become inoperative on regular runs."

3. The proposed amendment was supported by the California Association of Public School Business Officials and it was opposed by the Washington Ambulance Service, Northern California Chapter of the Association of Public Safety Communications Officers, Inc., (NCAPCO), and the Boulder County Sheriff's Department.

4. Essentially, those parties who opposed the proposed rules did so because they felt that the use of Special Emergency frequencies should be limited to communications of an emergency nature and that non-emergency communications should not be permitted. The basic reason for this position was their contention that existing Special Emergency frequencies are already crowded and additional communications will further crowd these frequencies.

5. The Commission acknowledges that some additional crowding of these frequencies will occur. We feel, however, that the greater public interest will be served by the amendment of the rules as proposed. As stated in the Notice, the limitations (those which limit licensing to persons or organizations operating school buses in "rural" areas and which allow "only messages pertaining to the safety of life or property or urgent messages relating to buses which have become inoperative on regular runs") undoubtedly served useful purposes at the time they were adopted. However, the nature of school bus operations has now changed and it has become desirable to permit expanded use of the available frequencies. For example, the comments submitted by the California Association of Public School Business Officials contained the following statement:

> In school bus transportation, including physically handicapped, there are literally hundreds of daily adjustments in schedules to cover broken down buses, sick drivers, children left at school, blocked roads, etc., when these occur, there is no time for written requests, etc., they must be taken care of immediately.

Thus the use of radio is an important tool in maintaining bus service schedules. The Commission believes that bus drivers should have the capability to notify the proper school officials in the event of delays so that other arrangements can be made immediately to pick up children who will be reached on time.

6. Therefore, after weighing the arguments and balancing the various interests of the parties, the Commission has decided to amend § 89.511 (a) and (d) of our rules. In so doing, the Commission is extending eligibility in this service to persons or organizations operating school buses on a regular basis over regular routines. Additionally, as to permissible communications, stations licensed to school bus operators may be used to transmit messages pertaining to either the efficient operation of the school bus service or the safety and general welfare of the students they are engaged in transporting.

7. In view of the foregoing, the Commission concludes that the public interest will be served by amending the rules to extend eligibility under § 89.511(a) and extend permissible communications under §.89.511(d).

8. *Accordingly, it is ordered*, Pursuant to the authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended, that § 89.511 (a) and (d) of the Commission Rules are amended effective May 31, 1974, as set forth below.

9. *It is further ordered*, That the proceedings in Docket 19730 are hereby terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Adopted: April 16, 1974.

Released: April 25, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary

In § 89.511, paragraphs (a) and (d) are amended to read as follows:

§ 89.511 School buses.

(a) *Eligibility.* Persons or organizations operating school buses on a regular basis over regular routes are eligible in this service.

. . . . . .

(d) *Permissible communications.* Stations licensed to school bus operators may be used to transmit messages pertaining to either the efficient operation of the school bus service or the safety and general welfare of the students they are engaged in transporting.

[FR Doc.74-9913 Filed 4-30-74;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Notice No. 74-7]

CHANGE IN SUBCHAPTER HEADING

The title of Subchapter B of Chapter III of title 49, CFR is being changed from "Motor Carrier Safety Regulations" to "Federal Motor Carrier Safety Regulations." The purpose of this change is to

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avoid confusion between the rules relating to safety of motor carrier operations established by the Federal Government pursuant to Part II of the Interstate Commerce Act and similar rules established by the various States and their political subdivisions.

Since this amendment makes a nonsubstantive change in the regulations and does not affect the rights of any person, notice and public procedure thereon are unnecessary, and it is effective on the date of issuance set forth below.

In consideration of the foregoing, the title of Subchapter B in Chapter III of title 49, CFR is amended to read "Federal Motor Carrier Safety Regulations."

This amendment is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on April 23, 1974.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.74-9893 Filed 4-30-74;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-25; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

This notice amends 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, to: (1) Update the incorporated SAE standard on clearance lamps, (2) group test points for determining photometric conformance of backup lamps, (3) identify load requirements for testing variable load turn signal flashers, and (4) increase the allowable voltage drop in testing turn signal and hazard warning signal flashers.

These amendments are responsive to petitions by Truck Safety Equipment Institute, Signal Stat Corporation, Sylvania GTE and Hope-Tronics, Ltd., as discussed in the notice proposing the amendments, published on November 2, 1973 (38 FR 30280). The comments received in response to the notice were unanimous in supporting the change from SAE J592c to J592e as the referenced standard for clearance lamps, and in adopting the grouping of test points to determine compliance of backup lamps with photometric requirements. Comments also unanimously supported the identification of load requirements for testing variable load turn signal flashers, with one commenter suggesting that this might better be accomplished by referencing SAE J590e. The suggestion was not adopted, as J590e incorporates matter not proposed in Notice 1. The proposal that the maximum voltage drop across flashers be increased from 0.45 volt to 0.8 volt was supported by four vehicle manufacturers with a fifth suggesting an increase to 0.6 volt. It was objected to by six commenters, all of them flasher manufacturers, on the grounds that it would result in a lessening of light output. The NHTSA recognized this possibility in Notice 1, but noted that the diminution would be so slight as to be undetectable by the human eye, while the public would be afforded the choice of a flasher with greater life expectancy. The amendment increasing the minimum voltage drop is adopted as proposed.

In consideration of the foregoing, 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 is amended as follows:

1. In Table I, Column 4, the applicable SAE Standard for side marker lamps, identification lamps, clearance lamps, and intermediate side marker lamps is changed to "J592e, July 1972."

2. In Table III, Column 5, the applicable SAE Standard for side marker lamps, and intermediate side marker lamps are changed to "J592e, July 1972."

3. In S4.1.1.8 the words "SAE Standard J592c 'Clearance, Side Marker, Identification, and Parking Lamps,' November 1968" are deleted and replaced by "SAE Standard J592e 'Clearance, Side Marker, and Identification Lamps,' July 1972."

4. A new S4.1.1.22 and Figure 3 are added to read:

S4.1.1.22 A backup lamp is not required to meet the minimum photometric values at each test point specified in Table I of SAE Standard J593c "Backup Lamps" if the sum of the candlepower measured at the test points within each group listed in Figure 3 is not less than the group totals specified in that figure.

FIGURE 3.—*Minimum luminous intensity requirements for backup lamps*

Group	Test point, deg	Total for group, candela (see note 1)
1[1]	45L-5U 45L-H 45L-5D	45
2[1]	30L-H 30L-5D	50
3	10L-10U 10L-5U V-10U V-5U 10R-10U 10R-5U	100
4	10L-H 10L-5D V-H V-5D 10R-H 10R-5D 30R-H	300
5[1]	30R-5D	50
6[1]	45R-5U 45R-H 45R-5D	45

[1] When 2 lamps of the same or symmetrically opposite design are used, the reading along the vertical axis and the averages of the readings for the same angles left and right of vertical for 1 lamp shall be used to determine compliance with the requirements. If 2 lamps of differing designs are used, they shall be tested individually and the values added to determine that the combined units meet twice the candela requirements.

When only 1 backup lamp is used on the vehicle, it shall be tested to twice the candela requirements.

5. A new S4.1.1.23 is added to read:

S4.1.1.23 Variable load turn signal

S4.1.1.22 A backup lamp is not reflashers shall comply with voltage drop and durability requirements with the maximum design load connected and shall comply with starting time, flash rate, and percent current "on" time requirements both with the minimum and with the maximum design load connected.

6. A new S4.1.1.24 is added to read:

S4.1.1.24 The lowest voltage drop for turn signal flashers and hazard warning signal flashers measured between the input and load terminals shall not exceed 0.8 volt.

Effective date: May 29, 1974. Because these amendments either relax a requirement or reflect existing widespread industry practice, and create no additional burden, it is found for good cause shown that an effective date earlier than one hundred eighty days after issuance is in the public interest.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51.)

Issued on: April 24, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-9721 Filed 4-30-74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1158; Amdt. 1]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22nd day of April 1974.

Upon further consideration of Service Order No. 1158 (38 FR 30001), and good cause appearing therefor:

It is ordered, That:

§ 1033.1158 *Service Order No. 1158* (Chicago and North Western Transportation Company authorized to operate over tracks of Union Pacific Railroad Company), be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10-17), 15(4), and 17(2)).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9941 Filed 4-30-74;8:45 am]

Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9942 Filed 4-30-74;8:45 am]

[S.O. 1159; Amdt 1]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23rd day of April 1974.

Upon further consideration of Service Order No. 1159 (38 F.R. 30559), and good cause appearing therefor:

It is ordered, That: § 1033.1159 *Service Order No. 1159* (Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9941 Filed 4-30-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—EASTERN PACIFIC TUNA FISHERIES

PART 280—YELLOWFIN TUNA

Miscellaneous Amendments

On March 25, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 11089) to amend Part 280, Title 50, Code of Federal Regulations, which are regulations governing the eastern Pacific yellowfin tuna fishery. Interested persons were given the opportunity to participate through a public hearing held at San Diego on April 2, 1974, and through submission of written comments.

Although the proposed rulemaking did not suggest a change in the distribution of the overall small boat allocation between the small purse seiners and the bait and jig boats, careful consideration has been given to the oral and written testimony dealing with this matter. A detailed examination has been made of National Marine Fisheries Service records of changes in the carrying capacity, performance, and fishing opportunities of the two elements of the small boat fleet between 1972 and 1974. The last adjustment in the small boat allocation was made in 1972. The records reveal that the carrying capacity of the purse seine element has decreased markedly, whereas the bait and jig boat fleet has increased appreciably. At the same time, however, the purse seiners have usually caught their allotment sooner than the bait and jig boats and have, therefore, operated under complete restriction for a longer period during the latter part of the year. In 1973, for example, the purse seine element caught its allotment and reverted to the 15 percent incidental catch limitation for yellowfin tuna in July, whereas the bait and jig boat fleet did not catch its allotment until December.

In order to reflect the above-mentioned changes in carrying capacity and the relative fishing power of the two elements, the tonnage allotments for the two categories have been revised as follows:

(1) Purse seiners of 400 short tons carrying capacity or less: 3,900 short tons.

(2) Bait and jig boats: 2,800 short tons.

The incidental catch limitation for the two groups during the period each is accumulating its allotment remains as in 1973, namely:

(1) Purse seiners 301-400 short tons carrying capacity: 40 percent by round weight.

(2) Purse seiners 300 short tons carrying capacity or less: 60 percent by round weight.

(3) Bait and jig boats: 50 percent of each vessel's established short ton carrying capacity.

Industry testimony suggested that the proposed § 280.7(1), which would require a vessel sighted inside the regulatory area while reporting its position as outside to return to port for unloading or inspection, was unduly burdensome. The testimony and written views have been carefully examined. In view of the fact that the burden, if any, would be imposed only on a vessel found to be fishing in violation of the tuna conservation regulations and that the new requirement has been found necessary to insure effective enforcement of the regulations governing fishing inside and outside the regulatory area, § 280.7(1) is incorporated as proposed.

Industry in its testimony proposed that the "hardship" provisions of § 280.7 (b)(2) should be extended to include that portion of the closed season which occurs after the small seiner allotment has been taken. Specifically, it was requested that a purse seiner of 300 short tons carrying capacity or less and a purse seiner of 301-400 short tons carrying capacity be permitted to land 25 and 20 percent, respectively, of its established carrying capacity, provided the vessel had been at sea longer than 50 days (in the case of a vessel up to 300 tons) and 70 days (in the case of a vessel of 301-400 tons).

The proposal, unfortunately, is not practical. It is possible to administer this provision of the regulations during the period in which the small seiners are accumulating their share of the small boat allocation because the excess catch of particular vessels operating under the provision can be deducted from the small seiners' allotment. After the small seiners have taken their allotment and are fishing for other species, however, there is no "account" available to which any excess can be charged.

If the requested change were to be implemented, some amount of the small seiner allotment would have to be reserved to cover whatever tonnage of yellowfin tuna might be taken in excess of the 15 percent incidental catch limitation by small seiners which made trips in excess of 50 or 70 days. There is no way of making a reasonable estimate as to what amount to withhold; and, therefore, such a provision would be administratively impracticable. If the amount withheld to administer this provision were too high, there would be an earlier reversion to the 15 percent incidental catch limitation and an under-utilization of the allotment. If the amount withheld were too low, the allotment would be exceeded. The industry proposal has not, therefore, been adopted.

The proposed rulemaking added, in § 280.9 (f), (g), and (h), new reporting requirements for cargo vessels importing round tuna into the United States. As proposed, the rule would have applied to round tuna caught anywhere in the world and received onto the cargo vessel

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by any means. Oral and written testimony from representatives of United States tuna processors and foreign cargo vessel operators indicated that the fishing vessel certification requirement would be impossible to meet in the case of tuna loaded onto the cargo vessel from a refrigerated warehouse or other storage facility, since the tuna at that point would have lost its identity as having been received from a certain fishing vessel.

Comments from representatives of the U.S. flag fishing fleet strongly supported the new reporting requirement, and one suggestion was made that the rule be extended to include tuna imported into the United States from any common carrier.

The comments received have been carefully evaluated and a number of changes to the rule have been made. The certification requirements of § 280.9(f) will be applicable only to round tuna received onto the cargo ship ex-vessel through a port facility. Notice is hereby served, however, of the intent of the National Marine Fisheries Service to monitor tuna imports received onto cargo vessels through cold storage facilities or other indirect means with a view to amending the regulations to include such imports at an early date.

In addition, the rule has been changed to require certification only when the port facility involved is in the Americas. As stated in the proposed rulemaking and recognized in the testimony received, the information is needed only as to tuna caught in the eastern tropical Pacific. After further examination of the matter, the Service is of the opinion that simple economics will discourage the transporting of tuna caught in the eastern tropical Pacific to a port outside the Americas to avoid the certification requirements of these regulations. If information obtained from other sources reveals that this is not the case, or that a significant amount of such tuna is for other reasons unloaded at ports outside the Americas, the regulation will be amended to include tuna received from any port in the world.

In order to insure that only tuna properly excluded from the reporting requirements by the above changes is permitted to be imported without certification, a new paragraph has been added requiring the bill of lading specifically to indicate whether the tuna was received ex-vessel through a port facility or by other named means and from what fishing vessels and ports. The Customs or NMFS agent will be able to verify the accuracy of the bill of lading through the ship's log and from other sources. the bill of lading requirements are contained in the present § 280.9(g), and the previously proposed § 280.9(g) and (h) have been relettered as § 280.9(h) and (i), respectively.

A *proviso* has been added to § 280.9(h) which would permit the unloading of round tuna from a cargo vessel without the required information if a bond had first been posted with the Regional Director conditioned on furnishing the required information within 60 days of unloading. The bond must be in the minimum amount of $500 per ton of undocumented tuna desired to be landed. In recognition of the lead time needed by the processors to implement the administrative details occasioned by these reporting requirements, § 280.9(f), (g), (h), and (i) will not become effective until May 31, 1974.

Testimony by industry indicated that the proposed inclusion in the appropriate sections of the regulations of formulas to determine the legal yellowfin catch for the various incidental catch rates permitted under the regulations did not clarify but rather confused matters. Therefore, the proposed formulas have been omitted and a Note has been added at the end of § 280.1(l) of the definitions to describe the method of calculating the legal yellowfin catch that has been used by the National Marine Fisheries Service since the regulations were first issued.

Accordingly Part 280 is amended as follows:

1. Section 280.1(l) is amended to read as set forth below.

2. Section 280.7(b) (1), (2), and (3), (4)(iii) and (j) is amended to read as set forth below.

3. Section 280.9(f) and (l) is amended to read as set forth below.

The proposed amendments are issued under the authority contained in subsection (c) of section 6 of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 955(c)), as modified by Reorganization Plan No. 4, effective October 3, 1970 (35 FR 15627).

Effective date. These regulations are effective on May 1, 1974, except that §§ 280.9(f), (g), (h), and (i) shall not become effective until May 31, 1974.

Issued at Washington, D.C., and dated April 26, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

Part 280 of 50 CFR is revised as set forth below:

Sec.
280.1 Definitions.
280.2 Basis and purpose.
280.3 Catch limits.
280.4 Open season.
280.5 Closed season.
280.6 Open season restrictions applicable to fishing vessels.
280.7 Closed season restrictions applicable to fishing vessels.
280.8 Emergency action by Service Director.
280.9 Restrictions applicable to cargo vessels.
280.10 Restrictions applicable to purchasers.
280.11 Recordkeeping and written reports.
280.12 Persons and vessels exempted.
280.13 National Oceanic and Atmospheric Administration employees designated as enforcement agents.
280.14 State officers designated as enforcement agents.

AUTHORITY: 64 Stat. 777, as amended, 16 U.S.C. 951, as modified by Reorganization Plan No. 4, effective Oct. 3, 1970 (35 FR 15627).

§ 280.1 Definitions.

For the purposes of this part, the following terms shall be understood to mean:

(a) *United States.* All areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

(b) *Convention.* The Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, D.C., May 31, 1949, by the United States of America and the Republic of Costa Rica (1 U.S.T. 230).

(c) *Commission.* The Inter-American Tropical Tuna Commission established pursuant to the Convention.

(d) *Director of investigations.* The Director of Investigations, Inter-American Tropical Tuna Commission, La Jolla, California.

(e) *Service director.* The Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

(f) *Regional director.* The Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California, telephone number, area code, 213, 548–2575.

(g) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines: Beginning at a point on the mainland where the parallel of 40° north latitude intersects the coast; thence due west to the meridian of 125° west longitude; thence due south to the parallel of 20° north latitude; thence due east to the meridian of 120° west longitude; thence due south to the parallel of 5° north latitude; thence due east to the meridian of 110° west longitude; thence due south to the parallel of 10° south latitude; thence due east to the meridian of 90° west longitude; thence due south to the parallel of 30° south latitude; thence due east to a point on the mainland where the parallel of 30° south latitude intersects the coast. Except that for 1974 only, the area encompassed by a line drawn starting at 110° west longitude and 3° north latitude extending east along 3° north latitude to 95° west longitude; thence south along 95° west longitude to 3° south latitude; thence east along 3° south latitude to 90° west longitude; thence south along 90° west longitude to 10°south latitude; thence west along 10° south latitude to 110° west longitude; thence north along 110° west longitude to 3° north latitude shall be excluded from the regulatory area to encourage exploratory fishing.

(h) *Yellowfin tuna.* No other fishes except the species *Thunnus albacores.*

(i) *Mingled species.* (1) Any species of billfish or shark; and (2) No other species of the family Scombridae except: Skipjack (*Genus Euthynnus*), bigeye (*Thunnus obesus*), bluefin (*Thunnus thynnus*) albacore (*Thunnus alalunga*), or bonito (*Sarda chiliensis*).

NOTE: The amount of yellowfin tuna that may be legally landed by a vessel subject to a specified percent incidental catch rate of yellowfin tuna based upon the round weight of the total catch is determined by the following formula:

$$\text{Quantity of legal yellowfin tuna} = \frac{\text{(Quantity of mingled species) times (Specified incidental catch rate in percent)}}{\text{(100 percent) minus (Specified incidental catch rate in percent)}}$$

For example, if the incidental catch rate of yellowfin tuna is 15 percent, then:

$$\text{Quantity of legal yellowfin tuna} = \frac{\text{(Quantity of mingled species) times (15)}}{85}$$

(j) *Fishing vessel.* All watercraft subject to the jurisdiction of the United States which are used for catching or processing fish, except purse seine skiffs.

(k) *Fishing voyage.* The period between the date a fishing vessel departs from any port to carry out fishing operations and the date such vessel unloads any of its catch or the date such vessel returns to any port for the express purpose of receiving an inspection by a designated agent of the National Marine Fisheries Service.

(l) *Cargo vessel.* All watercraft which are used for transporting fish or fish products, except fishing vessels.

(m) *Person.* Individual, association, corporation, or partnership subject to the jurisdiction of the United States.

(n) *Open season.* The time during which yellowfin tuna may lawfully be captured without limitation by any fishing vessel operating within the regulatory area.

(o) *Closed season.* The time during which yellowfin tuna may not be captured in the regulatory area, except in limited quantities as an incident to fishing for species with which yellowfin may be mingled.

§ 280.2 Basis and purpose.

(a) At a special meeting held at Long Beach, Calif., on September 14, 1961, the Commission recommended to the Governments of Costa Rica, Ecuador, Panama, and the United States of America, parties to the Convention, that they take joint action to limit the annual catch of yellowfin tuna from the eastern Pacific Ocean by fishermen of all nations during the calendar year 1962. This recommendation was made pursuant to paragraph 5 of Article II of the Convention on the basis of scientific investigations conducted by the Commission over a period of time dating from 1951. The most recent years of this period were marked by a substantial increase in fishing effort directed toward the yellowfin tuna stocks, resulting in a rate of exploitation of these stocks greater than that at which the maximum sustainable yield may be obtained. The Commission's recommendation for joint action by the parties to regulate the yellowfin tuna fishery has as its objective the restoration of these stocks to a level of abundance which will permit maximum sustainable catch and the maintenance of the stocks in that condition in the future.

(b) At each annual meeting held since 1962, the Commission affirmed its conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

(1) Establish a prescribed tonnage limit on the total catch of yellowfin tuna by the fishermen of all nations during each calendar year from an area of the eastern Pacific Ocean defined by the Commission;

(2) Establish open and closed seasons for yellowfin tuna under prescribed conditions;

(3) Permit the landing of an incidental catch by weight of yellowfin tuna when landed with one or more of the following fishes usually caught mingled with yellowfin tuna, that are taken on fishing trip begun after the close of the yellowfin tuna fishing season: Skipjack tuna, bigeye tuna, bluefin tuna, albacore tuna, bonito, the billfishes, and the sharks; and

(4) Obtain from governments not parties to the Convention, but having vessels which operate in the fishery, cooperation in effecting the recommended conservation measures.

(c) The regulations in this part are designed to implement the Commission's recommendations for the conservation of yellowfin tuna so far as they affect vessels and persons subject to the jurisdiction of the United States.

§ 280.3 Catch limits.

The annual limitation on the quantity of yellowfin tuna permitted to be taken from the regulatory area by the fishing vessels of all nations participating in the fishery will be fixed and determined on the basis of recommendations made by the Commission pursuant to paragraph 5 of Article II of the Convention. Upon approval by the Secretary of State and the Secretary of Commerce of the recommended catch limit, announcement of the catch limit thus established shall be made by the Service Director through publication of a suitable notice in the FEDERAL REGISTER. The Service Director, in like manner, shall announce any revision or modification of an approved annual catch limit which may subsequently enter into force.

§ 280.4 Open season.

The open season for yellowfin tuna fishing shall begin annually at 0001 hours on the first day of January and terminate at 0001 hours on a date to be announced as provided in § 280.5. Time in hours shall refer to local time in the area affected.

§ 280.5 Closed season.

Pursuant to authority granted by the Commission, the Director of Investigations will determine the date on which he deemed that the yellowfin fishing season should close and will promptly notify the Service Director of such date. The Service Director shall then announce the season closure date thus established by publication of a notice in the FEDERAL REGISTER. The closure date so announced shall be final except that if it shall at any time become evident to the Director of Investigations that the closure date initially determined had been affected by changed circumstances, he may substitute another date which shall be announced by the Service Director in like manner as provided for the date originally determined.

§ 280.6 Open season restrictions applicable to fishing vessels.

(a) During the open yellowfin tuna season, every fishing vessel operating within the regulatory area shall transmit once each calendar week a message between 0900 and 2400 hours local California time. The message shall be transmitted directly to the Director of Investigations through the shore representative of the fishing vessel and shall state: the name of the reporting vessel and the tonnage by species of fish aboard. The above reporting procedure shall go into effect on a date to be announced by the Service Director through publication of a notice in the FEDERAL REGISTER.

(b) During the open yellowfin tuna season, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 0800 and 1000 hours local California time. This requirement will also apply, for 1974 only, to every fishing vessel operating in the area described in the second sentence of paragraph (g) of § 280.1. The message shall be transmitted directly to Coast Guard Radio San Francisco (NMC) on frequency 16,565.0, 12,421.0, or 8,281.2 KHz and shall state: "This message is being transmited in compliance with the U.S. eastern tropical Pacific yellowfin tuna regulations, and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean, but outside the regulatory area as of this date (give date)."

§ 280.7 Closed season restrictions applicable to fishing vessels.

Except as otherwise provided in this section, after notice has been published in the FEDERAL REGISTER announcing closure of the yellowfin season, it shall be unlawful for any person or fishing vessel to land yellowfin tuna captured from within the regulatory area in any port or place until the season reopens on the following January 1.

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(a) Any fishing vessel which has departed port to engage in tuna fishing, prior to the date of closure of the yellowfin season, may continue to capture yellowfin tuna within the regulatory area without restriction until the fishing voyage has been completed.

(1) In addition, for 1974 only, any fishing vessel which is in port at the closure and has either (i) completed a voyage in the regulatory area during the 1974 open season or (ii) completed a voyage in the regulatory area during 1973 will be allowed one additional unrestricted fishing voyage provided that departure is made within 30 days thereafter.

(2) For the purpose of the above, departure refers to the date a vessel leaves port prepared to carry out fishing operations. A stopover at a single intermediate port, not exceeding 48 hours, may, however, be made to meet deficiencies in outfitting, supplying, fueling, provisioning or manning needs for a fishing voyage. Remaining in excess of 48 hours shall constitute a new fishing voyage corresponding to the delayed departure date.

(b) Any fishing vessel which departs port on a fishing voyage after closure of the yellowfin season, except as provided in paragraph (a) of this section, may land yellowfin tuna captured from within the regulatory area in limited quantities as provided in subparagraphs (1) to (3) of this paragraph as an incident to fishing for species with which yellowfin may be mingled. The Service Director may, however, through publication of a notice in the FEDERAL REGISTER adjust the incidental catch limitations to assure that the special allotments designated for vessels of 400 short tons carrying capacity or less are not underutilized and the 15 percent overall incidental catch for the entire tuna fleet is not exceeded. Any quantity of yellowfin tuna landed in excess of the limitations provided in (b)(1) to (b)(3) of this section shall be subject to seizure and forfeiture pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

(1) Purse seiners over 400 short tons carrying capacity may land in any port or place yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 15 percent by round weight of its total catch.

(2) Purse seiners of 400 short tons carrying capacity or less may land in any U.S. port yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any vessel of 301–400 short tons carrying capacity be permitted to land yellowfin tuna in excess of 40 percent by round weight of its total catch: *Provided however*, That any vessel of 301–400 short tons carrying capacity which is on a fishing voyage longer than 70 days may land 20 percent yellowfin tuna by round weight of its established short ton carrying capacity. Nor shall any purse seiner of 300 short tons carrying capacity or less be permitted to land yellowfin tuna in excess of 60 percent by round weight of its total catch: *Provided however*, That any such vessel that is at sea longer than 50 days may land 25 percent yellowfin tuna by round weight of its established short ton carrying capacity. That local wet fish seiners may accumulate the 60 percent allowance by weight for the separate period from the date of closure of the yellowfin fishing season until the end of that month, and for each separate period consisting of one calendar month thereafter provided such vessels have not landed any yellowfin tuna during the open season and make deliveries only on a daily basis. When the catch of yellowfin tuna by purse seiners of 400 short tons carrying capacity or less reaches 3900 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Service Director, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent.

(3) Bait and jig boats may land in any U.S. port yellowfin tuna captured from within the regulatory area, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 50 percent by round weight of its short ton carrying capacity once established in accordance with subparagraph (4) of this paragraph. When the catch of yellowfin tuna by bait and jig boats collectively reaches 2,800 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Service Director, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent.

(4) The short ton capacity of vessels will be determined from tables prepared by the Commission which relate carrying capacity to registered tonnages and from official unloading records available to the National Marine Fisheries Service.

(i) Managing Owners of purse seine vessels of 400 short tons carrying capacity or less will be notified by registered mail that their vessel is in this category and is subject to the provisions of paragraph (b)(2) of this section.

(ii) Except as provided below for bait and jig boats, managing owners not receiving notification by registered mail can assume that their vessel is over 400 short tons carrying capacity and is subject to the provisions of (b)(1) of this section.

(iii) To qualify for the bait and jig boat yellowfin allocation, managing owners of such vessels shall supply the Regional Director documentation concerning the gross and net tonnage of their vessels together with records of prior unloadings. This information will be used by the Regional Director to establish the short ton carrying capacity of each vessel. Failure to comply shall result in each such vessel being limited to 15 percent yellowfin tuna by round weight of its total catch. This 15 percent limitation shall remain in effect until the aforesaid documentation is furnished by the vessel's managing owner.

(5) The tonnage limitations specified in (b)(2) and (3) of this section may be adjusted upward or downward. Any such adjustment will be based upon the estimated use of the incidental catch allowances, and shall be apportioned as determined by the Service Director. Announcement of such adjustment shall be made by publication of a notice in the FEDERAL REGISTER by the Service Director.

(c) Any fishing vessel operating within the regulatory area which began its fishing voyage during the closed season and is restricted to the catch limitations as provided in paragraph (b) of this section shall be subject to such limitation regardless of its arrival date in port. In addition, any vessel so restricted which discharges some but not all of its catch, shall be subject to the same restrictions upon completion of its next fishing voyage.

(1) Any fishing vessel having incidentally caught yellowfin tuna aboard may, however, begin fishing on January 1 for yellowfin tuna without restriction, provided such vessels are made available for inspection during the period December 27 through December 31. A request for the designation of an inspection port shall be made to the Regional Director on or before December 23. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed to such port for inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing incidentally caught yellowfin tuna and the same will be noted in the vessel's log. Fish in the wells at the time of inspection shall be subject to the incidental catch limitations as set forth in paragraph (b) of this section, regardless of the date of unloading. In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of any unloadings from inspected vessels. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service. Inspected vessels shall not be allowed to leave port to resume fishing activities until 0001 hours, January 1.

(2) Any vessel failing to file the reports and to follow the procedures of this paragraph, tampering with or removing an official seal or altering the vessel's log, shall be restricted to the incidental catch limitations set forth in paragraph (b) of this section for its entire fishing voyage.

(d) Any fishing vessel electing to fish exclusively in the Pacific Ocean, but outside the regulatory area, shall report to the Regional Director, within 48 hours before leaving port, giving name of the reporting vessel and the port of departure; within 24 hours before leaving the regulatory area, giving the latitude of departure and the approximate time of

departure; and within 24 hours before returning to the regulatory area, giving the latitude of reentry, the approximate time of reentry and the tonnage by species of fish aboard. For 1974 only, the area described in the second sentence of paragraph (g) of Section 280.1 is considered to be outside the regulatory area.

(1) In addition, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 0800 and 1000 hours local California time. This message shall be transmitted directly to Coast Guard Radio San Francisco (NMC) on frequency 16,565.0, 12,421.0, or 8,281.2 KHz and shall state: "This message is being transmitted in compliance with the U.S. eastern tropical Pacific yellowfin tuna regulations, and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean but outside the regulatory area as of this date (give date)." Any vessel failing to receive acknowledgement from Coast Guard San Francisco, must transmit the same message on the following day. Should the vessel fail to receive acknowledgement within three consecutive days, the vessel's radio equipment shall be considered inoperative and the vessel shall return directly to port without delay to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service.

(2) Any vessel failing to file the reports and to follow the procedures of this paragraph, shall be restricted to the incidental catch limitations set forth in paragraph (b) of this section for its entire fishing voyage.

(e) Any fishing vessel electing to fish exclusively in the Pacific Ocean, but outside the regulatory area, shall proceed without delay to waters outside the regulatory area and upon reentering the regulatory area shall proceed directly to port without delay.

(1) If a vessel must, however, make an emergency port call, it shall proceed directly to port without delay and shall notify the Regional Director, not less than 48 hours prior to arrival, giving the name of the port to be entered. If the vessel elects to resume fishing outside the regulatory area, it must follow the procedures required in paragraph (d) of this section and shall proceed without delay directly to waters outside the regulatory area.

(2) Any vessel failing to file the reports and to follow the procedures of this paragraph shall be restricted to the incidental catch limitations set forth in paragraph (b) of this section for its entire fishing voyage.

(f) Any fishing vessel which on the same voyage operates within and outside the regulatory area shall be subject to the incidental catch limitations as set forth in paragraph (b) of this section, unless such vessel is made available for inspection as provided in this paragraph.

(1) Any fishing vessel electing to change fishing areas, without having that portion of its catch taken outside the regulatory area restricted to such incidental catch limitations, shall request inspection services from the Regional Director. Vessels within the regulatory area shall report not less than 48 hours prior to electing to leave the area, stating their intention and requesting the designation of an inspection port. Vessels outside the area shall report within 24 hours before returning to the regulatory area, stating their intention, requesting the designation of an inspection port, and giving the latitude of reentry, the approximate time of reentry and the tonnage by species of fish aboard. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed directly without delay to such port inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing fish captured within or outside the regulatory area, as appropriate, and the same will be noted in the vessel's log. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service.

(2) Any vessel failing to file the reports and to follow the procedures of this paragraph, tampering with or removing an official seal or altering the vessel's log shall be restricted to the incidental catch limitations set forth in paragraph (b) of this section for its entire fishing voyage.

(g) All fishing vessels, except vessels proceeding directly to Puerto Rico or to any other U.S. port for unloading, shall notify the Regional Director not less than 48 hours prior to leaving the regulatory area via the Panama Canal. In addition, all fishing vessels, except vessels without fish aboard, shall notify the Regional Director not less than 48 hours prior to entering the regulatory area via the Panama Canal. Each report shall include the name of the reporting vessel, the tonnage by species of fish aboard and whether the fish were caught in or outside the regulatory area in Pacific waters or from Atlantic waters. Any vessel failing to file the reports and to follow the procedures of this paragraph, shall be restricted to the incidental catch limitations set forth in paragraph (b) of this section for its entire fishing voyage, regardless of its arrival date in port.

(h) All fishing vessels shall notify the Regional Director not less than 48 hours prior to any sale or delivery in a foreign country, of fish caught in the Pacific Ocean from within or outside the regulatory area. Such reports shall include the tonnage by species unloaded and whether such fish were caught in or out of the regulatory area.

(i) All fishing vessels shall notify the Regional Director not less than 48 hours prior to transferring fish caught in the Pacific Ocean from within or outside the regulatory area to another vessel for the purpose of transshipment. Such reports shall include the date and place of unloading, name and destination of the oncarrying vessel, tonnage by species of fish transferred and whether the transferred fish were caught in or outside the regulatory area.

(j) All fishing vessels that are permanently based in a foreign country, which elect to participate in the allocation provisions for vessels of 400 tons carrying capacity or less, shall (1) unload in a U.S. port after each voyage begun during the closed season, or (2) transship all fish taken on such voyages to a U.S. port in accordance with paragraph (i) of this section. Any vessel failing to follow the procedures of this paragraph shall be limited to an incidental rate of yellowfin tuna not to exceed 15 percent by round weight of its total catch.

(k) All reports required in paragraphs (d) to (i) of this section, except messages transmitted directly to Coast Guard Radio San Francisco, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

(l) Any vessel sighted inside the regulatory area while reporting its position as outside the regulatory area shall return to port for inspection or to a U.S. port for unloading within ten days after receipt by the owner of the vessel or his agent of a certified letter from the Regional Director advising him of such sighting.

§ 280.8 Emergency action by service director.

If during the closed yellowfin season, the Service Director finds that the provisions relating to the fishing outside the regulatory area are inadequate to insure that the recommendations of the Commission are met, he shall announce such findings through publication of a notice in the FEDERAL REGISTER and immediately thereafter:

(a) Every fishing vessel at sea, having yellowfin tuna aboard in excess of the incidental catch limitations as provided in § 280.7(b) which is claimed to have been captured outside the regulatory area, but in the Pacific Ocean, shall return directly without delay to its home port or port of departure to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service. Any vessel failing to comply with the above requirements, shall be restricted to the incidental catch limitations set forth in § 280.7(b) for its entire fishing voyage.

(b) Any fishing vessel which has operated in the regulatory area at any time during the calendar year and which departs on any fishing voyage within the Pacific Ocean after the notice described in this section is published in the FEDERAL REGISTER, shall be restricted to the incidental catch limitations as provided in § 280.7(b).

§ 280.9 Restrictions applicable to cargo vessels.

(a) Any fishing vessel shall be deemed to have completed a fishing voyage whenever any part of its catch is transferred to a cargo vessel in conformity with the requirements of this section.

(b) In keeping with the provisions of 46 U.S.C. 251, no foreign-flag vessel, whether documented as cargo vessel or

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otherwise, is permitted to land in port of the United States any fish or fish products taken on board such vessel on the high seas.

(c) The transfer of fish from a fishing vessel to a cargo vessel while in a foreign country or in waters over which each country has recognized jurisdiction is subject to the applicable laws and regulations of such foreign country.

(d) During the closed yellowfin tuna season, no fishing vessel shall transfer on the high seas any part of its catch to a cargo vessel documented under the laws of the United States and no such cargo vessel shall receive, possess, or bring to any place in the United States, fish taken on board on the high seas from a fishing vessel unless the cargo vessel shall hold a permit issued in conformity with paragraph (e) of this section.

(e) Upon written application made to him, the Regional Director may issue a permit authorizing a cargo vessel documented under the laws of the United States to receive, possess, transport to the United States, fish transferred from fishing vessels on the high seas during the closed yellowfin tuna season. Such permit may authorize the possession and transportation of yellowfin tuna by a cargo vessel without regard to the quantities of fish received, but it shall contain restrictions as the Regional Director shall determine to be necessary to achieve compliance with the regulations in this part and the objectives of the yellowfin tuna conservation program.

(f) Any cargo vessel seeking permission to land in a port of the United States a cargo of round tuna (that is, tuna that has not been gilled, gutted, or beheaded) any part of which was received ex-vessel through a port facility in the Americas shall provide to the nearest Customs Office as a prerequisite to obtaining such permission from Customs the following information with respect to the part of such cargo received ex-vessel through a port facility in the Americas:

(1) Name, official number, and flag of each fishing vessel (including, for purposes of this paragraph, any foreign flag fishing vessel) from which was received any tuna that is aboard the cargo vessel at the time the aforesaid permission to land is sought;

(2) Date and location of such receipt of tuna; and

(3) Certification from the master of each such fishing vessel setting forth, as to tuna received by the cargo vessel:

(i) Tonnage by species of tuna caught inside the regulatory area;

(ii) Tonnage by species of tuna caught in waters west of the regulatory area to the meridian of 150° west longitude;

(iii) Tonnage by species of tuna caught in other waters; and

(iv) As to each category, the dates of the fishing voyages on which the tuna were caught.

(g) Any cargo of round tuna for which permission to land in a port of the United States is sought by a cargo vessel shall be accompanied by a bill of lading indicating whether the tuna was received ex-vessel through a port facility (and, if so, from what vessels and what ports) or by other named means, such as from freezer or other storage facilities, and such bill of lading shall be provided to Customs at the time permission to land is sought.

(h) Any cargo vessel failing to provide the documentation required by paragraph (f) and (g) of this section shall be denied permission to land in a port of the United States undocumented lots of round tuna: *Provided however*, That a cargo vessel may land undocumented lots of round tuna if there has first been posted with the Regional Director a bond in form and with surety satisfactory to the Regional Director, and in the minimum penal sum of $500 per ton of undocumented tuna desired to be landed, conditional to furnishing the documentation within 60 days of landing a cargo of undocumented round tuna.

(i) Any person who knowingly lands or permits the landing of round tuna from a cargo vessel in violation of paragraph (f) or (g) of this section, or who knowingly provides false information with respect to the requirements of paragraph (f) or (g) of this section, shall, as well as the cargo of tuna, be subject to the penalties provided in the Tuna Conventions Act of 1950 (16 U.S.C. 951–961).

§ 280.10 Restrictions applicable to purchasers.

(a) Except as provided in paragraphs (b) and (d) of this section, it shall be unlawful for any person knowingly to receive, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any yellowfin tuna taken or retained by a fishing vessel in violation of the regulations in this part.

(b) In view of the perishable nature of yellowfin tuna when not processed otherwise than by chilling or freezing, and person authorized to enforce the regulations in this part may cause to be sold, and any person may purchase, for not less than its reasonable market value such quantities of perishable yellowfin tuna as may be seized and forfeited pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–956).

(c) The proceeds of any sale made pursuant to paragraph (v) of this section after deducting the reasonable costs of the sale, if any, shall be remitted by the purchaser to the Regional Director for deposit and retention in the Suspense Account of the National Marine Fisheries Service (Account No. 14X6875 (17)) pending judgment of the court or other disposition of the case.

(d) If a duly constituted official acting under authority and in behalf of a State of the United States, of the Commonwealth of Puerto Rico, or of American Samoa seized any yellowfin tuna under the applicable laws or regulations of such government, such yellowfin tuna may be forfeited and sold or otherwise disposed of pursuant to such laws or regulations. Any yellowfin tuna so seized by an official of State, the Commonwealth of Puerto Rico or American Samoa shall not be seized by an officer or employee of the Federal Government unless it is voluntarily turned over to him to be processed against under applicable Federal laws or regulations.

§ 280.11 Recordkeeping and written reports.

(a) The master or other person in charge of a tuna vessel or such person as may be authorized in writing to serve as the agent of either of such persons shall throughout the open and closed yellowfin tuna fishing seasons:

(1) Keep an accurate log of all operations conducted from the vessel entering therein for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of fish aboard by species. The record and bridge log maintained at the request of the Commission shall be sufficient to comply with this paragraph provided the items of information specified herein are fully and accurately entered in such log.

(2) Furnish on form obtainable from the Regional Director, following the sale or delivery of a catch of fish made by such vessel, a report, certified to be correct as to facts within the knowledge of the reporting individual giving the name and official number of the fishing vessel, the dates of beginning and ending of the fishing voyage, the port of departure, and a listing separately by species of the round weight quantities (pounds or short tons) of fish sold or delivered. At the option of the vessel master or other person in charge, a copy of the fish ticket, weightout slip, settlement sheet, or similar record issued by the fish dealer or his agent may, however, be used for reporting purposes in lieu of the form obtainable from the Regional Director, if such alternate record is similarly certified and contains all items of information required by this paragraph. In addition, any vessel landing its catch in California and reporting by means of a copy of the California fish ticket, the California Fish and Game boat number may be indicated in lieu of the vessel's official number. Such sale and delivery reports shall be delivered or mailed to the Regional Director within 72 hours after weightout has been completed.

(b) Any person authorized to carry out enforcement activities under the regulations in this part and any person authorized by the Commission shall have power, without warrant or other process to inspect, at any reasonable time, log books, catch reports, statistical records, or other reports as required by the regulations in this part to be made, kept or furnished.

§ 280.12 Persons and vessels exempted.

Nothing contained in § 280.2 to § 280.11 shall apply to:

(a) Any person or vessel authorized by the Commission, the Service Director, or any State of the United States to engage in fishing for research purposes.

(b) Any person or vessel engaged in sport fishing for personnel use.

§ 280.13 National Oceanic and Atmospheric Administration Employees designated as enforcement agents.

Any employee of the National Oceanic and Atmospheric Administration duly appointed and authorized to enforce Federal laws and regulations administered by the National Oceanic and Atmospheric Administration is authorized and empowered to carry out enforcement activities under the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

§ 280.14 State Officers designated as enforcement agents.

Any officer or employee of a State of the United States, of the Commonwealth of Puerto Rico or of American Samoa who has duly designated by the Service Director or his delegate with the consent of the Government concerned, is authorized to function as a Federal law enforcement agent and to carry out enforcement activities under the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

[FR Doc.74-9946 Filed 4-30-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 215—LOW SULFUR PETROLEUM PRODUCTS REGULATION

Part 215, concerning the priorities for use of certain low sulfur petroleum products, is established as a new part of Chapter II, Title 10 of the Code of Federal Regulations.

The provisions of Part 215 were originally issued by the Energy Policy Office on November 27, 1973, as EPO Regulation 2 (38 FR 32599) under the authority of the Economic Stabilization Act of 1970. EPO Regulation 2 took effect on December 7, 1973, and would terminate on April 30, 1974 with the expiration of the Economic Stabilization Act.

The Federal Energy Office has reviewed the administrative record including the comments and testimony submitted in writing and orally at public hearings prior to promulgation of EPO Regulation 2. As a result of this review and in consideration of the continuing shortages of low sulfur petroleum products, FEO has determined that the continuation of the provisions of EPO Regulation 2 is warranted.

Part 215 prohibits any power generating plant or industrial or commercial plant having a firing rate of 50 million BTU/hour or greater from converting from nonpetroleum fuel to a petroleum fuel except where such conversion would be required to achieve primary ambient air quality standards under the Clean Air Act (42 U.S.C. 185F et seq.). Conversion from natural gas to oil is permitted when alternative fuels cannot be practically utilized. Plants using petroleum products are prohibited from using petroleum products having a lower sulfur content than the average sulfur content of such products in use during November, 1973, or during the last month prior to November, 1973 in which the power generator consumed such products. Aggregate quantities of petroleum products utilized cannot be increased except in direct proportion to the increased output of energy or need for startups. Finally, new plants are prohibited from burning more low sulfur petroleum products than necessary to meet primary ambient air quality standards or for startup.

The provisions of Part 215 are not intended to interfere with the attainment of primary ambient air quality standards nor with new source performance standards under the Clean Air Act. In the event these provisions create conflict with such standards, the provisions of the Clean Air Act will prevail. Part 215 is consistent with the Environmental Protection Agency's Clean Fuels Policy which urges States to delay attainment dates for secondary standards as they apply to coal fired emission sources and to delay enforcement of sulfur regulations for coal fired sources whenever primary standards are not endangered.

In those cases where variances from State air pollution regulations cannot be obtained and compliance by other means such as installation of pollution control equipment or plant shutdown would create undue economic hardship, an exception to the provisions contained in Part 215 may be granted. In addition, exceptions may be granted where alternative fuels are not practically available. Exceptions my be applied for under Subpart C of Part 205 of the Mandatory Petroleum Allocation and Price Regulations.

Because the purpose of these amendments is to provide immediate guidance and information with respect to the continuation of the low sulfur petroleum products regulations, the Federal Energy Office finds that normal rulemaking procedure is impracticable and good cause exists for making this regulation effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, E.O. 11748; 38 FR 33575; FEO Order 3 (February 5, 1974))

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is amended by adding Part 215 as set forth below, effective immediately.

Issued in Washington, D.C., April 29, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

Chapter II of 10 CFR is amended by adding a new Part 215, which reads as follows:

Sec.
215.1 Purpose and intent.
215.2 Definitions.
215.3 Power generators not currently burning petroleum products.
215.4 Power generators currently burning petroleum products.
215.5 New power generators.
215.6 Exceptions to meet primary ambient air quality standards.
215.7 Other exceptions.

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; E.O. 11748, 38 FR 33575; FEO Order 3 (Feb. 5, 1974).

§ 215.1 Purpose and intent.

The purpose of this part is to assure the optimum use of the limited supplies of low sulfur petroleum products in a manner consistent with the provisions of the Clean Air Act, as amended, and the Clean Fuels Policy of the Environmental Protection Agency. This Part is not intended to affect or preempt the development of individual source compliance schedules or other actions associated with implementation of the Clean Air Act, except with regard to the timing of actual shifts to burning lower sulfur oil during the period this Part is in effect.

§ 215.2 Definitions.

"Power generator" means any boiler, burner, or other combustor of fuel or any combination of boilers at a single site in any electric power generating plant or industrial or commercial plant having a total firing rate of 50 million B.T.U./hour or greater in commercial operation on or prior to December 7, 1973 and includes combustion turbines used in the generation of electrical energy.

"Petroleum product" means crude oil, residual fuel oil, and refined petroleum products as defined in Part 211 of this Title.

"Primary ambient air quality standards" means the national primary ambient air quality standards provided for in the Clean Air Act, as amended. (42 U.S.C. 1857 et seq.)

§ 215.3 Power generators not currently burning petroleum products.

No petroleum product shall be sold or otherwise provided to or accepted by any firm for burning under power generators that were not using the petroleum product on December 7, 1973. Automatic exception is granted for power generators converting from natural gas, provided that alternative fuels, such as coal, cannot practically be utilized.

§ 215.4 Power generators currently burning petroleum products.

Petroleum products may continue to be purchased and utilized by firms using them in power generators burning petroleum products on December 7, 1973 except that:

(1) No petroleum product having a lower specified sulfur content, by weight, than the average content of the petroleum products in use in such a power generator during November, 1973 or during the last month in which the power generator consumed such products, shall be sold or otherwise provided or accepted by any firm for use in such power generator;

(2) The aggregate quantity of petroleum products utilized by such firm in any month subsequent to April, 1974 in any such power generator capable of burning coal and petroleum products shall not exceed the larger of the aggregate quantity of petroleum products consumed in the corresponding month of 1972 or in July 1973, except that the quantity of petroleum products burned may be increased in proportion to the increased output of energy or increased need for startups.

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(3) The quantity of middle distillate fuel oil utilized by such firm in any month subsequent to April, 1974 in any such power generator shall not exceed the larger of the quantity of middle distillate fuel oil consumed in the corresponding month of 1972 or in July 1973, except that the quantity of middle distillate fuel oil burned may be increased in proportion to the increased output of energy, or increased need for startups.

(4) In order to discourage further increase in the indirect use of middle distillate and residual fuel oils:

(i) No firm shall blend more middle distillate fuel oils into residual fuel oil than the greater of the quantities blended in the corresponding month of 1972, or in July 1973, except where essential to meeting Primary Ambient Air Quality Standards.

(ii) No firm shall use under a power generator a blended fuel containing a greater proportion of middle distillate fuels from the larger of:

(A) The proportion included in the corresponding month of 1972, or

(B) The proportion included in July 1973, except where essential to meeting Primary Ambient Air Quality Standards.

(iii) Those quantities of fuels containing middle distillates that constitute plant or firm inventories as of the effective date of this Part may be consumed by or sold for use in power generators until those quantities are depleted.

(5) Automatic exception is granted for power generators converting from natural gas, provided that alternative non-petroleum product fuels, such as coal, cannot practically be utilized.

§ 215.5 New power generators.

(a) Any firm with power generators which commenced commercial operations after December 7, 1973 shall not utilize any petroleum products with sulfur content by weight lower than that needed to meet Primary Ambient Air Quality Standards or to comply with EPO new source performance standards or for startup.

(b) This part is not intended to preempt the new source performance standards of the Clean Air Act, as amended. In the event this Part conflicts with such standards, the provisions of the Clean Air Act prevail and the provisions of this Part do not apply.

§ 215.6 Exceptions to meet primary ambient air quality standards.

(a) The FEO shall automatically grant exceptions to the provisions of this Part as provided in Subpart C of Part 205 when the use of petroleum products is properly certified by the appropriate State air pollution control agency to be essential to meeting the Primary Ambient Air Quality Standard of the air quality region in which the plant is located.

(b) With respect to § 215.3, FEO shall grant exceptions pursuant to this paragraph only when suitable alternative non-petroleum product fuels are not available.

§ 215.7 Other exceptions.

The FEO may also grant exceptions from the provisions of this Part as provided in Subpart C of Part 205 if:

(a) Any firm subject to this Part can demonstrate that compliance would cause an undue economic hardship; or

(b) Fuels necessary for compliance with this Part are not available.

[FR Doc.74-10105 Filed 4-29-74;3:07 pm]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Extension of Current Propane Allocation Program

The current propane allocation program, issued on December 27, 1973, was primarily designed to allocate propane during a period of acute shortages. With this purpose in mind, a base period of October 3, 1972, to April 30, 1973, was instituted in anticipation that a new propane allocation program would be implemented for periods subsequent to April 30, 1974.

On April 8, 1974, FEO published a proposed propane allocation program which incorporated, among other significant changes, a proposed quarterly base period encompassing April 1, 1972, to March 31, 1973. In the proposed rulemaking, it was stated that the new program would become effective on May 1, 1974. Many of the comments received in response to the rulemaking urged FEO to provide a period of time for adjustment to new provisions contained in the proposed subpart. Accordingly, the FEO has decided to issue the new propane program during early May 1974 to become effective on June 1, 1974.

In order to extend the present allocation program until the new program becomes effective, it is necessary to adopt a base period for the month of May 1974. After careful consideration the FEO has decided that of the months reported to FEO as part of the present base period, the month of April 1973 most accurately reflects the supply/demand situation for May 1974.

The FEO realizes that some hardships may occur as a result of using April 1973 as the base period for May 1974. Firms experiencing such a hardship may apply to the appropriate regional offices of FEO pursuant to § 205.21–24 for relief.

In addition, the FEO has determined that the allocation level for petrochemical and petrochemical precursor use should be increased prior to the anticipated effective date of June 1, 1974. Accordingly, the allocation level for this use is increased from 90% of base period use to 100% of base period use.

Because the purpose of this amendment is to provide immediate guidance and information with respect to the mandatory petroleum allocation regulations and to continue the present propane program during the month of May, the Federal Energy Office finds that normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, E.O. 11748, 38 FR 33575)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., on April 30, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

§ 211.82 [Amended]

1. Section 211.82 is amended in the definition of "base period" to read as follows:

"Base period" means the period October 3, 1972, through April 30, 1973, except that for the period May 1, 1974, through May 31, 1974, base period means April 1, 1973, through April 30, 1973.

2. Section 211.83 is amended by deleting paragraph (e)(2), renumbering paragraph (e)(3) to read (e)(2), and by adding a new paragraph (g) to read as follows:

§ 211.83 Allocation levels.

* * * * *

(g) One hundred (100) percent of base period use for petrochemical and petrochemical precursor production.

[FR Doc.74-10162 Filed 4-30-74;12:01 pm]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Corrective Amendments to Refiner's Cost Calculations

On January 15, 1974, the Federal Energy Office published mandatory petroleum price regulations under the Emergency Petroleum Allocation Act of 1973, Public Law 93–159 (39 FR 1949). The regulations provide, in § 212.83, the formulae by which a refiner must calculate certain product costs which may be used to determine its base prices for covered products.

The formulae is § 212.83(c)(2) permit recovery of certain increased costs of crude petroleum (the "A" factor) and petroleum products (the "B" factor). These costs incurred in one month may be attributed to prices of the refiner's products in the following month. If full recovery is not achieved in that following month after application of the permissible price, or if all costs were not initially applied to prices, those remaining costs may be carried forward and applied to prices. The unrecovered costs carried forward are represented by the symbol "G" in the formulae of § 212.83. Recovery of costs through the "G" factor of the formulae, is, therefore, permitted on a deferred timing basis and is intended to include only those costs "banked" (i.e., unapplied in a prior calculation) and those costs already applied, but not recovered.

Through an oversight, the description of the costs recoverable by the use of the "G" factor was stated in the January 15, 1974 regulations to include product costs unrecovered "through" the month of measurement of those costs. Product costs measured "through" that month, however, would also include the cost of products which are only then being applied under the "A" and "B" factors of the formulae to calculate base prices, as well as costs already applied but not recovered. Thus, if this language were to be literally taken, the refiner would, in formulae calculations, apply its product cost increases for the month of measurement twice—first under the "A" and "B" factors to establish prices, and second, by treating them as costs not yet recovered through operation of the prices established, under the "G" factor. This double accounting was never intended, and has not yet been accepted.

The FEO became aware of this error in description, and advised all refiners by letter that the application of the "G" element was not properly described. Refiners were advised to include in their "G" computations only those increased costs "to" the month of measurement. This is accomplished simply by changing the word "through" to "to," in the definition of the subfactor "J," which is part of the definition of the "G" factor. However, the description of the "G" factor is also being revised to specifically reflect the change in the "J" factor. For these reasons, FEO is issuing this corrective amendment to this part of § 212.83, to provide added clarity and to conform the regulatory language to the instructions delivered to the nation's refiners. The amendment also represents an effort to respond to recent inquiries by providing more definitive language to identify the "G" symbols.

Because of the purpose of these amendments is to provide immediate guidance and information with respect to the mandatory petroleum price rules and regulations which apply to refiner's permissible prices in the month of May, the Federal Energy Office finds that normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, P.L. 92–159, E.O. 11748, 38 FR 33575)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective January 15, 1974.

Issued in Washington, D.C., April 30, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

Section 212.83 is amended in paragraph (c)(2) at the description of the terms "G_1'" and "J_1'" to read as follows:

§ 212.83 Allocation of refiner's increased product costs.

* * * * *

(c) *Allocation of increased costs.* * * *

(2) *General formulae.* * * *

$$G_i^t = J_i^t - K_i^t + L_i^t$$

Which is either: (i) the total dollar amount of increased costs of the product or products of the type "i" to the period "t" (the month of measurement) not recovered in sales of that product through the period "t," that have been carried forward pursuant to paragraph (d) of this section; or (ii) the total dollar amount by which increased costs of the product or products of the type "i" to the period "t" (the month of measurement) have been over-recovered in sales of that product through the period "t," that must be subtracted pursuant to paragraph (d) of this section.

Where:

J_i^t = The total dollar amount of increased product costs attributable to the product type "i" from August 1 1973 to the period "t" (the month of measurement).

* * * * *

[FR Doc. 74-10161 Filed 4-30-74;12:00 pm]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Adjustment to Refiner's Price Formulae to Reflect the Volume of Covered Products

On January 15, 1974, the Federal Energy Office published mandatory petroleum price regulations under the Emergency Petroleum Allocation Act of 1973. The regulations provide, in § 212.83, the formulae by which a refiner must calculate the amount of added product costs attributable to special products and to covered products other than special products.

At the time the formulae were adopted, virtually all of the products sold by a refiner were subject to the price regulations of FEO, and under the formulae the added cost of all the crude oil procesed by a refiner can be allocated to the refiner's covered products.

On April 3, 1974, certain products, such as asphalt, road oil, refinery gas, petroleum wax, and petroleum coke, which were subject to price regulation only under the authority of the Economic Stabilization Act of 1970, were made exempt from price controls of the FEO in light of the April 30, 1974 expiration of the Economic Stabilization Act.

Thus, a percentage of a refiner's production now is comprised of products not subject to price regulation by the FEO. Accordingly, the refiner's price allocation formulae of § 212.83 are being revised in order to insure that all of the increased cost of crude oil processed by a refiner is not allocated to covered products, which now constitute less than all of a refiner's production. This is being done by redefining the volume factor in the formulae to include all products produced from crude oil, rather than all covered products. This will result in the application of only that portion of the increases in crude oil costs which are attributable to the percentage of the refiner's output that is subject to FEO price regulation.

Because the purpose of these amendments is to provide immediate guidance and information with respect to the mandatory petroleum price rules and regulations which apply to refiner's permissible prices in the month of May, the Federal Energy Office finds that normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, E.O. 11748, 38 FR 33575)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective January 15, 1974.

Issued in Washington, D.C., April 30, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

Section 212.83(c)(2) is amended in the definition of "V^n" to read as follows:

§ 212.83 Allocation of refiner's increased product costs.

* * * * *

(c) *Allocation of increased costs.* * * *

(2) *General formulae.* * * *

V^n = The total volume of all covered products and all products refined from crude petroleum other than covered products sold in the period "n" (the consecutive three-month period of the preceding year such that the middle month of the period corresponds to the current month "u").

* * * * *

[FR. Doc.74-10165 Filed 4-30-74;12:02 pm]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Rent Charged for Real Property Used in the Retailing of Gasoline

Part 212 of the Federal Energy Office regulations was promulgated, in part, pursuant to authority contained in the Economic Stabilization Act of 1970 and delegated to the FEO by the Chairman of the Cost of Living Council in CLC Order No. 47. On April 30, 1974, the Economic Stabilization Act of 1970 and all executive authority over rentals contained therein are scheduled to expire.

Subpart G of Part 212 of the Federal Energy Office regulations is amended to reflect the imminent change in FEO authority over rentals respecting real property used in the retailing of gasoline. The applicability of the "Lessors" provisions of Subpart G is limited to those situations in which both the lessor and lessee of real property used in the retailing of gasoline are refiners, resellers, reseller-retailers, or retailers, as defined in Part 212. The leasing of property used in the

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retailing of gasoline, between suppliers and retailers, is inextricably woven into the fabric of the supplier's marketing system and is directly related to the price at which gasoline is sold at retail. The price charged for product and the rent charged for the property, each of which is often expressed as a flat rate in cents per gallon, constitute a combined charge to the retailer by the supplier for the purchasing and retailing of gasoline. FEO has determined that the statutory mandate to regulate the price of refined petroleum products requires the continued regulation of rents charged between retailers and suppliers in service station leases, as an integral part of its petroleum pricing regulations.

To implement the determination described above, § 212.101 is amended to restrict the applicability of the "Lessors" provisions of Subpart G to those leases of real property used in the retailing of gasoline where the lessor and lessee are refiners, resellers, resellers-retailers, or retailers, as defined in Part 212.

Section 212.103(c) has also been amended to make clear that the standards and goals implemented in the "Lessors" provision are those of the Emergency Petroleum Allocation Act of 1973.

Because the purpose of these amendments is to provide immediate guidance and information with respect to the mandatory petroleum allocation rules and regulations, and because the Economic Stabilization Act of 1970 is scheduled to expire on April 30, 1974, the Federal Energy Office finds that normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, P.L. 92-159, E.O. 11748, 38 FR 33572)

In consideration of the foregoing, 10 CFR Part 212 is amended as set forth below, effective May 1, 1974.

Issued in Washington, D.C., April 30, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

1. Section 212.101 is amended to read as follows:

§ 212.101 Applicability.

This subpart applies to each leased real property used in the retailing of gasoline where both the lessor and lessee are refiners, resellers, reseller-retailers, or retailers, as defined in this part.

2. Section 212.103 is amended is paragraph (c) to read as follows:

§ 212.103 Price rule.

• • • • •

(c) Impose any operating requirements on the retailer which would be unreasonably inconsistent with the standards or goals of the Emergency Petroleum Allocation Act of 1973 or the Federal Energy Office including but not limited to a requirement that the retailer extend his hours of operation beyond his customary hours of operation.

[FR Doc.74-10164 Filed 4-30-74;12:01 pm]

[Ruling 1974-9]

APPENDIX—FEO RULINGS

Minimum Rent Provisions in Leases of Real Property Used in the Retailing of Gasoline

Facts. Firm A, engaged in the distribution of refined petroleum products, leases a parcel of real estate to individual B, who operates a retail gasoline outlet on the property. The contractual terms prevailing on May 15, 1973, provided for rent to be paid monthly at a rate of 2¢ per gallon of gasoline sold by B during the month, and that in no event was the total rent to be paid in that month to be less than $1,200.00. (The equivalent of 2¢ per gallon of gasoline multiplied by 60,000 gallons). On May 15, 1973, B was selling gasoline at a monthly rate of 80,000 gallons. Recently, Firm A's allocation fraction has been reduced so that B is receiving only 50,000 gallons of gasoline per month.

Issue. May Firm A charge the minimum rent of $1,200.00 per month?

Ruling. Yes. Since the minimum rent provision was a contractual term which could have operated on May 15, 1973, to impose a monthly rent of $1,200.00 if the volume during May 1973 had been less than 60,000 gallons, the minimum rent provision is considered to be a prevailing contractual term on that date, and must be taken into account in determining "base rent" within the meaning of 10 CFR § 212.102. Enforcement of the minimum rent provision, therefore, does not constitute an increase in "base rent" prohibited by 10 CFR § 212.103.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

APRIL 30, 1974.

[FR Doc.74-10166 Filed 4-30-74;12:02 pm]

[Ruling 1974-10]

APPENDIX—FEO RULINGS

Changes in Credit Terms

Facts. Firm A, a refiner, sold gasoline to Firm B on May 15, 1973, under terms which permitted Firm B to pay for a delivery of gasoline at the time the next delivery was made.

Firm C, a refiner, sold gasoline to Firm D on May 15, 1973, under terms which included a requirement that Firm D make a cash deposit with Firm C as security for prompt payment for the gasoline sold by Firm C to Firm D. The amount of the deposit required of Firm D depended upon Firm D's credit rating and the amount of credit Firm D obtained, which in turn depended upon the volume of purchases, the frequency of payments, and on the price of the gasoline that was purchased.

Issue #1. May Firm A now require Firm B, which has been paying for deliveries of gasoline on a so-called load-to-load basis, to pay for each delivery at the time it is made?

Issue #2. May Firm C increase the amount of the security deposit required from Firm D?

Ruling. Firm A may not discontinue its practice of accepting payment for deliveries of gasoline on a load-to-load basis. 10 CFR 212.82(f)(1)(i) states: "The base price for sales of an item by a refiner is the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus increased product costs incurred between the month of May 1973 and measured pursuant to the provisions of § 212.83. In computing the base price, a firm may not exclude any temporary special sale, deal or allowance in effect on May 15, 1973." Price is defined in 10 CFR 212.31 as "any consideration for the sale or lease of any property or service and includes rent, commissions, dues, fees, margins, rates, charges, tariffs, fares, or premiums, regardless of form."

Thus, the May 15, 1973 price includes both the price per gallon of gasoline and the time within which that price had to be paid, *i.e.*, the credit terms that prevailed on that date. The imposition of more stringent credit terms by a refiner would constitute an impermissible increase in the May 15, 1973 price because it would reduce the time within which payment had to be made. The cost of credit for the period between deliveries, which was incurred by Firm A would, if the terms could now be altered, have to be paid by Firm B.

Firm A could change its credit practices with respect to Firm B only if it first applied to the FEO, and made a showing as to why the change was necessary, and if the FEO authorized the change, as well as an appropriate adjustment to Firm A's May 15, 1973 price. The presumption, however, would be against authorizing such changes in credit terms because of the differing impacts they have on Firm A and Firm B because of their differing access to and cost of obtaining credit.

Firm C can increase the amount of the security deposit it requires, but only to the extent that the actual increase in the amount of the security deposit is justified by increased credit being extended to each retail seller because of increases in the price of gasoline or in the volume of purchases. Thus, the percentage increase in the amount of the security deposit required of Firm D can be, at most, the percentage by which the selling price of gasoline to Firm D has increased between May 15, 1973, and the present, adjusted for changes in volume of purchases between May 15, 1973, and the present. Any further increase would be an impermissible increase in Firm C's May 15, 1973 selling price, since it would impose an increased cost of credit on Firm D. Similarly, Firm C could not increase the frequency of payments required of Firm D because to do so would reduce the amount of credit being extended to Firm D.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

APRIL 30, 1974.

[FR Doc.74-10163 Filed 4-30-74;12:01 pm]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 944]

LIME REGULATION 5

Withdrawal of Proposal and Termination of Proceeding

Pursuant to the provisions of Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), a notice was published in the FEDERAL REGISTER (39 FR 13890), regarding a proposed amendment of Lime Regulation 5 (§ 944.204), with a proposed effective date of May 1, 1974.

The said amendment would have applied the same grade and size requirements to imported limes as those that were proposed to be made effective for Florida limes under Order No. 911 (7 CFR Part 911) on the same date.

Subsequent to publication of said notice a regulation was issued applicable to Florida limes under said Order No. 911 which contains the same grade and size requirements as those currently in effect for imported limes under said Lime Regulation 5. Therefore, the notice of proposed amendment of such regulation (39 FR 13890) is hereby withdrawn and the proceeding terminated. The current requirements of said Lime Regulation 5 (§ 944.204) remain in effect.

Done at Washington, D.C., this 29th day of April 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10106 Filed 4-30-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

[42 CFR Part 83]

CERTIFICATION OF PERSONAL PROTECTIVE DEVICES

Extension of Comment Period

On April 1, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 11923) to amend Title 42, Code of Federal Regulations by adding a new Part 83 which set forth the requirements for certification of certain occupational personal protective devices (hats, eye and face protective devices, shoes, gloves).

Interested persons were invited to submit written comments concerning the proposed rules by May 1. A number of manufacturers wishing to participate in the certification program have requested that the period of time for comment be extended to permit detailed study of the proposal.

In response to these requests, the period for submitting written comments concerning the proposed rules is hereby extended until June 1, 1974.

Dated: April 26, 1974.

E. J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.74-10086 Filed 4-30-74;8:45 am]

Office of the Secretary

[41 CFR Part 3-50]

PREVENTION OF CONFLICTS OF INTEREST BY FORMER EMPLOYEES

Notice of Proposed Rulemaking

Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the Office of the Secretary is considering an amendment to 41 CFR, Chapter 3, by adding a new Subpart 3-50.7, Prevention of Conflicts of Interest by Former Employees of the Department of Health, Education, and Welfare. Notice is hereby given that this issuance will also be published in the Department's Grants Administration and General Administration Manuals.

Any person who wishes to submit written data, views, or objections pertaining to the proposed amendment may do so by filing them in duplicate with the Deputy Assistant Secretary for Grants and Procurement Management, OASAM, Room 2038, HEW Switzer Building, 330 C Street SW., Washington, D.C. 20201, on or before May 31, 1974. All comments submitted pursuant to this notice will be available for public inspection during regular business hours in the Office of Grants and Procurement Management.

This amendment prohibits the award of noncompetitive discretionary grants or contracts to organizations employing certain former employees of the Department of Health, Education, and Welfare (DHEW). The amendment also establishes a reporting system in competitively awarded discretionary grants and contracts to insure that such awards are made in full compliance with the conflict of interest laws and regulations and is not tainted by improper influence or favoritism.

Dated: April 15, 1974.

S. H. CLARKE,
Deputy Assistant Secretary for Administration and Management.

As proposed, the new Subpart 3-50.7 would read as follows:

Subpart 3-50.7—Prevention of Conflicts of Interest by Former Employees of the Department of Health, Education, and Welfare

Sec.
3-50.700 Scope of subpart.
3-50.701 Definitions.
3-50.702 Solicitations for contracts and applications for discretionary grants.
3-50.703 Limitations on award of noncompetitive contracts and discretionary grants awarded without competition.
3-50.704 Treatment of competitive contracts and discretionary grants.
3-50.705 Waivers.
3-50.706 Explanatory guidelines.

§ 3-50.700 Scope of subpart.

(a) This subpart prescribes procedures for identifying and dealing with real or apparent conflicts of interest involved in contracts and discretionary grants awarded by the Department to organizations employing certain former Department of Health, Education, and Welfare (DHEW) employees. This subpart is not applicable to contracts with or discretionary grants to other Departments and agencies of the Federal Government, discretionary grants awarded to Public Health Service Hospitals, or contracts or discretionary grants awarded to State or local units of government as defined herein.

(b) This regulation is designed to ensure that no contract or discretionary grant is awarded to an organization that employs a former regular or special DHEW employee of an agency in circumstances which constitute a real or apparent conflict of interest, and to ensure that awards are based strictly on merit without improper influence or favoritism in the selection of grantees and contractors.

(c) The fact that an offeror or applicant employs or contemplates employing an agency employee or former employee shall not prejudice that offeror's or applicant's competitive standing, provided that the employment or proposed employment is consistent with Federal law and there is no taint of improper influence or favoritism by virtue of the individual's former association with this Department.

(d) The fact that employment of a former Department employee may not, under this regulation, disqualify a prospective contractor or grantee should not be regarded as an authorative determination that the former employee's conduct may not violate the criminal conflict of interest laws.

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§ 3–50.701 Definitions.

(a) *Agency.* For the purposes of this regulation, an agency means the Office of Education (OE), National Institute of Education (NIE), Social and Rehabilitation Service (SRS), Social Security Administration (SSA), the six health agencies under the Assistant Secretary for Health, the Supply Operations Division, and any other staff office in the Office of the Secretary of the Regional Offices that is directly involved in the award and administration of discretionary grants or contracts.

(b) *Discretionary grant.* For purposes of this regulation, a "discretionary grant" is defined as a grant for which the amount of the grant, and the decision whether and to whom to award the grant are within the administrative discretion of the agency.

(c) *Local government.* The term "local government" means a local unit of government including specifically a county, municipality, city, town, township, school district, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

(d) *Regular employee.* A "regular employee" is one who served in a capacity exceeding 130 days during any period of 365 consecutive days, whether by temporary appointment, or permanent career appointment, and including regular officers of the Public Health Service Commissioned Corps and Reserve Officers of the Corps while on active duty.

(e) *Special Government employee.* A "special Government employee" is an employee appointed to serve for not more than 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis, and who was so employed for more than 60 days during that 365 days.

(f) *State.* "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

(g) *Grants awarded without competition.* A grant awarded without competition in a grant awarded to a single organization where the statute or regulation requires or implies that applications will be competed on the basis of merit, but the awarding agency has decided to award on a noncompetitive basis.

§ 3–50.702 Solicitations for contracts and applications for discretionary grants.

(a) The following certification will be inserted in all procurement solicitations of $2,500 or more and in all discretionary grant applications:

(1) The offeror or applicant shall certify as part of its proposal or application: whether or not the offeror or applicant now employs, is now negotiating with, or otherwise has any arrangements covering prospective employment with a present or former regular or special employee who participated or is participating personally and substantially, while an agency employee and as an employee or prospective employee of the offeror or applicant, in the subject matter to which the solicitation or application pertains. If so the offeror or applicant shall state the name of the present or former agency employee and indicates the extent of his involvement, on behalf of the offeror or applicant in (i) the application or proposal or (ii) any resultant grant or contract.

(2) The offeror or applicant shall certify as part of its proposal or application: whether or not the offeror or applicant now employs, is now negotiating with, or otherwise has any arrangements covering prospective employment with a present or former regular or special agency employee whose official responsibility within one year prior to submission of the grant application or contract proposal involved a program administered by the agency to which the proposal or application pertains and the employee or prospective employee of the offeror or applicant participated in the proposal or application. If so the offeror or applicant shall state the name of the present or former agency employee and indicate the extent of his involvement, on behalf of the offeror or applicant, in (i) the application or proposal or (ii) any resultant grant or contract.

§ 3–50.703 Limitations on award of noncompetitive contracts and discretionary grants awarded without competition.

(a) No agency may award a noncompetitive contract or a discretionary grant without competition to any organization employing a person who served in that agency as a regular employee or as a special employee if any one of the following conditions exist:

(1) The former agency employee is involved in developing or negotiating the application or proposal for the prospective grantee or contractor (recipient) concerning the subject matter in which he participated personally and substantially as an agency employee.

(2) The former agency employee will be involved in the management or administration of any contract or discretionary grant resulting from the application or proposal concerning the subject matter in which he participated personally and substantially as an agency employee.

(3) The former employee's official responsibilities involved, within one year prior to submitting the grant application or contract proposal, the subject matter of the noncompetitive grant or contract and he is or will be involved on behalf of his present employer under one of the situations described in paragraph (a) (1) and (2) of this section.

§ 3–50.704 Treatment of competitive contracts and discretionary grants.

(a) Competitive awards will be made if consistent with law and there is no evidence that the former employee exerted improper influence over the award or that the award was a result of favoritism because of the employee's former association with the Department.

(b) When disclosure under § 3–50.702 is in the affirmative, agencies should exercise all due care in determining whether an impropriety exists. They must make a thorough and documented assessment and only where tainted in fact or a possible violation of law exists will an organization be excluded from competition.

(c) Agencies are authorized to make their own determinations under this subsection provided such determinations are made at a higher than the contracting officer and the program office initiating the requirement or funding the application.

§ 3–50.705 Waivers.

Where it is in the best interests of the Government, the agency may request a waiver from the provisions of § 3–50.703 setting forth the specific circumstances that would demonstrate the need for such a waiver. The request for waiver in accordance with the explanatory guidelines contained in § 3–50.706 shall be submitted for decision, through channels, to the Deputy Assistant Secretary for Grants and Procurement Management.

§ 3–50.706 Explanatory guidelines.

In preparing the necessary justification in support of a request for waiver of the prohibition against award of a discretionary grant or contract where a present or former agency employee is involved, agency personnel shall be guided by the following:

(a) Whether the individual had a direct involvement with the program/project while employed in the agency. The extent of the involvement should be explored and explained. If the individual had a direct involvement and is directly involved in the discussions associated with or in the application or proposal under consideration or will be directly involved in administering the resulting grant or contract, then the grant or contract will not be awarded to that organization. However, if the former agency employee possesses outstanding scientific or technological qualifications he may be involved in the application, proposed or resulting grant or contract provided the best interests of the Government would be served.

(b) Whether the individual had an indirect involvement with the program while employed at the agency. The extent of the indirect involvement in influencing the award of grants and contracts should be explained. There should also be an explanation of the relationship of this involvement to the application or proposal in question as well as to any resulting grant or contract.

(c) Whether the individual was involved in working on the contract proposal or grant application in any way should be explored with the grantee or contractor. Explain the extent of the involvement.

(d) Whether the individual had access to information while an agency employee which may place his organization in an advantageous position over others. Explain the circumstances surrounding this situation as it relates to the instant award.

[FR Doc.74–9896 Filed 4–30–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 74–GL–2]

GENERAL ELECTRIC CF6–6 ENGINES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive applicable to the General Electric CF6–6 Engine. There have been failures of fifth stage low pressure turbine blade retainers resulting in loss of blades from the engine. Since this condition is likely to develop in other engines of the same type, the proposed Airworthiness Directive would require replacement of existing retainers with an improved design.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Director, Great Lakes Region Federal Aviation Administration; Attention: Regional Counsel, Airworthiness Rules Docket; 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received within 30 days after publication of the Notice in the FEDERAL REGISTER will be considered by the Director before taking action upon the proposed rule. The proposals contained in this Notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new Airworthiness Directive:

GENERAL ELECTRIC. Applies to Models CF6–6D, 6D1, and 6H Turbofan Engines. Compliance Required by September 30, 1974.

To prevent expulsion from the engine of fifth stage low pressure turbine blades, unless already accomplished, install improved blade retainer P/N 9083M19P07 per the instructions of General Electric Service Bulletin (CF6–6) 72–399 Revision 1, dated March 20, 1974, or subsequent FAA approved revision.

Issued in Des Plaines, Illinois, on April 19, 1974.

ALAN H. GLASS,
Acting Director,
Great Lakes Region.

[FR Doc.74–9903 Filed 4–30–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–SW–13]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Hobbs, N. Mex., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P. O. Box 1689, Fort Worth, Texas 76101. All communications received on or before May 31, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (39 FR 354), the Hobbs, N. Mex., control zone is amended to read:

HOBBS, N. MEX.

That airspace within a 5-mile radius of the Lea County Airport (latitude 32°41'19" N., longitude 103°13'01" W.), and within 3.5 miles each side of the Hobbs VORTAC 222°T (211°M) radial extending from the 5-mile radius zone to 10.5 miles SW of the VORTAC.

(2) In § 71.181 (39 FR 440), the Hobbs, N. Mex., transition area is amended to read:

HOBBS, N. MEX.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Lea County Airport (latitude 32°41'19" N., longitude 103°13'01" W.), within 3.5 miles each side of the Hobbs VORTAC 222°T (211°M) radial extending from the VORTAC to 11.5 miles SW, and within 5 miles each side of the Hobbs VORTAC 042°T (031°M) radial extending from the VORTAC to 21 miles NE.

Alteration of the control zone and transition area is necessary due to cancellation of the instrument approach procedure to the Crossroads International Airport and a revised instrument approach procedure to the Lea County Airport. The proposed alterations will provide the necessary controlled airspace to contain the revised procedures.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX, on April 22, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74–9904 Filed 4–30–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–EA–25]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

Correction

In FR Doc. 74–9074 appearing on page 14218 of the issue for Monday, April 22, 1974, in the second line of the description of the Erie, Pa. control zone, which appears in the middle column, "Eerie" should read "Erie".

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74–20; Notice 1]

MOTOR VEHICLE SAFETY STANDARDS

Rearview Mirrors

The purpose of this notice is to propose an amendment to Standard No. 111, *Rearview Mirrors* (49 CFR 571.111) to allow installation of truck-type mirror systems in multipurpose passenger vehicles and to extend the coverage of the standard to trucks, buses and motorcycles.

Standard No. 111 currently applies only to passenger cars and multipurpose passenger vehicles, specifying the same rearview mirror requirements for each. The NHTSA has determined that a need exists to extend the standard's coverage to other vehicle types that presently lack uniform Federal regulation in order to ensure observance of minimum mirror performance levels essential to motor vehicle safety. The NHTSA also recognizes the importance of establishing an option which would allow multipurpose passenger vehicles to meet either the present passenger-car mirror requirements or to satisfy the requirements proposed herein for trucks and buses. Due to the wide variation of multipurpose passenger vehicle design, the NHTSA has determined that truck-type mirror systems would provide more efficient rearward visibility for many multipurpose passenger vehicles than the passenger car mirror systems which are presently applicable.

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Trucks and buses currently lack comprehensive uniform regulation. The Bureau of Motor Carrier Safety of the Federal Highway Administration requires two mirrors on trucks and buses under its control, but specifies no requirements relating to mirror size or capability. Certain states have laws applicable to truck, bus, and motorcycle mirror systems, yet their requirements vary and do not provide for a nationwide safe level of rearward visibility in motor vehicles. The NHTSA proposes to remedy this situation by specifying minimum requirements for mirror size, capability, and location which will be applicable to all trucks, buses, and motorcycles. The systems proposed specify mirrors which are currently available and which are currently in use on many of the vehicles the NHTSA intends to regulate.

In order to ensure that motor vehicles are equipped with rearward visibility systems that best suit their configuration the NHTSA has decided that an option should be available which recognizes the impracticability of classifying trucks, buses, and multipurpose passenger vehicles into groups specifying one mirror system adequate to fulfill the safety needs of all. Therefore, it is proposed that trucks, buses, and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less comply either with the present passenger car mirror requirements, or with new requirements specifying outside mirrors on both sides of the vehicle with not less than 19.5 in^2 of reflective surface. It is the Agency's intention that the driver be provided with an unobstructed view to the rear. If the vehicle resembles a passenger car with regard to its rearward visibility potential, the manufacturer will be free to equip it with a passenger car type mirror system. The proposed alternative, however, enables manufacturers to install a truck-type rearview mirror system where it better suits the particular vehicle design.

It is proposed that multipurpose passenger vehicles, trucks, and buses with a GVWR above 10,000 pounds be subject to the requirements of a mirror system that is suited to their large size. The provision proposed specifies a left and right outside mirror with at least 50 in^2 of reflective surface. Available data indicates that such a system is consistent with the NHTSA's objective to ensure adequate rearward visibility.

Motorcycles need uniform rearview mirror regulation in order to help ensure their overall safe operation. It is proposed that they be equipped with one mirror with not less than 12.5 in^2 of reflective surface, mounted so that the horizontal center of the reflective surface is at least 13 in outboard of the motorcycle's longitudinal centerline. There is insufficient data at the present time to indicate a need for a two-mirror system. However, the NHTSA is continuing to conduct research in an effort to determine the most efficient rearward visibility system for motorcycles.

The NHTSA has concluded that all mirrors required by the standard except those specified for motorcycles, should be designed to reflect an image of unit magnification. This was the intent of the initial standard. To clarify that intent, the modifying word "substantially" is being deleted in the proposal. Under this wording, any deviation from unit magnification must be limited to that due to normal production variations, and not the result of design.

In consideration of the foregoing, it is proposed that Motor Vehicle Safety Standard No. 111, 49 CFR 571.111, be amended to read as follows:

§ 571.111 Standard No. 111; rearview mirrors.

S1. *Scope.* This standard specifies requirements for the performance and location of rearview mirrors.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and injuries that occur when the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles.

S4. *Requirements for passenger cars.*

S4.1 *Inside rearview mirror.* Each passenger car shall have an inside rearview mirror of unit magnification.

S4.1.1 *Field of view.* Except as provided in S4.3, the mirror shall provide a field of view with an included horizontal angle measured from the projected eye point of at least 20 degrees, and sufficient vertical angle to provide a view of a level road surface extending to the horizon beginning at a point not greater than 200 feet to the rear of the vehicle when the vehicle is occupied by the driver and four passengers or the designed occupant capacity, if less, based on an average occupant weight of 150 pounds. The line of sight may be partially obscured by seated occupants or by head restraints. The location of the driver's eye reference point shall be that established in Motor Vehicle Safety Standard No. 104 (§ 571.104).

S4.1.2 *Mounting.* The passenger car mirror mounting shall provide a stable support for the mirror, and shall provide for mirror adjustment by tilting in both horizontal and vertical directions. If the mirror is in the head impact area, the mounting shall deflect, collapse, or break away without leaving sharp edges when the mirror is subjected to a force of 90 pounds in a forward or sideward direction in any plane 45° above or below the horizontal.

S4.2 *Outside rearview mirror—driver's side.*

S4.2.1 *Field of view.* Each passenger car shall have an outside mirror of unit magnification. The mirror shall provide the driver a view of a level road surface extending to the horizon from a line, perpendicular to a longitudinal plane tangent to the driver's side of the vehicle at the widest point, extending 8 feet out from the tangent plane 35 feet behind the driver's eyes, with the seat in the rearmost position. The line of sight may be partially obscured by rear body or fender contours. The location of the driver's eye reference point shall be that established in Motor Vehicle Safety Standard No. 104 (§ 571.104).

S4.2.2 *Mounting.* The mirror mounting shall provide a stable support for the mirror, and neither the mirror nor the mounting shall protrude farther than the widest part of the vehicle body except to the extent necessary to produce a field of view meeting or exceeding the requirements of S4.2.1. The mirror shall not be obscured by the unwiped portion of the windshield, and shall be adjustable by tilting in both horizontal and vertical directions from the driver's seated position. The mirror and mounting shall be free of sharp points or edges that could contribute to pedestrian injury.

S4.3 *Outside rearview mirror—passenger's side.* Each passenger car whose inside rearview mirror does not meet the field of view requirements of S4.1.1 shall have an outside rearview mirror of unit magnification installed on the passenger's side. The mirror mounting shall provide a stable support and be free of sharp points or edges that could contribute to pedestrian injury. The mirror need not be adjustable from the driver's seat, but shall be capable of adjustment by tilting in both horizontal and vertical directions.

S5. *Requirements for multipurpose passenger vehicles, trucks, and buses with GVWR of 10,000 pounds or less.*

S5.1 Each multipurpose passenger vehicle, truck and bus with GVWR of 10,000 pounds or less shall have either—

(a) Mirrors that conform to the requirements of S4.1 and S4.2; or

(b) Outside mirrors of unit magnification, each with not less than 19.5 in^2 of reflective surface, installed with stable supports on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle, and adjustable by tilting in both the horizontal and vertical direction.

S6. *Requirements for multipurpose passenger vehicles, trucks and buses with GVWR of more than 10,000 pounds.*

S6.1 Each multipurpose passenger vehicle, truck, and bus with a GVWR of more than 10,000 pounds shall have outside mirrors of unit magnification, each with not less than 50 in^2 of reflective surface, installed with stable supports on both sides of the vehicle. The mirrors shall be located so as to provide the driver a view to the rear along both sides of the vehicle and shall be adjustable by tilting in both the horizontal and vertical direction.

S7. *Requirements for motorcycles.*

S7.1 Each motorcycle shall have a mirror with not less than 12.5 in^2 of reflective surface, installed with a stable support and mounted so that the horizontal center of the reflective surface is at least 13 inches outboard of the longitudinal centerline of the motorcycle. The mirror shall be adjustable by tilting in both the horizontal and vertical direction.

S8. *Mirror construction.* The reflectance value of the reflective film employed on any mirror required by this standard, determined in accordance with SAE Recommended Practice J964, June 1966, shall be at least 35 percent. If a mirror is of the selective position prismatic type, the reflectance value in the night driving position shall be at least 4 percent.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: July 1, 1974.

Proposed effective date: 6 months after publication of final rule.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.51 and 501.8).

Issued on: April 25, 1974.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.74-9910 Filed 4-30-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 79]

FUELS AND FUEL ADDITIVES

Extension of Comment Period

This notice extends the period for comments to the notice, published March 7, 1974 (39 FR 8929), proposing to revise 40 CFR Part 79 (previously designated 42 CFR Part 479), which provides for the registration of fuel additives.

The Environmental Protection Agency has decided that a reasonable extension of the comment closing date is one month from the existing (April 22, 1974) date, and the comment period is hereby extended to May 22, 1974.

ALVIN L. ALM,
Acting Administrator.

APRIL 25, 1974.

[FR Doc. 74-9920; Filed 4-30-74; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19962; RM-2232, etc.]

FM BROADCAST STATIONS IN CERTAIN STATES

Table of Assignments; Extension of Time

In the matter of amendment of § 73.202(b) *Table of Assignments, FM Broadcast Stations.* (Lehigh Acres, Fla.; Monticello, Fla.; Rockwell City, Iowa; Millinocket, Maine; *Aguada, P.R.;* and St. Helena, Calif.) Docket No. 19962, RM-2232, RM-2293, RM-2240, RM-2241, RM-2242, *RM-2246,* RM-2247.

1. On March 7, 1974, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on March 15, 1974, 39 FR 9989. Comment and reply comment dates are presently April 22 and May 1, 1974, respectively.

2. On April 19, 1974, Counsel for Aguadilla Radio and Television Corp., Inc. requested that the time for filing comments be extended to and including May 6, 1974. Counsel states that he has been retained by Aguadilla Radio and Television Corp., Inc. to represent it in connection with the proposal to assign Channel 288A to Aguada, Puerto Rico (RM-2246), and therefore requires the additional time so that he can complete a proper evaluation of the proposal and preparation of comments.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, *it is ordered* That the dates for filing comments and reply comments are extended in RM-2246 only to and including May 6 and May 20, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: April 19, 1974.

Released: April 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-9918 Filed 4-30-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-10751]

INTRA-MEMBER COMMISSION RATE SCHEDULES OF REGISTERED NATIONAL SECURITIES EXCHANGES

Notice of Public Hearing

The Securities and Exchange Commission announced that a public investigatory hearing, ordered pursuant to the Commission's authority under the Securities Exchange Act of 1934 ("Exchange Act"), including, but not limited to, Exchange Act section 21(a), 15 U.S.C. section 78u(a), will be held beginning May 29, 1974 to receive oral and written comments, views and data concerning whether any changes should be made in the rules, policies, practices and procedures of registered national securities exchanges prescribing minimum rates of commission for business performed by one member for another "intra-member rates"). The hearing will convene at 10 a.m., Wednesday, May 29, 1974, in Room 776 at the Commission's headquarters, 500 North Capitol Street, Washington, D.C. 20549.

In Exchange Act Release No. 10383 (September 11, 1973), the Commission announced its determination not to object to the proposal of the New York Stock Exchange, Inc. ("NYSE") to increase by 10 percent its fixed commission rates on non-member orders ranging in size from $100 to $5,000, and by 15 percent on non-member orders ranging in size from $5,001 to $300,000. The Commission also announced in that Release that it would initiate action to terminate the fixing of commission rates by securities exchanges after April 30, 1975 if the exchanges have not amended their rules to effect such termination by that date and that, in order for the rate increase to continue from April 1, 1974 through April 30, 1975, the NYSE should adopt a program of rule changes, effective on or before April 1, 1974, which (a) elliminate that portion of NYSE Rule 383 prohibiting member firms from charging their customers commission rates exceeding the NYSE's commission rate schedule and (b) permit members to engage in a limited but adequate experiment in competitive commission rates. These conclusions were applied also to every exchange which adopted, and desired to continue in effect, the 10 percent and 15 percent commission rate increases. In Exchange Act Release No. 10560 (December 14, 1973), the Commission requested the exchanges to initiate timely development of such a program of rule changes.

In a letter dated February 7, 1974, the NYSE submitted to the Commission proposed amendments to its constitution and rules to rescind Rule 383, to provide for competitive commissions on both member and nonmember orders of $2,000 or less and to rescind the prohibition against charging commissions exceeding minimum rates. By letter dated February 21, 1974, the NYSE modified its proposal by withdrawing those of its proposed amendments which would have subjected intra-member commission rates to competition on orders of $2,000 or less.

In its letter, the NYSE also stated the following:

The Exchange does not believe, however, that it is necessary to amend those provisions of the Constitution dealing with floor brokerage and clearance (Article XV, Sections 2(b) and 2(c)) in order to provide the experimentation sought by the Commission in its letter of December 14, 1973. No study has been made of the likely impact in the intra-member competitive rates, but quite clearly this impact might be unexpectedly severe on those members and member organizations which are largely dependent on these floor brokerage and clearance rates. A serious erosion in floor brokerage income

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could have a harmful impact on the essential market making function of specialists.

The Board of Directors is not aware that there has been any meaningful accumulation of data on an industry wide basis as to the possible impact of negotiated intra-member rates. Because of the importance of this question with regard to the restructuring of the industry, the Board of Directors urges the Commission to conduct a public investigation of this matter pursuant to section 21 of the Securities Exchange Act of 1934. This procedure would enable all interested parties to be heard and should provide the essential information needed to make an appropriate determination of this question. The Board urges that this procedure be initiated promptly so that it be completed well in advance of April 30, 1975.

In Securities Exchange Act Release No. 10670 (March 7, 1974), the Commission responded to the NYSE's modified proposals, stating:

Pending further study of, and solicitation of the public's views and comments on, the question whether the retention of your current rules fixing intramember rate charges for orders not exceeding $2,000 prevents the adequate experiment with limited price competition in which we previously indicated the exchanges should engage, we will not raise any objection if the NYSE should effect the rate proposals set forth in its letter of February 21. If the Commission determines, as a result of its study of the matter, that exchange experiments with limited price competition should be broadened to encompass intramember rates, we expect that you promptly will implement any necessary rule and constitutional changes.

Somewhat similar statement respecting intra-member rates were received from, and corresponding replies were sent to, other stock exchanges in connection with their proposals to implement, by April 1, 1974, the same limited experiment in competitive commission rates.

Interested persons who desire to appear or to submit written comments, views or data in this matter may wish to review materials submitted in the investigatory hearings conducted by the Commission in 1970 and 1971 concerning the reasonableness of, and the need for, minimum intra-member rates. These materials are contained in the following documents, which are available for inspection in the Commission's Public Reference Section, Room #6101, 1100 "L" Street, N.W., Washington, D.C. 20005 (copies of the hearing transcripts listed below may also be available in the Commission's regional offices):

Hearing transcripts. In the matter of Commission Rate Schedules of Registered National Securities Exchanges.

File No. 4–144–1–17, July 20, 1970, Pages 5996–6037.

File No. 4–144–1–18, July 21, 1970, Pages 6188–6199 and Pages 6205–6208.

File No. 4–144–1–22, July 12, 1971, Pages 7279–7295.

File No. 4–144–1–22, July 13, 1971, Pages 7551–7586 and Pages 7594–7597.

File No. 4–144–1–22, July 14, 1971, Pages 7599–7606 and Pages 7622–7625.

Exhibits. In the matter of Commission Rate Schedules of Registered National Securities Exchanges.

File No. 4–144–1–10 (NYSE).

Exhibit 29–A—"Report on New Commission Rate Schedule" dated July 13, 1970, Pages 19–20.

File No. 4–144–1–14 (NYSE).

Exhibit 71–1—"Report on New Minimum Commission Rate Schedule" dated July 12, 1971, Pages 21–26.

The purpose of the hearing is to gather comments, views and data concerning whether the initiation in the near future of a limited experiment in competitive intra-member rates of commission on orders not exceeding $2,000 would cause substantial and irreparable harm to floor brokers or to the market-making function of specialists, and whether it is necessary or appropriate in the public interest or for the protection of investors for exchanges to maintain any prescribed schedules of intra-member rates of commission. It will be necessary, if such schedules of intra-member rates are to be retained, for the Commission to have a basis upon which to judge the reasonableness of such rates. The following questions are intended to elicit such information. Persons who wish to offer oral or written statements for the record of the hearing are invited to comment on the following questions and other matters related to intra-member rates.

(1) What reason is there to conclude that an experiment until April 30, 1975 in competitive intra-member rates for orders not exceeding $2,000 would cause substantial and irreparable harm to floor brokers or to the market-making function of specialists? If members without their own floor brokers ("off-floor members") are competitively disadvantaged as against vertically-integrated members (i.e., members having their own floor brokers) by the present fixing of intra-member rates (see question (12)), will permitting fixed intra-member rates on orders not exceeding $2,000 during the period of experimentation with competitive non-member rates on such transactions, exacerbate the competitive disadvantage of off-floor members or, as between off-floor members and vertically-integrated members, cause statistically biased results respecting competitive non-member rates?

(2) Are intra-member rate schedules for (a) clearance services or (b) floor brokerage services necessary or appropriate for the protection of investors, or to insure fair dealing in securities traded upon an exchange, or to insure fair administration of an exchange?

(3) Assuming it is necessary or appropriate to have intra-member rate schedules for clearance functions, should such rates be higher than the clearing fees charged by a clearing corporation for direct mail clearance? Should they be different for orders effected for the member's own account than for orders effected by such member for other persons? (Compare Sections 2(b) and 4 of Art. XV of the NYSE Constitution.)

(4) Should intra-member rate schedules for execution be applicable to:

(a) Orders left with specialists (or, in the case of the Chicago Board Options Exchange, board brokers),

(b) Services provided by a floor broker not acting as a specialist, or

(c) Both?

(5) Should intra-member rate schedules for floor brokerage be different for different types of orders (*e.g.*, market orders, limited price orders, percentage orders, not-held orders)?

(6) Should a member who provides execution and clearance services for other members and for non-member brokers be prohibited from lowering its prices if it believes such action is necessary to retain the business it receives from correspondents?

(7) Assuming it is necessary or appropriate for exchanges to retain intra-member rate schedules for floor brokerage, what standards should be used to determine their reasonableness? Please answer the following questions separately for (a) floor brokers not acting as specialists and (b) specialists, and explain whether your answers would differ depending on whether the intra-member rate schedules would provide for a minimum rate with no maximum, a fixed rate which is both a minimum and a maximum, or a maximum rate with no minimum:

(i) What expenses should be allowable in determining floor brokerage rates?

(ii) Should rate of return on investment be the standard used to determine the reasonableness of levels of profitability? If so, what should be the base of the rate of return, i.e., equity capital or equity and debt capital?

(iii) What rate(s) of return should be allowed?

(iv) In order to provide excess floor brokerage capacity (if that is needed), must rates for floor brokerage be more than "economic cost-remunerative" (cover more than costs plus reasonable profit), or, absent such subsidy, would the number of available floor brokers increase quickly enough to accommodate sudden increases in demand? If excess capacity for floor brokerage services is needed, how much is needed and can it be supplied at lower cost by the automation of certain types of orders?

(v) Do intra-member rate schedules for floor brokerage which are more than economic cost-remunerative, or which compensation for maintaining excess capacity, unduly inhibit the automation of floor brokerage services?

(vi) Can costs and capital of non-specialist floor brokers be allocated among agency activities and their other activities? If so, how? If a member engages generally in the securities business in addition to providing floor brokerage services, should costs and capital be allocated between floor brokerage done for that member's own organization and that done for other member's organizations?

(vii) Can costs and capital of specialists be allocated among specialists' broker functions, dealer functions and their other activities?

(viii) Should the standards for measuring the reasonableness of costs and rates of return differ in formulating intra-member rate schedules for specialists and for floor brokers?

(8) If exchanges are to retain schedules of intra-member rates of commission for specialists.

(a) Should the specialist receive all or part of the intra-member rate for floor brokrage when he acts as broker with respect to an order left on his book? (Compare NYSE Constitution Art. XV, section 2(c), which provides for payment of the full intra-member floor brokerage rate on that exchange to the specialist when he acts as broker for an order left with him, and American Stock Exchange, Inc. ("Amex") Constitution Art. VI, section 2(c), which provides under similar circumstances for payment of approximately ¾ of the intra-member rate for floor brokerage to the specialist, leaving approximately ¼ for retention by the floor broker.)

(b) Should the answer to (a) differ if specialist acts as dealer with respect to such an order? (Compare the above NYSE and Amex constitutional provisions with Midwest Stock Exchange Article XXVIII, Rule 22.)

(9) Should intra-member rates paid to specialists on orders left with them be more than economic cost-remunerative in order to subsidize the specialist's dealer obligation? If so, can the amount of subsidy be calculated (and periodically adjusted) to do no more than subsidize the dealer obligation to the extent such a subsidy is required?

(10) (a) Assuming that the quality of specialists' dealer performance can be objectively evaluated.

(i) Should floor brokerage income from the execution of orders left with all specialists on an exchange be pooled and then allocated by the exchange to specialists on the basis of performance?

(ii) If there is no pooling of floor brokerage income, should an exchange structure its schedule of rates so that a high-rated specialist would receive a larger portion of the floor brokerage income from orders left with him than he would if he were low-rated?

(iii) If there is no pooling of floor brokerage income and no differentiation in the amounts paid to specialists on the basis of their ratings, should an exchange reallocate stocks among specialists from time to time to reinforce high standards of specialist performance?

(iv) To what extent, if any, should any allocation of pooled floor brokerage income, or differentiation in amounts paid to specialists on the basis of their ratings, or periodic reallocation of stocks, take into account a specialist's profitability, or lack thereof, in addition to his dealer performance rating?

(v) To what extent, if any, should any allocation of pooled floor brokerage income, or differentiation in amounts paid to specialists on the basis of their ratings, or periodic reallocation of stocks be designed to achieve a subsidy of specialists' dealer activity in less profitable stocks?

(b) Could a prescribed intra-member rate for specialists' floor brokerage services which included an amount intended to subsidize the specialists' dealer functions meet the test of reasonableness if the quality of specialists' dealer performance cannot be objectively evaluated?

(ii) (a) Does assignment by an exchange of the book to one specialist confer an undue competitive advantage upon him over other market makers on and off such exchange who would be willing to share the specialist's dealer obligations if they participated in his subsidy?

(b) If liquidity with depth is provided by competing market makers on or off an exchange (other than the exchange specialist) and the exchange retains intra-member rates for specialists which include a subsidy,

(i) Should provision be made for such other market makers to receive a portion of the subsidy, and should the answer depend upon whether they supply such liquidity with depth for competitive reasons, or pursuant to their assumption of affirmative obligations; or

(ii) Should such market maker (including the specialist) have his own book and corresponding subsidy? If so, under what conditions?

(12) Do intra-member rates which are more than economic cost-remunerative place off-floor members at a competitive disadvantage as against vertically-integrated members? If intra-member rates on limit orders left with specialists are not to be merely economic cost-remunerative but, as a matter of policy, are to include a subsidy for the specialist's market-making function, can intra-member rates for floor brokerage be the same for floor brokers as for specialists without competitively disadvantaging off-floor members?

(13) Assuming that the specialist's dealer function should be subsidized through intra-member rates on orders left with specialists and that excess floor brokerage capacity should be subsidized through separate intra-member rates for floor brokerage, will each of these assumed needs result in identical intra-member rates for specialists' agency services and for floor brokers' services? If the two have different costs or capital requirements, should exchange-mandated intra-member rates for agency services nevertheless be the same? If the intra-member were to be different for agency services provided by specialists and floor brokers, or were to be prescribed in the case of one but not the other, would this produce results inconsistent with the protection of investors, fair dealing or fair administration of the exchange?

(14) Various securities exchanges impose charges and fees, payable by one member to another member, for services other than traditional floor brokerage and clearance. For example, when a market-maker member on the PBW Stock Exchange, Inc., effects a principal transaction in one of the stocks in which he is registered with that exchange as an alternate specialist, he must pay 1¢ per share to the regular specialist in that stock (Rule 459). On the Midwest Stock Exchange, Incorporated a member (who is not a specialist) who deals as principal with another member is entitled to receive from that other member a fee equal to the rate of floor brokerage (Art. XXVIII, Rule 22). Are such required fees and charges necessary or appropriate? What standards should be used to determine the reasonableness of such fees and charges?

Persons who wish to appear at the hearing are requested to notify the hearing officer, William E. Toomey, Room 632, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, telephone number (202) 755–1240, as soon as possible.

Persons intending to appear should file 25 copies of the text of their prepared oral statements with the hearing officer 48 hours prior to their appearance and are invited to make additional copies of their statements available at the time of their appearance for the benefit of the press and all other interested persons.

Persons wishing to submit written statements for the Commission's consideration, in lieu of appearing personally, should file 25 copies thereof no later than June 14, 1974.

(Secs. 6, 11, 17(a), 19(b), 21(a); 48 Stat. 885, 48 Stat. 891, as amended 68 Stat. 686, 49 Stat. 1379, as amended 52 Stat. 1076, 48 Stat. 898, 48 Stat. 899; 15 U.S.C. 78f, 78k, 78q(a), 78s(b), 78u(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 23, 1974.

INTRA-MEMBER COMMISSION RATE SCHEDULES OF REGISTERED NATIONAL SECURITIES EXCHANGES

ORDER DIRECTING PUBLIC INVESTIGATION AND DESIGNATING OFFICERS TO TAKE TESTIMONY

I. The Commission has determined to investigate facts, conditions, practices and other matters, relating to the reasonableness of intra-member commission rate schedules of registered national securities exchanges, which it deems necessary and proper to aid in the enforcement of the provisions of the Securities Exchange Act of 1934 ("Exchange Act") to protect investors and to insure fair dealing in securities traded upon such exchanges and fair administration of such exchanges.

II. *It is ordered*, Pursuant to the Commission's authority under the Exchange Act, including, but not limited to, Exchange Act section 21(a), 15 U.S.C. section 78u(a), that an investigation be made of the matters referred to in Section I hereof to aid both in the administration of the provisions of the Exchange Act and in the prescribing of rules and regulations pursuant to section 6, 11, 17(a), 19(b) and other pertinent provisions of the Exchange Act; and

It is further ordered, Pursuant to the provisions of Section 22 of the Exchange Act, that a public hearing shall be held as part of this investigation, that the public hearing shall be conducted before the Commission, any member or members thereof, or Wil-

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liam E. Toomey, who is hereby named as hearing officer and empowered to administer oaths and affirmations and to perform all other duties in connection therewith as prescribed by law, at the hearing which shall commence at 500 North Capitol Street, Washington, D.C. 20549 on May 29, 1974; and

It is further ordered, Pursuant to the provisions of section 21(b) of the Exchange Act, that for the purpose of such investigation and public hearing held as part of it Lee A. Pickard, Sheldon Rappaport and Gene L. Finn and each of them, is hereby designated an officer of the Commission and shall conduct the investigation and perform all other duties in connection therewith as prescribed by law.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-9991 Filed 4-30-74;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-136]

STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 5 of the U.S. CCITT National Committee will meet on May 23, 1974 at 10 a.m. in room 847 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of the international digital data transmission service.

The agenda of the May 23 meeting concerns preparation for Working Group meetings of Study Group Special A of the International Telecommunication Union to be held in Geneva, Switzerland, December 5–13, 1974, and will include review of draft contributions for 4800 bps modems for use on the switched network and for 9600 bps modems for use on leased circuits.

Members of the general public who desire to attend the meeting on May 23 will be admitted up to the limit of the capacity of the meeting room.

Dated: April 23, 1974.

RICHARD T. BLACK, *Chairman, U.S. National Committee.*

[FR Doc.74-9905 Filed 4-30-74;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

TECHNICAL SUBCOMMITTEE OF THE ADVISORY COMMITTEE ON EXPLOSIVES TAGGING

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. section 10(a)(2)), notice is hereby given that a meeting of the Technical Subcommittee of the Advisory Committee on Explosives Tagging will be held on May 15–17, 1974, at the Holiday Inn, Livermore, California, beginning at 9 a.m. each day in the Americana Room.

The Technical Subcommittee will hear and discuss proposals from the public and private research and development sectors concerning candidate systems for the Explosives Tagging Program.

The information which will be presented to, and discussed by, the Technical Subcommittee during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of title 5, United States Code, section 552(b)(4). Accordingly, the meeting of the Technical Subcommittee will, under the authority of section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. section 10(d)), not be open to the public.

Any public or private sector research and development agency which wishes to present an Explosives Tagging System Proposal to the Technical Subcommittee must file a written proposal with the Committee Manager no later than May 10, 1974. Written notification will be sent to that agency indicating time and date of their presentation to the Technical Subcommittee.

All communications regarding this Technical Subcommittee meeting should be addressed to Bureau of Alcohol, Tobacco and Firearms, Explosives Tagging Program, Room 8239, 12th and Pennsylvania Avenue NW., Washington, D.C. 20226, Attention: Mr. Robert Dexter, Committees Manager.

Dated: April 29, 1974.

[SEAL] REX D. DAVIS, *Director.*

[FR Doc.74-10113 Filed 4-30-74;9:39 am]

Customs Service

[T.D. 74-137]

TUNA FISH

Tariff-Rate Quota

APRIL 23, 1974.

It has now been determined that 112,175,689 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1974 at the rate of 6 per centum ad valorem under item 112.30, Tariff Schedules of the United States. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorem under item 112.34 of the tariff schedules.

Pursuant to the provisions of item 112.30, Tariff Schedules of the United States, the above quota is based on the United States pack of canned tuna during the calendar year 1973.

[SEAL] VERNON D. ACREE, *Commissioner of Customs.*

[FR Doc.74-9949 Filed 4-30-74;8:45 am]

Comptroller of the Currency

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document issued jointly by the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve System, concerning a joint call for report of condition of insured banks, see FR Doc. 74-9857, *infra*.

COMPTROLLER OF THE CURRENCY'S REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE FOURTH NATIONAL BANK REGION

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Fourth National Bank Region will be held at the Hueston Woods Lodge, College Corner, Ohio, on May 24, 1974 at 9 a.m.

The purpose of this meeting is to assist the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Fourth National Bank Region.

It is hereby determined pursuant to section 10(d) of Public Law 92-463 that the meeting is concerned with matters listed in section 552(b) of title 5 of the United States Code and particularly with exceptions (3), (4) and (8) thereof, and is therefore exempt from the provisions of section 10(a)(1) and (a)(3) of the Act (Public Law 92-463) relating to open meetings and public participation therein.

Dated: April 25, 1974.

[SEAL] JAMES E. SMITH, *Comptroller of the Currency.*

[FR Doc.74-9945 Filed 4-30-74;8:45 am]

COMPTROLLER OF THE CURRENCY'S REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE THIRTEENTH NATIONAL BANK REGION

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Thirteenth National Bank Region will be held at the Spokane Club, Spokane, Washington on May 24, 1974

The purpose of this meeting is to assist at 9 a.m.

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the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Thirteenth National Bank Region.

It is hereby determined pursuant to section 10(d) of Public Law 92–463 that the meeting is concerned with matters listed in section 552(b) of Title 5 of the United States Code and particularly with exceptions (3), (4) and (8) thereof, and is therefore exempt from the provisions of section 10 (a)(1) and (a)(3) of the Act (Public Law 92–463) relating to open meetings and public participation therein.

Dated: April 25, 1974.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.74–9944 Filed 4–30–74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PROPOSED FAMILY HOUSING PROJECT

Notice of Public Hearing

APRIL 29, 1974.

Notice is hereby given that in accordance with Department of Defense Directive 6050.1, dated March 19, 1974 (Enclosure 2, para. IVB8) the United States Air Force will conduct an informal public hearing in Fort Walton Beach, Florida, May 16, 1974, on the draft environmental statement concerning the proposed construction of family housing units for non-commissioned officers on Eglin Air Force Base, Okaloosa County, Florida. Mr. Grant C. Reynolds, Assistant General Counsel (Installations), Office of General Counsel, Department of the Air Force, will preside at the informal hearing scheduled to begin at 7:30 p.m. in the Fort Walton Beach Municipal Auditorium, Fort Walton Beach, Florida.

The project consists of construction of 150 family housing units for non-commissioned officers on Eglin AFB, Okaloosa County, Florida, and the use of approximately 36 acres of Air Force land. Included in the scope of the project are site preparation; installation of paved streets and sidewalks; sanitary sewage systems; storm drainage systems; water, gas and electrical distribution systems and other related construction.

Persons desiring to participate in the hearing are asked to call Captain Dewey W. Corley, ADTC, Office of the Staff Judge Advocate, Eglin Air Force Base, Florida 32543, 904–882–4611. Persons desiring to present written statements for inclusion in the hearing record may submit such statements to Captain Corley no later than May 23, 1974.

Copies of the draft environmental statement have been made available to the Fort Walton Beach Public Library, the Fort Walton Beach Chamber of Commerce, and the Niceville-Valparaiso Chamber of Commerce. Copies may be obtained from HQ USAF/PREV, Washington, DC 20330 and ADTC/Office of Information, Eglin Air Force Base, Florida 32543.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74–10002 Filed 4–30–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

CALIFORNIA REGIONAL FORESTER'S ROAD COMMITTEE

Notice of Meeting

The California Regional Forester's Road Committee will meet at 8 a.m., May 22, 1974 at the Redwood National Park Headquarters, 1111 2d Street, Crescent City, California. The purpose of this meeting is to review present and past policies for road construction and operation and to review examples of roads as presently constructed on the Six Rivers National Forest. To examine and evaluate both past and present policies. The agenda for accomplishing these purposes are as follows:

MAY 22

8:00 a.m. Formal meeting at Redwood National Park Headquarters.
10:00 a.m. End meeting, begin field trip. U.S. 199, F.R. #17N05 & 17N04 to Bear Sale.
12:30 p.m. Lunch. Discuss Fox Roadless Study Area. F.R. #16N02 to Big Flat Area, Blackhawk Sale. Del Norte Co. French Hill Road to U.S. 199. Gordon Sale.
2:30 p.m. ETA Thunderbird Motel.
7:30 p.m. No Host Dinner/Meeting—Harbor View Grotto.

MAY 23

8:00 a.m. Leave Crescent City U.S. 199 & Del Norte Co. South Fork Road to Big Flat. Discuss problems of constructing and maintaining a two lane road in the South Fork Canyon.
Travel to Peak 8 area via GO Road. Discuss future plans, Roadless Area Studies.
Travel via Forest Road to Red Mountain, Potato, Goose and Patch Sales. Discuss possible alternate routes for road in South Fork Canyon.

LUNCH

Travel to town of Klamath via Simpson Timber Company Road.
2:00 p.m. ETA Klamath.
Forest Service will provide transportation to Crescent City, ETA 2:45 p.m.; travel to Eureka, ETA 1500 Arcata—Eureka Airport.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Six Rivers National Forest, 710 E. Street, Eureka, California; phone (707) 442–1721. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation: The public may participate at any time on recognition of the Co-Chairman.

T. W. KOSKELLA,
Acting for Regional Forester.

[FR Doc.74–9885 Filed 4–30–74;8:45 am]

MALHEUR, UMATILLA AND WALLOWA-WHITMAN NATIONAL FORESTS, OREGON

Vegetation Management; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for vegetation management using selective herbicides on the Malheur, Umatilla and Wallowa-Whitman National Forests, Oregon, for the period January 1, 1974 through June 30, 1975. USDA–FS–FES–(Adm)–74–52.

The environmental statement concerns a proposed use of selective herbicides for vegetation management on three National Forests located in eastern Oregon. The proposed uses are for conifer crop tree release, site preparation prior to planting, utility and road right-of-way maintenance, range improvement, noxious weed control, and poison plant control.

This final environmental statement was transmitted to CEQ on April 26, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 S.W. Pine Street
Portland, Oregon 97204

Malheur National Forest
139 N.E. Dayton Street
John Day, Oregon 97845

Umatilla National Forest
2717 S.W. Hailey Ave.
Pendleton, Oregon 97801

Wallowa-Whitman National Forest
Federal Office Bldg.
Baker, Oregon 97814

A limited number of single copies are available upon request to Regional Forester T. A. Schlapfer, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

D. B. TRASK,
Acting Regional Forester, Region 6.

APRIL 26, 1974.

[FR Doc.74–9889 Filed 4–30–74;8:45 am]

SOLDIER MOUNTAIN SKI AREA EXPANSION AND DEVELOPMENT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Soldier Mountain Ski Area Expansion and Development, Sawtooth National Forest, Idaho. The Forest Service report number is USDA–FS–FES (Adm) 74–70.

The environmental statement applies to National Forest land administered by the Intermountain Region, Forest Service, in Idaho. It covers the expansion and development of the Soldier Mountain Ski Area on the Sawtooth National Forest in Camas County, Idaho, from 235 acres to 1,240 acres, and to construct new development consisting of five chair lifts and support facilities. Ultimate area capacity will be 1,500 skiers per day.

This final environmental statement was transmitted to CEQ on April 23, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service
Federal Building, Room 2025
324–25th Street
Ogden, Utah 84401

Forest Supervisor
Sawtooth National Forest
1525 Addison Avenue East
Twin Falls, Idaho 83301

District Forest Ranger
Fairfield Ranger District
Sawtooth National Forest
Fairfield, Idaho 83327

A limited number of single copies are available upon request to Forest Supervisor E. A. Fournier, Sawtooth National Forest, 1525 Addison Avenue East, Twin Falls, Idaho 83301.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: April 23, 1974.

CHARLES P. TEAGUE, JR.,
Acting Regional Forester.

[FR Doc.74–9690 Filed 4–30–74;8:45 am]

Soil Conservation Service

BAYOU BONNE IDEE WATERSHED PROJECT, LOUISIANA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Bayou Bonne Idee Watershed Project, Morehouse Parish, Louisiana, USDA–SCS–ES–WS–(ADM)–74–23(D).

The environmental statement concerns a plan for watershed protection, flood prevention, drainage, and recreation. The planned works of improvement include conservation land treatment, supplemented by channel work, four water control structures, and recreational development. The channel work will involve clearing and debris removal on 59 miles of existing channels, 15 miles of new channel construction, and 128 miles of enlargement by excavation to provide improved water management in a flatland watershed that is 80% agricultural cropland and grassland. Of the 187 miles of work proposed on existing streams or channels, 126 miles will involve those with only ephemeral flow, and 31 miles with intermittent flow. The balance involves either existing ponded or flowing water or completely new channels where none existed before. The recreational development will provide 97,200 visitor-days of recreation annually.

A limited supply of copies is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, S.W., Washington, D.C., 20250.
Soil Conservation Service, USDA, 3737 Government Street, Alexandria, Louisiana 71301.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, Louisiana 71301.

Comments must be received on or before June 28, 1974 in order to be considered in the preparation of the final environmental statement.

Dated: April 22, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74–9681 Filed 4–30–74;8:45 am]

SOUTH FORK OF BLACKWATER RIVER WATERSHED PROJECT, MISSOURI

Notice of Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the South Fork of Blackwater River Watershed Project, Johnson County, Missouri, USDA–SCS–EIS–WS–(ADM)–74–30(D).

The environmental impact statement concerns a plan for watershed protection, flood prevention, municipal and industrial water supply, and recreational development.

A limited supply is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, SW., Washington, D.C. 20250.
Soil Conservation Service, USDA, P.O. Box 459, Parkade Plaza Shopping Center, Terrace Level, Columbia, Missouri 65201.

Copies of the draft environmental statement have been sent to various Federal, State, and local agencies for comment as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to J. Vernon Martin, State Conservationist, Soil Conservation Service, Parkade Plaza Shoping Center (Terrace Level), P.O. Box 459, Columbia, Missouri 65201.

Comments must be received on or before June 24, 1974, in order to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: April 17, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74–9882 Filed 4–30–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Notice of Meeting; Correction

The agenda and dates for the meeting of the Immunization Practices Advisory Committee for May 16–17, 1974, notice of which was published in the FEDERAL REGISTER on Wednesday, April 10, 1974, Vol. 39, No. 70, page 13016, have been changed. The meeting will be held for one day only, May 16, 1974, and will be open to the public from 8:30 a.m. to 10:30 a.m. for reports and discussions of selected diseases for which vaccine recommendations are made. From 11:00 a.m. to the end of the meeting, the Committee will review information on various biological products including their preparation, dosage, potency, and effectiveness. In that preliminary, unpublished results from the testing and evaluation of individual producers' products are involved, much of the discussion will relate to trade secrets, commercial, or financial information which constitutes privileged or confidential matter under 5 U.S.C. 552(b)(4). This session will not be open to the public, in accordance with the determination by the Director, Center for Disease Control, pursuant to the provisions of Public Law 92–463, Section 10(d).

All other aspects of the notice published on April 10, 1974, remain the same.

Dated: April 29, 1974.

H. BRUCE DULL,
Acting Director, Center for Disease Control.

[FR Doc.74–10035 Filed 4–30–74;8:45 am]

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ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-335, 50-389]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS—SUBCOMMITTEE ON ST. LUCIE PLANT, UNITS 1 AND 2

Notice of Meeting

APRIL 29, 1974.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act(42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on the St. Lucie Plant, Uits 1 and 2, will hold a meeting on May 16, 1974 in Meeting Rooms A & B of the Sheraton Inn, 1901 Palm Beach Lakes Boulevard, West Palm Beach, Florida 33401. The purpose of the meeting will be to review the application of the Florida Power and Light Company for a permit to operate Unit 1 and to construct Unit 2, which are located on Hutchinson Island in St. Lucie County, about half way between the cities of Fort Pierce and Stuart on the east coast of Florida.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

THURSDAY, MAY 16, 1974, 1:00 P.M.—5:00 P.M.

Review of the application for an operating license for Unit 1 and a construction permit for Unit 2 (presentations by the AEC Regulatory Staff and the Florida Power and Light Company and its consultants, and discussions with these groups).

In connection with the above agenda item, the Subcommittee will hold an executive session at 12:30 p.m. which will involve a discussion of its preliminary views, and an executive session at the close of the meeting, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS. In addition, the Subcommittee may hold a closed session with the Regulatory Staff and Applicant to discuss privileged information concerning industrial security or other matters properly considered to be of a proprietary nature.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). It is essential to cloes such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than July 9, 1974, to the Executive, Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the application for a construction permit and related documents which are on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, and the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

(b) Those persons submitting a written stateement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 4:30 p.m. on May 16, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on May 14, 1974, to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after May 21, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and within nine days at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after July 17, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-10119 Filed 4-30-74;11:02 am]

[Docket Nos. 50-413A, 50-414A]

DUKE POWER CO.

Antitrust Hearing on Applications for Construction Permit and Notice for Special Prehearing Conference

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, and Part 2, notice is hereby given that a hearing will be held to consider the antitrust aspects of the applications filed under the Act by the Duke Power Company (the Applicant) for a construction permit to construct two pressurized water nuclear reactors, each designed for initial operation at approximately 3,411 megawatts (thermal). This proposed nuclear power station is to be designated as the Catawba Nuclear Station, Units 1 and 2, and will be located on the south shore of Lake Wyle in York County, South Carolina.

On May 9, 1973, the Commission published in the FEDERAL REGISTER (38 FR 1214, 1973) a letter from the Attorney General dated May 1, 1973, advising the Commission that certain antitrust aspects of the construction permit application of Duke Power Company for the Catawba Nuclear Station required a hearing pursuant to section 105(c) of the Act. A notice published with the Attorney General's letter provided that within 30 days any person whose interest may be affected by the proceeding could file a petition for leave to intervene and request for an antitrust hearing. Two petitions to intervene and requests for hearing have been filed in this antitrust proceeding: (1) Petition of North Carolina Electric Membership Corporation (N.C. EMC) and Blue Ridge Electric Membership Corporation (Blue Ridge), June 7, 1973; (2) Joint Petition of High Point et al., municipalities in North Carolina, June 7, 1973.

On April 8, 1974, the Commission issued a Memorandum and Order in which it, inter alia: (1) Granted the petitions to intervene; (2) appointed this Licensing Board to assume jurisdiction of this matter and to conduct any hearing thereon; (3) directed this Board to consider the question of consolidation of this proceeding with the Oconee-McGuire proceeding; (4) directed this Board to take any other action under 10 CFR Part 2 which it deems warranted to resolve the underlying dispute in this proceeding in a fair and expeditious manner.

The applications and the Attorney General's letter have been placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. As they become available, the transcripts of the prehearing conference and of the hearing will also be placed in the Commission's Public Document Room, where they will be available for inspection by members of the public. Copies of all of the foregoing documents will also be available at the Public Library of Charlotte and Mecklenburg Counties, 310 North Tyron Street, Charlotte, North Carolina.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issue specified, and who has not filed a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, on or before May 31, 1974. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified hereinabove. A member of the public does not have the right to participate in the proceeding unless he has been granted the right to intervene as a party or the right of limited appearance.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, 1717 H Street NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and twenty conformed copies of each such paper with the Commission.

The issue to be considered at a hearing is whether the activities under the construction permit would create or maintain a situation inconsistent with the antitrust laws as provided in subsection 105(a) of the Act. In its Initial Decision the Board will decide those matters in controversy relevant to that issue.

Notice is also hereby given that a Prehearing Conference to consider this matter will be held on May 13, 1974, at 9:30 a.m. local time at the Atomic Safety and Licensing Board Panel Hearing Room, Room 1202, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland. The parties to this proceeding are directed to appear at this Prehearing Conference and, inter alia, to answer the following questions:

(1) What are the prospects for settlement in this proceeding in view of the settlement negotiations presently in progress in the Oconee-McGuire proceeding?

(2) Why should not the results of discovery as compiled in the Oconee-McGuire proceeding be incorporated as part of the discovery in this proceeding?

(3) Assuming the answer to Question 2 is yes, what additional discovery, if any, would be needed?

(4) What benefits and disadvantages accrue should there be a consolidation of the Catawba proceeding with the Oconee-McGuire proceeding?

With respect to each of said questions listed above, the Board directs that written responses be filed with the Board by May 10, 1974, and that each of the parties be prepared at the Prehearing Conference to discuss the answers to said questions.

The parties are further directed to confer and prepare a Joint Statement of Issues for delivery to the Board at the said Prehearing Conference.

Issued at Bethesda, Maryland, this 25th day of April 1974.

It is so ordered.

ATOMIC SAFETY AND LICENSING BOARD,
JOSEPH F. TUBRIDY,
Member.
GEORGE R. HALL,
Member.
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.74-9951 Filed 4-30-74;8:45 am]

[Docket No. 50-323]

PACIFIC GAS & ELECTRIC CO.

Order Lifting Suspension of Certain Construction Activities

By Order dated February 4, 1972, construction activities involving clearing the off-site right-of-way and constructing the Diablo-Midway No. 3 [1] transmission line was suspended pending completion of the Commission's review pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Commission's regulations, 10 CFR Part 50, Appendix D, in regard to Diablo Canyon Nuclear Power Plant, Units 1 and 2. This transmission line connects the Diablo Canyon Nuclear Power Plant, Units 1 and 2, with the Midway substation of Pacific Gas & Electric Company's system.

The environmental review by the AEC Regulatory staff was completed in May 1973 at which time the Final Environmental Statement related to the Diablo Canyon facilities was issued (38 FR 14183). With respect to Unit 1, no request for hearing was received in response to the Commission's Notice of Opportunity for Hearing pursuant to 10 CFR Part 50, Appendix D, Section C (38 FR 6223). Accordingly, the Commission's environmental review was unopposed for Unit 1 and was completed upon issuance of the Final Environmental Statement in May 1973, which relates to both Units 1 and 2. The environmental impacts associated with construction of transmission lines were considered in this Final Environmental Statement. No action was taken at that time with respect to the suspension due to the pending proceeding relating to Unit 2. Subsequently, in September 1973, a hearing was commenced pursuant to 10 CFR Part 50, Appendix D, Section B, in accordance with the Commission's Notice of Hearing (37 FR 28542), to determine whether construction activities related to Unit 2 should be continued, modified, terminated, or appropriately conditioned to protect the environment. As part of this proceeding, consideration was given to the aforementioned transmission line and the environmental impacts associated therewith. The hearing was completed with respect to all matters except the issue of conservation of energy for which the Board ordered the hearing reopened. While the hearing is continued with respect to matters relative to conservation of energy, the presiding Atomic Safety and Licensing Board (Board) has issued an Order dated April 4, 1974, authorizing lifting of suspension of construction as follows:

Applicant will confer with Staff to determine that part of the work which will have a minimal effect upon the environment. The work permitted will also be conditioned by the following:

1. Construction shall only be carried out over that portion of the line which is in the same corridor as the Diablo-Midway #2 transmission line, and

2. Construction shall only be carried out in those areas where the access roads are presently in existence.

The Board in its Order has concluded that the authorized action would result in a minimal effect upon the environment and that any effect of the authorized activity on the overall cost-benefit balancing will be insignificant.

In view of the foregoing, and pursuant to the Commission's regulations in 10 CFR Parts 2 and 50, Appendix D, *It is hereby ordered*, That the suspension of construction of the second Diablo-Midway transmission line, Diablo-Midway No. 3 transmission line, is lifted subject to the following:

1. Pacific Gas & Electric Company will confer with the Regulatory staff who shall determine that part of the work

[1] Designated therein as the second Diablo-Midway transmission line.

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which will have a minimal effect upon the environment, and the work authorized by this Order shall be limited to such determination.

2. Construction shall only be carried out over that portion of the line which is in the same corridor as the Diablo-Midway No. 2 transmission line.[2]

3. Construction shall only be carried out in those areas where the access roads are presently in existence.

Dated at Bethesda, Maryland, this 24th day of April 1974.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.74-9859 Filed 4-30-74;8:45 am]

[Docket No. 50-346A, etc.]

TOLEDO EDISON CO. ET AL.

Notice of Antitrust Hearing

In the matter of The Toledo Edison and The Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station); Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant). Dockets Nos. 50-346A, 50-440A, 50-441A.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, and Part 2, the Atomic Energy Commission's Memorandum and Order of January 21, 1974, and the Final Memorandum and Order on Petitions to Intervene and Requests for Hearing of April 15, 1974, issued by this Atomic Safety and Licensing Board (Board), notice is hereby given that a hearing will be held to consider the antitrust aspects of the applications filed under the Act by the companies identified in the caption above (Applicants) to construct and operate nuclear reactors designated as the Davis-Besse Nuclear Power Station, and the Perry Nuclear Power Plant.

The above-captioned proceedings have been consolidated by the said Board's Memorandum and Order of April 15, 1974. A single hearing will be held at a time and place to be designated later by this Licensing Board. The members of this Board designated by the Commission are John Henry Brebbia, George R. Hall, and John B. Farmakides, Chairman. The issue to be considered in this hearing is whether the activities under the construction permit would create or maintain a situation inconsistent with the antitrust laws as provided in subsection 105(a) of the Act. In its Initial Decision the Board will decide those matters relevant to that issue which are in controversy among the parties.

The applications and the Attorney General's letter have been placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. As they become available, the transcripts of the prehearing conference and of the hearing will also be placed in the Commission's Public Document Room, where they will be available for inspection by members of the public. Copies of all of the foregoing documents will also be available at the Ida Rupp Public Library, Port Clinton, Ohio, between the hours of 10 a.m. to 8:00 p.m. Monday through Saturday and at the Perry Public Library, 3753 Main Street, Perry Township, Ohio, between the hours of 12 noon to 8 p.m. Monday through Friday and from 12 noon to 5 p.m. on Saturday.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issue specified, but who has not filed a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, on or before May 31, 1974.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified hereinabove. A member of the public does not have the right to participate in the proceeding unless he has been granted the right to intervene as a party or the right of limited appearance.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, 1717 H Street, NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and twenty conformed copies of each such paper with the Commission.

Issued at Bethesda, Maryland, this 25th day of April 1974.

It is so ordered.

ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.74-9952 Filed 4-30-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26600]

AEROPERU

Notice of Prehearing Conference and Hearing

In the matter of Aeroperu, foreign air carrier permit application: Lima/Cusco/Iquitos-Montreal, via Miami and foreign intermediate points; Lima/Cusco/Iquitos-Los Angeles, via foreign intermediate points; cancellation of servicio aero de transportes commerciales permit.

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on May 16, 1974, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge William H. Dapper.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before May 13, 1974.

Dated at Washington, D.C., April 25, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-9926 Filed 4-30-74;8:45 am]

[Docket No. 25280; Order 74-4-128]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Issued under delegated authority April 24, 1974.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate, as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated April 10, 1974.

Specific Commodity Item No.	*Description and Rate*
4183	Outboard Motor Parts. 220 cents per kg., minimum weight 300 kgs. From Honolulu to Auckland.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

Agreement C.A.B. 24327 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-9929 Filed 4-30-74;8:45 am]

[Dockets Nos. 26585, 22859; Order 74-4-140]

NATIONAL AIRLINES, INC.

Domestic Air Freight Rate Investigation; Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of April, 1974.

By tariff revisions filed March 29, 1974, and marked to become effective April 28, 1974, National Airlines, Inc. (National) proposes to increase its domestic air freight rates as follows:

1. Bulk minimum charges per shipment from $10 to $12;

2. Westbound and southbound directional and all non-directional bulk and container general commodity rates by 7.5 percent, except certain city pairs, with no increases in markets of 1,800 miles and over for container rates;

3. Eastbound and northbound directional bulk and container general commodity rates, regardless of mileage, by 10 percent, but not to exceed the applicable rates in the opposite direction of the same market;

4. Cancel all specific commodity bulk rates except (a) rates on newspapers, magazines, etc., from New York to Miami, and (b) on human remains. The latter rates are to be increased by 7.5 and 10 percent, respectively; and

5. Dimensional cube rule for bulk traffic from 6.9 (6.5 for flowers) to 8.9 pounds per cubic foot.

A complaint requesting suspension and investigation of National's proposal has been filed by the Society of American Florists (SAF). The complaint alleges, inter alia, that (1) the huge rate increases resulting from the cancellation of all specific commodity rates on cut flowers, combined with another increase in general commodity rates and a significant change in the dimensional weight rule will have a significant impact on the floral industry and result in a serious diversion of air freight traffic from National; (2) the proposed rate increases will range as high as 54 percent for floral traffic, as high as 115 percent for decorative greens, and will be much more significant than on any other type of traffic; and (3) these rate increases, combined with the change in the cube rule, will result in a serious disruption of the floral industry's transportation and distribution pattern, since it will produce excessive freight charges and force the complete diversion of air freight moving via National from the principal flower-growing areas in Florida.

The complaint also states that virtually all of the floral traffic moving from Florida via National is handled at specific commodity rates; that Florida traffic is making a substantial contribution to National's revenues because it moves northbound during daylight hours in combination aircraft when the carrier has the greatest amount of unused capacity available; that the proposal will result in a wholesale diversion of all floral traffic from National to highway movement; and that floral growers cannot absorb or pass along rate increases of this magnitude, particularly when these rates have been subject to periodic increases of substantial proportions over the past four years.

In support of the proposal, National contends that (1) the revenue increase which these rate increases would provide is needed to help offset increased operating costs, primarily for fuel; (2) even with the proposed rate increase, which is expected to generate $1.7 million in additional revenue in 1974, the carrier expects to incur a $6.6 million operating loss from its air freight operations during this period; and (3) the carrier expects fuel prices to rise to an average domestic cost of 17 cents per gallon by July 1974 or over a 50 percent increase in the cost of fuel for the 6 months ended December 1974. National further contends that its estimated loss does not take into account these expected fuel price increases, and to that extent, its estimated operating loss is understated.

The proposed rates and charges are within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

The National filing is one of a series of rate increases filed by domestic carriers in recent weeks. The Board has reviewed these proposed rates in the light of industry costs of carrying air freight, which include recognition of the sharp increases in fuel costs recently experienced by the industry. Most of National's proposed rates come within those industry costs and will therefore be permitted to become effective. Other rates between points set forth in Appendix A exceed those costs and will be suspended. The rates suspended include, in general, bulk general commodity rates in markets of 1,500 miles and over, and rates for human remains.

In view of the foregoing and upon consideration of all other relevant factors, the Board finds that the proposal, to the extent it applies to rates and charges indicated in Appendix A, should be suspended. The remaining portion of the proposal, including rate increases primarily in short-haul markets, appear sufficiently related to costs that the Board will permit them to become effective. We are also permitting the proposed cancellation of numerous specific commodity rates and the revision in the cube rule consistent with our previous disposition of similar proposals by other carriers.[1] With respect to specific commodity rates, carriers should be accorded considerable flexibility as to offering such rates, which are justified primarily on a value-of-service basis.[2]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a) and 1002 thereof,

It is Ordered, That:

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A hereto[3] are suspended and their use deferred to and including July 26, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaint of the Society of American Florists in Docket 26585 is dismissed; and

3. Copies of this order shall be filed with the tariff and served upon National Air Lines, Inc., and the Society of American Florists.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-9927 Filed 4-30-74;8:45 am]

[Docket No. 25281; Order 74-4-138]

TRANSPORTES AEREOS NACIONALES, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of April 1974.

Application of Transportes Aereos Nacionales, S.A. for amendment of its foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958,

By Order 70-8-64 approved August 14, 1970 the Board issued a foreign air carrier permit to Transportes Aereos Nacionales, S.A. (TAN) authorizing the carrier to: (a) Engage in foreign air transportation of persons, property, and mail between a point or points in Honduras; the intermediate point Belize, British Honduras; and the terminal point Miami,

[2] Designated originally as the first Diablo-Midway transmission line.

[1] See e.g., Orders 74-1-155, 74-2-2, 74-2-63, and 74-4-54.

[2] In its decision in Docket 22157, United Air Lines, Inc., Specific Commodity Rates on Periodicals, Floral Products, and Seafood, Order 72-11-78, November 20, 1972, the Board stated, "Because of their inherently preferential nature, the Board does not normally require carriers to publish SCR's, but leaves the offering and justification of SCR's to the carriers' initiative. Once a carrier institutes a particular SCR it is still afforded a fairly broad area of discretion in revising such rates between the parameters of fully-allocated and incremental costs, subject to the Board's review."

[3] Filed as part of the original document.

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Florida, subject to conditions; and (b) operate off-route charter trips, pursuant to Part 212 of the Board's Economic Regulations.

On March 5, 1973 TAN filed an application[1] requesting the deletion from its permit of the following condition:

(2) The holder shall not engage in foreign air transportation between the terminal point Miami, Florida, and points south or east of Honduras, or provide service, by interchange of equipment between the terminal point Miami, Florida, and points south or east of Honduras.

The condition imposes restrictions on the ability of TAN to serve traffic from the United States moving beyond Honduras which are no longer required under present circumstances.[2] Condition 2 was added to TAN's permit in 1960 in view of the carrier's failure to heed an earlier admonition of the Board that it modify its operations to serve primarily traffic between Miami and points in Honduras rather than traffic between Miami and points in South America. The condition was aimed specifically at precluding certain operations then being conducted by TAN in conjunction with two foreign carriers with which it was then affiliated.[3] Since those affiliations no longer exist,[4]

We do not suggest, however, that the troublesome question of Honduran national ownership and control of TAN, which still existed at the time of its most recent permit renewal, has been resolved, and we still expect to examine this matter when the carrier's permit comes before us for renewal.

the Board has no reason to conclude at this time that the retention of this special limitation on TAN's operations is necessary to assure its compliance with the Federal Aviation Act of 1958. U.S. carriers operate to Honduras free of any such restriction. Accordingly, the Board tentatively finds that: (1) it is in the public interest to amend the foreign air carrier permit held by TAN so as to delete condition number 2 from such permit[5]; and (2) TAN is fit, willing and able properly to perform the additional foreign air transportation which would be thereby authorized and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

Accordingly, it is ordered, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein, and why the foreign air carrier permit held by TAN should not be amended to delete condition number 2 therefrom;

2. Any interested persons having objections to the tentative findings and conclusions set forth herein or to the proposed amendment to the foreign air carrier permit held by TAN shall file such objections within 10 days after the date of service of this order, and file with the Board and serve on the persons named in paragraph 5 a memorandum of objection specifying the part or parts of the tentative findings and conclusions objected to and stating the specific grounds of any such objections;[6]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board: *Provided,* That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon the following: Transportes Aereos Nacionales, S.A., Braniff International, and Pan American World Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-9028 Filed 4-30-74;8:45 am]

[1] A copy of the application has been transmitted to the President in accordance with section 801 of the Federal Aviation Act.

[2] The carrier has not requested the removal of the condition requiring that the carrier shall serve Miami only on flights originating or terminating in Honduras. This condition will remain in effect and prevents the carrier from operating turnaround service between Miami and the intermediate point, Belize, British Honduras. Similarly, of course, TAN would not be permitted to operate behind the homeland carrying third-country traffic to or from Miami except by connecting flights with different flight numbers.

[3] See, TAN, Foreign Air Carrier Permit, 31 CAB 246 (1960).

[4] APSA recently ceased operations and its U.S. foreign air carrier permit has been canceled. CEA is now owned by the Government of Ecuador. Thus the circumstances prevailing at the time the Board denied a similar request (Order 70-8-64) have materially changed.

[5] TAN's services are performed by LANICA using the latter's aircraft under a joint operating agreement. The arrangement was last approved by the Board in Order 71-10-5. We do not intend the removal of condition 2 of TAN's permit to constitute an authorization for any enlargement of the joint operations. Under Order 71-10-5 any amendment to the existing joint agreement between TAN and LANICA affecting air service to the United States must be filed with the Board.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

[Docket No. 26516; Order 74-4-104]

PAN AMERICAN WORLD AIRWAYS, INC.

Order Authorizing Discussions Concerning Transatlantic Operations

Correction

In FR Doc. 74-9504 appearing at page 14624 in the issue for Thursday, April 25, 1974, in the second full paragraph in the third column on page 14625, the third and fourth lines should be transposed.

CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

SUBCOMMITTEE ON ENERGY

Notice of Meeting

The Subcommittee on Energy of the Citizens' Advisory Committee on Environmental Quality will meet on May 7, 1974, at 9:15 a.m. in Room 500, 1700 Pennsylvania Avenue, NW., Washington, D.C.

The Committee advises the President and the Council on Environmental quality on matters pertaining to environmental quality. The Subcommittee on Energy concentrates on matters relating to the production and use of energy. The principal purpose of the meeting is to consider various means of conserving energy and new sources of energy.

A limited number of seats—approximately 10—will be available to observers from the press and the public on a reserved, first-come basis. Requests to attend the meeting must be submitted in writing or by telephone no later than Friday, May 3, 1974, to Lawrence N. Stevens, Executive Director, Citizens' Advisory Committee on Environmental Quality, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006, telephone (202) 223-3040. Oral statements or questioning of Committee members or other participants by observers in attendance at the meeting will not be permitted. Members of the public may file written statements with the Committee before or after the meeting.

Requests for information should be submitted to Lawrence N. Stevens (address given above).

LAWRENCE N. STEVENS,
Executive Director, Citizens' Advisory Committee on Environmental Quality.

[FR Doc.74-10066 Filed 4-30-74;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Notice of Committee Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, May 2, 1974
Thursday, May 9, 1974
Thursday, May 16, 1974
Thursday, May 23, 1974
Thusrady, May 30, 1974

The meetings will convene at 10 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street, NW., Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Public Law 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Public Act 92-463) that the closing is necessary in order to provide the members with the opportunity to advance proposals and counterproposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 5451, 1900 E Street, NW., Washington, D.C. 20415.

The apparent delay in publication of this meeting notice was occasioned by the need to effect compliance with the updated provisions of OMB Circular A-63, revised, on Advisory Committee Management, effective May 1, 1974.

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

APRIL 25, 1974.

[FR Doc.74-9899 Filed 4-30-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/49]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 1, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 1, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 264-EII. Amchem Products, Inc., Brookside Avenue, Ambler, Pennsylvania 19002. *Weedone 2,4,5-T-Odor Inhibited Special Air Spray Formula.* Active Ingredients: 2,4,5-Trichlorophenoxyacetic acid, butoxyethanol ester 59.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 264-EIO. Amchem Products, Inc., Brookside Avenue, Ambler, Pennsylvania 19002. *Amchem 2,4,5-TP Weed and Woody Plant Herbicide.* Active ingredients: Butoxypropyl ester of silvex [2-(2,4,5-Trichlorophenoxy) propionic acid] 62.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7850-LL. Armstrong Cork Company, 1666 K Street NW., Washington, D.C. 20006. *Armstrong Ceiling Material Coated with M-84 Bacteriostatic Finish.* Active Ingredients: Alkyl (3% C18, 17% C16, 30% C14, 50% C12) dimethyl ethylbenzyl ammonium cyclohexylsulfamate 0.095%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 32993-R. Barton Naphtha Corporation, P.O. Box 492, Bettendorf, Iowa 52722. *Glidco Pine Oil-150 for Manufacturing Germicides.* Active Ingredients: Pine Oil 100%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 32994-R. Barton Solvents Co., P.O. Box 456, Council Bluffs, Iowa 51501. *Glidco Pine Oil-150 for Manufacturing Germicides.* Active Ingredients: Pine Oil 100%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 31521-EA. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol-P128 (Antimicrobial Concentrate).* Active Ingredients: O-Benzyl-p-chlorophenol 19.35%; O-Phenylphenol 18.30%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-EE. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol-Q100 (Antimicrobial Concentrate).* Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-EG. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol-P220 (Antimicrobial Concentrate).* Active Ingredients: O-Phenylphenol 2.47%; n-Alykyl (92% C16, 8% C16) N-ethyl morpholinium ethyl sulfate 0.39%; Triethylene Glycol Oleyl 89.69%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-EL. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol-P100 (Antimicrobial Concentrate).* Active Ingredients: O-Benzyl-p-Chlorophenol 2.01%; O-Phenylphenol 2.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-ER. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol 66-8.* Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 11.719%; Didecyl Dimethyl Ammonium Chloride 5.859%; Dioctyl Dimethyl Ammonium Chloride 5.859%; Alkyl (C14 50%, C12 40%, C16 10%) Benzyl Dimethyl Ammonium Chloride 15.625%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-ET. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol 33-7.* Active Ingredients: Didecyl Dimethyl Ammonium Chloride 32.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-RA. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol 22-3.* Active Ingredients: Didecyl Dimethyl Ammonium Chloride 25.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-RI. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol 55-10.* Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 19.150%; Didecyl Dimethyl Ammonium Chloride 9.575%; Dioctyl Dimethyl Ammonium Chloride 9.575%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-RL. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol 11-9.* Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 12.250%; Didecyl Dimethyl Ammonium Chloride 6.125%; Dioctyl Dimethyl Ammonium Chloride 6.125%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-RR. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol—Q500 (Antimicrobial Concentrate).* Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.58%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.58% n-Alkyl (92% C18, 8% C16) N-ethyl Morpholinium ethyl sulfates 0.36%; Triethylene Glycol 82.47%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521-RT. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biosol 44-2.* Active Ingredients: Didecyl Dimethyl Ammonium Chloride

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30.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7816–GR. Chem Lab Products Inc., 2850 Coronado, Anaheim, California 92708. *Kemex II New Fire Resistant Concentrated Pool Chlorine.* Active Ingredients: Sodium Dichloro-S-Triazinetrione Dihydrate 100%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 239–EUEG. Chevron Chemical Company, Ortho Division, 940 Hensley Street, Richmond, California 94804. *Ortho Lawn Insect Spray.* Active Ingredients: Chlorpyrifos [O,O–diethyl O–(3,5,6–trichloro–2–pyridyl)phosphorothioate] 5.3%; Aromatic petroleum derivative solvent 3.0%; Petroleum distillate 87.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1803–EE. Continental Chemical Company, 2175 Acoma Street, Sacramento, California 95815. *Con-O New Fire Resistant Chlor Concentrate Granular Chlorine.* Active Ingredients: Sodium Dichloro-S-Triazinetrione Dihydrate 100%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9147–L. W. C. Cook Company, 2525 South 50th Avenue, Cicero, Illinois 60650. *W. C. Chlorine Concentrate for Swimming Pools.* Active Ingredients: Sodium Dichloro-s-triazinetrione Dihydrate 100%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11741–L. D. W. Davies and Company, Inc., 3200 Phillips Avenue, Racine, Wisconsin 53403. *San-A-Kleen Concentrate.* Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14 50%, C12 40%, C16 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 266–GR. DriChem Pool Products Co., 15017 East Clark Avenue, City of Industry, California 91745. *DriChem Concentrated Pool Chlorine Economy Pak.* Active Ingredients: Sodium Dichloro-S-Triazinetrione Dihydrate 100%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7053–RL. Fremont Industries, Inc., P.O. Box 67, Shakopee, Minnesota 55379. *Fremont 2307 Sanitizer.* Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate (provides 14% available chlorine) 25%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7053–RU. Fremont Industries, Inc., P.O. Box 67, Shakopee, Minnesota 55379. *Fremont 2306 Detergent Sanitizer.* Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate (provides 3.2% available chlorine) 5.6%; Sodium dodecylbenzene sulfonate 4.0%; Sodium Metasilicate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 31970–O. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Blitz (Sodium Salt of MCPA).* Active Ingredients: Sodium salt of 2–methyl–4–chlorophenoxyacetic acid 24.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5891–RA. Mt. Hood Chemical Corporation, 4444 N.W. Yeon Avenue, Portland, Oregon 97210. *Surf Sanitizer.* Active Ingredients: Sodium Dichloro-s-triazinetrione dihydrate 25%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5891–RI. Mt. Hood Chemical Corporation, 4444 N.W. Yeon Avenue, Portland, Oregon 97210. *Chlor-A-Sanitizer.* Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 18.0%; Sodium Carbonate (anhydrous) 25.0%; Sodium dodecylbenzene sulfonate 2.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5891–RT. Mt. Hood Chemical Corporation, 4444 N.W. Yeon Avenue, Portland, Oregon 97210. *Sani Wash Sanitizer.* Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 28%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 407–GAU. Imperial Inc., P.O. Box 423, Shenandoah, Iowa 51601. *Imperial No. 4 2,4–D Low Volatile Weed Killer.* Active Ingredients: 2,4–Dichlorophenoxyacetic Acid, Butoxy Propyl Esters 72.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 4822–97. S. C. Johnson & Son, Inc., 1525 Howe Street, Racine, Wisconsin 53403. *Johnson Bluechip Germicidal Cleaner for Hospitals.* Active Ingredients: N-alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chlorides 3.90%; Anhydrous sodium metasilicate 2.50%; Tripotassium salt of ethylene diamine tetraacetic acid 0.75%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 11800–RN. Midwest Agricultural Warehouse Company, 200 South Main, Fremont, Nebraska 68025. *Clean Crop Thiram Seed Protectant.* Active Ingredients: Thiram (Tetramethylthiuram disulfate) 50.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11800–RR. Midwest Agricultural Warehouse Company, 200 South Main, Fremont, Nebraska 68025. *Clean Crop Thiram—Moly Seed Protectant for Soybeans and Other Legumes.* Active Ingredients: Thiram (Tetramethylthiuram disulfate) 35.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9864–G. O'Neill Brothers Chemical, Inc., 5129 Unruh Street, Philadelphia, Pennsylvania 19135. *O'Neill Hygi-San Wash and Surface Sanitizer.* Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 34%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9864–L. O'Neill Brothers Chemical, Inc., 5129 Unruh Street, Philadelphia, Pennsylvania 19135. *O'Neill Hygi-San Sanitizer.* Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 25%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9864–U. O'Neill Brothers Chemical, Inc., 5129 Unruh Street, Philadelphia, Pennsylvania 19135. *O'Neill Hygi-San Wash Sanitizer.* Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 28%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7116–L. Unichem Incorporated, P. O. Box 1565, Greenville, North Carolina 27834. *Blitz Organic Chlorine Sanitizer.* Active Ingredients: Potassium dichloro-(s)-triazinetrione 6.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7101–A. Walton-March, Inc., 1620 Old Deerfield Road, P. O. Box 340, Highland Park, Illinois 60035. *Blue Spruce Germicidal Bowl Cleaner in Pre-Measured Packets.* Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.32%; n-Alkyl 68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.32%; Sodium carbonate 38.00%; Sodium metasilicate 8.90%; Tetrasodium ethylenediamine tetraacetate 0.75%. Method of Support: Application proceeds under 2(a) of interim policy.

REPUBLISHED ITEM

The following item represents a correction and/or change in the list of Applications Received previously published in the FEDERAL REGISTER of April 19, 1974 (39 FR 13985).

EPA File Symbol 30984–L. Bionomical Chemicals & Services, Inc., 1003 Pineville Road, Chattanooga, Tennessee 27405. *Mint M–2015 Disinfectant-Detergent Sanitizer-Deodorizer.* Correction: Originally published as EPA File Symbol 30958–L.

Dated: April 23, 1974.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.74–9714 Filed 4–30–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 20010, 20011; Files Nos. BRCT–10, BPCT–4540; FCC 74–363]

COLUMBIA BROADCASTING SYSTEM, INC., AND FIRST DELAWARE VALLEY CITIZENS TELEVISION, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of:

Columbia Broadcasting System, Inc. (WCAU–TV), Philadelphia, Pennsylvania, for renewal of broadcast license. Docket No. 20010, File No. BRCT–10.

First Delaware Valley Citizens Television, Inc., Philadelphia, Pennsylvania, for construction permit for new television broadcast station. Docket No. 20011, File No. BPCT–4540.

1. The Commission has before it for consideration: (a) the above-captioned applications, one requesting a renewal of license to operate on channel 10, Philadelphia, Pennsylvania, and the other requesting a construction permit for a new television broadcast station to operate on channel 10, Philadelphia, Pennsylvania; (b) motion to dismiss the application of First Delaware Valley Citizens Television, Inc. (First Delaware), filed on April 24, 1973, by Columbia Broadcasting System, Inc. (CBS); (c) an opposition, filed on April 30, 1973, by First Delaware; and (d) a reply, filed on May 14, 1973, by CBS.

2. On April 24, 1973, CBS filed a motion to dismiss First Delaware's application for a construction permit on the grounds that the applicant had failed to timely furnish the Commission with certain financial information which had been requested by the Commission. Specifically, on February 15, 1973, the Commission sent a letter to First Delaware which raised questions concerning its financial plans for the construction and operation of its proposed station. The letter requested, among other things, that First Delaware submit a complete itemization of its first-year cost of operation. The letter also cautioned First Delaware that its failure to respond within thirty days would result in the dismissal of its application. Subsequently, on March 20, 1973, the time within which to respond to the Commission's letter was extended until April 16, 1973, pursuant to First Delaware's request of March 14, 1973. On April 16, 1973, First Delaware filed a financial amendment to its application. The amendment did not include a detailed breakdown of first-year operating costs, but it did refer to the operating breakdown which had been submitted in the original application.[1] However, First Delaware subsequently filed a detailed operating breakdown on April 30, 1973. Nevertheless, CBS contends that First Delaware's willful failure to provide the requested breakdown by April 16, 1973, warrants the dismissal of its application for failure to respond to Commission correspondence, pursuant to § 1.568(b) of the rules. We do not agree. First Delaware filed an extensive financial amendment on April 16, 1973, in response to the Commission's letter. While that amendment did not include the requested detailed breakdown of first-year operating costs, that information was submitted two weeks later on April 30, 1973. Thus, it is clear that First Delaware intended to continue to prosecute its application and to provide the information requested by the Commission. Moreover, while the Commission expects that replies to its official correspondence will be submitted within the time specified, under the circumstances, we do not believe that the two weeks' delay in furnishing the itemized breakdown resulted in any prejudice to CBS or any undue delay in the processing of First Delaware's application. Therefore, CBS's motion to dismiss First Delaware's application will be denied.

3. The precise amount needed to construct and operate First Delaware's proposed station for three months without revenues[2] cannot be determined. However, cash in the amount of at least $3,736,250 will be needed as follows: Down payment on equipment (cost of the antenna system not included)—$641,250; three months' interest payments on bank loan—$85,000; miscellaneous expenses (including grant fee of $45,000)—$710,000; and three months' cost of operation—$2,300,000. While First Delaware states that it will purchase for $428,000 the existing antenna system of the present licensee (CBS), it has failed to furnish the Commission with any information indicating that the equipment can be purchased at the price indicated. In addition, while First Delaware indicates that the station's main studio will be located at a site to be determined in the city of Philadelphia, the applicant has not furnished the Commission with any information as to the costs associated with the construction or lease of its main studio facilities.[3] Accordingly, appropriate financial issues have been specified.

4. To meet its cash-needed requirements, First Delaware relies upon paid-in capital of $103,200, stock subscription agreement of $296,800, and a $4,000,000 bank loan from the Lincoln Bank, Philadelphia, Pennsylvania. The applicant has demonstrated the availability of the $4,000,000 bank loan. In an amendment filed February 22, 1974, the applicant indicated in section II, paragraph II(a), FCC Form 301, that 2,968 shares had been subscribed and that 1,032 shares had been issued, for a total of 4,000 shares. The information contained in the application demonstrates that the stock subscribers can meet their stock subscription commitments to the applicant in the total amount of $296,800. With respect to the stock subscriptions already paid in, since the applicant did not submit a current balance sheet at the time that it filed its February 22, 1974, amendment, the Commission cannot determine the exact amount of paid-in capital which is presently available to the applicant.[4] In the event that the applicant is able to satisfactorily demonstrate the availability of all the funds upon which it relies ($4,400,000), the applicant will still need additional funds.[5] We will, therefore, specify appropriate issues.

5. Columbia Broadcasting System, Inc., is qualified to own and operate television broadcast station WCAU–TV and except as indicated by the issues set forth below, First Delaware Valley Citizens Television, Inc., is qualified to construct, own and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

6. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Columbia Broadcasting System, Inc., and First Delaware Valley Citizens Television, Inc., are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of First Delaware Valley Citizens Television, Inc.:

a. The amount of paid-in capital available to the applicant.

b. The cost and terms of purchase under which the antenna system will be available to the applicant.

c. The cost of rental or construction of the applicant's main studio facilities.

d. In view of the evidence adduced under issues (b) and (c), the extent to which the applicant's cash requirements will be increased.

e. Assuming that all of the funds upon which the applicant relies will be available to it, how the applicant will obtain sufficient additional funds to be used for the construction and first three months' operation of the station.

f. Whether, in view of the evidence adduced under the proceeding issues, the applicant is financially qualified.

2. To determine which of the proposals would better serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. *It is further ordered,* That, the motion to dismiss filed by Columbia Broadcasting System, Inc., is denied.

8. *It is further ordered,* That, in the event of a grant of the license renewal application of Columbia Broadcasting System, Inc., its application will be subject to the following condition:

The grant is conditioned on (1) the outcome of the now-pending civil antitrust action in which Columbia Boradcasting System, Inc., is a party defendant (Civil Action File No. 70 Civ. 4202, U.S. District Court for the Southern District of New York), and (2) that the defendant shall immediately notify the Commission of the final disposition of the case.

9. *It is further ordered,* That, in the event of a grant of the application of First Delaware Valley Citizens Television, Inc., the grant will be made subject to the same AM proximity condition which was attached to the grant of the construction permit (BPCT–4403) for station WCAU–TV, Philadelphia, Pennsylvania.

10. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed

[1] In its original application, First Delaware had submitted an exhibit which set forth a breakdown of first-year operating costs on the basis of four general categories (General and Administrative, Program and Production, Sales, and Engineering and Technical). The operating breakdown did not comply with the provisions of section III, paragraph 1(b) of FCC Form 301 which requires an applicant for a new broadcast station to submit a complete itemization of first-year operating costs.

[2] As in similar cases in the past, we will not apply the standard set forth in Ultravision Broadcasting Co., 1 FCC 2d 544 (1965). Rather, we will apply our former standard which required an applicant to demonstrate that it has sufficient funds to construct and operate the proposed station for three months without revenues. Orange Nine, Inc., 7 FCC 2d 788 (1967). In this connection, it is noted that the Commission's TV Broadcast Financial Data Report for 1972 reveals that the Philadelphia television broadcast stations generated revenues on an average in excess of the applicant's anticipated first-year operating costs ($9,200,000).

[3] The breakdown of first-year operating costs submitted by First Delaware contains a figure of $500,000 for the rental of land and building. However, it is assumed that the figure relates to the rental of the transmitter site and the transmitter building.

[4] While the application contains a balance sheet for the applicant dated August 31, 1972, the balance sheet does not reflect the applicant's current position with respect to subscribed and issued stock.

[5] The exact amount of additional funds which will be required cannot be determined at this time since the present cash-needed figure of $3,736,250 will have to be increased by the cash required for the purchase of the antenna system and the construction or lease of the main studio facilities.

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for the hearing and present evidence on the issues specified in this Order.

11. *It is further ordered,* That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 9, 1974.

Released: April 24, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-9915 Filed 4-30-74;8:45 am]

[Docket No. 20003]

JURISDICTIONAL SEPARATIONS AND RATE STRUCTURES

Notice of Inquiry; Correction

In the matter of economic implications and interrelationships arising from policies and practices relating to customer interconnection, jurisdictional separations and rate-structures.

In the Notice of Inquiry, FCC 74-344, adopted April 9, 1974, and released April 10, 1974 in theabove matter, (39 FR 13808, April 17, 1974) is corrected to indicate: "Commissioner Reid concurring in the result." after the phrase "By the Commission:".

Released: April 24, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-9917 Filed 4-30-74;8:45 am]

[Dockets Nos. 20008, 20009; Files Nos. BRCT-509, BPCT-4581; FCC 74-362]

POST-NEWSWEEK STATIONS OF FLORIDA, INC. AND TROPICAL FLORIDA BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of:

Post-Newsweek Stations of Florida, Inc. (WPLG-TV), Miami, Florida, for renewal of broadcast license. Docket No. 20008, File No. BRCT-509.

Tropical Florida Broadcasting Company, Miami, Florida, for construction permit for a new television broadcast station. Docket No. 20009, File No. BPCT-4581.

1. The Commission has before it the mutually exclusive applications of Post-Newsweek Stations of Florida, Inc. (hereafter "Post-Newsweek"), for renewal of license (BRCT-509) for WPLG-TV, channel 10, Miami, Florida, and Tropical Florida Broadcasting Company (hereafter "Tropical Florida," or "Tropical"), for a construction permit (BPCT-4581) for a new television broadcast facility to operate on channel 10, Miami. Proposing as they do operation on the same channel in the same city, grant of both applications would result in mutually destructive interference. Therefore, the Commission is unable to make the required finding that grant of either application would serve the public interest, convenience and necessity without first designating both for hearing in a consolidated proceeding.

2. The Commission has before it also a variety of pleadings, including: a "Petition to Dismiss Incomplete Application," filed by Post-Newsweek on August 10, 1973 ("Opposition" filed by Tropical on August 23, 1973; "Reply" filed by Post-Newsweek on August 29, 1973); a "Petition for Pre-Designation Hearing or For an Initial Hearing Limited to Tropical Florida's Misrepresentations to the Commission," filed by Post-Newsweek on January 14, 1974; a "Motion to Dismiss Unauthorized Pleading," filed by Tropical on February 4, 1974 ("Reply" filed by Post-Newsweek on February 14, 1974); and a "Motion for a Protective Order," filed by Tropical on February 22, 1974.

3. In its original application, Tropical Florida proposed to operate from the present transmiter site of WPLG-TV, using WPLG-TV's tower. In its August 10, 1973, "Petition to Dismiss Incomplete Application," Post-Newsweek noted that Tropical had been informed in writing as of February 23, 1973, that Post-Newsweek had "no intention" of selling or leasing the land and transmitter tower of WPLG-TV to Tropical, in the event the new applicant prevailed in the comparative hearing. Post-Newsweek contended that Tropical Florida's failure to forthwith amend its application to specify a new transmitter site rendered the application fatally defective and warranted its dismissal. Tropical Florida countered that the unavailability of the WPLG-TV site had not been proven and that it would prove the availability of the site in the hearing, if necessary, and that, in any event, it was entitled to amend its application as a matter of right at any time prior to designation of the application for hearing. On February 7, 1974, Tropical amended its application to provide for mounting its antenna on the tower of WKID-TV, channel 51, Fort Lauderdale. While Tropical may have been unduly persistent in claiming the availability of the WPLG-TV transmitter site, its interpretation of the rule concerning amendments (§ 1.522(a)) is correct. At the time of filing, Tropical acted in reasonable reliance on our previous statements in United Television Co., Inc., 18 FCC 2d 363 (1969), and Central Florida Enterprise, Inc., 22 FCC 2d 260 (1970), to the effect that it is reasonable to assume that the renewal applicant will be receptive to an offer to purchase its transmitter and tower in the event the new applicant prevails. That situation may have changed when Post-Newsweek put Tropical on notice of the site's unavailability, but the application was not "fatally defective" at the time it was filed. It follows, therefore, that Tropical was entitled to amend its application as a matter of right prior to designation, which it has done.

4. On January 14, 1974, Post-Newsweek filed a "Petition for Pre-Designation Hearing or for an Initial Hearing Limited to Tropical Florida's Misrepresentations to the Commission." In this petition, Post-Newsweek asked that Tropical be disqualified "from further pursuant of its application," alleging (and supporting its allegations by numerous affidavits) that Tropical had misrepresented in its application its efforts to ascertain community needs, and, in fact, had not interviewed many of the community leaders it claimed to have consulted, and, in other cases, had reported interviews not conducted by Tropical Florida's principals. Post-Newsweek requested that the Commission order a hearing on its allegations prior to designation of the applications for comparative hearings, and, if the allegations were sustained, dismiss Tropical Florida's application. Alternatively, Post-Newsweek suggested that the Order designating the Applications for hearing direct the Administrative Law Judge Florida's alleged misrepresentations, and then proceed to other issues, including the general comparative issue, only if Tropical Florida were not disqualified on to first try the issues raised by Tropical Florida's alleged misrepresentations, and then proceed to other issues, including the general comparative issue, only if Tropical Florida were not disqualified on that basis.

5. Although the extent of the alleged misrepresentations is perhaps unusual, the underlying issue—whether Tropical Florida and its principals have the requisite character qualifications to be a Commission licensee—is not. It is an issue routinely tried by our Administrative Law Judges in the course of comparative proceedings. Therefore, we see no reason for departing from our normal procedures solely for this case. Nor need we direct that the hearing be conducted in two phases. The order of giving evidence is ordinarily a matter for the sound discretion of the Administrative Law Judge. If he should conclude, after the presentation of evidence on the character qualifications issue, that there is no purpose in proceeding to the general comparision, there is ample precedent for not doing so. See WHDH, Inc., et al., 16 FCC 2d 1, at 7.

6. Tropical Florida apparently would have the Commission ignore Post-Newsweek's allegations concerning its ascertainment process at this time, leaving it to Post-Newsweek to file a post-designation petition to enlarge issues, to be disposed of by the Review Board, and, conceivably, the Commission on review of the Review Board's decision. We would hope that our decision to treat these issues in today's designation order, infra, will materially expedite resolution of these charges. Tropical asserts that Post-Newsweek's pleading is "analogous" to a petition to enlarge or a motion for summary decision, both matters of post-designation practice. We believe the proper analogy, if there is one, for treating the petition, is to a petition to deny. No matter whether a "petition to deny" is not timely filed, or does not properly lie against the subject application: if it raises substantial questions concerning the public interest, convenience and necessity, it is the Commission's obligation to treat those questions, treating the petition as an informal objection under

the rules (§ 1.587). See Faulkner Radio, Inc., 15 FCC 2d 780 (1968); Lebanon Broadcasting Co., 10 FCC 2d 936 (1967). Therefore, we will deal with the petition on that basis.

7. Tropical has not otherwise responded to Post-Newsweek's allegations, saying the charges will be "satisfactorily responded to and disposed of . . . at the appropriate time," which to Tropical appears to mean before the Review Board, on a motion to enlarge issues. While we do not intend to prejudge this case, we do not see any merit in postponing consideration of these charges.

8. Investigators retained by Post-Newsweek interviewed 185 persons identified by Tropical Florida in its application as community leaders with whom it had consulted during its ascertainment of community needs. Of this group, 49 executed affidavits—in the words of Post-Newsweek—"unequivocally denying, or stating that they have no recollection of, consultation by Tropical Florida." An additional 25 persons executed affidavits stating that they were interviewed concerning community problems, but do not believe the interview was by Tropical Florida or its representatives, and 30 persons have executed affidavits asserting that they did not know the purpose of the interview.

9. Affidavits of other ascertainees have been submitted which indicate they were interviewed by representatives of Tropical Florida other than the principals of the corporation, or were asked to complete a form, but did not discuss personally community problems with one of the principals of the applicant. These allegations, if true, would constitute practices inconsistent with the intention of our Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Interviews by persons other than principals and management are not as likely to stimulate a continuing dialogue between the community and the decision making personnel of the applicant. See the Primer, supra, at 664. And the Primer makes quite clear, supra, at 668, that questionnaires do not constitute a substitute for consultations with community leaders. In addition, such interviews would, in this case, amount to a misrepresentation, inasmuch as Tropical has heretofore reported, as part of its application, that all interviews with community leaders were conducted by subscribing stockholders in the corporation.

10. These allegations raise serious questions concerning Tropical Florida's ascertainment process, and its possible efforts to deceive the Commission with regard to its consultations of community leaders. In the absence of Tropical's explanation of these charges, an evidentiary inquiry is in order. In view of Tropical's apparent election not to respond at this time, we do not feel it unfair to require that it do so in hearing, rather than before the Review Board. If Tropical has evidence which it feels would meet these charges before the Review Board, evidence also exists that will enable it to meet the issue in a hearing. Accordingly, issues will be specified to inquire into the facts and circumstances surrounding Tropical Florida's consultations with community leaders, and to determine whether Tropical Florida has misrepresented facts to the Commission concerning those consultations, and whether, in view of the evidence on those issues, Tropical should be disqualified to be a licensee of the Commission, or a comparative demerit assessed.

11. Lastly, with respect to our procedural alternatives in this case, we consider—and reject—Post Newsweek's assertion in its February 14, 1974, pleading that Tropical's failure to controvert the charges concerning its ascertainment representations warrants dismissal of its application. Post-Newsweek avers that "Court decisions confirm that the Commission is not required to hold a hearing where there are no factual issues to be resolved and the only question related to the conclusion to be drawn from the uncontested facts," citing Hartford Communications Committee v. F.C.C., 467 F. 2d 408, 411-12 (D.C. Cir. 1972). The case is totally inapposite. It involved the Commission's decision that objections to an assignment did not raise a "substantial" or "material" question requiring a hearing before grant of the assignment application. Quoting from Stone v. F.C.C., 466 F. 2d 322, at 323, the Court said: "As Judge Wilkey recently observed, a hearing is required to resolve issues which the Commission finds are either 'substantial' or 'material,' regardless of whether the facts are in dispute." 467 F. 2d 408, at 412. In the case now before us, the issue—regardless of the state of dispute—is "substantial" and "material," and therefore of the sort for which we are required to hold a hearing before we may deny the application, under section 309(a)(d)(2), and (e) of the Communications Act of 1934, as amended.

12. Where an applicant for a new station seeks the facilities of an existing station, we require, before making a finding that the applicant is financially qualified, the demonstration of the availability of sufficient funds to pay the costs of construction and three months' operating expenses, without relying on station revenues. Orange Nine, Inc., 7 FCC 2d 788, 9 RR 2d 1157 (1967).[1] On the basis of data submitted in its application, Tropical Florida will require at least $2,433,691 itemized as follows:

Down payment on equipment[2]	$635,250
3 mo. on equipment balance plus interest[2]	152,441
Miscellaneous items not covered by manufacturer's letter of credit	551,000
Tower space and transmitter building	45,000
5 mo. interest on bank loan @ 11 percent	137,000
3 mo. working capital requirement	912,500
	2,433,191

[1] We apply this test in the knowledge that the Annual Financial Reports (FCC Form 324) of the Miami VHF television stations disclose, on the average, annual revenues in excess of the applicant's estimated first-year operating expenses ($3,650,000).

[2] The first payment on the equipment contract is due 60 days after shipment of the transmitter. We assume this will roughly cover the period of installation prior to commencement of operations.

However, Tropical has not offered any evidence in support of its estimated expenditure of $140,000 per year for the rental of studio space. In light of Tropical's proposal for a studio location on a "site-to-be-determined" basis, we think it appropriate to inquire into the reasonableness of that estimate, and the impact of any additional expense on Tropical Florida's cash-needed figure.

13. To meet its anticipated expenses, Tropical Florida relies on a $3,000,000 bank loan, and stock subscriptions totalling $308,000. The instrument which purports to commit the bank loan is on the letterhead of the Florida National Bank and Trust Co. of Miami, over the signature of John H. Manry, Jr., President. While the letter satisfactorily sets forth the rate, collateral and terms of repayment, it specifically states that the loan is "subject to approval of our loan committee," based on "then current financial statements of the corporation and of the foregoing stockholders at the time a formal loan application is submitted." According to our understanding of banking practices, this language in no way represents a "commitment," or assures that the loan will be available. Therefore, an appropriate issue will be specified.

14. Post-Newsweek is qualified to own and operate television station WPLG-TV, and, except with regard to the matters discussed above, Tropical Florida is qualified to construct, own and operate a television broadcast station. Because the applications are mutually exclusive, the Commission is of the opinion they must be designated for hearing in a consolidated proceeding on the issues set forth below.

Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Post-Newsweek Stations of Florida, Inc., and Tropical Florida Broadcasting Company, are designated for hearing in a consolidated proceeding, at a time and place to be specified, upon the following issues:

(1) To determine, with respect to the application of Tropical Florida Broadcasting Company:

(a) The facts and circumstances surrounding the applicant's consultations with community leaders to ascertain community problems.

(b) In the light of the evidence adduced on the above issue, whether the applicant has substantially complied with the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants.

(c) In the light of the evidence adduced on the above issues (a) and (b), whether the applicant has made misrepresentations to the Commission in its application.

(d) Whether, in the light of the evidence adduced on the above issue (c), the applicant should be disqualified from becoming a licensee of the Commission, or a comparative demerit assessed against it.

(e) Whether the applicant will have available a $3,000,000 loan from the

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Florida National Bank and Trust Company.

(f) Whether the applicant has reasonably estimated its expenses for rental of studio space, and, if not, the impact of any additional expense on the applicant's cash-needed figure, and whether any additional funds will be required.

(g) Whether, in the light of the evidence adduced on the above issues (e), (f), and (g), Tropical Florida is financially qualified.

(2) To determine, on a comparative basis, which of the above-captioned applications, if granted, would better serve the public interest.

(3) To determine, in the light of the evidence on issues (1) and (2) above, which of the applications should be granted.

It is further ordered, That the "Petition to Dismiss Incomplete Application" filed by Post-Newsweek Stations of Florida, Inc. is denied.

It is further ordered, That the "Petition For Pre-Designation Hearing Or For An Initial Hearing Limited To Tropical Florida's Misrepresentations To The Commission," filed by Post-Newsweek Stations of Florida, Inc., is denied.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 9, 1974.

Released: April 24, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-9914 Filed 4-30-74;8:45 am]

[Docket No. 20005, FCC 74-350]

REMOTE READING OF PUBLIC UTILITY METERS

Notice of Inquiry

In the matter of the development of frequency allocations and regulations applicable to the use of radio for the remote reading of public utility meters. Docket No. 20005, RM-1635, RM-1849, RM-2045.

1. The Commission has the above-captioned matter under consideration and is requesting comments on certain matters discussed herein.

2. There are currently pending before the Commission two petitions requesting amendment of the Commission's Rules to provide for the regular licensing of radio stations for use in the remote reading of public utility meters. One of the petitioners, Readex Electronics, Inc. (Readex), is an electronics equipment manufacturer; the other petitioner, Sangamo Electric Company (Sangamo), is a manufacturer of electrical and electronics equipment with its main offices in Springfield, Illinois.

3. According to the petitioners, public utility industries have a growing need for faster, more reliable and more economical means of obtaining utility consumption data than is possible through the existing manual system. The manual method of reading meters has many shortcomings, not the least of which is difficulty in gaining access to the meters. Utilities have tried to overcome this problem by installing meters outdoors, but this has proved to be only a partial solution. The petitioners believe the ultimate answer lies in the implementation of some form of remote meter reading system using radio techniques.

4. The Readex proposal (RM-1635) is to establish a new radio service to be known as the Industrial Telemetry Radio Service, which would fall within the purview of Part 91 (Industrial Radio Services) of the Commission's rules. Public Notice of the petition was issued on June 12, 1970. In October 1970, Readex filed a major amendment to its initial petition changing the proposed frequency of operation from 219.950 MHz to 462.475 MHz.

5. Readex's proposed meter reading system would utilize an interrogating transmitter in an aircraft and a large number of remotely controlled transmitters located on customers' premises. The remote units would be activated by the interrogating unit and return signals containing the meter information. The information received in the aircraft would be recorded on magnetic tape for subsequent processing. The remote units would be installed on or near the customers' premises. A single remote unit could be designed with enough storage capability for handling up to 30 different meters. The remote units would each have a unique address and would not transmit unless interrogated. The system's operation would be sequential, permitting only one remote unit to transmit at any given time.

6. Readex estimates the system will require a maximum bandwidth of 50 kHz. It hopes to verify this and other system parameters through its field test program, being carried out under FCC experimental authorizations on frequency 462.475 MHz. One discrete frequency in the 450-470 MHz band has been requested nationwide for regular operation of the Readex system. Frequency modulation would be employed in the system and effective radiated powers of 1 watt or less from the remote units and 50 watts or less from the command unit would provide the necessary range and coverage.

7. The Sangamo petition (RM-1849) was placed on public notice on August 27, 1971. A year later, Sangamo filed a major amendment to the original petition containing considerable additional information on the proposed system and recommended rule changes.[1] In the amended petition, Sangamo proposed that its automatic meter reading system, called "PURDAX" (Public Utility Revenue Data Acquisition and Collection System), operate on the harmonically related frequencies 927.95 MHz and 1855.90 MHz. In operation, the system would employ a van-mounted transmitter on 927.95 MHz used to interrogate reflective transponders which would emit signals on 1855.90 MHz. The transponders would be located on the customers' premises and derive their primary power from the radio frequency energy received from the interrogating transmitter. The transponder would use this energy to generate a signal on 1855.90 MHz which is modulated with the meter data and transmitted back to the van for storage and subsequent processing. According to Sangamo, any type of public utility meter could be read using this technique.

8. Currently, Sangamo has an experimental (developmental) authorization to operate on 929 MHz[2] and on 1858 MHz.[3] However, the Commission, at Sangamo's request, has withheld final action on the rule making petition pending completion of initial feasibility tests. Sangamo's current developmental authority will expire on September 1, 1975.

9. Awareness should be made of the fact that Sangamo's proposed 927.95 MHz frequency is in a portion of the spectrum allocated primarily for Government radio services and a more appropriate part of the spectrum for Sangamo's operation would be in the band above 928 MHz.

10. Under the Sangamo plan, the mobile interrogating transmitter could be licensed under Part 91 of the FCC's rules, and passive reflective transponders would operate on a non-licensed basis under authority of Part 15. The emission characteristic of the interrogating transmitter would be A0, and the unmodulated burst of radio frequency energy would use an effective radiated power of 200 watts. The passive transponders would employ P0 emission with a maximum effective radiated power of 100 microwatts.

11. In addition to the above-described meter reading systems proposing the use of radio, the Commission is aware that wireline meter reading systems are being tested by the Bell Telephone Laboratories. One such system involves a number of customers in the Holmdel, New Jersey area and is operated by the New Jersey Bell Telephone Company. Bell, in fact, is conducting trials in several parts of the country involving a number of utilities. Present trials are directed toward utility meter reading only, but if the concept proves feasible, other possible uses may evolve, such as the monitoring of industrial operations. Although meter reading is not now being offered as a regular service by the Bell System, it may be in the future depending on the results of the ongoing trials. The wireline approach is obviously attractive from the standpoint of spectrum conservation. However in a given metropolitan area it is possible that all meters of interest may not be accessible by wirelines. Some radio may therefore be necessary to augment a predominantly wired system.

12. With regard to the general subject of meter reading, it is noted that a relationship may exist between this application and other non-voice communications being conducted or proposed in land mobile frequency bands. There has been greatly increased interest in such non-voice communications in recent years, and the Commission is presently considering how to best accommodate those requirements in an efficient and compatible manner. Results of those considerations may have an impact on eventual rule making with regard to meter reading. However, we believe that the subject of meter reading is itself of sufficient importance and immediacy to warrant the issuance of this separate exploratory proceeding.

13. Although automatic meter reading systems, whether totally reliant on radio telemetry, wireline techniques or combinations thereof, are in the developmental stage, it is believed that this technological development should be examined in a public proceeding to explore potential frequency requirements and other necessary regulations. This inquiry is therefore being initiated for that general purpose and specifically to elicit comments relative to the following questions:

(a) What information is available on automatic meter reading systems and techniques under development which have not been discussed herein?

(b) Is there a compelling need to standardize automatic meter reading systems?

(c) What are the comparative operational, technical, and administrative advantages/disadvantages of a total radio telemetry meter reading system, total wireline meter reading system, or a combined wireline/radio system?

(d) What potential compatibility problems exist between the proposed meter reading systems and other existing or proposed systems using similar portions of the spectrum?

(e) With secondary provisions for non-Government telemetering in the 216-220 MHz (Docket No. 18924) and 1427-1435 (Docket No. 19451) bands, what is the feasibility of accommodating automatic meter reading requirements within those bands recognizing the constraints imposed by Government operations?

(f) What are the economic advantages, if any, of reading meters totally by wire, by radio, or combinations thereof?

(g) In addition to the economic aspects of the various types of automated meter reading techniques, as addressed in the preceding paragraph (f), what are probable sociological benefits to be derived from their employment (i.e., how would an automatic meter reading system improve customer service and relations?)

(h) Whether radio systems licensed in land mobile radio services should be used for meter reading purposes under the conditions and limitations now prescribed in the rules for non-voice communications. See, for example, § 91.103(b).

(i) If the proposals of the petitions were granted and specific frequencies were allocated for meter reading purposes, what entities should be licensed to conduct meter reading operations. If other than the utilities involved were to be the licensees, what other entities should be licensed and what problems, if any, would be raised by such arrangements?

14. Information filed in response to this inquiry will be considered by the Commission in formulating specific rule-making proposals, if appropriate, looking toward the regular accommodation of utility meter reading systems.

15. Authority for this proceeding is contained in section 4(i), 303 and 403 of the Communications Act of 1934, as amended.

16. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on this matter on or before May 23, 1974, and reply comments on or before June 3, 1974.

17. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: April 9, 1974.

Released: April 24, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-9916 Filed 4-30-74;8:45 am]

[1] The new petition was designated rule making 2045.

[2] In a band allocated currently for non-Government land mobile and industrial, scientific and medical (ISM) use.

[3] In a band allocated for non-Government fixed use.

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED BANKS

Joint Call for Report of Condition

Pursuant to the provisions of section 7(a)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817(a)(3)), each insured bank is required to make a Report of Condition as of the close of business April 24, 1974, to the appropriate agency designated herein, within ten days after notice that such report shall be made: *Provided*, That if such reporting date is a nonbusiness day for any bank, the preceding business day shall be its reporting date.

Each national bank and each bank in the District of Columbia shall make its original Report of Condition on Office of the Comptroller Form, Call No. 489,[1] and shall send the same to the Comptroller of the Currency and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank which is a member of the Federal Reserve System, except a bank in the District fo Columbia, shall make its original Report of Condition on Federal Reserve Form 105—Call No. 211[1] and shall send the same to the Federal Reserve Bank of the District wherein the bank is located and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, shall make its original Report of Condition and one copy thereof on FDIC Form 64—Call No. 107[1] and shall send the same to the Federal Deposit Insurance Corporation.

The original Report of Condition required to be furnished hereunder to the Comptroller of the Currency and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for Preparation of Consolidated Reports of Condition by National Banking Associations," dated November 1972.[1] The original Report of Condition required to be furnished hereunder to the Federal Reserve Bank of the District wherein the bank is located and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Reports of Condition by State Member Banks of the Federal Reserve System," dated January 1973 and any amendments thereto.[1] The original Report of Condition and the copy thereof required to be furnished hereunder to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 by Insured State Banks Not Members of the Federal Reserve System," dated December 1970, and any amendments thereto.[1]

Each insured mutual savings bank not a member of the Federal Reserve System shall make its original Report of Condition and one copy thereof on FDIC Form 64 (Savings),[1] prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 (Savings) and Report of Income on Form 73 (Savings) by Insured Mutual Savings Banks," dated December 1971, and any amendments thereto,[1] and shall send the same to the Federal Deposit Insurance Corporation.

FRANK WILLE,
Chairman, Federal Deposit Insurance Corporation.

JUSTIN T. WATSON,
Acting Comptroller of the Currency.

JEFFREY M. BUCHER,
Member, Board of Governors of the Federal Reserve System.

[FR Doc.74-9857 Filed 4-30-74;8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF OAKLAND ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

[1] Filed as part of original document.

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Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 21, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

CITY OF OAKLAND

AND

JAPAN LINE, LTD.
KAWASAKI KISEN KAISHA, LTD.
MITSUI O.S.K. LINES, LTD.
YAMASHITA-SHINNIHON STEAMSHIP CO., LTD.

Notice of Agreement Filed by:

J. Kerwin Rooney, Esq.
Port Attorney
Port of Oakland
66 Jack London Square
P.O. Box 2064
Oakland, California 94607

Agreement No. T-2836-1, between the City of Oakland (City) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd., (the Lines) modifies the parties' basic agreement providing for the 3-year nonexclusive containership preferential assignment of certain marine terminal facilities at Oakland, California, which the Lines will use primarily for handling containerized traffic. The purpose of the modification is to: (1) change the boundary lines of Parcel C; (2) add Parcel D to the assigned premises; (3) grant Matson Terminals, Inc., the right to construct improvements on, as well as the right of access over, Parcel C of the assigned premises; and (4) provide for additional $.27 per square foot per month compensation to City for the Lines' use of Parcel D.

Dated: April 26, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-9931 Filed 4-30-74;8:45 am]

CITY OF OAKLAND AND MATSON TERMINALS, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 21, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. J. Kerwin Rooney
Port Attorney
Port of Oakland
66 Jack London Square
P.O. Box 2064
Oakland, California 94607

Agreement No. T-1953-4, between the City of Oakland (City) and Matson Terminals, Inc. (Matson), modifies the parties' basic agreement providing for the 20-year lease to Matson of certain marine terminal property and berthing areas at Oakland, California. The purpose of the modification is to change the boundary lines of the leased premises in connection with the construction of roll-on and roll-off berthing facilities, and to grant Matson the right to construct, use and maintain, at its own expense, two mooring bollards at the leased premises.

Dated: April 26, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-9932 Filed 4-30-74;8:45 am]

COORDINATED CARIBBEAN TRANSPORT, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 21, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

COORDINATED CARIBBEAN TRANSPORT, INC.
MOTONAVES FLORIDA LINE, S.A.

AND

PAN AMERICAN MAIL LINE, INC.

Notice of Agreement filed by:

Edwin Longcope, Esquire
Hill, Betts & Nash
One World Trade Center
Suite 5215
New York, New York 10048

Agreement No. 10045-1, a rate agreement among the lines listed above, modifies the approved basic agreement by altering the geographic scope thereof to provide for the deletion of the Republic of Costa Rica. Accordingly, the scope of the agreement will now be between Florida ports and ports in the Republic of Panama.

Dated: April 26, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-9930 Filed 4-30-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI71-334, etc.]

RATE CHANGES

Order Providing for Hearing and Suspension and Allowing Rate Changes To Become Effective Subject to Refund[1]

APRIL 22, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto [18 CFR Ch. I] and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-334	Cabot Corp	44	[1] 11	Transwestern Pipeline Co. (Estes Gas Produces Plant, Ward County, Tex.) (Permian Basin).	$23,520	3-25-74		3-26-74	25.74	27.2	
RI71-334	do	49	[1] 11	Transwestern Pipeline Co. (Walton Gas Products Plant, Winkler County, Tex.) (Permian Basin).	104,060	3-25-74		3-26-74	24.78	27.2	
RI74-211	Continental Oil Co	181	10	El Paso Natural Gas Co. (Brown-Bassett (Ellenburger) Field, Terrell County, Texas) (Permian Basin).	18,425	3-20-74		9-20-74	[3] 19.0713	[3] 29.0	
RI73-269	Texaco Inc	179	[4] 1-11	West Texas Gathering Co. (Emperor and South Kermit Field, Winkler County, Texas) (Permian Basin).	1,240,836	3-25-74		8-14-74	28.105	42.1575	
RI74-212	Sun Oil Co	340	[4] 14	El Paso Natural Gas Co. (Blinebry et al. Fields, Lea County, N. Mex.) (Permian Basin).		3-26-74	4-26-74	[10] Accepted			
	do	340	[6] 15	do	35,684	3-26-74	4-26-74	[10] Accepted	17.9023	[7] 23.0	
	do	340	[6] 16	do	91,000	3-27-74		9-27-74	[8] 22.0	36.0	
RI74-213	Gulf Oil Corp	448	2	El Paso Natural Gas Co. (Langlie Mattix (Queen) and Drinkard Pools, Lea County, N. Mex.) (Permian Basin).	614	3-28-74		9-28-74	[9] 41.30	[9] 42.48	

[*] Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[1] Applicable only to "old gas" sold to the plant under contracts dated prior to Oct. 1, 1968.
[2] Subject to processing charge not to exceed 4.5 cents per Mcf.
[3] Substitute increase for prior periodic increase to 30.5642 cents per Mcf suspended in docket No. RI73-269.
[4] Amended by filing dated Apr. 4, 1974.
[5] Contract amendment dated Jan. 31, 1974.
[6] Applicable only to production from the Eva Owens gas wells (Drinkard Formation) pursuant to supplement No. 14.
[7] Increase to area ceiling rate.
[8] Subject to quality adjustments pursuant to opinion No. 662.
[9] Includes Btu adjustment.
[10] Accepted to be effective as of the date in the "Effective date unless suspended" column.

The proposed rate increases of Cabot Corporation reflect increases to rates that were under suspension at the time of issuance of Opinion No. 662, and consistent with prior Commission action in other cases, they are suspended for one day from the date of filing.

The proposed rate increase of Texaco Inc. under FPC Gas Rate Schedule No. 179, represents a favored nations increase which it proposes to substitute for that portion of its prior increase (i.e. in excess of 28.105¢) which is under suspension until August 14, 1974, in Docket No. RI73-269.

The remaining proposed increases exceed the applicable area ceiling rate and are suspended for five months.

[FR Doc.74-9793 Filed 4-30-74;8:45 am]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

APRIL 25, 1974.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on April 9, 1974, tendered for filing Seventh Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 22 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1. Algonquin Gas asserts that the rate change is being filed to reflect an increase in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corporation (Texas Eastern), effective April 6, 1974, as a result of a rate increase issued by Texas Eastern on April 4, 1974, in Docket No. RP72-98.

The proposed effective date of the revised tariff sheet is April 6, 1974, the effective date of Texas Eastern's rate increase.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 2, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9960 Filed 4-30-74;8:45 am]

[Docket No. RP73-98]

ALGONQUIN GAS TRANSMISSION CO.

Filing Under Rate Schedule Pursuant to Federal Power Commission Order

APRIL 25, 1974.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") in compliance with the Federal Power Commission order issued March 14, 1974, in the above-captioned docket on April 15, 1974, tendered for filing, Second Revised Sheet No. 11-C, superseding First Revised Sheet No. 11-

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C, and Third Revised Sheet No. 11–D, superseding Second Revised Sheet No. 11–D in Algonquin Gas' FPC Gas Tariff, Original Volume No. 1.

Algonquin Gas states that Tariff Sheet Second Revised Sheet No. 11–C reflects the inclusion of the one-part rate as specified in the settlement agreement. Tariff Sheet Third Revised Sheet No. 11–D reflects a minimum monthly bill provision consistent with a one-part rate and which Algonquin Gas states reflects the minimum monthly bill provision as set forth in the Federal Power Commission order dated August 10, 1973, which accepted Algonquin Gas' initial SNG–1 rate schedule.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9961 Filed 4–30–74;8:45 am]

ALGONQUIN GAS TRANSMISSION CO.

Informal Conference

APRIL 25, 1974.

Take notice that on April 23, 1974, Algonquin Gas Transmission Company (Algonquin Gas) filed a letter addressed to the Chief, Bureau of Natural Gas, requesting the convening of an informal conference on May 10, 1974. Algonquin Gas states that the conference would follow-up on meetings held last Fall in order to discuss the outlook for gas in the 1974–75 Winter.

Take notice that the informal conference requested by Algonquin Gas will be held at 10 a.m. (e.d.t.), May 10, 1974, in a hearing room of the Federal Power Commission, Washington, D.C., and will be open to the public. A staff member will preside.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9962 Filed 4–30–74;8:45 am]

[Docket No. CI74–511]

AMAX PETROLEUM CORP. ET AL.

Notice of Application

APRIL 25, 1974.

On March 21, 1974, AMAX Petroleum Corporation, et al. (Applicants), 900 Town & Country Lane, Suite 400, Houston, Texas 77024, filed in Docket No. CI74–511 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company (United) from the Oaks Fields, Claiborne Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they propose to sell an estimated 4,500 Mcf of natural gas per month for one year to United from the subject acreage at 45.0 cents per Mcf at 15.025 psia within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9963 Filed 4–30–74;8:45 am]

[Docket No. CI74–551]

ATLANTIC RICHFIELD CO.

Notice of Application

APRIL 24, 1974.

Take notice that on April 8, 1974, Atlantic Richfield Company (Applicant), P.O. Box 2819, Dallas, Texas 75221, filed in Docket No. CI74–551 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), from Grand Isle Block 45, offshore Louisiana, at an initial base rate in excess of the Southern Louisiana area ceiling rate for said sale set forth in § 154.105 of the Commission's regulations under the Natural Gas Act (18 CFR 154.105), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to Tennessee from Applicant's 25 percent interest in gas produced from leased acreage located in Grand Isle Block 45, at an initial price of 47.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment,[1] pursuant to a contract dated March 15, 1974. Said contract provides for reimbursement by Tennessee to Applicant of 100 percent of any new or additional taxes. Applicant estimates monthly sales of gas from the subject acreage at 32,000 Mcf.

Applicant indicates that it has not heretofore developed the subject lease and that the USGS has extended the lease's term to July 1, 1974. Applicant states that in an effort to develop the lease acreage, Applicant has negotiated the July 1, 1974, contract with Tennessee but that Applicant cannot economically justify its share of the cost of drilling a well on the dedicated lease based on the currently applicable area rate. Applicant, therefore, requests a waiver of § 154.105 of the Commission's regulations under the Natural Gas Act (18 CFR 154.105) which limits Applicant to a 26.0-cent per Mcf rate for the subject gas.

In support of this request for waiver, Applicant adopts by reference and incorporates into its application, mutatis mutandis, the statements and data contained in Continental Oil Company's (Continental) application filed March 25, 1974, in Docket No. CI74–526.[2] Applicant states that it will not own or operate any pipelines in connection with the proposed sale nor will construct or operate any additional facilities to render the proposed gas service to Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9861 Filed 4–30–74;8:45 am]

[Docket No. E–8479]

CLEVELAND ELECTRIC ILLUMINATING CO.

Filing of Agreement

APRIL 24, 1974.

By letter dated October 31, 1973, the Cleveland Electric Illuminating Company (CEI) and Ohio Edison Company (OE) transmitted for filing an agreement between the two companies dated October 3, 1973 providing for CEI to supply and OE to receive power and energy from the Ashtabula No. 8 unit of CEI.

In response to the Commission's request CEI has filed additional data in support of the rates and charges under the October 3, 1973 agreement between CEI and OE. Request for waiver of the Commission's notice requirements is renewed in order to permit the October 3, 1973 agreement to become effective as of that date.

Any person desiring to be heard or to make any protest with reference to this filing should on or before May 15, 1974 file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protests in accordance with requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The agreement and documents referred to in this notice are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9862; Filed 4–30–74;8:45 am]

[Docket No. E–7731]

CLIFFS ELECTRIC SERVICE CO.

Application for Amendment of Order Authorizing the Acquisition of Securities

APRIL 25, 1974.

Take notice that on April 12, 1974, Cliffs Electric Service Company (Applicant) filed an application with the Federal Power Commission seeking authority, pursuant to section 203 of the Federal Power Act, to acquire Common (voting) Stock, at $10 par value of Upper Peninsula Generating Company in lieu of the Class A (non-voting) Stock, also $10 par value, which Applicant was authorized to acquire by a Commission order issued on July 21, 1972. The shares of Class A (non-voting) Stock already owned by Applicant would be exchanged for an equivalent amount of shares of Common (voting) Stock. Approval of the application would authorize Applicant to acquire up to a total of 1,555,445 shares of the Common Stock of Generating Company.

The Applicant is incorporated under the laws of the State of Michigan with its principal business office at Cleveland, Ohio. Cliffs is a wholly owned subsidiary of The Cleveland-Cliffs Iron Company and operates certain electric facilities in the upper peninsula of Michigan. Energy generated at these facilities is sold principally to iron mines and related mining facilities which are operated by the parent company.

Upper Peninsula Generating Company (Generating Company) is engaged in the generation of electric energy for sale to its owners, the Applicant, and Upper Peninsula Power Company (Power Company). The Applicant is the owner of record of 50 percent of the outstanding Common Stock of Generating Company and 84.4 percent of the outstanding Class A Stock; the other 50 percent of the Common Stock and 15.6 percent of the outstanding Class A Stock is owned by Power Company.

The proceeds obtained by Generating Company from the issuance and sale of Common (voting) Stock in lieu of Class A (non-voting) Stock will be used for the same construction purposes as the proceeds from the issuance and sale of the Class A (non-voting) Stock have been and are currently being used, namely, the installation of air pollution control devices for each of Generating Company's four existing units at Presque Isle, Michigan and for the construction of two additional units.

According to the Applicant, the conversion of Class A (non-voting) Stock to Common Stock will facilitate the rearrangement of the ownership and power entitlements of both the Applicant and of Upper Peninsula Power Company in Generating Company and will result in Cleveland-Cliffs Iron Company, the parent company of the Applicant, being able to avail itself of the investment tax credit and accelerated depreciation with respect to the two generating units currently under construction by Generating Company. In addition, the rearrangement of the ownership interests in Generating Company's units will result in a reduction in Upper Peninsula Power Company's current obligation to provide equity capital to Generating Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–9964 Filed 4–30–74;8:45 am]

[Docket No. RP74–82]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Change in Rates and Charges

APRIL 24, 1974.

Take notice that on April 15, 1974, Columbia Gas Transmission Corporation (Columbia) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1 which would increase its revenues from jurisdictional sales and service by $102,822,000 based upon the twelve months ended December 31, 1973, as adjusted. Columbia proposes June 1, 1974, as the effective date of the filing. Columbia states that the increased rates reflect an increase in rate of return to 10.25 percent, increased depreciation rates, increased transportation charges by Columbia Gulf Transmission Company, and decreased annual sales volumes.

Columbia also states that the filing reflects the elimination of 33⅓ percent of the differential which exists between historical zone rates and systemwide rates as well as the following tariff modifications:

1. The elimination of the heat content adjustment provision in Section 10.2 of the CDS Rate Schedule (which was applicable only in Zone 2), as no longer being necessary or required.

2. Modification of section 7 of the General Terms and Conditions relating

[1] Downward adjustment from a base of 1,000 Btu per cubic foot and upward adjustment from a base of 1,015 Btu per cubic foot.

[2] The application filed by Continental Oil Company, as operator of the subject lease, indicates that Continental, Getty Oil Company, Cities Service Oil Company, and Applicant, each owning a 25 percent working interest in the subject lease acreage, propose to drill one well which appears to be sufficient to deplete the gross estimated gas reserves of 12,000,000 Mcf over a projected 12-year period. Gross costs are stated as $5,880,040, of which $3,556,240 is attributed to net leasehold investment as of January 1, 1974, and $2,322,800 is attributed to additional projected investment costs. Projected gross operating expenses are estimated at $585,416 and regulatory expense is estimated at 0.2 cent per Mcf.

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to Construction of Facilities, Facility Charge, so as to make the provision applicable in all zones on Columbia's system.

3. Modifications of the EX Rate Schedule and section 10 of the WS Rate Schedule to provide that any deliveries made thereunder shall be considered as takes within Buyer's Authorized Monthly Volume.

Columbia states that a copy of the filing was served upon its jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 14, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9965 Filed 5-30-74;8:45 am]

[Docket No. RP74-81]

COLUMBIA GULF TRANSMISSION CO.

Proposed Changes in FPC Gas Tariff

APRIL 24, 1974.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on April 15, 1974, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by approximately $16,128,000 based on the 12 month period ending December 31, 1973, as adjusted.

The increased rates reflect increases in Columbia Gulf's depreciation rates and rate of return from 9.0 percent to 10.25 percent. Columbia Gulf alleges that the increased revenues to be derived from such changes are needed to increase internally generated funds in order to attract additional outside capital "to develop new sources of gas supply having far greater costs than historically experienced by the industry."

Copies of the filing were served upon Columbia Gas Transmission Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9966 Filed 4-30-74;8:45 am]

[Docket No. E-8731]

DUKE POWER CO.

Supplement to Interconnection Agreement

APRIL 24, 1974.

Take notice that on April 10, 1974 Duke Power Company (Duke) tendered for filing Revised Service Schedule F to the Interconnection Agreement between Duke and Fadkin, Inc., designated as Duke's Rate Schedule FPC No. 11. Duke states the revised Schedule provides for an increase in contract demand from 15,000 KW to 30,000 KW made at the request of the customer. Duke further states that the rate level has not been changed, but the rate form has been changed to agree with the increased energy level.

Duke proposes an effective date of May 1, 1974 for said Schedule.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 29, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9967 Filed 4-30-74;8:45 am]

[Dockets Nos. RP72-155, RP73-104]

EL PASO NATURAL GAS CO.

Extension of Time and Postponement of Prehearing Conference

APRIL 24, 1974.

On April 15, 1974, El Paso Natural Gas Company filed a motion for an extension of the procedural dates set by Order issued March 29, 1974, in the above-designated matter. By letter on April 19, 1974, El Paso amended its motion to request that the prehearing conference be held on July 25, 1974. The letter states that all parties agreed to the changed date.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Evidence by El Paso, May 14, 1974.
Service of Evidence by Staff, June 11, 1974.
Service of Evidence by Interveners, June 18, 1974.
Service of Rebuttal Evidence by El Paso, July 9, 1974.
Prehearing Conference, July 25, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9863 Filed 4-30-74;8:45 am]

[Dockets Nos. RP72-154, RP74-43]

EL PASO NATURAL GAS CO. AND NORTHWEST PIPELINE CORP.

Extension of Time and Postponement of Hearing

APRIL 23, 1974.

On April 4, 1974, El Paso Natural Gas Company filed a motion for an extension of the procedural dates fixed by order issued March 28, 1974, in the above-designated matter. The motion states that Staff Counsel has no objection to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of direct evidence by El Paso and Northwest, April 29, 1974.
Service of Answering Evidence, May 6, 1974.
Service of Rebuttal Evidence by El Paso and Northwest, May 13, 1974.
Hearing, May 21, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9864 Filed 4-30-74;8:45 am]

[Docket No. RP73-84]

EL PASO NATURAL GAS CO.

Extension of Time

APRIL 23, 1974.

On April 18, 1974, El Paso Natural Gas Company filed a motion for an extension of the procedural dates fixed by Order issued April 16, 1974 in the above-designated matter. The motion states that neither staff counsel nor interveners has any objection to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Prepared Testimony, and Exhibits by El Paso, April 26, 1974.
Service of Prepared Testimony, and Exhibits by Staff, May 10, 1974.
Service of Testimony and Exhibits by Interveners, May 24, 1974.
Service of Rebuttal Evidence, June 5, 1974.
Hearing (Unchanged), June 11, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9865 Filed 4-30-74;8:45 am]

[Docket No. E-8170]

GEORGIA POWER CO.

Further Extension of Time and Postponement of Prehearing Conference and Hearing

APRIL 23, 1974.

On April 11, 1974, a Joint Motion for further extension of time was filed by Georgia Power Company on its behalf and at the verbal request and concurrence of counsel for the Georgia Municipal Association, the Municipal Interveners, Georgia Electric Membership Corporation, Mitchell County Electric Membership Corporation, and Commission Staff Counsel. On April 12, 1974, a response was filed by the Water, Light and Sinking Fund Commission of the City of Dalton, Georgia, stating that Dalton is agreeable to the extension.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of Testimony and Exhibits, April 26, 1974.
Service of Rebuttal Evidence by Company, May 15, 1974.
Prehearing Conference and Commencement of Hearing, June 19, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9866 Filed 4-30-74;8:45 am]

[Docket No. RP73-23]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Substitute Gas Tariff Sheets

APRIL 24, 1974.

Take notice that on April 15, 1974, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two substitute gas tariff sheets to its Federal Power Commission Gas Tariff, Original Volume No. 1. The sheets are designated Substitute Fifth Revised Sheet No. 3-A (superseding Substitute Fourth Revised Sheet No. 3-A) and Substitute Fifth Revised Sheet No. 18-B (superseding Substitute Fourth Revised Sheet No. 18-B).

Lawrenceburg states that this filing is being made to reflect a revised change in Lawrenceburg's cost of gas purchased from Texas Gas Transmission Corporation (Texas Gas), that revised change being necessary to eliminate portions of rate increases due solely to increases in the Louisiana Severance Tax. Lawrenceburg further states that it is presently awaiting Commission approval of a substitute tariff sheet filing to become effective as of April 1, 1974.

Lawrenceburg requests waiver of the Commission Regulations to permit these sheets to become effective May 1, 1974; and Lawrenceburg states that copies of this filing have been mailed to its two wholesale customers, Cincinnati Gas & Electric Company and Lawrenceburg Gas Company, and also to the two interested state commissions, Public Service Commission of Indiana and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 74-9868; Filed 4-30-74; 8:45 am]

[Docket No. RP73-23]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Substitute Gas Tariff Sheets

APRIL 24, 1974.

Take notice that on April 12, 1974, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two substitute gas tariff sheets to its Federal Power Commission Gas Tariff Original Volume No. 1. The sheets are designated Substitute Fourth Revised Sheet No. 3-A (superseding Third Revised Sheet No. 3-A) and Substitute Fourth Revised Sheet No. 18-B (superseding Third Revised Sheet No. 18-B).

Lawrenceburg states that on February 26, 1974, it filed Fourth Revised Sheets Nos. 3-A and 18-B to reflect a change in the cost of gas being purchased by Lawrenceburg from Texas Gas Transmission Corporation (Texas Gas), and it requested that these sheets be given an effective date of April 1, 1974. On March 29, 1974, the Federal Power Commission issued an order which rejected proposed PGA increases by some 13 natural gas pipeline companies who had filed PGA increases which reflected increases in the Louisiana severance tax. Texas Gas, being one of these 13 companies, then filed (on April 1, 1974) an "Amendment to Motion to Place Tariff Sheets in Effect" which proposed substitute gas tariff rates in place of those previously proposed. According to Lawrenceburg, it is now filing to track the Texas Gas substitute rates.

Lawrenceburg requests waiver of the Commission's Regulations to permit its substitute tariff sheets to become effective April 1, 1974; and Lawrenceburg states that copies of its filing have been mailed to its two wholesale customers, Lawrenceburg Gas Company and Cincinnati Gas and Electric Company, and also to the two interested state commissions, Public Service Commission of Indiana and The Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9969 Filed 4-30-74;8:45 am]

[Docket No. E-8725]

LOUISVILLE GAS AND ELECTRIC CO.

Changes in Rates and Charges

APRIL 24, 1974.

Take notice that Louisville Gas and Electric Company (LG&E) on April 10, 1974, tendered for filing a new rate schedule for fuel conservation power and energy, available to any electric utility system with which LG&E is interconnected. LG&E requests that the Commission assign an effective date to the proposed rate schedule not later than the date of receipt of this filing.

LG&E states that the proposed rate schedule is identical in all significant respects to LG&E's Rate Schedule FPC No. 21 which provides for bilateral exchange of Fuel Conservation Power and Energy under an interconnection agreement with Public Service Company of Indiana, except that FPC No. 2 is bilateral whereas the proposed new rate schedule is available to any interconnected utility. LG&E also states that the rates and charges included in the proposed rate schedule are those basically agreed to by the conferees and by the Commission Staff in conferences held in Docket No. E-8589. A copy of the proposed rate schedule has been mailed to each of the utilities with which LG&E has a physical interconnection.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 3, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9867 Filed 4-30-74;8:45 am]

[Docket No. E-8617]

MISSOURI PUBLIC SERVICE CO.

Filing of Revised Fuel Adjustment Clause

APRIL 25, 1974.

Take notice that on April 11, 1974, Missouri Public Service Company (Missouri) tendered for filing a revised fuel adjustment clause intended to be in conformance with the Opinion in Commission Order No. 633. This filing is in pur-

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ported compliance with the Commission's letter to Missouri dated March 29, 1974, wherein the Commission requested Missouri to submit a revised fuel adjustment clause.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 3, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9971 Filed 4-30-74;8:45 am]

[Docket No. RP72-149]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of Revised Sheets

APRIL 24, 1974.

Take notice that on April 9, 1974 Mississippi River Transmission Corporation (Mississippi) tendered for filing the following tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1:

1. Substitute Seventeenth Revised Sheet No. 3A
2. Substitute Alternate Seventeenth Revised Sheet No. 3A

Mississippi states that the said Substitute Sheets are to replace the Revised Sheets filed on March 1, 1974. According to Mississippi, the Substitute Sheets reflect the rates proposed to be filed by United Gas Pipe Line Company after Commission order issued March 29, 1974 in Docket No. RP74-20 rejected United's amended filing without prejudice to refiling.

Mississippi requests that Substitute Alternate Seventeenth Revised Sheet No. 3A, which reflects the amended higher rates of United, be effective April 6, 1974, if the Commission allows United's amended higher rates to become effective on that date. In the event the Commission requires the originally filed rates of United to become effective, Mississippi requests the Substitute Seventeenth Revised Sheet No. 3A become effective April 6, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9972 Filed 4-30-74;8:45 am]

[Docket No. RP71-125]

NATURAL GAS PIPELINE COMPANY OF AMERICA

PGA Filing To Track a Pipeline Supplier Rate Increase

APRIL 24, 1974.

Take notice that on April 9, 1974, Natural Gas Pipeline Company of America (Natural), tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1.

Natural states that the filing is made pursuant to the provisions of section 18 of Natural's FPC Gas Tariff, Third Revised Volume No. 1. Natural further states that such changes are intended to track increased cost of gas purchased from Great Lakes Gas Transmission Company (Great Lakes), a pipeline supplier to Natural. Natural proposes an effective date of May 18, 1974 to coincide with the effective date of Great Lakes' PGA Adjustment.

Natural asserts that copies of this filing are being mailed to its jurisdictional customers and to the interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9973 Filed 4-30-74;8:45 am]

[Docket No. RP71-125]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Purchased Gas Cost Adjustment to Rates and Charges

APRIL 24, 1974.

Take notice that Natural Gas Pipeline Company of America (Natural) on April 16, 1974, tendered for filing Fifteenth Revised Sheet No. 5 to its FPC Gas Tariff, Third Revised Volume No. 1 to become effective June 1, 1974, pursuant to the Purchased Gas Cost Adjustment Clause (PGA Clause) provision contained in its Tariff. Natural states that it proposes to increase its rates to reflect both a current purchased gas cost increase for producer suppliers and an amount to recover deferred purchased gas costs accumulated during the six months ended February 28, 1974.

Natural states that the PGA unit adjustment was added to alternative tariff sheets one reflecting Base Rates currently effective on motion in Docket No. RP73-110 and subject to refund and the other reflects the proposed interim Base Rates set out in Natural's Stipulation and Agreement, which is presently before the Commission in Docket No. RP73-110, adjusted by the advance payment unit adjustment filed to be effective June 1, 1974 which was submitted concurrently under separate cover.

Finally, Natural states that copies of the filing have been mailed to each of the company's jurisdictional customers and interested State's commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washnigton, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9974 Filed 4-30-74;8:45 am]

[Docket No. RP73-110]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Rate Changes Pursuant to Settlement Agreement

APRIL 24, 1974.

Take notice that on April 16, 1974, Natural Gas Pipeline Company of America (Natural) tendered for filing Fifteenth Revised Sheet No. 5 of its FPC Gas Tariff, Third Revised Volume No. 1 to be effective June 1, 1974.

Natural states that the purpose of the filing is to give effect to a unit adjustment to reflect the cost of service effect for Advance Payments for Gas expended by April 11, 1974 that are in excess of the amount for such expenditures stipulated in its proposed Stipulation and Agreement at Docket No. RP73-110 presently pending before the Commission. The unit adjustment was added to the Base Rates set out in Appendix A of the proposed Stipulation and Agreement.

Natural further states that it recognizes that the rate changes as filed will not become effective unless the Commission approves the proposed Stipulation and Agreement and that the filing was made to comply with the 45 day notice of rate change as required by the settlement agreement.

Natural states that copies of the filing have been mailed to its customers and all interested parties to Docket No. RP73-110.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishng to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9976 Filed 4-30-74;8:45 am]

[Docket No. E-7690]

NEPOOL EXECUTIVE COMMITTEE

Filing Supplemental Agreement

APRIL 23, 1974.

Take notice that on March 4, 1974 the NEPOOL Executive Committee filed the Agreement Setting Out Supplemental NEPOOL Understandings (Supplemental Agreement), dated April 2, 1973, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

Among the major provisions of the Supplemental Agreement are: (a) support of legislation pending in the Massachusetts legislature which would provide municipalities with revenue bonding authority; (b) provision for designation of future consumer-owned units as pool-planned; (c) agreement by the parties not to oppose development of several designated generating units; (d) agreement to seek termination Docket E-7690, and not to intervene in or otherwise oppose any NEPOOL matter pending before the Commission as of the date of the Supplemental Agreement; (e) outline of procedures for electing members to the NEPOOL Executive Committee; (f) agreement by Central Maine Power Company to offer participation in two designated generating units; (g) outline of procedures for using pool transmission facilities to transfer entitlements in units which are not pool-planned; and (h) agreement to support an amendment to NEPOOL giving the NEPOOL Management Committee additional power with respect to the planning of pool transmission facilities.

Any person desiring to be heard or to make any protest with reference to the Supplemental Agreement should on or before May 15, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Supplemental Agreement, submitted on March 4, 1974, is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9869 Filed 4-30-74;8:45 am]

[Docket No. E-7690]

NEPOOL POWER POOL AGREEMENT

Extension of Time and Postponement of Prehearing Conference

APRIL 23, 1974.

On April 18, 1974, Staff Counsel filed a motion for an extension of the time for filing its testimony and postponement of the prehearing conference fixed by notice issued March 13, 1974, as amended by notice issued April 8, 1974 in the above-designated matter. The motion states the Municipal Interveners and the NEPOOL Executive Committee concur in the motion.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Testimony and Exhibits by Staff, May 10, 1974.
Prehearing Conference, May 29, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9870 Filed 4-30-74;8:45 am]

[Docket No. E-8708]

NEW YORK POWER POOL AND THE NEPOOL PARTICIPANTS

Notice of Agreement

APRIL 23, 1974.

Take notice that on March 29, 1974, the member electric corporations of the New York Power Pool (NYPP) filed on behalf of themselves and the NEPOOL Participants the document entitled "Agreement for Transportation of Energy for Fuel Conservation Purposes Between the Member Systems of the New York Power Pool and the NEPOOL Participants" (Agreement). The Agreement deals only with the transmission and delivery of electric energy generated by facilities which are not oil fired at certain offpeak hours and on Sunday. The Agreement sets alternative rates for such service as follows: 1) the charge by the NYPP members for the fuel conservation energy delivered to the NEPOOL participants shall equal the charge to NYPP for its purchase of such energy, to which shall be added a charge of $.001 per kwh for energy transmitted to the NEPOOL participants, plus the cost of losses incurred within the NYPP system in transmitting such energy: or 2) NEPOOL may elect that the amount of energy to be delivered shall be the amount received by NYPP for delivery, less the amount of losses incurred within the NYPP system in transmitting that energy. In the event of such election the charge to NEPOOL shall equal the charge to NYPP for the total energy purchased by NYPP for the account of NEPOOL, plus 1 mill per kwh of such energy purchased by NYPP.

No existing facilities will be modified nor will any new facilities be installed in order to supply service under the Agreement. The parties to the Agreement request that the Commission waive its notice requirements and establish January 1, 1974 as the effective date of the Agreement. The termination date of the Agreement is December 31, 1974.

Any person desiring to be heard or to make any protest with reference to the Agreement should on or before May 15, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related therein must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Agreement is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9868 Filed 4-30-74;8:45 am]

[Docket No. RP73-8]

NORTH PENN GAS CO.

Proposed Change in Rates

APRIL 25, 1974.

Take notice that on April 12, 1974, North Penn Gas Company (North Penn) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. North Penn states that the revised tariff sheet contains a surcharge credit of 0.750¢ and will decrease revenues for the six-month effective period by $38,000.

North Penn states that the surcharge credit is to reflect the effect of amounts accumulated in the unrecovered purchased gas account for the six-month period September 1, 1973 through February 28, 1974 and that it has included refunds from suppliers and accruals for rate reductions which have accumulated on its books over the past years. North Penn proposes that the surcharge credit be in effect for the six-month period

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June 1, 1974 through November 30, 1974.

Copies of this filing, North Penn asserts, have been mailed to each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 3, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9977 Filed 4-30-74;8:45 am]

[Docket No. E-8733]

OTTER TAIL POWER CO.

Supplement to Rate Schedule

APRIL 24, 1974.

Take notice that on April 8, 1974, Otter Tail Power Company (Otter Tail) tendered for filing additional material to its Scheduling and Dispatching Agreement, dated December 31, 1970, between Otter Tail and Cooperative Power Association, designated as its Rate Schedule FPC No. 154. Otter Tail states the additional material is submitted in connection with the annual review of payments to be made by Cooperative Power Association.

Otter Tail requests an effective date of April 1, 1974, for billing under the revised determination of costs from this material.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 2, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9978 Filed 4-30-74;8:45 am]

[Docket No. E-8732]

PACIFIC POWER AND LIGHT CO.

Notice of Application

APRIL 25, 1974.

Take notice that on April 10, 1974, Pacific Power and Light Company (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the Regulations issued thereunder, a June 14, 1973 Interconnection Agreement with the Bureau of Indian Affairs, Flathead Irrigation Project, providing for the establishment of a 34.5 Kv interconnection upon the East Shore of Flathead Lake to be used on a standby basis for emergency or planned outages by either party. Service is reciprocal in nature with no assessment of charges therefor, and replacement of delivered energy is to be made by mutual agreement. The Interconnection Agreement is requested to have an effective date of June 14, 1973.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9979 Filed 4-30-74;8:45 am]

[Docket No. E-7317]

PENNSYLVANIA POWER CO.

Further Extension of Time and Postponement of Hearing

APRIL 23, 1974.

On April 18, 1974, the Borough of Ellwood City filed a motion for a further extension of the procedural dates fixed by notice issued February 6, 1974, in the above-designated matter. The motion states that neither Pennsylvania Power Company nor Staff Counsel objects to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of Rebuttal Evidence by Ellwood City, May 22, 1974.
Hearing, June 19, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9871 Filed 4-30-74;8:45 am]

[Docket No. E-8570]

SOUTHERN CALIFORNIA EDISON CO.

Order Denying Rehearing and Clarifying Prior Order

APRIL 25, 1974.

On March 29, 1974, the Cities of Anaheim, Riverside, Banning, Colton, and Azuza, California (Cities) applied for rehearing of our order issued March 1, 1974, in Docket No. E-8570 insofar as that order denied Cities' Motion to reject Southern California Edison Company's (Edison) proposed rate increase and failed to address the "price squeeze" issues raised by Cities. Edison filed on March 29, 1974, a request that we clarify our March 1, 1974, order to clearly state that the interventions granted therein are limited to issues other than the "price-squeeze" and other anticompetitive issues. Edison also petitions for rehearing of that order if the Commission did not, in fact, intend to so limit the issues. In the March 1, 1974, order we suspended Edison's proposed changes in rates for five months, rejected their proposed fuel clause, set the matter for hearing, and permitted interventions filed by Cities, Anza Electric Cooperative, Inc. (Anza) and Arizona Public Service Company.

In their "Protest, Petition to Intervene, and Motion to Reject", filed on January 25, 1974, Cities alleged that Edison's rate filing has placed Cities in a "price squeeze" situation and that the investigation in this proceeding should include an inquiry into whether Edison is using its rate increase in an attempt to drive the Cities out of business in violation of the antitrust laws of the United States and of the Federal Power Act. In its Application of Rehearing, Cities request that those issues be included as part of the subject matter of this proceeding. It should be noted that in Anza's Petition to Intervene, Protest and Motion to Reject, filed on January 23, 1974, the "price squeeze" issue was also raised.

Edison states in its March 29, 1974, petition that the "price squeeze" issue and the other anticompetitive allegations are beyond the scope of the Commission's jurisdiction, and therefore the interventions in this proceeding should be limited to exclude these issues.

Upon review of these petitions, we believe that the participation of Cities and Anza in this proceeding should be limited to matters other than the "price squeeze" and general anticompetitive allegations raised by their petitions to intervene.

The allegations of "price squeeze" would require that this Commission relate Edison's wholesale rates to its rates for direct industrial service. However, as we stated in our order of September 21, 1973, in Southern California Edison Company, Docket No. E-8176, Edison's retail rate level and the accounting and rate making principles underlying that rate level are under the sole jurisdiction of the appropriate state regulatory agency, and to base wholesale rates upon direct industrial rates would be limiting our jurisdiction on the basis of events and regulatory affairs over which we have no control. The Federal Power Act does not grant us the authority to fashion relief on the basis of retail rates. The interest of Cities and Anza in just and reasonable wholesale rates is fully protected by the participation we are granting them as hereinafter ordered.

As a separate basis for their intervention—apart from the "price squeeze" issue—Cities makes an allegation that Edison has filed "onerous rate increases, one after another", in an attempt to drive the Cities out of business, and that this constitutes anticompetitive behavior on the part of Edison. In support of this argument Cities states that the instant rate increase was filed less than four months after a 50 percent rate increase went into effect (subject to refund), bringing the combined rate increase to Cities to 84 percent. We believe that the evidentiary hearings established by the Commission will best determine whether the proposed increases in rates are in fact justified. The Federal Power Act clearly gives Edison the right to file rate increase proposals with the Commission. The mere fact of exercising this right, standing alone, does not give support to an allegation of anticompetitive behavior, and we believe that Cities' participation in this proceeding should be limited to exclude this issue.

Finally, in their Application for Rehearing, Cities contend that Edison's rate filing fails to comply with the requirements of the Commission's Regulations and that therefore the rate filing should be rejected. However, as we stated in our March 1, 1974, order, Edison filed the necessary information to cure the deficiency in its rate filing on February 4, 1974. It is within our discretion to determine whether the filing requirements under the Commission's Regulations have been met, and Cities have presented no additional information subsequent to our March 1, 1974 order to indicate that Edison has not met these requirements. Accordingly, there is no justification for rejecting Edison's rate filing.

The Commission finds:

(1) The Application of Cities for Rehearing raises no facts or points of law which would provide an appropriate basis for modifying the Commission's order of March 1, 1974, to include as part of the subject matter of this proceeding questions of "price squeeze" or anticompetitive behavior or to reject Edison's rate filing for failure to comply with the Commission's Regulations.

(2) Good cause exists to clarify the Commission's March 1, 1974, order as requested in Edison, to avoid the implication that by granting the interventions of Cities and Anza we are broadening the issues in this proceeding to include questions of "price squeeze" or anticompetitive behavior.

The Commission orders:

(A) The application of Cities for Rehearing, filed on March 29, 1974, is denied.

(B) The Commission's order of March 1, 1974, in this docket is hereby clarified to limit the participation of Cities and Anza to matters affecting rights and interests specifically set forth in their respective petitions to intervene other than the alleged industrial price squeeze and anticompetitive behavior on the part of Edison.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9980 Filed 4-30-74;8:45 am]

[Docket No. RP74-51]

SOUTHWEST GAS CORP.

Extension of Time and Postponement of Prehearing Conference and Hearing

APRIL 23, 1974.

On April 9, 1974, Staff Counsel filed a motion for an extension of the procedural dates fixed by Order issued January 18, 1974, in the above-designated matter. The motion states that all parties concur in the motion.

Upon consideration notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, May 24, 1974.
Service of Intervener's Testimony, June 13, 1974.
Service of Company's Rebuttal Testimony, June 28, 1974.
Prehearing Conference, July 9, 1974 (10 a.m. e.d.t.).
Hearing, July 16, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9872 Filed 4-30-74;8:45 am]

[Project 372]

SOUTHERN CALIFORNIA EDISON CO.

Additional Land Withdrawal

APRIL 24, 1974.

On February 9, 1970, Southern California Edison Company filed map Exhibit K, sheets 1 through 6 (FPC Nos. 372-54 through -59) as part of an application for a new license for Project No. 372 (Lower Tule River Project). This application includes 4.60 acres of United States lands not previously withdrawn for the project.

Therefore, in accordance with section 24 of the Federal Power Act (41 Stat. 1063), as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in Project No. 372 and are from said date of filing of the application for a new license reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or by the Congress:

MOUNT DIABLO MERIDIAN, CALIFORNIA

1. All portions of the W½SW¼ of sec. 28, T. 20 S., R. 30 E., lying within the project spillway water course area shown on map Exhibit K sheet No. 2 (FPC No. 372-55) comprising 3.8 acres.

2. All portions of the N½SW¼SW¼ of sec. 29 and the SE¼SE¼ of sec. 30, T. 20 S., R. 30 E., lying within the project access road area shown on map Exhibit K sheet No. 3 (FPC No. 372-56) comprising 0.8 acre.

A re-examination of project areas shown on FPC map Nos. 372-18, -19, and -20, filed January 20, 1940, and FPC map Nos. 372-47 and -48 filed September 28, 1961, disclosed that the Commission's notice of modification of land withdrawal dated December 5, 1961, should have stated that the area of United States lands then withdrawn for Project No. 372 totaled 185.02 acres rather than 187.99 acres.

The application for new license includes the 185.02 acres previously withdrawn. The total area reserved for Project No. 372 is now 189.62 acres all of which lie within the Sequoia National Forest.

Copies of the aforementioned maps have been transmitted to the Geological Survey and Bureau of Land Management, Department of the Interior, and the Forest Service, Department of Agriculture.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-9873 Filed 4-30-74;8:45 am]

[Docket No. RP73-113]

TENNESSEE GAS PIPELINE CO.

Order Granting Staff Appeal and Establishing Procedural Dates

APRIL 25, 1974.

By our order of December 27, 1973, we required intervenors in this proceeding to serve their testimony and exhibits on all issues by April 26, 1974, and Tennessee Gas Pipeline Company (Tennessee) to serve any rebuttal evidence by May 24, 1974. The Commission's staff now appeals from the Presiding Administrative Law Judge's ruling at the prehearing conference granting Tennessee's motion to limit the scope of the direct and rebuttal evidence to be served by April 26 and May 24, 1974, and the hearing presently scheduled for June 4, 1974, to merely the issue of cost of service.

The Presiding Judge's ruling was apparently made in the hope that not requiring filing of the intervenors' direct and Tennessee's rebuttal testimony and exhibits on non-cost of service issues would afford these parties flexibility which would improve the chances of successful informal negotiations.

While we laud any effort to speed this proceeding to an appropriate conclusion, we believe that the ruling in question will have the opposite effect. The ruling removes the time pressure of a hearing and possible adverse decision which normally is an important element in most successful informal settlement negotiations. Additionally, the statements by the parties in the prehearing conference record indicate that the positions of the parties are not close enough for any flex-

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ibility afforded by the Presiding Judge's ruling to have an appreciable beneficial effect on settlement negotiations.

We believe that efficiency in this proceeding is better served by requiring all the evidence and rebuttal evidence of all parties to be presented in advance of a hearing not limited to just cost of service. By proceeding in this manner, the methodology used and results sought by each party will be known and will provide the basis for discussion. No delays will be required for service of additional testimony in the event that informal settlement negotiations do not prove successful.

The parties may have relied on the Presiding Judge's ruling and may now have difficulty preparing and filing their testimony and exhibits in accordance with the schedule presented in our order of December 27, 1973. The present procedural dates should, therefore, be extended two weeks.

The Commission further finds:

(1) Extraordinary circumstances exist where prompt decision by the Commission is necessary to prevent detriment to the public interest.

(2) It is necessary and proper in the administration of the Natural Gas Act that service of all testimony and exhibits by intervenors and all rebuttal evidence by Tennessee be accomplished before commencement of a hearing on all issues in this proceeding.

The Commission orders:

(A) The appeal of staff is granted.

(B) Testimony and exhibits on all issues in this proceeding will be served by intervenors and Tennessee in accordance with the following schedule:

Service of testimony and exhibits by intervenors, May 10, 1974.
Service of Rebuttal Evidence by Tennessee, June 7, 1974.
Hearing, June 18, 1974 (10 a.m., e.d.t.).

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-9982 Filed 4-30-74;8:45 am]

[Docket No. CI74-290]

TERRA RESOURCES, INC., ET AL.

Order Establishing Procedures, Setting Hearing Date, and Granting Intervention

APRIL 25, 1974.

On November 5, 1973, Terra Resources, Inc. (Operator), et al.[2] (Applicant) filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), from the Ten Miles Draw Field, Sweetwater County, Wyoming, all as more fully set forth in the application in this proceeding.

Applicant requests issuance of a certificate limited to a term of one year with pre-granted abandonment authorization. Applicant proposes to sell approximately 90,000 Mcf of gas per month from acreage in Wyoming (Rocky Mountain Area) at 40.0 cents per Mcf at 14.65 psia,[3] subject to upward and downward Btu adjustment. The proposed rate is in excess of the area rate of 23.75 cents per Mcf established by Commission Opinion No. 658. This application was noticed on November 12, 1973, and was published in the FEDERAL REGISTER on November 19, 1973 (38 FR 31872). On November 23, 1973, CIG filed a timely petition to intervene in support of the application.

In Order No. 431,[1] issued April 15, 1971, the Commission stated, inter alia, that it would consider limited term certificates with pre-granted abandonment, if the pipeline were to demonstrate an emergency need for such supply. To date, CIG has not been granted approval to purchase an emergency supply of gas under Order No. 431. Accordingly, in the hearing hereafter established, CIG will be required to produce evidence (1) that it has an emergency need for such supply; (2) that it has made every reasonable effort to fill its storage field during the injection season; and (3) that, if curtailment is necessary on its system, it has filed a plan for such curtailment pursuant to Section 4 of the Natural Gas Act. The proposed sale represents a sizeable volume of gas potentially available to the interstate market and due to the Nation's present shortfall of natural gas supplies, it is of critical importance that emergency supplies of gas be made available to interstate pipelines that show a need for such short-term supplies in order to avoid disruption of service to their customers. While the need for such supplies is manifest where the short-fall of supplies renders service on a pipeline's system potentially unreliable, we nevertheless must meet our statutory obligations and determine whether the proposed rate to be paid for such supply is required by the public convenience and necessity criteria of the Act. Atlantic Refining Company v. Public Service Commission of New York, 360 U.S. 378 (1960). We will therefore set this matter for hearing to establish an evidentiary record on the issues heretofore discussed. In that hearing, the record should contain evidence on whether the rate to be paid is "no higher than necessary to elicit the supply of gas" into the interstate market (Nueces Industrial Gas Company, 45 FPC 1224, 1227 (1971)), and whether that rate is in line with the prevailing normal intrastate market (Atlantic Richfield Company, ------ FPC ------, Docket No. CI73-691, order issued August 30, 1973, and ------ FPC ------, order granting rehearing issued October 10, 1973). The normal market price for this supply cannot be established merely on the basis of prices agreed to by affiliates. The price evidence must be based on arm's length negotiations and competitive bidding through non-affiliated entities. Further, Applicant and CIG should produce evidence to show that the public interest requires the certificate of Applicant's proposed sale as requested, including evidence relating to the effect, if any, on the public interest considerations of a short-term sale of gas produced from acreage involving advance payments by the pipeline buyer to the producer-seller and the inclusion of a take-or-pay provision in the contract for the short term sale.

The Commission finds:

(1) Good cause exists to set for formal hearing the application for a limited term certificate herein.

(2) The intervention of Colorado Interstate Gas Company in this proceeding may be in the public interest.

The Commission orders:

(A) The application for limited term certificate for sale of natural gas filed in Docket No. CI74-290 is hereby set for hearing.

(B) CIG is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 7, 15 and 16 and the Commission's rules and regulations under that Act, a public hearing shall be held commencing May 16, 1974, at 10 a.m. (e.d.t.) at a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(D) Applicant and all parties supporting the application shall, on or before May 3, 1974, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-9981 Filed 4-30-74;8:45 am]

[Dockets Nos. RP71-130, RP72-58]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

APRIL 24, 1974.

Take notice that Texas Eastern Transmission Corporation, on April 10, 1974, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1. The proposed changes consist of First Revised Sheet Nos. 17 and 24 and Second Revised Sheet No. 92N. Texas Eastern is amending Section 12.4 contained in Sheet No. 92N of its General Terms and Conditions, which currently provides for the elimination of demand charge adjustment credits when curtailment of deliveries is due to a shortage of gas on Texas Eastern's system. First Revised Sheet Nos. 17 and 24 delete references to Section 12.4 from Section 6.2 and Section 7.2, respectively, of Texas Eastern's DCQ and GS Rate Schedules.

Texas Eastern proposes to change its method of handling demand charge credits, which occur during periods of shortage of gas supply, from the current plan to a plan whereby a Demand Charge Adjustment Commodity Surcharge will be applied each month to the quantity of gas purchased that month by each Buyer. This Surcharge will be determined each month there is a curtailment due to a shortage of gas supply for the DCQ and GS Rate Schedules based on the total demand charge adjustment credits for that month and the total quantity of gas actually delivered under each Rate Schedule. Texas Eastern believes that this method is more equitable and will be more acceptable to its customers.

Texas Eastern states that copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 3, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-9983 Filed 4-30-74;8:45 am]

[Docket No. CP74-265]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

APRIL 24, 1974.

Take notice that on April 11, 1974, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-265 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of one additional point of delivery from Consolidated Gas Supply Corporation (Consolidated) to Applicant under the transportation agreement between the two companies dated September 12, 1972, authorized by the certificate issued August 23, 1972 (48 FPC 380), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By the order issued August 23, 1972, Applicant was authorized to transport for Consolidated on a firm basis 61,327 Mcf per day for the period November 1, 1973, through October 31, 1974, and 71,548 Mcf per day for the period November 1, 1974, through October 31, 1992. Transportation volumes are delivered at a point in Clinton County, Pennsylvania, at an existing point of interconnection between the natural gas pipe line systems of the two companies, under the terms of Applicant's Rate Schedule X-56.

Applicant herein requests authority to operate one additional delivery point at the interconnection of the pipeline systems of Applicant and Texas Eastern Transmission Corporation (Texas Eastern) near Ragley, Beauregard Parish, Louisiana, pursuant to an agreement between Applicant and Consolidated, dated February 19, 1974.

Applicant states that Consolidated has agreed to pay $10,000 toward the cost of the Ragley installation, representing an approximation of the proportionate capacity of the installation which will be required to deliver Consolidated's volumes of natural gas into Transco's pipeline system for transportation.

Applicant further states that the addition of the proposed delivery point will assist Consolidated by making additional volumes of natural gas available to use the firm capacity committed to Consolidated under the September 12, 1972, transportation agreement.

The following applications, either on file with the Commission or to be filed, are acknowledged by Applicant to relate to the instant proposal:

(1) A joint application of Texas Eastern and Applicant in Docket No. CP74-224 for authorization to construct and operate the Ragley interconnection as an additional point of exchange between their systems.

(2) A joint application of Texas Eastern and Consolidated in Docket No. CP74-229 for authorization to exchange gas in order that Consolidated's Choudrant Field, Lincoln Parish, Louisiana, gas can be delivered to Applicant at Ragley for transportation.

(3) An application in Docket No. CI74-495 by CNG Producing Company (CNG) for authorization to sell its Choudrant Field gas production to Consolidated.

(4) An application to be filed by Texas Eastern for authorization to transport Consolidated's Block 118 Field, East Cameron Area, offshore Louisiana, gas from a point of delivery by Consolidated to Texas Eastern in Block 235, West Cameron Area, offshore Louisiana, to Ragley for transportation by Applicant.

(5) A joint application in Docket No. CP74-249 of Applicant, Consolidated, and Columbia Gulf Transmission Company for authorization to construct and operate 4.46 miles of pipeline connecting the Block 118 Field to Texas Eastern's Line in Block 235, West Cameron Area. Authorization is also sought for a transportation service for Texas Eastern, which has gas available from the Block 118 Field, and for an exchange between Consolidated and Columbia Gulf which will result in additional Block 118 Field gas being made available to Consolidated for eventual delivery at Ragley for transportation to Consolidated in Pennsylvania.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-9874 Filed 4-30-74;8:45 am]

[1] Commissioner Brooke, dissenting, would deny the appeal.

[2] Terra Resources, Inc. filed the application on behalf of itself and the working interest of Reading & Bates Oil and Gas Company in the several properties covered therein.

[3] Equivalent to a rate of 41.0236 cents per Mcf at the area pressure measurement base of 15.025 psia.

[1] Section 2.70 of the Commission's General Policy and Interpretations.

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[Docket No. E-7721]

UPPER PENINSULA POWER CO.

Application for Amendment of Order Authorizing the Acquisition of Securities

APRIL 24, 1974.

Take notice that on April 16, 1974, Upper Peninsula Power Company (Applicant) filed an application with the Federal Power Commission seeking authority, pursuant to section 203 of the Federal Power Act, to acquire Common (voting) Stock, at $10 par value of Upper Peninsula Generating Company in lieu of the Class A (non-voting) Stock, also $10 par value, which Applicant was authorized to acquire by a Commission order issued on July 21, 1972. The shares of Class A (non-voting) Stock already owned by Applicant would be changed to an equal number of shares of Common (voting) Stock. Approval of the application would authorize Applicant to acquire up to a total of 194,190 shares of the Common Stock of Generating Company.

The Applicant is incorporated under the laws of the State of Michigan, with its principal business office at Houghton, Michigan. The Applicant operates certain electric facilities in the upper peninsula of Michigan, supplying electrical energy in a service area of 4,460 square miles with a population of approximately 140,000.

Upper Peninsula Generating Company (Generating Company) is engaged in the generation of eletcric energy for sale to its owners, the Applicant and Cliffs Electric Service Company (Service Company). The Applicant is the owner of record of 50 percent of the outstanding Common Stock of Generating Company and 15.6 percent of the outstanding Class A Stock; the other 50 percent of the Common Stock and 84.4 percent of the outstanding Class A Stock is owned by Service Company.

The proceeds obtained by Generating Company from the issuance and sale of Common (voting) Stock in lieu of Class A (non-voting) Stock will be used for the same construction purposes as the proceeds from the issuance and sale of the Class A (non-voting) Stock have been and are currently being used, namely, the installation of air pollution control devices for each of Generating Company's four existing generating units at Presque Isle, Michigan, and the construction of two additional generating units.

According to the Applicant, the conversion of Class A (non-voting) Stock to Common Stock will facilitate the rearrangement of the ownership and power entitlements of both the Applicant and Service Company in Generating Company. The rearrangement of the ownership interests in Generating Company's units will result in a reduction in Upper Peninsula Power Company's current obligation to provide equity capital to Generating Company. In addition, Cleveland-Cliffs Iron Company, the parent company of Service Company, will be able to avail itself of the investment tax credit and accelerated depreciation with respect to the two generating units currently under construction by Generating Company.

Any person desiring to be heard or to protest with reference to said application should on or before May 17, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9875 Filed 4-30-74;8:45 am]

[Docket No. E-8158]

WISCONSIN POWER AND LIGHT CO.

Filing of Settlement Agreement

APRIL 24, 1974.

Take notice that on April 18, 1974, Wisconsin Power and Light Company (Wisconsin) tendered for filing an executed settlement agreement dated April 15, 1974, between Wisconsin and the Adams-Marquette Rural Electric Cooperative, Central Wisconsin Electric Cooperative, Columbus Rural Electric Cooperative, Rock County Electric Cooperative, and Waushara Electric Cooperative (Cooperatives) and the Municipal Wholesale Power Group (Municipals) in the above referenced docket. All parties support the proposed settlement. If the settlement agreement is approved by the Commission, it would resolve all outstanding issues in this proceeding.

Any person desiring to be heard or to protest said agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such comments should be filed on or before May 10, 1974. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9984 Filed 4-30-74;8:45 am]

[Power Site Classification No. 28; Project Nos. 889, 2310; Docket No. DA-1113]

U.S. FOREST SERVICE, CALIF.

Finding, Determination and Order

APRIL 25, 1974.

In order to effectuate a proposed land exchange under the Act of March 20, 1922 (42 Stat. 465) as amended, the Forest Service United States Department of Agriculture, has requested the outright revocation of the power withdrawals affecting the following described lands or a determination under section 24 of the Federal Power Act with respect thereto:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 17 N., R. 10 E.,
Sec. 34, lots 1 and 2, SE¼NE¼, SW¼NW¼, N½N½SE¼NW¼, NE¼SE¼, and NW¼SE¼.
(Approximately 201.02 acres.)

In addition, the Geological Survey has recommended the restoration of the E½NE¼SW¼ of said sec. 34 (approximately 20 acres).

The lands lie near the Pacific Gas and Electric Company's Deer Creek Powerhouse on the South Fork of Deer Creek, a tributary of the Yuba River, about 9 miles east of Nevada City, Nevada County, California. The 201.02 acres in in the Forest Service request are within the Tahoe National Forest.

The lands are variously withdrawn in Power Site Classification No. 28 and pursuant to the filings of applications for Project Nos. 889 and 2310. All of these withdrawals were made to protect certain facilities of Pacific's Deer Creek hydroelectric development which was originally licensed as Project No. 889 and subsequently made part of Project No. 2310. The existing project facilities are adequately protected by the withdrawal for Project No. 2310 and further use of the lands in connection with hydroelectric development is not contemplated. Under the circumstances, Power Site Classification No. 28 and the withdrawal for Project No. 889 no longer serve a useful purpose insofar as they pertain to the subject lands.

Those portions of the subject lands described below are variously withdrawn pursuant to the filing on March 16, 1962, of an application for license and on July 3, 1969, of an application for amendment of license for Project No. 2310. These lands are shown on map Exhibit K-19 (FPC No. 2310-119) filed July 3, 1969.

1. All portions of lot 2, the E½NE¼SW¼, and NW¼SE¼ lying within 20 feet of the center line of the right-of-way for the 60 kv Deer Creek-Drum transmission line (approximately 1.95 acres).

2. All portions of the SE¼NE¼ lying within 37.5 feet of the center line of the right-of-way for the Deer Creek penstock and associated telephone line (approximately 2.96 acres).

3. All portions of the SW¼NW¼, E½NE¼SW¼, and NW¼SE¼ lying within 20 feet of the center line of the right-of-way for the powerhouse access road (approximately 1.99 acres).

The Commission's general determination of April 17, 1922, (2nd Ann. FPC Rept. 128) is applicable to the 1.95 acres withdrawn for transmission line purposes, consequently, further action on our part is not necessary with respect to this part of the withdrawal for Project No. 2310.

Restoration of the remaining 4.95 acres withdrawn for Project No. 2310, subject to the provisions of section 24 of the Federal Power Act, would not adversely affect the power value of the lands since the project Licensee would have the right to occupy and use the lands for project purposes.

The Commission finds:

It has no objection to cancellation of Power Site Classification No. 28 insofar as it pertains to the subject lands.

The Commission determines:

That the power value of the aforesaid 4.95 acres withdrawn for Project No. 2310 for penstock, telephone line, and access road purposes, will not be injured or destroyed by restoration to location, entry or selection under the public land laws, subject to the provisions of section 24 of the Federal Power Act.

The Commission orders:

The withdrawal pursuant to the application for Project No. 889 is hereby vacated insofar as it pertains to the subject lands.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-9985 Filed 4-30-74;8:45 am]

FEDERAL RESERVE SYSTEM

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document issued jointly by the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve System, concerning a joint call for report of condition of insured banks, see FR Doc. 74-9857, *supra*.

GENERAL SERVICES ADMINISTRATION

NATIONAL HEALTH RESOURCES ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, P.L. 92-463, that the next meeting of the Presidentially - appointed National Health Resources Advisory Committee will be held May 23-24, 1974, in Williamsburg, Virginia.

The subject of the meeting will be Current Concepts for Preparedness. Officials of various Federal Government agencies concerned with emergency medical preparedness will participate in the meeting.

The meeting will be held in the North Ballroom of the Williamsburg Lodge from 9 a.m. to 5 p.m. on May 23, and from 9 a.m. to 3 p.m. on May 24, 1974. The meeting will be open to the public.

In order to assure adequate seating arrangements, persons planning to attend are asked to notify Fredrick J. Haase, Staff Director, telephone 202/343-4541, as soon as possible.

Dated: April 24, 1974.

LESLIE W. BRAY, Jr.,
Director, Office of Preparedness, General Services Administration.

[FR Doc.74-9907 Filed 4-30-74;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F-217]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires April 30, 1974.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F-66	Mar. 12, 1970	Delegation of authority to Secretary of Defense—regulatory proceeding.
F-157	Sept. 18, 1972	Do.

ARTHUR F. SAMPSON,
Administrator of General Services.

APRIL 24, 1974.

[FR Doc.74-9906 Filed 4-30-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

REQUESTS FOR CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 26, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529).

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, Domestic Trading Losses Relating to Crude Oil Produced by Foreign Affiliates, Form BE 578(P), Quarterly, Hulett, U.S. Corp. having foreign affiliates producing crude oil.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Blood Donor Questionnaire, Form FDA BOB 0401, Single time, Wann, American Nat. Red Cross registered blood donors.

Center for Disease Control, Supervisory Effects on Worker Safety in Roofing Industry, Form CDC NIOSH 0422, Single time, Eliett, Foremen in roofing industry.

Health Services Administration, Navajo Health Authority Study of Health Care Services, Form HSAOA 0424, Single time, HRP/Collins, Navajo Indians Health care providers.

National Institutes of Health, Twin Response Evaluation Study Interview Form, Form OS #NIH-H6-15, Single time, Collins, Adult male twins.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of the Census, Selected Heating and Cooking Equipment, Form MA-34N, Annual, Weiner, Manufacturing establishments.

Departmental, 1974 First Quarter Report, Form FDI 102, Single time, Hulett, U.S. direct investors.

EXTENSIONS

ACTION

Response Form, Form PC 1419, Occasional, Evinger (x), Peace Corps applicant.

Foster Grandparents Program Quarterly Program Activity, Report and Semi-annual Program Profile, Form ----, Quarterly, Lowry, Grantees.

DEPARTMENT OF COMMERCE

Bureau of the Census, 1972 Survey of Business Ownership, Form MB-2, MB-2A, Single time, Hulett/Peterson/Sunderhauf, Minority owned businesses.

Bureau of East-West Trade, Notification of Delivery Verification Requirement, Form IA 863, Occasional, Evinger (x).

Request for Authorization to Distribute U.S.-Origin Commodities Stocked Abroad to Approved Customers, Form DIB 624P, Occasional, Evinger (x).

Multiple Transactions Statement by Customer of Distributor of U.S. Commodities Stocked Abroad, Form FC 243, Annual, Evinger (x).

Samples Exported to Country Groups W and Y, Form EAR 376.2, Occasional, Evinger (x).

Bureau of Economic Analysis, Ocean Freight Revenues and Expenses United States Carriers, Form BE 30, Quarterly, Evinger/Caywood (x).

American Airline Operators Foreign Revenues and Expenses, Form BE 37, Quarterly, Evinger/Caywood (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-10072 Filed 4-30-74;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

NOTICE OF OPEN MEETING

APRIL 25, 1974.

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting, May 13 and 14, 1974. Both sessions will convene at 9 a.m. in Room 6802 of the Department of Commerce Building, 15th and Constitution Avenue NW., Washington, D.C. Both sessions will be open to the public.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science and other appropriate areas, was established by Congress by Public Law 92-125, on August 16, 1971. Its duties are to (1) undertake a continuing

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review of the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before June 30 of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration.

The purpose of the meeting will be to review and further refine draft material for the Committee's annual report. In addition, however, three briefings are scheduled:

MONDAY, THE 13TH

9 to 10 a.m.—Briefing on the progress of the Senate Ocean Policy Study authorized by Senate Resolution 222.

10 to 11 a.m.—Briefing on the status of the National Fisheries Plan being prepared by the National Marine Fisheries Service, NOAA.

TUESDAY, THE 14TH

9 to 10 a.m.—Briefing on the resources and activities of the Environmental Data Service, NOAA, with particular reference to support of Coastal Zone management.

The public will be admitted to the extent of the seating available on a first come, first served basis. Questions from the public will be permitted during specific periods announced by the Chairman. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration or oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 967-3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.74-9876 Filed 4-30-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR SOCIAL PSYCHOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Social Psychology to be held at 9 a.m. on May 16, 1974, in Room 621 and May 17, 1974, in Room 203 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

Individuals requiring further information about this Panel may contact Dr. Roland Radloff, Program Director, Social Psychology Program, Room 205, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 24, 1974.

[FR Doc.74-9972 Filed 4-30-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

APRIL 24, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 25, 1974 through May 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-9986 Filed 4-30-74;8:45 am]

[812-3620]

EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES AND SEPARATE ACCOUNTS A AND E

Application for Exemption

APRIL 25, 1974.

Notice is hereby given that The Equitable Life Assurance Society of the United States, 1285 Avenue of the Americas, New York, New York 10019 ("Equitable"), a mutual life insurance company organized under the laws of the State of New York, and Separate Account A of The Equitable Life Assurance Society of the United States ("Separate Account A") and Separate Account E of The Equitable Life Assurance Society of the United States ("Separate Account E") (the "Accounts"), open-end diversified management investment companies registered under the Act, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order declaring that Malcolm Smith shall not be deemed an interested person of Separate Account E as that term is defined under section 2(a)(19) of the Act by reason of his status as a limited partner of Gibbons, Green and Rice ("Gibbons") which is registered as a broker-dealer under the Securities Exchange Act of 1934 ("1934 Act") and for an order of exemption to the extent noted below from the provisions of sections 17(f), 22(d), 27(a)(3) and 27(c)(2) of the Act and Rule 17f-2 thereunder. (Equitable, Separate Account A and Separate Account E are herein collectively called "Applicants".) All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Equitable and Separate Account A are currently offering immediate variable annuity contracts which are purchased by a single payment and funded through Separate Account A and deferred variable annuity contracts which are purchased by single or periodic payments ("Current Deferred Contracts") and funded through Separate Account A or Equitable's general account ("fixed accumulation") or divided between them, as specified by the contract owner. Owners of Current Deferred Contracts funding HR-10 plans and tax-sheltered annuity arrangements will have the right to have their Contracts amended in order to transfer their fixed accumulations under such Contracts from Equitable's general account to Separate Account E without charge.

Applicants propose to offer two new types of deferred variable annuity contracts which will be called "Flexible Retirement Annuity Contracts" ("Deferred New Contracts"). Under one type, periodic payments may be made to Equitable annually or more frequently (the "Periodic Payment New Contracts") until the contract retirement date, the date the contract is surrendered for its cash value or the annuitant's prior death, whichever first occurs. Under the other, a single payment may be made to Equitable (the "Single Payment New Contracts").

The Current Deferred Contracts will no longer be offered on and after the date the Deferred New Contracts are first offered. The Current Deferred Contracts which are outstanding at that time will continue in effect and periodic payments thereunder may continue to be made.

The right to purchase a Single Payment New Contract without a sales charge when the purchase is under an insurance policy or annuity contract issued by Equitable is referred to herein as the "Purchase Right". No state premium tax is applicable to a purchase under the Purchase Right nor does an Equitable agent receive a commission on such a purchase.

After the deductions are made, the net payment is allocated to Separate Account A, Separate Account E or divided between the Accounts, in accordance with the Owner's instructions.

Section 2(a)(19) of the Act includes in the definition of "interested person" of an investment company, its investment adviser or principal underwriter, any broker or dealer registered under the 1934 Act or any affiliated person of such a broker or dealer. Section 2(a)(3) of the Act provides in part that an "affiliated person" of another person includes any partner of such other person.

Mr. Smith is a Member of the Committee of each of the Accounts. The application states that Gibbons is engaged primarily in the business of arranging the purchase and sale of businesses and does not do any business, directly or indirectly, with Applicants. Equitable acts as investment adviser of, and may be deemed to be a principal underwriter for, each of the Accounts. It therefore appears that Mr. Smith by virtue of being an "affiliated person" of Gibbons, a registered broker-dealer, is an "interested person" of Applicants.

Applicants assert that Mr. Smith should not be deemed an "interested person" of Applicants solely because of his affiliation with Gibbons which does not hold itself out to the public as engaging, and it does not engage, in the brokerage business, the business of a dealer in securities or in the underwriting business. Gibbons does not hold cash, securities or other property for customers' accounts and does not do, and will not do, any business, directly or indirectly, with Applicants. Applicants further state that Mr. Smith's affiliation with Gibbons does not and will not impair his independence in acting on behalf of the Accounts and persons having interest therein, and that the requested exemption for Separate Account E is therefore consistent with the provisions of section 6(c).

Section 17(f) provides, in pertinent part, that a registered management investment company may maintain its securities and other investments in its own custody in accordance with such rules, regulations and orders as may be adopted by the Commission for the protection of investors. Rule 17f-2 requires, in pertinent part, that such assets be placed in a bank or other company whose functions and physical facilities are supervised by Federal or state authorities, and that access to the securities be limited to certain specified persons. The application states that the vault maintained by Equitable is comparable to the vaults in most banks and that Equitable keeps therein securities and other investments of a value in excess of $6 billion. Furthermore, as required by Equitable's By-Laws, the Finance Committee of Equitable's Board of Directors has prescribed rules and requirements to govern the custody, safekeeping and control of all securities owned or held by Equitable. In this connection, Equitable is subject to extensive supervision and regulation by the Insurance Department of the State of New York which conducts periodic examinations of the functions, physical facilities and all other aspects of Equitable's business. Accordingly, Equitable and Separate Account E request exemption from the provisions of section 17(f) and Rule 17f-2 (1) to permit custody of the securities and other investments of Separate Account E to be held by Equitable in Equitable's own vault, except for such securities and investments as may be kept in the custody of a bank having the qualifications described in section 26(a)(1) of the Act and (ii) to permit, in connection with Separate Account E, access to such vault and to the securities and similar investments in the custody of such bank, by the representative of State Insurance Departments and by not more than 20 officers or other responsible employees of Equitable, in accordance with the procedures set forth in the application.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter shall sell any redeemable security to the public except at a current offering price described in the prospectus.

Section 27(a)(3) provides, in pertinent part, that the amount of sales load deducted from any one of the first twelve monthly payments under a periodic payment plan certificate may not exceed proportionately the amount deducted from any other such payment, and the amount deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment.

The application states that the elimination of the sales charge when a Single Payment New Contract is purchased under an insurance or annuity contract issued by Equitable will not arbitrarily or unfairly discriminate between different categories of investors. The application further states that the elimination of the sales charge for the Single Payment New Contract recognizes that a sales charge has already been paid in connection with the issuance of the original policy or contract. The elimination of the sales charge would be available only when a Single Payment Contract is purchased under an insurance policy or an annuity contract issued by Equitable. Similarly, sales and administrative charges have already been paid on amounts which are transferred from the fixed accumulation to Separate Account E under a Current Deferred Contract containing such a transfer right. Applicants consider that the imposition of a sales charge under such circumstances, and an administrative charge in the case of a transfer to Separate Account E under a Current Deferred Contract, would be unwarranted and not in the public interest or consistent with the protection of investors.

The Deferred New Contracts are subject to the deductions set forth below for sales and administrative expenses and for any applicable state premium tax.

Contract	Percent of payment: For sales expenses	Percent of payment: For administrative expenses
Periodic payment new contract:		
First five contract year payments (per contract year):		
First $7,500	6.75	1.75
Next $17,500	5.50	1.00
Excess over $25,000	5.00	.50
Sixth and later contract year payments (per contract year):		
First $7,500	5.25	1.75
Next $17,500	5.00	1.00
Excess over $25,000	4.50	.50
Single payment new contract:		
First $7,500	5.50	2.50
Excess over $7,500	5.50	
Purchase under insurance policy or annuity contract issued by Equitable		2.50

The application states that the variation in the rates of deductions based on the amounts paid under a Periodic Payment New Contract and as between payments made in the first five contract years and in the sixth and later contract years reflect the sales costs associated with such Contracts. Applicant's state that such variations in the rate of deductions are designed to meet ordinary and necessary variations in the distribution system, do not result in large initial sales loads and do not arbitrarily or unfairly discriminate between different categories of investors. The combined charge for sales and administrative expenses with respect to any payment during the term of the contract does not exceed 8.5 percent. Applicants request that an exemption from the provisions of section 22(d) and 27(a)(3) be granted so that the Contracts may be offered and sold as proposed.

Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments (other than the sales load) are deposited with a bank or trustee or custodian and held under an indenture or agreement containing, in substance, the provisions required by sections 26(a)(2) and (3) for trust indentures of a unit investment trust. Section 26(a)(2) requires that the trustee or custodian segregate and hold in trust all securities and cash of the trust, places certain restrictions on charges which may be made against the trust income and corpus, and excludes from expenses which the trustee or custodian may charge against the trust any payments to the depositor or principal underwriter, other than a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookeeping and other administrative services delegated to them by the trustee or custodian. Section 26(a)(3) governs the circumstances under which the trustee or custodian may resign.

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Applicants represent that the dangers against which sections 27(c)(2) and 26(a) are directed are not present here in view of the manner in which the Contracts will be administered. In addition, Equitable is subject to extensive supervision and regulation by the New York Insurance Department which conducts comprehensive periodic examinations of all aspects of Equitable's business, including the handling of policyholders' funds. Under New York law, Equitable cannot abandon its obligations to contract owners or annuitants until they have been fully discharged. In this connection, although the terms of the Contracts will legally insulate the reserves and other contract liabilities with respect to the Accounts from liabilities arising out of any other business Equitable may conduct. Equitable's assets will be available to protect against any loss in the event of any misfeasance or mishandling of payments. Furthermore, Equitable maintains a general blanket bond of $1,000,000 under which each of its officers, employees and commission agents is covered. The bond has a $50,000 deductible clause which in effect makes Equitable a self-insurer for the first $50,000 of any loss.

In the foregoing circumstances, it is submitted that compliance with the requirements of section 27(c)(2) is not necessary for the protection of investors and, therefore, Applicants request that an exemption from section 27(c)(2) be granted.

Applicants have consented that the exemption from section 27(c)(2) be subject to the following conditions: (1) That charges under the Deferred New Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved to the Commission for such purposes; and (2) that the payment of sums and charges out of the assets in the Accounts shall not be deemed to be exempted from regulation by the Commission by reason of this order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of the assets in the Accounts other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 16, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–9987 Filed 4–30–74;8:45 am]

[812–3615]

FML GROWTH FUND, INC., ET AL

Filing of Application for Order

APRIL 24, 1974.

Notice is hereby given that FML Growth Fund, Inc., Fidelity Mutual Life Building, Philadelphia, Pennsylvania 19110 ("Growth") and FML Equity Income Fund, Inc. ("Equity"), both registered under the Investment Company Act of 1940 ("Act") as diversified, open-end, management investment companies (collectively the "Funds"), and The Fidelity Mutual Life Insurance Company ("Fidelity"), (collectively the "Applicants"), have filed an application pursuant to section 17(b) of the Act for exemption from the provisions of section 17(a) of the Act to permit the proposed merger of Growth into Equity and pursuant to section 17(d) of the Act and Rule 17d–1 thereunder to permit the participation in such proposed merger to the extent noted below of Fidelity and FML Funds Advisory Company (the "Adviser"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Funds were organized by Fidelity under Delaware law and, at present, are relatively small in terms of net asset value. Growth's investment objective is long-term growth of capital with any income generated as incidental to this objective. Equity primarily seeks current income with capital appreciation as a secondary investment objective. Each of the Funds employ the Adviser, a wholly-owned subsidiary of Fidelity, as its investment adviser pursuant to substantially similar investment advisory agreements. The boards of directors of the Funds are identical and the same individuals, all employees of Fidelity, serve as officers of both Funds. As of March 12, 1974, Fidelity owned approximately 17% of the outstanding common stock of Growth and approximately 35% of the outstanding common stock of Equity which it intends to vote in favor of the proposed merger.

The Funds have entered into an Agreement and Plan of Merger, dated March 7, 1974 (the "Agreement"), providing for the merger of Growth and Equity with Equity being the surviving corporation (the "Surviving Corporation"). The Agreement contains a proposal to amend Equity's Certificate of Incorporation to state an investment objective of seeking growth of capital and income which, if approved, will permit the Surviving Corporation to hold all of Growth's present investments including those that have growth potential but do not produce current income. The Agreement also contains a proposal to change Equity's name to Combined Shares, Inc. Approval of the Agreement by the shareholders of each of the Funds is a condition precedent to the consummation of the proposed transaction. It is also a condition precedent, to the obligation of each of the Funds to effect the merger, that an opinion of counsel be obtained to the effect that the proposed transaction will constitute a tax-free reorganization and that no gain or loss will be recognized by either of the Funds or their shareholders as a result of the transaction. If the Agreement is approved by the requisite majority of outstanding voting securities of each of the Funds, it is anticipated that the proposed merger will take place on or before June 30, 1974.

On the effective date of the merger, each of the Funds will distribute to its respective shareholders a dividend consisting of substantially all of its undistributed net income. On such date, each outstanding share of Growth's common stock will be converted into a number of shares of the Surviving Corporation calculated on the basis of the relative net asset values of each of the Funds determined at the same point in time.

As of December 31, 1973, Growth and Equity had, respectively, net assets of $4,636,661 and $3,150,828 and had net unrealized depreciation on the securities in their portfolios in the amounts of $103,202 and $382,334, respectively. In addition, Growth had a tax loss carry forward of $1,636,696. No adjustment in the bases of exchange will be made as a result of such tax losses or net unrealized depreciation. If the merger had taken place on December 31, 1973, the shareholders of Growth would have received 477,615 shares or 59.5 percent of the Surviving Corporation and the shareholders of Equity 324,601 shares or the remaining 40.5 percent.

Applicants state that because the boards of directors and officers of the Funds are identical and because Fidelity holds the power to vote 5 percent or more of the outstanding voting securities of each of the Funds, the Funds might be deemed to be under "common control" and each of the Applicants and the Adviser might be deemed to be an "affiliated person" of each of the others under the definition of "affiliated person" set forth in section 2(a)(3) of the Act.

Section 17(a) of the Act, in pertinent part, provides that it is unlawful for any affiliated person of a registered investment company knowingly to sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer. Pursuant to section 17(b) of the Act, the Commission, upon application, may grant an exemption from such prohibition after finding that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

Applicants assert that the proposed transaction is fair and reasonable and does not involve overreaching on the part of any person concerned. It is represented that Growth's management has found it increasingly difficult for the fund to achieve its investment objective of long-term growth and that Growth's management believes the proposed flexible investment objectives of the Surviving Corporation will offer a better opportunity under current market conditions for Growth's shareholders to achieve their investment goals. Applicants state that both Funds are currently too small to permit their efficient, economical operation. Applicants represent that merging the Funds will increase the asset base over which to spread corporate expenses such as auditing, legal, printing, reporting and administrative costs, and, thereby, create certain savings in per share operating costs which will benefit the shareholders of the Surviving Corporation equally. Applicants estimate that such cost savings from the operation of a single fund rather than separate funds incurring separate costs will amount to approximately $7,000 in 1974.

Applicants submit that the proposed transaction is consistent with the investment policy of each of the Funds and the general purposes of the Act. Applicants state that the investment objectives of both Funds will be identical on the effective date of the merger by virtue of the fact that shareholders of both Funds will have voted to change their objectives by approving the Agreement which incorporates the change of Equity's investment objective from that of seeking current income and secondarily capital appreciation to that of stressing both policies equally. Applicants state that, although the present investment objectives of the Funds are different, as of December 31, 1973, one-half of the issues held in Equity's portfolio were also present in the portfolio of Growth.

Rule 17d–1 adopted by the Commission under section 17(d) of the Act provides that "no affiliated person of * * * any registered investment company * * * and no affiliated person of such a person * * * acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit sharing plan in which such registered company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless an application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order entered prior to the submission of such plan or modification to security holders for approval, or prior to such adoption or modification." It also provides that in passing upon such application the Commission will consider whether the participation of such registered company in such joint enterprise, joint arrangement, or profit sharing plan on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants. Applicants submit that because each of the Funds and the Adviser anticipate cost savings as a consequence of the proposed merger and will each pay a portion of the expenses of the merger, as more fully described below, the proposed merger may be deemed a joint enterprise, joint arrangement, or profit sharing plan as defined by Rule 17d–1.

Applicants represent that, as a result of the proposed merger, the Adviser may benefit from savings resulting from the elimination of certain presently duplicated recordkeeping expenses and from a reduction in the expense ratio of the Surviving Corporation below the 1½ percent expense limitation imposed on the Adviser which in the past has necessitated a reimbursement to Equity of a portion of the Adviser's fees. It is estimated that the Adviser's savings would have been approximately $4,650 in 1973 if the Funds had been operated on a combined basis which savings would have permitted the Adviser to operate at a profit for the first time since its incorporation. Applicants further represent that the Adviser has agreed to pay 75 percent of all incremental expenses of the merger over and above the customary expenses which each of the Funds and the Adviser would incur in holding an annual meeting not involving a merger proposal. The remaining 25 percent of such incremental expenses will be borne by the Surviving Corporation. The incremental expenses of the merger are estimated at $15,000. Applicants assert that the allocation of the incremental expenses of the merger is fair and reasonable and free from overreaching in that the anticipated savings to the Funds will exceed those to the Adviser who, nevertheless, will bear 75 percent of the costs. Applicants further assert that the proposed merger is on an identical basis as between the Funds and, to the extent the Adviser's participation in the proposed merger is different from that of the Funds, the Fund's participation is not less advantageous than that of the Adviser.

Notice is further given that any interested person may, not later than May 13, 1974, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following May 13, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–9988 Filed 4–30–74;8:45 am]

[812–3614]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO.

Filing of Application for Order

APRIL 25, 1974.

Notice is hereby given that Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, Massachusetts 01111 ("Applicant"), a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, has filed an application pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d–1 thereunder for an order of the Commission permitting Applicant to engage in the transaction described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

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Pursuant to an order of the Commission issued on August 19, 1971 (Investment Company Act Release No. 6690), Applicant, which acts as investment adviser for MassMutual Corporate Investors, Inc. (the "Fund"), a non-diversified, closed-end management investment company registered under the Act, is permitted to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement, and to exercise warrants, conversion privileges and other rights at the same time as the Fund. This order is subject to several conditions, one of which requires, generally, that purchases at direct placement of securities which would be consistent with the investment policies of the Fund be shared equally by Applicant and the Fund. Another condition is that once Applicant and the Fund have acquired interests in an issuer, neither Applicant nor the Fund, unless otherwise permitted by order of the Commission, may acquire any further interest in such issuer other than interests in all respects identical.

Applicant wishes to purchase at direct placement $2,000,000 in principal amount of a new issue of 9% Senior Notes due 1994 (the "Senior Notes") of Royal Industries, Inc. ("Royal"). Applicant expects that the total amount of the Senior Notes to be issued will be $10,000,000 in principal amount and that Aetna Life Insurance Company ("Aetna"), as lead lender, will acquire $8,000,000 in principal amount of the Senior Notes. Since Applicant and the Fund each presently hold $4,000,000 in principal amount of 7¾ percent Subordinated Notes due 1987 (the "Subordinated Notes") issued by Royal on October 24, 1972 with warrants to purchase 80,000 shares each of the common stock of Royal prior to September 1, 1987 (collectively referred to as the "Outstanding Royal Securities"), Applicant requests an order permitting it to acquire the Senior Notes.

Under section 17(d) of the Act, and Rule 17d–1 thereunder, an affiliated person of a registered investment company may not effect any transaction in which such investment company is a joint participant without the permission of the Commission. In passing upon applications for orders granting such permission, the Commission is required to consider whether the participation of the investment company in such joint enterprises or arrangement on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

Applicant submits that its proposed acquisition of the Senior Notes is not disadvantageous to the Fund and is consistent with the provisions, policies, and purposes of the Act. The Fund's investment policy restricts it to investment in long-term obligations and preferred stocks which are purchased directly from issuers and which have "equity features." Applicant represents that the Senior Notes, whose terms were primarily determined by Royal and Aetna, lack such equity features and are therefore not appropriate investments for the Fund. Applicants state that the proposed sale of the Senior Notes to it is in no way connected with the sale of the Outstanding Royal Securities to the Fund and Applicant in 1972 other than by virtue of the fact that Applicant established a relationship with Royal at that time through the acquisition of the Outstanding Royal Securities. Although the Subordinated Notes will be subordinate in right of payment to the Senior Notes, Applicant submits that the proposed investment by it will not be disadvantageous to the Fund because Royal will be receiving significant new value in consideration for issuing the Senior Notes. Applicants further submit that, if it does not purchase the Senior Notes, Royal will not be restricted from selling the Senior Notes to other investors to which the Subordinated Notes held by the Fund would also be subordinate in right of payment.

Applicant believes that the Senior Notes would be an attractive investment and submit that it will be disadvantaged if not permitted to acquire a portion of the Senior Notes. Accordingly, Applicant requests an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting it to acquire $2,000,000 in principal amount of the Senior Notes, notwithstanding the prior ownership by it and the Fund of the Outstanding Royal Securities.

Notice is further given that any interested person may, not later than May 13, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address set forth above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following May 13, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-9989 Filed 4-30-74;8:45 am]

[70-5399]

MIDDLE SOUTH UTILITIES, INC., ET AL.

Proposed Acquisition by Holding Company of Common Stock of Newly Organized System Generating Company; Acquisition of Generating Facilities; and Related Agreements for Financing, Construction and Operation

APRIL 25, 1974.

Notice is hereby given that Middle South Utilities, Inc., Two Eighty Park Avenue, New York, New York 10017 ("MSU"), a registered holding company, its principal operating subsidiaries, Arkansas Power & Light Company ("AP&L"), Arkansas-Missouri Power & Light Company ("ARK-MO"), Louisiana Power & Light Company ("LP&L"), Mississippi Power & Light Company ("MP&L") and New Orleans Public Service, Inc. ("NOPSI"), and Middle South Energy Inc. ("MSEI"), a newly organized company within the middle South System, have filed a joint application-declaration, and amendments thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9, 10 and 12 of the Act and Rules 50(a)(2) and (a)(3) thereunder as applicable to the proposed transactions, which are summarized below.

MSU and its principal operating subsidiary companies ("System operating companies") currently have in effect plans to install substantial amounts of new generating capacity to satisfy anticipated power needs of existing and expected new customers. As a part of the overall system planning program, MP&L has undertaken the engineering and related work in connection with the Grand Gulf Project ("Project"), a two-unit nuclear generating plant with an aggregate capacity of 2,500,000 KW, to be constructed at Port Gibson, Mississippi, in MP&L's operating area, at an estimated cost of $1,227 million. Estimated completion dates for the two units are 1980 and 1982, respectively.

It is stated that, because of the size and cost of the Project relative to MP&L's current installed capability and total capitalization, it is not considered feasible for MP&L to undertake the ownership and financing of the Project. Accordingly, MSEI was organized in February, 1974 as an Arkansas corporation, to be a wholly-owned subsidiary of MSU and to construct and own electric generating facilities for the MSU System. It will operate solely as an electric generating company supplying power to the System operating companies under the terms and conditions of a System Agreement dated April 16, 1973 (described below) among the System operating companies. MSEI's authorized capital consists of 1,000,000 shares of no-par-value common stock. As an initial step in its activities MSEI will acquire the Project from MP&L as more fully described below.

Specifically, MSU, MSEI, and the System operating companies propose the following transactions: (i) MSEI will issue and sell, and MSU will purchase, 40,000 shares of MSEI's no-par common stock for a total cash consideration of $40 million; (ii) MSEI will acquire the Project from MP&L pursuant to a sales agreement ("Sales Agreement"); (iii) MSEI and MSU will enter into an agreement ("Capital Funds Agreement"), pursuant to which MSU will undertake to furnish or cause to be furnished to MSEI sufficient capital for construction of the Project and for related purposes; (iv) MSEI and the System operating companies will enter into an agreement ("Availability Agreement") whereby, in consideration of MSEI's commitments thereunder, the System operating companies will (if payments under the System Agreement are insufficient) undertake to pay MSEI's total operating expenses as defined and shut-down costs, if any, associated with the Project; (v) MSEI will enter into an agreement ("Bank Loan Agreement") with Manufacturers Hanover Trust Company, as agent, and other banks ("Banks"), pursuant to which MSEI will borrow up to $447 million on its unsecured promissory notes ("Notes"); and (vi) MSEI and MP&L will enter into an agreement ("Service Agreement") whereby MP&L will undertake to design, construct, operate and maintain the Project in behalf of MSEI.

The Capital Funds Agreement provides that in addition to the initial $40 million of MSEI's common stock to be purchased by MSU, the latter will thereafter supply or cause to be supplied to MSEI (i) such amounts of equity capital as may be required from time to time in order to maintain the equity portion of MSEI's total capitalization at not less than 35%, and (ii) such amounts of capital as MSEI may require to complete construction of the Project, to permit activation and commercial operation thereof, and to pay in full at maturity all notes issued by MSEI under the Bank Loan Agreement. Total capitalization is defined as outstanding capital stocks of all classes plus surplus plus outstanding indebtedness for borrowed money (other than short-term debt) including revenue bond financing, if any, with respect to pollution control facilities relating to the Project. MSEI will apply the proceeds from these sources to acquire the Project from MP&L and to the construction and related costs of the Project.

Under the Bank Loan Agreement, the Banks named therein will make loans to MSEI from time to time as needed through December 31, 1979 up to the aggregate commitment of $447 million. The related Notes will be dated as of the date of issuance; will mature December 31, 1982; and will bear interest through March 31, 1977 (payable quarterly) at a rate per annum equal to 110 percent of the sum of ¼ of 1 percent plus the commercial loan rate ("MHTCO rate") charged by Manufacturers Hanover Trust Company from time to time on 90-day loans to its most responsible and substantial corporate customers, and thereafter at an annual rate equal to 110 percent of the sum of ½ of 1 percent plus the MHTCO rate. MSEI will pay quarterly a commitment fee of ½ of 1 percent on the daily average unused portion of the Banks' commitments; and MSEI may at any time cancel or reduce such commitments. MSEI may at its option prepay the Notes in whole or in part without penalty at any time. The Bank Loan Agreement further provides, among other things, (1) corresponding to the provision contained in the Capital Funds Agreement, that MSEI shall maintain its equity capital at not less than 35 percent of total capitalization; and (2) that initial loans to be made by the Banks are conditioned upon the prior sale of MSEI's common stock to MSU for the cash consideration of $40 million, and MSEI's acquisition of the Project from MP&L. It is expected that compensating balances of 5 percent will be required in connection with borrowings from the Banks. On that basis, and assuming an MHTCO rate of 10 percent per annum, MSEI's effective cost of the borrowings would be 11.87% through March 31, 1977, and 12.15 percent thereafter (exclusive of commitment fees). The proposed sale of $40 million of common stock and the $447 million bank commitment comprise the initial phase of MSEI's financing program in respect to the Project. Additional financing will be required to meet construction costs and to refund the Bank loans. Any such additional financing will be the subject of further filings with the Commission.

The Sales Agreement between MSEI and MP&L provides that MSEI shall pay, at closing, an amount equal to the original cost of each item of the Project property as reflected on MP&L's books of account at the date of closing. At December 31, 1973, such amount was approximately $19.6 million. The property may be conveyed subject to the lien of MP&L's Mortgage and Deed of Trust, dated September 1, 1944, as supplemented, but MP&L is obligated to secure a release therefrom within 60 days of the closing date. MP&L will also undertake to have transferred to MSEI all regulatory consents and approvals heretofore obtained by MP&L in respect of the Project.

Under the existing System Agreement, previously referred to, the System operating companies which have excess generating capacity sell the available excess to the other System operating companies. The purchasers agree to pay to the sellers sufficient amounts to cover the latters' related operating expenses, fixed charges on debt and a fair rate of return (presently 11.6%) on related equity investment. The proposed Availability Agreement provides, among other things, that MSEI will join in the System Agreement on or before the date when Unit No. 1 of the Project is placed in operation; that MSEI will make available to such operating companies under the terms of the System Agreement all power available at the Project and at such other generating units as may be designated by the parties; and that for MSEI's undertakings pursuant to the Availability Agreement, the System operating companies will pay to MSEI, commencing with the earlier of December 31, 1982 (whether or not the Project is then in operation) or the date on which the first unit is placed in operation, such amounts as (when added to any amounts received by MSEI under the System Agreement or otherwise) will be at least equal to (1) MSEI's operating expenses as defined (including such expenses as might be incurred by MSEI for maintenance and surveillance of either or both units in the event of permanent shut-down thereof), (2) interest charges, and (3) depreciation at the rate of 3.65% per annum. Amounts, if any, payable under the Availability Agreement will be apportioned among the System operating companies in accordance with the terms of that agreement. It is stated that the existing System Agreement has been accepted for filing with the Federal Power Commission (Docket No. E–8130); that the FPC has ordered the revision of certain service schedules thereunder; and that in order to permit participation by MSEI in the System Agreement, an amendment thereto will be filed with the FPC at an appropriate time.

The Service Agreement between MSEI and MP&L provides that following MSEI's acquisition of the Project pursuant to the Sales Agreement, MP&L will proceed with the design, construction, maintenance, and operation of the Project on behalf of MSEI. In that connection, MP&L will furnish all required labor and material in compliance with applicable standards, including those of the Atomic Energy Commission ("AEC"); will amend its application for construction permits previously filed with the AEC (Docket Nos. 50–416 and 50–417) to include MSEI as an applicant; and will use its best efforts to assist MSEI in obtaining such other consents and permits as may be necessary. MSEI will be directly liable for and pay directly the costs and expenses of non-affiliated persons, and will reimburse MP&L monthly the latter's actual costs (including overheads) for the next succeeding month of rendering such services, determined in accordance with regulatory authority having jurisdiction. The Service Agreement will be terminable by either party upon notice.

A statement of the fees and expenses (including fees of the Banks' special counsel) paid or incurred or to be paid or incurred will be supplied by amendment. It is stated that in addition to the Federal Power Commission's jurisdiction over MSEI's participation in the System Agreement, previously mentioned, a certificate of public convenience and necessity must be obtained from the Mississippi Public Service Commission prior to commencement of construction of the Project, and that MP&L and MSEI must obtain appropriate waivers, licenses, consents or permits of the AEC in connection with construction and operation thereof. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 20, 1974, request in writing that a hearing be held on such matter, stating

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the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-9990 Filed 4-30-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

SMALL BUSINESS INVESTMENT COMPANY NATIONAL ADVISORY COUNCIL

Notice of Meeting

A meeting of the Small Business Administration Small Business Investment Company (SBIC) National Advisory Council will be held at 9 a.m. Tuesday, May 7, 1974, in Room 1003 of the SBA Central Office Building, 1441 L Street, NW., Washington, D.C. There will be a discussion of regulations and other matters which members may bring up.

JOHN JAMESON,
Director, Office of Advisory Councils, Small Business Administration.

APRIL 26, 1974

[FR Doc.74-10003 Filed 4-30-74;8:45 am]

TARIFF COMMISSION

[332-70]

DRAFT CONVERSION OF TSUS INTO FORMAT OF BRUSSELS TARIFF NOMENCLATURE

Notice of Hearings on Certain Chapters

The U.S. Tariff Commission hereby gives notice that preliminary drafts of the following chapters of the Tariff Schedules of the United States (TSUS) converted to the format of the Brussels Tariff Nomenclature (BTN):

Chapter 6: Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage.
Chapter 9: Coffee, tea, maté and spices.
Chapter 18: Cocoa and cocoa preparations.
Chapter 24: Tobacco.
Chapter 67: Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair; fans.
Chapter 73: Iron and steel and articles thereof.
Chapter 94: Furniture and parts thereof; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings.
Chapter 95: Articles and manufactures of carving or molding material.
Chapter 98: Miscellaneous manufactured articles.
Chapter 99: Works of art, collectors' pieces, and antiques.

are being released today and that public hearings thereon will begin at 10 a.m., e.d.t., on May 28, 1974, in the Hearing Room of the Tariff Commission Building, 8th and E Streets, NW., Washington, D.C. The purpose of this hearing is to obtain the comments and views of interested parties on the preliminary draft conversion.

Requests to appear at the hearings on these chapters must be filed in writing with the Secretary of the Commission not later than May 20, 1974. Parties who have properly entered an appearance by this date will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after May 20, 1974. Any person who fails to receive such notification by May 23, 1974, should immediately communicate with the Office of the Secretary of the Commission.

In its public notice issued March 8, 1974, regarding hearings on other chapters of the draft converted schedules (39 FR 9719 of March 13, 1974) interested parties were notified regarding the rules governing the conduct of the hearings, and the submission of written statements. The Commission's notice of March 8, 1974, applies to the hearings on the chapters being released today to the extent that it is applicable.

As each of the chapters is completed and released, copies thereof are made available for public inspection at the offices of the Commission in Washington, D.C. and New York, N.Y.; at all field offices of the Department of Commerce. The locations of these offices are listed in the notice of March 8, 1974.

Issued: April 26, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-9955 Filed 4-30-74;8:45 am]

[337-L-71]

CERTAIN EYE TESTING INSTRUMENTS INCORPORATING REFRACTIVE PRINCIPLES

Extension of Time for Submission of Information

Notice is hereby given that the date for submission of information by interested persons which is pertinent to the preliminary inquiry instituted in the above matter has been extended from April 26, 1974 to June 26, 1974.

Issued: April 26, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-9956 Filed 4-30-74;8:45 am]

[337-35]

CERTAIN HYDRAULIC TAPPETS

Notice of Investigation, Scope of Investigation and Hearing

A complaint was filed with the Tariff Commission on May 10, 1973, on behalf of Johnson Products, Inc., of Muskegon, Michigan, alleging unfair methods of competition and unfair acts in the importation and sales of certain hydraulic tappets which are embraced within the claims of U.S. Patents No. 3,358,658, Re. 25,974 and Re. 25,154. On July 29, 1973, Johnson Products, Inc., filed a supplemental complaint alleging unfair methods of competition and unfair acts in the importation and sale of certain hydraulic tappets employing the nonfunctional markings of tappets marketed by Johnson Products. The complainant alleges that the effect or tendency of the unfair methods or acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States in violation of the provisions of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Welles manufacturing Corporation, PRC Company, and Power Industries, Inc., each located in Northvale, New Jersey, have been named as importers and distributors of the subject products. Having conducted, in accordance with section 203.3 of the Commission's Rules of Practice and Procedure (19 CFR 203.3), a preliminary inquiry with respect to the matters alleged by the said complainant, the United States Tariff Commission, on April 24, 1974, ordered:

That for the purposes of section 337 of the Tariff Act of 1930, an investigation is instituted with respect to the alleged violations in the importation and sale in the United States of certain hydraulic tappets made in accordance with the claims of U.S. Patents No. 3,358,658, Re. 25,974 and Re. 25,154 with nonfunctional markings employed by the complainant, Johnson Products, Inc.

That a public hearing be held on June 10, 1974, at 10 a.m., e.d.t., in the Hearing Room, U.S. Tariff Commission Building, 8th and E Streets NW., Washington, D.C. All parties concerned will be afforded an opportunity to be present, to produce evidence, and to be heard concerning the subject matter of the investigation. Interested parties desiring to appear and give testimony at the hearing should notify the Secretary of the Commission, in writing, at least five days in advance of the opening of the hearing.

Public notice of the receipt of the complaint and initiation of the preliminary inquiry was published in the FEDERAL REGISTER on June 19, 1973 (38 FR 16002).

Notice of an extension of time for filing written views was published in the FEDERAL REGISTER on August 3, 1973 (38 FR 20958). The complaint and supplemental complaint were served upon the named parties and all known interested parties and have been available for inspection by interested persons continually since issuance of the notice of preliminary inquiry, at the Office of the Secretary, located in the U.S. Tariff Commission Building and in the New York City office of the Commission, located in Room 437 of the Customhouse.

Issued: April 25, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-9957 Filed 4-30-74;8:45 am]

[337-33]

CERTAIN DISPOSABLE CATHETERS AND CUFFS THEREFOR

Notice of Hearing

Notice is hereby given that the United States Tariff Commission will hold a public hearing in connection with investigation No. 337-33, Certain Disposable Catheters and Cuffs Therefor, on May 8, 1974, at 10 a.m., e.d.t., in the Hearing Room of the U.S. Tariff Commission Building, 8th and E Streets NW., Washington, D.C., for the purpose of allowing complainants opportunity to show cause why the complaint should not be dismissed and the investigation terminated. Requests from interested parties for appearances at the hearing should be received by the Secretary of the Tariff Commission, in writing, at his office in Washington, D.C. 20436, not later than noon, Friday, May 3, 1974.

Notice of the institution of the investigation and the ordering of a public hearing for October 9, 1973 (subsequently postponed) was published in the FEDERAL REGISTER on August 15, 1973 (38 FR 22083). Notice of the postponement of the hearing was published in the FEDERAL REGISTER on September 19, 1973 (38 FR 26244). Notice of the public hearing held on March 12, 1974, was published in the FEDERAL REGISTER on February 7, 1974 (39 FR 3821). Notice of the resumption of the public hearing held April 23, 1974, was published in the FEDERAL REGISTER on March 18, 1974 (39 FR 10193).

Issued: April 25, 1974.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.74-9958 Filed 4-30-74;8:45 am]

DEPARTMENT OF LABOR

Wage and Hour Division

EMPLOYMENT OF APPRENTICES

Special Certificates

Effective May 1, 1974, the Fair Labor Standards Amendments of 1974 increase the minimum wage required by section 6 of the Fair Labor Standards Act from $1.60 to $2.00 an hour for employees engaged in commerce, the production of goods for commerce, and many activities affecting commerce. The new rates effective May 1, 1974 are $1.90 an hour for employments of the type newly covered by the 1966 and 1974 Amendments, except for agricultural employees, for whom the new rate is $1.60 an hour.

There are "apprenctices" employed under "registered apprenticeship agreements" (as those terms are defined in § 521.2 of Part 521) pursuant to certificates issued by my authorized representatives (§ 521.6 of Part 521) at rates less than the new rates under section 6 of the Act which become effective on May 1, 1974. These outstanding special certificates remain in full force and effect in accordance with the terms and conditions under which they were issued (29 CFR Part 521).

There are also many "apprentices" employed under "registered apprenticeship agreements" and many veterans employed under approved apprentice-training programs that provide for wages at or above the currently applicable minimum rate of $1.60 but below the minimums which will become effective on May 1, 1974. The Act does not require certification for such employment prior to May 1, 1974. As a matter of policy, it is considered to be in the public interest to permit continued employment under such agreements.

Pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; 29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Secretary Orders 13-71 and 15-71 (36 FR 8755 and 8756), I have concluded that, effective May 1, 1974, where the wage rate being paid is at least $1.60 an hour (or, in Puerto Rico, the Virgin Islands, and American Samoa, not less than the wage order rate in effect on April 30, 1974) in accordance with either (a) an "apprenticeship agreement" registered prior to May 1, 1974, with a "recognized apprenticeship agency", or (b) an apprenticeship training agreement entered into prior to May 1, 1974, under a training program approved by a State veterans' approving agency pursuant to the Viet Nam Era Veterans' Readjustment Assistance Act of 1972, such an agreement together with this notice shall constitute a special certificate authorizing the employment at subminimum wages.

Signed at Washington, D.C., this 26th day of April 1974.

WARREN D. LANDIS,
Acting Administrator, Wage and Hour Division.

[FR Doc.74-9924 Filed 4-30-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 498]

ASSIGNMENT OF HEARINGS

APRIL 26, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 112520 Sub 273, McKenzie Tank Lines, Inc., now assigned June 3, 1974, in Room 305, 1252 West Peachtree St. NW., Atlanta, Ga.

MC-C-7346, Gulf Transport Co. A Corporation—Investigation of Practices, now assigned June 3, 1974, will be held in Room 345, Federal Building, 1800 5th Ave. North, Birmingham, Ala.

MC-99610 Sub 15, Ross Neely Express, Inc., now assigned June 4, 1974, will be held in Room 345, Federal Building, 1800 5th Ave. North, Birmingham, Ala.

MC-138870 Sub 1, Mobile Truck Control, Inc., now assigned June 5, 1974, will be held in Room 345, Federal Building, 1800 5th Ave. North, Birmingham, Ala.

MC-126305 Sub 52, Boyd Brothers Transportation Co., Inc., now assigned June 10, 1974, will be held in the Department of Labor Conference Room, 2nd Floor, 908 South 20th Street, Birmingham, Ala.

MC-C-8033, Baggett Transportation Co. V. Dowa Motor Freight, Inc., et al, now assigned June 12, 1974, will be held in the Department of Labor Conference Room 2nd Floor, 908 South 20th Street, Birmingham, Ala.

MC 80430 Sub-126, Gateway Transportation Co., Inc., is continued to June 10, 1974, in the Riviera Hyatt House, 1630 Peachtree St. NW., Atlanta, Ga.

MC-217 Subs 16 & 17, Point Transfer, Inc., MC-13569 Sub 27 & 30, The Lake Shore Motor Freight Co., MC-14552 Sub 50, J. V. McNicholas Transfer Co., & MC-138286 Sub 2, John F. Scott Co., now assigned May 13, 1974, at Pittsburgh, Pa., is postponed to June 10, 1974 (2 weeks), in Room 1112, Tax Court, New Federal Building, 1000 Liberty Ave., Pittsburgh, Pa.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-9936 Filed 4-30-74;8:45 am]

[I.C.C. Order 123-A; Rev. S.O. 994]

BURLINGTON NORTHERN, INC.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 123 (Burlington Northern, Inc.) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 123 be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad

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Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 18, 1974.

INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.74-9943 Filed 4-30-74;8:45 am]

[Ex Parte 241, Rule 19, Exemption 68]

ILLINOIS CENTRAL GULF RAILROAD CO.

Exemption Under Mandatory Car Service Rules

It appearing, that because of flood conditions there is an immediate need for shipments of ballast and other track materials for rehabilitation of roadbed at various points on the lines of the Illinois Central Gulf Railroad Company in Alabama, Louisiana and Mississippi; that shippers located on that line in Kentucky and Illinois are able to produce and load sufficient quantities of ballast and other track material; that sufficient gondola cars of suitable ownership are not available on the Illinois Central Gulf Railroad Company to enable it to load these emergency shipments of ballast and other track material; and that compliance with Car Service Rules 1 and 2 would prevent the Illinois Central Gulf Railroad Company from supplying sufficient cars to meet these emergency requirements.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Illinois Central Gulf Railroad Company is authorized to accept empty and to move, place, and accept from connections and shippers plain gondola cars with inside length than 61 ft. 0 in. or less, loaded with ballast or other track material by shippers located on its lines in Kentucky and Illinois, and consigned to the Illinois Central Gulf Railroad Company for emergency track repairs at points in Alabama, Louisiana and Mississippi loaded with ballast for movement on its lines without regard to the provisions of Car Service Rules 1 and 2.

Effective April 15, 1974.

Expires April 30, 1974.

Issued at Washington, D.C., April 15, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-9939 Filed 4-30-74;8:45 am]

[Ex Parte 241, Rule 19, Exemption 69]

LOUISVILLE & NASHVILLE RAILROAD CO.

Exemption Under Mandatory Car Service Rules

It appearing, that there is an emergency movement of military supplies from Ft. Estill, Kentucky, to Leland, North Carolina; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Louisville and Nashville Railroad Company, the railroads designated by the Car Service Division are authorized to move to, and the Louisville and Nashville Railroad Company is authorized to accept, assemble, and load not to exceed one hundred (100) empty cars with military supplies from Ft. Estill, Kentucky, to Leland, North Carolina, regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective April 17, 1974.

Expires April 30, 1974.

Issued at Washington, D.C., April 17, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-9940 Filed 4-30-74;8:45 am]

[Notice 35]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 26, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commissions' Rules of Practice, published in the Federal Register, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 6607 (Sub-No. 12) (REPUBLICATION), filed May 11, 1973, and published in the FR issue of July 12, 1973, and republished this issue. Applicant: J. J. MINNEHAN, INC., P.O. Box 433, Scarborough, Maine 04074. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, Mass. 01960. An Order of the Commission, Operating Rights Board, dated April 10, 1974, and served April 23, 1974, finds, that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *corn products and blends of corn products with other sweeteners*, in bulk, in tank vehicles, and (2) *sugar and blends of sugar with other sweeteners*, from Boston, Mass., to points in (a) New Hampshire, Vermont, and Rhode Island, (b) that part of Maine bounded by a line beginning at the junction of U.S. Highway 2 and the Maine State-New Hampshire line and extending in any easterly direction along U.S. Highway 2 to Norridgewock, Maine, thence in a northerly direction along Alternate U.S. Highway 201 to junction U.S. Highway 201, thence along U.S. Highway 201 to Bingham, Maine Highway 43, thence along the along Maine Highway 16 through Milo and La Grange, Maine, to junction Maine Highway 43 ,thence along the western shore of the Penobscot River and Penobscot Bay to Atlantic Ocean to the Maine-New Hampshire State Line, and thence along the Maine-New Hampshire State line to the point of beginning, and (c) that part of Connecticut on and east of a line beginning at the junction of Connecticut Highway 159 and the Connecticut-Massachusetts State Line and extending in a southerly direction along Connecticut Highway 159 to Hartford, Conn., thence in a southerly direction along Interstate Highway 91 to the junction of Interstate Highway 91 and U.S. Highway 5, thence in a southerly direction along U.S. Highway 5 to New Haven, Conn., including points on the above-described boundary lines, under a continuing contract or contracts with Amstar Corporation, of New York, N.Y., and Revere Sugar Refinery of Charlestown, Mass., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder.

The purpose of this republication is to indicate that service by the applicant will include points on the described boundary line with respect to Connecticut as well as Maine. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 111729 (Sub-No. 404) (REPUBLICATION), filed September 4, 1973, and published in the FR issue of November 15, 1973, and republished this issue. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). An Order of the Commission, Operating Rights Board, dated March 29, 1974, and served April 15, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of (1) *exposed and processed film and prints, complementary replacement film, and incidental dealer handling supplies* (except motion picture film used primarily for commercial theatre and television exhibition), between Fargo, N. Dak., on the one hand, and, on the other, points in South Dakota; (2) *advertising materials* between Troy, N.Y., on the one hand, and, on the other, Darien, Greenwich, and Norwalk, Conn.; and (3) *business papers, records, and audit media* (except cash letters), (a) between Findlay, Ohio, on the one hand, and, on the other, Fort Wayne and Indianapolis, Ind., Champaign, Ill., Louisville, Ky., and Lansing, Mich.; (b) between Chicago, Ill., on the one hand, and, on the other, Genoa and Gypsum, Ohio; (c) between Atlanta, Ga., on the one hand, and, on the other, points in Tennessee, Florida, Mississippi, and Virginia; (d) between Indianapolis, Ind., and Youngstown, Ohio; (e) between Peoria, Ill., on the one hand, and, on the other, points in Missouri, Ohio, and West Virginia; and (f) between Chicago, Ill., on the one hand, and, on the other, points in Iowa, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a Certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 76 (Sub-No. 3) (NOTICE OF FILING OF PETITION TO MODIFY A COMMODITY DESCRIPTION), filed April 5, 1974. Petitioner: MAWSON & MAWSON, INC., P.O. Box 125, Langhorne, Pa. 19047. Petitioner's representative: Richard C. McGinnis, 711 Washington Building, Washington, D.C. 20005. Petitioner holds a motor *common carrier* certificate in No. MC 76 (Sub-No. 3), issued December 5, 1974, authorizing transportation, over irregular routes, of *heavy machinery*, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, and Rhode Island. By the instant petition, petitioner seeks to modify its commodity description to read: "commodities, the transportation of which because of size or weight requires the special handling or special equipment." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 C.F.R. 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 2202 (Sub-No. 459) (CLARIFICATION), filed February 6, 1974, published in the FR issue of March 27, 1974, and republished, in part, as clarified this issue. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Akron, Ohio 44309. Applicant's representative: William O. Turney, 2001 Massachusetts Ave., NW., Washington, D.C. 20036.

NOTE.—The purpose of this partial republication is to indicate that the reference to tacking in the previous publication should be deleted. Applicant indicates that it does intend to join the regular-route authority requested herein to its existing regular-route authority. This is a matter directly related to a Section 5 proceeding in No. MC-F-12129 published in the Federal Register issue of February 13, 1974. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La. or Washington, D.C.

No. MC 24379 (Sub-No. 39) (CLARIFICATION), filed March 7, 1974, published in the FR issue of April 3, 1974, and republished, in part, as clarified this issue. Applicant: LONG TRANSPORTATION COMPANY, a Corporation, 3755 Central Avenue, Detroit, Mich. 48210. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215.

NOTE.—The purpose of this partial republication is to indicate that the reference to tacking in the previous publication should be deleted. Applicant indicates that it does intend to join the regular-route authority requested herein to its existing regular-route authority. The rest of the notice remains as previously published. This is a matter directly related to a Section 5 proceeding in No. MC-F-12165 published in the Federal Register issue of March 20, 1974. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110325 (Sub-No. 57) (CLARIFICATION), filed December 27, 1973, published in the FR issues of April 4, 1974, and April 10, 1974, and in third publication, in part, this issue. Applicant: TRANSCON LINES, 101 Continental Boulevard, El Segundo, Calif. 90245. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, Mo. 64105.

NOTE.—The purpose of this partial republication is to indicate that the reference to tacking in the two previous publications should be deleted. Applicant indicates that it does intend to join the regular-route authority requested herein to its existing regular-route authority. The rest of the notice remains as previously published. This is a matter directly related to a Section 5 proceeding in No. MC-F-12091 published in the Federal Register issue of January 23, 1974. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC-F-12039. (Amendment) (TRANSPORT MOTOR EXPRESS, INC.—PURCHASE—MEYER MOTOR TRANSPORTATION CO.), published in the November 21, 1973, issue of the FEDERAL REGISTER on page 32190. Applicants seek to amend the application to substitute UNITED AIRCRAFT CORPORATION in lieu of ESSEX INTERNATIONAL, INC., as party in control.

No. MC-F-12201. Authority sought for control by BUFFACON, INC., a noncarrier, 1285 William St., Buffalo, NY 14206, of CONTAINER TRANSFER CORPORATION, 26 E. Oneida St., Oswego, NY 13126, and for acquisition by ARTHUR V. TRAVER, SR., and IRA G. ROSS, both of Buffalo, NY 14206, of control of CONTAINER TRANSFER CORPORATION, through the acquisition by BUFFACON, INC. Applicants' attorney: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, NY 14202. Operating rights sought to be controlled: General commodities, with the usual exceptions, as a *common carrier* over irregular routes, between Buffalo, Rochester, Syracuse, Utica, Elmira, and Binghamton, N.Y., on the one hand, and, on the other, points in New York (except New York, N.Y., and those in Nassau, Suffolk, Rockland, Westchester, Orange, Putnam, Sullivan, Ulster, Dutchess, St. Lawrence, Franklin, Clinton, and Essex Counties), with restriction. BUFFACON, INC., holds no authority from this Commission. However, it is affiliated with FRONTIER DISTRIBUTION LINE, INC., 1285 William St., Buffalo, NY 14206, MC-119449, which is authorized to operate as a *common carrier* in New York and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12202. Authority sought for control and merger by C W TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494, of the operating rights and property of THE OVERLAND TRANSPORTATION COMPANY, 184 Massillon Rd., Akron, OH 44305, and for acquisition by ARTHUR CLARK, also of Wisconsin Rapids, WI 54494, of control of such rights and property through the transaction. Applicants' attorneys: Jack Goodman, 39 South La Salle St., Chicago, IL 60603, and Richard A. Chenoweth, 15th Floor Akron Center Bldg., 1 Cascade Plaza, Akron, OH. Operating rights sought to be controlled and merged: *General commodities*, with the usual ex-

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ceptions, as a *common carrier* over regular routes, between Cleveland, Ohio, and Anderson, S.C., between Akron, Ohio, and Charleston, W. Va., between Akron, Ohio, and junction Ohio Highway 18 and U.S. Highway 21, located about 3 miles west of Akron, between Cleveland and Dover, Ohio, between Mount Airy, N.C., and junction U.S. Highway 601 and U.S. Highway 29, located at or near Salisbury, N.C., between Charlotte, N.C., and Morganton, N.C., between Charlotte, and Statesville, N.C., between junction U.S. Highway 29 and U.S. Highway located about 2 miles east of Kings Mountain, N.C., and Shelby, N.C., between Charlotte, and Kings Mountain, N.C., between Greenville, and Anderson, S.C., between Greenville, and Belton, S.C., between Charlotte, N.C., and Columbia, S.C., between Pineville, S.C., and junction South Carolina Highway 200 and U.S. Highway 21, located about 8 miles south of Fort Lawn, S.C., between Lancaster and Fort Lawn, S.C., between Rock Hill and Columbia, S.C., between Easley, and Greenville, S.C., between Mansfield, Ohio and junction Interstate Highway 71 and U.S. Highway 30, located about 6 miles of Mansfield, between Mansfield, Ohio and junction Interstate Highway 71 and Ohio Highway 13, located about 5 miles south of Mansfield, serving various intermediate and off-route points with restriction;

General commodities with the usual exceptions, over irregular routes, from Akron, Ohio, to Augusta and Banning, Ga., Danville, Jewell, and Wytheville, Va., and Bluefield and Princeton, W. Va., from Akron, Canton, Cleveland, Dover, Hartville, and Mansfield, Ohio, and points within five miles of Akron to points in North Carolina and South Carolina, from Banning, LaGrange, and Thomaston, Ga., Lynchburg, Va., and points in North Carolina and South Carolina, to points in Ohio; between Cleveland, Ohio, and points in Ohio, from Marietta, Ohio, to points in North Carolina and South Carolina, between Riverview and Marietta, Ohio, and points in Ohio within the commercial zones of each as defined by the Commission, on the one hand, and, on the other, points in Ohio; *granite*, from Elberton and Atlanta, Ga., to points in Ohio, with restriction. C W TRANSPORT, INC., is authorized to operate as a common carrier in Illinois, Indiana, Kentucky, Michigan, Ohio, Minnesota, Missouri, West Virginia, Wisconsin, Iowa, Pennsylvania, New York, New Jersey, Louisiana, Delaware, Nebraska, Kansas, North Dakota, South Dakota, Tennessee, Arkansas, Maryland, Mississippi, North Carolina, South Carolina, Virginia, Alabama, Florida, Georgia, Oklahoma, Texas, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12203. Authority sought for control and merger by CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Ave., Nashville, TN 37203, of the operating rights and property of HORNE HEAVY HAULING, INC., 1124 DeKalb Ave. NE., Atlanta, Ga. 30307, and for acquisition by M. BRYAN STANLEY, also of Nashville, TN 37203, of control of such rights and property through the transaction. Applicant's attorney: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Operating rights sought to be controlled and merged: *Machinery, equipment and supplies* used in the maintenance and operation of industrial plants, as a *common carrier* over irregular routes, between points within 175 miles of Chattanooga, Tenn., including Chattanooga; *general commodities*, with the usual exceptions, between points within 15 miles of Chattanooga, Tenn., including Chattanooga; *uncrated passenger and property carrying electric vehicles*, from Peachtree City and Atlanta, Ga., to points in the United States, except Alaska, Hawaii, North Dakota, South Dakota, Nebraska, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington; and return with *damaged, defective, or used vehicles; self-propelled construction equipment* weighing 15,000 pounds or more, and *parts and attachments* for such commodities, from Chattanooga, Tenn., to points in the United States including Alaska, but excluding Hawaii, restricted to the transportation of shipments originating at the facilities of the Lorain Division, Koehring, Inc., and Koehring Southern Division, Koehring, Inc., both at Chattanooga, Tenn.; and *Conduit, pipe, and tubing and fittings*, and *shapes, forms, strips, rods*, and *wire* (except oilfield and pipeline commodities as defined by the Commission in *Mercer Extension Oilfield Commodities* 74 M.C.C. 459), as a *contract carrier* over irregular routes, from the storage facilities used by the Allied Tube and Conduit Corporation, and the Allied Rolled Form Products Corporation, at Atlanta, Ga., to points in Georgia, Alabama, Louisiana, Texas, Mississippi, Florida, Tennessee, Kentucky, North Carolina, and South Carolina; *fencing*, from Houston, Tex., to Atlanta, Ga., with restrictions. CHEROKEE HAULING & RIGGING, INC., is authorized to operate as a *common carrier* in all of the States in the United States except Hawaii. Application has been filed for temporary authority under section 210a(b).

NOTICE

On March 18, 1974, the Peoria Terminal Company, 139 West Van Buren Street, Chicago, Illinois, filed with the Interstate Commerce Commission an application, assigned Finance Docket No. 27606, for authority to acquire trackage rights over approximately 9.5 miles of trackage of the Peoria and Pekin Union Railway Company in Peoria and Tazewell Counties, Illinois. The application, filed in conjunction with an application for a Certificate of Public Convenience and Necessity, assigned Docket No. AB-93, permitting abandonment by the Peoria Terminal Company of a segment of line located on a bridge spanning the Illinois River, is to provide a substitute route for the traffic heretofore transported over the segment of line proposed to be abandoned. Applicant's operation of the trackage rights sought would be essentially the same as heretofore performed over the segment sought to be abandoned. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Applicant's attorney is James E. Sykes, General Attorney, Chicago, Rock Island and Pacific Railroad Company, 139 West Van Buren Street, Chicago, Illinois 60605. Applicant states that the relief sought in the applications would have no discernible effect on the quality of the human environment. In accordance with the Commission regulations (49 C.F.R. 1100. 250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 340 ICC 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4) supra, Part (b)(1)-(5), 340 ICC 431, 461. Any protest submitted shall be filed with the Commission no later than thirty days from the date of first publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-9938 Filed 4-30-74;8:45 am]

[Notice 59]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 24, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 19945 (Sub-No. 43 TA), filed April 15, 1974. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silico Manganese Ore*, in bulk, in dump vehicles, from St. Louis Terminals Corporation, St. Louis, Mo., to Atchison, Kans., for 180 days. SUPPORTING SHIPPER: Cliff G. Pearson, General Traffic Manager, 100 Erie View Plaza, 26th Floor, Cleveland, Ohio, 44114. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Bldg., Room 414, 527 East Capitol Avenue, Springfield, Ill. 62701.

No. MC 35831 (Sub-No. 3 TA), filed April 12, 1974. Applicant: E. A. HOLDER, INC., 2004 Polk Street, Wichita Falls, Tex. 76309. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bar joists and accessories, anchors, bridging, bolts and nuts*, when moving in mixed shipments with steel bar joists, from the plant site of Vulcraft Division of Nucor Corporation at or near Grapeland, Tex., to points in Arkansas, Arizona, Louisiana, New Mexico, and Oklahoma, for 180 days. SUPPORTING SHIPPER: Vulcraft Division of Nucor Corporation, P.O. Box 186, Grapeland, Tex. 75844. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 50069 (Sub-No. 487 TA), filed April 12, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neon gas*, in bulk, in tank vehicles, between Riverton, N.J., and Batavia, Ill., for 180 days. SUPPORTING SHIPPER: National Accelerator Laboratory, Batavia, Ill. SEND PROTESTS TO: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 51658 (Sub-No. 10 TA) (CORRECTION), filed March 11, 1974, published in the Federal Register issue of March 26, 1974, as No. MC 105656 (Sub-No. 6 TA) and republished as corrected this issue. Applicant: TOM PASQUALE, doing business as PASQUALE TRUCKING COMPANY, 905 Erie Avenue, Logansport, Ind. 46947. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from St. Paul, Minn., to Logansport, Ind., and (2) malt beverage empty containers, from Logansport, Ind., to St. Paul, Minn., for 180 days. SUPPORTING SHIPPER: D'Andrea Distributing Co., Inc., 421 High Street, Logansport, Ind. 46947. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, Ind. 46802.

NOTE.—The purpose of this republication to change the number to No. MC 51658 (Sub-No. 10 TA) in lieu of No. MC 105656 (Sub-No. 6 TA) which was published in the Federal Register in error.

No. MC 107295 (Sub-No. 710 TA), filed April 15, 1974. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building board*, from Meridian, Miss., to Baton Rouge and New Orleans, La., for 180 days. SUPPORTING SHIPPER: Maurice Ray Knight, Traffic Manager, The Flintkote Company, P.O. Box 1651, Meridian, Miss. 39301. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, Room 414, 527 East Capitol

No. MC 111401 (Sub-No. 413 TA), filed April 11, 1974. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Pascagoula, Miss., to points in Kansas, Oklahoma, and Texas, for 180 days. SUPPORTING SHIPPER: Phillips Petroleum Company, Inc., 151 Phillips Building Annex, Bartlesville, Okla. 74004, Vernon E. Brady, Transportation Analyst. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240—Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 111401 (Sub-No. 414 TA), filed April 15, 1974. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Tulsa, Okla., to Atlanta, Dalton, Hartwell, Oakland City, and Tucker, Ga., for 180 days. SUPPORTING SHIPPER: G. D. Kelley, Mgr., Motor Carrier Rates & Services, Sun Oil Co. of Pennsylvania, Box 2039, Tulsa, Okla. 74102. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240-Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 112750 (Sub-No. 311 TA), filed April 12, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, from Lake Success, N.Y., to Toms River, N.J., for 90 days. SUPPORTING SHIPPER: First State Bank, 1201 Rt. 37, Toms River, N.J., SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113908 (Sub-No. 319 TA), filed April 15, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar, vinegar stock, and vinegar stock concentrate*, in bulk, from Kansas City, Mo. and Memphis, Tenn., to Terre Haute, Ind., for 180 days. SUPPORTING SHIPPER: Speas Company, 2400 Nicholson Avenue, Kansas City, Mo. 64120. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115162 (Sub-No. 289 TA), filed April 16, 1974. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal fireplaces and components*, from points in Madison and Limestone Counties, Ala., to points in Madison County, La., for 180 days. SUPPORTING SHIPPER: Fireside Distributor, Inc., 2225 Broadway, Anderson, Ind. 46012. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 115162 (Sub-No. 290 TA), filed April 16, 1974. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, agricultural implements, farm machinery, and industrial and con-*

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struction machinery, and equipment, and parts and attachments for tractors, agricultural implements, farm machinery, and industrial and construction machinery and equipment, lawn and garden equipment with parts and attachments, from Coldwater, Ohio, to points in Alabama, Arkansas, Florida, Georgia, North Carolina, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Missouri, for 180 days. RESTRICTION: Restricted to traffic originating at the plant sites and warehouses of AVCO New Idea Farm Equipment Div., AVCO Distributing Corp., and destined to points in the states specified or to points in foreign commerce. SUPPORTING SHIPPER: Avco New Idea Farm Equipment Division, Avco Distributing Corporation, First and Sycamore Streets, Coldwater, Ohio 45828. SEND PROTESTS TO: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 117119 (Sub-No. 500 TA), filed April 16, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour and icing mixes* (except in bulk), from the plantsite of Chelsea Milling Co. at Chelsea, Mich., to points in Oklahoma and Texas, for 180 days. SUPPORTING SHIPPER: Chelsea Milling Company, Chelsea, Mich. 48118. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 119669 (Sub-No. 46 TA), filed April 15, 1974. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, P.O. Box 886, Columbus, Ind. 47201. Applicant's representative: Donald McCameron (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and facilities of John Morrell & Co., Amarillo, Tex., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: John Morrell & Co., 208 S. LaSalle Street, Chicago, Ill. 60604. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 119880 (Sub-No. 59 TA), filed April 16, 1974. Applicant: DRUM TRANSPORT, INC., Off.: 617 Chicago Street, P.O. Box 2056, East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flavored syrups*, in bulk, in tank vehicles, from ports of entry between the United States and Mexico located at or near Laredo, Tex., to Humboldt, Tenn.; New Orleans, La.; Jacksonville, Fla.; Modesto, Calif.; and points in Texas, for 180 days. SUPPORTING SHIPPER: Mr. Francisco Garcia Palacio, Delicias Tropicales S.A., Apartado Postal No. 653, Nuevo Laredo, Tamaulipas, Mexico. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, 219 S. Dearborn Street, Room 1086, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, Chicago, Ill. 60604.

No. MC 123048 (Sub-No. 305 TA), filed April 15, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, Wis. 53406. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, implements, equipment, and accessories*, from Pella, Iowa, to the United States/Canada border crossings in North Dakota and Minnesota, restricted to shipments originating at the facilities of Vermeer Manufacturing Company at or near Pella, Iowa, for 180 days. SUPPORTING SHIPPER: Vermeer Manufacturing Co., P.O. Box 200, Pella, Iowa 50219, (Sam De Haan, Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 123075 (Sub-No. 25 TA), filed April 12, 1974. Applicant: SHUPE & YOST, INC., North U.S. 85 Bypass, P.O. Box 1123, Greeley, Colo. 80631. Applicant's representative: Stuart L. Poelman, 7th Floor, Continental Bank Building, Salt Lake City, Utah 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the plantsite of Great Salt Lake Mineral & Chemical Corporation located near Little Mountain, Utah, to points in Nebraska and South Dakota on and west of U.S. Highway 83, under continuing contract with Carey Salt Company of Hutchinson, Kans., for 180 days. SUPPORTING SHIPPER: Carey Salt Division of Interpace Corporation, P.O. Box 1728, Hutchinson, Kans. 67501. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 123115 (Sub-No. 10 TA), filed April 15, 1974. Applicant: BEN PACKER, doing business as PACKER TRANSPORTATION CO., 465 South Rock Boulevard, Sparks, Nev. 89431. Applicant's representative: Ben Packer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Lyon County, Nev., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming for 180 days. SUPPORTING SHIPPERS: Sundown Timber Company, P.O. Box 265, Silver Springs, Nev. 89429; Sundown Sales Corp., P.O. Box 265, Silver Springs, Nev. 89429; and Union Forest Products, 735 South Sutter, Stockton, Calif. 95203. SEND PROTESTS TO: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operation, Room 203 Federal Building, 705 North Plaza St., Carson City, Nev. 89701.

No. MC 124692 (Sub-No. 135 TA), filed April 15, 1974. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery, parts and attachments*, from Aberdeen, S. Dak., to points in Montana, Nebraska, North Dakota, and Wyoming, restricted to the transportation of traffic originating at the facilities of Farmhand, Inc., for 180 days. SUPPORTING SHIPPER: Farmhand, Inc., 201 South 3rd St., Hopkins, Minn. 55343. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 126140 (Sub-No. 5 TA), filed April 15, 1974. Applicant: TRANSPETRO, INC., P.O. Box 124, Wood River, Ill. 62095. Applicant's representative: William M. Cox, Jr., 16 W. Lorena Ave., Wood River, Ill. 62095. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Road oil and asphalt*, in bulk, in tank vehicles, from Morrisonville, Ill., to points in Missouri, for 180 days. SUPPORTING SHIPPER: E. V. Linder, President, Louis Marsch, Inc., Morrisonville, Ill. 62456. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, Room 414, 527 East Capitol Avenue, Springfield, Ill. 62701.

No. MC 134592 (Sub-No. 7 TA), filed April 16, 1974. Applicant: HERB MOORE AND HAZEL MOORE, doing business as H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, Oreg. 97217. Applicant's representative: Philip Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* (except in bulk, in tank vehicles) from the International Boundary line between the United States and Canada at or near Blaine and Sumas, Wash., to points in Washington west of U.S. Highway 97, for 180 days. SUPPORTING SHIPPER: Nulife Fertilizers, Division of Hygrade Food Products Corp., Box 883, 1424 Thorne Rd., Tacoma, Wash. 98401. SEND PROTESTS TO: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 135072 (Sub-No. 6 TA), filed April 16, 1974. Applicant: HEATER TRUCKING, INC., Mail: 6887 Versailles Road, Box 122, North Evans, N.Y. 14112, and 505 Como Park Blvd., Buffalo, N.Y. 14225. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk and *equipment* utilized in the application of asphalt, for the account of Allied Bitumens, Inc., between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne, and Wyoming Counties, N.Y., and Bradford Cameron, Clarion, Crawford, Elk, Erie, Jefferson, Lycoming, McKean, Potter, Tioga, Venango, and Warren Counties, Pa., for 90 days. SUPPORTING SHIPPER: Allied Bitumens, Inc., 505 Como Park Boulevard, Buffalo, N.Y. 14227. SEND PROTESTS TO: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 135535 (Sub-No. 5 TA) (CORRECTION), filed March 21, 1974, published in the FEDERAL REGISTER issue of April 4, 1974, and republished as corrected this issue. Applicant: EL DORADO TRANSPORTATION, INC., 206 North Concord, Minneapolis, Kans. 67467. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers*, between plant site and/or storage facilities of El Dorado Industries, Inc., at or near Minneapolis, Kans., on the one hand and points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, on the other, under a continuing contract with El Dorado Industries, Inc., of Minneapolis, Kans., for 180 days.

NOTE.—Applicant does not intend to tack with present authority or interline with other carriers.

SUPPORTING SHIPPER: El Dorado Industries, Inc., R.R. 2—P.O. Box 266, Minneapolis, Kans. 67467. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

NOTE.—The purpose of this republication is to add the states of New Hampshire, New Jersey, New York, Nebraska, Missouri, and North Carolina.

No. MC 136816 (Sub-No. 2 TA), filed April 16, 1974. Applicant: THE UNIVERSE COMPANY, INC., 3523 L. Street, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Omaha, Nebr., to points in Indiana, Ohio, and that part of Pennsylvania on and west of U.S. Highway 219, for 180 days. SUPPORTING SHIPPERS: Union Packing Co., Carl Froim, President, 4501 South 36th Street, Omaha, Nebr. 68107; Flavorland of Sioux City, J. E. Deloss, Traffic Manager, 1911 Cunningham Drive, Sioux City, Iowa 51107; and Wilson & Co., Inc., A. N. Brent, Manager Transportation, 4545 Lincoln Blvd., Oklahoma City, Okla. 73105. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138557 (Sub-No. 4 TA), filed April 1, 1974. Applicant: WALT KEITH TRUCKING, INC., Route #1, P.O. Box 30, Rushville, Mo. 64484. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of World Wide Meats at or near Denison, Iowa, to points in Indiana, Ohio, Pennsylvania, New York, New Jersey, Massachusetts, Michigan, Connecticut, Utah, Missouri, Nebraska, Minnesota, California, Wyoming, Oregon, Florida, Illinois, and the District of Columbia, for 180 days. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts, with World Wide Meats, Inc. of Denison, Iowa. SUPPORTING SHIPPER: World Wide Meats, Inc., P.O. Box 257, Denison, Iowa 51442. SEND PROTESTS TO: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Buildig, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 139697 (Sub-No. 1 TA), filed April 16, 1974. Applicant: EDWARD BRUCE WAGONER, doing business as DELIGHT TRANSPORTATION COMPANY, Route 1, Box 12301, Kingsville, Md. 21087. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of garden tractors and *materials, supplies and equipment* used in the conduct of such business, under a continuing contract with Wheel Horse Products, Inc., (1) from South Bend, Ind., to Charlotte, N.C., Etters and Leetsdale, Pa., Richmond, Va., Minneapolis, Minn., Columbus, Ohio, Chamblee, Ga., West Springfield, Mass., and North Kansas City, Mo.; and (2) from Carlisle, Pa., Ames, Iowa, and Jefferson City, Mo., and points in Wisconsin, to South Bend, Ind., for 180 days. SUPPORTING SHIPPER: Mr. James Brown, Distribution Manager, Wheel Horse Products, Inc., 515 West Ireland Road, South Bend, Ind. 46614. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 139701 TA, filed April 15, 1974. Applicant: KENNETH L. BERGNER AND JAMES DAWDY, doing business as J. D. CARTAGE SERVICE, 720 18th Street, Sioux City, Iowa 51105. Applicant's representative: Bradford E. Kistler, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain storage systems and materials* used in the construction and erection of grain storage systems, from Mansfield, Ohio, to points in Kansas, Nebraska, and points in Iowa located west of U.S. Highway 63 and (2) *Damaged or rejected shipments of commodities* referred to (1) above, from points in Kansas, Nebraska and points in Iowa located west of U.S. Highway 63, to Mansfield, Ohio for 180 days. RESTRICTION: Restricted against transportation of commodities in bulk and further restrictions to a transportation service to be performed under a continuing contract or contracts with Farm Automation, Inc., Beatrice, Nebr. SUPPORTING SHIPPER: Farm Automation, Inc., James L. Hays, President, Route 4, Beatrice, Nebr. 68310. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operation, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-9937 Filed 4-30-74;8:45 am]

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DEPARTMENT OF INTERIOR

Fish and Wildlife Service

CHARLES M. RUSSELL WILDLIFE RANGE

Amended Notice of Hearing

The Notice of Public Hearing to discuss wilderness recommendations for Charles M. Russell National Wildlife Range, published in the Federal Register on April 17, 1974, is hereby amended to indicate the continuance of the public hearing at 9 a.m. May 29, at V.F.W. Hall, Jordan, Montana.

The hearing record will remain open until June 28, 1974.

LYNN A. GREENWALT,
Director, Bureau of Sport Fisheries and Wildlife.

APRIL 30, 1974.

ED HASTEY,
Acting Director,
Bureau of Land Management.

[FR Doc. 74-10143 Filed 4-30-74;11:01 am]

Geological Survey

EARTHQUAKE STUDIES ADVISORY PANEL

Notice of Public Meeting

Pursuant to Public Law 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Earthquake Studies Advisory Panel will be held beginning at 8:30 a.m. (local time) on Thursday, June 6, 1974, and continuing through Friday, June 7, 1974. The Advisory Panel will meet in the Director's Conference Room, U.S. Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

(1) *Purpose.* The Advisory Panel was appointed to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

(2) *Membership.* The Advisory Panel is chaired by Prof. Frank Press and is currently composed of the following members: Prof. Clarence R. Allen, Prof. Ray W. Clough, Prof. C. Martin Duke, Prof. Charles Fairhurst, Prof. David T. Griggs, Prof. Richard H. Jahns, Prof. Leon Knopoff, Dr. F. Beach Leighton, Rev. William V. Stauder, S.J., Prof. Karl V. Steinbrugge, Prof. Gilbert White, and Prof. Robert V. Whitman.

(3) *Agenda.* Review of progress on development of a national program of eatrhquake hazards reduction and formulation of long-range plans for earthquake research.

For more detailed information about the meeting, please call Dr. Robert M. Hamilton, Chief, Office of Earthquake Studies, Reston, Va. (703) 860-6472.

VINCENT E. MCKELVEY,
Director,
U.S. Geological Survey.

[FR Doc.74-9891 Filed 4-30-74;8:45 am]

Bureau of Land Management

[CA 696]

CALIFORNIA

Order Providing for Opening of Public Lands; Correction

APRIL 24, 1974.

In FR Doc. 74-8946 appearing on page 13902 of the issue of Thursday, April 18, 1974, the following correction as to date should be made.

Date in second paragraph should read prior to 10 a.m., on May 1, 1974.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10084 Filed 4-30-74;8:45 am]

ASSISTANT DISTRICT MANAGER, PHOENIX DISTRICT, ARIZONA

Redelegation of Authority

The Assistant District Manager, Phoenix District, under the supervision of the District Manager, may exercise the authority of the District Manager as delegated in Part III, section 3, of Bureau Order No. 701, as amended.

Approved: April 22, 1974.

RILEY E. FOREMAN,
District Manager.

[FR Doc.74-9879 Filed 4-30-74;8:45 am]

[DES 74-49]

OUTER CONTINENTAL SHELF OFFSHORE LOUISIANA

Availability of Draft Environmental Impact Statement and of Public Hearing Regarding Possible Oil and Gas Lease Sale

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement relating to a possible Outer Continental Shelf general oil and gas lease sale of 295 tracts of submerged lands on the Outer Continental Shelf in the Gulf of Mexico offshore Louisiana.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, Gulf of Mexico Outer Continental Shelf Office, Bureau of Land Management, Suite 3200, The Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for public review in the main public libraries in the following cities: New Orleans, Lafayette, and Baton Rouge, Louisiana.

A composite map of the area of the Gulf of Mexico offshore Louisiana, upon which tracts being considered for leasing have been depicted and a listing of these tracts may also be obtained from either the Bureau of Land Management's Gulf of Mexico Outer Continental Shelf Office or the Office of Public Affairs, Bureau of Land Management at the above listed addresses.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on June 5, 1974, in the Delta Ballroom, Delta Towers Hotel, 1732 Canal Street, New Orleans, Louisiana 70112, for the purpose of receiving comments and suggestions relating to the possible lease sale.

The hearing will provide the Secretary with additional information from both the public and private sectors to help evaluate fully the potential effects of the possible offering of the 295 tracts on the total environment, aquatic resources, aesthetics, recreation and other resources in the entire area during the exploration, development and operation phases of the leasing program.

The hearing will also provide the Secretary, under section 102(2)(C) of the National Environmental Policy Act of 1969, with the opportunity to receive additional comments and views of interested state and local agencies.

Interested individuals, representatives of organizations and public officials wishing to testify at the hearing are requested to contact the Manager, Gulf of Mexico Outer Continental Shelf Office, Bureau of Land Management, at the above listed address by 4:15 p.m. May 30, 1974. Written comments from those unable to attend the hearing should be addressed to the Director (Attn: 732), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240. The Department will accept written testimony and comments on the draft environmental statement until June 20, 1974. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and analyzed a final environmental statement will be prepared.

CURT BERKLUND,
Director,
Bureau of Land Management.

Approved: April 30, 1974.

WILLIAM W. LYONS,
Deputy Under Secretary of the Interior.

[FR Doc.74-10121 Filed 4-30-74;10:45 am]

Bureau of Mines

LIGNITE ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given that the Lignite Advisory Committee will meet May 9, 1974, from 9 a.m. to 4:30 p.m. at the U.S. Bureau of Mines Grand Forks Energy Research Laboratory, Grand Forks, North Dakota. The committee was established by the Secretary of the Interior under provisions of Public Law 454, 80th Congress (30 U.S.C. 404). Its purpose is to perform consultative functions, when required by the Secretary, in evaluating the operations of the Lignite Research Laboratory in the conduct of programs designed to fulfill the stated objectives of the Act. This meeting will be open to the public during which time a review will be made of current year progress and an evaluation of the planned activities for FY 1975. Persons desiring information concerning this meeting may contact: Gordon H. Gronhovd, Chief, Grand Forks Energy Research Laboratory, Telephone (701) 775-4207.

The agenda of the meeting is set forth below.

Dated: April 24, 1974.

THOMAS A. HENRIE,
Acting Director.

Agenda of the Lignite Advisory Committee Meeting, on May 9, 1974:

9:00 a.m.—Opening remarks.
9:15 a.m.—Approval of Minutes—1973 Meeting.
9:25 a.m.—Review of research program at Grand Forks during the year 1973.
9:40 a.m.—Outlook of research programs for Grand Forks for FY 1975.
10:10 a.m.—SO_x removal by ash-alkali scrubbing.
10:30 a.m.—Electrostatic Precipitation.
10:40 a.m.—Combustion and ash fouling.
11:00 a.m.—Reclamation of spoil banks.
11:45 a.m.—Recess for lunch.
2:00 p.m.—Drying, handling, and storage of low-rank coal.
2:30 p.m.—Carbonization.
2:40 p.m.—Discussion and suggestions of Committee for future action.
3:15 p.m.—Concluding remarks.

[FR Doc.74-9892 Filed 4-30-74;8:45 am]

Office of Coal Research

GENERAL TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given, pursuant to Executive Order 11686, and as required by the Federal Advisory Committee Act (86 Stat. 770), that a meeting of the General Technical Advisory Committee of the Office of Coal Research will convene at 9 a.m., May 21, 1974, at the SeaTac Holiday Inn (near SeaTac International Airport), Room 747-A, Tacoma, Washington.

The Committee is composed of qualified technical representatives from industry and research organizations.

The following agenda items will be discussed, and the meeting will be open to the public:

Welcoming Remarks, by Dr. S. William Gouse, Acting Director, Office of Coal Research.
Presentation, by Member of Secretariat.
Status of OCR Staffing, by Dr. S. William Gouse.
National Fluidized Bed Program, by Mr. Wayne McCurdy (OCR), HUD, BOM, EPA, TVA, and EPRI.
Methanol from Coal, Proposed Action, by Dr. Alexander Mills, OCR.
Status Report on FMC "COED" Pilot Plant, Princeton, New Jersey;
Multi-Test Facility, Cresap, West Virginia;
BI-GAS Pilot Plant, Homer City, Pennsylvania;
IGT HYGAS Pilot Plant, Chicago, Illinois; and
CO_2 Acceptor Pilot Plant, Rapid City, South Dakota, Projects, Drs. Paul Yavorsky and Raymond Vener, OCR.
Request for Proposal (RFP) Procedures, by Dr. S. William Gouse.
HRI and Other New Projects, by Drs. Raymond Vener and Paul Yavorsky, OCR.
Pioneer and Demonstration Programs, by Dr. S. William Gouse.
General Discussion.

Records shall be kept of all proceedings of the General Technical Advisory Committee (and shall be available for public review at the Office of Coal Research, United States Department of the Interior, 2100 M Street NW., Washington, D.C. 20037).

Signed at Washington, D.C., on April 22, 1974.

Dated: April 23, 1974.

S. WILLIAM GOUSE,
Acting Director,
Office of Coal Research.

[FR Doc.74-9888 Filed 4-30-74;8:45 am]

Office of the Secretary

[INT FES 74-19]

PROPOSED GILA GRAVITY MAIN CANAL REHABILITATION AND BETTERMENT—GILA PROJECT, ARIZONA

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed rehabilitation and betterment of the Gila Gravity Main Canal, a Gila Project facility located in Yuma County, Arizona. The proposed work would consist of rock excavation and benching, improvement and construction of access roads, and modification and construction of drainage inlet structures. The improvements are planned to permit continued operation of the canal at design capacity to sustain irrigation at present levels in the Gila and Yuma Auxiliary Project areas.

Copies of the environmental statement are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-4991.
Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225. Telephone (303) 234-3007.
Office of the Regional Director, Bureau of Reclamation, Nevada Highway and Park Street, Boulder City, Nevada 89005. Telephone (702) 293-8527.
Yuma Projects Office, Bureau of Reclamation, 3150 Avenue 3E, Yuma, Arizona 85364. Telephone (602) 726-2657.

Single copies of the statement may be obtained on request to the Commissioner of Reclamation or the Regional Director.

Dated: April 24, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-9886 Filed 4-30-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

The Electronic Instrumentation Technical Advisory Committee of the U.S. Department of Commerce will meet May 9, 1974 at 9:30 a.m. in Room 6705 of the Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data related thereto, and including those whose export in subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments by the chairman.
2. Presentation of papers or comments by the public.
3. Discussion of committee objectives and tasks.
4. Executive session:
a. Review of, and comments on, preliminary survey by committee members.
b. Study assignments of specific product parameters.
c. Study assignments on foreign availability.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats—approximately 15—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (4), "Executive session," the Assistant Secretary of Commerce for Administration, on April 25, 1974, determined, pursuant to Section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provision of sections 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

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Further information may be obtained from Charles C. Swanson, Director, Operations Division, Office of Export Administration, Room 1620, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202–967–4196).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: April 26, 1974.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.74–9954 Filed 4–30–74;8:45 am]

National Oceanic and Atmospheric Administration

MARINE FISHERIES ADVISORY COMMITTEE AND JOINT NATIONAL ADVISORY COMMITTEE ON THE OCEANS AND ATMOSPHERE

Notice of Public Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I (Supp. II, 1972), notice is hereby given of the meeting of the joint National Advisory Committee on the Oceans and Atmosphere-Marine Fisheries Advisory Committee Subcommittee on the National Fisheries Plan on Monday, May 20, 1974, to be followed by the meeting of the Marine Fisheries Advisory Committee on Tuesday, Wednesday, and Thursday, May 21, 22, and 23, 1974. The meetings will commence at 2 p.m. on May 20, at 8:30 a.m. on May 21 and at 8 a.m. on May 22 and 23. Both meetings are to be held at the Department of Commerce Building, 14th Street between E and Constitution Avenue, NW., Washington, D.C., in Room 6802.

The items for discussion at the meetings will include the following:

NATIONAL FISHERIES PLAN SUBCOMMITTEE

MAY 20, 1974

2 p.m.—Review of Progress in development of the National Fisheries Plan.

MARINE FISHERIES ADVISORY COMMITTEE

MAY 21, 1974

8:30 a.m.—Role of NMFS in the State-Federal Program—Workshop.

MAY 22, 1974

8 a.m.—Introduction and Announcements.
8:45 a.m.—NMFS Organization.
9:15 a.m.—Fish Inspection.
10:15 a.m.—Report on Publication Costs.
10:45 a.m.—Law of the Sea Discussion.
12 noon—Lunch Break.
1:30 p.m.—Report of Fuel Situation.
2:15 p.m.—NMFS Program for Marine Recreational Fishing, Response to MAFAC Recommendations.
3:15 p.m.—Status of and Proposed Plans for Fish and Wildlife Coordination Act.
4:00 p.m.—Incidental Take of Marine Mammals in Connection with Commercial Fishing Operations.
4:30 p.m.—Adjourn for the day.

MAY 23, 1974

6:00 a.m.—Report on NMFS State-Federal Program Workshop.
9:00 a.m.—NMFS Policy on Gear Development Activities.
10:00 a.m.—National Fisheries Plan and the Eastland Resolution.
11:00 a.m.—Report on Conditional Fisheries.
12 noon—Lunch Break.
1:30 p.m.—Report on NMFS Enforcement and Surveillance Program.
2:30 p.m.—Report on High Seas Fisheries Conservation Act.
3:30 p.m.—Contingency Items to be discussed on a time-available basis, among which are:
a. Legislation Relating to Fisheries.
b. Further Report on Foreign Investment.
4:30 p.m.—Adjourn Meeting.

The meetings will be open to the public throughout.

Dated: April 23, 1974.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

[FR Doc.74–9884 Filed 4–30–74;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT–APPL number and the title.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, DC 20545.

Patent 3,754,141: Shipping and Storage Container for High Power Density Radioactive Materials; filed 12 July 1972, patented 21 August 1973; not available NTIS.
Patent 3,760,225: High Current Plasma Source; filed 6 June 1972, patented 16 September 1973; not available NTIS.

DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, DC 20314.

Patent 3,424,578: Method of Producing Permanent Magnets of Rare Earth Metals Containing Co, or Mixtures of Co, Fe and Mn; filed 5 June 1967, patented 28 January 1969; not available NTIS.
Patent 3,706,608: Combustion Tailoring of Solid Propellants by Oxidizer Encasement; filed 24 March 1970, patented 19 December 1972; not available NTIS.
Patent 3,709,748: Ionic Interhalogen Oxidizing Agent and Method; filed 26 May 1970, patented 9 Januay 1973; not available NTIS.
Patent 3,712,142: Magnetic and Pressure Transducer; filed 17 November 1971, patented 23 January 1973; not available NTIS.
Patent 3,713,044: N2 Pumped Tunable Dye Laser; filed 17 May 1972, patented 23 January 1973; not available NTIS.
Patent 3,714,404: Birefringent Optical Correlator; filed 11 March 1970, patented 30 January 1973; not available NTIS.
Patent 3,714,561: Transducer for Measuring the Displacement of an Electrically Conductive Objective; filed 24 November 1970, patented 30 January 1973; not available NTIS.
Patent 3,715,759: Unfurlable Isotropic Antenna; filed 8 March 1970, patented 6 February 1973; not available NTIS.
Patent 3,716,410: Lithium Battery Electrolyte Additive and Method of Improving Discharge Rate; filed 27 September 1971, patented 13 February 1973; not available NTIS.
Patent 3,717,628: Method for the Preparation of 2,3-Dimethyl Aziridine. Filed 9 October 1970, patented 20 February 1973; not available NTIS.
Patent 3,718,398: Method of Aligning Laser Beam by Rotation; filed 29 April 1971, patented 27 February 1973; not available NTIS.
Patent 3,722,039: Plastic Zipper/Closure for Flexible Containers; filed 9 February 1971, patented 27 March 1973; not available NTIS.
Patent 3,722,875: Adjustable Suspension Unit; filed 29 April 1971, patented 27 March 1973; not available NTIS.
Patent 3,722,969: Ball and Roller Bearing Retainer Improvement for High Speed Operation; filed 4 January 1972, patented 27 March 1973; not available NTIS.
Patent 3,725,282: Passive Wake Quenching System Using Nonablating Material, Sulfur and a Solid Noble Gas Fluoride; filed 15 April 1971, patented 3 April 1973; not available NTIS.
Patent 3,725,737: Corona Discharge Electrode Structure for Electrofluid Dynamic Generator; filed 8 November 1971, patented 3 April 1973; not available NTIS.
Patent 3,725,798: Proton Maser Antenna tuning Means filed 3 September 1971, patented 3 April 1973; not available NTIS.
Patent 3,725,814: Apparatus for Locking the Frequency of a Laser to an Atomic Absorption Line; filed 10 September 1971, patented 3 April 1973; not available NTIS.
Patent 3,725,815: Photoelastic Mode-Locking of Q-Switched Lasers Using Birefringent Crystals; filed 10 January 1972, patented 3 April 1973; not available NTIS.
Patent 3,725,816: Fan Geometry Mixing Laser; filed 28 April 1972, patented 3 April 1973; not available NTIS.
Patent 3,725,827: High Coupling Low Diffraction Acoustic Surface Wave Delay Line; filed 17 May 1972, patented 3 April 1973; not available NTIS.
Patent 3,725,913: Microwave Sensitivity Time Control Circuit; filed 22 November 1971, patented 3 April 1973; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Mgmt. Branch, Federal Building, General Services Division, Agricultural Research Service, Hyattsville, Maryland 20782.

Patent application 395,025: Method of Chemically Inducing Lightwood Formation in Pine Trees; filed 7 September 1973, PC $4.00/MF $1.45.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, DC 20240.

Patent 2,983,810: Photoflash Unit; filed 12 May 1958, patented 9 May 1961; not available NTIS.
Patent 2,991,421: Fish Guidance Direct Current Switching Devices; filed 19 November 1959, patented 4 July 1961; not available NTIS.
Patent 3,028,183: Sealed Ball Joint for Electrodes; filed 30 November 1959, patented 3 April 1962; not available NTIS.
Patent 3,054,295: Method and Apparatus for Determining Rate of Pressure Change; filed 26 June 1958, patented 18 September 1962; not available NTIS.
Patent 3,069,907: Magnetic Type Current Meter; filed 22 July 1960, patented 25 December 1962; not available NTIS.
Patent 3,075,900: Method for Separating Molybdenum from Tungsten by Electrolysis from a Fused Electrolyte Bath; filed 25 November 1960, patented 29 January 1963; not available NTIS.
Patent 3,076,997: Flotation Process for Concentration of Phenacite and Bertrandite; filed 24 February 1961, patented 26 February 1963; not available NTIS.
Patent 3,103,202: Method of Treating Oyster Shells and other Collectors to Diminish Predation; filed 31 May 1962, patented 10 September 1963; not available NTIS.
Patent 3,104,928: Bathkymograph; filed 29 March 1962, patented 24 September 1963; not available NTIS.
Patent 3,305,567: Nitrated Fatty Acid Esters; filed 22 July 1963, patented 21 February 1967; not available NTIS.
Patent 3,321,009: High Temperature Heat Exchange Using Liquid Metal; filed 1 June 1965, patented 23 May 1967; not available NTIS.
Patent 3,323,653: Multimembrane Apparatus for Demineralizing Liquids; filed 20 March 1963, patented 6 June 1967; not available NTIS.
Patent 3,323,857: Selective Extraction and Separation of Lanthanides with a Quaternary Ammonium Compound; filed 16 December 1965, patented 6 June 1967; not available NTIS.
Patent 3,329,265: Flotation of Mica; filed 18 August 1964, patented 4 July 1967; not available NTIS.
Patent 3,337,889: Mechanical Device for Cleaning the Interior of Large Aquarium Tanks; filed 11 March 1966, patented 29 August 1967; not available NTIS.
Patent 3,385,669: Method of Preparing Zirconium Carbide Fibers and the Product Thereof; filed 21 April 1965, patented 28 May 1968; not available NTIS.
Patent 3,390,985: Consolidation and Forming by High-Energy-Rate Extrusion of Powder Material; filed 10 August 1966, patented 2 July 1968; not available NTIS.
Patent 3,450,267: Porous Membrane Support; filed 28 August 1967, patented 17 June 1969; not available NTIS.
Patent 3,463,814: Chemical Cycle for Evaporative Water Desalination Plant; filed 24 March 1967, patented 26 August 1969; not available NTIS.
Patent 3,463,981: On-Off Servo Control for a Fluid Level Sensor Including a Differential Transformer Pickoff with Limit Override; filed 25 November 1966, patented 26 August 1969; not available NTIS.
Patent 3,464,502: Hydraulic-Drive Drilling; filed 6 November 1967, patented 2 September 1969; not available NTIS.
Patent 3,464,766: Stereo-Image Alternator System; filed 28 October 1966, patented 2 September 1969; not available NTIS.
Patent 3,466,189: Method for Improving Heat Transfer in Condensers; filed 2 September 1966, patented 9 September 1969; not available NTIS.
Patent 3,476,654: Multistage Flash Distillation with Scale Removal; filed 29 September 1967, patented 4 November 1969; not available NTIS.
Patent 3,477,942: Hydrocarbon Fuels from Coal or Any Carbonaceous Material; filed 28 July 1967, patented 11 November 1969; not available NTIS.
Patent 3,479,266: Inorganic Ion Exchange Membranes for Use in Electric Separatory Processes; filed 30 November 1967, patented 18 November 1969; not available NTIS.
Patent 3,479,267: Inorganic Ion Exchange Membranes for use in Electrical Separatory Processes; filed 30 November 1967, patented 18 November 1969; not available NTIS.
Patent 3,479,638: Beamforming in Seismic Surveying; filed 29 July 1968, patented 18 November 1969; not available NTIS.
Patent 3,482,635: Polyacrylamide Removal from Porous Media; filed 6 March 1967, patented 9 December 1969; not available NTIS.
Patent 3,483,649: Electrical Trawl Net System; filed 29 October 1968, patented 16 December 1969; not available NTIS.
Patent 3,516,448: Intermittent Timer Circuit; filed 13 February 1969, patented 30 June 1970; not available NTIS.
Patent 3,551,209: Formation of Skeletal Metal Solid Electrolyte Fuel Cell Electrodes; filed 21 May 1969, patented 29 December 1970; not available NTIS.
Patent 3,553,501: Ultrasonic Piezoelectric Transducer Cartridge; filed 16 February 1968, patented 5 January 1971; not available NTIS.
Patent 3,968,869: Preparation of Maps; filed 30 November 1956, patented 24 January 1961; not available NTIS.
Patent 3,974,184: Bundle Conductor Spacer; filed 19 August 1958, patented 7 March 1961; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA–Code GP–2, Washington, DC 20546.

Patent 3,730, 151: Evacuated Displacement Compression Molding; patented 18 December 1973; not available NTIS.

[FR Doc.74–9687 Filed 4–30–74;8:45 am]

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Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

Patent application 338,728: Improved Air Generating Mechanism for an Aircraft Air Cushion Takeoff and Landing System; filed 7 March 1973; PC $5.00/MF $1.45.
Patent 3,747,556: Cross-Mounted Mask Changer with Thickness Monitoring; filed 3 November 1972, patented 24 July 1973; not available NTIS.
Patent 3,747,875: V/Stol Aircraft-by-Pass Engine Having a Double, Thrust Diverter Valve Assembly; filed 4 November 1971, patented 24 July 1973; not available NTIS.
Patent 3,748,892: High Precision Dilatometer; filed 18 April 1972, patented 31 July 1973; not available NTIS.
Patent 3,749,022: Two-Stage Arming Mechanism; filed 14 October 1971, patented 31 July 1973; not available NTIS.
Patent 3,749,914: Vehicle Attitude Sensor; filed 21 December 1970, patented 31 July 1973; not available NTIS.
Patent 3,749,963: Device to Aid in Centering of High Energy Electric Particle Beams in an Evacuated Drift Tube; filed 19 May 1970, patented 31 July 1973; not available NTIS.
Patent 3,750,013: Microstrip Plasma Probe; filed 21 October 1970, patented 31 July 1973; not available NTIS.
Patent 3,750,048: Window for High Power Gaseous Lasers; filed 17 May 1972, patented 31 July 1973; not available NTIS.
Patent 3,750,182: Suppressed Sidelobe Equal Beamwidth Millimeter Horn Antenna; filed 8 August 1972, patented 31 July 1973; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Mgmt. Branch, Federal Building, General Services Division, Agricultural Research Service, Hyattsville, Maryland 20782.

Patent application 272,812: Novel Process for the Preparation of Tris (Hydroxymethyl) Phospine and Tris (Hydroxymethyl) Phoephine oxide; filed 18 July 1972; PC $4.00/MF $1.45.
Patent application 288,813: N,N-BIS(2-(3-Carboalkoxypropionyloxy) Ethyl - Oleamides; filed 13 September 1972; PC $5.00/MF $1.45.
Patent application 293,748: Electrostatic Yarn Bulking; filed 29 September 1972; PC $4.00/MF $1.45.
Patent application 295,778: Process for Improving Abrasion Resistance of Resilient Fabrics; filed 6 October 1972, PC $4.00/MF $1.45.
Patent application 311,611: Dry-Structured Foams from Animal Hide Glues; filed 4 December 1972; PC $4.00/MF $1.45.
Patent application 348,801: N-Substituted Fatty Acid Amide Lubricants; filed 6 April 1973; PC $4.25/MF $1.45.
Patent application 376,973: Chicken Coop Unstacking Machine; filed 6 July 1973; PC $4.00/MF $1.45.
Patent application 382,783: Pyrolyzed Tall Oil Products as Synthetic Rubber Tackifiers; filed 26 July 1973; PC $4.00/MF $1.45.
Patent 3,676,207: Permanent Sizing of Yarns and Fibers with Durable Polymers and Copolymers for the Production of Fabrics with Improved Properties for Particular End Uses; filed 15 July 1970, patented 11 July 1972; not available NTIS.
Patent 3,707,024: Method for Electrostatically Bulkirig and Impregnating Staple Yarns; filed 31 March 1971, patented 26 December 1972; not available NTIS.
Patent 3,725,001: Phosphinidynetrimethanol Triacetate and Its Application to Cellulosic Materials; filed 21 August 1970, patented 3 April 1973; not available NTIS.
Patent 3,733,257: Radiation Initiated Process for the Graft Copolymerization of Binary Monomer Mixtures and Cellulose; filed 19 November 1971, patented 15 May 1973; not available NTIS.

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Patent 3,746,644: N-Substituted Fatty Acid Amide Lubricants; filed 31 August 1971, patented 17 July 1973; not available NTIS.

Patent application 288,840: N-Benzyl-N-2-Acetoxyethyl-Oleamide; filed 13 September 1972; PC $5.00/MF $1.45.

Patent application 292,730: Electrostatic Yarn Bulking; Filed 29 September 1972; PC $4.00/MF $1.45.

Patent application 306,771: Process for Reacting Sultones with Cellulosic Materials to Produce Cellulosic Materials Having Both Basic and Acidic Groups; filed 15 November 1972; PC $4.00/MF $1.45.

Patent application 306,772: Production of Phosphorus and Nitrogen Containing Compounds and Polymers and Flameproofing Organic Textiles; filed 15 November 1972; PC $4.00/MF $1.45.

Patent application 315,731: Process for Increasing Receptivity to Fluroescent Whitening Agents in Resin-Treated Cellulosic Textiles; filed 15 December 1972; PC $4.00/MF $1.45.

Patent application 315,753: Flame-Resistant Organic Textiles Through Treatment with Halogen Containing Soluble Methylol Phosphine Adducts; filed 15 December 1972; PC $4.00/MF $1.45.

Patent application 321,417: Removal of Free Formaldehyde from Solutions of Methylolated Carbamate Finishing Agents and Textiles Treated Therewith; filed 5 January 1973; PC $4.00/MF $1.45.

Patent application 328,205: Flame Retardant Polymers Made from Hydroxymethylphosphorus Compounds and Guanazoles and Process for Treating Organic Textiles; filed 31 January 1973; PC $4.50/MF $1.45.

Patent application 335,861: Preparation of Cellulose N,N-Dimethylformimidate Chloride in Textile Form, and Conversion to Halogenodeoxycelluloses and Cellulose formate; filed 26 February 1973: PC $4.25/MF $1.45.

Patent application 376,971: Quarternary arylaminoalkyl Phosphonium Salts and Process for the Preparation Thereof; filed 6 July 1973; PC $4.00/MF $1.45.

Patent 3,732,256: Reduced Maleopimaric Acid and Process for its Preparation; filed 26 March 1971, patented 8 May 1973; not available NTIS.

Patent 3,745,835: Air Static Pressure and Temperature Measuring Device for Remote Locations in Stored Porous Material; filed 1 November 1971, patented 17 July 1973; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Maryland 20014.

Patent 3,784,467: Droplet Countercurrent Chromatography; filed 26 May 1971, patented 8 January 1974; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent 2,799,574: Electric Smelting Process for Manganese Ores; filed 10 February 1953, patented 16 July 1957; not available NTIS.

Patent 2,808,886: Selective Plugging of Gas-Injection Oil Wells in Oil Field Gas-Drive Projects; filed 8 July 1953, patented 8 October 1957; not available NTIS.

Patent 2,812,288: Destructive distillation of Hydrocarbonaceous Materials; filed 11 October 1950, patented 5 November 1957; not available NTIS.

Patent 2,817,885: Means for Orienting Diamonds in Hard Vector Directions in Diamond Bits and Tools; filed 10 November 1953, patented 31 December 1957; not available NTIS.

Patent 2,867,478: Pulsating Counter-Flow Feeder; filed 9 June 1958, patented 6 January 1959; not available NTIS.

Patent 3,382,328: Controler for Reculating the Resistance of a Melt; filed 12 November 1967, patented 14 April 1959; not available NTIS.

Patent 2,907,204: Improved Vane-Type Soil Testing Apparatus; filed 23 July 1956, patented 6 October 1959; not available NTIS.

Patent 2,960,771: Exaggeration Profile Plotter; filed 14 April 1958, patented 22 November 1960; not available NTIS.

Patent 3,008,802: Recrystallising a Reconstituted Fluorine-Mica Sheet; filed 18 March 1957, patented 14 November 1961; not available NTIS.

Patent 3,022,842: Automatic Batch Weighing Device for Filling or Unloading; filed 19 December 1958, patented 27 February 1962; not available NTIS.

Patent 3,027,750: Apparatus for Studying Phase Relationships of Gases and Gas Mixtures; filed 24 February 1959, patented 3 April 1962; not available NTIS.

Patent 3,073,387: Method for Removal of Liquid and Solid Materials from Gas-Well Bores; filed 22 October 1959, patented 15 January 1963; not available NTIS.

Patent 3,109,872: Cooler and Humidifier for Subsoil Centrifuge; filed 29 August 1961, patented 5 November 1963; not available NTIS.

Patent 3,117,000: Activation of Inert or Passive Metals; filed 15 March 1962, patented 7 January 1964; not available NTIS.

Patent 3,126,327: Electrolytic Method for Extracting the Chromium Values from Chromium Oxide Bearing Ores; filed 4 December 1962, patented 24 March 1964; not available NTIS.

Patent 3,136,080: Device Isopachometer; filed 6 March 1961, patented 9 June 1964; not available NTIS.

Patent 3,136,627: Process and Apparatus for Selective Condensation of Metals; filed 11 June 1959, patented 9 June 1964; not available NTIS.

Patent 3,137,080: Vitavue Relief Model Technique; filed 16 March 1962, patented 16 June 1964; not available NTIS.

Patent 3,140,170: Magnesium Reduction of Titanium Oxides in a Hydrogen Atmosphere; filed 23 November 1962, patented 7 July 1964; not available NTIS.

Patent 3,149,006: Prevention of Embrittlement of Metals; filed 31 January 1963, patented 15 September 1964; not available NTIS.

Patent 3,174,857: Edge Isolation of Photographic Imagery; filed 25 June 1962, patented 23 March 1965; not available NTIS.

Patent 3,185,564: Method of Agglomerating Iron Ore Fines; filed 24 April 1964, patented 25 May 1965; not available NTIS.

Patent 3,192,912: Process for Separating the Rare Earth Elements by Means of Solvent Extraction; filed 9 August 1962, patented 29 June 1965; not available NTIS.

Patent 3,204,605: Live Fish Grading Apparatus; filed 29 July 1964, patented 7 September 1965; not available NTIS.

Patent 3,219,521: Method for Controlling Petromyzon Marinus; filed 11 April 1957, patented 23 November 1965; not available NTIS.

Patent 3,221,906: Sealing System for Blast Furnace Bells for High Pressure Top Operation; filed 11 February 1964, patented 7 December 1965; not available NTIS.

Patent 3,277,615: Air-Inflated Building Structure; filed 14 April 1964, patented 11 October 1966; not available NTIS.

Patent 3,267,920: Device for Securing a Plug in an Infusion Hole; filed 20 December 1961, patented 29 November 1966; not available NTIS.

Patent 3,302,701: Turbulence Promoter for Increased Heat and Mass Transfer; filed 19 October 1965, patented 7 February 1967; not available NTIS.

Patent 3,463,922: Mineral Ore Exploration Apparatus Utilizing Neutron Activation; filed 29 July 1966, patented 26 August 1969; not available NTIS.

Patent 3,482,637: Process and Method for Quenching Incipient Gas-Air Explosions; filed 20 October 1967, patented 9 December 1969; not available NTIS.

Patent 3,791,934: Helical Multistage Flash Distillation Unit; filed 9 August 1971; patented 12 Febuary 1974; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA—Code GP-2, Washington, DC 20546.

Patent application 419,748: Strain Arrestor Plate; Filed 28 November 1973, PC $3.00/MF $1.45.

Patent application 428,992: Particulate and Solar Radiation Stable Coating for Spacecraft; filed 27 December 1973, PC $3.00/MF $1.45.

Patent application 437,556: Transparent Fire Resistant Polymeric Structures; filed 29 January 1974; PC $3.50/MF $1.45.

Patent 3,732,397: Inherent Redundancy Electric Heater, patented 8 May 1973; not available NTIS.

Patent 3,780,563: Insitu Transfer Standard for Utirahigh Vacuum Gage Calibration; patented 25 December 1973; not available NTIS.

Patent 3,781,933: Modification of One Man Life Raft; patented 1 January 1974; not available NTIS.

Patent 3,782,205: Temperature Compensated Digital Inertial Sensor; patented 1 January 1974; not available NTIS.

Patent 3,782,698: Heater-Mixer for Stored Fluids; patented 1 January 1974; not available NTIS.

Patent 3,782,699: Bimetallic Fluid Displacement Apparatus; patented 1 January 1974. Not available NTIS.

Patent 3,7,82,835: Optical Instruments; patented 1 January 1974; not available NTIS.

Patent 3,783,250: Adaptive Voting Computer System; patented 1 January 1974; not available NTIS.

[FR Doc.74-9880 Filed 4-30-74;8:45 am]

Office of the Secretary

ROOM AIR CONDITIONERS

Voluntary Energy Conservation; Testing and Labeling

By notice published in the FEDERAL REGISTER January 31, 1974 (39 FR 3982), the Department of Commerce announced its intention of issuing a Voluntary Energy Conservation Specification, hereinafter referred to as "Specification," for room air conditioners in accordance with the Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation, 15 CFR Part 9. A proposed Specification for room air conditioners was published in the same FEDERAL REGISTER and interested parties were afforded an opportunity to file written comments and suggestions.

Comments in response to the above referenced publication of the proposed Specification were received from sixteen sources and were reviewed and analyzed within the Department. A detailed analysis of the comments received has been prepared. A copy of this analysis is filed in the Central Reference and Records Inspection Facility, Room 7043, Commerce Building, 14th Street between Constitution Avenue and E Street NW., Washington, D.C. 20230, and is available for public inspection at that location.

Modifications based on the analysis of comments received have been made in the proposed Specification. Such modifications were also the result of coordination with the Council on Environmental Quality and the Environmental Protection Agency. Based on these actions the final Specification for room air conditioners, as set forth below, is hereby issued as part of the Department of Commerce Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation.

Effective date. Specifications issued under the Department of Commerce's Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation shall normally become effective 30 days following the date of publication in the FEDERAL REGISTER unless for good cause shown it is found that an earlier or later date is in the public interest and the reason for such finding is published.

It is hereby found that good cause has been shown that an earlier effective date of this Specification is in the public interest. This finding is based on the fact that room air conditioners are a seasonal item and the selling season is now at hand. An additional 30-day delay could seriously impair the ability of those manufacturers desiring to voluntarily participate in the program to label their units for the forthcoming season. Also, in view of the current energy problem and the importance of resolving such problem at the earliest practicable date, the need for an early start with regard to this Specification for room air conditioners makes it essential that the effective date be set as early as possible lest not merely an additional 30 days be lost but that a full year may not be lost in light of the seasonal nature of this product.

Furthermore, no burden would be placed upon any manufacturer of room air conditioners if an earlier effective date were set for a Specification on such product since the program is voluntary and, under the Department's procedures, manufacturers may elect to commence their participation in this program upon the effective date of the issuance of a final Voluntary Energy Conservation Specification or at any time thereafter.

Accordingly, this Specification shall become effective on May 1, 1974.

Issued: April 29, 1974.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

VOLUNTARY ENERGY CONSERVATION SPECIFICATION NO. 1-74, FOR ROOM AIR CONDITIONERS

Sec.

1.0 Purpose.
2.0 Scope.
3.0 Definitions.
4.0 Product testing and rating.
5.0 Product labeling.
6.0 Use of program information in retail sales catalogs or in advertising.
7.0 Participation in program.
8.0 Termination of participation.
9.0 Use of program information by other than manufacturers.
10.0 Amendment.

Figure 1
Figure 2

Appendix A—Cooling Capacity Ranges and EER Ranges

1.0 *Purpose.* The purpose of this Voluntary Energy Conservation Specification, hereinafter referred to as "Specification," is to establish procedures for testing and labeling room air conditioners in compliance with the Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation (15 CFR Part 9) and to define requirements for participation by manufacturers in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to that product class.

2.0 *Scope.* 2.1 This Specification shall apply to the product class consisting of all room air conditioners as defined in 3.4.

2.2 Room air conditioners covered by this Specification shall be rated with respect to the following energy use characteristics:

2.2.1 Electrical power requirement as described in 4.3.1.

2.2.2 Cooling capacity as described in 4.3.2.

2.2.3 Energy Efficiency Ratio (EER) as described in 4.3.3.

2.3 The present range of EER's of all known room air conditioners is as listed in Appendix A to this Specification. This appendix shall be updated and published in the Federal Register on an annual basis starting in January 1975. Copies of this appendix or updated versions of this appendix shall be provided by the Secretary of Commerce to any interested party upon request.

3.0 *Definitions.* 3.1 The term "Secretary" means the Secretary of Commerce.

3.2 The term "manufacturer" means any person engaged in the manufacturing or assembling of room air conditioners in the United States, or in the importing of such products for sale or resale, or any person whose brand or trademark appears on such products who owns such brand or trademark and has authorized its use on such product, if the brand or trademark of the person actually manufacturing or assembling the product does not appear on the product.

3.3 The term "Procedures" means Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation, 15 CFR Part 9.

3.4 The term "room air conditioner" means an encased assembly designed as a unit primarily for mounting in a window or through a wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and means for circulating and cleaning air and may include means for ventilating and heating.

3.5 The term "window model" means either a room air conditioner designed only for mounting in a window or a room air conditioner designed for mounting in a window or through a wall.

3.6 The term "through-wall model" means a room air conditioner designed exclusively for mounting through a wall. Room air conditioners designed primarily for mounting through a wall but which also are suitable for mounting in a window are, for the purpose of this Specification, considered "window models" as defined in 3.5.

3.7 The term "basic model" means all room air conditioners actually manufactured or assembled by one manufacturer and having the identical wattage and amperage ratings, and Btu per hour rating. Derivatives of a basic model may differ in details that do not affect performance as measured by the methods described in 4.1. Acceptable differences include, but are not limited to, variations in trim, color, mounting method, sales model number, and brand name.

3.8 The term "retail sales catalog" means a catalog that contains a description of one or more models of room air conditioners, states the price of the model or models described, and from which consumers may make purchases by placing orders.

4.0 *Product testing and rating.* 4.1 Samples of room air conditioners shall be tested by manufacturers or their agents for cooling capacity and electrical power requirement in accordance with the following standards:

4.1.1 American National Standard Z234.1–1972, Room Air Conditioners, Sections 4, 5, 6.1, and 6.5.

4.1.2 American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 16–69, Method of Testing for Rating Room Air Conditioners.

4.2 Samples of room air conditioners shall be tested by manufacturers or their agents in accordance with the following requirements:

4.2.1 Unless otherwise required by the Secretary, under 4.2.5, test results obtained in the testing of one derivative of a basic model of room air conditioner may be accepted as applicable to all derivatives of that basic model.

4.2.2 Sufficient units of each basic model of room air conditioner, that are representative of units to be produced, shall be tested according to the methods and conditions specified in 4.1 to provide a valid basis for determining ratings. Results of tests and calculations shall be retained as required under 7.4.

4.2.3 Models having dual ratings shall be separately tested at each design voltage.

4.2.4 Manufacturers shall maintain such quality control programs, to include testing, as are necessary to insure that the performance of manufactured units is within the tolerances specified in 4.5. The use of national certification programs that are open to all manufacturers and that pertain to the performance characteristics listed on the label as a means for verifying the performance level of room air conditioners is accepta-

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ble. Results of tests and calculations shall be retained as required under 7.4.

4.2.5 In addition to the testing required under 4.2.2, 4.2.3, and 4.2.4, the Secretary may request that one or more units of any specified basic model or any specified derivative of a basic model, selected at random from among recent production units, be tested by the manufacturer or his agent according to the methods and conditions specified in 4.1. Such testing shall be performed at the manufacturer's expense and the resulting test data and calculations shall be provided to the Secretary within 30 days of receipt by the manufacturer of such a request. This requirement does not preclude the Department of Commerce from testing or having tested at its own expense any model or unit of room air conditioner.

4.3 Ratings for use on labels of room air conditioners shall be as follows:

4.3.1 Electrical power requirement shall be expressed in watts and shall be based upon the result of the electrical power test called for in 4.1.

4.3.2 Cooling capacity shall be expressed in Btu per hour and shall be based upon the result of the cooling capacity test called for in 4.1.

4.3.3 EER shall be expressed in Btu per watt-hour and shall be equal to the rated cooling capacity in Btu per hour as determined in 4.3.2 divided by the rated electrical power requirement in watts as determined in 4.3.1, this quotient then being rounded to the nearest 0.1.

4.3.4 For models having dual ratings, both sets of ratings shall be used on the label.

4.4 Cooling capacity ranges and ranges for use on room air conditioner labels shall be as follows:

4.4.1 The ranges shall be taken from the version of Appendix A in effect at the time the labels are applied. However, labels that are applied within a 90 day period following revision of Appendix A and showing previous EER ranges need not be replaced with labels showing new EER ranges.

4.4.2 The ranges shown on a label shall be taken from the appropriate column and line of Appendix A as determined by the rated cooling capacity, voltage rating, and method of mounting of the labeled model as defined in 3.5 or 3.6.

4.4.3 For models having dual *ratings*, only one EER *range* shall be shown on the label. The highest cooling capacity rating shall be used to select the correct line in Appendix A for determining the EER range shown on the label.

4.5 For specific models of room air conditioners tested under 4.2.4 or 4.2.5, the label shall be held to be in accordance with the requirements of this Specification only if the results of such tests fall within the following limits:

4.5.1 The value for electrical power requirement shall not be greater than 110 percent of the value shown on the label.

4.5.2 The value for cooling capacity shall not be less than 95 percent of the value shown on the label.

5.0 *Product labeling.* 5.1 The design of labels for room air conditioners shall be as follows:

5.1.1 The content and design of labels shall be as indicated in Figure 1 or Figure 2 at the end of this Specification. No marks or information other than that shown shall be placed within the border of labels except the specifically designated ratings, ranges, model numbers and names, and the seal, logo, or other designation of the certifier of rating accuracy. Except as provided in 5.1.3, the size of labels and type sizes shall be as indicated in Figure 1 or Figure 2 or a proportional enlargement of the label size and type sizes indicated in Figure 1 or Figure 2.

5.1.2 For models having dual ratings, numerical values relevant to the highest design voltage shall be shown first as for example: 230/208 volts, 6.0/6.5 amperes, 10,400/10,200 Btu per hour, 1,310/1,300 watts, EER=7.9/7.8.

5.1.3 When two or more models of room air conditioners having the same brand name have identical ratings, more than one model number may be shown on the label. The size of the label may be increased to accommodate such additional model number listings.

5.1.4 Labels shall be printed on a light color stock with a dark, contracting color of ink. Preferred colors are white stock, center of Department of Commerce Energy Conservation Mark Pantone Orange 151, and all other printing Pantone Reflex Blue.

5.1.5 Camera-ready art suitable for printing the labels, but not including numerical ratings, model numbers, or the seal, logo, or other designation of the certifying agency, shall be provided by the Secretary to any manufacturer upon request. Actual labels shall be accurate reproductions of this art.

5.2 Room air conditioners shall be labeled by manufacturers as follows:

5.2.1 Labels shall be affixed to or hung as a tag on the front or "room" side of each unit in a conspicuous location. However, if the design of the front or "room" side of a model is such as to make fixing of labels thereto impractical, labels may be affixed on the top of units of such a model, in a position adjacent to the front. Labels are not intended to be permanent and may be affixed so as to be easily removed by a purchaser.

5.2.2 Labels shall appear clearly distinct from any other information supplied or displayed by the manufacturer so that the Department of Commerce Energy Conservation Mark on the label cannot reasonably be associated with such other information.

5.2.3 If any model of a given brand of room air conditioner is labeled, then every unit of every window model of that brand shall be labeled. If any through-wall model of a given brand is labeled, then every unit of every model of that brand, including window models, shall be labeled. However, these requirements shall not apply to units intended for export or units manufactured prior to the manufacturer's entry into the program.

5.2.4 For individual room air conditioner units manufactured and packaged prior to a manufacturer's entry into this program, manufacturers are encouraged to affix or hang appropriate labels, distribute appropriate labels to retailers to be attached to floor display models or other models, or provide point-of-purchase displays as described in 6.4. The manufacturer need not assume responsibility for assuring individual label attachment or use of point-of-purchase displays at retail outlets.

6.0 *Use of program information in retail sales catalogs or in advertising.* 6.1 For each labeled model of room air conditioner listed in a retail sales catalog, the listing shall contain either a legible reproduction of the appropriate label for that model, or a listing of the model number, the Btu per hour, watts, EER, volts, and amperes ratings for that model, and the appropriate cooling capacity and EER ranges for that model. The required information for one or more models may be presented in the form of a table.

6.2 For each labeled model of room air conditioner listed in a retail sales catalog, the cooling capacity range and EER range shown in the catalog shall be determined as follows:

6.2.1 The ranges shall be taken from the version of Appendix A in effect 90 days before the press date of the catalog or from a later version of Appendix A if it can be utilized before the press date of such catalog.

6.2.2. The ranges shall be taken from the appropriate column and line of Appendix A as determined by the rated cooling capacity, voltage rating, and method of mounting of the listed model as defined in 3.5 or 3.6.

6.2.3 For models having dual ratings, the highest cooling capacity rating shall be used to determine the EER range shown in the catalog.

6.3 When labeled models of room air conditioners are listed in retail sales catalogs, the catalog section in which the models are listed shall contain an explanation of the significance of EER and a reproduction of the Department of Commerce Energy Conservation Mark. The EER explanation may be similar to that shown on the labels in Figures 1 and 2.

6.4 Legible reproductions of entire labels in any size may be used on packaging or in point-of-purchase displays or in other advertising applications, but such use shall not be a substitute for required labeling.

6.5 For a given model of room air conditioner, when the EER rating as determined in 4.3.3 exceeds the upper limit of the then-current EER range as determined in 4.4 for labels or 6.2 for catalog listings, manufacturers are encouraged to utilize this information in their advertising of that model.

6.6 Manufacturers are encouraged to distribute to retailers or to consumers program information provided by the Department of Commerce, such as NBS Publication LC 1053 which is referred to on room air conditioner labels.

7.0 *Participation in program.* 7.1 Manufacturers wishing to participate in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to room air conditioners shall notify the Department of Commerce of their intent. Communications conveying such intent should be addressed to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230. Unless otherwise ruled by the Secretary, approval for participation by any manufacturer is automatically granted upon this notification to the Department, provided that the conditions for participation as set forth in the Procedures and in this Specification are observed.

7.2 A manufacturer's notice of participation shall include the following information:

7.2.1 A statement that the tests and calculations called for under 4.0 will be completed as required and that the manufacturer certifies the accuracy, within the tolerances prescribed under 4.5, of ratings that will be listed on labels.

7.2.2 A listing of all room air conditioner models to be labeled including an indication of the grouping of sales models into basic models. All appropriate models, as defined in 5.2.3, of any single brand name shall be included.

7.2.3 A statement that the manufacturer will desist from using the labels and Department of Commerce Energy Conservation Mark if the manufacturer's participation in the program is terminated by the Department of Commerce under the provisions of 8.2.

7.2.4 The effective date of the manufacturer's entry into the program.

7.3 When a manufacturer's listing of room air conditioner models to be labeled as required under 7.2.2 is changed by the addition or deletion of models or changes in model designations or ratings, or by termination of the manufacturer's participation in the program with respect to room air conditioners of a given brand name and mounting method group as defined in 5.2.3, the manufacturer or his agent shall notify the Secretary within 30 days of such changes.

7.4 Manufacturers or their agents shall maintain files of test results and calculations on which ratings are based and files of test results and calculations used to verify that the performance of manufactured units is within the tolerances specified in 4.5. Data relating to a given model shall be preserved for a period of two years after production of that model has been terminated, and if requested shall be provided to the Secretary within 30 days.

7.5 Manufacturers or their agents shall transmit required information to the Secretary in concise and readily understandable form. For this purpose copies of appropriate lists and reports used for other purposes, as for example reports submitted by a manufacturer to the sponsor of a nationally recognized certification program, or reports submitted by an independent testing laboratory to such a sponsor or a manufacturer, shall be acceptable.

8.0 *Termination of participation.* 8.1 A manufacturer may at any time terminate his participation and responsibilities under the program with respect to room air conditioners of a given brand name and mounting method group as defined in 5.2.3 by giving written notice to the Secretary that he will discontinue or has discontinued use of the labels on all room air conditioners of that brand and group. Such notice shall state the effective date of the manufacturer's termination of participation.

8.2 The Department of Commerce upon finding that a manufacturer is not complying with the conditions for participation set forth in this Specification and in the Procedures may terminate upon 30 days notice the manufacturer's participation in the program: *Provided*, that the manufacturer shall first be given an opportunity to show cause why the participation should not be terminated.

8.3 Upon receipt of a notice of termination a manufacturer may within 30 days request a hearing under the provisions of 5 U.S.C. 558.

9.0 *Use of program information by other than manufacturers.* 9.1 Retail sales organizations that are not manufacturers as defined in 3.2, that sell room air conditioners labeled under this program and have received appropriate and accurate program information from manufacturers or the Secretary, are specifically encouraged to utilize program information in their sales efforts in the manner prescribed in 9.2.

9.2 Appropriate activities for non-manufacturers include the following:

9.2.1 Use of room air conditioner ratings, cooling capacity and EER ranges, explanations of the significance of EER's, and reproductions of the U.S. Department of Commerce Energy Conservation Mark, under the guidelines described in 6.1, 6.2, and 6.3, in retail sales catalogs.

9.2.2 Affixing of labels or appropriate use of point-of-purchase displays, provided by manufacturers under 5.2.4, in sales areas.

9.2.3 Use of reproductions of labels, in the manner described in 6.4, in advertising.

9.2.4 Advertising of instances where the rated EER of a given model of room air conditioner exceeds the upper limit of the then-current EER range for models in its cooling capacity range, as described under 6.5.

9.2.5 Distribution of program information provided by the Department of Commerce, such as NBS Publication LC 1053 which is referred to on the room air conditioner labels. Program information may be obtained from the National Bureau of Standards, 411.00, Washington, D.C. 20234.

10.0 *Amendment.* This Specification is subject to amendment as provided in section 9.8 of the Procedures, except that Appendix A of this Specification may be updated and published in the Federal Register annually as described in 2.3 without first publishing notice of the proposed change in the FEDERAL REGISTER.

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TYPE STYLE GUIDE
(Use type styles specified below or equivalent)

Type styles 1871 and 24-264 are from the Varityper Headliner. Everything else is UNIVERSE type from the IBM Selectric Composer. M=Medium, MC=Medium Condensed, BC=Bold Condensed.

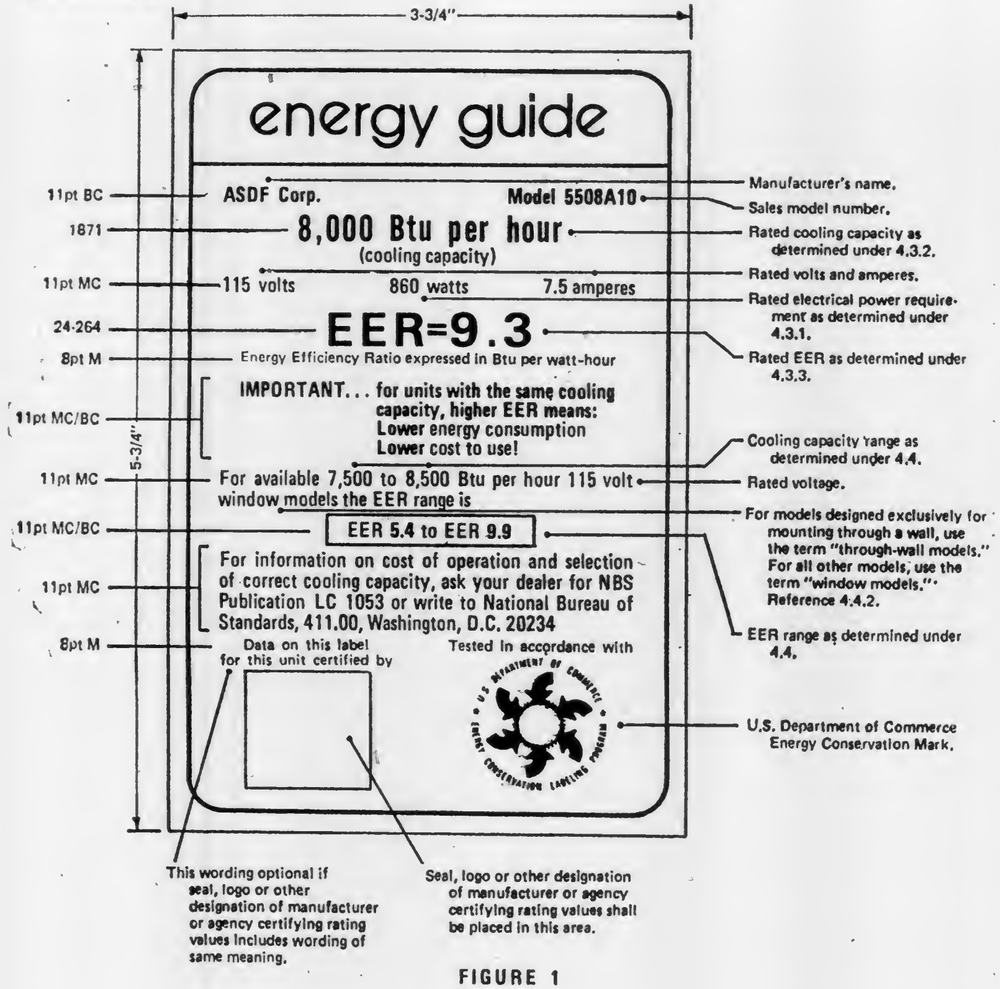


FIGURE 1

TYPE STYLE GUIDE
(Use type styles specified below or equivalent)

Type styles 1871 and 24-264 are from the Varityper Headliner. Everything else is UNIVERSE type from the IBM Selectric Composer. M=Medium, MC=Medium Condensed, BC=Bold Condensed.

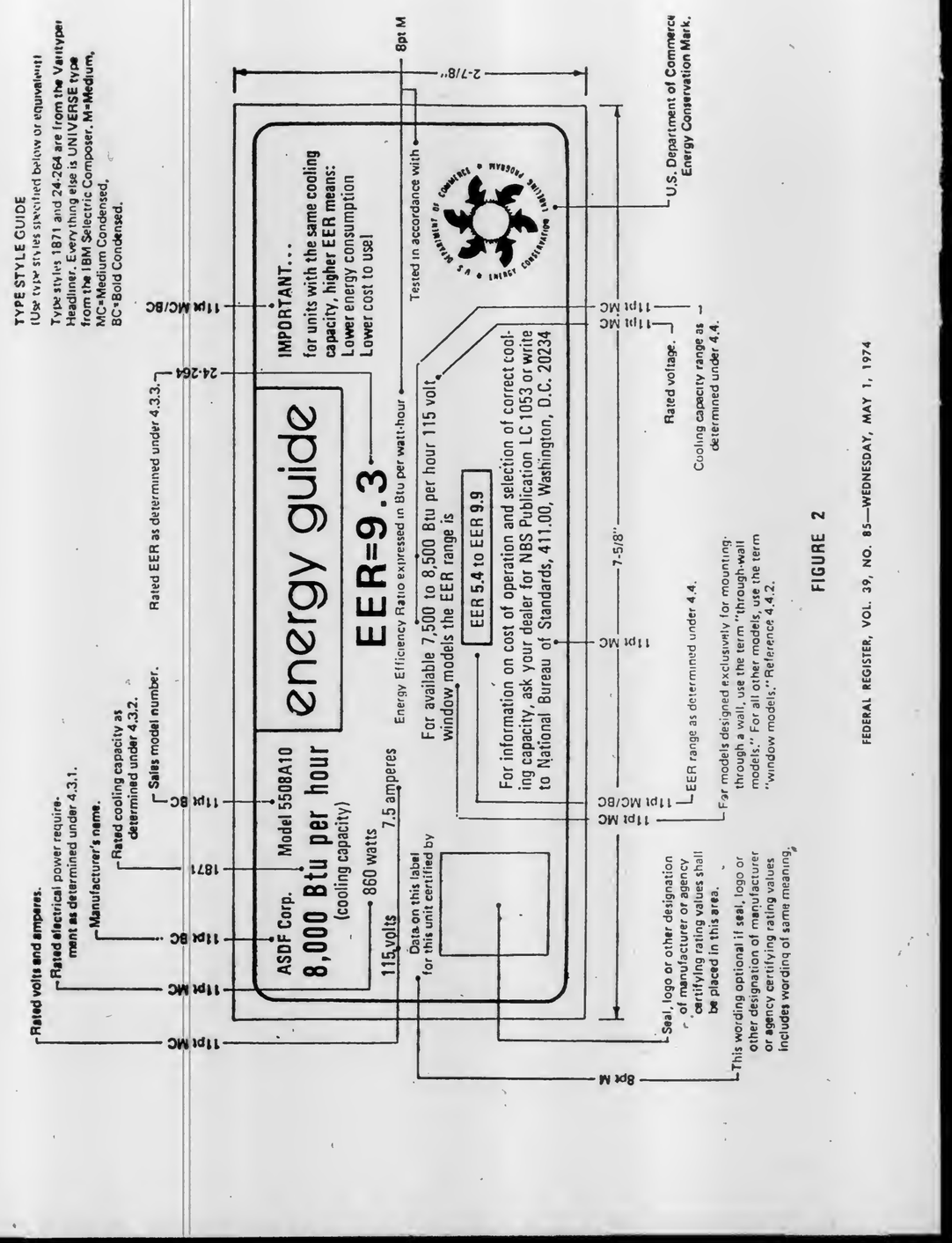


FIGURE 2

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VOLUNTARY ENERGY CONSERVATION SPECIFICATION 1-74, FOR ROOM AIR CONDITIONERS

APPENDIX A: COOLING CAPACITY RANGES AND EER RANGES FOR USE ON LABELS AND IN CATALOGS

RATED COOLING CAPACITY OF MODEL TO BE LABELED OR LISTED IN CATALOG, Btu PER HOUR	COOLING CAPACITY RANGE FOR USE ON LABEL OR IN CATALOG, Btu PER HOUR	EER RANGE FOR USE ON LABEL OR IN CATALOG, Btu PER WATT-HOUR			
		WINDOW MODELS *		THROUGH-WALL MODELS **	
		115 VOLT MODELS	HIGHER VOLTAGE MODELS	115 VOLT MODELS	HIGHER VOLTAGE MODELS
UP TO 4,799	UP TO 5,000	5.1 to 8.7	-	-	-
4,800 to 5,199	4,500 to 5,500	5.1 to 8.8	-	-	-
5,200 to 5,799	5,000 to 6,000	5.1 to 8.8	-	6.0 to 6.5	5.4 to 6.1
5,800 to 6,199	5,500 to 6,500	5.6 to 8.8	-	6.0 to 7.6	5.4 to 6.1
6,200 to 6,799	6,000 to 7,000	5.6 to 10.5	-	6.0 to 7.6	5.4 to 6.1
6,800 to 7,199	6,500 to 7,500	5.2 to 10.5	-	5.4 to 7.6	-
7,200 to 7,799	7,000 to 8,000	5.2 to 9.3	-	5.4 to 6.0	6.2 to 6.3
7,800 to 8,199	7,500 to 8,500	5.4 to 9.9	5.6 to 6.5	5.4 to 6.4	5.6 to 6.3
8,200 to 8,799	8,000 to 9,000	5.8 to 10.5	4.9 to 7.0	6.0 to 6.7	4.9 to 7.8
8,800 to 9,199	8,500 to 9,500	6.2 to 11.0	4.8 to 7.0	6.2 to 6.9	4.8 to 8.0
9,200 to 9,799	9,000 to 10,000	6.5 to 11.5	4.8 to 7.1	6.4 to 7.3	4.8 to 8.0
9,800 to 10,199	9,500 to 10,500	6.5 to 12.0	5.2 to 7.9	6.9 to 12.0	4.9 to 6.3
10,200 to 10,799	10,000 to 11,000	6.2 to 12.0	5.0 to 8.0	6.2 to 12.0	5.5 to 6.3
10,800 to 11,199	10,500 to 11,500	6.2 to 8.5	5.0 to 8.0	6.2 to 6.2	5.2 to 6.6
11,200 to 11,799	11,000 to 12,000	8.0 to 8.9	4.7 to 7.0	-	4.7 to 7.5
11,800 to 12,199	11,500 to 12,500	8.3 to 9.4	4.7 to 7.9	-	4.7 to 7.5
12,200 to 12,799	12,000 to 13,000	8.7 to 9.6	4.8 to 8.3	-	4.7 to 7.5
12,800 to 13,199	12,500 to 13,500	9.4 to 9.8	5.5 to 8.5	-	4.4 to 5.7
13,200 to 13,799	13,000 to 14,000	9.4 to 10.2	5.0 to 8.5	10.2 to 10.2	4.4 to 5.7
13,800 to 14,199	13,500 to 14,500	9.8 to 10.3	5.0 to 7.5	10.2 to 10.2	4.4 to 5.7
14,200 to 14,799	14,000 to 15,000	10.1 to 10.3	5.1 to 8.0	10.2 to 10.2	4.8 to 6.7
14,800 to 15,199	14,500 to 15,500	-	5.2 to 8.0	-	4.8 to 6.7
15,200 to 15,799	15,000 to 16,000	-	5.2 to 8.4	-	4.8 to 6.7
15,800 to 16,499	15,500 to 16,800	-	5.5 to 8.5	-	-
16,500 to 17,499	16,200 to 17,800	-	5.8 to 8.5	-	6.3 to 7.6
17,500 to 18,499	17,200 to 18,800	-	5.8 to 9.2	-	6.5 to 8.0
18,500 to 19,499	18,200 to 19,800	-	6.0 to 9.3	-	-
19,500 to 20,499	19,200 to 20,800	-	5.7 to 7.2	-	6.3 to 6.3
20,500 to 21,499	20,200 to 21,800	-	6.3 to 8.1	-	6.7 to 6.7
21,500 to 22,499	21,200 to 22,800	-	5.8 to 8.1	-	-
22,500 to 24,499	22,000 to 25,000	-	5.8 to 8.0	-	6.5 to 6.8
24,500 to 26,499	24,000 to 27,000	-	5.9 to 7.6	-	6.7 to 7.0
26,500 to 28,499	26,000 to 29,000	-	5.9 to 7.8	-	6.7 to 7.0
28,500 to 30,499	28,000 to 31,000	-	6.0 to 7.8	-	-
30,500 to 33,499	30,000 to 34,500	-	6.0 to 7.1	-	-
33,500 to 36,000	32,500 to 36,000	-	6.2 to 7.1	-	-

From data supplied by the Association of Home Appliance Manufacturers
Includes only units operating on 60 hertz electrical service.

* Includes EER ratings of all window models as defined in 3.5.

** Includes EER ratings of all through-wall models as defined in 3.6 plus EER ratings of window models suitable for mounting through a wall.

[FR Doc.74-10065 Filed 4-29-74;3:27 pm]

Social and Economic Statistics Administration

1970 CENSUS OF POPULATION AND HOUSING

Urbanized Areas Designatd by the Bureau of the Census

The Bureau of the Census has designated 274 urbanized areas in the United States and 4 urbanized areas in Puerto Rico based on the results of the 1970 Census of Population and Housing. 252 urbanized areas were delineated at the time the 1970 census data was processed. The designation of urbanized areas for the additional 26 areas, identified by asterisks on the accompanying list, was announced on March 1, 1974. The additional areas were delineated in compliance with revised Bureau of the Census guidelines. These revised guidelines permit the definition of urbanized areas for all the Standard Metropolitan Statistical Areas established on the basis of the 1970 census data.

An urbanized area includes a central city or cities that qualify under one of the criteria listed below. All population criteria refer to 1970 census population counts (except as specified in item 1a.).

1a. A city of 50,000 inhabitants or more according to the 1970 census, a special census taken between 1960 and 1970 or the 1960 census provided that the city is located in an SMSA and is not included in an existing urbanized area.

1b. A city having a population of at least 25,000 which, with the addition of the population of contiguous places (incorporated or unincorporated [1]) each of which has a population density of at least 1,000 persons per square mile, and which together constitute for general economic and social purposes, a single community with a combined population of at least 50,000, provided that the city is located within an SMSA and is not included in an existing urbanized area.

2. In addition to a central city or cities, a UA includes contiguous territory meeting the following criteria:

a. Incorporated places of 2,500 inhabitants or more but excluding the rural portions of extended cities.

b. Incorporated places with fewer than 2,500 inhabitants, provided that each has a closely settled area of 100 housing units or more; and all unincorporated places recognized in the 1970 census.

c. Contiguous small parcels of unincorporated land determined to have a 1970 census population density of 1,000 inhabitants or more per square mile. The areas of large nonresidential tracts devoted to such urban land uses as railroad yards, airports, factories, parks, golf courses, and cemeteries are excluded in computing the population density.)

d. Other similar small areas in unincorporated territory without regard to population density provided that they serve

To eliminate enclaves, or

To close indentations of one mile or less in width across the open end of the urbanized areas in order to eliminate narrow fingers of "rural" areas, or

To link outlying areas of qualifying density provided that these are not more than one and a half miles from the main body of the urbanized area.

Urbanized Area Boundaries. The outer limits of the urbanized areas are defined as following the centerline of the road or street indicated as the urbanized area boundary except where the urbanized area boundary is designated as following corporate limits, or is otherwise geographically specified.

Urbanized Area Title. The title is limited to three names and normally lists the largest city first and the other qualifying cities in descending order of size. For other cities to be listed in the title of an urbanized area with a central city of 50,000 or more, such cities must have (a) at least one-third the population of the largest city and a population of 25,000 or more, or (b) must have 250,000 inhabitants or more.

For those areas where the largest city has a population of at least 25,000 but less than 50,000 (Criterion 1b.), any named city or cities must have a population equal to one-third or more of that of the largest city and a minimum population of 15,000.

Area titles which include the names of more than one city start with the largest city and list other cities in descending order of size according to the most recent census, except that cities which qualify the area under Criterion 1b. are listed prior to the names of any other qualifying city.

The titles, and populations as of April 1, 1970, for each of the 278 urbanized areas are shown on the accompanying list. Maps and population data for all urbanized areas (those indicated by asterisks excluded) are available in the published reports of the 1970 Decennial Census. Page size maps and statistical tables listing the component parts of these UA's are included in the Number of Inhabitants reports (Series PC(1)-A) of the 1970 Census of Population. Large size maps showing the urbanized area boundaries in detail are included with the 1970 Census of Housing Block Statistics publications Series HC(3). Maps and statistical tables listing the components of the 26 urbanized areas announced on March 1, and indicated by asterisks on this list, will be provided in a separate publication to be issued later this year. Until this publication is available, population counts for these 26 urbanized areas can be obtained, upon request, from the Geography Division, Bureau of the Census, Washington, D.C. 20233. Maps will be available beginning July 15, 1974.

Dated: April 24, 1974.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

[1] Unincorporated places as identified and defined for the 1970 census by the U.S. Bureau of the Census.

URBANIZED AREAS BY STATE

Urbanized Area	*1970 Population*
Alabama:	
*Anniston, Ala	58,851
Birmingham, Ala	558,099
*Florence, Ala	62,926
Gadsden, Ala	67,706
Huntsville, Ala	146,565
Mobile, Ala	257,816
Montgomery, Ala	138,983
Tuscaloosa, Ala	85,875
(Columbus, Ga.-Ala.)	(part in Alabama) 25,281
Alaska:	
*Anchorage, Alaska	110,782
Arizona:	
Phoenix Ariz	863,357
Tucson, Ariz	294,184
Arkansas:	
Fort Smith, Ark.-Okla	(part in Arkansas 73,419) 75,517
Little Rock-North Little Rock, Ark	222,616
Pine Bluff, Ark	60,907
(Texarkana, Tex.-Ark.)	(part in Arkansas) 21,682
California:	
*Antioch-Pittsburg, Calif	59,585
Bakersfield, Calif	176,155
Fresno, Calif	262,908
Los Angeles-Long Beach, Calif	8,351,266
Modesto, Calif	106,107
Oxnard-Ventura-Thousand Oaks, Calif	244,653
Sacramento, Calif	633,732
Salinas, Calif	62,456
San Bernardino-Riverside, Calif	583,597
San Diego, Calif	1,198,323
San Francisco-Oakland, Calif	2,987,850
San Jose, Calif	1,025,273
Santa Barbara, Calif	129,774
*Santa Cruz, Calif	73,758
Santa Rosa, Calif	75,083
Seaside-Monterey, Calif	93,284
Simi Valley, Calif	56,936
Stockton, Calif	160,373
Colorado:	
Boulder, Colo	68,634
Colorado Springs, Colo	204,766
Denver, Colo	1,047,311
Pueblo, Colo	103,300
Connecticut:	
Bridgeport, Conn	413,366
Bristol, Conn	71,732
Danbury, Conn	66,651
Hartford, Conn	465,001
Meriden, Conn	98,454
New Britain, Conn	131,349
New Haven, Conn	348,341
*New London-Norwich, Conn	139,121
Norwalk, Conn	106,707
Stamford, Conn	184,898
Waterbury, Conn	156,986
(Springfield-Chicopee-Holyoke, Mass.-Conn.)	(part in Connecticut) 58,173
Delaware:	
Wilmington, Delaware-New Jersey	(part in Delaware 349,674) 371,267

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	1970 Population
District of Columbia:	
Washington, D.C.-Maryland-Virginia (part in D.C. 756,510)	2,461,489
Florida:	
•Daytona Beach, Fla	115,176
Fort Lauderdale-Hollywood, Fla	613,797
•Fort Myers, Fla	69,129
Gainesville, Fla	69,329
Jacksonville, Fla	529,585
•Lakeland, Fla	66,739
•Melbourne-Cocoa, Fla	178,948
Miami, Fla	1,219,661
Orlando, Fla	305,479
Pensacola, Fla	166,619
•Sarasota-Bradenton, Fla	167,298
St. Petersburg, Fla	495,159
Tallahassee, Fla	77,851
Tampa, Fla	368,742
West Palm Beach, Fla	287,561
Georgia:	
Albany, Ga	76,512
Atlanta, Ga	1,172,776
Augusta, Ga.-S.C. (part in Georgia 126,770)	148,953
Columbus, Ga.-Ala. (part in Georgia 183,335)	208,616
Macon, Ga	128,065
Savannah, Ga	163,753
(Chattanooga, Tenn.-Ga.) (part in Georgia)	28,947
Hawaii:	
Honolulu, Hawaii	442,397
Idaho:	
Boise City, Idaho	85,187
Illinois:	
•Alton, Ill	95,998
Aurora-Elgin, Ill	232,917
Bloomington-Normal, Ill	69,392
Champaign-Urbana, Ill	100,417
Chicago, Ill.-Northwestern Indiana (part in Illinois 6,185,156)	6,714,578
Decatur, Ill	99,693
Joliet, Ill	155,500
Peoria, Ill	247,121
Rockford, Ill	206,084
Springfield, Ill	120,794
(Davenport-Rock Island-Moline, Iowa-Ill.) (part in Illinois)	139,824
(Dubuque, Iowa-Ill.) (part in Illinois)	2,408
(St. Louis, Mo.-Ill.) (part in Illinois)	314,476
Indiana:	
Anderson, Ind	80,704
Evansville, Ind	142,476
Fort Wayne, Ind	225,184
Indianapolis, Ind	820,259
Lafayette-West Lafayette, Ind	79,117
Muncie, Ind	90,427
South Bend, Ind.-Mich. (part in Indiana 265,148)	288,572
Terre Haute, Ind	80,908
(Chicago, Ill.-Northwestern Indiana) (part in Indiana)	529,422
(Louisville, Ky.-Ind.) (part in Indiana)	81,488
Iowa:	
Cedar Rapids, Iowa	132,008
Davenport-Rock Island-Moline, Iowa, Ill (part in Iowa 126,295)	266,119
Des Moines, Iowa	255,824
Dubuque, Iowa-Ill (part in Iowa 63,142)	65,550
Sioux City, Iowa-Nebr.-S. Dak (part in Iowa 87,157)	95,937
Waterloo, Iowa	112,881
(Omaha, Nebr.-Iowa) (part in Iowa)	64,847
Kansas:	
Topeka, Kans	132,108
Wichita, Kans	302,334
(Kansas City, Mo.-Kans.) (part in Kansas)	350,208
(St. Joseph, Mo.-Kans.) (part in Kansas)	1,283
Kentucky:	
Lexington, Ky	159,538
Louisville, Ky.-Ind (part in Kentucky 657,908)	739,396
Owensboro, Ky	53,133
(Cincinnati, Ohio-Ky.) (part in Kentucky)	196,978
(Huntington,Ashland, W. Va.-Ky.-Ohio (part in Kentucky)	53,316
Louisiana:	
•Alexandria, La	77,609
Baton Rouge, La	249,463
Lafayette, La	78,544
Lake Charles, La	88,260
Monroe, La	90,567
New Orleans, La	961,728
Shreveport, La	234,564
Maine:	
Lewiston-Auburn, Maine	65,212
Portland, Maine	106,599
Maryland:	
Baltimore, Md	1,579,781
(Washington, D.C.-Md.-Va.) (part in Maryland)	1,009,138
Massachusetts:	
Boston, Mass	2,652,575
Brockton, Mass	148,844
Fall River, Mass.-R.I. (part in Massachusetts 123,491)	139,392
Fitchburg-Leominster, Mass	78,053
Lawrence-Haverhill, Mass.-N.H. (part in Massachusetts 182,438)	200,280
Lowell, Mass	182,731
New Bedford, Mass	133,667
Pittsfield, Mass	62,872
Springfield-Chicopee-Holyoke, Mass.-Conn. (part in Massachusetts 456,135)	514,308
Worcester, Mass	247,416
(Providence-Pawtucket-Warwick, R.I.-Mass. (part in Massachusetts)	65,974
Michigan:	
Ann Arbor, Mich	178,605
•Battle Creek, Mich	77,922
Bay City, Mich	78,097
Detroit, Mich	3,970,584
Flint, Mich	330,128
Grand Rapids, Mich	352,703
Jackson, Mich	78,572
Kalamazoo, Mich	152,083
Lansing, Mich	229,518
Muskegon-Muskegon Heights, Mich	105,716
Saginaw, Mich	147,552
(South Bend, Ind.-Mich.) (part in Michigan)	23,424
(Toledo, Ohio-Mich.) (part in Michigan)	11,861
Minnesota:	
Duluth-Superior, Minn.-Wis (part in Minnesota 105,639)	138,352

	1970 Population
Minneapolis-St. Paul, Minn	1,704,423
Rochester, Minn	56,604
•St. Cloud, Minn	52,059
(Fargo-Moorhead, N. Dak.-Minn.) (part in Minnesota)	32,026
(La Crosse, Wis.-Minn.) (part in Minnesota)	3,142
Mississippi:	
Biloxi-Gulfport, Miss	121,601
Jackson, Miss	190,060
(Memphis, Tenn.-Miss.) (part in Mississippi)	8,931
Missouri:	
Columbia, Mo	59,231
Kansas City, Mo.-Kans. (part in Missouri 751,579)	1,101,787
St. Joseph, Mo-Kans (part in Missouri 75,940)	77,223
St. Louis, Mo.-Ill (part in Missouri 1,568,468)	1,882,944
Springfield, Mo	121,340
Montana:	
Billings, Mont	71,197
Great Falls, Mont	70,905
Nebraska:	
Lincoln, Nebr	153,443
Omaha, Nebr.-Iowa (part in Nebraska 426,929)	491,776
(Sioux City, Iowa-Nebraska-South Dakota) (part in Nebraska)	7,920
Nevada:	
Las Vegas, Nev	236,681
Reno, Nev	99,687
New Hampshire:	
Manchester, N.H	95,140
Nashua, N.H	60,961
(Lawrence-Haverhill, Mass.-N.H.) (part in New Hampshire)	17,842
New Jersey:	
Atlantic City, N.J	134,016
Trenton, N.J.-Pa (part in New Jersey 242,673)	274,148
Vineland-Millville, N.J	73,579
(Wilmington, Del.-N.J.) (part in New Jersey)	21,593
(New York, N.Y.-Northeastern New Jersey) (part in New Jersey)	4,837,265
(Allentown-Bethlehem-Easton, Pa.-N.J.) (part in New Jersey)	25,201
(Philadelphia, Pa.-N.J.) (part in New Jersey)	744,045
New Mexico:	
Albuquerque, N. Mex	297,451
New York:	
Albany-Schenectady-Troy, N.Y	486,525
Binghamton, N.Y	167,224
Buffalo, N.Y	1,086,594
•Elmira, N.Y	74,039
New York, N.Y.-Northeastern New Jersey (part in New York 11,369,576)	16,206,841
•Poughkeepsie, N.Y	102,649
Rochester, N.Y	601,361
Syracuse, N.Y	376,169
Utica-Rome, N.Y	180,355
North Carolina:	
Asheville, N.C	72,451
•Burlington, N.C	59,891
Charlotte, N.C	279,530
Durham, N.C	100,764
Fayetteville, N.C	161,370
•Gastonia, N.C	94,725
Greensboro, N.C	152,252
High Point, N.C	93,547
Raleigh, N.C	152,289
Wilmington, N.C	57,645
Winston-Salem, N.C	142,584
North Dakota:	
Fargo-Moorhead, N. Dak.-Minn (part in North Dakota)	53,420
Ohio:	
Akron, Ohio	542,775
Canton, Ohio	244,279
Cincinnati, Ohio-Ky (part in Ohio 913,536)	1,110,514
Cleveland, Ohio	1,959,880
Columbus, Ohio	790,019
Dayton, Ohio	685,942
Hamilton, Ohio	90,912
Lima, Ohio	70,295
Lorain-Elyria, Ohio	192,265
Mansfield, Ohio	77,599
Springfield, Ohio	93,653
Steubenville-Weirton, Ohio-W. Va (part in Ohio 48,262)	85,492
Toledo, Ohio-Mich (part in Ohio 475,928)	487,789
Youngstown-Warren, Ohio	395,540
(Huntington-Ashland, West Virginia-Kentucky-Ohio) (part in Ohio)	29,250
•(Parkersburg, W. Va.-Ohio) (part in Ohio)	7,189
(Wheeling, W. Va.-Ohio) (part in Ohio)	32,239
Oklahoma:	
Lawton, Okla	95,687
Oklahoma City, Okla	579,788
Tulsa, Okla	371,499
(Fort Smith, Ark.-Okla.) (part in Oklahoma)	2,098
Oregon:	
Eugene, Oreg	139,255
Portland, Oreg.-Wash (part in Oregon 751,756)	824,926
Salem, Oreg	93,041
Pennsylvania:	
Allentown-Bethlehem-Easton, Pa.-N.J (part in Pennsylvania 338,316)	363,517
Altoona, Pa	81,795
Erie, Pa	175,263
Harrisburg, Pa	240,751
Johnstown, Pa	96,146
Lancaster, Pa	117,097
Philadelphia, Pa.-N.J (part in Pennsylvania 3,277,021)	4,021,066
Pittsburgh, Pa	1,846,042
Reading, Pa	167,932
Scranton, Pa	204,205
Wilkes-Barre, Pa	222,830
•Williamsport, Pa	63,880
York, Pa	123,108
(Trenton, N.J.-Pa.) (part in Pennsylvania)	31,475
Rhode Island:	
Providence-Pawtucket-Warwick, R.I.-Mass (part in Rhode Island 729,337)	795,311
(Fall River, Mass.-R.I.) (part in Rhode Island)	15,901
South Carolina:	
Charleston, S.C	228,399
Columbia, S.C	241,761
Greenville, S.C	157,073
•Spartanburg, S.C	73,638
(Augusta, Ga.-S.C.) (part in South Carolina)	22,183
South Dakota:	
Sioux Falls, S. Dak	75,146
(Sioux City, Iowa-Nebr.-S. Dak.) (part in South Dakota)	860

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		1970 Population
Tennessee:		
Chattanooga, Tenn.-Ga	(part in Tennessee 194,633)	223,580
*Kingsport, Tenn.-Va	(part in Tennessee 66,266)	70,342
Knoxville, Tenn		190,502
Memphis, Tenn.-Miss	(part in Tennessee 655,045)	663,976
Nashville-Davidson, Tenn		448,444
Texas:		
Abilene, Tex		90,571
Amarillo, Tex		127,010
Austin, Tex		264,499
Beaumont, Tex		116,350
Brownsville, Tex		52,627
Bryan-College Station, Tex		51,395
Corpus Christi, Tex		212,820
Dallas, Tex		1,338,684
El Paso, Tex		337,471
Fort Worth, Tex		676,944
Galveston, Tex		61,809
Harlingen-San Benito, Tex		50,469
Houston, Tex		1,677,863
*Killeen, Tex		73,585
Laredo, Tex		70,197
Lubbock, Tex		150,135
McAllen-Pharr-Edinburg, Tex		91,141
Midland, Tex		60,371
Odessa, Tex		81,645
Port Arthur, Tex		116,474
San Angelo, Tex		63,884
San Antonio, Tex		772,513
Sherman-Denison, Tex		55,343
Texarkana, Tex.-Ark	(part in Texas 36,888)	58,570
Texas City-La Marque, Tex		84,054
Tyler, Tex		59,781
Waco, Tex		118,843
Wichita Falls, Tex		97,564
Utah:		
Ogden, Utah		149,727
Provo-Orem, Utah		104,110
Salt Lake City, Utah		479,342
Vermont:		
None.		
Virginia:		
Lynchburg, Va		70,842
Newport News-Hampton, Va		268,263
Norfolk-Portsmouth, Va		668,259
Petersburg-Colonial Heights, Va		100,617
Richmond, Va		416,563
Roanoke, Va		156,621
*(Kingsport, Tenn.-Va.)	(part in Virginia)	4,076
(Washington, D.C.-Md.-Va.)	(part in Virginia)	715,841
Washington:		
*Richland-Kennewick, Wash		71,245
Seattle-Everett, Wash		1,238,107
Spokane, Wash		229,620
Tacoma, Wash		332,521
*Yakima, Wash		64,730
(Portland, Oreg.-Wash.)	(part in Washington)	73,170
West Virginia:		
Charleston, W. Va		157,662
Huntington-Ashland, W. Va.-Ky.-Ohio	(part in West Virginia 85,017)	167,583
*Parkersburg, W. Va.-Ohio	(part in West Virginia 57,821)	65,010
Wheeling, W. Va.-Ohio	(part in West Virginia 60,705)	92,944
(Steubenville-Weirton, Ohio-W. Va.)	(part in West Virginia)	37,230
Wisconsin:		
Appleton, Wis		129,532
Green Bay, Wis		129,105
Kenosha, Wis		84,262
La Crosse, Wis.-Minn	(part in Wisconsin 60,231)	63,373
Madison, Wis		205,457
Milwaukee, Wis		1,252,457
Oshkosh, Wis		55,480
Racine, Wis		117,408
(Duluth-Superior, Minn.-Wis.)	(part in Wisconsin)	32,713
Wyoming:		
None.		
Puerto Rico:		
Caguas, P.R		65,844
Mayaguez, P.R		69,658
Ponce, P.R		128,233
San Juan, P.R		820,442

[FR Doc.74-9860 Filed 4-30-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MEXICO

Entry or Withdrawal for Warehouse for Consumption

APRIL 25, 1974.

On June 29, 1971, the United States Government concluded a comprehensive bilateral cotton textile agreement with the Government of Mexico concerning exports of cotton textiles and cotton textile products from Mexico to the United States over a five-year period beginning on May 1, 1971. The agreement was amended by an exchange of notes dated September 25 and 26, 1973. (See 38 FR 32527.)

Among the provisions of the agreement, as amended, are those establishing an aggregate limit for the 64 categories; within the aggregate limit, group limits on Categories 1-4, 5-27 and part of 64 (knit fabrics); and within both of the aforesaid limits, specific limits for Categories 9/10, 22/23, 26/27 and parts of 64, with sublimits on duck fabric (part of Category 26/27) and on zipper tapes (part of Category 64), and 30/31 for the agreement year beginning on May 1, 1974.

Accordingly, there is published below a letter of April 25, 1974 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Mexico, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning May 1, 1974, be limited to designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

APRIL 25, 1974.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of June 29, 1971, as amended, between the Governments of the United States and Mexico, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective May 1, 1974 and for the twelve-month period extending through April 30, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Mexico, in excess of the designated levels of restraint set forth below.

The combined level of restraint for Categories 1 through 4, shall be 12,343,805 pounds.

The overall level of restraint for Categories 5 through 27 and part of 64 (knit fabrics) shall be 48,215,081 square yards equivalent.

Within the overall level of restraint for Categories 5 through 27 and part of 64 (knit fabrics) the following specific levels of restraint shall apply:

Category	Twelve-Month Level of Restraint
9/10	15,245,376 sq. yds.
22/23	16,295,376 sq. yds.
26/27 and part of 64 (knit fabrics).	16,674,329 sq. yds. (of which not more than 7,813,969 square yards shall be in duck fabric,[1] and not more than 723,516 square yards equivalent shall be in knit fabrics, T.S.U.S.A. Nos. 345.-1020, 345.1040, 346.4560, 353.5014, and 359.1040).

Within the overall level of restraint for Categories 5 through 27 and part of 64 (knit fabrics), each category without a specific level of restraint is subject to a consultation level of 703,551 square yards, pursuant to paragraph 7 of the bilateral agreement, as amended. If appropriate, future directions concerning these categories will be made to you by letter.

The overall level of restraint for Categories 28 through 63 and 64 (excluding knit fabrics) shall be 8,566,425 square yards equivalent.

Within the overall level of restraint for Categories 28 through 63 and 64 (excluding knit fabrics), the following specific levels of restraint shall apply:

Category	Twelve-Month Level of Restraint
30/31	2,715,517 numbers.
64 (excluding knit fabrics).[1]	704,642 pounds (of which not more than 452,983 pounds shall be in zipper tape, T.S.U.S.A. No. 347.3340).

Within the overall level of restraint for Categories 28 through 63, and 64 (excluding knit fabrics), each category without a specific level of restraint is subject to a consultation level of 492,485 square yards equivalent. If appropriate, future directions concerning these categories will be made to you by letter.

In carrying out this directive, cotton textiles and cotton textile products in Categories 1 through 64 produced or manufactured in Mexico and which have been exported to the United States prior to May 1, 1974, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such good during the period May 1, 1973 through April 30, 1974. In the event that any level of restraint for that period has been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

[1] The T.S.U.S.A. Nos. for duck fabric are:
320.--01 through 04, 06, 08
321.--01 through 04, 06, 08
322.--01 through 04, 06, 08
326.--01 through 04, 06, 08
327.--01 through 04, 06, 08
328.--01 through 04, 06, 08

[1] All of Category 64 except T.S.U.S.A. Nos. 345.1020, 345.1040, 346.4560, 353.5014, and 359.1040.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of June 29, 1971, as amended, between the Governments of the United States and Mexico which provide, in part, that within the aggregate limit, the group limits for Group I and Group II may be exceeded by not more than 10 percent, and the limit on Group III may be exceeded by not more than 5 percent; within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

A detailed description of the categories in terms of T.S.U.S.A. numbers and factors for converting category units into equivalent square yards was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textiles and cotton textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-9959 Filed 4-30-74;8:45 am]

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	Date
15087-15241	May 1

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federal register

WEDNESDAY, MAY 1, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 85

PART II

CONSUMER PRODUCT SAFETY COMMISSION

■

CHILDREN'S SLEEPWEAR, SIZES 7 THROUGH 14 (FF 5-74)

Flammability Standard and Finding of Possible Need for Amendment

No. 85—Pt. II——1

V 39 I 85 MAY 1 74 XUM

CONSUMER PRODUCT SAFETY COMMISSION

CHILDREN'S SLEEPWEAR, SIZES 7 THROUGH 14

Standard for the Flammability of Children's Sleepwear, Sizes 7 Through 14 (FF 5–74)

The purpose of this notice is to promulgate the Standard for the Flammability of Children's Sleepwear, sizes 7 through 14 (FF 5–74). The Standard is issued under the Flammable Fabrics Act 15 U.S.C. 1191, et seq.). It provides a test method to determine the flammability of all items of wearing apparel in sizes 7 through 14 intended to be worn primarily for sleeping or activities related to sleeping and for fabric or related material intended or promoted for use in such wearing apparel.

The Standard provides both a fabric sampling plan and a garment sampling plan to be used by all manufacturers of garments, fabric, and related material subject to the Standard. The Standard becomes effective on May 1, 1975. No noncomplying items may be manufactured on or after that date.

The Secretary of Commerce published in the FEDERAL REGISTER on June 15, 1972, a Notice of Finding that Flammability Standard may be Needed and Institution of Proceedings (37 FR 11896). Subsequently, on March 12, 1973, the Secretary of Commerce published in the FEDERAL REGISTER (38 FR 6700) a finding that a standard for the flammability of children's sleepwear in sizes 7 through 14 is needed to protect the public against unreasonable risk of the occurrence of fire leading to death, personal injury, or significant property damage. In that notice, the Secretary of Commerce published a proposed Standard for the Flammability of Children's Sleepwear and invited comment on the proposal.

On May 14, 1973, the functions of the Secretary of Commerce under the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231; 15 U.S.C. 2079(b)). Therefore, the Consumer Product Safety Commission takes this action to promulgate the final Standard.

In response to the proposed Standard more than 95 comments were received from, among others, manufacturers of items subject to the Standard, retailers, distributors, importers, associations of the foregoing, consumers, members of Congress, and members of the National Advisory Committee for the Flammable Fabrics Act.

On September 12, 1973, a meeting was held at the request of the Man-Made Fiber Producers Association to discuss various provisions of the proposed Standard. Additional data and views concerning the proposed Standard were presented to the Commission by members of the National Wool Growers Association and Wool Bureau, Inc. at a public meeting on November 28, 1973. On January 11, 1974, the Commission held a public meeting to discuss the possible economic effects of adopting the Standard. Some written presentations were made in addition to oral statements.

The principal issues raised by those comments, both written and oral, and the conclusions of the Consumer Product Safety Commission with regard to those comments are as follows:

A. *Scope and application.* 1. A number of commenters suggest that one flammability standard apply to all children's sleepwear in sizes 0 through 14. Some commenters suggest that the Standard for the Flammability of Children's Sleepwear (DOC FF 3–71, issued July 29, 1971 (36 FR 14062), and amended July 21, 1973 37 FR 14624)), which applies to items in sizes 0 through 6x, should be applied to all sizes of children's sleepwear. Others suggest that the proposed Standard for sizes 7 through 14 apply to all sizes of children's sleepwear.

The principal difference between DOC FF 3–71 and the standard for sizes 7 through 14 is that the standard for the smaller sizes contains an additional test criterion which limits the length of time flaming molten materials or other fragments from any individual test specimen may continue to burn on the base of the test cabinet after exposure to a gas burner flame. Information available to the Commission, including accident data and reports of investigations, indicates that the risk of injury to older children is different than the risk of injury to the younger children who wear sleepwear in sizes 0 through 6x, since older children are better able to protect themselves from fire. Therefore, the two standards should be different because they are directed toward reduction of different levels of hazard.

Accordingly, the Commission has concluded that a separate standard is appropriate for children's sleepwear in sizes 7 through 14.

Paragraph .2 of the proposed Standard, entitled *Scope and application*, has been redesignated paragraph .1 of the final Standard.

2. A number of commenters recommend that the Standard for sizes 7 through 14 should provide that items of children's sleepwear which meet the standard for sizes 0 through 6X (DOC FF 3–71) are in compliance with the proposed Standard. These commenters note that any item of children's sleepwear which meets the test criteria of DOC FF 3–71 would also meet the test criteria of the proposed Standard for sizes 7 through 14.

The Commission observes that all of the test criteria contained in the proposed Standard for sizes 7 through 14 are set forth in identical language in DOC FF 3–71, the standard for sizes 0 through 6X. The Standard for the smaller sizes has one additional test criterion which does not appear in the proposed Standard for sizes 7 through 14. Therefore, no reduction in the stringency of the proposed Standard would occur if the provision requested in these comments were added. For these reasons paragraph .1(c) has been added to the final Standard to provide that fabrics and garments which meet all of the test criteria of the Standard for the Flammability of Children's Sleepwear (DOC FF 3–71) are in compliance with this Standard.

3. Paragraph .1(a) of the proposed Standard defined the term "children's sleepwear" to mean "any product of wearing apparel from size 7 through size 14 such as nightgowns, pajamas, or similar or related items such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Underwear and diapers are excluded from this definition."

Some commenters request that all boys' robes in sizes 7 through 14 be excluded from the definition of "children's sleepwear," on the ground that they are not worn for sleeping. One commenter questions whether the information which supports the finding of need for the proposed Standard contains any reports of injuries to boys wearing robes in sizes 7 through 14. One commenter requests that the exclusion be limited to boys' robes made from terry or corduroy. Three commenters state that some fabrics used in the manufacture of boys' robes, such as terry and corduroy, are not available with fire retardant characteristics.

The Commission observes that boys' robes in sizes 7 through 14 are frequently and customarily worn before and after sleeping, and are, therefore, items which are "intended to be worn primarily for * * * activities related to sleeping." The information which supports the finding of need for the proposed Standard does include reports of burn accidents involving boys' robes, as well as reports of investigation about the flammability characteristics of boys' robes. The comments requesting the exclusion of boys' robes from the scope of the Standard indicate that some boys' robes are now being made from cotton flannel, and that fire-retardant cotton flannel is commercially available, although at a higher cost than untreated flannel. Additionally, one commenter states that within the past two years, some boys' robes have been manufactured from fire-retardant terry cloth.

Accordingly, the Commission concludes that boys' robes should be subject to the Standard, and the definition of children's sleepwear in the Standard promulgated below is unchanged from the definition which appeared in the proposed Standard.

The paragraph entitled *Definitions*, which was designated .1 in the proposed Standard, has been redesignated .2 in the final Standard.

4. One commenter requests that the definition of "children's sleepwear" be changed to exclude close-fitting pajamas in sizes 7 through 14 because children wearing those pajamas are not likely to put themselves in contact with sources of ignition.

The Commission observes that close-fitting pajamas do burn and are capable of causing burn injuries. The Commission also is aware that some consumers select pajamas several sizes larger than the optimum fit for their children, with the result that pajamas which are designed to fit closely may in fact fit loosely on the child wearing them. For these reasons, the definition of "children's sleepwear" contained in the proposed Standard has not been changed in the final Standard to exclude close-fitting pajamas.

5. The Standard applies to all items of children's sleepwear in sizes 7 through 14 that are manufactured on or after the effective date of the Standard. The Commission believes that the term "manufacture" should be defined to clarify when the manufacturing process ends so all affected parties will know which items are subject to the Standard. Therefore, immediately following this Standard in the FEDERAL REGISTER today, the Commission has published a Notice of Possible Need to Amend the Standard, an institution of proceedings, and a request for comments on this issue.

6. Pursuant to section 4(b) of the Flammable Fabrics Act (15 U.S.C. 1193 (b)), items of children's sleepwear in inventory or with the trade as of the effective date of the Standard are exempt from the Standard, except that the exemption may be limited or withdrawn if the Commission finds any such items are so highly flammable as to be dangerous when used by consumers for the purpose for which they are intended. The Commission believes the term "in inventory or with the trade" should be more fully defined with regard to the date on which items, particularly imported items, are to be considered covered by the Standard.

Immediately following this Standard in the FEDERAL REGISTER today, the Commission has published a Notice of Possible Need to Amend the Standard, an institution of proceedings, and a request for comments on this issue. The Commission is also requesting comments as to whether the Commission should limit the exemption for items in inventory or with the trade as of the effective date of the Standard.

B. *Sampling and acceptance procedures.* 1. One commenter object to the inclusion of a production sampling plan in the proposed Standard and states that the testing procedures of the proposed Standard should be simplified so that one hundred percent compliance with the Standard could reasonably be expected and enforced. Other commenters approve the use of a sampling plan.

On the basis of information available to the Commission at this time, the Commission has retained the production sampling plan contained in the proposed Standard.

The Commission is aware that the use of sampling plans in mandatory safety standards is a subject of considerable controversy. Therefore, the Commission has scheduled a public hearing for April 4 and 5, 1974, to obtain information and views concerning the use of sampling plans in mandatory safety standards issued by the Commission and in the enforcement of such standards. As a result of information and views presented at the hearing, the Commission may determine there is a possible need to amend the Standard. The Commission will publish notice of any such determination in the FEDERAL REGISTER and will request comment on such finding.

2. Paragraph .4 of the proposed Standard stated that alternate sampling plans could be submitted to the Secretary of Commerce for approval. A similar provision that alternate sampling plans be submitted to the Consumer Product Safety Commission for approval is included in paragraph .4(a)(1) of the final Standard. Language has been added to paragraph .4(a)(1) to clarify that once the Commission has approved an alternate sampling plan for one manufacturer, other manufacturers may use that plan without obtaining separate approval.

3. Paragraph .4(a) of the proposed Standard prescribed compliance with laundering requirements of paragraph .5(c)(4) of the proposed Standard for fabrics whose flammability characteristics are not dependent on chemical additives or chemical reactants to fiber, yarns, or fabrics.

One commenter asks whether this provision would apply to fabrics made from fibers which have been produced by the use of fire-retardant chemicals or treatments. The Commission concludes that this provision of the proposed standard was intended to apply only to those fabrics with flammability characteristics which are not dependent on any fire-retardant chemical additive or treatment, including additives or treatments which may be applied during the fiber production process. Accordingly, paragraph .4(a)(4) of the final Standard reflects this intention.

4. Paragraph .4(c) of the proposed Standard prescribes a garment sampling procedure. This procedure requires initial testing of preproduction prototype seam and trim designs, and prescribes the criteria by which those designs are to be accepted or rejected. After prototype seam and trim designs are tested and accepted, the proposed Standard prescribes the sampling procedures and testing required of garments from the manufacturer's production. Production testing is performed on portions of a garment containing a seam.

A number of commenters recommend that the provisions of the proposed Standard which require testing of seam and trim prototype designs and the testing of seams from garments in production should be eliminated, and that testing under the Standard should be conducted only on fabrics from which items of children's sleepwear are manufactured. One commenter recommends that provisions which require testing of garment seams be eliminated, but suggests that some testing of prototype trim designs might be desirable. One commenter recommends that testing of prototype seam designs should be retained, but that testing of seams from production garments should be eliminated if the garments are made from nonflammable fabrics.

The Commission observes that seams and trim can affect the flammability hazard of a garment, and concludes that the testing of seam and trim prototypes and seam segments from production garments is necessary to provide assurance that a fabric which meets the test criteria of the Standard is not made unacceptable by the addition of seams and trim. Accordingly, the provisions of the proposed Standard which require testing of prototype seam and trim designs have been retained and appear in paragraph .4(c)(2) of the final Standard. Provisions of the proposed Standard which require testing of specimens containing seams from production garments appear in paragraph .4(c)(3) of the final Standard.

5. Provisions of paragraph .4(c) of the proposed Standard require initial testing of prototype designs of trim such as ribbons, laces, embroidery or ornaments used on children's sleepwear. Paragraph .1(d) of the proposed Standard contains an exemption from the requirement for prototype testing of trim designs if the individual pieces of trim used on the garment are smaller than two inches in the longest dimension and the total area of the garment covered by trim does not exceed 20 square inches.

Some commenters request that the provisions of paragraph .1(d) of the proposed Standard be changed to eliminate the requirement for prototype testing of trim designs when the individual pieces of trim do not exceed twelve inches in the longest dimension and the total area covered by trim is not more than 40 square inches. One commenter requests modification of paragraph .1(d) of the proposed Standard to eliminate prototype testing of trim designs if the trim is less than two inches wide and does not cover more than 40 square inches of the garment.

The Commission observes that trim can increase the flammability hazard of a garment. Paragraph .1(d) of the proposed Standard was intended to exclude small amounts of trim which are not likely to transmit fire across a large area of the garment and which do not cover a large area of the wearer's body from the requirement for prototype testing contained in paragraph .4(c) of the proposed Standard.

The changes requested would permit a greater amount of trim not subject to testing under the Standard to be used on children's sleepwear garments, and could significantly increase the flammability hazard of those garments. For this reason, the Commission has retained the requirement for testing prototype trim designs, which appears in paragraph .4(c)(2)(ii) of the final Standard, except when individual pieces of trim are smaller than two inches in the longest dimension and do not cover a total of more than 20 square inches of the garment. The exemption from prototype testing of trim designs now appears in paragraph .2(d) of the final Standard.

6. Paragraph .4(c) of the proposed Standard prescribed the sampling procedure to be used for testing garments from production. One commenter requests the addition of a provision to al-

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low reduced testing after several consecutive production units have been accepted in accordance with the procedures set forth in the proposed Standard. This commenter observes that the proposed Standard makes provision for reduced sampling of fabrics, and states that a similar provision for reduced sampling of garments from production would reduce the cost of testing garments with an established record of acceptability under the proposed Standard.

The Commission concludes that the addition of the provision requested in this comment is warranted by statistical theory and by practical experience with other flammability standards enforced by this Commission. Accordingly, paragraph .4(c)(3)(ii) of the final Standard prescribes a reduced sampling plan which may be used after 15 consecutive garment production units have been accepted using the normal sampling plan in paragraph .4(c)(3)(i). The reduced sampling plan allows the size of the production unit from which samples are selected to be twice as great as in normal sampling. Under the reduced sampling plan, three samples are selected and tested in the same manner as in the normal sampling plan for garments, and the samples are accepted or rejected on the same basis as in normal sampling. Reduced sampling must be discontinued and normal sampling resumed if a garment production unit is rejected.

7. To illustrate the sampling and acceptance procedures specified by paragraph .4 of the final Standard, the Commission staff has prepared a flow chart, which is available without charge upon written request to the Secretary, Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C. 20207. This chart is not a substitute for the sampling and acceptance procedures prescribed in paragraph .4 of the Standard but has been prepared to diagram those procedures for better understanding.

8. Paragraph .4 (b) and (c) of the proposed Standard required certain recordkeeping and stated that the Federal Trade Commission may establish rules and regulations governing recordkeeping. Paragraph .4(d) of the proposed Standard stated that the Federal Trade Commission may submit a compliance market sampling plan for approval to the Secretary of Commerce. Because the functions of the Federal Trade Commission and the Secretary of Commerce under the Flammable Fabrics Act have been transferred to the Consumer Product Safety Commission, paragraph .4 (b)(5), (c)(5), and (d), of the final Standard refer to the Consumer Product Safety Commission. In addition, the paragraphs relating to recordkeeping have been clarified to indicate that records of all tests performed under the Standard must be maintained.

C. *Test apparatus and procedure.* 1. Several commenters question whether the test procedure specified in paragraph .5 of the proposed Standard realistically simulates the conditions under which items of children's sleepwear are exposed to fire in actual use. One commenter states that the requirement of the proposed Standard that the test specimen must be suspended vertically in the test cabinet and exposed to a flame on the bottom edge is unrealistic because sleepwear garments in sizes 7 through 14 are not likely to be ignited from the bottom when worn by children.

Studies of burn accidents available to the Commission indicate that many flammable fabrics incidents occur after garments contact flame sources from heaters positioned on floors. In many of these incidents, the bottom edge of the garment involved is exposed to a flame in much the same manner as the bottom edge of the test specimen is exposed to the burner flame in the test procedure specified in the proposed Standard.

The Commission concludes that the requirement of the proposed Standard that the burner flame must be impinged on the bottom edge of a vertically suspended test specimen is reasonably related to the pattern of ignition of garments involved in many flammable fabrics incidents. Accordingly, this requirement is retained in the final Standard and appears in paragraph .5(c)(2).

Some of the commenters object to the requirement that the test specimen must be placed in a metal holder when it is exposed to the burner flame. Two commenters state that the use of the metal specimen holder will cause some fabrics which exhibit flame-retardant and self-extinguishing characteristics to fail the proposed Standard.

Some commenters suggest that the test procedure should be changed to require ignition of free-hanging specimens. One commenter urges that the test procedure should require ignition of specimen garments on mannequins. The Commission observes that one of the objectives in the design of the proposed Standard was to prescribe a relatively inexpensive testing procedure that is repeatable and gives reproducible results. The Commission concludes that the use of metal specimen holders is necessary to achieve that objective, and has retained use of specimen holders in the test procedure prescribed by the final Standard.

2. The specimen holder described in paragraph .5(a)(2) and Engineering Drawing Number 7 of the proposed Standard is slightly thicker than the specimen holder required by the Standard for the Flammability of Children's Sleepwear (DOC FF 3–71), which is applicable to sizes 0 through 6X. A number of commenters request modification of the proposed Standard to allow the use of specimen holders prescribed by DOC FF 3–71 in testing under this Standard. Some commenters suggest that the specimen holder prescribed by the proposed Standard be modified or eliminated.

Information available to the Commission indicates that use in this Standard of specimen holders prescribed in the flammability standard for sizes 0 through 6X (DOC FF 3–71) will not affect test results, and for that reason, the tolerances for the specimen holder as set forth in Engineering Drawing Number 7 of the Standard have been modified to allow use of specimen holders which meet the design requirements of DOC FF 3–71. For enforcement purposes, the Commission will test with either type specimen holder. Persons desiring to make other modifications to the specimen holders required by the Standard may request approval to use alternate test apparatus in accordance with paragraph .5(a).

3. Some commenters suggest modifications to the design of the test chamber described in paragraph .5(a)(1) of the proposed Standard. No specific information or test data were submitted to the Commission to support the contention that the modifications to the design of the test chamber requested in these comments would improve the Standard.

Although it is possible that modifications to various items of test apparatus required by the Standard may be desirable, at this time the Commission lacks the necessary information to make a judgment about the merits of the modifications suggested by these commenters. Accordingly, the specific changes to the design of the test chamber which were requested in these comments have not been incorporated in the description of the test chamber which appears in paragraph .5(a)(1) of the final Standard. However, language has been added to paragraph .5(a) to state that alternate test apparatus may be used with prior approval of the Commission.

4. Paragraph .5(b) of the proposed Standard provided that test specimens must be conditioned at a temperature of 21 (plus or minus one) degrees Centigrade [70 (plus or minus two) degrees Fahrenheit] and at a relative humidity of 65 (plus or minus 5) percent for eight hours prior to testing. A number of commenters request that the provisions of the proposed Standard be changed to require that specimens be oven dried and cooled in a desiccator before testing, which is the conditioning procedure required by DOC FF 3–71. These commenters state that this Standard should be as stringent as the Standard for sizes 0 through 6X. Some commenters recommend elimination of the requirement for conditioning of test specimens at 65 percent relative humidity because small manufacturers do not have the physical facilities to condition specimens at that humidity level.

At a meeting with the Commission staff on September 12, 1973, representatives of the Man-Made Fiber Producers Association, Inc., opposed any modification of the provisions of the proposed Standard which require conditioning of test specimens at 65 percent relative humidity. The substance of the objection was that any reduction of the relative humidity at which test specimens are to be conditioned would require the use of finishes that would increase the cost and decrease the durability of rayon fabric intended for use in children's sleepwear.

At a public meeting on November 28, 1973, representatives of the National Wool Growers Association and the Wool Bureau, Inc., stated that because of the moisture-retaining properties of wool fibers, garments made of 100 percent wool would be able to meet the test criteria of the proposed Standard if the requirement for conditioning of test specimens at 65 percent relative humidity were retained, but would not meet those criteria if oven drying of test specimens were required instead. They stated that oven drying would remove moisture which would be present in wool garments under normal conditions of use, and that substitution of oven drying of test specimens for the conditioning procedures set forth in the proposed Standard would preclude the use of 100 percent wool fabric in children's sleepwear. A number of other comments, both written and oral, oppose a requirement for oven drying. Some commenters suggest that if oven drying were substituted for the conditioning procedures in the proposed Standard, a separate flammability standard for woolen garments should be considered.

A number of commenters request that the relative humidity specified for the conditioning process be changed from 65 (plus or minus five) percent to any relative humidity not exceeding 65 percent. Other commenters suggest that the conditioning requirements of the proposed Standard might be altered to require one specified level of relative humidity lower than 65 percent rather than oven drying.

Information available to the Commission demonstrates that variations in relative humidity will substantially increase variability in test results. If the conditioning requirements of the proposed Standard were changed to allow conditioning at any relative humidity not greater than 65 percent, the Commission foresees that the process of determining whether specific items are in compliance with the Standard could be difficult because of conflicting test condition. Therefore, the Commission concludes that testing to determine acceptability under the Standard should be performed after specimens have been conditioned by a uniform procedure, and requests to allows conditioning of test specimens at any relative humidity not exceeding 65 percent have not been granted.

The Commission is aware that the requirement that test specimens be conditioned for a given period of time at 65 percent relative humidity (or at any other specified level or relative humidity) would impose a substantial cost burden on some manufacturers to obtain the equipment needed to meet such a conditioning requirement. The Commission also has information which shows that when outside temperatures are significantly below the freezing point, relative humidities in homes are not greatly different from relative humidities over silica gel in a desiccator. For these reasons and on the basis of its investigations, the Commission has concluded that the conditioning provisions of the proposed Standard should be changed to a requirement that test specimens be placed in a drying oven capable of maintaining them at a temperature of 105 (plus or minus 2.8) degrees centigrade [221 (plus or minus 5) degrees Fahrenheit] for a period of 30 minutes and then placed in a desiccator containing silica gel for 30 minutes to cool. This conditioning requirement is set forth in paragraph .5(b) of the final Standard and is identical to the pretest conditioning procedure required by the Standard for sizes 0 through 6X (DOC FF 3–71). Paragraphs .5(a) (9) and (10) of the final Standard prescribe the operating characteristics of the circulating air oven and desiccator, required by the Standard.

Immediately following this Standard in the FEDERAL REGISTER today, the Commission has published a Notice of Possible Need to Amend the Standard to allow, among other things, exceptions to the requirement for testing under oven dry conditions.

As a result of information presented in comments received in response to the Notice of Proposed Standard, the Commission believes that there may be a need to amend the Standard to allow exceptions to testing under the oven dry conditions. The Commission believes that it should establish a maximum relative humidity at which items could be tested and that it should require those who request exceptions to state the relative humidity at which they will test items under the Standard. For enforcement purposes, the Commission would test according to the provisions of the exceptions which had been granted.

5. Paragraph .5(c)(1) of the proposed Standard provides that the height of the flame from the burner used for testing shall be 3.8 centimeters (one and one-half inches). Some commenters request that the Standard specify that flame height is to be determined by measuring the total height of the flame rather than that portion of the flame which is yellow in color. The intent of paragraph .5(c)(1) was to obtain a flame with a total height of 3.8 centimeters, measuring all of the flame which is visible. Information available to the Commission indicates that by following the instructions contained in paragraph .5(c)(1) of the proposed Standard, different operators working under different laboratory conditions have had no difficulty obtaining a flame of uniform height. Accordingly, the Commission concludes that no modification of the language of paragraph .5(c)(1) of the proposed Standard is needed.

6. Paragraph .5(c)(2) of the proposed Standard provides that specimens shall be exposed to the burner flame for a period of three seconds. One commenter requests that the period of exposure to the burner flame be reduced to two seconds to allow more fabrics to pass the test criteria of the proposed Standard.

Investigation of the flammability characteristics of various fabrics which led to the development of the proposed Standard and the Standard applicable to sizes 0 through 6X (DOC FF 3–71) and experience with DOC FF 3–71 demonstrate that items of sleepwear can be manufactured which will meet the test criteria of the Standards when specimens are exposed to the burner flame for three seconds. The Commission concludes that the change requested would reduce the stringency of the proposed Standard, and that such a reduction in stringency would not be in the public interest in view of the fact that fabrics and garments are now being manufactured which meet the test criteria of the proposed Standard when exposed to a burner flame for a period of three seconds. Accordingly, paragraph .5(c)(2) of the final Standard retains the requirement for exposure of the test specimen to the burner flame for a period of three seconds.

7. One commenter recommends that precautions should be included in the description of the test procedures in the proposed Standard to warn against hazards of explosion and asphyxiation which are involved with the use of methane gas, the burner fuel specified by the proposed Standard. The Commission concludes that the use of methane gas in the test procedure does involve some risk of injury to persons performing the testing specified by the final Standard, and has added language to paragraph .5(c)(2) to advise the test operator to vent the hood and testing cabinet to remove smoke and toxic gases after testing each specimen.

8. Paragraph .5(c)(2) of the proposed Standard set forth the procedure for exposing each individual test specimen to the burner flame and measuring the charred or melted portion of the specimen which results from ignition of the specimen. In some cases, when a test specimen is exposed to a burner flame, the specimen will ignite, burn for a period of time with a readily visible flame which extinguishes itself, and then slowly smolder. During the smoldering stage, which may occur after flaming ceases (commonly called "afterglow"), little heat is generated, but the fabric is consumed by oxidation.

Paragraph .5(c)(2) of the proposed Standard provides that measurement of the charred or melted area of the specimen will be done "[w]hen afterglow has ceased."

Some commenters request elimination of the requirements that afterglow must cease before measurements and addition of a new provision to require measurements to be made after flaming has ceased. These commenters state that because afterglow spreads slowly and generates little heat, it presents little or no risk of burn injury. They also state that if the requested change were made, many flame-retardant materials might be suitable for application to fabrics used in the manufacture of children's sleepwear, giving rise to the possibility that flame-retardant children's sleepwear might become available to consumers at a lower cost than now prevails.

The Commission staff has evaluated several cotton fabrics treated with experimental flame-retardant materials which, after ignition, will cease burning with a visible flame after a short period of time, but will exhibit an afterglow. The afterglow observed on these fabrics generated little heat, was easily extinguished with the fingers, and consumed the fabric at a very slow rate. On the

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basis of the evaluation of these fabrics by the Commission staff, the Commission concludes that such fabrics present a sufficiently minimal risk of injury to consumers from burns that their development for use in children's sleepwear should be encouraged.

Accordingly, paragraph .5(c)(2)(ii) of the final Standard provides that after flaming has ceased on the test specimen and when afterglow is present, the test specimen shall be removed from the test cabinet and the afterglow extinguished by placing the test specimen between two metal plates called "extinguishing plates." (The specifications for the extinguishing plates appear in paragraph .5(a)(12) of the Standard.) When the afterglow has been extinguished, measurement of the charred or melted area of the test specimen is performed.

9. Paragraph .5(c)(4) of the proposed Standard requires that one set of specimens for testing shall be taken from finished items as produced and another set from items which have been washed and dried 50 times using Test Method 124–1969 of the American Association of Textile Chemists and Colorists. One commenter requests that the laundering requirement be reduced to washing and drying ten times using the prescribed method. Another commenter requests that the requirement for drying items after each washing be eliminated. Both commenters wish to reduce the time required for the laundering procedure.

The Commission observes that flame-retardant treatments often are progressively reduced in effectiveness by washing or by drying. The requirement in paragraph .5(c)(4) of the proposed Standard that test specimens be taken from items which have been washed and dried 50 times is intended to provide assurance that any flame-retardant treatment used in the manufacture of an item subject to the Standard will be effective for the expected life of that item. The Commission concludes that such assurance cannot be obtained by fewer than 50 washings and dryings, and for that reason, paragraph .5(c)(4)(i) of the final Standard retains the requirement that items from which test specimens are taken must be washed and dried 50 times.

Paragraph .5(c)(4) of the proposed Standard states that the Federal Trade Commission may authorize alternate laundering procedures, and may approve pretest dry-cleaning procedures for items which cannot be laundered. Because the functions of the Federal Trade Commission under the Flammable Fabrics Act have been transferred to the Consumer Product Safety Commission, paragraph .5(c)(4)(ii) of the final Standard states that the Consumer Product Safety Commission may prescribe alternate laundering procedures, and paragraph .5(c)(4)(iii) states that the Consumer Product Safety Commission may approve pretest dry-cleaning procedures for items which cannot be laundered.

D. *Labeling.* 1. Paragraph .6 of the proposed Standard requires that items of children's sleepwear shall be labeled with precautionary instructions concerning care of the item to prevent deterioration of the flame-resistance of the item. One commenter requests that the Standard allow instructions to be worded in positive rather than negative language. The Commission concludes that the terms of paragraph .6 of the proposed Standard would not preclude the use of positively worded instructions, provided that such instructions are accurate and capable of being understood and followed by consumers. Accordingly, no change has been made to the provisions of paragraph .6 of the final Standard.

2. Paragraph .6 of the proposed Standard provides that finished items which are tested after one laundering must be labeled with instructions to wash before wearing. One commenter requests that this requirement be eliminated from the proposed Standard. The Commission observes that the provision of paragraph .5(c)(4)(i) of the Standard, which allows test specimens to be taken from finished items after one washing and drying, is intended to permit the removal of potentially flammable processing oils before testing. The Commission concludes that instructions to wash such items before wearing are necessary to insure that consumers will derive full benefit of the flame-resistant characteristics of such garments. Accordingly, the change requested in this comment has not been made.

3. Paragraph .6 of the proposed Standard contained language authorizing the Federal Trade Commission to issue rules and regulations implementing the labeling requirements of the proposed Standard. Because the functions of the Federal Trade Commission under the Flammable Fabrics Act have been transferred to the Consumer Product Safety Commission, paragraph .6 of the final standard states that the Consumer Product Stafey Commission may issue rules and regulations to govern labeling of items subject to the Standard. Any proposed rules or regulations affecting labeling of items subject to the Standard will be published in the FEDERAL REGISTER for public comment before promulgation by the Consumer Product Safety Commission.

4. Immediately following this Standard in the FEDERAL REGISTER today, the Commission has published a Notice of Finding of Possible Need for Amendment to the Standard to require all complying items manufactured on or after the effective date of the Standard to bear affirmative labels. The Commission believes such labeling should be required until stocks of noncomplying items are exhausted in order to avoid confusion in the marketplace. Comments and views are invited on this finding of possible need for amendment.

E. *Effective date.* Section 4(b) of the Flammable Fabrics Act provides that any flammability standard issued under that Act will become effective twelve months after promulgation, unless it is found for good cause shown, that an earlier or later effective date is in the public interest. One commenter requests that the effective date of the Standard be delayed until flame-retardant fabric becomes available to manufacturers of children's sleepwear in sizes 7 through 14. Another requests addition of a provision that noncomplying items could be manufactured for one year after the effective date of the Standard, if warning labels are attached.

Investigation by the Commission staff and the National Bureau of Standards indicates that the textile and apparel industries will be able to comply with the Standard within twelve months after promulgation. Accordingly, the final Standard shall become effective on May 1, 1975.

The Consumer Product Safety Commission has made appropriate changes to the Standard proposed by the Secretary of Commerce on March 12, 1973, on the basis of comments received, additional investigation by the staff of the Commission, and other relevant information. The National Advisory Committee for the Flammable Fabrics Act was consulted as to this Standard at a meeting on May 16, 1973.

The Consumer Product Safety Commission finds that the Standard for the Flammability of Children's Sleepwear; sizes 7 through 14 (FF 5–74) is:

1. Needed for children's sleepwear in sizes 7 through 14 to protect the public against unreasonable risk of the occurrence of fire leading to death, personal injury, or significant property damage; and

2. Reasonable, technologically practicable, and appropriate, and stated in objective terms; and

3. Limited to items of children's sleepwear in sizes 7 through 14 which currently present unreasonable risks of the occurrence of fire leading to death, personal injury, or significant property damage.

Therefore, pursuant to provisions of the Flammable Fabrics Act (sec. 4, 67 Stat. 112, as amended 81 stat. 569–70, 15 U.S.C. 1193) and under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (Public Law 92–573, sec. 30(b), 86 Stat. 1231; 15 U.S.C. 2079(b)), the Standard is promulgated as follows:

CHILDREN'S SLEEPWEAR, SIZES 7 THROUGH 14

STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR, SIZES 7 THROUGH 14

[FF 5–74]

.1 Scope and application
.2 Definitions
.3 General requirements
.4 Sampling and acceptance procedures
.5 Test procedure
.6 Labeling requirements

AUTHORITY: Sec. 4, 67 stat. 112, as amended 81 stat. 569–70; 15 U.S.C. 1193.

.1 *Scope and application.* (a) This Standard provides a test method to determine the flammability of children's sleepwear, sizes 7 through 14 and fabric or related material intended or promoted for use in such children's sleepwear.

(b) All sleepwear items as defined in .2(c), are subject to the requirements of this Standard.

(c) Children's sleepwear items which meet all the requirements of the Standard for the Flammability of Children's Sleepwear (DOC FF 3–71), sizes 0 through 6X, are in compliance with this Standard. (DOC FF 3–71 was issued July 29, 1971 (36 FR 14062), and amended July 21, 1972 (37 FR 14624)).

(d) As used in this Standard, "pass" and "fail" refer to the test criteria for specimens while "accept" and "reject" refer to the acceptance or rejection of a production unit under the sampling plan.

.2 *Definitions.* In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 2, 81 stat. 568; 15 U.S.C. 1191) and section 7.2 of the Flammable Fabrics Act Procedures issued by the Department of Commerce (15 CFR 7.2) and continued in effect by the Consumer Product Safety Commission, the following definitions apply for the purposes of this Standard:

(a) "Children's sleepwear" means any product of wearing apparel size 7 through size 14, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Underwear and diapers are excluded from this definition.

(b) "Sizes 7 through 14" means the sizes defined as 7 through 14 in Department of Commerce Voluntary Product Standards PS 54–72 and PS 36–70, previously identified as Commercial Standards, CS 153–48, "Body Measurements for the Sizing of Girls' Apparel" and CS 155–50, "Body Measurements for the Sizing of Boys' Apparel", respectively.[1]

(c) "Item" means any product of children's sleepwear or any fabric or related material intended or promoted for use in children's sleepwear.

(d) "Trim" means decorative materials, such as ribbons, laces, embroidery, or ornaments. This definition does not include (1) individual pieces less than 2 inches in their longest dimension, provided that such pieces do not constitute or cover in aggregate a total of more than 20 square inches of the item or (2) functional materials (findings), such as zippers, buttons, or elastic bands, used in the construction of garments.

(e) "Test criteria" means the average char length and the maximum char length which a sample or specimen may exhibit in order to pass an individual test.

(f) "Char length" means the distance from the original lower edge of the specimen exposed to the flame in accordance with the procedure specified in .5 *Test procedure* to the end of the tear or void in the charred, burned, or damaged area, the tear being made in accordance with the procedure specified in .5(c)(2) *Specimen burning and evaluation.*

(g) "Afterglow" means the continuation of glowing of parts of a specimen after flaming has ceased.

(h) "Fabric piece" (piece) means a continuous, unseamed length of fabric, one or more of which make up a unit.

(i) "Fabric production unit" (unit) means any quantity of finished fabric up to 4,600 linear m. (5,000 linear yds.) for Normal Sampling or 9,200 linear m. (10,000 linear yds.) for Reduced Sampling which has a specific identity that remains unchanged throughout the unit except for color or print pattern as specified in .4(a). For purposes of this definition, finished fabric means fabric in its final form after completing its last processing step as a fabric except for slitting.

(j) "Garment production unit" (unit) means any quantity of finished garments up to 500 dozen which have a specific identity that remains unchanged throughout the unit except for size, trim, findings, color, and print patterns as specified in .4(a).

(k) "Sample" means five test specimens.

(l) "Specimen" means an 8.9±0.5 x 25.4±0.5 cm. (3.5±0.2 x 10±0.2 in.) section of fabric. For garment testing, the specimen will include a seam or trim.

.3 *General requirements*—(a) *Summary of test method.* Conditioned specimens are suspended one at a time vertically in holders in a prescribed cabinet and subjected to a standard flame along their bottom edges for a specified time under controlled conditions. The char lengths are recorded.

(b) *Test criteria.* The test criteria when the testing is done in accordance with .4 *Sampling and acceptance procedures* and .5 *Test procedure* are:

(1) *Average char length.* The average char length of five speciments shall not exceed 17.8 cm. (7.0 in.).

(2) *Full-specimen burn.* No individual specimen shall have a char length of 25.4±0.5 cm. (10±0.2 in.).

(c) Details of the number of specimens which must meet the above test criteria for unit accepance is specified in section .4.

.4 *Sampling and acceptance procedures*—(a) *General.* (1) The test criteria of .3(b) shall be used in conjunction with the following fabric and garment sampling plan. The Consumer Product Safety Commission may consider and approve other sampling plans that provide at least the equivalent level of fire safety to the consumer, provided such alternate sampling plans have operating characteristics such that the probability of unit acceptance at any percentage defective does not exceed the corresponding probability of unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability. Alternate sampling plans approved for one manufacturer may be used by other manufacturers without prior Consumer Product Safety Commission approval.

(2) Different colors or different print patterns of the same fabric may be included in a single fabric or garment production unit, provided such colors or print patterns demonstrate char lengths that are not significantly different from each other as determined by previous testing of at least three samples from each color or print pattern to be included in the unit.

(3) Garments with different trim and findings may be included in a single garment production unit provided the other garment characteristics are identical except for size, color, and print pattern.

(4) For fabrics whose flammability characteristics are not dependent on chemical additives or chemical reactants to polymer, fiber, yarns, or fabrics, the laundering requirement of .5(c)(4) is met on subsequent fabric production units if results of testing an initial fabric production unit demonstrate acceptability according to the requirements of .4(b) *Normal sampling*, both before and after the appropriate laundering.

(5) If the fabric has been shown to meet the laundering requirement, .5(c)(4), the garments produced from that fabric are not required to be laundered prior to testing.

(6) Each sample (five specimens) for Fabric Sampling shall be selected so that two specimens are in one fabric direction (machine or cross-machine) and three specimens are in the other fabric direction, except for the additional sample selected after a failure, in which case all five specimens shall be selected in the fabric direction in which the specimen failure occurred.

(7) Fabric samples may be selected from fabric as outlined in .4(b) *Fabric sampling* or, for verification purposes, from randomly selected garments.

(8) Multi-layer fabrics shall be tested with a hem of approximately 2.5 cm. (1 in.) sewn at the bottom edge of the specimen with a suitable thread and stitch. The specimen shall include each of the components over its entire length. Garments manufactured from multi-layer fabrics shall be tested with the edge finish which is used in the garment at the bottom edge of the specimen.

(b) *Fabric sampling.* A fabric production unit (unit) is either accepted or rejected in accordance with the following plan:

(1) *Normal sampling.* Select one sample from the beginning of the first fabric piece (piece) in the unit and one sample from the end of the last piece in the unit, or select a sample from each end of the piece if the unit is made up of only one piece. Test the two selected samples. If both samples meet all the test criteria of .3(b), accept the unit. If either or both of the samples fail the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), reject the unit. If two or more of the individual specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), reject the unit. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, .3(b)(2), select five additional specimens from the same end of the piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, accept the unit. If this additional sample fails

[1] Copies available from the National Technical Information Service, 5285 Port Royal Street, Springfield, Virginia 22151.

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any part of the test criteria, reject the unit.

(2) *Reduced sampling.* (i) The level of sampling required for fabric acceptance may be reduced provided the preceding 15 units of the fabric have all been accepted using the Normal Sampling Plan.

(ii) The reduced Sampling Plan shall be the same as for Normal Sampling except that the quantity of fabric in the unit may be increased to 9,200 linear m. (10,000 linear yds.).

(iii) Select and test two samples in the same manner as in Normal Sampling. Accept or reject the unit on the same basis as with Normal Sampling.

(iv) Reduced Sampling shall be discontinued and Normal Sampling resumed if a unit is rejected.

(3) *Tightened sampling.* Tightened sampling shall be used when a unit is rejected under the Normal Sampling Plan. The Tightened Sampling shall be the same as Normal Sampling except that one additional sample shall be selected and cut from a middle piece in the unit. If the unit is made up of less than two pieces, the unit shall be divided into at least two pieces. The division shall be such that the pieces produced by the division shall not be smaller than 92 linear m. (100 linear yds.) or greater than 2,300 linear m. (2,500 linear yds.). If the unit is made up of two pieces, the additional sample shall be selected from the interior end of one of the pieces. Test the three selected samples. If all three selected samples meet all the test criteria of .3(b), accept the unit. If one or more of the three selected samples fail the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), reject the unit. If two or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), reject the unit. If only one individual specimen, from the 15 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, .3(b)(2); select five additional specimens from the same end of the same piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, accept the unit. If this additional sample fails any part of the test criteria, reject the unit. Tightened Sampling may be discontinued and Normal Sampling resumed after five consecutive units have all been accepted using Tightened Sampling. If Tightened Sampling remains in effect for 15 consecutive units, production of the specific fabric in Tightened Sampling must be discontinued until that part of the process or component which is causing failure has been identified and the quality of the end product has been improved.

(4) *Disposition of rejected units.* (i) The piece or pieces which have failed and resulted in the initial rejection of the unit may not be retested, used, or promoted for use in children's sleepwear as defined in .2(a) of this Standard and .1(a) of DOC FF 3–71 except after reworking to improve the flammability characteristics and subsequent retesting and acceptance in accordance with the procedures in *Tightened Sampling.*

(ii) The remainder of a rejected unit, after removing the piece or pieces, the failure of which resulted in unit rejection, may be accepted if the following test plan is successfully concluded at all required locations. The required locations are those adjacent to each such failed piece. (Required locations exist on both sides of the "Middle Piece" tested in Tightened Sampling if failure of that piece resulted in unit rejection). Failure of a piece shall be deemed to have resulted in unit rejection if unit rejection occurred and a sample or specimen from the piece failed any test criterion of .3(b).

(iii) The unit should contain at least 15 pieces for disposition testing after removing the failing pieces. If necessary for this purpose, the unit shall be demarcated into at least 15 approximately equal length pieces unless such division results in pieces shorter than 92 linear m. (100 linear yds.). In this latter case, the unit shall be demarcated into roughly equal length pieces of approximately 92 linear m. (100 linear yds.) each. If such a division results in five pieces or less in the unit for each failing piece after removing the failing pieces, only the individual pieces retest procedure [described in .4(b)(4)(vi)] may be used.

(iv) Select and cut a sample from each end of each adjoining piece beginning adjacent to the piece which failed. Test the two samples from the piece. If both samples meet all the test criteria of .3(b), the piece is acceptable. If one or both of the two selected samples fail the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), the piece is unacceptable. If two or more of the individual specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), the piece is unacceptable. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, .3(b)(2), select five additional specimens from the same end of the piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, the piece is acceptable. If this additional sample fails any part of the test criteria, the piece is unacceptable.

(v) Continue testing adjoining pieces until a piece has been found acceptable. Then continue testing adjoining pieces until three successive adjoining pieces, not including the first acceptable piece, have been found acceptable or until five such pieces, not including the first acceptable piece, have been tested, whichever occurs sooner. Unless three successive adjoining pieces have been found acceptable among five such pieces, testing shall be stopped and the entire unit rejected without further testing. If three successive pieces have been found acceptable among five such pieces, accept the three successive acceptable pieces and the remaining pieces in the unit.

(vi) Alternately, individual pieces from a rejected unit containing three or more pieces may be tested and accepted or rejected on a piece by piece basis according to the following plan, after removing the piece or pieces, the failure of which resulted in unit rejection.

Select four samples (two from each end) from the piece. Test the four selected samples. If all four samples meet all the test criteria of .3(b), accept the piece. If one or more of the samples fail the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), reject the piece. If two or more of the individual specimens, from the 20 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), reject the piece. If only one individual specimen, from the 20 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, .3(b)(2), select two additional samples from the same end of the piece in which the failure occurred. If these additional two samples meet all the test criteria of .3(b), accept the piece. If one or both of the two additional samples fail any part of the test criteria, reject the piece.

(vii) The pieces of a unit rejected after retesting may not be retested, used, or promoted for use in children's sleepwear as defined in .2(a) of this Standard and .1(a) of DOC FF 3–71 (Standard for the Flammability of Children's Sleepwear, sizes 0 through 6X) except after reworking to improve the flammability characteristics, and subsequent retesting in accordance with the procedures set forth in *Tightened Sampling.*

(5) *Records.* Written and physical records related to all tests performed under this Standard must be maintained by the manufacturer, importer, or other persons initially introducing items into commerce which are subject to this Standard, beginning on the effective date of the Standard. Such records shall include results of all tests, sizes of all units, and the disposition of all rejected pieces and units. Rules and regulations regarding recordkeeping may be established by the Consumer Product Safety Commission.

(c) *Garment sampling.* (1)(i). The Garment Sampling Plan is made up of two parts: (1) Prototype Testing and (2) Production Testing. Prior to production, prototypes must be tested to assure that the design characteristics of the garment are acceptable. Garment production units (units) are then accepted or rejected on an individual unit basis.

(ii) Edge finishes such as hems, except in multi-layer fabrics, and binding are excluded from testing except that when trim is used on an edge the trim must be subjected to prototype testing. Seams attaching findings are excluded from testing.

(2) *Prototype testing.* Pre-production prototype testing of each seam and trim specification to be included in each garment in a garment production unit shall be conducted to assure that garment specifications meet the flammability requirements of the Standard prior to production.

(i) *Seams.* Make three samples (15 specimens) using the longest seam type and three samples using each other seam type 10 inches or longer that is to be included in the garment. For purposes of recordkeeping, prior to testing, assign each specimen to one of the three samples. Test each set of three samples and accept or reject each seam design in accordance with the following plan:

(A) If all three samples meet all the test criteria of .3(b), accept the seam design. If one or more of the three samples fail the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), reject the seam design. If three or more of the individual specimens from the 15 selected specimens fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), reject the seam design. If only one of the individual specimens from the 15 selected specimens fails the 25.4 cm. (10 in.) char length criterion, .3(b)(2), accept the seam design.

(B) If two of the individual specimens; from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), select three more samples (15 specimens) and retest. If all three additional samples meet all the test criteria of .3(b), accept the seam design. If one or more of the three additional samples fail the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), reject the seam design.

If two or more of the individual specimens, from the 15 selected additional specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), reject the seam design. If only one of the individual specimens, from the 15 selected additional specimens, fails the 25.4 cm. (10 in.) char length criterion, .3(b)(2), accept the seam design.

(ii) *Trim*—(A) Make three samples (15 specimens) from each type of trim to be included in the garment. Specimens shall be prepared by sewing or attaching the trim to the center of the vertical axis of an appropriate section of untrimmed fabric, beginning the sewing or attachment at the lower edge of each specimen. The sewing or attachment shall be made in the manner in which the trim is to be attached to the garment.

(B) Sewing or otherwise attaching the trim shall be done with thread or fastening material of the same composition and size to be used for this purpose in the garment and using the same stitching or seam type or other attaching procedure. The trim shall be sewn or fastened the entire length of the specimen. Prior to testing, assign each specimen to one of the three samples. Test the sets of three samples and accept or reject the type of trim and design on the same basis as seam design.

(3) *Production testing.* A unit is either accepted or rejected according to the following plan:

(i) *Normal sampling.* (A) From each unit, select at random sufficient garments and cut three samples (15 specimens) from the longest seam type. No more than five specimens may be cut from a single garment. Prior to testing, assign each specimen to one of the three samples. All specimens cut from a single garment must be included in the same sample. Test the three selected samples. If all three samples meet all the test criteria of .3(b), accept the unit. If one or more of the three samples fail the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), reject the unit. If four or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), reject the unit. If three or less of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, .3(b)(2), accept the unit.

(B) If the garment under test does not have a seam at least 10 inches long in the largest size in which it is produced, the following selection and testing procedure shall be followed:

Select and cut specimens 8.9 cm. (3.5 in.) wide by the maximum available seam length, with the seam in the center of the specimen and extending the entire specimen length. Cut three samples (15 specimens). These specimens shall be placed in specimen holders so that the bottom edge is even with the bottom edge of the specimen holder and the seam begins in the center of the bottom edge. Prior to testing, assign each specimen to one of the three samples. All specimens cut from a single garment must be included in the same sample.

Test the three samples. If all three samples pass the 17.8 cm. (7.0 in.) average char length criterion, .3(b)(1), and if three or fewer individual specimens fail by charring the entire specimen length, accept the unit. If the unit is not accepted in the above test, three samples (15 specimens) of the longest seam type shall be made using fabric and thread from production inventory and sewn on production machines by production operators. The individual fabric sections prior to sewing must be no larger than 20.3 x 63.3 cm. (8 x 25 in.) and must be selected from more than one area of the base fabric. Test the three prepared samples. Accept or reject the unit as described previously in this subsection.

(ii) *Reduced sampling.* The level of sampling required for garment acceptance may be reduced provided the previous 15 units of the garments have all been accepted using the Normal Sampling Plan.

The Reduced Sampling Plan shall be the same as for Normal Sampling except that the quantity of garments under test may be increased to up to two production units containing garments which have the same specific identity except for size, trim, findings, color, and print patterns as specified in .4(a).

Select and test three samples in the same manner as in Normal Sampling. Accept or reject both units on the same basis as with Normal Sampling.

Reduced Sampling shall be discontinued and Normal Sampling resumed if a unit is rejected.

(4) *Disposition of rejected units.* Rejected units shall not be retested, used, or promoted for use in children's sleepwear as defined in .2(a) of this Standard and .1(a) of DOC FF 3–71 except after reworking to improve the flammability characteristics and subsequent retesting in accordance with the procedures set forth in *Garment production testing* [Paragraph .4(c)(3)].

(5) *Records.* Written and physical records related to all tests performed under this Standard must be maintained by the manufacturer, importer, or other persons initially introducing items into commerce which are subject to this Standard, beginning on the effective date of this Standard. Such records shall include results of all tests, sizes of all units, and the disposition of all rejected pieces and units. Rules and regulations regarding recordkeeping may be established by the Consumer Product Safety Commission.

(d) *Compliance market sampling plan.* Sampling plans for use in market testing of items covered by this Standard may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, those production units represented by tested items which fail such plans will, in fact, fail this Standard.

Production units found to be noncomplying under the provisions of this section .4(d), shall be deemed not to conform to this Standard.

The Consumer Product Safety Commission may publish such plans in the FEDERAL REGISTER.

.5 *Test procedure*—(a) *Apparatus.* The following test apparatus shall be used for the test. Alternate test apparatus may be used only with prior approval of the Consumer Product Safety Commission.

(1) *Test chamber.* The test chamber shall be a steel cabinet with inside dimensions of 32.9 cm. (12 15/16 in.) wide, 32.9 cm. (12 15/16 in.) deep, and 76.2 cm. (30 in.) high. It shall have a frame which permits the suspension of the specimen holder over the center of the base of the cabinet at such a height that the bottom of the specimen is 1.7 cm. (¾ in.) above the highest point of the barrel of the gas burner specified in .5(a)(3) *Burner* and perpendicular to the front of the capinet. The front of the cabinet shall be a close-fitting door with a transparent insert to permit observation of the entire test. The cabinet floor may be covered with a piece of asbestos paper, whose length and width are approximately 2.5 cm. (1 in.) less than the cabinet floor dimensions. The cabinet to be used in this test method is illustrated in Figure 1 and detailed in Engineering Drawings, Numbers 1 through 7.

(2) *Specimen holder.* The specimen holder to be used in this test method is detailed in Engineering Drawing Number 7. It is designed to permit suspension of the specimen in a fixed vertical position and to prevent curling of the specimen when the flame is applied.

The specimen shall be fixed between the plates, which shall be held together with side clamps.

(3) *Burner.* The burner shall be the same as that illustrated in Figure 1 and detailed in Engineering Drawing Num-

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ber 6. It shall have a tube of 1.1 cm. (0.43 in.) inside diameter. The input line to the burner shall be equipped with a needle valve. It shall have a variable orifice to adjust the height of the flame. The barrel of the burner shall be at an angle of 25 degrees from the vertical. The burner may be equipped with an adjustable stop collar so that it may be positioned quickly under the test specimen. The burner shall be connected to the gas source by rubber or other flexible tubing.

(4) *Gas supply system.* There shall be a pressure regulator to furnish gas to the burner under a pressure of 103–259 mm. Hg. (2–5 lbs. per sq. in.) at the burner inlet. (*Caution.* Precautionary laboratory practices must be followed to prevent the leakage of methane. Methane is a flammable gas which can be explosive when mixed with air and exposed to a source of ignition, and can cause asphyxiation because of the lack of air.)

(5) *Gas.* The gas shall be at least 97 percent pure methane.

(6) *Hooks and weights.* Metal hooks and weights shall be used to produce a series of loads for char length determinations. Suitable metal hooks consist of No. 19 gauge steel wire, or equivalent, made from 7.6 cm. (3 in.) lengths of the wire, bent 1.3 cm. (0.5 in.) from one end to a 45-degree angle hook. The longer end of the wire is fastened around the neck of the weight to be used and the other in the lower end of each burned specimen to one side of the burned area. The requisite loads are given in Table 1.

TABLE 1.—*Original fabric weight*[1]

Grams per square meter	Ounces per square yard	Loads	
		Grams	Pounds
Less than 101	Less than 3.0	51.4	0.12
101 to 207	3.0 to 6.0	113.4	.25
207 to 338	6.0 to 10.0	226.8	.50
Greater than 338	Greater than 10.0	340.2	.75

[1] Weight of the original fabric, containing no seams or trim, is calculated from the weight of a specimen which has been conditioned for at least 8 hr at 21±1.1° C. (70±2° F.) and 65±2 percent relative humidity. Shorter conditioning times may be used if the change in weight of a specimen in successive weighings made at intervals of not less than 2 hr does not exceed 0.2 percent of the weight of the specimen.

(7) *Stopwatch.* A stopwatch or similar timing device shall be used to measure time to 0.1 second.

(8) *Scale.* A linear scale graduated in mm. or 0.1-inch divisions shall be used to measure char length.

(9) *Circulating air oven.* A forced circulation drying oven capable of maintaining the specimens at 105±2.8° C. (221±5° F.), shall be used to dry the specimen while mounted in the specimen holders.[3]

(10) *Desiccator.* An air-tight and moisture-tight desiccating chamber shall be used for cooling mounted specimens after drying. Anhydrous silica gel with an indicator shall be used as the desiccant in the desiccating chamber. Replace or reactivate the desiccant when it becomes inactive.

(11) *Hood.* A hood or other suitable enclosure shall be used to provide a draft-protected environment surrounding the test chamber without restricting the availability of air. This enclosure shall have a fan or other suitable means for exhausing smoke and/or toxic gases produced by testing.

12. *Extinguishing plates.* Extinguishing plates shall be used to extinguish afterglow. The plates shall be metal, approximately 35.6 cm. x 5.1 cm. (14 x 2 in.) which fit within the opening of the specimen holder. The bottom plate shall be the thickness of the specimen holder and the top plate shall be at least 0.32 cm. (⅛ in.) thick. A suitable metal specimen mounting block may be used for the bottom plate.

(b) *Mounting and conditioning of specimens*—(1) The specimens shall be placed in specimen holders so that the bottom edge of each specimen is even with the bottom of the specimen holder. Mount the specimen in as close to a flat configuration as possible. The sides of the specimen holder shall cover 1.9 cm. (¾ in.) of the specimen width along each long edge of the specimen, and thus shall expose 5.1 cm. (2 in.) of the specimen width. The sides of the specimen holder shall be clamped with a sufficient number of clamps or shall be taped to prevent the specimen from being displaced during handling and testing. The specimens may be taped in the holders if the clamps fail to hold them. Place the mounted specimens in the drying oven in a manner that will permit free circulation of air at 105° C. (221° F.) around them for 30 minutes.[4]

(2) Remove the mounted specimens from the oven and place them in the desiccator for 30 minutes to cool. No more than five specimens shall be placed in a desiccator at one time. Specimens shall remain in the desiccator no more than 60 minutes.

(c) *Testing*—(1) *Burner adjustment.* With the hood fan turned off, use the needle valve to adjust the flame height of the burner to 3.8 cm. (1½ in.) above the highest point of the barrel of the burner. A suitable height indicator is shown in Engineering Drawing Number 6 and Figure 1.

(2) *Specimen burning and evaluation.* (i) One at a time, the mounted specimens shall be removed from the desiccator and suspended in the cabinet for testing. The cabinet door shall be closed and the burner flame impinged on the bottom edge of the specimen for 3.0 ±0.2 seconds.[5] Flame impingement is accomplished by moving the burner under the specimen for this length of time, and then removing it.

(ii) When flaming has ceased, remove the specimen from the cabinet, except for specimens which exhibit afterglow. If afterglow is evident, the specimen shall be removed from the cabinet 1 minute after the burner flame is impinged on the specimen if no flaming exists at that time. Upon removal from the cabinet, the afterglow shall be promptly extinguished. The afterglow shall be extinguished by placing the specimen while still in the specimen holder on the bottom extinguishing plate and immediately covering it with the top plate until all evidence of afterglow has ceased. After removing the specimen from the cabinet and, if appropriate, extinguishing afterglow, remove it from the holder and place it on a flat clean surface. Fold the specimen lengthwise along a line through the highest peak of the charred or melted area; crease the specimen firmly by hand. Unfold the specimen and insert the hook with the correct weight as shown in Table 1 in the specimen on one side of the charred area 6.4 mm. (¼ in.) from the lower edge. Tear the specimen by grasping the other lower corner of the fabric and gently raising the specimen and weight clear of the supporting surface.[6] Measure the char length as the distance from the end of the tear to the original lower edge of the specimen exposed to the flame. After testing each specimen, vent the hood and cabinet to remove the smoke and/or toxic gases.

[3] Procedure 1(1.1.1) of ASTM D 2654–71 "Standard Methods of Test for moisture content and moisture regain of textile material," describes a satisfactory oven (1972 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103).

[4] If the specimens are moist when received, permit them to air dry in laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776–67, "Conditioning Textiles and Textile Products for Testing". (1972 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.)

[5] If more than 30 seconds elapse between removal of a specimen from the desiccator and the initial flame impingement, that specimen shall be reconditioned prior to testing.

[6] A figure showing how this is done is given in AATCC Test method 34–1969, "Fire Resistance of Textile Fabrics," Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 46, 1970, published by AATCC, P.O. Box 12215, Research Triangle Park, North Carolina 27709.

(3) *Report.* Report the value of char length, in centimeters (or inches), for each specimen, as well as the average char length for each set of five specimens.

(4) *Laundering.* (i) The procedures described under .4 *Sampling and acceptance procedures,* .5(b) *Conditioning and mounting of specimens,* and .5 (c) *Testing,* shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times according to the laundering procedure in AATCC Test Method 124–1969.[1] Items which do not withstand 50 launderings may be tested at the end of their useful service life with prior approval of the Consumer Product Safety Commission.

(ii) Washing procedure 6.2(III) of AATCC Test Method 124–1969, with a water temperature of 60±2.8° C. (140±5° F.) and drying procedure 6.3.2(B) of that Test method, shall be used. Maximum load shall be 3.64 kg. (8 lbs.) and may consist of any combination of test samples and dummy pieces. Alternately, a different number of times under another washing and drying procedure may be specified and used, if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission. Such laundering is not required of items which are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(iii) Items which are not susceptible to being laundered and are labeled "dry-clean only" shall be dry-cleaned by a procedure which has previously been found to be acceptable by the Consumer Product Safety Commission.

(iv) For the purpose of the issuance of a guarantee under Section 8 of the Act, finished sleepwear garments to be tested according to .4(c) *Garment sampling,* need not be laundered or dry-cleaned provided all fabrics used in making the garments (except trim) have been guaranteed by the fabric producer to be acceptable when tested according to .4(b) *Fabric sampling.*

.6 *Labeling requirements.* All items of children's sleepwear shall be labeled with precautionary instructions to protect the items from agents or treatments which are known to cause significant deterioration of their flame resistance. If the item has been initially tested under .5(c)(4) *Laundering,* after one washing and drying, it shall be labeled with instructions to wash before wearing. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission.

Effective date. This Standard shall become effective on May 1, 1975.

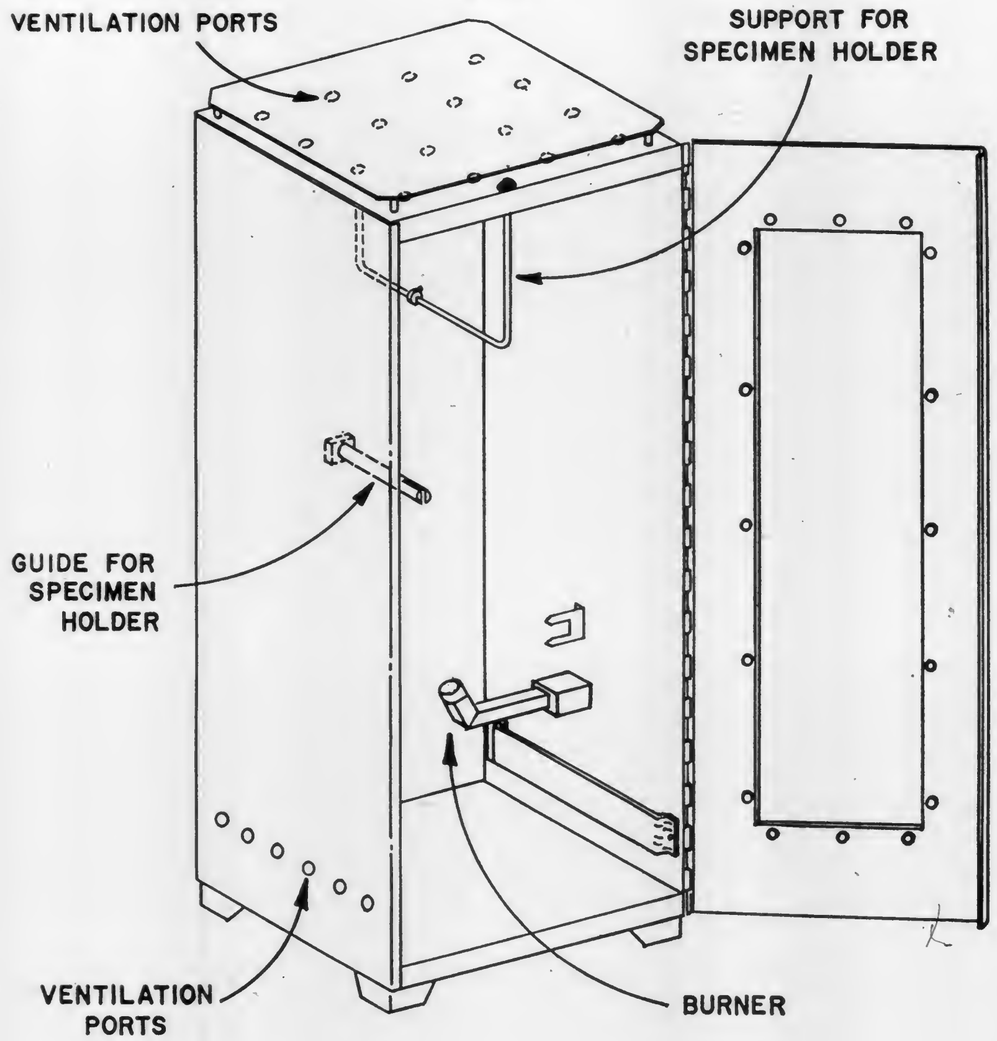
(Sec. 4, 67 Stat. 112, as amended 81 Stat. 569–70 (15 U.S.C. 1193))

Dated: April 24, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

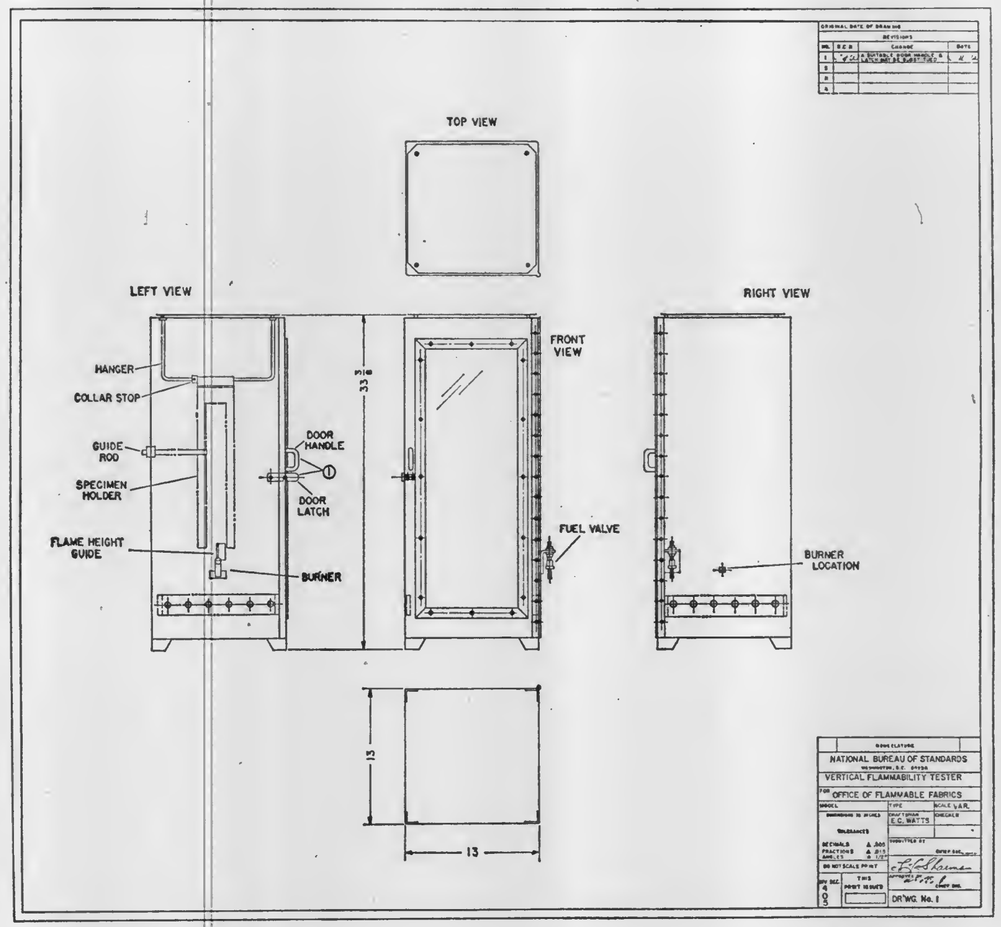
[1] Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 46, 1970, published by AATCC, P.O. Box 12215, Research Triangle Park, North Carolina 27709.

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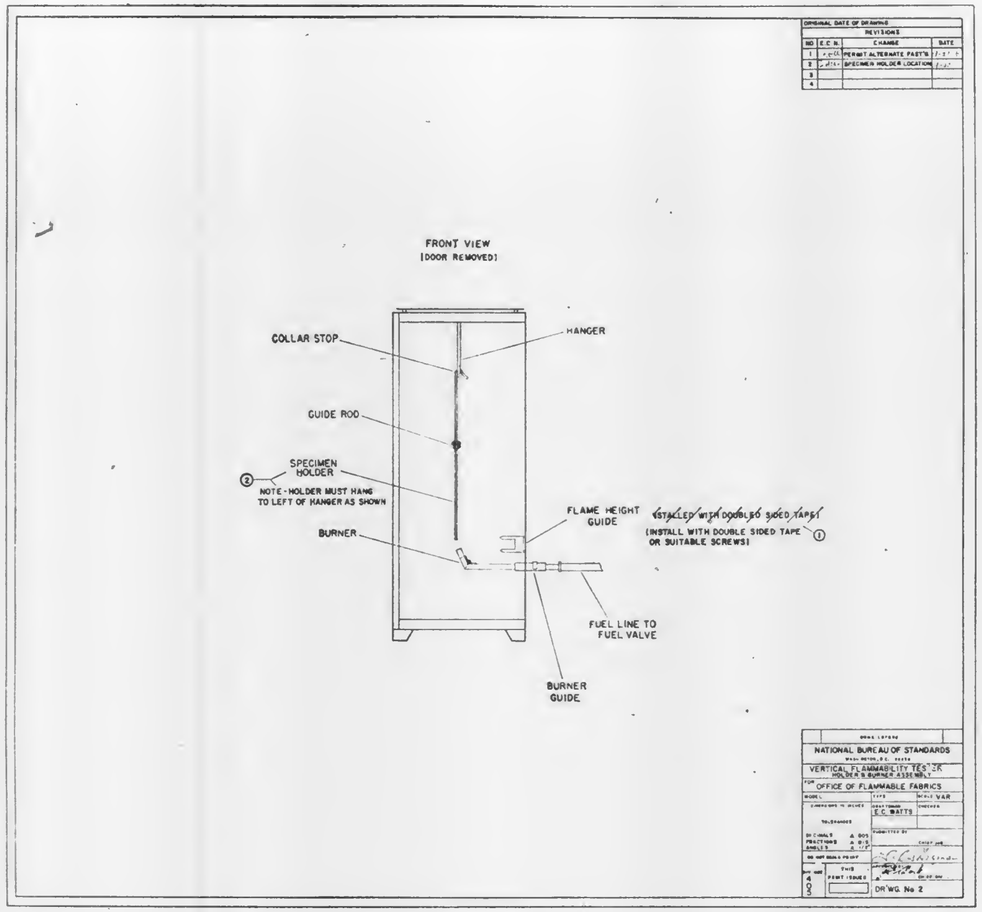


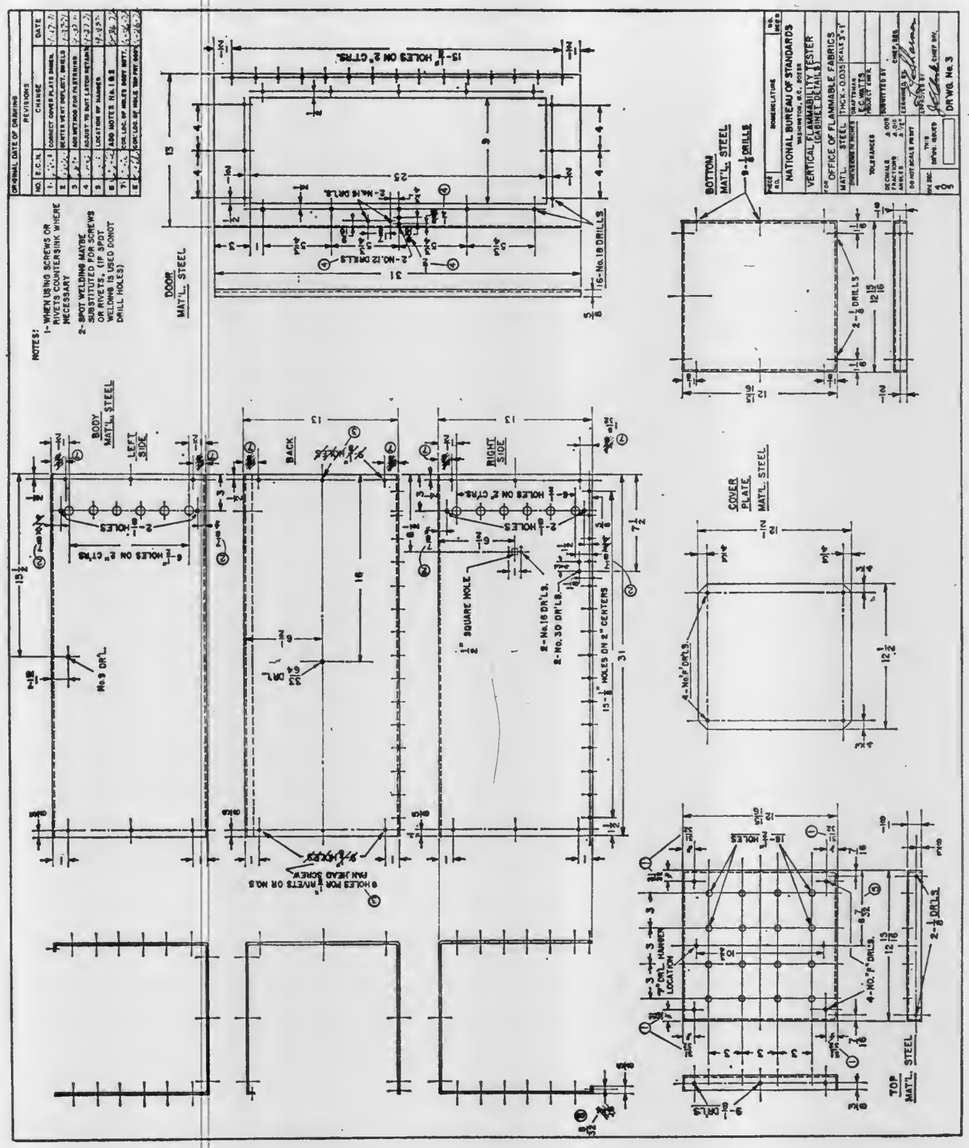
VERTICAL TEST CABINET

FIGURE 1

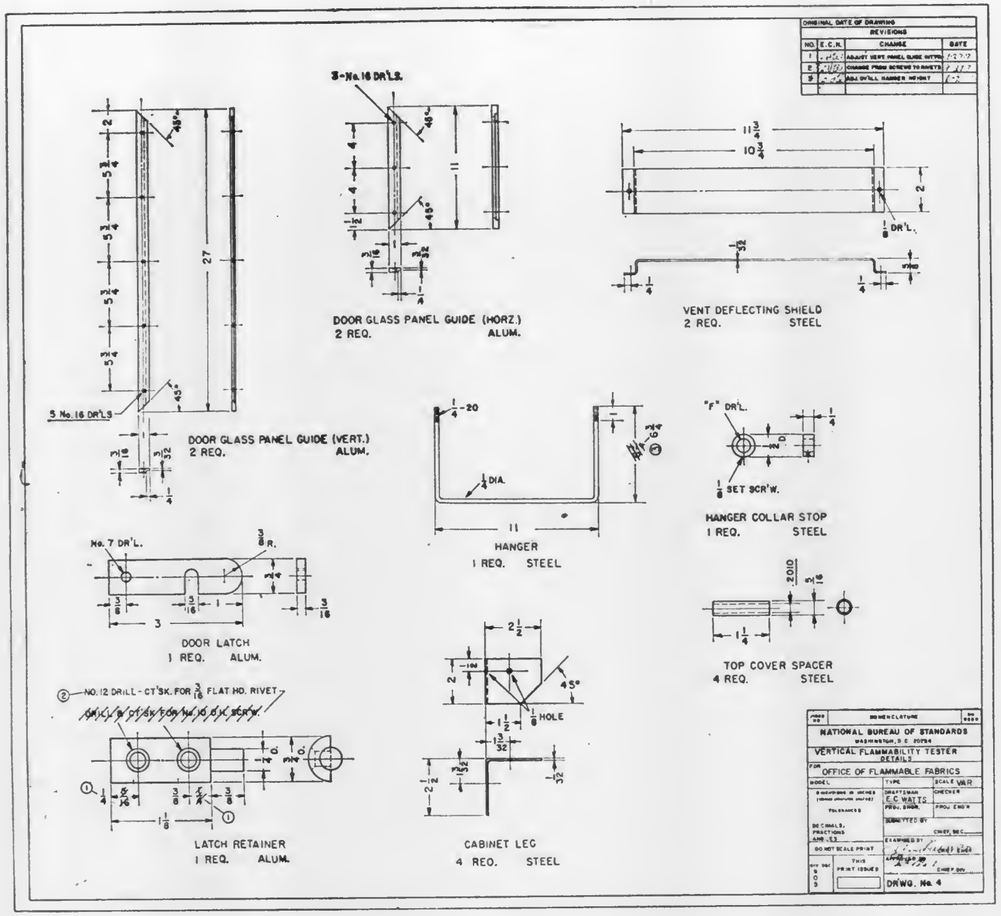


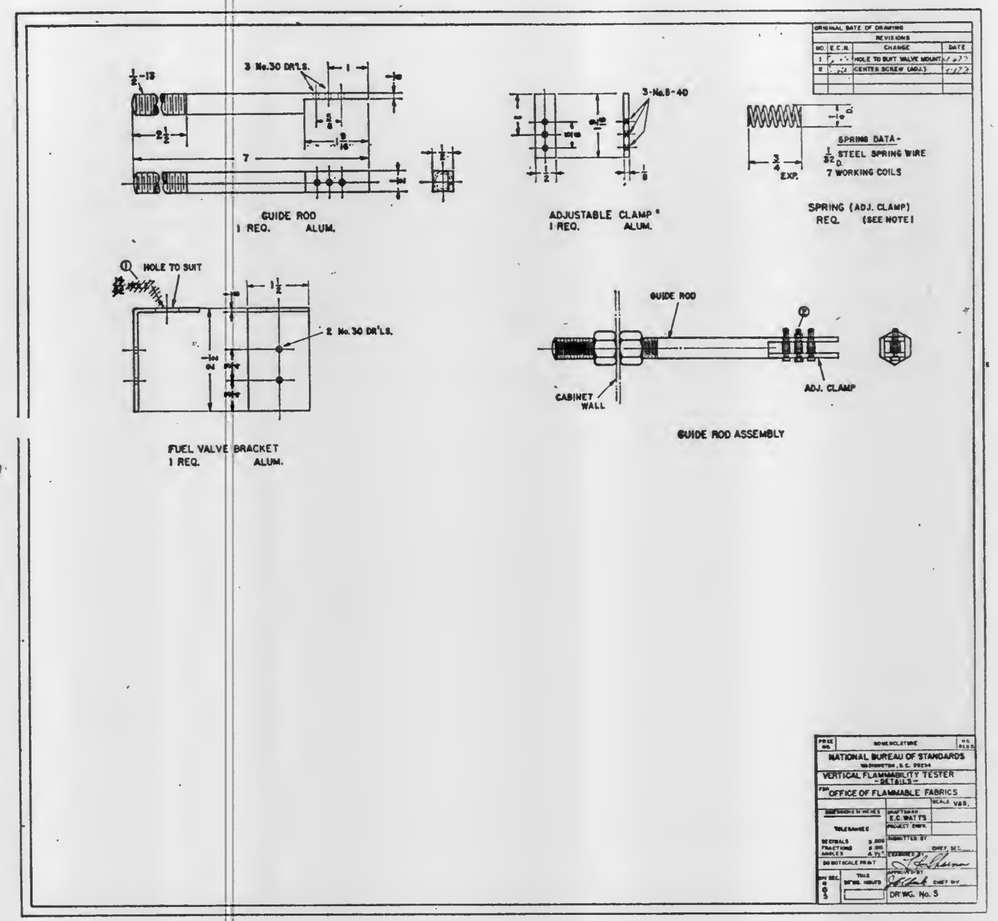
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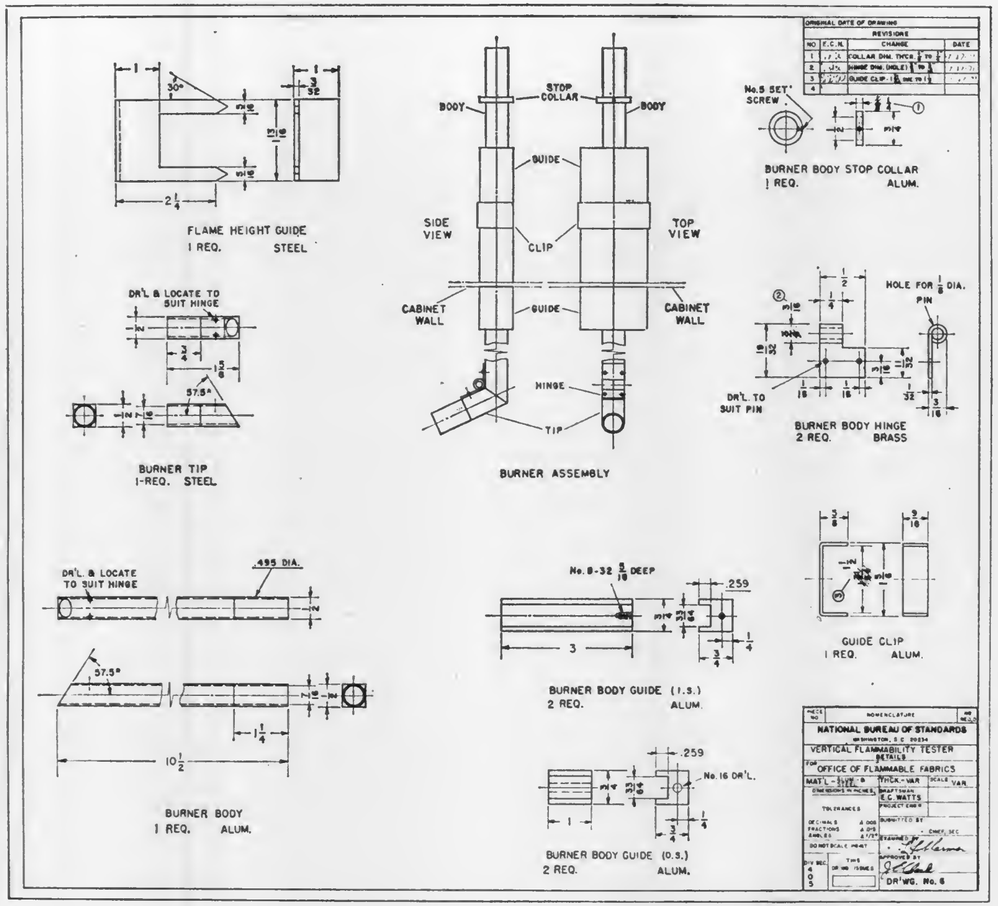


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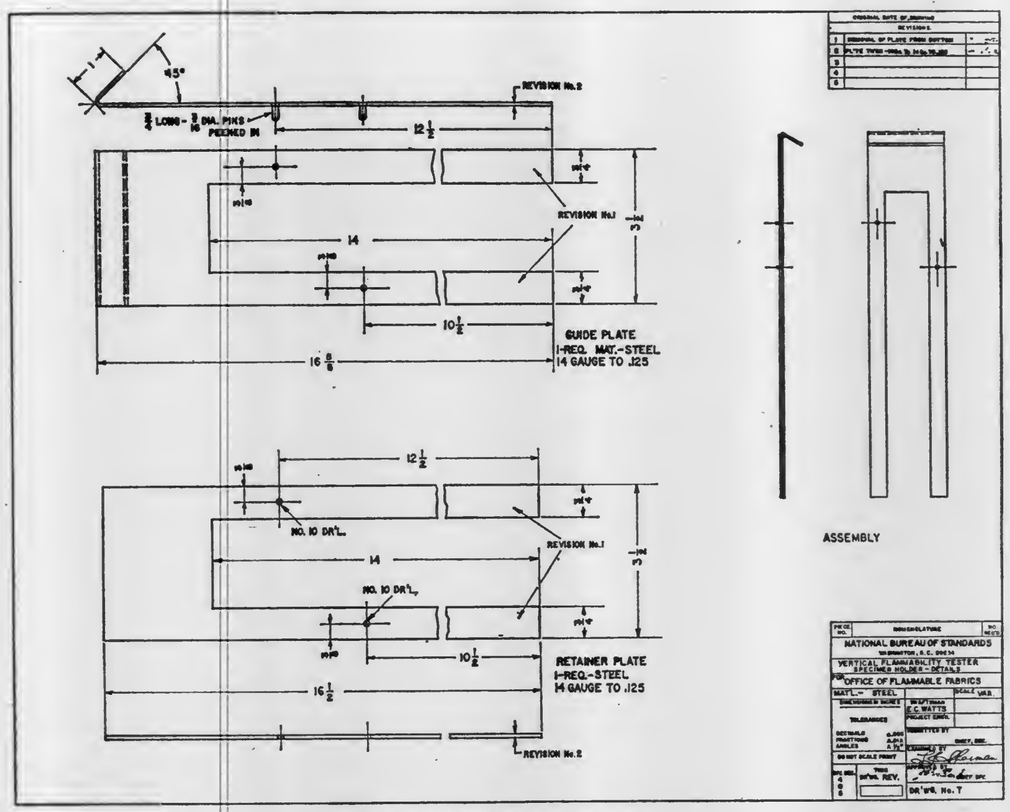


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ORIGINAL DATE OF DRAWING			
REVISIONS			
NO.	F.C.N.	CHANGE	DATE
1		COLLAR DIM. TYP.(3)	
2		HINGE DIM. (HOLE)	
3		GUIDE CLIP -	
4			

NOMENCLATURE	
NATIONAL BUREAU OF STANDARDS WASHINGTON, D.C. 20234	
VERTICAL FLAMMABILITY TESTER DETAILS	
FOR OFFICE OF FLAMMABLE FABRICS	
MAT'L — SEE DWG.	FINISH — VAR
DIMENSIONS IN INCHES	DRAFTSMAN E.C. WATTS
TOLERANCES	PROJECT ENG'R
DECIMALS ± .005	SUBMITTED BY CHIEF, SEC.
FRACTIONS ± 1/64	
ANGLES ± 1°	
DO NOT SCALE PRINT	APPROVED BY
DIV. SEC. 4 0 3	DR'WG. No. 6



ORIGINAL DATE OF DRAWING			
REVISIONS			
1	REMOVAL OF PLATE FROM BOTTOM		
2	PLATE THICKNESS TO .14 GA TO .125		
3			
4			
5			
6			

NOMENCLATURE	
NATIONAL BUREAU OF STANDARDS WASHINGTON, D.C. 20234	
VERTICAL FLAMMABILITY TESTER SPECIMEN HOLDER - DETAIL 3	
FOR OFFICE OF FLAMMABLE FABRICS	
MAT'L — STEEL	SCALE VAR.
DIMENSIONS IN INCHES	DRAFTSMAN E.C. WATTS
TOLERANCES	PROJECT ENG'R
DECIMALS ± .005	SUBMITTED BY CHIEF, SEC.
FRACTIONS ± 1/64	
ANGLES ± 1°	
DO NOT SCALE PRINT	APPROVED BY
DIV. SEC. 4 0 3	DR'WG. No. 7

[FR Doc.74-9712 Filed 4-30-74;8:45 am]

V 39 I 85 MAY 1 74 XUM

CHILDREN'S SLEEPWEAR, SIZES 7 THROUGH 14 (FF 5–74)

Notice of Finding of Possible Need for Amendment to Flammability Standard and Institution of Proceedings

Immediately preceding this document in the FEDERAL REGISTER today, the Consumer Product Safety Commission has published the Standard for the Flammability of Children's Sleepwear, Sizes 7 through 14 (FF 5–74). That Standard sets forth testing requirements to determine the flammability of children's sleepwear in sizes 7 through 14 and fabric or related material intended or promoted for use in such sleepwear. The Standard was issued pursuant to the Flammable Fabrics Act (15 U.S.C. 1191, et seq.).

On the basis of investigations conducted under the authority of section 14 (a) and (b) of the Flammable Fabrics Act and other information which has come to the Commission's attention during the development of the Standard, the Commission hereby finds that amendments to FF 5–74 may be needed to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or property damage.

In addition, the Commission hereby institutes proceedings for the determination of appropriate amendments to FF 5–74. If the Commission determines amendments are necessary, the Commission intends that such amendments would become effective on the effective date of the Standard. In this notice, the Commission is seeking comments on four possible changes in the Standard.

Although the Commission is aware that the use of sampling plans in mandatory safety standards is a subject of considerable controversy, the Commission has not determined whether there is a possible need to amend the standard to eliminate the use of sampling plans in the Standard. The Commission held a public hearing on April 4 and 5, 1974, to obtain information and views concerning the use of sampling plans in mandatory standards issued by the Commission and in the enforcement of such standards. Should the Commission determine there is a possible need to amend the Standard in regard to the use of sampling plans, it will publish an additional notice in the FEDERAL REGISTER and will request comment at that time.

The possible amendments under consideration now, the reasons therefor, and specific requests for comments are as follows:

1. *Affirmative labeling.* The Commission believes that it may be necessary to amend the Standard to require items which comply with the Standard to bear affirmative labeling to enable consumers to distinguish complying from noncomplying items of children's sleepwear in sizes 7 through 14. For example, the label might state "Flame-retardant. This garment complies with U.S. Standard FF 5–74."

Through its experience with the application of other safety standards, the Commission is of the opinion that affirmative labeling should be required from the effective date of the Standard until stocks of noncomplying items can reasonably be expected to be exhausted, in order to eliminate confusion in the marketplace.

The Commission is seeking comments and views as to the necessity and feasibility for requiring affirmative labeling on complying garments and views as to the length of time such labeling should be required after the effective date of the Standard.

2. *Application of the Standard.* The Standard applies to all items of children's sleepwear in sizes 7 through 14 that are manufactured on or after the effective date of the Standard. On the basis of experience in enforcing other Standards, the Commission believes that the term "manufacture" should be defined to clarify which items of children's sleepwear in the production/distribution chain on the effective date of the Standard must comply with the Standard. The Commission wishes to clarify when the manufacturing process ends so that all affected parties will know which items are subject to the Standard.

The Commission is seeking views as to the necessity for defining the term "manufacture" and is seeking suggested definitions of the term as it is used in the Standard. For example, the Commission is seeking views as to whether the manufacturing process ends after (a) items are constructed, (b) labels are affixed, (c) items are packaged, or (d) at some other time.

3. *Clarification of exemption.* Section 4(b) of the Flammable Fabrics Act provides that products, fabrics, or related material subject to a Standard, which are in inventory or with the trade as of the effective date of the Standard, are exempt from the Standard, except that the exemption may be limited or withdrawn if the Commission finds any such items are so highly flammable as to be dangerous when used by consumers for the purpose for which they are intended. The Commission wishes to clarify, for the purposes of the Standard, at what time items, particularly imported items, are to be considered "in inventory or with the trade."

The Commission is seeking views as to the time items of children's sleepwear in sizes 7 through 14 are "in inventory or with the trade." For example, the Commission is seeking views whether imported goods are "in inventory or with the trade" when (a) they are ordered, (b) they are shipped, (c) they are received, or (d) at some other time. The Commission is also seeking views as to whether, or in what circumstances, the exemption should be limited.

4. *Testing exceptions.* The Standard requires testing to be conducted under oven-dry conditions. A number of commenters have informed the Commission that they believe that testing under these conditions precludes the use of wool and certain other materials for children's sleepwear. It is claimed that these materials are not unduly hazardous and that they should be allowed to be used for children's sleepwear, without testing under oven-dry conditions.

The Commission believes that it may be necessary to amend the Standard to allow, in special cases, an exception to testing under oven-dry conditions. The Commission believes it would be appropriate to require applicants for exceptions to state the relative humidity at which they plan to test items pursuant to the Standard. However, the Commission would establish a maximum relative humidity for testing under exceptions. For enforcement purposes, whenever exceptions have been allowed, the Commission would test according to the provisions of the exceptions which have been granted.

The Commission seeks comment as to the feasibility and necessity for allowing exceptions to testing under oven-dry conditions, suggestions as to defining in what circumstances exceptions should be allowed, and comment as to the maximum relative humidity which should be allowed for testing under exceptions.

Interested persons are invited to submit, on or before May 31, 1974, written comments regarding the preceding possible amendments. All materials considered relevant to any statement of fact or argument should be submitted with such written comments. Comments and any accompanying material should be submitted, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington D.C. 20207.

Received comments may be seen in the Office of the Secretary, Room 1025, 1750 K Street N.W., Washington, D.C., during working hours, Monday through Friday.

The Consumer Product Safety Commission takes this action pursuant to section 4(a) of the Flammable Fabrics Act, as amended (15 U.S.C. 1193(a)), sections 7.5 and 7.6 of the Flammable Fabrics Act Procedures (15 CFR Part 7), and section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)).

Dated: April 24, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74–9711 Filed 4–30–74;8:45 am]

federal register

WEDNESDAY, MAY 1, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 85

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

Social and Rehabilitation Service

■

MEDICARE-MEDICAID

Skilled Nursing Facilities

No. 85—Pt. III——1

V 39 I 85 MAY 1 74 XUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Skilled Nursing Facilities

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form, are proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare. The proposed amendments add several provisions to the Medicare-Medicaid common standards for skilled nursing facilities. These amendments include provisions being adopted pursuant to comments received with respect to the Conditions of Participation for skilled nursing facilities published as proposed rules on July 12, 1973 (38 FR 18620). Because of the substantive nature of these provisions, they were not included in the final regulations published on January 17, 1974 (39 FR 2238) (as explained in the introduction preceding those regulations) but are now being published as proposed rules. In addition to the provisions specifically identified in that introduction (a medical director, 7-day registered nurse services, discharge planning, and patients' rights), the proposed amendments herein include other provisions, some of which are of a corrective nature, others of which have some substantive impact. All the proposed revisions are listed in numerical sequence by regulation section and are described below:

1. *Dietitian (qualified consultant), § 405.1101(f).* The revision corrects a typographical error by changing the period at the end of clause (1) to a semicolon and adding the word "or." The effect of this change is to provide that a dietitian need meet only one of the two alternatives in the definition.

2. *Use of outside resources, § 405.1121 (i).* The revision would provide that services rendered to skilled nursing facility patients by an independent laboratory may be billed directly to the patient by the laboratory instead of through the facility. The revision recognizes that the facility may not be in a position to retain professional and administrative responsibility for the services rendered by independent laboratories.

3. *Patients' rights, § 405.1121(k).* This new subsection would require skilled nursing facilities to establish policies to ensure that certain enumerated rights are afforded to patients. The patients' rights section is intended to assure that the manner in which the personnel of a facility and physicians who render treatment in such facility relate to individuals receiving care there promotes the physical and emotional well-being of the patient. The Secretary recognizes that patient health and responsiveness to treatment are frequently linked to "patients' rights," such as the right to be treated with dignity, to be involved in making decisions about one self, and to maintain contact with the community.

4. *Seven-day registered nurse services § 405.1124 and 405.1124(c).*—The present requirement for the employment of a registered nurse at least on the day tour of duty for at least 5 days a week would be changed to require that a registered nurse be employed for the day tour of 7 days. An accompanying proposed revision, in § 405.1911(a), would provide, pursuant to section 1861(j)(15) of the Act, that in rural areas a waiver of the requirement that a registered nurse be so employed for more than 5 days a week may be granted by the Secretary in light of the need for skilled nursing facility services in the area, patient needs, and arrangements that have been made to provide the necessary skilled nursing services when there is not a registered nurse on duty.

5. *Administration of drugs, § 405.1124 (g).*—The proposed revision would ensure that medications would be administered to patients in skilled nursing facilities only by qualified personnel, viz. physicians, licensed nursing personnel, or such other staff members who have undergone formal training in State approved programs in the administration of medications.

6. *Staffing for specialized rehabilitative services, § 405.1126(a).*—This provision would permit the use of staff not specifically identified under the various definitions of therapists included in § 405.1101 to be assigned duties in connection with therapeutic services appropriate to their training and experience where all such services are rendered under the direct supervision of a physician qualified in physical medicine in a facility with an organized rehabilitative service using a multidisciplinary team approach.

7. *Handrails, § 405.1134(j).* This provision would require corridors in skilled nursing facilities to be equipped with handrails on each side. This addition would restore a provision that had been required of skilled nursing facilities until February 19, 1974.

8. *Discharge planning, § 405.1137(h).* This provision would require a skilled nursing facility to furnish a centralized, coordinated discharge planning program to ensure that each patient has a program of needed continuing care both during his stay and after discharge from the facility. It is proposed that this section be incorporated in connection with utilization review, pursuant to the provisions of section 237(c) of the Social Security Amendments of 1972 (P.L. 92-603) which amend section 1861(k) of the Act by adding authority under which the Secretary may require the use in the Medicare program of utilization review procedures established pursuant to the Medicaid program, which he determines are superior in their effectiveness to the utilization review procedures in the Medicare program. The Secretary has determined that Medicaid program proposals for discharge planning published on this date in this edition of the FEDERAL REGISTER are superior and should be incorporated as utilization review requirements of the Medicare program.

9. *Medical direction, §405.1138.* This proposed new condition would require that a skilled nursing facility employ a medical director to coordinate medical care and ensure its adequacy, and to maintain surveillance of the facility. An accompanying revision in § 405.1911(b) would provide for the possibility of waiver of the requirement in areas with a shortage of physicians, under certain conditions.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue, SW., Washington, D.C. 20201, on or before May 31, 1974. Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1861, 1871, 49 Stat. 647, as amended, 79 Stat. 313, as amended, 79 Stat. 331; 42 U.S.C. 1302, 1395x, 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: April 11, 1974.

JAMES B. CARDWELL,
Commissioner of Social Security.

Approved: April 23, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulation No. 5 of the Social Security Administration, as amended (20 CFR Part 405), are further amended as set forth below:

1. Paragraph (f) of § 405.1101 is revised to read as follows:

§ 405.1101 Definitions.

As used in this subpart, the following definitions apply:

• • • • • •

(f) *Dietitian (qualified consultant).* A person who:

(1) Is eligible for registration by the American Dietetic Association under its requirements in effect on the publication of this provision; or

(2) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, has 1 year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

• • • • •

2. Section 405.1121 is amended by revising paragraph (i), and adding a new paragraph (k) to read as follows:

§ 405.1121 Condition of participation—governing body and management.

• • • • • •

(i) *Standard: Use of outside resources.* If the facility does not employ a qualified professional person to render a specific service to be provided by the facility, it makes arrangements to have such a service provided by an outside resource—a person or agency that will render direct service to patients or act as a consultant. The responsibilities, functions, and objectives, and the terms of agreement, including financial arrangements and charges, of each such outside resource are delineated in writing and signed by an authorized representative of the facility and the person or agency providing the service. Agreements pertaining to services other than clinical laboratory services furnished by an independent laboratory or by a hospital-based physician must specify that the facility retains professional and administrative responsibility for the services rendered and that the outside resource will bill the facility for covered services (either Part A or B for Medicare beneficiaries) rendered directly to the patient, and that receipt of payment from the program(s) to the facility for the services discharges the liability of the beneficiary or any other person to pay for the services. The outside resource, when acting as a consultant, apprises the administrator of recommendations, plans for implementation, and continuing assessment through dated, signed reports, which are retained by the administrator for follow-up action and evaluation of performance. (See requirement under each service—§§ 405.1125 through 405.1132.)

• • • • • •

(k) *Standard: Patients' rights.* The governing body of the facility establishes written policies regarding the rights and responsibilities of patients and, through the administrator, is responsible for development of an adherence to procedures implementing such policies. These policies and procedures are made available to patients and any guardians, next of kin, sponsoring agency(ies), or representative payees selected pursuant to section 205(j) of the Social Security Act, and Subpart Q of Part 404 of this chapter. The staff of the facility is trained and involved in the implementation of these policies and procedures. These patients' rights policies and procedures ensure that each patient admitted to the facility:

(1) Is fully informed, prior to or at the time of admission and during stay, of these rights and responsibilities and of all rules and regulations governing patient conduct and responsibilities;

(2) Is fully informed, prior to or at the time of admission and during stay, of services available in the facility, and of related charges including any charges for services not covered under Medicare or Medicaid, or not covered by the basic per diem rate;

(3) Is fully informed of his medical condition unless medically contraindicated (as documented in his medical record) and is afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research;

(4) Is not arbitrarily transferred or discharged and is given reasonable advance notice of any transfer or discharge;

(5) May manage his personal financial affairs or be given a monthly accounting of financial transactions on his behalf should he delegate this responsibility to the facility for any period of time;

(6) Is encouraged and assisted, throuhout his period of stay, to understand and exercise his patient rights and to this end may voice grievances and recommend changes in policies and services to facility staff and/or outside representatives of his choice free from restraint, interference, coercion, discrimination, or reprisal;

(7) Is free from mental and physical abuse, and free from chemical and (except in emergencies) physical restraints except as authorized in writing by a physician for a specified and limited period of time;

(8) Is assured confidential treatment of his personal and medical records, and may approve or refuse their release to any individual outside the facility, except as required by law or third-party payment contract;

(9) Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs;

(10) Is not required to perform services for the facility that are not included for therapeutic purposes in his plan of care;

(11) May associate and communicate privately with persons of his choice unless medically contraindicated (as documented in his medical record), and shall receive his personal mail unopened;

(12) May meet with representatives and participate in activities of commercial, religious, and community groups at his discretion;

(13) May retain and use his personal clothing and possessions as reasonable.

All rights and responsibilities in items 1 through 6 above, particularly as they pertain to a patient adjudicated incompetent in accordance with State law, or a patient who is found medically incapable by his attending physician, or a patient who exhibits a communication barrier, devolve also upon such patient's guardian, next of kin, sponsoring agency(ies), or representative payee (except when the facility itself is representative payee) selected pursuant to section 205(j) of the Social Security Act and subpart Q of Part 404 of this chapter.

3. Section 405.1124 is amended by revising the material preceding paragraph (a) and also by revising paragraphs (c) and (g) to read as follows:

§ 405.1124 Condition of participation—nursing services.

The skilled nursing facility provides 24-hour service by licensed nurses, including the services of a registered nurse at least during the day tour of duty 7 days a week. There is an organized nursing service with a sufficient number of qualified nursing personnel to meet the total nursing needs of all patients in the facility.

• • • • • •

(c) *Standard: Twenty-four-hour nursing service.* The facility provides 24-hour nursing services which are sufficient to meet total nursing needs and which are in accordance with the patient care policies developed as provided in § 405.1122(a). The policies are designed to ensure that each patient receives treatments, medications, and diet as prescribed, and rehabilitative nursing care as needed; receives proper care to prevent decubitus ulcers and deformities, and is kept comfortable, clean, well-groomed, and protected from accident, injury, and infection, and encouraged, assisted, and trained in self-care and group activities. Nursing personnel, including at least one registered nurse on the day tour of duty 7 days a week, licensed practical nurses, nurse aides, orderlies, and ward clerks, are assigned duties consistent with their education and experience and based on the characteristics of the patient load. Weekly time schedules are maintained and indicate the number and classifications of nursing personnel, including relief personnel, who worked on each unit for each tour of duty.

• • • • • •

(g) *Standard: Administration of drugs.* Drugs and biologicals are administered only by physicians, licensed nursing personnel, or by other personnel who have completed a State-approved training program in medication administration. Procedures are established by the pharmaceutical services committee (see § 405.1127(d)) to ensure that drugs to be administered are checked against physicians' orders, that the patient is identified prior to administration of a drug, and that each patient has an individual medication record and that the dose of drug administered to that patient is properly recorded therein by the person who administered the drug. Drugs and biologicals are administered as soon as possible after doses are prepared, and are administered by the same person who prepared the doses for administration, except under single unit dose package distribution systems. (See § 405.1101(h).)

• • • • • •

4. Paragraph (a) of § 405.1126 is revised to read as follows:

§ 405.1126 Condition of participation—specialized rehabilitative services.

(a) *Standard: Organization and staffing.* (1) Specialized rehabilitative services are provided, in accordance with accepted professional practices, by qualified therapists or by qualified assistants or other supportive personnel under the

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supervision of qualified therapists. Written administrative and patient care policies and procedures are developed for rehabilitative services by appropriate therapists and representatives of the medical, administrative, and nursing staffs.

(2) In a facility where all therapists' services are provided through an organized rehabilitation service operated under the direction and supervision of a physician qualified in physical medicine who determines the goals and limits of the therapists' work, persons with qualifications other than those described in § 405.1101 (m), (n), (q), (r), or (t) may be assigned duties appropriate to their training and experience.

• • • • • •

5. Paragraph (j) of § 405.1134 is revised to read as follows:

§ 405.1134 Condition of participation—physical environment.

• • • • • •

(j) *Standard: Other environmental considerations.* The facility provides a functional, sanitary, and comfortable environment for patients, personnel, and the public. Provision is made for adequate and comfortable lighting levels in all areas, limitation of sounds at comfort levels, maintaining a comfortable room temperature, procedures to ensure water to all essential areas in the event of loss of normal water supply, and adequate ventilation through windows or mechanical means or a combination of both. Corridors are equipped with firmly secured handrails on each side.

6. Section 405.1137 is amended by adding a new paragraph (h) to read as follows:

§ 405.1137 Condition of participation—utilization review.

• • • • • •

(h) *Standard: Discharge planning.* The facility maintains a centralized, coordinated program to ensure that each patient has a planned program of continuing care and/or followup which meets his or her postdischarge needs.

(1) The facility has in operation an organized discharge planning program. The utilization review committee, in its evaluation of the current status of each extended duration case, has available to it the results of such discharge planning and information on alternative available community resources to which the patient may be referred.

(2) The administrator delegates responsibility for discharge planning, in writing, to one or more members of the facility's staff, or arranges for this service to be provided by a health, social, or welfare agency.

(3) The facility maintains written discharge planning procedures which describe (i) how the discharge coordinator will function, and his authority and relationships with the facility's staff; (ii) the time period in which each patient's need for discharge planning is determined (preferably at admission but not later than 72 hours thereafter); (iii) the maximum time period after which a reevaluation of each patient's discharge plan is made; (iv) local resources available to the facility, the patient, and the attending physician to assist in developing and implementing individual discharge plans; (v) provisions for periodic review and reevaluation of the facility's discharge planning program.

(4) At the time of discharge, the facility provides those responsible for the patient's postdischarge care with an appropriate summary of information about the discharged patient to ensure the optimal continuity of care. The discharge summary includes at least current information relative to diagnoses, rehabilitation potential, a summary of the course of prior treatment, physician orders for the immediate care of the patient, and pertinent social information.

7. A new § 405.1138 is added to read as follows:

§ 405.1138 Condition of participation—medical direction.

The facility retains, pursuant to a written agreement, a physician who serves as medical director on a part-time or full-time basis as is appropriate for the needs of the patients and the facility. The medical director is delegated responsibility for the overall coordination of the medical care in the facility to ensure the adequacy and appropriateness of the medical services provided to patients and to maintain surveillance of the occupational health status of employees and the environmental health aspects of the facility.

(a) *Standard: Coordination of medical care.* Medical direction and coordination of medical care in the facility are provided by a medical director retained by the facility. Medical direction includes the delineation of responsibilities and clinical privileges of attending physicians. Coordination of medical care includes liaison with attending physicians to ensure their prompt orders upon admission of a patient, and periodic evaluation of the adequacy and appropriateness of supportive staff and services.

(b) *Standard: Responsibilities to the facility.* The medical director is responsible for surveillance of the occupational health status of the facility's employees and of the environmental health aspects of the facility. Incidents and accidents occurring on the premises are reviewed by the medical director to identify health and safety hazards, and the administrator is given appropriate information to ensure a safe and sanitary environment for patients and personnel. Employees are referred for or provided periodic health examinations and treatment as necessary or as required by State and local laws.

8. A new § 405.1911 is added to read as follows:

§ 405.1911 Special waivers applicable to skilled nursing facilities.

(a) To the extent that § 405.1124 requires any skilled nursing facility to engage the services of a registered nurse more than 40 hours a week, the Secretary may waive such requirement if, based upon documented findings of the State agency, he determines that:

(1) Such facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individual patients therein,

(2) Such facility has at least one full-time registered nurse who is regularly on duty at such facility 40 hours a week, and

(3) Such facility (i) has only patients whose attending physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse for a 48-hour period, or (ii) has made arrangements for a registered nurse or a physician to spend such time at the facility as is determined necessary by the patient's attending physician to provide necessary skilled nursing services on days when the regular full-time registered nurse is not on duty.

(b) To the extent that § 405.1138 requires any skilled nursing facility to engage the services of a medical director either part-time or full-time, the Secretary may waive such requirement for such periods as he deems appropriate if, based upon documented findings of the State agency, he determines that:

(1) Such facility is located in an area where the supply of physicians is not sufficient to permit compliance with this requirement without seriously reducing the availability of physician services within the area, and

(2) Such facility has made and continues to make a good faith effort to comply with § 405.1138, but such compliance is impeded by the unavailability of physicians in the area.

[FR Doc.74-9894 Filed 4-30-74;8:45 am]

Social and Rehabilitation Service

[45 CFR Part 234]

MEDICAL ASSISTANCE PROGRAMS UTILIZATION REVIEW

Review of Utilization of Care and Services

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations are an addition to the proposed utilization review regulations for the medical assistance program under Title XIX of the Social Security Act, published on January 9, 1974 (39 FR 1500).

They would require that utilization review plans for skilled nursing facilities,

promulgated under State plans for medical assistance, contain provisions for discharge planning. Discharge planning would be an integral part of a facility's procedures and would be designed to promote proper utilization of its services.

The regulations would require the establishment of a discharge plan for each patient who is receiving medical assistance under Title XIX. This discharge plan would be established within 72 hours of the patient's admission to the skilled nursing facility. Additional requirements would include the designation of staff members responsible for discharge planning, review of discharge plans by the utilization review committee, establishment of discharge planning procedures, and the provision of a summary of information concerning the patient to those responsible for the patient's postdischarging care.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, Post Office Box 2372, Washington, D.C. 20013, on or before May 31, 1974. Comments received will be available for public inspection in Room 5324 of the Department's offices at 330 C Street, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area code 202–245–0950).

(Sec. 1102, 49 Stat. 647 (U.S.C. 1302.))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: April 5, 1974.

JOHN A. SVAHN,
Administrator, Social and Rehabilitation Service.

Approved: April 23, 1974.

CASPAR W. WEINBERGER,
Secretary of Health Education, and Welfare.

Proposed § 250.20(a)(5)(vii) of Part 250, Chapter II, Title 45 of the Code of Federal Regulations is redesignated as § 250.20(a)(5)(viii) and a new § 250.20 (a)(5)(vii) is added to read as follows:

§ 250.20 Review of utilization of care and services.

(a) *State plan requirements.* • • •

(5) • • • (vii) The group or committee shall review each individual's discharge plan, which plan shall be developed in accordance with, the provisions of this subparagraph (5)(vii). Such plan shall ensure that each individual has a planned program of post-facility continuing care which takes into account such individual's post discharge needs. (A) The facility shall maintain written discharge planning procedures which describe (*1*) which staff member of the facility or which outside health, social, or welfare agency will have operational responsibility for discharge planning; (*2*) the manner in, and methods by, which such staff member or agency will function, including its authority and its relationship with the facility's staff; (*3*) the time period in which each patient's need for discharge planning will be determined (which period may not be later than 72 hours after admission); (*4*) the maximum time period after which a reevaluation of each patient's discharge plan will be made; (*5*) the local resources available to the facility, the patient, and the attending physician to assist in developing and implementing individual discharge plans and; (*6*) the provisions for period review and reevaluation of the facility's discharge planning program. (B) At the time of the patient's discharge, the facility shall provide to those persons (if any) responsible for the patient's postdischarge care such information about the discharged patient as will ensure the optimal continuity of care, such as current information relative to diagnoses, prior treatment, rehabilitation potential, physician advice concerning immediate care, and pertinent social information.

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[FR Doc.74-9895 Filed 4-30-74;8:45 am]

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federal register

WEDNESDAY, MAY 1, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 85

PART IV

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDES AND PESTICIDE CONTAINERS

■

Regulations for Acceptance and Recommended Procedures for Disposal and Storage

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Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 165—REGULATIONS FOR THE ACCEPTANCE OF CERTAIN PESTICIDES AND RECOMMENDED PROCEDURES FOR THE DISPOSAL AND STORAGE OF PESTICIDES AND PESTICIDES CONTAINERS

The previous Federal pesticide legislation, the Federal Insecticide, Fungicide, and Rodenticide Act of 1947 (7 U.S.C. 135 et seq.), known as FIFRA, did not address the problems of disposal or storage. However, the Federal Environmental Pesticide Control Act of 1972 (PL 92–516, 86 Stat. 973) alters and broadens FIFRA to provide for the first definitive control of pesticide, and pesticide container, disposal and storage. Under section 19(a) of the amended Act, the Administrator of the Environmental Protection Agency is required to "establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide." The regulations for acceptance, and recommended procedures for disposal and storage, contained herein represent the Agency's first issuance in accordance with the provisions of section 19(a) of the new Act.

The potential seriousness of health and environmental hazards due to improper disposal and storage of pesticides and containers became increasingly clear in the late 1960's, as documented case studies accumulated. Expanding usage of pesticides in the United States (an estimated 665 million pounds in 1968) and increasing numbers of spent containers requiring disposal (240 million in 1968, up 50 percent over the number in 1963) indicated that these problems could be expected to increase. Since little was known of the extent of the problem, or of proper methods of disposal and storage, the Working Group on Pesticides, composed of experts from several Federal departments, was asked to study the subject. Their initial recommendations were published under the title "Summary of Interim Guidelines for Disposal of Surplus Waste Pesticides and Pesticide Containers." More recently, in 1972 a Task Force on Excess Chemicals, with representation from all parts of the Environmental Protection Agency, was formed to study disposal problems relating to pesticides and other hazardous chemicals, and to recommend solutions.

In drafting these regulations and recommended procedures the Agency drew heavily on the knowledge and information developed by these two groups, other Federal and State agencies and departments, and the private sector. Thus, these documents represent a broadly-based judgment regarding the pesticide and container disposal and storage requirements necessary to protect the environment. Compliance is achievable using available technology; however, facilities utilizing this technology are not readily available to the general public in all geographic areas at the present time.

Among the new features of the Act is the requirement that the Administrator of the Environmental Protection Agency accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide. Section 6(c) of the new Act refers only to those pesticides the registrations of which have been canceled after first having been suspended to prevent imminent hazards during the time required for cancellation proceedings. The owner of such a pesticide is required to make a formal request in writing to the appropriate Regional Administrator; upon approval of the request, mutually convenient arrangements will be made for acceptance. Since pesticides finally canceled under section 6(c) are not subject to a grandfather clause, pesticides canceled under the FIFRA prior to October 21, 1972, will not qualify. Other canceled pesticides which do not qualify under the conditions set forth in section 6(c) of the new Act will not be accepted pursuant to section 19(a) of the new Act, and their safe storage or disposal is the responsibility of the owner

The recommended disposal procedures apply to all pesticides and pesticide-related wastes, including those which are or may in the future be registered for general use or restricted use, or used under an experimental use permit. Additionally, they also apply to full containers, spent or used containers, and container residues. Fur packages and containers of pesticides intended for use in the home and garden or on farms and ranches when single containers are to be disposed of, the Agency does not require that disposal procedures be followed. Such disposal will have only minimal environmental impact and is preferable to concentrating these products and containers.

The storage criteria and procedures apply to all pesticides, pesticide-related wastes and contaminated containers which are classed as "highly toxic" or "moderately toxic," according to EPA's classification system for pesticides. The storage of pesticides and their containers which are in the mildly toxic category is judged not to present any undue hazards to public health or the environment and, therefore, is excluded from these criteria and procedures. The temporary storage of limited quantities of pesticides in the other categories, if undertaken at environmentally safe sites, is also excluded.

In considering disposal techniques, first preference should be given to procedures designed to recover some useful value from excess pesticides and containers. Where large quantities are involved, one of the first recommendations is that the excess material should be used for the purpose originally intended, provided this use is legal. Another alternative is to return the material to the manufacturer for potential reuse or reprocessing. A third alternative, in some cases, may be the export of the material to countries where its use is desired and legal.

Should these alternatives be in applicable, the ultimate disposal method should be determined by the type of material. Organic pesticides which do not contain mercury, lead, cadmium, or arsenic may be disposed of by incineration at temperatures which will ensure complete destruction. Maximum volume reduction is achieved by incineration, and the incinerator emissions can be treated so that only relatively innocuous products are emitted. Incineration is not, however, applicable to those organic pesticides which contain heavy metals such as mercury, lead, cadmium, or arsenic, nor is it applicable to most inorganic pesticides or metallo-organic pesticides which have not been treated for removal of heavy metals.

If incineration is not applicable or available, disposal in specially designated landfills is suggested as an alternative. However, encapsulation prior to landfilling is recommended for certain materials such as those containing mercury, lead, cadmium, and arsenic, and inorganic compounds which are highly mobile in the soil. Encapsulation of these will retard mobility and contain them within a small area which can be permanently marked and recorded for future reference. Properly rinsed pesticide containers, however, may be reused or recycled as scrap or safely disposed of in a sanitary landfill; rinse liquids which cannot be used should be disposed of as if they were an excess pesticide. Among the disposal procedures not recommended are water dumping, open dumping, and open burning, except that open burning of small quantities of certain containers, and open field burial of single containers on farms and ranches by the pesticide user may be acceptable in some areas.

Other disposal processes, such as soil injection, well injection, and chemical degradation, may be acceptable in specific cases. At present, such methods have been neither sufficiently described nor classified to suggest their general use, and further study is necessary.

Storage sites and facilities should be located and constructed to prevent escape of pesticides and contaminated materials into the environment. Where practicable, provision for separate storage of different classifications of pesticides according to their chemical type, and for routine container inspection, should be considered. Special procedures should be followed in case fires or explosions occur where pesticides are stored.

A notice of proposed rulemaking and issuance of procedures was published in the FEDERAL REGISTER (40 CFR Part 165) on May 23, 1973. The Agency invited the submittal of comments by July 23, 1973. Sixty-two letters of comment were received and their suggestions were carefully considered. The several major issues raised, and the results of the Agency's consideration of them, follow.

The largest number of commenters questioned the appropriateness of the proposed 500 lb. exclusion from the recommended storage procedures, on the basis that there are variations in the hazards of different pesticides. They pointed out that a few pounds of one kind can, in certain cases, represent a greater hazard than several thousand pounds of another kind. The Agency concluded that the 500 lb. exclusion was unrealistic and that the storage recommendations should be keyed to a rating system that would consider the overall hazard of the pesticide and would be readily apparent to even untrained personnel. It was decided to adopt the current EPA toxicity rating system for pesticide labeling. Under that system the following signal words are required on labels:

Category	Signal words/symbol required on labels
Highly toxic	DANGER, POISON, Skull and Crossbones.
Moderately toxic	WARNING.
Slightly toxic	CAUTION.

Pesticides in the first two classes, highly toxic and moderately toxic, and which have the corresponding signal words or symbol on the container label, will be covered by the recommended storage criteria and procedures. Other pesticides, including most of those registered for use in the home and garden, represent a lower degree of hazard, and will not be covered.

Several requests for temporary storage exemptions from the recommended storage criteria and procedures were made, for example, by commercial pesticide applicators operating in remote areas where availability or construction of recommended facilities is impractical. These requests were resolved in two ways. First, the hazard rating system for recommended storage procedures will exclude many of the pesticides normally used. Second, temporary storage for a single application's amount has been provided for at isolated and secured sites where the less stringent criteria and procedures will not increase the potential for environmental pollution.

The statement that "• • • these disposal procedures are mandatory only for the Agency • • •" caused the Environmental Defense Fund to question the appropriateness of the promulgation of disposal and storage recommended procedures instead of regulations, in view of the FIFRA as amended wording on this subject. However, adequate disposal sites and the necessary facilities are not readily available nationwide, and significant information gaps exist which make it infeasible to write specific criteria for certain disposal methods and procedures. Further, information on the full extent of environmental damages and of the economic impact of such regulations is lacking. Therefore, the Agency has retained the recommended procedures approach. At such time as this information has been obtained and analyzed, consideration will be given to proposing comprehensive regulations relative to storage and disposal.

The merit in the comments above derives from the potential for considerable environmental damage caused by acts such as water dumping, open dumping, open burning, inadequately controlled well injection, and storage next to food and feed. Consideration of these comments has led the Agency to begin drafting a new proposed rulemaking to prohibit or further constrain certain disposal and storage practices, and possibly to change procedures based on updated information as it becomes available. It is expected that this proposed rulemaking will be published in 1974.

Although section 12 of the new Act makes unlawful distribution, shipment or receiving for delivery of an unregistered or canceled pesticide, the Agency interprets section 19 as authorizing the movement of such pesticides for the specific purposes of disposal or storage.

Several commenters were concerned that there were no provisions for reuse or recycle as scrap of noncombustible containers. The recommended triple rinsing procedure will clean Group II containers sufficiently well so that insignificant contamination occurs when such containers are legally refilled with another pesticide belonging to the same chemical class. Triple rinsing also prepares containers for crushing or shredding and recycle as scrap. Provisions for this resource conservation step have been included in § 165.9(b), and specifically require that adequate rinsing be undertaken before such reuse or recycle.

Besides these major revisions, several minor wording changes were made which did not significantly change the direction or scope of the recommended procedures.

It is hoped that these regulations and recommended procedures will alert all Federal, State and local government agencies and private manufacturers, handlers, and users of pesticides to the need for proper disposal and storage of excess pesticides, pesticide containers and pesticide-related wastes. The United States Environmental Protection Agency will follow these recommended procedures in its own operations. Each office, laboratory or other facility of the Agency will conform strictly to these procedures in the disposal or storage of pesticides and their containers. State and local agencies are cautioned against adoption of these recommended procedures as regulations without careful study of the environmental and economic factors applicable to their own situations, including the availability of disposal sites and facilities.

These regulations and recommended procedures for disposal and storage of pesticides and pesticide containers are issued under the authority of sections 19(a) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 955, 977), and section 204 of the Solid Waste Disposal Act (P.L. 89–272, as amended by P.L. 91–512).

RUSSELL E. TRAIN,
Administrator.

APRIL 24, 1974.

Subpart A—General

Sec.
165.1 Definitions.
165.2 Authorization and scope.

Subpart B—Acceptance Regulations

165.3 Acceptable pesticides.
165.4 Request for acceptance.
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Subpart C—Pesticides and Containers Recommended Procedures

165.7 Procedures not recommended.
165.8 Recommended procedures for the disposal of excess pesticides.
165.9 Recommended procedures for the disposal of pesticide containers and residues.
165.10 Recommended procedures and criteria for the storage of pesticides and pesticide containers.

Subpart D—Pesticide-Related Waste Recommended Procedures

165.11 Procedures for disposal and storage of pesticide-related waste.

AUTHORITY: Secs. 19(a) and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 955, 977), and sec. 204 of the Solid Waste Disposal Act (Pub. L. 89–272 as amended by Pub. L. 91–512).

Subpart A—General

§ 165.1 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them by the Act.

(a) "The Act" means the Federal Insecticide, Fungicide, and Rodenticide Act as amended by the Federal Environmental Pesticide Control Act of 1972 (Pub. L. 92–516, 86 Stat. 973).

(b) "Agency" means the U.S. Environmental Protection Agency.

(c) (1) "Administrator" means the Administrator of the Agency, or any officer or employee thereof to whom authority has been heretofore delegated or to whom authority may hereafter be delegated, to act in his stead.

(2) "Regional Administrator" means the Administrator of a Regional Office of the Agency or his delegatee.

(d) "Adequate storage" means placing of pesticides in proper containers and in safe areas as per § 165.10 as to minimize the possibility of escape which could result in unreasonable adverse effects on the environment.

(e) "Complete destruction" of pesticides means alteration by physical or chemical processes to inorganic forms.

(f) "Container" means any package, can, bottle, bag, barrel, drum, tank, or other containing-device (excluding spray applicator tanks) used to enclose a pesticide or pesticide-related waste.

(g) "Decontamination/detoxification" means processes which will convert pesticides into nontoxic compounds.

(h) "Degradation products" means those chemicals resulting from partial decomposition or chemical breakdown of pesticides.

(i) "Diluent" means the material added to a pesticide by the user or manufacturer to reduce the concentration of active ingredient in the mixture.

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(j) "Encapsulate" means to seal a pesticide, and its container if appropriate, in an impervious container made of plastic, glass, or other suitable material which will not be chemically degraded by the contents. This container then should be sealed within a durable container made from steel, plastic, concrete, or other suitable material of sufficient thickness and strength to resist physical damage during and subsequent to burial or storage.

(k) "Heavy metals" means metallic elements of higher atomic weights, including but not limited to arsenic, cadmium, copper, lead, mercury, manganese, zinc, chromium, tin, thallium, and selenium.

(l) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Public Law 91–135.

(m) "Ocean dumping" means the disposal of pesticides in or on the oceans and seas, as defined in P. L. 92–532.

(n) "Open burning" means the combustion of a pesticide or pesticide container in any fashion other than incineration.

(o) "Open dumping" means the placing of pesticides or containers in a land site in a manner which does not protect the environment and is exposed to the elements, vectors, and scavengers.

(p) "Pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(1) "Excess pesticides" means all pesticides which cannot be legally sold pursuant to the Act or which are to be discarded.

(2) "Organic pesticides" means carbon-containing substances used as pesticides, excluding metallo-organic compounds.

(3) "Inorganic pesticides" means non-carbon-containing substances used as pesticides.

(4) "Metallo-organic pesticides" means a class of organic pesticides containing one or more metal or metalloid atoms in the structure.

(q) "Pesticide-related wastes" means all pesticide-containing wastes or by-products which are produced in the manufacturing or processing of a pesticide and which are to be discarded, but which, pursuant to acceptable pesticide manufacturing or processing operations, are not ordinarily a part of or contained within an industrial waste stream discharged into a sewer or the waters of a state.

(r) "Pesticide incinerator" means any installation capable of the controlled combustion of pesticides, at a temperature of 1000°C (1832°F) for two seconds dwell time in the combustion zone, or lower temperatures and related dwell times that will assure complete conversion of the specific pesticide to inorganic gases and solid ash residues. Such installation complies with the Agency Guidelines for the Thermal Processing of Solid Wastes as prescribed in 40 CFR Part 240.

(s) "Safe disposal" means discarding pesticides or containers in a permanent manner so as to comply with these proposed procedures and so as to avoid unreasonable adverse effects on the environment.

(t) "Sanitary landfill" means a disposal facility employing an engineered method of disposing of solid wastes on land in a manner which minimizes environmental hazards by spreading the solid wastes in thin layers, compacting the solid wastes to the smallest practical volume, and applying cover material at the end of each working day. Such facility complies with the Agency Guidelines for the Land Disposal of Solid Wastes as prescribed in 40 CFR Part 241.

(u) "Scrubbing" means the washing of impurities from any process gas stream.

(v) "Soil injection" means the emplacement of pesticides by ordinary tillage practices within the plow layer of a soil.

(w) "Specially designated landfill" means a landfill at which complete long term protection is provided for the quality of surface and subsurface waters from pesticides, pesticide containers, and pesticide-related wastes deposited therein, and against hazard to public health and the environment. Such sites should be located and engineered to avoid direct hydraulic continuity with surface and subsurface waters, and any leachate or subsurface flow into the disposal area should be contained within the site unless treatment is provided. Monitoring wells should be established and a sampling and analysis program conducted. The location of the disposal site should be permanently recorded in the appropriate local office of legal jurisdiction. Such facility complies with the Agency Guidelines for the Land Disposal of Solid Wastes as prescribed in 40 CFR Part 241.

(x) "Triple rinse" means the flushing of containers three times, each time using a volume of the normal diluent equal to approximately ten percent of the container's capacity, and adding the rinse liquid to the spray mixture or disposing of it by a method prescribed for disposing of the pesticide.

(y) "Unreclaimable residues" means residual materials of little or no value remaining after incineration.

(z) "Water dumping" means the disposal of pesticides in or on lakes, ponds, rivers, sewers, or other water systems as defined in P. L. 92–500.

(aa) "Well injection" means disposal of liquid wastes through a hole or shaft to a subsurface stratum.

§ 165.2 Authorization and scope.

(a) The regulations in this part and recommended procedures are published pursuant to sections 19(a) and 25(a) of the Act, which give the Administrator the authority to establish regulations and procedures for the disposal or storage of packages and containers of pesticides, and for disposal or storage of excess amounts of such pesticides, and require the Administrator to accept for safe disposal a pesticide the registration of which is canceled under section 6(c) of the Act if requested by the owner of the pesticide. Section 165.11 of these recommended procedures (Pesticide-Related Wastes) is published pursuant to Section 204 of the Solid Waste Disposal Act (P.L. 89–272 as amended by P.L. 91–512) which authorizes the Administrator to make information available and to make recommendations concerning the disposal and handling of wastes.

(b) Regulations for acceptance for safe disposal of pesticides canceled under section 6(c) and recommended proceprocedures for disposal or storage of pesticides, pesticide containers, and pesticide-related wastes are those which the Administrator judges as necessary, with an adequate margin of safety, to protect public health and the environment. Such procedures are subject to addition and revision as the Administrator deems necessary.

(c) The recommended procedures for the disposal of pesticides and pesticide containers apply to all pesticides, pesticide-related wastes (and their containers) including those which are or may in the future be registered for general use or restricted use, or covered under an experimental use permit, except those single containers discussed in paragraph (e), of this section. These disposal procedures are mandatory only for the Agency in carrying out its pesticide and container disposal operations.

(d) The recommended procedures and criteria for the storage of pesticides and pesticide containers apply to all pesticides and excess pesticides and to used empty containers and containers which contain pesticides. These procedures and criteria apply to sites and facilities where pesticides that are classed as highly toxic or moderately toxic, and bear the signal words DANGER, POISON, or WARNING, or the skull and crossbones symbol, on the label are stored. Pesticides covered by an experimental use permit should also be stored in accordance with these procedures. These storage procedures are mandatory only for the Agency in carrying out its pesticide and container storage operations. Temporary storage by the user of the quantity of pesticide needed for a single application may be undertaken in isolated areas in accordance with the procedures and criteria given in § 165.10(a).

(e) Recommended pesticide and pesticide container disposal procedures shall not apply to containers of pesticides registered for use in the home and garden if securely wrapped in several layers of paper and disposed of singly during routine municipal solid waste disposal, nor to containers of pesticides used on farms and ranches where disposal by open-field burial of single containers is undertaken

with due regard to the protection of surface and sub-surface waters.

(f) As a general guideline, the owner of excess pesticides should first exhaust the two following avenues before undertaking final disposal:

(1) Use for the purposes originally intended, at the prescribed dosage rates, providing these are currently legal under all Federal, State, and local laws and regulations.

(2) Return to the manufacturer or distributor for potential re-labelling, recovery of resources, or reprocessing into other materials. Transportation must be in accordance with all currently applicable U.S. Department of Transportation regulations, including those prescribed in 49 CFR Parts 170–179 and 397, 46 CFR Part 146, and 14 CFR Part 103. The "for hire" transportation of unregistered pesticides across state lines may be subject to the Interstate Commerce Commission's economic regulations (49 U.S.C. 1 et seq. for rail carriers; 306, 307, and 309 for motor carriers; and 909 for domestic water carriers), and the Commission should be contacted in case of doubt.

NOTE: Some excess pesticides may be suitable for export to a country where use of the pesticide is legal. All pesticides so exported should be in good condition and packed according to specifications of the foreign purchaser, and must be transported to the port of embarkation in accordance with all Department of Transportation regulations. All shipments should be in conformance with section 17(a) of the Act.

(g) To provide documentation of actual situations, all accidents or incidents involving the storage or disposal of pesticides, pesticide containers, or pesticide-related wastes should be reported to the appropriate Regional Administrator.

Subpart B—Acceptance Regulations

§ 165.3 Acceptable pesticides.

The Administrator will accept for safe disposal those pesticides the registrations of which have been canceled, after first having been suspended to prevent an imminent hazard during the time required for cancellation proceedings as specified in section 6(c) of the Act. However, no other pesticides will be accepted pursuant to section 19(a) of the Act, and nothing herein shall obligate the Federal Government to own or operate any disposal facility.

§ 165.4 Request for acceptance.

(a) Before the owner of such a pesticide requests acceptance by the Administrator for disposal, he shall make every reasonable effort to return the material to either its manufacturer, distributor, or to another agent capable of using the material.

(b) If such an effort is unsuccessful, the following procedure shall be used by the owner of a suspended pesticide to request acceptance by the Administrator:

(1) The owner of such a pesticide must make a formal request for acceptance, in writing, to the Regional Administrator for the area where such pesticides are located.

(2) Records and data pertaining to the amount, location, physical form, type and condition of containers, and date of manufacture or purchase of individual lots must be submitted. Certification that the owner of the suspended pesticide has made every reasonable effort to return the material to the manufacturer, distributor of the pesticide, or to other agents capable of re-labeling, recovering, recycling or reprocessing the material and has been refused on the basis of technological infeasibility, must also be submitted.

§ 165.5 Delivery.

If it is found that a canceled pesticide meets the requirements for acceptance, the Regional Administrator will confer with the owner for purposes of arranging a mutually convenient location for acceptance of individual lots of such canceled pesticides. Transportation to the acceptance location will be the responsibility of, and transportation costs will be borne by, the owner of the pesticide.

§ 165.6 Disposal.

Following such acceptance, the Regional Administrator will cause the disposal or storage of such pesticide as appropriate, in accordance with the procedures outlined in subparts A and C of this part.

Subpart C—Pesticides and Containers

§ 165.7 Procedures not recommended.

No person should dispose of or store (or receive for disposal or storage) any pesticide or dispose of or store any pesticide container or pesticide container residue:

(a) In a manner inconsistent with its label or labeling.

(b) So as to cause or allow open dumping of pesticides or pesticide containers.

(c) So as to cause or allow open burning of pesticides or pesticide containers; except, the open burning by the user of small quantities of combustible containers formerly containing organic or metallo-organic pesticides, except organic mercury, lead, cadmium, or arsenic compounds, is acceptable when allowed by State and local regulations.

(d) So as to cause or allow water dumping or ocean dumping, except in conformance with regulations developed pursuant to the National Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. 92–532), and to Sections 304, 307, and 311 of the Federal Water Pollution Control Act as Amended (Pub. L. 92–500).

(e) So as to violate any applicable Federal or State pollution control standard.

(f) So as to violate any applicable provisions of the Act.

§ 165.8 Recommended procedures for the disposal of pesticides.

Recommended procedures for the disposal of pesticides are given below:

(a) Organic pesticides, (except organic mercury, lead, cadmium, and arsenic compounds which are discussed in paragraph (c) of this section) should be disposed of according to the following procedures:

(1) Incinerate in a pesticide incinerator at the specified temperature/dwell time combination, or at such other lower temperature and related dwell time that will cause complete destruction of the pesticide. As a minimum it should be verified that all emissions meet the requirements of the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) relating to gaseous emissions: specifically any performance regulations and standards promulgated under sections 111 and 112 should be adhered to. Any liquids, sludges, or solid residues generated should be disposed of in accordance with all applicable Federal, State, and local pollution control requirements. Municipal solid waste incinerators may be used to incinerate excess pesticides or pesticide containers provided they meet the criteria of a pesticide incinerator and precautions are taken to ensure proper operation.

(2) If appropriate incineration facilities are not available, organic pesticides may be disposed of by burial in a specially designated landfill. Records to locate such buried pesticides within the landfill site should be maintained.

(3) The environmental impact of the soil injection method of pesticide disposal has not been clearly defined nationally, and therefore this disposal method should be undertaken only with specific guidance. It is recommended that advice be requested from the Regional Administrator in the region where the material will be disposed of prior to undertaking such disposal by this method.

(4) There are chemical methods and procedures which will degrade some pesticides to forms which are not hazardous to the environment. However, practical methods are not available for all groups of pesticides. Until a list of such methods is available, it is recommended that advice be requested from the Regional Administrator in the region where the material will be disposed of prior to undertaking disposal by such method.

(5) If adequate incineration facilities, specially designated landfill facilities, or other approved procedures are not available, temporary storage of pesticides for disposal should be undertaken. Storage facilities, management procedures, safety precautions and fire and explosion control procedures should conform to those set forth in § 165.10.

(6) The effects of subsurface emplacement of liquid by well injection and the fate of injection materials are uncertain with available knowledge, and could result in serious environmental damage requiring complex and costly solutions on a long-term basis. Well injection should not be considered for pesticide disposal unless all reasonable alternative measures have been explored and found less satisfactory in terms of environmental protection. As noted in the Administrator's Decision Statement No. 5, dated February 6, 1973, the Agency's policy is to oppose well injection of fluid pesticides

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"without strict controls and a clear demonstration that such emplacement will not interfere with present or potential use of the subsurface environment, contaminate ground water resources or otherwise damage the environment." Adequate pre-injection tests, provisions for monitoring the operation and the environmental effects, contingency plans to cope with well failures, and provisions for plugging injection wells when abandoned should be made. The Regional Administrator should be advised of each operation.

(b) Metallo-organic pesticides (except organic mercury, lead, cadmium, or arsenic compounds which are discussed in paragraph (c) of this section), should be disposed of according to the following procedures:

(1) After first subjecting such compounds to an appropriate chemical or physical treatment to recover the heavy metals from the hydrocarbon structure, incinearate in a pesticide incinerator as described in paragraph (a)(1) of this section.

(2) If appropriate treatment and incineration are not available, bury in a specially designated landfill as noted in paragraph (a)(2) of this section.

(3) Disposal by soil injection of metallo-organic pesticides should be undertaken only in accordance with the procedure set forth in paragraph (a)(3) of this section.

(4) Chemical degradation methods and procedures that can be demonstrated to provide safety to public health and the environment should be undertaken only as noted in paragraph (a)(4) of this section.

(5) If adequate disposal methods as listed above in this section are not available, the pesticides should be stored according to the procedures in § 165.10 until disposal facilities become available.

(6) Well injection of metallo-organic pesticides should be undertaken only in accordance with the procedures set forth in paragraph 165.8(a)(6) of this section.

(c) Organic mercury, lead, cadmium, arsenic, and all inorganic pesticides should be disposed of according to the following procedures:

(1) Chemically deactivate the pesticides by conversion to non-hazardous compounds, and recover the heavy metal resources. Methods that are appropriate will be described and classified according to their applicability to the different groups of pesticides. Until a list of practical methods is available, however, each use of such procedures should be undertaken only as noted in paragraph 165.8(a)(4) of this section.

(2) If chemical deactivation facilities are not available, such pesticides should be encapsulated and buried in a specially designated landfill. Records sufficient to permit location for retrieval should be maintained.

(3) If none of the above options is available, place in suitable containers (if necessary) and provide temporary storage until such time as adequate disposal facilities or procedures are available. The general criteria for acceptable storage are noted in § 165.10.

§ 165.9 Recommended procedures for the disposal of pesticide containers and residues.

(a) *Group I Containers.* Combustible containers which formerly contained organic or metallo-organic pesticides, except organic mercury, lead, cadmium, or arsenic compounds, should be disposed of in a pesticide incinerator, or buried in a specially designated landfill, as noted in § 165.8(a); except that small quantities of such containers may be burned in open fields by the user of the pesticide when such open burning is permitted by State and local regulations, or buried singly by the user in open fields with due regard for protection of surface and sub-surface water.

(b) *Group II Containers.* Non-combustible containers which formerly contained organic or metallo-organic pesticides, except organic mercury, lead, cadmium, or arsenic compounds, should first be triple-rinsed. Containers in good condition may then be returned to the pesticide manufacturer or formulator, or drum reconditioner for reuse with the same chemical class of pesticide previously contained providing such reuse is legal under currently applicable U.S. Department of Transportation regulations including those set forth in 49 CFR 173.28. Other rinsed metal containers should be punctured to facilitate drainage prior to transport to a facility for recycle as scrap metal or for disposal. All rinsed containers may be crushed and disposed of by burial in a sanitary landfill, in conformance with State and local standards or buried in the field by the user of the pesticide. Unrinsed containers should be disposed of in a specially designated landfill, or subjected to incineration in a pesticide incinerator.

(c) *Group III Containers.* Containers (both combustible and noncombustible) which formerly contained organic mercury, lead, cadmium, or arsenic or inorganic pesticides and which have been triple-rinsed and punctured to facilitate drainage, may be disposed of in a sanitary landfill. Such containers which are not rinsed should be encapsulated and buried in a specially designated landfill.

(d) *Residue disposal.* Residues and rinse liquids should be added to spray mixtures in the field. If not, they should be disposed of in the manner prescribed for each specific type of pesticide as set forth in § 165.8.

§ 165.10 Recommended procedures and criteria for storage of pesticides and pesticide containers.

(a) *General.* (1) Pesticides and excess pesticides and their containers whose uncontrolled release into the environment would cause unreasonable adverse effects on the environment should be stored only in facilities where due regard has been given to the hazardous nature of the pesticide, site selection, protective enclosures, and operating procedures, and where adequate measures are taken to assure personal safety, accident prevention, and detection of potential environmental damages. These storage procedures and criteria should be observed at sites and facilities where pesticides and excess pesticides (and their containers) that are classed as highly toxic or moderately toxic and are required to bear the signal words DANGER, POISON, or WARNING, or the skull and crossbones symbol on the label are stored. These procedures and criteria are not necessary at facilities where most pesticides registered for use in the home and garden, or pesticides classed as slightly toxic (word CAUTION on the label) are stored. All facilities where pesticides which are or may in the future be covered by an experimental use permit or other special permit are stored should be in conformance with these procedures and criteria.

(2) Temporary storage of highly toxic or moderately toxic pesticides for the period immediately prior to, and of the quantity required for a single application, may be undertaken by the user at isolated sites and facilities where flooding is unlikely, where provisions are made to prevent unauthorized entry, and where separation from water systems and buildings is sufficient to prevent contamination by runoff, percolation, or wind-blown particles or vapors.

(b) *Storage sites.* Storage sites should be selected with due regard to the amount, toxicity, and environmental hazard of pesticides, and the number and sizes of containers to be handled. When practicable, sites should be located where flooding is unlikely and where soil texture/structure and geologic/hydrologic characteristics will prevent the contamination of any water system by runoff or percolation. Where warranted, drainage from the site should be contained (by natural or artificial barriers or dikes), monitored, and if contaminated, disposed of as an excess pesticide as discussed in § 165.8. Consideration should also be given to containing windblown pesticide dusts or particles.

(c) *Storage facilities.* Pesticides should be stored in a dry, well ventilated, separate room, building or covered area where fire protection is provided. Where relevant and practicable, the following precautions should be taken:

(1) The entire storage facility should be secured by a climb-proof fence, and doors and gates should be kept locked to prevent unauthorized entry.

(2) Identification signs should be placed on rooms, buildings, and fences to advise of the contents and warn of their hazardous nature, in accordance with suggestions given in paragraph (g)(1)(i) of this section.

(3) All items of movable equipment used for handling pesticides at the storage site which might be used for other purposes should be labeled "contaminated with pesticides" and should not be removed from the site unless thoroughly decontaminated.

(4) Provision should be made for decontamination of personnel and equipment such as delivery trucks, tarpaulin covers, etc. Where feasible, a wash basin, and shower with a delayed-closing pull chain valve should be provided. All contaminated water should be disposed of as an excess pesticide. Where required, decontamination area should be paved or lined with impervious materials, and should include gutters. Contaminated runoff should be collected, and treated as an excess pesticide.

(d) *Operational procedures.* Pesticide containers should be stored with the label plainly visible. If containers are not in good condition when received, the contents should be placed in a suitable container and properly relabeled. If dry excess pesticides are received in paper bags that are damaged, the bag and the contents should be placed in a sound container that can be sealed. Metal or rigid plastic containers should be checked carefully to insure that the lids and bungs are tight. Where relevant and practicable, the following provisions should be considered:

(1) *Classification and separation.* (i) Each pesticide formulation should be segregated and stored under a sign containing the name of the formulation. Rigid containers should be stored in an upright position and all containers should be stored off the ground, in an orderly way, so as to permit ready access and inspection. They should be accumulated in rows or units so that all labels are visible, and with lanes to provide effective access. A complete inventory should be maintained indicating the number and identity of containers in each storage unit.

(ii) Excess pesticides and containers should be further segregated according to the method of disposal to ensure that entire shipments of the same class of pesticides are disposed of properly, and that accidental mixing of containers of different categories does not occur during the removal operation.

(2) *Container inspection and maintenance.* Containers should be checked regularly for corrosion and leaks. If such is found, the container should be transferred to a sound, suitable, larger container and be properly labeled. Materials such as adsorptive clay, hydrated lime, and sodium hypochlorite should be kept on hand for use as appropriate for the emergency treatment or detoxification of spills or leaks. (Specific information relating to other spill treatment procedures and materials will be published as it is confirmed.)

(e) *Safety precautions.* In addition to precautions specified on the label and in the labeling, rules for personal safety and accident prevention similar to those listed below should be available in areas where personnel congregate:

(1) *Accident prevention measures.* (i) Inspect all containers of pesticides for leaks before handling them.

(ii) Do not mishandle containers and thereby create emergencies by carelessness.

(iii) Do not permit unauthorized persons in the storage area.

(iv) Do not store pesticides next to food or feed or other articles intended for consumption by humans or animals.

(v) Inspect all vehicles prior to departure, and treat those found to be contaminated.

(2) *Safety measures.* (i) Do not store food, beverages, tobacco, eating utensils, or smoking equipment in the storage or loading areas.

(ii) Do not drink, eat food, smoke, or use tobacco in areas where pesticides are present.

(iii) Wear rubber gloves while handling containers of pesticides.

(iv) Do not put fingers in mouth or rub eyes while working.

(v) Wash hands before eating, smoking, or using toilet and immediately after loading, or transferring pesticides.

(vi) Persons working regularly with organophosphate and N-alkyl carbamate pesticides should have periodic physical examinations, including cholinesterase tests.

(f) *Protective clothing and respirators.* (1) When handling pesticides which are in concentrated form, protective clothing should be worn. Contaminated garments should be removed immediately, and extra sets of clean clothing should be maintained nearby.

(2) Particular care should be taken when handling certain pesticides to protect against absorption through skin, and inhalation of fumes. Respirators or gas masks with proper canisters approved for the particular type of exposure noted in the label directions, should be used when such pesticides are handled.

(g) *Fire control.* (1) Where large quantities of pesticides are stored, or where conditions may otherwise warrant, the owner of stored pesticides should inform the local fire department, hospitals, public health officials, and police department in writing of the hazards that such pesticides may present in the event of a fire. A floor plan of the storage area indicating where different pesticide classifications are regularly stored should be provided to the fire department. The fire chief should be furnished with the home telephone numbers of (i) the person(s) responsible for the pesticide storage facility, (ii) the appropriate Regional Administrator, who can summon the appropriate Agency emergency response team, (iii) the U.S. Coast Guard, and (iv) the Pesticide Safety Team Network of the National Agricultural Chemicals Association.

(2) *Suggestions for Fire Hazard Abatement.* (i) Where applicable, plainly label the outside of each storage area with "DANGER," "POISON," "PESTICIDE STORAGE" signs. Consult with the local fire department regarding the use of the current hazard signal system of the National Fire Protection Association.

(ii) Post a list on the outside of the storage area of the types of chemicals stored therein. The list should be updated to reflect changes in types stored.

(3) *Suggested Fire Fighting Precautions.* (i) Wear air-supplied breathing apparatus and rubber clothing.

(ii) Avoid breathing or otherwise contacting toxic smoke and fumes.

(iii) Wash completely as soon as possible after encountering smoke and fumes.

(iv) Contain the water used in fire fighting within the storage site drainage system.

(v) Fireman should take cholinesterase tests after fighting a fire involving organophosphate or N-alkyl carbamate pesticides, if they have been heavily exposed to the smoke. Baseline cholinesterase tests should be part of the regular physical examination for such firemen.

(vi) Evacuate persons near such fires who may come in contact with smoke or fumes or contaminated surfaces.

(h) *Monitoring.* An environmental monitoring system should be considered in the vicinity of storage facilites. Samples from the surroundng ground and surface water, wildlife, and plant environment, as appropriate, should be tested in a regular program to assure minimal environmental insult. Analyses should be performed according to "Official Methods of the Association of Official Analytical Chemists (AOAC)," and such other methods and procedures as may be suitable.

Subpart D—Pesticide-Related Wastes

§ 165.11 Procedures for disposal and storage of pesticide-related wastes.

(a) In general all pesticide-related wastes should be disposed of as excess pesticides in accordance with the procedures set forth in §§ 165.7 and 165.8. Such wastes should not be disposed of by addition to an industrial effluent stream if not ordinarily a part of or contained within such industrial effluent stream, except as regulated by and in compliance with effluent standards established pursuant to sections 304 and 307 of the Federal Water Pollution Control Act as amended.

(b) Pesticide-related wastes which are to be stored should be managed in accordance with the provisions of § 165.10.

[FR Doc.74-9911 Filed 4-30-74;8:45 am]

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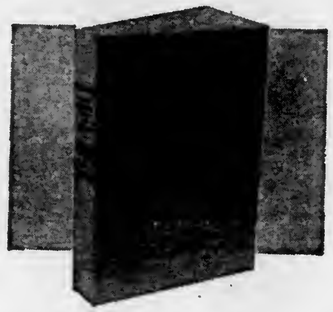
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federal register

May 2, 1974—Pages 15245–15375

THURSDAY, MAY 2, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 86

Pages 15245–15375

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federal register

Area Code 202 Phone 523-5240

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PROCLAMATION 4289

Law Day, U.S.A., 1974

By the President of the United States of America

A Proclamation

America's greatest gift to world history and its own people is a system of government which has permitted human freedom to flourish for nearly two hundred years.

The pillars of that freedom are the Constitution and our laws. Though established by human beings and administered by human beings, the law has force beyond the wish or the will of any single person or single group of persons.

Our freedoms survive because no man or woman is beneath the protections of the law. And the law retains its value and force because every person knows that no man or woman is above the requirements of the law.

It is fitting that each year we observe a day in which we reaffirm our devotion and respect for the institution of law, without which other human institutions would fall.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby request the observance of Wednesday, May 1, 1974, as Law Day in the United States of America.

As requested by the Congress (75 Stat. 43; 36 U.S.C. 164), I urge that our people observe Law Day with appropriate public ceremonies, through public bodies and private organizations, in schools, colleges and universities, and in other suitable places. I especially request that the courts, the legal profession, and all media of public information take the lead in such observance so that public understanding of the role of the courts in our society can be broadened. I call upon public officials to display the Nation's flag on public buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred and ninety-eighth.

Richard Nixon

[FR Doc.74–10282 Filed 5–1–74;10:30 am]

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PROCLAMATION 4290

National Arthritis Month, 1974

By the President of the United States of America

A Proclamation

Arthritis and the rheumatic diseases are the Nation's number one crippling disorders, affecting 20 million Americans of all ages, causing them great suffering and limiting their activities. Arthritic disorders are second only to heart disease as the most widespread chronic illness in the United States today.

This disease cripples people not only physically, bringing them untold pain and anguish, but also financially. The total cost of arthritis to America in terms of medical costs and lost production is estimated in the billions of dollars.

Each year, as medical science advances through publicly and privately supported medical research and education, thousands of people receive improved treatment and live more comfortable, more productive, and more satisfying lives. Yet, despite research efforts, this dreadful disease continues to be a major threat to human well-being. America must do more to treat and eliminate the curse of arthritis.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the month of May, 1974, as National Arthritis Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States to issue similar proclamations.

I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to provide the necessary assistance and resources to discover the cause and cure of arthritis and rheumatic diseases and to alleviate the suffering of persons struck by these disorders.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.74-10313 Filed 5-1-74;11:59 am]

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PROCLAMATION 4291

Older Americans Month, 1974

By the President of the United States of America

A Proclamation

America possesses no greater natural resource than the collective wisdom and experience of its older citizens.

The first White House Conference on Aging, held in January of 1961, resulted in a Senior Citizen's Charter on the rights and obligations of older persons and represented an important first step toward giving proper recognition to our older citizens. The second White House Conference on Aging, which was held in December of 1971, broadened that recognition and deepened our national commitment to the welfare of the elderly.

The eve of our Nation's Bicentennial seems a most fitting moment for considering the development of a new Declaration of Rights and Obligations of Older Persons. Consideration of that new declaration should begin immediately at the community level so that it may be proclaimed at the State and national levels as part of our Bicentennial celebration.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the month of May 1974, as Older Americans Month, and urge all who participate in State and community programs in observance of this month to call attention to the 1961 Senior Citizen's Charter and to undertake consideration of ways and means of achieving the goal of proclaiming a new Declaration of Rights and Obligations for Older Persons which can become a rallying point for our Nation during the Bicentennial year of 1976.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.74–10314 Filed 5–1–74;12:00 pm]

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Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Subpart V—Special Provisions for Designated States and Territories; Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

Designation of Pennsylvania Under Federal Meat and Poultry Products Inspection Acts for Special Purposes

Statement of considerations. Sections 202, 203, and 204 of the Federal Meat Inspection Act (21 U.S.C. 642, 643, 644) provide for recordkeeping, access, and related requirements; registration requirements; and regulation of transactions involving dead, dying, disabled or diseased livestock of specified kinds, or part of the carcasses of such animals that died otherwise than by slaughter, with respect to operators engaged in specified classes of business in or for "commerce" as defined in the Act. Similar provisions with respect to poultry and poultry products are contained in sections 11 (b), (c), and (d) of the Poultry Products Inspection Act (21 U.S.C. 460 (b), (c), and (d)). Section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act (21 U.S.C. 645, 460(e)) authorize the Secretary of Agriculture to exercise the authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the specified kinds of business but not in or for "commerce" in any State or organized Territory when he determines, after consultation with an appropriate advisory committee, that the State or Territory does not have authority under its laws at least equal or is not exercising such authority in a manner to effectuate the purposes of the Acts.

The State of Pennsylvania has been designated, pursuant to section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act, for the application, to intrastate activities, of titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act, and said provisions are now applicable to such activities in Pennsylvania. The Secretary, after consultation with the appropriate advisory committee, has now determined that Pennsylvania does not have and is not exercising, in a manner to effectuate the purposes of said Acts, with respect to intrastate businesses, authorities at least equal to those under sections 202, 203, and 204 of the Federal Meat Inspection Act and sections 11 (b) and (c) of the Poultry Products Inspection Act, including the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, Pennsylvania is hereby designated under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act for the exercise of the specified authorities with respect to intrastate businesses, and hereafter sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b) and (c) of the Poultry Products Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of business specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

Accordingly, the table in § 331.6 of the meat inspection regulations (9 CFR 331.6) is amended as follows:

§ 331.6 [Amended]

1. In the "State" column, "Pennsylvania" is added immediately below "North Dakota" in all three places.

2. In the "Effective Date" column, May 2, 1974, is added on the line with "Pennsylvania" in all three places.

(Secs. 21 and 205, 34 Stat. 1260, as amended, 81 Stat. 584, 21 U.S.C. 621, 645; 37 FR 28464, 28477).

Further, the table in § 381.224 of the poultry products inspection regulations (9 CFR 381.224) is amended as follows:

§ 381.224 [Amended]

1. In the "State" column, "Pennsylvania" is added immediately below "North Dakota" in both places.

2. In the "Effective date" column, May 2, 1974, is added on the line with "Pennsylvania" in both places.

(Secs. 11(e) and 14, 71 Stat. 441, as amended, 82 Stat. 791 (21 U.S.C. 460(e)), 463; 37 FR 28464, 28477)

These amendments of the regulations are necessary to reflect the determinations of the Secretary of Agriculture under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act, and to effectuate the purposes of the Acts by affording representatives of the Secrebusiness engaged in intrastate activities tary of Agriculture access to places of and otherwise facilitate the enforcement of the Acts. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

These amendments and the notice given hereby shall become effective May 2, 1974.

Done at Washington, D.C., on: April 25, 1974.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.74–10039 Filed 5–1–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74–WE–14–AD; Amdt. 39–1832]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas; Certain DC–10 Series Airplanes

There have been failures of oxygen generator torsion retention springs to retain the generators in Weber Aircraft Company passenger seat backs on a Douglas DC–10 airplane, allowing activated generators (with temperatures in excess of 500°F) to be pulled out of the seat backs. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require replacement of the torsion retention springs on the Weber Aircraft Company passenger seat backs.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to Douglas Model DC–10 series airplanes, certificated in all categories, incorporating Weber Aircraft seats, Part Numbers 818472, 818473, 818474, 818475, 819291, 819812, and 819813, with dash numbers as listed in Weber Aircraft Service Bulletin No. 25–326, dated February 15, 1974.

Compliance required within the next 300 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent further inadvertent dislodgement of oxygen generators from seat backs, accomplish the following:

(a) Replace the oxygen generator torsion retention springs in accordance with Weber Aircraft Service Bulletin No. 25–326, dated February 15, 1974.

(b) The Chief, Aircraft Engineering Division, FAA Western Region, may approve equivalent modifications.

(c) Aircraft may be flown to a base for accomplishment of the maintenance required by this AD per FAR's 21.197 and 21.199.

This amendment becomes effective May 6, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on April 24, 1974.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.74–9993 Filed 5–1–74;8:45 am]

[Docket No. 74–NE–2; Amdt. 39–1831]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Model JT9D Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the installation of fog nozzles in the main gearboxes to prevent internal gearbox fires by enrichment of the oil/air mixture and the replacement of the present accessory carbon seal assemblies with redesigned carbon seal assemblies to prevent oil leakage was published on page 4928 of the FEDERAL REGISTER for February 8, 1974 (39 F.R. 4928).

Interested persons have been afforded an opportunity to participate in the making of the amendment. Two comments were received in response to the Notice. One of these comments supported the proposed AD while the other had no objection to its basic intent. As regards the compliance time for the installation of the fog nozzles, there was disagreement between the two commentators. One commentator suggested that the compliance period should be shortened while the other requested that the compliance time be extended until July 1, 1975 in order to permit one air carrier a reasonable period to complete the required modifications on all its aircraft. As discussed in the notice, the February 1, 1975 date was selected only after careful consideration of all pertinent factors including safety considerations, parts availability and the shop capability of the industry to affect the change. After additional review of this entire matter of compliance time, including both comments, the agency still considers that the February 1, 1975 compliance date represents the most appropriate compliance period for this AD in terms of the needs of safety and the ability of industry to complete the requested changes. Accordingly, the compliance time is being adopted as proposed in the initial notice. Any air carrier experiencing individual problems in complying with the AD may, of course, petition for an exemption under the provisions of Part 11 of the Federal Aviation Regulations and the agency will consider any such petitions at the appropriate time. In this connection, the language set forth in the notice relating to increase of the compliance time by the Chief, Engineering and Manufacturing Branch, New England Region, is considered inappropriate in this instance and has been deleted from the AD.

One commentator pointed out that a number of Boeing 747 aircraft have been removed from service for an indefinite period because of economic conditions and the fuel shortage. For this reason, it was requested that consideration be given to permit operators of such grounded aircraft to have a reasonable time period in terms of operating hours after the effective date of the AD to accomplish the modification. The internal gearbox failures which resulted in engine fires were not time related and for that reason a calendar date compliance time was proposed in the Notice in lieu of the usual compliance time based on hours time in service. Because of this, and the seriousness of the problem, the agency does not consider that any extension of compliance time should be granted for those aircraft which have been temporarily grounded for other reasons especially in view of the lack of any indication that the required modifications on the grounded aircraft could not be accomplished by the February 1, 1975 date.

Several different objections from one commentator were received concerning that portion of the AD which related to the replacement of carbon seal assemblies. First, the required simultaneous incorporation of the improved carbon seals with the installation of the fog nozzles was objected to on the basis that one carrier was utilizing methods of installing the fog nozzles which did not permit simultaneous incorporation of the improved carbon seals with the installation of the fog nozzles. In answer to this comment, the AD only requires that both items be accomplished by February 1, 1975. Both items were included in the same proposed AD with the same compliance time because of the fact that both items would logically be accomplished by the majority of air carriers at the same time and this conclusion has been substantiated by comments received in response to the notice. In addition, although not discussed in the notice, a separate appropriate compliance time for the carbon seals based in terms of hours time in service would as a practical matter result in a compliance period for most carriers that is almost identical to that required by the February 1, 1975 date. Therefore, this objection is not considered to have merit.

Finally, one commentator objected to the issuance of an AD requiring the replacement of the carbon seals for two reasons. First, it was contended that the carbon seal failure problem did not result in hazardous conditions which justified the issuance of an AD. Secondly, the commentator pointed out that one air carrier was conducting service evaluations of improved carbon seals other than those specified in the referenced service bulletin which evaluations could not be continued after adoption of an AD. As regards the first objection, the agency considers that the high number of single engine inflight shutdowns and the reported instance of a dual engine shutdown due to oil loss caused by carbon seal failures does present a serious airworthiness hazard which requires the issuance of an AD. For this reason, the first portion of the objection is rejected. As to the remaining portion of the comment relating to the possible use of different seals, the agency agrees that an equivalent means of compliance should be permitted in the AD. Accordingly, language is being added to the AD which will permit the agency to approve an equivalent means of compliance as to the seals upon the submission of acceptable substantiating data to the appropriate Federal Aviation Administration Office. Any testing of other carbon seals musts be conducted in accordance with existing Federal Aviation Regulations concerning such testing.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PRATT & WHITNEY. Applies to all Pratt & Whitney Model JT9D–3A and JT9D–7 turbofan engines.

Compliance required not later than February 1, 1975.

1. To prevent the possibility of internal main gearbox fires in the event of an internal gearbox failure, rework the main gearbox in accordance with Pratt & Whitney Service Bulletin No. 4043, dated February 5, 1973, or later Federal Aviation Administration approved revisions.

2. To prevent leakage of oil around carbon face seals, replace present seal assemblies with the redesigned carbon face seal assemblies per Pratt & Whitney Service Bulletin No. 3902, dated August 8, 1972, or later Federal Aviation Administration approved revisions or Federal Aviation Administration approved equivalent.

3. Equivalent methods of compliance to the requirements of paragraph 2 above must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Chief Engineer, Pratt and Whitney Aircraft, Division of United Aircraft Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at the Office of the Regional Counsel, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803 and at FAA Headquarters, 800 Independence Avenue, SW, Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

This amendment becomes effective May 14, 1974.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Burlington, Massachusetts, on April 22, 1974.

FERRIS J. HOWLAND,
Director, New England Region.

NOTE: The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.74–9992 Filed 5–1–74;8:45 am]

[Airspace Docket No. 74–AL–2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Colored Airways, Controlled Airspace and Reporting Points; Delayed Effective Date

On March 18, 1974, FR Doc. 74–6102 was published in the FEDERAL REGISTER (39 FR 10116) effective June 20, 1974.

This document amended Part 71 of the Federal Aviation Regulations by making editorial changes in the descriptions of certain airways, controlled airspace and reporting points as a result of the conversion and renaming of several navigational aids in Canada and Alaska.

Publication of aeronautical charts in Alaska has been changed from a 28-day cycle to a 56-day cycle, and charts will not be published on June 20, 1974. Therefore, action is taken herein to delay the effective date of FR Doc. 74–6102 until July 18, 1974, the next publication date for Alaska aeronautical charts.

Since it is desirable that the public be made aware of this change immediately, notice and public procedure thereon are impracticable and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, FR Doc. 74–6102 (39 FR 10116) is amended, effective upon publication of this amendment in the FEDERAL REGISTER, as hereinafter set forth.

The effective date "0901 G.m.t., June 20, 1974" is deleted and "0901 G.m.t. July 18, 1974" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 26, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–9994 Filed 5–1–74;8:45 am]

[Airspace Docket No. 74–AL–1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Colored Airways, Controlled Airspace and Reporting Points; Delayed Effective Date

On March 18, 1974, FR Doc. 74–6103 was published in the FEDERAL REGISTER (39 FR 10115) effective June 20, 1974.

This document amended Part 71 of the Federal Aviation Regulations by making editorial changes in the descriptions of certain airways, controlled airspace and reporting points as a result of the conversion and renaming of several navigational aids in Canada and Alaska.

Publication of aeronautical charts in Alaska has been changed from a 28-day cycle to a 56-day cycle, and charts will not be published on June 20, 1974. Therefore, action is taken herein to delay the effective date of FR Doc. 74–6103 until July 18, 1974, the next publication date for Alaska aeronautical charts.

Since it is desirable that the public be made aware of this change immediately, notice and public procedure thereon are impracticable and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, FR Doc. 74–6103 (39 FR 10115) is amended effective upon publication of this amendment in the FEDERAL REGISTER, as hereinafter set forth.

The effective date "0901 G.m.t. June 20, 1974" is deleted and "0901 G.m.t. July 18, 1974" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 26, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–9995 Filed 5–1–74;8:45 am]

[Airspace Docket No. 74–EA–33]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to reduce the time of designation for Restricted Area R–5207 Romulus, N.Y.

A review of the annual utilization report for Restricted Area R–5207 has revealed that R–5207 was needed by the using agency only from 0730 to 1600 local time Monday through Friday. Accordingly, the Federal Aviation Administration has determined that the time of designation for R–5207 should be reduced to more accurately reflect this requirement. The Department of the Army concurs in this determination.

This amendment relieves a restriction upon the public and it is a minor amendment upon which the public is not particularly interested. Therefore, notice and public procedure thereon are unnecessary. Since this amendment relieves a restriction upon the public, it may become effective immediately.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective May 2, 1974, as hereinafter set forth.

In § 73.52 (39 FR 680), the time of designation for R–5207 Romulus, N.Y., is amended to read as follows:

Time of designation. 0730 to 1600 local time, Monday through Friday.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on April 26, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–9996 Filed 5–1–74;8:45 am]

[Docket No. 13669; Amdt. No. 914]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the

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Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exits that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective June 13, 1974:

Eugene, Ore.—Mahlon-Sweet Field, VORTAC Rwy 3, Orig.
Hobbs, N.M.—Cross Roads Intercontinental Arpt., VOR-A, Amdt. 1, canceled.
Hobbs, N.M.—Crossroads Intercontinental Arpt., VOR/DME Rwy 21, Amdt. 1, canceled.
Lafayette, Ind.—Purdue University Arpt., VOR-A, Amdt. 16.

• • • effective May 9, 1974:

Detroit, Mich.—Detroit City Arpt., VOR Rwy 33, Amdt. 14.

• • • effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., VOR Rwy 13, Amdt. 17.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective June 13, 1974:

Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l. Arpt., LOC (BC) Rwy 9R, Orig.

• • • effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., LOC (BC) Rwy. 13, Amdt. 5.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective June 13, 1974:

Lafayette, Ind.—Purdue University Arpt., NDB Rwy 10, Amdt. 4.
Troutdale, Ore.—Portland-Troutdale Arpt., NDB-A, Amdt. 2.
Walla Walla, Wash.—Walla Walla City-County Arpt., NDB Rwy 20, Amdt. 1.

• • • effective May 9, 1974:

Searcy, Ark.—Searcy Municipal Arpt., NDB Rwy 01, Orig.

• • • effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., NDB Rwy 31, Amdt. 6.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective June 13, 1974:

Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l. Arpt., ILS Rwy 27L, Amdt. 1.
Lafayette, Ind.—Purdue University Arpt., ILS Rwy, 10, Amdt. 2.
Walla Walla, Wash.—Walla Walla City-County Arpt., ILS Rwy 20, Amdt. 1.

• • • effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., ILS Rwy 31, Amdt. 7.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective June 13, 1974:

Beaumont-Port Arthur, Tex.—Jefferson County Arpt., RADAR-1, Orig.

• • • effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., RADAR-1, Amdt. 20.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, (49 U.S.C. 1655(c)), (5 U.S.C. 552(a)(1)))

Issued in Washington, D.C., on April 25, 1974.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the FEDERAL REGISTER on May 12, 1969, (35 FR 5610).

[FR Doc.74-9997 Filed 5-1-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5483, 34-10746, 35-18383, 40-8315, AS-154]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Consolidated Financial Statements

The Commission today adopted amendments to Rule 4-02 [17 CFR 210.4-02] and rescinded Rule 4-07 [17 CFR 210.4-07] of Regulation S-X, both relating to requirements for consolidated and combined financial statements. This action was originally proposed on December 13, 1973, in Securities Act Release No. 5445 (34-10556, 35-18216, IC-8137) [38 FR 35333].

The rescission of Rule 4-07 eliminates the restriction on consolidation of subsidiaries engaged in financial and nonfinancial activities contained in Rule 4-07(b). Consolidated financial statements will now be subject to the general provisions of Rule 4-02(a) that a "registrant shall follow • • • principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations."

The amendment to Rule 4-02 continues the present requirement of Rule 4-07 for supporting financial statements of consolidated subsidiaries engaged in certain financial activities. Consideration should also be given to improving the disclosure in annual reports to stockholders by including this information, suitably condensed, as supporting financial statements or as line of business disclosure. Although information concerning nonfinancial activities is not specifically required, such information may be given if deemed appropriate for a better understanding of registrant's business. The Financial Accounting Standards Board is considering the matter of reporting by diversified companies including the extent of disclosure of information about the different segments. These requirements will be reconsidered when a statement on this matter is adopted by the FASB.

A subparagraph added to Rule 4-02(a) is intended to prevent consolidation of subsidiaries of a registrant subject to the Bank Holding Company Act of 1956 as to which a decision has been made requiring divestiture or in cases where there is a substantial likelihood that divestiture will be necessary in order for registrant to comply with provisions of the Act.

Commission action. The Commission hereby amends Part 210 of 17 CFR Chapter II by revising § 210.4-02 by the addition of new paragraphs (a)(3) and (e) and rescinding § 210.4-07. The amended material reads as follows:

§ 210.4-02 Consolidated financial statements of the registrant and its subsidiaries.

(a) • • •

(3) Any subsidiary or group of subsidiaries of a registrant subject to the Bank Holding Company Act of 1956 as amended as to which (i) a decision requiring divestiture has been made, or (ii) there is substantial likelihood that divestiture will be necessary in order to comply with provisions of the Bank Holding Company Act.

• • • • •

(e) Separate financial statements shall be presented for each subsidiary or group of subsidiaries engaged in the business of life insurance, fire and casualty insurance, securities broker-dealer, finance, savings and loan or banking, including bank related finance activities; provided, however, that separate financial statements may be omitted:

(1) For a consolidated subsidiary or group of subsidiaries in the same business in which the registrant's and registrant's other subsidiaries' proportionate share of total assets or total sales and revenues (after intercompany eliminations) exceeds 90 percent of consolidated assets or consolidated sales and revenues.

(2) For a nonsignificant consolidated subsidiary which is registrant's only subsidiary in a business, or for a group of consolidated subsidiaries constituting all of registrant's subsidiaries in the same business which if considered in the aggregate would not constitute a significant subsidiary.

(3) For a consolidated subsidiary or group of subsidiaries in the same business if in excess of 90 percent of their sales and revenues are derived from registrant and registrant's other subsidiaries.

§ 210.4-07 [Revoked]

(Secs. 6, 7, 8, 10, and 19(a), Securities Act of 1933; secs. 13, 15(d) and 23(a), Securities Exchange Act of 1934; secs. 5(b), 14 and 20(a), Public Utility Holding Company Act of 1935; secs. 8, 30, 31(c) and 38(a), Investment Company Act of 1940)

The amendments shall be effective with respect to financial statements filed with the Commission subsequent to May 31, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 19, 1974.

[FR Doc.74-10078 Filed 5-1-74;8:45 am]

[Release No. 33-5487]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Transactions By an Issuer Deemed Not To Involve Any Public Offering

The Securities and Exchange Commission today announced the adoption of Rule 146 (17 CFR 230.146) under the Securities Act of 1933 ("Act") which had been first noticed for comment in Securities Act Release No. 5336 (November 28, 1972) (37 FR 26137) and which had been reproposed for comment in revised form in Securities Act Release No. 5430 (October 10, 1973) (38 FR 28951). The adopted rule reflects a number of changes from the rule as last proposed. The changes are discussed in this release.

The Rule is designed to provide more objective standards for determining when offers or sales of securities by an issuer would be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act and thus would be exempt from the registration provisions of the Act. The Rule is available only to issuers since section 4(2) provides an exemption for only the issuer. The Rule is not, however, the exclusive basis for determining whether that exemption is available. Accordingly, although persons claiming the exemption have the burden of proving its availability, persons may continue to rely on the section 4(2) exemption by complying with the relevant administrative and judicial interpretations in effect at the time of the transaction. The protection afforded by the Rule, however, is available only to those who satisfy all its conditions.

RULE 146

This release contains a general discussion of the background, purpose and general effect of the Rule to assist in a better understanding of its provisions. A brief analysis of each paragraph of the Rule is also included. However, attention is directed to the Rule itself for a more complete understanding.

BACKGROUND AND PURPOSE

Congress, in enacting the federal securities laws, created a continuous disclosure system designed to protect investors and to assure the maintenance of fair and honest securities markets. The Commission, in administering and implementing these laws, has sought to coordinate and integrate this disclosure system with the exemptive provisions provided by such laws. Rule 146 is a further effort in this direction.

The legislative history of the Securities Act of 1933 indicates that the main concern of Congress was to provide full and fair disclosure in connection with the offer and sale of securities. However, Congress recognized that there were certain situations in which the protections afforded by the Act were not necessary. Concerning those specified exemptions from the Act, of which section 4(2) is one, the House Report stated that "The Act carefully exempts from its applications certain types of • • • securities transactions where there is no practical need for its application or where the public benefits are too remote."[2]

Section 4(2) of the Act provides that "the provisions of section 5 shall not apply to • • • transactions by an issuer not involving any public offering." The phrase "transactions • • • not involving any public offering" is not defined in the Act[3] or, except in limited circumstances, in the existing rules under the Act. Accordingly, it has been left to Commission interpretations and court decisions to define the scope of the exemption.

The Supreme Court in the Ralston Purina[4] case established the basic criteria to be considered in determining the availability of section 4(2). The main consideration is whether the offerees need the protection afforded by the Act as evidenced by whether the offerees have "access" to the same kind of information that registration would disclose and whether they are able to fend for themselves. The application of these criteria and other guidelines set forth from time to time by the Commission and the courts has resulted in uncertainty about the availability of the exemption. In addition, some misconceptions have arisen in connection with certain methods used by persons who seek to claim the exemption.

For example, the questions arising under section 4(2) have generally dealt with what constitutes a non-public offering or a private offering. It has been asserted that an offering to a limited number of persons, not more than twenty-five, for example, does not involve a public offering. This is not by itself an appropriate test. As the Supreme Court stated in Ralston Purina, "the statute would seem to apply to a 'public offering' whether to few or many." 46 U.S. at 125. The Commission continues to be of the opinion that the question is not to be determined exclusively by the number of offerees.

Further, it is frequently asserted that wealthy persons and certain other persons such as lawyers, accountants and businessmen are "sophisticated" investors who do not need the protections afforded by the Act. It is the Commission's view that "sophistication" is not a substitute for access to the same type of information that registration would provide, and that a person's financial resources or sophistication are not, without more, sufficient to establish the availability of the exemption.[4]

On the other hand, the Commission is of the view that an offeree need not be an insider such as an officer or director of the issuer in order to have access to information. As a note to the Rule indicates, access can only exist by reason of the offeree's position with respect to the issuer. Position means an employment or family relationship or economic bargaining power that enables an offeree to obtain information from the issuer in order to evaluate the merits and risks of the investment as distinguished from situations where such position does not exist and the issuer voluntarily offers to provide or provides such information.

Moreover, it has been argued that the exemption is established by the issuer merely providing a brochure, or other writing, to the offerees containing the same kind of information that is found in a registration statement. The Commission is of the review that the mere disclosure of the same kind of information that would be contained in a registration statement is not sufficient in itself to establish the availability of an exemption under section 4(2) of the Act.[5]

It also has been argued that the private offering exemption can be established where it is represented that the securities are held for investment, where resale is restricted, and where the number of transferees is limited. In this regard, the practice has developed whereby issuers obtain investment letters from purchasers and cause a legend to be imprinted on the face of each certificate restricting transfer. As the Commission and the courts[6] have previously stated, the signing of an investment letter and the legending of stock certificates are not sufficient to render an offering a private one. Although such precautions should be taken by issuers to protect their claim of exemption by assuring that their purchasers will not in turn distribute securities to others, these are only precautions to prevent illegal distributions and are not, by themselves, to be regarded as a sufficient basis for an exemption from registration for the issuer.

The Commission believes that a rule creating greater certainty in the application of the section 4(2) exemption is in the public interest for two reasons.

[2] H.R. Rep. No. 85, 73rd Cong., 1st Sess. 5 (1933).

[3] The House Report does indicate that the exemption was originally intended to permit an issuer to make a specific or isolated sale of its securities to a particular person or financial institution. *Id.* at p. 15-16.

[4] SEC v. Ralston Purina Co., 346 U.S. 119 (1953).

[5] United States v. Custer Channel Wing Corp., 376 F. 2d 675 (4th Cir. 1967); SEC v. Tax Service, Inc., 357 F. 2d 143 (4th Cir. 1966).

[6] See SEC v. Continental Tobacco Company of South Carolina, Inc., 463 F. 2d 137 (5th Cir. 1972); Hill York Corp. v. Freeman, 448 F. 2d 680 (5th Cir. 1971).

[6] United States v. Custer Channel Wing, 376 F. 2d 675 (4th Cir. 1967).

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First, such a rule should deter reliance on that exemption for offerings of securities to persons who are unable to fend for themselves in terms of obtaining and evaluating information about the issuer and in certain situations, of assuming the risk of investment. These persons need the protections afforded by the registration process. Second, such a rule should reduce uncertainty to the extent feasible and provide more objective standards upon which responsible businessmen may rely in raising capital in a manner that complies with the requirements of the Act.

The Rule is designed to protect investors while at the same time providing more objective standards in order to curtail uncertainty to the extent feasible. In view of the legislative history, statutory language, judicial decisions, and the Commission's reexamination of its interpretations of section 4(2) of the Act, the Commission is of the view that the significant concepts in determining when transactions are deemed not to involve any public offering are access to the same kind of information that registration would disclose and the ability of offerees to fend for themselves so as not to need the protections afforded by registration.

GENERAL DESCRIPTION

Rule 146 provides that transactions by an issuer involving the offer or sale of its securities shall be deemed not to involve any public offering within the meaning of section 4(2) of the Act if they are part of an offering that meets all the conditions of the Rule. These conditions relate to limitations on the manner of offering, the nature of the offerees, access to or furnishing of information about the issuer, limitations on the number of purchasers and limitations on the subsequent disposition of securities acquired pursuant to the Rule.

First, in determining whether an offeree needs the protections afforded by registration, it is essential to consider whether the offeree has access to or has been furnished with the same kind of information that registration would disclose as well as an opportunity to acquire additional information necessary to verify that disclosure. Accordingly, conditions relating to information concerning the issuer which must be available to the offeree or his representative are included in the Rule.

Second, in order to assure that the offerees can fend for themselves, the availability of the Rule is conditioned on the nature of the offerees. Thus, the issuer and any person acting on its behalf shall have reasonable grounds to believe, and shall believe, immediately prior to making an offer, either that the offeree has such knowledge and experience that he is capable of evaluating the merits and risks of the proposed investment or that the offeree can bear the economic risk of the investment. In addition, immediately prior to a sale, the issuer and any person acting on its behalf, after making reasonable inquiry, shall have reasonable grounds to believe and shall believe either that the offeree himself has the requisite knowledge and experience, or that the offeree and his offeree representative(s) have such knowledge and experience and that the offeree himself is capable of bearing the economic risk of the investment. The concept of bearing the economic risk of the investment is not inconsistent with the discussion in Ralston Purina about the offeree's ability to fend for himself. The Rule contains special provisions in this regard for offerings in connection with certain types of business combinations.

Third, the Commission believes that there must be limitations on the manner of offering securities pursuant to the exemption to assure that persons to whom such securities are offered have the necessary information available concerning the issuer and can fend for themselves. To assure the non-public manner of the offering, the Rule precludes general advertising or general solicitation, including promotional seminars or meetings in connection with the offering. The Rule would not preclude meetings with certain qualified offerees or with certain other qualified offerees and their offeree representatives to discuss the terms of and to impart information about the offering.

Fourth, the Commission believes that a limitation on the number of purchasers serves to assure that the offering does not involve or result in a deferred distribution. Limitations on the disposition of securities are necessary to assure that the offering does not involve a series of steps resulting in a distribution.

The Rule is only available to issuers of securities and is not available to affiliates of the issuer or other persons for sales of the issuer's securities. Persons who acquire securities from issuers in transactions complying with the Rule acquire securities that are restricted in that they can be reoffered and resold only if registered under the Act or pursuant to an exemption from such registration provisions. In this connection, Rule 144 (17 CFR 230.144) under the Act provides objective standards for the public resale of restricted securities. (See Securities Act Release No. 5223) (37 FR 596, 4329). Rule 146 has been adopted in the context of, and in conjunction with, several rules, amendments to rules and forms, and releases which the Commission has recently adopted or issued including:

1. Rule 144 under the Act (Securities Act Release No. 5223) (37 FR 596, 4329), as amended, Securities Act Release No. 5307 (37 FR 20558) and Securities Act Release No. 5452 (39 FR 6069).

2. Rule 145 (17 CFR 230.145) under the Act (Securities Act Release No. 5316) (37 FR 23636).

3. Adoption of Form S–16 (17 CFR 239.27) under the Act for securities offered in certain specified transactions (Securities Act Release No. 5117) (37 FR 777) and adoption of amendments to Form S–16 to liberalize the conditions under which the form could be used (Securities Act Release No. 5265) (37 FR 15990, 15991).

4. Amendments to Regulation A under Section 3(b) of the Act (Securities Act Release No. 5225) (37 FR 599).

5. Publication of a release relating to the use of legends and stop-transfer instructions as evidence of non-public offerings (Securities Act Release No. 5121) (36 FR 1525).

6. Publication of a release relating to the applicability of the anti-fraud provisions of the Securities Act to certain practices in connection with transactions by issuers and others not involving public offerings (Securities Act Release No. 5226) (37 FR 600).

7. Amendments to Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) under the Securities Exchange Act of 1934 (Exchange Act) to require disclosure of securities sold pursuant to section 4(2) of the Act (Securities Exchange Act Release No. 9443) (36 FR 601, 4331).

8. Adoption of Rule 15c2–11 (17 CFR 240.15c2–11) under the Exchange Act which requires that dealers have adequate information available concerning any issuer in whose securities they make a market (Securities Exchange Act Release No. 9310) (36 FR 18641).

9. Adoption of amendments to Form 10–K to require more meaningful disclosure in reports on that Form (Securities Exchange Act Release No. 10180) (38 FR 17202).

SYNOPSIS OF THE PROVISIONS OF RULE 146

Preliminary notes. Preliminary Notes to the Rule briefly describe the Rule and make clear that all transactions which are, applying traditional integration standards, part of an offering must meet all the conditions of the Rule for it to be available. The Preliminary Notes also emphasize that compliance with all the conditions of the Rule is not the exclusive means of establishing an exemption pursuant to section 4(2) of the Act, that attempted compliance with Rule 146 does not act as an election, that the Rule does not relieve issuers from requirements of state securities laws, and that the Rule is an issuer's rule only. Another Preliminary Note makes clear that, for purposes of the Rule, clients of an investment adviser, customers of a broker or dealer, trusts administered by a bank trust department or persons with similar relationships will be considered to be the "offerees" or "purchasers," regardless of the amount of discretionary authority held by such investment adviser, broker or dealer, bank trust department, or other person. In addition, the Preliminary Notes restate the Commission's position, as with respect to Rules 144 and 147, that this Rule is not available to any issuer with respect to any transactions which, although in technical compliance with the Rule, are part of a plan or scheme to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

Definitions — Offeree representative Rule 146(a)(1). The term "offeree representative" is defined in paragraph (a)(1) of the Rule as a person who the issuer

and any person acting on its behalf have, after making reasonable inquiry, reasonable grounds to believe and believe is not an affiliate, director, officer or other employee, or beneficial owner of 10 percent or more of the equity of the issuer (except when the offeree is a specified relative of such person or a trust or organization with which such person and/or such relative has a specified relationship) (subdivision (i)); has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment (subdivision (ii)); is acknowledged, in writing, by the offeree during the course of the transaction to be his offeree representative (subdivision (iii)); and disclose to the offeree, in writing, any material relationship existing or mutually understood to be contemplated between himself or his affiliates and the issuer or its affiliates or any such relationship which existed during the previous two years, and any compensation received as a result of such relationship (subdivision (iv)). As was noted in the release accompanying the Rule as proposed for comment in October 1973, the acknowledgment and disclosure of relationships must be made with respect to each prospective investment even in the case of a discretionary account. Where an adviser with discretionary authority wants to act as offeree representative, the Rule requires that the acknowledgment specified in paragraph (a)(1)(iii) of the Rule be obtained for each transaction. Accordingly, advance blanket acknowledgment for "all securities transactions" or "all private placements" or similar broad advance acknowledgments will not satisfy the Rule. This is particularly important, since the offeree representative is required by paragraph (a)(1)(iv) of the Rule to disclose to the offeree, in writing, any material relationships between the adviser and the issuer. This disclosure is required in connection with each offering pursuant to the Rule in order that the offeree be given an opportunity to consider any conflicts of interest the adviser may have prior to acknowledging the adviser as his offeree representative for the particular offering. A note has been added to the offeree representative definition making clear that where an offeree representative or its affiliates has a material relationship with the issuer or its affiliates, disclosure of such relationship does not relieve the offeree representative of its obligation to act in the interest of the offeree.

Several changes were made from the rule as last proposed. As proposed in October 1973, no affiliate, associate or employee of the issuer could be an offeree representative, except in specified situations; as adopted, the term "associate" has been deleted, but the definition now precludes officers and directors of the issuer, as well as 10 percent stockholders, from being offeree representatives, except in specified situations. In addition, the adopted Rule requires disclosure of any material relationship between the offeree representative or its affiliates and the issuer or its affiliates. The qualifier "material" is new to the Rule (and is defined in subparagraph (a)(4)) and disclosure of relationships with affiliates of the offeree representative is also new. The Rule also makes clear that an offeree can have more than one offeree representative. A note has been added reminding persons to consider the applicability of the Exchange Act and the Investment Advisers Act of 1940.

Issuer: Rule 146(a)(2). For purposes of the Rule the definition of issuer in Section 2(4) of the Act applies. However, paragraph (a)(2) includes a definition of "issuer" for purposes of offerings of certain securities in connection with proceedings under the Bankruptcy Act. The rule as proposed in October 1973 contained a definition of issuer for certain offerings involving partnerships. This has been deleted from the Rule as adopted because it was ambiguous and the Commission determined that Rule 146 was not the appropriate place to deal with that question at this time.

Affiliate: Rule 146(a)(3). A definition of "affiliate," similar to that in Rule 144 under the Act, has been added to the Rule.

Material: Rule 146(a)(4). A definition of "material" as it relates to the "material relationships" that must be disclosed by the offeree representative (subparagraph (a)(1)) and by the issuer (subparagraph (e)(3)) has been added to make clear that materiality is to be determined from the reasonable investor's point of view and not through some formula measuring the importance of the transaction to the offeree representative or the issuer. The definition is based on that used by the Supreme Court in Affiliated Ute Citizens of Utah v. United States. 406 U.S. 128, 154 (1972).

Deletion of proposed rule 146(a)(2): direct communication. The term "direct communication" has been deleted from the Rule, although the substantive requirement of an opportunity for the offeree or his offeree representative to ask questions of, and receive answers from, the issuer or a person acting on its behalf, has been retained. The requirement is now part of paragraph (e), "Access to or Furnishing of Information."

Deletion of proposed rule 146(a)(3): Executive Officer. The definition of executive officer has been deleted from the definition section of the Rule because the term no longer appears in paragraph (g) of the Rule. The exclusion of "executive officers" from the count of thirty-five purchasers in a twelve month period is not necessary since the twelve month period has been abandoned as explained under paragraphs (b) and (g).

Rule 146(b): conditions to be met. Paragraph (b) of the Rule provides that transactions by an issuer involving the offer, offer to sell, offer for sale, or sale of securities of the issuer that are part of an offering that is made in accordance with all the conditions of the Rule are deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act.

The Rule does not define "offering", as stated in the Preliminary Notes. In most cases, the traditional integration standards, as set forth in the Preliminary Notes, would have to be applied in order to determine what offers, offers to sell, offers for sale, and sales are part of an offering. The Rule, as adopted, does contain a safe harbor provision similar to that in Rule 147. In general, for purposes of the Rule only, an offering will be deemed not to include any offers, offers to sell, offers for sale or sales of securities of the issuer that take place prior to the six month period immediately preceding or after the six month period immediately following any offers, offers for sale, or sales pursuant to Rule 146, if during both of said six month periods there were no offers or sales of securities by or for the issuer of the same or similar class as those offered or sold pursuant to the Rule. If there were offers or sales during the six month periods before or after the offering pursuant to the Rule, the traditional integration factors set forth in Preliminary Note 3 would have to be looked to for guidance as to whether or not those offers or sales would be integrated with those made pursuant to the Rule. This concept of offering also relates specifically to the limitation on number of purchasers in paragraph (g) since that condition has been revised to limit to thirty-five the number of purchasers in any offering, as opposed to in any twelve month period, as proposed.

Rule 146(c): Limitations on manner of offering. Paragraph (c) of the Rule specifies limitations on the manner in which the securities can be offered and sold. The Rule prohibits the issuer or any person acting on its behalf from offering or selling the securities through any form of general advertising or general solicitation including, but not limited to, advertisements or other communications in newspapers, magazines, or other media; broadcasts on radio or television; seminars or promotional meetings or any letter, circular, or other written communication.

The prohibition on general advertising and general solicitation does not necessarily mean that there can be no meetings or written communication. It means that any such meetings can involve only offerees and their offeree representatives who can satisfy the conditions of paragraph (d), "Nature of Offerees," and that any written material can be distributed only to offerees who satisfy the conditions of paragraph (d) and only if such communications contain an undertaking to provide the information specified in paragraph (e)(1) on request. Of course, any person acting on behalf of the issuer can attend such meetings or seminars without satisfying the conditions of paragraph (d), assuming that he is not and will not become an offeree. The substance of the requirement that there will be direct communication has been moved from paragraph (c) of the Rule to Paragraph (e), "Access to and Furnishing of Information."

Rule 146(d): Nature of offerees. Paragraph (d)(1) of the Rule requires that

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the issuer and any person acting on its behalf shall have reasonable grounds to believe and shall believe immediately prior to making an offer either that the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or that an offeree can bear the economic risk of the investment. Subparagraph (d)(2) requires that immediately prior to making a sale, the issuer and any person acting on its behalf, after making reasonable inquiry, shall have reasonable grounds to believe and shall believe either (1) that the offeree has the requisite knowledge and experience, or (2) that the offeree and his offeree representative(s) have the requisite knowledge and experience and that the offeree is a person who is able to bear the economic risk of the investment.

The Commission has determined to retain the economic risk test for offerees who need the knowledge and experience of an offeree representative in order to be qualified purchasers. This is necessary in order to control the types of persons to whom offers can be made. The Commission believes that the determination of "ability to bear the economic risk" will vary with the circumstances. Important considerations are whether the offeree could afford to hold unregistered securities for an indefinite period, and whether, at the time of the investment, he could afford a complete loss.

The structure of paragraphs (d)(1) and (d)(2) has been changed from the rule as proposed so that the sequence of events is clearer. The substance, however, is not significantly different. In addition, the requirement that the issuer make reasonable inquiry as to the offeree's qualifications prior to sale to the offeree has been made explicit. If, as a result of inquiry after the offer, but before the sale, or otherwise, the issuer discovers that the offeree was not qualified, the Rule is still available as to the offer if the issuer had reasonable grounds to believe and believed, immediately prior to making the offer, that the offeree was qualified.

The same would be true if it is discovered after a sale that the purchaser did not in fact meet the standards of paragraph (d)(2), as long as the issuer had had reasonable grounds to believe, and had believed, that the offeree met the standards of paragraph (d)(1) and, after making reasonable inquiry, that he met the standards of paragraph (d)(2). The rule as proposed contained a paragraph (d)(3) which was an attempt to clarify the above point. However, paragraph (d)(3) has been deleted because it was extraneous.

Rule 146(e): Access to or Furnishing of Information. Paragraph (e) of the Rule requires that the offeree have access to the same kind of information that is required by Schedule A of the Act to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense (paragraph (e)(1)(i)) or that the offeree or his offeree representative be furnished, during the course of the transaction and prior to sale, such information (paragraph (e)(1)(ii)). The term "access" is used in the Rule in the same sense that it has been used by courts and the Commission in the past—to refer to the offeree's position with respect to the issuer. This position can only exist because of an employment or family relationship or economic bargaining power that enables a person to obtain information from the issuer in order to evaluate the merits and risks of the prospective investment. A note to the Rule reflects the foregoing.

In addition, the offeree or his offeree representative must have available to him the opportunity to obtain any additional information necessary to verify the accuracy of the information obtained pursuant to paragraph (e)(1) to the extent the issuer possesses such information or can acquire it without unreasonable effort or expense (paragraph (e)(2)). The direct communication requirement in paragraph (c) of the rule as proposed was incorporated in substance into paragraph (e)(2) where it is more relevant. Such verification and opportunity for communication are appropriate in view of the absence of the statutory safeguards and sanctions attendant to the registration process, as well as the absence of traditional underwriter's due diligence. An explanatory note to this paragraph makes clear that information need not be continued to be furnished nor the opportunities for verification continued with respect to those offerees who have indicated that they are not interested in purchasing the securities offered, or to those to whom the issuer or any person acting on its behalf has determined not to sell (except where an undertaking was made pursuant to paragraph (c)(3)).

In order to provide standards for the types of information that would satisfy the conditions of paragraph (e)(1)(ii), the Rule has been revised to specify more meaningfully the information required to be furnished by reporting and nonreporting issuers. An issuer subject to the reporting provisions of the Exchange Act may satisfy the provisions of paragraph (e)(1)(ii) by providing each offeree or his representative with the information contained in the annual report required to be filed under that Act or in a registration statement on Form S–1 under the Act, or on Form 10 under the Exchange Act, whichever is the most recent required to be filed. In addition, the issuer must provide the information contained in any definitive proxy statement required to be filed, and in any reports or documents required to be filed by the issuer in compliance with Section 13 or 15(d) of the Exchange Act, since the filing of the annual report or registration statement. The issuer must also provide each offeree with a brief description of the securities being offered, the intended use of proceeds and any material changes in the issuer's affairs not disclosed in the forms filed. The Rule permits the information to be provided to offerees in one document, such as an offering circular, since the combined document may make the information more readily understandable.

Non-reporting issuers may satisfy paragraph (e)(1)(ii) by providing the information specified by the registration statement form which the issuer would be entitled to use, except that where certified financial statements are not available and cannot be obtained without unreasonable effort or expense, they may be provided on an unaudited basis.

A new subdivision of the Rule, paragraph (e)(1)(ii)(c), provides that exhibits required to be filed with registration statements and reports need not be given to the offeree or his representative as long as such exhibits are described and are available for inspection pursuant to paragraph (e)(2).

Paragraph (e)(3) requires, as it did in the proposal, that the issuer or any person acting on its behalf inform each offeree prior to sale and in writing, of the need to bear the economic risk of investment because the securities are not registered and of the restrictions on resale. In addition, the Rule now requires that the issuer or any person acting on its behalf disclose to each offeree, prior to sale, in writing, any material relationship between the offeree's offeree representative or its affiliates and the issuer or its affiliates of the type described in paragraph (a)(1)(iv). This additional requirement has been added because of the importance of this disclosure and because the burden for complying with the Rule must ultimately rest on the issuer.

Rule 146(f): Business combinations. Paragraph (f) of the Rule on business combinations has been substantially revised in form, although the substance is similar to that in the rule as last proposed for comment. Instead of including a definition of "business combination" in the rule itself, the Rule now refers to any transaction of the type described in paragraph (a) of Rule 145. The Rule 145 definition of business combination does not include an exchange offer although the October 1973 Rule 146 proposal did. In an exchange offer the issuer has a choice of offerees and, therefore, does not need the special provisions of paragraph (f).

Paragraph (f)(2) of the Rule provides that paragraph (d) of the Rule, "Nature of Offerees," does not apply to business combinations, but paragraph (f)(3) goes on to require that the issuer and any person acting on its behalf, after making reasonable inquiry, shall have reasonable grounds to believe and shall believe, prior to the submission of any plan for a business combination to security holders for their approval, that each offeree alone or with his offeree representative(s) has the requisite knowledge and experience.

Paragraph (f)(3) means that an offeree who needs an offeree representative in order to satisfy the knowledge and experience test, and who refuses to have one, may make the Rule unavailable for the transaction. Numerous comments on this point were received in response to a similar condition in the rule as last proposed. Although the Commission is aware of the possible problems this may cause,

the Commission does not believe that it can allow satisfaction of the state corporate law requirements as to business combinations to replace satisfaction of the federal securities laws. The Rule has been revised, however, to provide that paragraph (h)(4), which requires a written agreement from the purchaser that the securities will not be sold without registration or an exemption therefrom, will not apply to business combinations because of the difficulty of obtaining such an agreement in some cases where the purchasers are a group over which the issuer has no control. The securities acquired are restricted, however, in the same manner as other securities acquired pursuant to the Rule, and the issuer, for its own protection, should consider obtaining appropriate letters. The Rule also provides that the issuer must, in connection with the information furnished pursuant to paragraph (e)(3), inform each offeree in writing about any terms of the transaction relating to any security holder that are not proposed to be identical to those relating to all other security holders (paragraph (f)(4)).

The rule as proposed contained a provision that certain written communications would be deemed not to be "offers" for purposes of a business combination. We have deleted this provision since we believe it is no longer relevant in view of new paragraph (f)(3).

Rule 146(g): Number of purchasers. The Rule as last proposed provided that in any consecutive twelve month period there could be no more than thirty-five persons who purchased securities of the issuer of the same or similar class pursuant to the rule, or otherwise in reliance on section 4(2). The proposed rule also set forth various classes of purchasers who would not be included in counting the thirty-five. The Commission has decided that the thirty-five purchasers in twelve month test is too rigid and involves too many exceptions to be useful. In addition, it would have made it difficult for an issuer to know when the rule was available since it would have had to wait twelve months after every sale. Therefore, as described under Rule 146(b), "Conditions to be Met," the Rule is now based on the traditional concept of "an offering" and paragraph (g)(1) now requires that there be no more than thirty-five purchasers in any offering pursuant to the Rule. In order to determine what constitutes "an offering," reference would have to be made to the traditional integration standards, as set forth in a Preliminary Note. In addition, subparagraph (b)(1) of the Rule provides a safe harbor for certain offers and sales. Reliance on the traditional integration standards means that the various exclusions for directors and officers, bank lenders, subsidiaries, employee plans and business combinations are no longer necessary. The specific exclusions were only necessary when all sales of the same or similar class of securities during a twelve month period were automatically integrated.

In the Rule as adopted there are specific provisions for calculating the thirty-five purchasers. Paragraph (g)(2)(i) of the Rule, as adopted, indicates that for purposes of computing the number of purchasers, some purchasers would be excluded: certain relatives of a purchaser, trusts and estates in which the purchaser and such relatives own all of the beneficial interest and corporations or other organizations in which the purchaser and such relatives are beneficial owners of all of each class of equity securities or all of the equity interest. As in the rule as last proposed, for purposes only of counting the number of purchasers, those who purchase or agree in writing to purchase, for cash in a single payment or installments, securities for $150,000 or more would be excluded. However, the issuer would have to satisfy all the other provisions of the Rule with respect to such persons.

Paragraph (g)(2)(ii) provides that corporations, partnerships, trusts and certain other entities will be counted as one purchaser unless the entity was formed for the specific purpose of acquiring the securities offered, in which case each beneficial owner of an equity interest in the entity would be counted as a separate purchaser.

The rule as proposed would have treated clients of an investment adviser as separate persons in determining the number of persons to whom securities could be sold, regardless of the amount of discretion given to the investment adviser to act on behalf of the client in purchasing securities. The Commission received many comments suggesting that an investment adviser, broker-dealer or trust department that purchases securities for discretionary or advisory accounts should count as only one person for purposes of the Rule. Having reviewed the comments and considered the matter, the Commission still believes that, in order to avoid the possibility of a distribution, it is necessary to count each purchaser as a separate person for purposes of paragraph (g). This position is now set forth in Preliminary Note 5, discussed above. In determining the number of purchasers in an offering pursuant to the Rule each client of an investment adviser, each customer of a broker-dealer and each trust administered by a bank trust department will be counted as a separate purchaser. Pursuant to paragraph (g)(2)(ii), investment companies or pension or other trusts will be counted on one purchaser. However, each trust or investment company or group of trusts or investment companies under common management will be treated as a separate purchaser.

Rule 146(h): limitations on disposition. The Rule also provides that the issuer and any person acting on its behalf must take reasonable care to assure that the purchasers are not underwriters. Such reasonable care shall include but is not necessarily limited to (1) making reasonable inquiry to determine if the purchaser is purchasing for his own account or on behalf of others; (2) placing a legend on the certificates or other documents evidencing the securities indicating that they were not registered and setting forth or referring to the restrictions on transferability and sale; (3) issuing stop transfer instructions to the transfer agent, if any, or making an appropriate notation in the issuer's records if the issuer transfers its own securities; and (4) except as provided in paragraph (f)(2), obtaining a written agreement from the purchaser that the securities will not be resold without registration or exemption therefrom. The Commission believes that these limitations are necessary in order to protect the public from a deferred distribution. They are also in the self interest of the issuer.

Deletion of proposed rule 146(i): report of sale. The Commission has decided to delete the requirement that a report of sales made pursuant to Rule 146 be filed on Form 146. As the rule was last proposed, a report of sales had to be filed within 45 days after the end of any quarter of the issuer's fiscal year during which certain sales were effected pursuant to the proposed Rule. The Commission has determined that requiring the filing of such a Form as a condition of the Rule would unnecessarily increase the difficulty of complying with the Rule for many small issuers. In addition, filing requirements would generally affect only non-public companies, since public companies already supply similar information in their Form 10–Q and Form 10–K filings under the Exchange Act. The Commission will reexamine the need for a filing requirement after experience with the Rule has been gained, and if appropriate for the protection of investors and in the public interest, will propose amendments to the Rule to require such form.

Operation of Rule 146

The Rule will operate prospectively only starting from its effective date, June 10, 1974. Further, the staff will issue interpretive letters to assist persons in complying with the Rule. Although the staff will continue to consider no-action requests relating to section 4(2) of the Act, such letters will only be issued infrequently and only in the most compelling circumstances.

The Commission recognizes that no one rule adequately cover all legitimate private offerings and sales of securities. It is to be emphasized that the Rule does not provide the exclusive means for offering and selling securities in reliance on section 4(2). Issuers who satisfy the criteria set forth in relevant judicial and administrative interpretations of section 4(2) in effect at the time of a proposed transaction may offer and sell without compliance with the Rule. In addition, it should be noted that attempted compliance with Rule 146 does not act as an election so that the issuer can always claim the protection of both the Rule and section 4(2), but will have the burden of proving the availability of the exemption.

The courts and the Commission have consistently held that one claiming an exemption under section 4(2) of the Act has the burden of proving that the exemption is available to him and the Rule

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does not shift that burden. In addition, it should be pointed out that the burden of proof applies with respect to each offeree and not just to the purchasers of the securities. See Lively v. Hirschfeld, 440 F. 2d 631 (10th Cir. 1971). Accordingly, any issuer who relies on the Rule has the burden of establishing that it has satisfied all the conditions of the Rule. Such issuer for its own protection should obtain and retain in its files written evidence that would assist in meeting this evidentiary burden.

The Commission has determined not to include within the terms and conditions of Rule 146 specific standards for determining whether a private offering should be regarded as a part of a larger public offering for which the exemption provided by section 4(2) would not be available. The Commission rather has determined that its existing guidelines relating to integration of offerings as set forth in Securities Act Release No. 4552 (27 FR 11316)[1] should apply to offerings made pursuant to Rule 146. The Commission believes that the following factors discussed in that Release are relevant to the question of integration: Whether (1) The offerings are part of a single plan of financing, (2) the offerings involve issuance of the same class of security, (3) the offerings are made at or about the same time, (4) the same type of consideration is to be received, and (5) the offerings are made for the same general purpose.

In view of the objectives and policies underlying the Act, the Rule is not available to any issuer with respect to any transaction which, although in technical compliance with the provisions of the Rule, is part of a plan or scheme to evade the registration provisions of the Act. In such case, registration is required.

Rule 146 relates to transactions exempted by section 4(2) of the Act from the registration provisions of section 5; it does not provide an exemption from the anti-fraud provisions of the securities laws or the civil liabilities provisions of section 12(2) of the Act or other provisions of the securities laws. In addition, investment companies or persons acting on their behalf proposing to offer or sell securities in reliance on the Rule should carefully consider all applicable provisions of the Investment Company Act of 1940 before proceeding.

The Rule is available only to the issuer of the securities and not to affiliates or other persons reselling or otherwise disposing of securities of the issuer. Such disposition must be made in compliance with the registration provisions of the Act unless an exemption from such provisions is available. Also, the Rule does not relieve issuers of their obligations under relevant state laws.

It should be recognized that the Rule is intended to be in the nature of an experiment and that the Commission will observe its operation to determine whether it is consistent with the objectives of the Act. If experience with the proposed Rule indicates that it is not operating for the protection of investors or in the public interest, it will be rescinded or appropriately amended.

Section 230.146 is added to 17 CFR Part 230 to read as follows:

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

PRELIMINARY NOTES

1. The Commission recognizes that no one rule can adequately cover all legitimate private offers and sales of securities. Transactions by an issuer which do not satisfy all of the conditions of this rule shall not raise any presumption that the exemption provided by section 4(2) of the Act is not available for such transactions. Issuers wanting to rely on that exemption may do so by complying with administrative and judicial interpretations in effect at the time of the transactions. Attempted compliance with this rule does not act as an election; the issuer can also claim the availability of section 4(2) outside the rule.

2. Nothing in this rule obviates the need for compliance with any applicable state law relating to the offer and sale of securities.

3. Section 5 of the Act requires that all securities offered by the use of mails or other channels of interstate commerce be registered with the Commission. Congress, however, provided certain exemptions in the Act from such registration provisions where there was no practical need for registration or where the public benefits of registration were too remote. Among these exemptions is that provided by section 4(2) of the Act for transactions by an issuer not involving any public offering. The courts and the Commission have interpreted the section 4(2) exemption to be available for offerings to persons who have access to the same kind of information that registration would provide and who are able to fend for themselves. The indefiniteness of such terms as "public offering," "access" and "fend for themselves" has led to uncertainties with respect to the availability of the section 4(2) exemption. Rule 146 is designed to provide, to the extent feasible, objective standards upon which responsible businessmen may rely in raising capital under claim of the section 4(2) exemption and also to deter reliance on that exemption for offerings of securities to persons who need the protections afforded by the registration process.

In order to obtain the protection of the rule, all its conditions must be satisfied and the issuer claiming the availability of the rule has the burden of establishing, in an appropriate form, that it has satisfied them. The burden of proof applies with respect to each offeree as well as each purchaser. See "Lively v. Hirschfeld," 440 F. 2d 631 (10th Cir. 1971). Broadly speaking, the conditions of the rule relate to limitations on the manner of the offering, the nature of the offerees, access to or furnishing of information, the number of purchasers, and limitations on disposition.

The term "offering" is not defined in the rule. The determination as to whether offers, offers to sell, offers for sale, or sales of securities are part of an offering (i.e., are deemed to be "integrated") depends on the particular facts and circumstances. See Securities Act Release No. 4552 (November 6, 1962) (27 FR 11316). All offers, offers to sell, offers for sale, or sales which are part of an offering must meet all of the conditions of Rule 146 for the rule to be available. Release 33-4552 indicates that in determining whether offers and sales should be regarded as a part of a larger offering and thus should be integrated, the following factors should be considered:

(a) Whether the offerings are part of a single plan of financing;

(b) Whether the offerings involve issuance of the same class of security;

(c) Whether the offerings are made at or about the same time;

(d) Whether the same type of consideration is to be received; and

(e) Whether the offerings are made for the same general purpose.

4. Rule 146 relates to transactions exempted from section 5 by Section 4(2) of the Act. It does not provide an exemption from the anti-fraud provisions of the securities laws or the civil liability provisions of section 12(2) of the Act or other provisions of the securities laws, including the Investment Company Act of 1940.

5. Clients of an investment adviser, customers of a broker or dealer, trusts administered by a bank trust department or persons with similar relationships shall be considered to be the "offerees" or "purchasers" for purposes of the rule regardless of the amount of discretion given to the investment adviser, broker or dealer, bank trust department or other person to act on behalf of the client, customer or trust.

6. The rule is available only to the issuer of the securities and is not available to affiliates or other persons for sales of the issuer's securities.

7. Finally, in view of the objectives of the rule and the purposes and policies underlying the Act, the rule is not available to any issuer with respect to any transactions which, although in technical compliance with the rule, are part of a plan or scheme to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

(a) *Definitions.* The following definitions shall apply for purposes of this rule.

(1) *Offeree representative.* The term "offeree representative" shall mean any person or persons, each of whom the issuer and any person acting on its behalf, after making reasonable inquiry, have reasonable grounds to believe and believe satisfies all of the following conditions:

(i) Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of 10 percent or more of any class of the equity securities or 10 percent or more of the equity interest in the issuer, except where the offeree is:

(*a*) Related to such person by blood, marriage or adoption, no more remotely than as first cousin;

(*b*) Any trust or estate in which such person or any persons related to him as specified in paragraph (a)(1)(i) (*a*) or (*c*) of this section collectively have 100 percent of the beneficial interest (excluding contingent interests) or of which any such person serves as trustee, executor, or in any similar capacity; or

(*c*) Any corporation or other organization in which such person or any persons related to him as specified in paragraph (a)(1)(i) (*a*) or (*b*) of this section collectively are the beneficial owners of 100 percent of the equity securities (excluding directors' qualifying shares) or equity interest;

(ii) Has such knowledge and experience in financial and business matters that he, either alone, or together with other offeree representatives or the offeree, is capable of evaluating the merits and risks of the prospective investment;

(iii) Is acknowledged by the offeree, in writing, during the course of the transaction, to be his offeree representative in connection with evaluating the merits and risks of the prospective investment; and

(iv) Discloses to the offeree, in writing, prior to the acknowledgement specified in paragraph (a)(1)(iii) of this section, any material relationship between such person or its affiliates and the issuer or its affiliates, which then exists or is mutually understood to be contemplated or which has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

NOTE 1: Persons acting as offeree representatives should consider the applicability of the registration and anti-fraud provisions relating to brokers and dealers under the Securities Exchange Act of 1934 and relating to investment advisers under the Investment Advisers Act of 1940.

NOTE 2: The acknowledgement required by paragraph (a)(1)(iii) of this section and the disclosure required by paragraph (a)(1)(iv) of this section must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for "all securities transactions" or "all private placements", is not sufficient.

NOTE 3: Disclosure of any material relationships between the offeree representative or its affiliates and the issuer or its affiliates does not relieve the offeree representative of its obligation to act in the interest of the offeree.

(2) *Issuer.* The definition of the term "issuer" in section 2(4) of the Act shall apply, provided that notwithstanding that definition, in the case of a proceeding under the Bankruptcy Act, the trustee, receiver, or debtor in possession shall be deemed to be the issuer in an offering for purposes of a plan of reorganization or arrangement, if the securities offered are to be issued pursuant to the plan, whether or not other like securities are offered under the plan in exchange for securities of, or claims against, the debtor.

(3) *Affiliate.* The term "affiliate" of a person means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such person.

(4) *Material.* The term "material" when used to modify "relationship" means any relationship that a reasonable investor might consider important in the making of the decision whether to acknowledge a person as his offeree representative.

(b) *Conditions to be met.* Transactions by an issuer involving the offer, offer to sell, offer for sale or sale of securities of the issuer that are part of an offering that is made in accordance with all the conditions of this rule shall be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act.

(1) For purposes of this rule only, an offering shall be deemed not to include offers, offers to sell, offers for sale or sales of securities of the issuer pursuant to the exemptions provided by section 3 or section 4(2) of the Act or pursuant to a registration statement filed under the Act, that take place prior to the six month period immediately preceding or after the six month period immediately following any offers, offers for sale or sales pursuant to this rule, *Provided*, That there are during neither of said six month periods any offers, offers for sale or sales of securities by or for the issuer of the same or similar class as those offered, offered for sale or sold pursuant to the rule.

NOTE: In the event that securities of the same or similar class as those offered pursuant to the rule are offered, offered for sale or sold less than six months prior to or subsequent to any offer, offer for sale or sale pursuant to the rule, see Preliminary Note 3 hereof as to which offers, offers to sell, offers for sale or sales may be deemed to be part of the offering.

(c) *Limitations on manner of offering.* Neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities by means of any form of general solicitation or general advertising, including but not limited to, the following:

(1) Any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio;

(2) Any seminar or meeting, except that if paragraph (d)(1) of this section is satisfied as to each person invited to or attending such seminar or meeting, and, as to persons qualifying only under paragraph (d)(1)(ii) of this section, such persons are accompanied by their offeree representative(s), then such seminar or meeting shall be deemed not to be a form of general solicitation or general advertising; and

(3) Any letter, circular, notice or other written communication, except that if paragraph (d)(1) of this section is satisfied as to each person to whom the communication is directed and the communication contains an undertaking to provide the information specified by paragraph (e)(1) of this section on request, such communication shall be deemed not to be a form of general solicitation or general advertising.

(d) *Nature of offerees.* The issuer and any person acting on its behalf who offer, offer to sell, offer for sale or sell the securities shall have reasonable grounds to believe and shall believe:

(1) Immediately prior to making any offer, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree is a person who is able to bear the economic risk of the investment; and

(2) Immediately prior to making any sale, after making reasonable inquiry, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree and his offeree representative(s) together have such knowledge and experience in financial and business matters that they are capable of evaluating the merits and risks of the prospective investment and that the offeree is able to bear the economic risk of the investment.

(e) *Access to or furnishing of information.*

NOTE: Access can only exist by reason of the offeree's position with respect to the issuer. Position means an employment or family relationship or economic bargaining power that enables the offeree to obtain information from the issuer in order to evaluate the merits and risks of the prospective investment.

(1) Either

(i) Each offeree shall have access during the course of the transaction and prior to the sale to the same kind of information that is specified in Schedule A of the Act, to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense; or

(ii) Each offeree or his offeree representative(s), or both, shall have been furnished during the course of the transaction and prior to sale, by the issuer or any person acting on its behalf, the same kind of information that is specified in Schedule A of the Act, to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense. This condition shall be deemed to be satisfied as to an offeree if the offeree or his offeree representative is furnished with information, either in the form of documents actually filed with the Commission or otherwise, as follows:

(*a*) In the case of an issuer that is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934:

(*1*) The information contained in the annual report required to be filed under the Exchange Act or a registration statement on Form S-1 under the Act or on Form 10 under the Exchange Act, whichever filing is the most recent required to be filed, and the information contained in any definitive proxy statement required to be filed pursuant to section 14 of the Exchange Act and in any reports or documents required to be filed by the issuer pursuant to section 13(a) or 15(d) of the Exchange Act, since the filing of such annual report or registration statement, and

(*2*) A brief description of the securities being offered, the use of the proceeds from the offering, and any material changes in the issuer's affairs which are not disclosed in the documents furnished;

(*b*) In the case of all other issuers, the information that would be required to be included in a registration statement filed under the Act on the form which the issuer would be entitled to use, *Provided, however*, That if the issuer

[1] Issued November 6, 1962.

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does not have the audited financial statements required by such form and cannot obtain them without unreasonable effort or expense, such financial statements may be provided on an unaudited basis;

(c) Notwithstanding paragraph (e)(1)(ii) (a) and (b) of this section exhibits required to be filed with the Commission as part of a registration statement or report need not be furnished to each offeree or offeree representative if the contents of the exhibits are identified and such exhibits are available pursuant to paragraph (e)(2) of this section; and

(2) The issuer shall make available, during the course of the transaction and prior to sale, to each offeree or his offeree representative(s) or both, the opportunity to ask questions of, and receive answers from, the issuer or any person acting on its behalf concerning the terms and conditions of the offering and to obtain any additional information, to the extent the issuer possesses such information or can acquire it without unreasonable effort or expense, necessary to verify the accuracy of the information obtained pursuant to paragraph (e)(1) of this section; and

(3) The issuer or any person acting on its behalf shall disclose to each offeree, in writing, prior to sale:

(i) Any material relationship between his offeree representative(s) or its affiliates and the issuer or its affiliates, which then exists or mutually is understood to be contemplated or which has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship;

(ii) That a purchaser of the securities must bear the economic risk of the investment for an indefinite period of time because the securities have not been registered under the Act and, therefore, cannot be sold unless they are subsequently registered under the Act or an exemption from such registration is available; and

(iii) The limitations on disposition of the securities set forth in paragraph (h)(2), (3), and (4) of this section.

NOTE: Information need not be provided and opportunity to obtain additional information need not be continued to be provided to any offeree or offeree representative who, during the course of the transaction, indicates that he is not interested in purchasing the securities offered, or, except in the case of any undertaking made pursuant to paragraph (c)(3), to whom the issuer or any person acting on its behalf has determined not to sell the securities.

(f) *Business combinations.* (1) The term "business combination" shall mean any transaction of the type specified in paragraph (a) of Rule 145 under the Act.

(2) All the conditions of this rule except paragraph (d) and paragraph (h)(4) of this section shall apply to business combinations.

NOTE: Notwithstanding the absence of a written agreement pursuant to paragraph (h)(4), any securities acquired in an offering pursuant to paragraph (f) are restricted and may not be resold without registration under the Act or an exemption therefrom.

(3) For purposes of paragraph (f) only, the issuer and any person acting on believe, and shall believe, at the time that any plan for a business combination is submitted to security holders for their approval, that each offeree either alone or with his offeree representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(4) In addition to information by paragraph (e), the issuer shall provide, in writing, to each offeree at the time the plan is submitted to security holders for approval, information about any terms or arrangements of the proposed transaction relating to any security holder that are not identical to those relating to all other security holders.

(g) *Number of purchasers.* (1) There shall be no more than thirty-five purchasers of the securities of the issuer from the issuer in any offering pursuant to the rule.

NOTE: See paragraph (b)(1) of this section, the note thereto and the Preliminary Notes as to what may or may not constitute an offering pursuant to the rule.

(2) For purposes of computing the number of purchasers for paragraph (g)(1) of this section only:

(i) The following purchasers shall be excluded:

(a) Any relative or spouse of a purchaser and any relative of such spouse, who has the same home as such purchaser; and

(b) Any trust or estate in which a purchaser or any of the persons related to him as specified in paragraph (g)(2)(i) (a) or (c) of this section collectively have 100 percent of the beneficial interest (excluding contingent interests);

(c) Any corporation or other organization of which a purchaser or any of the persons related to him as specified in paragraph (g)(2)(i) (a) or (b) of this section collectively are the beneficial owners of all the equity securities (excluding directors' qualifying shares) or equity interest; and

(d) Any person who purchases or agrees in writing to purchase for cash in a single payment or installments, securities of the issuer in the aggregate amount of $150,000 or more.

NOTE: The issuer would have to satisfy all the other provisions of the rule with respect to the purchasers specified in subdivision (g)(2)(i).

(ii) There shall be counted as one purchaser any corporation, partnership, association, joint stock company, trust or unincorporated organization, except that if such entity was organized for the specific purpose of acquiring the securities offered, each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser.

NOTE: See Preliminary Note 5 as to other persons who are considered to be purchasers.

(h) *Limitations on disposition.* The issuer and any person acting on its behalf shall exercise reasonable care to assure that the purchasers of the securities in the offering are not underwriters within the meaning of section 2(11) of the Act. Such reasonable care shall include, but not necessarily be limited to, the following:

(1) Making reasonable inquiry to determine if the purchaser is acquiring the securities for his own account or on behalf of other persons;

(2) Placing a legend on the certificate or other document evidencing the securities stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities;

(3) Issuing stop transfer instructions to the issuer's transfer agent, if any, with respect to the securities, or, if the issuer transfers its own securities, making a notation in the appropriate records of the issuer; and

(4) Obtaining from the purchaser a signed written agreement that the securities will not be sold without registration under the Act or exemption therefrom.

NOTE: Paragraph (h)(4) of this section does not apply to business combinations as described in paragraph (f) of this section. Notwithstanding the absence of a written agreement, the securities are restricted and may not be resold without registration under the Act or an exemption therefrom. The issuer for its own protection should consider, however, obtaining such written agreement even in business combinations.

The Commission hereby adopts Rule 146 pursuant to sections 4(2) and 19(a) of the Securities Act of 1933, as amended, effective June 10, 1974 for offerings commencing on or after that date. The Commission finds that the changes reflected in the Rule as adopted, from the rule as last proposed for comment, are technical or generally have already been subject to public comment, and that further notice and other rule making procedures pursuant to the Administrative Procedure Act are not necessary.

(Secs. 4(2), 19(a), 48 Stat. 77, 85, sec. 209, 48 Stat. 908, sec. 12, 78 Stat. 580 (15 U.S.C. 77d(2), 77s(a)))

Effective date: June 10, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

APRIL 23, 1974.

[FR Doc.74-10079 Filed 5-1-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Food Label Information Panel; Exemptions for Small Food Packages

In the FEDERAL REGISTER of December 5, 1973 (38 FR 33492), the Commissioner of Food and Drugs published proposed exemptions from the type size requirements

of § 1.8d (21 CFR 1.8d) for small packages. Six comments, four from industry and two from trade associations, were received in response to the proposal. One comment agreed with the proposal. The other comments requested clarification and/or an expansion of the proposed exemptions to encompass additional package types. The points raised and the Commissioner's responses are as follows:

1. One comment requested that the proposed § 1.8d(c)(2), which provides an exemption for packages with a single, obvious principal display panel of less than 12 square inches and no other available surface area, be expanded to include packages with a total surface area of less than 10 square inches.

The Commissioner recognizes that small packages with a total area of less than 12 square inches available for labeling would have no more space available for labeling than those packages with a single, obvious principal display panel of the same area. Section 1.8d(c)(2) was intended to encompass such packages with a total surface area of less than 12 square inches. To clarify this intention, § 1.8d(c) is modified to include a new paragraph (c)(3) providing for such packages.

2. One comment objected because the exemption would not encompass those packages bearing spot labels too small to include labeling in the type size required by § 1.8d. This comment asserted that spot labels large enough to contain all of the necessary information could not be used on some packages if a type size greater than 1/32 inch is required.

The Commissioner recognizes that certain small packages have available surface area that is insufficient in size to bear all information pursuant to § 1.8d in the required type size. Therefore, packages with either a total surface area of less than 12 square inches, or a single obvious principal display panel of less than 12 square inches are exempt from the 1/16 inch type requirement of § 1.8d provided that the information required by 1.8d is not less than 1/32 inch in height. In addition, other small packages meeting the qualifications of § 1.8d(c)(1) are exempted from the 1/16 inch type size if the required information is not less than 3/64 inch in height. However, for packages larger than those provided for by § 1.8d(c), the Commissioner advises, as he did in the preamble to the proposal, that there is not justification for granting exemptions because of small label size when available container or package surface area has not been fully utilized. No exemptions will be given for spot labels that are not sufficient in size, or the size of which is not in accordance with § 1.7 (21 CFR 1.7).

3. One comment requested that § 1.8d(c)(1) be amended to provide for a type size of 1/32 inch rather than 3/64 inch because the requirement for this additional type size serves no useful function. It was argued that the difference between 1/32 inch and 3/64 inch does not seem sufficiently great to justify an additional size.

The regulation grants a reduction in the type size required by § 1.8d only to the extent necessary to accommodate the size of the package. The Commissioner concluded, when he proposed § 1.8d(c), that packages provided for by § 1.8d(c)(1) are sufficient in size to bear information required by § 1.8d in 3/64 inch. Information submitted in the comment was insufficient to demonstrate that the packages are too small to bear labeling in the required 3/64 inch size or that there is no benefit in a type size as large as practical.

4. Two comments requested clarification regarding the determination of the area of the principal display panel of tub type containers. The argument was made that a tub lid cannot bear printing closer than 1/4 inch from the edge of the lid, and therefore that, in determining the area of the principal display panel, only the printable surface should be considered.

The Commissioner recognizes that it is the area of surface available for labeling which determines the size of the type possible for labeling, and § 1.8d(c)(1)(ii) and (2)(ii) have been changed accordingly.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 701(a), 52 Stat. 1048, 1055 (21 U.S.C. 343), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 1 is amended in § 1.8d by adding thereto new paragraph (c)(1), (2), and (3) to read as follows:

§ 1.8d Food labeling; information panel.

• • • • •

(c) • • •

(1) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a surface area that can bear an information panel and/or an alternate principal display panel.

(ii) The area of surface available for labeling on the principal display panel of the package as this term is defined in § 1.7 is less than 10 square inches.

(iii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 3.88 of this chapter.

(iv) The information required by paragraph (b) of this section appears on the single, obvious principal display panel in accordance with the provisions of this paragraph (c) except that the type size is not less than 1/32 inch in height.

(2) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a single "obvious principal display panel" as this term is defined in § 1.7 and has no other available surface area for an information panel or alternate principal display panel.

(ii) The area of surface available for labeling on the principal display panel of the package as this term is defined in § 1.7 is less than 12 square inches and bears all labeling appearing on the package.

(iii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 3.88 of this chapter.

(iv) The information required by paragraph (b) of this section appears on the single, obvious principal display panel in accordance with the provisions of this paragraph (c) except that the type size is not less than 1/32 inch in height.

(3) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a total surface area available to bear labeling of less than 12 square inches.

(ii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 3.88 of this chapter.

(iii) The information required by paragraph (b) of this section appears on the principal display panel or information panel label in accordance with the provisions of this paragraph (c) except that the type size is not less than 1/32 inch in height.

• • • • •

Effective date. This order shall become effective on June 3, 1974.

(Secs. 403, 701(a), 52 Stat. 1048, 1055; (21 U.S.C. 343, 371(a).))

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10044 Filed 5-1-74;8:45 am]

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Ozone Generators and Other Devices Generating Ozone; Correction

In FR Doc. 74-8754 appearing at page 13773 in the FEDERAL REGISTER of April 17, 1974, the statement in the eighth line of paragraph (c)(1) of § 3.96 appearing in the second column on page 13774, which reads "76 millimeters of mercury", is corrected to read "760 millimeters of mercury".

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10043 Filed 5-1-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Anhydrous Ammonia

The Commissioner of Food and Drugs having evaluated the data submitted in

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the petition (MF-3451V) filed by Ruminant Nitrogen Products Co., P.O. Box 206, Adrian, MI 49221, and other relevant material, concludes that the food additive regulations (21 CFR Part 121) should be amended to provide for the safe use of anhydrous ammonia in molasses mineral premixes for addition to corn silage for cattle feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; (21 U.S.C. 348(c)(1))), and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding thereto in Subpart C the following new section:

§ 121.209 Anhydrous ammonia.

The food additive anhydrous ammonia may be safely used in accordance with the following conditions:

(a) The food additive is used as a component of an aqueous premix which includes ammonia, molasses and minerals so that the premix contains not less than 16 percent nor more than 17 percent ammonia and not less than 83 percent crude protein.

(b) The premix is used or intended for use for mixing with corn plant material prior to ensiling, as a source of nonprotein nitrogen and minerals.

(c) To assure safe use, the label and labeling of the premix shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the quantity of ammonia contained therein.

(3) The maximum percentage of equivalent crude protein from non-protein nitrogen.

(4) An expiration date that is not more than 10 weeks following the date of its manufacture.

(5) A statement that silage treated with the additive is to be fed to cattle only.

(6) A statement that additional protein should not be fed to lactating dairy cows producing less than 32 pounds of milk per day, or beef cattle consuming less than 1 percent of body weight daily in shelled corn.

(7) A warning statement to read as follows: "Warning—Use only as directed; additional trace mineral supplementation should not be fed with treated silage".

Any person who will be adversely affected by the foregoing order may at any time on or before June 3, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective May 2, 1974.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10046 Filed 5-1-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfadimethoxine

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (13-602V) filed by Haver-Lockhart Laboratories, Kansas City, MO 64141, proposing revised labeling for safe and effective use of sulfadimethoxine tablets in the treatment of certain bacterial infections in dogs. The supplemental application is approved. Accordingly, 21 CFR 135c.13(b) is being amended to add an additional sponsor.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.13 is amended by adding a new paragraph (b)(4) to read as follows:

§ 135c.13 Sulfadimethoxine.

• • • • • •

(b) *Sponsor.* • • •

(4) For item 2 in table 2, paragraph (e), see Code No. 074 in § 135.501(c) of this chapter, for dogs only.

• • • • • •

Effective date. This order shall be effective May 2, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: April 25, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-10045 Filed 5-1-74;8:45 am]

PART 135—NEW ANIMAL DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

The Commissioner of Food and Drugs has evaluated the following new animal drug applications proposing the safe and effective use of tylosin premix in the manufacture of animal feed:

Alton Premium Feed Co., Alton, IA 51003 (48-766V);
Cadco, Inc., Des Moines, IA 50322 (91-783V);
Farmers Union Grain Terminal Association, Sioux Falls, SD 57101 (96-160V);
Feed Fortifiers, Inc., Manson, IA 50563 (93-518V);
International Nutrition, Inc., Omaha, NE 68117 (95-551V);
Ralston Purina, St. Louis, MO 63199 (49-190V, 43-541V, 43-387V);
Yoder, Inc., Kalona, IA 52247 (96-161V);
Heinold Elevator Co., Inc., Kouts, IN 46347 (95-628V).

The applications filed by the applicants listed above are approved.

To facilitate referencing, those firms not previously assigned numbers are being assigned code numbers and placed in the list of firms in § 135.501(c) (21 CFR 135.501(c)).

Section 135e.10 is being amended in paragraph (b) to list the premix levels approved and in paragraph (d) to provide that finished swine feeds processed from premixes containing not more than 10 grams per pound need not comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135e are amended as follows:

1. In Part 135 by adding to § 135.501 (c) new sponsors as follows:

§ 135.501 Names, addresses and code numbers of sponsors of approved applications.

• • • • • •

(c) • • •

Code No.	*Firm name and address*
•	• • • • •
106	Feed Fortifiers, Inc., Manson, IA 50563.
107	International Nutrition, Inc., 6664 L St., Omaha, NE 68117.
108	Cadco, Inc., P.O. Box 3699, 10100 Douglas Ave., Des Moines, IA 50322.
109	Heinold Elevator Co., Inc., Kouts, IN 46347.
•	• • • • •
111	Alton Premium Feed Co., Alton, IA 51003.
112	Farmer's Union Grain Terminal Association, Feed Division, P.O. Box 1447, Sioux Falls, SD 57101.
113	Yoder, Inc., Kalona, IA 52247.

2. In Part 135e by revising § 135e.10 (b) and (d) to read as follows:

§ 135e.10 Tylosin.

• • • • • •

(b) *Approvals.* Premix levels of tylosin granted to firms as sponsor(s) and identified by code numbers in § 135.501 (c) of this chapter for the specific usage indicated in paragraph (f) of this section:

(1) To 014: 10, 40, and 100 grams per pound; items 1 through 11.

(2) To 106: 10 grams per pound; item 4.

(3) To 107: 4 and 10 grams per pound; item 4.

(4) To 108: 10 grams per pound; item 4.

(5) To 047: 0.4, 0.8, 10 and 40 grams per pound; item 4.

(6) To 111: 0.66, 1.33, 6.66 grams per pound; item 4.

(7) To 112: 0.4 grams per pound; item 4.

(8) To 113: 4 grams per pound; item 4.

(9) To 109: 4 and 10 grams per pound; item 4.

• • • • • •

(d) *Special considerations.* The manufacture of finished feeds containing tylosin phosphate) does not require compliance with the provisions of section 512 (m) of the Federal Food, Drug, and Cosmetic Act if:

(1) Processed from feed supplements or concentrates for:

(i) Chickens at not more than 200 grams per ton.

(ii) Swine at not more than 500 grams per ton.

(iii) Cattle at not more than 360 grams per ton and complying with item 11 in the table in paragraph (f)(1) of this section.

(2) Processed from premixes which contain not more than 10 grams of tylosin per pound and conforming to the provisions of item 4 in the table in paragraph (f)(1) of this section.

• • • • • •

Effective date. This order shall be effective May 2, 1974.

(Sec. 512(i), 82 Stat. 347; (21 U.S.C. 360b(i).))

Dated: April 25, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-10042 Filed 5-1-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-6 R]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Areas, Henderson Harbor, New York

This amendment to the Anchorage Regulations is based on a notice of proposed rulemaking published in the January 11, 1974 issue of the FEDERAL REGISTER (39 FR 1638). The amendment establishes two special anchorage areas in Henderson Harbor, New York. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Ninety-four comments were received as a result of the notice of proposed rulemaking. Ninety comments concurred with and supported the proposal. Four comments objected to the proposal.

One objection stated that boats anchored without lights would create a hazardous situation, especially for small outboard boats and water skiers. The objection also pointed out that in 1973 because of northeast winds, several boats broke their moorings and damaged private property. On the navigable waters of the United States, the public may exercise its right of navigation in a reasonable manner and this includes the rights of anchorage and moorage. The anchorage areas will be administered by the Town of Henderson Harbormaster who will have the responsibility to prescribe standards of safe ground tackle to prevent boats from parting their moorings and inflicting damage to private property.

Another adverse comment included the recommendation that covered stalls be constructed. This is not practicable for sailboats with high masts. The objection also stated that the establishment of the special anchorage areas would deprive shoreline property owners access to their property. The proposed anchorages provide ample access to shoreline property. The objection also stated that sailboat owners throw their garbage into the bay. There is a Federal law (33 U.S.C. 407) that prohibits the dumping of refuse into the navigable waters of the United States.

Two objections indicated that the Town of Henderson Harbormaster can exclude a non-member of the Henderson Harbor Yacht Club from the anchorages. As stated in the preamble of the notice of proposed rulemaking, special anchorage areas are for the general use of the public and vessels may not unreasonably be denied use of these areas. By providing that the Town of Henderson Harbormaster administer the anchorages, access to the anchorages by the public will be assured.

Another objection stated that boats moored in the area would interfere with safe ingress and egress to the private property which adjoins the Henderson Harbor Yacht Club. The proposal provides for a 300 foot clear access which will afford safe access to the property.

In consideration of the foregoing, the proposed amendment is adopted without change and is set forth below.

Effective date. This amendment is effective June 3, 1974.

APRIL 29, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard
Chief, Office of Marine Environment and Systems.

Part 110 of Title 33 of the Code of Federal Regulations is amended by adding a new § 110.87 to read as follows:

§ 110.87 Henderson Harbor, New York.

(a) *Area A.* The area in the southern portion of Henderson Harbor west of the Henderson Harbor Yacht Club bounded by a line beginning at the point of land, approximately 150 feet west of the Graham Creek Range Rear Light; thence 180°, 50 feet; thence 275°, 810 feet; thence 000°, 1,500 feet; thence 090°, 700 feet; thence 177°, 1,250 feet to the point of land approximately 160 feet west of the Graham Creek Range Forward Light; thence along the shoreline to the point of beginning.

(b) *Area B.* The area in the southern portion of Henderson Harbor north of Graham Creek Entrance Light bounded by a line beginning at a point 000°, 700 feet from Graham Creek Entrance Light; thence 357°, 1,200 feet; thence 090°, 500 feet; thence 177°, 1,200 feet; thence 270°, 500 feet to the point of beginning.

NOTE: Permission must be obtained from the Town of Henderson Harbormaster before any vessel is moored or anchored in this special anchorage area.

(Sec. 1, 28 Stat. 647, as amended (33 U.S.C. 258); sec. 6(g)(1)(C), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(C); 49 CFR 1.46(c)(3)))

[FR Doc.74-10037 Filed 5-1-74;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

TEMPORARY RATE CHARGES

Correction

In FR Doc. 74-8819 appearing at page 14202 in the issue for Monday, April 22, 1974, the following changes should be made:

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1. The sequential order of the numerals on page 14203 under § 132.1 (a) (1) now reading "(i), (iii), (vi), (ii), (v), (iv)" should read "(i), (ii), (iii), (iv), (v), (vi)."

2. On page 14204 in the first column under § 132.1(b)(1)(ii)(a), in the second line, the letter "(a)" should read "(b)" and in paragraph (b)(1)(ii)(b), the first word should read "Publications".

3. On page 14207 in the first table (§ 135.1(d)), under "Each additional pound or fraction", insert the number "3" under "*Cents*".

4. On page 14207 in the last table (§ 136.1(b)), under Zone 5, the last number now reading "22.07" should read "12.07".

5. On page 14208 in the table (§ 136.1 (b)), the 21st, 22nd, and 23rd numbers, under zone 8, now reading "29.26", "30.82", and "30.64" should read "29.62", "30.24", and "30.86".

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts; Approval of Plan Revision

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act, the Administrator approved a plan implementing National Ambient Air Quality Standards for the State of Massachusetts. This publication contains the Administrator's approval/disapproval of a revision to that plan.

In a telegram dated December 7, 1973, sent to the owners of 26 utilities in the Northeastern United States, William E. Simon, Administrator, Federal Energy Office, urged them to convert their power plants to coal as soon as possible in order to help alleviate the oil shortage. The criteria used for compiling this list of 26 were: (a) Technical' feasibility to convert to coal in the short-run; (b) minimal risk of violations of primary ambient air quality standards; and (c) estimated surge capacity of the coal industry to meet coal requirements for the plants selected. Although the Salem Harbor plant was not one of the original 26 plants listed, a similar telegram was sent to the New England Power Company on January 11, 1974 with a copy to the Governor of Massachusetts urging that this plant also convert to coal. Thereafter, the Massachusetts Department of Public Health approved the conversion of this plant to burn coal with a sulfur content not in excess of 2.5 percent and ash content not in excess of 15 percent.

A preliminary EPA analysis on coal conversions indicates that the Salem Harbor plant should be able to convert to coal without causing a significant environmental hazard for the time period considered. However, because of the meteorology in the area, a good monitoring network in the plant impact area should be established.

On January 16, 1974, the Massachusetts Department of Public Health (the Department) submitted for approval a plan revision in the form of a variance which would allow the use of coal containing a maximum of 2.5 percent sulfur and 15 percent ash in units 1, 2, and 3 at the Salem Harbor facility from the date of EPA approval until May 15, 1974.

After a careful evaluation of the State's submittal, the Administrator has determined that it is in accordance with the procedural requirements of 40 CFR Part 51. The Administrator has determined based on information submitted by the State, corroborated by the Agency's own information, that the substantive requirements of 40 CFR Part 51 have also been met as they apply to the Salem Harbor facility. It has been determined that the time and degree of this relaxation are appropriate based on the information available concerning the nationwide fuel shortage and the shortfall of fuel oil which the Salem Harbor plant is experiencing.

Accordingly, the variance for the Salem Harbor plant is approved subject to the following conditions in addition to those imposed by the Commonwealth of Massachusetts' variance-approval letter of January 16, 1974.

1. That the Company report to the State and EPA on the first day of each month on the quantity, source of supply and sulfur and ash content of all fuel purchased and delivered during that time period.

2. That the Company make every reasonable effort to acquire conforming coal, or coal with the lowest sulfur and ash content available, and maintain for inspection by the State or EPA during normal working hours, evidence of such efforts.

3. That the Company submit to EPA for approval the number of monitoring sites, location, procedures and equipment which it intends to use in implementing the ambient air quality monitoring as required by Condition 3 of the State's approval of the variance.

4. That the Company make available all air quality data from its monitoring system at the Salem Harbor facility monthly or continuously by interfacing with Massachusetts Ambient Air Monitoring System.

Since variances are temporary solutions to short-term problems, should the source find it necessary to apply for a variance beyond the expiration date of this variance, plans and a schedule for installation of necessary control equipment to meet Massachusetts emission limitations must accompany any new application for a variance from sulfur and ash content requirements.

The State's submittal is available for public inspection during normal business hours at the following addresses: Department of Public Health, Bureau of Air Quality Control, 600 Washington Street, Room 320, Boston, Massachusetts, 02111, and EPA Region I Office of Public Affairs, Room 2203, John F. Kennedy Federal Building, Boston, Massachusetts 02203. In addition, EPA's evaluation of the State's submittal is available during normal business hours at the EPA Region I office.

The Agency finds that good cause exists for not publishing the actions as a notice of proposed rulemaking and for making it effective immediately upon publication for the following reasons:

1. The emergency nature of the current fuel shortage requires that the affected source know immediately the fuel restrictions which are applicable to it so that it may make arrangements to obtain the appropriate fuel.

2. The implementation plan revision was adopted in accordance with procedural requirements of State and Federal laws, which provided for an adequate public hearing and comment, and further public participation would be impracticable.

Dated: April 26, 1974.

ALVIN L. ALM,
Acting Administrator,
Environmental Protection Agency.

Part 52 of 40 CFR Chapter I is amended as follows:

1. Section 52.1125 is amended by adding new lines to the table in paragraph (b) as follows:

§ 52.1125 Compliance schedule.

(b) • • •

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
•	•	•	•	•	•
Salem Harbor Electric Generating Station	Salem	5.1.2 5.4.1	Jan. 15, 1974	Jan. 23, 1974	May 15, 1974

[FR Doc.74-10111 Filed 5-1-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

ARCHITECT-ENGINEER SERVICES

Procurement Actions

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Parts 14-1, 14-3 and 14-4 of 41 CFR Chapter 14 are hereby amended.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein provide administrative instructions and implement the existing regulations on the publicizing and the procurement of Architect-Engineer services published in the FEDERAL REGISTER on December 6, 1973 (38 FR 33594-33596). Therefore, the public rulemaking process is waived in this particular instance and these changes will become effective immediately.

RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

APRIL 26, 1974.

1. The Interior Procurement Regulations are amended by adding the following to the table of contents of Part 14-1:

PART 14-1—GENERAL

Subpart 14-1.10—Publicizing Procurement Actions

Sec.
14-1.1003 Synopsis of proposed procurements.
14-1.1003-7 Preparation and transmittal.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. The Interior Procurement Regulations are amended by adding a new Subpart 14-1.10 as follows:

Subpart 14-1.10—Publicizing Procurement Actions

§ 14-1.1003-7 Preparation and transmittal.

(a) Architect-engineer services project notice. Each notice publicizing procurement of architect-engineer services shall include the following statements in addition to those required by § 1-1.1003-7 (b) (9) of this title:

Any supplemental data to be furnished by an Architect-Engineer firm should complement the SF-251 to permit a reasonable evaluation of the firm's qualifications in terms of the evaluation criteria listed in this notice.

The order of preference for the firms deemed to be most highly qualified shall be established by applying a numerical rating system to criteria listed in this notice and comparing firms on the basis of such rating system.

PART 14-3—PROCUREMENT BY NEGOTIATION

Subpart 14-3.8 [Reserved]

3. Part 14-3 of the Interior Procurement Regulations is amended by deleting Subpart 14-3.8 and § 14-3.802 from the table of contents; by deleting the caption and the text of Subpart 14-3.8; and to provide that Subpart 14-3.8 is reserved. Instructions formerly contained in Subpart 14-3.8 are now covered by Subparts 1-4.10 and 14-4.10.

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

4. The Interior Procurement Regulations are amended by adding the following to the Table of Contents of Part 14-4:

Subpart 14-4.10—Architect-Engineer Services

Sec.
14-4.1004 Selection.
14-4.1004-1 Establishment of architect-engineer evaluation boards.
14-4.1004-2 Functions of the evaluation boards.
14-4.1004-3 Evaluation criteria.
14-4.1004-4 Action by agency head or his authorized representative.
14-4.1004-5 Procedures for procurements estimated not to exceed $10,000.
14-4.1005 Negotiation procedures.
14-4.1005-1 General.
14-4.1006 Limitation on contracting with architect-engineer firms for construction work.
14-4.1006-1 Policy.
14-4.1050 Use of designated personnel.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

5. The Interior Procurement Regulations are amended by adding a new Subpart 14-4.10 as follows:

Subpart 14-4.10—Architect-Engineer Services

§ 14-4.1004 Selection.

§ 14-4.1004-1 Establishment of architect-engineer evaluation boards.

(a) The provisions of § 1-4.1004-1(a) of this title are supplemented to provide that heads of procuring activities who have been delegated contracting authority by the Secretary will be responsible for establishing evaluation boards. This responsibility may be reassigned in writing to any subordinate possessing contracting authority and staff capability to appropriately handle such responsibility. The use of private practitioners on evaluation boards shall require the advance written approval of the Assistant Secretary—Management.

§ 14-4.1004-2 Functions of the evaluation boards.

(a) The provisions of § 1-4.1004-2 of this title are supplemented to provide that evaluation boards within the Department of the Interior shall operate under the general authority of the appointing official and shall assist the contracting officer to the maximum extent possible and appropriate in the establishment of a contract.

(b) The report required of the evaluation board as specified in § 1-4.1004-2(c) of this title shall provide a list in the order of preference containing a minimum of three firms which are considered the most highly qualified. It shall be submitted to the official designated by the appointing official to receive the report.

§ 14-4.1004-3 Evaluation criteria.

The evaluation criteria of § 1-4.1004-3 of this title will be supplemented with the following when applicable to the procurement:

(a) Specific performance record on previous work from the standpoint of quality of work, ability to meet performance schedules, and designs where the construction contracts entered into did not exceed target or cost estimates or result in significant claims against the Government because of improper or incomplete architectural and engineering services.

(b) The volume of past and present workloads.

(c) Adequacy of facilities for the proposed work, including facilities for any special service that may be required.

(d) Experience and qualifications of personnel proposed for assignment to the project, including technical skills and abilities in planning, organizing, executing, and controlling; abilities in overall project coordination and management; and experience in working together as a team.

(e) Availability of additional qualified, regular employees for support of the project; the depth and size of the organization such that any necessary expansion or acceleration may be handled adequately; and arrangements with outside consultants.

(f) Any other criteria applicable to a particular procurement. § 14-4.1004-4 Action by agency head or his authorized representative.

The head of each procuring activity, as the responsible official to whom authority is delegated, is authorized to perform the functions prescribed by § 1-4.1004-4 of this title.

§ 14-4.1004-5 Procedures for procurements estimated not to exceed $10,000.

Procuring activities are authorized to use the procedures prescribed in § 1-4.1004-5 of this title.

§ 14-4.1005 Negotiation procedures.

§ 14-4.1005-1 General.

The designated contracting officers of the Department functioning under delegations of contracting authority from the Secretary and the heads of procuring activities are authorized to perform the functions described in § 1-4.1005-1 of this title and to negotiate contracts for architect-engineer services.

§ 14-4.1006 Limitation on contracting with architect-engineer firms for construction work.

§ 14-4.1006-1 Policy.

A contract for construction of a project shall not be awarded to the firm, a parent firm, subsidiaries, or affiliates, that provided architect-engineer services for the project unless the prior written approval of the Secretary is obtained. The contract with the architect-engineer firm shall specifically set forth this restriction.

§ 14-4.1050 Use of designated personnel.

The contract shall include a clause requiring the contractor to assign only the key personnel designated in the proposal to perform the services and shall provide that no substitutions will be made without the prior written approval of the contracting officer.

[FR Doc.74-10020 Filed 5-1-74;8:45 am]

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Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 2-10; Notice 7]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Standard No. 217; Bus Window Retention and Release, Prison Buses

This notice amends Federal Motor Vehicle Safety Standard No. 217, "Bus Window Retention and Release" (49 CFR 571.217), to exempt from the standard buses manufactured for the purpose of transporting persons under physical restraint. The amendment is based on a notice of proposed rulemaking published October 1, 1973 (38 FR 27227), following petitions received from the Bureau of Prisons, United States Department of Justice.

The comments received in response to the proposal agreed that buses manufactured for the specified purpose should not be provided with the emergency exits required by Standard No. 217. The standard specifies that buses contain emergency exits operable by bus occupants, requirements which the NHTSA considers obviously incompatible with the need to transport prison inmates. The National Transportation Safety Board (NTSB) commented, however, that compensatory measures should be taken to minimize the likelihood of fire in prison buses, since the probability of safely evacuating a prison bus is less than that of any other type of bus. The NTSB urged that the exemption be limited to diesel-fueled buses, since diesel fuel is less likely to ignite than gasoline.

The NHTSA recognizes the desirability of minimizing the likelihood of fire in buses. However, at the present time it is not practical to expect that all newly manufactured prison buses be equipped with diesel engines, given the apparent immediate need for the exemption. Appropriate rulemaking action can be taken in the future if it appears necessary to mitigate from a safety standpoint the loss of emergency exits in prison buses.

In light of the above, paragraph S3 of 49 CFR 571.217 (Motor Vehicle Safety Standard No. 217), is amended to read:

§ 571.217 Standard No. 217; Bus window retention and release.

* * * * *

S3. *Application.* This standard applies to buses, except buses manufactured for the purpose of transporting persons under physical restraint.

* * * * *

Effective date: June 3, 1974. This amendment imposes no additional burdens on any person and relieves restrictions found to be unwarranted. Accordingly, good cause exists and is hereby found for an effective date less than 180 days from the day of issuance.

(Secs. 103, 112, and 119, Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1491, 1407); delegations of authority at 49 CFR 1.51)

Issued on April 26, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-10050 Filed 5-1-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE, AND RECREATION

The following special regulation is issued and is effective during the period May 8, 1974 through December 31, 1974.

§ 28.28 Special regulations; public access, use and recreation; for individual wildlife refuge areas.

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Entry into the refuge is permitted between the hours of 4 a.m. to 10 p.m. daily for the purposes of sightseeing, nature study, wildlife observation, photography, hiking, beachcombing, sunbathing, and fishing, including clamming and crabbing, as posted. Swimming and surfing are permitted along the entire refuge beach at the visitor's own risk. Entry into the refuge by boat is permitted only within the designated public use area at Tom's Cove Hook.

Operation of registered motor vehicles and bicycles is permitted on designated access roads, trails, and parking areas. Riding of horses and other saddle animals is permitted only along the shoulder of the access road to the Coast Guard crossover and thence along the beach southward from that point. Off-road travel by oversand vehicles is permitted only on designated routes within the public use area at Tom's Grove Hook. Pets must remain in vehicles at all times.

Fishermen who hold special overnight beach-fishing permits issued jointly by the Superintendent, Assateague Island National Seashore, and the Refuge Manager, Chincoteague National Wildlife Refuge, may remain on the refuge between the hours of 10:00 p.m. and 4:00 a.m. on the dates for which such permit is issued.

Organized youth-group and backpack camping is permitted by advance reservation only in National Park Service operated campsites located on the refuge. Permits may be obtained from the Superintendent, Assateague Island National Seashore.

Picnicking is permitted at Tom's Cove Hook in areas designated by the National Park Service.

The possession of any drugs or substances, or immediate precursors, identified in Schedules I, II, III, IV, or V of Part B of the Controlled Substances Act, 21 U.S.C. 812, or any drugs or substances added to these schedules pursuant to the terms of the Act, is prohibited on the refuge unless such drugs or substances were obtained in accordance with law. Presence in the refuge when under the influence of a controlled substance to a degree that may endanger oneself or another person or property, or may interfere with another person's enjoyment of the refuge is prohibited.

The refuge, comprising approximately 9,400 acres, is delineated on a map available from the Refuge Manager, Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, Virginia 23336, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

APRIL 25, 1974.

[FR Doc.74-10065 Filed 5-1-74;8:45 am]

UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE, ILLINOIS AND CERTAIN OTHER STATES

Miscellaneous Amendments

The following special regulations are issued and are effective May 2, 1974.

PART 28—PUBLIC ACCESS, USE AND RECREATION

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE

Public use is permitted on the Upper Mississippi River Wildlife and Fish Refuge in accordance with state laws and subject to the following special conditions:

(1) The cutting of all live trees is prohibited, except that willow may be used for trap stakes, commercial fishing gear and hunting blinds.

(2) No live fire, including hot charcoal, shall be buried and/or left unattended.

(3) The abandonment, burying or placing in the water of garbage, trash, camping and picnic debris, and all other deleterious materials is prohibited.

(4) The use on refuge lands of motorized vehicles of any type is prohibited except on designated public roads and routes of travel.

(5) All state laws on use, possession, transportation and sale of alcoholic beverages which are applicable to the geographic area concerned are adopted and made a part hereof.

(6) The use and/or possession on the refuge of all controlled substances, including but not limited to opiates, cocaine, marijuana, hashish, depressants, stimulants or hallucinogenic drugs is prohibited except when such use or possession is for the person's own use as authorized by law. All state laws on controlled substances applicable to the geographic area concerned are adopted and made a part hereof.

(7) Camping, defined as the use of tent camps; bedrolls; and all types of floating craft, motorized vehicles, trailers and other shelters for overnight stays for the purpose of sleeping, is permitted on the Upper Mississippi River Wild Life and Fish Refuge subject to the following restrictions:

(a) The period of camping by an individual or group shall not exceed fourteen (14) consecutive days at any one site or within 300 feet of such site.

(b) The leaving of tents, camping equipment or floating craft at an unoccupied campsite for more than 24 hours is prohibited. Such gear will be considered as abandoned and is subject to impoundment.

(c) The erection of tables, fireplaces, latrines and other structures and facilities related to camping is prohibited unless all vestiges of same are removed when the camper departs from the site.

(d) Camping is prohibited on developed access and parking areas and on all other areas posted against camping. Camping on the refuge while engaged in fur animal trapping is prohibited. Camping on land on the refuge while engaged in hunting is prohibited except on sites readily visible from the main commercial navigation channel of the Mississippi River or on designated developed camp sites. Camping while engaged in hunting is prohibited in all areas closed to such hunting.

(8) The placement on the refuge of boathouses, boat docks, boat slips, storage boxes or sheds, stairways, wells, septic systems, sewer systems of any type, and all other kinds and types of construction is prohibited without written authorization of the refuge manager or his authorized representative. All new structures, including boathouses, houseboats, docks, piers and floats authorized by permit to be moored, anchored, or secured along the shoreline and on the waters of the Mississippi River within the Upper Mississippi River Wild Life and Fish Refuge must use flotation methods and devices of a type constructed of polyurethane, high-impact polyethylene fiberglass material, wood timbers, or other inert materials to provide flotation. The use of any iron or steel container not fabricatde originally for flotation purposes, including barrels, steel container not fabricated originally constructed for the purpose of containing fluids, powders or similar products is prohibited for new structures or for replacement of flotation devices in existing structures unless filled with polyurethane.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in 50 CFR Part 28 and are effective until June 30, 1975.

PART 32—HUNTING

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Hunting of migratory game birds is not permitted on the areas designated by signs as "closed" to hunting. The "open" areas comprising 153,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following conditions:

(1) The hunting of migratory game birds shall be in accordance with all applicable State and Federal regulations and seasons which are adopted herein and made a part of this regulation.

(2) No person shall hunt migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's migratory game bird hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

§ 32.22 Special regulations, upland game, for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of upland game birds, upland game animals, and raccoon, groundhogs, foxes and crows on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of these species is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed at all times to hunting and the discharge of guns is prohibited thereon. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following special conditions:

(1) Hunting on designated "open" areas concurrent with applicable state seasons is permitted, but only during the period from the first day of the earliest fall state GAME bird or GAME animal season applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(2) Except for the Goose Island Closed Area which is closed to hunting at all times, hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of upland game birds, upland game animals, and raccoon, groundhogs, fox and crows shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

(4) No person shall hunt upland game birds or animals on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's small game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

(5) Except with permission in writing obtained from the refuge manager, the discharge of guns of all types is prohibited on all lands and waters of the Upper Mississippi River Wild Life and Fish Refuge during the period from March 1 until the first day of the earliest fall state game bird or game animal season applicable to the geographic area concerned.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of deer on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of deer is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed to all hunting at all times. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional

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Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following conditions.

(1) Bow and gun deer hunting on designated "open" areas is permitted concurrent with applicable state seasons.

(2) Except for the Goose Island Closed Area which is closed to hunting at all times, bow and gun deer hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of white-tailed deer shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

(4) No person shall hunt deer on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's big game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

PART 33—SPORT FISHING

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

Sport fishing, commercial fishing, and the taking of frogs, turtles, crayfish and clams on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on all water areas of the refuge. The refuge water areas comprising 125,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling ,Twin Cities, Minnesota 55111. All fishing is subject to the following conditions:

(1) Unless further restrictions are imposed by this regulation, all fish, frogs, turtles, crayfish and clams shall be taken in accordance with all applicable state regulations and seasons which are adopted herein and made a part hereof.

(2) All sport and commercial fishing and all travel by boat or any other means across, through or on the Spring Lake Closed Area of the Upper Mississippi River Wild Life and Fish Refuge in Carroll Co., Illinois is prohibited from October 1 through December 20.

(3) All persons, including their helpers, exercising the privilege of commercial fishing on the Spring Lake Closed Area must possess a valid commercial fishing permit issued by the Refuge Manager authorizing such commercial fishing and must comply with all conditions as prescribed by the Refuge Manager which are set forth in the permit.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective until June 30, 1975.

GALEN L. BUTTERBAUGH,
Acting Regional Director.

Dated: April 25, 1974.

[FR Doc.74-10032 Filed 5-1-74;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 155—PHASE IV PRICE PROCEDURAL REGULATIONS

Exceptions and Compliance Procedures

On March 27, 1974, the Cost of Living Council amended its procedural regulations at § 155.41 to provide that when a person has violated a regulation, and where that violation is the subject of an investigation, a notice of probable violation or a remedial order, that person cannot qualify to obtain an exception which would nullify the violation in whole or in part. The purpose of this amendment was to expedite the processing of both compliance and exception cases and to close a loophole in the regulations which tended to encourage noncompliance and which was unfair to firms that adhered to the regulations while applying for exceptions.

It has since come to the attention of the Council that this amendment may cause a hardship to certain institutional providers of health care (acute care hospitals and long term care institutions) who have no way of knowing whether they will be in violation of the regulations until well after the close of the fiscal year in question. The situation arises because of the nature of third party payment in the health industry, most of which is done on a cost reimbursement basis. Third party payors, such as Medicare, Medicaid and many Blue Cross plans, make interim payments to an institution throughout the year based on the institution's anticipated costs for that year. After the close of the fiscal year, there is a full audit done of the institution's costs, and the final amount of reimbursement is determined on the basis of that audit. The audit often is not completed until years after the close of the fiscal year. It is not uncommon for the audit to reveal that the interim payments were too low, and thus the institution is entitled to a large lump sum payment. Pursuant to Price Commission Ruling 72-262 and Cost of Living Council Ruling 74-1, this final payment from the third party reimburser is normally chargeable to operating revenues in the year in which payment is received. However, if the amount of payment is so significant as to require, under generally accepted accounting principles, a restatement of the financial figures for the year in which these revenues accrued, then the institution is required to restate its prior year figures to account for this final payment in a later year.

In this manner, it is possible for an institution that finished its fiscal year with revenues within the 6 percent limitation on increases in aggregate annual revenues due to price increases to suddenly exceed the limitation and thus be in violation of 6 CFR 300.18. Because the institution had no way of knowing that this would happen until after the end of its fiscal year, it had no reason to apply for an exception prior to the time when it became in violation; and under the recent amendment to § 155.41, it is prohibited from applying for an exception when it discovers that it needs one in order to avoid non-compliance with the regulations. Further, in most cases, an institution in this situation could not be granted an exception prior to the end of its fiscal year, because at that point it would not have the cost and revenue data necessary to justify the granting of relief; the Council does not grant exceptions based on hypothetical harm in the future.

Therefore, in order not to penalize institutions who, because of the existence of third party retroactive cost reimbursement, do not realize that they may need exceptions relief until they are already in violation, the Council is amending § 155.41. The amendment provides that the prohibition contained in that section against applying for an exception to a regulation when one is already in violation of that regulation shall not apply to an institution who is in violation of either Subpart O or Subpart R of this Part solely because of the receipt of payments based on retroactive adjustments in final settlement with third party payors.

Because the purpose of this amendment is to provide immediate guidance with respect to decisions of the Council, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit written comments regarding this amendment. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, 6 CFR Part 155 is amended as set forth herein, effective April 30, 1974.

Issued in Washington, D.C., on April 30, 1974.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

The introductory paragraph of § 155.41 is amended to read as follows:

§ 155.41 Purpose and scope.

Exceptions from the provisions of Part 150 of this title may be granted for the purpose of preventing or correcting a serious hardship or gross inequity. However, except as provided below, a person who has violated the regulation with respect to which an exception is sought and who in connection with that matter is under investigation or has received a notice of probable violation or remedial order shall not qualify to obtain an exception which would nullify that violation in whole or in part. This limitation does not apply to an institutional provider of health care subject to Subpart O of Part 150 or to an acute care hospital or long term care institution subject to Subpart R of Part 150 of this chapter if that person's violation was caused solely by the receipt of payments based on retroactive adjustments in final settlement with a third party payor.

* * * * *

[FR Doc.74-10184 Filed 4-30-74;2:34 pm]

Title 7—Agriculture

Subtitle A—Office of the Secretary of Agriculture

PART 1—ADMINISTRATIVE REGULATIONS

Subpoenas; Issuance and Service Pursuant to Statutes Administered by the Secretary of Agriculture

Section 1.29, Title 7, Code of Federal Regulations, is revised to clarify the authority of various Department officials to issue subpoenas relating to investigations.

Section 1.29 is amended to read as follows:

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) *Issuance of subpoena.* When the Secretary is authorized by statute to issue a subpoena, the attendance of a witness and the production of documentary evidence relating to an investigation may be required by subpoena at any designated place of hearing. A designated place of hearing may include the witness' place of business. A subpoena may be issued by either the Secretary of Agriculture, or any Department official authorized pursuant to Part 2 of this title to administer the program to which the statute relates, upon a showing of the reasonableness of the grounds, necessity, and scope thereof. In addition, the Director of the Office of Investigation may issue a subpoena with respect to any investigation involving the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or Poultry Products Inspection Act (21 U.S.C. 451 et seq.), upon a showing of the reasonableness of the grounds, necessity, and scope thereof.

(b) *Service of subpoena.* (1) A subpoena issued pursuant to this section may be served by:

(i) A U.S. Marshal or Deputy Marshal,

(ii) Any other person who is not less than 18 years of age, or

(iii) Certified or registered mailing of a copy of the subpoena addressed to the person to be served at his or its last known residence or principal place of business or residence.

(2) Proof of service made be made by the return of service on the subpoena by the U.S. Marshal or Deputy Marshal; or, if served by an individual other than a U.S. Marshal or Deputy Marshal, by an affidavit or certification of such person stating that he personally served a copy of the subpoena upon the person named therein; or, if service was by certified or registered mail, by the signed Postal Service receipt.

(3) In making personal service, the person making service shall leave a copy of the subpoena with the person subpoenaed; and the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the subpoena. (5 U.S.C. 301).

Effective date. This revision shall become effective on May 2, 1974.

Done at Washington, D.C., this 29th day of April 1974.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.74-10040 Filed 5-1-74;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 326]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period May 3-9, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.623 Navel Orange Regulation 323.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is weakening somewhat. Pricese f.o.b. averaged $3.71 a carton on a reported sales volume of 958 carlots last week, compared with an average f.o.b. price of $3.78 per carton and sales of 1,148 carlots a week earlier. Track and rolling supplies at 480 cars were down 56 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstsances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this

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section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 30, 1974.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period May 3, 1974, through May 9, 1974, are hereby fixed as follows:

(i) District 1: 750,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10307 Filed 5–1–74;11:34 am]

[Valencia Orange Reg. 463]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 3–9, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.763 Valencia Orange Regulation 463.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to show improvement. Prices f.o.b. averaged $3.45 per carton on a reported sales volume of 259 carlots last week, compared with an average f.o.b. price of $3.14 per carton and sales of 171 carlots a week earlier. Track and rolling supplies at 219 cars were up 94 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 30, 1974.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 3, 1974, through May 9, 1974, are hereby fixed as follows:

(i) District 1: 225,000 cartons;

(ii) District 2: 195,000 cartons;

(iii) District 3: 155,000 cartons."

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10038 Filed 5–1–74;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO–295–A26, Milk Order No. 79]

PART 1079—MILK IN THE DES MOINES, IOWA, MARKETING AREA

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Des Moines, Iowa, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 1, 1974. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued February 22, 1974, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued March 27, 1974. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective May 1, 1974, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act. 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Des Moines, Iowa, marketing area shall be in conformtiy to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1079.7 is revised to read as follows:

§ 1079.7 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, and which milk is:

(1) Received at a pool plant;

(2) Diverted as producer milk pursuant to § 1079.14; or

(3) Received by a cooperative association in its capacity as a handler pursuant to § 1079.12(c).

(b) "Producer" shall not include a producer-handler as defined in any order (including this part) issued pursuant to the Act.

2. Section 1079.8 is revised to read as follows:

§ 1079.8 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

3. Section 1079.9 is revised to read as follows:

§ 1079.9 Supply plant.

"Supply plant" means a plant from which milk, skim milk, or cream, acceptable to a duly constituted regulatory agency for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1079.10.

4. Section 1079.10 is revised to read as follows:

§ 1079.10 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant:

(1) From which the volume of Class I packaged fluid milk products, except filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products, other than filled milk, from other pool distributing plants, is not less than 35 percent of the combined Grade A milk received in bulk form at such plant or diverted therefrom by the plant operator or a cooperative association to a nonpool plant as producer milk; and not less than 15 percent of such receipts or an average of not less than 7000 pounds per day whichever is less, is so disposed of to such outlets in the marketing area; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (a) (1) of this section.

(b) A supply plant:

(1) From which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent (30 percent for each of the months of April through August) of the Grade A milk received at such plant from dairy farmers and handlers described in § 1079.12(c), and diverted therefrom by the plant operator or a cooperative association as producer milk pursuant to § 1079.14: *Provided,* That if such shipments are not less than 50 percent during the immediately preceding period of September through November, such plant shall be a pool plant during each of the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March through June to be designated a nonpool plant for such month and for each subsequent month through June of the same year; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (b) (1) of this section with respect to shipment to plants qualified pursuant to paragraph (a) (1) of this section.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Plants subject to other Federal orders pursuant to § 1079.61; or

(3) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately, and is not approved by any duly constituted regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

5. Section 1079.12 is revised to read as follows:

§ 1079.12 Handler.

"Handler" means:

(a) Any person as the operator of one or more pool plants;

(b) Any cooperative association with respect to milk of producers it diverts from a pool plant pursuant to § 1079.14;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant operated by another person, unless both the cooperative association and the operator of the pool plant notify the market administrator that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the qualified handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1079.61; and

(g) Any person in his capacity as the operator of an unregulated supply plant.

6. Section 1079.14 is revised to read as follows:

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§ 1079.14 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer;

(b) Received by a cooperative association in its capacity as a handler pursuant to § 1079.12(c); or

(c) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section unless during the month at least one delivery is made to a pool plant;

(3) A cooperative association may divert the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(4) of this section). The total quantity of milk so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk for which the cooperative is the handler pursuant to § 1079.12(c) and producer milk which the association causes to be delivered to pool plants, or diverted therefrom during the month;

(4) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(3) of this section). The total quantity so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk received at or diverted from such pool plant from producers and for which the operator of such plant is the handler during the month;

(5) Any milk diverted in excess of the limits prescribed pursuant to paragraph (c)(3) and (4) of this section shall not be producer milk and, if the diverting handler fails to designate the dairy farmers whose milk is not producer milk, then no milk diverted by such handler during the month shall be producer milk; and

(6) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted by a cooperative association from the pool plant of another handler shall not be producer milk.

7. In § 1079.16, paragraph (a) is revised to read as follows:

§ 1079.16 Other source milk.

• • • • •

(a) Receipts of fluid milk products from any source other than producers, handlers described in § 1079.12(c), or pool plants; and

• • • • •

8. Section 1079.30 is revised to read as follows:

§ 1079.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantity of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1079.12(c);

(3) Receipts of fluid milk products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products; and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1079.12 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to a handler described in § 1079.12(b), the plant from which such milk is diverted.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1079.31 [Amended]

9. In § 1079.31, the words "for each of his plants" are deleted from lines 2 and 3 of paragraph (b)(1).

10. Section 1079.41 is revised to read as follows:

§ 1079.41 Classes of utilization.

Subject to the conditions set forth in § 1079.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As otherwise provided in paragraph (b) of this section; and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form;

(3) In fluid milk products that are disposed of by a handler for animal feed;

(4) In fluid milk products that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In fluid milk products destroyed or lost under extraordinary circumstances;

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included in Class I milk pursuant to paragraph (a)(1)(i) of this section; and

(7) In shrinkage assigned pursuant to § 1079.42(a) to receipts specified in § 1079.42(a)(2) and in shrinkage specified in § 1079.42(b) and (c).

11. Section 1079.42 is revised to read as follows:

§ 1079.42 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1079.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1079.12(c);

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products (except cream) received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk (except cream transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1079.12(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

12. In Section 1079.44 the preamble of paragraph (a) is revised as follows:

§ 1079.44 Transfers.

• • • • •

(a) As Class I milk if transferred from a pool plant or by a cooperative association as a handler pursuant to § 1079.12(c) to a pool plant, unless Class II utilization is requested by the transferee and transferor handlers, subject to the following conditions:

• • • • •

13. Section 1079.45 is revised as follows:

§ 1079.45 Computation of the skim milk and butterfat in each class.

(a) Each month the market administrator shall correct for mathematical and other obvious errors, the reports filed pursuant to § 1079.30 and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler, and the total pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1079.12 (b) and (c) and was not received at a pool plant.

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids.

14. In § 1079.46 the introductory portion and paragraph (a)(9) are revised as follows:

§ 1079.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1079.45, the market administrator each month shall determine the classification of milk received from producers by each cooperative association handler pursuant to § 1079.12 (b) and (c) which was not received at a pool plant, and the classification of milk received from producers and from cooperative association handlers pursuant to § 1079.12(c) at each pool plant for each handler as follows:

(a) • • •

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1079.12(c) according to the classification assigned pursuant to § 1079.44(a); and

• • • • •

15. Section 1079.52 is revised as follows:

§ 1079.52 Plant location adjustments for handlers.

(a) For that milk received from producers and from a cooperative association in its capacity as a handler pursuant to § 1079.12(c) at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I milk without movement in bulk form to a pool distributing plant and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50(b) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Multiply the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1079.46(a)(8) by 105 percent;

(2) Subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1079.12(c);

(3) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(4) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the pounds of skim milk assigned to each transferor-plant pursuant to paragraph (b)(3) of this section by the applicable location adjustment rate for each such plant, and add the resulting amounts;

(5) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(4) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1079.44(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(6) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (5) of this section.

16. In § 1079.70 the preamble and paragraph (a) are revised as follows:

§ 1079.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler for each pool plant, and of each cooperative association handler pursuant to § 1079.12 (b) and (c) with respect to milk which was not received at a pool plant, shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of milk received from a cooperative association as a handler pursuant to § 1079.12(c) and allocated pursuant to § 1079.46(a)(9) and the corresponding step of § 1079.46 (b) and the quantity of producer milk in each class, as computed pursuant to § 1079.46(c), by the applicable class prices (adjusted pursuant to §§ 1079.51 and 1079.52);

• • • • •

17. In § 1079.71, paragraph (d) is revised as follows:

§ 1079.71 Computation of aggregate value used to determine uniform price.

• • • • •

(d) Add an amount equal to not less than one-half of the unobligated cash balance in the producer-settlement fund.

18. In § 1079.80 the introductory portions of paragraphs (a) and (b) are revised and a new paragraph (d) is added to read as follows:

§ 1079.80 Time and method of payment.

(a) Each handler shall pay each producer for producer milk for which pay-

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ment is not made to a cooperative association pursuant to paragraphs (b) and (d) of this section as follows: * * *

(b) Each handler shall make payment to a cooperative association for producer milk it causes to be delivered to such handler, which association the market administrator determines is authorized by such producers to collect payment for their milk and which has so requested the handler in writing, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows * * *

* * * * *

(d) Each handler in his capacity as the operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1079.12(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 26th day of each month for milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 13th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price adjusted by applicable butterfat and location adjustments, and less the payment made pursuant to paragraph (d) (1) of this section.

19. In § 1079.84 paragraph (b)(1) is revised as follows:

§ 1079.84 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1079.12(c) at the applicable uniform price pursuant to § 1079.72 adjusted pursuant to §§ 1079.81 and 1079.82, less in the case of a cooperative association on milk for which it is the handler pursuant to § 1079.12(c), the amount due from other handlers pursuant to § 1079.80(d); and

* * * * *

20. Section 1079.88 is revised as follows:

§ 1079.88 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1079.12(c)) shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk and milk received from a cooperative association pursuant to § 1079.12(c);

(b) Other source milk allocated to Class I pursuant to § 1079.46(a)(3) and (7) and the corresponding steps of § 1079.46(b); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Effective date: May 1, 1974.

Signed at Washington, D.C., on April 26, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74–10041 Filed 5–1–74;8:45 am]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 242]

WARRANTS OF ARREST AND ORDERS TO SHOW CAUSE

Delegation of Authority

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendment of 8 CFR 242.1, 242.2, and 242.7, pertaining to the authority of Service officers to issue warrants of arrest and to issue and cancel orders to show cause.

The following amendments are proposed in Part 242: An amendment to § 242.1(a) to empower assistant district directors for investigations to issue orders to show cause; an amendment to § 242.7 to vest assistant district directors for investigations with authority to cancel orders to show cause prior to commencement of the deportation hearing for a reason set forth in § 242.7; and an amendment to § 242.2(a) to vest officers in charge empowered to issue orders to show cause under § 242.1(a) and assistant district directors for investigations with authority to issue warrants of arrest. Corollary amendments are proposed in § 242.2(a), (b), (c), and (d).

This notice is identical with the rule changes in Part 242 published on April 5, 1974 (39 FR 12334), which the Service regards as valid and exempt from the necessity of compliance with 5 U.S.C. 553 because it concerns solely an internal reallocation of delegated authority. However, since one objection has been received, and out of an abundance of caution, the Service will postpone the effective date of the changes in Part 242 published on April 5, 1974 until the procedures prescribed by 5 U.S.C. 553 have been followed.

In accordance with 5 U.S.C. 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100–C, 425 Eye Street, NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received by May 31, 1974, will be considered.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. In § 242.1(a), the existing third sentence is amended. As amended, § 242.1(a) reads as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the issuance and service of an order to show cause by the Service. In the proceeding the alien shall be known as the respondent. Orders to show cause may be issued by district directors, acting district directors, deputy district directors, assistant district directors for investigations, and officers in charge at Albany, N.Y.; Cincinnati, Ohio; Dallas, Tex.; Hammond, Ind.; Harlingen, Tex.; Milwaukee, Wis.; Norfolk, Va.; Pittsburgh, Pa.; Providence, R. I.; San Diego, Calif.; Salt Lake City, Utah; St. Louis, Mo.; Spokane, Wash.

* * * * *

2. Section 242.2 is amended in the following respects: in paragraph (a), the existing second, third, seventh, eighth, and ninth sentences are amended; in paragraph (b), the ninth and tenth sentences are amended; in paragraph (c), the first sentence is amended; and paragraph (d) is amended. As amended, §§ 242.2 (a), (b), (c), and (d) read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* At the commencement of any proceeding under this part, or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242(d) of the Act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. However, such warrant may be issued by no one other than a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), and then only whenever, in his discretion, it appears that the arrest of the respondent is necessary or desirable. If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation. When a warrant of arrest is served under this part, the respondent shall have explained to him the contents of the order to show cause, the reason for his arrest and his right to be represented by counsel of his own choice at no expense to the Government. He shall be advised that any statement he makes may be used against him. He shall also be informed whether he is to be continued in custody or, if release from custody has been authorized, of the amount and conditions of the bond or the conditions under which he may be released. A respondent on whom a warrant of arrest has been served may apply to the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), for release or for amelioration of the conditions under which he may be released. The district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), when serving the warrant of arrest and when determining any application pertaining thereto, shall furnish the respondent with a notice of decision, which may be on Form I–286, indicating whether custody will be continued or terminated, specifying the conditions, if any, under which release is permitted, and advising the respondent appropriately whether he may apply to a special inquiry officer pursuant to paragraph (b) of this section for release or modification of the conditions of release or whether he may appeal to the Board. A direct appeal to the Board from a determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), shall not be allowed except as authorized by paragraph (b) of this section.

(b) *Authority of special inquiry officers; appeals.* After an initial determination pursuant to paragraph (a) of this section, and at any time before a deportation order becomes administratively final, upon application by the respondent for release from custody or for amelioration of the conditions under which he may be released, a special inquiry officer may exercise the authority contained in section 242 of the Act to continue or detain a respondent in, or release him from, custody, and to determine whether a respondent shall be released under bond, and the amount thereof, if any. Application for the exercise of such authority may be made to any available special inquiry officer who is stationed at the Service office which has administrative jurisdiction over the proceeding under the order to show cause or who conducts hearings there. If no such special inquiry officer is available, application may be made to any available special inquiry officer stationed in the region wherein said Service office is located. The determination of the special inquiry officer in respect to custody status or bond shall be entered on Form I–342 at the time such

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determination is made and shall be accompanied by a memorandum by the special inquiry officer as to the reasons for his determination. The special inquiry officer shall promptly notify the respondent and the Service of such determination. Consideration under this paragraph by the special inquiry officer of an application or request of an alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding under this part, and shall form no part of such hearing or proceeding or of the record thereof. The determination of the special inquiry officer as to custody status or bond may be based upon any information which is available to the special inquiry officer, or which is presented to him by the alien or the Service. The alien and the Service may appeal to the Board of Immigration Appeals from any such determination. After a deportation order becomes administratively final, the respondent may appeal directly to the Board from a determination by the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), except that no appeal shall be allowed when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose. An appeal to the Board shall be taken from a determination by a special inquiry officer or from an appealable determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1 (a) by filing a notice of appeal with the district director within 5 days after the date when written notification of the determination is served upon the respondent and the Service. Upon the filing of a notice of appeal, the district director shall immediately transmit to the Board all records and information pertaining to the determination from which the appeal has been taken. The filing of such an appeal shall not operate to delay compliance, during the pendency of the appeal, with the custody directive from which appeal is taken, or to stay the administrative proceeding or deportation.

(c) *Revocation.* When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), in which event the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and cancelled. The provisions of paragraph (b) of this section shall govern availability to the respondent of recource to other administrative authority for release from custody.

(d) *Supervision.* Until an alien against whom a final order of deportation has been outstanding for more than six months is deported, he shall be subject to supervision by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), and required to comply with the provisions of section 242(d) of the Act relating to his availability for deportation.

* * * * *

3. In § 242.7, the first sentence is amended. As amended, § 242.7 reads as follows:

§ 242.7 Cancellation of proceedings.

If an order to show cause has been issued, any district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a) may cancel the order to show cause or, prior to the actual commencement of the hearing under a served order to show cause, terminate proceedings thereunder, if in either case he is satisfied that the respondent is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States, or that the proceeding was improvidently begun; or after actual commencement of hearing such officer may move that the case be dismissed for any of the foregoing reasons or that the case be remanded to his jurisdiction on the ground that it has come to his attention that there are involved the foreign relations of the United States which require further consideration. Cancellation of an order to show cause or termination of proceedings or remand of a case pursuant to the foregoing shall be without prejudice to the alien or the Service. If an order to show cause has been cancelled or proceedings have been terminated pursuant to this section, any outstanding warrant of arrest shall also be cancelled. A special inquiry officer may, in his discretion, terminate deportation proceedings to permit respondent to proceed to a final hearing on a pending application or petition for naturalization when the respondent has established prima facie eligibility for naturalization and the case involves exceptionally appealing or humanitarian factors; in every other case, the deportation hearing shall be completed as promptly as possible notwithstanding the pendency of an application for naturalization during any stage of the proceedings.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: April 29, 1974.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.74-10062 Filed 5-1-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

LIMES GROWN IN FLORIDA

Expenses and Rate of Assessment for 1974–75 Fiscal Year; Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expenses of $38,500, a rate of assessment of $0.05 per bushel of limes, and the carryover as a reserve of unexpended funds to support the activities of the Lime Administrative Committee for the 1974–75 fiscal year under Marketing Order No. 911.

Consideration is being given to the following proposals submitted by the Florida Lime Administrative Committee, established under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911) regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Florida Lime Administrative Committee, during the period from April 1, 1974, through March 31, 1975, will amount to $38,500;

(2) That there be fixed, at $0.05 per bushel of limes, the rate of assessment payable by each handler in accordance with § 911.41 of the aforesaid marketing agreement and order; and

(3) Unexpended assessment funds in the amount of approximately $7,655, which are in excess of expenses incurred during the fiscal year ended March 31, 1974, shall be carried over as a reserve in accordance with §§ 911.42 and 911.204 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than May 21, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: April 29, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10107 Filed 5-1-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Parts 620, 621, 622, 623, 624]

WATER RESOURCES PROGRAM

Notice of Proposed Rulemaking

The Soil Conservation Service (SCS) plans to codify its policy and procedures for administering its water resources program under 7 CFR Chapter VI, Subchapter C.

Interested persons may participate in the proposed rulemaking by submitting written data, views, or arguments as they may desire. All communications received on or before June 17, 1974, will be considered before action is taken on the proposed policy and procedures. The proposal contained in this notice may be changed in the light of comments received.

The policy and procedures are proposed under the authority of Pub. L. 83–566, 68 Stat. 666 as amended (16 U.S.C. 1001 et seq.); Sec. 13, Pub. L. 78–534, 58 Stat. 905; Sec. 216, Pub. L. 81–516, 64 Stat. 184 (33 U.S.C. 701b–1).

(Catalog of Federal Domestic Assistance Program Nos. 10.904 and 10.906, National Archives Reference Services.)

Dated: April 25, 1974.

KENNETH E. GRANT,
Administrator.

PART 620—PURPOSE AND APPLICABILITY

Sec.
620.1 Purpose.
620.2 Definitions.

AUTHORITY: Pub. L. 83–566, 68 Stat. 666 as amended (16 U.S.C. 1001 et seq.); sec. 13, Pub. L. 78–534, 58 Stat. 905; sec. 216, Pub. L. 81–516, 64 Stat. 184 (33 U.S.C. 701 b–1).

§ 620.1 Purpose.

This subchapter sets forth policies, requirements, and procedures for the water resources program administered by the Soil Conservation Service (SCS). Included is a broad scope of activities for the conservation, development, utilization, and disposal of water, and the conservation and utilization of land resources of the 50 states, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Individual elements of the program are river basin surveys and investigations, watershed protection, flood prevention, and emergency watershed protection.

§ 620.2 Definitions.

Administrator. The Administrator of Soil Conservation Service.

Agricultural water management. Any control or development of water for agricultural purposes such as drainage, irrigation, ground water recharge, group water supply in rural areas, or other beneficial use for agricultural purposes.

Benefits. The value of increased output of goods and services, the value of output resulting from external economies, and nonmonetary beneficial effects on environmental and social well-being resources.

Costs. The value of all resources required for or displaced by proposed project measures, the value of losses in output resulting from external diseconomies, and nonmonetary adverse effects on environmental and social well-being resources. Categories of costs include:

(a) *Construction costs.* The contract or force account cost of constructing structural measures which are necessary to achieve project purposes, but excluding costs defined in this section as engineering services costs, land right costs, land treatment measures costs, nonproject installation costs, operation and maintenance costs, project administration costs, and relocation payment costs.

(b) *Engineering services costs.* The direct cost of engineers and other technicians for surveys, investigations, designs, and preparation of plans and specifications for structural and nonstructural measures including the vegetative work associated with these measures.

(c) *Land rights costs.* Costs incurred for acquiring, relocating, reconstructing, moving, changing, and salvaging real and personal property required to obtain the legal rights needed to construct, operate, and maintain project works of improvement, including the cost of features not essential for project purposes which are installed for public protection or safety.

(d) *Land treatment measures costs.* All costs for planning and applying land treatment measures provided for in the watershed work plan.

(e) *Nonproject installation costs.* Costs incurred at the time of project installation for features not required for project purposes. These costs are not eligible for financial assistance under Pub. L. 83–566. They are not included in benefit-cost ratios nor are they allowable as a part of the sponsors' contribution to the installation cost of a project. These costs include but are not limited to:

(1) Additions or modifications to or changes in location of project works of improvement to serve nonproject purposes, such as altering a dam to permit its use as a roadway.

(2) Change in location or modification of project works of improvement for the convenience of the sponsor.

(3) Acquisition of land rights not required for project purposes.

(4) The added cost of upgrading existing railroad and highway bridges, railroads, roads, highways, or utilities to provide facilities of higher quality or greater performance capability.

(f) *Operation and maintenance costs.* The cost of or the fair market value of materials, equipment, services, and facilities needed to operate the project, and to make repairs and replacements necessary to maintain structural measures in sound operating condition during the evaluated life of the project.

(g) *Project administration costs.* All administrative costs associated with the installation of planned measures, including the cost of contract administration, relocation assistance advisory services, administrative functions connected with relocation payments, review of engineering plans prepared by others, government representatives, and necessary inspection service during installation to insure that project measures are installed in accordance with the plans and specifications.

(h) *Project installation costs.* All monetary costs for installing works of improvement included in a project.

(i) *Relocation payment costs.* All costs incurred because of requirements of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.).)

(j) *Water rights costs.* The actual cost or appraised value, whichever is greater, of water rights acquired for installing, operating, and maintaining a project.

Critical area stabilization. Vegetative or structural measures, or a combination thereof, installed to control erosion and the resultant sediment yield from high sediment source areas such as active gullies, unprotected road banks, and other unprotected highly erosive areas.

Drainage. A surface or subsurface measure planned primarily to increase the efficiency of agricultural land use by lowering the water level in areas where natural high water tables, normal precipitation or normal tidal action, seepage, or excess irrigation limit agricultural production.

Floodplain management. Reducing potential flood losses by land treatment, nonstructural, and structural measures, or combinations thereof.

Flood prevention. An undertaking for the purpose of reducing or preventing damage from inundation of property, disruption of business and other activity, or hazards to health, security, or life.

Floodwater detention capacity. The total volume of space provided between the elevations at which discharges begin through the principal and emergency spillways, less any capacity between these two elevations reserved for sediment.

Floodwater retarding structure. A single-purpose structure providing for temporary storage of floodwater and its controlled release.

Irrigation. Measures planned primarily to make more efficient use of water from artificial or existing surface or subsurface sources and surface or subsurface distribution systems on land used for agricultural production.

Land rights. Any interest acquired in or permission obtained to use land, buildings, structures, or other improvements classified or referred to generally as real property or as land, easements, and rights-of-way.

Land stabilization measures. Vegetative or structural measures, or both, installed and maintained to prevent land destruction or production of damaging sediment affecting groups of landowners, communities, and the general public.

Land treatment measures. Construction and management-type practices normally planned, installed, and maintained by individuals or groups of landowners on their own lands to efficiently use and protect the land and water resources. These measures serve to reduce runoff, erosion, and sediment that would restrict land use, adversely affect the environment, and reduce the realization of maximum benefits from other existing and proposed measures. Land treatment measures include, but are not limited to, temporary and permanent vegetative

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plantings and establishments such as grass, trees, windbreaks, shrubs, and cover crops; establishing surface water disposal systems including waterways, terraces, diversions, and contour farming; water management measures including surface and subsurface farm drainage systems, efficient irrigation water distribution systems, land leveling, diversion dams and spreader ditches or dikes, irrigation tailwater recovery systems, holding ponds and tanks, catchment basins, and water storage facilities; management measures including crop rotations, strip cropping, no-till or conservation farming, pasture management including fencing, wells, spring development or stock water ponds for livestock distribution and rotation grazing; and septic tanks, disposal lagoons and systems for recycling liquid livestock wastes to the land.

Nonagricultural water management. A measure for control or development of water for purposes other than agriculture such as recreation, fish and wildlife, and municipal or industrial water supply.

Nonstructural measures. Items such as flood insurance, flood warning systems, flood plain zoning or acquisition, floodproofing, relocating existing developments in flood-prone areas, building codes, and other land use controls or restrictions for achieving project objectives.

Project agreement. A written agreement entered into between SCS and the sponsor(s) in which detailed working arrangements are established for the installation of works of improvement or for other related purposes.

Project measures. See works of improvement.

Pub. L. 83–566. The Watershed Protection and Flood Prevention Act, as amended (Pub. L. 83–566, 68 Stat. 666, as amended (16 U.S.C. 1001 et seq.)).

Retention reservoir. An impoundment for temporary or permanent storage of water.

Secretary. The Secretary of Agriculture.

Sponsor(s) or sponsoring local organization. Any of the following who sponsor a watershed project: A state political subdivision thereof, soil or water conservation district, flood prevention or control district, or combination thereof, or any other agency having authority under state law to carry out, maintain, and operate works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary.

State agency. The governor, or the state agency that he designates which is authorized to review and approve or disapprove applications from sponsors, recommend priorities of watersheds for assistance within the state, participate in field examinations and preliminary investigations and in the preparation of watershed work plans, and review and comment on watershed work plans.

State conservationist. The SCS line officer responsible for SCS activities within a particular state or the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

Structural measures. Items such as dams, diversions, basins, dikes, pipelines, conduits, channels, fences, pits, ponds, fish ladders, fish shelters, drops, checks, flumes, control gates, pumping plants, and outlet structures when the items are excavated or constructed with concrete, earth, masonry, metal, rock or other materials, and vegetation which is a part of the structure.

Total capacity of structure. The total volume of space provided upstream from a dam and below the elevation at which discharge begins through the emergency spillway.

Water management. Measures for the conservation, development, utilization, and disposal of water for either agricultural or nonagricultural purposes.

Watershed area or watershed. All land and water areas within the confines of a single drainage divide; two or more drainageways not tributaries to each other but severally tributary to a stream, artificial waterway, lake, bay, or other tidal area; or a water problem area consisting in whole or in part of land needing drainage or irrigation improvements. A watershed area or watershed includes all direct tributary drainageways and lands from which, after project installation, water and sediment could adversely affect any water management facility, but may exclude areas from which water is brought into it by diversion if these sources of water have no significant effect on the water management problems.

Watershed work plan. The written plan of the sponsors for installing, operating, and maintaining a watershed project.

Watershed work plan agreement. A written agreement entered into by the sponsors and SCS for the purpose of carrying out a watershed work plan.

Works of improvement. An undertaking for watershed protection; flood prevention; the conservation, development, utilization, and disposal of water; the conservation and proper utilization of land; or a combination thereof. The undertaking may consist of land treatment, nonstructural or structural measures, or a combination thereof.

PART 621—RIVER BASIN INVESTIGATIONS AND SURVEYS

Subpart A—General

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621.2 Scope.

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621.43 Special studies.
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AUTHORITY: Sec. 6 (Pub. L. 83–566) 68 Stat. 666 (16 U.S.C. 1006), unless otherwise noted.

Subpart A—General

§ 621.1 Purpose.

This part sets forth policies, requirements, and procedures governing the U.S. Department of Agriculture's (USDA) investigations and surveys of watersheds of rivers and other waterways as a basis for the development of coordinated programs. These activities are undertaken in cooperation with other Federal, State, and local agencies. Section 2.62 of this title delegates to the Soil Conservation Service (SCS) leadership responsibility within USDA for the conservation, development, and productive use of the Nation's soil, water, and related resources, including the activities treated in this part.

§ 621.2 Scope.

SCS river basin activities include:

(a) Cooperative river basin surveys in cooperation with Federal, State, or local agencies.

(b) Flood hazard analyses in coordination with the responsible state agency and involved local governments.

(c) Joint investigations and reports with the Department of the Army under Pub. L. 87–639, 76 Stat. 438 (16 U.S.C. 1009).

(d) Interagency coordination.

Subpart B—USDA Cooperative Studies

§ 621.10 Description.

Cooperative river basin studies provide USDA planning assistance to federal, state, and local agencies. The purpose of these studies is to assist in appraising water and related land resources, formulating alternative plans, including land treatment, nonstructural or structural measures, or combinations thereof, which would meet existing and projected needs and objectives. These studies concentrate on specific objectives identified by the requesting agency and citizen groups. The objectives ordinarily require the formulation of a plan but may require only inventories on availability of resources and associated problems to be used by other agencies in plan formulation. A report is prepared presenting resource data and identifying or recommending a plan or alternative plans. USDA assistance is provided through field advisory committees composed of representatives of the Economic Research Service, Forest Service, and SCS.

§ 621.11 Who may obtain assistance.

Assistance is available to conservation districts, communities, county governments, regional planning boards, other planning groups, and state and federal agencies. Local groups express their desires for a cooperative study to the governor or appropriate State agency.

§ 621.12 How to request assistance.

A governor, or a Federal, State, or local agency must submit a written request for a cooperative study through the state conservationist to the Administrator. The State conservationist may assist in preparing the request. The state conservationist shall send the request with his comments to the Administrator for consideration. The request should include:

(a) A description of the basin;

(b) A statement of the major problems and needs;

(c) An explanation of why the study is needed;

(d) An explanation of why USDA participation is needed;

(e) A statement of the responsibility and authority of the requesting agency;

(f) An estimate of the expected coordination with other federal and state agencies;

(g) A description of the expected results of the study and use of the report;

(h) A statement of the relationship of the proposed study to ongoing and completed river basin studies; and

(i) A statement that the procedures for informing clearinghouses have been followed.

§ 621.13 Conditions for approval.

The Administrator may authorize requested cooperative studies. Priority for starting cooperative studies is based upon factors such as the date of application, the readiness of the requesting agency to begin participation, sequence of studies, geographic distribution of work, and other similar factors affecting the effectiveness and efficiency of cooperative study activities. The number and location of cooperative studies started each year are governed by availability of USDA funds and personnel.

§ 621.14 Recipient responsibility.

Leadership in the study and arrangements for other needed Federal, State, and local agency participation will be the responsibility of the requesting agency. Consistent with national objectives and SCS policy and procedures, the requesting agency has leadership responsibility for developing specific study objectives, providing the necessary study organization, and formulating a plan.

Subpart C—Flood Hazard Analyses

§ 621.20 Description.

SCS provides basic technical data about flood hazards in flood plain areas through cooperative flood hazard analyses. The purpose of the data is to help local units of government reduce flood losses caused by unwise development and use of flood plains. Flood hazard reports identify hazardous areas. The reports are beneficial to municipalities, State agencies, planning commissions, and other units of government responsible for land use planning and flood plain management.

§ 621.21 Who may obtain assistance.

Assistance is available to local communities or governmental entities in States where cooperative flood hazard analyses are authorized. A coordination agreement between the responsible State agency and SCS is a prerequisite to obtaining cooperative flood hazard analyses assistance.

§ 621.22 How to request assistance.

(a) Assistance for cooperative flood hazard analyses should be requested by letter to the State conservationist from the governor or State agency responsible for flood plain management activities.

(b) A local community or jurisdiction may apply for a flood hazard study by letter to the responsible state agency or the state conservationist. Assistance in making application may be obtained by contacting any SCS office.

§ 621.23 Conditions for approval.

(a) SCS flood hazard analyses assistance, if authorized by the Administrator, is based on the joint coordination agreement between the responsible State agency and SCS. The agreement shall set forth the objectives, scope, report requirements, agency responsibilities, and general funding arrangements.

(b) The Administrator may approve flood hazard studies for individual communities upon receipt of a plan of study. Preparation of the plan of study is the responsibility of and must be approved by the applicant, the responsible state agency, and the state conservationist. The plan shall set forth the responsibilities of the applicant, the state, and SCS in carrying out the study and interpreting and using the data in a local flood plain management program. The sequence for approvals shall be based on a priority list prepared by the State agency. The number of studies started each Federal fiscal year will be governed by the availability of SCS funds and personnel and the amount of state and local assistance available.

§ 621.24 Recipient responsibility.

The state agency is responsible for developing priorities for flood hazard studies and coordinating this work with related activities in the state. The cooperating local government entity is responsible for obtaining permission for carrying out field surveys. The State and local participants assist in distributing and interpreting the report, and providing public information and educational services. SCS shall be responsible for providing leadership for scheduling and implementing the technical phases of the study and preparing the report. SCS shall assist in interpreting the study results.

Subpart D—Joint Investigations and Reports With the Department of the Army

§ 621.30 Description.

Joint investigations and reports by USDA and the Department of the Army may be authorized by resolutions adopted by the Committee on Public Works of the U.S. Senate or the Committee on Public Works of the U.S. House of Representatives for any watershed area in the 50 states, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands if the nature of the watershed area problems dictates need for a joint effort by the two departments. An authorized joint investigation and report is carried out to determine works of improvement needed in a watershed for flood prevention, for the conservation, development, utilization and disposal of water, for flood control for the conservation and proper utilization of land, and for allied purposes. The joint report to Congress shall include a water and related land resource plan recommended for implementation. The plan shall be in sufficient detail to permit its implementation if authorized by Congress.

(Sec. 1, Pub. L. 87–639, 76 Stat. 438 (16 U.S.C. 1009))

§ 621.31 Who may obtain assistance.

Any individual, organization, or group may request assistance. SCS may help interested parties determine whether their proposed requests would be appropriate.

§ 621.32 How to request assistance.

Applicants for a joint investigation and report should request their congressional representative(s) to initiate appropriation action.

§ 621.33 Conditions for approval.

Authorization for a joint investigation and report is dependent on a resolution by the Committee on Public Works of the U.S. Senate or the Committee on Public Works of the U.S. House of Representatives.

§ 621.34 Recipient responsibility.

Participating local and state governments shall work with USDA and Department of the Army representatives in developing objectives, collecting data, analyzing problems, planning and formulating proposals, and considering financial plans. State and local governments must be responsible for informing and educating the public regarding the planning process, proposals, and recommendations.

Subpart E—Interagency Coordination

§ 621.40 Participation in the Water Resources Council.

(a) SCS is assigned responsibility for USDA representation on the Water Resources Council (WRC) and the river basin commissions created under the provisions of sec. 2 (Pub. L. 89–80), 79 Stat. 244 (42 U.S.C. 1962), and on those river basin interagency committees functioning under the aegis of the WRC. In ful-

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filling its responsibilities with respect to the WRC, SCS provides two of the alternate USDA members of the Council of Members, the USDA member and alternate members of the Council of Representatives, and members of several administrative and technical committees and task groups. Under the leadership of SCS, other USDA agencies, principally the Forest Service and Economic Research Service, also participate.

(b) SCS has leadership responsibility for providing USDA technical assistance for interagency investigations and surveys undertaken and coordinated by the WRC for the conservation, utilization, and development of water and related land resources in watersheds of river basins and other waterways. Interagency coordinated surveys include the comprehensive framework studies of water resource regions and comprehensive studies for regional or river basin plans. These surveys are carried out jointly by the concerned Federal departments and the involved states.

(1) Comprehensive framework studies are the broadest level of planning and make appraisals on a broad basis of the needs and desires of people for the conservation, development, and utilization of water and related land resources. These studies identify regions with complex problems which require more detailed investigations and analyses.

(2) Comprehensive studies for regional or river basin plans result in preliminary or reconnaissance level water and related land resource plans for selected regions or river basins. Plans are prepared to resolve complex long-range problems, focus on middle term (10–25 years) needs and desires, involve Federal, State, and local interests in plan development, and identify and recommend action plans and programs to be pursued by individual Federal, State, and local entities.

(3) SCS cooperates with other Federal and State agencies in developing national water assessments. This involves inventorying the availability of land and water resources and estimating their allocations for meeting the projected economic needs of the Nation.

(c) States, river basin commissions, interagency committees, and other regional planning entities are eligible for assistance with these types of studies through the WRC. Study proposals are submitted to the Council in accordance with the Council's current format and instructions. Responsibilities of study participants, including the recipient agency, are defined in a plan of study.

§ 621.41 Federal-state compacts.

SCS is designated to represent USDA in assisting the U.S. Commissioners of the Delaware River Basin Commission and the Susquehanna River Basin Commission. In carrying out this responsibility, SCS provides a liaison officer to work with the U.S. Commissioners on policy level matters, as well as providing the USDA representatives on the Federal field committees to assist the Commissioners.

§ 621.42 Interstate compacts and commissions.

As assigned, SCS is the USDA point of contact for governing bodies of interstate compacts and commissions concerned with the conservation, development, and proper use of water, soil, and related resources.

§ 621.43 Special studies.

As designated, SCS represents USDA on special study groups such as the Western United States Water Plan and the Colorado River Basin Salinity Studies.

§ 621.33 Flood insurance studies.

As requested by the Federal Insurance Administration (FIA), Department of Housing and Urban Development, and within the limits of available resources, SCS carriers out flood insurance studies of various types under the National Flood Insurance Program (Pub. L. 90–448) 82 Stat. 574 (42 U.S.C. 4012), as amended. In this activity, SCS performs detailed flood hazard studies to determine the extent and frequency of flooding. The flood insurance program is administered by FIA. SCS is reimbursed by that agency for actual costs incurred in carrying out the studies. Local entities desiring flood insurance coverage should contact FIA and make application in accordance with procedures of that agency.

PART 622—WATERSHED PROJECTS

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AUTHORITY: Pub. L. 83–566, 68 Stat. 666, as amended (16 U.S.C. 1001–1009)

Subpart A—General

§ 622.1 Purpose.

This part sets forth the policies, requirements, and procedures for planning and carrying out watershed projects under Pub. L. 83–566, 68 Stat. 666 (16 U.S.C. 1001 et seq.).

§ 622.2 Scope.

(a) To assist sponsors prepare and carry out watershed plans, SCS will conduct investigations and surveys, with the cooperation and assistance of other Federal agencies, to determine the extent of watershed problems and needs, and to set forth viable alternative solutions consistent with local, regional, and national objectives. Alternatives will consist of land treatment measures, or combinations of land treatment, nonstructural, and structural measures that will benefit one or more of the authorized project purposes. Authorized project purposes are watershed protection, conservation and proper utilization of land, flood prevention, agriculture water management, including irrigation and drainage, public recreation, public fish and wildlife, municipal and industrial water supply, water quality management, ground water supply, agricultural pollution control, and other water management.

(b) After a final plan for works of improvement is agreed upon between SCS and the sponsors and the required review and approval processes are completed, SCS will provide technical, financial, and credit assistance to install the project as set forth in this part.

§ 622.3 Objectives of program.

(a) Watershed projects are planned and installed to contribute to community development, improve the nation's land, water, and related resources, and improve the quality of the environment. These objectives are achieved by furthering the conservation and proper utilization of land, furthering the conservation, development, utilization, and disposal of water, and preventing or minimizing damages from erosion, floodwater, and sediment.

(b) In developing each alternative, first consideration shall be given to accomplishing the objective through the installation, operation, and maintenance of land treatment measures. If project objectives cannot be obtained through land treatment measures alone, full consideration shall be given to a plan for use and management of the flood plain by nonstructural means. Structural measures shall be included to supplement the land treatment and nonstructural measures to the extent required to accomplish the project objectives. The plan selected must be consistent with local, regional, and national goals for protection and enhancement of environmental quality.

Subpart B—Qualifications

§ 622.10 Sponsors.

(a) Watershed projects are sponsored by one or more local organizations qualifying as sponsors as defined in § 620.2 of this chapter. Sponsors must, severally or collectively, have the power of eminent domain so that they may acquire land and water rights needed for the project, and have authority to levy taxes or have other adequate means of financing their share of the cost of the project. To receive Federal assistance for project installation, sponsors must commit themselves to use their powers and authority to enable them to carry out the project as planned.

(b) Major actions sponsors must take to qualify for Federal assistance for a watershed project include:

(1) Notifying in writing the state or areawide clearinghouse of their intent to submit an application for assistance.

(2) Preparing and submitting an application for assistance.

(3) Arranging for and conducting an information program to inform the public and receive comments, requests, and suggestions on the proposed project.

(4) Informing landowners and others participating in planning and carrying out the works of improvement of their responsibilities for compliance with state and federal laws.

(5) Considering alternatives and making timely decisions throughout the planning and installation process.

(6) Indicating their agreement to the watershed work plan by signing a watershed work plan agreement.

(7) Financing their share of the installation cost of planned works of improvement.

(8) Obtaining agreements to carry out recommended soil conservation measures and proper conservation plans.

(9) Acquiring needed land rights. Acquisition procedures shall conform to title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.)).

(10) Acquiring or providing evidence that landowners or water users have acquired necessary water rights in accordance with state law.

(11) Agreeing to provide relocation assistance in conformance with Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(12) Providing assurance that planned measures will be installed, operated, and maintained in accordance with state law.

(13) Providing evidence satisfactory too SCS of adequate arrangements for operating and maintaining completed works of improvement as provided in an operation and maintenance agreement entered into with the SCS.

(14) Employing or retaining professional engineers or other specialists for the technical services needed for planning and installing measures for municipal or industries water supply and for installing facilities and public recreation or fish and wildlife developments.

(15) Submitting a satisfactory repayment plan for and repaying advances or loans obtained under the provisions of sections 4 or 8 of Pub. L. 83–566.

(16) Agreeing to prohibit construction of any facility or the alteration of any works of improvement that would interfere with a planned measure functioning as designed or serving the purpose for which it was installed.

(17) Installing or arranging for installation of land treatment measures on critical sediment-source areas upstream from planned structural measures.

(18) Installing or implementing planned nonstructural measures.

(19) Construction or contracting for the construction of planned works of improvement on nonfederal lands or requesting SCS to award and administer contracts for the construction work.

(20) Comply with the Federal Civil Rights Act (Secs. 601, 602, Pub. L. 88–352, 78 Stat. 252 (42 U.S.C. 2000d, 2000d–1)) and other applicable State and Federal statutes and regulations in planning and carrying out their watershed project.

§ 622.11 Watershed projects.

(a) To be eligible for Federal assistance, a watershed project must:

(1) Meet the definition of a watershed area.

(2) Not exceed 250,000 acres in size.

(3) Not include in project works of improvement any single structure which provides more than 12,500 acre-feet of floodwater detention capacity nor more than 25,000 acre-feet of total capacity.

(4) Have significant water management problems that can be solved or alleviated by measures for watershed protection, flood prevention, land stabilization, drainage, irrigation, recreation, fish and wildlife, municipal or industrial water supply, or other water management; produce substantial benefits to groups of landowners, to communities, and to the general public; and cannot generally be installed by individual landowners or small groups of landowners with the aid of available cost-sharing assistance.

(5) Have strong local citizen support.

(6) Provide project benefits that equal or exceed project costs.

(b) Works of improvement that may be included in a watershed project are those that constitute needed and harmonious elements in the comprehensive development of the river basin involved; will contribute to reducing floodwater, erosion, and sediment damages; or will further the conservation, development, utilization, and disposal of water and the conservation and proper utilization of land.

(c) All works of improvement must have an evaluation and measurement of beneficial and adverse effects.

§ 622.12 Land treatment measures.

The initial increment of plan formulation for watershed projects shall be land treatment measures. The watershed work plan must provide for the installation, operation, and maintenance of such land treatment measures throughout the entire watershed from ridge top to ridge top as needed for watershed protection, erosion prevention, the conservation and proper utilization of all lands within the watershed, and for other project purposes. The work plan shall identify the land treatment measures to be installed and assign responsibility for their installation, operation, and maintenance.

§ 622.13 Land stabilization measures.

Land stabilization measures installed for the stabilization of critical sediment source areas may be eligible for Federal cost-sharing assistance at the rate provided for structural measures for flood prevention if:

(a) Stabilization is needed to prevent downstream sediment damage or for the efficient construction, operation, and maintenance of downstream structures.

(b) Benefits exceed costs.

(c) Income from the area would be so small or so long deferred that individual landowners or operators would not invest their own funds for stabilization.

(d) The area will be maintained in trees, grass, or other protective cover which will not be harvested except for management purposes.

(e) Sponsors will obtain title to or easements on and access to the land to be treated.

(f) Sponsors will install the measures in accordance with the terms of a project agreement with SCS.

(g) Sponsors will maintain and operate the works of improvement in accordance with the terms of an operation and maintenance agreement with SCS.

§ 622.14 Nonstructural measures.

Nonstructural measures shall be included as project measures when they are the most economically, socially, and environmentally acceptable means of reducing flood damages to existing developments in flood plains, and to control or prevent future development in flood-prone areas that would invite flood damages. Nonstructural considerations for flood plains include, but are not limited to, floodproofing or flood protection devices for existing improvements, relocation of existing properties, public acquisition of sufficient rights in flood plain land, in fee title or easements, to firmly control future use, the adoption and implementation of land use regulations, zoning for appropriate uses, development regulations, and flood forecasting.

§ 622.15 Structural measures.

(a) To qualify for Federal cost-sharing assistance, structural measures must provide direct measurable benefits to two or more beneficiaries except that (1) a drainage or irrigation outlet may be provided to each noncontiguous tract in a single farm unit; and (2) appropriate structural measures may be included in the planned land treatment measures as provided in § 622.13.

(b) Sponsors must obtain written agreements from owners of at least 50 percent of the land in the drainage area above each retention reservoir providing for each owner to use his land within its capabilities, and treat the land, within practical limits, according to the chosen use to prevent further deterioration of

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soil and water resources. Land not classified as farmland by the U.S. Bureau of the Census need not be included in determining the 50 percent requirement unless soil conservation measures need to be applied on the land.

(c) Not less than 75 percent of needed effective land treatment measures must be in place, or be installed concurrent with construction of the structural measure, on those sediment source areas which, if uncontrolled, would require a material increase in the cost of construction, operation, or maintenance of the structural measure.

(d) If storage capacity is added to a floodwater-retarding structure for purposes such as private recreation or land-value enhancement, the sponsors must provide for public use and enjoyment of the entire retention reservoir surface and facilities to accommodate such use.

(e) If measures for other nonagriculture water management are included, the watershed project must include measures providing substantial benefits for flood prevention, irrigation, drainage, or any combination thereof.

(f) Specific requirements for public recreation or fish and wildlife include:

(1) *Water resource improvements.* A recreational water resource improvement creates or improves a water area for the enjoyment of any or all forms of recreation that are based on use of or proximity to the water. A fish and wildlife water resource improvement creates or improves a water area primarily for the preservation, production, or harvest of fish and wildlife, and may include the creation or improvement of habitat solely for the preservation of fish and wildlife with no fishing or hunting permitted. Water resource improvements for recreational or fish and wildlife purposes may also include:

(i) Storage capacity in retention reservoirs for either in-reservoir use or for downstream use. Storage capacity in single-purpose retention reservoirs will be considered only for those situations where a multiple-purpose reservoir would not result in a savings in cost or where topographic or engineering considerations would prohibit developing a multiple-purpose retention reservoir.

(ii) Structural features in retention reservoirs such as water level controls needed for fish and wildlife habitat improvement or recreation, level ditches, pits, ponds, fish ladders, and fish shelters.

(iii) Stream channel work including bank sloping, rip-rapping, vegetative plantings, jetties, tree and shrub plantings, channel clearing and deepening including gravel removal, constructing sills and other facilities to create pools, fencing steambank areas, and other similar and related practices for the enhancement of recreation and fish and wildlife resources in and along streams.

(iv) Marsh and pit development to provide fish pools in marshes, and breeding and nesting areas for migratory waterfowl and aquatic mammals.

(2) *Project developments.* The term "project development" applies to either recreation or fish and wildlife unless otherwise indicated. A project development may be associated with a retention reservoir, a lake, or a well-defined reach of a perennial stream. A project development shall not include the entire stream system of a watershed. Adequate and appropriate facilities for planned recreational use shall be included. The number of project developments within a watershed are limited to one development in a watershed project of less than 75,000 acres, two developments in a watershed project containing between 75,000 acres and 150,000 acres, and three developments in a project of more than 150,000 acres. The terms "project recreational development" and "project fish and wildlife development" are water resource improvements in which (Pub. L. 83-566) funds and technical assistance are provided for land rights or facilities or both.

(g) If water storage capacity for any beneficial purpose other than public recreation or fish and wildlife is added to a floodwater-retarding structure designed for more than 50-year sediment accumulation, the added storage shall be in an amount equal to at least one-half the capacity provided for sediment accumulation. For public recreation or fish and wildlife developments the surface area of the enlarged pool must be at least 50 acres and 50 percent larger than the surface area of the sediment pool unless, because of site conditions, the Administrator determines that the development of a 50-acre lake is unreasonable. If determined to be unreasonable, he will establish the minimum size of pool which will be acceptable.

Subpart C—Application Procedure

§ 622.20 Preapplication.

The sponsors shall notify the appropriate clearinghouse of intent to apply for Federal assistance by submitting a preapplication on Form AD 621 with a copy to the state conservationist.

§ 622.21 Application.

Form AD 624 shall be used to make application to the SCS for Federal aid in developing and carrying out a watershed project. The application will be submitted by the sponsor through the governor or designated state agency for approval. Assistance in preparation and submission of applications may be obtained from the State agency designated to approve applications for assistance or from SCS.

§ 622.22 State agency approval.

The governor or State agency will approve or disapprove the application. If disapproved, no further action is required of SCS. If approved or not disapproved within 45 days, the application shall be sent to the State conservationists. If the State conservationist determines that the application is legally valid, he will send the application to the Administrator. The Administrator will notify the sponsor of receipt of the application.

Subpart D—Planning and Approval

§ 622.30 Planning authorization request.

(a) If SCS has resources available to furnish planning assistance, the State conservationist shall request the governor or State agency to consider all unserviced applications in the State and to establish priorities for planning assistance. Each State agency should establish criteria to be met before priorities for applications are established. SCS and the State agency shall give highest priority to watersheds in which local people are ready, willing, and able to provide for all land and water management needs in the watershed.

(b) Upon receipt of the application Form AD 624 concurred in by the clearinghouse and approved by the State agency, and in accordance with established priorities, SCS will conduct a preliminary investigation of the watershed to determine the physical and economic feasibility of developing a plan to meet the objectives of the sponsors. An environmental assessment will be made as part of this investigation. The findings of the preliminary investigation shall be presented to sponsors and other concerned agencies. The presentation shall include an estimate of the scope of the proposed project, the alternatives, environmental considerations, and preliminary cost estimates. The preliminary investigation report and the sponsors' reactions provide a basis for an initial determination of the nature and feasibility of the proposed project.

(c) A widely advertised public information meeting shall be called by the sponsors to present the preliminary investigation report, and to receive views of the general public.

(d) If the sponsors wish to proceed with detailed planning, they will inform the State conservationist who will request authorization from the Administrator to provide planning assistance.

§ 622.31 Coordination.

(a) Watershed projects are to be planned and carried out by local, State, and Federal agencies with local citizen participation. The Handbook for Coordination of Planning Studies and Reports (Coordination Directory) published by the Water Resources Council is to be used to coordinate the investigations for and development of watershed work plans. Watershed projects are Level C or implementation studies as described in the coordination handbook.

(b) Watershed projects must comply with the spirit and intent of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)).

§ 622.32 Planning process.

(a) *Sponsors.* Since watershed projects authorized under Pub. L. 83-566 are local projects with Federal assistance, sponsors must consider alternatives, make timely decisions, and provide for public participation in the planning process based on an informational and educational program that keeps all interested individuals and groups informed about the scope and status of the studies. Sponsors, States, and other nonfederal interests may participate financially in planning by:

(1) Providing funds to SCS for salaries and expenses incurred by SCS in preparing a watershed work plan.

(2) Hiring watershed planning personnel to function as a separate planning unit or to augment the SCS planning staff.

(3) Hiring consultants or using its own staff to carry out selected surveys and investigations for which they are qualified.

(4) Hiring or using its own equipment for carrying out foundation and other explorations.

(b) *Planning staff.* SCS provides an interdisciplinary planning staff composed of specialists such as soil conservationists, biologists, engineers, hydrologists, and others as needed to work with the local SCS representative in helping sponsors develop a watershed work plan.

(c) *Participation by others.* The Forest Service and Farmers Home Administration of the USDA are authorized to assist in developing a watershed work plan. Other Federal and State agencies with expertise in subjects relative to water and land resources are notified by SCS of initiation of the watershed studies and are invited to participate. Private organizations and individuals with similar expertise are also encouraged to participate.

(d) *Plan formulation.* Project objectives shall be based on the collective desires of the sponsors and the general public. These desires shall be determined through the discussion of problems, needs, and desires as they relate to existing resources. The environmental assessment and draft environmental impact statement (EIS) discussed in Part 650 of this chapter will be considered in these discussions. To achieve the agreed-to objectives, the watershed work plan should provide for the proper mix and combination of land treatment, nonstructural and structural measures that result in the most economically, socially, and environmentally acceptable means of accomplishing this objective without regard to permissible Federal cost-sharing assistance. Land treatment shall receive first consideration to project formulation. Full consideration will be given to nonstructural activities to supplement land treatment including, but not limited to, land use regulations, zoning, development policies, building codes, floodproofing, public acquisition of sufficient rights in flood plain lands to control the land use, flood forecasting, and provisions for disseminating information on flood hazards and flood insurance. Structural measures shall be considered along with land treatment and nonstructural measures to meet project objectives.

§ 622.33 Watershed work plan.

(a) *Purpose.* A watershed work plan shall be prepared by the sponsors with help from SCS to describe the watershed and its problems, set forth a plan for the proposed works of improvement, the general sequence for installation of the works of improvement, estimated costs, anticipated effects and benefits, proposed cost-sharing arrangements, and responsibilities of those participating in the project.

(b) *Elements of work.* Needed land treatment measures will be included as the first increment of planned works of improvement in watershed work plans. Structural and nonstructural measures may be included in combination with land treatment measures as necessary to accomplish the project objectives.

(c) *Agreement.* SCS and sponsor acceptance of the watershed work plan is evidenced by signing a watershed work plan agreement.

§ 622.34 Review.

(a) *Technical review.* The preliminary draft watershed work plan and preliminary draft EIS shall be reviewed by SCS for technical adequacy and conformity with legal and policy requirements.

(b) *Informal field review.* Following the technical review, the sponsors and SCS shall jointly conduct a review of the preliminary draft watershed work plan and preliminary draft EIS with representatives of State and local agencies and field offices of interested Federal agencies to solicit additional inputs and comments.

(c) *Local public review.* Following the completion of the informal field review, a public information meeting will be held to present the preliminary formulation and discuss environmental impacts. This meeting will be called by the sponsors, jointly by sponsors and SCS, or by established state procedure. The general public and representatives of Federal agencies, State agencies, organizations and individuals that have evidenced an interest in the watershed shall be invited to participate and submit comments.

(d) *Interagency review.* Following the local public review, the draft watershed work plan and draft EIS, if required, will be submitted by SCS to the governor and other concerned Federal agencies for review and comment. The draft EIS will also be sent to interested individuals, groups, or organizations.

(e) *Office of Management and Budget.* Following the interagency review, the final watershed work plan and final EIS, if required, shall be prepared after giving consideration to all substantive comments received. The watershed work plan agreement shall be signed by the sponsors and SCS. For watershed work plans requiring congressional approval, the watershed work plan and EIS shall be sent by the Secretary to the Office of Management and Budget for transmittal to the appropriate congressional committee.

(f) *Other.* Additional needed discussions and review of the watershed work plan and EIS may be called for by the sponsors or SCS.

§ 622.35 Approval.

(a) Administratively approved plans. State conservationists may approve watershed work plans that do not include any single structure exceeding 2,500 acre-feet of capacity and do not involve a Federal contribution to construction costs in excess of $250,000. Work plans which meet these requirements and provide for installation of measures in two or more states must be approved by the Administrator.

(b) *Congressionally approved plans.* Watershed work plans containing provisions that exceed either of the limitations cited in paragraph (a) of this section must be submitted to the appropriate congressional committee as follows:

(1) *Agriculture committees.* The Committee on Agriculture and Forestry of the U.S. Senate and the Committee on Agriculture of the U.S. House of Representatives are the approval authority for all watershed work plans having an estimated Federal contribution to construction costs in excess of $250,000 or that include a structure having more than 2,500 acre-feet of total capacity but not more than 4,000 acre-feet of total capacity.

(2) *Public works committees.* The Committee on Public Works of the U.S. Senate and the Committee on Public Works of the U.S. House of Representatives are the approval authority for watershed work plans involving any structure having more than 4,000 acre-feet of total capacity.

§ 622.36 Amendments and revisions.

A watershed work plan may be amended or revised and the watershed work plan agreement modified or terminated by mutual agreement of the sponsors and SCS. Congressional approval is required for significant changes in purpose or scope.

Subpart E—Financial Assistance

§ 622.40 General.

(a) Federal financial assistsance for project installation is authorized after the watershed work plan is approved as set forth in § 622.35. Federal assistance may include technical and financial assistance, advances, and loans. The watershed work plan agreement shall specify the Federal assistance to be provided, and shall evidence commitments for funding and for installing, operating, and maintaining the project.

(b) The Administrator shall allocate Federal funds for watershed projects from annual appropriations made for this program by Congress. In allocating funds for Federal assistance for installation, consideration shall be given to factors such a geographic distribution of projects, relative contribution to national priorities, and readiness of sponsors to install, operate, and maintain projects.

(c) Sponsors shall provide their share of installation costs from other than Pub. L. 83-566 funds. Local financing may include State, county, and other local funds such as watershed or special purpose district taxes. Loans or grants of funds from other Federal programs may be used. Sponsors may meet a portion of their financial obligations from non-SCS donations.

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§ 622.41 Pub. L. 83–566 Financing.

(a) Federal funds appropriated under authority of Pub. L. 83–566 are to be used to provide:

(1) The entire cost of engineering services for flood prevention purposes.

(2) The entire cost of engineering services for water quality management purposes if such purposes are approved for inclusion in the project by the Environmental Protection Agency (EPA).

(3) Up to 100 percent of technical assistance and engineering costs for accelerating installation of needed land treatment measures on nonfederal lands, for agricultural water management, and for public recreation and fish and wildlife purposes.

(4) Up to 50 percent of technical assistance and engineering costs applicable to recreational facilities for public recreation and fish and wildlife purposes.

(5) A percentage of the cost of relocation payments based upon the ratio of Pub. L. 83–566 funds to total project costs excluding relocation payments.

(6) All SCS administrative costs for project installation. This may include the cost of awarding and administering contracts if SCS contracts for the construction of structural measures. SCS will: (i) Provide construction inspection for elements of structural works of improvement on which Pub. L. 83–566 construction funds are spent. (ii) Inspect other features of project installation where malfunction or failure could adversely affect the stability or functioning of cost-shared items of work. SCS inspection of local cost items is solely for this purpose and does not relieve the sponsors of their responsibility for providing, without Pub. L. 83–566 cost sharing, construction inspection necessary to assure that the installation conforms with contract requirements.

(7) The cost of financial assistance in the installation of certain land treatment measures on nonfederal land at a rate of cost sharing not exceeding that available under other national programs and only to the extent required by lack of sufficient funds for technical and cost-sharing assistance provided under other Federal appropriations. To qualify for assistance under Pub. L. 83–566, land treatment measures must be needed to achieve project objectives, financial assistance must be necessary to insure their installation, and funds must not be available from other going Federal programs.

(8) The entire cost of construction of structural measures including land stabilization measures meeting the requirements set forth in § 622.13.

(9) The entire cost of construction of structural measures for water quality management purposes if such purposes are approved for inclusion in the project by EPA.

(10) Up to 50 percent of construction costs for agricultural management purposes.

(11) Up to 50 percent of construction costs for public recreation and fish and wildlife purposes.

(12) Up to 50 percent of cost of land rights, as set forth in Part 651 of this chapter, for public recreation and fish and wildlife developments.

(b) Funds from sources other than Pub. L. 83–566 must bear all other costs.

§ 622.42 Provisions for financing.

(a) FHA may make watershed loans to sponsors to help finance the local share of project costs set forth in approved watershed work plans as provided in Part 1823 of this title.

(b) SCS may advance funds to sponsors for:

(1) Engineering and construction costs, not to exceed 30 percent of the total cost of the structure, to provide storage capacity for future municipal or industrial water supply. The advance must be repaid with interest within 50 years after the retention reservoir is constructed, or a shorter period if required by State law. Interest will not be charged until the water supply is first used from such capacity or until 10 years after the date of completion of the structure, whichever is earlier.

(2) Purchase of land rights if:

(i) Immediate purchase is essential to preserve the site for project works of improvement;

(ii) A watershed work plan has been approved;

(iii) SCS and the sponsors have signed an agreement providing for the acquisition of land rights; and

(iv) The FHA has approved the arrangement for repayment of the advance. Interest charges will begin to accrue on the advance on the date the advance is made to the sponsors. The advance and accrued interest is to be repaid by the sponsors prior to construction of the works of improvement.

(3) Engineering services required for a works of improvement if:

(i) The works of improvement is included in the watershed work plans;

(ii) The engineers retained or employed by the sponsor are satisfactory to SCS; and

(iii) The total advanced does not exceed five percent of the estimated installation cost of the works of improvement.

§ 622.43 Local financing methods.

Project measures to be installed with Pub. L. 83–566 financial assistance are usually installed through a competitive bid contract. Sponsors must provide their share of the contract cost in cash as follows:

(a) *By force account.* Under this method the sponsors provide their own forces including labor, equipment, materials, and equipment rental in lieu of cash. Accurate records must be kept of the cost of all work performed by force account. This account will be credited toward the sponsor share of the cost.

(b) *By performance of work.* Under this method, the value of work to be provided by the sponsors is determined by negotiation between the sponsors and SCS and is included in a project or engineering services agreement for the work. SCS approved cost estimates made immediately prior to signing the agreement establish the maximum value of the work. A financial settlement will be made between SCS and the sponsors upon completion of work covered by each agreement. This method of installation may be used only if:

(1) SCS determines that this action is in the interest of the project, the watershed program, and the Federal government;

(2) SCS determines that the organization or agency to perform the work has the necessary equipment and work force, and is skilled in performing the type of work contemplated;

(3) Performance will conform to drawings and specifications approved by SCS and will be in accordance with an agreed upon time schedule;

(4) The sponsors assume full financial and other responsibility for any work that must be torn out, replaced, or repaired because of construction error or other causes which would be the responsibility of a contractor if the work was performed by contract; and

(5) The estimated value of the work the sponsors are to perform does not exceed the sponsors' share of the cost-shared items.

(c) *By division of work.* This method may be used for cost sharing land treatment measures only. The measures to be installed by this method shall be described in the watershed work plan narrative and cost estimates included in the watershed work plan. The watershed work plan agreement shall specify the increments of installation work for which SCS and the sponsors are responsible without citing a percentage rate of cost sharing. Sponsors are not required to keep records of expenditures. Detailed SCS cost estimates shall be maintained in support of the watershed work plan to evidence that Pub. L. 83–566 costs for land treatment do not exceed the rate authorized.

Subpart F—Installation

§ 622.50 Authorized for installation.

Installation is the phase of project development beginning after the watershed work plan has been approved as provided in § 622.35, and Federal assistance for installing the project has been authorized. The installation phase continues until all planned measures are completed and the project enters the operation and maintenance phase.

§ 622.51 Implementation.

Installation will be implemented as provided by the specific agreements entered into between SCS and the sponsors, such as the project, engineering services, and land rights agreements. Each agreement will detail the working arrangements and funding and responsibilities of each party for carrying out specified elements of work.

§ 622.52 Sponsor responsibilities.

Sponsors are responsible for carrying out the watershed work plan with assistance from SCS. This responsibility includes:

(a) Financing all non-Pub. L. 83–566 costs.

(b) Conducting a continuing program of information and public participation.

(c) Providing land rights, including the right of public access to works of improvement as provided in the work plan and to all other water impounding structures enlarged for nonproject purposes such as private recreation or land value enhancement.

(d) Providing water rights.

(e) Awarding and administering contracts, except that SCS may be requested to contract for the construction of structures.

(f) Obtaining agreements from landowners and operators to plan and apply soil and water conservation measures and provide land treatment measures.

(g) Complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.)).

(h) Complying with State law and local ordinances.

(i) Repaying any loan or monies received as an advance for preservation of sites.

(j) Operating and maintaining completed works of improvement.

§ 622.53 SCS responsibilities.

SCS is responsible for providing authorized assistance as set forth in the watershed work plan. This assistance includes:

(a) Technical assistance for land treatment.

(b) Preparation of plans and estimates.

(c) Allocation of costs.

(d) Entering into agreements with sponsors to furnish financial and other assistance.

(e) Assistance to sponsors in performing designs, developing specifications, and awarding and administering contracts when requested by the sponsors.

(f) Cooperation with other Federal, State, and local agencies in program coordination.

§ 622.54 Other Federal agency responsibilities.

(a) Land administering agencies are responsible for the installation, operation and maintenance of works of improvement on lands which they administer. Federal funds appropriated for Pub. L. 83–566 work may not be used to install, operate, or maintain land treatment measures on Federal lands. Other works of improvements on Federal lands will be cost shared as provided in the watershed work plan.

(b) The Forest Service of USDA is responsible for providing technical assistance for the forestry aspects of planned land treatment measures.

(c) The Farmers Home Administration of USDA is responsible for administering the watershed loan and advance provisions of Pub. L. 83–566.

(d) Other Federal agencies may provide technical and financial assistance in the installation of watershed projects under their authorities.

PART 623—FLOOD PREVENTION PROJECTS

Sec.
623.1 Purpose.
623.2 Scope.
623.3 Initiation.
623.4 Subwatershed work plans.
623.5 Subwatershed financial assistance.
623.6 Installation.

AUTHORITY: Sec. 1, Pub. L. 86–468, 74 Stat. 131, as amended (16 U.S.C. 1006a); sec. 2, Pub. L. 78–534, 58 Stat. 889 (33 U.S.C. 701a–1); Sec. 13, Pub. L. 78–534, 58 Stat. 905.

§ 623.1 Purpose.

This part sets forth policies, requirements, and procedures for carrying out federally assisted projects administered by SCS under the Flood Control Act of 1944 (Sec. 13, Pub. L. 78–534, 58 Stat. 905). This Act authorizes the 11 watershed improvement programs covered by this part.

§ 623.2 Scope.

(a) The 11 authorized watersheds and their locations are:

Buffalo Creek Watershed, New York.
Middle Colorado River Watershed, Texas.
Coosa River Watershed, Georgia and Tennessee.
Little Sioux River Watershed, Iowa.
Little Tallahatchie Watershed, Mississippi.
Los Angeles River Watershed, California.
Potomac River Watershed, Maryland, Pennsylvania, Virginia, and West Virginia.
Santa Ynez River Watershed, California.
Trinity River Watershed, Texas.
Washita River Watershed, Oklahoma and Texas.
Yazoo River Watershed, Mississippi.

(b) The purposes and objectives of flood prevention and watershed protection in the 11 authorized watersheds are the same as those described for watershed projects in Part 622 of this chapter. Planning criteria, economic justification, local sponsorship, agency participation, financial assistance, eligible measures, operation and maintenance arrangements, and other policies and procedures for subwatersheds within each of the 11 authorized watersheds are consistent with those of watershed projects. Policies, requirements, and procedures for subswatersheds in the 11 authorized watersheds which differ from that for watershed projects are described in §§ 623.3 through 623.6.

§ 623.3 Initiation.

Flood prevention projects are individually authorized by Federal legislation. Only the 11 authorized projects are eligible for assistance. The State conservationist and the sponsors mutually agree to the need and feasibility of watershed improvement work in individual subwatersheds. Therefore, the provisions for application and planning authorization for watershed projects in §§ 622.20, 622.21, 622.22, and 622.30 of this chapter are not applicable.

§ 623.4 Subwatershed work plans.

Subwatershed work plans are administratively approved by the state conservationist. If the plan involves Federal financial, technical, or credit assistance for purposes other than flood prevention, clearance from the Office of Management and Budget will be obtained before the plan is approved by the state conservationist.

§ 623.5 Subwatershed financial assistance.

Financial assistance available to sponsors of subwatersheds in the 11 authorized watersheds is identical to that described in Part 622 of this chapter, except that program funds may be used to provide Federal financial assistance for purchase of land rights for single-purpose flood prevention structures and for installing land treatment measures on Federal lands.

§ 623.6 Installation.

Installation procedures and responsibilities of sponsors and SCS are identical to those listed in Part 622 of this chapter, except that SCS shall award and administer contracts for installation of measures unless it is to the government's advantage and the sponsors agree to award and administer the contracts.

PART 624—EMERGENCY WATERSHED PROTECTION

Sec.
624.1 Purpose.
624.2 Scope.
624.3 Administration.
624.4 Eligibility.
624.5 Application.
624.6 Investigation and approval.
624.7 Coordination with Federal agencies.
624.8 State and local responsibilities.
624.9 Environment.

AUTHORITY: Sec. 216, Pub. L. 81–516, 64 Stat. 184 (33 U.S.C. 701b–1).

§ 624.1 Purpose.

This part sets forth the policies, requirements, and procedures for Federal assistance administered by SCS under section 216 of the Flood Control Act of 1950 (Pub. L. 81–516, 64 Stat. 184 (33 U.S.C. 701b–1)).

§ 624.2 Scope.

Authorized emergency watershed protection (EWP) technical and financial assistance may be provided to the extent funds and manpower are available when an emergency exists. Technical assistance includes engineering and other disciplines needed for planning and installing emergency measures. Planning costs, engineering services, and project administration, except for relation assistance advisory services, are included. SCS may pay up to 100 percent of the costs of approved EWP measures. EWP is authorized in the 50 States, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

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§ 624.3 Administration.

Administration of EWP has been delegated by the Secretary to SCS. SCS shall provide overall administrative direction and guidance. Funds shall be transferred by SCS to the Forest Service (FS) of the U.S. Department of Agriculture (USDA) at the national level for work to be installed by FS or its cooperators. Under general program criteria and procedures established by SCS, the FS is responsible for administering the forestry aspects of EWP on the national forests and rangelands within national forest boundaries, on adjacent rangelands that are administered under formal agreement with the FS, and on other forest lands. When these lands are involved, the emergency work is to be done either by SCS or FS in the quickest and most economical manner. In carrying out its responsibilities, FS is to work cooperatively with SCS and other Federal, State, and local government agencies.

§ 624.4 Eligibility.

(a) An emergency exists if a watershed is suddenly impaired by flood, fire, wind, earthquake, or other natural force. The emergency area need not be declared a national disaster area to be eligible for EWP. EWP is applicable to small-scale, localized disasters and large-scale disasters. EWP funds shall not be used to perform normal operation and maintenance.

(b) Eligible measures include erosion and water control measures such as: Establishment of vegatative cover, streambank stabilization, opening clogged watercourses, and installing diversions, dikes, jetties, terraces, dams, open channels, debris basins, and grade stabilization measures. An existing structure may be repaired as an EWP measure if the structure is in imminent danger of failure and its failure would cause significant losses to life and property. It is emphasized that the purpose of EWP work is to safeguard lives and property in emergency situations and not to resolve watershed problems that existed prior to the natural disaster. Permanent or longlife measures may be installed as EWP measures only if their installation is the most economical and expeditious way of alleviating the critical situation.

(c) EWP assistance is available to landowners, managers, residents, and others having a bona fide interest in areas affected by sudden impairment of a watershed by a natural disaster. Interested persons should apply through a sponsor as defined in § 624.8.

§ 624.5 Application.

Sponsors may apply to any SCS office for EWP assistance. SCS will help sponsors prepare their applications. SCS offices are described in Part 600 of this chapter. The application shall be in writing and shall describe the nature, location, and scope of the problems and the assistance needed.

§ 624.6 Investigation and approval.

(a) *Investigation.* Upon receipt of an application for EWP, the State conservationist shall arrange for an immediate investigation to determine:

(1) Physical details of the watershed impairment.

(2) Potential hazards to life and property created by the emergency.

(3) Kind and quantity of emergency measures needed.

(4) Environmental considerations of the needed work.

(5) Estimated cost of emergency measures.

(6) Amount of assistance available through other programs.

(7) Specific kind of participation, value of work, and dollar contribution that local interests and State agencies are willing and able to make to install the emergency measures.

(8) Amount of EWP funds needed.

(b) *Report.* If the investigation supports the need for emergency protection, the State conservationist shall immediately report his findings to the Administrator and request approval and funding. Upon approval, available funds shall be allotted to the State conservationist for installing emergency protection.

§ 624.7 Coordination with Federal agencies.

SCS EWP work is coordinated with other emergency programs. The coordination is to be extensive enough to avoid duplication of assistance. In declared disaster areas, USDA agencies shall respond to the Federal Disaster Assistance Administration (FDAA) which has overall responsibility. If FDAA transfers this responsibility to the Federal Regional Council during the recovery period, USDA agencies shall be responsible to the Council. USDA operations shall be coordinated through USDA state and county emergency committees. Information on other Federal emergency projects is available from regional offices of FDAA. The Federal land-managing agency is to assume land rights and operation and maintenance responsibilities for EWP measures installed on Federal land.

§ 624.8 State and local responsibilities.

EWP work on nonfederal land must be sponsored by a local or state organization such as a conservation district or a county, town, or State agency. To receive assistance, the sponsor must have authority to provide needed land rights, water rights, and construction permits. State environmental, natural resource, fish and game, and other agencies should participate in planning and coordinating emergency work. An entity of the State government such as a conservation district, town or county government, or State agency should assist in selecting the priorities of eligible areas.

§ 624.9 Environment.

Environmental aspects of emergency work shall be given careful consideration. A program environmental impact statement for EWP work has been circulated in compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)). The Administrator shall notify the chairman of the Council on Environmental Quality by letter when emergency work is to be undertaken. The notification shall be a supplement to the program environmental impact statement. State conservationists shall notify regional offices of the Bureau of Sport Fisheries and Wildlife, the Environmental Protection Agency, and the state fish and game and other appropriate agencies of anticipated EWP and invite their assistance in implementing the emergency work. Archaeological, historical, or other special expertise needed shall be solicited from appropriate agencies and groups. Environmental and other considerations shall be integrated into emergency work using the interdisciplinary planning approach.

[FR Doc.74-10074 Filed 5-1-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 103]

VOCATIONAL EDUCATION

Research and Training, Exemplary, and Curriculum Development Programs

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and pursuant to the authority contained in the Vocational Education Act of 1963, as amended, 20 U.S.C. 1241 to 1391, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 Part 103 of the Code of Federal Regulations to read as set forth below.

These regulations contain all of the mandatory requirements for the program. At present, there will be no guidelines under this program. Should guidelines be issued in the future, they will be limited to material in the nature of suggestions and recommendations for program management and operation and will be published in the FEDERAL REGISTER 30 days prior to their effective date. Appendices A & B, containing criteria, were published at 38 FR 36747 on November 7, 1973 and at 38 FR 33566 on December 5, 1973 respectively with opportunity for comment. No comment was received and the appendices are added without change.

1. *Program purposes.* Parts C, D, and I of the Vocational Education Act of 1963, as amended, authorize programs under which the Commissioner may award grants and contracts to eligible applicants for research and training (Part C), exemplary projects (Part D) and curriculum development (Part I).

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations proposed below reflect the results of this study as it pertains to the discretionary programs under Parts C, D, and I of the Vocational Education Act of 1963, as amended.

Part 103 will be published in final form following the evaluation of comments received in writing or during the public hearing. The regulations will become effective thirty days after such publication in final form at which time they will supersede all preceding rules, regulations, guidelines, or other interpretations and orders issued in connection with or affecting Part 103.

3. *Effect of Office of Education general provisions regulations.* The proposed regulations differ from the current regulations in that provisions relating to general fiscal and administrative matters which presently appear in 45 CFR Part 103 are being deleted from Part 103 because they are now covered under the overall Office of Education general provisions regulations, Parts 100–100b of Title 45, Code of Federal Regulations published in the FEDERAL REGISTER at 38 FR 30654 on November 6, 1973. Particular reference is made to Part 100a which contains the general provisions for discretionary programs, which are applicable to the programs under Parts C, D, and I of the Vocational Education Act of 1963, as amended.

4. *Change in the proposed regulations.* (a) The new proposed Part 103 as set forth below contains no major substantive changes in the regulations which were revised and republished in the FEDERAL REGISTER at 35 FR 11976 on July 24, 1970. Minor technical changes are proposed to conform with section 503, to delete matters covered by the general provisions, and to update references to organizational units.

(b) Specifically, the following sections have been deleted: §§ 103.2, 103.3 (b), (d), and (g), 103.13(a), 103.14, 103.16, 103.17, 103.24(a), 103.25, 103.27, 103.28, 103.34, 103.35, 103.36 and 103.37. All of Subpart E, "General Terms and Conditions" has been deleted as the provisions therein are superseded by 45 CFR Part 100a. Language has been added to section 103.22 to indicate that funding is limited by the Act to three years. Sections 103.13 (c) and 103.24(c) have been revised to update the reference to organizational units. Section 103.24 provides for evaluation by disinterested parties. Section 103.24(b) has been revised to require a copy of applications to be sent to the appropriate Regional Commissioner.

(c) The section numbering of the present regulations has been retained for clarity and continuity.

5. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232 (a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section above the citation. When the citation appears only at the end of the section it applies to the entire section.

6. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations, as follows:

A public hearing will take place at the U.S. Office of Education on May 30, 1974, in the auditorium of Regional Office Building Three (ROB-3) located at 7th and D Streets SW., Washington, D.C. 20202, beginning at 10 a.m.

Interested parties may also submit written comments and recommendations to the Commissioner of Education, Attention: Chairman, Office of Education Task Force on Section 503, Room 2079-G, Federal Office Building No. 6 (FOB-6), 400 Maryland Avenue SW., Washington, D.C. 20202. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week.

Parties interested in attending the hearing should notify the Office of Education at the above address, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

(Catalog of Federal Domestic Assistance Nos. 13.408, 13.502, Vocational Education—Curriculum Development, Research, and Exemplary Programs and Projects)

Dated: March 28, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: April 19, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

PART 103—RESEARCH AND TRAINING, EXEMPLARY AND CURRICULUM DEVELOPMENT PROGRAMS IN VOCATIONAL EDUCATION

Subpart A—Applicability and Definitions

Sec.
103.1 Applicability.
103.3 Definitions.
103.4 Cross reference to general provisions regulations.

Subpart B—Research and Training Programs (Part C of the Act)

103.11 Eligible programs and projects.
103.12 Eligible applicants.
103.13 Applications for grants or contracts.
103.15 Distribution of grants and contracts among the States.

Subpart C—Exemplary Programs and Projects (Part D of the Act)

103.21 Purpose.
103.22 Eligible programs and projects.
103.23 Eligible applicants.
103.24 Applications for grants or contracts.
103.25 Review of applications.
103.26 Distribution of grants and contracts among the States.

Subpart D—Curriculum Development Programs (Part I of the Act)

103.31 Purpose.
103.32 Eligible programs and projects.
103.33 Eligible applicants.

Appendix A—Exemplary Projects in Vocational Education Additional Criteria

Appendix B—Research Projects in Vocational Education Additional Criteria

AUTHORITY: Secs. 131–134, 141–145, and 191 of the Vocational Education Act of 1963, as amended; 82 Stat. 1078–1082, and 1091, as amended; 20 U.S.C. 1281–1305, and 1391, unless otherwise noted.

Subpart A—Applicability and Definitions

§ 103.1 Applicability.

The regulations in this part apply to grants and contracts made by the U.S. Commissioner of Education for research and training programs under section 131 (a) of part C, for exemplary programs and projects under section 142(c) of part D, and for curriculum development programs under section 191 of part I of the Vocational Education Act of 1963, as amended.

(20 U.S.C. 1281(a), 1302(c), 1391)

§ 103.3 Definitions.

As used in this part:

"Act" means the Vocational Education Act of 1963, as amended.

(20 U.S.C. 1241–1391)

"Curriculum materials" means materials consisting of a series of courses to cover instruction in any occupational field in vocational education which are designed to prepare persons for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field.

(20 U.S.C. 1391(c)(2))

"Local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency (such as a junior or community college or State-operated area vocational school) having administrative control and direction of a vocational education program.

(20 U.S.C. 1248(9))

"New careers" or "new occupations" includes careers or occupations in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions in such fields

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but providing opportunity for advancement within a career continuum or sequence.

(20 U.S.C. 1282(6))

"State" means a State of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1248(7))

"State board" means the State board designated or created under State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration thereof by local educational agencies in the State, and designated in the State plan pursuant to the regulations governing State vocational education programs (45 CFR 102.32).

(20 U.S.C. 1248(8), 1263(a))

"Vocational education" means both vocational education and technical education.

(20 U.S.C. 1248(1))

§ 103.4 Cross reference to general provisions regulations.

Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 1221c(b)(1))

Subpart B—Research and Training Programs (Part C of the Act)

§ 103.11 Eligible programs and projects.

Funds available under section 131(a) of the Act may be used by the Commissioner to award grants and contracts to eligible applicants to pay part of the cost of the following types of activities related to vocational education:

(a) Research in vocational education;

(b) Training programs designed to familiarize persons involved in vocational education with research findings and successful pilot and demonstration projects in vocational education;

(c) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings;

(d) Demonstration and dissemination projects;

(e) The development of new vocational education curricula; and

(f) Projects in the development of new careers and new occupations, such as:

(1) Research and experimental projects designed to identify new careers and to delineate, within such careers, roles with the potential for advancement from one level to another;

(2) Training and development projects designed to demonstrate improved methods for securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in new careers and occupations, including programs to prepare professionals (including administrators) to work effectively with aides; and

(3) Projects to evaluate the operation of programs for the training, development, and utilization of public service aides, particularly their effectiveness in providing satisfactory work experiences and in meeting public needs whether through employment by public or private agencies.

(20 U.S.C. 1281(a), 1282)

§ 103.12 Eligible applicants.

(a) The following categories of agencies and institutions are eligible for grants or contracts under this subpart:

(1) Institutions of higher education;

(2) State boards;

(3) Local educational agencies; and

(4) Other public or private agencies or institutions, provided that no grants may be made to other than a nonprofit agency or institution.

(b) Individuals are not eligible for such grants or contracts.

(20 U.S.C. 1281(a))

§ 103.13 Applications for grants or contracts.

(a) All applications from local educational agencies shall be submitted to the Commissioner through the State board and shall be accompanied by a statement of the State board indicating its approval of the application.

(20 U.S.C. 1281(a), 1283(a))

(b) The application shall be executed by an individual authorized to act for the applicant. Applications shall be mailed to the Application Control Center, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, (Attention: 13.498).

(20 U.S.C. 1283(a))

(c) Requests for applications and application information shall be mailed to Division of Research and Demonstration, U.S. Office of Education, Room 5012, 7th and D Streets, ROB–3) SW., Washington, D.C. 20202.

§ 103.15 Distribution of grants and contracts among the States.

(a) Grants and contracts to eligible applicants located in any one State will be awarded by the Commissioner only from funds allotted to that State pursuant to section 103(a)(2) of the Act and available to the Commissioner under section 131(a) of the Act, except that—

(20 U.S.C. 1242(a), 1243(a)(2), 1281(a))

(1) Grants and contracts for programs or projects of national significance may be made from funds derived from a pro rata share of allotments to all the States, and

(2) Grants and contracts for programs or projects of regional or interstate significance may be made from funds derived from a pro rata share of allotments to all of the States affected by the significance of the program or project.

(b) Determination of whether a particular program or project has national, regional, or interstate significance will be made by the Commissioner on the basis of information submitted to him in the application and after consultation with a panel of experts.

(20 U.S.C. 1281, 1283(b))

Subpart C—Exemplary Programs and Projects (Part D of the Act)

§ 103.21 Purpose.

The purpose of part D of the Act is to stimulate new ways to create a bridge between school and earning a living for young people who are still in school who have left school either by graduation or by dropping out, or who are in postsecondary programs of vocational preparation; and to promote cooperation between public education and manpower agencies, through Federal financial support of exemplary and innovative occupational programs or projects which are designed to broaden occupational aspirations and opportunities for youths, particularly disadvantaged youths; and to serve as models for use in vocational education programs.

(20 U.S.C. 1301, 1303(a)(2))

§ 103.22 Eligible programs and projects.

Funds available under section 142(c) of the Act may be used by the Commissioner to award grants and contracts to eligible applicants to pay all or part of the cost of planning and developing or establishing, operating, or evaluating exemplary programs or projects designed to carry out the purpose set forth in § 103.21. (20 U.S.C. 1302(c), 1303(a)(2).) Such programs or projects may, among others, include:

(a) Those designed to familiarize elementary and secondary school students with the broad range of occupations for which special skills are required and the requisites for careers in such occupations;

(b) Programs or projects for students providing educational experiences through work during the school year or in the summer;

(c) Programs or projects for intensive occupational guidance and counseling during the last years of school and for initial job placement;

(d) Programs or projects designed to broaden or improve vocational education curriculums;

(e) Exchanges of personnel between schools and other agencies, institutions, or organizations participating in activities to achieve the purposes of this subpart, including manpower agencies and industry;

(f) Programs or projects for young workers released from their jobs on a part-time basis for the purpose of increasing their educational attainment; and

(g) Programs or projects at the secondary level to motivate and provide preprofessional preparation for potential teachers for vocational education.

(20 U.S.C. 1303(a)(2)(A)–(G))

No financial assistance may be given under part D of the Act to any program or project for a period exceeding 3 years.

(20 U.S.C. 1305)

§ 103.23 Eligible applicants.

(a) The Commissioner is authorized to make grants to, or contracts with, State boards and local educational agencies.

(b) The Commissioner is also authorized to make grants to other public or nonprofit private agencies, organizations, or institutions when such grants will make an especially significant contribution to attaining the objectives of this subpart as set forth in §§ 103.21 and 103.22.

(c) The Commissioner is also authorized to make contracts with public or private agencies, organizations, or institutions when such contracts will make the contribution referred to in section (b) of this section.

(d) Individuals are not eligible for such grants or contracts.

(20 U.S.C. 1302(c))

§ 103.24 Applications for grants or contracts.

(a) Applications must be prepared and submitted in accordance with instructions and forms which may be obtained from the appropriate Regional Office of the U.S. Office of Education.

(b) Completed applications are to be submitted to the appropriate Regional Office (Attention: 13.502)

(20 U.S.C. 1302(c))

(b) Copies of applications shall be submitted simultaneously to the State board for its review. The Commissioner will not approve any application for a proposed program or project if the State board has notified the Commissioner of its disapproval of such program or project within 60 days of its submission to the State board by the applicant.

(20 U.S.C. 1303(b)(3))

(c) Each program or project proposal shall include an evaluation plan to be carried out by a third party for the purpose of evaluating the effectiveness of the program or project. Such plan shall describe the steps by which the grantee will:

(1) Determine the extent to which the objectives of the program or project have been accomplished;

(2) Determine what factors either enabled or precluded the accomplishment of these objectives; and

(3) Promote the inclusion of the successful aspects of the program or project into vocational education programs supported with funds other than those provided under the grant.

(20 U.S.C. 1303(a)(2))

§ 103.25 Review of applications.

The Commissioner will not approve any application for a grant or contract under this subpart until such application has been reviewed in accordance with such procedures as the Commissioner may establish. Such review will take into account in addition to the criteria set forth in § 100a.26(b) of this title such factors as:

(a) Potential impact on reducing the level of youth unemployment;

(b) Extent of focus on problem areas of major importance in (1) creating bridges between school and earning a living for young people; (2) promoting cooperation between public education and manpower agencies; and (3) broadening occupational aspirations and opportunities for youths;

(c) Extent of emphasis on youths who have academic, socio-economic, or other handicaps;

(d) Relevance to priority areas in vocational education as reflected in the Act;

(e) Utilization of procedures that appear practical and feasible for wide application in vocational education;

(f) Utilization of new approaches and tested innovations which have emerged from recent research and development work; and

(g) Soundness of the proposed plan of operation, including consideration of the extent to which:

(1) The objectives of the proposed program or project are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(2) The procedures for achieving the objectives are appropriate, technically sound, and explained in detail;

(3) Provisions are made for adequate evaluation of the effectiveness of the program or project and for determining the extent to which the objectives are accomplished;

(4) Provisions are made for the genuine and meaningful participation of students enrolled in nonprofit private schools;

(5) Provisions are made for coordinating the activities of the proposed program or project with others having the same or similar purposes;

(6) Provisions are made for disseminating the results of the program or project and for making materials, techniques, and other outputs resulting therefrom available to all those concerned with the improvement of vocational and technical education.

(h) Adequacy of facilities, equipment, and materials for carrying out the proposed program or project;

(i) Adequacy of qualifications and experience of personnel designated to carry out the program or project, including unique and relevant experiences in lieu of formal degrees and certification requiring such degrees;

(j) Reasonableness of estimated cost in relation to anticipated results;

(k) Adequacy of the steps described for ensuring that successful aspects of the program or project will be incorporated into vocational education programs supported with other funds; and

(l) Sufficiency of size, scope, and duration of program or project so as to make a significant contribution to vocational education.

(m) If the application is being submitted by any type of applicant organization other than a State board for vocational education or a local educational agency, a convincing case shall be made that the project would represent an especially significant contribution to attaining the objectives of Part D of the Act.

(20 U.S.C. 1301, 1302(c), 1303)

(n) The application shall include suitable procedures to assure that Federal funds made available for the project will not be commingled with State or local funds.

(20 U.S.C. 1303(b)(1)(C))

§ 103.26 Distribution of grants and contracts among the States.

Grants and contracts to eligible applicants located in any one State will be awarded by the Commissioner only from funds allotted to that State pursuant to section 142(b) of the Act and available to the Commissioner under section 142(c) of the Act.

(20 U.S.C. 1302(a)–(c))

Subpart D—Curriculum Development Programs (Part I of the Act)

§ 103.31 Purpose.

The purpose of part I of the Act is to enable the Commissioner to provide appropriate assistance to State and local educational agencies in the development of curriculums for new and changing occupations, and to coordinate improvements in, and dissemination of, existing curriculum materials.

(20 U.S.C. 1391(a))

§ 103.32 Eligible programs and projects.

Funds available under section 191 of the Act may be used by the Commissioner to award grants and contracts to eligible applicants for programs and projects having the following purposes:

(a) To promote the development and dissemination of vocational education curriculum materials for use in teaching occupational subjects, including curriculums for new and changing occupational fields, and including those in public service;

(b) To develop standards for curriculum development in all occupational fields;

(c) To coordinate efforts of the States in the preparation of curriculum materials and to prepare current lists of curriculum materials available in all occupational fields;

(d) To survey curriculum materials produced by other agencies of Government, including the Department of Defense;

(e) To evaluate vocational-technical education curriculum materials and their uses; and

(f) To train personnel in curriculum development.

(20 U.S.C. 1391(c))

§ 103.33 Eligible applicants.

(a) The following categories of agencies or institutions are eligible for grants or contracts under this subpart:

(1) Colleges or universities;

(2) State boards; and

(3) Other public or private agencies or institutions, provided that no grant may be made to other than a nonprofit agency or institution.

(b) Individuals are not eligible for such grants or contracts.

(20 U.S.C. 1391(c)(1))

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APPENDIX A

EXEMPLARY PROJECTS IN VOCATIONAL EDUCATION ADDITIONAL CRITERIA

In the making of awards from funds available for the program (in addition to consideration of the criteria in 45 CFR 103.25 and 100a.26(b)) priority will be given to projects which include a strong guidance and counseling emphasis and which involve in one operational setting a coordinated set of activities designed to carry out all of the following purposes.

a. To increase the selfawareness of each student, to develop in each student favorable attitudes about the personal, social, and economic significance of work, and to assist each student in developing and practicing appropriate career decisionmaking skills.

b. To increase the career awareness of students at the elementary school level in terms of the broad range of options open to them in the world of work.

c. To provide, at the junior high or middle school level, career orientation and meaningful exploratory experiences for students.

d. To provide, at grade levels 10 through 14, job preparation in a wide variety of occupational areas, with special emphasis on innovative approaches to the provision of work experience and/or cooperative education opportunities for all students.

e. To insure the placement of all existing students in either:

(1) A job,

(2) a post-secondary occupational program, or

(3) a baccalaureate program.

(20 U.S.C. 1301, 1308(a))

Each project may be designed for a duration of up to three years, with the understanding that only the first 12 months of activity will be supported with fiscal year 1974 funds. Support for the proposed second and third years of each project will be dependent upon availability of appropriations and satisfactory progress in the implementation of the earlier stages of the project. Since comprehensive exemplary projects will require substantial financial resources, consideration should be given in the project design to the possible coordination with relevant programs supported from other sources.

(20 U.S.C. 1301, 1305)

APPENDIX B

RESEARCH PROJECTS IN VOCATIONAL EDUCATION ADDITIONAL CRITERIA

In the making of awards from funds available for the program (in addition to consideration of the criteria in § 100a.26(b)) priority will be given to applications which rank high on the basis of such criteria and which propose projects in one or more of the priority areas described below. In addition, special consideration will be given to programs or projects of national, regional, or interstate significance in one or more of the priority areas described below. The results of these projects should improve and extend existing federally supported vocational education programs.

Curriculum Studies. Information is needed to undergird curriculum planning and curriculum development activities. Applied studies will be supported to produce information: (1) For developing individualized and performance oriented curricula, including the state-of-the-art, effectiveness, cost, and cost-effectiveness information, (2) that identifies emerging occupations and explicates the curriculum and manpower needs for the area or areas, and (3) that identifies common core of basic skills for one or more occupational cluster areas.

Disadvantaged, Handicapped, and Minority. Information is needed to improve vocational education and vocational education opportunities for disadvantaged, handicapped, and minority populations. Applied studies will be supported to produce information that is designed for use by decision makers at the Federal, State, and local levels. These studies should produce information which will: (1) improve the utilization of existing vocational education resources for target populations, (2) improve the image of vocational education for target populations, and (3) provide a basis for improving access to the field or fields of employment for which individuals in a target group or groups have been trained.

Alternative Work Experience Programs. Information is needed to improve and extend work experience programs. Applied studies will be supported to produce information that: (1) identifies more creative work experience approaches with business, industry, and community and civic organizations, (2) provides a basis for improving student and employer satisfaction in work experience programs, (3) clarifies legal and other barriers to work experience programs, (4) provides a basis for establishing standards for work experience programs, and (5) identifies alternative work experience programs and describes actual or projected costs and cost-benefits of the programs.

Guidance, Counseling, Placement, and Student Followup Services. Comprehensive systems of guidance, counseling, placement, and followup services for students and adults need to be improved. Applied studies will be supported which produce information that:

(1) provides the basis for improving career planning for target populations selected by the applicant,

(2) provides the basis for improving student assessment capabilities, and

(3) determines the state-of-the-art, impact, cost, and cost-effectiveness information regarding components of comprehensive systems of guidance, counseling, placement, and student followup services.

In addition, several large scale efforts will be supported to develop components of comprehensive system of guidance, counseling, placement, and followup services for students and adults. These development efforts should focus on:

(1) developing procedures to utilize employment information,

(2) developing job placement and followup services for students, and

(3) producing in-service training materials designed to improve the skills of professionals and support personnel in utilizing employment information, and providing job placement and student followup services.

Manpower Information and System for Education. Job, manpower, labor market, and demographic data are required by public, private, and proprietary educational administrators, planners, evaluators, curriculum developers, career counselors, teachers, and students. Manpower information needs to be current and appropriately presented if vocational education programs are to be responsive to existing and projected employment opportunities. Applied studies will be supported to improve manpower, job, labor market, and demographic information relevant to the needs of Federal, State, and local educational administrators, planners, evaluators, and other user groups. These studies should produce information which will:

(1) Provide a basis for improving manpower projections for educational uses at the State and local levels,

(2) provide a basis for matching job requirements to the skills of prospective workers,

(3) provide a basis for improving the accuracy of manpower projections for jobs,

(4) translate manpower forecasts into program and specific curriculum requirements, and

(5) provide the basis for vocational education to interface with economic development groups and to assist in job development approaches.

In applying the above stated criteria the Commissioner will seek to provide assistance to programs or projects in all the above described areas.

(20 U.S.C. 1248(1), 1281(a), 1282, 1283)

[FR Doc.74-10094 Filed 5-1-74;8:45 am]

[45 CFR Part 130]

LIBRARY SERVICES AND CONSTRUCTION

Proposed Amendments

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and pursuant to the Library Services and Construction Act, as amended by the Library Services and Construction Amendments of 1970, Pub. L. 91-600, 20 U.S.C. 351, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend 45 CFR Part 130 to read as set forth below. This notice proposes certain changes in the regulations under the Library Services and Construction Act contained in 45 CFR Part 130 and sets forth guidelines for the program under the Act.

1. *Purpose.* The Library Services and Construction Act provides for a program of assistance to States in the extension and improvement of public library services in areas of the States which are without such services or in which such services are inadequate. Assistance may also be provided for the construction of public libraries; for the improvement of such State library services as library services for physically handicapped, institutionalized, or disadvantaged persons; for strengthening State library administrative agencies; and for promoting inter-library cooperation among all types of libraries.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations and guidelines proposed below reflect the results of this study as it pertains to the program under the Library Services and Construction Act. Upon publication of revised Part 130 in final form, after comments and hearing, all preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting the program will be superseded effective thirty days after such publication.

3. *Regulations.* Regulations under the Library Services and Construction Act were published in the FEDERAL REGISTER on December 5, 1972, at 37 FR 25827 and are the regulations under which the program is presently being operated. Such publication followed a notice of proposed rulemaking regarding these regulations published in the FEDERAL REGISTER on January 12, 1972, at 37 FR 470. Comments received in connection with the January 12 publication were considered prior to the promulgation of the final regulations on December 5.

The revised regulation proposed below essentially follows the pattern of the current regulation. The regulation has been shortened by the elimination of provisions relating to general fiscal and administrative matters which are now covered under the overall Office of Education General Provisions Regulation which was published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973), in connection with the same study under section 503 of the Education Amendments of 1972 of which this publication is a part. (Reference is made in particular to the provisions of proposed Part 100b of Title 45 CFR, containing general provisions for State administered programs, which would be applicable to the program under the Library Services and Construction Act.) Provisions in Part 130 related to such general matters as retention of records, custody of Federal funds, effective dates of allowable expenditures, adjustments, audits and the like covered in Part 100b need not be repeated in the program regulation set forth below and therefore have been eliminated. By the same token, general across-the-board provisions relating to construction projects to be contained in Part 100b are not repeated in the program regulation. Considerable shortening and simplification of the program regulation has thus been made possible.

Beyond this, the current regulation in Part 130 would be changed by the proposed regulation through the addition of clarifying language in §§ 130.15 and 130.21, technical and minor corrections, and the furnishing of additional statutory citations as a result of the study under section 503.

4. *Guidelines.* Guidelines for the program have not previously been published in the FEDERAL REGISTER. The guidelines proposed below essentially contain recommendations for the preparation of State plan documents and the processing of applications for library construction and are designed to incorporate all materials covered by section 503 of the Education Amendments of 1972 not otherwise reflected in the regulation.

5. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232 (a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations and guidelines has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section it applies to the entire section.

6. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations, as follows:

A hearing will take place at the U.S. Office of Education on May 24, 1974, in the auditorium of Regional Office Building Three (ROB-3) located at 7th and D Streets SW., Washington, D.C. 20202, beginning at 11 a.m.

Parties interested in attending the hearing should notify the Chairman, Office of Education Task Force on Section 503, 400 Maryland Avenue SW., Room 2079-G, Washington, D.C. 20202, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

Written comments and recommendations may also be sent to the above address. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 9 a.m. and 4:30 p.m. Monday through Friday of each week.

Dated: March 21, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: April 15, 1974.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Program Numbers 13.464, Library Services Grants for Library Services; 13.465, Library Services-Inter-Library Services; 13.408, Construction of Public Libraries.)

PART 130—LIBRARY SERVICES, PUBLIC LIBRARY CONSTRUCTION, AND INTER-LIBRARY COOPERATION

Subpart A—Types of Assistance

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AUTHORITY: Sec. 2, Pub. L. 91-600, 84 Stat. 1660 (20 U.S.C. 351), unless otherwise noted.

Subpart A—Types of Assistance

§ 130.1 Purpose and scope.

The purpose of the regulations in this part is to implement the provisions of the Library Services and Construction Act, as amended, which provides for Federal grants to States to assist them in the establishment, extension, and improvement of public library services in areas of the States which are without such services or in which such services are inadequate; with public library construction; in the establishment, extension, and improvement of such other State library services as library services for physically handicapped, institutionalized, and disadvantaged persons; in strengthening State library administrative agencies; and in promoting inter-library cooperation among all types of libraries.

(20 U.S.C. 351)

§ 130.2 General Provisions Regulation.

Financial assistance under this part is subject to the applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 351)

§ 130.3 Definitions.

"Act" means the Library Services and Construction Act, as amended by section 2 of the Library Services and Construction Amendments of 1970.

(Pub. L. 91-600, 20 U.S.C. 351)

"Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land).

(20 U.S.C. 351a(2))

"Disadvantaged persons" means persons who have educational, socioeconomic, cultural, or other disadvantages that prevent them from receiving the benefits of library services designed for persons without such disadvantages and who for that reason require specially designed library services. The term includes persons whose needs for such special services result from poverty, neg-

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lect, delinquency, or cultural or linguistic isolation from the community at large, but does not include physically or other handicapped persons unless such persons also suffer from the disadvantages described in this paragraph.

(20 U.S.C. 351)

"Equipment" for purposes of the definition of "construction" in this section and § 130.32(b), includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and all other items necessary for the functioning of a particular facility as a facility for the provisions of library services.

(20 U.S.C. 351a(2))

"Interlibrary cooperation", in reference to assistance under Title III of the Act, means the establishment, expansion and operation of local, regional, and interstate cooperative library networks which will provide for the systematic and effective coordination of the resources of school, public, academic and special libraries and information centers for improved supplementary services for the special clientele served by each type of library or center. Such networks may be designed to serve a community, metropolitan area, or region within a State, or may serve a statewide or multistate area and shall consist of two or more types of libraries.

(20 U.S.C. 355e–1)

"Library materials" means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, processed video and magnetic tapes, printed, published, and audiovisual materials, nonconventional materials designed specifically for the handicapped, and other materials of a similar nature.

(20 U.S.C. 351)

"Library service" means the performance of all activities of a library relating to the collection and organization of library materials and making the materials and infromation of a library available to the public or a special clientele.

(20 U.S.C. 351a(3))

"Library services for the physically handicapped" means the providing of library services, through public or other nonprofit libraries, agencies, or organizations, to physically handicapped persons (including the blind and other visually handicapped) certified by competent authority as unable to read or to use conventional printed materials as a result of physical limitations.

(20 U.S.C. 351a(4))

"Public library":

(a) The term means a library that serves free of charge all residents of a community, district, or region without discrimination and receives its financial support in whole or in part from public funds.

(b) The term includes (with respect to appropriations for fiscal years beginning after June 30, 1973) a research library; which, for the purposes of this sentence, means a library which—

(1) Makes its services available to the public free of charge;

(2) Has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries;

(3) Engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(4) Is not an integral part of an institution of higher education. (c) The term does not include libraries such as law, medical, school, and academic libraries, which are organized to serve a special clientele or purpose.

(20 U.S.C. 351a(5))

"Public library services" means library services which are provided by or on behalf of a public library free of charge. The term does not include those library services that are properly the responsibility of the schools.

(20 U.S.C. 351a(6))

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(20 U.S.C. 351a(7))

"State institutional library services" means the providing of books and other library materials, and of library services, to (a) inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, or general or special institutions or hospitals operated or substantially supported by the State, or (b) students in residential schools for the physically handicapped (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health-impaired persons who by reasons thereof require special education) operated or substantially supported by the State.

(20 U.S.C. 351a(9))

"State library administrative agency" or "State agency" means the official agency of a State charged by the law of that State with the extension and development of public library services throughout the State, which has adequate authority under the law of the State to administer State plans in accordance with the provisions of the Act.

(20 U.S.C. 351a(10))

§ 130.4 Library services.

Funds appropriated under section 4(a)(1) of the Act (20 U.S.C. 351b(a)(1)) and allotted to States for the purposes of section 101 of the title I of the Act (20 U.S.C. 352) shall, except as provided in § 130.7, be used solely for paying the Federal share of the cost of the following activities pursuant to the State plan submitted under Subpart B of this part:

(a) Planning for, and taking other steps leading to the development of, programs and projects described in paragraph (b) of this section;

(b) Programs and projects designed to extend and improve library services, including:

(1) Establishing, expanding, and operating programs and projects to provide:

(i) Library services for the disadvantaged in urban and rural areas;

(ii) Library services to the physically handicapped (as defined in § 130.3); and

(iii) State institutional library services (as defined in § 130.3).

(2) Extending public library services to geographical areas and groups of persons without such services;

(3) Improving such services in such areas and for such groups as may have inadequate public library services; and

(4) Strengthening metropolitan public libraries which serve as national or regional resource centers.

(20 U.S.C. 352, 353(a))

§ 130.5 Public library construction.

(a) *General.* Funds appropriated under section 4(a)(2) of the Act (20 U.S.C. 351b(a)(2)) and allotted to States for the purposes of section 201 of title II of the Act (20 U.S.C. 355a) may be used solely for the purpose of paying the Federal share of the cost of public library construction projects which are approved by the State agency, are consistent with the State's long range programs submitted in accordance with § 130.19, which will result in a usable public library building pursuant to the State plan under Subpart B of this part.

(b) *Terms and conditions with respect to construction.* The State agency shall assure that the provisions of Subpart K of part 100b of this chapter will be complied with on all construction projects approved by the State agency for assistance under title II of the Act.

(c) *Display of signs.* The sites of all construction projects shall display a sign stating that Federal funds under the Library Services and Construction Act are being used for such construction. When specifications call for a plaque in the completed building indicating the date of completion and source of funds, funds under the Act shall be noted.

(20 U.S.C. 351b(a)(2), 355a–355c)

§ 130.6 Interlibrary cooperation.

Funds appropriated under paragraph 4(a)(3) of the Act (20 U.S.C. 351b(a)(3)) and allotted to States for the purposes of section 301 of title III of the Act (20 U.S.C. 355c) shall be used solely to pay the cost of carrying out the State plan as it relates to interlibrary cooperation (as defined in § 130.3), including:

(a) Planning for, and taking other steps leading to the development of interlibrary cooperation, and

(b) Programs and projects of interlibrary cooperation.

(20 U.S.C. 355e, 355e–1)

§ 130.7 Activities of State library administrative agency.

In addition to the activities specified in § 130.4, funds appropriated under section 4(a)(1) of the Act (20 U.S.C. 351b(a)(1)) and allotted to States for the purposes of section 101 of title I of the Act may also be used to pay the cost of the following activities of the State library administrative agency:

(a) Administration of the State plan submitted and approved under the Act and Subpart B of this part (including obtaining the services of consultants);

(b) Statewide planning for and evaluation of library services;

(c) Dissemination of information concerning library services;

(d) The activities of the State advisory council under § 130.8;

(e) Activities of such other advisory groups and panels as may be necessary to assist the State library administrative agency in carrying out its functions;

(f) Training of librarians and other library personnel engaged in activities under the Act; and

(g) Otherwise strengthening the capacity of State library administrative agencies for meeting the needs of the people of the State in carrying out the purposes of the Act as stated in § 130.1.

(20 U.S.C. 352, 353(b))

§130.8 State advisory council on libraries.

(a) *General.* Each State which desires to receive funds under the Act and the regulations in this part for any fiscal year shall establish a State advisory council on libraries; and shall submit with its State plan for each fiscal year a certification with respect to that establishment, including the names of the council members and a statement of identification of each member which shows the representation required by section 3(8) of the Act (20 U.S.C. 351a(8)) and paragraph (b) of this section.

(b) *Membership.* The membership of the State advisory council on libraries shall include persons broadly representative of each of the following:

(1) Public libraries;

(2) School libraries;

(3) Academic libraries;

(4) Special libraries, such as law or medical libraries;

(5) Institutional libraries, such as reformatory or hospital libraries;

(6) Libraries serving the handicapped in the State; and

(7) Users of such libraries, who shall comprise at least one-third of the council membership, and of whom at least one shall be representative of disadvantaged persons.

(c) *Functions and responsibilities.* The State advisory council on libraries shall:

(1) Advise the State agency on the development of the State plan, including the preparation of long-range and annual programs under §§ 130.19 and 130.20;

(2) Advise the State agency on policy matters arising in the administration of the State plan submitted under the Act and the regulations in this part; and

(3) Assist the State agency in evaluating library programs, services, and activities under the State plan.

(20 U.S.C. 351a(8), 351d)

Subpart B—State Plan Provisions

§ 130.15 State plan—General.

(a) *Purpose.* The purpose of the State plan is to provide a framework within which the State will encourage the establishment or expansion of programs to carry out the purpose set forth in § 130.1 and to provide the basis on which Federal payments to the State under this part are made.

(b) *Format.* The State plan shall be composed of three parts:

(1) The basic State plan provided for in § 130.16;

(2) The long-range program provided for in § 130.19;

(3) The annual program provided for in § 130.20.

(20 U.S.C. 351d(a))

(c) *Submissions.* (1) A State desiring to receive its allotment for any fiscal year shall for that fiscal year (i) have in effect a basic State plan amended in accordance with § 130.22 and approved by the Commissioner in accordance with § 130.16; (ii) submit, or update in accordance with § 130.22, a long-range program; and (iii) submit an annual program for the purposes for which allotments are desired. (2) Amendments to the basic State plan, amendments to reflect changes on the long-range program in accordance with § 130.22, and the annual program shall be submitted on or before July 1 of the fiscal year in question.

(20 U.S.C. 351d(a))

§ 130.16 Basic-State plan.

(a) *Form and content.* The basic State plan shall consist of the following:

(1) A State-Federal Agreement consisting of assurances and certifications, which shall be submitted in a form prescribed by the Commissioner, the text of which is set forth in Appendix A to this part; and

(2) A statement of criteria developed under § 130.17 for use by the State library administrative agency in determining the adequacy of public library services in geographical areas and for groups of persons in the State, including criteria designed to assure that priority will be given to programs and projects which serve urban and rural areas with high concentrations of low-income families as determined under § 130.18.

(b) *Approval.* (1) Of the three parts of the State plan referred to in § 130.15(b), only the basic State plan shall require the approval of the Commissioner.

(20 U.S.C. 351d(c), 351d(d), 352, 355a, 355c; H.R. Rept. No. 1659, 91st Cong. Second sess. 6 (1970))

(2) The Commissioner will approve the basic State plan for fiscal year 1972, and for each fiscal year thereafter, only upon his specific determination that

(i) The plan fulfills the conditions of a basic State plan specified in paragraph (a) of this section;

(ii) The information set forth in the long-range and annual programs indicates that adequate procedures are subscribed to therein to insure that the assurances and provisions of the basic plan will be carried out; and

(iii) All three parts of the State plan will be made public.

(3) The Commissioner will not finally disapprove any basic State plan or amendment thereto without first affording the State reasonable notice and opportunity for a hearing.

(20 U.S.C. 351a(11), 351d (b) and (c))

§ 130.17 Criteria for determining adequacy of public library services.

In developing the criteria in the basic State plan for determining the adequacy of public library services to geographic areas and groups of persons in the State (section 2 of the State-Federal Agreement (See Appendix A to this part)), among other factors deemed pertinent by the State agency, special consideration shall be given to the library needs of the following:

(a) Disadvantaged persons residing in urban or rural areas with high concentrations of low-income families, as determined under § 130.18;

(b) Persons residing in areas of the State which are without public library services or in which such services are inadequate;

(c) Physically handicapped persons (including the blind and other visually handicapped); and

(d) Inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, residential schools for handicapped persons, and other general or special institutions or hospitals operated or substantially supported by the State.

(20 U.S.C. 351d(b))

§ 130.18 Urban and rural areas with high concentrations of low-income families.

(a) In developing criteria in the basic State plan designed to assure that priority will be given to programs or projects which serve urban and rural areas with high concentrations of low-income families under § 130.16(a)(2), the State library administrative agency shall, on the basis of the most recent information available to it, determine which areas of the State constitute such areas. In making these determinations, the State agency may, for example, rely upon determinations made by the Secretary of Commerce of areas eligible for designation as "redevelopment areas" pursuant to section 401 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161); or determinations made by the Secretary of Housing and Urban Development of urban areas eligible for assistance under the Demonstrations Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301 et seq.).

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(b) The description of criteria included and incorporated by reference in section 2 of the Basic State Plan (see appendix) shall indicate—

(1) The areas of the State designated as urban and rural areas with high concentrations of low-income families;

(2) The criteria used by the State agency in designating such areas; and

(3) The sources of information on which such criteria were based, and the frequency with which this information is updated.

(20 U.S.C. 351(b))

§ 130.19 Long-range program.

(a) The long-range program shall be developed by the State library administrative agency with the advice of the State advisory council and in consultation with appropriate staff of the U.S. Office of Education, and shall be annually reviewed and revised in accordance with changing needs in the States for assistance under the Act and the results of evaluations and surveys of the State agency and the State advisory council. Annual revisions shall be incorporated as a part of the annual program for each fiscal year.

(b) The long-range program shall contain the following:

(1) A description of the State's identified present and projected library needs;

(2) A plan of action for meeting those identified needs with funds under the Act over the next 5 fiscal years beginning with the fiscal year in which the program is submitted;

(3) A statement of the following policies, criteria, priorities, and procedures, to be updated as progress toward meeting the State's library needs requires:

(i) Policies and procdeures for the periodic evaluation of the effectiveness of programs and projects supported under the Act;

(ii) Policies and procedures for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects;

(iii) Policies and procedures for the effective coordination of programs and projects supported under the Act with library programs and projects operated by institutions of higher education or local elementary or secondary schools (including those receiving Federal assistance under title II–A of the Higher Education Act of 1965 and title II of the Elementary and Secondary Education Act of 1965) and with other public or private library service programs;

(iv) Criteria used in allocating funds under title I of the Act among the purposes set forth in section 102 of the Act and § 130.4, which criteria shall be consistent with the criteria set forth in the basic State plan under § 130.16(a)(2), and insure that the State will expend from Federal, State, and local sources an amount not less than the amount expended by the State from such sources for State institutional library services and library services to the physically handicapped during fiscal year 1971;

(v) Criteria, policies, and procedures for the approval of applications for the construction of public library facilities under title II of the Act, which criteria, policies and procedures will insure that every local or other public agency whose application for funds under the plan with respect to a project for construction of public library facilities is denied will be given an opportunity for a hearing before the State library administrative agency;

(vi) Criteria, policies and procedures for the approval of applications for interlibrary cooperation under title III of the Act.

(20 U.S.C. 351a(12), 351d(d), 354, 355c, 355e–2)

§ 130.20 Annual program.

The annual program shall be developed by the State library administrative agency with the advice of the State advisory council and in consultation with appropriate staff of the U.S. Office of Education, and shall contain the following:

(a) A description of a program for the use of funds under each of the titles of the Act in such detail as may be required by the Commissioner, and of how the program will achieve fulfillment of the State's library needs set forth in the long-range program in a manner consistent with the policies, criteria, priorities, and procedures specified in the long-range program. The program description shall include—

(1) A description of the specific activities to be carried out by the State in the fiscal year with funds for library services under title I of the Act for the purposes set forth in section 102 of the Act and § 130.4; and

(2) A description of the specific activities to be carried out by the State in the fiscal year with funds for interlibrary cooperation under title III of the Act for the purposes set forth in section 302 of the Act and § 130.6.

(b) An annual extension of the 5-year long-range program for 1 additional year, taking into consideration the results of evaluations of the State's library program by the State agency and the State advisory council.

(20 U.S.C. 351a(13), 354, 355c, 355e–2)

§ 130.21 Notification of construction project approval and completion.

(a) The State agency shall submit to the Commissioner—

(1) Written notification of its approval of each library construction project under Title II of the Act;

(2) Written notification of the completion of each such project. This notification shall include the project name and number, location, population served, type of library, type of construction, size of facility, the funds budgeted by source and major category, construction schedule, and completion date. The notification shall be submitted within 30 days after such approval and again within 30 days after project completion. Forms for these purposes will be furnished by the Commissioner.

(b)(1) The effective date of the library construction project shall be no earlier than the date on which the State agency approves the project.

(2) No construction contract in furtherance of the project may be made by the applicant until—

(i) After the effective date of the project; and

(ii) After the State has received from the Commissioner (or his designee) acknowledgment of the receipt of the notification required by paragraph (a) of this section.

(20 U.S.C. 355c)

§ 130.22 Amendment of State plan.

(a) *Basic State plan.* The basic State plan shall be amended to reflect any changes in pertinent State law, or any changes in the designation or organization of operations, policies, and methods of administration to be followed by the State. Amendments will be submitted and certified in the same manner as the basic State plan.

(b) *Long-range program.* (1) The long-range program shall be amended to reflect changes in:

(i) Estimates of present and projected program needs;

(ii) The plan of action for meeting these needs; and

(iii) Policies, criteria, priorities and procedures. (2) These amendments shall be submitted each year as part of the annual extension of the long-range program submitted under § 130.20(b).

(c) *Annual program.* (1) Deviations in actual allocations of funds from specific amounts estimated for allocations among programs, services, and activities described in the annual program made available under § 130.20 are subject to § 100b.29 of this chapter. (2) Deviations and the reasons therefor (such as, for example, a change in the total amount of funds available to the State for programs, services, and activities under the State plan) shall be indicated and explained in the annual report of the State agency made available under § 130.45.

(20 U.S.C. 351d, 354, 355c, 355e–2)

Subpart C—Federal Participation

§ 130.30 Application of Federal requirements.

Federal funds under the Act may only be used to share in expenditures which are made in accordance with the State plan and which meet the requirements of the Act and the regulations in this part. State and local funds used to match the Federal funds must also meet these requirements.

(20 U.S.C. 353, 355b, 355c–1)

§ 130.31 Federal and State shares of eligible expenditures.

(a) *General.* (1) The Federal share for each State under titles I and II of the Act will be promulgated by the Commissioner pursuant to section 7(b) of the Act (20 U.S.C. 351e(b)). (2) The State share for each State for titles I and II shall be the difference between the cost of activities under the State plan and the applicable Federal share. (3) The Federal share for each State under title III shall be 100 percent.

(b) *Limitation.* (1) The expenditures which are to be considered in computing the State share for library services under title I of the Act are only those that are made from public funds. Public funds include contributions from private organizations or individuals if they are deposited in accordance with State and local laws and regulations to the account of the State or political subdivision, or agency thereof, without conditions or restrictions which would negate their character as public funds.

(2) The expenditures which are to be considered in computing the State share for construction under title II of the Act are all those made by the applicant for that purpose, regardless of the source of funds.

(20 U.S.C. 351e(b), 355e–1(b))

§ 130.32 Eligible costs.

(a) *Titles I and III.* Funds under title I and title III of the Act may, at the discretion of the State agency, be applied to expenditures determined in accordance with the principles contained in Subpart G of part 100b of this chapter, which are attributable to the activities specified in § 130.4 and § 130.7, in the case of funds under title I of the Act, and in § 130.6, in the case of funds under Title III of the Act. These expenditures may include expenditures for the acquisition, maintenance (including insurance), and repair of equipment and of library materials (as defined in § 130.3), including necessary binding or rebinding.

(b) *Title II; Construction projects.* The following costs attributable to a public library construction project approved under § 130.5 are eligible at the discretion of the State agency if incurred after the date of project approval or after such other date as is indicated in paragraph (b)(3) and (5) of this section:

(1) Erection of new buildings to be used for public library facilities;

(2) Expansion, remodeling, and alteration (as distinguished from maintenance and repair) of existing buildings to be used for public library purposes;

(3) Expenses (other than interest and the carrying charges on bonds) related to the acquisition of land on which there is to be construction of new buildings or expansion of existing buildings which are incurred within three fiscal years preceding the fiscal year in which the project was approved by the State agency, if the expenses constitute an actual cost or transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions (See 45 CFR 100b. 274);

(4) Site grading and improvement of land on which such facilities are located;

(5) Architectural, engineering, and inspection expenses incurred subsequent to site selection;

(6) Expenses (other than interest and the carrying charges on bonds) related to the acquisition of an existing building to be used for public library facilities, if such expenses constitute an actual cost or transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions; and

(7) Expenses related to the acquisition and installation of initial equipment to be located in a public library facility provided by a construction project, including all necessary building fixtures and utilities, office furniture, and public library equipment, card catalog cabinets, circulation desks, reading tables and study carrels, booklifts, elevators, and information retrieval devices (but not books or other library materials).

(20 U.S.C. 352, 355b, 355e–1)

Subpart D—Payments and Reports

§ 130.40 Conditions for payments to States.

Payments to States under the Act will be made only after the Commissioner determines that:

(a) The State has on file (1) a basic State plan approved by the Commissioner under § 130.16, (2) a long-range program submitted and updated under § 130.19, and (3) an annual program submitted under § 130.20 for the fiscal year of the allotment from which payment is to be made.

(b) The State has given assurance to the Commissioner's satisfaction that it will have available for expenditure under Title I of the Act during the fiscal year of the allotment: (1) From State and local sources,

(i) Sums sufficient to earn its minimum allotment as set forth in section 5(a) of the Act.

(ii) Not less than the total amount actually expended, in areas covered by the programs for such years, for the purposes of such programs from such sources in the second preceding fiscal year; and (2) from State sources, not less than the total amount actually expended for such purposes for those sources in the second preceding fiscal year;

(c) In the case of payments under title I of the Act, the State will expend during the year of the allotment from Federal, State, and local sources, an amount not less than the amount expended by the State from such sources for State institutional library services and library services to the physically handicapped during the fiscal year ending June 30, 1971; and

(d) The State has established a State advisory council on libraries under § 130.8.

(20 U.S.C. 351d(a), 351e(a), 354(2))

§ 130.41 Withholding of payments.

(a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency, determines on the basis of information available to him that (1) the State plan (as described in § 130.15(b) has been so changed that it no longer complies with any State plan requirements in the Act and the regulations in this part, or (2) in the administration of the State plan or of any program under this part, there is a failure to comply substantially with any such requirement or with any assurance or other provision contained in such plan, the Commissioner will notify such State agency that no further payments will be made to the State until he is satisfied that the State has complied with such requirements, assurances, or other provisions.

(b) At his discretion, the Commissioner may notify the State agency that payment of Federal funds will be limited to support of programs under the State plan or portions of the State plan not affected by the State's failure to comply with such requirements.

(20 U.S.C. 351d(e))

§ 130.43 Reallotment.

(a) The amount of any State's allotment for any fiscal year under section 5(a) of the Act (20 U.S.C. 351c(a)) which the Commissioner determines will not be required in the period during which such allotment is available for carrying out that State's plan may be reallotted by the Commissioner on such dates during such period as he may fix, to other States for carrying out their plans in the same proportion as the original allotments were made for such purposes to such other States in the manner provided for in section 5(b) of the Act.

(b) Any amounts reallotted shall be determined by the Commissioner on the basis of (1) reports filed by the States of the amounts required to carry out the State plan and (2) such other information as he may have available.

(c) Any amounts reallotted shall be deemed part of the State's allotment for that fiscal year.

(20 U.S.C. 351c(b))

§ 130.43 Reports.

(a) *Annual report of program activities.* The State agency shall submit at such times, in such form, and in accordance with procedures established by the Commissioner an annual report concerning the conduct of activities described in the annual program under § 130.20 and the extent to which these activities carried out the objectives set forth in the long-range program under § 130.19 for the proceeding fiscal year. The annual report shall also set forth the total receipts and expenditures of Federal funds for that year.

(b) *Other reports.* The State agency shall submit to the U.S. Office of Education, one copy of all surveys, films, and of all publications considered to be of interest to agencies and organizations planning public library programs in other States, which are developed with Federal funds granted under the Act.

(20 U.S.C. 351d(b))

APPENDIX A

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION BASIC STATE PLAN

(State-Federal Agreement)

V 39 I 86 MAY 2 74 XUM

LIBRARY SERVICES AND CONSTRUTION ACT, AS AMENDED BY PUBLIC LAW 91-600

The ----------
(Officially Designated State Library Administrative Agency)
of the State of ----------, hereinafter called the State Agency, hereby agrees and assures that this Basic State Plan which serves as an agreement between State and Federal Governments under the Library Services and Construction Act, as amended, for which Federal funds are being requested for the fiscal year ending June 30, 19 ----, will be administered in accordance with the following provisions:

1. *The State Agency.* a. Assures that it will administer, or supervise the administration of, the programs authorized by the Act; and has adequate fiscal and legal authority to do so. (See appended Certificate of Legal Authority.)

b. Assures that it has provided for such fiscal control and funds accounting procedures as well assure proper disbursement of and accounting for, Federal funds paid to the State under the Act (including any funds paid by the State to any other public or private nonprofit agency under this Basic State Plan).

c. Assures that it will submit to the Office of Education, and otherwise make public (1) the State's long-range program on or before July 1, 1972, and (2) the State's annual program on or before July 1 of each fiscal year. Both programs will be developed in consultation with the Office of Education and with the advice of the State Advisory Council on Libraries.

d. Assures that any funds paid to the State in accordance with a long-range program and an annual program shall be expended solely for the purposes for which funds have been authorized and appropriated.

e. Assures that it will make such reports, including reports of evaluations, in such form and containing such information as the Commissioner may reasonably require to carry out his functions under the Act, and to determine the extent to which funds provided under the Act have been effective in carrying out its purposes.

f. Assures that it will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of all reports submitted to him.

g. Assures that it will establish and specify in the State's long-range program its policies, priorities, criteria and procedures necessary to the implementation of all programs in which the State will participate under the provisions of the Act, which are incorporated by reference herein.

h. Assures that it will set forth in the State's long-range program its policies and procedures for the coordination of programs and projects supported under this Act with library programs and projects operated by institutions of higher education or local elementary or secondary schools, with other public or private library services programs, and with other related service programs.

i. Assures that it has established a State Advisory Council on Libraries as required by the provisions of the Act and § 130.8 of the regulations. (See attached certification.)

j. Assures that it has available for expenditures under Title I of the Act in this fiscal year (fiscal year 19--):

A. From State and local sources:

1. Sums sufficient to earn its basic minimum allotment.

2. Not less than the total amount actually expended, in areas covered by the programs for such year, for the purposes of such programs from such sources in the second preceding fiscal year (fiscal year 19--).

B. From State sources:

1. Not less than the total State amount actually expended for such purposes from such sources in the second preceding fiscal year (fiscal year 19--).

k. Assures that it will expend in this fiscal year (fiscal year 19--) from Federal, State, and local sources, an amount not less than the amount expended by the .State from such sources for State institutional library services, and library services to the physically handicapped during the fiscal year ending June 30, 1971.

2. The State Agency herewith sets forth (a) criteria to be used in determining the adequacy of public library services to geographical areas, and for groups of persons in the States, including criteria designed to assure that priority will be given to programs or projects which serve urban and rural areas with high concentration of low-income families. (See attached statement of Criteria.)

3. This Basic State Plan has been submitted to the Governor for his review; and his comments, or a statement that no comments have been made, as well as projections required under the program, will also be submitted for the Governor's review, and comments, if any, will accompany the amendments or other required program material when they are submitted to the U.S. Office of Education.

4. The State Agency will make public the Basic State Plan as approved by the Commissioner.

5. The State Agency assures that it will otherwise comply with the requirements of the Act and the Regulations of the Commissioner of Education issued thereunder (45 CFR Part 130; 45 CFR Part 100b).

6. Assurance is hereby given that in accordance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations issued thereunder by the Department of Health, Education, and Welfare (45 CFR Part 80), no individual shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Plan. The State Agency has established and will maintain methods of administration to assure that each program or activity for which it receives Federal financial assistance will be operated in accordance with the preceding paragraph of this statement. The State Agency will amend its methods of administration from time to time as necessary to carry out the purposes for which this statement is given. The State Agency recognizes and agrees that Federal financial assistance will be extended in consideration of, and in reliance on, the representations and agreements made in this statement; and that the United States shall have the right to seek administrative and judicial enforcement thereof.

(State Library Administrative Agency)

(Address)

(Signature of Authorized State Agency Official)

(Title)

CERTIFICATE OF APPROPRIATE STATE LEGAL OFFICER

I hereby certify that ----------
(Name of State Agency)
---------- is the sole State
(Name of State)
agency with authority under State law to develop, submit and administer or supervise the administration of, the State plan under the Library Services and Construction Act, as amended by Public Law 91-600; that ----------
(Name of authorized State Agency Official)
is the Officer authorized to submit the State plan for the named State agency; that the State Treasurer or ---------- has authority
(Title of Officers other than State Treasurer)
under State law to receive, hold and disburse Federal funds under the State plan; and that all provisions contained in the plan are consistent with State law.

(Signature, Attorney General or Other State Legal Officer)

(Title)

(Date)

(20 U.S.C. 351a(11), 351d(b))

APPENDIX B

GUIDELINES—LIBRARY SERVICES AND CONSTRUCTION ACT

Assistance to States for Public Library Services and Construction

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Part 2—Programs under Title II of Library Services and Construction Act

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Sec. 1.1 Scope of guidelines. (a) The guidelines contained in this document are recommendations and suggestions for meeting the requirements which apply to Federal assistance under the Library Services and Construction Act. The legal requirements include the Act itself (20 U.S.C. 351–351c–2); the program regulations (45 CFR 130). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 351; 113 Cong. Rec. 5936, 5939 (daily ed., May 23, 1967): United States v. Jefferson County Board of Education, 372 F. 2d 836, 857 (1966))

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parenthesis following the guideline. For example, if the legal authority for the guideline is 20 U.S.C. 351d(a) and the guideline affects section 130.20 of the regulations, the following citation will be placed on the line immediately following the guideline: (20 U.S.C. 351d(a); 45 CFR 130.20). If no particular section of the regulation is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

Sec. 1.2 Long-range programs and other documents required under the Library Services and Construction Act. (a) In keeping with the intent of the Library Services and Construction Act Amendments of 1970 to permit greater flexibility in the development of programs under the Act, no specific "forms" are being issued by the Office of Education for the long-range programs.

(20 U.S.C. 351d(d))

(b) Each part of the State plan (the basic State plan, the long-range program, and the annual program) must be developed with the advice of the State Advisory Council on Libraries and in consultation with the appropriate Regional Library Services Program Officer who represents the U.S. Commissioner of Education in the LSCA program development process.

(20 U.S.C. 351a(8), 351d; 45 CFR 130.8(c))

(c) (1) To assure coordination between the criteria set forth in the basic State plan and the criteria in the long-range program, a careful review of the basic State plan should be made prior to updating of the long-range document. Amendments to the basic State plan attachments may be required. The inclusion of criteria in the basic State plan attachments does not eliminate the need for complete criteria, policies, priorities, and procedures in the long-range program.

(2) The needs assessment statement and documentation in each State should be comprehensive and statewide. The long-range program will cover the three titles authorized under the Act, including criteria, policies and procedures for public library construction.

(20 U.S.C. 351d(d), 45 CFR 130.19)

(d) All three documents require review by the Governor or the office designated by the Governor for such purpose and his comments or "no comment" certification must accompany the documents when submitted. (See Item 3 of approved basic State plan.) (20 U.S.C. 351a(8), 351d(a), 351d(d), OMB Circular No. A–95; 45 CFR 130.8, 130.16, 130.19, 45 CFR 100b.15)

Sec. 1.3 Basic State plan amendments. A careful review of the basic State plan as approved by the U.S. Commissioner of Education for the previous fiscal year should be made in the light of the act and the regulations before any amendments are prepared. Forms provided for use in submitting amendments are a cover sheet, basic State plan amendment assurance, and the Maintenance of Effort Certification for the appropriate fiscal year. The revised listing of the State Advisory Council on Libraries and revised statements of criteria are to be attached to the basic State plan amendment assurance form.

(20 U.S.C. 351d; 45 CFR 130.22)

Sec. 1.4 Annual program. The project description in the annual program should provide basic information essential to an understanding of the specific objectives of the project and its contribution toward attaining the goals of the long-range program. The project description should include what the project proposes to accomplish and why; who is to be served and how; names of key libraries and other agencies; when and where the project will be implemented; the estimated cost and sources of funding; and the method of administering the project: whether by contract, State agency, or local agency.

(20 U.S.C. 351d(a), 354, 355c, 355e–2; 45 CFR 130.20)

(b) To provide assistance in tabulating comparable LSCA projects throughout the country, a key listing has been developed for reporting purposes. The following eighteen project types have been identified. (If none of these is adequate to identify a particular library project, another brief descriptive title should be stated.)

(20 U.S.C. 351d(b)(3))

LSCA PROJECT TYPES

1. Disadvantaged (use Basic State Plan Definition)
2. Strengthening State library administrative agency
3. Metropolitan library serving as national or regional resource center
4. Physically handicapped, blind
5. Other physically handicapped
6. Institutionalized, correctional
7. Other institutionalized
8. Interlibrary cooperation
9. Right-to-Read
10. Career education
11. Management improvement (e.g., Deliver systems)
12. Aging
13. Adult education
14. Environmental education
15. Drug abuse education
16. Early childhood education
17. Migrants
18. Other (specify)

Part 2—Programs under Title II of Library Services and Construction Act

Sec. 2.1 Program. Title II of the Library Services and Construction Act authorizes a program of grants to States which have had approved a basic State plan under section 6 of the Act and have submitted a long-range program and submit annual appropriately updated programs (approved construction projects) under section 203 of the Act for the construction of public libraries.

(20 U.S.C. 355a, 355c; 45 CFR 130.5, 130.21)

Sec. 2.2 Processing of application for an LSCA construction project. The steps set forth below describe the current procedures for the processing, at the State level, of applications for construction projects under title II of the LSCA which State agencies typically employ in meeting the requirements of the Act and applicable regulations:

(a) *Application procedures.* (1) The State agency provides up-to-date instructional materials, including an application form for applicants for construction grants and provides consultant service as required. Localities should be advised to notify State agencies of "intent" to apply and to follow through on submission of such "intent" to appropriate State or Regional Clearinghouses.

(2) The local applicant submits an application to the State agency on forms and in accordance with directions supplied by the State agency.

(3) The State agency reviews the local application for:

(i) Conformity with the Library Services and Construction Act and regulations thereunder, State instructions, long-range program, and annual program.

(ii) Eligibility of the applicant.

(iii) Submission of the required supporting documents, in a sufficient number of copies to meet the requirements of the State. Such documentation shall include the notification of intent to apply for Federal assistance with comments from the appropriate State and/or regional clearinghouse, and documentation necessary to assure compliance with §§ 100b.155–191 of the OE General Provisions Regulation.

(iv) Certification of availability of required matching funds.

(4) The State agency approves the project.

(5) The State agency notifies the appropriate DHEW Regional Office of approval of the project. The document required by the Regional office is O.E. Form 3114–2, "Notification of Construction Project Approval," in triplicate. Following acknowledgement by the DHEW Regional Office, the applicant is now in a position to enter into a construction contract.

(20 U.S.C. 355a–355c, OMB Circular No. A–15; 45 CFR 130.5, 130.21)

(b) *Contracting for construction.* (1) The State agency obtains from the applicant information on estimated costs, bid advertising dates, dates of bid opening, and a brief project description, which must be transmitted to the DHEW Regional Office, Facilities, Engineering, and Construction, to request a wage determination. This request should reach the office at least six weeks before the project is to be advertised for bids. State agencies may find it advisable to confirm the procedures with the Regional Engineer. If approval by State agency and notification to the Region is very close to planned bid advertising date, the State agency may submit the request for wage determination before it sends notification of the project approval. In such cases, the State agency should assure itself that the project is in approvable form.

(2) The State agency should review the bid proposals and contract documents for the project to assure itself that they include: (i) the prevailing wage rates as determined by the U.S. Department of Labor; and (ii) all the contract clauses required for the Federal Labor standards as provided for in § 130.5 and Subpart K of 45 CFR part 100b. Note that in some cases there is more than one contract on a construction project.

(3) The State agency should receive a copy of the tabulation of bids received showing the bids accepted. The architect usually prepares this (on a standard AIA form) for the owner.

(4) The State agency should review the construction contract, or contracts, as prepared before signing, together with the contract documents and must make sure the valid prevailing wage rates, the required labor, the equal employment opportunity requirements and all other applicable requirements are included.

(45 CFR 130.5)

(5) The State agency receives a signed copy of the construction contract or contracts and contract documents for its official project file.

(20 U.S.C. 355a, 1232b; 45 CFR 130.5)

(c) *Technical supervision.* (1) After the contract is awarded, but before the start of construction, the local applicant should schedule a preconstruction conference with all interested parties to clarify the administrative requirements of the Federal labor standards. The conferences should include architect, prime contractors and subcontracts, and representatives of State and local agencies.

(2) When construction starts the State agency should schedule a field visit to verify that:

(i) Wage determination is posted on the project in a place that the workers can see easily.

(ii) A copy of weekly payroll with the required certification statement (in regard to anti-kickback provisions of the Copeland Act) is furnished the owner within seven days after week to which payroll applies and that provision is made for keeping those on file. Also, that the copy of the weekly payroll is checked against the minimum wage determination for the project.

(iii) That periodic on-the-job labor interviews are provided for and that a signed report on each such interview is then filed with the owner's copy of the payroll for that week.

(iv) If revision of project is required, amended Form OE 3114–2, "Notification of Construction Project Approval", should be submitted to DHEW Regional Office as soon as possible.

(20 U.S.C. 351a, 1232b)

[FR Doc.74-10093 Filed 5-1-74;8:45 am]

V 39 I 86 MAY 2 74 XUM

Food and Drug Administration

[21 CFR Part 3]

2-MERCAPTOIMIDAZOLINE

Use in Closures and Product Delivery Systems for Drugs and Cosmetics and in Components of Medical Devices

In the FEDERAL REGISTER of November 30, 1973 (38 FR 33072), the Commissioner of Food and Drugs published a final order revoking those parts of § 121.2550 (b)(5) providing for the use of mercaptoimidazoline in the production of vulcanized natural or synthetic gaskets used in closures for food containers and those parts of § 121.2562(c)(4)(ii)(b) providing for the use of 2-mercaptoimidazoline as an accelerator in the production of rubber articles intended for repeated use in processing, packing, or holding food. This action was taken because of the possibility of 2-mercaptoimidazoline rearranging to form ethylenethiourea (2-imidazolidinethione), a known carcinogen. The Food and Drug Administration is also cognizant of a report of studies performed at Bionetics Research Laboratories of Litton Industries and designed to screen selected pesticides and industrial compounds for tumorigenicity in mice which indicated that administration of maximal tolerated doses of ethylenethiourea induced a significantly elevated incidence of tumors in mice. A copy of this report "Bioassay of Pesticides and Industrial Chemicals for Tumorigenicity in Mice: A Preliminary Note" which was published in the June 1969 edition of the Journal of the National Cancer Institute has been placed on file with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852.

The substance 2-mercaptoimidazoline is used as an accelerator in the manufacture of neoprene rubber products. These products may be used in container closures or as part of the product delivery system for drug products, including biological products, and cosmetic products and as components of medical devices. Without evidence to show that 2-mercaptoimidazoline does not rearrange to form ethylenethiourea (2-imidazolidinethione), the Commissioner concludes that the use of 2-mercaptoimidazoline in the manufacture of container closures, product delivery systems for drug and cosmetic products, and components of medical devices is not justified.

It is proposed that any drug product, including any biological product, cosmetic product, or medical device initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER will be regarded as adulterated if 2-mercaptoimidazoline is used in the manufacture of the product's container closure, delivery system, or component part. Such drug products may also be regarded as new drugs or new animal drugs without approval in violation of section 505 or 512 of the Federal Food, Drug, and Cosmetic Act. Any person now shipping a drug product, including a biological product, under an approved new drug application, new animal drug application, investigational new drug application, or license must amend the application or license within 30 days following publication of the final regulation in the FEDERAL REGISTER to provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 505, 512, 701, 52 Stat. 1041, 1049, 1052–1053, 1055, 82 Stat. 347; 21 U.S.C. 321, 351, 355, 360b, 371), the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262), and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 3 be amended by adding a new section as follows:

§ 3.____ 2-Mercaptoimidazoline; use in closures and product delivery systems for drugs and cosmetics and in components of medical devices.

(a) In the FEDERAL REGISTER of November 30, 1973 (38 FR 33072), the Commissioner of Food and Drugs published a final order revoking those parts of § 121.2550(b)(5) providing for the use of mercaptoimidazoline in the production of vulcanized natural or synthetic gaskets used in closures for food containers and those parts of § 121.2562(c)(4)(ii)(b) providing for the use of 2-mercaptoimidazoline as an accelerator in the production of rubber articles intended for repeated use in processing, packing, or holding food. This action was taken on the basis of data which show that it is possible for 2-mercaptoimidazoline to rearrange to form ethylenethiourea (2-imidazolidinethione), a known carcinogen.

(b) 2-Mercaptoimidazoline is used as an accelerator in the manufacture of neoprene rubber products. These products may be used as closures for containers for drug products, including biological products, and cosmetic products and as components of medical devices and thus may come into contact with humans or animals.

(c) Without evidence to show that 2-mercaptoimidazoline does not rearrange to form ethylenethiourea (2-imidazolidinethione), either in the manufacturing process or at any time after manufacture, drug products, including biological products, in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system cannot be considered as generally recognized as safe and effective within the meaning of section 201(p) or (w) of the Federal Food, Drug, and Cosmetic Act. These drug products, including biological products, may be marketed only under the applicable provision of section 505 or 512 of the act and in addition for biological products, section 351 of the Public Health Service Act.

(1) Any drug product, including any biological product, initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER shall be regarded as adulterated under section 501(a) of the Federal Food, Drug, and Cosmetic Act if 2-mercaptoimidazoline was used in the manufacture of the product's container closure or delivery system. The product may also be regarded as a new drug or new animal drug without approval in violation of section 505 or 512 of the act.

(2) Any person marketing a human drug product subject to an approved new drug application in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system shall submit to the Food and Drug Administration within 30 days following publication of the final regulation in the FEDERAL REGISTER a supplemental application under § 314.8 of this chapter. This supplemental application shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(3) Any person marketing a biological product subject to an approved license in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system shall submit to the Food and Drug Administration within 30 days following publication of the final regulation in the FEDERAL REGISTER a report of proposed changes in manufacturing methods under § 601.6 of this chapter. This report shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(4) Any person marketing an animal drug product subject to an approved new animal drug application in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system shall submit to the Food and Drug Administration within 30 days following publication of the final regulation in the FEDERAL REGISTER a supplemental application under § 135.13a of this chapter. This supplemental application shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(5) Any person shipping an investigational new drug product under §§ 135.3 or 312.1 of this chapter shall, if the product's container closure or delivery system was manufactured using 2-mercaptoimidazoline, amend his "Notice of Claimed Investigational Exemption for a New Drug" or Notice of Claimed Investigational Exemption for a New Animal Drug." The amendment shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(d) Any cosmetic product initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER shall be regarded as adulterated under section 601(d) of the Federal Food, Drug, and Cosmetic Act, and subject to regulatory procedures, if 2-mercaptoimidazoline was used in the manufacture of the product's container closure or delivery system.

(e) Any device initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER shall be regarded as adulterated under section 501(a) of the Federal Food, Drug, and Cosmetic Act, and subject to regulatory procedures, if any component of the device which may come into contact with a user, a patient, or a drug product in its intended use was manufactured using 2-mercaptoimidazoline.

Interested persons may, on or before June 3, 1974, file written comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852, regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 74–10047 Filed 5–1–74;8:45 am]

DEPARTMENT OF LABOR

Manpower Administration

[20 CFR Part 602]

PUBLIC EMPLOYMENT OFFICES

Minimum Wage Rates

Pursuant to 8 U.S.C. 1184, 8 CFR 214.2(h), and Secretary's Order No. 20–71, I hereby propose to amend 20 CFR 602.10b(a)(1) as set forth below.

The "adverse effect" rates, which the proposed amendment would revise, are the hourly minimum wage rates which an employer must offer to U.S. workers in order to be eligible to apply for alien workers. The rates are usually revised annually to reflect changing economic conditions in each State wherein a significant number of nonimmigrant alien workers are employed.

Any person interested in this proposal may file a written statement of data, views, or arguments regarding it with the Manpower Administrator, U.S. Department of Labor, Washington, D.C. 20210, on or before May 17, 1974.

As amended, § 602.10b(a)(1) would read as follows:

§ 602.10b Wage rates.

(a)(1) Except as otherwise provided in this section the following hourly wage rates (which have been found to be the rates necessary to prevent adverse effect upon U.S. workers) shall be offered to agricultural workers in accordance with § 602.10a(j):

State:	Rate
Connecticut	$2.28
Maine	2.24
Massachusetts	2.25
New Hampshire	2.43
New York	2.23
Rhode Island	2.21
Vermont	2.37
Virginia	2.27
West Virginia	2.25

• • • • • •

(8 U.S.C. 1184, 8 CFR 214.2(h), 34 FR 6502)

Signed at Washington, D.C., this 29th day of April, 1974.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.74–10073 Filed 5–1–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–SW–20]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Cotulla, Tex., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 30, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (39 FR 354), the Cotulla, Tex., control zone is amended to read:

COTULLA, TEX.

That airspace within a 3-mile radius of Cotulla Municipal Airport (latitude 28°27'-15" N., longitude 99°13'05" W.) and within 2 miles each side of the Cotulla VOR 266° radial extending from the 3-mile radius zone to 11 miles west of the VOR.

(2) In § 71.181 (39 FR 440), the Cotulla, Tex., transition area is amended to read:

COTULLA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cotulla Municipal Airport (latitude 28°27'15" N., longitude 99°13'05" W.); within 2 miles each side of the Cotulla VOR 266° radial extending from the 5-mile radius area to 14 miles west of the VOR; and within 8 miles north and 5 miles south of the Cotulla VOR 086° and 266° radials extending to 5 miles west and 12 miles east of the VOR.

The proposed amendments will provide controlled airspace for aircraft executing the HI-TACAN A instrument approach procedure.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, TX., on April 24, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74–9999 Filed 5–1–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73–WA–6]

PHILADELPHIA, PENNSYLVANIA, TERMINAL CONTROL AREA

Proposed Adoption

The Federal Aviation Administration (FAA) is considering the adoption of a Group II Terminal Control Area (TCA) for Philadelphia, Pa. Rules for the control and segregation of all aircraft operated within terminal control areas are contained in Part 91, §§ 91.24, 91.70 and 91.90 of the Federal Aviation Regulations. Further information concerning flight within TCAs is contained in the Airman's Information Manual.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Additionally, comments are invited on the potential impacts of this proposal on the quality of the human environment. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before July 1, 1974 will be considered before action is taken on the proposed amendment. The proposal con-

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tained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The establishment of terminal control areas at 22 large hub airports was proposed in notice 69-41 and supplemental notices thereto, and adopted on May 20, 1970 (35 FR 7782), to create a safer environment in those congested terminal areas. The need for TCAs has been well established, and a priority implementation schedule has been developed which is based on the air traffic congestion at each location, the capability of the terminal air traffic control facility to provide separation service to VFR aircraft, the experience gained from earlier established TCAs, and the publication dates of associated aeronautical charts.

Notice 69-41 and the amendments thereto delineated those major hub cities for which TCAs were planned. This Notice is intended to produce the input necessary to design an appropriate airspace configuration that can provide the safest environment with the least impact on the airspace users. TCAs have now been designated at all Group I locations, and this Notice proposes a configuration for a Group II TCA at Philadelphia, Pa.

The proposal contained herein was discussed at a public meeting held at the William Green Federal Building in Philadelphia, February 28, 1974. Approximately 30 airspace users attended. No objections to the TCA concept were offered, but several comments were offered and were considered in developing the proposed configuration.

These proposed TCA boundaries and floor altitudes have been established to offer the least inconvenience to satellite airports, yet provide the necessary maneuvering area for large turbine-powered aircraft landing and departing Philadelphia International Airport.

In consideration of the foregoing and for reasons stated in Docket No. 9880 (35 FR 7782), it is proposed to amend Part 71 of the Federal Aviation Regulations by adding the following to § 71.401(b) Group II Terminal Control Areas.

PHILADELPHIA, PA., TERMINAL CONTROL AREA

Primary Airport. Philadelphia International Airport (Lat. 39°52'12" N., Long. 75°14'43" W.)

Boundaries.—Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Philadelphia International Airport, excluding that airspace within and underlying Areas B and C.

Area B. That airspace extending upward from 300 feet MSL, to and including 7,000 feet MSL, beginning at the east tip of Tinicum Island, along the south shore of Tinicum Island to its westernmost point, thence direct to the outlet of Darby Creek at the north shore of the Delaware River, thence along the north shore of the river to Chester Creek, thence eastward direct to Thompson Point, thence eastward along the south short of the Delaware River to Bramell Point, thence direct to the point of beginning.

Area C. That airspace extending upward from 600 feet MSL, to and including 7,000 feet MSL, beginning at Bramell Point, along the south shore of the Delaware River to Thompson Point, thence direct to the outlet of Chester Creek at the Delaware River, thence southwestward along the north shore of the Delaware River, to the 6-mile arc of the Philadelphia International Airport, thence counterclockwise along the 6-mile arc to Kings Highway (Route 551), thence northward direct to Bramell Point.

Area D. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within an 11-mile radius of the Philadelphia International Airport, excluding Areas A, B, and C.

Area E. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending from Lat. 39°32'50" N., Long. 75°10'30" W., to Lat. 40°00'00" N., Long. 74°50'45" W., and Areas A, B, C, and D.

Area F. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of Philedelphia International Airport, excluding that airspace southeast of a line extending from Lat. 39°32'50" N., Long. 75°10'30" W., to Lat. 40°00'00" N., Long. 74°50'45" W., and Areas A, B, C, D, and E.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C. on April 26, 1974.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-10001 Filed 5-1-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SO-44]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Milton, Florida, transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 3, 1974, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Milton transition area described in § 71.181 (39 FR 440) would be amended as follows:

All after "northwest of the TACAN," would be deleted and "• • • and within a 5-mile radius of OLF Santa Rosa (Navy), Milton, Florida, (latitude 30°36'00" N., longitude 86°56'00" W.) • • •" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at OLF Santa Rosa (Navy). Prescribed instrument approaches to this field, utilizing U.S. Navy NAVAIDs, are proposed in conjunction with the alteration of this transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on April 24, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.74-10000 Filed 5-1-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SW-19]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Laredo, Tex. (Laredo Auxiliary No. 2 Airport).

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 3, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440), the following transition area is added:

LAREDO, TEX. (LAREDO AUXILIARY NO. 2 AIRPORT)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Laredo Auxiliary No. 2 Airport (latitude 27°28'00" N., longitude 99°13'45" W.) and within 2.5 miles each side of the Laredo, Tex., VORTAC 091°T (082°M) radial extending from the 5-mile radius area to 18.5 miles east of the VORTAC.

The proposed transition area will provide controlled airspace for Navy aircraft executing the HI-TACAN A instrument approach procedure. The HI-TACAN A approach is a military practice IFR low approach.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, TX., on April 24, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74-9998 Filed 5-1-74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[Docket No. 26658]

DECEPTIVE PRACTICES IN ADVERTISING GROUP INCLUSIVE TOURS

Proposed Policy Statement

Notice is hereby given that the Civil Aeronautics Board is proposing to amend Part 399 of the regulations (14 CFR Part 399) to codify a policy which would regard as an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof, within the meaning of section 411 of the Act, the advertising of prices involved in group inclusive tours unless the advertisement includes a clear statement of the total tour price. The proposed amendments and a statement explaining their principal features are attached. The rule is proposed under the authority of sections 204, 401, 402, 403, 404, 411, 416(a) and 1002 of the Federal Aviation Act of 1958, as amended, (72 Stat. 743, 754 (as amended by 76 Stat. 143, 82 Stat. 867), 757, 758 (as amended by 74 Stat. 445), 760, 769, 771, and 788; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1381, 1386, and 1482) and section 4 of the Administrative Procedure Act (80 Stat. 378, 381; 5 U.S.C. 553).

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, individual members of the general public who, as prospective passengers may be affected by the outcome of this proceeding, may participate in the proposed rulemaking through submission of comments in letter form to the Docket Section at the above-indicated address, without the necessity of filing additional copies thereof. All relevant material received on or before June 17, 1974, will be considered by the Board before taking final action upon the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board:

Dated: April 29, 1974.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

We are today proposing to adopt a policy statement which is intended to facilitate elimination of deceptive advertising of group inclusive tours (GIT's) and, in the same connection, to remedy an apparently unfair competitive advantage enjoyed by the advertisers of GIT's over tour operators who advertise inclusive tour charters (ITC's).

It appears that the advertisements of some GIT operators display a purported tour price, which is plainly stated, plus an additional charge for tax and services, for which no amount is specified. Rather, the reference to such "additional charges" is stated as a percentage of the featured price. Moreover, it appears that frequently these additional charges are not related to actual taxes and costs of services. Thus, the practice of advertising GIT's in this manner results not only in misleading the public as to the total price of a GIT, but it also would appear to afford GIT operators an unfair competitive advantage over the operators of ITC's, who are specifically required by the Board's regulations to include in their ITC advertisements only the total tour price, without specifically stating the cost of any of the tour's component parts.[1]

Therefore, we are proposing to adopt a policy statement to the effect that the Board will regard as unfair or deceptive the advertising of GIT prices unless the total tour price is clearly stated. Moreover, while we shall not prohibit the separate statement of the applicable GIT fare on which the tour is constructed, we are proposing to require that where a GIT advertisement includes a statement of the applicable air fare, then the total tour price must be stated in print at least as large as such separate statement of the air fare alone and with equal prominence.[2]

It is proposed to amend Part 399 of the regulations, Statements of General Policy (14 CFR Part 399), as follows:

1. Amend the table of contents by adding § 399.84 to the table, as amended, to read in pertinent part as follows:

Sec.
399.84 Unfair or deceptive practice of air carrier, foreign air carrier or ticket agent in advertising group inclusive tour price without clear statement of total tour price

2. Add a new § 399.84 to read as follows:

§ 399.84 Unfair or deceptive practice of air carrier, foreign air carrier or ticket agent in advertising of group inclusive tour prices without clear statement of total tour price.

(a) It is the policy of the Board to consider the practice of an air carrier, foreign air carrier or ticket agent of advertising a group inclusive tour involving a sheduled flight in air transportation, to be an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof, within the meaning of section 411 of the Act, unless such advertisement includes a clear statement of the total tour price, as a single amount, and, if the advertisement also includes any separate statement of the applicable air fare for the scheduled air transportation involved in such tour, then the statement of the total tour price shall be printed in type at least as large as the type used to print such air fare and shall be displayed with equal prominence.

(b) For the purposes of paragraph (a) of this section "tour price" means the total amount of money paid by the tour participant for the group inclusive tour.

[FR Doc.10083 Filed 5-1-74;8:45 am]

[1] However, an ITC advertisement may separately state the cost of optional services or facilities, which are not included in the total tour price.

COST OF LIVING COUNCIL

[6 CFR Part 150]

PHASE IV PRICE REGULATIONS

Health Care Forms

The Cost of Living Council is considering the issuance of a CLC form to be used by Health Maintenance Organizations under the Phase IV health care regulations (6 CFR Part 150, Subpart R) published at 39 FR 2670 (January 23, 1974), as amended on March 27, 1974, at 39 FR 11376.

[2] The National Air Carrier Association (NACA) on behalf of a number of its member carriers has filed a petition for rule making and a supplement thereto in Docket 21607, asking that the Board adopt a policy statement subjecting GIT price advertising to the same restrictions as those applicable to ITC price advertising. The NACA petition, except to the extent herein granted, is hereby denied.

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On March 6, 1974, the Council issued a notice of proposed rulemaking, 39 FR 9768 (March 13, 1974), setting out proposed Forms CLC–61, CLC–71, and CLC–81 to be filed as annual reports or used for monitoring purposes under the Phase IV health care regulations. On March 30, 1974, the Council issued notices of proposed rulemaking, 39 FR 12534 and 39 FR 12540 (April 5, 1974), setting out proposed Forms CLC–62, CLC–72, and CLC–82 to be used for requesting exceptions from the Phase IV health care regulations, and proposed Forms CLC–101 and CLC–102 to be used for monitoring claims reviewed by insurers under the Phase IV regulations. The Council published along with the proposed forms a Sample Price Schedule for Medical Practitioners and Medical Laboratories. The Council indicated on both occasions that the form relating to Health Maintenance Organization (HMO) prenotification and annual reports would be issued at a later date.

The purpose of publishing the HMO form with accompanying instructions in proposed form is to provide the public an opportunity to make suggestions for improvements regarding the format and computations.

The proposed form and instructions will not be adopted until they are approved by the Office of Management and Budget. At that time the Council will amend its regulations to incorporate the form and instructions, and make any necessary adjustments in the governing regulations resulting from the rulemaking.

In issuing this notice of proposed rulemaking, the Council recognizes the uncertain future of the Economic Stabilization Program. However, the concepts and specifics embodied in the proposed Form CLC–27 can be expected to have meaning with respect to a National Health Insurance Program during the forthcoming congressional hearings and debates on the pending enabling legislation.

Interested persons are invited to participate in the rulemaking by submitting written data, views, or arguments with respect to the proposed CLC form set forth in this notice, to the Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. Comments should be identified with the designation "Phase IV Health Maintenance Organization Report Form Docket." At least 10 copies should be submitted. All communications received on or before May 24, 1974 wil be considered by the Council before the Council takes final action on the proposed form. The proposed form contained in this notice may be changed in the light of comments received. All comments received in response to this notice will be available for examination and copying by interested persons at the Cost of Living Council, 2000 M Street NW., Washington, D.C., during the hours of 9 a.m. to 5 p.m., Monday through Friday. Submissions will be available both before and after the closing date for comments.

Form CLC–27 is intended for use by prenotifying Health Maintenance Organizations as their notification of proposed rate increases, in accordance with 6 CFR 150.754, and by each Health Maintenance Organization as its annual report which must be filed with the Cost of Living Council and the appropriate State regulatory agency within 120 days following the end of each fiscal year, in accordance with 6 CFR 150.760.

This form is designed to summarize the data necessary for the Cost of Living Council to rule upon proposed HMO rate increases and to monitor the performance of all Health Maintenance Organizations.

Part II of Form CLC–27 provides a summary of the HMO's total revenue for the last fiscal year for which data is available or for the fiscal year the annual report is intended to cover. It is also designed to ascertain the number and size of experience rated groups and special benefit coverages which are not based on the community rate. The Council would be interested in learning whether such groups and coverages do, in fact, exist, the manner in which rates for them are set, and in what way the revenue generated by them is considered in the calculation of the community rate.

Part IV concerns the specific rate change being prenotified or the individual and cumulative rate change(s) effected during the year being reported. Comment would be welcome on the applicability of this section to HMO ratemaking procedures and possible alternative methods of reporting by which the Council might monitor HMO compliance with the regulations.

Part V is simply a summary of the various loadings which make up the HMO's rates. Compliance on expenses and profit loadings can be measured in Items 25 and 26, and total benefit costs in Item 27 is related to the anticipated benefit costs developed in Part IV.

Part I, "Identification Data," Part III, "Certification by State Regulatory Agency," Part VI, "Person to Whom Inquiries Concerning This Filing Should Be Addressed," and Part VIII, "HMO's Certification," are self-explanatory.

In consideration of the foregoing, it is proposed to amend 6 CFR Part 150 in the Appendix (Phase IV Price Forms) by the addition of Form CLC–27, with accompanying instructions, to read as set forth below.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order Number 14, 38 FR 1489)

Issued in Washington, D.C., April 26, 1974.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

Form CLC-27
(Proposed April 1974)

Economic Stabilization Program
HEALTH MAINTENANCE ORGANIZATION REPORT

Identification Number

☐ Prenotification ☐ Annual Report

Part I - Identification Data

1. (a) Name of Health Maintenance Organization

(b) Address (Number and Street)

(c) City, State, Zip Code

2. Report for Fiscal Year Ended — Month / Day / Year

3. Is this HMO:
(a) ☐ For Profit?
(b) ☐ Not For Profit?

4. Is HMO Subject to Any State Regulatory Agency?
(a) ☐ Yes (b) ☐ No

5. Membership at End of Fiscal Year

6. Date HMO Began to Provide Health Care, if Subsequent to January 1, 1969 — Month / Day / Year

Part II - Summary Data

7. Revenues:

(a) Membership Revenue:
(i) Prepaid Revenue $_____
(ii) Supplemental Revenue (SMR) $_____

(b) Total Membership Revenue [(i)+(ii)] (TMR) $_____

(c) Revenue from Services to Non-Members (NMR) $_____

(d) Revenue Not from Services Provided:
(i) U.S. Dept. Of HEW $_____
(ii) County Allocation $_____
(iii) State Allocation $_____
(iv) Donations $_____
(v) Other $_____

(e) Total Non-Service Revenues (TNSR) [sum of (d)(i) through (d)(v)] $_____

(f) Total Revenues [(b)+(c)+(e)] $_____

(g) Percentage Change in TNSR from Prior Fiscal Year _____ %

8. Percent of TMR [Item 7(b)] Derived from Community Rated Members _____ %

9. (a) Number of Experienced Rated Groups or "Special Benefit" Rates that Individually Account for 5% or more of Total Membership Revenue (TMR) _____

(b) Total Percent of TMR Derived from (a) _____ %

(c) Total Percent of TMR Derived from Other Experience Rated Groups or "Special Benefit" Rates 100%

Part III - Certification by State Regulatory Agency

10. Name and title of the principal official of the state regulatory agency

11. Reason(s) for non-compliance (if applicable)

12. Date received by state regulatory agency

13. Signature Date

14. Title

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Part IV - Community Rate Change

15. Rate Change During Report Period:

Effective Date of Rate Change (1)	% Change (2)	Annualized Dollar Effect of Rate Change (3)

16. (a) Experience Period used to Calculate Rate Change _____ to _____

(b) Number of Years in Projection Period _____

17. Average Number of Members Per Month

(a) Prior Period _____ (b) Current Period _____ (c) Estimated _____

18. Revenue:

(a) Estimated Annualized Community Rate Revenue without Rate Change

(i) Revenue Subject to Change $_____

(ii) Revenue not Subject to Change $_____

(b) Total Community Rate Revenue w/o Change $_____

(c) Additional Revenue used in Calculating Rate Change

(i) "Special Benefit" Rate Revenue $_____

(ii) Supplemental Revenue (SMR) $_____

(iii) Non-Member Revenue (NMR) $_____

(iv) Total Non-Service Revenue (TNSR) $_____

(f) Total Additional Revenue $_____

(e) Total Estimated Revenue Prior to Community Rate Change $_____

19. Attach an Exhibit Explaining Development of Estimated Revenue

20. Actual Benefit Costs Incurred

Check appropriate contract basis as specified in 6 CFR 150.752(a)(5)(i-iv)	(1) Actual Benefit Costs during Experience Period Adjusted for Membership	(2) Anticipated B-C at Time of Rate Change	(3) % Change ((2)-(1))÷(1)	(4) Annualized % Change (3)÷16(b)	(5) Anticipated B-C Used in Rate	(6) % Change ((5)-(1))÷(1)	(7) Annualized % Change (6)÷16(b)
(a) Inpatient-Acute Care Per Admission ☐ Per Capita or Fixed Dollar ☐ Operating Expense ☐							
(b) Inpatient-Long Term Care							
(c) Outpatient-Hospital Per Procedure ☐ Per Capita or Fixed Dollar ☐							
(d) Medical Practitioner Medical Labratory Fee-For Service ☐ Per Capita or Fixed Dollar ☐							
(e) Total (Average)							

21. Attach an Exhibit and/or an Explanation Setting Forth Method for Calculating Anticipated Benefit Costs.

22. Expenses Used in Calculating Rate Change: (as limited by regulations)

(a) Total Anticipated Benefit Costs [Item 20(e)(Col. 5) total] $_____

(b) Administrative Expenses _____

(c) Capital Generation Requirement _____

(d) Other Expenses _____

Total Expenses $_____

23. Profit/Contingency Used in Calculating Rate Change (as limited by regulations) $_____

24. Derivation of Community Rate Change:

(a) Total Expenses [Item 22 total] $_____

(b) Profit/Contingency [Item 23] _____

Total $_____

(c) Subtract Total Revenue [Item 18(c)] $_____

(d) Community Rate Revenue Change Indicated $_____

(e) Overall Community Rate Change [Item 24(d)÷Item 24(c)] _____ %

Part V - Summary of Rate Elements (check appropriate basis for loading)	Prior Rate: Monthly Rate Per Member (1)	Prior Rate: Per $100 of Rate (2)	Current Rate: Monthly Rate Per Member (3)	Current Rate: Per $100 of Prior Rate (4)	Percentage Increase ((3)÷(1))x 100 ((4)÷(2))x 100 (5)	Current Rate per $100 of rate (6)
25. Expenses						
(a) Loading for Administrative Expenses 6 CFR 150.752(3)						
(i) Percent of Rate Basis ☐						
(ii) Actual Cost Basis ☐						
(iii) Other, Explain ☐						
(b) Loading for Other Expenses and Capital Generation 6 CFR 150.752(1)						
(i) Percent of Rate Basis ☐						
(ii) Actual Cost Basis ☐						
(iii) Other, Explain ☐						
26. Profit/Contingency: Loading for Profit/Contingency Reserve as Specified in 6 CFR 150.752(a)(4)						
27. Benefit Costs: Loading for Benefit Costs as Specified in 6 CFR 150.752(a)(1-3)						
28. Total Rate	$	$100.00	$.	$.	. %	$100.00

Part VI - Person to Whom Inquiries Concerning this Filing Should be Addressed

Name	Title	Telephone Number (include area code)

Part VII - HMO's Certification

I have examined this form and any attached exhibits, schedules and explanations, and to the best of my information, knowledge, and belief, find such documents to be in compliance with the Economic Stabilization Regulations of Title 6, Code of Federal Regulations.

Signature	Title	Date

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INSTRUCTIONS FOR FORM CLC-27, HEALTH MAINTENANCE ORGANIZATION REPORT

GENERAL INSTRUCTIONS

A. *Purpose.* Form CLC-27 is designed to provide the data necessary for the Cost of Living Council (CLC) to monitor the performance of Health Maintenance Organizations (HMOs) under the Economic Stabilization Program regulations of 6 CFR Part 150, Subpart R. Form CLC-27 also provides the means by which a Health Maintenance Organization prenotifies the Cost of Living Council and the appropriate state regulatory agency of a proposed rate increase.

B. *Who must file.* 1. Each HMO that had 60,000 or more members at any time during the calendar year preceding the effective date of a proposed rate increase must file a Form CLC-27 to prenotify any rate increase.

2. Each HMO must file an annual report on Form CLC-27.

C. *Where to file.* Send all filings to the appropriate state regulatory agency and to the Cost of Living Council at the following address:

Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508.

D. *When to file.* 1. If the HMO is prenotifying a rate increase, the Form CLC-27 must be filed at least 30 days prior to the implementation of the proposed rate increase.

2. Each HMO shall file Form CLC-27 at the time the HMO normally releases its annual report but in no event later than 120 days after the end of the fiscal year.

E. *Suggestions for improvement.* The Cost of Living Council welcomes suggestions for improving this and other forms, and seeks ways of obtaining the information it needs to exercise its responsibilities under the Economic Stabilization Program with the minimum amount of public burden. Suggestions should be submitted to:

Cost of Living Council, Office of the Executive Secretariat, 2000 M Street NW., Washington, D.C. 20508.

F. *Sanctions.* The timely submission of a Form CLC-27 by a Health Maintenance Organization is a mandatory requirement under the Phase IV regulations. Late filing, failure to keep records, or failure otherwise to comply with the Economic Stabilization regulations may result in criminal fines, civil penalties, and other sanctions as provided by law.

G. *Rounding.* For purposes of this form, all percentages may be expressed to the nearest two decimal places (e.g. 1.76%). All dollar entries may be entered to the nearest whole dollar except as otherwise indicated.

H. *Definitions and Abbreviations.* Definitions: (See also 6 CFR 150.750).

Special Benefit Rate—Prepaid rate other than community rate which is charged for optional or supplemental benefits.

Abbreviations:

Health Maintenance Organization—HMO
Supplemental Membership Revenue—SMR
Total Membership Revenue—TMR
Revenue from Services to Non-members—NMR
Total Non-Service Revenues—TNSR

SPECIAL INSTRUCTIONS

PART I—IDENTIFICATION DATA

Items 1 through 3—Self-explanatory.

Item 4—Indicate whether HMO rates are subject to state regulations and a state rate regulatory authority.

Items 5 and 6—Self-explanatory.

PART II—SUMMARY DATA

Item 7—"Revenues" in this part refers to revenue accrued by the HMO during the report period. For prenotification, enter data from the last completed annual report period for which data is available.

(a) (i)—"Prepaid Revenue" refers to all revenue accrued from members through a fixed monthly charge, including revenue from "Special Benefit" rates.

(a) (ii)—"Supplemental Revenue" refers to revenue accrued from members in payment for services not covered by the fixed monthly charge.

(b) and (c)—Self-explanatory.

(d)—"Revenue not from Services Provided" refers to revenue obtained from nonpatient sources (e.g. grants, donations, subsidies, etc.).

(e) and (f) Self-explanatory.

(g) "Percentage Change" refers to change in Total Non-Service Revenue (TNSR) from TNSR of prior year.

Item 8—Enter percent of Total Membership Revenue (TMR) generated by HMO's Community Rate.

Item 9—(a) Enter the number of experience rated groups or special benefit rates, if any, that individually account for 5 percent or more of Total Membership Revenue (TMR) for the last completed annual report period.

(b) Enter the total combined percent of Total Membership Revenue (TMR) derived from these groups and/or rates.

(c) Enter the remaining percent of TMR. The sum of (a), (b) and (c) should equal 100 percent.

PART III—CERTIFICATION BY STATE REGULATORY AGENCY

Item 10—Self-explanatory.

Item 11—If noncompliance, the reason(s) for noncompliance should be listed. Refer to appropriate items in Parts IV and V or attach explanatory exhibits.

Item 12—The date Form CLC-27 is received by the state regulatory agency should be prominently displayed.

Item 13—The certification should be signed by the principal official of the state regulatory agency or any official legally designated to act for that official.

Item 14—Self-explanatory.

PART IV—COMMUNITY RATE CHANGE

For annual reports, if there has been no rate change during the report period, the latest available data should be entered as applicable statistics. If more than one change has been effected during the period, a separate Part IV should be completed for each change as well as one for the cumulative rate change during the period.

Item 15:

Col. (1) Enter effective date of proposed rate increase, for prenotification purposes, or the effective date(s) of any rate change(s) implemented during the report period, for annual report purposes.

Col. (2) Enter the percentage change(s) being prenotified or reported.

Col. (3) *Prenotification*—The dollar amount to be entered here is the proposed monthly rate times the estimated number of subscribers annualized (x 12) *minus* the current monthly rate times the estimated number of subscribers annualized (x 12). *Annual Report*—For purposes of the annual report, Item 15 Col. (3) should contain the result of the monthly rate in effect during the last month of the report period times the number of subscribers at the end of the report period annualized (x 12) *minus* the monthly rate in effect during the last month of the prior period times the number of subscribers at the end of the report period annualized (x 12).

Item 16:

(a) Indicate the beginning and end of the time period used as a statistical base from which projections of revenue and benefit costs have been made.

(b) Enter the length of the time period extending from the midpoint of the experience period to the midpoint of the period during which the new rate is to be applied.

Item 17—Prenotification.

(a) Enter average number of HMO members per month of experience period used in calculating rate change.

(b) Enter average number of HMO members per month of last completed fiscal year.

(c) Enter average number of HMO members per month estimated for purposes of calculating rate change.

ANNUAL REPORT

(a) Enter average number of HMO members per month of experience period used in calculating rate change. If no rate change has been effected during period, enter average number of HMO members per month of prior report period.

(b) Enter average number of HMO members per month of report period.

(c) Enter average number of HMO members per month estimated for purposes of calculating rate change. If no rate change has been effected during period, enter average number of HMO members per month estimated for the following report period.

Item 18. (a)—The sum of Item 18(a) (i) and Item 18(a) (ii) should equal the estimated community rate revenue that would accrue to the HMO if the rate change does not go into effect. Revenue added by new membership should be included.

(a) (i) Enter the estimated community rate revenue that would be affected by the rate change (i.e., before the rate change is implemented).

(a) (ii) Enter the estimated community rate revenue that would not be affected by the rate change.

(b) Enter the total of Item 18(a) (i) and (a) (ii).

(c) (i) Enter revenue from "Special Benefit" Rates that is credited to and used in calculating the community rate (if any).

(c) (ii-iv) Enter additional revenues used in calculating community rate.

(d) Enter total additional revenue which is the sum of Item 18(c) (i) through (c) (iv).

(e) Enter total estimated revenue prior to community rate change (Item 18(b) and Item 18(d)).

Item 19—Self-explanatory.

Item 20:

Col. (1) Enter total annualized benefit costs incurred during the experience period multiplied by the ratio of estimated average membership during period in which rate will be applied and average membership during the experience period. [i.e. Total benefit costs in experience period times estimated membership divided by membership during experience period.]

Col. (2) Enter the total estimated annualized benefit costs during the period in which rate will be applied. Increased membership should be considered.

Col. (3) The percentage change is determined by subtracting the entry in Col. (1) from the entry in Col. (2) and dividing the result by the entry in Col. (1), e.g., [Col. (2) — Col. (1)] ÷ Col. (1).

Col. (4) The annualized percentage change is determined by dividing the entry in Col. (3) by the entry in Item 16(b).

Col. (5) Enter the estimated annualized benefit costs as limited by the regulations for period in which rate will be applied.

Col. (6) The percentage change is determined by subtracting the entry in Col. (1) from the entry in Col. (5) and dividing the result by the entry in Col. (1), e.g., [Col. (5) — Col. (1)] ÷ Col. (1).

Col. (7) The annualized percentage change is determined by dividing the entry in Col. (6) by the entry in Item 16(b).

Item 21—Self-explanatory.

Items 22, 23, and 24—Figures for cost, expenses, and revenues are total anticipated annualized amounts used in calculating the community rate change.

PART V—SUMMARY OF RATE ELEMENTS

For purposes of the annual report, "Prior Rate" refers to the rate in effect at the end of the previous report period. "Current Rate" refers to the rate in effect at the end of the current report period. All dollar entries should be expressed to the nearest cent.

Items 25 through 28:

Col. (1) Enter the actual dollar amount per month charged each member of the HMO at the end of the previous report period.

Col. (2) Enter the actual dollar amount per $100 of (prior) premium charged each member of the HMO at the end of the previous report period.

Col. (3) Enter the actual dollar amount per month charged each member of the HMO at the end of the current report period.

Col. (4) Enter the actual dollar amount per $100 of prior premium charged each member at the end of the current report period. This is equivalent to the product of Col. (3) and Col. (2) divided by Col. (1) e.g., [Col. (3) × Col. (2)] ÷ (1).

Col. (5) The percentage change computed by dividing Col. (1) into Col. (3) and multiplying by 100 is equal to that derived by dividing Col. (2) into Col. (4) and multiplying by 100.

Col. (6) Enter the actual dollar amount per $100 of (current) premium charged each member at the end of the current report period. NOTE: Item 28 Col. (5) (total) should be equal to Item 24(e).

PART VI—PERSON TO WHOM INQUIRIES CONCERNING THIS FILING SHOULD BE ADDRESSED. SELF-EXPLANATORY

PART VII—HMO'S CERTIFICATION

This section should be signed by the chief executive officer or other legally designated official. A copy of the delegation of authority must be filed with the Cost of Living Council.

[FR Doc.74-9923 Filed 4-26-74;3:18 pm]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 80]

FUELS AND FUEL ADDITIVES

Proposed Restrictions on Use of Unleaded Gasoline; Corrections

On April 11, 1974 (39 FR 13174), the Environmental Protection Agency proposed amendments regarding the liability of gasoline retailers and suppliers for violations of the regulations requiring general availability of unleaded gasoline. Two typographical errors appear in the proposed revision of paragraph (b) (2) of § 80.23.

The document proposing revision of 40 CFR Part 80 published in the FEDERAL REGISTER on April 11, 1974, at 39 FR 13174, is corrected by changing the spelling of the word "under" and changing the reference in § 80.23 (b) (2) from paragraph (a) (2) to paragrpah (a) (1).

Dated: April 26, 1974.

ALVIN L. ALM,
Acting Administrator.

[FR Doc.74-10112 Filed 5-1-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 91]

[Docket No. 20027; RM-2050; FCC 74-389]

OIL SPILL CLEANUP OPERATIONS

Proposed Frequency Allocation

In the matter of amendment of Parts 2 and 91 of the Commission's rules and regulations to provide a frequency allocation for oil spill cleanup operations.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. On September 1, 1972, the Central Committee on Communication Facilities of the American Petroleum Institute (API) filed a petition (RM-2050) requesting that the Commission change its rules to accommodate radio communications needed to expedite and coordinate oil spill cleanup operations. API specifically desires a nationwide "family" of frequencies to effect a more satisfactory oil spills cleanup process.

3. The United States Coast Guard has reported that there were 8,763 oil spills in 1971 and 9,931 oil spills in 1972 involving the spillage of 8,839,573 and 18,805,732 gallons, respectively, for those years. While the Coast Guard is given responsibility under the Federal Water Pollution Control Act (as amended) for coordinating the cleanup of oil spills, the petroleum industry has the responsibility of performing the actual cleanup function for any spills caused by its facilities.

4. The individual petroleum companies are legally responsible (Title 33 USCA, section 1161(f)) for any oil spill, regardless of size, which "causes a visible sheen on water". In order to carry out their responsibilities, the companies have formed oil spill cleanup co-operatives, which numbered 84 as of February, 1973. Such co-operatives are primarily composed of oil companies but may also include local government agencies. The oil companies have donated necessary equipment to the co-operatives, and all spills, large and small, are handled by the co-operatives rather than by the individual companies. In a small spill, only a portion of the available personnel and equipment is used and the radio communications requirement is minimal. Large spills, however, require extensive cleanup operations involving much manpower and machinery. To minimize the destructive effect of such spills, cleanup operations must proceed rapidly and efficiently and are highly dependent on radio for essential communications.

5. Oil spill co-operatives now fulfill their emergency communications needs by diverting frequencies from other functions (i.e. operational control of various refinery processes). However, this procedure can result in serious disruption of regular services for days or even weeks. To alleviate this situation, API has requested the following frequencies be allocated nationwide to the Petroleum Radio Service for use exclusively in oil spill cleanup communications:

2 low band frequencies (25-30 MHz)
2 medium band VHF frequencies (49-50 MHz)
2 pair, high band VHF frequencies (150-170 MHz)
2 pair, UHF frequencies (450-470 MHz)

The specific frequency channels suggested for use by the API were evaluated to determine their availability for reallocation in the FCC Rules. Not all were obtainable due to conflicts with either planned or existing uses. Those which were found to be available have been incorporated into the frequency plan proposed herein.

6. The number of channels cited in paragraph 5 is needed, according to API, because large oil spills require several independent communications networks for such purposes as directing work crews, communicating between maritime, land, and air vehicles and for managing and coordinating the overall cleanup operation. The provision of channel pairs will enable the use of repeaters to extend mobile and portable coverage over the relatively large areas which may be affected by oil spills, occasionally up to 30 or 40 miles. The availability of channels in several land mobile bands will also enable the maximum use of land mobile type equipment which the oil companies presently have available.

7. In letters to the Commission, both the U.S. Coast Guard and the Environmental Protection Agency (EPA) voiced support for the API petition. Their letters indicate that both of these agencies have been assigned special Government frequencies for use in carrying out their responsibilities in emergencies. Likewise, the EPA believes that the oil industry should have relatively clear channels for handling those aspects of the cleanup operations for which industry has responsibility.

8. Recognizing the Federal Government interest in this area, the Commission requested the Interdepartment Radio Advisory Committee (IRAC) to review the API petition in the context of Government requirements and to assist the Commission in developing a coordinated frequency plan to meet both Government and industry needs. The total number of channels in the joint FCC/IRAC plan is the same as that proposed by API with some differences in specific frequencies to lessen the impact on existing or planned services.

9. We are therefore proposing the following frequencies for the purpose of accommodating air, land, and sea communications to be used for oil spill cleanup operations:

(a) Two channels in the 25 MHz range, centered on 25.04 and 25.08 MHz, each 20 kHz wide. Although these two frequencies are currently allocated to the Petroleum Radio Service, they are lightly loaded and no great future demand is seen for the purpose for which they were allocated. We are proposing to make these two frequencies available for oil spill cleanup operations on a primary basis. Other Petroleum Radio Service use will be permitted on a secondary basis.

(b) Two frequencies in the 30-40 MHz range, 36.25 MHz and 41.71 MHz, both from Government spectrum. These are Coast Guard assigned channels, both 20

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kHz wide. These frequencies will be made available to both Government and non-Government stations engaged in oil spill cleanup operations along inland waterways and in coastal areas, subject to prior co-ordination with pertinent local Coast Guard officials.

(c) Two pair of frequencies in the 150 MHz band, 150.980/156.255 MHz and 159.480/161.580 MHz, to be derived from unused guardband spectrum between presently assignable channels. These guardbands are presently divided between two adjoining services. By combining the two segments, a channel of useable width is obtained. These 150 MHz channels are all 15 kHz wide. Both 150.980 MHz and 159.480 MHz are center frequencies of guardbands between Land Transportation and Public Safety channels. The other two frequencies, 156.255 MHz and 161.580 MHz, are center frequencies between Maritime Mobile channels, and Public Safety and Land Transportation, respectively.

(d) Two UHF frequencies, 454 and 459 MHz, which are the centers of 25 kHz guardbands located between Public Safety and Domestic Public channels. These two frequencies will be made available exclusively to non-Government entities engaged in oil spill cleanups. Two additional UHF frequencies may be derived for oil spill use at such time as the Commission proceeds with channel splitting in the remote pickup broadcast auxiliary bands.

10. Based on past experiences, according to Coast Guard information, oil spills can occur almost anywhere, but the bulk of significant oil spills has occurred on inland waterways and in coastal areas. It was therefore concluded that the 25 MHz pair, the two 150 MHz pairs and the 450 MHz pair be made available on a nationwide basis. The frequencies 36.25 and 41.71 MHz and the remaining, yet undetermined UHF pair would be made available for use only in coastal and inland waterway areas, where the anticipated additional demand warrants their employment.

11. The IRAC also recommended that the frequency 157.075 MHz be used as an interface between the U.S. Coast Guard and other Government and non-Government entities involved in a cleanup. Use of this frequency would be under the control of the designated on-scene Coast Guard commander/coordinator, or his deputy, associated with the cleanup operation. Its use by industry would be limited to personnel having primary responsibility for the cleanup activity, and only Coast Guard-owned equipment would be used. Such equipment would be operated as Coast Guard stations not licensed by the FCC.

12. It appears to the Commission that the proposed allocation of frequencies would offer significant public benefits, both from an economic as well as an environmental point of view. The oil spill cleanup could be accomplished more efficiently and effectively as a result of the allocations. The major benefit to be derived from employment of an adequate communication resource would be a savings in time, a crucial factor in an oil spill cleanup in which a day or even an hour can make a major difference in how extensively the oil spill spreads, and consequently, the amount of wildlife and land or water affected. The new allocation would ensure availability of existing Petroleum Radio Service frequencies for essential day-to-day operation which must continue even during oil spill emergencies.

13. While we are proposing an allocation of the above frequencies for use in oil-spill emergencies, we will entertain comments concerning possible secondary use of the non-Government channels for non-critical operations in the Petroleum and perhaps other radio services which could cease operations immediately if the channels were required during an oil spill.

14. We also proposed to amend Part 91 as indicated below to provide eligibility in the Petroleum Radio Service for non-profit corporations or associations engaged in the containment or cleanup of oil spills.

15. The proposed amendments to the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303 or the Communications Act of 1934, as amended.

16. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested person may file comments on or before May 31, 1974 and reply comments on or before June 11, 1974. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. The Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

17. In accordance with § 1.415 of the Commission's rules, one original and 14 copies of all statements shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: April 16, 1974.

Released: April 26, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Chapter I of Title 47 of the Federal Regulations is amended as follows:

§ 2.106 [Amended]

1. In § 2.106 two new footnotes are added to the Table of Frequency Allocations to read as follows:

a. In the bands 25.01–25.33, 150.8–150.98, 150.98–151.49, 156.250–157.0375, 158.715–159.48, 159.48–161.575, 161.575–161.625, 451–454, 454–455, 456–459, 459–460 MHz, the following footnote is added:

NG ---- The frequencies 25.04, 25.08, 150.980, 156.255, 159.480, 161.580, 454.000, and 459.000 MHz may be authorized to non-Government entities engaged in oil spill cleanup operations.

b. In the bands 36–37 and 40–42 MHz, the following footnote is added:

US ---- The frequencies 36.25 MHz and 41.71 MHz may be authorized to Government and non-Government stations engaged in oil spill cleanup operations. Authorization of these frequencies is subject to prior coordination with local Coast Guard officials. In addition, the use of these frequencies for oil spill cleanup operations is limited to the inland and coastal waterway regions.

2. Section 91.301 is amended to add paragraph (d) to read as follows:

§ 91.301 [Amended]

• • • • •

(d) A non-profit corporation or association engaged in the containment or cleanup of oil spills. Provided that only those mobile service frequencies designated by footnotes (38), (39) and (40) in § 91.304(b) and frequencies otherwise available for operational fixed purposes will be assigned to such applicants for these purposes.

3. In § 91.304(a) the table is amended and, in paragraph (b), limitations (38), (39), and (40) are added to read as follows:

§ 91.304 [Amended]

(a) • • •

Petroleum Radio Service Frequency Table

Frequency or band	Class of stations	Limitations
•	•	•
25.04	do	38
25.06	do	38
25.08	do	38
•	•	•
36.25	Base or mobile	40
40.68	Operational fixed	2, 3
41.71	Base or mobile	40
•	•	•
150.980	Base or mobile	38
153.035	do	36
• • •	• • •	• • •
156.255	Base or mobile	38
158.145	do	35
• • •	• • •	• • •
159.480	do	38
161.580	do	38
169.425	Operational fixed	2
• • •	• • •	• • •
454.000	Base or mobile	39
456.175	Mobile only	5, 30, 31, 33
• • •	• • •	• • •
459.000	Base or mobile	39
460.025	Fixed	29
• • •	• • •	• • •

(b) • • •

(38) This frequency is primarily available for oil spill cleanup operations and for training and drills essential in the preparation for the containment and cleanup of oil spills. It is secondarily available for general base-mobile operations in the Petroleum Radio Service on a non-interference basis. Secondary users of this frequency are required to forego its use should oil spill cleanup activities be present in their area of operation.

(39) This frequency is available for oil spill cleanup operations and for training and drills essential in the preparation for the containment and cleanup of oil spills.

(40) This Government frequency is available for shared Government/non-Government use by stations engaged in oil spill cleanup operations and for training and drills essential in the preparation thereof. Use by non-Government stations will be confined to inland and coastal waterways and subject to coordination with local U.S. Coast Guard authorities.

[FR Doc.74-10053 Filed 5-1-74;8:45 am]

[47 CFR Part 73]

[Docket No. 20033; RM-2200]

TELEVISION BROADCAST STATIONS IN MONAHANS AND ODESSA, TEXAS

Table of Assignments

In the matter of amendment of § 73.606(b) of the Commission's rules, Table of assignments, television broadcast stations (Monahans, Odessa, Texas).

1. Notice is hereby given of the institution of this proceeding to consider a proposal to amend the television Table of Assignments by reassigning Channel 9 from Monahans, Texas, to Odessa-Monahans, Texas, as a hyphenated assignment. The proposal is advanced by Grayson Enterprises, Inc. (Grayson), licensee of Station KMOM–TV, Monahans, which operates on Channel 9, in a petition for rule making, filed on May 11, 1973. The petition is opposed by Doubleday Broadcasting, Inc. (Doubleday), until recently the licensee of Station KOSA–TV, Channel 7, Odessa, and by Midland Telecasting Company (Midland Telecasting), licensee of UHF Station KDCD–TV, Channel 18, Midland, Texas. The new licensee of Station KOSA–TV at Odessa, Forward of Texas, Inc., advised by letter, received November 2, 1973, that it "adopts the position" advanced by the former KOSA–TV licensee (Doubleday) in opposition to the Grayson petition.[1]

2. The petitioner (Grayson) operates Station KMOM–TV (formerly Station KVKM–TV) on Channel 9, Monahans, from an antenna site about 27 miles north of Monahans and 30 miles northwest of Odessa. It places a signal of the required strength for principal community service over both Monahans, its city of license, and Odessa, and has authority to identify Station KMOM–TV on the air as a Monahans-Odessa station.[2] It now requests that Channel 9, Monahan's only television assignment, be reassigned to Odessa-Monahans, as a hyphenated assignment. The effect of this "hyphenation" would be to make Channel 9 available for application for a station to serve either Monahans or Odessa as its principal community of license. If the proposal is adopted, Grayson states that it intends to seek authority to change the city of license for Station KMOM–TV from Monahans to Odessa, to move its Monahans studio facilities to Odessa,[2] and to deactivate its Monahans studio. It plans, however, to maintain an office in Monahans with one full-time staff member whose duties would include the coverage of news events in Monahans with appropriate film equipment and the solicitation of advertising from local businesses to the same extent as it now does. No changes in the existing KMOM–TV antenna site or technical facilities would be required for it to operate as an Odessa rather than a Monahans Channel 9 station, and none are proposed by Grayson should its channel reassignment proposal be adopted and authorization for relocation of the station in Odessa be subsequently obtained.

3. In adopting the nationwide television Table of Assignments in 1952, the Commission provided four communities in the west Texas area in which Monahans is located with television assignments to meet the needs of the area for local television outlets and services. These communities, Odessa, the largest population center, Midland, the next largest, Big Spring, and Monahans, the smallest of the four, are located on an approximately east-west line along U.S. Highway 80 between Abilene, Texas, approximately 100 miles east of Big Spring, and El Paso, Texas, approximately 225 miles west of Monahans. Monahans is located at the western end and Big Spring, approximately 95 miles distant, on the eastern end, with Odessa and Midland located on the line between Monahans and Big Spring. Odessa is approximately 37 miles northeast of Monahans, and Midland is approximately 20 miles northeast of Odessa (57 miles from Monahans) and 39 miles southwest of Big Spring. Each of these communities was provided with a VHF assignment in 1952, and the two larger communities, Odessa and Midland, were each provided with a UHF assignment also. Since then, the assignments to these communities have been changed only by the addition of two UHF assignments to Odessa (Channels 30 and *36, an educational reservation) and by the assignment of UHF Channel *14 to Big Spring for educational use. The television channels presently assigned to these communities are the following:

City	*Assignments*
Monahans	9—
Odessa	7—, 24, 30, *36
Midland	2+, 18
Big Spring	4—, *14

4. Of these assignments, all of the VHF channels and the Midland UHF channel are occupied as follows:

Station KMOM–TV, Channel 9, Monahans (began operation, Dec., 1958).
Station KOSA–TV, Channel 7, Odessa (began operation, Jan., 1956).
Station KMID–TV, Channel 2, Midland (began operation, Dec., 1953).
Station KDCD–TV, Channel 18, Midland (began operation, December, 1961. Suspended operation, Feb. 16, 1962—resumed operation June 8, 1969; suspended operation March 24, 1971—resumed operation March 16, 1972; suspended operation May 13, 1972—resumed operation February 2, 1973, and is currently on the air).
Station KWAB–TV, Channel 4, Big Spring, satellite of Station KMOM–TV, Monahans began operation, Jan. 1956, as a semisatellite of Station KTXS, Channel 12, Sweetwater, Texas, also owned by Grayson. Since Nov., 1959, has operated as a full satellite of Station KMOM–TV, Channel 9, Grayson's Monahans station).

Translator operations are also authorized at Monahans, Midland and Big Spring. The Monahans translator (KØ6EC), licensed to the Midland Channel 2 licensee (Midessa Television Company, Inc.) transmits the programming of its Midland station (KMID–TV). The Midland translator (KØ6EQ), licensed to Grayson, transmits the programming of its Monahans Channel 9 station (KMOM–TV). The Big Spring translator (KIØHH), licensed to Forward of Texas, Inc. (formerly Doubleday) transmits the programming of its Odessa Channel 7 station (KOSA–TV). The Odessa, Monahans and Midland VHF licensees are affiliated with CBS, ABS, and NBC, respectively.

5. Population data pertinent to the arguments of the parties based on 1960 and 1970 U.S. Census reports, are as follows:

City and county	Population (1970)	Population (1960)	Population (1950)	Percent change (1960–70)	Percent change (1950–60)
Monahans	8,333	8,567	6,311	−2.7	35.7
Ward County	13,019	14,917	13,346	−12.7	11.8
Odessa	78,380	80,338	29,495	−2.4	172.4
Ector County	91,805	90,995	42,102	0.9	116.1
Midland	59,463	62,625	21,713	−5.0	188.4
Midland County	65,433	67,717	25,785	−3.4	162.6
Big Spring	28,735	31,230	17,286	−8.0	80.7
Howard County	37,796	40,139	26,722	−5.8	50.2
Odessa SMSA (Ector County)	91,805	90,995	42,102	0.9	116.1
Midland SMSA (Midland County)	65,433	67,712	25,785	−3.4	162.6

[1] An application (BALCT–525) for the reassignment of the license for Station KOSA–TV, Channel 7, Odessa, from Doubleday Brodacasting Company, Inc., to Forward of Texas, Inc., was granted September 11, 1973, and the assignment was consummated on October 17, 1973.

[2] The station began operation in 1958 with transmitter site 7 miles north of Monahans. Authorization for operation at the present site was obtained by the original licensee in 1962 and for dual-city identification in 1963. Grayson purchased the station from the original licensee in 1969.

[2] An application (BMLCT–737), filed by Grayson on June 16, 1972, for modification of its license for Station KMOM–TV to change the studio location from Monahans to Odessa was dismissed, at Grayson's request, on May 17, 1973.

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6. Grayson also submitted the following population figures for 1972 obtained from the Monahans City Manager and the Odessa and Midland Chambers of Commerce concerning their respective communities and SMSA's:

City	Population (Dec. 31, 1972) [4]
Monahans	8,333
Odessa	82,700
Midland	63,000
Odessa SMSA (Ector County)	95,000
Midland SMSA (Midland County)	68,500

7. In support of its Channel 9 Odessa-Monahans reassignment proposal, Grayson urges that limiting its Channel 9 station (KMOM–TV) to a Monahans assignment is unrealistic and contrary to the public interest under the circumstances existing in the Monahans-Odessa area.[5] It contends that, while Monahans was a small community compared to Odessa and Midland in 1952 when these communities were provided with separate television assignments, since 1952, Odessa and Midland have steadily and significantly increased disproportionately to Monahans in population, economic base and importance, and that the disparity has continued to increase since 1970, as shown by all available indices, including the comparative statistical data it submitted on population, housing starts, bank deposits, taxable payrolls, value of projects for which building permits were issued, retail trade and new vehicle sales. As additional proof that the economic base of Monahans has been eroding, in relation to Odessa, Grayson points out that between 1965 and 1971, Monahans lost 25 percent of its manufacturing firms (a decrease from 16 to 13 firms), including two major oil refineries, and that another manufacturing firm has since left Monahans; and that, as of early 1972, 116 (47 percent) of the 247 buildings in Monahans suitable for business purposes were vacant. Conversely, it states, in the 1969 through 1971 period, Odessa gained 18 new industries and 22 others expanded operations; is becoming the headquarters for industrial firms; and in 1972 issued construction permits for two major shopping centers in Odessa, for 178 single family dwellings, with a total value of over three and one-half million dollars, six apartment buildings with 334 units, and 10 duplexes. Also, it states that in 1972, construction, involving initial costs of over 12 million dollars, was begun on the University of Texas of the Permian Basin, located in Odessa, which the University estimates will by 1980 introduce, through University sources alone, over 16 million dollars (not including construction costs) into the Odessa-Midland economy. Grayson further states that in the first five months of 1973, Odessa issued permits for 53 single family dwellings, of a total value of nearly one and one-half million dollars, for four apartment buildings with 198 units with a value of over one million dollars, and for nine mobile homes, valued at fifty-two thousand dollars.

8. Grayson also contends that, owing to the widening disparity between Monahans and Odessa and Midland in population and economic base and the fact that the urban complex of Odessa and Midland is the center for commercial, financial, governmental, educational and cultural interests and activities of the area, the small community of Monahans cannot provide even minimal advertising support necessary for a viable television station and the limitation of its Channel 9 station to a Monahans assignment and studio location places the station under substantial competitive handicaps. These, it avers, accentuate its already unequal competitive struggle for advertising revenues with the two other network-affiliated Odessa and Midland full market VHF[6] stations serving the Permian Basin region [7] and seriously jeopardizes its future as an economically viable entity.

9. Grayson further claims that Station KMOM–TV is severely hampered in its efforts to provide an area-wide program service for the entire Permian Basin region from its Monahans location because of the distance from Monahans to the region's main population centers—Odessa and Midland—where the majority of local and regional news events occur and its local advertisers are located.[7] It states that the Monahans-Odessa round trip requires two hours driving time, and the Monahans-Midland round trip three hours driving time, which has required the news staff of its Monahans station to drive in excess of 150,000 miles per year in the course of covering news events in Odessa and Midland and which has also, in many instances, caused its Monahans station to lag far behind all other local media outlets in timeliness of news coverage of events in Odessa and Midland. Also, because of the driving time involved, Grayson states that community leaders of the Permian Basin region are often reluctant to go to Monahans to participate in locally originated programs of Station KMOM–TV and largely, for that reason, confine their appearances to the Odessa and Midland full market stations. This, it claims, has always placed Station KMOM–TV at a great disadvantage in its attempts to provide the quality and quantity of community service it desires to furnish. In addition, Grayson says that it must recruit employees for its Monahans station from the Odessa area because sufficient qualified personnel are not available in Monahans, and that it has had great difficulty in retaining and recruiting station personnel from the Odessa area because of their reluctance to undergo a daily trek to Monahans or to move there. It further states that its Monahans station has regularly lost key employees who have cited commuting time between Odessa and Monahans as the reason for resignation.

10. In commenting on Station KMOM–TV's competitive inequality in the Monahans-Odessa-Midland market, Grayson urges that a main studio location in Odessa is necessary if Station KMOM–TV is to be a competitive force in this market, particularly with respect to national spot advertising. Prior to acquiring Station KMOM–TV in 1968, Grayson states that the station had operated at a net loss in excess of $728,000 from 1963–1967; that, upon acquiring the station, it took steps to remedy this situation by substantial expenditures of time and money to improve the station's physical facilities and programming; and that, while these changes have resulted in some revenue increase over the past several years, Station KMOM–TV continues to experience operating losses; and that it does not believe that Station KMOM–TV can ever reach a point of sustained economic viability so long as its assigned location is Monahans. Grayson states that because operation of its Channel 9 station on a Monahans assignment limits its ability to produce local programming of interest to the majority of viewers, this has adversely affected its audience share and revenues. It points out that American Research Bureau (ARB) reports for the Odessa-Midland market for the February–March, 1971–1973 period show that Station KMOM–TV's audience shares (which also included the audience of its Big Spring satellite station—KWAB–TV) have been uniformly below those of the other Odessa and Midland full market stations, including the critical local news periods which, it avers, do much to determine audience nighttime viewing patterns; that Station KMOM–TV's sign-on through sign-off weekly audience share alone (not including KWAB–TV) was less than half that of the next lowest station and only 42 percent as high as that of the leading market station in the Odessa-Midland "metro area"; and that the 1973 ARB report showed, for example, that Station KMOM–TV's share of the "metro area" audience for the 6–6:30 p.m. local news period was but 2 percent, and for the 10–10:30 p.m. local news period, only 6–7 percent, Monday through Friday.

11. Grayson avers that sale of time to national and regional advertisers and sponsors is directly related to viewing audience size, both with respect to the demand for time and the rates at which the time can be sold. Consequently, it states that, since its Monahans station has a disproportionately small share of the total market viewing audience, it has been able to offer advertising time to national and regional advertisers on the station only at very low rates and that the revenues it received from time sales to such advertisers in recent years were about 5% of Station KMOM–TV's total broadcast revenues, and about 3.5% of the market's total revenues derived from such time sales. Grayson also claims that because of the low rates obtainable from national and regional buyers for advertising time on Station KMOM–TV, it has been forced to expend a disproportionate amount of effort and expense upon obtaining local advertising and that it has been at a disadvantage in doing so with Station KMOM–TV operating on a Monahans station assignment and studio location since the great majority of the area's potential local advertisers are physically located in Odessa and Midland and its Monahans studio is not conveniently accessible to them for the production and taping of advertisements. Moreover, it states, the handicap its Monahans station is under in producing local programming, particularly news, reduces its audience and makes it less attractive to local advertisers. Grayson believes that these factors, all related to Station KMOM–TV's operation on a Monahans assignment, place an effective upper limit on the advertising support it can obtain from the Odessa-Midland area which it may well have already reached. While acknowledging that the Monahans business community has done its best to support its local television station, Grayson maintains that this support is considerably less than required to operate Station KMOM–TV and that the businesses in Monahans are too few in number and too small to do so. Grayson further states that, while KMOM–TV revenues have risen somewhat in recent years due to improvements in the station's operation and its sales efforts, they still comprise a disproportionately small share of the total broadcast revenues in the Odessa-Midland-Monahans market—less than one fourth of the revenues reported for the market in 1971.

12. Grayson also claims that Station KMOM–TV's competitive inequality is aggravated by the fact that ARB, unlike the Commission, which alone classifies its market as Odessa-Midland-Monahans, classifies its market as the Odessa-Midland market and treats Monahans and Ward County as merely part of the market's "Area of Dominant Influence", rather than as an integral part of it. As a result, it states that, even though KMOM–TV is authorized to identify itself as a Monahans-Odessa station, both local and national time buyers simply observe that it operates on a Monahans assignment, note the relatively small population of Monahans and the surrounding area, and eliminate the station from all buying consideration for the market; and that the sources of information upon which time buyers depend in making decisions, other than personal contact and knowledge, do not effectively convey that Station KMOM–TV serves the entire market and leave the impression that the station is isolated, serving a large area with a small and declining population. The only way for Station KMOM–TV to surmount this situation, it urges, is to change its city of assignment to Odessa, while still recognizing and fulfilling service obligations to Monahans.

13. As precedent for its proposal, Grayson cites several Commission cases. It submits that our "Fourth Report and Order on Expanded Use of UHF Channels" in Docket No. 14229 [8] upholds its view that, as a de novo proposition, the Commission would not today assign Channel 9 to a community the size of Monahans without specific demand, accompanied by a representation that a station would be built; and that the Medford, Oregon,[9] and Concord, California,[10] TV assignment cases show that the Commission will shift existing channel assignments from very small communities to nearby larger communities, particularly where, as in the Concord case, increasing population disparities between such communities can be shown. The Hugo, Oklahoma and Paris, Texas TV hyphenation case [11] is cited to show that the Commission has considered hyphenated assignments appropriate when there is a strong community of interest between two communities, such as it states exists between Monahans and Odessa, both being county seats in the Permian Basin region with similar populations and characteristics. That case and the Tucson-Nogales, Arizona TV hyphenation case [12] are also cited to show that economic necessity, which it states is a criterion applicable to its proposal also, have been considered reason by the Commission in the past for making hyphenated assignments.

Doubleday Opposition

14. In its opposition, Doubleday submits that over the past 15 years Grayson and the former licensee of the Monahans Channel 9 station have tried to circumvent the 1952 assignment plan for this west Texas area by a de facto reassignment of Channel 9 to Odessa; that this has been done through successive steps, i.e., the obtaining of authorization for power and height increases for Station KMOM–TV, for move of the KMOM–TV transmitter to a site closer to Odessa, for a VHF translator in Midland, for dual city identification, and for a satellite station (KWAB–TV) at Big Springs; and that, by means of its hyphenation proposal, Grayson now seeks to achieve a de jure reassignment of Channel 9 to Odessa, as its stated intent to seek modification of its KMOM–TV license to change the city of assignment from Monahans to Odessa upon adoption of the proposal evidences. It contends that adoption of the Grayson proposal would cause an irrevocable loss of the local outlet which the Commission intended to insure that Monahans would have when it assigned Channel 9 to the community in 1952; and that the residents of Monahans deserve the continued presence of their Channel 9 local outlet.

15. Doubleday maintains that no reasons exist in the differing characteristics of Monahans and Odessa to justify reassigning Channel 9 to Odessa, as Grayson claims. It states that the "disproportion" which Grayson asserts exists today between Monahans on the one hand, and Odessa and Midland on the other, has not been created overnight; that the dissimilarities between the communities were made; that Monahans was then and remains today a small community compared to Odessa; that, while during the 1950–1960 period, Odessa's growth rate was larger than Monahans growth rate, Monahans, too, experienced a healthy 35 percent population increase over that period, that, since Odessa was nearly five times larger than Monahans to begin with in 1950, there is nothing unusual in Odessa having the larger growth rate during the 1950–1960 period; that both communities declined in population over the 1960–1970 period, Monahans having a 2.7 percent decline and Odessa a 2.4 percent decline; and that, if there has since been a slow-down in the growth of the area, Odessa, as well as Monahans, has been affected by it. Doubleday also points out that the Commission in its Sixth Report and Order adopting the television Table of Assignments in 1952 acknowledged the efficacy of assigning channels to communities of varying sizes; and that the Commission second assignment priority—to provide each community with at least one television station—underlies the Monahans Channel 9 assignment, while Grayson's subject proposal is grounded, if at all, in the fifth and lowest priority of assigning channels on the basis of community population and geographical location.

16. Doubleday claims that Channel reassignment and relocation in Odessa for the Monahans Channel 9 station are not the cure-all for Station KMOM–TV's asserted problem of competitive inequality and that, in fact, the station operates competitively in the Odessa-Midland-Monahans area. One reliable indicator of the station's economic growth in the 14 years it has been on the air, Doubleday states, is its total net weekly circulation. Based on "Television Factbook" data, taken from ARB surveys, Double-

[4] It is noted that Doubleday in its opposition states that these 1972 figures furnished by Grayson are "obviously an optimistic guesstimate by the Odessa and Midland Chambers of Commerce and a mere recitation of the 1970 Census by the Monahans City Manager" which it cannot accept as representing an accurate population count for these communities and SMSA's as of December 31, 1972.

[5] This area, Grayson states, is generally known as the Permian Basin, which comprises the counties (all in Texas) of Andrews, Crane, Ector (Odessa), Midland (Midland), Ward (Monahans) and Winkler, with a total 1970 population (U.S. Census) of 194,441, and of which the population of Odessa comprises about 40 percent; that of Midland, about 30 percent; and that of Monahans, less than 7 percent.

[6] Grayson notes that the only other area station, Station KDCD–TV, Channel 18, Midland, essentially serves only Midland and its immediate area. Station KDCD–TV now operates with power of but 0.708 kW and antenna height of 390 feet above average terrain. It was, however, granted authority on August 29, 1973 (BMPCT–7482), to increase the power to 6.76 kW. This, however, will not permit a significant increase in its coverage area.

[7] Grayson states that from 1969 to 1971, inclusive, Station KMOM–TV had 546 local advertisers, of which only 43 (7.87 percent) were located in Monahans; whereas 246 (45.1 percent) were located in Odessa and 107 (19.6 percent) were located in Midland.

[8] 41 F.C.C. 1083, 1088, 5 R.R. 2d 1587, 1593 (1965).

[9] 3 F.C.C. 2d 860, 7 R.R. 2d 1656 (1966).

[10] 30 F.C.C. 2d 299, 22 R.R. 2d 1651 (1971).

[11] Notation of Action only at 23 F.C.C. 2d 0971, 19 R.R. 2d 1823 (1970).

[12] 32 F.C.C. 2d 885, 23 R.R. 2d 1665 (1972).

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day points out that the Monahann station's total net weekly circulation rose from 22,800 television households in 1961 to 91,400 television households in 1965, as a result of relocation of the station's transmitter site and a power increase; to 93,280 television households in 1969, measured with coverage of its Big Spring satellite station (KWAB–TV) included; was recorded as 89,300 television households in 1970, measured without coverage of its Big Spring satellite; and rose to 94,400 television households in 1971, measured with coverage of its Big Spring satellite. A comparison of these net circulation totals of the Monahans Channel 9 station with those of the Odessa Channel 7 and Midland Channel 2 stations, as illustrated by its exhibit plotting the net weekly circulation of all three stations for the past decade, suggests, it submits, that it is a healthy competitor as the area's third network outlet.[13] Doubleday also points out that the 1972–73 Edition, No. 42, of "Television Factbook" shows that the total number of ARB TV households reached by Station KMOM–TV (123,700) exceeds the number reached by either Station KOSA–TV (116,800) or Station KMID–TV (117,400).[14]

17. Another index of the economic improvement in the Monahans Channel 9 station's operation, it submits, can be seen in available financial figures. It states that an application of the station's prior licensee[15] reveals that the total operating loss of the Monahans station for a 37-month period in the years 1959–1961 totalled $600,382 (1959 loss, $193,933; 1960 loss, $184,906, 1961 loss, $192,002); that Grayson in its subject petition states that between 1963 and 1967, Station KMOM–TV had net losses in excess of $728,000; and that other figures furnished by Grayson in a recent application[16] reveal that in 1970 Station KMOM–TV incurred net losses of only $27,195 and in 1971, of $28,830. These low loss figures in 1970 and 1971, by comparison with those for earlier years, can only be interpreted, it believes, as a sign of economic promise and that the Monahans station, with its various improvements over the past decade, is now on the brink of achieving sustained economic viability.

18. A further index of Station KMOM–TV's growth in the Odessa-Midland-Monahans area, Doubleday avers, is shown by the increase in its share of market revenues. Based on TV market data supplied by the Commission for 1969, 1970 and 1971 and by Grayson for Station KMOM–TV in the application referred to in footnote 16, supra, it claims that Station KMOM–TV's share amounted to 13 percent of the total television market revenues in 1969, increased to 18 percent of total television market revenues in 1970 and rose to 24 percent of total television market revenues in 1971.

19. Doubleday further states that there is nothing new in Grayson's claim that Monahans cannot provide even the minimal advertising support required for a financially viable television station; that it has been invoked as an underlying reason for every improvement sought in the past in the Monahans Channel 9 station's facilities by its licensees; and that, furthermore, Grayson recognized this at the time it acquired the Monahans station and stated that, despite the financial losses the station had experienced, it was "willing to take the chance" of operating the station. Doubleday believes it unlikely that operation of Station KMOM–TV on an Odessa assignment would alter the station's sales or that reassigning Channel 9 from Monahans to Odessa-Monahans would automatically increase Station KMOM–TV's regional or national sales since it believes that buyers are more prone to consider "the numbers" than the names, and Station KMOM–TV is now competitive with the other Odessa and Midland market stations in terms of net weekly circulation and TV households reached.

20. Doubleday also observes that, while Grayson states that Station KMOM–TV, as an Odessa station, would continue to meet the needs and interests of Monahans, it submitted no detailed proposals on how it proposed to do so other than advising that it would maintain an office in Monahans, manned by one full-time staff member, who would constitute the station's news reporter for Monahans. Doubleday finds it difficult to comprehend how this alone could meet Monahans' needs.

21. Doubleday also raises objection to reassignment of Station KMOM–TV to Odessa on grounds that it would be inconsistent with the duopoly portion of the multiple ownership rules, section 73.636(a)(1), since there is some overlapping of the Grade B contours of Station KMOM–TV and other Grayson-owned stations, Station KLBK–TV (Channel 13), Lubbock, Texas, and Station KWAB–TV, Station KMOM–TV's satellite at Big Spring. It states that, while the Commission granted waiver of the duopoly rule with regard to the overlapping contours of these stations in authorizing the assignment of the Monahans Channel 9 station to Grayson in 1969, its waiver action then was predicated on considerations concerned with the "relatively small market" of Big Spring-Monahans and, Doubleday argues, the reassignment of Channel 9 to Odessa would abrogate the justification for the waiver previously granted to Grayson since entirely different considerations would apply to the sizeable Odessa-Midland market. Operation of Station KMOM–TV at Odessa, with the Grade B contour overlap between it and other Grayson stations, would, Doubleday contends, amount to a concentration of control not in the public interest and which the duopoly rule was designed to avoid.

22. In addition, Doubleday contends that the Commission cases Grayson cites as precedent for its proposal do not support it. It considers Grayson's observation that, as a de novo proposition, Monahans would not today be assigned a television channel without evidence of specific demand irrelevant since Channel 9 is assigned, occupied, and providing service to the community; and since the proposed reassignment of the channel would cause a loss of a local service, whereas an assignment of a previously unoccupied or unassigned channel would not. It also views the cases cited by Grayson for the view that fluctuations in population are sufficient to support a change in channel assignment as not dispositive on this point. In the cited Medford, Oregon, case, it points out other important distinguishing facts were involved, including that the channel sought to be reassigned was unoccupied; that the population of the community originally assigned the VHF channel was less than one-third the size of Monahans (2,637); and that reassignment of the channel to the larger city would permit one of the three national networks to acquire a full-time affiliation in the larger city. Doubleday views the Concord, California case, also cited by Grayson, as equally dissimilar since it involved reassignment of a UHF channel to a community only 8 miles distant from the original city of assignment; the channel (then unoccupied) had, in fact, been used by a permittee for a station operating in the city to which reassignment was sought; and the population change was such that the original city of assignment (Pittsburg, California), which had twenty-one years earlier been larger than the city sought for reassignment (Concord), was in 1970 much smaller. It submits that no such growth rate inversion is present in this case and that Monahans and Odessa have maintained the same size relationship in the past twenty-three years.

23. Doubleday further disagrees that the Hugo, Oklahoma and Paris, Texas, and Tucson-Nogales, Arizona, TV hyphenation cases cited by Grayson, are

[13] Data for the Doubleday exhibit was obtained from "Television Factbook," Nos. 32–42, 1961–1972–73 Editions. "Television Factbook," No. 43, 1973–74 Edition, based on ARB surveys conducted for May and November 1971 and February/March 1972, gives the total net weekly circulation of Station KMOM–TV, Monahans, measured with coverage of satellite KWAB–TV, Big Spring, as 94,000. The total net weekly circulation reported for Station KOSA–TV, Odessa, is 91,300, and a total net weekly circulation of 90,900 is reported for Station KMID–TV, Midland.

[14] The 1973–74 Edition of "Television Factbook," No. 43, shows that the total number of ARBTV households reached by Station KMOM–TV was 126,000 by Station

[15] Application for changes in facilities of Station KVKM–TV (KMOM–TV), BPCT–3000, granted July 25, 1962.

[16] Application to change the main studio location of KMOM–TV from Monahans to Odessa, BMLCT–737, dismissed at Grayson's request on May 17, 1973.

precedent for adopting its proposal based on economic necessity. The key distinction in the Hugo-Paris case, it maintains, is that the channel proposed for hyphenation was not occupied, unlike the Monahans assignment, and the petitioner's argument there centered on the necessity of having a hyphenated assignment to make the channel's activation economically feasible. Doubleday submits that it is apparent that the stations occupying the Odessa and Midland non-hyphenated assignments have, however, operated feasibly and that Station KMOM–TV, operating on the Monahans non-hyphenated Channel 9 assignment, is approaching full economic viability. The Tucson-Nogales case, it states, differed from Grayson's situation in that the net operating losses of the Nogales station occupying the channel proposed for hyphenation totalled more than $1,000,250 in the three years prior to when reassignment was sought and further, in that the Commission, in adopting the hyphenation proposal, required that an auxiliary studio, which Grayson does not propose, also be maintained at Nogales should authorization thereafter be obtained to substitute Tucson for Nogales as the principal city of license for the station.

MIDLAND TELECASTING OPPOSITION

24. Midland Telecasting Company, the Midland UHF licensee (KDCD–TV), vehemently opposes the Grayson reassignment proposal, charging that if Station KMOM–TV is thereby permitted to have its city of license changed from Monahans to Odessa and to move its offices and studios to Odessa, its licensee (Grayson) will have accomplished what it set out to do when it acquired Station KMOM–TV, and the station will be entrenched as the third VHF station in the Odessa-Midland market. If this is allowed, Midland Telecasting states that the chances of its Midland UHF station to survive will be limited, and the opportunity for eventual utilization of the unused Odessa UHF assignments (Channels 24 and 30) will be eliminated; that it would forever remove any opportunity for its UHF station to receive a network affiliation in the Odessa-Midland market and would create a serious economic problem, curtail program availabilities, and create other related problems for its UHF station. It states that the Commission may take official notice of the economic plight of a UHF station in a small market which would be served by three VHF stations, representing all networks, and calls attention to the Commission's recognition in the past of UHF problems in competing with VHF.

25. It is Midland Telecasting's view that Grayson has constantly worked to upset the delicate balance in the distribution of service that the Commission's assignments to the west Texas area were intended to achieve, by measures looking toward elimination of its obligations to Monahans and extension of its influence in Odessa and Midland; that it has pursued this same course in other areas, such as the Sweetwater-Abilene and Big Spring areas where it has stations (KTXS–TV, Channel 12, Sweetwater; KWAB–TV, Channel 4, Big Spring, satellite of its Monahans station, formerly semi-satellite of KTXS–TV; and that in doing so, it has disregarded the public interest of the local residents of the communities its Monahans, Sweetwater and Big Spring stations are licensed to serve.

GRAYSON REPLY TO OPPOSITIONS

26. In reply to the Doubleday opposition, Grayson contends that Doubleday's argument directed to showing that the Monahans location of its Channel 9 station is no basis for adopting its reassignment proposal is pervaded by the fundamental and controlling error that it bears no relationship to the realities of life in this west Texas area or to operation of a television station in a small and declining community such as Monahans. It states that, as the photographs of the two communities submitted with its reply show, it is apparent to any visitor, that Monahans is a quiet and isolated community, with no large buildings, clearly declining commercial activity, and virtually no construction of any kind taking place, while Odessa, on the other hand, is a city bustling with commercial activity, with large buildings and many new, large shopping centers and malls, and where substantial residential and other construction activity exists.

27. Grayson submitted statements of KMOM-TV employees attesting to the problems of the Monahans station in producing news and public affairs programs because of the inaccessibility of its Monahans studio to Midland and Odessa where the bulk of the news of interest to viewers in the area occurs and for live or taped interviews by Midland and Odessa newsmakers; to similar problems of the station in presenting local public affairs programming, due to the difficulty of getting potential program participants to come to Monahans from Odessa and Midland and other communities within KMOM-TV's service area because of the travel distance involved and the size of Monahans; and to the station's difficulties in buying desirable entertainment and sports programming, particularly syndicated sports programs, because of the lack of understanding by many program distributors that Station KMOM-TV serves the Odessa-Midland market. They further mention that in the event of serious technical problems, since the KMOM-TV transmitter is almost 20 road miles closer to Odessa than Monahans, the additional driving miles from Monahans for the Chief Enginer can make a real difference in lost air time and that the line of sand dunes along the path of Station KMOM-TV's STL link, which does not exist along the path between Odessa and the station's site, frequently causes interference to the STL microwave signal and adversely affects the ultimate quality of the station's transmitted signal.

28. In addition, Grayson furnished a statement of one of KMOM-TV's principal sales employees which expresses the view that, so long as Station KMOM-TV is located in Monahans, it will not be able to complete on an equal basis for advertising dollars with the other two network-affiliated Odessa and Midland stations, due to such factors as the persistent belief among national and regional time buyers that to "buy the Midland-Odessa market", it is not necessary to buy the Monahans station, but only to buy either or both the Odessa and Midland network affiliated stations; Station KMOM-TV's lack of an Odessa studio for use as a commercial production facility; and the attitude of several major Odessa and Midland advertisers that only a limited portion of their advertising dollars should be spent on the Monahans station because of their obligation to support their "local" Odessa and Midland television stations.

29. Grayson also contends that the comparative statistical showing made by Doubleday relating to the television homes reached by the Odessa, Midland and Monahans VHF stations and to their net weekly circulations is meaningless since, in its view, the figures do no more, in effect, than describe the technical limits of the stations' signals and show nothing about comparative levels of viewership of the three stations. By that critical measure, it claims, Station KMOM–TV has not come close to achieving a competitive position in the Odessa-Midland television market. This is evidenced, it states, by the day-part audience summary pages from the February/March, 1973 ARB Audience Estimate Report for the market accompanying its reply, which show that in every time period of the day measured by ARB, KMOM–TV lagged considerably behind the other two stations in its share of the "metro area" (Midland and Ector Counties) audience, where KMOM–TV's ratings were also substantially lower than its rating in the entire Area of Dominant Influence. It also points out that these figures show that Station KMOM–TV's audience shares in the critical 6–6:30 p.m., and 10–10:30 p.m., metro area local news periods are but 2 percent and 7 percent, respectively, while, in contrast, Station KOSA–TV's share of the metro area audience in the same periods was 50 percent. Grayson further states that its concern about the competitive inequality of KMOM–TV has been substantially increased since learning of the proposed acquisition of Station KOSA–TV at Odessa by Forward of Texas, Inc. (which has since taken place), a subsidiary of Forward Communications Corporation, a multiple station owner, since it is known to be an experienced and aggressive station operator, and it fears that the new ownership of the Odessa station may prove to be a more formidable competitor than Doubleday and make it impossible for Station KMOM–TV to survive at all.

30. Further, Grayson labels as "not true" Doubleday's charge that in moving Station KMOM–TV to Odessa, it would be "abandoning" Monahans, to the community's detriment. It states that the move would result in no decline of television programming or advertising service by Station KMOM–TV for Monahans,

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but that, to the contrary, it would enable the station to serve Monhans and its other viewers far more effectively than is possible today; that, as the station's general manager stresses in his accompanying statement, it is anticipated that Station KMOM–TV, as an Odessa station, would still cover news and current events in Monahans to substantially the same extent as it now does and would continue to solicit advertising in Monahans to the same extent; and that, as the several letters submitted from Monahans businessmen indicate, the businessmen in the community understand this and that the proposed move is necessary for the station to continue to improve service to the community.

31. With respect to Doubleday's argument that any eventual reassignment of Station KMOM–TV to Odessa would be contrary to the Commission's duopoly rule, Grayson states that it ignores the fact that no change in the transmitter site or signal contour of Station KMOM–TV or any other Grayson station is contemplated if its rule making proposal herein is adopted; and that its proposal looks toward an eventual qualitative improvement in the program service of a station which it is already authorized to own—not an expansion of service to any new or different geographic area. It further submits that the reasons underlying the Commission's waiver of the duopoly rule in connection with its original acquisition of Station KMOM–TV (and to justify the satellite state of Station KWAB–TV, Big Spring) are just as true today, for the entire area, with the exception of Odessa and perhaps Midland, has been in a state of economic decline and Station KMOM–TV continues to be a marginal enterprise.

32. Grayson also finds no merit in Doubleday's argument respecting the absence of prior Commission precedent for its proposal. It contends that all of the factual distinctions Doubleday claims between the cases it cited and its proposal are immaterial and that Doubleday ignored the central policy questions in all of them—of whether, on balance, the proposed channel reallocation in a given case will serve the public interest. In each cited case, Grayson states, the Commission made the factual judgment that the channel reallocation involved would result in an overall improvement of service to the public which would more than counterbalance the "loss" to the community from which the channel was moved. It submits that the basis exists for the same judgment here also; that while the closing of Station KMOM–TV's main studio in Monahans would in some sense represent a "loss" to that community, the loss would be far less than the failure of the station to survive at all; that, even if the station could continue to limp along at its Monahans location, the physical presence of its studio at Monahans would mean little to the local residents if the station could not provide a satisfactory and competitive program service; and that the proposed reassignment would result in a net improvement of service, not only to television viewers in Monahans but to those throughout Station KMOM–TV's service area.

33. In reply to Midland Telecasting's opposing argument, Grayson contends that it consists primarily of general allegations that the proposed reassignment of Channel 9 to Odessa-Monahans would eliminate the opportunity for its Midland UHF station to obtain a network affiliation and would create a serious economic problem, curtail program availabilities and create other related problems for the station which provide no reason to reject its proposal. This is the case, it argues, since no physical change in Station KMOM–TV's transmitting facilities is contemplated either now or upon reassignment of Channel 9; since, to the extent that UHF Station KDCD–TV must compete with Station KMOM–TV and its Midland translator, that fact will be no more true in the future than it is now; and since no factual support was provided for the assertion that a network affiliation might under some circumstances be made available to Station KDCD–TV. Grayson submits that, given the present signal contours of all the television stations in the market, there is no reason to believe that there is any possibility of Station KDCD–TV acquiring a network affiliation. It further claims that, while its proposal is designed to change the competitive conditions as between the VHF stations in the market, to bring about true competitive conditions as between them, particularly with respect to national and regional advertisers and local advertisers in Odessa, Station KDCD–TV, which operates with extremely low power and reaches few people, is not in a position to compete for such advertising, and that the incremental impact of its proposed Channel 9 move on this UHF station would be minimal.

Discussion

34. The channel assignments listed for communities in the television Table of Assignments reflect our judgment of the requirements of the public interest and Section 307(b) of the Communications Act for their fair, efficient and equitable distribution among the several States and communities. They are not, however, fixed or immutable and have always been subject to change since the Table was established in 1952 whenever, in the light of experience, changing conditions or other considerations, we find reason to believe that the public interest and Section 307(b) requirements would be better served thereby.

35. When we assigned Channel 9 to the relatively small community of Monahans in 1952, which then had a population of under 7,000, it was in the belief that it was a developing community in the west Texas area that should be afforded an opportunity to have a first local television service. With the benefit of experience, however, it is doubtful whether we would have even then provided a community of its size with a television assignment, for over the years we have come to the view that it is questionable whether cities with populations under 25,000 have sufficient distinct need for a local television programming service or ability to support a local station to warrant an assignment. Consequently, we now require a strong showing of need and demand, and that the channel will be used before making a new assignment to a community under such size. Be that as it may, and even though Monahans did not continue to develop as anticipated in 1952 and is today still a relatively small community with a population of under 8,500—less than it had in 1960—Channel 9 has been in continuous use there as a local outlet and service since 1958, providing a useful service to the community and area. It appears from the Grayson showing, however, that it is highly questionable that the size and economic base at Monahans are today or, for that matter, ever were alone sufficient for the development of an economically viable and effective local station or that a local station there was not of necessity required to look also to the Odessa-Midland market, the principal and largest one in the area, for audience, revenues and programming. The history of the Monahans Channel 9 station indicates that in its early years of operation it was threatened with extinction because of substantial continuing losses and that the station has been able to survive and reduce its losses only by improving its technical facilities, relocating its site, acquiring a network affiliation, and providing a wide-area service in competition with the two other network-affiliated Odessa and Midland stations in the area for audience, programming, and support.

36. In authorizing the move of the Monahans Channel 9 station to its present transmitter site nearer Odessa in 1962 over the objections of the Odessa Channel 7 and Midland Channel 18 licensees, we believe that as a result of the proposed move the chances of survival of the station would improve; that it would be able to obtain a network affiliation; and that, as a result, not only would the Monahans area be able to retain its local Channel 9 service, but that the need of the Monahans-Odessa-Midland area for a third fully competitive service would, for the first time, be met. We were of the view that meeting the need for a third fully competitive service in this area, which we believed would become a reality as a result of the move, was an overriding public interest objective, outweighing any theoretical adverse impact on UHF television in the area or other objections raised to the move, from which the entire area would gain.

37. It appears that our expectations as to the resulting benefits from Station KMOM–TV's move to its present transmitter site have to some extent been realized, for, as the showings of the parties herein indicate, the station has been able to continue in operation, to acquire a network affiliation, to provide a third service in the Odessa-Midland-Big Spring-Monahans area competitive in coverage with the other two network-affiliated Odessa and Midland VHF stations, and it is nearing economic viability. Grayson, however, makes a persuasive showing that, because of the identification of Station KMOM–TV with the small community of Monahans and the location of its studios there, and the distance of Monahans from the urban complex of Odessa and Midland, to which it must necessarily look to for local programming originations and advertising support, Station KMOM–TV encounters difficulties not faced by its Odessa and Midland competitors in this market area which limit its ability to produce local programming, to acquire a proportionate share of the total market viewing audience, to achieve competitive acceptance and status in the Odessa-Midland market sufficient to compete effectively for national, regional and local advertising in Odessa, to achieve sustained economic viability, and to realize its potential for providing an effective, fully competitive third service throughout the area.

38. While, as we have often stated, we are not generally concerned with the competitive status of licensees and are not insurers of profitable operations, we are concerned with the public interest, and it is served, we believe, by creating greater opportunities in an area for survival of existing stations, for improved service, and effective and comparable competition among a greater number of stations. It appears, as Grayson urges, that moving the Monahans Channel 9 station to Odessa might increase such opportunities and enable the public in this west Texas area to receive a third more effective and fully competitive area-wide broadcast service. While this would involve deleting the only local outlet at Monahans a most important public interest consideration also, we feel that the benefits to Monahans and the rest of this area resulting from such a move might be overriding. This could be so if we should finally conclude that KMOM–TV is handicapped in providing an effective and competitive area-wide service from its Monahans location and such a conclusion is coupled with Grayson's expressed intent to continue to operate from its present transmitter site (if KMOM–TV is licensed as an Odessa station) and to continue to meet Monahans' needs for service. However, in weighing these public interest considerations, and also the desirability of requiring the maintenance of an auxiliary studio at Monahans as a condition attaching to any use of Channel 9 for an Odessa operation should the channel be reassigned, it would be helpful to have comments from the petitioner and other interested parties, particularly in the Monahans area, in regard to any local programming needs of Monahans distinct from those of Odessa or the area in general.

39. Another important public interest factor to be considered is, of course, the possible adverse impact that the proposed reassignment as an Odessa Channel 9 station could be expected to have upon the Midland UHF operation and the potential for UHF growth in Odessa, which has two unused UHF assignments. It is Midland Telecasting's view that it would be substantial. While we are concerned about any change in VHF station assignments or facilities which might adversely affect existing UHF stations or UHF growth in an area, we find nothing in Midland Telecasting's argument which would permit a reasonable assumption that the proposed reassignment would be likely to have a significant adverse impact upon its UHF station or prospects of UHF growth in Odessa, or be an overriding consideration, particularly since the proposed reassignment would not introduce a new or increased VHF signal in the Midland and Odessa areas, and the area has long had three full-market VHF services. Further, while Midland Telecasting indicates that the proposed reassignment might deprive its Midland UHF station of opportunity to obtain a network affiliation, it seems unrealistic to suppose that in the circumstances existing in this area, with the three full-market VHF stations now serving the Odessa and Midland areas each having a primary network affiliation, its Midland UHF station, whose coverage and service is largely limited to the immediate Midland area, would have opportunity for a network affiliation in the foreseeable future even if the Channel 9 network-affiliated station serving this market area should continue to operate on a Monahans assignment.

40. Another factor Doubleday would have us consider is the possible lack of justification for continued authorization of overlapping contours of Grayson's Monahans Channel 9 station, its Channel 4 Big Spring satellite, and its Channel 13 Lubbock station which we granted in connection with the reassignment of the Monahans Channel 9 station to Grayson, should its reassignment proposal be adopted and it be authorized to operate Station KMOM–TV on Channel 9 as an Odessa rather than a Monahans station. These authorizations are operative only with respect to the petitioner's existing Monahans Channel 9 operation, and in the event the proposed Channel 9 reassignment is made, a reassessment of all the reasons bearing on the existing authorizations would have to be made before grant of any application filed by the petitioner to operate on Channel 9 at Odessa instead of Monahans. Since no equities would accrue to the petitioner by the adoption of its reassignment proposal which would subsequently bar adverse action on any application which it filed for move of Station KMOM–TV to Odessa if we decided that the public interest so required, we believe it would be premature and is unnecessary to attempt to consider the overlap matter in assessing the merits of its Channel 9 reassignment proposal. If the proposal is adopted, this matter can better be considered and dealt with when raised by an application of the petitioner for relicensing of Station KMOM–TV.

41. Grayson's objective of having its Monahans Channel 9 station relicensed as an Odessa station could also be accomplished by simply reassigning Channel 9 from Monahans to Odessa, for the channel is technically feasible for use in either community. On the whole, however, we think that its proposal to reassign the channel to Odessa-Monahans in combination would have certain advantages if any reassignment is found to be warranted.

42. While our television Table of Assignments is generally predicated upon assignments to specific cities and communities only, we have sparingly assigned television channels to hyphenated communities in the Table also. Hyphenation is an assignment tool we have used to assist in making a fair, efficient and equitable assignment of television channels in areas where, for assignment purposes, it appears that the communities involved should be treated as one community (for a variety of reasons, including among others, their proximity and common social, cultural, trade and economic interests) and also where it seemed best to postpone until the application and possible adjudicatory stage any unresolved or close questions as to which of the communities in the hyphenated listing warranted use of the assignment. In looking at the situation here, we believe that Monahans and Odessa are geographically close enough and are sufficiently similar enough in their interests to warrant our considering a dual Channel 9 assignment. We also believe that, in a case such as this, where the reassignment proposal is intended to be used as a means to move a local outlet from a small community to a larger community in the same area, reassignment of the channel involved to both communities in hyphenation rather than to the larger community outright will better insure continued identity with, and service to, the smaller community from the station. Reassignment of the channel in hyphenation to both communities would also provide us with further opportunity to scrutinize any specific proposal before finally deciding whether the public interest dictates that the local outlet in the smaller community should be moved, for the proposed reassignment of Channel 9 to Odessa-Monahans, if made, would not in itself in any way change the outstanding authorization Grayson now holds for Station KMOM–TV on Channel 9 at Monahans. Monahans would continue to retain its local Channel 9 outlet until such time as favorable action would be taken on an application for its reassignment to Odessa.

43. As for the several Commission cases cited by the petitioner as precedent for its subject proposal, they are not sufficiently factually similar to require discussion or to persuade us that they should govern our ultimate decision on its proposal. We believe, however, that its showing has been adequate to merit consideration of its reassignment proposal in rule making. In connection therewith, as mentioned in paragraph 38, we believe consideration should also

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be given to whether maintenance of an auxiliary studio at Monahans should attach to any use of Channel 9 for an Odessa station should the proposed reassignment be made.

44. In view of the foregoing, and pursuant to authority found in Sections 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606 (b) of the Commission's rules and regulations, as follows for the named communities:

City	Channel No.	
	Present	Proposed
Monahans, Tex.	9-	
Odessa, Tex.	7-, 24, 30, *36	7-, 24, 30, *36
Odessa-Monahans, Tex.		9-

45. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before June 14, 1974, and reply comments on or before July 3, 1974. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

46. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished by the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-10056 Filed 5-1-74;8:45 am]

[47 CFR Part 73]

[Docket No. 19161; FCC 74-409]

FM BROADCAST STATIONS IN CERTAIN CITIES

Proposed Table of Assignments

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (West Allis, Berlin, Hartford, Neenah-Menasha, Shawano, Watertown and Waupun, Wis., and Escanaba, Mich.; Coal City, Dwight or Marseilles, Ill.; St. Charles and St. Louis, Mo.; Muncie, Ind. and Celina, Fostoria and Lima, Ohio; Anamosa and Iowa City, Iowa; Terrell and Corsicana, Texas; Sullivan, Bedford and Paoli, Ind.; Orangeburg, S.C.; Danville, Ind.; Decatur or Paris, Ill.; Manning and Kingstree, S.C. and Burlington, Iowa. Docket No. 19161 RM-1476, RM-1489, RM-1523, RM-1524, RM-1528, RM-1540, RM-1552, RM-1564, RM-1559, RM-1561, RM-1563, RM-1566, RM-1571, RM-1626, RM-1660, RM-1823.

1. The Commission has under consideration (a) the First [1] and the Third Report and Order in Docket No. 19161 [36 FR 21193, 23 RR 2d 1576 (1971), 32 F.C.C. 2d 191; 37FR 9999, 24 RR 2d 1790 (1972), 34 F.C.C. 2d 858]; (b) the petition for reconsideration of the Third Report and Order, filed June 12, 1972, by Communicators, Inc. (37 FR 18538) ("Communicators"); (c) the opposition to this petition for reconsideration filed July 7, 1972, by Roy Hodges, d/b as Vivid Music Enterprises ("Hodges"); (d) the reply to Hodges' opposition, filed July 19, 1972, by Communicators; (e) the petition for rulemaking filed June 16, 1971, by Big Country Broadcasting Corporation ("Big Country"), licensee of AM Station KKUZ, Burlington, Iowa; and (f) the opposition to the Big Country petition filed August 9, 1971, by Communicators.

2. The original proposal before us was to substitute Channel 228A for unoccupied Class C Channel 230 at Iowa City, Iowa, in order to permit the assignment of Channel 232A to Anamosa, Iowa. The result would have been a first assignment for Anamosa and an intermixture of channels at Iowa City. The other Iowa City assignment, a Class C channel, was already in use, but no one had yet applied for use of Channel 230. As is the usual practice, the Notice of Proposed Rule Making specified that some form of expression of continuing interest on the part of the petitioner should be submitted, or if it were not, the petition might be denied on this ground alone. In fact, that is precisely what happened. Hodges, the petitioner, did not file comments or reply comments nor did he in any other way manifest any further interest in the proceeding. We took note of this failure in the First Report and Order and refused to grant his proposal.

3. Hodges filed a petition for reconsideration of the First Report and Order, alleging that he was unaware of the need to respond to the Notice of Proposed Rule Making and providing arguments on behalf of the proposal set forth in his petition for rule making. We found these arguments persuasive and adopted the Third Report and Order which reversed the earlier action and adopted the channel changes sought by Hodges. Thereafter, Communicators filed a petition for reconsideration charging error in the Third Report and Order. As detailed below, a reversal of the Third Report and Order is required.

4. Rather than set forth the discussion of the Third Report and Order in its entirety, followed by the arguments of the parties, we shall discuss the salient points treated in that document and the arguments they occasioned on an issue-by-issue basis. Because of the confusion which resulted from that document's treatment of several of these points, our discussion of them must extend beyond that which normally would be required. In part, we shall restate long held views, indicating their continuing applicability, and in part we shall discuss matters which have not been treated before at length or perhaps at all.

5. The first issue to consider is that of the significance that attaches to a petitioner's failure to provide a response to a Notice of Proposed Rule Making. In the Third Report and Order we agreed that Hodges had slept on his rights but found overriding public interest reasons for acting favorably on his proposal anyway. Communicators insists that the result of our decision is to sanction wanton disregard of our procedural requirements and to invite similar problems in the future.

6. The statement in the Third Report and Order that the ultimate test is that of the public interest is indeed true. Nevertheless, we need to be concerned with procedure as well as substance in determining what best serves the public interest. Unless applicable procedural requirements are observed, we would face difficulties in exercising our regulatory responsibilities, hardly a situation to benefit the public. On the other hand, fairness dictates that we not proceed in Procrustean fashion either. On occasion, deviations can be warranted, but request for such special relief must adequately demonstrate the presence of an overriding public interest justification and adequately explain the failure to observe the applicable procedural requirements. It may well be that Hodges' explanation for his failure to respond to the notice of proposed rulemaking was inadequate. Hodges relied on his lack of an attorney. Can this fact relieve him of the responsibility to follow the requirements of the Notice which was sent to him by the Commission,[2] especially since Hodges is experienced in broadcasting and able to prepare and file his petition without legal assistance? Although there is some basis for questioning the adequacy of Hodges' request, it is not necessary to resolve this point as there are substantive grounds on which to reverse our previous action as will be discussed in the succeeding paragraphs.

7. One of the reasons we gave for again considering Hodges' proposal was the impact of the filing of Big Country's petition seeking the reassignment of Channel 230 from Iowa City to Burlington, Iowa. Although we stated that this petition would not be considered in this proceeding on the merits because of its late filing, we nonetheless took "judicial notice" of the filing. Since removal of Channel 230 from Iowa City was the change on which the Anamosa proposal rested, we noted that Hodges could have his proposal considered in connection with Big Country's. Rather than wait for this to occur, we acted on Hodges' petition for reconsideration. The inability to consider the Big Country petition on its merits and hence the need for a notice was dictated by the fact that it had not been filed before the "cut-off" deadline specified in the Anamosa/Iowa City Notice. Communicators strongly disputes the legitimacy of any reliance on the filing of an untimely proposal in resolving the treatment to be given to Anamosa. By taking judicial notice of the filing of the Burlington petition Communicators sees the Commission as having vitiated its entire "cut-off" procedure.

8. We can understand the view expressed by Communicators. If the Big Country filing was allowed to have an impact on the merits of the case that clearly would have been improper and contrary to our "cut-off" procedure. Obviously, if allegedly more meritorious proposals are given consideration notwithstanding their untimeliness, then it will be vastly more difficult to ever conclude a proceeding, to ever make an assignment. Whatever view might be appropriate in special circumstances or where overwhelming need appears to exist is not applicable here since no such circumstance was presented by the Big Country filing. It simply represented a competing claim for the channel, and like virtually all proposals, could be said to have some merit. In no way did it suggest such overwhelming importance as to virtually mandate its success and thus give it a basis for special consideration. Therefore no reliance should have been placed on the filing of the pleading save to note that Hodges might again have a day in court if he wished to raise the Anamosa proposal as a counterproposal in connection with any Notice issued in a Burlington proceeding. Communicators, however, though that the Third Report and Order did place some reliance on this untimely filing in deciding the merits of the Iowa City/Anamosa contest. Such was not our intent.

9. We now turn to the merits of the proposals before us. There are three communities to consider: Iowa City, Anamosa and Burlington.[4] Because of the procedural irregularities we have outlined, the whole case requires a reversion to the status quo ante, and all of our reference to channel assignments will be based on those existing before adoption of the First Report and Order. Save for our need to discuss the reasons for its reversal, reference should not be made to the Third Report and Order, for it is without force and effect. Anamosa, a community of 4,389 persons has no FM channel or AM station. Anamosa is the county seat and largest community in Jones County (pop. 19,868) and the assignment of Channel 232A would bring the county's first local aural outlet. Iowa City has a population of 46,850 and Johnson County, in which it is located, has a population of 72,127. Iowa City has a noncommercial educational FM station and two commercial FM channel assignments, one of which is occupied and the other of which is the subject of this proceeding. Iowa City also has two AM stations, one a commercial daytime-only station and the other noncommercial educational, unlimited time.[4] Burlington has a population of 32,366 and its county (Des Moines) a population of 46,982. Burlington has one Class C FM station and two AM stations, one daytime-only and the other full-time.

10. In the Third Report and Order we gave relatively little attention to intermixture in Iowa City, found little significance in the decline in Anamosa's population (and that of its county) as contrasted with Iowa City's (and its county's) substantial growth, and appeared to rely upon speculative benefits to be derived from the use of Channel 230 elsewhere than Iowa City, particularly in terms of serving previously unserved or underserved areas. In addition we gave overriding importance to the matter of local service in applying to this case the priorities used to govern the making of FM assignments. Each of these points warrants consideration at some length and will be discussed in the order mentioned.

11. Having examined the subject at length, we have concluded that the matters relied on the Third Report and Order were insufficient to override our usual practice of avoiding intermixture. While on occasion we have provided for intermixture, the circumstances present in this case do not parallel those normally relied upon by the Commission. This is not a case in which a party finding no other available channel seeks a Class A channel even though the others already in the community are Class B or C. In such situations, the proponent runs the risks and the public stands to receive the gains since the channel is the only one which could be used there. Thus, a net public gain could be said to result. Here, the effect would be to deprive not add, and to justify this there must be a showing of an important public need that would be served. Although it is true that five of the nine other communities in Iowa with populations between 25,000 and 50,000 are intermixed, the fact is that in three of them the Class A channel remains unoccupied. There is an additional question of how relevant this intermixture is when considering how much larger Iowa City is and hence arguably in greater need for two Class C channels. In addition, the occupier of Iowa City's second channel would be operating an independent station in competition with a joint AM-FM operation. Communicators had not been willing to proceed on this basis for understandable reasons. The most that could be said is that Anamosa would gain a channel. The importance of that point is one of the issues this proceeding was intended to resolve. While Burlington could also gain a second channel, this proposal was not entitled to comparative consideration with Anamosa and Iowa City in the Third Report and Order.

12. In terms of the Burlington proposal itself, the Third Report and Order referred to that community as slightly smaller than Iowa City, but the difference between 46,850 and 32,366 is not slight.[5] Iowa City is 44.8 percent larger and its county 53.5 percent larger. Moreover, if educational services and Communicators' conditional permit are excluded, each has a daytime-only AM station but Burlington has two full-time commercial stations (1 AM and 1 FM) while Iowa City has only an FM station. Particularly when intermixture is at issue, the fact that unlike Iowa City, Anamosa (and Jones County) are losing population assumes considerable importance.

13. One of the key points made by Communicators is that the operation it would establish at Iowa City would not only serve more people but in significant part would provide a first or second FM service. The Third Report and Order spoke in terms of the possibility that another use of Channel 230 would equally serve the purpose of serving populations lacking in adequate service. To the extent that the document generally pointed out that Communicators' argument about first or second service would have to be tempered by the recognition that the channel could be used elsewhere, it was on firm ground. Reliance on such substitute use, however, especially one not yet before the Commission for action and without the presence of any supporting data, would not be on equally sound footing. It would have been error to base an action on such an assumption, and as such would have been in direct conflict with the assertion that the Burlington proposal was not being considered on the merits.

14. Finally, a question has arisen regarding our use of the priorities in judging between conflicting FM proposals. To set the matter straight, the priorities [6] are these:

[1] The reasons for including the First Report and Order as well as the Third Report and Order will be detailed in the discussion which follows. The Second Report and Order dealt with matters relating to other communities in this group of proposed assignments, and as a result is not pertinent to the matters under consideration in this document

[2] Our reason for requiring a response from the proponent is simple: We want to avoid making assignments where there is no assurance that they will be effectuated. Thus, even if no data are called for, the expression of continuing interest is in itself an important matter.

[3] There is a reason for including the Burlington proposal notwithstanding our earlier discussion. Simply, the reason is this: no matter which community is preferred, Anamosa or Iowa City, the Burlington proposal would still be entitled to consideration on the merits at some future time. Ordinarily, we would simply decide the Burlington matter when it is reached in turn. However, this is not the ordinary case. To avoid further delays in this already extended proceeding, following the making of a choice between Anamosa and Iowa City, we shall act on the Burlington proposal in this proceeding.

[4] In the meantime, Communicators has obtained a construction permit for the Class A channel pending the outcome of its petition for reconsideration.

[5] All figures are from the 1970 U.S. Census.

[6] These priorities were listed in the Further notice of proposed rulemaking in the FM proceeding in Docket 14185, FCC 62-867 (1962).

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(1) Provision for all existing FM stations. [not applicable here]

(2) Provisions of a first FM service to as much of the population of the United States as possible; particularly that portion of the population which receives no primary AM service nighttime.

(3) Insofar as possible, to provide each community with at least one FM broadcast station, especially where the community has only a daytime-only or local (Class IV) AM station, and especially where the community is outside of an urbanized area.

(4) To provide a choice of at least two FM services to as much of the population of the United States as possible, especially where there is no primary AM service available.

(5) To provide, in all communities which appear to be of enough size (or to be located in areas with enough population) to support two local stations, two local FM stations, especially where the community is outside of an urbanized area.

(6) To provide a substitute for AM operations which, because they are daytime-only or suffer serious interference at night, are marginal from a technical standpoint.

(7) Channels unassigned under the foregoing priorities will be assigned to the various communities on the basis of their size, location with respect to other communities, and the number of outside services available.

As can be seen, not all of the priorities are pertinent here. Likewise, it should be noted that these priorities were never intended to be applied rigidly or in a mechanical fashion.

15. Priority two (service to unserved areas) is directly involved in the present case, and it is a matter of considerable importance. Priorities three and four of course are of lesser importance and in fact are rather close to each other in terms of the weight accorded them under ordinary circumstances. In fact, in some situations, using the strict order of priorities leads to anomalous results. Thus, applying them literally, the result would be that any community, even one of only 100 persons, seeking a first channel would automatically succeed in preference to a second channel in a city of 1,000,000 that would bring a second service to 4,000,000 people. Needless to say, we have not followed such a rigid pattern and have taken into account the size of the respective communities and their need for an FM station. Whatever might be our ultimate conclusion in this proceeding, it is clear that the evidence now before us does not support the actions taken in the Third Report and Order. The regrettable fact is that not every community has been or will be able to have its own assignment. Especially where the demand is great and the supply is limited, difficult choices are presented. Although accommodation is sometimes possible, this is not always the case. In our view, the second priority—that of providing a first service—stands out, but since the relative weight to be accorded the third and fourth priorities are not so different, we must consider the relative sizes of the communities, their growth patterns and the need for service. In paragraph eight, the Third Report and Order misapplied the priorities by overemphasizing local service and giving first service short shrift. Contrary to that document, the priorities do not preclude reaching a decision to leave the channel in Iowa City. Whether that will be the outcome remains to be seen. All parties are at liberty to provide data on any pertinent aspect of the comparison process, not just the vital area of first service.

16. When we are considering the need for service and evaluating the extent to which service is already provided, recognition must be given to AM and FM services as joint components of a single aural service. This view is a relatively recent development, so it was not reflected in the discussion when we adopted the priorities for FM assignments. FM service to unserved areas still has significance, but consideration now must be given to the presence of primary AM signals, especially at night. Here, there is a lack of evidence on the extent of AM coverage nighttime in the area which Communicators would provide with a first and second FM signal. All we have before us are some general assertions by Hodges, and this will not suffice. Because this information is necessary to a resolution of the issues before us, we are issuing this further notice so that we can address these issues knowledgeably. Two specific questions exist: To what extent would Communicators be able to provide a first or second aural service, and, to what extent could it provide a first or second FM service?[1]

17. As to Burlington, the following factors should be taken into consideration in the preparation of its exhibit. As stated above, Big Country proposed Channel 230 for Burlington by moving the channel from Iowa City without proposing a replacement channel. However, if Channel 228A were to be assigned to Iowa City, the utilization of Channel 230 as a Class C channel at Burlington would be restricted to an area at least six miles southwest of the community, due to the distance separation requirements from Iowa City and Channel 232A at Beardstown, Illinois. On the other hand, if Channel 230 were to be used on a site in the state of Illinois (Zone I) as a Class B station, with its attendant restriction on the power and antenna height, there would be a greater latitude in the choice of a site because the required separation there would be 40 miles to both channels 232A and 228A [§ 73.207-(b)]. Since Channel 228A could be assigned to Burlington without a site restriction if Channel 230 were utilized at Iowa City as proposed by Communicators, Big Country should indicate its views on this alternative approach. Particularly we need to know whether Big Country would proceed to activate a station of a Class A channel were made available.

18. *Showings required.* Comments are invited upon the proposals discussed above. As indicated, the Commission has questions concerning the proposals, and the proponents of the proposed assignments will be expected to answer them. In addition, each should reaffirm its intention to apply for the channel if assigned, and, if authorized, to promptly build the station. Failure of a proponent to make these showings will result in denial of its proposal.

19. *Cut-off procedures.* The following procedures will govern:

(a) Counterproposals vis-a-vis the Burlington proposal will be considered, if advanced in initial comments in this proceeding, so that parties may comment on them in reply comments. They will not be considered, if advanced, in reply comments. Counterproposals advanced as alternatives to the Anamosa and Iowa City proposal will not be accepted because the cut-off period on it has long since expired.

(b) With respect to petitions for rule making which conflict with the Burlington proposal, they will be considered as comments in the proceeding, the Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

20. The authority for the action taken herein is contained in Sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

21. *It is ordered,* That the petition for reconsideration of the Third Report and Order filed June 12, 1972, Communicators, Inc., is granted to the extent indicated above and is denied in all other respects.

22. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before June 14, 1974, and reply comments on or before July 2, 1974. All submissions by parties to this proceeding, or persons acting in behalf of such parties, must be made in written comments, reply comments or other appropriate pleadings.

23. In accordance with the provisions of § 1.419 of the Rules, an original and 14 copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted: April 16, 1974.

Released: April 26, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10057 Filed 5-1-74;8:45 am]

[1] For the purpose of responding to these questions, the showing as to FM service should follow the procedures set forth in the Roanoke Rapids-Goldsboro, North Carolina FM proceeding, 9 F.C.C. 2d 672 (1967). Appropriate showings regarding AM nighttime service are also required so that the extent of nighttime interference-free AM coverage can be determined.

[47 CFR Part 76]

[Docket No. 20028; FCC 74-433]

CABLE TELEVISION; CARRIAGE OF LATE NIGHT PROGRAMMING

Notice of Proposed Rulemaking

In the matter of Amendment of Part 76 of the Commission's rules and regulations relative to carriage of late-night television programming by cable television systems.

1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. We recently have had cause to consider the extent to which cable television systems may carry late-night programming on otherwise unauthorized signals when some or all of the stations which they normally must carry have signed off. Our concern with this problem largely results from the recent increase in television stations broadcasting late at night. While in the past practically all stations signed off by 1 or 2 a.m., a substantial number now broadcast—and thus make their signals potentially available to cable systems—after 3 a.m. Late night broadcasting therefore offers cable systems a new source of programming, when the stations which they must carry are off the air.

3. We currently face the issue of cable carriage of late-night broadcasting in a number of contexts. On November 21, 1973, Davis Communications, Inc., filed a "Request for rulemaking," which asked that the Commission adopt a rule allowing carriage of "any television stations not otherwise authorized for carriage during the period commencing at sign-off of the last station to do so in the market and terminating at sign-on of the first station to do so in the market." Davis argued that the rule would have no adverse economic impact on local stations which were not on the air, and that the rule would fulfill the public interest in diversity of television programming. Both the National Cable Television Association and a group of cable television systems filed comments in support of Davis' request, making similar arguments but requesting the Commission to broaden the times during which cable systems could carry additional signals.

4. We also have pending before us several requests for special relief to allow carriage of late-night programming. On October 29, 1973, Spectrum Cable Systems, Inc., filed a "Petition for Special Relief—Request to Carry Additional Station on Part-Time Basis" (CSR-486), which asked permission to carry the late-night programming of Television Station WCVB, Boston, Massachusetts. Spectrum argued that many local employees worked during the evening and that there was no significant local television broadcasting between 1 and 6 a.m. And on February 1, 1974, Cable TV Company of York filed a "Petition for Waiver to Authorize Carriage of Distant Signal during Late Evening/Early Morning Hours" (CSR-504), which requested permission to carry WCAU-TV, Philadelphia, Pennsylvania, on similar grounds.

5. Finally, there currently are on file several applications for certificates of compliance which raise similar issues. A number of applicants have requested permission to carry late-night programming in addition to other signals which are consistent with the rules. Accordingly, we must make at least a preliminary resolution of the issue, in order to treat the proceedings which already are before us.

6. In regulating cable television we always have attempted to insure that cable systems can offer the greatest diversity of programming without injuring broadcast television stations. Par. 88 of our Cable Television Report and Order, 36 FCC 2d 143, thus noted that "those who are not accommodated as are New York or Los Angeles viewers should be entitled to the degree of choice that will afford them a substantial amount of diversity and the public services rendered by local stations." And more recently, we proposed allowing cable television to import network news programs at times when the programs were not broadcast by local broadcast stations, in order to encourage diversity of news programming and opinion. Notice of proposed rulemaking in Docket No. 19859, FCC 73-1139, 43 FCC 2d 913. We encourage any cable carriage of programming which will not hurt the financial viability of local broadcast stations. Though most television viewers are content with a conventional late evening and early night program schedules, a small but significant number have work schedules or personal habits which allow them to watch television only late at night. Accordingly, we believe that limited cable carriage of late-night broadcasting would further the public interest in program diversity.

7. At the same time, we have a continued commitment to preventing cable from becoming a "threat to broadcast television's ability to perform the obligations required in our system of television service." Par. 88, Cable Television Report and Order, supra. We thus are concerned that unrestricted importation of late-night broadcasting might harm local stations in two ways. First, head-on competition with distant signals might encourage local stations to drop their existing late-night operations, particularly if they operated in an area with high cable penetration. Second, and potentially more important, importation of late-night programming might deter local stations from entering the market for late-night broadcasting.[1] We therefore will proceed in an essentially conservative matter at this point, with an eye to liberalizing our approach in the future if cable carriage of late-night broadcasting proves to have no detrimental effect on present or potential local television operations.

8. The proposed rule thus allows a cable television system to import late-night programming only from the sign-off of the last station which the cable system must carry to the sign-on of the first station which the system must carry. This formulation prevents any harmful impact on existing late-night local broadcasters, since it precludes any head-on competition between them and imported signals. It also removes any potential inhibition on local entry into the late-night broadcasting market, since a local station can terminate importation of competing signals simply by expanding its own broadcast day; indeed, to this extent the rule may even encourage local late-night broadcasting—a result which is not inimical to the interests of cable subscribers.[2] The proposed rule does not, however, extend similar protection to additional signals which a system may carry. These stations need no protection outside of their usual markets, since they are not licensed to serve the cable communities into which they may be imported.[3]

9. A pure sign-on to sign-off rule would create hardship for cable subscribers, however, in terms of overlapping programs. Television station schedules are not mechanistic enough to begin and end precisely on the hour. Allowing a cable system to commence importation of a late-night broadcast only after the last local station had completed its sign-off thus might force cable subscribers to miss the first ten or fifteen minutes of an imported program. And at the other extreme, an imported program often will run past the sign-on of the first local station, particularly if the program is a

[1] Indeed, we note that competition from imported late-night stations would be particularly dangerous where only one or two local stations remained on the air, since the potential audience would be more concentrated and thus more likely to fragment. Similar reasons impelled us to limit the number of additional signals in smaller television markets. Par. 90, Cable Television Report and Order, supra.

[2] To be sure, a local station theoretically could harass a cable system by increasing its broadcast day deliberately in order to prevent importation of late-night stations. Given the cost of operating a television station for additional hours, however, we consider this possibility to be extremely remote. And if a cable system could document such overt harassment, we would take necessary remedial action.

[3] We never have accorded the same protection to stations which a system may carry as for stations which a system must carry. For example, our rule concerning manner of carriage, Section 76.55, explicitly applies only "where a television broadcast signal is required to be carried by a cable television system, pursuant to the rules in this subpart * * *"

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motion picture. Requiring a cable system to terminate importation precisely when the first local station completed its sign-on thus often would force cable subscribers to miss the last part of a program. Accordingly, we feel that some adjustment of the strict sign-off to sign-on approach is appropriate.

10. The proposed rule thus creates a presumption that a station signs off on the hour if it "terminates operations less than thirty minutes after the hour * * *" This provision will cover situations in which a local station broadcasts public service announcements, devotionals, a formal sign-off and the like after it has presented the last major program of the day. A cable system thus could commence its importation of a late-night program on the hour, without waiting for the final and often formalistic termination of a local station's broadcast day.[4]

11. Similarly, the rule would allow a cable system to carry a program until completion, even though a local station signed on. As noted before, requiring a system to cease carriage immediately after the first local station signed on would deprive cable subscribers of programs which already were in progress—an obviously disruptive and undesirable result. We have taken a similar approach in other contexts, where we have deemed the abrupt termination of a program to be inappropriate. Our rules thus provide that "a program substituted may be carried to its completion," where a cable system must delete a program pursuant to our exclusivity rules. Section 76.61–(b)(2)(ii). And our rules relating to manner of carriage establish a general policy in favor of carrying a program to completion.[5] The rule would not relieve a cable system of its obligation to carry all the programs of a station which it must carry, however, if the system lacked sufficient channel capacity to carry both the imported and the local signal.

12. The rule would not require cable systems to secure certificates of compliance in order to commence carriage of late-night stations. Since both local and distant stations continually change their program schedules, the certification process would impose an unnecessary burden on cable systems and television stations alike. Moreover, we have dispensed with the certification requirement in similar situations, such as carriage of otherwise unavailable network programs and carriage of stations which a system must carry. Sections 76.61(e)–(2), 76.11(a). Accordingly, the rule would require a cable system only to notify the Commission and other interested parties thirty days before it commenced carriage of a late-night broadcast station.[6]

13. As noted before, we have not considered whether the rule should be broader or narrower in scope. Though we favor cable carriage of late-night programming, we are well aware that there are several alternative approaches to the problem. Thus a strict sign-off to sign-on carriage rule might be appropriate, despite its disruptive effects on cable subscribers, in order to give local stations more complete protection. Conversely, it might be appropriate to allow a cable system to commence importation when the program begins, or when one or two local stations still are on the air. These and other questions are appropriate for comments from interested parties.

14. Authority for the proposed rule making instituted herein is contained in sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

15. All interested persons are invited to file written comments on the rule making proposals on or before May 31, 1974 and reply comments on or before June 11, 1974. In reaching a decision on this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice.

16. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

Adopted: April 17, 1974.
Released: April 25, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

Part 76 of 47 CFR chapter I is amended as follows:

1. In § 76.59 a new paragraph (d)(4) is added to read as follows:

§ 76.59 Provisions for smaller television market.

* * * * *

(d) * * *

(4) Any television station, during the period from sign-off of the last station which the cable television system must carry pursuant to paragraph (a) of this section to the sign-on of the first station which the cable television system must carry pursuant to paragraph (a) of this section; *Provided, however,* That if a station terminates operations less than thirty minutes after the hour, it shall be deemed to have signed off on the prior hour. A cable system may carry a program to its completion. Carriage of such additional stations shall not require prior approval in the certificating process, but shall require service of the information required in § 76.13(b)(1) on the Commission and the parties named in § 76.13(a)(6).

2. In § 76.61 a new paragraph (e)(4) is added to read as follows:

§ 76.61 Provisions for first 50 major television markets.

* * * * *

(e) * * *

(4) Any television station, during the period from sign-off of the last station which the cable television system must carry pursuant to paragraph (a) of this section to the sign-on of the first station which the cable television system must carry pursuant to paragraph (a) of this section; *Provided, however,* That if a station terminates operations less than thirty minutes after the hour, it shall be deemed to have signed off on the prior hour. A cable system may carry a program to its completion. Carriage of such additional stations shall not require prior approval in the certificating process, but shall require service of the information required in § 76.13(b)(1) on the Commission and the parties named in § 76.13(a)(6).

* * * * *

[FR Doc.74-10054 Filed 5-1-74;8:45 am]

[4] To be sure, we recognize that this might lead part of the viewing public to tune from the local station to the imported station, thus missing a small amount of the public service programming which a station is required to carry. We believe this loss to be so incremental, however, as to be *de minimis.*

[5] Section 76.55(b) provides that: "Where a television broadcast signal is carried by a cable television system, pursuant to the rules in this subpart, the programs broadcast shall be carried in full, without deletion or alteration of any portion except as required by this part."

[6] The proposed rule does not provide for the filing of oppositions to notifications, and we do not contemplate considering such. Where a television station can make a compelling showing of economic injury resulting to it from importation of late-night programming, however, we will consider granting special relief. In such a proceeding, however, a station carries a heavy burden of proof. See, e.g., Mickelson Media, Inc., FCC 73-119, 39 FCC 2d 602.

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1974

A list of environmental statements is here published to provide timely public information on the status of Forest Service environmental statements under preparation as of March 15, 1974. Persons interested in a particular action and environmental statements should contact the responsible official directly.

For ease in use of this list, statements are grouped by Forest Service organizational units proposing the action. Statements marked with an asterisk indicate, in total or in part, land use planning, developments, or activities within inventoried roadless areas. National Forest Inventoried roadless areas are defined as roadless and undeveloped areas 5,000 acres or larger, except that smaller areas adjoining existing Wilderness and Primitive Areas could be included. Existing Wildnerness and Primitive Areas are excluded from this definition.

Forest Service field addresses are given at the end of the listing of environmental statements.

R. MAX PETERSON,
Deputy Chief, Forest Service.

APRIL 24, 1974.

Forest Service environmental statements under preparation as of Mar. 15, 1974

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed w/CEQ (or estimated date)	Estimated date of final
	Washington Office, USDA, Forest Service, 12th St. and Independence Ave. SW., Washington, D.C. 20250				
Fire Management Selway-Bitterroot Wilderness.	Bitterroot, Nezperce, Clearwater, and Lolo National Forests, Idaho and Mont.	Resource plan	Chief	October 1974	
Absaroka-Beartooth, Cut-Off Mountain Wilderness Proposal.	Custer, Gallatin, and Shoshone National Forests, Mont. and Wyo.	do	do	March 1974	July 1974.
Gila Wilderness	Gila National Forest, N. Mex.	Legislation	do	October 1972	March 1974.
Land for Land Exchange With Inland Steel.	Superior National Forest, Minn.	Land exchange	do	November 1973.	May 1974.
*Regulations for Protection of Surface Values of Federal Lands in Sawtooth National Recreation Area.	Sawtooth National Forest, Idaho.	Legislation	do	March 1974	July 1974.
*Sawtooth National Recreation Area General Management Plan.	do	Land use plan	do	do	Do.
Salmon River Wild and Scenic River.	Idaho	Legislation	do	May 1974	September 1974.
Idaho and Salmon River Breaks Wilderness Classification.	do	do	do	November 1973.	March 1974.
Snake River Wild and Scenic River.	Targhee National Forest, Idaho and Wyo.	do	do	April 1974	September 1974.
Skagit Wild and Scenic Rivers Study.	Mount Baker National Forest, Wash.	do	do	June 1974	November 1974.
Weyerhaeuser-Gifford Pinchot Landownership Adjustment Plan.	Gifford Pinchot National Forest, Wash.	Landownership	do	May 1973	April 1974.
Oregon Dunes National Recreation Area.	Siuslaw National Forest, Oreg.	Wilderness recommendation.	do	April 1974	February 1975.
Erie Exchange (Partridge River Resort).	Superior National Forest, Minn.	Land exchange	do	August 1974	February 1975.
*East Bradfield Timber Sale.	East Bradfield River.	Timber sale	do	November 1973.	April 1974.
Flathead Wild and Scenic River Proposal.	Flathead National Forest, Mont.	Proposed classification of Flathead Rivers under Wild and Scenic Rivers Act.	do	September 1973.	June 1974.

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Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed w/CEQ (or estimated date)	Estimated date of final
*North Fork American River Wild and Scenic River.	Tahoe National Forest, Calif.	Legislation	do		
*Monarch Wilderness	Sierra and Sequoia National Forests, Calif.	do	do	October 1972.	August 1974.
*Trinity Alps Wilderness.	Klamath, Six Rivers, and Shasta-Trinity National Forests, Calif.	do	do	do	Do.
Triangle Ranch Land Exchange.	Modoc National Forest, Calif.	Land exchange	do	October 1974.	April 1975.
*Land Acquisition from Southern Pacific Land Co.	Shasta-Trinity National Forest, Calif.	Land Acquisition	Chief	August 1974.	February 1975.
	Regional Office, Missoula, Mont., Region 1, Northern Region, USDA, Forest Service, Federal Bldg., Missoula, Mont. 59801				
Clearwater National Forest Timber Management Plan and Road Program.	Clearwater National Forest, Idaho.	Timber Management and Road Program.	Forest Supervisor.	April 1974	July 1974.
Elk Summit Planning Unit.	do	Land use plan	do	February 1974.	Do.
Aquarius Planning Unit.	do	do	do	May 1974	August 1974.
Pots Mountain Planning Unit.	do	do	do	do	Do.
Multiple Use Plan Placid-Blanchard Planning Unit.	Seeley Lake	do	do	July 1974	December 1974.
Rocky Mountain Front.	Lewis and Clark National Forest, Montana.	do	do	February 1971.	May 1971.
Smith River	do	do	do	do	Do.
Logging-Pilgrim Creek	do	do	do	March 1974	June 1974.
Castle Mountains	do	do	do	do	Do.
Eagle Smokey Mountain.	do	do	do	February 1974.	May 1974.
Yogo Bear Park	do	do	do	April 1974	June 1974.
Elk City Unit Plan	Nezperce National Forest, Idaho.	do	Acting Forest Supervisor.	January 1974.	April 1974.
Timber Management Plan and Road Program.	do	Resource plan	do	July 1973	Do.
Stillman Point	do	Land use plan	do	June 1974	October 1974.
Kelly-Hullion	do	do	do	Feburary 1974.	May 1971.
Red River	do	do	do	March 1974	June 1974.
Rainy Day	do	do	do	April 1974	July 1974.
Hot Point	do	do	do	May 1974	August 1974.
Cougar Mountain	do	do	do	March 1974	June 1974.
John Day	do	do	do	February 1974.	May 1974.
Timber Management Plan.	Kaniksu National Forest, Idaho.	Resource plan	Forest supervisor.	October 1972.	April 1974.
3-Year Road Program.	St. Joe National Forest, Idaho.	do	do	April 1973	Do.
Emerald Creek	do	Land use plan	do	January 1974.	
Siwash Planning Unit	do	do	do	do	
Canyon-Snow Peak	do	do	do	do	
Napoleon Planning Unit.	Kaniksu National Forest, Idaho (Washington).	do	do	do	
Lakeview	do	do	do	do	
Horseheaven-Bumblebee.	Coeur d'Alene National Forest, Idaho.	do	do	February 1974.	

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Beaver Creek	Kaniksu National Forest, Idaho (Washington).	do	do	March 1974	
Elk Horns	Helena National Forest, Mont.	do	do	April 1974	June 1974.
East Belts	do	do	do	May 1974	July 1974.
Mike Horse	do	do	do	do	Do.
Colorado-Unionville-Travis.	do	do	do	June 1974	August 1974.
Magpie-Confederate	do	do	do	October 1974	December 1974.
Camp-Tolan Planning Unit.	Bitterroot	do	do	October 1973	April 1974.
*Bitterroot North Planning Unit.	Bitterroot National Forest, Mont.	do	do	January 1974	May 1974.
*Bitterroot Range South Planning Unit.	do	do	do	May 1974	November 1974.
*Sapphires Planning Unit.	do	do	do	August 1974	Do.
*Lower West Fork Planning Unit.	do	do	do	July 1974	December 1974.
*Warm Springs-Medicine Tree Planing Unit.	do	do	do	June 1974	Do.
Little Sleeping Child-Rye Planning Unit.	do	do	do	October 1974	March 1975.
Timber Management Plan.	do	Resource plan	do	July 1974	September 1974.
*Jackpine Gulch	Beaverhead National Forest, Mont.	Timber sale	do	January 1974	April 1974.
*Coyote Creek	do	do	do	April 1974	July 1974.
Badlands [1]	Custer National Forest, No. Dak.	Land use plan	do	March 1974	August 1974.
Ashland Division	Custer National Forest, Mont.	do	do	June 1974	December 1974.
Beartooth Highway	Custer, Gallatin, and Shoshone National Forest, Mont. and Wyo.	do	do	May 1974	January 1975.
Pryor Mountains	Custer National Forest, Mont.	do	do	do	December 1974.
Beartooth Face	do	do	do	December 1974.	April 1975.
Rolling Prairie	Custer National Forest, N. Dak.	do	do	September 1974.	March 1975.
Basin Unit Plan	Basin, Mont.	do	do	May 1974	September 1974.
North End Plan	Deerlodge National Forest, Mont.	do	do	April 1974	Do.
Forest Transportation Plan.	do	Road construction and maintenance.	do	May 1974	Do.
Forest Timber Plan	do	Resource plan	do	do	Do.
*Swan Lake Planning Unit.	Flathead National Forest, Mont.	Land use plan	do	January 1974	June 1974.
Interim Revision Flathead 10-yr Timber Management Plan.	do	Interim revision timber management plan.	do	July 1973	March 1974.
*Holland Lake Planning Unit. ment Plan.	do	Land use plan	do	January 1974	June 1974.
*Spotted Bear Planning Unit.	do	do	do	March 1974	Do.
*North Fork Planning Unit.	do	do	do	do	July 1974.
*Lake V Planning Unit.	do	do	do	April 1974	Do.

[1] Includes the EIS prepared by the Petroleum Impact Analysis Group on oil and gas exploration and development proposals.

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Porcupine/Buffalo Horn.	Gallatin National Forest, Mont.	do	do	August 1973	April 1974.
Cedar Bassett	do	do	do	do	July 1974.
Hebgen Lake	do	do	do	May 1974	November 1974.
Wild Yellowstone	do	do	do	September 1974.	January 1975.
Ski Yellowstone	do	Winter sports	do	May 1974	November 1974.
Big Tepee	do	Timber sale	do	February 1974.	June 1974.
South Fork of Swan Creek.	do	do	do	do	Do.
*Lower Wolf No. 23	Kootenai National Forest, Mont.	Land use plan	do	December 1973.	April 1974.
*South Fork Yaak No. 38.	do	do	do	July 1973	Do.
*Libby Face No. 1	do	do	do	January 1974.	May 1974.
*Inch Mountain No. 20.	do	do	Acting Forest Supervisor.	do	June 1974.
*Eureka-Grave Creek No. 2.	do	do	Forest Supervisor.	April 1974	September 1974.
*Upper Fisher No. 27	do	do	do	do	Do.
*Callahan No. 11	do	do	do	May 1974	October 1974.
*West Kootenai No. 9	do	do	do	do	Do.
*Cross Mountain No. 41.	do	do	do	June 1974	November 1974.
*O'Brien No. 10	do	do	do	July 1974	Do.
*Seventeenmile No. 40	do	do	do	August 1974.	December 1974.
*Dickey-Sunday No. 31.	do	do	do	September 1974.	January 1975.
*Big Swede No. 4	do	do	do	October 1974.	February 1975.
*Pinkham No. 18	do	do	do	November 1974.	March 1975.
Kootenai Working Circle.	do	Timber management plan.	do	April 1973	June 1974.
Cherry Creek Planning Unit.	Thompson Falls	Land use plan	do	June 1974	November 1974.
Beerhorn Planning Unit.	do	do	do	July 1974	October 1974.
Cube Iran-Silcox Planning Unit.	do	do	do	March 1974	July 1974.
Murr-Baldy Planning Unit.	Plains	do	do	January 1974.	June 1974.
Ward-Eagle Planning Unit.	Superior National Forest, Minn.	do	do	April 1974	September 1974.
North Cutoff-Kennedy Planing Unit.	do	do	do	August 1974	January 1975.
Ninemile Planning Unit.	Ninemile	do	do	May 1974	October 1974.
Petty Mountain Planning Unit.	Missoula	do	do	do	Do.
Gold Creek Planning Unit	do	do	do	January 1974.	June 1974.
Chain of Lakes Planning Unit.	Seeley Lake	do	do	June 1974	October 1974.
Coordinated Interim Timber Harvest and Road Construction Program.	Lolo National Forest, Mont.	Resource plan	do	Mach 1974	September 1974.

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	Regional office, Denver, Colo., Region 2, Rocky Mountain Region, USDA, Forest Service, Denver Federal Center, Building 85, Denver, Colo. 80225				
Telluride	Grand Mesa and Uncompahgre National Forests, Colo.	Land use plan	Forest Supervisor.	January 1975.	July 1975.
*Savage Run	Medicine Bow National Forest, Wyo.	do	do	June 1974	September 1974.
Ryan Park	do	Winter sports site	do	April 1974	July 1974.
Forest Land Use Plan.	Rio Grande National Forest, Colo.	Land use plan	do	July 1974	January
Conejos	do	do	do	December 1974	June 1975.
East Fork Troublesome Creek.	Arapaho National Forest, Colo.	do	Forest Supervisor, Routt National Forest, Colo.	June 1974	October 1974.
Hahns Peak Basin	Routt Nationa Forest, Colo.	do	Forest supervisor.	September 1974.	April 1975.
*Davis Peak and Elkhorn Mountain.	do	do	do	September 1974.	April 1974.
Beartooth Highway Corridor.	Shoshone, Gallatin, and Custer National Forests, Mont. and Wyo.	do	do	July 1974	October 1974.
	Regional Office, Albuquerque, N. Mex., Region 3, Southwestern Region, USDA, Forest Service, 517 Gold Ave. SW., Albuquerque, N. Mex. 87101				
Black River	Apache National Forest, Ariz.	Land use plan	Forest Supervisor.	June 1974	September 1974.
Aquatic Weed Control	Sitgreaves and Apache National Forests, Ariz.	Herbicide	Regional Forester.	March 1974	July 1974.
Taos Ski Valley Expansion.	Carson National Forest, N. Mex.	Winter sports site	do	do	June 1974.
Timber Management Plan.	do	Resource plan	do	June 1973	April 1974.
Sipapu Ski Area Expansion.	do	Winter sports site	do	May 1974	September 1974.
Sandia Mountain	Cibola National Forest, N. Mex.	Land use plan	Forest Supervisor.	December 1973.	July 1974.
Manzano Mountain	do	do	do	May 1974	September 1974.
Mount Taylor Winter Sports Area.	do	Winter sports site	Regional Forester.	do	Do.
Proposed Exchange West Side Sandia Mountain.	do	Exchange	do	do	Do.
Cinder Hills	Coconino National Forest, Ariz.	Land use plan	Forest Supervisor.	April 1974	Do.
Oak Creek	do	do	do	March 1974	June 1974.
Woods Canyon	do	do	do	November 1974.	April 1975.
Santa Catalina	Coronado National Forest, Ariz.	do	do	March 1974	June 1974.
Madera Canyon	do	do	do	November 1973.	March 1974.
Huachuca Land Use	do	do	do	March 1975	July 1975.
Williams Land Use	Kaibab National Forest, Ariz.	do	do	June 1974	October 1974.
South Kaibab Timber Management.	do	Resource plan	Regional Forester.	do	September 1974.
Phelps-Dodge, Forest Service Land Exchange.	Prescott National Forest, Ariz.	Land exchange	do	do	November 1974.
Dome Roadless Area	Santa Fe National Forest, N. Mex.	Land use plan	Forest Supervisor.	do	December 1974.

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Timber Management Plan.	....do	Resource plan	Regional Forester.	February 1975.	May 1974.
Gallina Unit	....do	Land use plan	Forest Supervisor.	June 1974	December 1974.
Cholla Project	Tonto and Sitgreaves National Forests, Ariz.	....do	Regional Forester.	April 1974	October 1974.
Timber Management Plan.	Sitgreaves National Forest, Ariz.	Resource plan	....do	June 1974	November 1974.
Proposed Mineral Exploration and Development, Mazatzal Wilderness.	Tonto National Forest, Ariz.	Land use plan	....do	April 1974	June 1974.
Mogollon Rim.	Tonto, Coconino, and Sitgreaves National Forests, Ariz.	....do	Forest Supervisors.	January 1974	April 1974.
Salt River Project-Pinnacle Peak Gila-field Transmission Line.	Tonto National Forest, Ariz.	Powerline	Regional Forester.	August 1974	November 1974.
Plant Control Program.	Regionwide	Land treatment	....do	April 1974	July 1974.

Regional office, Ogden, Utah, Region 4, Intermountain Region, USDA, Forest Service 324 25th St., Ogden, Utah 84401

Flaming Gorge National Recreation Area General Management Plan.	Ashley National Forest Utah.	Land use plan	Forest supervisor.	April 1974	August 1974.
Timber Management Plan.	....do	Resource plan	Regional Forester.	June 1974	October 1974.
*Bear Valley Planning Unit.	Boise National Forest, Idaho.	Land use plan	Forest Supervisor.	April 1974	August 1974.
*Idaho City Planning Unit.	....do	....do	....do	May 1974	September 1974.
*Landmark Planning Unit.	....do	....do	....do	June 1974	October 1974.
*Middle Fork Boise Planning Unit.	....do	....do	....do	....do	Do.
*Mountain Home Planning Unit.	....do	....do	....do	May 1974	August 1974.
Shafer Planning Unit	....do	....do	....do	April 1974	Do.
*South Fork Payette Planning Unit.	....do	....do	....do	....do	Do.
*South Fork Salmon Planning Unit.	Payette and Boise National Forests, Idaho.	....do	Forest Supervisors.	....do	July 1974.
*Garden Valley Planning Unit.	Boise National Forest, Idaho.	....do	Forest Supervisor.	May 1974	September 1974.
*Squaw Creek Planning Unit.	....do	....do	....do	July 1974	November 1974.
*Cascade Planning Unit.	....do	....do	....do	....do	Do.
*Spread Creek-North Gros Ventre Planning Unit.	Bridger and Teton National Forests, Wyo.	....do	....do	January 1974	April 1974.
*Moccasin Basin-Squaw Papoose.	....do	Timber sale	....do	March 1974	June 1974.
*Big Piney Planning Unit.	....do	Land use plan	....do	May 1974	August 1974.
*Union Pass Planning Unit.	....do	....do	....do	June 1974	September 1974.
*Boulder Lake Powerline.	....do	Powerline	....do	April 1974	July 1974.
Bighorn Winter Sports.	Caribou National Forest, Idaho.	Winter sports site	....do	March 1974	Do.
Phosphate Planning Unit.	....do	Land use plan	....do	June 1975	November 1975.
*Pioneer Mountains Planning Unit.	Challis and Sawtooth National Forests, Idaho and Wyo.	....do	....do	May 1974	September 1974.
*Enterprise Planning Unit.	Dixie National Forest, Utah.	....do	....do	March 1974	June 1975.
*Boulder Mountain Planning Unit.	....do	....do	....do	May 1974	September 1974.
Utah Power & Light Powerline Study (Sigurd-Cedar City Line).	Fishlake and Dixie National Forests, Utah.	Powerline	FS/BLM Lead Agency.	June 1974	October 1974.
Utah Power & Light Transmission Line Study (North Emery line and generator plus coal lease).	Fishlake and Manti-LaSal National Forests, Utah.	....do	....do	August 1974	December 1974.
*Mount Moriah	Humboldt National Forest, Nev.	Land use plan	Forest Supervisor.	....do	Do.
*Ruby Mountains	....do	....do	....do	March 1974	July 1974.
*Black Canyon Roadless Area No. 236.	Manti-Lasal National Forest, Utah.	Resource plan	FS/USGS Lead Agency.	....do	Do.
*Monticello Planning Unit.	....do	Land use plan	Forest Supervisor.	June 1974	October 1974.
*Council Planning Unit.	Payette National Forest, Idaho.	....do	....do	May 1974	September 1974.
*McCall Planning Unit.	....do	....do	....do	July 1974	November 1974.
*New Meadows Planning Unit.	....do	....do	....do	March 1974	July 1974.
*Warren Planning Unit.	....do	....do	....do	....do	May 1974.
Payette Timber Management Plan.	....do	Resource plan	Regional Forester.	....do	July 1974.
*Silverleads Planning Unit.	Salmon National Forest, Idaho.	Land use plan	Forest Supervisor.	....do	Do.
*Red Rock Planning Unit.	....do	....do	....do	June 1974	October 1974.
*Moose Creek Basin Planning Unit.	....do	....do	....do	October 1974	February 1975.
Soldier Mountain Ski Area.	Sawtooth National Forest, Idaho.	Winter sports site	....do	January 1974	April 1974.
Big Wood Ski Area	....do	....do	....do	March 1974	June 1974.
*Black Pine Planning Unit.	....do	Land use plan	....do	July 1974	November 1974.
Alpine Airstrip	Targhee National Forest, Idaho and Wyo.	Airstrip	....do	March 1974	July 1974.
*West Slope Tetons Planning Unit.	....do	Land use plan	....do	May 1974	September 1974.
Central Nevada Land Use Plan.	Toiyabe National Forest, Nev. and Calif.	....do	....do	June 1974	October 1974.
*American Fork Canyon-Provo Peak.	Uinta National Forest, Utah.	....do	....do	February 1974.	June 1974.
Four Seasons Ski Area.	....do	Winter sports site	....do	January 1975.	May 1975.
*North Slope of the High Uintas.	Wasatch and Ashley National Forests, Utah.	Land use plan	....do	May 1974	September 1974.
*Kamas Planning Unit.	Wasatch National Forest, Utah.	....do	....do	October 1974.	February 1975.

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*Bucks Lake Planning Unit.	Plumas National Forest, Calif.	Land use plan	Forest Supervisor.	May 1974	Do.
*Mohawk Planning Unit.	....do	....do	....do	May 1975	September 1975.
Timber Management Plan.	....do	Resource plan	Regional Forester.	June 1974	October 1974.
Do	Angeles, Cleveland, Los Padres, and San Bernardino National Forests, Calif.	....do	....do	December 1974.	April 1975.
Big Bear Basin Planning Unit.	San Bernardino National Forest, Calif.	Land use plan	Forest Supervisor.	March 1975	August 1975.
Mineral King	Sequoia National Forest, Calif.	Recreation	Regional Forester.	September 1974.	February 1975.
*Little Kern Planning Unit.	....do	Land use plan	Forest Supervisor.	February 1975.	July 1975.
Timber Management Plan.	....do	Resource plan	Regional Forester.	October 1974	March 1975.
Shasta-Trinity Timber Management Plan.	Shasta-Trinity National Forest, Calif.	....do	....do	May 1974	September 1974.
*Upper Trinity Planning Unit.	....do	Land use plan	Forest Supervisor.	September 1974.	January 1975.
*Mount Shasta Planning Unit.	....do	....do	....do	October 1974	March 1975.
*NRA Planning Unit	....do	....do	....do	December 1974.	June 1975.
*South Fork Mountain Planning Unit.	....do	....do	....do	....do	Do.
*McCloud-Squaw Creek Planning Unit.	....do	....do	....do	March 1975	September 1975.
*Girard-Salt Creek Planning Unit.	....do	....do	....do	....do	Do.
*North Shore Huntington Lake.	Sierra National Forest, Calif.	Timber sales	....do	September 1973.	April 1974.
*Aspen-Horsethief	....do	....do	....do	May 1974	September 1974.
Timber Management Plan.	....do	Resource and land use plan.	....do	August 1975	December 1975.
*Eightmile-Blue Creek Planning Unit.	Six Rivers National Forest, Calif.	Land use plan	....do	October 1974.	February 1975.
*Siskiyou Planning Unit.	....do	....do	....do	January 1975.	June 1975.
*Horse Linto Planning Unit.	....do	....do	....do	June 1975	October 1975.
Stanislaus Timber Management Plan.	Stanislaus National Forest, Calif.	Resource plan	Regional Forester.	December 1973.	April 1974.
Mount Reba Master Plan.	....do	Winter sports site	....do	November 1974.	April 1975.
*Truckee-Little Truckee Planning Unit.	Tahoe National Forest, Calif.	Land use plan	Forest Supervisor.	January 1975.	June 1975.
Tahoe Timber Management Plan.	....do	Resource plan	Regional Forester.	April 1975	September 1975.
*Foresthill Planning Unit.	....do	Land use plan	Forest Supervisor.	August 1975	February 1976.

Regional office, Portland, Oreg., Region 6, Pacific Northwest Region, USDA, Forest Service, 319 Southwest Pine St., Portland, Oreg. 97208

Soleduck	Olympic National Forest, Wash.	Land use plan	Forest Supervisor.	July 1974	January 1975.
Mount Baker Ski Area Development Plan.	Mount Baker National Forest.	Recreation development.	....do	April 1974	August 1974.
Mount Baker Unit	....do	Land use plan	....do	....do	
10-yr Timber Management Plan.	Gifford Pinchot National Forest, Wash.	Resource plan	Regional Forester.	....do	July 1974.

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	Regional office, Atlanta, Ga., Region 8, Southern Region, USDA, Forest Service, 1720 Peachtree Rd. NW., Atlanta, Ga. 30309				
El Yunque Peak Electronics Site.	Caribbean National Forest, P.R.	Land use permit	Forest Supervisor.	July 1974	October 1974.
Cohutta Mountains Unit.	Chattahoochee National Forest, Ga.	Land use plan	do	March 1974	September 1974.
Unaka Unit	Cherokee National Forest, Tenn.	do	do	June 1974	October 1974.
Upper Hiwassee Unit	do	do	do	April 1974	August 1974.
Red River Gorge Unit.	Daniel Boone National Forest, Ky.	do	do	July 1973	March 1974.
Beaver Creek Unit	do	do	do	April 1974	October 1974.
Laurel River Unit	do	Legislation	do	May 1974	December 1974.
Licking River Unit	do	Land use plan	do	September 1974	March 1976.
Limestone Mining Plan of Operation.	Withlacoochee State Forest, Fla.	Resource plan	Regional Forester.	February 1974	May 1974.
Juniper-Fat and Hughes Island Unit.	Ocala National Forest, Fla.	Land use plan	Forest Supervisor.	November 1973	April 1974.
Timber Sale Increase.	City of Tallahassee, Fla.	Land use permit	Regional Forester.	May 1974	September 1974.
John D. Long III Lake.	Sumter National Forest, S.C.	Recreation	Forest Supervisor.	July 1974	November 1974.
Keowee Unit	do	Land use plan	do	December 1973	April 1974.
Chauga Unit	do	do	do	May 1974	October 1974.
Laurel Fork Unit	George Washington National Forest, Va.	do	do	March 1974	June 1974.
North River Unit	do	do	do	February 1974	May 1974.
Big Levels Unit	do	do	do	do	Do.
Cave Mountain Lake Unit.	Jefferson National Forest, Va.	do	do	do	Do.
Mount Rogers National Recreational Area.	do	do	do	June 1974	October 1974.
Timber Management Plan.	Kisatchie National Forest, La.	Resource plan	do	March 1974	July 1974.
Davidson River Unit and Northwest Trail Extension.	Pisgah National Forest, N.C.	Land use plan	do	April 1974	August 1974.
Whitewater River Unit and Chilhowie Hill Unit.	Nantahala National Forest, N.C.	do	do	do	Do.
Ozone Unit	Ozark National Forest, Ark.	do	do	do	Do.
Blanchard Springs Caverns.	do	Recreation	do	do	Do.
Caddo Unit	Caddo National Grassland, Tex.	Land use plan	do	March 1974	July 1974.
Cross Timbers National Grassland.	Cross Timbers Grassland, Tex.	do	do	do	Do.
Pocket Gopher Control.	Angelina National Forest, Tex.	Rodent control	do	August 1972	Postponed.
Forks Unit	Ouachita National Forest, Ark.	Land use plan	do	April 1974	August 1974.
Petit Jean Unit	do	do	do	September 1974	February 1975.
Hoodoo Ski Bowl Expansion.	Willamette National Forest, Oreg.	Recreation Development.	Forest Supervisor.	November 1974	April 1975.
Willamette National Forest Land Use Plan.	do	Land use plan	do	July 1974	February 1975.
Willamette National Forest 10-yr Timber Management Plan.	do	Resource plan	Regional Forester.	do	Do.
Deschutes National Forest Timber Management Plan.	Deschutes National Forest, Oreg.	do	do	March 1974	July 1974.
Moore-Rock Sale	do	Timber sale	Forest Supervisor.	January 1975	June 1975.
Metolius Planning Unit.	do	Land use plan	do	December 1974	April 1975.
*Williams Creek-Cougar Bluff.	Umpqua National Forest, Oreg.	Roadless area	do	May 1974	October 1974.
*Fairview, Puddin Head, Canton-Steel.	do	do	do	do	Do.
*Dumont, Quartz, Last Creek.	do	do	do	do	Do.
*Rogue-Umpqua Divide.	do	do	do	do	December 1974.
*Cedar Creek-Copeland Creek.	do	do	do	do	December 1974.
*Mount Bailey	do	do	do	do	Do.
Desolation	Umatilla and Wallowa-Whitman National Forest, Oreg.	Land use plan	do	April 1974	June 1974.
Jubilee	Umatilla National Forest, Oreg.	do	do	May 1974	August 1974.
Oregon Butte	do	do	do	August 1974	November 1974.
*Rogue Roadless Area	Siskiyou National Forest, Oreg. (California).	Roadless area	do	April 1974	
Alpine Lakes Area	Snoqualmie and Wenatchee National Forests, Wash.	Wilderness proposal	do	July 1973	May 1974.
Weyerhaeuser County Road-Hansen Creek.	Snoqualmie National Forest, Wash.	Nonshare cost road construction.	do	January 1974	Do.
*Drift Creek Unit	Siuslaw National Forest, Oreg.	Roadless area	do	April 1974	October 1974.
Oregon Dunes National Recreation area.	do	Management plan	do	do	February 1975.
John Day Unit Plan	Malheur National Forest, Oreg.	Land use plan	do	January 1975	April 1975.
South Fork Unit	Malheur and Ochoco National Forests, Oreg.	do	do	June 1975	September 1975.
Chelan Planning Unit	Wenatchee National Forest, Wash.	do	do	August 1974	December 1974.
*Lake Fork Unit	Wallowa-Whitman National Forest, Oreg.	Roadless area	do	April 1974	July 1974.
*Joseph Creek-Wild Horse.	do	do	do	do	January 1975.
Timberline Lodge Development.	Mount Hood National Forest, Oreg.	Recreation site	do	do	November 1974.
Huckleberry Planning Unit.	do	Land use plan	do	do	January 1975.
Eagle Creek Planning Unit.	do	do	do	January 1974	September 1974.
Roaring River-Salmon River Unit.	do	do	do	July 1973	June 1974.

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	Regional office, Milwaukee, Wis., Region 9, Eastern Region, USDA, Forest Service, 633 West Wisconsin Ave., Milwaukee, Wis. 53203				
Forest Plan	Allegheny National Forest, Pa.	Land use plan	Forest Supervisor.	July 1974	January 1975.
Timber Management Plan.	Chippewa National Forest, Minn.	Resource plan	Regional Forester.	February 1974.	July 1974.
Deerfield River (Mountain Snow).	Green Mountain National Forest, Vt.	Land use plan	do	June 1974	December 1974.
Eagle Lake and Associated Recreation Development.	Monongahela National Forest, W. Va.	do	do	February 1974.	June 1974.
Cedar Creek Purchase Unit.	Clark and Mark Twain National Forests, Mo.	do	Forest Supervisor.	March 1974	September 1974.
Off-Road Vehicle Plan.	Hoosier National Forest, Ind.	do	do	do	April 1974.
Boundary Waters Canoe Area Plan.	Superior National Forest, Minn.	do	Regional Forester.	August 1973	June 1974.
Prairie Portage Dam-BWCA.	do	do	do	April 1974	October 1974.
Timber Management Plan.	White Mountain National Forest, N.H. and Maine.	Resource plan	do	June 1974	December 1974.
	Regional office, Juneau, Alaska, Region 10, Alaska Region, USDA, Forest Service, Federal Bldg., Box 1628, Juneau, Alaska 99801				
*Recreation Cabins	Ketchikan Area, Alaska.	Recreation	Area Manager.	September 1973.	April 1974.
*Cholmondeley Management Plan.	do	Land use plan	do	December 1973.	March 1974.
*Honker Divide	do	do	do	November 1974.	April 1975.
*West Chichagof-Yakobi.	West Chichagof-Yakobi Island.	do	do	October 1974	February 1975.
*Southern Chilkat Unit Management Plan.	Southern Chilkat Area.	do	do	May 1974	September 1974.
*Westside Timber Sale.	Montague Island	Timber sale	do	February 1974.	May 1974.
*Chugach National Forest Land Use.	Chugach National Forest, Alaska.	Land use plan	do	January 1974	
*Tongass National Forest Land Use.	Tongass National Forest, Alaska.	do	Regional Forester.	April 1974	August 1974.
*Portage Bay Sale	Portage Bay	Timber sale	Area Manager.	August 1974	December 1974.
	Area office, Upper Darby, Pa., Northeastern Area, State and Private Forestry, USDA, Forest Service, 6816 Market St., Upper Darby, Pa. 19082				
Cooperative Spruce Budworm Suppression, Minnesota.	Minnesota	Aerial application	Area Director.	March 1974	April 1974.
	Area office, Atlanta, Ga., Southeastern Area, State and Private Forestry, USDA, Forest Service, 1720 Peachtree Rd., NW., Atlanta, Ga. 30309				
Suppression Strategy for Control of Southern Pine Beetle.	Southeastern United States.	Bark beetle suppression.	Area Director.	January 1974.	June 1974.

FOREST SERVICE FIELD ADDRESSES

Below are listed Forest Service Regional Offices and addresses, followed by National Forests and their headquarters locations. Research unit and State and Private Forestry Area headquarters are listed on the back page.

NORTHERN REGION

(Address: Federal Bldg., Missoula, Mont. 59801)

Idaho:	
Clearwater	Orofino.
Coeur d'Alene	Coeur d'Alene.
Kaniksu	Sandpoint.
Nezperce	Grangeville.
St. Joe	St. Maries.
Montana:	
Beaverhead	Dillon.
Bitterroot	Hamilton.
Custer	Billings.
Deerlodge	Butte.
Flathead	Kalispell.
Gallatin	Bozeman.
Helena	Helena.
Kootenai	Libby.
Lewis and Clark	Great Falls.
Lolo	Missoula.
Washington:	
Colville	Colville.

ROCKY MOUNTAIN REGION

(Address: Denver Federal Center, Bldg. 85, Denver, Colo. 80225)

Colorado:	
Arapaho	Golden.
Grand Mesa-Uncompahgre [1]	Delta.
Gunnison	Gunnison.
Pike	Colorado Springs.
Rio Grande	Monte Vista.
Roosevelt	Fort Collins.
Routt	Steamboat Springs.
San Isabel	Pueblo.
San Juan	Durango.
White River	Glenwood Springs.
Nebraska:	
Nebraska	Chadron.
South Dakota:	
Blacks Hills	Custer.
Wyoming:	
Bighorn	Sheridan.
Medicine Bow	Laramie.
Shoshone	Cody.

[1] Two separately proclaimed National Forests under one supervisor.

SOUTHWESTERN REGION

(Address: 517 Gold Ave. SW., Albuquerque, N. Mex. 87101)

Arizona:	
Apache	Springerville.
Coconino	Flagstaff.
Coronado	Tucson.
Kaibab	Williams.
Prescott	Prescott.
Sitgreaves	Holbrook.
Tonto	Phoenix.
New Mexico:	
Carson	Taos.
Cibola	Albuquerque.
Gila	Silver City.
Lincoln	Alamogordo.
Santa Fe	Santa Fe.

INTERMOUNTAIN REGION

(Address: 324 25th St., Ogden, Utah 84401)

Idaho:	
Boise	Boise.
Caribou	Pocatello.
Challis	Challis.
Payette	McCall.
Salmon	Salmon.
Sawtooth	Twin Falls.
Targhee	St. Anthony.
Nevada:	
Humboldt	Elko.
Toiyabe	Reno.
Utah:	
Ashley	Vernal.
Cache	Logan.
Dixie	Cedar City.
Fishlake	Richfield.
Manti-La Sal	Price.
Uinta	Provo.
Wasatch	Salt Lake City.
Wyoming:	
Bridger	Kemmerer.
Teton	Jackson.

CALIFORNIA REGION

(Address: 630 Sansome St., San Francisco, Calif. 94111)

California:	
Angeles	Pasadena.
Cleveland	San Diego.
Eldorado	Placerville.
Inyo	Bishop.
Klamath	Yreka.
Lassen	Susanville.
Los Padres	Santa Barbara.
Mendocino	Willows.
Modoc	Alturas.
Plumas	Quincy.
San Bernardino	San Bernardino.
Sequoia	Porterville.
Shasta-Trinity [1]	Redding.
Sierra	Fresno.
Six Rivers	Eureka.
Stanislaus	Sonora.
Tahoe	Nevada City.

PACIFIC NORTHWEST REGION

(Address 319 SW. Pine St., P.O. Box 3623, Portland, Oreg. 97208)

Oregon:	
Deschutes	Bend.
Fremont	Lakeview.
Malheur	John Day.
Mount Hood	Portland.
Ochoco	Prineville.
Rogue River	Medford.
Siskiyou	Grants Pass.
Siuslaw	Corvallis.
Umatilla	Pendleton.
Umpqua	Roseburg.
Wallowa-Whitman [1]	Baker.
Willamette	Eugene.
Winema	Klamath Falls.
Washington:	
Gifford Pinchot	Vancouver.
Mount Baker	Bellingham.
Okanogan	Okanogan.
Olympic	Olympia.
Snoqualmie	Seattle.
Wenatchee	Wenatchee.

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EASTERN REGION

(Address: 633 West Wisconsin Ave., Milwaukee, Wis. 53203)

Illinois:	
Shawnee	Harrisburg.
Indiana:	
Hoosier	Bedford.
Michigan:	
Hiawatha	Escanaba.
Huron	Cadillac.
Manistee	Cadillac.
Ottawa	Ironwood.
Minnesota:	
Chippewa	Cass Lake.
Superior	Duluth.
Missouri:	
Clark	Rolla.
Mark Twain	Springfield.
New Hampshire:	
White Mountain	Laconia.
Ohio:	
Wayne	Bedford, Ind.
Pennsylvania:	
Allegheny	Warren.
Vermont:	
Green Mountain	Rutland.
West Virginia:	
Monongahela	Elkins.
Wisconsin:	
Chequamegon	Park Falls.
Nicolet	Rhinelander.

SOUTHERN REGION

(Address: 1720 Peachtree Rd. NW., Atlanta, Ga. 30309)

Alabama:	
National Forests in Alabama, 1765 Highland Ave., P.O. Box 40, Montgomery, 36101.	
William B. Bankhead	Talladega.
Conecuh	Tuskegee.
Arkansas:	
Ouachita	Hot Springs.
Ozark	Russellville.
St. Francis	Russellville.
Florida:	
National Forests in Florida, 214 South Bronough St., P.O. Box 1050, Tallahassee, 32302.	
Apalachicola, Ocala	Osceola.
Georgia:	
National Forests in Georgia, 322 Oak St. NW., Gainesville, 30501	
Chattahoochee	Oconee.
Kentucky:	
Daniel Boone	Winchester.
Louisiana:	
Kisatchie	Pineville.
Mississippi:	
National Forests in Mississippi, 350 Milner Bldg., P.O. Box 1291, Jackson, 39205	
Bienville	Holly Springs.
Delta	Homochitto.
DeSoto	Tombigbee.
North Carolina:	
National Forests in North Carolina, B-level Plateau Bldg., 50 S. French Broad, P.O. Box 2570, Asheville, 28802.	
Croatan	Pisgah.
Nantahala	Uwharrie.
South Carolina:	
National Forests in South Carolina, Rm. 350, 1801 Main St., Columbia, 29201.	
Francis Marion	Sumter.
Tennessee:	
Cherokee	Cleveland.
Texas:	
National Forests in Texas, Federal Bldg., P.O. Box 969, Lufkin, 75901.	
Angelina	Sabine.
Davy Crockett	Sam Houston.
Virginia:	
George Washington	Harrisonburg.
Jefferson	Roanoke.

ALASKA REGION

(Address: Federal Office Bldg., P.O. Box 1628, Juneau, Alaska 99801)

Alaska:	
Chugach	Anchorage.
North Tongass	Juneau.
South Tongass	Ketchikan.

RESEARCH HEADQUARTERS

Laboratory

Forest Products Laboratory
North Walnut St., P.O. Box 5130, Madison, Wis. 53705

Institutes

Institute of Tropical Forestry
P.O. Box AQ, Rio Piedras, P.R. 00928
Institute of Northern Forestry
Fairbanks, Alaska 99701

Forest and Range Experiment Stations

Pacific Northwest—809 NE. Sixth Ave., P.O. Box 3141, Portland, Oreg. 97208
Pacific Southwest—1960 Addison St., Berkeley, Calif. 94701
Intermountain—507 25th St., Ogden, Utah 84401
Rocky Mountain—240 West Prospect St., Fort Collins, Colo. 80521
North Central—Folwell Ave., St. Paul, Minn. 55101
Northeastern—6816 Market St., Upper Darby, Pa. 19082
Southern—Federal Bldg., 701 Loyola Ave., New Orleans, La. 70113
Southeastern—Post Office Bldg., P.O. Box 2570, Asheville, N.C. 28802

STATE AND PRIVATE FORESTRY AREAS

State and Private Forestry offices are located in the Regional Headquarters with the exception of the following Areas:
Northeastern Area—S&PF
(Includes States in the Eastern Region—see map)
6816 Market St.,
Upper Darby, Pa. 19082
Southeastern Area—S&PF
(Includes States in the Southern Region—see map)
1720 Peachtree Rd. NW.,
Atlanta, Ga. 30309

[FR Doc.74-9847 Filed 5-1-74;8:45 am]

Forest Service

ROCK CREEK ADVISORY COMMITTEE

Notice of Meeting

The Rock Creek Advisory Committee will meet at 7:00 p.m. on May 21, 1974. Meeting place will be in Drummond, Montana, in the basement of the Catholic Church.

The purpose of this meeting is to discuss transporttaion corridors and needs in the Rock Creek Drainage: (1) The main Rock Creek Road from Gillies Bridge down Rock Creek to the Clark Fork River, and (2) the Skalkaho Road, State secondary from Highway 10A near Philipsburg to Highway 93 in the Bitterroot Valley. There will also be handouts available and a brief discussion of the Forest Service planning program for the Upper Rock Creek Area (the East Fork-Skalkaho Unit).

The meeting will be open to the public. Any member of the public who wishes to do so shall be permitted to file a written statement with the Committee before or after the meeting. To the extent that time permits, the Committee Chairman may permit interested persons to present oral statements at the meeting.

General participation by members of the public, or questioning of Committee members or other participants shall not be permitted unless approved by the majority of Committee members.

Dated: April 25, 1974.

GORDON F. BALLINGER,
Acting Forest Supervisor,
Deerlodge National Forest.

[FR Doc.74-10029 Filed 5-1-74;8:45 am]

RIO GRANDE NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Rio Grande Forest Multiple Use Advisory Committee will meet May 18, 1974 at 1:00 p.m. at the Rio Grande Forest Headquarters, Monte Vista, Colorado.

The purpose of the meeting will be to:

1. Review current Land Use Planning on the Forest and coordination with local Governments through local planning commissions and the Council of Governments.

2. Discuss Sewage and Solid Waste Disposal problems on and adjacent to the National Forest.

3. Proposed dissolution of the Advisory Committee.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor James R. Mathers, Monte Vista, Colorado 81144, telephone 303-852-5941. Public participation is limited to written statements submitted before or after the meeting and as otherwise requested by the Chairman.

This is a rescheduling of the April 27, 1974 meeting, which has been postponed.

JAMES R. MATHERS,
Forest Supervisor.

APRIL 26, 1974.

[FR Doc.74-10030 Filed 5-1-74;8:45 am]

Rural Electrification Administration

COLORADO-UTE ELECTRIC ASSOCIATION, INC.

Tri-State Generation & Transmission Association, Inc., Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for loans in the approximate amount of $217,592,000 to Colorado-Ute Electric Association of Montrose, Colorado, and Tri-State Generation and Transmission Association of Northglenn, Colorado, and (b) supplementing such loans with insured REA loans at 5 percent interest in the amount of approximately $21,845,000 to these cooperatives. These loans would finance the applicants' undivided ownership shares of a project consisting of two 380 MW coal-fired steam generating units near Craig, Colorado, associated transmission facilities of approximately 354 miles of 230 and 345 kV line, and related terminal facilities.

Legally organized lending agencies capable of making, holding and servicing the loans proposed to be guaranteed may obtain information on the proposed project, including engineering and economic feasibility studies and the proposed schedule for the advances to the borrowers of the guaranteed loan funds, from Mr. John J. Bugas, General Manager, Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401 or Mr. Wendell J. Garwood, Executive Vice President, Tri-State Generation and Transmission Association, Inc., P.O. Box 29198, Denver, Colorado 80229.

In order to be considered, proposals must be submitted by May 10, 1974, to Mr. Bugas or Mr. Garwood. The right is reserved to give such consideration and make such evaluations or other dispositions of all proposals received as Colorado-Ute or Tri-State and REA may deem appropriate. Prospective lenders are advised that in view of the Department of Treasury announcement of February 19, 1974, concerning the Federal Financing Bank and the eligibility of REA programs for FFB financing, it is anticipated that financing proposals for this project will be made by the FFB.

The Rural Electrification Administration has published a revision of proposed REA Bulletin 20-22 entitled "Guarantee of Loans for Bulk Power Supply Facilities," which sets forth agency proposed policies and requirements concerning loan guarantees. The text of this proposed revised Bulletin was published for comment in the FEDERAL REGISTER dated January 3, 1974, page 814.

Copies of the proposed revised REA bulletin 20-22 are available from Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 26th day of April, 1974.

DAVID A. HAMIL,
Administrator
Rural Electrification Administration.

[FR Doc.74-10108 Filed 5-1-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

WINTER NAVIGATION BOARD ON GREAT LAKES AND ST. LAWRENCE SEAWAY

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given of a meeting of the Winter Navigation Board to be held on May 13, 1974 at the Sheraton Metro Inn, Romulus, Michigan. The meeting will be in session from 10:00 a.m. to 5:30 p.m.

The Winter Navigation Board is a multi-agency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes and St. Lawrence Seaway navigation season extension investigations being conducted pursuant to Public Law 91-611.

The primary purpose of the meeting is to approve the Interim Report on extending the navigation season on the Great Lakes-St. Lawrence Seaway System. The Interim Report is to be submitted to the Congress on July 30, 1974. The report will discuss activities and accomplishments of the first three years of the Demonstration Program and Survey Study being carried out on the Great Lakes-St. Lawrence Seaway System.

The meeting will be open to the public subject to the following limitations:

a. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements may be submitted prior to, or up to 10 days following the meeting, but oral participation by the public is precluded because of the time schedule.

Inquiries may be addressed to Mr. David Westheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231, telephone 313-226-6769.

By authority of the Secretary of the Army.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.74-10034 Filed 5-1-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MARATHON PIPELINE CO.

Notice of Pipeline Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company has applied for a right-of-way for an oil and other synthetic liquid fuels pipeline, and related facilities, in the following townships:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 11 N., R. 92 W.,
Tps. 10 and 11 N., R. 93 W.;
Tps. 9 and 10 N., R. 94 W.
T. 8 N., R. 95 W.
T. 7 N., R. 9 W.,
Tps. 6 and 7 N., R. 97 W.
T. 5 N., R. 98 W.
T. 4 N., R. 99 W.
T. 3 N., Rs. 100, 101, 102, 103 and 104 W.

SALT LAKE MERIDIAN, UTAH

T. 5 S., Rs. 19, 20, 21, 22 and 23 E.
T. 6 S., Rs. 23, 24 and 25 E.
T. 7 S., R. 25 E.

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 33 N., R. 81 W.
T. 32 N., R. 82 W.
T. 31 N., R. 83 W.
T. 31 N., 9. 84 W.,
Tps. 28, 29 and 30 N., R. 85 W;
Tps. 26, 27 and 28 N., R. 86 W.;
Tps. 25 and 26 N., R. 87 W.;
Tps. 24 and 25 N., R. 88 W.;
Tps. 23 and 24 N., R. 89 W.;
Tps. 22 and 23 N., R. 90 W.;
Tps. 12, 13, 15, 16, 21 and 22 N., R. 91 W.;
Tps. 13, 14, 15, 16, 17, 18, 19 and 20 N., R. 92 W.

The pipeline will convey oil and other synthetic liquid fuels from the Uintah Basin in Utah to Casper, Wyoming, via Elk Springs, Colorado.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10028 Filed 5-1-74;8:45 am]

NATIONAL ADVISORY BOARD COUNCIL

Notice of Meeting

Notice is hereby given that the National Advisory Board Council of the Bureau of Land Management will meet at the Sheraton Inn, Los Angeles, California International Airport, May 18-20, 1974. The first day of the meeting will be devoted to presentations and discussions on the following topics: Director's review and forecast of Bureau programs, and issues and topics for which advice will be sought from the National Advisory Board Council; the role and operation of the Council under the Federal Advisory Committee Act; energy programs and problems as they relate to the national resource lands and Outer Continental Shelf; a slide-map program on the oil shale resources of Northwest Colorado; and, a slide-map program on the Bureau's California Desert program. Additionally, committees will be formed, topics assigned, and committee efforts begun.

The second day of the meeting, May 19, will involve a field trip to selected public-use areas of the California Desert in Mojave and Imperial Counties. Members of the public wishing to participate in the field trip will have to furnish their own transportation. May 20, the final day of the meeting, will be devoted entirely to committee work and a business meeting which will include the election of a Chairman and Vice-Chairman and action on any recommendations the committees may make on assigned topics.

The proposed committees of the National Advisory Board Council and

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topics for their consideration at the meeting are as follows:

1. Environmental Protection:
a. Primitive area program.
b. Visitor management.
2. Public Land Uses:
a. Proposed environmental impact statement for the livestock management program.
b. Criteria for utility corridors.
3. Resource Management:
a. Wild horses and burros as an element of multiple use management.
b. Criteria for a land tenure program.
4. Programs and Council Operations:
a. Flow of information to Council members.
b. Relations with other advisory boards.
c. Standing, ad hoc, and between-session committees.
d. Program format, themes, and methods.
e. Disposition of remaining funds.

The meeting will be open to the public. Time will be made available the afternoon of May 18 for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Director (230), Bureau of Land Management, Washington, D.C. 20240, by close of business May 13, 1974. Any interested person may file a written statement with the Council for its consideration. Such statements may be submitted at the meeting or mailed to the Director (230), Bureau of Land Management, Washington, D.C. 20240. Further information concerning the meeting may be obtained from Mr. Jerry D. Harrell, Public Affairs Officer, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. His phone is (916) 484-4724.

CURT BERKLUND,
Director.

APRIL 25, 1974.

[FR Doc.74-10026 Filed 5-1-74;8:45 am]

[Wyoming 45381]

COLORADO INTERSTATE CORP.

Pipeline Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Corporation has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 100 W.,
Sec. 12, E½NE¼ and NE¼SE¼.

The pipeline will serve the Ten Mile Draw Unit 4 well in sec. 33, T. 21 N., R. 99 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10027 Filed 5-1-74;8:45 am]

Bureau of Land Management

[Bureau Order No. 701, Amdt. No. 18]

LANDS AND RESOURCES

Redelegation of Authority

Bureau Order No. 701, dated July 23, 1964, is further amended as follows:

PART III—REDELEGATION TO DISTRICT MANAGERS

. . . . . .

SEC. 3.6 *Minerals.*

. . . . . .

(n) *Geothermal Resource Leases.* Take all actions involving geothermal resource exploration operations as provided in 43 CFR Subpart 3209.

GEORGE L. TURCOTT,
Associate Director.

APRIL 26, 1974.

[FR Doc.74-10031 Filed 5-1-74;8:45 am]

[New Mexico 21310, 21353, and 21354]

EL PASO NATURAL GAS CO.

Pipeline Applications

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company has applied for three 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 11, N½SE¼, NE¼SW¼.
T. 25 S., R. 24 E.,
Sec. 21, E½SW¼;
Sec. 28, E½W½.

These pipelines will convey natural gas across 1.894 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10067 Filed 5-1-74;8:45 am]

[New Mexico 21058]

TRANSWESTERN PIPELINE CO.

Pipeline Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Transwestern Pipeline Company has applied for a 6 inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 30 E.,
Sec. 20, SW¼SE¼, SE¼SW¼;
Sec. 29, N½NW¼.

This pipeline will convey natural gas across .63 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10068 Filed 5-1-74;8:45 am]

[New Mexico 21030]

SOUTHERN UNION GAS CO.

Compressor Station Site Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southern Union Gas Company has applied for a natural gas compressor station site right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 15 N., R. 1 W.,
Sec. 33, N½SE¼.

This right-of-way is for construction of a natural gas compressor station site and will cover 5.0 acres of national resource lands in Sandoval County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10069 Filed 5-1-74;8:45 am]

[OR 11113]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

APRIL 26, 1974.

The Bureau of Land Management, Department of the Interior, has filed an application, Serial No. OR 11113, for the withdrawal of public land described below, from all forms of appropriation under public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws.

The applicant desires to have the area withdrawn as the Hunter Creek Bog, for the purpose of establishing a research natural area.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than June 1, 1974, to the undersigned officer of the Bureau of Land Management, Department of the Interior, (729 N.E. Oregon St.), P.O. Box 2965, Portland, Oregon 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing potential demand for the land and its resources.

After receipt of comments from interested parties, he will prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the Bureau of Land Management.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WILLAMETTE MERIDIAN

T. 37 S., R. 14 W.,
Sec. 13, SE¼.

The area described contains 160 acres, in Curry County, Oregon.

MARVIN D. LENOUE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10070 Filed 5-1-74;8:45 am]

NEW MEXICO GRAZING DISTRICT 3 ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Advisory Board for the Las Cruces, New Mexico Grazing District will hold a meeting and field tour on June 5-6, 1974. The business meeting will start at 1:00 p.m., June 5 at the Ramada Inn, Highway 70-80 East, Deming, New Mexico. The agenda for the meeting will include consideration of BLM's general land exchange policy, a temporary office in Lordsburg, term permits, grazing fees, predator control, acreages withdrawn from grazing privileges for experimental purposes, procedures for making up future agendas, and a preview of the field tour. The meeting will be open to the public.

On June 6 the Board will tour the Phelps-Dodge developments under construction in the Playas Valley and vicinity to observe present and potential impacts upon national resource lands in that area. The tour will leave the Ramada Inn in Deming at 7:30 a.m. and return to Deming about 4:30 p.m. Members of the public who wish to attend must provide their own transportation.

Requests for information about the meeting or field tour should be directed to BLM District Manager, P.O. Box 1420, 1705 North Valley Drive, Las Cruces, New Mexico 88001.

W. K. BARKER,
District Manager.

APRIL 25, 1974.

[FR Doc.74-10071 Filed 5-1-74;8:45 am]

Bureau of Mines

DIRECTOR ET AL.

Redelegation of Authority for Research and Development Contracts and Grants

Bureau of Mines delegations of authority with respect to entering into contracts and making grants, issued June 17, 1971 (36 FR 11674), are revised as set forth below. The numbering system is that of the Bureau of Mines Manual. This document announces the following changes:

Officials in the Eastern Administrative Office, having acquired the capability to enter into and administer research and development contracts, are redelegated the contractual authority of the Director, Bureau of Mines in a limited amount.

Since funds were authorized under the Resource Recovery Act of 1970 (formerly the Solid Waste Disposal Act of October 20, 1965) only through fiscal year ending June 30, 1973, authority formerly redelegated under this Act is terminated.

The revised text in section 215.9 was necessitated by Secretarial Order No. 2953 which established within the Department of the Interior the Mining Enforcement and Safety Administration (MESA) and made it responsible for administering certain functions under the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173; 30 U.S.C. 801-960) and the Federal Metal and Nonmetallic Mine Safety Act (Pub. L. 89-577; (30 U.S.C. 721-740)) Section 14 of the Order reassigned to the Director, Bureau of Mines and the Administrator, Mining Enforcement and Safety Administration those delegations of authority affected by transfer of program responsibility or abolishment of positions.

RESEARCH CONTRACTS AND GRANTS

SEC. 215.2.1. *Research Contracts.* The Director of the Bureau of Mines may enter into scientific and technological research contracts pursuant to Public Law 89-672 and, with respect to any such contract involving $25,000 or less, may make the determinations specified in paragraph (11), subsection (c) of section 302 of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. sec. 252(c)(11)).

SEC. 215.2.4. *Grants.* With respect to problems related to the programs of the Bureau authorized by statute, the Director of the Bureau of Mines may make grants for the support of basic scientific research to nonprofit institutions of higher education or to nonprofit organizations whose primary purpose is the conduct of scientific research pursuant to 42 U.S.C. secs. 1891 and 1892.

SEC. 215.2.5. *Redelegation.* The authorities granted in section 215.2.1 and 215.2.4 above are redelegated to the following officials:

Deputy Director—Mineral Resources and Environmental Development
Assistant Director—Administration
Chief, Division of Procurement and Property Management

And in amounts not to exceed $500,000;

Chief, Branch of Contracts and Grants
Chief, Western Administrative Office
Chief, Branch of Procurement and Property Operations, Western Administrative Office
Chief, Eastern Administrative Office
Chief, Branch of Procurement and Property Management, Eastern Administrative Office

These authorities may not be redelegated.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

SEC. 215.9.1. *Delegation of Authority.* Except as provided in 200 DM 1, the Director, Bureau of Mines is authorized to exercise, subject to regulations issued by the Secretary of the Interior, the authority of the Secretary under the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173; 30 U.S.C. 801-960) with respect to:

A. The initiation of research for the purposes of subsection (c) of section 101 and subsection (b) of section 301 of the Act; and

B. Studies, research, experiments, demonstrations, and the making of grants and contracts under section 501 of the Act, except that the Director shall not make a contract or grant for work which would require an exception to any mandatory standard unless the Administrator, Mining Enforcement and Safety Administration, has first granted an exception for that purpose.

SEC. 215.9.2. *Redelegation of Authority.* In the initiation of research for the purposes of subsections 101(c) and 301(b); and in carrying out the provisions for research, demonstrations, experiments, and studies under section 501 of the Act, the authority of the Director to enter into contracts with, and make grants to, public and private agencies and organizations and individuals is redelegated to the following officials:

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Assistant Director—Administration
Chief, Division of Procurement and Property Management

And in amounts not to exceed $500,000:

Chief, Branch of Contracts and Grants
Chief, Western Administrative Office
Chief, Branch of Procurement and Property Operations, Western Administrative Office
Chief, Eastern Administrative Office
Chief, Branch of Procurement and Property Management, Eastern Administrative Office

These authorities may not be redelegated.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

APRIL 26, 1974.

[FR Doc.74-10033 Filed 5-1-74;8:45 am]

National Park Service

[Int Des 74-47]

PROPOSED KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK, ALASKA

Notice of Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed Klondike Gold Rush National Historical Park, Alaska.

The statement considers the establishment, management, and use of the proposed park.

Written comments on the environmental statement are invited and will be accepted for a period of forty-five (45) days following publication of this notice. Comments should be addressed to the Regional Director, Pacific Northwest Region, National Park Service, at the address given below.

Copies are available from or for inspection at the following locations:

Pacific Northwest Region, National Park Service, Fourth and Pike Bldg., Seattle, Wash. 98101.

Alaska State Office, National Park Service, Suite 250, 334 West Fifth Avenue, Anchorage, Alaska 99501.

Juneau Office, National Park Service, Federal Bldg., Room 602, Juneau, Alaska 99801.

Dated: April 25, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-10304 Filed 5-1-74;11:31 am]

DEPARTMENT OF HEALTH EDUCATION, AND WELFARE

Food and Drug Administration

PANEL ON REVIEW OF ALLERGENIC EXTRACTS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
Panel on Review of Allergenic Extracts.	May 24, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md.	Open 9 a.m. to 10 a.m., closed after 10 a.m. Clay Sisk, Room 220, Bldg. 29, 9000 Rockville Pike, Bethesda, Md. 20014, 301-496-2883.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products consisting of products or materials, either singly or in combination, that are administered to man for the diagnosis, prevention, or treatment of allergies and allergic diseases.

Agenda. Open session: Panel orientation; introductory session; and panel organizational matters. Closed session: General review of data submitted and assignments to panel members.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full

public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: April 26, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74-10048 Filed 5-1-74;8:45 am]

[Docket FDC-D-123; NDA Nos. 8-986 and 10-144]

HYNSON, WESTCOTT, AND DUNNING, INC.

Lutrexin and Trexinest; Notice of Hearing

In the FEDERAL REGISTER of March 22, 1969 (34 FR 5556), the Commissioner of Food and Drugs issued a notice of opportunity for hearing on a proposal to withdraw approval of the new drug applications for Lutrexin Tablets, NDA 8-986, and Trexinest Tablets, NDA 10-144. The grounds for such proposed withdrawal were the Commissioner's conclusion that the drugs lacked substantial evidence of effectiveness for use under the conditions of use prescribed, recommended, or suggested in their labeling. By letter of April 18, 1969, Hynson, Westcott & Dunning, Inc., holder of the NDA's, requested a public hearing on the proposed withdrawal, and in addition asserted that the drugs were no longer new drugs within the meaning of 21 U.S.C. 321(p).

By letter of May 19, 1970, the Commissioner advised Hynson, Westcott & Dunning of the promulgation of new regulations governing requests for a hearing and defining the basic standards of adequate and well-controlled clinical studies which could be considered substantial evidence of effectiveness, then codified at 21 CFR 130.14 and 130.12(a)(5) (recodified as 21 CFR 314.200 and 314.111(a)(5) in the FEDERAL REGISTER of March 29, 1974 (39 FR 11718)), respectively. The Commissioner advised Hynson to amend its request for a hearing to conform to these regulations. On October 16, 1970, subsequent to the dismissal of "Hynson, Westcott & Dunning v. Finch," No. 21112, D. Md., 1970 (a suit in which the firm sought a declaratory judgment that Lutrexin and Trexinest were not subject to the new drug requirements), the firm submitted affidavits of physicians and literature references in support of its contention that there is substantial evidence of effectiveness of Lutrexin and Trexinest and that the products are not new drugs.

After reviewing the submitted material, the Commissioner concluded that no genuine and substantial issue of fact existed requiring a hearing, and therefore entered an order, published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11763), denying a hearing and withdrawing approval of the NDA's for Lutrexin and Trexinest. Hynson, Westcott & Dunning sought review of this order in the United States Court of Appeals for the Fourth Circuit, which vacated the order, holding that withdrawal of approval of the NDA's without a hearing was error. "Hynson, Westcott & Dunning v. Richardson," 461 F. 2d 215 (C.A. 4, 1972). The Supreme Court granted a writ of certiorari, and on June 18, 1973, issued an opinion in which it specifically upheld the validity of the Food and Drug Administration's summary judgment procedures for withdrawal of NDA's and the regulations setting forth criteria for an adequate and well-controlled clinical study. "Weinberger v. Hynson, Westcott & Dunning," 412 U.S. 609 (1973). However, a "majority [of the Court] were of the view that the submission [of Hynson] was sufficient to warrant a hearing" (412 U.S. at 623), and therefore the Court affirmed the Court of Appeals on this issue. The Court held that Lutrexin was not entitled to "grandfather" protection by virtue of section 107(c)(4) of the Drug Amendments of 1962, since it was covered by an effective NDA as of October 9, 1962, the effective date of the Amendments which required proof of efficacy for all new drugs.

With respect to the new drug issue, the Court held that the Food and Drug Administration has jurisdiction to determine the new drug status of a product as a part of or independent of proceedings to withdraw approval of an NDA. The Court specifically held, in determining new drug status, that "the hurdle of 'general recognition' of effectiveness requires at least 'substantial evidence' of effectiveness for approval of an NDA. In the absence of any evidence of adequate and well-controlled investigation supporting the efficacy of Lutrexin, a fortiori Lutrexin would be a 'new drug' subject to the provisions of the act." 412 U.S. at 629-30. Since the Court held that a hearing was necessary to determine the "substantial evidence" issue, the Court stated that "[c]onsequently, any ruling as to Lutrexin's 'new drug' status is premature and must await the outcome of the hearing." 412 U.S. at 632.

Hynson, Westcott & Dunning has not submitted any data in support of the effectiveness of Lutrexin and Trexinest since its submission of October 16, 1970, and the Commissioner concludes that there remains a lack of substantial evidence of the effectiveness of these drugs and that the NDA's should be withdrawn pursuant to 21 U.S.C. 355(e).

Therefore, pursuant to the decision of the Supreme Court and in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (section 505(e)) and § 314.200(g) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,*

1. That a public hearing be held to receive evidence on the issue of whether NDA 8-986 (Lutrexin) and NDA 10-144 (Trexinest) should be withdrawn under the provisions of 21 U.S.C. 355(e).

2. That the specific issues to be determined at such hearing are as follows:

a. Whether there exists substantial evidence of the effectiveness of Lutrexin and Trexinest for the conditions of use prescribed, recommended, or suggested in their labeling, i.e., whether there exist adequate and well-controlled clinical studies, as defined by 21 CFR 314.111(a)(5), on the basis of which it could fairly and responsibly be concluded by experts, qualified by scientific training and experience to evaluate the drugs, that the drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

b. Whether, in addition, with respect to Trexinest tablets, the drug complies with the requirements of 21 CFR 3.86 relating to fixed combination drugs, specifically, whether there exists substantial evidence, as defined above, that each component of Trexinest contributes to the claimed effect of the drug, and that the dosage of each component is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy, as defined in the labeling of the drug.

The Commissioner concludes that the only issue to be determined at the hearing is the existence of substantial evidence as outlined above. If, following the hearing, the Commissioner concludes that there is substantial evidence of the effectiveness of Lutrexin and Trexinest, the Commissioner will then consider whether a further hearing is necessary, if requested, to determine whether the products are new drugs, i.e., whether the effectiveness and safety of the drugs are generally recognized among qualified experts. If the Commissioner concludes that substantial evidence of effectiveness is lacking, then a fortiori Lutrexin and Trexinest would be new drugs. "Weinberger v. Hynson, Westcott & Dunning, Inc.," 412 U.S. at 629-30.

The hearing shall take place in Hearing Room 4A-35, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. The presiding administrative law judge shall be Irving Sommer. The hearing shall convene on June 17, 1974 at 9:30 a.m. Written appearances must be filed with the Hearing Clerk, Food and Drug Administration, Room 6-86,

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5600 Fishers Lane, Rockville, MD 20852, not later than May 13, 1974.

Elsewhere in this issue of the FEDERAL REGISTER is a notice of Prehearing Conference, issued by Judge Sommer, setting the prehearing conference for Wednesday, May 15, 1974, at 10:00 a.m. At the Prehearing Conference the Bureau of Drugs will move for an order requiring the advance submission of all documentary evidence to be offered at the hearing pursuant to 21 CFR 314.204 and 314.220. Such submission to occur no later than May 31, 1974.

The hearing will be open to the public. Since only Hynson, Westcott & Dunning requested a hearing, it is the only person who may file appearance as a party. Any interested person, not a party, may appear at and participate in the hearing and shall have the right to present evidence and file pleadings relevant to the issues, so long as an appearance is filed by any such person not later than May 13, 1974.

Dated: April 30, 1974

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10299 Filed 5-1-74;11:55 am]

[Docket FDC-D-123; NDA Nos. 8-986 and 10-144]

HYNSON, WESTCOTT, AND DUNNING, INC.

Lutrexin and Trexinest; Notice of Prehearing Conference

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs has ordered that a public hearing be held in this matter.

Pursuant to § 314.204 (21 CFR 314.204) (formerly § 130.18, recodified in the FEDERAL REGISTER of March 29, 1974 (39 FR 11718)), a prehearing conference for the purposes of simplification of the issues; the possibility of obtaining stipulations, admissions of facts, and documents; the limitation of the number of expert witnesses; the scheduling of witnesses to be called; the advance submission of all documentary evidence; and such other matters as may aid in the disposition of this proceeding will be held in Room 4A-35, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, beginning at 10:00 a.m. on Wednesday, May 15, 1974.

Dated: April 30, 1974.

IRVING SOMMER,
Administrative Law Judge.

[FR Doc.74-10300 Filed 5-1-74;11:55 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION (FULL COUNCIL)

Notice of Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the National Advisory Council on Indian Education (Full Council) will be held on May 11 and 12, 1974, from 9:00 a.m. to 5:00 p.m. (with planning and work session May 10, 1974) at Tamanaca Motel, 1725 Tulane Avenue, New Orleans, La.

The National Advisory Council on Indian Education is established under Section 401 of the Indian Education Act (Pub. L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under Section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The proposed agenda includes:

1. Review of Title IV, Part A proposals.
2. Evaluating and planning for NACIE's role in adjusting to program changes.
3. Regular Council business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Room 326, Washington, D.C. 20004.

Signed at Washington, D.C. on April 25, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74-10051 Filed 5-1-74;8:45 am]

OFFICE OF EDUCATION

Statement of Organization, Functions and Delegations of Authority

Part 2 (Office of Education) Section 2-B, Organization and Functions, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended as follows:

The statement immediately following the Office of Management is hereby amended to read as follows:

OFFICE OF MANAGEMENT

The Office of Management plans, directs and coordinates the activities of all segments of the Office having to do with management planning and evaluation, administrative and business management and operation and management of a program of low interest long-term insured loans for college and vocational students.

The following statement is added immediately following the statement for the Office of Management, Management Systems and Analysis Division:

OFFICE OF GUARANTEED STUDENT LOANS

The Office of Guaranteed Student Loans plans, directs and evaluates all administrative activities associated with the operation and management of a program of low interest long-term insured loans for college and vocational students under which loans made by commercial and other lenders are insured (or reinsured) by the Federal Government and insured by State and nonprofit private agencies. Provides for payments to reduce interest costs to student borrowers and payments of special incentive allowances to lenders including payment of claims on insured loans.

The statement under the heading Bureau of Postsecondary Education, Office of Student Assistance, Division of Insured Loans is deleted in its entirety.

Dated: April 25, 1974.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74-10092 Filed 5-1-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-191; FDAA-422-DR]

ALABAMA

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Alabama, dated April 4, 1974, and amended April 5, 1974, is hereby further amended to include the following counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 4, 1974:

The counties of:

Cleburne Etowah

Dated: April 26, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.74-10104 Filed 5-1-74;8:45 am]

[Docket No. NFD-189; FDAA-430-DR]

MISSISSIPPI

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Mississippi, dated April 16, 1974, and amended April 20, 1974, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 18, 1974.

The counties of:

Adams	Neshoba
Copiah	Newton
George	Pearl River
Jasper	Pike
Jefferson	Rankin
Kemper	

Dated: April 26, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

[FR Doc.74-10095 Filed 5-1-74;8:45 am]

[Docket No. NFD-190; FDAA-431-DR]

WISCONSIN

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11749 of December 10, 1973; and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on April 26, 1974, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Wisconsin resulting from tornadoes, occurring on April 21, 1974, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Wisconsin. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11749, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238, to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert E. Connor, HUD Region 5, to act as the Federal Coordinating Officer to perform the duties specified by Section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Wisconsin to have been adversely affected by this declared major disaster:

The Counties of:

Dodge	Sheboygan
Fond du Lac	Winnebago

This disaster has been designated as FDAA-431-DR.

Dated: April 26, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.74-10096 Filed 5-1-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74-120]

ILLINOIS CENTRAL GULF RAILROAD BRIDGE AND ILLINOIS RIVER, MILE 43.2

Proposed Bridge Alteration; Hearing

Notice is hereby given that a public hearing regarding the Illinois Central Gulf Railroad bridge across the Illinois River, at mile 43.2, will be held on Friday, 7 June 1974, at 10:00 a.m. in Room 1612, Federal Building, 1520 Market Street, St. Louis Missouri 63103. This hearing is being held under the authority of section 3 of the Act of June 21, 1940 (Truman-Hobbs Act) 54 Stat. 498 (33 U.S.C. 513); sec. 4(f), 80 Stat. 934, as amended (49 U.S.C. 1653(f)); sec. 6(g)(3), 80 Stat. 937 (49 U.S.C. 1655(g)(3)); 33 CFR 116.20. and 49 CFR 1.46(c)(6).

The existing bridge, which has a swing span, provides approximately 120 feet of horizontal clearance in each of the two draws when measured normal to the channel axis. A number of complaints have been received alleging that the bridge is unreasonably obstructive to navigation. The purpose of the hearing is to determine whether alteration is needed and if so, what alteration is required having due regard for the necessity of free and unobstructed navigation upon the river. The needs of rail traffic will also be considered.

Public comments, views, and data are required for ascertaining whether the bridge unreasonably obstructs navigation, whether vessels have unreasonable difficulty in passing through the bridge, the changes necessary to render navigation through or under the bridge reasonably free, easy and unobstructed, the character and amount of commerce affected, whether the commerce affected is sufficient to justify alteration of the bridge, and the impact of the alteration, if made, upon the quality of the human environment.

Any person who wishes to appear and be heard at this Public Hearing may do so. Persons planning to appear and be heard are requested to notify the Commander, Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, Missouri 63103, anytime prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Limitations of time allocated, if required, will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of, or in addition to oral statements, and will be made a part of the record of the hearing. Such written statements and exhibits may be delivered at the hearing or mailed in advance to Commander, Second Coast Guard District.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

APRIL 26, 1974.

[FR Doc.74-10036 Filed 5-1-74;8:45 am]

ATOMIC ENERGY COMMISSION

[License No. 29-08449-03E]

ELECTRONS CO.

Issuance of Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to § 32.26 of 10 CFR Part 32, issued License No. 29-08449-03E to Electrons Company, 65 Passaic Avenue, Fairfield, New Jersey 07006, which authorizes the distribution of Model 101 fire detectors to persons exempt from the requirements for a license pursuant to § 32.20 of 10 CFR Part 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of the detector is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium 241.

2. The byproduct material incorporated in the detector is americium in the oxide form contained in foils manufactured by Nuclear Radiation Developments (Model A-001) or by Amersham/Searle (Model AMM W862). The nominal activity contained in the unit is 3.5 microcuries but the maximum activity is 4.0 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (Electrons Company) and the byproduct material (americium 241) contained in the unit and recommending that the unit be returned to Electrons Company for repair or disposal.

A copy of the license and the license application containing additional information are available for public inspec-

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tion at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland April 20, 1974.

For the Atomic Energy Commission.

BERNARD SINGER,
Chief, Materials Branch,
Directorate of Licensing.

[FR Doc.74-9586 Filed 5-1-74;8:45 am]

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Notice Reconvening Evidentiary Hearing

In the matter of Niagara Mohawk Power Corporation, (Nine Mile Point, Unit 2).

Notice is hereby given that the evidentiary hearing in the above captioned proceeding will be reconvened to receive further evidence on the need for power issue at 9:30 a.m., Thursday, May 2, 1974 in the Atomic Safety and Licensing Board Panel Hearing Room, 12th floor, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

Dated this 26th day of April, 1974 at Washington, D.C.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74-10007 Filed 5-1-74;8:45 am]

[Docket No. RM-50-2]

EFFLUENTS FROM LIGHT-WATER COOLED NUCLEAR POWER REACTORS

Hearing

The Commission has determined to hear oral argument in the above-entitled matter on May 21, 1974. The argument will commence at 10:00 a.m.

While participants may present oral argument on any aspect of the proceedings, the Commission is particularly interested in participants' views as to the following matters:

1. Cost-benefit considerations of the rule proposed by the staff in its Concluding Statement dated February 20, 1974, including any necessary backfitting.

2. The need for specific Commission guidance concerning application of Appendix I.

3. Application of standards on a site basis, as opposed to a reactor basis, for gaseous releases.

4. Assumptions underlying the staff's models for calculating doses to individuals from the food pathway.

Any participants who wish to present oral argument to the Commission, and have not submitted a request to date, shall notify the Secretary in writing on or before May 6, 1974. Requests received after that date will not be considered. The Commission may group participants with substantially like interests and may direct that such groups make a single presentation.

The Secretary will notify participants who file timely requests to present oral argument of the place for the argument, the order of presentation, the time allotted, and other procedural details.

It is so ordered.

Dated at Germantown, Maryland this 29th day of April, 1974.

By the Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-10283 Filed 5-1-74;11:15 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26546, et al; Order No. 74-4-154]

THE FLYING TIGER LINE INC.

Increased Air Freight Rates; Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of April, 1974.

By tariff revisions bearing a posting date of March 15 and marked to become effective May 1, 1974, The Flying Tiger Line Inc. (Tiger) proposes to increase its domestic air freight rates as follows:

1. Most bulk minimum charges by $1.00;
2. General commodity bulk and container rates for markets, 1,000 miles and under in both directions by 12 percent;
3. Westbound general commodity bulk and container rates for mileages 1,001 through 1,800 by 8 percent—eastbound rates for the same mileages by 12 percent;
4. Eastbound general commodity bulk and container rates over 1,800 miles by 10 percent;
5. Westbound general commodity bulk and container rates over 1,800 miles by 5 percent; and
6. Eastbound and westbound specific commodity rates, with certain exceptions, by 10 percent.

Overall, Tiger is proposing a general commodity rate scale essentially based on rates in effect prior to January 31, 1974, increased by its rates effective on that date and by the rates currently proposed, and adjusted for long-haul/short-haul and eastbound-westbound discrepancies. The carrier asserts that the scale is a significant step toward rationalization of the domestic structure by increasing unjustifiably low rates and eliminating discrimination between markets.

Complaints requesting suspension pending investigation were received from Omark Industries and Tektronix, Inc., both located in Oregon, manufacturers of various types of machinery and metal products. The complaints are directed against proposed increases in specific commodity rates on those products. They variously assert, inter alia, that the complainants are shippers of a significant volume of air freight based on rates negotiated with the airlines; that operating procedures have been established upon the basis of air transport; that the proposed rate increases on top of those recently effected will be excessive, amounting to as much as 21 percent; and that these increases will be very burdensome and will divert the traffic to surface transportation.

In support of its proposal, and in answer to the complaints, Tiger asserts, inter alia, that the increases are necessary to recover increases in fuel costs in spite of improved operating efficiencies, and to implement needed rate structure revisions; that based on a restatement of 1973 operations, at current fuel prices, the proposal would increase annual revenues by $5.2 million and result in a return on investment of 7.4 percent; that without the proposed increase, return on investment would be only 2.3 percent; that in formulating its proposal the carrier was guided by recent Board decisions indicating a preference on the part of the Board for carriers to propose a change in the domestic rate structure; that Tiger has utilized its costing methodology in Docket 22859 adjusted for recent increases in the price of fuel and terminal handling costs; and that neither complainant has substantiated its claim that it cannot afford to pay the increased rates.

Tiger also states that the Board's rate standards, under which rates exceeding the costing formula of the Bureau of Economics for use in the Domestic Air Freight Rate Investigation were suspended, makes it impossible for it to obtain the Board-approved rate of return; that the reason for this is that the Board's standards, limiting the westbound increases would force Tiger to increase eastbound specific commodity rates by very high percentages, which would significantly reduce the volume of traffic; that Tiger's proposal would be consistent with the Board's decision in Phase 9 of the Domestic Passenger-Fare Investigation, in which the Board recognized that coach fares may exceed unit costs, at least for an interim period, but that the Board's freight policies have been completely different by making costs a ceiling for freight rates, and the different increases proposed in general and specific commodity rates by direction, etc., and the variations in the relationship of various rates to costs reflect value-of-service considerations; and that fuel cost increases should properly result in increasing long-haul rates more than short-haul rates.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposals or to permit them to become effective pending investigation.

Tiger has made a showing of increased costs. The Board is aware of the unprecedented hikes in fuel prices in the past several months and believes that increases in rates and charges are warranted to help offset these increased costs. We are also giving weight to the sharp rises in fuel prices occurring most recently.

In our opinion, Tiger has, however, overstated the extent of fuel cost increases in determining its revenue needs.

In its justification, Tiger claims that its fuel price for domestic operations rose by 122.6 percent between a period representing an "average" six-month period for 1973 and March 1, 1974. This percentage of increase was the weighted average of the price increase of 81.5 percent for domestic fuel, and 455.4 percent for international fuel. The weighting factors, in Tiger's formulation, were (1) the 11 percent of total domestic aircraft miles for the 12 months ended June 30, 1973, that was accounted for by domestic legs of international flights for which Tiger allegedly was forced to use bonded international fuel; and (2) the 89 percent that was accounted for by purely domestic aircraft miles.

It appears, however, that the foregoing method saddles domestic rates, to a certain extent, with the sharply increased fuel costs that should be borne chiefly by international traffic. Furthermore, Tiger offers no justification for basing its current proposal in part on the relatively high prices for international fuel as of March 1, 1974. The current volatile situation in fuel supply and prices does not permit any firm basis for long-range forecasting on these factors.

In our opinion, the valid costs for the purpose of evaluating the rates proposed by Tiger, as well as by other carriers, are industry average costs, based upon both all-cargo and combination aircraft, although we agree with Tiger that those costs should reflect the most recent increases in the costs of fuel as well as in other items. We are thus evaluating Tiger's rates upon the basis of industry average costs, thus increased, which result in higher increases for longer hauls than for shorter hauls.

With respect to Tiger's statement that limiting increases for long hauls has forced it to increase unduly eastbound specific commodity rates, we believe that, whereas there is a place for value-of-service as expressed in discount rates for promotional purposes, such rates should not require compensating increases in standard rates above costs. In fact, the only valid rationale for discount rates is such additional support for the overall operation as to permit a reduction in standard rates, or to reduce the pressures for increases in such rates.

In the foregoing circumstances, and upon consideration of the complaints and all other relevant factors, the Board finds that the proposal, generally to the extent it applies to the following rates, should be suspended (see Appendix A[1] for a complete listing of the markets in which the proposed rates are suspended):

1. Eastbound and westbound 100-pound bulk general commodity rates for distances up to 1,000 miles and 200-pound rates 851-1,000 miles;
2. Westbound bulk general commodity rates for markets with lengths of haul 1,001 miles and over in all weight-breaks;
3. Eastbound bulk general commodity rates at the 100-pound weightbreak for markets with lengths of haul 1,251-1,400, 1,551-1,850, and 2,101-2,750 miles;
4. Eastbound bulk general commodity rates at the 200-pound weightbreak, all markets;
5. Eastbound bulk general commodity rates at the 1,000-pound weight-break for markets 1,151-1,500 and 1,701 miles and over.
6. Eastbound bulk general commodity rates at the 2,000-pound weightbreak, 1,151-1,450, and 2,101 miles and over;
7. Eastbound and westbound general commodity Type D container rates and charges for markets over 700 miles;
8. All other container rates and charges in westbound markets over 1,200 miles; and
9. Bulk rates on human remains at all distances.

The remainder of Tiger's proposal appears sufficiently related to costs that the Board will permit it to become effective. While the complainants have incurred substantial increases in their rates during recent months, their rates do not exceed the rates for general commodities and are below costs according to data available to the Board.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly Sections 204(a) and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendix A hereto are suspended and their use deferred to and including July 29, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaints of Tektronix, Inc., in Docket 26546 and Omark Industries in Docket 26559 are dismissed; and

3. Copies of this order shall be filed with the tariffs and served upon The Flying Tiger Line Inc., as well as upon Tektronix, Inc. and Omark Industries.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10080 Filed 5-1-74;8:45 am]

[Docket No. 25280, et al.; Order No. 74-4-145]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of April 1974.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted by mail vote.

The agreement would revise the application and level of currently effective "negative surcharges" on passenger fares sold in local currency for transportation from certain European countries to various Western Hemisphere points. The negative surcharges on normal and excursion fares in economy-class service, which presently apply only to winter and shoulder-season fares, would now be extended to include peak-season travel. Insofar as adjustments to levels are concerned, the agreement will affect transportation from Europe to United States West Coast points by reducing the negative surcharges on normal economy fares from Austria, Belgium, Germany and the Netherlands from nine, five, thirteen, and nine percent, respectively, to eight, three, twelve and seven percent. For first-class fares, the present fourteen percent negative surcharge from Germany to the U.S. West Coast is proposed to be reduced to twelve percent.

Negative surcharges on European-originating transatlantic fares were originally adopted at conferences held in Nice and Monaco in September/October 1973, and are intended to alleviate inequities resulting from application of IATA currency conversion rules for the calculation of local currency fares for European-originating transportation. All IATA transatlantic passenger fares are specified in terms of U.S. dollars. Adjustments to account for the second (February 1973) dollar devaluation have generaly been accomplished through positive or negative surcharges on local currency fares, which are derived by conversion from the specified basic (dollar) fares using rates of exchange set forth in IATA Resolution 021b. In European countries whose currencies have appreciated in value relative to the dollar, the 021b conversion rates, which reflect pre-devaluation parities, result in unrealistically high local currency fares if negative surcharges are not applied. These negative surcharges, which have been approved by the Board in the interest of establishing a practical stability in air transportation pricing and more realistic currency conversion relationships, are now proposed to be adjusted to reflect more recent developments in exchange markets. We will herein approve the subject agreement, as the Board believes that IATA resolutions which adjust fares and rates to account for currency fluctuations should reflect actual market conditions as closely and as realistically as possible.

For this reason the Board is also taking action herein to condition our previous approvals of IATA Resolutions 021f, 021L, and 021LL governing conversion procedures between foreign currencies and U.S. dollars for sales of foreign-originating transportation destined for U.S. points. The resolutions generally require payment of all fares, rates and charges in the local currency of the country of transportation origination. Where payment is made in another currency, conversion must take place at the local banker's buying rate or the Resolution 021b rate, whichever produces the higher amount. As stated above, the 021b exchange rates reflect parities between the dollar and other currencies which existed prior to the second devaluation of the

[1] Filed as part of the original document.

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dollar, and are completely unrealistic in terms of today's market.

Where the foreign local currency has appreciated in value relative to the dollar (such as in Germany), conversion takes place at the market rate of exchange, and the dollars received reflect the actual value of the transportation sold in terms of local currency. However, in cases where the foreign local currency has depreciated relative to the dollar (such as the U.K. and Italy) conversion takes place at the higher, 021b rate and the carrier receives a windfall representing the excess of dollars received over the actual value of the transportation as expressed in terms of the local currency. For instance, a passenger buying a ticket in Italy for travel from Italy to the United States has the option of paying in lire or in dollars. If he pays in dollars the Italian lire tariff is converted into dollars at the 021b rate of 581.50 lire=$1.00, whereas the present market rate is about 623 lire=$1.00, representing a differential of over seven percent. A similar situation exists with respect to cargo rates, particularly collect shipments, where the U.S. importer must pay a significantly higher amount of dollars than if the rates expressed in lire were converted at the bank exchange rate. Conversion of these dollars back into lire by the carrier for remittance abroad can be made at the actual market rate of exchange, and thus the carrier receives a seven percent windfall. The situation is similar for U.K.-originating transportation, where Resolution 021b specifies a conversion rate of $2.6057=£1.00, while the current market value of the pound is only about $2.39, a spread of over nine percent.

The Board has received a great deal of correspondence from U.S. importers of British and Italian goods protesting these unwarranted premiums, and it appears that many importers are attempting to alleviate the problem by giving up the charges collect option, and are transmitting funds to Italy and the United Kingdom to cover prepaid lire or sterling billings. The Board considers this an undue burden on the U.S. importer, and is convinced that the entire situation must be rectified in both the passenger and cargo areas.

For these reasons we are herein conditioning our approval of Resolutions 021f, 021L and 021LL to stipulate that fares, rates and charges in foreign-originating air transportation, set forth in the local currency of the country of origin, shall be converted into dollars at the local banker's buying rate of exchange.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find that the following resolutions, incorporated in Agreement C.A.B. 24279 as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB 24279:	*IATA resolutions*
R–1	JT23(Mail 331)022v JT123(Mail 724)022v
R–2	JT12(Mail 838)022w
R–3	JT12(Mail 838)022y
R–4	JT12(Mail 838)022z

Accordingly, *It is ordered*, That:

1. Agreement C.A.B. 24279, R–1 through R–4, be and hereby is approved; and

2. The outstanding approvals of Resolutions 021f (Special Conversion Rates), 021L (Special Rules for Fares Currency Adjustments), and O21LL (Special Rules for Currency Adjustments (Cargo Rates)) are subject to the following condition:

For U.S. dollar sales of foreign-originating fares, rates and charges in air transportation as defined by the Act, conversion into dollars of the published fares, rates and charges in the local currency of the country of transportation origination shall take place at the local banker's buying rate of exchange.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–10081 Filed 5–1–74;8:45 am]

PAN AMERICAN AIRWAYS, INC., ET AL.

[Dockets No. 26057; 26075; Order 74–4–149]

Schedule Adjustments and Capacity Limitation Agreements

APRIL 26, 1974.

In matter of Joint application of Pan American World Airways, Inc., Trans World Airlines, Inc., British Caledonian Airways, and British Overseas Airways Corporation for prior Board approval of agreements. Agreement CAB 24110–A1, 24141–A1, 24293.

By Order 73–11–34, November 8, 1973, the Board authorized United States and foreign-flag air carriers providing international scheduled air services to and from the United States to engage in discussions looking toward agreements on schedule adjustments, capacity limitations, and consolidation of operations in foreign air transportation.

Pursuant to that order, discussions have been held, inter alia, between the airlines of the United States and the United Kingdom which provide scheduled services between these two countries.[1] Further discussions to establish maximum capacity levels in certain U.S.-U.K. markets for the summer 1974 period have been held.[2] As a result of the latter discussions certain agreements on capacity limitations in several city-pair markets have been reached, and were filed with the Board on March 19, 1974. These include agreements among Pan American World Airways, Inc. (Pan American), Trans World Airways, Inc. (TWA), British Overseas Airways Corporation (BOAC), and British Caledonian Airways, Inc. (BCAL) regarding the New York-London market (Agreement CAB 24141–A1) and the Los Angeles-London market (Agreement CAB 24293), and an agreement between TWA and BOAC regarding the Chicago-London market (Agreement CAB 24110–A1). In this application, approval of the three agreements is requested.

The New York-London agreement (CAB 24141–A1) provides that Pan American will reduce its 1973 peak summer nonstop round trip weekly frequencies from twenty-eight, utilizing B–747 equipment, to twenty-one, substituting narrow-body B–707 equipment on seven of the latter frequencies. TWA's and BOAC's respective frequencies for the same period will also be reduced from twenty-eight to twenty-one through the deletion of seven of the previous fourteen narrow-body aircraft frequencies. BCAL's maximum scheduled frequencies will remain unchanged at seven, continuing to utilize only narrow-body aircraft.[3]

The Los Angeles-London agreement (CAB 24293) provides that Pan American and TWA will each reduce their respective 1973 peak summer nonstop weekly frequencies from seven to six, continuing to utilize wide-body aircraft. BOAC and BCAL both agree to establish a maximum scheduled nonstop frequency level of six weekly round trips with narrow-body aircraft.[4]

The Chicago-London agreement (CAB 24110–A1) provides that TWA and BOAC will each reduce by one frequency their respective 1973 peak summer nonstop weekly flights utilizing wide-body aircraft, from seven to six, during the period June 1 through September 14, 1974, and also reduce their 1973 frequencies by two flights during the shoulder periods April 28–May 31, and September 15– October 15, 1974.

All of the agreements provide that the carriers may operate extra sections for operational reasons or unusual demand. However, such extra sections operated by each carrier are to be limited in frequency during the period of the respective agreements. During the agreement periods extra section frequencies are to be limited to a maximum of five in any single week and a total of fifteen (for a period) in the New York–London market, to a maximum of three in any single week and a total of six in the Los Angeles-London market, and to a maximum of three and a total of nine in the Chicago-London market.[5]

[1] Agreements reached as a result of these discussions were approved by Order 73–12–109, December 28, 1973 (Chicago-London) until April 27, 1974; by Order 74–1–34, January 4, 1974 (New York-London) until April 27, 1974; and by Order 74–2–93, February 22, 1974 (Miami-London) until March 31, 1974. Also, an agreement was approved by Order 74–1–111, January 23, 1974 (Philadelphia-London) until April 27, 1974, and voluntarily terminated by the parties prior to its expiration.

[2] A transcript of the meeting has been filed with the Board in Docket 26057.

[3] However, BCAL also agrees to establish a maximum scheduled frequency level of four weekly round trips with B–707 equipment between New York and London via an indirect routing.

[4] This maximum frequency level represents an increase of three weekly frequencies for BOAC and of one weekly frequency for BCAL over the 1973 peak summer service. However, in regard to BOAC, it also represents a cutback of one weekly frequency from its IATA planned schedules for 1974.

[5] Such extra sections cannot be published, advertised or otherwise held out to the public.

By their terms, the agreements provide that the specified maximum round trip frequency levels per week in scheduled nonstop service would be implemented, subject to Board approval, on April 28, 1974 and extend through October 15, 1974. In the event of a cessation or curtailment of service by any of the parties resulting from a labor dispute or other cause beyond the control of that party, the limitations of the agreement will be suspended during the period of such cessation or curtailment.

In addition to seeking approval of the agreement, the air carriers request an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, and all regulations promulgated in pursuance thereof, to the extent necessary, to permit implementation of the agreement without 10 days prior notice to the Postmaster General.

No comments regarding the agreements have been filed.

In support of their requests, the carriers state that the agreements provide for service reductions which are compelled by the shortage of fuel; that the Federal Energy Office has set the maximum potential supply of fuel available in the United States for international air services at 95 percent of 1972 levels; and that each of the four agreement carriers is experiencing shortages of fuel now and anticipates continued shortages through the 1974 summer/fall season provided for in this agreement.[6] Moreover, the British government has announced mandatory reductions of fuel consumption for international air services which have so far been on the order of 10 percent of consumption in the comparable 1973 months. The applicants state that the combined agreements provide for significant savings in fuel consumption;[7] for a better pattern of services for the traveling public than might result from uncoordinated cutbacks by insuring that each market will retain as much as is reasonably possible under the circumstances;[8] and for better adjustment of the reduced capacity levels to the needs of the traveling public.

Despite the recent lifting on March 18, 1974 of the Arab oil embargo, the problems of the fuel shortage will remain at least for several months. In order to meet the cutback levels, the carriers must make fuel-saving adjustments to their schedules. These agreements help insure that cutbacks necessitated by the fuel situation will be made in a manner which, under the circumstances, provides the best practicable service to the public.

The Board believes that reductions in capacity pursuant to carrier agreements, which are carefully monitored by the Board, will help to provide the public with optimum service. Such agreements can provide the means by which available capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances, and, in the Board's view, will best serve the public interest.[9]

Moreover, Pan American and TWA are faced with a serious financial crisis caused in great measure by increases in the cost of fuel. TWA reports a before tax loss for the first two months of 1974 on the Atlantic Division of $27.6 million, $14.5 million of which is attributed to increased fuel costs. Pan American estimates a system-wide fuel increase in 1974 of $204 million. As a result of this financial crisis, these carriers have recently made application for federal financial assistance (Dockets 26560 and 26563) and other extraordinary relief (see Order 74–4–104). Thus these measures adopted by the carriers for purposes of fuel conservation, take on a new and added significance substantially affecting the economic stability of Pan American and TWA.

Based on the foregoing, it is concluded that the agreements with respect to the scheduled service between the United States and the United Kingdom should be approved subject to certain conditions. The service proposed in these agreements reasonably satisfies the needs of the traveling public as well as saving large amounts of fuel. It will also result in considerable financial savings for the carriers. The United States-United Kingdom market is characterized by a multiplicity of frequencies and use of wide-body aircraft which have experienced low load factors in the past. The maximum scheduled frequencies and reductions in equipment size provided by the agreements are estimated by the carriers to result generally in substantial load factor increases.[10] Moreover, the traveling public will continue to receive a satisfactory frequency of service.[11]

The Board has repeatedly stated that the transfer of freed capacity to nonagreement markets will not be tolerated.[12] Moreover, in accordance with our prior orders, and in order to effectively monitor the implementation of this agreement, jurisdiction will be retained, pursuant to section 412 of the Act, for the purpose of modifying, amending or revoking our approval of the agreements at any future date. Furthermore, each part to the agreements will be required separately to report within 15 days after the end of each month any schedule changes in the U.S.–U.K. markets during the term of the agreement (see Appendix).[13] Therefore the Board will be able to react as necessary or appropriate to changes in the fuel or financial problems of the airlines which may warrant any modification or reconsideration of these agreements.

Consideration has been given to the implication of the proposed agreement on Pan American's and TWA's employees. For the reasons detailed at length in Order 73–12–32, December 7, 1973, which are equally applicable herein, it is concluded that the public interest does not require the imposition of any labor protective conditions.

It is found that enforcement of section 405(b) of the Act, requiring 10 days' notice of schedule changes to the Postmaster General, would be an undue burden upon the air carrier applicants by reason of the limited extent of, and unusual circumstances affecting their op-

[6] The carriers state that in practice, the 95 percent level established by the FEO is a maximum level of fuel availability which the carriers have not been able to enjoy. The restraints of the marketplace have been even harsher than the regulatory restraints in this area, since many suppliers have been unable or unwilling to provide the carriers with their full allotments, and since fuel suppliers vary significantly from one locale to another. We note that following the announcement of the lifting of the Arab oil embargo, the Administrator of the FEO stated that supplies of jet fuel for airlines could increase soon as a result of petroleum allocation changes presently under study. It nevertheless appears that a fuel shortage will continue for several months. Moreover, as the Energy Office has emphasized, an undue relaxation of fuel conservation efforts will inevitably produce fuel shortages even under anticipated future supplies.

[7] Pan American estimates that in the New York-London market it would save 579,739 gallons per week based upon the 1973 June–September peak summer period, or 385,787 gallons per week based upon IATA planned schedules for the 1974 corresponding months, during each week that the agreement is in effect. TWA estimates that its fuel savings in this market would amount to 191,163 gallons per week based on the 1973 June–September peak summer period, or 385,343 gallons per week based upon IATA planned schedules for the 1974 corresponding months. BOAC estimates its weekly fuel savings in this market at 230,328 gallons.

In the Chicago-London market TWA estimates its weekly fuel savings at 61,848 gallons during the June–September 1974 period, and at 123,695 gallons during the shoulder periods April 28 to May 31, 1974, and September 16, to October 15, 1974. BOAC estimates that it will save 57,121 gallons per week during the corresponding 1974 peak summer period and 114,242 gallons per week during the corresponding shoulder periods.

In the Los Angeles-London market, Pan American estimates its weekly fuel savings at 88,528 gallons, and TWA estimates a weekly fuel savings of 81,642 gallons. BOAC estimates that it would require 198,503 additional gallons per week, based upon its 1974 increase of three weekly frequencies over its 1973 operations for April 28, 1974 to October 15, 1974. However, based upon its IATA planned schedules of seven frequencies for the same period BOAC estimates it will save 47,379 gallons per week.

[8] The carriers estimate the peak period seat load factor on nonstop flights will increase as a result of the agreements as follows: New York-London from 53 percent to 70 percent; Los Angeles-London from 66 percent to 68 percent; Chicago-London from 51 percent to 60 percent.

[9] Order 74–1–111, January 23, 1974; Order 74–2–84, February 21, 1974; Order 74–4–4, April 2, 1974.

[10] See footnote 8, supra.

[11] Likewise, it does not appear that our action here will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, since the carriers will have to reduce their schedules in any event because of the fuel shortage. Our action herein merely helps to insure that such reductions will be accomplished in a rational manner.

[12] American Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., Order 73–10–110; Order 74–2–84, *supra*; Order 74–4–4, *supra*.

[13] Such reports will enable the Board to analyze such schedule change(s) to insure that freed capacity is not being unnecessarily shifted to nonagreement markets.

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erations and is not in the public interest, particularly in light of the reduced fuel supplies.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the capacity reduction agreements discused herein are not adverse to the public interest nor in violation of the Act and should be approved subject to the conditions stated herein; and that the air carriers' request for an exemption from the provisions of section 405(b) of the Act and any regulations promulgated pursuant thereto, should be granted to the extent necessary to permit the filing of schedules on less than 10 days' prior notice to the Postmaster General and to the Board.

ACCORDINGLY, *It is ordered*, That:

1. Agreements CAB 24110–A1, 24141–A1 and 24293 be and they hereby are approved pursuant to section 412 of the Act, subject to the following conditions:

(a) Jurisdiction shall be retained in order to modify, amend or revoke approval at any time, or take whatever other action may be deemed appropriate;

(b) Schedule changes resulting pursuant to the agreement herein approved which occur at any of the controlled high-density airports [14] and which result in the vacating of slots allocated by the Airline Scheduling Committees of the respective airports pursuant to authority granted in Order 73–12–94, shall not be refilled by the carrier applicants, nor be reallocated to other carriers by the Airline Scheduling Committees, *Provided, however*, That slots originally vacated may be reinstated in the same agreement market by the vacating carrier to the extent such carrier vacates another flight (at the same airport) which operates plus or minus three hours of the flight to be reinstated; [15]

(c) Any schedule changes resulting pursuant to the agreement herein approved shall be reported to the Board within 15 days after the end of each month in accordance with the format of Appendix A; [16] copies of such reports shall be provided to all carriers requesting them;

2. Within 28 days hereafter, each carrier shall file with the Board's Docket Section, and shall provide to each carrier requesting one, a report containing the following additional data for the United States-United Kingdom markets herein:

a. Seats operated in 1972 and 1973 (April through October).

b. Passengers carried in 1972 and 1973.

c. Forecast passengers in 1974.

d. Projected seats in 1974.

e. Equipment type to be operated in the market.

f. Calculations in developing fuel savings for this market.

g. 1972/1973/1974 fuel use by month for the system of each carrier.[17]

h. 1972/1973/1974 fuel use by month in the agreement market.

3. Pan American and TWA be and they hereby are relieved from the provisions of section 405(b) of the Act, and from all regulations enacted in pursuance thereof, to the extent necessary to permit the implementation of the subject modifications without 10 days' prior notice to the Postmaster General;

4. Copies of the order shall be served on the Department: of Defense, Justice and Transportation; the U.S. Postal Service; the Port Authority of New York and New Jersey; City of Chicago, Department of Aviation; City of Los Angeles, Director of Aviation; and all certificated route and supplemental air carriers.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within seven days after the date of service of this order.

This order shall be effective immediately and filing of a petition for review shall not preclude such effectiveness.

This order shall be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,[18]
Secretary.

[FR Doc.74–10213 Filed 5–1–74;8:45 am]

[14] John F. Kennedy International Airport and O'Hare International Airport.

[15] Order 73–12–32, *supra;* Order 74–2–84, *supra;* 74–4–4, *supra.*

[16] As previously required of TWA and Pan American by Order 74–2–84, *supra*, the air carriers shall separately file with the Board's Docket Section a report stating, on a system-wide basis, average seat miles operated per gallon of fuel used, by type of equipment and shall maintain records, subject to inspection by the Board or by such other persons as the Board may authorize, detailing the fuel used each month, throughout its system, on a city-pair and flight-by-flight basis (including charter operations).

[17] As to BOAC and BCAL this data refers only to all U.S.-U.K. markets.

[18] Appendix A filed as part of the original document.

APPENDIX A

	Type of equipment				
	3-Engine	3-Engine narrow body	4-Engine narrow body	3-Engine wide body	4-Engine wide body
	Agreements market(s)				
Miles scheduled weekly in preceding general schedule filed with CAB.[1] Changes contained in this general schedule. Miles scheduled weekly in this general schedule.					
	Non-Agreement market(s)[2]				
Miles scheduled weekly in preceding general schedule filed with CAB.[1] Changes contained in this general schedule. Miles scheduled weekly in this general schedule.					

[1] This information may be omitted by foreign air carriers in their first monthly report.
[2] Applicable to U.S. air carriers and to foreign air carriers with respect to non-agreement U.S. markets.

COMMISSION ON HIGHWAY BEAUTIFICATION

SUSPENSION OF DEADLINES FOR CONSULTANTS

APRIL 29, 1974.

Notice is hereby given by the Commission on Highway Beautification that all deadlines set for May 1, 1974 for its consultants are suspended.

LEO A. BYRNES,
Staff Director and Counsel.

[FR Doc.74–10015 Filed 5–1–74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PORTUGAL

Entry or Withdrawal From Warehouse for Consumption

APRIL 29, 1974.

On March 21, 1974, the Governments of the United States and Portugal exchanged notes further amending the comprehensive Bilateral Cotton Textile Agreement of November 17, 1970. Among the provisions of the agreement, as amended, is one establishing a specific limit for Categories 46 and 47 combined for the agreement year which began on January 1, 1974.

Accordingly, there is published below a letter of April 29, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the amounts of cotton textile products in Category 46/47 produced or manufactured in Portugal which may be entered or withdrawn from warehouse for consumption in the United States during the twelve-month period which began on January 1, 1974 be limited to 89,805 dozen. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

APRIL 29, 1974.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on December 20, 1973 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and cotton textile products produced or manufactured in Portugal.

The first paragraph of the directive of December 20, 1973 is hereby amended, effective as soon as possible, to include a level of restraint of 89,805 dozen for cotton textile products in Categories 46 and 47 combined for the twelve-month period which began on January 1, 1974. This level has not been adjusted to reflect any entries made on or after January 1, 1974.

In carrying out this directive, entries of cotton textile products in Category 46 produced or manufactured in Portugal which have been exported to the United States from Portugal prior to January 1, 1974, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period January 1, 1973 through December 31, 1973. In the event that the level of restraint for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

Cotton textile products in Category 47 produced or manufactured in Portugal and which have been exported to the United States prior to January 1, 1974, shall not be subject to this directive.

Cotton textile products in Category 47 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

The level of restraint set forth above is subject to adjustment pursuant to the provisions of the bilateral agreement of November 17, 1970, between the Governments of the United States and Portugal which provide, in part, that within the aggregate limit, the limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton textiles and cotton textile products from Portugal have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74–10147 Filed 5–1–74;8:45 am]

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE CZECHOSLOVAK SOCIALIST REPUBLIC

Entry or Withdrawal From Warehouse for Consumption

APRIL 29, 1974.

On August 29, 1969, the United States Government concluded a comprehensive bilateral cotton textile agreement with the Government of the Czechoslovak Socialist Republic concerning exports of cotton textile products from the Czechoslovak Socialist Republic to the United States over a two-year period beginning on May 1, 1969. The bilateral agreement was extended for an additional two-year period beginning May 1, 1971 and has been further extended for four years beginning May 1, 1972. Among the provisions of the agreement, as extended, are those establishing an aggregate limit for the 64 categories and within the aggregate limit a specific limit on Category 26 (other than duck) for the agreement year beginning on May 1, 1974.

Accordingly, there is published below a letter of April 29, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textile products in Category 26 (other than duck) produced or manufactured in the Czechoslovak Socialist Republic which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning May 1, 1974 and extending through April 30, 1975, be limited to the designated level. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

APRIL 29, 1974.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of August 29, 1969, as extended, between the Governments of the United States and the Czechoslovak Socialist Republic, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit effective May 1, 1974 and for the twelve-month period extending through April 30, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 26 (other than duck),[1] produced or manufactured in the Czechoslovak Socialist Republic, in excess of the level of restraint for the period of 1,276,281 square yards.

Cotton textile products in Category 26 (other than duck),[1] produced or manufactured in the Czechoslovak Socialist Republic and which have been exported prior to May 1, 1974, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period May 1, 1973 to April 30, 1974. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

The level of restraint set forth above is subject to adjustment pursuant to the provisions of the bilateral agreement of August 29, 1969, as extended, between the Governments of the United States and the Czechoslovak Socialist Republic which provide, in part, that within the aggregate limit, the limitation on Category 26 (other than duck) [1] may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Czechoslovak Socialist Republic and with respect to imports of cotton textile products from the Czechoslovak Socialist Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74–10148 Filed 5–1–74;8:45 am]

[1] The T.S.U.S.A. Nos. for duck fabric not covered by this directive are:

320....01 through 04, 06, 08
321....01 through 04, 06, 08
322....01 through 04, 06, 08
326....01 through 04, 06, 08
327....01 through 04, 06, 08
328....01 through 04, 06, 08

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COLOMBIA

Entry or Withdrawal From Warehouse for Consumption

Correction

In FR Doc. 74–9524 appearing on page 14537 of the issue for Wednesday, April 24, 1974, in the table which is included in the appended letter, the 4th, 6th, 7th, and 8th entries in the right-hand column, now reading "9/16", "22/26", "22/26", and "22/27", respectively, should read "16", "26", "26", and "27", respectively.

ENVIRONMENTAL PROTECTION AGENCY

[OPP–32000/50]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in

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the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 1, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after this 60-day period.

APPLICATIONS RECEIVED

EPA File Symbol 34144–R. Anderson Water Engineering Co., 843 West Monroe Street, Chicago, Illinois, 60607. *Chemitrol Algaecide.* Active Ingredients: Poly[oxyethylene (dimethyliminio)ethylene (dimethyliminio)-ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1526–UOO. Arizona Agrochemical Company, P.O. Box 21537, Phoenix, Arizona 85036. *Agro-Chem Toxaphene 6–E Methyl Parathion 3–E Emulsifiable.* Active Ingredients: Toxaphene 52.5%; Methyl Parathion (O,O-dimethyl O-p-nitrophenyl phosphorothioate) 26.3%; Xylene 15.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1526–479. Arizona Agrochemical Company, P.O. Box 21537, Phoenix, Arizona 85036. *Agro-Chem Brand Torbidan 28.* Active Ingredients: Toxaphene 66.6% Methyl Parathion (O,O-dimethyl O-p-nitrophenyl phosphorothioate) 16.8%; Xylene 11.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10506–E. Boron Oil Company, 1862 Guildhall Building, Cleveland, Ohio 44115. *Boron Garden Lite Contains Oil of Citronella.* Active Ingredients: Charcoal Lighter Fluid 99.75%; Oil of Citronella 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–II. Farmcraft, Inc., 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Sevin 10 Thiodan 3.* Active Ingredients: Carbaryl (1-Napthyl N-methylcarbamate) 10.0%; Endosulfan (Hexachloro - hexahydro - methano - 2,4,3 benzodioxathiepin) 3.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–IT. Farmcraft, Inc., 8900 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Thiodan 3.* Active Ingredients: Hexachloro - hexahydro - methano-2,4,3 benzodioxathiepin (Endosulfan or Thiodan) 3.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–OE. Farmcraft, Inc., 8900 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Phosdrin 2.* Active Ingredients: Phosdrin Alpha 2-carbomethoxy-1-methylvinyl dimethyl phosphate 1.2%; Related compounds 0.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–OG. Farmcraft, Inc., 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Monitor 2.5.* Active Ingredients: O,S-Dimethyl phosphoramidothioate 2.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–ON. Farmcraft, Inc. 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Malathion 5.* Active Ingredients: O,O-dimethyl-dithiophosphate of diethylmercaptosuccinate (Malathion) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–OL. Farmcraft, Inc., 8900 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Phosdrin 2 Thuricide 216M.* Active Ingredients: Bacillus thuringiensis Berliner, potency of 480 International Units (at least 600 thousand viable spores) per milligram 0.096%; Phosdrin alpha 2-carbomethoxy-1-methylvinyl dimethyl phosphate 1.200%; Related compounds 0.800%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–OR. Farmcraft, Inc., 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Malathion 5E.* Active Ingredients: Malathion O,O,-dimethyl dithiophosphate of diethyl mercaptosuccinate 57.0%; Xylene Range Aromatic Solvent 34.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 279–1449. FMC Corporation, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Captan 10 Dust Fungicide.* Active Ingredients: Captan 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2269–RAT. Gold Kist Inc., P.O. Box 2210, Atlanta, Georgia 30301. *GK MP–M–T Spray.* Active Ingredients: Toxaphene 54.11%; Malathion 13.53%; O,O-dimethyl O-p-nitrophenyl thiophosphate 13.53%; Xylene 14.73%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2269–RAA. Gold Kist Inc., P.O. Box 2210, Atlanta, Georgia 30301. *Toxaphene Malathion ULV Insecticide for Cotton.* Active Ingredients: Toxaphene 56.3%; Malathion 14.1%; Xylene 28.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–TIO. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 200.* Active Ingredients: Copper (from basic copper sulfate) expressed as metallic 14.9%. Method of support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–TON. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 202.* Active Ingredients: Sulfur 44.5%; Copper (from basic copper sulfate) expressed as metallic 7.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–TOR. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 210.* Active Ingredients: Sulfur 45.4%; Copper (from basic copper sulfate) expressed as metallic 7.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–TOG. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 206.* Active Ingredients: Sulfur 43.8%; Copper (from basic copper sulfate) expressed as metallic 7.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–TOL. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 214.* Active Ingredients: Sulfur 44.5%; Copper (from basic copper sulfate) expressed as metallic 7.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–TOU. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 204.* Active Ingredients: Copper (from basic copper sulfate) expressed as metallic 14.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–TOE. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 208.* Active Ingredients: Copper (from basic copper sulfate) expressed as metallic 15.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124–INU. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Diazinon 4 EC Insecticide.* Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 47.33%; Aromatic petroleum derivative solvent 30.60%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970–I. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Super-Chem.* Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 44.6%; Copper 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970–T. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Super Chem-Plus.* Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 44.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905–GAL Helena Chemical Company, Clark Tower, 5100 Poplar Avenue, Suite 2900, Memphis, Tennessee 38137. *Helena Brand Pro-Lin Weed Killer.* Active Ingredients: Linuron 3–(3,4-dichlorophenyl)-1-Methoxy-1-Methlurea 9.67%; Propazine (2-chloro-4,6-bis (isopropyl-amino)-s-triazine 10.31%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905–UNL Helena Chemical Company, Clark Tower, 5100 Poplar Avenue, Suite 2900, Memphis, Tennessee 38137. *Helena Brand Parathion 8 Flowable Insecticide Concentrate.* Active Ingredients: Parathion 79.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 299–RIU. C. J. Martin, P.O. Box 1089, Nacogdoches, Texas 75961. *Martin's Lindane Concentrate.* Active Ingredients: Lindane (Gamma isomer of benzene hexachloride) 10.68%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7946–U. J. J. Mauget Co., P.O. Box 3422, Burbank, California 91504. *Fungisol.* Active Ingredients: Hydrolysed Benomyl Methyl 2-benzimidazole-carbamate 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7946–L. J. J. Mauget Co., P.O. Box 3422, Burbank, California 91504. *Fungi-sol.* Active Ingredients: Benomyl lactate, 1-(butylcarbamoyl) 2-(methylamino)-benzimidozlium lactate 1.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021–RGRU. McLaughlin Gorney King Company, 8810 Tenth Avenue, North, Minneapolis, Minnesota 55427. *D-Trans Intermediate 1981.* Active Ingredients: D-trans Allethrin (allyl homolog of Cinerin I) 5.00%; Pyrethrins 5.60%; Piperonyl butoxide, technical 40.00%; N-octyl bicycloheptene dicarboximide 20.00%; Petroleum distillate 29.40%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021–RGRL. McLaughlin Gorney King Company, 8810 Tenth Avenue, North, Minneapolis, Minnesota 55427. *Pyrocide Fogging Concentrate 7219.* Active Ingredients: 2,2 dichlorovinyl dimethyl phosphate 0.46%; Other related compounds 0.04%; Pyrethrins 2.00%; Piperonyl butoxide, technical 4.00%; N-octyl bicycloheptene dicarboximide 4.00%; Petroleum distillate 89.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021–RGNG. McLaughlin Gorney King Company, 8810 Tenth Avenue, North, Minneapolis, Minnesota 55427. *Pyrocide Aerosol Mix 7204.* Active Ingredients: Pyrethrins 7.8%; Piperonyl butoxide, technical 12.0%; N-octyl bicycloheptene dicarboximide 8.0%; Petroleum distillate 72.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021–RGNI. McLaughlin Gomley King Company, 8810 Tenth Avenue, North, Minneapolis, Minnesota 55427. *Pyrocide Aerosol Mix 7214.* Active Ingredients: Pyrethrins 1.67%; Piperonyl butoxide, technical 16.67%; Petroleum distillate 30.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1812–ERN. Parramore & Griffin, P.O. Box 188, Valdosta, Georgia 31601. *New Liquid Super S.* Active Ingredients: Sulfur as S 60.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 359–399. Rhodia Inc., Chipma Division, P.O. Box 2000, New Brunswick, New Jersey 08903. *Sled-A-Leaf "L".* Active Ingredients: Sodium Chlorate ($NaClO_3$) 18.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 707–REE. Rohm and Haas, Independence Mall West, Philadelphia, Pennsylvania 19105. *Stam F–32 Post-Emergence Grass and Weed Killer.* Active Ingredients 3',4'-Dichloropropionanilide 25%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 538–RRG. O. M. Scott & Sons Co., Marysville, Ohio 43040. (*Scotts*) *ProTurf Nematocide.* Active Ingredients: Ethoprop (O-ethyl-S,S-dipropyl-phosphorodithioate) 5.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 538–RRU. O. M. Scott & Sons Co., Marysville, Ohio 43040. (*Scotts*) *Proturf 101V Broad Spectrum Fungicide.* Active Ingredients: Chlorothalonil (Tetrachloroisophthalonitrile) 9.50%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: April 24, 1974.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.74–9854 Filed 5–1–74;8:45 am]

ALTERNATIVE WASTE TREATMENT MANAGEMENT TECHNIQUES AND SYSTEMS

Extension of Time for Comments

Pursuant to section 304(d)(2) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500), the Environmental Protection Agency (EPA) gave notice on March 25, 1974 (39 FR 11135) of the availability of a report entitled "Alternative Waste Management Techniques for Best Practicable Waste Treatment".

Since a larger number of requests for the document were received than originally anticipated, response to some requests is being delayed until more copies can be printed. Therefore, the last sentence of the March 15, 1974 notice (39 FR 11135), which reads "Comments may be submitted on or before May 9, 1974" is hereby revised to read "Comments may be submitted on or before June 10, 1974."

Dated: April 26, 1974.

JAMES L. AGEE,
Acting Assistant Administrator
for Water and Hazardous Materials.

[FR Doc.74–10110 Filed 5–1–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Supplement No. 5]

CANADA–U.S.A. TV AGREEMENT OF 1952 (TIAS–2594)

Amendment of Table A

APRIL 25, 1974.

(Supplement to the table of Canadian television channel allocations within 250 miles of the Canada-U.S.A. border, dated March 21, 1973, as revised to January 20, 1973).

This supplement corrects Supplement No. 3, dated September 20, 1973, to show a correct mileage of 190 miles rather than 170 miles appearing in the footnote for the deleted channel.

Supplement No. 3 is corrected to read as follows:

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canadian-U.S.A. Television Agreement has been amended as follows:

City and province	Channel No.	
	Delete	Add
Brandon, Manitoba	2–[1]	2–[2]

[1] Brandon site to be located no less than 190 miles from co-channel allocation at Grand Forks, N.Dak.

[2] Brandon site to be located no less than 176 miles from co-channel assignment at Grand Forks, N.Dak., with site coordinates 49°58'24" N., 97°59'25" W., and limited to 100 kilowatts maximum ERP and 1,000 feet EHAAT, or the equivalent, in the general direction of Grand Forks, N.Dak.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from ABS Duplicators, Inc., 1732 Eye St., Washington, D.C. 20006, telephone (202) 298–5537.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.74–10059 Filed 5–1–74;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 74–16]

U.S. AND CANADIAN CROSS-BORDER TRAFFIC

Notice of Intent To Waive Statutory Requirements

Pursuant to section 35 of the Shipping Act, 1916, (46 U.S.C. 833a), notice is hereby given that the Federal Maritime Commission is considering exempting certain types of freight traffic subject to its jurisdiction from the tariff filing requirements of section 18(b) of said Act to the extent specified herein.

Agreement No. 10090, a cooperative working arrangement among five U.S. Conferences and four Canadian Conferences serving the Canadian and U.S. East Coast-Europe trades, is presently before this Commission for approval pursuant to section 15 of the Shipping Act, 1916, (published at Vol. 38 FR No. 199, p. 28719). This Agreement provides, inter alia, that the members of the U.S. Conferences will apply the rates, terms and conditions of the Canadian Conferences on cargo originating in or destined to Canada which moves through U.S. ports and that the members of the Canadian Conferences will apply the rates, terms and conditions of the U.S. Conferences on cargo originating in or destined to the U.S. east of the 76th meridian which moves through Canadian ports. Pursuant to section 18(b) of the Shipping Act, 1916, rates on both types of traffic would have to be filed with this Commission subject to appropriate statutory notice. However, in consideration of the fact

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that it might be extremely difficult, if not impossible, for the carriers engaging in such cross-border traffic to conform to the terms of Agreement No. 10090 and also meet the statutory requirements of section 18(b), we are considering exempting them from those requirements.

If the Commission decides to approve Agreement No. 10090, it intends to consider whether compliance with section 18(b) is necessary in the above described circumstances to fulfill any valid regulatory purpose and whether waiver of the filing requirements will or will not substantially impair effective regulation by the Commission, be unjustly discriminatory, or be dertimental to commerce.

Comments with reference to this matter including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before May 13, 1974.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10009 Filed 5-1-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI60-175, etc.]

CERTIFICATES OF CONVENIENCE AND NECESSITY; CERTAIN COMPANIES

Applications, Abandonment of Service and Petitions To Amend [1]

APRIL 25, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI60-175..... C 4-11-74	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	[2] 24.98	15.025
CI61-1461..... E 4-8-74	Odessa Natural Corp. (Operator) et al. (successor to El Paso Products Co.), P.O. Box 3986, Odessa, Tex. 79760.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., East Rock Springs Field, Sweetwater County, Wyo.	[2] 15.0	14.65
CI66-890..... D 4-12-74	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Rayne Field, Acadia Parish, La.	[3]	.....
CI70-225..... E 4-8-74	American Petrofina Co. of Texas (Operator) et al. (successor to River Corp.), P.O. Box 2159, Dallas, Tex. 75221.	Panhandle Eastern Pipe Line Co., Aledo Field, Custer and Dewey Counties, Okla.	[2] 18.605	14.65
CI70-249..... E 4-8-74	do.....	Panhandle Eastern Pipe Line Co., Aledo Field, Shallow formation, Custer and Dewey Counties, Okla.	[2] 22.7614	14.65
CI73-46..... C 4-11-74	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Blanco Pictured Cliffs and Undesignated Fruitland Fields, San Juan County, N. Mex.	[4] 28.5	15.025
CI74-543..... (G-18828) B 3-29-74	Smith, Fankhauser, Voight & York, P.O. Box 1873, Corpus Christi, Tex. 78403.	South Texas Natural Gas Gathering Co., Donna Field, Hidalgo County, Tex.	Nonproductive.	
CI74-553..... (CI68-152) B 4-4-74	Devon Corp., 3300 Liberty Tower, Oklahoma City, Okla. 73102.	Columbia Gas Transmission Corp., Washington District, Kanawha County, W. Va.	Depleted	.....
CI74-554..... (CI68-308) B 4-8-74	J. P. Owen et al., P.O. Box 51288, O.C.S., Lafayette, La. 70505.	United Gas Pipe Line Co., Nroth Kent Bayou, Terrebonne Parish, La.	Depleted	.....
CI74-562..... (CI70-1028) B 4-11-74	Texaco, Inc., P.O. Box 60252, New Orleans, La. 70160.	Texas Eastern Transmission Corp., Block 95, Main Pass Area, offshore Louisiana.	Depleted	.....
CI74-563..... (G-12709) B 4-10-74	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Coastal States Gas Producing Co., Hidalgo Field, Hidalgo County, Tex.	Depleted	.....
CI74-566..... A 4-12-74	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Columbia Gas Transmission Corp., Lake Boudreaux Field, Terrebonne Parish, La.	[5] 53.7	15.025
CI74-567..... A 4-12-74	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Natural Gas Pipeline Co. of America, Block 172 Field, West Cameron Area, offshore Louisiana.	[6] 50.0	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Subject to upward and downward Btu adjustment.
[2] Acreage has become nonproductive or never was productive of gas.
[3] Applicant is willing to accept a certificate at an initial price of 24 cents per M ft³, subject to upward and downward Btu adjustment; however, the contract price is 28.5 cents per M ft³, subject to upward and downward Btu adjustment.
[4] Applicant is willing to accept a certificate at an initial rate of 26 cents per M ft³, subject to upward and downward Btu adjustment; however, the contract price is 50 cents per M ft³, subject to upward and downward Btu adjustment.

[FR Doc.74-9970 Filed 5-1-74;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

FEDERAL RESERVE SYSTEM

AMERICAN HERITAGE SHARES, INC.

Formation of Bank Holding Company

American Heritage Shares, Inc., East Lansing, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 93.69 per cent of the voting shares of State Bank of Michigan, Coopersville, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 20, 1974.

Board of Governors of the Federal Reserve System, April 24, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10021 Filed 5-1-74;8:45 am]

BARCLAYS BANK OF NEW YORK

Order Approving Application for Merger of Banks

Barclays Bank of New York, New York, New York ("Applicant"), a member State bank of the Federal Reserve System, has applied for the approval of the Board of Governors of the Federal Reserve System pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) of the merger of that bank with First Westchester National Bank, New Rochelle, New York ("First Westchester Bank") under the charter and title of Applicant. As an incident to the merger, the present offices of First Westchester Bank would become branches of the resulting bank.

As required by the Act, notice of the proposed merger, in the form approved by the Board, has been published, and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered this application and all comments and views in light of the factors set forth in the Act.

Applicant is a subsidiary of Barclays Bank International Limited, London, England ("BBIL"), which in turn is a subsidiary of Barclays Bank Limited, London, England ("BBL"). BBL, with total assets of approximately $24 billion as of December 31, 1972, is the seventh largest commercial bank in the Western World. BBIL has total assets of about $9 billion. Both BBL and BBIL are registered bank holding companies through their control of Applicant and of Barclays Bank of California (assets of $249 million).

Applicant, with deposits of $46.5 million as of December 31, 1973, is the 70th largest of 112 banking organizations located in the Metropolitan New York banking market [1] and controls less than 0.1 percentage point of the market's total deposits.[2] Applicant is engaged primarily in wholesale banking services on local, national and international levels, but also provides some retail banking services through three branches in the market.[3] Barclays Bank International also maintains two branches in New York City which provide primarily international banking services. These offices hold approximately $159 million in deposits.

First Westchester Bank, which is also located in the Metropolitan New York banking market, holds deposits of approximately $178 million (as of December 31, 1973), representing 0.2 percent of the total deposits in commercial banks in the market and thereby ranks as the thirty-third largest banking organization therein. The resulting bank would rank twenty-eighth in the market and hold approximately 0.3 percent of market deposits. Due to the contrast between Applicant's banking business and First Westchester Bank's banking business it does not appear that any significant existing competition would be eliminated upon consummation of this proposal.

Applicant is engaged predominantly in international wholesale operations, whereas First Westchester is essentially a local institution serving consumers and businesses in the areas surrounding its 18 offices in Westchester County. Although Applicant, with financial assistance from its parent companies, could expand its retail operations and establish additional offices in Westchester County, the amount of additional future competition would not be significant in the context of the Metropolitan New York market. Applicant presently competes in the market with many major domestic banking organizations, including several that are comparable in size to BBL and have extensive international operations. The substantial managerial and financial resources of BBL, First Westchester's new parent organization, in combination with the branch network and retail expertise of First Westchester Bank, should provide additional competition to the major domestic organizations operating in the market. Accordingly, it is concluded that consummation of the proposed merger would not have any significant adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources of Applicant and First Westchester Bank are satisfactory, and the prospects for the resulting bank are favorable. Consequently, banking factors are consistent with approval of the application.

Applicant intends to increase interest rates on four year certificates of deposit to more competitive levels, to introduce daily compounding of interest on time and savings deposits, to implement a lower schedule of checking account service charges at First Westchester Bank's offices, and to offer travelers checks without a service charge. In addition, Applicant would offer international banking services at First Westchester Bank's offices. Thus, convenience and needs factors lend slight weight toward approval of the application. It is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors of the Federal Reserve System,[4] effective April 24, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-10016 Filed 5-1-74;8:45 am]

[1] The Metropolitan New York market is defined as the five boroughs of New York City, Nassau, Westchester, Putnam, and Rockland counties, a portion of Suffolk County in New York, portions of Bergen and Hudson Counties in New Jersey, and a portion of Fairfield County in Connecticut.
[2] Unless otherwise noted, all banking data are as of June 30, 1972.
[3] The establishment of an additional branch in Manhattan has been approved.
[4] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Chairman Burns.

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire more than 80 percent of the voting shares of Farmers and Merchants Bank, Bolivar, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and the views of Grandview Bank & Trust Company, Grandview, Missouri, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest bank holding company and banking organization in Missouri, controls 26 subsidiary banks with aggregate deposits of approximately $1 billion, representing 7.7 percent of the total commercial bank deposits in Missouri.[1] Acquisition of Bank would increase Applicant's share of State deposits by the addition of .10 percent and would not result in a significant increase in the concentration of banking resources in the State.

Bank (deposits of $14.0 million) is the second largest of five banks in Polk County (which approximates the relevant banking market), and controls almost 29 percent of the total deposits in commercial banks in the market. The largest bank in the market controls almost 40 percent of the market deposits, and Applicant's acquisition of Bank would not result in Applicant's gaining a dominant share of the market's banking resources.

Applicant's subsidiary bank closest to Bank is located in Willard, Missouri, approximately 24 miles south of Bolivar, and there is no meaningful present competition between any of Applicant's subsidiary banks and Bank. The town of Bolivar is the only town in Polk County that has experienced rapid growth in the past decade. This growth is expected to continue, and may increase competition between Bank and Applicant's subsidiary banks located in the Springfield-Willard area. This possible future competition is not regarded as significant. De novo entry into the Polk County market is regarded as relatively unlikely due to the low population and rural orientation of Polk County. Nor does it appear that "foothold" entry into the market is an attractive alternative. The Board concludes that competitive considerations are consistent with approval of the application.

In its consideration of this application, the Board has examined the covenant not to compete which was executed in con-

[1] All banking data are as of June 30, 1973, and reflect holding company formations and acquisitions approved through January 31, 1974.

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nection with the proposal, and considered the question of whether such a covenant is contrary to the standards respecting competition and the public interest which the Board is required to consider under the Banking Holding Company Act. The Board finds that the provisions of this covenant are consistent with such standards, and that its presence in the record does not require denial of the application.

The financial and managerial resources and future prospects of Applicant are regarded as satisfactory; those of Bank are also regarded as satisfactory, particularly in view of Applicant's commitment to increase Bank's capital account, which has not kept pace with Bank's deposit growth, upon consummation of the acquisition. Accordingly, considerations relating to the banking factors lend some weight toward approval of the application. Although the major banking needs of the residents in the area are being adequately served at the present time, the proposed affiliation is likely to result in the provision of some services which cannot presently be profitably provided by banks of the size prevailing in the area, such as trust services. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective April 24, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-10024 Filed 5-1-74;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with § 271.5 of its rules regarding availability of information, notice is given that on January 4, 1974, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to increase from $2 billion to $3 billion the limit on changes between Committee meetings in System Account holdings of U.S. Government and Federal agency securities, effective immediately, for the period ending with the close of business on January 22, 1974.

NOTE—For paragraph 1(a) of the directive see 36 FR 22697.

By order of the Federal Open Market Committee, April 25, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-10019 Filed 5-1-74;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Authorization for System Foreign Currency Operations

In accordance with § 271.5 of its rules regarding availability of information there is set forth below paragraph 2 of the Committee's Authorization for Foreign Currency Operations in the form that became effective February 1, 1974.

The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for the System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under § 214.5 of Regulation N, Relations with Foreign Banks and Bankers, and with the approval of the Committee to renew such arrangements on maturity:

Foreign bank	*Amount of arrangement (millions of dollars equivalent)*
Austrian National Bank	250
National Bank of Belgium	1,000
Bank of Canada	2,000
National Bank of Denmark	250
Bank of England	2,000
Bank of France	2,000
German Federal Bank	2,000
Bank of Italy	3,000
Bank of Japan	2,000
Bank of Mexico	180
Netherlands Bank	500
Bank of Norway	250
Bank of Sweden	300
Swiss National Bank	1,400
Bank for International Settlements:	
Dollars against Swiss francs	600
Dollars against other European currencies	1,250

By order of the Federal Open Market Committee, April 25, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-10014 Filed 5-1-74;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of January 21-22, 1974

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on January 21-22, 1974.[2]

The information reviewed at this meeting indicates that growth in real output of goods and services was slow in the fourth quarter of 1973, in part because of the fuel situation. Prices continued to rise sharply in December, reflecting additional increases for petroleum products and widespread advances among other goods and services. A further weakening in activity and sharp rise in prices appear to be in prospect for early 1974. In December nonfarm payroll employment changed little, and the unemployment rate increased further. Wage rates have continued to rise substantially in recent months, although not so sharply as prices.

Major foreign currencies have depreciated further against the dollar since mid-December, and some foreign monetary authorities have continued to sell dollars in exchange markets. Steep price increases imposed by oil-producing countries have heightened fears of economic disruption in many countries and of large and erratic international flows of funds.

The narrowly defined money stock increased substantially in the last 2 months of 1973, partly reflecting increased foreign deposits, but it has changed little on balance over recent weeks. Net inflows of consumer-type time deposits remained sizable at both banks and nonbank thrift institutions. Bank credit expansion, which was moderate over the closing months of 1973, has accelerated in recent weeks as banks have stepped up issuance of large-denomination CD's. Since mid-December, interest rate movements have been mixed; yields on most long-term securities and on Treasury bills have risen on balance, while some private short-term rates have declined.

(20 U.S.C. 1301, 1302(c), 1303)

(n) The application shall include suitable procedures to assure that Federal funds made available for the project will not be commingled with State or local funds.

(20 U.S.C. 1303(b)(1)(C))

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to resisting inflationary pressures, cushioning the effects on production and employment growing out of the oil shortage, and maintaining equilibrium in the country's balance of payments.

To implement this policy, while taking account of the forthcoming Treasury financing and of international and domestic financial market developments, the Committee seeks to achieve bank reserve and money market conditions consistent with moderate growth in monetary aggregates over the months ahead.

By order of the Federal Open Market Committee, April 25, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-10018 Filed 5-1-74;8:45 am]

L.W.J.S. CORP.

Formation of Bank Holding Company

L.W.J.S. Corporation, Gower, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The Farmers Bank of Gower, Gower, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the Office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 20, 1974.

Board of Governors of the Federal Reserve System, April 24, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10022 Filed 5-1-74;8:45 am]

MOUNTAIN FINANCIAL SERVICES, INC.

Formation of Bank Holding Company

Mountain Financial Services, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares of Northwest State Bank, Arvada, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the Office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 21, 1974.

Board of Governors of the Federal Reserve System, April 25, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10025 Filed 5-1-74;8:45 am]

SOUTHLAND BANCORPORATION

Formation of Bank Holding Company

Southland Bancorporation, Mobile, Alabama, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares of the successor by merger to (1) The Merchants National Bank of Mobile, Mobile, Alabama; (2) City National Bank of Birmingham, Birmingham, Alabama; and (3) First National Bank of Fairhope, Fairhope, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 23, 1974.

Board of Governors of the Federal Reserve System, April 25, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10017 Filed 5-1-74;8:45 am]

TENNESSEE VALLEY BANCORP, INC.

Acquisition of Bank

Tennessee Valley Bancorp, Inc., Nashville, Tennessee, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to The Union Bank, McEwen, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 22, 1974.

Board of Governors of the Federal Reserve System, April 24, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10023 Filed 5-1-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

APPLICATIONS FOR ELECTRIC FACE EQUIPMENT STANDARD

Notice of Opportunity for Public Hearing

Applications for Initial Permits for Noncompliance with the Electric Face Equipment Standard have been received for items of equipment in the underground coal mines listed below.

ICP Docket No. 4453-000, L. PARTIN COAL COMPANY, L Partin No. 5 Mine, Mine ID No. 15 02352 0, Gilley, Kentucky 41818.

In accordance with the provisions of section 305(a)(2) (30 U.S.C. 865(a)(2)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., P.L. 91-173), notice is hereby given that requests for public hearing as to an application for an initial permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 25, 1974.

[FR Doc.74-10013 Filed 5-1-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR NEUROBIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Neurobiology to be held at 9 a.m. on May 30 and 31, 1974, in Room 338 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

Individuals requiring further information about this Panel may contact Dr. James H. Brown, Program Director, Neurobiology Program, Room 333, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director
for Administration.

APRIL 30, 1974.

[FR Doc.74-10064 Filed 5-1-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 29, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

[1] Voting for this action: Governors Sheehan, Bucher, Holland and Wallich. Voting against this action: Vice Chairman Mitchell and Governor Brimmer. Absent and not voting: Chairman Burns. Dissenting Statement of Governors Mitchell and Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[2] The Record of Policy Actions of the Committee for the meeting of January 21-22, 1974, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

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Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529).

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration: Impact of State Certificate of Need Laws on Health Care Costs and Utilization; Form HRABHSR 0423, Singletime, HRD/Lowry, Hospitals and Nursing Homes.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Policy Development and Research: Housing Assistance Supply Experiment Enrollment Application, Form, Annually, CVA/Sunderhauf, Households in two Sample SMSA's.

REVISIONS

DEPARTMENT OF DEFENSE

Department of the Air Force: Unsymmetrical Dimethyl Hydrazine (UDMH) Inventory, Management RCS Report, Form, Weekly, Sheftel, Contractors.

Defense Supply Agency: Surplus Property Bidders Application, Form DLSC 340, Occasionally, Sheftel, Individual Public Business Firms.

DEPARTMENT OF THE INTERIOR

Bureau of Mines: Coke and Coal-Chemical Materials, Form 6–1370–A, Annually, Raynsford, Producers of Coke and Coal-Chemical Materials.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: Log of Occupational Injuries and Illnesses, Summary of Occupational Injuries and Illnesses, Form OSHA 100, 102, Occasionally, Eliett, All Employers in Private Industries.

DEPARTMENT OF STATE

Passport Application, Form DSP–11, Occasionally, Caywood, Applicants.

Tennessee Valley Authority: Annual Report on Distribution and Use of TVA Fertilizers, Form TVA 5486, Annually, Lowry, All Distributors Using TVA Fertilizers.

U.S. CIVIL SERVICE COMMISSION

Survey of Compensation Practices, Form, Singletime, EDLR/Raynsford, State and Local Government.

EXTENSIONS

FEDERAL HOME LOAN BANK BOARD

Lender's Schedule of Housing Opportunity Allowances, Form FHLBB, Monthly, Evinger (x).

FEDERAL RESERVE BOARD

Weekly Condition Report of Large Commercial Banks, Form FR 416, Weekly, Hulett (x).

Monthly Report on Maturities of Outstanding Negotiable Time Deposits in Denominations of $100,000 or More, Form FR 416b, Monthly, Hulett (x).

Weekly Report of Loans, Securities, and Total Assets of Member Banks, Form FR 644, Weekly, Hulett.

Interest Rates Charged on Selected Types of Loans Made During the Calendar Week Ended, Form FR 835, Weekly, Hulett.

Quarterly Supplement to the Monthly Survey on Interest Rates Charged on Selected Types of Loans, Form FR 835a, Quarterly, Hulett.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–10222 Filed 5–1–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

DETERMINATION TO ESTABLISH AN ADVISORY COMMITTEE

After consultation with the Director of the Office of Management and Budget and with the concurrence of the members of the Commission, I, Ray Garrett, Jr., Chairman of the Securities and Exchange Commission, have determined that the establishment of an advisory committee under the Federal Advisory Committee Act to be designated as the Securities and Exchange Commission Advisory Committee on the Implementation of a Central Market System (the "Committee"), to be in the public interest in connection with the performance of duties imposed on the Commission under the federal securities laws, particularly the Securities Exchange Act of 1934.

The Committee is established to assist the Commission in implementing its proposals for a central market system and in insuring that such a system will meet the coming needs of this country's capital markets over the next few decades, consistent with the public interest and the protection of investors. Specifically, the Committee is to study and submit recommendations to the Commission on such matters as:

1. The appropriate structure for regulatory supervision of the central market system;
2. The nature and scope of the Commission's role during the process of implementing the Commission's plans for a central market system;
3. The ways in which a central market system should be structured in order effectively to meet the needs of our capital markets, the public interest, the protection of investors and the maintaining of fair and orderly markets for securities;
4. The needs and perspectives of the users of a central market system including issuers of and investors in securities, as well as securities professionals; and
5. The appropriate resolution of fundamental policy issues relating to the central market system's operations.

RAY GARRETT, JR.,
Chairman, Securities and Exchange Commission.

[FR Doc.74–10075 Filed 5–1–74;8:45 am]

[File No. 500–1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

APRIL 24, 1974.

The common stock of Stratton Group, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 25, 1974 through May 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10076 Filed 5–1–74;8:45 am]

[File No. 500–1]

HOME-STAKE PRODUCTION CO.

Notice of Suspension of Trading

APRIL 24, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 25, 1974 through May 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10077 Filed 5–1–74;8:45 am]

SELECTIVE SERVICE SYSTEM

[Temp. Instruction No. 631–15]

Registrants Processing Manual

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portion of that Manual is considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER.

BYRON V. PEPITONE,
Director.

APRIL 24, 1974.

Temporary Instruction No. 631–15.
Issued: April 19, 1974.
Subject: Correction to Table 631–14, RPM.
A revised Table No. 631–14 is being issued to correct a typographical error. (RSN 183 should have shown the date JUN 18, rather than JUN 8.) The revised page, consisting of Table No. 631–13 (MAR 20, 1974) and Table No. 631–14 (Rev. APR 19, 1974), is attached, and will replace the page containing undated Tables Nos. 631–13 and 631–14 which shall be removed from the RPM and destroyed.

This Temporary Instruction will terminate upon completion of the required action.

TABLE No. 631–13.—*1975 Random Sequence by Date* MARCH 20, 1974.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	
1	070	191	026	326	214	253	119	079	204	088	047	115	1
2	134	116	053	152	161	309	192	082	028	142	187	211	2
3	041	155	260	212	343	180	290	360	051	084	158	071	3
4	077	341	292	223	299	361	318	235	151	193	251	209	4
5	002	018	228	023	348	345	031	149	094	145	063	043	5
6	249	128	077	030	156	121	195	317	337	311	019	166	6
7	097	219	165	227	331	320	062	131	108	321	353	138	7
8	215	333	054	200	169	020	225	262	271	132	078	113	8
9	229	057	340	256	198	307	270	033	001	171	083	300	9
10	173	244	344	306	177	240	354	089	302	358	236	196	10
11	352	312	250	032	012	027	176	061	020	098	105	350	11
12	068	185	139	179	117	254	086	085	040	269	118	197	12
13	060	356	006	256	111	313	231	268	124	010	297	201	13
14	189	235	042	048	346	129	243	220	222	364	296	308	14
15	109	315	102	213	338	135	178	127	245	172	088	146	15
16	246	003	103	325	234	130	122	096	281	052	182	072	16
17	101	357	046	330	106	175	363	080	342	224	059	084	17
18	055	139	261	335	016	183	351	241	120	258	210	194	18
19	208	301	257	282	045	263	066	094	150	319	293	097	19
20	100	076	136	075	057	322	280	305	253	324	174	092	20
21	044	188	049	283	233	203	147	294	160	073	036	255	21
22	209	133	267	206	247	011	025	279	275	009	157	336	22
23	355	114	226	141	299	326	167	329	291	274	008	081	23
24	264	090	005	190	248	239	043	199	004	272	022	153	24
25	362	207	287	170	314	202	218	327	273	287	017	163	25
26	164	242	205	277	249	288	140	088	123	069	037	181	26
27	323	252	162	125	112	005	039	265	359	285	316	238	27
28	278	001	035	214	089	298	221	021	347	142	284	322	28
29	184		054	365	014	230	304	154	276	144	045	310	29
30	303		015	065	137	186	217	107	110	149	104	266	30
31	166		334		074		339	064		126		060	31

1975 RANDOM SEQUENCE BY SEQUENCE NUMBER

TABLE NO. 631–14

[Rev. April 19, 1974]

001	Feb. 28	049	Mar. 21	097	Dec. 19
002	Jan. 6	050	Dec. 31	098	Nov. 23
003	Feb. 16	051	Sept. 3	099	Aug. 10
004	Sept. 24	052	Oct. 16	100	Jan. 20
005	June 27	053	Mar. 2	101	Jan. 17
006	Mar. 13	054	Mar. 29	102	Mar. 15
007	Mar. 6	055	Jan. 18	103	Mar. 16
008	Mar. 24	056	Mar. 8	104	Nov. 30
009	Oct. 22	057	May 20	105	Nov. 11
010	Oct. 13	058	Jan. 12	106	May 17
011	June 22	059	Nov. 17	107	Aug. 30
012	May 11	060	Jan. 13	108	Sept. 7
013	July 24	061	Sept. 9	109	Jan. 15
014	May 29	062	July 7	110	Sept. 30
015	Mar. 30	063	Nov. 5	111	May 13
016	May 18	064	Aug. 31	112	May 27
017	Nov. 25	065	Apr. 30	113	Dec. 8
018	Feb. 5	066	July 19	114	Feb. 23
019	Nov. 6	067	Feb. 9	115	Dec. 1
020	June 8	068	Nov. 15	116	Feb. 2
021	Aug. 28	069	Oct. 26	117	May 12
022	Nov. 24	070	Jan. 1	118	Nov. 12
023	Apr. 5	071	Dec. 3	119	July 1
024	Sept. 5	072	Dec. 16	120	Sept. 18
025	July 22	073	Oct. 21	121	June 6
026	Mar. 1	074	May 31	122	July 16
027	June 11	075	Apr. 20	123	Sept. 26
028	Sept. 2	076	Feb. 20	124	Sept. 13
029	Sept. 11	077	Jan. 4	125	Apr. 27
030	Apr. 6	078	Nov. 8	126	Oct. 31
031	July 5	079	Aug. 1	127	Aug. 15
032	Apr. 11	080	Aug. 17	128	Feb. 6
033	Aug. 9	081	Aug. 11	129	June 14
034	Dec. 17	082	Aug. 2	130	June 16
035	Mar. 28	083	Nov. 9	131	Aug. 7
036	Nov. 21	084	Oct. 3	132	Oct. 8
037	Nov. 26	085	Aug. 12	133	Feb. 22
038	Oct. 1	086	July 12	134	Jan. 2
039	July 27	087	Jan. 7	135	June 15
040	Sept. 12	088	Aug. 26	136	Mar. 20
041	Jan. 3	089	May 28	137	May 30
042	Mar. 14	090	Feb. 24	138	Dec. 7
043	Dec. 5	091	Dec. 23	139	Mar. 12
044	Jan. 21	092	Dec. 20	140	July 26
045	May 19	093	Oct. 11	141	Apr. 23
046	Mar. 17	094	Aug. 19	142	Oct. 28
047	Nov. 1	095	Nov. 29	143	Oct. 2
048	Apr. 14	096	Aug. 16	144	Oct. 29
				145	Oct. 5
				146	Dec. 15
				147	July 21

1975 RANDOM SEQUENCE BY NUMBER—Con.

148	Aug. 5	199	Aug. 24
149	Oct. 30	200	Apr. 8
150	Sept. 19	201	Dec. 13
151	Sept. 4	202	June 25
152	Apr. 2	203	June 21
153	Dec. 24	204	Sept. 1
154	Aug. 29	205	Mar. 26
155	Feb. 3	206	Apr. 22
156	May 6	207	Feb. 25
157	Nov. 22	208	Jan. 19
158	Nov. 3	209	Dec. 4
159	Feb. 18	210	Nov. 18
160	Sept. 21	211	Dec. 2
161	May 2	212	Apr. 3
162	Mar. 27	213	Apr. 15
163	Dec. 25	214	May 1
164	Jan. 26	215	Jan. 8
165	Mar. 7	216	Apr. 28
166	Dec. 6	217	July 30
167	July 23	218	July 25
168	Jan. 31	219	Feb. 7
169	May 8	220	Aug. 14
170	Apr. 25	221	July 28
171	Oct. 9	222	Sept. 14
172	Oct. 15	223	Apr. 4
173	Jan. 10	224	Oct. 17
174	Nov. 20	225	July 8
175	June 17	226	Mar. 23
176	July 11	227	Apr. 7
177	May 10	228	Mar. 5
178	July 15	229	Jan. 9
179	Apr. 12	230	June 29
180	June 3	231	July 13
181	Dec. 26	232	May 21
182	Nov. 16	233	Sept. 20
183	June 18	234	May 16
184	Jan. 29	235	Feb. 14
185	Feb. 12	236	Nov. 10
186	June 30	237	Mar. 25
187	Nov. 2	238	Dec. 27
188	Feb. 21	239	June 24
189	Jan. 14	240	June 10
190	Apr. 24	241	Aug. 18
191	Feb. 1	242	Feb. 26
192	July 2	243	July 14
193	Oct. 4	244	Feb. 10
194	Dec. 18	245	Sept. 15
195	July 6	246	Jan. 16
196	Dec. 10	247	May 22
197	Dec. 12	248	May 24
198	May 9	249	May 26
		250	Mar. 11
		251	Nov. 4
		252	Feb. 27
		253	June 1
		254	June 12
		255	Dec. 21
		256	Apr. 13
		257	Mar. 19
		258	Oct. 18
		259	Oct. 12
		260	Mar. 3
		261	Mar. 18
		262	Aug. 8
		263	June 19
		264	Jan. 24
		265	Aug. 27
		266	Dec. 30
		267	Mar. 22
		268	Aug. 13
		269	Jan. 22
		270	July 9
		271	Sept. 8
		272	Oct. 24
		273	Sept. 25
		274	Oct. 23
		275	Sept. 22
		276	Sept. 29
		277	Apr. 26
		278	Jan. 28
		279	Aug. 22
		280	July 20
		281	Sept. 16
		282	Apr. 19

1975 RANDOM SEQUENCE BY NUMBER—Con.

283	Apr. 21	326	June 23
284	Nov. 28	327	Aug. 25
285	Oct. 27	328	Apr. 1
286	Apr. 9	329	Aug. 23
287	Oct. 25	330	Apr. 17
288	June 26	331	May 7
289	May 4	332	Dec. 28
290	July 3	333	Feb. 8
291	Sept. 23	334	Mar. 31
292	Mar. 4	335	Apr. 18
293	Nov. 19	336	Dec. 22
294	Aug. 21	337	Sept. 6
295	Aug. 4	338	May 15
296	Nov. 14	339	July 31
297	Nov. 13	340	Mar. 9
298	June 28	341	Feb. 4
299	May 23	342	Sept. 17
300	Dec. 9	343	May 3
301	Feb. 19	344	Mar. 10
302	Sept. 10	345	June 5
303	Jan. 30	346	May 14
304	July 29	347	Sept. 28
305	Aug. 20	348	May 5
306	Apr. 10	349	Jan. 6
307	June 9	350	Dec. 11
308	Dec. 14	351	July 18
309	June 2	352	Jan. 11
310	Dec. 29	353	Nov. 7
311	Oct. 6	354	July 10
312	Feb. 11	355	Jan. 23
313	June 13	356	Feb. 13
314	May 25	357	Feb. 17
315	Feb. 15	358	Oct. 10
316	Nov. 27	359	Sept. 27
317	Aug. 6	360	Aug. 3
318	July 4	361	June 4
319	Oct. 19	362	Jan. 25
320	June 7	363	July 17
321	Oct. 7	364	Oct. 14
322	June 20	365	Apr. 29
323	Jan. 27		
324	Oct. 20		
325	Apr. 16		

[FR Doc.74–9909 Filed 5–1–74;8:45 am]

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SMALL BUSINESS ADMINISTRATION

[License No. 08/08-5033]

FIRST VENTURE CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On September 27, 1973, a notice was published in the FEDERAL REGISTER (38 FR 26983) stating that First Venture Capital Corporation, located at 46 South 700 East, Salt Lake City, Utah 84102, had filed an application with the Small Business Administration, pursuant to 13 CFR 107.102 (1974) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958 (the Act), as amended.

The period for comment ended October 12, 1973.

Notice is hereby given that, having considered the application and other pertinent information, SBA has issued license no. 08/08-5033 to First Venture Capital Corporation.

Dated: April 26, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-10006 Filed 5-1-74;8:45 am]

[Disaster Loan Area 1046; Amdt. 2]

TENNESSEE

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Tennessee as a major disaster area following tornadoes beginning on or about April 3, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from tornado victims in the following additional counties: Bedford, Blount, Cannon, Carter, Cumberland, Davidson, Decatur, De Kalb, Dickson, Fentress, Hamblen, Hamilton, Henderson, Jackson, Johnson, Loudon, Marshall, Meigs, Monroe, Overton, Pickett, Polk, Rutherford, Scott, Trousdale, Warren, White, and Wilson and adjacent affected areas. (See 39 FR 13822 and 39 FR 14650)

Applications may be filed at the:

Small Business Administration, District Office, 1012 Parkway Towers, 404 James Robertson Parkway, Nashville, Tenn. 37219.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than June 10, 1974.

Dated: April 11, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10005 Filed 5-1-74;8:45 am]

[Disaster Loan Area 1046; Amdt. 3]

TENNESSEE

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Tennessee as a major disaster area following tornadoes beginning on or about April 3, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from tornado victims in the following additional county: Hancock, and adjacent affected areas. (See 39 FR 13822, 39 FR 14650 and amendment 2 this issue).

Applications may be filed at the:

Small Business Administration
District Office
Suite 1012 Parkway Towers
404 James Robertson Parkway
Nashville, Tennessee 37219

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than June 18, 1974.

Dated: April 22, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10004 Filed 5-1-74;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

Ohio; Equal Employment Opportunity Requirements

Clarification of the Approval of Ohio EEO Requirements by Director of Office of Federal Contract Compliance and Opportunity for Appeal of Director's Determination to Assistant Secretary for Employment Standards.

As Director of the Office of Federal Contract Compliance, I have received a request for clarification of my approval of the Ohio EEO requirements published in the FEDERAL REGISTER on April 11, 1974 (39 FR 13210). Specifically, the request for clarification questions whether the scope of my approval includes the State's Proposed Implementing Rules and Regulations of the DPW Regulations on EEO.

In an effort to clarify the extent of my determination, the notice of approval published in the FEDERAL REGISTER on April 11, 1974, is amended to read as follows:

2. *Decision.* After careful review of the State of Ohio's requirements, in accordance with the provisions of 41 CFR 60-1.4 (b)(2), I have determined that the Governor's Executive Order of January 27, 1972, and Final Order of November 30, 1973, establishing new State EEO bid conditions for the standard metropolitan statistical areas of Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo and Youngstown, are not inconsistent with Executive Order 11246, as amended, and not incompatible with the implementation of Federal minority hiring and/or training plans in operation in the State of Ohio. Accordingly, I have approved these Ohio requirements, and the State may include them in federally assisted construction contracts. My approval does not now extend to the State's Proposed Implementing Rules and Regulations of the DPW Regulations on EEO inasmuch as they are only in the formative stage at this time, and thus were not considered.

Signed at Washington, D.C., this 29th day of April 1974.

PHILIP J. DAVIS,
Director,
Office of Federal Contract Compliance.

[FR Doc.74-10154 Filed 5-1-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[NOTICE NO. 34]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

APRIL 26, 1974.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary Interstate Commerce Commission, Washington, D.C. 20423.

facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 730 (Sub-No. 363), filed March 21, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94604. Applicant's representative: Alfred G. Krebs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric, located at or near Godard, Kans., as an off route point in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Wichita, Kans., or Kansas City, Mo.

No. MC 2202 (Sub-No. 462), filed March 20, 1974. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William Slabaugh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Martinsburg, W. Va. as an off-route point.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 2900 (Sub-No. 254), filed March 4, 1974. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Baltimore, Md., and the junction of U.S. Highway 13 and Delaware Highway 404, serving the termini for the purpose of joinder only: From Baltimore over Maryland Highway 2 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction Maryland Highway 404, thence over Maryland Highway 404 to the Maryland-Delaware State Boundary line, thence over Delaware Highway 404 to junction U.S. Highway 13, and return over the same route; (2) Between Charleston, W. Va., and junction of Interstate Highway 77 and U.S. Highway 30, serving the termini for the purpose of joinder only: From Charleston over Interstate Highway 77 to junction U.S. Highway 30, and return over the same route; (3) Between junction Interstate Highway 77 and U.S. Highway 30 and junction U.S. Highway 23 and U.S. Highway 25, serving the termini for the purpose of joinder only: From junction Interstate Highway 77 and U.S. Highway 30 over U.S. Highway 30 to junction U.S. Highway 250, thence over U.S. Highway 250 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 23, thence over U.S. Highway 23 to junction U.S. Highway 25, and return over the same route; (4) Between Charleston, W. Va., and junction U.S. Highway 70 and Interstate Highway 65, serving the junctions of Interstate Highway 64 and Interstate Highway 65 and the termini for the purpose of joinder only: From Charleston over Interstate Highway 64 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction U.S. Highway 70, and return over the same route; and (5) Between Hazlehurst, Ga., and Macon, Ga., serving the termini for the purpose of joinder only: From Hazlehurst over U.S. Highway 23 to junction Georgia Highway 19, thence over Georgia Highway 19 to junction Interstate Highway 16, thence over Interstate Highway 16 to Macon, and return over the same route, in (1) through (5) above, as alternate routes for operating convenience only, serving no intermediate points, in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Jacksonville, Fla., or Washington, D.C.

No. MC 2900 (Sub-No. 256), filed March 18, 1974. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, 2050 Kings Road, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Upland, Alexandria, Hartford City, Dunkirk, New Castle, and Winchester, Ind., as off-route points in connection with carrier's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Muncie, or Indianapolis, Ind.

No. MC 18535 (Sub-No. 56), filed March 21, 1974. Applicant: HICKLIN MOTOR LINE, INC., Railroad Avenue, P.O. Box 377, St. Matthews, S.C. 29135. Applicant's representative: Lawrence M. Gressette, P.O. Box 346, St. Matthews, S.C. 29315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, wood shavings, sawdust, and bark*, from Orangeburg, S.C., and Elgin, S.C., to Augusta, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbia, or Charleston, S.C.

No. MC 25869 (Sub-No. 119), filed March 22, 1974. Applicant: NOLTE BROTHERS TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Louis, Mo., to Omaha, Nebr.

NOTE.—Applicant can provide all of the requested service by tacking separately issued grants of authority. It seeks here to eliminate the gateway now required at Churdan, Iowa, and points within 25 miles thereof. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 29120 (Sub-No. 178), filed March 18, 1974. Applicant: ALL-AMERICAN, INC., 900 West Delaware, Sioux Falls, S. Dak. 57101. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report

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in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, chromes, skins, and commodities in bulk), from Sterling, Colo., to points in Illinois, Wisconsin, Michigan, Indiana, Ohio, Kentucky, and Missouri, restricted to traffic originating at the plantsites or warehouses of Sterling Colorado Beef Packers at or near Sterling, Colo., and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 29120 (Sub-No. 179), filed March 18, 1974. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, chromes, skins, and commodities in bulk), from Denver, Colo., to points in Illinois, Wisconsin, Michigan, Indiana, Ohio, Kentucky, and Missouri, restricted to traffic originating at Denver, Colo. and destined to the named destination States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 29910 (Sub-No. 143), filed March 22, 1974. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Thomas Harper, P.O. Box 43–Kelley Building, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric Company located at or near Goddard, Kans., as an off-route point in connection with applicant's operations at Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 30844 (Sub-No. 500), filed March 25, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50702. Applicant's representative: Paul Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except commodities in bulk) as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Wichita, Kans., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hamshire, New Jeresy, New York, Ohio, Pennsylvania, Vermont, Virginia, and West Virginia, restricted to shipments originating at the plant sites and facilities of Kansas Beef Industries and Cudahy Packing Co. at the above named origin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 41432 (Sub-No. 141), filed March 22, 1974. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207. Applicant's representative: W. P. Furrh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of PPG Industries, Inc., located at or near Wichita Falls, Tex., as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex., or Fort Worth, Tex.

No. MC 45656 (Sub-No. 19), filed March 25, 1974. Applicant: ANDERSON TRUCK LINE, INC., 531 W. Harper Ave., Highway 321 South, P.O. Drawer 191, Lenoir, N.C. 28645. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Toccoa, Ga., to Lenoir, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 51146 (Sub-No. 370), filed March 22, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum beverage cans and can ends*, from the plantsite of Kaiser Aluminum and Chemical Corporation at Edison, N.J., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming; and (2) *used empty pallets, skids, shrouds*, from the destination area noted in (1) above to the plant site of Kaiser Aluminum and Chemical Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52110 (Sub-No. 140), filed March 22, 1974. Applicant: BRADY MOTORFRATE, INC., P.O. Box No. 1000, Staunton, Va. 24401. Applicant's representative: Francis W. McInverny, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant site of Minnetonka Labs, located at or near Chanhassen, Minn., as an off-route point in connection with carrier's regular route operations:

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Minneapolis-St. Paul, Minn.

No. MC–56553 (Sub-No. 26), filed March 22, 1974. Applicant: PULASKI HIGHWAY EXPRESS, INC., 640 Hamilton Street, Nashville, Tenn. 37203. Applicant's representative: A. O. Buck, 614 Hamilton Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between the plantsite of the Reynolds Aluminum Company, located at or near Sheffield, Ala., and Memphis, Tenn.: From Sheffield, Ala., over U.S. Highway 43 to junction Alabama Highway 20, thence over Alabama Highway 20 to the Alabama-Tennessee State line, thence over Tennessee Highway 69 to junction U.S. Highway 64, thence over U.S. Highway 64 to Memphis, and return over the same route, serving no intermediate points, restricted to service at Memphis, Tenn. to that portion of Memphis and its commercial zone, as defined by the Commission, lying wholly within Tennessee; and (2) Between the plantsite of Reynolds Aluminum Company, located at Sheffield, Ala., and junction U.S. Highway 43 and the Tennessee-Alabama State line: From Sheffield, Ala., over U.S. Highway 43 to junction U.S. Highway 43 and the Tennessee-Alabama State line, and return over the same route, serving no intermediate points.

NOTE.—Applicant states that the purpose of this application is to remove its restrictions in Sub-Nos. 16 and 20. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn., or Florence, Ala.

No. MC 60014 (Sub-No. 35), filed March 18, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: Edward J. Conto (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Bethlehem Steel Corporation, at Lackawanna, N.Y., to points in Illinois, Indiana, Ohio, Wisconsin, and the Lower Peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 61440 (Sub-No. 140), filed March 25, 1974. Applicant: LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, Okla. 73108. Applicant's representative: Richard H. Champlin, P.O. Box 82488, Oklahoma City, Okla. 73108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Goddard, Kans., as an off-route point in connection with applicant's regular route operations at Wichita, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City, Mo.

No. MC 61592 (Sub-No. 315), filed December 26, 1973. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, P.O. Box K, Bettendorf, Iowa 52722. Applicant's representative: E. A. DeVine (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Oregon and Washington, to points in California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tacoma, Wash.

No. MC 69116 (Sub-No. 166), filed March 25, 1974. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, Ill. 60606. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric Company, Inc., located at or near Goddard, Kans., as an off-route point in connection with applicant's regular-route operation to and from Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 74321 (Sub-No. 96), filed March 15, 1974. Applicant: B. F. WALKER, INC., P.O. Box 17B, 1555 Tremont Place, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *Self propelled articles*, transported on trailers, and *related machinery, tools, parts and supplies* moving in connection therewith; (3) *Iron and steel and iron and steel articles;* (4) *Pipe*, other than iron and steel, together with fittings; and (5) *Construction materials*, between points in Colorado, on the one hand, and, on the other, points in Idaho, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Salt Lake City, Utah.

No. MC 82841 (Sub-No. 144), filed March 25, 1974. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Nucor Steel, Division of Nucor Corporation, located at or near Norfolk, Nebr., to points in Colorado, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 85255 (Sub-No. 49), filed February 14, 1974. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526 (3720 Airport Way S.), Seattle, Wash. 98124. Applicant's representative: Clyde H. MacIver, 1001 Fourth Avenue, Suite 3712, Seattle, Wash. 98154. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between Chehalis, Wash., and Olympia, Wash.; From Chehalis over Interstate Highway 5 to Olympia, and return over the same route, in connection with carrier's regular and irregular route operations between Portland, Oreg., and Blaine, Wash.

NOTE.—Applicant indicates that the purpose of this application is to eliminate an Aberdeen, Wash., gateway. If a hearing is deemed necessary, applicant does not specify location.

No. MC 95084 (Sub-No. 99), filed March 15, 1974. Applicant: HOVE TRUCK LINE, a Corporation, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, equipment, and implements;* (2) *Loaders;* (3) *Attachments and accessories* for (1) and (2) above; and (4) *Parts*, for (1), (2), and (3) above, from Madison, S. Dak., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 95540 (Sub-No. 897), filed March 4, 1974. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive, P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products, cooked bakery goods*, not frozen, in cans and in cartons, in vehicles equipped with mechanical refrigeration, from Little Rock, Ark., to points in Alabama, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95540 (Sub-No. 898), filed March 25, 1974. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive, P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, from Jacksonville (Morgan County), Fl., to points in Louisiana, Mississippi, Arkansas, Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at the plantsite of Anderson Clayton Foods, located at or near Jacksonville, Ill., and destined to the named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 95876 (Sub-No. 149), filed March 25, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, hardboard, veneer, wood paneling, wallboard, and particle board, and materials, supplies and accessories*, used in connection therewith, from Oshkosh, Wis., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Ohio, Rhode Island, Virginia, Vermont, West Virginia, and the District of Columbia.

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NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 100449 (Sub-No. 46), filed March 25, 1974. Applicant: MALLINGER TRUCK LINE, INC., R.F.D. 4, Fort Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and storage facilities of Kitchens of Sara Lee, located at Chicago and Deerfield, Ill., to points in Kansas, Oklahoma, and Texas, restricted to traffic originating at the above origins.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 100666 (Sub-No. 277), filed March 15, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 NW. 58th, 280 National Foundation Life Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from New Orleans, La., to points in Alabama, Arkansas, Mississippi, Missouri, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 104123 (Sub-No. 75), filed March 15, 1974. Applicant: JOHN SCHUTT, JR., INC., 4361 River Road, Tonawanda, N.Y. 14207. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry aluminum chloride*, in bulk, in tank vehicles, (1) from Erie and Niagara Counties, N.Y., to points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana; (2) from Brainards, N.J., and Elkton, Md., to Ashtabula, Ohio, Baltimore, Md., Institute, W. Va., West Elizabeth, Pa., Staten Island, N.Y., and points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana; and (3) from LaPorte, Tex., to points in Ashtabula, Ohio, Baltimore, Md., Institute, W. Va., West Elizabeth, Pa., and Staten Island, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 105045 (Sub-No. 48), filed March 15, 1974. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery and equipment*, (2) *heavy machinery and equipment parts* and (3) *tanks and tank components*, between points in Burlington County, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106674 (Sub-No. 129), filed March 18, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Carl Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock salt*, from Evansville, Ind., to points in Kentucky and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 107295 (Sub-No. 700), filed February 14, 1974. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in section, (2) *building sections and building panels*, (3) *parts and accessories*, used in the installation and completion (1) and (2) above, and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion thereof, from Jamestown, Ohio, to points in the United States (except Alaska, Arkansas, Illinois, Indiana, Iowa, Kentucky, Hawaii, Michigan, Missouri, Ohio, Tennessee, and Wisconsin).

Note.—Applicant can presently serve points in the territory sought insofar as the buildings involved in this application are concerned through various gateways based on authority in M.C. 107295 Parts A, B, and Sub-Nos. 5, 49, 86, 90, and 510. The purpose of this application in part is to eliminate various gateways. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 107403 (Sub-No. 894), filed March 25, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative; John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gasoline and fuel oils*, in bulk, in tank vehicles, from Clermont, Ind., to points in Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107527 (Sub-No. 52), filed March 14, 1974. Applicant: POST TRANSPORTATION CO., a Corporation, P.O. Box 4827, Carson, Calif. 90745. Applicant's representative: R. Sherman Kirksey, 1970 E. 213th Street, Carson, Calif. 90745. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sulfur trioxide without stabilizer*, from Carson, Calif., to points in Seattle, Wash., under contract with Stauffer Chemical Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 108053 (Sub-No. 126), filed March 14, 1974. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., P.O. Box 129, Fremont, Nebr. 68025. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Pana, Ill., Dubuque, Iowa, and St. Paul, Minn., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 109124 (Sub-No. 20), filed March 21, 1974. Applicant: SENTLE TRUCKING CORPORATION, 210 Alexis Road, Toledo, Ohio 43612. Applicant's representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products*, from Maple Grove, Ohio, to points in Pennsylvania (except Allegheny, Brown, Butler, Lawrence, and Mercer Counties), New York, Maryland, West Virginia, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 110563 (Sub-No. 136), filed March 25, 1974. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from the plantsites and warehouse facilities utilized by Beatrice Foods Co., located at or near Archbold, Ohio, to points in Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, New Hampshire, Maine, Vermont, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Toledo, or Columbus, Ohio.

No. MC 110988 (Sub-No. 309), filed March 25, 1974. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt cake* in bulk, in hopper type vehicles, from Otsego, Mich., to points in St. Louis, Mo.-East St. Louis, Ill., commercial zones and to points in Iowa, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112822 (Sub-No. 321), filed March 18, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Wynnewood, Okla., to points in Illinois, Indiana, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 113106 (Sub-No. 41), filed March 19, 1974. Applicant: BLUE DIAMOND COMPANY, a Corporation, 4401 E. Fairmount Avenue, Baltimore, Md. 21224. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and closures* for containers, *and materials, supplies and equipment* used in the manufacture of glass containers (except commodities in bulk), and returned shipments of the above-specified commodities, (a) between Brockway, Pa., on the one hand, and, on the other, points in New York, New Jersey, Maryland (except Baltimore), and Virginia; (b) between Washington, Pa., on the one hand, and, on the other, points in New York and New Jersey; (c) between Freehold, N.J., on the one hand, and, on the other, points in New York and Pennsylvania; and (d) between Jersey City and Carteret, N.J., on the one hand, and, on the other, points in New York on and west of Interstate Highway 81, points in Pennsylvania on and west of Interstate 81 and 83, and points in Maryland, Delaware, Virginia, and the District of Columbia; and (2) *Plastic containers, and materials, supplies, and equipment*, used in the manufacture of plastic containers (except commodities in bulk), between Mt. Carmel, Pa., on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113495 (Sub-No. 63), filed March 26, 1974. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* weighing 15,000 pounds or more, *and related machinery, tools, parts, and supplies* moving in connection therewith, between points in Spotsylvania County, Va., on the one hand, and, on the other, points in that part of the United States in and east of Arkansas, Iowa, Louisiana, Minnesota, and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113908 (Sub-No. 310), filed March 22, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vinegar and vinegar stock*, in bulk, (a) from Kansas City, Mo., and Memphis, Tenn., to Terre Haute, Ind.; and (b) from Holland, Mich., to Memphis, Tenn.; and (2) *Neutral and distilled spirits and* alcohol, in bulk, from Lake Alfred, Fla., to Rogers, Ark., Kansas City, Mo., Charlotte, N.C., Memphis, Tenn., and Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 113908 (Sub-No. 314), filed March 25, 1974. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid animal and poultry feed ingredients*, in bulk, from Cabool, Mo., to Wolcott, Kans., and Omaha, Nebr.; (2) *Vinegar and vinegar stock*, in bulk, from Nixa, Mo., to points in Wisconsin; and (3) *Neutral and distilled spirits and alcohol*, in bulk, from Owensboro, Ky. to Chicago, Ill., and Montgomery, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 114004 (Sub-No. 141), filed March 20, 1974. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Steuben and Oneida Counties, N.Y., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 114273 (Sub-No. 170), filed March 18, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Spencer Foods, Inc. at or near Schuyler and Fremont, Nebr., to points in Connecticut, Delaware, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the above named origin.

NOTE. Common control may be involved. If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 114274 (Sub-No. 28), filed March 25, 1974. Applicant: VITALIS TRUCK LINES, INC., 137 NE. 48th Street Place, Des Moines, Iowa 50306. Applicant's representative: William H. Towle, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Section A and C of Appendix I to the *Report of Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift and Company, located at or near Des Moines, Marshalltown, Ames, Sioux City, and Glenwood, Iowa, to points in Tennessee, North Carolina, South Carolina, Georgia, and Florida, restricted to the transportation of traffic originating at the above-named origin points and destined to points in the above-named states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114457 (Sub-No. 189), filed March 22, 1974. Applicant: DART TRANSIT COMPANY, a Corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Bridgeport, Imlay City, and Memphis, Mich., to points in Ohio, Indiana, Kentucky, Illinois, Wisconsin, Iowa, Missouri, Minnesota, Kansas, Nebraska, South Dakota, and North Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Detroit, Mich.

No. MC 114632 (Sub-No. 70), filed March 8, 1974. Applicant: APPLE LINES, INC., 212 SW. Second, Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and warehouse facilities utilized by the

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Kitchens of Sara Lee, at Chicago and Deerfield, Ill., to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas, restricted to traffic originating and destined to the named points.

NOTE.—Applicant holds contract carrier authority in MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114632 (Sub-No. 72), filed March 25, 1974. Applicant: APPLE LINES, INC., 212 SW. Second, Madison, S. Dak. 57042. Applicant's representative: Robert A. Appelwick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as defined by the Commission in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Fergus Falls, Minn., to points in Illinois, Indiana, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, restricted to traffic originating at the plantsite and facilities utilized by John Morrell and Co.

NOTE.—Applicant holds contract carrier authority in MC–129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115691 (Sub-No. 29), filed March 25, 1974. Applicant: MURPHY TRANSPORTATION, INC., 1414 Crawford Avenue., Anniston, Ala. 36201. Applicant's representative: John P. Carlton, 903 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron valves, hydrants, fittings, service boxes, indicator posts, floor stands, and accessories*, from the plant site of Dresser Manufacturing Division of Dresser Industries, Inc., Anniston Operation, at Anniston, Ala., to points in Alabama, Arkansas, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, the lower peninsula of Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 115691 (Sub-No. 30), filed March 25, 1974. Applicant: MURPHY TRANSPORTATION, INC., 1414 Crawford Avenue, Anniston, Ala. 36201. Applicant's representative: John P. Carlton, 903 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit, pipe and cable, and fittings and attachments* therefor, from Glendale (Marshall County), W. Va., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116004 (Sub-No. 32), filed March 22, 1974. Applicant: TEXAS-OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, Tex. 75247. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 75247. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site and facilities of Western Electric Company, Inc., located at or near Goddard, Kans., as an off-route point in connection with applicant's regular route operations at Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Kansas City, Kans.

No. MC 117883 (Sub-No. 189), filed March 21, 1974. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, chocolate, chocolate coating, cocoa, cocoa butter, cocoa compounds, and flavoring syrup*, from points in Derry Township (Dauphin County), Pa., to points in Indiana, Michigan, and those points in Ohio on and west of Ohio State Routes 13 and 93, restricted to traffic originating at the plantsite and storage facilities of Hershey Foods Corporation, located at the named origin, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 117940 (Sub-No. 120), filed March 25, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as defined by the Commission in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Fergus Falls, Minn., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and District of Columbia, restricted to traffic originating at the plantsite and facilities utilized by John Morrell and Company.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 117940 (Sub-No. 121), filed March 25, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, to points in Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 117940 (Sub-No. 123), filed March 25, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and facilities utilized by the Kitchens of Sara Lee located at or near Deerfield and Chicago, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC–114789 Sub-No. 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 118202 (Sub-No. 35), filed March 25, 1974. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, Minn. 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Illinois, Indiana, Michigan, Minnesota, Iowa, Nebraska, North Dakota, South Dakota, Missouri, Oklahoma, Maine, Massachusetts, Connecticut, Delaware, New York, New Jersey, Pennsylvania, Ohio, New Hampshire, Maryland, Rhode Island, Virginia, West Virginia, Vermont, and the District of Columbia; and (2) *meat, meat products, meat by-products, foodstuffs, canning plant materials, equipment, and supplies* (except hides or commodities in bulk) from Illinois, Indiana, Michigan, Minnesota, Iowa, Nebraska, New York, Delaware, North Dakota, South Dakota, Missouri, Oklahoma, Maine, Massachusetts, Connecticut, New Jersey, Pennsylvania, Ohio, New Hampshire, Maryland, Rhode Island, Virginia, West Virginia, Vermont, and the District of Columbia, to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at and destined to the points named above.

NOTE.—Applicant holds contract carrier authority in MC 134631 (Sub-No. 4) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minenapolis, Minn.

No. MC 118520 (Sub-No. 9), filed March 19, 1974. Applicant: ALASKA TRUCK TRANSPORT, INC., P.O. Box 1994, Anchorage, Alaska 99510. Applicant's representative: John M. Stern, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ores and ore concentrates*, between points in Alaska on the one hand, and, on the other, points in Montana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fairbanks, Alaska or Anchorage, Alaska.

No. MC 118535 (Sub-No. 61), filed March 25, 1974. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and dry feed ingredients*, (1) from Kansas City, Mo., to points in Arkansas, New Mexico, Oklahoma, and Texas; and (2), from Danville, Ill., to Kansas City, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 118535 (Sub-No. 62), filed March. 26, 1974. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry organic fertilizer, soil conditioners, organic fertilizer materials, and organic fertilizer ingredients*, from Caldwell, Tex., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 118806 (Sub-No. 34), filed March 22, 1974. Applicant: ARNOLD BROS. TRANSPORT, LTD., 739 Lagimodiere Boulevard, Winnipeg, Manitoba, Canada R2J0T8. Applicant's representative: Daniel C. Sullivan, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fans, blowers, and air exchange systems*; and (2) *parts and attachments* for fans, blowers, and air exchange systems, from the ports of entry on the International Boundary line between Canada and the United States in Minnesota, to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant does not specify location.

No. MC 119656 (Sub-No. 27), filed March 25, 1974. Applicant: NORTH EXPRESS, INC., 219 E. Main Street, Wilnamac, Ind. 46996. Applicant's representative: Donald W. Smith, Suite 2465. One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Cleveland, Niles, Warren, and Youngstown, Ohio, to points in Illinois, and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119738 (Sub-No. 2), filed March 26, 1974. Applicant: HAGGARD HEAVY HAULING, INC., 2100 Guinotte, Kansas City, Mo. 64120. Applicant's representative: Louis J. Amato, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Carlinville, Sparta, Irvington, Flora, and Centralia, Ill., and Louisiana, Mo., to points in Iowa, Nebraska, Kansas, Missouri, and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Kans., or St. Louis, Mo.

No. MC 119777 (Sub-No. 291), filed March 15, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon and graphite articles* (except in bulk), *including anodes, electrolytic bath electrodes, furnace electrodes, lineal shapes, plates and rods, and carbon refractory material*, from St. Marys, Punxsutawney, and points in Benzinger Township, (Elk County), Pa.; and Niagara Falls, N.Y., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, and Washington.

NOTE.—Applicant holds contract carrier authority in MC 126970 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119777 (Sub-No. 292), filed March 21, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical insulation*, from the plantsite or sites of Spaulding Fibre Co., Inc., at or near North Rochester, N.H., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119988 (Sub-No. 62), filed March 25, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., Rt. 3, Box 870, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plantsite and warehouse facilities of PPG Industries, Inc., at or near Wichita Falls, Tex., to points in North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Wisconsin, Illinois, Minnesota, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Nevada, Washington, Oregon, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 123255 (Sub-No. 41), filed March 13, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglas materials and fiberglas products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products, plastic materials* and *plastic products* (except plastic bottles), and *raw materials, supplies, machinery, and equipment* used in the manufacture and packing of such commodities, (a) between Newark, Ohio, and Huntingdon, Pa., on the one hand, and, on the other, points in Ohio, Pennsylvania, West Virginia, Kentucky, New York, Indiana, Illinois, Michigan, Wisconsin, Missouri, and points in Kansas within the Kansas City, Kans., Commercial Zone, as defined by the Commission; and (b) between Newark, Ohio, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Rhode Island, and the District of Columbia; (2) *fiberglas materials and fiberglas products, fibrous glass mineral*

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wool products, fibrous glass textile materials, fibrous glass textile products, and *plastic materials,* and *plastic products* (except plastic bottles), from points in Ohio, to points in Pennsylvania, West Virginia, Kentucky, New York, Indiana, Illinois, Michigan, Wisconsin, Missouri, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Rhode Island, the District of Columbia, and points in that part of Kansas within the Kansas City, Kans., Commercial Zone, as defined by the Commission.

(3) *Equipment, materials, and supplies* (except commodities in bulk, in tank, Hopper or dump vehicles) used in the installation and erection of fiberglas materials and products, *fibrous glass mineral wool products, plastic materials and plastic products* when moving in mixed shipments with such materials and products, between Newark, Ohio, on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky, New York, Indiana, Illinois, Michigan, Wisconsin, Missouri, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Rhode Island, the District of Columbia, and points in Kansas within the Kansas City Commercial Zone; (4) *fiberglas materials and fiberglas products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products, plastic materials and plastic products, raw materials, supplies, machinery, and equipment* (except commodities in bulk, in tank, hopper, or dump vehicles) used in the manufacture and packing of such commodities, and *equipment, materials, and supplies* (except commodities in bulk, in tank, hopper, or dump vehicles) used in the installation and erection of fiberglas materials and products, fibrous glass mineral wool products, and plastic materials and plastic products, when moving in mixed shipments with such materials and products, between Newark, Ohio, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Maine, Mississippi, North Carolina, New Hampshire, South Carolina, Tennessee, Vermont, and Virginia; and

(5) *Composition board* and *accessories* incidental to the installation of composition board, from Newark, Ohio, to points in Indiana, Michigan, Illinois, Kentucky, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Tennessee, North Carolina, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Wisconsin, Minnesota, and the District of Columbia, restricted in paragraph (1) through (4) to shipments originating at or destined to the plantsites, warehouses or shipping facilities of Owens-Corning Fiberglas Corporation, at Toledo, Ohio, and in paragraph (5), restricted to shipments originating at or destined to the plantsites, warehouses or shipping facilities of National Gypsum Company, at Buffalo, N.Y.

NOTE.—Applicant seeks by this application to convert its Permits in MC 81968 Subs 19, 20, 23, and 25, into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123379 (Sub-No. 8), filed March 22, 1974. Applicant: BRUBAKER TRANSFER, INC., 103 North Major, Eureka, Ill. 61530. Applicant's representative: Samuel G. Harrod, 107 East Eureka Avenue, Eureka, Ill. 61530. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *New display cases and store fixtures,* from plant site of Robersonville Products Co., Robersonville, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, District of Columbia, and West Virginia, under a continuing contract with Robersonville Products Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Raleigh, N.C.

No. MC 123407 (Sub-No. 163), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum sulphate* in bags, from Pine Bend, Minn., to points in South Dakota, North Dakota, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 123407 (Sub-No. 164), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, couplings, and materials and supplies* used in the installation thereof, from Henderson, Ky., to points in Montana, Wyoming, Colorado, New Mexico, Texas, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Oklahoma, Louisiana, Mississippi, Tennessee, Kentucky, Illinois, Wisconsin, Michigan, Indiana, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, and New York.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 123407 (Sub-No. 165), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from Minneapolis, Minn., St. Louis, Mo., Lawrence, Kans., Lee Summit, Mo., Barberton, Ohio, Syracuse, N.Y., Midland and Ludington, Mich., to points in North Dakota, South Dakota, Montana, and Wyoming.

NOTE.—Common control may be involved If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Washington, D.C.

No. MC 123407 (Sub-No. 166), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal feed supplements,* from Hardin, Mont., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Washington, D.C.

No. MC 123872 (Sub-No. 21), filed March 21, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts,* from Dallas, Ennis, and Fort Worth, Tex., and Hominy and Oklahoma City, Okla., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 123872 (Sub-No. 22), filed March 21, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts,* from Cincinnati and Mason, Ohio, and Winchester, Ky., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 124212 (Sub-No. 76), filed March 22, 1974. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, Cleveland, Ohio 44130. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum coke,* from points in Delaware and New Jersey, to the plantsite of Lehigh Portland Cement Company at Union Bridge, Md.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125254 (Sub-No. 27), filed March 18, 1974. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., 1201 East 5th Street, P.O. Box 714, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Waste and scrap paper and materials and supplies* used in the manufacture of insulation (except in bulk), from points in Indiana, Illinois, Wisconsin, Minnesota, and Nebraska, to Muscatine, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 125650 (Sub-No. 10), filed March 14, 1974. Applicant: MOUNTAIN PACIFIC TRUCKING CORPORATION, Route 2, Missoula, Mont. 59801. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (a) *Frozen pies and cakes,* (1) from McMinnville and Portland, Oreg., to points in Montana (except Great Falls), Idaho, and Spokane, Wash.; (2) from McMinnville and Portland, Oreg., to points in Wyoming, and Wasatch, Morgan, Davis, Salt Lake, Weber, Cache, Box Elder, Rich, and Tooele Counties, Utah; and (3) from McMinnville and Portland, Oreg., to Pierce, Snohomish, King, Thurston, Benton, Walla Walla, and Yakima Counties, Wash.; (b) *Frozen fruits, frozen vegetables, frozen juices, frozen meats, and frozen prepared foods,* from the Portland, Oreg., commercial zone to points in Idaho, Spokane, Wash., and points in Davis, Salt Lake, and Weber Counties, Utah.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 126899 (Sub-No. 73), filed March 21, 1974. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages, in containers, and related advertising materials;* from Baltimore, Md., to Hopkinsville, Ky., *and empty malt beverage containers* on return.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Evansville, Ind., or Louisville, Ky.

No. MC 127468 (Sub-No. 8), filed March 22, 1974. Applicant: LTD. INC., 3250 South Western Avenue, Chicago, Ill. 60608. Applicant's representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Electrical appliances and equipment, and materials and supplies* used in the manufacture, sale, and distribution of electrical appliances and equipment, (1) between Chicago, Ill., Dumas, Ark., Coushatta, La., Forest and Waynesboro, Miss., Elkin, N.C., Denmark and Manning, S.C., Dayton, Knoxville, and McMinnville, Tenn., and Milwaukee, Wis., on the one hand, and, on the other, points in Orangeburg County, S.C., and Atlanta, Ga., and (2) between points in Orangeburg County, S.C., on the one hand, and, on the other, Atlanta, Ga., under contract with Sunbeam Corporation and John Oster Manufacturing Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127541 (Sub-No. 3), filed March 25, 1974. Applicant: GARITH ANDERSON, P.O. Box 1, Osseo, Minn. 55369. Applicant's representative: Gary J. Meyer, 3735 N. Highway 52, Robbinsdale, Minn. 55422. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glazed concrete blocks,* from Maple Grove Village, Minn., to points in Illinois, under contract with Zenith Glazed Products Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 128007 (Sub-No. 61), filed March 21, 1974. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Factory built conventional homes and buildings; plumbing fixtures and accessories; window casings, parts, and accessories; door casings, parts, and accessories; carpeting; building hardware and trim; and household appliances,* from the plantsite and/or storage facilities of Homes and Structures of Pittsburg, Kansas, Inc., at or near Pittsburg, Kans., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming; and (2) *materials and supplies* used in the manufacture of part (1) above, from points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Tennessee, Texas, Virginia, Wisconsin and Wyoming, to the plantsite and/or storage facilities of Homes and Structures of Pittsburg, Kansas, Inc., at or near Pittsburg, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128664 (Sub-No. 6), filed March 22, 1974. Applicant: KARDUX TRANSFER, INC., 1907 Roby Avenue, Muscatine, Iowa 52761. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *Common carrier,* by motor vehicle, over irregular routes, transporting: *Animal, poultry, fish and pet food* (except in bulk), from the plantsite of Doane Products at or near Muscatine, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Nebraska, Ohio, South Dakota, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC–136552 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 129631 (Sub-No. 42), filed March 21, 1974. Applicant: PACK TRANSPORT, INC., 3975 S. 300 West, Salt Lake City, Utah 84107. Applicant's representative: Max D. Eliason, P.O. Box 2602, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard, lath, and plaster* (gypsum products), from points in Clark County, Nev., to points in Utah and Idaho; and (2) *Aluminum articles and iron and steel articles,* between points in Webster County, Utah., on the one hand, and, on the other, points in North Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Ogden or Salt Lake City, Utah.

No. MC 133655 (Sub-No. 72), filed March 22, 1974. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products, plastic bags, liners and film, textile bags, and material, equipment, and supplies* used in the manufacture and distribution of the above described commodities, between Sibley, Iowa, on the one hand, and, on the other, points in Montana, Wyoming, Idaho, and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133689 (Sub-No. 49), filed March 25, 1974. Applicant: OVERLAND EXPRESS, INC., 651 First St. SW., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Daniel C. Sullivan, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Doors;* (2) *entrance systems;* (3) *chimney systems;* (4) *venting systems;* (5) *parts, attachments, and accessories* of (1), (2), (3) and (4), from Fredericksburg, Va., to points in North Dakota, South Dakota, Nebraska, Iowa, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133689 (Sub-No. 52), filed March 22, 1974. Applicant: OVERLAND

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EXPRESS, INC., 651 First St. SW., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Daniel C. Sullivan, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Foodstuffs* (except potatoes, potato products, and potato by-products); (b) *food ingredients;* and (c) *related equipment, materials, and supplies*, when moving with foodstuffs and food ingredients (except commodities in bulk), from Caribou and Presque Isle, Maine, to points in North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Kentucky, Indiana, Michigan, Ohio, West Virginia, Tennessee, New York (except points east of I–81), and Pennsylvania (except points east of U.S. Highway 219); and (2) *returned and rejected shipments of the above described commodities*, from the destination states named in (1) above to Caribou and Presque Isle, Maine.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134068 (Sub–No. 16) (AMENDMENT), filed December 27, 1973, published in the FR issue of February 22, 1974, and republished as amended this issue. Applicant: KODIAK REFRIGERATED LINES, INC., 3336 East Fruitland Avenue, Vernon, Calif. 90058. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products and puddings*, from points in Wisconsin and Minnesota, to points in Arizona, California, Idaho, New Mexico, Oregon, and Washington; (2) *gift packages, foodstuffs, advertising material, and related equipment and supplies*, from Madison and Sun Prairie, Wis., to points in Arizona, California, Idaho, New Mexico, Oregon, and Washington; and (3) *butter*, from points in California, Oregon, and Washington, to points in Minnesota and Wisconsin.

NOTE.—The purpose of this republication is to delete Wisconsin in (1) as a destination point and to include Washington. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134145 (Sub-No. 46), filed March 20, 1974. Applicant: NORTH STAR TRANSPORT, INC., Route No. 1, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machines, computing, and parts, materials, and supplies* (except commodities in bulk), used in the manufacture or operation thereof, from Rochester, Mount Clemens, and Kalamazoo, Mich., to points in Minneapolis-St. Paul, Minn., under contract with Computer Peripherals, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134806 (Sub-No. 21), filed March 19, 1974. Applicant: B–D–R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Oils and greases, finishing compounds, and supplies for tanning leather* (except commodities in bulk), from points in Massachusetts, Exeter, N.H., Newark, N.J., and Brattleboro, Vt., to points in San Francisco, Alameda, Napa, Solano, San Mateo, and Santa Cruz Counties, Calif., under contract with West Coast Tanners Production Club.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 134922 (Sub-No. 69), filed March 18, 1974. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Screw conveyors, bucket elevators, idlers, pulleys, and component parts*, from the plantsite of FMC Corporation, in Lee County, Miss., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used in the manufacture of screw conveyors, bucket elevators, idlers, pulleys, and component parts, from points in the United States (except Alaska and Hawaii), to the plantsite of FMC Corporation, in Lee County, Miss., both (1) and (2) restricted against the transportation of commodities in bulk, and those which because of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 135018 (Sub-No. 3), filed March 25, 1974. Applicant: SEAHORSE TRANSPORT, INC., No. 11 Southside Road, Port Brownsville, Tex. 78520. Applicant's representative: J. Max Harding, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and equipment* utilized in the manufacture, sale, and distribution of electric switches, from West Hartford, Conn., to Brownsville, Tex., under a continuing contract or contracts with Carlingswitch, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135874 (Sub-No. 40), filed March 20, 1974. Applicant: LTL PERISHABLES, INC., 132nd and "Q" Streets, Omaha, Nebr. 68137. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plant site and warehouse facility of Jeno's, Inc., at Duluth, Minn., to points in Iowa, Kansas, Nebraska, South Dakota, and Missouri, restricted to traffic destined to the named states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 136221 (Sub-No. 23), filed March 21, 1974. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 210 St. Mary's Drive, Suite G, P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: Joseph E. Rebman, 1230 Boatmen's Building, 314 N. Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *New furniture*, (1) From the facilities of the Wickes Furniture, Division of The Wickes Corporation, located at or near Merrillville, Indiana (Lake County), to points in that part of Illinois on, north, and east of a line beginning at the Indiana-Illinois state line at the intersection of U.S. Highway 24 and said state line and extending westerly along U.S. Highway 24 to junction Illinois Highway 47, thence north along U.S. Highway 47 to junction U.S. Highway Alternate 30, thence east along U.S. Highway Alternate 30 to Lake Michigan; (2) From the facilities of The Wickes Furniture, Division of The Wickes Corporation, located at or near Wheeling, Illinois (near Chicago), and Itaska, Illinois (near Chicago), to points in that part of Wisconsin on, south, and east of a line beginning at Lake Michigan at Racine, Wisconsin, and extending westerly along Wisconsin Highway 11 to junction Wisconsin Highway 67, thence south along Wisconsin Highway 67 to junction Wisconsin Highway 36, thence south along Wisconsin Highway 67 and 36 to the Wisconsin-Illinois state line; (3) From the facilities of The Wickes Furniture Division of The Wickes Corporation located at or near Willowbrook, Illinois (near Chicago), Wheeling, Illinois (near Chicago), Itaska, Illinois (near Chicago), and Harvey, Illinois (near Chicago), to points in that part of Indiana on and east of a line beginning at Lake Michigan at Tremont, Indiana due north of Indiana Highway 49), thence south along Indiana Highway 49 to junction Indiana Highway 14, thence west along Indiana Highway 14 to Illinois-Indiana state line; and (B), *Return or rejected shipments* of the above specified commodities, from points in described destination territories in (1), (2), and (3) above to respective described points of origin in (1), (2), and (3) above, (A) and (B) above, under contract with Wickes Furniture, division of the Wickes Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., St. Louis, Mo., or Washington, D.C.

No. MC 136220 (Sub-No. 8), filed March 25, 1974. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., 1705 N. E. Woodland, Ponca, Okla. 74601. Applicant's representative: Dean Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Haskell, Latimer, LeFlore, and Pittsburg Counties, Okla., and Johnson and Logan Counties, Ark., to points in Morris County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 136315 (Sub-No. 3), filed March 15, 1974. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, Miss. 39350. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty Bank Bldg., P.O. Box 22628, Jacksonville, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, treated or untreated, from points in Lamar County, Ala., and Calhoun and Neshoba Counties, Miss., to points in Maine, Massachusetts, New Jersey, Connecticut, Rhode Island, New York, North Carolina, Vermont, New Hampshire, Delaware, Maryland, Virginia, South Carolina, West Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 123905 Subs 5 and 15, and desires to retain certain contracts if approved, therefore, applicant seeks approval of dual operations. If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss.

No. MC 136343 (Sub-No. 28), filed March 25, 1974. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* in packages, *pepper* in packages in mixed shipment with salt in packages, and *materials and supplies*, used in the agriculture, water treatment, food processing, wholesale grocery and institutional supply, industrial in mixed shipments with salt in packages, from facilities of Morton Salt Co., Division of Morton-Norwich Products, Inc., located at or near Rittman, Ohio, to points in Maryland, Delaware, and the District of Columbia.

NOTE.—Common and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 136711 (Sub-No. 9) filed March 25, 1974. Applicant: DAVID G. McCORKLE, doing business as McCORKLE TRUCK LINE, 2780 South High, P.O. Box 95181, Oklahoma City, Okla. 73109. Applicant's representative: Dean Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Haskell, Latimer, LeFlore, and Pittsburg Counties, Okla., and Johnson and Logan Counties, Ark., to points in Morris County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 136786 (Sub-No. 50), filed March 25, 1974. Applicant: ROBCO TRANSPORTATION, INC., Room 205, 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Swift Fresh Meat Co. at Marshalltown, Des Moines, Glenwood, Sioux City, and Ames, Iowa, to points in North Carolina, South Carolina, Florida, Georgia, and Alabama, restricted to shipments originating at and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 136825 (Sub-No. 1), filed March 22, 1974. Applicant: ENDICOTT TRUCKING CO., a Corporation, 1193 Refugee Road, Columbus, Ohio 43207. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as dealt in by electronic equipment and supply stores between the facilities of Radio Shack, Division of Tandy Corporation, at Columbus, Ohio, on the one hand, and, on the other, points in New Jersey, Delaware, Maryland, District of Columbia, North Carolina, South Carolina, and Virginia, under continuing contract with Radio Shack, Division of Tandy Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 138313 (Sub-No. 10), filed March 13, 1974. Applicant: MACK E. BURGESS, doing business as BUILDERS TRANSPORT, 409 14th Street SW., Great Falls, Mont. 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds and feed ingredients*, between points in Washington, Oregon, Minnesota, North Dakota, South Dakota, Nebraska, Montana, Wyoming, Iowa, Idaho, Utah, and Colorado.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Missoula, Mont.

No. MC 138926 (Sub-No. 4), filed March 25, 1974. Applicant: GENCOM, INC., R.R. #4, Marshall, Mo. 65340. Applicant's representative: Thomas P. Rose, Jefferson Building, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inedible animal fat*, in bulk, between points in Saline County, Mo., on the one hand, and, on the other, points in Illinois, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Texas, Tennessee, Kentucky, Wisconsin, New Mexico, and Colorado; (2) *dry meat and bone meal*, in bulk, between points in Carroll County, Mo., on the one hand, and, on the other, points in Illinois, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Texas, Tennessee, Kentucky, Wisconsin, New Mexico, and Colorado, under a continuing contract with Alvin Hahn and Bill Phillips, doing business as Hahn & Phillips Grease Co. of Marshall, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jefferson City or Kansas City, Mo.

No. MC 138946 (Sub-No. 3), filed March 25, 1974. Applicant: MARKET INDUSTRIES, LTD., Boise Cascade Bldg., Room 927, 1600 SW. 4th, Portland, Oregon 97204. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, relishes, and sauerkraut and commodities* otherwise exempt from economic regulation under Section 203(B)(6) of the Interstate Commerce Act, when moving in mixed shipments with pickles, relishes, and sauerkraut, from Portland and Scappoose, Oreg., to points in California, under contract with Steinfeld's Products Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oregon.

No. MC 139021 (Sub-No. 2), filed March 1, 1974. Applicant: 212 AUTO SALES, INC., 325 US–20, East, P.O. Box 251, Michigan City, Ind. 46360. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used cars and pick-up trucks* sold at auctions by truck-away service, between the auction sites of Grand Rapids Auto Auction, Inc., at or near Hudsonville, Mich.; Flint Auto Auction, Flint, Mich.; Dealers Auto Auction, Indianapolis, Ind.; Indiana Auto, Inc., Fort Wayne, Ind.; and Mid States Auto Auction, South Bend, Ind.; on the one hand, and, on the other, points in Michigan, Ohio, Minnesota, Wisconsin, Illinois, and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or Chicago, Ill.

No. MC 139036 (Sub-No. 2), filed March 22, 1974. Applicant: LEONARD

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GUSTAFSON, doing business as CHIPMUNK EXPRESS, Route 1—Box 61, Rapid River, Mich. 49878. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodchips, bark, wood slabs, and pulpwood*, from points in the Upper Peninsula of Michigan, to points in Illinois, Indiana, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Milwaukee, Wis., or Lansing, Mich.

No. MC 139243 (Sub-No. 2), filed March 18, 1974. Applicant: DAVISON TRANSPORT, INC., Sunset Avenue, North Bend, Ohio 45052. Applicant's representative: Melvin E. Marmer 17th Floor Central Trust Tower, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials* in bulk, in dump trucks, from North Bend, Ohio, to points in Ohio, Indiana, Kentucky, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, Columbus, Ohio, or Washington, D.C.

No. MC 139244 (Sub-No. 1), filed March 25, 1974. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, Ill. 52626. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* (except those designed to be drawn by passenger automobiles), *trailer chassis*, in initial movements, in truckaway service, *accessories, equipment, and parts* thereof when moving with trailers and chassis, truck bodies, roll back equipment loaders, winches, hoists, axles, truck utility boxes, wheels, gears, lift gates, brakes, and vehicle light testing equipment, from the plantsites, warehouse, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill., to points in the United States (except Alaska and Hawaii); (2) *Steel sheets, steel coils, steel channels, channel iron bar stock, and steel tubing*, from points in Lake and Porter Counties, Ind., and Youngstown, Ohio, to the plantsites, warehouses, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill.; (3) *Commodities, materials, and supplies* used in the manufacture of trailers (except those designed to be drawn by passenger automobiles), trailer chassis, truck bodies, roll back equipment loaders, and truck utility boxes, from points in the United States (except Alaska and Hawaii), to the plantsites, warehouses, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill.; and (4) *Trailers* (except those designed to be drawn by passenger automobiles), in initial movements, in truckaway service, from Denver, Colo., Birmingham and Haleyville, Ala., and Ashdown, Ark., to the plantsites, warehouses, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill.; (1) through (4) above, inclusive, under contract with Schien Body and Equipment Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., Springfield, Ill., or St. Louis, Mo.

No. MC 139298 (Sub-No. 1), filed March 19, 1974. Applicant: KEDNEY WAREHOUSE COMPANY, a Corporation, 9th and University, Grand Forks, N. Dak. 58201. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Grand Forks, Walsh, Traill, Steele, Griggs, Nelson, Pembina, Cavalier, Ramsey, Eddy, and Foster Counties, N. Dak., and Polk, Marshall, Norman, Pennington, Kittson, Roseau, Red Lake, and Clearwater Counties, Minn., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Grand Forks or Fargo, N. Dak.

No. MC 139322 (Sub-No. 2), filed March 18, 1974. Applicant: FUSONI'S EXPRESS, INC., 8 Carver Circle, Canton, Mass. 02020. Applicant's representative: Frank M. Cushman, 36 South Main Street, Sharon, Mass. 02067. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Misses' and women's hanging garments, cartoned goods, and accessories*, in vehicles especially equipped internally for the transportation thereof, between Touraine Stores, Inc., warehouse location, Campanelli Park, Braintree, Mass., and points in New Hampshire and Maine, under contract with Touraine Stores, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 139420 (Sub-No. 3), filed March 21, 1974. Applicant: ART GREENBERG, doing business as GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials, and supplies*, from points in Park County, Wyo., Chicago and Joliet, Ill., Kansas City, Mo., Florence, Ky., and Dubuque, Iowa, to points in North Dakota, and those points in Minnesota on and west of U.S. Highway 71 and on and north of U.S. Highway 12.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or either St. Paul or Minneapolis, Minn.

No. MC 139422 (Sub-No. 1), filed March 19, 1974. Applicant: D & J TRANSPORT, INC., P.O. Box 367, Ray, N. Dak. 58849. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products*, from the plant site of Hardy Salt Co., near Williston, N. Dak., to points in Montana, South Dakota, and Wyoming, and (2) *salt*, in bulk only, from the plant site of Hardy Salt Co. near Williston, N. Dak., to points in Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Williston or Fargo, N. Dak.

No. MC 139427 (Sub-No. 2), filed March 22, 1974. Applicant: DAVID L. NORDICK AND DOUGLAS D. HAUGH, a Partnership, doing business as NORDICK TRUCKING, 13164 Lakeview Granada Dr., Lakeside, Calif. 92040. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Missile air frame and wing assemblies, missile containers, and empty packaging material*, used, between El Cajon, Calif., and Tucson, Ariz., under a continuing contract or contracts with Ametek Straza.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Diego, Calif., or Los Angeles, Calif.

No. MC 139484 (Sub-No. 2), filed March 25, 1974. Applicant: CLIFTON ROGERS AND RONALD HEMMEN, a Partnership, doing business as ROGERS TRUCK LINE, P.O. Box 97, Webster City, Iowa 50595. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Iowa Beef Processors, Inc., located at or near Denison, Fort Dodge, Le Mars, and Mason City, Iowa, and West Point, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 139528 (Sub-No. 1), filed March 22, 1974. Applicant: SCOVILLE OIL COMPANY, a Corporation, P.O. Box 248, London, Ky. 40741. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036.

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline, No. 1 fuel oil and No. 2 fuel oil*, in bulk, in tank vehicles, from Knoxville, Tenn., to London, Corbin, Livingston, and Mt. Vernon, Ky., under contract with Curry Oil Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 139621, filed March 18, 1974. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, Ill. 61102. Applicant's representative: Robert D. Higgins (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank trucks, from McFarland, Wis., to points in Illinois, under a continuing contract or contracts with Forest City Oil Co., Rockford, Ill., and Griffin Oil Co., Rockford, Ill.

NOTE.—Applicant holds common carrier authority in MC 115651 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 139622, filed March 18, 1974. Applicant: INTERSTATE MOVING AND STORAGE, INC., 6965 Commerce Ave., El Paso, Tex. 79915. Applicant's representative: Hugh H. Trotter, Jr. (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* as are dealt in by retail department stores, from the facilities of Montgomery Ward & Co., Inc., at El Paso, Tex., to retail customers of Montgomery Ward & Co., Inc., at Luna, Dona Ana and Otero Counties, N. Mex., and El Paso and Hudspeth Counties, Tex., and (2) *returned shipments* of like commodities from the above named points, to the facilities of Montgomery Ward & Co., Inc., at El Paso, Tex., under a continuing contract with Montgomery Ward & Co., Inc., El Paso, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at El Paso or Amarillo, Tex., Albuquerque, N. Mex., or Dallas, Tex.

No. MC 139629 (Sub-No. 1), filed March 21, 1974. Applicant: BOOTH REFRIGERATED LINES, INC., 1308 16th Avenue, Central City, Nebr. 68826. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except meats and meat products), from Grand Island, York, and Omaha, Nebr., to points in Illinois, Iowa, Minnesota, South Dakota, and Wisconsin, restricted to traffic originating at the facilities utilized by Delicious Foods Co., at Grand Island, Nebr., and destined to points in the above-named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lincoln, or Omaha, Nebr.

No. MC 139632, filed March 11, 1974. Applicant OMER CHOQUETTE TRUCKING, INC., Newport, Vt. 05855. Applicant's representative: Adrien R. Paquette, 200 St. James St., Suite 900, Montreal, Province of Quebec H2Y 1M1 Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemical fertilizer products*, in bulk and in bags, from ports of entry on the International Boundary line between the United States and Canada, located at Rouse's Point, N.Y., North Troy, Vt., Derby Line, Vt., and Norton, Vt., to points in Clinton County, N.Y., Grand Isle, Franklin Chittenden, Orleans, Lamoille, Addison, Caledonia, Orange, Rutland, Washington and Windsor Counties Vt., and Coos, and Grafton Counties, N.H., under contract with Brockville Chemical Industries, Ltd., and its subsidiary, Brockville Fertilizers Inc.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 139649, filed March 18, 1974. Applicant: ARLINGTON SALVAGE AND WRECKER COMPANY, a Corporation, 1203 Bernita Street, Jacksonville, Fla. 32211. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disabled or wrecked vehicles or trailers*, (2) *salvaged or used parts* for vehicles or trailers when being transported on the same vehicle and at the same time as commodities set forth in (1) above; and (3) *replacement vehicles or trailers* for the commodities as set forth in (1) above, between Jacksonville, Fla., on the one hand, and, on the other, points in Alabama, Georgia, Louisiana, North Carolina, South Carolina, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 139650, filed March 21, 1974. Applicant: WHITLEY COUNTY CONCRETE AND SUPPLY CO., INC., P.O. Box 69, Williamsburg, Ky. 40769. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Williamsburg, Ky., on the one hand, and, on the other, points in Whitley, McCreary, Pulaski, Laurel, Knox, Rockcastle, and Bell Counties, Ky., restricted to traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky., or Frankfort, Ky.

No. MC 139659, filed March 22, 1974. Applicant: BRIGHT TRUCKING, INC., 1st Avenue and 16th Street, St. Cloud, Minn. 56301. Applicant's representative: J. Max Harding, 605 South 14th St., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and warehouse facilities utilized by Landy Packing Co., at or near St. Cloud, Minn.; Landy, Incorporated, at or near Minneapolis, Minn.; and Landy of Wisconsin, at or near Eau Claire, Wis., to points in the United States (except Alaska and Hawaii), and (2) *materials, supplies, and equipment* (except commodities in bulk), utilized in the manufacture, sale, and distribution of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsites and warehouse facilities utilized by Landy Packing Co., at or near St. Cloud, Minn.; Landy, Incorporated, at or near Minneapolis, Minn.; and Landy, of Wisconsin, at or near Eau Claire, Wis., under continuing contracts with Landy Packing Co.; Landy, Incorporated; and Landy of Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 139660, filed March 22, 1974. Applicant: M. E. HETTINGER, doing business as FORD MOVING COMPANY, 2654 Summer Ave., P.O. Box 12571, Memphis, Tenn. 38112. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Store and office furniture and fixtures, uncrated*, from the plantsite and warehouse facilities of Rice, Inc., located at or near Memphis, Tenn., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Ohio, South Carolina, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 139662, filed March 19, 1974. Applicant: GARLAND D. TOWE, GARLAND W. PIKE, AND BENJAMIN E. SMITH, a Partnership, doing business as TOWE-PILE GRAIN AND SUPPLY COMPANY, Route 2 Hertford, N.C. 27944. Applicant's representative: Garland D. Towe (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk fertilizer and fertilizer materials*, from points in Nansemond County, and Norfolk, Va., to points in Pasquotank, Perquimans, Gates, Hertford, and Northampton Counties, N.C., under contract with Swift Agricultural and Chemical Company.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the appli-

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cant requests it be held at Elizabeth City, N.C.

No. MC 139663, filed March 25, 1974. Applicant: HASKINS & SON, INC., 815 Max Avenue, Lansing, Mich. 48915. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron and metal*, in bulk, between points in Michigan, Ohio, Illinois, and Indiana (except Wabash and Atwood, Ind.).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

PASSENGER APPLICATIONS

No. MC 66561 (Sub-No. 3), filed March 18, 1974. Applicant: COWELL COACH LINE, INC., doing business as INTERSTATE COACH, a Corporation, 14 Taunton Green, Taunton, Mass. 02780. Applicant's representative: Mary E. Kelley, 11 Riverside Ave., Medford, Mass. 02155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special-round-trip operations, beginning and ending at Providence, E. Providence, Cranston, and Pawtucket, R.I., Stoughton, Mass., and points in Plymouth and Bristol Counties, Mass., and extending to the track of Yankee Greyhound Racing Association, Inc., located at Seabrook, N.H.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 139630, filed March 15, 1974. Applicant: EVERGREEN EQUIPMENT CORP., 558 Belmont Avenue, Haledon, N.J. 07508. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and newspapers and express*, in the same vehicle with passengers, Between Long Valley, Washington Township, N.J., and New York, N.Y.: From Long Valley Washington Township, N.J., over N.J. Highway 24 to junction U.S. Highway 206, thence over U.S. Highway 206 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 495, thence over Interstate Highway 495 to and through the Lincoln Tunnel to New York, N.Y., and return over the same routes, serving intermediate points in Washington Township, Chester Township, Chester Borough, Mount Olive Township, and Roxbury Township, the latter limited to those on and west of the junction of U.S. Highway 206 and Interstate 80.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 139635, filed March 15, 1974. Applicant: STATION WAGON SERVICE, INC., P.O. Box 153, 429 Minnisink Road, Totowa, N.J. 07511. Applicant's representative: George A. Olsen, 69 Tonnelle Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in executive car service not exceeding 4 passengers plus driver, between points in Passaic County, and Bergen County, N.J., Fairfield, Caldwell, West Caldwell, North Caldwell, Cedar Grove (Essex County, N.J.), Montville, Lincoln Park, Pequannock, Butler, Riverdale (Morris County, N.J.), on the one hand, and, on the other, Newark Airport, N.J., points in the New York, N.Y., Commercial Zone as defined by the Commission, Westchester, Nassau and Suffolk Counties, N.Y., and Fairfield County, Conn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 139652, filed March 25, 1974. Applicant: RALEIGH LINES, INCORPORATED, c/o Rivers Edge Club, Somerset, Wis. 54205. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority socght to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, and *baggage of passengers* in a separate vehicle, in charter operations, and in round-trip sightseeing and pleasure tours, beginning and ending at points in Burnett, Barron, Rusk, Polk, and St. Croix Counties, Wis., and extending to points in the United States (including Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or St. Paul, Minn.

BROKER APPLICATIONS

No. MC 130233, filed March 18, 1974. Applicant: WINSTON-SALEM TOURS, INC., 480 Carolina Circle, Winston-Salem, N.C. 27104. Applicant's representative: Sue C. Shore (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker*, at Forsyth County, N.C., to sell or offer to sell to motor, rail, and water carriers, the transportation of *Passengers and their baggage*, with chaperones in charter operations, beginning and ending at points in Forsyth County, N.C., and extending to points in the United States (except Alaska and Hawaii). If a hearing is deemed necessary, applicant requests it be held at Charlotte or Raleigh, N.C.

No. MC 130234, filed March 21, 1974. Applicant: BLUEFIELD AUTOMOBILE CLUB, 622 Commerce St., P.O. Box 90, Bluefield, W. Va. 24701. Applicant's representative: A. B. Norconk, Jr. (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Bluefield, W. Va., to sell or offer to sell the transportation of *groups of passengers and their baggage*, in contract motor carrier service for group tours arranged by the Bluefield Automobile Club, beginning and ending at Bluefield, W. Va., and extending to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Bluefield W. Va., or Charleston, W. Va.

No. MC 130236, filed March 25, 1974. Applicant: EXEC-VAN SYSTEMS, INC., 51 Weaver Street, Greenwich, Conn. 06830. Applicant's representative: Ronald I. Shapss, 744 Broad Street, Newark, N.J. 07102. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Boston, Mass.; Chicago, Ill.; Denver, Colo.; Los Angeles, Calif.; New York, N.Y.; Palm Beach, Fla.; San Francisco and San Jose, Calif.; Washington, D.C.; and Greenwich, Conn., to sell or offer to sell the transportation of *Household goods* as defined by the Commission, between points in the United States including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-9935 Filed 5-1-74;8:45 am]

[Notice No. 499]

ASSIGNMENT OF HEARINGS

APRIL 29, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after May 2, 1974.

MC 116073 Sub-31, Barrett Mobile Home Transport, Inc., Extension—Buildings (13 Western States); MC 116073 Sub-35, Barrett Mobile Home Transport, Inc., Extension—Buildings (Arizona); and MC 116073 Sub-85, Barrett Mobile Home Transport, Inc., Extension—Idaho (Moorhead, Minn.), now assigned continued hearing June 10, 1974, at Great Falls, Montana, will be held at the Hospitality Room, First Federal Savings & Loan, 601 First Ave. North.

MC-119792 Sub 38, Chicago, Southern Transportation Co., Inc., now assigned June 5, 1974, at New Orleans, La., is cancelled and the application is dismissed.

MC 116073 Sub-31, Barrett Mobile Home Transport, Inc., Extension—Buildings (13 Western States); MC 116073 Sub-35, Barrett Mobile Home Transport, Inc., Extension—Buildings (Arizona); and MC 116073 Sub-85, Barrett Mobile Home Transport, Inc., Extension—Idaho (Moorhead, Minn.), now assigned continued hearings June 12,

1974, at Billings, Mont., will be held in Room 246, U.S. Post Office Bldg., 2602 First Ave. North; now assigned continued hearing June 17, at Denver, Colo., will be held in Room 587, Tax Court, U.S. Federal Bldg., 19th & Stout Streets; now assigned June 24, 1974, at Pierre, S. Dak., will be held in Room 440, 4th Floor, Federal Bldg.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10087 Filed 5-1-74;8:45 am]

[No. AB-1 (Sub-No. 23)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

Abandonment Between Elmhurst and Villa Park, in Du Page County, Ill.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq., and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Du Page County, Ill., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 22nd day of April 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[No. AB-1 (Sub-No. 23)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN ELMHURST AND VILLA PARK, IN DU PAGE COUNTY, ILL.

The Interstate Commerce Commission hereby gives notice that by order dated April 22, 1974, it has been determined that the proposed abandonment of the line of Chicago and North Western Transportation Company between milepost 17.12 near Elmhurst and milepost 17.9 near Villa Park, in Du Page County, Ill., a distance of 0.78 mile, if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic over this line has been minimal and demand for service has been sporadic. Nearby alternative rail access is available and there will be a minimal impact on the area's total transportation scheme. In addition, the abandonment would facilitate the planned development of a park on the abandoned rail right-of-way. The determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request at the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 17, 1974.

[FR Doc.74-10089 Filed 5-1-74;8:45 am]

[No. AB-12 (Sub-No. 8)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between South El Monte and Baldwin Park, Los Angeles County, Calif.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Los Angeles County, Calif., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished .

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 22nd day of April 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[No. AB-12 (Sub-No. 8)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN SOUTH EL MONTE AND BALDWIN PARK, LOS ANGELES COUNTY, CALIF.

The Interstate Commerce Commission hereby gives notice that by order dated April 22, 1974, it has been determined that the proposed abandonment of a line of the Southern Pacific Transportation Company between South El Monte and Baldwin Park, Los Angeles County, Calif., a distance of 4.36 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that inasmuch as no traffic has moved over the subject line for the past two years and no shippers rely on the services of this line, abandonment will have little effect on land use plans or transportation patterns. If abandonment is approved, the right-of-way may be utilized as a mass transportation bus corridor. The abandonment will, therefore, facilitate the improvement of mass transportation in Los Angeles County.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 17, 1974.

[FR Doc.74-10090 Filed 5-1-74;8:45 am]

[No. AB-12 (Sub-No. 13)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Portion Winters Branch Between Vaca Valley and Esparto, in Solano and Yolo Counties, Calif.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in newspapers of general circulation in Solano and Yolo Counties, Calif., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 22nd day of April 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[No. AB-12 (Sub-No. 13)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT PORTION WINTERS BRANCH BETWEEN VACA VALLEY AND ESPARTO, IN SOLANO AND YOLO COUNTIES, CALIF.

The Interstate Commerce Commission hereby gives notice that by order dated April 22, 1974, it has been determined that the pro-

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posed abandonment of the line of the Southern Pacific Transportation Company between Vaca Valley and Esparto, Calif., a distance of approximately 21.95 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that traffic over this line is not substantial and is decreasing. Alternative motor carrier service in the area is adequate, therefore, there will be a minimal impact on the area's total transportation scheme. There are no development plans in the area, and land use will remain primarily dedicated to agriculture.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C., 20423, on or before May 17, 1974.

[FR Doc.74-10088 Filed 5-1-74;8:45 am]

[Amendment No. 5 to I.C.C. Order No. 88 Under Revised Service Order No. 994]

PENN CENTRAL TRANSPORTATION CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 88 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 88 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1974, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., November 30, 1973, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent for all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 30, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-10091 Filed 5-1-74;8:45 am]

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United States Government Printing Office,
Washington, D.C. 20402**

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federal register

Area Code 202 Phone 523-6240

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* There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3206 is amended to reflect the following title change from: Office of the Assistant Secretary (Systems Analysis) to Office of the Assistant Secretary (Program Analysis and Evaluation).

Effective on May 3, 1974, § 213.3206 (a) (2) is amended as set out below.

§ 213.3206 Department of Defense.

(a) *Office of the Secretary.* • • •

(2) Professional Positions at GS–11 and above involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Operations Analysis Group and in the Office of the Deputy Assistant Secretary (Management Systems Development), both in the Office of the Assistant Secretary (Comptroller).

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10207 Filed 5–2–74;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that two additional positions of Special Assistant to the Deputy Director, Office of Management and Budget, are excepted under Schedule C.

Effective on May 3, 1974, § 213.3303(a) (2) is amended as set out below.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* • • •

(2) Three Special Assistants to the Deputy Director.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10209 Filed 5–2–74;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Secretary to the Deputy General Counsel, Federal Energy Office, is expected under Schedule C.

Effective on May 3, 1974, § 213.3303(k) (2) is added as set out below.

§ 213.3303 Executive Office of the President.

• • • • • •

(k) *Federal Energy Office.* • • •

(2) One Secretary to the Deputy General Counsel.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10212 Filed 5–2–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that one position of Private Secretary to the Inspector General, Foreign Assistance is expected under Schedule C.

Effective on May 3, 1974, § 213.3304(t) (1) is added as set out below.

§ 213.3304 Department of State.

• • • • • •

(t) *Office of the Inspector General, Foreign Assistance.* (1) One Private Secretary to the Inspector General, Foreign Assistance.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10211 Filed 5–2–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 is amended to show that one position of Secretary to the Assistant Secretary for Near Eastern and South Asian Affairs is excepted under Schedule C.

Effective on May 3, 1974, § 213.3304(z) is added as set out below.

§ 213.3304 Department of State.

• • • • • •

(z) *Office of the Assistant Secretary for Near Eastern and South Asian Affairs.* (1) Secretary to the Assistant Secretary.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10210 Filed 5–2–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that the position of Director of Telecommunications and Command and Control Systems, Office of the Secretary, is excepted under Schedule C.

Effective on May 3, 1974, § 213.3306(a) (56) is added as set out below.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(61) Director of Telecommunications and Command and Control Systems.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10208 Filed 5–2–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 71—DESIGNATION OF FEDERAL

[Airspace Docket No. 74–WA–13]

AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Additional Control Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate Control 1180 from Kennedy, N.Y., to the western boundary of the New York Oceanic Control Area on a part-time basis to be activated by a notice to Airmen in the event that a threatened strike by Canadian Air Traffic Controllers should occur.

Transatlantic air traffic is normally routed on a northerly great circle route

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through the Moncton, Canada, Flight Information Region. A strike by Canadian Air Traffic Controllers may preclude the safe use of this route. Therefore it becomes imperative that an alternate route be immediately available that does not depend on Canadian Controllers to provide the separation service necessary for the safe operation of aircraft. Control 1180 will provide a suitable alternativ: routing for such trans-atlantic flights.

Since a situation exists where safety requires immediate adoption of this amendment, it is found that notice and public procedure thereon are impracticable and for that reason good cause exists for making this amendment effective on less than 30-days notice.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately as hereinafter set forth.

§ 71.163 (39 FR 346) is amended by adding the following:

Control 1180. That airspace extending upward from 6000 feet MSL to and including FL 390 within the established boundaries of Warning Area W-106 and W-506, and that airspace within Warning Area W-105 extending upward from 6000 feet MSL to and including FL 390 within tangent lines drawn from the circumference of a 5-mile-radius circle centered on the Kennedy, N.Y., VOR TAC (Lat. 40°37'57" N., Long. 73°46'22" W.) to the circumference of a 15-mile-radius circle radial at Lat. 39°50'00" N., Long. 70°00'00" radial at Lat. 39°50'00"N., Long. 70°00'00" W. This control area is effective during the specific dates and times established in advance by a Notice to Airmen.

(Sec. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510 and Executive Order 10854 (24 FR 9565), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on May 1, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-10333 Filed 5-2-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2498]

PART 13—PROHIBITED TRADE PRACTICES

Carpet Bazaar, Inc., and Allen R. Greenberg

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.155 *Prices;* 13.155–15 Comparative; 13.155–35 Discount savings; 13.155–40 Exaggerated as regular and customary; 13.155–70 Percentage savings; 13.155–75 Product or quantity covered; 13.155–100 Usual as reduced, special, etc. § 13.175 *Quality of product or service;* § 13.180 *Quantity;* 13.180–35 Offered; § 13.285 *Value.* Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051–20 Adequate: Subpart—Misrepresenting oneself and goods—Goods: § 13.1715 *Quality;* § 13.1720 *Quantity;* § 13.1775 *Value.*—Prices: § 13.1785 *Comparative;* § 13.1805 *Exaggerated as regular and customary;* § 13.1825 *Usual as reduced or to be increased.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45). [Cease and desist order, Carpet Bazaar, Inc, et al., Berwyn, Ill., Docket C-2498, Mar. 20, 1974])

In the Matter of Carpet Bazaar, Inc., a Corporation, and Allen R. Greenberg, Individually and as an Officer of Said Corporation

Consent order requiring a Berwyn, Ill., retailer and installer of home carpeting, among other things to cease misrepresenting the price at which it will carpet a home and the prices of carpet remnants; that its prices are sale or reduced or that savings will be afforded to purchasers; and to cease its failure to maintain adequate records to support savings claims.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That Carpet Bazaar, Inc., a corporation, its successors and assigns, and its officers, and Allen R. Greenberg, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, or other device, in connection with the advertising, offering for sale, sale or distribution of carpeting and floor coverings, or any other article of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising or otherwise representing that respondents will carpet an entire home, regardless of the number of rooms, for "$549" or any other stated amount, unless such is the fact.

2. Using the word "Sale," or any other word or words of similar import or meaning not set forth specifically herein unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

3. (a) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' advertised sale price and respondents' former price unless such merchandise has been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' advertised sale price and a regular price for said merchandise in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise at such regular price.

(c) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' advertised sale price and a regular selling price for comparable merchandise, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the stated regular price or a higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said regular price and it is clearly and conspicuously disclosed that the regular price is applicable to merchandise of like grade and quality.

4. Advertising or otherwise representing a regular price or compare value price for carpet remnants or rugs (a) unless the carpet remnants or rugs being advertised are of the same grade and quality as the carpets with which such advertised prices are compared; and (b) without disclosing in immediate conjunction therewith that the regular selling price or compared value price is based on the wall-to-wall price of carpeting of the same grade and quality.

5. Representing, directly or by implication, orally or in writing, that purchasers of respondents' merchandise will save any stated dollar or percentage amount without fully and conspicuously disclosing in immediate conjunction therewith, the basis for such savings representations.

6. Failing to maintain and produce for inspection or copying for a period of three (3) years, adequate records (a) which disclose the facts upon which any savings claims, sales claims and other similar representations as set forth in Paragraphs One, Two and Four of this order are based, and (b) from which the validity of any savings claims, sale claims and similar representations can be determined.

It is further ordered, That respondents shall maintain for at least a one (1) year period, following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of obtaining leads for the sale of carpeting or floor coverings, or utilized in the advertising, promotion or sale of carpeting or floor coverings and other merchandise.

It is further ordered, That respondents, for a period of one (1) year from the effective date of this order, shall provide each advertising agency utilized by respondents and each newspaper publishing company, television or radio station or other advertising media which is utilized by respondents to obtain leads for the sale of carpeting or floor coverings and other merchandise, with a copy of the Commission's News Release setting forth the terms of this order.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It it further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued: March 20, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74-10169 Filed 5-2-74;8:45 am]

[Docket No. C-2497]

PART 13—PROHIBITED TRADE PRACTICES

Dance World, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.155 *Prices;* 13.155–5 Additional charges unmentioned; 13.155–95 Terms and conditions; § 13.205 *Scientific or other relevant facts.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1760 *Terms and conditions;*—Prices: § 131795 *Coverage or extras;* § 13.1778 *Additional costs unmentioned;* § 13.1823 *Terms and conditions.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal; § 13.2080 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45) [Cease and desist order, Dance World, Inc. et al., Dallas and Richardson, Texas, Docket C-2497, Mar. 20, 1974])

In the Matter of Dance World, Inc., a Corporation, Dance World Richardson, Inc., a Corporation, and Ms. Phyllis Francis Klein, Individually and as an Officer of Said Corporations

Consent order requiring sellers of memberships in dance and recreation clubs located in Dallas and Richardson, Texas, among other things to cease misrepresenting the prices and terms and conditions of their memberships.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Dance World, Inc. and Dance World Richardson, Inc., corporations, their successors and assigns, and its officers and Phyllis Francis Klein, individually and as an officer, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, and sale of dance club or social club memberships or services or any other services or products in commerce as "commerce" is defined in Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication that any memberships may be purchased in respondents' dance clubs without clearly and conspicuously disclosing the period of time to which the membership relates and,

2. Advertising any price without also clearly and conspicuously disclosing the terms and conditions of continuing a membership beyond the initial advertised period of membership.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of her present business or employment and of her affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which she is engaged as well as a description of her duties and responsibilities.

It is further ordered, That in the event that respondent merges with another corporation or transfers all or a substantial part of its business or assets to any other corporation or to any other person, respondent shall require said successor or transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; provided that if respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each officer of the corporation, member of the board, organization manager, and each employee, now and in the future, involved in the writing or placement of advertising or sales.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: March 20, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74-10168 Filed 5-2-74;8:45 am]

[Docket No. C-2509]

PART 13—PROHIBITED TRADE PRACTICES

Metro Passbook, Inc., and Richard Natow

Subpart—Advertising falsely or misleadingly: § 13.75 *Free goods or services;* § 13.155 *Prices;* 13.155–15 Comparative; 13.155–40 Exaggerated as regular and customary; 13.155–70 Percentage savings; 13.155–100 Usual as reduced, special, etc.; § 13.160 *Promotional sales plans;* § 13.240 *Special or limited offers;* § 13.260 *Terms and conditions.* Subpart—Failing to maintain records; § 13.1051 Failing to maintain records; 13.1051–20 Adequate; Subpart—Misrepresenting oneself and goods—Goods: § 13.1625 *Free goods or services;* § 13.1760 *Terms and conditions.* —Prices: § 13.1785 *Comparative;* § 13.1805 *Exaggerated as regular and customary;* § 13.1823 *Terms and conditions;* § 13.1825 *Usual as reduced or to be increased.* —Promotional sales plans: § 13.1830 *Promotional sales plans.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1925 *Coupon, certificate, check voucher, etc., deductions in price;* § 13.1955 *Free goods;* § 13.2000 *Limited offers or supply;* § 13.2080 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45 [Cease and desist order, Metro Passbook, Inc., et al., Philadelphia, Pa., Docket C-2509, Mar. 26, 1974]

In the Matter of Metro Passbook, Inc. a Corporation, and Richard Natow, individually and as an Officer of Said Corporation

Consent order requiring a Philadelphia, Pa., seller of promotional coupons, among other things to cease misrepresenting the terms and conditions regarding the use of its coupons; misrepresenting the prices of its coupons as sale prices; failing to maintain adequate records substantiating its claims; and misrepresenting savings afforded to purchasers or that merchandise or services are "free."

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The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Metro Passbook, Inc., a corporation, its successors and assigns, its officers and Richard Natow, individually and as an officer of said corporation and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale or sale of promotional coupons, or any other merchandise or service, in "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that through the use of respondents' promotional coupons the purchase of any item at participating restaurants entitles the buyer to any second item free of charge.

2. Representing, directly or by implication, that through the use of respondents' promotional coupons the purchase of any ticket at participating sport exhibitors entitles the buyer to any second ticket free of charge.

3. Representing, directly or by implication, that respondents' promotional coupons are accepted by participating theaters and other places of entertainment for any and all performances.

4. Representing, directly or by implication, that respondents' promotional coupons may be used at any and all times.

5. Representing, directly or by implication, that the number of restaurants or establishments that honor respondents' promotional coupons is greater than those that do in fact honor respondents' promotional coupons.

6. Using the word "Sale", or any other word or words of similar import or meaning not set forth specifically herein unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

7. (a) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise or services have been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise or services in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise or services at the compared price or some higher price.

(c) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise or services, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price or a higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise or services of like grade and quality.

8. Representing, directly or by implication, orally or in writing, that purchasers of respondents' merchandise will save any stated dollar or percentage amount without fully and conspicuously disclosing in immediate conjunction therewith, the basis for such savings representations.

9. Failing to maintain and produce for inspection or copying for a period of three (3) years, adequate records (a) which disclose the facts upon which any savings claims, sale claims and other similar representations as se' forth in Paragraphs Six, Seven, and Eight of this order are based, and (b) from which the validity of any savings claims, sale claims and similar representations can be determined.

10. Representing, directly or indirectly, orally or in writing, that any price amount is respondents' regular price for any article of merchandise or services unless said amount is the price at which such merchandise or services have been sold or offered for sale by respondents for a reasonably substantial period of time in the recent, regular course of their business and not for the purpose of establishing fictitious higher prices upon which a deceptive comparison or a "free" or similar offer might be based.

11. Representing, directly or indirectly, orally or in writing, that a purchaser of respondents' merchandise or services will receive "free" bonuses, passes or values of any other "free" merchandise, services, gifts, prizes or awards unless all conditions, obligations, or other prerequisites to the receipt and retention of such merchandise, services, gifts, prizes or awards are clearly and conspicuously disclosed at the outset in close conjunction with the word "free" wherever it first appears in each advertisement or offer.

12. Representing, directly or indirectly, orally or in writing, that any merchandise or services is furnished "free" or at no cost to the purchaser of advertised merchandise or services, when, in fact, the cost of such merchandise or services is regularly included in the selling price of the advertised merchandise or services.

13. Representing, directly or indirectly, orally or in writing, that a "free" offer is being made in connection with the introduction of new merchandise or services offered for sale at a specified price unless the respondents expect, in good faith, to discontinue the offer after a limited time and commence selling such merchandise or services, separately, at the same price at which it was sold with a "free" offer.

14. Representing, directly or indirectly, orally or in writing, that merchandise or services are being offered "free" with the sale of merchandise or services which are usually sold at a price arrived at through bargaining, rather than at a regular price, or where there may be a regular price, but where other material factors such as quantity, quality, or size are arrived at through bargaining.

15. Representing, directly or indirectly, orally or in writing, that a "free" offer is available in a trade area for more than six (6) months in any twelve (12) month period. At least thirty (30) days shall elapse before another such "free" offer is made in the same trade area. No more than three such "free" offers shall be made in the same area in any twelve (12) month period. In such period, respondents' sale in that area of merchandise or services in the amount, size or quality promoted with the "free" offer shall not exceed 50 percent of the total volume of its sales of merchandise or services, in the same amount, size or quality, in the area.

16. Representing, directly or indirectly, orally or in writing, that merchandise or services are being offered as a "gift", "without charge", "bonus", or by other words or terms which tend to convey the impression to the consuming public that merchandise or services are free, when the use of the term "free" in relation thereto is prohibited by the provisions of this order.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist, and a copy of the Commission's news release setting forth the terms of the order, to each advertising agency and advertising medium, such as newspaper publishing companies, radio stations or television stations, presently utilized in the course of their business, and that respondents shall, immediately upon opening an account, deliver a copy of such order and news release to any such agency or medium with which they subsequently open an account.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to each of their agents, representatives and employees engaged in the offering for sale or sale of respondents' merchandise or services, or in any aspect of the creation, preparation or placing of respondents' advertisements and that respondents shall deliver a copy of such order to each such person whom they subsequently employ, immediately upon employing each such person and that respondents shall secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent corporation shall forthwith deliver a copy of this order to each of its operating divisions.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with any new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: March 28, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.74-10167 Filed 5-2-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER D—TRADE REGULATION RULES

PART 432—POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., has conducted a proceeding for the promulgation of a Trade Regulation Rule concerning power output claims for amplifiers utilized in home entertainment products.

The Commission has now considered all matters of fact, law, policy and discretion, including the data, views and arguments presented on the record by interested parties in response to the notices, as prescribed by law, and has determined that the adoption of the Trade Regulation rule and statement of its basis and purpose set forth herein is in the public interest.

Sec.
- 432.1 Scope.
- 432.2 Required disclosures.
- 432.3 Standard test conditions.
- 432.4 Optional disclosures.
- 432.5 Prohibited disclosures.
- 432.6 Liability for violation.

AUTHORITY: The provisions of this Part 432 issued under 38 Stat. 717, as amended; (15 U.S.C. 41-58).

§ 432.1 Scope.

(a) Except as provided in paragraph (b) of this section, this part shall apply whenever any power output (in watts or otherwise), power band or power frequency response, or distortion capability or characteristic is represented, either expressly or by implication, in connection with the advertising, sale, or offering for sale, in commerce as "commerce" is defined in the Federal Trade Commission Act, of sound power amplification equipment manufactured or sold for home entertainment purposes, such as for example, radios, record and tape players, radio-phonograph and/or tape combinations, component audio amplifiers and the like.

(b) Representations shall be exempt from this part if all representations of performance characteristics referred to in paragraph (a) of this section clearly and conspicuously disclose a manufacturer's rated power output and that rated output does not exceed two (2) watts (per channel or total).

(c) It is an unfair method of competition and an unfair or deceptive act or practice within the meaning of section 5 (a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) to violate any applicable provision of this part.

§ 432.2 Required disclosures.

Whenever any direct or indirect representation is made of the power output, power band or power frequency response, or distortion characteristics of sound power amplification equipment, the following disclosures shall be made clearly, conspicuously, and more prominently than any other representations or disclosures permitted under this part:

(a) The manufacturer's rated minimum sine wave continuous average power output, in watts, per channel (if the equipment is designed to amplify two or more channels simultaneously)—

(1) For each load impedance required to be disclosed in paragraph (b) of this section, when measured with resistive load or loads equal to such (nominal) load impedance or impedances, and

(2) Measured with all associated channels fully driven to rated per channel power;

(b) The load impedance or impedances, in Ohms, for which the manufacturer designs the equipment to be used by the consumer;

(c) The manufacturer's rated power band or power frequency response, in Hertz (Hz), for each rated power output required to be disclosed in paragraph (a)(1) of this section; and

(d) The manufacturer's rated percentage of maximum total harmonic distortion at any power level from 250 mW to the rated power output, for each such rated power output and its corresponding rated power band or power frequency response.

§ 432.3 Standard test conditions.

For purposes of performing the tests necessary to make the disclosures required under § 432.2:

(a) The power line voltage shall be 120 volts AC (230 volts when the equipment is made for foreign sale or use, unless a different nameplate rating is permanently affixed to the product by the manufacturer in which event the latter figure would control), RMS, using a sinusoidal wave containing less than 2 percent total harmonic content. In the case of equipment designed for battery operation only, tests shall be made with the battery power supply for which the particular equipment is designed and such test voltage must be disclosed under the required disclosures of § 432.2. If capable of both AC and DC battery operation, testing shall be with AC line operation:

(b) The AC power line frequency for domestic equipment shall be 60 Hz and 50 Hz for equipment made for foreign sale or use;

(c) The amplifier shall be preconditioned by simultaneously operating all channels at one-third of rated power output for one hour using a sinusoidal wave at a frequency of 1,000 Hz;

(d) The preconditioning and testing shall be in still air and an ambient temperature of at least 77° F (25° C);

(e) Rated power shall be obtainable at all frequencies within the rated power band without exceeding the rated maximum percentage of total harmonic distortion after input signals at said frequencies have been continuously applied at full rated power for not less than five (5) minutes at the amplifier's auxiliary input, or if not provided, at the phono input.

(f) At all times during warm-up and testing, tone loudness-contour and other controls shall be preset for the flattest response.

§ 432.4 Optional disclosures.

Other operating characteristics and technical specifications not required in § 432.2 may be disclosed: *Provided:*

(a) That any other power output is rated by the manufacturer, is expressed in minimum watts per channel, and such power output representation(s) complies with the provisions of § 432.2; except that if a peak or other instantaneous power rating, such as music power or peak power, is represented under this section, the maximum percentage of total harmonic distortion (see § 432.2(d)) may be disclosed only at such rated output: *And provided further*,

(b) That all disclosures or representations made under this section are less conspicuously, and prominently made than the disclosures required in § 432.2; and

(c) The rating and testing methods or standards used in determining such representations are disclosed, and well known and generally recognized by the industry at the time the representations or disclosures are made, are neither intended nor likely to deceive or confuse

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the consumers and are not otherwise likely to frustrate the purpose of this part.

NOTE.—For the purpose of paragraph (b) of this section, optional disclosures will not be considered less prominent if they are either bold faced or are more than two-thirds the height of the disclosures required by § 432.2.

NOTE 2: Use of the asterisk in effecting any of the disclosures required by § 432.2 and permitted by § 432.4 shall not be deemed conspicuous disclosure.

§ 432.5 Prohibited disclosures.

No performance characteristics to which this part applies shall be represented or disclosed if they are not obtainable as represented or disclosed when the equipment is operated by the consumer in the usual and normal manner without the use of extraneous aids.

§ 432.6 Liability for violation.

If the manufacturer or, in the case of foreign made products, the importer or domestic sales representative of a foreign manufacturer, of any product covered by this part furnishes the information required or permitted under this part, then any other seller of the product shall not be deemed to be in violation of § 432.5 due to his reliance upon or transmittal of the written representations of the manufacturer or importer if such seller has been furnished by the manufacturer, importer, or sales representative a written certification attesting to the accuracy of the representations to which this part applies: *And provided further*, That such seller is without actual knowledge of the violation contained in said written certification.

Effective: November 4, 1974.

Promulgated: May 3, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

STATEMENT OF BASIS AND PURPOSE [1]

CHAPTER I.—BACKGROUND

With the advent of stereophonic and/or two-channel sound, manufacturers of sound power equipment began describing the performance capability of their products in terms of power output expressed as "X number of Watts". Watts in this context refers to the output capability of the amplification unit.

The industry, generally speaking, is divided into two parts; the packaged or console systems manufacturers and the component systems manufacturers. Traditionally, manufacturers of packaged systems have rated their products according to the EIA Standard Methods of Measurement [2] while manufacturers of component systems have rated their equipment according to the IHF Standard.[3]

Since the mid-50's the industry has received much criticism by the trade press for failing to agree upon a single industry standard which is meaningful to the consumer. To date no single standard has been agreed upon. It has been asserted that there are no less than seven commonly used methods of determining amplifier wattage ratings,[4] all of which will yield substantially different results.

As a result, with the proliferation of output claims for stereophonic equipment, we find mediocre products advertised as, for example, "500 watts" with no indication as to what standard or method of rating is being followed. Many times, especially in the case of low quality packaged units, output is grossly exaggerated by rating according to the "peak power", an instantaneous power rating made without regard to the level of distortion. Further, such output figure is usually expressed in terms of the total power rather than the per channel power thereby permitting a doubling of the output figure.

In the absence of any specific disclosure as to whether the so-called "RMS power" [5] or the less regorous "music power" [6] is being represented, under either the EIA or IHF standard, generally music power is followed. To arrive at the RMS power rating, it is necessary to deduct 10 to 25 percent of the music power rating and divide by 2 to arrive at the per channel figure for 2-channel stereo systems. Unless the power of an amplifier is rated at a specific level of distortion and such distortion is disclosed, it cannot realistically be compared to any other amplifier rating.[7]

Still other manufacturers have shown a tolerance in rating the output of their products by use of the symbol "±1dB" (plus or minus 1 decibel). In the case of a rating of this sort, the minimum output may be as much as 20 percent below as the nominal power stated or as much as 25 percent above. Thus, a rating of 100 watts (±1dB) would indicate a power output range of from 80 to 125 watts.[8]

It has been asserted that one of the best known and most respected manufacturers of stereo components and consoles produces a stereo component the literature for which states the power output in three rating systems, ±1dB, IHF power and RMS power, all at a total harmonic distortion level of 1 percent. When sold as a console with a different model number and a modified faceplate, this same amplifier is rated at EIA peak power with 5 percent distortion.[9]

The trade press has aptly described this situation as the "Wattage War", noting that the consumer, who normally equates watts with quality, is often deceived because he believes the higher the watts the better the quality.[10]

A technical advisor for Campbell Music Store, Washington, D.C., has submitted for the record the following statement which best illustrates the extent of the problem: "———Armed with a moderate engineering background and all published specifications available, I cannot determine, without bench testing, which of a number of amplifiers on the market is more powerful or of better quality. With the thought of literature containing meaningless values and technical doubletalk, my sympathy goes out to the average consumer who is poorly equipped to deal with this numbers game." [11]

Mr. Julian Hirsch of Stereo Hi-Fi Review states: "The widespread abuse, or disregard, of current measurement standards has resulted in the present chaotic situation, in which advertised power ratings of high fidelity amplifiers may have little relationship to their actual performance.

"As a result, manufacturers who adhere to ethical rating systems are at a competitive disadvantage, and consumers are often misled by exaggerated claims and are unable to make fair comparisons between products." [12]

In all fairness to certain members of the industry, however, there are a few manufacturers of high quality component systems who follow neither EIA nor IHF standards but conservatively rate their amplifiers according to their average continuous power output, per channel. These manufacturers disclose the maximum level of distortion across the entire audio spectrum,[13] the frequency bandwidth at which this power is available and the speaker load or load impedance in ohms at which such power is available.

Under both the EIA and IHF standards,

[1] Footnote references to the transcript of the public hearings are preceded by the prefix "Tr." and references to the written comments in the public record are preceded by the prefix "R.".

[2] EIA refers to the Consumer Electronics Group, Electronic Industries Association, with a membership composed of approximately 65 domestic manufacturers and assemblers and about 175 manufacturers and importers. Retail sales by American manufacturers total some $2.3 billion annually, Tr. 9, 10 and R. 285; See also EIA Standard, RS-234C, R. 286–300.

[3] IHF refers to the Institute of High Fidelity, with a membership composed of some 37 domestic and non-domestic member companies, Tr. 53–53B; see also IHF Standard A–201 (1966), R. 331–341.

[4] R. 183.

[5] RMS, meaning root mean square, is an engineering concept which has been defined as the average continuous power. This designation was objected to as being inaccurate and the designation "RMS" has been changed to "average" in the Final Rule.

[6] Music power, currently referred to as monetary power in the EIA Standard, is an instantaneous power rating at a given level of distortion. EIA permits a distortion level of 5 percent while IHF recommends a level of distortion not to exceed 1 percent.

[7] See article from The Stereo Review entitled, "Hi Fi Questions and Answers", R. 59; see also statement submitted by Walter Goodman, President of IHF, R. 126.

[8] See article from Audio Times Magazine, "What's a Watt?", R. 20; also trade press comments, R. 43a.

[9] R. 609–610.

[10] Home Furnishings Daily, R. 25–26.

[11] R. 609.

[12] Tr. 189–190. See Consumer Reports (June 1969) "What's What With Watts?", R. 30; consumer letters R. 553–555.

[13] EIA and IHF rate their products only at a frequency signal of 1000 cycles per second (1000 hertz) which is a center point in the frequency range or power band.

even what they term "continuous power" is measured at a point on the power curve only 30 seconds after the input signal has been applied.[14] Under such procedure, the power total harmonic distortion (see subsection 2(d)) may be disclosed only at such rated output; and provided further that

b. All disclosures or representations made under this section are less conspicuously and prominently made than the disclosures required in section 2 of this rule; and

c. The rating and testing methods or standards used in determining such representations are disclosed, are well known and generally recognized by the industry at the time the representation or disclosure is made, are neither intended nor likely to deceive or confuse the consumer, and are not otherwise likely to frustrate the purpose of this rule.

NOTE—1. For the purpose of subsection (b) of this section, optional disclosures will not be considered less prominent if they are either bold faced or are more than two-thirds the height of the disclosures required by Section 2.

NOTE—2. Use of the asterisk in effecting any of the disclosures required by Section 2 and permitted by Section 3 of this rule shall not be deemed conspicuous disclosure.

SEC. 4.—*Prohibited Disclosures.* No performance characteristics to which this Rule applies shall be represented or disclosed if they are not obtainable as represented or disclosed when the equipment is operated by the consumer in the usual and normal manner without the use of extraneous aids.

SEC. 5.—*Liability for Violation.* If the manufacturer, or in the case of foreign made products, if the importer or domestic sales representative of a foreign manufacturer of any product covered by this rule furnishes the information required or permitted under this rule, then any other seller of the product shall not be deemed to be in violation of § 4 of this rule due to his reliance upon or transmittal of the written representations of the manufacturer or importer if such seller has been furnished by the manufacturer, importer, or sales representative, a written certification attesting to the accuracy of the representations to which this rule applies, and provided further that such seller is without actual knowledge of the violation contained in said written certification.

Upon issuance of the notice of hearing, consumer interest gained momentum and there was a substantial response to the invitation for comments. Views in support of the proposed rule came from organizations such as the Stanford Research Institute of Menlo Park, California; [15] Audiomation Laboratories of Upper Darby, Pennsylvania; [16] The Commonwealth of Massachusetts Consumers' Council [17] and KLH Research and Development Corp.,[18] both of Cambridge, Massachusetts.

Public hearings were held on April 13 and 14, 1971, on the proposed rule which, in essence, required affirmative disclosure in all advertising, where power output, power band, frequency response or distortion capability is represented, of the manufacturer's rated minimum [19] continuous power output in watts per channel and, in addition, three parameters:

1. the speaker load for which the manufacturer intends the equipment to be used,[20]

2. the manufacturer's rated power band or frequency response,[21] and

3. the percentage of maximum total harmonic distortion at any power level from zero watts to rated power output.

Since these parameters directly affect the output rating of an amplifier, it was believed that the consumer should have the benefit of such information in order to enable him to make an intelligent comparison among the various competing products.[22]

Section 3 of the proposed rule provided for optional disclosures provided they were less prominently disclosed and further, provided the above three parameters were disclosed and were determined in accordance with generally recognized testing methods or standards and such standards were likewise disclosed.

Although there was general agreement that where power output is represented it should be stated in terms of continuous power, differences of opinion were expressed at the hearing as to the following provisions of the proposed rule and as to the methods used to measure the various parameters.

CHAPTER III.—ARGUMENTS ADVANCED BY INDUSTRY REGARDING PROPOSED RULE

A. *Section 1(a)—Scope.* The proposed rule embraced sound power amplification equipment manufactured or sold for home entertainment purposes as, for example, radios, record and tape players, radio-phonographs and tape combinations and component audio amplifiers.

The representative of Electronic Industries Association of Japan (EIA-J) urged that the Final Rule exclude all such named sound power amplification equipment having a power level of two watts or less per channel, suggesting that it is unlikely that any consumer deception might result from any representation on equipment with a power output falling within this range.[23] No one took issue with this point.

This exception, which was included in the notice of revision and amendment hereinafter discussed, would cover a large number of low cost items where power is normally of little consequence to the consumer.

B. *Section 1(b)—Consequences of Violation.* EIA voiced concern that under section 1(b) a violation of the Rule would be automatically a violation of Section 5(a)(1) of the Federal Trade Commission Act. It contended that this represents a change in the Commission's present procedure of filing a formal complaint upon violation of section 5 and granting a respondent a hearing on the applicability of the rule to the particular case as provided in § 1.12(d) of the Commission's rules of practice.[24]

Section 1(b) of the rule does not represent a change in procedure but merely incorporates in the rule the Commission's con-

[14] See R. 294 (section 3.1.1 EIA Standard) and R. 334 (section 3.1.1 IHF Standard). output for such equipment will register higher because the power curve tends to fall with thermal (heat) build-up.

[15] R. 599.

[16] R. 558.

[17] R. 556–557.

[18] R. 551.

[19] The proposed rule required the minimum power disclosure since there is a drop in the power level at each end of the power curve. The maximum power permitted by the rule then would reflect the minimum power attainable at any point along the frequency bandwidth.

[20] Most speakers on the market are rated at 8 ohms. Some manufacturers have rated their equipment at 4 ohms load which normally results in a slightly higher output figure.

[21] The frequency range or response from the lowest to the highest tones is measured in cycles per second or Hertz (Hz). As pointed out, EIA and IHF permit a maximum power rating at a mid-point in the frequency range (1000 Hz). The proposed rule, on the other hand, required disclosure of the minimum output obtainable at any point along the audio range, from the lowest to the highest rated frequency, taking into account the outer extremes.

[22] See consumer letter, R. 72–73.

[23] Tr. 48.

[24] R. 282–4; Tr. 26–28.

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clusion that practices in violation of said rule are violative of Section 5 of the Federal Trade Commission Act; the respondent still would be given the right of a hearing on the applicability of the rule to the particular case as provided in § 1.12(d) of the Commission's rules of practice.

C. *Section 2(a)—Required Disclosures.* EIA, while supporting the RMS disclosure provision of the proposed rule, argues that in requiring disclosure of additional specifications the rule as designed would accommodate a small segment of the industry and their consumers who desire the maximum information about their products; that the great majority of purchasers neither need nor desire these specifications and in fact would tend to be confused by such information.[30]

EIA's argument loses sight of the fact established by the record that the consumer has been conditioned, by the advertising of more and greater power output figures, to equate power output with quality.

The Commission believes that, even assuming that the great majority of purchasers neither need nor desire the information which the proposed rule would require be disclosed, if without disclosure of these additional parameters the purchaser is led to believe that a low-priced amplifier of inferior quality has the performance capability of a high-priced amplifier of superior quality, the purchaser is being unknowingly deceived and induced to purchase inferior equipment.[31] This is true even though a represented quality of the superior product may not lie in the range of human audibility.

(1) *Output in terms of minimum watts.* Both section 2(a) and the optional disclosure section 3(a), provided for disclosure of the per channel power output in terms of "minimum watts" so as to reflect the maximum capability of the amplifier across the entire frequency range.

Both EIA and IHF, who take the position that all measurements of power output, power band, frequency response and distortion should be measured in accordance with their own standards, state that power output should be rated at a single frequency signal of 1000 Hz.[32] They are supported in this position by H. H. Scott, Inc.,[33] Sony Corporation,[34] J. C. Penney Company[35] and Julian Hirsch, editor of Stereo Hi-Fi Review Magazine.[36] Their argument is that engineers understand this measurement technique[37] and no one would be deceived if all companies were required to measure the power output of their amplifiers at this frequency.

It is noteworthy that a representative of EIA conceded at the hearings that under the EIA and IHF method of rating at 1000 Hz, two pieces of equipment with the same rating may have entirely different performance capabilities. Mr. von Recklinghausen, speaking on behalf of H. H. Scott, Inc., stated in this connection, that an amplifier is capable of providing power outside of that band, but at a reduced capability, and, of course, having its maximum in the center.[38]

Opposing the EIA and IHF method of determining output was Dr. Amar Bose of The Bose Corporation[39] and the representative of Marantz Company. The latter stated that in speaking to dealers and consumers regarding this question, he found that the consumers believe that where equipment is rated at a certain power the product will deliver that rated power through its entire audio range.[40]

The Commission recognizes that it is standard engineering practice under both EIA and IHF standards to rate an amplifier at the single frequency signal of 1000 Hz, but believes that such a measurement is inherently deceptive to the consumer who expects that a piece of equipment represented as being capable of a stated power output will deliver that power output across its full audio range. The whole thrust of the rule is to limit the practice of disclosing power output ratings which have no relation to rating across the power bandwidth.

To do anything less would be to sanction a standard tending to favor lower quality equipment on a comparative basis, for the Record clearly establishes that higher quality equipment will perform relatively better outside the 1000 Hz mid-point. Thus it is not accurate to conclude that consumer deception will be eliminated if all sets are measured at the same point on the frequency range, for this would tend to conceal the fact that the better quality equipment will maintain a higher power output as the extremes of the power band are approached.

(2) *Per channel disclosure.* EIA, EIA–J, IHF and Lafayette Radio Electronics Corporation opposed per channel disclosure in favor of total power ratings. Support for per channel disclosure came from The Bose Corporation, Marantz Company and Julian Hirsch. The record also contains views of consumers[41] and independent experts[42] supporting per channel disclosure, as required by the rule.

This provision is amply supported by the record. The Commission has been advised that, from a technical standpoint, a stereo having, for example, 20-watts per channel, both channels driven, will give less total power output than a single channel 40-watt amplifier. So, to speak of the stereo in terms of its total power (40 watts) is, the Commission believes, misleading and deceptive. Additionally, audio speakers are rated in terms of number of watts per channel. Further, 4-channel sound systems have been introduced which, if rated according to their total power output, would, in the Commission's view, have an even greater tendency to deceive the average consumer.[43]

D. *Section 2(b)—Disclosure of Load or Working Impedance.* Some manufacturers have rated their amplifiers at a 4 ohm speaker load impedance but have supplied 8 ohm speakers with their systems. Generally, the lower the load impedance utilized in testing transistorized equipment, the higher the output of the amplifier.

Various views were expressed with respect to this provision.

EIA and IHF urged that ratings should be based on 8 ohms load with disclosure only where a different impedance is used.[44]

Lafayette Radio Electronics Corporation[45] and Marantz Company[46] favored disclosure of both 4 and 8 ohms pointing out that certain amplifiers are designed for more than one set of speakers, e.g., main and remote speakers.

Sony Corporation of America, on the other hand, would rate power output at 8 ohms load and permit optional disclosure of power output ratings at other load impedances.[47]

The Commission believes that it would be to the benefit of the consumer not to require disclosure of power output at any one or more specific load impedances but rather to require the manufacturer to state the power output in terms of the load impedance or impedances for which he designs[48] the equipment to be used by the consumer. Of course, this would not preclude the manufacturer from representing the power output in terms of other load impedances as an optional disclosure under Section 3 of the rule.

Thus, this provision would be maintained in a manner consistent with the rest of the rule in that the Commission is not undertaking to require as a matter of law that any one impedance be used, but is instead requiring the manufacturer to disclose that factor along with the other factors which must also be set forth. This then leaves the consumer, armed with the facts, free to judge for himself whether or not he is impressed with the specifications.

E. *Section 2(c)—Rated Power Band or Frequency Response.* Power bandwidth has been traditionally defined as the response range between the lowest and the highest frequencies at which the amplifier can deliver half its rated power at rated distortion or —3 dB down from the mid-frequency point (1000 Hz).[49]

As aforestated, both EIA and IHF use this method in measuring output. Under such test method, if the amplifier is capable of, for example, 50 watts output at 1000 Hz, it would be rated a "50 watt" amplifier even though the minimum power output across the frequency range or rated power bandwidth would be —3 dB or only 25 watts, i.e., 50 percent down at each extreme from the center point of 1000 Hz.

Neither EIA nor IHF favored disclosure of the power band as provided by Section 2(c) of the proposed rule. EIA contended that such information is unnecessary in advertising and could lead to a meaningless numbers game.[50] It further contended that some may promote their products by advertising a very wide bandwidth which may include sound waves out of the range of human audibility.[51]

In support of the IHF method of measurement, Mr. von Recklinghausen of H. H. Scott, Inc., explained that by using 3 points in the power band, a mid-frequency point and two

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[30] Tr. 10 and 52; R. 269.

[31] See admission by Mr. Owen on behalf of EIA, Tr. 47.

[32] Tr. 25, 55–56; R. 631.

[33] Tr. 91.

[34] R. 597.

[35] Tr. 132.

[36] Tr. 192.

[37] Simply stated, under this method of measurement, power bandwidth is defined as that point where the frequency response is 3 dB down (or 50 percent) from the middle or center point; the center point being 1000 Hz. For example, if an amplifier's output is 50 watts at the center point (1000 Hz) the frequency range (from the lowest to the highest frequency) will be established at that point where the power drops 50 percent at either end of the spectrum. At this point, the minimum watts output would be 25. Since the amplifier is capable of maintaining only 25 watts at the extremes, the rule would require that such rating be in terms of the minimum power or 25 watts.

[38] Tr. 92. Better quality equipment will perform better.

[39] Tr. 115.

[40] Tr. 119–120.

[41] R. 43, 190, 211–212, 218, 221, 226, 231, 234, 242, 248, 548, 559, 597.

[42] R. 163, 239.

[43] See R. 715.

[44] See EIA, R. 275 and 635; IHF, Tr. 55.

[45] Tr. 74.

[46] R. 600.

[47] R. 597.

[48] This term, for the sake of accuracy, has been inserted in the final rule in place of the term "intends" as used in section 2(b) of the proposed rule.

[49] IHF Standard, R. 334; EIA Standard, R. 297. See testimony of Mr. von Recklinghausen Tr. 83, 87.

[50] Tr. 18.

[51] *Ibid.*

at the extremes, "—— you have very closely tied down the capability of that amplifier, meaning that the amplifier is capable of providing power outside of that band, *but at a reduced capability, and, of course, having its maximum in the center*". [emphasis supplied.][47]

Again, although engineers understand this method of measurement, the Commission is of the opinion that the consuming public itself is unaware of such method of rating and, even if it were, would not understand it. As noted, the record indicates the consumer believes that a set will perform as represented across the audio spectrum when, in truth and in fact, the equipment when rated according to the EIA or IHF rating technique, will perform as represented only at 1000 Hz.[48]

The Commission is of the opinion that power bandwidth is another of the significant parameters which must be disclosed in order to enable the consumer to make a meaningful comparison of quality among competing products. Further, the product must be capable of providing the rated or advertised power output over the represented power band. If this result is achieved the consumer would again have the facts from which he can judge for himself whether or not a particular piece of equipment will satisfy his requirements. Requiring disclosure of the power band should also serve to discourage an artificial narrowing of the bandwidth in order to increase the rated power output. The consumer would then be able to see for himself under what limited circumstances the rated power was achieved and it is only by considering all of these parameters that an intelligent choice can be made.

F. *Section 2(d)—Harmonic Distortion.* Section 2(d) of the proposed rule would require disclosure of the rated percentage of maximum total harmonic distortion at any power level across the power band (not just at rated output) from zero to rated output.

At the hearings, EIA urged that distortion be rated according to its standard, which permits a distortion level of 5 percent at rated output, and that the percentage of total harmonic distortion not be a required disclosure unless it is greater than 5 percent.[49] The argument was made that good sound is reproduced if distortion is not greater than 5 percent and that many consumers can perceive little, if any, difference in sound quality when the distortion is reduced from 5 percent to 1 percent.[50]

IHF urged that measurement of total harmonic distortion be made in accordance with its standard which recommends a distortion level of no greater than 1 percent at rated power level. Unlike EIA, IHF would, in accordance with the Rule, require disclosure of the level of distortion because, as Mr. Goodman of IHF put it "—the THD (total harmonic distortion) selected for any wattage rating affects the meaningfulness of that power rating—."[51]

Mr. Horowitz of IHF added: "I think the response of the human ear to distortion is a controversial subject, and I think it is a feeling of most discriminating persons that there would be a substantial distortion of quality, if you go from one percent to five percent, and we also feel there would be a big gradation in tone quality if you go say from a half percent to five percent. "It is our feeling that unless you accompany the power rating with a total amount of distortion rating, you would be getting misleading information."[52]

Mr. Robert Angus of Audio Times noted that a provision requiring distortion to be specified only if it exceeds 5 percent as proposed by EIA would permit a manufacturer almost as much latitude within the framework of an RMS rating as he now enjoys with no FTC rule at all. He emphasized that an amplifier with an output of 20 watts and total harmonic distortion of 0.5 percent, the normal tolerance for better high fidelity components, might wind up as a 30-watt amplifier if the FTC were to permit a tolerance of up to 5 percent total harmonic distortion.[53]

Dr. Bose of Bose Corporation, who has made several studies in Audio-Accoustics, proposed 2 percent as a standard reference for distortion. He stated that all indications are that a person is not able to detect any form of audible distortion on music or speech signals below the 2 percent level. He would fix distortion at a 2 percent level and have the manufacturer disclose the bandwidth over which he can achieve his stated power with that distortion.[54]

Mr. Ken Rottner of Marantz Company did not favor pegging the distortion but rather he would require disclosure of the highest percentage measurable of harmonic and intermodulation distortion with the full range of frequencies at and below the rated RMS power output.[55] (The word "pegging" refers to the suggestion that the Commission should fix the percentage of distortion at which all equipment should be evaluated.)

Mr. Reff of J. C. Penney Company favored pegging the distortion and thereby eliminating this variable, at a level of 5 percent which he contended is used by the industry and will permit the consumer to shop more wisely.[56]

But Kenneth Nelson of Hi-Fi Trade News was of the opinion that the 5 percent distortion figure is too high; that it represents merchandise which is really sloppily constructed.[57]

Larry Levine, a dealer, argued against the pegging of distortion explaining that it would restrict some manufacturers and would place others at a great advantage. Customers, he stated, realize that a higher rate of distortion means poorer sound. He noted that where a rating is pegged at 5 percent great advantage is given to the manufacturer of packaged systems, while the advantage falls to the component manufacturer under a pegged distortion of 1 percent.[58] Ivan Berger of Saturday Review agreed.[59]

Also agreeing that distortion should not be pegged and that 5 percent is far too high, Julian Hirsch of Stereo Hi-Fi Review expressed the view that as low as 2 percent distortion is relatively high even for moderately priced amplifiers. Mr. Hirsch favored the manufacturer having the option on the setting of distortion, as provided by the proposed rule.[60]

Audibility of distortion. In considering the matter of pegging the distortion at a specific level, there is no general agreement as to that point beyond which distortion becomes inaudible. One reason for this is the fact that the ability to detect distortion varies with the individual's auditory acuity.

At the hearings, Mr. Horowitz (IHF) stated that most discriminating persons would note a substantial distortion of quality if the distortion were increased from 1 to 5 percent and an even larger gradation in tone quality when increased from one-half percent to 5 percent.[61] H. H. Scott's representative agreed that there is a noticeable difference in sound between 1 and 5 percent distortion.[62]

EIA, taking a contrary view, contended that many of their customers can perceive little, if any, difference in sound quality when the distortion is reduced from 5 to 1 percent.[63]

J. C. Penney's representative expressed a similar view asserting that it is the general feeling in the industry that most consumers cannot detect less than 5 percent total harmonic distortion.[64]

Dr. Amar Bose, whose primary interest lies in the psycho-accoustic aspects of sound power equipment, took issue with this contention to a degree when he asserted that there are no audible benefits below 2 percent.[65]

However, Mr. Bose's view was disputed by Mr. Rottner of Marantz who insisted that there are audible benefits to be derived from distortion of 2 percent or less.[66] In Mr. Rottner's opinion, we have not achieved that point beyond which the human ear can no longer detect an improvement.[67]

The Commission believes that Julian Hirsch placed the issue in proper perspective when he registered the following comment: "I have known people who would not complain if they heard ten or twenty percent distortion, but I do not think that that is the normal—I would say a reasonably discerning listener can tell the difference, even if he is not aware of it specifically, he can tell the difference between an amplifier that averages around one and a half percent distortion and one down to one-tenth distortion."[68]

Mr. Hirsch further observed that the listener may not be aware he is hearing less distortion at one-tenth percent but he would be aware of a less satisfactory sound.[69]

In a statement submitted for the record, Mr. Edward Myer of Myer-Emco, Inc., Washington, D.C., comments upon the importance of harmonic distortion: "At these hearings verbal arguments were advanced purporting to show that harmonic distortion in home entertainment amplifiers is not a good measure of amplifier quality because moderate differences in harmonic distortion level have been shown to be undetectable when playing ordinary music through loudspeakers into a normal home environment. While this may or may not be true, it has been shown that listeners using earphones (thereby avoiding the room effects) are able to detect

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[47] Tr. 92.

[48] See testimony of Mr. Rottner of Marantz Company, Tr. 120; Mr. Levine, a retailer, Tr. 170. See also R. 365–546 for consumers' and dealers' letters furnished by Mr. Levine, all in support of the rule.

[49] Tr. 19–20 and R. 88, 276–277, 637.

[50] R. 276.

[51] Tr. 55; R. 327.

[52] Tr. 59.

[53] Tr. 100.

[54] Tr. 110–115.

[55] Tr. 119. The Commission sees no reason to require disclosure of intermodulation distortion, because it has been advised that with respect to the latest transistorized equipment, the level of intermodulation distortion runs about the same or sometimes less than the harmonic distortion level.

[56] Tr. 137.

[57] Tr. 163.

[58] Tr. 170, 173.

[59] Tr. 204.

[60] Tr. 194.

[61] Tr. 59.

[62] Tr. 94.

[63] Tr. 19.

[64] Tr. 143.

[65] Tr. 110.

[66] Tr. 118.

[67] Tr. 122.

[68] Tr. 196–197.

[69] *Ibid.*

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minute amounts of distortion in sinusoidal waveforms such as are present on single musical instruments and when listening to certain types of electronic music. Sales of earphones at this time are almost equal to the sales of loudspeakers and who can say that modern composers will not make extensive use of pure sine waves in the immediate future. In my opinion the T.H.D. system is the best *simple* measure of amplifier performance." [70]

Considering the entire record, the Commission is of the view that harmonic distortion is the other parameter which must be disclosed in order to enable the consumer to make a meaningful choice among competing products.

The Commission rejects the argument that distortion should be pegged at 5 percent and not be a required disclosure unless it exceeds that amount because 5 percent total harmonic distortion has been shown to be an excessive amount of distortion for good quality sound. A pegging of distortion at 1 percent, on the other hand, might well work to the disadvantage of manufacturers of less expensive equipment with no corresponding benefit to the consumer.

Therefore, the Commission concludes that requiring the manufacturer to disclose the total harmonic distortion and giving him the option of setting the level of harmonic distortion as required by Section 2(d) and permitting optional disclosure in accordance with Section 3(a) of the proposed rule will provide the consumer with sufficient information with which to make an intelligent choice.

G. *Section 3—Optional Disclosures.* This section of the proposed rule provided that other power output or operating specifications may be disclosed provided such power output representations are in terms of minimum watts per channel and comply with the requirements of subsections 2(a)(1) through 2(d), the representations are less conspicuously and prominently made than Section 2 disclosures and the rating and testing methods or standards are disclosed. However, if an instantaneous power rating is represented, such as "peak power", the maximum total harmonic distortion may be disclosed only at such rated output where distortion will register the greatest.

EIA urged that this section be restricted to momentary or music power and measured in accordance with EIA Standard No. 234–C (1971) which provides a standard of measurement only for continuous and momentary power output. [71]

Lafayette Radio Electronics Corporation emphatically opposed optional disclosures on the ground that they will tend to confuse the consumer.[72]

H. H. Scott would restrict optional disclosures to types of power for which standard methods of measurement exist, citing IHF Standard, Section 3.1.2 as the solution.[73]

The Record reveals that some persons feel the Commission should prohibit disclosure of all short-term power, such as music power, peak power, *etc.*,[74] while others feel that only peak power representations should be prohibited.[75]

The Commission believes that the Rule, which requires disclosure of three parameters whenever a power output claim is made, will tend to discourage short-term power representations, especially those in terms of "peak power." Once consumers have been educated to look for the three parameters which this rule requires to be disclosed and to make their purchase decision on that basis alone, they should not be so impressed with subordinated disclosures of other less significant factors and hence there should be less temptation to employ these essentially unmeaningful characteristics in advertising. At the same time, the seller's freedom to make these representations in a nondeceptive manner if he so chooses is preserved, for the intent of this rule is to require adequate product information disclosure and not to establish rigid standards from which no seller may depart.

H. *Asterisk Disclosure.* Note 2 to Section 3 of the proposed rule prohibited asterisk disclosure of information provided by Sections 2 and 3.

The only person to comment on this provision was Mr. Ivan Berger who would permit use of the asterisk for disclosing all parameters except the distortion.[76] In similar cases in the past, the Commission has found that the asterisk is often used to bury the disclosure.

The Commission has been confronted with this kind of problem especially in administering the Trade Regulation Rule relating to TV Picture Sizes (16 CFR 410). The TV Rule was amended to include specifically a provision prohibiting use of the asterisk in effecting disclosure (36 FR 21518, Nov. 10, 1971). The Commission believes it would be remiss, especially in a case involving disclosure of product specifications as here, not to have a specific provision prohibiting the much abused asterisk form of disclosure.

I. *Section 4—Prohibited Disclosures.* This section, as to which no direct issue was taken, was intended to assure that all performance characteristics are based upon conditions of normal use by the consumer, *i.e.*, conditions which are encountered in the home.

CHAPTER IV.—PROCEEDING TO AMEND AND REVISE THE PROPOSED RULE

A. *Section 1(a) and (b).* At the hearing, objection was taken to section 1 as being too broad in scope. It was contended that this Section should exempt equipment having a power output capability of two watts or less on the theory that consumer deception is unlikely to result from representations on such equipment.[77]

B. *Section 2(d).* Also questioned was the accuracy of this section which would have required disclosure of the manufacturer's rated percentage of total harmonic distortion at any power level from zero watts to rated power output. One person pointed out that from a purely technical standpoint, in measuring from "zero power" in this context a meter would read 100 percent distortion.[78] Others expressed a similar view.[79]

Accordingly, on February 1, 1972, a notice to amend and revise issued for comment proposing (1) an amendment to Section 1, paragraphs (a) and (b) exempting representations with respect to equipment not having a rated output in excess of 2 watts per channel or total and (2) a revision of Section 2, paragraph (d), requiring that the maximum total harmonic distortion be measured from a minimum power of 250 milliwatts.

CHAPTER V.—RESPONSE TO NOTICE TO AMEND AND REVISE PROPOSED RULE AND FINDINGS

Unanimous support for the Amendment and Revision came from industry and consumers.[80]

The Commission is of the opinion that little consumer deception will result from claims made for equipment having a power output of 2 watts or less. Further, the section 1 exemption will greatly facilitate enforcement of the rule.

CHAPTER VI.—PROCEEDING TO REVISE TO INCLUDE STANDARD TEST CONDITIONS

The argument was made at the hearings and raised again in response to the notice to amend and revise that the rule should contain specific test conditions. EIA urged the Commission to make the measurements required by the rule in accordance with the EIA Standard stating that variations in test conditions under section 2 could result in different output ratings.[81] EIA–J,[82] Somerset Associates [83] and Audio Showcase, Inc.,[84] agreed.

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[70] R. 565.
[71] R. 279; Tr. 21–22.
[72] Tr. 75.
[73] Testimony of Mr. von Recklinghausen, Tr. 84.
[74] Accoustic Research, R. 109, New York Audio Society, R 227 and Audio Magazine, R. 594. Morley Kahn, Director of Marketing, Dynaco, Inc., in announcing support for the rule stated, "There is a problem of measuring short-term power on a meaningful and reproducible basis. The use of a momentary signal makes it extremely difficult to measure distortion; and, in fact, there is no standard way to do so—We feel that a rating system which can exaggerate the performance of an amplifier is a dis-service to the consumer and serves no beneficial purpose." Tr. 64–66; R. 348. See also consumers' views, R. 188, 222, 228, 229, 232, 233, 242, 246, 249, 263, 553, 596, 618.
[75] EIA at Tr. 22 and IHF at R. 126; Also Ivan Berger, Tr. 207 and R. 304.
[76] R. 302.
[77] Electronic Industries Association of Japan, Tr. 48.
[78] H. H. Scott, Inc., Tr. 83.
[79] Klipsch and Associates, Inc., R. 2; EIA, R. 103.
[80] Consumers' letters, R. 648–656, 679, 708, 716–719; EIA, R. 662–663 and IHF, R. 714; German Hi-Fi Center, R. 687; Somerset Associates, R. 689; Texas Consumer Association, R. 715 and Marantz, R. 721.
[81] Tr. 664.
[82] Tr. 677.
[83] In speaking of his disappointment in the Commission's failure to include such conditions, Mr. Greenberg stated: "As far as our comment on the omissions in the proposed regulation we consider them obvious. We refer the Commission to *any* audio engineer for verification and submit that without their inclusion, we will again have another meaningless regulation filled with genuine loopholes for clever manufacturers to exploit." Tr. 689, 690.
[84] Tr. 691.

Accordingly, on October 11, 1973, a notice to revise to include minimum test conditions was issued for comment.[85]

CHAPTER VII.—RESPONSE TO NOTICE TO REVISE AND FINDINGS

A. *Section 3* [86]*—Standard Test Conditions.*

(1) *Power line voltage.* Section 3(a) of the revised proposed rule states: "the power line voltage shall be 117 volts AC (230 volts when the equipment is made for foreign sale or use), RMS, using a sinusoidal wave containing less than 2 percent total harmonic content".

EIA contends that a more reasonable power line voltage would be 120 volts because 117 volts is exceeded in approximately 96 percent of customers' homes; [87] that 120 volts is the voltage usually specified for measuring under standard test conditions.[88] As to foreign equipment, EIA would have the Rule provide that the test voltage be within ± 1 percent of the amplifier rating because such equipment may not be rated at 230 volts.[89]

EIA also suggests that the Commission include a testing specification of the power line voltage for AC/DC or DC operated products and that such specification be the manufacturer's rated DC power supply for the particular product.[90]

Pacific Electronics would have the Commission establish line voltage as 120 volts ± 1 percent as provided in the IHF standard.[91]

With respect to the harmonic content of the sinusoidal wave, National Electronics Service Dealers Assocation, Inc., contends the rule requirement that such wave be of less than 2 percent total harmonic content is far too high to protect the consumer and should be changed to "no more than 1 percent and/or less".[92]

Klipsch and Associates, Inc., an electronic research and development firm, states that since few power lines have as little as 2 percent total harmonic content, the rule is unnecessarily stringent. A 10 percent figure, it is stressed, would provide for an essentially sinusoidal wave form without materially affecting the power supply voltage or current levels of equipment under test.[93]

The power line voltage specification has been changed to 120 volts in the Final Rule since there appears to be general agreement on this figure. Moreover 120 volts corresponds with the average voltage in homes across the U.S.A.

With respect to equipment manufactured for foreign sale or use, as noted earlier, the Commission considers it unwise to permit tolerances such as ±1 percent, etc., since this would not permit duplication of the tests. However, this aspect of the Rule has been changed to require testing at 230 volts unless a different voltage is indicated and is permanently affixed to the equipment by the manufacturer.

Only one industry member would make the total harmonic content of the signal stricter. The Commission is of the view that this is insufficient to change what is essentially accepted by most authorities and testing facilities as the standard test for this particular parameter.

The Commission understands that in the case of AC/DC operated products, the AC converts down to 9 volts or whatever battery voltage is recommended and that testing with the battery in such case will yield a very low distortion because the hum and noise factor from the power line has been eliminated. Therefore, a provision has been inserted in the Final Rule requiring testing at AC on such combination power source equipment. The Rule also provides for equipment operating solely on battery power.

(2) *Power line frequency.* Section 3, paragraph (b), of the revised proposed rule reads, "the power line frequency shall be 60 Hz".

Importer Triad-Ultrad, contends that 230 volts for foreign power line voltages is most generally accompanied by a frequency of 50 Hz, and proposes an amendment to this Section to read: "The power line frequency shall be a minimum of 48 Hz thru a maximum of 61 Hz for domestic appplication and/or favored foreign sale or use." [94]

As noted earlier, we have not permitted the use of tolerances because this would not allow for duplication of the tests. Accordingly, section 3(b) has been amended to include a power line frequency of 50 Hz in the case of equipment intended for foreign sale or use.

(3) *Pre-conditioning.* Section 3, paragraph (c) of the revised proposed rule states: "the amplifier shall be pre-conditioned by simultaneously operating all channels at one-third of rated power output for one hour using a sinusoidal wave at a frequency of 1000 Hz".

Only two industry members take issue with this provision. Both EIA [95] and EIA–J [96] contend that since average power is 1/10 of peak power normally, 1/10 is more representative of the condition under which the amplifier will be operated than is ½.

The Commission rejects this argument. Experts in the field have advised that preconditioning at 1/10 of rated power is totally insufficient to reveal any reduction in performance due to thermal build-up.

(4) *Temperature for testing.* Section 3, paragraph (d) of the revised proposed rule states: "the pre-conditioning and testing shall be in still air and an ambient temperature of 77°F."

There is general agreement that the temperature specification should be shown in equivalent degrees centigrade. EIA, noting that ambient temperatures in a testing laboratory are often difficult to control, believes that the temperature specification should be stated as "at least 77°F.", since the performance of amplifiers is not improved by higher temperatures.[97] One person would change the temperature specification to 100.5° F.[98] a temperature not normally found in the average home.

The above suggestions that the temperature be stated as a minimum specification and the equivalent in degrees centigrade be shown are reasonable and have been incorporated in Section 3(d) of the Final Rule.

(5) *Power rating measurement.* Paragraph (e) of Section 2 of the revised proposed rule states: "rated power shall be obtainable at all frequencies within the rated power band without exceeding the rated maximum percentage of total harmonic distortion after input signals at said frequencies have been continuously applied for not less than five (5) minutes at the amplifier's auxiliary input, or if not provided, at the phono input."

Bruce Harvey, a consumer professing to have extensive experience with audio equipment, takes issue with the requirement that the signal be applied through the auxiliary input because, he maintains, auxiliary inputs are loaded with more impedance to protect the initial high amplification gain stages of the amplifier. The most common mode of operation input, he notes, is the phono input through which the tests should be made.[99] He states further that the test signal should be furnished by a standard FM/MPX test signal generator.[100]

Alan Lefkow, Engineer, Consumers Union, states, "• • • it is not clear whether the level of the input signals to be continuously applied for 5 minutes are supposed to drive the amplifier to its rated power output for that same length of time." [101]

As to the propriety of the amplifier input for application of the signal, the Commission understands that the phono input is a very low level type of input, the signal as to which only the McAdam tester is capable of duplicating; that there is no change in power output regardless of which input is used, the auxiliary or the phono. If the phono input is used, a higher distortion will be generated. Also built in equalization curves tend to foul up the input signal for most signal generators.

The Commission is of the opinion, therefore, that the auxiliary input will give an accurate picture of performance when in tape or tuner mode because they both by-pass the preamplifier. This aspect of paragraph (e) is therefore left unchanged.

However, the Commission is persuaded by Mr. Lefkow that paragraph (e) should be clarified by providing that the input signal shall be applied for 5 minutes at full rated power.[102]

Finally, paragraph (f) has been added which provides for the placement of controls during the period of testing.[103]

Other criticisms, addressed to the basic provisions of the rule as initially proposed, have already been considered and rejected.[104]

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[85] EIA also contended that to be technically correct the term "RMS" should be changed to "average". This change was incorporated in the revised rule.
[86] Section 3 of the proposed rule, designated "Optional Disclosures," was changed to Section 4, et. seq.
[87] A survey, "65,000 Service Voltage Tests Across the USA" (1966), reported by J.W. Anderson, R. 802.
[88] R. 797.
[89] Electronic Industries of Japan (EIA–J) substantially agrees with this view, R. 793.
[90] R. 797.
[91] Radio Shack also argues that the power line voltage should be 120 volts, R. 762. For similar views see Herman Stiftiger, Bell Telephone Laboratories, R. 769, and Superscope, R. 768.
[92] R. 778.
[93] R. 757.
[94] R. 752; in agreement is Professor Ashley, R. 775–776. EIA would include a tolerance of ±2 percent for tests made at other frequencies, R. 798.
[95] R. 798–799.
[96] R. 793.
[97] R. 799. See also Ivan Berger, R. 763; Triad–Ultrad, R. 752. EIA would also include a tolerance, R. 799.
[98] Prof. Ashley, R. 776.
[99] R. 743.
[100] *Ibid.*
[101] R. 786.
[102] Julian Hirsch was the only person to object to the 5 minute requirement, R. 766.
[103] See comment of Bruce Harvey, R. 742.
[104] Zenith Radio Corporation maintains that the proposed rule will generate consumer confusion because it permits disclosure of three variables at the option and whim of the manufacturer. The Commission wishes to stress its belief, to the contrary, that permitting the manufacturer the option of disclosing frequency response, distortion and impedance will provide the consumer with the information needed to choose the product which is most suitable to his or her particular needs. Pegging these variables, on the other hand would result in favoring manufacturers at a particular point in the market spectrum.

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CHAPTER VIII.—SUMMARY AND CONCLUSION

On the basis of the foregoing considerations and the entire Record of the Trade Regulation Proceeding, including the proceedings to Amend and Revise, the Commission has concluded that the issuance of a Trade Regulation Rule relating to the Advertising of power output of sound power amplification equipment for home entertainment products is required by that Record and is in the public interest and has, therefore, promulgated the Final Rule, herein.

CHAPTER IX.—EFFECTIVE DATE OF FINAL RULE

EIA has noted that advertisements, specification sheets, line folders, catalogs and other promotional materials have different lead times and must be planned and prepared months before they are actually printed and distributed. New product lines are shown between April and June of each year and new models are displayed in late June at the Consumer Electronics Show. Promotional materials for this annual show must be finalized weeks before the products are shown.

At the hearing, EIA–J [106] and IHF [106] urged that the effective date be set at least one year after promulgation of the Rule. Speaking for a major portion of the industry, EIA now urges that if the Rule is not issued until after January 1, 1974, the effective date should be established as six months from the date of its promulgation.[107] The Commission accepts this suggestion as a reasonable solution and, accordingly, directs that the effective date of this Rule shall be six months after the date of promulgation.

[FR Doc.74–10118 Filed 5–2–74;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Wyoming Plan

1. *Background.* Part 1902 of Title 29 Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) whereby the several States may submit for approval under the requirements of that section, plans for the development and enforcement of State occupational safety and health standards.

On January 30, 1973, the State of Wyoming submitted comprehensive developmental occupational safety and health plan in accordance with these procedures and on February 23, 1973, a notice was published in the FEDERAL REGISTER (38 FR 5018) concerning the submission of the plan to the Assistant Secretary and the fact that the question of approval was in issue before him.

The plan designates the Occupational Health and Safety Commission as the agency to be responsible for administering the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in § 1902.2(c)(1) of this chapter. Wyoming plans to adopt all Federal occupational safety and health standards except those found in 29 CFR Parts 1915, 1916, 1917, and 1918 (ship repairing, ship building, ship breaking and longshoring). In addition, the State intends to adopt additional vertical standards relating to oil well drilling and servicing not provided by the Federal program. Thereafter, the Commission shall continue to adopt future Federal standards within six months after their promulgation by the Secretary of Labor.

The plan further includes the Wyoming Occupational Health and Safety Act which became law on March 7, 1969, as well as amendments to this legislation which became effective on January 1, 1974, and which are designed to bring the Wyoming Act into conformity with the requirements of Part 1902.

Interested persons were afforded thirty (30) days from the date of publication to submit written comments concerning the plan. Further, interested persons were given an opportunity to request an informal hearing with respect to the plan or any part thereof, upon the basis of substantial objections to the plan's provisions.

Written comments concerning the plan were submitted on behalf of the United States Steel Corporation. There were no requests for an informal hearing.

2. *Issues.* The public comments and the national office review of the plan raised several significant issues which were addressed by the State in numerous supplementary letters which clarify and modify the plan and which have been incorporated as part of it. These supplements included letters from the Wyoming Occupational Health and Safety Department dated April 23, 1973, May 30, 1973, August 28, 1973, August 30, 1973, September 6, 1973, and December 6, 1973. There are also letters from the Governor of the State which clarify Wyoming's review procedures and which contain proposed amendments to the State's Administrative Procedure Act.

In light of these modifications that have been made to the Wyoming program, it is considered appropriate herein to discuss the significant issues which were raised during the approval process.

a. *Employment discrimination.* The first issue raised was Wyoming's proposed provision for protecting employees from discrimination for exercising their rights under the Wyoming Occupational Health and Safety Act. Under the plan as originally submitted the State failed to provide for the relief provided under the Federal Act in section 11(c) including rehiring or reinstatement of an employee to his former position with back pay. In response to such criticism the State is planning to provide this protection to employees in the following manner: under Wyoming's revised procedures an aggrieved employee may file a complaint with the Administrator who shall then make an appropriate investigation. If the Administrator concludes that a case of discrimination does exist he shall send the employee's case file to the Wyoming Fair Employment Practices Commission for action consistent with the State's Fair Employment Practices Act of 1965. The State has agreed to amend this Act in order to make discrimination under the Wyoming Occupational Health and Safety Act an unfair labor practice. The Wyoming Fair Employment Practices Act does grant employees the same relief as is afforded under the Federal Act. Further, the Wyoming Occupational Health and Safety Commission will represent the aggrieved employee before the Fair Employment Practices Commission.

b. *Review procedures*—(1) *Finality of agency decisions.* A second issue was Wyoming's proposed review procedures. Although the Wyoming Act gives employers the right to administrative review of citations, proposed penalties, and abatement periods and judicial review of such agency action is provided pursuant to, title 9 § 276.321 of Wyoming's General Statutes, the Plan stated that the actual assessment and collection of penalties would be determined by the courts. Such proposed court system for the assessment and collection of administrative penalties raised the following questions: Whether in a contested case, where the Wyoming Review Board and reviewing court upholds the citation, proposed penalty, or abatement period, will the court in a subsequent collection proceeding be free to re-open the case and to re-determine any aspects of the case as well as the agency's proposed penalty; in a case where an employer does not contest a citation, proposed penalty, or abatement period before the Review Board will such employer be given another opportunity to contest the citation, proposed penalty or abatement period when the case is brought to trial for collection. The possibility of a complete court trial on the merits before any penalties were deemed final was viewed as unduly extending the period of time for review of citations, proposed penalties, and abatement requirements, and as unnecessarily duplicating procedures. Moreover, it appeared that any hearing before the Review Board would be rendered superfluous for whether or not an employer contested the citation before the Review Board he would still be given the opportunity for a judicial trial, and, even if an employer wanted to contest the proposed penalty, it would be futile to contest it before the Review Commission, for that body seemingly did not have the authority to assess a final penalty.

In response to such concerns, the State clarified and modified its administrative and court procedures in order to meet Federal requirements. The State has agreed to submit amendments to its Administrative Procedures Act to the 1975 session of its State Legislature which amendments will provide as follows: The failure of any person to contest administrative action within the statutory time permitted for filing contested cases shall preclude the right of further administrative review of such agency action or of judicial review; and further, in a contested case the failure of an individual to appeal an administrative decision within

[106] R. 677.
[108] R. 328.
[107] R. 800–801.

the statutory period of time allowed for review shall preclude any further judicial review. Moreover, under the Wyoming Administrative Procedure Act the right of judicial review is already subject to the requirement that administrative remedies be exhausted. Thus, under the Wyoming scheme, like that under the Federal Act, in noncontested cases the citation and proposed penalties issued by the Wyoming Department of Labor are deemed final orders of the Wyoming Review Commission not subject to review by any court or agency. Thus, if an employer does not exercise his right to contest a citation, proposed penalty or abatement period before the Review Board within the 15 day statutory period provided in Wyoming's Rules of Procedure, there can be no further agency or court appeal. In those cases where an employer does contest a citation or proposed penalty before the Review Board and the Board's decision is favorable to the Department and no judicial review is sought by an employer pursuant to § 276.321 of the Wyoming Administrative Procedure Act, the Review Board's decision will be considered a final order not subject to any further court review. The same is true upon any further judicial review. Thus, in any subsequent collection proceedings a court will be unable to reopen the case and litigate on the merits, and in cases where an employer defaults in payment of an assessed penalty, court action pursuant to section 27–279(c) of the Wyoming Occupational Health and Safety Act shall be brought to enforce Commission orders.

(2) *Separation of functions.* A third issue involved the structure of Wyoming's Review Board. The administrative review of citations, proposed penalties and abatement periods will not be accomplished by an independent review commission but rather by the Wyoming Occupational Health and Safety Commission which is the agency with the overall responsibility for administration of the program. Three members of such Commission shall comprise the Review Board, but there will be a clear separation of functions and staff between it and the Commission, thereby satisfying the requirements of the process. This procedure has been approved in the past (see the New Jersey decision, January 26, 1973, 38 FR 2426).

(3) *Employee participation.* A fourth issue concerned section 27–277(g)(vi) of the Wyoming Occupational Health and Safety Act which provides that employees have the right to contest abatement periods contained in notices of violations and to have the opportunity to participate in hearings concerning such abatement periods. It was pointed out to the State that employees must be given the right to participate as parties in all hearings before the Wyoming Review Board. In response to such criticism, the State demonstrated that employees do have the right to participate in any hearings before the Review Board. In section 9–276–25 of the Wyoming Administrative Procedure Act, it is explicitly provided that "• • • any interested person may appear before any agency or its responsible officers or employees for the presentation, adjustment or determination of any issue, request, or controversy in any proceeding • • • or in connection with any agency function." Further, the State's Open Meeting Law, section 9–692–2(b) of the State statutes provides that any member of the public may attend and participate in any public meeting and a hearing before the Wyoming Occupational Health and Safety Review Board is considered a public meeting, thereby permitting employees to participate.

(c) *Variances.* A fifth issue concerned Wyoming's proposed procedures for the granting of temporary variances. In the plan as originally submitted, the State's provision made no allowance for granting employees the opportunity for a hearing pursuant to such variance applications. Second, the length of time that a temporary variance could remain in effect was left to the discretion of the Commission and there was no time limit upon the number of times that a temporary variance could be extended or renewed. The Federal Act provides that a temporary variance may not be in effect for longer than one year and may be renewed no more than two times for limited periods. The State has since amended its rules of procedure to satisfy the Federal requirements for limitations on duration and employee input.

(d) *Enforcement*—(1) *Penalties.* A sixth issue concerned a discrepancy in penalties between section 17(a) of the Federal Act and section 27–280(b) of the Wyoming Act.

Section 17(a) provides as follows:

> Any employer who willfully or repeatedly violates the requirements of section 5 of the Act, any standard, rule or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to the Act may be assessed a civil penalty of not more than $10,000 for each violation.

Section 27–280(b) provides as follows:

> Any employer willfully and knowingly violating any of the provisions of this act, any safety and health standards, rules or regulations promulgated under this act or any existing rule or regulation governing the conditions of employment promulgated by the department shall, upon conviction, be punished by a fine of not more than $10,000.

Upon initial examination of the Wyoming provision as contrasted with the corresponding Federal it appeared that Wyoming's statute lacked a penalty for a repeated violation of the Act and that the standard of "willful and knowing" would be more restrictive than the Federal standard of "willful" for such violations. However, the interpretation of such section provided by the State's Attorney General has demonstrated that the Wyoming provision is as effective as the Federal. First, under Wyoming case laws the statutory terms "willful and knowing" are synonymous, therefore not requiring a higher burden of proof than the Federal standard. Further, it has been convincingly demonstrated by the State than an employer who subsequently or repeatedly commits an act after having been penalized does so knowingly and willfully. Based upon the State's interpretation of section 27–280(b), this Wyoming provision is as effective as section 17(a). Further, the State statute provides for a mandatory civil penalty of $10,000 for a willful or repeated violation of the Act while the Federal penalty is discretionary.

(2) *Statute of limitations.* A final area of concern was the plan's provision that notices of violation may not be issued after the expiration of ninety (90) days following the occurrence of any alleged violation unlike the Federal Act which contains a six month time period. The State, however, has shown that the 90-day period will be sufficient time for the issuance of citations and the assessment of penalties. Further, the expiration of the ninety day period does not preclude the assessment of penalties. This provision of the plan will be carefully monitored to ensure the 90 day time period is indeed adequate.

3. *Decision.* After careful consideration of the Wyoming Plan, including the modifications thereof, and comments submitted regarding the plan, the plan is hereby approved under section 18 of the Act and Part 1902.

This decision incorporates requirements of the Act and implementing regulations applicable to State plans generally. It also incorporates intentions as to continued Federal enforcement of Federal standards in areas covered by the plan and the State's Developmental Schedule as set out in §§ 1952.342 and 1952.343 below.

Pursuant to § 1902.20(b)(1)(iii) of Title 29, Code of Federal Regulations the exercise of Federal enforcement authority in Wyoming, will not be diminished. Present priorities for Federal enforcement in Wyoming will continue at least until State standards are promulgated, all administrative regulations are adopted and amendments to the State's Administrative Procedure Act and Fair Employment Practices Act are enacted. Evaluations of the State plan, as implemented, will be made on a continuing basis to assess the appropriate level of Federal enforcement activity. Federal enforcement authority will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the State of Wyoming. Part 1952 is amended by adding a new Subpart BB effective upon signature, reading as follows:

Subpart BB—Wyoming

Sec.
1952.340 Description of the plan.
1952.341 Where the plan may be inspected.
1952.342 Level of Federal enforcement.
1952.343 Development schedule.

Subpart BB—Wyoming

§ 1952.340 Description of the plan.

(a) The plan identifies the Wyoming Occupational Health and Safety Commission as the agency to be responsible for administering the plan throughout the State. The Commission will be re-

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sponsible for promulgating and enforcing occupational safety and health standards and deciding contested cases, subject to judicial review.

(b) The State program will protect all employees within the State, including those employed by the State and its political subdivisions. Public employees are to be granted the same protections as are afforded employees in the private sector. The State plan does not cover employees of the Federal government or those employees whose working conditions are regulated by Federal agencies other than the United States Department of Labor.

(c) The Wyoming Occupational Health and Safety Act gives the State agency full authority to administer and to enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State. The legislation provides employer and employee representatives an opportunity to accompany inspectors before or during the physical inspection of any workplace for the purpose of aiding such inspection; adequate safeguards to protect trade secrets; effective sanctions against employers; protection of employees against discharge or discrimination; procedures for prompt restraint or elimination of imminent danger situations; the right to review by employers and employees of alleged violations, abatement periods and proposed penalties; and prompt notice to employers and employees of alleged violations of standards and abatement requirements.

(d) Administrative regulations include procedures for permanent and temporary variances; notice to employees or their representatives when no compliance action is taken as a result of a complaint, including procedures for informal review; information to employees on hazards, precautions, symptoms and emergency treatment; and training and education programs for employers and employees, including an on-site consultation program consistent with the criteria set out in the Washington Plan decision (38 FR 2421).

(e) The State intends to promulgate Federal standards covering all of the issues contained in Parts 1910 and 1926 of this chapter but will not cover those found in Parts 1915, 1916, 1917, and 1918 of this chapter (ship repairing, ship building, ship breaking, and longshoring). The State also plans to adopt additional vertical standards relating to oil well drilling and servicing not provided by the Federal program. Future Federal standards shall be promulgated by the State within six months after promulgation by the Secretary of Labor. In the case of product standards the State has provided assurances that any State product standards will be required by compelling local conditions and will not unduly burden interstate commerce.

(f) The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 of this chapter. All personnel employed to carry out the plan are to be hired under the Wyoming Personnel Merit System which conforms to standards established by the United States Civil Service Commission. The plan also contains a detailed description of the resources that are to be devoted to it.

§ 1953.341 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations: U.S. Department of Labor, Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room 800, 1726 M Street, NW., Washington, D.C. 20210; Assistant Regional Director, Occupational Safety and Health Administration, U.S. Department of Labor, P.O. Box 3588, Federal Building, 1961 Stout Street, Denver, Colorado 80202; and the Occupational Health and Safety Department, 200 East 8th Avenue, P.O. Box 2186, Cheyenne, Wyoming 82001.

§ 1953.342 Level of Federal enforcement.

Pursuant to § 1902.20(b) (1) (iii) of this chapter, the present level of Federal enforcement in Wyoming will not be diminished. Among other things, the United States Department of Labor will continue to investigate catastrophes and fatalities, investigate valid complaints under section 8(f) of the Occupational Safety and Health Act of 1970, continue its target industry and target health programs and inspect a cross section of all industries on a random basis at least until standards are promulgated, the Wyoming Administrative Procedure Act and the Fair Employment Practices Act are amended and administrative regulations are adopted. Therefore, Federal enforcement activity will continue to the degree necessary to assure occupational safety and health protection to employees in the State of Wyoming, and evaluation of the State plan as implemented, will be made on a continuing basis to assess the appropriate level of Federal enforcement activity.

§ 1952.343 Developmental schedule.

(a) Adoption of Federal standards as State standards by February 1975.

(b) Administrative regulations for recordkeeping and reporting, variances, posting requirements, employee complaint procedures, inspections under the Act, employee exposure to toxic materials, providing information to employees on their exposure to hazards, personal protective equipment, medical examinations, and monitoring, safeguarding trade secrets, administrative review of citations, proposed penalties, and abatement periods, to become effective by June 1, 1974.

(c) Amendments to the Wyoming Administrative Procedure Act to be submitted to the State Legislature January 1975 and to become effective by May 1, 1975.

(d) Management Information System to be completed August 1, 1974.

(e) Merit staffing for administration of the program to be completed by August 15, 1974.

(f) Amendments to the State's Fair Employment Practices Act to be submitted to the State Legislature which convenes January 14, 1975.

Signed at Washington, D.C., this 25th day of April 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-10206 Filed 5-2-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Additions and Miscellaneous Amendments

Correction

In FR Doc. 74-4784 appearing at page 9307 as the Part II of the issue of Friday, March 8, 1974, and corrected on page 13776 in the issue of Wednesday, April 17, 1974, on page 13776, "paragraph c." should read as follows:

c. The formula in paragraph (d) should read as follows:

(d) Particulate emission rate shall be determined by:

$c_{sw} = C_s Q_s$ (Metric or English Units)

where:

c_{sw} = Particulate matter mass emissions, mg/hr (English units: lb/hr).
c_s = Particulate matter concentration, mg/m³ (English units: lb/dscf).
Q_s = Volumetric stack gas flow rate, dscm/hr (English units: dscf/hr). Q_s and c_s shall be determined using Methods 2 and 5, respectively.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Asbestos, Beryllium, and Mercury

Pursuant to section 112 of the Clean Air Act, as amended (42 U.S.C. 1857c-7), the Administrator of the Environmental Protection Agency promulgated national emission standards for the hazardous air pollutants asbestos, beryllium, and mercury on April 6, 1973 (38 FR 8820). The subsequent enforcement of these regulations has demonstrated a need for the clarifying revisions which follow. These revisions are necessary to advise the public of how the regulations are being interpreted in Agency enforcement activities. The revisions promulgated herein do not alter the stringency of the regulations.

A change to Subpart A, General Provisions, which applies to all affected sources, is promulgated. The definition of "alternative method" is revised to indicate more clearly that it is not a "reference method" or "equivalent method" and to make the definition consistent with that used in 40 CFR Part 60, Standards of Performance for New Stationary Sources.

The applicability of the asbestos regulation is discussed in the following documents which are available on request from the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin:

1. Preamble to the proposed regulation (36 FR 23239)
2. Background information document for the proposed regulation (APTD-0753)
3. Preamble to the promulgated regulation (38 FR 8820)
4. Background information document for the promulgated regulation (APTD-1503)

Comments from the owners or operators of affected sources and from Agency regional enforcement personnel have indicated, however, that the intent should be specifically expressed in the text of the regulation. Considering this, the Agency determined that the text of the promulgated regulation should be revised and four definitions are added to clarify the applicability of 40 CFR Part 61, Subpart B, National Emission Standard for Asbestos.

The definition of "commercial asbestos" is added to distinguish between asbestos that is produced as a product and asbestos that occurs as a contaminant ingredient in other materials, and to make it clear that materials that contain asbestos as a contaminant only are not covered. Questions were raised concerning the applicability of the standard to manufacturing operations that use talc and vermiculite. As indicated on page 6 of the background information report for the proposed standards (APTD-0753), talc mines were not covered by the proposed standards; this was also intended to indicate that manufacturing operations that use talc or other materials contaminated with asbestos were not covered by the asbestos standard. In addition, the information available to the Agency at the time of promulgation (April 6, 1973) did not demonstrate that the mining and milling of such materials or manufacturing operations using such materials were major sources of asbestos emissions. The Department of the Interior and the Department of Health, Education and Welfare are studying the health effects of asbestos in talc. The revisions promulgated herein merely clarify the regulations promulgated April 6, 1973, and do not involve prejudgments concerning the outcome of investigations now underway.

Asbestos is also a contaminant in taconite ore. EPA at this time believes that asbestos releases from the milling of such ores should be covered by the hazardous air pollutant regulations and intends in the near future to propose for comment regulations which would accomplish this. Because the revisions here being promulgated are only clarifications of the Agency's intentions at the time the initial hazardous air pollutant regulations for asbestos were published and because they are not being proposed for comment, EPA believes that it is not appropriate to include restrictions on releases of asbestos from taconite milling operations in these revisions.

The regulation promulgated on April 6, 1973, did not include a definition for "asbestos mill" or "manufacturing" operation, and questions arose concerning whether certain operations at these facilities are covered by the regulation, and whether the regulation applies to all milling and manufacturing operations that process ore or materials that contain asbestos. The definition of "asbestos mill" is added to clarify that the regulation covers ore crushing and conveying of asbestos tailings to disposal piles but does not cover open storage areas and asbestos tailings disposal piles. This was explained in the preamble to the promulgated regulations (38 FR 8821) and on pages 30 and 31 of the background information report (APTD-1503). The definition excludes the milling of ores that contain asbestos minerals only as a contaminant as previously discussed under the definition of "commercial asbestos." As noted earlier, the Agency intends to propose regulations covering taconite milling operations.

The definition of "manufacturing" is added to clarify that the regulation applies to only those sources within the specified categories of affected manufacturing facilities that process commercial asbestos into a product. Operations which process (cut, shape, assemble, mix, or otherwise alter) a manufactured product that contains commercial asbestos at a separate location are not intended to be covered by the regulation, and are classified as fabricating rather than manufacturing operations. The information available to EPA prior to promulgation was that new construction sites were the only major sources of asbestos emissions from fabrication operations and that these sources were adequately regulated by Occupational Safety and Health Administration standards. This was explained in the preamble to the promulgated regulation (38 FR 8821) and on page 32 of the background information report (APTD-1503).

Some questions have arisen concerning what operations constitute demolition. The definition of "demolition" is added to clarify that demolition occurs only in situations where load-supporting structural members are wrecked or removed. Accordingly, the standard does not apply to remodeling and renovation operations in which load-supporting structural members are not wrecked.

The time allowed owners or operators to notify the Administrator prior to commencement of a demolition operation is changed from 20 days to 10 days, and the time basis for the notification is clarified to be the postmark date of the notice. Experience has shown that 20 days' notice is not necessary to provide sufficient time for effective enforcement of the regulation, and the shorter time will be more convenient to demolition contractors.

Some questions have arisen concerning whether all of the friable asbestos materials on pipes, boilers, or load-supporting structural members had to be wetted and stripped off prior to demolition. The wording in § 61.22(d) (2) (i) of the promulgated regulation states that the friable asbestos material has to be removed, but does not specify the procedure to be used. A statement is added to clarify that it is not necessary for friable asbestos material to be removed or stripped from boilers, pipes, or load-supporting structural members prior to the removal of these items as units or in sections, provided that the asbestos material exposed during removal is wetted. As required in § 61.22(d) (2) (iii), such units or sections must subsequently be carefully lowered or taken to the ground level.

A paragraph is added to clarify that the regulation is not violated when uncombined water is the sole reason a source fails to meet the no-visible-emissions requirement. This makes the no-visible-emissions regulation consistent with other similar Agency regulations.

The Agency is presently studying the extent of asbestos emission from dumps of asbestos tailings and open storage of asbestos ores, disposal of asbestos waste material, and asbestos fabricating operations. Beryllium and mercury emissions resulting from the incineration of sewage sludge are also being studied. These investigations are nearing completion and the Agency will determine whether it is necessary to regulate these sources of hazardous pollutants to provide an ample margin of safety to protect the public health. The revisions to the regulations promulgated herein merely clarify the regulations promulgated April 6, 1973, and do not preclude subsequent revisions to the regulations as indicated by the studies described above.

The Agency finds that good cause exists for not proposing these revisions and for making them effective upon publication since (1) the revisions make certain clarifications, but do not change the substance of the national emission standards for asbestos, beryllium, and mercury; and (2) there is a pressing need to promulgate these revisions so that the asbestos standard can be uniformly interpreted by industry personnel and enforced by the Agency. Therefore, the Administrator has determined that it is unnecessary to publish a notice of proposed rulemaking or delay the effective date of this amendment and for the reasons cited has not done so.

The amendment of these regulations is promulgated pursuant to section 112 of the Clean Air Act, as amended (42 U.S.C. 1857c-7), and is effective upon promulgation.

Dated: April 29, 1974.

JOHN QUARLES,
Acting Administrator.

Part 61, Chapter I, Title 40, Code of Federal Regulations is amended by revising Subparts A and B as follows:

Subpart A—General Provisions

1. Section 61.02 is amended by revising paragraph (c) to read as follows:

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§ 61.02 Definitions.

• • • • •

(c) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference method or an equivalent method but which has been demonstrated to the Administrator's satisfaction to produce, in specific cases, results adequate for his determination of compliance.

• • • • •

Subpart B—National Emission Standard for Asbestos

2. Section 61.21 is amended by adding paragraphs (g), (h), (i), and (j). The added paragraphs read as follows:

§ 61.21 Definitions.

• • • • •

(g) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of such facility.

(h) "Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(i) "Manufacturing" means the combining of commercial asbestos, or in the case of woven friction products the combining of textiles containing commercial asbestos, with any other material(s), including commercial asbestos, and the processing of this combination into a product as specified in § 61.22(c).

(j) "Demolition" means the wrecking or removal of any load-supporting structural member.

3. Section 61.22 is amended by revising paragraphs (a), (d)(1), (d)(2)(i), and (d)(4), and by adding paragraph (g). The revised and added paragraphs read as follows:

§ 61.22 Emission standard.

(a) Asbestos mills: There shall be no visible emissions to the outside air from any asbestos mill except as provided in paragraph (f) of this section.

• • • • •

(d) • • •

(1) Written notice of intention to demolish shall be provided to the Administrator by the owner or operator of the demolition operation. Such notice shall be postmarked at least 10 days prior to commencement of such demolition, or anytime prior to commencement of demolition subject to paragraph (d)(4) of this section. Such notice shall include the following information:

(i) Name of owner or operator.

(ii) Address of owner or operator.

(iii) Description of the building, structure, facility, or installation to be demolished.

(iv) Address or location of the building, structure, facility or installation.

(v) Scheduled starting and completion dates of demolition.

(vi) Method of demolition to be employed.

(vii) Procedures to be employed to meet the requirements of this paragraph.

(2) • • •

(i) Friable asbestos materials, used to insulate or fireproof any boiler, pipe, or load-supporting structural member, shall be wetted and removed from any building, structure, facility, or installation subject to this paragraph before wrecking of load-supporting structural members is commenced. Boilers, pipe, or load-supporting structural members that are insulated or fireproofed with friable asbestos materials may be removed as units or in sections without stripping or wetting, except that where the boiler, pipe, or load-supporting structural member is cut or disjointed, the exposed friable asbestos materials shall be wetted. Friable asbestos debris shall be wetted adequately to insure that such debris remains wet during all stages of demolition and related handling operations.

• • • • •

(4) Any owner or operator of a demolition operation who intends to demolish a building, structure, facility, or installation to which the provisions of this paragraph would be applicable but which has been declared by proper State or local authority to be structurally unsound and which is in danger of imminent collapse is exempt from the requirements of this paragraph other than the reporting requirements specified by paragraph (d)(1) of this section and the wetting of friable asbestos debris as specified by paragraph (d)(2)(i) of this section.

• • • • •

(g) Where the presence of uncombined water is the sole reason for failure to meet the no-visible-emission requirement of paragraphs (a), (c), or (e) of this section, such failure shall not be a violation of such emission requirements.

[FR Doc.74-10252 Filed 5-2-74;8:45 am]

SUBCHAPTER D—WATER PROGRAMS

PART 108—EMPLOYEE PROTECTION HEARINGS

Establishment of Procedures; Correction

On page 12865 of the FEDERAL REGISTER of Tuesday, April 9, 1974, there appeared a notice adopting, with changes, regulations proposed on November 23, 1973 (38 FR 32268). Only § 108.3 and 108.4 of the proposed regulations were changed; these sections were set forth in the notice of adoption. However, §§ 108.1, 108.2, 108.5, 108.6, and 108.7 should have been reprinted at the same time. This notice corrects the notice of April 9 by reprinting the text of the entire regulation as promulgated.

Dated: April 29, 1974.

JOHN QUARLES,
Acting Administrator.

Sec.
108.1 Applicability.
108.2 Definitions.
108.3 Request for investigation.
108.4 Investigation by Regional Administrator.
108.5 Procedure.
108.6 Recommendations.
108.7 Hearing before Administrator.

AUTHORITY: Sec. 507(e), Pub. L. 92-500, 86 Stat. 816 (33 U.S.C. 1251 et seq.)

§ 108.1 Applicability.

This part shall be applicable to investigations and hearings required by section 507(e) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. (Pub. L. 92-500).

§ 108.2 Definitions.

As used in this part, the term:

(a) "Act" means the Federal Water Pollution Control Act, as amended;

(b) "Effluent limitation" means any effluent limitation which is established as a condition of a permit issued or proposed to be issued by a State or by the Environmental Protection Agency pursuant to section 402 of the Act; any toxic or pretreatment effluent standard established under section 307 of the Act; any standard of performance established under section 306 of the Act; and any effluent limitation established under section 302, section 316, or section 318 of the Act.

(c) "Order" means any order issued by the Administrator under section 309 of the Act; any order issued by a State to secure compliance with a permit, or condition thereof, issued under a program approved pursuant to section 402 of the Act; or any order issued by a court in an action brought pursuant to section 309 or section 505 of the Act.

(d) "Party" means an employee filing a request under § 108.3, any employee similarly situated, the employer of any such employee, and the Regional Administrator or his designee.

(e) "Administrator" or "Regional Administrator" means the Administrator or a Regional Administrator of the Environmental Protection Agency.

§ 108.3 Request for investigation.

Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under the Act, or any representative of such employee, may submit a request for an investigation under this part to the Regional Administrator of the region in which such discrimination is alleged to have occurred.

§ 108.4 Investigation by Regional Administrator.

Upon receipt of any request meeting the requirements of § 108.3, the Regional Administrator shall conduct a full investigation of the matter, in order to determine whether the request may be related to an effluent limitation or order under the Act. Following the investigation, the Regional Administrator shall notify the employee requesting the investigation (or the employee's representative) and the employer of such employee, in writing, of his preliminary findings and conclusions. The employee, the representative of such employee, or the employer may within fifteen days following receipt of the preliminary findings and conclusions of the Regional Administrator request a hearing under this part. Upon receipt of such a request, the Regional Administrator, with the concurrence of the Chief Administrative Law Judge, shall publish notice of a hearing to be held not less than 30 days following the date of such publication where he determines that there are factual issues concerning the existence of the alleged discrimination or its relationship to an effluent limitation or order under the Act. The notice shall specify a date before which any party (or representative of such party) may submit a request to appear.

§ 108.5 Procedure.

Any hearing held pursuant to this part shall be of record and shall be conducted according to the requirements of 5 U.S.C. 554. The Administrative Law Judge shall conduct the hearing in an orderly and expeditious manner. By agreement of the parties, he may dismiss the hearing. The Administrative Law Judge, on his own motion, or at the request of any party, shall have the power to hold prehearing conferences, to issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. The Regional Administrator, and any party submitting a request pursuant to § 108.3 or § 108.4, or counsel or other representative of such party or the Regional Administrator, may appear and offer evidence at the hearing.

§ 108.6 Recommendations.

At the conclusion of any hearing under this part, the Administrative Law Judge shall, based on the record, issue tentative findings of fact and recommendations concerning the alleged discrimination, and shall submit such tentative findings and recommendations to the Administrator. The Administrator shall adopt or modify the findings and recommendations of the Administrative Law Judge, and shall make copies of such findings and recommendations available to the complaining employee, the employer, and the public.

§ 108.7 Hearing before Administrator.

At his option, the Administrator may exercise any powers of an Administrative Law Judge with respect to hearings under this part.

[FR Doc.10189 Filed 5-2-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-63—AUDIT

Policies and Procedures

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14-63 of Chapter 14 of Title 41 of the Code of Federal Regulations is hereby amended as follows:

1. The Audit of Modifications clause in § 14-63.104-2 and the first paragraph of § 14-63.104-3 are revised to conform with changes in 41 CFR 1-3.807-3 involving cost and pricing data published in the FEDERAL REGISTER of January 14, 1974 (39 FR 1751-1757).

2. Section 14-63.106 is revised to provide that upon written justification and request of the procuring activity, the Director of Management Services, with the concurrence of the Director of Audit and Investigation, may limit or waive the application of specific contract audit requirements.

3. In §§ 14-63.103(b)(1), and 14-63.103(d), the reference to "§ 1-3.814-2(e)" is changed to "§ 1-3.814-2(c)."

4. Editorial changes have been made to Subpart 14-63.1 to change the name "Office of Survey and Review" to "Office of Audit and Investigation."

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein are entirely administrative in nature. Therefore, the public rulemaking process is waived in this instance. Part 14-63 is amended to read as stated below effective on April 15, 1974.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

APRIL 29, 1974.

§ 14-63.000 Scope of part.

This part prescribes policies and procedures pertaining to audit of proposals, contracts, and modifications.

Subpart 14-63.1—Audit of Contractor's Records

§ 14-63.101 Audit responsibility.

The Office of Audit and Investigation conducts or arranges audits of contractors' records to the extent that such audits are required by law, regulation, or sound business judgment. Such audits include the conduct of periodic or requested audits of contractors as are warranted by such factors as the amount of the contract, the financial condition, integrity, and reliability of the contractor, prior audit experience, and the adequacy of the contractor's accounting system and other internal controls. The audits also include reviews of cost or pricing data for contractors' proposals for negotiated contracts (see § 1-3.809 of this title). In order that the Government may benefit to the maximum extent from such audits, a coordinated and cooperative effort shall be made by contracting officers, technical specialists, and finance and audit personnel. It is the responsibility of the contracting officer to include appropriate audit clauses in all contracts that are subject to audit and to obtain an audit of proposals and contract modifications (see § 14-63.103).

§ 14-63.102 Purpose of audit.

In addition to the provisions of § 1-3.809 of this title, contract audit as a pricing aid, audits are conducted to advise and make recommendations to the contracting officer concerning:

(a) Propriety of amounts paid, or to be paid, to contractors where such amounts are based on a cost (including modifications for all types of contracts) or time determination or on variable features related to the results of contractors' operations;

(b) Adequacy of measures taken by contractors regarding the use and safeguarding of Government assets under their custody or control;

(c) Compliance by contractors with contractual provisions having financial implications, such as progress payments, advance payments, guaranteed loans, cash return provisions, and price adjustments;

(d) Reasonableness of contractors' settlement proposals in termination of contracts;

(e) Compliance with contract provisions; and

(f) Contractors' financial condition and ability to perform or to continue to perform under Government contracts.

§ 14-63.103 Types of contracts subject to audit.

(a) A preaward audit as required by § 1-3.809 of this title shall be made for each negotiated proposal, contract, and modification where the cost to the Government exceeds or may exceed $100,000.

(b) The following types of contracts estimated to cost the Federal Government in excess of $25,000, shall include the examination of records clause set forth in § 14-63.104-1:

(1) Cost-reimbursement type contracts (see §§ 1-3.405 and 1-3.814-2(c) of this title);

(2) Advertised or negotiated contracts involving the use or disposition of Government-furnished property;

(3) Where advance payments, progress payments based on costs, or guaranteed loans are to be made;

(4) Contracts for supplies or services containing a price warranty or price reduction clause;

(5) Contracts or leases involving income to the Government where the income is based on operations that are under the control of the contractor or lessee;

(6) Fixed-price contracts with escalation (see §§ 1-2.104-3 and 1-3.404-3 of this title), incentives (see §§ 1-3.404-4 and 1-3.407 of this title), or redetermination (see §§ 1-3.404-5 and 1-3.404-7 of this title);

(7) Requirements and indefinite quantity (call-type) contracts (see §§ 1-2.104-4 and 1-3.409 of this title);

(8) Time and materials and labor-hours contracts (see §§ 1-3.406-1 and 1-3.406-2 of this title); and

(9) Leases where (i) the rental is subject to adjustment (such as for a change in real estate taxes or service costs) or (ii) where the rental is dependent upon actual costs.

(c) In some of the contracts listed in paragraph (b) of this section, it may be appropriate to contractually emphasize the scope or extent of any audit, such as with respect to (1) the use or disposition of Government-furnished property or (2) variable or other special features of the contract, e.g., price escalation and compliance with the price warranty or price reduction clauses. In such cases, the contract clause in § 14-63.104-1 may be appropriately modified with the written concurrence of the Office of Audit and

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Investigation and the Office of Management Services.

(d) Inclusion in contracts of the clause in § 14–63.104–1 (whether or not modified) does not affect in any way the requirements for (1) use in negotiated fixed-price contracts exceeding $2,500 of the Examination of Records clause permitting review of contractor books and records by the Comptroller General (see § 1–3.814–2(c) of this title) or (2) the clauses on audit and records pertaining to the verification of cost or pricing data (see § 1–3.814–2 of this title).

(e) Contracts and contract modifications aggregating more than $100,000 shall not be divided into separate transactions to avoid the audit requirements.

(f) A request for audit in accordance with paragraph (a) of this § 14–63.103, accompanied by a copy of the applicable proposal, contract, modification, and other pertinent information, will be submitted to the Office of Audit and Investigation.

(g) A notice for each contract or modification entered into of the types described in paragraph (b) of this § 14–63.103 and § 14–63.104–2 shall be forwarded to the Office of Audit and Investigation within 15 days after the effective date of the contract. The notice shall include the following information:

(1) Contract identifying number
(2) Contractor's name and address
(3) A brief description of the work involved
(4) Effective date of the document
(5) Completion date (estimated) of the work involved
(6) Estimated dollar amount.

In addition, a copy of a notice of termination of contracts of the types described in this § 14–63.103 shall be forwarded to the Office of Audit and Investigation within 15 days after effective date of termination. Such notice shall contain the contract number and the contractor's name and address and the estimated dollar amount of the costs incurred by the contractor as of the effective date of termination.

§ 14–63.104 Contract clauses.

The following contract clauses are prescribed for use as indicated in this § 14–63.104.

§ 14–63.104–1 Examination of records.

The following contract clause is prescribed for use in contracts listed in § 14–63.103(b) and any negotiated contract which exceeds $2,500 whenever the Examination of Records by the Comptroller General clause in § 1–7.103–3 of this title is not required as set forth in § 1–3.814–2(c) of this title:

EXAMINATION OF RECORDS

(a) (1) The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by any authorized representative of the Comptroller General, Secretary of the Interior, and the Contracting Officer.

(3) In the event the Comptroller General or any of his duly authorized representatives determine that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within two years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer, such documentary evidence in support of transportation costs as may be required by the Comptroller General or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available his records (i) until expiration of three years after final payment under this contract or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, and (ii) for such longer period, if any, as is required by applicable statutes, by any other clause of this contract, or by (A) or (B) below:

(A) If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting settlement.

(B) Records which relate to (i) appeals under the Disputes clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) costs and expenses of this contract as to which exception has been taken by the Comptroller General, Secretary of the Interior, or the Contracting Officer, or any of their duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in subparagraph (4)(B) above, the Contractor may in fulfillment of his obligation to retain his records as required by this clause substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller General or his duly authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor-hours basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a)(6) above, a provision to the effect that the subcontractor agrees that the Comptroller General, the Secretary of the Interior, and the Contracting Officer, or any of their duly authorized representatives, shall, until the expiration of three years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontractor. The term "subcontract," as used in this paragraph (b) only, excludes (i) purchase orders not exceeding $2,500, and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

§ 14–63.104–2 Audit of contract modifications.

The following clause shall be included in all contracts where the cost to the Government is estimated to exceed $100,000, except those listed in § 14–63.103:

AUDIT OF MODIFICATIONS

The "Examination of Records of Contract Modifications" clause contained in 41 CFR 14–63.104–3 shall be included in every document modifying the price to the Government when the pricing of any modification to a formally advertised or negotiated contract (whether or not cost or pricing data was required under the initial contract) involves aggregate increases and/or decreases, plus applicable profits, in excess of $100,000.

§ 14–63.104–3 Examination of records of contract modifications.

The following clause is prescribed for use in contract modifications involving aggregate increases and/or decreases plus applicable profits in excess og $100,000 in accordance with the "Audit of Modifications" clause in § 14–63.104–2:

EXAMINATION OF RECORDS OF CONTRACT MODIFICATIONS

(a) For the purpose of verifying that the cost or pricing data submitted in conjunction with this contract modification were accurate, complete and current, the Secretary and the Contracting Officer or any of their authorized representatives, shall, until the expiration of 3 years from the date of final payment under the contract of which this modification is a part, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20) whichever expires earlier, have the right to examine those books, records, documents, papers and other supporting data which involve transactions related to this modification or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) If the contract of which this modification is a part is completely or partially terminated and the work so terminated is included in this modification the records relating thereto shall be preserved and made available for 3 years from the date of any resulting final settlement.

(c) If the records concerning this modification relate to (1) appeals under the contract "Disputes" clauses, (2) litigation or settlement of claims arising out of the performance of the contract, or (3) costs and expenses of this contract as to which the Contracting Officer or his authorized representative have taken exception, they shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of.

§ 14–63.105 Payments under contracts subject to audit.

§ 14–63.105–1 Submission and processing of invoices or vouchers.

(a) Contractors shall be required to submit invoices or vouchers as directed by the contract provisions. The processing of invoices or vouchers prior to payment for work or services rendered shall include a review by the contracting officer, or his designated representative, to determine that the nature of items and amounts claimed are in consonance with the contract terms, represent prudent business transactions, and are within any stipulated contractual limitations. If the contractor has not deducted from his claim amounts which are questionable or which are required to be withheld, the contracting officer shall make the required deduction, except as provided in § 14–63.105–2.

(b) Provisional approval by the contracting officer of any payment, including any specific approval as to the nature or amount of a cost shall be noted on (or attached to) the invoice or voucher (see, for example, § 1–15.107 of this title regarding advance understandings on particular cost items). The invoice or voucher shall be forwarded to the appropriate accounting center and retained therein after certification and scheduling to a disbursing office for payment.

§ 14–63.105–2 Action upon receipt of an audit report.

Audit reports shall be furnished to the contracting officer. Upon receipt of an audit report, the contracting officer shall, pursuant to contract terms, determine the allowability of all costs covered by audit giving full consideration to the auditor's recommendations. Where the contracting officer is in doubt or questions the recommendations of the auditor, deductions need not be made from invoices or vouchers for provisional payments. The contracting officer in such cases, however, shall confer with the auditor and other appropriate Government personnel (such as a price specialist or legal counsel) to determine what further action should be taken regarding the items of cost in question. If the contracting officer disagrees with the audit recommendations, the contracting officer shall prepare a statement for the contract file to support and justify his decision and for informational purposes shall forward a copy of such statement to the Office of Audit and Investigation. The contracting officer shall also furnish a written notice to the Office of Audit and Investigation stating the action taken to recover questioned costs in which the contracting officer concurs with the audit recommendations. Such notices, as well as copies of statements pertaining to non-concurrence with audit recommendations, shall be forwarded to the Office of Audit and Investigation within 60 calendar days following issuance of the corresponding audit reports. (See also § 1–3.811 of this title.)

§ 14–63.105–3 Suspensions and disapprovals of amounts claimed.

The contracting officer shall notify the appropriate certifying officer in writing when amounts claimed for payment are (a) suspended tentatively, (b) disapproved as not being allowable according to contract terms, or (c) not reasonably incident or allowable to performance of the contract. Such notice by the contracting officer shall be the basis for the issuance by the certifying officer of a statement to be attached to each copy of the invoice or voucher from which the deduction has been made, explaining the reasons for the deduction.

§ 14–63.106 Waiver.

Upon written justification and request of the procuring activity, the Director of Management Services, with the concurrence of the Director of Audit and Investigation, may limit or waive the application of specific contract audit requirements in individual cases such as where the possible cost/benefits ratio of the audit do not warrant the assignment of audit resources or where audit resources are unavailable: *Provided*, That the stated urgency of a proposed procurement or other contract action shall not alone be justification for such a waiver: *And provided*, The waiver is made within the terms of the Federal Procurement Regulations. As much time as possible should be allowed by contracting officers for the audit work. Except under unusual circumstances, at least 30 days should be allowed for the review of the contractors' proposals pursuant to § 1–3.809 of this title.

[FR Doc.74–10149 Filed 5–2–74;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[2nd Rev. S. O. 1174]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of April 1974.

It appearing, that an acute shortage of plain boxcars exists on the Illinois Central Gulf Railroad Company; that shippers located on lines of this carrier are being deprived of such cars required for loading, resulting in a severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by this railroad are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1174 Service Order No. 1174.

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owner empty, except as otherwise authorized in paragraphs (2) or (6) herein, all plain boxcars which are listed in the Official Railway Equipment Register, I.C.C. R.E.R., No. 391, issued by W. J. Trezise, or reissues thereof, as having mechanical designation XM, bearing reporting marks issued to the Illinois Central Gulf Railroad Company (ICG).

(2) Boxcars described in paragraph (1) herein may be loaded only to stations on the lines of the car owner or to any station which is a junction with the car owner. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(3) Plain boxcars described in paragraph (1) include both plain boxcars in general service and plain boxcars assigned to the exclusive use of a specified shipper.

(4) Junction points with the ICG shall be those listed by the ICG in its specific registration in the Official Railway Equipment Register, I.C.C. R.E.R., No. 391, issued by W. J. Trezise, or successive issues thereof, under the heading "Freight Connections and Junction Points."

(5) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of paragraph (2) or (6) of this section.

(6) *Exception:* To alleviate hardships or inequities, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 11:59 p.m., April 30, 1974.

(d) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17 (2)). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), and 17(2)))

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It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10244 Filed 5-2-74;8:45 am]

[S. O. 1178, Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of April, 1974.

Upon further consideration of Service Order No. 1178 (39 F.R. 10590) and good cause appearing therefor:

It is ordered, That: § *1033.1178 Service Order No. 1178* Distribution of covered hopper cars be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Retention of cars in service and return to owners*—(1) *Retention of cars in service.* Empty covered hoppers sent by the owner to the SCL as required herein shall be returned empty to the SCL via reverse of loaded route for subsequent shipments of fertilizer originating at origins in Florida, until their removal is authorized by this Commission or until this order expires or is vacated. Cars which must be removed from active service because of mechanical defects must be replaced by the car owner in the manner provided in paragraph (c) for delivery of cars to the SCL. The car owner must notify both this Commission and the transportation officer of the SCL the initial and number of the car removed because of mechanical defects and the initial and number of the replacement car, together with the dates of removal and replacement.

(2) *Return of cars to owner.* Waybill instructions on loaded cars no longer required for empty return to the SCL may be endorsed "When empty, return to car owner." When waybills are so endorsed cars shall be returned to owner in the manner provided by Car Service Rules 1 or 2 or moved as otherwise directed by the car owner.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 74-10243 Filed 5-2-74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

The following counties were deleted from the list of Modified Certified Brucellosis Areas in 9 CFR 78.13 on the specified dates: Jo Daviess and Stephenson Counties in Illinois on April 26, 1974; and Lubbock County in Texas on April 26, 1974. Since said dates, it has been determined that these counties again come within the definition of § 78.1(l); and therefore, they have been redesignated as Modified Certified Brucellosis Areas.

Accordingly, § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby revised to read as follows:

§ 78.13 **Modified Certified Brucellosis Areas.**

(a) All States of the United States are hereby designated as Modified Certified Brucellosis Areas except Missouri, Oklahoma, and Texas.

(b) The following States are hereby designated as Modified Certified Brucellosis Areas except for the counties named:

(1) Missouri except Sullivan County.

(2) Oklahoma except Muskogee County.

(3) Texas except Kaufman and Washington Counties.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477, 38 FR 19141, 9 CFR 78.16).

Effective date. The foregoing amendment shall become effective May 3, 1974.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C., it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of April 1974.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-10239 Filed 5-2-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA-5A]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Miscellaneous Amendments

On July 25, 1973, in SIPA Release No. 5, which was published in the FEDERAL REGISTER for August 7, 1973 at 38 FR 21250, the Securities and Exchange Commission announced the adoption of the first of its rules and a form under the Securities Investor Protection Act of 1970. It was intended at that time that the rules under the SIPA would constitute Subpart B of Part 240 of Title 17 of the Code of Federal Regulations. Through an oversight the following technical amendment to Part 240 to accomplish this purpose was omitted from the release and is set forth below.

Commission action. Pursuant to the authority cited in Release No. SIPA-5 as published at 38 FR 21250, the Securities and Exchange Commission further amends Part 240 of Title 17 of the Code of Federal Regulations by inserting prior to the heading reading: "Rules of General Application" which precedes § 240.0-1, the following new caption: "Subpart A—Rules and Regulations under the Securities Exchange Act of 1934"; and also by inserting prior to § 240.206d-1 the following new caption: "Subpart B—Rules and Regulations under the Securities Investor Protection Act of 1970." This change shall be effective immediately, since procedures under 5 U.S.C. 553 are inapplicable.

For the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 1, 1974.

[FR Doc.74-10369 Filed 5-2-74;7:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 637]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 5-11, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.937 **Lemon Regulation 637.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effecuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is strong thus far this week, with good weather favorably affecting order business. Average f.o.b. price was $5.73 per carton the week ended April 27, 1974 compared to $5.53 per carton the previous week. Track and rolling supplies at 146 cars were up 11 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available, and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 30, 1974.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 5, 1974, through May 11, 1974, is hereby fixed at 255,000 cartons.

(2) As used in this section, "handled," and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10400 Filed 5-2-74;11:50 am]

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CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

United States Standards for Grades of Processed Raisins

Correction

In FR Doc. 74–8686 at page 13763 in the issue of Wednesday, April 17, 1974, make the following change.

In Table I., at page 13764, the "Defects" entry "Slightly discolored or damaged by fermentation or any other defect described above" should be "Slightly discolored or damaged by fermentation or any other defect not described above."

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Gypsy Moth and Browntail Moth

EXEMPTED ARTICLES

This document amends the regulations supplemental to the Gypsy Moth and Browntail Moth Quarantine by changing the condition under which stone and quarry products are exempted from certification, permit, or other requirements. Stone and quarry products will now be exempted if an inspector determines that they have not been exposed to infestation. Annual surveys of the premises will be continued and compliance agreements with the establishments maintained. Various other changes were also made.

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.45–2 of the Gypsy Moth and Browntail Moth Quarantine regulations (7 CFR 301.45–2, as amended), the supplemental regulations exempting certain articles from specified requirements of the regulations, 7 CFR 301.45–2b, is hereby amended to read as follows:

§ 301.45–2b Exempted articles.[1]

The following regulated articles are exempted from the certification, permit, and other requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) through (i) of this section and have not been exposed to infestation after handling as prescribed in said paragraphs:

(a) Trees and shrubs, and parts of such trees and shrubs, if grown in a greenhouse throughout the year and so labeled on the outside of each container.

(b) Cuttings and scions with stems no greater than one-half inch in diameter.

(c) Parts of trees and shrubs that have dried, pressed, waxed, lacquered, varnished, or similarly surface treated.

(d) Christmas trees, if it has been determined by an inspector that they have not been exposed to infestation.

(e) Boughs and Christmas greenery.

(f) Lumber, if dressed or sawed four sides with ends clipped and free of surface bark; or if kiln dried: *Provided,* That such lumber is shipped directly after processing and the waybill or other shipping document is marked to show that the lumber was shipped immediately after processing.

(g) Wood products which have been manufactured, such as shingles, flooring, furniture, handles, etc.

(h) Shavings, sawdust, wood flour, excelsior, and cedar bedding, if not exposed to infestation in storage.

(i) Stone and quarry products, if it has been determined by an inspector that they have not been exposed to infestation.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477; 38 FR 19140; 38 FR 8659, 7 CFR 301.45–2)

Effective date. This amendment will become effective May 3, 1974, when it shall supersede the list of exempted articles, § 301.45–2b, which became effective November 24, 1971.

The Deputy Administrator of the Plant Protection and Quarantine Programs has found that facts exist as to the pest risk involved in the movement of such articles which make it safe to relieve the requirements as provided herein.

This amendment relieves certain restrictions heretofore imposed, and should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. Also, it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings on the amendment. Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of April 1974.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.74–10160 Filed 5–2–74;8:45 am]

[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO–361–A3, etc.]

MILK IN CHICAGO REGIONAL AND CERTAIN OTHER MARKETING AREAS

Order Amending Orders

Findings and Determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the respective marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective

marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of the order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended. The order set forth herein for the St. Louis-Ozarks marketing area includes certain provisions in § 1062.44 (a)(12)(v) that were inadvertently omitted in the tentative order included in the final decision in this proceeding. Such provisions are in the present order and were retained in the tentative order set forth in both the recommended decision and the revised recommended decision in this proceeding.

PART 1030—MILK IN CHICAGO REGIONAL MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1030.1 General provisions.

DEFINITIONS

1030.2 Chicago Regional marketing area.
1030.3 Route disposition.
1030.4 Plant.
1030.5 Distributing plant.
1030.6 Supply plant.
1030.7 Pool plant.
1030.8 Nonpool plant.
1030.9 Handler.
1030.10 Producer-handler.
1030.11 [Reserved]
1030.12 Producer.
1030.13 Producer milk.
1030.14 Other source milk.
1030.15 Fluid milk product.
1030.16 Fluid cream product.
1030.17 Filled milk.
1030.18 Cooperative association.
1030.19 Exempt milk.

HANDLER REPORTS

1030.30 Reports of receipts and utilization.
1030.31 Payroll reports.
1030.32 Other reports.

CLASSIFICATION OF MILK

1030.40 Classes of utilization.
1030.41 Shrinkage.
1030.42 Classification of transfers and diversions.
1030.43 General classification rules.
1030.44 Classification of producer milk.
1030.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1030.50 Class prices.
1030.51 Basic formula price.
1030.52 Plant location adjustments for handlers.
1030.53 Announcement of class prices.
1030.54 Equivalent price.

UNIFORM PRICE

1030.60 Handler's value of milk for computing uniform price.
1030.61 Computation of uniform price.
1030.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1030.70 Producer-settlement fund.
1030.71 Payments to the producer-settlement fund.
1030.72 Payments from the producer-settlement fund.
1030.73 Payments to producers and to cooperative associations.
1030.74 Butterfat differential.
1030.75 Plant location adjustments for producers and on nonpool milk.
1030.76 Payments by handler operating a partially regulated distributing plant.
1030.77 Adjustment of accounts.
1030.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1030.85 Assessment for order administration.
1030.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1030 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1030.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1030.2 Chicago Regional marketing area.

"Chicago Regional marketing area," hereinafter called the "marketing area," means the territory within the boundaries of the following places, including piers, docks, and wharves and territory wholly or partly within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) In the State of Illinois:

(1) The counties of:

Boone.	Kendall.
Carroll.	Lake.
Cook.	Lee.
De Kalb.	McHenry.
Du Page.	Ogle.
Jo Daviess (except the city of East Dubuque).	Stephenson.
	Will.
	Winnebago.
Kane.	

(2) In Whiteside County:

(i) The townships of:

Caloma.	Jordan.
Hahnaman.	Montmorency.
Hopkins.	Sterling.
Hume.	Tampico.

(b) In the State of Wisconsin:

(1) The counties of:

Adams.	Menominee.
Brown.	Milwaukee.
Calumet.	Monroe.
Columbia.	Oconto.
Crawford.	Oneida.
Dane.	Outagamie.
Dodge.	Ozaukee.
Fond du Lac.	Portage.
Forest.	Racine.
Grant.	Richland.
Green.	Rock.
Green Lake.	Sauk.
Iowa.	Shawano.
Jefferson.	Sheboygan.
Juneau.	Vernon.
Kenosha.	Vilas.
Kewaunee.	Walworth.
La Crosse.	Washington.
Lafayette.	Waukesha.
Langlade.	Waupaca.
Lincoln.	Waushara.
Manitowoc.	Winnebago.
Marquette.	

(2) In Door County the city of Sturgeon Bay;

(3) In Marathon County:

(i) The towns of:

Bergen.	Marathon.
Berlin.	Mosinee.
Bevent.	Norrie.
Easton.	Plover.
Elderon.	Reid.
Franzen.	Rib Mountain.
Guenther.	Ringle.
Harrison.	Stettin.
Hewitt.	Texas.
Knowlton.	Wausau.
Kronenwetter.	Weston.
Maine.	

(ii) The villages of:

Brokaw.	Marathon.
Elderon.	Rothschild.
Hatley.	

(iii) The cities of:

Mosinee.	Wausau.
Schofield.	

(4) In Wood County:

(i) The towns of:

Cranmoor.	Rudolph.
Grand Rapids.	Saratoga.
Port Edwards.	Seneca.

(ii) The villages of:

Biron.	Port Edwards.

(iii) The cities of:

Nekoosa.	Wisconsin Rapids.

§ 1030.3 Route disposition.

"Route disposition" means a delivery (including disposition from a retail plant store) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a milk plant. Disposition of a plant through a vendor or through a distribution point shall be considered a route delivery at the location of the wholesale or retail outlet to which delivery is made.

§ 1030.4 Plant.

"Plant" means a building together with its facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit

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or establishment: (a) that has facilities adequate for cleansing tank trucks, is approved by an appropriate health authority, and at which milk moved from the farm is transferred and commingled in another tank truck with other milk and is transshipped in such other tank truck to another plant, (b) at which milk is received from dairy farmers, or (c) at which milk is processed and packaged or manufactured. If a portion of the building is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition and is physically separated from the approved portion, such unapproved portion shall not be considered as meeting the terms of this definition.

§ 1030.5 Distributing plant.

"Distributing plant" means a plant from which there is route disposition in the marketing area, either directly or through another plant, of a Grade A fluid milk product that is processed or packaged in such plant during the month.

§ 1030.6 Supply plant.

"Supply plant" means a plant from which a Grade A fluid milk product is shipped or transshipped during the month to another plant. Such supply plant shall be equipped with storage capacity sufficient to hold the largest quantity of fluid milk product either received in the plant or shipped from the plant as a single load during the month, except that no storage capacity shall be maintained in a plant described in § 1030.4(a). Any plant located on the premises of a pool distributing plant pursuant to § 1030.7(a) shall not be considered a supply plant unless it is located in a building that is entirely separate from the distributing plant.

§ 1030.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means a plant pursuant to § 1030.4 that is specified in paragraph (a), (b), or (c) of this section. In determining the pool plant qualifications of plants pursuant to this section on milk subject to the conditions specified in § 1030.9(h), the receipts and disposition of the plant operated by the transferor-handler shall exclude the milk described in § 1030.9(h)(3) but shall include the milk described in §1030.9(h)(4).

(a) A distributing plant from which there is disposed of during the month not less than the percentages set forth in paragraph (a) (2) and (3) of this section of the receipts specified in paragraph (a)(1) of this section. Two or more distributing plants of a handler shall be considered a unit for the purpose of paragraph (a)(3) of this section in any month if the handler operating such plants has filed a written request with the market administrator prior to such month requesting that they be considered a unit.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted under § 1030.13, and milk received from a handler pursuant to § 1030.9(h), but excluding receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II and Class III uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.44 (a)(8)(i)(*a*) and (ii) and the corresponding step of § 1030.44(b).

(2) Not less than 10 percent of such receipts is disposed of from such plant in the marketing area in the form of packaged fluid milk products, except filled milk, either as route disposition or moved to other plants from which it is disposed of in the marketing area as route disposition. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Not less than 45 percent in each of the months of September, October, November, and December and 35 percent in each of the months of January, February, March, and August, and 30 percent in all other months of such receipts is disposed of in the form of packaged fluid milk products, except filled milk, either as route disposition or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped during the month in accordance with paragraph (b) (1) and (2) of this section is not less than the percentages specified in paragraph (b)(4) of this section subject to paragraph (b) (5), (6), (7), and (8) of this section of the volume of Grade A milk received from dairy farmers and handlers described in § 1030.9(c), including producer milk diverted under § 1030.13. Such receipts shall be reduced by the disposition of packaged fluid milk products described in paragraph (b)(3) of this section.

(1) Shipped or transshipped as fluid milk products to and physically unloaded into:

(i) Pool plants pursuant to paragraph (a) of this section to the extent of the quantity determined pursuant to paragraph (b)(5) of this section;

(ii) Plants of producer-handlers; and

(iii) Partially regulated distributing plants and assigned to Class I milk disposed of in the marketing area from such plants pursuant to § 1030.42(d)(2)(ii) (*a*) and (*c*).

(2) Moved as condensed skim milk to pool plants pursuant to paragraph (a) of this section to the extent it is used in a fluid milk product that is disposed of as a fluid milk product (except filled milk). Such use of condensed skim milk shall be prorated over receipts of condensed skim milk from all supply plants.

(3) The receipts of Grade A milk required to be included pursuant to this paragraph shall be reduced by the amount of packaged fluid milk products (except filled milk) that are disposed of from such plant as route disposition or moved to a nonpool plant from which they are disposed of as route disposition outside the marketing area.

(4) Such percentage shall be not less than 40 for each of the months of September, October, and November, and 30 for all other months, except that a plant that was a pool plant pursuant to this paragraph during each of the months of August through December, the percentage shall be not less than 20 for each of the following months of January, February, and March. A plant meeting such requirements for August through March shall be a pool plant for each of the following months of April through July, unless:

(i) The milk received at the plant does not continue to meet the Grade A milk requirements for use in fluid milk products distributed in the marketing area; or

(ii) Written application is filed with the market administrator by the plant operator on or before the first day of any such month (April–July) requesting the plant be designated a nonpool plant for such month and any subsequent month through July, provided it does not otherwise qualify as a pool plant.

(5) For the purpose of determining the percentages specified in paragraph (b)(4) and (7) of this section, the quantity of fluid milk products moved from a supply plant pursuant to paragraph (b)(1)(i) of this section shall be a net quantity assignable at pool distributing plants computed by subtracting from the quantity of fluid milk products received from a supply plant(s), but not to exceed such quantity, the amounts described in paragraph (b)(5)(i) and (ii) of this section (if fluid milk products are received from more than one supply plant, such net quantity assignable shall be prorated among supply plants in accordance with the total receipts from such plants).

(i) The quantity of fluid milk products in the form of bulk milk and skim milk transferred from the pool distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II or Class III milk, other than:

(*a*) Transfers classified pursuant to § 1030.40(b)(3); and

(*b*) Transfers on any Saturday or on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, or Christmas, that no milk is received at the pool distributing plant from a supply plant, in an amount not in excess of 120 percent of the average daily receipts of producer milk pursuant to § 1030.13(a) at the plant during the prior month, less the quantity of producer milk diverted pursuant to § 1030.13(e) on such day. If no producer milk was received in the distributing plant during the prior month, the average daily receipts during the current month shall be used in lieu of the prior month for computing the transfers to be excepted by this subdivision; and

(ii) If milk is diverted from the pool distributing plant on the date of the

receipt from the supply plant, the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of an emergency situation such as a breakdown of trucking equipment or hazardous road conditions shall not be subtracted if such emergency is reported to the market administrator.

(6) The percentages specified in paragraph (b)(4) and/or in paragraph (b)(7)(iii) of this section applicable during the months August-March shall be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments except that the percentages specified in paragraph (b)(7)(iii) of this section shall not exceed 50 percent of those specified in paragraph (b)(4) of this section. Before making such a finding the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision is being considered and inviting data, views, and arguments with respect to the proposed revision: *Provided*, That if a plant which would not otherwise qualify as a pool plant during the month pursuant to paragraph (b)(4) or (7)(iii) of this section would qualify as a pool plant as a result of this subparagraph, such plant shall be a nonpool plant for such month upon filing by the operator of such plant a written request for nonpool status with the market administrator.

(7) Two or more plants shall be considered a unit for the purpose of this paragraph if the following conditions are met:

(i) The plants included in a unit are owned or fully leased and operated by the handler establishing the unit and such plants shall have been pool plants the month prior to being included in a unit. In the case of plants operated by cooperative associations two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives;

(ii) The handler or cooperatives establishing a unit notify the market administrator in writing of the plants to be included therein prior to August 1 of each year and no additional plants shall be added to the unit prior to August 1 of the following year;

(iii) Each plant in a unit ships or transships to plants specified in paragraph (b)(1) of this section the following percentages of its producer milk: 20 in each of the months of September, October, and November; 15 in each of the months of August and December; and 10 in each of the months of January, February, and March. If for any month a plant does not meet the individual plant shipping percentage, that plant shall be excluded from the unit; and

(iv) The notification pursuant to paragraph (b)(7)(ii) of this section shall list the plants in the order in which they shall be excluded from the unit if the minimum shipping requirements are not met, such exclusion to be in sequence beginning with the first plant on the list and continuing until the remaining plants as a unit have met the minimum requirements.

(8) If a handler notifies the market administrator in writing that a plant is unable to meet the requirements set forth herein because of a work stoppage due to a labor dispute between employer and employees, the market administrator, upon verification of the handler's claim, shall not include the receipts and utilization of skim milk and butterfat at such plant for those days from the date of notification through the last day of the work stoppage in determining the percentage of skim milk and butterfat shipped pursuant to this paragraph. When the work stoppage includes an entire month, the plant shall be considered to have met the minimum percentage shipping requirements in that month for pool plant status pursuant to this paragraph, but such relief shall not be granted for more than 2 consecutive months.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a) or (b) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producers of such cooperative association is received at pool distributing plants of other handlers during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or exempt distributing plant; or

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless it is qualified as a pool plant pursuant to paragraph (a), (b), or (c) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order.

§ 1030.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant from which fluid milk products are shipped during the month to a pool plant.

(e) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

§ 1030.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant of another handler pursuant to § 1030.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk of its producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant;

(g) Any person in his capacity as a broker negotiating a purchase or sale of fluid milk products or fluid cream products from or to a person described in paragraph (a) or (d) of this section; or

(h) Any person who is a handler operating a pool distributing plant pursuant to paragraph (a) of this section may be the handler on producer milk delivered to pool distributing plants of other handlers, subject to the following conditions:

(1) Prior to the first month he becomes the handler pursuant to this paragraph such handler shall notify the market administrator in writing of his election to do so and he shall provide the name and address of each transferee-pool plant receiving the milk that is subject to the conditions of this paragraph;

(2) All of the producer milk on which he is the handler pursuant to this paragraph shall be considered a transfer from such handler's pool distributing plant to another pool distributing plant for the purposes of classification pursuant to §§ 1030.40 through 1030.45;

(3) If an entire tank truck load of milk is delivered to the pool plant of an other handler, it shall be considered a receipt by the transferor-handler pursuant to this paragraph for pricing purposes pursuant to §§ 1030.50 through 1030.53 and 1030.60 through 1030.77 at the location of the transferee-plant; and

(4) If less than an entire tank truck load of milk is delivered to the pool plant

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of another handler, a portion of the milk on the tank truck load must be physically received at the transferor-handler's pool distributing plant. Such split load shall be considered a receipt of producer milk at the transferor-handler's plant for pricing purposes pursuant to §§ 1030.50 through 1030.53 and 1030.60 through 1030.77.

§ 1030.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and who has route disposition in the marketing area of only fluid milk products of such person's own production or fluid milk products received from pool plants: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1030.11 [Reserved]

§ 1030.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received at a pool plant or diverted pursuant to § 1030.13.

(b) "Producer" shall not include:

(1) A dairy farmer who is a government and has nonproducer status for the month pursuant to § 1030.19;

(2) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1030.44(a)(8)(ii) and the corresponding step of § 1030.44(b);

(4) Any person with respect to milk produced by him which is reported as diverted to an other order plan if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; and

(5) A dairy farmer with respect to milk produced by him that is received at a handler's pool plant during the months of January through July if any milk from the same farm was a receipt of producer milk in any "payback" month during the preceding year under an other order that provided for a seasonal incentive payment plan whereby funds previously withheld in the computation of the uniform price to producers were paid back to producers through the uniform price computation in subsequent months of the year.

§ 1030.13 Producer milk.

"Producer milk" means milk produced by producers which is:

(a) Received at a pool plant directly from producers, by being physically unloaded into processing facilities or a storage tank (including another tank truck in the case of a reload facility), and the shrinkage of skim milk and butterfat in milk received from producers' farms which was not unloaded in a pool plant. Such direct receipts from producers shall include the portion of a tank truck load of milk unloaded in a pool plant in the case where a portion of such load was first unloaded at another pool plant or diverted to a nonpool plant. The quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm.

(b) Received by a handler pursuant to § 1030.9(h).

(c) Received at a pool plant from a handler described in § 1030.9(c). The utilization value of such milk at class prices shall be included in computing the receiving handler's value of milk pursuant to § 1030.60.

(d) Received by a handler described in § 1030.9(c) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received in a pool plant under paragraph (c) of this section. In applying §§ 1030.52 and 1030.75 such skim milk and butterfat shall be deemed to be received at the location of the pool plant to which delivery is normally made.

(e) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions specified in this paragraph. Milk shall be eligible for diversion as producer milk only if the person producing such milk had delivered milk as producer milk to a pool plant prior to the diversion. Milk picked up at a producer's farm in a tank truck, to the extent it is unloaded at a nonpool plant, shall be subject to the conditions specified in this paragraph; and if the tank truck contains milk from more than one producer, the quantity subject to the conditions specified in this paragraph shall be prorated over the total quantity of milk picked up at each producer's farm. In calculating the percentages specified in § 1030.7, milk so diverted shall be considered as received in the pool plant from which diverted. The location price adjustments pursuant to § 1030.75 shall be based on the zone location of the nonpool plant(s) where such milk is physically received, except that in the case of a distributing plant, diverted milk of a producer shall be priced at the location of such plant if during the month not more than 4 days' production of such producer is diverted, or if the diverted milk is part of a tank truck load of milk that exceeds the milk storage capacity of such distributing plant. Diverted milk shall be limited as follows:

(1) Milk of a producer diverted for the account of the operator of a pool plant or a handler described in § 1030.9(b) that during the months of April through December does not exceed the quantity of such producer's milk received in the pool plant from which diverted, and during the months of January, February and March does not exceed 70 percent of such producer's milk received in or diverted from such pool plant: *Provided*, That during the months of April through July such limits shall not apply for a producer who delivered to a pool plant any time during the prior August–December period and subsequently maintained producer status without interruption of more than 30 consecutive days;

(2) To the extent that milk diverted by a cooperative as a handler during any month would result in the plant failing to qualify as a pool plant under § 1030.7 such diverted milk shall not be producer milk; and

(3) Milk of a producer diverted by a handler who fails to report the information required pursuant to § 1030.32(a)(2) shall not be considered producer milk pursuant to this paragraph.

§ 1030.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1030.40(b)(1) from any source other than producers, handlers described in § 1030.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1030.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1030.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1030.40(b)(1)) for which the handler fails to establish a disposition.

§ 1030.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1030.40(b) or (c)(1)(i) through (v), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1030.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1030.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1030.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members.

§ 1030.19 Exempt milk.

"Exempt milk" means milk received at a pool plant in bulk from the dairy farmer who produced it, to the extent of the quantity of any packaged fluid milk products returned to the dairy farmer if:

(a) The dairy farmer is a government which is not engaged in the route disposition of any of the returned products; and

(b) The dairy farmer has, by written notice to the market administrator and the receiving handler, elected nonproducer status for a period of not less than 12 months beginning with the month in which the election was made and continuing for each subsequent month until canceled in writing, and the election is in effect for the current month.

HANDLER REPORTS

§ 1030.30 Reports of receipts and utilization.

On or before the 10th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants (except that if a handler so requests and the request is approved by the market administrator, a single report may be filed), shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1030.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from pool plants of other handlers (or other pool plants, as applicable), including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.7(b)(5), except that during the months of April through July no such separate statement need be made if receipts from supply plants are from only plants that were pool plants during the prior months of August through March;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1030.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1030.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1030.31 Payroll reports.

(a) On or before the 25th day after the end of each month, each handler described in § 1030.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1030.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1030.32 Other reports.

(a) Each handler pursuant to § 1030.9(a), (b), (g), and (h) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler pursuant to § 1030.9(g) shall report the quantities of skim milk and butterfat in fluid milk products and fluid cream products moved for his account from each pool plant and received at each pool plant or partially regulated distributing plant during the month;

(2) Each handler pursuant to § 1030.9(a) and (b) shall report for each load of milk diverted for his account the quantity of each producer's milk included therein, the date(s) and times of pickup and delivery to the nonpool plant the name and location of that plant, and the plant from which diverted;

(3) Each handler pursuant to § 1030.9(h) shall report for each load of milk transferred for his account the quantity of each producer's milk included therein, the dates and times of pickup and delivery to the transferee-plant, the name and location of that plant and the plant from which transferred. Also, he shall report the quantities of skim milk and butterfat in his receipts of producer milk and delivery of such milk to each pool distributing plant during the month: and

(4) Each handler who, during the month, received milk from a dairy farmer from whom he had not received milk for at least 30 consecutive days, shall report the name and address of the dairy farmer and the plant to which each such person previously delivered milk. Each handler who discontinues receiving milk from a producer during the month shall report each such producer's name, address, and the plant to which such person transferred.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1030.30 and 1030.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1030.40 Classes of utilization.

Except as provided in § 1030.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1030.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

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(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1030.15; and

(6) In shrinkage assigned pursuant to § 1030.41(a) to the receipts specified in § 1030.41(a) (2) and in shrinkage specified in § 1030.41 (b) and (c).

§ 1030.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1030.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant (or at all of the handler's pool plants combined if a single report is filed pursuant to § 1030.30) to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section, excluding that received in the form of a packaged fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1030.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1030.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants (or pool plants of other handlers, if applicable);

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other pool plants (or pool plants of other handlers, if applicable) and to nonpool plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1030.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (or to the pool plant of another handler if a single report is filed pursuant to § 1030.30 by the transferor-handler) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1030.44(a) (12) and the corresponding step of § 1030.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1030.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1030.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1030.43 General classification rules.

In determining the classification of producer milk pursuant to § 1030.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1030.30 and shall compute separately for each pool plant (or for all of a handler's pool plants combined if paragraph (d) of this section applies) and for each cooperative association with respect to milk for which it is the handler pursuant to § 1030.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1030.40, 1030.41, and 1030.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative; and

(d) If a handler operates two or more pool plants, the classification of producer milk shall be determined on the basis of all of his pool plants combined if he files a single report pursuant to § 1030.30 or has received skim milk or butterfat that would be allocated pursuant to § 1030.44 (a) (11) or (12) or the corresponding steps of § 1030.44(b).

§ 1030.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1030.9(a) for each of his pool plants separately (or for all of his pool plants combined if § 1030.43(d) applies) and of each handler described in § 1030.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1030.41(b);

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(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(ii) Receipts of exempt milk;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1030.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1030.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1030.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1030.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) (i) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(vii) Receipts of fluid milk products (other than exempt milk) from a government which has elected nonproducer status for the month pursuant to § 1030.19; and

(viii) Receipts of fluid milk products from persons described in § 1030.12(b) (5);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) (i) and (7) (v) of this section:

(a) For which the handler requests a classification other than Class I; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler) by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from other pool plants (or from pool plants of other handlers if § 1030.43(d) applies), and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(ii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1030.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) (i), (7) (v), and (8) (i) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(12) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (ii) of this section:

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1030.45(a) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler); and

(ii) From Class I, the remainder of such receipts;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from other pool plants (or from pool plants of other handlers if § 1030.43(d) applies) according to the classification of such products pursuant to § 1030.42 (a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1030.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1030.44(a) (12) and the corresponding step of § 1030.44 (b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1030.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 17th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

CLASS PRICES

§ 1030.50 Class prices.

Subject to the provisions of § 1030.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.*—The Class I price shall be the basic formula price for the second preceding month plus $1.26.

(b) *Class II price.*—The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.*—The Class III price shall be the basic formula price for the month.

§ 1030.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1030.52 Plant location adjustments for handlers.

A location adjustment for each handler shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part on the following basis:

(1) Zone 1—adjustment rate—none. Zone I shall consist of the territory within 40 miles of the city hall in Chicago.

(2) Zone 2—adjustment rate—minus 2 cents per hundredweight of milk. Zone 2 shall consist of the territory beyond Zone 1 but within 55 miles of the city hall in Chicago.

(3) Zone 3—adjustment rate—minus 4 cents per hundredweight of milk. Zone 3 shall consist of the territory beyond Zone 2 but within 70 miles of the city hall in Chicago.

(4) Zone 4—adjustment rate—minus 6 cents per hundredweight of milk. Zone 4 shall consist of the territory beyond Zone 3 but within 85 miles of the city hall in Chicago, plus Milwaukee County, Wis., and Winnebago County, Ill.

(5) For plants located beyond Zone 4 the adjustment rate shall be an additional 2 cents per hundredweight of milk for each 15 miles or fraction thereof over 85 miles. The territory beyond 85 miles, but not to exceed 100 miles, shall be Zone 5 and each successive 15-mile area shall be an additional zone.

(b) (1) The mileages applicable pursuant to this section and § 1030.75 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago.

(2) The market administrator shall notify each handler of the zone or mileage determination.

(3) Mileage shall be subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or all pool plants of such handler for which a single report is filed pursuant to § 1030.30 after eliminating duplication for transfer between such plants);

(2) Subtract the receipts of exempt milk and the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants if assigned to Class I milk;

(3) Subtract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.44;

(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in paragraph (c) (6) (i) and (ii) of this section:

(i) Receipts at the handler's pool distributing plant(s) of producer milk, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If receipts during the month at such distributing plants of producer milk and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to paragraph (c) (6) of this section, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to this subparagraph;

(8) Multiply by the location adjustment rates applicable at the transferor plants, the quantity assigned to receipts of producer milk at such distributing plants pursuant to paragraph (c) (6) (i) and (7) of this section;

(9) Multiply by the location adjustment rates applicable at the transferor plants, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to paragraph (c) (6) (ii) of this section; or

(ii) Receipts specified in paragraph (c) (6) (ii) of this section;

(10) Multiply by the location adjustment rates applicable at the transferor plants, the quantities assigned pursuant to paragraph (c) (7) of this section to receipts from other pool plants in prior months;

(11) Multiply the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I by the location adjustment rates applicable at the shipping plant;

(12) Multiply the quantity of Class I milk packaged by pool supply plants and disposed of as route disposition or to

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other plants by the location adjustment rates applicable at the pool supply plants from which disposition is made; and

(13) Add together the minus amounts obtained pursuant to paragraph (c) (8), (9), (10), (11), and (12) of this section.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant shall receive a location adjustment credit on producer milk at such plant classified as Class I that is not shipped as a bulk fluid milk product to a pool distributing plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1030.54 Equivalent price.

If for any reason a price quotation or other pricing factor required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price quotation or price factor determined by the Secretary to be equivalent to that required.

UNIFORM PRICE

§ 1030.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler described in § 1030.9 (a), (b), (c), and (h) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1030.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1030.44(a)(14) and the corresponding step of § 1030.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1030.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1030.44 (a)(9) and the corresponding step of § 1030.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(7) (i) through (iv), (vii), and (viii) and the corresponding step of § 1030.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(7) (v) and (vi) and the corresponding step of § 1030.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a) (11) and the corresponding step of § 1030.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract an amount equal to the minus location adjustment computed pursuant to § 1030.52(c) (13) or (d).

§ 1030.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content at plants in Zone I pursuant to paragraphs (a) through (e) of this section. If the unreserved cash balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made the payments required pursuant to § 1030.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until he has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(a) Combine into one total the values computed pursuant to § 1030.60 for all handlers;

(b) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1030.75(a);

(c) Add an amount representing not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1030.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1030.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1030.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement" fund into which he shall deposit all payments received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to §§ 1030.71, 1030.76, 1030.77 and 1030.78.

(b) Payments due handlers pursuant to §§ 1030.72 and 1030.77: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1030.71, 1030.76, 1030.77, 1030.78, 1030.85 and 1030.86.

§ 1030.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1030.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1030.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1030.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1030.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1030.71(a)(2) exceeds the amount computed pursuant to § 1030.71 (a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1030.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk received from such producer and for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the 3rd day after the end of each month, to each producer who has not discontinued shipping milk to such handler before the end of the month, for producer milk received during the first 15 days of the month at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month, less proper deductions authorized in writing by such producer; and

(2) On or before the 18th day after the end of each month, for producer milk received during such month, at a rate per hundredweight of not less than the uniform price as adjusted pursuant to §§ 1030.74, 1030.75 and 1030.86, less any payment made pursuant to paragraph (a)(1) of this section, and any proper deduction authorized in writing by such producer and plus or minus adjustments for errors in previous payments made to such producer. If by such date the handler has not received full payment from the market administrator pursuant to § 1030.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Payments required in paragraph (a) of this section shall be made by a handler to a cooperative association qualified under § 1030.18, or its duly authorized agent, for producer milk if the cooperative association is authorized to collect such payments for such producers and has presented the handler with a written request for such payments. Payments to the cooperative association pursuant to this paragraph shall be subject to the condition that the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by the handler because of any improper claim on the part of the cooperative association. The amount of payment shall be equal to the sum of the individual payments otherwise payable for such producer milk and shall be paid by the handler as follows:

(1) On or before the 1st day after the end of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month.

(c) Each handler shall pay a cooperative association for milk received by the handler from the cooperative association as follows:

(1) In the case of milk received from a pool plant(s) operated by a cooperative association:

(i) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month; and

(ii) For milk received during the month the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received at a rate per hundredweight not less than the minimum class prices pursuant to § 1030.50, as adjusted by the butterfat differential specified in § 1030.74, and less any payment made pursuant to paragraph (c)(1)(i) of this section; and

(2) In the case of milk received from a cooperative association acting as a handler described under § 1030.9(c);

(i) For milk received during the first 15 days of the month, the handler shall pay a cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month; and

(ii) For milk received during the month, the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received at a rate per hundredweight of not less than the uniform price computed as described under § 1030.61, as adjusted pursuant to §§ 1030.74 and 1030.75 and less any payment made pursuant to paragraph (c)(2)(i) of this section.

(d) In making payments for producer milk pursuant to paragraphs (a)(2) or (b)(2) of this section, each handler shall furnish each producer or cooperative association to whom such payment is made a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds for each producer (and the average butterfat content for the entire month only);

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate that is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1030.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1030.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price pursuant to § 1030.61 for producer milk received at a plant shall be adjusted according to the location of the plant at the rates set forth in § 1030.52(a).

(b) The uniform price applicable to other source milk shall be reduced at the rates set forth in § 1030.52(a), except that the adjusted uniform price shall not be less than the Class III price.

§ 1030.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1030.30(b) and 1030.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

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(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1030.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1030.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1030.60 for such handler shall include, in lieu of the value of other source milk specified in § 1030.60(f) less the value of such other source milk specified in § 1030.71(a)(2)(ii), a value of milk determined pursuant to § 1030.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1030.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1030.30(b) and 1030.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1030.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1030.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1030.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1030.77 Adjustment of accounts.

When verification by the market administrator of reports or payment of any handler discloses errors resulting in monies due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1030.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1030.71, 1030.76, 1030.77, 1030.85 or 1030.86, shall be increased three-fourths of one percent on the 7th day after the due date each month.

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this section;

(b) For the purpose of this section, any unpaid obligation that is determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator shall be considered to have been due when it would have been due if such report had been submitted at the proper time; and

(c) Payment of any interest obligation computed pursuant to this section in an amount less than $10 shall be delayed until the accumulated interest obligation of such handler equals or exceeds $10.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1030.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 18th day after the end of each month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own farm production and including for a handler described in § 1030.9(c) producer milk described in § 1030.13(d));

(b) Other source milk allocated to Class I pursuant to § 1030.44(a)(7) and (11) and the corresponding steps of § 1030.44(b), except such other source milk that is excluded from the computations pursuant to § 1030.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1030.76(a)(2).

§ 1030.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1030.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 18th day after the end of the month. Such monies shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of member producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions as are authorized by such producers and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

PART 1032—MILK IN SOUTHERN ILLINOIS MARKETING AREA

Subpart—Order Regulation Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1032.85 Assessment for order administration.
1032.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1032 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1032.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1032.2 Southern Illinois marketing area.

"Southern Illinois marketing area", hereinafter called the "marketing area", means all the territory within the following counties, all of which are in the State of Illinois, together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties:

BASE ZONE

Bond.
Calhoun.
Christian.
Clark.
Clay.
Clinton.
Coles.
Crawford.
Cumberland.
Edwards.
Effingham.
Fayette.
Greene.
Jasper.
Jefferson.
Jersey.
Lawrence.
Macoupin.
Madison.
Marion.
Monroe.
Montgomery.
Richland.
St. Clair (except Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the city of Belleville).
Shelby.
Wabash.
Washington.
Wayne.

NORTHERN ZONE

Champaign.
De Witt.
Douglas.
Edgar.
Logan.
Macon.
McLean.
Menard.
Morgan.
Moultrie.
Platt.
Sangamon.
Vermilion.

SOUTHERN ZONE

Franklin.
Hamilton.
Jackson.
Perry.
Randolph.
Saline.
White.
Williamson.

§ 1032.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distributing point and distribution by a vendor or vending machine) to a retail or wholesale outlet, other than a plant, of any fluid milk product classified as Class I milk.

§ 1032.4 [Reserved]

§ 1032.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which there is route disposition of Grade A fluid milk products in the marketing area during the month.

§ 1032.6 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1032.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means a plant specified in paragraph (a), (b), or (c) of this section. For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1032.13(b)(1), (2), and (3) by an operator of a pool plant.

(a) A distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of its Grade A receipts from dairy farmers and handlers described in § 1032.9(c), or an average of not less than 7,000 pounds per day of route disposition, except filled milk, in the marketing area; and

(2) Total route disposition, except filled milk, equal to 50 percent or more of its Grade A receipts from dairy farmers and handlers described in § 1032.9(c) during the months of August through February and 40 percent during all other months.

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and handlers described in § 1032.9(c) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 50 percent Class I use (not including filled milk) of the total of such supply plant milk and producer milk receipts in the months of August through February and 40 percent in other months.

(c) Any supply plant which qualified pursuant to paragraph (b) of this section in each of the immediately preceding months of September through January shall be a pool plant for the months of February through August unless the operator of such plant notifies the market administrator in writing before the first day of any such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which during the month there is a greater quantity of route disposition, except filled milk, in the marketing area regulated by the other order than in the Southern Illinois marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month

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in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this subparagraph;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which during the month there is a greater quantity of route disposition, except filled milk, in the Southern Illinois marketing area than in the other marketing area, and such other order which fully regulates the plant does not contain provisions to exempt the plant from regulation even though such plant has greater such route disposition in the marketing area of the Southern Illinois order; and

(4) Any plant qualified pursuant to paragraph (c) of this section for any portion of the period of February through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1032.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped to a pool plant.

§ 1032.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its members diverted for its account pursuant to § 1032.13;

(c) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. The cooperative association, prior to the first day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1032.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1032.10 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a distributing plant and processes milk from his own farm production and who disposes of all or a portion of such milk as route disposition in the marketing area but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: *Provided*, That the skim milk and butterfat disposed of in the form of fluid milk products designated as Class I milk pursuant to § 1032.40(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers, allowing for inventory derived from such sources; and

(b) Assumes as his personal enterprise and risk the processing and distribution of fluid milk products and the maintenance, care, and management of dairy animals and other resources necessary to produce his own farm milk production.

§ 1032.11 [Reserved]

§ 1032.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant or diverted as producer milk pursuant to § 1032.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1032.44(a)(8)(iii) and the corresponding step of § 1032.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1032.13 Producer milk.

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received during the month:

(1) At a pool plant from producers or from a handler described in § 1032.9(c); and

(2) By a handler described in § 1032.9(c) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1032.41(c) or Class I shrinkage; or

(b) Diverted by a handler who is the operator of a pool plant or by a cooperative association pursuant to the following conditions:

(1) Milk of a producer diverted from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted;

(2) Milk of a producer diverted from a pool plant to a nonpool plant that is not a producer-handler plant or an other order plant, on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer;

(3) Milk of a producer diverted during the month from a pool plant to a nonpool plant that is an other order plant, for not more days of production of producer milk, by such producer than is received at a pool plant(s) pursuant to paragraph (a) of this section;

(4) For pricing purposes, milk diverted pursuant to paragraph (b)(2) and (3) of this section shall be deemed to be received by the diverting handler at the location of the plant to which diverted: *Provided*, That milk diverted pursuant to paragraph (b)(2) of this section to a plant located less than 50 miles (by the shortest highway distance as determined by the market administrator) from the pool plant from which diverted, shall be deemed to be received by the diverting handler at the location of the plant from which diverted; and

(5) For pricing purposes, milk diverted pursuant to paragraph (b)(1) of this section shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

§ 1032.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1032.40(b)(1) from any source other than producers, handlers described in § 1032.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1032.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1032.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1032.40(b)(1)) for which the handler fails to establish a disposition.

§ 1032.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1032.40(b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1032.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1032.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1032.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1032.19 Reload point.

"Reload point" means a location at which facilities approved by a duly constituted health authority, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided*, That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing, and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

HANDLER REPORTS

§ 1032.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1032.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1032.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1032.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1032.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1032.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1032.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1032.32 Other reports.

In addition to the reports required pursuant to §§ 1032.30 and 1032.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1032.40 Classes of utilization.

Except as provided in § 1032.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1032.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

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(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1032.15; and

(6) In shrinkage assigned pursuant to § 1032.41(a) to the receipts specified in § 1032.41(a)(2) and in shrinkage specified in § 1032.41(b) and (c).

§ 1032.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1032.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1032.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1032.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1032.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1032.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1032.44(a)(12) and the corresponding step of § 1032.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1032.44(a)(7) or the corresponding step of § 1032.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1032.44(a)(11) or (12) or the corresponding steps of § 1032.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1032.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1032.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plans shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1032.43 General classification rules.

In determining the classification of producer milk pursuant to § 1032.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1032.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1032.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1032.40, 1032.41, and 1032.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1032.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1032.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1032.9(a) for each of his pool plants separately and of each handler described in § 1032.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1032.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section as follows:

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(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1032.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1032.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1032.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1032.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1032.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provision of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1032.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1032.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1032.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1032.44(a)(12) and the corresponding step of § 1032.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1032.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

CLASS PRICES

§ 1032.50 Class prices.

Subject to the provisions of § 1032.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the Class I price pursuant to Part 1062 of this chapter (St. Louis-Ozarks) minus 7 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1032.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1032.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant which is classified as Class I milk, the price specified in § 1032.50(a) shall be adjusted for the location of such plant by the following amount:

(1) At a plant in the southern zone, plus 7 cents;

(2) At a plant in the northern zone, minus 7 cents;

(3) At a plant outside the marketing area, minus 15 cents if such plant is 100 or more miles from the city or village limits of Alton, Robinson, or Vandalia, Ill., whichever is nearest, and minus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles: *Provided*, That the adjustment at a plant outside the marketing area and in the State of Illinois south of the northernmost boundaries of the Illinois counties of Adams and Schuyler and at a plant in the Indiana counties of Fountain, Parke, Vermillion, and Warren shall be the same as for a pool plant located in the northern zone; and

(4) In determining location adjustments, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

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(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant only to the extent that 105 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1032.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1032.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1032.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

UNIFORM PRICE

§ 1032.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1032.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1032.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1032.44(a)(14) and the corresponding step of § 1032.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1032.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1032.44 (a)(9) and the corresponding step of § 1032.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(7) (i) through (iv) and the corresponding step of § 1032.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(7) (v) and (vi) and the corresponding step of § 1032.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(11) and the corresponding step of § 1032.44 (b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1032.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1032.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants located in the "base zone" as follows:

(a) Combine into one total the values computed pursuant to § 1032.60 for all handlers who filed the reports prescribed by § 1032.30 for the month and who made the payments pursuant to §§ 1032.71 and 1032.73 for the preceding month;

(b) Add an amount equal to the value of the net location and zone adjustments (reductions minus increases) applicable to the uniform price pursuant to § 1032.75;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(g) Subtract in the case of milk delivered during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of producer milk specified in paragraph (d)(1) of this section;

(h) Add in the case of milk delivered during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(j) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1032.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1032.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1032.71, 1032.76, and 1032.77 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1032.72 and 1032.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler; and

(b) All amounts subtracted pursuant to § 1032.61(g) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1032.73 in accordance with the requirements of § 1032.61(h).

§ 1032.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1032.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1032.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1032.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1032.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.71(a)(2) exceeds the amount computed pursuant to § 1032.71(a)(1). The market administrator shall offset any payment due any handler against any payments due from such handler.

§ 1032.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, each handler shall make payment for milk received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this subparagraph;

(2) On or before the 20th day of the following month to each producer, an amount equal to not less than the uniform price, as adjusted pursuant to §§ 1032.74 and 1032.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1032.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer: *Provided*, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1032.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1032.18 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 18th day of the following month pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 18th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives at his pool plant from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1032.74, that are applicable at the location of the handler's pool plant;

(d) On or before the 18th day of the following month, each handler, in his capacity as the operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1032.9(c) shall pay such cooperative price as adjusted pursuant to §§ 1032.74 and 1032.75;
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(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act, and

(f) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the 7th day after the end of the month, the total pounds of milk received from each producer, together with the butterfat content of such milk, and the amount or rate and nature of any deductions authorized by the cooperative association.

§ 1032.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1032.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1032.52(a); and

(b) The weighted average price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1032.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1032.30(b) and 1032.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

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(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1032.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1032.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1032.60 for such handler shall include, in lieu of the value of other source milk specified in § 1032.60(f) less the value of such other source milk specified in § 1032.71(a)(2)(ii), a value of milk determined pursuant to § 1032.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1032.7 (b) and (c), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1032.30(b) and 1032.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1032.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1032.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1032.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1032.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator, from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1032.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1032.71, 1032.85, or 1032.86 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1032.85 Assessment for order administration.

As his pro rata share of the expense of administering the order, each handler (excluding a handler described in § 1032.9(c) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1032.44(a)(7) and (11) and the corresponding steps of § 1032.44(b), except such other source milk that is excluded from the computations pursuant to § 1032.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1032.76(a)(2).

§ 1032.86 Deduction for marketing services.

(a) *Deduction for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 1032.73, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers cooperative association.* In the case of producers for whom a cooperative association is actually performing as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

Subpart—Order Regulating Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1046.85 Assessment for order administration.
1046.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1046 issued under secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).

GENERAL PROVISIONS

§ 1046.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1046.2 Louisville-Lexington-Evansville marketing area.

The "Louisville-Lexington-Evansville marketing area", hereinafter called the "marketing area", means all the territory geographically within the counties listed below and all territory wholly or partly therein occupied by municipal corporations and institutions owned or operated by Federal, State or local governments:

INDIANA COUNTIES

Clark.
Crawford.
Daviess.
Dubois.
Floyd.
Gibson.
Harrison.
Knox.
Martin.
Orange.
Perry.
Pike.
Posey.
Spencer.
Vanderburgh.
Warrick.
Washington.

KENTUCKY COUNTIES

Adair.
Anderson.
Bourbon.
Boyle.
Breckinridge.
Bullit.
Butler.
Casey.
Clark.
Clinton.
Cumberland.
Daviess.
Edmonson.
Fayette.
Franklin.
Garrard.
Grayson.
Green.
Hancock.
Hardin.
Hart.
Henderson.
Henry.
Hopkins.
Jefferson.
Jessamine.
Larue.
Lincoln.
Logan.
Madison.
Marion.
McLean.
Meade.
Mercer.
Muhlenberg.
Nelson.
Ohio.
Oldham.
Pulaski.
Russell.
Scott.
Shelby.
Spencer.
Taylor.
Union.
Washington.
Wayne.
Webster.
Woodford.

§ 1046.3 Route disposition.

"Route disposition" means delivery (including disposition from a plant store or from a distribution point and distribution by a vendor) of a fluid milk product(s) classified as Class I milk to a wholesale or retail outlet(s) other than to a milk or filled milk plant(s). A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets without intermediate movement to another milk or filled milk plant.

§ 1046.4 [Reserved]

§ 1046.5 City plant.

"City plant" means a plant where milk is processed or packaged and from which there is route disposition in the marketing area of fluid milk products permitted to be labeled as "Grade A" by a duly constituted health authority.

§ 1046.6 Country plant.

"Country plant" means a milk plant other than a city plant, which is approved by a duly constituted health authority to supply milk or skim milk to a city plant(s) for disposition as "Grade A" milk and at which milk is received during the month from persons described in § 1046.12(a)(1) or from a handler described in § 1046.9(c).

§ 1046.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A city plant which meets the following requirements:

(1) For each of the months of May through October not less than 30 percent and for each of the months of November through April not less than 50 percent of the fluid milk products, except filled milk, received during the 2 months immediately preceding from persons described in § 1046.12(a)(1), from a handler described in § 1046.9(c), from country plants and from pool plants in containers not larger than a gallon is disposed of as Class I milk, except filled milk, from such plant during such 2-month period to all outlets except such disposition to pool plants in containers larger than a gallon: *Provided*, That, if such utilization percentage for the 2 preceding months cannot be ascertained by the market administrator, the respective percentages shall apply to receipts and sales during the current month; and

(2) There is an amount of route disposition in the marketing area, except filled milk, equal to not less than an average of 13,500 pounds per day or not less than 10 percent of the fluid milk products, except filled milk, received during the current month from persons described in § 1046.12(a)(1), from a handler described in § 1046.9(c), and from country plants.

(b) A country plant during any of the months of October through March from which not less than 50 percent, and during other months not less than 40 percent, of the receipts of milk at such plant from persons described in § 1046.12(a)(1) and from a handler described in § 1046.9(c) is moved to and received at a city plant in the form of milk or skim milk.

(c) A country plant during the months of April through September from which not less than 50 percent of the combined receipts of milk from persons described in § 1046.12(a)(1) and from a handler described in § 1046.9(c) during the preceding period of October through March was moved to and received at a city plant(s) in the form of milk or skim milk, unless the operator of such plant notifies the market administrator in writing on or before March 15 of withdrawal of the plant from the pool for the months of April through September next following.

(d) A country plant which is operated by a cooperative association if (1) two-thirds or more of the milk from persons

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described in § 1046.12(a)(1) who are members of such association is delivered during the month from farms to the pool plant(s) of other handlers or transferred by such association from its plant to the pool plant(s) of other handlers or (2) such plant qualified as a pool plant pursuant to paragraph (d)(1) of this section during each of the immediately preceding consecutive months of October through February.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) Unless determined otherwise by the Secretary, a milk plant during any month in which the milk at such plant would be subject to the pricing and pooling provisions of another order issued pursuant to the Act unless such plant meets the requirements for a pool plant pursuant to paragraph (a), (b), (c) or (d) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in the Louisville-Lexington-Evansville marketing area to other pool plants and to retail or wholesale outlets than in the marketing area regulated pursuant to such other order during the current month.

§ 1046.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of an other order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products are shipped to a pool plant.

§ 1046.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in § 1046.13;

(c) Any cooperative association with respect to the milk of its producer members which is delivered for the account of the cooperative association from the farm to the pool plant(s) of another handler in a tank truck owned by, operated by, or under contract to such cooperative association if the cooperative association has notified in writing prior to delivery both the market administrator and the handler to whom the milk is delivered that it wishes to be the handler for such milk. Such milk shall be considered as having been received by the cooperative association at the location of the plant to which it was delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1046.7(e).

§ 1046.10 Producer-handler.

"Producer-handler" means any person who processes and packages milk from his own farm production, distributes any portion of such milk as route disposition in the marketing area and receives no fluid milk products from other dairy farmers or nonpool plants and no milk products other than fluid milk products for reconstitution into fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that (a) the care and management of all of the dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) is the personal enterprise of and at the personal risk of such person, and (b) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person.

§ 1046.11 [Reserved]

§ 1046.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person:

(1) Who produces milk on a dairy farm which is approved by a duly constituted health authority for the production of milk for fluid disposition (this definition shall include approval of milk by the authority to administer the regulations governing the quality of milk acceptable to agencies of the United States Government for fluid consumption in its institutions or bases located in the marketing area during any month in which such milk is disposed of to such institutions or bases); and

(2) Whose milk so produced pursuant to paragraph (a)(1) of this section is received at a pool plant or by a handler described in § 1046.9(c) or diverted in accordance with the conditions set forth in § 1046.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1046.44(a)(8)(iii) and the corresponding step of § 1046.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1046.13 Producer milk.

"Producer milk" means that skim milk and butterfat contained in milk of a producer which is:

(a) Received from producers at a pool plant for the account of the person operating such plant. When milk is withdrawn at more than one pool plant from the same load delivered by a farm tank pickup truck, the entire load shall be deemed to have been received at the first pool plant at which any of such milk was withdrawn unless:

(1) There is an agreement among the operators of the pool plants receiving such milk providing for other receiving handler(s) to report and pay for all or a portion of such milk; or

(2) The milk involved is that which is delivered to pool plants for the account of a handler described in § 1046.9(c).

(b) Diverted by a handler from a pool plant to another pool plant for any number of days of the month. Milk so diverted shall be deemed to have been received by the diverting handler at the location of the pool plant from which it is diverted.

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, for the account of the operator of the pool plant or a cooperative association, subject to the following conditions:

(1) Milk so diverted shall be deemed to have been received at the pool plant from which it is diverted; and

(2) Producer milk pursuant to this paragraph shall not include the milk of any person during any of the months of October, November, January and February on days on which it is diverted by a handler to a nonpool plant in excess of 22 days (11 days in the case of every-other-day delivery) during the month.

(d) Received by a handler described in § 1046.9(c).

§ 1046.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1046.40(b)(1) from any source other than producers, handlers described in § 1046.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1046.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1046.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1046.40(b)(1)) for which the handler fails to establish a disposition.

§ 1046.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1046.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1046.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1046.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1046.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1046.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1046.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1046.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1046.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1046.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described § 1046.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1046.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1046.32 Other reports.

(a) Each handler shall report to the market administrator, as soon as possible after first receiving milk from any producer, the name and address of such producer, the date upon which such milk was first received, and the plant at which such milk was received.

(b) On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant. Changes in such schedule of rates and the effective dates thereof shall be reported to the market administrator within 10 days.

(c) In addition to the reports required pursuant to paragraphs (a) and (b) of this section and §§ 1046.30 and 1046.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1046.40 Classes of utilization.

Except as provided in § 1046.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1046.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are

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packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1046.15; and

(6) In shrinkage assigned pursuant to § 1046.41(a) to the receipts specified in § 1046.41(a)(2) and in shrinkage specified in § 1046.41 (b) and (c).

§ 1046.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1046.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

(1) The quantity of skim milk and butterfat, respectively, that is equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) of this section; and

(2) The quantity of skim milk and butterfat, respectively, in other source milk received in bulk form as fluid milk products or bulk fluid cream products, excluding any such receipts used in the computations pursuant to paragraph (b)(5) and (6) of this section;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1046.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1046.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1046.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1046.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1046.44(a)(12) and the corresponding step of § 1046.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1046.44(a)(7) or the corresponding step of § 1046.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1046.44(a) (11) or (12) or the corresponding steps of § 1046.44(b), the skim milk or butterfat, so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant; and

(4) If a specified classification is not claimed by both handlers in the case of transfers or diversions by such a cooperative association, such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the transferee- or divertee-handler after making the assignments pursuant to § 1046.44(a)(12) and the corresponding step of § 1046.44(b), and after the assignment of milk for which a specified classification has been claimed pursuant to this paragraph.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1046.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1046.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1046.43 General classification rules.

In determining the classification of producer milk pursuant to § 1046.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1046.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1046.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1046.40, 1046.41, and 1046.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1046.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1046.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1046.9(a) for each of his pool plants separately and of each handler described in § 1046.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1046.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other

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order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1046.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1046.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1046.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1046.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1046.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1046.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class II combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1046.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1046.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1046.9(c) according to the classification of such products pursuant to § 1046.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any suant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1046.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1046.44(a)(12) and the corresponding step of § 1046.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month, of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1046.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 15th day after the end of each month, report to each cooperative association, which so requests, with respect to milk delivered by such association or by its members to each handler during the month: (1) The percentage of such receipts classified in each class; and (2) the percentage relationship of such receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to the pool plant(s) of other handlers and to nonpool plants. For the purpose of these reports, the milk received from such association shall be treated on a pro rata basis of the total producer milk received by such handler during the month.

Class Prices

§ 1046.50 Class prices.

Subject to the provisions of § 1046.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.49.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1046.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1046.52 Plant location adjustments for handlers.

(a) For that milk received from producers or from a handler described in § 1046.9(c) at a pool plant located at any point which is 85 miles or more from the City Hall in Evansville, Indiana, or Louisville, Lexington, Danville, Elizabethtown, or Madisonville, Kentucky, whichever is nearer, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the price specified in § 1046.50(a) shall be reduced at the rate set forth in the following schedule according to the location of the plant where such milk is received:

	Rate per hundredweight (cents)
Distance from City Hall:	
85 miles but less than 95 miles	15.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I

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disposition at the transferee-plant which is in excess of the sum of receipts at such plant from producers and handlers described in § 1046.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1046.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1046.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

UNIFORM PRICE

§ 1046.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1046.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1046.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1046.44(a)(14) and the corresponding step of § 1046.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1046.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1046.44(a)(9) and the corresponding step of § 1046.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(7)(i) through (iv) and the corresponding step of § 1046.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(7)(v) and (vi) and the corresponding step of § 1046.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(11) and the corresponding step of § 1046.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1046.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1046.60 for all handlers who filed the reports prescribed by § 1046.30 for the month and who are not in default of payments pursuant to § 1046.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1046.75;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1046.60(f);

(e) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(g) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by a rate that is equal to 10 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but that is not more than 40 cents;

(h) Add during each of the months of September, October, November and December one-fourth of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(j) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers.

§ 1046.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

§ 1046.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1046.71, 1046.76, and 1046.77 subject to the provisions of § 1046.78, and from which he shall make all payments pursuant to §§ 1046.72 and 1046.77: *Provided*, That payments due any handler shall be offset by payments due from such handler.

§ 1046.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1046.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1046.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1046.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1046.72 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1046.71(a)(2) exceeds the amount computed pursuant to § 1046.71(a)(1): *Provided*, That the market administrator shall offset any payment due any handler against payments due from such handler, and if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1046.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler, an amount computed at not less than the Class III price for the preceding month without deduction for hauling.

(b) On or before the 17th day after the end of each month for milk received from such producer during such month, an amount computed at not less than the uniform price per hundredweight for the month, as adjusted pursuant to §§ 1046.74 and 1046.75, and plus or minus adjustments for errors made in previous payments to such producer and less (1) the payment made pursuant to paragraph (a) of this section, (2) deductions for marketing services pursuant to § 1046.86, and (3) proper deductions authorized by such producer which, in the case of a deduction for hauling, shall be in writing and signed by such producer or, in the case of members of a cooperative association which is marketing the producer's milk, by such association.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association in lieu of payments pursuant to paragraphs (a) and (b) of this section, each handler shall pay to the cooperative association on or before the second day prior to the dates specified in paragraphs (a) and (b), respectively, of this section, an amount equal to the sum of the individual payments otherwise payable to such producers without the deductions provided by paragraphs (b)(2) and (3) of this section: *Provided*, That deductions for supplies authorized by such producer may be made. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making the payments to producers pursuant to paragraph (b) of this section, each handler shall furnish each producer a supporting statement which shall show for each month the following:

(1) The identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) In making payments to a cooperative association pursuant to paragraph (c) of this section, each handler shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

(1) On or before the 20th day of the month, the total pounds of milk received during the first 15 days of such month, and

(2) On or before the 7th day of the following month, the total pounds of milk received each month, together with the butterfat content of such milk and the amount of deductions claimed by such handler.

(f) Each handler shall pay to the cooperative association on or before the 10th day of the following month for milk received from it as a handler described in § 1046.9(c) an amount computed at not less than the value of such milk at the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1046.74, that are applicable at the location of the receiving handler's pool plant.

§ 1046.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1046.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1046.52; and

(b) For purposes of computations pursuant to §§ 1046.71 and 1046.72 the weighted average price shall be reduced at the rates set forth in § 1046.52 applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1046.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1046.30(b) and 1046.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated

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under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1046.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1046.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1046.60 for such handler shall include, in lieu of the value of other source milk specified in § 1046.60(f) less the value of such other source milk specified in § 1046.71(a)(2)(ii), a value of milk determined pursuant to § 1046.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1046.7 (b) and (c), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1046.30 (b) and 1046.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1046.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1046.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1046.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1046.77 Adjustment of accounts.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever such verification discloses that payment is due from the market administrator to any handler, pursuant to § 1046.72, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by § 1046.73, the handler shall pay any amount so due not later than the time of making payment to producers next following such disclosure.

§ 1046.78 Charges on overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1046.71, 1046.72, 1046.73, 1046.76, 1046.77, 1046.85, or 1046.86 shall be increased one-half of one percent on the first of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1046.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler, excluding a handler described in § 1046.9(c), shall pay to the market administrator on or before the 15th day after the end of the month three cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1046.9(c);

(b) Other source milk allocated to Class I pursuant to § 1046.44(a)(7) and (11) and the corresponding steps of § 1046.44(b), except such other source milk that is excluded from the computations pursuant to § 1046.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1046.76(a)(2).

§ 1046.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 1046.73(b), shall deduct 5 cents per hundredweight, or such amount not in excess thereof as the Secretary may prescribe, with respect to all milk received by such handler from producers (other than such handler's own farm production) during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) Each cooperative association which is actually performing the services described in paragraph (a) of this section, as determined by the market administrator, may file with a handler a claim for authorized deductions from the payments otherwise due to its producer members for milk delivered to such handler. Such claim shall contain a list of the producers for whom such deductions apply, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer. In making payments to producers for milk received during the month, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, deductions in accordance with the association's claim and shall pay the amount deducted to the association within 15 days after the end of the month.

PART 1049—MILK IN INDIANA MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY.—The provisions of this Part 1049 issued under secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1049.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of each of the Indiana counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

Adams.
Allen.
Bartholomew.
Blackford.
Boone.
Brown.
Cass.
Clay.
Clinton.
Decatur.
De Kalb.
Delaware.
Elkhart.
Fayette.
Fountain.
Franklin.
Fulton.
Grant.
Hamilton.
Hancock.
Hendricks.
Henry.
Howard.
Huntington.
Jackson.
Jay.
Johnson.
Kosciusko.
Lagrange.
Lake.
La Porte.
Lawrence.
Madison.
Marion.
Marshall.
Miami.
Monroe.
Montgomery.
Morgan.
Noble.
Owen.
Parke.
Porter.
Putnam.
Randolph.
Rush.
Shelby.
Steuben.
St. Joseph.
Starke.
Tippecanoe.
Tipton.
Union.
Vermillion.
Vigo.
Wabash.
Warren.
Wayne.
Wells.
Whitley.

§ 1049.3 Route disposition.

"Route disposition" means a delivery (including that custom-packaged for another person, disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk other than a delivery in bulk form to any milk or filled milk processing plant.

§ 1049.4 [Reserved]

§ 1049.5 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area and from which there is route disposition during the month in the marketing area.

§ 1049.6 Supply plant.

"Supply plant" means a plant in which some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as milk or skim milk to a distributing plant during the month.

§ 1049.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant with:

(1) Total route disposition, exclusive of packaged fluid milk products received from other plants and filled milk, in an amount not less than 50 percent of Grade A milk received at such plant during the month from dairy farmers (excluding receipts of producer milk by diversion pursuant to § 1049.13) and supply plants, except that a plant meeting such percentage requirement for the preceding month may remain qualified under this subparagraph in the current month; and

(2) Route disposition within the marketing area during the month of at least 10 percent of such receipts, such route disposition to be exclusive of packaged fluid milk products received from other plants and filled milk: *Provided*, That any plant meeting the requirements of this paragraph in each of the months of September through May, inclusive, shall continue to have pool plant status in the months of June, July, and August, immediately following if there is route disposition, except filled milk, from the plant in the marketing area during such month.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped to plants qualifying for the month pursuant to paragraph (a) of this section. A plant qualified pursuant to this paragraph in each of the immediately preceding months of September through February shall remain so qualified for the months of April through August unless written application is filed with the market administrator on or before the first day of any such month to designate such plant as a nonpool plant for such month and for each subsequent month through

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August during which it would otherwise not qualify under this paragraph.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant from which the Secretary determines there is a greater proportion of route disposition (except filled milk) in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided*, That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which it has a greater proportion of its route disposition (except filled milk) in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(3) A distributing plant which meets the requirements of paragraph (a) of this section which also meets the requirements of another order on the basis of its route disposition in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition (except filled milk) during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other order;

(4) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (b) of this section and a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants qualified on the basis of route disposition in this marketing area; and

(5) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition.

§ 1049.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool supply plant that is not an other order plant or a producer-handler plant, from which fluid milk products are shipped during the month to a pool plant.

§ 1049.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk diverted for the account of such association pursuant to § 1049.13;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1049.7(c).

§ 1049.10 Producer-handler.

"Producer-handler" means a person who operates a dairy farm and a distributing plant and who receives no fluid milk products from other dairy farmers or from sources other than pool plants, and no milk products other than fluid milk products for reconstitution into fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources used in his own farm production and the operation of the processing and distributing business are at the personal enterprise and risk of such person.

§ 1049.11 [Reserved]

§ 1049.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who in compliance with Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State, or municipal institutions, which milk is received at a pool plant or diverted pursuant to § 1049.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1049.44(a)(8)(iii) and the corresponding step of § 1049.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1049.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk of any producer which is:

(a) Received at one or more pool plants during the month (milk may be diverted during the month by a handler from a pool distributing plant to another pool plant(s) for not more days of production of producer milk than is physically received at the diverting pool plant);

(b) Received at a pool plant at least one day during the month and then diverted by the operator of a pool plant or by a cooperative association to a nonpool plant that is not a producer-handler plant during the month under any of the following conditions:

(1) During April through August the operator of a pool plant or a cooperative association may divert the milk production of a producer from a pool plant to a nonpool plant on any number of days during the month.

(2) During September through March the milk of a producer diverted by the operator of a pool plant or a cooperative association to a nonpool plant shall be limited to the amounts specified in paragraph (b)(2)(i) and (ii) of this section:

(i) The operator of a pool plant may divert the milk of producers (except producer members of a cooperative association which is diverting milk under the percentage limit of paragraph (b)(2)(ii) of this section) for not more days of production of producer milk than is physically received at the diverting pool plant or he may divert an aggregate quantity not exceeding 40 percent of the milk of all such producers.

(ii) A cooperative association may divert the milk of its individual member producers for not more days of production of producer milk than is physically received at a pool plant or it may divert an aggregate quantity of the milk of member producers not exceeding 40 percent of all such milk either caused to be delivered to pool plants or diverted to nonpool plants by the cooperative association.

(3) When milk is diverted in excess of the limit by a handler who elects to divert on the basis of days-of-production, only that milk of the individual producer which was received at a pool plant or which was diverted to a nonpool plant for not more days of production than is physically received at a pool plant shall be considered producer milk.

(4) When milk is diverted in excess of the percentage limit by a handler who elects to divert on a percentage basis, eligibility as producer milk shall be forfeited on a quantity of milk equal to such excess. In such instances the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

(c) Diverted milk shall be deemed to be received by the handler at the pool plant or nonpool plant to which the milk is diverted, unless diverted to a plant located in any part of the marketing area or to a plant at which no location adjustment would apply pursuant to § 1049.52, in which case such diverted milk shall be deemed to be received at the pool plant from which diverted.

§ 1049.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1049.40(b)(1) from any source other than producers, or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1049.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1049.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1049.40(b)(1)) for which the handler fails to establish a disposition.

§ 1049.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1049.40 (b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1049.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1049.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1049.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) To have all of its activities under the control of its members.

HANDLER REPORTS

§ 1049.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1049.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1049.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1049.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1049.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1049.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1049.32 Other reports.

(a) On or before the day prior to diverting milk pursuant to § 1049.13, each handler shall notify the market administrator of his intention to divert such milk, the date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1049.30 and 1049.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1049.40 Classes of utilization.

Except as provided in § 1049.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1049.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

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(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15; and

(6) In shrinkage assigned pursuant to § 1049.41(a) to the receipts specified in § 1049.41(a)(2) and in shrinkage specified in § 1049.41 (b) and (c).

§ 1049.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1049.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk diverted to such plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5) and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1049.9(b) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1049.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1049.44(a)(12) and the corresponding step of § 1049.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1049.44(a)(7) or the corresponding step of § 1049.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1049.44(a) (11) or (12) or the corresponding steps of § 1049.44 (b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1049.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product; unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1049.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1049.43 General classification rules.

In determining the classification of producer milk pursuant to § 1049.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1049.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1049.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1049.40, 1049.41, and 1049.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1049.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1049.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1049.9(a) for each of his pool plants separately and of each handler described in § 1049.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1049.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds

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of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1049.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1049.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1049.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1049.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) *(a)* through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1049.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1049.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1049.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1049.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1049.44(a)(12) and the corresponding step of § 1049.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1049.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association or its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

Class Prices

§ 1049.50 Class prices.

Subject to the provisions of § 1049.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.47.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The class III price shall be the basic formula price for the month.

§ 1049.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1049.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a pool plant located outside the area for which zero location adjustment is specified in paragraph (a)(1)(i) of this section, which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1049.50(a) shall be reduced on the basis of the applicable amount or rate for the location of such plant pursuant to paragraph (a)(1) or (2) of this section, respectively. For the purpose of this section and § 1049.75, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator:

(1) At any plant located within:

	Rate of adjustment per hundredweight (Cents)
(i) The State of Ohio or any Indiana county not specifically named in subdivisions (ii) through (iv) of this subparagraph	0
(ii) Any of the Indiana counties of: Adams, Allen, Blackford, Cass, Carroll, De Kalb, Huntington, Jay, La Grange, Miami, Noble, Steuben, Wabash, Wells, White, Whitley	4

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	Rate of adjustment per hundredweight (Cents)
(iii) Any of the Indiana counties of: Benton, Elkhart, Fulton, Jasper, Kosciusko, Marshall, Newton, Pulaski, St. Joseph, and Berrien and Cass Counties, Mich.	8
(iv) Any of the Indiana counties of: Lake, La Porte, Porter, Starke	12

(2) For any plant at a location outside the territory specified in the preceding paragraph (a)(1) of this section, the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest of the Monument Circle, Indianapolis, Ind., or the main post offices of Fort Wayne, South Bend, or Valparaiso, Ind., and shall be 1.5 cents for each 10 miles or fraction thereof from such point plus the amount of the location adjustment pursuant to paragraph (a)(1) of this section applicable at the respective point.

(b) For the purpose of calculating adjustments pursuant to this section, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1049.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1049.54 Equivalent price.

If for any reason a price quotation or factor required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price or factor determined by the Secretary to be equivalent to the price or factor which is required.

UNIFORM PRICE

§ 1049.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in §1049.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1049.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1049.44(a)(14) and the corresponding step of § 1049.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1049.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1049.44(a)(9) and the corresponding step of § 1049.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7) (i) through (iv) and the corresponding step of § 1049.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7) (v) and (vi) and the corresponding step of § 1049.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(11) and the corresponding step of § 1049.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1049.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1049.60 for all handlers who filed the reports prescribed by § 1049.30 for the month and who made the payments pursuant to § 1049.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1049.75;

(c) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.60(f);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by 20 cents. The amount so subtracted, and the interest subsequently earned thereon (less any money not available for crediting under this paragraph because of insufficient payment by a handler to the producer-settlement fund) shall be credited to the producer settlement fund and remain as an obligated amount until disbursed pursuant to paragraph (i) of this section;

(i) Add for the month of September one-fourth of the total money that has been credited to the producer-settlement fund pursuant to paragraph (h) of this section as of the eighth day of the following month. Similarly, for the months of October and November, add one-third and one-half, respectively, of the remainder that has been so credited. For the month of December, add the remainder of the money credited to the producer-settlement fund pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1049.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1049.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1049.71, 1049.76, 1049.77, and 1049.78 shall be deposited in such fund and from which shall be made all payments pursuant to §§ 1049.72, 1049.77, and 1049.78, except that any payments due to any handler shall be offset by any payments due from such handler; and

(b) All amounts subtracted pursuant to § 1049.61(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1049.73 in accordance with the requirements of § 1049.61(i).

§ 1049.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1049.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1049.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1049.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1049.72 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1049.71(a)(2) exceeds the amount computed pursuant to § 1049.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1049.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for each hundredweight of producer milk received during such month, an amount computed at not less than the uniform price as adjusted pursuant to §§ 1049.74, 1049.75 and 1049.86, less any payment made pursuant to paragraph (a)(1) of this section. If by such date the handler has not received full payment from the market administrator pursuant to § 1049.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Each handler shall make payment to the cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month.

(c) Each handler shall pay to each cooperative association, on or before the 10th day of the following month, for milk the handler receives during the month from a pool plant operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1049.74, that are applicable at the location of the handler's pool plant.

(d) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1049.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1049.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.52(a); and

(b) For purposes of computations pursuant to §§ 1049.71 and 1049.72 the weighted average price shall be adjusted at the rates set forth in § 1049.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1049.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1049.30(b) and 1049.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and

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priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1049.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subparagraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1049.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order) except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1049.60 for such handler shall include, in lieu of the value of other source milk specified in § 1049.60(f) less the value of such other source milk specified in § 1049.71(a)(2)(ii), a value of milk determined pursuant to § 1049.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1049.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1049.30 (b) and 1049.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1049.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1049.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1049.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1049.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1049.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1049.71, 1049.76, 1049.77 (a), 1049.78, 1049.85, or 1049.86(a) shall be increased three-fourths of 1 percent on the sixth day following the date such obligation is due and on the same day of each succeeding month until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1049.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk, including such handler's own farm production;

(b) Other source milk allocated to Class I pursuant to § 1049.44(a) (7) and (11) and the corresponding steps of § 1049.44(b), except such other source milk that is excluded from the computations pursuant to § 1049.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1049.76(a)(2).

§ 1049.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1049.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

Advertising and Promotion Program

§ 1049.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1049.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1049.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1049.113(b) with 3 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative plus one additional Agency representative for each additional full 10 percent of the participating member producers it represents. Cooperative associations with less than 3 percent of the total participating producers that have elected not to combine pursuant to § 1049.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for the first full 3 percent plus one additional Agency representative for each additional full 10 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1049.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1049.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 3 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1049.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 3 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1049.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1049.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1049.110.

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1049.110 and 1049.117.

§ 1049.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1049.110 and 1049.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1049.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1049.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1049.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1049.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct,

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gross negligence, or those which are criminal in nature.

§ 1049.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1049.121 Duties of the market administrator.

Except as specified in § 1049.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1049.113(c);

(b) Set aside the amounts subtracted under § 1049.61(c) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1049.61(c).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1049.61(c) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.110 through 1049.122).

(d) Audit the Agency's records of receipts and disbursements.

§ 1049.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1049.70.

PART 1050—MILK IN CENTRAL ILLINOIS MARKETING AREA

Subpart—Order Regulating Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

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AUTHORITY: The provisions of this Part 1050 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1050.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1050.2 Central Illinois marketing area.

The "Central Illinois marketing area", hereinafter called the "marketing area", means all the territory within the following counties, all of which are in the State of Illinois, together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties:

ZONE I

Cass.	McDonough.
Ford.	Peoria.
Fulton.	Stark.
Knox.	Tazewell.
Livingston.	Warren.
Marshall.	Woodford.
Mason.	

ZONE II

Bureau.	Kankakee
Grundy.	La Salle
Iroquois.	Putnam

§ 1050.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a pool plant or a nonpool plant.

§ 1050.4 [Reserved]

§ 1050.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which there is route disposition of Grade A fluid milk products in the marketing area during the month.

§ 1050.6 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1050.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means a plant specified in paragraph (a), (b), or (c) of this section. For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1050.13 (b) and (c) by an operator of a pool plant.

(a) A distributing plant from which during the month there is:

(1) Route disposition of fluid milk products, except filled milk, in the marketing area equal to 10 percent or more of its Grade A receipts from dairy farmers, handlers described in § 1050.9(c), and other pool plants, such receipts to be exclusive of fluid milk products (except filled milk) transferred without specific Class II or Class III designation to other pool plants described in this paragraph, or from which there is an average of not less than 7,000 pounds per day of route disposition, except filled milk, in the marketing area; and

(2) Total route disposition of fluid milk products, except filled milk, equal to 50 percent or more of its Grade A receipts from dairy farmers, handlers described in § 1050.9(c), and other pool plants, such receipts to be exclusive of fluid milk products (except filled milk) transferred without specific Class II or Class III designation to other pool plants described in this paragraph, during the months of August through February and 40 percent during all other months.

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and handlers described in § 1050.9(c) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 50 percent Class use (not including filled milk) of the total of such supply plant milk and producer milk receipts in the months of August through February and 40 percent in other months.

(c) Any supply plant which qualified pursuant to paragraph (b) of this section in each of the immediately preceding months of September through January shall be a pool plant for the months of February through August unless the operator of such plant notifies the market administrator in writing before the first day of any such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which during the month there is a greater quantity of route disposition, except filled milk, in the marketing area regulated by the other order than in the Central Illinois marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this subparagraph;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which during the month there is a greater quantity of route disposition, except filled milk, in the Central Illinois marketing area than in the other marketing area, and such other order which fully regulates the plant does not contain provisions to exempt the plant from regulation even though such plant has greater route disposition in the marketing area of the Central Illinois order; and

(4) Any plant qualified pursuant to paragraph (c) of this section for any portion of the period of February through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1050.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped to a pool plant.

§ 1050.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of producers diverted for its account pursuant to § 1050.13;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s);

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1050.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1050.10 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a distributing plant and processes milk from his own farm production and who disposes of all or a portion of such milk as route disposition in the marketing area but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: *Provided*, That the skim milk and butterfat disposed of in the form of fluid milk products designated as Class I milk pursuant to § 1050.40(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers, allowing for inventory derived from such sources; and

(b) Assumes as his personal enterprise and risk the processing and distributing of fluid milk products and the maintenance, care and management of dairy animals and other resources necessary to produce his own farm milk production.

§ 1050.11 [Reserved]

§ 1050.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (1) received at a pool plant, (2) diverted pursuant to § 1050.13, or (3) accounted for by a cooperative association pursuant to § 1050.13(b).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1050.44(a)(8)(iii) and the corresponding step of § 1050.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any

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portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1050.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk from producers that is:

(a) Received at a pool plant from producers or from a handler described in § 1050.9(c);

(b) Represented by the difference between the quantity of milk received by a handler described in § 1050.9(c) at producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1050.52 and 1050.75, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered;

(c) Diverted by a handler from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted. For pricing purposes such diverted milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted;

(d) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions of this paragraph. For pricing purposes, milk so diverted shall be deemed to be received at the plant from which diverted, unless the plant to which the milk is diverted is located more than 110 miles from the city hall in Peoria, Ill. (by shortest highway distance as determined by the market administrator) in which case the milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted:

(1) During May, June and July the operator of a pool plant or a cooperative association may divert the milk production of a producer on any number of days;

(2) Subject to the conditions set forth in paragraph (d)(4) of this section, during the months of August through April the operator of a pool plant may divert the milk of a producer for not more days of production of such producer's milk than it is physically received at the pool plant from which diverted: *Provided*, That the total quantity of producer milk diverted does not exceed 35 percent of the physical receipts of producer milk at the handler's pool plant during the month, exclusive of milk of producers who are members of a cooperative association that is diverting milk and the milk of other producers that is diverted pursuant to paragraph (d)(3) of this section;

(3) Subject to the conditions set forth in paragraph (d)(4) of this section, during the months of August through April a cooperative association may divert the milk of producers for not more days of production of each producer's milk than is physically received at a pool plant: *Provided*, That the total quantity of producer milk does not exceed 35 percent of (i) its member milk physically received at pool plants during such month and (ii) other producer milk for which the cooperative association is the handler pursuant to § 1050.9(c) during such month;

(4) In the case where a cooperative association has notified the market administrator and the handler in writing prior to the first day of the month that milk of specified member producers will not be diverted by the cooperative and is not to be included in computing the cooperative association's diversion percentage for the month, milk of such producers shall be deducted from the cooperative's total receipts of member milk for the purposes specified in paragraph (c)(3) of this section and added to the total milk receipts included in computing the diversions of the pool plant handler who receives their milk for the purposes specified in paragraph (c)(2) of this section; and

(5) When milk is diverted in excess of the limits specified in paragraph (d)(2) and (3) of this section, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

§ 1050.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1050.40(b)(1) from any source other than producers, handlers described in § 1050.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1050.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1050.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1050.40(b)(1)) for which the handler fails to establish a disposition.

§ 1050.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1050.40(b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1050.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1050.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1050.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1050.19 Reload point.

"Reload point" means a location at which facilities approved by a duly constituted health authority, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided*, That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

HANDLER REPORTS

§ 1050.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1050.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1050.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1050.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1050.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1050.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1050.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1050.32 Other reports.

(a) Not later than the 7th day after the end of the month, each handler operating a pool plant shall report to the market administrator, for each of his pool plants separately, the name and address of each producer from whom milk was received during the month with statements showing dates on which such producer started shipping and the date on which milk shipments stopped.

(b) In addition to the reports required pursuant to §§ 1050.30 and 1050.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1050.40 Classes of utilization.

Except as provided in § 1050.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1050.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1050.15; and

(6) In shrinkage assigned pursuant to § 1050.41(a) to the receipts specified in § 1050.41(a)(2) and in shrinkage specified in § 1050.41 (b) and (c).

§ 1050.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1050.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1050.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk re-

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ceived from a handler described in § 1050.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1050.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1050.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1050.44(a)(12) and the corresponding step of § 1050.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1050.44(a)(7) or the corresponding step of § 1050.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1050.44(a) (11) or (12) or the corresponding steps of § 1050.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1050.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1050.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1050.43 General classification rules.

In determining the classification of producer milk pursuant to § 1050.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1050.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1050.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1050.40, 1050.41, and 1050.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1050.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1050.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1050.9(a) for each of his pool plants separately and of each handler described in § 1050.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1050.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1050.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1050.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1050.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1050.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In

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such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1050.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1050.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1050.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1050.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1050.44(a)(12) and the corresponding step of § 1050.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1050.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

Class Prices

§ 1050.50 Class prices.

Subject to the provisions of § 1050.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.39.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1050.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1050.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk at a plant that is outside Zone I shall be adjusted as follows:

(1) At a plant in Zone II or in the Illinois counties of Henry and Mercer, the Class I price shall be decreased 5 cents; and

(2) At a plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Mercer, Henry, Bureau, La Salle, Grundy, and Kankakee the Class I price shall be reduced 7.5 cents if such plant is 50 or more miles by the shortest highway distance, as determined by the market administrator from the City Hall in Peoria, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant only to the extent that 105 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1050.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1050.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1050.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

Uniform Price

§ 1050.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1050.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1050.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1050.44(a)(14) and the corresponding step of § 1050.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1050.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1050.44(a)(9) and the corresponding step of § 1050.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(7)(i) through (iv) and the corresponding step of § 1050.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(7)(v) and (vi) and the corresponding step of § 1050.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(11) and the corresponding step of § 1050.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1050.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1050.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants at which no location adjustment pursuant to § 1050.52 is applicable as follows:

(a) Combine into one total the values computed pursuant to § 1050.60 for all handlers who filed the reports prescribed by § 1050.30 for the month and who made

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the payments pursuant to § 1050.71 for the preceding month;

(b) Add an amount equal to the sum of the location and zone adjustments computed pursuant to § 1050.75;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1050.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted averaged price;

(g) Subtract in the case of milk delivered during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of producer milk specified in paragraph (d)(1) of this section;

(h) Add in the case of milk delivered during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(j) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1050.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1050.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1050.71, 1050.76, and 1050.77 shall be deposited in such fund and from which shall be made all payments pursuant to §§ 1050.72 and 1050.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler; and

(b) All amounts subtracted pursuant to § 1050.61(g) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1050.73 in accordance with the requirements of § 1050.61(h).

§ 1050.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1050.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1050.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1050.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1050.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1050.71(a)(2) exceeds the amount computed pursuant to § 1050.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1050.73 Payments to producers and to cooperative associations.

(a) On or before the 20th day of the following month, each handler shall make payment to each producer for milk received from such producer during such month:

(1) An amount equal to not less than the uniform price, as adjusted pursuant to §§ 1050.74 and 1050.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less deductions for marketing services made pursuant to § 1050.86;

(ii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iii) Less proper deductions authorized in writing by such producer: *Provided*, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1050.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section for milk caused to be delivered to such handler by a cooperative association qualified under § 1050.18 shall be made to such association, or its duly authorized agent, which the market administrator determines is authorized by such producers to collect payment for their milk and which has so requested the handler in writing. Such handler shall, on or before the 18th day of the following month, pay the cooperative association for milk received during the month from producers at the direction of such association as determined by the market administrator an amount equal to not less than the amounts due such producers as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 18th day after the end of each month, each handler shall pay to each cooperative association for milk the handler received at his pool plant from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1050.74, that are applicable at the location of the handler's pool plant;

(d) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1050.9(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payments for their milk, shall pay such cooperative association for such milk at the uniform price as adjusted pursuant to §§ 1050.74 and 1050.75; and

(e) Each handler who received milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report on or before the 7th day after the end of the month to such cooperative association for each such producer on forms approved by the market administrator:

(1) The total pounds of milk received from each producer together with the butterfat content of such milk; and

(2) The amount or rate and nature of any deductions authorized by a cooperative association.

§ 1050.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1050.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments pursuant to § 1050.73, the uniform price per hundredweight for producer milk received at a plant outside Zone I shall be adjusted according to the location of the plant at the rates set forth in § 1050.52.

(b) For purposes of computation pursuant to §§ 1050.71 and 1050.72, the weighted average price shall be adjusted in the same manner as the uniform price is adjusted pursuant to paragraph (a) of this section for the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1050.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1050.30(b) and 1050.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1050.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1050.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1050.60 for such handler shall include, in lieu of the value of other source milk specified in § 1050.60(f) less the value of such other source milk specified in § 1050.71(a)(2)(ii), a value of milk determined pursuant to § 1050.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1050.7(b) and (c), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1050.30(b) and 1050.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1050.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1050.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1050.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1050.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1050.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1050.71, 1050.85, or 1050.86 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

Administrative Assessment and Marketing Service Deduction

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§ 1050.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a handler described in § 1050.9(c) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1050.44(a) (7) and (11) and the corresponding steps of § 1050.44(b), except such other source milk that is excluded from the computations pursuant to § 1050.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1050.76(a)(2).

§ 1050.86 Deduction for marketing services.

(a) *Deduction for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 1050.73, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month. Such monies shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

PART 1062—MILK IN ST. LOUIS-OZARKS MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY.—The provisions of this Part 1062 issued under secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1062.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1062.2 St. Louis-Ozarks marketing area.

"St. Louis-Ozarks marketing area", hereinafter called the marketing area, means all the territory within the designated military reservations, the corporate limits of the cities and the counties enumerated below:

ZONE I

(MISSOURI COUNTIES)

Barry.
Christian.
Crawford.
Douglas.
Franklin.
Greene.
Howell.
Jefferson.
Laclede.
Lawrence.
Ozark.
St. Charles.
St. Louis.
Stone.
Taney.
Warren.
Webster.
Washington.
Wright.

and the city of St. Louis, Mo., Fort Leonard Wood Military Reservation in Missouri, and the territory within Scott Military Reservation. East St. Louis, Centerville, Canteen, and Stites Townships, and the city of Belleville, all in St. Clair County, Ill.

ZONE II

(MISSOURI COUNTIES)

Cape Girardeau.
Bollinger.
St. Francois.
Perry.
Ste. Genevieve.

ZONE III

(ARKANSAS COUNTIES)

Benton.
Boone.
Marion.
Washington.

§ 1062.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk to a retail or wholesale outlet (including any delivery through a vendor, or a sale in packaged form from a plant or plant store) except a delivery to another plant.

§ 1062.4 [Reserved]

§ 1062.5 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

§ 1062.6 Supply plant.

"Supply plant" means a plant which qualifies as a pool plant pursuant to § 1062.7(c) or from which fluid milk products, acceptable to a duly constituted health authority for distribution under a Grade A label, are shipped during the month to and physically received at a distributing plant.

§ 1062.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any distributing plant which:

(1) Has during the month route disposition and disposition of packaged fluid milk products to pool distributing plants, excluding in either case filled milk, which, after subtraction of the quantity of packaged fluid milk products, except filled milk, received from other pool plants, is equal to at least 50 percent of such plant's total receipts of Grade A fluid milk products from dairy farmers (including milk diverted by the plant operator), supply plants and handlers described in § 1062.9(c), exclusive of packaged fluid milk products, except filled milk, received from other pool plants, and has route disposition in the marketing area in an amount equal to 10 percent or more of such receipts or an average of not less than 7,000 pounds per day, whichever is less; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in paragraph (a)(1) of this section.

(b) Any supply plant from which during the month 50 percent or more of the Grade A milk received from dairy farmers and handlers described in § 1062.9(c) is shipped to a plant(s) described in paragraph (a) of this section. Any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts during each of the months of September through February shall be designated a pool plant in each of the following months of March through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(c) Any plant which is operated by or under contract to a cooperative association, or a federation of cooperatives, if:

(1) The operator of such plant(s) requests pool status, and 50 percent or more of all the Grade A milk from farms of the member producers of such cooperative or federation including milk delivered by it as a handler described in § 1062.9(c) has been shipped to and physically received at pool distributing plants during the current month or the previous 12-month period ending with the current month, either directly from producer member farms or by transfer from such association plant(s);

(2) Such a plant does not qualify during the month as a "pool plant" under another market pool order issued pursuant to the Act by making shipments of milk to plants which qualify as "pool plants" under such other order; or

(3) Such plant meets the requirements of paragraph (c)(2) of this section and met the requirements of paragraph (c)(1) of this section in the preceding month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in such other Federal order marketing area is greater than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in this marketing area is greater than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of March through August if such plant retains automatic pooling status under this part.

§ 1062.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a producer-handler plant, nor a governmental agency plant, which has route disposition of fluid milk products in consumer-type packages or dispenser units in the marketing area during the month;

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant, a producer-handler plant, nor a governmental agency plant, from which fluid milk products are shipped to a pool plant; and

(e) "Governmental agency plant" means a plant operated by a government agency.

§ 1062.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant of another handler pursuant to § 1062.13 for the account of such association;

(c) Any cooperative association with respect to producer milk transferred from the producer's farm tank to a tank truck owned and operated by or under contract to such association for delivery to a pool plant if prior to delivery the operator of the pool plant gives notice in writing to both the market administrator and the association of his intention to purchase such milk on a basis of weights and butterfat tests other than as determined from farm tank measurements and farm tank samples;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1062.7(d).

§ 1062.10 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production, fluid milk products from pool plants of other handlers, packaged fluid milk products from other order plants, and receipts of nonfluid milk products are used only to fortify fluid milk products; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1062.11 [Reserved]

§ 1062.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is:

(1) Received at a pool plant; or

(2) Diverted as producer milk pursuant to § 1062.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1062.44(a)(8)(iii) and the corresponding step of § 1062.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1062.13 Producer milk.

"Producer milk" means milk produced by producers which is received and accounted for as follows:

(a) By the operator of a pool plant (including a cooperative association) with respect to milk:

(1) Received at the pool plant from producers or from a handler described in § 1062.9(c); and

(2) Diverted by the operator of the pool plant, subject to the conditions of paragraph (c) of this section;

(b) By a cooperative association with respect to milk:

(1) Which it received from producers as a handler described in § 1062.9(b), subject to the conditions of paragraph (c) of this section; and

(2) Which it received from producers as a handler described in § 1062.9(c) and which:

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(i) Is delivered to a pool plant of another handler; or

(ii) Is not so delivered and constitutes shrinkage pursuant to § 1062.41(c) or Class I shrinkage; and

(c) Milk may be diverted by the operator of a pool plant or by a cooperative association pursuant to the following conditions with respect to each producer:

(1) By the operator of a pool plant to another pool plant(s) for not more days of production of producer milk than is physically received at the pool plant from which diverted.

(2) By the operator of a pool plant or by a handler described in § 1062.9(b) to a nonpool plant that is not a producer-handler plant on any day during each of the months of March through August and for not more days of production of producer milk than is physically received at pool plants during each of the months of September through February.

(3) For pricing purposes, milk diverted pursuant to paragraph (c)(2) of this section to a plant located more than 120 miles from the city hall in St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide) or milk diverted pursuant to paragraph (c)(1) of this section, shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

(4) For pricing purposes, milk diverted pursuant to paragraph (c)(2) or (3) of this section to a plant located 120 miles or less from the city hall in St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide), shall be deemed to be received at the location of the plant from which diverted.

§ 1062.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1062.40(b)(1) from any source other than producers, handlers described in § 1062.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1062.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1062.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1062.40(b)(1)) for which the handler fails to establish a disposition.

§ 1062.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1062.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas, especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1062.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1062.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1062.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

Handler Reports

§ 1062.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1062.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1062.40 (b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1062.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1062.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1062.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1062.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1062.32 Other reports.

In addition to the reports required pursuant to §§ 1062.30 and 1062.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1062.40 Classes of utilization.

Except as provided in § 1062.42, all skim milk and butterfat required to be

reported by a handler pursuant to § 1062.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1062.15; and

(6) In shrinkage assigned pursuant to § 1062.41(a) to the receipts specified in § 1062.41(a)(2) and in shrinkage specified in § 1062.41 (b) and (c).

§ 1062.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1062.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1062.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1062.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1062.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1062.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1062.44(a)(12) and the corresponding step of § 1062.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1062.44(a)(7) or the corresponding step of § 1062.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1062.44(a)(11) or (12) or the corresponding steps of § 1062.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream

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product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1062.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1062.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1062.43 General classification rules.

In determining the classification of producer milk pursuant to § 1062.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1062.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1062.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1062.40, 1062.41, and 1062.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1062.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1062.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1062.9(a) for each of his pool plants separately and of each handler described in § 1062.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1062.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1062.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1062.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1062.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1062.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1062.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be ad-

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justed in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1062.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available; and

(v) The quantity of skim milk subtracted from each class pursuant to this subparagraph shall be assigned pro rata to the receipts from other order plants under market pool orders and under handler pool orders;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1062.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1062.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1062.44(a)(12) and the corresponding step of § 1062.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1062.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report. In the case of milk received from an other order market pool plant the classification of such milk shall be the quantities assigned to Class I milk, Class II milk, and Class III milk pursuant to § 1062.44. In the case of milk received from an other order handler pool plant, the market administrator shall report the allocation of skim milk and butterfat in the same percentage as the market-wide estimate for all handlers pursuant to paragraph (a) of this section.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers or from handlers described in § 1062.9(c) in each class by each handler who in the previous month received milk from members of such cooperative association.

Class Prices

§ 1062.50 Class prices.

Subject to the provisions of § 1062.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.60.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1062.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1062.52 Plant location adjustments for handlers.

For milk received from producers or a handler described in § 1062.9(c) at a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (*f*) of this section, the price at such pool plant located:

(a) In Zone I of the marketing area, shall be the price computed pursuant to § 1062.50(a) except as provided in paragraph (d) of this section.

(b) In Zone II of the marketing area, shall be the Zone I price plus a location adjustment of 7 cents.

(c) In Zone III of the marketing area, shall be the Zone I price plus a location adjustment of 17 cents.

(d) In Zone A (the Missouri counties of Barry, Christian, Douglas, Green, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, Wright, and Texas), for any plant which does not dispose of fluid milk products in consumer-type packages and which is qualified as a pool plant pursuant to § 1062.7 (b) or (c) shall be the price pursuant to § 1062.50(a) less 27 cents.

(e) Outside the marketing area and Texas County, Mo., and more than 30 miles from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer, shall be the Class I price applicable in Zone I, less a location adjustment of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer (the distance to be by shortest hard-surfaced highway as determined by the market administrator).

(f) In the case of transfers between plants, location adjustment shall apply at the transferor-plant with respect to a quantity of the transfer calculated as follows: From total Class I milk utilization at the transferee-plant subtract Class I milk assigned to receipts from other order plants and unregulated supply plants, and 95 percent of the receipts from producers and handlers described in § 1062.9(c), and assign the remaining Class I milk to receipts from other pool plants with plus location adjustment, then to receipts from plants with no location adjustment, and then in sequence to receipts from plants at which the smallest minus adjustments apply.

(g) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) through (e) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1062.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1062.54 Equivalent price.

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

Uniform Price

§ 1062.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1062.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1062.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1062.44(a)(14) and the corresponding step of § 1062.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1062.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1062.44(a)(9) and the corresponding step of § 1062.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.44(a)(7)(i) through (iv) and the corresponding step of § 1062.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.44(a)(7)(v) and (vi) and the corresponding step of § 1062.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1062.44(a)(11) and the corresponding step of § 1062.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Add the amounts obtained from multiplying the pounds of skim milk and butterfat in each class that were prorated to receipts of fluid milk products from handler pool other order plants pursuant to § 1062.44(a)(12)(v) and the corresponding step of § 1062.44(b) by the respective class prices specified in § 1062.50 that are applicable at the location of the plant from which received.

§ 1062.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.60 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to §§ 1062.71 and 1062.73 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1062.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1062.60 (f) and (g);

(f) Subtract not less than four cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) From the remainder subtract during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of the total amount of producer milk included in these computations. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1062.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1062.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1062.71, 1062.76, and 1062.77 subject to the provisions of § 1062.78 and from which he shall make all payments to handlers pursuant to §§ 1062.72 and 1062.77. The market administrator shall offset the payment due to a handler against payments due from such handler.

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§ 1062.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a) (1) of this section exceeds the amount specified in paragraph (a) (2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1032.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1062.75, of such handler's receipts of producer milk, excluding in the case of a handler described in § 1062.9(c) milk it delivered to a pool plant; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1062.60 (f) and (g) plus in the case of milk received from a handler pool market the amount of the location adjustment at the location of the plant from which received applied to the quantity of Class II and Class III milk reported pursuant to § 1062.45(b) which is in excess of the Class II and Class III milk pursuant to as adjusted pursuant to §§ 1062.74 and § 1062.60(g), except that for milk received from a handler pool market the value applicable pursuant to this subdivision shall not exceed the value for such quantity calculated pursuant to § 1062.60(g).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b) (1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1062.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1062.71(a)(2) exceeds the amount computed pursuant to § 1062.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler pursuant to §§ 1062.71, 1062.77, 1062.85, and 1062.86. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1062.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 17th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price computed pursuant to § 1062.61 for such producer's deliveries of milk, as adjusted pursuant to §§ 1062.74 and 1062.75, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1062.72, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator:

(b) On or before the last day of each month, to each producer to whom payment is not made pursuant to paragraph (c) of this section and who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than the Class III price for the preceding month, without deduction for hauling;

(c) On or before the 14th day after the end of each month and on or before the 25th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which is received from members, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers;

(d) Each handler who receives milk for which a cooperative association is the handler described in § 1062.9(c), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the amount prescribed in paragraph (b) of this section; and

(2) In making final settlement, the value of such milk at the uniform price 1062.75, less payment made pursuant to paragraph (d) (1) of this section;

(e) On or before the 14th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1062.74, that are applicable at the location of the handler's pool plant; and

(f) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to paragraph (c) of this section, shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 25th of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the seventh day after the end of the month:

(i) The total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1062.77(c) and (d).

§ 1062.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1062.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at pool plants located outside Zone I and more than 30 miles from the St. Louis city hall or the city hall in Springfield, Mo., whichever is nearer, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1062.52 (b), (c), and (e); and

(b) For purposes of computations pursuant to §§ 1062.71(a)(2)(ii) and 1062.72, the "weighted averaged price" shall be adjusted at the rates set forth in § 1062.52 (b), (c), and (e) applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1062.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1062.30(b) and 1062.31(b) the information necessary for making the computations, such handler

may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1062.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1062.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1062.60 for such handler shall include, in lieu of the value of other source milk specified in § 1062.60(f) less the value of such other source milk specified in § 1062.71(a)(2)(ii), a value of milk determined pursuant to § 1062.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1062.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1062.30(b) and 1062.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1062.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1062.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1062.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

§ 1062.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 1062.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall within 30 days of the date of such billing, make payment to the market administrator of the amount so billed;

(b) Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1062.72, the market administrator shall promptly make payment to such handler;

(c) Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure; and

(d) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation, payment to such producer was in an amount more than was required to be paid pursuant to § 1062.73, no handler shall be deemed to be in violation of § 1062.73 if he reduces his next payment to such producer following discovery of such error by not more than such overpayment.

§ 1062.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1062.71, 1062.77(a), 1062.85, or 1062.86(a) shall be increased one-half of one percent on the first day of the month following after the date such obligation is due and on the first day of each succeeding month until such obligation is paid. Any remittance received by the market administrator postmarked prior to the first of the month shall be considered to have been received when postmarked.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1062.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 2.5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that received from a handler described in § 1062.9(c)) and the handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1062.44(a) (7) and (11) and the corresponding steps of § 1062.44(b), except such other source milk that is excluded from the computations pursuant to § 1062.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distrib-

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uting plant that exceeds the skim milk and butterfat subtracted pursuant to § 1062.76(a)(2).

§ 1062.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 1062.73(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such money shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services; and

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 1062.73(a) as are authorized by such producers, and on or before the 15th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

ADVERTISING AND PROMOTION PROGRAM

§ 1062.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1062.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1062.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1062.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1062.113(b), and participating producers who are not members of cooperatives are authorized to select from such group of participating producers, in total, pursuant to § 1062.113(c), one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent but not less than 1 percent of the total participating producers it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1062.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives, but not less than five.

§ 1062.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1062.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administratior a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1062.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more producers as Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual participating producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1062.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum. Any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1062.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the program within the scope of Agency authority pursuant to § 1062.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1062.110 and 1062.117.

§ 1062.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1062.110 and 1062.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1062.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1062.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1062.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1062.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1062.120 Procedure for requesting refunds.

Any producer may apply for refund subject to the applicable conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1062.61(d): *Provided:* That, such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September, respectively, was a producer under an order where the same refund notification period applied and such dairy farmer did not appropriately submit refund application during such period. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed request for refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1062.61(d).

§ 1062.121 Duties of the market administrator.

Except as specified in § 1062.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1062.113(c);

(b) Set aside the amounts subtracted under § 1062.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1062.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1062.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1062.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1062.110 through 1062.122).

(d) Make necessary audits to establish that all agency funds are used only for authorized purposes.

§ 1062.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1062.70.

PART 1099—MILK IN PADUCAH, KENTUCKY, MARKETING AREA

Subpart—Order Regulating Handling

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1099.85 Assessment for order administration.
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AUTHORITY.—The provisions of this Part 1099 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1099.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1099.2 Paducah, Kentucky, marketing area.

The "Paducah, Ky., marketing area," hereinafter called the "marketing area," means all the territory within the counties listed below (except that portion of any of these counties contained in the Fort Campbell military reservation):

KENTUCKY COUNTIES

Ballard.	Hickman.
Caldwell.	Livingston.
Calloway.	Lyon.
Carlisle.	Marshall.
Christian.	McCracken.
Fulton.	Todd.
Graves.	Trigg.

MISSOURI COUNTIES

Mississippi.	Pemiscot.
New Madrid.	Scott.

§ 1099.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a milk or filled milk plant. A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets.

§ 1099.4 [Reserved]

§ 1099.5 Distributing plant.

"Distributing plant" means a plant in which milk is processed and packaged and from which there is route disposition during the month in the marketing area.

§ 1099.6 Supply plant.

"Supply plant" means a plant (except a distributing plant) which is qualified as a pool plant pursuant to the proviso in § 1099.7(b) or a plant from which milk or skim milk which may be distributed in the marketing area under a Grade A label is supplied during the month to a plant qualified pursuant to § 1099.7(a).

§ 1099.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is total route disposition, except filled milk, in an amount equal to 45 percent or more of its receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmer diverted by the plant operator), from handlers described in § 1099.9(c), and fluid milk products, except filled milk, from other plants during the month and from which there is route disposition, except filled milk, in the marketing area in an amount equal to a daily average of 3,000 pounds or more per day, or 10 percent or more of such receipts, whichever is less: *Provided,* That a plant which qualifies as a pool plant by complying with the foregoing requirements during any month shall be a pool plant during the following month.

(b) A distributing plant or supply plant from which the volume of milk and skim milk shipped to pool plants qualified pursuant to paragraph (a) of this section, or disposed of as route disposition (excluding filled milk) is equal to not less than 50 percent of the receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmers diverted by the plant operator), from handlers described in § 1099.9(c), and fluid milk products, except filled milk, received from other plants: *Provided,* That if a supply plant ships to pool plants qualified pursuant to paragraph (a) of this section milk and skim milk equal to at least 75 percent of its receipts of milk from such dairy farmers and handlers described in § 1099.9(c) in October and November and 35 percent of such milk in three additional months during the period from August through January, such plant shall, upon written application to the market administrator on or before the end of such period, be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to reestablish its qualification under the term of this proviso, *And provided further,* That in the case of a supply plant operated by a cooperative association which supplies to other pool plants at least two-thirds of the producer milk of its producer members (including both the milk delivered directly from the farms of member producers and that delivered from the plant of the association) delivered to all plants during the current month or during the immediately preceding 12-month period, the milk which such association causes to be delivered to the pool plants of other handlers in its capacity as a handler described in § 1099.9 (c), shall be considered as having been received first at the plant of such cooperative association for the purpose of qualifying such plant as a pool plant pursuant to this paragraph.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) or (b) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as route disposition in the marketing area regulated by the other order than in the Paducah, Ky., marketing area: *Provided,* That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this subparagraph: *And provided further,* on the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) route disposition made under limited-term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) or (b) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month as route disposition in the Paducah marketing area than in the other marketing area, and such other order which fully regulates the plant does not contain provisions to exempt the plant from regulation even though such plant has greater route disposition

in the marketing area of the Paducah, Ky., order; and

(4) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to the proviso of paragraph (b) of this section during the preceding August through January period.

§ 1099.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant (other than a producer-handler plant or an other order plant) from which fluid milk products are shipped to a pool plant.

§ 1099.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association qualified pursuant to § 1099.18 with respect to milk of producers diverted pursuant to § 1099.13 for the account of such association;

(c) A cooperative association which chooses to report as a handler with respect to milk which is delivered from the farm to a pool plant(s) of another handler in a tank truck owned or operated by, or under contract to, such cooperative association for the account of such cooperative association. The milk so delivered shall be considered to have been received by such cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1099.7(c).

§ 1099.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant, from which there is route disposition within the marketing area but which receives no other source milk or milk from other dairy farmers.

§ 1099.11 [Reserved]

§ 1099.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority, which milk is received at a pool plant or by a handler described in § 1099.9(c).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1099.44(a)(8)(iii) and the corresponding step of § 1099.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1099.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk produced by a producer which is:

(a) Received during the month at a pool plant from producers or from a handler described in § 1099.9(c);

(b) Received by a handler described in § 1099.9(c) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1099.41(c) or Class I shrinkage; or

(c) Diverted by the operator of a pool plant or by a handler described in § 1099.9(b) to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Not less than 5 days' production of any producer whose milk is diverted is physically received at a pool plant;

(2) If diverted by a cooperative association for its account as milk of its members to nonpool plants which does not exceed 25 percent of the milk physically received from member producers of such cooperative association at pool plants during the month in any of the months of April through August and 15 percent in other months, except that if milk of members is diverted by the cooperative association in excess of the specified percentages, no milk diverted by the cooperative association during the month shall be producer milk unless the cooperative association designates the dairy farmers whose milk is not producer milk;

(3) If diverted by a handler in his capacity as the operator of a pool plant, as milk of a producer who is not a member of a cooperative association diverting milk pursuant to paragraph (c)(2) of this section, which does not exceed 25 percent of the aggregate quantity of milk received at such plant from such nonmember producers during the month in any of the months of April through August and 15 percent in other months, except that if milk of nonmember producers is diverted by the handler in excess of the specified percentages, no milk diverted by the handler during the month shall be producer milk unless the handler designates the dairy farmers whose milk is not producer milk; and

(4) Milk diverted for the account of a handler in his capacity as an operator of a pool plant shall be deemed to have been received at the pool plant from which diverted and milk diverted for the account of a cooperative association shall be deemed to have been received by the cooperative association at a pool plant at a location identical with that of the pool plant from which diverted.

§ 1099.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1099.40(b)(1) from any source other than producers, handlers described in § 1099.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1099.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1099.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1099.40(b)(1)) for which the handler fails to establish a disposition.

§ 1099.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1099.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1099.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

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§ 1099.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1099.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1099.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1099.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1099.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1099.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1099.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1099.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1099.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1099.32 Other reports.

(a) On or before the 6th day after the end of each month, each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) The name and address of each producer from whom milk was not received during the previous months and the date on which milk was first received from such producer; and

(2) The name and address of each producer who discontinues deliveries of milk and the date on which milk was last received from such producer.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1099.30 and 1099.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1099.40 Classes of utilization.

Except as provided in § 1099.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1099.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1099.15; and

(6) In shrinkage assigned pursuant to § 1099.41(a) to the receipts specified in § 1099.41(a)(2) and in shrinkage specified in § 1099.41 (b) and (c).

§ 1099.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1099.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1099.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1099.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1099.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1099.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1099.44(a)(12) and the corresponding step of § 1099.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1099.44(a)(7) or the corresponding step of § 1099.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1099.44(a)(11) or (12) or the corresponding steps of § 1099.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1099.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1099.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat

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received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1099.43 General classification rules.

In determining the classification of producer milk pursuant to § 1099.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1099.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1099.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1099.40, 1099.41, and 1099.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1099.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1099.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1099.9(a) for each of his pool plants separately and of each handler described in § 1099.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1099.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1099.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1099.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1099.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1099.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in Class III the pounds of skim milk in fluid milk products and products specified in § 1099.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of milk subtracted pursuant to paragraph (a)(1) of this section:

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1099.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing, as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and

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the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1099.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1099.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1099.44(a)(12) and the corresponding step of § 1099.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1099.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) Upon request, report, on or before the 25th day after the end of each month, to each cooperative association described in § 1099.86(b) the percentage of milk which was caused to be delivered by such association or by its members and which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

§ 1099.50 Class prices.

Subject to the provisions of § 1099.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.70.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1099.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1099.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located more than 40 miles by shortest highway distance as measured by the market administrator, from the nearest County Courthouse in any of the counties included in the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1099.50(a) shall be reduced by 7.5 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 50 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of 95 percent of the receipts at such plant from producers and handlers described in § 1099.9(c), and the volume assigned as Class I to receipts from other order plants (and unregulated supply plants) such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1099.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

UNIFORM PRICE

§ 1099.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1099.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1099.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1099.44(a)(14) and the corresponding step of § 1099.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1099.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1099.44(a)(9) and the corresponding step of § 1099.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(7)(i) through (iv) and the corresponding step of § 1099.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(7)(v) and (vi) and the corresponding step of § 1099.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(11) and the corresponding step of § 1099.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1099.61 Computation of uniform price (including weighted average price).

For each month, the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content, f.o.b. market, received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1099.60 for all handlers who filed the reports prescribed by § 1099.30 for the month and who made the payments pursuant to §§ 1099.71 and 1099.73 for the preceding month;

(b) Add an amount equivalent to the sum of the net deductions (reductions less increases) for location adjustments to be made from producer payments pursuant to § 1099.75;

(c) Add an amount equivalent to one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1099.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(g) For each of the months of April, May, June, and July, subtract an amount equal to 50 cents per hundredweight on the total amount of producer milk in these computations, which amount is to be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (h) of this section;

(h) For each of the months of October, November, December, and January add one-fourth of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(j) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1099.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1099.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers, pursuant to §§ 1099.71, 1099.76, and 1099.77 shall be deposited in this fund, and all payments made pursuant to §§ 1099.72 and 1099.77 shall be made from this fund: *Provided,* That payments due to any handler shall be offset by payments due from such handler; and

(b) All amounts subtracted pursuant to § 1099.61(g) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1099.73 in accordance with the requirements of § 1099.61(h).

§ 1099.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1099.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1099.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1099.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the mar-

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keting area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1099.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1099.71(a)(2) exceeds the amount computed pursuant to § 1099.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1099.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler operating a pool plant shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each such producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this subparagraph;

(2) On or before the 17th day of the following month, an amount equal to not less than the uniform price, as adjusted pursuant to §§ 1099.74 and 1099.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to paragraph (a)(1) of this section, (ii) less deductions for marketing services made pursuant to § 1099.86, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment pursuant to § 1099.72 from the market administrator for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association qualified pursuant to § 1099.18 which has so requested any handler in writing, such handler shall on or before the third day prior to the date on which payments are due individual producers pursuant to paragraph (a) of this section pay the cooperative association for milk received during the month from the producer members of such association an amount equal to not less than the amount due such producer members pursuant to paragraph (a) of this section: *Provided*, That the proper deductions referred to in paragraphs (a)(1) and (2)(iv) of this section shall be valid in the case of cooperative members only if authorized in writing by such cooperative;

(c) Each handler shall also make payment to a cooperative association delivering milk to such handler pursuant to § 1099.9(c) for milk so delivered as follows:

(1) On or before the 28th day of the month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk so received from such cooperative association during the first 15 days of the month, less proper deductions authorized in writing by the cooperative association;

(2) On or before the 14th day of the following month not less than the uniform price, as adjusted pursuant to §§ 1099.74 and 1099.75, multiplied by the hundredweight of milk so received from the cooperative association during the month, subject to the following adjustments: (i) less payments made to such cooperative association pursuant to paragraph (c)(1) of this section and (ii) less proper deductions authorized in writing by such cooperative association: *Provided*, That if by such date the handler has not received full payment pursuant to § 1099.72 from the market administrator for such month, he may reduce pro rata his payments on such milk as in the case of payments to producers pursuant to paragraph (a) of this section, and payments hereunder shall be completed not later than the date for making payments pursuant to this subparagraph next following the receipt of the balance due from the market administrator;

(d) On or before the 14th day of the following month each handler shall pay to a cooperative association, with respect to such milk as was received from the association in its capacity as a handler operating a pool plant during the month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1099.74, that are applicable at the location of the handler's pool plant; and

(e) Each handler who receives producer milk for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association with respect to each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month together with the butterfat content of such milk, (ii) the amount or rate and nature of any deductions, and (iii) the amount and nature of payments due pursuant to § 1099.77.

§ 1099.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1099.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which it is diverted at the rates set forth in § 1099.52.

(b) For purposes of computations pursuant to §§ 1099.71 and 1099.72 the weighted average price shall be adjusted at the rates set forth in § 1099.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1099.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1099.30(b) and 1099.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1099.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1099.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1099.60 for such handler shall include, in lieu of the value of other source milk specified in § 1099.60(f) less the value of such other source milk specified in § 1099.71(a)(2)(ii), a value of milk determined pursuant to § 1099.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1099.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1099.30(b) and 1099.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1099.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1099.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1099.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

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(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1099.77 Adjustment of accounts.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1099.73, the handler shall make up the difference of such payment not later than the next time for making payments as set forth in the provisions relating to payments which were in error.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1099.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1099.9(c);

(b) Other source milk allocated to Class I pursuant to § 1099.44(a) (7) and (11) and the corresponding steps of § 1099.44(b), except such other source milk that is excluded from the computations pursuant to § 1099.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1099.76(a)(2);

§ 1099.86 Deduction for marketing services.

(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 1099.73 with respect to milk received from producers (excluding such handler's own farm production), shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe; and, on or before the 20th day after the end of the month, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Cooperative associations.* In the case of producers who are members of a cooperative association, which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section and which is not receiving payment for its producer members, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers pursuant to § 1099.73(b) as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 20th day after the end of each month, pay over such deductions to the association rendering such services.

(Secs. 1–9, 48 Stat. 31, as amended; (7 U.S.C. 601–674)

Effective date: August 1, 1974.

Signed at Washington, D.C., on: April 29, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-10170 Filed 5-2-74;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 189—VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

A proposal was published in the FEDERAL REGISTER on April 16, 1973 (Vol. 38, No. 72, p. 9472) to add a new Part 189 to Chapter I of Title 45 of the Code of Federal Regulations in accordance with the authority contained in section 420 of the Higher Education Act of 1965 (20 U.S.C. 1070e–1), "Veterans' cost-of-instruction payments to institutions of higher education." These proposed regulations were promulgated as final regulations upon publication in the FEDERAL REGISTER on October 9, 1973 (Vol. 38, No. 194, p. 27825). The regulations established the procedures by which, and the conditions under which, institutions of higher education could apply for payments on the basis of undergraduate veteran enrollment, to be used for the support of improved and expanded services to veterans and to defray instructional expenses in academically related programs.

The continuation of the program necessitates several revisions in the regulations. Among these are the following:

1. Provision has been made for renewal applications.

2. Dates for counting undergraduate veteran students have been designated as April 16 (the eligibility determination date, identical with last year's eligibility determination date for the convenience of applicants), October 16, and February 16.

3. An institution's required office of veterans' affairs must be staffed by at least one person employed for such purpose on a full-time basis.

4. An additional general criterion for evaluating the adequacy of an institution's veterans' programs will be the coordination of veterans' services with other campus services available to veterans.

5. There will be required assurances that (a) an institution will initiate required veterans' services not later than 90 days after the date of award notification and (b) the required services will be reasonably accessible to all undergraduate veteran students on behalf of whom funds are received by the institution under the program.

6. Several changes have been made in light of certain parts of the Office of Education's General Provisions regulations and the Department's Grant Administration regulations.

After consideration of the relatively minor nature of the amendments and the need to receive and process applications in the near future, it has been determined purusant to 5 U.S.C. 553 that the solicitation of comment as to the regulatory amendments hereby made would be impracticable, unnecessary, and contrary to the public interest.

In light of the foregoing, the regulations are hereby amended as set forth below.

Effective date. These regulatory amendments are effective 30 days after the date of publication in the FEDERAL REGISTER.

Dated: March 26, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

DONALD E. JOHNSON,
Administrator of Veterans' Affairs.

Approved: April 29, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

APRIL 5, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.540, Higher Education—Cost for Veterans' Instruction (VCIP))

Subpart A—General Provisions

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189.2 Institutional eligibility.
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AUTHORITY.—Section 420, Higher Education Act of 1965, as added by section 1001(a) of Public Law 92-318, 86 Stat. 378 (20 U.S.C. 1070e–1), unless otherwise noted.

Subpart A—General Provisions

§ 189.1 Definitions.

As used in this part:

"Academic year" means a period beginning on July 1 and ending on the following June 30.

"Cost-of-instruction payment," or "payment," means an amount calculated with respect to an institution of higher education for an academic year on the basis of undergraduate veteran student enrollment.

"Institution of higher education," or "institution," means an educational institution in any State which: (a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (b) is legally authorized within such State to provide a program of education beyond secondary education, (c) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, (d) is a public or other nonprofit institution, and (e) is accredited by a nationally recognized accrediting agency or association as determined by the Commissioner or, if not so accredited, (1) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (2) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (a), (b), (d), and (e) of this definition.

"Instructional expenses in academically related programs" means the expenditures of instructional departments of an institution of higher education for salaries, office expenses, equipment, and research.

"School or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (a) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (b) to prepare them to teach theological subjects.

"State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"Student" means a person in attendance as at least a half-time student at an institution of higher education. The term is further defined as follows:

(a) "Full-time student" means a student who (1) is enrolled for the equivalent of at least 14 semester hours or (2) is enrolled for the equivalent of not less than 12 semester hours and is being charged on the basis of the institution's normal full-time fee schedule.

(b) "Three-quarter time student" means a student who (1) is enrolled for the equivalent of 10 through 13 semester hours or (2) is enrolled for the equivalent of not less than 9 semester hours and is being charged at least three-quarters of the institution's normal full-time fees.

(c) "Half-time student" means a student who (1) is enrolled for the equivalent of 7 through 9 semester hours or (2) is enrolled for the equivalent of not less

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than 6 semester hours and is being charged at least one-half of the institution's normal full-time fees.

"Undergraduate" refers to a student who (a) has not earned his first bachelor's degree, (b) is not enrolled in a program of study leading to (1) a degree beyond the bachelor's degree or (2) a first professional degree when at least 3 years of study at the college level are required for entrance into a program leading to such degree, and (c)(1) is fully matriculated and pursuing a program of studies leading to a certificate or diploma or (2) is receiving or has received educational assistance under subchapter V or subchapter VI of chapter 34 of title 38, United States Code.

"Veteran" means a person receiving benefits under chapter 31 or chapter 34 of title 38, United States Code, or who, if enrolled in an institution of higher education, would be eligible for such benefits.

(20 U.S.C. 1070e, 1070e–1, 1088, 1141.)

§ 189.2 Institutional eligibility.

(a) To apply for assistance under this part, an applicant must be an institution of higher education, and must meet the requirements specified in paragraph (b) or (c) of this section.

(b) In order for an institution of higher education to apply for assistance under this part during an academic year following one during which it was not eligible for or did not apply for such assistance, it must have in attendance on April 16 of such academic year (or, where such date falls between academic terms of the institution, the end of the previous academic term), a number of undergraduate veteran students receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or who have received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year) equal to at least 110 percent of the number of undergraduate veteran students who were in attendance on the first counting date adopted under this part for the preceding academic year and were at that time receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or had received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year).

(c) In order for an institution of higher education to apply for assistance under this part during an academic year following one during which it has received such assistance, it must have in attendance on April 16 of such academic year (or, where such date falls between academic terms of the institution, the end of the previous academic term), a number of undergraduate veteran students receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or who have received benefits under subchapter V or subchapter VI of such subchapter 34 while attending such institution during that academic year) equal to at least the number of undergraduate veteran students who were in attendance on the first counting date adopted under this part for the preceding academic year and were at that time receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or had received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year).

(d) Schools or departments of divinity and proprietary institutions (i.e., organized for profit) are not eligible to apply for assistance under this part.

(20 U.S.C. 1070e–1.)

§ 189.3 Calculation of cost-of-instruction payment.

(a) To compute an institution's cost-of-instruction payment under this part the Commissioner of Education shall determine on the basis of data provided by the institution:

(1) The number of undergraduate veteran students in attendance on the applicable dates specified in paragraph (b) of this section who are at those times recipients of vocational rehabilitation subsistence under chapter 31 of title 38, United States Code, or of educational assistance under chapter 34 of title 38, United States Code, and to whom the services required by §§ 189.12 and 189.13 will be reasonably accessible, and

(2) The number of undergraduate veteran students in attendance on the applicable dates specified in paragraph (b) of this section who have ever received educational assistance under subchapter V or subchapter VI of chapter 34 of title 38, United States Code, and to whom the services required by §§ 189.12 and 189.13 will be reasonably accessible.

(b) A cost-of-instruction payment for a given academic year shall, subject to the availability of funds, be computed on the basis of the number of students in attendance on April 16 of the preceding academic yea rand October 16 and February 16 of the given year or, where such dates fall between academic terms of the institution, the end of the previous academic term), and at the following annual rate:

(1) For students described in paragraph (a)(1) of this section:

(i) $300 per full-time student;

(ii) $225 per three-quarter time student:

(iii) $150 per half-time student; and

(iv) No payment for students not enrolled as at least half-time students.

(2) For students described in paragraph (a)(2) of this section:

(i) $150 per full-time student;

(ii) $112.50 per three quarter time student;

(iii) $75 per half-time student; and

(iv) No payment for students not enrolled as at least half-time students.

(c) One third of the program funds available for a given academic year shall be used for payment to institutions based on enrollment data for April 16 of the preceding academic year, one third of the funds shall be used for payment based on enrollment data for October 16 of the given year, and one third of the funds shall be used for payments based on enrollment data for February 16 of the given year.

(d) Notwithstanding any other provision of this section, the amount of the second or third payment to an institution for any academic year may not exceed the amount of the first payment to such institution for such year.

(20 U.S.C. 1070e–1, 31 U.S.C. 701)

§ 189.4 Applicability of civil rights provisions.

(a) Federal financial assistance under this part is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88–352).

(42 U.S.C. 2000d.)

(b) Federal financial assistance under this part is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination) and any regulations issued thereunder.

(20 U.S.C. 1681–86; Public Law 92–318, section 906.)

Subpart B—Required Services and Use of Funds

§ 189.11 Special definitions.

For purposes of this subpart:

(a) "Full-time," with respect to an office of veterans' affairs, means that the office of veterans' affairs (1) is staffed by at least one person who is employed by an institution on a full-time basis and whose sole institutional responsibility is that of coordinating the activities of the office and (2) provides services at times and places convenient to the veterans being served.

(b) "Outreach" means an extensive, coordinated, communitywide program of reaching veterans within the institution's normal service area, determining their needs, and making appropriate referral and follow-up arrangements with relevant service agencies.

(c) "Recruitment" means a concerted effort to interest veterans in taking advantage of opportunities for a wide variety of postsecondary training experiences at the institution.

(d) "Special education programs" means specially designed remedial, tutorial, and motivational programs designed to promote success in the postsecondary experience.

(e) "Counseling" means professional assistance available to veterans for consultation on personal, family, educational, and career problems.

(20 U.S.C. 1070e–1.)

§ 189.12 Office of veterans' affairs.

Except as provided in § 189.14, an application for assistance under this part shall be approved only if the Commissioner is satisfied that the applicant will maintain, during the period for which the award is made, a full-time office of veterans' affairs with adequate services, in light of the criteria set forth in § 189.16, in the areas of outreach, recruitment, special education programs, and counseling.

(20 U.S.C. 1070e–1.)

§ 189.13 Related veterans' services.

Except as provided in § 189.14, an application for assistance under this part shall be approved only if the Commissioner is satisfied that the applicant will, during the period for which the award is made, make an adequate effort, in the criteria set forth in § 189.16 and with funds received under this part, to carry out:

(a) Programs designed to prepare educationally disadvantaged veterans for postsecondary education (1) under subchapter V of chapter 34 of title 38, United States Code, and (2) in the case of any institution located near a military installation, under subchapter VI of such chapter 34;

(b) Active outreach, recruiting, and counseling activities through the use of other funds such as those available under federally assisted work-study programs; and

(c) An active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38.

(20 U.S.C. 1070e–1.)

§ 189.14 Institutions with small numbers of students and veterans.

An institution with less than 2,500 students and no more than 70 undergraduate veteran students in attendance on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of an academic year during which assistance under this part is sought need provide the services described in § 189.12 only to the extent of maintaining a full-time office of veterans' affairs with adequate services in the areas of recruitment and counseling, and need not provide the services described in § 189.13.

(20 U.S.C. 1070e–1.)

§ 189.15 Consortium agreements.

In the case of an institution with less than 2,500 students in attendance on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of an academic year during which assistance under this part is sought, the Commissioner may permit one or more of the functions set forth in §§ 189.12 and 189.13 to be carried out under a consortium agreement between that institution and one or more other such institutions located within a reasonable commuting distance therefrom if he finds that (a) such institution cannot feasibly itself carry out such functions, and (b) the benefits of such functions will be readily accessible to veterans attending, and to veterans in the community served by, each of the institutions which are parties to the agreement.

(20 U.S.C. 1070e–1.)

§ 189.16 Criteria for assessing adequacy of veterans' programs.

An applicant institution's assurance pursuant to § 189.21(b)(6), with respect to the requirements of §§ 189.12 and 189.13 and to the extent that such requirements are not waived pursuant to § 189.14, shall be made in light of the following criteria, which criteria shall also be used by the Commissioner in evaluating the adequacy of the institution's veterans' programs:

(a) *In general.*—(1) Appropriate consideration of the magnitude of the veteran population in the institution's normal service area;

(2) Appropriate consideration of the number of veterans enrolled at the institution;

(3) The establishment of an appropriate advisory mechanism, to assist in the institution's decisionmaking process with respect to veterans' services as appropriate, through which the institution may become aware of the views of the institution's administrative and academic staff, its veteran student population, and relevant community organizations;

(4) The use of qualified Vietnam-era veterans in staffing the institution's office of veterans' affairs and in providing related services;

(5) The employment of a sufficient number of qualified staff members in order to adequately support required veterans' activities and services;

(6) The provision of adequate, visible and accessible housing for the institution's office of veterans' affairs, in light of the institution's veteran student enrollment and physical environment; and

(7) The coordination of veterans' services with other campus services available to veterans, such as admissions, student financial aid, counseling, and job placement.

(b) With respect to outreach, the establishment and maintenance of—

(1) Contact with veterans in the institution's normal service area;

(2) A procedure for assessing veterans' needs, problems, and interests; and

(3) A coordinated and extensive referral service involving agencies providing assistance in areas such as housing, employment, health, recreation, vocational and technical training, and financial assistance;

(c) With respect to recruitment, the establishment and maintenance of a process of bringing the maximum number of veterans into purposeful systematic programs of postsecondary education most suited to their educational and career aspirations, including such techniques as publications, use of mass media, and personal contacts;

(d) With respect to special education programs, the establishment and maintenance of:

(1) Support from appropriate departments of the institution for launching special education programs for the veteran student of a remedial, motivational, and tutorial nature;

(2) Support throughout the institution for appropriate changes in rules, policies, and procedures that will accommodate the special needs and problems of the veteran student; and

(3) Adequate guidance for individual veteran students that will insure the highest possible rate of their retention in educational programs; and

(e) With respect to counseling, the establishment and maintenance of—

(1) Ease of access of veteran students to professional assistance for consultation on personal, family, educational, and career problems as appropriate and necessary; and

(2) Frequent and scheduled liaison of the office of veterans' affairs with the institution's academic departments, counseling service, and central administration.

(20 U.S.C. 1070e–1)

§ 189.17 Expenditure requirements.

(a) Not less than (1) 50 percent of funds awarded on account of undergraduate veteran student enrollment at an institution under this part or (2) the amount of funds needed to implement the requirements of §§ 189.12 and 189.13, whichever is greater, shall be used to implement such requirements. Any remaining awarded funds may be used solely to defray instructional expenses in academically related programs of such institution.

(b) All assistance received under this part must be expended or obligated for the foregoing purposes not later than the end of the period for which the award is made. Obligations will be considered to have been incurred by a recipient on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities, shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively.

(20 U.S.C. 1070e, 1070–1, 1232c(b)(2); 31 U.S.C. 200)

Subpart C—Application Process

§ 189.21 Submission of application by individual institutions.

(a) Assistance under this part will be provided only on the basis of an application submitted by an institution which sets forth all information necessary to determine the institution's eligibility and payment amount.

(b) Each application must be submitted on a form to be provided by the Commissioner and contain the following:

(1) Information necessary to show that the institution is eligible for assistance under this part;

(2) Information necessary to determine the amount of the institution's payment, in accordance with § 189.3;

(3) An assurance that any funds received by the institution under this part

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will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(4) An assurance that any funds received by the institution under this part which are not required pursuant to § 189.17 to be used to implement the requirements of §§ 189.12 and 189.13 will be used solely to defray instructional expenses in academically related programs of the institution;

(5) An assurance that the institution will expend during the period for which the award is made, for all academically related programs of the institution, an amount equal in terms of either total or per student expenditure to at least the average amount so expended during the 3 academic years preceding such period, together with such supporting data as the Commissioner may require;

(6) An assurance that the institution will carry out the requirements set forth in §§ 189.12 and 189.13;

(7) An assurance that the institution will initiate the services required by §§ 189.12 and 189.13 not later than 90 days after the date of award notification;

(8) An assurance that the services required by § § 189.12 and 189.13 will be reasonably accessible to all undergraduate veteran students on behalf of whom funds are received by the institution under this part; and

(9) If the institution is seeking a waiver of any of the required activities specified in §§ 189.12 and 189.13 pursuant to § 189.14, information necessary to show that it has less than 2,500 students and not more than 70 undergraduate veteran students in attendance on April 16 (or, where such date falls between academic terms of the institution, the end of the previous academic term) of the academic year during which assistance under this part is sought.

(20 U.S.C. 1070e–1.)

§ 189.22 Submission of applications by parties to consortium agreements.

Institutions proposing to carry out the activities required under this part through a consortium agreement, pursuant to § 189.15, must submit their applications on a form to be provided by the Commissioner, and each such institution must provide all information and assurances required pursuant to § 189.21 as well as information and assurances necessary to a finding by the Commissioner that the conditions for a consortium agreement set forth in § 189.15 have been met.

(20 U.S.C. 1070e–1.)

Subpart D—Fiscal and Reporting Requirements

§ 189.31 Maintenance of records.

(a) *Records.* Each institution and consortium of institutions shall keep intact and accessible records relating to the receipt and expenditure of Federal funds in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and related original and supporting documents that substantiate direct costs charged to the award. Records must be maintained so as to reflect (1) expenditures made for veterans' services provided for under this part, and (2) expenditures made for instructional costs in academicaly related programs.

(b) *Period of retention.* (1) Except as provided in paragraph (b)(2) of this section and paragraph (a) of § 189.32, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of the submission of the fiscal operations report, pursuant to § 189.33, to which they pertain.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.* Institutions may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1232c(a).)

§ 189.32 Audits.

(a) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shal be further retained until resolution of any such audit questions.

(b) *Audit and examination.* The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the institution or consortium of institutions. The Commissioner may, at any time before or after making a payment under this part, review the data supplied by an institution with respect to such payment and take appropriate action as a result thereof, including that of requiring the institution to return funds received on the basis of inaccurate data submitted by the institution.

(20 U.S.C. 1232c(a), (b)(2).)

§ 189.33 Fiscal operations reports.

(a) In addition to such other accounting as the Commissioner may require, an institution or consortium shall render annually, with respect to the assistance awarded under this part, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting shall be submitted to the Commissioner within 90 days of the expiration of the academic year for which such assistance was awarded, and the institution or consortium shall remit within 30 days of the receipt of a written request therefor any amounts found by the Commissioner to be due. Such period may, upon written request, be extended at the discretion of the Commissioner.

(20 U.S.C. 1232c(b)(3); 31 U.S.C. 628)

§ 189.34 Limitations on costs.

(a) The maximum amount of a payment under this part shall be set forth in the award document. The total payment from the Federal Government will not exceed the amount so set forth.

(b) Institutions will be governed by the cost principles set forth in Part II of Appendix D of 45 CFR Part 74 (Part II of Appendix C of 45 CFR Subchapter A).

(31 U.S.C. 200; 20 U.S.C. 1070e–1.)

§ 189.35 Reporting requirements.

(a) Institutions of higher education, and consortiums thereof, receiving assistance under this part must submit to the Commissioner no more than 30 days after the close of each academic year, a report describing the manner in which the required veterans' services were provided during such academic year. Such a report shall be in a format approved by the Commissioner and shall make specific reference to the extent to which the criteria set forth in § 189.16 of this part have been met.

(b) Interim reports describing the progress being made in providing the veterans' services required pursuant to §§ 189.12 and 189.13 of this part shall be submitted if, and at such times as, the Commissioner deems such reports necessary.

(20 U.S.C. 1070e–1.)

[FR Doc.74-10156 Filed 5-2-74;8:45 am]

CHAPTER XIV—NATIONAL INSTITUTE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—PROGRAM REGULATIONS FOR NATIONAL INSTITUTE OF EDUCATION

PART 1450—RESEARCH GRANTS PROGRAM

Notice of proposed rulemaking was published in the FEDERAL REGISTER on November 30, 1973 (38 FR 33102) setting forth certain policies, procedures, and requirements for the award of Federal funds under the Research Grants Program.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed rule. Comments were received only with respect to (1) the use of prospectuses for initial review (§ 1450.5(a)) and (2) the requirements for the prospectus format (§ 1450.5(b)).

After review and consideration of these comments from the public and consistent with prior policy resolutions adopted by the National Council on Educational Research on December 3, 1973, decisions either to change the regulation or to retain the original language have been reached as follows:

A. *Summary of comments; changes in the regulations.* Comments submitted to the National Institute of Education in response to the proposed regulations are discussed below. After the summary of each comment, a response is set forth stating changes which have been made or discussing the reasons why no change has been deemed necessary.

1. Section 1450.5(a) *Applications, General.—Comment.* One commenter objected to the use of the prospectus as "the primary document upon which judgments of quality, feasibility, and

funding are made," contending, in paraphase, that the prospectus system would place an inordinate concentration of control over educational research among a small group of administrative officials, create confusion among applicants summarizing their projects for reviewers of unknown expertise, and provide an inadequate basis for reviewer feedback to applicants.

Response. The commenter's objections appear in large part to be based upon a misunderstanding of the working of the proposed prospectus review system. The decision to use the system derived principally from recommendations of the general research community and of the review panels for the fiscal year 1973 Field Initiated Studies funding competition, where time and resources expended in preparation and review of full proposals from all applicants were greatly excessive in view of the number of projects ultimately founded. The use of prospectuses, tested in a portion of the fiscal year 1973 competition, is intended to reduce these excessive burdens upon the applicant community and the reviewing agency and should not preclude the operation of a peer review process. The review of prospectuses will be conducted not by administrative officials but by NIE's professional researchers and educational staff. Although complete proposals do allow for fuller descriptions of the intended research, carefully prepared prospectuses should allow for the identification of significant ideas and for equitable and reasoned judgments according to the criteria of § 1450.6 (b) and (c). The Institute will retain the prospectus system as proposed.

2. Section 1450.5(b) *Prospectus Format—Comment.* Two commenters proposed modifying the requirements for the prospectus format. One of them suggested that inclusion of the budget, resumes, and description of facilities within the scope of the three- to five-page document left inadequate space to treat the substance of the research activity. This commenter also questioned whether § 1450.5(b)(1)(v) required presentation of the actual estimated budget or only of the estimated total budget amount. Both commenters recommended that NIE require institutional endorsement of the estimated budget.

Response. (a) The proposed regulations did not require the resumes and budget to be prepared as part of the three- to five-page project statement; this summary was required to address only "Description and rationale, Procedures, and Facilities" (§ 1450.5(b)(2)). However, inasmuch as the Institute intends that the substance and procedures of the research activity per se be addressed by the project summary and for other information of an administrative nature to be addressed separately, § 1450.5(b)(2)(iii) is redesignated § 1450.5(b)(3), to remove "Facilities" from the scope of the summary statement. Subsequent subparagraphs are renumbered accordingly; (b) § 1450.5(b)(1)(v) is in fact intended to refer to the estimated total budget amount and the wording has been changed accordingly; (c) NIE is appreciative of the concerns expressed by commenters recommending a requirement for institutional endorsement of prospectuses. Section 1403.4 of the NIE proposed general provisions does in fact provide that applications "shall be executed by the applicant or an official or representative of the applicant duly authorized to make such application." While this requirement is not specifically applicable to submission of prospectuses, NIE has assumed that a prospectus would represent a submission by the applicant or duly authorized official of the applicant. In fact, instructions for the presentation of full proposals will specifically provide for institutional approval where the application is being made on behalf of an institution. However, inasmuch as estimated budgets will not be viewed as final or as expressions of commitment on the part of principal investigators, institutions, or NIE, and in recognition of the added time and effort often required to obtain additional institutional endorsement, NIE does not feel that such endorsement of prospectuses ought to be made mandatory. This is of course an NIE policy alone and should in no way be understood to modify individual institutional sign-off policies. The Institute will give further consideration to the need for revising the provisions of this section as experience under this program provides a basis for further judgment.

B. *Other changes.* 1. In § 1450.6, a new paragraph (b) Selected issues is added, and the proposed paragraph (b) Criteria for evaluation is redesignated (c). The new paragraph provides for the periodic identification of selected issues of particular significance for American education. Research which lies within the scope of at least one of such issues as are identified will receive priority consideration for funding under this part.

This addition is based upon a resolution adopted by the National Council on Educational Research on December 3, 1973, establishing five priority areas as the focus of new NIE activities and directing the initiation of a research grants program emphasizing the contributions of research to those areas. The identification of selected priority areas for research support reflects NIE's determination that it can best pursue the purposes of its Act by focusing its resources upon research which shows the greatest promise of solving the problems of American education. Attention is invited to the "Notice of Awards Competition and Prospectus Closing Date" which appeared in the Federal Register on January 4, 1974. (39 FR 1085) This notice specified research areas, which, in addition to criteria and requirements set forth in this part, will govern fiscal year 1974 funding decisions under this part, and a closing date for submission of prospectuses of January 28, 1974.

2. In § 1450.6(c) (paragraph (b) in the proposed rule) subparagraph (6) is deleted. The Institute feels that the criteria contained in this subparagraph will be adequately reflected in such issues as the Institute may select under new paragraph (b) of this section and that the deletion will preclude confusion between selected issues and criteria for evaluation in the review of applications.

Effective date. Because of the number of proposals anticipated for this program, the complexities of the proposal review process, the necessity for obligating funds by June 30, 1974, and the Director's desire to give each proposal full consideration, the Institute has determined that there is good cause for these regulations to take immediate effect. These regulations shall therefore be effective on May 3, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.575, Educational Research and Development)

Dated: April 5, 1974.

THOMAS K. GLENNAN, JR.,
Director of National Institute of Education.

Approved: April 29, 1974.

CASPAR W. WIENBERGER,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding to Chapter XIV a new Subchapter B, Part 1450 reading as follows:

Sec.
1450.1 Scope.
1450.2 Purpose.
1450.3 Eligible research projects.
1450.4 Applicant eligibility.
1450.5 Applications.
1450.6 Review of applications.
1450.7 Inexperienced investigators.
1450.8 Project duration.

AUTHORITY: Sec. 405 of the General Education Provisions Act, as added by section 301(a)(2) of Pub. L. 92–318, 86 Stat. 328 (20 U.S.C. 1221e).

§ 1450.1 Scope.

(a) This part establishes procedural and substantive requirements and criteria governing the submission and review of applications for funds under the Research Grants Program.

(b) Project awards funded pursuant to this part shall be administered in accordance with the General Provisions regulation of the National Institute of Education (Subchapter A of this chapter).

§ 1450.2 Purpose.

The Research Grants Program will make awards in support of original research projects with relevance to American education proposed by eligible persons and organizations in any discipline or field of study. Research supported pursuant to this part must show promise of contributing toward one or more of the following goals:

(a) Making educational programs more effective in meeting the needs of persons from low-income families and from minority communities;

(b) Increasing the effectiveness of use of educational resources so that individuals and society can better afford high quality education; and

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(c) Improving the quality of education generally.

§ 1450.3 Eligible research projects.

(a) As used in this part "research" includes activities designed to:

(1) increase or synthesize basic knowledge of processes and conditions relevant to human learning and education; or

(2) provide answers, of sufficient generality to be widely applicable, to important questions concerning actual or possible conduct of education in this country.

(b) The following types of activities will not be considered for research support under this part:

(1) Operational support for education programs; or

(2) Projects in which the primary emphasis is on course development, training, dissemination, improving an educational program (e.g., in a school or postsecondary institution or in a State), demonstration or development of prototype programs, or instructional media or instruments, as distinguished from the production of new knowledge.

§ 1450.4 Applicant eligibility.

Colleges, universities, State departments of education, local educational agencies, and other public or private agencies, organizations, groups, or individuals are eligible for grants. Applications from any corporation, institution, or agency whose net earnings inure, or may lawfully inure, to the benefit of any private shareholder or individual will be considered as unsolicited proposals and will be evaluated in accordance with criteria specified in this part and in HEW Procurement Regulations, Subpart 3–4.52 (41 CFR Part 3–4).

§ 1450.5 Applications.

(a) *General.* The application submission and review procedures will consist of two stages:

(1) *Prospectus.* (i) The applicant shall submit a prospectus for initial review. Only prospectuses, prepared according to the format described in paragraphs (b) or (c) of this section, will be accepted at this initial stage; other submissions will be returned to the applicant.

(ii) No more than one prospectus per individual will be accepted. Although institutional applicants may submit more than one prospectus, no more than one prospectus per each principal investigator will be considered. In the event that more than one prospectus per individual/principal investigator is received, the prospectus received earlier in time will be accepted, and subsequent prospectuses will be returned to the applicant.

(2) *Full proposals.* Applicants submitting the most highly rated prospectuses will be invited to submit full proposals for evaluation. Only invited proposals will be accepted at this second stage; proposals not invited by the National Institute of Education will be returned to the applicants.

(b) *Prospectus format.* With respect to applicants other than State and local governments, the prospectus shall include:

(1) A cover sheet executed by the principal investigator indicating (i) that the prospectus is submitted to the Research Grants Program of the National Institute of Education; (ii) the title of the study; (iii) the category of the study under which the applicant believes his project should be reviewed as described in § 1450.6(a); (iv) the name(s), Department, Institution, address, and telephone number of the principal investigator(s); (v) the estimated budget amount; and (vi) the proposed duration and starting date of the project.

(2) A statement of from three to five double-spaced, typewritten pages summarizing the proposed project, including:

(i) *Description and rationale.* A description of the proposed research, its relation to what is already known and to the problems of American education, and the importance of the expected addition to knowledge.

(ii) *Procedures.* Description of the procedures to be followed in carrying out the research, including, where appropriate, such concerns as sampling, data acquisition, instrumentation, and data analysis.

(3) A description of facilities and arrangements available to the investigator for conducting the research.

(4) Resume(s) of principal investigator(s), including education, applicable experience, and a list of major publications.

(5) An estimated budget covering direct costs (salaries and benefits, travel, supplies and materials, communication, services, equipment) and indirect costs proposed to be charged against the grant.

(c) *State and local government prospectuses.* Prospectuses from State and local governments, as defined in paragraph (e) of this section, shall be made in accordance with the preapplication provisions of § 74.122 of this title with such supplementation as may be required by the Director of the National Institute of Education with the approval of the Office of Management and Budget. Information concerning such application and supplementation requirements may be obtained from the Director of the National Institute of Education upon request.

(d) *Full proposals.* Notification of procedures and forms for the development and submission of full proposals will be given to applicants invited to submit full proposals.

(e) *Definition of State and local governments.* As used in this section, the term "State and local governments" shall be determined according to the following definitions:

(1) "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

(2) "Local government" means a local unit of government including specifically a county, municipality, city, town, township, school district, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

§ 1450.6 Review of applications.

(a) *Review categories.* For purposes of facilitating, and improving the quality of, review of applications by the National Institute of Education, each prospectus and invited full proposal received will be assigned to one of the following categories and will be reviewed together with other applications within the same category: (1) Learning and instruction; (2) Human development; (3) Objectives, measurement, evaluation and research methodology; (4) Social thought and processes; (5) Organization and administration; (6) Anthropology; (7) Economics; (8) Political science; and (9) Legal research.

(b) *Selected issues.* The Institute may periodically identify selected issues of particular significance for American education which will serve as conditions of eligibility or with respect to which priority funding consideration will be given.

(c) *Criteria for evaluation.* Evaluation of prospectuses and full proposals will be based upon the following criteria:

(1) Significance of the proposed research for American education, including:

(i) Importance of the problem area from the standpoint of basic knowledge or of problems of American education;

(ii) Likely magnitude of the addition that will be made to knowledge if the project is successful, including the generalizability of the results.

(2) Quality of the proposed research project, including such considerations as:

(i) Adequacy of design, methodology, and instrumentation where appropriate;

(ii) Likelihood of success of the project;

(iii) Extent to which the application exhibits thorough knowledge of pertinent previous work and relates the proposed work to it.

(3) Qualifications of the principal investigator and other professional personnel as evidenced by:

(i) Experience and previous research productivity (except in the case of inexperienced investigators); and

(ii) Quality of the discussion and analysis in the application.

(4) Adequacy of the facilities and arrangements available to the investigator to conduct the proposed study.

(5) Reasonableness of the budget for the work to be done and the anticipated results.

§ 1450.7 Inexperienced investigators.

(a) Applications for small grants from inexperienced investigators are encouraged and will be reviewed with other applications, with allowances being made for the investigator's lack of a previous research record. To be reviewed as inexperienced investigators, applicants may not have been either: (1) director or principal investigator of a research project supported by funds from a Federal, State, college, university, or other public or private agency or foundation; or (2) author or coauthor of more than two articles or chapters in professional journals or books reporting results of his or her research.

(b) Persons applying as inexperienced investigators must include in the prospectus a statement describing their eligibility under the criteria in paragraph (a) of this section.

(c) While there is no specific upper limit on the size of grants to inexperienced investigators, the average grant awarded will in general be in the neighborhood of $10,000.

§ 1450.8 Project duration.

Project duration will normally be for a maximum of three years (18 months for awards to inexperienced investigators). The initial award for a project may provide funds for less than the full project period, with further support contingent upon availability of funds and progress of the research.

[FR Doc.74–10235 Filed 5–2–74;8:45 am]

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Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 915]

HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Proposed Approval of Expenses and Fixing of Rate of Assessment for 1974–75 Fiscal Year and Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expenses of $38,250, a rate of assessment of $0.05 per bushel of avocados, and the carryover as a reserve of unexpended funds to support the activities of the Avocado Administrative Committee for the 1974–75 fiscal year under Marketing Order No. 915.

Consideration is being given to the following proposal submitted by the Avocado Administrative Committee established under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof.

(1) That the expenses which are reasonable and likely to be incurred by the Avocado Administrative Committee, during the period from April 1, 1974, through March 31, 1975, will amount to $38,250;

(2) That the rate of assessment for such period, payable by each handler in accordance with § 915.41 be fixed at $0.05 per bushel of avocados; and

(3) Unexpended Assessment funds in the amount of approximately $19,306, which are in excess of expenses incurred during the fiscal year ended March 31, 1974, shall be carried over as a reserve in accordance with §§ 915.42 and 915.205 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than May 21, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: April 29, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10158 Filed 5–2–74;8:45 am]

[7 CFR Parts 1001, 1002, 1004, 1015, 1033, 1036, 1040, 1049]

[Docket Nos. AO–14–A53, etc.]

MILK IN THE BOSTON REGIONAL AND CERTAIN OTHER MARKETING AREAS

Notice of Extension of Time for Filing Briefs

7 CFR part	Marketing area	Docket No.
1001	Boston Regional	AO 14–A53.
1002	New York-New Jersey	AO 71–A68.
1004	Middle Atlantic	AO 160–A31.
1015	Connecticut	AO 305–A31.
1033	Ohio Valley	AO 166–A44.
1036	Eastern Ohio-Western Pennsylvania	AO 179–A39.
1040	Southern Michigan	AO 225–A28.
1049	Indiana	AO 319–A22.

Notice is hereby given that the time for filing briefs, proposed findings and conclusions on the record of the public hearing held February 20–28, 1974, at Washington, D.C., with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas pursuant to notice issued on February 14, 1974 (39 FR 5642) is hereby extended to May 15, 1974, for the limited purpose of the appropriate longer-term basis of pricing reserve milk under the eight orders beginning August 1, 1974.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on April 30, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74–10238 Filed 5–2–74;8:45 am]

COST OF LIVING COUNCIL

[6 CFR Part 150]

PHASE IV PRICE REGULATIONS

Appendix A—Phase IV Price Forms; Phase IV Health Care Forms

The Cost of Living Council is considering the issuance of a CLC form to be used by acute care hospitals and long term care institutions for requesting approval of capital expenditures under the Phase IV health care regulations (6 CFR Part 150, Subpart R) published at 39 FR 2670 (January 23, 1974), as amended on March 27, 1974, at 39 FR 11376.

On March 6, 1974, the Council issued a notice of proposed rulemaking, 39 FR 9768 (March 13, 1974), setting out proposed Forms CLC–61, CLC–71, and CLC–81 to be filed as annual reports or used for monitoring purposes under the Phase IV health care regulations. On March 30, 1974, the Council issued a notice of proposed rulemaking, 39 FR 12540 (April 5, 1974), setting out proposed Forms CLC–62, CLC–72, and CLC–82 to be used for requesting exceptions from the Phase IV health care regulations. The Council indicated on both occasions that the form relating to capital expenditure adjustments would be issued at a later date.

The purpose of publishing the capital expenditures form with accompanying schedule and instructions in proposed form is to provide the public an opportunity to make suggestions for improvements regarding the format and computations.

The proposed form and instructions will not be adopted until they are approved by the Office of Management and Budget. At that time the Council will amend its regulations to incorporate the form and instructions, and make any necessary adjustments in the governing regulations resulting from the rulemaking.

In issuing this notice of proposed rulemaking, the Council recognizes the uncertain future of the Economic Stabilization Program. However, the concepts and specifics embodied in the proposed Form CLC–103 may well have meaning with respect to the National Health Insurance Program during the forthcoming congressional hearings and debates on the pending enabling legislation.

In addition, the Council expects that the proposed Form CLC–103 may be helpful to any hospital or other institution in its planning for a capital expenditure. The proposed form may also be useful to other agencies and organizations, both public and private, involved with the planning and review process. In particular, comprehensive health planning agencies and others designated under § 1122 of the Social Security Act, as added by § 221(a) of the Social Security Amendments of 1972 (Pub. L. 92–603, 86 Stat. 1386–89 (42 U.S.C. 1320a–1)), may find the proposed capital expenditures form useful in their determinations of community need and economic feasibility.

Interested persons are invited to participate in the rulemaking by submitting written data, views, or arguments with respect to the proposed CLC form set forth in this notice, to the Executive Secretariat, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508. Comments should be identified with the designation "Phase IV Capital Expenditures Form Docket." At least 10 copies should be submitted. All communications received on or before May 30, 1974 will be considered by the Council before the Council takes final action on the proposed form. The proposed form contained in this notice may be changed in the light of comments received. All comments received in response to this notice will be available for examination and copying by interested persons at the Cost of Living Council, 2000 M Street, NW., Washington, D.C., during the hours of 9 a.m. to 5 p.m., Monday through Friday. Submissions will be available both before and after the closing date for comments.

Form CLC–103 is intended for use by acute care hospitals and long term care institutions requesting approval of a capital expenditure in accordance with the provisions of 6 CFR 150.713, 150.714(c), 150.781, and 150.782(c). The form is designed to provide the data needed by the approving agency in determining the level of revenues necessary for the operation of the capital expenditure and the related increases in charges and expenses.

Part II of Form CLC–103 identifies the capital expenditure and its net cost. The net capital expenditure cost determines whether or not an institution files a request for approval and the parts of Form CLC–103 which must be completed.

Part III provides information on the annual operating expense related to the capital expenditure while Part IV computes the unit cost per admission or patient day or outpatient service.

Part V of Form CLC–103 itemizes the costs associated with the capital expenditure and the sources of funds available to finance it. Part VI is a statement of projected patient statistics, revenues, and expenses for the last fiscal year and the first fiscal year in which the capital expenditure is operational and any subsequent year in which the operating status of the institution will be changed by the capital expenditure.

Part VII of Form CLC–103 identifies the sources of financing with details on each loan. Part VII also sets forth a depreciation schedule for the various items included in the capital expenditure.

Part I, "Identifying Data" and Part VIII, "Certification and Signature," are self-explanatory.

Schedule J, "Schedule of Service Area Data for Acute Care Hospitals and Long Term Care Institutions," is annexed to Form CLC–103 depending on the type and cost of the capital expenditure for which approval is being requested. For all capital expenditures involving a change in bed capacity or substantially changing the clinical services offered, hospitals and other institutions must submit Schedule J along with Form CLC–103. Small hospitals with net capital expenditure costs of $100,000 or more must file Schedule J. Large hospitals must submit Schedule J whenever the net capital expenditure costs reach $200,000. Long term care institutions submit Schedule J along with a fully completed Form CLC–103 for capital expenditures with a net cost of $25,000 or more. In any instance, however, that the hospital or other institution can submit an independently prepared feasibility study related to the capital expenditure, it need not complete Schedule J.

Schedule J provides the tools necessary to evaluate service area demands and focuses on several factors relevant thereto, including primary service area population and employment, the expected characteristics of the patient population and the volume of inpatient admissions. This information is set forth in Part II of Schedule J to Form CLC–103.

Part III of Schedule J is completed by acute care hospitals only. It provides a statement of inpatient operating statistics for the hospitals, including the petitioner, serving the primary service area. It also includes a checklist for facilities and services provided in each of the area hospitals.

Part I, "Identifying Data," is self-explanatory.

In consideration of the foregoing, it is proposed to amend 6 CFR Part 150 in the Appendix (Phase IV Price Forms) by the addition of Form CLC–103, with accompanying Schedule and instructions, to read as set forth below:

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order Number 14, 38 FR 1489)

Issued in Washington, D.C., April 29, 1974.

JAMES W. MCLANE,
Deputy Director, Cost of Living Council.

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Economic Stabilization Program

Capital Expenditure Form for Acute Care Hospitals and Long Term Care Institutions

6 CFR 150.713 and 150.714(c)
6 CFR 150.781 and 150.782(c)

Agency Use Only
Date of Filing
Docket Number

Form CLC-103
(Proposed April 1974)

Part I - Identifying Data (Please complete requested items and check applicable boxes below).

1. (a) Name of Institution Address (number and street) City or Town, State and Zip Code	2. (a) Name of Parent Firm (if applicable) Address (number and street) City or Town, State and Zip Code
(b) Institution is ☐ Profit ☐ Nonprofit	(b) Parent Firm is ☐ Acute Care ☐ Long Term Care
(c) Institution is ☐ Acute Care ☐ Long Term Care	(c) Federal Identification Number
(d) Federal Identification Number	

3. (a) Inclusive dates of reported fiscal year (RFY) from ___ Mo. ___ Day ___ Yr. to ___ Mo. ___ Day ___ Yr.

(b) Inclusive dates of last fiscal year (LFY) from ___ Mo. ___ Day ___ Yr. to ___ Mo. ___ Day ___ Yr.

Part II - Capital Expenditure Identification

4. Date when services resulting from capital expenditure commence operations ___ Mo. ___ Yr.

5. Type of Capital Expenditure ☐ Equipment ☐ Construction ☐ Both

6. (a) Capital expenditure is for ☐Replacement ☐New Service ☐New Facility ☐Change in Bed Capacity

(b) Percentage of capital expenditure operating expense allocated for inpatient services

(c) Percentage of capital expenditure operating expense allocated for outpatient services

7. (a) Existing Number of Beds ☐

(b) Change in Bed Capacity Resulting from Capital Expenditure 1st year ☐ 2nd year ☐

8. (a) LFY Admissions or Patient Days

(b) Change in Number of Admissions or Patient Days Resulting from Capital Expenditure 1st year ☐ 2nd year ☐

9. Itemization of Capital Expenditure Cost

(a) Site acquisition	$
(b) Construction	
(c) Equipment cost	
(d) Installation cost	
(e) Total	
(f) Less: Net book value of any trade-in	
(g) Net capital expenditure cost	

Part III - Annual Operating Expense Related to Capital Expenditure

Expense	A Base Year Expense	B Projected Year Expense	C Incremental Change
Fixed			
10. Interest	$	$	$
11. Depreciation (Straight Line)			
12. Total			
Variable			
13. Wages, Salaries and Fringe Benefits			
14. Materials and Supplies			
15. Other (Attach Itemization)			
16. Total			
17.(a) Total Expense			
(b) Total Inpatient Expense (item 6(b) x item 17(a))			
(c) Total Outpatient Expense (item 6(c) x item 17(a))			

Part IV - Computation of Unit Cost (See Instructions)

18. LFY Total Inpatient Operating Expense	$
19. LFY Total Inpatient Operating Expense per Admission or Patient Day (item 18 ÷ item 8(a))	
20. LFY Total Inpatient Operating Expense Plus Incremental Change (item 18 plus item 17(b), column C)	
21.(a) Projected Full year Total Inpatient Operating Expense per Admission or Patient Day (see instructions)	
(b) Percentage Increase in Expense per Admission or Patient Day (item 21(a) ÷ item 19)	%

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22.(a). Computation of LFY Outpatient Cost Per Unit of Service

A Description of Service or Property	B LFY Total Units of Service	C LFY Total Cost of Service	D LFY Cost per unit of Service (col. C ÷ col. B)
Total			

22.(b) Computation of Outpatient Cost per Unit of Service

A Description of Service or Property	B Additional Units from Capital Expenditure	C Additional Costs from Capital Expenditure	D Adjusted Units of Service (See Instructions)	E Adjusted Cost of Service (See Instructions)	F Adjusted Cost per unit of Service (col. E ÷ col. D)
Total					

PART V: PROJECT COST AND SOURCES OF FUNDS (See instructions)

A. Capital Expenditure Costs		
23.	Site acquisition	$
24.	Construction contracts	
25.	Unanticipated costs of construction	
26.	Architect's fee	
27.	Consultant's fee	
28.	Movable equipment	
29.	Installation costs	
30.	Interest to be paid on construction loans	
31.	Debt Service reserve fund	
32.	Financing costs	
33.	Other (attach itemization)	
34.	Total capital cost (Sum of items 23 through 33)	$
B. Sources of Funds		
35.	Expenditures previously expended from available funds	$
36.	Unrestricted hospital funds available	
37.	Restricted hospital funds available	
38.	Interest to be earned on construction fund	
39.	Additional funds from campaign pledges	
40.	Contingency funds available	
41.	Bond issue	
42.	Other financing	
43.	Total funds available (Sum of items 35 through 42)	$

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Part VI Statement of Projected Patient Statistics, Revenue and Expense (See Instructions)

	LFY	Projected Year	Projected Year	Projected Year	Projected Year
Patient Statistics					
44. Admissions					
45. Patient Days					
46. Average Beds Available					
47. Average Occupancy					
Revenue and Expenses					
48. Inpatient Revenue from Routine Services					
49. Inpatient Revenue from Ancillary Services					
50. Revenue from Emergency and Outpatient Services					
51. Other Operating Revenues					
52. Total Operating Revenues (Sum of Items 48 through 51)					
53. Allowances					
54. Total Revenue from Operations (Item 52 minus Item 53)					
55. Salaries, Wages and Fringe Benefits					
56. Professional Fees					
57. Supplies					
58. Other					
59. Total Operating Expenses before Depreciation, Amortization and Interest (Sum of Items 55 through 58)					
60. Net Operating Income before Depreciation, Amortization and Interest (Item 54 minus Item 59)					
61. Other Income					
62. Total Income before Depreciation, Amortization and Interest (Sum of Items 60 and 61)					

	LFY	Projected Year	Projected Year	Projected Year	Projected Year
63. Interest Expenses					
64. Amortization of Financing Expense					
65. Total Interest and Amortization Expense (Sum of Items 63 and 64)					
66. Income before Depreciation Expense (Item 62 minus Item 65)					
67. Depreciation Expense					
68. Net Income (Item 66 minus item 67)					
Adjustments for Cash Flow					
69. Enter Income before Depreciation (Item 66)					
70. Principal Payments on Long Term Debt					
71. Routine Capital Replacements					
72. Other (Attach Itemization)					
73. Total Cash Required (Sum of Items 70 through 72)					
74. Net Cash Flow (Item 69 minus 73)					

Part VII - Sources of Financing and Depreciation Schedules

75. Sources of Financing

A Lending Institution	B Amount of Loan	C Interest Rate	D Due Date	E Secured Asset

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76. Depreciation Schedule (see instructions)

A Cost	B Depreciable Life

Part VIII - Certification and Signature

I have examined this form and the attached exhibits, schedules and explanations, and certify that to the best of my information, knowledge and belief the information set forth therein is factually correct, complete and in accordance with the Economic Stabilization Regulations of Title 6, Code of Federal Regulations.

Type name and exact title of chief executive officer, administrator, or chief financial officer of the acute care hospital or long-term care institution and date signed.

Name	Date	Signature
Title		

INSTRUCTIONS FOR FORM CLC-103 CAPITAL EXPENDITURE FORM FOR ACUTE CARE HOSPITALS AND LONG-TERM CARE INSTITUTIONS

GENERAL INSTRUCTIONS

A. Purpose. Form CLC-103 is designed to provide the data necessary to evaluate a request for approval of a capital expenditure as provided for in 6 CFR 150.713, 150.714(c), 150.781, and 150.782(c). Specifically, the form will enable the approving agency to determine the level of revenues necessary for the operation of the capital expenditure and the related increases in charges and expenses.

B. Who Should File CLC-103. 1. Any acute care hospital as defined in 6 CFR 150.703, that desires approval for a capital expenditure under 6 CFR 150.713 or 150.714(c) must complete Form CLC-103.

2. Any long-term care institution as defined in 6 CFR 150.771 that desires approval for a capital expenditure under 6 CFR 150.781 or 150.782(c) must complete Form CLC-103.

C. What to File. Completion of this form and any additional information required is dependent upon the size and type of the institution as well as the amount and nature of the capital expenditure. For a capital expenditure that changes the bed capacity of the facility or substantially changes the services of the facility, an acute care hospital or long-term care institution must complete Parts I through VIII of this form and the attachments. For other capital expenditures a chart has been set forth below categorizing the necessary parts of the form to be completed. The chart classifies acute care hospitals as either small or large. A small acute care hospital is defined as one having less than $2,500,000 total inpatient operating charges or fewer than 4,000 admissions in its preceding fiscal year and a large acute care hospital is defined as one having $2,500,000 or more total inpatient operating charges or 4,000 or more admissions in its preceding fiscal year. Long-term care institutions are not categorized according to size.

For purposes of this form, acute care hospitals and long-term care institutions requesting approval for a capital expenditure must complete some or all of the several parts of Form CLC-103. The following chart classifies the capital expenditures according to net capital cost (see item 9 of the form for determination of net capital cost) and illustrates the respective parts of the form that are required to be completed. Where the chart does not indicate any part of the form to be completed, the acute care hospital or long-term care institution is not eligible for approval of the capital expenditure.

Net Capital Expenditure

	0 to $9,999	$10,000 to $24,999	$25,000 to $49,999	$50,000 to $99,999	$100,000 to $199,999	$200,000 and over
Small hospital				[1] Parts I-IV, VIII plus attachments.	Parts I-VIII plus attachments.	Parts I-VIII plus attachments.
Large hospital					[1] Parts I-IV, VIII plus attachments.	Parts I-VIII plus attachments.
Long-term care institution		[1] Parts I-IV, VIII plus attachments.	Parts I-VIII plus attachments.	Parts I-VIII plus attachments.	Parts I-VIII plus attachments.	Parts I-VIII plus attachments.

[1] NOTE: If item 21(b) of Part IV to this form is 102 percent or greater, all parts of the form and all attachments must be completed.

For those acute care hospitals and long-term care institutions which are required to complete Parts I through IV and Part VIII of this form, the following attachments must be submitted:

1. A document signed by the chief executive officer giving a general description of the capital expenditure and the nature of its use and including an explanation of:

a. The operational or medical need within the facility for the capital expenditure;

b. "Need" determination when compared to other facilities in the primary service area; and

c. Historical (if applicable) and projected usage.

2. A document signed by the chief executive officer indicating the approval of the capital expenditure by the Board of Trustees. This attachment should indicate that the board has considered the following:

a. "Need" for the capital expenditure when considering internal and community demands;

b. Effect on other services within the facility;

c. Effect on other facilities within the Primary Service Area;

d. Impact of the capital expenditure on availability of qualified technicians to the facility;

e. Changes in medical staffing that will affect the number of admissions and/or quality of medical services should the capital expenditure be approved; and

f. Possible alternate capital expenditures.

3. Certified financial statements for the two years preceding the reported fiscal year (RFY). If an independent audit was not performed for any year, then unaudited statements will be accepted. Such statements normally include the following information:

a. Balance Sheets

b. Statement of Revenues and Expenses

c. Statement of Changes in Fund Balance

d. Statement of Changes in Financial Position

For those acute care hospitals and long-term care institutions which are required to complete all parts of this form (Parts I through VIII), the following attachments must be submitted:

1. All documents, schedules and statements listed in numbers 1 through 3, above.

2. Schedule J, except in those cases where an independent feasibility study can be provided.

D. Where to File.

1. Filings must be sent to the approved planning agency (as specified in 6 CFR 150.713(c) or 150.781(c)) designated pursuant to section 1122 of the Social Security Act (P.L. 92-603, 86 Stat. 1386-89, 42 U.S.C. 1320 a-1); or

2. If a State is not participating in the program under section 1122, then filings must be sent to the approved State agency (as specified in 6 CFR 150.713(c) or 150.781(c)) administering a certificate of need program; or

3. If a State is not participating in a program under section 1122 and has no State agency administering a certificate of need program, then the filings must be sent to an approved agency (as specified in 6 CFR 150.713(c) or 150.781(c)) designated under section 314(b) of the Public Health Service Act (P.L. 92-585, 86 Stat. 1292, 42 U.S.C. 243(b)); otherwise, filings must be sent to the approved State agency (as specified in 6 CFR 150.713(c) or 150.781(c)) designated pursuant to section 314(a) of the Public Health Service Act (P.L. 92-585, 86 Stat. 1292, 42 U.S.C. 245(a)); or

4. If none of the above agencies is available to an institution or have not agreed in writing with the Cost of Living Council for the State agency to approve capital expenditures, the institution may send their filings to the: Cost of Living Council, Office of Health, 2000 M Street, N.W., Washington, D.C. 20508.

E. Definitions.

As defined in 42 CFR 100.103(a), a "capital expenditure" is an expenditure, including a forced account expenditure (i.e., an expenditure for a construction project undertaken by a facility as its own contractor), which, under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance and which (i) exceeds $100,000, or (ii) changes the bed capacity of the facility with respect to which such expenditure is made, or (iii) substantially changes the services of the facility with respect to which such expenditure is made.

F. Suggestions for Improvement.

The Cost of Living Council welcomes suggestions for improving this and other forms, and seeks ways of obtaining the information it needs to exercise its responsibilities under the Economic Stabilization Program with the minimum amount of public burden. Suggestions should be submitted to: Cost of Living Council, Office of the Executive Secretariat, 2000 M Street, N.W., Washington, D.C. 20508.

SPECIFIC INSTRUCTIONS

Part I—Identifying Data.

Items 1, 2 and 3. Self-explanatory.

Part II—Capital Expenditure Identification.

Item 4. Indicate the date when the proposed capital expenditure will become operational or will begin to perform its planned function within the institution.

Item 5. Indicate by checking the appropriate box the type of capital expenditure for which approval is being requested. For purposes of this form, equipment is defined as movable equipment only. Construction is considered to be fixed equipment as well as any brick, mortar or wood additions or changes to structure.

Item 6.

(a) Indicate by checking the appropriate box(es) if the approval request is for a capital expenditure that is replacing equipment, will result in a new clinically related service being offered by the institution, is a new facility as defined in 150.703(c), or will result in an increase or decrease in bed capacity.

(b) Enter the percentage of additional operating expense for inpatient services attributable to the capital expenditure. The method of computing this percentage should be consistent with generally accepted accounting principles.

Item 7.

(a) Enter the number of beds which the institution maintained on the last day of the last fiscal year.

(b) Enter in the box labeled "1st year," the number of beds by which total bed capacity will increase or decrease in the first year in which the capital expenditure is operational. Enter in the box labeled "2nd year, the number of beds by which total bed capacity will increase or decrease in the 2nd year in which the capital expenditure is operational. The 2nd year should include a full year's operation of the capital expenditure. If a full year is not included, attach an explanation for the partial year inclusion. If there is no change in bed capacity, enter zero.

Note: Pursuant to 6 CFR 150.713(d), for a capital expenditure involving a change in bed capacity, the State approving agency is authorized to approve a modification of the adjustment for changes in volume of admissions, where appropriate, to reflect anticipated changes in volume of admissions resulting from the capital expenditure.

Item 8.

(a) Enter the total number of admissions for acute care hospitals or number of patient days for long-term care institutions in the last fiscal year. "Admissions" means the number of patients (including free care patients) accepted for inpatient service in beds licensed for care or, in States where licensing is not required, staffed for care. For purposes of this definition, births or transfers between departments may be treated as admissions, if the institution by consistent administrative practice has treated transfers or births as admissions.

(b) Enter in the box labeled "1st year" the total number of additional admissions or patient days to result from the capital expenditure in the 1st year in which the capital expenditure is operational. Similarly, enter in the box labeled "2nd year," the total number of additional admissions in the 2nd year in which the capital expenditure is operational. The 2nd year should include a full year's operation of the capital expenditure. If a full year is not included, attach an explanation for the partial year inclusion and include figures for the first full year of operations.

Item 9.

(a) Enter the cost of any land purchases including the cost of surveys and commission and settlement fees.

(b) Enter any costs associated with structural additions or changes. Besides brick, mortar and wood, these costs should include fixed equipment.

(c) Enter all costs associated with movable equipment.

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(d) Enter any costs resulting from installing movable equipment that is not considered part of its purchase price and is not included in (b) of this item.

(e) Self-explanatory.

(f) Subtract the net depreciated value of any equipment or fixed asset being replaced as a result of the capital expenditure.

(g) The figure entered as the "Net Capital Expenditure cost" is the qualifying figure in determining if this form should be submitted, and if so, what further parts of this form must be completed. Reference should be made to the illustration in paragraph C of the General Instructions as to the amount of net capital expenditure cost and the required parts of this form to be completed. (Note: For a capital expenditure that will substantially change the clinical services or change the bed capacity the acute care hospital or long-term care institution must complete all parts and attachments of this form.)

Part III—Annual Operating Expense Related to Capital Expenditure.

For purposes of this chart, Base Year Expense (column A) is that operating expense from the most recently completed fiscal year which is directly attributable to the piece of equipment or facility which is being replaced. If the capital expenditure is for a new clinically related service this column need not be completed.

Projected Year Expense (column B) is that operating expense calculated to reflect a full year's operation of the capital expenditure.

Incremental change (column C) is the difference between column B and column A. If the capital expenditure is a new service or facility then column C will equal column B. Attach documentation explaining all changes listed in this column.

Items 10 through 15.

Enter in the appropriate boxes those expenses directly attributable to the capital expenditure.

Items 16 and 17. Self-explanatory.

Part IV—Computation of Unit Cost.

If no inpatient expenses are affected by the capital expenditure, items 18 through 21 need not be completed. Similarly if no outpatient expenses are affected by the capital expenditure, item 22 need not be completed.

Item 18. Enter actual total inpatient operating expenses from the LFY.

Items 19 and 20. Self-explanatory.

Item 21.

(a) Divide the figure entered in item 20 by the sum of LFY admissions or patient days (item 8(a)) and the incremental change in admissions or patient days resulting from the first year of admissions (item 8(b)).

(b) If the percentage entered in this item is 102% or greater, all remaining parts of this form and Schedule J must be completed. However, if an independent feasibility study can be provided, Schedule J is not required to be submitted.

Item 22(a). Column A: The petitioning acute care hospital or long-term care institution may choose not to identify every service affected by the capital expenditure but rather identify groups of services or properties. In such cases, the institution must attach documentation defining the groups of services identified. Enter a brief description of each out-patient service or property related to the capital expenditure. In those cases where the capital expenditure results in a new clinically related service, then that service need not be entered in item 22(a) but should be included in item 22(b).

Column B: For the purposes of this form, units of service are defined as the institution's normal billing unit per service. Enter the total number of units actually provided for each service or property in the LFY.

Column C: Enter the total expense attributable to each service or property in the LFY.

Column D: Self-explanatory.

Attach an additional sheet if more space is needed.

Item 22(b). All figures in this item should represent a full year's operation of the capital expenditure. Attach an additional sheet if more space is needed.

Column A: Enter the same services or properties listed in item 22(a), column A.

Column B: For each service or property, enter those additional units directly attributable to the capital expenditure only.

Column C: For each service or property, enter the additional expense directly attributable to the capital expenditure.

Column D: For each service or property, add each figure in item 22(a), Column B to the figure in column B of this item.

Column E: For each service or property add each figure in item 22(a), column C to the figure in Column C of this item.

Column F: Self-explanatory.

Attach an additional sheet if more space is needed.

Part V—Project Cost and Sources of Funds.

Refer to the General Instructions to this form to determine if this part is to be completed.

Item 23. Enter the cost of any land purchases including the cost of surveys and commission and settlement fees.

Item 24. Enter all costs covered under construction contracts including costs related to brick and mortar and fixed equipment.

Item 25. Enter the total amounts set aside for the purposes of meeting any unanticipated costs of construction. These additional costs may include construction loan interest expense related to the capital expenditure as well as construction costs and fees.

Items 26 and 27. Self-explanatory.

Item 28. Enter the cost for any equipment that is not permanently attached as a fixture to the structure of the institution or is not included in item 24.

Item 29. Enter any installation costs for movable equipment not considered part of the purchase price and not included in items 24 or 28 above.

Item 30. Self-explanatory.

Item 31. Enter any funds to be set aside in escrow or other special accounts as specified in the relevant bond indenture agreement.

Item 32. Enter such financing costs as bond discounts, legal fees, printing costs, and other expenses related to the bond issue.

Item 33. Enter any other costs related to the capital expenditure and not included above. Attach an itemization of the cost entered.

Item 34. Enter the sum of items 23 and 33.

Item 35. Enter those costs related to the capital expenditure which have already been paid for.

Item 36. Enter all unrestricted funds designated by the Board of Trustees to be applied toward the proposed capital expenditure.

Item 37. Enter all restricted funds available for the proposed capital expenditure.

Item 38. Enter the interest income earned from funds not spent because long-term financing has been received prior to payment in full for the capital expenditure.

Item 39. Enter any funds not included in the unrestricted or restricted fund balances above but are anticipated to be received prior to payment in full for the capital expenditure.

Item 40. Enter any funds that have been set aside for the purposes of meeting any contingency expenses associated with the capital expenditure.

Item 41. Enter the face value of all bonds to be issued for the capital expenditure. Do not include bond discounts in this item (they should be included in item 32).

Item 42. Enter other forms of financing not included above such as mortgages, short-term debt, or types of long-term debt not included in item 41 above.

Item 43. Enter the sum of items 35 through 42.

Part VI—Statement of Projected Patient Statistics, Revenue and Expense.

Refer to the General Instructions to determine if this part is required to be completed.

Starting in the first column with the most recently completed fiscal year (LFY), enter the appropriate year in the boxes across the top of the chart. The first Projected Year listed should be the first fiscal year in which the capital expenditure is operational. For that year and each subsequent year listed, enter budgeted figures for all items. Attach documentation listing the assumptions used in the projections, including such items as changes in patient mix, length of stay, admissions, bed complement, inflation factors, and Economic Stabilization Program regulations. Changes in projected expenses between the base year and the projected year which are attributable to the capital expenditure must be fully explained. For purposes of this form, depreciation for the capital expenditure is to be calculated on a straight line basis only. All financial data listed in this part should be prepared in accordance with the AICPA Hospital Audit Guide or by a system of accounting principles approved for use by Blue Cross, Medicare, or a State Uniform Hospital Accounting System.

Item 44. Acute care hospitals only need complete this item. Enter the total number of admissions in the respective columns. Admissions means the number of patients (including free care patients) accepted for inpatient service in beds licensed for hospital care or, in States where licensing is not required, staffed for hospital care.

Item 45. Long-term care institutions only need complete this item.

Item 46. Enter the average number of beds available for each year.

Item 47. Based on the average number of beds listed in item 46, enter the average occupancy rate for each year.

Items 48 through 50. Self-explanatory.

Item 51. Enter revenues received from those revenue producing activities involved with day-to-day hospital operations, but not included in total inpatient operating charges or outpatient charges, such as revenue from cafeteria sales, gift shops, parking lots, vending machines, etc.

Item 52. Self-explanatory.

Item 53. Enter total allowances including contractual, bad debt, courtesy, and employee. Free care as defined in 6 CFR 150.703 should be excluded.

Item 54. Self-explanatory.

Item 55. Enter total wage and salary expense including amounts paid to hospital-based personnel who function on a contractual basis but are paid as employees of the hospital. Also include fringe benefits such as pensions, insurance plans and FICA.

Item 56. Enter all amounts paid to personnel who function as independent contractors and who are not considered to be employees of the hospital.

Item 57. Self-explanatory.

Item 58. Enter any other expenses attributable to operations not covered above that conform to generally acceptable accounting principles.

Items 59 and 60. Self-explanatory.

Item 61. Enter all nonoperating income such as unrestricted endowments, gifts and contributions.

Items 62 and 63. Self-explanatory.

Item 64. Enter all expenses associated with the incurrence of debt obligations such as bond discounts, legal, accounting, and consulting fees. These expenses are amortized over the life of their respective debt.

Items 65 and 66. Self-explanatory.

Item 67. Enter all depreciation expense. Depreciation for the proposed capital expenditure should be calculated on a straight line basis only. Do not claim depreciation on a rental facility in your capacity as a tenant.

Items 68 and 69. Self-explanatory.

Item 70. Enter the principal payments on long-term debt due within each respective year.

Item 71. Enter all expenses related to capital replacement items which under generally accepted accounting principles are properly chargeable as expenses of operation and maintenance.

Item 72. Enter all other nonoperating cash requirements and attach itemization of same.

Items 73 and 74. Self-explanatory.

Part VII—Sources of Financing and Depreciation Schedules.

Item 75.

Column A. List each institution from which funds to finance the capital expenditure have been borrowed.

Column B. Enter the face value of each loan.

Column C. Enter the yearly interest rate for each loan.

Column D. Enter the date when the total amount of each loan plus interest is due.

Column E. Enter for each loan the asset(s) which was listed in the loan agreement as collateral or as mortgaged.

Item 76.

Column A. List the total cost for those items in the capital expenditure having the same depreciable lives.

Column B. For each dollar amount entered in column A, enter the number of years in which the items of the capital expenditure with the same depreciable lives are depreciated.

Part VIII—Certification and Signature.

Self-explanatory.

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Schedule J
Form CLC-103
(Proposed April 1974)

ECONOMIC STABILIZATION PROGRAM

SCHEDULE OF SERVICE AREA DATA FOR ACUTE CARE HOSPITALS AND LONG TERM CARE INSTITUTIONS

Agency Use Only

Docket Number

Part I - Identifying Data

1. (a) Name of Institution

Address

(b) Federal Identification Number

Part II - Service Area Data

2. Define Primary and Secondary Service Areas

3. Primary Service Area Population and Employment Statistics

	A	B	C	D	E	G	H
Service Area	1970	LFY 19___	Proj. Year 19___	Proj. Year 19___	Proj. Year 19___	Proj. Year 19___	Proj. Year 19___
Population							
Annual Avg. Employ.							
Unemployment Rate							
Number of Births							

4. Primary Service Area Population by Age Group per 1970 Census

Age Group	Population
Infant - 14	
15 - 24	
25 - 39	
40 - 64	
65 - over	

5. (a) List the Major Employers of the Primary Service Area Population

Employer	Number of Employees

(b) Do you anticipate any significant changes in the employers of the Primary Service Area population? If yes, explain.

6. (a) Share of Primary Service Area Admissions

	A	B	C	D	E	F
Hospital		Primary Service Area Number of Admissions	Primary Service Area % of Total Admissions	Outside Service Area Number of Admissions	Outside Service Area % of Total Admissions	Total Admissions (Col. B. plus Col. D)
Petitioning Hospital						

(b) Computation of hospital's share of total admissions in service area

Petitioning hospital's total number of admissions from Primary Service Area (Line 1 Column B) = Total number of admissions in Primary Service Area (total, Column B)

_____%

(Line 1, Column B) = (total, Column B)

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7. Bed Needs as Computed Using the Hill-Burton Formula (see instructions)

Year	A Primary Service Area Population	B Hospital's % Share of Admissions	C Population Served (Column A x Column B)	D Population Served Outside Service Area	E Total Service Area Population Served (Column C + Column D)	F Bed Need Per Hill-Burton Formula

8. Historic and Projected Average Yearly Census by Patient Allocation System

Classification	LFY 19 Number of Beds	LFY 19 % of Total Beds Available	Projected Year 19 Number of Beds	Projected Year 19 % of Total Beds Available	Projected Year 19 Number of Beds	Projected Year 19 % of Total Beds Available	Projected Year 19 Number of Beds	Projected Year 19 % of Total Beds Available

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PART III-Statement of Inpatient Data and Services Available (see instructions)

	A	B	C	D	E	F	G	H
Operating statistics:								
Beds available								
Admissions								
Average daily census								
Occupancy								
Facility or service: (check if service is provided)								
Postoperative room								
Intensive care unit								
Pharmacy with registered pharmacist								
X-ray therapy								
Cobalt therapy								
Radium therapy								
Radioisotope facility								
Histopathology lab								
Blood bank								
Electroencephalography								
Inhalation therapy dept.								
Premature nursery								
Self-care unit								
Extended care unit								
Renal dialysis								
Physical therapy dept.								
Rehabilitation unit								
Psychiatric inpatient unit								
Psychiatric outpatient unit								
Psychiatric emergency services								
Social work department								
Home care department								
Hospital auxiliary								
Organized outpatient dept.								
Emergency dept.								
Provisional emergency dept.								
Other								

INSTRUCTIONS FOR SCHEDULE J TO FORM CLC–103

SCHEDULE OF SERVICE AREA DATA

GENERAL INSTRUCTIONS

Purpose. The compilation of service area data for the development of demand projections is the most critical and important aspect in planning a capital expenditure. This schedule provides the tools necessary to evaluate service area demand and focuses on several factors relevant to service demand including: primary service area population and employment, the expected characteristics of the patient population, and the volume of inpatient admissions.

Who Must File. This schedule must be prepared by those acute care hospitals and long-term care institutions specified in Section C of the General Instructions to Form CLC–103. However, any acute care hospital or long-term care institution that can submit an independently prepared feasibility study related to the capital expenditure need not complete this schedule.

SPECIFIC INSTRUCTIONS

Part I—Identifying Data.

Item 1. Self-explanatory.

Part II—Service Area Data.

Item 2. Define the principal areas providing the major portion of the institution's patients. The Primary Service Area is that geographical area from which at least 50 percent of the institution's total patient admissions originate. Generally, the Primary Service Area is within the immediate vicinity of the institution. The Secondary Service Area is the area from which the majority of total patient admissions not in the Primary Service Area originate. The normal source of this information is the admitting or medical records of the institution.

Item 3. Beginning with column A, 1970, the year of a federal census, and continuing through column G, enter the pertinent population and employment statistics. Enter in column B (LFY), figures from the most recently completed fiscal year and in column C (projected year) figures from the first year in which the capital expenditure is operational. The remaining projected year columns should include estimated figures for at least two years of full operation of the capital expenditure. Suggested sources for this information are the Federal Census Bureau, the State Planning and Development Agency, the State Department of Labor and Industry, the State Department of Health, and the local Chamber of Commerce.

Item 4. Based on the 1970 federal census, enter the population for each age grouping. The primary source for this information is the 1970 federal census publications which normally can be obtained from the organizations listed in the instructions to item 3.

Item 5.

(a) List the major employers of the Primary Service Area population and their respective number of employees. The primary source of this information would be the local Chamber of Commerce.

(b) Explain any expected changes in the employers servicing the Primary Service Area population.

Item 6. This item needs to be completed only by acute care hospitals and only if the proposed capital expenditure will result in a change in bed complement or a change in the mix of available beds.

(a) List in column A the hospitals serving the Primary Service Area starting with the petitioning hospital. In column B, enter the LFY's number of total admissions from the Primary Service Area for each hospital. In column C, enter the LFY's percentage of total admissions from the Primary Service Area for each hospital. Enter the same data in columns D and E for admissions originating from outside the Primary Service Area. Column F is self-explanatory.

(b) Self-explanatory.

Item 7. This item needs to be completed only by acute care hospitals and only if the proposed capital expenditure will result in a change in bed complement or a change in the mix of available beds. In the column titled "Year," enter the same years listed in Part VI of Form CLC–103. For each year listed, provide the following data:

Column A. Enter the populations listed in item 3 of this schedule for the years requested.

Column B. Enter the petitioning hospital's share of total admissions from the Primary Service Area as calculated in column C of item 6(a) to this schedule. Assume the same share of admissions for each year listed unless there has been a significant change in the petitioning hospital's share. If such a change has occurred, enter the changed percentage for the appropriate year(s) and attach an explanation for the changes.

Column C. Self-explanatory.

Column D. Assume that all admissions from outside the Primary Service Area will have the same admission rate as that in the Primary Service Area. Use the following formula to determine the Primary Service Area admission rate for every thousand people:

$$\text{Formula 1. Primary Service Area Rate per 1000 population} = \frac{1000 \times \text{Total Number of Admissions from Primary Service Area (Total of col. B, item 6(a))}}{\text{Total Population of Primary Service Area (column A, item 7)}}$$

To determine the population served in the area outside the Primary Service Area, use the following formula:

$$\text{Formula 2.} \quad \frac{1000 \times \text{Number of Admissions from Outside Primary Service Area (Line 1, col. D, item 6(b))}}{\text{Primary Service Area Rate per 1000 population}}$$

Enter the result from Formula 2 in the first line (LFY) of column D. For each successive year, adjust the figure entered in column D, line 1, by the assumed population growth factors as used to determine the population in item 3 of this schedule.

Column E. Self-explanatory.

Column F. Use the following formula to determine bed need according to Hill-Burton stipulations:

$$\text{Formula 3. Bed Need} = \frac{\text{Column E} \times 4.5}{1000}$$

Enter the result from Formula 3 in the appropriate lines of column F. The resulting figures for each year indicate the total number of beds needed by the petitioning hospital in order to provide the appropriate number of beds according to Hill-Burton.

Item 8. Enter in the appropriate boxes the same years identified in item B to this schedule. In the first column, enter the basic patient categories from the patient allocation system chosen. For acute care hospitals, the systems from which to choose are defined in 6 CFR 150.712. Long-term care institutions should use the system that has historically been used in classifying the levels of care provided. For the "Number of Beds" column under each year listed, enter the average number of beds available or projected to be available for each patient classification. The projections made should take into account such variables as: 1) average length of stay; 2) population growth in primary and secondary service areas; 3) addition of services; 4) changes in staffing; and 5) growth rate of admissions.

Part III—Statement of Inpatient Data and Services Available.

This part needs to be completed by acute care hospitals only.

Starting with column A, LFY data will be provided according to the institutions listed in item 6(a), column A, to this schedule. Column A will be the petitioning hospital and each successive column should correspond to the perspective hospitals listed in item 6(a).

Complete the Operating Statistics section with the appropriate figures from the LFY for each hospital. Complete the Facility or Service section by checking the facility or service found in each hospital. Source data for this part is available from the *American Health Association Guide to the Health Care Field*

[FR Doc.74–10109 Filed 4–29–74;4:07 pm]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 120]

NAVIGABLE WATERS OF STATE OF OHIO

Proposed Water Quality Standards

The purpose of this notice is to propose regulations setting forth standards of water quality to be applicable to the State of Ohio, pursuant to section 303(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1313(b);

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86 Stat. 816 et seq.; Pub. L. 92–500), "the Act". A notice announcing the intention of the Environmental Protection Agency to review all interstate and intrastate water quality standards pursuant to the Act was published in the FEDERAL REGISTER on December 29, 1972, 37 FR 28775–28780.

Under section 303(a) of the Act, the Administrator of the U.S. Environmental Protection Agency is required to review water quality standards for interstate and intrastate waters adopted and submitted by the States. When he determines that changes in such standards are necessary to meet the requirements of the Act as in effect prior to October 18, 1972 (the date of enactment of the 1972 Amendments to the Act), he must notify the State. If the State does not meet the requirements of the Act, the Administrator may publish proposed revised water quality standards in accordance with such requirements.

The State of Ohio, prior to October 17, 1972, adopted water quality standards for both interstate and intrastate waters. After the enactment of the 1972 Amendments, U.S. EPA reviewed both the interstate and intrastate standards pursuant to section 303(a) of the Act. On January 16, 1973, the Regional Administrator notified Ohio that certain revisions to its interstate water quality standards were necessary to make the standards consistent with the applicable requirements of the Act. On March 14, 1973, a similar notification was made for intrastate water quality standards.

The State of Ohio adopted revised interstate and intrastate water quality standards, in response to U.S. EPA's request, on July 27, 1973. The revised water quality standards, contained in the document entitled "EP–1, Water Quality Standards, Ohio Environmental Protection Agency, July 27, 1973", have been found by the U.S. EPA to be consistent with the requirements of the Law, except as otherwise noted below, and are the water quality standards applicable to the navigable waters of Ohio. The standards document is available for inspection and copying at the Ohio Environmental Protection Agency, Seneca Towers, Columbus, Ohio 43216, and the U.S. EPA Regional Office, One North Wacker Drive, Chicago, Illinois 60606. U.S. EPA's information regulation 40 CFR Part 2, provides that a fee may be charged for making copies.

The requested revisions include the application of standards to certain waters not previously covered, upgrading of use designations where possible, and the addition of specific regulations for mixing zones, temperature, phosphorus and toxic substances. In addition, appropriate criteria consistent with the objectives of the Agreement Between the United States of America and Canada on Great Lakes Water Quality were to be adopted for the protection of Lake Erie.

On July 27, 1973, the State of Ohio adopted revised water quality standards. The revisions are not completely consistent with the applicable requirements of section 303(a)(1) and (2) of the Act in that the State failed to adopt adequate regulations for the control of toxic substances and phosphorus and appropriate criteria for copper, phenolics and zinc. Furthermore, the standards adopted in 1967 for Lake Erie were retained without modification even though portions of these standards were previously excepted from Federal Standards as being inadequate to protect the specified uses. Accordingly, pursuant to section 303(b)(1), U.S. EPA is now proposing regulations setting forth standards required to comply with the Act as in effect prior to October 18, 1972.

Section 303(b)(2) of the Act requires the Administrator to promulgate standards no later than 190 days after the date of publication of this notice, unless by such time the State shall have adopted water quality standards which the Administrator determines to be in accordance with the requirements of section 303(a) of the Act.

However, the Administrator is not required to await State action for the entire 190 day period prior to promulgation. Thus, these standards may be promulgated by the Administrator at any time following the expiration of time for public comment.

Except as provided in the attached proposed regulations, the interstate and intrastate standards previously adopted by the State of Ohio, as referenced above, are the effective water quality standards under Section 303 of the Act for interstate and intrastate navigable waters within that State. Where the proposed regulations set forth below are inconsistent with the referenced standards, these regulations, if promulgated, will supersede such standards to extent of the inconsistency.

Interested persons may submit written data, views, or arguments, in triplicate, in regard to the proposed regulations to the Regional Administrator, One North Wacker Drive, Chicago, Illinois 60606. All relevant material received on or before July 2, 1974, will be considered. The Regional Administrator will also schedule a public hearing on the proposed regulations at a time to be determined in the future, if such a hearing appears warranted by the comments received from interested persons.

The approved water quality standards revisions of Ohio are available for inspection at the EPA Headquarters Office, 401 M St. SW., Rm. 811, East Tower, Washington, D.C. 20460, as well as the EPA Regional Office and the Ohio Environmental Protection Agency, Box 1049, 450 East Town Street, Columbus, Ohio 34216.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 120 be amended by deleting from § 120.10 the paragraph entitled Ohio and adding a new § 120.20 to read as set forth below.

The proposed new part would be effective immediately upon republication.

(Sec. 303(b), Pub. L. 92–500, 86 Stat. 816 (33 U.S.C. 1313(b)).

Dated: April 29, 1974.

JOHN QUARLES,
Acting Administrator.

PART 120—WATER QUALITY STANDARDS

§ 120.20 Ohio Water Quality Standards.

Water Quality Standards established by Ohio on July 27, 1973, and approved by U.S. EPA on December 18, 1973, contained in the document entitled "EP–1, Ohio Water Quality Standards, Ohio Environmental Protection Agency, July 27, 1973", hereinafter will be the water quality standards for the State of Ohio except for the following:

(a) The following shall be added to subsection (B) of section EP–1–01, "Classification of Waters of the State:"

(3) In certain specific waters to be identified by the State of Ohio excepted classification may be granted by the EPA Administrator upon submission of proposed water quality standards for such specified waters and upon submission of an analysis based upon presently available information and sufficient data to support the identification, that because of naturally occurring water quality conditions or technological limitations, improvement of water quality in such specific areas to the degree necessary to protect recreational use and the preservation and propagation of desirable or indigenous species of aquatic biota by the terminal date as set forth in P.L. 92–500 for the purpose of meeting water quality standards (1977) and as required by the general standards is impossible.

(b) The following shall be added to subsection (A) of Section EP–1–02, "General Standards:"

(7) Manganese (dissolved) (stores number 01054) shall not exceed 50 ug/l.

(c) All specifications for copper and zinc in subsection (J) of section EP–1–02, "General standards" shall be deleted. The specified criteria for these constituents are inadequate to protect fish, and other aquatic life. Because the toxicity of copper and zinc varies with water hardness and since the waters of Ohio vary greatly in hardness content, no single criterion for each of these constituents is appropriate. Copper and zinc shall be limited by the application of section EP–1–02 (K). Furthermore, the specified criteria in subsection (J) of section EP–1–02 shall be revised as follows:

Storet No.	Constituent	Concentration
32730	Phenolics	10 μg/l

(d) Subsection (K) of section EP–1–02, "General Standards" shall be revised to read as follows:

Pollutants or combinations of any pollutants shall not exceed at any time one-tenth of the 96 hour median tolerance limit for any indigenous aquatic species, except that other more stringent application factors shall be imposed where necessary to meet the minimum requirements of the National Technical Advisory Committee, "Water Quality Criteria".

(e) The following subsection shall be added to regulation EP–1–02, "General Standards."

(m) Total Phosphorus as P (storet number 00665):

Phosphorus shall be limited to the extent necessary to prevent nuisance growths of algae, weeds, and slimes. In areas where nuisance growths exist, phosphorus discharges from point sources determined significant by the Agency shall not exceed a daily average of one milligram per liter as total P.

(f) Section EP–1–05, Lake Erie—The water quality standards for Lake Erie shall be revised as follows:

In addition to the appropriate standards contained in EP–1, namely EP–1–01, EP–1–02, EP–1–07, EP–1–08, EP–1–09, the following criteria shall be applicable to Lake Erie:

(A) *Total dissolved solids.* Not to exceed 200 mg/l.

(B) *Taste and odor.* Objectionable taste and odor producing substances shall be virtually absent. Phenolic compounds shall not exceed 0.001 mg/l.

(C) *Filterable iron.* Not to exceed 0.3 mg/l.

(D) *Phosphorus.* Municipal waste treatment plants discharging in excess of one million gallons per day into Lake Erie or the Lake Erie Basin shall be limited to no more than a daily average effluent concentration of 1.0 mg/l as total phosphorus (P).

(E) *Dissolved oxygen.* Not less than 6 mg/l at any time nor less than 7 mg/l in the spawning areas of cold water fish.

(F) *Hydrogen ion concentration (pH).* Shall not be outside the range 6.7–8.5.

(G) *Temperature.* The maximum temperature rise at any time outside the mixing zone shall not exceed 3° F. above natural temperature. In addition, the water temperature shall not exceed the maximum limits indicated in the following table:

January	45	July	80
February	45	August	85
March	45	September	80
April	60	October	70
May	70	November	60
June	75	December	50

(H) *Mixing zones.* In applying water quality standards, areas may be allowed for the admixture of waste effluents with the receiving waters. Water quality standards must be met at every point outside of these areas. Characteristics inside the mixing zone shall not be deleterious to populations of important aquatic species. Pollutants or combinations of pollutants should not exceed the 96 hour median tolerance limit for indigenous aquatic species. Water temperature should be limited so as to assure that lethal conditions for important fish species are not created as determined by a time-exposure relationship. Location and design of mixing zones shall be determined on a case by case basis in such a manner that the protection and propagation of fish, shellfish, and wildlife together with any other legitimate use are not adversely affected in accordance with the following conditions:

(1) The size of mixing zones shall be minimized.

(2) Mixing zones shall not include important fish spawning and nursery areas.

(3) Mixing zones shall not block fish migratory routes.

(4) Mixing zones shall not include the hypolimnion.

(5) Mixing zones shall not include any drinking water supply intakes.

(6) Mixing zones shall not include any shore line bathing areas.

(g) The following section shall be added to Regulation EP–1:

EP–1–08 Chemical Applications. The application of chemicals for water resource management projects in accordance with and subject to state statutory provisions is not subject to the standards prescribed by these rules; however, all projects shall be reviewed and approved by the Agency prior to application of chemicals.

EP–1–09 Analytical Testing. All methods of sample collection, preservation, and analysis used in applying any of the rules and regulations in this chapter shall be in accord with those prescribed in the FEDERAL REGISTER, Title 40, Chapter I, Sub-Chapter D, Part 136 "Guidelines Establishing Test Procedures for Analysis of Pollutants".

[FR Doc.74–10251 Filed 5–2–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 89, 91, 93]

[Docket No. 20042; FCC 74–438]

SPECIAL INDUSTRIAL RADIO SERVICE IN PUERTO RICO AND VIRGIN ISLANDS

Proposed Shared Use of Certain Frequencies and Notice of Inquiry

In the matter of amendment of Parts 2, 89, 91 and 93 of the Commission's rules and regulations to provide for the shared use of certain frequencies by the Special Industrial Radio Service in Puerto Rico and the Virgin Islands, Docket No. 20042, RM–2139.

1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. The Special Industrial Radio Service Association (SIRSA) has filed a petition to amend Parts 89, 91, and 93 of the Commission's rules to permit persons located in Puerto Rico and the Virgin Islands, and eligible in the Special Industrial Radio Service to share frequencies presently available to the Forestry-Conservation and Railroad Radio Services. Specifically, SIRSA proposes that 15 vacant frequencies which are allocated to the Forestry-Conservation Radio Service and 15 vacant frequencies which are allocated to the Railroad Radio Service should be made available for shared use by Special Industrial Radio Service users on Puerto Rico and the Virgin Islands. As proposed, fifteen 160 MHz Railroad Radio Service frequencies [1] and fifteen 159 MHz Forestry-Conservation Radio Service frequencies [2] would be assigned for shared use with the Special Industrial Radio Service. Since these two groups of fifteen frequencies are separated by approximately 1 MHz, they would meet the minimum pairing requirements needed for mobile relay operations.

3. In support of its request SIRSA notes that of the seventeen 159 MHz band frequencies presently allocated to the Forestry-Conservation Radio Service, none are in current use in Puerto Rico and the Virgin Islands. Similarly, in the Railroad Radio Service, of the forty-three VHF channels available to eligibles on these islands, only three are assigned in Puerto Rico and one in the Virgin Islands.

4. This proposal has resulted from the peculiar topographical, economic, and social conditions which exist in Puerto Rico [3] and which have resulted in the severe crowding of nearly all of the assignable Special Industrial 150 MHz frequencies. The problem is further compounded by the absence of standard frequency pairing arrangements in the Special Industrial Radio Service which makes mobile relay operations and frequency sharing extremely difficult.

5. While the newly authorized tertiary frequencies in the 150 MHz band are available to Special Industrial licensees, the geographical separation requirements [4] governing their use, and the limited dimensions of the island (105 miles long by 35 miles wide) combine to render them practically unusable.

6. The Commission recognizes the problem which exists in Puerto Rico, and to a lesser extent in the Virgin Islands, and agrees with the petitioner's argument that unused frequencies should not be permitted to continue lying fallow when licensees in other services have demonstrated a need for such frequencies. In this context, we would note, historically, that in Docket No. 14990,[5] released July 7, 1964, the Commission provided that certain land mobile service frequencies above 152 MHz should be made available to the Special Industrial Radio Service for use in Hawaii, Alaska, Puerto Rico and the Virgin Islands. The rationale at that time was that in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, mobile frequencies above 152 MHz which were normally available on a three-way, co-equal priority sharing basis in the Petroleum, Forest Products, and Manufacturers Radio Services were not extensively used in these areas by licensees in these services, and therefore should be utilized by a service which has a pressing need for them. The same reasoning now motivates us to propose providing for additional shared use of certain other under-utilized frequencies.

7. However, the Commission notes that we have also recognized a similar need for additional frequencies in the Business Radio Service,[6] and that there may be other radio services which feel they have a similar need. Consequently, while we are tentatively proposing to

[1] 160.410, 160.425, 160.440, 160.455, 160.470, 160.485, 160.500, 160.515, 160.530, 160.545, 160.560, 160.575, 160.590, 160.605, 160.620, MHz.

[2] 159.225, 159.240, 159.255, 159.270, 159.285, 159.300, 159.315, 159.330, 159.345, 159.360, 159.375, 159.390, 159.405, 159.420, 159.435, MHz.

[3] Because of the proximity of the Virgin Islands to Puerto Rico, and the effect on the Virgin Islands of assignments made in Puerto Rico, the relief sought herein is proposed jointly for Puerto Rico and the Virgin Islands.

[4] The required separation is ten miles from the closest station operating on a 15 MHz adjacent channel. In Puerto Rico a significant geographic factor is the existence of two mountain ranges which cover half of the island. Because line of sight is a key to mobile relay operations, the few available mountain peaks which occupy advantageous positions have been covered by antenna supporting towers for mobile relay systems operating on almost all of the usable 150 MHz frequencies available to Special Industrial applicants.

[5] 42 FCC 1188.

[6] Docket 15534 amended Parts 2, 89, 91, and 93 of the Commission's Rules to provide additional frequencies for the Business Radio Service in Puerto Rico and the Virgin Islands.

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make the frequencies in question available for shared use with the Special Industrial Radio Service, we are requesting information as to the following matters:

(a) Whether other radio services have a similar need in Puerto Rico and the Virgin Islands to share these Forestry-Conservation and Railroad frequencies; and

(b) What, if any, difficulties would be entailed by interservice sharing of these frequencies.

8. The proposed rules are shown in the Appendix and are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before May 31, 1974, and reply comments on or before June 11, 1974. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice. In accordance with the provisions of § 1.51 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Washington, D.C. headquarters.

Adopted: April 17, 1974.

Released: April 30, 1974.

FEDERAL COMMUNICATIONS COMMISSSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 2, 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

A. Section 2.106, the Table of Frequency Allocations, is amended in columns 7 through 11 for the bands 158.715–159.48 MHz and 159.48–161.575 MHz by adding footnote designator NG70 and will read as follows:

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Band (MHz)	Service	Class of Station	Frequency (MHz)	Nature of Services (of stations)
7	8	9	10	11
• • •	• • •	• • •	• • •	• • •
158.715–159.48	LAND MOBILE.	Base, Land Mobile.		PUBLIC SAFETY. (NG70)
159.48–161.575	LAND MOBILE.	Base, Land Mobile.		LAND TRANSPORTATION. (NG6) (NG26) (NG28) (NG70)
• • •	• • •	• • •	• • •	• • •

NG70 In Puerto Rico and the Virgin Islands only, the bands 159.225–159.435 and 160.410–160.620 MHz are also available for assignment to base stations and mobile stations in the Special Industrial Radio Service.

PART 89—PUBLIC SAFETY RADIO SERVICES

B. Section 89.459(d) is amended by adding new limitation (17) to read as follows:

§ 89.459 Frequencies available to the Forestry-Conservation Radio Service.

• • • • •

(d)

Frequency or band	Class of Station(s)	Limitations
• • •	• • •	• • •
159.225	do	17
159.240	do	17
159.255	do	17
159.270	do	17
159.285	do	17
159.300	do	17
159.315	do	17
159.330	do	17
159.345	do	17
159.360	do	17
159.375	do	17
159.390	do	17
159.405	do	17
159.420	do	17
159.435	do	17

• • • • •

(17) This frequency is shared with the Special Industrial Radio Service in Puerto Rico and the Virgin Islands. All applications for the assignment of a new frequency or to change existing facilities in such a manner as to require frequency coordination, as specified in § 89.15 hereof, for stations in Puerto Rico or the Virgin Islands, shall be accompanied by evidence of interservice frequency coordination.

• • • • •

PART 91—INDUSTRIAL RADIO SERVICES

C. Section 91.504 is amended by modifying the language of paragraph (a) and adding new paragraph (d) to read as follows:

§ 91.504 Frequencies available.

(a) The frequencies or bands of frequencies available for assignment to stations in this service are enumerated in the following table, together with the class of station(s) to which they are normally assigned, a general reference terminology, and the specific assignment limitations which are developed in paragraph (b) of this section. Special provisions relating to the availability and the assignment of certain frequencies above 152 MHz in Hawaii, Puerto Rico, and the Virgin Islands are contained in paragraphs (c) and (d) of this section.

• • • • •

(d) The following frequencies are available only in Puerto Rico and the Virgin Islands for shared use by base and mobile stations licensed in the Forestry-Conservation, Railroad and Special Industrial Radio Services.

Base and Mobile	*Mobile Only*
159.225	160.410
159.240	160.425
159.255	160.440
159.270	160.455
159.285	160.470
159.300	160.485
159.315	160.500
159.330	160.515
159.345	160.530
159.360	160.545
159.375	160.560
159.390	160.575
159.405	160.590
159.420	160.605
159.435	160.620

(1) A mobile station may be assigned the frequency of an associated base station. Such operation may, however, subject the single frequency system to interference that would not occur to a two-frequency system.

(2) The foregoing "Mobile Only" frequency may be assigned to a control station associated with a mobile relay system if it is also assigned to the associated mobile station.

(3) The foregoing "Base and Mobile" and "Mobile Only" frequencies are available on a shared basis in the Forestry-Conservation and Railroad Radio Services, respectively. All applications for the assignment of a new frequency, or to change existing facilities in such a manner as to require frequency coordination, as specified in § 91.8(a) hereof, shall be accompanied by evidence of frequency coordination with the sharing service.

PART 93—LAND TRANSPORTATION RADIO SERVICES

D. Section 93.352 is amended by adding new limitation 4 to read as follows:

§ 93.352 Frequencies below 952 MHz available for base and mobile stations.

• • • • • •

4	160.410	4	160.530
4	160.425	4	160.545
4	160.440	4	160.560
4	160.455	4	160.575
4	160.470	4	160.590
4	160.485	4	160.605
4	160.500	4	160.620
4	160.515		

• • • • • •

(4) This frequency is shared with the Special Industrial Radio Service in Puerto Rico and the Virgin Islands. All applications for the assignment of a new frequency or to change existing facilities in such a manner as to require frequency coordination, as specified in § 93.9 hereof, for stations in Puerto Rico or the Virgin Islands, shall be accompanied by evidence of interservice frequency coordination.

[FR Doc.74–10190 Filed 5–2–74;8:45 am]

[47 CFR Part 73]

[Docket No. 18110]

STANDARD FM AND TELEVISION BROADCASTING STATIONS

Multiple Ownership; Order Extending Time for Filing Comments

In the matter of amendment of §§ 73.35, 73.240, 73.636 of the Commission's rules Relating to Multiple Ownership of Standard, FM and Television Broadcast Stations.

1. On February 28, 1974, the Commission adopted a Memorandum Opinion and Order in which it requested supplemental written comments, both for updating and elaboration, in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on March 12, 1974, 39 FR 9551. In this Memorandum Opinion and Order the Commission specified May 1, 1974, as the deadline for the filing of supplemental comments and also set the dates of June 18, 19 and, if necessary, June 20, 1974, for Oral Argument.

2. On April 19, 1974, counsel for WBEN, Inc. and Chronicle Broadcasting Company requested that the time for filing comments be extended at least two weeks and preferably 30 days. Counsel states that it would seem more realistic to take into consideration the fact that the three vacancies on the Commission have not been filled and there is no guarantee that any of them will be by the June 18–20 dates and it would seem in the best interests of all, the new Commissioners as well as the cross-ownership stations involved, that the argument date be either put over into the fall, or be cancelled and rescheduled when the comments have been analyzed. Counsel points out that his clients are aware of no public interest in an expeditious determination of this rule making and also states The Pultizer Publishing Company and KSD KSD–TV, Inc., support this extension request.

3. The request of counsel for the petitioners sets forth carefully considered reasons why an extension would be advantageous to them and helpful to the Commission. However, in its Memorandum Opinion and Order released March 7, 1974, wherein the Commission specified May 1, 1974 as the deadline for submission of supplemental written filings, the point was made that this provided about 60 days for such submissions and allowed the Commission a short time in which to examine them before the oral argument. May 1, 1974 was also established as the deadline for requesting an opportunity to participate in the oral argument.

4. The March 7, 1974 Memorandum Opinion and Order stated that "no one must file," which meant that the Commission could have proceeded on the basis of previous submissions. However, the Commission did feel that interested parties should be given opportunity to update their pleadings or to submit pleadings for the first time.

5. We believe it unwise at this time to affect a rescheduling of the oral argument. Further, in view of the compression of time available to the staff for digesting the new submissions we cannot look favorably upon a thirty day extension of time for the filing of comments. We will, however, grant a two week extension through May 15, 1974, for all interested parties to make their submissions in accordance with suggestions in the above mentioned Memorandum Opinion and Order. Further, the deadline for requesting an opportunity to participate in oral argument will be extended through May 15, 1974.

6. *Accordingly, it is ordered,* That the joint request of WBEN, Inc. and Chronicle Broadcasting Company is granted in part, and the time for filing supplemental comments is extended to and including May 15, 1974; and the joint petition of WBEN, Inc. and Chronicle Broadcasting Company is denied in all other respects. *It is further ordered,* That the date for requesting an opportunity to participate in oral argument is extended to and including May 15, 1974.

7. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: April 26, 1974.

Released: April 29, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74–10191 Filed 5–2–74;8:45 am]

[47 CFR Part 91]

[FCC 74–393; Docket No. 20032; RM–1917]

PETROLEUM GEOPHYSICAL OPERATIONS

Use of Certain Frequencies

1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. The Central Committee on Communications Facilities of the American Petroleum Institute (API) has filed a petition requesting an amendment of Part 91 of the Commission's rules to incorporate into the rules governing the Petroleum Radio Service, procedures for the assignment and use of certain frequencies in connection with petroleum geophysical operations. The rule changes sought by API would codify practices and procedures that have been adhered to by both the Commission and the petroleum industry for more than 22 years.

3. In 1949, the National Petroleum Radio Frequency Coordinating Association (NPRFCA) initiated a plan to provide for the special communication requirements of petroleum licensees engaged in geophysical operations. According to the existing informal plan, the frequencies 1614, 1628, 1676, 1700 kHz, 25.02, 25.06, 25.10, 25.14 and 25.18 MHz are used in the Petroleum Radio Service exclusively for geophysical operations.[1] Certain other petroleum frequencies are made available to geophysical operations on a secondary basis subject to causing no interference to conventional base and mobile voice systems.[2] Also in the plan is the practice of issuing multiple frequency assignments to geophysical applicants so they could select the specific frequency which would result in the least amount of interference to base and mobile operations in any given area. However, even though the licensee may be assigned any number of frequencies, any given geophysical exploration party is limited to the use of only two frequencies at a time, using a simplex mode of operation. In addition, a power limitation of 100 watts input is imposed and A9 and F9 emissions are permitted on frequencies below 25 MHz.

4. API contends that these practices and procedures have worked well over the years and should be formally incorporated into the Commission's rules.

5. The frequencies concerned are allocated to the Petroleum Radio Service both exclusively and on a shared basis with other radio services. Any change in availability, however, will only affect licensees in the Petroleum Radio Service and then only on the ten channels proposed for exclusive allocation.[3] In addition, the geophysical procedures governing the frequencies have been used for twenty or more years without any problems to other land mobile licensees. For the foregoing reasons it appears that other land mobile licensees will not be affected by adopting the proposals. The Commission believes the public interest can be served by adopting provisions for petroleum geophysical operations. Accordingly, we propose to amend Part 91, of our Rules to include provisions for petroleum geophysical operations.

6. In following the NPRFCA plan, the Commission permitted geophysical operations the use of tone and impulse signalling on frequencies below 10 MHz. The rules presently limit tone signalling in the Petroleum Radio Service to frequencies above 25 MHz. For the same reasons as noted in paragraph 5, we are proposing to formally include in the Commission's rules provisions for geophysical tone signalling on frequencies below 10 MHz. However, due to bandwidth limitations in this part of the spectrum, we are limiting all operations below 10 MHz to an amplitude modulation mode of operation. Therefore, API's request for F9 emission on frequencies below 25 MHz is denied.

[1] The frequencies 1628, 1652, and 1676 kHz are shared with other services.

[2] 2292, 2398, 4637.5 kHz; 25.22, 25.26, 25.30, 30.66, 30.70, 30.74, 30.78, 30.82, 153.05, 153.11, 153.17, 153.23, 153.29, 153.35, 158.31, 158.37, 158.43, 451.6, 451.7, 451.65, 451.75 MHz.

[3] These frequencies are almost entirely used by licensees engaged in geophysical operations.

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7. Authority for the proposed amendments is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 31, 1974, and reply comments on or before June 11, 1974. Relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

8. In accordance with the provisions of § 1.419 of the Commission's rules, an original and fourteen copies of all statements, briefs, or comments filed shall be furnished the Commission. Response will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: April 16, 1974.

Released: April 25, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

Part 91 of the Commission's Rules and Regulations is amended as follows:

1. In § 91.302, paragraph (e) is added to read as follows:

§ 91.302 Availability and use of service.

• • • • •

(e) Geophysical operations may use tone or impulse signalling for purposes other than indicating failure of equipment or abnormal conditions on those frequencies designated for such transmissions in § 91.304. Authorizations for multiple frequency operations will be granted upon request notwithstanding the provisions of § 91.8(c). Each geophysical exploration party, however, may only use a maximum of two frequencies at any given time. All such tone or impulse signalling shall be on a secondary basis subject to the following limitations.

(1) That harmful interference is not caused to the primary operations of any other licensee on that particular frequency.

(2) Maximum duration of a non-voice transmission, including automatic repeats, may not exceed two seconds.

(3) The bandwidth utilized for secondary tone or impulse signalling shall not exceed that authorized to the licensee for voice emission on the frequency concerned.

(4) Frequency loading resulting from the use of secondary tone or impulse signalling will not be considered in whole or in part, as a justification for authorizing additional frequencies in the licensees mobile service system.

(a) • • •

(5) The maximum power output of the transmitter shall not exceed 50 watts.

• • • • •

2. In § 91.304(a) the table and par. (b) are amended to read as follows:

§ 91.304 Frequencies available.

(a) • • •

Petroleum radio services frequency table

Frequency or band	Class of stations(s)	Limitations
kHz		
1614	Base or mobile	8,41
1628	do	8,41
1652	do	8,41
1676	do	8,41
1700	do	8,41
2292	do	8,43
2398	do	8,43
4637.5	do	8,43
MHz		
25.02	do	42
25.04	do	—
25.06	do	42
25.08	do	16
25.10	do	16, 42
25.12	do	
25.14	do	42
25.16	do	
25.18	do	42
25.20	do	
25.22	do	44
25.24	do	
25.26	do	44
25.28	do	
25.30	do	44
25.32	do	
•	• • • •	•
30.66	Base or mobile	12, 44
30.70	do	44
30.74	do	12, 44
30.78	do	44
30.82	do	12, 44
•	• • • •	•
153.05	Base or mobile	11, 44
153.08	do	11, 44
153.11	do	11, 44
153.14	do	11, 44
153.17	do	11, 44
153.20	do	11, 44
153.23	do	11, 44
153.26	do	11, 44
153.29	do	11, 44
153.32	do	11, 44
153.35	do	11, 41
•	• • •	•
158.31	Base or mobile	11, 44
•	• • •	•
158.37	Base or mobile	11, 44
•	• • •	•
158.43	Base or mobile	11, 44
•	• • •	•
451.550	Base or mobile	10, 32, 44
•	• • •	•
451.600	Base or mobile	10, 32, 44
•	• • •	•
451.650	Base or mobile	10, 32, 44
•	• • •	•
451.700	Base or mobile	10, 32, 44
451.750	do	10, 32, 44
•	• • •	•

• • • • •

(b) • • •

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(41) This frequency is available for assignment only to stations utilized for the transmission of geophysical data. Use on this frequency is limited to an amplitude modulation mode of operation.

(42) This frequency is available for assignment only to stations utilized for the transmission of geophysical data.

(43) This frequency is available for assignment to geophysical stations on a secondary, non-interference basis to other Petroleum licensees. Geophysical stations must cease operations on this frequency immediately upon receiving notice that interference is being caused to mobile service stations. Use on this frequency is limited to an amplitude modulation mode of operation.

(44) This frequency is available for assignment to geophysical stations on a secondary, non-interference basis to other Petroleum licensees. Geophysical stations must cease operations on this frequency immediately upon receiving notice that interference is being caused to mobile service stations.

[FR Doc.74-10055 Filed 5-2-74;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 340]

PUBLIC ISSUANCE OF BANK SECURITIES

Offering Circular Requirements; Extension of Comment Period

Notice is hereby given by the Board of Directors of the Federal Deposit Insurance Corporation of an extension to July 31, 1974 of the allowed period for submission of written comments on the Corporation's proposed regulation establishing minimum offering circular requirements for certain public distributions of securities issued by insured banks that are not members of the Federal Reserve System.

The proposed regulation was published for comment in the FEDERAL REGISTER on February 26, 1974 (39 FR 7434) and various specific comments have been received. In addition, several interested persons have requested an extension of time to prepare and submit comments. Because of the comprehensive and technical nature of the proposed regulation and the importance of receiving the comments of all interested persons, the Corporation has determined to extend the period for submission of written comments on the proposed regulation to July 31, 1974.

By order of the Board of Directors, April 29, 1974.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

APRIL 30, 1974.

[FR Doc.74-10248 Filed 5-2-74;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 35]

[Docket No. RM74-20]

FILING OF RATE DESIGN INFORMATION

Notice of Proposed Rulemaking

APRIL 26, 1974.

Pursuant to 5 U.S.C. 553 and sections 205, 206, 304, and 309 of the Federal Power Act (49 Stat. 851, 852, 855, 856, 858, 859; 16 U.S.C. 824d, 824e, 825c, 825h), the Commission hereby gives notice that it proposes to amend its regulations under the Federal Power Act to require the submission of rate design information by public utilities as a part of their filings of initial rate schedules under § 35.12 of the regulations and their filings of rate schedule changes under § 35.13. The proposed revisions would become effective 30 days following their promulgation. Specifically, the Commission propose to require submission of the following information:

1. For all rate schedule submittals, the filing utility shall submit a narrative statement describing the objectives of the design of the proffered rate, and the extent to which the rate design reflects costs, fosters conservation goals, or achieves other objectives.

2. Where the individual components such as the demand, energy and customer charges do not correspond to the comparable cost classifications supporting such charges, a detailed explanation shall be submitted stating the reasons for such departure.

3. Where the rates being charged contain more than one block, a detailed explanation shall be submitted indicating the rationale for the blocking and the cost, conservation or other considerations upon which such blocking is based.

4. Where the billing determinants (quantities of demand, energy, delivery points, etc.) are on different bases than the allocation determinants supporting such charges, an explanation shall be submitted explaining the reasons for such departure from a cost, conservation or other viewpoint.

In light of the rapid changes in recent years in the patterns of electric utility costs, and the Commission's expressed concern with respect to conservation of natural resources, revision of the Commission's regulations appears necessary in order to provide sufficient information to determine whether the design of rates contained in rate schedules filed with the Commission are consistent with the Commission's stated policies. In Order No. 495 issued November 13, 1973, in Docket No. R-454, the Commission indicated that it seeks to develop the role of rate design in the conservation and efficient utilization of energy resources. The order states an intention to undertake further general rulemaking for the purpose of developing accounting and reporting rules and regulations which will provide increased detail on all economic, environmental and other costs associated with the production and consumption of electric energy.

The explanation of the rate design in relation to conservation as well as cost considerations as proposed will serve to focus attention on the objectives of the rate design and the economic and conservation foundation underlying such design. Rate design and cost classification may be different for various reasons. Until the nature of, and reasons for, the departure of rate design from cost support are known, it is difficult to assess the reasonableness of such design or the degree to which the design may conflict with other considerations such as optimum utilization of capacity in times of short fuel supply.

In addition to the above proposed revisions to the Commission's regulations, we invite the comments of interested parties concerning the subject of electric rate design. Many if not most of the wholesale electric rate schedules on file with this Commission have remained unchanged in rate design from the time they were first filed. Such rate designs were developed during a period of decreasing unit costs of capacity over time, low fuel costs, abundant fuel supplies, and continually increasing gains in system efficiencies. With the reversal in the trend of decreasing unit capacity costs over time, rapidly escalating fuel costs, declining fuel supplies, and diminishing gains in system efficiencies, there is a need for reconsideration of electric rate design.

We express our particular concern that the typical design of rates in power contracts must be considered promotional in nature, thereby encouraging consumption of electric energy. It seems clearly essential to reconsider and re-evaluate the rationale underlying current rate designs and blocked rates in light of today's economic, energy, and environmental conditions. Commenting parties should address themselves to this issue and should discuss possible alternative rate designs which may be more appropriate in light of existing circumstances.

Sections 35.12 and 35.13 of the Commission's regulations are proposed to be amended as follows:

1. In § 35.12, paragraphs (b)(5) through (8) are added to read as follows:

§ 35.12 Filing of initial Rate schedules.

• • • • •

(b) • • •

(5) A narrative statement describing the objectives of the design by the proffered rate, and the extent to which the rate design reflects costs, fosters conservation goals, or achieves other objectives.

(6) Where the individual rates for the demand, energy and customer charges do not correspond to the comparable cost classifications supporting such charges, a detailed explanation shall be submitted stating the reasons for such departure.

(7) Where the rates being charged contain more than one block, a detailed explanation shall be submitted indicating the rationale for the blocking and the cost, conservation or other considerations upon which such blocking is based.

(8) Where the billing determinants (quantities of demand, energy, delivery points, etc.) are on different bases than the allocation determinants supporting such charges, an explanation shall be submitted explaining the reasons for such departure from a cost, conservation or other viewpoint.

2. In § 35.13, present paragraph (b)(5) is redesignated as (b)(9) and new paragraphs (b)(5) through (8) are added to read as follows:

§ 35.13 Filing of changes in Rate schedules.

• • • • •

(b) • • •

(5) A narrative statement describing the objectives of the design by the proffered rate, and the extent to which the rate design reflects costs, fosters conservation goals, or achieves other objectives.

(6) Where the individual components such as the demand, energy and customer charges do not correspond to the comparable cost classifications supporting such charges, a detailed explanation shall be submitted stating the reasons for such departure.

(7) Where the rates being charged contain more than one block, a detailed explanation shall be submitted indicating the rationale for the blocking and the cost, conservation or other considerations upon which such blocking is based.

(8) Where the billing determinants (quantities of demand, energy, delivery points, etc.) are on different bases than the allocation determinants supporting such charges, an explanation shall be submitted explaining the reasons for such departure from a cost, conservation or other viewpoint.

• • • • •

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, not later than May 27, 1974, any views, comments, or suggestions in writing concerning all or part of the proposals set forth herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters proposed herein. An original and 14 conformed copies of any comments shall be filed with the Secretary of the Commission. Submittals to the Commission shall indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal shall be addressed.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10126 Filed 5-2-74;8:45 am]

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Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Air Force

ADVISORY COMMITTEE ON THE AIR FORCE HISTORICAL PROGRAM

Notice of Meeting

APRIL 29, 1974.

The Advisory Committee on the Air Force Historical Program will meet at the Forrestal Building, Washington, D.C. 20314, on May 23 and 24, 1974, commencing at 8:30 a.m. in Conference Room 8E069.

The purpose of this meeting is to examine the mission, scope, progress and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force.

This meeting will be open to the public. Topics on the agenda include: Review of Air Force directives pertaining to the Historical Program; Staffing; Fellowships; and Reservists utilization.

If additional information is desired, contact HQ USAF (AF/CHO), Washington, D.C. 20314. Telephone 693-7373.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74-10123 Filed 5-2-74;8:45 am]

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Notice of Meetings

APRIL 29, 1974.

The Electronic Systems Division Advisory Group will hold a closed meeting on May 9, 1974, from 8:15 a.m. until 4 p.m., at L. G. Hanscom Field, Bedford, Massachusetts.

The meeting will consist of classified briefings on Electronic System Division programs.

The USAF Scientific Advisory Board ad hoc Committee on Future Air Force Energy Needs—Fuels and Systems, will hold a closed meeting on May 9 and 10, 1974, from 9 a.m. until 4 p.m., at the Pentagon, Washington, D.C.

The Committee will receive informational briefings on current and projected Air Force energy programs to include competition sensitive information.

For further information on these meetings, contact the Scientific Advisory Board Secretariat at 697-8404.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc 74-10143 Filed 5-2-74;8:45 am]

Office of the Secretary

BOARD OF CONSULTANTS OF THE NATIONAL WAR COLLEGE

Annual Meeting

The annual meeting of the Board of Consultants of The National War College will be held in the Library of the College located at Fort McNair, Washington, D.C. 20319, on June 3 and 4, 1974. Meetings are scheduled from 0900 to 1130 and 1330 to 1600 on both days.

The purpose of the annual meeting is for the Board of Consultants to review the entire range of College operations and, where appropriate, to provide advice and recommendations to the Commandant.

The meetings will be open to the public to the extent that space limitations of the meeting place permit. Because of these limitations, interested parties are requested to reserve space by calling the College Secretariat at 202-693-8318. Reservations will be on a first-come basis.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

APRIL 30, 1974.

[FR Doc.74-10220 Filed 5-2-74;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

LAW ENFORCEMENT EDUCATION PROGRAM GUIDELINE MANUAL

Revision

Notice is hereby given that the Law Enforcement Education Program (LEEP) Guideline Manual 5200.1A has been revised by the Administration. Under the Crime Control Act of 1973 the Law Enforcement Education Program provides for educational assistance to criminal justice practitioners through two forms of assistance.

1. Grants for in-service practitioners attending accredited institutions of higher education while working for public criminal justice agencies.

2. Loans for preservice students in full-time study related to criminal justice with the intent to enter the criminal justice system upon completion of that education and for in-service personnel attending accredited institutions of higher education on a full-time basis.

Interested persons are invited to submit request for the revised Guideline Manual to the Law Enforcement Education Program, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C. 20530.

DONALD E. SANTARELLI,
Administrator.

[FR Doc.74-10150 Filed 5-2-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following applicant has applied for a permit under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Great Adventure, Inc.,
320 East 65th Street,
New York, N.Y. 10021.

1. Great Adventure, a subsidiary corporation of Hardwicke Companies Incorporated (hereinafter referred to as "Company") applies for permission to import animals of an endangered species, namely 13 Bengal tigers (Panthera tigris tigris) as follows:

Sex	Date of birth	Origin
0.1	Dec. 9, 1972	Westfallischer Zoologischer Garten Munster.
3.0	Aug. 11, 1973	Kolnardens Djurpark.
2.2	Apr. 17, 1973	Zoological Garden Halle.
1.1	July, 1973	Central Circus, East Berlin.
3.0	Sept. 14, 1973	Twycross Zoo, England.

2. These tigers will be imported specifically for purposes of propagation, education exhibition and scientific research. The tigers will be exhibited on a 1500 hundred acre wild animal preserve located in Jackson Township, New Jersey. (see APPENDIX I) The importation of this number of Bengal tigers will benefit the species by increasing the potential for reproduction. In addition, the enhanced reproduction of the species will benefit the species due to the growth of the population and its potential to supply captive-born animals for dissemination to parks within our own Company and zoological parks throughout the U.S. The larger population of Bengal tigers within our own borders decreases the demand for the animals to be taken from the wild and thereby allows the existing foreign, native population to flourish.

In other words, conservation is the first priority. Management has developed methods to insure reproduction in captivity and it is confidentially expected that the tigers will breed when maturity is reached. The tigers are a compatible group and so there should be no difficulty in establishment.

The display will be of prime educational value. The public will view the animals in an environment similar to the natural habitat of the Bengal tiger.

3. The tigers we wish to import are all captive-born and therefore represent no damage to the wild stock. In this regard, the intent of the Lacey Act is fully upheld.

(Since all animals were born in captivity, the Lacey Act provisions for lawful capture do not apply.)

4. The 13 tigers will be maintained in enclosures encompassing an area of approximately 15 acres containing trees, shrubs, and other vegetation; they will be provided shade and shelter and water sources such as streams and ponds (see attached map, APPENDIX I). The shelters have indoor and outdoor sections. Sleeping dens are provided within the shelters. Food preparation and feeding facilities, with easy access, are conveniently located. Individual dens and shelters are provided so that the 13 tigers may enter the shelters voluntarily to find seclusion. Individual animals may also be isolated from the group for the sake of parturition, lactation, breeding and treatment of injury or illness. Facilities will be available in a central location to facilitate medical treatment or surgery should this become necessary. This facility will be located on the premises. Should intense medical care be required, Dr. Klein's medical facility located within fifteen minutes from the park, is well equipped to render such care.

The tiger enclosure will be surrounded by a 14' high chain link fence 9 gauge x 2" mesh with a two foot overhang toward the tigers of 2" x 11 gauge set at an angle of 90°. Tension wires to be fixed at the top, bottom and middle of the fence.

An underground skirt 18" wide of 2" chain link is buried at an angle of 45° along the bottom and firmly attached to the main fence. In all cases where the fence adjoins the boundary of the park an inner fence 8' high is constructed 15' inside the main fence.

This arrangement has proved entirely safe in other safari parks. Visitors drive through the enclosure on a winding road, observing the animals from the security of their cars. Entry and exit are provided through a lock arrangement of double gates. The two sets of gates are never opened simultaneously, thereby affording full security. A plan of the area and the central location is attached.

5. The animal collection at Great Adventure will be managed by experienced keeper personnel who have looked after a similar group of tigers at our park in Canada.

Rodney Dring (see Resume, APPENDIX 2) Director of Wildlife of the animal preserve has been responsible for the housing, feeding, care and acclimation of a similar group of tigers at our park in Canada. Mr. Dring is experienced in all matters of animal husbandry.

Mr. Dring's experience in the management and care of tigers will be particularly beneficial for the continuity of the welfare of this group of tigers.

Rodney Dring was trained in the British Safari Parks owned and managed by the Chipperfield Organization since the inception of the Safari Park concept.

The preserve in Parc Safari Africain was established on the basis of the experience and knowledge of the Chipperfield Organization, which originated the Safari Park concept in England in 1965. Since 1965, the Chipperfield Organization has either owned or managed on behalf of others, 12 Safari parks in six different countries. Their experience in the operation of safari parks is the most comprehensive in the world. Tigers are exhibited in most of the Chipperfield parks.

6. Great Adventure has employed as a Consultant Harold Tong, (See APPENDIX 3) former Director of Whipsnade Zoo for 23 years. Mr. Tong is an expert in the field of maintaining mammals in similar parks to that of Great Adventure and was employed as General Manager of Woburn Wild Animal Kingdom for a period of two years.

During Mr. Tong's 23 years at Whipsnade, tigers were bred and reared; and a breeding group of cheetahs established. Cheetah were first bred under the jurisdiction of Harold Tong. These animals have continued to breed since Mr. Tong's retirement and second generation animals are now breeding. Additionally, five cheetah have been bred and reared at Beekse Bergen Park in Holland under the jurisdiction of Julian Tong (in consultation with his father, Harold Tong).

The Company has retained two veterinarians who will be responsible for the health of the tigers as well as the rest of the animal population. A local veterinarian, Dr. Richard A. Klein (see Resume, APPENDIX 4) will be making routine calls and will be available on a 24-hour basis for emergency medical care of the animals. Dr. Klein has had extensive experience in the care of exotic species.

In addition, the Company has retained, as a consultant, Dr. Martin R. Dinnes (see Resume, APPENDIX 5) of Los Angeles, California. Dr. Dinnes has had considerable experience in the care and maintenance of large populations of adult tigers, including setting up breeding programs and maintenance of their offspring. He has extensive experience with exotic animals in zoos and drive-through safari parks throughout the county. Dr. Dinnes is the Chairman of the Research Committee of the American Association of Zoo Veterinarians. A major project of this Committee is the collection of normal physiological data to be retained in a computer system for dissemination to any zoo or park which requests such information.

Great Adventure will be a major contributor, by virtue of the size of its proposed animal population, for the gathering of data in support of the above project.

7. Since the animals are already in captivity, no capture operation needs to be accomplished. The countries of origin of the 13 animals are listed on Page 1, Paragraph 1.

The animals are owned by the Chipperfield Organization and are presently at Alsed Park, Germany. It is Great Adventure's plan to purchase the animals from the Chipperfield Organization.

animals from the Chipperfield Organization.

8. While a formal studbook does not exist at the present time, Great Adventure is most willing to contribute to same if one should be initiated.

Our plans are to actively participate in cooperative breeding programs relative to this species. Proper records will be kept for identification of the animals and their offspring.

All useful information gained through experience in the maintenance and breeding of these animals will be made available to all interested parties through various publications and upon requested consultation. The physiological data gained while working with these animals will be disseminated to all interested parties through the proper channels.

To the best of our knowledge, broad spectrum, cooperative breeding programs for this species do not exist at present. By virtue of the number of animals which we will have, we will be in an excellent position to cooperate with other zoos and parks in an active program for the exchange of breeding stock and the dissemination of the progeny. To minimize in-breeding, we shall also be interested in an exchange to preserve the strength and purity of the species.

9. Great Adventure is a member, in good standing, of the AAZPA as defined by the by-laws of the AAZPA—Article V, section VI.

10. The objective of this organization is to follow the aims and objectives of other zoos and organizations in establishing natural environmental habitats for Endangered Species.

It has been established by some of the major zoos that animals will breed in their natural habitat and we are following the suggestions and recommendations of these zoos resulting from studies of animals in the wild, i.e., White Rhino, San Francisco Zoo; Cheetah, San Diego Wild Animal Park; Toledo Zoo; Lion Country Safari Park, Atlanta, the Portland Oregon Wild Life Park, etc.

The Company has invested considerable funds in designing one of the outstanding wildlife parks in the world. It has drawn on its expertise in developing and operating similar parks in Canada and England.

As a successful corporation, with vast amounts of funds being invested in the establishment of wildlife in a near natural habitat, no talent or funds has been spared to engage top personnel, advisors and consultants in the management of this wild animal park.

In addition, the Company is the major shareholder of Wild Animal Kingdoms, Limited, which operates a Safari Park outside Madrid, Spain and will open one Safari Park in France and one in Germany in 1974.

Furthermore, the Company is fully confident that with the help of organizations such as the AAZPA there will be little difficulty in relocating any animals, should it become necessary. This will be done in accordance with recommendations made by these organizations based upon the needs of its constituent members for the species.

11. The tigers will be shipped in chartered space, on a commercial air-freighter, which is pressurized with heat available if necessary. The flight will originate in Hamburg, Germany and will arrive at Kennedy Airport, USA. An experienced attendant will accompany the animals on the aircraft.

The animals will be shipped in steel reinforced wooden crates. Each shipping crate will have sliding doors at each end. Each door will carry a padlock (attendant will have keys). There will be an inward opening flap at the bottom of each crate in order to facilitate feeding and watering of the tigers.

Crates will be wide enough to allow each animal to turn around and lie in lateral recumbency and there will be at least two feet of height above the head of each animal.

The animals will be transported from Kennedy Airport to our facility in Jackson, New Jersey on a flat bed stake truck with hydraulic lift gates in order to facilitate adequate ventilation. Each crate will be individually latched to the bed and to the stakes on the truck. The truck will carry a tarpaulin for additional shielding of wind or rain, should such conditions exist.

The trip from Kennedy Airport to our facility in New Jersey will be accomplished in 1½ hours.

12. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and other applicable part in Sub-Chapter B of Chapter 1 of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

FRANK GRANAT,
Executive Vice President, Great Adventure, Inc.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in

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triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than June 3, 1974 will be considered.

Dated: May 3, 1974.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.74-10253 Filed 5-2-74;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following applicant has applied for a permit under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Great Adventure, Inc.,
320 East 65th Street,
New York, N.Y. 10021.

1. Great Adventure, a subsidiary corporation of Hardwicke Companies Incorporated, (hereinafter referred to as "Company") applies for permission to import animals of an endangered species, namely 3.7 cheetah (A. jubatus).

2. These cheetah will be imported for purposes of propagation, education, exhibition and scientific research. The importation of this number of cheetah will benefit the species by increasing the potential for reproduction. In addition, the enhanced reproduction of the species will benefit the species due to the growth of the population and its potential to supply captive-born animals for dissemination to parks within our own Company and zoological parks throughout the U.S. The larger population of cheetah, within our own borders, decreases the demand for the animals to be taken from the wild and thereby allows the existing foreign, native population to flourish.

The recently completed studies by Norman Meyers for the I.U.C.N. indicates that cheetah in Africa are in a state of serious decline and the present chances for survival in the wild are in a perilous condition. The greater the population within the borders of the U.S.A., the greater insurance against extinction of the species through total loss in the wild. Captive bred cheetah will be the greatest insurance against future extinction. We cannot possibly support taking cheetah out of the wild while they are in such a fragile state. However, these cheetah were already in captivity prior to being placed on the Endangered Species list in March of 1972.

The total concept in importing these cheetah was to achieve active reproduction, public education and exhibition. Cheetah are already breeding at several Safari Parks and Zoos. (See APPENDIX 1a, 1b and 1c.)

3. These cheetah were imported into Canada for purposes of propagation, education and scientific research. They are part of a group of 24 cheetah presently owned by the Company and presently maintained on a preserve it owns in Canada. There is no intention of obtaining any further cheetah from the wild to replace those being imported from Canada. Management has developed methods to insure reproduction in captivity.

All major zoos have been contacted and it is certain there are no captive born cheetah available within the continental United States. In addition, the major zoos in Europe have been approached and it would appear there are no captive bred animals which we can acquire in Europe.

4. The cheetah will be maintained in enclosures (APPENDIX 1) encompassing an area of approximately 8 acres containing a mixture of terrain consisting of plains, grass areas, trees, forest area and shrub areas; they will be provided shade and shelter and water sources.

The shelters have indoor and outdoor sections. Sleeping dens are provided within the shelters. Food preparation and feeding facilities, with easy access, are conveniently located. Individual dens and shelters are provided so that the cheetah may enter the cheetah shelters voluntarily to find seclusion. Individual animals may also be isolated from the group for the sake of parturition, location, breeding and treatment of injury or illness. Facilities will be available in a central location to facilitate medical treatment or surgery should this become necessary. This facility will be located on the premises. Should intense medical care be required, Dr. Klein's medical facility, located within fifteen minutes from the park, is well equipped to render such care.

The area will be surrounded by a 12'0" high chain link fence, 11 gauge x 2" mesh, with a two foot overhang at 45° from main fence. Tension wires to be fixed at the top, bottom and middle of the fence.

An underground skirt 18" wide 2" chain link is buried at an angle of 45° along the bottom firmly attached to the main fence. Where the fence adjoins the boundary of the park then an inner fence 8' high is constructed 15' inside the main fence.

This arrangement has proved entirely safe in other safari parks. Visitors drive through the enclosure on a winding road, observing the animals from the security of their cars. Entry and exit are provided through a "lock" arrangement of double gates. The two sets of gates are never opened simultaneously thereby affording full security. A plan of the area with details of the shelter arrangements and the central location is attached (see APPENDIX 1).

5. The animal collection at Great Adventure will be managed by experienced keeper personnel who have looked after these animals at the park in Canada.

Rodney Dring (see Resume, APPENDIX 2), Director of Wildlife of the animal preserve, has been very closely associated with these cheetah. He has been responsible for the housing, feeding, care and acclimation of these cheetah since their date of acquisition. Mr. Dring is experienced in all matters of animal husbandry. His transfer with the animals will be particularly beneficial for the continuity of their welfare.

Rodney Dring was trained in the British Safari Parks owned and managed by the Chipperfield Organization since the inception of the Safari Park concept.

The preserve in Parc Safari Africain was established on the basis of the experience and knowledge of the Chipperfield Organization, which originated the Safari Park concept in England in 1965. Since 1965, the Chipperfield Organization has either owned or managed on behalf of others, 12 safari parks in six different countries. Their experience in the operation of safari parks is the most comprehensive in the world. Cheetah are exhibited in most of the Chipperfield Parks.

Great Adventure has employed as a consultant Harold Tong (see APPENDIX 3), former Director of Whipsnade Zoo for 23 years. Mr. Tong is an expert in the field of maintaining mammals in similar parks to that of Great Adventure and was employed as General Manager of Woburn Wild Animal Kingdom for a period of two years.

During Mr. Tong's 23 years at Whipsnade, cheetah were bred and reared; and a breeding group of cheetahs established. Cheetah were first bred under the jurisdiction of Harold Tong. These animals have continued to breed since Mr. Tong's retirement and second generation animals are now breeding. Additionally, five cheetah have been bred and reared at Beekse Bergen Park in Holland under the jurisdiction of Julian Tong (in consultation with his father, Harold Tong).

The Company has retained two veterinarians who will be responsible for the health of the cheetah as well as the rest of the animal population. A local veterinarian, Dr. Richard A. Klein (see Resume, APPENDIX 4) will be making routine calls and will be available on a 24-hour basis for emergency medical care of the animals. Dr. Klein has had extensive experience in the care of exotic species.

In addition, the Company has retained, as a consultant, Dr. Martin R. Dinnes of Los Angeles, Calif. (see APPENDIX 5). Dr. Dinnes has had considerable experience in the care and maintenance of large populations of cheetah, i.e., Filmore, California, including setting up breeding programs and maintenance of their offspring. He has extensive experience with exotic animals in zoos and drive-through safari parks throughout the country. Dr. Dinnes is the Chairman of the Research Committee of the American Association of Zoo Veterinarians. A major project of this Committee is the collection of normal physiological data to be retained in a computer system for dissemination to any zoo or park which requests such information.

Great Adventure will be a major contributor, by virtue of the size of its proposed animal population, for the gathering of data in support of the above project.

Great Adventure will employ a specialist to study the general behavior and mating habits of the cheetah. A program will be instituted similar to the existing one at the San Diego, Phoenix and Atlanta Zoological parks.

The importation of this group of cheetah will have no impact upon the status of the species in the wild.

6. The cheetah will be transferred from our park in Canada. Since the animals are already in captivity, since the Company already owns the animals and since they are located in one location in Canada, no capture operation or financial transaction needs to be accomplished. The animals were captured in May, 1971 in So. West Africa and exported from that location to Canada on 5/24/72. The origin in Africa was the Wolfgang Delfs Farm in Windhoek, So. West Africa.

7. While a formal studbook does not exist at the present time, Great Adventure is most willing to contribute to same if one should be initiated. At the moment we are awaiting the AAZPA census of this species as an aid to forming direct lines of communications with others who have cheetah or have had them breed successfully, in captivity. This project, while in its infancy as a formal project, is underway.

All useful information gained through experience in the maintenance and breeding of these animals will be made available to all interested parties through various publications and upon requested consultation. The physiological data gained while working with these animals will be disseminated to all interested parties through the proper channels.

8. While several seminars on the subject of cheetah breeding in captivity have been held (and were attended by several of our consultants, principles and staff members) there is, to the best of our knowledge, no formal cooperative breeding program in existence. Great Adventure is willing to cooperate in such a venture.

9. Great Adventure is a member, in good standing, of the AAZPA as defined by the bylaws of the AAZPA—Article V, Section VI.

10. The objective of this organization is to follow the aims and objectives of other zoos and organizations in establishing natural environmental habitats for Endangered Species.

It has been established by some of the major zoos that animals will breed in their natural habitat and we are following the suggestions and recommendations of these zoos resulting from studies of animals in the wild i.e. Cheetah, San Diego Wild Animal Park, Toledo Zoo; Lion Country Safari Park; Atlanta, Portland, Oregon Wild Life Park; Beekse Bergen, Holland; White Rhino, San Francisco Zoo, etc.

The Company has invested considerable funds in designing one of the outstanding wildlife parks in the world. It has drawn on its expertise in developing and operating similar parks in Canada and England.

As a group of successful business people, with vast amounts of funds being invested in the establishment of wildlife in a near natural habitat, no talent or funds has been spared to engage top personnel, advisors and consultants, in the management of this wild animal park.

In addition, the Company is the major shareholder of Wild Animal Kingdoms, Limited, which operates a Safari Park outside Madrid, Spain and will open one Safari Park in France and one in Germany in 1974.

Furthermore, the Company is fully confident that with the help of organizations such as the AAZPA there will be little difficulty in relocating any animals, should it become necessary. This will be done in accordance with recommendations made by these organizations based upon the needs of its constituent members for the species.

11. The cheetah will be shipped in steel reinforced wooden crates. Each shipping crate will have sliding doors at each end. Each door will carry a padlock (attendant will have keys). There will be an inward opening flap at the bottom of each crate in order to facilitate feeding and watering of the cheetah.

Crates will be wide enough to allow each animal to turn around and lie in lateral recumbency and there will be at least two feet of height above the head of each animal.

The animal will be transported from Parc Safari Africain to our facility in Jackson, New Jersey on a flat bed stake truck with hydraulic lift gates in order to facilitate adequate ventilation. Each crate will be individually latched to the bed and to the stakes on the truck. The truck will carry a tarpaulin for additional shielding of wind or rain, should such conditions exist. The trip from Parc Safari Africain in Hemmingsford, Quebec, Canada, to our facility in Jackson, New Jersey will be accomplished in approximately 12 hours.

12. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and other applicable part in Sub-Chapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

FRANK GRANAT,
Executive Vice President, Great Adventure, Inc.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than June 3, 1974 will be considered.

Dated: May 3, 1974.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.74-10264 Filed 5-2-74;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following applicant has applied for a permit under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Great Adventure, Inc.,
320 East 65th Street,
New York, N.Y. 10021.

1. Great Adventure, a subsidiary corporation of Hardwicke Companies Incorporated, (hereinafter referred to as "Company") applies for permission to import animals of an endangered species, namely 11 Siberian tigers (*Panthera tigris altaica*)

No.	Date of birth	Sex	Born at—	Name and No.
44	June 9, 1972	Male	Leipzig Zoo	Amadis L 124.
45	do	do	do	Anadyr L 125.
46	do	Female	do	Altira L 126.
47	June 18, 1972	Male	do	Tagil L 128.
48	do	Female	do	Tola L 130.
49	July 25, 1972	do	do	Nera L 134.
50	Aug. 5, 1972	do	do	Gara L 138.
51	July 15, 1972	Male	do	Bratsk L 139.
52	June 2, 1971	do	do	Suluk L 115.
53	do	do	do	Sutschan L 116.
421	Aug. 17, 1971	do	Baton Rouge Zoo, Louisiana	Baton 9.

2. These tigers will be imported into the U.S.A. specifically for purposes of propagation, education, exhibition and scientific research. The importation of this number of Siberian tigers will benefit the species by increasing the potential for reproduction. In addition, the enhanced reproduction of the species will benefit the species due to the growth of the population and its potential to supply captive-born animals for dissemination to parks within our own Company and zoological parks throughout the U.S. The larger population of Siberian tigers within our own borders decreases the demand for the animals to be taken from the wild and thereby allows the existing foreign, native population to flourish.

In other words, conservation is the first priority. Management has developed methods to insure reproduction in captivity and it is confidentially expected that the tigers will breed when maturity is reached. The tigers are a compatible group and so there should be no difficulty in establishment.

The display will be of prime education value. The public will view the animals in an environment similar to the natural habitat of the Siberian tiger.

3. This group of tigers is owned and is presently maintained by the Company on a preserve it owns in Canada. The tigers we wish to import are all captive-born and therefore represent no damage to the wild stock. In this regard, the intent of the Lacey Act is fully upheld. (Since all animals were born in captivity, the Lacey Act provisions for lawful capture do not apply). The 11 tigers are presently living together at Parc Safari Africain in Hemmingsford, Quebec, Canada, a park owned by the Company. These animals have been living together at this location for one year and have proven to be compatible with each other. The company wishes to transfer its tigers from the preserve in Hemmingsford to our preserve in Jackson Township, New Jersey.

Dr. Martin Dinnes had made every attempt to acquire registered Siberian tigers in the U.S. of an age compatible with our present collection and has not met with any success.

4. The 11 tigers will be maintained in enclosures encompassing an area of approximately 20 acres containing trees, shrubs, and other vegetation; they will be provided shade and shelter and water sources such as streams and ponds (see attached MAP, APPENDIX 1). The shelters have indoor and outdoor sections. Sleeping dens are provided within the shelters. Food preparation and feeding facilities, with easy access, are conveniently located. Individual dens and shelters are provided so that the 11 tigers may enter the shelters voluntarily to find seclusion. Individual animals may also be isolated from the group for the sake of parturition, lactation, breeding and treatment of injury or illness. Facilities will be available in a central location to facilitate medical treatment or surgery should this become necessary. This facility will be located on the premises. Should intense medical care be required, Dr. Klein's medical facility, located within fifteen minutes from the park, is well equipped to render such care.

The tiger enclosure will be surrounded by a 14' high chain link fence 9 gauge x 2" mesh with a two-foot overhang toward the tigers of 2" x 11 gauge set at an angle of 90°. Tension wires to be fixed at the top, bottom and middle of the fence.

An underground skirt 18" wide of 2" chain link is buried at an angle of 45° along the bottom and firmly attached to the main fence. In all cases where the fence adjoins the boundary of the park an inner fence 8' high is constructed 15' inside the main fence.

This arrangement has proved entirely safe in other safari parks. Visitors which through the enclosure on a winding road, observing the animals from the security of their cars. Entry and exit are provided through a "lock" arrangement of double gates. The two sets of gates are never opened simultaneously, thereby affording full security. A plan of the area and the central location is attached.

5. The animal collection at Great Adventure will be managed by experienced keeper personnel who have looked after these animals at the park in Canada.

Rodney Dring (see Resume, APPENDIX 2), Director of Wildlife of the animal preserve, has been very closely associated with these tigers. He has been responsible for the housing, feeding, care and acclimation of these tigers since their date of acquisition. Mr.

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Dring is experienced in all matters of animal husbandry. His transfer with the animals will be particularly beneficial for the continuity of their welfare.

Rodney Dring was trained in the British Safari Parks owned and managed by the Chipperfield Organization since the inception of the Safari Park concept.

The preserve in Parc Safari Africain was established on the basis of the experience and knowledge of the Chipperfield Organization, which originated the Safari Park concept in England in 1965. Since 1965, the Chipperfield Organization has either owned or managed on behalf of others, 12 safari parks in six different countries. Their experience in the operation of safari parks is the most comprehensive in the world. Tigers are exhibited in most of the Chipperfield parks.

6. Great Adventure has employed as a Consultant Harold Tong, (see APPENDIX 3) former Director of Whipsnade Zoo for 23 years. Mr. Tong is an expert in the field of maintaining mammals in similar parks to that of Great Adventure and was employed as General Manager of Woburn Wild Animal Kingdom for a period of two years.

During Mr. Tong's 23 years at Whipsnade, tigers were bred and reared; and a breeding group of cheetahs established. Cheetah were first bred under the jurisdiction of Harold Tong. These animals have continued to breed since Mr. Tong's retirement and second generation animals are now breeding. Additionally, five cheetah have been bred and reared at Beekse Bergen Park in Holland under the jurisdiction of Julian Tong (in consultation with his father, Harold Tong).

The Company has retained two veterinarians who will be responsible for the health of the tigers as well as the rest of the animal population. A local veterinarian, Dr. Richard A. Klein (see Resume, APPENDIX 4) will be making routine calls and will be available on a 24-hour basis for emergency medical care of the animals. Dr. Klein has had extensive experience in the care of exotic species.

In addition, the Company has retained, as a consultant, Dr. Martin R. Dinnes (see Resume, APPENDIX 5) of Los Angeles, California, who has had considerable experience in the care and maintenance of large populations of adult tigers, including setting up breeding programs and maintenance of their offspring. He has extensive experience with exotic animals in zoos and drive-through safari parks throughout the country. Dr. Dinnes is the Chairman of the Research Committee of the American Association of Zoo Veterinarians. A major project of this Committee is the collection of normal physiological data to be retained in a computer system for dissemination to any zoo or park which requests such information.

Great Adventure will be a major contributor, by virtue of the size of its proposed animals population, for the gathering of data in support of the above project.

7. The tigers will be transferred from our park in Canada. Since the animals are already in captivity, since the Company already owns the animals and since they are located in one location in Canada, no capture operation or financial transaction needs to be accomplished. The countries of origin of the 11 animals are listed in part #1 of this application.

8. At the present time, a stud book for the species is in existence and being maintained by Marvin L. Jones, 1015 Geary Street, San Francisco, California 95109.

Our plans are to actively participate in cooperative breeding programs relative to this species. Proper records will be kept for identification of the animals and their offspring. All Siberian tigers owned by the Company have been registered in the stud book.

All useful information gained through experience in the maintenance and breeding of these animals will be made available to all interested parties through various publications and upon requested consultation. The physiological data gained while working with these animals will be disseminated to all interested parties through the proper channels.

To the best of our knowledge, broad spectrum, cooperative breeding programs for this species do not exist at present. By virtue of the number of animals which we will have, we will be in an excellent position to cooperate with other zoos and parks in an active program for the exchange of breeding stock and the dissemination of the progeny. To minimize in-breeding, we shall also be interested in an exchange to preserve the strength and purity of the species.

9. Great Adventure is a member, in good standing, of the AAZPA as defined by the bylaws of the AAZPA—Article V, Section VI.

10. The objective of this organization is to follow the aims and objectives of other zoos and organizations in establishing natural environmental habitats for Endangered Species.

It has been established by some of the major zoos that animals will breed in their natural habitat and we are following the suggestions and recommendations of these zoos resulting from studies of animals in the wild, i.e. White Rhino, San Francisco Zoo; Cheetah, San Diego Wild Animal Park, Toledo Zoo, Lion Country Safari Park, Atlanta, and the Portland Oregon Wild Life Park, etc.

The company has invested considerable funds in designing one of the outstanding wildlife parks in the world. It has drawn on its expertise in developing and operating similar parks in Canada and England.

As a successful corporation with vast amounts of funds invested in the establishment of wildlife in a near natural habitat, no talent or funds has been spared to engage top personnel, advisors and consultants in the management of this wild animal park.

In addition, the company is the major shareholder of Wild Animal Kingdoms, Limited, which operates a Safari Park outside Madrid, Spain and will open a safari park in France and one in Germany in 1974.

Furthermore, the company is fully confident that with the help of organizations such as the AAZPA there will be little difficulty in relocating any animals, should it become necessary. This will be done in accordance with recommendations made by these organizations based upon the needs of its constituant members for the species.

11. The tigers will be shipped in steel reinforced wooden crates. Each shipping crate will have sliding doors at each end. Each door will carry a padlock (attendant will have keys). There will be an inward opening flap at the bottom of each crate in order to facilitate feeding and watering of the tigers.

Crates will be wide enough to allow each animal to turn around and lie in lateral recumbency and there will be at least two feet of height above the head of each animal.

The animal will be transported from Parc Safari Africain to our facility in Jackson, New Jersey on a flat bed stake truck with hydraulic lift gates in order to facilitate adequate ventilation. Each crate will be individually latched to the bed and to the stakes on the truck. The truck will carry a tarpaulin for additional shielding for wind or rain, should such conditions exist. The trip from Parc Safari Africain in Hemmingsford, Quebec, Canada, to or facility in Jackson New Jersey will be accomplished in approximately 12 hours.

12. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and other applicable part in Sub-Chapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the crim.inal penalties of 18 U.S.C. 1001.

FRANK GRANAT,
Executive Vice President,
Great Adventure, Inc.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than June 3, 1974 will be considered.

Dated: May 3, 1974.

F. V. SCHMIDT,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

[FR Doc.74-10255 Filed 5-2-74;8:45 am]

Geological Survey

[Power Site Modification 452]

BIGHORN RIVER BASIN, WYOMING

Modification of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1; Power Site Classification 345, of July 31, 1944, is hereby modified to the extent necessary to permit the grant of a right-of-way under Revised Statute 2477 (43 U.S.C. 932) to the Board of County Commissioners, Big Horn County, Wyoming, for the construction of a county road, as shown on a map on file with the Bureau of Land Management under Wyoming 38612. The right-of-way will affect the following described lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 53 N., R. 94 W.,
sec. 12, lot 7 and SW¼SW¼;
sec. 13, lot 2 and NE¼SE¼.

This power site modification is subject to the condition that should the land traversed by the right-of-way be required for reservoir or power purposes, any improvements or structures thereon, when found by the Secretary of the Interior to interfere with reservoir or power development, shall be removed or relocated to eliminate interference with such development at no cost to the United States, its permittees, or licensees.

Dated: April 26, 1974.

HENRY W. COULTER,
Acting Director.

[FR Doc.74-10152 Filed 5-2-74;8:45 am]

Geological Survey

ADVISORY COMMITTEE ON WATER DATA FOR PUBLIC USE

Public Meeting

Pursuant to Pub. L. 92-463 effective January 5, 1973, notice is hereby given that an open meeting of the Advisory Committee on Water Data for Public Use will be held May 21-23 at the Holiday Inn, Downtown, in Sioux Falls, South Dakota.

This technical committee is made up of representatives of water-resources oriented groups, including National, State, and regional organizations, professional and technical societies, and the academic community. Its principal responsibility is to represent the interests of the non-Federal community on plans, policies, and procedures related to water-data programs. The Director of the U.S. Geological Survey is Chairman of the Committee.

Hydrologic applications of remote sensing techniques will be a featured item at this meeting of the Advisory Committee. Included will be a tour of the Geological Survey's recently dedicated Earth Resources Observation System (EROS) Data Center. Other items on the agenda are river-quality assessments, emerging needs for new data and data products, and a review of the current activities relating to the coordination of water-data acquisition and dissemination.

Persons wishing to attend the meeting or desiring more detailed information about the meeting should contact R. H. Langford, Chief, Office of Water Data Coordination, U.S. Geological Survey, 417 National Center, Reston, Virginia 22092.

V. E. MCKELVEY,
Director,
U.S. Geological Survey.

[FR Doc.74-10153 Filed 5-2-74;8:45 am]

National Park Service

BLUE RIDGE PARKWAY

Notice of Intention to Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965, (79 Stat. 969; (16 U.S.C. 20)) public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Blue Ridge Parkway, proposes to issue a concession permit to Mr. S. S. Clark, Jr., authorizing him to provide concession facilities and services for the public at Moses H. Cone Park, Blue Ridge Parkway, for a period of two (2) years from January 1, 1974, through December 31, 1975.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the Environmental Quality Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Office of the Superintendent, Blue Ridge Parkway.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before June 3, 1974.

Interested parties should contact the Superintendent, Blue Ridge Parkway, P. O. Box 7606, Asheville, North Carolina 28807, for information as to the requirements of the proposed permit.

Dated: March 8, 1974.

GRANVILLE B. LILES,
Superintendent,
Blue Ridge Parkway.

[FR Doc.74-10117 Filed 5-2-74;8:45 am]

Office of the Secretary

JOHN RICCA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) Add: Kennecott Copper, South Carolina Electric & Gas.
(3) None.
(4) None.

This statement is made as of April 23, 1974.

Dated: April 23, 1974.

JOHN RICCA.

[FR Doc.74-10146 Filed 5-2-74;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

TUITION FEE FOR COLLISION AVOIDANCE RADAR TRAINING COURSE

Change of Procedures

Notice is hereby given that beginning August 1, 1974, the tuition fees that are assessed for the Collision Avoidance Radar courses being offered at the three Maritime Administration Regional Training Centers in New York, New Orleans, and San Francisco, will be increased to the following:

8- and 5-day courses	$50.00
3-day refresher course	30.00
Recertification exercise	10.00

Payment shall be to the registrar at the school attended in the form of a check or money order made payable to "Maritime Administration-Commerce" in the amount of the fee assessed for the course selected. Such receipts will be deposited in an appropriate account as general receipts of the Treasury of the United States.

Dated: April 30, 1974.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary,
Maritime Administration.

[FR Doc.74-10240 Filed 5-2-74;8:45 am]

National Oceanic and Atmospheric Administration

DONALD B. SINIFF

Application for Scientific Research

Notice is hereby given that the following applicant has applied in due form to take marine mammals for scientific research as authorized by the Marine Mammals Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Donald B. Siniff, Associate Professor, Department of Ecology and Behavioral Biology, 223 Snyder Hall, University of Minnesota, St. Paul, Minnesota 55101, to take, tag, release and track, collect biological specimen materials, and conduct other research activities as outlined below, with Weddell seals (*Leptonychotes weddelli*), leopard seals (*Hydrurga leptonyx*), Ross seals (*Ommatophoca rossi*), crabeater seals (*Lobodon carcinophagus*), southern elephant seals (*Mirounga leonina*), and southern fur seals (*Arctocephalus gazella*) in Antarctic waters.

The research activities will be conducted annually during October, November and December, from 1974 through 1977. The project will involve seal populations in McMurdo Sound and in the vicinity of the Antarctic Peninsula.

The McMurdo Sound studies will involve the following activities:

1. Capture, with physical restraint or drugs, 550 new-born Weddell seals annually, to be tagged with marker tags in the rear flipper and released;

2. Capture, with physical restraint or drugs, 150 adult female Weddell seals annually, to be tagged with marker tags and released. Twenty-five adult females may also be tagged each year with radiosonic tags;

3. Capture, with physical restraint or drugs, 50 adult male Weddell seals annually, to be tagged with marker tags and released. Twenty-five adult males may also be tagged each year with radiosonic tags;

4. Annually collect toenails from the 200 adult Weddell seals described in 2 and 3 above;

5. Annually collect blood samples from the 200 adult Weddell seals described in 2 and 3 above;

6. Intentionally sacrifice up to six Weddell seals per year, if the promise of unique scientific return seems to warrant it;

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7. Transfer up to 24 Weddell seals from breeding colonies to artificial holes in the ice, in order to determine the effects of density manipulation;

8. Use long lasting (i.e., 4 to 6 hours effective time) immobilizing drugs and tranquilizers on 20 Weddell seals each year;

9. Collect skeletal and reproductive material from Weddell seals found dead from natural causes;

10. Conduct weekly censuses of Weddell seals in McMurdo Sound, to attempt to count all seals present on the surface of the ice and to record all tag numbers seen.

The Antarctic Peninsula studies will involve the following annual activities:

1. Use immobilizing and tranquilizing drugs to capture at present an unspecified number of crabeater seals, leopard seals, Ross seals, Weddell seals, southern fur seals and southern elephant seals;

2. Capture, tag, weigh, measure, extract a post-canine tooth, and draw blood samples from 50 crabeater seals and 25 leopard seals;

3. Place electronic tags on up to 25 crabeater seals, 25 leopard seals and 25 Ross seals;

4. Capture, tag, measure and collect blood samples and a toenail from 50 Weddell seals to compare with the McMurdo Sound Weddell seal population;

5. Census southern fur seal colonies on King George and Melchoir Islands;

6. Immobilize and collect blood samples from 25 southern fur seals and 25 southern elephant seals;

7. Intentionally sacrifice up to 6 crabeater seals, 6 leopard seals, 6 Weddell seals, 2 Ross seals, 2 southern fur seals and 2 southern elephant seals if the promise of unique scientific return warrants it. The purpose of these studies is to enumerate the various Antarctic seal stocks and to assess the pertinent factors of population dynamics which affect recruitment and natural regulation. Accurate and reliable estimates of the magnitude of the Antarctic seal stock plus detailed knowledge of the biology, behavior and ecology of each species are necessary to predict the effects of exploitation and management strategies.

Skulls and other skeletal material collected during this project will be housed in the Bell Museum of Natural History, University of Minnesota until the termination of the project, when the entire collection will be transferred to the National Museum, Washington, D.C.

The Principal Investigator, Dr. Siniff, has seven seasons' experience in Antarctic research. Other researchers have from one to six years' experience.

Documents submitted in connection with this application are available for review in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-343-7780.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Director, National Marine Fisheries Service, is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on this application on or before June 3, 1974, to the Director, National Marine Fisheries Service, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: April 26, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.74-10182 Filed 5-2-74;8:45 am]

FORT WAYNE CHILDREN'S ZOOLOGICAL GARDENS

Issuance of Permit for Marine Mammals

On December 27, 1973, notice was published in the FEDERAL REGISTER (38 FR 35340), that an application had been filed with the National Marine Fisheries Service by the Fort Wayne Children's Zoological Gardens, Fort Wayne, Indiana 46802, for a permit to take two (2) male and four (4) female California sea lions (*Zalophus californianus*) for public display.

Notice is hereby given that, on April 26, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit to Fort Wayne Children's Zoological Gardens, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and at the offices of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731 and the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: April 26, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.74-10183 Filed 5-2-74;8:45 am]

STATE OF ALASKA, DEPARTMENT OF FISH AND GAME

Notice of Receipt of Application for a Scientific Research Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for the purpose of scientific research, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals.

State of Alaska, Department of Fish and Game, Subport Building, Juneau, Alaska 99801 to conduct research on belukha, or white whales (*Delphinapterus leucas*) in the Bristol Bay area of Alaska.

This project is a continuation of research to determine the feasibility of using underwater transmissions of killer whale (*Orcinus orca*) sounds for extended periods of time to prevent the movement of belukha whales up the major river systems in Bristol Bay and to determine if the food habits of those whales which are allowed to forage in the rivers are significantly different from those of whales which are prevented from entering the rivers. The purpose of this project is to determine the impact of belukha whales on sockeye salmon smolts.

The research proposal involves the following:

1. Three sound projection systems will be designed and manufactured for transmitting killer whale sounds underwater. Two systems will be installed at suitable locations in the Kvichak River. The third system will be used as backup;

2. Occasional aerial surveys will be made to determine the distribution of belukhas during the period when they normally enter the river and to determine if any whales have passed upstream undetected;

3. In mid-June, after sockeye salmon smolt migration has peaked in the Kvichak River, the sound projection system will be moved to a suitable location on the Nushagak River and the same activities as outlined in paragraphs 1 and 2 above will be conducted.

Documents submitted in connection with this application are available in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235 (telephone 202-343-7780), and the Office of the Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801 (telephone 907-586-7221).

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is sending a copy of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on this application on or before June 3, 1974, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: March 26, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.74-10185 Filed 5-2-74;8:45 am]

OFFICE OF COASTAL ZONE MANAGEMENT

Notice of Meeting

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public meeting for the purpose of receiving comments on the draft Environmental Impact Statement for a proposed Estuarine Sanctuary Grant Award for a portion of South Slough, Coos Bay, Oregon, pursuant to the National Environmental Policy Act (Pub. L. 91-190). The public meeting will be held in:

The Cultural Auditorium
Coos Bay Library
525 Anderson
Coos Bay, Oregon

between the hours of 7:30 p.m. to midnight, on June 3, 1974. The views of the public and interested bodies are invited.

Both written and oral statements will be accepted. Presentations will be scheduled on a first-come, first-serve basis, but priority will be given to those who have prepared statements. Time will be allotted at the end of the meeting for those without statements who wish to be heard. In order that the maximum opportunity be afforded all those who wish to be heard, presentations will be limited to a maximum of fifteen minutes. No audio-visual equipment will be available. Office of Coastal Zone Management staff may wish to question speakers.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible in order that a meeting schedule may be drawn up and definite times established for presentations. The address is: Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852, 301/496-8526.

Written comments may also be submitted by mail to the Office of Coastal Zone Management. Such written comments must be received before June 17, 1974, in order to be considered for inclusion in the final statement.

Copies of the draft Environmental Impact Statement are available from the Office of Coastal Zone Management, and are also on file in the Coos County Library and the Oregon Coastal Conservation and Development Commission, P.O. Box N, Florence, Oregon 94739, 503/997-8248.

Comments should address the adequacy of the draft Environmental Impact Statement as well as the desirability of the proposed action.

No verbatim transcript of the meetings will be maintained, but staff present will record the general thrust of extemporaneous remarks.

Following consideration of the comments received at this meeting, as well as written comments submitted to the Office of Coastal Zone Management, the Office of Coastal Zone Management will prepare the Final Environmental Impact Statement pursuant to the National Environmental Policy Act of 1969 and implementing CEQ Guidelines.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.74-10370 Filed 5-2-74;10:17 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

VETERANS' COST-OF-INSTRUCTION PROGRAM PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 420 of the Higher Education Act of 1965 (20 U.S.C. 1070e-1), applications for funds are being accepted from institutions of higher education under the Veterans' Cost-of-Instruction Program. In order to receive consideration such applications must be received on or before June 3, 1974.

Such applications must be submitted to the Veterans' Programs Unit, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202, attention 13.540. Information and application forms may be obtained from the various Regional Offices of the Office of Education, or from the Veterans' Programs Unit, U.S. Office of Education, Room 4616, ROB #3, 7th and D Streets, SW., Washington, D.C. 20202.

An application sent by mail will be considered to be received on time if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

(20 U.S.C. 1070e-1)

Dated: April 5, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Program No. 13.540, Higher Education—Cost for Veterans' Instruction (VCIP)).

[FR Doc.74-10157 Filed 5-2-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on Vocational Education will be held on May 15, 1974, from 1 p.m. to 5 p.m., local time and on May 16, 1974 from 9 a.m. to 12 noon, local time; a joint meeting of the National and State Advisory Councils will be held on May 16, 1974, from 1 p.m. to 5 p.m., local time and on May 17, 1974, from 8 a.m. to 4:30 p.m., local time, at the Ramada Inn, Washington, D.C.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of feneral regulations for, and operation of, vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act; including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress; and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Council shall be open to the public. The proposed agenda includes:

May 15 and 16. (NACVE) Committee Reports Discussion of Legislation.
May 16 and 17. (Joint) Report from Department of Labor on CETA. Report on Congressional oversight hearings. Workshops for State Councils.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425-13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on April 29, 1974.

CALVIN DELLEFIELD,
Executive Director.

[FR Doc.74-10221 Filed 5-2-74;8:45 am]

PROJECTS IN RESEARCH, TEACHER EDUCATION AND LEARNING DISABILITIES

Criteria for Selection of Applications in Fiscal Year 1974

Pursuant to the authority contained in sections 631, 632, and 661 of the Education of the Handicapped Act (Pub. L. 91-230, Title VI), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare has established criteria for selection of ap-

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plications in Fiscal Year 1974 for research in the education of the handicapped, training personnel for the education of the handicapped, and specific learning disabilities projects as set forth below.

These criteria were proposed in the FEDERAL REGISTER on October 11, 1973 at 38 FR 28231, 28239, and 28245–28246, as a part of a comprehensive set of regulations for Federal discretionary programs for the handicapped under Parts C–G of the Education of the Handicapped Act.

Because of the time required to revise and republish the proposed rule as final regulations, in the light of comments received from the public, it is necessary to publish the criteria separately so as not to hold the funding of the projects in abeyance pending preparation of the final regulations for publication in the FEDERAL REGISTER.

No comments were received from the public on the substance of the criteria at the public hearing held on October 30, 1973 or during the comment period; the criteria are therefore adopted without change.

Effective date. These criteria shall be effective on May 3, 1974.

Dated: April 5, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: April 29, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number 13.443 Handicapped Research and Demonstration; 13.447 Handicapped Physical Education and Research; 13.451 Handicapped Teacher Education; 13.448 Handicapped Physical Education and Recreation Training; 13.520 Special Programs for Children With Specific Learning Disabilities)

CRITERIA FOR SELECTION OF APPLICATIONS IN FISCAL YEAR 1974

1. Research in the Education of the Handicapped (Pub. L. 91–230, Title VI, Part E; 20 U.S.C. 1441–1444).

Applications for grants under Part E of the Education of the Handicapped Act will only be considered if they relate directly to one or more of the following objectives:

(1) To assure that every handicapped child is receiving an appropriately designed education;

(2) To assure that every handicapped child who leaves school has had career educational training that is relevant to the job market, meaningful to his career aspirations, and realistic to his fullest potential;

(3) To assure that all handicapped children served in the schools have a trained teacher or other resource person competent in the skills required to aid the child in reaching his full potential; and

(4) To secure the enrollment of preschool aged handicapped children in Federal, State, and local educational and day care programs.

(20 U.S.C. 1402, 1441–1444)

Applications will also be evaluated on the basis of the criteria set forth in 45 CFR 121.402 (38 FR 13745, May 25, 1973) and 100a.26(b) (38 FR 30664, November 6, 1973).

2. Training Personnel for the Education of the Handicapped (Pub. L. 91–230, Title VI, Sections 631, 632, 634; 20 U.S.C. 1431, 1432, 1434).

In addition to the criteria set forth in 45 CFR 100a.26(b) (38 FR 30664, November 6, 1973), applications for grants under sections 631, 632, and 634 of the Education of the Handicapped Act (training personnel) will be evaluated on the basis of the following factors:

(a) The extent to which the applicant specifies and provides evidence that program graduates are meeting the educational needs of handicapped children at the local, State, or national level;

(b) The extent to which program philosophy, program objectives, activities implemented to attain program objectives and evaluation procedures are internally consistent, and are related to the educational needs of handicapped children;

(c) The extent to which the number of qualified staff is in a reasonable ratio to the number of students, and other program resources are available for the effective and efficient conduct of the program;

(d) The extent to which (1) present and former students, (2) consumer agencies (school districts, State agencies, etc.) and (3) individuals (parents, practicing teachers, etc), are involved in program planning, implementation, and evaluation;

(e) The extent to which the evaluation design and procedures (1) provide for assessment of the effective and efficiency of the use of program resources in the attainment of program objectives, and (2) provide for the collection of quantifiable program performance information such as (i) the numbers of personnel prepared and placed in positions relevant to the education of handicapped children, (ii) the type and location of positions accepted by program graduates, (iii) the number of handicapped children served by program graduates, (iv) the length of time that program graduates serve handicapped children, (v) employees' evaluation of program graduates' proficiency, and (vi) the effectiveness of program graduates in facilitating the educational progress of handicapped children;

(f) The extent to which the application describes procedures for assessing the impact, and in the case of an application for continuation support provides evidence of impact, of the program upon other related programs within the institution, community programs for the education of handicapped children, and improvement of services for handicapped children at the local, State, and/or national level;

(g) The extent to which the application describes and specifies the various roles or positions for which students are prepared, the tasks associated with such roles, and the competencies that must be acquired to complete each task successfully;

(h) The extent to which the application includes a delineation of competencies that each program graduate will acquire and will subsequently exhibit, and the evaluation procedures used in measuring the attainment of those competencies;

(i) The extent to which substantive content and organization of the program are (1) appropriate for the student's attainment of professional knowledge and competencies that are necessary for the provision of quality educational services for handicapped children, and (2) demonstrate an awareness of relevant methods, procedures, techniques, and instructional media or materials that can be used in the preparation of qualified educators of handicapped children;

(j) The extent to which appropriate practicum facilities are (1) utilized for observation, participation, practice teaching, laboratory or clinical experience internship, and other supervised experiences of adequate scope, combination, and length, (2) are accessible to the applicant and students, and (3) are staffed by qualified personnel; and

(k) The amount of fiscal and other effort the applicant will contribute to the program, and a delineation of the procedures that will be implemented for the increase of such effort over a specified time period in relationship to the amount of Federal funds awarded for support of the program.

(20 U.S.C. 1431, 1432, 1434)

3. Special Programs for Children with Specific Learning Disabilities (Pub. L. 91–230, Title VI, Part G; 20 U.S.C. 1461).

Priorities. In making grants and contracts under Part G of the Education of the Handicapped Act (learning disabilities) priority will be given to applications which (a) propose innovative and creative approaches to meeting the educational needs of children with specific learning disabilities, or (b) emphasize the prevention and early identification of learning disabilities.

Proposal review. (a) Applications will be evaluated by the Commissioner and outside consultants specifically chosen by the Commissioner for their expertise in the area of learning disabilities.

(b) In reviewing applications submitted under this part, in addition to the criteria set forth in 45 CFR 100a.26(b) (38 FR 30664, November 6, 1973), the following criteria will be considered:

(1) The presence of a clear, logical statement of the replication strategy, including objectives, target populations and evaluation measurements; and

(2) The degree and nature of parental involvement.

(20 U.S.C. 1461)

[FR Doc.74–10236 Filed 5–2–74;8:45 am]

National Institutes of Health

PERIODONTAL DISEASES ADVISORY COMMITTEE

Amended Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that the meeting of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, scheduled for May 6 and 7, 1974, National Institutes of Health, Building 31–C, Conference Room 8, and published 39 FR 10463 (March 20, 1974), has been postponed due to conflicts of schedule. This meeting has been rescheduled for June 27–28, 1974, at the National Institutes of Health, Building 31–C, Conference Room 8. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on June 27 and from 9:00 a.m. to 12:30 p.m. on June 28, to discuss research progress and plans in periodontal disease with particular attention to manpower needs. The Committee will also consider the results of a recent workshop to assess research progress on the role of immunological mechanisms in periodontal disease. Attendance by the public will be limited to space available.

Dr. Anthony A. Rizzo, Scientist-Administrator, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 521, Bethesda, Maryland 20014 (telephone 301–496–7784), will provide summaries of meetings, rosters of committee members, and substantive program information.

Dated: May 1, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.325 and 13.627 National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer.

[FR Doc.74–10368 Filed 5–2–74;10:18 am]

Office of the Secretary

PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

Notice of Meetings

The fifteen members of the President's Council on Physical Fitness and Sports will meet on May 22–23, 1974. The meetings will be held from 9:30 a.m. to 4 p.m. on May 22, and from 9 a.m. to 11:30 a.m. on May 23 in Room 208 of the Old Executive Office Building. The meeting will not be closed to the public.

The purpose of the meeting is to explain the functions of the Council as outlined in Executive Order 11562, dated September 25, 1970, and to report on the status of the progress of those functions. Six of the members are newly appointed by the President and will be attending their first Council meeting. A list of the Council members and the Executive Order establishing their responsibilities may be obtained from:

Mr. C. Carson Conrad
Executive Director
President's Council on Physical Fitness and Sports
400 Sixth Street, SW
Washington, D.C. 20201
(202) 755–7947

Dated: April 29, 1974.

V. L. NICHOLSON,
Acting Executive Secretary.

[FR Doc.74–10234 Filed 5–2–74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. PRM–170–1]

ATOMIC INDUSTRIAL FORUM, INC.

Filing of Petition for Rulemaking

Notice is hereby given that the Atomic Industrial Forum, Inc., 475 Park Avenue South, New York, New York, by letter dated April 9, 1974, has filed with the Atomic Energy Commission a petition for rulemaking.

The petitioner requests that the Commission amend its regulation 10 CFR Part 170 to allocate a portion of the costs of the Commission's licensing program to the public in accordance with the principles set out in the recent Supreme Court decision *National Cable Television Assn. Inc. v. United States et al* (39 L Ed 2d 370).

The petitioner states that future fee schedule revisions are particularly critical with the advent of standardization policy implementation and that license fees based on full cost recovery could deter or retard optimal participation in standardization by a number of companies for whom very large licensing fees would have severe economic consequences.

The Commission staff is reviewing the provisions of 10 CFR Part 170 in the light of the referenced Supreme Court decision and a related decision *Federal Power Commission v. New England Power Co. et al* (39 L Ed 2d 383), and the petitioner's request for rulemaking will be considered in the further conduct of that study.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. A copy of the petition may be obtained by writing the Rules and Proceedings Branch at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Rules and Proceedings Branch, Office of Administration-Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, on or before July 2, 1974.

Dated at Germantown, MD. this 29th day of April, 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74–10120 Filed 5–2–74;8:45 am]

[Docket Nos. 50–329A, 50–330A]

CONSUMERS POWER CO.

Order Setting Aside the Evidentiary Hearing and Establishing New Hearing Dates

In the Matter of Consumers Power Co. (Midland Plant, Units 1 and 2).

Counsel for the Applicant filed an oral request with the Board to postpone the Evidentiary Hearing in this proceeding for two weeks, which hearing was scheduled to reconvene on May 21, 1974, pursuant to an order dated April 16, 1974. He advised the Licensing Board Chairman that the expert witness that he contemplated calling as part as his direct case will be out of the country during the week of May 21. He also advised that counsel for the other parties agreed to the postponement.

In view of the foregoing, the Board acquiesces in this request and, accordingly, directs that the Evidentiary Hearing in this proceeding resume on June 4, 1974, at the time and place previously noted in its order of April 16. The June 4 session will relate to the direct case of the Applicant. The rebuttal cases of both the Department of Justice and the Applicant will commence on June 11, 1974, also at the same place and time as noted in the Licensing Board's Order of April 16.

Further, the dates for the submittal of written testimony will, in view of the foregoing, be moved back two weeks respectively.

It is so ordered.

Issued at Bethesda, Maryland, this 29th day of April, 1974.

ATOMIC SAFETY AND LICENSING BOARD,
JEROME GARFINKEL,
Chairman.

[FR Doc.74–10122 Filed 5–2–74;8:45 am]

[Docket Nos. 50–452 and 50–453]

THE DETROIT EDISON COMPANY

Availability of AEC Draft Environment Statement for Greenwood Energy Center, Units 2 and 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed Greenwood Energy Center Units 2 and 3, to be constructed by the Detroit Edison Company in St. Clair County, Michigan, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the St. Clair County Library, Port Huron, Michigan. The Draft Statement is also being made available at the State Planning Division, Executive Office of the Governor, Lansing, Michigan 48913 and the South East Michigan Council of Governments, 810 Book Building, Detroit, Michigan 48226. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Applicant's Environmental Report, as supplemented, submitted by the Detroit Edison Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on November 14, 1973 (38 FR 31461).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by June 24, 1974. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the St. Clair County Library, Port Huron, Michigan. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

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Dated at Bethesda, Maryland, this 30th day of April 1974.

For the Atomic Energy Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Directorate of Licensing.

[FR Doc.74-10284 Filed 5-2-74;8:45 am]

[Docket Nos. 50-334 and 50-412]

DUQUESNE LIGHT CO., ET AL.

Reconstitution of Atomic Safety and Licensing Appeal Board

In the matter of Duquesne Light Co., et al. (Beaver Valley Power Station, Units 1 and 2).

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for these proceedings to consist of the following members:

Michael C. Farrar, Chairman
Dr. John H. Buck, Member
Dr. W. Reed Johnson, Member

Dated: April 29, 1974.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74-10204 Filed 5-2-74;8:45 am]

REGULATORY GUIDES

Issuance and Availability

The Atomic Energy Commission has issued two guides in its Regulatory Guide series. The Regulatory Guide series has been developed to describe and to make available to the public methods acceptable to the AEC Regulatory staff for implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain information needed by the staff in its review of applications for permits and licenses.

The new guides are in Division 5, "Materials and Plant Protection." Regulatory Guide 5.21, "Nondestructive Uranium-235 Enrichment Assay by Gamma-Ray Spectrometry," describes acceptable procedures for nondestructively measuring the uranium-235 enrichment of uranium in bulk form such as in containers, process equipment and piping. Regulatory Guide 5.22, "Assessment of the Assumption of Normality (Employing Individual Observed Values)", identifies acceptable methods for assessing the validity of the assumption that a measured value is a random variable that can be described by a normal or Gaussian distribution function.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street, Washington, D.C. Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of the issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated.

Other Division 5 Regulatory Guides currently being developed include the following:

Organization for Materials and Plant Protection
Management Review of Materials and Plant Protection Programs and Activities
Standards for Physical Barrier Construction
Special Nuclear Material Doorway Monitors
Plant Security Force Duties
Personnel Selection and Screening
Perimeter Intrusion Alarms
Road Shipment of SNM by Specially Designed Vehicle with Armed Guards
Communications with Transport Vehicles
Coordination of Response Plan with Law Enforcement Authority
Monitoring Transfers of Special Nuclear Material
Selection of Material Balance and Item Control Areas
Internal Transfers of Nuclear Material
Material Control in Unirradiated Scrap Recovery Facilities
Minimizing Nuclear Material Holdup in Wet Processes
Minimizing Nuclear Material Holdup in Dry Processes
Dynamic Inventory Techniques
Prior Measurement Verification
Analysis and Use of Production Data for Material Control
Materials Protection Contingency Measures for Uranium and Plutonium Processing and Fuel Fabrication Plants
Evaluation of Material Unaccounted for (MUF)
Evaluation of Shipper and Receiver Data
Resolution of Shipper-Receiver Differences
Measurement Control Program for Materials Accounting in Nuclear Material Processing Plants
Determination of Random Measurement Errors
Determination of Measurement Bias and Systematic Errors
Training and Qualifying Measurement Control Personnel
Nuclear Material Control Systems for Nuclear Power Plants
Methods for the Accountability of Plutonium Oxide Powder
Methods for the Accountability of High-Enriched UO_2
Chemical, Nuclear, and Radiochemical Analysis of $UO_2(NO_3)_2$ Solutions
Guide for Mass and Scales Calibration
Guide to Mixing and Sampling Nuclear Materials
Preparation of $Pu(NO_3)_4$ Solution as a Working Standard
Guide to Making Working Standards from Production Material
Preparation of $UO_2(NO_3)_2$ Solution as a Working Standard
Radiometric Calibration Techniques
Calorimetric Assay of Pu-Bearing Solids
Nondestructive Assay of Plutonium-Bearing Fuel Rods by Gamma-Ray Spectroscopy
Nondestructive Assay of High-Enrichment Uranium Fuel Plates
Nondestructive Assay of Plutonium Residual Holdup
Nondestructive Assay of Plutonium by Spontaneous Fission Coincidence Detection
Nondestructive Assay of High-Enrichment Uranium Scrap by Active Neutron Interrogation
Nondestructive Assay of Uranium Residual Holdup
Nondestructive Assay of Plutonium by Gamma-Ray Spectroscopy
Specifications for Ge(Li) Spectroscopy Systems for Material Protection—Part II: Data Reduction
Radionuclide Analysis of Specially Prepared Samples by Gamma-Ray Spectroscopy

(5 U.S.C. 552(a))

Dated at Bethesda, Maryland this 25th day of April, 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-10203 Filed 5-2-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25517]

AERONAUTS INTERNATIONAL TRAVEL CLUB, INC., ET AL.

Oral Argument Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on May 30, 1974, at 11:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., April 29, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10218 Filed 5-2-74;8:45 am]

[Docket No. 24387]

CLUB INTERNATIONAL, INC., ET AL.

Oral Argument Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on May 30, 1974, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., April 29, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10217 Filed 5-2-74;8:45 am]

[Docket No. 25513; Agreement C.A.B. 24268; Order 74-4-142]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

APRIL 26, 1974.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above designated C.A.B. agreement number.

The agreement would amend an existing IATA resolution which sets forth a special Transpacific fare construction rule, by allowing construction of Transpacific fares via Papeete, Nandi, Pago Pago or Rarotonga without reference to intermediate fares between these points and other Southwest Pacific points.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the following resolution, incorporated in Agreement C.A.B. 24268, is adverse to the public interest or in violation of the Act:

JT31(MAIL 259)014o

Accordingly, it is ordered, That:

Agreement C.A.B. 24268 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 74-10214 Filed 5-2-74;8:45 am]

[Docket No. 24905, etc.]

PURDUE AIRLINES, INC.

Oral Argument Regarding Fitness and Acquisition Investigation

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on May 29, 1974, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., April 29, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10216 Filed 5-2-74;8:45 am]

[Docket No. 24686, 21355]

STANDARD AIRWAYS, INC., ET AL.

Notice of Oral Argument

Standard Airways, Inc., Mark Aero, Inc., Charlotte, Aircraft Corp., *et al.*, Docket 24686, Standard Airways, Inc., Docket 21355, *et al.*

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on May 29, 1974, at 2:00 p.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., April 29, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10215 Filed 5-2-74;8:45 am]

[Docket No. 25009]

WILMINGTON SERVICE INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 3, 1974, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., April 29, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10219 Filed 5-2-74;8:45 am]

[Docket No. 24869; Order 74-4-144]

INCREASED WESTERN HEMISPHERE PASSENGER FARES

IATA Agreements

Agreements adopted by members of the International Air Transport Association relating to passenger fares within the Western Hemisphere: Docket Nos. 24869, 25513, Agreements C.A.B. 24088, R-1 through R-24; 24136, R-1 and R-2; 24139; 24179, R-1 through R-24; 24207, R-1 through R-13; 24290; Docket 25280, Agreement C.A.B. 24267, R-1 and R-2.

By Order 74-2-123 (February 27, 1974) the Board established procedural dates for the receipt of carrier justification, comments and responses concerning agreements filed by the carrier members of the International Air Transport Association (IATA) on passenger fares within the Western Hemisphere for a one-year period commencing April 1.[1] The relevant documentation has been received, and the matter now stands ready for the Board's decision.

The agreements, insofar as they affect air transportation as defined by the Act, propose an across-the-board increase of three percent in all passenger fares between the United States and South America (except Colombia, Venezuela, Guyana, Surinam and French Guiana). Between the United States and Central America (as well as Colombia), a general five percent increase is proposed.[2]

U.S.-Mexico fares would generally be increased by approximately seven percent.[3] In the New York/Philadelphia/Detroit-Mexico markets, the present 15-passenger group inclusive-tour (GIT) fare would be replaced by an individual inclusive-tour (IIT) fare at a level about seven percent higher, and with an $11 weekend surcharge. A new 40-passenger, 5/21-day validity affinity-group fare is proposed in most U.S.-Mexico markets, while the present U.S.-Mexico advance-purchase travel group (APEX) fare will be eliminated. The new affinity-group fares would be about 10 percent above the current APEX levels, would permit no stopovers or weekend travel, and would be available all year except for a Christmas season blackout.

U.S.-Caribbean fares (as well as Venezuela, Guyana, Surinam and French Guiana) are proposed to be increased about five percent, and conditions on certain promotional fares would be tightened. The carriers have also adopted on an optional basis, a new baggage allowance system for Caribbean markets. The present worldwide IATA free-baggage allowance is 30 kilograms (66 lbs.) for first-class passengers, 20 kilograms (44 lbs.) for economy class.[4] In the Caribbean, each carrier would now have the option of allowing one checked piece of not more than 70 lbs., the sum of whose three dimensions does not exceed 62 inches; plus one carry-on piece whose dimensions do not exceed 45 inches.

Justification in support of the agreements has been received from Delta Air Lines, Inc. (Delta), Eastern Air Lines, Inc. (Eastern), Braniff Airways, Inc. (Braniff), Pan American World Airways, Inc. (Pan American) and American Airlines, Inc. (American). Comments have been received from Modern Air Transport, Inc. (Modern), and from Donald L. Pevsner, on his own behalf. Modern has also replied to the carrier justifications.

The carriers generally assert, inter alia, that the increased fares proposed for the respective Western Hemisphere areas are more than justified by substantially increased costs, including severe fuel cost increases; that the agreements will produce badly needed revenue but will not place any of the carriers in an excess earnings position; and that tightening the conditions on certain promotional fares will help alleviate traffic diversion and revenue dilution.[5]

[1] Caribbean area fares (except U.S.-Bermuda excursion fares) are proposed for April 15 effectiveness.

[2] In addition, a new excursion fare is proposed at $200 for application between San Juan, on the one hand, and San Jose and San Salvador, on the other hand.

[3] Exceptions are the Boston/New York/Philadelphia-Mexico City excursion fares, which would be increased between 11 and 18 percent, and group inclusive-tour fares in various U.S.-Mexico markets where new weekend surcharges are proposed.

[4] This matter is the subject of a currently pending Board investigation in Docket 24869, "Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation," instituted by Order 72-10-91, October 27, 1972.

[5] In U.S.-Netherlands Antilles markets peak season (22-28 November, 26 December-15 April, and 1 July-31 August) weekend travel would be prohibited on the 7/14-day group 10 GIT, and in U.S.-Venezuela markets the group 50 GIT would be eliminated entirely. A new weekend surcharge is to apply for U.S.-Mexico GIT fares, as well as an increased minimum tour price; and U.S.-Caribbean excursion fares would now be subject to a minimum stay of three days.

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Delta contends that the five percent increase in U.S.-Caribbean fares is more than justified by the increased cost of fuel alone, and that the 109 percent increase in fuel prices since January 1973 is the equivalent of 11.6 percent of passenger revenues. Even with the proposed increases, and without considering other escalating costs such as labor, supplies, leases and landing fees, Delta alleges its operating income will actually decline slightly as compared with last year.

Despite general fare increases of five percent in the Caribbean and seven percent or better in U.S.-Mexico markets, Eastern forecasts an overall revenue improvement of only 2.7 percent, or about $2 million, assuming a price elasticity factor of −0.7. This forecast, which does not include fuel cost increases since September 30, 1973, produces a return on investment of 7.3 percent in Eastern's international operations, as compared to an estimated 4.4 percent under present fares. Eastern also provides an estimate of traffic generation/diversion under the new IIT fare in New York/Philadelphia-Mexico markets, alleging that 27 percent of present traffic will divert to the new fare, which will itself generate additional traffic equal to 8 percent of the present total volume. The net impact of this traffic re-distribution is expected to be a revenue improvement of $615,000. Eastern also estimates that some 5,000 passengers will travel on the new 40-passenger affinity-group fare between the United States and Mexico next year.

Braniff forecasts under both existing and proposed fares for calendar year 1974 a decline in net operating income at the new revenue and expense levels. For its South America operations, non-fuel costs have allegedly climbed 4.5 percent over levels experienced in 1973, and would require $2.95 million in additional revenue to maintain status quo. The proposed fare increase will provide only $1.969 million after payment of commissions, leaving a net short-fall of $981,000. The situation is allegedly similar in Mexico, where it anticipates a 10.3 percent rise in operating costs, including fuel.[6] The instant agreement, however, will produce only $788,000 in additional revenue after commissions, for a net decline of $517,000 in operating income.

Pan American estimates that, during the 12-month period of effectiveness, the new fare structure wil provide a $7.3 million improvement, or 3.4 percent, in its overall Latin American Division revenues. The forecast, which includes fuel cost increases since September 30, 1973, as well as related adjustments in traffic, revenues, and expenses, indicates a return on investment of 6.8 percent as opposed to 5.0 percent under present fares.

American's forecast includes known increases in fuel prices, and indicates an increase in passenger revenue of $727,000, or 2.1 percent, in U.S.-Mexico operations, and $194,000, or 1.6 percent, in its Caribbean operations. These additional revenues, which reflect adjustment for a −0.7 elasticity factor, would produce respective returns on investment of 3.1 percent and −0.2 percent, for its Mexican and Caribbean operations.

The Board recently approved a separate IATA agreement which increased all Western Hemisphere fares (except to/from Mexico) by a uniform seven percent, effective April 15, to compensate the carriers for increased fuel costs (Order 74–3–134, March 29, 1974), In their justifications submitted in support of the fuel-based rate increase, American, Eastern and Pan American included financial forecasts which incorporated not only the seven percent fuel increase, but also the revenue flowing from the general fare increase herein considered. These forecasts show returns on investment of 2.9 percent, −4.0 percent, and 10.0 percent, respectively, in overall Western Hemisphere operations except Mexico.[7]

Modern, which conducts extensive charter services between the United States and Mexico, has submitted comments in opposition to the new affinity-group fare proposed for groups of 40 or more passengers. Modern contends that the supplemental carriers' activities are limited to affinity charters for trips of less than seven days, and that the proposed affinity-group fare is directly competitive with this primary product. Modern also cites the Board's historical dissatisfaction with affinity-group charters on the grounds of discrimination and nonenforceability, which led to the promulgation of travel group charter (TGC) regulations and alleges that the Board now tolerates the affinity concept for charters only because no satisfactory substitute has yet been developed. There is allegedly no reason to maintain affinity-group fares in scheduled service, and the Board should not permit the introduction of another such fare, at a much lower level than the old U.S.-Mexico GIT, where none has previously existed.[8]

Mr. Pevsner contends that while the new free baggage allowance now optional in the Caribbean area represents a liberalization of present IATA regulations, it is still much less liberal than the U.S. domestic allowance, and at best only optional. This modification of the baggage allowance, Mr. Pevsner contends, is minor and totally inadequate to remedy the unjust IATA rules now under Board investigation in Docket 24869, and any approval should be extended only on an interim, non-precedential basis.

The Board has carefully considered the agreements, the carrier justifications, the comments and reply comments, and has concluded that the U.S.-Caribbean and most of the U.S.-Mexico fare increases should be approved, while the remaining U.S.-Mexico increases and those in the U.S.-Central and South America markets should be tentatively disapproved.[9]

All of the justifications submitted were found to be materially inadequate in important respects, and have had to be significantly adjusted by the Board. In a number of cases, the inadequacies of the carriers' submissions are such that the necessary adjustments have had to be made on a somewhat arbitrary basis. Thus, the two most profitable carriers, Braniff and Delta, have failed to submit rate-of-return calculations, or any data on the basis of which such calculations could be made. In the case of Braniff, such calculations have been supplied by using Form 41 investment data together with certain assumptions as to how the carrier's reported international investment should be allocated between its Mexican and Central/South American operations;[10] in the case of Delta, no such reconstruction has been possible, and it has had to be assumed that the carrier's reported system rate of return prevails in its Caribbean operations.

While some of the carrier justifications start with actual operating results for calendar 1973, or for the most recent available twelve-month period, others start with forecasts of 1974 operations whose relationship to actual 1973 experience is unexplained. Carriers which start from actual 1973 results generally purport to have adjusted them on an annualized basis for subsequent fare and rate increases already approved by the Board, as well as for cost increases, but the manner in which these annualized adjustments have been made is frequently not shown. In some instances it appears that particular fare and/or rate increases have not been reflected in the calculations, or have been taken into account on a less than fully annualized basis. On the cost side, in several instances the carriers have put predicted future cost increases into the calculations, contrary to the Board's firm policy of recognizing only actually experienced or firmly contracted costs. Pan American in particular has introduced into the calculations unexplained and unsubstantiated increases in unit costs alleged to stem from a future reduced scale of operations.

One element in some of the carrier calculations which is of considerable concern to the Board relates to the question of elasticity of demand. Braniff and Delta in their calculations employ

[6] Fuel cost increases were omitted from Braniff's U.S.-South America forecasts inasmuch as there was then a separate IATA agreement before the Board to increase fares to/from South America seven percent to account for fuel increases, and Braniff had submitted a sepaarte statement of justification for this fare increase.

[7] Pan American forecasts a 5.2 percent return in U.S.-Mexico operations.

[8] In its reply to the carriers' justifications, Modern alleges that none has provided substantiation for the fare, and that even Eastern's estimate of traffic at a 41/59 generation/diversion ratio is not based on data or argument included in its justification.

[9] We are also herein disposing of several agreements not directly applicable to or from the United States.

[10] It has been assumed that Braniff's Form 41 international investment should be allocated in proportion to the total operating expenses of its Mexican and South American divisions as forecast in this proceeding. It is noted, however, that this does not appear to be consistent with the way Braniff itself allocates its interest costs in its justification here.

no elasticity factor, passing the proposed fare increases directly through to revenues. American and Eastern, however, expressly employ an elasticity factor of −0.7, while Pan American employs an undisclosed but evidently somewhat smaller factor. When an elasticity factor is used, a certain percentage increase in fares does not produce the same percentage increase in revenues, since it is assumed that some traffic is lost as a result of the fare increase.[11]

The elasticity factor of −0.7 employed by American and Eastern is taken from the Board's determination in Phase 7 of the "Domestic Passenger-Fare Investigation." That determination, however, was based on evidence of record, in the DPFI relating to domestic passenger travel only, and cannot be automatically transposed to international markets, where the mix of business and pleasure travel is frequently quite different. Thus, while there can be little doubt that increases in international fares (particularly where substantial)[12] do have a depressing effect on the movement of traffic, the Board does not consider that the use of an elasticity factor of −0.7 can be justified solely by citation of the DPFI Phase 7 decision.

A further cause for concern lies in the fact that those carriers who posit a loss of traffic as a result of the proposed fare increases show no corresponding reduction in the capacity they expect to offer. In the DPFI, of course, the use of an elasticity factor in forecasting future traffic was coupled with the adoption of a load-factor standard which has the effect of requiring the carriers to bring their capacity offerings in line with anticipated traffic. The Board has not to date undertaken to adopt any load-factor standard in connection with international fares, although it has on occasion rejected or modified carrier forecasts which have assumed what appeared to be unreasonably low load factors.[13] Moreover, the Board has recently had occasion to point out "that fare increases cannot be denied where unit costs are shown to have increased as a result of factors beyond the carriers' power to control, even if these increases will have an adverse effect on the movement of traffic.[14] Nevertheless, in the long run carriers must of necessity scale their capacity offerings to the anticipated level of traffic. Fare increases which depress traffic and which are not accompanied by reductions in capacity offered will rapidly become self-defeating.[15] Thus, without at this time attempting to resolve the problems raised by certain carriers' use of an elasticity factor, the Board will expect any carrier employing such a factor in its forecasts (a) to justify the particular factor used, and (b) in case it does not forecast a reduction in capacity corresponding to the reduction in traffic it anticipates, to justify its failure to do so.

Notwithstanding the deficiencies in the carrier justifications described above, the Board has determined to approve the proposed increases in U.S.-Caribbean fares. Even when the carriers' forecasts are adjusted to the maximum extent suggested by the foregoing criticisms, it appears that neither American nor Pan American will be able to achieve a 12 percent return on investment with the existing fares[16] in effect, while Eastern will sustain a large operating loss, and the four U.S.-flag Caribbean carriers as a group will collectively achieve a return of between 6 and 7 percent.[17] With the proposed fare increases, American and Pan American may earn moderately more than a 12 percent return, but Eastern's still substantial losses will bring the earnings of the four-carrier group down to just over 10 percent.[18] Under the circumstances, we cannot find that the proposed increases are unwarranted, or will bring the U.S.-flag Caribbean carriers as a group into an excess earnings position. Additionally, tightening of the conditions on several of the promotional fares should further assist in improving the carriers' earnings position by discouraging diversion and revenue dilution; and the more liberal optional baggage allowance (discussed further hereinafter) represents an improvement from the traveler's standpoint.

The Board will also approve the proposed U.S.-Mexico fares, except as hereinafter indicated.[19] Even with the maximum adjustments in the carriers' forecasts suggested by the criticisms discussed above, it appears that the U.S.-Mexico earnings of American and Pan American will fall considerably short of the 12 percent standard even with the porposed increases in force. While a recomputation of Eastern's and Braniff's projected earnings show them exceeding 12 percent, the earnings of the four U.S.-flag IATA members as a group in the Mexican markets will still fall more than a percentage point short of the standard. In these circumstances, the proposed increases cannot be found excessive. Moreover, the greater emphasis on individual as opposed to group travel represented by the new individual inclusive tour-fares between New York/Philadelphia/Detroit and Mexico represents a desirable step toward a fare structure more appropriate to scheduled service.

On the other hand, we cannot find that the proposed increases in fares between Los Angeles, San Diego, San Francisco, Portland, and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, have been shown to be justified. Western Airlines, a non-IATA carrier, is the only U.S. carrier which provides direct service between the three California points and Mexico, and is a very strong participant in the Portland/Seattle-Mexico markets where no carrier provides direct service. The four U.S.-flag IATA carriers do not participate in these markets to a major extent. Data reported to the Board by Western shows a return on investment of over 25 percent in international operations,[20] and while we recognize that Western is not a party to the IATA agreement, it nevertheless has already filed tariffs to match the increases here proposed by the IATA carriers. Western is already in an excess earnings position in these markets, and accordingly, in the absence of specific justification, the proposed increases will be disapproved on a tentative basis.

In the U.S.-Central/South America markets, the Board's adjustments of the carriers' forecasts indicate that as a group they apparently will be in an excess earnings position if the increases here proposed are permitted to go into effect. Braniff's earnings are anticipated to exceed 17 percent rate of return, while Pan American's earnings would be at least 10.5 percent, and arguably as high

[11] Using an elasticity factor of −0.7, a 1 percent fare increase is assumed to diminish traffic by 0.7 percent, so that total passenger revenue increases by slightly less than 0.3 percent.

[12] In this connection it is noted that the increases here proposed in IATA Caribbean fares, for example, when added to two rounds of fuel-related increases already approved, will bring those fares to a level more than 19 percent above those prevailing in December 1973.

[13] See, e.g., Orders 72–3–105 (March 30, 1972) and 73–7–54 (July 12, 1973).

[14] Order 74–3–134 (March 29, 1974).

[15] This becomes inescapable if the coefficient of elasticity is assumed to be −1.0 or greater, as is certainly conceivable in international markets where the proportion of discretionary travel is high. In such a case, fare increases with no corresponding reduction in capacity may fail to benefit the carriers financially at all. Even assuming a coefficient of less than −1.0 (e.g., −0.7), failure to reduce capacity means that a given percentage improvement in revenues requires a several times larger increase in fares.

[16] In the "existing fares" we include the second-round fuel-related increase already approved by the Board in Order 74–3–134, March 29, 1974.

[17] This assumes that Delta's 1973 system average return of 16.0 percent will apply to its Caribbean operations in 1974. Excluding Delta, whose forecast Caribbean revenues are about one-eighth of the U.S.-flag Caribbean total, the group return without the fare increases will be just under 5 percent.

[18] Between 9 and 10 percent excluding Delta.

[19] In this connection it is noted that fares to and from Mexico were excluded from the IATA second-round fuel-related increase (Order 74–3–134) as a result of resistance from the Mexican carriers and government, so that the present fare increases will be only the second rather than the third this year in the U.S.-Mexico markets.

[20] Interim Financial Report for the year ending December 31, 1973.

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as 12.5 percent.[21] On the basis of the data submitted, therefore, together with necessary adjustments, it appears that the combined earnings of the two carriers as a group would materially exceed the 12 percent standard.

We have also considered the carriers' prospective earnings in international operations for the Western Hemisphere (excluding Canada) as a whole. These show American and Eastern earning substantially less than 12 percent; Braniff and Western (and presumptively Delta) earning substantially in excess of that standard; while Pan American's overall Western Hemisphere IATA return computes as either slightly above, or slightly below, the standard depending on the assumptions employed. An average for all of the U.S.-flag carriers is difficult to calculate because of incompleteness of the data, but it appears that approval of all of the proposed increases would bring them as a group into an excess earnings position. Approval of some of the fares and disapproval of others, as is here tentatively determined, should apparently leave the carriers as a group close to the Board's return standard.

In weighing approval of IATA fare and rate agreements, the Board must consider not only the effect on individual carriers, but also the impact of the proposals on U.S.-carrier operations in each relevant area. It appears from the data submitted, incomplete as it is, that approval of the U.S.-Caribbean and most of the U.S.-Mexico fare proposals is warranted under this standard. Application of the same standard appears to indicate that approval of the proposed U.S. West Coast-Mexico and the U.S.-Central/South America fares is unwarranted, and they will accordingly be disapproved on a tentative basis.

Our tentative disapproval of the U.S.-Central/South America fares and the above-mentioned U.S.-Mexico fares will become final on its own terms on May 30, 1974, absent further economic justification from the affected carriers, which should be filed no later than May 15, 1974. In that event, further action will hinge on the Board's evaluation of the justification, which should include complete forecasts of revenue, expenses and returns on investment in these markets for the year ending March 31, 1975 under both existing and proposed fares, as well as forecasts of capacity and traffic for the same period. We will also require a comparable itemization of actual results for the year ended March 31, 1974. The other deficiencies in the forecasts referred to previously in this order should likewise be remedied.

Turning to the comments, the Board is not persuaded by Modern's arguments in opposition to the new U.S.-Mexico affinity-group fare. It is true that, looking to the future, we have expressed dissatisfaction with the affinity concept in both charter and scheduled service. However, affinity-group charters are still available in major international markets, and as long as this remains the situation it seems only equitable that comparable group fares be permitted in scheduled service. There appears no reason to create an exception in the case of Mexico. Nor are we persuaded that the impact of the new fare on the supplemental carriers would be as serious as Modern contends. Eastern anticipates that about 5,000 passengers will travel on the affinity-group fare, a volume equal to 1.8 percent of Eastern's scheduled U.S.-Mexico traffic.[22] Application of this percentage to the total scheduled traffic of U.S. carriers in U.S.-Mexico service for the year ended January 1974 would mean that only about 20,450 passengers would use the fare. On the other hand, Modern's international charter passengers for the same period totaled 360,384, so the actual impact of the new fare on that carrier should be minimal, even considering additional passengers which might travel on foreign carriers.

Existing IATA baggage rules permit only 20 kilograms (44 pounds) free checked baggage for economy-class passengers, 30 kilograms (66 pounds) for first class; with each kilogram over these limits charged at one percent of the normal first-class fare applicable for the particular journey. The new piece system for U.S.-Caribbean markets, while more liberal than current IATA practice, is still only optional and considerably more restrictive than U.S. domestic regulations. The latter allow three checked pieces with aggregate dimensions of 62, 55 and 45 inches, respectively, and one carry-on piece. No detail in support of this particular system has been submitted by the carriers. Since the agreement, albeit providing only for an option, represents a step in the right direction, we see no reason to withhold approval. However, our action is without prejudice to the record developed in the pending investigation of IATA baggage allowances and charges in Docket 24869, and the Board's ultimate decision.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a) and 412 thereof, the Board makes the following findings:

1. It is not found that the following resolutions, to the extent they would establish fares other than between Los Angeles, San Francisco, San Diego, Portland and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, and which are incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA Resolution
24088:	
R-1	100(Mail 935) 001b
R-3	100(Mail 935)001mm
R-4	100(Mail 935)002 I
R-5	100(Mail 935)002 II
R-7	100(Mail 935)061z
R-9	100(Mail 935)061x
R-10	100(Mail 935)061 II, 061 II
24136:	
R-2	100(Mail 940)084e

Agreement CAB	IATA No.	Title	Application
24179:			
R-1	001b	TC1-Special Effectiveness Resolution (Tie-In)	1
R-2	001gg	Special Effectiveness Resolution (North America-Caribbean, and within Caribbean) (New).	1
R-3	001rr	Special Escape for TC1 Agreement (New)	1
R-4	002 I	Special Revalidation Resolution (1 April 1974)	1
R-5	002 II	Standard Revalidation Resolution	1
R-6	051	TC1 First-Class Fares	1
R-7	060	Economy-Class Conditions of Service (Revalidating and Amending)	1
R-8	061	TC1 Economy-Class Fares	1
R-9	070bb	TC1 Excursion Fares—USA/Mexico-Bermuda/Caribbean/Venezuela and within Caribbean (New).	1
R-10	070l	TC1 21-Day Excursion Fares Canada-Bermuda/Caribbean (Revalidating and Amending).	1
R-12	075t	TC1 Advance-Purchase Travel-Gronp Fares (USA/Canada/Mexico-Bermuda/Caribbean/Venezuela) (Revalidating and Amending).	11
R-13	076q	TC1 Own Use and Incentive-Group Fares (Bermuda and Caribbean) (Revalidating and Amending).	1
R-14	080L	TC1 10-Day Individual Inclusive-Tour Fares USA-Bermuda/Bahamas/Caribbean (Revalidating and Amending).	1
R-16	080p	TC1 10/14-Day Individual Inclusive-Tour Fares—Canada and Bermuda/Bahamas/Caribbean (Revalidating and Amending).	1
R-18	084l	TC1 14-Day Group Inclusive-Tour Fares—Netherlands Antilles (Revalidating and Amending).	1

[21] Pan American's forecast was adjusted to exclude anticipatory rather than actual fuel cost increases, as well as increases in aircraft rentals, insurance, depreciation, and amortization expense attributed to decreased aircraft utilization supposedly resulting from a reduced level of operations forecast for 1974. These adjustments result in an indicated 10.5 percent rate of return. Further adjustments to either (a) eliminate the elasticity factor in the carrier's computations (and thus render them parallel to Braniff's) or (b) reduce capacity in proportion to forecast reduced traffic, show a return of 12.5 percent. As noted previously, Braniff's filings here include no investment data, but the Board's quarterly Interim Financial Report for the year ended December 31, 1973, shows Braniff's corporate rate of return in international operations as 18.47 percent. Application of data included in Braniff's justifications indicates that this would decline slightly, to 17.4 percent, in calendar 1974, with the proposed fare increases in effect (or 15.9 percent without the increases).

[22] Year ended January 1974, as reported in Form 41 data.

Agreement CAB	IATA No.	Title	Application
R-19	084j	TC1 14-Day Group Inclusive-Tour Fares—Venezuela (Revalidating and Amending).	1
R-20	084jj	TC1 5-Day Group Inclusive-Tour Fares-Venezuela (Ravalidating and Amending).	1
R-23	310	Free Baggage Allowance (Revalidating and Amending)	1
R-24	311b	Charges for Sporting Equipment (New)	1
24207:			
R-1	001b	Special Effectiveness Resolution (Tie-In)	1
R-2	001p	Special Escape Resolution Chicago-Mexico City/Acapulco (New)	1
R-3	001ee	Special Effectiveness Resolution (USA/Canada-Mexico) (New)	1
R-4	001ss	Special Escape for TC1 Agreement (New)	1
R-5	002	Standard Revalidation Resolution	1
R-6	051	TC1 First-Class Fares	1
R-7	060	Economy-Class Conditions of Service (Revalidating and Amending)	1
R-8	061	TC1 Economy-Class Fares	1
R-9	070aa	TC1 Excursion Fares USA/Canada-Mexico (New)	1
R-11	080s	TC1 21-Day Individual Inclusive-Tour Fares USA-Mexico (New)	1
R-13	311c	Charges for Sporting Equipment (New)	1

Agreement CAB	IATA Resolution
24267:	
R-1	100(Mail 947)551.
R-2	JT12(Mail 835)554b.

2. It is not found that the following resolutions, to the extent they would establish fares other than between Los Angeles, San Francisco, San Diego, Portland and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, and which are incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject to the conditions hereinafter stated:

Agreement CAB	IATA No.	Title	Application
24179:			
R-21	084LL	TC1 Group Inclusive-Tour Fares Caribbean-Mexico (New)	1
24207:			
R-10	076aa	TC1 Affinity and/or Own Use Group Fares USA-Mexico (Hew)	1
R-12	084ee	TC1 Group Inclusive-Tour Fares USA/Canada-Mexico (New)	1
24290	084ee	Expedited Resolution 084ee TC1 Group Inclusive-Tour Fares USA/Canada-Mexico (Amending).	1

Provided that with respect to Resolutions 084LL and 084ee: (a) The provisions which at departure would permit a lesser number of passengers than that prescribed by the resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group, and the balance of the group may travel at no added cost;

(b) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin;

(c) The amount of the forfeiture to be imposed in the event of cancellation by the group or members of the group prior to or at departure time for any reason shall not exceed 25 percent of the fare paid and after departure the forfeiture shall not exceed 25 percent of the excess of the price of the group-fare ticket over the cost of normal-fare transportation from point of origin to point of cancellation.

Provided that with respect to Resolution 076aa:

(a) The provision which at departure time would permit a lesser number of passengers than that prescribed by the resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group, and the balance of the group may travel at no added cost;

(b) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin;

(c) The amount of the forfeiture to be imposed in the event of cancellation by the group or members of the group prior to or at departure time for any reason shall not exceed 25 percent of the fare paid and after departure the forfeiture shall not exceed 25 percent of the excess of the price of the group-fare ticket over the cost of normal-fare transportation from the point of origin to the point of cancellation;

(d) Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to travel; and

(e) Full refund of the group fares paid shall be made in the event of cancellation of travel arrangements by a carrier on the ground that the group or any member of the group is ineligible for the group fares.

3. It is not found that the following resolutions, incorporated in the agreements indicated, affect air transportation as defined by the Act:

Agreement CAB	IATA Resolution
24088:	
R-13	100(Mail 935)075l
R-14	100(Mail 935)075L
R-19	100(Mail 935)084v
R-20	100(Mail 935)084w
24136:	
R-1	100(Mail 940)070cc

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Agreement CAB	IATA No.	Title	Application
24179:			
R-11	075s	TC1 Intra-Caribbean 16-Day Group Excursion Fares (Revalidating and Amending).	
R-16	060o	TC1 21-Day Individual Inclusive-Tour Fares from Bermuda/Bahamas to Mexico (Revalidating and Amending).	1
R-17	060r	TC1 2/8-Day Individual Inclusive-Tour Fares Jamaica—Panama (New).	1
R-22	092o	TC1 Intra-Caribbean Youth Fares (Revalidating and Amending)	1

4. It is found, on a tentative basis, that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA Resolution
24088:	
R-2	100(Mail 935)001kk
R-6	100(Mail 935)061 1
R-8	100(Mail 935)061 1
R-11	100(Mail 935)070ee
R-12	100(Mail 935)071f
R-15	100(Mail 935)076a
R-16	100(Mail 935)084e
R-17	100(Mail 935)084m
R-18	100(Mail 935)084s
R-21	100(Mail 935)096d
R-22	100(Mail 936)071f
R-23	100(Mail 936)076a
R-24	100(Mail 936)084e

Agreement CAB	IATA No.	Title	Application
24139	005xx	Special Fares Adjustment Resolution (New)	1 (U.S.-Colombia/Central America).

5. It is found, on a tentative basis, that the following resolutions, to the extent they would establish fares between Los Angeles, San Francisco, San Diego, Portland and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand, and which are incorporated in Agreement C.A.B. 24207 as indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
24207:			
R-3	001ee	Special Effectiveness Resolution (USA/Canada-Mexico) (New)	1
R-5	002	Standard Revalidation Resolution	1
R-6	051	TC1 First-Class Fares	1
R-8	061	TC1 Economy-Class Fares	1
R-9	070aa	TC1 Excursion Fares USA/Canada-Mexico (New)	1
R-10	076aa	TC1 Affinity and/or Own Use Group Fares USA-Mexico (New)	1
R-12	084ee	TC1 Group Inclusive Tour Fares USA/Canada-Mexico (New)	1

Accordingly, it is ordered, That:

1. Those portions of Agreements C.A.B. 24088, C.A.B. 24136, C.A.B. 24179, C.A.B. 24207, and C.A.B. 24267 specified in finding paragraph 1 above be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreements C.A.B. 24179, C.A.B. 24207, and C.A.B. 24290 specifide in finding paragraph 2 above be and hereby are approved subject to the conditions stated therein;

3. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 24088, C.A.B. 24136, and C.A.B. 24179 specified in finding paragraph 3 above;

4. Those portions of Agreements C.A.B. 24088, C.A.B. 24139 and C.A.B. 24207 specified in finding paragraphs 4 and 5 above be and hereby are disapproved, on a tentative basis, such disapproval to become final on May 30, 1974 absent submission of further justification by the affected air carriers and/or foreign air carriers on or before May 15, 1974;

5. Tariffs implementing those portions of Agreements C.A.B. 24136, C.A.B. 24207, and C.A.B. 24290 specified in finding paragraphs 1 and 2 above shall be marked to expire not later than March 31, 1975;

6. Tariffs implementing Agreement C.A.B. 24179, R–1 through R–3, R–5 through R–18, and R–20 through R–24, shall be marked to expire not later than April 14, 1975; and

7. Tariffs implementing Agreement C.A.B. 24179, R–19, shall be marked to expire not later than April 30, 1975.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–10062 Filed 5–2–74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COLOMBIA

Entry or Withdrawal From Warehouse for Consumption

APRIL 30, 1974.

Under the Bilateral Cotton Textile Agreement of June 15, 1971, between the Governments of the United States and Colombia, the Government of Colombia has undertaken to limit exports of cotton textiles and cotton textile products to the United States to certain designated levels. Pursuant to this agreement, an administrative mechanism has been established which is intended to preclude circumvention of the licensing system for exports to the United States from Colombia. The purpose of this notice is to announce the implementation of this administrative mechanism.

Effective June 3, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products produced or manufactured in Colombia and exported to the United States from Colombia on and after that date for which Colombia has not issued an appropriate export visa, fully described below, will be prohibited. Application of this visa system to cotton textiles and cotton textile products exported from Colombia before the date of publication is to become effective July 2, 1974.

The visa will be a stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, or other successor document, or commercial invoice when such form is used), and will bear the signature of the official issuing the visa. The officials authorized to issue such visas are the following: Eduardo Paez Velasquez, Antonio Ernesto Beltran Candia, Ricardo Rafael Restrepo Diaz, Raul Farello P., Fernando Anchique V., Jaime Neira Baena, Ramiro Valencia Lopez, Carlos Lozano Angel, Rafaela Vergara Echavez, Joaquin Gutierrez Isaza, Gloria Mercedes Velásquez Latorre, Manuel Arturo Posada Gutierrez, Hernan Toro Franco, Humberto Gomez Diaz, Jaime Arroyave Gomez, Jesus Gomez Jaramillo, Julian Contreras Triviño, Telena de Florez, and Jaime Ospina Duque. A facsimile of the stamp, along with the signatures of the above officials, are filed as a part of the original document with the office of the FEDERAL REGISTER.

Interested parties are advised to take all necessary steps to assure that cotton textiles and cotton textile products produced or manufactured in Colombia which are to be entered into the United States for consumption or withdrawn from warehouse for consumption will meet the stated visa requiremonts.

There is published below a letter of April 30, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements, to the Commissioner of Customs implementing the administrative mechanism.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229:

APRIL 30, 1974.

DEAR MR. COMMISSIONER: Pursuant to paragraph 13 of the Bilateral Cotton Textile Agreement of June 15, 1971, between the Governments of the United States and Colombia, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective June 3, 1974, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Colombia for which Colombia has not issued an appropriate visa, fully described below, provided, however, that the aforestated cotton textiles and cotton textile products produced or manufactured in Colombia and exported therefrom prior to the date of publication shall not be denied entry until 60 days following the date of publication.

The visa will be a stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, or other successor document, or commercial invoice when such form is used), and will bear the signature of an official authorized to issue visas. A facsimile of the stamp along with the names of the officials authorized to issue visas are enclosed.

You are further directed to allow entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton textiles and cotton textile products produced or manufactured in Colombia and exported to the United States from Colombia, notwithstanding the designated shipment or shipments do not meet the aforementioned visa requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Colombia and with respect to imports of cotton textiles and cotton textile products from Colombia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74–10233 Filed 5–2–74;8:45 am]

CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN

NOTICE OF MEETING

Notice is hereby given of a meeting to be held by the Citizens' Advisory Council on the Status of Women established by Executive Order 11126 of November 1, 1963.

The meeting will begin on May 10, 1974, at 9:30 a.m., in Room 210 C and D, lower level of the Department of Labor Building, 14th and Constitution Avenue NW., Washington, D.C. The meeting will reconvene at 9:30 a.m. on May 11 in the Council Room of the Washington Hotel, 15th and Pennsylvania Avenue NW., Washington, D.C.

During the course of the meeting the following subjects will be discussed in the following order: Women's Stake in National Health Insurance, Status Report on Women in the Military, Use of Women's Own Name After Marriage, International Women's Year, and Recommendations and Future Program.

Members of the public are invited to attend the proceedings.

Any written data, views, or arguments received by the Council's executive secretary concerning the subjects to be considered on or before May 7, 1974, together with 25 duplicate copies will be provided to the members and will be included in the minutes of the meeting.

Interested persons wishing to address the Council at the meeting should submit a request to be heard to the executive secretary no later than May 7, 1974, stating the nature of their intended presentation and the amount of time they will need. At the commencement of the meeting, the chairperson will announce the extent to which time will permit the granting of such requests.

Communications to the executive secretary should be addressed as follows:

Catherine East, Executive Secretary, Citizens' Advisory Council on the Status of Women, Room 1336, Department of Labor Building, Washington, D.C. 20210.

Signed at Washington, D.C., this 30th day of April 1974.

CATHERINE EAST,
Executive Secretary.

[FR Doc.74–10205 Filed 5–2–74;8:45 am]

CIVIL RIGHTS COMMISSION

IOWA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa State Advisory Committee (SAC) to this Commission will convene at 11 a.m. on May 7, 1974, at the Ramada Inn, 116 Kenyon, Fort Dodge, Iowa 50501.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Central States Regional Office of the Commission, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting shall be to plan for the release of the Iowa SAC Report entitled "Racial Problems in Fort Dodge, Iowa."

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 24, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74–10174 Filed 5–2–74;8:45 am]

MASSACHUSETTS STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Massachusetts State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on May 8, 1974, at the Parker House, 60 School Street, Boston, Massachusetts 02108.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to hold a final briefing session in preparation for the May 15–16 factfinding meeting on equal employment opportunities in the State of Massachusetts.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 29, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74–10175 Filed 5–2–74;8:45 am]

MASSACHUSETTS STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Massachusetts State Advisory Committee (SAC) to this Commission will convene at 9 a.m. on May 15 and reconvene at 9 a.m. on May 16, 1974, at the John McCormack Post Office and Court House, No. 1 Post Office Square, Devonshire and Milk Streets, Boston, Massachusetts 02109. These sessions shall be open to the public.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, national origin or in the

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administration of justice which affect persons residing in the State of Massachusetts with special emphasis on equal employment opportunities in the State; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, national origin or in the administration of justice as these pertain to equal employment opportunities in the State of Massachusetts; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, national origin or in the administration of justice with respect to equal employment opportunities in the State of Massachusetts; and to related areas.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 29, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-10176 Filed 5-2-74;8:45 am]

NEW MEXICO STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the New Mexico State Advisory Committee (SAC) to this Commission will convene at 1 p.m. on May 9, and reconvene at 9 a.m. on May 10, 1974, at the State Personnel Office, 130 South Capitol Street, Santa Fe, New Mexico 87501. These sessions shall be open to the public.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, or the administration of justice with special emphasis on equal employment opportunities in the State of New Mexico as they relate to the civil rights of American Indians; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, or the administration of justice as these pertain to equal employment opportunities in the State of New Mexico as they relate to the civil rights of American Indians; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, national origin, or the administration of justice with respect to equal employment opportunities in the State of New Mexico as they relate to the civil rights of American Indians; and to related areas.

A planning meeting of the Texas State Advisory Committee will convene at 6:30 p.m. on May 8, 1974, at the Airport Marina, 2910 Yale Boulevard, Albuquerque, New Mexico 87107. Persons wishing to attend this meeting should contact the Committee Chairman, or the Southwestern Regional Office of the Commission, Room 231, New Moore Building, 106 Broadway, San Antonio, Texas 78205. The purpose of this meeting shall be to hold a final briefing session in preparation for the May 9–10 factfinding meeting on equal employment opportunities in the State of New Mexico as they relate to the civil rights of American Indians.

These meetings will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., April 26, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-10177 Filed 5-2-74;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York State Advisory Committee (SAC) to this Commission will convene at 4 p.m. on May 28, 1974, at the Phelps Stokes Fund, 10 East 87 Street, New York, New York 10028.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to discuss briefing plans for a proposed SAC factfinding meeting on Social Services in the Asian Community.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 25, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-10178 Filed 5-2-74;8:45 am]

OHIO STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio State Advisory Committee (SAC) to this Commission will convene at 10:00 a.m. on May 18, 1974, at The Neil House, 41 South High Street, Columbus, Ohio 43215.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be to discuss the first draft of the Ohio prison project report.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 29, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-10179 Filed 5-2-74;8:45 am]

WASHINGTON STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meting of the Washington State Advisory Committee (SAC) to this Commission will convene at 10 a.m. on May 17, 1974, in the Pacific Evergreen Room, Olympic Hotel, Fourth and Seneca Streets, Seattle, Washington 98101.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting shall be to discuss the release of a Washington SAC report entitled "Report on Indian Education—State of Washington."

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 24, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-10180 Filed 5-2-74;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, May 15, 1974, to continue discussions on the fiscal year 1975 comparability adjustment for the statutory pay systems of the Federal Government.

In accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, it was determined by the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission, who serve jointly as the President's Agent for the purposes of the Federal pay comparability process, that this meeting of the Federal Employees Pay Council would not be open to the public.

For the President's Agent:

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.74-10115 Filed 5-2-74;8:45 am]

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, May 8, 1974, to continue discussions on the fiscal year 1975 comparability adjustment for the statutory pay systems of the Federal Government.

In accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, it was determined by the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission, who serve jointly as the President's Agent for the purposes of the Federal pay comparability process, that this meeting of the Federal Employees Pay Council would not be open to the public.

For the President's Agent:

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc. 74-10116 Filed 5-2-74;8:45 am]

COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

REVISED NOTICE OF MEETINGS

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Commission on the Review of the National Policy Toward Gambling, established under the authority of section Pub. L. 91–452, Part D, sec. 804–808 of the Organized Crime Control Act of 1970, will meet on May 15, 1974, in Room 457 of the Russell Senate Office Building, Washington, D.C., at 9:30 a.m. with the Department of Justice and at 2 p.m. with the Internal Revenue Service for the purpose of holding hearings. The reason for this Revised Notice is that Mr. Donald C. Alexander, Commissioner of the Internal Revenue Service, and other Internal Revenue Service personnel, will present testimony which they would be unable to do on May 8, 1974.

The purpose of these hearings will be to enable the Commission to explore the experiences of the Department of Justice and the Internal Revenue Service concerning their investigations and prosecution of gambling activities pursuant to those Federal statutes governing the prohibition and taxation of gambling activities. Representatives from these agencies will present statistical information relating to existing enforcement practices and in addition will offer testimony as to any recommendations they may have which in their opinion may serve to improve the effectiveness of the said existing practices.

The Hearings of the Commission will be open to the public, and interested persons are invited to attend. The rules of procedure for person or persons presenting matters to the Commission are subject to the following conditions:

(a) Any such interested person or persons must receive authorization to present such matters from the Chairman of the Commission. Not later than seven (7) days preceding such Executive or Public Hearings, a request for such authorization must be received in writing at the offices of the Commission. Such a request shall be accompanied by a concise description of the material which such person or persons desire to present to the Commission or Subcommittee.

(b) The Chairman of the Commission shall, within three (3) days from the receipt of such a request make a determination that the subject matter presented by such interested person or persons is timely and appropriate for such Executive or Public Hearings of the Commission or Subcommittee thereof, and shall notify such interested person or persons by Certified Mail of the decision.

(c) In the event such interested person or persons are allowed to present matters to the Commission or Subcommittee thereof in Executive or Public Hearings, then a prepared written statement of expected presentation shall be filed in the office of the Commission, not later than 48 hours in advance of the hearings of which the statement is to be presented.

(d) After the receipt of the statement of expected presentation, the Chairman shall then make a determination of the extent that time is available for such interested person or persons to present oral statements in addition thereto. In the event that the Chairman determines that time is not available for such oral statements, the interested person or persons' statement shall be recorded and made a part of the subject proceedings.

(e) Provided further that any such interested person or persons who feel aggrieved by or takes exception to any of the determinations made by the Chairman of the Commission shall have the opportunity to present in writing to each member of the Commission the basis for such grievance or exception taken to such ruling by the Chairman and thereafter the decision of the Chairman shall be reconsidered by each member of the Commission at its next regular meeting or hearing. Notice by Certified Mail to such interested person or persons shall include the final decision of the full Commission on its reconsideration and shall constitute notification of the action taken by the Commission.

(f) Any deviation from the preceding requirements, shall constitute on the part of such interested person or persons, a withdrawal of any request previously made.

JAMES E. RITCHIE,
Executive Director.

[FR Doc.74-10241 Filed 5-2-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/51]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 2, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 2, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 12519-R. Aerochem, Inc., 1809 English Street, High Point, North Carolina 27260. *Aerochem Pool Algaecide.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene (dimethyliminio)-ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 12519-E. Aerochem, Inc., 1809 English Street, High Point, North Carolina 27260. *Aerochem Pool Algaecide Concentrate.* Active Ingredients: Poly-[oxyethylene(dimethyliminio) ethylene-

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(dimethyliminio) - ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34144–R. Anderson Water Engineering Co., 843 West Monroe Street, Chicago, Illinois 60607. *Chemitrol Algaecide.* Active Ingredients: Poly[oxyethylene-(dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34136–R. Aqua-Lyte Inc., 42 Weatherstone Parkway, Marietta, Georgia 30062. *Slimicide 30.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) - ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34136–E. Aqua-Lyte Inc., 42 Weatherstone Parkway, Marietta, Georgia 30062. *Algaecide B.* Active Ingredients: Poly[oxyethylene(dimethylimonio) ethylene-(dimethyliminio)ethylene dichloride] 12.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34136–G. Aqua-Lyte Inc., 42 Weatherstone Parkway, Marietta, Georgia 30062. *Algaecide A.* Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio)ethylene dichloride] 8.57%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34136–U. Aqua-Lyte Inc., 42 Weatherstone Parkway, Marietta, Georgia 30062. *Slimicide 15.* Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34136–A. Aqua-Lyte Inc., 42 Weatherstone Parkway, Marietta, Georgia 30062. *Slimicide 20.* Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34136–L. Aqua-Lyte Inc., 42 Weatherstone Parkway, Marietta, Georgia 30062. *Slimicide 12.* Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 12.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 467–EN. Barton Chemical Corporation, 5331 West 66th Street, Chicago, Illinois 60638. *Algae-Trol.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene (dimethyliminio ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 467–RO. Barton Chemical Corporation, 5331 West 66th Street, Chicago, Illinois 60638. *Algae-Trol Concentrate.* Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 21779–R. California Pool Service, Inc., 8802 Daffodil Street, Houston, Texas 77042. *Bio-Chlor Algaecide Concentrate.* Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 31964–G. Gessco Sales Division, Gulf Engineering, Co., Inc., 1000 South Peters, New Orleans, Louisiana 70130. *Gesscocide 30.* Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 6799–I. Griffin Chemical Co., 1326 South 7th Street, Louisville, Kentucky 40206. *W–60 Algeacide.* Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)-ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5905–URN. Helena Chemical Company, Clark Tower, 5100 Poplar Avenue, Suite 2900, Memphis, Tennessee 38137. *M–50 Methoxychlor Insecticide Wettable Powder.* Active Ingredients: Methoxychlor, Technical 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905–UNO. Helena Chemical Company, Clark Tower, 5100 Poplar Avenue, Suite 2900, Memphis, Tennessee 38137, *Helena Brand Soil Fumigant 12.1 C.* Active Ingredients: 1,2-Dibromo-3-Chloropropane 81.7%; Other Halogenate C_3 Compounds 4.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33733–R. HVAC Services, Inc., 2011 Greenspring Drive, Timonium, Maryland 21093. *HVAC Algaecide #101.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) - ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5967–RRO. Moyer Chemical Comany, 1310 Bayshore Highway, P.O. Box 945, San Jose, California 95108. *Omite Dust No. 4.* Active Ingredients: 2-(p-tert-butylphenoxy) cyclohexyl 2-propynyl sulfite 4.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5967–RRI. Moyer Chemical Company, 1310 Bayshore Highway, P.O. Box 945, San Jose, California 95108. *Moyer Chemical Ethion 25 WP.* Active Ingredients: Ethion 25.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34140–R. Pan American Chemical Co., 5702 East Admiral Boulevard, Tulsa, Oklahoma 74115. *AG–X.* Active Ingredients: Poly[oxythylene(dimethylene (dimethyliminio) ethylene(dimethyliminio)ethylene(dimethyliminio) - ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34140–E. Pan American Chemical Co., 5702 East Admiral Boulevard, Tulsa, Oklahoma 74115. *Algae Ban.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene - (dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34138–R. Patio Pools, Inc., 3413 East Greenridge Street, Houston, Texas 77027. *Patio Pool Algaecide Concentrate.* Active Ingredients: Poly[oxyethylene-(dimethyliminio)ethylene (dimethyliminio)-ethylene dichloride] 40.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34138–E. Patio Pools, Inc., 3413 East Greenridge Street, Houston, Texas 77027. *Patio Pool Algaecide.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) - ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 438–AE. State Chemical Company, P.O. Drawer No. 310, 100 Houston Street, Amarillo, Texas 79105. *Staco-Cide.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio) - ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 438–AR. State Chemical Company, P.O. Drawer No. 310, 100 Houston Street, Amarillo, Texas 79105. *Staco-Algicide Concentrate.* Active Ingredients: Poly-[oxyethylene(dimethyliminio)ethylene(dimethyliminio) -ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

REPUBLISHED ITEMS

The following item represents a correction and/or change in the list of Applications Received previously published in the FEDERAL REGISTER of April 4, 1974 (39 FR 12283).

EPA Reg. No. 359–620. Chipman Division of Rhodia, Inc., 120 Jersey Avenue, P.O. Box 2009, New Brunswick, New Jersey 08903. *Zolone EC* . . . Method of Support: Application proceeds under 2(c) of interim policy. Correction: Originally published as proceeding under 2(b) of interim policy.

The following item represents a correction and/or change in the list of Applications Received previously published in the FEDERAL REGISTER of April 24, 1974 (39 FR 14541).

EPA File Symbol 3640–TE. Stearns Chemical Corporation, 4200 Sycamore Avenue, Madison, Wisconsin 53704. *Banquet BFC–13 Liquid Iodine Bearing Detergent/Sanitizer.* Correction: Originally published as *Banquet BFC–13 Liquid Iodine Bearing Betergent/Sanitizer.*

Dated: April 26, 1974.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.74–10049 Filed 5–2–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Canadian List No. 522—April 16, 1974

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		580 kHz							
CHLC (correction to coordinates).	Hauterive, Quebec, N. 49°10'34", W. 68°18'41".	5D/2.5N	DA-2	U	III				
		800 kHz							
CHAB (correction to antenna system).	Moose Jaw, Saskatchewan, N. 50°23'55", W. 105°42'10".	10	DA-N ND-D-*180*	U	II				
		1280 kHz							
CHQB (correction to coordinates).	Powell River, British Columbia, N. 49°48'10", W. 124°36'10".	1	DA-1	U	III				
		1280 kHz							
CJMS (now in operation)	Montreal, Quebec, N. 45°19'31", W. 73°32'55".	50	DA-2	U	III				
		1290 kHz							
(New)	Matane, Quebec, N. 48°48'01", W. 67°37'03".	10	DA-2	U	III				E.I.O. 4-16-75.
		1350 kHz							
CJCR (now in operation)	Gander, Newfoundland, N. 48°58'30", W. 54°36'47".	1	ND-185	U	III	135	120	283	
		1490 kHz							
CJMC (assignment of call letters).	Ste-Anne-des-Monts, Quebec, N. 49°09'08", W. 66°26'14".	1D/0.25N	ND-190	U	IV	165	120	264	

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74–10058 Filed 5–2–74;8:45 am]

[Report No. 698]

COMMON CARRIER SERVICES INFORMATION [1]

Applications Accepted for Filing [2]

APRIL 29, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21255–C2–AL–74—Estate of Otis J. Stanley. Consent to Assignment of License from Estate of Otis J. Stanley, ASSIGNOR to Answer Iowa, Inc., ASSIGNEE, Station: KWH325, Davenport, Iowa.

21256–C2–AL–74—Estate of Otis J. Stanley. Consent to Assignment of License from Estate of Otis J. Stanley, ASSIGNOR to Answer Iowa, Inc., ASSIGNEE, Station: KAF642, Davenport, Iowa.

21257–C2–P–(4)–74—A Plus Communications of Puerto Rico, Inc. d/b as Caribbean Mobile Telephone Systems (NEW). C.P. for a new 2-way station to operate on 454.150, 454.225, 454.050, and 454.100 MHz to be located at Intersection of Avenida Pinero and Avenida San Patrico, Caparra Heights, Puerto Rico.

21258–C2–MP–(2)–74—Owen W. Hand (KUO 645). C.P. to replace transmitter operating on 152.12 MHz and for additional facilities to operate on 152.18 MHz located at Avalon Blvd., Swainton, New Jersey.

21259–C2–P–74—Berkshire Communicators, Inc. (KCA237). C.P. for additional facilities to operate on 152.09 MHz to be located at a new site described as Loc. No. 3: Mohawk Trail, near Eastern edge of City Limits, North Adams, Massachusetts.

21260–C2–P–(2)–74—Lett Electronics, Inc. (KEK275). C.P. for additional facilities to operate on 454.225 and 454.350 MHz at Loc. No. 1: 800 N. Halstead, Hutchinson, Kansas.

21261–C2–P–(4)–74—Dee Wetmore d/b as Westside Answering Service (KFL877). C.P. to change antenna system operating on 454.025 MHz and for additional facilities to operate on 454.050, 454.100, and 454.125 MHz located at 3717 Spruce Street, Tampa, Florida.

21262–C2–P–74—RCC of Virginia, Inc. (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located at Sunnyside, Winchester, Virginia.

21263–C2–P–74—RCC of Virginia, Inc. (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located .44 mile SSE. of Lynchburg, Virginia.

21264–C2–P–74—Byron W. White, d/b as Band Communications (NEW). C.P. for a new 2-way station to operate on 152.21 MHz to be located at North End of Ganett Street, Athens, Texas.

21265–C2–P–74—Continental Telephone Company of California (KMA746). C.P. for additional facilities to operate on 152.57 MHz located 5 miles SW. of Tupman, California.

21266–C2–TC–74—Electro-Craft, Inc. Consent to Transfer of Control from Estate of Jack A. Crowley, deceased, ASSIGNOR, to Executrix of the estate of Jack A. Crowley, Orel

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

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E. Crowley, ASSIGNEE. Station: KOP323, Rapid City, South Dakota.

21267–C2–P–74—Marathon Mobil Phone (KTS248). C.P. to change frequency from 152.12 MHz to 152.03 MHz located at 5996 Overseas Highway, Marathon, Florida.

21268–C2–P–(2)–74—Mobilfone Communications, Inc. (NEW). C.P. for a new 2-way station to operate on 454.325 and 454.350 MHz to be located at Hwy. 81, 1.3 miles NE. of San Marcos, Texas.

21269–C2–P–(4)–74—Answer, Inc. of San Antonio (KKG559). C.P. for additional facilities to operate on 454.150, 454.200, 454.250, and 454.350 MHz at KWEX–TV Tower, 411 W. Durango Blvd., San Antonio, Texas, Loc. No. 1.

21270–C2–P–74—Pacific Northwest Bell Telephone Company (KOF904). C.P. to change antenna system operating on 152.63 MHz located at Ortly Ridge, 6.2 miles NW. of the Dalles, Oregon.

21271–C2–P–74—Airsignal International, Inc. (KKG411). C.P. to relocate facilities operating on 152.12 MHz at Loc. No. 2: to Southland Life Building, Dallas, Texas.

21272–C2–P–74—P. L. Woodbury, d/b as Mobilfone of Kansas (NEW). C.P. for a new 1-way station to operate on 152.24 MHz located 2 miles East of McPherson, Kansas.

21273–C2–P–(6)–74—Rogers Radio Communications Service, Inc. (KSC644). C.P. to relocate facilities, change antenna system, and replace transmitters operating on 43.22 and 43.58 MHz at Loc. No. 1: 1 IBM Plaza, Chicago, Illinois; add antenna location No. 2 to operate on 43.22 and 43.58 MHz to be located at 143rd Street and State Road, Lockport, Illinois; and add antenna location No. 3 to operate on 43.22 and 43.58 MHz to be located at 5110 Tollview Road, Rolling Meadows, Illinois.

21274–C2–P–74—Waco Communications, Inc. (NEW). C.P. for a new 2-way station to operate on 152.12 MHz to be located 1 mile NNW. of Hamilton, Texas.

21275–C2–P–74—Polar Rural Telephone Mutual Aid Corporation (KAH671). C.P. for additional facilities to operate on 152.51 MHz located 2.5 miles NW. of Lankin, North Dakota.

21277–C2–P–74—Area-Wide Paging System, Inc. (KQK593). C.P. for additional facilities to operate on 43.58 MHz located at 50 Public Square Terminal Tower Building, Cleveland, Ohio.

21278–C2–P–74—South Central Bell Telephone Company (NEW) (Air-Ground). C.P. for a new air-ground station to operate on 454.850 base to be located at 3951 Erato Street, New Orleans, Louisiana.

21279–C2–P–74—Road Runner Radio Paging Service, Inc. (KKN282). C.P. for additional facilities to operate on 152.21 MHz located at East Mountain, 8 miles NW. of Longview in Upshur County, Texas.

21280–C2–P–74—Earl R. Law & Bart E. Gonzalez, d/b as Am-Tex Dispatch Service (KTS259). C.P. to relocate facilities and change antenna system and replace transmitter operating on 152.24 MHz to be located at 6th & Tayler, Amarillo, Texas.

21281–C2–P–(3)–74—Radio Enterprises of Ohio, Inc. (NEW). C.P. for a new 1-way station to operate on 35.33 MHz at three locations: Loc. No. 1: Jefferson Road, Ashtabula, Ohio; Loc. No. 2: 84 North State Street, Painesville, Ohio; and Loc. No. 3: 111 Water Street, Chardon, Ohio.

21284–C2–P–(2)–74—RCC of Virginia, Inc. (KLF465). C.P. for additional facilities to operate on 152.12 and 152.18 MHz to be located .44 mile SSE. of Lynchburg, Virginia.

21285–C2–P–74—Earl R. Law & Bart E. Gonzalez, d/b as Am-Tex Dispatch Service (KLB564). C.P. for additional facilities to operate on 152.03 MHz located at 1800 West Second Street, Amarillo, Texas.

21286–C2–P–74—Farmers' Mutual Telephone Company (KBM520). C.P. to change antenna system and replace transmitter operating on 152.63 MHz located 2 miles North of Rockford, Iowa.

21282–C2–P–74—DPRS, Inc., trading as Zipcall (KCB890). C.P. to add standby facilities to operate on 43.58 MHz at Loc. No. 7: Asnebumskit Hill, 2.6 miles East of Paxton, Mass.

MAJOR AMENDMENTS

20878–C2–P–74—Mobilefone Service, Inc., Ponca City, Oklahoma. Amend base frequency 152.12 to read 152.15. All other particulars are to remain as reported on PN 686, dated February 4, 1974.

20909–C2–P–(2)–74—L. M. Kelley, d/b as Seattle Radiotelephone Service (KOA733). Amend base frequency 454.225 to read 454.275 MHz. All other particulars to remain as reported on PN 687, dated February 11, 1974.

20983–C2–P–(3)–74—Edward C. Smith d/b as Answerite Professional Telephone Service (KIY581). Amend to add a repeater station to operate on 2129.6 MHz at a location described as Route 526, 6 miles West of Orlando, Florida (Lat. 28°32'30" N., Long. 81°30'38" W.), and a control station to operate on 2179.6 MHz at a location described as 63 East Pine Street, Orlando, Florida (Lat. 28°32'25" N., Long. 81°22'41" W.). All other particulars to remain as reported on PN 697, dated March 22, 1974.

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations by reason of economic competition or potential electrical interference.

Telephone Communications, Inc., Waukegan, Illinois (NEW) 20219–C2–P–74.

In Touch Communications, Inc., Lake Geneva, Wisconsin (NEW) 20018–C2–P–(2)–74.

CORRECTIONS

20029–C2–P–(2)–74 on PN 658, dated July 23, 1973, is a major amendment to 8449–C2–P–(2)–73 on PN 650. All other particulars are to remain as reported on PN 650, dated May 29, 1973.

20032–C2–P–(3)–74—AAA Anserphone, Inc.-Jackson (NEW). Correct to read amend application file No. 20033–C2–P–74 to add additional facilities on frequencies 454.025, 454.250, and 454.300 MHz. All other particulars to remain as reported on PN 658, dated July 23, 1974.

Renewal of Licenses expiring April 1, 1974.

Term: April 1, 1974, to April 1, 1979.

Call sign

Licensee

Massachusetts

Berkshire Communicators, Inc.....KCA237

Texas

Navajo Communications Co., Inc....KSV948
Navajo Communications Co., Inc....KSV949

RURAL RADIO SERVICE:

60263–C6–P–74—Mountain States Telephone and Telegraph Company (NEW). C.P. for a new rural subscriber station to operate on 157.86 MHz to be located at Globe Ranch, 9.5 miles WSW. of Grand Canyon Village, Arizona.

60264–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 454.600 MHz located at White Alice Communication site at Mile 227, Richardson Highway; 38.5 miles South of Delta Junction, Black Rapids, Alaska.

60265–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 459.600 MHz located at Alyeska pipeline construction site at Mile 180, Richardson Highway; 42 miles South of Delta Junction, Pump Station No. 10, Alaska.

60266–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 454.425 MHz located at White Alice Communication site 9 miles west of Mile 164, Richardson Highway; 74 miles South of Delta Junction, Paxson, Alaska.

60267–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 459.425 MHz located at Alyeska pipeline construction site near Summit Lake Lodge at Mile 194, Richardson Highway, Paxson Camp, Alaska.

60268–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 454.575 MHz located at White Alice Communications site at Mile 189 Glen Highway, in Glennallen, Alaska.

60269–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 459.575 MHz located at Alyeska pipeline construction site at Mile 110 on Richardson Highway; 4 miles South of Glennallen, Glennallen Camp, Alaska.

60270–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 454.450 MHz located at Remote repeater site near Mile 88, Richardson Highway; 12 miles South of Copper Center, Stuck, Alaska.

60271–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 459.450 MHz to be located at Alyeska pipeline construction site at Mile 69 on the Richardson Highway; 42 miles South of Glennallen, Tonsina Camp, Alaska.

60272–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 454.650 MHz located at Alyeska pipeline construction site, near Mile 18 on Richardson Highway, 15 miles East of Valdez, Sheep Creek Camp, Alaska.

60273–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 459.650 MHz located at Remote repeater site near Hill 7067; 17.5 miles East of Valdez, Keystone, Alaska.

60274–C6–P–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new interoffice station to operate on 454.375 MHz located at Alyeska pipeline terminus construction site; 4 miles South of Valdez, Valdez Terminal, Alaska.

60275–C6–P/L–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new central office station to operate on 152.66 MHz located at Building T1, Cold Bay, Alaska.

60276–C6–P/L–74—RCA Alaska Communications, Inc. (NEW). C.P. for a new rural subscriber station to operate on 157.92 MHz located 43 miles NE. of Cold Bay, Cathedral River, Alaska.

60277–C6–P–74—RCA Alaska Communications, Inc. (WGF99). C.P. to change frequencies from 157.77 and 157.83 MHz to 157.95 and 158.01 MHz; relocate facilities, change antenna system, and replace transmitters located at Village Health Aid Office, White Mountain, Alaska.

60278–C6–P/L–74—RCA Alaska Communications, Inc. (WGG27). C.P. to relocate facilities, change antenna system, and replace transmitter operating on 157.95 and 158.01 MHz located at George Madro, Sr. Home, Kaltag, Alaska.

60279–C6–P/L–74—RCA Alaska Communications, Inc. (WOG23). C.P. to add facilities

to operate on 152.75 MHz, change antenna system operating on 454.450 and 454.65 MHz located 190 miles ESE. of Barrow, Frontier Camp, Alaska.

POINT TO POINT MICROWAVE RADIO SERVICE:

3863–C1–MP–74—Southern Pacific Communications Company (KEU95) Dallas, Texas. Lat. 32°42'30" N., Long. 96°44'56" W. Mod. C.P. to delete point of communication on freq. 5974.8V MHz towards Nevada, Texas, on azimuth 42°37'.

3864–C1–MP–74—Same (KEV45), Jonesboro, Arkansas. Lat. 35°47'34" N., Long. 90°44'-41" W. Mod. C.P. to delete point of communication on freq. 6004.5H MHz towards Fisher, Arkansas, on azimuth 212°54'.

3944–C1–P–74—The Mountain States Telephone and Telegraph Company (KPR48), 16 West Fourth Street, Hardin (Big Horn), Montana. Lat. 45°44'00" N., Long. 107°36'-24" W. C.P. to add freq. 11,075.0H MHz towards Fort Custer, Montana, via passive reflector.

3945–C1–P–74—Same (KPZ97), 20 miles SW. of Hardin (Big Horn), Montana, Lat. 45°-30'55" N., Long. 107°52'57" W. C.P. to add freq. 11,525.0H MHz towards Hardin, Montana, via passive reflector.

3946–C1–P–74—Southwestern Bell Telephone Company (KTQ97), 1408 Broadway, Lubbock (Lubbock), Texas. C.P. to add freq. 4030V MHz towards Slaton, Texas, on azimuth 110°41'.

3947–C1–P–74—Same (KTQ98), 5.4 miles NE. of Slaton (Lubbock), Texas. Lat. 33°29'46" N., Long. 101°34'13" W. C.P. to add freq. 4090H MHz towards Lubbock, Texas, on azimuth 290°50'.

3948–C1–P–74—Southern Bell Telephone and Telegraph Company (KJB50), 415 Clay Street, Jacksonville (Duval), Florida. Lat. 30°19'51" N., Long. 81°39'47" W. C.P. to change polarization from Horizontal to Vertical on freqs. 3770, 3850, 3930, 4010, 4090, and 4170 MHz towards Jacksonville Beach, Florida, on azimuth 96°18'.

3949–C1–P–74—Same (KJK61), Corner of North 3rd Street and North 17th Avenue, Jacksonville Beach (Duval), Florida. Lat. 30°18'18" N., Long. 81°23'47" W. C.P. to change polarization on freqs. 3730, 3810, 3890, 3970, 4050, and 4130 MHz towards Sampson Church, Florida, from Vertical to Horizontal on azimuth 201°08'; change polarization from Horizontal to Vertical on freqs. 3730, 3810, 3890, 3970, 4050, and 4130 MHz towards Jacksonville 2, Florida, on azimuth 276°26'.

3951–C1–P–74—Same (KJK63), 5.2 miles WSW. of Summer Haven (St. Johns), Florida. Lat. 29°39'30" N., Long. 81°18'02" W. C.P. to change polarization from Vertical to Horizontal on freqs. 3770, 3850, 3930, 4010, 4090, and 4170 MHz towards St. Augustine, Florida, on azimuth 350°34'; change polarization from Vertical to Horizontal on freqs. 3770, 3850, 3930, 4010, 4090, and 4170 MHz towards Flagler Beach, Florida, on azimuth 144°18'.

3952–C1–P–74—Southern Bell Telephone and Telegraph Company (KJK64), 0.75 mile West of City Limits of St. Augustine (St. Johns), Florida. Lat. 29°53'45" N., Long. 81°20'45" W. C.P. to change polarization from Horizontal to Vertical on freqs. 3730, 3810, 3890, 3970, 4050, and 4130 MHz towards Sampson Church, Florida, and from Vertical to Horizontal on freqs. 3730, 3810, 3890, 3970, 4050, and 4130 MHz towards Midway, Florida, on azimuth 170°33'.

3953–C1–P–74—Same (KJK65), 1.2 miles SW. of Flagler Beach (Flagler), Florida. Lat. 29°28'03" N., Long. 81°08'38" W. C.P. to change polarization from vertical to horizontal on freqs. 3730, 3810, 3890, 3970, 4050, and 4130 MHz towards Midway, Florida, on azimuth 324°22'; freq. 3730, 3810, 3890, 3970, 4050, and 4130 MHz from Horizontal to Vertical towards Daytona Beach, Florida, on azimuth 157°43'.

3954–C1–P–74—Same (KJK66), 268 N. Ridgewood Avenue, Daytona Beach, (Volusia), Florida. Lat. 29°12'53" N., Long. 81°01'33" W. C.P. to change polarization from horizontal to vertical on freqs. 3770, 3850, 3930, 4010, 4090, and 4170 MHz towards Flagler Beach, Florida, on azimuth 337°46'.

3966–C1–P–74—General Telephone Company of Indiana, Inc. (KSG61), 303 E. Berry Street, Fort Wayne (Allen), Indiana. Lat. 41°04'49" N., Long. 85°08'11" W. C.P. to change freqs., power, and replace transmitters to freqs. 6078.6H MHz towards Churubusco, Indiana, on azimuth 317°33'.

3967–C1–P–74—Same (KSI56), 0.06 Km ENE. of the intersection of roads US 33 and Indiana 205 in Churubusco (Whitley), Indiana. Lat. 41°13'50" N., Long. 85°19'07" W. C.P. to change freqs. power and replace transmitter to freqs. 6330.7H MHz towards Fort Wayne, Indiana, on azimuth 137°26'; freq. 6212.0H MHz towards Albion, Indiana, on azimuth 334°23'.

3968–C1–P–74—Same (KSI57), 0.08 Km SW. of intersection of roads, Indiana 8 and Indiana 9 in Albion (Noble), Indiana. Lat. 41°23'42" N., Long. 85°25'24" W. C.P. to change freq., power, and replace transmitter to freq. 5989.7H MHz towards Churubusco, Indiana, on azimuth 154°19'.

3969–C1–P–74—Pacific Northwest Bell Telephone Company (KOJ93), Joe Butte, 7 miles South of Kennewick (Benton), Washington. Lat. 46°06'13" N., Long. 119°07'43" W. C.P. to add freq. 3950V MHz towards Irrigon, Oregon, on azimuth 222°58'.

3970–C1–P–74—Same (KOQ86), 5 miles North of Skamania (Skamania), Washington. Lat. 45°41'02" N., Long. 122°04'13" W. C.P. to add freq. 3990V MHz towards Livingston Mountain, Washington, on azimuth 268°48'.

3971–C1–P–74—Pacific Northwest Bell Telephone Company (KOQ87), 3.3 miles SE. of Hood River (Hood River), Oregon. Lat. 45°41'00" N., Long. 121°27'52" W. C.P. to add freq. 3950V MHz towards Skamania, Washington, on azimuth 270° 101.

3972–C1–P–74—Same (KOQ38), 2.9 miles NW. of Moro (Sherman), Oregon. Lat. 45°30'58" N., Long. 120°46'45" W. C.P. to add freq. 3990V MHz towards Hood River, Oregon, on azimuth 289°25'.

3973–C1–P–74—Same (KOQ89), 2.5 miles NW. of Roosevelt (Klickitat), Washington. Lat. 45°45'51" N., Long. 120°14'31" W. C.P. to add freq. 3950V MHz towards Moro, Oregon, on azimuth 236°50'.

3974–C1–P–74—Same (KOQ90), Near Irrigon (Morrow), Oregon. Lat. 45°47'39" N., Long. 119°32'23" W. C.P. to add freq. 3990V MHz towards Roosevelt, Washington, on azimuth 266°45'.

3975–C1–P–74—Bell Telephone Company of Nevada (KPF95), Florida Canyon, 2.5 miles SE. of Humboldt (Pershing), Nevada. Lat. 40°34'23" N., Long. 118°13'29" W. C.P. to add freqs. 11,115V and 10,955V MHz towards Lovelock, Nevada, on azimuth 214°-42'; freq. 11,155V and 10,995V MHz towards Winnemucca, Nevada, via passive reflector.

3976–C1–P–74—Same (WIV57), 19 miles SW. of Lovelock (Churchill), Nevada. Lat. 39°59'55" N., Long. 118°44'27" W. C.P. to add freq. 11,405V and 11,565V MHz towards Florida Canyon, Nevada, on azimuth 34°22'.

3977–C1–P–74—Same (New), 102 Railroad Street, Winnemucca (Humboldt), Nevada. Lat. 40°58'13" N., Long. 117°43'52" W. C.P. for a new station on freqs. 11,605V and 11,-445V MHz towards Florida Canyon, Nevada, via passive reflector.

3978–C1–P–74—Southern Pacific Communications Company (New), 418 Duncan Avenue, Jersey City (Hudson), New Jersey. Lat. 40°43'58" N., Long. 74°05'12" W. C.P. for a new station on freq. 10,935V MHz towards New York, New York, on azimuth 78°28.'

3979–C1–MP–74—Same (KFM84), Empire State Building, 5th Avenue at 34th Street, New York (New York), New York. Lat 40°44'54" N., Long. 73°59'10" W. Mod. C.P. to add freq. 11,385H MHz towards a new point of Communication at Jersey City, New Jersey, on azimuth 258°32'.

3980–C1–P–74—General Telephone Company of Florida (KIO64), 1015 4th Avenue Bradenton (Manatee), Florida. Lat. 27°29'-46" N., Long. 82°34'23" W. C.P. to add freqs. 5960.0V MHz towards St. Petersburg, Florida, on azimuth 346°50'; freq. 5960.0V MHz towards Sarasota, Florida, on azimuth 168°27'.

3981–C1–P–74—General Telephone Company of Florida (KIO65), Corner of Pine Place & Bamboo Lane, Sarasota (Sarasota), Florida. Lat. 27°20'06" N., Long. 82°32'10" W. C.P. to add freq. 6212.1V MHz towards Bradenton, Florida, on azimuth 348°26'.

3982–C1–P–74—Same (KIY21), 830 Arlington Avenue, St. Petersburg (Pinellas), Florida. Lat. 27°46'19" N., Long. 82°38'44" W. C.P. to add freq. 6212.1V MHz towards Bradenton, Florida, on azimuth 166°46'.

3983–C1–P–74—Same (KIB48), 400 feet East of Lakeland, Highland Road, and 360 feet North of Seward Lake Drive, Highland City (Polk), Florida. Lat. 27°57'40" N., Long. 81°55'21" W. C.P. to add freqs. 5974.8V, 6034.2V, 6093.5V, 6152.8V and 2126.8H MHz towards a new point of communication at Lithia, Florida, on azimuth 243°10'; freq. 3730.0H, 3810.0H, 3890.0H, and 2117.2H MHz towards a new point of communication at Winter Haven, Florida, on azimuth 69°57'; freqs. 11,075.0V and 11,155.0V MHz towards a new point of communication at Lakeland, Florida, on azimuth 339°08'.

3984–C1–P–74—Same (KIL88), 519 Zack Street, Tampa (Hillsborough), Florida. Lat. 27°57'01" N., Long. 82°27'24" W. C.P. to add freqs. 5974.8H, 6093.5H, 6152.8H, 6004.5V, and 2122.0V MHz towards a new point of communication at Lithia, Florida on azimuth 112°26'.

3985–C1–P–74—Same (KIT47), 200 Avenue B, Northwest, Winter Haven (Polk), Florida. Lat. 28°01'24" N., Long. 81°43'48" W. C.P. to add freqs. 3770.0H, 3850.0H, 3930.0H, and 2167.2H MHz towards a new point of communication at Highland City, Florida, on azimuth 250°02'.

3986–C1–P–74—Same (WAD33), 120 East Line Street, Lakeland (Polk), Florida. Lat. 28°02'24" N., Long. 81°57'22" W. C.P. to add freqs. 11,605.0V and 11,685.0V MHz towards Highland City, Florida, on azimuth 159°07'.

3987–C1–P–74—Same (new), 1,150 feet on bearing 201°30' FTN from Lithia (Hillsborough), Florida. Lat. 27°50'49" N., Long. 82°10'33" W. C.P. for a new station on freqs. 6226.9H, 6345.5H, 6404.8H, 6256.5V, and 2172.0V MHz towards Tampa, Florida, on azimuth 292°34'; freqs. 6226.9V, 6286.2V, 6345.5V, 6404.8V, and 2167.8H MHz towards Highland City, Florida, on azimuth 63°03'.

4001–C1–AL–(7)–74—Northern Ohio Telephone Company. Consent to Assignment of Radio Station License from Northern Ohio Telephone Company, ASSIGNOR, to General Telephone Company of Ohio, ASSIGNEE; for stations KQG62-Norwalk, Ohio, KQK39-Genoa, Ohio; KQK40-Port Clinton, Ohio; KQK42–Willard, Ohio. KQO83-Medina, Ohio; KVU83-South Bass Iland, Ohio; KYJ41-Bowling Green, Ohio.

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4002–C1–MP–74—New Jersey Bell Telephone Company (KOA46), 703 Main Street, Paterson (Passaic), New Jersey. Lat. 40°54'11" N., Long. 74°09'58" W. Mod. C.P. to change freq. point of communication and replace transmitter to 7112.5V MHz towards Pan-Am Bldg., New York, on azimuth 136°5'.

4003–C1–P/ML–74—Southern Bell Telephone and Telegraph Company (KIU56), 45 North Magnolia Street, Orlando (Orange), Florida. Lat. 28°32'34" N., Long. 81°22'38" W. C.P. and Mod. of License to add freqs. 6404.8H towards a new point of communication at WSWB-TV Studio, Orlando, Florida, on azimuth 81°05'.

4004–C1–R–74—The Pacific Telephone and Telegraph Company (KMQ44). Any temporary location within the territory of the grantee. Application for Renewal of Radio Station License for Term: May 29, 1974, to May 29, 1975.

4005–C1–P–74—CPI Microwave, Inc. (New) (KDFW–TV Studio), 400 North Griffin Street, Dallas (Dallas), Texas. Lat. 32°46'56" N., Long. 96°48'11" W. C.P. for a new station on freq. 10,955.0V MHz towards Dallas, Texas, on azimuth 153°36'.

3552–C1–P–74—The Mountain States Telephone and Telegraph Company (KOV63), 228 West Adams Street, Phoenix (Maricopa), Arizona. Lat. 33°26'58" N., Long. 112°04'35" W. C.P. to change power, replace transmitter, and change polarization from horizontal to vertical on freq. 10,995 MHz towards White Tank Mountain, Arizona, on azimuth 286°28'.

3553–C1–P–74—Same (KPN84), Oat Mountain, 5 miles ESE. of Montezuma (Maricopa), Arizona. Lat. 33°03'05" N., Long. 113°08'10" W. C.P. to replace transmitter, change power, and change polarity on freq. 10,955 MHz to vertical towards White Tank Mountain, Arizona, on azimuth 430°03'; freqs. 10,755 and 10.995 MHz towards Gila Bend, Arizona, on azimuth 106°15'.

3554–C1–P–74—Same (KPN85), White Tank Mountain, 8 miles WSW. of Waddell, (Maricopa), Arizona. Lat. 33°34'04" N., Long. 112°33'30" W. C.P. to replace transmitter, change power, and polarization from horizontal to vertical on freq. 11,685 MHz towards Phoenix, Arizona, on azimuth 106°12'; and freq. 11,645 towards Oatman Mountain, Arizona, on azimuth 223°22'.

3555–C1–P–74—Same (KPV24), 20 West Papago Street, Gila Bend (Maricopa), Arizona. Lat. 32°56'53" N., Long. 112°43'06" W. C.P. to replace transmitters and change power and polarization from horizontal to vertical on freqs. 11,685 and 11,445 MHz towards Oatman Mountain, Arizona, on azimuth 286°28'.

[FR Doc.74–10193 Filed 5–2–74;8:45 am]

[FCC 74–390]

BOARD OF COMMISSIONERS

Establishment Order

APRIL 30, 1974.

By the Commission:

1. Between April 19 and June 10, 1974, Commissioner Robert E. Lee will be absent from the country in his capacity as Chairman of the United States Delegation to the World Administrative Radio Conference for Maritime Mobile. In view of the fact that the Commission presently has only four members, we hereby establish a Board of Commissioners, pursuant to section 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(d), consisting of all commissioners present and able to act, which is authorized to act from April 19, 1974 until further order of the Commission upon all matters normally acted upon by the Commission en banc except those matters specified in section 5(d) as being beyond the Commission's delegation authority. This delegation is without prejudice to the reference of appropriate matters to Commissioner Lee during this period for his consideration and vote.

Adopted: April 16, 1974.

Released: April 30, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74–10192 Filed 5–2–74;8:45 am]

FEDERAL MARITIME COMMISSION

CEYLON/U.S.A. CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 23, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

William L. Hamm, Secretary
Ceylon/U.S.A. Conference
New York Committee
25 Broadway
New York, New York 10004

Agreement No. 8050–10 redefines the consequences attendant to a member line's failure to have a sailing in the trade for three or six months. If the failure to have a sailing for three months is due to force majeure or other circumstances beyond its control, the line concerned may retain all voting privileges if all other lines are agreeable. Should a line not have a sailing for six months then that line may be expelled from the Conference upon the unanimous vote of all other members. Presently, a line is automatically expelled from the Conference for a failure to have a sailing over a period of six months.

By Order of the Federal Maritime Commission.

Dated: April 30, 1974.

JOSEPH C. PALKING,
Assistant Secretary.

[FR Doc.74–10199 Filed 5–2–74;8:45 am]

CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Amendment of Pending Modification; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 13, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. All allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 8210–23 (Sub 1), among the members of the above-named conference, amends Agreement No. 8210–23 which was filed September 28, 1973, and published in the FEDERAL REGISTER October 16, 1973, to give the conference specific authority to join the Canadian American Working Arrangement, Agreement No. 10090, as a single party upon unanimous consent of the member lines.

By Order of the Federal Maritime Commission.

Dated: April 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10200 Filed 5–2–74;8:45 am]

NON-VESSEL OPERATING COMMON CARRIERS

Domestic Offshore Tariff Proceedings

On September 7, 1973, the Commission issued an Order to Show Cause why the individual tariffs of fifty-one (51) named Non-Vessel Operating Common Carriers (NVOCC's) should not be cancelled for failure to complete and return a questionnaire attached to a Commission Section 21 Order.[1] The Order to Show Cause considered "this failure to be prima facie evidence that those NVOCC's no longer operate pursuant to their tariffs."

Of the original fifty-one (51) respondent NVOCC's, twenty-seven (27) failed to respond to the Show Cause Order, while twelve (12) adequately replied, eight (8) responded but with insufficient information, and four (4) had already had their tariffs cancelled. On this basis, Hearing Counsel in their reply of December 3, 1973, urged the Commission to cancel the domestic offshore tariffs of the twenty-seven NVOCC's who failed to respond to the Show Cause Order, to dismiss the proceeding as to the twelve respondents who adequately replied to the Show Cause Order, to order the eight respondents who had inadequately replied to the Show Cause Order to submit additional information (holding in abeyance a final ruling of the Commission as to these respondents), and to dismiss the four respondents who tariffs had already been cancelled.

By a supplemental reply filed December 14, 1973, Hearing Counsel urged the Commission to hold in abeyance further action pertaining to cancellation of the tariff of Shipcosmos Thrucontainers, an NVOCC originally included in the list of those who had failed to reply, inasmuch as said respondent claimed never to have received the Show Cause Order. By a second supplemental reply filed January 25, 1974, Hearing Counsel urged the Commission to dismiss the proceeding as to Shipcosmos Thrucontainers inasmuch as it had as of that date complied with both the Show Cause Order and the Section 21 Order to the satisfaction of the Commission staff.

On April 11, 1974, Hearing Counsel filed their Third Supplemental Reply in which they petitioned the Commission to dismiss the proceeding as to the eight NVOCC's who had originally submitted inadequate replies to the Commission's questionnaire, the eight respondents having satisfactorily complied with the requirements of the Commission's Section 21 Order of February 1, 1973. Hearing Counsel cited either clerical error, misunderstanding or oversight as reasons for the previous inadequate replies.

La Isla Shipping Co. (La Isla), originally among those who had failed to reply, has informed the Commission staff that it had not received either the Section 21 Order or the Show Cause Order in this proceeding and has expressed a willingness to furnish the information requested. Furthermore, a proceeding (Docket No. 74-14) is presently pending before the Commission involving certain tariff matters in the operations of Hawaiian Freight Lines, Inc. (Hawaiian), also among those who had failed to respond to the Section 21 Order. Therefore, a final ruling with regard to these two NVOCC's will be held in abeyance: (1) pending compliance with the requirements of the Section 21 Order by La Isla as set forth hereinafter in the ordering paragraphs, and (2) with respect to Hawaiian, pending final determination of the proceeding (Docket No. 74–14) to which they are a party.

Now, therefore, it is ordered, That pursuant to sections 18(a), 21 and 22 of the Shipping Act, 1916 (46 U.S.C. 817, 820 and 821), and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844):

(1) that the domestic offshore tariffs of the twenty-four (24) NVOCC's listed in Appendix I hereto be cancelled for failure to respond;

(2) that the twenty-one (21) respondents listed in Appendix II hereto be dismissed from the proceeding because of their acceptable replies;

(3) that the proceeding be dismissed as to the four (4) respondents listed in Appendix III hereto, inasmuch as their tariffs have heretofore been cancelled;

(4) that a final ruling in this proceeding be held in abeyance for thirty (30) days with regard to the following respondent in order to allow for compliance with the Section 21 Order in this proceeding:

La Isla Shipping Co.
166 South 1st Street
Brooklyn, New York 11211

(5) that a final ruling in this proceeding be held in abeyance as to the following respondent pending completion of the proceedings in Docket No. 74–14:

Hawaiian Freight Lines, Inc.
P.O. Box 1601
Honolulu, Hawaii 98806

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX I

NVOCC's which have failed to respond to the Show Cause Order of September 7, 1973.

1. Cal-Hawaiian Freight, Inc.
695 N. Batavia
Orange, California 92667
2. D. L. Haynes, Inc.[2]
4757 E. Slauson Avenue
Maywood, California 90270
3. Maritime Trucking Co., Inc.
P.O. Box 2770
San Juan, Puerto Rico 00903
4. U.C. Household Shipping Co.
4601 Shattuck Avenue
Oakland, California 94609
5. Nunez Express Co., Inc.
1376 Bronx River Avenue
Bronx, New York 10472
6. Ocean Truck Express Co., Inc.[2]
969 S.E. 11th Place
Hialeah, Florida 33010
7. San Lorenzo Express Corp.[2]
1548 W. North Avenue
Chicago, Illinois 60622
8. Set Forwarders, Inc.
330 Wythe Avenue
Brooklyn, New York 11211
9. Timline[2]
724 N. E. 2nd Avenue
Miami, Florida 33132
10. Beverly Hills Transfer & Storage Co.
221 S. Beverly Drive
Beverly Hills, California 90212
11. Convan Corp.[2]
271 Madison Avenue
New York, New York 10016
Household Goods Carriers Bureau, Agent
2425 Wilson Boulevard
Arlington, Virginia 22201
Agent for:
12. Alaska Orient Van Service, Inc.
13. Liberty Pac International Corp.
43 West 64th Street
New York, New York 10023
Movers' & Warehousemen's Association of America, Inc.
Suite 522, Munsey Building
1329 E Street, N.W.
Washington, D.C. 20004
Agents for:
14. Airline Vans, Inc.
15. Anchor Van Lines, Inc.
16. Bader Bros., Van Lines, Inc.
17. Bentley's Inc.
18. Dean Van Lines, Inc.
19. Delcher Brothers' Storage Company
20. Fogarty-Bros. Transfer, Inc.
21. Republic Van and Storage Co., Inc.
22. Smyth Van & Storage Co. of California
23. Trans Country Van Lines, Inc.
24. Nevares Express Shipping, Inc.
560 Claremont Parkway
Bronx, New York 10457

APPENDIX II

NVOCC's which have filed acceptable responses to the Show Cause Order of September 7, 1973.

1. Alvarez Shipping Co., Inc.
3854 3rd Avenue
Bronx, New York 10457
2. Columbus Express Shipping Co., Inc.
1158 Southern Boulevard
Bronx, New York 10459
3. Distribution International Service Co.
201 North Federal Highway
Deerfield Beach, Florida 33441
4. Fast Mar Service, Inc.
4711 Dell Avenue
North Bergen, New Jersey 07047
5. Hawaiian Express Service, Inc.
9 First Street
San Francisco, California 94105
6. La Rosa Del Monte Express, Inc.
559 East 180th Street
Bronx, New York 10457
7. San Juan Freight Forwarders, Inc.
P.O. Box 2099
Carolina, Puerto Rico 00630

[1] By subsequent *Errata* served October 24, 1973, two of the original fifty-two (52) NVOCC's named in the Show Cause Order were deleted and one new NVOCC's name was added, bringing the total to fifty-one (51).

[2] Indicates that envelope containing questionnaire was returned undelivered.

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8. Sea-Progress, Inc.
144–29 156th Street
Jamaica, New York 11434
9. International Export Packers, Inc.
5360 Eisenhower Avenue
Alexandria, Virginia 22304
Movers' & Warehousemen's Association of America, Inc.
Suite 522, Munsey Building
1329 E Street, NW.
Washington, D.C. 20004
Agents for:
10. Cartwright Van Lines, Inc.
11. King Van Lines, Inc.
12. Pyramid Van Lines, Inc.
13. Shipcosmos Thrucontainers
P.O. Box 1205
Hato Rey, Puerto Rico 00919
c/o Norman G. Jensen
222 Adams Street
Chicago, Illinois 60606
14. El Faro Shipping Co.
110 Scholes Street
Brooklyn, New York 11206
15. El Seis de Mayo Express
765 East 149th Street
Bronx, New York 10455
16. Rodriguez Trucking, Inc.
661 Park Avenue
Brooklyn, New York 11206
17. Siegmunds, Inc.
P.O. Box 1205
Hato Rey, Puerto Rico 00919
18. Windward Marine Inc.
575 Sakett Street
Brooklyn, New York 11217
c/o Ms. Gruber, Agent
707 Broadway
Massapequa, New York 11758
19. Cargo In Containers, Inc.
2800 West 38th Street
Chicago, Illinois 60632
Movers' & Warehousemen's Association of America, Inc.
Suite 522, Munsey Building
1329 E Street, NW.
Washington, D.C. 20004
Agents for:
20. Empire Household Shipping Company of New York, Inc.
21. Interstate Van Lines, Inc.

APPENDIX III

NVOCC's whose tariffs have been cancelled pursuant to Supplements 26 and 27 of Household Goods Maritime Tariff No. 1.

Household Goods Carriers Bureau, Agent
2425 Wilson Boulevard
Arlington, Virginia 22201
Agents for:
1 Holman & Co., George B.
2. Martin Van Lines, Inc.
3. Salt Lake Transfer Company

NVOCC whose tariff was cancelled by Supplement No. 1 to Ocean Freight Tariff No. 1000

4 Modern Intermodal Traffic Corp.
1417 Clay Street
Oakland, California 94612

[FR Doc.74-10201 Filed 5-2-74;8:45 am]

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

Amendment of Pending Modification; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 13, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 9214–11 (Sub 1) among the member lines of the above-named conference amends Agreement No. 9214–11 which was filed September 28, 1973, and published in the FEDERAL REGISTER October 16, 1973, to give the conference specific authority to join Agreement No. 10090, the Canadian American Working Arrangement as a single party upon unanimous consent of the member lines.

By Order of the Federal Maritime Commission.

Dated: April 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10194 Filed 5-2-74;8:45 am]

NORTH ATLANTIC FRENCH ATLANTIC FREIGHT CONFERENCE

Amendment of Pending Modification; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573,, on or before May 13, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 7770–11 (Sub. 1), among the members of the above-named conference, amends Agreement No. 7770–11 which was filed September 28, 1973, and published in the FEDERAL REGISTER October 16, 1973, to give the conference specific authority to join Agreement No. 10090, the Canadian American Working Arrangement as a single party upon unanimous consent of the member lines.

By Order of the Federal Maritime Commission.

Dated: April 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10196 Filed 5-2-74;8:45 am]

NORTH ATLANTIC UNITED KINGDOM FREIGHT CONFERENCE

Amendment of Pending Modification; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 13, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 7100–15 (Sub 1), among the members of the above-named conference, amends Agreement No. 7100–15 which was filed September 28, 1973, and published in the FEDERAL REGISTER October 16, 1973, to give the conference specific authority to join Agreement No. 10090, the Canadian American Working Arrangement as a single party upon unanimous consent of the member lines.

By Order of the Federal Maritime Commission.

Dated: April 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10197 Filed 5-2-74;8:45 am]

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Amendment of Pending Modification; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 13, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 5850–24 (Sub 1), among the members of the above-named conference, amends Agreement No. 5850–24 which was filed September 28, 1973, and published in the FEDERAL REGISTER October 16, 1973, to give the conference specific authority to join Agreement No. 10090, the Canadian American Working Arrangement as a single party upon unanimous consent of the member lines.

By Order of the Federal Maritime Commission.

Dated: April 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10195 Filed 5-2-74;8:45 am]

[Docket No. 73–12]

SEA-LAND SERVICES, INC., ET AL.

Surcharges in the U.S. Atlantic and Gulf/Puerto Rico Trade; Third Supplemental Order

On April 28, 1974, Transamerican Trailer Transport, Inc. (TTT) proposes to place into effect minimum charges of $700 per trailer applicable to cargo moving from ports on the U.S. East Coast to Puerto Rico.[1] On March 7, 1974, the Commission issued Second Supplemental Order in this case, placing under investigation similar minimum charges filed by Sea-Land Service, Inc. (Sea-Land) and Seatrain Lines, Inc. (Seatrain).

TTT has submitted, as justification for its proposed minimum charges, an analysis of its 1973 operations indicating that its fully distributed cost of carrying a trailer in this trade is $790. No protests to TTT's proposed charges have been received.

Upon consideration of the above matters and of the competitive relationship among the three respondent carriers, the Commission is of the opinion that TTT's proposed minimum charges should be included in the subject investigation to determine whether they are unjust, unreasonable, or otherwise unlawful under section 18(a) of the Shipping Act, 1916 and/or section 4 of the Intercoastal Shipping Act, 1933. Good cause appearing, therefore,

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of the proposed increase in minimum container charges contained on Original Page 31A to TTT's Tariff FMC–F No. 1, to make such findings and orders as the facts and circumstances warrant. In the event that the matter hereby placed under investigation is further changed, amended, or reissued, such changes are hereby ordered to be made a part of this investigation;

It is further ordered, That pursuant to section 18(a) of the Shipping Act, 1916, and section 4 of the Intercoastal Shipping Act, 1933, a determination shall be made as to whether the proposed increase in minimum per container charges is just, reasonable, and otherwise lawful within the meaning of those statutes;

It is further ordered, That this matter be joined with the matters previously set for investigation and hearing in this subject proceeding and their lawfulness be determined in the same proceeding by the same Administrative Law Judge of the Commission's Office of Administrative Law Judges;

It is further ordered, That (I) a copy of this order be forthwith served upon respondent and all other parties to this proceeding and published in the FEDERAL REGISTER; and (II) the respondent and all other parties be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10202 Filed 5-2-74;8:45 am]

SOUTH ATLANTIC NORTH EUROPE RATE AGREEMENT

Extension of Agreement; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 110 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 13, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness

[1] The applicable tariff matter is Rule No. 335 contained on Original Page 31A to TTT's Tariff FMC–F No. 1.

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shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 9984–3, among the member lines of the abovenamed rate agreement, extends the effective period of the original agreement for an unlimited period insofar as it applies to cargo moving in the trades between the U.S. South Atlantic and Denmark, Finland, Norway, Poland and Sweden and from the U.S. South Atlantic to the United Kingdom, the Republic of Ireland and the Bordeaux Hamburg range.

By order of the Federal Maritime Commission.

Dated: April 29, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10198 Filed 5–2–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E–8691]

AMERICAN ELECTRIC POWER SERVICE CORP. (INDIANA & MICHIGAN ELECTRIC CO.)

Notice of Modification

APRIL 23, 1974.

Take notice that on March 25, 1974 the American Electric Power Service Corporation submitted on behalf of Indiana & Michigan Electric Company (I & M) modification No. 9, dated January 15, 1974, to the interconnection agreement, dated July 20, 1956, with Commonwealth Edison Company (Edison) which the Commission has designated as Indiana & Michigan Rate Schedule FPC No. 20.

Modification No. 9 provides for a new Service Schedule G-Supplemental Power to Edison. In recognition of the differences in seasonal load characteristics of the systems of the parties, the new service schedule provides that I & M will make available 500,000 kw of Supplemental Power to Edison in the summer "Annual Contract Period" of June through September inclusive during each year from 1974–78.

The proposed Service Schedule G provides for a demand charge and an energy charge. The demand charge for each month of the annual contract is at the rate of $2.15 per kw of supplemental contract demand. The energy charge is at the rate of 1.90 mills per kwh, subject to a fossil fuel cost adjustment.

Any person desiring to be heard or to make any protest with reference to this matter should on or before May 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The documents referred to in this notice are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10133 Filed 5–2–74;8:45 am]

[Docket No. CI73–647]

BURMONT CO. (OPERATOR), ET AL.

Notice of Petition To Amend

APRIL 26, 1974.

Take notice that on April 10, 1974, Burmont Company (Operator), *et al.* (Petitioner), 1121 Americana Building, Houston, Texas 77002, filed in Docket No. CI73–647, a petition to amend the order issued in said docket on May 18, 1973 (49 FPC), pursuant to section 7(c) of the Natural Gas Act authorizing the sale for resale of natural gas in interstate commerce to Texas Eastern Transmission Corporation (Texas Eastern) by authorizing Petitioner to continue such sale of gas for an additional one-year period, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order of May 18, 1973, Petitioner was authorized to sell natural gas to Texas Eastern for a period of one year from the end of a 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70) at a rate of 45.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. Petitioner now requests authorization to extend the term of such sale to Texas Eastern of approximately 2,000 Mcf of gas per day for an additional year at a price of 59.0 cents per Mcf, subject to the same Btu adjustments as described above, pursuant to the terms of an amendatory agreement between Petitioner and Texas Eastern dated March 25, 1974.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 25, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10141 Filed 5–2–74;8:45 am]

[Docket No. RP72–157]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Proposed Changes In FPC Gas Tariff

APRIL 26, 1974.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on April 16, 1974, tendered for filing Substitute Twenty-Fourth Revised Sheet No. 8 of its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective May 1, 1974. Consolidated states that the substitute tariff sheet reflects revisions made in the rates of its pipeline suppliers.

Consolidated states that its filing reflects changes under three sections of its PGA clause:

a. Rate increase reflecting pipeline supplier increases.

b. Rate increase reflecting producer supplier increases.

c. Change to its surcharge to reflect the Unrecovered Purchased Gas Cost account and flow through of supplier refunds.

Consolidated states that the proposed rate change includes the effect of increases from Texas Eastern Transmission Corporation and Texas Gas Transmission Corporation both to be effective May 1, 1974, and increases paid for gas purchased from producer suppliers which increased rates will be in effect by May 1, 1974. Consolidated states that the effect of the proposed rate change for these supplier increases is an annual increase to jurisdictional revenues of $3.0 million. Consolidated further proposes a surcharge credit of 0.17¢/Mcf to be in effect May 1, 1974 through October 31, 1974 to reflect the amounts accumulated in the Unrecovered Purchased Gas account for the period August 1973 through January 1974, the jurisdictional portion of refunds received by Consolidated from its suppliers for the same six-month period, and a carry-over balance from the surcharge credit filed March 15, 1973, effective May 1, 1973 through October 31, 1973.

According to Consolidated, copies of this filing were served upon its jurisdictional customers, as well as interested state commissions.

An person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Persons presently parties to this proceeding need not file additional petitions to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10140 Filed 5–2–74;8:45 am]

[Docket No. CP74–113; Docket No. CI74–276]

CONSOLIDATED GAS SUPPLY CORP. ET AL.

Notice Deferring Procedural Dates and Changing Prehearing Conference

APRIL 24, 1974.

On April 18, 1974, Consolidated Gas Supply Corporation, CNG Producing Company and Consolidated Natural Gas Company filed a motion for advancement of the prehearing conference fixed by order issued April 15, 1974 in the above-designated matter, and deferral of evidentiary submissions pending such conference.

The motion states that Staff Counsel and intervener Rochester Gas & Electric Corporation have expressed agreement in the motion.

Upon consideration, notice is hereby given that the prehearing conference shall be held on May 6, 1974, at 2 p.m. (EDT) in a Hearing Room of the Federal Power Commission, 825 N. Capitol Street, NE, Washington, D.C. The other procedural dates are deferred pending further notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10134 Filed 5–2–74;8:45 am]

[Docket Nos. RI74–156, et al]

GETTY OIL CO., ET AL.

Errata Notice

APRIL 17, 1974.

In the Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes to Become Effective Subject to Refund issued April 12, 1974 and published in the FEDERAL REGISTER April 22, 1974, 39 FR 14249, Appendix "A", Page 14249, Change "Docket No. RI74–157" to "Docket No. RI74–204"; Change "Docket No. RI74–158" to "Docket No. RI74–205" and Change "Docket No. RI74–159" to Docket No. RI74–206."

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10132 Filed 5–2–74;8:45 am]

[Docket No. CI74–547]

HNG OIL CO.

Notice of Application

APRIL 26, 1974.

Take notice that on March 28, 1974, HNG Oil Company (Applicant), P.O. Box 767, Midland, Texas 79701, filed in Docket No. CI74–547 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Valley Gas Transmission, Inc. (Valley Gas), from the La Huerta Field, Duval County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on November 30, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for a period of one year from the end of the emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 500 Mcf of gas per day to Valley Gas at 45.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Initial upward Btu adjustment is estimated to be 0.45 cent per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10138 Filed 5–2–74;8:45 am]

[Docket No. E–8736]

THE KANSAS POWER AND LIGHT CO.

Notice of Tariff Change

APRIL 26, 1974.

Take notice that The Kansas Power and Light Company (KPL) on April 17, 1974 tendered for filing proposed changes in its Rate Schedule FPC No. 123 with Supplements.

The proposed changes are the filing of supplemental initial rate schedules to provide Central Kansas Power Company, Inc. (CKP) forty-four (44) megawatts of participation power service from KPL's generation facilities for the period June 1, 1974 through May 31, 1975.

Copies of the filing were served on CKP and on the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10139 Filed 5–2–74;8:45 am]

[Docket Nos. E–8394, E–8439]

METROPOLITAN EDISON CO.

Further Extension of Time and Postponement of Prehearing Conference and Hearing

APRIL 24, 1974.

On April 12, 1974, Staff Counsel filed a motion for a further extension of the procedural dates fixed by notice issued March 15, 1974, in the above-designated matter. The motion states that there are no objections to this motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Staff's Service of Testimony, May 10, 1974.
Intervener's Service of Testimony, May 24, 1974.
Prehearing Conference, May 28, 1974 (10 a.m. EDT).

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Service of Company Rebuttal, June 11, 1974. Hearing, June 25, 1974 (10 a.m. EDT).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10130 Filed 5-2-74;8:45 am]

[Docket No. CI74-559]

MIDWEST OIL CORP.

Notice of Application

APRIL 26, 1974.

Take notice that on April 10, 1974, Midwest Oil Corporation (Applicant), 1700 Broadway, Denver, Colorado 80202, filed in Docket No. CI74-559 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company (El Paso) from the South Carlsbad Field, Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the 60-day emergency sale of natural gas to El Paso on July 2, 1973, pursuant to § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29). Applicant further states that it filed on July 13, 1973, an application for a limited-term certificate within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70) which it withdrew by motion filed by November 13, 1973, upon promulgation of the Commission's Order 491-B in Docket No. RM74-3 (50 FPC), and thereupon initiated sales pursuant to the 180-day emergency provisions of § 157.29, as amended by Commission Order 491 (50 FPC).

Applicant proposes to continue said sale until May 1, 1975, within the contemplation of § 2.70 at 52 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. The contract, submitted by Applicant as its FPC gas rate schedule, provides for the sale of all available gas, estimated to be 5,000 Mcf per day initially. The sample billing statement submitted by Applicant pursuant to § 154.92(b) of the regulations under the Natural Gas Act (18 CFR 154.-92(b)) shows estimated sales during the first month of service to be 8,550 Mcf of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the Commission finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10135 Filed 5-2-74;8:45 am]

[Docket No. E-8721]

NEVADA POWER CO.

Errata Notice

APRIL 19, 1974.

In the Notice of Change in Rate Schedule, issued April 16, 1974, and published in the FEDERAL REGISTER April 24, 1974, 39 FR 14546, Change "Docket No. E-8660" to "Docket No. E-8721."

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10131 Filed 5-2-74;8:45 am]

[Docket No. E-8610]

NEVADA POWER CO.

Interchange Agreement

APRIL 26, 1974.

Take notice that on January 28, 1974, Nevada Power Company (Applicant) filed with the Federal Power Commission an executed Interchange Agreement, dated January 23, 1974, between Applicant and the Department of Water and Power of the City of Los Angeles, California. Said agreement covers the exchange of power and energy between the parties. The application states that this Interchange Agreement replaces an Exchange Agreement between the parties, filed with the Commission on June 6, 1972, which expired October 31, 1973. The effective date of the Interchange Agreement is stated to be November 1, 1973.

Applicant requests that the Commission waive the thirty day notice requirement of the Commission's Regulations in order that they might transfer spinning reserves.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-10137 Filed 5-2-74;8:45 am]

[Project No. 2482]

NIAGARA MOHAWK POWER CORP.

Order Providing for Hearing and Prescribing Procedures

APRIL 26, 1974.

Application was filed on June 19, 1972, by Niagara Mohawk Power Corporation, Licensee for the Hudson River Project No. 2482, for amendment of its license to abandon, retire and remove the Fort Edward Development from the Hudson River Project.

An imminent danger existed at the time that the Fort Edward timber crib dam, built in 1898, might fail with the next seasonal flood flows with resultant adverse impact to downstream navigation, private property and river ecology. We, therefore, granted the application before us in an order issued June 14, 1973, which amended the license to provide for the dam's removal in accordance with the procedures set out in the order. Our order required in part that the Licensee adhere to all applicable safety, health, and environmental standards.[1] The Licensee was also required by our order to take all reasonable measures necessary to prevent river siltation or other forms of water or air pollution resulting from removal of the Fort Edward Development.[2]

On February 20, 1974, a letter from the New York District, Corps of Engineers, was received by our New York Regional Office. In its letter, the Corps noted that the State of New York, Department of Environmental Conservation (DECON) has alleged that as a result of the removal of the dam, a substantial amount of material, formerly upstream of the structure, has been deposited downstream in the channel of the Hudson River and in the navigable channel of the New York Barge Canal, leading to the terminal at the Village of Fort Edward. DECON further stated that the accumulated silt and other material has created a potential flood hazard at the Village of Fort Edward.

The Commission's Secretary wrote to the Licensee on March 6, 1974, concerning the matters raised by the Corps and DECON in their earlier correspondence. On March 27, 1974, the Licensee responded that it had taken all reasonable measures within the intendment of Article 39. The Licensee, at the same time, enclosed copies of a telegram from the New York District, Corps of Engineers, which stated that as much as 100,000 cubic yards have already been deposited downstream in the vicinity of Fort Edward and pose a threat to the village of Fort Edward by flooding and to safe navigation in the navigable waters of the United States. The Corps further stated that it appears that the measures taken by the Licensee were ineffective to prevent river siltation as a consequence of the dam's removal.

Recent staff investigations indicate that Lock No. 7 of Champlain Canal, operated by the New York State Barge Canal System, is presently inoperative. It has also been brought to our attention by Region II, Environmental Protection Agency, that a potential health hazard may exist at Fort Edward caused by the backup of the sewage system. In addition, we are aware that there is currently pending in the State courts of New York a suit brought by the State against the Licensee, alleging, inter alia, the Licensee's failure to comply with its permit from DECON for removal of the dam.

On April 22, 1974, we received a letter from the Corps which stated that the Department of the Army (Army) had originally concurred in the amendment of the license, understanding at the time that the Licensee would remove accumulated silt from the river upstream of the dam, citing Article 39 in support of its proposition. The Corps asserted that deposition of these materials in the vicinity of Fort Edward has resulted in the "blockage of navigation, a public health hazard, and a potential flood hazard * * *" It is the position of the Corps and Army that the Commission should take appropriate steps to require Niagara Mohawk to comply with the conditions of the operating license as amended and to require Niagara Mohawk to remove * * * the accumulated silt which has created the problems * * *" The Corps further stated that it was prepared to present evidence on the existing situation and make recommendations for appropriate resolution of the problems it cited.

In view of the possibility of imminent flooding at the time of the spring thaw and the potential health hazard, we need not wait for the filing of a formal complaint. In any event, we will provide for an immediate hearing on our own motion. The purpose of the hearing will be to determine whether the Licensee has complied with our order of June 14, 1973, amending the license, in all material respects. The hearing ordered hereinafter will not be limited in scope to an examination of the provisions of Article 39, alone, but will consider Licensee's responsibilities in this matter in the light of the entire license, as amended, particularly Articles 36-41. The hearing should also consider whether the Commission pursuant to section 10(c) of the Federal Power Act, should adopt any rules or regulations for Project No. 2482 for the protection of life, health, and property. The hearing, or at least a portion of it, is to be held at or near the Village of Fort Edward for the convenience of parties.

The Commission finds: (1) In view of the factual assertions made, a question is raised as to the Licensee's compliance with the terms and conditions of its license; therefore, it is appropriate and in the public interest to hold a public hearing as provided herein respecting matters raised regarding the removal of the Fort Edward Dam. At the hearing Licensee should be required to present evidence showing compliance with the terms and conditions of its license and others should have a reasonable opportunity to present evidence to the contrary. The hearing should also consider evidence for the purpose of determining whether under section 10(c) of the Federal Power Act the Commission should promulgate rules and regulations for Project No. 2482 for the protection of life, health, and property.

(2) In order to make it convenient for them to participate in the hearing ordered herein we should give the following entities notice of this proceeding: U.S. Corps of Engineers, U.S. Department of Interior, U.S. Department of Justice, Environmental Protection Agency, U.S. Department of Health, Education and Welfare, DECON, New York State Department of Health, New York Department of Law, New York Department of Transportation, Hudson River Valley Commission, Town of Moreau, Town of Fort Edward, Village of Fort Edward, Scott Paper Company, Local No. 1 of the United Paper Makers International Union AFL-CIO, Local No. 673 of the United Brotherhood of Carpenters and Joiners of America AFL-CIO, Local No. 389 of the International Brotherhood of Electrical Workers AFL-CIO and Local No. 773 of the United Association of Plumbers and Steamfitters of the United States and Canada AFL-CIO.[3]

The Commission orders: (A) Pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 10(c), 308 and 309 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held respecting the matters involved and issues presented in this proceeding.

(B) The purpose of the hearing shall be to obtain facts regarding the removal of the Fort Edward dam and the accumulation of material in the channel of the Hudson River and in the navigable channel of the New York Barge Canal, leading to the terminal at the Village of Fort Edward, for the determination of whether Niagara Mohawk Power Corporation has complied with its license as amended by our order of June 14, 1973, providing, inter alia, the removal of the Fort Edward dam, and the Federal Power Act, particularly section 10(c) (16 U.S.C. § 803(c)).

(C) A copy of this order is to be served on each of the entities noted in paragraph (2) above, and they are invited to participate in this proceeding by filing petitions to intervene.

(D) In order to demonstrate the measures it has taken to effect compliance with the requirements of its license, as amended, Licensee shall submit its testimony and exhibits in writing by May 16, 1974. All other parties desiring to file testimony and exhibits relating to the issues herein will file such testimony and exhibits by May 16, 1974. Witnesses shall be subject to cross-examination upon the opening of the hearing commencing at 9:30 a.m., on May 29, 1974, and continuing thereafter until completed at a location to be determined and noticed by the Presiding Administrative Law Judge. Rebuttal testimony, if any, will be presented immediately after the close of the direct case, in oral or written form, as the Presiding Administrative Law Judge, in his discretion, may order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

Mr. Lauman Martin
Senior Vice President & General Counsel
Niagara Mohawk Power Corporation
300 Erie Blvd. West
Syracuse, New York 13202

John W. Keib, Esquire
Niagara Mohawk Power Corporation
300 Erie Blvd. West
Syracuse, New York 13202

Department of the Army
Office of the Chief of Engineers
Attn.: Fred R. Disheroon, Asst. Gen. Counsel
Washington, D.C. 20314

Col. Harry W. Lombard
District Engineer
Corps of Engineers
New York District Office
26 Federal Plaza
New York, New York 10007

Hon. Louis J. Lefkowitz
Attorney General of the State of New York
The Capitol
Albany, New York 12224

[1] Article 37 of the order of June 14, 1973, provides:
Licensee shall adhere to safety, health and environmental standards applicable to the removal of the Fort Edward Development, and the removal shall be in accordance with New York State Department of Environmental Conservation Permit No. 6-106-71.

[2] Article 39 of the order of June 14, 1973, provides:
Licensee shall take all reasonable measures necessary to prevent or control soil erosion on lands adjacent to the river and to prevent river siltation or other forms of water or air pollution resulting from removal of the Fort Edward Development. Licensee shall, if necessary, revegetate all exposed soil surfaces.

[3] For the convenience of the named entities, a list of addresses of each is attached hereto.

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Martin Green, Esquire
Chief, Pollution Control Section
Land & Natural Resources Division
Department of Justice
Washington, D.C. 20530

State of New York
Department of Transportation
State Office Building Campus
Albany, New York 12226

State of New York
Dept. of Environmental Conservation
Attn.: Ronald W. Pederson
First Deputy Commissioner
Albany, New York 12201

Hon. Rogers C. B. Morton
Secretary of the Interior
Washington, D.C. 20240

Mr. Gerald M. Hansler
Regional Administrator
Environmental Protection Agency
Room 847, 26 Federal Plaza
New York, New York 10007

Hon. Caspar W. Weinberger
Secretary of Health, Education, and Welfare
Washington, D.C. 20201

Hon. F. W. Hequembourg
Chairman
Saratoga County Board of Supervisors
County Municipal Center
Ballston Spa, New York 12020

Dr. Edward Coates
Regional Health Director
Albany Regional Office
New York State Department of Health
State Campus
Albany, New York 12226

Mr. Joseph Stellato
Director of Waterways Maintenance
Building 18
State Campus Office
Albany, New York 12226

Mayor Charles T. Mullen
Thornwood Drive
Village of Fort Edward, New York 12828

Louis G. Fisher
Supervisor
147 Broadway
Town of Fort Edward, New York 12828

Gardner Congdon
Supervisor, Town of Moreau
61 Hudson Street
South Glens Falls, New York 12801

Mayor Robert Phinny
73 Main Street
South Glens Falls, New York 12801

Carl J. Mays
Executive Director
Hudson River Valley Commission
105 White Plains Road
Tarrytown, New York 10591

John D. Hushon
Scott Paper Company
Philadelphia, Pennsylvania 19113

Sherman S. Poland
Bernard A. Foster, III
Ross, Marsh & Foster
730 15th Street N.W.
Washington, D.C. 20005

Joseph W. Gatchell
Local No. 1 of United Paper Markers International Union AFL–CIO
5 Delaware Avenue
Hudson Falls, New York 12839

[FR Doc.74–10128 Filed 5–2–74;8:45 am]

[Docket Nos. E–8446, E–8598]

PENNSYLVANIA ELECTRIC CO.

Order Accepting Initial Rate Schedule for Filing, Instituting an Investigation Under Section 206, Consolidating Proceedings, and Granting Waiver of Notice Requirements

APRIL 26, 1974.

On January 17, 1974, as completed on March 12, 1974, Pennsylvania Electric Company (Penelec) tendered for filing an initial service agreement with West Penn Power Company (West Penn) under Penelec's FPC Electric Tariff and Tariff Rate Schedule RP. The service agreement was designated: Pennsylvania Electric Company, Service Agreement under FPC Electric Tariff Original Volume No. 1; Supplement to Service Agreement, Exhibit C; and Supplement to Supplement to Service Agreement, Facilities Charge. The rates to be charged West Penn by Penelec are those reflected in the Tariff Rate Schedule RP [1] plus an annual facilities charge of $20,610.

The term of the service agreement between Penelec and West Penn is from the date Penelec's facilities commence operations until December 31, 1976, subject to automatic renewal each year with a two year termination period. Penelec expected the facilities which would supply the power under the proposed agreement in Docket No. E–8598 to be finished in mid-April, and consequently, Penelec requested waiver of § 35.3 of the Commission's regulations to permit the agreement to become effective when the facilities were operational.

Notice of the filing was issued on January 30, 1974, with comments, protests, or petitions to intervene due on or before February 14, 1974. No comments or petitions to intervene have been received.

Our review of the filing in Docket No. E–8598 indicates it raises certain issues which may require development in an evidentiary proceeding. The rates, charges, and terms and conditions of service contained in the initial rate schedule have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall accept the initial agreement for filing and institute a section 206 investigation thereof and prescribe appropriate procedural dates. Moreover, for good cause shown, we shall grant Penelec's request for waiver of our notice requirements to permit the agreement with West Penn to become effective when the facilities for service are operational.

Due to the fact that certain issues of law and fact in Docket No. E–8446 are the same in this docket, we shall consolidate those dockets for purposes of hearing and decision. In light of this action, we shall revise the procedural dates in Docket No. E–8446 as set forth below.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission institute an investigation pursuant to section 206 on the terms and conditions of Penelec's proposed service agreement with West Penn.

(2) Good cause exists to grant waiver of § 35.3 of the Commission's regulations.

(3) Good cause exists to consolidate Docket No. E–8446 and E–8598 for purposes of hearing and decision.

The Commission orders: (A) Pursuant to the authority of section 206 of the Federal Power Act, an investigation to determine whether the proposed initial service agreement between Penelec and West Penn is just and reasonable and is hereby instituted.

(B) Docket Nos. E–8598 and E–8446 are consolidated for the purposes of hearing and decision.

(C) The procedural dates in Docket No. E–8446 as established in the notice issued by the Secretary of the Federal Power Commission on February 21, 1974, are hereby superseded by the procedural dates hereinafter established in the consolidated proceeding.

(D) On or before May 24, 1974, the Company shall serve its prepared testimony and exhibits concerning the proposed service agreement in Docket No. E–8598. The prepared testimony and exhibits of the Commission Staff shall be served on or before June 24, 1974. Prepared testimony and exhibits of any intervenors shall be served on or before July 8, 1974. The Company's Rebuttal Evidence shall be served on or before July 22, 1974. At 10 a.m., e.s.t., on August 6, 1974, a hearing for purposes of cross-examination of the evidence shall commence in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(E) A Presiding Administrative Law Judge shall preside at the hearing authorized by this order, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(F) Penelec's initial service agreement is accepted for filing to become effective upon the date service is initiated.

(G) Penelec's request for waiver of the notice requirements of § 35.3 of the Commission's regulations is hereby granted.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–10129 Filed 5–2–74;8:45 am]

[1] The revised Tariff Rate Schedule RP and associated fuel cost adjustment as proposed by Penelec on October 12, 1973, in Docket No. E–8446 have been suspended for 5 months to become effective May 12, 1974, subject to refund. The rates applicable to West Penn in the instant filing are the current rates being charged the wholesale customers of Penelec and the revised rates will apply after the end of the suspension period.

[Docket No. E–8727]

PENNSYLVANIA POWER CO.

Initial Rate Schedule

APRIL 26, 1974.

Take notice that on April 12, 1974 Pennsylvania Power Company (PPC) tendered for filing an initial rate schedule for its proposed Emergency Oil Conservation Tariff. The tariff is for service during off-peak hours which will be provided to any utility interconnected with the PPC. The basis of the rate is out-of-pocket cost with an add-on to cover investment for both generation and transmission facilities for service from the company's generating stations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–10136 Filed 5–2–74;8:45 am]

[Docket No. RP74–39–10]

TEXAS EASTERN TRANSMISSION CORP. AND TOWN OF SMYRNA, TENN.

Order Granting Temporary Emergency Relief, Granting Interventions, Providing for Hearing and Establishing Procedures

APRIL 26, 1974.

On March 19, 1974, the Town of Smyrna, Tennessee (Smyrna) filed a petition for emergency relief pursuant to § 1.7(b) of the Commission's rules of practice and procedure.[1] Smyrna requests that the Commission issue an order requiring its sole supplier of natural gas, Texas Eastern Transmission Corporation (TETCO), to increase its Annual Quantity Entitlement (AQE) from 156,828 Mcf to 290,620 Mcf. In addition, Smyrna requests that the Commission grant temporary relief pendente lite allowing Smyrna to take volumes up to 290,620 Mcf for the twelve months ending August 31, 1974.

Smyrna claims that its AQE as stated in Texas Eastern's currently effective tariff is inadequate to serve its actual requirements. Smyrna was afforded an opportunity to present and substantiate any additional existing requirements not included in its AQE before the prehearing conference on August 28, 1972, when the settlement agreement containing the AQE's was put into the record. However, evidence was not presented by Smyrna until September 12, 1972, when it stated that its AQE should be 290,620 Mcf rather than 156,828 Mcf.

The settlement agreement which was approved by the Commission on December 1, 1972, included the 156,828 Mcf figure. Smyrna requested rehearing based on its late evidence and rehearing was denied by Commission Order issued January 24, 1973. In that Order, the Commission stated that Smyrna's request for an increased AQE was denied but stated that Smyrna could file for extraordinary relief under § 1.7(b) of the Commission's rules if it experienced unusual problems. On April 27, 1973, Smyrna did file for emergency relief stating that it would exhaust its AQE before the end of the contract year, August 31, 1973. Smyrna requested in its petition that its AQE be increased to 177,175 Mcf. By June 1, 1973, Smyrna succeeded in arranging an emergency exchange of gas with another distributor and its petition for relief was therefore dismissed as moot by Commission order issued August 1, 1973, in Docket No. CP73–310. Smyrna purchased a total of 182,546 Mcf for the year ending August 31, 1973.

In its current petition, Smyrna states once more that its AQE is inadequate to supply loads which were connected or committed during the AQE base period (twelve months ending March 31, 1972). Smyrna claims it will exhaust its current AQE of 156,828 Mcf by early May, 1974. If no relief is granted Smyrna will become liable for penalty charges on all volumes it takes after exhausting its AQE. Thus Smyrna will have to curtail high priority loads or pay penalty charges of $3.00 per Mcf.

Smyrna lists the following adjustments which it claims should have been made to its base period sales:

60,000 Mcf	Dixie Concrete Company
52,000 Mcf	Lane Cedar Chest Company
21,792 Mcf	Tennessee Farmers Co-op
133,792 Mcf	Additional gas required

Smyrna alleges that it made a commitment to sell gas to Dixie Concrete Company in 1970 and that the plant did not come on line until December, 1972. Smyrna states that the Lane Cedar Chest Company requested 52,000 Mcf of natural gas per year in order to meet environmental standards. No date is given for a commitment by Smyrna to this company. Smyrna claims that the Tennessee Farmers Co-op (Co-op) should be allotted an additional 21,792 Mcf since it used only 38,208 Mcf during the base period because of equipment failure and thus, the Co-op's normal annual requirement is 60,000 Mcf. Therefore, Smyrna concludes that its AQE should be set at 290,620 Mcf.

Smyrna further states that based on its historical purchase patterns, it will consume at least 189,109 Mcf by August 31, 1974. Smyrna claims that it expects to purchase less than the 290,620 Mcf requested since it has refused to serve all of its prior committed load and since some of this load has not attained full usage levels due to delays in construction.

Public notice of Smyrna's petition was given on April 4, 1974, with protests and petitions to intervene due on April 17, 1974. The following parties have filed petitions to intervene:

Algonquin Gas Transmission Company
Boston Gas, *et al.*
Columbia Gas Transmission Corporation
Consolidated Edison Company of New York, Inc.
General Motors Corporation
Texas Eastern Transmission Corporation [2]

Columbia Gas Transmission Corporation requests a formal hearing. Columbia further requests that Smyrna be required to amend its petition to conform to the new § 2.78(a)(11) of part 2 of the Commission's general rules added by Commission Order No. 467–C issued on April 4, 1974, in Docket No. R–469.

Under these circumstances good cause has been shown to require TETCO to increase Smyrna's AQE by 32,281 Mcf to 189,109 Mcf, Smyrna's estimated consumption for the twelve months ending August 31, 1974. This grant of relief shall expire on August 31, 1974, or on the date on which a final decision is reached in this docket, whichever first occurs. The volumes of gas received by Smyrna pursuant to this temporary grant of relief may be subject to payback in full or in part pending the outcome of this proceeding.

We shall not require Smyrna to amend its petition to conform to the requirements of Order No. 467–C. That order is prospective in nature and we will not require parties filing petitions prior to the date of its issuance to meet its requirements. Smyrna shall, however, be required to submit, at the formal hearing, evidence to substantiate its claims that the volumes sought in its petition for relief were committed prior to the AQE base year.

The Commission finds: (1) Good cause has been shown to partially grant the relief requested by Smyrna on a temporary basis as hereinafter ordered.

[1] Smyrna filed a separate petition for emergency relief in Docket No. RP74–39–5 on December 28, 1973, for service to the Sewart Air Force Base area. This area is served from a separate delivery point of Texas Eastern and therefore the subject petition is independent of the petition of Smyrna for the Sewart area.

[2] The petition of Texas Eastern Transmission Corporation was filed out of time.

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(2) Good cause exists to set the proceedings in Docket No. RP74–39–10 for formal hearing.

(3) The participation of each party named above who has petitioned to intervene in these proceedings may be in the public interest.

(4) Although the petition to intervene of Texas Eastern Transmission Corporation was not timely filed, good cause exists to allow that party to intervene since permitting the intervention will not be the basis of delay in these proceedings.

The Commission orders: (A) Texas Eastern shall increase Smyrna's AQE by 32,281 Mcf to 189,109 Mcf until August 31, 1974, or until the date on which a final decision is reached in this docket, whichever first occurs.

(B) The volumes of natural gas taken by Smyrna pursuant to this temporary grant of emergency relief may be subject to payback in full or in part pending the outcome of this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act, a public hearing shall be held on May 28, 1974, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, concerning the North Alabama petition.

(D) On or before May 14, 1974, Smyrna and all parties supporting Smyrna's request shall serve with the Commission and upon all parties to the proceeding including Commission Staff their testimony and exhibits in support of their position.

(E) As part of its case in support of its petition, Smyrna shall present evidence to substantiate its claims that the volumes it seeks in its petition for relief were committed prior to the AQE base year.

(F) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for this purpose, shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(G) Each party named above who has petitioned to intervene in this proceeding is hereby permitted to intervene, subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] KENETH F. PLUMB,
Secretary.

[FR Doc.74–10127 Filed 5–2–74;8:45 am]

FEDERAL RESERVE SYSTEM

CENTRAN BANCSHARES CORP.

Acquisition of Protective Loan Corp.

Centran Bancshares Corporation, Cleveland, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of the successor by merger to Protective Loan Corporation, Albany, New York ("Protective"), a company that engages in the activity of making personal installment loans and, through two wholly-owned subsidiaries, Reed Agency, Inc., and Protective Credit Corporation, both of Albany, New York, engages as agent in the sale of credit life insurance in connection with extensions of credit by Protective and in the purchase of personal installment contracts for goods and services.[1] Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (9)). The company into which Protective is to be merged has no significance except as a means to facilitate the acquisition of voting shares of Protective. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of shares of Protective.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 4694). The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant controls five banks with aggregate deposits of $1.4 billion.[2] Applicant also controls three nonbanking subsidiaries, two of which are consumer finance companies engaged in the making and servicing of personal installment loans, while the third subsidiary makes loans on the basis of second mortgages and secured consumer financing.

Protective had receivables of $6.9 million as of year end 1972. Of this amount, less than $50,000 was the result of the purchase of personal sales installment contracts. Protective operates a total of 11 offices within a 60-mile radius of Albany, New York. Such offices make personal loans of up to $2,500 to individuals.

There is no existing competition between any of Applicant's subsidiaries and Protective since the closest office of any subsidiary of Applicant is over 300 miles from an office of Protective. Nor does it appear that Protective has a dominant position in any of the communities in which it operates. In fact, except for the Albany area, Protective is one of the smaller consumer finance companies in each of the areas in which it operates. Even in Albany where it ranks as the third largest finance company, Protective is much smaller than the area's two largest finance companies which together have over 50 percent of the receivables outstanding of all finance companies in the area. Additionally, many of the smaller consumer finance companies operating in Albany are affiliates of large national concerns and are strong competitors. Moreover, several commercial banks also compete for personal installment loans so that Protective's position in the Albany area is not as strong as its rank among consumer finance companies may indicate. Applicant would not gain a substantial market position through its acquisition of Protective. The Board concludes, therefore, that consummation of the proposed acquisition would have no adverse effects on existing or potential competition in personal installment loans. Moreover, there is no evidence in the record indicating that consummation of the proposed acquisition would result in any undue concentration of resources, unfair competition, conflicts of interest, or unsound banking practices. Furthermore, due to the limited nature of both Protective's insurance activities and its purchase of personal installment loans, it does not appear that Applicant's acquisition of these activities would have any adverse effects.

Applicant's acquisition of Protective should ensure the latter a more stable and larger flow of funds which would enable it to provide increased competition for the larger consumer finance companies and commercial banks located in the area. Moreover, Applicant's experience in the consumer finance business should enable Protective to improve the efficiency of its operations. Thus, the affiliation of Protective with Applicant should result in some public benefits.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

Effective: April 26, 1974.

By order of the Board of Governors.[3]

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74–10124 Filed 5–2–74;8:45 am]

[1] Hereinafter Protective and its wholly-owned subsidiaries will be referred to as a group by the name of Protective.

[2] All banking data are as of June 30, 1973.

UNITED TENNESSEE BANCSHARES CORP.

Acquisition of United Tennessee Life Insurance Co.

United Tennessee Bancshares Corporation, Memphis, Tennessee, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire all of the voting shares of United Tennessee Life Insurance Company ("Company"), Phoenix, Arizona, a company to be organized de novo to engage in the underwriting, as reinsurer, of credit life and credit accident and health insurance in connection with extensions of credit by Applicant's banking subsidiaries. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 4816). The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant controls five banks with aggregate deposits of $513.2 million, representing about 5 percent of total deposits in commercial banks in Tennessee.[1] Company will be formed under Arizona law as a full reserve life insurance company. Since Company will be qualified to underwrite insurance directly only in Arizona, its activities will be limited to acting as reinsurer of credit life and credit accident and health insurance policies made available in connection with extensions of credit by Applicant's banking subsidiaries located in Tennessee. Such insurance will be directly underwritten by an insurer qualified to underwrite in Tennessee and will thereafter be assigned or ceded to Company under a reinsurance agreement. The direct underwriter will provide certain technical assistance to Company in its operations.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of a borrower. In connection with its addition of credit life and credit accident and health underwriting to the list of permissible activities for bank holding companies the Board stated that:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant has stated that it will provide credit life insurance at rates to consumers at about 7 percent below the maximum rate authorized by State law and will offer credit accident and health insurance at a 5 percent reduction from the maximum authorized by State law. Applicant has also indicated that it will liberalize some of the eligibility exclusions traditionally found in contracts of this type. The Board believes that the reducing of costs of and narrowing of exclusions from credit life and credit accident and health insurance policies offered by Applicant are considerations favorable to the public interest. The Board concludes, therefore, that such public benefits, in the absence of any evidence in the record indicating the presence of any adverse statutory factors, provide support for approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

Effective: April 26, 1974.

By order of the Board of Governors.[2]

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74–10125 Filed 5–2–74;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Holland, and Wallich. Absent and not voting: Governors Brimmer and Bucher.

[1] All banking data are as of June 30, 1973, and represent bank holding company acquisitions approved by the Board through March 31, 1974.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Holland, and Wallich. Absent and not voting: Governors Brimmer and Bucher.

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

SPECIAL STUDY COMMITTEE ON THE SELECTION OF ARCHITECTS AND ENGINEERS

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Special Study Committee on the Selection of Architects and Engineers, on May 13, 1974, at 9 a.m. in room 2126, General Services Building, 18th and F Sts., NW., Washington, D.C. 20405.

The purpose of the meeting is for the Committee to review the draft of the final report and to discuss other matters brought up by members of the Study Committee.

The meeting will be open to the public. Interested persons wishing to attend should telephone 202–343–6306 by close of business Friday, May 10, 1974.

Dated: April 29, 1974.

ALLAN G. KAUPINEN,
Assistant Administrator.

[FR Doc.74–10151 Filed 5–2–74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 74–28]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON GUIDANCE, CONTROL AND INFORMATION SYSTEMS

Notice of Meeting

The NASA Research and Technology Advisory Council, Committee on Guidance, Control and Information Systems will meet on May 21–22, 1974, at NASA Headquarters, Washington, DC 20546. The meeting will be held in Room 521J of Federal Office Building 10B, 600 Independence Avenue, SW. Members of the public will be admitted to the meeting, beginning at 9:00 a.m. on May 21, on a first-come, first-served basis up to the seating capacity of the room which is about 25 persons.

The NASA Research and Technology Advisory Council, Committee on Guidance, Control and Information Systems, serves in an advisory capacity only. The current Chairman is Dr. Barry W. Boehm. There are 12 members. The following list sets for the approved agenda and schedule for the May 21–22, 1974, meeting of the Guidance, Control and Information Systems Committee. For further information, please contact Dr. Peter R. Kurzhals, Area Code 202, 755–2385.

MAY 21, 1974

Time	*Topic*
9 a.m.	Chairman's and Executive Secretary's Reports. (Purpose: To review results of Council meetings, and examine features and outlook of the Guidance, Control and Information Systems organization and program plans.)

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Time	Topic
10:15 a.m.	Long Life Component Technology. (Purpose: To review plans for developing reliable, long-life electronic circuit arrays and obatin Committee comments on those plans.)
1 p.m.	Optical Communications Experiment. (Purpose: To examine plans for a joint NASA/DOD optical communications experiment with the objective of obtaining Committee comments for NASA consideration.)
2:30 p.m.	Standardized Aerospace Software. (Purpose: To review plans for developing common, modular software for aerospace computer applications and obtain Committee recommendations on program content and structure.)
3:30 p.m.	Civil Aircraft Computer Systems. (Purpose: To report progress in highly reliable computer technology development and obtain Committee comments on plans for hardware demonstration.)
MAY 22, 1974	
8:30 a.m.	Active Control Configured Transport. (Purpose: To describe plans for demonstrating active control technology in a civil transport aircraft with the objective of obtaining Committee comments for NASA consideration.)
9:30 a.m.	Digital Fly By Wire. (Purpose: To report status of the digital fly-by-wire program and planned modifications to support evaluation of Shuttle avionics with the objective of obtaining Committee comments.)
10:30 a.m.	Committee Deliberations and Recommendations. (Purpose: To review deliberations on previously listed agenda items, identify additional items which the Committee considers of significant interest to NASA, and develop Committee comments and formal recommendations for submission to NASA.)
12:30 p.m.	Adjournment.

BOYD C. MYERS II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

APRIL, 30, 1974.

[FR Doc.74-10181 Filed 5-2-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR PSYCHOBIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Psychobiology to be held at 9 a.m. on May 23 and 24, 1974, in Room 543 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

Individuals requiring further information about this Panel may contact Dr. Jacob Beck, Program Director, Psychobiology Program, Room 333, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 24, 1974.

[FR Doc.74-10188 Filed 5-2-74;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SS-P-24]

INVESTIGATION OF A NATURAL GAS PIPELINE ACCIDENT IN NEW YORK, NEW YORK, ON APRIL 22, 1974

Notice of Hearing

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m., on Tuesday, May 14, 1974, at the Carnegie Endowment Building, 345 East 46th Street, New York, New York.

Dated this 29th day of April, 1974.

[SEAL] LOUIS M. THAYER,
Chairman, Board of Inquiry.

[FR Doc.74-10187 Filed 5-2-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 30, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503 (202-395-4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Forest Service: Production and Disposition of Wood Residues at Secondary Wood Manufacturing Plants (Minn.-St. Paul SMSA); Form ---- Single time, Foster, Secondary wood products firms in the Minn.-St. Paul SMSA.

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce: Energy Shortages in the Concrete, Gypsum, and Plaster Products Industries; Form ----, Single time, Hulett/Weiner/Lowry, Manufacturing firms.

DEPARTMENT OF DEFENSE

Departmental: Guidance Counselor Questionnaire; Student Questionnaire, Form ----, Single time, Planchon, High school students and guidance counselors.

GENERAL SERVICES ADMINISTRATION

Performance Bond: Form SF 25, Occasional, Evinger, Govt. contracts.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration: Application for a Scholarship—Physician Shortage Area Scholarship Program and Annual Notice of Activity; Form HRABHRD 0428, Annual, Lowry, Medical and osteopathic students.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration: Track Inspection Form; Form FRA F 6180-56, FRA F 6180-58a, Occasional, Foster, State employees (inspectors).

REVISIONS

DEPARTMENT OF LABOR

Employment Standards Administration: Survey of Sheltered Workshops; Form WH 381, Single time, HRD/Raynsford, Directors of sheltered workshops.

EXTENSIONS

None.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-10306 Filed 5-2-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3600]

AETNA FUND, INC. ET AL.

Filing of Application for Exemption From the Certain Provisions

APRIL 29, 1974

Notice is hereby given that Aetna Fund, Inc. and Aetna Income Shares, Inc. (collectively referred to as "Funds"), diversified, open-end, management investment companies registered under the Investment Company Act of 1940 (the "Act"), and Aetna Financial Services, Inc. ("Aetna Financial"), 151 Farmington Ave., Hartford, Conn. (06115), a wholly-owned subsidiary of Aetna Life and Casualty Company of Hartford, Connecticut ("Aetna") and the principal underwriter of both of the Funds (collectively referred to with Funds as "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order granting an exemption from section 22(d) of the Act to the extent specified therein. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter shall sell any redeemable security to any person except at a current public offering price described in the prospectus. Shares of both Funds are currently offered to the public at a price based on net asset value plus a sales charge that varies with the quantity of securities purchased. The maximum sales charge, expressed as a percentage of the public offering price, is 8.50 percent.

Applicants request an exemption from section 22(d) of the Act to permit the application of the proceeds of life insurance or annuity contracts, issued by Aetna or any company organized and operated as a life insurance company under applicable state law and controlled by Aetna, whether such proceeds are payable on death or otherwise, to the purchase of shares of either of the Funds at a sales charge that would be one-half the sales charge described in the prospectus of each Fund.

The reduced sales charge which would be applicable is as follows:

Total Investment in either fund at public offering price	*Sale Charge as Percentage of Offering Price*
0 less than $10,000	4.25
$10,000 but less than $25,000	3.75
$25,000 but less than $50,000	3.00
$50,000 but less than $100,000	2.50
$100,000 but less than $250,000	2.00
$250,000 but less than $500,000	1.50
$500,000 but less than $1,000,000	1.00
$1,000,000 and over	0.50

Applicants assert that the solicitation costs and sales efforts involved in sales of this type will be markedly reduced as compared with sales to new prospects and that the proposed exemption presents no significant threat to the orderly distribution of redeemable investment company securities. Premiums paid to Aetna on the insurance contracts constituting the source of the insurance proceeds applied to the purchase of shares of the Aetna Funds will already have been subjected to sales charges. Accordingly, Applicants assert that the requested exemption does not involve unfair discrimination and is, in fact, necessary to avoid unnecessary and inequitable duplication of sales charges to purchasers of this class.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants represent that the exemption requested from the provisions of section 22(d) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 20, 1974, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following May 20, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10249 Filed 5-2-74;8:45 am]

[File No. 500-1]

BBI, INC.

Notice of Suspension of Trading

APRIL 26, 1974.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 29, 1974 through May 8, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10224 Filed 5-2-74;8:45 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Notice of Suspension of Trading

APRIL 26, 1974.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 28, 1974 through May 7, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10225 Filed 5-2-74;8:45 am]

[70-5491]

CENTRAL POWER AND LIGHT CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

APRIL 26, 1974.

Notice is hereby given that Central Power and Light Company ("CP&L"), 120 North Chapparel St., Corpus Christi, Texas 78403, an electric utility subsidiary company of Central and South West Corporation ("Central"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $40,000,000 principal amount of First Mortgage Bonds, Series N, to be dated June 1, 1974,

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and to mature June 1, 2004 (the "bonds"). The interest rate (which will be multiple of ⅛ of 1 percent) and the price (which will not be less than 99 percent nor more than 102.75 percent of the principal amount of the bonds, exclusive of the accrued interest to be added to such price) will be determined by competitive bidding. The bonds will be issued and secured by CP&L's Indenture of Mortgage or Deed of Trust, dated November 1, 1943, to the First National Bank of Chicago and R. R. Manchester (successor Co-Trustee), as Trustees, as amended by the indentures supplemental thereto heretofore executed (the "Mortgage"), and to be further amended by a Supplemental Indenture to be dated June 1, 1974, which contains a prohibition until June 1, 1979, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost, except under certain debt retirement provisions of the Mortgage.

The proceeds to be derived by CP&L from the sale of the bonds (exclusive of accrued interest and after deducting expenses of issue) will be used to finance a part of the costs of additions, extensions, betterments and improvements made and to be made to its electric utility properties, including the payment of approximately $14,000,000 of short-term notes incurred or expected to be incurred by CP&L in connection with the interim financing of its construction expenditures. The proposed construction expenditures of CP&L for the calendar years 1974 and 1975 are presently estimated at $115,691,000 and $84,102,000, respectively. It is proposed to authenticate the bonds against approximately $24,435,000 of matured CP&L Series A bonds and approximately $25,941,667 of available unused net expenditures for bondable property of CP&L.

The fees and expenses to be paid by CP&L in connection with the issue and sale of the bonds are estimated to total $95,000, including legal fees of $18,500. The fees and expenses of legal counsel for the successful bidders, to be paid by the successful bidders, are estimated at $12,850. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than May 24, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10223 Filed 5-2-74;8:45 am]

[811-2323]

DELCAP ENERGY FUND, INC.

Application for Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 29, 1974.

NOTICE IS HEREBY GIVEN that Delcap Energy Fund, Inc. ("Applicant"), 901 Market St., Wilmington, Del. 19801 registered as an open-end, diversified management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Delaware corporation on September 15, 1970, and registered under the Act on October 19, 1972, by filing a Form N-8A Notification of Registration. Applicant also filed a Registration Statement under the Securities Act of 1933 ("1933 Act") on December 1, 1972. This 1933 Act Registration Statement never became effective, and on March 7, 1974, the Commission consented to its withdrawal. Applicant represents that due to unfavorable market conditions it has never offered its shares to the public.

As of February 15, 1974, Applicant had total assets of approximately $87,200 and 26 shareholders. All of these shareholders are either officers, directors or members of the research department of Applicant. Applicant has no public shareholders and has no intention of offering its securities for sale to the public.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is, not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 21, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following May 21, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10250 Filed 5-2-74;8:45 am]

[File No. 500-1]

GEON INDUSTRIES, INC.

Notice of Suspension of Trading

APRIL 9, 1974.

The common stock of Geon Industries, Inc. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Geon Industries, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 10, 1974 through April 19, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10228 Filed 5-2-74;8:45 am]

[File No. 500-1]

NATIONAL ALFALFA DEHYDRATING AND MILLING CO.

Notice of Suspension of Trading

APRIL 25, 1974.

The common stock of National Alfalfa Dehydrating And Milling Company being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of National Alfalfa Dehydrating And Milling Company being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 26, 1974 through May 5, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10227 Filed 5-2-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES, INC.

Notice of Suspension of Trading

APRIL 26, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 28, 1974 through May 7, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10228 Filed 5-2-74;8:45 am]

[File No. 500-1]

STANDARD LIFE CORP.

Notice of Suspension of Trading

APRIL 25, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Standard Life Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 1:00 p.m. (EDT) April 25, 1974 through midnight (EDT) May 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10229 Filed 5-2-74;8:45 am]

[File No. 500-1]

TECHNICAL RESOURCES, INC.

Notice of Suspension of Trading

APRIL 26, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Technical Resources, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 27, 1974 through May 6, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10230 Filed 5-2-74;8:45 am]

[File No. 500-1]

U.S. FINANCIAL INC.

Notice of Suspension of Trading

APRIL 26, 1974.

The common stock of U.S. Financial Incorporated being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 29, 1974 through May 8, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10231 Filed 5-2-74;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Notice of Suspension of Trading

APRIL 26, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 28, 1974 through May 7, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10232 Filed 5-2-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 08/11-0029]

BERKSHIRE CAPITAL, INC.

Notice of License Surrender

Notice is hereby given that Berkshire Capital, Inc. (Berkshire), 405 8th Avenue, NW., Aberdeen, South Dakota 57401 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Berkshire was licensed by the Small Business Administration on January 3, 1967.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on March 26, 1974, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

Dated: April 28, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-10145 Filed 5-2-74;8:45 am]

FIELD OFFICES

Delegation of Authority To Conduct Program Activities

Delegation of Authority No. 30-III (37 FR 17599), as amended, 38 FR 11379, is

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hereby revised in its entirety to reflect realignment of field offices and reads as follows:

Pursuant to the authority delegated to Regional Director by Delegation of Authority No. 30 (Revision 14), 37 FR 12651, as amended, 37 FR 14840, 37 FR 19405, 37 FR 21466, 37 FR 23594, 38 FR 32984, and 39 FR 1898, the following authority is hereby redelegated to the positions within Region III, as indicated herein:

PART I—FINANCING PROGRAM

SECTION A—LOAN APPROVAL AUTHORITY

1. *Small Business Act Section 7(a) Loans.* To approve or decline business loans not exceeding the following amounts (SBA share):

(1) Assistant Regional Director for Finance and Investment	$350,000
(2) Regional Loan Specialist	350,000
(3) District Director	350,000
(4) Assistant District Director for Finance and Investment	350,000
(5) District Supervisory Loan Specialist (Financing Division)	350,000
(6) Chief, Financing Division (Richmond and Washington District Offices only)	350,000

2. *Economic Opportunity (EO) Loans.* To approve or decline economic opportunity loans not exceeding $50,000 (SBA Share).

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance & Investment
(5) District Supervisory Loan Specialist (Financing Division)
(6) Chief, Financing Division (Richmond and Washington District Offices only).

3. *Displaced business and other economic injury loans.* a. To decline displaced business, coal mine health and safety, consumer protection (meat, egg, poultry), occupational safety and health, strategic arms limitation economic injury, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters in any amount and to approve such loans up to the following amounts (SBA Share):

(1) Assistant Regional Director for Finance and Investment	$500,000
(2) Regional Loan Specialist	500,000
(3) District Director	500,000
(4) Assistant District Director for Finance and Investment	350,000
(5) District Supervisory Loan Specialist (Financing Division)	350,000
(6) Chief, Financing Division (Richmond and Washington District Offices only)	350,000

b. To approve or decline displaced business, coal mine health and safety, consumer protection (meat, egg, poultry), occupational safety and health, strategic arms limitation economic injury, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters up to the following amounts (SBA share):

(1) Assistant Regional Director for Finance and Investment	$500,000
(2) Regional Loan Specialist	500,000
(3) District Director	500,000
(4) Assistant District Director for Finance and Investment	350,000
(5) District Supervisory Loan Specialist (Financing Division)	350,000
(6) Chief, Financing Division (Richmond and Washington District Offices only)	350,000

4. *Handicapped assistance loans.* To approve or decline Handicapped Assistance Loans not exceeding $350,000 (SBA share):

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) District Supervisory Loan Specialist (Financing Division)
(6) Chief, Financing Division (Richmond and Washington District Offices only).

SECTION B.—OTHER FINANCING AUTHORITY

1. a. To enter into business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), occupational safety and health, coal mine health and safety, strategic arms limitation economic injury, and handicapped assistance loan participation agreements with banks:

(1) District Director
(2) Assistant District Director for Finance and Investment
(3) District Supervisory Loan Specialist (Financing Division)
(4) Chief, Financing Division (Richmond and Washington District Offices only)
(5) Branch Manager
(6) Assistant Branch Manager

b. To enter into blanket loan guarantee agreements with banks:

(1) District Director
(2) Assistant District Director for Finance and Investment
(3) District Supervisory Loan Specialist (Financing Division)
(4) Chief, Financing Division (Richmond and Washington District Offices only)

2. To execute loan authorizations for loans approved by higher authority and for loans personally approved under delegated authority:

(1) District Director
(2) Assistant Regional Director for Finance and Investment
(3) District Supervisory Loan Specialist (Financing Division)
(4) Chief, Financing Division (Richmond and Washington District Offices only)

3. To cancel, reinstate, modify, and amend authorizations:

a. For business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), occupational safety and health, coal mine health and safety, strategic arms limitation economic injury, and handicapped assistance loans:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Branch Manager

(1) Assistant Regional Director for Finance and Investment	$500,000
(2) Regional Loan Specialist	500,000
(3) District Director	500,000
(4) Assistant District Director for Finance and Investment	350,000
(5) District Supervisory Loan Specialist (Financing Division)	350,000
(6) Chief, Financing Division (Richmond and Washington District Offices only)	350,000

(5) Assistant Branch Manager
(6) Assistant District Director for Finance and Investment
(7) District Supervisory Loan Specialist (Financing Division)
(8) District Supervisory Loan Specialist (Portfolio Management)
(9) Chief, Financing Division (Richmond and Washington District Offices only)
(10) Chief, Loan Administration Division (Richmond and Washington District Offices only)

b. For fully undisbursed or partially disbursed business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), occupational safety and health, coal mine health and safety, strategic arms limitation economic injury, and handicapped assistance loans:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Branch Manager
(5) Assistant Branch Manager
(6) Assistant District Director for Finance and Investment
(7) District Supervisory Loan Specialist (Financing Division)—fully undisbursed
(8) Chief, Financing Division (Richmond and Washington District Offices only)—fully undisbursed
(9) Chief, Loan Administration Division (Richmond and Washington District Offices only)—partially disbursed
(10) District Supervisory Loan Specialist (Portfolio Management)—partially disbursed only

c. For business, economic opportunity, disaster, displaced business, consumer protection (meat, egg, poultry), occupational safety and health, strategic arms limitation economic injury, and handicapped assistance loans personally approved under delegated authority:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Branch Manager
(5) Disaster Branch Manager
(6) Assistant District Director for Finance and Investment
(7) District Supervisory Loan Specialist (Financing Division)
(8) District Supervisory Loan Specialist (Portfolio Management)
(9) Chief, Financing Division (Richmond and Washington District Offices only)
(10) Chief, Loan Administration Division (Richmond and Washington District Offices only).

4. To approve minor modifications in fully undisbursed loan authorizations:

District Loan Specialist (Financing Division)

5.—a. To extend the disbursement period on *all* loan authorizations:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Branch Manager
(5) Assistant Branch Manager
(6) Assistant District Director for Finance and Investment

b. To extend the disbursement period on all loan authorizations on loans fully undisbursed:

(1) District Supervisory Loan Specialist (Financing Division)
(2) Chief, Financing Division (Richmond and Washington District Offices only)

c. To extend the disbursement period on all loan authorizations on loans partially disbursed:

(1) District Supervisory Loan Specialist (Portfolio Management)
(2) Chief, Loan Administration Division (Richmond and Washington District Offices only)

6. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) District Supervisory Loan Specialist (Financing Division)—fully undisbursed loans
(6) Chief, Financing Division (Richmond and Washington District Offices only)—fully undisbursed loans
(7) District Supervisory Loan Specialist (Portfolio Management)—partially undisbursed loans
(8) Chief, Loan Administration Division (Richmond and Washington District Offices only)—partially undisbursed loans

PART II—DISASTER PROGRAM

SECTION A.—DISASTER LOAN AUTHORITY

1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety, occupational safety and health, strategic arms limitation economic injury, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) District Supervisory Loan Specialist (Financing Division)
(6) Chief, Financing Division (Richmond and Washington District Offices only)
(7) Disaster Branch Manager
(8) Assistant Disaster Branch Manager

2. To decline direct disaster and immediate participation disaster loans (excluding displaced business loans, coal mine health and safety, occupational safety and health, strategic arms limitation economic injury, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) in any amount and to approve such loans up to the total SBA funds of $50,000:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) District Supervisory Loan Specialist (Financing Division)
(6) Chief, Financing Division (Richmond and Washington District Offices only)
(7) Disaster Branch Manager
(8) Assistant Disaster Branch Manager

3. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guarantee of the following amounts:

(1) Assistant Regional Director for Finance and Investment	$1,000,000
(2) Regional Loan Specialist	1,000,000
(3) District Director	500,000
(4) Assistant District Director for Finance and Investment	500,000
(5) District Supervisory Loan Specialist (Financing Division	500,000
(6) Chief, Financing Division (Richmond and Washington District Offices only)	500,000
(7) Disaster Branch Manager	500,000
(8) Assistant Disaster Branch Manager	500,000

4. To appoint as a processing representative any Bank in the disaster area:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) Disaster Branch Manager

5. To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director

SECTION B—ADMINISTRATIVE AUTHORITY

1. *Establishment of Disaster Field Offices.* (a) To establish field offices upon receipt of advice of the designation of a disaster area and to close disaster field offices when no longer advisable to maintain such offices; and (b) to obligate the Small Business Administration to reimburse the General Services Administration for the rental of temporary office space.

(1) Assistant Regional Director for Finance and Investment
(2) Assistant Regional Director for Administration
(3) Regional Loan Specialist
(4) District Director

2. *Purchase and Contract Authority.* a. To contract for local credit bureau services and loss verification services pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Disaster Branch Manager

b. To purchase office supplies and equipment, including office machines and regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up, dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) Regional Administrative Officer (Bala Cynwyd, Pa. office)
(4) District Director

PART III—COMMUNITY ECONOMIC DEVELOPMENT (CED) PROGRAM

SECTION A—SECTION 501 AND 502 LOAN APPROVAL AUTHORITY

1. To approve or decline section 501 state development company loans:

a. Without dollar limitation:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist

b. Up to the following amounts (SBA share), provided the official concurs in at least one prior recommendation:

None

2. To approve or decline section 502 local development company loans:

a. Up to the following amounts (SBA share):

None

b. Up to the following amounts (SBA share) when project cost does not exceed $1,000,000: *Provided*, The official concurs in at least one prior recommendation:

(1) Assistant Regional Director for Finance and Investment	$350,000
(2) Regional Loan Specialist	350,000

c. Up to the following amounts (SBA share) when project cost does not exceed $700,000: *Provided*, The official concurs in at least one prior recommendation:

(1) District Director	$350,000

SECTION B—OTHER 501 AND 502 AUTHORITY

1. a. To extend the disbursement period on sections 501 and 502 loan authorizations:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director

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(4) Assistant District Director for Finance and Investment

b. To extend the disbursement period on fully undisbursed sections 501 and 502 loans:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment

2. a. To execute sections 501 and 502 loan authorizations for loans approved by higher authority and for loans personally approved under delegated authority:

(1) District Director
(2) Assistant District Director for Finance and Investment

3. a. To cancel, reinstate, modify and amend authorizations for sections 501 and 502 loans:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment

b. To cancel, reinstate, modify and amend authorizations for fully undisbursed or partially disbursed sections 501 and 502 loans:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment

4. To enter into section 502 loan participation agreements with banks:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment

SECTION C.—LEASE AND SURETY GUARANTEE APPROVAL AUTHORITY

1. To approve or decline applications for the direct guarantee of payment of rent not to exceed the following amounts:

(1) Assistant Regional Director for Finance and Investment	$1,000,000
(2) Regional Loan Specialist	1,000,000
(3) District Director	500,000

2. To guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts not to exceed $500,000:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist

SECTION D.—OTHER LEASE GUARANTEE AUTHORITY

1. a. To issue and modify commitment letters:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment

SECTION E.—EDA LOAN DISBURSEMENT AUTHORITY

1. a. To disburse approved EDA loans, as authorized:

(1) Regional Counsel
(2) Regional Office Attorney
(3) District Counsel
(4) District Office Attorney

PART IV—PORTFOLIO MANAGEMENT (PM) PROGRAM

SECTION A.—PORTFOLIO MANAGEMENT, SERVICING, COLLECTION AND LIQUIDATION AUTHORITY

1. To take all necessary actions in connection with the administration, servicing, collection and liquidation of all loans, exclusive of matters in litigation, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing, the assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator; the execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordination, release (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing; the approval of bank applications for use of liquidity privilege under the loan guaranty plan; and to advertise regarding the public sale of collateral in connection with the liquidation of loans, and acquired property;

a. Except: To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement;

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) District Supervisory Loan Specialist (Portfolio Management)
(6) Chief, Loan Administration Division (Richmond District and Washington District Offices only)

b. Except: To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; to authorize the liquidation of a loan; and the cancellation of authority to liquidate:

(1) Branch Manager
(2) Assistant Branch Manager

c. Except: To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; to authorize the liquidation of a loan other than a disaster home loan and the cancellation of authority to liquidate any loan other than a disaster home loan.

None

2. To contract for the services of fee appraisers, engineering, marketing and feasibility studies, and other required services, in conjunction with loan processing, servicing and loan liquidation:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) District Supervisory Loan Specialist (Portfolio Management)
(6) Chief, Loan Administration Division (Richmond and Washington District Offices only)

3. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of matters in litigation, and acquired collateral, when and as authorized by EDA:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist
(3) District Director
(4) Assistant District Director for Finance and Investment
(5) District Supervisory Loan Specialist (Portfolio Management)
(6) Chief, Loan Administration Division (Richmond and Washington District Offices only)

SECTION B—PORTFOLIO MANAGEMENT, SERVICING AND COLLECTION AUTHORITY

1. To take all necessary actions in connection with the administration, servicing, and collection of all loans, other than those accounts classified as "in liquidation" and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing, the assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, pow-

ers, rights, charges on an interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator; the execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part), of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary for use of liquidity privilege under the loan guaranty plan;

a. Except: To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; to authorize the liquidation of a loan; and the cancellation of authority to liquidate:

None

2. To approve the following actions:

a. Use of such portions of the cash surrender value of assigned life insurance as are required to pay premiums due on the policy.

b. Release of dividends on assigned life insurance or consent to application of dividends against premiums due or to become due.

c. Minor modifications in the authorization.

d. Extension of disbursement period on loans partially undisbursed.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorsement of such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

(1) Concerning all current direct and participation loans and First Mortgage Plan 502 loans:

District Loan Officer (Portfolio Management)

(2) Concerning all direct and participation loans:

None

SECTION C—LEASE GUARANTEE ADMINISTRATION AND SERVICING AUTHORITY

1. a. To service claims arising under all lease insurance policies issued in the region, approving the payment, or recommending denial of such claims:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist

b. To service claims arising under all lease insurance policies issued in the district, approving the payment, or recommending denial of such claims:

(1) District Director
(2) Assistant District Director for Finance and Investment
(3) District Supervisory Loan Specialist (Portfolio Management)
(4) Chief, Loan Administration Division (Richmond and Washington District Offices only)

c. To service claims arising under all lease insurance policies issued in the branch office area, approving the payment or recommending denial of such claims:

None

2. To take all actions necessary to mitigate losses from lease guarantees:

a. Issued in the region:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist

b. Issued in his district:

(1) District Director
(2) Assistant District Director for Finance and Investment
(3) District Supervisory Loan Specialist (Portfolio Management)
(4) Chief, Loan Administration Division (Richmond and Washington District Offices only)

PART V—PROCUREMENT ASSISTANCE

SECTION A—CERTIFICATE OF COMPETENCY APPROVAL AUTHORITY

1. With the exception of re-referred cases, to approve applications for certificates of Competency up to but not exceeding $250,000 bid value received from small business concerns located within the geographical jurisdiction of the following:

None

2. To deny an application for a Certificate of Competency when an adverse determination as to capacity or credit is concurred in:

Assistant Regional Director for Procurement Assistance

SECTION B—SECTION 8 (A) CONTRACTING AUTHORITY

1. To enter into contracts, not exceeding the following amounts, on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts:

(1) Assistant Regional Director for Procurement Assistance	$100,000

2. To arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts:

(1) Assistant Regional Director for Procurement Assistance

3. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer:

(1) Assistant Regional Director for Procurement Assistance

PART VI—MANAGEMENT ASSISTANCE

SECTION A—SECTION 406 CONTRACT MANAGEMENT AUTHORITY

1. To take all necessary actions in connection with the administration and management of contracts, executed by the Associate Administrator for Financial Assistance under the authority granted in Section 406 of the Economic Opportunity Act of 1964, as amended, except changes, amendments, modifications, or termination of the original contract:

(1) Assistant Regional Director for Management Assistance

PART VII—LEGAL SERVICES

SECTION A—AUTHORITY TO CONDUCT LITIGATION ACTIVITIES

1. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with matters in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and application therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges, on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all matters in litigation.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to matters in litigation.

(1) Except: To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement:

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(1) Regional Counsel

(2) Except: To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; to authorize the liquidation of a loan and the cancellation of authority to liquidate:

(1) District Counsel
(2) Branch Counsel

2. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with matters in litigation, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, with the exception of the following, which are reserved to regional and district counsel:

a. The assignment, endorsement, transfer and delivery of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges, on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all matters in litigation.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all matters in litigation:

(1) Regional Office Attorney
(2) District Office Attorney
(3) Branch Counsel
(4) Branch Office Attorney

3. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects, when and as authorized by EDA:

(1) Regional Counsel
(2) Regional Office Attorney
(3) District Counsel
(4) District Office Attorney

SECTION B—LOAN CLOSING AUTHORITY

1. To close and disburse approved SBA loans:

(1) Regional Counsel
(2) Regional Office Attorney
(3) District Counsel
(4) District Office Attorney
(5) Branch Counsel
(6) Branch Office Attorney

2. To close approved EDA loans, as authorized:

(1) Regional Counsel
(2) Regional Office Attorney
(3) District Counsel
(4) District Office Attorney

3. To approve, when requested, in advance of disbursements, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization:

(1) Regional Counsel
(2) Regional Office Attorney
(3) District Counsel
(4) District Office Attorney
(5) Branch Counsel
(6) Branch Office Attorney

PART VIII—ELIGIBILITY AND SIZE DETERMINATION

SECTION A—ELIGIBILITY DETERMINATIONS

1. a. In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under any program of the Agency,

(1) Except: the SBIC program:

(1) Assistant Regional Director for Finance and Investment (Financial Programs)
(2) Assistant Regional Director for Procurement Assistance (Procurement Programs)
(3) Regional Loan Specialist
(4) District Director

(2) Except: The SBIC and community economic development programs:

(1) Assistant District Director for Finance and Investment
(2) District Supervisory Loan Specialist (Financing Division)

b. In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under the sections 501 and 502 program of the Agency:

(1) None

SECTION B—SIZE DETERMINATION

1. a. To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financial assistance purposes only:

(1) Assistant Regional Director for Finance and Investment
(2) Regional Loan Specialist

b. To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financing purposes only:

(1) District Director
(2) Assistant District Director for Finance and Investment

c. To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further, to make product classification decisions for financing purposes only:

(1) District Supervisory Loan Specialist (Financing Division)
(2) Chief, Financing Division (Richmond and Washington District Offices only)

d. To make initial size determinations in all sections 501 and 502 loans within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for sections 501 and 502 loans only:

None

e. Product classification decisions for procurement purposes are made by contracting officers.

PART IX—ADMINISTRATIVE

SECTION A.—AUTHORITY TO PURCHASE, RENT, OR CONTRACT FOR EQUIPMENT, SERVICES AND SUPPLIES

1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases:

(1) Assistant Regional Director for Administration
(2) District Director

2. To purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

(1) Assistant Reigonal Director for Administration
(2) Regional Office Services Specialist
(3) District Director

3. To rent motor vehicles and garage space for the storage of such vehicles when not furnished by this Administration.

(1) Assistant Regional Director for Administration
(2) Regional Office Services Specialist
(3) District Director

4. To rent temporarily SBA conference space except within the Metropolitan Washington area.

(1) Assistant Regional Director for Administration
(2) District Director

5. To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the non-existence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications:

(1) District Director
(2) Branch Manager

PART X—EXERCISE OF AUTHORITY BY OFFICIAL IN AN ACTING CAPACITY AND REDELEGATION

The authority delegated herein to a specific position may not be redelegated however, such authority may be exercised by an SBA employee designated as acting in that position.

PART XI—RECISSION OF AUTHORITY

All authority previously delegated by the Regional Director to specific positions in Region III is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the effective date hereof.

Effective date: November 11, 1973.

A. M. PETERSON,
Regional Director,
Region III.

[FR Doc.74-10144 Filed 5-2-74;8:45 am]

ESTABLISHMENT OF STANDARDS AND GUIDELINES FOR LENDING INSTITUTIONS

Notice of Meeting; Inquiry

Notice is hereby given of an opportunity for interested parties to participate in a meeting to be held for the purpose of obtaining public comment and suggestions for the further development of the standards and guidelines established by the Small Business Administration (SBA) for lending institutions which are not subject to regulation and supervision by either Federal or State authorities. The meeting will be held on May 17, 1974, commencing at 9:00 a.m., in the headquarters of SBA located at 1441 L Street NW., Washington, D.C. 20416. The intention is to complete the meeting in one day. An allocation of time for oral presentations will be made on the basis of the number of requests received for the presentation of oral statements. The proceedings will be conducted informally subject to the discretion of the Chairman of the meeting. Persons wishing to submit comments and suggestions in writing are hereby invited to do so whether or not they participate in the meeting.

Background. Pursuant to the Small Business Act and the Economic Opportunity Act of 1964, SBA may participate with private lending institutions in loans to eligible small business concerns. Pursuant to regulations adopted by SBA, particularly Part 120 of 13 CFR 120.3(c) (38 FR 34459), SBA participates both with lending institutions which are subject to regulation and supervision by Federal or State authorities and with lending institutions which are not subject to Federal or State regulation and supervision where such institutions qualify pursuant to standards and guidelines established by SBA.

The following are examples of topics which comment or suggestions would be appropriate:

1. In order to qualify as a nonregulated lender, it is required that the institution has been engaged in providing financial assistance to business organizations for a minimum period of time. The question is what should be the minimum period of lending experience that SBA should require from a nonregulated lender before SBA will participate with that lender in a loan to a small business concern?

2. It has been determined that the participation of a non-regulated lender in lending programs administered by SBA not be the principal lending activity of such lender. At what level should SBA establish the maximum percentage for the nonregulated lender's lending activity relating to SBA's loan programs?

3. SBA requires that a nonregulated lender participating with SBA must maintain an unimpaired capital of not less than $200,000. The question upon which public comment is invited is the extent to which this minimum capitalization requirement should be increased or other capital or reserve requirements imposed?

4. SBA's primary statutory function is to protect and assist the interests of small business concerns. SBA also seeks to encourage the development of private sources of financial assistance to the small business community by enabling and facilitating the participation of both regulated and nonregulated lending institutions in the SBA loan programs. However, SBA desires to avoid participating with private lenders in any manner that would affect SBA's freedom to administer its programs for the assistance of small business concerns. Public comment is invited on the adoption by SBA of guidelines to avoid the dependence of nonregulated lenders on SBA in a manner that would encroach upon SBA's ability to execute its statutory function, to adopt or amend its regulations, or to take administrative actions to protect the interests of the small business community and the Government.

5. How can the development of nonregulated lenders be encouraged or assisted without adversely affecting regulated lenders and without encroaching on SBA's administrative discretion?

6. Shall participating lenders, including nonregulated lenders, be permitted or be precluded from providing nonlending services for a fee to borrowers, such as the sale of insurance or providing management or consulting services?

7. Such other questions or issues in this general area that may be appropriately developed at the designated meeting.

Notification of intent to make oral presentations, and inquiries regarding this meeting, should be directed to William W. Rosenfield, Jr., Acting Director, Office of Program Development, at the above headquarters address, or by telephoning Area Code 202, 382-7164. Only one oral presentation may be made on behalf of a single party. Written comments on the above or related topics will be accepted for an additional 10 days after the date of the meeting.

Dated: May 2, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10375 Filed 5-2-74;11:04 am]

TARIFF COMMISSION

[337-L-68]

PIEZOELECTRIC CERAMIC 10.7 MHz ELECTRIC WAVE FILTERS

Extension of Time

On November 26, 1973, the U.S. Tariff Commission issued notice of the receipt of a complaint received under section 337 of the Tariff Act of 1930, filed by the Vernitron Corporation of Bedford, Ohio alleging unfair methods of competition and unfair acts in the importation and sale of piezoelectric ceramic 10.7 MHz electric wave filters (38 FR 33127 Nov. 30, 1973). Interested parties were given until February 18, 1974, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business May 26, 1974.

By order of the Commission.

Issued: April 29, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-10186 Filed 5-2-74;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

MOUNTAIN STATES REGIONAL MANPOWER ADVISORY COMMITTEE

Notice of Meeting

The Mountain States Regional Manpower Advisory Committee will meet at the Game Lodge in Custer State Park, South Dakota on May 16 and 17, 1974. Appointed by the Secretary of Labor, the Committee makes recommendations to the Department of Labor's Assistant Regional Director for Manpower and the Department of Health, Education and Welfare's Regional Director relative to the carrying out of their duties under the Manpower Development and Training Act of 1962, as amended. Members of the Committee are chosen from representatives of labor, management, agriculture, education, training and the public at large. The chairman is J. Kenneth Davies of Brigham Young University.

At its meeting on May 16 and 17, the Mountain States Regional Manpower Advisory Committee will discuss the Comprehensive Employment and Training Act of 1973 and its implications for the role and composition of advisory bodies; review the Basic Education Opportunity Grant Program of HEW; and discuss HEW's health manpower policy.

The meeting will be held in the Game Lodge starting at 9 a.m. on May 16 and is expected to adjourn at 12 noon on May 17. The meeting will be open to the public.

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Signed at Denver, Colorado, this 15th day of April, 1974.

ROBERT M. HUNTER,
Executive Secretary, Mountain States Regional Manpower Advisory Committee.

[FR Doc.74-10344 Filed 5-2-74;10:28 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 500]

ASSIGNMENT OF HEARINGS

APRIL 30, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

Ex Parte 295 Sub-1, Increased Freight Rates and Charges, 1973—Recyclable Materials, is continued to May 2, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 139206, F. M. S. Transportation, Inc., now being assigned July 8, 1974, (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC-F-12128, Gateway Transportation Co., Inc.—Purchase (Portion)—Walsh Freight Co., Inc., And Carrier Service, Inc.; and Finance Docket No. 27601, Gateway Transportation Co., Inc., Notes, now being assigned July 10, 1974, (3 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 124511 Sub-17, John F. Oliver, now being assigned continued hearing July 15, 1974 (1 week), at St. Louis, Mo., in a hearing room to be later designated.

MC-35628, Interstate Motor Freight System, now being assigned hearing May 15, 1974 (3 days), in Room 235 Federal Bldg., 85 Marconi Boulevard, Columbus, Ohio.

MC 8948 Sub 106, Western Gillette, Inc., now assigned June 24, 1974, in Court Room 2, 3rd Floor, Federal Bldg., 300 Las Vegas Blvd., South, Last Vegas, Nev.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10247 Filed 5-2-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

APRIL 30, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 13, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-25798 (Sub-No. E1), filed April 7, 1974. APPLICANT: Clay Hyder Trucking Lines, Inc., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh vegetables* in mixed shipments with frozen citrus products or citrus products not canned and not frozen (1) from points in Florida west of the eastern boundary of Jefferson County, to points in Kentucky east of a line beginning at the Kentucky-Tennessee State line and its intersection with Florida Highway 61, thence along Florida Highway 61 to Elizabethtown, thence north along U.S. Highway 31W to its intersection with U.S. Highway 60, thence west on U.S. Highway 60 to its intersection with Kentucky Highway 79, thence north on Kentucky Highway 79 to the Kentucky-Indiana State line; (2) from points in Florida west of the eastern boundary of Jefferson County, to points in Illinois on and north of a line beginning at the intersection of U.S. Highway 460 and the Illinois-Indiana State lines, thence along U.S. Highway 460 to its intersection with U.S. Highway 40, thence west on U.S. Highway 40 to the Illinois-Missouri State line; (3) from points in Florida west of the eastern boundary of Jefferson County, to points in Indiana (except Posey, Vanderburg, Warrick, Spencer, Perry, Dubois, Gibson, and Pike Counties, Ind.); and (4) from points in Florida to points in Michigan, Minnesota, Ohio, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Henderson County, N.C.

No. MC-73616 (Sub-No. E1), filed April 24, 1974. APPLICANT: Bilkays Express Co., 100 Third Avenue, Elizabeth, N.J. 07256. Applicant's representative: J. C. Carver (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Hunterdon, Morris, Sussex, and Warren Counties, N.J., and those in Somerset County, N.J., north of the Raritan River, on the one hand, and, on the other, points in Dutchess, Orange, Putnam, Rockland, and Westchester Counties, N.Y. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC-95540 (Sub-No. E25), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in West Virginia. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E-26), filed April 15, 1974. Applicant: WATKINS MOTOR LINES INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida to points in Ohio. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E-34), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits* and *frozen vegetables*, from points in Florida, to points in North Dakota. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and Tennessee.

No. MC-95540 (Sub-No. E38), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits* and *frozen vegetables*, from points in Florida to points in Delaware. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E39), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Rhode Island.

The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E40), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on and east of U.S. Highway 231, to points in Nevada. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and Tennessee.

No. MC-95540 (Sub-No. E41), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida to points in Michigan. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E42), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida to points in Washington. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and Tennessee.

No. MC-95540 (Sub-No. E43), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Illinois. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 E64, filed April 18, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212–5299, Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in South Carolina on and west of a line beginning at the Georgia-South Carolina State line and extending north along U.S. Highway 29 through Anderson to its intersection with Interstate Highway 85, thence along Interstate Highway 85 to Greenville, thence along U.S. Highway 25 to the Tennessee-South Carolina State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E71), filed April 18, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Mississippi. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E73), filed April 18, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E74), filed April 18, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Louisiana. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub E75), filed April 18, 1974. Applicant: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Indiana. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub E77), filed April 18, 1974. Applicant: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Massachusetts. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E78), filed April 18, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Maryland. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-100666 (Sub-No. E9) (CORRECTION), filed April 7, 1974, published in the Federal Register April 25, 1974. APPLICANT: Melton Truck Lines, Inc., 1129 Grimmet Drive, P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: In No. MC-100666 (Sub-No. E9).

(5) *Plastic pipe*, except oil field commodities as described by the Commission in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, from Slocomb, Ala., (a) to points in that part of Illinois on, north and west of a line beginning at Quincy, thence east on Illinois Highway 104 to the junction of Illinois Highway 104 and Interstate Highway 67, thence north on Interstate Highway 67 to the junction of Interstate Highway 67 and Interstate Highway 136, thence east on Interstate Highway 136 to the junction of Interstate Highway 136 and Illinois Highway 41, thence north on Illinois Highway 41 to the junction of Illinois Highway 41 and Illinois Highway 34, thence north on Illinois Highway 34 to the junction of Illinois Highway 34 and Illinois Highway 88, thence north on Illinois Highway 88 to the junction of Illinois Highway 88 and Illinois Highway 2, thence northeast on Illinois Highway 2 to the junction of Illinois Highway 2 and Illinois Highway 26, thence north on Illinois Highway 26 to the Illinois-Wisconsin State line; (b) to points in that part of Wisconsin on and west of a line beginning at the junction of Interstate Highway 90 and the Illinois-Wisconsin State line, thence north on Interstate Highway 90 to the junction of

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Interstate Highway 90 and Wisconsin Highway 26, thence north on Wisconsin Highway 26 to the junction of Wisconsin Highway 26 and Interstate Highway 41, thence north on Interstate Highway 41 to the junction of Interstate Highway 41 and Wisconsin Highway 47, thence north to the junction of Wisconsin Highway 47 and the junction of Interstate Highway 51, thence north on Interstate Highway 51 to the Wisconsin-Michigan State line; (c) to points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Columbia, Miss.

The purpose of this correction is to indicate the origin as Slocomb, Ala., not Slocomb, Ark., as previously published. The rest of the notice remains as previously published.

No. MC–113267 (Sub-No. E1), filed April 25, 1974. APPLICANT: Central & Southern Truck Lines, 3385 Airways Blvd., Memphis, Tenn. 38116. Applicant's representative: Lawrence A. Fischer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, dairy products*, and *articles* distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from points in Iowa (except points in Woodbury, Monona, Harrison, Shelby, Pottawattamie, Cass, Mills, Montgomery, Adams, Fremont, Page, and Taylor Counties), to Memphis, Tenn. The purpose of this filing is to eliminate the gateway of Paducah, Ky.

No. MC–115840 (Sub-No. E3), filed April 21, 1974. APPLICANT: Colonial Fast Freight, Inc., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities in bulk and those used in or in connection with discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), from points in North Carolina and South Carolina, to points in Arkansas and Oklahoma. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC–117119 (Sub No. E1), filed April 8, 1974. APPLICANT: Willis Shaw Frozen Express, Inc., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, in truckloads of 20,000 pounds or more, from points in that part of Maryland east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal to points in Arizona, California, New Mexico, and Texas. Restriction: The authority above is restricted to the transportation of the quantity indicated, when transported from one consignor to one or more consignees. (2) *Foodstuffs* (except dairy products and commodities in bulk) in truckloads of 20,000 pounds or more, from points in that part of Maryland east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal to points in Idaho and Utah. Restriction: The authority above is restricted to the transportation of the quantities indicated, when transported from one consignor to one or more consignees. The purpose of the filing in (1) above is to eliminate gateways of Cincinnati, Ohio; Blytheville, Ark.; and Jackson, Tenn. The purpose of the filing in (2) above is to eliminate the gateways of Cleveland, Ohio, and Springdale, Ark. (a point within the Fayetteville, Ark., commercial zone as defined by the Commission).

No. MC–118831 (Sub-No. E5), filed April 15, 1974. APPLICANT: Central Transport, Inc., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from Richmond County, Ga., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC–118831 (Sub-No. E6), filed April 15, 1974. APPLICANT: Central Transport, Inc., P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, (1) from points in North Carolina in and west of the counties of Anson, Stanley, Rowan, Iredell, Alexander, Caldwell, and Avery to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island; and (2) from points in Scotland, Richmond, Montgomery, Davidson, and Davie Counties, N.C., to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC–118831 (Sub-No. E7), filed April 16, 1974. APPLICANT: Central Transport, P.O. Box 5044, High Point, N.C. 27262. Applicant's representative: Richard E. Shaw (Same as Above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in South Carolina to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island (except from points in Dillon, Florence, Georgetown, Horry, Marion, and Williamsburg Counties, S.C., to points in Delaware and Maryland). The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC–119777 (Sub-No. E22), filed April 9, 1974. APPLICANT: Ligon Specialized Hauler, Inc., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard, pulpboard, chipboard, flakeboard*, and *particle board*, from points in Saline and Pulaski Counties, Ark., to points in Idaho, Montana, Oregon, Utah, Washington, Wyoming, and points in Nevada on and north of U.S. Highway 6, and points in California on, north, and west of a line beginning at the California-Nevada State line, thence along California Highway 167 to its junction with U.S. Highway 395, thence along U.S. Highway 395 to its junction with California Highway 120, thence along California Highway 120 to its junction with Interstate Highway 205, thence along Interstate Highway 205 to its junction with Interstate Highway 580, thence along Interstate Highway 580, to its junction with Interstate Highway 80, thence along Interstate Highway 80 to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Wright City, Mo.

No. MC–124211 (Sub-No. E2), filed April 8, 1974. APPLICANT: Hilt Truck Line, Inc., P.O. Box 988, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or packaged foodstuffs* (except frozen foods and except meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and except commodities in bulk), from points in California to points in North Carolina, South Carolina, and Bells, Humboldt, Jackson, Milan, and Memphis, Tenn. The purpose of this filing is to eliminate the gateway of Lancaster County, Nebr.

No. MC–124211 (Sub-No. E8), filed April 22, 1974. APPLICANT: Hilt Truck Line, Inc., P.O. Box 988 D.S., Omaha, Nebraska 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or packaged foodstuffs* (except commodities in bulk, frozen foods, and except meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from points in California on and north of a line beginning at the Arizona-California State line at Needles, Calif., thence over Interstate Highway 40 to Amboy, Calif., thence over unnumbered highway to junction of Interstate Highway 10, thence over Interstate Highway 10 to junction California State Highway 74, thence over California State Highway 74 to junction California State Highway 71, thence over California State Highway 71 to Temecula, Calif., thence over U.S. Highway 395 to junction California State Highway 76, thence over California State Highway 76 to Oceanside, Calif., to points in Georgia on and east of U.S. Highway 27, and to points in Florida east of the western boundary of Jefferson County, Fla., and to Tallahassee, Fla. The purpose of this filing is to eliminate the gateway of points in Lancastser County, Nebr.

No. MC–124211 (Sub-No. E9) (CORRECTION), filed April 8, 1974, published in the FEDERAL REGISTER April 25, 1974. APPLICANT: Hilt Truck Line, Inc., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (B) *Macaroni, noodles, grain products, food products* (except commodities in bulk, dairy products, frozetn foods, potato products, meats, meat products and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), *pancake and cake flour* (except in bulk), *spaghetti and vermicelli*, from points in Idaho, Montana, North Dakota, and South Dakota to points in Missouri. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr. This correction is for the purpose of setting forth the territories under (B). The rest of the application stands as previously published.

No. MC–124211 (Sub-No. E20), filed April 9, 1974. APPLICANT: Hilt Truck Line, Inc., P.O. Box 988, D.T.S. Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (A) *Macaroni, noodles, pancake and cake flour* (except in bulk), *spaghetti, vermicelli, and food products* (except candy and confectionery, meats and packinghouse products, dairy products, frozen foods, and potato products and commodities in bulk), from points in Tennessee (except Bells, Humboldt, Jackson, Milan, and Memphis and points in its Commercial Zone, as defined by the Commission) to points in Oregon, Washington, and Wyoming. (B) *Flour and food products* (except candy and confectionery, meats and packinghouse products, dairy products, frozen foods, potato products, and commodities in bulk), from points in Arkansas, Louisiana and Mississippi, to points in Oregon, Washington and Wyoming. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10245 Filed 5–2–74;8:45 am]

[Notice No. 72.]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 23, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74991. By order of April 22, 1974, the Motor Carrier Board approved the transfer to Capp Express, Inc., Pittsburgh, Pa., of Certificates of Registration Nos. MC–99772 (Sub-No. 1) and MC–99772 (Sub-No. 2) issued March 16, 1967, to Capp Trucking Company, a corporation, Pittsburgh, Pa., evidencing the authority to perform a transportation service in interstate or foreign commerce corresponding in scope to the intrastate authority granted in Docket No. 83066, Folder 3 and Folder 4 dated May 7, 1956, and in Docket No. 83066, Folder 6 dated January 16, 1967, both dockets as amended to stand in the name of Capp Trucking Company, a corporation, by order dated January 23, 1967, by the Pennsylvania Public Utility Commission. Mr. Arthur J. Diskin, Attorney at Law, 806 Frick Building, Pittsburgh, Pa. 15219.

No. MC–FC–75031. By order of March 29, 1974, the Motor Carrier Board approved the transfer to Woodrow Moore and Phillip M. Moore, a partnership, doing business as A. L. & W. Moore Trucking Company, Bossier City, La., of the operating rights in Certificate No. MC–55865 issued January 25, 1960 to Andrew Lee Moore and Woodrow Moore, a partnership, doing business as A. L. and W. Moore, Bossier City, La., authorizing the transportation of Mercer description commoditites between points in Lousiana, Arkansas, Alabama, Mississippi and Texas. Neil Dixon, 1025 Slattery Bldg., Shreveport, La., 71101 Attorney for applicants.

No. MC–FC–75069. By order of April 25, 1974, the Motor Carrier Board approved the transfer to Frank Champer, Inc., Cambridge, Mass., of Permit No. MC–94548 issued March 19, 1965, to Frank Champer, Malden, Mass., authorizing the transportation of new furniture from Everett, Somerville, and Melrose, Mass., to points in Maine, New Hampshire, Connecticut, and Rhode Island within 200 miles of the origin points. Pinta and Murphy, Attorneys at Law, One State Street, Boston, Mass. 02109.

No. MC–FC–75091. By order entered April 22, 1974, the Motor Carrier Board approved the transfer to Zephyr Line, Inc., West Springfield, Mass., of that portion of the operating rights set forth in Certificate No. MC–2051, issued December 29, 1965, to J. C. Driscoll Transportation, Inc., Chelsea, Mass., authorizing the transportation of general commodities, with the usual exceptions, between Boston, Mass., and Pittsfield, Mass., over specified routes, serving the intermediate points of Brighton, Brookline, Worcester, Northampton, Palmer, Springfield, and Westfield, Mass., and the off-route points of Holyoke, Allston, and Easthampton, Mass. Frank J. Weiner, 15 Court Square, Boston, Mass. 02108, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10242 Filed 5–2–74;8:45 am]

[Ex Parte No. 305]

RAILROAD FREIGHT CARRIERS

Nationwide Increase of Ten Percent in Freight Rates and Charges, 1974

APRIL 30, 1974.

It appearing, That on April 22, 1974, most of the nation's railroads [1] and certain water and motor carriers having joint rates with those railroads, filed a petition, accompanied by supporting verified statements, requesting the Commission to institute an investigation into the revenue needs of all carriers by railroad operating in the United States, and to make all such carriers respondent hereto, to authorize the filing of a master tariff and connecting link supplements and other necessary tariffs and supplements, fourth-section relief, and modification of all outstanding orders to the extent necessary, increasing present rates and charges within, from, to, and via all territories by 10 percent (subject to unidentified exceptions which may be warranted), to become effective on May 2, 1974, or as soon thereafter as possible, upon not less than 10 days' notice, subject to a refund rule;

It further appearing, That in view of the extraordinary request to make the proposed increase effective on May 2, 1974, or as soon thereafter as possible, upon not less than 10 days' notice, it is necessary to consider that exceptional request separately at this time;

[1] The Long Island Rail Road did not join in the petition.

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It further appearing, That the proposed 10 percent increase would produce additional revenues of $1.5 billion for all railroads, $505 million in the Eastern District, $272 million in the Southern District, and $723 million in the Western District (excluding the one percent sought by the eastern and western railroads in excess of that authorized on an interim basis and presently pending in Ex Parte No. 303);

It further appearing, That the railroads' rate of return on net investment was 3.08 percent nationally, 0.56 percent in the Eastern District, 5.40 percent in the Southern District, and 4.21 percent in the Western District; and that at the proposed rates and present cost levels the respective estimated rates of return would be 5.27, 2.99, 7.48, and 6.26 percent;

It further appearing, That letters supporting the railroads' request to be authorized to make the proposed increase effective on 10 days' notice have been received from the Secretary of Transportation, the United Transportation Union, and the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees; and that an objection to such request has been received from the National Industrial Traffic League;

It further appearing, That the petition discloses that the railroads reached agreement on the proposal on April 3; that, however, it was not filed with the Commission until April 22, with the request that the increases be permitted to become effective on May 2 on 10 days' notice which would have required action on the petition on the day of filing; that the evidence submitted with the petition consists of 9 voluminous exhibits and 50 verified statements supporting a proposed increase totalling approximately $1.5 billion; and that it was obviously impossible to adequately consider and verify the evidence in the general public interest in less than one day;

It further appearing, that with respect to the request to make the increase effective on May 2, the petitioners claim that through publicity and the mailing of copies of the petition and supporting evidence on April 22, the date of filing with the Commission, to the parties in the last general rate increase proceeding, sufficient opportunity has been afforded the shipping public to present its views before May 2; but that, to the contrary, allowing for time in the mails for actual delivery of the petitioners' request and any shipper responses, the remainder of time available for shipper consideration of the proposal would have been wholly inadequate;

It further appearing, that concerning the alternative request to make the increase effective on 10 days' notice as soon as possible after May 2, except for the Penn Central Transportation Company (George P. Baker, Richard C. Bond, and Robert W. Blanchette, Trustees), and the Lehigh Valley Railroad Company, the emphasis of the arguments in the proposal is on the need for funds for maintenance and capital improvements; and that it is not established that irreparable harm would follow the delay necessary to permit shippers and other interested persons a fair opportunity to present their views;

It further appearing, that, the Penn Central and the Lehigh Valley urge that unless their cash flow is improved their continued operations are in peril; but that, based on monthly, weekly, and daily reports of cash positions of those carriers furnished to the Commission on a continuing basis, it does not appear that their continued operations are threatened in the time necessary to provide for public responses; and that, furthermore, under the Rail Reorganization Act of 1973, funds have been designated for interim relief to railroads in reorganizations, therefore,

It is ordered, that the petition to the extent that it requests authority to publish increases on short notice, that is to make the proposed increases effective on 10 days' notice be, and it is hereby, denied. As soon as possible, the Commission shall specify the procedures to be followed with respect to this petition in a subsequent order. In an effort to maintain orderly procedure and to avoid the filing of duplicative representations, interested parties are requested not to file any pleadings either supporting or objecting to the substance of the petition until the subsequent order has been served.

It is further ordered, that notice of this order be given by serving a copy thereof on each party to the proceeding in Ex Parte No. 303, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10246 Filed 5-2-74;8:45 am]

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federal register

FRIDAY, MAY 3, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 87

PART II



DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Modification and Supersedeas Decision, Index

No. 87—Pt. II——1

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bason Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions. Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Titl 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, consitiute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Georgia	AQ–4106

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AQ–4002	Aug. 3, 1973
Arizona:	
AQ–1073; AQ–1074	Feb. 1, 1974
AQ–1085	Feb. 15, 1974
Arkansas:	
AP–1107	June 29, 1973
AQ–4002	Aug. 3, 1973
Connecticut:	
AQ–3097; AQ–3098	Feb. 15, 1974
AQ–3149	Mar. 22, 1974
Florida:	
AP–178; AP–179; AP–180; AP–181	May 4, 1974
AP–4002	Aug. 3, 1973
Georgia:	
AQ–4068; AQ–4069	Feb. 15, 1973
Indiana:	
AQ–3129; AQ–3131; AQ–3132; AQ–3135; AQ–3136.	Apr. 5, 1974
Kentucky:	
AQ–4002	Aug. 3, 1973
Louisiana:	
AP–1107	June 29, 1973
AQ–4002	Aug. 3, 1973
AQ–99	Apr. 19, 1974
Maryland:	
AQ–2100; AQ–2101	Do.
Minnesota:	
AQ–3102	Feb. 22, 1974
Mississippi:	
AP–1107	June 29, 1973
AQ–4002	Aug. 3, 1973
Missouri:	
AQ–85	Mar. 8, 1974
New York:	
AQ–2037	Dec. 21, 1973
North Carolina:	
AQ–4064	Feb. 1, 1974
Oklahoma:	
AM–3603; AM–3604; AM–3606; AM–3608; AM–3609; AM–3610; AM–3611.	Aug. 25, 1971
South Carolina:	
AQ–4065	Feb. 1, 1974
Tennessee:	
AP–1107	June 29, 1973
AQ–4002	Aug. 3, 1973
Texas:	
AQ–4002	Do.
AQ–68	Dec. 28, 1973
AQ–100	Apr. 5, 1974
AQ–104	Apr. 12, 1974
Virginia:	
AQ–2024	Oct. 19, 1973
AQ–2103	Apr. 19, 1974

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the number of the decisions being superseded.

Arkansas:	
AQ–7(AQ–95)	July 20, 1973
Connecticut:	
AQ–3015(AQ–31663; AQ–3016(AQ–3167); AQ–3019 (AQ–3168); AQ3020(AQ–3169); AQ–3021(AQ–3170)	Oct. 12, 1973
Florida:	
AP–196(AQ–4107)	June 8, 1973
Georgia:	
AM–471, AM–472, AM–473, AM–474, and AM–475 (AQ–4104)	Aug. 20, 1971
Maryland:	
AQ–2036(AQ–2111)	Dec. 21, 1973

Mississippi:		
AQ–4042, AQ–4043, AQ–4044, AQ–4045, AQ–4046, AQ–4047(AQ–4109); AQ–4047(AQ–4110)	----------	Sept. 29, 1972
AQ–4081(AQ–4110)	------	Dec. 21, 1973
AQ–4090(AQ–4111)	------	Mar. 15, 1974
Missouri:		
AP–504(AQ–94)	----------	Sept. 1, 1972
Nebraska:		
AQ–86(AQ–93)	----------	Mar. 8, 1974
New Jersey:		
AP–838(AQ–2115); AP–840 (AQ–2113)	----------	May 26, 1973
New York:		
AM–1736(AQ–2112)	------	Aug. 11, 1971
AP–451(AQ–2114)	-------	Nov. 26, 1972
Washington, D.C.:		
AQ–2035(AQ–2110)	------	Dec. 21, 1973

Signed at Washington, D.C., this 26th day of April 1974.

RAY J. DOLAN,
Assistant Administrator
Wage and Hour Division.

AQ-4106 p. 2

NEW DECISION

121-GA-1-K

State: Georgia
Decision Number: AQ-4106
Description of Work: Building Construction
County: Richmond
Date: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.	Others
Asbestos Workers	$6.25	.20	.50		.02	
Boilermakers	6.25	.30	.50		.01	
Boilermakers' Helpers	6.00	.30	.50		.01	
Bricklayers	6.30					
Carpenters:						
Carpenters	6.40				.01	
Millwrights	6.70				.01	
Cement Masons	5.90					
Electricians	6.555	.30	.07	2%+a&b	1%	
Elevator Constructors	5.80	.17	.185	2%+a&b	.005	
Elevator Constructors' Helpers	4.06	.17	.185	2%+a&b	.005	
Elevator Constructors' Helpers (prob)	2.90					
Glaziers	5.15					
Ironworkers:						
Structural, Ornamental, & Reinforcing	7.00	.40	.30		.01	
Laborers:						
Unskilled	3.25	.15				
Air Tool Operators (jackhammer, vibrator)	3.40	.15				
Mason Tenders	3.40	.15				
Mortar Mixers	3.40	.15				
Pipelayers (concrete, clay)	3.40	.15			.01	
Plasterers' Tenders	3.00	.15				
Lathers						
Painters:						
Brush & Roller	5.60	.20	.15		.01	
Steel & Spray	6.55	.20	.20		.01	
Piledrivermen	6.70				.07	
Plasterers	6.30					
Plumbers & Steamfitters	7.57	.15	.15			
Roofers	2.50					
Sheet Metal Workers	6.00		.20		.01	
Soft Floor Layers	6.05				.01	
Sprinkler Fitters	8.20	.40	.40		.07	
Stonemasons	6.30					
Terrazzo Workers	6.30					
Tile Setters	6.30					
Truck Drivers	2.63					

PAID HOLIDAYS:

A. New Year's Day; B. Memorial Day
C. Independence Day; D. Labor Day
E. Thanksgiving Day; F. Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

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MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-1073 - Mod. #1 (39 FR 4285 - February 1, 1974) Maricopa County, Arizona					
Change:					
Boilermakers	$8.50	.65	1.00	.50	.02
DECISION NO. AQ-1074 - Mod. #2 (39 FR 4295-February 1, 1974) Pima County, Arizona					
Change:					
Boilermakers	8.50	.65	1.00	.50	.02
DECISION NO. AQ-1085 - Mod. #2 (39 FR 5652-February 15, 1974) Statewide, Arizona					
Changes:					
Boilermakers	8.50	.65	1.00	.50	.02
Electricians (Gallup Area - Northern Apache County)					
Electricians	9.18	.25	1%		1/2%
Cable Splicers	9.95	.25	1%		1/2%
Line Construction:					
Zone I (Phoenix and Tucson 30 mile radius from center of Town)					
Groundman	7.60	.42	7%		1/2%
Equipment operators; Powdermen; Mechanics	8.78	.42	7%		1/2%
Linemen; Technician; Crane operator; Linemen Welder	9.33	.42	7%		1/2%
Cable Splicers	9.65	.42	7%		1/2%
Zone I-A (Douglas, Flagstaff, Globe, Kingman, Prescott and Yuma 10 mile-radius from center of Town)					
Groundman	8.25	.42	7%		1/2%
Equipment operators; Powderman; Mechanics	9.38	.42	7%		1/2%
Linemen; Technicians; Crane Operator; Linemen Welder	9.93	.42	7%		1/2%
Cable Splicers	10.30	.42	7%		1/2%

MODIFICATIONS P. 2

DECISION NO AQ-1085 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Zone II (Other Areas)					
Groundman	$8.87	.42	7%		1/2%
Equipment Operators; Powdermen; Mechanics	10.00	.42	7%		1/2%
Linemen; Technicians; Crane Operator; Linemen Welder	10.53	.42	7%		1/2%
Cable Splicers	10.85	.42	7%		1/2%

NOTICES

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AP-1107 - Mod. #1 (38 FR 17358 - June 29, 1973) STATES: ARKANSAS, LOUISIANA, MISSISSIPPI, AND TENNESSEE					
Change:					
Laborers:					
Unskilled	$2.00				
Asphalt workers, rakers, tampers, shovelers, ironers, etc.	2.00				
Revetment hookers, weavers	2.00				
Revetment laborers & twisters	2.00				
Deckhand revetment	2.00				
Head deckhand, revetment	2.00				
Truck drivers:					
1½ tons or less	2.00				
Over 1½ tons	2.00				
DECISION #AQ-4002 - Mod. #2 (38 FR 21037 - August 3, 1973) STATES: ALABAMA, ARKANSAS, FLORIDA (WEST OF THE AUCILLA RIVER), KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, TEXAS, AND TENNESSEE					
Change:					
Hydraulic Dredging:					
Dredges under 16 inches:					
Dredge tender operator	2.00				
Deckhand	2.00				
Handyman	2.00				
Laborer	2.00				
Oiler	2.00				
Dredges 16 inches and over:					
Deckhands	2.00				
Laborers	2.00				
Bucket Dredging:					
Deckhands	2.00				
Oilers	2.00				

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-3097 - Mod. #1 (39 FR 5962 - February 15, 1974) Middlesex County, Connecticut					
CHANGES:					
Boilermakers	$9.08	.60	10%		.01
Carpenters & Piledrivermen (Hwy. & Hwy.)	9.05	.50	.30	e	
Electricians, Remainder of County	9.60	.55	12%+.20		.5%
Painters, Bridge					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
DECISION #AQ-3098 - Mod #1 (39 FR 5966 - February 15, 1974) New Haven County, Connecticut					
CHANGE:					
Boilermakers	$9.08	.60	10%		.01
Bricklayers, cement masons-finishers, marble setters, plasterers, stonemasons, terrazzo workers, tile setters: (Bldg.)					
Devon to the Orange Town Line and the Indian River in Milford	9.40	.50	.50		
Meriden	8.90	.50	.50		
Beacon Falls-Middlebury-Naville-Naugatuck-Prospect-Waterbury-Marion-Wolcott-Thomaston-Woodbury	9.41	.50	.55	m	
Carpenters, soft floor layers, Millwrights, piledrivermen (Bldg. Const.):					
Milford and that part of Orange from Orange Center Road west to Milford and the Oyster River	9.35	.50	.30	f	.02
Cheshire-Middlebury-Prospect-Southbury-Waterbury-Wolcott-Beacon Falls-Naugatuck-Bethany	9.35	.50	.30	g	.03
Remainder of County	9.30	.50	.30	h	
Carpenters & Piledrivermen (Hwy. & Hwy.)	9.05	.50	.30		
Electricians, Remainder of County	9.60	.55	12%+.20		.5%
Painters, Bridge:					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
Plumbers and Steamfitters:					
Ansonia-Beacon Falls-Bethany-Naugatuck-Oxford-Prospect-Seymour	9.05	.55	.50	2%+p	.07

ADD:
FOOTNOTE:
P. 3 Paid Holidays: Labor Day and the last working days before Christmas and New Year's Day

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MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
DECISION #AQ-3149 - Mod. #1 (39 FR 11021 - March 22, 1974) Fairfield County, Connecticut					
CHANGE:					
Boilermakers	$9.08	.60	10%		.01
Bricklayer, cement mason-finisher, marble setter, plasterer, terrazzo worker, tile setter (Bldg. only):					
Norwalk-New Canaan-Westport-Weston-Wilton-Ridgefield	9.25	.50	.50		
Bridgeport-Easton-Fairfield-Monroe-Stratford-Trumbull-Southport	9.40	.50	.50		
Remainder of County	9.15	.50	.50		
Carpenter, soft floor layer (Bldg. only):					
Bridgeport-Easton-Fairfield-Monroe-Stratford-Trumbull-Westport-Weston	9.35	.50	.30	f	.02
Carpenters-Piledrivermen (Hvy. & Hwy.)	9.10	.45	.30	g	
Electricians: Remainder of County	9.80	.43	12%+.20		.25%
Painters:					
Byram					
Brush	7.30	.34	.81-6/7		
Structural steel	8.24-2/7	.34	.81-6/7		
Painters, Bridge (entire County)					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
Plumbers & steamfitters:					
Stamford-Darien-New Canaan	9.20	.55	.50	.37	

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
DECISION #AP-178 - Mod. #1 (38 FR 11259 - May 4, 1973) Escambia County, Florida					
Change:					
Laborers:					
Laborers	$2.00				
DECISION #AP-179 - Mod. #1 (38 FR 11260 - May 4, 1973) Gadsden, Jefferson, Leon, Madison and Taylor Counties, Florida					
Change:					
Laborers	2.00				
DECISION #AP-180 - Mod. #1 (38 FR 11260 - May 4, 1973) Okaloosa, Santa Rosa, and Walton Counties, Florida					
Change:					
Laborers	2.00				
DECISION #AP-181 - Mod. #1 (38 FR 11261 - May 4, 1973) Lake, Orange, Osceola, and Seminole Counties, Florida					
Change:					
Truck Drivers	2.00				

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
DECISION #AQ-4068 - Mod. #3 (39 FR 5975 - February 15, 1974) Fulton, Clayton, Cobb and DeKalb Counties, Georgia.					
Change:					
Heavy & Highway Construction:					
Laborers:					
Air tool operators (jackhammer, vibrators)	$2.00				
Drillers	2.00				
Landscape workers	2.00				
Unskilled	2.00				
Power Equipment Operators:					
Air compressors	2.00				
Truck Drivers:					
Up to 2½ tons	2.00				
DECISION #AQ-4069 - Mod. #2 (39 FR 5979 - February 15, 1974) Chatham County, Georgia.					
Change:					
Heavy & Highway Construction:					
Laborers:					
Unskilled	2.00				
Air tool operators (jackhammer, vibrator)	2.00				
Asphalt rakers	2.00				
Power Equipment Operators:					
Oilers and greasers	2.00				
Truck Drivers:					
Up to 2½ tons	2.00				

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-3129 - Mod. #1 (39 FR 12606 April 5, 1974) Delaware County, Indiana						
ADD:						
Carpenters:						
Carpenters & Soft Floor Layers	$7.95	.40	.20		.05	
Millwrights	8.25	.40	.20		.05	
Piledrivermen	8.15	.40	.20		.05	
DECISION #AQ-3131 - Mod. #1 (39 FR 12612 - April 5, 1974) Lake County, Indiana						
CHANGE:						
Power Equipment Operators:						
Heavy & Highway						
Class I	9.40	.40	.50		.05	
Class II	9.05	.40	.50		.05	
Class III	8.60	.40	.50		.05	
Class IV	7.60	.40	.50		.05	
Class V	6.70	.40	.50		.05	
DECISION #AQ-3132 - Mod. #1 (39 FR 12617 - April 5, 1974) LaPorte County, Indiana						
CHANGE:						
Power Equipment Operators:						
Heavy & Highway						
Class I	9.40	.40	.50		.05	
Class II	9.05	.40	.50		.05	
Class III	8.60	.40	.50		.05	
Class IV	7.60	.40	.50		.05	
Class V	6.70	.40	.50		.05	

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MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-3135 - Mod. #1 (39 FR 12628 - April 5, 1974) Porter County, Indiana						
CHANGE: Power Equipment Operators: Heavy & Highway						
Class I	$9.40	.40	.50		.05	
Class II	9.05	.40	.50		.05	
Class III	8.60	.40	.50		.05	
Class IV	7.60	.40	.50		.05	
Class V	6.70	.40	.50		.05	
DECISION #3136 - Mod. #1 (39 FR 12633 - April 5, 1974) St. Joseph County, Indiana						
CHANGE: Power Equipment Operators: Heavy & Highway						
Class I	9.30	.40	.50		.05	
Class II	8.95	.40	.50		.05	
Class III	8.50	.40	.50		.05	
Class IV	7.50	.40	.50		.05	
Class V	6.60	.40	.50		.05	
DECISION #AQ-99 - Mod. #1 (39 FR 14131 - April 19, 1974) Statewide Louisiana						
Change Description of Work to Read: Building (including Residential in Bossier, Caddo & Calcasieu Parishes only) Construction						

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-2100 - Mod. #1 (39 FR 14148 - April 19, 1974) Baltimore City and Baltimore County, Maryland					
Change:					
Carpenters	$8.10	.60	.54		.05
Electricians	8.50	.50	1¾+.20		1/2%
Piledrivermen	8.10	.60	.54		.05
Soft floor layers - resilient floor layers	8.10	.60	.54		.05
Steamfitters	8.41	.45	.60		.12
DECISION #AQ-2101 - Mod. #1 (39 FR 14150 - April 19, 1974) Anne Arundel County, Maryland					
Change: Building & Heavy Const.:					
Carpenters, piledrivermen & soft floor layers: All areas north of a line starting at Priest Bridge & continuing northeast to Benfield, Pasadena, Arminger & Ft. Smallwood	8.10	.60	.54		.05
Carpenters & soft floor layers: Remainder of County	8.50	.35	.39		.07
Millwrights: Remainder of County	8.81	.35	.39		.07
Piledrivermen: Remainder of County	8.655	.35	.39		.07
Terrazzo workers & tile setters: Northern part of County from Laurel to Bodkin Point including Ft. Meade but excluding the D.C. Training School	7.26	.40	.40		.04
Electricians	8.50	.50	1¾+.20		1/2%
Steamfitters	8.41	.45	.60		.12

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-3102 - Mod. #1 (39 FR 7051 February 22, 1974) St. Louis County, (Duluth Only) Minnesota						
CHANGE:						
Bricklayers & Stonemasons	$7.92	.25	.25	.50		
Carpenters:						
Carpenters, Piledrivermen & SFL	7.65	.25		.30		
Millwrights	7.87	.25		.30		
Lathers	8.00	.25				
Plumbers & Steamfitters	7.11	.30	.45	1.00	.05	
Roofers:						
Roofers	7.53	.25	.10	.50		
2nd Roofer	7.28	.25	.10	.50		
Kettlemen	7.08	.25	.10	.50		
Sheet Metal Workers	7.74	.30	.30			

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-85 - Mod. #2 (39 FR 9371 - March 8, 1974) Description of Work and Locations: Heavy and Highway Construction, Missouri						
Change:						
Cement Masons:						
Crawford, Franklin, Iron, Jefferson, Lincoln, Madison, Reynolds, Shannon, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Warren, & Washington Counties	$8.90	.40	.40			
Crawford, Iron, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve and Washington Counties on projects less than $75,000.00	8.15	.40	.40			
Dent, Phelps, Pulaski, and Texas Counties	7.45					
Benton, Henry, Hickory, Johnson, Morgan, Pettis, Saline and St. Clair Counties	7.375	.20				
Adair, Audrain, Boone, Callaway, Camden, Chariton, Cole, Cooper, Gasconade, Howard, Knox, Linn, Macon, Maries, Miller, Moniteau, Monroe, Montgomery, Osage, Randolph, Shelby and Sullivan Counties	7.10					
Electricians:						
Western half of Clay & Jackson Cos. not including Blue Springs; Northern half of Platte Co.; North Western portion of Cass Co. not including Pleasant Hill	8.67	.23	1¾+.27	.80	.03	
Christian, Dallas, Douglas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster and Wright Counties	8.33	.37	1%	6%	.02	

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MODIFICATIONS P. 13

DECISION #AQ-85 (CONTD.)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Electricians:						
Fulaski County	$8.78	.37	1%	6%	.02	
Audrain (except Cuivre Township), Boone, Callaway, Camden, Chariton, Cole, Crawford, Dent, Gasconade, Howard, Maries, Miller, Moniteau, Osage, Phelps and Randolph Counties:						
Electricians	8.40	.27	1%	7%+.30	2%	
Cable splicers	8.65	.27	1%	7%+.30	2%	
Painters:						
Bates, Caldwall, Carroll, Cass, Clay, Clinton, Daviess, Grundy, Harrison, Henry, Jackson, Johnson, Lafayette, Livingston, Mercer, Platte, and Ray Counties:						
Brush	8.24	.30	.35		.03	
Spray	9.24	.30	.35		.03	
Barry, Barton, Cedar, Dade, Lawrence, McDonald, Newton, St. Clair and Vernon Counties	6.23		.15			
Omit:						
Painters:						
Benton, Cooper, Moniteau, Morgan, Pettis and Saline Counties:						
Brush	5.25					
Spray	6.25					
Taping machine; Swing stages; Window jacks; Storage bins & storage tanks under ground or above ground over 40 ft. in depth; Sandblasting; All work performed on bridges	6.00					
Bridges 75 ft. in height	6.25					
All structural steel over 50 ft. in height	6.00					

MODIFICATIONS P. 14

DECISION #AQ-85 (CONTD.)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Add:						
Painters:						
Benton, Cooper, Moniteau, Morgan, Pettis and Saline Counties:						
Brush	$6.75					
Spray; All work performed on bridges	7.75					
Swing stage, Window jacks or with belts; Storage bins and storage tanks underground and all above ground over 40 ft. in height or depth; Sandblasting; Structural steel over 50 ft. in height; Taping machine	7.50					

NOTICES

MODIFICATIONS P. 15

DECISION #AQ-2,037 - Mod. #1
(38 FR 35188 - December 21, 1973)
Monroe County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Change:					
Elevator Constructors	$9.43	.395	.26	2%+a+b	.02
Elevator Constructors' helpers	6.60	.395	.26	2%+a+b	.02
Elevator Constructors' helpers (probationary)	4.715				
Marble, tile setters & terrazzo workers	10.00				
Plumbers & steamfitters	10.10	.405	.52		.10

DECISION #AQ-4064 - Mod. #2
(39 FR 4371 - February 1, 1974)
Statewide, North Carolina

Change:	
Power Equipment Operators:	
Crusher feeder	$2.00
Pilot vehicle	2.00
Weighman, truck scales	2.00

Decision #AM-3603 - Mod #1
(36 FR 16761 - August 25, 1971)
Wagoner, Cherokee, Adair, Okmulgee, Muskogee, Sequoyah, McIntosh, Haskell and Pittsburg Counties, Oklahoma

Change:	
Laborers:	
Caisson	$2.00
Fine Graders	2.00
Landscape Workers	2.00
Mason Tenders	2.00
Mortar Mixers	2.00
Unskilled	2.00
Scaleman	2.00
Power Equipment Operators:	
A frame truck (winch)	2.00
Air compressor	2.00

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Decision #AM-3604 - Mod #1 (36 FR 16762 - August 25, 1971) Marshall, Bryan, Atoka, Choctow, McCurtain, Pushmataha, Latimer and Leflore Counties, Oklahoma					
Change:					
Laborers:					
Landscape Workers	$2.00				
Mason Tenders	2.00				
Mortar Mixers	2.00				
Unskilled	2.00				

Decision #AM-3605 - Mod #1
(36 FR 16763 - August 25, 1971)
Cleveland, McClain, Garvin, Murray, Pottawatomie, Seminole, Okfuskee, Hughes, Pontotoc, Coal and Johnston Counties, Oklahoma

Change:	
Laborers:	
Landscape Workers	$2.00
Mason Tenders	2.00
Mortar Mixers	2.00
Unskilled	2.00
Scaleman	2.00

Decision #AM-3606 - Mod #1
(36 FR 16764 - August 25, 1971)
Roger Mills, Beckham, Greer, Harmon, Jackson, Tillman, Kiowa, Washita, Custer, Dewey and Blaine Counties, Oklahoma.

Change:	
Laborers:	
Landscape Workers	$2.00
Mason Tenders	2.00
Mortar Mixers	2.00
Unskilled	2.00
Truck Drivers:	
Under 2 Tons	2.00

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	Basic Hourly Rates	Fringe benefits Payments H & W	Pensions	Vacation	App. Tr.
Decision #AM-3608 - Mod #1 (36 FR 16766 - August 25, 1971) Cimarron, Texas, Beaver, Harper, Ellis, Woods, Woodward, Mayor and Alfalfa Counties, Oklahoma					
Change:					
Laborers:					
Landscape Workers	$2.00				
Mason Tenders	2.00				
Mortar Mixers	2.00				
Unskilled	2.00				
Scaleman	2.00				
Truck Drivers:					
Under 2 Tons	2.00				
DECISION #AM-3609 - MOD #1 (36 FR 16767 - August 25, 1971) Caddo, Grady, Comanche, Stephens, Cotton, Jefferson Carter and Love Counties, Oklahoma					
Change:					
Laborers:					
Air Tool Ap.(Jackhammers,Vibrator)	$2.00				
Fine Graders	2.00				
Landscape Workers	2.00				
Mason Tenders	2.00				
Mortar Mixers	2.00				
Unskilled	2.00				
Truck Drivers:					
2 Tons or Less	2.00				
DECISION #AM-3610 - MOD #1 (36 FR 16768 - August 25, 1971) Rogers, Pawnee, Osage, Nowata, Craig, Mayes, Ottawa, Delaware and Washington Counties, Oklahoma					
Change:					
Laborers:					
Fine Graders	$2.00				
Landscape Workers	2.00				
Mason Tenders	2.00				
Mortar Mixers	2.00				
Unskilled	2.00				
Power Equipment Operators:					
Scaleman	2.00				

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Decision #AM-3611 - Mod #1 (36 FR 16769 - August 25, 1971) Tulsa County, Oklahoma					
Change:					
Laborers:					
Fine Graders	$2.00				
Landscape Workers	2.00				
Mason tenders	2.00				
Mortar Mixers	2.00				
Unskilled	2.00				
DECISION #AQ-4065 - Mod. #2 (39 FR 4381 - February 1, 1974) Statewide, South Carolina					
Change:					
Asphalt laydown man	$2.00				
Laborer, common	2.00				
Lute man	2.00				
Power Equipment Operators:					
Cold feed attendant	2.00				
Pilot vehicle	2.00				
Sweeper	2.00				
Truck Drivers:					
Single - rear axle	2.00				

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-68 - Mod. #4 (38 FR 35580 - December 28, 1973) Cameron, Hidalgo, Starr & Willacy Counties, Texas						
Change:						
Building Construction:						
Laborers:						
Common laborers	$2.00					
Mason tenders	2.00					
Terrazzo workers' helpers	2.00					
Tile setters' helpers	2.00					
Truck drivers	2.00					
DECISION #AQ-100 - Mod. #2 (39 FR 12663 - April 5, 1974) Statewide (excluding Dallas-Fort Worth Regional Airport), Texas						
Change:						
Laborers, Common:						
Zone 4	2.00					
DECISION #AQ-104 - Mod. #1 (39 FR 13505 - April 12, 1974) Cameron, Hidalgo, Starr & Willacy Counties, Texas						
Change:						
Building Construction:						
Laborers:						
Common laborers	2.00					
Mason tenders	2.00					
Terrazzo workers' helpers	2.00					
Tile setters' helpers	2.00					
Truck drivers	2.00					

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-2024 - Mod. #4 (38 FR 29195 - October 19, 1973) Henrico County and the City of Richmond, Virginia					
Change:					
Marble setters	$6.10				
Piledrivermen & dock builders	5.65	.20	.20		
Roofers:					
Composition	4.85				
Helpers	3.45				
Terrazzo workers & tile setters	6.10				
Omit:					
Power Equipment Operators' Schedule as originally issued.					
Truck Drivers	1.60				
Add:					
Power Equipment Operators' Schedule.				.3	

MODIFICATIONS P. 21

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.
POWER EQUIPMENT OPERATORS:					
Tunnel machines	$3.34				
Cranes, cats or rubber mounted with or without attachments, derricks, pile drivers or other floating equipment, compressors, bank air (4 or more regardless of motive power), pavers, mechanics (heavy duty), hoists (more than 1 drum active), welding machines (gas or diesel driven, bank for or more), shovels, distributors	3.25				
Cableways, tractors with attachments, high lifts, booms motor patrols, motor graders, Tournapulls, Cobra and Euclid scrapers, locomotives (over 20 tons)	2.87				
Bulldozers, pumpcrete op., trenching machines, mixers (larger than 16-S), pans	2.67				
Compressors (air, larger than 115 cu. Ft.), truck Euclids (when manned by operator), tractors without attachments, hoists (1 drum (active), rollers, asphalt, welding machines (gas or diesel driven, 1 or more larger than 300 amps), locomotives (up to 20 tons), power plant op., pumps (over 2" discharge including well Points), A-frame trucks (with power driven winches)	2.30				
Rollers (earth)	2.12				
Mixers (16-S or smaller, bank or more than 2), deck engines	2.12				
Firemen	2.08				
Truck crane oilers	2.00				
Oilers	2.00				
Blade grader	2.87				
Finishing machine	2.67				

MODIFICATIONS P. 22

DECISION #AQ-2103 - Mod. #1
(39 FR 14119 - April 19, 1974)
The Cities of Hampton and Newport News, Virginia

Change:
Location: The Cities of Hampton and Newport News including Langley AFB.

Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.

SUPERSEDEAS DECISION

STATE: Arkansas
DECISION NO. AQ-95
COUNTY: Pulaski
DATE: Date of Publication
Supersedes Decision No. AQ-7, dated July 20, 1973, in 38 FR 19631
Description of Work: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.35	.25			.02	
BOILERMAKERS	7.00	.30	.76		.02	
BRICKLAYERS & STONEMASONS	6.55	.30	.25		.02	
CARPENTERS:						
Carpenters	6.65	.30	.20		.02	
Millwrights & Piledrivermen	6.90	.30	.20		.02	
CEMENT MASONS	6.91	.15			.03	
ELECTRICIANS:						
Electricians	8.075		1%		1/4%	
Cable splicers	8.20		1%		1/4%	
ELEVATOR CONSTRUCTORS:						
Journeymen	5.19	.17	.185	2%+a+b		
Helpers	70%JR	.17	.185	2%+a+b		
Helpers - (Probationary)	50%JR					
GLAZIERS	6.25					
IRONWORKERS:						
Structural, Ornamental, Reinforcing	7.53	.35	.25		.02	
LABORERS:						
Construction laborer, carpentar helper, concrete laborer	4.55	.15	.20			
Pipelayers, concrete and clay, and mechanical tool, cement mixers, wet or dry, finishers, plasterers and mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers and chuck tenders	4.80	.15	.20			
Powdermen and blasterers	5.45	.15	.20			
LATHERS	6.45		.10	.25	.01	
MARBLE, TERRAZZO, & TILE WORKERS	5.75					
MARBLE, TERRAZZO, & TILE WORKERS' HELPERS	2.20					
PAINTERS:						
Brush	5.75		.20			
Structural Steel	6.00		.20			
Spray	6.35		.20			
PLASTERERS	7.00				.02	
PLUMBERS & PIPEFITTERS:						
Within 10 mile radius of Pulaski County Courthouse	7.6957	.20	.20		.02	
Over 10 miles from Pulaski County Courthouse	7.9957	.20	.20		.02	
ROOFERS:						
Roofers	5.90		.05			
SHEET METAL WORKERS	7.30	.20	.30		c	
SPRINKLER FITTERS	7.95	.40	.60		.07	

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Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F
c - Apprenticeship Fund shall be $.50 per month per journeyman and apprentice employed.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I						
Cranes, draglines, and shovels equipped with 100 foot boom including jib or over, or a lifting capacity of 100 tons or over, and/or attachments five (5) cubic yards or over, as rated by the manufacturer, and operators of all tower, climbing cranes, and derricks required to work 25 feet or over from the ground	$7.64	.25	.25			
GROUP II						
Cranes, draglines, and shovels equipped with less than 100 foot of boom including jib, or a lifting capacity less than 100 tons, and/or attachments less than 5 cubic yards, as rated by the manufacturer, all backhoes capable of a 360 degree swing, all derricks, floating, tractor or truck types, all piledrivers, land or floating, all overhead and traveling cranes, all cableways, cherry pickers or tractors with swinging boom attachments, whirley, paving mixers with boom, grade alls, scrapers or pulls in tandem, all above equipment irrespective of motive power, leaverman (engineer), hydraulic and bucket dredges, irrespective of size, mechanics and/or welders, blacksmith	6.89	.25	.25			
GROUP III - HEAVY EQUIPMENT OPERATORS						
All Bulldozers, all front end loaders, all sidebooms, all push tractors, all single unit pull scrapers, all motor graders, all hydraulic backhoes not capable of 360 degree swing, all trenching machines, wheel, bucket, chain, or conveyor types regardless of size or motive power, all backfillers, all central mixing plants, mixers 10S and larger and concrete spreaders, all boiler firemen high or low pressure, all asphalt spreaders, rollers and finishing machines, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable, tool, core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power, first assistant engineer (dredge) boat and dredge tender operator	6.56	.25	.25			

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP IV - SEMI-HEAVY EQUIPMENT OPERATORS						
Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A frame trucks, forklifts, skytracks, dirt rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, concrete mixers below 10S, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size. All Light Equipment, in multiple units four or more, all dewatering pumps when used in connection with well point systems, second assistant engineer (dredge)	$5.52	.25	.25			
GROUP V - LIGHT EQUIPMENT OPERATORS						
All welding machines, light plants, pumps, space heaters, in units less than 4, irrespective of size, irrespective of motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, chip spreader, form grader, and dump Euclid and like equipment, third assistant engineer (dredge), safety boat operator, oiler on dredge	5.16	.25	.25			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Lineman	$8.075		1%		1/4%	
Cable splicers	8.20		1%		1/4%	
Operator	8.075		1%		1/4%	
Groundmen (advanced)	65%JR		1%		1/4%	
Groundmen (1st 6 months)	49%JR		1%		1/4%	
Winch equipment	73%		1%		1/4%	

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MAY 3 1974

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AQ-3166
COUNTY: Hartford
DATE: Date of Publication
Supersedes Decision No.: AQ-3015 dated October 12, 1973 in 38 FR 28480
DESCRIPTION OF WORK: Building Construction, (exoluding single family homes and garden type apartments up to and including 4-stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers:					
East Granby-Enfield-Granby Hartland Suffield-Windsor Locks	$7.60	.34	.15		.01
Remainder of County	9.12	.55	.53		
Boilermakers	9.08	.60	.10%		.01
Bricklayers, Cement masons, Finishers, Marble setters, Plasterers, Stone-Masons, Terrazzo workers, tile setters (Building Only):					
Bristol-Plainville	8.70	.35+.15	.25+.17		
Marion	9.41	.50	.55	j	
Berlin-Kensington-New Britain-Newington-Plantsville-Southington	8.90	.50	.50		
Remainder of County	9.30	.50	.25		
Bricklayers, Cement masons, Finishers and Stonemasons (Heavy and Highway)	8.70	.50	.25	h	
Carpenters and Piledrivermen (Heavy and Highway)	9.05	.50	.30	h	
Carpenters, Soft Floor Layers, Pile drivermen (Building Only):					
Burlington	8.45	.45	.30	a	.04
Bristol-Plainville-Canton-Berlin-E. Berlin-Kingston-Newington-New Britain Milldale-Marion-Plantsville-Bloomfield, Marlborough	8.35	.50	.30		.05
Southington	9.35	.50	.30	g	.03
Remainder of County	9.31	.50	.30		.05
Electricians:					
Berlin-Bristol-New Britain-Plainville-Southington-Newington	8.87	.55	1%+.50		½ of 1%
Hartland	8.80	.57	1%+.60		1/8 of 1%
Suffield Township-Thompsonville Village	6.80	.20	1%+.15		b
Remainder of County	9.30	.75	1%+.40		1%
Elevator constructors	8.21	.345	.23	2%+c+d	.015
Elevator constructors' helpers	5.75	.345	.23	2%+c+d	.015
Elevator constructors' helpers (Prob.)	4.105				
Glaziers; Outside	8.71	.52	.47		
Ironworkers:					
Structural, ornamental, reinforcing	9.30	.35	.44		.04
Lathers:					
Bristol-Southington	8.75	.25	.15		.01
Enfield-Suffield-Thompsonville-Windsor-Warehouse Pt. Broadbrook-Melrose-Hazardville	7.60	.45	.25		
Remainder of County	9.15	.25	.30		.01
Lead burners	8.75	.30		e	.01
Line Construction:					
Lineman	9.41	.35	1%	f	3/8 of 1%
Groundman-truck driver	6.78	.35	1%	f	3/8 of 1%
Equipment operator	8.78	.35	1%	f	3/8 of 1%

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2-CONN-1-2-3-T 2 of 3

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Marble & tile setters' terrazzo workers' helpers	$7.65	.35	.15+.25		
Millwrights:					
Bristol-Plainville-Canton	8.12	.35	.20		
Painters:					
Berlin-Bristol-Burlington-Hartland-New Britain-Newington-Plainville-Southington-Kensington-Forestville-E-Berlin-Milldale-Plantsville-Unionville:					
Brush	7.60	.50	.30		
Spray	8.50	.50	.20		
Painters Bridge: (Entire County)					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
Remainder of County:					
Brush	8.10	.50	.30		
Spray	11.10	.50	.30		
Piledrivermen (Building Only):					
Marlboro	8.12	.35	.20		
Plumbers:					
Southington	9.45	.55	.30	i	
Berlin-Bristol-New Britain-Plainville-E. Berlin-Kensington-Newington-Farmington	9.45	.55	.50	i	
Remainder of County	8.87	.5322	.5322		.20
Roofers:					
Composition	8.20	.425	.50	.30	
Slate, Tile, Precast Concrete	8.70	.425	.50	.30	
Sheet Metal Workers	8.70	.50	.51		.05
Sprinkler fitters	9.08	.40	.60		.05
Steamfitters:					
Southington	6.00	.15	.20		
Berlin-Bristol-New Britain-Plainville	9.05	.30	.30		
Remainder of County	9.30	.57	.57		.13
Waterproofers	8.20	.425	.50	.30	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid holidays: C, D, and E.

b. $.15 per man per week.

c. Employer contibutes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A through F.

e. Holidays: A through F, Washington's Birthday and Good Friday, and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days preceding & following the holiday.

f. Nine (9) Paid Holidays: A through F, Washington's Birthday and Good Friday plus one (1) floating holiday per year provided the employee has been employed for a period of ten (10) working days prior to the holiday and works the scheduled work days immediately preceding and following the holiday.

g. Paid Holidays: B through F.

h. Paid Holidays: A through F and Good Friday.

i. Paid Holiday: D

j. Paid Holidays: C and D.

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CONN-SW-Lab-C

LABORERS: BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Building):						
Laborers, carpenters tenders, wrecking laborers	6.90	.50	.40		.05	
Jackhammer op., masons tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	7.15	.50	.40		.05	
Air track operators, wagon drill ops. and sandblasters	7.40	.50	.40		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	7.40	.50	.40		.05	
Top man	6.90	.50	.40		.05	
Laborers (Heavy and Highway):						
Laborers	6.90	.50	.40		.05	
Asphalt rakers, adzemen, bracers, burners, concrete end power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected there with	7.15	.50	.40		.05	
Air track operators, block pavers, rammers, curb setters	7.40	.50	.40		.05	
Powdermen and blasters	7.65	.50	.40		.05	

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SW-CONN-2-3-W

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Hoisting Structural Steel, Setting Stone, Derrick, Pile Driver, Hoisting Engineer 2 drums and over	$8.97	.30	.50+a	b		
Tower Crane, Dragline, Gradall, Kohering Scooper Loader and/or Hoe, Hoisting Engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation), Front End Loader - 7 cy. or over, Master Mechanic, Shovel, Fork Lift - over 4 ft. lift	8.86	.30	.50+a	b		
Maintenance Engineer	8.76	.30	.50+a	b		
Vibratory Hammer, Front End Loader - 3 cy. up to 7 cy., Coleman Loader and Screening Plant or similar equipment, Welder, Joy Drill - limited to Joy Heavy Weight Champion or equivilent, Mucking Machine, Pumpcrete Machine, Rock Boring Machine, Post Hole Digger, Well Digger, Conveyors - regardless of motive power, High Pressure Portable Boiler, Central Mix Op., Combination Hoe and Loader over 1/4 yd.	8.60	.30	.50+a	b		
Compressor Battery Operator	8.49	.30	.50+a	b		
Asphalt Spreader	8.44	.30	.50+a	b		
Bulldozer, Grader Operator, Scraper Pan Operator, Carry-All Operators	8.39	.30	.50+a	b		
Combination Hoe and Loader Machine, Concrete Mixer Op. - 5 bags or over, Front End Loader under 3 cy., Powerstone Spreader Op.	8.33	.30	.50+a	b		
Air and Steam Valve Operator	8.31	.30	.50+a	b		
Generator Op., Compressor Op., Pump and Well Point Op.	8.21	.30	.50+a	b		
Steam Jenny Op., Fork Lift Op. not over 4 ft.	8.23	.30	.50+a	b		
Mechanical Heater Operator	8.12	.30	.50+a	b		
Roller Operator	8.18	.30	.50+a	b		

SW-CONN-2-3-W

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Dinky Machine Operator, Power Pavement Breaker Operator	$8.02	.30	.50+a	b		
Fireman (High Pressure)	7.91	.30	.50+a	b		
Oiler	7.54	.30	.50+a	b		
Crane with boom, excluding Jib, over 130 feet - .25 extra						
Crane with boom, excluding Jib, over 200 feet - .50 extra						

PAID HOLIDAYS (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through E and Good Friday.

SW-CONN-2-3-W (1 of 2)

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Erecting and handling structural steel, front end loader (7 yds. or over)	$ 8.97	.30	.50 + a	b	.05	
Piledriver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, kohering loader (skooper)	8.86	.30	.50 +a	b	.05	
Drill(Joy heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ¼ yd.)	8.60	.30	.50 +a	b	.05	
Asphalt spreader	8.44	.30	.50 +a	b	.05	
Front end loader (3yds. or over), grader power stone spreader, combination hoe and loader	8.33	.30	.50 +a	b	.05	
Asphalt roller, bulldozer, carryall, maintenance engineer, concrete mixer 5 bags and over	8.18	.30	.50 +a	b	.05	
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, power pavement breaker, dinky machine	8.02	.30	.50 +a	b	.05	
Compressor, pump opr.	7.83	.30	.50 +a	b	.05	
Fireman, high pressure	7.91	.30	.50 +a	b	.05	
Well point system	8.21	.30	.50 +a	b	.05	
Compressor battery operator	8.49	.30	.50 +a	b	.05	
Oiler	7.54	.30	.50 +a	b	.05	
Batch plant, bulk cement plant,	7.65	.30	.50 +a	b	.05	

SW-CONN-2-3-W (2 of 2)

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

PAID HOLIDAYS(Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A thru F and Good Friday.

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1-"D"-50-CONN-1-2-3-G

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Two axle trucks	$6.21	a	b	c		
Three axle trucks	6.31	a	b	c		
Four axle trucks	6.41	a	b	c		
Two axle ready-mix	6.31	a	b	c		
Three axle ready-mix	6.36	a	b	c		
Four axle ready-mix	6.46	a	b	c		
Heavy duty trailer-up to 40 tons	6.36	a	b	c		
Heavy duty trailer - 40 tons and over	6.51	a	b	c		
Helpers	6.21	a	b	c		
Specialized earth moving equipment other than conventional type on-the-road trucks and Semi-trailers, including Euclids	6.46	a	b	c		

Paid Holidays (Where applicable);

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

Footnotes;

a. $14.00 per week for employees employed over 16 hours and $.35 per hour for employees employed less than 16 hours during the week.

b. $20.00 per week for employees employed over 24 hours and $.50 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AQ-3167
Supersedes Decision No. AQ-3016 dated October 12, 1973 in 38 FR 28485
DESCRIPTION OF WORK: Building Construction (including Residential), Heavy and Highway Construction.

COUNTY: Litchfield
DATE: Date of Publication

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers:					
Canaan, Colebrook, Norfolk, North Canaan and Salisbury	$7.60	.34	.15		.01
Remainder of County	9.12	.55	.53		
Boilermakers	9.08	.60	10%		.01
Bricklayers, cement masons-finishers, marble setters, plasterers, stone masons, terrazzo workers, tile setters (Building Only):					
Thomaston, Watertown, Woodbury	9.41	.35+.15	.55	i	
Bridgewater, Kent, New Milford, Roxbury	9.40	.35+.15	.50		
Plymouth, Terryville	8.70	.35+.15	.25+.17		
Remainder of County	8.75	.50	.25		
Marble setters' helpers, terrazzo workers' helpers, tile setters helpers	7.65	.35	.15+.25		
Bricklayers, Cement Mason-Finishers, Stonemasons (Heavy & Highway):					
West of Housatonic River	8.50	.50	.50	h	
East of Housatonic River	8.45	.50	.50	h	
Carpenters & Piledrivermen (Hwy. & Hwy.):					
West of Housatonic River	9.05	.50	.30	h	
East of Housatonic River	9.05	.50	.30	h	
Carpenters, soft floor layers, pile-drivermen (Building Only):					
Northfield, Thomaston, Watertown, Morris	9.35	.50	.30	h	.03
Plymouth, Terryville, Harwinton	8.85	.50	.30		.05
Remainder of County	8.45	.45	.30	f	.04
Electricians:					
Plymouth	8.87	.55	1%+.50		1/2 of 1%
Bridgewater, New Milford	9.80	.43	1%+.30		1/2 of 1%
Remainder of County	8.80	.57	1%+.60		1/6 of 1%
Elevator Constructors	8.21	.345	.23	2%+a+b	.015
Elevator Constructors' Helpers	5.75	.345	.23	2%+a+b	.015
Elevator Constructors' Helpers (Prob.)	4.105				
Glaziers	5.30	.125	.125		
Ironworkers:					
Structural, ornamental and reinforcing	9.30	.35	.44		.04
Lathers:					
Barkhamstead, Colebrook, New Hartford, Norfolk, Winchester	9.15	.25	.30		.01
Kent, Salisbury, Sharon	7.70	5%	.55		.01
Remainder of County	8.75	.25	.15		.01
Tile [illegible]	8.75	.50		c	
Line Construction:					
Linemen	9.41	.35	1%	e	3/8 of 1%
Equipment operator	8.78	.35	1%	e	3/8 of 1%
Groundman, truck driver	6.78	.35	1%	e	3/8 of 1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Painters Bridge:					
Brush	$9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
Painters:					
Brush:					
New Milford	6.20	.25			
Remainder of County	7.60	.50	.30		
Structural steel:					
New Milford	7.20	.25			
Spray:					
Remainder of County	10.875	.50	.20		
Plumbers:					
Bridgewater, New Milford	8.95	.40	.30	.45	
Barkhamsted, New Hartford	8.87	.5322	.5322		.20
Bethlehem, Roxbury, Washington, Woodbury, New Preston, Plymouth, Terryville, Thomaston and Watertown	8.32	.55+.08	.50	.48+k	.08
Remainder of County	7.79	.40	.30	j	
Canaan- Torrington	7.94	.55	.50	j	
Roofers:					
Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury.					
Warren:					
Composition, Kettlemen	8.75	.60	.30		
Slate and tile	9.00	.60	.30		
Slate and tile helpers	8.00	.60	.30		
Remainder of County:					
Composition	8.20	.425	.50	.30	
Slate and tile	8.70	.425	.50	.30	
Sheet metal workers	9.71	.44	.29		.02
Sprinkler fitters	9.08	.40	.60		.05
Steamfitters:					
Barkhamsted, New Hartford	9.30	.57	.57		.13
Waterproofers:					
Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury, Warren	8.75	.60	.30		
Remainder of County	8.20	.425	.50	.30	
Welders - rate for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day F-Christmas Day.

FOOTNOTES:

a. Employer contibutes 1% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F

c. Nine (9) Paid holidays: A through F, Washington's Brithday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

e. Nine (9) paid holidays: A through F, Washington's Birthday and Good Friday, plus one floating holiday per year provided the employed has been employed at least 10 working days prior to the holiday and works the scheduled work days immediately preceding and following the holiday.

f. Paid holidays: C and E

g. Paid holidays: B through E.

h. Paid holidays: A through F plus Good Friday

i. Paid holidays: C and D

j. Paid holiday: D

K. Paid holidays: B and D +½ day paid holiday the Friday after Thanksgiving and the last working day before Christmas

LABORERS: BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Building):						
Laborers, carpenters tenders, wrecking laborers	6.90	.50	.40		.05	
Jackhammer op., masons tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	7.15	.50	.40		.05	
Air track operators, wagon drill ops. and sandblasters	7.40	.50	.40		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	7.40	.50	.40		.05	
Top man	6.90	.50	.40		.05	
Laborers (Heavy and Highway):						
Laborers	6.90	.50	.40		.05	
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors; form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected there with	7.15	.50	.40		.05	
Air track operators, block pavers, rammers, curb setters	7.40	.50	.40		.05	
Powdermen and blasters	7.65	.50	.40		.05	

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Hoisting Structural Steel, Setting Stone, Derrick, Pile Driver, Hoisting Engineer 2 drums and over	$8.97	.30	.50+a	b		
Tower Crane, Dragline, Gradall, Kohering Scooper Loader and/or Hoe, Hoisting Engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation), Front End Loader - 7 cy. or over, Master Mechanic, Shovel, Fork Lift - over 4 ft. lift	8.86	.30	.50+a	b		
Maintenance Engineer	8.76	.30	.50+a	b		
Vibratory Hammer, Front End Loader - 3 cy. up to 7 cy., Coleman Loader and Screening Plant or similar equipment, Welder, Joy Drill - limited to Joy Heavy Weight Champion or equivilent, Mucking Machine, Pumpcrete Machine, Rock Boring Machine, Post Hole Digger, Well Digger, Conveyors - regardless of motive power, High Pressure Portable Boiler, Central Mix Op., Combination Hoe and Loader over 1/4 yd.	8.60	.30	.50+a	b		
Compressor Battery Operator	8.49	.30	.50+a	b		
Asphalt Spreader	8.44	.30	.50+a	b		
Bulldozer, Grader Operator, Scraper Pan Operator, Carry-All Operators	8.39	.30	.50+a	b		
Combination Hoe and Loader Machine, Concrete Mixer Op. - 5 bags or over, Front End Loader under 3 cy., Powerstone Spreader Op.	8.33	.30	.50+a	b		
Air and Steam Valve Operator	8.31	.30	.50+a	b		
Generator Op., Compressor Op., Pump and Well Point Op.	8.21	.30	.50+a	b		
Steam Jenny Op., Fork Lift Op. not over 4 ft.	8.23	.30	.50+a	b		
Mechanical Heater Operator	8.12	.30	.50+a	b		
Roller Operator	8.18	.30	.50+a	b		

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Dinky Machine Operator, Power Pavement Breaker Operator	$8.02	.30	.50+a	b		
Fireman (High Pressure)	7.91	.30	.50+a	b		
Oiler	7.54	.30	.50+a	b		
Crane with boom, excluding Jib, over 150 feet - .25 extra						
Crane with boom, excluding Jib, over 200 feet - .50 extra						

PAID HOLIDAYS (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through E and Good Friday.

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POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Erecting and handling structural steel, front end loader (7 yds. or over)	$ 8.97	.30	.50 + a	b	.05	
Piledriver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, kohering loader (skooper)	8.86	.30	.50 +a	b	.05	
Drill(Joy heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	8.60	.30	.50 +a	b	.05	
Asphalt spreader	8.44	.30	.50 +a	b	.05	
Front end loader (3yds. or over), grader power stone spreader, combination hoe and loader	8.33	.30	.50 +a	b	.05	
Asphalt roller, bulldozer, carryall, maintenance engineer, concrete mixer 5 bags and over	8.18	.30	.50 +a	b	.05	
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, power pavement breaker, dinky machine	8.02	.30	.50 +a	b	.05	
Compressor, pump opr.	7.83	.30	.50 +a	b	.05	
Fireman, high pressure	7.91	.30	.50 +a	b	.05	
Well point system	8.21	.30	.50 +a	b	.05	
Compressor battery operator	8.49	.30	.50 +a	b	.05	
Oiler	7.54	.30	.50 +a	b	.05	
Batch plant, bulk cement plant,	7.65	.30	.50 +a	b	.05	

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POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

PAID HOLIDAYS(Where applicable):
A-New Year s Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A thru F and Good Friday.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Two axle trucks	$6.21	a	b	c		
Three axle trucks	6.31	a	b	c		
Four axle trucks	6.41	a	b	c		
Two axle ready-mix	6.31	a	b	c		
Three axle ready-mix	6.36	a	b	c		
Four axle ready-mix	6.46	a	b	c		
Heavy duty trailer-up to 40 tons	6.36	a	b	c		
Heavy duty trailer - 40 tons and over	6.51	a	b	c		
Helpers	6.21	a	b	c		
Specialized earth moving equipment other than conventional type on-the-road trucks and Semi-trailers, including Euclids	6.46	a	b	c		

Paid Holidays (Where applicable);

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

Footnotes;

a. $14.00 per week for employees employed over 16 hours and $.35 per hour for employees employed less than 16 hours during the week.

b. $20.00 per week for employees employed over 24 hours and $.50 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

MAY 3 1974

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AQ-3168
Supersedes Decision No. AQ-3019 dated October 12, 1973 in 38 FR 28499
DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction

COUNTY: New London
DATE: Date of Publication

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Asbestos Workers:					
Griswold, Ledyard, Lisbon, North Stonington, Preston, Stonington, Voluntown	$8.80	.505	.45		.005
Remainder of County	9.12	.55	.53		
Boilermakers	9.08	.60	10%		.01
Bricklayers, cement mason-finishers, marble setters, plasterers, stone masons, terrazzo workers, tile setters (Building Only):					
Norwich	9.15	.35+.15	.25		
Remainder of County	9.20	.50	.25		
Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers: (Building Only)	7.65	.35	.15+.25		
Bricklayers, cement masons-finishers, stone masons (Heavy and Highway Only)	8.45	.50	.50	a	
Carpenters & Piledrivermen (Heavy and Highway Only)	9.05	.50	.30	a	
Carpenters, soft floor layers, pile-drivermen (Building Only):					
Township of Stonington	8.46	.50	.35		
Remainder of County	8.55	.50	.30		
Electricians:					
East Lyme, Groton, Lyme, New London, Old Lyme, Waterford	9.60	.55	7%+.20		½ of 1%
Remainder of County	8.80	.75	7%+.20		.5%
Elevator Constructors	8.21	.345	.23	2%+a+b	.015
Elevator Constructors' helpers	5.75	.345	.23	2%+a+b	.015
Elevator Constructors' helpers (Prob.)	4.105				
Glaziers (Outside)	8.71	.52	.47		
Ironworkers: Str., Orn. & Reinf.	9.30	.35	.44		.04
Lathers:					
Groton	7.40	.45	.50		.01
Remainder of County	8.70	.20	.30		.01
Lead burner	8.75	.30		c	.01
Line Construction:					
Linemen	9.41	.35	7%	d	3/6 of 1%
Equipment Operators	8.78	.35	7%	d	3/8 of 1%
Groundman, truck driver	6.78	.35	7%	d	3/8 of 1%
Painters:					
Brush	7.00	.35	.50	.20	
Sandblasters, Steamclean...	7.73	.35	.50	.20	
Bridge:					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01

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BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Plumbers, Steamfitters:	$9.29	.40	.50	f+.275	
Roofers:					
Composition	8.20	.425	.50	.30	
Slate, tile, precast concrete	8.70	.425	.50	.30	
Sprinkler fitters	9.08	.60	.60		.05
Sheet Metal Workers	8.70	.50	.51		.05
Waterproofers	8.20	.425	.50	.30	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more service or 2% basic hourly rate for 6 months to 5 years as Vacation Pay Credit.
b. Six paid holidays: A through F.
c. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday, plus one (1) floating holiday per year, provided the employee has been employed for at least 10 working days prior to the holiday and works the scheduled work days immediately preceding and following the holiday.
e. Paid Holidays: A through F, plus Good Friday.
f. Paid Holidays: D. + 4 hours the day after Thanksgiving Day.

CONN-SW-LAB-C

LABORERS: BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Building):						
Laborers, carpenters tenders, wrecking laborers	6.90	.50	.40		.05	
Jackhammer op., masons tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	7.15	.50	.40		.05	
Air track operators, wagon drill ops. and sandblasters	7.40	.50	.40		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	7.40	.50	.40		.05	
Top man	6.90	.50	.40		.05	
Laborers (Heavy and Highway):						
Laborers	6.90	.50	.40		.05	
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected there with	7.15	.50	.40		.05	
Air track operators, block pavers, rammers, curb setters	7.40	.50	.40		.05	
Powdermen and blasters	7.65	.50	.40		.05	

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Hoisting Structural Steel, Setting Stone, Derrick, Pile Driver, Hoisting Engineer 2 drums and over	$8.97	.30	.50+a	b		
Tower Crane, Dragline, Gradall, Kohering Scooper Loader and/or Hoe, Hoisting Engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation), Front End Loader - 7 cy. or over, Master Mechanic, Shovel, Fork Lift - over 4 ft. lift	8.86	.30	.50+a	b		
Maintenance Engineer	8.76	.30	.50+a	b		
Vibratory Hammer, Front End Loader - 3 cy. up to 7 cy., Coleman Loader and Screening Plant or similar equipment, Welder, Joy Drill - limited to Joy Heavy Weight Champion or equivilent, Mucking Machine, Pumpcrete Machine, Rock Boring Machine, Post Hole Digger, Well Digger, Conveyors - regardless of motive power, High Pressure Portable Boiler, Central Mix Op., Combination Hoe and Loader over 1/4 yd.	8.60	.30	.50+a	b		
Compressor Battery Operator	8.49	.30	.50+a	b		
Asphalt Spreader	8.44	.30	.50+a	b		
Bulldozer, Grader Operator, Scraper Pan Operator, Carry-All Operators	8.39	.30	.50+a	b		
Combination Hoe and Loader Machine, Concrete Mixer Op. - 5 bags or over, Front End Loader under 3 cy., Powerstone Spreader Op.	8.33	.30	.50+a	b		
Air and Steam Valve Operator	8.31	.30	.50+a	b		
Generator Op., Compressor Op., Pump and Well Point Op.	8.21	.30	.50+a	b		
Steam Jenny Op., Fork Lift Op. not over 4 ft.	8.23	.30	.50+a	b		
Mechanical Heater Operator	8.12	.30	.50+a	b		
Boiler Operator	8.11	.30	.50+a	b		

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POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION (Cont'd);	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Dinky Machine Operator, Power Pavement Breaker Operator	$8.02	.30	.50+a	b		
Fireman (High Pressure)	7.91	.30	.50+a	b		
Oiler	7.54	.30	.50+a	b		
Crane with boom, excluding Jib, over 150 feet - .25 extra						
Crane with boom, excluding Jib, over 200 feet - .50 extra						
PAID HOLIDAYS (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day						

FOOTNOTES:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through E and Good Friday.

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SW-CONN-2-3-W (1 of 2)

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Erecting and handling structural steel, front end loader (7 yds. or over)	$ 8.97	.30	.50 + a	b	.05	
Piledriver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, kohering loader (skooper)	8.86	.30	.50 +a	b	.05	
Drill(Joy heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and wall digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	8.60	.30	.50 +a	b	.05	
Asphalt spreader	8.44	.30	.50 +a	b	.05	
Front end loader (3yds. or over), grader, power stone spreader, combination hoe and loader	8.33	.30	.50 +a	b	.05	
Asphalt roller, bulldozer, carryall, maintenance engineer, concrete mixer 5 bags and over	8.18	.30	.50 +a	b	.05	
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, power pavement breaker, dinky machine	8.02	.30	.50 +a	b	.05	
Compressor, pump opr.	7.83	.30	.50 +a	b	.05	
Fireman, high pressure	7.91	.30	.50 +a	b	.05	
Well point system	8.21	.30	.50 +a	b	.05	
Compressor battery operator	8.49	.30	.50 +a	b	.05	
Oiler	7.54	.30	.50 +a	b	.05	
Batch plant, bulk cement plant,	7.65	.30	.50 +a	b	.05	

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SW-CONN-2-3-W (2 of 2)

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						
PAID HOLIDAYS(Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day						

FOOTNOTE:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A thru F and Good Friday.

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1-TD-SW-CONN-1-2-3-C

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Two axle trucks	$6.21	a	b	c		
Three axle trucks	6.31	a	b	c		
Four axle trucks	6.41	a	b	c		
Two axle ready-mix	6.31	a	b	c		
Three axle ready-mix	6.36	a	b	c		
Four axle ready-mix	6.46	a	b	c		
Heavy duty trailer-up to 40 tons	6.36	a	b	c		
Heavy duty trailer - 40 tons and over	6.51	a	b	c		
Helpers	6.21	a	b	c		
Specialized earth moving equipment other than conventional type on-the-road trucks and Semi-trailers, including Euclids	6.46	a	b	c		

Paid Holidays (Where applicable);

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes;

a. $14.00 per week for employees employed over 16 hours and $.35 per hour for employees employed less than 16 hours during the week.

b. $20.00 per week for employees employed over 24 hours and $.50 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

XUM

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AQ-3169
Supersedes Decision No.: AQ-3020 dated October 12, 1973, in 38 FR 28503
DESCRIPTION OF WORK: Building construction, (exoluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

COUNTY: Tolland
DATE: Date of Publication

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers:					
Somers-Strafford-Union	$7.60	.39	.15		.01
Remainder of County	9.12	.55	.53		
Boilermakers	9.08	.60	10%		.01
Bricklayers, Cement Masons-Finishers, Marble Setters, Plasterers, Stonemasons, Terrazzo Workers, Tile Setters (Building Only)	9.30	.50	.25		
Marble Setters' helpers, Terrazzo Workers helpers, Tile Setters' helpers	7.65	.35	.15+.25		
Bricklayers, Cement Masons-Finishers, Stonemasons (Heavy & Highway)	8.45	.50	.50	e	
Carpenters & Piledrivermen (Hvy. & Hwy.)	9.05	.50	.30	e	
Carpenters, Soft Floor Layers & Pile-drivermen, Millwrights (Building Only):					
Bolton	9.31	.50	.30		.05
Remainder of County	9.00	.35	.30		
Electricians	9.30	.75	1%+.40		1%
Elevator constructors	8.21	.345	.23	2%+a+b	.015
Elevator constructors' helpers	5.75	.345	.23	2%+a+b	.015
Elevator constructors' helpers (Prob.)	4.105				
Glaziers (Outside)	8.71	.52	.47		
Ironworkers: Structural, Ornamental, Reinforcing	9.30	.35	.44		.04
Lathers:					
Somers, Stafford, , Stratford, Spring, Straffordville, Union, Crystal Lake	7.60	.45	.25		
Remainder of County	9.15	.20	.30		.01
Lead burners	8.75	.30		o	.01
Line Construction:					
Linemen	9.41	.35	1%	d	3/8 of 1%
Equipment Operator	8.78	.35	1%	d	3/8 of 1%
Groundman, Truck Driver	6.78	.35	1%	d	3/8 of 1%
Painters:					
Brush					
Ellington, Hebron, Rockville, Somers, Vernon	8.10	.50	.30		
Remainder of County	7.00	.35	.50	.20	
Spray:					
Ellington, Hebron, Rockville, Somers, Vernon	11.10	.50	.30		
Painters Bridge:					
Brush	9.525	.35	.525		.01
Spray	13.025	.35	.525		.01
Plumbers	8.87	.5322	.5322		.20
Roofers:					
Composition	8.20	.425	.50	.30	

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7-CONN-1-2-3-P 2 of 2

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Sheet Metal Workers	$8.70	.50	.51		.05	
Sprinkler Fitters	9.08	.40	.60		.05	
Steamfitters	9.30	.57	.57		.13	
Waterproofers	8.20	.425	.50	.30		

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

A. Employer contributes 4% of the basic hourly rate for 5 years or more of service or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F.

c. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Nine (9) paid holidays: A through F Washington's Birthday and Good Friday, plus one floating holiday per year, provided the employee has been employed for a period of 10 working days prior to the holiday and works the scheduled work days immediately preceding and following the holiday.

e. Paid holidays: A through F plus Good Friday.

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CONN-SW-LAB-C

LABORERS: BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Building):						
Laborers, carpenters tenders, wrecking laborers	6.90	.50	.40		.05	
Jackhammer op., masons tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	7.15	.50	.40		.05	
Air track operators, wagon drill ops. and sandblasters	7.40	.50	.40		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	7.40	.50	.40		.05	
Top man	6.90	.50	.40		.05	
Laborers (Heavy and Highway):						
Laborers	6.90	.50	.40		.05	
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone Spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected there with	7.15	.50	.40		.05	
Air track operators, block pavers, rammers, curb setters	7.40	.50	.40		.05	
Powdermen and blasters	7.65	.50	.40		.05	

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CONN-1-R

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Hoisting Structural Steel, Setting Stone, Derrick, Pile Driver, Hoisting Engineer 2 drums and over	$8.97	.30	.50+a	b		
Tower Crane, Dragline, Gradall, Kohering Scooper Loader and/or Hoe, Hoisting Engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation), Front End Loader - 7 cy. or over, Master Mechanic, Shovel, Fork Lift - over 4 ft. lift	8.86	.30	.50+a	b		
Maintenance Engineer	8.76	.30	.50+a	b		
Vibratory Hammer, Front End Loader - 3 cy. up to 7 cy., Coleman Loader and Screening Plant or similar equipment, Welder, Joy Drill - limited to Joy Heavy Weight Champion or equivilent, Mucking Machine, Pumpcrete Machine, Rock Boring Machine, Post Hole Digger, Well Digger, Conveyors - regardless of motive power, High Pressure Portable Boiler, Central Mix Op., Combination Hoe and Loader over 1/4 yd.	8.60	.30	.50+a	b		
Compressor Battery Operator	8.49	.30	.50+a	b		
Asphalt Spreader	8.44	.30	.50+a	b		
Bulldozer, Grader Operator, Scraper Pan Operator, Carry-All Operators	8.39	.30	.50+a	b		
Combination Hoe and Loader Machine, Concrete Mixer Op. - 5 bags or over, Front End Loader under 3 cy., Powerstone Spreader Op.	8.33	.30	.50+a	b		
Air and Steam Valve Operator	8.31	.30	.50+a	b		
Generator Op., Compressor Op., Pump and Well Point Op.	8.21	.30	.50+a	b		
Steam Jenny Op., Fork Lift Op. not over 4 ft.	8.23	.30	.50+a	b		
Mechanical Heater Operator	8.12	.30	.50+a	b		
[illegible]	8.1[illegible]	.30	.50+a	b		

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POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Dinky Machine Operator, Power Pavement Breaker Operator	$8.02	.30	.50+a	b		
Fireman (High Pressure)	7.91	.30	.50+a	b		
Oiler	7.54	.30	.50+a	b		
Crane with boom, excluding Jib, over 150 feet - .25 extra						
Crane with boom, excluding Jib, over 200 feet - .50 extra						

PAID HOLIDAYS (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through E and Good Friday.

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Erecting and handling structural steel, front end loader (7 yds. or over)	$ 8.97	.30	.50 + a	b	.05	
Pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (self leg and guy), steel pile sheeting, kohering loader (skooper)	8.86	.30	.50 +a	b	.05	
Drill (Joy heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	8.60	.30	.50 +a	b	.05	
Asphalt spreader	8.44	.30	.50 +a	b	.05	
Front end loader (3yds. or over), grader, power stone spreader, combination hoe and loader	8.33	.30	.50 +a	b	.05	
Asphalt roller, bulldozer, carryall, maintenance engineer, concrete mixer 5 bags and over	8.18	.30	.50 +a	b	.05	
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, power pavement breaker, dinky machine	8.02	.30	.50 +a	b	.05	
Compressor, pump opr.	7.83	.30	.50 +a	b	.05	
Fireman, high pressure	7.91	.30	.50 +a	b	.05	
Well point system	8.21	.30	.50 +a	b	.05	
Compressor battery operator	8.49	.30	.50 +a	b	.05	
Oiler	7.54	.30	.50 +a	b	.05	
Batch plant, bulk cement plant,	7.65	.30	.50 +a	b	.05	

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

PAID HOLIDAYS (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A thru F and Good Friday.

1-TD-SW-CONN-1-2-3-G

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Two axle trucks	$6.21	a	b	c		
Three axle trucks	6.31	a	b	c		
Four axle trucks	6.41	a	b	c		
Two axle ready-mix	6.31	a	b	c		
Three axle ready-mix	6.36	a	b	c		
Four axle ready-mix	6.46	a	b	c		
Heavy duty trailer-up to 40 tons	6.36	a	b	c		
Heavy duty trailer - 40 tons and over	6.51	a	b	c		
Helpers	6.21	a	b	c		
Specialized earth moving equipment other than conventional type on-the-road trucks and Semi-trailers, including Euclids	6.46	a	b	c		

Paid Holidays (Where applicable);

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

Footnotes;

a. $14.00 per week for employees employed over 16 hours and $.35 per hour for employees employed less than 16 hours during the week.

b. $20.00 per week for employees employed over 24 hours and $.50 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

MAY 3 1974 VOL. 39 NO. 87

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AQ-3170
Supersedes Decision No. AQ-3021 dated October 12, 1973 in 38 FR 28507
DESCRIPTION OF WORK: Building Construction, (including Residential), Heavy and Highway Construction.

COUNTY: Windham
DATE: Date of Publication

8-CONN-1-2-3-P 1 of 2

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos Workers:					
Ashford, Chaplin, Eastford, Hampton, Scotland, Windham	9.12	.55	.53		
Woodstock	7.60	.34	.15		.01
Remainder of County	8.80	.505	.45		.005
Boilermakers	9.08	.60	10%		.01
Bricklayers, Cement Masons-Finishers, Marble Setter, Plasterers, Stonemasons, Terrazzo Workers, Tile Setters, (Building Only)	8.85	.35+.15	.25		
Bricklayers, Cement Masons-Finishers Stonemasons (Heavy and Highway)	8.45	.50	.50	f	
Carpenters & Piledrivermen (Hvy. & Hwy.)	9.05	.50	.30	f	
Carpenters, Soft Floor Layers, Piledrivermen and millwrights (Building Only)	9.00	.35	.30		
Electricians	9.30	.75	7%+.40		3%
Elevator Constructors	8.21	.345	.23	2%+a+b	.015
Elevator constructors' helpers	5.75	.345	.23	2%+a+b	.015
Elevator constructors' helpers (Prob.)	4.105				
Glaziers (Outside)	8.71	.52	.47		
Ironworkers, Structural, Ornamental, Reinforcing	9.30	.35	.44		.04
Lathers:					
Chaplin, Hampton, Scotland, Windham	9.15	.20	.30		.01
Danielson	7.40	.45	.50		.01
Remainder of County	7.60	.45	.25		
Lead burners	8.75	.30		o	.01
Line Construction:					
Linemen	9.41	.35	1%	e	3/8 of 1%
Equipment Operator	8.78	.35	1%	e	3/8 of 1%
Groundman, Truck Driver	6.78	.35	1%	e	3/8 of 1%
Marble Setters' helpers, Terrazzo workers helpers, Tile setters' helpers	7.65	.35	.15+.25		
Painters:					
Willimatic					
Brush	8.10	.50	.30		
Spray	11.10	.50	.30		
Bridge (Entire County) Brush	9.525	.35	.525		.01
Remainder of County:					
Brush	7.00	.35	.50	.20	
Sandblasters, steamcleaners	7.73	.35	.50	.20	
Hazardous	7.90	.35	.50	.20	
Swing stage, swing scaffold, window jacks and boson chair	7.30	.35	.50	.20	
Plumbers:					
Windham	8.87	.5322	.5322		.20
Remainder of County	9.29	.40	.50	f+.275	

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8-CONN-1-2-3- P 2-2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Roofers:						
Composition	8.20	.425	.50	.30		
Slate, tile, precast, concrete	8.70	.425	.50	.30		
Waterproofers	8.20	.425	.50	.30		
Sheet metal workers	8.70	.50	.51		.05	
Sprinkler fitters	9.08	.40	.60		.05	
Steamfitters						
Windham	9.30	.57	.57		.13	
Remainder of County	9.29	.40	.50	f+.275		
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:
a. Employer contributes 4% of the basic hourly rate for 5 years or more of service or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. Six (6) paid holiday: A through F.
c. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
d. Seven (7) paid holidays: A through F, and Good Friday provided the employee has worked at least 10 working days prior to the holiday and is available for work the day before and the day after the holiday.
e. Nine (9) paid holidays: A through F, Washington's Birthday and Good Friday plus one (1) floating holiday per year provided the employee has been employed for a period of 10 working days prior to the holiday and works the scheduled work days immediately preceding and following the holiday.
f. Paid Holiday: D + 4 hours the day after Thanksgiving Day.

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CONN-SW-LAB-C

LABORERS: BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Laborers: (Building):						
Laborers, carpenters tenders, wrecking laborers	6.90	.50	.40		.05	
Jackhammer op., masons tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	7.15	.50	.40		.05	
Air track operators, wagon drill ops. and sandblasters	7.40	.50	.40		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	7.40	.50	.40		.05	
Top man	6.90	.50	.40		.05	
Laborers (Heavy and Highway):						
Laborers	6.90	.50	.40		.05	
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected there with	7.15	.50	.40		.05	
Air track operators, block pavers, rammers, curb setters	7.40	.50	.40		.05	
Powderman and blasters	7.65	.50	.40		.05	

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POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Hoisting Structural Steel, Setting Stone, Derrick, Pile Driver, Hoisting Engineer 2 drums and over	$8.97	.30	.50+a	b		
Tower Crane, Draglina, Gradall, Kohering Scooper Loader and/or Hoe, Hoisting Engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation), Front End Loader - 7 cy. or over, Master Mechanic, Shovel, Fork Lift - over 4 ft. lift	8.86	.30	.50+a	b		
Maintenance Engineer	8.76	.30	.50+a	b		
Vibratory Hammer, Front End Loader - 3 cy. up to 7 cy., Coleman Loader and Screening Plant or similar equipment, Welder, Joy Drill - limited to Joy Heavy Weight Champion or equivilent, Mucking Machine, Pumpcrete Machine, Rock Boring Machine, Post Hole Digger, Well Digger, Conveyors - regardless of motive power, High Pressure Portable Boiler, Central Mix Op., Combination Hoe and Loader over 1/4 yd.	8.60	.30	.50+a	b		
Compressor Battery Operator	8.49	.30	.50+a	b		
Asphalt Spreader	8.44	.30	.50+a	b		
Bulldozer, Grader Operator, Scraper Pan Operator, Carry-All Operators	8.39	.30	.50+a	b		
Combination Hoe and Loader Machine, Concrete Mixer Op. - 5 bags or over, Front End Loader under 3 cy., Powerstone Spreader Op.	8.33	.30	.50+a	b		
Air and Steam Valve Operator	8.31	.30	.50+a	b		
Generator Op., Compressor Op., Pump and Well Point Op.	8.21	.30	.50+a	b		
Steam Jenny Op., Fork Lift Op. not over 4 ft.	8.23	.30	.50+a	b		
Mechanical Heater Operator	8.12	.30	.50+a	b		
Roller Operator	8.18	.30	.50+a	-		

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SW-CONN-1-A

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Dinky Machine Operator, Power Pavement Breaker Operator	$8.02	.30	.50+a	b		
Fireman (High Pressure)	7.91	.30	.50+a	b		
Oiler	7.54	.30	.50+a	b		
Crane with boom, excluding Jib, over 150 feet - .25 extra						
Crane with boom, excluding Jib, over 200 feet - .50 extra						

PAID HOLIDAYS (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

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SW-CONN-2-3-W (1 of 2)

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Erecting and handling structural steel, front end loader (7 yds. or over)	$ 8.97	.30	.50 + a	b	.05	
Piledriver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, kohering loader (skooper)	8.86	.30	.50 +a	b	.05	
Drill(Joy heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ¾ yd.)	8.60	.30	.50 +a	b	.05	
Asphalt spreader	8.44	.30	.50 +a	b	.05	
Front end loader (3yds. or over), grader power stone spreader, combination hoe and loader	8.33	.30	.50 +a	b	.05	
Asphalt roller, bulldozer, carryall, maintenance engineer, concrete mixer 5 bags and over	8.18	.30	.50 +a	b	.05	
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, power pavement breaker, dinky machine	8.02	.30	.50 +a	b	.05	
Compressor, pump opr.	7.83	.30	.50 +a	b	.05	
Fireman, high pressure	7.91	.30	.50 +a	b	.05	
Well point system	8.21	.30	.50 +a	b	.05	
Compressor battery operator	8.49	.30	.50 +a	b	.05	
Oiler	7.54	.30	.50 +a	b	.05	
Batch plant, bulk cement plant,	7.65	.30	.50 +a	b	.05	

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SW-CONN-2-3-W (2 of 2)

POWER EQUIPMENT OPERATORS HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

PAID HOLIDAYS(Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A thru F and Good Friday.

AQ-3170 P. 8

1-TD-SW-CONN-1-2-3-C

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:						
Two axle trucks	$6.21	a	b	c		
Three axle trucks	6.31	a	b	c		
Four axle trucks	6.41	a	b	c		
Two axle ready-mix	6.31	a	b	c		
Three axle ready-mix	6.36	a	b	c		
Four axle ready-mix	6.46	a	b	c		
Heavy duty trailer-up to 40 tons	6.36	a	b	c		
Heavy duty trailer - 40 tons and over	6.51	a	b	c		
Helpers	6.21	a	b	c		
Specialized earth moving equipment other than conventional type on-the-road trucks and Semi-trailers, including Euclids	6.46	a	b	c		

Paid Holidays (Where applicable);

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

Footnotes;

a. $14.00 per week for employees employed over 16 hours and $.35 per hour for employees employed less than 16 hours during the week.

b. $20.00 per week for employees employed over 24 hours and $.50 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

XUM

SUPERSEDAS DECISION

STATE: Florida
COUNTY: Bay
DECISION NUMBER: AQ-4107
DATE: Date of Publication
Supersedas Decision No. AP-196 dated June 8, 1973 in FR 15229
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and gardan type apartments up to and including 4 stories).

3-Florida-1-K (1-2)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$7.70	.395	.75	a	.02
Boilermakers	7.13	.40	.70		.01
Carpenters	5.85	.20			.01
Electricians (commercial)	5.16				
Electricians & Linemen (Industrial)	7.60		1%		
Cable splicers (Industrial)	7.95		1%		
Elevator constructors	6.72	.145	.17	1%%+b&c	.005
Elevator constructors' helpers	70%JR	.145	.17	1%%+b&c	.005
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	6.00				
Ironworkers, structural & ornamental	7.13	.28	.25		
Ironworkers, reinforcing	7.13	.28	.25		
Millwrights	7.28	.24	.25		
Painters, brush	4.50				
Painters, spray	4.50				
Plumbers & pipefitters:					
Tyndall AFB	4.80	.15	.15		
Remainder of Bay County	5.25				
Roofers	3.50				
Sheet metal workers	5.00				
Soft floor layers	4.00				
Sprinkler fitters	8.71	.40	.60	d	.01
Stonemasons	5.00				
Piledrivermen	6.10	.20			.01

Riggers - receive rate prescribed for craft performing operation to which rigging is incidental.

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

Riveters - receive rate prescribed for craft performing operation to which rivsting is incidental.

AQ-4107 P, 2

3-Florida-1-K (2-2)

FOOTNOTES:

a. Two paid holidays: Labor Day and Mardi Gras Day, provided the employee works at least one day out of the three work days prior to the paid holidays, and the first work day after the paid holidays.

b. Six paid holidays: A through F.

c. Employer contributes 4% of regular rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate for Vacation Pay Credit for employee who has worked in business less than 5 years.

d. 4 paid holidays: Labor Day, Christmas Day, Christmas Eve, & Thanksgiving Day.

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AQ-4107 P, 3

3-Fla.-Lab-1-H (1-1)

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$3.25	.10			
GROUP II	3.50	.10			
GROUP III	3.75	.10			
GROUP IV	4.25	.10			
GROUP V	3.35	.10			

GROUP I: Construction laborers, carpenters' tenders, building wreckers

GROUP II: Ninety lb. hammer, gunnite, pressure conc. worker nozzleman, gunmen, acid or creosote workers, (work performed over 100' high (except on inside wall to wall scaffolding)

GROUP III: Form setter on streets, roads, & highways, burners for demolition or concrete, runways and courts

GROUP IV: Blasting & powdermen, cofferdam and tunnel workers underground; caissons

GROUP V: Air tool operators, asphalt raker & temper, conc. or clay pipe layers & wipers, mason tenders plasterer tenders, conc. worker, track laborers, (including preperation of track bed), roofer's helpers, single conveyors, kettlemen, well point workers, power buggy operator, building of scaffolding and staging for mesons and plasterers

*Pending the completion of survey which will serve as the basis for new area decisions, Agencies with projects pending should utilize the project determination procedure by submitting SF-308 for heavy construction projects. See Regulations Part 1 (CFR 29), Section 1.5.

AQ-4107 P, 4

Florida 3 FEO-1 (1-1)

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$7.16	.28	.25		
GROUP II	6.90	.28	.25		
GROUP III	5.41	.28	.25		
GROUP IV	5.76	.28	.25		
GROUP V	5.50	.28	.25		

GROUP I: Heavy Duty Mechanic, Crane, Shovel, Derrick Operator (2 or more drums), Dragline Pile Driver Operator, Hoist Operator (2 or more drums), Trenching Machines, Cableways, Excavators, Front End Loader, Backhoe, Rubber-Tired Backhoe, Dredges, Leverman, Welders, Mounted Rotary Drill Machines Cherry Pickers, Side Boom Tractors, Paving Machines, Motor Patrol, Pumpcrete Machines, Gradalls, Johnson Mixers, Hydro-Lift Trucks, All Batch Plant and Header House Operators, Panel Board (Ready-Mix), Hydro Hammers on Demolition Work, Concrete Plants, Asphalt Plants, Helicopter pilots and concrete paving trains

GROUP II: Dozer Scraper, Turnapull, One Drum Hoist, Self-Propelled Rollers, Construction Elevators, Locomotive Engineer, Elevating Grader Tractors with Power Control Attachments, Winch Truck, Tug Boats, Mixers, Asphalt Spreaders, Drilling Machines, Form Graders, Asphalt Distributors, Forklift, well-point systems, Subgraders, Finishing Machines, Motorized Compactors, Megrobiles and Push Carts.

GROUP III: Light Plants, Generators, Welding Machines, Air Compressors, Pumps, Conveyors, Motor Boats under 30 feet, Tow Tractors and Pile Driver Hammers (Diesel, Gas, Air or Electric)

GROUP IV: Fuel Truck Oilers, Fireman Brakeman, Outboard Motor Boats, Truck Crane Oiler and Mechanic Helpers

GROUP V: Oilers (Crawler), Deck Hand and Oiler Cherry Picker

XUM

SUPERSEDEAS DECISION

AO-4104 P. 2

State: Georgia
County: *See Below
Decision Number: AO-4104
Date: Date of Publication
Supersedes Decisions Nos.: AM-471 Dated August 20, 1971 in 35 FR 16419
AM-472 Dated August 20, 1971 in 36 FR 16420
AM-473 Dated August 20, 1971 in 36 FR 16421
AM-474 Dated August 20, 1971 in 36 FR 16423
AM-475 Dated August 20, 1971 in 36 FR 16424
Description of Work: Highway Construction

	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V
	BASIC HOURLY RATES	BASIC HOURLY RATES	BASIC HOURLY RATES	BASIC HOURLY RATES	BASIC HOURLY RATES
Bricklayers	$2.93	$2.50	$2.50	$2.50	$
Carpenters	2.73	2.75	2.50	2.75	2.75
Cement Masons	2.00		2.21	2.47	2.15
Electricians				7.15	6.80
Ironworkers, Structural	2.38	2.50	2.80	5.09	4.45
Ironworkers, Reinforcing	2.00	2.00	2.50	2.35	
Laborers:					
Air Tool Operators (Jackhammer, Vibrator)	2.20	2.00	2.00	2.00	2.00
Asphalt Rakers	2.10	2.00	2.05	2.26	2.00
Asphalt Spreaders	2.00		2.00		
Drillers				2.00	
Fine Graders		2.00	2.00	2.00	
Landscape Workers	2.00	2.00	2.00	2.00	
Mason Tenders			2.00		
Mortar Mixers			2.00		
Pipelayers (Concrete, Clay, & Drainage)	2.00	2.25	2.00	2.25	
Powdermen, Blasters	2.55	2.00		2.25	
Unskilled	2.00	2.00	2.00	2.00	2.00
Concrete Rubbers	2.00				
Painters		2.33		2.50	
Painters, Structural Steel & Bridge			2.50	2.50	
Piledrivermen			2.62		
Power Equipment Operators:					
Aggregate Spreader	2.25		2.35	2.00	
Air Compressors	2.00	2.00	2.00	2.00	
Asphalt Distributors-Spreaders	2.28	2.10	2.42	2.78	3.00
Asphalt Plant	2.00	2.00	2.25	2.34	
Backhoes	2.75	2.60	2.75	2.65	2.50
Broom - Self Propelled	2.00				
Bulldozers	2.32	2.54	2.25	2.75	2.75
Bull Floats		2.00	2.00		
Concrete Batching Plants			3.00	2.25	
Concrete Curing Machines	2.50		2.25	2.75	
Concrete Finishing Machines		2.50	2.25	3.00	
Concrete Paving Machines		3.00	2.75	3.00	
Concrete Saw		2.75	2.70	2.65	
Cranes, Derricks, & Draglines	3.07	2.95	3.60	3.05	3.25
Drilling Machines	2.40	2.50		2.40	
Loaders (all types)	2.65	2.20	2.00	2.35	2.25
Mechanics	$2.90	$2.64	$2.58	$3.00	$3.00
Mixers		2.40	2.55	2.00	
Motor Patrols	2.92	2.75	2.71	2.73	3.00
Oilers - Greasers	2.16	2.00	2.00	2.25	2.00
Piledrivers	2.75			2.80	
Rollers	2.00	2.00	2.33	2.20	3.00
Shovels	3.00	3.00	2.00	3.00	3.00
Scrapers (Pan)	2.89	2.40	2.40	2.75	2.75
Tractors, Farm	2.00	2.00	2.00	2.31	2.00
Tractors, Crawler	2.25	2.00	2.10	2.85	2.50
Trenching Machines	3.00		2.35		
Truck Drivers:					
Up to 2½ tons	2.00	2.00	2.00	2.00	2.00
Over 2½ tons	2.10	2.00	2.02	2.25	2.07
Welders	3.00	2.75	3.13	3.00	2.50

*COUNTIES

ZONE I Banks, Barrow, Bartow, Catoosa, Chatooga, Cherokee, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield.

ZONE II Baldwin, Bibb, Burke, Butts, Carroll, Chattahoochee, Clarke, Columbia, Coweta, Crawford, Crisp, Dooly, Emanuel, Fayette, Glascock, Greene, Hancock, Harris, Heard, Houston, Jasper, Jefferson, Jenkins, Johnson, Jones, Lamar, Lincoln, Macon, Marion, McDuffie, Meriwether, Monroe, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Peach, Pike, Pulaski, Putnam, Richmond, Rockdale, Schley, Screven, Spalding, Stewart, Sumter, Talbot, Taliaferro, Taylor, Troup, Twiggs, Upson, Walton, Warren, Washington, Webster, Wilcox, Wilkes, Wilkinson.

ZONE III Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Bleckley, Brantley, Brooks, Bulloch, Calhoun, Camden, Candler, Charlton, Clay, Clinch, Coffee, Colquitt, Cook, Decatur, Dodge, Dougherty, Early, Echols, Effingham, Evans, Glynn, Grady, Irwin, Jeff Davis, Lanier, Laurens, Lee, Long, Lowndes, McIntosh, Miller, Mitchell, Montgomery, Pierce, Quitman, Randolph, Seminole, Tatnall, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Turner, Ware, Wayne, Wheeler, Worth.

Zone IV Henry

ZONE V Liberty

SUPERSEDEAS DECISION

AQ-2111 P. 2

STATE: Maryland and Virginia
COUNTIES: Montgomery and Prince Georges Counties, Maryland; Arlington and Fairfax Counties, the City of Alexandria and Dulles International Airport, Virginia
DECISION NO.: AQ-2111
DATE: Date of Publication
Supersedes Decision No. AQ-2036, dated December 21, 1973 in 38 FR 35143.
DESCRIPTION OF WORK: Building Construction - excluding all residential projects.

1-DC-1-2 F 1 of 3

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.00	.35	.55		.015	
Boilermakers - Blacksmiths	8.65	.60	.70		.02	
Bricklayers	9.55	.45	.45		.10	
Carpenters	8.55	.35	.39		.07	
Cement Masons:						
Cement Masons	8.05	.255	.28		.05	
Grinding Machine	8.25	.255	.28		.05	
Electricians	9.25	.35	1%+.35		.10	
Elevator Constructors	8.58	.345	.23	2%+a&b	.015	
Elevator Constructors Helpers	6.01	.345	.23	2%+a&b	.015	
Elevator Constructors Helpers (Prob)	4.29					
Glaziers	7.58	.46	.40			
Ironworkers:						
Structural, Ornamental & Chain Link Fence	8.70	.47	.50		.03	
Reinforcing	7.95	.35	.25		.03	
Laborers:						
Common Laborers, Landscapers	6.32	.28	.35		.05	
Acetylene Burners Used on Wrecking Air Tool Oper., Scaffold Builders, Paving Breakers, Towmasters, Buggy Mobiles, Spaders, Mortarmen and Scootcretes	6.82	.28	.35		.05	
Pipelayers	6.47	.28	.35		.05	
Plasterers' Tenders	6.47	.28	.35		.05	
Plumbers' Laborers	6.73	.32	.25		.05	
Powdermen	5.42	.30	.15		.03	
Powersaw, Well Points	7.495	.28	.35		.05	
Lathers	6.57	.28	.35		.05	
Lead Burners	8.42	.40	.40		.025	
Line Construction:	8.75	.30		d	.01	
Linemen, Cable Splicers, Equipment Operators	9.71	.25	1%		1%	
Truck With Winch, Truck Pole or Steel Handling	6.96	.25	1%		1%	
Groundmen (0 to 1 year)	5.54	.25	1%		1%	
Groundmen (1 to 2 years)	6.45	.25	1%		1%	
Groundmen (over 2 years)	6.70	.25	1%		1%	
Marble Setters	9.00	.35	.25			
Marble Setters' Helpers	7.35					
Millwrights	8.81	.35	.39		.07	
Painters:						
Brush, Spray, Paperhangers, Tapers	8.03	.41	.18		.06	
Steel, Sandblasting, Swing Stage, Power Brushing	8.36	.41	.18		.06	
Carpet layers	5.75	.25			.05	

1-DC-1-2 F 2 of 3

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen	$8.655	.35	.39		.07	
Plasterers	8.50	.45	.25		.06	
Plumbers	8.96	.50	.50		.15	
Roofers:						
Composition	7.12	.39	.20			
Slate, Tile, Mopmen, Waterproofers, Sprayers, Sprandrel & Ironite	7.65	.39	.20			
Helpers	5.19	.39	.20			
Sheet Metal Workers	8.58	.64	.74		.10	
Soft Floor Layers	8.50	.35	.39		.07	
Sprinkler Fitters	8.90	.40	.60		.07	
Steamfitters, Refrigeration & Air Conditioning Mechanic	8.88	.52	.59		.12	
Stone Masons	9.00	.35	.25			
Sone Cutters:						
Fitters & trimmers	9.35	.18	.20			
Ornamental carvers	8.87	.18	.20	h		
Figure carvers	9.43	.18	.20	h		
Terrazzo & Mosaic Workers	8.81	.40	.30			
Terrazzo Workers' Helpers	7.10	e	.20			
Tile Setters	8.81	.40	.30			
Tile Setters Helpers	7.10	e	.20			
Truck Drivers:						
Boom Trucks	6.40	.25	f	G+J		
Small Dump, Water Sprinkler, Grease & Oil	6.15	.25	f	G+J		
Flat, Pick-up Hauling Materials, Small Euclids, Dump Over 8 Wheels	6.25	.25	f	G+J		
Trailers, Low-Boys, Tractor Pulls	6.45	.25	f	G+J		
Helpers	6.00	.25	f	G+J		
Carryalls, Large Euclids, Eculid Water Sprinkler, Tunnel Work Under Ground	6.55	.25	f	G+J		
Mechanics	6.30	.25	f	G+J		

Riggers & Welders- Receive rates prescribed for crafts performing operations to which rigging & welding are incidental.

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BUILDING CONSTRUCTION 1-DC-1-2 F 3 of 3

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years service as vacation pay credit.

c. Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve (provided employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regularly schedule work days immediately preceding and following the holiday).

e. Employer contributes $37.92 per man per month.

f. $8.00 per week when employee has worked 90 days and works 3 days in a work week.

g. Holidays: A - D- E and F (provided the employee works the regularly scheduled work days immediately preceding and following the holiday).

h. Five paid holidays: Labor Day, Veteran's Day; Thanksgiving Day, Christmas Day and New Year's Day.

j. One week's paid vacation providing employee has worked 3 years and a minimum of 1450 hours during any calendar year.

2-D.C.-BDC-1-2-N

BUILDING CONSTRUCTION	BASIC	FRINGE BENEFITS PAYMENTS			
	HOURLY RATES	H&W	PENSIONS	VACATION	APP. TR.	OTHERS
Power equipment operators:						
35 ton cranes & above, tower & climbing cranes	$8.775	.35	.35		.10	
Backhoes, boom cats, cableways, cranes or derricks, draglines, elevating graders, hoists, elevator (permanent) paving mixers, piledriving engines, power shovels, tunnel shovels, mucking machines, batch plants, concrete pumps, locomotives (standard narrow gauge), power driven wheel scoops & scrapers 50 cu. yds. struck capacity or above, multiple concrete conveyors	8.525	.35	.35		.10	
Hydrocrane, and all other hydraulic cranes 12 tons or under	8.475	.35	.35		.10	
Hydraulic backhoes, under ½ yd., mounted on tractors	8.375	.35	.35		.10	
Front end loader (over 3½ cu. yds.)	8.525	.35	.35		.10	
Front end loader (over 2-3/4 cu. yds. to and including 3-½ cu. yds.)	8.375	.35	.35		.10	
Front end loaders (Hi-lift), fork lifts	8.125	.35	.35		.10	
Air compressors (on steel)	8.195	.35	.35		.10	
Air compressors (except on steel), concrete mixers, mechanics & maintenance men, pumps, tunnel mechanics, tunnel motormen, welding machines, well points	7.945	.35	.35		.10	
Boilers (skeleton), trenching machines, tug boats, well drilling machines	8.115	.35	.35		.10	
Power driven wheel scoops & scrapers under 50 cu. yds. struck capacity blade graders, bulldozers, motor graders	7.925	.35	.35		.10	
Rollers, asphalt spreaders, bull float finishing machines, concrete spreaders, concrete finishing machines, fine graders, form graders, concrete saws	7.725	.35	.35		.10	
Apprentice engineers:						
Firemen	7.065	.35	.35		.10	
Truck crane oilers	6.945	.35	.35		.10	
Oilers	6.895	.35	.35		.10	

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *See Below
DECISION NUMBER: AQ-4109 DATE: Date of Publication
Supersedes Decisions Nos.: AQ-4042 dated 38 FR 35182 December 21, 1973
AQ-4043 dated 38 FR 35183 December 21, 1973
AQ-4044 dated 38 FR 35184 December 21, 1973
AQ-4045 dated 38 FR 35185 December 21, 1973
AQ-4046 dated 38 FR 35186 December 21, 1973
AQ-4047 dated 38 FR 35187 December 21, 1973
(except Harrison, & Pearl River Counties)

DESCRIPTION OF WORK: Heavy and highway construction (except Zone VI - Hancock County Electricians, excluding airport construction).

	☆ ZONE I	☆ ZONE II	☆ ZONE III	☆ ZONE IV	☆ ZONE V	☆ ZONE VI
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air tool operator	$2.00	$2.00	$2.75	$2.50	$2.00	$2.00
Asphalt raker	2.30	2.00	2.45	2.44	2.25	2.50
Bricklayer	4.25	3.50	5.00	5.00	4.00	4.25
Carpenter	3.00	3.00	3.00	3.25	3.00	3.50
Cement mason (Finisher)	2.90	3.00	3.00	2.75	3.00	3.25
Concrete saw operator	3.00	2.75	2.75	2.50	2.50	3.50
Electrician	5.30	4.50	5.50	5.00	4.50	5.40
Form setter	3.30	2.75	3.00	2.50	2.75	2.80
Grade checker	2.40	2.50	2.25	2.25	2.25	2.25
Ironworker, reinforcing	3.00	2.60	2.50	2.80	2.75	3.50
Ironworker helper, reinforcing	2.00	2.00	2.00	2.25	2.00	2.25
Ironworker, structural	2.50	2.50	2.50	2.75	2.50	3.15
Laborer, unskilled	2.00	2.00	2.00	2.00	2.00	2.00
Mason tender (Cement mason helper)	2.20	2.25	2.50	2.25	2.50	2.50
Painter (Structural steel)	2.50	3.00	3.00	3.25	3.50	3.75
Piledriverman	2.50	2.80	2.70	2.75	2.80	3.00
Truck driver	2.00	2.00	2.00	2.00	2.00	2.00
Tugboat operator						2.50
Welder	2.75	2.50	3.00	2.80	3.00	3.50
POWER EQUIPMENT OPERATORS:						
"A" frame truck (winch)			3.00		2.75	2.40
Aggregate spreader operator	2.45	2.20	2.50	2.50	2.50	2.71
Air compressor operator	2.85	2.50	2.50	2.50	2.50	2.60
Asphalt distributor-spreader operator	2.50	2.40	2.50	2.50	2.31	2.00
Asphalt plant	2.50	2.35	3.00	2.60	2.75	2.80
Backhoe or shovel operator	3.00	2.80	2.75	3.00	2.80	3.25
Bulldozer operator	3.00	2.75	3.00	3.00	3.00	3.00
Concrete batch plant operator	2.80	2.90	3.00	3.10	2.50	3.25
Concrete breaker & hydo-hammer op.	2.00	2.25	2.25			
Concrete finishing machine operator	3.00	2.75	3.00	2.90	3.00	3.00
Concrete paving machine operator	3.40	2.75	3.00	3.10	3.00	3.00
Concrete spreader machine operator	2.70	2.45	3.10	2.85	2.75	2.85
Crane, dragline operator	3.00	3.00	3.00	3.00	3.00	3.50
Crusher feeder operator		3.00	2.25	3.50	2.85	2.75
Curing machine operator	2.75	2.30	2.75	2.40		2.65
Earth auger	2.80	2.50	3.05	3.00	2.00	3.00
Fireman	2.75	2.50	2.80	2.60	2.75	3.00
Guard rail post driver		2.50	3.50		2.50	2.50
Joint cutter	2.00	2.00	2.50		2.75	2.90
Joint sealer	2.50		3.00	2.50	2.30	
Loader operator (all types)	2.9	2.45	3.50	2.85	2.50	3.00
Mechanic	$3.00	$2.50	$3.00	$2.90	$3.00	$3.40
Mixer operator (All types)	2.50	2.50	2.50	2.25	2.50	2.50
Motor patrol operator	2.90	3.00	3.00	2.90	2.90	3.25
Mud-jack operator	2.65			2.25		
Mulcher operator	2.00	2.00	2.00	2.00	2.00	2.00
Oiler-greaser	2.00	2.00	2.35	2.00	2.35	2.40
Piledriver operator	3.25	3.20	3.30	3.25	3.25	3.50
Pipelayer			2.25	2.25		2.35
Roller operator (self-propelled)	2.25	2.00	2.30	2.40	2.50	2.50
Scales (all types)	2.50	2.00	2.35	2.30	2.13	2.35
Scraper operator	2.85	2.85	2.90	2.90	2.90	3.00
Steel machine operator			2.25			
Striping machine operator	3.50	3.25	3.25	3.50	3.25	3.25
Sub grade machine operator						3.25
Tractor operator (track type)	2.50	2.25	2.50	2.30	2.75	2.25
Tractor operator (wheel type)	2.00	2.00	2.00	2.00	2.00	2.00
Trenching machine	2.75	2.25	2.25	2.25	2.00	2.50

COUNTIES:

*ZONE I: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Okitbbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, & Webster

*ZONE II: Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, & Yalobusha

*ZONE III: Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren and Yazoo

*ZONE IV: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston

*ZONE V: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson

*ZONE VI: George, Hancock, Jackson, and Stone

XUM

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: Harrison & Pearl River
DECISION NUMBER: AQ-4110 DATE: Date of Publication
Supersedes Decisions Nos.: AQ-4047 dated December 21, 1973 in 38 FR 35187 (except Georgs, Hancock, Jackson, and Stone Counties)
AQ-4081 dated February 22, 1974 in 39 FR 7054

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy, water, sewer, and highway construction.

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BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers (Harrison County)	$7.70	.395	.75	a	.02	
Asbestos workers (Pearl River Co.)	6.65	.30	.70			
Boilermakers	7.13	.40	.70		.01	
Bricklayers:						
Bricklayers	6.95		.15			
Stonemasons	6.95		.15			
Marble masons	6.95		.15			
Terrazzo workers	6.85		.15			
Tile setters	6.85		.15			
Plasterers	6.85		.15			
Blockmasons	6.95		.15			
Caulkers & pointers	6.95		.15			
Cement masons	6.33		.15			
Carpenters:						
Carpenters	6.65					
Millwrights	6.97					
Electricians:						
Electricians	7.55	.25	1%+.20		1/8of 1%	
Cable splicers	7.80	.25	1%+.20		1/8of 1%	
Elevator constructors:						
Elevator constructors	6.13	.345	.23	2%+a+b	.015	
Helpers	4.89	.345	.23	2%+a+b	.015	
Helpers (probationary)	50%JR					
Glaziers	5.00				.03	
Ironworkers:						
Structural, ornamental, reinforcing	7.13	.30	.30			
Laborers:						
Laborers	4.20	.10	.10			
Vibrator - jackhammer, mortar mixer; pipelayers (sewer; power saw op)	4.35	.10	.10			
Lathers	6.00		.10		.01	
Line Construction:						
Linemen	7.55	.25	20 + 1%		1/8 of 1%	
Cable splicers	7.80	.25	20 + 1%		1/8 of 1%	
Groundmen:						
1st 6 months	3.40	.25	20 + 1%		1/8 of 1%	
Thereafter	4.08	.25	20 + 1%		1/8 of 1%	
Painters - Commercial						
Brush & roller	5.30				.03	
Spray	6.55				.03	
Structural, steel under 30':						
Brush and roller	5.55				.03	
Spray	6.55				.03	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen	7.02	.30	.30			
Piledrivermen on creosote material	7.26	.30	.30			
Plumbers; Steamfitters	7.35	.18	.20		.01	
Roofers:						
Roofers	5.85					
Helpers	4.15					
Kettlemen	4.75					
Sheet metal workers	7.315	.25	.35	.25	.08	
Soft floor layers	6.65					
Sprinkler fitters	8.20	.40	.60		.07	

PAYD HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays; A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: Labor Day; Mardi Gras Day; provided the employee works at least one day out of the 3 workdays prior to the paid holiday, and the first workday after the paid holiday.

AQ-4110 P. 3

Miss. 2 PEO-1-k 1 of 2

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
GROUP A						
Engineer, operating under air pressure	$7.55	.25	.25			
GROUP B						
Mechanic	6.60	.25	.25			
GROUP C						
Air tugger (2 drum); asphalt plant; backhoe; blacksmith; boom tractor; bulldozer; central mixing plant; cherrypicker; clamshell; crane; derrick; derrick boat; derrick car; dragline; dredge; elevating grader; excavator (power belt); fork lift; hoist (2 drum); locomotive engineer; marine engineer (Chief); master pilot; mixermobile; motor patrol & similar type equipment; paver (21 c.f. or larger); piledriver; recharger; roaming greaser (1st); scoop (skimmer); Scraper; shoval; trenching machine (over 18" bucket line width); Tournapull; DW-10 & similar pulltype scrapers; traxcavator and similar endloaders; welder; welding machines or S/W pumps (2 to 6); well driller; well point pumps	6.35	.25	.25			
GROUP D						
Air tugger; asphalt spreader (bituminous distributor); asphalt spreader bituminous mixer); backfilling machine; convayor; drill (earth); finishing machine; fireman; heating plant; hoist; marine engineer (assistant); mixer; payloader; snd similar endloaders; pilot; power genarating plant; pump (concrete); roller; scoopmobile; tractor (with power take-off); trenching machine(18" or smaller bucket line width); tugboat; well driller (1st helper); winch truck	5.80	.25	.25			

AQ-4110 P. 4

Miss. 2 PEO-1-k 2 of 2

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP E						
Air compressor; form grader; locomotive hostler; mechanic helper; oiler (truck crane); pump; roughneck; tractor (without attachments); welding machine	$5.25	.25	.25			
GROUP F						
Batch scale; deckhand; motorboat (in or outboard); oiler; scowman	5.25	.25	.25			

Mississippi 1-TD-1-w

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Up to but not including 1½ tons such as Station Wagons, Jeeps, Autos, Pick-up Trucks, Motor Cycles, Bicycles, Truck Spotters, Teamsters, Team Drivers	$5.04	.28	.25			
1½ tons and up to but not including 5 tons such as Dump Trucks, Flat Beds, Stake Bodies, Bus Drivers, Winch and "A" Frame Trucks	5.51	.28	.25			
5 tons or 6 yards and over, including heavy equipment such as pole trucks, miss, or corning wagons, dumpsters, semi-drivers, agitators, rossecarriers dempsey dumps, euclid trucks, fork-lift truck in warehouse and similar equipment such as tractors, 10 wheelers, jeeps, or dump trucks or pickup trucks pulling 2 or 4 wheel trailers hauling equipment	6.55	.28	.25			
Truck and Auto Mechanics	7.12	.28	.25			
Truck Drivers Helpers, Unloaders, Unloading and handling creosote or coppertox Material	5.04	.28	.25			
Truck Drivers Helper	4.41	.28	.25			

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AQ-4110 P. 5

SEWER, WATER, & HIGHWAY CONSTRUCTION — MISSISSIPPI 3 AREA 6 — 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Air tool operator	$2.00				
Asphalt raker	2.50				
Bricklayer	4.25				
Carpenter	3.50				
Cement mason (Finisher)	3.25				
Concrete saw operator	3.00				
Electrician	5.40				
Form setter	2.00				
Grade checker	2.25				
Ironworker, reinforcing	3.50				
Ironworker helper, reinforcing	2.25				
Ironworker, structural	3.15				
Laborer, unskilled	2.00				
Mason tender (Cement mason helper)	2.50				
Painter (Structural steel)	3.75				
Piledriverman	3.00				
Truck driver	2.60				
Tugboat operator	2.50				
Welder	3.50				
POWER EQUIPMENT OPERATORS:					
"A" frame truck (winch)	2.40				
Aggregate spreader operator	2.71				
Air compressor operator	2.60				
Asphalt distributor-spreader operator	2.80				
Asphalt plant	2.90				
Backhoe or shovel operator	3.25				
Bulldozer operator	3.00				
Concrete batch plant operator	3.25				
Concrete finishing machine operator	3.00				
Concrete paving machine operator	3.30				
Concrete spreader machine operator	2.85				
Crane, dragline operator	3.50				
Crusher feeder operator	2.75				
Curing machine operator	2.90				
Earth auger	3.00				
Fireman	3.00				
Guard rail post driver	2.50				
Joint filler	2.90				
Loader operator (all types)	3.00				
Locomotive	3.40				
Mixer operator (All types)	3.00				
Motor patrol operator	3.25				
Mulcher operator	2.00				
Oiler-greaser	2.40				
Piledriver operator	2.70				
Pipelayer	2.35				
Roller operator (self-propelled)	2.50				

AQ-4110 P. 6

SEWER, WATER, & HIGHWAY CONSTRUCTION — MISSISSIPPI 3 AREA 6 — 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (CONT'D)					
Scales (all types)	2.35				
Scraper operator	3.00				
Striping machine operator	3.25				
Sub grade machine operator	3.25				
Tractor operator (track type)	2.25				
Tractor operator (wheel type)	2.00				
Trenching machine	2.50				

SUPERSEDEAS DECISION

STATE: Mississippi — COUNTY: Hinds

DECISION NUMBER: AQ-4111 — DATE: Date of Publication

Supersedes Decision No. AQ-4090 dated March 15, 1974 in 39 FR 10097

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

25-Mississippi -1- J — 1 of 2

BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers	$7.35	.30				
Boilermakers	7.13	.40	.70		.01	
Bricklayers	6.22				.02	
Carpenters:						
Carpenters	6.00	.30	.20		.05	
Millwrights	6.35	.30	.20		.05	
Pileđrivermen	6.35	.30	.20		.05	
Soft floor layers	6.00	.30	.20		.05	
Cement masons	5.35	.25				
Traveling and/or floating machine & power grinders operators	5.25	.25				
Electricians	6.65		1%+.50		1/10 of 1%	
Cable splicers	7.10		1%+.50		1/100f1%	
Elevator Constructors	6.13	.345	.23	2%+a+b	.015	
Elevator Constructors' helpers	4.29	.345	.23	2%+a+b	.015	
Elevator Constructors' helpers prob.	3.065					
Glaziers	5.20					
Ironworkers:						
Structural, ornamental and reinforcing	6.40	.30	.25		.04	
Laborers:						
Laborers unskilled, wrecking and demolition	3.70	.15	.15			
Mortar mixers, mechanical tools motorized (George buggy op.)	3.95	.15	.15			
Brickmason tenders, cement and plasterer tenders, sewer pipe layers	3.85	.15	.15			
Line Construction:						
Lineman	7.06		1%	c		
Groundman (over 1 year)	4.29		1%	c		
Groundmen (less than a year)	3.95		1%	c		
Cable splicers (Electric)	7.36		1%	c		
Lathers	6.45				.01	
Painters:						
Brush	5.05	.15				
Structural steel (brush)	5.30	.15				
Spray	5.55	.15				
Swing stage	5.30	.15				
Paperhangers	5.05	.15				
Structural steel (spray)	5.80	.15				

AQ-4111 P. 2

25-Mississippi -1- J — 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Plasterers	6.15	.25			.01	
Plumbers and steamfitters	7.22	.10	.30			
Roofers	5.85					
Helpers	4.15					
Sheet metal workers	5.85	.25				
Sprinkler fitters	8.20	.40	.60		.07	
Stone masons	6.22				.02	
Truck drivers:						
1½ to 5 tons	3.75					
Over 5 tons	4.40					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. One week paid vacation after one year's service.

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Mississippi-1-PEO 1-K

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Group A						
Engineer, operating under air pressure	$7.20	.25	.25			
Group B						
Mechanic	6.25	.25	.25			
Group C						
Asphalt plant; backhoe; blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, Crane, Derrick, Derrick car, Derrick boat, Dragline Dredge, Elevating grader, Excavator (power belt), Fork lift (5 ton & over), Hoists (2 drum in active use), Locomotive engineer, Marine engineer (chief), Master pilot, Mixermobile, Motor patrol and similar type equipment, Paver (2½ c.f. or larger), Pile driver, Recharger, Scoop (skimmer), Scraper, Shovel, Trenching machine (over 18" bucket line width), Turnapull (Dw-10 and similar pull type scrapers), Traxcavator and similar end loaders, Welder, Welding machines and pumps (operating 2 to 6 machines), Well driller, Well point pumps	6.00	.25	.25			
Group D						
Asphalt spreader (bituminous distributor), Asphalt spreader (bituminous mixer), Backfilling machine, Conveyor, Drill (earth), Finishing machine, Fireman, Forklift (over 2 ton and less than 5 ton), Heating plant, Hoist (one drum), Marine engineers assistant, Mixer, Pay loader and similar endloaders, Pilot, Power generating plant, Pump (concrete), Roller, Scoopmobile, Tractor (with power take-off), Trenching machine (18" or smaller bucket line width), Tugboat, Well driller (1st helper), Winch truck & tractor, small Rubber-Tired with Backhoe attachment	5.55	.25	.25			
Group E						
Air compressor, Batch scale, Deckhand, Forklift (2 ton & under), Form grader, Locomotive hostler, Mechanic helper, Motorboat (in or outboard), Oiler, Pump, Roughneck, Scowman, Tractor (w/ attachments), Welding machine	4.85	.25	.25			

Booms, including jib:
25¢ per hour above regular rate - 100 feet to and including 200 feet.
50¢ per hour above regular rate - 201 feet to and including 300 feet.
75¢ per hour above regular rate - 301 feet and above.

Operators servicing other crafts shall draw rate of pay not less than journeyman rate of craft being serviced.

SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: St. Charles & St. Louis

DECISION NO.: AQ-94

DATE: Date of Publication

Supersedes Decision No. AP-504, dated September 1, 1972, in 37 FR 17881.

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

11-Mo-1-2 (2-3)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.53	.20	.17	a		
Bricklayers	7.75	.52	.70	.40	.02	
Carpenters (St. Charles County)	7.90	.30	.30			
Carpenters (St. Louis County)	8.66	.30	.30			
Cement masons	8.90	.40	.40			
Electricians	8.19	5%	1%+3½%	11%+4½%	1%	
Elevator constructors	8.25	.345	.23	2%+b+c	.015	
Elevator constructors helpers	70%JR	.345	.23	2%+b+c	.015	
Elevator constructors helpers (Prob.)	50%JR					
Glaziers	8.04	.41	.68	8%+d	.01	
Ironworkers:						
Structural; ornamental; reinforcing	8.625	.50	.60		.05	
Laborers (3 and 4 stories):						
Unskilled	7.025	.30	.50		.02	
Wrecking	6.90	.30	.50		.02	
Plasterer tenders	7.675	.25	.20			
Plumber laborers	7.60	.30	.30			
Mason tenders (hod carrier)	6.45	.30	.50			
Dynamiter or powderman	7.525	.30	.50		.02	
Laborers (2 stories and under)	6.775	.40	.60			
Lathers	8.00				.01	
Marble masons	7.49	.325	.50			
Marble setters helpers	6.68					
Painters (St. Louis County):						
Brush	7.635	.20	.30	.21		
Spray	9.135	.20	.30	.21		
Painters (St. Charles County):						
Brush; paperhangers; drywall tapers	6.95	.20				
Spray; steel; sandblaster; pot tenders	7.65	.20				
Pipefitters	7.55	1.30	.90			
Plasterers	8.10	.325	.25		.03	
Plumbers	8.905	.50	.50	.80		
Roofers:						
Composition	7.25	.27	.30		.03	
Kettlemen	5.25	.27	.30		.03	
Slate and tile	7.25	.27	.30		.03	
Sheet metal workers	8.36	5%	7%	8%	.02	
Sprinkler fitters	9.71	.40	.60		.05	
Stone masons	7.75	.52	.70	.40	.02	
Terrazzo workers	8.05					
Terrazzo workers helpers:						
Floor machine operator	4.60					
Base machine operator	4.90					
Tile setters	7.41	.325	.50			
Tile setters helpers	6.68	.325	.30			
Truck Drivers:						
Truck or trailers of a water level capacity of 11.99 cu. yds. or less, fork lift trucks, job site ambulances & pick-up trucks & flat bed trucks	6.99	e	f	g & h		
Truck or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds., incl. euclids, speedace & similar equipment of same capacity	7.19	e	f	g & h		
Truck or trailers of a water level capacity of 22.0 cu. yds. & over incl. euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity	7.29	e	f	g & h		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTES:
a - Paid Holidays: (A; C; D; E; G; H; J)
b - 1st 5 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
c - Paid Holidays: (A; C; D; E; H; J)
d - Paid Holidays: (A through J)
e - Employer contribution of $12.50 per week.
f - Employer contribution of $12.00 per week.
g - Paid Holidays: (A; C; D; E; G; H; I; J)
h - Paid vacation of 3 days for 600 hours of service in any one contract year; 4 days paid vacation for 800 hours of service in any one contract year; 5 days paid vacation for 1,000 hours of service in any one contract year.

PAID HOLIDAYS:

(A) NEW YEAR'S DAY; (B) WASHINGTON'S BIRTHDAY; (C) MEMORIAL DAY; (D) INDEPENDENCE DAY; (E) LABOR DAY; (F) COLUMBUS DAY; (G) VETERAN'S DAY; (H) THANKSGIVING DAY; (I) FRIDAY AFTER THANKSGIVING; (J) CHRISTMAS DAY

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AR-94 P. 3

11-Mo.-PEO-1-1 (1-4)

St. Louis County

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group I						
Backhoe; cableway; crane, crawler or truck; Crane, Hydraulic-truck or cruiser mounted - 16 tons & over; Crane, locomotive; derrick, steam; Derrick car & derrick boat; Dragline; Dredge; Gradeall, crawler or tire mounted; Locomotive, gas, steam & other powers; Pile driver, land or floating; Scoop, skimmer; Shovel, power (steam, gas, electric or other powers) Switch boat; Whirley	$8.52	.35	.40			
Group II						
Air tugger w/air compressor; Anchor placing barge; Asphalt spreader; Athey force feed loader (self-propelled); Backfilling machine; Boat operator-push boat or tow boat (job site); Boiler, high pressure breaking in period; Boom truck, placing or erecting; Boring machine footing foundation; Bullfloat; Cherry picker; Combination concrete hoist & mixer such as mixermobile; Compressors, two, not more than 20 ft. apart; Compressors, not more than five ft. apart; Compressor-welder combination; Concrete breaker (truck or tractor mounted); Concrete pump, such as a pumpcrete machine; Concrete spreader; Conveyor, large (not self-propelled) hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, hydraulic-rough terrain, self-propelled; Crane hydraulic-truck or cruiser mounted-under 16 tons; Drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jackhammers and Barco equipment - no engineer required); Elevating grader; Engine man, dredge; Excavator or powerbelt machine; Finishing machine,					.3	

AR-94 P. 4

11-Mo.-PEO-1-1 (2-4)

St. Louis County

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group II (Cont'd)						
self-propelled oscillating screed; Forklift; Grader, road with power blade; Highlift; Hoist, concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); Hoist, stack; Hydro-hammer; Lad-A-Vator, hoisting brick or concrete; Loading machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixermobile; Mucking machine; Pipe Cleaning machine; Pipe wrapping machine; Plant asphalt; Plant, concrete producing or ready-mix job site; Plant, heating-job site; Plant mixing-job site; Plant, power, generating-job site; Pump, self-powered, over 2" (one operator will operate two); Pumps, electric submersible, one through three, over 4"; Quad-track; Roller, asphalt, top or subgrade; Scoop, tractor drawn; Spreader box; Sub-grader; Tie tamper; Tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; Trenching machine; Tunnel boring machine; Vibrating machine, automatic, automatic propelled; Welding machines (gasoline or diesel) more than one but not over four (regardless of size); Well drilling machine	$8.52	.35	.40		.3	
Group III						
Air tugger w/plant air; Boiler, for power or heating on construction projects; Boiler, temporary; Compressor, air-one; Compressor, air (mounted on truck); Concrete saw, self-propelled; Conveyor, large (not self-propelled); Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb finishing machine; Ditch paving machine; Elevator (building construction or alteration); Endless chain hoist; Fireman; Form grader; Generator, one over 30						

AR-94 P. 5

11-Mo.-PEO-1-1 (3-4)

St. Louis County

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group III (Cont'd)						
KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-A-Vator, other hoisting; Manlift; Mixer, asphalt, over 8 cu. ft. capacity, Mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; Mixer, with outside loader, 2 bag capacity or more; Mixer, with side loader, regardless of size, not paver; Oiler on dredge; Oiler on truck crane; Pug mill operator; Pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; Sweeper, street; Welding machine, one over 400 amp.; Winch operating from truck	$7.97	.35	.40		.3	
Group IV						
Boat operator-outboard motor (job site); Conveyor (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor	7.52	.35	.40			
Group V						
Air pressure; Oiler engineer; Operating under ten pounds	9.32	.35	.40			
Air pressure; Oiler engineer operating over ten pounds	10.07	.35	.40			
Air pressure engineer operating under ten pounds	10.52	.35	.40			
Air pressure engineer operating over ten pounds	11.27	.35	.40			
Crane-pile driving with leads; Crane using rock socket tool; Dragline - 7 cu. yds. & over; Shovel, power - 7 cu. yds. and over; Crane, climbing (such as Linden); Derrick, diesel, gas, electric hoisting material and erecting steel - 150' or more above						

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11-Mo.-PEO-1-1 (4-4)

St. Louis County

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Group V (Cont'd)						
ground; Hoist, three or more drums; Scoop, tandem; Tractor, tandem crawler	$9.02	.35	.40			
Heaters	8.02	.35	.40			
Crane, with boom (including jib) over 100' from pin to pin (add 1c per foot to maximum of 75c) above basic rate for crane.						
Mud jack (where mud jack is used in conjunction with an air compressor, operator)	8.52	.35	.40			
Work in tunnel or tunnel shaft, .25c above base rate					.3	

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St. Charles County

NO 4-PEO-1 (1-2)

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Group 1						
Asphalt finishing machine & trench widening spreader; Asphalt plant console operator; Autograder; Automatic slipform paver; Backhoe; Blade operator-all types; Boat operator-tow; Boilers - 2; Central mix concrete plant operator; Clamshell operator; Concrete mixer paver; Crane operator; Derrick or derrick trucks; Ditching machine; Dozer operator; Dragline operator; Dredge booster pump; Dredge engineman; Dredge operator; Drill cat with compressor mounted on Cat; Drilling or boring machine rotary self-propelled; Highloader; Hoisting engine - 2 active drums; Lauchhammer wheel; Locomotive operator - standard gauge; Mechanics and welders; Mucking machine; Piledrivers; Mucking machine; Piledriver operator; Pitman crane operator; Push cat operator, Quad Trac; Scoop operator - all types; Shovel operator; Sideboom cats; Skimmer scoop operator; Trenching machine operator; Truck crane.	$ 8.50	.35	.40		.02	.3
Group 2						
A-frame; Asphalt hot-mix silo; Asphalt plant fireman (drum or boiler); Asphalt plant man;; Asphalt plant mixer operator; Asphalt roller operator; Backfiller operator; Barber Greene loader; Boat operator (bridges & dams); Chip spreader; Compressor maintenance operator - 2; Concrete mixer operator - skip loader; Concrete plant operator; Concrete pump operator; Crusher operator; Dredge oiler; Elevating grader operator; Fork lift; Greaser-fleet; Hoisting engine - 1; Locomotive operator - narrow gauge; Multiple compactor; Pavement breaker; Powerbroom - self-propelled; Power shield; Rooter; Side discharge concrete spreader; Slip form finishing machine; Stumpcutter machine; Throttle man; Tractor operator (over 50 H.P.); Welding machine maintenance operator - 2; Winch truck	8.30	.35	.40		.02	

St. Charles County

NO 4-PEO-1 (2-2)

POWER EQUIPMENT OPERATORS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Group 3						
Boilers - 1; Chip spreader (front man); Churn drill oper.; Clef plane operator; Compressor maintenance oper. - 1; Concrete saw operator (self-propelled); Conveyor operator; Curb finishing machine; Diatributor operator; Finishing machine operator; Fireman-rig; Flex plane operator; Float operator; Form grader operator; Generator-maintenance operator; Light plant maintenance operator; Maintenance operator; Oiler driver; Pugmill operator; Pump maintenance oper. (other than dredge); Roller operator, other than high type asphalt; Screening & washing plant oper.; Siphons & jets, Sub-grading machine operator; Spreader box operator, self-propelled (not asphalt); Tank car heater operator (combination boiler & booster); Tractor operator (50 H.P. or less); Ulmac, Ulric or similar spreaders; Vibrating machine oper., not hand; Welding machine maintenance oper. - 1	$ 8.10	.35	.40		.02	.3
Group 4						
Oiler	7.50	.35	.40		.02	
Clamshells, 3 yd. capacity or over; Crane, rigs or piledrivers 100 ft. of boom or over (including jib); Draglines, 3 yds. capacity or over; Hoisting engine over 2 drums; Shovels, 3 yds. capacity or over	8.75	.35	.40		.02	
Crane, rigs or piledrivers 200 ft. or over	9.25	.35	.40		.02	
Tandem scoop operator	9.00	.35	.40		.02	
Work in tunnel or tunnel shafts (not air shafts or coffer dams) of 25 ft. or more in length or depth 50¢ per hour above basic rate.						

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Cedar, Cuming, Pierce, Stantoo and Wayne Counties

DECISION NO. AQ-93

DATE: Date of Publication

Supersedes Decision No. AQ-86 dated March 8, 1974 in 39 FR 9336

DESCRIPTION OF WORK: Building construction(excluding single family homes and garden type apartments up to and including four (4) stories)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pension	Vacation	App. Tr.
Bricklayers	$6.50				
Carpenters	3.52				
Cement Masons	3.57				
Electricians	5.15				
Glaziers	4.95				
Ironworkers	2.755				
Laborers:					
common laborers	2.545				
Painters, brush	3.40				
Plumbers	4.00				
Roofers	5.90				
Sheet metal workers	4.96				
Truck Drivers	2.50				
Power Equipment Operators:					
Air Compressor	2.60				
Bulldozer	3.00				
Cranes	3.90				
Front end loader, under 3/8 cubic yd.	3.85				
Graders	3.10				
Crawler tractor with scoop	2.95				
Scraper	3.25				

XUM 47 3 MAY 81 53 V

SUPERSEDEAS DECISION

STATE: NEW JERSEY

COUNTY: MORRIS

DECISION NO.: AQ-2,113

DATE: Date of Publication

Supersedes Decision No. AP-840 dated May 25, 1973 in 38 FR 13978

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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BUILDING, HVY. & HWY. CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers	$9.202	.5803	.4994		.02	
Boilermakers	8.35	8%	9½% + 3%	10%	.01	
Boilermakers' helpers	7.82	8%	9½% + 3%	10%	.01	
Bricklayers, Cement masons, Plasterers, and Stonemasons:						
Morristown, Madison, Chatham, Morris Plains, Mt. Tabor, Parsippany, Troy Hills, Pine Brook, Mendham Ralston, Whippany, E. Hanover, Morris Twp., & Millington, Hanover	9.10	.40	.40		.02	
Stephensburg, Pleasant Grove, Middle Valley, and Parker	9.34	.30	.30		.02	
Pompton Plains, Pequannock, Lincoln Park, Kinnelon, Butler and Riverdale	9.50	.55	.74		.02	
Remainder of County	10.00	.35	.35		.02	
Carpenters and Insulators:						
Naughright, Mt. Freedom, Middle Valley, Parker, Ralston, Ironia, Mendham, Chester and Brookside						
Carpenters & Insulator	9.29	6%	6%		.02	
Millwrights	9.54	.45	.50		.02	
Remainder of County:						
Carpenters	9.29	6%	6%		.02	
Millwrights	9.54	6%	6%		.02	
Electricians	10.03	.40 + f	1% + .38		1	
Elevator Constructors:						
Elevator Constructors	9.10	.395	.26 + a	b + c	.015	
Helpers	6.83	.395	.26 + a	b + c	.015	
Probationary helpers	4.55					
Modernization	8.33	.395	.26 + a	b + c	.015	
Modernization helpers	6.25	.395	.26 + a	b + c	.015	
Repair	7.48	.395	.26 + a	b + c	.015	
Repair helpers	5.61	.395	.26 + a	b + c	.015	
Glaziers	8.70	.70	.65	d	.02	
Ironworkers, structural, ornamental and reinforcing - nearest town as listed below:						
Easton, Pennsylvania	8.73	.75	.75			
Perth Amboy	9.15	.64	2.11	.90	.09	
Laborers, Building:						
Boonton, Boonton Twp., Montville, Lincoln Park Borough, Butler, Kinnelon Borough, Pine Brook, Stanhope, Denville, Mountain Lake, Pequannock, Pompton Plains and Riverdale Borough:						
Laborers, building, wrecking, demolition, concrete mixers, without hoppers drill runners, jackhammerman, mason tenders, mortar mixers, excavation and foundations, scaffold builders, carpenters' tenders, and grading for concrete	$6.75	.30	.35			
Jefferson, Rockaway, Mt. Arlington, Rockaway Borough, Wharton, Mill Hill, Dover, Netcong, Roxbury, Mt. Olive & Randolph Twps.:						
Laborers, air tool op., jackhammer, vibrator, mason tenders & pipe layers, wreckers, excavation	6.70	.50	.50			
Morristown, Morris Twp., Morris Plains, Mendham, Ralston, Chester, Brookside, Flanders, Ironia, Mt. Freedom, Mt. Tabor, Parsippany-Troy Hills, Pine Brook, Cedar Knolls, Whippany, Hanover Twp., and Long Valley:						
Laborers, tenders scaffolds, excavation, concrete, bituminous concrete, aggregates, pipelayers, underpinning, lagging, bracing, wrecking	6.55	.45	.40			
Remainder of County:						
Laborers, tenders, scaffolds, excavating and site preparation and clearance, concrete, bituminous concrete and aggregates, trenches, manholes, handling and distribution of pipe, underpinning, lagging, bracing, propping, and shoring, excavating & grading, wrecking	6.65	.55	.50			
Lathers:						
Sterling, Gilette and Millington	6.65	.25	.25		.01	
Morristown Area	6.15	.25	.25		.02	
Leadburners	8.75	.30		e	.01	
Linemen & Pipe Type Cable						
Linemen, cable splicer, hole digging equipment, truck with winch or pole & steel handling truck w/o winch	10.03	.40 + f	1% + .38		1	
Groundmen, line truck operator & equipment operator	8.41	.40 + f	1% + .38		1	
Marble setters	7.40	.63	.66+h			
Marble setters' helpers	6.93	.63	.66+h			

BUILDING, HVY. & HWY. CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Painters:						
Mt. Freedom, Mendham, Chester, Ralston, Park, Long Valley, Sterling & Gillette:						
Commercial & Industrial	$6.60	.45	.35			
Tanks, bridges, Structural Steel	7.10	.45	.35		•	
Spray	7.10	.45	.35			
Remainder of County:						
Painters: Commercial & Industrial	6.60	.30	.20			
Rollers	7.10	.30	.20			
Structural steel & bridges	7.10	.30	.20			
Spray	6.10	.30	.20			
Piledrivermen & Dock builders	9.36	.90	1.53	.56	.02	
Plumbers & Steamfitters						
From Dover to Rockaway, Mountain Lakes, Danville, Succasunna, Budd Lake, Hackettstown, Columbia, Flatbrookville, Montague, Port Jervis (N.Y.), Glenwood, Stockholm Charlottesburg, and returning to Dover	8.07	.35	.75	.90	.10	
Lincoln Park, Pompton Plains, Pequanock Twp., Riverdale, Butler, Kinnelon Boro:	8.65	.475	.91	1.00	.04	
Remainder of County	8.97	.35	.75		.15	
Roofers:						
Composition, damp and waterproofers	6.82	.25	.20			
Slate, tile and asbestos	8.03	.30	.20			
Slate, tile and asbestos helpers	7.05	.30	.20			
Soft floor layers	8.53	6%	5%	4%		
Sprinkler fitters	10.12	.40	.60		.07	
Sheet metal workers	9.30	5%	4%		.05	
Terrazzo workers	8.70	.78 +.43	1.26			
Terrazzo workers' helpers	7.43	.475+.43	.475			
Terrazzo machine operator	7.68	.475+.43	.475			
Tile setters	8.10	.60	1.00+.50			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $8.00 per day to Annuity Fund.

b. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Armistice Day.

c. Employer contributes 6.4% basic hourly rate for 5 years or more of service of 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. One week vacation after one year's work; 2 weeks vacation after 4 years work; 3 weeks vacation after 15 years work.

e. Holidays: A through F; Washington's Birthday, Good Friday providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

f. Employer contributes 1% to Temporary Disability Fund.

g. Employer contributes a total of $.55 per hour to Pension, Health & Welfare Fund.

h. Employer contributes $.60 per hour to a trust fund and $.15 per hour to an Annuity Fund.

i. Employer contributes $100.00 per year.

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HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Laborers:					
Blasters	$7.60	.41	.64	a	
Finisher, rammer, paver, gunite nozzle man and stone cutter	7.45	.41	.64	a	
Timberman	7.20	.41	.64	a	
Form setter	7.15	.41	.64	a	
Sewer pipe, laser men, conduit and duct line layers	6.95	.41	.64	a	
Wagon drill op. and drill master	7.05	.41	.64	a	
Wagon drill op. helper, drill master helper, powder carrier and magazine tender	6.70	.41	.64	a	
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter op. and such other power tools used to perform work usually done manually by laborers	7.05	.41	.64	a	
Signal man	6.75	.41	.64	a	
Wrapping and coating of all pipe	6.55	.41	.64	a	
Common laborers, landscape laborers, railroad track laborers, flagmen, traffic directors, salamander tenders, pitman and dumpmen	6.50	.41	.64	a	
Rakers and tampers on cold patch work	6.50	.41	.64	a	
FREE AIR TUNNEL WORK	Daily Rates				
Blasters	$63.77	.41	.59	a	
Skilled men (including miners, drill runners, iron men, maintenance men, conveyor men, safety miners, riggers, block layers, powder carriers, all other skilled men)	60.57	.41	.59	a	
Semi-skilled men (including miners' helpers, chuck tenders, track men, nippers, brake men, derail men, cable men, hose men, grout men, gravel men, form men, bell or signal men (top or bottom), form workers and movers, concrete workers, shaft men, tunnel laborers, caulkers' helpers, all other semi-skilled men)	59.28	.41	.59	a	
All others (including powder watchmen, change house attendants, top laborers)	55.22	.41	.59	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Armistice Day; Presidential Election Day; (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (CONT'D)						
Streets:						
Hole rakers	$6.50	.51	.54	a		
Rakers	6.25	.51	.54	a		
Tampers and smoothers, kettleman, painters, top shovelers and roller boys	6.10	.51	.54	a		
Plant:						
Scale mixer and burner men	6.35	.51	.54	a		
Feeders and dust men	6.10	.51	.54	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, Washington's Birthday; Armistice Day; Presidential Election Day; providing an employee works or is available for work 3 days in the work week in which the holiday falls.

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BUILDING & HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Autograde - combn. snograder, base ATL spreader & base trimmer (CMI & similar types), autograde placer-trimer-spreader-combn. (CMI & similar types), autograde slipform paver (CMI & similar types), backhoes (all types, including all combination hoe loaders), central power plants (all types), concrete paving machines, cranes (all types including overhead & straddle travelling type), cranes (gantry), derricks (land or floating), drillmaster, quarrymaster (down the hole drill), draglines, elevator graders, engines (large diesel 1620 HP and staging pump), front end loaders (5 yds. and over), gradalls, grader, rago, helicopters (co-pilot), jack (screw air hydraulic power operated unit or console type (not hand jack or pile load test type), locomotive (large), mucking machines, pavers (21-E and over), paver (resinous, broyhill), pavement & concrete breaker (super-hammer), pavement breaker truck mounted, piledriver, scooper (loader and shovel) koehring, shovels, tree chopper, trench machines

GROUP II: "A" frame, boring & drilling machines, brush chopper, chipper & shredder, cableways carryalls, cherry pickers (2 tons & under), concrete pump, concrete pumping system, pumpcrete, squeezecrete & similar types, conveyors (125' & over), eccno-mobiles (hilo, lull, hyster similar type equipment), fork lifts, front end loaders (2 yds, but less than 5 yds.), grove cutting machine, heater planer, pans (letourneau, dw's ukes), pumpcrete (unit type), pumpcrete machines (squeezecrete & concrete pumping regardless of size), rollers (backtop), scrapers (letourneau, dw's ukes), side booms, squeezecrete, straddle carrier (ross & similar types), winch trucks (hoisting)

GROUP III: Aerial platform (used as hoist), hoist (all type hoists, gas, diesel, electric, air hydraulic, single and double drum, concrete, brick shaft caisson, conveyor, snorkel, roof, tugger, and house cars or any other similar type hoisting machines, portable or stationary, except Chicago boom type), elevators or house cars, roof hoist

GROUP IV: Asphalt curbing machine, asphalt plant engineer, asphalt spreaders, auto-grade tube finisher & texturing machine (CMI & similar), autograde curecrete machine (CMI & similar), autograde crub trimmer & sidewalk, shoulder slipform (CMI & similar types), bar bending machines (power), batchers, batching plant & crusher on site, belt conveyor systems, boilers and steam jennies (irrespective of their use), boom type skimmer machines, bridge deck finisher, car dumpers (railroad), compressor and blower type units (used independently or mounted on dual purpose trucks, on job site or in conjunction with hob site, in loading and unloading of concrete, cement, fly ash, instancrete, or similar type materials), concrete breaking machines, concrete finishing machines, concrete saws & cutters (ride on type), concrete spreaders hetzel, rexomatic and similar types, conveyors (under 125'), crushing machines, ditching machines (small, ditchwitch or similar), drill doctor (duties include dust collector, maintenance), dope pots (mechanical with or without pump), dumpsters, fine grade machine (large type), front end loaders (under 2 yds.), generators giraffe grinders, grader (finish only), graders and motor patrols, gunite machines (excluding nozzle), hammer vibrator (in conjunction with generator), hoppers, hopper doors (power operated), ladders (motorized), laddervator, lights (portable generating light plants), locomotive (dinky type), maintenance and repair of asphalt curbing machines, concrete finishing machines, concrete vibrators, gas buggies, leveling machines, portable generators, power cars, compressor equipment on compressor units used in connection with cement,

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BUILDING & HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS CONT'D.:

paint, insulating and acoustical sprays, plaster, curing and sandblasting (all and similar types), mechanic, mixers (excepting paving mixers), motor patrols and graders, pavers (under 21-E), pavement breakers (small, self propelled ride on type, also maintains compressor or hydraulic unit), pipe bending machine (power), pitch pump, plaster pump (regardless of size), post hole digger, rod bending machines (power), scales (power), seaman pulverizing mixer, silas, steam jennies and boilers (irrespective of theiruse), steel cutting machine (service & maintains), vibrating plants (used in conjunction with unloading, welder and repair mechanic.

GROUP V: Welding machines (gas or electric convertera of any type 2 or 3 in battery), compressors (2 or 3 within a total distance of 100' constitutes a battery), welding systen, mutiple (rectifiertransformer type)

GROUP VI: Bulldozer, fireman, sprinkler and water pump trucks (used on job site or in conjunction with job site), stone, spreaders, sweepers & brooms, tractors (D-8 and over), water & sprinkler trucks (used on job site or in conjunction with job site)

GROUP VII: Compressor (single), heaters (nelson or other type including propane, natural gas or flow type units), pumps (4 inch suction & over including submersible pumps), temporary heating plant (nelson or other type including propane, natural gas or flow type units), welding machines (gas or electric converters of any type single), wellpoint system (including installation and maintenance)

GROUP VIII: Concrete spreaders (small type), fertilizing equipment and maintenance of), grease, gas, fuel and oil supply trucks, mulching equipment (operation and maintenance of), seeding equipment (operation and maintenance of), tamping machines (vibrating self propelled)

GROUP IX: Assistant engineer/oiler, mechanics helper, tire repair & maintenance

GROUP X: Water Operations: On all power boats used in conjunction with pipeline, river crossings and all types of construction: captain (power boats), tug master (pswer boats)

GROUP XI: Water Operations: Deckhand

GROUP XII: Pump (staging)

GROUP XIII: Rollers (grade fill or stone base)

GROUP XIV: Helicopters (pilot/engineer)

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BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
GROUP I	$10.73	7%	10%+5%	a	3%	
GROUP II	9.85	7%	10%+5%	a	3%	
GROUP III	9.65	7%	10%+5%	a	3%	
GROUP IV	8.96	7%	10%+5%	a	3%	
GROUP V	8.81	7%	10%+5%	a	3%	
GROUP VI	8.76	7%	10%+5%	a	3%	
GROUP VII	8.05	7%	10%+5%	a	3%	
GROUP VIII	8.41	7%	10%+5%	a	3%	
GROUP IX	7.60	7%	10%+5%	a	3%	
GROUP X	8.91	7%	10%+5%	a	3%	
GROUP XI	7.50	7%	10%+5%	a	3%	
GROUP XII	9.95	7%	10%+5%	a	3%	
GROUP XIII	8.41	7%	10%+5%	a	3%	
GROUP XIV	12.33	7%	10%+5%	a	3%	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE

a. Holidays, A through F plus Washington's Birthday and Presidential Election Day provided the employee works any of the three days in the five work days preceding the holiday and the first work day after the recognized holiday.

POWER EQUIPMENT OPERATORS - HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION:

GROUP I: Backfiller (50 H.P. & over), batch plant operator, bituminous plant operator (CMI & similar types), autograde placer-trimmer-spreader-contn. (CMI & similar types), autograde slipform paver (CMI & similar types), backhoes (all types, including all combination hoe loaders), central power plants (all types), concrete paving machines, cranes (all types including overhead & straddle travelling type), cranes (gantry), drillmaster, quarrymaster (down the hole drill), draglines, elevator graders, engines (large diesel 1620 HP and staging pump), front end loader (5 yds. and over), gradalls, grader, rago, helicopters (co-pilot), jacks (screw air hydraulic power operated unit or console type (not hand jack or pile load test type), locomotive (large), mucking machine, pavers (21-E and over), paver (resinous, broyhill), pavement & concrete breaker (superhammer), pavement breaker truck mounted, piledriver, scooper (loader and shovel), koehring, shovels, tree chopper, trench machines

GROUP II: "A" frame, boring & drilling machines, brush chopper, chipper & shredder, cableways, carryalls, cherry pickers (6 tons and under), concrete pump, concrete pumping system, pumpcrete, squeezecrete and similar types, conveyors (125' and over), economobiles (hilo, lull, hyster and similar type equipment), fork lifts, front end loaders 2 yds. but less than 5 yds., groove cutting machine, heater planer, pans (letourneau, dw's ukes), pumpcrete (unit type), pumpcrete machines (squeezecrete & concrete pumping machines regardless of size), rollers (blacktop), scrapers (letourneau, dw's, ukes), side booms, squeezecrete, straddle carrier (ross & similar types), winch trucks (hoisting)

GROUP III: Asphalt curbing machine, asphalt plant engineer, asphalt spreaders, autograde tube finisher & texturing machine (CMI and similar), autograde curecrete machine (CMI and similar types), autograde curb trimmer & sidewalk, shoulder slip form (CMI and similar types), bar bending machines (power), batchers, batching plant and crusher on site, belt conveyor systems, bridge deck finisher, car dumpers (railroad), compressor and blower type units (used independently or mounted on dual purpose trucks, on the job site or in conjunction with job site in loading and unloading of concrete, cement, fly ash, instancrete or similar type materials, concrete breaking machines, concrete finishing machines, concrete saws & cutters (ride on type), concrete spreaders, hetzel, rexomatic & similar types, conveyors (under 125'), crushing machines, ditching machines (small ditchwitch or similar), drill doctor (duties include dust collector, maintenance), dope pots (mechanical with or without pump), dumpster, fine grade machine (large type), concrete vibrators, skimmer machines (boom type), generators, giraffe grinders, grader (finish only), graders & motor patrols, gunite machine (excluding nozzle), hammer vibratory (in conjunction with generator), hoppers, hopper doors (power operated), ladderator, lights (portable generating light plants), locomotive (dinky type), maintenance and repair of asphalt curbing machines, concrete finishing machines, concrete vibrators, gas buggies, leveling machines, portable generators, power saws, compressor equipment or compressor units used in connection with cement, paint, insulating and acoustical sprays, plaster, curing and sandblasting (all and similar types), mechanic, mixers (excepting paving mixers), motor patrols and graders, pavers (under 21-E), pavement breaker (small, self-propelled ride on type, also maintains compressor or hydraulic unit), pipe bending machine (power), pitch pump, front end loaders (1 yd. and over, but less than 2 yds.), post hole digger, rod bending machine (power), scales (power), seaman pulverizing mixer, silas, steam jennies and boilers (irrespective of their use), steel cutting machine (services and maintains), vibrating plants (used in conjunction with unloading, welder and and repair mechanic

POWER EQUIPMENT OPERATORS - HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION CONT'D. 1

GROUP IV: Bulldozer, fireman, sprinkler and water pump operator (used on job site or in conjunction with job site), stone spreaders, sweepers and brooms, tractors (D-8 and over), water and sprinkler trucks (used on job site in conjunction with job site

GROUP V: Compressors (single), heaters (nelson or other type including propane, natural gas or flowtype units), pumps (4 inch suction and over including submersible pumps), temporary heating plant (nelson or other type including propane, natural gas or flow type units), pumps (diesel engine and hydraulic immaterial of power), wellpoint systems (including installation and maintenance), welding machines (gas or electric converters of any type 2 or 3 in battery), pumps (2 or less than 4 inch suction including submersible pumps

GROUP VI: Front end loaders (under 1 yard)

GROUP VII: Helicopters (pilot/engineer)

GROUP VIII: Pump (staging)

GROUP IX: Rollers (grade fill or stone base), tractors (under D-8)

GROUP X: Tug master (power boats), captain (power boats)

GROUP XI: Compressors (2 or 3 within a total distance of 100' constitutes a battery

GROUP XII: Concrete spreaders (small type), fertilizing equipment, operation & maintenance of grease, gas, fuel and oil supply trucks, mulching equipment, operation and maintenance of seeding machines, tamping machines (vibrating, self propelled), farm tractors, conveyor loaders (not including elevator graders), fine grade machine (small type), concrete mixers (small), road finishing machines (small type), welding machines (gas or electric converters of any type-single), form line graders (small type)

HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H &		Vacation	App. Tr.	Other
GROUP I	$10.73	7%	5% + 10%	a	3%	
GROUP II	9.85	7%	5% + 10%	a	3%	
GROUP III	8.96	7%	5% + 10%	a	3%	
GROUP IV	8.76	7%	5% + 10%	a	3%	
GROUP V	8.05	7%	5% + 10%	a	3%	
GROUP VI	8.61	7%	5% + 10%	a	3%	
GROUP VII	12.33	7%	5% + 10%	a	3%	
GROUP VIII	9.95	7%	5% + 10%	a	3%	
GROUP IX	8.41	7%	5% + 10%	a	3%	
GROUP X	8.91	7%	5% + 10%	a	3%	
GROUP XI	8.66	7%	5% + 10%	a	3%	
GROUP XII	7.90	7%	5% + 10%	a	3%	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid holidays; A through F, Washington's Birthday and Presidential Election Day provided the employee works any three days in the five day work week preceding the holiday and the first work day following the holiday.

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
STEEL ERECTION						
Power Equipment Operators:						
Cranes and derricks (land or floating), with booms (including jib), less than 140'	$11.53	7%	15%	a	3%	
Cranes and derricks (land or floating), with booms (including jib), 140' and over	12.33	7%	15%	a	3%	
A-frames, cherry pickers, elevators, permanent or temporary or any other hoisting machine regardless of motor power, fork lifts, hoists house cars, side booms	10.88	7%	15%	a	3%	
Air compressors (2 or 3 in battery), welding machines (gasoline or electric) converters of any type, 2 or 3 in battery multiple welders	9.31	7%	15%	a	3%	
Air compressors single, welding machines (gasoline electric converter of any type, single)	8.50	7%	15%	a	3%	
Firemen	8.83	7%	15%	a	3%	
Oilers	8.00	7%	15%	a	3%	
Water Operations:						
On all power boats used in conjunction with pipe line, river crossings and all types of construction work:						
Captain, tugmaster	9.25	7%	15%	a	3%	
Deckhand	7.95	7%	15%	a	3%	

Paid Holidays:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote:
a. Holidays: A through F; Washington's Birthday; Veteran's Day and Presidential Election Day.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
TRUCK DRIVERS						
Winch Trailer	5.68	.85		a+b		
Euclids, straight, bottom, rear and side dump, carryall and scrapers: (not self loading-loading over the top), water sprinkler trailers, water pulls, and similar types, flat, floats, I-Beam, low beds, transit-mix, road oil, fuel, asphalt, stringer, seeding fertilizing, bituminous distributor, and similar types of vehicles	5.58	.85		a+b		
Straight three-axle materials: trucks and floats	5.48	.85		a+b		
Straight dumps, flats, floats, pick-ups, container hauler, fuel, water sprinkler, road oil, winch, A-frame, scissor, nipper, "all dual purpose trucks", trucks with mechanical tail gates", any rubber tired tractor used in pulling and towing farm wagons and trailers of any description, mechanics	5.43	.85		a+b		
Mechanics helpers	5.20	.85		a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Washington's Birthday; Lincoln's Birthday; Columbus Day; General Election Day; Veteran's Day; providing an employee works or shapes one day and is available during the Holiday calendar week.

b. Employees who have worked or have received pay for 85 days shall receive 48 hours vacation pay; 130 days - 96 hours vacation pay; 150 days - 120 hours vacation pay; an employee with 150 days credit and at least 15 years seniority shall receive an additional 40 hours vacation pay.

SUPERSEDEAS DECISION

STATE: NEW JERSEY COUNTY: MIDDLESEX

DECISION NO.: AQ-2,115 DATE: Date of Publication
Supersedes Decision No. AP-838 dated May 25, 1973 in 38 FR 13963
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers:						
Twps., of Cranbury, E. Brunswick, Hamietta. Jamesburg, Milltown, Monroe, N. Brunswick, Plainsboro, S. Brunswick & Spotswood	$9.30	.50	.50		.025	
Remainder of County	9.202	.5803	.4974		.02	
Boilermakers	8.35	8%	9½+3%	10%	.01	
Boilermakers' helpers	7.82	8%	9½+ 3%	10%	.01	
Bricklayers, cement masons, plasterers, and stone masons:						
Dunellen, Middlesex, New Market, Oak Tree, and S. Plainfield	9.45	.45	.40		.02	
Remainder of County	9.55	.35	.25			
Plainsboro	9.50	.50	.70		.03	
Carpenters and insulators	9.29	6%	6%		.02	
Millwrights	9.54	6%	6%		.02	
Electricians and Linemen:						
Electricians	10.35	.20+e	1% +.25		.05	
Linemen, cable splicers, equipment operators, welder, hole digging equipment truck with winch or pole and steel handling, truck without winch	10.35	.20+e	1% +.25		.05	
Groundman and winch operator	9.50	.20+e	1%+.25		.05	
Elevator constructors	9.10	.395	.26+a	b+c	.015	
Elevator constructors helpers	6.83	.395	.26+a	b+c	.015	
Elevator constructors probationary helpers	4.55					
Elevator constructors modernization	8.33	.395	.26+a	b+c	.015	
Elevator constructors modernization helpers	6.25	.395	.26+a	b+c	.015	
Elevator constructors repair	7.48	.395	.26+a	b+c	.013	
Elevator constructors repair helper	5.61	.395	.26+a	b+c	.015	
Glazier	8.08	.61	.65		.02	
Ironworkers, structural, reinforcing	9.15	.64	2.11	.90	.09	
Ironworkers, Ornamental	9.15	.64	2.11	.90	.09	
Ironworkers, Plainsboro, structural, ornamental and reinforcing	8.92	.47	1.06	10%	.05	
Laborers: Building						
Perth Amboy, Carteret, Woodbridge and Metuchen Townships:						
Laborers	6.65	.25	.50			
[illegible]						
ers, jackhammers, [illegible] or air drills	6.90	.25	.50			
Dunellen & S. Plainfield Townships:						
Laborers, air tool op., mason tenders, plasterers' tenders and mortar mixers	6.65	.55	.50			

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Laborers: Building (cont'd)						
S. River, S. Amboy, Sayreville, Keyport, Sporswood, Helmetta, Jamesburg, Granbury, and Monroe Townships, Madison & E. Brunswick Twps.						
Laborers	$6.40	.25	.25			
Tenders, scaffolding, excavation and foundation, concrete, trenches, manholes, sidewalks, curbing, compressad air, excavation and grading,						
Pipe layers	6.40	.25	.25			
Remainder of County:						
Laborers	7.00	.35	.35			
Air tool operator (jackhammer, vibrator)	7.25	.30	.35			
Mason tenders, mortar mixers	7.00	.30	.35			
Demolition & scaffold builders	7.00	.30	.35			
Plasterers' tenders	7.00	.30	.35			
Lathers:						
Dunellen, Edison, Middlesex, New Market, Oak Tree, Piscataway, and S. Plainfield	6.65	.25	.25		.01	
Remainder of County	5.75	.25	.20		.01	
Lead burners	8.75	.30		d	.01	
Marble setters	7.40	.63	.66+f			
Marble setters' helpers	6.93	.63	.66+f			
Painters:						
Perth Amboy, Carteret, Woodbridge Twp., Edison Twp., north of Metuchen, Sayreville, S. Amboy, Meuchen, Old Bridge and Madison township:						
Brush	7.40	.55	.40			
Structural steel, tanks, bridges & towers	8.95	.55	.40			
Spray	8.95	.55	.40			
Sandblasting	8.95	.55	.40			
Edison Twp., south of Metuchen, High land Park, New Brunswick, E. Brunswick and S. Brunswick, S. Brunswick Twp., & Monroe Twp., N. Brunswick						
Commerical & industrial	7.15	.65	.50			
Steel, tanks, towers, steeples, stacks and bridges	8.25	.65	.50			
Spraying & sandblasting	8.25	.65	.50			
Plainsboro:						
Brush	7.80	.45	.50	.10		
Steel	7.95	.45	.50	.10		
Spray	8.27	.45	.50	.10		

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Painters: (Cont'd)						
Dunallen, South Plainfield, Middlesex & New Market:						
Commercial & industrial	5.75	.35	.45			
Spray, sandblast, tanks, steel & stagework	6.70	.35	.45			
Piledrivermen and dockbuilders	9.36	.90	1.53	.56	.02	
Plumbers and steamfitters:						
Piscataway to Old Bridge to County line and north thereof	10.70		.50		.03	
Remainder of County	9.35	5%	4%	10%	1%	
Roofers, composition, damp & waterproofing	9.45	.50	.325			
Roofers, slate & tile	8.625	.50	.325			
Roofers, slate & tile helpers	7.55	.50	.325			
Sheet metal workers	8.71	.52	.~	.67	.02	
Soft floor layers	8.53	6%	3%	4%		
Sprinkler fitters:						
New Brunswick, Milltown, Old Bridge Browntown, and North thereof:	10.12	.40	.60		.07	
Remainder of County	9.45	.40	.60		.05	
Terrazzo workers	8.70	1.23	1.26			
Terrazzo workers' helpers	7.43	.925	.475			
Terrazzo machine operator	7.68	.925	.475			
Tile setters	8.10	.60	1.50			
Welders- receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:
a. Employer contributes $8.00 per day to Annuity Fund.

b. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day; Armistice Day.

c. Employer contributes .4% basic hourly rate for 5 years or more of service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A through F; Washington's Birthday; and Good Friday, providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Employer contributes 1% to Temporary Disability Fund.

f. Employer contributes $.60 per hour to a trust fund and $.15 per hour to an Annuity Fund.

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N.J.-2-LAB-2-3- E

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Laborers:					
Blasters	$7.60	.41	.64	a	
Finisher, rammer, paver, gunite nozzle man and stone cutter	7.45	.41	.64	a	
Timberman	7.20	.41	.64	a	
Form setter	7.15	.41	.64	a	
Sewer pipe, laser men, conduit and duct line layers	6.95	.41	.64	a	
Wagon drill op. and drill master	7.05	.41	.64	a	
Wagon drill op. helper, drill master helper, powder carrier and magazine tender	6.70	.41	.64	a	
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter op. and such other power tools used to perform work usually done manually by laborers	7.05	.41	.64	a	
Signal man	6.75	.41	.64	a	
Wrapping and coating of all pipe	6.55	.41	.64	a	
Common laborers, landscape laborers, railroad track laborers, flagmen, traffic directors, salamander tenders, pitman and dumpmen	6.50	.41	.64	a	
Rakers and tampers on cold patch work	6.50	.41	.64	a	
FREE AIR TUNNEL WORK	Daily Rates				
Blasters	$63.77	.41	.59	a	
Skilled men (including miners, drill runners, iron men, maintenance men, conveyor men, safety miners, riggers, block layers, powder carriers, all other skilled men)	60.57	.41	.59	a	
Semi-skilled men (including miners' helpers, chuck tenders, track men, nippers, brake men, derail men, cable man, hose men, grout men, gravel men, form man, bell or signal men (top or bottom), form workers and movers, concrete workers, shaft men, tunnel laborers, caulkers' helpers, all other semi-skilled men)	59.28	.41	.39	a	
All others (including powder watchmen, change house attendants, top laborers)	55.22	.41	.59	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Armistice Day; Presidential Elect... Day; (providing employee works 3 days for the same employer within a period of 1... working days consisting of 5 working days before and 5 working days after the da... upon which the holiday falls).

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N.J. 4-LAB-5-L

Southern half of Middlesex County	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Laborers, Asphalt						
Street:						
Head raker	$6.55	.41	.59	a		
Rakers and screed board man	6.40	.41	.59	a		
Tampers, smoothers, kettlemen, painters, top shovelers and roller boys	6.15	.41	.59	a		
Plant:						
Scale mixers and burner men	6.40	.41	.59	a		
Feeders and dust men	6.15	.41	.59	a		

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, Washington's Birthday; Armistice Day & Presidential Election Day providing employee works on (3) three days for the same employer within a period of ten (10) working days, consisting of five (5) working days before and five (5) working days after the day on which the holiday falls or is observed as such.

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N.J.-5-LAB-3-K

Northern half of Middlesex County

LABORERS, ASPHALT	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Section:						
Head rakers	$6.50	.51	.54	a		
Rakers	6.25	.51	.54	a		
Tampers and smoothers, kettleman, painters, top shovelers and roller boys	6.10	.51	.54	a		
Plant:						
Scale mixer and burner men	6.35	.51	.54	a		
Feeders and dust men	6.10	.51	.54	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, Washington's Birthday; Armistice Day; Presidential Election Day; providing an employee works on or is available for work 3 days in the work week in which the holiday falls.

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BUILDING & HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Autograde - combn. subgrader, base MTL spreader & base trimmer (CMI & similar types), autograde placer-trimmer-spreader-combn. (CMI & similar types), autograde slipform paver (CMI & similar types), backhoes (all types, including all combination hoe loaders), central power plants (all types), concrete paving machines, cranes (all types including overhead & straddle travelling type), cranes (gantry), derricks (land or floating), drillmaster, quarrymaster (down the hole drill), draglines, elevator graders, engines (large diesel 1620 HP and staging pump), front end loaders (5 yds. and over), gradalls, grader, rago, helicopters (co-pilot), jack (screw air hydraulic power operated unit or console type (not hand jack or pile load test type), locomotive (large), mucking machines, pavers (21-E and over), paver (resinous, broyhill), pavement & concrete breaker (superhammer), pavement breaker truck mounted, piledriver, scooper (loader and shovel) koehring, shovels, tree chopper, trench machines

GROUP II: "A" frame, boring & drilling machines, brush chopper, chipper & shredder, cableways carryalls, cherry pickers (6 tons & under), concrete pump, concrete pumping system, pumpcrete, squeezecrete & similar types, conveyors (125' & over), econo-mobiles (hilo, lull, hyster similar type equipment), fork lifts, front end loaders (2 yds, but less than 5 yds.), groove cutting machine, heater planer, pans (letourneau, dw's ukes), pumpcrete (unit type), pumpcrete machines (squeezecrete & concrete punping regardless of size), rollers (backtop), scrapers (letourneau, dw's ukes), side booms, squeezecrete, straddle carrier (ross & similar types), winch trucks (hpisting)

GROUP III: Aerial platform (used as hoist), hoist (all type hoists, gas, diesel, electric, air hydraulic, single and double drum, concrete, brick shaft caisson, conveyor, snorkel, roof, tugger, and house cars or any other similar type hoisting machines, portable or stationary, except Chicago boom type), elevators or house cars, roof hoist

GROUP IV: Asphalt curbing machine, asphalt plant engineer, asphalt spreaders, auto-grade tube finisher & texturing machine (CMI & similar), autograde curecrete machine (CMI & similar), autograde crub trimmer & sidewalk, shoulder slipform (CMI & similar types), bar bending machines (power), batchers, batching plant & crusher on site, belt conveyor systems, boilers and steam jennies (irrespective of their use), boom type skimmer machines, bridge deck finisher, car dumpers (railroad), compressor and blower type units (used independently or mounted on dual purpose trucks, on job site or in conjunction with hob site, in loading and unloading of concrete, cement, fly ash, instancrete, or similar type materials), concrete breaking machines, concrete finishing machines, concrete saws & cutters (ride on type), concrete spreaders hetzel, rexomatic and similar types, conveyors (under 125'), crushing machines, ditching machines (small, ditchwitch or similar), drill doctor (duties include dust collector, maintenance), dope pots (mechanical with or without pump), dumpsters, fine grade machine (large type), front end loaders (under 2 yds.), generators giraffe grinders, grader (finish only), graders and motor patrols, gunite machines (excluding nozzle), hammer vibrator (in conjunction with generator), hoppers, hopper doors (power operated), ladders (motorized), laddervator, lights (portable generating light plants), locomotive (dinky type), maintenance and repair of asphalt curbing machines, concrete finishing machines, concrete vibrators, gas buggies, leveling machines, portable generators, power saws, compressor equipment or compressor units used in connection with cement,

BUILDING & HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS CONT'D.:

paint, insulating and acoustical sprays, plaster, curing and sandblasting (all and similar types), mechanic, mixers (excepting paving mixers), motor patrols and graders, pavers (under 21-E), pavement breakers (small, self propelled ride on type, also maintains compressor or hydraulic unit), pipe bending machine (power), pitch pump, plaster pump (regardless of size), post hole digger, rod bending machines (power), scales (power), seaman pulverizing mixer, silas, steam jennies and boilers (irrespective of theiruse), steel cutting machine (service & maintains), vibrating plants (used in conjunction with unloading, welder and repair mechanic.

GROUP V: Welding machines (gas or electric converters of any type 2 or 3 in battery), compressors (2 or 3 within a total distance of 100' constitutes a battery), welding systen, mutiple (rectifier transformer type)

GROUP VI: Bulldozer, fireman, sprinkler and water pump trucks (used on job site or in conjunction with job site), stone, spreaders, sweepers & brooms, tractors (D-8 and over), water & sprinkler trucks (used on job site or in conjunction with job site)

GROUP VII: Compressor (single), heaters (nelson or other type including propane, natural gas or flow type units), pumps (4 inch suction & over including submersible pumps), temporary heating plant (nelson or other type including propane, natural gas or flow type units), welding machines (gas or electric converters of any type single), wellpoint system (including installation and maintenance)

GROUP VIII: Concrete spreaders (small type), fertilizing equipment and maintenance of), grease, gas, fuel and oil supply trucks, mulching equipment (operation and maintenance of), seeding equipment (operation and maintenance of), tamping machines (vibrating self propelled)

GROUP IX: Assistant engineer/oiler, mechanics helper, tire repair & maintenance

GROUP X: Water Operations: On all power boats used in conjunction with pipeline, river crossings and all types of construction: captain (power boats), tug master (power boats)

GROUP XI: Water Operations: Deckhand

GROUP XII: Pump (staging)

GROUP XIII: Rollers (grade fill or stone base)

GROUP XIV: Helicopters (pilot/engineer)

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BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	Appr. Tr.	Other
POWER EQUIPMENT OPERATORS						
GROUP I	$10.73	7%	10%+5%	a	3%	
GROUP II	9.85	7%	10%+5%	a	3%	
GROUP III	9.65	7%	10%+5%	a	3%	
GROUP IV	8.96	7%	10%+5%	a	3%	
GROUP V	8.81	7%	10%+5%	a	3%	
GROUP VI	8.76	7%	10%+5%	a	3%	
GROUP VII	8.05	7%	10%+5%	a	3%	
GROUP VIII	8.41	7%	10%+5%	a	3%	
GROUP IX	7.60	7%	10%+5%	a	3%	
GROUP X	8.91	7%	10%+5%	a	3%	
GROUP XI	7.50	7%	10%+5%	a	3%	
GROUP XII	9.95	7%	10%+5%	a	3%	
GROUP XIII	8.41	7%	10%+5%	a	3%	
GROUP XIV	12.33	7%	10%+5%	a	3%	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE

a. Holidays, A through F plus Washington's Birthday and Presidential Election Day provided the employee works any of the three days in the five work days preceding the holiday and the first work day after the recognized holiday.

POWER EQUIPMENT OPERATORS - HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION:

GROUP I: Autograde-combn., subgrader, base MTL. spreader & base trimmer (CMI & similar types), autograde placer-trimmer-spreader-combn. (CMI & similar types), autograde slipform paver (CMI & similar types), backhoes (all types, including all combination hoe loaders), central power plants (all types), concrete paving machines, cranes (all types including overhead & straddle travelling type), cranes (gantry), drillmaster, quarrymaster (down the hole drill), draglines, elevator graders, engines (large diesel 1620 HP and staging pump), front end loader (5 yds. and over), gradalls, grader, rago, helicopters (co-pilot), jacks (screw air hydraulic power operated unit or console type (not nand jack or pile load test type), locomotive (large), mucking machine, pavers (21-E and over), paver (resinous, broyhill), pavement & concrete breaker (superhammer), pavement breaker truck mounted, piledriver, scooper (loader and shovel), koehring, shovels, tree chopper, trench machines

GROUP II: "A" frame, boring & drilling machines, brush chopper, chipper & shredder, cableways, carryalls, cherry pickers (6 tons and under), concrete pump, concrete pumping system, pumpcrete, squeezecrete and similar types, conveyors (125' and over), economobiles (hilo, lull, hyster and similar type equipment), fork lifts, front end loaders 2 yds. but less than 5 yds., groove cutting machine, heater planer, pans (letourneau, dw's ukes), pumpcrete (unit type), pumpcrete machines (squeezecrete & concrete punping machines regardless of size), rollers (blacktop), scrapers (letourneau, dw's, ukes), side booms, squeezecrete, straddle carrier (ross & similar types), winch trucks (hoisting)

GROUP III: Asphalt curbing machine, asphalt plant engineer, asphalt spreaders, autograde tube finisher & texturing machine (CMI and similar), autograde curecrete machine (CMI and similar types), autograde curb trimmer & sidewalk, shoulder slip form (CMI and similar types), bar bending machines (power), batchers, batching plant and crusher on site, belt conveyor systems, bridge deck finisher, car dumpers (railroad), compressor and blower type units (used independently or mounted on dual purpose trucks, on the job site or in conjunction with job site in loading and unloading of concrete, cement, fly ash, instancrete or similar type materials, concrete breaking machines, concrete finishing machines, concrete saws & cutters (ride on type), concrete spreaders, hetzel, rexomatic & similar types, conveyors (under 125'), crushing machines, ditching machines (small ditchwitch or similar), drill doctor (duties include dust collector, maintenance), dope pots (mechanical with or without pump), dumpster, fine grade machine (large type), concrete vibrators, skimmer machines (boom type), generators, giraffe grinders, grader (finish only), graders & motor patrols, gunite machine (excluding nozzle), hammer vibratory (in conjunction with generator), hoppers, hopper doors (power operated), laddervator, lights (portable gensrating light plants), locomotive (dinky type), maintenance and repair of asphalt curbing machines, concrete finishing machines, concrete vibrators, gas buggies, leveling machines, portable generators, power saws, conpressor equipment or compressor units used in connection with cement, paint, insulating and acoustical sprays, plaster, curing and sandblasting (all and similar types), mechanic, mixers (excepting paving mixers), motor patrols and graders, pavers (under 21-E), pavement breaker (small, selfpropelled ride on type, also maintains compressor or hydraulic unit), pipe bending machine (power), pitch pump, front end loaders (1 yd. and over, but less than 2 yds.), post hole digger, rod bending machine (power), scales (power), seaman pulverizing mixer, silas, steam jennies and boilers (irrespective of their use), steel cutting machine (services and maintains), vibrating plants (used in conjunction with unloading, welder and and repair mechanic

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POWER EQUIPMENT OPERATORS - HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION CONT'D. 1

GROUP IV: Oiler, fireman, sprinkler and water pump trucks (used on job site or in conjunction with job site), stone spreaders, dirt jets and graders, tractors (D-5 and over), water and sprinkler trucks (used on job site in conjunction with job site

GROUP V: Compressors (single), heaters (nelson or other type including propane, natural gas or flowtype units), pumps (4 inch suction and over including submersible pumps), temporary heating plant (nelson or other type including propane, natural gas or flow type units), pumps (diesel engine and hydraulic (material of power), wellpoint systems (including installation and maintenance), welding machines (gas or electric converters of any type 2 or 3 in battery), pumps (2 of less than 4 inch suction including submersible pumps

GROUP VI: Front end loaders (under 1 yard)

GROUP VII: Helicopters (pilot/engineer)

GROUP VIII: Pump (staging)

GROUP IX: Rollers (grade fill or stone base), tractors (under D-8)

GROUP X: Tug master (power boats), captain (power boats)

GROUP XI: Compressors (2 or 3 within a total distance of 100' constitutes a battery

GROUP XII: Concrete spreaders (small type), fertilizing equipment, operation & maintenance of grease, gas, fuel and oil supply trucks, mulching equipment, operation and maintenance of seeding machines, tamping machines (vibrating, self propelled), farm tractors, conveyor loaders (not including elevator graders), fine grade machine (small type), concrete mixers (small), road finishing machines (small type), welding machines (gas or electric converters of any type-single), form line graders (small type)

HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.73	7%	5% + 10%	a	3%
GROUP II	9.85	7%	5% + 10%	a	3%
GROUP III	8.96	7%	5% + 10%	a	3%
GROUP IV	8.76	7%	5% + 10%	a	3%
GROUP V	8.05	7%	5% + 10%	a	3%
GROUP VI	8.61	7%	5% + 10%	a	3%
GROUP VII	12.33	7%	5% + 10%	a	3%
GROUP VIII	9.95	7%	5% + 10%	a	3%
GROUP IX	8.41	7%	5% + 10%	a	3%
GROUP X	8.91	7%	5% + 10%	a	3%
GROUP XI	8.66	7%	5% + 10%	a	3%
GROUP XII	7.90	7%	5% + 10%	a	3%

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Da; F-Christmas Day.

FOOTNOTE:
a. Paid holidays; A through F, Washington's Birthday and Presidential Election Day provided the employee works any three days in the five day work week preceding the holiday and the first work day following the holiday.

STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
Power Equipment Operators:						
Cranes and derricks (land or floating), with booms (including jib), less than 140'	$11.53	7%	15%	a	3%	
Cranes and derricks (land or floating), with booms (including jib), 140' and over	12.33	7%	15%	a	3%	
A-frames, cherry pickers, elevators, permanent or temporary or any other hoisting machine regardless of motor power, fork lifts, hoists house cars, side booms	10.88	7%	15%	a	3%	
Air compressors (2 or 3 in battery), welding machines (gasoline or electric) converters of any type, 2 or 3 in battery multiple welders	9.31	7%	15%	a	3%	
Air compressors single, welding machines (gasoline electric converter of any type, single)	8.50	7%	15%	a	3%	
Firemen	8.83	7%	15%	a	3%	
Oilers	8.00	7%	15%	a	3%	
Water Operations:						
On all power boats used in conjunction with pipe line, river crossings and all types of construction work:						
Captain, tugmaster	9.25	7%	15%	a	3%	
Deckhand	7.95	7%	15%	a	3%	

Paid Holidays:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote:
a. Holidays: A through F; Washington's Birthday; Veteran's Day and Presidential Election Day.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
Winch Trailers	$6.28	a		b		
Euclid, International Haversters, Wabcos, caterpiller, koehring, tractors and wagons, dumptors, straight, bottom rear and side dump, carryalls and scrapers (not self-loading), over the top, water sprinkler, trailers, water pulls, and similar types of vehicles	6.18	a		b		
Tractor and trailer type vehicles, flat floats, I-Beam, low beds, water sprinkler, bituminous, transit-mix, road oil fuel, bottom dump hopper, rear dump, office shanty, epoxy, asphalt, agitator mix, mulching, stringer, seeding, fertilizing pole, spread, bituminous distributor, water pulls (entire unit) (tractor trailer), reel trailer, and similar types of vehicles	6.18	a		b		
Straight three-axle materials:						
Trucks and floats	6.08	a		b		
Straight dumps, flats, floats, pick-ups container haulers, fuel, water sprinkler, road oil, stringer bead and hot pass, bus, dumpcrete, transit-mixers, agitator mix, half-track, winch truck, side-o-matic, dynamite, powder, X-ray, welding, skid, jeep, station wagon, stringer, A-Frame, all dual purpose trucks, mechanical tail gates, batch, seeding, mulching, fertilizer, air compressor trucks (in transit), escort, scissor, hi-lift, telescope, concrete breaker, gin pole, stone, sand, asphalt-distributor and spreader, nipper, fuel trucks (driver on fuel truck including handling of hose and nozzle-entire unit), team drivers, vacuum or vac-all trucks, skid truck (debris container-entire unit), concrete mobile trucks (entire unit), beltcrete trucks, pumpcrete trucks, line trucks, reel, wreckars or tow trucks, utility, tack trucks, broyhill coal tar epoxy, little ford bituminous distributor, slurry seal truck or vehicle, thiokol track master pick-up (swamp cat pick-up), bucket loader dump, rubber tired tractor used in pulling and towing farm wagon and trailers of any discription	6.03	a		b		

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS (Cont'd):						
Teamster mechanic	$6.03	a		b		
Mechanic helper	5.80	a		b		

FOOTNOTES:

a. Employer contributes $.89 per hour to a combined Health, Welfare and Pension fund.

b. Employees worked or received pay: 80 days within a year receive one week's vacation, 125 days within a year receive two weeks' vacation, 145 days within a year receive 15 days' vacation, 15 years seniority and 145 days within a year receive four weeks' vacation.

SUPERSEDEAS DECISION

STATE: NEW YORK

COUNTY: SUFFOLK

DECISION NO.: AQ-2,112

DATE: DATE OF PUBLICATION

Supersedeas Decision No. AM-1,735 dated August 11,1971 in 36 FR 14980

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$8.96	13.1%	9%	12%	
Boilermakers	9.95	5%	5% + 10%	7%	.01
Bricklayers:					
Center Moriches on the south shore and following Chichester Avenue, North of Walding River and areas east thereof including the off shore islands:					
Bricklayers, cement masons and plasterers	9.40	.30		.40	
Remainder of County:					
Bricklayers	9.40	.78	2.92	.30	
Cement masons	8.85	.905	.755+.50		.01
Plasterers	8.10	1.00	.40	1.00	.01
Carpenters:					
Fishers Island:					
Carpenters & soft floor layers	8.55	.50	.30		
Remainder of County:					
Carpenters & soft floor layers	9.00	.85	1.23	.80	.11
Piledrivermen	9.00	.85	1.23	.80	.11
Timbermen, wharf & dock builders	9.00	.85	1.23	.80	.11
Carpenters, Heavy:					
Carpenters	9.00	.85	1.23	.80	.11
Dock and wharf carpenters	9.00	.85	1.23	.80	.11
Piledrivermen	9.00	.85	1.23	.80	.11
Electricians and linemen	9.55	6%	.135%		5/8 of1%
Elevator constructors	9.10	.395	.26+b	c+d	.015
Elevator constructors' helpers	6.83	.395	.26+b	c+d	.015
Elevator constructors' helpers (prob.)	4.55				
Elevator constructors repair	7.48	.395	.26+b	c+d	.015
Elevator constructors' repair helpers	5.61	.395	.26+b	c+d	.015
Elevator constructors modernization	8.33	.395	.26+b	c+d	.015
Elevator constructor modernization helper	6.25	.075	.125+b	c+d	.015
Glaziers	7.30	6%	6%+1.20	5%	
Ironworkers:					
Structural	8.40	.655	1.655	.70	.01
Ornamental finisher	8.40	.63	.70+1.33%	.76	.03
Reinforcing	9.78	.80	.98+1.10	1.13	.04
Laborers, building:					
Laborers	7.65	.62	.83	.66	
Mason tenders	7.65	.62	.83	.66	
Mortar mixers	7.65	.62	.83	.66	
Plasterers' helpers	7.05	1.25		1.00	
Lathers, Wall on	7.80	11%+.08	20+1.15	1.05	
Lathers, Metal	9.78	.80	.98+1.10	1.13	.04
Lead Burners	8.75	.30		e	.01
Millwrights	9.36	.90	1.53	.50	.02

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Marble carvers	$7.95	.63+.15	.66+.28	o	
Marble setters & cutters	7.80	.63+.15	.66+.28	o	
Marble helpers and crane operator	7.33	.59+.15	.63+.25	o	
Derrick men	7.33	.59+.15	.63+.25	o	
Marble sawers, rubbers and polishers	7.57	.61+.15	.61+.26	o	
Painters:					
Brush	6.30	.33	.40 + a	.25	
Structural steel & spray	7.13	.33	.40 + a	.25	
Plumbers	9.45	.50	1.41	1.20	.135
Roofers:					
Composition damp & waterproofing	7.35	.50	.50+.70	.90	.01
Slate and tile	6.45	8%	.50	5%	
Slate and tile helpers	5.13	8%	.50	5%	
Sheet metal workers:					
Fishers Island	9.30	.50	.51		.05
Remainder of County	9.445	.715	1.37	1.055	1%
Sprinkler fitters	8.655	7%+.85	13%	10%	.04
Steam fitters	8.655	7%+.85	13%	10%	.04
Stone derrickmen and riggers	8.87	7%+.01	7%+.79	.60	.01
Stone masons	8.45	.66	.94+1.60	1.50	
Terrazzo workers	8.70	.78+.45	1.26		
Terrazzo workers' helpers	6.98	.78+.45	1.26		
Terrazzo machine operator	7.13	.78+.45	1.26		
Tile setters	8.10	.60	.50+1.00		
Tile setters' helpers	6.96	.40	.27+1.00		
Truck drivers:					
Ready-mix concrete, sand gravel & asphalt	5.23	.44½	.55-½	g+h	
Euclid and tournapulls operator	5.383	.44-½	.55-½	g	
Demolition and wrecking:					
Straight jobs	4.76	k	m	n	
Trailers	5.01	k	m	n	
Tuck Pointers:					
Tuckpointers & waterproofers	8.12	.70	.67+.77	.50	.015
Steam cleaners	8.37	.70	.67+.77	.50	.015
Sand-blasters	9.12	.70	.67+.77	.50	.015
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $1.29 per hour to an Annuity Fund.

b. Employer contributes $8.00 per day to Annuity Fund.

c. Holidays: A through F; Lincoln's Birthday, Washington's Birthday; Columbus Day; Armistice Day & Election Day.

d. Employer contributes 6.4% of basic hourly rate for 5 years or more of service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

e. Holidays: A through F; Washington's Birthday, Xmas. Eve and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

f. Employer contributes $4.00 per day to Annuity Fund.

g. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, Veteran's Day, (providing employee works two days in the calendar week in which the holiday falls and shape each remaining workday during such calendar week.)

h. For each 15 days worked within the contract year an employee will receive one day's vacation with pay, with a maximum vacation of three weeks per year.

i. Employer contributes $4.80 per day to Annuity Fund.

k. Employer contributes $28.86 per month to Health & Welfare.

m. Employer contributes $29.13 per month to Pension Fund.

n. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; Armistice Day; Election Day.

o. Paid Holiday: St. Patricks Day.

N.Y. 10-LAB-2-3-M

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Laborers:						
Concrete & curb form setters, asphalt rakers	$6.85	10%	10%	.75+a		
Asphalt workers & roller boys, asphalt top shovelers and smoothers, asphalt tampers	6.65	10%	10%	.75+a		
Jackhammers, & drill men, hoppermen, carpenters' tenders, pipe jointers and setters, concrete laborers (structures), stone spreading laborers, trackmen, grading & excavating laborers, yard laborers, puddlers on concrete pavement, laborers (other than above) on concrete pavement, landscape laborers, asphalt plants (batchers & hopper men)	6.25	10%	10%	.75+a		

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veterans' Day; Election Day, provided employee works or shapes up the scheduled day before and the scheduled day after the holiday.

N.Y.-5-PEO-1- A 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	$10.63	6%	1.05	a+b	.15
Backhoe, dragline, gradall, piledriver, shovel	10.905	6%	1.05	a+b	.15
Batching plant (on site of Job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel), pump (concrete)	10.805	6%	1.05	a+b	.15
Bending machine, generator (small), vibrator (1 to 5), dinky locomotive	9.455	6%	1.05	a+b	.15
Boiler, bulldozer, compressor (on crane) compressor (pilework), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compactors (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action diaphragm), pump (gypsum), pump (hydraulic pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	10.455	6%	1.05	a+b	.15
Boom truck, crane (crawler or truck), conveyor-multi, plant engineer, stone spreader (self-propelled)	10.655	6%	1.05	a+b	.15
Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), track tamper (2 engineers each), welding machine	10.205	6%	1.05	a+b	.15
Crane and boom truck (setting structural or stone)	11.03	6%	1.05	a+b	.15
Bulldozer (used for excavation), fireman, loading machine, powerboom, scoop (carry-all scrapper), vac-all	10.08	6%	1.05	a+b	.15
CMI or maxim spreader, concrete spreader, derrick, sideboom tractor	11.005	6%	1.05	a+b	.15
Compressor (structural steel)	10.605	6%	1.05	a+b	.15
Concrete saw or cutter, mixer (with skip) mixer (2 small, with or without skip), pump (up to 3 inches), tractor-caterpiller or Kees	9.705	6%	1.05	a+b	.15

N.Y.-5-PEO-1 - A 2 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
Crane with clam shell bucket	$10.905	6%	1.05	a+b	.15
Crane, crawler or truck:					
Boom lengths of 100' (including jib) but less than 150'	11.155	6%	1.05	a+b	.15
Boom lengths of 150' (including jib) but less than 250'	11.405	6%	1.05	a+b	.15
Boom lengths of 250' (including jib) but less than 350'	11.655	6%	1.05	a+b	.15
Boom lengths of 350'	12.155	6%	1.05	a+b	.15
Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man	10.40	7%	.85	a+b	.15
Dredge	10.78	7%	.85	a+b	.15
Elevator, forklift, hoist (1 drum)	10.83	7%	.85	a+b	.15
Forklift (walk-behind, power operated)	10.62	7%	.85	a+b	.15
Grader	10.23	7%	.85	a+b	.15
Hoist (2 and drum)	10.97	7%	.85	a+b	.15
Hoist (multiple platform)	13.50	7%	.85	a+b	.15
Mechanical compactors (hand operated), trench machine (hand)	9.08	7%	.85	a+b	.15
Hoist tandem platform	11.88	7%	.85	a+b	.15
Hydra-hammer, ridge cutter ..	9.62	7%	.85	a+b	.15
Lead engineer	12.105	7%	.85	a+b	.15
Loading machine (with capacity of 10 yds or over	10.33	6%	1.05	a+b	.15
Oiler, stump chipper	9.105	7%	.85	a+b	.15
Power buggies	9.33	7%	.85	a+b	.15
Roller, trench machine	10.705	7%	.85	a+b	.15
Scoop, carry-all, scraper in tandem	11.08	6%	1.05	a+b	.15
Sideboom tractor (used in tank work)	11.165	7%	.85	a+b	.15
Striping machine	10.13	7%	.85	a+b	.15
Tank work	10.93	7%	.85	a+b	.15
Tower crane (engineer)	11.46	7%	.85	a+b	.15
Tower crane (oiler)	8.955	7%	.85	a+b	.15
Welding machine, structural steel	10.68	7%	.85	a+b	.15

PAID HOLIDAY:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.
b. Basic hourly rate includes paid vacation funds.

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HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Asphalt spreader, boom truck, boring machine (other than post holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, self-propelled	$10.63	6%	1.05	a+b	.15	
Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shovel	11.00	6%	1.05	a+b	.15	
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	10.855	6%	1.05	a+b	.15	
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	8.38	6%	1.05	a+b	.15	
Boiler	10.13	6%	1.05	a+b	.15	
Boring machine (post holes)	10.57	6%	1.05	a+b	.15	
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine, dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 inches or over), pump (hydraulic), pump (jet) pump (submersible), pump (well point), roller (5 ton and over), scoop (carry-all, scraper), maintenance man (tower crane), vac-all, welding and burning	9.82	6%	1.05	a+b	.15	
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house, loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum)	10.355	6%	1.05	a+b	.15	
Compressor (2 or more in battery)	10.05	6%	1.05	a+b	.15	
Compressor (stone setting), compressor (structural steel), welding machine (structural steel)	10.515	6%	1.05	a+b	.15	
Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), striping machine, welding machine	9.445	6%	1.05	a+b	.15	

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HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS (Cont'd.):						
Concrete breaker, concrete saw or cutter, forklift (walk-behind, power operated), hydra hammer, mixer (with skip) mixer (2 small with or without skips), mixer (2 bag or over with or without skip), power buggies, power grinders, ridge cutter	$ 8.73	6%	1.05	a+b	.15	
Dredge	10.465	6%	1.05	a+b	.15	
Generator	9.74	6%	1.05	a+b	.15	
Generator (small)	8.415	6%	1.05	a+b	.15	
Grader	10.035	6%	1.05	a+b	.15	
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting and structural steel), trench machine	10.845	6%	1.05	a+b	.15	
Lead engineer	12.73	6%	1.05	a+b	.15	
Mechanic	8.435	6%	1.05	a+b	.15	
Mechanic helper	8.095	6%	1.05	a+b	.15	
Mechanical compactors (machine drawn), roller (over 5 tons)	10.17	6%	1.05	a+b	.15	
Oiler, root cutter, stump chipper, tower crane (oiler), track tamper (2 engineers, each)	8.42	6%	1.05	a+b	.15	
Portable heaters	9.995	6%	1.05	a+b	.15	
Powerbroom	8.875	6%	1.05	a+b	.15	
Pump (concrete)	10.09	6%	1.05	a+b	.15	
Scoop (carry-all, scraper in tandem), tower crane (engineer)	11.255	6%	1.05	a+b	.15	
Tractor (caterpilla or wheel)	8.205	6%	1.05	a+b		

FOOTNOTE:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Memorial-Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day and Christmas Day.

b. Basic hourly rate includes $1.00 vacation fund.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: SARATOGA

DECISION NO.: AQ-2,114 DATE: DATE OF PUBLICATION

Supersedeas Decision No. AP-451 dated November 25, 1972 in 37 FR 25099

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

46-New York-1-2-3-X 1 of 3

BUILDING, HVY. & HWY. CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos Workers	$ 8.93	.32	.18		.02	
Boilermakers	9.08	.60	10%		.01	
Bricklayers, cement masons, plasterers, and stone masons	8.20	.40	.30		.01	
Carpenters, Building:						
Day, Hadley, Edinburg, Corinth & Moreau Twps.:						
Carpenters and soft floor layers	7.70	.40	.40	g	.005	
Millwrights	7.95	.40	.40	g	.005	
Piledrivermen	7.85	.40	.40	g	.005	
Remainder of County:						
Carpenters and soft floor layers	8.07	.50	.45		.02	
Millwrights	8.47	.50	.45		.02	
Piledrivermen	9.36	.90	.83+.70	.56	.02	
Carpenters, Heavy and Highway:						
Day, Hadley, Edinburg, Corinth & Moreau Twps:						
Carpenters and Piledrivermen	7.82	.40	.40		.025	
Remainder of County:						
Carpenters	7.67	.50	.45		.025	
Piledrivermen, Heavy	9.36	.90	.83+.70	.56	.02	
Cement Masons, Hvy. & Hwy.	7.80	.40	.30			
Electricians:						
Ganseveen, Mt. Gregor, Schuylerville, Victory Mills, Wayvills, Still water, Mechanicville, and Waterford	9.30	.50	1% + .25	a	h	
Remainder of County	9.05	.55	1%+.20+1	j	.05	
Elevator Constructors	8.16	.195	.20	½+b+c	.005	
Elevator Constructors' Helpers	5.71	.195	.20	½+b+c	.005	
Elevator Constructors' Helpers (Prob.)	4.08					
Ironworkers, structural	8.24	.50	.85		.04	
Ironworkers, ornamental	8.24	.50	.85		.04	
Ironworkers, reinforcing	8.24	.50	.85		.04	
Laborers, Building:						
Twps. of Day, Hadley, Edinburg, Corinth, Moreau, Providence, Greenfield, Wilton, Northampton, Galway, Milton, Saratoga Springs, Charleston, Ballston Malta and Clifton Park:						
Laborers	7.05	.50	.65			
Air Tool Operators (jackhammer, vibrator)	7.20	.50	.65			
Asphalt rakers	6.30	.50	.65			
Mortar mixers (hand or machine)	7.20	.50	.65			
Wagon drill	7.275	.50	.65			
Plasters	7.525	.50	.65			
Acetylene burners	7.325	.50	.65			

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46-New York-1-2-3-X 2 of 3

BUILDING, HVY. & HWY. CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Laborers, Building (Cont'd						
Remainder of County:						
Laborers	$ 7.05	.50	.65			
Pipelayers (2 man team), hod carriers, mortar mixers (hand or machine), jackhammer op., well pointing, all air or gas driven tools, vibrators, power driven buggies	7.20	.50	.65			
Asphalt rakers	6.60	.60	.65			
Demolition	7.30	.50	.65			
Form setters (curb)	7.225	.50	.65			
Wagon drill operator	7.275	.50	.65			
Acetylene burners	7.325	.50	.65			
Blasters	7.30	.50	.65			
Lathers	7.035	.275	.10		.01	
Lead burners	8.75	.30		d	.01	
Line Construction:						
Linemen	9.33	.50	1%+.40	e	3/8of1%	
Cable Splicer	10.08	.50	1%+.40	e	3/8of1%	
Groundman digging machine operator	8.80	.50	1%+.40	e	3/8of1%	
Groundman mobile equipment operator	8.30	.50	1%+.40	e	3/8of1%	
Groundman truck driver and mechanic	7.90	.50	1%+.40	e	3/8of1%	
Groundman dynamite man	8.30	.50	1%+.40	e	3/8of1%	
Marble setter, terrazzo workers and tile setters	7.82	.40	.30			
Painters:						
Clifton Park, Half Moon, Malta, Charlton, Galway, Milton & W. Milton:						
Brush	7.40	.48	.12			
Structural steel, bridge	8.15	.48	.12			
Spray	8.50	.48	.12			
Day, Hadley, Corinth, Wilton, N. Umberland & Mt. McGregor in Wilton Twp., Moreau						
Bush	6.90	.25	.20			
Structural steel, swing scaffold and bridge	7.40	.25	.20			
Spray and sandblasting	8.15	.25	.20			
Remainder of County:						
Commercial work	6.60					
Swing scaffold bosun chair, water towers, flag poles, window jacks	7.10					
Bridge, structural steel and sandblasting	7.35					
Spray	7.70					

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BUILDING, HVY. & HAT. CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Plumbers and Steamfitters:						
Moreau Township	$ 7.74	.35	.50		.03	
South of a line drawn through the Outlet Rd., on R. 50, East & West to the Saratoga Co. Line; including the AEC and Malta Projects	8.80	.45	.75		.10	
Remainder of County	6.60	.30	.25			
Roofers	8.30	.65	.30		.02	
Sheet Metal Workers	8.80	.40	.30		.05	
Sprinkler Fitters	8.75	.30	.50		.05	
Truck Drivers:						
Straight, winch, transit-mix on job site, road oilers, dump, pick-up, panel, water and fuel trucks on site	7.09	.37	.37	f	.02	
Euclids	7.34	.37	.37	f	.02	
Lowboy or lowboy trailers	7.24	.37	.37	f	.02	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holiday: E, provided the employee works the day after the holiday.

b. Holidays: A thru F.

c. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A thru F, Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

e. Holidays: A thru F; Washington's Birthday, Election Day for the President of the United States and Election of Governor of New York (provided the employee works the day before and the day after the holiday).

f. One week vacation after one year's work; 2 weeks after 5 years work.

g. Holiday: D, providing employee was on the payroll the week before the holiday or on the payroll the week after the holiday.

h. Employer contributes $15.00 per year to an apprentice training program.

i. Employer contributes $.50 to an annuity fund.

j. Holidays: D & E, plus two hours on Election Day.

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Laborers and driller helpers	$6.26	.50	.65	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete boatman, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, hull float tamper, pipelayers	6.46	.50	.65	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	6.66	.50	.65	a		
Blasters, form setters, stone or granite curb setters	6.86	.50	.65	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators:						
Oilers	$7.91	.70	.40	a	.10	
Firemen and heavy duty greasers, all boilers and steam generators	7.96	.70	.40	a	.10	
Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over	8.05	.70	.40	a	.10	
Dinkey locomotives, Barber Greene loaders, Loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers	8.22	.70	.40	a	.10	
Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, trenchexcavators, core and well drillers (one drum), econosobile and similar type machines, elevators, A-L frame winches, power hoisting(single drum)	8.49	.70	.40	a	.10	
LeTourneau graders or scrapers, trenching machines, push cart	8.605	.70	.40	a	.10	
Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hystors, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CMB Vibrotamp or similar machines, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master) euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt concrete plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine	8.76	.70	.40	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day
D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

HEAVY AND HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS:						
Automatic fine grader, backhoe (except tractor mounted, rubber-tired), blacktop, plant (automated), cableway, caisson auger, central mix concrete plant (automated), Cherry picker-over 5 tons capacity, crane, cranes & derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 C.Y. & over), hoist, two or three drums pile-driver, power grader with elevating loader attachment, Quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$8.15	.70	.40	a	.10	
Backhoe (tractor mounted, rubber-tired) bituminous spreader & mixer, blacktop plant (non-automated), boring machine cage hoist, central mix plant (non-automated) & all concrete batching plants, cherry picker-5 tons & under, compressors (4 or less) exceeding 2,000 C.F.M. combined capacity, concrete paver (over 16-S), concrete pump, crusher, drill rigs, tractor mountcd, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs., & over), hoist, one drum, Kolman plant loader & similar type loaders (if employer requires another man to clean screen or to maintain the equipment he shall be an oiler), maintenance engineer, mixer for stabilized base, self, propelled, monorail machine plant engineer, power grader, pump crete, ready-mix concrete plant, maintenance grease man, road widener, roller (all above subgrade), side boom, tractor scraper, tractor with dozer &/or pusher, winch	7.85	.70	.40	a	.10	
Compressors (4 not to exceed 2,000 C.F.M. combined capacity; or 3 or less with more than 1,200 C.F.M., but not to exceed 2,000 C.F.M. compressors (any size but subject to other provision for compressors), dust collectors, generators, pumps, welding machines						

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HEAVY AND HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS: (cont'd) (4 of any type or combination), concrete pavement spreaders & finishers conveyor, drill core & well, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift gunnite machine, hammers, hydraulic self-propelled, locomotive, post hole digger & post driver, roller (grader & fill), tractor with towed accessories, vibratory compactor, vibro, tamp, well point	7.35	.70	.40	a	.10	
Aggregate plant, boiler (used in conjunction with production), cement bin operator, compressors; 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16-S and under), concrete saw-self-propelled, firemen, form tamper, mulching machine, oiler, power broom power heaterman, revinius widener, steam cleaner, tractor	6.70	.70	.40	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; providing employee works the working day before and the working day after the holiday.

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS: Warehouse, yardmen, truck helpers, pick-ups, panel trucks, flatbody material trucks (straight jobs), single axle dump, dumpsters, material checkers and receivers, greasers, fireman, mechanic helpers and parts chaser	$6.46	.45	.40	a		
Tandems and batch trucks, mechanics dispatcher	6.51	.45	.40	a		
Semi-trailers, lowboy trucks asphalt distributor, agitator, mixer trucks and dumpcrete type vehicles	6.56	.45	.40	a		
Specialized earth moving equipment, Euclid type or similar off-highway equipment, where not self-loaded	6.71	.45	.40	a		
Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self-loaded	6.86	.45	.40	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, provided employee has worked the working day before and the working day after the holiday.

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: AQ-92
Supersedes Decision No. AP-346, dated September 29, 1972, in 37 FR 20497.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
BRICKLAYERS	$7.25				
CARPENTERS	7.00				
CEMENT MASONS	6.05				
ELECTRICIANS	7.38	.25	1%		1/2%
LABORERS:					
Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Wheeler & Gray Counties:					
Laborers	3.50				
Mason tenders	3.65				
Potter, Carson, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Castro, Swisher & Childress Counties:					
Laborers	3.00				
Mason tenders	3.15				
PAINTERS	5.80		.15		
PLUMBERS	7.03	.25	.30	.35	
SHEET METAL WORKERS	5.08		.10		.04
TILE SETTERS	4.60				

DECISION NO. AQ-92

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Air Tool Man	$2.50				
Asphalt Hesterman	3.35				
Asphalt Raker	3.70				
Batching Plant Scaleman	4.10				
Carpenter	3.50				
Carpenter Helper	3.05				
Concrete Finisher (Paving)	4.00				
Concrete Finisher Helper (Paving)	3.40				
Concrete Finisher (Structures)	4.13				
Concrete Rubber	3.50				
Electrician	6.90				
Form Builder (Structures)	4.40				
Form Builder Helper (Structures)	2.75				
Form Liner (Paving and Curb)	4.00				
Form Setter (Paving and Curb)	3.50				
Form Setter Helper (Paving and Curb)	3.25				
Form Setter (Structures)	4.55				
Form Setter Helper (Structures)	3.30				
Laborer, Common	2.40				
Laborer, Utility Man	2.85				
Mechanic	3.85				
Oiler	3.50				
Serviceman	3.40				
Painter (Structures)	3.65				
Pipelayer	2.60				
Pipelayer Helper	2.50				
Powderman	3.75				
Reinforcing Steel Setter (Paving)	3.25				
Reinforcing Steel Setter (Structures)	4.00				
Sign Erector	3.00				
Sign Erector Helper	2.50				
Spreader Box Man	3.20				
Swamper	2.40				
Power Equipment Operators:					
Asphalt Distributor	3.75				
Asphalt Paving Machine	4.20				
Broom or Sweeper Operator	2.55				
Bulldozer, 150 HP and Less	3.50				
Bulldozer, over 150 HP	3.95				

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DECISION NO AQ-92

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators (Cont'd):					
Concrete Paving Finishing Machine	$4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.60				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	4.55				
Crusher or Screening Plant Operator	3.70				
Foundation Drill Operator (Truck Mounted)	3.90				
Front End Loader (2½ CY and Less)	3.45				
Front End Loader (Over 2½ CY)	4.10				
Motor Grader Operator, Fine Grade	4.55				
Motor Grader Operator	3.95				
Roller, Steel Wheel (Plant-Mix Pavements)	3.45				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	2.95				
Scrapers (17 CY and Less)	3.30				
Scrapers (Over 17 CY)	3.95				
Tractor (Crawler Type) 150 HP and Less	2.90				
Tractor (Crawler Type) over 150 HP	3.35				
Tractor (Pneumatic) 80 HP and Less	2.85				
Tractor (Pneumatic) over 80 HP	3.00				
Traveling Mixer	3.55				
Trenching Machine, Light	3.00				
Trenching Machine, Heavy	4.40				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.15				
Truck Drivers:					
Single Axle, Light	2.75				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	2.40				
Transit-Mix	3.30				
Weighman (Truck Scales)	2.40				
Welder	4.55				

SUPERSEDEAS DECISION

STATE: Utah COUNTIES: Statewide
DECISION NUMBERS: AQ-1101 DATE: Date of Publication
Supersedes Decision No. AQ-1069 dated January 11, 1974, in 39 FR 17225
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories) heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$7.45	.50	.72		
BOILERMAKERS	7.70	.65	1.00	.50	.02
BRICKLAYERS	8.44	.24	.22		.07
CARPENTERS:					
Zone 1: (40 road miles or less from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal)	7.24	.45	.45	.25	.03
Zone 2: (Beyond 40 thru 50 road miles from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal)	7.99	.45	.45	.25	.03
Zone 3: (Beyond 50 thru 60 road miles from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal)	8.115	.45	.45	.25	.03
Zone 4: (Over 60 road miles from Brigham City-Cedar City-Kanab-Logan-Ogden-Price-Provo-Richfield-Salt Lake City-Vernal)	8.24	.45	.45	.25	.03
Saw filers; Saw operators, and Carpenters handling creosote materials:					
Zone 1	7.365	.45	.45	.25	.03
Zone 2	8.115	.45	.45	.25	.03
Zone 3	8.24	.45	.45	.25	.03
Zone 4	8.365	.45	.45	.25	.03
Millwrights (all zones)	7.49	.45	.45	.25	.03
Acoustical Carpenters (all zones)	7.24	.45	.45	.25	.03
CEMENT MASONS:					
Cement Masons	7.02	.45	.45	.25	
Machine operator; Mastic floor materials; Swing scaffold; Swing stage	7.145	.45	.45	.25	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DRYWALL INSTALLERS:					
Taping, finishing and texturing (hand or machine)	$7.96	.21	.20		.02
ELECTRICIANS:					
Zone I					
Cache-Davis Counties (north of 41st parallel)-Weber County:					
Electricians	8.58	.30	1%+.25		8/10%
Cable Splicers	8.83	.30	1%+.25		8/10%
Zone II					
Box Elder County (east of 112.5° longitude)-Morgan County:					
Electricians	9.08	.30	1%+.25		8/10%
Cable Splicers	9.33	.30	1%+.25		8/10%
Zone III					
Box Elder County (west of 112.5° longitude)-Rich County:					
Electricians	10.58	.30	1%+.25		8/10%
Cable Splicers	10.83	.30	1%+.25		8/10%
On any job or project not exceeding $35,000 electrical, labor and material incl., Zone 1 rates shall apply					
Salt Lake County and that portion of Davis County lying south of 41st parallel; and that portion of Utah County lying north of the 40th parallel.					
10 miles East or West from Interstate Hwy. #15:					
Electricians	8.58	.30	1%+.25		8/10%
Cable Splicers	8.83	.30	1%+.25		8/10%
Over 10 miles East or West from Interstate Hwy. #15:					
Electricians	9.08	.30	1%+.25		8/10%
Cable Splicers	9.33	.30	1%+.25		8/10%
Remainder of State:					
Electricians	10.58	.30	1%+.25		8/10%
Cable Splicers	10.83	.30	1%+.25		8/10%

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
ELEVATOR CONSTRUCTORS	$7.23	.345	.23	2%+r.	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Weber and Davis (North of the 41st parallel) Counties	6.65	.245		.515	
Davis (South of the 41st parallel) and Remaining Counties	6.51	.21		.69	
IRONWORKERS:					
Ornamental-Reinforcing-Fence Erector-Structural	7.53	.50	.65		.05
LATHERS	7.04	.45	.50		.01
MARBLE SETTERS	6.30			b	
PAINTERS:					
Area North of 41st parallel:					
Brush; Roller; Taper	5.84	.16	.12		.01
Spray; Sandblast; Steeple Jack	6.04	.16	.12		.01
Spray (swing stage); Sandblaster (swing stage)	6.24	.16	.12		.01
Remaining part of State:					
Brush; Roller	6.62	.21	.18		.02
Brush (swing stage); Brush, (steel and bridge); Spray; Sandblaster; Steeple jack; Wall covering hanger	6.87	.21	.18		.02
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	7.12	.21	.18		.02
PILEDRIVERMEN:					
Bridge, Wharf, and Dock Carpenters, Riggers, Boom Men	6.38	.45	.45	.25	.03
PLASTERERS	7.56	.45	.45		.01
PLUMBERS; Pipefitters:					
Zone 1 - 15 miles radius from center of each city, namely Salt Lake City, Ogden and Provo	7.50	.36	.50		.04
Zone 2 - Zone 1 plus 15 miles	7.80	.36	.50		.04
Zone 3 - Zone 2 plus 15 miles	8.15	.36	.50		.04
Zone 4 - All areas beyond Zone 3	9.00	.36	.50		.04

AQ-1101 P. 4

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
REFRIGERATION & AIR CONDITIONING:					
50 tons or over:					
Zone 1 - 15 mi. radius from center of each city, namely Salt Lake City, Ogden and Provo	7.50	.36	.50		.04
Zone 2 - Zone 1 plus 15 miles	7.80	.36	.50		.04
Zone 3 - Zone 2 plus 15 miles	8.15	.36	.50		.04
Zone 4 - All areas beyond Zone 3	9.00	.36	.50		.04
Under 50 tons:					
All Zones	6.45	.36	.50		.04
ROOFERS	6.85	.15	.15		.02
SHEET METAL WORKERS	7.32	.31	.20		
SOFT FLOOR LAYERS	7.30	.21	.12		.05
SPRINKLER FITTERS	8.30	.30	.50		
TERRAZZO WORKERS	6.70			.25	
TILE SETTERS	6.70			.25	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays;

b. 6 Paid Holidays plus Washington's Birthday

UTAH-LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION:						
Lineman	$7.03	.25	1%		3/4%	
Cable splicers	7.72	.25	1%		3/4%	
Line equipment operators	6.34	.25	1%		3/4%	
Groundman	5.25	.25	1%		3/4%	
Line equipment mechanic; Line equipment serviceman	6.24	.25	1%		3/4%	

AQ-1101 P. 5

POWER EQUIPMENT OPERATORS (Piledriving)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
GROUP 1-a: Assistant to Engineer (Fireman, Oiler, Deckhand)	$ 6.69	.57	.725	.30	.10	
GROUP 1-b: Compressor Operator (electrically, gas or diesel powered, etc.)	6.96	.57	.725	.30	.10	
GROUP 1-c: Truck Crane Oiler	7.08	.57	.725	.30	.10	
GROUP 2-a: Operator of Tugger Hoist (hoisting materials only)	7.59	.57	.725	.30	.10	
GROUP 2-b: Compressor Operator (2 to 6) (electrically, gas or diesel powered); Generator Operator (electrically, gas or diesel driven, 100 KW; Pump Operator (2 to 6); Welding Machine Operator (2 to 6) (gas or diesel powered)	7.76	.57	.725	.30	.10	
GROUP 3: "A" Frames; Deck Engineer; Fork Lift Operator; Self-propelled Boom Type Lifting Device	8.00	.57	.725	.30	.10	
GROUP 3-a: Heavy Duty Repairman and/or Welder	8.31	.57	.725	.30	.10	
GROUP 4: Operating Engineer in lieu of assistant to engineer tending boiler or compressor attached to crane piledriver; Operator of Piledriving Rigs, Skid or Floating & Derrick Barges; Operator of Diesel or gasoline powered Crane Piledriver (w/o boiler) up to & incl. 1 cu. yd. rating; Truck Crane Op. (up to & incl. 25 tons) (hoisting material only) (Assistant to engineer required) (not driving piles)	8.76	.57	.725	.30	.10	
GROUP 5: Operator of diesel or gasoline powered Crane Piledriver (w/o boiler) over 1 cu. yd. rating; Operator of Crane (w/steam, flash boiler, pump or compressor attached); Operator of steam powered crawler or universal type driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (Hoisting material or performing piledriving work)	8.88	.57	.725	.30	.10	

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POWER EQUIPMENT OPERATORS (Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1 Assistant to Engineer (Oiler)	$ 7.05	.57	.725	.30	.10
Group 2 Assistant to Engineer (Truck Crane Oiler); Compressor; Generator, gasoline or diesel driven (100 KW)	7.36	.57	.725	.30	.10
Group 3 Compressors, Generators and/or Welding Machines or Combination (2 to 6); Deck Engineer; Instrument Man; Signalman (using mechanical equipment); Fork Lift	8.17	.57	.725	.30	.10
Group 4 Heavy Duty Repairman; Tractor Op.	8.29	.57	.725	.30	.10
Group 4-A Combination Heavy Duty Repairman; Welder	8.52	.57	.725	.30	.10
Group 5 "A" Frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes & Truck Cranes (15 tons m.r.c. or less) Self-propelled Boom Type Lifting Device; Single Drum Hoist; Tugger Hoist; Chief of Party	8.91	.57	.725	.30	.10
Group 6 Crawler Cranes & Truck Cranes (over 15 tons m.r.c.); Derricks (2 ops. required when swing engine remote from hoist); Highline Cableway Mobile; Universal Liebher & Tower Cranes (& similar types) (In the erection, dismantling & moving of equipment, there shall be an additional Operating Engineer); Two or more Drum Hoist	9.24	.57	.725	.30	.10

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TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payment			
			H & W	Pensions	Vacation	Apr. Tr.
	AREA I	AREA II				
DUMP TRUCKS - Water Level Capacity (Bottom end or side) (including Dumpster Trucks, Euclid Type trucks, Turnawagons, Turnarockers and Dumpcrete)						
Less than 8 yds.	$6.75	$7.75	.45	.30	.45	.05
8 yds. and less than 14 yds.	6.90	7.90	.45	.30	.45	.05
14 yds. and less than 35 yd.	7.05	8.05	.45	.30	.45	.05
35 yds. and less than 55 yds.	7.25	8.25	.45	.30	.45	.05
55 yds. and less than 75 yds.	7.45	8.45	.45	.30	.45	.05
75 yds. and less than 95 yds.	7.65	8.65	.45	.30	.45	.05
95 yds. and less than 105 yds.	7.85	8.85	.45	.30	.45	.05
Over 105 yds.	7.97	8.97	.45	.30	.45	.05
When doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour.						
When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit.						
Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment.						
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (carrying capacity);						
Pickup	6.575	7.575	.45	.30	.45	.05
Less than 10 tons	6.65	7.65	.45	.30	.45	.05
10 tons and less than 15 tons	6.80	7.80	.45	.30	.45	.05
15 tons and less than 20 tons	6.90	7.90	.45	.30	.45	.05
20 tons and over	7.05	8.05	.45	.30	.45	.05
Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachments or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frame are in use.						
When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall receive $.15 per hour additional for actual hours worked.						
TRANSIT MIX TRUCKS:						
4½ yds. capacity and less	$6.775	$7.775	.45	.30	.45	.05
Over 4½ yds. capacity to & incl. 6½ yds.	6.875	7.875	.45	.30	.45	.05
Over 6½ yds.	6.975	7.975	.45	.30	.45	.05
Concrete Pumping Trucks	6.975	7.975	.45	.30	.45	.05
WATER, FUEL & OIL TANK TRUCKS:						
0 to 1200 gals.	6.625	7.625	.45	.30	.45	.05
1200 to 2500 gals.	6.75	7.75	.45	.30	.45	.05
2500 to 4000 gals.	6.90	7.90	.45	.30	.45	.05
4000 to 6000 gals.	7.20	8.20	.45	.30	.45	.05
6000 gals to less than 10,000 gals.	7.45	8.45	.45	.30	.45	.05
10,000 gals. to less than 15,000 gals.	7.70	8.70	.45	.30	.45	.05
15,000 gals. to less than 20,000 gals.	7.95	8.95	.45	.30	.45	.05
20,000 gals. to less than 25,000 gals.	8.20	9.20	.45	.30	.45	.05
Over 25,000 gals.	8.45	9.45	.45	.30	.45	.05
Whenever two water tanks are pulled, driver will receive 25¢ per hour in addition to the combined water gallonage rates.						
Oil Spreader Operator (on single man operation where boot man is not required)	7.45	8.45	.45	.30	.45	.05
CONSTRUCTION JOB SERVICEMEN:						
Telescopic Manlift Truck	6.95	7.95	.45	.30	.45	.05
Fork Lift (under 6 tons) & Straddle Truck	6.95	7.95	.45	.30	.45	.05
Truck Driver Helper	6.525	7.525	.45	.30	.45	.05
Chauffeurs	6.525	7.525	.45	.30	.45	.05
Bunkers and Truck Loaders	6.65	7.65	.45	.30	.45	.05
Warehousemen (Counter Clerk)	6.70	7.70	.45	.30	.45	.05
Warehousemen	6.575	7.575	.45	.30	.45	.05
Washers, Greasers and Tiremen	6.725	7.725	.45	.30	.45	.05
Gas Station Attendants	6.525	7.525	.45	.30	.45	.05
Fork Lift (Over 6 tons)	7.05	8.05	.45	.30	.45	.05
Material Engineer	6.87	7.87	.45	.30	.45	.05
Teamster Mechanic	7.76	8.76	.45	.30	.45	.05
Teamster Mechanic Helper	7.51	8.51	.45	.30	.45	.05
Teamster Welder	7.76	8.76	.45	.30	.45	.05
Teamster Driving Two Horses	7.525	8.525	.45	.30	.45	.05
Teamster Driving Three or more Horses	7.625	8.625	.45	.30	.45	.05
Sweeper or Vacuum Truck	6.90	7.90	.45	.30	.45	.05

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefi.. Payments			
			H & W	Pensions	Vacation	App. Tr.
	AREA 1	AREA 2				
LABORERS*						
GROUP 1:	$ 5.255	$ 6.005	.25	.25	.30	.04
GROUP 2:	5.38	6.13	.25	.25	.30	.04
GROUP 3:	5.505	6.255	.25	.25	.30	.04
GROUP 4:	5.63	6.38	.25	.25	.30	.04
GROUP 5:	5.98	6.78	.25	.25	.30	.04
LABORERS** (Tunnel and Shaft Work)						
GROUP 1:	5.38	6.13	.25	.25	.30	.04
GROUP 2:	5.48	6.23	.25	.25	.30	.04
GROUP 3:	5.58	6.33	.25	.25	.30	.04
GROUP 4:	5.68	6.43	.25	.25	.30	.04
GROUP 5:	5.98	6.73	.25	.25	.30	.04
POWER EQUIPMENT OPERATORS*** (Except Piledriving & Steel Erection)						
GROUP 1:	6.01	7.01	.57	.725	.30	.10
GROUP 2:	6.26	7.26	.57	.725	.30	.10
GROUP 3:	6.58	7.58	.57	.725	.30	.10
GROUP 4:	6.74	7.74	.57	.725	.30	.10
GROUP 5:	6.84	7.84	.57	.725	.30	.10
GROUP 6:	7.25	8.25	.57	.725	.30	.10
GROUP 7:	7.38	8.38	.57	.725	.30	.10
GROUP 7-A:	7.48	8.48	.57	.725	.30	.10
GROUP 8:	7.75	8.75	.57	.725	.30	.10
GROUP 8-A:	7.80	8.80	.57	.725	.30	.10
GROUP 9:	7.85	8.85	.57	.725	.30	.10
GROUP 10:	8.00	9.00	.57	.725	.30	.10
GROUP 11:	8.39	9.39	.57	.725	.30	.10
GROUP 11-A:	9.25	10.25	.57	.725	.30	.10
GROUP 11-B:	9.65	10.65	.57	.725	.30	.10

* LABORERS

GROUP I: Boxman; Carpenter Tender; Cement Finisher Helper; Chat Boxman; Choker Setter; Clearing and Grading; Cleaning of equipment and parts in connection with concrete; Concrete Crew; Dock-hand and Cleaning Man; Fence Erector and Installer (includes installation and erection of fencee, guard rails, median rails, reference post, guide post, and right-of-way markers); Flagman; Form Stripper; Gardener Helper; General Laborer; Grizzley Op. (whether by power or hand); Group Pump Op.; Heater Tender; Helpers (all not herein separately classified); House Movers; Landscaping Helper; Laborers on Wrecking and Demolition; Nurserymen Helper; Prewaterman; Riprap man (hand placed); Sloper, Spreader and Weighman; Stake Jumper; Stripping and Cleaning of steel and pans; Tool Dispatcher and Checker (full time); Unloading and packing of reinforcing steel rods and mesh

GROUP II: Air-track Helper; Asphalt Rakers and Ironers; Dumpman; Gunnite Reboundman; Metal Form Setter (airport paving and highway); Pipe Wrapper; Pot Tender and Joint Maker; Rollers; Screen and Clean-up Man; Signal and Dumpman on Concrete Construction; Tunnel and Belt Man

GROUP III: Barko Vibratory Roller and similar type compacting machines; Concrete Cutting Torch; Hand and Chain Saw Op. (Bucking and Falling Timbers); High Pressure Water Nozzleman; J Tampers and similar type tampers; Jackhammer and Pavement Breaker; Mortar and Grout Mixer; Multi-plate Installer; Op. of pneumatic and electric tools and compressors and concrete saw; Op. of Power-Type Form Cleaner and Oiling Machine; Pipelayer; Powderman Helper; Power Type Buggies; Pumpcrete Op.; Refinery Tank and Vessel Cleaners; Sand-Blasters; Sandblaster Pot Tender; Vibrator Op.; Work of all type using cutting torches and tools needed in wrecking

GROUP IV: Air-track and Core Diamond Drillers; Drill Mechanic (on job site); High Scaler operating jackhammer or breaker; Mailu Vibrators and similar types 70 lbs.; Multiple Side Boom Driller; Wagon Driller

GROUP V: Gunnite Groundman; Gunnite Nozzleman; Gunnite Rodman; Powderman

** TUNNEL AND SHAFT WORK

GROUP I: Underground Laborers

GROUP II: Brakeman; Chucktender; Dumpman; Powderman Helper; Puddler

GROUP III: Nipper; Screedman; Vibrator; Tapman

GROUP IV: Cutting Machine Op.; Drill Doctor Finisher; Gunnite Gunman; Miners; Powder Make-up Man; Spader and Tuggers; Steelman; Timberman

GROUP V: Gunnite Groundman; Gunnite Nozzleman; Gunnite Rodman

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*** POWER EQUIPMENT OPERATORS

GROUP 1: Chainman; Rodman

GROUP 2: Asphalt Plant Fireman; Brakeman - Locomotive; Elevator Operator; Oiler, Boxman; Rear Chainman; Fireman; Hydraulic Monitor; Material Loader or Conveyor; Partsman - Field; Gradesetter - Repairman Helper - Field

GROUP 3: Air Compressor Operator: Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinkey Operator; Generator (100 KW or over); Mixer Box Operator (Concrete or Asphalt Plant) (continuous mix or similar); Pump Operator; Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Screedman; Truck Crane Oiler

GROUP 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper - Multiple Purpose; Front End Loader up to and including 1 c.y. Struck MRC; Hoist Operator 1 Drum; Line Master; Lubrication & Service Engineer (Mobile & Grease Rack); Slip Form Pumps

GROUP 5: Air Compressor Operator (two or more Compressors); Batch Operator (Asphalt Plant); Motorman; Pavement Breaker Operator (Emsco & similar type); Signalman; Shuttlecar; Small Rubber Tired Tractors; Small Self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)

GROUP 6: A-Frame Truck & Tugger Hoist; Concrete Saws (self-propelled unit on streets, highways, airports and canals)1 Engineer, Locomotive; Fork lift (construction job site); Kolman Loader (and similar); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Banding Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Road Mixing Machine Operator; Rosa Carrier, or similar type; Small Rubber Tired Tractor (with attachments, including backhoe); Small Tractor with Boom; Surface Heater (self-propelled); Loader Operator (over 1 c.y. up to and including 2 c.y. struck MRC); Power Jumbo Operator (setting slip forms, etc. in tunnels); Small Rubber Tired Trenching Machine

GROUP 7: Bridge Crane; Chip Box Spreader (Flaherty type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineers (Marine); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Oper.; Fuller Kanyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as quarry master, joy drills or equal; Hoist Operator - 2 drums; Instrument Man; Mechanical Finisher Operator (Asphalt or concrete); Mine or Shaft Hoist; Pavement Breaker (Pavement Breaker with compressor combination); Pavement Breaker, Truck mounted, compressor combination; Refrigeration Plant; Self-propelled Pipeline, Wrapping Machine Perault, CRC, or similar types); Slusher Operator; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine, Truck-mounted Compressor Drill Combination; Universal Pipe Laying Machine, Drill High Lift (40 ft. or similar); Roller Operator or self-propelled compactor

POWER EQUIPMENT OPERATORS (Cont'd)

GROUP 7A: Side Boom Operator; Asphalt Plant Engineer; Engineer Crushing Plant; Tractor Operator (Bulldozer, Scraper or drag-type shovel or boom attachment) (up to and including D-7 or similar)

GROUP 8: Do-Mor Loader and Adams Elegrader; Euclid Loader and similar types; Chicago Boom (including Stiff Leg and Sheer Pole); Chief of Party; Combination Slusher and Motor Operator; Concrete Batch Plant Multiple unit); Koehring Skooper (or similar, up to 5 c.y. Struck MRC); Loader Operator over 2 c.y. up to and including 5 c.y. Struck MRC; Mucking Machine Operator; Saurman Type Dragline (under 5 c.y. Struck MRC); Self-propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Subgrader (automatic subgrader - fine - grader); Self-propelled Boom Type lifting device; Mechanical Trench Shield; Rubber Tired Scraper (under 35 c.y. Struck MRC); Tri-Batch Paver; Tunnel (Mole or similar)

GROUP 8A: Heavy Duty Repairman or Welder; Tractor Operator Bulldozer, Scraper or Drag Type Shovel or Boom Attachment Larger than D-7 or similar

GROUP 9: Combination Mixer & Compressor (Gunnite) Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity) (in the erection, dismantling and moving of equipment there shall be additional Operator Engineer)

GROUP 10: High Cableway Operator (Signalman required); Lift Slab Machine (Vagtborg and similar types); Locomotive (over 100 tons) (single or multiple units); Pre-Stress wire Wrapping Machine; Saurman type dragline (5 c.y. Struck MRC and over; Tractor Tandem Scrapers; DW 10, 20 etc. (Tandem Scraper); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell crane, gradeall, etc. (up to and including 5 c.y.) Struck MRC; Loader (over 5 c.y. up to and including 12 c.y. Struck MRC)

GROUP 11: Automatic Concrete Slip Form Paver (Gradesetter, Screedman); Koehring Skooper (or similar) (5 cu. yds. and over Struck MRC); Multiple Propulsion Power Unit Earth Movers (up to and including 75 c.y. Struck MRC); Remote Controlled Cranes and Derricks; Power Equipment with shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. Struck MRC; Rubber Tired Scraper (35 cu. yds. and over Struck MRC); Self-propelled Compactor (with multiple propulsion power units); Slip Form Paver (Concrete or asphalt) (1 operator and 2 screedmen when required); Tandem Tractors; Tower Cranes Mobile

GROUP 11A: Multi-Purpose Earth Moving Machines: (two (2) or more scrapers (over 75 c.y. Struck MRC); Power Shovels and Draglines (over 7 c.y. Struck MRC; Loader over 12 c.y. Struck MRC)

GROUP 11B: Operator of Helicopter (when used in erection work)

Power Equipment Operators and Truck Drivers

AREA 1: All areas included in the description defined below which is based upon township and range-lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah-Nevada border and the northerly line of township 36S, thence easterly along the northerly lines of township 36S to the northeast corner of township 36S, range 17W;
Thence northerly to the N.W. corner of township 35S, range 16W;
Thence easterly to the N.E. corner of township 35S, range 16W;
Thence northerly to the N.W. corner of township 31S, range 15W;
Thence easterly to the N.E. corner of township 31S, range 13W;
Thence northerly to the N.W. corner of township 26S, range 14W;
Thence easterly to the N.E. corner of township 26S, range 14W;
Thence northerly to the N.W. corner of township 25S, range 13W;
Thence easterly to the N.E. corner of township 25S, range 13W;
Thence northerly to the N.W. corner of township 24S, range 12W;
Thence easterly to the N.E. corner of township 24S, range 12W;
Thence northerly to the N.W. corner of township 19S, range 11W;
Thence easterly to the N.E. corner of township 19S, range 11W;
Thence northerly to the N.W. corner of township 17S, range 10W;
Thence easterly to the N.E. corner of township 17S, range 10W;
Thence northerly to the N.W. corner of township 16S, range 9W;
Thence easterly to the N.E. corner of township 16S, range 9W;
Thence northerly to the N.W. corner of township 15S, range 8W;
Thence easterly to the N.E. corner of township 15S, range 8W;
Thence northerly to the S.W. corner of township 7S, range 7W;
Thence westerly to the S.W. corner of township 7S, range 10W;
Thence northerly crossing the Salt Lake Base Line to the N.W. corner of township 6N, range 10W;
Thence easterly to the N.W. corner of township 6N, range 8W;
Thence northerly to the N.W. corner of township 12N, range 8W;
Thence easterly to the N.E. corner of township 12N, range 8W;
Thence northerly along the westerly line of range 7W to the Utah-Idaho Border
Thence easterly along the Utah-Idaho Border crossing the Salt Lake Meridian to the intersection of the Utah-Idaho-Wyoming Borders
Thence southerly along the Utah-Wyoming Border
Thence easterly along the Utah-Wyoming Border to the easterly line of range 11E;
Thence southerly along the east line of range 11E, crossing the Salt Lake Base Line to the N.E. corner of township 4S, range 11E;
Thence easterly to the N.W. corner of township 4S, range 18E;
Thence northerly to the N.W. corner of township 1S, range 18E;
Thence easterly along the Salt Lake Base Line to the N.E. corner of township 1S, range 24E;
Thence southerly to the N.E. corner of township 3S, range 24E;
Thence easterly along the northern line of township 3S to the Utah-Colorado border;
Thence southerly along the Utah-Colorado Border, to the southerly line of township 6S;
Thence westerly to the N.E. corner of township 7S, range 23E;
Thence southerly to the S.E. corner of township 7S, range 23E;
Thence westerly to the S.W. corner of township 7S, range 20E;

Power Equipment Operators and Truck Drivers

AREA 1: (Cont'd)

Thence southerly to the S.E. corner of township 8S, range 19E;
Thence westerly to the S.E. corner of township 8S, range 16E;
Thence southerly to the S.E. corner of township 11S, range 16E;
Thence westerly to the S.E. corner of township 11S, range 14E;
Thence southerly to the S.E. corner of township 16S, range 14E;
Thence westerly to the S.E. corner of township 16S, range 12E;
Thence southerly to the S.E. corner of township 20S, range 12E;
Thence westerly to the S.E. corner of township 20S, range 8E;
Thence southerly to the S.E. corner of township 21S, range 8E;
Thence westerly to the S.E. corner of township 21S, range 6E;
Thence southerly to the S.E. corner of township 23S, range 6E;
Thence westerly to the S.E. corner of township 23S, range 5E;
Thence southerly to the N.E. corner of township 27S, range 5E;
Thence easterly to the N.E. corner of township 27S, range 7E;
Thence southerly to the S.E. corner of township 30S, range 7E;
Thence westerly to the S.E. corner of township 30S, range 4E;
Thence southerly to the S.E. corner of township 31S, range 4E;
Thence westerly to the S.W. corner of township 31S, range 4E;
Thence southerly to the S.E. corner of township 35S, range 3E;
Thence westerly to the S.W. corner of township 35S, range 3E;
Thence southerly to the S.E. corner of township 37S, range 2E;
Thence westerly to the S.W. corner of township 37S, range 2E;
Thence southerly to the S.E. corner of township 39S, range 1E;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39S, range 2W;
Thence southerly to the S.E. corner of township 41S, range 2W;
Thence westerly to the S.E. corner of township 41S, range 4W;
Thence southerly along the easterly line of range 4W, to the Utah-Arizona Border;
Thence westerly along the Utah-Arizona Border to the S.W. corner of Utah;
Thence northerly along the Utah-Nevada Border to the point of beginning;
Commencing at the intersection of the Utah-Colorado Border and the southerly line of township 34S,
Thence westerly to the S.W. corner of township 34S, range 21E;
Thence northerly to the S.W. corner of township 29S, range 21E;
Thence westerly to the S.W. corner of township 29S, range 19E;
Thence northerly to the N.W. corner of township 23S, range 19E;
Thence easterly to the N.W. corner of township 23S, range 22E;
Thence northerly to the N.W. corner of township 21S, range 22E;
Thence easterly to the N.E. corner of township 21S, range 24E;

AREA 2: All areas not included within Area 1 as defined above.

LABORERS

AREA 1: That area of Utah within 45 road miles of the County seats excluding Daggett County.

AREA 2: That area in Utah beyond 45 miles of the County Seats including Daggett County.

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SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Amelia, Brunswick, Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan and Prince George

DECISION NO.: AQ-2108

DATE: Date of Publication

Supersedes Decision No. AM-1871, dated August 20, 1971, in 36 FR 16339.

DESCRIPTION OF WORK: Highway Construction

4-VA-3-C 1 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asphalt raker	$2.25					
Carpenter structure	3.00					
Carpenter structure helper	2.37					
Concrete finisher	3.00					
Concrete finisher helper	2.50					
Electrician	4.00					
Fireman	2.25					
Form setter road	2.75					
Guardrail erector	2.38					
Ironworkers:						
Reinforcing	2.58					
Reinfotcing helper	2.17					
Structural	3.08					
Structural helper	2.58					
Laborers unskilled	2.00					
Landscape worker	2.28					
Mason structure	2.80					
Mechanic	3.40					
Mechanic helper	2.25					
Painter	2.17					
Painter bridge	2.82					
Pile driver leadsman	2.42					
Powderman blaster	2.67					
Powderman helper	2.17					
Sign erector and pipelayer	2.00					
Truck Drivers:						
Heavy duty 7 cy. and under	2.00					
Heavy duty over 7 cy.	2.25					
Multi-rear axle	2.13					
Single-rear axle	2.00					
Welders - Rate for crafts.						
POWER EQUIPMENT OPERATORS:						
Air compressor	2.32					
Asphalt distributor	2.00					
Asphalt paver	2.50					
Backhoe	2.94					
Bulldozer	2.90					
Bulldozer utility	2.33					
Concrete finishing machine	2.63					
Concrete finishing machine utility	2.50					
Concrete paving machine	2.53					
Cranes, derricks, draglines:						
1 yard and under	3.00					
over 1 yard	3.50					

AQ-2108 P. 2

4-VA-3-C 2 of 2

POWER EQUIPMENT OPERATORS CONT'D:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Crusher feeder	2.00					
Drill operator	2.25					
Loaders:						
2 yards and under	2.97					
Over 2 yards	3.00					
Mixer box	2.10					
Motor graders:						
Fine grade	3.56					
Rough grade	3.05					
Oiler greaser	2.21					
Pile driver	2.83					
Power tool operator	2.33					
Roller	2.36					
Roller finish	2.46					
Scraper-pan	2.71					
Shovels:						
1 yard and under	2.67					
Over 1 yard	3.00					
Stabilizer operator	2.18					
Stone spreader	2.27					
Subgrade machine	2.90					
Tractor crawler	2.52					
Tractor utility	2.05					
Transit mix truck	2.10					
Trenching machine	2.43					

SUPERSEDEAS DECISION

STATE: Virginia

LOCATION: The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach, Virginia

DATE: Date of Publication

DECISION NO.: AQ-2109

Supersedes Decision No. AQ-2038, dated December 28, 1973, in 38 FR 35585.

DESCRIPTION OF WORK: Building Construction (excluding all residential construction).

65-VA-Zone-1 C 1 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$7.00	.30	.25		.01	
Boilermakers	7.55	.40	.20		.02	
Bricklayers & stone masons	6.90	.35	.20			
Bricklayers and stone masons on stack or chimneys 50' and over	7.15	.35	.20		.02	
Carpenters	6.20	.20	.20		.01	
Cement Masons:						
Cement Masons	5.80					
Cement masons, machine and scaffold men	5.90					
Electricians:						
Electricians	6.945	.5%	1%+3%		1%	
Cable splicers	6.945	.5%	1%+3%		1%	
Linemen	6.90	.25	1%		1%	
Elevator constructors	5.09	.145	.17	½+a+b	.005	
Elevator constructors' helpers	3.56	.145	.17	½+a+b	.005	
Elevator constructors' helpers (prob)	2.545					
Glaziers	5.95	.30	.10		.01	
Ironworkers:						
Structural, ornamental, machinery movers, riggers & fence erectors and reinforcing	7.10	.45	.40		.04	
Laborers:	3.90	.10	.10		.03	
Common						
Tenders, concrete saw op., air tool vibrator, nozzlemen (gunnite & sandblasting), motorized buggy op.	4.00	.10	.10		.03	
Mortar mixers, hod carriers, pipelayer and/or caulkers	4.15	.10	.10		.03	
Burners on wrecking	4.25	.10	.10		.03	
Lathers	6.59		.25		.01	
Marble setters	5.55	.35	.20			
Marble setters' helpers	4.15	.10	.10		.03	
Millwrights	7.25	.20	.20		.01	
Painters:	6.45		.20			
Brush and roller						
Structural steel from ground to 74 feet	6.95		.20			
Spray, paperhangers & glove work	6.80		.20			
Any work over 74 feet from the ground	7.75		.20			
Bituminous coating & hot creosote	8.10		.20			
Swing stage under 40 ft.	6.70		.20			
Swing stage over over 40 ft. up to 74 ft.	6.95		.20			
Sandblasting	7.20		.20			
Epoxy - brushed or rolled	6.70		.20			
Rollers with handles 6' and over	6.70		.20			

AQ-2109 P. 2

65-VA-Zone-1 C 2 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen & dock builders	$5.65	.20	.20		.01	
Plasterers	7.45				.05	
Plumbers & Steamfitters	6.51	.40	.35			
Roofers:	4.85					
Composition	3.45					
Helpers	6.10	.35	.20			
Sheet metal workers	6.20	.20	.20		.01	
Soft floor layers	7.37	.40	.60		.07	
Sprinkler fitters	5.55	.35	.20			
Terrazzo workers	4.30	.10	.10		.03	
Floor grinders	4.30	.10	.10		.03	
Base grinders	4.15	.10	.10		.03	
Terrazzo workers; helpers	5.55	.35	.20			
Tile setters	4.15	.10	.10		.03	
Tile setters' helpers						
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years service as Vacation Pay Credit
b. Holidays: A through F.

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AQ-2102 P. 3

63-VA-PEO-1- F

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
HEAVY DUTY OPERATORS Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad	$7.05	.225	.10		.05	
MEDIUM DUTY OPERATORS Cableways, tractors with attachments, combiantion front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16'S, fork lift	5.64	.225	.10		.05	
LIGHT DUTY OPERATORS Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-ton power plant, generator (1200 KW or larger), pumps (over 2 inches, including welpoints), A-frame trucks, trucks, mechanic's helper	4.76	.225	.10		.05	
Firemen	4.58	.225	.10		.05	
Oilers	4.41	.225	.10		.05	

SUPERSEDEAS DECISION

STATE: Washington, D. C.
DECISION NO.: AQ-2110
Supersedes Decision No. AQ-2035, dated December 21, 1973, in 38 FR 35218.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4-stories), Highway Construction and Sewer and Water Lines.

LATE: Date of Publication

1-DC-1-2 F 1 of 3

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.00	.35	.55		.015	
Boilermakers - Blacksmiths	8.65	.60	.70		.02	
Bricklayers	9.55	.45	.45		.10	
Carpenters	8.50	.35	.39		.07	
Cement Masons:						
Cement Masons	8.05	.255	.28		.05	
Grinding Machine	8.25	.255	.28		.05	
Electricians	9.25	.35	1%+.35		.10	
Elevator Constructors	8.58	.345	.23	2%+a&b	.015	
Elevator Constructors Helpers	6.01	.345	.23	2%+a&b	.015	
Elevator Constructors Helpers (Prob)	4.29					
Glaziers	7.58	.46	.40			
Ironworkers:						
Structural, Ornamental & Chain Link Fence	8.70	.47	.50		.03	
Reinforcing	7.95	.35	.25		.03	
Laborers:						
Common Laborers, Landscapers	6.32	.28	.35		.05	
Acetylene Burners Used on Wrecking	6.82	.28	.35		.05	
Air Tool Oper., Scaffold Builders, Paving Breakers, Towmasters, Buggy Mobiles, Spaders, Mortarmen and Scootcretes	6.47	.28	.35		.05	
Pipelayers	6.47	.28	.35		.05	
Plasterers' Tenders	6.73	.32	.25		.05	
Plumbers' Laborers	5.42	.30	.15		.03	
Powdermen	7.495	.28	.35		.05	
Powersaw, Well Points	6.57	.28	.35		.05	
Lathers	8.42	.40	.40		.025	
Lead Burners	8.75	.30		d	.01	
Line Construction:						
Linemen, Cable Splicers, Equipment Operators	9.71	.25	1%		1%	
Truck With Winch, Truck Pole or Steel Handling	6.96	.25	1%		1%	
Groundmen (0 to 1 year)	5.54	.25	1%		1%	
Groundmen (1 to 2 years)	6.45	.25	1%		1%	
Groundmen (over 2 years)	6.70	.25	1%		1%	
Marble Setters	9.00	.35	.25			
Marble Setters' Helpers	7.35					
Millwrights	8.81	.35	.39		.07	
Painters:						
Brush, Spray, Paperhangers, Tapers Steel, Sandblasting, Swing Stage, Power Brushing	8.03	.41	.18		.06	
	8.36	.41	.18		.06	
Carpet layers	5.75	.25			.05	

AQ-2110 P. 2

1-DC-1-2 F 2 of 3

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Piledrivermen	$8.655	.35	.39		.07	
Plasterers	8.50	.45	.25		.06	
Plumbers	8.96	.50	.50		.15	
Roofers:						
Composition	7.12	.39	.20			
Slate, Tile, Mopmen, Waterproofers, Sprayers, Sprandrel & Ironite	7.65	.39	.20			
Helpers	5.19	.39	.20		.10	
Sheet Metal Workers	8.58	.64	.74		.07	
Soft Floor Layers	8.50	.35	.39		.07	
Sprinkler Fitters	8.90	.40	.60		.07	
Steamfitters, Refrigeration & Air Conditioning Mechanic	8.88	.52	.59		.12	
Stone Masons	9.00	.35	.25			
Sone Cutters:						
Fitters & trimmers	9.35	.18	.20			
Ornamental carvers	8.87	.18	.20	h		
Figure carvers	9.43	.18	.20	h		
Terrazzo & Mosaic Workers	8.81	.40	.30			
Terrazzo Workers' Helpers	7.10	e	.20			
Tile Setters	8.81	.40	.30			
Tile Setters Helpers	7.10	e	.20			
Truck Drivers:						
Boom Trucks	6.40	.25	f	G+J		
Small Dump, Water Sprinkler, Grease & Oil	6.15	.25	f	G+J		
Flat, Pick-up Hauling Materials, Small Euclids, Dump Over 8 Wheels	6.25	.25	f	G+J		
Trailers, Low-Boys, Tractor Pulls	6.45	.25	f	G+J		
Helpers	6.00	.25	f	G+J		
Carryalls, Large Euclids, Eculid Water Sprinkler, Tunnel Work Under Ground	6.55	.25	f	G+J		
Mechanics	6.30	.25	f	G+J		
Riggers & Welders- Receive rates prescribed for crafts performing operations to which rigging & welding are incidental.						

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39 FR 15688 May 3, 1974

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years service as vacation pay credit.

c. Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve (provided employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regularly schedule work days immediately preceding and following the holiday).

e. Employer contributes $37.92 per man per month.

f. $8.00 per week when employee has worked 90 days and works 3 days in a work week.

g. Holidays: A - D- E and F (provided the employee works the regularly scheduled work days immediately preceding and following the holiday).

h. Five paid holidays: Labor Day, Veteran's Day; Thanksgiving Day, Christmas Day and New Year's Day.

j. One week's paid vacation providing employee has worked 3 years and a minimum of 1450 hours during any calendar year.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators:						
35 ton cranes & above, tower & climbing cranes	$8.775	.35	.35		.10	
Backhoes, boom cats, cableways, cranes or derricks, draglines, elevating graders, hoists, elevator (permanent) paving mixers, piledriving engines, power shovels, tunnel shovels, mucking machines, batch plants, concrete pumps, locomotives (standard narrow gauge), power driven wheel scoops & scrapers 50 cu. yds. struck capacity or above, multiple concrete conveyors	8.525	.35	.35		.10	
Hydrocrane, and all other hydraulic cranes 12 tons or under	8.475	.35	.35		.10	
Hydraulic backhoes, under ½ yd., mounted on tractors	8.375	.35	.35		.10	
Front end loader (over 3½ cu. yds.)	8.525	.35	.35		.10	
Front end loader (over 2-3/4 cu. yds. to and including 3-½ cu. yds.)	8.375	.35	.35		.10	
Front end loaders (Hi-lift), fork lifts	8.125	.35	.35		.10	
Air compressors (on steel)	8.195	.35	.35		.10	
Air compressors (except on steel), concrete mixers, mechanics & maintenance men, pumps, tunnel mechanics, tunnel motormen, welding machines, well points	7.945	.35	.35		.10	
Boilers (skeleton), trenching machines, tug boats, well drilling machines	8.145	.35	.35		.10	
Power driven wheel scoops & scrapers under 50 cu. yds. struck capacity blade graders, bulldozers, motor graders	7.925	.35	.35		.10	
Rollers, asphalt spreaders, bull float finishing machines, concrete spreaders, concrete finishing machines, fine graders, form graders, concrete saws	7.725	.35	.35		.10	
Apprentice engineers:						
Firemen	7.065	.35	.35		.10	
Truck crane oilers	6.945	.35	.35		.10	
Oilers	6.895	.35	.35		.10	

SEWER AND WATER LINES	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers	$9.55	.45	.45		.10	
Carpenters	8.50	.35	.39		.07	
Cement masons	8.05	.255	.28		.05	
Ironworkers, reinforcing	7.95	.35	.25		.03	
Piledrivermen	8.655	.35	.39		.07	
Plumbers	8.96	.50	.50		.15	
Power Equipment Operators:						
Backhoes, cable ways, cranes, draglines power shovels, tunnel shovels, tunnel mucking machines, derricks, 1 c.y. & over	7.29	.35	.35		.05	
Backhoes, cableways, cranes derricks, draglines, tunnel shovels, tunnel mucking machines up to 1 c.y., boom cats, elevating graders, hoists, paving mixers, piledriving engines,	7.04	.35	.35		.05	
Ditch plants, concrete pumps	6.84	.35	.35		.05	
Trenching machines (above 8'3")	6.92	.35	.35		.05	
Backhoes (hydraulic, under ¾ c.y.)						
Trenching machines (up to 8'3"), boilers skeleton, well drilling machines	6.74	.35	.35		.05	
Air Compressors, tunnel	6.71	.35	.35		.05	
Front end loaders (high lift), Bulldozers	6.69	.35	.35		.05	
Concrete mixers, power shovel scoops and scrapers, mortor graders, tunnel motor men, blade graders, tunnel mechanics	6.59	.35	.35		.05	
Mechanics	6.57	.35	.35		.05	
Bulldozer, hydraulic tampers	6.49	.35	.35		.05	
Roller	6.39	.35	.35		.05	
Air compressors, pump, welding machines well points	6.315	.35	.35		.05	
Apprentice Engineers:						
Firemen	5.85	.35	.35		.05	
Truck crane oilers	5.70	.35	.35		.05	
Oilers	5.65	.35	.35		.05	
Truck drivers:						
Dump trucks	2.75	.12	c			
Dump trucks over 8 wheels	2.85	.12	c			
Flat trucks	2.85	.12	c			
Trailers	2.95	.12	c			
Fuel and oil trucks	2.75	.12	c			
Euclids	3.10	.12	c			

SEWER AND WATER LINES	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Open Cut:						
Laborers, jackhammer, rammers and spaders	$ 5.78	.28	.25		.03	
Timbermen, shooting-men, shoring-men, caulkers, pipelayers' helpers	5.93	.28	.25		.03	
Bottom man	5.83	.28	.25		.03	
Wagon drillers, air track drillers	6.13	.28	.25		.03	
Pipelayers	6.13	.28	.25		.03	
Rock drillers	5.88	.28	.25		.03	
Tunnel:						
Brakeman, ball gang, dumper, track-man, concrete man	6.415	.28	.25		.03	
Chuck tender, powder in prime hours, form setters and movers, riggers, cablemen, hosemen, grout men, bell or signal men, top or bottom, vibrator operator, caulkers' helpers	6.715	.28	.25		.03	
Miners, rodmen, re-bar underground concrete or gunite nozzlemen, powermen, timbermen and re-timbermen wood or steel including liner plate or any other support material, motor-man, caulkers, diamond drill, riggers, cement finishers (undergroun), welders and burners, shield driver	7.365	.28	.25		.03	
Mucking machine operator (air)	7.615	.28	.25		.03	

COMPRESSED AIR: (all rates per day)

Gauge Pressure Pounds	Work Period				
From 1 to 14	7 hours	72.74	a	b	.03
From 14 to 18	6 hours	76.08	a	b	.03
From 18 to 22	5½ hours	79.41	a	b	.03
From 22 to 26	5 hours	82.76	a	b	.03
From 26 to 32	4 hours	86.09	a	b	.03
From 32 to 38	3 hours	89.44	a	b	.03
From 38 to 44	2½ hours	92.77	a	b	.03

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FOOTNOTES:
a. Employer contributes $2.24 per day to Health & Welfare.

b. Employer contributes $2.00 per day to Pension.

c. $4.00 per week when employee has worked 90 days and works three days in any work week.

HIGHWAY CONSTRUCTION	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asphalt shoveler	$5.15	.22	.20			
Asphalt raker	5.35	.22	.20			
Asphalt tamper	5.25	.22	.20			
Bricklayers	9.55	.45	.45		.10	
Carpenters	8.50	.35	.39		.07	
Cement masons	5.60	.22	.20			
Concrete saw operator	5.35	.22	.20			
Concrete shoveler	5.25	.22	.20			
Form setter	5.60	.22	.20			
Laborers:						
Laborers	5.10	.22	.20			
Jackhammer	5.30	.22	.20			
Hand burner operator	5.25	.22	.20			
Power Equipment Operators:						
Concrete spreader operator, finishing machine, roller (rough), compressor, rubber tired loader (1-½ cu. yds., or less), asphalt plant mixer	5.35	.22	.20			
Loader operator tracks (2-½ cu. yds. or less), burner planer, bulldozer, mechanic or welder, rubber tired loader (over 1-½ cu. yds.)	5.55	.22	.20			
Asphalt spreader, hydraulic backhoe (½ cu.yd., or less), asphalt plant engineer, asphalt roller op., concrete breaker (machine)	5.60	.22	.20			
Crane operator, concrete paving op.	5.75	.22	.20			
Shovel operator	5.85	.22	.20			
Gradall operator (1-½ cu. yds., or less), motor grader, loader op. tracks (over 2-½ cu. yds.)	6.50	.22	.20			
C-1000 Gradall operator (over 1-½ cu.yds.)	6.75	.22	.20			
Power broom, oiler	5.25	.22	.20			
Sand setter	5.60	.22	.20			
Truck Drivers:						
Truck drivers (standard)	5.10	.22	.20			
Tandem	5.22	.22	.20			
Tractor trailer (capable of moving heavy equipment)	5.60	.22	.20			

[FR Doc.74-9898 Filed 5-2-74;8:45 am]

INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF APRIL 5, 1974

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and county. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

ABBREVIATIONS
(B)—Building Construction
(D)—Dredging Construction
(F)—Flood Control Construction
(H)—Heavy Construction
(Hw)—Highway Construction
(R)—Residential Construction
Mod.—Modification
(HE)—Heavy Engineering
(LE)—Light Engineering
(U)—Utility
(S)—Streets
(W&S)—Water and Sewer Lines

Signed at Washington, D.C. this 26th day of April 1974.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
AUTAUGA COUNTY
Decision #AQ-4088 (Hw)(Excluding Airport Construction)
39 FR 10085 - 3/15/74
(D) - See Statewide
BALDWIN COUNTY
Decision #AQ-4060 (R)
39 FR 3374 - 1/25/74
Decision #AQ-4038 (Hw)
38 FR 33215 - 11/30/73
(D) - See Statewide
(Hw) - See Autauga County
BARBOUR COUNTY
(D) - See Statewide
(Hw) - See Autauga County
BIBB COUNTY
(D) - See Statewide
(Hw) - See Autauga County
BLOUNT COUNTY
Decision #AH-448 (R)
36 FR 16359 - 8/20/71
(D) - See Statewide
(Hw) - See Autauga County
BULLOCK COUNTY
(D) - See Statewide
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BUTLER COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CALHOUN COUNTY
(Hw) - See Autauga County
(D) - See Statewide
CHAMBERS COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CHEROKEE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CHILTON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CHOCTAW COUNTY
(D) - See Statewide
(Hw) - See Autauga County

ALABAMA (Cont'd)

CLARKE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CLAY COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CLEBURNE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
COFFEE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
COLBERT COUNTY
(Hw) - See Autauga County
(D) - See Statewide
CONECUH COUNTY
(D) - See Statewide
(Hw) - See Autauga County
(R) - See Baldwin County
COOSA COUNTY
(D) - See Statewide
(Hw) - See Autauga County
COVINGTON COUNTY
(D) - See Statewide
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CRENSHAW COUNTY
(D) - See Statewide
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CULLMAN COUNTY
(D) - See Statewide
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DALE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
DALLAS COUNTY
(D) - See Statewide
(Hw) - See Autauga County
DE KALB COUNTY
(D) - See Statewide
(Hw) - See Autauga County
ELMORE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
ESCAMBIA COUNTY
(D) - See Statewide
(Hw) - See Autauga County

ALABAMA (Cont'd)

ETOWAH COUNTY
(D) - See Statewide
(Hw) - See Calhoun County
FAYETTE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
FRANKLIN COUNTY
(D) - See Statewide
(Hw) - See Autauga County
GENEVA COUNTY
(D) - See Statewide
(Hw) - See Autauga County
GREENE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
HALE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
HENRY COUNTY
(D) - See Statewide
(Hw) - See Autauga County
HOUSTON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
JACKSON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
JEFFERSON COUNTY
Decision #AQ-4095 (B)
39 FR 11817 - 3/29/74
(D) - See Statewide
(R) - See Blount County
LAMAR COUNTY
(D) - See Statewide
(Hw) - See Autauga County
LAUDERDALE COUNTY
(D) - See Statewide
LAWRENCE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
LEE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
LIMESTONE COUNTY
(D) - See Statewide
(Hw) - See Autauga County

ALABAMA (cont'd)

LOWNDES COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MACON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MADISON COUNTY
(D) - See Statewide
(Hw) - See Colbert County
MARENGO COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MARION COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MARSHALL COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MOBILE COUNTY
Decision #AQ-4096 (B)
39 FR 11819 - 3/29/74
(D) - See Statewide
(R) - See Baldwin County
MONROE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MONTGOMERY COUNTY
Decision #AP-184 (B)
38 FR 11244 - 5/4/73
Mod. # 1 - 38 FR 13103 - 5/18/73
Decision #AQ-4082 (R)
39 FR 8100 - 3/1/74
(D) - See Statewide
(Hw) - See Baldwin County
MORGAN COUNTY
(D) - See Statewide
(Hw) - See Colbert County
PERRY COUNTY
(D) - See Statewide
(Hw) - See Autauga County
PICKENS COUNTY
(D) - See Statewide
(Hw) - See Autauga County

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ALABAMA (Cont'd)

PIKE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
RANDOLPH COUNTY
(D) - See Statewide
(Hw) - See Autauga County
RUSSELL COUNTY
(D) - See Statewide
(H) - See Autauga County
SAINT CLAIR COUNTY
(D) - See Statewide
(Hw) - See Calhoun County
(R) - See Blount County
SHELBY COUNTY
(Hw) - See Calhoun County
(R) - See Blount County
SUMTER COUNTY
(D) - See Statewide
(Hw) - See Autauga County
TALLADEGA COUNTY
(D) - See Statewide
(Hw) - See Calhoun County
TALLAPOOSA COUNTY
(D) - See Statewide
(Hw) - See Autauga County
TUSCALOOSA COUNTY
(D) - See Statewide
(Hw) - See Calhoun County
WALKER COUNTY
(D) - See Statewide
(Hw) - See Calhoun County
WASHINGTON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
(R) - See Baldwin County
WILCOX COUNTY
(D) - See Statewide
(Hw) - See Autauga County
WINSTON COUNTY
(D) - See Statewide
(Hw) - See Autauga County

ALASKA

STATEWIDE
Decision #AP-902 (B, Hw, H, D)
38 FR 13127 - 5/18/73
Mod. #1 - 38 FR 24407 - 9/7/73
Mod. #2 - 38 FR 27704 - 10/5/73
Mod. #3 - 39 FR 4264 - 2/1/74
Decision #AP-903 (R)
38 FR 13133 - 5/18/73
Mod. #1 - 38 FR 24407 - 9/7/73
Mod. #2 - 38 FR 27704 - 10/5/73
Mod. #3 - 39 FR 4265 - 2/1/74

ARIZONA

STATEWIDE
Decision #AQ-1085 (B,H,Hw)
39 FR 5952 - 2/15/74
Mod. #1 - 39 FR 12582 - 4/5/74
APACHE COUNTY
Decision #AQ-1086 (R)
(Navajo and Hopi Indian Reservations Only)
39 FR 6987 - 2/22/74
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(B,H,Hw) - See Statewide
(R) - See Apache County
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AQ-1073 (R)
39 FR 4288 - 2/1/74
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
(R) - See Apache County
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AQ-1074 (R)
39 FR 4295 - 2/1/74
Mod. #1 - 39 FR 12582 - 4/5/74
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

ARKANSAS

STATEWIDE
Decision #AQ-89 (Construction, Alteration, and/or repair of streets, highways, runways, and Water & Sewer Utilities)
39 FR 11822 - 3/29/74
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
ARKANSAS COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
ASHLEY COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

CLARK COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
CLAY COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(H,Hw) - See Statewide
(D)- See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CRITTENDEN COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F(- See Arkansas County
HOT SPRING COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

JACKSON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
JOHNSON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(H,Hw) - See statewide
(D) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LONOKE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(H,Hw) - See Statewide
(D) - see Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D) - See Statewide
(H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

POPE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PRAIRIE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
Decision #AQ-7 (B)
38 FR 19631 - 7/20/73
Mod. #1 - 38 FR 29132 - 10/19/73
Mod. #2 - 38 FR 31094 - 11/9/73
Mod. #3 - 39 FR 3373 - 1/25/74
Decision #AP-356 (R)
37 FR 23489 - 11/3/72
RANDOLPH COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
SEVIER COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

XUM

ARKANSAS (CONT'D)

SHARP COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
STONE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
UNION COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
Decision #AQ-2 (B)
38 FR 18330 - 7/13/73
Mod. #1 - 38 FR 23648 - 8/31/73
Mod. #2 - 38 FR 29132 - 10/19/73
Mod. #3 - 38 FR 31753 - 11/16/73
Mod. #4 - 39 FR 3373 - 1/25/74
VAN BUREN COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(H,Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

CALIFORNIA

ALAMEDA COUNTY
Decision #AQ-1088 (B,H,Hw,D)
39 FR 8103 - 3/1/74
Mod. #1 - 39 FR 10998 - 3/22/74
Decision #AQ-1087 (R)
39 FR 7021 - 2/22/74
Mod. #1 - 39 FR 10998 - 3/22/74
ALPINE COUNTY
(B,H,Hw,D,R) - See Alameda County
AMADOR COUNTY
(B,H,Hw) - See Alameda County
(R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVARAS COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
DELNORTE COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
ELDORADO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
FRESNO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
IMPERIAL COUNTY
Decision #AQ-1094 (B,H,Hw,D)
39 FR 11004 - 3/22/74
Decision #AQ-1095 (R)
39 FR 11013 - 3/22/74
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
KING COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County

CALIFORNIA (Cont'd)

MARIPOSA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
NAPA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
NEVADA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
ORANGE COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
PLACER COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
SACRAMENTO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN BERNARDINO COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
SAN DIEGO COUNTY
Decision #AQ-1092 (B,H,Hw,D)
39 FR 10086 - 3/15/74

CALIFORNIA (Cont'd)

SAN DIEGO COUNTY (Cont'd)
Decision #AQ-1093 (R)
39 FR 10092 - 3/15/74
SAN FRANCISCO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN JOAQUIN COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D,R) - See Imperial County
SAN MATEO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SANTA BARBARA COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
SANTA CLARA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SANTA CRUZ COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SHASTA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SIERRA COUNTY
(B,H,Hw,D) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SONOMA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
TEHAMA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County

CALIFORNIA (Cont'd)

TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
VENTURA COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County

COLORADO

STATEWIDE
Decision #AQ-1013 (Hw)
38 FR 22328 - 8/17/73
ADAMS COUNTY
(Hw) - See Statewide
Decision #AQ-1061 (B,H)
38 FR 33242 - 11/30/73
Mod. #1 - 38 FR 35141 - 12/21/73
Mod. #2 - 39 FR 11811 - 3/29/74
Decision #AM-6,723 (R)
37 FR 7921 - 4/21/72
ALAMOSA COUNTY
(Hw) - See Statewide
ARAPHOE COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
(R) - See Adams County
ARCHULETA COUNTY
(Hw) - See Statewide
BACA COUNTY
(Hw) - See Statewide
BENT COUNTY
(Hw) - See Statewide
BOULDER COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
(R) - See Adams County
CHAFFEE COUNTY
(Hw) - See Statewide
CHYENNE COUNTY
(Hw) - See Statewide

COLORADO (cont'd)

CLEAR CREEK
(B,H) - See Adams County
(Hw) - See Statewide
(R) - See Adams County
CONEJOS COUNTY
(Hw) - See Statewide
COSTILLA COUNTY
(Hw) - See Statewide
CROWLEY COUNTY
(Hw) - See Statewide
CUSTER COUNTY
(Hw) - See Statewide
DELTA COUNTY
(Hw) - See Statewide
DENVER COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
(R) - See Adams County
DOLORES COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
(R) - See Adams County
EAGLE COUNTY
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
(R) - See Adams County
EL PASO COUNTY
(Hw) - See Statewide
Decision #AQ-1012 (B,H)
38 FR 22322 - 8/17/73
Mod. #1 - 38 FR 31097 - 11/9/73
Mod. #2 - 38 FR 32333 - 11/23/73
Mod. #3 - 38 FR 35141 - 12-21-73
Mod. #4 - 39 FR 11811 - 3/29/74
FREMONT COUNTY
(Hw) - See Statewide
GARFIELD COUNTY
Decision #AQ-1062 (B,H)
38 FR 33281 - 12/7/73
Mod. #1 - 38 FR 35141 - 12-21-73
(Hw) - See Statewide
GILPIN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
(R) - See Adams County
GRAND COUNTY
(Hw) - See Statewide
GUNNISON COUNTY
(B,H) - See Garfield County
(Hw) - See Statewide
HINDSDALE COUNTY
(Hw) - See Statewide
HEURFANO COUNTY
(Hw) - See Statewide

COLORADO (Cont'd)

JACKSON COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
(R) - See Adams County
KIOWA COUNTY
(Hw) - See Statewide
KIT CARSON COUNTY
(Hw) - See Statewide
LAKE COUNTY
(Hw) - See Statewide
LAPLATA COUNTY
(Hw) - See Statewide
LARIMER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #AQ-1063 (B,H)
38 FR 33888 - 12/7/73
Mod. #1 - 38 FR 35141 - 12/21/73
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MESA COUNTY
(B,H) - See Garfield County
(Hw) - See Statewide
MINERAL COUNTY
(Hw) - See Statewide
MOFFAT COUNTY
(Hw) - See Statewide
MONTEZUMA COUNTY
(Hw) - See Statewide
MONTROSE COUNTY
(B,H) - See Garfield County
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
OTERO COUNTY
(Hw) - See Statewide
OURAY COUNTY
(Hw) - See Statewide

COLORADO (Cont'd)

PARK COUNTY
(Hw) - See Statewide
PHILLIPS COUNTY
(Hw) - See Statewide
PITKIN COUNTY
(B,H)- See Garfield County
(Hw) - See Statewide
PROWERS COUNTY
(Hw) - See Statewide
PUEBLO COUNTY
(Hw) - See Statewide
(B,H) - See Las Animas County
RIO BLANCO COUNTY
(Hw) - See Statewide
RIO GRANDE COUNTY
(Hw) - See Statewide
ROUTT COUNTY
(Hw) - See Statewide
SAGUACHE COUNTY
(Hw) - See Statewide
SAN JUAN COUNTY
(Hw) - See Statewide
SAN MIGUEL COUNTY
(Hw) - See Statewide
SEDGWICK COUNTY
(Hw) - See Statewide
SUMMIT COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
TELLER COUNTY
(Hw) - See Statewide
WASHINGTON COUNTY
(Hw) - See Statewide
WELD COUNTY
(B,H) - See Adams County
(B,H,Hw) - See Adams County
YUMA COUNTY
(Hw) - See Statewide

XUM

CONNECTICUT

FAIRFIELD COUNTY
Decision #AQ-3149 (B,H,Hw,R)
39 FR 11021 - 3/22/74
Decision #AP-802 (D)
38 FR 10580 - 4/27/73
Decision #AQ-3035 (R)
38 FR 31088 - 11/9/73
Mod. #1 - 38 FR 34571 - 12/14/73
Mod. #2 - 39 FR 4270 - 2/1/74
HARTFORD COUNTY
Decision #AQ-3015 (B,H,Hw)
38 FR 28480 - 10/12/73
Mod. #1 - 38 FR 32334 - 11/23/73
Mod. #2 - 38 FR 34569 - 12/14/73
Mod. #3 - 39 FR 4267 - 2/1/74
Decision #AQ-3096 (R)
39 FR 5961 - 2/15/74
(D) - See Fairfield County
LITCHFIELD COUNTY
Decision #AQ-3016 (B,H,Hw)
38 FR 28485 - 10/12/73
Mod. #1 - 38 FR 32334 - 11/23/73
Mod. #2 - 38 FR 34569 - 12/14/73
Mod. #3 - 39 FR 4268 - 2/1/74
MIDDLESEX COUNTY
Decision #AQ-3097 (B,H,Hw)
39 FR 5962 - 2/15/74
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #AQ-3098 (B,H,Hw)
39 FR 5966 - 2/15/74
(D) - See Fairfield County
NEW LONDON COUNTY
Decision #AQ-3019 - (B,H,Hw)
38 FR 28499 - 10/12/73
Mod. #1 - 38 FR 32335 - 11/23/73
Mod. #2 - 38 FR 34570 - 12/14/73
Mod. #3 - 39 FR 4269 - 2/1/74
(D) - See Fairfield County
TOLLAND COUNTY
Decision #AQ-3020 (B,H,Hw)
38 FR 28503 - 10/12/73
Mod. #1 - 38 FR 32335 - 11/23/73
Mod. #2 - 38 FR 35142 - 12/21/73
Mod. #3 - 39 FR 5047 - 2/8/74
WINDHAM COUNTY
Decision #AQ-3021 - (B,H,Hw)
38 FR 28507 - 10/12/73
Mod. #1 - 38 FR 32335 - 11/23/73
Mod. #2 - 38 FR 34571 - 12/14/73
Mod. #3 - 39 FR 4270 - 2/1/74

DELAWARE

STATEWIDE
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
Decision #AQ-2029 (B,H,Hw)
38 FR 31774 - 11/16/73
Mod. #1 - 38 FR 35570 - 12/28/73
Mod. #2 - 39 FR 3373 - 1/25/74
Mod. #3 - 39 FR 10074 - 3/13/74
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(D) - See Statewide
(B,H,Hw) - See Statewide
SUSSEX COUNTY
(D) - See Statewide
(B,H,Hw) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #AQ-4070 (B)
39 FR 3971 - 2/15/74
Mod. #1 - 39 FR 9344 - 3/8/74
Mod. #2 - 39 FR 12383 - 4/5/74
Decision #AQ-4031 (Hw)
38 FR 31092 - 11/9/73
BAKER COUNTY
Decision #AQ-4004 (Hw)
38 FR 22841 - 8/24/73
BAY COUNTY
Decision #AP-196 (B)
38 FR 15229 - 6/8/73
Mod. #1 - 38 FR 27163 - 9/28/73
Mod. #2 - 38 FR 27707 - 10/5/73
Mod. #3 - 38 FR 31753 - 11/16/73
Mod. #4 - 38 FR 35142 - 12/21/73
Mod. #5 - 39 FR 5047 - 2/8/74
Decision #AQ-4002 (B)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
Decision #AQ-4030 (Hw)
38 FR 29727 - 10/26/73
Mod. #1 - 38 FR 31098 - 11/9/73
BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Cape Kennedy Kennedy Space Flight Center & Patrick AFB only)
Decision #AQ-4036 (B,H,Hw)
39 FR 3390 - 1/25/74
Mod. #1 - 38 FR 4271 - 2/1/74
Mod. #2 - 39 FR 5047 - 2/8/74
Decision #AQ-4067 (D)
39 FR 5069 - 2/8/74
(Remainder of County)
Decision #AQ-4006 (Hw)
38 FR 22842 - 8/24/73
Mod. #1 - 39 FR 5047 - 2/8/74
BROWARD COUNTY
Decision #AQ-4003 (Hw)
38 FR 22841 - 8/24/73
Decision #AQ-4091 (B)
39 FR 10091 - 3/22/74
(D) - See Brevard County
CALHOUN COUNTY
(Hw) - See Bay County
CHARLOTTE COUNTY
Decision #AQ-4019 (Hw)
38 FR 27703 - 10/5/73
(D) - See Brevard County
CITRUS COUNTY
Decision #AQ-4039 (Hw)
38 FR 33203 - 11/30/73
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County

FLORIDA (cont'd)

COLUMBIA COUNTY
(Hw) - See Alachua County
DADE COUNTY
Decision #AQ-4033 (B)
38 FR 31738 - 11/16/73
Mod. #1 - 39 FR 5948 - 2/15/74
(D) - See Brevard County
(Hw) - See Broward County
DESOTO COUNTY
Decision #AQ-4017 (Hw)
38 FR 27718 - 10/5/73
DIXIE COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
DUVAL COUNTY
Decision #AQ-4071 (B)
39 FR 5973 - 2/15/74
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #AQ-4055 (B)
39 FR 3388 - 1/25/74
Mod. #1 - 39 FR 12383 - 4/5/74
Decision #AP-178 (R)
38 FR 11259 - 5/4/73
(D) - See Bay County
Decision #AQ-4005 (Hw)
38 FR 22842 - 8/24/73
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D,Hw) - See Bay County
GADSDEN COUNTY
Decision #AP-179 (R)
38 FR 11260 - 5/4/73
(Hw) - See Bay County
GILCHRIST COUNTY
(Hw) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Bay County
HAMILTON COUNTY
(Hw) - See Alachua County
HARDEE COUNTY
Decision #AQ-4040 (R)
38 FR 34565 - 12/14/73
(Hw) - See De Soto County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D)-See Brevard County
(Hw)-See Citrus County
HIGHLANDS COUNTY
(Hw) - See De Soto County

FLORIDA (cont'd)

HILLSBOROUGH COUNTY
Decision #AQ-4054 (D)
39 FR 3386 - 1/25/74
Mod. #1 - 39 FR 5948 - 2/15/74
Mod. #2 - 39 FR 9344 - 3/8/74
Decision #AQ-4018 (Hw)
38 FR 27703 - 10/5/73
(D) - See Brevard County
(Hw) - See DeSoto County
HOLMES COUNTY
(Hw) - See Bay County
INDIAN RIVER COUNTY
(D) - See Brevard County
(Hw) - See Brevard County (Remainder of Co.)
JACKSON COUNTY
(Hw) - See Bay County
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County
(Hw) - See Bay County
LAFAYETTE COUNTY
(Hw) - See Alachua County
LAKE COUNTY
Decision #AP-181 (R)
38 FR 11261 - 5/4/73
(Hw) - See Brevard County (Remainder of Co.)
LEE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
LEON COUNTY
Decision #AQ-4050 (B)
39 FR 1689 - 1/11/74
Mod. #1 - 39 FR 12583 - 4/5/74
(Hw) - See Bay County
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
(Hw) - See Citrus County
LIBERTY COUNTY
(Hw) - See Bay County
MADISON COUNTY
(R) - See Gadsden County
(Hw) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
MARION COUNTY
(Hw) - See Citrus County
MARTIN COUNTY
Decision #AQ-4092 (B)
39 FR 10993 - 3/22/74
(D) - See Brevard County
(Hw) - See Broward County
MONROE COUNTY
(D) - See Brevard County
(Hw) - See Broward County
NASSAU COUNTY
(D) - See Brevard County
(Hw) - See Baker County

FLORIDA (cont'd)

OKALOOSA COUNTY
(B) - See Escambia County
(D) - See Bay County
(Hw) - See Escambia County
Decision #AP-180 (R)
38 FR 11260 - 5/4/73
OKEECHOBEE COUNTY
(Hw) - See DeSoto County
ORANGE COUNTY
Decision #AQ-4053 (B)
39 FR 3384 - 1/25/74
Mod. #1 - 39 FR 5948 - 2/15/74
(Hw) - See Brevard County (Remainder of Co.)
(R) - See Lake County
OSCEOLA COUNTY
(Hw) - See Brevard County (Pemainder of Co.)
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
(B) - See Martin County
(Hw) - See Broward County
PASCO COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
PINELLAS COUNTY
Decision #AQ-4057 (B)
39 FR 3392 - 1/25/74
Mod. #1 - 39 FR 9344 - 3/8/74
Decision #AP-182 (R)
38 FR 11261 - 5/4/73
(D) - See Brevard County
(Hw) - See Hillsborough County
POLK COUNTY
(Hw) - See DeSoto County
(R) - See Hardee County
PUTNAM COUNTY
(Hw) - See Baker County
ST. JOHNS COUNTY
(D) - See Brevard County
(Hw) - See Baker County
ST. LUCIE COUNTY
(D) - See Brevard County
(Hw) - See Broward County
SANTA ROSA COUNTY
(B) - See Escambia County;
(D) - See Bay County
(Hw) - See Escambia County
(R) - See Okaloosa County
SARASOTA COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
SEMINOLE COUNTY
(Hw) - See Brevard County (Remainder of Co.
(R) - See Lake County
SUMTER COUNTY
(Hw) - See Citrus County
SUWANNEE COUNTY
(Hw) - See Alachua County

FLORIDA (Cont'd)

TAYLOR COUNTY
(D) - See Brevard County
(R) - See Gadsden County
(Hw) - See Alachua County
UNION COUNTY
(Hw) - See Alachua County
VOLUSIA COUNTY (Cape Kennedy, Kennedy Space Flight Center & Patrick Air Force Base only)
(B,H,Hw) - See Brevard County
(D) - See Brevard County
(Hw) - See Brevard County
WAKULLA COUNTY
(D) - See Bay County
(Hw) - See Bay County
WALTON COUNTY
(B) - See Escambia County
(D) - See Bay County
(Hw) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(Hw) - See Bay County

GEORGIA

APPLING COUNTY
Decision #AM-473 (Hw)
36 FR 16421 - 8/20/71
Mod. #1 - 39 FR 5048 - 2/8/74
ATKINSON COUNTY
(Hw) - See Appling County
BACON COUNTY
(Hw) - See Appling County
BAKER COUNTY
Decision #AQ-4089 (R)
39 FR 10067 - 3/15/74
(Hw) - See Appling County
BALDWIN COUNTY
Decision #AM-472 (Hw)
36 FR 16420 - 8/20/71
Mod. #1 - 39 FR 5048 - 2/8/74
BANKS COUNTY
Decision #AM-471 (Hw)
36 FR 16419 - 8/20/71
BARROW COUNTY
(Hw) - See Banks County
BARTOW COUNTY
(Hw) - See Banks County
BEN HILL COUNTY
(Hw) - See Appling County
BERRIEN COUNTY
(Hw) - See Appling County
BIBB COUNTY
(Hw) - See Baldwin County
BLECKLEY COUNTY
(Hw) - See Appling County
BRANTLEY COUNTY
(Hw) - See Appling County
BROOKS COUNTY
(Hw) - See Appling County
BRYAN COUNTY
Decision #AM-475 (Hw)
36 FR 16424 - 8/20/71
Mod. #1 - 39 FR 5048 - 2/8/74
Decision #AQ-2039 (D)
39 FR 3395 - 1/25/74
BULLOCH COUNTY
(Hw) - See Appling County
BURKE COUNTY
Decision #AQ-4085 (R)
39 FR 9333 - 3/8/74
(Hw) - See Baldwin County
BUTTS COUNTY
(Hw) - See Baldwin County
CALHOUN COUNTY
(Hw) - See Appling County
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Appling County
CANDLER COUNTY
(Hw) - See Appling County
CARROLL COUNTY
(Hw) - See Baldwin County

XUM

GEORGIA (Cont'd)

CATOOSA COUNTY
(Hw) - See Banks County
CHARLTON COUNTY
(Hw) - See Appling
CHATHAM COUNTY
Decision #AQ-4069 (H,Hw)
39 FR 5979 - 2/15/74
Mod. #1 - 39 FR 9345 - 3/8/74
Decision #AQ-4058 (R)
39 FR 3394 - 1/25/74
(D) - See Bryan County
CHATTAHOOCHEE COUNTY
Decision #AQ-4086 (R)
39 FR 9334 - 3/8/74
(Hw) - See Baldwin County
CHATTOOGA COUNTY
(Hw) - See Banks County
CHEROKEE COUNTY
(Hw) - See Banks County
CLARKE COUNTY
(Hw) - See Baldwin County
CLAY COUNTY
(R) - See Baker County
(Hw) - See Appling County
CLAYTON COUNTY
Decision #AM-474 (Hw)
36 FR 16423 - 8/20/71
Mod. #1 - 39 FR 5048 - 2/8/74
CLINCH COUNTY
(Hw) - See Appling County
COBB COUNTY
(B,H,Hw) - See Fulton County
(R) - See Fulton County
COFFEE COUNTY
(Hw) - See Appling County
COLQUITT COUNTY
(Hw) - See Appling County
COLUMBIA COUNTY
(k) - See Burke County
(Hw) - See Baldwin County
COOK COUNTY
(Hw) - See Appling County
COWETA COUNTY
(Hw) - See Baldwin County
CRAWFORD COUNTY
(Hw) - See Baldwin County
CRISP COUNTY
(Hw) - See Baldwin County
DADE COUNTY
(Hw) - See Banks County
DAWSON COUNTY
(Hw) - See Banks County
DECATUR COUNTY
(Hw) - See Appling County
(R) - See Baker County
DEKALB COUNTY
(B,H,Hw) - See Fulton County
(R) - See Fulton County

GEORGIA (Cont'd)

DODGE COUNTY
(Hw) - See Appling County
DOOLY COUNTY
(Hw) - See Baldwin County
DOUGHERTY COUNTY
(Hw) - See Appling County
(R) - See Baker County
DOUGLAS COUNTY
(Hw) - See Banks County
EARLY COUNTY
(Hw) - See Appling County
(R) - See Baker County
ECHOLS COUNTY
(Hw) - See Appling County
EFFINGHAM COUNTY
(Hw) - See Appling County
ELBERT COUNTY
(Hw) - See Banks County
EMANUEL COUNTY
(Hw) - See Baldwin County
EVANS COUNTY
(Hw) - See Appling County
FANNIN COUNTY
(Hw) - See Banks County
FAYETTE COUNTY
(Hw) - See Baldwin County
FLOYD COUNTY
(Hw) - See Banks County
FORSYTH COUNTY
(Hw) - See Banks County
FRANKLIN COUNTY
(Hw) - See Banks County
FULTON COUNTY
Decision #AQ-4068 (B,H,Hw)
39 FR 5975 - 2/15/74
Mod. #1 - 39 FR 9344 - 3/8/74
Mod. #2 - 39 FR 11814 - 3/29/74
Decision #AQ-4052 (R)
39 FR 2328 - 1/18/74
GILMER COUNTY
(Hw) - See Banks County
GLASCOCK COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Appling County
GORDON COUNTY
(Hw) - See Banks County
GRADY COUNTY
(Hw) - See Appling County
(R) - See Baker County
GREENE COUNTY
(Hw) - See Appling County

GEORGIA (Cont'd)

GWINNETT COUNTY
(Hw) - See Banks County
HABERSHAM COUNTY
(Hw) - See Banks County
HALL COUNTY
(Hw) - See Banks County
HANCOCK COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
HARALSON COUNTY
(Hw) - See Banks County
HARRIS COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
HART COUNTY
(Hw) - See Banks County
HEARD COUNTY
(Hw) - See Baldwin County
HENRY COUNTY
(Hw) - See Clayton County
HOUSTON COUNTY
(Hw)-See Baldwin County
IRWIN COUNTY
(Hw) - See Appling County
JACKSON COUNTY
(Hw) - See Banks County
JASPER COUNTY
(Hw) - See Baldwin County
JEFF DAVIS COUNTY
(Hw) - See Appling County
JEFFERSON COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
JENKINS COUNTY
(Hw) - See Baldwin County
(R) - See Burke County'
JOHNSON COUNTY
(Hw) - See Baldwin County
JONES OCUNTY
(Hw) - See Baldwin County
LAMAR COUNTY
(Hw) - See Baldwin County
LANIER COUNTY
(Hw) - See Appling County
LAURENS COUNTY
(Hw) - See Appling County
LEE COUNTY
(Hw) - See Appling County
(R) - See Baker County
LIBERTY COUNTY
(D) - See Bryan County
(Hw) - See Bryan County
LINCOLN COUNTY
(Hw) - See Baldwin County
(R) - See Burke County

GEORGIA (Cont'd)

LONG COUNTY
(Hw) - See Appling County
LOWNDES COUNTY
(Hw) - See Appling County
LUMPKIN COUNTY
(Hw) - See Banks County
MCDUFFIE COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
McINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Appling County
MACON COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
MADISON COUNTY
(Hw) - See Banks County
MARION COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
MERIWETHER COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
MILLER COUNTY
(Hw) - See Appling County
(R) - See Baker County
MITCHELL COUNTY
(Hw) - See Appling County
(R) - See Baker County
MONROE COUNTY
(Hw) - See Baldwin County
MONTGOMERY COUNTY
(Hw) - See Appling County
MORGAN COUNTY
(Hw) - See Baldwin County
MURRAY COUNTY
(Hw) - See Banks County
MUSCOGEE COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
NEWTON COUNTY
(Hw) - See Baldwin County
OCONEE COUNTY
(Hw) - See Baldwin County
OGLETHORPE COUNTY
(Hw) - See Baldwin County
PAULDING COUNTY
(Hw) - See Banks County
PEACH COUNTY
(Hw) - See Baldwin County
PICKENS COUNTY
(Hw) - See Banks County
PIERCE COUNTY
(Hw) - See Appling County
PIKE COUNTY
(Hw) - See Baldwin County

GEORGIA (Cont'd)

POLK COUNTY
(Hw) - See Banks County
PULASKI COUNTY
(Hw) - See Baldwin County
PUTNAM COUNTY
(Hw) - See Baldwin County
QUITMAN COUNTY
(Hw) - See Appling County
(R) - See Baker County
RABUN COUNTY
(Hw) - See Banks County
RANDOLPH COUNTY
(Hw) - See Appling County
(R) - See Baker County
RICHMOND COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Baldwin County
SCHLEY COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
SCREVEN COUNTY
(Hw) - See Baldwin County
SEMINOLE COUNTY
(Hw) - See Appling County
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Baldwin County
STEPHENS COUNTY
(Hw) - See Banks County
STEWART COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
TATTNALL COUNTY
(Hw) - See Appling County
TAYLOR COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
TELFAIR COUNTY
(Hw) - See Appling County
TERRELL COUNTY
(Hw) - See Appling County
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Appling County
TIFT COUNTY
(Hw) - See Appling County
TOOMBS COUNTY
(Hw) - See Appling County

GEORGIA (Cont'd)

TOWNS COUNTY
(Hw) - See Banks County
TREUTLEN COUNTY
(Hw) - See Appling County
TROUP COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Appling County
TWIGGS COUNTY
(Hw) - See Baldwin County
UNION COUNTY
(Hw) - See Banks County
UPSON COUNTY
(Hw) - See Baldwin County
WALKER COUNTY
(Hw) - See Banks County.
WALTON COUNTY
(Hw) - See Baldwin County
WARE COUNTY
Decision #AF-155 (R)
38 FR 4073 - 2/9/73
Mod. #1 - 38 FR 5088 - 2/23/73
Decision #AP-160 (R)
38 FR 5083 - 2/23/73
Mod. #1 - 38 FR 10573 4/27/73
(Hw) - See Appling County
WARREN COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Appling County
WEBSTER COUNTY
(Hw) - See Baldwin County
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Appling County
WHITE COUNTY
(Hw) - See Banks county
WHITFIELD COUNTY
(Hw) - See Banks County
WILCOX COUNTY
(Hw) - See Baldwin County
WILKES COUNTY
(Hw) - See Baldwin County
(R) - See Burke County
WILKINSON COUNTY
(Hw) - See Baldwin County
WORTH COUNTY
(Hw) - See Appling County

GUAM

GUAM
Decision #AQ-1034 (B,R,H,Hw)
38 FR 25848 - 9/14/73

HAWAII

STATEWIDE
Decision #AQ-1040 (R)
38 FR 26571 - 9/21/73
Mod. #1 - 38 FR 31753 - 11/16/73
Decision #AQ-1039 (B,Hw,H)
38 FR 26565 - 9/21/73
Mod. #1 - 38 FR 31753 - 11/16/73

IDAHO

STATEWIDE
Decision #AQ-1054 (B,H,Hw)
38 FR 31119 - 11/9/73
Mod. #1 - 38 FR 33878 - 12/7/73
Mod. #2 - 39 FR 4271 - 2/1/74
ADA COUNTY
Decision #AQ-1029 (R)
38 FR 24513 - 9/7/73
Mod. #1 - 38 FR 26543 - 9/21/73
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide
BANNOCK COUNTY
(B,H,Hw) - See Statewide
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide

XUM

IDAHO (Cont'd)

FREMONT COUNTY
(B,H,Hw) - See Statewide
CEM COUNTY
(B,H,Hw) - See Statewide
GOODLING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide
KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #AQ-3090 (H,Hw)
39 FR 5112 - 2/8/74
ALEXANDER COUNTY
Decision #AQ-3093 (H,Hw)
39 FR 5127 - 2/8/74
Decision #AO-3094 (D)
39 FR 5070 - 2/8/74
BOND COUNTY
Decision #AO-3092 (H,Hw)
39 FR 5122 - 2/8/74
Mod. #1 - 39 FR 9346 - 3/8/74
BOONE COUNTY
Decision #AO-3086 (H,Hw)
39 FR 5087 - 2/8/74
Mod. #1 - 39 FR 12584 - 4/5/74
BROWN COUNTY
(H)(Hw) - See Adams County
(D) - See Alexander County
BUREAU COUNTY
Decision #AQ-3087 (H,Hw)
39 FR 5094 - 2/8/74
Mod. #1 - 39 FR 12584 - 4/5/74
CALHOUN COUNTY
(H)(Hw) - See Bond County
(D) - See Alexander County
CARROLL COUNTY
(H)(Hw) - See Bureau County
CASS COUNTY
(H)(Hw) - See Adams County
(D) - See Alexander County
CHAMPAIGN COUNTY
Decision #AP-689 (B)
38 FR 15247 - 6/7/73
Mod. #1 - 38 FR 18811 - 7/13/73
Mod. #2 - 38 FR 22304 - 8/17/73
Mod. #3 - 38 FR 29139 - 10/19/73
Mod. #4 - 38 FR 32336 - 11/23/73
Mod. #5 - 39 FR 5048 - 2/8/74
Decision #AQ-3089 (H,Hw)
39 FR 5108 - 2/8/74
CHRISTIAN COUNTY
(H)(Hw) - See Adams County
CLARK COUNTY
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #AQ-3091 (H,Hw)
39 FR 5117 - 2/8/74
CLINTON COUNTY
(H,Hw) - See Bond County
COLES COUNTY
(H,Hw) - See Champaign County
COOK COUNTY
Decision #AP-690 (B,H,Hw)
38 FR 15250 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73
Mod. #2 - 38 FR 22304 - 8/17/73
Mod. #3 - 38 FR 29139 - 10/19/73
Mod. #4 - 39 FR 5050 - 2/8/74

ILLINOIS

COOK COUNTY (Cont'd)
Decision #AP-1003 (R)
38 FR 15302 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73
Mod. #2 - 38 FR 22308 - 8/17/73
Mod. #3 - 38 FR 29142 - 10/19/73
Mod. #4 - 39 FR 5059 - 2/8/74
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
CRAWFORD COUNTY
(H,Hw) - See Clay County
CUMBERLAND COUNTY
(H,Hw) - See Champaign County
DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(H,Hw) - See Champaign County
DOUGLAS COUNTY
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #AP-691 (B)
38 FR 15256 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73
Mod. #2 - 38 FR 22305 - 8/17/73
Mod. #3 - 38 FR 29139 - 10/19/73
Mod. #4 - 39 FR 5050 - 2/8/74
Decision #AP-1004 (R)
38 FR 15305 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73
Mod. #2 - 38 FR 22309 - 8/17/73
Mod. #3 - 38 FR 29142 - 10/19/73
Mod. #4 - 39 FR 5059 - 2/8/74
(H,Hw) - See Boone County
EDGAR COUNTY
(H,Hw) - See Champaign County
EDWARDS COUNTY
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
None
FRANKLIN COUNTY
(H,Hw) - See Alexander County
FULTON COUNTY
Decision #AQ-3088 (H,Hw)
39 FR 5102 - 2/8/74
GALLATIN COUNTY
(H,Hw) - See Alexander County
(D) - See Alexander County
GREENE COUNTY
(H,Hw) - See Bond County
(D) - See Alexander County
GRUNDY COUNTY
None
HAMILTON COUNTY
(H,Hw) - See Clay County

ILLINOIS (Cont'd)

HANCOCK COUNTY
(H,Hw) - See Fulton County
HARDIN COUNTY
(H,Hw) - See Alexander County
(D) - See Alexander County
HENDERSON COUNTY
(H,Hw) - See Fulton County
HENRY COUNTY
(H)(Hw) - See Bureau County
IROQUOIS COUNTY
None
JACKSON COUNTY
(H)(Hw) - See Alexander County
(D) - See Alexander
JASPER COUNTY
(H,Hw) - See Clay County
JEFFERSON COUNTY
(H,Hw) - See Clay County
JERSEY COUNTY
(H,Hw) - See Bond County
(D) - See Alexander
JO DAVIESS COUNTY
(H)(Hw) - See Bureau County
JOHNSON COUNTY
(H,Hw) - See Alexander County
KANE COUNTY
Decision #AP-692 (B)
38 FR 15260 - 6/8/73
Mod. #1 - 38 FR 18811 - 7/13/73
Mod. #2 - 38 FR 22305 - 8/17/73
Mod. #3 - 38 FR 29139 - 10/19/73
Mod. #4 - 39 FR 5051 - 2/8/74
Decision #AP-1005 (R)
38 FR 15309 - 6/8/73
Mod. #1 - 38 FR 18812 - 7/13/73
Mod. #2 - 38 FR 22309 - 8/17/73
Mod. #3 - 38 FR 29143 - 10/19/73
Mod. #4 - 39 FR 5060 - 2/8/74
(H,Hw) - See Boone County
KANKAKEE COUNTY
None
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(H,Hw) - See Fulton County
LAKE COUNTY
Decision #AP-693 (B)
38 FR 15312 - 6/8/73
Mod. #1 - 38 FR 22305 - 8/17/73
Mod. #2 - 38 FR 29140 - 10/19/73
Mod. #3 - 39 FR 5051 - 2/8/74
Decision #AP-1006 - (R)
38 FR 15263 - 6/18/73
Mod. #1 - 38 FR 22309 - 8/17/73
Mod. #2 - 38 FR 29143 - 10/19/73
Mod. #3 - 39 FR 5060 - 2/8/74
(D) - See Cook County
(H,Hw) - See Boone County

ILLINOIS (Cont'd)

LA SALLE COUNTY
None
LAWRENCE COUNTY
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
None
LOGAN COUNTY
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Boone County
McCLEAN COUNTY
None
MACON COUNTY
(H,Hw) - See Champaign County
MACOUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #AQ-3077 (B)
39 FR 5071 - 2/8/74
Decision #AQ-3079 (R)
39 FR 5079 - 2/8/74
(H,Hw) - See Bond County
MARION COUNTY
(H,Hw) - See Clay County
MARSHALL COUNTY
None
MASON COUNTY
(H,Hw) - See Adams County
MASSAC COUNTY
(H,Hw) - See Alexander County
MENARD COUNTY
(H,Hw) - See Adams County
MERCER COUNTY
(H,Hw) - See Fulton County
MONROE COUNTY
(H,Hw) - See Bond County
(D) - See Alexander County
MONTGOMERY COUNTY
(H,Hw) - See Bond County
MORGAN COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
MOULTRIE COUNTY
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #AP-695 (B) (D)
38 FR 15270 - 6/8/73
Mod. #1 - 38 FR 18811 - 7/13/73
Mod. #2 - 38 FR 29140 - 10/19/73
Mod. #3 - 39 FR 5051 - 2/8/74
Decision #AP-1008 (R)
38 FR 15319 - 6/8/73
Mod. #1 - 38 FR 18812 - 7/13/73
Mod. #2 - 38 FR 29143 - 10/19/73

ILLINOIS (Cont'd)

PEORIA COUNTY (Cont'd)
Mod. #3 - 39 FR 5060 - 2/8/74
(H,Hw) - See Fulton County
PERRY COUNTY
(H,Hw) - See Alexander County
PIATT COUNTY
(H,Hw) - See Champaign County
PIKE COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
POPE COUNTY
(H,Hw,D) - See Alexander County
PULASKI COUNTY
(H,Hw,D) - See Alexander County
PUTNAM COUNTY
None
RANDOLPH COUNTY
(H,Hw,D) - See Alexander County
RICHLAND COUNTY
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #AP-696 (B)
38 FR 15276 - 6/8/73
Mod. #1 - 38 FR 29140 - 10/19/73
Mod. #2 - 39 FR 5052 - 2/8/74
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
Decision #AQ-3078 (B)
39 FR 5075 - 2/8/74
Decision #AQ-3080 (R)
39 FR 5083 - 2/8/74
(H,Hw) - See Bond County
(D) - See Alexander County
SALINE COUNTY
(H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #AP-698 (B)
38 FR 15284 - 6/8/73
Mod. #1 - 38 FR 18812 - 7/13/73
Mod. #2 - 38 FR 29141 - 10/19/73
Mod. #3 - 39 FR 5053 - 2/8/74
Decision #AP-1010 (R)
38 FR 15203 - 6/8/73
Mod. #1 - 38 FR 18812 - 7/13/73
Mod. #2 - 38 FR 29144 - 10/19/73
Mod. #3 - 39 FR 5061 - 2/8/74
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
SHELBY COUNTY
(H,Hw) - See Champaign County
STARK COUNTY
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County

ILLINOIS (Cont'd)

TAZEWELL COUNTY
(B,R) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(H,Hw,D) - See Alexander County
VERMILLION COUNTY
Decision #AP-699 (B)
38 FR 15287 - 6/18/73
Mod. #1 - 38 FR 29141 - 10/19/73
Mod. #2 - 39 FR 5054 - 2/8/74
(H,Hw) - See Champaign County
WABASH COUNTY
(H,Hw) - See Clay County
WARREN COUNTY
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(H,Hw) - See Bond County
WAYNE COUNTY
(H,Hw) - See Clay County
WHITE COUNTY
(H,Hw) - See Clay County
WHITEWIDE COUNTY
(H,Hw) - See Bureau County
WILL COUNTY
Decision #AP-1001 (B)
38 FR 15294 - 6/8/73
Mod. #1 - 38 FR 22306 - 8/17/73
Mod. #2 - 38 FR 29141 - 10/19/73
Mod. #3 - 39 FR 5059 - 2/8/74
Mod. #4 - 39 FR 10074 - 3/15/74
Decision #AP-1011 (R)
38 FR 15329 - 6/8/73
Mod. #1 - 38 FR 22310 - 8/17/73
Mod. #2 - 38 FR 29144 - 10/19/73
Mod. #3 - 39 FR 5062 - 2/8/74
Mod. #4 - 39 FR 10074 - 3/15/74
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #AP-1000 (B)
38 FR 15291 - 6/8/73
Mod. #1 - 38 FR 29141 - 10/19/73
Mod. #2 - 39 FR 5056 - 2/8/74
(H,Hw) - See Alexander County
WINNEBAGO COUNTY
Decision #AP-1002 (B)
38 FR 15298 - 6/8/73
Mod. #1 - 38 FR 22308 - 8/17/73
Mod. #2 - 38 FR 29142 - 10/19/73
Mod. #3 - 39 FR 5059 - 2/8/74
(H,Hw) - See Bureau County
WOODFORD COUNTY
None

INDIANA

ADAMS COUNTY
Decision #AO-3139 (H,Hw)
39 FR 11026 - 3/22/74
ALLEN COUNTY
Decision #AQ-3125 (B)
39 FR 12593 - 4/5/74
Decision #AQ-3000 (R)
38 FR 22341 - 8/17/73
(H,Hw) - See Adams County
BARTHOLOMEW COUNTY
Decision #AQ-3126 (B)
39 FR 12596 - 4/5/74
Decision #AO-3143 (H,Hw)
39 FR 11046 - 3/22/74
BENTON COUNTY
Decision #AQ-3127 (B)
39 FR 12599 - 4/5/74
Decision #AQ-3140 (H,Hw)
39 FR 11032 - 3/22/74
BLACKFORD COUNTY
Decision #AQ-3141 (H,Hw)
39 FR 11038 - 3/22/74
BOONE COUNTY
Decision #AM-658 (R)
38 FR 13247 - 5/18/73
Decision #AQ-3142 (H,Hw)
39 FR 11043 - 3/22/74
BROWN COUNTY
(H,Hw) - See Bartholomew County
CARROLL COUNTY
(H,Hw) - See Benton County
CASS COUNTY
(H,Hw) - See Benton County
CLARK COUNTY
Decision #AQ-3094 (D)
39 FR 5070 - 2/8/74
(H,Hw) - See Bartholomew County
CLAY COUNTY
(H,Hw) - See Boone County
CLINTON COUNTY
(H,Hw) - See Benton County
CRAWFORD COUNTY
Decision #AQ-3144 (H,Hw)
39 FR 11054 - 3/22/74
(D) - See Clark County
DAVIESS COUNTY
(H,Hw) - See Boone County
DEARBORN COUNTY
Decision #AQ-3128 (B)
39 FR 12603 - 4/5/74
(D) - See Clark County
(H,Hw) - See Bartholomew County

INDIANA (cont'd)

DECATUR COUNTY
(H,Hw) - See Bartholomew County
DEKALB COUNTY
(H,Hw) - See Adams County
DELAWARE COUNTY
Decision #AQ-3129 (B)
39 FR 12606 - 4/5/74
(H,Hw) - See Blackford County
DUBOIS COUNTY
(H,Hw) - See Crawford County
ELKHART COUNTY
(H,Hw) - See Adams County
FAYETTE COUNTY
(H,Hw) - See Blackford County
FLOYD COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
FOUNTAIN COUNTY
(H,Hw) - See Boone County
FRANKLIN COUNTY
(H,Hw) - See Bartholomew County
FULTON COUNTY
(H,Hw) - See Benton County
GIBSON COUNTY
(H,Hw) - See Crawford County
GRANT COUNTY
Decision #AQ-3130 (B)
39 FR 12609 - 4/5/74
(H,Hw) - See Blackford County
GREENE COUNTY
(H,Hw) - See Boone County
HAMILTON COUNTY
(H,Hw) - See Blackford County
(R) - See Boone County
HANCOCK COUNTY
(H,Hw) - See Blackford County
(R) - See Boone County
HARRISON COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
HENDRICKS COUNTY
(H,Hw) - See Boone County
(R) - See Boone County
HENRY COUNTY
(H,Hw) - See Blackford County
HOWARD COUNTY
(H,Hw) - See Benton County
HUNTINGTON COUNTY
(H,Hw) - See Adams County
JACKSON COUNTY
(H,Hw) - See Bartholomew County
JASPER COUNTY
(H,Hw) - See Benton County

INDIANA (Cont'd)

JAY COUNTY
(H,Hw) - See Blackford County
JEFFERSON COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
JENNINGS COUNTY
(H,Hw) - See Bartholomew County
JOHNSON COUNTY
(H,Hw) - See Blackford County
(R) - See Boone County
KNOX COUNTY
(H,Hw) - See Boone County
KOSCIUSKO COUNTY
(H,Hw) - See Adams County
LAGRANGE COUNTY
(H,Hw) - See Adams County
LAKE COUNTY
Decision #AQ-3131 (B,H,Hw)
39 FR 12612 - 4/5/74
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
LAPORTE COUNTY
Decision #AQ-3132 (B,H,Hw)
39 FR 12617 - 4/5/74
(D) - See Lake County
LAWRENCE COUNTY
(H,Hw) - See Bartholomew County
MADISON COUNTY
(H,Hw) - See Blackford County
MARION COUNTY
Decision #AQ-3133 (B)
39 FR 12622 - 4/5/74
(R) - See Boone County
(H,Hw) - See Blackford County
MARSHALL COUNTY
(H,Hw) - See Adams County
MARTIN COUNTY
(H,Hw) - See Bartholomew County
MIAMI COUNTY
(H,Hw) - See Benton County
MONROE COUNTY
Decision #AQ-3134 (B)
39 FR 12625 - 4/5/74
(H,Hw) - See Bartholomew County
MONTGOMERY COUNTY
(H,Hw) - See Boone County
MORGAN COUNTY
(R) - See Boone County
(H,Hw) - See Boone
NEWTON COUNTY
(H,Hw) - See Benton County
NOBLE COUNTY
(H,Hw) - See Adams County

INDIANA (Cont'd)

OHIO COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
ORANGE COUNTY
(H,Hw) - See Bartholomew County
OWEN COUNTY
(H,Hw) - See Boone County
PARKE COUNTY
(H,Hw) - See Boone County
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Crawford County
PIKE COUNTY
(H,Hw) - See Crawford County
PORTER COUNTY
Decision #AQ-3135 (B,H,Hw)
39 FR 12628 - 4/5/74
(D) - See Lake County
POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Crawford County
PULASKI COUNTY
(H,Hw) - See Benton County
PUTNAM COUNTY
(H,Hw) - See Boone County
RANDOLPH COUNTY
(H,Hw) - See Blackford County
RIPLEY COUNTY
(H,Hw) - See Bartholomew County
RUSH COUNTY
(H,Hw) - See Blackford County
SAINT JOSEPH COUNTY
Decision #AQ-3136 (B,H,Hw)
39 FR 12633 - 4/5/74
SCOTT COUNTY
(H,Hw) - See Bartholomew County
SHELBY COUNTY
(R) - See Boone County
(H,Hw) - See Blackford County
SPENCER COUNTY
(D) - See Clark County
(H,Hw) See Crawford County

INDIANA (Cont'd)

STARKE COUNTY
(H,Hw) - See Adams County
STEUBEN COUNTY
(H,Hw) - See Adams County
SULLIVAN COUNTY
(H,Hw) - See Boone County
SWITZERLAND COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
TIPPECANOE COUNTY
(B,H,Hw) - See Benton County
TIPTON COUNTY
(H,Hw) - See Benton County
UNION COUNTY
(H,Hw) - See Blackford County
VANDERBURGH COUNTY
Decision #AQ-3137 (B)
39 FR 12638 - 4/5/74
(D) - See Clark County
(H,Hw) - See Crawford County
VERMILLION COUNTY
(H,Hw) - See Boone County
VIGO COUNTY
Decision #AQ-3138 (B)
39 FR 12641 - 4/5/74
(H,Hw) - See Boone County
WABASH COUNTY
(H,Hw) - See Benton County
WARREN COUNTY
(H,Hw) - See Boone County
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Crawford County
WASHINGTON COUNTY
(H,Hw) - See Bartholomew County
WAYNE COUNTY
(H,Hw) - See Blackford County
WELLS COUNTY
(H,Hw) - See Adams County
WHITE COUNTY
(H,Hw) - See Benton County
WHITLEY COUNTY
(H,Hw) - See Adams County

IOWA

ADAIR COUNTY
None
ADAMS COUNTY
None
ALLAMAKEE COUNTY
None
APPANOOSE COUNTY
None
AUDUBON COUNTY
None
BENTON COUNTY
None
BLACK HAWK COUNTY
Decision #AQ-17 (B,H,Hw) (City of Waterloo & abutting Municipalities
38 FR 21078 - 6/3/73
Mod. #1 - 38 FR 22849 - 8/24/73
Mod. #2 - 38 FR 26545 - 9/21/73
Mod. #3 - 38 FR 29145 - 10/19/73
Mod. #4 - 38 FR 31754 - 11/16/73
Mod. #5 - 39 FR 10074 - 3/15/74
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
None
BUENA VISTA COUNTY
None
BUTLER COUNTY
None
CALHOUN COUNTY
None
CARROLL COUNTY
Decision #AM-6,712 (H,Hw)
37 FR 7429 - 4-14-72
CASS COUNTY
(H,Hw) - See Carroll County
CEDAR COUNTY
None
CERRO GORDO COUNTY (MASON CITY)
Decision #AM-2,448 (B,H,Hw)
36 FR 16796 - 8-25-71
Mod. #1-36 FR 18985 - 9-24-71
Mod. #2-37 FR 4465 - 3-3-72
Mod. #3-38 FR 16579 - 6/22/73
Mod. #4-38 FR 18115 - 7/6/73
Mod. #5-38 FR 20163 - 7/27/73
Mod. #6-38 FR 22843 - 8/24/73
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
None

IOWA (Cont'd)

CLAY COUNTY
(H,Hw) - See Carroll County
CLAYTON COUNTY
None
CLINTON COUNTY (City of Clinton and abbutting municipalities)
Decision #AQ-12 (B,H,Hw)
38 FR 21059 - 8/3/73
Mod. #1 - 38 FR 22846 - 8/24/73
Mod. #2 - 38 FR 26544 - 9/21/73
Mod. #3 - 38 FR 29144 - 10/19/73
Mod. #4 - 38 FR 30313 - 11/2/73
Mod. #5 - 38 FR 31754 - 11/16/73
Mod. #6 - 39 FR 11814 - 3/29/74
CRAWFORD COUNTY
(H,Hw) - See Carroll County
DALLAS COUNTY
None
DAVIS COUNTY
None
DECATUR COUNTY
None
DELAWARE COUNTY
None
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordnance Plant)
Decision #AQ-16 (B,H,Hw)
38 FR 21074 - 8/3/73
Mod. #1 - 38 FR 22849 - 8/24/73
Mod. #2 - 38 FR 26545 - 9/21/73
Mod. #3 - 38 FR 29145 - 10/19/73
Mod. #4 - 38 FR 31097 - 11/9/73
Mod. #5 - 39 FR 11814 - 3/29/74
DICKINSON COUNTY
None
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #AQ-13 (B,H,Hw)
38 FR 21062 - 8/3/73
Mod. #1 - 38 FR 22846 - 8/24/73
Mod. #2 - 38 FR 26544 - 9/21/73
Mod. #3 - 38 FR 29144 - 10/19/73
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
None
FRANKLIN COUNTY
None
FREMONT COUNTY
None
GREENE COUNTY
None
GRUNDY COUNTY
None

IOWA (Cont'd)

GUTHRIE COUNTY
None
HAMILTON COUNTY
None
HANCOCK COUNTY
None
HARDIN COUNTY
None
HARRISON COUNTY
None
HENRY COUNTY
None
HOWARD COUNTY
(H,Hw) - See Carroll County
HUMBOLDT COUNTY
None
IDA COUNTY
None
IOWA COUNTY
None
JACKSON COUNTY
None
JASPER COUNTY
None
JEFFERSON COUNTY
None
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #AQ-20 (B,H,Hw)
38 FR 22861 - 8/24/73
Mod. #1 - 38 FR 26545 - 9/21/73
Mod. #2 - 38 FR 29145 - 10/19/73
Mod. #3 - 38 FR 31754 - 11/16/73
JONES COUNTY
None
KEOKUK COUNTY
None
KOSSUTH COUNTY
None
LEE COUNTY
None
LINN COUNTY (City of Cedar Rapids and Abutting Municipalities)
Decision #AQ-19 (B,H,Hw)
38 FR 22857 - 8/24/73
Mod. #1 - 38 FR 26545 - 9/21/73
Mod. #2 - 38 FR 29145 - 10/19/73
Mod. #3 - 38 FR 31754 - 11/16/73
LINN COUNTY (Except City of Cedar Rapids and Abutting Municipalities)
Decision #AP-536 (H,Hw)
38 FR 18139 - 7/6/73

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IOWA (Cont'd)

LOUISA COUNTY
None
LUCAS COUNTY
None
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
None
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
None
MITCHELL COUNTY
None
MONONA COUNTY
(H,Hw) - See Carroll County
MONROE COUNTY
None
MONTGOMERY COUNTY
None
MUSCATINE COUNTY
None
O'BRIEN COUNTY
(H,Hw) - See Carroll County
OSCEOLA COUNTY
(H,Hw) - See Carroll County
PAGE COUNTY
None
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY (City of Des Moines and Abutting Municipalities)
Decision #AQ-15 (B,H,Hw)
38 FR 21070 - 8/3/73
Mod. #1 - 38 FR 22848 - 8/24/73
Mod. #2 - 38 FR 26545 - 9/21/73
Mod. #3 - 38 FR 29145 - 10/19/73
Mod. #4 - 38 FR 30313 - 11/2/73
Mod. #5 - 38 FR 31097 - 11/9/73
POLK COUNTY (Except City of Des Moines and Abutting Municipalities)
Decision #AP-215 (H,Hw)
37 FR 16266 - 8-11-72

IOWA (Cont'd)

POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City limits)
Decision #AM-2,455 (B,H,Hw)
36 FR 16820 - 8-25-71
Mod. #1-37 FR 4466 - 3-3-72
POWESHIEK COUNTY
None
RINGGOLD COUNTY
(H,Hw) - See Carroll County
SAC COUNTY
None
SCOTT COUNTY
Decision #AQ-3 (B,H,Hw)
38 FR 19641 - 7/20/73
Mod. #1 - 38 FR 26544 - 9/21/73
Mod. #2 - 38 FR 29144 - 10/19/73
Mod. #3 - 38 FR 30313 - 11/2/73
Mod. #4 - 39 FR 11814 - 3/29/74
SHELBY COUNTY
None
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #AQ-14 (B,H,Hw)
38 FR 21066 - 8/3/73
Mod. #1 - 38 FR 22847 - 8/24/73
Mod. #2 - 38 FR 26545 - 9/21/73
Mod. #3 - 38 FR 29145 - 10/19/73
Mod. #4 - 38 FR 30313 - 11/2/73
Mod. #5 - 38 FR 31097 - 11/9/73
TAMA COUNTY
None
TAYLOR COUNTY
(H,Hw) - See Carroll County
UNION COUNTY
None
VAN BUREN COUNTY
(H,Hw) - See Carroll County
WAPELLO COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
None
WEBSTER COUNTY (FORT DODGE)
Decision #AM-2,458 (B,H,Hw)
36 FR 16830 - 8-25-71
Mod. #1 - 37 FR 4466 - 3/3/72
Mod. #2 - 37 FR 11117 - 6/2/72
Mod. #3 - 38 FR 15787 - 6/15/73
Mod. #4 - 38 FR 17337 - 6/29/73
Mod. #5 - 38 FR 18115 - 7/6/73
Mod. #6 - 38 FR 18817 - 7/13/73
Mod. #7 - 38 FR 22844 - 8/24/73

IOWA (Cont'd)

WINNEBAGO COUNTY
None
WINNESHIEK COUNTY
None
WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #AQ-11 (B)
38 FR 21055 - 8/3/73
Mod. #1 - 38 FR 22845 - 8/24/73
Mod. #2 - 38 FR 23653 - 8/31/73
Mod. #3 - 38 FR 26544 - 9/21/73
Mod. #4 - 38 FR 29144 - 10/19/73
Mod. #5 - 38 FR 31097 - 11/9/73
Mod. #6 - 39 FR 11814 - 3/29/74
WORTH COUNTY
None
WRIGHT COUNTY
None

KANSAS

ALLEN COUNTY
Decision #AP-519 (Hw)
38 FR 7732 - 3/23/73
Mod. #1 - 38 FR 22313 - 8/17/73
ANDERSON COUNTY
(Hw) - See Allen County
ATCHISON COUNTY
Decision #AQ-21 (D)
38 FR 23647 - 8/31/73
(Hw) - See Allen County
BARBER COUNTY
Decision #AP-521 (Hw)
38 FR 7734 - 3/23/73
Mod. #1 - 38 FR 22313 - 8/17/73
BARTON COUNTY
(Hw) - See Barber County
BOURBON COUNTY
(Hw) - See Allen County
BROWN COUNTY
(Hw) - See Allen County
BUTLER COUNTY
(Hw) - See Allen County
CHASE COUNTY
(Hw) - See Allen County
CHAUTAUQUA COUNTY
(Hw) - See Allen County
CHEROKEE COUNTY
(Hw) - See Allen County
CHEYENNE COUNTY
(Hw) - See Barber County
CLARK COUNTY
(Hw) - See Barber County

KANSAS (Cont'd)

CLAY COUNTY
(Hw) - See Allen County
CLOUD COUNTY
(Hw) - See Allen County
COFFEY COUNTY
(Hw) - See Allen County
COMANCHE COUNTY
(Hw) - See Barber County
COWLEY COUNTY
(Hw) - See Allen County
CRAWFORD COUNTY
(Hw) - See Allen County
DECATUR COUNTY
(Hw) - See Barber County
DICKINSON COUNTY
(Hw) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw) - See Allen County
DOUGLAS COUNTY
Decision #AP-503 (Hw)
37 FR 17349 - 8-25-72
Mod. #1-37 FR 20389 - 9-29-72
Mod. #2-38 FR 6523 - 3/9/73
Mod. #3-38 FR 9389 - 4/13/73
Mod. #4-38 FR 20164 - 7/27/73
Mod. #5-38 FR 22850 - 8/24/73
EDWARDS COUNTY
(Hw) - See Barber County
ELK COUNTY
(Hw) - See Allen County
ELLIS COUNTY
(Hw) - See Barber County
ELLSWORTH COUNTY
(Hw) - See Barber County
FINNEY COUNTY
(Hw) - See Barber County
FORD COUNTY
(Hw) - See Barber County
FRANKLIN COUNTY
(Hw) - See Allen County
GEARY COUNTY
Decision #AQ-88 (R)
39 FR 11791 - 3/29/74
(Hw) - See Allen County
GOVE COUNTY
(Hw) - See Barber County
GRAHAM COUNTY
(Hw) - See Barber County
GRANT COUNTY
(Hw) - See Barber County

KANSAS (Cont'd)

GRAY COUNTY
(Hw) - See Barber County
GREELEY COUNTY
(Hw) - See Barber County
GREENWOOD COUNTY
(Hw) - See Allen County
HAMILTON COUNTY
(Hw) - See Barber County
HARPER COUNTY
(Hw) - See Allen County
HARVEY COUNTY
(Hw) - See Allen County
HASKELL COUNTY
(Hw) - See Barber County
HODGEMAN COUNTY
(Hw) - See Barber County
JACKSON COUNTY
(Hw) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw) - See Barber County
JOHNSON COUNTY
Decision #AQ-44 (B,H,Hw)
38 FR 31780 - 11/16/73
Decision #AQ-62 (R)
38 FR 32388 - 11/23/73
KEARNY COUNTY
(Hw) - See Barber County
KINGMAN COUNTY
(Hw) - See Allen County
KIOWA COUNTY
(Hw) - See Barber County
LABETTE COUNTY
(Hw) - See Allen County
LANE COUNTY
(Hw) - See Barber County
LEAVENWORTH COUNTY
Decision #AQ-36 (B)
38 FR 28511 - 10/24/73
Mod. #1 - 38 FR 31754 - 11/16/73
(Hw) - See Douglas County
(D) - See Atchison County

KANSAS (Cont'd)

LINCOLN COUNTY
(Hw) - See Barber County
LINN COUNTY
(Hw) - See Allen County
LOGAN COUNTY
(Hw) - See Barber County
LYON COUNTY
(Hw) - See Allen County
McPHERSON COUNTY
(Hw) - See Allen County
MARION COUNTY
(Hw) - See Allen County
MARSHALL COUNTY
(Hw) - See Allen County
MEADE COUNTY
(Hw) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw) - See Barber County
MONTGOMERY COUNTY
(Hw) - See Allen County
MORRIS COUNTY
(Hw) - See Allen County
MORTON COUNTY
(Hw) - See Barber County
NEMAHA COUNTY
(Hw) - See Allen County
NEOSHO COUNTY
(Hw) - See Allen County
NESS COUNTY
(Hw) - See Barber County
NORTON COUNTY
(Hw) - See Barber County
OSAGE COUNTY
(Hw) - See Allen County
OSBORNE COUNTY
(Hw) - See Barber County
OTTAWA COUNTY
(Hw) - See Allen County
PAWNEE COUNTY
(Hw) - See Barber County
PHILLIPS COUNTY
(Hw) - See Barber County
POTTAWATOMIE COUNTY
(Hw) - See Allen County
PRATT COUNTY
(Hw) - See Barber County
RAWLINS COUNTY
(Hw) - See Barber County

KANSAS (Cont'd)

RENO COUNTY
(Hw) - See Allen County
REPUBLIC COUNTY
(Hw) - See Allen County
RICE COUNTY
(Hw) - See Barber County
RILEY COUNTY
(Hw) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw) - See Barber County
RUSH COUNTY
(Hw) - See Barber County
RUSSELL COUNTY
(Hw) - See Barber County
SALINE COUNTY
(Hw) - See Allen County
SCOTT COUNTY
(Hw) - See Barber County
SEDGWICK COUNTY
Decision #AP-533 (R)
38 FR 16573 - 6/22/73
Decision #AP-532 (B)
38 FR 13922 - 5/25/73
Mod. #1 - 38 FR 20166 - 7/27/73
Mod. #2 - 38 FR 27163 - 9/28/73
Decision #AP-520 (Hw)
38 FR 7733 - 3/23/73
Mod. #1 - 38 FR 22313 - 8/17/73
SEWARD COUNTY
(Hw) - See Barber County
SHAWNEE COUNTY
Decision #AQ-32 (B)
38 FR 27169 - 9/28/73
(Hw) - See Douglas County
Decision #AQ-33 (R)
38 FR 27172 - 9/28/73

KANSAS (Cont'd)

SHERIDAN COUNTY
(Hw) - See Barber County
SHERMAN COUNTY
(Hw) - See Barber County
SMITH COUNTY
(Hw) - See Barber County
STAFFORD COUNTY
(Hw) - See Barber County
STANTON COUNTY
(Hw) - See Barber County
STEVENS COUNTY
(Hw) - See Barber County
SUMNER COUNTY
(Hw) - See Allen County
THOMAS COUNTY
(Hw) - See Barber County
TREGO COUNTY
(Hw) - See Barber County
WABAUNSEE COUNTY
(Hw) - See Allen County
WALLACE COUNTY
(Hw) - See Barber County
WASHINGTON COUNTY
(Hw) - See Allen County
WICHITA COUNTY
(Hw) - See Barber County
WILSON COUNTY
(Hw) - See Allen County
WOODSON COUNTY
(Hw) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw) - See Johnson County
(R) - See Johnson County
(D) - See Atchison County

XUM

KENTUCKY

ADAIR COUNTY
Decision #AQ-4075 (H,Hw)
39 FR 5983 - 2/15/74
Mod. #1 - 39 FR 8102 - 3/1/74
ALLEN COUNTY
Decision #AQ-4084 (H,Hw)
39 FR 8118 - 3/1/74
ANDERSON COUNTY
Decision #AQ-4063 (H,Hw)
39 FR 4301 - 2/1/74
Mod. #1 - 39 FR 7016 - 2/22/74
BALLARD COUNTY
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #AQ-4066 (R)
39 FR 4305 - 2/1/74
BELL COUNTY
(H,Hw) - See Adair County
BOONE COUNTY
Decision #AQ-4013 (B)
38 FR 27175 - 9/28/73
Decision #AQ-4036 (H,Hw)
38 FR 32349 - 11/23/73
Mod. #1 - 38 FR 33879 - 12/7/73
Mod. #2 - 39 FR 1189 - 1/4/74
Decision #AQ-3094 (D)
39 FR 5070 - 2/8/74
BOURBON COUNTY
(Hw,H) - See Anderson County
(R) - See Bath County
BOYD COUNTY
Decision #AQ-4020 (B)
38 FR 28516 - 10/12/73
(H,Hw) - See Anderson County
(D) - See Boone County
BOYLE COUNTY
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
BREATHITT COUNTY
Decision #AQ-4076 (H,Hw)
39 FR 5987 - 2/15/74
Mod. #1 - 39 FR 8102 - 3/1/74

KENTUCKY (Cont'd)

BRECKINRIDGE COUNTY
Decision #AP-183 (R)
38 FR 11278 - 5/4/73
(H,Hw) - See Anderson County
(D) - See Boone County
BULLITT COUNTY
(D) - See Boone County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(B,H,D,Hw) - See Boone County
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
CARTER COUNTY
(H,Hw) - See Anderson County
CASEY COUNTY
(H,Hw) - See Adair County
CHRISTIAN COUNTY
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
(H,Hw) - See Adair County
CLINTON COUNTY
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
CUMBERLAND COUNTY
(H,Hw) - See Adair County
DAVIESS COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
EDMONSON COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

ELLIOTT COUNTY
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
FAYETTE COUNTY
Decision #AQ-4021 (B)
38 FR 28519 - 10/12/73
Mod. #1 - 39 FR 10075 - 3/15/74
(R) - See Bath County
FLEMING COUNTY
(H,Hw) - See Anderson County
FLOYD COUNTY
(H,Hw) - See Breathitt County
FRANKLIN COUNTY
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
GRANT COUNTY
(H,Hw) - See Anderson County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
HANCOCK COUNTY
(H,Hw) - See Allen County
(D) - See Boone County

KENTUCKY (Cont'd)

HARDIN COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
HARLAN COUNTY
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw) - See Adair County
HENDERSON COUNTY
Decision #AQ-4093 (B)
39 FR 10994 - 3/22/74
(H,Hw) - See Allen County
(D) - See Boone County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #AQ-4022 (B)
38 FR 28522 - 10/12/73
Mod. #1 - 39 FR 10075 - 3/15/74
Mod. #2 - 39 FR 12585 - 4/5/74
(D) - See Boone County
(R) - See Breckinridge County
(H,Hw) - See Anderson County

KENTUCKY (Cont'd)

JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
JOHNSON COUNTY
Decision #AQ-4080 (H,Hw)
39 FR 7033 - 2/22/74
KENTON COUNTY
(B,H,Hw,D) - See Boone County
KNOTT COUNTY
(H,Hw) - See Breathitt County
KNOX COUNTY
(H,Hw) - See Adair County
LARUE COUNTY
(H,Hw) - See Anderson County
LAUREL COUNTY
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Johnson County
LEE COUNTY
(H,Hw) - See Adair cOunty
LESLIE COUNTY
(H,Hw) - See Adair County
LETCHER COUNTY
(H,Hw) - See Breathitt County
LEWIS COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
LINCOLN COUNTY
(H,Hw) - See Adair county
LIVINGSTON COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

McCRACKEN COUNTY
Decision #AQ-4023 (B)
38 FR 28525 - 10/12/73
(D) - See Boone County
(H,Hw) - See Allen County
McCREARY COUNTY
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Breathitt County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Breathitt County
MASON COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
MEADE COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw) - See Adair County
MONROE COUNTY
(H,Hw) - See Adair County

KENTUCKY (Cont'd)

MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County
NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(H,Hw) - See Adair County
PENDLETON COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
PERRY COUNTY
(H,Hw) - See Breathitt County
PIKE COUNTY
(H,Hw) - See Breathitt County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(H,Hw) - See Adair County
ROBERTSON COUNTY
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(H,Hw) - See Adair County
ROWAN COUNTY
(H,Hw) - See Anderson County
RUSSELL COUNTY
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd)

RUSSELL COUNTY
(Hw,H) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(H,Hw) - See Allen County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
TRIMBLE COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
WARREN COUNTY
Decision #AQ-4024 (B,H,Hw)
38 FR 28527 - 10/12/73
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

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LOUISIANA

STATEWIDE
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
Decision #AQ-90 (Hw, Roads, Streets, Parking Area (Except those with a building contract and Earthen Dams)
39 FR 11792 - 3/29/74
ACADIA PARISH
(D) - See Statewide
(Hw, Earthen Dams) - See Statewide
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
Decision #AQ-76 (B)
39 FR 4306 - 2/1/74
Mod. #1 - 39 FR 10075 - 3/15/74
ALLEN PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ASCENSION PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw,Earthen Dams) - See Statewide
ASSUMPTION PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
AVOYELLES PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
BEAUREGARD PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
BIENVILLE PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
BOSSIER PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
Decision #AQ-83 (B,R)
39 FR 7037 - 2/22/74
CADDO PARISH
(D) - See Statewide
(B,R) - See Bossier Parish
(Hw, Earthen Dams) - See Statewide
CALCASIEU PARISH
(D) - See Statewide
(B) - See Acadia Parish
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide

LOUISIANA (Cont'd)

CALCASIEU PARISH (cont'd)
Decision #AQ-77 (R)
39 FR 4321 - 2/1/74
Mod. #1 - 39 FR 10077 - 3/15/74
CALDWELL PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
CAMERON PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
CATAHOULA PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
CLAIBORNE PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
CONCORDIA PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
DE SOTO PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
EAST BATON ROUGE PARISH
(D) - See Statewide
(B) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
EAST CARROLL PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
EAST FELICIANA PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
EVANGELINE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
FRANKLIN PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide

LOUISIANA (Cont'd)

GRANT PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
IBERIA PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
IBERVILLE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
JACKSON COUNTY
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
JEFFERSON PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
JEFFERSON DAVIS PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
LAFAYETTE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
LAFOURCHE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
LA SALLE PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
LINCOLN PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
LIVINGSTON PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
MADISON PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
MOREHOUSE EARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
NATCHITOCHES PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ORLEANS EARISH
(D) - See Statewide
(B) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide

LOUISIANA (Cont'd)

OUACHITA PARISH
(D) - See Statewide
Decision #AP-317 (R)
37 FR 17305-8/25/72
(Hw, Earthen Dams) - See Statewide
PLAQUEMINES PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
POINTE COUPEE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
RAPIDES PARISH
(D) - See Statewide
(Hw, Earthen Dams) - See Statewide
Decision #AQ-39 (B)
38 FR 29752 - 10/26/73
Mod. #1 - 38 FR 35570 - 12/28/73
Mod. #2 - 39 FR 4273 - 2/1/74
Mod. #3 - 39 FR 5062 - 2/8/74
RED RIVER PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
RICHLAND PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
SABINE PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. BERNARD PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. CHARLES PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. HELENA PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. JAMES PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. JOHN THE BAPTIST PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. LANDRY PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. MARTIN PARISH
(D) - See Statewide

LOUISIANA (Cont'd)

ST. MARTIN PARISH (Cont'd)
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. MARY PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
ST. TAMMANY PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
TANGIPAHOA PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
TENSAS PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
TERREBONE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
UNION PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
VERMILLION PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
VERNON PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
WASHINGTON PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
WEBSTER PARISH
(D) - See Statewide
(F) - See Acadie Parish
(Hw, Earthen Dams) - See Statewide
WEST BATON ROUGE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
WEST CARROLL PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
WEST FELICIANA PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide
WINN PARISH
(D) - See Statewide
(F) - See Acadia Parish
(Hw, Earthen Dams) - See Statewide

MAINE

ANDROSCOGGIN COUNTY
None
AROOSTOOK COUNTY
None
CUMBERLAND COUNTY
Decision #AF-803 (D)
38 FR 10580 - 4/27/73
FRANKLIN COUNTY
None
HANCOCK COUNTY
(D) - See Cumberland County
KENNEBEC COUNTY
None
KNOX COUNTY
(D) - See Cumberland County
LINCOLN COUNTY
(D) - See Cumberland County
OXFORD COUNTY
None
PENOBSCOT COUNTY
None
PISCATAQUIS COUNTY
None
SAGADAHOC COUNTY
(D) - See Cumberland County
SOMERSET COUNTY
None
WALDO COUNTY
(D) - See Cumberland County
WASHINGTON COUNTY
(D) - See Cumberland County
YORK COUNTY
(D) - See Cumberland County

MARYLAND

ALLEGANY COUNTY
None
ANNE ARUNDEL COUNTY
Decision #AQ-2039 (D)
39 FR 3395 - 1/25/74
Decision #AQ-2040 (E,H,Hw)
39 FR 3396 - 1/25/74
Mod. #1 - 39 FR 10078 - 3/15/74
Mod. #2 - 39 FR 10999 - 3/22/74
BALTIMORE CITY & BALTIMORE COUNTY
Decision #AQ-2022 (B,H)
38 FR 29182 - 10/19/73
Mod. #1 - 38 FR 31756 - 11/16/73
Mod. #2 - 38 FR 35570 - 12/28/73
Mod. #3 - 39 FR 10077 - 3/15/74
Decision #AQ-2072 (R)
39 FR 8122 - 3/1/74
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
CALVERT COUNTY
(D) - See Anne Arundel County
CAROLINE COUNTY
None
CARROLL COUNTY
None
CECIL COUNTY
(R) - See Baltimore County
CHARLES COUNTY
(D) - See Anne Arundel County
DORCHESTER COUNTY
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #AQ-2076 (R)
39 FR 10069 - 3/15/74
GARRETT COUNTY
None
HARFORD COUNTY
(R) - See Baltimore County
(D) - See Anne Arundel County
HOWARD COUNTY
(R) - See Baltimore County
KENT COUNTY
(D) - See Anne Arundel County

MARYLAND (cont'd)

MONTGOMERY COUNTY
Decision #AQ-2036 (B)
38 FR 35143 - 12/21/73
Mod. #1 - 39 FR 2327 - 1/18/74
Mod. #2 - 39 FR 7019 - 2/22/74
Decision #AP-450 (R)
37 FR 25117 - 11/25/72
PRINCE GEORGES COUNTY
(R)-See Montgomery County
(R) - See Montgomery County
(D) - See Anne Arundel County
QUEEN ANNES COUNTY
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D) - See Anne Arundel County
SOMERSET COUNTY
(D) - See Anne Arundel County
TALBOT COUNTY
(D) - See Anne Arundel County
WASHINGTON COUNTY
None
WICOMICO COUNTY
Decision #AQ-2075 (R)
39 FR 10068 - 3/15/74
(D) - See Anne Arundel County
WORCESTER COUNTY
(D) - See Baltimore County

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MASSACHUSETTS

BARNSTABLE COUNTY
Decision AQ-3038 (B,H,Hw, & Marine)
38 FR 32352 - 11/23/73
Mod. #1 - 38 FR 34572 - 12/14/73
Mod. #2 - 39 FR 1191 - 1/4/74
Mod. #3 - 39 FR 2325 - 1/18/74
Mod. #4 - 39 FR 4275 - 2/1/74
Decision #AP-803 - (D)
38 FR 10580 - 4/27/73
BERKSHIRE COUNTY
None
BRISTOL COUNTY
Decision AQ-3039 (B,H,Hw, & Marine)
38 FR 32356 - 11/23/73
Mod. #1 - 38 FR 34572 - 12/14/73
Mod. #2 - 39 FR 1191 - 1/4/74
Mod. #3 - 39 FR 2325 - 1/18/74
Mod. #4 - 39 FR 4275 - 2/1/74
Decision #AQ-3071 (R)
38 FR 34566 - 12/14/73
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision AQ-3040 (B,H,Hw & Marine)
38 FR 32361 - 11/23/73
Mod. #1 - 38 FR 34572 - 12/14/73
Mod. #2 - 39 FR 1191 - 1/4/74
Mod. #3 - 39 FR 2325 - 1/18/74
Mod. #4 - 39 FR 4276 - 2/1/74
(D) - See Barnstable County
FRANKLIN COUNTY
None
HAMPDEN COUNTY
Decision #AQ-3031 (B,H,Hw)
38 FR 30357 - 11/2/73
Mod. #1 - 38 FR 33205 - 11/30/73
Mod. #2 - 39 FR 1192 - 1/4/74
Mod. #3 - 39 FR 4274 - 2/1/74
Decision #AQ-3032 (R)
38 FR 30361 - 11/2/73
Mod. #1 - 38 FR 33205 - 11/30/73
Mod. #2 - 39 FR 4274 - 2/1/74
HAMPSHIRE COUNTY
None
MIDDLESEX COUNTY
Decision AQ-3041 (B,H,Hw & Marine)
38 FR 32366 - 11/23/73
Mod. #1 - 38 FR 34572 - 12/14/73
Mod. #2 - 39 FR 1192 - 1/4/74
Mod. #3 - 39 FR 2325 - 1/18/74
Mod. #4 - 39 FR 4274 - 2/1/74
(D) - See Barnstable County
Decision AQ-3042 (R)
38 FR 32372 - 11/23/73

MASSACHUSETTS (CONT'D)

MIDDLESEX COUNTY (CONT'D)
Decision #AQ-3042 (R)
Mod. #1 - 38 FR 34573 - 12/14/73
Mod. #2 - 39 FR 1193 - 1/4/74
Mod. #3 - 39 FR 2325 - 1/18/74
Mod. #4 - 39 FR 4277 - 2/1/74
NANTUCKET COUNTY
(D) - See Barnstable County
NORFOLK COUNTY
Decision AQ-3043 (B,H,Hw)
38 FR 32376 - 11/23/73
Mod. #1 - 38 FR 34573 - 12/14/73
Mod. #2 - 39 FR 1194 - 1/4/74
Mod. #3 - 39 FR 2326 - 1/18/74
Mod. #4 - 39 FR 4277 - 2/1/74
Decision AQ-3044 (R)
38 FR 32380 - 11/23/73
Mod. #1 - 38 FR 34573 - 12/14/73
Mod. #2 - 39 FR 1190 - 1/4/74
Mod. #3 - 39 FR 2326 - 1/18/74
Mod. #4 - 39 FR 4278 - 2/1/74
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #AQ-3083 (B,H,Hw)
39 FR 4323 - 2/1/74
Decision #AQ-3084 (R)
39 FR 4327 - 2/1/74
(D) - See Barnstable County
SUFFOLK COUNTY
Decision AQ-3045 (B,H,Hw,Marine & D)
38 FR 32383 - 11/23/73
Mod. #1 - 38 FR 34574 - 12/14/73
Mod. #2 - 39 FR 1191 - 1/4/74
Mod. #3 - 39 FR 2326 - 1/18/74
Mod. #4 - 39 FR 4278 - 2/1/74
Decision #AQ-3072 (R)
39 FR 1195 - 1/4/74
Mod. #1 - 39 FR 4278 - 2/1/74
WORCESTER COUNTY
Decision #AQ-3160 (B,H,Hw)
39 FR 12645 - 4/5/74

MICHIGAN

ALCONA COUNTY
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
Decision #AP-78 (Highway, Bridge, Airport & Sewer Cons, excl. of Bldgs.)
37 FR 28377 - 12/22/72
Mod. #1 - 38 FR 936 - 1/5/73
Mod. #2 - 38 FR 4629 - 2/16/73
ALGER COUNTY
(Hw) (D) - See Alcona County
ALLEGAN COUNTY
Decision #AQ-3049 (B,H)
38 FR 35145 - 12/21/73
Mod. #1 - 39 FR 5063 - 2/8/74
Mod. #2 - 39 FR 9347 - 3/8/74
Mod. #3 - 39 FR 12585 - 4/5/74
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
Decision #AP-77 (Highway, Bridge, Airport & Sewer Cons, excl. of Bldg.)
37 FR 28374 - 12/22/72
Mod. #1 - 38 FR 4629 - 2/16/73
Mod. #2 - 38 FR 21012 - 8/3/73
(D) - See Alcona County
ALPENA COUNTY
Decision #AQ-3050 (B,H)
39 FR 4330 - 2/1/74
(Hw,D) - See Alcona County
ANTRIM COUNTY
(Hw,D) - See Alcona County
ARENAC COUNTY
(Hw,D) - See Alcona County
BARAGA COUNTY
Decision #AQ-3051 (B,H)
38 FR 35149 - 12/21/73
Mod. #1 - 39 FR 5063 - 2/8/74
(Hw,D) - See Alcona County
BARRY COUNTY
(Hw) - See Allegan County
BAY COUNTY
(D) - See Alcona County
(Hw) - See Allegan County

MICHIGAN (Cont'd)

BENZIE COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
BERRIEN COUNTY
Decision #AQ-3052 (B,H)
39 FR 1691 - 1/11/74
Mod. #1 - 39 FR 9348 - 3/8/74
Mod. #2 - 39 FR 12585 - 4/5/74
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw) - See Allegan County
BRANCH COUNTY
Decision #AM-401 (R)
36 FR 15894 - 8/18/71
(Hw) - See Allegan County
CALHOUN COUNTY
Decision #AQ-3053 (B,H)
38 FR 35152 - 12/21/73
Mod. #1 - 39 FR 5064 - 2/8/74
Mod. #2 - 39 FR 9348 - 3/8/74
Mod. #3 - 39 FR 12586 - 4/5/74
Decision #AM-400 (R)
36 FR 15892 - 8/18/71
(Hw) - See Allegan County
CASS COUNTY
(Hw) - See Allegan County
(R) - See Branch County
CHARLEVOIX COUNTY
Decision #AQ-3054 (B,H)
38 FR 35156 - 12/21/73
Mod. #1 - 39 FR 5948 - 2/15/74
(Hw,D) - See Alcona County
CHEBOYGAN COUNTY
(Hw,D) - See Alcona County
CHIPPEWA COUNTY
Decision #AQ-3055 (B,H)
39 FR 1695 - 1/11/74
Mod. #1 - 39 FR 9349 - 3/8/74
(Hw,D) - See Alcona County
CLARE COUNTY
(Hw) - See Alcona County
CLINTON COUNTY
(Hw) - See Allegan County

MICHIGAN (cont'd)

CRAWFORD COUNTY
(Hw) - See Alcona County
DELTA COUNTY
(Hw,D) - See Alcona County
DICKINSON COUNTY
(Hw) - See Alcona County
EATON COUNTY
Decision #AM-8041 (R)
36 FR 24027 - 12/17/71
(Hw) - See Allegan County
EMMET COUNTY
Decision #AQ-3056 (B,H)
39 FR 4334 - 2/1/74
(Hw,D) - See Alcona County
GENESEE COUNTY
Decision #AQ-3057 (B,H)
39 FR 4338 - 2/1/74
Decision AP-76 (Highway, Bridge, Airport & Sewer Cons, excl. of Bldgs.)
37 FR 28372 - 12/22/72
Mod. #1 - 38 FR 4628 - 2/16/73
GLADWIN COUNTY
(Hw) - See Alcona County
GOGEBIC COUNTY
Decision #AQ-3058 (B,H)
38 FR 35159 - 12/21/73
Mod. #1 - 39 FR 5949 - 2/15/74
Mod. #2 - 39 FR 12586 - 4/5/74
(Hw,D) - See Alcona County
GRAND TRAVERSE COUNTY
Decision #AQ-3059 (B,H)
39 FR 1698 - 1/11/74
(Hw,D) - See Alcona County
GRATIOT COUNTY
(Hw) - See Allegan County
HILLSDALE COUNTY
(Hw) - See Allegan County
HOUGHTON COUNTY
(B,H) - See Baraga County
(Hw,D) - See Alcona County
HURON COUNTY
Decision #AQ-3060 (B,H)
38 FR 35162 - 12/21/73
Mod. #1 - 39 FR 12587 - 4/5/74
(D) - See Alcona County
(Hw) - See Allegan County
INGHAM COUNTY
Decision #AQ-3061 (B,H)
38 FR 35166 - 12/21/73
Mod. #1 - 39 FR 5064 - 2/8/74
(Hw) - See Allegan County
(R) - See Eaton County

MICHIGAN (Cont'd)

IONIA COUNTY
(Hw) - See Allegan County
IOSCO COUNTY
(D,Hw) - See Alcona County
IRON COUNTY
(Hw) - See Alcona County
ISABELLA COUNTY
(Hw) - See Alcona County
JACKSON COUNTY
(Hw) - See Allegan County
KALAMAZOO COUNTY
Decision #AQ-3062 (B,H)
38 FR 35170 - 12/21/73
Mod. #1 - 39 FR 5065 - 2/8/74
Mod. #2 - 39 FR 9349 - 3/8/74
Mod. #3 - 39 FR 12586 - 4/5/74
(Hw) - See Allegan County
(R) - See Branch County
KALKASKA COUNTY
(Hw) - See Alcona County
KENT COUNTY
Decision #AP-23 (B,H)
37 FR 20443 - 9/29/72
Mod. #1 - 38 FR 22704 - 10/20/72
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw) - See Allegan County
KEWEENAW COUNTY
(B,H) - See Baraga County
(Hw) - See Alcona County
LAKE COUNTY
(Hw) - See Alcona County
LAPEER COUNTY
(Hw) - See Allegan County
LEELANAU COUNTY
(B,H) - See Grand Traverse County
(Hw) - See Alcona County
LENAWEE COUNTY
(Hw) - See Allegan County
LIVINGSTON COUNTY
(Hw) - See Allegan County
LUCE COUNTY
(Hw,D) - See Alcona County
MACKINAC COUNTY
(B,H) - See Chippewa County
(Hw) - See Alcona County
MACOMB COUNTY
Decision #AQ-3069 (B,H)
39 FR 1707 - 1/11/74
(D) - See Alcona County
(Hw) - See Genessee County
Decision #AQ-3070 (R)
39 FR 4351 - 2/1/74

MICHIGAN (CONT'D)

MANISTEE COUNTY
(Hw,D) - See Alcona County
MARQUETTE COUNTY
Decision #AQ-3122 (B,H)
39 FR 9359 - 3/8/74
(Hw,D) - See Alcona County
MASON COUNTY
Decision #AQ-3064 (B,H)
39 FR 1704 - 1/11/74
(Hw,D) - See Alcona County
MECOSTA COUNTY
(Hw) - See Alcona County
MENOMINEE COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
MIDLAND COUNTY
(Hw) - See Allegan County
MISSAUKEE COUNTY
(Hw) - See Alcona County
MONROE COUNTY
(D) - See Alcona County
(Hw) - See Genessee County
MONTCALM COUNTY
(Hw) - See Allegan County
(R) - See Kent County
MONTMORENCY COUNTY
(Hw) - See Alcona County
MUSKEGON COUNTY
Decision #AQ-3066 (B,H)
38 FR 35178 - 12/21/73
Mod. #1 - 39 FR 5066 - 2/8/74
Mod. #2 - 39 FR 9350 - 3/8/74
Decision #AM-403 (R)
36 FR 15896 - 8/18/71
(D) - See Alcona County
(Hw) - See Allegan County
NEWAYGO COUNTY
(Hw) - See Alcona County
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw) - See Genessee County
OCEANA COUNTY
(B,H,R) - See Muskegon County
(D) - See Alcona County
(Hw) - See Allegan County
OGEMAW COUNTY
(Hw) - See Alcona County
ONTONAGON COUNTY
(B,H) - See Baraga County
(Hw,D) - See Alcona County
OSCEOLA COUNTY
(Hw) - See Alcona County

MICHIGAN (Cont'd)

OSCODA COUNTY
(Hw) - See Alcona County
OTSEGO COUNTY
(Hw) - See Alcona County
OTTAWA COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
(R) - See Allegan County
PRESQUE ISLE COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
ROSCOMMON COUNTY
(Hw) - See Alcona County
SAGINAW COUNTY
Decision #AQ-3065 (B,H)
38 FR 35174 - 12/21/73
Mod. #1 - 39 FR 5065 - 2/8/74
(Hw) - See Allegan County
SAINT CLAIR COUNTY
Decision #AQ-3067 (B,H)
39 FR 4342 - 2/1/74
Mod. #1 - 39 FR 12587 - 4/5/74
(Hw) - See Allegan County
SAINT JOSEPH COUNTY
(Hw) - See Allegan County
(R) - See Branch County
SANILAC COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
SHIAWASSEE COUNTY
(Hw) - See Allegan County
TUSCOLA COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
VAN BUREN COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
WASHTENAW COUNTY
Decision #AQ-3068 (B,H)
39 FR 4346 - 2/1/74
Mod. #1 - 39 FR 12588 - 4/5/74
(Hw) - See Genessee County
WAYNE COUNTY
(B,h,R) - See Macomb County
(D) - See Alcona County
(Hw) - See Genesee County
WEXFORD COUNTY
(Hw) - See Alcona County

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MINNESOTA

AITKIN COUNTY
(H,Hw) - See Anoka County
ANOKA COUNTY
Decision #AQ-3099 (B,R)
39 FR 7039 - 2/22/74
Decision #AQ-3103 (H,Hw)
39 FR 9362 - 3/8/74
BECKER COUNTY
Decision #AQ-3104 (H,Hw)
39 FR 9369 - 3/8/74
BELTRAMI COUNTY
None
BENTON COUNTY
(H,Hw) - See Anoka County
BIG STONE COUNTY
Decision #AQ-3105 (H,Hw)
39 FR 9370 - 3/8/74
BLUE EARTH COUNTY
(H,Hw) - See Anoka County
BROWN COUNTY
None
CARLTON COUNTY
(H,Hw) - See Anoka County
CARVER COUNTY
Decision #AO-3100 (B,R)
39 FR 7043 - 2/22/74
(H,Hw) - See Anoka County
CASS COUNTY
(H,Hw) - See Becker County
CHIPPEWA COUNTY
(H,Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Anoka County
CLAY COUNTY
(H,Hw) - See Becker County
CLEAR WATER COUNTY
None
COOK COUNTY
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
(H,Hw) - See Anoka County
COTTONWOOD COUNTY
Decision #AO-3124 (H,Hw)
39 FR 9335 - 3/8/74
CROW WING COUNTY
(H,Hw) - See Anoka County
DAKOTA COUNTY
Decision #AQ-3101 (B,R)
39 FR 7047 - 2/22/74
(H,Hw) - See Anoka County

MINNESOTA (Cont'd)

DODGE COUNTY
(H,Hw) - See Anoka County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FARIBAULT COUNTY
(H,Hw) - See Anoka County
FILLMORE COUNTY
(H,Hw) - See Anoka County
FREEBORN COUNTY
(H,Hw) - See Anoka County
GOODHUE COUNTY
(H,Hw) - See Anoka County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,R) - See Carver County
(H,Hw) - See Anoka County
HOUSTON COUNTY
(H,Hw) - See Anoka County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Anoka County
ITASKA COUNTY
(H,Hw) - See Anoka County
JACKSON COUNTY
(H,Hw) - See Anoka County
KANABEC COUNTY
(H,Hw) - See Anoka County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
None
KOOCHICHING COUNTY
(H,Hw) - See Anoka County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Anoka County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
None
LE SUEUR COUNTY
(H,Hw) - See Anoka County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County

MINNESOTA (Cont'd)

LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Anoka County
MAHNOMEN COUNTY
None
MARSHALL COUNTY
None
MARTIN COUNTY
(H,Hw) - See Anoka County
MEEKER COUNTY
(H,Hw) - See Anoka County
MILLE LACS COUNTY
(H,Hw) - See Anoka County
MORRISON COUNTY
(H,Hw) - See Anoka County
MOWER COUNTY
(H,Hw) - See Anoka County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Anoka County
NOBLES COUNTY
(H,Hw) - See Anoka County
NORMAN COUNTY
None
OLMSTEAD COUNTY
(H,Hw) - See Anoka County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
None
PINE COUNTY
(H,Hw) - See Anoka County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
None
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,R) - See Dakota County
(H,Hw) - See Anoka County

MINNESOTA (Cont'd)

RED LAKE COUNTY
None
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
None
RICE COUNTY
(H,Hw) - See Anoka County
ROCK COUNTY
(H,Hw) - See Anoka County
ROSEAU COUNTY
None
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Anoka County
CITY OF DULUTH
Decision #AQ-3102 (B,R)
39 FR 7051 - 2/22/74
SCOTT COUNTY
(H,Hw) - See Anoka County
(B,R) - See Carver County
SHERBURNE COUNTY
(H,Hw) - See Anoka County
SIBLEY COUNTY
(H,Hw) - See Anoka County
STEARNS COUNTY
(H,Hw) - See Anoka County
STEELE COUNTY
(H,Hw) - See Anoka County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big STone County
TODD COUNTY
(H,Hw) - See Becker County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(H,Hw) - See Anoka County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Anoka County
WASHINGTON COUNTY
(B,R) - See Dakota County
(H,Hw) - See Anoka County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(H,Hw) - See Anoka County
WRIGHT COUNTY
(H,Hw) - See Anoka County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

MISSISSIPPI

STATEWIDE
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
ADAMS COUNTY
Decision #AQ-4046 (Hw)
38 FR 35186 - 12/21/73
Mod. #1 - 39 FR 4279 - 2/1/74
(D) - See Statewide
(F) - See Statewide
ALCORN COUNTY
Decision #AQ-4042 (Hw)
38 FR 35182 - 12/21/73
Mod. #1 - 39 FR 4279 - 2/1/74
(D) - See Statewide
(F) - See Statewide
AMITE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
ATTALA COUNTY
Decision #AQ-4045 (Hw)
38 FR 35185 - 12/21/73
Mod. #1 - 39 FR 4279 - 2/1/74
(D) - See Statewide
(F) - See Statewide
BENTON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
BOLIVAR COUNTY
Decision #AQ-4043 (Hw)
38 FR 35188 - 12/21/73
Mod. #1 - 39 FR 4279 - 2/1/74
(D) - See Statewide
(F) - See Statewide
CALHOUN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
CARROLL COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
CHICKASAW COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
CHOCTAW COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County

MISSISSIPPI (Cont'd)

CLAIBORNE COUNTY
Decision #AQ-4044 (Hw)
38 FR 35184 - 12/21/73
Mod. #1 - 39 FR 4269 - 2/1/74
(D) - See Statewide
(F) - See Statewide
CLARKE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
CLAY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
COAHOMA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
COPIAH COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County
COVINGTON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
DE SOTO COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
FORREST COUNTY
Decision #AM-8264 (R)
37 FR 13017 - 6/30/72
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
FRANKLIN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
GEORGE COUNTY
Decision #AQ-4047 (Hw)
38 FR 35187 - 12/21/73
Mod. #1 - 39 FR 4279 - 2/1/74
(D) - See Statewide
(F) - See Statewide
(R) - See Harrison County
GREENE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County

MISSISSIPPI (cont'd)

GRENADA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
HANCOCK COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See George County
(R) - See Harrison County
HARRISON COUNTY
Decision #AQ-4081 (B,H,Water & Sewer)
39 FR 7054 - 2/22/74
Mod. #1 - 39 FR 10999 - 3/22/74
Decision #AP-174 (R)
38 FR 10584 - 4/27/73
Mod. #1 - 39 FR 8102 - 3/1/74
(D,F) - See Statewide
(Hw) - See George County
HINDS COUNTY
Decision #AQ-4090 (B,H)
39 FR 10097 - 3/15/74
Mod. #1 - 39 FR 12588 - 4/5/74
Decision #AQ-4048 (R)
38 FR 35573 - 12/28/73
(D,F) - See Statewide
(Hw) - See Claiborne County
HOLMES COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
HUMPHREYS COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
ISSAQUENA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
ITAWAMBA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
JACKSON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See George County
(R) - See Harrison County
JASPER COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County

MISSISSIPPI (cont'd)

JEFFERSON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
JEFFERSON DAVIS COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
JONES COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
(R) - See Forest County
KEMPER COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
LAFAYETTE COUNTY
(D) - See Statewide
(R) - See Statewide
(Hw) - See Alcorn County
LAMAR COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
LAUDERDALE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
LAWRENCE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
LEAKE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
LEE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
LEFLORE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
LINCOLN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
LOWNDES COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County

XUM

MISSISSIPPI (Cont'd)

MADISON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County
MARION COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
MARSHALL COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
MONROE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
MONTGOMERY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
NESHOBA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
NEWTON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
NOXUBEE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
OKTIBBEHA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
PANOLA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
PEARL RIVER COUNTY
(D,H) - See Hinds County
(D) - See Statewide
(F) - See Statewide
(Hw) - See Statewide
(R) - See Harrison County
PERRY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
PIKE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County

MISSISSIPPI (Cont'd)

PONTOTOC COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
PRENTISS COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
QUITMAN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
RANKIN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County
SCOTT COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
SHARKEY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
SIMPSON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County
SMITH COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
STONE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Georgia County
(R) - See Harrison County
SUNFLOWER COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
TALLAHATCHIE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County

MISSISSIPPI (Cont'd)

TATE COUNTY
(D,F)-See Statewide
(Hw)-See Bolivar County
TIPPAH COUNTY
(D,F)-See Statewide
(Hw)-See Alcorn County
TISHOMINGO COUNTY
(D,F)-See Statewide
(Hw)-See Alcorn County
TUNICA COUNTY
(D,F)-See Statewide
(Hw)-See Bolivar County
UNION COUNTY
(D,F,)-See Statewide
(Hw)-See Alcorn County
WALTHALL COUNTY
(D,F)-See Statewide
(Hw)-See Adams County
WARREN COUNTY
(D,F)-See Statewide
(Hw)-See Claiborne County
WASHINGTON COUNTY
Decision #AQ-4072 (B)
39 FR 5933 - 2/15/74
(D,F)-See Statewide
(Hw)-See Bolivar County
WAYNE COUNTY
(D,F)-See Statewide
(Hw)-See Adams
WEBSTER COUNTY
(D,F)-See Statewide
(Hw)-See Alcorn County
WILKINSON COUNTY
(D,F)-See Statewide
(Hw)-See Adams County
WINSTON COUNTY
(D,F)-See Statewide
(Hw)-See Attala County
YALOBUSHA COUNTY
(D,F)-See Statewide
(Hw)-See Bolivar County
YAZOO COUNTY
(D,F)-See Statewide
(Hw)-See Claiborne County
(R)-See Hinds County

MISSOURI

ADAIR COUNTY
Decision #AQ-85 (H,Hw)
39 FR 9371 - 3/8/74
Mod. #1 - 39 FR 11815 - 3/29/74
ANDREW COUNTY
Decision #AQ-21 (D)
38 FR 23647 - 8/31/73
(H,Hw) - See Adair County
ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
AUDRAIN COUNTY
(H,Hw) - See Adair County
BARRY COUNTY
(H,Hw) - See Adair County
BARTON COUNTY
(H,Hw) - See Adair County
BATES COUNTY
(H,Hw) - See Adair County
BENTON COUNTY
(H,Hw) - See Adair County
BOLLINGER COUNTY
(H,Hw) - See Adair County
BOONE COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
BUTLER COUNTY
(H,Hw) - See Adair County
CALDWELL COUNTY
(H,Hw) - See Adair County
CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
CAMDEN COUNTY
(H,Hw) - See Adair County
CAPE GIRARDEAU COUNTY
Decision #AQ-3094 (D)
39 FR 5070 - 2/8/74
(H,Hw) - See Adair County
CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
CARTER COUNTY
(H,Hw) - See Adair County

MISSOURI (Cont'd)

CASS COUNTY
Decision #AQ-44 (H,Hw)
38 FR 31730 - 11/16/73
Decision AQ-62 (R)
38 FR 32388 - 11/23/73
CEDAR COUNTY
(H,Hw) - See Adair County
CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
CHRISTIAN COUNTY
(Hw) - See Adair County
CLARK COUNTY
(H,Hw) - See Adair County
CLAY COUNTY
(H,Hw) - See Cass County
(D) - See Andrew County
(R) - See Cass County
CLINTON COUNTY
(H,Hw) - See Adair County
COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
CRAWFORD COUNTY
(H,Hw) - See Adair County
DADE COUNTY
(H,Hw) - See Adair County
DALLAS COUNTY
(H,Hw) - See Adair County
DAVIESS COUNTY
(H,Hw) - See Adair County
DE KALB COUNTY
(H,Hw) - See Adair County
DENT COUNTY
(Hw) - See Adair County
DOUGLAS COUNTY
(Hw) - See Adair County
DUNKLIN COUNTY
(Hw) - See Adair County
FRANKLIN COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
GENTRY COUNTY
(H,Hw) - See Adair County
GREENE COUNTY
(H,Hw) - See Adair County
GRUNDY COUNTY
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Adair County

MISSOURI (Cont'd)

HENRY COUNTY
(H,Hw) - See Adair County
HICKORY COUNTY
(H,Hw) - See Adair County
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
HOWELL COUNTY
(Hw) - See Adair County
IRON COUNTY
(Hw) - See Adair County
JACKSON COUNTY
(H,Hw) - See Cass County
(D) - See Andrew County
(R) - See Cass County
JASPER COUNTY
None
JEFFERSON COUNTY
(D) - See Cape Girdeau County
(H,Hw) - See Adair County
JOHNSON COUNTY
(H,Hw) - See Adair County
KNOX COUNTY
(H,Hw) - See Adair County
LACLEDE COUNTY
(Hw) - See Adair County
LAFAYETTE COUNTY
(D) - See Andrew County
(Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Adair County
LEWIS COUNTY
(H,Hw) - See Adair County
LINCOLN COUNTY
(H,Hw) - See Adair County
LINN COUNTY
(H,Hw) - See Adair County
LIVINGSTON COUNTY
(H,Hw) - See Adair County
MC DONALD COUNTY
None
MACON COUNTY
(H,Hw) - See Adair County
MADISON COUNTY
(H,Hw) - See Adair County
MARIES COUNTY
(H,Hw) - See Adair County

MISSOURI (Cont'd)

MARION COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Adair County
MILLER COUNTY
(H,Hw) - See Adair County
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Adair County
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
MONROE COUNTY
(H,Hw) - See Adair County
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
MORGAN COUNTY
(H,Hw) - See Adair County
NEW MADRID COUNTY
(Hw) - See Adair County
NEWTON COUNTY
(H,Hw) - See Adair County
NODAWAY COUNTY
(H,Hw) - See Adair County
OREGON COUNTY
(Hw) - See Adair County
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
OZARK COUNTY
(Hw) - See Adair County
PEMISCOT COUNTY
(Hw) - See Adair County
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Adair County
PETTIS COUNTY
(H,Hw) - See Adair County
PHELPS COUNTY
(H,Hw) - See Adair County
PIKE COUNTY
(H,Hw) - See Adair County
PLATTE COUNTY
(H,Hw) - See Cass County
(D) - See Andrew County
(R) - See Cass County
POLK COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(H,Hw) - See Adair County
PUTNAM COUNTY
(H,Hw) - See Adair County
RALLS COUNTY
(H,Hw) - See Adair County
RANDOLPH COUNTY
(H,Hw) - See Adair County

MISSOURI (Cont'd)

RAY COUNTY
(H,Hw) - See Cass County
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Adair County
RIPLEY COUNTY
(Hw) - See Adair County
ST. CHARLES COUNTY
Decision #AP-534 (H,Hw)
37 FR 18141 - 7/6/73
Mod. #1 - 38 FR 20177 - 7/27/73
Mod. #2 - 38 FR 28473 - 10/12/73
Mod. #3 - 38 FR 31756 - 11/16/73
(D) - See Andrew County
Decision #AP-504 (R)
37 FR 17881 - 9/1/72
Mod. #1 - 38 FR 4078 - 2/9/73
Mod. #2 - 38 FR 6524 - 3/9/73
Mod. #3 - 38 FR 13917 - 5/25/73
Mod. #4 - 38 FR 18124 - 7/6/73
Mod. #5 - 38 FR 20173 - 7/27/73
Mod. #6 - 38 FR 28473 - 10/12/73
Mod. #7 - 38 FR 34575 - 12/14/73
(D) - See Cape Girardeau County
ST. CLAIR COUNTY
(H,Hw) - See Adair County
ST. FRANCOIS COUNTY
(H,Hw) - See Adair County
ST. LOUIS COUNTY
(H,Hw,R) - See St. Charles County
(D) - See Cape Girardeau County
(D) - See Andrew County
STE. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Adair County
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
SCHUYLER COUNTY
(H,Hw) - See Adair County
SCOTLAND COUNTY
(H,Hw) - See Adair County
SCOTT COUNTY
(D) - See Cape Girardeau County
(Hw) - See Adair County
SHANNON COUNTY
(Hw) - See Adair County
SHELBY COUNTY
(H,Hw) - See Adair County
STODDARD COUNTY
(Hw) - See Adair County

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MISSOURI (Cont'd)

STONE COUNTY
(Hw) - See Adair County
SULLIVAN COUNTY
(H,Hw) - See Adair County
TANEY COUNTY
(Hw) - See Adair County
TEXAS COUNTY
(Hw) - See Adair County
VERNON COUNTY
(H,Hw) - See Adair County
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Adair County
WASHINGTON COUNTY
(H,Hw) - See Adair County
WAYNE COUNTY
(Hw) - See Adair County
WEBSTER COUNTY
(Hw) - See Adair County
WORTH COUNTY
(H,Hw) - See Adair County
WRIGHT COUNTY
(Hw) - See Adair County

MONTANA

STATEWIDE
Decision #AO-1071 (B)
39 FR 3399 - 1/25/74
Mod. #1 - 39 IR 5949 - 2/15/74
Mod. #2 - 39 FR 9351 - 3/8/74
Mod. #3 - 39 FR 12588 - 4/5/74
Decision #AO-1070 (H,Hw)
39 FR 2329 - 1/18/74
Mod. #1 - 39 FR 4280 - 2/1/74
Mod. #2 - 39 FR 9350 - 3/8/74
Mod. #3 - 39 FR 12588 - 4/5/74
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #AQ-1076 (R)
39 FR 4361 - 2/1/74
Mod. #1 - 39 FR 5949 - 2/15/74
Mod. #2 - 39 FR 9351 - 3/8/74
Mod. #3 - 39 FR 12588 - 4/5/74
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEERLODGE COUNTY
(B,H,Hw) - See Statewide
Decision #AQ-1075 (R)
39 FR 4354 - 2/1/74
Mod. #1 - 39 FR 5949 - 2/15/74
(R) - See Silverbow County
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Deerlodge County
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GLACIER COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd)

GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH BASIN COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw)- See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOURLA COUNTY
(B,H,Hw) - See Statewide
MUSSELSHELL COUNTY
(B,H,Hw) - See Beaverhead County
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd)

RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVERBOW COUNTY
(R) - See Deerlodge County
(B,H,Hw) - See Statewide
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEETGRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOW STONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #AQ-80 (Hw)
39 FR 5990 - 2/15/74
ANTELOPE COUNTY
(Hw) - See Adams County
ARTHUR COUNTY
(Hw) - See Adams County
BANNER COUNTY
Decision #AQ-79 (B)
39 FR 5933 - 2/15/74
(Hw) - See Adams County
BLAINE COUNTY
(Hw) - See Adams County
BOONE COUNTY
(Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(Hw) - See Adams County
BOYD COUNTY
(Hw) - See Adams County
BROWN COUNTY
(Hw) - See Adams County
BUFFALO COUNTY
(Hw) - See Adams County
BURT COUNTY
(Hw) - See Adams County
BUTLER COUNTY
(Hw) - See Adams County
CASS COUNTY
(Hw) - See Adams County
CEDAR COUNTY
Decision #AQ-86 (B)
39 FR 9336 - 3/8/74
(Hw) - See Adams County
CHASE COUNTY
(Hw) - See Adams County
CHERRY COUNTY
(Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(Hw) - See Adams County
CLAY COUNTY
(Hw) - See Adams County
COLFAX COUNTY
(Hw) - See Adams County
CUMING COUNTY
(B) - See Cedar County
(Hw) - See Adams County
CUSTER COUNTY
(Hw) - See Adams County
DAKOTA COUNTY
(Hw) - See Adams County

NEBRASKA (Cont'd)

DAWES COUNTY
(B) - See Banner County
(Hw) - See Adams County
DAWSON COUNTY
(Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(Hw) - See Adams County
DIXON COUNTY
(Hw) - See Adams County
DODGE COUNTY
(Hw) - See Adams County
DOUGLAS COUNTY
Decision AO-63 (B,H,Hw)
38 FR 33895 - 12/7/73
Mod. #1 - 38 FR 35570 - 12/28/73
Decision #AO-25 (R)
38 FR 24540 - 9/7/73
Mod. #1 - 38 FR 31099 - 11/9/73
Mod. #2 - 38 FR 33879 - 12/7/73
DUNDY COUNTY
(Hw) - See Adams County
FILLMORE COUNTY
(Hw) - See Adams County
FRANKLIN COUNTY
(Hw) - See Adams County
FRONTIER COUNTY
(Hw) - See Adams County
FURNAS COUNTY
(Hw) - See Adams County
GAGE COUNTY
(Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(Hw) - See Adams County
GARFIELD COUNTY
(Hw) - See Adams County
GOSPER COUNTY
(Hw) - See Adams County
GRANT COUNTY
(Hw) - See Adams County

NEBRASKA (Cont'd)

GREELEY COUNTY
(Hw) - See Adams County
HALL COUNTY
Decision #AQ-24 - (B)
38 FR 24486 - 9/7/73
Mod. #1 - 38 FR 30330 - 11/2/73
(Hw) - See Adams County
HAMILTON COUNTY
(Hw) - See Adams County
HARLAN COUNTY
(Hw) - See Adams County
HAYES COUNTY
(Hw) - See Adams County
HITCHCOCK COUNTY
(Hw) - See Adams County
HOLT COUNTY
(Hw) - See Adams County
HOOKER COUNTY
(Hw) - See Adams County
HOWARD COUNTY
(Hw) - See Adams County
JEFFERSON COUNTY
(Hw) - See Adams County
JOHNSON COUNTY
(Hw) - See Adams County
KEARNEY COUNTY
(Hw) - See Adams County
KEITH COUNTY
(Hw) - See Adams County
KEYAPAHA COUNTY
(Hw) - See Adams County
KIMBALL COUNTY
(B) - See Banner County
(Hw) - See Adams County
KNOX COUNTY
(Hw) - See Adams County
LANCASTER COUNTY
Decision #AQ-65 (B)
38 FR 34597 - 12/14/73
Decision #AM-6,140 (R)
36 FR 21736 - 11/12/71
(Hw) - See Adams County
LINCOLN COUNTY
(Hw) - See Adams County
LOGAN COUNTY
(Hw) - See Adams County
LOUP COUNTY
(Hw) - See Adams County
MC PHERSON COUNTY
(Hw) - See Adams County
MADISON COUNTY
(Hw) - See Adams County

NEBRASKA (Cont'd)

MERRICK COUNTY
(Hw) - See Adams County
MORRILL COUNTY
(B) - See Banner County
(Hw) - See Adams County
NANCE COUNTY
(Hw) - See Adams County
NEMAHA COUNTY
Decision #AQ-21 (D)
38 FR 23647 - 8/31/73
(Hw) - See Adams County
NUCKOLLS COUNTY
(Hw) - See Adams County
OTOE COUNTY
(Hw) - See Adams County
PAWNEE COUNTY
(Hw) - See Adams County
PERKINS COUNTY
(Hw) - See Adams County
PHELPS COUNTY
(Hw) - See Adams County
PIERCE COUNTY
(B) - See Cedar County
(Hw) - See Adams County
PLATTE COUNTY
(Hw) - See Adams County
POLK COUNTY
(Hw) - See Adams County
RED WILLOW COUNTY
(Hw) - See Adams County
RICHARDSON COUNTY
(D) - See Nemaha County
(Hw) - See Adams County
ROCK COUNTY
(Hw) - See Adams County
SALINE COUNTY
(Hw) - See Adams County
SARPY COUNTY
(B,H,Hw) - See Douglas County
SAUNDERS COUNTY
(Hw) - See Adams County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(Hw) - See Adams County
SEWARD COUNTY
(Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(Hw) - See Adams County
SHERMAN COUNTY
(Hw) - See Adams County
SIOUX COUNTY
(Hw) - See Adams County
(B) - See Banner County
STANTON COUNTY
(B) - See Cedar County
(Hw) - See Adams County
THAYER COUNTY
(Hw) - See Adams County

XUM

NEBRASKA (Cont'd)

THOMAS COUNTY
(Hw) - See Adams County
THURSTON COUNTY
(Hw) - See Adams County
VALLEY COUNTY
(Hw) - See Adams County
WASHINGTON COUNTY
(Hw) - See Adams County
WAYNE COUNTY
(B) - See Cedar County
(Hw) - See Adams County
WEBSTER COUNTY
(Hw) - See Adams County
WHEELER COUNTY
(Hw) - See Adams County
YORK COUNTY

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #AO-1080 (B,H,Hw)
39 FR 5131 - 2/8/74
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #AQ-1081 (R) (Excluding the Nevada Test Site)
39 FR 5992 - 2/15/74
(B,H,Hw) - See Statewide
Decision #AQ-1083 (B,H,Hw) (Nevada Test Site including the Tonopah Test Range
39 FR 6001 - 2/15/74
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark County (Nevada Test Site)
(B,H,Hw) - See Statewide

NEVADA (Cont'd)

ORMSBY COUNTY
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #AO-1082 (R)
39 FR 5996 - 2/15/74
(B,H,Hw) - See Statewide
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #AQ-3029 (B)
38 FR 30362 - 11/2/73
Mod. #1 - 39 FR 5950 - 2/15/74
Mod. #2 - 39 FR 9352 - 3/8/74
Decision AO-3033 (R)
38 FR 31130 - 11/9/73
Mod. #1 - 39 FR 5950 - 2/15/74
Mod. #2 - 39 FR 9353 - 3/8/74
MERRIMACK COUNTY
None
ROCKINGHAM COUNTY
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
Decision #AQ-3074 (B)
39 FR 3415 - 1/25/74
Mod. #1 - 39 FR 7017 - 2/22/74
Mod. #2 - 39 FR 9354 - 3/8/74
Decision #AO-3075 (R)
39 FR 3418 - 1/25/74
Mod. #1 - 39 FR 7017 - 2/22/74
Mod. #2 - 39 FR 9354 - 3/8/74
STRAFFORD COUNTY
None
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #AQ-2094 (B,H,Hw)
39 FR 12657 - 4/5/74
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
BERGEN COUNTY
Decision #AP-810 (B,H,Hw)
38 FR 12567 - 5/11/73
Mod. #1 - 38 FR 21705 - 8/10/73
Mod. #2 - 38 FR 31760 - 11/16/73
(D) - See Atlantic County
BURLINGTON COUNTY
Decision #AP-829 (B,H,Hw)
38 FR 13272 - 5/18/73
Mod. #1 - 38 FR 21707 - 8/10/73
Mod. #2 - 38 FR 29740 - 10/26/73
Mod. #3 - 38 FR 31762 - 11/16/73
Mod. #4 - 38 FR 35142 - 12/21/73
(D) - See Atlantic County
CAMDEN COUNTY
Decision #AQ-2093 (B,H,Hw)
39 FR 12651 - 4/5/74
(D) - See Atlantic County
CAPE MAY COUNTY
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
Decision #AP-837 (B,H,Hw)
38 FR 13957 - 5/25/73
Mod. #1 - 38 FR 31763 - 11/16/73
(D) - See Atlantic County
ESSEX COUNTY
Decision #AP-826 (B,H,Hw)
38 FR 13252 - 5/18/73
Mod. #1 - 38 FR 21705 - 8/10/73
Mod. #2 - 38 FR 31761 - 11/16/73
GLOUCESTER COUNTY
(B,H,Hw) - See Camden County
(D) - See Atlantic County
HUDSON COUNTY
Decision #AQ-2090 (B,H,Hw)
39 FR 11823 - 3/29/74
(D) - See Atlantic County
HUNTERDON COUNTY
None
MERCER COUNTY
Decision #AP-827 (B,H,Hw)
38 FR 13258 - 5/18/73
Mod. #1 - 38 FR 21706 - 8/10/73
(D) - See Atlantic County

NEW JERSEY (Cont'd)

MIDDLESEX COUNTY
Decision #AP-838 (B,H,Hw)
38 FR 13963 - 5/25/73
Mod. #1 - 38 FR 31763 - 11/16/73
Mod. #2 - 38 FR 34575 - 12/14/73
(D) - See Atlantic County
MONMOUTH COUNTY
Decision #AP-839 (B,H,Hw)
38 FR 13971 - 5/25/73
Mod. #1 - 38 FR 31764 - 11/16/73
(D) - See Atlantic County
MORRIS COUNTY
Decision #AP-840 (B,H,Hw)
38 FR 13978 - 5/25/73
Mod. #1 - 38 FR 31765 - 11/16/73
(D) - See Atlantic County
OCEAN COUNTY
Decision #AP-841 (B,H,Hw)
38 FR 13985 - 5/25/73
Mod. #1 - 38 FR 31766 - 11/16/73
(D) - See Atlantic County
PASSAIC COUNTY
Decision #AQ-2077 (B,H,Hw)
39 FR 10100 - 3/15/74
(D) - See Atlantic County
SALEM COUNTY
(D) - See Atlantic County
SOMERSET COUNTY
Decision #AQ-2091 (B,H,Hw)
39 FR 11830 - 3/29/74
(D) - See Atlantic County
SUSSEX COUNTY
None
UNION COUNTY
Decision #AP-846 (B,Hw,H)
38 FR 15333 - 6/8/73
Mod. #1 - 38 FR 31766 - 11/16/73
(D) - See Atlantic County
WARREN COUNTY
None

NEW MEXICO

STATEWIDE
Decision #AQ-18 (Streets, Highways, Utilities and Light Engineering Construction)
38 FR 21714 - 8/10/73
Mod. #1 - 38 FR 22853 - 8/24/73
Decision #AQ-92 (Building & Heavy Engineering Construction
39 FR 9398 - 3/8/74
Mod. #1 - 39 FR 10999 - 3/22/74
BERNALILLO COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
CATRON COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
CHAVES COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
COLFAX COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
CURRY COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
DE BACA COUNTY
(B,He,S,Hw,U,LE) - See Statewide
DONA ANA COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
Decision #AP-340 (R)
37 FR 19869 - 9/22/72
EDDY COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
GRANT COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
GUADALUPE COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
HARDING COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
HIDALGO COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
LEA COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
LINCOLN COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
LOS ALAMOS COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
LUNA COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
McKINLEY COUNTY
(B,HE,S,Hw,U,LE) - See STatewide
MORA COUNTY
(B,HE,S,Hw,U,LE) - See Statewide

NEW MEXICO (Cont'd)

OTERO COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
QUAY COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
RIO ARRIBA COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
ROOSEVELT COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
SANDOVAL COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
SAN JUAN COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
SAN MIGUEL COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
SANTA FE COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SIERRA COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SOCORRO COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
TAOS COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
TORRANCE COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
UNION COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
VALENCIA COUNTY
(B,HE,S,Hw,U,LE) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #AP-452 (H,B,Hw)
37 FR 26782 - 12/15/72
Mod. #1 - 38 FR 9397 - 4/13/73
Mod. #2 - 38 FR 18819 - 7/13/73
Mod. #3 - 38 FR 21016 - 8/3/73
Mod. #4 - 38 FR 26549 - 9/21/73
Mod. #5 - 39 FR 4280 - 2/1/74
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #AP-487 (B,H,Hw)
38 FR 6608 - 3/9/73
Mod. #1 - 38 FR 8872 - 4/6/73
Mod. #2 - 38 FR 12514 - 5/11/73
Mod. #3 - 38 FR 22854 - 8/24/73
Decision #AP-400 (R)
37 FR 13913 - 7/14/72
Mod. #1 - 37 FR 23510 - 11/3/72
Mod. #2 - 38 FR 5097 - 2/23/73
Mod. #3 - 38 FR 12514 - 5/11/73
Mod. #4 - 38 FR 22854 - 8/24/73
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
BROOME COUNTY
Decision #AP-469 (B,H,Hw)
38 FR 4169 - 2/9/73
Mod. #1 - 38 FR 9397 - 4/13/73
Mod. #2 - 38 FR 18126 - 7/6/73
Mod. #3 - 38 FR 21022 - 8/3/73
Mod. #4 - 38 FR 22854 - 8/24/73
Mod. #5 - 38 FR 24491 - 9/7/73
Mod. #6 - 39 FR 4280 - 2/1/74
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
CHAUTAUGUA COUNTY
(D) - See Cayuga County
CHEMUNG COUNTY
None
CHENANGO COUNTY
None

NEW YORK (Cont'd)

CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None
DUTCHESS COUNTY
Decision AQ-2028 (B,H,Hw)
36 FR 31135 - 11/9/73
Mod. #1 - 39 FR 5066 - 2/8/74
(D) - See Bronx County
ERIE COUNTY
Decision #AP-800 (B,H,Hw)
38 FR 8404 - 3/30/73
Mod. #1 - 38 FR 9398 - 4/13/73
Mod. #2 - 38 FR 18820 - 7/13/73
Mod. #3 - 38 FR 22854 - 8/24/73
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #AP-807 (B,H,Hw)
38 FR 12582 - 5/11/73
Mod. #1 - 38 FR 18820 - 7/13/73
Mod. #2 - 38 FR 21023 - 8/3/73
(D) - See Cayuga County

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NEW YORK (Cont'd)

KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None
MONROE COUNTY
Decision #AQ-2037 (B,H,Hw)
38 FR 35188 - 12/21/73
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #AQ-2001 (B,H,Hw)
38 FR 18845 - 7/13/73
Mod. #1 - 38 FR 24491 - 9/7/73
Mod. #2 - 39 FR 5950 - 2/15/74
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #AQ-2048 (B,H,Hw)
39 FR 4368 - 2/1/74
(D) - See Cayuga County
ONEIDA COUNTY
Decision #AP-844 (B,H,Hw)
38 FR 15341 - 6/8/73
Mod. #1 - 38 FR 18822 - 7/13/73
Mod. #2 - 38 FR 21026 - 8/3/73
Mod. #3 - 38 FR 29149 - 10/19/73
Mod. #4 - 38 FR 35571 - 12/28/73
ONONDAGA COUNTY
Decision #AP-808 (B,H,Hw)
38 FR 12587 - 5/11/73
Mod. #1 - 38 FR 18821 - 7/13/73
Mod. #2 - 38 FR 21025 - 8/3/73
Mod. #3 - 38 FR 29148 - 10/19/73
ONTARIO COUNTY
None

NEW YORK (Cont'd)

ORANGE COUNTY
Decision #AP-845 (B,H,Hw)
38 FR 15346 - 6/8/73
Mod. #1 - 38 FR 18820 - 7/13/73
Mod. #2 - 39 FR 5950 - 2/15/74
(D) - See Bronx County
ORLEANS COUNTY
(D) - See Cayuga County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGA COUNTY
None
PUTNAM COUNTY
None
QUEENS COUNTY
(B,H,Hw,R,D) - See Bronx County
RENSSELAER COUNTY
Decision #AP-860 (B,H,Hw)
38 FR 16160 - 7/6/73
Mod. #1 - 38 FR 21030 - 8/3/73
Mod. #2 - 38 FR 22854 - 8/24/73
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Albany County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
Decision #AP-451 (B,H,Hw)
37 FR 25099 - 11/25/72
Mod. #1 - 38 FR 21014 - 8/3/73
SCHENECTADY COUNTY
Decision #AP-859 (B,H,Hw)
38 FR 18156 - 7/6/73
Mod. #1 - 38 FR 21028 - 8/3/73
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None

NEW YORK (cont'd)

STEUBEN COUNTY
Decision #AP-486 (B,H,Hw)
38 FR 6516 - 3/9/73.
Mod. #1 - 38 FR 20184 - 7/27/73
SUFFOLK COUNTY
Decision #AM-1,735 (B,H,Hw)
36 FR 16890 - 8/11/71
Mod. #1 - 36 FR 18988 - 9/24/71
Mod. #2 - 37 FR 4021 - 2/2 /72
Mod. #3 - 37 FR 22706 - 10/20/72
Mod. #4 - 37 FR 23973 - 11/10/72
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None
TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #AQ-2041 (B,H,Hw)
39 FR 3421 - 1/25/74
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #AQ-4064 (H,Hw)
39 FR 4371 - 2/1/74
Mod. #1 - 39 FR 7018 - 2/22/74
Decision #AP-156 (Sewer & Water)
38 FR 4618 - 2/16/73
ALAMANCE COUNTY
Decision #AQ-4078 (R)
39 FR 7010 - 2/22/74
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
AVERY COUNTY
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #AQ-2039 (D)
39 FR 3395 - 1/25/74
(Sewer & Water, H,Hw) - See Statewide
BERTIE COUNTY
Decision #AQ-4079 (R)
39 FR 7010 - 2/22/74
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
BUNCOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
BURKE COUNTY
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CAMDEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #AQ-4083 (R)
39 FR 8101 - 3/1/74
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd)

CHOWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Bertie County
CLAY COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
CUMBERLAND COUNTY
Decision #AQ-4087 (R)
39 FR 9337 - 3/8/74
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
DARE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Craven County
DURHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
FORSYTH COUNTY
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
(Sewer & Water, H,Hw) - See Statewide
GREENE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Craven County
GUILFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County

NORTH CAROLINA (Cont'd).

HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
HARNETT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Cumberland County
HAYWOOD COUNTY
(R) - See Cumberland County
(Sewer & Water, H,Hw) - See Statewide
HENDERSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Bertie County
HOKE COUNTY
(R) - See Cumberland County
(Sewer & Water, H,Hw) - See Statewide
HYDE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Craven County
JONES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Craven County
LEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Craven County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
MCDOWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
MECKLENBURG COUNTY
Decision #AP-161 (B)
38 FR 5753 - 3/2/73
Mod. #1 - 38 FR 7166 - 3/16/73
Mod. #2 - 38 FR 31770 - 11/16/73
(Sewer & Water, H,Hw) - See Statewide
MITCHELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide
MOORE COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd)

NASH COUNTY
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
ONSLOW COUNTY
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
PAMLICO COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Craven County
PASQUOTANK COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(D) - See Beaufort County
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
PORT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
POLK COUNTY
(Sewer & Water, H,Hw) - See Statewide
RANDOLPH COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Cumberland County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd)

STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
(Sewer & Water, H,Hw) - See Statewide
TYRRELL COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
WAKE COUNTY
Decision #AQ-4032 (R)
38 FR 31093 - 11/9/73
Mod. #1 - 39 FR 5066 - 2/8/74
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Craven County
WILKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
WILSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

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NORTH DAKOTA

STATEWIDE
Decision #AQ-1000 (Hw)
38 FR 18849 - 7/13/73
Mod. #1 - 38 FR 33800 - 12/7/73
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
BURLEIGH COUNTY
(Hw) - See Statewide
Decision AQ-1066 (B)
38 FR 33899 - 12/7/73
Mod. #1 - 39 FR 12589 - 4/5/74
CASS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LAMOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
McHENRY COUNTY
(Hw) - See Statewide
McINTOSH COUNTY
(Hw) - See Statewide
McKENZIE COUNTY
(Hw) - See Statewide
McLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

NORTH DAKOTA (Cont'd)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

ADAMS COUNTY
Decision #AQ-3094 (D)
39 FR 5070 - 2/8/74
ALLEN COUNTY
None
ASHLAND COUNTY
None
ASHTABULA COUNTY
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
ATHENS COUNTY
(D) - See Adams County
AUGLAIZE COUNTY
None
BELMONT COUNTY
None
BROWN COUNTY
(D) - See Adams County
BUTLER COUNTY
Decision #AP-669 (B)(H,Hw)
38 FR 13991 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Mod. #2 - 38 FR 22316 - 8/17/73
Mod. #3 - 38 FR 27712 - 10/5/73
Mod. #4 - 38 FR 29741 - 10/26/73
Mod. #5 - 38 FR 30334 - 11/2/73
Mod. #6 - 38 FR 31100 - 11/9/73
Mod. #7 - 39 FR 9355 - 3/8/74
Decision #AP-683 (R)
38 FR 14049 - 5/25/73
CARROLL COUNTY
None
CHAMPAIGN COUNTY
None
CLARK COUNTY
Decision #AP-670 (B,H,Hw)
38 FR 13996 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Mod. #2 - 38 FR 22316 - 8/17/73
Mod. #3 - 38 FR 27712 - 10/5/73
Mod. #4 - 38 FR 29741 - 10/26/73
Mod. #5 - 38 FR 30334 - 11/2/73
Mod. #6 - 38 FR 31100 - 11/9/73
Mod. #7 - 39 FR 9355 - 3/8/74
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
CLERMONT COUNTY
Decision #AM-685 (R)
38 FR 14050 - 5/25/73
(D) - See Adams County
CLINTON COUNTY
None
COLUMBIANA COUNTY
None
COSHOCTON COUNTY
None
CRAWFORD COUNTY
None

OHIO (Cont'd)

CUYAHOGA COUNTY
Decision #AP-671 (B,H,Hw)
38 FR 14000 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Mod. #2 - 38 FR 22317 - 8/17/73
Mod. #3 - 38 FR 27713 - 10/5/73
Mod. #4 - 38 FR 29741 - 10/26/73
Mod. #5 - 38 FR 30335 - 11/2/73
Mod. #6 - 39 FR 9356 - 3/8/74
Decision #AP-686 (R)
38 FR 14050 - 5/25/73
Mod. #1 - 38 FR 14537 - 6/1/73
Mod. #2 - 38 FR 22319 - 8/17/73
Mod. #3 - 38 FR 27716 - 10/5/73
Mod. #4 - 38 FR 31100 - 11/9/73
DARKE COUNTY
None
DEFIANCE COUNTY
None
DELAWARE COUNTY
Decision #AM-420 (R)
36 FR 15963 - 8/18/71
Mod. #1 - 38 FR 4630 - 2/16/73
ERIE COUNTY
(D) - See Ashtabula County
FAIRFIELD COUNTY
(R) - See Delaware County
FAYETTE COUNTY
None
FRANKLIN COUNTY
Decision #AP-672 (B,H,Hw)
38 FR 14004 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Mod. #2 - 38 FR 22317 - 8/17/73
Mod. #3 - 38 FR 27713 - 10/5/73
Mod. #4 - 38 FR 29741 - 10/26/73
Mod. #5 - 38 FR 30335 - 11/2/73
Mod. #6 - 39 FR 9355 - 3/8/74
(D) - See Delaware County
FULTON COUNTY
None
GALLIA COUNTY
(D) - See Adams County
GEAUGA COUNTY
None
GREENE COUNTY
Decision #AP-673 (B,H,Hw)
38 FR 14008 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Mod. #2 - 38 FR 22317 - 8/17/73
Mod. #3 - 38 FR 27713 - 10/5/73
Mod. #4 - 38 FR 29741 - 10/26/73
Mod. #5 - 38 FR 30336 - 11/2/73
Mod. #6 - 38 FR 31100 - [illegible]
Mod. #7 - 39 FR 9356 - [illegible]
Decision #AM-422 (R)
36 FR 15965 - 8/18/71
Mod. #1 - 37 FR 1619 - 1/28/72
GUERNSEY COUNTY
None

OHIO (Cont'd)

HAMILTON COUNTY
Decision #AO-3022 (B,H,Hw)
38 FR 27726 - 10/5/73
Mod. #1 - 38 FR 30340 - 11/2/73
Mod. #2 - 38 FR 31101 - 11/9/73
Mod. #3 - 39 FR 9356 - 3/8/74
(D) - See Adams County
(R) - See Clermont County
HANCOCK COUNTY
None
HARDIN COUNTY
None
HARRISON COUNTY
None
HENRY COUNTY
None
HIGHLAND COUNTY
None
HOCKING COUNTY
None
HOLMES COUNTY
None
HURON COUNTY
None
JACKSON COUNTY
None
JEFFERSON COUNTY
None
KNOX COUNTY
None
LAKE COUNTY
(D) - See Ashtabula County
LAWRENCE COUNTY
(D) - See Adams County
LICKING COUNTY
Decision #AP-675 (B,Hw,H)
38 FR 14017 - 5/25/73
Mod. #1 - 38 FR 14536 - 6/1/73
Mod. #2 - 38 FR 22317 - 8/17/73
Mod. #3 - 38 FR 27713 - 10/5/73
Mod. #4 - 38 FR 30336 - 11/2/73
Mod. #5 - 39 FR 9356 - 3/8/74
(R) - See Delaware County
LOGAN COUNTY
None
LORAIN COUNTY
(D) - See Ashtabula County
LUCAS COUNTY
Decision #AQ-3036 (B,H,Hw)
38 FR 31142 - 11/9/73
(D) - See Ashtabula County
MADISON COUNTY
(R) - See Delaware County
[illegible]
38 FR 13903 - 5/25/73
Mod. #1 - 38 FR 22319 - 8/17/73
Mod. #2 - 38 FR 27716 - 10-5/73
Mod. #3 - 38 FR 31100 - 11/9/73
Mod. #4 - 38 FR 35572 - 12/28/73

OHIO (Cont'd)

MAHONING COUNTY (Cont'd)
Decision #AP-677 (B,H,Hw)
38 FR 14026 - 5/25/73
Mod. #1 - 38 FR 15792 - 6/15/73
Mod. #2 - 38 FR 22318 - 8/17/73
Mod. #3 - 38 FR 27714 - 10/5/73
Mod. #4 - 38 FR 30337 - 11/2/73
Mod. #5 - 38 FR 31100 - 11/9/73
Mod. #6 - 38 FR 35571 - 12/28/73
MARION COUNTY
None
MEDINA COUNTY
None
MEIGS COUNTY
(D) - See Adams County
MERCER COUNTY
None
MIAMI COUNTY
(R) - See Greene County
MONROE COUNTY
(D) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw) - See Greene County
(R) - See Greene County
MORGAN COUNTY
None
MORROW COUNTY
None
MUSKINGUM COUNTY
Decision #AP-678 (B,H,Hw)
38 FR 14029 - 5/25/73
Mod. #1 - 38 FR 14536 - 6/1/73
Mod. #2 - 38 FR 22318 - 8/17/73
Mod. #3 - 38 FR 27714 - 10/5/73
Mod. #4 - 38 FR 30338 - 11/2/73
Mod. #5 - 38 FR 31100 - 11/9/73
Mod. #6 - 39 FR 9356 - 3/8/74
NOBLE COUNTY
None
OTTAWA COUNTY
(D) - See Ashtabula County
PAULDING COUNTY
None
PERRY COUNTY
None
PICKAWAY COUNTY
(B,H,Hw) - See Franklin County
(R) - See Delaware County
PIKE COUNTY
None
PORTAGE COUNTY
Decision #AO-3118 (B,H,Hw)
[illegible]
PREBLE COUNTY
(R) - See Greene County
PUTNAM COUNTY
None

OHIO (Cont'd)

RICHLAND COUNTY
None
ROSS COUNTY
None
SANDUSKY COUNTY
(D) - See Ashtabula County
SCIOTO COUNTY
(D) - See Adams County
SENECA COUNTY
None
SHELBY COUNTY
None
STARKE COUNTY
Decision #AO-3037 (B,H,Hw)
38 FR 31147 - 11/9/73
SUMMITT COUNTY
Decision #AP-681 (B,H,Hw)
38 FR 14042 - 5/25/73
Mod. #1 - 38 FR 14536 - 6/1/73
Mod. #2 - 38 FR 22318 - 8/17/73
Mod. #3 - 38 FR 27715 - 10/5/73
Mod. #4 - 38 FR 29742 - 10/26/73
Mod. #5 - 38 FR 30339 - 11/2/73
Mod. #6 - 38 FR 31100 - 11/9/73
Mod. #7 - 39 FR 9356 - 3/8/74
TRUMBULL COUNTY
Decision #AQ-3082 (R)
39 FR 4375 - 2/1/74
Decision #AQ-3081 (B,H,Hw)
39 FR 4372 - 2/1/74
TUSCARAWAS COUNTY
None
UNION COUNTY
None
VAN WERT COUNTY
None
VINTON COUNTY
None
WARREN COUNTY
(R) - See Butler County
WASHINGTON COUNTY
(D) - See Adams County
WAYNE COUNTY
None
WILLIAMS COUNTY
None
WOOD COUNTY
None
WYANDOT COUNTY
None

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OKLAHOMA

ADAIR COUNTY
Decision #AM-3603 (Hw)
36 FR 16761 - 8/25/71
ALFALFA COUNTY
Decision #AM-3608 (Hw)
36 FR 16766 - 8/25/71
ATOKA COUNTY
Decision #AM-3604 (Hw)
36 FR 16763 - 8/25/71
BEAVER COUNTY
(Hw) - See Alfalfa County
BECKHAM COUNTY
Decision #AM-3606 (Hw)
36 FR 16764 - 8/25/71
BLAINE COUNTY
(Hw) - See Beckham County
BRYAN COUNTY
(Hw) - See Atoka County
Decision #AP-341 (R)
37 FR 19870 - 9/22/72
CADDO COUNTY
Decision #AM-3609 (Hw)
36 FR 16767 - 8/25/71
CANADIAN COUNTY
Decision #AM-3607 (Hw)
36 FR 16765 - 8/25/71
(B) - See Oklahoma County
(R) - See Oklahoma County
CARTER COUNTY
(Hw) - See Caddo County
CHEROKEE COUNTY
(Hw) - See Adair County
CHOCTAW COUNTY
(Hw) - See Atoka County
CIMARRON COUNTY
(Hw) - See Alfalfa County
CLEVELAND COUNTY
Decision #AM-3605 (Hw)
36 FR 16762 - 8/25/71
(R) - See Oklahoma County
(B) - See Oklahoma County
COAL COUNTY
(Hw) - See Cleveland County
COMANCHE COUNTY
(Hw) - See Caddo County
Decision #AP-741 (R)
38 FR 18164 - 7/6/73
COTTON COUNTY
(Hw) - See Caddo County
CRAIG COUNTY
Decision #AM-3610 (Hw)
36 FR 16768 - 8/25/71
CREEK COUNTY
(Hw) - See Canadian County
CUSTER COUNTY
(Hw) - See Beckham County

OKLAHOMA (cont'd)

DELAWARE COUNTY
(Hw) - See Craig County
DEWEY COUNTY
(Hw) - See Beckham County
ELLIS COUNTY
(Hw) - See Alfalfa County
GARFIELD COUNTY
(Hw) - See Canadian County
GARVIN COUNTY
(Hw) - See Cleveland County
GRADY COUNTY
(Hw) - See Caddo County
GRANT COUNTY
(Hw) - See Canadian County
GREER COUNTY
(Hw) - See Beckham County
HARMON COUNTY
(Hw) - See Beckham County
HARPER COUNTY
(Hw) - See Alfalfa County
HASKELL COUNTY
(Hw) - See Adair County
HUGHES COUNTY
(Hw) - See Cleveland County
JACKSON COUNTY
(Hw) - See Beckham County
JEFFERSON COUNTY
(Hw) - See Caddo County
JOHNSTON COUNTY
(Hw) - See Cleveland County
KAY COUNTY
(Hw) - See Canadian County
KINGFISHER COUNTY
(Hw) - See Canadian County
KIOWA COUNTY
(Hw) - See Beckham County
LATIMER COUNTY
(Hw) - See Atoka County
LEFLORE COUNTY
(Hw) - See Atoka County
LINCOLN COUNTY
(Hw) - See Canadian County
(R) - See Oklahoma County
(B) - See Oklahoma County
LOGAN COUNTY
(Hw) - See Canadian County
LOVE COUNTY
(Hw) - See Caddo County
McCLAIN COUNTY
(Hw) - See Cleveland County
McCURTAIN COUNTY
(Hw) - See Atoka County

OKLAHOMA (cont'd)

MCINTOSH COUNTY
(Hw) - See Adair County
MAJOR COUNTY
(Hw) - See Alfalfa County
MARSHALL COUNTY
(Hw) - See Atoka County
MAYES COUNTY
(Hw) - See Craig County
MURRAY COUNTY
(Hw) - See Cleveland County
MUSKOGEE COUNTY
(Hw) - See Adair County
NOBLE COUNTY
(Hw) - See Canadian County
NOWATA COUNTY
(Hw) - See Craig County
OKFUSKEE COUNTY
(Hw) - See Cleveland County
OKLAHOMA COUNTY
Decision #AQ-22 (B)
38 FR 23735 - 8/31/73
Mod. #1 - 38 FR 277166 - 9/28/73
Mod. #2 - 38 FR 29150 - 10/19/73
Mod. #3 - 38 FR 33211 - 11/30/73
Mod. #4 - 38 FR 34575 - 12/14/73
Mod. #5 - 39 FR 10078 - 3/15/74
Mod. #6 - 39 FR 11000 - 3/22/74
Decision #AM-3,612 (Hw)
36 FR 16770 - 8/25/71
Mod. #1 - 37 FR 1435 - 1/28/72
Decision #AP-304 (R)
37 FR 15789 - 8/4/72
Mod. #1-37 FR 28799-12/29/72
Mod. #2-38 FR 4078-2/9/73
OKMULGEE COUNTY
(Hw) - See Adair County
OSAGE COUNTY
(Hw) - See Craig County
(R) - See Tulsa County
OTTAWA COUNTY
(Hw) - See Craig County
PAWNEE COUNTY
(Hw) - See Craig County
PAYNE COUNTY
(Hw) - See Canadian County
PITTSBURG COUNTY
(Hw) - See Adair County

OKLAHOMA (Cont'd)

PONTOTOC COUNTY
(Hw) - See Cleveland County
POTTAWATOMIE COUNTY
(Hw) - See Cleveland County
(R) - See Oklahoma County
(B) - See Oklahoma County
PUSHMATAHA COUNTY
(Hw) - See Atoka County
ROGER MILLS COUNTY
(Hw) - See Beckham County
ROGERS COUNTY
(Hw) - See Craig County
SEMINOLE COUNTY
(Hw) - See Cleveland County
SEQUOYAH COUNTY
(Hw) - See Adair County
STEPHENS COUNTY
(Hw) - See Caddo County
TEXAS COUNTY
(Hw) - See Alfalfa County
TILLMAN COUNTY
(Hw) - See Beckham County
TULSA COUNTY
Decision #AQ-64 (B)
38 FR 33904 - 12/7/73
Mod. #1 - 38 FR 35572 - 12/28/73
Mod. #2 - 39 FR 9357 - 3/8/74
Mod. #3 - 39 FR 10078 - 3/15/74
Mod. #4 - 39 FR 11815 - 3/29/74
Decision #AM-3611 (Hw)
36 FR 16769 - 8/25/71
Mod. #1-37 FR 1435 - 1/28/72
Decision #AP-320 (R)
37 FR 17899 - 9/1/72
Mod. #1 - 38 FR 5099 - 2/23/73
WAGONER COUNTY
(Hw) - See Adair County
WASHINGTON COUNTY
(Hw) - See Craig County
WASHITA COUNTY
(Hw) - See Beckham County
WOODS COUNTY
(Hw) - See Alfalfa County
WOODWARD COUNTY
(Hw) - See Alfalfa County

OREGON

STATEWIDE
Decision #AQ-1079 (B,H,Hw,D)
39 FR 5152 - 2/8/74
Mod. #1 - 39 FR 12589 - 4/5/74
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,Hw,B,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD COUNTY
(Hw,H,B,D) - See Statewide
JACKSON COUNTY
(H,Hw,B,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide

OREGON (Cont'd)

MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
Decision #AQ-1053 (R)
38 FR 31152 - 11/9/73
Mod. #1 - 38 FR 32343 - 11/23/73
Mod. #2 - 39 FR 4281 - 2/1/74
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #AP-489 (H,Hw)
38 FR 6622 - 3/9/73
Mod. #1 - 38 FR 18826 - 7/13/73
Mod. #2 - 39 FR 10079 - 3/15/74
Decision #AQ-2042 (B)
39 FR 5044 - 2/8/74
ALLEGHENY COUNTY
Decision #AQ-2065 (B,H,Hw)
39 FR 6022 - 2/15/74
Decision #AQ-2049 (R)
39 FR 5043 - 2/8/74
ARMSTRONG COUNTY
Decision #AQ-2058 (H,Hw)
39 FR 9410 - 3/8/74
Decision #AQ-2082 (B)
39 FR 12574 - 4/5/74
BEAVER COUNTY
Decision #AQ-2059 (H,Hw)
39 FR 6004 - 2/15/74
Decision #AQ-2057 (B)
39 FR 5943 - 2/15/74
BEDFORD COUNTY
Decision #AP-832 (H,Hw)
38 FR 14058 - 5/25/73
Mod. #1 - 38 FR 22856 - 8/24/73
Decision #AQ-2084 (B)
39 FR 11808 - 3/29/74
BERKS COUNTY
Decision #AQ-2025 (B)
38 FR 29184 - 10/19/73
Mod. #1 - 39 FR 1688 - 1/11/74
Mod. #2 - 39 FR 5067 - 2/8/74
(Hw) - See Adams County
BLAIR COUNTY
Decision #AQ-2083 (B)
39 FR 12578 - 4/5/74
(H,Hw) - See Armstrong County
BRADFORD COUNTY
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #AQ-2015 (R)
38 FR 22353 - 8/17/73
Mod. #1 - 38 FR 27167 - 9/28/73
Mod. #2 - 39 FR 5067 - 2/8/74
Decision #AQ-2011 (H,Hw)
38 FR 22341 - 8/17/73
BUTLER COUNTY
Decision #AQ-2062 (H,Hw)
39 FR 6011 - 2/15/74
CAMBRIA COUNTY
Decision #AQ-2081 (B)
39 FR 11805 - 3/29/74
[illegible]
CAMERON COUNTY
(H,Hw) - See Bedford County
CARBON COUNTY
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd)

CENTRE COUNTY
Decision #AQ-2061 (H,Hw)
39 FR 6008 - 2/15/74
CHESTER COUNTY
(H,Hw) - See Bucks County
CLARION COUNTY
Decision #AQ-2078 (B)
39 FR 11800 - 3/29/74
(H,Hw) - See Bedford County
CLEARFIELD COUNTY
(H,Hw) - See Centre County
CLINTON COUNTY
(H,Hw) - See Bedford County
COLUMBIA COUNTY
(H,Hw) - See Adams County
CRAWFORD COUNTY
(H,Hw) - See Armstrong County
CUMBERLAND COUNTY
Decision #AQ-2053 (B)
39 FR 5159 - 2/8/74
Mod. #1 - 39 FR 7018 - 2/22/74
(Hw) - See Adams County
DAUPHIN COUNTY
(Hw) - See Adams County
DELAWARE COUNTY
Decision #AQ-2014 (B,H,Hw)
38 FR 22350 - 8/17/73
Mod. #1 - 38 FR 27167 - 9/28/73
Mod. #2 - 38 FR 33800 - 12/7/73
Mod. #3 - 39 FR 5067 - 2/8/74
(R,H,Hw) - See Bucks County
ELK COUNTY
Decision #AQ-2046 (B)
39 FR 9338 - 3/8/74
(H,Hw) - See Bedford County
ERIE COUNTY
Decision #AQ-2067 (H,Hw,B)
39 FR 6030 - 2/15/74
FAYETTE COUNTY
(H,Hw) - See Butler County
FOREST COUNTY
(H,Hw) - See Bedford County
FRANKLIN COUNTY
Decision #AQ-2071 (B,H,Hw)
39 FR 9416 - 3/8/74
FULTON COUNTY
(H,Hw) - See Bedford County
GREENE COUNTY
(H,Hw) - See Centre County
HUNTINGDON COUNTY
(H,Hw) - See Bedford County
INDIANA COUNTY
Decision #AQ-2045 (B)
[illegible]
(H,Hw) - See Armstrong County
JEFFERSON COUNTY
(H,Hw) - See Centre County
JUNIATA COUNTY
(H,Hw) - See Adams County
(B) - See Cumberland County

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PENNSYLVANIA (Cont'd)

LACKAWANNA COUNTY
Decision #AP-488 (B)
38 FR 6620 - 3/9/73
Mod. #1 - 38 FR 18825 - 7/13/73
Mod. #2 - 38 FR 21032 - 8/3/73
Mod. #3 - 38 FR 22320 - 8/17/73
LANCASTER COUNTY
Decision #AQ-2055 (B)
39 FR 5940 - 2/15/74
Mod. #1 - 39 FR 9357 - 3/8/74
(Hw) - See Adams County
LAWRENCE COUNTY
Decision #AQ-2068 (B,H,Hw)
39 FR 6034 - 2/15/74
LEBANON COUNTY
Decision #AQ-2080 (B)
39 FR 12571 - 4/5/74
(Hw) - See Adams County
LEHIGH COUNTY
Decision #AP-835 (B)
38 FR 14066 - 5/25/73
Mod. #1 - 38 FR 18128 - 7/6/73
Mod. #2 - 38 FR 19611 - 7/20/73
Mod. #3 - 38 FR 22321 - 8/17/73
Mod. #4 - 38 FR 31101 - 11/9/73
Mod. #5 - 39 FR 4281 - 2/1/74
Mod. #6 - 39 FR 5067 - 2/8/74
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #AQ-2069 (B)
39 FR 6038 - 2/15/74
(H,Hw) - See Adams County
LYCOMING COUNTY
Decision #AQ-2079 (B)
39 FR 11803 - 3/29/74
(Hw) - See Adams County
MC KEAN COUNTY
(Hw) - See Adams County
MERCER COUNTY
Decision #AQ-2066 (B,H,Hw)
39 FR 6026 - 2/15/74
MIFFLIN COUNTY
(H,Hw) - See Adams County
MONROE COUNTY
(Hw, H) - See Adams County
MONTGOMERY COUNTY
Decision #AQ-2013 - (B)
38 FR 22347 - 8/17/73
Mod. #1 - 38 FR 27166 - 9/28/73
Mod. #2 - 39 FR 5067 - 2/8/74
(H,Hw) - See Bucks County
MONTOUR COUNTY
(H,Hw) - See Adams County
Decision #AQ-2016 (B)
38 FR 22356 - 8/17/73
Mod. #1 - 39 FR 4281 - 2/1/74
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd)

NORTHUMBERLAND COUNTY
Decision #AQ-2044 (B)
39 FR 7014 - 2/22/74
Mod. #1 - 39 FR 10079 - 3/15/74
(H,Hw) - See Adams County
PERRY COUNTY
(Hw) - See Adams County
(B) - See Cumberland County
PHILADELPHIA COUNTY
Decision #AQ-2012 (B)
38 FR 22344 - 8/17/73
Mod. #1 - 38 FR 27166 - 9/28/73
Mod. #2 - 39 FR 5067 - 2/8/74
Decision #AP-803 (D)
38 FR 10580 - 4/27/72
(H,Hw) - See Bucks County
PIKE COUNTY
(H,Hw) - See Adams County
POTTER COUNTY
(H,Hw) - See Bedford County
SCHUYKILL COUNTY
Decision #AQ-2050 (B)
39 FR 5932 - 2/15/74
Mod. #1 - 39 FR 10079 - 3/15/74
(H,Hw) - See Adams County
SNYDER COUNTY
(H,Hw) - See Adams County
SOMERSET COUNTY
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #AQ-2070 (B)
39 FR 10070 - 3/15/74
(H,Hw) - See Adams County
SUSQUEHANNA COUNTY
(H,Hw) - See Adams County
TIOGA COUNTY
(H,Hw) - See Adams County
UNION COUNTY
(H,Hw) - See Adams County
VENANGO COUNTY
Decision #AQ-2043 (B)
39 FR 7011 - 2/22/74
(H,Hw) - See Armstrong County
WARREN COUNTY
(H,Hw) - See Armstrong County
WASHINGTON COUNTY
Decision #AQ-2064 (B,H,Hw)
39 FR 6018 - 2/15/74
WAYNE COUNTY
(H,Hw) - See Adams County
WESTMORELAND COUNTY
Decision #AQ-2063 (B,H,Hw)
39 FR 6024 - 2/15/74
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams County
(B)-See Cumberland County

PUERTO RICO

PUERTO RICO
Decision #AQ-2052 (B)
39 FR 5161 - 2/8/74
Decision #AQ-2019 (H,Hw)
38 FR 24847 - 9/14/73

RHODE ISLAND

STATEWIDE
Decision #AP-803 (D)
38 FR 10580 - 4/23/73
BRISTOL COUNTY
(D) - See Statewide
(B,H,Hw, & Marine) - See Providence Co.
KENT COUNTY
(B,H,Hw, & Marine) - See Providence Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #AQ-3120 (B,H,Hw,R,&Marine)
39 FR 8133 - 3/1/74
(D) - See Statewide
PROVIDENCE COUNTY
Decision #AQ-3119 (B,H,Hw,R & Marine)
39 FR 8129 - 3/1/74
Mod. #1 - 39 FR 12589 - 4/5/74
(D) - See Statewide
WASHINGTON COUNTY
Decision #AQ-3121 (B,H,Hw,R & Marine)
39 FR 8138 - 3/1/74
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #AQ-4065 (H,Hw)
39 FR 4381 - 2/1/74
Mod. #1 - 39 FR 7018 - 2/22/74
Decision #AP-157 (Sewer & Water)
38 FR 4619 - 2/16/73
ABBEVILLE COUNTY
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
ALLENDALE COUNTY
(Sewer & Water, H,Hw) - See Statewide
ANDERSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
BAMBERG COUNTY
(Sewer & Water, H,Hw) - See Statewide
BARNWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #AQ-2039 (D)
39 FR 3395 - 1/25/74
(Sewer & Water, H,Hw) - See Statewide
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #AQ-4029 (R)
38 FR 31153 - 11/9/73
CALHOUN COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHARLESTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Berkeley County
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHESTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLARENDON COUNTY
(Sewer & Water, H,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
DARLINGTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DILLON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DORCHESTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
EDGEFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
FAIRFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
FLORENCE COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd)

GEORGETOWN COUNTY
(D) - See Beaufort
(Sewer & Water, H,Hw) - See Statewide
GREENVILLE COUNTY
(Sewer & Water, H,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water, H,Hw) - See Statewide
LANCASTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
McCORMICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(Sewer & Water, H,Hw) - See Statewide
PICKENS COUNTY
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #AQ-4097 (B)
39 FR 12581 - 4/5/74
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
WILLIAMSBURG COUNTY
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH DAKOTA

STATEWIDE
Decision #AP-908 (Hw)
38 FR 15807 - 6/15/73
AURORA COUNTY
(Hw) - See Statewide
BEADLE COUNTY
Decision #AQ-1084 (H)
39 FR 5162 - 2/8/74
(Hw) - See Statewide
BENNETT COUNTY
(H) - See Beadle County
(Hw) - See Statewide
BON HOMME COUNTY
(H) - See Beadle County
(Hw) - See Statewide
BROOKINGS COUNTY
(H) - See Beadle County
(Hw) - See Statewide
BROWN COUNTY
(H) - See Beadle County
(Hw) - See Statewide
BRULE COUNTY
(H) - See Beadle County
(Hw) - See Statewide
BUFFALO COUNTY
(H) - See Beadle County
(Hw) - See Statewide
BUTTE COUNTY
(H) - See Beadle County
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CHARLES COUNTY
(H) - See Beadle County
(Hw) - See Statewide
CLAY COUNTY
(H) - See Beadle County
(Hw) - See Statewide
CLARK COUNTY
(Hw) - See Statewide
CODINGTON COUNTY
(Hw) - See Statewide
(H) - See Beadle County
CORSON COUNTY
(H) - See Beadle County
(Hw) - See Statewide
CUSTER COUNTY
(H) - See Beadle County
(Hw) - See Statewide
DAVISON COUNTY
(H) - See Beadle County
(Hw) - See Statewide
DAY COUNTY
(Hw) - See Statewide
DEUEL COUNTY
(Hw) - See Statewide
DEWEY COUNTY
(H) - See Beadle County
(Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

DOUGLAS COUNTY
(Hw) - See Statewide
EDMUNDS COUNTY
(H) - See Beadle County
(Hw) - See Statewide
FALL RIVER COUNTY
(H) - See Beadle County
(Hw) - See Statewide
FAULK COUNTY
(Hw) - See Statewide
GRANT COUNTY
(H) - See Beadle County
(Hw) - See Statewide
GREGORY COUNTY
(H) - See Beadle County
(Hw) - See Statewide
HAAKON COUNTY
(H) - See Beadle County
(Hw) - See Statewide
HAMLIN COUNTY
(Hw) - See Statewide
HAND COUNTY
(Hw) - See Statewide
HANSON COUNTY
(Hw) - See Statewide
HARDING COUNTY
(H) - See Beadle County
(Hw) - See Statewide
HUGHES COUNTY
(H) - See Beadle County
(Hw) - See Statewide
HUTCHINSON COUNTY
(Hw) - See Statewide
HYDE COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(H) - See Beadle County
(Hw) - See Statewide
JERAULD COUNTY
(Hw) - See Statewide
JONES COUNTY
(H) - See Beadle County
(Hw) - See Statewide
KINGSBURY COUNTY
(H) - See Beadle County
(Hw) - See Statewide
LAKE COUNTY
(H) - See Beadle County
(Hw) - See Statewide
LAWRENCE COUNTY
(H) - See Beadle County
(Hw) - See Statewide
LINCOLN COUNTY
(H) - See Beadle County
(Hw) - See Statewide
LYMAN COUNTY
(H) - See Beadle County
(Hw) - See Statewide

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SOUTH DAKOTA (Cont'd)

Mc COOK COUNTY
(Hw) - See Statewide
Mc PHERSON COUNTY
(Hw) - See Statewide
MARSHALL COUNTY
(Hw) - See Statewide
MEADE COUNTY
Decision #AQ-1090 (B,H)
39 FR 8144 - 3/1/74
(Hw) - See Statewide
MELLETTE COUNTY
(H) - See Beadle County
(Hw) - See Statewide
MINER COUNTY
(Hw) - See Statewide
MINNEHAHA COUNTY
Decision #AQ-1091 (R)
39 FR 8146 - 3/1/74
Decision #AQ-1089 (B,H)
39 FR 8142 - 3/1/74
(Hw) - See Statewide
MOODY COUNTY
(H) - See Beadle County
(Hw) - See Statewide
PENNINGTON COUNTY
(B,H) - See Meade County
(Hw) - See Statewide
PERKINS COUNTY
(H) - See Beadle County
(Hw) - See Statewide
POTTER COUNTY
(H) - See Beadle County
(Hw) - See Statewide
ROBERTS COUNTY
(H) - See Beadle County
(Hw) - See Statewide
SANBORN COUNTY
(Hw)- See Statewide
SHANNON COUNTY
(H) - See Beadle County
(Hw) - See Statewide
SPINK COUNTY
(H) - See Beadle County
(Hw) - See Statewide
STANLEY COUNTY
(H) - See Beadle County
(Hw) - See Statewide
SULLY COUNTY
(H) - See Beadle County
(Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

TODD COUNTY
(H) - See Beadle County
(Hw) - See Statewide
TRIPP COUNTY
(H) - See Beadle County
(Hw) - See Statewide
TURNER COUNTY
(Hw) - See Statewide
UNION COUNTY
(H) - See Beadle County
(Hw) - See Statewide
WALWORTH COUNTY
(H) - See Beadle County
(Hw) - See Statewide
WASHABOUGH COUNTY
(H) - See Beadle County
(Hw) - See Statewide
YANKTON COUNTY
(H) - See Beadle County
(H) - See Statewide
ZIEBACH COUNTY
(H) - See Beadle County
(Hw) - See Statewide

TENNESSEE

STATEWIDE
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
Decision #AQ-4049 (Hw)
39 FR 1712 - 1/11/74
Mod. #1 - 39 FR 3373 - 1/25/74
ANDERSON COUNTY
Decision #AQ-4011 (B)
38 FR 26589 - 9/21/73
Mod. #1 - 38 FR 34577 - 12/14/73
Mod. #2 - 39 FR 2326 - 1/18/74
Mod. #3 - 39 FR 11815 - 3/29/74
(Hw) - See Statewide
(F) - See Statewide
BEDFORD COUNTY
(F) - See Statewide
(Hw) - See Statewide
BENTON COUNTY
(F) - See Statewide
(Hw) - See Statewide
BLEDSOE COUNTY
(F) - See Statewide
(Hw) - See Statewide
BLOUNT COUNTY
(F) - See Statewide
(Hw) - See Statewide
BRADLEY COUNTY
(F) - See Statewide
(Hw) - See Statewide
CAMPBELL COUNTY
(F) - See Statewide
(Hw) - See Statewide
CANNON COUNTY
(F) - See Statewide
(Hw) - See Statewide
CARROLL COUNTY
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
(F) - See Statewide
(Hw) - See Statewide
CARTER COUNTY
Decision #AP-104 (B)
37 FR 13915 - 7/14/72
(F) - See Statewide
(Hw) - See Statewide
CHEATHAM COUNTY
(F) - See Statewide
(Hw) - See Statewide
CHESTER COUNTY
(F) - See Statewide
(Hw) - See Statewide
CLAIBORNE COUNTY
(F) - See Statewide
(Hw) - See Statewide
CLAY COUNTY
(F) - See Statewide
(Hw) - See Statewide

TENNESSEE (Cont'd)

COCKE COUNTY
(F) - See Statewide
(Hw) - See Statewide
COFFEE COUNTY
(F) - See Statewide
(Hw) - See Statewide
CROCKETT COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
CUMBERLAND COUNTY
(F) - See Statewide
(Hw) - See Statewide
DAVIDSON COUNTY
Decision #AP-169 (B)
38 FR 7782 - 3/23/73
Decision #AQ-4061 (R)
39 FR 3426 - 1/25/74
(F) - See Statewide
(Hw) - See Statewide
DECATUR COUNTY
(F) - See Statewide
(Hw) - See Statewide
DEKALB COUNTY
(F) - See Statewide
(Hw) - See Statewide
DYER COUNTY
Decision #AQ-4073 (B)
39 FR 5947 - 2/15/74
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
FAYETTE COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Statewide
GIBSON COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
(B) - See Dyer County
GILES COUNTY
(F) - See Statewide
(Hw) - See Statewide
GRAINGER COUNTY
(F) - See Statewide
(Hw) - See Statewide
GREENE COUNTY
(F) - See Statewide
(Hw) - See Statewide
GRUNDY COUNTY
(F) - See Statewide
(Hw) - See Statewide

TENNESSEE (Cont'd)

HAMBLEN COUNTY
(F) - See Statewide
(Hw) - See Statewide
HAMILTON COUNTY
Decision #AQ-4015 (B,H)
38 FR 27734 - 10/5/73
Mod. #1 - 38 FR 34578 - 12/14/73
Mod. #2 - 39 FR 2326 - 1/18/74
Mod. #3 - 39 FR 11815 - 3/29/74
(F) - See Statewide
(Hw) - See Statewide
HANCOCK COUNTY
(F) - See Statewide
(Hw) - See Statewide
HARDEMAN COUNTY
(D) - See Carroll County
(Hw) - See Statewide
(F) - See Statewide
HARDIN COUNTY
(F) - See Statewide
(Hw) - See Statewide
HAWKINS COUNTY
(F) - See Statewide
(Hw) - See Statewide
HAYWOOD COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
HENDERSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
HENRY COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
HICKMAN COUNTY
(F) - See Statewide
(Hw) - See Statewide
HOUSTON COUNTY
(F) - See Statewide
(Hw) - See Statewide
HUMPHREYS COUNTY
(F) - See Statewide
(Hw) - See Statewide
JACKSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
KICKSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
JEFFERSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
JOHNSON COUNTY
(B) - See Statewide
(Hw) - See Statewide

TENNESSEE (CONT'D)

KNOX COUNTY
Decision #AQ-4014 (B)
38 FR 27731 - 10/5/73
Mod. #1 - 38 FR 34577 - 12/14/73
Mod. #2 - 39 FR 2326 - 1/18/74
Mod. #3 - 39 FR 11815 - 3/29/74
Decision #AQ-4051 (R)
39 FR 2321 - 1/18/74
(F) - See Statewide
(Hw) - See Statewide
LAKE COUNTY
Decision #AQ-4074 (R)
39 FR 5947 - 2/15/74
(F) - See Statewide
(Hw) - See Statewide
LAUDERDALE COUNTY
(D) - See Carroll County
(F) - See Statewise
(Hw) - See Statewide
LAWRENCE COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
LEWIS COUNTY
(F) - See Statewide
(Hw) - See Statewide
LINCOLN COUNTY
(F) - See Statewide
(Hw) - See Statewide
LOUDON COUNTY
(F) - See Statewide
(Hw) - See Statewide
MC MINN COUNTY
(F) - See Statewide
(Hw) - See Statewide
MC NAIRY COUNTY
(F) - See Statewide
(Hw) - See Statewide
MACON COUNTY
(F) - See Statewide
(Hw) - See Statewide
MADISON COUNTY
Decision #AQ-4094 (B)
39 FR 10997 - 3/22/74
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
MARION COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Statewide
MARSHALL COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County

TENNESSEE (cont'd)

MAURY COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
MEIGS COUNTY
(F) - See Statewide
(Hw) - See Statewide
MONROE COUNTY
(F) - See Statewide
(Hw) - See Statewide
MONTGOMERY COUNTY
(F) - See Statewide
(Hw) - See Statewide
MOORE COUNTY
(F) - See Statewide
(Hw) - See Statewide
MORGAN COUNTY
(F) - See Statewide
(Hw) - See Statewide
OBION COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
OVERTON COUNTY
(F) - See Statewide
(Hw) - See Statewide
PENTRESS COUNTY
(F) - See Statewide
(Hw) - See Statewide
PERRY COUNTY
(F) - See Statewide
(Hw) - See Statewide
PICKETT COUNTY
(F) - See Statewide
(Hw) - See Statewide
POLK COUNTY
(F) - See Statewide
(Hw) - See Statewide
PUTNAM COUNTY
(F) - See Statewide
(Hw) - See Statewide
RHEA COUNTY
(F) - See Statewide
(Hw) - See Statewide
ROANE COUNTY
(B) - See Anderson County
(F) - See Statewide
(Hw) - See Statewide

TENNESSEE (Cont'd)

ROBERTSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
RUTHERFORD COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
SCOTT COUNTY
(F) - See Statewide
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Statewide
(Hw) - See Statewide
SEVIER COUNTY
(F) - See Statewide
(Hw) - See Statewide
SHELBY COUNTY
Decision #AQ-4016 (B,H,Utility)
38 FR 27737 - 10/5/73
Mod. #1 - 38 FR 34578 - 12/14/73
Mod. #2 - 39 FR 4282 - 2/1/74
Mod. #3 - 39 FR 11815 - 3/29/74
Decision #AP-152 (R)
38 FR 4176 - 2/9/73
(D) - See Carroll County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Statewide
(Hw) - See Statewide
STEWART COUNTY
(F) - See Statewide
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #AM-8623 (B)
37 FR 12013 - 6/16/72
Mod. #1 - 37 FR 23065 - 10/27/72
Mod. #2 - 39 FR 11815 - 3/29/74
Decision #AQ-4062 (R)
39 FR 3427 - 1/25/74
(F) - See Statewide
(Hw) - See Statewide
SUMNER COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
TIPTON COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide

XUM

TENNESSEE (cont'd)

TROUSDALE COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
UNICOI COUNTY
(F) - See Statewide
(Hw) - See Statewide
UNION COUNTY
(F) - See Statewide
(Hw) - See Statewide
VAN BUREN COUNTY
(F) - See Statewide
(Hw) - See Statewide
WARREN COUNTY
(F) - See Statewide
(Hw) - See Statewide
WASHINGTON COUNTY
Decision #AP-100 (B)
37 FR 13419 - 7/7/72
Mod. #1 - 37 FR 17316 - 8/25/72
Mod. #2 - 37 FR 22708 - 10/20/72
Decision #AQ-4059 (R)
39 FR 3426 - 1/25/74
(F) - See Statewide
(Hw) - See Statewide
WAYNE COUNTY
(F) - See Statewide
(Hw) - See Statewide
WEAKLEY COUNTY
(D) - See Carroll County
(F) - See Statewide
WHITE COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
WILLIAMSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County

TEXAS

STATEWIDE (Excluding Dallas-Fort Worth Regional Airport)
Decision #AQ-100 (Streets, Highways, Runways, Water & Sewer Lines and Paving & Utilities Incidental to General Building Construction)
39 FR 12663 - 4/5/74
ANDERSON COUNTY
(H,Hw) - See Statewide
ANDREWS COUNTY
(H,Hw) - See Statewide
ANGELINA COUNTY
(H,Hw) - See Statewide
ARANSAS COUNTY
(H,Hw) - See Statewide
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
Mod. #1 - 39 FR 4264 - 2/1/74
ARCHER COUNTY
(H,Hw) - See Statewide
ARMSTRONG COUNTY
Decision #AQ-75 (B)
39 FR 4384 - 2/1/74
Mod. #1 - 39 FR 7018 - 2/22/74
Mod. #2 - 39 FR 12591 - 4/5/74
(H,Hw) - See Statewide
Decision #AP-346 (R)
37 FR 20497 - 9/29/72
Mod. #1 - 38 FR 4080 - 2/9/73
Mod. #2 - 38 FR 17354 - 6/29/73
Mod. #3 - 38 FR 18129 - 7/6/73
Mod. #4 - 38 FR 19612 - 7/20/73
Mod. #5 - 38 FR 31101 - 11/9/73
ATASCOSA COUNTY
(H,Hw) - See Statewide
AUSTIN COUNTY
(H,Hw) - See Statewide
BAILEY COUNTY
(H,Hw) - See Statewide
Decision #AP-352 (R)
37 FR 21786 - 10/13/72
BANDERA COUNTY
(H,Hw) - See Statewide
BASTROP COUNTY
(H,Hw) - See Statewide
Decision #AM-7705 (R)
36 FR 22117 - 11/19/71
BAYLOR COUNTY
(H,Hw) - See Statewide
BEE COUNTY
(H,Hw) - See Statewide
BELL COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

BEXAR COUNTY
Decision #AQ-74 (B)
39 FR 4382 - 2/1/74
Mod. #1 - 39 FR 12591 - 4/5/74
(H,Hw) - See Statewide
Decision #AQ-84 (F)
39 FR 7062 - 2/22/74
BLANCO COUNTY
(H,Hw) - See Statewide
(P) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Statewide
BOSQUE COUNTY
(H,Hw) - See Statewide
BOWIE COUNTY
(H,Hw) - See Statewide
BRAZORIA COUNTY
(H,Hw) - See Statewide
Decision #AM-7488 (R)
36 FR 21737 - 11/12/71
Mod. #1 - 37 FR 10695 - 5/26/72
(D) - See Aransas County
BRAZOS COUNTY
(H,Hw) - See Statewide
BREWSTER COUNTY
(H,Hw) - See Statewide
BRISCOE COUNTY
(H,Hw) - See Statewide
BROOKS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BURLESON COUNTY
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Statewide
CAMERON COUNTY
Decision #AQ-68 (B)
38 FR 35580 - 12/28/73
Mod. #1 - 39 FR 4282 - 2/1/74
Mod. #2 - 39 FR 10080 - 3/15/74
Mod. #3 - 39 FR 12590 - 4/5/74
(D) - See Aransas County
(H,Hw) - See Statewide
Decision #AQ-72 (R)
39 FR 1719 - 1/11/74
Mod. #1 - 39 FR 4283 - 2/1/74
Mod. #2 - 39 FR 10082 - 4/5/74

TEXAS (Cont'd)

CAMP COUNTY
(H,Hw) - See Statewide
CARSON COUNTY
(B) - See Armstrong County
(H,Hw) - See Statewide
(R) - See Armstrong County
CASS COUNTY
(H,Hw) - See Statewide
CASTRO COUNTY
(B) - See Armstrong County
(H,Hw) - See Statewide
(R) - See Armstrong County
CHAMBERS COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CHEROKEE COUNTY
(H,Hw) - See Statewide
CHILDRESS COUNTY
(B) - See Armstrong County
(H,Hw) - See Statewide
(R) - See Armstrong County
CLAY COUNTY
(H,Hw) - See Statewide
COCHRAN COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
COKE COUNTY
(H,Hw) - See Statewide
COLEMAN COUNTY
(H,Hw) - See Statewide
COLLIN COUNTY
Decision #AQ-73 (B-excluding Dallas-Fort Worth Regional Airport)
39 FR 1720 - 1/11/74
Mod. #1 - 39 FR 4283 - 2/1/74
Mod. #2 - 39 FR 10082 - 3/15/74
Mod. #3 - 39 FR 12591 - 4/5/74
Decision #AM-7487 (R)
36 FR 21736 - 11/12/71
(H,Hw) - See Statewide
COLLINGSWORTH COUNTY
(B) - See Armstrong County
(H,Hw) - See Statewide
(R) - See Armstrong County
COLORADO COUNTY
(H,Hw) - See Statewide
COMAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
CONCHO COUNTY
(H,Hw) - See Statewide
(H,Hw) - See Statewide
CORYELL COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

COTTLE COUNTY
(H,Hw) - See Statewide
CRANE COUNTY
(H,Hw) - See Statewide
Decision #AP-347 (R)
37 FR 20499 - 9/29/72
CROCKETT COUNTY
(H,Hw) - See Statewide
CROSBY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
CULBERSON COUNTY
(H,Hw) - See Statewide
DALLAM COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
DALLAS COUNTY
(R) (B) - See Collin County
(H,Hw) - See Statewide
DAWSON COUNTY
(H,Hw) - See Statewide
DEAF SMITH COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
DELTA COUNTY
(H,Hw) - See Statewide
DENTON COUNTY
(R) (B) - See Collin County
(H,Hw) - See Statewide
DE WITT COUNTY
(H,Hw) - See Statewide
DICKENS COUNTY
(H,Hw) - See Statewide
DIMMIT COUNTY
(H,Hw) - See Statewide
DONLEY COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
DUVAL COUNTY
(H,Hw) - See Statewide
EASTLAND COUNTY
(H,Hw) - See Statewide
ECTOR COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(B&R) - See Collin County
(H,Hw) - See Statewide
EL PASO COUNTY
Decision #AQ-71 (B)
39 FR 1716 - 1/11/74
Mod. #1 - 39 FR 10080 - 3/15/74
Mod. #2 - 39 FR 12590 - 4/5/74
(H,Hw) - See Statewide

TEXAS (Cont'd)

ERATH COUNTY
(H,Hw) - See Statewide
FALLS COUNTY
(H,Hw) - See Statewide
FANNIN COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
FOARD COUNTY
(H,Hw) - See Statewide
FORT BEND COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
FRANKLIN COUNTY
(H,Hw) - See Statewide
FREESTONE COUNTY
(H,Hw) - See Statewide
FRIO COUNTY
(H,Hw) - See Statewide
GAINES COUNTY
(H,Hw) - See Statewide
GALVESTON COUNTY
Decision #AQ-66 (B)
38 FR 35574 - 12/28/73
Mod. #1 - 39 FR 4282 - 2/1/74
Mod. #2 - 39 FR 10080 - 3/15/74
Mod. #3 - 39 FR 12590 - 4/5/74
(H,Hw) - See Statewide
Decision #AP-348 (R)
37 FR 20501 - 9/29/72
(D) - See Aransas County
GARZA COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
GILLESPIE COUNTY
(H,Hw) - See Statewide
GLASSCOCK COUNTY
(H,Hw) - See Statewide
GOLIAD COUNTY
(H,Hw) - See Statewide
GONZALES COUNTY
(H,Hw) - See Statewide
GRAY COUNTY
(R&B) - See Armstrong County
(H,Hw) - See Statewide
GRAYSON COUNTY
(F) - See Collin County
(H,Hw) - See Statewide
GREGG COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

GRIMES COUNTY
(H,Hw) - See Statewide
GUADALUPE COUNTY
(H,Hw) - See Statewide
HALE COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HALL COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
(H,Hw) - See Statewide
HANSFORD COUNTY
(R&B) - See Armstrong County
(H,Hw) - See Statewide
HARDEMAN COUNTY
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide
HARRIS COUNTY
Decision #AQ-67 (B)
38 FR 35577 - 12/28/73
Mod. #1 - 39 FR 4282 - 2/1/74
Mod. #2 - 39 FR 7018 - 2/22/74
Mod. #3 - 39 FR 10080 - 3/15/74
Mod. #4 - 39 FR 12590 - 4/5/74
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HARTLEY COUNTY
(R&B) - See Armstrong County
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HAYS COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
HEMPHILL COUNTY
(R&B) - See Armstrong County
(H,Hw) - See Statewide
HENDERSON COUNTY
(H,Hw) - See Statewide
HIDALGO COUNTY
(R&B) - See Cameron County
(H,Hw) - See Statewide
HILL COUNTY
(H,Hw) - See Statewide
HOCKLEY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HOOD COUNTY
(B) - See Collin County
Decision #AP-301 (R)
37 FR 15232 - 7/28/72
Mod. #1 - 37 FR 20395 - 9/29/72
(H,Hw) - See Statewide

XUM

TEXAS (Cont'd)

HOPKINS COUNTY
(H,Hw) - See Statewide
HOUSTON COUNTY
(H,Hw) - See Statewide
HOWARD COUNTY
(H,Hw) - See Statewide
HUDSPETH COUNTY
(H,Hw) - See Statewide
HUNT COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
IRION COUNTY
(H,Hw) - See Statewide
JACK COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JEFF DAVIS COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
Decision #AQ-41 (B)
38 FR 29786 - 10/26/73
Mod. #1 - 38 FR 31102 - 11/9/73
Mod. #2 - 38 FR 31771 - 11/16/73
Mod. #3 - 38 FR 34578 - 12/14/73
Mod. #4 - 39 FR 4282 - 2/1/74
Mod. #5 - 39 FR 10080 - 3/15/74
(Hw) - See Statewide
Decision #AQ-40 (R)
38 FR 29784 - 10/26/73
Mod. #1 - 38 FR 31102 - 11/9/73
Mod. #2 - 38 FR 31771 - 11/16/73
Mod. #3 - 38 FR 34578 - 12/14/73
Mod. #4 - 39 FR 4282 - 2/1/74
Mod. #5 - 39 FR 10080 - 3/15/74
(D) - See Aransas County
JIM HOGG COUNTY
(H,Hw) - See Statewide
JIM WELLS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County

TEXAS (Cont'd)

JONES COUNTY
(H,Hw) - See Statewide
KARNES COUNTY
(H,Hw) - See Statewide
KAUFMAN COUNTY
(R&B) - See Collin County
(H,Hw) - See Statewide
KENDALL COUNTY
(H,Hw) - See Statewide
KENEDY COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
KENT COUNTY
(H,Hw) - See Statewide
KERR COUNTY
(H,Hw) - See Statewide
KIMBLE COUNTY
(H,Hw) - See Statewide
KING COUNTY
(H,Hw) - See Statewide
KINNEY COUNTY
(H,Hw) - See Statewide
KLEBERG COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LAMAR COUNTY
(H,Hw) - See Statewide
LAMB COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
LAMPASAS COUNTY
(H,Hw) - See Statewide
LA SALLE COUNTY
(H,Hw) - See Statewide
LAVACA COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

LEE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
LEON COUNTY
(H,Hw) - See Statewide
LIBERTY COUNTY
(H,Hw) - See Statewide
LIMESTONE COUNTY
(H,Hw) - See Statewide
LIPSCOMB COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Statewide
LLANO COUNTY
(H,Hw) - See Statewide
LOVING COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
LUBBOCK COUNTY
Decision #AQ-69 (B)
38 FR 35582 - 12/28/73
Mod. #1 - 39 FR 7018 - 2/22/74
Mod. #2 - 39 FR 12590 - 4/5/74
(R) - See Bailey County
(H,Hw) - See Statewide
LYNN COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
McCULLOCH COUNTY
(H,Hw) - See Statewide
McLENNAN COUNTY
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Statewide
MATAGORDA COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
(D) - See Aransas County
MAVERICK COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MENARD COUNTY
(H,Hw) - See Statewide
MIDLAND COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Statewide
MILLS COUNTY
(H,Hw) - See Statewide
MITCHELL COUNTY
(H,Hw) - See Statewide
MONTAGUE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
MORRIS COUNTY
(H,Hw) - See Statewide
MOTLEY COUNTY
(H,Hw) - See Statewide
NACOGDOCHES COUNTY
(H,Hw) - See Statewide
NAVARRO COUNTY
(H,Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NOLAN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

NUECES COUNTY
Decision #AQ-78 (B)
39 FR 4388 - 2/1/74
Mod. #1 - 39 FR 12591 - 4/5/74
(D) - See Aransas County
(H,Hw) - See Statewide
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
OLDHAM COUNTY
(R)(B) - See Armstrong County
(Hw) - See Statewide
ORANGE COUNTY
(R)(B) - See Jefferson County
(H,Hw) - See Statewide
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Statewide
PARKER COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Statewide
PECOS COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Statewide
RAINS COUNTY
(H,Hw) - See Statewide
RANDALL COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Statewide
REAL COUNTY
(H,Hw) - See Statewide
RED RIVER COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
REFUGIO COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Statewide
ROCKWALL COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
RUNNELS COUNTY
(H,Hw) - See Statewide
RUSK COUNTY
(H,Hw) - See Statewide
SABINE COUNTY
(H,Hw) - See Statewide
SAN AUGUSTINE COUNTY
(H,Hw) - See Statewide
SAN JACINTO COUNTY
(H,Hw) - See Statewide
SAN PATRICIO COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
SAN SABA COUNTY
(H,Hw) - See Statewide
SCHLEICHER COUNTY
(H,Hw) - See Statewide
SCURRY COUNTY
(H,Hw) - See Statewide
SHACKELFORD COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
SHERMAN COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
SMITH COUNTY
(H,Hw) - See Statewide
SOMERVELL COUNTY
(H,Hw) - See Statewide
STARR COUNTY
(H,Hw) - See Statewide
(B)(R) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

STERLING COUNTY
(H,Hw) - See Statewide
STONEWALL COUNTY
(H,Hw) - See Statewide
SUTTON COUNTY
(H,Hw) - See Statewide
SWISHER COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
Decision #AM-11423 (R)
37 FR 11617 - 6/9/72
Mod. #1 - 37 FR 20394 - 9/29/72
TAYLOR COUNTY
(H,Hw) - See Statewide
TERRELL COUNTY
(H,Hw) - See Statewide
TERRY COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Statewide
TITUS COUNTY
(H,Hw) - See Statewide
TOM GREEN COUNTY
(H,Hw) - See Statewide
TRAVIS COUNTY
Decision #AQ-70 (B)
39 FR 1713 - 1/11/74
Mod. #1 - 39 FR 4283 - 2/1/74
Mod. #2 - 39 FR 10080 - 3/15/74
Mod. #3 - 39 FR 11816 - 3/29/74
Mod. #4 - 39 FR 12590 - 4/5/74
(R) - See Bastrop County
(H,Hw) - See Statewide
TRINITY COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(H,Hw) - See Statewide
UPSHUR COUNTY
(H,Hw) - See Statewide
UPTON COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
UVALDE COUNTY
(H,Hw) - See Statewide
VAL VERDE COUNTY
(H,Hw) - See Statewide
VAN ZANDT COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

VICTORIA COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
WALKER COUNTY
(H,Hw) - See Statewide
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Statewide
WARD COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Statewide
WEBB COUNTY
(H,Hw) - See Statewide
WHARTON COUNTY
(H,Hw) - See Statewide
WHEELER COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
WICHITA COUNTY
(H,Hw) - See Statewide
WILBARGER COUNTY
(H,Hw) - See Statewide
WILLACY COUNTY
(R)(B) - See Cameron County
(H,Hw) - See Statewide
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Statewide
WINKLER COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
WOOD COUNTY
(H,Hw) - See Statewide
YOAKUM COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
YOUNG COUNTY
(H,Hw) - See Statewide
ZAPATA COUNTY
(H,Hw) - See Statewide
ZAVALA COUNTY
(H,Hw) - See Statewide

XUM

UTAH

STATEWIDE
Decision #AQ-1069 (B,H,Hw)
39 FR 1725 - 1/11/74
Mod. #1 - 39 FR 5068 - 2/8/74
Mod. #2 - 39 FR 9357 - 3/8/74
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #AQ-3085 (Hw)
39 FR 4391 - 2/1/74
Mod. #1 - 39 FR 7019 - 2/22/74
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Decision #AQ-2039 (D)
39 FR 3395 - 1/25/74
ALBERMARLE COUNTY
Decision #AM-1874 (Hw)
36 FR 16342 - 8/20/71
ALEXANDRIA CITY
Decision #AQ-2036 (B)
38 FR 35143 - 12/21/73
Mod. #1 - 39 FR 2327 - 1/18/74
Mod. #2 - 39 FR 7019 - 2/22/74
Decision #AP-450 (R)
37 FR 25117 - 11/25/72
ALLEGHENY COUNTY
Decision #AM-1875 (Hw)
36 FR 16343 - 8/20/71
Mod. #1 - 37 FR 5169 - 3/10/72
AMELIA COUNTY
Decision #AM-1871 (Hw)
36 FR 16339 - 8/20/71
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 32259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(R) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
Decision #AM-9320 (R)
37 FR 10267 - 5/19/72
(Hw) - See Allegheny County
BATH COUNTY
(Hw) - See Allegheny County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
BLAND COUNTY
Decision #AQ-2020 (Hw)
38 FR 27744 - 10/5/73

VIRGINIA (Cont'd)

BOTECOURT COUNTY
(Hw) - See Bedford County
BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA COUNTY
(Hw) - See Allegheny County
CAMPBELL COUNTY
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #AQ-2038 (B)
38 FR 35585 - 12/28/73
Mod. #1 - 39 FR 9358 - 3/8/74
Decision #AP-494 (Hw)
38 FR 7693 - 3/23/73
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
Decision #AP-406 (R)
37 FR 15234 - 7/28/72
(Hw) - See Allegheny County
CLIFTON FORGE CITY
(Hw) - See Allegheny County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Allegheny County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

CULPEPER COUNTY
(Hw) - See Albermarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(R) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(D) - See Alexandria City
(R) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
(R) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albermarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albermarle County
FORT MONROE CITY
(Hw) - See Accomack County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

FREDERICK COUNTY
(R) - See Clarke County
(Hw) - See Allegheny County
FREDERICKSBURG CITY
(hw) - See Caroline County
GALAX CITY
(Hw) - See Bland County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albermarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Allegheny County
HENRICO COUNTY
Decision #AQ-2024 (B)
38 FR 29195 - 10/19/73
Mod. #1 - 38 FR 35143 - 12/21/73
Mod. #2 - 38 FR 35572 - 12/28/73
Mod. #3 - 39 FR 3373 - 1/25/74
(Hw) - See Amelia County

VIRGINIA (Cont'd)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Allegheny County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
JAMES CITY COUNTY
Decision #AP-407 (R)
37 FR 15235 - 7/28/72
(Hw) - See Accomack County
(D) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUDOUN COUNTY
(Hw) - See Albemarle County
LOUISA COUNTY
(Hw) - See Albemarle County
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(Hw) - See Amherst County

VIRGINIA (Cont'd)

MADISON COUNTY
(Hw) - See Albemarle County
MARTINSVILLE CITY
(Hw) - See Bedford County
MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County

XUM

VIRGINIA (Cont'd)

NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albemarle County
PAGE COUNTY
(Hw) - See Allegheny County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG CITY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(Hw) - See Albemarle County
(D) - See Accomack County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY
(Hw) - See Bedford County
RAPAHANNOCK COUNTY
(Hw) - See Albemarle County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKSRIDGE COUNTY
(Hw) - See Allegheny County
ROCKINGHAM COUNTY
(S) - See Clarke County
(Hw) - See Allegheny County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(H) - See Allegheny County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County

VIRGINIA (Cont'd)

SOUTHAMPTON COUNTY
(Hw) - See Accomack County
SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Allegheny County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
Decision #AM-9321 (R)
37 FR 10266 - 5/19/72
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
(R) - See Clarke County
(Hw) - See Allegheny County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Allegheny County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Allegheny County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #AQ-2074 (B,H,S&W)
39 FR 9341 - 3/8/74
(R) - See James County
(Hw) - See Accomack County
(D) - See Accomack County

WASHINGTON

STATEWIDE
Decision #AQ-1067 (B,H,Hw,D)
38 FR 35194 - 12/21/73
Mod. #1 - 39 FR 2327 - 1/18/74
Mod. #2 - 39 FR 4284 - 2/1/74
Mod. #3 - 39 FR 12592 - 4/5/74
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIN COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #AQ-1077 (R)
39 FR 4393 - 2/1/74
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw,D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY

WASHINGTON (Cont'd)

LEWIS COUNTY
(B,H,Hw,D)-See Statewide
LINCOLN COUNTY
(B,H,Hw,D)-See Statewide
MASON COUNTY
(B,H,Hw,D)-See Statewide
OKANOGAN COUNTY
(B,H,Hw,D)-See Statewide
PACIFIC COUNTY
(B,H,Hw,D)-See Statewide
PEND OREILLE COUNTY
(B,H,Hw,D)-See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D)-See Statewide
SAN JUAN COUNTY
(B,H,Hw,D)-See Statewide
SKAGIT COUTNY
(B,H,Hw,D)-See Statewide
(R) - See Clallam County
SKAMANIA COUNTY
(B,H,Hw,D)-See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D)-See Statewide
SPOKANE COUNTY
(B,H,Hw,D)-See Statewide
STEVENS COUNTY
(B,H,Hw,D)-See Statewide
THURSTON COUNTY
(B,H,Hw,D)-See Statewide
WAHKIAKUM COUNTY
(B,H,Hw,D)-See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D)-See Statewide
WHATCOM COUNTY
(B,H,Hw,D)-See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D)-See Statewide
YAKIMA COUNTY
(B,H,Hw,D)-See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #AQ-2035 (B,Hw,Sewer & Water)
38 FR 35218 - 12/21/73
Mod. #1 - 39 FR 2327 - 1/18/74
Mod. #2 - 39 FR 4286 - 2/1/74
Mod. #3 - 39 FR 7046 - 2/27/74
Mod. #4 - 39 FR 10082 - 3/15/74
Decision #AP-450 (R)
37 FR 25117 - 11/25/72
Decision #AQ-2030 (D)
39 FR 3395 - 1/25/74

WEST VIRGINIA

STATEWIDE
Decision #AQ-2086 (H,Hw)
39 FR 11838 - 3/29/74
BARBOUR COUNTY
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
BRAXTON COUNTY
(H,Hw) - See Statewide
BROOKE COUNTY
(H,Hw) - See Statewide
CABELL COUNTY
Decision #AQ-2087 (B)
39 FR 11843 - 3/29/74
Decision #AQ-3094 (D)
39 FR 5070 - 2/8/74
(H,Hw) - See Statewide
CALHOUN COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
GILMER COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREENBRIER COUNTY
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(H,Hw) - See Statewide
HANCOCK COUNTY
(H,Hw) - See Statewide
HARDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
Decision #AQ-2088 (B)
39 FR 11845 - 3/29/74
(H,Hw) - See Statewide
Decision #AQ-2089 (R)
39 FR 11847 - 3/29/74
(H,Hw) - See Statewide
LEWIS COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LOGAN COUNTY
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

MC DONELL COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MASON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MINERAL COUNTY
(H,Hw) - See Statewide
MINGO COUNTY
(H,Hw) - See Statewide
MONOGALIA COUNTY
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(H,Hw) - See Statewide
PENDLETON COUNTY
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALEIGH COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RITCHIE COUNTY
(H,Hw) - See Statewide
ROANE COUNTY
(H,Hw) - See Statewide
SUMMERS COUNTY
(H,Hw) - See Statewide
TAYLOR COUNTY
(H,Hw) - See Statewide
TUCKER COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

UPSHUR COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
Decision #AQ-2051 (B)
39 FR 10072 - 3/15/74
(H,Hw) - See Statewide
WEBSTER COUNTY
(H,Hw) - See Statewide
WETZEL COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(H,Hw) - See Statewide

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WISCONSIN

ADAMS COUNTY
Decision #AP-72 (Hw)
37 FR 26273 - 12/8/72
Mod. #1-38 FR 2019 - 1/9/73
Mod. #2-38 FR 12524 - 5/11/73
ASHLAND COUNTY
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
Decision #AP-70 (Hw)
37 FR 26269 - 12/8/72
Mod. #1-38 FR 2018 - 1/19/73
Mod. #2-38 FR 12523 - 5/11/73
BARRON COUNTY
Decision #AP-71 (Hw)
37 FR 26271 - 12/8/72
Mod. #1-38 FR 2018-1/19/73
Mod. #2-38 FR 12524 - 5/11/73
BAYFIELD COUNTY
(D) - See Ashland County
(Hw) - See Ashland County
BROWN COUNTY
Decision #AQ-3106 (B,H,Hw)
39 FR 7066 - 2/22/74
(D) - See Ashland County
BUFFALO COUNTY
(Hw) - See Barron County
BURNETT COUNTY
(Hw) - See Ashland County
CALUMET COUNTY
Decision #AP-74 (Hw)
37 FR 26277 - 12/8/72
Mod. #1-38 FR 2019-1/19/73
Mod. #2-38 FR 12524 - 5/11/73
CHIPPEWA COUNTY
(Hw) - See Barron County
CLARK COUNTY
(Hw) - See Barron County
COLUMBIA COUNTY
Decision #AP-73 (Hw)
37 FR 26275 - 12/8/72
Mod. #1-38 FR 2019-1/19/73
Mod. #2-38 FR 12524 - 5/11/73
CRAWFORD COUNTY
(Hw) - See Columbia County
DANE COUNTY
Decision #AQ-3107 (B,H,Hw,R)
39 FR 7069 - 2/22/74
DODGE COUNTY
(Hw) - See Columbia County
DOOR COUNTY
(D) - See Ashland County
(Hw) - See Ashland County

WISCONSIN (Cont'd)

DOUGLAS COUNTY
(D) - See Ashland County
(Hw) - See Ashland County
DUNN COUNTY
(Hw) - See Barron County
EAU CLAIRE COUNTY
Decision #AQ-3108 (B,H,Hw)
39 FR 7073 - 2/22/74
FLORENCE COUNTY
(Hw) - See Calumet County
FOND DU LAC COUNTY
Decision #AP-75 (Hw)
37 FR 26279 - 12/8/72
Mod. #1-38 FR 2019-1/10/73
Mod. #2-38 FR 12524 - 5/11/73
FOREST COUNTY
(Hw) - See Ashland County
GRANT COUNTY
(Hw) - See Columbia County
GREEN COUNTY
(Hw) - See Columbia County
GREEN LAKE COUNTY
(Hw) - See Adams County
IOWA COUNTY
(Hw) - See Columbia County
IRON COUNTY
(D) - See Ashland County
(Hw) - See Ashland County
JACKSON COUNTY
(Hw) - See Columbia County
JEFFERSON COUNTY
(Hw) - See Columbia County
JUNEAU COUNTY
Decision #AQ-3109 (B,H,Hw)
39 FR 7077 - 2/22/74
KENOSHA COUNTY
Decision #AQ-3110 (B,H,Hw)
39 FR 7082 - 2/22/74
KEWAUNEE COUNTY
(D) - See Ashland County
(Hw) - See Calumet County
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MONDAY, MAY 6, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 88
Pages 15743–15983
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federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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EXECUTIVE ORDER 11781

Providing for an Orderly Termination of the Economic Stabilization Program

To provide for an orderly transition from mandatory controls, for the continuation of enforcement procedures under the Economic Stabilization Act of 1970, as amended, with respect to acts committed prior to May 1, 1974, and for the continuation of monitoring and other functions of the Cost of Living Council, I am issuing this Executive Order to be effective only from May 1, 1974, through June 30, 1974. At midnight on April 30, 1974, the authority contained in the Economic Stabilization Act of 1970, as amended, to impose a system of mandatory controls expired.

The expiration of continuing mandatory controls authority does not preclude the Cost of Living Council from continuing to consider matters properly before it that relate to wages paid for work performed prior to May 1, 1974, and prices charged prior to May 1, 1974. The Council shall continue to receive and consider requests for approval of wage and salary increases or for exceptions from applicable wage and salary guidelines with respect to pay adjustments for work performed prior to May 1, 1974, and shall continue to challenge and review wages and salaries paid for work performed prior to May 1, 1974, as appropriate, and to the extent permitted by law. The Council shall continue to receive and consider requests for exceptions from price regulations and orders with respect to prices in effect prior to May 1, 1974, and shall continue to review price adjustments made prior to May 1, 1974, as appropriate and to the extent permitted by law.

The Cost of Living Council will be terminating its work, and its staff will be redeployed over the next two months. Given the extraordinary sacrifice, contribution, and outstanding work this staff has provided the American people, it is incumbent upon us to make a substantial effort to recognize and retain those Cost of Living Council people who desire to stay within the Federal Government. Council staff have skills which are in continuous demand in all Federal agencies and represent a broad spectrum of highly competent professional and clerical talent. It is my desire that departments and agencies receive returning career employees with re-employment rights at the same salary and grade obtained while serving at the Council, to the maximum extent possible. This also applies to Internal Revenue Service employees who have served in the Economic Stabilization Program. In addition to returning career Civil Service Cost of Living Council employees with Federal re-employment rights, we must provide an opportunity for those Council employees who are serving under Emergency Indefinite status to remain in the Federal Government if they so desire. These employees will also need favorable consideration for available vacancies in the next two months, and should, to the maximum extent possible, be given salaries commensurate with those attained while serving at the Council.

I am directing each Federal agency to participate in this placement effort by giving the highest attention to filling agency vacancies quickly with qualified Cost of Living Council employees who will be referred by the Council or the Civil Service Commission. To assure the fullest

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cooperation in this important effort, I have designated the Chairman of the Civil Service Commission to be directly responsible to me for this placement effort. He will ensure that every effort is made to identify and refer qualified Cost of Living Council employees to fill existing vacancies, and will report to me monthly concerning this placement process.

In order to accomplish these purposes, and by virtue of the authority vested in me by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970, as amended, it is hereby ordered as follows:

SECTION 1. (a) The Cost of Living Council (hereinafter referred to as the "Council"), as established by section 2 of Executive Order No. 11615 of August 15, 1971, and continued by Executive Order No. 11695 of January 11, 1973, and Executive Order No. 11730 of July 18, 1973, is hereby continued through June 30, 1974. The Secretary of the Treasury serving on April 30, 1974, shall continue to serve as Chairman of the Council so long as he shall serve as Secretary of the Treasury. The Director of the Cost of Living Council shall thereafter serve as Chairman of the Council. The Chairman of the Council of Economic Advisers shall continue to serve as Vice Chairman of the Council.

(b) All the powers and duties conferred upon the President by the Economic Stabilization Act of 1970, as amended, and delegated to the Chairman of the Cost of Living Council by Executive Order No. 11695, including the powers necessary to take appropriate actions with respect to any action or pending proceedings, civil or criminal, not finally determined on April 30, 1974, or with respect to any act committed prior to May 1, 1974, are, to the extent necessary, hereby continued through June 30, 1974.

SEC. 2. The Chairman of the Cost of Living Council shall provide for the orderly conclusion of the Council's activities through June 30, 1974. To this end the Chairman shall make appropriate provision for completion of any reports required by the Economic Stabilization Act of 1970, as amended; for an appropriate compilation of the records, data and any other material in the possession of the Council; and for the establishment of an archive for Economic Stabilization Program documents.

SEC. 3. The Chairman of the Cost of Living Council shall provide for the continuation of any action or pending proceedings, civil or criminal, not finally determined prior to May 1, 1974, as appropriate. The Chairman shall continue to receive reports and review pay adjustments with respect to work performed prior to May 1, 1974, and price adjustments with respect to prices charged prior to May 1, 1974, and take appropriate remedial action where he finds such adjustments were in violation of applicable Economic Stabilization Regulations.

SEC. 4. The Chairman of the Cost of Living Council shall, through June 30, 1974, monitor the decontrol commitments entered into by various firms at the time controls were eliminated and shall take all appropriate action to ensure that the commitments are honored.

SEC. 5. The Chairman of the Cost of Living Council is hereby authorized, for the period May 1, 1974, through June 30, 1974, to continue to:

(a) Review the programs and activities of Federal departments and agencies and the private sector which may have adverse effects on supply and cause increases in prices, and make recommendations for changes in such programs and activities to increase supply and restrain prices;

(b) Review industrial capacity, demand, and supply in various sectors of the economy, working with the industrial groups concerned and appropriate governmental agencies to encourage price restraint;

(c) Establish procedures to work with labor and management in the various sectors of the economy having special economic problems as well as with appropriate Government agencies, to improve the structure of collective bargaining and the performance of those sectors in restraining prices;

(d) Develop plans and procedures to improve wage and price data bases for various sectors of the economy in order to improve the factual basis for collective bargaining and to encourage price restraint;

(e) Focus attention on the need to increase productivity in both the public and private sectors of the economy;

(f) Monitor the economy as a whole, including such matters as wages, costs, productivity, prices, sales, profits, imports, and exports.

SEC. 6. Nothing in this order shall be construed as authorizing the imposition or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends, interest rates, or any similar transfer other than on the basis of the authority provided in sections 2 and 3 of this order with respect to enforcement activity related to the period prior to May 1, 1974.

SEC. 7. The Chairman of the Cost of Living Council, in carrying out the provisions of this order, may provide for the establishment of committees, action groups, and other comparable groups, and may take such other actions as he determines to be necessary or appropriate, through June 30, 1974.

SEC. 8. The Construction Industry Stabilization Committee (hereinafter referred to as the CISC) established by section 2 of Executive Order 11588, of March 29, 1971, and continued by Executive Order 11695, of January 11, 1973, is hereby continued through June 30, 1974, and shall continue to act as an agency of the United States. The CISC shall continue to perform such functions with respect to the stabilization of wages and salaries in the construction industry as the Chairman of the Council may delegate to it, for purposes of accomplishing the orderly conclusion of the activities of the CISC through June 30, 1974. The craft dispute boards (hereinafter referred to as "boards") established by associations of contractors and national and international unions under section 2 of Executive Order 11588 and continued by Executive Order 11695 are hereby continued through June 30, 1974. Each board shall be composed of appropriate labor and management representatives. The boards shall continue to perform such functions with respect to the stabilization of wages and salaries in the construction industry as the Chairman of the Council may prescribe for purposes of accomplishing the orderly conclusion of the activities of the CISC through June 30, 1974.

SEC. 9. The Cost of Living Council Committee on Health established by section 6 of Executive Order 11695, of January 11, 1973, is hereby continued through June 30, 1974. The Committee on Health shall be composed of the Director of the Council, who shall be its Chairman, the Vice Chairman of the Council, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, the Director of the Office of Management and Budget, and such others as the President may, from time to time, designate. The Committee shall continue to review

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Government activities significantly influencing health care expenses and make recommendations to the Chairman of the Council concerning these matters.

SEC. 10. The Cost of Living Council Committee on Food established by section 7 of Executive Order 11695, of January 11, 1973, is hereby continued through June 30, 1974. The Cost of Living Council Committee on Food shall be composed of the Director of the Council, the Vice Chairman of the Council, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, and such others as the President may, from time to time designate. The Committee shall continue to review Government activities significantly affecting food costs and prices and make recommendations to the Chairman of the Council concerning these matters.

SEC. 11. The Labor-Management Advisory Committee established by section 8 of Executive Order 11695, of January 11, 1973, is hereby continued through June 30, 1974. The Labor-Management Advisory Committee shall be composed of such members as the President may, from time to time, designate. The Committee shall continue to provide advice for improving the collective bargaining process and for assuring wage and salary settlements consistent with gains in productivity and the goal of stemming the rate of inflation.

SEC. 12. The following committees are hereby abolished:

Effective May 31, 1974:

(a) The Health Industry Advisory Committee established by section 6 of Executive Order 11695, of January 11, 1973;

Effective immediately:

(b) (1) The Food Industry Advisory Committee established by section 7 of Executive Order 11695;

(2) The Committee on Interest and Dividends established by section 9 of Executive Order 11627 and continued by section 9 of Executive Order 11695.

The Chairman of the Council shall make appropriate provision for the disposition of the records, property, personnel, and funds relating to the committees abolished by this section.

SEC. 13. This order does not affect any authority exercised by the Federal Energy Office with respect to pricing and allocation of crude oil, residual fuel oil, and refined petroleum products (as defined in the Emergency Petroleum Allocation Act of 1973), pursuant to the Economic Stabilization Act of 1970, as amended, the Emergency Petroleum Allocation Act of 1973, Executive Order 11748 of December 4, 1973, or Cost of Living Council Order No. 47, as amended.

SEC. 14. Executive Order 11695, of January 11, 1973, Executive Order 11723, of June 13, 1973, and Executive Order 11730, of July 18, 1973, are hereby superseded except to the extent necessary to carry out the functions and duties provided by this order.

Richard Nixon

THE WHITE HOUSE,
May 1, 1974.

[FR Doc.74-10508 Filed 5-3-74;10:56 am]

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

OCTYLTIN STABILIZERS IN VINYL CHLORIDE PLASTICS; CORRECTION

In FR Doc. 74-2410 appearing at page 3821 in the FEDERAL REGISTER of January 30, 1974, the following corrections are made in § 121.2602(a)(1) (21 CFR 121.2602(a)(1)):

1. In line 7 the words "tn oxide" are corrected to read "tin oxide".

2. In line 16 the words "dialkyl tin chlorides" are corrected to read "alkyl tin chlorides".

3. In line 20 the words "total higher and" are deleted.

4. In line 26 the words "and/or" are added immediately before the words "mono n-octyltin oxide" and immediately after the word "oxide".

Dated: April 29, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10302 Filed 5-3-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 148i—NEOMYCIN SULFATE

Neomycin Sulfate-Polymyxin B Sulfate Ophthalmic Ointment and Solution

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to approval of two antibiotic drug products, neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and neomycin sulfate-polymyxin B sulfate ophthalmic solution.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug products is adequate to establish their safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of these drug products.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 148i is amended by adding thereto the following two new sections to provide for the certification of the antibiotic drug products, neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and neomycin sulfate-polymyxin B sulfate ophthalmic solution:

§ 148i.51 Neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate ophthalmic ointment contains in each gram neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 6,000 units of polymyxin B with suitable preservatives in a suitable and harmless ointment base. Its neomycin sulfate content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B sulfate content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1) except sterility and pyrogens. The polymyxin B sulfate used conforms to the standards prescribed by § 148p.1(a)(1) of this chapter except sterility, pyrogens, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(b) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, residue on ignition, and identity.

(c) The batch for neomycin content, polymyxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(a) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(c) The batch:

(*1*) For all tests except sterility: A minimum of 16 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Neomycin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 141.110 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(4) *Metal particles.* Proceed as directed in § 141.508 of this chapter.

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§ 148i.52 Neomycin sulfate-polymyxin B sulfate ophthalmic solution.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate ophthalmic solution contains in each milliliter neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 16,250 units of polymyxin B in a suitable and harmless aqueous vehicle. It may contain one or more suitable and harmless irrigants, dispersants, buffers, and preservatives. Its neomycin sulfate content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B sulfate content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its pH is not less than 5.0 and not more than 7.0. The neomycin sulfate used conforms to the standards prescribed by § 1481.1(a)(1) except sterility and pyrogens. The polymyxin B sulfate used conforms to the standards prescribed by § 148p.1(a)(1) of this chapter except sterility, pyrogens, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, safety, moisture, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, moisture, pH, residue on ignition, and identity.

(*c*) The batch for neomycin content, polymyxin B content, sterility, and pH.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 6 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Neomycin content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 141.110 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10.0 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the undi-

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted sample.

As the conditions prerequisite to providing for certification of subject antibiotic drug products have been complied with and since the matter is noncontroversial in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective May, 1974.

(Sec. 507, 59 Stat. 463, as amended; (21 U.S.C. 357))

Dated: April 30, 1974.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.74-10303 Filed 5-3-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

(T.D. 7313)

PART 301—PROCEDURE AND ADMINISTRATION

Inspection by Department of Agriculture of Income Tax Returns

Inspection by the Department of Agriculture of certain income tax returns was authorized by Executive Order 11697 (38 FR 1723), signed by the President on January 17, 1973, as modified by Executive Order 11709 (38 FR 8131), signed by the President on March 27, 1973. Executive Orders 11697 and 11709 in effect provided that such inspection shall be in accordance and upon compliance with § 301.5103(a)—108 of the regulations on procedure and administration (26 CFR Part 301) prescribed by the Secretary of the Treasury in Treasury Decision 7255 (38 FR 2332), as amended by Treasury Decision 7267 (38 FR 8152), and approved by the President on January 17, 1973, and March 27, 1973.

Executive Order 11773 (39 FR 10881), signed by the President on March 21, 1974, revoked Executive Orders 11697 and 11709 and the authority conferred upon the Department of Agriculture by those Orders to inspect income tax returns. Accordingly, since § 301.6103(a)–108 no longer has any force or effect, this document deletes that section from the regulations on procedure and administration.

§ 301.6103(a)–108 [Deleted]

1. *Deletion of regulations.* Section 301.-6103(a)–108 of the regulations on procedure and administration (26 CFR Part 301) is hereby deleted.

Because this Treasury decision relates to a general statement of policy and merely deletes a section which no longer has force or effect, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

APRIL 30, 1974.

[FR Doc.74-10309 Filed 5-3-74;8:45 am]

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Comments Submitted in Response to Notices of Proposed Rule Making

This document contains amendments to paragraphs (a)(3)(ii) and (b) of § 601.601 of the Statement of Procedural Rules (26 CFR Part 601) and paragraph (d)(9) of § 601.702 of such rules. The amended provisions relate to comments submitted in response to notices of proposed rule making of the Internal Revenue Service.

As amended by this document, § 601.-601(b) provides that designations of material as confidential or not to be disclosed, contained in comments submitted in response to notices of proposed rule making, will not be accepted. Further, § 601.601(b), as amended, provides that it will be presumed by the Internal Revenue Service that every comment submitted in response to a notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying.

Paragraph (a)(3)(ii) of 26 CFR 601.601 and paragraph (d)(9) of 26 CFR 601.702 are amended to accommodate paragraph (b) of 26 CFR 601.601, as amended.

The amendment of § 601.601(b) set forth below is effective with respect to comments received in response to notices of proposed rule making of the Internal Revenue Service published in the FEDERAL REGISTER after June 5, 1974.

Adoption of amendment. This document contains amendments to the statement of procedural rules (26 CFR Part 601) which was last amended on March 7, 1974.

The effective dates of the amended paragraph (b) of 26 CFR 601.601 and paragraph (d)(9) of 26 CFR 601.702, as set forth below, are indicated in such sections as set forth below.

The following amendments are made to 26 CFR Part 601:

Paragraph 1. Section 601.601 is amended by revising the fifth sentence of paragraph (a)(3)(ii) and by revising paragraph (b). These amended provisions read as follows:

§ 601.601 Rules and regulations.

(a) *Formulation.* • • •

(3) • • •

(ii) • • • In order to be assured of the availability of copies of such written comments or outlines on or before the beginning of such hearing, any person who desires such copies should make such a request within the time prescribed in the notice of hearing and shall agree to pay reasonable costs for copying. • • •

• • • • •

(b) *Comments on proposed rules—*(1) *In general.* Interested persons are privileged to submit any data, views, or arguments in response to a notice of proposed rule making published pursuant to 5 U.S.C. 553. Further, procedures are provided in paragraph (d)(9) of § 601.702 for members of the public to inspect and to obtain copies of written comments submitted in response to such notices. Designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments in response to a notice of proposed rule making should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to a notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of paragraph (d)(9) of § 601.702. The name of any person requesting a public hearing and hearing outlines described in paragraph (a)(3)(iii) of this section are not exempt from disclosure.

(2) *Effective date.* This paragraph (b) applies only to comments submitted in response to notices of proposed rule making of the Internal Revenue Service published in the FEDERAL REGISTER after June 5, 1974.

• • • • •

Par. 2. Section 601.702 is amended by revising paragraph (d)(9) thereof to read as follows:

§ 601.702 Publication and public inspection.

• • • • •

(d) *Rules for disclosure of certain specific matters.* • • •

(9) *Comments received in response to a notice of proposed rule making.* Written comments received in response to a notice of proposed rule making may be inspected by any person upon compliance with the provisions of this paragraph (d)(9). Comments which may be inspected are located in the Office of the Chief Counsel, Legislation and Regulations Division, Technical Section, Room 4317, 1111 Constitution Avenue, Washington, D.C. 20224. The request to inspect comments must be in writing and signed by the person making the request and should be addressed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Upon delivery of such a written request to the place where the comments are located during the regular business hours of that office, the person making the request may inspect those comments that are the subject of the request. Copies of comments may be obtained by a written request addressed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. The person making the request for copies should allow a reasonable time for processing the request. The provisions of paragraph (c)(5) of this section, relating to fees, shall apply with respect to requests made in accordance with this subparagraph. The provisions of this subparagraph shall apply only in the case of requests for the inspection of, or copies of, comments that are submitted in response to notices of proposed rule making of the Internal Revenue Service published in the FEDERAL REGISTER after June 5, 1974. For inspection of, or copies of, comments submitted in response to notices of proposed rule making of the Internal Revenue Service published in the FEDERAL REGISTER on or before such date, see paragraph (d)(9) of 26 CFR 601.702 (revised as of April 1, 1973).

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DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

[FR Doc.74-10310 Filed 5-3-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-10759]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Revised Initial Fee and 1974 Annual Assessment for Nonmember (SECO) Broker-Dealers

On March 13, 1974 the Commission announced in Securities Exchange Act (the "Act") Release No. 10678 which was published in the FEDERAL REGISTER for March 21, 1974 at 39 FR 10607 a proposal to adopt Form SECO–4–74 (17 CFR 249.-504b) pursuant to Rule 15b9–2 (17 CFR 240.15b9–2) under the Act, which sets forth the annual fee schedule under which registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. ("nonmember" or "SECO" broker-dealers) will be assessed for fiscal year 1974 and the amendment of Form SECO–5 (17 CFR 249.505) pursuant to Rule 15b9–1, (17 CFR 240.15b9–1) which sets forth the initial fee schedule for SECO broker-dealers. The Commission has considered the comments received regarding the proposals and has adopted them as proposed.

Sections 15(b)(8) and 15(b)(9) under the Act authorize the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of the additional regulatory duties required for nonmember broker-dealers. Pursuant to these sections, the Commission adopted Rules 15b9–1, to establish initial fees, and 15b9–2 to provide for annual assessments. Rule 15b9–2 provides for the annual assessments to be set forth on Form SECO–4 and Rule 15b9–1 provides for initial fees to be set forth on Form SECO–5 and Form SECO–2. The initial fee now in effect for each new associated person is $35 and will remain unchanged.

This year's assessments, as set forth on new Form SECO–4–74, includes a base fee of $250 and a fee of $12 for each associated person. Form SECO–4–74 will become effective June 1, 1974, and fees are due on or before that date.

Form SECO–5 will be amended so as to increase the initial assessment fee for a new SECO broker-dealer to $500. The amended Form SECO–5 will become effective June 1, 1974.

These increases have been necessitated by the increased costs to the Commission in administering the SECO program.

Copies of Form SECO–4–74 will be forwarded to nonmember broker-dealers, however, since it is the responsibility of each nonmember broker-dealer to comply with the requirements of Rule 15b9–2, any such broker-dealer which does not receive copies of Form SECO–4–74 should contact the Division of Market Regulation at the address and telephone number noted below, to obtain the necessary Forms. The completed Form SECO–4–74 and appropriate remittances should be mailed to the Office of the Comptroller, Securities and Exchange Commission, Washington, D.C. 20549 on or before June 1, 1974.

Commission Action. The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly sections 15(b) and 23(a) thereof, hereby amends Part 249 of Title 17 of the Code of Federal Regulations by adopting § 249.504h as set forth below, and amends Form SECO–5 (§ 249.505) by amending the fee specified therein to read "$500", as indicated above.

§ 249.504h Form SECO–4–74; 1974 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed on or before June 1, 1974, pursuant to § 240.15b9–2 of this chapter, accompanied by the annual assessment fee required thereunder and as specified in this form, for the fiscal year ended June 30, 1974, by every registered broker and dealer not a member of a registered national securities association.

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(Sec. 15(b), 48 Stat. 895, as amended 78 Stat. 565, 15 U.S.C. 78o; Sec. 23(a), 48 Stat. 901, as amended, 49 Stat. 1379, Sec. 8 (15 U.S.C. 78w))

Copies of Forms SECO–4–74 and SECO–5 have been filed with the Office of the Federal Register. Additional copies of both Forms, as well as copies of Rules 15b9–1 and 15b9–2, may be obtained by contacting the Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 or telephone (202) 755–1382. The foregoing action will become effective on June 1, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 26, 1974.

[FR Doc.74–10336 Filed 5–3–74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 73—SCABIES IN CATTLE

Release of Areas Quarantined

This amendment releases portions of Otoe County in Nebraska from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded areas, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded areas.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, in paragraph (b) relating to the State of Nebraska, paragraphs (2) and (3) relating to Otoe County are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective May 1, 1974.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of May 1974.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services Animal and Plant Health Inspection Service.

[FR Doc.74–10316 Filed 5–3–74;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 225—SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Administration

On February 26, 1974, there was published in the FEDERAL REGISTER (39 FR 7430), a notice of proposed rulemaking with a proposed amendment to the regulations governing the operations of the Special Food Service Program for Children.

The proposed amendment would: (1) Define administrative costs; (2) remove the butter or fortified margarine requirement in the meal patterns; (3) eliminate the summer meal and prohibit the service of supplemental food if the service institution also participates in the Special Milk Program for Children; (4) increase the rates of reimbursement, and in regard to the special summer program, set aside a per meal amount for administrative costs; (5) establish a deadline for the submission of "Reimbursement Vouchers"; and (6) require those States electing to conduct audits to submit an updated audit plan every three years for approval by the Department. All comments submitted with respect to the proposed amendment were given due consideration.

The comments and the changes made as a result are discussed below:

Section 225.2 *Definitions.* Five respondents suggested that the definition of "administrative costs" be expanded. The Department feels that the present definition is adequate for the administration of the special summer program, and therefore the definition has not been expanded. For the purpose of clarification, the definition of "operating costs" was reworded to include "administrative costs."

Four respondents requested that the rental of office space be an allowable in-kind contribution to the program. The Department does not feel justified in altering this position based on the historical exclusion of the value of buildings and land for matching and other purposes in all child nutrition programs.

Section 225.7a(d) *Responsibilities of State agencies.* Three respondents suggested that the date for first consideration for approval of applications for the special summer program be moved forward. As a result of the date of final publication of these changes and in view of the impending expiration of the legislative authority for the program this paragraph has been deleted.

Section 225.7(b)(7) *Requirements for participation.* Several respondents expressed concern about the IRS nonprofit certification in regard to sponsors of summer programs. The legislation authorizing the program requires private service institutions to be nonprofit, and the Department has determined that the best indication of nonprofit status is conformance with IRS standards. This policy is used by the Department in administering all its food programs.

Section 225.9(a)(4) *Requirements for meals.* Several respondents took exception to the provision that service institutions participating in the Special Milk Program shall not be approved for supplemental food. The Department feels that because of the similarity of meal service, service institutions should not be approved for both.

Section 225.9 *Requirements for meals.* Three respondents objected to or questioned the elimination of butter or fortified margarine from the meal patterns. One respondent supported the suggestion for the summer program meals, but objected to it as a proposal for the year-round program meals. Six respondents supported the proposed change. Butter or fortified margarine has, therefore, been eliminated as a requirement. However, the Department recommends the use of butter or fortified margarine in food preparation or as a spread in meals, when appropriate, to enhance flavor and acceptability as well as to provide additional calories and Vitamin A.

Section 225.10(b) *Reimbursement payments.* Eleven respondents felt that the maximum regular rates of reimbursement were insufficient. The proposed rates represented an increase of 13 percent over the current rates. Based on the continued rise in the Food Away from Home Consumer Price Index the maximum regular rates have been increased by 22 percent to more nearly reflect the current cost of food.

Section 225.10(e) *Reimbursement payments.* Seventeen respondents felt that the maximum special assistance rates were insufficient. Therefore, in view of the continued increase in costs, a similar 22 percent adjustment in rates has been made for programs eligible for special assistance up to 80 percent of operating costs.

Several respondents felt that the per meal maximums for administrative costs and for costs other than for administration should be more flexible within the overall maximum special assistance rates. It was the intent of the Department when proposing this concept, that there be a limitation on costs other than for administration as well as on administrative costs in order to assure appropriate budgeting for both types of expenses. There has been no change in the wording of this concept.

Several respondents suggested advance funding for administrative costs and an escalator clause for rates similar to that in the National School Lunch Program. There is no legislative authority for advance funding, and since the Special Food Service Program, under present legislation will expire on June 30, 1975, no escalator provision was included.

Section 225.12 *Reimbursement procedure.* Two respondents pointed out that the proposed deadline for submission of reimbursement vouchers would allow sponsors of summer programs up to fifteen months to claim reimbursement. This period was determined to be excessive and a deadline of 90 days after the close of the program has been established for this purpose.

Section 225.18 (c) and (f) *Special responsibilities of State agencies.* Because of a reorganization within the Department the references to OIG in paragraph (c) have been changed to Office of Investigation, and the references in paragraph (f) have been changed to Office of Audit.

Accordingly, the Special Food Service Program for Children program regulations are amended as follows:

1. In § 225.2, paragraphs (a–1) and (a–2) are redesignated (a–2) and (a–3), respectively, paragraph (1) is revised, and paragraphs (a–1) and (1–1) are added as follows:

§ 225.2 Definitions.

* * * * *

(a–1) "Administrative costs" means those operating costs directly related to planning, organizing, and supervising the program.

* * * * *

(1) "OA" means the Office of Audit of the Department.

(1–1) "Operating costs" means costs of obtaining, preparing, and serving food (including administrative costs and the fair evaluation of in-kind contributions but excluding the rental or purchase of land, buildings, or office space).

* * * * *

2. In § 225.7a, the first sentence of paragraph (a) is revised to read as follows:

§ 225.7a Responsibilities of State agencies.

(a) The State agency, or FNSRO where applicable, shall use the following minimum criteria for the approval of service institutions.

* * * * *

3. In § 225.7a, paragraph (d) is deleted and paragraphs (e), (f), and (g) are redesignated (d), (e), and (f), respectively.

4. In § 225.7b, paragraph (d) is deleted and paragraphs (b) and (b–1) are revised to read as follows:

§ 225.7b Requirements for participation.

* * * * *

(b) At a minimum, applications of service institutions applying for program assistance shall contain the following information: (1) Name and address of service institution; (2) name and title of administrator; (3) estimated total number of children to be served; (4) if it is a special summer program not planning to use school food service facilities, the reasons why such use is not feasible; (5) estimated food service budget including, but not limited to: (i) estimated cash expenditures for food, (ii) estimated cash expenditures for food service operations at the site(s), (iii) estimated cash expenditures for administration, (iv) estimated value of in-kind goods and services, (v) funds available to the service institution at the beginning of food service operations, (vi) estimated food service income other than Special Food Service Program reimbursement including children's payments and adult's payments for meals; (6) sponsor personnel information including: (i) title of each position, (ii) number of personnel in each position, (iii) number of hours per day spent on food service, (iv) specific food service duty, (v) salary per hour or if volunteer, estimated value per hour; (7) if a private service institution, Internal Revenue Service nonprofit certification shall be attached to the service institution application.

(b–1) Each service institution shall attach to its application an information sheet on each food service site. Such information sheet shall include, as a minimum, the following: (1) Name and address of food service site; (2) name and title of supervisor at food service site if known; (3) period of operation including: (i) beginning date, (ii) closing date, (iii) total days of operation, (iv) hours of operation; (4) estimated number of children to be served; (5) estimated percentage of attending children from low income families; (6) estimated percentage of attending children with working mothers; (7) type of meal(s) to be served and hour of meal service; (8) meal charges to children for full price and reduced price meals; (9) method by which meals will be provided; (10) data to document that the site will serve children from areas where poor economic conditions exist or data to demonstrate that the site will serve children from areas of high concentrations of working mothers; (11) a description of organized activities and the location of such activities if other than at food service site; (12) a description of the food service area to include: (i) feeding capacity, (ii) food holding and storage facilities, including arrangements for storage of excess meals delivered to sites, (iii) if an outdoor site, arrangements for food service in inclement weather; (13) a description of the means of communication between the site supervisor and the service institution; (14) site personnel information including: (i) title of each position, (ii) number of personnel in each position, (iii) number of hours per day spent on food service, (iv) specific food service duty, (v) salary per hour or if volunteer, estimated value per hour.

* * * * *

5. In § 225.8, paragraph (b) is revised to read as follows:

§ 225.8 Free and reduced price meals.

* * * * *

(b) Each approved service institution shall make available to the informational media in the area from which the service institution draws its attendance, a public release announcing the availability of free and reduced price meals to children meeting the approved eligibility criteria, regardless of race, color or national origin.

* * * * *

6. § 225.9 is amended by deleting the word "½ teaspoon of butter or fortified margarine" and "1 teaspoon of butter or fortified margarine" wherever they appear, paragraph (b)(2)(v) and (b–2)(2), are deleted, (b–2)(3) is redesignated (b–2)(2), paragraph (b–3) is amended by deleting the words "(1), (2), and (3)" and inserting in lieu thereof "(1) and (2)", and paragraphs (a)(4) and (b–1) are revised to read as follows:

§ 225.9 Requirements for meals.

(a) * * *

(4) Supplemental food served between such other meals, *except that* supplemental food shall not be approved if the service institution also participates in the Special Milk Program for Children (7 CFR Part 215).

* * * * *

(b–1) Each service institution participating in the special summer program shall serve one or more of the following meals as provided in its approved application (1) a regular meal, (2) supplemental food, *except that* supplemental food shall not be approved if the service institution also participates in the Special Milk Program for Children (7 CFR Part 215).

* * * * *

7. In § 225.10, paragraphs (b), (b–1) and (e), are revised to read as follows:

§ 225.10 Reimbursement payments.

* * * * *

(b) The maximum rates of reimbursement for meals served in year-round programs shall be 36 cents for a lunch or supper, 16 cents for a breakfast, and 12 cents for supplemental food.

(b–1) Reimbursement shall be paid to service institutions participating in the special summer program only in connection with types of meals specified in approved applications, and meeting the

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requirements of § 225.9(b–2). The maximum rates of reimbursement for meals served in special summer programs shall be 36 cents for a regular meal, and 12 cents for supplemental food.

* * * * *

(e) Notwithstanding any other provision of this section, where all or nearly all the attending children are in need of free meals and the service institution is financially unable to meet this need, the State agency, or FNSRO where applicable, may authorize financial assistance to such service institution, in lieu of reimbursement for meals, in an amount not to exceed 80 per centum of the operating cost of its food service, or 100 per centum of the cash expenditure for such operating cost, less cash income to the program, whichever is the lesser: *Provided, however,* That (1) for meals served in the year-round program, such financial assistance shall not exceed 73 cents for a lunch or supper, 24 cents for a breakfast, and 19 cents for supplemental food, and (2) for meals served in the summer program, such financial assistance shall not exceed 73 cents for a regular meal, of which 6 cents may be used only for administrative costs, and shall not exceed 19 cents for supplemental food, of which 1.5 cents may be used only for administrative costs. In no event may administrative costs in the summer program exceed 6 cents for the regular meal or 1.5 cents for supplemental food or be claimed for more than one meal service in a multiple meal service operation.

8. In § 225.12, paragraph (a) is amended by adding a sentence at the end thereof, as follows:

§ 225.12 Reimbursement procedure.

(a) * * *. Any claim for reimbursement for the year-round program for any fiscal year not received by the State agency, or FNSRO where applicable, within 90 days after the closing date of the fiscal year, and with respect to the summer program 90 days after the close of the program may be disqualified from payment, except where the State agency, or FNSRO where applicable, considers that a Reimbursement Voucher has been filed late because of circumstances beyond the control of the service institution.

* * * * *

9. In § 225.18, the word "monitor" in the first sentence in paragraph (e–1) is deleted and the word "review" is inserted in lieu thereof, and paragraphs (c) and (f) are revised to read as follows:

§ 225.18 Special responsibilities of State agencies.

* * * * *

(c) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file evidence of such investigations and actions. FNS or the Office of Investigation of the Department shall make investigations at the request of the State agency or where FNS or the Office of Investigation determines investigations by it are appropriate.

* * * * *

(f) *State-conducted audit programs.* (1) A State agency may submit for approval by the Department a plan whereby it will provide for the conduct of audits of the Program. State agencies shall request OA Regional Offices (32 FR 8822, as amended, 34 FR 2139) to assist in the development of these plans, which shall incorporate provisions for organization, financing, direction and coordination of the State audit functions. Audits performed under the plan may be conducted by the State agencies; by the State Auditor, Office of State Controller, or comparable State audit staff; or by Certified Public Accountants or State licensed public accountants. All approved State audit plans shall be updated and be resubmitted for approval by the Department every third year from the anniversary date of the last such approval, except that any State agency plan approved prior to July 1, 1974, must be resubmitted for approval by the Department in accordance with this paragraph prior to July 1, 1975.

(2) An audit guide furnished by OA, and as amended by OA from time to time, shall be used in the State agency-sponsored audits of service institutions. The audits shall be performed in accordance with audit standards, guidelines and procedures prescribed by OA in the audit guide, and shall be reviewed by OA to the extent necessary to determine compliance therewith.

(3) While OA shall rely to the fullest extent feasible on State-conducted audits, it shall have the right, whenever considered necessary, to (i) make audits on a statewide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for the State agencies. With respect to State-conducted audits, OA shall also have the rights available to it under the provision of § 225.20.

* * * * *

10. In § 225.20, the word "OIG" is deleted wherever it appears and the word "OA" is inserted in lieu thereof.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Program No. 10.552, National Archives Reference Services.)

Effective Date. This amendment shall become effective May 6, 1974, for the special summer programs and July 1, 1974, for the year-round programs.

Dated: May 1, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74–10319 Filed 5–3–74;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1974–75 Marketing Year

STATE RESERVE ACREAGE, COUNTY ACREAGE ALLOTMENTS AND RESERVE ACREAGES, 1974 CROP RICE

The provisions of §§ 730.1504 and 730.1505 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, (7 U.S.C. 1281 et seq.) (referred to as the "act") with respect to the 1974 crop of rice. The purpose of these provisions is to establish (1) State reserve acreages and (2) county acreage allotments and reserve acreages in farm States. The regulations for determination of acreage allotments for 1974 and subsequent crops of rice (§§ 730.61 to 730.87, 39 FR 9186) (referred to as the "allotment regulations") contain the designation of farm States and producer States and govern allocations of allotments and reserves established by these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 28, 1973, (38 FR 27068) in accordance with the provisions of 5 U.S.C. 553. Data, views and recommendations were submitted pursuant to such notice and consideration given thereto to the extent permitted by law.

Since farmers are now planning their 1974 rice operations and it is essential that they know about these provisions before completing their plans, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and §§ 730.1504 and 730.1505 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 730.1504 State reserve acreages.

The State reserve acreages set forth in the table in this section were established on the basis of recommendations by the State committees. The State reserve for new farms or new producers, if any, and the State reserve in producer States for appeals and corrections, missed producers and adjustments in factored allotments were established in accordance with section 353 of the act.

State	State reserve acreage for new farms or new producers	State reserve acreages for appeals, etc. in producer States [1]
Arizona	6.0	0
Arkansas	0	
California	0	50
Florida	28.0	47
Illinois	0	
Louisiana:		
Farm administrative area	0	
Producer administrative area	0	0
Mississippi	0	
Missouri	0	
North Carolina	0	
Oklahoma	0	
South Carolina	0	0
Tennessee	0	0
Texas	0	50

[1] For appeals and corrections, missed producers, and adjustments in factored allotments in producer States and the "Producer administrative area" in Louisiana.

§ 730.1505 County acreage allotments and reserve acreages.

The farm acreage allotments for the 1974 crop of rice in the producer States will be established primarily on the basis of past production of rice by the producer on the farm in lieu of past production of rice on the farm. Therefore, the 1974 State acreage allotments of rice for producer States will be apportioned directly to farms and county acreage allotments and reserve acreage will not be determined for producer States. The county reserve acreages were established on the basis of recommendations by the State and county committees in the farm States. Such county reserves are available for appeals and corrections, missed farms and adjustments in factored allotments. The county acreage allotments in farm States were established by apportioning the State acreage allotment less any State reserve for new farms and less any State productivity pool among the counties in the State in the same proportion that they shared in the total acreage allotted in 1956, as provided by section 353(c) (1) and (6) of the act, except that in the farm administrative area of Louisiana, prior to apportionment among counties, 21.6 acres were reserved from the State allotment to adjust the county allotment for Rapides Parish for an upward trend in acreage pursuant to section 353(c) (1) of the act. The following table sets forth the county acreage allotments and reserve acreages and State productivity pool in the farm States for the 1974 crop of rice.

County	County acreage allotment	County reserve acreages [1]
ARKANSAS		
Arkansas	88,342.2	0
Ashley	7,696.4	0
Chicot	11,408.0	0
Clark	644.5	0
Clay	9,190.1	0
Conway	12.5	0
Craighead	20,184.7	0
Crittenden	8,280.5	0
Cross	41,231.2	0
Dallas	82.2	0
Desha	16,180.8	0
Drew	5,181.0	0
Faulkner	533.4	0
Grant	0	0
Greene	6,236.1	0
Hot Spring	550.0	0
Independence	1,012.9	0
Jackson	23,727.0	3.8
Jefferson	20,126.2	.4
Lafayette	1,019.0	0
Lawrence	9,951.2	0
Lee	9,503.6	0
Lincoln	10,368.7	0
Little River	474.2	0
Lonoke	45,359.7	0
Miller	871.4	0
Mississippi	1,718.7	0
Monroe	17,147.5	0
Perry	976.5	0
Phillips	5,934.8	0
Poinsett	44,776.2	0
Prairie	46,470.3	0
Pulaski	2,819.7	2.5
Randolph	2,431.5	0
St. Francis	21,289.9	0
White	1,375.3	0
Woodruff	23,330.9	0
Productivity Pool	263.0	
State Reserve	45.2	
State total	507,047.0	6.3
ILLINOIS		
Adams	26	0
State total	26	0
LOUISIANA, FARM ADMINISTRATIVE AREA		
Acadia	107,823.4	916.6
Allen	28,850.6	176.5
Avoyelles	3,497.0	174.8
Beauregard	5,363.2	0
Bossier	75.9	0
Calcasieu	77,568.3	3.8
Cameron	14,340.7	2.5
Evangeline	52,050.0	6.4
Grant		0
Iberia	7,005.1	2.5
Jefferson Davis	111,975.0	582.2
Lafayette	11,610.9	12.7
Rapides	876.4	0
St. Landry	19,521.1	25.4
St. Martin	5,277.8	0
St. Mary	3,710.0	0
Vermillion	132,399.4	63.5
Productivity Pool	49.6	
State reserve	21.6	
State total, farm administrative area	582,066.0	1,966.9
MISSISSIPPI		
Bolivar	26,442.3	0
Coachoma	2,777.4	0
De Soto	911.5	0
Hancock	212.2	0
Humphreys	2,442.4	0
Issaquena	0	0
Leflore	4,301.3	0
Panola	184.3	0
Quitman	479.3	0
Sharkey	1,341.2	0
Sunflower	4,599.9	0
Tallahatchie	589.5	0
Tate	138.3	0
Tunica	4,167.8	0
Washington	10,703.5	0
Productivity Pool	19.1	
State total	59,310.0	0
MISSOURI		
Butler	1,993.2	0
Holt	2.5	0
Lewis	10.2	0
Lincoln	43.2	0
Marion	391.2	0
Mississippi	111.8	0
New Madrid	140.9	0
Pemiscot	753.1	0
Ripley	583.1	0
St. Charles	45.7	0
Scott	140.9	0
Stoddard	1,829.4	0
State total	6,045.6	0
NORTH CAROLINA		
Brunswick	11.1	0
Hyde	36.9	0
State total	48.0	0
OKLAHOMA		
McCurtain	189.0	0
State total	189.0	0

[1] County reserve acreage for appeals and corrections, missed farms, and adjustments.

(Secs. 353, 375, 52 Stat. 61, as amended, 52 Stat. 66, as amended, (7 U.S.C. 1353, 1375))

Effective date: May 3, 1974.

Signed at Washington, D.C. on April 29, 1974.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.74–10237 Filed 5–3–74;8:45 am]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 731—CLOSING DATES FOR TRANSFER, AND FOR RELEASE AND REAPPORTIONMENT

Upland Cotton Acreage Allotments

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) for the following purposes:

1. To extend the 1974 closing date for transfer and for release and reapportionment of upland cotton acreage in certain States. A new section is added to accomplish this.

2. To amend the date as established for Kentucky for all commodities.

3. To correct an error appearing on page 7417 of the February 26 issue of the FEDERAL REGISTER in which some counties were incorrectly listed in Zones I and III for Texas.

Since farmers need to know the extended dates for effecting transfers, release, and reapportionment of 1974 upland cotton acreage allotments as soon as possible, it is hereby determined that compliance with the notice, procedure, and effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and this document shall become effective upon the date of its filing with the Director, Office of the Federal Register.

The regulations for establishing closing dates for transfer and for release and reapportionment under Part 731 are amended as follows:

1. The table of contents is revised by adding new § 731.3 to read "Extended Closing Dates for Upland Cotton for 1974 for the Listed States".

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2. Section 731.2 is amended by changing the closing date for Kentucky and to correct the Texas counties in Zones I and III.

§ 731.2 Closing Dates.

The closing dates are as follows:

* * * * *		
Kentucky	June 25	Do.
* * * * *		
Texas (zone I) [2]	Mar. 1	Do.
Texas (zone II)	Apr. 1	Do.
Texas (zone III) [3]	May 1	Do.
* * * * *		

[2] Counties: Aransas, Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, San Patricio, Starr, Willacy, and Zapata.

[3] Counties: Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Briscoe, Carson, Castro, Childress, Cochran, Coke, Collingsworth, Cottle, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Donley, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Howard, Hutchinson, Irion, Jones, Kent, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, Martin, Midland, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Potter, Randall, Reagan, Roberts, Runnels, Scurry, Sherman, Sterling, Stonewall, Swisher, Taylor, Terry, Throckmorton, Upton, Wheeler, Wichita, Wilbargar, Yoakum, and Young.

3. The following new section is added:

§ 731.3 Extended closing dates for upland cotton for 1974 for the listed states.

State	Extended closing date for upland cotton transfer by lease, sale, or owner, release and reapportionment requests	Final date for reapportionment
(1)	(2)	(3)
Alabama	Apr. 15	1 mo. following applicable closing dates for transfer, release, and requesting reapportionment.
Arkansas	Apr. 19	Do.
Georgia	Apr. 15	Do.
Louisiana	do	Do.
Mississippi	do	Do.
New Mexico	Apr. 19	Do.
North Carolina	do	Do.
Oklahoma	Apr. 17	Do.
South Carolina	Apr. 12	Do.
Tennessee	Apr. 19	Do.
Texas (zone I) [1]	Apr. 15	Do.
Texas (zone II)	May 1	Do.

[1] Counties: Counties listed under sec. 731.2, footnote 2.

Secs. 313, 316, 318, 319, 344, 344a, 347, 353, 358, 358a, 375, 378, 52 Stat. 47, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 85 Stat. 23, 52 Stat. 57, as amended, 79 Stat. 1197, as amended, 52 Stat. 59, as amended, 61, as amended, 55 Stat. 88, as amended, 81 Stat. 856, as amended, 52 Stat. 66, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1313, 1314b, 1314d. 1314e, 1344, 1344b, 1347, 1353, 1358, 1358a, 1375, 1378.

Effective date: May 3, 1974.

Signed at Washington, D.C., on April 30, 1974.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.74-10361 Filed 5-3-74;8:45 am]

(Title 7 continued on page 15761)

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

PART 35—STATE AND LOCAL ASSISTANCE

Final Construction Grant Regulations

Correction

In FR Doc. 74-3267, appearing at page 5252 of the issue of Monday, February 11, 1974, the following corrections should be made:

1. The allotment tables on pages 5256 and 5257 were published incorrectly and are reprinted in part below.

The table appearing in § 35.910-3(b) on page 5256 should read as follows:

State	Percentage	State	Percentage
Alabama	0.3612	North Carolina	.9229
Alaska	.2252	North Dakota	.0467
Arizona	.1346	Ohio	5.7737
Arkansas	.3536	Oklahoma	.4608
California	9.8176	Oregon	.8494
Colorado	.3166	Pennsylvania	5.4214
Connecticut	1.6810	Rhode Island	.4889
District of Columbia	.7114	South Carolina	.6455
Delaware	.6565	South Dakota	.0948
Florida	3.6264	Tennessee	1.1605
Georgia	.9730	Texas	2.7694
Hawaii	.3303	Utah	.1408
Idaho	.2177	Vermont	.2218
Illinois	6.2489	Virginia	2.9143
Indiana	3.3662	Washington	.8906
Iowa	1.1557	West Virginia	.4999
Kansas	.3742	Wisconsin	1.7415
Kentucky	.6599	Wyoming	.0263
Louisiana	.9428	Guam	.0872
Maine	0.9675	Puerto Rico	.8845
Maryland	4.2582	Virgin Islands	.0893
Massachusetts	3.7576	American Samoa	.0048
Michigan	7.9814	Trust Territory of Pacific Islands	.0378
Minnesota	2.0319		
Mississippi	.3935		
Missouri	1.6556		
Montana	.1662		
Nebraska	.3708		
Nevada	.2877		
New Hampshire	.8309		
New Jersey	7.7040		
New Mexico	.2108		
New York	11.0578		
			100.0000

The table appearing in § 35.910-3(c) on page 5257 should read as follows:

State	Fiscal year 1973	Fiscal year 1974
Alabama	$7,224,000	$10,836,000
Alaska	4,504,000	6,756,000
Arizona	2,692,000	4,038,000
Arkansas	7,072,000	10,608,000
California	196,352,000	294,528,000
Colorado	6,332,000	9,498,000
Connecticut	33,620,000	50,430,000
Delaware	13,130,000	19,695,000
District of Columbia	14,228,000	21,342,000
Florida	72,528,000	108,792,000
Georgia	19,460,000	29,190,000
Hawaii	6,606,000	9,909,000
Idaho	4,354,000	6,531,000
Illinois	124,978,000	187,467,000
Indiana	67,324,000	100,986,000
Iowa	23,114,000	34,671,000
Kansas	7,484,000	11,226,000
Kentucky	13,198,000	19,797,000
Louisiana	18,856,000	28,284,000
Maine	19,350,000	29,025,000
Maryland	85,164,000	127,746,000
Massachusetts	75,152,000	112,728,000
Michigan	159,628,000	239,442,000
Minnesota	40,638,000	60,957,000
Mississippi	7,870,000	11,805,000
Missouri	33,112,000	49,668,000
Montana	3,324,000	4,986,000
Nebraska	7,416,000	11,124,000
Nevada	5,754,000	8,631,000
New Hampshire	16,616,000	24,927,000
New Jersey	154,080,000	231,120,000
New Mexico	4,216,000	6,324,000
New York	221,156,000	331,734,000
North Carolina	18,456,000	27,687,000
North Dakota	934,000	1,401,000
Ohio	115,474,000	173,211,000
Oklahoma	9,216,000	12,824,000
Oregon	16,988,000	25,482,000
Pennsylvania	108,428,000	162,642,000
Rhode Island	9,775,000	14,667,000
South Carolina	12,910,000	19,365,000
South Dakota	1,896,000	2,844,000
Tennessee	23,210,000	34,815,000
Texas	55,388,000	83,082,000
Utah	2,816,000	4,224,000
Vermont	4,436,000	6,654,000
Virginia	58,286,000	87,429,000
Washington	17,812,000	26,718,000
West Virginia	9,998,000	14,997,000
Wisconsin	34,830,000	52,245,000
Wyoming	536,000	804,000
Guam	1,744,000	2,616,000
Puerto Rico	17,690,000	26,535,000
Virgin Islands	1,786,000	2,679,000
American Samoa	96,000	144,000
Trust Territory of Pacific Islands	756,000	1,134,000
Total	2,000,000,000	3,000,000,000

The first table in column 1 on page 5257 should read:

State	Percentage	State	Percentage
Illinois	6.4173	Pennsylvania	5.6652
Indiana	1.6196	Rhode Island	0.5306
Iowa	1.0012	South Carolina	1.4223
Kansas	1.0222	South Dakota	0.0907
Kentucky	1.6579	Tennessee	1.2303
Louisiana	0.7245	Texas	1.6534
Maine	0.6670	Utah	0.4217
Maryland	1.3767	Vermont	0.3001
Massachusetts	2.2945	Virginia	2.5096
Michigan	4.7978	Washington	1.6463
Minnesota	1.6341	West Virginia	0.9598
Mississippi	0.5355	Wisconsin	1.3317
Missouri	1.8960	Wyoming	0.0768
Montana	0.1421	Guam	0.0478
Nebraska	0.5314	Puerto Rico	1.0385
Nevada	0.4755	Virgin Islands	0.0796
New Hampshire	0.8920	American Samoa	0.0147
New Jersey	6.4769	Trust Territory of the Pacific Islands	0.0133
New Mexico	0.1869		
New York	12.4793		
North Carolina	1.7929		
North Dakota	0.0818		
Ohio	4.9184		
Oklahoma	1.1953		
Oregon	0.8662		

The second table in column 1 on page 5257 should read:

Alabama	$33,785,150
Alaska	15,059,100
Arizona	17,695,750
Arkansas	23,860,100
California	457,420,100
Colorado	30,930,900
Connecticut	69,542,900
Delaware	21,815,900
District of Columbia	38,233,800
Florida	164,496,400
Georgia	76,153,000
Hawaii	41,140,000
Idaho	7,898,400
Illinois	252,311,700
Indiana	63,678,100
Iowa	39,364,800
Kansas	40,192,500
Kentucky	65,183,600
Louisiana	35,551,850
Maine	26,227,000
Maryland	54,126,100
Massachusetts	90,215,900
Michigan	188,637,400
Minnesota	64,247,300
Mississippi	22,346,700
Missouri	74,546,400
Montana	7,534,600
Nebraska	20,894,000
Nevada	18,695,600
New Hampshire	35,072,950
New Jersey	254,656,200
New Mexico	10,670,500
New York	490,654,200
North Carolina	70,494,200
North Dakota	6,876,100
Ohio	193,378,700
Oklahoma	46,997,400
Oregon	34,136,700
Pennsylvania	222,744,100
Rhode Island	20,864,000
South Carolina	55,922,000
South Dakota	7,308,800
Tennessee	48,371,800
Texas	106,900,250
Utah	16,579,600
Vermont	11,800,800
Virginia	98,672,400
Washington	64,730,500

2. In the fifth line of the table in column 2 on page 5257, the figure now reading "40,892,900" should read "40,832,900".

3. In column 1 on page 5260, the first word in the second to last line of § 35.-917-7, now reading "agreement", should be replaced by the letters "agement".

4. In column 3 on page 5265, the first paragraph (a) should be preceded by the following section heading:

§ 35.935-12 Operation and maintenance.

5. In column 1 on page 5266, the last word in the fourth line, now reading "precise", should read "service".

6. In column 2 on page 5267, the first complete word in the second line of paragraph (g) should read "authorized".

(Title 7 continued from p. 15760)

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 462, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Apr. 26-May 2, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 462 (39 FR 14597). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 908.762 (Valencia Orange Regulation 462 (39 FR 14597) are hereby amended to read as follows:

§ 908.762 Valencia Orange Regulation 462.

* * * * *

(i) District 1: 200,000 cartons;
(ii) District 2: 173,000 cartons;
(iii) District 3: 152,000 cartons.

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(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10308 Filed 5–3–74;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO–366–A8, etc.]

MILK IN GEORGIA AND CERTAIN OTHER MARKETING AREAS

Order Amending Orders

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the respective marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of this Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of this order amending each of the specified orders, except Fort Smith and Memphis, is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas; and

(4) The issuance of the order amending the Fort Smith and Memphis orders is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended. The order set forth herein for the Nashville, Tennessee, marketing area incorporates amendments issued March 26, 1974 (39 FR 11526) for this order that resulted from a separate proceeding.

PART 1007—MILK IN GEORGIA MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1007.1 General provisions.

DEFINITIONS

1007.2 Georgia marketing area.
1007.3 Route disposition.
1007.4 [Reserved]
1007.5 Distributing plant.
1007.6 Supply plant.
1007.7 Pool plant.
1007.8 Nonpool plant.
1007.9 Handler.
1007.10 Producer-handler.
1007.11 [Reserved]
1007.12 Producer.
1007.13 Producer milk.
1007.14 Other source milk.
1007.15 Fluid milk product.
1007.16 Fluid cream product.
1007.17 Filled milk.
1007.18 Cooperative association.
1007.19 Reload point.

HANDLER REPORTS

1007.30 Reports of receipts and utilization.
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CLASSIFICATION OF MILK

1007.40 Classes of utilization.
1007.41 Shrinkage.
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1007.43 General classification rules.
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1007.50 Class prices.
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1007.60 Handler's value of milk for computing uniform prices.
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PAYMENTS FOR MILK

1007.70 Producer-settlement fund.
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1007.73 Payments to producers and to cooperative associations.
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1007.76 Payments by handler operating a partially regulated distributing plant.
1007.77 Adjustment of accounts.
1007.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1007.85 Assessment for order administration.
1007.86 Deduction for marketing services.

CLASS I BASE PLAN

1007.90 Definition of terms relating to the Class I base plan.
1007.91 Computation of production history base.
1007.92 Updating of production history bases.
1007.93 New producers.
1007.94 Computation of Class I base or base milk for each producer.
1007.95 Transfer of bases.
1007.96 Miscellaneous base rules.
1007.97 Hardship provisions.

AUTHORITY: The provisions of this Part 1007 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1007.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1007.2 Georgia marketing area.

The "Georgia marketing area", hereinafter called the "marketing area", means all the territory, including all waterfront facilities connected therewith, geographically within the boundaries of the State of Georgia except the counties of Catoosa, Chattooga, Dade, Fannin, Murray, Rabun, Walker, and Whitfield. The marketing area shall include all territory that is occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part of such territory is within the designated geographical limits of the marketing area.

§ 1007.3 Route disposition.

"Route disposition" means a delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I milk.

§ 1007.4 [Reserved]

§ 1007.5 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted health authority for fluid consumption or filled milk is processed or packaged and which has route disposition in the marketing area during the month.

§ 1007.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority for fluid consumption or filled milk is shipped during the month to a pool plant.

§ 1007.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of it total Class I disposition, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least two-thirds of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of § 1007.9(c)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under § 1007.9(c); in the event the cooperative operates more than one supply plant, all such deliveries shall be assigned, for this purpose, to the supply plant nearest Atlanta, Ga.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt distributing plant; and

(3) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

§ 1007.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing, or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is a distributing plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

§ 1007.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1007.13 for the account of such cooperative association;

(c) A cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1007.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no Class I milk from sources other than his own farm production and pool plants;

(c) Disposes of no other source milk as Class I milk;

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from pool plants) and the operation of the processing and packaging business are his personal enterprise and risk; and

(e) If such person had been a producer to whom a Class I base had been assigned pursuant to § 1007.94, has forfeited such Class I base in accordance with the requirement of § 1007.96(c).

§ 1007.11 [Reserved]

§ 1007.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is physically received at a pool plant or diverted pursuant to § 1007.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act or the operator of an exempt distributing plant;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1007.44(a)(8)(iii) and the corresponding step of § 1007.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1007.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer or from a handler described in § 1007.9(c): *Provided,* That if the milk received at a pool plant from a handler described in § 1007.9(c) is pur-

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chased on a basis other than weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the volume by which the farm weights and butterfat as determined from the farm bulk tank samples of such milk exceed the weights and butterfat on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1007.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the plant to which diverted;

(2) Not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(4) A cooperative association may divert for its account only the milk of member producers: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received from member producers at all pool plants during the month shall not be producer milk;

(5) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(6) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (b) (4) and (5) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1007.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1007.40(b) (1) from any source other than producers, handlers described in § 1007.9 (c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1007.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1007.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1007.40(b) (1)) for which the handler fails to establish a disposition.

§ 1007.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a) (1) of this section or in § 1007.40 (b) or (c) (1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1007.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1007.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1007.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of, or marketing milk or milk products for, its members.

§ 1007.19 Reload point.

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload point shall not be considered a plant except that a reload operation on the premises of a plant shall be considered a part of the plant operation.

HANDLER REPORTS

§ 1007.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1007.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1007.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1007.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1007.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1007.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1007.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1007.32 Other reports.

(a) Each handler described in § 1007.9 (a), (b), and (c) shall report to the market administrator on or before the seventh day after the end of the month:

(1) The total pounds of base milk and the total pounds of excess milk; and

(2) The days for which milk was received from each producer.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1007.30 and 1007.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1007.40 Classes of utilization.

Except as provided in § 1007.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1007.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1007.15; and

(6) In shrinkage assigned pursuant to § 1007.41(a) to the receipts specified in § 1007.41(a) (2) and in shrinkage specified in § 1007.41 (b) and (c).

§ 1007.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1007.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1007.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1007.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to §1007.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1007.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in an-

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other class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1007.44(a) (12) and the corresponding step of § 1007.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1007.44(a) (7) or the corresponding step of § 1007.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1007.44(a) (11) or (12) or the corresponding steps of § 1007.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1007.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt distributing plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1007.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis

of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1007.43 General classification rules.

In determining the classification of producer milk pursuant to § 1007.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1007.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1007.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1007.40, 1007.41, and 1007.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1007.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1007.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1007.9(a) for each of his pool plants separately and of each handler described in § 1007.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1007.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1007.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1007.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1007.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1007.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i), of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1007.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of

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skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and 8 (i) anc (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exeeced the pounds of skim milk remaining in such slasses, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necesary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the hnadler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1007.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other paal plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1007.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1007.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1007.44(a)(12) and the corresponding step of § 1007.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1007.44 on the basis of such report, and, thereafter any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

Class Prices

§ 1007.50 Class prices.

Subject to the provisions of § 1007.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1007.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1007.52 Plant location adjustments for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) "Northern Zone" means all the territory in the following Georgia counties:

Banks.	Hall.
Bartow.	Hart.
Catoosa.	Jackson.
Chattooga.	Lumpkin.
Cherokee.	Madison.
Dade.	Murray.
Dawson.	Pickens.
Elbert.	Rabun.
Fannin.	Stephens.
Floyd.	Towns.
Forsyth.	Union.
Franklin.	Walker.
Gilmer.	White.
Habersham.	Whitfield.
Gordon.	

(2) "Southern Zone" means all the territory in the State of Georgia that is not within the Northern Zone.

(b) The Class I price for producer milk at a plant in the Northern Zone shall be reduced 15 cents and at a plant that is outside Georgia, north of an east-west line extending from the city hall in Atlanta and more than 100 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from the nearer of the city halls in Atlanta and Augusta, Ga., shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 110 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the nearer of the city halls in Atlanta and Augusta: *Provided*, That the location adjustment pursuant to this paragraph applicable at a plant in Alabama or South Carolina shall not be more than 15 cents.

(c) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee-plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with receipts from the plant with the lowest applicable location adjustment.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1007.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1007.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Prices

§ 1007.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1007.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1007.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1007.44(a)(14) and the corresponding step of § 1007.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1007.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1007.44(a)(9) and the corresponding step of § 1007.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(7)(i) through (iv) and the corresponding step of § 1007.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(7)(v) and (vi) and the corresponding step of § 1007.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(11) and the corresponding step of § 1007.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1007.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1007.61 Computation of uniform prices for base milk and excess milk.

(a) For each month, the market administrator shall compute a uniform price as follows:

(1) Combine into one total the values computed pursuant to § 1007.60 for all handlers who filed the reports pursuant to § 1007.30 for the month, except those in default of payments required pursuant to § 1007.71 for the preceding month;

(2) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1007.75;

(3) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1007.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the uniform price.

(b) The market administrator shall compute uniform prices per hundredweight for base milk and excess milk each month, each of 3.5 percent butterfat content, as follows:

(1) Determine the aggregate amount of producer milk in each class included in the computation pursuant to paragraph (a) of this section and the hun-

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dredweight of such milk that is base milk and that is excess milk;

(2) Determine the value of the total hundredweight of milk of producers specified in § 1007.94 (c) and (d) to whom no base milk has been assigned by multiplying such volume by the Class III price;

(3) Determine the total value of excess milk by assigning such milk in series beginning with Class III to the hundredweight of milk in each class as determined pursuant to paragraph (b) (1) of this section, multiplying the quantities so assigned by the respective class prices and adding together the resulting amounts;

(4) Divide the total value of excess milk in paragraph (b) (3) of this section by the total hundredweight of such milk. The quotient, rounded to the nearest cent, shall be the uniform price for excess milk;

(5) Multiply the total hundredweight of excess milk by the uniform price for excess milk computed pursuant to paragraph (b) (4) of this section;

(6) Multiply the hundredweight of milk specified in paragraph (a) (4) (ii) of this section by the uniform price for the month;

(7) Subtract the total values arrived at in paragraph (b) (2), (5), and (6) of this section from the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section; and

(8) Divide the amount obtained in paragraph (b) (7) of this section by the total hundredweight of base milk determined in paragraph (b) (1) of this section and subtract not less than 4 nor more than 5 cents per hundredweight. The resulting figure rounded to the nearest cent, shall be the uniform price for base milk.

§ 1007.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform prices for such month.

PAYMENTS FOR MILK

§ 1007.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1007.71 and 1007.76 and out of which he shall make all payments from such fund pursuant to § 1007.72: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1007.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a) (1) of this section exceeds the amount specified in paragraph (a) (2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1007.60.

(2) The sum of:

(i) The value at the uniform prices pursuant to § 1007.61(b), as adjusted pursuant to § 1007.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price pursuant to § 1007.61(a) applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1007.60 (f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b) (1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1007.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1007.71(a) (2) exceeds the amount computed pursuant to § 1007.71(a) (1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1007.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month less proper deductions authorized in writing by such producer;

(2) On or before the 15th day of each month at not less than the applicable uniform prices for the quantities of base milk and excess milk received adjusted by the butterfat differential computed pursuant to § 1007.74, and in the case of base milk by the location adjustment computed pursuant to § 1007.75, subject to the following:

(i) Less payments made pursuant to paragraph (a) (1) of this section;

(ii) Less proper deductions authorized by such producer;

(iii) Less deductions for marketing services made pursuant to § 1007.86; and

(iv) If by such date such handler has not received full payment from the market administrator pursuant to § 1007.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator; and

(3) On or before the 15th day of the month at not less than the Class III price adjusted by the butterfat differential computed pursuant to § 1007.74 for the quantity of milk received from producers described in § 1007.94 (c) and (d) for whom no base milk has been computed.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the day prior to the date on which payments are due individual producers shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members, shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the market administrator at his discretion through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification

claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1007.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices for base and excess milk shall be increased, or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1007.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rates set forth in § 1007.52(b); and

(b) The uniform price applicable to other source milk shall be adjusted at the rates set forth in § 1007.52(b) applicable at the location of the nonpool plant from which the milk was received, except that the uniform price shall not be less than the Class III price.

§ 1007.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1007.30(b) and 1007.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price pursuant to § 1007.61(a), both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1007.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1007.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1007.60 for such handler shall include, in lieu of the value of other source milk specified in § 1007.60(f) less the value of such other source milk specified in § 1007.71(a) (2) (ii), a value of milk determined pursuant to § 1007.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1007.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1007.30 (b) and 1007.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1007.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1007.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1007.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

§ 1007.77 Adjustment of accounts.

When verification by the market administrator of reports or payments of a handler discloses errors resulting in moneys due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1007.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1007.71, 1007.77, 1007.85, and 1007.86 shall be increased one-half of 1 percent for each month or portion thereof that such obligation is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1007.85 Assessment for order administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end

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of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1007.44(a)(7) and (11) and the corresponding steps of § 1007.44(b), except such other source milk that is excluded from the computations pursuant to § 1007.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1007.76(a)(2).

§ 1007.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) If the Secretary determines that a cooperative association is performing for its members the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such members and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

CLASS I BASE PLAN

§ 1007.90 Definition of terms relating to the Class I base plan.

For purposes of determination and assignment of the Class I base of each producer the following terms are defined:

(a) "Production history" means the average daily marketings of a producer during the production history period used for the determination of bases or the future updating of bases.

(b) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1007.91.

(c) "Production history period" means the days or months to be used for the computation of the production history base of a producer.

(d) "Average daily producer milk deliveries" of any producer in any specified period used for computing a production history base means the total pounds of producer milk delivered by the producer divided by the number of days' production represented by such deliveries: *Provided*, That for any September–January period, the divisor shall be the actual days of production, or 145 whichever is greater.

(e) "Class I base" means a quantity of milk in pounds per day computed pursuant to § 1007.94 for which a producer may receive the base milk price.

(f) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(2) Milk received from a producer to whom no Class I base has been issued in the amount determined for such producer pursuant to § 1007.94 (c) and (d).

(g) "Excess milk" means milk received in excess of base milk from a producer who is delivering base milk during such month.

§ 1007.91 Computation of production history base.

A "production history base" shall be determined by the market administrator for each producer eligible for such base on the effective date of this provision and on March 1 of each year thereafter. The computation of production history base shall be subject to adjustments due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due to hardship or loss of Class I base because of underdelivery of base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if: As a producer he delivered milk of his own production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1007.96(a); and during such period (after the effective date of this provision) did not dispose of all his Class I base by transfer. The production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The market administrator shall determine a production history base for each producer who delivered at least 100 days' production during the immediately preceding period of September–January by computing his average daily producer milk deliveries as defined in § 1007.90 (d) during such period.

(b) For producers who delivered milk on less than 100 days during the immediately preceding period of September–January, but at least 90 days prior to March 1, the market administrator shall determine a production history base by multiplying such producer's average daily producer milk deliveries during the months in which milk was delivered prior to March 1, by .80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September–January period by the average daily producer milk deliveries during the same months used for such producer.

(c) Producers who have delivered milk for less than 90 days prior to March 1 shall have no initial production history base but shall be assigned a history of production in accordance with the provisions applicable for new producers.

(d) For each producer not subject to § 1007.94(d) who became a producer for this market subsequent to September 1, 1971, because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible pursuant to paragraph (a) or (b) of this section based on his deliveries of milk as if the nonpool plant to which he delivered had been a pool plant during the representative period.

(e) A producer not described pursuant to paragraph (d) of this section who delivered milk to a nonpool plant(s) prior to becoming a producer and who is not subject to the provisions of § 1007.94(c) shall have a production history base effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant if a production history base can be computed pursuant to paragraph (a) or (b) of this section based on deliveries of milk from the same farm on which he is now a producer as if the plant(s) to which he delivered had been a pool plant(s) during the preceding 12 months.

(f) For a producer who held producer-handler status at any time subsequent to September 1, 1971, a production history base shall be calculated as prescribed in paragraph (a) of this section as if the milk of his own production received at his producer-handler plant had been received at a pool plant.

(g) With respect to the computation of production history base pursuant to this section, the following rules shall apply:

(1) If a producer operated more than one farm at the same time, a separate computation shall be made with respect to the average daily producer milk deliveries from each farm except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler.

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned or operated.

§ 1007.92 Updating of production history bases.

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1007.96(a) or after having disposed of his entire base by transfer or forfeiture, has met the delivery requirements prescribed in § 1007.93 shall be determined by the market administrator on March 1 of each year as follows:

(a) Effective March 1, 1973, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of paragraph (a)(1) (i) and (ii) of this section for a producer who is assigned an initial history of production pursuant to § 1007.91 (a) or (b) on the effective date of this order, add the average daily milk deliveries of such producer during the period September 1972 through January 1973 to the production history bases computed for such producer on the effective date of this order and divide the result by 2. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period but in no event, shall such producer's production history base be reduced by more than 25 percent.

(2) For producers who had not previously been assigned a production history base, a history of production shall be determined by calculating such producer's average daily producer milk deliveries during the period September 1972 through January 1973 and multiplying the result by 0.80.

(b) Effective March 1, 1974, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of paragraph (b)(1) (i) and (ii) of this section for a producer who had a production history base for the 2 most recent years, determine the average daily producer milk deliveries during the immediately preceding period September through January. Add the resulting amount to the production history base determined for each of the 2 most recent years and divide the result by 3: (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(2) For producers who had not previously been assigned a production history base, a history of production shall be determined by calculating such producer's average daily producer milk deliveries during the period September 1972 through January 1973 and multiplying the result by 0.80.

(c) Effective March 1, 1975, and on March 1 of each year thereafter the market administrator shall update the history of production for each producer as follows:

(1) Subject to the provisions of paragraph (c)(1) (i) and (ii) of this section for producers who have a production history base covering 3 or more years, the market administrator shall compute the average daily producer milk deliveries for such producer during the immediately preceding period of September through January and shall add such figure to the average daily producer milk deliveries of the preceding two years and divide the result by 3. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding September through January period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(2) Subject to the provisions of paragraph (c)(2) (i) and (ii) of this section for a producer who had a production history base for the two most recent periods, determine the average producer milk deliveries during the immediately preceding period September through January. Add the resulting amount to the production history base determined for each of the two most recent periods and divide the result by 3. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(3) Subject to the provisions of paragraph (c)(3) (i) and (ii) of this section for a producer who had a production history base for 1 year, the market administrator shall determine his average daily producer milk deliveries during the immediately preceding period of September through January and add such amount to the producer's previous production history base and divide the result by 2. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(4) For producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding period of September through January and multiply the result by 0.80.

(5) On March 1 of each year of which this plan is in effect, the market administrator shall determine a production history base for producers who delivered milk for less than 100 days in the immediately preceding period of September through January but who delivered milk for at least 90 days prior to March 1 by determining such producers average daily producer milk deliveries during the first 3 months in which the producer delivered milk to the market, multiplying the result by 0.80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September–January period by the average daily deliveries per producer during the same months used for such producer.

§ 1007.93 New producers.

The market administrator shall determine a history of production for each producer for whom a production history base was not determined pursuant to § 1007.91 as follows:

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(a) Any producer who during the immediately preceding September through January period delivered his milk to a nonpool plant which became a pool plant shall be assigned a history of production on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant.

(b) Effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant a producer who delivered milk to a nonpool plant prior to becoming a producer as defined in this order shall be assigned a production history base on the same basis as if he had been a producer under the order and his deliveries to the nonpool plant had been deliveries to a pool plant provided that in no event shall the production history base exceed the amount of milk actually delivered by such producer under this order.

(c) A producer who delivered no milk to a nonpool plant or who delivered milk to a pool plant for less than 90 days prior to March 1 of any year and who has not acquired a history of production by transfer shall be assigned Class I base milk pursuant to the provisions of § 1007.94(c).

§ 1007.94 Computation of Class I base or base milk for each producer.

On the effective date of this provision and on March 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1007.93 when they are issued production history bases. Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding period of September through January:

(i) Class I producer milk pursuant to § 1007.44(c);

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding January; and

(iii) The Class I disposition of his own production of a person who was a producer-handler during a portion of the year and who held producer status in the preceding January.

Multiply the sum by 1.15 and divide the result by 153:

(2) Divide the quantity computed pursuant to paragraph (a)(1) of this section by a quantity which is the total of production history bases computed pursuant to § 1007.91 or § 1007.92, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage." For each of the months of June, July, and August the Class I base so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the preceding months of September through May.

(c) A producer, other than a producer pursuant to paragraph (d) of this section, who has no production history base shall be assigned base milk each month until the first March 1 on which he is eligible for a Class I base in an amount equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month (1) effective with his first delivery of producer milk if he begins deliveries in the months of September through January, and (2) effective on the first day of the second month following the month in which he began delivery if he begins deliveries in the months of February through August. For each of the months of June, July, and August the base milk so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the immediately preceding months of September through May.

(d)(1) A producer who, after having forfeited or disposed of all of his Class I base, either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month, such assignment to be effective on the later of the following dates: The first day of the third month following the month in which he recommences deliveries of producer milk on the market, or the first day of the twelfth month following the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. For each of the months of June, July, and August the base milk so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the immediately preceding months of September through May. The production history period of such producer shall begin on the later of the following dates: The date on which he first received payment for base milk or the first day of the first month eligible for use in a production history period pursuant to § 1007.93.

(2) In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture.

§ 1007.95 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of Class I base of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer, and the amount of base to be transferred. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the base holder(s), his heirs, executor, or trustees and by the person to whom such base is to be transferred.

(c) A transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise, such transfer shall be effective on the first day of the month following that in which application is made.

(d) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator, except that a portion of a base may be transferred to be effective on March 1 of any year if application for such transfer is filed with the market administrator no later than March 15.

(e) A producer who has received base by transfer on or after March 1 of any year may not transfer any portion of the base for 3 full months following the effective date of such transfer.

(f) A producer who has transferred base on or after March 1 of any year may not receive additional base by transfer for 3 full months from the effective date of such transfer.

(g) A base which is jointly held or in a partnership may be transferred in part or in its entirety only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred.

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is received by the market administrator prior to the first day of the month on which such division is to be effective.

(i) It must be established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(j) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(k) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(l) A producer who receives a base pursuant to § 1007.91 (c) or (d) may not transfer such base, other than pursuant to paragraph (k) of this section, for 1 year from the date of receipt.

(m) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 1 year from the date of receipt, except to a member of the immediate family pursuant to paragraph (k) of this section.

(n) A base which has been computed from less than a full production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (k) of this section.

(o) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will require a transfer of bases and compliance with all base rules therein.

§ 1007.96 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases:

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain them until 1 year after being released from active military service.

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(c) As a condition for designation as a producer-handler pursuant to § 1007.10, any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period.

§ 1007.97 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1007.91 through 1007.96 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding March 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of buildings, herds, or other facilities by fire, flood, or storms, official quarantine, disease, pesticide residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1007.96(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1007.92; and

(5) Inability to transfer base due to the provisions of § 1007.95 (l), (m), and (n).

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1007.96 with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a) (2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(*a*) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(*b*) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production.

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1007.85 for their services at $30 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

PART 1071—MILK IN NEOSHO VALLEY MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1071 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1071.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1071.2 Neosho Valley marketing area.

"Neosho Valley marketing area," hereinafter called the "marketing area," means all of the territory within the counties of Allen, Bourbon, Chautauqua, Cherokee, Crawford, Labette, Montgomery, Neosho, and Wilson, all in the State of Kansas, and the counties of Barton, Jasper, Newton, and Vernon, all in the State of Missouri.

§ 1071.3 Route disposition.

"Route disposition" means a delivery (including delivery by a vendor or sale from a plant or plant store) to a retail or wholesale outlet, other than a plant, of any fluid milk product classified as Class I milk.

§ 1071.4 [Reserved]

§ 1071.5 [Reserved]

§ 1071.6 [Reserved]

§ 1071.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means any milk plant described in paragraph (a) or (b) of this section, which is approved by the appropriate health authority having jurisdiction in the marketing area.

(a) Any plant, hereinafter referred to as a "distributing pool plant," from which:

(1) During the current delivery period there is route disposition, except filled milk, in the marketing area equal to 10 percent or more of such plant's Grade A receipts from dairy farmers as specified in paragraph (a)(2) of this section; and

(i) During the current delivery period there is disposed of as Class I milk, except filled milk, an amount not less than an applicable percentage of such plant's Grade A receipts as specified in paragraph (a)(2) of this section as follows: (a) April through August, 30 percent; and (b) September through March, 45 percent; or

(ii) During five of the six immediately preceding delivery periods, such plant was a pool plant by virtue of meeting the specifications pursuant to paragraph (a)(1)(i) of this section; and

(2) The Grade A receipts from dairy farmers to be used in calculating the percentages specified in paragraph (a)(1) of this section, for each plant shall include all receipts of Grade A milk from dairy farmers and handlers described in § 1071.9(c) subject to the following provisions:

(i) Milk diverted to another plant for the account of the operator of the plant from which the milk was diverted shall be included in the receipts of the plant from which diverted for the purposes of this section, if the milk is claimed as diverted on the report of the diverting handler filed for the month pursuant to § 1071.30 (if such claim is made by the diverting handler, milk so diverted shall be excluded from the receipts of the plant to which diverted); and

(ii) Milk received at a plant operated by a cooperative association from a handler described in § 1071.9(c)(2) shall be excluded from the cooperative association's plant receipts for the purposes of this section.

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the delivery period no less than 50 percent of the Grade A milk received from dairy farmers is shipped to a plant(s) described in paragraph (a) of this section: *Provided*, That if such plant is a pool plant during each of the months of September through March it shall be designated as a pool plant in the next succeeding months of April through August, unless the market administrator is requested by means of written application on or before the 7th day after the end of the month that the plant should not be a pool plant. All plants described in this paragraph which are operated by one handler may be considered as a unit, upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and the notice of any change in designation, shall be furnished on or before the 7th day following the month to which the notice applies. In any of the months of April through August a unit shall not contain plants which were not qualified as pool plants either individually or as members of another unit, during each of the previous months of September through March.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that either the Secretary determines disposed of a greater portion of its milk as Class I milk, except filled milk, in another marketing area regulated by another milk marketing agreement or order issued pursuant to the Act or is otherwise determined pursuant to the provisions of another milk marketing agreement or order to be subject to the pricing and payment provisions of such agreement or order.

§ 1071.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1071.7 and which is neither an other order plant nor a producer-handler plant.

§ 1071.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association, with respect to milk of its member producers which it causes to be diverted pursuant to § 1071.13 for the account of such association;

(c) Any cooperative association, with respect to milk of its member producers:

(1) For which it elects to report as a handler and which is delivered to the pool plant(s) of another handler in a tank truck owned, operated, or controlled, by such association; or

(2) Delivered for its account to the pool plant of another cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1071.7(c).

§ 1071.10 Producer-handler.

"Producer-handler" means any person who, with the approval of any health authority having jurisdiction in the marketing area, processes milk from his own farm production and disposes of all or a portion of such milk as Class I milk within the marketing area, who receives no milk from producers, and who disposes of no fluid milk products in excess of those (a) received from a pool plant, (b) received from an other order plant that are classified and priced as Class I milk under the other order, and (c) from milk of his own production.

§ 1071.11 [Reserved]

§ 1071.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk under a dairy farm permit or rating issued by the appropriate health authority having jurisdiction in the marketing area over the production of milk disposed of for consumption as Grade A milk whose milk is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1071.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1071.44(a)(8)(iii) and the corresponding step of § 1071.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1071.13 Producer milk.

"Producer milk" shall be that skim milk and butterfat for each handler's account in milk received from producers pursuant to paragraphs (a) and (b) of this section as follows:

(a) For a handler operating a pool plant, producer milk shall include:

(1) Milk received directly from producers' farms (including such handler's own farm production) at such pool plant, except milk received from a handler described in § 1071.9(c); and

(2) Milk diverted by such pool plant operator pursuant to paragraph (c) of this section.

(b) For a handler described in § 1071.9(b) or (c), producer milk shall include:

(1) Milk received directly from producers' farms for its account at pool plants (such milk shall be considered as having been received by the handler at the plant to which it is delivered and then transferred to the plant operator); and

(2) Milk diverted for its account pursuant to paragraph (c) of this section.

(c) Milk diverted for the account of a pool plant operator or the account of a cooperative association from producers' farms to a nonpool plant that is not a producer-handler plant shall be considered as diverted by the handler for whose account it was diverted, if the diverting handler claimed the diversion on his report for the month filed pursuant to § 1071.30. Milk diverted shall be considered as received at the pool plant from which it was diverted for the purpose of determining applicable location adjustments.

§ 1071.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1071.40(b)(1) from any source other than producers, handlers described in § 1071.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1071.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1071.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined, with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1071.40(b)(1)) for which the handler fails to establish a disposition.

§ 1071.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1071.40(b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9-percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1071.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1071.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1071.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and,

(b) Is authorized by its members to make collective sales or to market milk or its products for its members.

§ 1071.19 Delivery period.

"Delivery period" means a calendar month, or any portion thereof during which this part is in effect.

HANDLER REPORTS

§ 1071.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

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(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1071.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1071.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1071.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1071.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1071.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1071.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1071.32 Other reports.

(a) Each handler who causes milk to be diverted shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1071.30 and 1071.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1071.40 Classes of utilization.

Except as provided in § 1071.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1071.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1071.15; and

(6) In shrinkage assigned pursuant to § 1071.41(a) to the receipts specified in § 107.41(a)(2) and in shrinkage specified in § 1071.41(b) and (c).

§ 1071.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1071.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent (5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in milk received from a handler described in §1071.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent (5 percent with respect to skim milk during the months of April, May, and June);

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1071.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1071.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1071.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1071.44(a)(12) and the corresponding step of § 1071.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1071.44(a)(7) or the corresponding step of § 1071.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1071.44(a) (11) or (12) or the corresponding steps of § 1071.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1071.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1071.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

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(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1071.43 General classification rules.

In determining the classification of producer milk pursuant to § 1071.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1071.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1071.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1071.40, 1071.41, and 1071.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1071.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1071.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1071.9(a) for each of his pool plants separately and of each handler described in § 1071.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1071.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1071.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1071.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1071.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1071.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources,

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1071.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handlers; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7), (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1071.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1071.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1071.9(c) according to the classification of such products pursuant to § 1071.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the

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pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage":

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1071.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1071.44(a)(12) and the corresponding step of § 1071.44 (b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1071.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each delivery period, report to each cooperative association which so requests, the amount and class utilization of the milk caused to be delivered to each handler by such cooperative association, either directly or from producers who are members of such cooperative association. For purposes of this report, the milk so delivered by a cooperative association shall be prorated to each class in the proportion that the total quantity of producer milk received by such handler was to the quantity of milk in each class.

CLASS PRICES

§ 1071.50 Class prices.

Subject to the provisions of §1071.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.54: *Provided,* That the price so determined shall be further adjusted by subtracting any amount by which such price exceeds the higher of, or adding any amount by which such price is less than, the lower of the following:

(1) The price for Class I milk of 3.5 percent butterfat content established for the same month or delivery period pursuant to Part 1106 of this chapter regulating the handling of milk in the Oklahoma Metropolitan marketing area less 33 cents; or

(2) The price for Class I milk of 3.5 percent butterfat content established for the same month or delivery period for Zone 1 under Part 1062 of this chapter regulating the handling of milk in the St. Louis-Ozarks marketing area, plus 15 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1071.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1071.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located more than 50 miles by shortest highway distance as measured by the market administrator, from the nearest of the city halls in Joplin or Nevada, Mo., or Chanute or Independence, Kans., and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1071.50(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 60 miles from such city hall and by an additional 2 cents for each 15 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant in a volume not in excess of that by which 105 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1071.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply; and

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1071.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1071.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1071.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1071.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1071.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1071.44(a)(14) and the corresponding step of § 1071.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1071.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1071.44(a)(9) and the corresponding step of § 1071.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1071.44(a)(7) (i) through (iv) and the corresponding step of § 1071.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1071.44(a)(7) (v) and (vi) and the corresponding step of § 1071.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1071.44(a)(11) and the corresponding step of § 1071.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1071.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1071.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1071.60 for all handlers who filed the reports prescribed by § 1071.30 for the month and who made the payments pursuant to §§ 1071.71 and 1071.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1071.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1071.60 (f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1071.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1071.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit payments made by handlers pursuant to §§ 1071.71, 1071.76, and 1071.77 and out of which he shall make payments to handlers pursuant to §§ 1071.72 and 1071.77: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 1071.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1071.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1071.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1071.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1071.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1071.71(a)(2) exceeds the amount computed pursuant to § 1071.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1071.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the last day of each delivery period to each producer for milk received from him during the first 15 days of such delivery period at not less than the Class III price for the preceding delivery period: *Provided,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payments for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association at least 2 days before the end of the delivery period, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) On or before the 17th day after the end of each delivery period, for all milk received during such delivery period from such producer at not less than the uniform price for such delivery period computed pursuant to § 1071.61 subject to the following adjustments: (1) The butterfat and location differentials pursuant to §§ 1071.74 and 1071.75; (2) payment made pursuant to paragraph (a) of this section; (3) deductions for marketing services pursuant to § 1071.86, (4) deductions authorized by the producer; and (5) any error in payments to such producer for past delivery periods: *Provided,* That if by such date such handler has not received full payment for milk for such delivery period pursuant to § 1071.72, he may reduce uniformly per hundredweight, for all producers his payments pursuant to this paragraph, by an amount not in excess of the per hundredweight reduction in payments from the market administrator: *Provided further,* That the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments, pursuant to this paragraph, next following that on which such balance of payment is received from the market administrator: *And provided further,* That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association, on or before the 15th day after the end of each delivery period an amount equal to the sum of the individual payments other-

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wise payable to such producer in accordance with this paragraph; and

(c) On or before the 17th day after the end of each delivery period, to each handler described in § 1071.9(c) for milk received from such handler, not less than the value of such milk as is classified pursuant to § 1071.42(a) at the class prices, as adjusted by the butterfat differential specified in § 1071.74, that are applicable at the location of the handler's pool plant.

§ 1071.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1-percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1071.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1071.52.

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1071.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1071.30(b) and 1071.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1071.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1071.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1071.60 for such handler shall include, in lieu of the value of other source milk specified in § 1071.60(f) less the value of such other source milk specified in § 1071.71(a)(2)(ii), a value of milk determined pursuant to § 1071.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during this month equivalent to the requirements of § 1071.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1071.30(b) and 1071.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1071.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1071.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1071.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1071.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

Administrative Assessment and Marketing Service Deduction

§ 1071.85 Assessment for order administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 16th day after the end of

the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk received by a pool plant operator (including such handler's own production);

(b) Milk received from a handler described in § 1071.9(c);

(c) Producer milk of a handler described in § 1071.9(b);

(d) Other source milk allocated to Class I pursuant to § 1071.44(a)(7) and (11) and the corresponding step of § 1071.44(b), except such other source milk that is excluded from the computations pursuant to § 1071.60(d) and (f); and

(e) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1071.76(a)(2).

§ 1071.86 Deduction for marketing services.

(a) *Deduction for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1071.73 shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the delivery period, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers who are members of a cooperative association, or who have given written authorization for the rendering of marketing services and the taking of deductions therefor by a cooperative association, and for whom the Secretary determines such a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by such producers and on or before the 15th day after the end of such delivery period pay over such deduction to the cooperative association rendering such services.

Advertising and Promotion Program

§ 1071.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1071.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1071.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1071.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1071.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1071.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1071.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmembers producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1071.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1071.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1071.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1071.110 and 1071.117.

§ 1071.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

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(b) Develop programs and projects pursuant to §§ 1071.110 and 1071.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1071.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1071.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1071.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1071.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1071.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1071.121 Duties of the market administrator.

Except as specified in § 1071.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1071.113(c).

(b) Set aside the amounts subtracted under § 1071.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1071.61(d).

(3) After the end of each calendar quarter make a refund to each producer who has made application for such refund pursuant to § 1071.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1071.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1071.110 through 1071.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1071.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1071.70.

PART 1073—MILK IN WICHITA, KANS., MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1073 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1073.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1073.2 Wichita, Kans., marketing area.

"Wichita, Kans., marketing area", hereinafter called the marketing area, means all the territory within the counties enumerated below, all within the State of Kansas, together with all territory within the boundaries so designated which is occupied by government (municipal, State or Federal) reservations or installations:

ZONE I

Barber.
Barton.
Butler.
Comanche.
Cowley.
Edwards.
Ellis.
Harper.
Harvey.
Kingman.
Kiowa.
Marion.
McPherson.
Pawnee.
Pratt.
Reno.
Rice.
Rush.
Russell.
Sedgwick.
Stafford.
Sumner.

ZONE II

Clark.
Finney.
Ford.
Gove.
Grant.
Gray.
Greeley.
Hamilton.
Haskell.
Hodgeman.
Kearny.
Lane.
Meade.
Morton.
Ness.
Scott.
Seward.
Stanton.
Stevens.
Trego.
Wichita.

§ 1073.3 Route disposition.

"Route disposition" means a delivery from a distributing plant (including a delivery by a vendor, from a plant store or through a vending machine) to a retail or wholesale outlet, other than a plant, of any fluid milk product classified as Class I milk.

§ 1073.4 [Reserved]

§ 1073.5 Distributing plant.

"Distributing plant" means a plant approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

§ 1073.6 Supply plant.

"Supply plant" means a plant from which fluid milk products, acceptable to and approved by a duly constituted regulatory agency for distribution under a Grade A label, are shipped during the month to and physically received at a distributing plant.

§ 1073.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant that has:

(1) Route disposition, except filled milk, during the month of not less than 35 percent (25 percent for each month of March through July) of the fluid milk products, except filled milk, that are approved by a duly constituted regulatory agency for distribution under a Grade A label and are physically received at such plant, or diverted therefrom by the plant operator or a cooperative association to a nonpool plant as producer milk pursuant to § 1073.13, and route disposition, except filled milk, in the marketing area during the month is not less than 10 percent of such fluid milk products. If the entire quantity of fluid milk products, except filled milk, disposed of in packages in a particular size and form is received in such packages from other plants, all such disposition shall be credited to the plant from which such packages were received and shall be deducted from the appropriate disposition of the receiving plant; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in paragraph (a)(1) of this section;

(b) A supply plant from which during the month not less than 50 percent of the total quantity of Grade A milk approved by a duly constituted regulatory agency that was physically received at such plant from dairy farmers and handlers described in § 1073.9(c), or diverted therefrom by the plant operator or a cooperative association as producer milk to a nonpool plant pursuant to § 1073.13, is shipped to a plant(s) described in paragraph (a) of this section. A supply plant that was a pool plant pursuant to this paragraph in each of the months of September through December shall be a pool plant in each of the following months of January through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments; and

(c) A plant that is approved by a duly constituted regulatory agency to handle milk for fluid consumption, that is operated by a cooperative association, and from which during the month not less than 50 percent of the milk of producer members of such association is delivered directly or is transferred by the association to pool plants described in paragraph (a) of this section, unless such plant qualifies for the month as a pool plant under another order issued pursuant to the Act by delivering 50 percent or more of its Grade A receipts from dairy farmers to plants qualified as pool distributing plants under such other order.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in such other Federal order marketing area is greater than was so disposed of in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of such Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the

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month in this marketing area is greater than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of January through August, if such plant retains automatic pooling status under this part.

§ 1073.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant which has route disposition in consumer-type packages or dispenser units in the marketing area during the month; and

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped to a pool plant.

§ 1073.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to milk of producers it diverts pursuant to § 1073.13 from a pool plant to a nonpool plant;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s);

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1073.7(d).

§ 1073.10 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) His disposition of fluid milk products does not exceed his own farm production, receipts of fluid milk products from pool plants and receipts of packaged fluid milk products from other order plants; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1073.11 [Reserved]

§ 1073.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant, diverted to a nonpool plant pursuant to § 1073.13, or accounted for by a cooperative association pursuant to § 1073.13(c).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1073.44(a)(8)(iii) and the corresponding step of § 1073.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1073.13 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler described in § 1073.9(c);

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (d) of this section; or

(c) The difference between the quantity of milk as received by a handler described in § 1073.9(c) from producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1073.52 and 1073.75, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered.

(d) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of total milk of such person as a producer is received at a pool plant;

(3) The total quantity of milk diverted by a cooperative association that is greater than the total quantity of producer milk received at all pool plants during the month from the cooperative association shall not be producer milk;

(4) The total quantity of milk diverted by the operator (other than a cooperative association) of a pool plant that is greater than the total quantity received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk; and

(6) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk.

§ 1073.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1073.40(b)(1) from any source other than producers, handlers described in § 1073.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1073.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1073.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1073.40(b)(1)) for which the handler fails to establish a disposition.

§ 1073.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1073.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1073.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1073.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1073.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

HANDLER REPORTS

§ 1073.30 Reports of receipts and utilization.

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1073.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1073.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1073.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1073.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1073.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1073.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1073.32 Other reports.

In addition to the reports required pursuant to §§ 1073.30 and 1073.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1073.40 Classes of utilization.

Except as provided in § 1073.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1073.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1073.15; and

(6) In shrinkage assigned pursuant to § 1073.41(a) to the receipts specified in § 1073.41(a)(2) and in shrinkage specified in § 1073.41 (b) and (c).

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§ 1073.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1073.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1073.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1073.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1073.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1073.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1073.44(a)(12) and the corresponding step of § 1073.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1073.44(a)(7) or the corresponding step of § 1073.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1073.44(a)(11) or (12) or the corresponding steps of § 1073.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section;

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1073.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1073.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1073.43 General classification rules.

In determining the classification of producer milk pursuant to § 1073.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1073.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1073.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1073.40, 1073.41, and 1073.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1073.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1073.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1073.9(a) for each of his pool plants separately and of each handler described in § 1073.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1073.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1073.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1073.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1073.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1073.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

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(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1073.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1073.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each

class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1073.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1073.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1073.44(a)(12) and the corresponding step of § 1073.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1073.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 13th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers or from a handler described in § 1073.9(c) in each class by each handler who in the previous month received milk from members of such cooperative association.

CLASS PRICES

§ 1073.50 Class prices.

Subject to the provisions of § 1073.52, the class prices for the month per hundredweight of milk containing 3.5-percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.80. Such price shall not be less than the Class I price established for the same month pursuant to Part 1064 (Greater Kansas City) of this chapter, nor more than the Greater Kansas City Class I price plus 60 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1073.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest 0.1 cent) per 0.1-percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1073.52 Plant location adjustments for handlers.

(a) For milk received from producers or from a handler described in § 1073.9(c) at a plant and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (a)(4) of this section, the price at such plant when located:

(1) In Zone I of the marketing area, shall be that computed pursuant to § 1073.50(a);

(2) In Zone II of the marketing area, shall be 5 cents more than the Zone I price;

(3) Outside the marketing area, shall be the Class I price applicable at the nearest of the city halls in Garden City, Hays, Pratt, or Wichita, Kan., subject to a reduction of 12 cents if the distance to such city hall is 70 miles or more, but less than 80 miles, plus an additional 1.5 cents for each 10 miles or fraction thereof in excess of 79 miles (all distances to be by shortest hard-surfaced highway, as determined by the market administrator); and

(4) For purposes of calculating such location adjustments, transfers of fluid milk products between pool plants shall be assigned Class I milk disposition at the receiving plant, in excess of the sum of receipts at such plant from producers (including receipts from a handler described in § 1073.9(c)) and the pounds assigned as Class I milk to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to shipping plants priced at the same zone price, next to plants priced at the other zone price, and then in sequence beginning with the plant at which the least location adjustment credit would apply.

(b) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1073.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1073.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1073.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1073.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1073.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1073.44(a)(14) and the corresponding step of § 1073.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1073.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(9) and the corresponding step of § 1073.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1073.44(a)(9) and the corresponding step of § 1073.44(b) for the current month; or

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(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1073.44 (a)(12) and the corresponding step of § 1073.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(7) (i) through (iv) and the corresponding step of § 1073.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(7) (v) and (vi) and the corresponding step of § 1073.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(11) and the corresponding step of § 1073.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1073.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1073.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5-percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to § 1073.71 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1073.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1073.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1073.71, 1073.76, and 1073.77, and out of which he shall make all payments to handlers pursuant to §§ 1073.72 and 1073.77.

§ 1073.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1073.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1073.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1073.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1073.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any (for each pool plant, if applicable), by which the amount computed pursuant to § 1073.71(a)(2) exceeds the amount computed pursuant to § 1073.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1073.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the second working day following the 12th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price computed pursuant to § 1073.61 for such producer's deliveries of milk, adjusted by the butterfat differential and location adjustments computed pursuant to §§ 1073.74 and 1073.75, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1073.72, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the 27th day of each month, to each producer:

(1) To whom payment is not made pursuant to paragraph (c) of this section; and

(2) Who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than 110 percent of the Class III price for 3.5 percent milk for the preceding month, without deduction for hauling;

(c) On or before the 14th day after the end of each month and on or before the 24th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which it caused to be delivered to such handler from producers, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payments due on or before the 14th day after the end of the month shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1073.31, and payments due on or before the 24th day of the month shall be accompanied by a statement of the amount of money for each producer; and

(d) Each handler who receives milk from a handler described in § 1073.9(c), including the milk of producers who are not members of the cooperative association, and who the market administrator determines have authorized such cooperative association to collect for their milk, shall, on or before the second day prior to the date payments are due individual producers, pay such handler for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the amount prescribed in paragraph (b)(2) of this section; and

(2) In making final settlement, the value of such milk at the uniform price, adjusted pursuant to §§ 1073.74 and 1073.75, less payment made pursuant to paragraph (d)(1) of this section.

§ 1073.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1073.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at plants located outside Zone 1, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1073.52(a).

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72, the uniform price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1073.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1073.30(b) and 1073.31(b) the information necessary for making the computations; such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1073.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1073.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1073.60 for such handler shall include, in lieu of the value of other source milk specified in § 1073.50(f) less the value of such other source milk specified in § 1073.71(a)(2)(ii), a value of milk determined pursuant to § 1073.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1073.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1073.30 (b) and 1073.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1073.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1073.74, for milk received at the plant during the month that

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would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1073.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1073.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 1073.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed;

(b) Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1073.72, the market administrator shall, within 5 days, make payment to such handler;

(c) Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure; and

(d) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation, payment to such producer was in an amount more than was required to be paid pursuant to § 1073.73, no handler shall be deemed to be in violation of § 1073.73 if he reduces his next payment to such producer following discovery of such error by not more than such overpayment.

§ 1073.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1073.71, § 1073.77(a), or § 1073.85 shall be increased one-half of 1 percent on the first day of the month following after the date such obligation is due and on the first day of each succeeding month until such obligation is paid. Any remittance received by the market administrator postmarked prior to the first of the month shall be considered to have been received when postmarked.

Administrative Assessment and Marketing Service Deduction

§ 1073.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1073.13(a)(3)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1073.44(a)(7) and (11) and the corresponding steps of § 1073.44(b), except such other source milk that is excluded from the computations pursuant to § 1073.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1073.76(a)(2).

§ 1073.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 1073.73(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 14th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services; and

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 1073.73(a) as are authorized by such producers, and on or before the 14th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

Advertising and Promotion Program

§ 1073.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1073.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1073.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1073.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1073.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1073.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperative shall be eligible to select a representative(s) to the Agency under the rules of § 1073.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1073.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1073.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1073.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1073.110 and 1073.117.

§ 1073.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following.

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1073.110 and 1073.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1073.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1073.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1073.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1073.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1073.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1073.121 Duties of the market administrator.

Except as specified in § 1073.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1073.113(c).

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(b) Set aside the amounts subtracted under § 1073.61(d) into an advertising and promotion fund, separately accounted for from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1073.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1073.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1073.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1073.110 through 1073.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1073.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1073.70.

PART 1090—MILK IN THE CHATTANOOGA, TENN., MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1090 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1090.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1090.2 Chattanooga, Tenn., marketing area.

The Chattanooga, Tenn., marketing area, hereinafter called the "marketing area", means all the territory within the boundaries of the following counties:

IN TENNESSEE

Bradley. Monroe.
Hamilton. Polk.
Marion. Rhea.
McMinn. Sequatchie.
Meigs.

IN GEORGIA

Catoosa. Murray.
Chattooga. Walker.
Dade. Whitfield.
Fannin.

§ 1090.3 Route disposition.

"Route disposition" means any delivery (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk other than a delivery to any milk or filled milk processing plant.

§ 1090.4 [Reserved]

§ 1090.5 [Reserved]

§ 1090.6 [Reserved]

§ 1090.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant approved or recognized by a duly constituted health authority for the receiving or processing of Grade A milk which during the month has route disposition, except filled milk, equal to not less than 50 percent of its receipts of milk from other pool plants and from approved dairy farmers and which has route disposition within the marketing area equal to at least 15 percent of its total Class I disposition.

(b) A supply plant which, during the month, ships fluid milk products, except filled milk, approved or recognized by a duly constituted health authority as eligible for distribution under a Grade A label in a volume equal to not less than 50 percent of its receipts of milk from approved dairy farmers to a plant specified in paragraph (a) of this section: *Provided,* That any plant which qualifies as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July unless the operator of such plant files with the market administrator prior to the first day of any of the months of March–July a written request for withdrawal.

(c) A plant operated by a cooperative association if, during the month, the sum of the milk delivered to other pool plants by approved dairy farmers who are members of such cooperative association plus the milk which is transferred thereto from the plant operated by the cooperative association is equal to not less than 50 percent of the total volume of milk delivered to all plants by approved dairy farmers who are members of the association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; or

(2) Upon application to the market administrator for nonpool status and a subsequent determination by the Secretary, a plant specified in paragraph (d)(1) or (ii) of this section:

(i) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk, except filled milk, is disposed of from such plant to retail or wholesale outlets (except pool plants or nonpool plants) in the Chattanooga, Tenn., marketing area than in the marketing area regulated pursuant to such order; or

(ii) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a pool plant for each of the preceding months of August through February.

§ 1090.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products are shipped to a pool plant.

§ 1090.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to milk of producers diverted for the account of such association pursuant to § 1090.13;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1090.7(d).

§ 1090.10 Producer-handler.

"Producer-handler" means an approved dairy farmer who:

(a) Operates a plant from which there is route disposition in the marketing area;

(b) Receives no fluid milk products from other dairy farmers or from sources other than pool plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing, packaging, and distribution business are the personal enterprise and risk of such person.

§ 1090.11 Approved dairy farmer.

"Approved dairy farmer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority.

§ 1090.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any approved dairy farmer whose milk is physically received at a pool plant or diverted pursuant to § 1090.13.

(b) "Producer" shall not include:

(1) A producer-handler as described in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1090.44(a)(8)(iii) and the corresponding step of § 1090.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1090.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer which is:

(a) Received at a pool plant directly from a producer; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the plant from which diverted;

(2) In any month of September through November that less than 4 days' production of a producer is delivered to pool plants, the quantity of milk of the producer diverted during the month that exceeds that delivered to pool plants shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) A cooperative association may divert for its account the milk of any member-producer: *Provided,* That in any month of September through November the total quantity of milk so diverted that exceeds 35 percent of the milk physically received from member-producers at all pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(4) The operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association: *Provided,* That in any month of September through November the total quantity of milk so diverted that exceeds 35 percent of the milk physically received at such pool plant during the month from producers who are not members of a cooperative association shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (b) (3) and (4) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1090.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1090.40(b)(1) from any source other than producers or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1090.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1090.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1090.40(b)(1)) for which the handler fails to establish a disposition.

§ 1090.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1090.40(b) or (c)(1)(i). through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1090.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

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§ 1090.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1090.18 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

HANDLER REPORTS

§ 1090.30 Reports of receipts and utilization.

On or before the sixth day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1090.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1090.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1090.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1090.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1090.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1090.32 Other reports.

(a) Each handler who receives milk from producers shall report to the market administrator:

(1) On or before the date prior to diverting producer milk pursuant to § 1090.13 his intention to divert such milk, the date or dates of such diversions, and the nonpool plant to which such milk is to be diverted.

(2) On or before the sixth day after the end of each of the months of March through July, the aggregate quantity of base milk received during the month at each of his pool plants, and on or before the 20th day after the end of each of the months of March through July the pounds of base milk received during the month from each producer.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1090.30 and 1090.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1090.40 Classes of utilization.

Except as provided in § 1090.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1090.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1090.15; and

(6) In shrinkage assigned pursuant to § 1090.41(a) to the receipts specified in § 1090.41(a)(2) and in shrinkage specified in § 1090.41 (b) and (c).

§ 1090.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1090.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1090.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests, determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1090.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1090.44(a)(12) and the corresponding step of § 1090.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1090.44(a)(7) or the corresponding step of § 1090.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to §1090.44(a)(11) or (12) or the corresponding steps of § 1090.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1090.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1090.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from

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the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under and Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1090.43 General classification rules.

In determining the classification of producer milk pursuant to § 1090.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1090.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1090.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1090.40, 1090.41, and 1090.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1090.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1090.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1090.9(a) for each of his pool plants separately and of each handler described in § 1090.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1090.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1090.40 (b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1090.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1090.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1090.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1090.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1090.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the

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classification of such products pursuant to § 1090.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1090.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1090.44(a)(12) and the corresponding step of § 1090.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1090.44 or the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1090.50 Class prices.

Subject to the provisions of § 1090.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.15.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1090.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1090.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk (for which a location adjustment is applicable) at a plant that is north of either the southern boundary of the State of Tennessee or the northern boundary of the State of South Carolina and more than 65 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from the city hall in Chattanooga shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles (by the shortest hard-surface highway distance as determined by the market administrator) that such plant is from the city hall in Chattanooga.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee-plant, which is in excess of the sum of receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1090.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1090.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

§ 1090.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1090.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1090.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1090.44(a)(14) and the corresponding step of § 1090.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1090.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1090.44(a)(9) and the corresponding step of § 1090.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1090.44(a)(7)(i) through (iv) and the corresponding step of § 1090.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1090.44(a)(7)(v) and (vi) and the corresponding step of § 1090.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1090.44(a)(11) and the corresponding step of § 1090.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat

disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1090.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) For each month the market administrator shall compute the weighted average price and for each of the months of August through February, the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1090.60 for all handlers who filed the reports prescribed by § 1090.30 for the month and who made the payments pursuant to §§ 1090.71 and 1090.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1090.75;

(3) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk included in paragraph (a)(1) of this section; and

(ii) The total hundredweight for which a value is computed pursuant to § 1090.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in each of the months of August through February.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class III milk in the pool plants of such handlers by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

§ 1090.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1090.61 for such month.

PAYMENTS FOR MILK

§ 1090.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1090.71, 1090.76, and 1090.77, and out of which he shall make all payments pursuant to §§ 1090.72 and 1090.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1090.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1090.60.

(2) The sum of:

(i) The value of the uniform prices, as adjusted pursuant to § 1090.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1090.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1090.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1090.71(a)(2) exceeds the amount computed pursuant to § 1090.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1090.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s), as adjusted pursuant to §§ 1090.74 and 1090.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1090.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producers; and

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(iv) Less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1090.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of March through July the total pounds of base milk received, (iii) the amount or rate and nature of any deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1090.77.

§ 1090.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1090.75 Plant location adjustments for producers and on nonpool milk.

(a) The applicable uniform prices computed pursuant to § 1090.61 to be paid for producer milk received at a pool plant shall be reduced according to the location of the pool plant where such milk was received each at the rates set forth in § 1090.52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1090.52 (a) applicable at the location of the nonpool plant from which the milk was received, except that the weighted average price shall not be less than the Class III price.

§ 1090.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1090.30(b) and 1090.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1090.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1090.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1090.60 for such handler shall include, in lieu of the value of other source milk specified in § 1090.60(f) less the value of such other source milk specified in § 1090.71(a)(2)(ii), a value of milk determined pursuant to § 1090.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1090.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1090.30 (b) and 1090.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1090.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1090.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1090.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1090.77 Adjustment of accounts.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1090.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 1090.72, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1090.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1090.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to skim milk and butterfat contained in:

(a) Producer milk;

(b) Other source milk allocated to Class I pursuant to § 1090.44(a) (7) and (11) and the corresponding steps of § 1090.44(b), except such other source milk that is excluded from the computations pursuant to § 1090.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1090.76(a)(2).

§ 1090.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1090.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

BASE-EXCESS PLAN

§ 1090.90 Base milk.

"Base milk" means milk received at pool plants from a producer during any of the months of March through July which is not in excess of such producer's daily average base computed pursuant to § 1090.92, multiplied by the number of days in such month.

§ 1090.91 Excess milk.

"Excess milk" means milk received at pool plants from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 1090.92.

§ 1090.92 Computation of daily average base for each producer.

Subject to the rules set forth in § 1090.-93, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through January immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of January, inclusive, or by 120, whichever is more: *Provided*, That any producer who, during the preceding months of September through January, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base in the same manner as if he had been a producer during such period, calculated from his deliveries during such September–January period to such plant.

§ 1090.93 Base rules.

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base calculated pursuant to § 1090.92 to each person for whose account producer milk was delivered to pool plants during the months of September through January;

(b) A base which is assigned pursuant to the proviso of § 1090.92 shall be nontransferable. An entire base which is otherwise assigned shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to transferred: *Provided*, That if a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred; and

(c) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month on which such division is to be effective.

§ 1090.94 Announcement of established bases.

On or before March 1 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer, and shall notify a cooperative association of which such producer is a member of such daily average base if the cooperative association so requests.

PART 1094—MILK IN NEW ORLEANS MARKETING AREA

Subpart—Order Regulating Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1094.85 Assessment for order administration.
1094.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1094 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674.)

GENERAL PROVISIONS

§ 1094.1 General provisions.

The terms, definitions, and provisions, in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1094.2 New Orleans marketing area.

New Orleans marketing area, hereinafter referred to as the marketing area, means all territory, including incorporated municipalities, within Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, and Terrebonne Parishes, all in the State of Louisiana.

§ 1094.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a milk processing plant to wholesale or retail outlets (including any delivery by a vendor and from a plant store or through a vending machine) other than a delivery to any milk or filled milk receiving and/or processing plant.

§ 1094.4 [Reserved]

§ 1094.5 Distributing plant.

Distributing plant means any plant at which fluid milk products, eligible for distribution in the marketing area under a Grade A label, are processed and packaged and from which there is route disposition of fluid milk products in the marketing area.

§ 1094.6 Supply plant.

Supply plant means any plant at which milk eligible for distribution in the marketing area under a Grade A label is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1094.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month:

(1) Route disposition in the marketing area of fluid milk products, except filled milk, is at least the lesser of a daily average of 1,500 pounds or 20 percent of receipts from dairy farmers, handlers described in § 1094.9(c), and supply plants; and

(2) Total route disposition of fluid milk products, except filled milk, is 50 percent or more of receipts from dairy farmers, handlers described in § 1094.9 (c), and supply plants.

(b) A supply plant from which not less than 45 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped to and received at plants qualifying for the month pursuant to paragraph (a) of this section. Any supply plant meeting such shipping standard for each of the months of August through November shall continue to be a pool plant the following months of December through July unless the operator notifies the market administrator in writing before the first day of any such month of his intent to withdraw such plant as a plant qualified under this paragraph, in which case such plant thereafter shall be a nonpool plant except in any month it meets the above 45 percent shipping standard.

(c) For the purpose of meeting the minimum 45 percent shipping standard of paragraph (b) of this section by a supply plant operated by a cooperative association, all member-dairy farmer milk delivered directly from farms pursuant to § 1094.9(c), to distributing plant(s) qualified under paragraph (a) of this section will be considered to have been first received at that supply plant of the cooperative located nearest New Orleans, La., and then shipped therefrom to such distributing plant(s). The cooperative association may withdraw such supply plant from qualification under this section:

(1) If the cooperative notifies the market administrator in writing prior to or during the month of its intention not to qualify the plant under this section during that month; and

(2) The milk actually shipped during the month from such plant to plant(s) qualified under paragraph (a) of this section is less than 45 percent of the Grade A milk actually received from dairy farmers at such supply plant during the month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless there is greater route disposition, except filled milk, during the month in the New Orleans marketing area than in the marketing area defined in such other order; and

(3) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to paragraph (b) of this section.

§ 1094.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

§ 1094.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) A cooperative association with respect to milk of producers diverted for the account of such association in accordance with § 1094.13;

(c) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm to the pool plant of another person in a tank truck owned and operated by, under contract to, or under the control of such association (unless the association and the person operating the pool plant both notify the market administrator, in writing, prior to the time of delivery that the pool plant operator is to be held responsible to the pool for such milk). For purposes of pricing, such milk shall be deemed to have been received by the association from producers at the location of the pool plant at which such milk is physically received;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1094.7(d).

§ 1094.10 Producer-handler.

"Producer-handler" means a dairy farmer who operates a distributing plant at which no fluid milk or fluid milk products are received during the month except his own production or transfers from a pool plant(s) and which has no receipts of milk products other than fluid milk products disposed of as Class I milk.

§ 1094.11 [Reserved]

§ 1094.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which is received at a pool plant or by a handler described in § 1094.9(c) or is diverted pursuant to § 1094.13(d).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1094.44(a)(8)(iii) and the corresponding step of § 1094.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1094.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer;

(b) Received at a pool plant from a handler described in § 1094.9(c);

(c) Diverted from a pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(d) Diverted by the operator of a pool plant or a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) During December through July such diversions may be made without limit;

(2) During August through November such diversions shall be limited to the amounts specified in paragraph (d)(2)(i), (ii), and (iii) of this section:

(i) A cooperative association may divert the milk of any eligible member-dairy farmer without limit during the month if the total volume of milk so diverted does not exceed 35 percent of the cooperative's total member producer milk during that month;

(ii) The operator of a pool plant may divert from such plant the milk of any eligible nonmember dairy farmer without limit during the month if the total volume of milk so diverted does not exceed 35 percent of his nonmember producer milk during that month; and

(iii) If the 35 percent limitation described in paragraph (d)(2)(i) and (ii) of this section is exceeded, the diversion of any eligible dairy farmer's milk shall be limited to 15 days' production during any such month. If this 15-day limitation is exceeded for any such dairy farmer, he shall be eligible for pooling only with respect to that milk physically received at pool plants during the month; and

(3) Diverted milk shall be deemed to have been received at the location of the plant to which diverted.

§ 1094.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1094.40(b)(1) from any source other than producers, handlers described in § 1094.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1094.40.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1094.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1094.40(b)(1)) for which the handler fails to establish a disposition.

§ 1094.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1094.40 (b) or (c) (1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5-percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1094.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1094.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1094.18 Cooperative association.

Cooperative association means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

HANDLER REPORTS

§ 1094.30 Reports of receipts and utilization.

On or before the 5th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1094.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1094.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been

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fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1094.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1094.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1094.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1094.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1094.32 Other reports.

(a) Each handler who operates an other order plant with route disposition in the marketing area shall report such disposition to the market administrator on or before the seventh day after the end of each month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1094.30 and 1094.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1094.40 Classes of utilization.

Except as provided in § 1094.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1094.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1094.15; and

(6) In shrinkage assigned pursuant to § 1094.41(a) to the receipts specified in § 1094.41(a)(2) and in shrinkage specified in § 1094.41 (b) and (c).

§ 1094.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1094.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1094.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective

amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1094.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1094.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1094.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1094.44 (a) (12) and the corresponding step of § 1094.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1094.44(a) (7) or the corresponding step of § 1094.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1094.44(a) (11) or (12) or the corresponding steps of § 1094.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant; and

(4) Unless a different utilization is claimed by both handlers, skim milk or butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as the operator of a pool plant or as a handler described in § 1094.9(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class at the pool plant of the transferee-handler after the computations pursuant to § 1094.44(a) (13) (i) and the corresponding step of § 1094.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1094.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (ix) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1094.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Except as provided in paragraph (d) (2) (ix) of this section, transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

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(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant;

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph; and

(ix) Transfers of bulk fluid milk products from a nonpool plant to a pool plant that are not in excess of bulk receipts during the month at such nonpool plant from pool plants shall be classified pursuant to paragraph (a) of this section as if moved directly from the first pool plant to the second pool plant with Class II or Class III utilization indicated. If the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers unless at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification.

§ 1094.43 General classification rules.

In determining the classification of producer milk pursuant to § 1094.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1094.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1094.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1094.40, 1094.41, and 1094.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1094.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1094.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1094.9(a) for each of his pool plants separately and of each handler described in § 1094.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1094.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1094.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1094.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1094.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1094.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1094.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1094.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i)) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (ii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined, being sutracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1094.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceed-ir the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv.) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III, combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant or a handler described in § 1094.9(c) according to the classification of such products pursuant to § 1094.42(a); and

(ii) A handler described in § 1094.9 (c) according to the classification of such products pursuant to § 1094.42(a)(4); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

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§ 1094.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1094.44(a)(12) and the corresponding step of § 1094.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1094.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1094.50 Class prices.

Subject to the provisions of § 1094.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1094.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1094.52 Plant location adjustments for handlers.

(a) For that milk which is received from producers or from a handler described in § 1094.9(c) at a pool plant more than 50 miles by shortest toll-free highway distance, as determined by the market administrator, from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, La., and utilized as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price specified in § 1094.50 (a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

	Rate per hundredweight (cents)
Zones measured from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, La. (miles):	
More than 50 but not more than 60	13.5
Each additional 10 miles or fraction thereof	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers, and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler according to the shortest toll-free highway distance between such plant and the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1094.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1094.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1094.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1094.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1094.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1094.44(a)(14) and the corresponding step of § 1094.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1094.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1094.44 (a)(9) and the corresponding step of § 1094.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a)(7) (i) through (iv) and the corresponding step of § 1094.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a)(7) (v) and (vi) and the corresponding step of § 1094.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1094.44 (a)(11) and the corresponding step of § 1094.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1094.61 Computation of uniform price.

For each month, the market administrator shall compute the 3.5 percent value of all milk as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 1094.60 except those of handlers who failed to make payments required pursuant to §§ 1094.71 and 1094.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1094.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the produce-settlement fund;

(d) Divide the amount computed pursuant to paragraphs (a) through (c) of this section by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1094.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers.

§ 1094.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1094.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1094.71, 1094.76, and 1094.77, and out of which he shall make all payments pursuant to §§ 1094.72 and 1094.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1094.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1094.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1094.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1094.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1094.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1094.71(a)(2) exceeds the amount computed pursuant to § 1094.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1094.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer, who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price, as adjusted pursuant to §§ 1094.74 and 1094.75, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1094.86;

(iii) Plus or minus adjustments for errors made in previous payments to such producer;

(iv) Less deductions authorized in writing by such producer; and

(v) If by such date such handler has not received full payment from the market administrator pursuant to § 1094.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Each handler shall furnish to the producer the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer during the first 15 days of such month;

(2) On or before the 15th day of the following month (i) the pounds of milk received from the producer each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments, and (iii) the amount and nature of payments due pursuant to § 1094.77.

(c) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any claim on the part of the association, each handler:

(1) Shall pay to the cooperative association, in lieu of payments pursuant to paragraph (a) of this section, on or before the 2d day prior to the date on which payments are due individual producers, an amount equal to not less than the amount due such certified members as determined pursuant to paragraph (a) of this section;

(2) Report to the cooperative association on or before the 25th day of the month, the pounds of milk received from each member of the cooperative association during the first 15 days of such month and on or before the 7th day of the following month to the cooperative association for its individual members the following information: (i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments and (iii) the amount and nature of payments due pursuant to § 1094.77. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the

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month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(3) A copy of each such request, promise to reimburse, and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1094.9(a) and § 1094.9(c) as follows:

(1) On or before the 22d day of each month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from any cooperative association during the first 15 days of the current month; and

(2) On or before the 12th day after the end of each month in which it was received at not less than the class prices, as adjusted by the butterfat differential specified in § 1094.74, that are applicable at the location of the receiving handler's pool plant, plus the amount due the market administrator from the cooperative association on such milk pursuant to § 1094.85, less amounts paid pursuant to paragraph (d)(1) of this section.

§ 1094.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1094.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, each at the rates set forth in § 1094.52(a); and

(b) The uniform price applicable to other source milk shall be adjusted at the rates set forth in § 1094.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the uniform price shall not be less than the Class III price.

§ 1094.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1094.30(b) and 1094.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1094.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1094.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1094.60 for such handler shall include, in lieu of the value of other source milk specified in § 1094.60(f) less the value of such other source milk specified in § 1094.71(a)(2)(ii), a value of milk determined pursuant to § 1094.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1094.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1094.30(b) and 1094.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1094.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1094.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1094.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant

to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1094.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1094.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may, from time to time, prescribe, to be announced by the market administrator on or before the 11th day after the end of such month, with respect to all skim milk and butterfat received by such handler in:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1094.44(a)(7) and (11) and the corresponding steps of § 1094.44(b), except such other source milk that is excluded from the computations pursuant to § 1094.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1094.76(a)(2).

§ 1094.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1094.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1096 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1096.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1096.2 Northern Louisiana marketing area.

"Northern Louisiana marketing area", hereinafter called the "marketing area", means all territory within the boundaries of the Parishes of Bossier, Caddo, Claiborne, De Soto, Lincoln, Morehouse, Ouachita, Red River, Union, and Webster, all in the State of Louisiana.

§ 1096.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product(s) classified as Class I milk from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to another plant.

§ 1096.4 Plant.

"Plant" means the land, buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received and/or processed or packaged: *Provided*, That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1096.5 Distributing plant.

"Distributing plant" means a plant from which there is route disposition of Grade A fluid milk products during the month in the marketing area.

§ 1096.6 Supply plant.

"Supply plant" means a plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a distributing plant during the month.

§ 1096.7 Pool plant.

Except as provided in paragraph (d) of this section, pool plant" means:

(a) A distributing plant from which during the month there is route disposition, except filled milk, of not less than 50 percent of the fluid milk products, except filled milk, that are approved by a duly constituted regulatory agency for

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distribution under a Grade A label and that are physically received at such plant or diverted to a nonpool plant as producer milk pursuant to § 1096.13 and total route disposition, except filled milk, in the marketing area during the month is not less than 10 percent of such fluid milk products.

(b) A supply plant from which during the month not less than 50 percent of the total quantity of Grade A milk approved by a duly constituted regulatory agency that was physically received at such plant from dairy farmers and handlers described in § 1096.9(c) or diverted therefrom by the plant operator or a cooperative association as producer milk to a nonpool plant pursuant to § 1096.13 is shipped during the month to a plant(s) described in paragraph (a) of this section. A supply plant that was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements, unless written reques. is filed with the market administrator prior to the beginning of any such month for nonpool status for any of the remaining months through August.

(c) A nondistributing plant, which is operated by a cooperative association and which did not meet the shipping requirements of paragraph (b) of this section, shall be a pool plant in any month in which the volume of milk received at pool distributing plants directly from member producers or a handler described in § 1096.9(c) is not less than 60 percent of the total pounds of member producer milk pooled during the month, except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant operated by a governmental agency;

(3) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which the Secretary determines route disposition, except filled milk, during the month in such other Federal order marketing area was greater than route disposition in this marketing area, and which was fully subject to the classification and pooling provisions of such other order; and

(4) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines route disposition, except filled milk, during the month in this marketing area is greater than route disposition in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order.

§ 1096.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is not an other order plant, a producer-handler plant, or an exempt plant.

(e) "Exempt plant" means a plant operated by a governmental agency.

§ 1096.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to milk of producers it diverts pursuant to § 1096.13;

(c) A cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s);

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1096.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1096.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and whose only source of supply for Class I milk is his own farm production and transfers from pool plants: *Provided*, That such person furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of Class I milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprises of and at the personal risk of such person.

§ 1096.11 [Reserved]

§ 1096.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant or accounted for by a cooperative association pursuant to § 1096.13(c), or is diverted pursuant to § 1096.13(b).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1096.44(a)(8)(iii) and the corresponding step of § 1096.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1096.13 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler described in § 1096.9(c);

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (d) of this section; or

(c) The difference between the quantity of milk received by a handler described in § 1096.9(c) from producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1096.52 and 1096.75, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered.

(d) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 6 days' production of such person as a producer is received at a pool plant;

(3) The total quantity of milk diverted by a cooperative association that is greater than 15 percent of the total quantity of producer milk received at all pool plants during the month from the cooperative association shall not be producer milk;

(4) The total quantity of milk diverted by the operator (other than a cooperative association) of a pool plant that is greater than 15 percent of the total quantity received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk.

§ 1096.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1096.40(b)(1) from any source other than producers, handlers described in § 1096.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1096.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1096.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1096.40(b)(1)) for which the handler fails to establish a disposition.

§ 1096.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1096.40 (b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1096.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1096.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1096.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

Handler Reports

§ 1096.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1096.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1096.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1096.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products, in such manner as the market administrator may prescribe.

§ 1096.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1096.9(a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and addess;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1096.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1096.32 Other reports.

(a) Each handler, who causes milk to be diverted for his account directly from a producer's farm to a nonpool plant, shall prior to such diversion report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the name of the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1096.30 and 1096.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1096.40 Classes of utilization.

Except as provided in § 1096.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1096.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other

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than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1096.15; and

(6) In shrinkage assigned pursuant to § 1096.41(a) to the receipts specified in § 1096.41(a)(2) and in shrinkage specified in § 1096.41(b) and (c).

§ 1096.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1096.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1096.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1096.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1096.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1096.44(a)(12) and the corresponding step of § 1096.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1096.44(a)(7) or the corresponding step of § 1096.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1096.44(a)(11) or (12) or the corresponding steps of § 1096.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1096.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt plant shall be classified:

(1) As Class I milk, if moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1096.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Except as provided in paragraph (d)(2)(ix) of this section, transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant;

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph; and

(ix) Transfers of bulk fluid milk products from a nonpool plant to a pool plant shall be classified as if they were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II or Class III utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat covered by this subdivision being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers according to the respective quantities of fluid milk products each handler transferred to the nonpool plant unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification.

§ 1096.43 General classification rules.

In determining the classification of producer milk pursuant to § 1096.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1096.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1096.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1096.40, 1096.41, and 1096.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1096.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1096.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1096.9(a) for each of his pool plants separately and of each handler described in § 1096.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

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(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1096.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1096.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1096.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, milk from a handler described in § 1096.9(c), and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1096.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be prorata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1096.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk remaining in each class at this allocation step at the pounds of skim milk in Class I shall be decreased by a like amount. In such case, handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1096.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1096.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1096.44(a)(12) and the corresponding step of § 1096.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1096.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

Class Prices

§ 1096.50 Class prices.

Subject to the provisions of § 1096.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.47.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1096.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1096.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located more than 50 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Hall in Minden or Monroe, Louisiana, and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1096.50(a) shall be reduced 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the City Hall in Minden or Monroe.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1096.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then

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in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1096.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1096.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1096.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1096.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multipiying the pounds of overage subtracted from each class pursuant to § 1096.44(a)(14) and the corresponding step of § 1096.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1096.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1096.44(a)(9) and the corresponding step of § 1096.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(7)(i) through (iv) and the corresponding step of § 1096.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(7)(v) and (vi) and the corresponding step of § 1096.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(11) and the corresponding step of § 1096.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1096.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1096.61 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1096.60 for all pool handlers who made reports prescribed in § 1096.30 for such month and who have made payments for the previous month pursuant to § 1096.71;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1096.75;

(c) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1096.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for producer milk.

§ 1096.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1096.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1096.71, 1096.76, and 1096.77 and out of which he shall make payments to handlers pursuant to §§ 1096.72 and 1096.77: *Provided*, That payments due to any handler shall be offset by any payment due from such handler.

§ 1096.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1096.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1096.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1096.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1096.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1096.71(a)(2) exceeds the amount computed pursuant to § 1096.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1096.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class III price for the preceding month;

(b) On or before the 15th day after the end of each month for milk received during the month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1096.61, subject to the butterfat differentials and location adjustments computed pursuant to §§ 1096.74 and 1096.75, respectively; and

(1) Less payment made pursuant to paragraph (a) of this section;

(2) Less deductions for marketing services pursuant to § 1096.86;

(3) Plus or minus adjustments pursuant to § 1096.77 for errors in previous payments made to such producers; and

(4) Less proper deductions authorized by such producer;

(c) On or before the 25th and 13th days of each month, in lieu of the payment pursuant to paragraphs (a) and (b) of this section, respectively, each handler shall pay to a cooperative association which so requests, with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers;

(d) In making the payments to producers pursuant to paragraph (b) or (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer;

(e) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association in its capacity as a handler pursuant to § 1096.9(a) as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable class prices adjusted pursuant to § 1096.74, (i) less the amounts paid pursuant to paragraph (e)(1) of this section, and (ii) plus or minus adjustments pursuant to § 1096.77 for errors in previous payments made to such cooperative association; and

(f) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler described in § 1096.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized such cooperative association to collect for their milk as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month at not less than the uniform price adjusted pursuant to §§ 1096.74 and 1096.75; less payment made pursuant to paragraph (f)(1) of this section.

§ 1096.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1096.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk shall be reduced according to the location of the plant at which the milk was physically received, at the rates set forth in § 1096.52.

(b) For purposes of computations pursuant to §§ 1096.71 and 1096.72 the uniform price shall be adjusted at the rates set forth in § 1096.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1096.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1096.30(b) and 1096.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations;

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under an order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1096.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1096.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the han-

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dling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1096.60 for such handler shall include, in lieu of the value of other source milk specified in § 1096.60(f) less the value of such other source milk specified in § 1096.71(a)(2)(ii), a value of milk determined pursuant to § 1096.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1096.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1096.30 (b) and 1096.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1096.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1096.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterbasis by the butterfat differential specified in § 1096.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1096.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1096.85 Assessment for order administration.

As his pro rata share of the expense of administration of this part each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, as follows:

(a) Each pool handler with respect to (1) all receipts of producer milk including such handler's own production, and (2) other source milk allocated to Class I pursuant to § 1096.44(a) (7) and (11) and the corresponding steps of § 1096.44 (b), except such other source milk that is excluded from the computations pursuant to § 1096.60 (d) and (f);

(b) Each cooperative association on producer milk diverted to a nonpool plant for the account of such association or received by such association as a handler described in § 1096.9(c); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1096.76(a)(2).

§ 1096.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1096.73 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the service set forth in paragraph (a) of this section and for whom a cooperative association is authorized to receive payment for marketing services as set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payment to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and shall pay such deductions to the cooperative association entitled to receive it, on or before the 15th day after the end of the month during which such milk was received. Such deductions shall be accompanied by a statement showing the quantity of milk for which such deduction was computed for each producer. In lieu of such statement, the handler may request the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 1096.31.

PART 1097—MILK IN MEMPHIS, TENNESSEE, MARKETING AREA

Subpart—Order Regulating Handling

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1097.121 Duties of the market administrator.
1097.122 Liquidation.

AUTHORITY: The provisions of this Part 1097 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–67).

GENERAL PROVISIONS

§ 1097.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1097.2 Memphis, Tennessee, marketing area.

"Memphis, Tennessee, marketing area" means all the territory, including incorporated municipalities and military reservations, within the Tennessee counties of Fayette, Hardeman (except Civil Districts 5 and 6), Haywood, Lauderdale, Madison (except Civil Districts 4 and 9), Shelby and Tipton; the Mississippi counties of De Soto, Tate, Panola (except the village of Crowder), Tunica, Lafayette, and Marshall (exclusive of Beat 5); and the townships of Mississippi and Proctor in Crittenden County, Arkansas.

§ 1097.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a delivery to a milk or filled milk plant. A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets, without intermediate movement to another milk or filled milk plant.

§ 1097.4 [Reserved]

§ 1097.5 [Reserved]

§ 1097.6 [Reserved]

§ 1097.7 Fluid milk plant.

Except as provided in paragraph (c) of this section, "fluid milk plant" means:

(a) Any milk processing or packaging plant from which a volume of Class I milk, except filled milk, equal to an average of 1,000 pounds or more per day, or not less than 5.0 percent of the Class I milk, except filled milk, of such plant, is disposed of during the month as route disposition in the marketing area.

(b) Any plant from which during the month fluid milk products (bulk or packaged), except filled milk, in excess of 70,000 pounds are moved to and received at a plant(s) described pursuant to paragraph (a) of this section.

(c) The term "fluid milk plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) or (b) of this section which would be fully regulated pursuant to the provisions of another order issued pursuant to the Act and from which the market administrator determines that a greater volume of fluid milk products, except filled milk, was disposed of during the month from such plant as route disposition in the marketing area regulated by the other order and as fluid milk products transferred as Class I milk to plants fully regulated by such other order than as route disposition in the Memphis, Tenn., marketing area and as fluid milk products transferred as Class I milk to other fluid milk plants: *Provided,* That a plant which was a fluid milk plant pursuant to paragraph (a) or (b) of this section in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of fluid milk products, except filled milk, is disposed of as route disposition in such other marketing area or to plants fully subject to such other order, unless the other order requires regulation of the plant without regard to its qualifying as a fluid milk plant for regulation under this order subject to the proviso of this subparagraph; and

(3) A plant qualified pursuant to paragraph (a) or (b) of this section which meets the requirements for fully regulated plants under another Federal order and from which the market administrator determines a greater volume of fluid milk products, except filled milk, is disposed of during the month as route disposition in the Memphis, Tenn., marketing area and as fluid milk products transferred as Class I milk to other fluid milk plants than as route disposition in the other marketing area and fluid milk products transferred as Class I milk to plants fully regulated by such other order, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation under the particular circumstances described herein of having greater route disposition under the Memphis, Tenn., order.

§ 1097.8 Nonfluid milk plant.

"Nonfluid milk plant" means any milk or filled milk manufacturing, processing, or packaging plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonfluid milk plant from which fluid milk products are moved during the month to a fluid milk plant and which is not an other order plant nor a producer-handler plant.

§ 1097.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more fluid milk plants;

(b) Any cooperative association with respect to milk of its member producers diverted by it pursuant to § 1097.12 for the account of such cooperative association;

(c) Any cooperative association with respect to the milk of its member-producers which it causes to be delivered directly from the farm to the fluid milk plant(s) of another handler in a bulk tank truck owned and operated by, or under contract to, or under control of such cooperative, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing, that it wishes to become the handler for such milk. The cooperative association shall be considered the handler for such bulk tank milk, effective the first day of the month following receipt of such notice, and shall account for the actual receipts from each producer as determined at the farm at prices applicable to receipts from producers at plants to which the cooperative association delivers the milk. The cooperative association, once it becomes the handler for such bulk tank milk, shall remain the handler for such bulk tank milk from month to month until the cooperative association notifies the market administrator and handler that such status is to be discontinued, effective the first day of the month following receipt of such notice;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1097.7(c); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1097.10 Producer-handler.

"Producer-handler" means any person who operates an approved plant from which Class I milk is disposed of in the marketing area but who receives no milk from other dairy farmers.

§ 1097.11 [Reserved]

§ 1097.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any

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person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is:

(1) Received at a fluid milk plant; or

(2) Diverted from a fluid milk plant to a nonfluid milk plant that is not a producer-handler plant for the account of the handler. Milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which it was diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a fluid milk plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1097.44 (a) (8) (iii) and the corresponding step of § 1097.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1097.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a bulk tank truck) which is:

(a) Received directly from producers at a fluid milk plant;

(b) Diverted pursuant to § 1097.12; or

(c) Received by a handler described in § 1097.9(c).

§ 1097.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1097.40 (b) (1) from any source other than producers, handlers described in § 1097.9(c), or fluid milk plants;

(b) Receipts in packaged form from other plants of products specified in § 1097.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1097.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1097.40(b) (1)) for which the handler fails to establish a disposition.

§ 1097.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a) (1) of this section or in § 1097.40 (b) or (c) (1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1097.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1097.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1097.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

Handler Reports

§ 1097.30 Reports of receipts and utilization.

By mailing on or before the sixth day after the end of each month or by delivery not later than the eighth day after the end of such month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his fluid milk plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the fluid milk plant to other plants;

(2) Receipts of milk from handlers described in § 1097.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other fluid milk plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1097.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk.

(c) Each handler described in § 1097.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1097.31 Payroll reports.

(a) By mailing on or before the sixth day after the end of the month, or by delivery not later than the eighth day after the end of such month, each handler described in § 1097.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information showing for each producer:

(1) His name and address;

(2) The number of days on which milk was received from such producer;

(3) The total pounds of milk received from such producer;

(4) The average butterfat content of such milk;

(5) The location at which such milk was received; and

(6) The amount of any deductions authorized in writing by the producer to be made in making payments to such producer.

(b) On or before the 21st day of each month, each handler described in § 1097.9 (a), (b), and (c) shall report to the market administrator, in detail and on forms prescribed by him, the name and address or appropriate identification of each producer from whom milk was received during the first 15 days of such month, the total pounds of milk received from each producer, the location at which such milk was received, the amount of any deductions

authorized in writing by producers from whom such handler received milk, the total pounds of milk received from each handler described in § 1097.9(c), and the name and address of each such cooperative association.

§ 1097.32 Other reports.

(a) Each handler operating a partially regulated distributing plant shall report on or before the seventh day after the end of the month, the respective amounts of skim milk and butterfat in route disposition in the marketing area.

(c) In addition to the reports required pursuant to §§ 1097.30 and 1097.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1097.40 Classes of utilization.

Except as provided in § 1097.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1097.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1097.15; and

(6) In shrinkage assigned pursuant to § 1097.41(a) to the receipts specified in § 1097.41(a) (2) and in shrinkage specified in § 1097.41 (b) and (c).

§ 1097.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1097.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each fluid milk plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1097.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other fluid milk plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1097.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1097.42 Classification of transfers and diversions.

(a) *Transfers to fluid milk plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to another fluid milk plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the conditions set forth in paragraph (a) (1), (2), and (3) of this section. For purposes of this paragraph, skim milk and butterfat transferred as bulk milk to the fluid milk plant of another handler by a handler described in § 1097.9(c) shall

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be considered a receipt of producer milk in the transferee plant.

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1097.44(a)(12) and the corresponding step of § 1097.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1097.44(a)(7) or the corresponding step of § 1097.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1097.44(a)(11) or (12) or the corresponding steps of § 1097.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the fluid milk plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1097.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a fluid milk plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonfluid milk plants.* Skim milk or butterfat transferred or diverted in the following forms from a fluid milk plant to a nonfluid milk plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if tranferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonfluid milk plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1097.30 for the month within which such transaction occurred; and

(*b*) The nonfluid milk plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonfluid milk plant and transfers of packaged fluid milk products from such nonfluid milk plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonfluid milk plant from fluid milk plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonfluid milk plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonfluid milk plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonfluid milk plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonfluid milk plant from fluid milk plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonfluid milk plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonfluid milk plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonfluid milk plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant; and

(*b*) To such nonfluid milk plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonfluid milk plant;

(vii) Receipts of bulk fluid cream products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonfluid milk plant; and

(viii) In determining the nonfluid milk plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonfluid milk plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1097.43 General classification rules.

In determining the classification of producer milk pursuant to § 1097.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1097.30 and shall compute separately for each fluid milk plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1097.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1097.40, 1097.41, and 1097.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1097.9 (b) or (c) shall be determined separately from the operations of any fluid milk plant operated by such cooperative association.

§ 1097.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1097.9(a) for each of his fluid milk plants separately and of each handler described in § 1097.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1097.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1097.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1097.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1097.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1097.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other fluid milk plant of the handler, and then at each successively more distant fluid milk plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all fluid milk plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between fluid milk plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all fluid milk plants of the handler of producer milk, milk from a handler described in § 1097.9(c), fluid milk products from fluid milk plants of other handlers, and bulk fluid milk products from other order plants; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this fluid milk plant is of all such receipts remaining at this allocation step at all fluid milk plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1097.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler (excluding any duplication of utilization in each class resulting from transfers between fluid milk plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same

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unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other fluid milk plant of the handler, and then at each successively more distant fluid milk plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subject to the provisions of paragraph (a)(12) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler (excluding any duplication of utilization in each class resulting from transfers between fluid milk plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that were not subtracted pursuant to paragraph (a)(8)(iii) of this section and that were not offset by transfers or diversions of bulk fluid milk products to the same other order plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount; and

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another fluid milk plant according to the classification of such products pursuant to § 1097.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1097.45 Market administrator's reports concerning classification.

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1097.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each handler operating a fluid milk plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(c) On or before the 11th day after the end of each month, report to each cooperative association which so requests, the percentage of milk delivered by such association or by its members which was allocated to each class by each handler receiving such milk.

Class Prices

§ 1097.50 Class prices.

Subject to the provisions of § 1097.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.94.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1097.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest 0.1 cent) per 0.1-percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1097.52 Plant location adjustments for handlers.

For that milk which is received at a fluid milk plant (from producers or from a handler described in § 1097.9(c)), located 50 miles or more from the city hall in Memphis, Tenn., by shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 1097.40(a) to another fluid milk plant and assigned to Class I pursuant to the calculation provided in this section, or otherwise classified as Class I milk, the price specified in § 1097.50(a) shall be adjusted at the rate set forth in the following schedule according to the location of the fluid milk plant where such milk is received:

Location of plant	*Rate per hundredweight*
In the State of Mississippi and 50 but less than 60 miles from the city hall in Memphis.	Add 9 cents.
For each additional 10 miles in excess of 50 miles-----	Add an additional 1.5 cents.
Outside the State of Mississippi and 50 but less than 60 miles from the city hall in Memphis.	Subtract 9 cents.
For each additional 10 miles in excess of 50 miles-----	Subtract an additional 1.5 cents.

For purposes of calculating such location adjustment, fluid milk products transferred in bulk between fluid milk plants shall be assigned to the Class I disposition at the transferee-plant in excess of the sum of receipts at such plant from producers and from handlers described in § 1097.9(c) times 1.05, and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment or a plus location adjustment is applicable and then in sequence beginning with the plant at which the smallest minus location adjustment would apply.

§ 1097.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1097.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Prices

§ 1097.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1097.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1097.44(a)(14) and the corresponding step of § 1097.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1097.74, that are applicable at the location of the fluid milk plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the fluid milk plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1097.44(a)(9) and the corresponding step of § 1097.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1097.44(a)(9) and the corresponding step of § 1097.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III (exclusive of shrinkage) after the computations pursuant to § 1097.44(a)(11) and the corresponding step of § 1097.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months; and

(e) In computing, for the purposes of § 1097.61, the value of milk of a handler described in § 1097.9(c), the value of milk received by fluid milk plants of other handlers shall be the sum of the amounts assigned pursuant to § 1097.61(a)(2) with respect to such milk as adjusted pursuant to § 1097.75 for the location of the fluid milk plant to which delivered.

§ 1097.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

(a) For each of the months of August through February the market administrator shall compute for each handler a uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1097.60 by adding or subtracting, as the case may be, the total of the location adjustments applicable pursuant to § 1097.75;

(2) For each handler operating a fluid milk plant receiving milk from a handler described in § 1097.9(c), prorate the resulting amount between such milk and producer milk;

(3) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform prices for the preceding month;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

(5) Divide the resulting amount by the total hundredweight of producer milk received by the handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content f.o.b. market.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided for in paragraph (a)(1), (2), (3), and (4) of this section;

(2) Compute the value of excess milk received by such handler as producer milk and bulk milk from a handler described in § 1097.9(c) as follows:

(i) Multiply the quantity of such milk, not in excess of the total Class III milk included in this computation, by the Class III price less 5 cents;

(ii) Multiply the remaining quantity of such milk, not in excess of the total Class II milk included in this computation, by the Class II price less 5 cents;

(iii) Multiply the remaining quantity of excess milk by the Class I price less 5 cents; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such excess milk and adjust to the nearest cent. The resulting figure shall be the uniform price for such handler for all excess milk of 3.5 percent butterfat content;

(4) Subtract, for each handler, the value of such handler's excess milk obtained in paragraph (b)(3) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1) of this section; and

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of base milk received by such handler. The result, less any fraction of a cent per hundredweight, shall be the uniform price for such handler for base milk of 3.5 percent butterfat content.

§ 1097.62 Announcement of uniform prices for each handler and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the applicable uniform prices for each handler pursuant to § 1097.61 for such month.

Payments for Milk

§ 1097.71 Payments to market administrator.

(a) On or before the 25th day of each month each handler operating a fluid milk plant shall pay to the market administrator a sum of money calculated by multiplying the hundredweight of milk received from producers and from a handler described in § 1097.9(c) during the first 15 days of such month by the Class III price for the preceding month, less proper deductions authorized in writing by producers from whom such handler received milk.

(b) On or before the 12th day after the end of each month, each handler operating a fluid milk plant shall pay to the market administrator an amount of money equal to such handler's value of milk for such month as determined pursuant to § 1097.60, as adjusted pursuant to § 1097.74, less payments made pursuant to paragraph (a) of this section for such month and less proper deductions authorized in writing by producers from whom such handler received milk.

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§ 1097.72 [Reserved]

§ 1097.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments pursuant to § 1097.71(a) have been received at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 15th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer or cooperative association during the month by each handler from whom the appropriate payments have been received pursuant to § 1097.71(b), such payments by the market administrator to be at not less than the uniform price(s) computed pursuant to § 1097.61 (a) or (b), as applicable, subject to the following:

(1) Adjustment pursuant to §§ 1097.74 and 1097.75;

(2) Less payments made pursuant to paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1097.86;

(4) Less proper deductions authorized in writing by the producer;

(5) Adjusted for any error in calculating payment to such individual producer for past months; and

(6) If the market administrator has not received full payment from any handler for such month, pursuant to § 1097.71, he shall reduce uniformly per hundredweight his payments due for milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall make such balance of payment to such producers on or before the next date (for making payments pursuant to this paragraph) following that on which such balance of payment is received from such handler;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section the market administrator shall, on or before the second day prior to the date payments are due to individual producers, make payment to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payment has been received, and to a handler described in § 1097.9(c), a total amount equal to, but not less than, the sum of the individual payments otherwise payable to such producers pursuant to this section; and

(d) In making the payments pursuant to paragraphs (b) and (c) of this section, the market administrator shall furnish each producer or cooperative association with a statement, in such form that it may be retained by the producer or cooperative association which shall show:

(1) The delivery period and the identity of the handler and the producer;

(2) The total pounds of milk received from the producer, including for the months of March through July, such producer's deliveries of base and excess milk;

(3) The average butterfat content of the total pounds of milk received from the producer during the month;

(4) The minimum rates at which payment to the producer or cooperative association is required;

(5) The amount or rates per hundredweight of each deduction, together with a description of the respective deductions; and

(6) The net amount of payment to the producer or cooperative association.

§ 1097.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1097.75 Plant location adjustments for producers.

In making payment pursuant to § 1097.73, the applicable uniform prices for all milk received shall be adjusted according to the location of the fluid milk plant where such milk was received at the rate provided pursuant to § 1097.52.

§ 1097.76 [Reserved]

§ 1097.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1097.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to (a) receipts of milk at fluid milk plants from producers (including receipts from a handler described in § 1097.9(c) and such handler's own production), (b) other source milk allocated to Class I pursuant to § 1097.44 (a) (7) and (11) and the corresponding steps of § 1097.44(b), (c) receipts of milk by a handler described in § 1097.9(c) in excess of that specified in paragraph (a) of this section, and (d) receipts of milk by a handler described in § 1097.9(b).

§ 1097.86 Deduction for marketing services.

(a) The market administrator in making payments to producers pursuant to § 1097.73 shall:

(1) Deduct 7 cents per hundredweight or such amount not exceeding 7 cents per hundredweight as may be prescribed by the Secretary, with respect to milk (other than milk of a handler's own production) of those producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association; or

(2) If so requested in writing by a cooperative association, deduct such amount as may be authorized by the member producers of such association from the payment to be made to such producers for whom the cooperative is performing the services specified in paragraph (b) of this section and pay such amounts to the cooperative association on or before the date for making payment to producers.

(b) The monies received by the market administrator pursuant to paragraph (a)(1) of this section shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

BASE-EXCESS PLAN

§ 1097.90 Base milk.

"Base milk" means milk received by a handler from a producer during any of the months of March through July, which is not in excess of such producer's base computed pursuant to § 1097.93.

§ 1097.91 Excess milk.

"Excess milk" means milk received by a handler from a producer during any of the months of March through July, which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1097.93.

§ 1097.92 Computation of daily average base for each producer.

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Memphis, Tenn.; Fort Smith, Ark.; and Central Arkansas marketing areas (this Part 1097 and Parts 1102 and 1108, respectively, of this chapter) during the immediately preceding period of September through January, by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a handler's plant which first became a fluid milk plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the handler's plant had been a fluid milk plant during such period.

§ 1097.93 Determination of monthly base of each producer.

Subject to the rules set forth in § 1097.94, the market administrator shall calculate a monthly base for each producer for each of the months of March through July, as follows:

(a) If milk is received by a handler as producer milk during the month, multiply such producer's daily average base computed pursuant to § 1097.92 by the number of days in such month.

(b) If milk is received as producer milk from the same farm by more than one handler and/or by handlers fully regulated under the terms of the Central Arkansas (Part 1108 of this chapter) or Fort Smith, Ark. (Part 1102 of this chapter), orders during the month, multiply such producer's daily average base computed pursuant to § 1097.92 by the number of days in such month and multiply the result by the percentages of the total pounds of milk received from such producer by handlers fully regulated under the terms of the three orders specified in § 1097.92 which were received by each handler to determine the amount of base milk received from such producer by each handler.

§ 1097.94 Base rules.

The following rules shall apply in connection with the establishment of bases for each producer computed pursuant to § 1097.92:

(a) An entire base or share of a joint holder shall be transferred from a person holding such base to other persons as of the end of the month during which an application for the transfer of such base is received by the market administrator, such application to be on forms approved by the market administrator and signed by the base holder(s) or by the heirs and by the person to whom such base is to be transferred subject to the following conditions:

(1) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders;

(2) The share of a joint base holder may be transferred to a person other than a joint holder of the base only if all shares of the entire base are at the same time transferred to the same or other persons; and

(3) If one or more bases are transferred to a producer already holding a base, a new base shall be computed by adding together the total eligible deliveries during the period of September through January of all persons in whose names such bases were earned and dividing the total by the total number of days in such period beginning with the first day on which milk was received during the months of September through January from any of such persons but not less than 120 days.

§ 1097.95 Announcement of established bases.

On or before February 25 of each year, the market administrator shall notify each producer of the daily average base established by such producer, or shall notify the cooperative association of which such producer is a member of such daily average base.

ADVERTISING AND PROMOTION PROGRAM

§ 1097.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1097.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1097.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1097.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1097.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1097.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1097.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1097.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1097.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1097.110;

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(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1097.110 and 1097.117.

§ 1097.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1097.110 and 1097.117;

(c) Keep minutes, books and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1097.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1097.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1097.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1097.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1097.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1097.121 Duties of the market administrator.

Except as specified in § 1097.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1097.113(c).

(b) Set aside the amounts substracted under § 1097.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1097.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1097.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1097.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1097.110 through 1097.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1097.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

PART 1098—MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1098 issued under secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

GENERAL PROVISIONS

§ 1098.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1098.2 Nashville, Tennessee, marketing area.

"Nashville, Tennessee, marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the following:

(a) Tennessee counties of:

Bedford.
Cannon.
Cheatham.
Clay.
Coffee.
Davidson.
DeKalb.
Dickson.
Fentress.
Giles.
Hickman.
Houston.
Humphreys.
Jackson.
Lawrence.
Lewis.
Macon.
Marshall.
Maury.
Montgomery.
Overton.
Perry.
Pickett.
Putnam.
Robertson.
Rutherford.
Smith.
Stewart.
Sumner.
Trousdale.
Warren.
Wayne.
White.
Williamson.
Wilson.

(b) Kentucky counties of:

Allen.
Barren.
Metcalf.
Monroe.
Simpson.
Warren.

(c) Fort Campbell military reservation.

§ 1098.3 Route disposition.

"Route disposition" means any delivery (including delivery by a vendor or a sale from a plant store) of any fluid milk product classified as Class I milk other than a delivery to a milk or filled milk processing plant.

§ 1098.4 [Reserved]

§ 1098.5 Distributing plant.

"Distributing plant" means a plant in which fluid milk products approved by a duly constituted regulatory agency for fluid consumption, or filled milk, are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1098.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is shipped during the month to a pool plant.

§ 1098.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted regulatory agency for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total disposition of fluid milk products, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted regulatory agency or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(c) A plant that is approved by a duly constituted regulatory agency to handle milk for fluid consumption in the marketing area, that is operated by a cooperative association, for which pool plant status has been requested by the cooperative association, and from which during the month the quantity of fluid milk products (except filled milk) shipped to pool plants qualified pursuant to paragraph (a) of this section plus the milk physically received at such plant by direct delivery from the farms of producer members of the cooperative association is not less than two-thirds of the producer milk received at or diverted from pool plants of the cooperative association plus its members' producer milk received at or diverted from all other pool plants during the same month. If the cooperative association operating a plant qualified as a pool plant pursuant to this paragraph files with the market administrator prior to the first day of any month a written request for nonpool status for such month, the plant shall be a nonpool plant for such month and for each of the next 11 months in which it does not qualify as a pool plant pursuant to paragraph (a) or (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as route disposition in the marketing area regulated by the other order than as route disposition in the Nashville, Tenn., marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order, subject to the proviso of this paragraph: *And provided further*, On the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secre-

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tary may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month in the Nashville, Tenn., marketing area as route disposition than as route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation, even though such plant has greater route disposition in the marketing area of the Nashville, Tenn., order; and

(4) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to paragraph (b) of this section during the preceding August through January period.

§ 1098.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products are shipped to a pool plant.

§ 1098.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plant(s);

(b) A cooperative association with respect to milk of its producer members diverted pursuant to § 1098.13 for the account of such association;

(c) A cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant(s) of another handler in a tank truck owned, operated by or under contract to, such cooperative association for the account of the cooperative association if the cooperative association has notified in writing, prior to delivery, both the market administrator and the handler to whom the milk is delivered that it wishes to be the handler for such milk. Such milk shall be considered as having been received at the location of the plant to which it was delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1098.7(d).

§ 1098.10 Producer-handler.

"Producer-handler" means a person who:

(a) Produces milk and operates a distributing plant;

(b) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(c) Receives no fluid milk products during the month except milk of his own production and transfers from pool plants.

§ 1098.11 [Reserved]

§ 1098.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant or diverted pursuant to § 1098.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1098.44(a)(8)(iii) and the corresponding step of § 1098.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1098.13 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk of a producer which is:

(a) Received at a pool plant directly from a dairy farmer or a handler described in § 1098.9(c): *Provided*, That if the milk received at a pool plant from a handler described in § 1098.9(c) is purchased on a basis other than weights determined by farm bulk tank calibrations and butterfat tests determined by farm bulk tank samples the amount by which the total of such farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1098.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant. Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant.

§ 1098.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1098.40(b)(1) from any source other than producers, handlers described in § 1098.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1098.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1098.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1098.40(b)(1)) for which the handler fails to establish a disposition.

§ 1098.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1098.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1098.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1098.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1098.18 Cooperative Association.

"Cooperative Association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified pursuant to the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be authorized by its members to make collective sales of or to market milk or its products for its members.

HANDLER REPORTS

§ 1098.30 Reports of receipts and utilization.

On or before the sixth day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1098.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1098.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1098.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1098.31 Payroll reports.

(a) On or before the sixth day after the end of each month, each handler described in § 1098.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information for each producer for such month:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The total pounds of base milk and excess milk;

(4) The average butterfat content of such milk; and

(5) The amount of any deductions authorized in writing by such producer to be made from payments due for milk delivered.

(b) On or before the 21st day of each month, each handler described in § 1098.9 (a), (b), and (c) shall report to the market administrator, in the detail and on forms prescribed by him, the name and address of each producer from whom milk was received during the first 15 days of such month, and the pounds of milk so received during said period from such producer.

(c) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1098.76 (b) shall report on or before the 15th day after the end of the month for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section plus the amount paid each dairy farmer.

§ 1098.32 Other reports.

(a) On or before the third day after the end of the month:

(1) Each handler described in § 1098.9(c) shall report to each pool plant operator purchasing producer milk from such handler, on a basis of weights determined by farm bulk tank calibrations and butterfat tests determined from farm bulk tank samples, the total pounds and butterfat content of such milk delivered to each pool plant operator during the month; and

(2) The operator of each pool plant purchasing producer milk from a handler described in § 1098.9(c), on a basis other than weights determined by farm bulk tank calibrations and butterfat tests determined from farm bulk tank samples, shall report to such handler the total pounds and butterfat content of such milk received by the pool plant during the month.

(b) On or before the 21st day of each month each handler described in § 1098.9(c) shall report to the market administrator the quantities of producer milk delivered to each pool plant for the first 15 days of such month.

(c) In addition to the reports required pursuant to paragraphs (a) and (b) of this section and §§ 1098.30 and 1098.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1098.40 Classes of utilization.

Except as provided in § 1098.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1098.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

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(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1098.15; and

(6) In shrinkage assigned pursuant to § 1098.41(a) to the receipts specified in § 1098.41(a)(2) and in shrinkage specified in § 1098.41 (b) and (c).

§ 1098.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1098.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1098.9 (c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1098.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1098.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1098.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1098.44(a)(12) and the corresponding step of § 1098.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1098.44(a)(7) or the corresponding step of § 1098.44 (b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1098.44(a) (11) or (12) or the corresponding steps of § 1098.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market adminstrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1098.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization filed with their respective paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1098.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1098.43 General classification rules.

In determining the classification of producer milk pursuant to § 1098.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1098.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1098.9 (b) or (c) the pounds of skim milk and butterfat, respectively in each class in accordance with §§ 1098.40, 1098.41, and 1098.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1098.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1098.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1098.9(a) for each of his pool plants separately and of each handler described in § 1098.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1098.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1098.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1098.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1098.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1098.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

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(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1098.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1098.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be substracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from an other pool plant according to the classification of such products pursuant to § 1098.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1098.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1098.44(a) (12) and the corresponding step of § 1098.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1098.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 15th day after the end of each delivery period, the market administator shall report to each cooperative association, upon request by such association, the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report, any milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler are allocated to such class.

Class Prices

§ 1098.50 Class prices.

Subject to the provisions of § 1098.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.58.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1098.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1098.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located outside the State of Tennessee and 50 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the State Capitol at Nashville, Tennessee, and classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the price computed pursuant to § 1098.50(a) shall be reduced by 10.0 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 70 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee-plant which is in excess of the sum of receipts at such plant from producers and handlers described in § 1098.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rate set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1098.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1098.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Prices

§ 1098.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1098.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1098.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1098.44(a) (14) and the corresponding step of § 1098.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1098.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1098.44(a) (9) and the corresponding step of § 1098.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price

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by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(7)(i) through (iv) and the corresponding step of § 1098.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(7)(v) and (vi) and the corresponding step of § 1098.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(11) and the corresponding step of § 1098.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1098.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) For each month the market administrator shall compute the weighted average price and for each of the months of August through February the uniform price per hundredweight of milk received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1098.60 for all handlers who filed the reports prescribed by § 1098.30 for the month and who are not in default of payments pursuant to § 1098.71;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1098.75;

(3) Add an amount equal to the unobligated balance on hand in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk included in paragraph (a)(1) of this section; and

(ii) The total hundredweight for which a value is computed pursuant to §1098.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of August through February.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class III milk by the Class III price;

(ii) Multiply the remaining quantity of excess milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II price;

(iii) Multiply the remaining quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(3) From the amount resulting from the computations in paragraph (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract from the value determined pursuant to paragraph (b)(3) of this section, the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section by the hundredweight of excess milk;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

§ 1098.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1098.61 for such month.

PAYMENTS FOR MILK

§ 1098.70 Producer-settlement fund.

The market administrator shall maintain a producer-settlement fund into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1098.71, 1098.76, and 1098.77, and out of which he shall make appropriate payments required pursuant to §§ 1098.73 and 1098.77.

§ 1098.71 Payments to the producer-settlement fund.

(a) On or before the 25th day of each month each handler receiving milk from producers or from a handler described in § 1098.9(c) (except for producers having made deliveries for less than 20 days during the month) shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class III price for the preceding month.

(b) On or before the 12th day after the end of each month, each person shall pay to the market administrator for deposit into the producer-settlement fund an amount of money equal to such handler's value of milk for such month as determined pursuant to § 1098.60(a), adjusted by the butterfat differential specified in § 1098.74, and § 1098.60(b) through (f), less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) An amount computed by multiplying the quantities of receipts of other source milk for which a value is computed pursuant to § 1098.60(f) by the weighted average price computed pursuant to § 1098.61(a) as adjusted pursuant to § 1098.75; and

(3) Proper deductions authorized in writing by producers from whom such handler received milk.

(c) On or before the 25th day after the end of the month each handler who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (c)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1098.72 [Reserved]

§ 1098.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1098.71

(a) at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 15th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1098.71(b), such payments by the market administrator to be at not less than the uniform price computed pursuant to § 1098.61(a) for the months for which such uniform prices are computed, and such payments to be for base and excess milk at not less than the uniform prices for base and excess milk, respectively, computed pursuant to § 1098.61(b) for the months for which such uniform prices for base and excess milk are computed subject to the following: (1) adjustments pursuant to §§ 1098.74 and 1098.75, (2) less payments made pursuant to paragraph (a) of this section, (3) less deductions for marketing services pursuant to § 1098.86, (4) less proper deductions authorized in writing by the producer, and (5) adjusted for any error in calculating payment to such individual producer for past months: *Provided*, That if the market administrator has not received full payment from any handler for such month, pursuant to § 1098.71, he shall reduce uniformly per hundredweight his payments to producers for milk received by such handler by a total amount not in excess of the amount due from such handler: *And provided further*, That the market administrator shall make such balance of payment to producers on or before the next date for making payments pursuant to this paragraph following that on which such balance of payment is received from such handler;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payments has been received, a total amount equal to the sum of the individual payments otherwise payable to such producers pursuant to this section; and

(d) In making the payments required by paragraph (b) of this section, the market administrator shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer, including for the months in which base and excess prices apply, the pounds of base and excess milk;

(3) The minimum rate or rates at which payment to the producer or cooperative association is required;

(4) The amount or the rate per hundredweight of each deduction claimed by the handler including any deductions made pursuant to § 1098.86, together with a description of the respective deductions; and

(5) The net amount of payment to the producer or cooperative association.

§ 1098.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1098.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1098.73(b), the uniform price and the uniform price for base milk pursuant to § 1098.61 for producer milk received at a plant shall be reduced according to the location of the plant, each at the rates set forth in § 1098.52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1098.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the weighted average price shall not be less than the Class III price.

§ 1098.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1098.30(b) and 1098.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1098.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1098.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1098.60 for such handler shall include, in lieu of the value of other source milk specified in § 1098.60(f) less the value of such other source milk specified in § 1098.71(a)(2)(ii), a value of milk determined pursuant to § 1098.60 for each nonpool plant that is not an other order plant which serves as a supply

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plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1098.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1098.30(b) and 1098.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1098.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1098.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1098.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1098.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records or accounts or other verification discloses errors resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

Administrative Assessment and Marketing Service Deduction

§ 1098.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to receipts during the month of:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1098.44(a)(7) and (11) and the corresponding steps of § 1098.44(b), except such other source milk that is excluded from the computations pursuant to § 1098.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1098.76(a)(2).

§ 1098.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 1098.73, shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk received by a handler(s) from producers during the month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary determines is performing the services specified in paragraph (a) of this section for its members, the market administrator shall, in lieu of the deductions provided in paragraph (a) of this section, make such deductions as are authorized by such producers, and on or before the 15th day after the end of each month, pay the money so deducted to such cooperative association.

Base-Excess Plan

§ 1098.90 Base milk.

"Base milk" means milk received at pool plants from a producer during any of the months specified in § 1098.61 for the computation of uniform base and excess prices, which is not in excess of such producer's daily average base computed pursuant to § 1098.92, multiplied by the number of days in such month.

§ 1098.91 Excess milk.

"Excess milk" means milk received at pool plant from a producer during any of the months specified in § 1098.61 for the computation of uniform base and excess prices, which is in excess of the base milk of such producer for such month, and shall include all milk received during such month from a producer for whom no daily average base can be computed pursuant to § 1098.92.

§ 1098.92 Computation of daily average base for each producer.

Subject to the rules set forth in § 1098.93, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer at all pool plants during the months of September through January immediately preceding by 153: *Provided*, That the base of a producer, who delivers milk during August and whose deliveries are temporarily discontinued during the base-forming period, shall be determined by dividing by the number of days for which deliveries are made or by 138, whichever is higher: *And provided further*, That in the case of producers delivering milk to a pool plant which was not a pool plant during all of the preceding months of September through January a daily average base for each such producer shall be computed pursuant to this paragraph on the basis of his verifiable deliveries of milk to such plant during the period September through January preceding the month in which the plant became a pool plant.

§ 1098.93 Base rules.

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the market administrator shall assign a base as calculated pursuant to § 1098.92 to each person for whose account producer milk was delivered to pool plants during the months specified in § 1098.92 for computation of base;

(b) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective; and

(c) An entire base shall be transferred from a person holding such base to any other person, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: *Provided*, That an entire base or any portion thereof may be transferred from a producer to any other person upon adequate proof that such producer has discontinued marketing milk: *And provided further*, That if a base is held jointly, it shall be transferable only upon the receipt of such application signed by all joint holders or their heirs.

§ 1098.94 Announcement of established bases.

On or before February 25 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily average base established by such producer.

PART 1102—MILK IN FORT SMITH, ARKANSAS, MARKETING AREA

Subpart—Order Regulating Handling

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Authority: The provisions of this Part 1102 issued under Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

General Provisions

§ 1102.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1102.2 Fort Smith, Ark., marketing area.

"Fort Smith, Ark., Marketing Area," called the marketing area in this part, means all territory within the corporate limits of Fort Smith, Ark. and Van Buren, Ark. and within the boundaries of the Camp Chaffee military reservation.

§ 1102.3 [Reserved]

§ 1102.4 [Reserved]

§ 1102.5 [Reserved]

§ 1102.6 [Reserved]

§ 1102.7 Approved plant.

Except as provided in paragraph (b) of this section, "approved plant" means:

(a) Any milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products other than filled milk are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores).

(b) The term "approved plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) Any plant operated by a handler who the Secretary determines disposes of a greater portion of his fluid milk products, except filled milk, as Class I milk in another marketing area regulated by a milk marketing agreement or order issued pursuant to the Act.

§ 1102.8 Unapproved plant.

"Unapproved plant" means any milk or filled milk receiving, manufacturing, or processing plant other than an approved plant. The following categories of unapproved plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means and unapproved plant which is not an other order plant nor a producer-handler plant and from which fluid milk products eligible for distribution in the marketing area for fluid consumption are moved during the month to an approved plant.

§ 1102.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products other than filled milk are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores); and

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted pursuant to § 1102.12 for the account of such cooperative association.

§ 1102.10 Producer-handler.

"Producer-handler" means any person who (a) produces milk, and (b) operates a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products for fluid consumption are disposed of in the marketing area on wholesale or retail routes (including plant stores), and (c) receives no milk from producers.

§ 1102.11 [Reserved]

§ 1102.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk which is received at an approved plant: *Provided*, That such milk is produced under a dairy farm inspection permit or inspection rating issued by any health authority having jurisdiction in the marketing area for the production of milk to be disposed of for consumption as fluid milk. "Producer" shall include any such person whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to an approved plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1102.44(a)(8)(iii) and the corresponding step of § 1102.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved

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is assigned to Class I under the provisions of such other order.

§ 1102.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler directly from producers.

§ 1102.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1102.40 (b) (1) from any source other than producers or approved plants;

(b) Receipts in packaged form from other plants of products specified in § 1102.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1102.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1102.40(b) (1)) for which the handler fails to establish a dispositon.

§ 1102.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a) (1) of this section or in § 1102.40(b) or (c) (1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quality of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1102.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1102.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1102.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act,";

(b) to have full authority in the sale of milk of its members; and

(c) to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

§ 1102.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his approved plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk; including producer milk diverted by the handler from the approved plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other approved plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1102.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler described in § 1102.9 (b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1102.31 Payroll reports.

On or before the 20th day after the end of each month, each handler who operates an approved plant and each handler described in § 1102.9(b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(a) His name and address;

(b) The total pounds of milk received from such producer;

(c) The average butterfat content of such milk; and

(d) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

§ 1102.32 Other reports.

(a) Each handler who operates an approved plant and each handler described in § 1102.9(b) shall report to the market administrator in the detail and on forms prescribed by the market administrator on or before the seventh day of each month of April through August, for each producer for the preceding month:

(1) His name and address or other appropriate identification;

(2) The total pounds of milk and butterfat received from such producer;

(3) The location at which such milk was received; and

(4) The number of days on which milk was received from each producer.

(b) In addition to the reports required pursuant to §§ 1102.30 and 1102.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1102.40 Classes of utilization.

Except as provided in § 1102.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1102.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat;

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1102.15; and

(6) In shrinkage assigned pursuant to § 1102.41(a) to the receipts specified in § 1102.41(a) (2) and in shrinkage specified in § 1102.41 (b) and (c).

§ 1102.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1102.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each approved plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other approved plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1102.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1102.42 Classification of transfers and diversions.

(a) *Transfers to approved plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from an approved plant to another approved plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1102.44(a) (12) and the corresponding step of § 1102.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1102.44(a) (7) or the corresponding step of § 1102.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to §1102.44(a) (11) or (12) or the corresponding steps of § 1102.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from an approved plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the approved plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

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(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order classification under this paragraph shall be in accordance with the provisions of § 1102.40.

(c) *Transfers and diversions to producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from an approved plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other unapproved plants.* Skim milk or butterfat transferred or diverted in the following forms from an approved plant to an unapproved plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the unapproved plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1102.30 for the month within which such transaction occurred; and

(*b*) The unapproved plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the unapproved plant and transfers of packaged fluid milk products from such unapproved plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such unapproved plant from approved plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such unapproved plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such unapproved plant from approved plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such unapproved plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the unapproved plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such unapproved plant from approved plants and other order plants;

(iv) Transfers of bulk fluid milk products from the unapproved plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such unapproved plant from approved plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such unapproved plant from other order plants;

(v) Any remaining unassigned Class I disposition from the unapproved plant shall be assigned to the extent possible in the following sequence:

(*a*) To such unapproved plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such unapproved plant; and

(*b*) To such unapproved plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such unapproved plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the unapproved plant from approved plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such unapproved plant;

(vii) Receipts of bulk fluid cream products at the unapproved plant from approved plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such unapproved plant; and

(viii) In determining the unapproved plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such unapproved plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1102.43 General classification rules.

In determining the classification of producer milk pursuant to § 1102.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1102.30 and shall compute separately for each approved plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1102.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1102.40, 1102.41, and 1102.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1102.9(b) shall be determined separately from the operations of any approved plant operated by such cooperative association.

§ 1102.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1102.9(a) for each of his approved plants separately and of each handler described in § 1102.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1102.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in products specified in § 1102.40(b)(1) that were received in packaged form from other plans, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1102.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1102.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1102.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other approved plant of the handler, and then at each successively more distant approved plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other approved plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all approved plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between approved plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all approved plants of the handler of producer milk, fluid milk products from approved plants of other handlers, and bulk fluid milk products from other order plants; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this approved plant is of all such receipts remaining at this allocation step at all approved plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1102.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all approved plants of the handler (excluding any duplication of utilization in each class resulting from transfers between approved plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other approved plant of the handler, and then at each successively more distant approved plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other approved plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other approved plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subject to the provisions of paragraph (a)(12) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all approved plants of the handler (excluding any duplication of utilization in each class resulting from transfers between approved plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that were not subtracted pursuant to paragraph (a)(8)(iii) of this section and that were not offset by transfers or diversions of bulk fluid milk products to the same other order plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other approved plant of the handler, and then at each successively

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more distant approved plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other approved plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other approved plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another approved plant according to the classification of such products pursuant to § 1102.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1102.45 Market administrator's reports concerning classification.

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1102.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each handler operating an approved plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(c) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

CLASS PRICES

§ 1102.50 Class prices.

Subject to the provisions of § 1102.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.95.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class price shall be the basic formula price for the month.

§ 1102.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1102.52 Plant location adjustments for handlers.

(a) For milk received from producers at an approved plant located more than 50 miles by the shortest highway distance, as determined by the market administrator, from the county courthouse in Fort Smith, Ark., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1102.50(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is distant from the county courthouse in Fort Smith, Ark.; and

(b) For purposes of calculating such adjustment, transfers of fluid milk products between approved plants shall be assigned to Class I disposition at the transferee-plant which is in excess of the sum of receipts as such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1102.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1102.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

§ 1102.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1102.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1102.44(a)(14) and the corresponding step of § 1102.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1102.74, that are applicable at the location of the approved plant; and

(c) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

§ 1102.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

(a) For each of the months of August through February, the market administrator shall compute for each handler a uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1102.60 by adding the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1102.75;

(3) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

(4) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided for in paragraph (a)(1), (2), and (3) of this section;

(2) Compute the value of excess milk received by such handler from producers as follows:

(i) Multiply the quantity of such milk that is not in excess of the total Class III milk included in this computation by the Class III price less 5 cents;

(ii) Multiply the remaining quantity of such milk that it not in excess of the total Class II milk included in this computation by the Class II price less 5 cents;

(iii) Multiply the remaining quantity of excess milk by the Class I price less 5 cents; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for such handler for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract, for each handler, the value of such handler's excess milk obtained in paragraph (b)(3) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1), (2), and (3), of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent; and

(5) Divide the amount obtained in subparagraph (b)(4) of this section by the total hundredweight of such handler's base milk included in this computation. The result shall be such handler's uniform price for base milk of 3.5 percent content.

§ 1102.62 Announcement of uniform prices for each handler and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for each handler pursuant to § 1102.61 for such month.

PAYMENTS FOR MILK

§ 1102.73 Payments to producers and to cooperative associations.

Each handler shall make payment to producers as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer except as provided in paragraph (c) of this section, at not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1102.74 and 1102.75, for all milk received from such producer during the preceding month less the amount of payment made pursuant to paragraph (b) of this section.

(b) On or before the last day of each month, each handler shall make payment for milk received from producers during the first 15 days of the month to each producer, except as provided in paragraph (c) of this section, at not less than the Class III price for the preceding month.

(c) On or before the 13th and the third from the last day of each month, in lieu of payments pursuant to paragraphs (a) and (b) respectively of this section, each handler shall make payment to a cooperative association which so requests, with respect to producers for which such cooperative association is authorized to collect payment, in an amount equal to the sum of the individual payments otherwise payable to such producers.

§ 1102.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1102.75 Plant location adjustments for producers.

The uniform price for producer milk received at an approved plant shall be reduced according to the location of the approved plant at the rates set forth in § 1102.52.

§ 1102.76 [Reserved]

§ 1102.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1102.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) producer milk (including such handler's own production); and

(b) other source milk allocated to Class I pursuant to § 1102.44(a)(7) and (11) and the corresponding steps of § 1102.44(b).

§ 1102.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1102.73, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month and pay such deduction to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions, and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 1102.31.

BASE-EXCESS PLAN

§ 1102.90 Base milk.

"Base milk" means milk received by a handler from a producer during any of the months of March through July, which is not in excess of such producer's base computed pursuant to § 1102.93.

§ 1102.91 Excess milk.

"Excess milk" means milk received by a handler from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1102.93.

§ 1102.92 Computation of daily average base for each producer.

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Memphis, Tenn.; Fort Smith, Ark.; and Central Arkansas marketing areas (Parts

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1097, 1102 and 1108, respectively, of this chapter) during the immediately preceding period of September through January by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a plant which first became an approved plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the plant had been an approved plant during such period.

§ 1102.93 Determination of monthly base for each producer.

Subject to the rules set forth in § 1102.94, the market administrator shall calculate a monthly base for each producer for each of the months of March through July as follows:

(a) If milk is received by a handler as producer milk during the month, multiply such producer's daily average base computed pursuant to § 1102.92 by the number of days in such month.

(b) If milk is received as producer milk from the same farm by more than one handler and/or by handlers fully regulated under the terms of the Memphis, Tenn. (Part 1097 of this chapter), or Central Arkansas (Part 1108 of this chapter) orders during the month, multiply such producer's daily average base computed pursuant to § 1102.92 by the number of days in such month and multiply the result by the percentages of the total pounds of milk received from such producer by handlers fully regulated under the terms of the three orders specified in § 1102.92 which were received by each handler to determine the amount of base milk received from such producer by each handler.

§ 1102.94 Base rules.

The following rules shall apply in connection with the transfer of daily average bases for each producer computed pursuant to § 1102.92.

(a) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the base-holder, or his heirs, and by the person to whom such base is to be transferred.

(b) If a base is held jointly, the entire base shall be transferred only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 1102.95 Announcement of established bases.

On or before February 25 of each year, the market administrator shall notify each producer of the daily average base established by such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1102.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1102.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1102.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1102.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1102.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1102.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1102.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1102.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1102.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1102.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1102.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1102.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1102.110 and 1102.117.

§ 1102.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1102.110 and 1102.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1102.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1102.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1102.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1102.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence or those which are criminal in nature.

§ 1102.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1102.121 Duties of the market administrator.

Except as specified in § 1102.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1102.113(c).

(b) Set aside the amounts subtracted under § 1102.61(a)(3) and received pursuant to § 1102.123 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1102.61(a)(3).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1102.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1102.61(a)(3) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1102.110 through 1102.123).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1102.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

§ 1102.123 Payment of advertising and promotion funds.

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1102.61(a)(3).

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1108 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1108.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1108.2 Central Arkansas marketing area.

"Central Arkansas marketing area", called the "marketing area" in this part, means all the territory included within the boundaries of the counties of Clark, Conway, Craighead, Cross, Faulkner, Garland, Grant, Hot Spring, Jefferson, Lee, Lonoke, Monroe, Phillips, Poinsett, Pope, Prairie, Pulaski, Saline, St. Francis, White, and Woodruff, all in the State of Arkansas.

§ 1108.3 [Reserved]

§ 1108.4 [Reserved]

§ 1108.5 Distributing plant.

"Distributing plant" means an approved plant from which Class I milk, except filled milk, equal to not less than 50 percent of its receipts of producer milk, milk from a handler described in § 1108.9(c), and fluid milk products, except filled milk, from other pool plants is disposed of during the month, on routes or through plant stores, to wholesale or retail outlets (except pool plants) and from which Class I milk, except filled milk, equal to not less than 10 percent of such receipts is disposed of during the month on routes or through plant stores, to wholesale or retail outlets (except pool plants) located in the marketing area.

§ 1108.6 Supply plant.

"Supply plant" means:

(a) An approved plant from which fluid milk products, except filled milk, in an amount not less than 50 percent of its receipts of producer milk and milk received from a handler described in § 1108.9(c) is moved during such month to distributing plants: *Provided*, That any such plant which qualifies as a supply plant for each of the months during the period October through January shall upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through September; or

(b) An approved plant which is operated by a cooperative association having member producers which delivers 50 percent or more of its member milk to the pool plants of other handlers and from which fluid milk products in an amount not less than 25 percent of its receipts of producer milk during the month at such plant are shipped during such month to distributing plants: *Provided*, That any such plant which qualifies as a supply plant for each of the months October through January shall, upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through September.

§ 1108.7 Pool plant.

(a) Except as provided in paragraph (b) of this section, "pool plant" means a distributing plant or a supply plant.

(b) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless a greater volume of Class I milk, except filled milk, was disposed of from such plant during the 6-month period immediately preceding to retail or wholesale outlets (except pool plants or nonpool plants) in the Central Arkansas marketing area than in the marketing area regulated pursuant to such other order; and

(3) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant qualified as a pool plant for each of the preceding months of August through January.

§ 1108.7a Approved plant.

"Approved plant" means all of the buildings, premises and facilities of a plant (a) in which milk or skim milk is processed or packaged and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors and sales through plant stores) to wholesale or retail outlets (except pool plants) located in the marketing area, or (b) from which milk or skim milk is shipped during the month to a distributing plant.

§ 1108.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are shipped during the month to a pool plant qualified pursuant to § 1108.7, and which is not an other order plant nor a producer-handler plant.

§ 1108.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more approved plants.

(b) A cooperative association with respect to milk of producers diverted for the account of such association in accordance with the provisions of § 1108.12.

(c) Any cooperative association with respect to the milk of its producer members which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing, that it will be the handler for such milk for the month, such cooperative handler status to be effective the first day of the month following receipt by the market administrator of such notice and to continue until the first day of the month following receipt of a request to discontinue such cooperative handler status. Milk so delivered shall be considered to have been received by the cooperative association at the plant to which delivered and then transferred to the handler operating the plant.

(d) Any person who operates a partially regulated distributing plant.

§ 1108.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant which during the month has no other source milk, producer milk in § 1108.9(c).

§ 1108.11 [Reserved]

§ 1108.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received during the month at a pool plant: *Provided*, That if such milk is diverted by a handler for his account from a pool plant to a nonpool plant that is not a producer-handler plant any day during the months of February through August, or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1108.44(a)(8) (iii) and the corresponding step of § 1108.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1108.13 Producer milk.

"Producer milk" shall be that skim milk or butterfat for each handler's account in milk (in an amount determined by weights and measurements for individual producer's deliveries, as taken at the farm in the case of milk moved from the farm in a bulk tank truck) which is received pursuant to paragraphs (a) and (b) of this section and diverted pursuant to § 1108.12 as follows:

(a) Received directly from producers' farms at a pool plant by the operator of the pool plant (except that received from a handler described in § 1108.9(c)) or diverted by the pool plant operator pursuant to § 1108.12.

(b) Received directly from producers' farms for his account by a handler described in § 1108.9(c) or diverted for his account pursuant to § 1108.12.

§ 1108.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1108.40(b)(1) from any source other than producers, handlers described in § 1108.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1108.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1108.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1108.40(b)(1)) for which the handler fails to establish a disposition.

§ 1108.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1108.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1108.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1108.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1108.18 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

HANDLER REPORTS

§ 1108.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1108.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1108.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

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(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in fluid milk products disposed of on routes in the marketing area.

(c) Each handler described in § 1108.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1108.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1108.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1108.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1108.32 Other reports.

(a) Each handler, except a producer-handler and a handler making payments pursuant to § 1108.76(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the seventh day of each month of April through August, for each producer for the preceding month:

(i) His name and address or other appropriate identification;

(ii) The total pounds of milk and butterfat received from such producer, including, for the months of March through July, the pounds of base milk;

(iii) The location at which such milk was received; and

(iv) The number of days on which milk was received from such producer;

(2) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) On or before the day prior to diverting producer milk pursuant to § 1108.12 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1108.30 and 1108.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1108.40 Classes of utilization.

Except as provided in § 1108.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1108.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milk fat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1108.15; and

(6) In shrinkage assigned pursuant to § 1108.41(a) to the receipts specified in § 1108.41(a)(2) and in shrinkage specified in § 1108.41 (b) and (c).

§ 1108.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1108.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1108.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of

weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1108.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1108.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1108.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1108.44(a)(12) and the corresponding step of § 1108.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1108.44(a)(7) or the corresponding step of § 1108.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1108.44 (a) (11) or (12) or the corresponding steps of § 1108.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant; and

(4) If a specified utilization of skim milk and butterfat transferred by a handler described in § 1108.9(c) to a pool plant of another handler is not claimed by both handlers, such skim milk and butterfat shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class at the pool plant of the transferee-handler after the computations pursuant to § 1108.44(a)(13)(i) and the corresponding step of § 1108.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3), of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1108.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1108.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk

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products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1108.43 General classification rules.

In determining the classification of producer milk pursuant to § 1108.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1108.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1108.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1108.40, 1108.41, and 1108.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1108.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1108.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1108.9(a) for each of his pool plants separately and of each handler described in § 1108.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1108.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1108.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1108.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1108.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handlers; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1108.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1108.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant or a handler described in § 1108.9(c) according to the classification of such products pursuant to § 1108.42(a); and

(ii) A handler described in § 1108.9(c) according to the classification of such products pursuant to § 1108.42(a)(4); and

(14) If the total pounds of skim milk remaining in all classes exceed the

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pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding steps of paragraph (b) of this section.

§ 1108.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1108.44(a)(12) and the corresponding step of § 1108.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1108.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1108.50 Class prices.

Subject to the provisions of § 1108.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.94.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1108.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin., as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1108.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located more than 60 miles, by shortest highway distance as measured by the market administrator, from the nearest of the County Courthouse in Arkadelphia, Ark., the County Courthouse in Forrest City, Ark., or the State Capitol in Little Rock, Ark., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1108.50 (a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof between such plant and such nearest point.

(b) For purposes of calculating such adjustment, transfers of fluid milk products between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1108.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1108.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1108.54 Equivalent price.

If for any reason a price or pricing constitutent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constitutent that is required.

UNIFORM PRICES

§ 1108.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1108.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1108.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1108.44(a)(14) and the corresponding step of § 1108.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1108.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1108.44(a)(9) and the corresponding step of § 1108.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7)(i) through (iv) and the corresponding step of § 1108.44(b), excluding receipts of bulk fluid cream products from another plant.

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7)(v) and (vi) and the corresponding step of § 1108.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(11) and the corresponding step of § 1108.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any

other payment obligation under any order.

§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).

(a) For each month the market administrator shall compute the uniform price (or weighted average price) per hundredweight of milk received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1108.60 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to §§ 1108.71 and 1108.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to §1108.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1108.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months of March through July, shall be the "uniform price" for milk of 3.5 percent butterfat content received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract from the amount resulting from the computations made pursuant to paragraph (a)(1) through (4) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(2) Compute the aggregate value of excess milk by assigning such milk, in series beginning with Class III, to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices less 5 cents and adding together the resulting amounts;

(3) Divide the aggregate value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract an amount determined by multiplying the uniform price obtained in paragraph (b)(3) of this section, plus 4 cents, times the hundredweight of excess milk from the aggregate value of milk obtained in paragraph (b)(1) of this section;

(5) Divide the result obtained in paragraph (b)(4) of this section by the total hundredweight of base milk of handlers included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

§ 1108.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform prices for such month.

PAYMENTS FOR MILK

§ 1108.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1108.71, 1108.76 and 1108.77, and out of which he shall make all payments pursuant to §§ 1108.72 and 1108.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1108.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1108.60.

(2) The sum of:

(i) The value at the uniform prices, as adjusted pursuant to § 1108.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1108.60.

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1108.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1108.71(a)(2) exceeds the amount computed pursuant to § 1108.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1108.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat differential and location adjustments to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1108.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1108.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator

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determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section.

(c) Each handler shall furnish the person to whom payment is to be made pursuant to this section with the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer or from each member of the cooperative association during the first 15 days of such month:

(2) On or before the 7th day of the following month to a cooperative association for its individual members, or on or before the 15th day of the following month to producers:

(i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk;

(ii) For the months of March through July, the pounds of base milk received;

(iii) The amount or rate and nature of deductions made from payments; and

(iv) The amount and nature of payments due pursuant to § 1108.77.

(d) To a cooperative association with respect to receipts of milk for which it is the handler described in § 1108.9(c):

(1) On or before the 2d day prior to the last day of the delivery period, an amount equal to the rate specified in paragraph (a)(1) of this section times the volume received during the first 15 days of the delivery period; and

(2) On or before the 13th day after the end of each delivery period, an amount equal to not less than the value of such milk at applicable class price(s) adjusted by the butterfat differential pursuant to § 1108.74 less payment made pursuant to paragraph (d)(1) of this section.

§ 1108.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(a) The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the County Courthouse in Arkadelphia, Ark., the County Courthouse in Forrest City, Arkansas, or the State Capital in Little Rock, Ark., whichever is nearer by the shortest highway distance, as determined by the market administrator, shall be reduced according to the distance of the plant from the respective buildings designated above at the rate of 1.5 cents for each 10 miles or residual fraction thereof.

(b) For purposes of computations pursuant to §§ 1108.71 and 1108.72 the weighted average price shall be adjusted at the rates set forth in § 1108.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1108.76. Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1108.30(b) and 1108.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1108.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1108.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1108.60 for such handler shall include, in lieu of the value of other source milk specified in § 1108.60(f) less the value of such other source milk specified in § 1108.71(a)(2)(ii), a value of milk determined pursuant to § 1108.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1108.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1108.30(b) and 1108.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1108.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1108.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

Administrative Assessment and Marketing Service Deduction

§ 1108.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk received by a handler described in § 1108.9(c), except that transferred to another handler operating a pool plant;

(b) Producer milk of a handler operating a pool plant (including such handler's own production), plus milk received from a handler described in § 1108.9(c);

(c) Other source milk allocated to Class I pursuant to § 1108.44(a)(7) and (11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60(d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1108.76(a)(2).

§ 1108.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1108.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Base-Excess Plan

§ 1108.90 Base milk.

"Base milk" means milk received by handlers from a producer during any of the months of March through July which is not in excess of such producer's base computed pursuant to § 1108.93.

§ 1108.91 Excess milk.

"Excess milk" means milk received by handlers from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1108.93.

§ 1108.92 Computation of daily average base for each producer.

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas (Parts 1097, 1102 and 1108, respectively, of this chapter) during the immediately preceding period of September through January by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a plant which first became a pool plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the plant had been a pool plant during such period.

§ 1108.93 Determination of monthly base of each producer.

Subject to the rules set forth in § 1108.94, the market administrator shall calculate a monthly base for each producer for each of the months of March through July, as follows:

(a) If milk is received by handlers as producer milk during the month, multiply such producer's daily average base computed pursuant to § 1108.92 by the number of days in such month;

(b) If milk is received as producer milk from the same farm by handlers regulated under this part and by handlers fully regulated under the terms of the Memphis, Tennessee (Part 1097 of this chapter), or Fort Smith, Arkansas (Part 1102 of this chapter), orders during the month, multiply such producer's daily average base computed pursuant to § 1108.92 by the number of days in such month and multiply the result by the percentages of the total pounds of milk received from such producer by handlers fully regulated under the terms of the three orders specified in § 1108.92 which were received by each handler to determine the amount of base milk received from such producer by each handler.

§ 1108.94 Base rules.

The following rules shall apply in connection with the transfer of daily average bases for each producer computed pursuant to § 1108.92:

(a) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred; and

(b) If a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 1108.95 Announcement of established bases.

On or before February 25 of each year the market administrator shall notify

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each producer of the daily average base established by such producer.

§ 1108.96 Monthly announcement of base milk and excess milk for each producer.

On or before the 11th day after the end of each of the months March through July, the market administrator shall notify each handler of the amount of base milk and excess milk received from each producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1108.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1108.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1108.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1108.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1108.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1108.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1108.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1108.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1108.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1108.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1108.110 and 1108.117.

§ 1108.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1108.110 and 1108.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1108.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1108.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1108.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1108.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1108.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1108.121 Duties of the market administrator.

Except as specified in § 1108.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside the amounts subtracted under § 1108.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1108.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1108.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1108.110 through 1108.122).

(d) Make the necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1108.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1108.70.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Effective date: August 1, 1974.

Signed at Washington, D.C., on April 29, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-10171 Filed 5-3-74;8:45 am]

[Milk Order No. 137]

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

Order Suspending Certain Provisions

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Eastern Colorado marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 13890) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of April, May, and June 1974, the following provisions of the order do not tend to effectuate the declared policy of the Act:

§ 1137.10 [Amended]

1. In the first sentence of paragraph (a) of § 1137.10, the provision, "from whom at least three deliveries of milk are received during the month at a distributing pool plant"; and

2. In the second sentence of paragraph (a) of § 1137.10, the provision "distributing".

STATEMENT OF CONSIDERATION

This suspension removes the provision that three deliveries of a producer's milk must be received at a pool distributing plant during the month to qualify his milk for diversion. In addition, the suspension enables a cooperative association to divert milk based on the cooperative's deliveries to all pool plants rather than on the basis of deliveries to pool distributing plants only.

The suspension was requested by a cooperative association supplying the market. The basis for the request is that current marketing conditions require the association to handle an increasing quantity of reserve supply milk during the coming months of relatively heavy production. No adverse views were filed.

On the basis of the data, views, and arguments filed, it is found that without the suspension, the association would be forced to make uneconomic and fuel-consuming shipments of producer milk that was associated with the market during the period of tight supply conditions last fall and winter in order to qualify it for pooling during the coming period of relatively heavy milk production.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

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(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective May 6, 1974.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months April through June 1974.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Effective date: May 6, 1974.

Signed at Washington, D.C., on May 1, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74–10363 Filed 5–3–74;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—GUARANTEED LOANS

[FHA Instructions 449.1 and 449.3]

PART 1843—FARMER LOANS

Miscellaneous Amendments

Part 1843, Title 7, Code of Federal Regulations (38 FR 29051, 30102, 30533) is amended. The changes are as follows:

1. Section 1843.1(b) is amended to clarify the definition of Farmer Loans.

2. Section 1843.1(d) is amended to clarify the definition of Rural youth.

3. Section 1843.3 is revised to clarify and simplify existing procedures, including, among other things, deletion of paragraph (a)(1) covering local interest rate, and addition of a new paragraph (h) showing interest rates to borrowers, FHA rates, and loan subsidy rates for each type of Farmer Loan. The interest rates to borrowers and FHA rates are presently published in the Notices section of 38 FR 30117.

4. Section 1843.5 is amended to renumber Form FHA 449–21 to Form FHA 449–16.

5. Section 1843.10 is amended for clarification and to correct a cross-reference citation, and § 1843.10(a) is amended to clarify the meaning of the second sentence.

6. Section 1843.20 is amended to add an additional section citation.

7. Section 1843.30 is amended to correct section citations in that section and the last sentence of paragraph (a) of that section.

8. Section 1843.42(e) is amended to delete the word "building," and to correct a cross reference.

9. Section 1843.44(a) is amended to explain the requirement for a first lien.

10. Section 1843.44(b) is amended to clarify the loan limitation.

11. Section 1843.44(f)(6) is amended to correct a cross-reference citation.

12. Section 1843.90(a) is revised to update the FHA forms that will be used and the distribution thereof.

13. Section 1843.90(c) is amended to delete reference to Form FHA 449–8, "Assumption Agreement for Guaranteed Loans (Same Terms)."

14. Section 1843.91 is deleted because it duplicates material in 7 CFR 1841.75.

In accordance with 5 USC 553 these amendments are not published for notice of proposed rule making inasmuch as they only clarify and simplify existing agency procedures. Therefore, these amendments are effective on publication in the FEDERAL REGISTER.

The amendments are as follows:

§ 1843.1 Definitions.

1. In § 1843.1 paragraphs (b) and (d) are revised to read:

* * * * * *

(b) *Farmer loans.* Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) loans authorized in Subtitle A of the Act; Operating (OL) loans authorized in Subtitle B of the Act; and Emergency (EM) loans authorized in Subtitle C of the Act. However, the term "Farmer loans" does not cover small business enterprise loans authorized by sections 304(b) and 312(b) of the Act, or pollution abatement and control project loans authorized by section 312(c) of the Act, or EM loans involving cancellation.

(d) *Rural youth.* A person who has not reached the age of 21 even though he or she has reached the age of full legal competency as an adult under applicable State law, and who does not reside in a city or town which has a population in excess of 10,000 inhabitants.

2. Section 1843.3 is revised to read:

§ 1843.3 Loan subsidy rates, claims, and payments.

Loan subsidies are payments made by FHA to original lenders or subsequent holders to induce them to make and/or service and collect guaranteed loans. Such subsidies are determined by application of per annum rates on loan principal.

(a) *Subsidy rates.* Such subsidy rates, if any, will be established by FHA periodically. Thus, the subsidy rate for the same loan may vary from time to time. However, the subsidy rate in effect at the time the Contract of Guarantee is executed wil remain constant during the period covered by the initial guarantee fee payment, and the subsidy rate in effect at the time any subsequent guarantee fee falls due will remain constant during the period covered by the subsequent guarantee fee payment, provided in each instance:

(1) The guarantee fee is paid in accordance with the requirements of 7 CFR 1841.30 and 1841.31;

(2) The Contract of Guarantee remains in effect and enforceable;

(3) An eligible transferee does not assume the loan at a higher interest rate; and

(4) The loan is not assumed by an ineligible transferee.

(b) *Method of calculating subsidy rates.* The subsidy rate for each type of loan will be a rate equal to the difference, if any, between the interest rate charged to the borrower and any higher FHA rate described in paragraph (c) of this section.

(c) *FHA rate.* This is a per annum rate established by FHA for the purpose of calculating any subsidy to be paid by FHA to the holder. The FHA rate used in making this calculation for any guarantee fee period will be the rate in effect at the beginning of such period, except as otherwise provided in paragraph (d) of this section with respect to certain transfer and assumption cases. See paragraph (h) of this section to ascertain the subsidy rate in effect at any particular time, except for certain transfer and assumption cases mentioned in paragraph (d) of this section.

(d) *Decreased subsidy rates in certain transfer and assumption cases.* This decrease will occur in those transfer and assumption cases in which the interest rate to an eligible transferee is required to be increased because the interest rate to new borrowers for the type of loan involved is higher at the time of the transfer and assumption than at the time the loan being assumed was made. In such cases the subsidy rate will be decreased in the same amount as the interest rate to the transferee is increased.

(e) *Information on subsidy rates.* Lenders or holders can ascertain the subsidy rates in effect at any particular time by calling any FHA office or by consulting this section.

(f) *Semiannual subsidy claims and payments.* A Form FHA 449–24, "Loan Subsidy Claim," will be prepared by the holder for each such claim in each case. The subsidy payments will be made semiannually beginning 6 months after the issuance of the Contract of Guarantee, unless by agreement between the lender or holder and FHA a different payment date is arranged. The subsidy payments will be based on the principal balance outstanding from time to time during the 6-month period involved on the guaranteed loan promissory note (or assumption agreement). After receipt of a proper Loan Subsidy Claim on Form FHA 449–24 made by the holder direct to the Finance Office, a Treasury check will be sent by the Finance Office to the holder for the amount of the subsidy payment owed for the preceding 6-month period.

(g) *When subsidy payments cease.* Loan subsidy payments will not be made after a transfer to and assumption by an "ineligible transferee" or after the Contract of Guarantee is terminated or becomes void or unenforceable.

(h) *Current borrower, FHA, and subsidy rates.*

[In percent]

Loan type	Interest rate to borrower	FHA rate	Subsidy rate
OL	6¾	9	2¼
EM for production purposes	5	9	4
EM for real estate purposes	5	8	3
FO, SW, RL	5	8	3

§ 1843.5 [Amended]

3. Section 1843.5 is amended to renumber Form FHA 449–21 to Form FHA 449–16.

4. Section 1843.10(a) is amended by inserting the words "at or" after the word "funds" the second time it appears in that paragraph (a), and the introductory paragraph, is amended to read:

§ 1843.10 Loan making and servicing.

The following provisions with respect to loan making and servicing, in addition to those in §§ 1841.10 and 1841.46 of this chapter, are applicable to Farmer Loans.

§ 1843.20 [Amended]

5. Section 1843.20 is amended by inserting "1841.60," between "§§ " and "1841.61."

§ 1843.30 [Amended]

6. Section 1843.30, the introductory paragraph, is amended by changing "§§ 1825.66 and 1825.67" to "§§ 1841.66 and 1841.67;" paragraph (a) of that section is amended by changing "§ 1826.63" in the last sentence to "§ 1843.20."

7. Section 1843.42(e) is amended by deleting the word "building" in the last line of that paragraph, and by changing "§ 1826.12" to "§ 1841.12."

§ 1843.44 [Amended]

8. Paragraph (a) is amended by adding the following to the end:

* * * * * *

The first lien requirement can be met in subsequent loan cases by obtaining:

(1) A first lien on new property acquired or refinanced with the subsequent loan or other property not serving as security for the existing loan, or

(2) A lien on the same property to secure both the existing loan and the subsequent loan if there are no liens intervening between the first lien securing the existing loan and the new lien taken to secure both the existing loan and the subsequent loan, or

(3) Liens meeting the requirements of both subparagraphs (1) and (2) of this paragraph.

9. Paragraph (b) is amended to read:

* * * * * *

(b) *Loan limitations.* The FO loans to a borrower cannot exceed $100,000, the market value of the farm and any other security, or the amount certified by the County Committee, whichever is less.

10. Paragraph (f)(6) is amended by changing the first cross-reference from "§ 1841.26(a)(8)" to "§ 1841.26(a)(9)."

11. Section 1843.90(a) is amended to read:

§ 1843.90 Forms and forms distribution.

(a) *FHA forms.* The following chart lists the FHA forms applicable to lenders, holders, or applicants, number to be prepared, signatures required and manner of distribution. These forms may be obtained from FHA.

FHA form No.	Name of form	Total No.	Signed by [1]	Distribution [1]
400–1	Equal Opportunity Agreement	3	B–O	O–L, C–B, C–FHA.
400–3	Notice to Contractors and Applicants	4	L–O	O–Con, C–B, C–L, C–FHA.
400–6	Compliance Statement	4	L and Con O–0.	O–L, C–Con, C–B, C–FHA.
441–22	Certification of Disaster Losses	2	B–O	O–L, C–FHA.
449–6	Application for Guaranteed Loan (Farmer Programs).	2	B–O	O–L, C–FHA.
449–7	Assumption Agreement for Guaranteed Loans (New Terms).	4	B–O	O–L, C–B, 2C–FHA.
449–9	Request for Conditional Commitment to Guarantee Loan.	2	L–O	O–FHA, C–L.
449–11	Certificate of Acquisition or Construction	4	B and L and Con-O.	O–FHA, C–L, C–B, C-Con.
449–13	Denial Letter	2	FHA–O	O–L, C–FHA:
449–14	Conditional Commitment for Guarantee	2	FHA–O	O–L, C–FHA.
449–16	Request for Contract of Guarantee	2	L–O	O–FHA, C–L.
449–17	Contract of Guarantee	2	FHA–0	O–L, C–FHA.
449–18	Lenders or Holders Request for Approval	2	L–0	O–FHA, C–L.
449–19	Guarantee Fee Report	2	L–0	O–FHA, C–L b first report. O–FC, C–L subsequent reports.
449–20	Report of Loss	3	L–0	O–FHA, C–L, C–FHA.
449–24	Loan Subsidy Claim	2	L–0	O–FC, C–L.
471–7	Notice and Acknowledgment of Sale of Insured or Guaranteed Loan.	4	L–0	O–FC, C–FC, C–L, C–FHA.

[1] Signatures and distribution: L—lender; B—borrower or assumptor; FC—Finance Office; FHA—authorized FHA official; Con—contractor; O—original; C—copy. "lender" includes "holder."

§ 1843.90 [Amended]

12. In § 1843.90(c) the first sentence is amended to read:

Some FHA forms, such as Form FHA 449–6 and Form FHA 449–7 contain space for coding the race of the applicant for the loan or assumption.

§ 1843.91 [Reserved]

13. Section 1843.91 is removed and reserved.

((7 USC 1989); delegation of authority by the Secretary of Agriculture (7 CFR 2.23); delegation of authority by the Assistant Secretary for Rural Development (7 CFR 2.70))

Effective Date.—These amendments shall become effective on May 6, 1974.

Dated: March 26, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74–10159 Filed 5–3–74;8:45 am]

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 258]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Delaware	New Castle	Newark, city of	1 10 003 0000 04 through 1 10 003 0000 12	Division of Soil and Water Conservation, Department of National Resources and Environmental Control, Tatnall Bldg., Capitol Complex, Dover, Del. 19901. Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	City of Newark Planning Department P.O. Box 390, Newark, Del. 19711.	June 5, 1970, Emergency. Apr. 29, 1971, Regular.
Do	do	New Castle, city of.	1 10 003 0000 04 through 1 10 003 0000 12	do	Town Hall, New Castle, Del. 19720.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 23, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–10098 Filed 5–3–74;8:45 am]

[Docket No. FI 260]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Arkansas	Mississippi	Blytheville, city of	Apr. 30, 1974, Emergency.	Nov. 16, 1973		
Colorado	La Plata	Durango, city of	do	Nov. 30, 1973		
Idaho	Bannock	Unincorporated areas	do			
Illinois	Cook	Sauk Village, village of	do	Mar. 8, 1974		
Do	Henderson	Oquawka, village of	do	Dec. 7, 1973		
Do	Jackson	Grand Tower, city of	do	Jan. 9, 1974		
Do	Pike	Hull, village of	do			
Massachusetts	Essex	Haverhill, city of	do			
Minnesota	Carlton	Unincorporated areas	do			
Do	Clearwater	Bagley, city of	do	Mar. 29, 1971		
Do	Houston	Unincorporated areas	do			
Do	Le Sueur	New Prague, city of	do	May 10, 1974		
Do	Lyon	Minneota, city of	do	May 3, 1974		
Do	Mower	Mapleview, city of	do			
Do	Norman	Ada, city of	do	May 10, 1974		
Do	Renville	Unincorporated areas	do			
Do	St. Louis	Hibbing, city of	do			
Do	Steele	Unincorporated areas	do			
Do	Swift	do	do			

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Do	Todd	Clarissa, city of	do	May 3, 1974		
Do	Traverse	Browns Valley, city of	do	May 10, 1974		
New Jersey	Ocean	Ocean, township of	do			
New York	Schenectady	Schenectady, city of	do	May 10, 1974		
North Carolina	Guilford	Unincorporated areas	do			
Oklahoma	Woodward	Woodward, city of	do			
Oregon	Malheur	Unincorporated areas	do			
Pennsylvania	Allegheny	Port Vue, borough of	do	Jan. 19, 1974		
Do	do	Whitehall, borough of	do			
Do	Lycoming	Brady, township of	do			
Do	Montgomery	Lower Salford, township of	do			
South Dakota	Lawrence	Unincorporated areas	do			
Utah	Sevier	Salina, city of	do	Jan. 23, 1974		
Do	Weber	Uintah, town of	do			
Vermont	Caledonia	St. Johnsbury, town of	do			
Do	Windsor	Woodstock, town of	do			
Washington	Okanogan	Unincorporated areas	do			
Do	Snohomish	Edmonds, city of	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 24, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–10100 Filed 5–3–74;8:45 am]

[Docket No. FI 261]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Hazard area identified	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Florida	Broward	Sunrise, city of	Feb. 22, 1974			May 3, 1974, Emergency.
Idaho	Benewah	Unincorporated areas.				Do.
Kentucky	Pendleton	Butler, city of	Jan. 16, 1974			Do.
Michigan	Genesee	Gaines, township of.				Do.
Minnesota	St. Louis	Hoyt Lakes, city of.				Do.
Mississippi	Tallahatchie	Webb, town of				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 26, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–10101 Filed 5–3–74;8:45 am]

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[Docket No. FI 262]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area Identified	State map repository	Local map repository
Alabama	Jefferson	Unincorporated areas	May 1, 1974. Emergency			
Arkansas	Hot Spring	Malvern, city of	do	Nov. 16, 1973		
Illinois	Boone	Unincorporated areas	do			
Do	Pike	do	do			
Do	St. Clair	Brooklyn, village of	do	Mar. 1, 1974		
Do	do	Masonitah, city of	do	do		
Do	Union	Unincorporated areas	do			
Do	Washington	Okawville, village of	do	Mar. 1, 1974		
Do	Whiteside	Rock Falls, city of	do	Mar. 22, 1974		
Iowa	Clayton	Guttenberg city of	do	Feb. 8, 1974		
Kentucky	Campbell	Bellevue, city of	do	Feb. 1, 1974		
New Mexico	Curry	Clovis, city of	do			
North Dakota	Pembina	Unincorporated areas	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 24, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–10102 Filed 5–3–74;8:45 am]

[Docket No. FI 263]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area Identified	State map repository	Local map repository
Florida	Flagler	Flagler Beach, city of	May 2, 1974. Emergency.	Feb. 1, 1974		
Minnesota	Benton	Foley, city of	do	Mar. 29, 1974		
Do	Brown	Springfield, city of	do	Nov. 30, 1973		
Do	Clay	Barnesville, city of	do	May 10, 1974		
Do	Freebron	Glenville, city of	do	Mar. 8, 1974		
Do	Hennepin	Hopkins, city of	do	Nov. 9, 1973		
Do	Mower	Leroy, city of	do			
Do	Nobles	Adrian, city of	do	May 3, 1974		
Tennessee	Smith	Carthage, city of	do			
Texas	Brazos	Bryan, city of	do	Mar. 15, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 25, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–10103 Filed 5–3–74;8:45 am]

[Docket No. FI 259]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 **List of communities with special hazard areas.**

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazard
Delaware	New Castle	Newark, city of	11 10 003 0000 04 through 11 10 003 0000 12	Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control Tatnall Bldg., Capitol Complex, Dover, Del. 19901. Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	City of Newark Planning Department, P.O. Box 390, Newark, Del. 19711.	Dec. 7, 1971.
Do	do	New Castle, city of	11 10 003 0000 04 through 11 10 003 0000 12	do	Town Hall, New Castle, Del. 19720.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 23, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–10099 Filed 5–3–74;8:45 am]

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[Docket No. FI 257]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
California	San Diego	Oceanside, city of	H 06 073 2510 01 through H 06 073 2510 15	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103.	Mayor, City Hall, 706 3d St., Oceanside, Calif. 92054.	May 10, 1974.
Illinois	Lake	Waukegan, city of	H 17 097 9100 01 through H 17 097 9100 08	Governor's Task Force on Flood Control, P.O. Box 175, Lisle, Ill. 60532. Illinois Insurance Department, 509 State Office Bldg., Springfield, Ill. 62702.	City Hall, 106 N. Utica St., Waukegan, Ill. 60085.	Do.
Kentucky	Jackson	McKee, city of	H 21 109 2135 01 through H 21 109 2135 03	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza, Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Mayor, City Hall, McKee, Ky. 40447.	Do.
Michigan	Wayne	Trenton, city of	H 26 163 [illegible] 01 through H 26 163 [illegible] 03	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 N. Mesaner St., Lansing, Mich. 48913.	Engineering Department, 2800 3d St., Trenton, Mich. 18183.	Do.
Texas	Cameron	Rio Hondo, town of.	H 48 061 5790 01 through H 48 061 5790 02	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	Mayor, P.O. Box 396, Rio Hondo, Tex. 78583.	Do.
Do	Collin	Plano, city of	H 48 085 5390 01 through H 48 085 5390 13	do	Mayor, Box 358, Plano, Tex. 75071	Do.
Do	Culberson	Van Horn, town of.	H 48 109 7140 01 through H 48 109 7140 03	do	Mayor, City Hall, Van Horn, Tex. 79855.	Do.
Do	Lavaca	Yoakum, city of	H 48 285 7690 01 through H 48 285 7690 01	do	City Manager, Municipal Bldg., Yoakum, Tex. 77995.	Do.
Do	Lynn	Tahoka, city of	H 48 305 6740 01 through H 48 305 6740 02	do	Mayor, Tahoka, Tex. 79373.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 24, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–10097 Filed 5–3–74;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 565–74]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Miscellaneous Amendments

This order makes certain further changes in the structure and organizational relationships within the Department of Justice. Its purpose is to improve the management and operation of the Department.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.1 of Subpart A of Part 0 is revised to read as follows:

§ 0.1 Organizational Units.

The Department of Justice shall consist of the following principal organizational units:

OFFICES

Office of the Attorney General
Office of the Deputy Attorney General
Office of the Solicitor General
Office of Legal Counsel
Office of Legislative Affairs
Office of Public Information
Office of Management and Finance
Office of Criminal Justice
Office of Watergate Special Prosecution Force
Office of the Pardon Attorney
Community Relations Service
Executive Office for United States Attorneys

DIVISIONS

Antitrust Division
Civil Division
Civil Rights Division
Criminal Division
Land and Natural Resources Division
Tax Division

BUREAUS

Federal Bureau of Investigation
Bureau of Prisons
Drug Enforcement Administration
Immigration and Naturalization Service
Law Enforcement Assistance Administration
United States Marshals Service

BOARDS

Board of Immigration Appeals
Board of Parole

§ 0.6 [Revoked]

2. Section 0.6 of Subpart B is revoked and reserved.

§ 0.7 [Amended]

3. The preambular paragraph of §0.7 of Subpart B is revised to read as follows:

The Office of Public Information is headed by a Director of Public Information. Under the general supervision of the Attorney General and the direction of the Deputy Attorney General the Director shall:

* * * * *

4. Section 0.7 is amended by revoking and reserving paragraph (g).

§§ 0.8—0.10 [Revoked]

5. Sections 0.8, 0.9, and 0.10 of Subpart B are revoked.

6. Section 0.15 of Subpart C is revised to read as follows:

§ 0.15 Deputy Attorney General.

(a) The Deputy Attorney General is authorized to exercise all the power and authority of the Attorney General specified in § 0.5 of Subpart B of this part, unless any such power or authority is required by law to be exercised by the Attorney General personally or has been specifically delegated to another Department official.

(b) The Deputy Attorney General shall act as Attorney General and perform all the duties of the Office of Attorney General in case of a vacancy in that office or in case of the absence or disability of the Attorney General and shall:

(1) Assist the Attorney General in the development of broad Department program policy and in the overall supervision and direction of the Department, including coordination of the activities of the divisions and other organizational units of the Department.

(2) Prepare, for the consideration of the Attorney General, recommendations for Presidential appointments to judicial positions and positions within the Department.

(3) Exercise the power and authority vested in the Attorney General and in the Law Enforcement Assistance Administration to take final action in matters pertaining to:

(i) the employment, separation, and general administration of personnel in General Schedule grades GS–16 through GS–18, or the equivalent, and of attorneys regardless of grade or pay in the Department; and

(ii) the appointment of Assistant U.S. Attorneys and other attorneys to assist U.S. Attorneys when the public interest so requires, and fixing their salaries.

(4) Administer the Attorney General's recruitment program for Honor Law Graduates and judicial law clerks.

(5) Coordinate and control the Department's reaction to civil disturbances.

(6) Coordinate the Department's response to requests for production or disclosure of information under 5 U.S.C. 552(a). (See Part 16(A) of this Chapter).

(7) Coordinate Departmental liaison with the White House staff and the Executive Office of the President.

(8) Perform such other duties and functions as may be especially assigned from time to time by the Attorney General.

(c) The Deputy Attorney General may review any personnel action taken by any officer of the Department.

7. Section 0.17 of Subpart C is revoked and the following new § 0.17 is inserted in its place:

§ 0.17 Office of criminal justice.

The Office of Criminal Justice is established in the Office of the Deputy Attorney General to provide an overview of problems in the criminal justice system and is headed by a Director. Under the general supervision of the Deputy Attorney General, the Director shall initiate, implement and evaluate proposals:

(a) To improve the effectiveness and the fairness of crime control and criminal justice administration; and

(b) To promote consistency and coordination in the handling of accused and convicted offenders by law enforcement, court, and correctional agencies in the Federal and District of Columbia systems.

§ 0.20 [Amended]

8. Paragraph (e) of § 0.20 of Subpart D relating to the Office of the Solicitor General is amended by adding "and the Deputy Attorney General" after "Assist the Attorney General".

9. Paragraph (m) of § 0.25 of Subpart E is amended by inserting "or the Deputy Attorney General" immediately after "The Attorney General" and the introductory text is revised to read as follows:

§ 0.25 General functions.

Subject to the general supervision of the Attorney General and the direction of the Deputy Attorney General the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Office of Legal Counsel:

* * * * *

10. Paragraph (d) of § 0.27 of Subpart E–1 is amended by adding "or the Deputy Attorney General" at the end and the introductory text is revised to read as follows:

§ 0.27 General functions.

Subject to the general supervision of the Attorney General and the direction of the Deputy Attorney General the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Office of Legislative Affairs:

* * * * *

11. Paragraph (r) of § 0.75 of Subpart O is revoked and the heading and introductory paragraph are revised to read as follows:

§ 0.75 Policy functions.

The Assistant Attorney General for Administration shall head the Office of Management and Finance and shall provide advice relating to basic Department policy for budget and financial management, auditing, personnel management and training, automatic data processing and telecommunications, security and for all matters pertaining to organization, management, and administration. Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or

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supervised by, the Assistant Attorney General for Administration:

12. The introductory paragraph and paragraphs (d) and (q) of § 0.76 are revised to read as follows:

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the functions delegated to the Assistant Attorney General for Administration by this Subpart 0 shall also include the following specific policy functions:

• • • • •

(d) Reviewing settlements of claims, arising from Departmental operations, which are made by the various organizational units of the Department under the Federal Claims Collection Act of 1966 and to exercise the claims settlement authority as to all other organizational units of the Department (31 U.S.C. 952).

• • • • •

(q) Exercising, except for the authority conferred in § 0.15 of Subpart C and §§ 0.137 and 0.138 of Subpart X, and subject to the discretionary review of the Deputy Attorney General, the power and authority vested in the Attorney General to take final action on matters pertaining to the employment, separation, and general administration of personnel in General Schedule grades GS–1 through GS–15, and in wage board positions; to classify positions in the Department under the General Schedule and wage board systems regardless of grade; to postaudit and correct any personnel action within the Department; and to inspect at any time any personnel operations of the various organizational units of the Department.

13. Section 0.77 of Subpart 0 is redesignated § 0.78 and the following new § 0.77 is inserted:

§ 0.77 Operational functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Assistant Attorney General for Administration shall provide all direct administrative support services to the Offices, Divisions and Boards of the Department, and to the U.S. Marshals Service, except where independent administrative authority has been delegated to the Director, U.S. Marshals Service. These services shall include the following:

(a) Planning, directing and coordinating the personnel management program; providing personnel services including employment and staffing, employee relations, and classification, and including the employment, separation and general administration of employees, except attorneys, in General Schedule grades GS–15 and below, or equivalent pay levels.

(b) Formulating policies and plans for efficient administrative management and organization and developing and coordinating all management studies and reports on the operations of the Offices, Divisions and Boards.

(c) Planning, justifying, and compiling the annual and supplemental budget estimates of the Offices, Divisions and Boards.

(d) Planning, directing and executing accounting operations for the Offices, Divisions and Boards.

(e) Providing information systems analysis, design, computer programming, and systems implementation services consistent with Departmental information systems plans, policies and procedures.

(f) Implementing and administering management programs for the creation, organization, maintenance, use, and disposition of Federal records, and providing mail and messenger service.

(g) Implementing and administering programs for procurement, personal property, and supply, motor vehicle and space management.

(h) Operating and maintaining the Department Library.

(i) Routing and controlling correspondence, maintaining indices of legal cases and matters, replying to correspondence not assignable to a division, safeguarding confidential information, attesting to the correctness of records, and related matters.

(j) Accepting service of summons, complaints or other papers, as a representative of the Attorney General, under the Federal Rules of Civil and Criminal Procedure or in any suit within the purview of subsection (a) of Section 208 of the Department of Justice Appropriation Act, 1953 (66 Stat. 560 (43 U.S. 666(a))).

(k) Making the certificates required in connection with the payment of expenses of collecting evidence: *Provided*, That each such certificate shall be approved by the Attorney General.

(l) Determining the amounts of bonds required of U.S. Marshals (28 U.S.C. 564).

(m) Designating a highway mileage guide containing a shortline nationwide table of distances for use in determining mileage payable to witnesses (28 U.S.C. 1821).

(n) Authorizing payment of extraordinary expenses incurred by ministerial officers of the United States in executing acts of Congress (28 U.S.C. 1929).

(o) Representing the Attorney General with the Secretary of State in arranging for reimbursement by foreign governments of expenses incurred in extradition cases, and certifying to the Secretary the amounts to be paid to the United States as reimbursement (18 U.S.C. 3195).

14. The introductory paragraph of § 0.85 of Subpart P is revised to read as follows:

§ 0.85 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Director of the Federal Bureau of Investigation shall:

• • • • •

15. The introductory paragraph of § 0.95 of Subpart Q is revised to read as follows:

§ 0.95 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Director of the Bureau of Prisons shall direct all activities of the Bureau of Prisons, including:

• • • • •

16. The introductory paragraph of § 0.100 of Subpart R is revised to read as follows:

§ 0.100 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following described matters are assigned to, and shall be conducted, handled, or supervised by, the Administrator of the Drug Enforcement Administration:

17. The introductory paragraph of § 0.101 of Subpart R is revised to read as follows:

§ 0.101 Specific functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Administrator shall be responsible for:

• • • • •

18. The introductory paragraph of § 0.105 of Subpart S is revised to read as follows:

§ 0.105 General functions.

Subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General, the Commissioner of Immigration and Naturalization shall:

• • • • •

19. A new § 0.138a is inserted immediately after § 0.138, to read as follows:

§ 0.138a U.S. Marshals Service.

The Director of the United States Marshals Service is authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave classification, and separation) of personnel in General Schedule grades GS–1 through GS–13 and in wage board positions, and to employ on a temporary basis experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)). All personnel actions taken under this section shall be subject to postaudit and correction by the Assistant Attorney General for Administration.

§ 0.139 [Amended]

20. Paragraph (a) of § 0.139 of Subpart X is amended by deleting "the Deputy Attorney General."

§§ 0.140, 0.143–0.145, 0.151 and 0.153 [Amended]

21. Sections 0.140, 0.143–0.145, 0.151 and 0.153 are amended by deleting "The Deputy Attorney General," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§ 0.141 [Amended]

22. Section 0.141 is amended by deleting "The Deputy Attorney General," and by inserting "the Director of the United States Marshals Service," immediately after "the Administrator of the Drug Enforcement Administration."

§ 0.142 [Amended]

23. Section 0.142 is amended by deleting "The Deputy Attorney General," by inserting "the Director of the United States Marshals Service" immediately after "the Administrator of the Drug Enforcement Administration," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

24. Section 0.147 is revised to read as follows:

§ 0.147 Certification of obligations.

The following-designated officials are authorized to make the certifications required by section 1311(c) of the Supplemental Appropriations Act, 1955 (68 Stat. 831 (31 U.S.C. 200(c))); for the Federal Bureau of Investigation, the Assistant Director, Administrative Division; for the Bureau of Prisons, the Assistant Director, Administrative Services; for Federal Prison Industries, the Secretary; for the Immigration and Naturalization Service, the Assistant Commissioner, Administrative Division; for the Drug Enforcement Administration, the Director of Administration and Management; for the Law Enforcement Assistance Administration, the Chief, Administrative Services Division; and for all other organizational units of the Department (including U.S. Attorneys and Marshals), the Assistant Attorney General for Administration or the Director, Budget and Finance Staff, Office of Management and Finance.

§ 0.148 [Amended]

25. Section 0.148 is amended by deleting "for the legal activities, the Deputy Attorney General" immediately before "for the Federal Bureau of Investigation, the Director," by inserting "for the United States Marshals Service, the Director" immediately before "and for all other organizational units of the Department," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§ 0.149 [Amended]

26. Section 0.149 is amended by deleting "The Deputy Attorney General," by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§§ 0.152 and 0.155 [Amended]

27. Sections 0.152 and 0.155 are amended by deleting "The Deputy Attorney General", and by inserting "(including U.S. Attorneys and Marshals)" immediately after "all other organizational units of the Department."

§ 0.154 [Amended]

28. Section 0.154 is amended by deleting "The Deputy Attorney General," by inserting "the Director of the United States Marshals Service" immediately after "Drug Enforcement Administration," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§ 0.172 [Amended]

29. Paragraph (a) of § 0.172 of Subpart Y is amended by inserting "the Director of the United States Marshals Service" immediately after "Commissioner of Immigration and Naturalization" and by inserting "the United States Marshals Service" immediately after "the Immigration and Naturalization Service."

30. Section 0.190 of Subpart BB is revised to read as follows:

§ 0.190 Changes within organizational units.

The head of each Office, Division, Bureau or Board may from time to time propose the establishment, transfer, reorganization or termination of major functions within his organizational unit as he may deem necessary or appropriate. In each instance, the head of the Office, Division, Bureau or Board shall submit the proposed change in writing to the Assistant Attorney General for Administration who shall evaluate it and submit the proposed change along with his recommendation to the Deputy Attorney General. Final authority to implement the proposed change is contingent upon the approval of the Attorney General.

§ 16.3 [Amended]

31. Paragraph (a) of § 16.3 of Subpart A of Part 16 is amended by substituting "Office of the Deputy Attorney General for "Office of Public Information, Office of the Attorney General" each place it appears.

32. Section 16.4 is revised to read as follows:

§ 16.4 Requests referred to division primarily concerned.

(a) Referral to responsible division. The Deputy Attorney General shall, promptly upon receipt of a request for Department records, ascertain which division of the Department has primary concern with the records requested. As used in this subpart, the term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney and Federal Prison Industries except as otherwise expressly provided. He shall then promptly forward the request to the responsible division and notify the requester of his action. The Deputy Attorney General shall maintain or be furnished with a file copy of each request received, and records to show the date of its receipt from the requester, the division to which it was forwarded, and the date on which it was forwarded. For all purposes under this subpart the Board of Immigration Appeals and the Bureau of Prisons shall be considered the responsible division with respect to requests sent directly to them pursuant to § 16.3 hereof.

(b) Deputy Attorney General shall assure timely response. The Office of the Deputy Attorney General shall periodically review the practices of the divisions in meeting the time requirements set out in § 16.5 hereof, and take such action to promote timely responses as it deems appropriate.

§ 16.5 [Amended]

33. Section 16.5 is amended by substituting "Deputy Attorney General" for "Executive Secretary" each place it appears and by substituting "Office of the Deputy Attorney General" for "Executive Secretariat."

§ 16.7 [Amended]

34. Paragraph (d) of § 16.7 is amended by substituting "Deputy Attorney General" for "Executive Secretary" each place it appears.

§ 16.8 [Amended]

35. Section 16.8 is amended by substituting "Deputy Attorney General" for "Executive Secretary" each place it appears.

This order shall be effective as of May 11, 1974, except that the merger of the Office of Legal Administration into the Office of Management and Finance shall be effective immediately.

Dated: April 26, 1974.

WILLIAM B. SAXBE,
Attorney General.

[FR Doc.74–10334 Filed 5–3–74;8:45 am]

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supervised by, the Assistant Attorney General for Administration:

12. The introductory paragraph and paragraphs (d) and (q) of § 0.76 are revised to read as follows:

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the functions delegated to the Assistant Attorney General for Administration by this Subpart 0 shall also include the following specific policy functions:

• • • • •

(d) Reviewing settlements of claims, arising from Departmental operations, which are made by the various organizational units of the Department under the Federal Claims Collection Act of 1966 and to exercise the claims settlement authority as to all other organizational units of the Department (31 U.S.C. 952).

• • • • •

(q) Exercising, except for the authority conferred in § 0.15 of Subpart C and §§ 0.137 and 0.138 of Subpart X, and subject to the discretionary review of the Deputy Attorney General, the power and authority vested in the Attorney General to take final action on matters pertaining to the employment, separation, and general administration of personnel in General Schedule grades GS–1 through GS–15, and in wage board positions; to classify positions in the Department under the General Schedule and wage board systems regardless of grade; to postaudit and correct any personnel action within the Department; and to inspect at any time any personnel operations of the various organizational units of the Department.

13. Section 0.77 of Subpart 0 is redesignated § 0.78 and the following new § 0.77 is inserted:

§ 0.77 Operational functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Assistant Attorney General for Administration shall provide all direct administrative support services to the Offices, Divisions and Boards of the Department, and to the U.S. Marshals Service, except where independent administrative authority has been delegated to the Director, U.S. Marshals Service. These services shall include the following:

(a) Planning, directing and coordinating the personnel management program; providing personnel services including employment and staffing, employee relations, and classification, and including the employment, separation and general administration of employees, except attorneys, in General Schedule grades GS–15 and below, or equivalent pay levels.

(b) Formulating policies and plans for efficient administrative management and organization and developing and coordinating all management studies and reports on the operations of the Offices, Divisions and Boards.

(c) Planning, justifying, and compiling the annual and supplemental budget estimates of the Offices, Divisions and Boards.

(d) Planning, directing and executing accounting operations for the Offices, Divisions and Boards.

(e) Providing information systems analysis, design, computer programming, and systems implementation services consistent with Departmental information systems plans, policies and procedures.

(f) Implementing and administering management programs for the creation, organization, maintenance, use, and disposition of Federal records, and providing mail and messenger service.

(g) Implementing and administering programs for procurement, personal property, and supply, motor vehicle and space management.

(h) Operating and maintaining the Department Library.

(i) Routing and controlling correspondence, maintaining indices of legal cases and matters, replying to correspondence not assignable to a division, safeguarding confidential information, attesting to the correctness of records, and related matters.

(j) Accepting service of summons, complaints or other papers, as a representative of the Attorney General, under the Federal Rules of Civil and Criminal Procedure or in any suit within the purview of subsection (a) of Section 208 of the Department of Justice Appropriation Act, 1953 (66 Stat. 560 (43 U.S. 666(a))).

(k) Making the certificates required in connection with the payment of expenses of collecting evidence: *Provided*, That each such certificate shall be approved by the Attorney General.

(l) Determining the amounts of bonds required of U.S. Marshals (28 U.S.C. 564).

(m) Designating a highway mileage guide containing a shortline nationwide table of distances for use in determining mileage payable to witnesses (28 U.S.C. 1821).

(n) Authorizing payment of extraordinary expenses incurred by ministerial officers of the United States in executing acts of Congress (28 U.S.C. 1929).

(o) Representing the Attorney General with the Secretary of State in arranging for reimbursement by foreign governments of expenses incurred in extradition cases, and certifying to the Secretary the amounts to be paid to the United States as reimbursement (18 U.S.C. 3195).

14. The introductory paragraph of § 0.85 of Subpart P is revised to read as follows:

§ 0.85 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Director of the Federal Bureau of Investigation shall:

• • • • •

15. The introductory paragraph of § 0.95 of Subpart Q is revised to read as follows:

§ 0.95 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Director of the Bureau of Prisons shall direct all activities of the Bureau of Prisons, including:

• • • • •

16. The introductory paragraph of § 0.100 of Subpart R is revised to read as follows:

§ 0.100 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following described matters are assigned to, and shall be conducted, handled, or supervised by, the Administrator of the Drug Enforcement Administration:

17. The introductory paragraph of § 0.101 of Subpart R is revised to read as follows:

§ 0.101 Specific functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Administrator shall be responsible for:

• • • • •

18. The introductory paragraph of § 0.105 of Subpart S is revised to read as follows:

§ 0.105 General functions.

Subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General, the Commissioner of Immigration and Naturalization shall:

• • • • •

19. A new § 0.138a is inserted immediately after § 0.138, to read as follows:

§ 0.138a U.S. Marshals Service.

The Director of the United States Marshals Service is authorized to exercise the power and authority vested in the Attorney General by law to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave classification, and separation) of personnel in General Schedule grades GS–1 through GS–13 and in wage board positions, and to employ on a temporary basis experts or consultants or organizations thereof, including stenographic reporting services (5 U.S.C. 3109(b)). All personnel actions taken under this section shall be subject to postaudit and correction by the Assistant Attorney General for Administration.

§ 0.139 [Amended]

20. Paragraph (a) of § 0.139 of Subpart X is amended by deleting "the Deputy Attorney General."

§§ 0.140, 0.143–0.145, 0.151 and 0.153 [Amended]

21. Sections 0.140, 0.143–0.145, 0.151 and 0.153 are amended by deleting "The Deputy Attorney General," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§ 0.141 [Amended]

22. Section 0.141 is amended by deleting "The Deputy Attorney General," and by inserting "the Director of the United States Marshals Service," immediately after "the Administrator of the Drug Enforcement Administration."

§ 0.142 [Amended]

23. Section 0.142 is amended by deleting "The Deputy Attorney General," by inserting "the Director of the United States Marshals Service" immediately after "the Administrator of the Drug Enforcement Administration," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

24. Section 0.147 is revised to read as follows:

§ 0.147 Certification of obligations.

The following-designated officials are authorized to make the certifications required by section 1311(c) of the Supplemental Appropriations Act, 1955 (68 Stat. 831 (31 U.S.C. 200(c))); for the Federal Bureau of Investigation, the Assistant Director, Administrative Division; for the Bureau of Prisons, the Assistant Director, Administrative Services; for Federal Prison Industries, the Secretary; for the Immigration and Naturalization Service, the Assistant Commissioner, Administrative Division; for the Drug Enforcement Administration, the Director of Administration and Management; for the Law Enforcement Assistance Administration, the Chief, Administrative Services Division; and for all other organizational units of the Department (including U.S. Attorneys and Marshals), the Assistant Attorney General for Administration or the Director, Budget and Finance Staff, Office of Management and Finance.

§ 0.148 [Amended]

25. Section 0.148 is amended by deleting "for the legal activities, the Deputy Attorney General" immediately before "for the Federal Bureau of Investigation, the Director," by inserting "for the United States Marshals Service, the Director" immediately before "and for all other organizational units of the Department," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§ 0.149 [Amended]

26. Section 0.149 is amended by deleting "The Deputy Attorney General," by inserting "the Director of the United States Marshals Service" immediately after "Drug Enforcement Administration," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§§ 0.152 and 0.155 [Amended]

27. Sections 0.152 and 0.155 are amended by deleting "The Deputy Attorney General", and by inserting "(including U.S. Attorneys and Marshals)" immediately after "all other organizational units of the Department."

§ 0.154 [Amended]

28. Section 0.154 is amended by deleting "The Deputy Attorney General," by inserting "the Director of the United States Marshals Service" immediately after "Drug Enforcement Administration," and by inserting "(including U.S. Attorneys)" immediately after "all other organizational units of the Department."

§ 0.172 [Amended]

29. Paragraph (a) of § 0.172 of Subpart Y is amended by inserting "the Director of the United States Marshals Service" immediately after "Commissioner of Immigration and Naturalization" and by inserting "the United States Marshals Service" immediately after "the Immigration and Naturalization Service."

30. Section 0.190 of Subpart BB is revised to read as follows:

§ 0.190 Changes within organizational units.

The head of each Office, Division, Bureau or Board may from time to time propose the establishment, transfer, reorganization or termination of major functions within his organizational unit as he may deem necessary or appropriate. In each instance, the head of the Office, Division, Bureau or Board shall submit the proposed change in writing to the Assistant Attorney General for Administration who shall evaluate it and submit the proposed change along with his recommendation to the Deputy Attorney General. Final authority to implement the proposed change is contingent upon the approval of the Attorney General.

§ 16.3 [Amended]

31. Paragraph (a) of § 16.3 of Subpart A of Part 16 is amended by substituting "Office of the Deputy Attorney General for "Office of Public Information, Office of the Attorney General" each place it appears.

32. Section 16.4 is revised to read as follows:

§ 16.4 Requests referred to division primarily concerned.

(a) Referral to responsible division. The Deputy Attorney General shall, promptly upon receipt of a request for Department records, ascertain which division of the Department has primary concern with the records requested. As used in this subpart, the term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney and Federal Prison Industries except as otherwise expressly provided. He shall then promptly forward the request to the responsible division and notify the requester of his action. The Deputy Attorney General shall maintain or be furnished with a file copy of each request received, and records to show the date of its receipt from the requester, the division to which it was forwarded, and the date on which it was forwarded. For all purposes under this subpart the Board of Immigration Appeals and the Bureau of Prisons shall be considered the responsible division with respect to requests sent directly to them pursuant to § 16.3 hereof.

(b) Deputy Attorney General shall assure timely response. The Office of the Deputy Attorney General shall periodically review the practices of the divisions in meeting the time requirements set out in § 16.5 hereof, and take such action to promote timely responses as it deems appropriate.

§ 16.5 [Amended]

33. Section 16.5 is amended by substituting "Deputy Attorney General" for "Executive Secretary" each place it appears and by substituting "Office of the Deputy Attorney General" for "Executive Secretariat."

§ 16.7 [Amended]

34. Paragraph (d) of § 16.7 is amended by substituting "Deputy Attorney General" for "Executive Secretary" each place it appears.

§ 16.8 [Amended]

35. Section 16.8 is amended by substituting "Deputy Attorney General" for "Executive Secretary" each place it appears.

This order shall be effective as of May 11, 1974, except that the merger of the Office of Legal Administration into the Office of Management and Finance shall be effective immediately.

Dated: April 26, 1974.

WILLIAM B. SAXBE,
Attorney General.

[FR Doc.74–10334 Filed 5–3–74;8:45 am]

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Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 20]

ESTATE TAXATION

Proposal on Certain Debt Obligations

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 5, 1974. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601 (b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 5, 1974. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; (26 U.S.C. 7805)).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

ESTATE TAXATION OF CERTAIN DEBT OBLIGATIONS WHERE INTEREST EQUALIZATION TAX APPLIES

This document contains proposed amendments to conform the Estate Tax Regulations (26 CFR Part 20) to the amendment made to the Internal Revenue Code of 1954 by section 3(a) of the Interest Equalization Tax Extension Act of 1973 (Pub. L. 93-17, 87 Stat. 12), relating to estate taxation of certain debt obligations where interest equalization tax applies.

Section 3(a) of the Act amended section 2104(c) of the Code to provide that certain debt obligations of a domestic corporation or partnership held by a nonresident alien at the time of his death will be treated as property outside the United States and not subject to the estate tax. This treatment is only extended to such debt obligations if the interest thereon, where received by the decedent at the time of his death, would have been treated as income from sources outside the United States by reason of section 861(a)(1)(G) of the Code, relating to certain debt obligations for which an election has been made under section 4912(c) of the Code to treat such debt obligations as the obligations of a foreign obligor the acquisition of which by a United States person would be subject to imposition of the interest equalization tax.

Section 3(a) of the Act applies with respect to estates of decedents dying after December 31, 1972, except that for debt obligations of a foreign corporation assumed by a domestic corporation treated as issued under section 4912(c)(2) during 1973, section 3(a) of the Act applies with respect to estates of decedents dying after December 31, 1973.

Proposed amendments to the regulations. In order to conform the Estate Tax Regulations (26 CFR Part 20) to the amendment of section 2104(c) of the Internal Revenue Code of 1954 made by section 3(a) of the Interest Equalization Tax Extension Act of 1973 (87 Stat. 12), the regulations are hereby proposed to be amended as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Paragraph 1. Section 20.2104 is amended by revising subsection (c) and the historical note. These revised provisions read as follows:

§ 20.2104 Statutory provisions; property within the United States.

SEC. 2104. *Property within the United States.* * * *

(c) *Debt obligations.* For purposes of this subchapter, debt obligations of—

(1) A United States person, or

(2) The United States, a State or any political subdivision thereof, or the District of Columbia,

owned and held by a nonresident not a citizen of the United States shall be deemed property within the United States. With respect to estates of decedents dying after December 31, 1969, deposits with a domestic branch of a foreign corporation, if such branch is engaged in the commercial banking business, shall, for purposes of this subchapter, be deemed property within the United States. This subsection shall not apply to a debt obligation to which section 2105(b) applies or to a debt obligation of a domestic corporation if any interest on such obligation, were such interest received by the decedent at the time of his death, would be treated by reason of section 861(a)(1)(B) or section 861(a)(1)(G) as income from sources without the United States.

[Sec. 2104 as amended by sec. 108(c), Foreign Investors Tax Act 1966 (80 Stat. 1572); sec. 435(b), Tax Reform Act 1969 (83 Stat. 625); sec. 3(a), Interest Equalization Tax Extension Act 1973 (87 Stat. 12)]

Par. 2. Section 20.2104-1 is amended by revising paragraph (a)(7). The revised provision reads as follows:

§ 20.2104-1 Estates of nonresidents not citizens; property within the United States.

(a) *In general.* * * *

(7) In the case of an estate of a decedent dying on or after November 14, 1966, except as specifically provided otherwise in paragraph (d), (i), (j), (l), or (m) of § 20.2105-1, any debt obligation, including a bank deposit, the primary obligator of which is—

(i) A United States person (as defined in section 7701(a)(30)), or

(ii) The United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government.

This paragraph applies irrespective of whether the written evidence of the debt obligation is treated as being the property itself or whether the decedent was engaged in business in the United States at the time of his death. For purposes of this subparagraph and paragraphs (k), (l), and (m) of § 20.2105-1, a debt obligation on which there are two or more primary obligators shall be apportioned among such obligators, taking into account to the extent appropriate under all the facts and circumstances any choate or inchoate rights of contribution existing among such obligators with respect to the indebtedness. The term "agency or instrumentality," as used in paragraph (a)(7)(ii) of this section, does not include a possession of the United States or an agency or instrumentality of a possession. Currency is not a debt obligation for purposes of this subparagraph.

* * * * *

Par. 3. Section 20.2105-1 is amended by adding at the end thereof a new paragraph (m). This added provision reads as follows:

§ 20.2105-1 Estates of nonresidents not citizens; property without the United States.

* * * * *

(m)(1) In the case of an estate of a decedent dying after December 31, 1972, except as otherwise provided in paragraph (m)(2) of this section, any debt obligation to the extent that the primary obligator on the debt obligation is a domestic corporation or domestic partnership, if any interest thereon, were the interest received from such obligator by the decedent at the time of his death, would be treated under section 861(a)(1) as income from sources without the United States by reason of section 861(a)(1)(G) (relating to interest received on certain debt obligations with respect to which elections have been made under section 4912(c)) and the regulations thereunder. This paragraph applies whether or not (i) the obligation is in fact interest bearing, (ii) the written evidence of the debt obligation is treated as being the property itself, or (iii) the decedent was engaged in business in the United States at the time of his death. See paragraph (a)(7) of § 20.2104-1 for the treatment of a debt obligation on which there are two or more primary obligors.

(2) In the case of an estate of a decedent dying before January 1, 1974, this paragraph does not apply to any debt obligation of a foreign corporation assumed by a domestic corporation which is treated under section 4912(c)(2) as issued by such domestic corporation during 1973.

[FR Doc.74-10311 Filed 5-3-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 33]

SHERBURNE NATIONAL WILDLIFE REFUGE, MINN.

Hunting and Fishing

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), as delegated to the Director, Bureau of Sport Fisheries and Wildlife, by Chapter 2, Part 242 of the Departmental Manual, it is proposed to amend 50 CFR Part 33 by the addition of Sherburne National Wildlife Refuge, Minnesota, to the lists of areas open to sport fishing.

It has been determined that regulated sport fishing may be permitted as designated on the above refuge without detriment to the objectives for which the areas were established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections, with respect to the proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, on or before June 5, 1974. Accordingly, § 33.4, List of open areas; sport fishing, is proposed to be amended by the following addition.

MINNESOTA

SHERBURNE NATIONAL WILDLIFE REFUGE

LYNN A. GREENWALT,
Director, Bureau of Sport Fisheries and Wildlife.

APRIL 30, 1974.

[FR Doc.74-10325 Filed 5-3-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

PICLORAM

Proposed Interim Tolerances

As a result of anticipated shortages of 2,4-D and other herbicides effective in controlling broadleaf weeds during the 1974 growing season, consideration is being given to using mixtures of 2,4-D and picloram on growing barley and wheat in the States of Montana and North Dakota. The Montana Department of Agriculture, Helena MT 59601 and the North Dakota Department of Agriculture, Bismarck, ND 58501, jointly submitted a petition (FAP 4H5052) proposing establishment of tolerances for residues of the herbicide picloram (4-amino-3,5,6-trichloropicolinic acid) in flour and other milled fractions of barley and wheat. Levels were not specified for the proposed tolerances. (For a related document, see this issue of the FEDERAL REGISTER, page 15880.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The following tolerances will be adequate to cover residues resulting from the proposed use of picloram on growing barley and wheat:

a. 1 part per million in flour,

b. 2 parts per million in milled fractions (except flour).

2. The above tolerances will protect the public health.

Therefore, pursuant to provisions of the Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), it is proposed that Part 121 be amended by adding the following new section to Subpart D:

§ 121.1256 Picloram.

The following interim tolerances are established for residues of the herbicide picloram resulting from application of 2,4-D—picloram mixtures to growing barley and wheat during the 1974 growing season in the States of Montana and North Dakota:

2 parts per million in milled fractions (except flour) of barley and wheat.

1 part per million in flour of barley and wheat.

Interested persons may, on or before June 5, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: April 30, 1974.

JOHN B. RITCH, Jr.
Director, Registration Division.

[FR Doc.74-10365 Filed 5-3-74;8:45 am]

[21 CFR Parts 141a, 146a, 149h]

BENZATHINE PHENOXYMETHYL PENICILLIN

Proposed Recodification, Technical Changes, and Updating

The Commissioner of Food and Drugs proposes to amend 21 CFR Parts 141a and 146a as they apply to benzathine phenoxymethyl penicillin and to amend 21 CFR Part 149h by including monographs from Parts 141a and 146a which provide for the certification of benzathine phenoxymethyl penicillin drug products that are currently being marketed.

In addition to recodification, the following revisions and updating of the monographs are proposed:

1. The regulations providing for the certification of benzathine phenoxymethyl penicillin (powder) for oral suspension and benzathine phenoxymethyl penicillin (for aqueous injection veterinary) are to be deleted since requests for certification are no longer being received.

2. The provision for veterinary use of benzathine phenoxymethyl penicillin oral suspension originally provided for under § 146a.109 is to be deleted since this drug product is not used to treat animals.

3. For the bulk form of benzathine phenoxymethyl penicillin:

a. The minimum potency is to be raised from 1,050 units per milligram to 1,060 units per milligram.

b. An upper potency limit of 1,240 units per milligram is to be established.

c. The specifications and test methods for sterility are to be deleted since sterile dosage forms are not being submitted for certification.

d. A lower moisture limit of 5 percent is to be established.

e. An upper limit of 105 percent of theory is to be established for phenoxymethyl penicillin content.

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4. In the regulations providing for certification of benzathine phenoxymethyl penicillin oral suspension, the lower potency limit is to be raised to 90 percent and an upper potency limit of 120 percent is to be established.

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350–351; (21 U.S.C. 357, 360b(n))) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Parts 141a, 146a, and 149h be amended as follows:

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§§ 141a.83, 141a.87, and 141a.99 [Revoked]

1. In Part 141a by revoking and reserving for future use §§ 141a.83, 141a.87, and 141a.99.

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

§§ 146a.19, 146a.105, and 146a.109 [Revoked]

2. In Part 146a by revoking and reserving for future use §§ 146a.19, 146a.105, and 146a.109.

PART 149h—PHENOXYMETHYL PENICILLIN

3. In Part 149h by adding two new sections as follows:

§ 149h.4 Benzathine phenoxymethyl penicillin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality and purity.* Benzathine phenoxymethyl penicillin is the benzathine salt of phenoxymethyl penicillin. It is so purified and dried that:

(i) Its potency is not less than 1,060 units and not more than 1,240 units per milligram.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 5.0 percent and not more than 8.0 percent.

(iv) Its pH in a saturated aqueous solution is not less than 4.0 and not more than 6.5.

(v) Its phenoxymethyl penicillin content is not less than 62.3 percent and not more than 72.5 percent.

(vi) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, phenoxymethyl penicillin content, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately measured representative portion of the sample in sufficient absolute methyl alcohol to give a solution of convenient concentration. Immediately further dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of phenoxymethyl penicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter.

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using a saturated aqueous solution prepared by adding approximately 30 milligrams per milliliter.

(5) *Phenoxymethyl penicillin content.* Accurately weigh approximately 50 milligrams of sample, dissolve in absolute methyl alcohol, and dilute to 100 milliliters with absolute methyl alcohol. Treat a portion of the phenoxymethyl penicillin working standard in the same manner. Using a suitable spectrophotometer equipped with a quartz cell and absolute methyl alcohol as the blank, determine the absorbance at 276 nanometers. Calculate the percent phenoxymethyl penicillin content as follows:

$$\text{Percent phenoxymethyl penicillin} = \frac{\text{Absorbance of sample} \times \text{Weight in milligrams of standard} \times \text{Percent phenoxymethyl penicillin in standard}}{\text{Absorbance of standard} \times \text{Weight in milligrams of sample}}$$

(6) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 149h.20 Benzathine phenoxymethyl penicillin oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Benzathine phenoxymethyl penicillin oral suspension contains benzathine phenoxmethyl penicillin and one or more suitable dispersing agents, buffer substances, preservatives, colorings, and flavorings. Each milliliter contains benzathine phenoxymethyl penicillin equivalent to 17.7 milligrams (30,000 units) or 35.4 milligrams (60,000 units) of phenoxymethyl penicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of phenoxymethyl penicillin that it is represented to contain. Its pH is not less than 6.0 and not more than 7.0. The benzathine phenoxymethyl penicillin used conforms to the standards prescribed by § 149h.4(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The benzathine phenoxymethyl penicillin used in making the batch for potency, safety, moisture, pH, phenoxymethyl penicillin content, and crystallinity.

(b) The batch for potency and pH.

(ii) Samples required:

(a) The benzathine phenoxymethyl penicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately measured representative volume of the sample in sufficient absolute methyl alcohol to give a solution of convenient concentration. Immediately further dilute an aliquot with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of phenoxymethyl penicillin (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, using a representative aliquot of the drug prepared for assay as described in paragraph (b)(2) of that section.

(2) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted suspension.

Interested persons may, on or before May 6, 1974, file with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: April 29, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–10301 Filed 5–3–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

PICLORAM

Proposed Interim Tolerances

As a result of anticipated shortages of 2,4–D and other herbicides effective in controlling broadleaf weeds during the 1974 growing season, consideration is being given to using mixtures of 2,4–D and picloram on growing barley and wheat in the States of Montana and North Dakota. The Montana Department of Agriculture, Helena, MT 59601 and the North Dakota Department of Agriculture, Bismarck, ND 58501, jointly submitted a petition (PP 4E1489) proposing establishment of tolerances for residues of the herbicide picloram (4-amino-3,5,6-trichloropicolinic acid) in or on the grain, green forage and straw of barley and wheat and in the organs and tissues of hogs, horses and poultry. Levels were not specified for any of the proposed tolerances. (For a related document, see this issue of the FEDERAL REGISTER, page 15879.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerances are proposed.

2. The following tolerances will be adequate to cover residues from the proposed use:

a. 1 part per million in or on green forage and straw of barley and wheat.

b. 0.5 part per million in or on grain of barley and wheat.

c. 5 parts per million in kidney of hogs and horses.

d. 0.5 part per million in liver of hogs and horses.

e. 0.2 part per million in meat, fat, and meat byproducts (except kidney and liver) of hogs and horses.

f. 0.05 part per million in eggs and the meat, fat, and meat byproducts of poultry.

3. Existing tolerances for residues of picloram in the kidney of cattle, goats, and sheep at 5 parts per million; the liver of cattle, goats, and sheep at 0.5 part per million; the meat, fat, and meat byproducts (except kidney and liver) of cattle, goats, and sheep at 0.2 part per million; and in milk at 0.05 part per million are adequate to cover residues of picloram from the proposed and established uses.

4. The proposed tolerances will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e))), it is proposed that § 180.292 be amended by adding the following new paragraph thereto:

§ 180.292 4-Amino-3,5,6-trichloropicolinic acid; tolerances for residues.

* * * * *

Interim tolerances are established for residues of the herbicide picloram (4-amino-3,5,6-trichloropicolinic acid) in or on the following raw agricultural commodities when present therein or on as a result of application of 2,4-D-picloram mixtures to growing barley and wheat during the 1974 growing season in the States of Montana and North Dakota:

5 parts per million in kidney of hogs and horses.

1 part per million in green forage and straw of barley and wheat.

0.5 part per million in or on grain of barley and wheat.

0.5 part per million in liver of hogs and horses.

0.2 part per million in meat, fat, and meat byproducts (except kidney and liver) of hogs and horses.

0.5 part per million in eggs and the meat, fat and meat byproducts of poultry.

Interested persons may, on or before June 5, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: April 30, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74–10366 Filed 5–3–74;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 561]

[No. 74–362]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Amendment Relating to Scheduled Items

The Federal Home Loan Bank Board considers it advisable to propose to amend Part 561 of the rules and regulations for Insurance of Accounts (12 CFR Part 561) by revising the definition of scheduled items in § 561.15 thereof.

At present, § 561.15 defines scheduled items to mean, inter alia, slow loans (including deliquent mobile home loans) as defined in § 561.16, real estate owned (REO), loans secured by REO under certain circumstances, and REO which has been transferred to certain business entities, including service corporations, to the extent that such REO would have been included had it not been so transferred. The Board proposes to revise the definition of scheduled items to include the amount invested in repossessed mobile homes and the amount of certain loans to facilitate the sale of mobile homes previously repossessed in order to present a more complete picture of the condition of insured institutions. The proposal would therefore redesignate present paragraph (i) of § 561.15 as paragraph (l) thereof and add three new paragraphs thereto. New paragraph (i) would include in the definition of scheduled items the amount invested in any mobile home, including a mobile home in the possession of "any servicing company or dealer acting on behalf of an insured institution," owned as a result of repossession or acquired by transfer of title in lieu of repossession. New paragraph (j) would require the inclusion of certain loans secured by, and contracts for the sale of, the mobile homes described in said new paragraph (i)—i.e., repossessed mobile homes. To be included as a scheduled item any such loan or contract would have to have an unpaid principal balance in excess of the maximum amount permitted under otherwise applicable lending limitations, or in the absence of such limitations, in excess of 90 percent of the wholesale value of the repossessed mobile home (including any installed equipment), plus the cost of appropriate insurance and any applicable sales tax. The "wholesale value" of such a mobile home would be that established in a "dealers' market." The term "dealer's market" is used in § 545.7–1, "Mobile home financing," of the Rules and Regulations of the Federal Savings and Loan System (12 CFR 545.7–1) and means the value set forth in one of the two "blue books" listing values for used mobile homes. New paragraph (k) would also require the inclusion in the scheduled items definition of the amount invested in any repossessed mobile home transferred by an insured institution, if such mobile home would have been included under either paragraph (i) or (j) if it had not been so transferred, if such transfer was made to either (1) a service corporation as defined in § 561.26, or (2) any other corporation in which such insured institution has an investment.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend said Part 561, as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue, NW., Washington, D.C. 20552, by June 6, 1974, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 561.15 Scheduled items.

The term "scheduled items" means:

* * * * *

(i) The amount invested in any mobile home (other than a mobile home owned pending transfer to an insuring or guaranteeing agency of the U.S. Government), including a mobile home in the possession of any servicing company or dealer acting on behalf of an insured institution, which is owned as a result of repossession or which was acquired by transfer of title in lieu of repossession.

(j) The amount of any loan secured by, and any contract for the sale of, a

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mobile home described in paragraph (i) of this section having an unpaid principal balance in excess of the maximum amount permitted under otherwise applicable lending limitations, or, in the absence of such limitations, in excess of 90 percent of the wholesale value of such mobile home (including any installed equipment) as established in a dealers' market, plus (1) the cost of appropriate insurance for the protection of the association and the owner (or beneficial owner) of such mobile home, and (2) any sales or similar tax applicable in the case of the retail purchase of such mobile home, and

(k) The amount invested in any mobile home transferred by an insured institution to a service corporation or to any other corporation in which an insured institution has an investment, to the same extent that such amount would have been counted as a scheduled item under paragraph (i) or (j) of this section, if such mobile home had not been so transferred.

(l) As used in this section, the term "residential real estate" means real estate (1) improved by a structure or structures designed primarily for residential use and (2) having at least 80 percent of its total value comprised of the land and improvements attributable to such residential use, but such term shall not include nursing homes, homes for the aging, and mobile home parks.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; (12 U.S.C. 1725, 1726). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071).

Dated: April 24, 1974.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLIARD, JR.,
Assistant Secretary.

[FR Doc.74–10362 Filed 5–3–74;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Army

ARMED FORCES INSTITUTE OF PATHOLOGY SCIENTIFIC ADVISORY BOARD

Notice of Meeting

APRIL 29, 1974.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, May 30–31, 1974, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, D.C. 20306. This meeting will be open to the public. Executive sessions will be closed to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultations, education and research. The Executive Secretary from whom substantive program information may be obtained is Colonel James H. Benner, Executive Officer, Armed Forces Institute of Pathology, Washington, D.C. 20306, Telephone 576–2900.

For the Director.

RONALD D. REED,
CPT, MSC, USA,
Adjutant.

[FR Doc.74–10288 Filed 5–3–74;8:45 am]

JUNIOR SCIENCE AND HUMANITIES SYMPOSIA (JSHS) ADVISORY COMMITTEE

Notice of Meeting

In accordance with Pub. L. 92–463 dated 6 October 1972, notice is given of a meeting of the Junior Science and Humanities Symposia (JSHS) Advisory Committee, as follows:

Date: 17 May 1974.
Time: 0930 hours.
Place: Pine Manor Junior College, Chestnut Hill, Massachusetts.
Agenda subjects will be as follows:
Action on Summary of 26th Meeting Held 12 October 1973.
Status of Regional Programs.
Other Army Support of JSHS, FY 74.
Procedures in Selecting Judges and Judging of Student Papers for '74 National.
Reorganization of Army Headquarters—ARO under AMC effective 20 May 1974.
Army Program in Science Fairs—Comparison of PSHS & Science Fair Awards.
London Fortnight Program.
Photography Documentary on '74 National JSHS.

The meeting will be open to the public. For specific rules concerning participation contact Miss Patsy Ashe, Executive Secretary, JSHS Advisory Committee, US Army Research Office, Box CM, Duke Station, Durham, North Carolina 27706, AV 935–3331; AC 919 286–2285.

LOTHROP MITTENTHAL,
COL, GS, Commanding.

[FR Doc.74–10287 Filed 5–3–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[New Mexico 21317, 21318, 21325, 21332, 21333 and 21355]

NEW MEXICO

Notice of Applications

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company has applied for six 2⅜ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 5 W.,
Sec. 27, Lot 2.
T. 27 N., R. 8 W.,
Sec. 1, NW¼SE¼.
T. 28 N., R. 8 W.,
Sec. 12, SW¼SW¼.
T. 29 N., R. 10 W.,
Sec. 13, W½NW¼SE¼;
Sec. 17, Lot 7 and 11.

These pipelines will convey natural gas across 0.181 miles of national resource lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–10298 Filed 5–3–74;8:45 am]

[New Mexico 21309; 21311–16; 21319–24; 21326–31; 21334; 21351–52; 21357]

NEW MEXICO

Notice of Applications

APRIL 29, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 135), El Paso Natural Gas Company has applied for twenty-three 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,
Sec. 7, Lot 4, SE¼SW¼.
T. 26 N., R. 8 W.,
Sec. 12, SE¼SE¼.
T. 27 N., R. 5 W.,
Sec. 7, N½NE¼, SE¼NE¼, E½NW¼;
Sec. 8, W½NE¼;
Sec. 17, Lot 4;
Sec. 23, W½NE¼.
T. 28 N., R. 5 W.,
Sec. 31, Lot 4, N½SW¼.
T. 29 N., R. 8 W.,
Sec. 28, N½NW¼.
T. 29 N., R. 10 W.,
Sec. 7, lots 16, 17, SE¼SW¼;
Sec. 8, lots 12, 13;
Sec. 12, lots 9, 10, 15;
Sec. 17, lots 3, 4;
Sec. 18, lot 7.
T. 29 N., R. 11 W.,
Sec. 5, E½SE¼;
Sec. 12, E½NE¼, E½NW¼, SW¼NW¼.
T. 30 N., R. 10 W.,
Sec. 7, lots 6, 9, 10, 11, 12;
Sec. 25, lots 5, 7, 10, 11;
Sec. 26, lots 8, 9.
T. 30 N., R. 11 W.,
Sec. 26, NW¼SW¼, SE¼SW¼;
Sec. 33, E½NE¼;
Sec. 35, E½SW¼.

These pipelines will convey natural gas across 5.518 miles of national resource lands in San Juan and Rio Arriba Counties, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above twenty-three right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–10296 Filed 5–3–74;8:45 am]

[New Mexico 20470]

NEW MEXICO

Notice of Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company has applied for a 4½ inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 10 W.,
Sec. 36, lot 4, SW¼SE¼.

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This pipeline will convey natural gas across 0.163 miles of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operation.

[FR Doc.74-10297 Filed 5-3-74;8:45 am]

Geological Survey

HYDROGEN SULFIDE IN DRILLING OPERATIONS

Proposed OCS Order No. 14, Gulf of Mexico

Notice is hereby given that pursuant to 30 CFR 250.11, the Chief, Conservation Division, Geological Survey, proposes to approve OCS Order No. 14 for the Gulf of Mexico as set forth below.

The purpose of proposed OCS Order No. 14 is to provide requirements to minimize the dangers of hydrogen sulfide gas when it is encountered during drilling operations.

Interested persons may submit written comments, suggestions, and objections concerning the proposed order to the Director, U.S. Geological Survey, National Center, Mail Drop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092 on or before June 1, 1974.

W. A. RADLINSKI,
Acting Director.

[OCS Order No. 14]

HYDROGEN SULFIDE IN DRILLING OPERATIONS

NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES IN THE OUTER CONTINENTAL SHELF, GULF OF MEXICO AREA

This order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.46.

When drilling operations are undertaken to penetrate reservoirs known or expected to contain hydrogen sulfide (H_2S), or if unknown, upon encountering hydrogen sulfide, the following preventive measures shall be taken to control the effects of the toxicity, flammability, and corrosive characteristics of H_2S. Alternative equipment or procedures that achieve the same or greater levels of safety may be approved by the District Supervisor.

1. *Personnel Safety and Protection*—A. *Training Program.* (1) All personnel, whether regularly assigned, contracted or employed on an unscheduled basis, shall be informed as to the severity of hydrogen sulfide (H_2S) detectors and alarms, ventilation equipment, prevailing winds, briefing areas, warning systems, and evacuation procedures.

(2) Information relating to these safety measures shall be prominently posted on the drilling facility and on vessels in the immediate vicinity which are serving the drilling facility.

(3) To promote efficient safety procedures, an on-site H_2S safety program, which includes a weekly drill and training session, shall be established. Records of attendance shall be maintained on the drilling facility.

(4) All personnel in the working crew shall have completed a basic first-aid course. During subsequent on-site training sessions and drills, emphasis should be placed upon rescue and first aid for H_2S victims. Each drilling facility shall have the following equipment, and each crew member should be thoroughly familiar with the location and use of these items:

(a) A Coast Guard-approved first-aid kit, sized for the normal working number of personnel.

(b) Resuscitators, complete with face masks, oxygen bottles, and spare oxygen bottles.

(c) A Stokes litter or equivalent.

(5) One person, who regularly performs duties on the drilling facility, shall be responsible for the overall operation of the on-site safety and training program.

B. *Visible Warning System.* Wind direction equipment shall be installed at prominent locations to indicate to all personnel, on or in the immediate vicinity of the facility of the facility, the wind direction at all times for determining safe upwind areas in the event that H_2S or SO_2 is present in the atmosphere.

Operational spheres shall be displayed from high points visible to all facility personnel and from watercraft and aircraft. Each sphere shall have a minimum diameter of two feet, shall be a high-visibility orange color, and shall be illuminated either internally or externally. These spheres shall indicate the following operational conditions and requirements:

(1) *ONE SPHERE.* Potential danger—while drilling in known H_2S zones or when H_2S has been detected in the drilling fluid or atmosphere.

(2) *TWO SPHERES.* Moderate danger—when the threshold limit value of H_2S (10 parts per million) is reached. If the concentration of H_2S reaches 20 parts per million, protective equipment shall be worn by all personnel, and all nonworking personnel shall proceed to the safe briefing areas.

(3) *THREE SPHERES.* Extreme danger—when H_2S is determiued to have reached the injurious level (20 parts per million). Immediately evacuate all nonessential personnel, or all personnel, as appropriate. Radio communications shall be used to alert all known air and watercraft in the immediate vicinity of this condition.

C. *Contingency Plan.* A contingency plan shall be developed prior to the commencement of drilling operations which shall include the following:

(1) General information and physiological response to H_2S and SO_2 exposure.

(2) Safety procedures, equipment, and training.

(3) Procedures for operating conditions:

(a) One-sphere condition—potential danger to life.

(b) Two-sphere condition—moderate danger to life.

(c) Three-sphere condition—extreme danger to life.

(4) Responsibilities and duties of personnel for each operating condition.

(5) Designation of briefing areas as locations for assembly of personnel during three-sphere condition. At least two briefing areas should be established on each drilling facility. Of these two areas, the one upwind at any given time is the safe briefing area.

(6) Evacuation plan.

(7) Agencies to be notified in case of an emergency.

(8) A list of medical personnel and facilities, including addresses and telephone numbers. (See paragraph G.)

D. *H_2S Detection and Monitoring Equipment.* Each drilling facility shall have an H_2S detection and monitoring syatem which activates audible and visible alarms before the concentration of H_2S exceeds its threahold limit value of 10 ppm in air. This equipment shall be capable of sensing a minimum of 5 ppm H_2S in air, with sensing points located at the bell nipple, shale shaker, mud pits, driller's atand, living quarters, and other areas where H_2S might accumulate in hazardous quantities.

H_2S detector ampules shall be available for use by all working personnel. After H_2S has been initially detected by any device, periodic inspections of all areas of poor ventilation shall be made with a portable H_2S detector instrument.

E. *Personnel Protective Equipment.* (1) All personnel on a drilling facility or aboard marine vessels serving the facility shall be equipped with proper personnel protective breathing apparatus. The breathing apparatus used in an H_2S environment shall conform to all applicable Occupational Safety and Health Administration and American National Standards Institute standards and regulations. Optional equipment, such as nose cups and spectacle kits, shall be available for use as needed.

(2) The storage location of protective breathing apparatus shall be such that they are quickly and easily available to all personnel. Storage locations shall include the following:

(a) Rig floor.
(b) Any working area above the rig floor.
(c) Mud logging facility.
(d) Shale-shaker area.
(e) Mud pit area.
(f) Mud storage area.
(g) Pump rooms, (mud and cement).
(h) Crew quarters.
(i) Each briefing area.
(j) Heliport.

(3) A system of breathing air manifolds, hoses, and masks shall be provided on the rig floor and in the briefing areas. A cascade air bottle system shall be provided to refill individual protective breathing apparatus bottles. The cascade air bottle system may be recharged by a high-pressure compressor suitable for providing breathing-quality air, provided the compressor suction is located in an uncontaminated atmosphere. All breathing air bottles should be labeled as containing breathing-quality air fit for human usage.

(4) Workboats attendant to rig operations shall be equipped with protective breathing apparatus for all workboat crew members. Pressure demand or demand-type masks, connected to a breathing-air manifold, and extra protective breathing apparatus, shall be provided for evacuees. Whenever possible, boats should be stationed upwind.

(5) Helicopters attendant to rig operations shall be equipped with a protective breathing apparatus for the pilot.

(6) The following additional personnel safety equipment shall be available for use as needed:

(a) Portable H_2S detectors.
(b) Retrieval ropes with safety harnesses to retrieve incapacitated personnel from contaminated areas.
(c) Chalk boards and note pads located on the rig floor, in the shale-shaker area, and in the cement pump rooms for communication purposes.
(d) Bull horns and flashing lights.
(e) Resuscitators.

F. *Ventilation Equipment.* All ventilation devices shall be explosion-proof and situated in areas where H_2S or SO_2 may accumulate. Movable ventilation devices shall be provided in work areas and be multi-directional and capable of dispersing H_2S or SO_2 vapors away from working personnel.

G. *Notification of Regulatory Agencies.* The following agencies shall be immediately notified under the alert conditions indicated:

(1) Two Spheres.
(a) U.S. Geological Survey.
(b) U.S. Coast Guard.

(2) Three Spheres.
(a) U.S. Geological Survey.
(b) U.S. Coast Guard.
(c) Department of Defense (when operating in Department of Defense warning areas in the Northeast Gulf of Mexico).
(d) Appropriate State agencies.

2. *Metallurgical Equipment Considerations.* Equipment used when drilling zones bearing hydrogen sulfide shall be constructed of materials which, according to design principles, will be able to resist and/or prevent the phenomena known variously as sulfide stress cracking, hydrogen embrittlement, or stress corrosion cracking. Such equipment includes drill pipe, casing, casing heads, blowout-preventer stack assemblies, kill lines, choke manifolds, and other related equipment. A knowledge of the various interactions between stress, environment, and the metallurgy employed is required for successful operation of H_2S environments. The following general practices are required for acceptable performance:

A. *Drill String.* Drill strings shall be designed consistent with the anticipated depth, conditions of the hole, and reservoir environment to be encountered. Care shall be taken to minimize exposure to the stresses and yield strengths of the drill string as much as is practical and consistent with the anticipated hold conditions to be encountered.

B. *Casing.* Casing, couplings, flanges, and related equipment shall be designed for H_2S service. Casing flange bolting shall meet the standards as set forth in the latest edition of the National Association of Corrosion Engineers publication 1F-166. Field welding on casing (except conductor and surface strings) is prohibited unless approved by the District Supervisor.

C. *Wellhead, Blowout Preventers, and Pressure Control Equipment.* The blowout-preventer stack assembly shall meet the manufacturer's specification for H_2S service. Surface equipment such as choke manifold, kill lines, fill-up lines, flowlines, and other related pressure equipment which may contain well fluids shall be designed for H_2S service. Bolting and weldments shall conform to the recommendations as set forth in the latest edition of NACE publication 1F-166. Elastomers (rubbers), packing, and similar inner parts exposed to H_2S shall be resistant at the maximum anticipated temperature of exposure.

3. *Mud Program.* (1) Either water- or oil-base muds are suitable for use in drilling formations containing hydrogen sulfide. If oil-base muds are used, cuttings shall be cleaned of oil prior to disposal into Gulf waters.

(2) A pH of 9.5 or above shall be maintained in a water-base mud system to control corrosion and prevent sulfide stress cracking.

(3) Consideration shall also be given to the use of hydrogen sulfide scavengers in both water- and oil-base mud systems.

(4) Sufficient quantities of additives shall be maintained on location for addition to the mud system as needed to neutralize hydrogen sulfide picked up by the system when drilling in formations containing hydrogen sulfide.

(5) The application of corrosion inhibitors to the drill pipe to afford a protective coating or their addition to the mud system may be used as an additional safeguard to the normal protection of the metal by pH control and the scavengers mentioned above.

(6) Drilling mud containing hydrogen sulfide gas shall be degassed at the optimum location for the particular rig configuration employed. The gases so removed shall be piped into a closed flare system and burned at a suitable remote stack.

4. *General Operations.* All personnel in the working area shall utilize H_2S protective equipment when required, as specified in paragraph 1.B. The normal fixed-point monitor system outlined in paragraph 1.D. may be supplemented with portable H_2S detectors as conditions warrant.

A. *Drill String Trips or Fishing Operations.* Every effort shall be made to pull a dry drill string. If it should be necessary to pull the drill string wet after peneration of H_2S-bearing zones, increased monitoring of the working area shall be provided and protective breathing apparatus shall be worn under conditions as outlined in paragraph 1.B.

B. *Circulating Bottoms-up from a Drilling Break, Cementing Operations, Logging Operations, or Well Circulation While Not Drilling.* After penetration of an H_2S-bearing zone, protective breathing apparatus must be worn by those personnel in the working area 15 minutes in advance of circulating bottoms-up or when H_2S is indicated by the monitoring system in quantities sufficient to require breathing apparatus under paragraph 1.B. should this condition occur earlier.

C. *Coring Operations in H_2S-bearing Zones.* Personnel protective equipment must be worn 10–20 stands in advance of retrieving the core barrel. Cores to be transported must be sealed and marked for the presence of hydrogen sulfide.

D. *Abandonment or Temporary Abandonment Operations.* Internal well-abandonment equipment shall be designed for H_2S service.

E. *Logging Operations after Penetration of Known or Suspected H_2S-bearing Zones.* Equipment used in logging operations shall be treated with hydrogen sulfide corrosion inhibitors prior to going in the hole.

F. *Stripping Operations.* Displaced mud returns shall be monitored and protective equipment worn if hydrogen sulfide is detected at levels outlined for protective equipment under paragraph 1.B.

G. *Gas-cut Mud or Well Kick from H_2S-bearing zones.* Protective equipment shall be worn when a hydrogen sulfide concentration of 20 ppm is detected. Should a decision be made to circulate out a kick, protective equipment shall be worn during the entire operation. Procedures during this period shall be governed by the two-sphere (moderate danger) provision of paragraph 1.B.

H. *Drill String Precautions.* Precautions shall be taken to minimize drill string stresses caused by conditions such as excessive dogleg severity, improper stiffness ratios, improper torque, whip abrasive wear on tool joints, and joint imbalance. API Bulletin RP 7G shall be used as a guideline for drill string precautions. Sulphur-bearing tool-joint compounds shall not be used.

Proper handling techniques shall be employed to prevent notching, stress concentrations, and possible drill pipe failures.

I. *Flare System.* The flare system shall be designed to safely vent and burn any hydrogen sulfide gas. Flare lines shall be located as far from the drilling facility as feasible in a manner to compensate for wind changes. The flare system shall be equipped with a continuous pilot and an automatic igniter. Backup ignition for each flare shall be provided.

5. *Kick Detection and Well Control.* In addition to paragraph 3.B., OCS Order No. 2, Gulf of Mexico Area, all efforts shall be made to prevent a well kick as a result of gas-cut mud, drilling breaks, lost circulation, or trips for bit. Drilling rate changes shall be evaluated for the possibility of encountering abnormal pressures, and mud weights adjusted in an effort to compensate for any hydrostatic imbalance that might result in a well kick.

In the event of a kick, the disposal of the well influx shall be accomplished by one of two alternatives with regard for personnel safety, possible environmental damage, and possible facility or well equipment damage:

Alternative A. To contain the kick influx by shutting-in the well, calculating the necessary mud weight, and pumping the influx back into the formation by injecting barite or kill mud as appropriate.

Alternative B. To control the kick by using appropriate well-control techniques to prevent formation fracturing in open hole within the pressure limits of well equipment (drill pipe, casing, wellhead, blowout preventers, and related equipment). The disposal of H_2S and other gases shall be through pressured or atmospheric mud-gas separator equipment, depending on volume and pressure of H_2S gas. The equipment shall be designed to recover drilling mud and to vent to the atmosphere and burn the gases separated. The mud system shall be treated to neutralize H_2S and restore and maintain the proper mud quality.

6. *Well Testing in an H_2S Environment.*—A. *Procedures.* (1) Well testing shall be performed with the minimum number of personnel required in the immediate vicinity of the rig floor and test equipment to safely and adequately perform the test and to adequately maintain related equipment and services.

(2) Prior to initiation of the test, special safety meetings shall be conducted for all personnel who will be on the drilling facility during the test, with particular emphasis on use of personnel safety equipment, first-aid procedures, and the H_2S Contingency Plan.

(3) During the test, the use of H_2S detection equipment shall be intensified. All produced gases shall be vented and burned through a flare system which meets the requirements of paragraph 4.I. Produced fluids which are stored shall be vented into the flare system.

(4) "No Smoking" rules shall be rigorously enforced.

B. *Equipment.* (1) Drill-stem test tools and wellhead equipment shall be suitable for H_2S service.

(2) Tubing which meets the requirements for H_2S service shall be used for drill stem testing. Drill pipe shall not be used for drill stem tests without the prior approval of the District Supervisor. The water cushion shall be thoroughly inhibited in order to prevent H_2S corrosion. The test string shall be flushed with treated fluid for the same purpose after completion of the test.

(3) All surface test units and related equipment shall be designed for H_2S service. Only competent personnel who are trained in and knowledgeable of the severity and possible hazardous effects of H_2S shall be utilized in these tests.

DONALD W. SOLANAS,
Oil and Gas Supervisor, Field Operations.

Approved:

RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.74-10258 Filed 5-3-74;8:45 am]

[OCS ORDER NO. 11]

OIL AND GAS PRODUCTION RATES, PREVENTION OF WASTE, AND PROTECTION OF CORRELATIVE RIGHTS

Notice to Lessees and Operators of Federal Oil and Gas Leases in the Outer Continental Shelf, Gulf of Mexico Area

Notice is hereby given that pursuant to 30 CFR 250.11, the Chief, Conservation Division, Geological Survey, has approved OCS Order No. 11 for the Gulf of Mexico as set forth below effective May 1, 1974.

Copies of OCS Order No. 11 may be obtained from the Conservation Manager—OCS Operations, Post Office Box 546, Metairie, Louisiana 70004.

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Following publication in the FEDERAL REGISTER July 5, 1973, the following comments were received concerning specific provisions of the Order. Modifications of the Order resulting from these comments are also shown.

Comments, Subparagraph 1.A. These generally referred to the requirement to "timely initiate enhanced recovery operations." Determination of timeliness is the result of an interpretive effort and operators are concerned that interpretations of industry could vary widely from those of the USGS. The question was also raised as to the definition of waste.

Revision. The definition of "waste" in the regulation is considered to include the failure to initiate enhanced recovery operations (§ 250.2(h)(2)). Consequently, the definition in the OCS Order does not expand upon the definition in the regulation but clearly defines the intent of the provisions of 30 CFR 250.2(h). Accordingly, no changes in the Order were made, except for the addition of one sentence which defines "enhanced recovery operations."

Comments, Subparagraph 1.C. It was suggested that the addition of the words "and depletion" would define the intent of this definition more clearly.

Revision. Addition was made as recommended.

Comments, Subparagraph 1.N. Each of these comments described an interpretation of the intent of this Order. No revision was made in the Order.

Comments, Subparagraph 3.A. Comments received expressed concern about the type and amount of engineering and geologic data requested on Form 9–1866, "Request for Reservoir MER," including reserve estimates which the companies consider proprietary and subject to wide interpretation. Many of the comments also expressed concern with the requirement of filing the data early in the production life of the reservoir when much of the information may not be available.

Revision. The determination of an MER for a reservoir requires substantial technical data and is directly related to the estimate of original oil and gas in place. The proprietary data on Form 9–1866 will be handled in the same manner as all other proprietary data. No changes were made in this subparagraph, but a note was added to the form to clarify the intent that such information is required only as it becomes available, taking into consideration the stage of development of the reservoir.

Comments, Subparagraph 3.B. These generally were directed to the lack of tolerance between well test results and well MPR's. Suggestions were made for approval of well MPR's up to 110 to 120 percent of the rate demonstrated by a well test. One reply commented that subparagraph 3.B. appeared to be oil-well oriented and suggested that gas-water ratios and gas-water contacts be added as limitations on well MPR's.

Revisions. Minor revisions were made in the subparagraph to allow for the assignment of well MPR's up to 110 percent of a well test and to include gas-water ratios, gas-water contacts, and perforated interval as criteria for limiting well rates.

Comments, Subparagraph 4.C. It was proposed that provision be made, for the purpose of balancing overproduction from a reservoir, to exclude those individual wells which require sustained production rates due to high water or sand production from being shut-in.

Revisions. Exclusion of such wells from shut-in, when justified, may be approved by the Supervisor pursuant to 30 CFR 250.12(b). No revisions were made.

Comments, Paragraph 6. Comments were received from the Federal Power Commission concerning the gas well testing procedures of paragraph 6. The FPC petitioned for a four-point backpressure testing requirement to provide better projections of gas well deliverabilities. Additionally, they requested a standard reporting pressure base requirement of 14.73 psia at 60° F. instead of 15.025 psia now being used.

Revisions. Initial gas well testing procedures were changed in subparagraphs 6.A and 6.D to require a multi-point back-pressure test. No change in reporting pressure base was made as the pressure base of 15.025 psia is required under 30 CFR 250.61.

Comments, Paragraph 9. It was suggested that bottom-hole pressures calculated from shut-in surface measurements be acceptable as complying with sound engineering practice and that such data be submitted with the required annual MER update. No revisions were made in the Order.

Comments, Subparagraph 10.A. The comments pointed out that small volumes of gas vapors, in some instances, are released on a continuous basis and that the proposed language is inconsistent with the title of subparagraph in recognizing only temporary situations.

Revisions. It is often not feasible to collect gas vapors which are released on a continuous basis from storage tanks or other low pressure vessels. Revision was made as recommended. An additional revision was made, not as the result of a comment, but for clarifying the intent of subparagraph 10.A.(1).

Comments, Subparagraph 10.D. Comments were received recommending that economics based solely on the value of the gas that would otherwise be flared or vented be the criterion on which the approval to flare or vent casinghead gas would be based as this is the criterion of what constitutes "waste" as applied in the industry.

Revisions. A concept of economics based solely upon the value of gas that would be flared or vented would maximize profits from a lease, but may or may not result in obtaining maximum ultimate hydrocarbon production; whereas, the concept of ultimate total energy recovery would tend to maximize hydrocarbon recovery but may result in reduced profits from a lease. The economics, including profitability, under both concepts as well as the availability of marketing and transportation facilities, will always be considered by the Supervisor in determining whether there will be a loss of ultimate equivalent total energy by an approval to flare or vent. No revisions were made in the Order.

Comments, Subparagraph 10.E. It was recommended that a period of six months (instead of three months) after the effective date of the Order be provided for the submittal of applications to flare oil well gas.

Revisions. There has been much advance notice of the obligation to apply for approval to flare oil well gas. In all probability, these applications are already being prepared and the Supervisor may grant an extension of time for submittal if circumstances warrant such consideration. No revision was made.

Comments, Subparagraph 12.C. Comments were received advising that in some cases it is impractical to shut-in a marginal well for a packer test and that in other instances it is not possible to perform a packer test prior to initiating production.

Revision. When justified, a waiver may be granted from any requirement of the Order pursuant to 30 CFR 250.12(b). It is also recognized that in many instances a packer test cannot be conducted until after initiation of production. Revision was made to permit packer testing immediately after initiating production.

Comments, Subparagraph 14.B. It was pointed out that this subparagraph did not recognize natural drift inherent in drilling "straight" holes; in effect, it requires all wells to be directionally controlled; and, without clarification of intent, conflicts with the provisions of 30 CFR 250.40(b).

Revisions. The concern expressed through the comments is recognized. It was not intended to require directional control of every well or to expand upon the requirements of the OCS Operating Regulations. Revisions were made to clarify the intent of the provisions of this subparagraph. Wells drilled as straight holes will be subject to the provisions of 30 CFR 250.40(b).

Comments, Paragraph 15. Concern was expressed for interpretation of the term "enhanced recovery operations."

Revisions. Similar comments were submitted for subparagraph 1.A. and a definition of "enhanced recovery operations" was added thereto. No revision was made to subparagraph 15.

Comments, Subparagraph 16.B.(1). It was suggested that specific language be added specifying that an operator will not be required to divulge proprietary information to another operator for the purpose of preparing joint development plans for competitive reservoirs.

Revisions. It is the intent of this subparagraph to encourage the exchange of data for the equitable development of competitive reservoirs. However, it does not require exchange of proprietary data that may affect the competitive position of an operator. Such information received in the USGS office will be handled in the same manner as all other proprietary data. No revision was made.

W. A. RADLINSKI,
Acting Director.

OIL AND GAS PRODUCTION RATES PREVENTION OF WASTE, AND PROTECTION OF CORRELATIVE RIGHTS

This Order is established pursuant to the authority prescribed in 30 CFR 250.1, 30 CFR 250.11, and in accordance with all other applicable provisions of 30 CFR Part 250, and the notice appearing in the FEDERAL REGISTER, dated December 5, 1970 (35 FR 18559), to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein. This Order shall be applicable to all oil and gas wells on Federal leases in the Outer Continental Shelf of the Gulf of Mexico; provided, however, that it shall not apply to oil and gas wells on a lease of which any part lies within the disputed area referred to in paragraph 4 of the Supplemental Decree of December 20, 1971, in *United States vs. Louisiana, et al.*, 404 U.S. 388 (1971). All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b). References in this Order to approvals, determinations, and requirements for submittal of information or applications for approval are to those granted, made, or required by the Oil and Gas Supervisor or his delegated representative.

1. *Definition of Terms.* As used in this Order, the following terms shall have the meanings indicated:

A. *Waste of Oil and Gas.* The definition of waste appearing in 30 CFR 250.2(h) shall apply, and includes the failure to timely initiate enhanced recovery operations where such methods would result in an increased ultimate recovery of oil or gas under sound engineering and economic principles. Enhanced recovery operations refers to pressure maintenance operations, secondary and tertiary recovery, cycling, and similar recovery operations which alter the natural forces in a reservoir to increase the ultimate recovery of oil or gas.

B. *Correlative Rights.* The opportunity afforded each lessee or operator to produce

without waste his just and equitable share of oil and gas from a common source of supply.

C. *Maximum Efficient Rate (MER).* The maximum sustainable daily oil or gas withdrawal rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to ultimate recovery.

D. *Maximum Production Rate (MPR).* The approved maximum daily rate at which oil may be produced from a specified oil well completion or the maximum approved daily rate at which gas may be produced from a specified gas well completion.

E. *Interested Party.* The operators and lessees, as defined in 30 CFR 250.2(f) and (g), of the lease or leases involved in any proceeding initiated under this Order.

F. *Reservoir.* An oil or gas accumulation which is separated from and not in oil or gas communication with any other such accumulation.

G. *Competitive Reservoir.* A reservoir as defined herein containing one or more producible or producing well completions on each of two or more leases, or portions thereof, in which the lease or operating interests are not the same.

H. *Property Line.* A boundary dividing leases, or portions thereof, in which the lease or operating interest is not the same. The boundaries of Federally approved unit areas shall be considered property lines. The boundaries dividing leased and unleased acreage shall be considered property lines for the purpose of this Order.

I. *Oil Reservoir.* A reservoir that contains hydrocarbons predominantly in a liquid (single-phase) state.

J. *Oil Well Completion.* A well completed in an oil reservoir or in the oil accumulation of an oil reservoir with an associated gas cap.

K. *Gas Reservoir.* A reservoir that contains hydrocarbons predominantly in a gaseous (single-phase) state.

L. *Gas Well Completion.* A well completed in a gas reservoir or in the gas cap of an oil reservoir with an associated gas cap.

M. *Oil Reservoir with an Associated Gas Cap.* A reservoir that contains hydrocarbons in both a liquid and a gaseous state (two-phase).

N. *Producible Well Completion.* A well which is physically capable of production and which is shut in at the wellhead or at the surface, but not necessarily connected to production facilities, and from which the operator plans future production.

2. *Classification of Reservoirs.*—A. *Initial Classification.* Each producing reservoir shall be classified by the operator, subject to approval by the Supervisor, as an oil reservoir, an oil reservoir with an associated gas cap, or a gas reservoir.

(1) The initial classification of each reservoir from which production is commenced subsequent to the date of this Order shall be submitted for approval with the initial submittal of MER data for the reservoir.

(2) Each reservoir from which production commenced on or prior to the date of this Order shall be classified by the operator, based on existing reservoir conditions. Such classification shall be determined and submitted to the Supervisor within six (6) months of the date of this Order.

B. *Reclassification.* A reservoir may be reclassified by the Supervisor, on his own initiative or upon application of an operator, during its productive life when information becomes available showing that such reclassification is warranted.

(3) *Oil and Gas Production Rates—A. Maximum Efficient Rate (MER).* The operator shall propose a maximum efficient rate (MER) for each producing reservoir based on sound engineering and economic principles. When approved at the proposed or other rate, such rate shall not be exceeded, except as provided in paragraph 4 of this Order.

(1) *Submittal of Initial MER.* Within 45 days after the date of first production or such longer period as may be approved, the operator shall submit a Request for Reservoir MER (Form 9–1866) with appropriate supporting information.

(2) *Revision of MER.* The operator may request a revision of an MER by submitting the proposed revision to the Supervisor on a Request for Reservoir MER (Form 9–1866) with appropriate supporting information. The Operator shall obtain approval to produce at test rates which exceed an approved MER when such testing is necessary to substantiate an increase in the MER.

(3) *Review of MER.* The MER for each reservoir will be reviewed by the operator annually, or at such other required or approved interval of time. The results of the review, with all current supporting information, shall be submitted on a Request for Reservoir MER (Form 9–1866).

(4) *Effective Date of MER.* The effective date of an MER, or revision thereof, will be determined by the Supervisor and shown on a Request for Reservoir MER (Form 9–1866) when the MER is approved. The effective data for an initial MER shall be the first day following the completion of an approved testing period. The effective date for a revised MER shall be the first day following the completion of an approved testing period, or if testing is not conducted, the date the revision is approved.

B. *Maximum Production Rate (MPR).* The operator shall propose a maximum production rate (MPR) for each producing well completion in a reservoir together with full information on the method used in its determination. When an MPR has been approved for a well completion, that rate shall not be exceeded, except as provided in paragraph 4 of this Order. The MPR shall be based on well tests and any limitations imposed by (1) well tubing, safety equipment, artificial lift equipment, surface back pressure, and equipment capacity; (2) sand producing problems; (3) producing gas-oil and water-oil ratios; (4) relative structural position of the well with respect to gas-oil or water-oil contacts; (5) position of perforated interval within total production zone; and (6) prudent operating practices. The MPR established for each well completion shall not exceed 110 percent of the rate demonstrated by a well test unless justified by supporting information.

(1) *Submittal of Initial MPR.* The operator shall have 30 days from the date of first continuous production within which to conduct a potential test, as specified under subparagraphs 5.B and 6.B of this Order, on all new and reworked well completions. Within 15 days after the date of the potential test, the operator shall submit a proposed MPR for the individual well completion on a Request for Well Maximum Production Rate (MPR) (Form 9–1867), with the results of the potential test on a Well Potential Test Report (Form 9–1868). Extension of the 30-day test period may be granted. The effective date for any approved initial MPR shall be the first day following the test period. During the 30-day period allowed for testing, or any approved extensions thereof, the operator may produce a new or reworked well completion at rates necessary to establish the MPR. The operator shall report the total production obtained during the test period, and approved extensions thereof, on the Well Potential Test Report (Form 9–1868).

(2) *Revision of MPR Increase.* If necessary to test a well completion at rates above the approved MPR to determine whether the MPR should be increased, notification of intent to test the well at such higher rates, not to exceed a stated maximum rate during a specified test period, shall be filed with the Supervisor. Such tests may commence on the day following the date of filing notification, unless otherwise ordered by the Supervisor. If an operator determines that the MPR should be increased he shall submit, within 15 days after the specified test period, a proposed increased MPR on a Request for Well Maximum Production Rate (MPR) (Form 9–1867), and any other available data to support the requested revision, including the results of the potential test and the total production obtained during the test period on a Well Potential Test Report (Form 9–1868). Prior to approval of the proposed increased MPR, the operator may produce the well completion at a rate not to exceed the proposed increased MPR of the well. The effective date for any approved increased MPR shall be the first day following the test period. If testing rates or increased MPR rates result in production from the reservoir in excess of the approved MER, this excess production shall be balanced by underproduction from the reservoir under the provisions of subparagraph 4.B of this Order.

(3) *Revision of MPR Decrease.* When the quarterly test rate for an oil well completion or the semiannual test rate for a gas well completion required under subparagraphs 5.C and 6.C of this Order is less than 90 percent of the existing approved MPR for the well, a new reduced MPR will be established automatically for that well completion equal to 110 percent of the test rate submitted. The effective date for the new MPR for such well completion shall be the first day of the quarter following the required date of submittal of periodic well-test results under subparagraphs 5.C and 6.C of this Order. Also, the operator may notify the Supervisor on a Request for Well Maximum Production Rate (MPR) (Form 9–1867) of, or the Supervisor may require, a downward revision of a well MPR at any time when the well is no longer capable of producing its approved MPR on a sustained basis. The effective date for such reduced MPR for a well completion shall be the first day of the month following the date of notification.

(4) *Continuation of MPR.* If submittal of the results of a quarterly well test for an oil completion or a semi-annual well test for a gas well completion, as provided for in subparagraphs 5.C and 6.C of this Order, cannot be timely, continuation of production under the last approved MPR for the well may be authorized, provided an extension of time in which to submit the test results is requested and approved in advance.

(5) *Cancellation of MPR.* When a well completion ceases to produce, is shut in pending workover, or any other condition exists which causes the assigned MPR to be no longer appropriate, the operator shall notify the Supervisor accordingly on a Request for Well Maximum Production Rate (MPR) (Form 9–1867), indicating the date of last production from the well, and the MPR will be canceled. Reporting of temporary shut-ins by the operator for well maintenance, safety conditions, or other normal operating conditions is not required, except as is necessary for completion of the Monthly Report of Operations (Form 9–152).

c. *MER and MPR Relationship.* The withdrawal rate from a reservoir shall not exceed the approved MER and may be produced from any combination of well completions subject to any limitations imposed by the MPR established for each well completion. The rate of production from the reservoir

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shall not exceed the MER although the summation of individual well MPR's may be greater than the MER.

4. *Balancing of Production.*—A. *Production Variances.* Temporary well production rates, resulting from normal variations and fluctuations exceeding a well MPR or reservoir MER shall not be considered a violation of this Order, and such production may be sold or transferred pursuant to paragraph 8 of this Order. However, when normal variations and fluctuations result in production in excess of a reservoir MER, any operator who is overproduced shall balance such production in accordance with subparagraph 4.B below. Such operator shall advise the Supervisor of the amount of such excess production from the reservoir for the month at the same time as Form 9–152 is filed for that month.

B. *Balancing Periods.* As of the first day of the month following the month in which this Order becomes effective, all reservoirs shall be considered in balance. Balancing periods for overproduction of a reservoir MER shall end on January 1, April 1, July 1, and October 1 of each year. If a reservoir is produced at a rate in excess of the MER for any month, the operator who is overproduced shall take steps to balance production during the next succeeding month. In any event, all overproduction shall be balanced by the end of the next succeeding quarter following the quarter in which the overproduction occurred. The operator shall notify the Supervisor at the end of the month in which he has balanced the production from an overproduced reservoir.

C. *Shut-in for Overproduction.* Any operator in an overproduction status in any reservoir for two successive quarters which has not been brought into balance within the balancing period shall be shut in from that reservoir until the actual production equals that which would have occurred under the approved MER.

D. *Temporary Shut-in.* If, as the result of storm, hurricanes, emergencies, or other conditions peculiar to offshore operations, and operator is forced to curtail or shut in production from a reservoir, the Supervisor may, on request, approve makeup of all or part of this production loss.

5. *Oil Well Testing Procedures.*—A. *General.* Tests shall be conducted for not less than four consecutive hours. Immediately prior to the 4-hour test period, the well completion shall have produced under stabilized conditions for a period of not less than six consecutive hours. The 6-hour pretest period shall not begin until after recovery of a volume of fluid equivalent to the amount of fluids introduced into the formation for any purpose. Measured gas volumes shall be adjusted to the standard conditions of 15.025 psia and 60° F. for all tests. When orifice meters are used, a specific gravity shall be obtained or estimated for the gas and a specific gravity correction factor applied to the orifice coefficient. The Supervisor may require a prolonged test or retest of a well completion if such test is determined to be necessary for the establishment of a well MPR or a reservoir MER. The Supervisor may approve test periods of less than four hours and pretest stabilization periods of less than six hours for well completions, provided that test reliability can be demonstrated under such procedures.

B. *Potential Test.* Test data to establish or to increase an oil well MPR shall be submitted on a Well Potential Test Report (Form 9–1868). The total production obtained from all tests during the test period shall be reported on such form.

C. *Quarterly Test.* Tests shall be conducted on each producing oil well completion quarterly, and test results shall be submitted on a Quarterly Oil Well Test Report (Form 9–1869). Testing periods and submittal dates shall be as follows:

Testing period	Latest date for submittal of test results	For quarter beginning—
Sept. 11 to Dec. 10	Dec. 10	Jan. 1
Dec. 11 to Mar. 10	Mar. 10	Apr. 1
Mar. 11 to June 10	June 10	July 1
June 11 to Sept. 10	Sept. 10	Oct. 1

There shall be a minimum of 45 days between quarterly tests for an oil well completion.

6. *Gas Well Testing Procedures.*—A. *General.* Testing procedures for gas well completions shall be the same as those specified for oil well completions in subparagraph 5.A except for the initial test which shall be a multi-point back-pressure test as described in paragraph 6.D.

B. *Potential Test.* Test data to establish or to increase a gas well MPR shall be submitted on a Well Potential Test Report (Form 9–1868).

C. *Semiannual Test.* Tests shall be conducted on each producing gas well completion semiannually, and test results shall be submitted on a Semiannual Gas Well Test Report (Form 9–1870). Testing periods and submittal dates shall be as follows:

Testing period	For submittal of test results	For semiannual period beginning—
June 11 to Dec. 10	Dec. 10	Jan. 1
Dec. 11 to June 10	June 10	July 1

There shall be a minimum of 90 days between semiannual tests for a gas well completion.

D. *Back-Pressure Tests.* A multi-point back-pressure test to determine the theoretical open-flow potential of gas wells shall be conducted within thirty days after connection to a pipeline. If bottom-hole pressures are not measured, such pressures shall be calculated from surface pressures using the method, or other similar method, found in the Interstate Oil Compact Commission (IOCC) Manual of Back-Pressure Testing of gas wells. The results of all back-pressure tests conducted by the operator shall be filed with the Supervisor, including all basic data used in determining the test results. The Supervisor may waive this requirement if multi-point back-pressure test information has previously been obtained on a representative number of wells in a reservoir.

7. *Witnessing Well Tests.* The Supervisor may have a representative witness any potential or periodic well tests on oil and gas well completions. Upon request, an operator shall notify the appropriate District office of the time and date of well tests.

8. *Sale or Transfer of Production.* Oil and gas produced pursuant to the provisions of this Order, including test production, may be sold to purchasers or transferred as production authorized for disposal hereunder.

9. *Bottom-Hole Pressure Tests.* Static bottom-hole pressure test shall be conducted annually on sufficient key wells to establish an average reservoir pressure in each producing reservoir unless a different frequency is approved. The Operator may be required to test specific wells. Results of bottom-hole pressure tests shall be submitted within 60 days after the date of the test.

10. *Flaring and Venting of Gas.* Oil- and gas-well gas shall not be flared or vented, except as provided herein.

A. *Small-Volume or Short-Term Flaring or Venting.* Oil- and gas-well gas may be flared or vented in small volumes or temporarily without the approval of the Supervisor in the following situations:

(1) *Gas Vapors.* When gas vapors are released from storage and other low pressure production vessels if such gas

(2) *Emergencies.* During temporary emergency situations, such as compressor or other equipment failure, or the relief of abnormal system pressures.

(3) *Well Purging and Evaluation Tests.* During the unloading or cleaning up of a well and during drillstem, producing, or other well evaluation tests not exceeding a period of 24 hours.

B. *Approval for Routine or Special Well Tests.* Oil- and gas-well gas may be flared or vented during routine and special well tests, other than those described in paragraph A above, only after approval of the Supervisor.

C. *Gas-Well Gas.* Except as provided in A and B above, gas-well gas shall not be flared or vented.

D. *Oil-Well Gas.* Except as provided in A and B above, oil-well gas shall not be flared or vented unless approved by the Supervisor. The Supervisor may approve an application for flaring or venting of oil-well gas for periods not exceeding one year if (1) the operator has initiated positive action which will eliminate flaring or venting, or (2) the operator has submitted an evaluation supported by engineering, geologic, and economic data indicating that rejection of an application to flare or vent the gas will result in an ultimate greater loss of equivalent total energy than could be recovered for beneficial use from the lease if flaring or venting were allowed.

E. *Content of Application.* Applications under paragraph D above for existing operations, as of the date of this Notice, shall be filed within three months from the effective date of this Order. Applications under paragraph D(2) above shall include all appropriate engineering, geologic, and economic data in an evaluation showing that absence of approval to flare or vent the gas will result in premature abandonment of oil and gas production or curtailment of lease development. Applications shall include an estimate of the amount and value of the oil and gas reserves that would not be recovered if the application to flare or vent were rejected and an estimate of the total amount of oil to be recovered and associated gas that would be flared or vented if the application were approved.

11. *Disposition of Gas.* The disposition of all gas produced from each lease shall be reported monthly on, or attached to, Form 9–152. The report shall be submitted in the following manner:

[In thousand cubic feet]

	Oil-well gas	Gas-well gas
Sales		
Fuel		
Injected[1]		
Flared		
Vented		
Other (specify)		
Total		

[1] Gas produced from the lease and injected on or off the lease.

12. *Multiple and Selective Completions.*—A. *Number of Completions.* A well bore may contain any number of producible completions when justified and approved.

B. *Numbering Well Completions.* Well completions made after the date of this Order shall be designated using numerical and alphabetical nomenclature. Once designated as a reservoir completion, the well completion number shall not change. Appendix A contains a detailed explanation of procedures for naming well completions.

C. *Packer Tests.* Multiple and selective completions shall be equipped to isolate the respective producing reservoirs. A packer test or other appropriate reservoir isolation test shall be conducted prior to or immediately after initiating production and annually thereafter on all multiply completed wells. Should the reservoirs in any multiply completed well become intercommunicative the operator shall make repairs and again conduct reservoir isolation tests unless some other operational procedure is approved. The results of all tests shall be submitted on a Packer Test (Form 9–1871) within 30 days after the date of the test.

D. *Selective Completions.* Completion equipment may be installed to permit selective reservoir isolation or exposure in a well bore through wireline or other operations. All selective completions shall be designated in accordance with subparagraph 12.B when the application for approval of such completions is filed.

E. *Commingling.* Commingling of production from two or more separate reservoirs within a common well bore may be permitted if it is determined that, collectively, the ultimate recovery will not be decreased. An application to commingle hydrocarbons from multiple reservoirs within a common well bore shall be submitted for approval and shall include all pertinent well information, geologic and reservoir engineering data, and a schematic diagram of well equipment. For all competitive reservoirs, notice of the application shall be sent by the applicant to all other operators of interest in the reservoirs prior to submitting the application to the Supervisor. The application shall specify the well completion number to be used for subsequent reporting purposes.

13. *Gas-Cap Well Completions.* All existing and future wells completed in the gas cap of a reservoir which has been classified and approved as an associated oil reservoir shall be shut in until such time as the oil is depleted or the reservoir is reclassified as a gas reservoir; provided, however, that production from such wells may be approved when (1) it can be shown that such gas-cap production would not lead to waste of oil and gas, or (2) when necessary to protect correlative rights unless it can be shown that this production will lead to waste of oil and gas.

14. *Location of Wells.*—A. *General.* The location and spacing of all exploratory and development wells shall be in accordance with approved programs and plans required in 30 CFR 250.17 and 250.34. Such location and spacing shall be determined independently for each lease or reservoir in a manner which will locate wells in the optimum structural position for the most effective production of reservoir fluids and to avoid the drilling of unnecessary wells.

B. *Distance from Property Line.* An operator may drill exploratory or development wells at any location on a lease in accordance with approved plans; provided that no well directionally or vertically drilled and completed after the date of this Order in which the completed interval is less than 500 feet from a property line shall be produced unless approved by the Supervisor. For wells drilled as vertical holes, the surface location of the well shall be considered as the location of the completed interval but shall be subject to the provisions of 30 CFR 250.40(b). An operator requesting approval to produce a directionally drilled well in which the completed interval is located closer than 500 feet from a property line, or with a surface location closer than 500 feet from a property line, shall furnish the Supervisor with letters expressing acceptance or objection from operators of offset properties.

15. *Enhanced Oil and Gas Recovery Operations.* Operators shall timely initiate enhanced oil and gas recovery operations for all competitive and noncompetitive reservoirs where such operations would result in an increased ultimate recovery of oil or gas under sound engineering and economic principles. A plan for such operations shall be submitted with the results of the annual MER review as required in paragraph 3A(3) of this Order.

16. *Competitive Reservoir Operations.* Development and production operations in a competitive reservoir may be required to be conducted under either pooling and drilling agreements or unitization agreements when the Conservation Manager determines, pursuant to 30 CFR 250.50 and delegated authority, that such agreements are practicable and necessary or advisable and in the interest of conservation.

A. *Competitive Reservoir Determination.* The Supervisor shall notify the operators when he has made a preliminary determination that a reservoir is competitive as defined in this Order. An operator may request at any time that the Supervisor make a preliminary determination as to whether a reservoir is competitive. The operators, within thirty (30) days of such preliminary notification or such extension of time as approved by the Supervisor, shall advise of their concurrence with such determination, or submit objections with supporting evidence. The Supervisor will make a final determination and notify the operators.

B. *Development and Production Plans.* When drilling and/or producing operations are conducted in a competitive reservoir, the operators shall submit for approval a plan governing the applicable operations. The plan shall be submitted within ninety (90) days after a determination by the Supervisor that a reservoir is competitive or within such extended period of time as approved by the Supervisor. The plan shall provide for the development and/or production of the reservoir, and may provide for the submittal of supplemental plans for approval by the Supervisor.

(1) *Development Plan.* When a competitive reservoir is still being developed or future development is contemplated, a development plan may be required in addition to a production plan. This plan shall include the information required in 30 CFR 250.34. If agreement to a joint development plan cannot be reached by the operators, each shall submit a separate plan and any differences may be resolved in accordance with paragraph 17 of this Order.

(2) *Production Plan.* A joint production plan is required for each competitive reservoir. This plan shall include (a) the proposed MER for the reservoir; (b) the proposed MPR for each completion in the reservoir; (c) the percentage allocation of reservoir MER for each lease involved; and (d) plans for secondary recovery or pressure maintenance operations. If agreement to a joint production plan cannot be reached by the operators, each shall submit a separate plan, and any differences may be resolved in accordance with paragraph 17 of this Order.

C. *Unitization.* The Conservation Manager shall determine when conservation will be best served by unitization of a competitive reservoir, or any reservoir reasonably delineated and determined to be productive, in lieu of a development and/or production plan or when the operators and lessees involved have been unable to voluntarily effect unitization. In such cases, the Conservation Manager may require that development and/or production operations be conducted under an approved unitization plan. Within six (6) months after notification by the Conservation Manager that such a unit plan is required, or within such extended period of time as approved by the Conservation Manager, the lessees and operators shall submit a proposed unit plan for designation of the unit area and approval of the form of agreement pursuant to 30 CFR 250.51.

17. *Conferences, Decisions and Appeals.* Conferences with interested parties may be held to discuss matters relating to applications and statements of position filed by the parties relating to operations conducted pursuant to this Order. The Supervisor or Conservation Manager may call a conference with one or more, or all, interested parties on his own initiative or at the request of any interested party. All interested parties shall be served with copies of the Supervisor's or Conservation Manager's decisions. Any interested party may appeal decisions of the Supervisor or Conservation Manager pursuant to 30 CFR 250.81. Decisions of the Supervisor or Conservation Manager shall remain in effect and shall not be suspended by reason of any appeal, except as provided in that regulation.

J. B. LOWENHAUPT,
Oil and Gas Supervisor,
Production Control.

APPROVED: May 1, 1974.

RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.74–10256 Filed 5–3–74;8:45 am]

National Park Service

INDEPENDENCE NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Independence National Historical Park Advisory Commission will be held at 10:30 a.m. on May 13, 1974, at 313 Walnut Street, Philadelphia, Pennsylvania.

The Commission was established by Pub. L. 80–795 to render advice on such matters relating to the park as may from time to time be referred to them for consideration.

The members of the Commission are as follows:

Mr. Arthur C. Kaufmann (Chairman), Philadelphia, Pa.
Mr. John P. Bracken, Philadelphia, Pa.
Hon. Michael J. Bradley, Philadelphia, Pa.
Hon. James A. Byrne, Philadelphia, Pa.
Hon. Edwin O. Lewis, Philadelphia, Pa.
Mr. Filindo B. Masino, Philadelphia, Pa.
Mr. Frank C. P. McGlinn, Philadelphia, Pa.
Mr. John B. O'Hara, Philadelphia, Pa.
Mr. Howard D. Rosengarten, Villanova, Pa.
Mr. Charles R. Tyson, Philadelphia, Pa.

Matters to be considered at this meeting include the following:

1. Mall Legislation and the Liberty Bell Pavilion.
2. Bicentennial Activities.
3. Superintendent's Progress Report.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons desiring further information concerning this meeting, or who wish to submit written statements, may contact Hobart G..

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Cawood, Superintendent, Independence National Historical Park, Philadelphia, Pennsylvania, at 215–597–7120.

Minutes of the meeting shall be available for inspection two weeks after the meeting at the office of the Independence National Historical Park, 313 Walnut Street, Philadelphia, Pennsylvania.

Date: April 29, 1974.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc. 74–10318 Filed 5–3–74; 8:45 am]

Office of Hearings and Appeals

[Docket No. M 74–98]

BLACKWOOD FUEL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Blackwood Fuel Company has filed a petition to modify the application of 30 CFR 75.1405 to its Pardee Mine No. 1 located in Letcher County, Kentucky and Wise County, Virginia.

30 CFR 75.1405 reads as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be equipped within 4 years after March 30, 1970.

To be read concurrently with § 75.1405 is § 75.1405–1 which reads as follows:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states:

(1) In the subject mine, mining is accomplished by conventional equipment, that is cutting machines, loading machines, shuttle cars, rock and coal drills, etc. The mined coal from each operating section is loaded on the section into mine cars which are then pulled by electric locomotives over a rail haulage system to the outside of the mine for dumping.

(2) The mine cars are all bottom-dumping cars. They are delivered to each operating section in strings of from 10 to 30 cars depending on the availability of cars for the particular section, the extent of the mining activity and other logistical factors. On the section, the front car is hooked onto a cable which is affixed to a stationary hoisting device which is electrically operated and which is used to position the cars in turn for loading under the dump into which the shuttle cars have deposited their load of coal. Once loaded, the mine cars are then hauled by electric locomotive to the outside dump where, without being uncoupled, the hinged bottoms of each car automatically open as the car is positioned over the dumping station.

(3) There are currently in use at this mine approximately 150 mine cars. These cars are all of the bottom-dumping type but are not identical in other respects. There are five different makes of cars and their ages vary from 10 to 30 years. All of the mine cars are fitted with standard link-and-pin coupling devices.

(4) Many of the haulage way rail switches leading from the main line into the working areas of the mine were installed when the mine was first being developed and are of shorter radius than those which are now being installed. These switches cannot be replaced with wider-radius switches without removing portions of the adjacent coal pillars which help provide roof support.

(5) Petitioner submits that the application of the foregoing provision of the Act and the foregoing regulations if applied to the petitioner's mine would result in a diminution of safety over the present system in effect. Beyond this, however, in order to better achieve the purposes sought to be achieved by the Act and regulations and thus to provide a standard which provides a better measure of protection to the miner in said mine, petitioner proposes an alternate method, as set forth hereinafter

(6) Approval of this alternate system as a satisfactory replacement of the standard which otherwise would become effective in mandating automatic couplers on mine cars at this mine on and after March 30, 1974, is subject to the following understandings and conditions which are incorporated as parts of the alternate system:

A—All coal cars in use at the captioned mine will be coupled together in units or strings of cars using pin and link couplings and each pin will be drilled with a ¼ inch hole and fixed in position with the appropriate size cotter key. The front end of the front car of each string will be fitted with a coupling lever so designed as to permit an employee to lift or drop the pin through the car bumper to secure or release a link that has been inserted from another haulage unit and to do this without the necessity of positioning himself between the units being coupled or uncoupled. If it becomes necessary in the coupling operation to position the link, this also will be done without the employee positioning himself between the units—he will effectuate this alignment by using a specially designed Hand Link Aligner tool which shall be part of the equipment of all haulage crews. There will be two Hand Link Aligners on each haulage locomotive—the regular size and a shorter more convenient size in the event the motorman wishes to position the link for coupling while remaining seated in the "deck" of the locomotive.

It is presently planned that most, if not all, mine car units or strings will consist of ten cars. However, in the event it becomes more practical to combine cars into strings of more or less than ten cars, each string of cars will nevertheless meet the specifications of fixed pin on all cars and coupling lever on the front car.

B—All employees at the captioned mine will be trained and instructed in the proper operation and use of the Coupling Levers and the Hand Link Aligners and their proper use will be mandatory requirements for coupling and uncoupling of all mine car haulage units at this mine. More specifically in this regard:

(1) All present employees at this mine will, by April 30, 1974, be instructed on the function and use of the Coupling Lever and Hand Link Aligners.

(2) Thereafter, any new employee hired at the mine will be given instruction on the function and use of the Coupling Lever and Hand Link Aligners as part of his orientation before he commences actual work.

(3) This instruction of all employees will again be repeated at six month intervals. The first such re-instruction shall be given during the first five work days in November 1974, the next during the first five work days in May 1975, etc. Employees absent from work during these periods will be re-instructed within the first five work days after they return to work.

(4) The Company will maintain a permanent record of the names and dates when each mine employee received this instruction and re-instruction.

(5) The requirement that, upon conversion of mine cars at this mine, coupling and uncoupling be done by means of Coupling Levers and Hand Link Aligners shall be a mandatory safety rule at this mine and a notice to this effect shall be posted on the regular Company and Union bulletin boards at the mine.

(6) For the period March 30, 1974 through June 30, 1974, as each multiple mine car unit is converted and placed into operation, it will be subject to the modified standard set forth in this petition and such unit will only be coupled and uncoupled by use of the Coupling Lever Hand Link Aligner in accord with the modified standard. Effective July 1, 1974 all mine cars in operation at this mine must have been converted and the modified standard will become fully operative except as an extension of time has been provided by stipulation of all the parties or by order of an administrative law judge of the Interior Department Office of Hearings and Appeals. In the event shortages and/or unavailability of materials or other conditions beyond the control of management prevent completion of full conversion by July 1, 1974 the petitioner will endeavor to arrange by stipulation with the other parties for a mutually agreeable period of extension. Failing such agreement the Petitioner may request from the Office of Hearings and Appeals the assignment of an administrative law judge and conduct of a hearing for the purpose of determining whether an extension of time should be granted and, if granted, the duration of such extension. The parties by stipulation, or the assigned administrative law judge by order following notice to all parties and conduct of hearing, shall have authority to provide for an appropriate extension if the circumstances make it reasonable to do so.

(7) The alternate method set forth above will provide no less than the same measure of protection to miners at the Pardee No. 1 mine than that sought to be afforded by Section 314(f) of the Act and Interior Department Regulations 30 CFR 75.1405 and 75.1405–1. Under the circumstances at this mine it will actually provide greater protection and thus avoid the diminution of safety that would result if automatic couplers were used.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 5, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015, Wilson Boulevard, Arlington, Virginia. 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

APRIL 23, 1974.

[FR Doc. 74–10328 Filed 5–3–74; 8:45 am]

[Docket No. M 74–104]

CANTERBURY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Canterbury Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its David Mine located at Avonmore, Pennsylvania.

30 CFR 75.1405 provides as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner presents the following pertinent information:

1. Rail haulage at David Mine is restricted to supply and employee transportation.

2. Employee transportation is by porta-bus and/or jitney.

3. Only two employees are regularly assigned to rail transportation of supplies.

4. David Mine is a three section mine employing approximately 115 men underground on three shifts.

5. Supplies are normally transported only on the day shift.

6. The thirty cars used for transporting and storing supplies were manufactured by 5 different firms. No coupler presently on the market will work safely and effectively when coupling cars of different height.

7. At least one man has been killed by being crushed between cars equipped with automatic couplers in Western Pennsylvania within the past year.

Canterbury Coal Company requests modification of safety standard 75.1405 by approval of the following procedures:

1. No more than four loaded or empty cars will comprise a trip.

2. Coupling (dropping link pin) and uncoupling will be done only with trip totally stopped, and with the brakes of the locomotive fully applied. At all times coupling or uncoupling between cars will be done with the cars on level ground.

3. If conditions permit, the link pin will be dropped or lifted from within the car or motor.

4. An extension device will be provided to guide the link into the coupling slot.

Canterbury Coal Company believes these procedures will guarantee the safety of our haulage personnel to the same degree as implementation of § 75.1405. These procedures are presently in effect at our David Mine, which has no history of haulage accidents caused by coupling or uncoupling supply cars from other cars or locomotives.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 5, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

APRIL 23, 1974.

[FR Doc.74–10327 Filed 5–3–74;8:45 am]

[Docket No. M 74–75]

DIXIE PINE COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Dixie Pine Coal Company, Inc. has filed a petition to modify the application of 30 CFR 77.1605(k) to its Nos. 1 and 3 strip mines located at Clairfield, Tennessee.

30 CFR 77.1605(k) reads as follows:

Berma or guards shall be provided on the outer bank of elevated roadways.

In requesting a modification of the application of § 77.1605(k) Petitioner proposes the following alternate method:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

2. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

3. Roadway surfaces shall be kept free of debris, excessive water and snow and ice, and maintained as free as practicable of small ditches.

4. A traffic system shall be put into effect for these roads requiring that the loaded trucks have the right-of-way in all no-passing or one-lane traffic areas.

5. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs shall also be posted designating passing points.

6. All equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

7. All haulage vehicles shall have:

(a) Original manufacturer's brakes

(b) Engine or Jacobs brakes, except on gasoline powered trucks which do not have Jacobs brakes but the engine of which serves as effective brakes

(c) Original manufacturer's parking brakes

8. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

9. A minimum width of 24 feet shall be provided and maintained, the roads shall be designated as single-lane roads.

10. On roads that afford only one traffic lane, a minimum width of 16 feet, except where roads are shot out of solid rock, in which case they shall be 12 feet, shall be maintained, with passing points provided at intervals of not more than 1,000 feet.

Petitioner's alternate method will at all times guarantee no less than the same measure of protection afforded the miners by the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 5, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

APRIL 23, 1974.

[FR Doc.74–10332 Filed 5–3–74;8:45 am]

[Docket No. M 74–107]

HELEN MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), The Helen Mining Company has

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filed a petition to modify the application of 30 CFR 75.1405 to its Homer City Mine located at Homer City, Pennsylvania.

30 CFR 75.1405 reads as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

To be read concurrently with § 75.1405 is § 75.1405–1 which reads as follows:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states the following:

1. The Homer City Mine utilizes an all-belt conveyor system to transport coal from the underground working sections to the outside coal handling facilities.

2. Use of the track haulage system is limited to transportation of men, supplies and equipment from the surface to the off-track loading point. Men, supplies and equipment may be transported from that point to the faces in vehicles capable of travelling off-track.

3. Men are usually transported on rail (on track) in self-propelled unit vehicles which are not regularly coupled and uncoupled. Off rail (off-track) personnel may be transported in self-propelled, rubber-tired vehicles or on skids pulled by self-propelled, rubber-tired tractors.

4. Supplies and equipment are normally transported on rail (on track) in "rubber/rail" vehicles, equipped with retractable rubber wheels. These vehicles are pulled on track by steel-tired electrical locomotives. By engaging the rubber wheels, the vehicles are able to operate off rail (off-track) where they are pulled by self-propelled, rubber-tired tractors. All of Petitioner's supply cars which travel off rail (off-track) are "rubber/rail" vehicles.

5. Because of the exclusive use of a belt conveyor system to transport coal, the use of automatic couplers on equipment travelling on or off rail (track) will result in a diminution of safety to the miners in the Homer City Mine.

6. The Homer City Mine is characterized by entries having a relatively tighter and narrower radius of horizontal curve and by bottom grades which are more pronounced and undulating than mines using track haulage to transport coal. The uneven bottom contours, tight horizontal curves and the fixed position of the engaged rubber wheels on rubber/rail cars travelling off-track distort the horizontal and vertical alignment needed for reliable functioning of automatic couplers and cause excessive wear to, and/or jamming of, such couplers.

7. Since coal is not transported on Petitioner's tracks, the tracks and track road beds are not constructed to carry the thirty-five to fifty ton locomotives and the ten to thirty ton coal cars typically found in mines using track haulage to transport coal. In such mines, heavy-duty ballasting of the track road bed and track alignment by means of welded plates are designed to accommodate the extremely heavy locomotives and coal cars and contribute substantially to reliable functioning of automatic couplers. The lighter weight track and ballasting, designed to accommodate the relatively lighter rubber/rail supply cars in Petitioner's mines, provide less uniform horizontal and vertical alignment of automatic couplers and cause excessive wear to, and/or jamming of, such couplers.

8. In light of the conditions stated above, use of automatic couplers in Petitioner's mine would present the following hazards to safety:

a. Excessive wear to automatic couplers would result in acidental uncoupling and possible derailment.

b. Automatic couplers which become jammed or accidentally uncoupled would in almost every instance require miners to position themselves between vehicles in order to effect the proper alignment for coupling.

Accordingly, the use of automatic couplers, whether on or off-track, in Petitioner's mine would result in a diminution of safety to the miners.

9. The pin-and-drawbar couplers in use in Petitioner's mine are far less susceptible to excessive wear, jamming or accidental uncoupling from uneven alignment than automatic couplers and can be manipulated with much greater flexibility. These couplers, therefore, guarantee no less than the same measure of protection which would be afforded the miners by the use of automatic couplers in the Homer City Mine.

Petitioner respectfully requests that the Secretary modify the application of Section 314(f) by relieving Petitioner of the requirement to install automatic couplers on equipment in its Homer City Mine.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 5, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

APRIL 23, 1974.

[FR Doc.74–10326 Filed 5–3–74;8:45 am]

[Docket No. M 74–92]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Island Creek Coal Company has filed a petition to modify the application of 30 CFR 75.902 to its Crescent, Pies, Pies #9, and Providence No. 1 Mines.

Crescent Mine is located in Muhlenberg County; the remaining three mines in Hopkins County, Kentucky.

30 CFR 75.902 reads as follows:

On or before September 30, 1970, low and medium voltage-resistance grounded systems shall include a fail-safe ground check circuit to monitor continuously the grounding circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

In support of its petition, Petitioner states the following:

(1) Petitioner has invested considerable time and expense to install stationary underground electrical power substations which use either a rigid metal conduit, interlocked flexible metallic conduit, or non-seamed C–L–X flexible metallic conduit to cover and protect ungrounded power conductors.

(2) Safe usage of the resistance grounded power conductor depends wholly upon existence of a grounding path of low impedance from the transformer core and enclosure to the cables and loads which receive power from the source transformer. Standard safety practice under the law requires a ground conductor of certain size to be connected as described. Furthermore, the ground check circuit performs the additional functions of verifying the existence of the ground path. Safety is compromised when the ground wire is broken.

(3) Influences of stray direct currents, parallel ground paths, etc., prevent an easy solution to successful ground checking. At this time a controversy exists as to whether the problem has been satisfactorily solved.

(4) An alternative to ground check circuits is herein proposed which substitutes mechanical strength for the operating uncertainties of using ground check devices. Substantial rigid metal conduit, heavy steel interlocked conduit, or non-seamed C–L–X conduit provides complete metallic covering of the power conductors. This affords superior crushing and abrasion protection. In addition, the conduit would enter metal enclosures through properly designed box fittings to grip and hold the conduit. In addition, Petitioner proposes to use an uninsulated conductor, sized in accordance with normal resistance grounded applications.

(5) The grounding conductor would be carried on the outside of the conduit and taped or otherwise fastened to the conduit at short intervals, and the grounding conductor would be permanently attached to the power substation, all other boxes, and enclosure frames into which the power circuit enters. Attachment would be effected by means of lugs, bolted to the metal enclosure with set screw wire attachment, or its equivalent.

(6) It is intended that the above construction will provide for stationary substations an alternative to safety standard 75.902. Through the use of steel armoring and easily inspected and verified external substantial grounding wire connections, the alternative course of action would not constitute any diminution of the level of safety engineered into the electrical installation. Additionally, safety would be increased in that it would be increasingly difficult for personnel to contact one or two power wires when using the conduit as opposed to an unshielded trailing cable.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 5, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

APRIL 23, 1974.

[FR Doc.74–10329 Filed 5–3–74;8:45 am]

[Docket No. M 74–77]

PINE BRANCH COAL SALES, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pine Branch Coal Sales, Inc. has filed a petition to modify the application of 30 CFR 77.1605(k) to its #20 Strip Mine located at Chavies, Kentucky.

30 CFR 77.1605(k) reads as follows:

Berms or guards shall be provided on the outer bank of elevated roadways.

Petitioner asserts that the application of the mandatory standard will result in diminution of safety to miners in the affected mine for the following reasons:

(1) Guardrails are ineffective in preventing a vehicle which is out of control from going over an embankment because:

(a) Most trucks when empty weigh from 10 to 14 tons. Trucks of such weight, even when traveling five miles per hour, would be virtually unchecked by even the sturdiest guardrail.

(b) Guardrails would have to be placed in fill material where there is insufficient anchorage.

(2) To install guards in solid ground would require widening the road thereby creating dangerous high walls.

(3) Berms create a drainage problem causing the roads to rut and wash out. A road with the "wash board" effect is a safety hazard.

(4) Berms and guardrails prevent proper grading of the roads, especially in wet or freezing weather.

(5) Berms would hamper Petitioner in its efforts to gravel its haulage road.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 5, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

APRIL 23, 1974.

[FR Doc.74–10331 Filed 5–3–74;8:45 am]

[Docket No. M 74–91]

PRINCESS SUSAN COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Princess Susan Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its Blakeley Strip Mine located at Hazelton, Pennsylvania.

30 CFR 77.1605(k) reads as follows:

Berms or guards shall be provided on the outer bank of elevated roadways.

By its petition, Petitioner requests a waiver of the foregoing safety standard as it applies to the subject mine. In support of its petition, Petitioner asserts that its haulage roads and ramps are of a temporary nature and it would be impractical to install berms and guards.

As an alternative method, Petitioner proposes that it be allowed to continue to use its present haulage roads without installing berms and guards, asserting that such method will not result in a diminution of safety to the miners.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 5, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

APRIL 23, 1974.

[FR Doc.74–10330 Filed 5–3–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NATIONAL MEAT AND POULTRY INSPECTION ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Meat and Poultry Inspection Advisory Committee will be held on May 23, 1974, beginning at 9 a.m. in Room 218A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

The purpose of this Committee is to advise and make recommendations to the Secretary of Agriculture regarding operations pertaining to meat and poultry inspection programs pursuant to section 301 of the Federal Meat Inspection Act and section 5 of the Poultry Products Inspection Act. Matters to be discussed include a proposal for a single national meat and poultry inspection system, quality control program, proposed product standards, and other matters relating thereto.

This meeting is open to the public but space and facilities are limited. Comments of interested persons may be filed with the Committee before or after the meeting.

Information pertaining to the meeting may be obtained from James K. Payne, Room 4349–South, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250 (Telephone: 202/447–6313.)

Dated: April 29, 1974.

F. J. MULHERN,
Vice Chairman.

[FR Doc.74–10286 Filed 5–3–74;8:45 am]

Soil Conservation Service

POPLAR RIVER WATERSHED PROJECT, WISCONSIN

Notice of Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement for the Poplar River Watershed Project, Clark and Taylor Counties, Wisconsin, USDA–SCS–ES–WS–(ADM)–73–5(F).

The environmental impact statement concerns a plan for watershed protection, flood prevention, and fish and wildlife improvement. The planned works of improvement provide for conservation land treatment, a 1.31-mile dike around Owen with an associated lake outlet structure for Owen Pond, and one multiple-purpose reservoir with capacity for floodwater retarding and fish and wildlife.

The final environmental impact statement was transmitted to CEQ on April 18, 1974.

A limited supply is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, SW., Washington, D.C. 20250

Soil Conservation Service, USDA, P.O. Box 4248, Madison, Wisconsin 53711

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(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: April 26, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources Soil Conservation Service.

[FR Doc.74-10289 Filed 5-3-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

CHILDREN'S HOSPITAL OF PITTSBURGH, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, by May 27, 1974.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00403-33-46040. Applicant: Children's Hospital of Pittsburgh, 125 DeSoto Street, Pittsburgh, Pa. 15213. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of pediatric tumors (lymphomas, round cell tumors, soft tissue sarcomas, etc.). These tumors are examined electron microscopically for specific ultrastructural changes that help identify them and provide knowledge about tumor formation. Another part of the research involves concentrated studies of specific viruses: a) Tissue culture material from hepatitis patient's will be searched for the presence of a Hepatitis Associated Viral Antigen, b) Chick embryos will be infected with a pool of New Castle Disease Virus and the chorioallantoic fluid, and various chick organs will be studied to determine sites and rate of viral replication, c) Another project involves the Mammary Tumor Virus in mice. Additional studies will be carried out on various organs to determine the ultrastructural changes that result from the disease process. These include electron microscopic examination of kidney (glomerulonephritis and Bartter's syndrome), adrenal (Cushing's disease), pancreas (Hypoglycemia) and skin fibroblasts (I-cell disease). The article is also to be used for educational purposes in the courses:

Introductory Course to Electron Microscopy—designed to provide a basic knowledge of electron microscopic techniques to the residents and interns.

Fundamentals of Electron Microscopy—to teach all the techniques vital to an anatomic Pathologist.

Application received by Commissioner of Customs: April 2, 1974.

Docket number: 74-00404-33-46040. Applicant: University of Washington, Department of Biological Structure, Seattle, Washington 98195. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in a broadly directed research program which is intended to acquire a better understanding of the fine structure of tissues in terms of their constituent cell organelles and, whenever possible, to relate their structure to physiological or mechanical function. These research programs include the following:

(1) Relation of structure to function in capillaries and blood vessels by developing and applying a new stain, ruthenium red, to identify extracellular acid mucopolysaccharides.

(2) Investigation of the plasma membrane complex of amoebae.

(3) Examination of cell membranes and cytoplasm components prepared in ways intended to best preserve their normal appearance.

(4) Studies of the pathways of protein uptake in the suckling rat intestine.

(5) Determination of the origin, composition and fate of certain cytoplasmic components unique to germ cells and to analyze their role as well as the role of other factors in the process of germ cell formation and maturation.

(6) Assessment of the response of pituitary somatotrophs cells in the rat pars distalis when incubated with growth hormone-releasing and inhibiting factors.

In addition, investigations are underway to localize the enzyme acid phosphatase in somatotrophs and to correlate its presence with the secretory process.

Application received by Commissioner of Customs: April 2, 1974.

Docket number: 74-00405-33-46040. Applicant: University of Pennsylvania, School of Medicine, 536 Johnson Pavilion, Philadelphia, Pa. 19104. Article: Electron Microscope, Model EM-10. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in an established research program studying the normal morphology and pathology of joint tissues. Specifically to be investigated are:

(1) The nature of changes in synovial small blood vessels in human arthritis,

(2) The further identification of virus like particles being found in the synovium and considered as possible initiating couses of rheumatoid arthritis.

(3) The distribution of immunoglobulins, complement, the two types of lymphocytes (T and B) in the synovium and synovial fluid and comparison of this pattern in arthritis.

Similar studies will be performed in recently identified dogs with rheumatoid like arthritis. The article will also be used in training research fellows interested in learning ultrastructural research techniques to apply to the investigation of arthritis. Application received by Commissioner of Customs: April 1, 1974.

Docket number: 74-00406-56-17500. Applicant: University of Washington, Department of Oceanography, WB-10, Seattle, Washington 98195. Article: Recording Current Meter, Model #4 (4 each). Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used for studies of circulation and hydrographic structure in the Bering Strait and the Arctic Ocean. Experiments involve the continuous year-long monitoring of currents and gross thermal structure of waters entering the Arctic Ocean through the Bering Strait. Application received by Commissioner of Customs: April 1, 1974.

Docket number: 74-00408-33-90000. Applicant: Washington University School of Medicine, Department of Biological Chemistry, 660 South Euclide Avenue, St. Louis, Missouri 63110. Article: Rotating Anode x-ray Generator. Manufacturer: Elliot Neutron Division, United Kingdom. Intended use of article: The article will be used to obtain x-ray diffraction data from lipoproteins and membranes. All the studies relate to the determination of the molecular structure of biological macromolecules. Application received by Commissioner of Customs: April 1, 1974.

Docket number: 74-00409-33-46070. Applicant: St. Louis University Medical School, Pathology Department, 1402 South Grand, St. Louis, Missouri 63104. Article: Scanning Electron Microscope, Model JSM-35U and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for a variety of specimens from patients with diseases for diagnostic and investigational purposes and for studies of various experimental models of human diseases as a means toward a better understanding of etiology, pathogenesis and control. The studies include:

(1) Diagnostic studies of human renal and hepatic biopsies.

(2) Diagnostic studies of human lung tissue and of experimental animal lung with emphasis on oxygen toxicity in the newborn.

(3) Diagnostic studies of human blood and bone marrow specimens.

(4) Studies of human tissue upon removal in surgery and freezing in cold stage accessory using low accelerating voltage to reduce specimen damage.

(5) Studies of lung inclusions using x-ray analyzer for elemental analysis of trace elements contained in said inclusions.

The article will also be used in training programs for medical and graduate students in electron microscopy and the use of it in biomedical studies and research. Application received by Commissioner of Customs: April 1, 1974.

Docket number: 74-00410-01-77040. Applicant: University of Minnesota, Department of Chemistry, Minneapolis, 55455. Article: Mass Spectrometer, Model MS-30. Manufacturer: AEI Scientific Apparatus, United Kingdom. Intended use of article: The article is intended to be used as a service instrument for low and high resolution spectra of compounds submitted by the faculty members and their students. Secondly, it will be used as a teaching instrument in a Modern Analytical course, and finally, it will be used by graduate students for special long term studies in organic and biological chemistry. Some of the types of compounds and more specific applications which will be encountered in the use of the article are:

(1) Isotopic scrambling of oxygen-18 used as a mechanistic probe in model systems for enzymatic reactions.

(2) The reaction of the diradical species SO with an unconjugated olefin producing a mixture of complex products often in low yields;

(3) Structural elucidation of the compounds, F-5-3 and F-5-4, which are related to zearalenone,

(4) Determination of location and extent of incorporation of the label by examining the isotopic patterns of fragment peaks in the labeled and unlabeled compounds of the *Cinchona* alkaloids,

(5) Study of the scope and mechanism of the rearrangement of substituted 5-nitronorbornenes and 2-nitronorbornanes under the Nef reaction conditions. The article will also be used extensively for teaching as well as for research analysis in association with graduate research programs. Application received by Commissioner of Customs: March 29, 1974.

Docket number: 74-00411-33-90000. Applicant: University of California—Los Angeles, Center for the Health Sciences, Los Angeles, California 90024. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for diagnostic purposes in neuroradiology to clearly delineate anatomical variations and central nervous system pathology. Medical students will be instructed in the purpose of the article, and demonstrations will be given to them on its appropriate use. Postdoctoral students will be taught use of the article, interpretation of the clinical information provided by the article and application of this knowledge to patient care. Application received by Commissioner of Customs: April 5, 1974.

Docket number: 74-00412-33-46040. Applicant: Carnegie-Mellon University, Department of Metallurgy & Materials Science, Schenley Park, Pittsburgh, Pa. 15213. Article: Electron Microscope, Model JEM 100B and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the following research projects:

Direct Observation of Interfacial Microstructure—which entails the growth of single crystal thin films of different materials (e.g. Au-Ag) and varying orientations, the formation of an interface by mechanical contacting and sintering and subsequent dynamical observations on its character and stability.

(2) Interfacial Mobilities—involving observation of continuous grain boundary migration under influence of a known driving force.

(3) Interfacial Reactions in Bimetallic Thin Films—to study effects of electromigration on structure and properties of metallic thin films.

(4) Failure Prevention in Steel Rails—concerned with the relationship between microstructure and fracture toughness of pearlitic steels.

Application received by Commissioner of Customs: April 5, 1974.

Docket number: 74-00413-99-72500. Applicant: Veterans Administration Hospital, 2500 Overlook Terrace, Madison, Wisconsin 53705. Article: Engstrom Respirator System and Engstrom Ultrasonic Nebulizer and Mounting Kit. Manufacturer: LKB Medical AB, Sweden, Intended use of article: The article is intended to be used in the Anesthesia Rotation Service course to instruct third year medical students in the principles of airway management, clinical management of depressant drugs, acute respiratory and cardiovascular resuscitation, and the care of the comatose patient. Application received by Commission of Customs: April 4, 1974.

Docket number: 74-00415-33-90000. Applicant: Scott and White Memorial Hospital, 2401 South 31st Street, Temple, Texas 76501. Article: EMI Scanner. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to detect the following pathological conditions through investigation of the brain:

(1) Diffused or localized enlargement of the ventricles and cisterns without parenchymal alteration such as found in atrophic and degenerative or congenital hydrocephalic processes; (2) Tumors or hematomas; (3) Unsuspected lesions in patient presumed to have such disorders as multiple sclerosis, infarcts, seizure disorders, headaches, or dementia; (4) trauma; (5) post-operative complications such as edema or hemorrhage.

The article will also be used for educational purposes in the training of radiology residents. Application received by Commissioner of Customs: April 5, 1974.

Docket Number: 74-00416-33-44795. Applicant: Texas Research Institute of Mental Sciences, Texas Medical Center, 1300 Moursund Avenue, Houston, Texas 77025. Article: M/P 40 Fc Electronic Motility Meter with Vertical Detector. Manufacturer: Motron Products, Sweden. Intended use of article: The article is intended to be used to study psychotropic drugs by measuring their effects on the movement of animals to gain further understanding of the property of currently used psychotropic drugs in hopes of developing better therapeutic agents. Application received by Commissioner of Customs: April 8, 1974.

Docket number: 74-00417-00-82600. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87544. Article: Lens for AGA Thermovision System Camera. Manufacturer: AGA, AB, Sweden. Intended use of article: The article is an accessory to an AGA Thermovision System Camera being used for studies of radiation in the infrared region of the electromagnetic spectrum from chemicals released in the earth's upper atmosphere. Application received by Commissioner of Customs: April 4, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-10291 Filed 5-3-74;8:45 am]

ALTON OCHSNER MEDICAL FOUNDATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00260-33-90000. Applicant: Alton Ochsner Medical Foundation, 1514 Jefferson Highway, New Orleans, La. 70121. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for a comparative study of the brain lesions detectable with this technic as compared with findings available from isotope brain scans and by more invasive and hazardous technics of carotid arteriograms and pneumoencephalography. The article will also be used for educational purposes by medical students and neurosurgery, neurology, and radiology residents. Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (May 22, 1973).

Reasons: The foreign article is a newly developed system which is designed to provide precise transverse axial x-ray tomography. We find that

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the speed and accuracy of the article in the solution of diagnostic problems in teaching students new techniques in neurosurgery and radiology, as well as, in research on the article's accuracy to be pertinent to the applicant's purposes. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated March 26, 1974 that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.106 Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-10290 Filed 5-3-74;8:45 am]

National Oceanic and Atmospheric Administration

OCEAN WORLD, INC.

Issuance of Permit for Marine Mammals

On December 27, 1973, notice was published in the FEDERAL REGISTER (38 FR 35340) that an application had been filed with the National Marine Fisheries Service by Ocean World, Inc., 17th Street Causeway, Fort Lauderdale, Florida 33316, for a permit to take two (2) Atlantic bottlenosed dolphins (Tursiops truncatus) and one (1) Atlantic harbor seal (Phoca vitulina concolor) for public display.

Notice is hereby given that on April 29, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit to Ocean World, Incorporated, for the taking of one harbor seal. The request for two bottlenosed dolphins is denied due to the limited capacity of the holding facilities. The activities authorized by this Permit are subject to certain conditions set forth therein. The Permit is available for review by interested parties as follows:

Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235.

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: April 29, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74-10347 Filed 5-3-74;8:46 am]

WOMETCO MIAMI SEAQUARIUM

Issuance of Permit for Marine Mammals

On January 14, 1974, notice was published in the FEDERAL REGISTER (39 FR 1785), that an application had been filed with the National Marine Fisheries Service by Wometco Miami Seaquarium, 30 Rickenbacker Causeway, Miami, Florida 33149, for a permit to take three (3) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that, on April 30, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit to Wometco Miami Seaquarium, subject to certain consditions set forth therein.

The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and at the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33072.

Dated: April 30, 1974.

JOSEPH W. SLAVIN,
Acting Director, National Marine Fisheries Service.

[FR Doc.74-10346 Filed 5-3-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CHANGING FOOD SUPPLY IN AMERICA

Notice of Public Meeting

Notice is hereby given that the Food and Drug Administration will sponsor in cooperation with the Consumer Ad Hoc Group a conference on "The Changing Food Supply in America." Five written papers will form the basis for the conference discussion.

The conference will be held Wednesday, May 22, 1974, from 9:30 a.m. to 4 p.m., in the Conference Theater, Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

This meeting is open to the public, and all interested persons are invited to attend. Additional information may be obtained by writing to Office of Consumer Affairs, Food and Drug Administration, Attention: R. A. Grant, Director, Consumer Affairs (HFI-3), 5600 Fishers Lane, Rockville, MD 20852, or by telephoning 301-443-1547.

Dated: May 1, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10425 Filed 5-3-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

KEOKUK BRIDGE TOLLS

Final Order of the Administrator

Pursuant to the notice of the Acting Federal Highway Administrator, issued on May 24, 1973 (38 FR 15092), a further hearing was held on September 25, 1973 before Administrative Law Judge Robert N. Burchmore for the purpose of determining whether the rates of toll now charged by the City of Keokuk for transit over the Keokuk Bridge at Keokuk, Iowa are reasonable and just under section 4 of the Bridge Act of 1906, 33 U.S.C. 494. The hearing was in conformity with the Bridge Toll Procedural Rules of the Federal Highway Administration (49 CFR Part 310) and the Administrative Procedure Act.

After considering the evidence of record and the briefs submitted by the parties, Judge Burchmore rendered his recommended decision on March 4, 1974. Judge Burchmore's recommended decision is reproduced as an appendix hereto. On March 20, 1974, the Administrator issued an order setting April 8, 1974 as the deadline for filing of exceptions to the Administrative Law Judge's recommended decision. No exceptions have been filed.

The Administrator has reviewed the recommended decision of the Administrative Law Judge and has determined that it is correct as a matter of law and fact. Accordingly, the recommended decision of the Administrative Law Judge is adopted as the decision of the Federal Highway Administrator.

In consideration of the foregoing, *it is hereby ordered*, That:

1. The rates of toll now charged by the City of Keokuk for transit over the Keokuk Bridge are reasonable and just within the meaning of section 4 of the Bridge Act of 1906.

2. This proceeding is hereby discontinued.

This final order is issued under the authority of section 4 of the Bridge Act of 1906, 33 U.S.C. 494, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(1), and section 310.13 of the Bridge Toll Procedural Rules, 49 CFR 310.13.

Issued on April 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

APPENDIX

Burchmore, Administrative Law Judge:

This is a proceeding under the General Bridge Act of 1906 (33 U.S.C. 491 et seq.) to determine whether the tolls charged for transit over the Keokuk bridge are just and reasonable, and if not, to prescribe just and reasonable tolls. Prior reports contain a statement of the case, which is incorporated herein by reference; the burden of proving the assailed rates to be unjust or unreasonable rests upon the complainants by provision of the Administrative Procedure Act. (5 U.S.C. 556(d)).

The Administrator originally found the tolls to be unjust and unreasonable and ordered the City to submit a new schedule of tolls. In so doing, the Administrator adopted a definition of "just and reasonable" which had recently been applied in a companion case involving the MacArthur Bridge at Burlington, Iowa. That definition contemplated that tolls should be limited to an amount necessary to maintain and operate the bridge and to provide for its amortization. However, the Burlington case was appealed to the courts, and the Administrator's definition was held to be invalid. City of Burlington v. Turner, 336 F. Supp. 594 (S.D., Iowa, 1972); 471 F. (2d) 120 (8th Cir. 1973). The Court of Appeals directed the Administrator to modify his definition to include the additional factor of a reasonable return on invested capital.[1] The Court also remanded the case with directions to "hold additional hearings and to make a determination of tolls that are reasonable and just pursuant to the trial court's interpretation of the 1906 Bridge Act as modified by this opinion." Accordingly, by notice issued May 24, 1973, the Administrator announced further hearings in both cases to receive evidence as to bridge related costs, invested capital and rates of return.

A prehearing conference was held at the request of the parties on July 19, 1973, at Burlington, Iowa; and the hearing was held at Keokuk, Iowa, on September 25, 1973. The record on further hearing comprises 175 pages of reporter's transcript of testimony and 21 numbered exhibits. Opportunity was afforded for the filing of briefs and replies. Requested findings not adopted herein nor discussed in the report have been considered and found not justified.

INVESTED CAPITAL

The City's invested capital in the Keokuk Municipal Bridge was stipulated by the parties to amount to $1,771,333.40 without taking into account any depreciation. The total just stated was made up of the following items and the year of investment is shown below:

Investment	Year	Amount
Purchase price	1941	$675,000.00
Improvements to	1949	61,256.00
Pier construction	1951	145,182.89
Illinois approach	1954	106,615.26
Sidewalk	1954	71,695.00
Bridge deck	1957	682,695.64
Toll house	1958	28,886.61
Total		1,771,333.40

Depreciation. The City introduced no evidence as to depreciation; its position is that depreciation should not be taken into account because it was not mentioned in the Court's definition of invested capital.[1] However, in my opinion that position is untenable as a matter of law. Lindheimer v. Illinois Bell Telephone Co., 292 U.S. 151, 167 (1934). The question which is to be determined in a case of this kind is what the useful life of the bridge is in years, and how much of that life has expired; when those facts are known, the remaining capital investment can be calculated by ordinary accounting methods.

The City has not taken depreciation into account at any time since it acquired the bridge; and this record contains virtually no evidence as to the remaining useful life of the bridge at the present time. However, there is one exhibit in the record containing a depreciation schedule that was set up by the Keokuk and Hamilton Bridge Co.; it was that company which transferred ownership of the bridge to the City in 1941. This schedule shows both the depreciation reserves and the depreciation taken on tax returns from the time the bridge was built in 1870 until it was transferred in 1941. The City's accounting witness testified that in his opinion the schedule was reasonable.

The considered schedule provided for an original estimated useful life of 200 years on the substructure and 100 years on the superstructure, and the depreciation reserves were calculated on that basis from 1870 to 1941, although higher rates of depreciation were used for tax purposes after 1912. The original cost of the bridge was equally divided between substructure and superstructure, so that the combined depreciation rate was originally .75 percent (i.e., 1 percent on superstructure and .5 percent on substructure). Other effective combined rates of depreciation were calculated from the schedule in an analysis that was submitted on brief by counsel for the Administrator. That analysis arrived at several alternative conclusions as to the depreciated capital investment: (1) $1,276,013, at an annual depreciation rate of 1.2 percent (2) $1,385,466 at a rate of .94 percent, and (3) $1,496,576 at a rate of .67 percent.

An engineering witness for the City testified that the bridge is in an excellent state of repair and capable of carrying greater loads than it was originally designed for. While not claiming that the bridge is immortal, he expressed agreement with the idea that its useful life was of indefinite term. Considering all of the evidence, I find that the depreciated capital investment in the bridge as of December 31, 1972 was not less than $1,450,000.

RATE OF RETURN

The positions of the parties vary greatly as to which constitutes a fair rate of return on invested capital in this case. The State of Illinois, and the Illinois complainants, would hold the City to a 5 percent return while counsel for the Federal Highway Administration suggests a return of 8 percent; the City of Keokuk seeks a return of 10 percent.

The accounting witness for the City testified that the historic return on the bridge since acquisition by the City was "about six and two-thirds percent annually". However, the calculation included about three years when the bridge was toll free, and if those years were excluded the witness estimated the rate would have been seven and a half percent. Moreover, the calculation was on undepreciated capital and the rate would have been still higher had depreciation been taken into account. Referring to possible rates of return on investment of idle funds, he said U.S. Government issues would return "somewhere between eight and nine percent". At the time of the hearing the bank prime rate was at a very high level of almost ten percent. Earlier investments by the City in 1972 brought only 4.05 percent return, although the witness said that at the time of the hearing the return would probably be twice as much, or 8.1 percent. He testified that recent certificates of deposit had earned as high as ten and a half percent in banks.

An exhibit was introduced containing excerpts from the Wall Street Journal which supported the witness' testimony as to current yields on governments. The exhibit also showed current yields on high grade corporate bonds as high as 8 percent. No evidence was offered by other parties in rebuttal of the witness' stated opinion that a return of 10 percent on the bridge would be reasonable.

In my opinion, an equity investment in the assets of a public utility is entitled to a return at least as high as is realized from interest on fixed obligations. A return that is not as high as the current prime bank rate (the rate which banks charge preferred customers for short term loans) cannot be said to be excessive. To the extent that inflation has driven such rate as high as shown on this record, the same forces affect the revenue need of the bridge owners, and their right to real earnings. Accordingly, I find that a rate of return of eight percent is reasonable and not excessive at the present time. Tolls that produce such a return today may well fall short in the not distant future; if on the other hand they later become excessive they are subject to re-examination and adjustment. Today, anything less would approach the confiscatory. Eight percent of $1,450,000 is $116,000, which I find to be a fair return on the bridge for the foreseeable future.

REVENUES AND EXPENSES

The City introduced evidence showing its bridge related revenue and expenses for the years 1968 through 1972 inclusive. For the latest full year, 1972, its revenues were:

Highway revenues	$287,362
Railroad revenues	67,157
Other revenues	5,428
Total	359,947

The total expenses claimed to have been incurred for the year 1972 are $282,587 (Exhibit A-1 plus items shown at pages 15-16 of the 1973 hearing transcript (R. 15-16)). To the claimed expenses should be added a depreciation charge for the year, because no depreciation was taken in the year 1972, and in accordance with the finding herein, as to depreciation, a charge should be made in 1972 on that account. In my opinion the amount should be $13,285 (.0075 times $1,771,333). When this is done, the total of claimed expenses for 1972 becomes $295,872. However, the expenses claimed by the City include certain items as to which objections were raised and some of the items cannot be justified.

Lee County property tax. The 1972 expenses claimed by the City include $43,812 paid to Lee County, Iowa, for property tax. All of the other parties contend that this is not a proper charge to bridge costs. Their contention rests upon section 382.7 of the Iowa code which provides:

Notwithstanding any provisions of the Code, interstate bridges owned by a city or town may be subject to assessment and taxation in the discretion of the governing body of the city or town owning such bridge.

Complainants argue that the Lee County tax is not an enforceable bridge cost since under the quoted statute it is discretionary with the city whether to allow the assessment and taxation.

On brief the City points out that section 382.7 gives discretion to the City only with respect to a bridge which would otherwise be exempt; manifestly if taxation is mandatory under other provisions of the Code, there would be no room for exercise of discretion by the City in the matter. As to this, counsel directs our attention to the following provisions of section 427.1 of the Code:

Section 427.1 Exemptions: The following classes of property shall not be taxed:

* * * * * *

2. *Municipal and military property.* The property of a county, township, city, town, school corporation, levee district, drainage district or military company of the state of Iowa, when devoted to public use and not held for pecuniary profit.

The Keokuk bridge is unquestionably City property, but it is clearly held for pecuniary profit and is therefore not exempt under the foregoing section of the Code. Accordingly, it appears that the governing section of the Code is section 427.13 which provides:

[1] "Invested capital as used herein shall include the amount, if any, which the City paid in acquiring the bridge in 1923, plus the amounts which it has paid subsequent to that date for additions to and reconstruction of the bridge; it shall not include amounts spent for interest on revenue bonds or for normal maintenance and repair since acquisition, and replacement cost shall not be a factor in such determination." 471 F. (2d) 123.

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Section 427.13 What taxable. All other property, real or personal, is subject to taxation in the manner prescribed, and this section is also intended to embrace:

1. Ferry franchises and toll bridges, which, for the purpose of this chapter are considered real property.

Reading all of the quoted provisions of the Iowa Code in context, it seems clear that the Code in effect gives the City the discretion to permit taxation of a bridge if such bridge is otherwise exempt from taxation, but the Code does not exempt bridges which are held for profit; rather the Code specifically includes as taxable real property all bridges except those municipally owned and not held for profit. I conclude that the taxes paid to Lee County constitute an item that is properly chargeable as a bridge expense.

Although the tax is clearly chargeable as a bridge cost, the amount of the expense should be reduced to the extent that the tax was actually refunded to the City. For it is shown in the City brief that 32.5 percent of the 1972 levy was paid over to the City, thereby constituting an effective refund of that much of the expense. Accordingly, the claimed expense should be reduced in the amount of $14,239.

Other expenses. The claimed expenses include an item of $3,600 which was a contribution to a recreation fund and is clearly not an expense properly chargeable to the bridge. The Federal Highway Administration also criticized an expense item of $6,042 in attorney's fees. The record does not show how much, if any, of said fees were for the nonrecurring expense of prosecuting this case. No other basis is shown for excluding what is otherwise uncontested as an actual expenditure; I conclude that it is properly chargeable as an expense.

The complainants argue generally what is unassailable in theory, i.e., that funds spent for non-bridge purposes cannot be considered as expenses when fixing rates. However, with the exceptions already listed, complainants pointed to no item of the claimed expenses in Exhibit A–1 which constitute such an expenditure for non-bridge purposes. Accordingly, I find that the properly chargeable bridge related costs for the year 1972 were as follows:

Claimed expenses	$282,587
Add: Depreciation expense	13,285
Total	295,872
Less: Refund of Lee County	17,839
Tax paid	14,239
Recreation fund	3,600
Total bridge related costs	278,033

The City introduced an exhibit summarizing its claimed costs during recent years and points out that those costs have been increasing steadily while revenues have remained almost constant. On the basis of this showing, the City argues that in fixing rates for the future, it is not reasonable to consider only past costs and that some consideration should be given to anticipated increases. Accordingly, the City accounting witness projected future costs based upon an assumed continuing of the same rate of increase as has been experienced in the recent past. In my opinion this projection is too speculative to be given effect in definite findings herein.

REASONABLENESS OF TOLLS

The total, reasonable bridge revenue needs of the City for the present are ascertained by adding to the total 1972 costs, $278,033, the return on investment found herein to be reasonable, $116,000. The combined total is $394,033.

As already stated, the total revenues received in 1972, both from highway and from railroad tolls, as well as miscellaneous income, amounted to only $359,947, and that sum was insufficient to provide the return found herein to be reasonable. Accordingly, it must be considered that the present toll structure is not excessive.

Upon all the evidence I find that the assailed rates of toll for the transit of the Mississippi River via the Keokuk bridge have not been shown to be unjust or unreasonable within the meaning of the General Bridge Act of 1906.

[FR Doc.74–10335 Filed 5–3–74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–412A]

DUQUESNE LIGHT CO., ET AL.

Assignment of Members of Atomic Safety and Licensing Appeal Board

In the matter of Beaver Valley, Unit 2. Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this anti-trust proceeding:

Alan S. Rosenthal, Chairman
Michael C. Farrar, Member
William C. Parler, Member

Dated: April 30, 1974.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74–10285 Filed 5–3–74;8:45 am]

[Docket Nos. 50–461A and 50–462A]

ILLINOIS POWER CO.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c. of the Atomic Energy Act of 1954, as amended a letter of advice from the Attorney General of the United States, dated April 29, 1974, a copy of which is attached as Attachment 1.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by June 5, 1974, either (1) by delivery to the AEC Public Document Room at 1717 H Street, NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C., 20545, Attn: Chief, Public Proceedings Branch.

For the Atomic Energy Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust & Indemnity, Directorate of Licensing.

ATTACHMENT 1

APRIL 29, 1974.

Illinois Power Company, Clinton Power Station, Units 1 and 2; AEC Docket Nos. 50–461A and 50–462A; Department of Justice File No. 60–415–67.

You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act, as amended, in regard to the above-cited application.

Introduction. This is an application to construct two nuclear electric generating units, each with a nominal rating of 950 megawatts of capacity, to be located at a site in Harp Township, DeWitt County, Illinois. Units 1 and 2 are tentatively scheduled to commence commercial operation in 1980 and 1982, respectively. The units are to be integrated with Applicant's electric bulk power supply system and the power marketed as a portion of its system output.

Applicant. Applicant is the second largest electric utility in the state of Illinois. Its 1972 peak load was 2,127 mw; its generating capacity at that time consisted of 2.4 mw dependable capacity of hydroelectric generating resources and 2,193.6 mw dependable capacity of thermal generating resources.

Applicant's peak load is expected to double in the next 10 years, and it has planned or under construction additional generating capacity to increase its dependable system capacity to 5,756 mw by 1982. Clinton Units 1 and 2 form the major part of this projected increased capacity.

Applicant has high voltage or extra high voltage (ehv) interconnections to a number of major systems adjacent to its service area, including Commonwealth Edison Co., Union Electric Co., Central Illinois Public Service Co. (CIPS), and Central Illinois Light Co. Together with Union Electric Co., and Central Illinois Public Service Co., Applicant participates in the Illinois-Missouri Pool (Ill-Mo). Through Ill-Mo and other interconnection and coordination agreements, Applicant engages in a significant degree of coordinated planning, operation, and development of its bulk power supply system.

Applicant is also a member of the Mid-American Interpool Network (MAIN), a regional reliability council.

Structure of the Bulk Power Market in Illinois. Commonwealth Edison, serving principally in the northern one-third of Illinois, is by far the largest supplier of electricity in the state.[1] With a 1972 peak load of 11,750 mw, Commonwealth Edison is more than five times as large as Applicant, its nearest Illinois competitor.

Applicant and Central Illinois Public Service Co. (peak load 1,394 mw) through a patchwork design of service areas, are the dominant suppliers of electricity, both at wholesale and retail, in the lower two-thirds of Illinois. Each system is fully integrated with high voltage and ehv interconnections with each other and with neighboring systems. The two systems maintain a dominant position in generation and transmission, in their service areas. A smaller privately-owned utility, Central Illinois Light Co. (peak load 791mw), serves in two areas in the central part of the state.

[1] See the Department's Letters of Advice to the Commission concerning Commonwealth Edison's LaSalle County Units 1 and 2, AEC Docket Nos. 50–373A and 50–374A, Department of Justice File No. 60–415–41, December 20, 1972, and Byron Station, Units 1 and 2, Braidwood Station, Units 1 and 2, AEC Docket Nos. 50–454A, 50–455A, 50–556A, and 50–557A, March 4, 1974.

Union Electric Co. (a large Missouri-based utility), Interstate Power Co., Sherrard Power System, and Iowa-Illinois Gas and Electric Co. serve small geographical areas along the western border of Illinois.

Rural electric cooperatives cover all of Illinois geographically but serve mainly in rural areas in the southern three-quarters of the state. Twenty-seven distribution cooperatives and two generation and transmission cooperatives (Western Illinois Power Cooperative and Southern Illinois Power Cooperative) comprise the membership of the Association of Illinois Electric Cooperatives.

Western Illinois Power Cooperative serves several distribution cooperatives in the western-central portion of the state. Its generation is sufficient to supply approximately 20–25 percent of its load. The remainder is purchased at wholesale from Applicant and CIPS in approximate ratios of 40 percent and 60 percent respectively.

Southern Illinois Power Cooperative generates roughly 100 mw from three units. This G&T serves exclusively the three southernmost cooperatives with their entire supply of bulk power.

Other distribution cooperatives purchase bulk power entirely from Applicant, entirely from CIPS, or partially from both.

Illinois contains a number of municipal electric systems, many of which are located in or adjacent to Applicant's service area. Applicant supplies the total bulk power requirements of two such municipal systems, the Oglesby Light and Power Department and the Village of Ladd Electric Department.[2] Several other municipal systems presently operate on an isolated basis, each supplying its total requirements from small generating units.[3]

Results of Antitrust Review. In the course of our antitrust review, certain allegations were received by the Department the general import of which was that Applicant has used its dominant position in generation and transmission in its service area to restrain the competitive opportunities of smaller systems. For its part, Applicant has denied that its policies and practices have been or are inconsistent with the antitrust laws. However, in order to eliminate any questions as to the policies that it intends to follow during the period of the Clinton license, Applicant has formalized its policies and indicated its willingness to have them included as conditions to the license. These policies are set out in the attachment to the letter of Applicant's vice president, dated April 5, 1974, which is attached hereto.

In our opinion, these policy commitments should provide competitors of Applicant with competitive alternative sources of bulk power supply and substantially eliminate the grounds on which complaints made to the Department by smaller systems were based. On the strength of these policy commitments, and with the expectation that the Commission will include them as conditions to the license, we conclude that an antitrust hearing will not be necessary with respect to the instant application.

APRIL 5, 1974.

Illinois Power Company, Clinton Power Station, Units 1 and 2; AEC Docket Nos. 50–461A and 50–462A; Department of Justice File No. 60–415–67.

We set forth as Appendix A to this letter a statement of policy of Illinois Power Company concerning bulk power supply arrangements with neighboring electric systems which it is prepared to make in connection with its Clinton Power Station Units 1 and 2. (The definitions contained in the statement are intended to apply also to the text of this letter.) This commitment is made by the Company with the understanding that to the Department of Justice will recommend to the Atomic Energy Commission that an antitrust hearing will not be required in connection with the licensing of the Company's Clinton Power Station Units 1 and 2. On this basis, the Company agrees that its policy statements may be included as conditions to the construction permits and operating licenses to be issued by the Atomic Energy Commission with respect to these units.

The Company believes and maintains that its rate and service policies and practices have been and are consistent with antitrust laws as they may be applied to the Company. The Company understands that certain information has been received by and allegations have been made to the Antitrust Division which may raise certain possible antitrust questions. While the Company is confident that any such questions can be satisfactorily answered, the Company desires to avoid the possibility of having to seek their resolution in an antitrust hearing. It therefore has determined to make the statement of policy and commitment expressed herein.

Paragraph 7 of the statement of policy applies to any additional nuclear generating unit of the Company which, in an application to the Atomic Energy Commission, is scheduled to commence commercial operation prior to January 1, 1989. The Company does not, however, have any present plans for any nuclear generating units in addition to Clinton Power Station Units 1 and 2.

A question has been raised concerning the application of the Company's Service Classification 40 (Wholesale Electric Service for Resale). The Company does not regard a wholesale customer to be limited by that rate as to the areas in which it furnishes electric service or as to the number and location of delivery points for receiving service. If the Company were to receive a request from a neighboring electric system for the purchase of electric service for resale which is not presently a customer of the Company, the Company would sell power to that system either pursuant to Service Classification 40 as it may be amended in the particular circumstances or pursuant to new rate schedules as may be accepted or approved by the Federal Power Commission and any other regulatory authority having jurisdiction.

APPENDIX A

ILLINOIS POWER COMPANY

Statement of Policy Concerning Bulk Power Supply Arrangements with Neighboring Electric Systems in Connection with Clinton Power Station Units 1 and 2

APRIL 5, 1974.

1(a). "Company" means Illinois Power Company and includes each present or future wholly-owned subsidiary of the Company and any successor to it.

1(b). "Costs" means all operating and maintenance expenses, capital costs and a reasonable return on investment which are properly applicable to the particular transaction and the facilities involved in that transaction.

1(c). "Neighboring electric system" means (i) a financially responsible business corporation, not-for-profit corporation, rural electric cooperative, municipal corporation organized under the laws of the State of Illinois, company, association, joint stock company, firm, partnership, or person owning or operating, or proposing bona fidely and in good faith to own or operate, facilities for the generation, transmission or distribution of electricity for bulk power supply, (ii) whose facilities are or will be located in the State of Illinois, (iii) whose facilities are interconnected, or are proposed to be interconnected, for the purpose of carrying out one or more of the transactions referred to herein with facilities of the Company (provided that any proposed interconnection shall be lawful and feasible), and (iv) which is or will be a public utility under the laws of the State of Illinois or the Federal Power Act and is or will be providing electric service under a contract or rate schedule on file with and subject to the regulation of the Illinois Commerce Commission or the Federal Power Commission. The requirement that a neighboring electric system shall be a public utility does not apply to a rural electric cooperative or a municipal corporation but will apply to a rural electric cooperative or a municipal corporation if at a future date it is included within the definition of "public utility" under the Illinois Public Utilities Act or under a similar act. (The definition of neighboring electric system includes systems which meet the above requirements either now or in the future.)

1(d). "Neighboring entity" means a neighboring electric system owning or operating, or proposing bona fidely and in good faith to own or operate, facilities for the generation of electricity for bulk power supply.

2. The broad purposes of any interchange or other arrangement for bulk power supply transactions between the Company and a neighboring electric system are to improve the reliability and quality of service, to avoid the duplication of facilities, and to minimize costs. Any such arrangement will involve planning by the parties and should be technically and economically feasible and practical. The arrangement should also be reciprocal as nearly as may be although it is recognized that, in any particular arrangement, the benefits may not be equal or identical for each party and that a smaller electric system may realize benefits which are greater than those realized by a larger system. No party should be obligated to enter into an arrangement if it would realize no net benefits from the arrangement, or if the arrangement would result in net burdens to the party. The policies herein expressed cannot be implemented unilaterally by the Company. If an arrangement between the Company and a neighboring electric system is to be successful and is to operate in the public interest, it must be negotiated and performed in good faith and with full cooperation by the parties to it. No party should capriciously reject a proposal submitted by another party and the Company and neighboring electric systems should give reasonable consideration to proposals made by each other.

3. The Company will interconnect with any neighboring entity in order that the parties may seek and realize all benefits practicable to be effected through the coordination and development of their respective systems and in carrying out various interconnection services and transactions. The Company will assist to the fullest extent feasible any neigh-

[2] Applicant also supplies the entire bulk power requirements of the Cedar Point Light and Water Co., a small privately-owned utility (peak load 378 kw).

[3] These municipal systems include the Cities of Peru, Altamont, Breese, Bushnell, Carlyle, Freeburg, Highland, Mascoutah, Princeton, Red Bud, Sullivan, and Waterloo, Illinois, which are presently complainants in a proceeding before the Federal Power Commission (City of Peru, *et al.*, FPC Docket No. E–7514, filed December 5, 1969) in which they are seeking an order from the FPC directing Applicant or CIPS to interconnect with their facilities.

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boring entity in the coordination of reserves through the sale and purchase of emergency energy and maintenance power upon terms that will provide for the full compensation of the Company's costs. No party shall be required to provide emergency energy or maintenance power if to do so will impair the supplying party's ability to render adequate and reliable service to its customers or to discharge its prior commitments, if any, to other electric systems.

4. The Company and the neighboring entity shall each provide sufficient capacity (which may include firm contracted for capacity) in its system to enable it to carry its planned for peak demand plus an adequate reserve. An adequate minimum reserve requirement shall be mutually determined from time to time as a percentage of planned for peak demand (unless otherwise agreed) and shall take into account such reserve criteria as the nature of the respective systems and planned for peak demand require in order to assure reliability of service and an equitable sharing of reserve responsibility. Each party shall provide such amount of spinning reserve as shall avoid the imposition of an unreasonable demand on the system of the other party. However, such spinning reserve requirement shall not exceed the minimum installed reserve requirement. If over a reasonable period, a party has failed to deliver emergency energy, or if a party has appeared to make excessive calls for emergency energy, the parties shall jointly study the matter for the purpose of determining the adequacy or inadequacy of the reserve generating capacity and transmission facilities being provided to meet the requirements of the interconnected systems and of determining the manner of correcting any deficiencies.

5. The agreement for the interchange arrangement between the Company and a neighboring entity will not include restrictive provisions which would preclude a party from engaging in interconnection and coordination arrangements with others, but may include appropriate provisions to assure (i) that the Company receives adequate notice of such additional interconnection or coordination, (ii) that the parties will jointly consider and agree upon such measures, if any, as are reasonably necessary to protect the reliability of the interconnected systems and to prevent undue burdens from being imposed on any system, and (iii) that the Company will be fully compensated for its costs. Good industry practice as developed in the area from time to time (if not unreasonably restrictive) will satisfy this provision.

6. Interconnections will be available for a neighboring electric system on any of the Company's installed transmission and subtransmission facilities if the proposed interconnection is technically and economically feasible and the Company is fully compensated for its costs. Interconnections will not be limited to low voltages when higher voltages are available from the Company's installed facilities in the area where the interconnection is desired. Control and telemetering facilities shall be provided as required for the safety and reliability of the interconnected systems.

7. The Company will afford an opportunity to participate to any neighboring electric system that makes a timely request therefor in the ownership of, or purchase of unit participation power from, Clinton Power Station Units 1 and 2, and any additional nuclear generating unit which the Company may construct, own, and operate and which in the application filed with the Atomic Energy Commission, or any successor agency, is scheduled for commercial operation prior to January 1, 1989, to a reasonable extent and on reasonable terms and conditions and on a basis that will fully compensate the Company for its costs incurred and to be incurred and that will not adversely affect the financing of such power station. The request shall be deemed timely with respect to Clinton Power Station Units 1 and 2 if received by June 30, 1974, and with respect to any additional generating unit if received within a reasonable period of time from a planning and operating standpoint after the public announcement by the Company of the proposed installation of any such unit. As a part of any arrangement that may be reached with respect to such participation, the Company will interconnect with and deliver any power to which the neighboring electric system may be entitled under such arrangement at a delivery point or points on the Company's system on a basis that will fully compensate the Company for its costs.

8. The Company will sell bulk power to any neighboring electric system in accordance with rates, terms and conditions which fully compensate the Company for its costs, and which do not restrict use or resale except as may be necessary to protect the reliability of the Company's system, and as are accepted or approved by the appropriate regulatory body or bodies. The Company shall not be required to make any such sale if the Company does not have available sufficient generation to provide the requested service or if the sale would impair the Company's ability to render adequate and reliable service to its customers or to discharge its prior commitments, if any, to other electric systems.

9. The Company will work with neighboring electric systems to facilitate the exchange of bulk power by transmission over its transmission facilities between or among two or more neighboring electric systems and between any neighboring electric system and any other electric system engaging in bulk power supply outside the Company's service area between whose facilities the Company's transmission lines and other transmission lines would form a continuous electrical path, provided that (i) permission to utilize such other transmission lines has been obtained by the proponent of the arrangement, and (ii) the arrangements reasonably can be accommodated from a functional and technical standpoint. Such transmission shall be on terms that fully compensate the Company for its costs. Any neighboring electric system requesting such transmission arrangements shall give reasonable advance notice of its schedule and requirements. The Company shall not be required to enter into any arrangement which would impair system reliability or emergency transmission capacity, it being recognized that while some transmission facilities may be operated fully loaded, other transmission facilities may be for emergency use and operated either unloaded or partially loaded.

10. The Company shall include in its planning and construction programs sufficient transmission capacity as required for the transactions referred to in paragraph 9, provided any neighboring electric system gives the Company sufficient advance notice as may be necessary to accommodate its requirements from a functional and technical standpoint and that such neighboring electric system fully compensates the Company for its costs. The Company shall not be required to construct transmission facilities if it finds construction of such facilities infeasible, or if its costs in connection therewith would exceed its benefits therefrom, or if it finds such facilities would impair system reliability or emergency transmission capacity.

11(a). This statement of policy is not intended to affect in any way the franchises, certificates of public convenience and necessity, or other rights of the Company or of any neighboring electric system to render electric service in the State of Illinois.

11(b). Nothing herein shall be construed as a waiver by the Company of its right to contest whether or not and the extent to which a particular factual situation may be covered by this statement of policy or preclude the Company from contesting an alleged act of unfair competition.

11(c). The Company recognizes that the carrying out of some of the policies expressed herein in particular circumstances may not be in the mutual interest of the Company and a neighboring electric system. Nothing herein is intended to preclude the Company and a neighboring electric system from reaching an agreement which extends, varies or supplements the provisions of the foregoing paragraphs in a manner not inconsistent with the broad purposes expresesd in paragraph 2 and applicable law.

11(d). The Company does not intend by this statement of policy to become a common carrier.

12. The foregoing policies are to be implemented and applied in a manner consistent with Federal, State and local laws, regulations and orders. All rates, charges, conditions, terms and practices are and will be subject to the acceptance or approval of any regulatory agencies or courts having jurisdiction over them. To the extent that such action may at the time be required in order to effect any such changes, the Company and any neighboring electric system affected by any of the foregoing policies reserve the right of recourse to the appropriate forum to seek such changes therein as may at the time be appropriate in accordance with law, the public interest, or good industry practices.

[FR Doc.74-10372 Filed 5-3-74;8:45 am]

[Docket No. PRM-50-10]

STATE OF NEW JERSEY—NUCLEAR ENERGY COUNCIL

Filing of Petition for Rule Making

Notice is hereby given that the State of New Jersey through its Nuclear Energy Council, by letter dated March 27, 1974, has filed with the Atomic Energy Commission a petition for rule making.

The petitioner requests that the requirements in Appendix E of 10 CFR Part 50 for emergency planning and interfacing by Commission licensees with State and local governments be adapted and applied to Commission licensees who are not otherwise subject to Appendix E and who receive, store, process, and/or distribute large quantities of radioactive materials routinely (e.g. firms which process radioactive drugs or kilocurie irradiators). The petitioner requests that rules be developed which will require clear identification of critical nuclides, critical pathways, and critical segments of the population potentially at risk with provisions made for chemical form and variability of critical nuclides as a function of varying product mix. The petitioner requests that the requirements of the Commission's "Reactor Site Criteria," 10 CFR Part 100 be suitably modified and incorporated into the proposed rule, and that the zone definitions be reviewed and Protective Action Levels,

to be set as either standards or guides by the USEPA or the State concerned, be adopted by reference.

The petitioner also requests that the exclusion of the "Class 9 accident" from consideration in licensing procedures currently in force be eliminated when new or novel siting or design considerations are involved and due consideration be given to countermeasures for the "Class 9 accident." The petitioner states that the following examples involve new or novel siting considerations: offshore floating nuclear plants; new reactor types such as the liquid metal fast breeder reactor; high temperature gas reactor; and metropolitan sites.

The petitioner states that its request is not intended to apply to light water reactors at land sites in operation, under construction, in the licensing stage or planned. Instead the request applies to the future and new or novel conditions only.

The petitioner also requests that the Commission's regulation "Operators' Licenses," 10 CFR Part 55 be amended to require periodic reexamination, and simulator training of reactor operators and senior reactor operators under reactor accident conditions, and that the scope of Part 55 be extended to include examination and licensing of professional and paraprofessional health physicists assigned to nuclear power stations and operators of facilities for disposal of liquid and solid radioactive wastes.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing the Rules and Proceedings Branch at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Rules and Proceedings Branch, Office of Administration-Regulation, U.S. Atomic Energy Commission, Washington, D.C., on or before July 5, 1974.

Dated at Germantown, Maryland this 30th day of April, 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-10323 Filed 5-3-74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Supplemental Notice of Meeting

MAY 2, 1974.

This supplement to the meeting notice for the 169th ACRS Meeting, to be held on May 9-11, 1974 (FR Vol. 39, No. 82, April 26, 1974), adds to the agenda a matter related to the Vermont Yankee Nuclear Power Station.

This matter will include presentations by and Committee discussions with representatives of the AEC Regulatory Staff, the Vermont Yankee Nuclear Power Corporation, and the General Electric Company, regarding provisions to operate the plant with modified inerting requirements for the reactor containment.

This will result in the modified meeting schedule as noted below:

THURSDAY, MAY 9, 1974

11:30 a.m.–12:30 p.m.—Vermont Yankee Nuclear Station (Open): The Committee will hear presentations by and hold discussions with representatives of the AEC Regulatory Staff, the Vermont Yankee Nuclear Power Corporation and the General Electric Company.

1:30 p.m.–6:30 p.m.—Grand Gulf Nuclear Station Units 1 and 2 (Open): The Committee will continue its review of the construction permit application for this facility. This will include presentations by and discussions with representatives and consultants of the AEC Regulatory Staff and the Mississippi Power and Light Company.

(NOTE: Closed sessions will be held during this period, if required, to discuss proprietary information related to the design, fabrication, and operation, and to the security provisions of this plant.)

All other provisions of the FEDERAL REGISTER notice remain unchanged and apply, where applicable, to the discussion of the Vermont Yankee Nuclear Station.

JOHN C. RYAN,
Advisory, Committee Management Officer.

[FR Doc.74-10470 Filed 5-3-74;10:47 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON MILLSTONE NUCLEAR POWER STATION, UNIT 2

Notice of Meeting

MAY 2, 1974.

In accordance with the purposes of section 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Subcommittee on the Millstone 2 project will hold a meeting on May 22, 1974, in Room 1046, 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to review the application for an Operating License for Millstone Nuclear Power Station, Unit 2. This facility is located in the Town of Waterford, New London County, Connecticut.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, May 22, 1974, 9 a.m.–5 p.m. The Subcommittee will hear presentations by Regulatory Staff and personnel of the Millstone Point Company and their representatives and hold discussions with these groups pertinent to issuance of an Operating License for Millstone Nuclear Power Station, Unit 2.

In connection with the above agenda item, the Subcommittee will hold an executive session beginning at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members present and internal deliberations for the purpose of formulation of recommendations to the ACRS. In addition, the Subcommittee may hold closed sessions with the Regulatory Staff and Applicant to discuss privileged information relating to plant security and fuel design, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that closed sessions may be held, if necessary, to discuss certain information relating to site security and fuel design which is privileged and falls within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alternations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than May 15, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the Preliminary Safety Analysis Report for this facility and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, during the afternoon portions of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to

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present oral statements, and the time allotted, can be obtained by a prepaid telephone call on May 20, 1974, to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 and within nine days at the Waterford Public Library, Rope Ferry Road, Route 56, Waterford, Connecticut 06385. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission Public Document Room, 1717 H Street NW., Washington, D.C. 20545 after July 23, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-10471 Filed 5-3-74;10:48 am]

[Docket No. 50-424—50-427]

GEORGIA POWER CO.

Notice of Supplemental Hearing

MAY 2, 1974.

In the matter of Georgia Power Co. (Alvin W. Vogtle Nuclear Plant, Units 1, 2, 3 & 4).

By motion dated April 30, 1974, the Georgia Power Company ("the Applicant") requested the Atomic Safety and Licensing Board ("the Board") to reconvene the evidentiary hearing in the captioned matter to hear additional evidence so as to enable the Board to make a newly-required determination pursuant to 10 CFR 50.10(e)(2)(ii) of the Commision's newly-enacted regulations concerning on-site pre-construction permit activities.

This Board has already conducted the environmental portion of the construction permit proceeding (evidentiary hearing in Waynesboro, Georgia on April 16, 1974), although an Initial Decision has not yet been rendered. Prior to said hearing, the AEC Regulatory Staff had already completed and issued the final environmental impact statement (FES) on the issuance of a construction permit for this facility, as required by 10 CFR Part 50, Appendix D. The findings required by paragraph A.11 of 10 CFR Part 50, Appendix D, will be covered by the forthcoming Initial Decision, taking into consideration the evidence adduced at the April 16 public hearing.

However, under the Amendments to the Commission's Regulations published on April 24, 1974 (39 FR 14506), concerning procedures for authorization of certain on-site activities to be undertaken prior to grant of a construction permit, before the Director of Regulation may authorize such activities the Presiding Officer (here, the Board) must first determine that "based upon the available information and review to date, there is reasonable assurance that the proposed site is a suitable location for a nuclear power reactor of the general size and type proposed from the standpoint of radiological health and safety considerations" under the Act and the Commission's Regulations. Evidence at the April 16 hearing in Waynesboro did not concern this last determination. Because of this, the Applicant has made the subject motion for a supplemental hearing, and the Regulatory Staff supports this motion.

The Applicant's Motion is Granted, and interested members of the public and all parties are hereby placed on notice that the additional evidentiary hearing session will convene at 9:30 a.m. on Thursday, May 9, 1974 in the hearing room of the Atomic Safety and Licensing Board, 12th floor (Rm. 1202), Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

All interested members of the public are invited to attend this evidentiary hearing session.

It is so ordered.

Issued this 2nd day of May, 1974 at Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

THOMAS W. REILLY, Esq.,
Chairman.

[FR Doc.74-10507 Filed 5-3-74;10:51 am]

CIVIL AERONAUTICS BOARD

AIR TRANSPORT ASSOCIATION OF AMERICA

Notice of Meeting

Notice is hereby given that a presentation will be made by the above Association on May 17, 1974, at 10 a.m. (local time in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., regarding the cost and productivity trends in the airline industry.

Dated at Washington, D.C., April 30, 1974.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10341 Filed 5-3-74;8:45 am]

[Docket No. 26662; Order 74-4-156]

JET AIR FREIGHT

Order of Suspension and Investigation

By tariff revision bearing the issue date of April 3 and marked to become effective May 3, 1974, Jet Air Freight (Jet), an air freight forwarder, proposes to modify its tariff to include shipments of watches when the declared value exceeds $1,000 per shipment under shipments not acceptable for carriage.

In support of its proposal, Jet asserts, inter alia, that the highly pilferable nature of watch shipments requires the imposition of a limit on liability; that, during calendar year 1973, Jet paid claims amounting to $15,205 on domestic watch shipments; and that many other forwarders have similar provisions in effect. The forwarder further states that a survey of customers tendering watch shipments revealed that none of these shippers would stop using Jet's service.

A complaint requesting suspension and investigation of Jet's proposal has been filed by the American Watch Association, Inc. (AWA). The complaint asserts, inter alia, that AWA's member shippers will be injured by the revision; that the forwarder has made no showing of a need to impose an embargo on watch shipments valued in excess of $1,000; that the Board has suspended similar proposals by other forwarders; and that the forwarder has failed to justify its discriminatory treatment of watch shippers.

Upon consideration of all relevant factors, the Board finds that the proposed rule may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

By proposing to limit the acceptance of watches to shipments with a declared value not exceeding $1,000 per shipment, Jet would limit its liability accordingly, without offering the shipper a choice of higher liability at additional rates. The Board, in Order 72-8-55, dated August 11, 1972, suspended a substantially similar proposal by CF Air Freight, Inc., another forwarder, stating, inter alia, "This is contrary to the common law concept that the validity of a limitation on liability (or a released rate) is dependent upon the shipper having an option for greater liability at greater rates."

Further, the Board, in Order 71-2-36, in connection with a direct carrier's charter liability, and in Order 70-1-34 covering the suspension of non-acceptance of parcel post shipments valued in excess of $200 proposed by WTC Air Freight, stated that, "A choice of rates and liability is considered essential to the validity of a carrier's limitations on its common carrier responsibilities."

While some forwarders currently have in effect similar provisions to those here proposed by Jet, we cannot find that such circumstances warrant that the Board permit this proposal to become effective.[1]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the provisions in Rule No. 45(D) on 5th Revised Page 8 of Jet Air Freights C.A.B. No. 1 (Jet Transportation, Inc., d/b/a Jet Air Freight Series), and rules, regulations, or practices affecting such provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, and practices affecting such provisions;

2. Pending hearing and decision by the Board, Rule No. 45(D) on 5th Revised Page 8 of Jet Air Freights C.A.B. No. 1 (Jet Transportation, Inc., d/b/a Jet Air Freight Series) is suspended and its use deferred to and including July 31, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaint of the American Watch Association, Inc., in Docket 26606 is dismissed, except to the extent granted herein;

4. The proceeding herein designated Docket 26662, be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariff and served upon Jet Air Freight and the American Watch Association, Inc., which are hereby made parties to Docket No. 26662.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10342 Filed 5-3-74;8:45 am]

UNITED AIR LINES, INC.

Notice of Meeting

Notice is hereby given that a presentation will be made by the above carrier on May 16, 1974, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., regarding systems operations control.

[1] Jet was permitted to file a telegraphic answer to the complaint, in which it noted that the same or similar provisions are in effect for other forwarders, and that shippers have accepted the limitations proposed.

Dated at Washington, D.C., April 30, 1974.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10340 Filed 5-3-74;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Notice of Proposed Addition

Notice is hereby given pursuant to section 2(e)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed additions of the following commodity and service to Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITY

Class 5340
Strap, Tie Down
5340-235-4434

SERVICE

Sewing, Customized, Heavy Duty
Redstone Arsenal
Huntsville, Alabama

Comments and views regarding these proposed additions may be filed with the Committee not later than June 5, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-10281 Filed 5-3-74;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental Impact Statements received by the Council on Environmental Quality from April 22 through April 26, 1974. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines, the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (June 17, 1974)

Copies of individual statements are available for review from the originating agency. Back copies will also be available from a commercial sourse, the Environmental Law Institute, of Washington, D.C.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Pisgah National Forest, N.C., April 22: The statement refers to a proposed 10 year management plan for the North and West Fork French Broad Unit and the Davidson River Unit of the Pisgah National Forest. The 61,-363 acres of National Forest land will be managed for wildlife, timber harvest, and recreational values. There will be impact upon scenic values, soils and water quality, and wildlife habitat (138 pages). (ELR Order No. 40638.)

Timber Plan Gifford Pinchot National Forest, Wash., April 22: The statement refers to a proposed revised timber management plan for the Gifford Pinchot National Forest. The plan will cover the period July 1, 1974 through June 30, 1984. A potential yield of 5,274.5 million board feet is proposed for the 10 year period; the program harvest schedule is 345.5 million board feet. There will be some road construction, including some in presently roadless areas. There will be impact to air, soil, water, and wildlife values (261 pages). (ELR Order No. 40626.)

Final

Recreation Cabins, Ketchikan Area, Tongass National Forest, Alaska, April 22: Proposed is the construction and operation of seven recreation cabins on salt water access in roadless areas of the Ketchikan Area, Revillagigedo Island, Tongass National Forest. The cabins will primarily serve the boating public, providing shelter for both normal and emergency boating conditions. Impact will include the clearing of one-sixteenth acre of ground for each cabin, and pollution from cabin use (48 pages). Comments made by: EPA, DOI, HUD, DOT, and citizens. (ELR Order No. 40640.)

Westside Timber Sale, Tongass National Forest, Alaska, April 24: The statement refers to a proposed timber sale on the north side of Montague Island, Tongass National Forest. The sale consists of six clearcut units totalling 382 acres. The gross sale area is 1,100 acres, and the total volume is 11,068 MBF. An estimated 4.4 miles of road would be constructed for log trucking; the area is currently roadless and undeveloped (65 pages). Comments made by: DOI, HUD, EPA, USCG, and DOT. (ELR Order No. 40646.)

White Pine Planning Unit, Clearwater National Forest, Latah and Benewah Counties, Idaho, April 22: The statement refers to the proposed implementation of a multiple use plan for the 16,750 acre White Pine Planning Unit of the Clearwater National Forest. The Unit is broken into seven areas which will be managed for such values as timber, browse production, and recreation. Adverse impact will include soil disturbance and possible stream siltation (116 pages). Comments made by: DOI and EPA. (ELR Order No. 40624.) (NTIS Order (none).)

West Creek Timber Sale, Nezperce National Forest, Idaho County, Idaho, April 22: The statement refers to the proposed sale of eleven million board feet of mature and overmature sawtimber of the West Fork Race Creek, Nezperce National Forest. The proposed harvest is within the exterior boundaries of the proposed National Recreation Area of Senate Bill S2233. Adverse impact resulting from the action would be to air quality, scenery, solitude, and watershed (27 pages). Comments made by: EPA. (ELR Order No. 40627.)

Big Game Habitat Improvement, Idaho, April 22: The statement refers to the prescribed burning of brushfield in northern Idaho during fiscal years 1974 and 1975. The purpose of the program is that of maintaining the brushfield stage of plant succession in

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order to provide forage for Rocky Mountain elk, moose, mule deer and white tail deer, and to sustain their respective populations within the productive capabilities of the land. The project areas are located within the Clearwater and Spokane River drainages. Comments made by: EPA, DOI, State and local agencies, and concerned citizens. (ELR Order No. 40630.)

Soldier Mountain Ski Area, Sawtooth National Forest, Camas County, Idaho, April 26: The statement refers to the proposed expansion and development of the Soldier Mountain Ski Area of the Sawtooth National Forest. Expansion would be from 235 acres to 1240 acres, with five new chair lifts and support facilities being constructed. Ultimate Area capacity is planned at 1500 skiiers per day. Major impact will be to soil, water, and aesthetic values (40 pages). Comments made by: EPA, USDA, DOT, FPC, COE, DOI, State and local agencies, and concerned citizens. (ELR Order No. 40672.)

Spanish Peaks, Gallatin National Forest, Gallatin and Madison Counties, Mont., April 22: Proposed is the implementation of a multiple use plan for the Spanish Peaks Management Unit of the Gallatin National Forest. The 82,000 acre Unit includes the 50,000 acre Spanish Peaks Primitive Area. The existing Primitive Area and an additional 15,000 acres will be managed as wilderness, another 13,000 acres will be managed as a roadless dispersed recreation area until Congress establishes a new wilderness boundary. Timber harvest and roads will be prohibited in most of the unit, and severely restricted in the area adjacent to the Gallatin River. Restrictions will be placed on visitors to the Spanish Peaks. Comments made by: USDA, EPA, DOI, and citizens. (ELR Order No. 40623.)

South Cottonwood Planning District, Gallatin National Forest, Gallatin County, Mont., April 22: Proposed is the implementation of the revised multiple use plan for the 16,400 acre South Cottonwood Planning Unit, Gallatin National Forest. Approximately 50% of the Unit will be maintained in a roadless state; 20% is presently roaded. The remaining 30% of the Unit will be developed for timber harvest activities, with road construction. Three minimum developed end-of-road facilities will be constructed. Opportunities for solitude and primitive type recreation will be reduced on portions of the area previously unroaded. Impact will occur due to alteration of the landscape and disturbance to vegetation, soil, water, and wildlife (242 pages). Comments made by: DOI, EPA, State and local agencies, and concerned. (ELR Order No. 40631.)

SOIL CONSERVATION SERVICE

Draft

Poplar River Watershed, Clark and Taylor Counties, Wisc., April 24: The statement refers to an erosion and flood control project which will involve conservation land treatment measures, the construction of an earthfill dam and 285 acre wildlife pool with nesting islands; a 452 acre floodwater retarding pool; recreation areas; a 1.31 mile dike around the city of Owen, and related work. A 1,620 acre park and wildlife area will be established. A total of 1140 acres, including wetland, forest, and agricultural land, will be either permanently or temporary effected by project construction. (26 pages). (ELR Order No. 40644.)

DEPARTMENT OF DEFENSE

AIR FORCE

Contact: Dr. Billy Welch, Room 4D 873, The Pentagon, Washington, D.C. 20330, (202) OX 7 9297.

Draft

F–15 Beddown, Luke AFB, Maricopa County, Ariz., April 26: The statement refers to the proposed basing of the first squadron of F–15 fighter aircraft at Luke AFB, in order to provide combat crew training in terms of operation and weapons delivery. The major impacts associated with the action are those relating to operational noise and engine emissions; the noise of the F–15 is approximately equivalent to that of the F–4. Future operations will be similar to those which are presently conducted with F–4 and F–104 aircraft; there will be some new construction to support the aircraft. (ELR Order No. 40690.)

The following statement was distributed by the Department of the Army on August 30, 1973. Comments on the statement have been filed by Federal, state, and local agencies, and concerned citizens. The statement was not filed with CEQ, however, and notice of the statement was not placed in the FEDERAL REGISTER. Notice of the statement therefore follows.

ARMY

Contact: Mr. William P. Gardiner, Colonel, CE, Chief, Environmental Office, Room 1E673, Pentagon, Washington, D.C. 20301, (202) OX 4–4269.

Draft

South Approach, Golden Gate Bridge, Presidio, San Francisco County, Calif., August 30, 1973: The statement refers to the proposed reconstruction of State Routes 480, 101, and Junction State Route 1, the south approach to the Golden Gate Bridge. All construction is located within the Presidio. The action will involve the reconstruction of 1.5 miles of highway to an eight-lane, positive median barrier facility. Impact will include infringement upon open space, the relocation of some housing units, the diminishment of scenic resources of the Presidio, and the relocation of a portion of a "pet cemetery". (ELR Order No. 40691.)

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202–693–7168.

Draft

Ta'u Boat Harbor, Ta'u Island, American Samoa, April 22: Proposed is the construction of a boat harbor in the vicinity of Fusi, on the west coast of the Island of Ta'u. The project includes an entrance channel, a turning basin, a breakwater, a groin, a revetted mole, and navigational aids. Other features would be provided by the government of American Samoa. Construction activities would extend over 9.8 acres of reef flat; 2.7 acres of reef flat would be converted to land. There will be impact on marine biota, vegetation, wildlife habitat, and the tranquility of village communities (Pacific Ocean Division) (34 pages). (ELR Order No. 40642.)

Chatfield Lake, Colorado Project, Colorado, April 22: The statement refers to a dam and lake that are being constructed just downstream from the confluence of the South Platte River and Plum Creek. The dam is a rolled earthfill structure, over 13,000 feet long. The lake will have a permanent pool of 1,150 acres; a total of 6,919 acres will be committed to the project. Project purposes are flood control and recreation. There will be some loss of fish habitat, riparian vegetation, and hunting opportunity (Omaha District) (98 pages). (ELR Order No. 40636.)

Trinidad Lake Project, Purgatoire River, Colo., April 25: The statement refers to the Trinidad Lake, which is under construction on the Purgatoire River, 4 miles west of the City of Trinidad. The project is intended to provide flood control, irrigation storage, sediment retention, and fish and wildlife habitat. Approximately 3,658 acres of land have been acquired for project purposes; six small communities, with a combined population of 1500, have been displaced (Albuquerque District). (ELR Order No. 40653.)

Draft

Fernandina Harbor, Maintenance Dredging, Florida, April 25: The statement refers to the proposed maintenance to the authorized depths of the Fernandina navigation channels. About 1,200,000 cubic yards of material will be removed and placed in upland and open sea disposal areas. Adverse impacts include loss of some benthic organisms, temporary siltation and turbidity caused by dredging, and some loss and temporary displacement of wildlife habitat on the upland disposal areas (Jacksonville District) (30 pages). (ELR Order No. 40657.)

Canaveral Harbor, Maintenance Dredging, Brevard County, Fla., April 25: The project involves the maintenance of required depths of the navigation channel at Canaveral Harbor by removing shoaled materials from the channel. Approximately 600,000 cubic yards of material is scheduled to be removed in 1974. Adverse impacts of the project are the loss of some benthic organisms, and temporary turbidity and siltation caused by dredging (Jacksonville District) (14 pages). (ELR Order No. 40664.)

Kaskaskia Navigation Project, Illinois, April 24: Proposed is the operation and maintenance of the Kaskaskia Navigation Project, from the mouth of the Kaskaskia River to Fayetteville, Illinois. There will be dredging of the river channel and deposit of spoils on riparian project lands; stabilization and maintenance of banks; regulation of the pool level; and operation and maintenance of the lock and dam. There will be impact on water quality and the riparian environment (St. Louis District) (195 pages). (ELR Order No. 40645.)

Perry Lake Multi-Purpose Project, Jefferson County, Kans., April 25: The statement refers to the impact of continued operation and maintenance of Perry Lake, a multipurpose project on the Delaware River. Impact results from heavy recreational use and from lake fluctuations due to water regulation (Kansas City District) (77 pages). (ELR Order No. 40661.)

Duluth Superior Harbor, Minn. and Wis., April 25: Proposed is the continued maintenance dredging of Duluth-Superior Harbor with disposal of spoil in diked disposal areas. There will also be some breakwater repair. Ninety acres of shoreline and shallow water would be committed to the disposal sites; there would be adverse impact to marine biota (St. Paul District) (241 pages). (ELR Order No. 40659.)

Okatibbee Dam and Lake, Operation and Maintenance, Lauderdale County, Miss., April 25: The statement refers to the continuation of operation and maintenance of an existing multipurpose dam and reservoir located on Okatibbee Creek in Lauderdale County. The project provides flood control, water quality control, water supply, and recreation. The major adverse impact is that operation of the project creates an oxygen sag in Okatibbee Creek downstream from the dam (Mobile District) (20 pages). (ELR Order No. 40658.)

Eufala Lake, Canadian River, Okla., April 25: The statement evaluates operation and maintenance activities at Eufala Lake, a multi-purpose project on the Canadian River. The major impacts of project operation are those which result from heavy recreational use and from lake fluctuations (Tulsa District) (84 pages). (ELR Order No. 40660.)

McClellan-Kerr Arkansas River System, Oklahoma, April 25: The statement refers to operation and maintenance activities associated with the McClellan-Kerr Arkansas River Navigation System. Included are the operation of locks; maintenance of project structures; hydroelectric power generation; and control of erosion. Adverse impacts include those associated with dredging; and the disturbance of waterfowl (Tulsa District). (ELR Order No. 40662.)

Deep Creek Navigation, Accomack County, Va., April 25: Proposed is the maintenance dredging of an existing channel and turning basin in Deep Creek, on the Pocomoke Sound of the upper Chesapeake Bay. Dredging would destroy moet benthic species within the dredging area; spoil would be deposited on previously used high marsh sites (Norfolk District) (16 pages). (ELR Order No. 40656.)

Kaneohe-Kailua Area, Hawaii, April 25: The statement refers to the proposed con-

Final

struction of a detention dam and reservoir in the headwaters of Kaneohe Stream, for the purpose of flood control. One thousand feet of stream will be channelized. Approximately 295 acres will be acquired for the project. Salvage work on four archeological sites will be completed before inundation (80 pages). Comments made by: USDA, DOC, HEW, DOI, EPA, DOT, and State and local agencies. (ELR Order No. 40655.)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202–697–0892.

Final

Bomb Loading Plant Modernization, McAlester, Pittsburg County, April 24: Proposed is the modernization and reactivation of an inactive bomb loading plant (Loading Plant "A") at the Naval Ammunition Depot at McAlester, Oklahoma. The new loading plant is designed to provide a greater bomb loading capacity using fewer production personnel. The principal adverse environmental effect associated with the project is the risk of an accidental explosion with resultant injury and damage to personnel, equipment, and the surrounding area. (117 pages). Comments made by: EPA, DOI, USDA, DOC, HEW, and State agencies. (ELR Order No. 40649.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202–967–4335.

Draft

Estuarine Sanctuary, Coos Bay, Coos County, Oreg., April 26: Proposed is the granting of funds to the State of Oregon, pursuant to P.L. 92–583, in order to allow the acquisition, development, and operation of an estuarine sanctuary in Coos Bay. A total of 4,500 acres would be acquired. The action would restrict uses of the land, and may result in restriction upon motorboat access; timber harvest in the proposed sanctuary would be prohibited (54 pages). (ELR Order No. 40665.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630 Waterside Mall, Washington, D.C. 20460, 202–755–0940.

Final

Indian Creek Main Sewer District No. 1, Johnson County, Kans., April 22: The statement refers to the proposed improvement of an existing treatment plant site, including creek relocation, access driveway, storm sewer, and miscellaneous site work. The project is the preliminary stage in preparing for expansion from 70,000 PE to 110,000 PE. Ultimate development will increase average daily flow from 7 mgd to 42.8 mgd. There may be additional odor problems at the site (223 pages). Comments made by: DOI, USDA, HUD, COE, GSA, DOT, and citizens. (ELR Order No. 40639.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202–343–4161.

Draft

Federal Office Building, Topeka, Shawnee County, Kans., April 22: Proposed is the construction of an eight story Federal Office Building, with a four story open parking structure in Topeka. The facility will have a gross area of 361,000 square feet, and will house 690 employees. The primary impact anticipated is that of construction disruption (73 pages). (ELR Order No. 40633.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

NATIONAL PARK SERVICE

Draft

Mammoth Cave National Park, Master Plan, Kentucky, April 22: The statement refers to a proposed master plan for the Mammoth Cave National Park. Among the aspects of the plan are: the construction of a new staging area for visitor parking; the development of an orientation facility, the bridging of the Green River, the construction of a cross-park road, in order to make the scenic hilly country more accessible; and the restoration of a natural flow of water to the cave system on Flint Ridge. Overnight accommodations at the park would be phased out (two volumes). (ELR Order No. 40637.)

Final

Point Reyes National Seashore, Calif., April 26: The statement, a revised draft, proposes the legislative designation of 10,600 acres of the Point Reyes National Seashore as wilderness within the National Wilderness Preservation System. Various land and marine life systems will thereby be protected; there will be restrictions on certain consumptive types of visitor use (168 pages). Comments made by: USDA, COE, DOI, EPA, State agencies, and concerned citizens. (ELR Order No. 40667.)

BUREAU OF RECLAMATION

Draft

Elwood Dam and Reservoir, Gasper and Phelps Counties, Nebr., April 22: Proposed is the construction of Elwood Dam and Reservoir, which will provide a 40,500 acre-foot capacity pump storage conservation reservoir, and provisions for a 9,800 acre-foot capacity for flood storage. Other construction includes enlargement of 27 miles of main canal; enlargement or replacement of 30 canal structures; automation of 39 checks and one telemetry station; and lining of 170 miles of canal. The project would provide supplemental irrigation water to 33,700 acres and full water supply to an additional 9,100 acres. Nearly 1,180 acres would be inundated by the project; a total of 1,930 acres of private land would be acquired for project measures, with adverse impact upon the economic viability of ranch or farm units (168 pages) (40641).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20500. 202–426–4357.

FEDERAL AVIATION ADMINISTRATION

Draft

City-County Airport, Tulia, Swisher County, Tex., April 22: The statement refers to the proposed development of the City-County Airport in Tulia, Texas. The project consists of acquisition of 230 acres of land, construction and installation of lighting on a new NE/SW runway and associated taxiways, and installation of fencing, segmented circle, lighted wind cone, and beacon. There will be a slight increase in noise levels (15 pages). (ELR Order No. 40643.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Colbert-Lawrence County Road, Colbert and Lawrence Counties, Ala. April 26: The statement refers to construction of a highway section beginning at a point in Colbert County Road #70 and running easterly crossing the Colbert-Lawrence town line reaching its terminus east of Big Nance Creek on Lawrence County Road #29. The two lane facility will have a length of 3.20 miles. Adverse impacts include acquisition of 78 acres of rural land, increased levels of air, water, and noise pollution, and the displacement of 5 families (30 pages). (ELR Order No. 40671.)

F.A.P. 409, St. Claire and Clinton Counties, Ill., April 22: The statement refers to the construction of a portion of a highway facility identified as FAP Route 409. This four lane facility will begin at U.S. 50 and continue easterly for 18.8 miles reaching its terminus at Township Road 104. Adverse impacts include the use of 820 acres for right-of-way, increased noise, air and water pollution, and displacement of 5 families and 1 business (175 pages). (ELR Order No. 40634.)

F.A. 412, La Salle and Lee Counties, Ill., April 22: The project consists of the construction of a portion of F.A. 412, a 4 lane freeway, from I–80 in La Salle County to the East-West Tollway in Lee County. The total length of the project is 37 miles. Three alignments, plus a do-nothing alternate have been studied within the corridor. Adverse impacts include increased levels of water, air and noise pollution, and displacement of people. The number of displacements varies by alternative (114 pages). (ELR Order No. 40635.)

U.S. 71, Sac and Buena Vista Counties, Iowa, April 25: The statement refers to the construction of a portion of U.S. 71. The highway, which is to be built to expressway standards, will be at least partially relocated. The project will extend north from the north junction of U.S. 71 and U.S. 20 in Sac County, through its junction with Iowa 3 in Buena Vista, a distance of 19.0 miles. Adverse impacts include removal of quality farmland, displacement of farmsteads, and increased noise levels (125 pages). (ELR Order No. 40664.)

U.S. 62, McClain County, Okla., April 24: The statement refers to the proposed upgrading of a section of U.S. 62 from S.H. 9 northerly 6.7 miles to the H. E. Bailey Turnpike. The project also includes a bypass facility at Newcastle. Adverse impacts are the displacement of 10 families and 1 business, and the

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reduction of 250 acres of private rural lands (43 pages). (ELR Order No. 40651.)

S.R. 9, Horry County, S.C., April 25: The statement refers to the proposed multi-lane widening of S.C. Route 9 in Horry County. The 30-mile project would extend from U.S. 17 near the Intracoastal Waterway to west of Green Sea. Adverse impacts include loss of some farm and woodland, temporary affects on wildlife, and displacement of families and businesses (22 pages). (ELR Order No. 40652.)

Final

Chena Hot Springs Road, Alaska, April 22: The statement refers to the proposed reconstruction of 34 miles of the Chena Hot Springs Road. The project includes roadway repair, bank protection, bridge lengthening, dikes and other necessary minor construction. The reconstruction is necessary as a result of damage caused by a flood in August of 1967. A Section 4(f) determination for encroachment on the Chena River Recreation Area has been filed (100 pages). Comments made by: HUD, HEW, DOI, USDA, EPA, USCG, and State and local agencies. (ELR Order No. 40629.)

U.S. 278, Cullman County, Ala., April 26: Proposed is the reconstruction and conversion of 1.51 miles of U.S. 278 from two lanes to four lanes. The project begins east of I–65 and extends to Main Street in Cullman. Adverse impacts of the action are the acquisition of land for right of way and the displacement of three families and four businesses (60 pages). Comments made by: COE, USDA, HEW, DOT, HUD, DOI, EPA, and State and local agencies. (ELR Order No. 40675.)

U.S. 38, Bannock and Caribou Counties, Idaho, April 22: The statement refers to the proposed construction of U.S. 30 from Lava Springs to Bancroft, a total distance of approximately 20.7 miles. Adverse impacts of the project consist of the use of 525 acres of land, the displacement of 1 family, relocation of some underground water supply lines, increased noise levels, and disruption to deer migration routes. A 4(f) determination is necessary concerning Lava Hot Springs (120 pages). Comments made by: HEW, DOI, EPA, USDA, HUD, State and local agencies, and concerned citizens. (ELR Order No. 40625.)

U.S. 81, Sedgwick County, Kans., April 24: Proposed is the improvement of three miles of U.S. 81, including right-of-way acquisition, drainage, grading, bridge construction, and landscaping. Adverse impacts include temporary air and surface water pollution; displacement of families and businesses; and loss of natural growth (77 pages). Comments made by: HUD, USCG, COE, USDA, DOI, DOC, State and local agencies, and concerned citizens. (ELR Order No. 40648.)

S.R. 14, Bernalillo County, N. Mex., April 24: The project consists of widening and realigning SR 14 from U.S. 66 north approximately 6 miles to the junction with S.R. 44 and, then northwesterly on S.R. 44 for 0.6 mile. The new facility will have 4 lanes. Adverse impacts are increased air pollution, loss of several hundred pinon and juniper trees, and the displacement of 7 families and three businesses (56 pages). Comments made by: EPA, DOI, USDA, and State and local agencies. (ELR Order No. 40650.)

Charlotte Avenue Extension, Monroe, Union County, N.C., April 26: The proposed project is the construction of a four-lane curb and gutter extension of Charlotte Ave. Length is 0.3 mile. Sixteen families will be displaced and two acres will be acquired for right-of-way. Increases in noise and air pollution will occur (55 pages). Comments made by: USDA, COE, DOC, GSA, HEW, DOI, EPA, and State and local agencies. (ELR Order No. 40674.)

U.S. 281, Hidalgo County, Tex., April 26: The project involves the construction of a four-lane full control access highway (U.S. 281) with interchanges and frontage roads, from existing U.S. 281, two miles north to Edinburg to U.S. 83 in Pharr. Length is 10.6 miles. Adverse impact will be the use of a large amount of agricultural land (90 pages). Comments made by: HEW, HUD, COE, USDA, DOI, EPA, and State and local agencies. (ELR Order No. 40678.)

Monroe Boulevard Extension, Ogden, Weber County, Utah, April 24: The proposed project is the initial 1.6 miles extension of Monroe Boulevard and a future 1.2 mile extension to the rout. The facility will displace five homes. Increases in air, noise, and water pollution will occur; soil erosion and siltation to the Ogden River will affect fish (239 pages). Comments made by: DOI, USDA, EPA, HUD, DOC, and State agencies. (ELR Order No. 40647.)

Southeast Boulevard, Spokane, Spokane County, Wash., April 22: The proposed project is the improvement of Southeast Boulevard in the City of Spokane. The action consists of widening the existing road to a minimum 44-foot width for a length of 1.63 miles beginning at 29th Avenue and terminating at 14th Avenue. Increased traffic volumes on the facility will cause increases in air and noise pollution levels (200 pages). Comments made by: DOI, USDA, HUD, EPA, State and local agencies, and concerned citizens. (ELR Order No. 40632.)

The following environmental impact statements were also received during the week of April 22 to April 26, 1974 and the commenting period for them begins with this FEDERAL REGISTER notice of public availability. Full summaries of these statements will appear in the Council's next FEDERAL REGISTER notice.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Draft

Elkhorn Planning Unit, Montana, April 22.

Final

Bitterroot National Forest, Mont., April 29.

DEPARTMENT OF INTERIOR

NATIONAL PARK SERVICE

Draft

Bombay Hook Wilderness Area, Del., April 29.

Buffalo National River, Ark., April 29.

Klondike Gold Rush National Historical Park, Alaska and Wash., April 29.

Final

Transpark Road, Bighorn Canyon, Mont. and Wyo., April 29.

Gila Project, Arizona, April, 29.

DEPARTMENT OF DEFENSE

CORPS OF ENGINEERS

Draft

Startings Creek Navigation Project, Accomack County, Va., April 25.

INTERNATIONAL BOUNDARY WATER COMMISSION

Draft

Tijuana River Flood Control Project, California, April 29.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

Final

S.T. Highway 70, Oneida and Vilas Counties, Wis., April 29.

GARY L. WIDMAN,
General Counsel.

[FR Doc.74–10324 Filed 5–3–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

CROWN ZELLERBACH CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 4F1486) has been filed by Crown Zellerbach Corp., Chemical Products Division, Camas, WA 98607, proposing establishment of an exemption from the requirement of a tolerance (40 CFR Part 180) for residues of dimethyl sulfoxide when used as a solvent or cosolvent in pesticide formulations not to be applied within 24 hours of harvest.

The analytical method proposed in the petition for determining residues of the solvent or cosolvent is a gas chromatographic procedure utilizing a flame ionization detector.

Dated: April 30, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APRIL 30, 1974.

[FR Doc.74–10364 Filed 5–3–74;8:45 am]

[OPP–32000/52]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street SW., Washington, D.C. 20460.

By July 5, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 5, 1974.

APPLICATIONS RECEIVED

EPA Reg. No. 8590–395. Agway Inc., Chemical Division, Box 1333, Syracuse, New York 13201. *Agway Dursban 2EC Lawn Insecticide.* Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 22.4 percent; Aromatic petroleum derivative solvent 44.1 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8590–GOU. Agway Inc., Fertilizer-Chemical Division, Box 1333, Syracuse, New York 13201. *Agway Dursban 2 EC.* Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6,-trichloro-2-pyridyl) phosphorothioate] 22.4 percent; Aromatic petroleum derivative solvent 44.1 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 8991–10. Ayerst Laboratories Inc., 685 3rd Avenue, New York, New York 10017. *Aerosol Turgasept Air Sanitizer and Deodorizer.* Active Ingredients: Paradiisobutylphenoxyethoxyethyl dimethyl benzyl ammonium chloride 0.2 percent; Triethylene glycol 3.4 percent; Dipropylene glycol 3.4 percent; Isopropyl alcohol 9.6 percent; Methyl p-hydroxy-benzoate 0.2 percent; Sorbic acid 0.05 percent; Essential oils 0.64 percent. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 5667–IT Barrett Chemical Company, H & Luzerne Streets, Philadelphia, Pennsylvania 19124. *Barrett's Industrial Insecticide.* Active Ingredients: Pyrethrins 0.3 percent; Piperonyl Butoxide, Technical 1.5 percent; Petroleum Distillate 98.2 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5667–IA. Barrett Chemical Company, H & Luzerne Streets, Philadelphia, Pennsylvania 19124. *Barrett's Roach & Ant Spray Pressurized Contains Diazinon.* Active Ingredients: O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500 percent; Pyrethrins 0.052 percent; Piperonyl Butoxide, Technical 0.261 percent; Petroleum Distillate 68.608 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5667–IO. Barrett Chemical Company, H & Luzerne Streets, Philadelphia, Pennsylvania 19124. *Barrett's Residual Spray Liquid.* Active Ingredients: O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500 percent; Pyrethrins 0.052 percent; Piperonyl Butoxide, Technical 0.261 percent; Petroleum Distillate 98.608 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5667–II. Barrett Chemical Company, H & Luzerne Streets, Philadelphia, Pennsylvania 19124. *Barrett's General Purpose Spray.* Active Ingredients: Pyrethrins 0.1 percent; Piperonyl Butoxide, Technical 0.5 percent; Petroleum Distillate 99.4 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31521–RO. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biotech Surface Disinfectant Spray Q500.* Active Ingredients: Triethylene Glycol 8.000 percent; n-Alkyl (60 percent C14, 30 percent C16, 5 percent C12, 5 percent C18) dimethyl benzyl ammonium chlorides 0.250 percent; n-Alkyl (68 percent C12, 32 percent O14) dimethyl ethylbenzyl ammonium chlorides 0.250 percent; n-Ethyl Morpholinium Ethyl Sulfates 0.035 percent; Isopropanol 50.300 percent. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 31521–RU. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biotech Dual Treatment Carpet Sanitizer Shampoo.* Active Ingredients: O-Benzyl-p-Chlorophenol 0.68 percent; O-Phenylphenol 0.65 percent; Tetrasodium Ethylenediamine Tetraacetate 0.38 percent. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 31521–EN. Biotech Products Corporation, Lapp Road, Waterford, New York 12188. *Biotech Disinfectant Cleaner Formulation P128.* Active Ingredients: O-Benzyl-p-chlorophenol 3.375 percent; O-Phenylphenol 3.200 percent; Tetrasodium Ethylenediamine Tetraacetate 1.140 percent. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 7616–EI. Chem Lab Products Inc., 2850 East Coronado, Anaheim, California 92806. *Spot-X Algaecide.* Active Ingredients: Trichloro-s-Triazine trione 100 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34270–R. Cougar Chemical Company, P.O. Box 8324, 1083 North Hollywood, Memphis, Tennessee 38108. *Cougar #22 Disinfectant Sanitizer Deodorizer.* Active Ingredients: n-Alkyl (60 percent C14, 30 percent C16, 5 percent C12, 5 percent C18) dimethyl benzyl ammonium chlorides 5 percent; n-Alkyl (68 percent C12, 32 percent C14) dimethyl ethylbenzyl ammonium chlorides 5 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8764–RT. FMC Corporation, Riverside Division, P.O. Box 552, Riverside, California 92502. *Freshgard 113.* Active Ingredients: Benomyl Methyl 1-butylcarbamoyl)-2-benzimidazolecarbamate 3.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 279–2904. FMC Corporation, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Chlor Kil 10 Dust.* Active Ingredients: Technical Chlordane 10.00 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 279–EOTE. FMC Corporation, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Pyrenone Dairy and Industrial Aerosol.* Active Ingredients: Pyrethrins 0.5 percent; Piperonyl Butoxide, Technical 5.0 percent; Petroleum Distillate 14.5 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 25581–R. G & G Chemical Co., Inc., 1550 Carroll Avenue, San Francisco, California 94124. *Formula 4027 Highly Concentrated Germicide.* Active Ingredients: Octyl Decyl Dimethyl Ammonium Chlorides 3.750 percent; Dioctyl Dimethyl Ammonium Chloride 1.875 percent; Didecyl Dimethyl Ammonium Chloride 1.875 percent; Alkyl (C14 50 percent, C12 40 percent, C16 10 percent) Benzyl Dimethyl Ammonium Chloride 5.000 percent; Tetrasodium Ethylenediamine Tetraacetate 3.420 percent; Isopropyl Alcohol 3.000 percent; Ethyl Alcohol 1.000 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 25581–E. G & G Chemical Co., Inc., 1550 Carroll Avenue, San Francisco, California 94124. *Formula 4029 Heavy-Duty Germicide with Organic Soil Tolerance.* Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 4.50 percent; Dioctyl Dimethyl Ammonium Chloride 2.25 percent; Didecyl Dimethyl Ammonium Chloride 2.40 percent; Tetrasodium Ethylenediamine Tetraacetate 2.40 percent; Isopropyl Alcohol 3.60 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8544–RU. General Pool Supply, 8700 Bellanca Avenue, Los Angeles, California 90045. *Sani-Clor 90 Stabilized Dry Chlorine.* Active Ingredients: Trichloro-s-triazinetrione 100 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905–UNT, Helena Chemical Company, Clark Tower, 5100 Poplar Avenue, Suite 2900, Memphis, Tennessee 38137. *Helena Brand Soil Fumigant 8.6 E. C.* Active Ingredients: 1,2-dibromo-3-chloropropane 67.2 percent; Other Halogenated C3 Compounds 3.5 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2136–EI. J. L. Hoffman Co., Inc., 1415 Court Street, Allentown, Pennsylvania 18102. *Hoffman's Malathion 4 Dust.* Active Ingredients: Malathion (O,O-Dimethyl Dithiophosphate of Diethyl Mercaptosuccinate 4 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 407–GAO. Imperial Inc., P.O. Box 423, Shenandoah, Iowa 51601. *Imperial Ready To Use Premise Spray.* Active Ingredients: Technical Piperonyl Butoxide 0.250 percent; Pyrethrins 0.025 percent; Technical Methoxychlor 2.500 percent; Aromatic Petroleum Hydrocarbons 97.225 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 407–GTN. Imperial Inc., P.O. Box 423, Shenandoah, Iowa 51601. *Imperial 50 percent Methoxychlor Wettable Powder.* Active Ingredients: Methoxychlor, Technical 50 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2342–OEI. Kerr-McGee Chemical Corporation, Kerr-McGee Center, Oklahoma City, Oklahoma 73125. *Fasco Chlordane Bait–2.* Active Ingredients: Technical Chlordane (Equivalent to 1.2 percent octachloro-4,7-methano-tetrahydroindane and 0.8 percent of related compounds) 2.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2342–OEO. Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, Oklahoma 73102. *Fasco Chlorophene Bait–375.* Active Ingredients: Technical Chlordane (Equivalent to .9 percent Octachloro-4, 7-methanotetrahydroindane and .6 percent of related compounds) 1.50 percent; Toxaphene (Technical Chlorinated Camphene) (Chlorine content 67 percent to 69 percent) 2.25 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 2342–755. Kerr-McGee Chemical Corp., P.O. Box 4459, Jacksonville, Florida 32201. *Gro-Tone Malathion Spray.* Active Ingredients: Malathion (O, O-Dimethyl Dithiophosphate of Diethylmercaptosuccinate) 50.0 percent; Aromatic Petroleum Derivatives 41.5 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 675–30. Lehn & Fink Industrial Products Division of Sterling Drug Inc., 225 Summit Avenue, Montvale, New Jersey 07645. *New Roccal 10 percent.* Active Ingredients: Alkyl (C14 50 percent, C12 40 percent, C16 10 percent) dimethyl benzyl ammonium chloride 10.00 percent; Ethyl Alcohol 1.25 percent. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 524–GRG. Monsanto Company, 800 N. Lindbergh Blvd., St. Louis,

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Missouri 63166. *ACL 56 Extra Granular.* Active. Ingredients: Sodium dichloro-s-triazinetrione dihydrate 100 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1706–RGL Nalco Chemical Company, 180 N. Michigan Ave., Chicago, Illinois 60601. *Nalco 4WC120 Microorganism Control Chemical.* Active Ingredients: 2,2-Dibromo-3-nitrilopropionamide 20 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4389–AE. Pace National Corp., Pacific Chemical Division, 500 7th Avenue S., Kirkland, Washington 98033. *Pace MF–60 Pasteurizer Conditioner.* Active Ingredients: Sodium carbonate 51.0 percent; Sodium metasilicate 14.4 percent; Poly[oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 1.8 percent: Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 432–482. S. B. Penick & Company, Unit of CPC International Inc., 100 Church Street, New York, New York 10007. *SBP–1382/Bioallethrin Aqueous Pressurized Spray for House and Garden.* Active Ingredients: (5-Benzyl-3-fury) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200 percent; Related compounds 0.028 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.150 percent; Related compounds 0.012 percent; Aromatic petroleum hydrocarbons 0.272 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 32184–G. Sani-Chem, Inc., 5775 Mountain Creek Drive, NE, Atlanta, Georgia 30328. *Sani-Chem Pine Odor Disinfectant.* Active Ingredients: Isopropanol 4.75 percent; Pine oil 3.95 percent; Alkyl (C14 58 percent, C16 28 percent, C12 14 percent) dimethyl benzyl ammonium chloride 1.97 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 539–EIA. Sears, Roebuck and Co., Sears Tower, Chicago, Illinois 60684. *Sears Pre Emerge Crabgrass Control and Fertilizer.* Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.90 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5657–G. Sobin Chemicals, Inc., Sobin Park, Boston, Massachusetts 02210. *Chloropicrin–A Herbicide—Fungicide for Formulation Use.* Active Ingredients: Chloropicrin 99 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 52–201. West Agro-Chemical, Inc., 42–16 West St., New York, New York 11101. *XXX Disinfectant.* Active Ingredients: alpha-(p-Nonylphenyl)-omega-hydroxypoly (oxyethylene)-Iodine complex (Providing 1.75 percent titratable Iodine) 18.05 percent; Phosphoric Acid 16.00 percent. Method of Support: Application proceeds under 2(a) of interim policy.

Dated: April 30, 1974.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.74-10445 Filed 5-3-74;8:45 am]

FEDERAL COMMUNICATION COMMISSION

[Docket No. 19849, File No. BPH–7961;
Docket No. 19851, File No. BPH–8224]

BRINDLEE BROADCASTING CORP. AND MARSHALL COUNTY BROADCASTING CO., INC.

Opinion and Order on Applications for Construction Permits

1. This proceeding involves the above-referenced applications for construction permits for new FM broadcast stations at Arab, Alabama. By Order, 38 FR 30577, published November 6, 1973, the Commission designated the applications for hearing under a standard comparative issue. Presently before the Review Board is a petition, filed November 21, 1973, by Marshall County Broadcasting Company, Inc. (Marshall) seeking to add the following issues against Brindlee Broadcasting Corporation (Brindlee):[1]

(a) Whether the public interest would be served by permitting cross-ownership between the Brindlee Mountain Telephone Company and an FM broadcast facility in Arab, Alabama, which would be located within said telephone company's exchange area.

(b) To determine the extent to which the principals of the Brindlee Broadcasting Corporation have ownership interests in media related and other financial enterprises which would result in pervasive economic influence and control in the city of Arab inconsistent with the public interest.

(c) To determine whether Brindlee Broadcasting Corporation has failed to disclose material facts concerning the business interests and official relationships of its principals.

CROSS-OWNERSHIP ISSUE

2. In support of the first issue, Marshall contends that Sid McDonald, vice-president and 80 percent shareholder in Brindlee, is also president, general manager and 50 percent stockholder in the Brindlee Mountain Telephone Company, which provides telephone exchange service to the city of Arab and the surrounding area. Relying principally on the Commission's action in The Court House Broadcasting Co., 37 FCC 2d 524 (1972), involving the proposed assignment of a broadcast license to a wholly-owned subsidiary of a telephone company, petitioner submits that a telephone company affiliation with a broadcast station creates a potentially anticompetitive situation. According to Marshall, broadcasters rely on local telephone facilities for programming transmission and studio to transmitter connections, and thus an affiliated telephone company could offer preferential treatment to its commonly-owned station to the competitive disadvantage of other local broadcasters. Like considerations, Marshall contends, underlay the Commission's treatment of affiliated telephone and cable companies in Telephone Companies Affiliated With CATV Systems, 21 FCC 2d 307, 18 RR 2d 1549 (1970). Marshall concludes that it is solely the potential for anti-competitive abuse which underlies its requested issue, not any actual impropriety on the part of Brindlee or any of its principals. The Broadcast Bureau supports addition of the issue and believes that since the issue is one involving policy, it should be certified to the Commission for resolution in the event that Brindlee is the otherwise successful applicant.

3. In opposition, Brindlee argues that the Commission's Order in The Court House Broadcasting Co., supra, was motivated by the fact that the Ohio Bell Telephone Company, a wholly owned subsidiary of AT&T, was the largest single shareholder in the proposed assignee and that the Commission's staff was concerned with the consent decree barring AT&T from broadcast ownership.[2] Here, however, petitioner notes, AT&T has no interest in the Brindlee Mountain Telephone Company of which Brindlee stockholder McDonald is president. Furthermore, Brindlee contends that the type of cross-ownership situation complained of by Marshall is a subject inherently more amenable to decision in a rule-making proceeding than in an adjudicatory context.

4. In reply, Marshall asserts that an examination of the Commission's Order in the Court House case, supra, fails to reveal any concern with the distribution of stock in the assignee corporation and that in fact the Commission centered its inquiry only upon whether the public interest would be served by permitting a telephone common carrier to become a broadcast licensee. Moreover, according to petitioner, there is clear Commission precedent supporting the specification, analysis and determination of basic public interest, issues in an adjudicatory context whether or not that has been a rulemaking proceeding, citing General Electric Cablevision Corp., 10 FCC 2d 198, 11 RR 2d 310 (1967); Eastern Broadcasting Corp., 30 FCC 2d 745, 22 RR 2d 472 (1971); and Atlantic Broadcasting Co., 5 FCC 2d 717, 8 RR 2d 991 (1966).

5. The Review Board will deny Marshall's request for a crossownership issue.[3] In The Court House Broadcasting Co., *supra*, the only case directly in point, the Commission scheduled an oral argument to examine the policy question presented by the proposed assignment, i.e., whether the public interest would be served by allowing a common carrier to acquire and operate a broadcast station within its telephone exchange area. The question was never resolved, however, because of the subsequent withdrawal of the subject application. Although we agree with petitioner that there is clear Commission precedent for specifying an issue in the absence of a specific statement of policy where serious public interest questions are raised, nevertheless, we are constrained to point out that such issues must be supported by specific factual allegations. Cf. § 1.229 of the Commission's rules. However, in the instant case, the Board is of the view that petitioner has failed to make such allegations sufficient to show that the applicant's prin-

[1] Also before the Board are the following related pleadings: (a) Opposition, filed December 12, 1973, by Brindlee; (b) motion for the acceptance of an attachment to opposition, filed December 13, 1973, by Brindlee; (c) comments, filed December 12, 1973, by the Broadcast Bureau; and (d) reply, filed December 21, 1973, by Marshall. The Board will grant Brindlee's motion and accept for consideration a copy of an amendment to its application which was inadvertently omitted from its opposition.

[2] See U.S. v. Western Electric Company, Inc., 13 RR 2143 (U.S.D.C. D.N.J. 1956).

[3] In the Board's opinion, there is no need to certify the question to the Commission, as the Bureau suggests in its comments.

cipal's interest in the telephone company and broadcast station would be contrary to the public interest. No specific abuses as a result of the telephone company-broadcast applicant cross-ownership have been alleged nor has it been shown whether Brindlee's principal's 50 percent ownership in the telephone company would enable him to engage in such activities. Indeed, the insufficiency of petitioner's claim is underscored by its concession that there is absent any actual impropriety on the part of Brindle or any of its principals.[4] In any case, however, the differences between the applicants' ownership interests may be explored under the diversification criterion of the standard comparative issue. Cf. Stamps Radio Broadcasting Co., 11 FCC 2d 48, 11 RR 2d 1008 (1967).

CROSS-INTEREST ISSUE

6. Petitioner next urges that specification of requested issue (b) is appropriate in view of the extensive media and other business interests held by the Brindlee principals.[5] In support, petitioner notes that in addition to his interest in the Brindlee Mountain Telephone Company, Mr. McDonald is also a 100 percent owner of Arab Cablevision Company, Inc., a CATV system which serves the city of Arab; an organizing director of the Security Bank and Trust Company, one of the two commercial banks in Arab; and the controlling shareholder of the PLV Corporation, a real estate company in the process of constructing Arab's largest single housing development. In addition, petitioner asserts, the Federal Home Loan Bank Board on January 23, 1973, tentatively approved Mr. McDonald's application to organize a federal savings and loan association in Arab. Moreover, according to Marshall, the savings and loan application indicates that Mr. McDonald is a minority stockholder in the Arab Insurance Agency, Inc. and the Arab Real Estate Company, Inc. Also, Bill Kennedy, the president and 19.98 percent shareholder of Brindlee and Willene Clark, its corporate secretary and .02 percent shareholder, are both employed by the telephone company, petitioner asserts, Finally, Marshall alleges that Mr. Kennedy and Ms. Clark were as of December 31, 1972, vice-president and secretary, respectively, of the Arab Cablevision Company, Inc. Marshall concludes that these interests held by Brindle principals, in a city of under 5,000 population, warrant addition of the requested issue.

7. In opposition, Brindlee asserts that there is no legal basis for the addition of either an economic dominance issue or a cross-interest issue. In support thereof, Brindlee claims that an economic dominance issue has been added in the past only in cases where there has been virtual ownership or control of an entire city by an applicant or its principals and the traditional cross-interest issue applies only where an applicant's principal is associated with a broadcast station, an advertising agency, or a station representative firm. In an affidavit attached to the opposition, Mr. McDonald avers that, with the exception of his interests in the local telephone and CATV businesses which are regulated by the federal and/or state agencies, he does not have a dominant influence over any aspect of the business community of Arab. That is, his ownership interest in the Security Bank and Trust Company is only 3 percent; the savings and loan association will be owned by its depositors and borrowers; and the real estate and insurance firms in which he has minor interests are in competition with five other Arab real estate firms and ten other local insurance firms. The Broadcast Bureau agrees with Brindlee that an insufficient showing has been made to justify addition of the requested issue.

8. In the Board's view, neither a cross-interest nor an economic dominance issue is warranted. First, with respect to cross-interest, petitioner fails entirely to allege any of the necessary elements underlying or comprising the Commission's policy barring individuals from maintaining significant interests in competing facilities in the same broadcast service serving substantially the same area. See Eastern Broadcasting Corp., supra. Additionally, an insufficient showing has been made to justify the addition of an economic dominance issue. Past cases in which such an issue has been added involved far more substantial economic domination of a community by an applicant or its principals than is alleged here. Thus, in Midland Broadcasting Company, 12 FCC 611, 3 RR 1961 (1948), "company town" domination was found; the applicant employed 90 percent of the population of the community. In Hershey Broadcasting Co., Inc., 22 RR 1070 (1962), the Hershey estate virtually owned and operated the community, providing recreation facilities, utilities and employment for much of the populace. In our view, the business interests of McDonald and the other Brindlee principals do not approach the dominance present in these cases. See Industrial Business Corp., (40 FCC 2d 69, 26 RR 2d 1447 (1973)). Moreover, just as we can find no justification for addition of either a cross-interest or economic dominance issue, we can perceive no basis for a hybrid issue combining elements of both doctrines as requested by petitioner. However, these allegations may be explored under the existing standard comparative issue.

NON-DISCLOSURE ISSUE

9. In support of its requested non-disclosure issue, petitioner claims that Table II, Section II of Form 301 ("Business and Financial Interest") requires that the following interests should have been reported by Brindlee:[6] (1) Mr. Kennedy's and Ms. Clark's official relationship in the Arab Cablevision Company; (2) Mr. McDonald's position vis a vis the proposed savings and loan association; (3) Mr. McDonald's interest in both the Arab Insurance Agency, Inc. and the Arab Real Estate Co., Inc.; and (4) his position as a director of the Brindlee Businessmen Investment Group, Inc. The Broadcast Bureau supports addition of the requested issue and states that a Rule 1.65 issue may be required as well because of Mr. McDonald's failure to amend his application when tentative approval for the savings and loan association was obtained on January 23, 1973.

10. In opposition, Brindlee asserts that the omissions were unintentional and not of decisional significance. In his affidavit attached to the opposition, Mr. McDonald states that at the time the original application was prepared, he mistakenly believed that the Commission desired a listing of only those businesses in which an applicant's principals had been engaged as active participants or owned a major interest (25 percent or greater). Brindlee claims that with the exception of a franchise for a Tuskegee CATV system, obtained by the Tuskegee Cablevision Company, Inc., in which Mr. Kennedy and Mr. McDonald are the sole stockholders, and they and Ms. Clark the officers,[7] none of the omissions involved more than an occasional activity of any of the principals or an ownership interest in excess of 10 percent.[8] Thus, Brindlee states, Mr. Kennedy's and Ms. Clark's directorships in the Arab Cablevision Company were not reported since Mr. McDonald has full ownership and control of the company; and Mr. McDonald's organizing interest in the savings and loan association was not reported because he will have no ownership interest in the institution. Mr. McDonald also indicates in his affidavit that he is director and 9 percent owner of the Arab Real Estate Co., Inc., Brindlee Businessmen Investment Group, Inc., and Arab Insurance Agency, Inc., but has not taken an active part in these businesses:

11. The Board is of the view that Brindlee's omissions with regard to the various business interests of its prin-

[4] We note in this respect that Marshall is licensee of Station WRAB, the only other broadcast facility in Arab, but has not alleged any discriminatory treatment in the past by the telephone company.

[5] The petitioner characterizes the requested issue as lying somewhere between what the Commission terms an "economic dominance" issue and what it terms a "cross-interest" issue.

[6] Table II, Section II of Form 301 requires the disclosure of "* * * any other business or financial enterprise in which the party has now or within the past five years has had either a 25 percent or greater interest or any official relationship."

[7] According to Brindlee, since this CATV franchise is being voluntarily reported with this pleading, no motive for concealment is present and therefore no issue should be added.

[8] Mr. McDonald states in his affidavit, with regard to the Tuskegee CATV system, that "other than securing the franchise, no steps were ever taken to build the system," and that the franchise was subsequently assigned to another party. However, in its reply, Marshall County attaches a copy of a certificate of compliance for the Tuskegee CATV system, granted by the Commission on July 24, 1973, and issued to the Tuskegee Cablevision Company, Inc.

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cipals warrant the addition of a Rule 1.514/1.65 issue. Although Brindlee represented that its principals, operating as the Tuskegee Cablevision Company, had only secured a franchise for the Tuskegee CATV system and that the franchise was subsequently assigned to another party, it appears that Tuskegee Cablevision Company's application for a certificate of compliance was granted by the Commission on July 24, 1973. This apparent contradiction is unexplained and it belies Brindlee's claim that this interest was voluntarily disclosed. In our view, Brindlee's failure to report the grant of the certificate of compliance for a CATV system which its principals owned and operated raises serious questions concerning its compliance with Rule 1.65. In addition, the information concerning the applicant's principals' other business interests should have been reported initially or the application amended as significant changes occurred. The omissions here were numerous; and although none, standing alone, would raise a serious question, we believe that taken together, and with the above Tuskegee CATV omission, they require addition of an appropriate issue.

12. Accordingly, *it is ordered*, That the motion for acceptance of an attachment to opposition, filed December 13, 1973, by Brindlee Broadcasting Corporation, is granted; and

13. It is further ordered, That the petition to enlarge issues, filed November 21, 1973, by Marshall County Broadcasting Company, Inc., is granted to the extent indicated herein, and is denied in all other respects; and

14. It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether Brindlee Broadcasting Corporation has complied with the provisions of §§ 1.514 and 1.65 of the Commission's rules with respect to the business interests and official relationships of its principals, and, if not, to determine the effect of such non-compliance on the basic or comparative qualifications of the applicant.

15. It is further ordered, That the burden of proceeding with the introduction of evidence under the added issue shall be on Marshall County Broadcasting Company, Inc. and the burden of proof shall be on Brindlee Broadcasting Corporation.

Adopted: April 24, 1974.

Released: May 1, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10322 Filed 5-3-74;8:45 am]

[FCC 74-400]

DOMESTIC PUBLIC LAND RADIO SERVICE

New Procedures on Petitions To Deny Applications

APRIL 17, 1974.

Because of the proliferation of petitions to deny applications in the Domestic Public Land Mobile Radio Service, we are adopting new procedures to insure that the public receives needed radio common carrier service and that qualified carriers are given an opportunity to render such service.

In nearly every disputed case, petitioners are existing licensees who have objected to the entry of an applicant who proposes similar service in the same market. To support their petitions, these licensees have alleged that the market conditions are such that their own operations cannot survive added competition, and that the applicant has failed to demonstrate the need for an additional licensee to offer similar communications service.

As of May 1, 1974, the pending renewal applications of all existing licensees who presently have petitions to deny on file, which include the aforementioned arguments, and who have requested that the Commission designate the respective applications for a hearing pursuant to section 309(e) of the Communications Act of 1934, as amended, will be designated for hearing with the applicants. The hearing will determine first, whether the particular market will support an additional carrier. If this is found to be the case, and assuming that all else is in order, then both the new application and the existing licensee's renewal application can be granted. If instead, it is found that the market cannot support an additional carrier, the hearing will proceed on a comparative basis to establish whether grant of the new application or grant of the existing licensee's renewal application would best serve the public interest. With respect to this latter question, the petitioner will be given no preference based solely on his status as an existing licensee.

If a petitioner does not wish to maintain his protest, notice of withdrawal should be filed with the Commission before May 1, 1974. Requests for extensions of time to consider withdrawal will be looked upon with disfavor.

The Commission concluded in the guardband decisions that competition between radio common carriers and wireline carriers is beneficial to the public, see Commission Report and Order in Docket No. 16778, 12 FCC 2d 841 (1968), Aff'd sub nom. Radio Relay Corporation v. FCC, 409 F. 2d 322 (2d Cir. 1969). We find that competition between and among radio common carriers will also benefit the public with respect to the diversity of service offered, quality of the service, and rates charged for mobile communications. Radio common carrier service is not limited in its scope, but provides such varied communications forms as paging, two-way, interconnected, noninterconnected and message relay service. These services, although included within our licensing function, are basically unregulated by this Commission. If competition is fostered in a given market, it is our belief that competing licensees will be prompted to meet any requirements for service to which the public is entitled.

Action by the Commission April 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10321 Filed 5-3-74;8:45 am]

FEDERAL CROP INSURANCE CORPORATION

[Notice 82]

SUGAR BEETS—IDAHO, OREGON, UTAH AND WASHINGTON

Extension of the Closing Date for Filing of Applications for the 1974 Crop Year

Pursuant to the authority contained in § 401.103 of Title 7 of the Code of Federal Regulations, the time for filing applications for sugar beet crop insurance for the 1974 crop year in all counties in Idaho, Oregon, Utah and Washington where such insurance is otherwise authorized to be offered is hereby extended until the close of business on May 3, 1974. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

[SEAL] M. R. PETERSON,
Manager,
Federal Crop Insurance Corporation.

[FR Doc.74-10317 Filed 5-3-74;8:45 am]

FEDERAL MARITIME COMMISSION

INTER-AMERICAN FREIGHT CONFERENCE, ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 26, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

INTER-AMERICAN FREIGHT CONFERENCE-AREA RIVER PLATE/PUERTO RICO AND U.S. VIRGIN ISLANDS/RIVER PLATE

Notice of Agreement Filed by:

J. V. Valdez, Assistant Administrator
Inter-American Freight Conference—Section "B"
Lavalle 381–8.° Piso
Buenos Aires, Argentina

Agreement No. 10122, among the following member lines:

CIA. AGROPECUARIA Y MARITIMA SANTA ROSA (LINEAS AGROMAR)
DELTA STEAMSHIP LINES, INC.
EMPRESA LINEAS MARITIMAS ARGENTINAS (E.L.M.A.)
IVARAN LINES (A/S IVARANS REDERI)
J. LAURITZEN LINES
CIA. DE NAVEGACAO LLOYD BRASILEIRO
MONTEMAR S.A. COMERCIAL Y MARITIMA
CIA. DE NAVEGACAO MARITIMA NETUMAR

provides for the creation of the Inter-American Freight Conference-Area River Plate/Puerto Rico and U.S. Virgin Islands/River Plate Agreement, for the establishment and maintenance of rates, rules and regulations to apply on the movement of cargo in the trades, both northbound and southbound, between Argentina, Uruguayan and Paraguayan ports and ports of Puerto Rico and the U.S. Virgin Islands.

By Order of the Federal Maritime Commission.

Dated: MAY 1, 1974.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.74-10357 Filed 5-3-74;8:45 am]

PACIFIC COAST-AUSTRALASIAN TARIFF BUREAU

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 26, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:
F. Conger Fawcett, Esq.
Graham & James
310 Sansome Street
San Francisco, California 94104

Agreement No. 50–28, is an application on behalf of the member lines of the Pacific Coast-Australian Tariff Bureau (Agreement No. 50, as amended) for an extension, without limitation as to duration beyond the present termination date of July 14, 1974, of the authority under Article VI of the conference agreement which prohibits the absorption of wharfage, storage, or other charges against the cargo and the expenses of transshipment of cargo between ports via any means, except as may be agreed among the member lines and set forth in the conference tariff.

By Order of the Federal Maritime Commission.

Dated: May 1, 1974.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.74-10358 Filed 5-3-74;8:45 am]

NORTH ATLANTIC UNITED KINGDOM FREIGHT CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to Section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, (46 U.S.C. 813a)).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126 or at the Field Office located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a hearing on the proposed modificabe submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C., 20573, within 20 days after publication of this notice in the Federal Register. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition, (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Application to Modify Dual Rate Contract Filed by:
Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 7100 D.R.–5, among the members of the North Atlantic United Kingdom Freight Conference, is an application to modify its dual rate contract to provide for unlimited and unconditional approval of the Conference's inland authority in the United Kingdom, Northern Ireland and the Republic of Ireland. By Order of the Federal Maritime Commission.

Dated: May 1, 1974.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.74-10356 Filed 5-3-74;8:45 am]

[Circular Letter No. 9–74]

GOVERNMENT OWNED OR SPONSORED CARGOES

Notice of Reduced Terminal Rates

The Commission is concerned over practices of certain terminal operators in granting reduced rates for terminal services performed for U.S. Government owned or sponsored cargoes. It appears that reduced rates for terminal services are being allowed on cargoes which are indirectly sponsored by the U.S. Government. The purpose of this circular is to inform the industry of the Commission's position with respect to the allowance of special rates on government owned or sponsored cargoes.

In Docket No. 68–13, Assembly Time—Port of San Diego, 13 F.M.C. 1 (1969), one of the issues before the Commission was whether cargoes moving under Titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691, et seq.) commonly known as P.L. 480, should qualify for extended free time beyond that allowed for commercial cargoes. Title I cargoes move pursuant to sales agreements between foreign governments and U.S. suppliers who are businessmen selling from private stocks. The commodities move under commercial bills of lading and the foreign buyer arranges ocean transportation and nominates the port of loading. The recipient nation is generally responsible for all transportation costs. The purchase and transportation is financed by various types of loans from the U.S. Government. Title II commodities are exported to needy foreign counties, not as sales, but as outright gifts in cooperation with voluntary relief agencies. Transportation is arranged by the U.S. Department of Agriculture which pays

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all costs, including inland transportation and terminal charges.

Section 6 of the Intercoastal Shipping Act, 1933, states that "nothing in this Act shall prevent the carriage, storage, or handling of property free or at reduced rates, for the United States, State, or municipal governments, or for charitable purposes." In order for such a reduced rate to apply the government must receive the entire benefit of the reduced rate. The benefit to the government must be total and direct. Cited in support of this finding were certain ICC cases [1] including a 1964 case [2] where the ICC had occasion to consider the question of whether a carrier could accord a nongovernment (commercial) shipper a reduced rate if "the costs paid to the carrier by the shipper or receiver are to be reimbursed by the Government." The Commission fully supported the reasoning and conclusions of the ICC which found that reduced rates for government cargoes are proper only so long as the direct and entire benefit of the special rates accrues solely to the government and where the government pays the charges, or directly and completely reimburses the party which initially bears the freight charges.

Under the rationale of the San Diego case and the ICC cases cited, Title I shipments would not qualify for free or reduced terminal rates and Title II shipments, in general, would not qualify where the government supplier was operating under a fixed price contract. On the other hand, where a supplier was operating under a cost reimbursement contract, reduced rates would be proper.[3]

In view of the Commission's pronouncements on this matter in Docket No. 68–13 above, the industry is cautioned that only on those shipments for which the U.S. Government bears ultimate responsibility for the transportation costs can reduced rates be granted. It is incumbent upon the terminal operator to ascertain whether reduced rates are properly applicable and the allowance of reduced rates on cargo which does not qualify for such rates could lead to a violation of the Shipping Act, 1916.

In connection with this subject matter, the industry is also drawn to the tariff filing requirements of General Order 15 which state in the preamble that the rules:

> • • • would require public terminals to file the rates they charge Federal agencies. This does not mean that the terminals must alter their present method of making rates for Federal agencies. It merely means that once a terminal reaches an agreement with the Federal Government on the rates to be charged for terminal services, such rates must be filed with the Federal Maritime Commission.

[1] Havens & Company v. C. & N.W. Ry. Co., 20 I.C.C. 156 (1911); Givens v. L. & N.R. Co., 140 I.C.C. 605 (1928).

[2] Interpretation of Government Rate Tariff—Eastern Central, 323 I.C.C. 347 (1964).

[3] Interpretation of Government Rate Tariff, supra.

Therefore, the terminal operator is required to file with the Commission any rate charged to the Government which deviates from the normal published tariff rate.

It is expected that those terminal operators who currently publish tariff provisions contrary to the guidelines laid down in Docket No. 68–13 and the Commission's General Order 15 amend their tariffs to conform to these guidelines.

N. THOMAS HARRIS,
Director,
Bureau of Compliance.

[FR Doc.74–10355 Filed 5–3–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E–8673]

ALABAMA POWER CO.

Notice of Revisions in Interconnection Agreement

APRIL 29, 1974.

Take notice that on March 7, 1974, Alabama Power Company (Applicant) filed with the Federal Power Commission a revised Exhibit B to the Interconnection Agreement between Applicant and Alabama Electric Cooperative, which was accepted for filing by the Commission and designated as Applicant's Rate Schedule FPC No. 133. Revised Exhibit B is stated to be submitted pursuant to section 5.05 of said Interconnection Agreement and reflects agreement between the parties to the estimated maximum integrated peak hour demands shown thereon.

Applicant further filed, in the form of Statement O, pursuant to § 35.13 of the Commission's regulations, a change in the fuel cost adjustment factor to be used under the Interconnection Agreement in the ensuing year. The application states, however, that it is understood between the parties that Alabama Electric Cooperative's concurrence in the filing is qualified by its position that an energy loss multiplier should not be used in calculation of the fuel cost adjustment factor—a matter pending decision before the Commission in Docket No. E–8360.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10274 Filed 5–3–74;8:45 am]

[Docket No. RP72–110]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Proposed Change in FPC Gas Tariff

APRIL 26, 1974.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on April 19, 1974, tendered for filing First Revised Sheet No. 30–F to its FPC Gas Tariff, Original Volume No. 1.

The purpose of this filing, Algonquin Gas asserts, is to modify the use of Algonquin Gas' Unrecovered Purchased Gas Cost Account contained in the Purchased Gas Cost Adjustment Provision in order to accommodate the filing made by Texas Eastern Transmission Corporation (Texas Eastern) dated April 9, 1974, which proposed certain modifications to Texas Eastern's tariff which would reinstate a Demand Charge Adjustment under conditions of a gas supply shortage and to recover amounts equal to the Demand Charge Adjustments through the use of a Demand Charge Adjustment Commodity Surcharge of the effected rate schedule.

It is proposed that the tendered revised tariff sheet be permitted to become effective as of April 1, 1974, to match the corresponding effective date requested by Texas Eastern for its tariff modification.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10261 Filed 5–3–74;8:45 am]

[Docket No. RP74–61]

ARKANSAS LOUISIANA GAS CO.

Notice of Extension of Time and Postponement of Hearing

APRIL 29, 1974.

On April 17, 1974, Staff Counsel filed a motion for an extension of the procedural dates fixed by Order issued February 22, 1974, in the above-designated matter. The motion states the parties to the proceeding had been contacted and there was no opposition to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Staff Service, June 19, 1974.
Intervener Service, July 5, 1974.
Company Rebuttal, July 22, 1974.
Hearing, August 13, 1974 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10263 Filed 5–3–74;8:45 am]

[Docket No. E–8187]

BOSTON EDISON CO.

Notice of Further Postponement of Prehearing Conference and Hearing

APRIL 26, 1974.

On April 23, 1974, Boston Edison Company filed a motion on behalf of itself, New England Power Company, and the Towns of Concord, Massachusetts, et al., for an extension of the date for the prehearing conference which was scheduled for April 30, 1974 by Notice issued April 3, 1974 in the above-designated matter.

Upon consideration, notice is hereby given that the prehearing conference in the above matter is postponed to May 30, 1974, at 10 a.m. (e.d.t.). The hearing will commence upon the conclusion of the prehearing conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10269 Filed 5–3–74;8:45 am]

[Docket No. CI74–561]

BROWN AND McKENZIE, INC.

Notice of Application

APRIL 29, 1974.

Take notice that on April 11, 1974, Brown and McKenzie, Inc. (Applicant), 1120 Three Greenway Plaza East, Houston, Texas 77046, filed in Docket No. CI 74–561 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Texas Gas Transmission Corporation (Texas Gas) from the Savoy Field, St. Landry Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that on February 1, 1974, it initiated an emergency sale of natural gas to Texas Gas from the Savoy Field for 89 days within the contemplation of Section 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29). Applicant proposes to continue to sell said gas for one year, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70), commencing with the expiration of the 89-day period or the date on which Applicant shall be issued and accepted the certificate sought herein, whichever shall occur first. Under the terms of a contract dated February 7, 1974, Applicant proposes to sell approximately 45,000 Mcf per month of natural gas to Texas Gas at 55.0 cents per Mcf at 15.025 psia, subject to downward Btu adjustment.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10264 Filed 5–3–74;8:45 am]

[Docket Nos. RP74–14 and RP74–34]

CASCADE NATURAL GAS CORP.

Notice of Revised Sheet

APRIL 30, 1974.

Take notice that on April 12, 1974 Cascade Natural Gas Corporation (Cascade) tendered for filing Third Revised Sheet No. 2 to its FPC Gas Rate Schedule No. 1. Cascade states the Revised Sheet reflects a decrease of 0.02 cents per Mcf for old gas. This relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision authorized by the Commission's order dated November 28, 1973 in the above captioned dockets.

Cascade proposes an effective date of June 1, 1974 for said revised sheet.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10280 Filed 5–3–74;8:45 am]

[Docket No. CI74–187]

CHEVRON OIL CO. WESTERN DIVISION

Notice of Petition To Amend

APRIL 29, 1974.

Take notice that on April 2, 1974, Chevron Oil Company, Western Division (Petitioner), P.O. Box 599, Denver, Colorado 80201, filed in Docket No. CI74–187 a petition to amend the order issued in said docket on January 11, 1974, pursuant to Section 7(c) of the Natural Gas Act by authorizing Petitioner to sell natural gas to Mississippi River Transmission Corporation (MRT) from two additional wells, all as more fully set forth in the petition to amend in this proceeding.

By the Commission's order of January 11, 1974, Petitioner was authorized to sell to MRT an estimated 487,500 Mcf of natural gas per month at 30 cents per Mcf at 14.65 psia, subject to an upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70), for one year, from the Mills Ranch Field, Wheeler County, Texas.

Petitioner now proposes, pursuant to a contract amendment dated March 1, 1974, to sell gas to MRT, for the duration of the term authorized in the order of January 11, 1974, from two additional wells, the Valentine Coltharp No. 1 and the W. V. Lister No. 1, drilled in the Mills Ranch Field, at 30.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Initial downward adjustment is estimated to be 0.27 cent per Mcf. The gas from these additional wells is expected to add approximately 12,000 Mcf per day to the sales volume.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 20, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10265 Filed 5–3–74;8:45 am]

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[Docket No. CP74-186]

CITIES SERVICE GAS CO.

Notice of Further Extension of Time and Postponement of Hearing

APRIL 29, 1974.

On April 12, 1974, Cities Service Gas Company filed a motion for a further extension of the procedural dates fixed by the notice issued April 12, 1974. The motion states that the interveners and the Kansas Corporation Commission are agreeable to the suggested schedule.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of direct testimony and exhibits by Union and Cities, May 15, 1974.
Service of direct testimony and exhibits by the Kansas Corporation Commission, June 17, 1974.
Hearing, July 9, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10273 Filed 5-3-74;8:45 am]

[Docket No. E-8740]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO. ET AL.

Notice of Application for Lease of Electric Facility

APRIL 29, 1974.

Take notice that on April 19, 1974 Columbus and Southern Ohio Electric Company (Applicant) filed an application seeking authority, pursuant to Section 203 of the Federal Power Act, to lease certain 345 Kv electric transmission facilities (Conesville Corridor Transmission Line) to the Cincinnati Gas and Electric Company and the Dayton Power and Light Company. The facilities to be leased will consist of a 345 Kv electric transmission line of 54.19 miles in length, together with related facilities. Each Company proposes to lease a ⅓ interest in the facilities. Implementation of the lease will not result in any change in the line and there will be no further construction relating to the line during the terms of the lease. The proposed lease will expire no later than December 31, 1975.

Applicant is incorporated under the laws of the State of Ohio, with its principal business office at Columbus, Ohio. Applicant is presently engaged in the production, transmission, distribution and sale of electricity in 25 counties within the State of Ohio.

Based on present original cost data for the facilities and present tax rates, it is estimated that the monthly rentals payable by each of the aforementioned companies will be between $30,000 and $35,000. In addition, to the rental as described above, all costs and expenses of any kind connected with the operation and maintenance of the facilities are, during the term of the lease, to be borne in equal shares by Cincinnati Gas and Electric Company, Columbus and Southern Ohio Electric Company, and Dayton Power and Light Company, with Columbus billing the respective shares of such operation and maintenance costs and expenses, including applicable overheads to Cincinnati and Dayton on a monthly basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10272 Filed 5-3-74;8:45 am]

[Docket No. E-8008]

FLORIDA POWER AND LIGHT CO.

Notice of Filing of Revised Tariff

APRIL 29, 1974.

Take notice that on January 30, 1974, Florida Power and Light Company (Florida) tendered for filing certain revised tariff sheets to its FPC Electric Tariff, Original Volume No. 1, which has been in effect with the rate subject to refund since September 1, 1973. The revised tariff is intended to represent various changes which have been made to the tariff as a result of negotiations between Florida and various customers who have intervened in this proceeding. Florida requests an immediate effective date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 9, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10270 Filed 5-3-74;8:45 am]

[Docket No. RI74-167]

J-W OPERATING CO.

Order Granting Intervention and Setting Date for Hearing

APRIL 29, 1974.

On January 10, 1974, J-W Operating Company (J-W) filed for a certificate of public convenience and necessity authorizing a rate increase from the applicable Texas Gulf Coast area rate of 25 cents per Mcf to a level of 45 cents per Mcf pursuant to a contract amendment dated December 14, 1973, with the purchaser Texas Eastern Transmission Corporation (Texas Eastern).

J-W applied for certificate authority as partial successor in interest to Mobil Oil Corporation under an assignment dated December 11, 1973, and effective on November 15, 1973. The assignment was made by Mobil to United Oil & Gas Company and Mr. J. C. West, with J-W as operator. United Oil & Gas owns 90% of J-W and West holds the remaining 10%. The subject of this assignment was all rights between the surface and a depth of 9,221 feet below the Eloise Shuttle lease, Provident City Field, Lavaca County, Texas. The amendment covering these leases was entered into under the base November 26, 1971, contract between Mobil and Texas Eastern, which has been designated as Mobil's FPC Gas Rate Schedule No. 492. Mobil has assigned to J-W only the acreage delineated in the contract amendment, and will retain its above mentioned FPC Gas Rate Schedule.

By letter of February 22, 1974, J-W informed the Commission that J-W had intended its filing to be made pursuant to Section 2.76 of the Commission's General Policy Statements, and J-W requested that its petition be considered under that provision. Specifically, J-W averred that it intended to rework one well already in existence, and to drill a second well on the subject acreage with the hope of obtaining additional gas reserves.

Notice of the J-W petition was issued on March 6, 1974, and appeared in the FEDERAL REGISTER on March 13, 1974, at 39 Fed. Reg. 9707. The Public Service Commission of the State of New York (NYPSC) filed a notice of intervention on March 11, 1974.

An examination of the petition and the data in support thereof, raises a question of whether there is sufficient basis for us to find that the proposed rate is just and reasonable. Therefore, we deem it necessary that a hearing be held in this matter.

The Commission finds:

It is necessary and in the public interest that the above-docketed proceeding be set for a formal hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14 and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 C.F.R., Chapter 1), Docket No. RI74-167 is set for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the application herein shall be held commencing on June 11, 1974, 10:00 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) J-W and any intervenor supporting the application shall file their direct testimony and evidence on or before May 17, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff, and any intervenor opposing the application, shall file their direct testimony and evidence on or before May 24, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before June 3, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to the proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10259 Filed 5-3-74;8:45 am]

[Docket No. RP74-11]

KANSAS-NEBRASKA NATURAL GAS CO.

Notice of Further Extension of Time and Postponement of Hearing

APRIL 29, 1973.

On April 22, 1974, Staff Counsel filed a motion for a further extension of the procedural dates fixed by notice issued March 5, 1974 in the above-designated matter. The motion states that all parties to the proceedings concur in the motion.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Kansas-Nebraska to submit revised schedules which demonstrate the effect of the reduced sales volumes, May 20, 1974.
Staff supplemental testimony and exhibits responding to the effect of the reduced sales volumes, June 17, 1974.
Intervener's Evidence, July 26, 1974.
Rebuttal Evidence, September 4, 1974.
Hearing, October 2, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10271 Filed 5-3-74;8:45 am]

MICHIGAN GAS STORAGE CO.

[Docket No. RP74-70]

Order Accepting for Filing and Suspending Proposed Rate Increase, and Setting the Matter for Hearing

APRIL 29, 1974.

On February 15, 1974 Michigan Gas Storage Company (Company) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, requesting an effective date for the proposed rate changes of May 1, 1974. The proposed changes would increase revenues from jurisdictional sales and service by $1,256,510 based on the 12 month period ending November 30, 1973, as adjusted.

Company requests waiver of the Commission's regulations requiring that filings be made not more than sixty days prior to the proposed effective date and also requests waiver of § 154.63(f) of the regulations requiring submittal of Statement P.

Notice of the filing was issued on February 25, 1974, with protests and petitions to intervene due on or before March 8, 1974. The Michigan Public Service Commission, on March 13, 1974, filed a notice of intervention. The notice raised no substantive issues.

Our review of the filing indicates, inter alia, that the proposed rate of return may be excessive and therefore the proposed rates may not be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall accept the proposed rate increase for filing, suspend it for one day, and institute a hearing, pursuant to Section 4 of the Natural Gas Act, concerning the lawfulness of the rates. Pending hearing and decision on the proposed rates, the increased rates will be suspended for one day and permitted to go into effect on May 2, 1974, subject to refund. We shall require the filing of Statement P, but shall waive the sixty day filing requirement of the regulations.

We note that Company purports to reserve the right to file a revised rate schedule reflecting a rate of return greater than the rate of return of 10.22 percent claimed in the instant filing in the event this Commission enters a hearing concerning the proposed rates. Company appears to be reserving a "right" which does not exist under the provisions of the Natural Gas Act and our regulations. Under § 154.66(b) of our regulations, a natural gas company may file a change in a tariff under suspension only by special permission of the Commission. Changes filed after the suspension period would have to conform to the full requirements of a regular Section 4 rate filing.

The Commission finds:

(1) It is necessary and appropriate in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Company's proposed rates and that the proposed rates be accepted for filing and suspended for one day as hereinafter ordered.

(2) Good cause exists to permit waiver of § 154.22 of the regulations relating to notice requirements.

(3) Good cause does not exist to permit waiver of § 154.63(f) with regard to the required filing of Statement P and Company should be required to submit such statement as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Section 4 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter I), a public hearing shall be held on August 13, 1974 at 10:00 A.M., EDT, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in Company's FPC Gas Tariff, as proposed to be amended herein.

(B) Waiver of § 154.22 of the our regulations relating to notice requirements is hereby granted.

(C) Waiver of § 154.63(f) of the regulations relating to the Statement P is hereby denied and Company shall submit Statement P to the Commission within 15 days from the issuance of this order.

(D) On or before July 1, 1974, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits, if any, of the intervenor Michigan Public Service Commission shall be served on or before July 22, 1974. Any rebuttal evidence by Company shall be served on or before August 5, 1974.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(F) Pending hearing and a decision thereon, Company's proposed changes in its FPC Gas Tariff, Original Volume No. 1 are accepted for filing, suspended for one day and the use thereof deferred until May 2, 1974, and until such further time as they are made effective in the manner provided in the Natural Gas Act.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

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(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10260 Filed 5-3-74;8:45 am]

[Docket No. E-8494]

MINNESOTA POWER AND LIGHT CO.

Order Granting Reconsideration and Amending Prior Order

APRIL 29, 1974.

On November 16, 1973, Minnesota Power and Light Company (MP&L) tendered for filing proposed changes in its rates and charges to twenty-one wholesale customers. MP&L requested an effective date of January 15, 1974. By letter dated December 6, 1973, the Secretary of the Commission informed MP&L that its initial filing was deficient. The data in completion of the filing was submitted by MP&L on January 18, 1974. At the same time, MP&L requested waiver of the notice requirements of the Commission's regulations, so that November 16, 1974, the date of the original tender might be assigned as the filing date.

By order of February 15, 1974, the Commission suspended the proposed increase for the full statutory period, permitted intervention to the Village of Aitkin, et al. (Petitioners), and established hearing procedures. The Commission also assigned January 18, 1974, the date MP&L cured the deficiency in its original tender as the filing date for MP&L's proposed changes.

On March 8, 1974, Village of Hibbing, City of Two Harbors and City of Virginia (Cities), previously permitted intervention, requested the Commission to issue an order rejecting the rates filed by MP&L applicable to service for other than Firm Power to Cities.

Cities contends that their contracts with MP&L only provide for unilateral changes in the rates, terms and conditions as they relate to Firm Power. Cities concludes that Excess Capacity, Emergency Reserve, Economy Energy, Emergency Energy and Scheduled Outage Energy and all other provisions of the contract other than Firm Power are not subject to the provisions for the unilateral change of rates or terms and conditions of service.

On April 1, 1974, MP&L filed a response in which it contends that a provision in the contract permitting unilateral changes in terms and conditions is applicable to the entire contract and not simply the section concerning Firm Power.

A review of the contracts between MP&L and Cities reveals that they are subject to unilateral change pursuant to Section 205 of the Federal Power Act only as such changes would relate to Firm Power. Only in Section 4.04 Firm Power does the contract contain language providing for unilateral change. It is apparent that by inserting Memphis[1] language within the confines of the Firm Power provision of the contract, the parties intended such language to apply only to Firm Power. Sections 4.05, Excess Capacity, 4.06 Spinning Reserve, 4.07 Economy Energy, and 4.08 Emergency Energy and Scheduled Outage Energy, contain no provision for the unilateral change of rates or terms and conditions of service. Further, Section 4.11 Billing, which is applicable to all the services provided for in Article IV, contains no provision for unilateral change.

For the foregoing reason we shall grant Cities' motion and amend our order of February 15, 1974, so as to reject MP&L's November 16, 1973 filing as such filing would apply to the rates, terms and conditions contained in all but the Firm Power section of Cities' contracts.

The Commission finds. (1) Cities' Motion filed March 8, 1974, should be granted.

(2) The Commission's order of February 15, 1974, should be amended so as to reject MP&L's November 16, 1973 filing as such filing would apply to the rates, terms and conditions contained in all but the Firm Power section of Cities' contract.

The Commission orders. (A) Cities' motion filed March 8, 1974, is hereby granted and the Commission's order of February 15, 1974 is amended so as to confine the hearing therein established pursuant to Section 205 of the Federal Power Act to the propriety of MP&L's proposed increase of November 16, 1973, but only as such proposed increase would effect the provisions relating to Firm Power in Cities' contracts.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10276 Filed 5-3-74;8:45 am]

[Docket No. RP74-41]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

APRIL 29, 1974.

On April 12, 1974, Staff Counsel filed a motion for an extension of the procedural dates fixed by Order issued January 14, 1974, in the above-designated matter.

Upon consideration notice is hereby given that the procedural dates in the above matter are modified as follows:

Staff Evidence, July 12, 1974.
Intervener Evidence, July 31, 1974.
Rebuttal Evidence, August 16, 1974.
Prehearing Conference, September 4, 1974 (10 a.m. e.d.t.).
Hearing, September 17, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10277 Filed 5-3-74;8:45 am]

[1] *United Gas Pipe Line Company* v. *Memphis Light, Gas, & Water Division, et al.*, 358 U.S. 103 (1959).

[Docket No. RP72-131]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Refund Statement

APRIL 29, 1974.

Take notice that on April 17, 1974, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following:

(1) Statement showing the distribution by customer of the refund received from Texas Eastern Transmission Corporation and the amount billed by Transco from the period November 1, 1973 through January 31, 1974 in excess of payments to Texas Eastern.

(2) A gas service refund statement mailed to each customer receiving refunds.

Transco states this filing is made pursuant to Ordering Paragraph (B) of the Commission's Order issued July 13, 1972, in the above captioned docket. According to Transco, the refund reflects (1) the refund received from Texas Eastern as a result of the Commission's Order in Docket No. RP72-98, and (2) the difference between amounts billed by Texas Eastern and the amount collected by Transco for the period November 1, 1973 through January 31, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10262 Filed 5-3-74;8:45 am]

[Docket No. E-8738]

UPPER PENINSULA POWER CO.

Notice of Application

APRIL 30, 1974.

Take notice that on April 19, 1974, Upper Peninsula Power Company (Applicant), filed a Supplement and amendment to its Application in Docket No. E-7643 with the Federal Power Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue unsecured promissory notes not to exceed $14,500,000 face value at any one time outstanding.

The applicant is incorporated under the laws of the State of Michigan with its principal business office at Houghton, Michigan and is engaged in the electric utility business in a 4,460 square mile area in the upper peninsula of Michigan with a population of approximately 140,000.

The applicant proposes to issue unsecured promissory notes, payable to such bank or banks from which the Applicant may borrow funds for periods not exceeding twelve months from the date of original issue or renewal thereof, as the case may be, such notes, issued either originally or upon renewal from time to time, to have maturity dates not later than June 30, 1976.

The interest rate on the notes to be issued to commercial banks not for resale to the public will be at a rate not exceeding one-half of one percent over the floating prime rate in effect from time to time, meaning by "prime rate" the lowest rate at which the banks to whom the notes are payable are then making short term commercial loans to depositors.

The proceeds from the sale of the notes will be used, pending permanent financing, to refinance short term notes previously issued and to finance a portion of the Applicant's construction program which will total approximately $6,566,400 in 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10278 Filed 5-3-74;8:45 am]

[Docket No. E-7172]

SOUTHWESTERN POWER ADMINISTRATION

Notice of Request for Approval of Rates and Charges

APRIL 30, 1974.

Notice is hereby given that the Secretary of the Interior (Secretary), acting on behalf of Southwestern Power Administration (SWPA) and pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890), filed with the Federal Power Commission on April 18, 1974, a request in Docket No. E-7172 for an extension of the Commission's confirmation and approval of SWPA's rates and charges for the sale of electric power and energy included in (1) Rate Schedules F-1 (firm power), P-2 (Revised) (peaking power), EE (excess energy) and IC (interruptible capacity), (2) Contract No. Ispa-356 between SWPA and Oklahoma Gas and Electric Company and Public Service Company of Oklahoma, and (3) Contract No. 14-02-001-864-8 between SWPA and Tex-La Electric Cooperative, Inc. The Commission, by orders issued November 30, 1971 and February 20, 1973 in this docket (46 FPC 1275 and 49 FPC 420), approved such rates and charges for the period ending May 31, 1974. Approval of those rates and charges, which are described in detail in the above-mentioned Commission orders, is now requested by the Secretary for the additional period of one year ending May 31, 1975.

The Secretary represents, in substance, that the requested extension of approval of SWPA's rates and charges is necessary to allow adequate time for SWPA to complete the rate and repayment study and other related studies currently underway to determine the adjustments in such rates and charges which may be appropriate in order that they will produce revenues sufficient to satisfy the payout requirements of the Flood Control Act of 1944.

The rate schedules and rate contracts of SWPA referred to above are on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to SWPA's rates and charges set forth in said rate schedules and rate contracts should submit the same in writing on or before May 17, 1974 to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10279 Filed 5-3-74;8:45 am]

[Docket No. E-8049]

WISCONSIN PUBLIC SERVICE CORP.

Notice of Revised Fuel Clause

APRIL 29, 1974.

Take notice that on August 20, 1973, Wisconsin Public Service Corporation (Applicant) filed with the Federal Power Commission a revised Fuel Clause to an Interconnection and Emergency Agreement, dated February 22, 1973 and designated as Applicant's Rate Schedule FPC No. 31, between Applicant and Consolidated Water Power Company. The Applicant states that it believes that its tendered filing complies with the principles set forth by the Commission in New England Power Company, Opinion No. 633, issued October 30, 1972 (Docket No. E-7541).

The application further states that the effect of this revision on actual revenue would be minimal.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person desiring to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10266 Filed 5-3-74;8:45 am]

[Docket Nos. E-8049 and E-8204]

WISCONSIN PUBLIC SERVICE CORP.

Notice of Rate Filings

APRIL 29, 1974.

Take notice that on August 20, 1973 in Docket No. E-8049, the Wisconsin Public Service Corporation filed a revised fuel clause amending its Interconnection and Emergency Energy Agreement with Consolidated Water Power Company. The fuel clause was originally filed as part of "Article VII-Rates" in the Interconnection and Emergency Energy Agreement, dated February 22, 1973, and designated Rate Schedule FPC No. 31.

On October 4, 1973 in Docket No. E-8204 the Wisconsin Public Service Corporation filed a revised fuel clause to its Interconnection and Electric Energy Agreement with the City of Marshfield, Wisconsin, Rate Schedule FPC No. 32.

Any person desiring to be heard or to make any protest with reference to these filings should on or before May 22, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The documents discussed in this notice are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10267 Filed 5-3-74;8:45 am]

[Docket No. E-8204]

WISCONSIN PUBLIC SERVICE CORP.

Notice of Revised Fuel Clause

APRIL 29, 1974.

Take notice that on October 4, 1973, Wisconsin Public Service Corporation (Applicant) filed with the Federal Power Commission a replacement Section 2.03 (d) to an Interconnection and Electrical Energy Agreement between Applicant and the City of Marshfield, Wisconsin, said Agreement being designated as Applicant's Rate Schedule FPC No. 32. The Applicant states that this replacement contains a revised Fuel Clause for said Agreement which is in compliance with the Commission's ruling in New

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England Power Company, Opinion No. 633, issued October 30, 1972 (Docket No. E–7541).

The application states that the revision is not anticipated to have any effect on revenues in the near term, because no firm power transactions are scheduled between the parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10268 Filed 5–3–74;8:45 am]

[Docket Nos. RI74–210, etc.]

PERRY R. BASS, ET AL.

Hearing on and Suspension of Proposed Changes in Rates; Rate Changes To Become Effective Subject to Refund [1]

APRIL 26, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds. It is in the the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders. (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI74–210..	Perry R. Bass	6	[1] 24	Transwestern Pipeline Co. (Keystone Gasoline Plant, Winkler County, Tex., and Bell Lake Field, Lea County, N. Mex.) (Permian Basin).	$284,975	4–1–74		10–2–74	[3] 38.59	[3] [4] 39.840	
RI74–215..	Phillips Petroleum Co	374	[5] 11	Transwestern Pipeline Co. (Bell Lake Field, Lea County, N. Mex.) (Permian Basin).	22,345	4–1–74		10–2–74	[3] 35.65	[4] 36.668	
						4–3–74	5–4–74	[16] Accepted			
	do		[6] 12	do	1,328	4–3–74		10–4–74	22.87	[7] 45.0	
	do	484	[6] 10	El Paso Natural Gas Co. (Spraberry Plant, Sales Ranch Field, Martin and Midland Counties, Tex.) (Permian Basin).	3,693	4–3–74		10–6–74	38.78	39.405	
	do	532	3	Northern Natural Gas Co. (Bendum Plant, Upton County, Tex.) (Permian Basin).	186,975	4–3–74		10–4–74	[8] 36.5	[7] [10] 50.0	
	do	533	3	Northern Natural Gas Company (Spraberry Plant, Midland County, Tex.) (Permian Basin).	604,125	4–3–74		10–4–74	[8] 36.5	[7] [10] 50.0	
RI74–216..	Sun Oil Co	[17] 319	[11] 12	El Paso Natural Gas Co. (Gallegos Canyon Unit, San Juan County, N. Mex., San Juan Basin, Subarea) (Rocky Mountain Area).	(13)	3–27–74		5–28–74	[14] [16] 26.7	[7] [16] 28.5	RI74–145.
RI73–82...	Terra Resources, Inc	33	2	Montana-Dakota Utilities Co. (Poison Creek Unit, Fremont County, Wyoming, Montana-Wyoming Subarea) (Rocky Mountain Area).	406	3–27–74		3–28–74	[14] [16] 28.21	[14] [16] 28.6332	RI72–62.

* Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[1] Applicable only to "new" gas as defined by Opinion No. 662 and contract amendment dated August 4, 1972 (Supplement No. 18).
[2] Texas gas.
[3] New Mexico gas.
[4] Includes Btu adjustment.
[5] Agreement dated Feb. 27, 1974, providing for among other things, a new pricing schedule for production from a new well drilled to test the Atoka formation.
[6] Applicable to sales made pursuant to Supplemental No. 6.
[7] Subject to Btu adjustment from a base of 1,000 Btu per cubic foot.
[8] Applicable to sales made pursuant to Supplement No. 6.
[9] Subject to quality adjustments pursuant to Opinion No. 662.
[10] Subject to 5 cent M ft³ compression charge by buyer for compression of shrinkage volumes.
[11] For wells completed after June 1, 1970.
[12] Considered new gas pursuant to Opinion No. 639.
[13] No current sales of gas.
[14] Includes 2.21 cents upward Btu adjustment.
[15] Accepted to become effective as of the date set forth in the "Effective Date Unless Suspended" column.
[16] The pressure base is 15.025 lb/in²a.

The proposed rate increase of Terra Resources, Inc. reflects contractually due reimbursement of the recent increase in the Wyoming severance tax. Since the underlying rate is being collected subject to refund in Docket No. RI73–82, the proposed tax reimbursement increase is suspended for one day in that same proceeding.

The proposed rate increases which exceed the applicable ceiling rate established by Opinion No. 662 are suspended for five months and the proposed rate increase which exceeds the applicable area ceiling rate in Order No. 435 is suspended for one day.

[FR Doc.74–10142 Filed 5–3–74;8:45 am]

[Docket No. RP74–84]

HORNER AND SMITH

Proposed Changes in FPC Gas Tariff

APRIL 30, 1974.

Take notice that Horner and Smith on April 17, 1974, tendered for filing changes in its FPC Gas Tariff to be effective June 1, 1974. The proposed tariff changes would increase resale revenues by $28,640 per annum based on operations for the twelve-month period ended December 31, 1973, as adjusted.

Horner and Smith state that the principal reason for the changes in its tariff is to reflect an increase in the price paid for gas purchased from 12.5¢ per Mcf to 30.0¢ per Mcf.

Copies of the filing have been mailed to the interested customer and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10484 Filed 5–3–74;11:40 am]

FEDERAL RESERVE SYSTEM

BANK OF VIRGINIA CO.

Acquisition of Bank

Bank of Virginia Company, Richmond, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Virginia-Eastern Shore, Hallwood, Virginia, a proposed new bank, and thereby acquire the assets and assume the liabilities of the Hallwood Office of Bank of Virginia-Central, Richmond, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bank of Virginia Company is also engaged in the following non-bank activities: Credit card service, sale of physical damage insurance on collateral financed by subsidiary banks, full notification factoring, equipment leasing, consumer finance, data processing, construction lending, commercial and residential lending, land acquisition and development financing, and the origination of second mortgage loans. In addition to the factors considered under section 3 of the Act (banking factors) the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 27, 1974.

Board of Governors of the Federal Reserve System, April 29, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–10294 Filed 5–3–74;8:45 am]

CENTRAN BANCSHARES CORP.

Order Approving Acquisition of Ben Gordon Finance Company, Inc.

Centran Bancshares Corporation, Cleveland, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the common shares of Ben Gordon Finance Company, Inc. ("Ben Gordon"), Houston, Texas. Ben Gordon engages in the activities of making or acquiring consumer loans and other extensions of credit; acting as insurance agent or broker in the sale of credit life, accident and health insurance, and property insurance on collateral, all incident to extensions of consumer credit by Ben Gordon's subsidiaries; and the underwriting of credit life and credit accident and health insurance so sold. The underwriting function is performed by a separately-incorporated wholly-owned subsidiary of Ben-Gordon, Investors Income Insurance Company ("IIIC"), Dallas, Texas.[1] Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (9) and (10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 2308). The time for filing comments and views has expired, and none has been received.

On the basis of the record, the application is approved for the reasons set forth in the Board's Statement,[2] which will be released at a later date.

By order of the Board of Governors,[3] effective April 26, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74–10292 Filed 5–3–74;8:45 am]

NATIONAL DETROIT CORP.

Proposed Acquisition of Ralph C. Sutro Co.; Correction

In FR Doc. 74–8930 appearing on page 13918 of the issue for Tuesday, April 18, 1974, the name of the applicant should read National Detroit Corporation and the name of the company to be acquired should read Ralph C. Sutro Co.

Board of Governors of the Federal Reserve System, April 29, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–10293 Filed 5–3–74;8:45 am]

WATER TOWER FINANCIAL GROUP, INC.

Formation of Bank Holding Company

APRIL 30, 1974.

Water Tower Financial Group, Inc., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 50.625 percent of the voting shares of Water Tower Trust & Savings Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later that May 28, 1974.

Board of Governors of the Federal Reserve System, April 30, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–10295 Filed 5–3–74;8:45 am]

[1] IIIC also underwrites ordinary life insurance on the lives of employees of Ben Gordon's subsidiaries for which Ben Gordon's subsidiaries pay the premiums, own the policies, and are the beneficiaries. Such activity is not "closely related to banking" and Applicant has agreed to terminate that activity.

[2] When it is released the Board's Statement will be available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Cleveland.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Holland, and Wallich. Absent and not voting: Governors Brimmer and Bucher.

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TEXAS COMMERCE BANCSHARES, INC.

Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has submitted an amended application for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Westwood Commerce Bank, Houston, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors, or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 10, 1974.

Board of Governors of the Federal Reserve System, April 30, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10360 Filed 5-3-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FEDERAL PROCUREMENT REG.; TEMP. REG. 32, SUPP. 1]

ECONOMIC STABILIZATION PROGRAM

Price Certification Requirements Rescinded

1. *Purpose.* The purpose of this supplement is to cancel FPR Temporary Regulation 32.

2. *Effective date.* This regulation is effective May 6, 1974.

3. *Expiration date.* This regulation expires May 31, 1974.

4. *Background.* Temporary Regulation 32, June 15, 1973, prescribed a notice and price certification for use in all solicitations as required by the price stabilization requirements of Executive Order 11723, June 13, 1973, as amended by Executive Order 11730, July 18, 1973, and the regulations of the Cost of Living Council as set forth in Title 6, Code of Federal Regulations, Part 140. Since the Economic Stabilization Act of 1970, as amended, and the rules and regulations of the Cost of Living Council expire on April 30, 1974, it is appropriate to rescind Temporary Regulation 32 at the same time.

5. *Effect on other issuances.* FPR Temporary Regulation 32 is canceled, effective at midnight, April 30, 1974.

DWIGHT A. INK,
Acting Administrator of General Services.

MAY 2, 1974.

[FR Doc.74-10509 Filed 5-3-74;11:10 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR METABOLIC BIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Metabolic Biology to be held at 9 a.m. on May 23 and 24, 1974, in Room 321 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information concerning this Panel, contact Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 323, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 23, 1974.

[FR Doc.74-10359 Filed 5-3-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

OPPENHEIMER FUND, INC., ET AL.

Notice of Application

Notice is hereby given that Oppenheimer Fund, Inc., Oppenheimer A.I.M. Fund, Inc., Oppenheimer Time Fund, Inc. and Oppenheimer Income Fund, Inc. (collectively referred to as the "Funds") each of which is registered as an open-end investment company under the Investment Company Act of 1940 (the "Act") and Oppenheimer Management Corporation ("Oppenheimer", collectively refered to with the Funds as "Applicants") have filed an application for an order (1) pursuant to Section 11(a) of the Act to permit the Funds to offer to exchange their shares for shares of Oppenheimer Financial Bridge Fund, Inc. ("Bridge Fund") on a basis other than their relative net asset value per share at the time of the exchange and (2) pursuant to Section 6(c) of the Act granting exemptions from Section 22(d) of the Act and Rule 22d-1 thereunder, in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Oppenheimer, as principal underwriter for each of the Funds, maintains a continuous public offering of the shares of each of the Funds at their respective net asset value plus a sales charge. The maximum sales charge is 8.5% on purchases of less than $25,000. The sales charge is reduced on large purchases. Shares of each of the Funds may be exchanged for shares of any of the other Funds on the basis of the relative net asset value per share at the time of the exchange without sales charge.

The Bridge Fund is an open-end investment company registered under the Act. It has filed a registration statement under the Securities Act of 1933 with respect to a public offering of 500,000 shares of its capital stock. Oppenheimer is the investment adviser and principal underwriter for the Bridge Fund. The Bridge Fund offers its shares to the public at an offering price equal to net asset value plus a sales charge equivalent to one-half of the sales charge applicable to comparable investments in shares of the Funds.

Applicants propose to offer shares of each of the Funds to shareholders of the Bridge Fund in exchange for shares of the Bridge Fund on the basis of their relative net asset values at the time of the exchange plus a sales charge described in the prospectus of the Fund being acquired, less the sales charges paid on the Bridge Fund shares at the time they were originally purchased (one-half of the sales charge otherwise applicable to a direct purchase of shares of any of the Funds). An investor acquiring shares of one of the Funds through an exchange of shares of the Bridge Fund would, therefore, pay approximately the same overall sales charge that he would have paid had he purchased the same number of shares of one of the Funds directly.

No sales charge will be imposed upon the exchange of shares of the Bridge Fund which were acquired as a result of the reinvestment of dividends or capital gain distributions. In the event a shareholder desires to exchange a portion of his shares of the Bridge Fund, those shares that may be exchanged at relative net asset values without sales charge will be exchanged first. The remaining shares to be exchanged will be selected from those shares entitled to be exchanged upon payment of the lowest additional sales charge.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make or cause to be made an offer to the shareholder of a security of such a company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of each of the Funds is equivalent to twice the sales charge which would be applicable to the proposed exchange offer.

Applicants state that the purpose of the proposed exchange offer is to permit a shareholder of the Bridge Fund who changes his investment objective to change his investment to a different investment company without paying the full sales charge otherwise applicable. Applicants assert that the exchange offer

to shareholders of the Bridge Fund cannot be made at the relative net asset values of the Fund to be acquired because the shareholder of the Bridge Fund would have paid substantially less sales charges on his investment than similarly situated investors in the Fund to be acquired. Applicants contend that if shares of the Funds could be acquired by a shareholder of the Bridge Fund at net asset value in an exchange, it is possible that the exchange would be in violation of section 22(d) of the Act since an investor would be able to purchase shares of one of the Funds at a sales charge other than that described in its prospectus merely by purchasing shares of the Bridge Fund and subsequently exchanging those shares at net asset value for shares of one of the Funds.

Section 6(c) provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 23, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10338 Filed 5-3-74;8:45 am]

[Release No. 34-1760]

REPORTS ON COMPLETED TRANSACTIONS

Revised Plans

The Securities and Exchange Commission announced today that on April 22, 1974 the New York, American, Midwest, PBW and Pacific Stock Exchanges and the NASD filed a revised joint plan (the "Revised Plan") with the Commission pursant to Rule 17a-15 under the Securities Exchange Act of 1934, providing for reporting of prices and volume of completed transactions with respect to securities listed on exchanges. The Revised Plan will be available for public inspection in the Commission's public reference room. The Revised Plan was filed in response to the Commission's letter of March 8, 1974 to the Revised Plan's sponsors[1] containing the Commission's definitive comments on the joint consolidated tape plan as originally filed on March 2, 1973.

(Secs. 10(b), 15(c), 17(a), 23(a), 48 Stat. 891, 895, 897, 901, 49 Stat. 1377, 1379, 52 Stat. 1075, 1078, 78 Stat. 570, 84 Stat. 1653 (15 U.S.C. 78j(b), 78o(c), 78q, 78w))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 26, 1974.

[FR Doc.74-10337 Filed 5-3-74;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Notice of Suspension of Trading

APRIL 29, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (classes A and B), the cumulative preferred stock (5% and 6%), the 6% subordinated debentures due 1979 and the 6½% convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from April 30, 1974 through May 9, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10339 Filed 5-3-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 501]

ASSIGNMENT OF HEARINGS

MAY 1, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after May 6, 1974.

MC 136384 Sub 2, Palmer Motor Express, Inc., now assigned June 17, 1974, at Charleston, S.C., is postponed to July 15, 1974, at Charleston, S.C., in a hearing room to be later designated.

MC-127872, Greenfield and Montague Transportation Area, now being assigned hearing July 16, 1974 (2 days), at Springfield, Mass., in a hearing room to be later designated.

MC-C-8213, W. F. Buckley Co., Inc., Graf Bros., Inc., Cole's Express, A Corp., Auclair Transportation, Inc., and Spear Trucking Corp.—Investigation of Operations and Revocation of Certificates, now being assigned hearing July 18, 1974 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC-113651 Sub 161, Indiana Refrigerator Lines, Inc., now being assigned hearing July 22, 1974 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC-F-11442, K. G. Moore, Inc.—Purchase—Fleming's Express, Inc., MC-126102, Ander-

[1] Securities Exchange Act Release No. 10671.

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son Motor Lines, Inc., now being assigned hearing July 24, 1974 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC-F-11995, H. P. Welch Co., and Maislin Transport LTD—Purchase (Portion)—The National Transportation Co., now assigned May 13, 1974, at Boston, Mass., is postponed indefinitely.

I&S No. 8934, Insulating Materials, Southern, Official & Western Territories, now being assigned hearing June 25, 1974, at the offices of the Interstate Commerce Commission, Washington, D.C.

I&S M 26045, General Increase, July 1972, Central & Southern Territory, now being assigned hearing June 11, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11916, All-American, Inc.—Purchase (Portion)—Russell Transportation, Inc., now assigned June 17, 1974; MC-C-8277, Cedar Rapids Steel Transportation, Inc.—Investigation and Revocation of Certificates—now assigned June 24, 1974; and MC 124211 Sub-233, Hilt Truck Line, Inc., now assigned June 26, 1974, at Omaha, Nebraska, will be held in Room 616, Union Pacific Plaza, 14th and Dodge.

MC 99610 Sub 17, Ross Neely Express, Inc., now being assigned hearing June 11, 1974 (9 days), in the Holiday Inn Motel, Junction of U.S. Highways 78 and 45, Tupelo, Miss.

MC 84687 Sub 2, Veterans Truck Line, Inc., now assigned May 20, 1974, at Chicago, Ill., will be held in Room 705, 536 South Clark Street.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10349 Filed 5-3-74;8:45 am]

ENVIRONMENTAL THRESHOLD ASSESSMENT SURVEY

Processing of Railroad Abandonment Applications

MAY 1, 1974.

The Interstate Commerce Commission hereby gives notice that it, with the assistance of The Mitre Corporation, has developed specific steps to facilitate implementation of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (NEPA), in its processing of railroad abandonment applications. These steps include a threshold assessment survey and an assessment manual designed to enable the effective analysis of the environmental impacts of proposed abandonments. Based on a staff preparation of an environmental threshold assessment survey concerning a proposed abandonment action, the determination can be made as to whether a particular abandonment, if approved by this Commission, would constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the NEPA. In abandonment cases where the threshold assessment survey reaches an affirmative determination of this matter, a detailed environmental impact statement, pursuant to section 102(2)(c) of the NEPA, will be prepared by this Commission's staff.

Copies of the Environmental Threshold Assessment Survey and the assessment manual are available for public inspection upon request at the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

To aid in the preparation of an Environmental Threshold Assessment, this Commission requests that all applicants provide the following supplemental information for each abandonment application pending before the Commission:

1. A description, in narrative form, of the contemplated action, including the involvement of other railroads and related abandonment, construction, or trackage rights applications.

2. Number of acres in the right-of-way proposed for abandonment and railroad property appurtenant thereto.

3. Whether the applicant is contemplating the filing in the near future, of any additional abandonment applications which will have a direct effect on the same geographic region as that involved in the pending application. Applicant should include an analysis of the manner in which the line to be abandoned fits in both with its overall operations and the available transportation service in or through the affected area.

4. The number, type, and location, including a description, of all bridges, culverts, and grade crossings, or any other structure on the line.

5. Specify the exact plans for salvage operations, including the removal or sale of rail and ties, and the plans for removal of bridges and all structures. Also indicate what steps will be taken to avoid the creation of public safety hazards as a result of salvage operations.

6. Indicate any Federal, State, or local laws or ordinances relating to salvage operations.

7. Specify the nature of ownership of the underlying right-of-way. Indicate any specific plans for the property made available for disposition by the abandonment.

8. Describe current land use in the area directly adjacent to the line and in the tributary territory.

9. State what property taxes have been paid to the involved local communities in the last 2 calendar years.

The primary and nondelegable responsibility for fulfilling the mandate of the NEPA in abandonment cases rests with this Commission. Applicants are requested, however, to submit the above information regarding the background and particulars of a proposed abandonment. Information received from an applicant (or any other person) will be verified and supplemented by this Commission's staff. It is the Commission's exclusive responsibility to determine what the potential environmental impacts are and whether or not these foreseeable impacts are significant within the meaning of the NEPA, and in no way do the above-described procedures alter this fact.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10352 Filed 5-3-74;8:45 am]

[Notice 73]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by Division 3 of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 5, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35455. By order entered April 24, 1974, Division 3, acting as an Appellate Division, approved the lease by R. C. Van Lines, Inc., Atlanta, Ga., of the operating rights set forth in Certificates Nos. MC-91053 and MC-91053 (Sub-No. 5), issued December 1, 1969, and September 24, 1971, respectively, to Trans-World Movers, Inc., Aurora, Colorado, authorizing the transportation of new furniture and emigrant movables, from, to, or between points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia; and general commodities, with specified exceptions, between Denver, Colo., and specified points in Colorado. Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, Mo. 64105, Attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10348 Filed 5-3-74;8:45 am]

[Notice 60]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 26, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9325 (Sub-No. 69 TA), filed April 18, 1974. Applicant: K LINES, INC., P.O. Box 1348, Lake Oswego, Oreg. 97034. Applicant's representative: Eugene A. Feise (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk fertilizers*, in tank or hopper-type equipment, from Port of Entry at Blaine, Wash., to points in Oregon, for 180 days. SUPPORTING SHIPPERS: Meeker Fertilizer Co., Inc., 1795 SE., 16th Street, Salem, Oreg. 97302; Woodburn Fertilizer & Grain, P.O. Box 7, Woodbur, Oreg. SEND PROTESTS TO: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 33426 (Sub-No. 3 TA), filed April 19, 1974. Applicant: FULLER TRANSPORTATION, INC., 1200 Shull Street, P.O. Box 198, West Columbia, S.C. 29169. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers*, from points in Charleston County, S.C., to points in Chatham County, Ga., for 180 days. SUPPORTING SHIPPER: Strachan Shipping Company, 5 Exchange Street, Charleston, S.C. SEND PROTESTS TO: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 302, 1400 Bldg., 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 38435 (Sub-No. 6 TA), filed April 18, 1974. Applicant: INTERURBAN AUTO FREIGHT COMPANY, INC., 523 Puyallup Avenue, Tacoma, Wash. 98421. Applicant's representative: W. H. Grady, 603 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, including Classes A and B explosives and household goods as defined by the Commission, (1) between Tacoma and Longmire, Wash., from Tacoma over Washington Highway 7 to Elbe, Wash., thence over Washington Highway 706 to Longmire, Wash. and return over the same route, serving all intermediate points; (2) between Tacoma and Ohanpecosh, Wash., from Tacoma over Washington Highway 7 to Morton and Kosmos, thence over Washington Highway 14 to Ohanapecosh, and return over the same route, serving all intermediate points; and (3) between Tacoma and Mossyrock, Wash., from Tacoma over Washington Highway 7 to Morton thence over Washington Highways 141 and 14 to Mossyrock and return over the same route, serving all intermediate points, for 180 days. SUPPORTING SHIPPERS: City of Morton, Box 67, Morton, Wash. 98356; Thrifty Drug Store, P.O. Box 38, Morton, Wash. 98356; Cascade Hardware, 131 Main St., Morton, Wash. 98356; Morton Supply & Equip. Inc., P.O. Box 488, Morton, Wash. 98356; Cascade Logger Supply, 132 Main Street, Morton, Wash. 98356; and Mountain Realty, Box 122, Morton, Wash. 98356. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 48958 (Sub-No. 122 TA), filed April 15, 1974. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Morris G. Cobb, P.O. Box 9050 (601 Ross Street), Amarillo, Tex. 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Colorado, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, New Mexico, Arizona, California, and Nevada, restricted to traffic originating at, and destined to, the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 63417 (Sub-No. 62 TA), filed April 18, 1974. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, 1814 Hollins Road NE., P.O. Box 2888, 24001, Roanoke, Va. 24012. Applicant's representative: Nancy Pyeatt, 1030 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shower bath stalls and parts and accessories therefor*, from Monroe, Ohio, to points in Alabama, Delaware, Georgia, Kentucky, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Powers Fiat Corporation, One Michael Court, Plainview, N.Y. 11803. SEND PROTESTS TO: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 66124 (Sub-No. 8 TA), filed April 18, 1974. Applicant: PACIFIC NORTHWEST MOTOR FREIGHT LINES, INC., 600 South Edmunds Street, Seattle, Wash. 98108. Applicant's representative: Stanley H. Barer, 1122 Denny Building, 2200 Sixth Avenue, Seattle, Wash. 98121. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* in cargo containers and/or cargo vans, and *empty cargo containers* and/or *empty cargo vans*, having a prior or subsequent movement by water, between Tacoma, Wash., and Portland, Oreg., including the intermediate point of Longview, Wash., for 90 days.

NOTE.—Applicant intends to tack the authority at Tacoma, Wash. SUPPORTING SHIPPERS: Matson Agencies, Inc., 720 Third Ave., Suite 1215, Seattle, Wash. 98104, and Pacific International Freightliners, Inc., Norton Building, Seattle, Wash. 98104. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 76065 (Sub-No. 23 TA), filed April 16, 1974. Applicant: EHRLICH-NEWMARK TRUCKING CO., INC., 505-509 West 37th Street, New York, N.Y. 10018. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies, and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between New York, N.Y., and points in New Jersey, on the one hand, and, on the other, Bridgewater, Christiansburg, Clifton Forge, Harrisonburg, Manassas, Farnassas, Suffolk, and Wytheville, Va., for 180 days. SUPPORTING SHIPPERS: Montgomery Ward & Co., New York, N.Y.; Metro Pants, Harrisonburg, Va.; Donn Kenny, Christiansburg, Va.; Shenandoah Textile, Inc., Parnassas, Pa.; and Jane Colby, New York, N.Y. SEND PROTESTS TO: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 76449 (Sub-No. 18 TA), filed April 18, 1974. Applicant: NELSON'S EXPRESS, INC., 675 N. Market Street, P.O. Box 312, Millersburg, Pa. 17061. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

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transporting: *General commodities* (except those of unusual value, Classes A and B explosives, and commodities contaminating to other lading), serving as off-route points, the terminal of Carolina Freight Carriers, Inc., at junction of U.S. Highway 11 and Interstate Highway 81 in Middlesex Township, near New Kingstown, Pa., and the terminal of Strickland Transportation Co., Inc., at or near New Kingstown, Pa., for interchange purposes only in connection with its regular route general commodity authority, for 180 days.

NOTE.—Applicant intends to tack all authority under Docket No. MC 76449. SUPPORTING SHIPPERS: Strickland Transportation Co., Inc., P.O. Box 5689, Dallas, Tex. 75222, and Carolina Freight Carriers Corporation, Cherryville, N.C. 28021. SEND PROTESTS TO: Robert P. Amerine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 228 Walnut Street, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 92068 (Sub-No. 11 TA), filed April 18, 1974. Applicant: MUTUAL TRANSPORTATION, INCORPORATED, President and Fleet Streets, Baltimore, Md. 21202. Applicant's representative: Walter T. Evans, 7401 Wisconsin Ave. NW., Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by department stores, from the facilities of Mutual Transportation, Inc., at Washington, D.C., to the store and facilities of the Woolco Department Store Division, F. W. Woolworth Company near Jefferson Davis Highway in Prince William County, Va., for 180 days. SUPPORTING SHIPPER: Mr. Roger Vesey, Regional Traffic Manager, F. W. Woolworth Company, 162 W. Chelton Ave., Philadelphia, Pa. 19144. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 95084 (Sub-No. 102 TA), filed April 17, 1974. Applicant: HOVE TRUCK LINE, a Corporation, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements and parts, attachments, and accessories* for agricultural machinery and implements, from Blackwell, Okla., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Speed King Manufacturing Co., Inc., P.O. Box 1438, Dodge City, Kans. 67801. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 103051 (Sub-No. 304 TA), filed April 18, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from Macon, Ga., to points in Wisconsin, for 180 days. SUPPORTING SHIPPER: The Proctor & Gamble Distributing Company, P.O. Box 599, Cincinnati, Ohio 45201. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 107515 (Sub–No. 901 TA3, filed April 12, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Rd. SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and/or confectionery and related products* (except in bulk) and (2) *Advertising matter, premiums and display materials* when shipped in the same vehicle with commodities described in (1) in vehicles with mechanical refrigeration, from the plantsite and warehouse facilities of M & M/Mars, division of Mars, Incorporated at Albany, Ga., to points in Arizona, California, Texas, Louisiana, Oregon and Utah, for 180 days. SUPPORTING SHIPPER: M & M/Mars, Division of Mars, Incorporated, High St., Hackettstown, N.J. 07840. SEND PROTESTS TO: William L. Scroggs, District Supervsior, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree St. NW., Room 309, Atlanta, Ga. 30309.

No. MC 112288 (Sub-No. 9 TA), filed April 19, 1974. Applicant: YARBROUGH TRANSFER COMPANY, a Corporation, 1500 Doune Street, Winston Salem, N.C. 27107. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning, air filtration, refrigeration, and humidifying equipment*, the transportation of which because of size or weight require the use of special equipment, from Winston-Salem, N.C., to points in Alabama, Georgia, Kentucky, Louisiana, Mississippi, Ohio, South Carolina, Tennessee, Texas, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: The Bahnson Company, P.O. Box 10458, Salem Station, Winston-Salem, N.C. 27108. SEND PROTESTS TO: District Supervisor Terrell Price, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Road, CC 516, Charlotte, N.C. 28205.

No. MC 112304 (Sub-No. 79 TA), filed April 3, 1974. Applicant: ACE DORAN HAULING & RIGGING CO., a Corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: Carl M. Doran (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, other than truck, self-propelled, from the plant site and warehouse facilities of Allis-Chalmers Corp., located at or near Milwaukee, Wis., to Birmingham, Huntsville, Selma, Cullman, Robertsdale, Athens, Jasper, Sylacauga, and Northport, Ala.; West Memphis, Walnut Ridge, Wilmot, and Dumas, Ark.; Shelbyville and Stanton, Del.; Miami, Jacksonville, Orlando, Gainesville, Okeechobee, Trenton, New Port Richy, Ocala, Lynnhaven, Lake Worth, Tallahassee, Marianna, Eustis, and Palmetto, Fla.; Columbus, Rome, Athens, Albany, Claxton, Baxley, Moultrie, Thomasville, Dalton, La Grange, Sylvania, Atlanta, Waycross, Louisville, Elberton, and Dublin, Ga.; Gibson City, Springfield, Champaign, Danville, Peoria, Shelbyville, Martinsville, Macon, Havana, Effingham, Macomb, Greenville, Benton, Carrollton, Belleville, Carmi, Olney, Jacksonville, Pinckneyville, Carlyle, Litchfield, Paris, and Pittsfield, Ill.; Evansville, Indianapolis, Muncie, Peru, Lafayette, La Porte, Bloomington, Jeffersonville, Cloverdale, Columbus, Elkhart, Madison, Bedford, Marion, Richmond, Frankfort, Corydon, Jasper, Brownstown, Plymouth, Winnamac, Rensselaer, and Kokomo, Ind.; Wheatley, Franklin, Louisville, Owensboro, West Somerset, Henderson, Mayfield, Tompkinsville, Albany, Mt. Sterling, Hopkinsville, Glasgow, Danville, Paris, Campbellsville, Elizabethtown, and Barlow, Ky.; Lafayette, Abbeville, Plaquemine, De Ridder, Oakgrove, Wildsville, Jeanerette, New Roads, Winnsboro, Franklinton, and Kentwood, La.; Frederick, Salisbury, Easton, Westminster, Upper Marlboro, Bel Air, Denton, and Chestertown, Md.; Stanton, Kalamazoo, Battle Creek, Ann Arbor, Niles, Albion, Traverse City, Jackson, Adrian, Kaw Kawlin, Gladwin, Petoskey, Port Huron, White Pigeon, Zeeland, Oxford, Paw Paw, St. John's, Keego Harbor, Standish, Onondaga, Imlay City, South Rockwood, West Branch, North Branch, Charlotte, Greenville, Fowlerville, and Corunna, Mich.; Yazoo City, Jackson, Hattiesburg, Columbia, Hollandale, Indianola, McComb, Macon, Battesville, and Lucedale, Miss.; St. Louis, Sedalia, Kansas City, Cape Girardeau, St. Joseph, Hannibal, Jefferson City, Kirksville, St. Genevieve, Carrollton, Columbia, East Prairie, Hawk Point, Bolivar, Bethany, Sikeston, Brookfield, Boonville, Macon, O'Fallon, Poplar Bluff, Anderson, Clinton, and Carthage, Mo.; Oakland, Middletown, Somerville, Bordentown, Egg Harbor City, Elmer, Hightstown, Mendham, Upper Saddle River, Frenchtown, and Flemington, N.J.; Schenectady, Rome, Newark, N. Tonawanda, Oneida, Corning, Lockport, Auburn, Hornell, Fulton, Tully, and Munnsville, N.Y.; Raleigh, Winston-Salem, Fayettesville, Greensboro, Rocky Mount, Welcome, and Spencer, N.C.; Dayton, Toledo, Akron, Columbus, Cincinnati, Cleveland, Zanesville, Chillecothe, Liberty Center, Marion, Payne, Wilmington, Edgerton, Reedsville, Bellefontaine, Elyria, Newark, and Batavia, Ohio; Oklahoma City, Enid, Seminole, Stroud, Medford, Buffalo, Okeene, Guthrie, and Woodward, Okla.; Erie, Lancaster, Washington, Greensburg, Johnstown, Sharon, Natrona Heights, Beaver Falls, Waynesboro, Titusville, East Berlin, Ephrata, Palmerton, Annville, Milroy, Uniontown,

Carlisle, and Meadville, Pa.; Anderson, Orangeburg, Conway, Gaffney, Lena, Holly Hill, and Fountain Inn, S.C.; Chattanooga, Memphis, Johnson City, Milan, Cleveland, Fayetteville, Franklin, Philadelphia, Ripley, Dickson, Shelbyville, Greenville, Dyersburg, Lebanon, Paris, and Springfield, Tenn.; Fort Worth, Houston, Waco, Amarillo, Lubbock, Abiline, San Antonio, Victoria, Gainesville, Memphis, Alvorado, Seminole, Gruver, White Deer, and Floydada, Tex.; Galax, Chesapeake, Richmond, Charlottesville, Fredericksburg, Manassas, Salem, Altavista, and Abingdon, Va.; Huntington, Keyser, Beckley, Lewisburg, Pennsboro, and Moorefield, W. Va., for 180 days. SUPPORTING SHIPPER: Allis-Chalmers Corporation, P.O. Box 512, Milwaukee, Wis. 53201. SEND PROTESTS TO: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 112520 (Sub-No. 283 TA), filed April 17, 1974. Applicant: MCKENZIE TANK LINES, INC., New Quincy Road, P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alkyd-resins, paint material and paint plasticizers*, from points in Columbia County, Fla., to points in Louisiana, Mississippi, and Tennessee, for 180 days. SUPPORTING SHIPPER: Cargill, Inc., Chemical Products Div., Cargill Bldg., Minneapolis, Minn. 55402. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 112595 (Sub-No. 57 TA), filed April 18, 1974. Applicant: FORD BROTHERS, INC., Mail: P.O. Box 727, Ironton, Ohio 45638 and Off: 510 Riverside Dr., Coal Grove, Ohio 45638. Applicant's representative: Walter Dial (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcined anthracite coal*, in dump trucks, from Natrium, W. Va. to Sebree, Ky., for 180 days. SUPPORTING SHIPPER: Anaconda Aluminum Company, P.O. Box 44, Henderson, Ky. 42420. SEND PROTESTS TO: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 112963 (Sub-No. 52 TA), filed April 17, 1974. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils and products of animal and vegetable oils*, in bulk, in tank vehicles, from Quincy, Mass., to points in New York, for 180 days. SUPPORTING SHIPPER: Procter & Gamble Distributing Co., P.O. Box 599, Cincinnati, Ohio. SEND PROTESTS TO: District Supervisor D. W. Hammons, Interstate Commerce Commission, Bureau of Operations, 150 Causeway St., 5th Floor, Boston, Mass. 02114.

No. MC 113362 (Sub-No. 275 TA), filed April 15, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County). to points in Maryland, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, restricted to traffic originating at and destined to the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 West Center Road., Omaha, Nebr. 68106. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 115311 (Sub-No. 166 TA), filed April 18, 1974. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, tubing, conduits, molding, valves, fittings, siding, compounds, joint sealer, bonding cement, and accessories and materials* used in the installation thereof, from points in Thomas County, Ga., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Mississippi, and Tennessee, for 180 days. SUPPORTING SHIPPER: Davis Water & Waste Industries, Inc., P.O. Box 1419, Thomasville, Ga. 31792. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 116947 (Sub-No. 30 TA), filed April 3, 1974. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, Ga. 30310. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road NW., Atlanta, Ga. 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans and can ends*, from the plantsite of Ball Corporation in or near Williamsburg, Va., to the plantsite and/or warehouse facilities utilized by Anheuser-Busch in or near Jacksonville, Fla., for 180 days. SUPPORTING SHIPPER: Jeffco Manufacturing Co., doing business as Ball Corporation, P.O. Box 2407, Muncie, Ind. 47302. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree St. NW., Atlanta, Ga. 30309.

No. MC 117878 (Sub-No. 5 TA), filed April 18, 1974. Applicant: DWIGHT CHEEK, doing business as DWIGHT CHEEK TRUCKING, 2909 S. Pierce St., Box 1882, Amarillo, Tex. 79105. Applicant's representative: Dwight Cheek (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I 61 M.C.C. 209 and 766, from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, North Carolina, South Carolina, and California, for 180 days. SUPPORTING SHIPPER: Ralph L. McGee, General Traffic Manager, American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. 68106. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H–4395, Herring Plaza, Amarillo, Tex. 79101.

No. MC 118400 (Sub-No. 4 TA), filed April 18, 1974. Applicant: WANDO PRODUCE CO., 60 Romney Street, Charleston, S.C. 29403. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Georgetown, S.C., to Charlotte, N.C.; Goldsboro, N.C.; Hickory, N.C.; Winston-Salem, N.C.; Raleigh, N.C.; Columbia, S.C.; Greenville, S.C.; and Richmond, Va., and their respective commercial zones, for 180 days. SUPPORTING SHIPPER: Castle & Cooke Foods, Inc., 202 Azar Bldg., Glen Burnie, Md. 21061. SEND PROTESTS TO: E. E. Strothfeld, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 119293 (Sub-No. 3 TA), filed April 17, 1974. Applicant: DIAL TRANSFER, INC., 8452 Pillsbury Avenue South, Minneapolis, Minn. 55420. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated casket shells and uncrated burial cases* (coffins or caskets), from Minneapolis and Duluth, Minn., and their respective commercial zones, to points in Montana, for 180 days. SUPPORTING SHIPPERS: Batesville Casket Company, Inc., Batesville, Ind. 47006, and Minneapolis Casket Company, Inc., 2125 E. Hennepin Ave., Minneapolis, Minn. SEND PROTESTS TO: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 126477 (Sub-No. 3 TA), filed April 16, 1974. Applicant: JET AIR

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FREIGHT & PARCEL DELIVERY, INC., R.R. #4, Baer Field Terminal, Fort Wayne, Ind. 46809. Applicant's representative: Richard D. Logan, 1435 Lincoln Bank Tower, Fort Wayne, Ind. 46802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk and commodities requiring special equipment), having an immediately prior or subsequent movement by air, between points in Kosciusko County, Ind., on the one hand, and, on the other, O'Hare International Airport at or near Chicago, Ill. SUPPORTING SHIPPERS: There are approximately 8 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 127468 (Sub-No. 9 TA), filed April 17, 1974. Applicant: LTD, INC., 3250 South Western Ave., Chicago, Ill. 60608. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances and equipment and materials and supplies* used in the manufacture, sale, and distribution of electrical appliances and equipment, (1) between Chicago, Ill.; Dumas, Ark.; Forest, Miss.: Coushatta, La.; Waynesboro, Miss.; Elkin, N.C.; Denmark, S.C.; Manning, S.C.; Dayton, Tenn.; Knoxville, Tenn.; McMinnville, Tenn.; and Milwaukee, Wis., on the one hand, and, on the other, points in Orangeburg County, S.C. and Atlanta, Ga., and (2) between points in Orangeburg County, S.C., on the one hand, and, on the other, Atlanta, Ga., for 180 days. SUPPORTING SHIPPER: Mr. Neil F. Cunningham, Traffic Manager, Sunbeam Corporation, 5400 West Roosevelt Rd., Chicago, Ill. 60650. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations. Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 127505 (Sub-No. 65 TA), filed April 16, 1974. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINES, Route 2, Mendota, Ill. 61342. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Freight of all kinds* (except articles of extraordinary value, Classes A and B explosives as described in Motor Carrier's Explosives, and dangerous articles Tariff ICC ATA 111 series, commodities in bulk, commodities injurious or contaminating to other lading, commodities requiring special equipment, household goods, used, or personal effects, and livestocks), from Cleveland, Ohio, to Chicago, Ill., restricted to the transportation of shipments originating at the facilities of Merchant Shippers, Stor Dor Freight System, Inc., and Westland Forwarding Co., at Cleveland, Ohio, and destined to similar facilities or railroad "Piggy Back" facilities located in Chicago, Ill., on traffic destined beyond, for 180 days. SUPPORTING SHIPPERS: Edward A. Douglas, Vice President, Merchant Shippers, 1601 South Western Avenue, Chicago, Ill. 60608; Douglas H. Wright, Executive Vice Pres. Stor Dor Freight System, Inc., 617 No. Mission Road, Los Angeles, Calif. 90033. SEND PROTESTS TO: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 127539 (Sub-No. 34 TA), filed April 18, 1974. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, Wash. 98421. Applicant's representative: George R. LaBissoniere, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tortillas and taco shells*, not frozen, when moving in vehicles equipped with mechanical refrigeration, from the plantsite of Toltec Foods, Richmond, Calif., to points in Oregon and Washington, for 180 days. SUPPORTING SHIPPER: Toltec Foods, Inc., 2400 Florida Avenue, Richmond, Calif. 94804. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Bldg., Seattle, Wash. 98104.

No. MC 128007 (Sub-No. 62 TA), filed April 19, 1974. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Dr., Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Dearborn, Mich., to Parsons, Kans., for 180 days. SUPPORTING SHIPPER: TecTank Inc., Parsons, Kans. 67357. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Bldg., Wichita, Kansas 67202.

No. MC 128030 (Sub-No. 64 TA), filed February 8, 1974. Applicant: THE STOUT TRUCKING COMPANY, INC., P.O. Box 177, R.R. #1, Urbana, Ill. 61801. Applicant's representative: R. C. Stout (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures therefor*, from the plantsite of Midland Glass Co., Inc., Terre Haute, Ind., to points in Kentucky, Missouri, and Tennessee, for 180 days. SUPPORTING SHIPPER: James V. J. Jones, Manager of Transportation, Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Chicago, Ill. 60604.

No. MC 128659 (Sub-No. 5 TA), filed April 19, 1974. Applicant: ORBITAL TRANSPORT, INC., 2649 Karen St., Bellmore, N.Y. 11710. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles*, from North Bergen, Millville, Freehold, and Wharton, N.J., and Orangeburg, N.Y., to Garden City and Patchogue, N.Y., for 180 days. SUPPORTING SHIPPER: PepCom Industries, Inc., Roosevelt Field, Garden City, N.Y. 11530. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 128746 (Sub-No. 15 TA), filed April 18 , 1974. Applicant: D'AGATA NATIONAL TRUCKING CO., 3224-44 South 61st, Philadelphia, Pa. 19153. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material*, from Baltimore, Md., to points in Indiana, Ohio, Michigan, Kentucky, and Tennessee, for 180 days. SUPPORTING SHIPPER: National Brewing Co., 22 N. Calvert St., Baltimore, Md. 21202. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 128988 (Sub-No. 46 TA), filed April 17, 1974. Applicant: JO/KEL, INC., 159 South Seventh Avenue, P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic rolls, sheets, trays, and forms*, from City of Industry, Calif., to Brentwood, Garden City, Latham, and Brooklyn, N.Y., Chicago, Elk Grove Village, and Champaign, Ill.; Cleveland, Ohio; Beaver Heights, Md.; New Brunswick, East Paterson, Lebanon, Plainfield, Totowa, Linden, Garfield, and South Brunswick, N.J.; Middleton, Framingham, Lawrence, and Needham, Mass., for 180 days. RESTRICTION: The operations sought herein are subject to the following conditions: Restricted against the transportation of commodities in bulk or those which by reason of size or weight require the use of special equipment and the authority sought is further restricted to a transportation service to be performed under a continuing contract or contracts with A & E Plastik Pak Co., Inc., its divisions and subsidiaries. SUPPORTING SHIPPER: A & E Plastik Pak Co., Inc., 14505 Proctor Avenue, Box 1268, City of Industry, Calif. 91749. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 133478 (Sub-No. 12 TA), filed April 17, 1974. Applicant: HEARIN TRANSPORTATION, INC., 8565 SW. Beaverton, Hillsday Hiway, P.O. Box 25448, Portland, Oreg. 97225. Applicant's representative: Nick I. Goyak, 404 Oregon National Bldg., Six Ten Southwest Alder, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefinished paneling and wood and plywood materials* for the account of DG Shelter Products Co., from plantsite in Jacksonville, Fla., to points in North Dakota, South Dakota, Nebraska, Kansas, and Oklahoma, and (2) *Building materials and mill machinery* for the account of DG Shelter Products Co., between plantsites at Jacksonville, Fla.; Marion, Va.; Harrisburg, Oreg.; and Beaverton, Oreg., for 180 days. SUPPORTING SHIPPER: DG Shelter Products Co., One Maritime Plaza, San Francisco, Calif. 94111. SEND PROTESTS TO: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oregon 97204.

No. MC 135519 (Sub-No. 3 TA), filed April 17, 1974. Applicant: GEORGE B. SAMAC AND ANTHONY G. AYALA, doing business as QUEEN CITY TRUCKING, 2618 South DeLappe Place, Seattle, Wash. 98144. Applicant's representative: George R. Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Seattle and Tacoma, Wash., and Portland, Oreg., to Spokane, Wash., and points in Idaho and Montana; (2) *Scrap metal and pipe*, from points in Idaho and Montana, to Seattle, Wash., and Portland, Oreg.; and (3) *Hides*, green and salted, from points in Montana, Idaho, and Washington to Seattle and Tacoma, Wash., and Portland, Oreg., for 180 days. SUPPORTING SHIPPERS: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Bldg., Seattle, Wash. 98104.

No. MC 136464 (Sub-No. 5 TA), filed April 19, 1974. Applicant: CAROLINA WESTERN EXPRESS, INC., Off.: 650 Eastwood Drive, Mlg.: P.O. Box 3961, Gastonia, N.C. 28052. Applicant's representative: John R. Sims, Jr., Suite 600, 1707 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Zippers, finished and/or semifinished, sewing thread on spools, cotton or nylon, binding, braid, lace, tape, webbing, ribbon, NOI*, in package units of less than 24 continuous yards, from the facilities of Talon Division of Textron in Mecklenburg County, N.C., to Port Hueneme, Calif., and the warehouse facility of Talon Division of Textron, located at or near Los Angeles, Calif., for 180 days.

NOTE.—Application is for additional origin point and would like to be tacked to present authority. SUPPORTING SHIPPER: Talon Division of Textron, Hovis Road, Stanley, N.C. SEND PROTESTS TO: District Supervisor Terrell Price, Interstate Commerce Commission, Bureau of Operations, Suite CC516, 800 Briar Creek Road, Charlotte, N.C. 28205.

No. MC 136504 (Sub-No. 1 TA), filed April 16, 1974. Applicant: COLORADO-WYOMING TRANSFER CO., INC., Box 4158 Santa Fe Station, Wheat Ridge, Colo. 80204. Applicant's representative: Roger Sollenbarger, 9580 West 14th Ave., Lakewood, Colo. 80215. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel products*, from, to, or between the following points or described areas from the warehouse and storage facilities of Gate City Steel Corporation of Denver, Colo., to points in Wyoming, points in Montana on and south of a line beginning on the west at the Montana-Wyoming border on Highway U.S. 212, via U.S. 212 via Billings, thence to Broadus, thence to the point on the Montana-Wyoming border where U.S. 212 exits into Wyoming, points in South Dakota on and west of a line beginning on the north of the South Dakota-Wyoming border on Highway U.S. 212, via U.S. 212 to Newell, thence via South Dakota Highway 79 to Hot Springs, thence via U.S. Highway 18 to the South Dakota-Wyoming border, for 180 days. SUPPORTING SHIPPER: Gate City Steel Corporation, 5500 Colorado Blvd., Commerce City, Colo. 80022. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 136752 (Sub-No. 2 TA), filed April 16, 1974. Applicant: MARAUDER MARINE CORPORATION, 7826 Bellingham Avenue, North Hollywood, Calif. 91605. Applicant's representative: David P. Christianson, 825 City National Bank Bldg., 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boats, supplemental equipment and accessories*, between Los Angeles County, Calif., on the one hand, and, on the other, points in the United States, except Alaska and Hawaii, for 180 days. SUPPORTING SHIPPER: Catalina Yachts, Inc., Sale & Transportation Manager, 8211 Lankershim Blvd., North Hollywood, Calif. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Bureau of Operations, Interstate Commerce Commission, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 136818 (Sub-No. 4 TA), filed April 15, 1974. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, Suite 312, 4040 East McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soil amendments, potting soil, planter mix, and bark*, when moving in mixed shipments with these commodities, from Fredonia, Ariz., to points in California, New Mexico, Texas, Oklahoma, Colorado, Utah, Nevada, and Kansas, for 180 days. SUPPORTING SHIPPER: Kaibab Industries, P.O. Box 20506, Phoenix, Ariz. 85036. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 138391 (Sub-No. 1 TA), filed April 16, 1974. Applicant: FRED A. PERELLA, 340 39th Street, Pittsburgh, Pa. 15201. Applicant's representative: John A. Pillar, 1122 Frick Building, Pittsburgh, Pa. 15201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream cones and wafers, paper and plastic cups, containers, straws and lids, and equipment, materials, and supplies used in the production and sale thereof*, between the facilities of Keystone Cone Company, Inc., located in the Borough of Greentree, Allegheny County, Pa., on the one hand, and, on the other, Charlotte, N.C., Chicago, Ill., Baltimore, Md., Boston, Mass., Detroit, Mich., Fair Lawn, N.J., Cincinnati, Ohio, and points in Ohio on and east of Ohio Route 83 from Avon Lake, Ohio, to the Intersection of Ohio Route 83 and Ohio State Route 60 and on and east-of Ohio State Route 339 from Beverly, Ohio, to the Ohio-West Virginia State Line, points in West Virginia on and north of U.S. Route 50 and Brooklyn, N.Y., and points in New York on and west of U.S. Route 11, for 180 days. SUPPORTING SHIPPER: Keystone Cone Company, Inc., 601 Mansfield Ave., Pittsburgh, Pa. 15205. SEND PROTESTS TO: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Fed. Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 138530 (Sub-No. 12 TA), filed April 18, 1974. Applicant: C.O.P. TRANSPORT, INC., 307 South High Street, Cortland, Ohio 44410. Applicant's representative: Warren R. Keck III, 28 South Second Street, Greenville, Pa. 16125. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copper and copper alloys*, viz other than perforated or silver plated, plate and strip, scrap and scrap copper alloy, loose or in containers, coils, bars drawn, rolled or extruded, between the plant site of Hussey Metals Division/Copper Range Company, Leetsdale, Pa., on the one hand, and between the plant site of Batesville Casket Company, Inc., Batesville, Ind., on the other, for 180 days. SUPPORTING SHIPPER: Hussey Metals Division/Corper Range Co., Leetsdale, Pa. 15056. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

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No. MC 138530 (Sub-No. 13 TA), filed April 19, 1974. Applicant: C.O.P. TRANSPORT, INC., 307 South High Street, P.O. Box 85, Cortland, Ohio, 44410. Applicant's representative: Warren R. Keck III, 28 South Second Street, Greenville, Pa. 16125. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, strip mining, walking drag lines, mining and construction excavator shovels, stripping shovels, blast hole drills, steel forgings, castings, machinery parts, walking drag line parts, mining dnd excavator shovel parts, drill parts and accessories thereof, iron and steel* used in the manufacture of above parts and *vendor products* used in the manufacture and processing of products above-described commodities, between the plant site of Marion Power Shovel Co., Inc., Marion, Ohio, to points in Indiana, Illinois, Wisconsin, Minnesota, and Michigan, for 180 days. SUPPORTING SHIPPER: Marion Power Shovel Company, Inc., 617 West Center Street, Marion, Ohio 43302. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 138635 (Sub-No. 12 TA), filed April 19, 1974. Applicant: CAROLINA WESTERN EXPRESS, INC., Off: 650 Eastwood Drive, Mlg: P.O. Box 3961, Gastonia, N.C. 28052. Applicant's representative: David L. Bayne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, in tank vehicles, commodities requiring special equipment, and household goods as defined by the Commission), from Charlotte, N.C., to Memphis, Tenn., restricted to traffic tendered by freight forwarders subject to Part IV of the Interstate Commerce Act, for 180 days. SUPPORTING SHIPPER: ABC-Trans National Transport, Division of National Carloading Corp., 201 Eleventh Ave., New York, N.Y. 10001. SEND PROTESTS TO: District Supervisor Terrell Price, 800 Briar Creek Road, Suite CC516, Interstate Commerce Commission, Bureau of Operations, Charlotte, N.C. 28205.

No. MC 139023 (Sub-No. 1 TA), filed April 17, 1974. Applicant: GERALD GORDON GOGIN, doing business as GOGIN TRUCKING, North 16 W 24990, Highway JJ, Pewaukee, Wis. 53072. Applicant's representative: Stanley C. Olsen, Jr., 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures thereof*, from the plantsite of Midland Glass Company at or near Shakopee, Minn., to Milwaukee, Wis., for 180 days. SUPPORTING SHIPPER: Midland Glass Co., P.O. Box 69, Valley Industrial Park, Minn. 55379 (Russell J. Barto, Finishware Superintendent). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 139033 (Sub-No. 1 TA), filed April 17, 1974. Applicant: CRT, INCORPORATED, Shamburger Lane, P.O. Box 2474, Little Rock, Ark. 72203. Applicant's representative: Michael G. Thompson, 1100 Boyle Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Emulsified asphalt*, in bulk, in tank vehicles, from West Memphis, Ark., to points in Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, Pemiscot, New Madrid, Ripley, Scott, Stoddard, and Wayne Counties, Mo., for 180 days. SUPPORTING SHIPPERS: Ben M. Hogan Company, Inc., P.O. Box 2860, Little Rock, Ark. 72203; Butler County Asphalt, P.O. Box 68, Neelyville, Mo. 63954; J. W. Githens Company, 501 North Tenth Street, Poplar Bluff, Mo. 63901. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 139624 (Sub-No. 1 TA), filed April 18, 1974. Applicant: J. J. MINNEHAN, INC., P.O. Box 369, Rockingham Road, Bellows Falls, Vt. 05101. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water*, in bulk, in tank vehicles, from Middleborough, Mass., to Goshen, N.Y., for 180 days. SUPPORTING SHIPPER: Natural Spring Water Co., Inc., 200 Park Avenue, New York, N.Y. 10017. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 139668 (Sub-No. 1 TA), filed April 17, 1974. Applicant: ERNEST ALLEN, JR. AND EARL ALLEN, doing business as ALLEN COAL CO., 351 Main Street, Nelsonville, N.Y. 10516. Applicant's representative: John J. Brady, Jr., 75 State St., Albany, N.Y. 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone*, from Patterson (Putnam County), N.Y., to Byram (Fairfield County), Conn., for 180 days. SUPPORTING SHIPPER: Patterson Materials Corp., Route 311, Patterson, N.Y. 12563. SEND PROTESTS TO: Robert A. Radler, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 139706 (Sub-No. 1 TA), filed April 17, 1974. Applicant: 77 TRANSPORT, INC., 870 "G" Street, Brawley, Calif. 92227. Applicant's representative: David P. Christianson, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, dry, in bulk, between points in Imperial County, Calif., restricted to traffic having a prior movement by rail, for 180 days. SUPPORTING SHIPPERS: Foster Milling, Inc., 3403 Casey Road, Brawley, Calif., and Snow Commodities Company, Inc., 505 Mission Street, South Pasadena, Calif. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 139709 TA, filed April 16, 1974. Applicant: DAVIS TRUCK SERVICE, INC., Route 2, Box 43, Jeanerette, La. 70544. Applicant's representative: James M. Field, Louisiana National Bank Bldg., Baton Rouge, La. 70801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Packaged carbon black in steamship, railroad or carrier containers and/or trailers*, from the port of New Orleans to Cities Service Company, Columbian Division, carbon black plant at Eola (near Bunkie), La., on Louisiana Highway 29 and to its Northbend carbon black plant near Franklin, La., on Louisiana Highway 317 and from said designated Cities Service Company, Columbian Div. carbon black plants, to the port of New Orleans, La. for export, and (b) *Empty railroad owned containers and/or trailers*, from the trailer on flat car railroad ramps at Meridian, Miss., to Cities Service's Columbian Div. carbon black plants at Eola (near Bunkie), La., on Louisiana Highway 29 and to its Northbend carbon black plant near Franklin, La., on Louisiana Highway 317, and *packaged carbon black in railroad or carrier owned containers and/or trailers*, from said designated Cities Service, Columbian Div. carbon black plants to the trailer on flat car ramps at Meridian, Miss., (2) (a) *Packaged carbon black in steamship, carrier containers, and/or trailers*, from the port of New Orleans to Cabot Corporation's carbon black plants at Tatecove (near Ville Platte), La., on Louisiana Highway 29 and Cabot (near Franklin), La., on Louisiana Highway 317, and from said designated Cabot Corporation's carbon black plants to the port of New Orleans for export, and (b) *Empty railroad owned containers and/or trailers*, from the trailer on flat car railroad ramps in New Orleans, to Cabot Corporation's carbon black plants at Tatecove (near Ville Platte), La., on Louisiana Highway 29 and at Cabot (near Franklin), La., on Louisiana Highway 317 and *packaged carbon black in railroad or carrier owned containers and/or trailers*, from Cabot Corporation's said designated carbon black plants to the trailer on flat car railroad ramps in New Orleans, La., for 180 days.

SUPPORTING SHIPPERS: (1) Cabot Corporation, 125 High Street, Boston, Mass. 02110, Mr. M. R. Roy, Manager Transportation Services, and (2) Cities Service Company, Columbian Div., 3200 West Market Street, Akron, Ohio 44313, Mr. John Riddell, Distribution Services Manager. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 139710 TA, filed April 17, 1974. Applicant: MICHAELSEN TRUCK LINE, INC., Box 115, Whittemore, Iowa 50598. Applicant's representative: Steven C. Schoenebaum, 1200 Register and Tribune Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, between points in Iowa, Minnesota, Wisconsin, and Nebraska, for 180 days. SUPPORTING SHIPPERS: Cargill, Inc., Nutrena Feed Division, Rowan, Iowa 50470; Agricor, 7400 Metro Blvd., Edina, Minn. 55435; FGDA—Soybean Processing Division, P.O. Box 1338, Mason City, Iowa 50401. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 139714 TA, filed April 17, 1974. Applicant: MIKE GRAY AND EDDIE GIBSON, doing business as GRAY BRO. PHILLIPS 66 WRECKER SERVICE, 1512 SE. 15th Street, Oklahoma City, Okla. 73129. Applicant's representative: Robert A. Miller, 760 First National Center, Oklahoma City, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Disabled and wrecked and replacement vehicles and other operable vehicles* (except trailers designed to be drawn by passenger automobiles and excluding transport of new vehicles to dealers for resale) by use of wrecker or tow truck equipment only, between points in Oklahoma, on the one hand, and, on the other, points in Texas, New Mexico, Missouri, Arkansas, Louisiana, Kansas, and Illinois, for 180 days. SUPPORTING SHIPPERS: T.I.M.E., Inc., Bob Clark, Reg. Maintenance Mgr., 1400 Skyline Drive, Oklahoma City, Okla.; United Engines, Inc., Sherman Brown, Adm. Parts & Services Mgr., 5555 W. Reno, Oklahoma City, Okla. 73107. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 139715 TA, filed April 18, 1974. Applicant: WAYNE HINCHLIFFE, Rte. 1, Box 161, Dayton, Wash. 99328. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and lumber products*, from points in Umatilla and Morrow Counties, Oreg., and from Lewiston, Idaho, and Dayton, Wash.; (2) *machinery consisting of bean pickers, farm tractors, and pickup trucks*, from points in Walla Walla and Columbia Counties, Wash., to points in Umatilla and Morrow Counties, Oreg.; from points in Umatilla and Morrow Counties, Oreg., to points in Franklin County, Wash., from points in Franklin County, Wash., to points in Idaho and from points in Kootenai and Twin Falls, Idaho, to points in Columbia and Walla Walla Counties, Wash.; and (3) *irrigation pipe and equipment*, between Lewiston, Idaho, and Portland, Oreg., on the one hand, and, on the other, points in Walla Walla County, Wash., for 180 days. SUPPORTING SHIPPERS: Columbia Cut Stock, Inc., 618 West Main, Dayton, Wash. 99328; K2H Farms, Incorporated, Star Route, Prescott, Wash. 99348; Green Giant Co., Box 26, Dayton, Wash. 99328. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Bldg., Seattle, Wash. 98104.

No. MC 139716 TA, filed April 18, 1974. Applicant: TEXAS NEBRASKA EXPRESS, INC., 3902 West South Omaha Bridge Road, Council Bluffs, Iowa 51501. Applicant's representative: Robert V. Dwyer, Jr., 1601 Woodmen Tower, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouse*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in California, Mississippi, Alabama, Georgia, Florida, Tennessee, North Carolina, South Carolina, Illinois, Kentucky, Michigan, Ohio, West Virginia, Virginia, Maryland, District of Columbia, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Vermont, New Hampshire, Massachusetts, and Maine, restricted to traffic originating at, and destined to, the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., Ralph L. McGee, General Traffic Mgr., 7000 W. Center Road, Omaha, Nebr. 68106. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, Suite 620 Union Pacific Plaza, Omaha, Nebr. 68102.

No. MC 139717 TA, filed April 18, 1974. Applicant: CARL R. SCHIAVONE, doing business as, THE D. & S. MESSENGER SERVICE, 669 Lowell St., Lawrence, Mass. 01840. Applicant's representative: Carl R. Schiavone (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Money, currency, and negotiable instruments*, from Lawrence, Mass., to Seabrook, N.H., from Seabrook, N.H., to Lawrence, Mass., from Seabrook, N.H., to Newburyport, Mass, from Newburyport, Mass., to Seabrook, N.H., for 180 days. SUPPORTING SHIPPER: The Zayre Corp., Framingham, Mass.; The DeMoulas Markets, Inc., 875 East St., Tewksbury, Mass. SEND PROTESTS TO: Max Gorenstein, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway St., Boston, Mass. 02114.

No. MC 139718 TA, filed April 19, 1974. Applicant: ALLAN DOW, doing business as DOW'S MAIN STREET CHEVRONS, 26 West Main Street, Fort Kent, Maine 04743. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Skidder*, used in the logging industry, between points in Aroostook and Penobscot Counties, Maine, and the port of entry between the United States/Canada at or near Fort Kent, Maine, for 180 days. SUPPORTING SHIPPER: Frank Martin's Son, Inc., Fort Kent Mill, Fort Kent, Maine 04743. SEND PROTESTS TO: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearle Street, Portland, Maine 04112.

MOTOR CARRIERS OF PASSENGERS

No. MC 3700 (Sub-No. 70 TA), filed April 19, 1974. Applicant: MANHATTAN TRANSIT COMPANY, U.S. Highway #46, Elmwood Park, N.J. 07407. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 10018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers in round trip special operations during the authorized racing season, beginning and ending at New York, N.Y., and extending to Penn National Race Course, Grantville, Pa., for 180 days. SUPPORTING SHIPPERS: Penn National Turf Course, Grantville, Pa. 17028, and Mountainview Racing Association, Grantville, Pa. 17028. SEND PROTESTS TO: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

By The Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10350 Filed 5-3-74;8:45 am]

[Notice 61]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 29, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965.

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These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 989 (Sub-No. 23 TA), (Correction), filed April 5, 1974, published in the FEDERAL REGISTER issue of April 19, 1974, and republished as corrected this issue. Applicant: IDEAL TRUCK LINES, INC., 912 North State Street, Norton, Kans. 67654. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading) (1) Between Kansas City, Mo. and Washington, Kans., from Kansas City, Mo. over Interstate Highway 29 to St. Joseph, Mo., thence over U.S. Highway 36 to Washington, Kans. and return over the same route serving the intermediate points of Marysville, Hiawatha, and Seneca, Kans., the off-route point of Sabetha, Kans. and serving St. Joseph, Mo. and the junction of U.S. Highways 75 and 36 as points of joinder only and (2) Between Kansas City, Mo. and Marysville, Kans., from Kansas City, Mo. over U.S. Highway 24 to the junction of U.S. Highway 77, thence over U.S. Highway 77 to Marysville, Kans. and return over the same route serving the intermediate point of Blue Rapids, Kans. and serving the junction of U.S. Highways 24 and 77 as point of joinder only, for 180 days.

NOTE.—Applicant states it does intend to tack with its authority in MC 989 Sub 13, and interline at Denver, Colo.; Kansas City, Mo.; and Omaha, Nebr.

SUPPORTING SHIPPER: There are approximately 34 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

NOTE.—The purpose of this republication is to add additional territory to part (1) of the application which was omitted in previous publication.

No. MC 100666 (Sub-No. 279 TA), filed April 19, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baffling*, from Ft. Myers, Fla., to points in Arizona, California, Louisiana, Oklahoma, Texas, and Utah, for 150 days. SUPPORTING SHIPPER: The Munters Corporation, P.O. Box 6428, Ft. Myers, Fla. 33301, Mr. J. A. Cavanagh. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 111729 (Sub-No. 433 TA), filed April 17, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, (NHP–PO) N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cut flowers, decorative greens, florist supplies, and seedlings*, moving at the same time and in the same vehicle with commodities, the transportation of which is subject to economic regulation, from West Chicago, Ill., to points in Iowa, Indiana, Kentucky, Wisconsin; Allegan, Barry Berrien, Branch, Cass, Calhoun, Kalamazoo, Kent, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, Mich.; Franklin, Jefferson, Lincoln, Perry, St. Charles, St. Francois, St. Genevieve, St. Louis, St. Louis City, Washington, and Warren Counties, Mo.; points in Ohio located on or west of U.S. Highway 75, for 90 days. SUPPORTING SHIPPER: Pan American Plant Co., Inc., 250 Town Road, West Chicago, Ill. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113828 (Sub-No. 217 TA), filed April 22, 1974. Applicant: O'BOYLE TANK LINES, INCORPORATED, Mfg.; P.O. Box 30006, Washington, D.C. 20014, Off: 5320 Marinelli Dr., Montrose Industrial Park, Rockville, Md. 20852. Applicant's Representative: William P. Sullivan, Federal Bar Building, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lithium ore*, in bulk, in tank vehicles, (1) from Kings Mountain, N.C., to points in Chesterfield County, Va., and (2) from points in Chesterfield County, Va., to points in Berkeley County, W. Va., for 180 days. SUPPORTING SHIPPER: W. Hollis Leith, Supervisor-Purchasing, Corning Glass Works, P.O. Box 709, Martinsburg, W. Va. 25401. SEND PROTESTS TO: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street & Constitution Avenue NW., Washington, D.C. 20423.

No. MC 115496 (Sub-No. 22 TA), filed April 9, 1974. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 23 South, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Finished gypsum board* (sheet rock painted, grooved or embossed, printed), from the plantsite of Champion Home Builders Co., Plains Products Division, at Plains, Ga., to points in Bushnell, Lake City, and Oneco, Fla.; Ridgeville, Breman, Elkhart, and Monroe, Ind.; Sherman, Miss.; Lillington, N.C.; Dryden, Reed City, and Imlay City, Mich.; Richfield Springs, Canastota, Sangerfield, and Kanona, N.Y.; Claysburg, Pa.; Henry, Tenn.; Honey Grove, Commerce, Buffalo, Wills Point, and Van Alstyne, Tex. and Mt. Jackson, Va., for 180 days. SUPPORTING SHIPPER: Champion Home Builders, Inc., Plains Products Division, P.O. Box 248, Plains, Ga. 31780. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 117940 (Sub-No. 125 TA), filed March 7, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, chocolate, cocoa, milk chocolate and/or cocoa compound, flavoring syrup, chocolate coating, and cocoa butter*, from Hershey Foods Corp. and its subsidiary, H. B. Reese Candy Co., Inc., Derry Township, Dauphin County, Hershey, Pa., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Hershey Foods Corporation, 19 East Chocolate Avenue, Hershey, Pa. 17033. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 128846 (Sub-No. 3 TA) (correction), filed March 7, 1974, published in the FEDERAL REGISTER issue of March 26, 1974, and republished as corrected this issue. Applicant: A. GUEBERT, INC., RR #2, Red Bud, Ill. 62278. Applicant's representative: Delmar O. Koebel, 109 West St. Louis Street, Lebanon, Ill. 62254. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough and unfinished lumber*, from the sawmill site of East Perry Lumber Co., Frohna, Mo., to points in Lake, Porter, and La Porte Counties, Ind., and points in the Chicago, Ill., commercial zone, for 180 days. SUPPORTING SHIPPER: Carroll Morris, President, Michigan Industrial Hardwood Co., 1851 Front Street, Whiting, Ind. 46394. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

NOTE.—The purpose of this republication is to correct the designation points.

No. MC 129932 (Sub-No. 4 TA), filed April 8, 1974. Applicant: R & C CORPORATION doing business as WHEEL ESTATE MOVERS, ¼ Mile Old Richardson Highway, Fairbanks, Alaska 99701. Applicant's representative: Joseph W. Sheehan, 208 Wendell Street, Fairbanks, Alaska 99701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses or buildings*, set up or in set up sections moving on wheeled undercarriages equipped with ball hitch, pintle hitch, or drope pin connectors, between points in Alaska, for 180 days.

NOTE.—Applicant intends to interline at all gateways to Alaska.

SUPPORTING SHIPPER: Capital Corporation, Inc., doing business as Fairbanks Mobile Home Sales, ½ Mile Old Richardson Highway, Fairbanks, Alaska 99701. SEND PROTESTS TO: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 1532, Anchorage, Alaska 99510.

No. MC 133029 (Sub-No. 5 TA), filed April 19, 1974. Applicant: DOEPP CROCKETT HAULING, INCORPORATED, Route 1, Box 92C, Dexter, N. Mex. 88230. Applicant's representative: Edwin E. Piper, Jr., 1115 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and feed ingredients* (except liquid feed and liquid feed ingredients in bulk), from points in Chaves, Eddy, and Otero Counties, N. Mex., to points in that part of Texas on, west, and north of a line beginning at the Texas-Oklahoma state line and extending south along U.S. Highway 83 to Abilene, Tex., thence west-southwestward along U.S. Highway 80 (and Interstate Highway 20), to junction with Interstate Highway 10, thence west-northwestward along said U.S. Highway 80 (and Interstate Highway 10) to the Texas-New Mexico State line at El Paso, Tex., including El Paso, Tex., for 180 days. SUPPORTING SHIPPERS: Diamond A Cattle Co., P.O. Box 1000, Roswell, N. Mex. 88201; Artesia Alfalfa Growers Association, 901 South 15th St., Artesia, N. Mex. 88210; and J. P. White Industries, Inc., P.O. Drawer 2063, Roswell, N. Mex. 88201. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, N. Mex. 87101.

No. MC 133146 (Sub-No. 9 TA), filed April 3, 1974. Applicant: INTERNATIONAL TRANSPORTATION SERVICE, INC., Northeast Expressway, N.E. Suite 1–M, Atlanta, Ga. 30341. Applicant's representative: Richard D. Cooper, 3300 Northeast Expressway, Atlanta, Ga. 30341. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, other than in bulk, from the plantsite and storage facilities of Monarch Wine Company of Georgia at Atlanta, Ga., to points in Texas, Missouri, and Minnesota, for 180 days. SUPPORTING SHIPPER: Monarch Wine Co., of Georgia, 451 Sawtell Avenue, S.E. Atlanta, Ga. 30315. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street, N.W. Atlanta, Ga. 30309.

No. MC 139702 (Sub-No. 1 TA), filed April 23, 1974. Applicant: GEORGE WILLIAM SIGRIST, doing business as SIGRIST TRUCKING COMPANY, Route 1, Box 093, Pocomoke City, Md. 21851. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, slag, and filler material*, in bulk, in dump vehicles, from Pocomoke City, Md. and points within three miles thereof, to points in Accomack and Northampton Counties, Va. and Sussex County, Del., for 180 days. SUPPORTING SHIPPER: Thomas Duncan, Office Manager, Blades Materials, Inc., P.O. Drawer 149, Pocomoke City, Md. 21851. SEND PROTESTS TO: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street & Constitution Avenue NW., Washington, D.C. 20423.

No. MC 139724 (Sub-No. 1 TA), filed April 19, 1974. Applicant: NOVO PACKAGE DELIVERY, INC., 4900 Webster Street, Bladensburg, Md. 20710. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mechandise, equipment and supplies* as are sold, used or distributed by a manufacturer of cosmetics, from the plant site and storage facilities of Avon Products, Inc., at Newark, Del., to points in the District of Columbia, Maryland, and Virginia, and return of *refused, rejected or damaged items*, restricted against the transportation of any package or article weighing more than 50 pounds, and against the transportation of packages or articles weighing in the aggregate more than 250 pounds from one consignor to one consignee at one location on one day, for 180 days. SUPPORTING SHIPPER: Charles B. Hertsenberg, Transportation Manager, Avon Products, Inc., 2100 Ogletown Road, Newark, Del. 19711. SEND PROTESTS TO: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street & Constitution Avenue, NW., Washington, D.C. 20423.

No. MC 139725 TA, filed April 19, 1974. Applicant: DYOLL DELIVERY SERVICE, INC., P.O. Box 66, Netcong, N.J. 07857. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Component parts of special ordnance equipment, component parts of radar and underwater sound devices, component parts of missile and missile handling equipment for aircraft carriers, and component parts of special machinery manufactured to customer's specification*, between Dover, N.J., on the one hand, and, on the other, points in Vermont, New Hampshire, New York, Pennsylvania, Maryland, and Virginia, within 250 miles of Dover, N.J., and points in New Jersey, Rhode Island, Connecticut, Massachusetts, and the District of Columbia; and (2) *pile hammers and parts, air and steam core drills and parts, and rough steel and iron castings for such hammers and drills*, between Dover, N.J., on the one hand, and, on the other, points in New Jersey, Rhode Island, Connecticut, Massachusetts, and the District of Columbia and those in Vermont, New Hampshire, New York, Pennsylvania, Maryland, and Virginia, within 250 miles of Dover, N.J., for 180 days. RESTRICTION: The operations authorized above are limited to a transportation service to be performed, under a continuing contract, or contracts, with the MKT Division. SUPPORTING SHIPPER: MKT Division, 100 Richards Ave., Dover, N.J. 07801. SEND PROTESTS TO: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 139727 TA, filed April 19, 1974. Applicant: MADEWELL METALS, INC., 301 East Shawnee, Muskogee, Okla. 74401. Applicant's representative: A. Camp Bonds, Jr., Box 1906, Muskogee, Okla. 74401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lead, lead alloy, lead oxide and lead by-products*, in bulk and ingot form, from Schuylkill Metals Corporation, Baton Rouge, La., to Oklahoma City, Okla.; St. Louis, Mo.; St. Joseph, Mo.; Iowa City, Iowa; and Little Rock, Ark., for 180 days. SUPPORTING SHIPPER: J. M. Baldwin, Teas., Schuylkill Metals Corporation, P.O. Box 73916, Baton Rouge, La. 70807. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240-Old P.O. Building, 215 N.W. Third, Oklahoma City, Okla. 73102.

No. MC 139728 TA, filed April 22, 1974. Applicant: J. D. WINGARD AND LOREN WINGARD, doing business as WINGARD DISTRIBUTORS, P.O. Box 164,

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Turbeville, S.C. 29162. Applicant's representative: Edward J. Morrison, P.O. Box 67, Lexington, S.C. 29072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal bricketts*, in bags on pallets, in shipper's trailers, from Lake City, S.C., to points in Alabama, Florida, Georgia, North Carolina, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: T. S. Ragsdale Company, Incorporated, P.O. Drawer 937, Lake City, S.C. 29560. SEND PROTESTS TO: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

MOTOR CARRIERS OF PASSENGERS

No. MC 139726 TA, filed April 19, 1974. Applicant: CONNERSVILLE TRANSIT, INC., 217 East Sixth Street, Connersville, Ind. 47331. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *passengers and their baggage* in charter operation, in round-trip movements, from Connersville, Ind., to points in Hamilton and Warren Counties, Ohio, for 180 days. SUPPORTING SHIPPERS: Fraternal Order of the Eagles Lodge 1065, RR No. 4, Connersville, Ind.; Connersville American Legion & Voiture Locale No. 1040, 1625 Eastern Avenue, Connersville, Ind. 47331; The Connersville Jaycees, RR No. 2, Connersville, Ind.; Stant Manufacturing Co. RR No. 6, Connersville, Ind.; and Central State Bank, Central Avenue, Connersville, Ind. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10351 Filed 5-3-74;8:45 am]

[No. AB-6 (Sub-No. 4)]

BURLINGTON NORTHERN, INC.

Order on Abandonment of Railroad Line

MAY 1, 1974.

Present. Kenneth H. Tuggle, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefore:

It is ordered, that applicant be, and is hereby directed to publish the appended notice in a newspaper of general circulation in Atchison County, Mo., on or before May 16, 1974, and certify to this Commission that this has been accomplished.

And it is further ordered, that notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the FEDERAL REGISTER, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 24th day of April, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

BURLINGTON NORTHERN, INC., ABANDONMENT BETWEEN TARKIO AND WESTBORO, ATCHISON COUNTY, MO.

The Interstate Commerce Commission hereby gives notice that by order dated April 24, 1974, it has been determined that the proposed abandonment of the line of Burlington Northern Inc., between Tarkio and Westboro, Mo., a distance of approximately 7.4 miles, if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic over this line has been declining and is minimal. Alternate rail service is in close proximity over applicant's lines and highway transportation is adequate. Consequently, the impact on the area's total transportation scheme will not be substantial. The right-of-way may be sold to adjoining property owners who might reclaim the land for agricultural purposes consistent with local land use patterns. The determination was based upon the staff preparation and consideration of an environmental threshold survey, which is available for public inspection upon request at the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

[FR Doc.74-10353 Filed 5-3-74; 8:45 am]

[No. AB-12 (Sub-No. 9)]

SOUTHERN PACIFIC TRANSPORTATION CO. ET AL.

Rail Traffic Orders

MAY 1, 1974.

Present. Kenneth H. Tuggle, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceedings, and for a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued on these proceedings, because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, that applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Fresno County, Calif., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the Federal Register.

Dated at Washington, D.C., this 24th day of April, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN LACJAC AND REEDLEY, FRESNO COUNTY, CALIF.; FINANCE DOCKET No. 27413, SOUTHERN PACIFIC TRANSPORTATION COMPANY APPLICATION TO ACQUIRE TRACKAGE RIGHTS OVER THE LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY IN FRESNO COUNTY, CALIF.; FINANCE DOCKET No. 27414, SOUTHERN PACIFIC TRANSPORTATION COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY APPLICATION TO CONSTRUCT AND OPERATE A LINE OF RAILROAD IN FRESNO COUNTY, CALIF.

The Interstate Commerce Commission hereby gives notice that by order dated April 24, 1974, it has been determined that: (1) The proposed abandonment by the Southern Pacific Transportation Company of a portion of its Exeter Street branch line between Lacjac and Reedley, Calif., a distance of 1.15 miles, (2) the application by Southern Pacific Transportation Company to acquire trackage rights over a portion of the branch line of The Atchison, Topeka and Santa Fe Railway Company in Fresno County, Calif., and (3) the joint application of the Southern Pacific Transportation Company and The Atchison, Topeka and Santa Fe Railway Company to construct and operate a line of railroad in Fresno County, Calif., if approved by the Commission, do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that inasmuch as traffic presently moving over the Southern Pacific line to be abandoned will subsequently be diverted to the adjacent line of the Atchison, Topeka and Santa Fe, no change in rail service will result. Therefore, there will be no significant effect on the area's transportation scheme. Accomplishment of this action will result in the removal of a deteriorated and unsightly railroad bridge across the King's River. There will not be a significant impact on local land use or recreational plans.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey,

which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 21, 1974.

[FR Doc.74-10354 Filed 5-3-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

REQUEST FOR CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 1, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529).

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration, Development of Profiles of State Agency Certification Process, Form HSABQA 0325, Single time, Caywood, State Nursing home survey agencies.

Office of Education, Survey of Lenders and Borrowers in the Guaranteed Student Loan Program, Forms OE 357-1, 2, 3, Single time, HRD/Planchon, Borrowers & lenders.

Alcohol, Drug Abuse, and Mental Health Administration, ATC Follow-up Study Questionnaire, Form ADAMAAA 0408, Single time, Reese, Individuals.

DEPARTMENT OF THE INTERIOR

National Park Service, Float Trip Registration, Form ----, Single time, Planchon, Canoe floaters.

VETERANS ADMINISTRATION

Services Provided to Outpatients in Mass. Users & Non-users, Forms FL 07-14a(NR), 07-14b(NR), Single time, CVA/Caywood, Mass. veterans.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Application for Federal Assistance (State and Local Nonconstruction Programs), Form EPA 5700-33, Occasional, Lowry, State and local government agencies.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, Birth Defects and/or Genetic Diseases, Form CDC 4.248, 4.249A, B, C; 4.250, Occasional, Reese, Hospital records, physicians & individuals.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration, Crime Insurance Application (Commercial), Form H-1631, Occasional, CVA, Crime insurance applicants.

Crime Insurance Application (Residential), Form H-1621, Occasional, CVA, Crime insurance applicants.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Grant Application for Advanced Institutional Development Program, Form OE 1049-1, Annual, Caywood, Colleges.

National Institute of Health, Research Career Program Application, Form PHS 2557-1, Occasional, Caywood, Organizations engaged in research.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Progress Report Implementation of Recommendations, Comprehensive Consolidated Management Review, Form HUD 52607, Quarterly, CVA.

Loan Management Report, Form HUD 4370CH, Occasional, CVA.

RAILROAD RETIREMENT BOARD

Appeal from Initial Decision of BRC and Appeal to Board from Decision of Referee, Form AC-1, AC-2, Occasional, Evinger(x).

RAILROAD RETIREMENT BOARD

Letter and Questionnaire Regarding Pay for Time Lost, Form RL 51, Occasional, Evinger (x).

Appeals from Determination under the Railroad Unemployment Insurance Act, Forms UI-85, UI-86, Occasional, Evinger (x).

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-10467 Filed 5-3-74;11:25 am]

FEDERAL ENERGY OFFICE

RETAIL DEALERS GROUP

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Retail Dealers Group will meet on Monday, May 6, 1974, at 9 a.m. in Room 3400, Federal Energy Office, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461.

The Group was established to advise the Administrator, FEO, with direct and timely access to the technical knowledge possessed by a wide range of highly qualified independent businessmen engaged in the retail sale of gasoline and diesel fuel. The agenda for the meeting is as follows:

I. OLD BUSINESS

A. Pricing
B. Allocations/Margins

II. NEW BUSINESS

A. Data collection—"Pisces"
B. Normal business practices
C. RARP—refinery audit & review program
D. Reorganization under new charter
E. Remarks from the floor (10 minute rule)

The meeting is open to the public; however, space and facilities are limited.

The Chairman of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Further information concerning this meeting may be obtained from Dino G. Pappas, Office of Policy, Planning and Regulation, Federal Energy Office, Washington, D.C. 20461. Area Code 202, 961-8324. Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

Issued in Washington, D.C.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-10546 Filed 5-3-74;12:05 pm]

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federal register

MONDAY, MAY 6, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 88

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION

■

Financial Assistance For Community Service and Continuing Education Programs

Proposed Guidelines

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 173]

FINANCIAL ASSISTANCE FOR COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

Proposed Guidelines

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92–318) and pursuant to the authority contained in Title I of the Higher Education Act of 1965 (Pub. L. 89–329, as amended, 20 U.S.C. 1001–1011), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45, Part 173 of the Code of Federal Regulations to read as set forth below. The Commissioner also proposes to establish guidelines for section 106 of Title I, which are set forth following the text of the proposed regulations.

1. *Program purpose.* The Community Service and Continuing Education Program, Title I of the Higher Education Act, embodies two separate authorities. The State grant program, established by the original Act, is designed to assist the people of the United States in the solution of community problems by strengthening the community service programs of colleges and universities. In 1972 the Act was amended by Pub. L. 92–318 to also authorize discretionary grants directly to institutions of higher education to assist them in carrying out special programs and projects which seek solutions to national and regional problems relating to technological and social changes and environmental pollution.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations and guidelines proposed below reflect the results of this study as it pertains to the program under Title I of the Higher Education Act of 1965, as amended. Upon publication of revised Part 173 in final form, after comments and hearing, all preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting Part 173 will be superseded effective thirty days after such publication.

3. *Effect of Office of Education general provisions regulation.* The proposed regulations do not include provisions relating to general fiscal and administrative matters which are covered in the overall Office of Education general provisions regulation, published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973).

4. *Guidelines.* Guidelines for the program have not previously been published in the FEDERAL REGISTER. There will be no guidelines at present for the State grant program. The attached proposed guidelines essentially contain recommendations and suggestions for program management and operation of the discretionary authority contained in section 106 of the Education Amendments of 1972.

5. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations and guidelines has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section it applies to the entire section.

6. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations and guidelines, as follows:

A hearing will take place at the U.S. Office of Education on May 24, 1974, in the auditorium of Regional Office Building Three (ROB 3), 7th and D Streets SW., Washington, D.C., beginning at 10 a.m.

The purpose of the hearing is to receive comments and suggestions on the published materials. Parties interested in attending the hearing should notify the Office of Education, 400 Maryland Avenue SW., Room 2079–G, Washington, D.C. 20202, Attention: Chairman, Office of Education Task Force on Section 503, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

Written comments and recommendations may also be sent to the above address. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 9 a.m. and 4:30 p.m., Monday through Friday of each week.

(Catalog of Federal Domestic Assistance Number 13.491; University Community Service—Grants to States)

Dated: March 26, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: April 15, 1974.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

PART 173—FINANCIAL ASSISTANCE FOR COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

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AUTHORITY: Secs. 101–112, 1201–1204, 79 Stat. 1219, 1269–1270, as amended; (20 U.S.C. 1001–1011, 1141–1143).

Subpart A—General

§ 173.1 Definitions.

As used in this part:

"Act" means Title I of the Higher Education Act of 1965, as amended. (20 U.S.C. 1001–1011)

"Combination of institutions" means two or more institutions of higher education, grouped together in a formal or informal consortial arrangement. (20 U.S.C. 1141)

"Community service program" pursuant to Section 102 of the Act means an educational program, activity, or service offered by an institution(s) of higher education and designed to assist in the solution of community problems in rural, urban, or suburban areas with particular emphasis on urban and suburban problems. Such programs may include but are not limited to research, technical assistance or consultation, or an extension or continuing education activity or course, provided that any such course is fully acceptable toward an academic degree, or is of college level as determined by the institution offering the course. (20 U.S.C. 1002)

"Educational service" means an aspect of the community service program involving the resources of an institution(s) of higher education, including but not limited to equipment and library materials used in support of efforts to solve community problems. (20 U.S.C. 1002)

"Educational research activity" means a research program of experimental or demonstration nature carried out on an objective and systematic basis using the resources of an institution(s) to identify and develop new or improved approaches to the solution of community problems. (20 U.S.C. 1002)

"Extension and continuing education activity" refers to the extension on a basis of temporal and geographic convenience of the teaching and research resources of an institution of higher education to meet the special educational needs of the adult population who have either completed or interrupted their formal training. Instructional methods include, but are not limited to, formal classes, lectures, demonstrations, counseling and correspondence, radio, television, and other innovative techniques of instruction and study. Programs of continuing and extension education assist the individual to meet the tasks imposed by the complexities of our society in fulfilling his role in the world as an informed and responsible citizen and the needs of his individual growth and development. (20 U.S.C. 1002)

"Institution of higher education" means an educational institution in any State which meets the requirements of section 1201(a) of the Act and has the capability of carrying out community service and continuing education programs consistent with the purposes of Title I of the Act. (20 U.S.C. 1141(a))

"Special project or special program" means an experimental activity or demonstration of regional or national significance carried out pursuant to section 106 of the Act on an objective and systematic basis using the resources of an institution of higher education or combinations thereof, to identify and develop new or improved educational approaches to problems relating to technological and social changes and environmental pollution. (20 U.S.C. 1005a (a))

"School or department of divinity" means an institution, or a department or branch of an institution, whose educational program is specifically designed to prepare students to become ministers of religion (or to provide continuing training for any such programs), to enter into some other religious vocation or to teach theological subjects. (20 U.S.C. 1141(1))

"State agency or institution" or "State agency" means the State agency or State institution designated or created pursuant to section 105(a) of the Act and § 173.10. (20 U.S.C. 1005(a))

§ 173.2 Applicability of general provisions.

Assistance under this part is subject to applicable general provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters). (20 U.S.C. 1001 et. seq; 45 CFR 100; 38 FR 30654 (November 6, 1973)).

Subpart B—State Plan Program

§ 173.10 Purpose and Scope.

The program described in this subpart shall be administered by the State agency or institution pursuant to a State plan developed and submitted through the State agency or institution and approved by the Commissioner. The State plan shall set forth a comprehensive, coordinated, and statewide system of community service programs designed to assist in the solution of community problems in rural, suburban areas (with particular emphasis on urban and suburban problems), such as, but not limited to, housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use, by utilizing the resources of institutions of higher education: *Provided however,* That where funds are insufficient to support such a program, the State plan may set forth one or more proposals for community service programs in lieu thereof. The State plan and amendments thereof, once approved by the Commissioner, shall constitute the basis on which Federal allotments are paid to the State as well as the basis for determining the allowable expenditures by the State and participating institutions where support for a community service and continuing education program is derived in whole or in part from Federal funds. (20 U.S.C. 1005)

§ 173.11 State agency or institution.

(a) The State shall designate or create a single State agency or institution to develop, submit, and administer and/or supervise the administration of the State plan. The agency or institution so designated or created shall include individuals who have special qualifications or experience in working with and solving community problems, and who are broadly representative of institutions of higher education in the State, public and private, which are competent to offer community service programs. The State may, however, designate an existing State agency or institution which does not meet the above requirements, provided that (1) such State agency or institution takes whatever action as is necessary to meet such requirements, or (2) the State designates or creates an advisory council which does meet the requirements to consult with the designated State agency or institution in the preparation of the State plan and amendments thereto and in connection with any policy matters arising in the administration of the plan.

(b) The State agency or institution shall notify the Commissioner within 15 days of changes in the composition of either the State agency or institution, or the State advisory council, if any, affecting its special qualifications with respect to solving community problems or its being broadly representative of institutions of higher education in the State, public and private, which are competent to offer community service programs.

(c) If there is a change in the composition of the State agency or institution, the State shall also designate the official of the State agency or institution to whom communications shall be responsible for submitting the State plan to the Commissioner for approval. (20 U.S.C. 1005)

§ 173.12 State plan provisions.

(a) *Administrative.* The State plan shall contain a statement of the name of the designated or created State agency or institution. It shall also contain assurances that the agency or institution to be designated or created shall be the sole agency for the administration of the State plan or for supervision of the administration of the State plan, and that, where applicable, such agency or institution shall consult with any required State advisory council with respect to policy matters arising in the preparation and administration of the plan.

(b) *Program selection policies and procedures.* The State plan shall contain a general statement setting forth the policies and procedures which will be followed by the State agency in selecting those community problem(s) or specific aspects thereof for the solution of which Federal funds allotted under this program will be used. The statement shall describe any general methods and/or criteria which the State agency has determined will be used in making such selection(s). The statement shall also describe the procedures that will be used by the State agency to give adequate notice of the selection(s) to eligible institutions of higher education within the State.

(c) *Institutional selection policies and procedures.* The State plan shall set forth policies and procedures to be used in selecting institution(s) of higher education for participation in community service programs under the plan. Such policies and procedures shall adequately describe the criteria for review of applications and shall indicate the criteria which will be used in selecting institutions for participation and the degree of consideration to be given the following:

(1) Whether the program, service, or activity proposed to be undertaken by an institution of higher education is specifically designed directly to assist in the solution of urban, rural, or suburban problems with special emphasis upon urban and suburban problems;

(2) Whether the relative capacity and willingness of the particular institution(s), public or private, will be utilized to provide effective community service programs;

(3) Whether the program, service, or activity will effectively utilize the special resources of the institution(s) of higher education and its faculty;

(4) Whether the program, service, or activity will be consistent with the overall educational program of the institution(s) of higher education;

(5) Whether a single community service program will be undertaken by two or more institutions of higher education within the State or, by or with one or more institutions in other States; and

(6) Whether the results of periodic, objective and systematic evaluations of the programs, services, and activities will be considered in the light of information regarding current and anticipated community problems. (20 U.S.C. 1005)

§ 173.13 State plan amendments.

(a) *Annual.* (1) The State plan shall be amended annually, on or before such date as the Commissioner may designate, in order that the State plan will contain the information required by § 173.14.

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The amendement shall be signed and certified in the same manner as the original plan submitted and shall become effective upon approval by the Commissioner.

(2) Notwithstanding the approval of a State plan during any prior year, unless and until the annual amendment has been submitted by the State agency or institution and approved by the Commissioner, there is no basis on which commitments of funds for new projects may be made by the State agency.

(b) *Other amendments.* The State plan shall be appropriately amended whenever there is any material change in the designation of the State agency, the content or administration of the State plan, or when there has been a change in pertinent State law. Such amendment shall clearly indicate the changes and shall be signed and certified in the same manner as the original plan submitted and shall become effective upon approval by the Commissioner. (20 U.S.C. 1005)

§ 173.14 Annual program plan.

(a) The annual program plan shall be submitted as an amendment on an annual basis as required under § 173.13.

(b) The annual program submission shall contain a statement describing the specific aspects of the comprehensive, coordinated, and statewide system of community service programs or, if it is determined that a comprehensive, coordinated, and statewide system of community service programs cannot be effectively carried out by reason of insufficient funds, a brief summary of the basis of this determination, a description of the community service program proposed in lieu thereof for which financial assistance is requested, and the basis for selection thereof. The description of the method followed by the State agency in determining the community problem(s) or aspects thereof to be solved shall indicate the degree to which:

(1) The State agency has consulted with representative community leaders, associations, and organizations, and with representatives of institutions of higher education;

(2) Due consideration has been given to the existence of other federally financed programs dealing with similar and other community problems in the State and to coordination with such programs, particularly in determining priorities of problems;

(3) Due consideration has been given to the resources of institutions of higher education especially relevant or adaptable to develop and carry out community service programs related to the community problems selected;

(4) Due consideration has been given to the relationship of the aspect of the community problem(s) selected for solution to other significant problems in the State; and

(5) Other criteria have been used in selecting community service problems to be included under the program. (20 U.S.C. 1005)

(c) In describing the particular community problem(s) and the aspects thereof that the State will attempt to solve, the annual program statement submitted by the State agency shall indicate the scope, prevalence, complexity, duration, and other appropriate specific aspects of the problems; and the relationship between the types of activities proposed and similar types of existing and contemplated activities in the State. The statement shall also indicate whether the problem(s) and specific aspects thereof exist in all types of communities or whether they are of general significance to the State as a whole although not specifically manifested in all communities thereof. The statement also shall indicate the approximate amount from the State's allotment that the State agency estimates will be required in order to carry out each type of program which will be undertaken in attempting to solve these problems. (20 U.S.C. 1005)

(d) If a State desires to carry out community service programs other than those possible under its allotment, it may indicate such programs with the same specificity as given those presently undertaken and the priority of importance and the basis therefor together with budgetary estimates of each program, service, or activity. Such programs, services, and activities may be considered for funding with any funds reallotted under section 103(b) of the Act. (20 U.S.C. 1003(b))

(e) An estimated budget itemizing the amount of funds which will be required by the State agency for developing and administering the State plan shall be submitted as a part of the annual program plan. (20 U.S.C. 1005(a)(5) and (6))

§ 173.15 Approval of State plan, noncompliance; judicial review.

(a) The Commissioner shall approve any State plan or amendment thereof which complies with the provisions set forth in the Act and in this subpart. No plan, or amendment thereof, shall be finally disapproved until the State agency or institution submitting the plan is afforded reasonable notice and opportunity for a hearing. (20 U.S.C. 1005(b))

(b) Where the Commissioner, after giving reasonable notice and opportunity for a hearing to the State agency or institution administering a State plan approved under Section 105(b) of the Act, finds that (1) the State plan has been so changed that it no longer complies with any provision of section 105(b) of the Act, or that (2) in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner shall notify the State agency that the State is no longer regarded as eligible to participate in the program until the Commissioner is satisfied that there is no longer any such failure to comply. (20 U.S.C. 1007(b))

(c) Final actions of the Commissioner with respect to approval of a State plan or amendment thereto or changes in or noncompliance with an approved State plan or amendment thereto are subject to judicial review, pursuant to section 108 of the Act. (20 U.S.C. 1008)

§ 173.16 Ineligible programs.

No payment may be made from a State's allotment under this part for (a) any community service program which relates to sectarian worship, or (b) any community service program which is provided by a school or department of divinity. An institution of higher education which has a school, branch, department, or other administrative unit within the definition of "school or department of divinity" as set out in § 173.1 is not precluded for that reason from participating in the program described in this subpart, if the community service program is not offered by that school, branch, department, or administrative unit and, as in all other cases, the community service program is not related to sectarian instruction or religious worship. (20 U.S.C. 1011)

§ 173.17 Relation to other Federal programs.

Nothing in this subpart shall be construed to mean that a proposed program be excluded from participation on the basis that it would be eligible to receive financial assistance under another Federal program. (20 U.S.C. 1010)

§ 173.18 Fiscal assurances.

The State plan shall contain:

(a) A statement of the policies and procedures designed to assure that Federal funds allotted to the State for the program described in this subpart will not be used to supplant State or local funds or funds of institutions of higher education but to supplement and, to the extent practicable, to increase the amount of such funds that would otherwise be available for community service programs.

(b) A statement of assurance that the State agency will, prior to approval of any community service program under the plan, provide the certification required under § 173.24. (20 U.S.C. 1005(a)(4))

§ 173.19 Fiscal procedures.

The State plan shall contain the Fiscal procedures required by section 105(a)(5) of the Act. (20 U.S.C. 1005(a)(5))

§ 173.20 Institutional assurances.

(a) The State plan shall contain a statement of assurance that, prior to approval of any community service program under the plan, each institution of higher education proposing such community service program shall submit to the State agency an assurance:

(1) That the proposed program is not otherwise available;

(2) That the conduct of the program or performance of the activity or service is consistent with the institution's overall educational program and is of such a nature as is appropriate to the effective utilization of the institution's special resources and the competencies of its faculty; and

(3) That, if courses are involved, such courses are extension or continuing education courses, and (i) that they are fully acceptable toward an academic degree, or (ii) that they are of college level as determined by the institution offering the courses.

(b) Copies of such assurances required by paragraph (a) of this section shall be maintained by the State agency and made available to the Commissioner upon request. (20 U.S.C. 1002)

§ 173.21 Certification of State plan.

The State plan or amendment shall include as a part or appendix thereto:

(a) A certification by the official of the State agency authorized to submit the State plan that the plan (or amendment) has been adopted by the State agency and will constitute the basis for operation and administration of the programs described therein;

(b) A certification by the appropriate State legal officer that the State agency named in the plan is the sole State agency for the preparation and administration of the plan and has authority under State law to develop, submit, and administer or supervise the administration of the plan, and that all the provisions contained in the plan are consistent with State law. (20 U.S.C. 1005(a)(1))

§ 173.22 Reports.

The State plan shall provide that the State agency will make and submit to the Commissioner the reports listed below in accordance with procedures established by the Commissioner; and that the State agency will maintain such records, afford such access thereto, and comply with such other provisions as the Commissioner may find necessary to substantiate and/or verify the information contained in the reports:

(a) A detailed statement, describing the proposed operation of each community service program, to be submitted immediately upon approval of such program by the State agency;

(b) A report of the total amount of a State's allotment obligated or expended during a particular fiscal year, to be submitted at the close of such fiscal year;

(c) An annual report containing an evaluation of the State plan program and its administration in terms of the plan provisions and program objectives;

(d) A copy of any independent evaluations of the State plan, its program, objectives, and/or administration, if obtained by any State, State agency or institution, or State advisory council; and

(e) Any other reports containing such information in such form as the Commissioner may from time to time require in order to carry out his functions under the Act. (20 U.S.C. 1005(a)(6))

§ 173.23 Federal financial participation.

(a) The Federal Government will pay from each State's allotment an amount equal to 66⅔ percent of the total amount expended by the State agency and the institutions participating under the State plan, except that, in calculating such total amount, there shall be excluded any amounts received for the same purpose under any other Federal program and the matching funds required therefor. Where fees, if any, exceed the non-Federal share of the cost of the program, as determined above, the Federal share shall be reduced by the amount of this excess. (20 U.S.C. 1006)

(b) No payment for any fiscal year will be made, however, with respect to expenditures for developing or administering the plan by the State agency which exceed 5 percent of the total eligible costs for that year or $25,000, whichever is greater. (20 U.S.C. 1006)

§ 173.24 Required certification by State agency.

As a condition to receipt of any payments under the program described in this subpart, the State agency must submit to the Commissioner, both at the time that it initially determines the institutions of higher education to participate under the State plan, and each time that it approves a new program involving an institution not previously participating, a certification that all institutions participating under the plan will together have available during that year from non-Federal sources for expenditure for extension and continuing education programs not less than the total amount actually expended by those institutions for extension and continuing education programs from such sources during the Fiscal Year 1965, plus an amount which is not less than the non-Federal share of the costs of community service programs for which Federal financial assistance is requested. The certification shall also state that the State agency has obtained all information including records documenting expenditures necessary to make the above-noted finding and that such documents shall be kept by the State agency and made available to the Commissioner upon request. The certification required under this section shall constitute the basis for the finding required to be made by the Commissioner under section 107(b) of the Act. (20 U.S.C. 1006(b))

§ 173.25 Reallotment.

(a) In order to provide a basis for reallotment by the Commissioner pursuant to section 103(b) of the Act, each State agency will submit, upon request of the Commissioner by such date(s) as the Commissioner may specify, a statement showing all estimated anticipated needs during the remainder of the current fiscal year for carrying out the State plan. The statement will contain estimates based on the estimated costs (1) of completing community service programs already approved without expansion, (2) of expanding or modifying already approved community service programs, and (3) of approving new community service programs which will further carry out the objectives of the plan. The Commissioner may also request any additional information on such statement as he desires for the purpose of making reallotment.

(b) Subsequent to the review of the above described required statement and prior to the date fixed by the Commissioner for reallotment of funds, the Commissioner will notify each State agency affected by reallotment of his determination respecting the State's allotment. The Commissioner shall thereafter either modify the amount authorized for payment to the State or if an overpayment has already been made, direct the State to return to the Commissioner whatever amount the Commissioner determines the State does not require. (20 U.S.C. 1003(b))

§ 173.26 Interstate transfer of allotments.

Where two or more States agree that a portion of the Federal allotment of one State be added to and combined with that of the other State, there shall be submitted to the Commissioner, as part of both State plans or as amendments thereto, the following information:

(a) A request that a specified amount of one State's allotment be transferred to the other State for purposes described therein;

(b) A description of the community service program(s) for which the funds will be used by the recipient State;

(c) A statement of the total amount to be expended for such program(s) and the amount of the non-Federal share thereof;

(d) A statement indicating how the requirement for matching funds and/or maintenance of effort will be assumed by either or both institutions;

(e) A statement showing how such program(s) will assist in the solution of community problems of concern to both participating States; and

(f) A certified statement from the recipient State agency that it will use the funds for the purposes identified by the State requesting such transfer. (20 U.S.C. 1003(c))

Subpart C—Special Programs and Projects

§ 173.40 Applicability.

The regulations in this subpart apply to awards made by the Commissioner pursuant to section 106 of the Act for special community service and continuing education programs and projects designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution. Specific funding priorities will be announced from time to time by publication in the FEDERAL REGISTER. (20 U.S.C. 1005a(f))

§ 173.41 Eligible projects.

(a) From funds available under section 106 of the Act, the Commissioner may provide financial support for special programs and projects of national or regional significance which are consistent with the purposes of section 101 of the Act and which involve:

(1) Innovative methods, systems, or materials which the Commissioner determines may have national or regional significance or be of special value in promoting effective solutions to defined problems; or

(2) Innovative programs carried out in cooperation with other Federal, or federally assisted State and local programs which the Commissioner determines have unusual promise in promot-

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ing a coordinated or comprehensive educational approach to problems in an entire region or the nation as a whole; or

(3) Demonstrations of educational strategies which may prove effective on a national or regional basis in assisting community leaders, government officials, and others involved in the search for solutions to community problems.

(b) Each project is expected to complement and advance current programs, investigations, or experimentation in continuing education for adults.

(c) Projects must also be designed to be of optimum use in the further development of State programs of community service and continuing education by having a high potential for replication or adaptation by other institutions of higher education. (20 U.S.C. 1005a; S. Rept. 92–346, p. 10)

§ 173.42 Eligible applicants.

Only the following are eligible to apply for financial assistance under this subpart;

(a) Institutions of higher education; and

(b) Combinations of institutions of higher education. (20 U.S.C. 1005a)

§ 173.43 Applications for grants.

(a) Applications under this subpart shall contain (in addition to the requirements of Part 100a (Subpart B) of this chapter):

(1) The portion of the total project cost to be borne by the applicant which shall be not less than 10 per centum;

(2) An assurance that no fees and charges will be collected from participants with respect to any training or instruction offered in the project; and

(3) An assurance that the State Agency for the Community Service and Continuing Education Program has been given an opportunity to comment on the proposed application. (S. Rept. 92–346, p. 10)

(b) No project proposed in an application shall be for a period of more than 30 months.

(c) Applications and requests for information shall be sent to: Community Service and Continuing Education Program, U.S. Office of Education, Washington, D.C. 20202. (20 U.S.C. 1005a)

§ 173.44 Review of applications.

In evaluating applications that meet the requirements of § 173.41 under this subpart the Commissioner will also consider the following criteria, in addition to the criteria set forth in § 100a.26(b) of this chapter:

(a) The extent to which the project is responsive to such regional or national priorities for Community Service and Continuing Education as the Commissioner, after consultation with the National Advisory Council on Extension and Continuing Education, may establish;

(b) The extent to which the project has unusual promise in establishing or improving programs of community service and continuing education in institutions of higher education;

(c) The extent to which the project employs or will result in new approaches, methods and materials which will be of value in increasing the effectiveness of continuing education programs for adults; and

(d) The extent to which the project is coordinated with related Federal, State or institutional programs in order to promote a comprehensive approach to community problem solving through the continuing education of adults. (20 U.S.C. 1005a)

§ 173.45 Public information.

The grantee is responsible for making announcements concerning the project and noting the availability of Federal support therefor. For certain projects a brochure or circular may be developed which will provide concerned adults with information by which they may participate in the project. Pertinent information concerning any other type of public information shall be sent to the Community Service and Continuing Education Program, U.S. Office of Education, Washington, D.C. 20202. (20 U.S.C 1005a)

APPENDIX A

GUIDELINES COMMUNITY SERVICE AND CONTINUING EDUCATION

Special Experimental and Demonstration Projects (Section 106, Title I, Higher Education Act of 1965, as amended)

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PART 1—INTRODUCTION

SEC. 1.1 *Scope of guidelines.* (a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to Federal assistance under the Higher Education Act, Title I, section 106. The legal requirements include the Act itself (20 USC 1001–1011) and the regulations (45 CFR Part 173). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon. (20 USC 1001 et, seq.; 113 Cong. Rec. 5936, (daily ed. May 23, 1967) (*United States v. Jefferson County Board of Education*, 372 F 2d 836, 857 (1966)).

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is 20 USC 1005a and the guideline affects section 173.41 of the regulations (45 CFR 173.41) the following citation will be placed on the line immediately following the guideline: (20 USC 1005a; 45 CFR 173.41). If no particular section of the regulation is affected, no citation to the Code of Federal Regulations (CFR) will be made. (20 U.S.C. 1232(a)).

SEC. 1.2 *Purpose of section 106.* (a) Title I of the Higher Education Act of 1965 (Pub. L. 89–329) established a State grant program designed to assist * * * the people of the United States in the solution of community problems * * * by making grants to strengthen the community service programs of colleges and universities.

(b) Thus, the Community Service and Continuing Education Program is implementing the concept of education as a continuing life-long and dynamic process through which adults may lead more meaningful and useful lives and through which concerned communities can improve their operations and services. Since 1966 this Federal program has supported through State determined programs the development of educational activities for adults in more than 1,000 colleges and universities.

(c) With the passage of the Education Amendments of 1972 (Pub. L. 92–318) the Commissioner of Education is now authorized to make awards to institutions of higher education for special programs and projects which are designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution.

(d) These guidelines describe the provisions for Special Programs and Projects contained in section 106 of the Act, and outline procedures for proposal preparation and submission, and set forth general policies and priorities for experimental and demonstration projects related to national and regional problems. (20 U.S.C. 1005a)

PART 2—ELIGIBILITY

SEC. 2.1 *Eligible applicants.* A single, accredited institution of higher education, or combinations of such institutions, are the only eligible applicants for grants under section 106 of the Act. "Combinations of such institutions" means two or more colleges or universities grouped in a consortial arrangement. (20 U.S.C. 1005a; 45 CFR 173.42)

SEC. 2.2 *Eligible projects.* Projects must be based on a design for and implementation of an organized continuing education activity for adults. Special projects may be either experimental or demonstration activities, carried out on an objective and systematic basis, which seek solutions to national or regional problems related to technology and social changes and environmental pollution, and which involve:

(a) Innovative methods, systems, or materials which the Commissioner determines may have national or regional significance or be of special value in promoting effective solutions to such problems; or

(b) Innovative programs carried out in cooperation with other Federal, federally assisted, State, or local programs which the Commissioner determines have unusual promise in promoting a coordinated or comprehensive approach to problems in an entire region or the nation as a whole, or

(c) Demonstrations of educational strategies which may prove effective on a national or regional basis in assisting community leaders, government officials, and others involved in the search for solutions to community problems. In addition:

(d) Each project is expected to complement and advance current programs, investigations, or experimentation in continuing education for adults.

(e) Projects must also be designed to be of optimum use in the further development of State programs of community service and continuing education by having a high potential for replication or adaptation by other institutions of higher education. (20 U.S.C. 1005a; S. Rept. 92–346, p. 10; 45 CFR 173.41)

PART 3—PROPOSAL EVALUATION

SEC. 3.1 *Review and assessment.* The following criteria will be employed in the review and assessment of each proposed project:

(a) The extent to which the project is responsive to such regional or national priorities for Community Service and Continuing Education as the Commissioner may establish;

(b) The extent to which the project has unusual promise in establishing or improving programs of community service and continuing education in institutions of higher education;

(c) The extent to which the project employs or will result in new approaches, methods and materials which will be of value in increasing the effectiveness of continuing education programs for adults;

(d) The extent to which the project is coordinated with related Federal, State or institutional programs in order to promote a comprehensive approach to community problems through the continuing education of adults;

(e) The extent to which the project is soundly designed;

(f) Evidence of administrative and supervisory practices sufficient to assure effective and economical operation of the project. (20 U.S.C. 1005a; 45 CFR 173.44)

PART 4—PROPOSAL SUBMISSION

SEC. 4.1 *Number of copies.* One copy of the application form must bear the signature(s) of the official(s) authorized to submit the proposal. On the remaining copies the name(s) of the official(s) need only be typed. Completed proposals are to be submitted in ten-(10) copies to:

Community Service and Continuing Education Program
U.S. Office of Education
Washington, D.C. 20202

(20 U.S.C. 1005a; 45 CFR 173.43(c))

SEC. 4.2 *State agency consultation.* The institution(s) submitting a proposal should attach a letter describing the extent to which the proposed project has been discussed with State Administrator(s) for Community Service and Continuing Education in the state(s) affected. (20 U.S.C. 1005a; 45 CFR 173.43 (a)(7))

PART 5—GENERAL POLICIES

SEC. 5.1 *Duration of project.* The duration of a project may vary from 18 to 30 months depending upon the scope of the work to be undertaken. The fact that a proposal was funded in an earlier year is no guarantee that resubmission will result in renewed financial assistance. (20 U.S.C. 1005a; 45 CFR 173.43(b))

SEC. 5.2 *Public information.* The recipient is responsible for making announcements concerning the project and noting the availability of Federal support therefor. For certain projects a brochure or circular may be developed which will provide concerned adults with information by which they may participate in the project. (20 U.S.C. 1005a; 45 CFR 173.45)

SEC. 5.3 *Reporting requirements*—(a) *Progress Report.* Three (3) copies of progress reports shall be submitted in accordance with the requirement stated in the award. Each report shall include a brief description of work completed during the reporting period, problems encountered, and plans for the next reporting period.

(b) *Special Reports.* Special reports shall be submitted upon request from the Office of Education.

(c) *Final Project Report.* Before or at the expiration of the grant, the grantee shall submit one hundred (100) duplicated copies of a final report and an accompanying abstract.

(d) *Independent Evaluations.* The Office of Education shall be provided with a copy of any independent evaluations of the project, its operations and accomplishments, or studies of any other nature.

(e) *Submission of Reports.* All reports are to be submitted to:

Community Service and Continuing Education Program
U.S. Office of Education
Washington, D.C. 20202

(20 U.S.C. 1005a)

[FR Doc.74–10155 Filed 5–3–74;8:45 am]

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federal register

MONDAY, MAY 6, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 88

PART III



FEDERAL ENERGY OFFICE

■

MANDATORY PETROLEUM ALLOCATION

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

A notice of proposed rulemaking containing clarifications and revisions to Part 211 was issued on March 27, 1974 (39 FR 11768, March 29, 1974). Comments were invited from interested persons by April 8, 1974. Subsequently, the comment period was extended to April 15, 1974. In response more than 600 comments were received by FEO. The amendment published herewith reflects FEO's consideration of those comments and incorporates substantial changes suggested in those comments. In order to allow sufficient time for persons to come into full compliance with the amended regulations, this amendment is not being made effective until June 1, 1974.

Subpart C (Crude Oil) is not included within this revision, since it is still the subject of a proposed rulemaking. Subparts E (Butane), J (Petrochemicals) and K (Other Products) are also not included within this revision. FEO will shortly issue a notice of proposed rulemaking with respect to a proposed revision of Subparts E and J, and a further proposed revision of Subpart K.

Numerous technical changes in Subpart A of the proposed regulations have been made to correct errors and clarify the working of the general allocation rules. The most important changes from those noted in the March 27, 1974 rulemaking are noted below.

SUBPART A

Allocation fraction greater than one. Section 211.10(g) sets forth the procedure to be followed when a supplier determines that its allocation fraction will be greater than 1.0 for a period which corresponds to a base period. The supplier must notify FEO within five days of its determination. The supplier may, however, distribute its excess product to its wholesale purchaser-resellers, wholesale purchaser-consumers and its end-user purchasers following its determination and before giving notice to FEO. To do so the supplier is required to apportion its allocable supply among all its purchasers as provided in § 211.10(g). Modified allocation levels are also established in each subpart for use when a supplier's allocation fraction is greater than one. Distribution of that part of a supplier's allocable supply assigned to its direct wholesale purchaser-consumer and end-user customers shall be made under modified allocation levels.

Such a supplier will also distribute that part of its allocable supply assigned to its wholesale purchaser-reseller purchasers by providing product equal to its allocation fraction multiplied by each wholesale purchaser-reseller's base period use, except in the case of retail sales outlets for motor gasoline which would in such circumstances be supplied up to 110 percent of their base period use.

Whenever the supplier determines that it will have excess product following distribution of product to its wholesale purchaser-consumers, end users and wholesale purchaser-resellers as outlined above, the supplier will again notify FEO. If FEO does not direct delivery of the product within ten (10) days, the supplier may then distribute the excess product at its discretion.

However, FEO may at any time direct excess product to other suppliers, wholesale purchasers or end-users which are not direct purchasers of the supplier with an allocation fraction in excess of one (1.0).

Determination of amounts not subject to an allocation fraction. Section 211.12(d) now provides that wholesale purchaser-resellers, rather than wholesale purchaser-consumers or end-users, will make the initial certification of the required volumes of product for delivery to wholesale purchaser-consumers and end-users entitled to an allocation level not subject to an allocation fraction. The certification is to be made annually but may be adjusted from time to time by the wholesale purchaser-reseller. Provision is made for resolution of disputes between a supplier and its wholesale purchaser-resellers as to a certification. Pending resolution of a dispute, the supplier shall supply the volumes which it does not dispute subject to adjustment by FEO upon resolution of the dispute.

Suppliers receiving certifications of amounts not subject to an allocation fraction shall in turn certify those volumes to their suppliers.

Any wholesale purchaser-consumer, wholesale purchaser-reseller, or end-user entitled to a product not subject to an allocation fraction, and engaged in agricultural production, may seek assistance in resolving disputes as to volumes required from the Agricultural Stabilization and Conservation Service.

At the end of the period which corresponds to a base period, wholesale purchaser-resellers will also certify to their suppliers the quantity of product received, and the quantity delivered to wholesale purchaser-consumers and end-users for end uses not subject to an allocation fraction. Product received pursuant to a certification but not delivered by a wholesale purchaser-reseller must be used to adjust the quantity of product received in a subsequent period corresponding to a base period. Suppliers shall in turn make corresponding adjustments.

Separate treatment of retail sales outlets of motor gasoline. In the proposed March 27 revision, § 211.11 treated all retail sales outlets as separate wholesale purchaser-resellers for purposes of computing base period volumes and entitlements to allocations. After further consideration, it has been determined that such separate treatment of sales outlets should be restricted to motor gasoline outlets. Consequently, the provisions with respect to such outlets are now contained in Subpart F as § 211.106 rather than in § 211.11.

Section 211.106 provides that each retail sales outlet is to be considered a separate wholesale purchaser-reseller. Independent marketers may petition FEO for treatment of all or some of its retail outlets as one firm. No supplier may shift entitlements between or among retail sales outlets without FEO approval. Base period volumes and adjustments thereto must be recalculated by July 1, 1974, based upon treatment of each retail sales outlet as a separate wholesale purchaser-reseller.

A wholesale purchaser-reseller will be deemed to have gone out of business if it vacates one site and does not reestablish another outlet within a reasonable time. Additional provisions with respect to independent marketers in these circumstances are also provided. A wholesale purchaser-reseller may, with FEO's permission, close one or more of its retail sales outlets and adjust the base period volumes of its remaining retail sales outlets.

To be a supplier of a retail sales outlet, a firm must actually deliver products to the retail sales outlet. Suppliers which operate retail sales outlets must notify FEO whenever any retail sales outlet they supply goes out of business.

Redirection of product and State set-aside. Section 211.17 contains several changes. Each prime supplier for a State must appoint a firm within that State as its "State representative" to facilitate the distribution of the State set-aside. The prime suppliers must notify the appropriate State offices of those appointments no later than June 15, 1974. Section 211.17 now provides that authorizing documents become void if not presented to a prime supplier or its local distributors within ten (10) days of issuance.

The State office may also order distribution of some or all of a prime supplier's set-aside volume through normal distribution channels. In the case of intra-State supply imbalances, it may release set-aside volumes selectively within such areas.

If necessary, State offices may direct product to end-users and wholesale purchaser-consumers experiencing a temporary hardship or emergency through designated wholesale purchaser-resellers.

Section 211.14 now provides that FEO will not redirect product within a State without first obtaining the recommendation of the affected State office.

End-user and wholesale purchaser-consumer importers. End-users and wholesale purchaser-consumers which import an allocated product in excess of the volumes which they imported in the base period are now covered by § 211.12 (g) as well as end-users and wholesale purchaser-consumers which are importing for the first time.

Adjustments of base period volume. Section 211.13 has several minor changes. Notice is given that supplier-initiated adjustments will be subject to normal FEO audit requirements. A wholesale purchaser must report to FEO if its supplier-initiated adjustment for unusual growth when combined with its base period volume supplied by other suppliers would exceed the wholesale purchaser's actual unusual growth. Request for validation under § 211.13(d) can be referred for validation ten (10) days after submission to a supplier.

SUBPART D (PROPANE)

Final issuance of the proposed Propane allocation program, published on April 5, 1974, in the FEDERAL REGISTER is also included in this amendment. That rulemaking has been modified in several significant ways. The changes were made in recognition of several unique aspects of the propane marketing system. The regulation now provides for a less restrictive arrangement of allocation levels to better reflect the current supply/demand situation, but retains certain restraints on the diversion of propane to lower priority uses.

The definition of "standby volumes" in § 211.82 was modified so as to exclude from the definition those volumes of propane which are intended as a substitute for a process or plant protection fuel use.

In § 211.83, the allocation level for industrial uses of propane was changed to eliminate the 210,000 gallon limitation on standby volumes. However, the inventories which may be stored for industrial use are limited to 120 percent of base period inventories in § 211.86(h). New allocation levels for synthetic natural gas plants and governmental use were also added to § 211.83. Modified allocation levels for propane are added in § 211.84 to replace § 211.85(e) which appeared in the proposed regulations.

The requirement found in § 211.10 concerning determination of base period volumes has been modified for suppliers of propane to require reporting only to propane resellers. In addition, § 211.86 contains a new provision which makes the supplier-initiated unusual growth adjustment found in § 211.13(b) inapplicable to propane. Dispensing stations, as defined, are to continue to receive one hundred percent of their current requirements up to a maximum volume of 15,000 gallons per year. Section 211.86 is further changed in paragraph (h) to limit the inventories of gas utilities and industrial users (including petrochemical producers).

In order to monitor rapidly increasing inventories of propane, § 211.87 now imposes a requirement that all owners of propane in shortage report those quantities to the FEO. The requirement in § 211.223 that all propane suppliers keep their records on FEO forms has been modified to allow dealers to use their normal recordkeeping practices in maintaining this information.

OTHER SUBPARTS

Definitions. Many definitions have been clarified and several new definitions added to conform to changes in other subparts.

Most comments received dealt with the definition of agricultural production. Although the definition of agricultural production has been modified somewhat in light of these comments, in general the definition is still limited to the actual production of agricultural commodities and the processing of these commodities into food items.

With respect to the many businesses and activities which sought inclusion within the meaning of agricultural production, it should be noted that exclusion, in most cases, does not deprive such businesses or activities of the allocation of fuel. It merely requires the use of a somewhat reduced level such as the general levels applicable to industrial users. FEO will also take administrative action to make certain that those parts of businesses or activities which directly support agricultural production and which develop critical shortages that impact on the production of agricultural commodities will be granted expedited treatment to adjust their entitlements and to insure that adequate supplies of fuel are available.

Modified allocation levels. Modified allocation levels have been inserted in each product subpart for use when a supplier's allocation fraction exceeds one.

Conservation. Although the notice of proposed rulemaking was not intended to deal with energy conservation, many comments were received expressing a concern that FEO address this subject. This was not possible within the time limitations for issuing this amendment. Energy conservation, however, is fundamental to FEO's programs and is receiving FEO's continuing attention. As measures are developed to insure that energy conservation will be practiced, they will be reflected in future revisions of FEO's regulations.

As published, this document reflects corrections filed after the filing date of the original document.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748; 38 FR 33575)

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is revised as set out herein, effective June 1, 1974.

Issued in Washington, D.C., on May 1, 1974.

JOHN C. SAWHILL,
Administrator,
Federal Energy Office.

Part 211 is revised to read as follows:

Subpart A—General Provisions

Sec.
211.1 Scope.
211.2 Relationship of subparts.
211.9 Supplier/purchaser relationships.
211.10 Supplier's method of allocation.
211.11 Basis for purchaser's entitlement to allocation.
211.12 Purchaser's allocation entitlement.
211.13 Adjustments to base period volume.
211.14 Redirection of products.
211.15 State offices of petroleum allocation.
211.17 State set aside.
211.21 Energy conservation.
211.22 Administrative actions.
211.23 Normal business practices.
211.25 Supplier substitution.
211.26 Department of Defense allocations.
211.27 Construction industry.
211.28 Price.
211.29 Synthetic Natural Gas production.

Subpart B—Definitions

211.51 General Definitions.

Subpart D—Propane

211.81 Scope.
211.82 Definitions.
211.83 Allocation levels.
211.84 Modified alocation levels.
211.85 Supplier/purchaser relationships.
211.86 Method of allocation.
211.87 Procedures and reporting requirements.

Subpart F—Motor Gasoline

211.101 Scope.
211.102 Definitions.
211.103 Allocation levels.
211.104 Modified allocation levels.
211.105 Supplier/purchaser relationships.
211.106 Retail sales outlets.
211.107 Method of allocation.
211.108 Procedures and reporting requirements.

Subpart G—Middle Distillate

211.121 Scope.
211,122 Definitions.
211.123 Allocation levels.
211.124 Modified allocation levels.
211.125 Supplier/purchaser relationships.
211.126 Method of allocation.
211.127 Procedures and reporting requirements.

Subpart H—Aviation Fuels

Sec.
211.141 Scope.
211.142 Definitions.
211.143 Allocation levels.
211.144 Modified allocation levels.
211.145 Supplier/purchaser relationships and adjustments of base period use.
211.146 Method of allocation.
211.147 Procedures and reporting requirements.

Subpart I—Residual Fuel Oil

Sec.
211.161 Scope.
211.162 Definitions.
211.163 Allocation levels.
211.164 Modified allocation levels.
211.165 Supplier/purchaser relationships.
211.166 Method of allocation.
211.167 Procedures and reporting requirements.

Subpart L—General Reporting and Recordkeeping Requirements

Sec.
211.221 Scope.
211.222 Monthly reports by refiners and importers.
211.223 Recordkeeping requirements.
211.224 Weekly petroleum reporting system.
211.225 Report of new end-user and wholesale purchaser-consumer importers.

1. Subpart A of Part 211 is revised to read as follows:

Subpart A—General Provisions

§ 211.1 Scope.

(a) *General.* This part applies to the mandatory allocation of crude oil, residual fuel oil and refined petroleum products produced in or imported into the United States.

(b) *Exclusions.* (1) Exports of crude petroleum and petroleum products sub-

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ject to Subchapter B of Chapter III of Title 15 of the Code of Federal Regulations are excluded from this part.

(2) The first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from any stripper well lease as defined in § 210.32 of this chapter is excluded from this part.

(3) Petroleum refinery products such as petroleum wax, petroleum coke, asphalt, road oil, and refinery gases which are not crude oil, refined petroleum products, or residual fuel oils are excluded from this part.

(4) Natural gas and ethane are also excluded from this part.

(c) *State set-asides.* State set-asides are provided for middle distillates, residual fuel oil, motor gasoline and propane.

§ 211.2 Relationship of subparts.

Unless otherwise specified in Subparts D through K of this part, the general provisions set forth in this subpart apply to the mandatory allocation of all allocated products.

(a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

(2) (i) Unless otherwise provided in this part or directed by FEO, the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEO.

(ii) Unless otherwise provided in this Part or directed by FEO, the supplier/wholesale purchaser-consumer relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be revised or otherwise terminated except that any such relationship may be terminated by the mutual consent of both parties.

(b) *Supplier/end-user relationship.* Each supplier of an allocated product shall, to the maximum extent practicable, supply all end-users which purchased that allocated product from that supplier as of January 15, 1974, and which are entitled to an allocation level under the provisions of Subparts D through K of this part.

(c) *Changes in ownership or brand.* The supplier/purchaser relationships required by this Part shall not be altered by (1) changes in the ownership or right of possession of the real property on which a wholesale purchaser or end-user maintains its on-going business or end use; or (2) changes in the brand or franchise under which a wholesale purchaser-reseller maintains its on-going business.

(d) *New relationships.* (1) Suppliers shall not supply new wholesale purchasers except in accordance with § 211.12(e).

(2) Suppliers shall not supply new end-users except in accordance with § 211.12(f).

(3) New suppliers shall not supply wholesale purchasers or end-users except in accordance with § 211.10(e).

(e) *Dual capacities.* A supplier may act in the capacity of a wholesale purchaser and an end-user. A wholesale purchaser-consumer may also be a wholesale purchaser-reseller. A firm which is acting in one or more different capacities shall comply with the appropriate regulations governing each capacity in which it acts.

§ 211.10 Supplier's method of allocation.

(a) *General.* (1) Suppliers of allocated products shall allocate all of their allocable supply in accordance with the provisions of this section unless otherwise specified in Subparts D through K of this part. Each supplier shall determine its allocation fraction pursuant to the provisions of paragraph (b) of this section. Suppliers shall then allocate to wholesale purchasers and end-users in accordance with the provisions of paragraph (c) of this section. Suppliers of end-users without allocation levels shall allocate their allocable supply in accordance with the provisions of paragraph (d) of this section. The method of allocation for new suppliers is specified in paragraph (e) of this section. Suppliers with allocation fractions less than one (1.0) must act in accordance with the provisions of paragraph (f) of this section, while suppliers with allocation fractions in excess of one (1.0) must act in accordance with the provisions of paragraph (g) of this section. Suppliers which sell products with different uses which are subject to allocation under more than one subpart shall determine the applicable subpart by reference to paragraph (h) of this section.

(2) For purposes of defining a supplier in this part, a firm shall mean the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(b) *Allocation fraction.* Each supplier shall determine an allocation fraction prior to making any allocation. A supplier's allocation fraction for any period which corresponds to a base period for an allocated product shall be equal to its allocable supply of that product, which is defined in paragraph (b)(1) of this section, for that period, divided by its supply obligation for all levels of distribution, which is defined in paragraph (b)(2) of this section. Suppliers shall adjust their allocation fractions for each such period to reflect adjustments in their supply obligation and in their allocable supply. Each supplier shall only have a single allocation fraction for all purchasers except to the extent permitted in § 211.14 or unless permitted or required by order of the FEO. Suppliers with two or more distribution subsystems or regions independent of one another may petition National FEO for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

(1) *Allocable supply.* Each supplier's allocable supply of an allocated product for a period which corresponds to a base period shall be equal to its total supply for that period, which is the sum of its estimated production, including amounts received under processing and exchange agreements, imports, purchases and any reduction in inventory of that allocated product made pursuant to § 211.22 except as otherwise ordered by FEO; less (i) any amounts designated as a state set-aside for a prime supplier pursuant to § 211.17, (ii) any amounts of allocation requirements supplied directly to end-users or wholesale purchaser-consumers under an allocation level not subject to an allocation fraction, (iii) any amounts supplied to wholesale purchaser-resellers which have certified these amounts to be for ultimate use under an allocation level not subject to an allocation fraction, and (iv) any amounts supplied to customers through exchange agreements. Any existing inventory, or production, importation or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in the allocable supply of that product.

(2) *Supply obligation*—(i) *General.* A supplier's supply obligation of a particular allocated product is the sum of (A) the amounts of its wholesale purchaser-resellers' base period volumes as adjusted pursuant to § 211.13 for unusual growth and other allowable factors, which were supplied by the supplier during the appropriate base period provided that the wholesale purchaser is still in business; (B) the amounts of base period uses of new wholesale purchasers and end-users which are assigned to or accepted by the supplier in accordance with the provisions of § 211.12; and (C) the amounts of allocation requirements of end-users and wholesale purchaser-consumers supplied by the supplier; minus (D) any amounts of allocation requirements supplied directly to end-users or wholesale purchaser-consumers under an allocation level not subject to an allocation fraction; and (E) any amounts supplied to wholesale purchaser-resellers which have certified those amounts to be for ultimate use under an allocation level not subject to an allocation fraction. The supply obligation of a retail sales outlet for motor gasoline shall also include an amount equal to its total sales of motor gasoline during the base period to end-users not entitled to an allocation level. A wholesale purchaser's base period volume, allocation requirements and allocation levels are defined below.

(ii) *Base period use.* Base period use means base period volume or adjusted base period volume, as appropriate. A wholesale purchaser's base period volume of a particular allocated product is the volume of that allocated product purchased or obtained during the appropriate base period as determined in accordance with § 211.12(c). In the case of a new wholesale purchaser, base period volume means the volume assigned pursuant to § 211.12(c). Base period volume, however, does not include any amounts of an allocated product obtained pursuant to in kind exchange agreements involving a single product which are normal business operating procedures except the difference between the total amounts received under exchange agreements and the total amounts supplied to customers through exchange agreements. Suppliers do not have a base period volume except when acting in the capacity of wholesale purchasers. Depending on the applicable allocation level, end-users may have a base period volume or may be treated on the basis of current requirements. Adjustments to base period volumes shall be made in accordance with the provisions of § 211.13.

(iii) *Allocation requirements.* The allocation requirement of an end-user or wholesale purchaser-consumer is the product of that purchaser's current requirements or base period use multiplied by the applicable allocation level.

(iv) *Allocation levels.* An allocation level is the percentage of the current requirements or base period use of an end-user or wholesale purchaser-consumer that its supplier shall supply if sufficient volumes of the allocated product are available. Allocation levels are assigned on the basis of the use to be made of the product and the type of purchaser receiving the product.

(c) *Allocation by suppliers to wholesale purchasers and end-users.* There shall be two levels of priority in the allocation by suppliers to wholesale purchasers and end-users:

(1) *First priority.* The first priority shall be for each supplier at every distribution level (i) to allocate from its total supply to wholesale purchaser-resellers any amounts which those purchasers have certified pursuant to § 211.12(d)(2) to be for ultimate use under an allocation level not subject to an allocation fraction and (ii) to allocate from its total supply to end-users and wholesale purchaser-consumers supplied directly under an allocation level not subject to an allocation fraction sufficient volumes of the allocated product to supply one hundred percent of those purchasers' allocation requirements which suppliers of those purchasers have certified pursuant to § 211.12(d)(1). The amounts allocated under this first priority shall not be subject to the supplier's allocation fraction.

(2) *Second priority.* The second priority for each supplier shall be (i) to allocate to each wholesale purchaser-reseller a volume of allocated product equal to the product of that supplier's allocation fraction multiplied by the amount equal to that wholesale purchaser-reseller's base period use minus any amounts which that purchaser has certified to be for ultimate use under an allocation level not subject to an allocation fraction and (ii) to allocate from its allocable supply to all end-users and wholesale purchaser-consumers supplied directly under an allocation level subject to an allocation fraction a volume of allocated product equal to the product of that supplier's allocation fraction multiplied by the allocation requirements of those purchasers.

(3) *Allocation level priority.* Allocation levels listed in Subparts D through K are not arranged in sequence of priority except that the allocation levels not subject to an allocation fraction must be supplied as the first order of priority. Suppliers shall distribute their allocable supply to all classifications of purchasers listed within each particular percentage allocation level and among percentage allocation levels other than levels not subject to an allocation fraction without regard to the order of listing.

(d) *Purchasers without allocation levels.* Notwithstanding the provisions of paragraphs (c) and (g) of this section, suppliers such as retail gasoline dealers, which supply both end-users or wholesale purchaser-consumers which are not entitled to an allocation level and end-users or wholesale purchaser-consumers which are entitled to an allocation level shall allocate their allocable supply in the following manner:

(1) The first priority for each supplier shall be to allocate to all end-users and wholesale purchasers which are entitled to an allocation in accordance with the provisions of paragraph (c) of this section.

(2) The second priority for each supplier shall be to distribute equitably the remainder of the supplier's allocable supply among all end-users or wholesale purchaser-consumers which are not entitled to an allocation level. A state may require or authorize priorities to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Except to the extent that FEO regulations or a State office otherwise may require or authorize, local governments and the supplier may also give priority to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Priority treatment, per se, when granted in accordance with the provisions of this subparagraph, shall not be considered a form of discrimination among purchasers or any other prohibited conduct under § 210.62 of this chapter.

(e) *New supplier.* (1) A supplier which was not a base period supplier but was a supplier prior to January 15, 1974 shall supply, in accordance with the provisions of this section, (i) wholesale purchasers which it supplied as of January 15, 1974 and which have no base period supplier; (ii) any assigned purchasers; (iii) new wholesale purchasers acquired after January 15, 1974 in accordance with the provisions of § 211.12; and (iv) to the maximum extent possible, end-users.

(2) A supplier which was not a supplier prior to January 15, 1974 shall be considered to have no supply obligation and shall not allocate supplies to any purchaser without FEO approval.

(f) *Allocation fractions less than one.* When a supplier's allocation fraction is less than one (1.0), a supplier shall reduce, on a pro-rata basis, the amounts supplied to end-users and wholesale purchasers for uses subject to the allocation fraction. End-users and wholesale purchaser-consumers supplied under an allocation level not subject to an allocation fraction, shall, however, be supplied at a constant one hundred percent of allocation requirements. Wholesale purchaser-resellers which certify amounts of an allocated product to be for ultimate use under an allocation level not subject to an allocation fraction shall also be supplied at one hundred percent of these certified amounts. These purchasers shall not receive a pro-rata reduction unless the supplier's total supply is not sufficient to supply all such end-users and wholesale purchasers at one hundred percent of allocation requirements or certified amounts, as appropriate.

(g) *Allocation fractions greater than one.* (1) In allocating allocable supplies of any allocated product among wholesale purchasers and end-users, no supplier may use an allocation fraction greater than one (1.0) except as provided herein.

(2) If a supplier's allocable supply is of sufficient magnitude that its allocation fraction computed pursuant to paragraph (b) of this section will exceed one (1.0) for a period corresponding to a base period, the supplier shall report either by its monthly report under § 211.222 which would cover the period during which the allocation fraction will exceed one (1.0) or by certified mail to the National FEO and the appropriate regional FEO, the volume of surplus product available within five (5) days of the supplier's determination that its allocation fraction will exceed one (1.0).

(3) The National or regional FEO (whenever authorized by the National FEO) may at any time direct that the product reported pursuant to paragraph (g)(2) above be distributed among other suppliers or sold to designated wholesale purchasers or end-users.

(4) (i) Immediately following a supplier's determination that its allocation fraction will exceed one (1.0), the supplier shall determine the basic allocation entitlements of its wholesale purchasers and end-users in accordance with the provisions of paragraph (c) of this section as modified below. For the purpose of determining the amounts to be supplied to wholesale purchaser-resellers pursuant to paragraph (c)(2)(i) of this section, the supplier shall multiply their base period uses by the supplier's allocation fraction which is greater than one except to the extent restricted in § 211.107(b) for retail sales outlets of motor gasoline. For the purpose of determining the amounts to be supplied to end-users

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and wholesale purchaser-consumers pursuant to paragraph (c)(2)(ii) of this section, the supplier shall multiply their allocation requirements by an allocation fraction of one (1.0) instead of its actual allocation fraction greater than one.

(ii) The supplier shall then calculate an incremental allocable supply, the incremental allocation requirements of its end-users and wholesale purchaser-consumers, an incremental supply obligation and an incremental allocation fraction.

(A) The incremental allocable supply shall be the remaining amount of the supplier's allocable supply available for distribution after the basic entitlements have been determined under paragraph (g)(4)(i) above. Any amounts of product to which a wholesale purchaser-reseller is entitled pursuant to paragraph (g)(4)(i) above but which that wholesale purchaser-reseller chooses not to accept shall also be included in the incremental allocable supply.

(B) The incremental allocation requirements for each wholesale purchaser-consumer or end-user shall be the difference between the allocation requirments of that wholesale purchaser-consumer or end-user (as defined in paragraph (b)(2)(iii) of this section) determined by using the modified allocation levels and the allocation requirements determined by using the non-modified allocation levels.

(C) The incremental supply obligation shall be the sum of all the supplier's incremental allocation requirements.

(D) The incremental allocation fraction shall be the supplier's incremental allocable supply divided by the supplier's incremental supply obligation.

(5) The supplier shall then simultaneously allocate to its wholesale purchasers and end-users in the following manner:

(i) The supplier shall distribute to each wholesale purchaser-reseller the basic allocation entitlement calculated pursuant to paragraph (g)(4)(i) of this section.

(ii) The supplier shall distribute to each wholesale purchaser-consumer and each end-user the sum of the following allocation entitlements:

(A) The basic allocation entitlement for that purchaser calculated pursuant to paragraph (g)(4)(i) of this section using an allocation fraction of one (1.0); and

(B) The incremental allocation entitlement for that purchaser calculated by multiplying that supplier's incremental allocation fraction by that purchaser's incremental allocation requirements.

(6) Whenever the supplier determines that it will have an incremental allocation fraction in excess of one (1.0), the supplier shall report either by its monthly report under § 211.222 which would cover the period during which the incremental allocation fraction will exceed one (1.0) or by certified mail to the National FEO and the appropriate regional FEO the volume of supplies remaining from its allocable supply. Such report may be made at the same time the notice required by paragraph (g)(2) of this section is made. The National or regional FEO (whenever authorized by the National FEO) may direct that the excess product reported under this subparagraph be distributed among other suppliers or sold to designated wholesale purchasers or end-users as provided by § 211.12. If the reporting supplier is not notified to the contrary within ten (10) days of reporting to the FEO, it may distribute such excess product at its discretion.

(7) Notwithstanding the provisions of § 211.12, any wholesale purchaser or end-user may purchase allocated product from any supplier which certifies that it has excess product to distribute and that it has complied with the provisions of paragraph (g)(6) of this section.

(8) No supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of an allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, unless directed by FEO.

(h) *Products with different uses.* When an allocated product may be subject to allocation under more than one subpart of this part, a wholesale purchaser shall certify the type of use of the product to the supplier which supplied that product during the base period prescribed in the subpart applicable to that type of use of that product. The supplier shall then supply that wholesale purchaser in accordance with the provisions of the subpart which applies to the certified use of that product unless the supplier and wholesale purchaser mutually agree that the product shall be supplied for a use other than the use during the base period. Suppliers shall supply end-users in accordance with the provisions of the subpart that applies to the end-user's present use of the product.

§ 211.11 Basis for purchaser's entitlement to allocation.

(a) *Basis of entitlement.* A wholesale purchaser or an end-user entitled to an allocation level shall receive an allocation based on its conduct of an on-going business or maintenance of an established end use.

(b) *End-users and wholesale purchasers as a firm.* (1) For purposes of defining an end-user or wholesale purchaser-consumer in this part, a firm shall mean all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers including all sites, storage tanks and other facilities or entities of the end-user or wholesale purchaser-consumer that utilize or store an allocated product.

(2) Except as provided in Subpart F of this part, for purposes of defining a wholesale purchaser-reseller in this part, a firm shall mean all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(c) *Loss of allocation entitlement for going out of business.* Wholesale purchasers and end-users which have gone out of business shall not be eligible for allocations based on volumes received or purchases made prior to going out of business.

(d) *Transfer of entitlement.* The right to receive an allocation shall not be assignable separately but shall be considered an integral part of the on-going business or established end use. The right to an allocation shall be deemed to have been transferred only when the entire business or activity of the firm is transferred to a successor firm.

§ 211.12 Purchaser's allocation entitlement.

(a) *Scope.* This section describes a purchaser's allocation entitlements. Paragraph (b) of this section specifies the volumes of an allocated product which wholesale purchasers and end-users are entitled to receive from suppliers. The method by which purchasers determine base period volumes is provided in paragraph (c) of this section and the method by which purchasers determine the amounts not subject to an allocation fraction is provided in paragraph (d) of this section. Paragraphs (e), (f), and (g) of this section set forth procedures by which new wholesale purchasers, new end-users and new importer-consumers, respectively, determine their entitlement and suppliers. Paragraph (h) of this section provides special relief for purchasers which are denied access to a fuel source by Federal or State order.

(b) *Entitlements*—(1) *Wholesale purchaser-reseller.* A wholesale purchaser-reseller shall be entitled to receive a volume of an allocated product equal to the sum of the volumes allocable to it from each of its suppliers. The volume supplied to a wholesale purchaser-reseller by each of its suppliers shall equal the sum of (i) any amounts which that purchaser has certified to a supplier to be for ultimate use under an allocation level not subject to an allocation fraction plus (ii) the product of that supplier's allocation fraction multiplied by an amount equal to that part of that wholesale purchaser's base period use purchased or obtained from that supplier minus any amounts which that purchaser has certified to be for ultimate use under an allocation level not subject to an allocation fraction.

(2) *Wholesale purchaser-consumers and end-users.* A wholesale purchaser-consumer or end-user shall be entitled to receive a volume of an allocated product equal to the sum of the volumes allocable to it from each of its suppliers. The volumes supplied to a wholesale purchaser-consumer or end-user by each of its suppliers shall equal the sum of (i) that part of the wholesale-purchaser's or end-user's allocation requirements supplied directly by that supplier under an allocation level not subject to an allocation fraction plus (ii) that part of the wholesale purchaser's or end-user's allocation requirements supplied by that supplier under an allocation level subject to an allocation fraction.

(c) *Base period volume determination.* (1) By July 1, 1974, each supplier which was not previously subject to this paragraph prior to May 1, 1974 and which sells an allocated product to a wholesale purchaser or end-user entitled to an allocation level which is a percentage of a base period use shall report to each of those purchasers with respect to each allocated product, the volume of product which it sold to or transferred to that purchaser in each base period.

(2) If, after receipt of a supplier's report, a purchaser questions the accuracy of a supplier's report, it shall notify that supplier and attempt to resolve the disagreement as to base period purchases of the purchaser.

(3) If the supplier and purchaser are unable to resolve their differences, the supplier shall commence allocations based on the supplier's records, in accordance with the allocation provisions in this part, and the purchaser should make application to the appropriate FEO regional office for a corrected base period volume in accordance with FEO forms and instructions. Copies of the purchaser's records for base period purchases should be included with the application.

(4) If the FEO determines that the purchaser's application for a corrected base period volume is valid, it may order the supplier to adjust the purchaser's base period volume and to supply the purchaser with additional volumes of the allocated product equal to the adjusted amount the purchaser should have received if allocation had initially been based on the corrected base period volume.

(d) *Determination of amounts not subject to an allocation fraction.* (1) Any wholesale purchaser-reseller which directly supplies end-users or wholesale purchaser-consumers entitled to an allocation level of 100 percent of current requirements which is not subject to an allocation fraction shall certify its requirements for such end-users or wholesale purchaser-consumers on an annual basis to its supplier (consistent with any energy conservation program such as the temperature reduction restrictions found in that end-user's allocation level). Any increase above the initial level of allocation requirements certified shall also be certified to the supplier. In the event that the wholesale purchaser-reseller and its supplier cannot agree on the volume which the wholesale purchaser-reseller is entitled to receive to meet the requirements of the end-user and the wholesale purchaser-consumer customers of the wholesale purchaser-reseller, an application for validation may be referred by the wholesale purchaser-reseller to FEO. During the period that a request for validation is pending, the supplier shall supply the wholesale purchaser-reseller at the level of requirements which is not disputed by the supplier. If the FEO determines that the wholesale purchaser-reseller is entitled to increased requirements in excess of those supplied by the supplier during the period that the request for validation is pending, FEO may order the supplier to supply such increased requirements and to supply the wholesale purchaser-reseller with additional volumes of the allocated product equal to the amount the wholesale purchaser-reseller would have received if the increased requirements had been supplied during such period.

(2) All suppliers which receive a certification of allocation requirements not subject to an allocation fraction pursuant to paragraph (d)(1) of this section or which receive a certification from any other supplier of allocation requirements not subject to an allocation fraction which have been certified to that other supplier shall in turn certify to their suppliers such allocation requirements not subject to an allocation fraction.

(3) Any end-user or wholesale purchaser-consumer engaged in agricultural production and entitled to an allocation level of 100 percent of current requirements not subject to an allocation fraction which disputes the certification of such requirements by its supplier, or any supplier which disputes the entitlement claimed by any wholesale purchaser-consumer or end-user engaged in agricultural production may apply to the Agricultural Stabilization and Conservation Service Office for assistance in mediating the dispute. Whenever a wholesale purchaser-consumer or end-user entitled to an allocation level not subject to an allocation fraction contends that it is not being supplied with 100 percent of its current requirements, such wholesale purchaser-consumer or end-user may apply to the regional FEO for validation of the amounts of its current requirements.

(4) Within five (5) days of the end of each period which corresponds to a base period, wholesale purchaser-resellers certifying pursuant to this paragraph shall certify to their suppliers the quantity of product delivered by the wholesale purchaser-reseller to end-users and wholesale purchaser-consumers for uses under an allocation level not subject to an allocation fraction during the period and shall certify that none of the quantity of product delivered to the wholesale purchaser-reseller by the supplier for delivery to end-users and wholesale purchaser-consumers for uses under an allocation level not subject to an allocation fraction was diverted to other uses during the period. Any quantities of product delivered for a period which corresponds to a base period to a wholesale purchaser-reseller for delivery to end-users and wholesale purchaser-consumers for uses under an allocation level not subject to an allocation fraction which is not delivered by the wholesale purchaser-reseller to such users during the period shall be used to adjust the quantity of product to be received by the wholesale purchaser-reseller for such uses in a subsequent period which corresponds to a base period. Suppliers shall in turn make adjustments to reflect adjustments made by suppliers of a wholesale purchaser-reseller under this subparagraph.

(e) *New wholesale purchasers.* Wholesale purchasers which do not have base period suppliers and wholesale purchasers whose base period suppliers are unable to supply them with sufficient amounts of an allocated product shall be supplied as provided in this paragraph.

(1) *Mutual arrangements for wholesale purchaser-consumers.* Wholesale purchaser-consumers without a base period supplier or a new supplier as provided in § 211.10(e)(1) are encouraged to make mutually acceptable arrangements with suppliers. Suppliers are encouraged to continue any existing supplier/purchaser relationships with such wholesale purchaser-consumers and to accept wholesale purchaser-consumers as new purchasers.

(i) Wholesale purchaser-consumers without a base period supplier or a new supplier as provided in § 211.10(e)(1) and existing or prospective suppliers may agree upon a proposed base period volume for the wholesale purchaser-consumer.

(ii) The supplier shall within 10 days of making the mutual arrangement notify FEO by certified mail in accordance with FEO forms and instructions of the proposed base period volume and the basis upon which the proposed base period volume was determined. In no event may the supplier commence delivery of any quantity of an allocated product pursuant to the proposed base period volume prior to the required notification to the FEO. The proposed base period volume is subject to adjustment by FEO. FEO may also assign the wholesale purchaser-consumer to another supplier.

(iii) After FEO has been notified by the supplier and during the period that FEO has the proposed supplier/purchaser relationship (including the proposed base period volume) under consideration, the supplier may provide the wholesale purchaser-consumer with interim supplies in accordance with the proposed base period volume.

(2) *New wholesale purchaser-resellers.* (i) Suppliers which have accepted as new purchasers wholesale purchaser-resellers prior to June 1, 1974, shall notify the FEO of the names of all such new purchasers, the proposed base period volume for each purchaser and the basis upon which the proposed base period volume was determined. The proposed base period volume is subject to adjustment by FEO. FEO may also assign the wholesale purchaser-reseller to another supplier. Suppliers may provide interim supplies to such wholesale purchaser-resellers pending FEO assignment of a supplier and a base period volume.

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(ii) Wholesale purchaser-resellers without a base period supplier or a new supplier as provided in § 211.10(e)(1) must apply to FEO for assignment to a supplier and for assignment of a base period volume.

(iii) Firms which intend to operate new retail sales outlets should advise FEO as soon as practicable (preferably before construction begins) of their intention and the anticipated base period volume requirements for such new retail sales outlets.

(iv) Suppliers shall not make interim deliveries to wholesale purchaser-resellers or retail sales outlets covered by paragraphs (e)(2)(ii) and (e)(2)(iii) of this section until FEO has assigned a supplier and a base period volume to the wholesale purchaser-reseller or the retail sales outlet.

(3) *Assignments.* Any wholesale purchaser which does not have a base period supplier or a new supplier as provided in § 211.10(e)(1) (including all wholesale purchaser-consumers which cannot locate a supplier under paragraph (e)(1) of this section) or whose base period supplier(s) or new supplier as provided in § 211.10(e)(1) is unable to supply it with sufficient amounts of an allocated product may petition FEO as provided in Part 205 of this Chapter to be assigned a supplier and a base period volume on an interim or permanent basis.

(i) To the extent practicable, the FEO shall continue any existing supplier/purchaser relationships in making such assignments.

(ii) The wholesale purchaser shall certify to the FEO documented evidence justifying its proposed base period volume as normal and reasonable for the intended use.

(iii) FEO may assign the wholesale purchaser to one or more suppliers and will assign a base period volume to the wholesale purchaser when the assignment to a supplier(s) is made. In assigning base period volumes, FEO will consider, among other relevant criteria, the quantity of allocated product previously sold or purchased at the purchaser's site, the projected volume as calculated prior to construction of the purchaser's site, and the criteria specified in § 211.13(c)(1).

(4) Any assigned base period volume under the provisions of this paragraph will be deemed to have been adjusted for growth under § 211.13(b) through the date of the assignment and may be adjusted thereafter under the provisions of § 211.13 (c) or (d). Base period volumes will not be assigned on any basis which gives a wholesale purchaser which is a new purchaser an unfair advantage over wholesale purchasers which have base period suppliers or new suppliers as provided in § 211.10(e).

(5) Any purchaser which is assigned to or accepted by a supplier under the provisions of this paragraph shall be accepted by the supplier for the duration of the program or until otherwise directed by the FEO.

(f) *New end-users.* (1) Suppliers to the maximum extent possible shall accept new end-users where such purchaser, under normal business practices, could logically have been served by the supplier in accordance with its base period business practices. Suppliers shall allocate to new end-users in a manner consistent with the allocation methods set forth in this chapter.

(2) If the supplier and new end-user cannot agree on an allocation requirement for the end-user or if the end-user cannot locate a supplier, the end-user may apply to the appropriate State office in accordance with the procedure specified in Subpart I of Part 205 of this chapter. In this event, the new end-user shall certify to the State office documented evidence justifying the proposed allocation requirement as normal and reasonable for the intended use.

(g) *End-user and wholesale purchaser-consumer importers.* End-users and wholesale purchaser-consumers which import an allocated product in excess of the volumes which they imported in the base period, and end-users and wholesale purchaser-consumers which have not previously imported an allocated product may import that product for their own use subject to § 211.10(g)(8). Such imports will not otherwise affect their allocation entitlement except to the extent that FEO determines that such imports, without a reduction in domestic allocation entitlements, are inconsistent with the objectives of the Act. Should the circumstances warrant, FEO may require that such imports be allocated to other end-users or suppliers. End-user and wholesale purchaser-consumer importers are required to report to both national and regional FEO as provided in § 211.225.

(h) *Curtailment of certain energy sources by Federal or State rule or order.* Any end-user or wholesale purchaser-consumer which has been denied access to a source of energy other than an allocated product as a consequence of curtailment by, or pursuant to, a plan filed in compliance with a rule or order of a Federal or State agency, or where the end-user's or wholesale purchaser-consumer's supply of such fuel is unobtainable by reason of an abandonment of service permitted or ordered by a Federal or State agency may apply to the FEO, under the provisions of this section as a new purchaser for an allocated product, provided, however, that a wholesale purchaser which is an interruptible customer for a source of energy other than an allocated product shall continue its base period supplier/purchaser relationships for an allocated product.

§ 211.13 Adjustments to base period volume.

(a) *Scope.* (1) The adjustment procedures under this section are applicable to the allocation of propane, butane, motor gasoline, middle distillate, aviation fuels (except allocations to civil air carriers), and residual fuel oil (except allocations to utilities) and other products subject to Subpart K of this part. This section describes the means by which wholesale purchasers and end-users may receive adjustments to their base period volumes. All adjustments made pursuant to this section are subject to verification by FEO audit.

(2) Paragraph (b) of this section provides for supplier-initiated and wholesale purchaser-initiated adjustments of a wholesale purchaser's base period volumes for each month of the appropriate base period year for unusual growth based upon actual sales volumes in 1972 and 1973. Paragraph (c) of this section provides for an adjustment of wholesale purchasers' and certain end-users' base period uses to account for changed circumstances. Paragraph (d) of this section provides an adjustment to base period uses when increased requirements are certified by end-users and wholesale purchaser-consumers entitled to receive an allocation level of 100 percent of current requirements subject to an allocation fraction.

(3) Paragraph (e) of this section requires non-discrimination between wholesale purchasers in granting adjustments. Paragraph (f) of this section requires purchasers to certify applications for adjustments.

(b) *Adjustments for unusual growth—*(1) *Supplier-initiated wholesale purchaser unusual growth adjustment.* Wholesale purchasers which purchased an allocated product (other than residual fuel oil which is assigned 1973 base periods) shall receive a supplier-initiated adjustment to their base period volumes by their suppliers to compensate for unusual growth between the 1972 base periods and the corresponding months in 1973.

(i) For purposes of this paragraph, that part of any growth which exceeds 10 percent for the periods compared for motor gasoline or 5 percent for the periods compared for any other allocated product is defined as "unusual growth." Wholesale purchasers will be granted an adjustment only for that part of growth which was in excess of 10 percent for motor gasoline and 5 percent for other allocated products.

(ii) A supplier shall adjust the base period volume for unusual growth in each month of the base period year for each wholesale purchaser which purchased the allocated product from the supplier in 1972. There is no requirement that a wholesale purchaser apply to the supplier for this adjustment. A supplier shall make the adjustment without a request by the wholesale purchaser to the extent that the supplier's records indicate that any wholesale purchaser is eligible for the adjustment.

(iii) The adjustment made pursuant to this paragraph shall be based upon a comparison of the volume of the allocated product purchased from the supplier in 1972 and the volume purchased in 1973. If the supplier did not supply the wholesale purchaser for all of 1972 the adjustment shall be made by a comparison of the volume for the period in 1972 that the supplier did supply the wholesale purchaser and the volume purchased by the wholesale purchaser during the corresponding period of 1973. A wholesale purchaser's 1973 volume in excess of its 1972 volume shall be expressed as a percentage of the 1972 volume to determine growth rate. Unusual growth shall then be determined by subtracting from the growth rate the appropriate percentage figure set forth in subparagraph (i) above. The resulting percentage shall be multiplied by the wholesale purchase's base period volume for each base period for which the supplier is obligated to supply the wholesale purchaser to provide the amount by which each base period volume shall be increased for unusual growth.

EXAMPLE: Firm A, a wholesale purchaser, purchased 100,000 gallons of motor gasoline from Firm B in 1972 and 150,000 gallons in 1973. Firm A's 1973 growth rate is 50 percent (1973 volume minus 1972 volume divided by 1972 volume). Firm A's unusual growth is 40 percent (that growth in excess of first 10 percent). Firm B therefore will increase by 40 percent each of Firm A's base period volumes (the volumes sold in each month of 1972) to be supplied by Firm B.

(iv) Unusual growth adjustments under this paragraph shall be certified by the supplier in accordance with FEO forms and instructions and filed with FEO.

(v) The adjustments under this paragraph shall be made by the supplier, and the certified form required by paragraph (b)(1)(iv) of this section, shall be filed with FEO on or before July 1, 1974. There is no requirement that FEO validate any adjustment made under this paragraph. Suppliers shall commence deliveries on the basis of adjustments to base period volumes which reflect unusual growth no later than July 1, 1974. A supplier may commence deliveries of an allocated product reflecting adjustments to base period volumes for unusual growth prior to July 1, 1974, provided that adjustments for all of its eligible wholesale purchasers of that allocated product have been made and such deliveries are commenced at the same time for all such wholesale purchasers.

(vi) Suppliers shall notify all wholesale purchasers for each base period of the base period year of any adjustment for unusual growth made under this subparagraph. The notice shall be given on or before July 1, 1974.

(vii) Each supplier shall notify all of its wholesale purchasers which do not receive an adjustment under this subparagraph. The notice shall be given on or before the date the required certified form is filed with FEO. The notice shall advise each such wholesale purchaser that it may apply to the supplier for an adjustment to base period volume(s) for unusual growth under paragraph (b)(3) of this section.

(viii) No wholesale purchaser which has received an adjustment for unusual growth in 1973 shall receive an additional adjustment under this paragraph except to the extent that such initial adjustment did not fully compensate the wholesale purchaser for unusual growth as allowed by this subparagraph. A supplier shall not decrease the base period volume (or adjusted base period volume) of a wholesale purchaser under this subparagraph if that purchaser's 1973 volume is less than that purchaser's 1972 volume.

(ix) No wholesale purchaser shall accept an adjusted base period volume initiated by a supplier under this paragraph which, when combined with the adjusted base period volumes supplied to the wholesale purchaser by its other base period suppliers, would exceed the wholesale purchaser's actual unusual growth for a base period. A wholesale purchaser offered such an adjusted base period volume shall immediately notify FEO in accordance with forms and instructions issued by FEO. The FEO may require suppliers of the wholesale purchaser to adjust the wholesale purchaser's base period volume as adjusted by its suppliers under this paragraph and to adjust the wholesale purchaser's future allocations to compensate for any excess product received by the wholesale purchaser.

(2) *Additional unusual growth adjustment for wholesale purchaser-resellers.* This subparagraph provides an additional adjustment for wholesale purchaser-resellers following an adjustment of their base period volume under paragraph (b)(1) above. If the base period volume of a wholesale purchaser-reseller as adjusted for unusual growth pursuant to paragraph (b)(1) of this section minus the 1973 allocation requirements of its purchasers for use under an allocation level which is not now subject to an allocation fraction is less than the wholesale purchaser-reseller's adjusted base period volume minus such allocation requirements as calculated under this paragraph, the wholesale purchaser-reseller may apply to its supplier for an adjustment to be calculated as follows:

(i) The wholesale purchaser-reseller will determine its 1972 volume less those volumes delivered to purchasers for use under an allocation level which is not now subject to an allocation fraction. A wholesale purchaser-reseller may calculate such volume by subtracting from its 1972 volume either:

(A) those actual volumes delivered in 1972 to purchasers for use under an allocation level which is not now subject to an allocation fraction and certified as accurate by the wholesale purchaser-reseller, or

(B) that volume which as a percentage of its 1972 volume corresponds to the percentage of the total volume delivered in 1973 to purchasers for use under an allocation level which is not now subject to an allocation fraction.

(ii) The wholesale purchaser-reseller will determine its 1973 volume less those volumes delivered in 1973 to purchasers for use under an allocation level which is not now subject to an allocation fraction.

(iii) The wholesale purchaser-reseller may then calculate its unusual growth adjustment using its 1972 and 1973 volumes less the volume in both years delivered to purchasers for use under an allocation level which is not now subject to an allocation fraction as otherwise provided in subparagraph (1) of this paragraph.

(iv) If the aggregate adjusted base period volumes calculated under this subparagraph are greater than the aggregate adjusted base period volumes calculated under paragraph (b)(1) of this section minus the 1973 allocation requirements of the wholesale purchaser-reseller's purchasers which are not subject to an allocation fraction, then the wholesale purchaser-reseller's aggregate adjusted base period volumes may be further adjusted to reflect the difference between those two amounts.

EXAMPLE: Firm A, a wholesale purchaser, purchased 100,000 gallons of motor gasoline from Firm B in 1972 and 150,000 gallons in 1973. Firm B under paragraph (b)(1) notified Firm A that the base period volumes supplied by Firm B to Firm A would be increased by 40 percent. See example following b(1)(iii). Since the aggregate of Firm A's base period volumes is 100,000 gallons, the aggregate of Firm A's base period volumes (as adjusted under paragraph (b)(1)) will be 140,000 gallons (100,000+40 percent of 100,000).

The 1973 requirements of Firm A's purchasers for use under an allocation level not now subject to an allocation fraction was 90,000 gallons. Firm A does not know the actual sales to such purchasers for such uses in 1972. To determine whether Firm A is entitled to an adjustment under § 211.13(b)(2). Firm A makes the following calculations:

(1) Under § 211.13(b)(2)(i)(B) Firm A assumes that 60 percent of its 1972 sales were to purchasers for use under an allocation level not now subject to an allocation fraction because 60 percent of its 1973 sales were in this category (90,000 divided by 150,000). Firm A then determines that it sold 40,000 gallons to purchasers for use under an allocation level not now subject to the allocation fraction in 1972 by multiplying 60 percent times 100,000 and subtracting that product (60,000) from 100,000.

(2) Firm A's 1973 volume less those volumes delivered to purchasers for use under an allocation level not now subject to an allocation fraction is 60,000 (150,000 −90,000).

(3) Firm A next calculates its unusual growth adjustment using its 1972 and 1973 volumes less the volume in both years delivered to purchasers for use under an allocation level not now subject to an allocation fraction. Firm A's 1973 growth rate using this method of calculation is 50 percent (60,000−40,000 divided by 40,000). Firm A's unusual growth rate is 40 percent (that growth in excess of 10 percent). If Firm A increases its 1972 volume less the volume delivered to purchasers for use under an allocation level but not now subject to an allocation fraction, by 40 percent, the volume will be 56,000 (40,000 plus 40 percent of 40,000).

(4) Firm A then calculates its aggregate base period volumes adjusted for unusual growth pursuant to § 211.13(b)(1) which is 140,000 gallons. That volume minus the 1973 volume sold to purchasers for use under an allocation level not subject to an allocation

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fraction equals 50,000 gallons (140,000 −90,000).

(5) Since the aggregate adjusted base period volumes calculated under paragraph (3) of this example are greater than the aggregate adjusted base period volumes as calculated under paragraph (4) of this example, Firm A may apply to Firm B for an additional adjustment to its aggregate base period volumes of 6,000 gallons (56,000 minus 50,000). Firm A's newly aggregated adjusted base period volumes will then equal 146,000 gallongs (140,000 + 6,000). If Firm B supplied Firm A in each month of 1972, Firm B will increase each base period volume as adjusted under b(1) by 500 gallons (6,000 divided by 12).

(3) *Wholesale purchaser initiated unusual growth application.* (i) Any wholesale purchaser which does not receive an adjustment under paragraph (b) (1) of this section or which disputes the adjustment made thereunder by one of its suppliers may apply to that supplier for an adjustment of its base period volume to compensate for unusual growth in 1973 in accordance with FEO forms and instructions.

(ii) Any adjustment made under this subparagraph shall be based solely on actual volumes supplied or purchased in 1972 and 1973 as indicated by the records of the supplier and the wholesale purchaser. Unusual growth has the same meaning under this subparagraph as under paragraph (b) (1) of this section. Adjustments to base period volumes for unusual growth under this subparagraph shall be calculated in the same manner as such adjustments under paragraph (b) (1) of this section.

(iii) Base period suppliers of wholesale purchasers shall include in an adjustment for unusual growth their proportionate share of that part of a wholesale purchaser's 1973 volume which was not supplied to that wholesale purchaser by a base period supplier of the wholesale purchaser. Wholesale purchasers shall certify to their base period suppliers the 1973 volumes purchased by the wholesale purchaser from suppliers which were not base period suppliers of the wholesale purchaser. A base period supplier's share of such 1973 volumes shall be equal to that supplier's proportionate share of the 1972 volumes supplied to the wholesale purchaser by all suppliers which supplied that purchaser during the base period.

(iv) Upon receipt of an application for unusual growth under this subparagraph, the supplier shall adjust the wholesale purchaser's base period volume within ten (10) days. If the supplier disagrees with the application, it may request validation from the appropriate regional FEO; *Provided, however,* That the supplier shall immediately make an interim adjustment to the applicant's base period volume commencing with the first period which corresponds to a base period and which commences later than twenty (20) days after receipt of the application in the proposed adjusted amount during the pendency of any FEO validation proceeding. If the FEO validation proceeding results in an adjusted amount less than that supplied during the pendency of such proceeding, FEO may require the supplier to adjust the wholesale purchaser's future allocations to compensate for any excess product supplied during the interim period.

(v) No wholesale purchaser which has received an adjustment for unusual growth in 1973 shall receive an additional adjustment under this subparagraph except to the extent that such initial adjustment did not fully compensate the wholesale purchaser for unusual growth as allowed by this subparagraph.

(c) *Adjustments for changed circumstances*—(1) *Wholesale purchasers.* Wholesale purchasers may apply to the FEO pursuant to § 205.22 of this chapter for adjustments to their base period use for changed circumstances since January 1, 1973, which have not been reflected in an adjustment under paragraph (b) of this section. In processing such applications, the FEO may consider situations that indicate a need for increased amounts over base period use including but not limited to plant expansions, changed traffic patterns, closed retail sales outlets which have caused increased demand upon remaining retail sales outlets, changes in the local economy, unusual seasonal fluctuations, new population, industrial growth, acceptance of new end-users or unusual growth problems such as could occur at truck stops on new highways. A wholesale purchaser-reseller which operated in a marketing area that experienced unusual growth or other changed circumstances during 1973 but which was unable to increase its sales to meet the increased demand because its supplier imposed an allocation fraction under the Voluntary Petroleum Allocation Program may apply for an adjustment under this paragraph.

(2) *End-users.* End-users whose allocation level is a percentage of base period use may apply to the appropriate State office to receive an adjustment to their base period volume for changed circumstances after January 1, 1974. The State office shall process the petition for adjustment and make recommendations to the FEO in accordance with the procedure specified in Subpart I of Part 205 of this chapter.

(3) Wholesale purchasers and end-users shall submit their applications for adjustments to their base period use under this paragraph to their suppliers prior to submission to FEO or the appropriate State office. The supplier shall certify information with respect to the application in accordance with forms and instructions issued by FEO and submit the application together with its certification to FEO or the appropriate State office not later than ten (10) days following receipt of the application from the wholesale purchaser or end-user.

(4) *FEO action.* FEO shall only make adjustments for changed circumstances when there are compelling situations requiring relief. Such adjustments shall be based upon applications which are fully supported by detailed facts, figures and other relevant documentation.

(d) *Adjustments for increased current requirements.* (1) Any end-user or wholesale purchaser-consumer entitled to an allocation level of 100 percent of current requirements which is subject to an allocation fraction shall certify to its supplier any increased requirements (consistent with any energy conservation program such as the temperature reduction restrictions found in that end-user's allocation level) above the level of requirements on January 1, 1974. In the event that the end-user or wholesale purchaser-consumer and supplier cannot agree on a volume to be supplied, an application for validation may be referred by the end-user or wholesale purchaser-consumer to the office specified in § 205.13 of this chapter.

The request for validation shall be made in accordance with forms and instructions issued by FEO and may be made not sooner than ten (10) days after the certification has been presented to the supplier. During the period that a request for validation is pending, the supplier shall supply the wholesale purchaser-consumer or end-user at the level of requirements which is not disputed by the supplier. If the FEO determines that the purchaser is entitled to increased requirements in excess of those supplied by the supplier during the period that the request for validation is pending, FEO may order the supplier to supply such increased requirements and to supply the purchaser with additional volumes of the allocated product equal to the amount the purchaser would have received if the increased requirements had been supplied during such period.

The FEO may subsequently require the supplier to adjust such end-user's or wholesale purchaser-consumer's allocation requirements to compensate for any excess product supplied during the validation period.

(2) All suppliers which, in their capacity as wholesale purchaser-resellers, receive a certification of increased requirements pursuant to paragraph (d) (1) of this section or which receive a certification from any other supplier of increased requirements which have been certified to that other supplier, shall in turn certify to their suppliers these increased requirements and be assigned a proportionate adjustment to that part of their base period volume received from each supplier to cover the certified increases in volume granted under this paragraph.

(3) End-users and wholesale purchaser-consumers which claim increases under this paragraph must be prepared to establish their historic requirements and justify their increased requirements.

(e) *Non-discrimination among wholesale purchasers.* In granting adjustments to base period use under this section, the supplier shall not discriminate among branded independent marketers, nonbranded independent marketers and wholesale purchaser-resellers operated by the supplier.

(f) *Certifications and downward adjustments of base period uses.* The chief executive officer (or his authorized agent) of a purchaser applying to a supplier for an adjustment under this section shall certify such application for accuracy. Such applications shall contain a statement that increased allocations shall be used only for the purpose stated in the application, shall not be diverted for other uses; and that if its needs decline, the purchaser shall file an amended application for a downward adjustment to its base period use.

§ 211.14 Redirection of products.

(a) To meet imbalances that may occur in the supplies of any allocated product, the regional or National FEO may order the transfer of specified amounts of any such product from one area to another or may order that different allocation fractions be used in different areas. An area, as used in this section, means a State, a group of States within a region, or any geographical part of a State or States within a region. The National FEO may also order the transfer of specified amounts of any allocated product from one region to another region or may order that different allocation fractions be used in different regions to meet such imbalances. Further, the FEO may transfer supplies of allocated products among suppliers in order to remedy supply imbalances. The regional or National FEO will not order the transfer of an allocated product under this section from one area within a State to another within the State without the receipt of a recommendation by the State Office.

(b) Refiners and importers are authorized to reduce the monthly allocable supply to purchasers of those allocated products covered under Subparts D, E, F, G, H (except Civil Air Carriers) and I (except utilities) for any region or area by up to five (5) percent and to increase the total quantity of any of these allocated products available in another region or area experiencing shortages significantly greater than are being experienced elsewhere in the nation to meet regional imbalances due to weather variation, seasonal demand, or other circumstances beyond their control. Such action may be accomplished without prior approval from the Administrator, FEO, but must be reported immediately after the adjustment occurs to the National FEO, the appropriate regional FEO, and the State Office of any State within a region or area directly affected by the reduction or increase. Redistribution involving reduction of product volumes greater than five (5) percent from any State shall require approval from the Administrator, FEO, prior to any action by any refiner or importer. The adjustment provided for in this section shall not be cumulative. Allocation fractions for a region or area which are reduced by such a reduction of an allocated product shall be returned to prereduction levels as soon as practicable.

(c) Shifts made pursuant to paragraph (b) of this section shall be employed solely to effect a better regional distribution of allocated products and shall not discriminate against branded or nonbranded independent marketers, independent refiners, or small refiners.

(d) Any refiner, importer, or other supplier which has significantly reduced or which intends to reduce marketing or distribution activities in any region or area and which is required by FEO regulations to supply its base period and assigned wholesale purchasers in that region or area may apply to the National FEO to seek a change in the method of supplying such wholesale purchasers. The FEO may order the reassignment of wholesale purchasers or end-users from one supplier to another. Pending action by the National FEO on such application, such refiners, importers and suppliers are under a continuing obligation to provide allocations to all their base period and assigned wholesale purchasers in any region or area either directly or through a substitute supplier in accordance with § 211.25.

§ 211.15 State offices of petroleum allocation.

(a) Any state may apply to the National Office of the FEO, to create a State Office of Petroleum Allocation within the State.

(b) Upon certification by the FEO such State Office of Petroleum Allocation will be delegated authority to administer the state set-aside program, to provide assistance in obtaining adjustments specified in § 211.13 and such other authorities specified in this part, or in orders issued by the FEO.

§ 211.17 State set-aside.

(a) *Scope and purpose.* A state set-aside system shall be established for propane, middle distillate, motor gasoline and residual fuel oil (except as used by utilities or as bunker fuel for maritime shipping). Authority may be delegated to a State office to administer the state set-aside for that State. The state set-aside shall be utilized by a State office to meet hardship and emergency requirements of all wholesale purchaser-consumers and end-users within that state from the state set-aside volumes, including wholesale purchaser-consumers and end-users which are part of any governmental organization. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State office may direct that a wholesale purchaser-reseller be supplied from the state set-aside in order that the wholesale purchaser-reseller can supply the wholesale purchaser-consumers and end-users experiencing the hardship or emergency.

(b) *State set-aside volume.* (1) A prime supplier shall inform each appropriate State office and each appropriate regional FEO office monthly in accordance with § 211.222(b) by each product subject to State set-aside, of the estimated volume of each product to be sold into that State for consumption within that State.

(2) The FEO shall determine the state set-aside percentage level for each product. The initial percentage levels for the state set-aside system are specified in appropriate subparts of this part. The FEO will publish any changes in these percentages.

(3) The set-aside volume available to a State office for a particular month shall be the sum of the amounts calculated by multiplying the state set-aside percentage level by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State.

(4) The state set-aside for a particular month cannot be accumulated or deferred; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

(c) *State representative.* Each supplier shall designate a representative within each State in which the supplier is a prime supplier to act for and in behalf of the prime supplier with respect to state set-aside petitions and assignments from the state set-aside to be supplied by that prime supplier. Each prime supplier for a State shall designate its representative for that State and shall notify in writing the appropriate State office of such designation by June 15, 1974. The designated representative for a State shall be a firm which maintains a place of business within the State. The State office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting state set-aside volumes to be provided by the prime supplier.

(d) *State action.* (1) All hardship and emergency petitions for assignment from the state set-aside and appeals shall be filed with and resolved by the appropriate State office in accordance with Subpart I of Part 205. Petitioners shall identify their existing supplier, or if they do not have a supplier, at least two suppliers which the petitioner has contacted and which could provide the allocated product. The final decision afforded by the State office on an appeal from a hardship or emergency petition shall be subject to judicial review in the manner prescribed by section 211 of the Economic Stabilization Act of 1970.

(2) If a State office approves a hardship or emergency petition, it shall assign a prime supplier and amount from the state set-aside to the petitioner. To determine an appropriate prime supplier, the State office may coordinate with the State representatives of the prime suppliers.

(e) *Authorizing document.* The State office shall issue to the purchaser granted an assignment a document authorizing the assignment. A copy of the authorizing document (or a summary) shall also be provided by the State office to the designated State representative of the prime supplier assigned to the purchaser. An authorizing document issued by the State office pursuant to this section is effective upon issuance and represents a call on the prime supplier's set-aside volumes for the month of issuance, irrespective of the fact that delivery of the product subject to the authorizing

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document cannot be made until the following month. Any authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that time.

(f) *Supplier's responsibilities.* Suppliers shall provide the assigned amount of an allocated product to a purchaser when presented with an authorizing document. The authorizing document shall entitle the purchaser to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation, and shall not delay deliveries required by the authorizing document while confirming such deliveries with the prime supplier. Any non-prime supplier which provides an allocated product pursuant to an authorizing document shall in turn receive from its supplier an equivalent volume of the allocated product which shall not be considered part of its allocation entitlement otherwise authorized by this part.

(g) *Prime suppliers.* All prime suppliers shall supply products from their state set-aside volume each month, as directed by the State office, not to exceed the total state set-aside volume for each product for that month. That portion of a prime supplier's state set-aside volume for a particular month which is not allocated by the State office during that month or which is not subject to an authorizing document issued no later than the last day of that month shall become a part of the prime supplier's total supply for the subsequent month and shall be distributed according to the allocation procedures set forth in this part.

(h) *Release of State set-aside.* (1) At any time during the month, the State Office may order the release of part of all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

(2) From time to time, the State office may designate certain geographical areas within the State as suffering from an intra-State supply imbalance. At any time during the month, the State office may order some or all of the prime suppliers with purchasers within such geographical areas to release part or all of their set-aside volume through their normal distribution systems to increase the allocations of all of the supplier's purchasers located within such areas.

(3) Orders issued pursuant to this paragraph shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Such orders shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month.

§ 211.21 Energy conservation.

To promote the goal of increased energy conservation, every wholesale purchaser or end-user receiving an allocation pursuant to the operation of this part shall certify that it has an energy conservation program in effect. Every end-user or wholesale purchaser-consumer whose allocation level is one hundred (100) percent of current requirements for any allocated product shall make a similar certification to its supplier.

§ 211.22 Administrative actions.

(a) *Inventories of crude oil and allocated products.* No refiner, importer, wholesale purchaser or end-user shall accumulate inventories of any crude oil or allocated product which exceed customary inventories maintained by that refiner, importer, wholesale purchaser or end-user in the conduct of its normal business practices unless otherwise directed by the FEO. Normal inventory practices shall be observed in determining allocable supplies of crude oil or allocated products in each period which corresponds to a base period. The FEO may review inventory practices and direct an increase or decrease in inventories if:

(1) The inventory practices employed are inconsistent with the provisions of this part;

(2) The inventory practices circumvent or otherwise violate other provisions of this part; or

(3) The FEO determines that an adjustment is necessary in order to allocate crude oil or allocated product supplies consistent with the objectives of the Mandatory Petroleum Allocation Program.

(b) *Adjustment to calculations.* Upon a finding that incorrect or otherwise inaccurate data have been used in calculating the allocation of any crude oil or allocated product subject to this part, the FEO may take appropriate action to adjust any such figures or data and any allocations based thereon to account for the error.

§ 211.23 Normal business practices.

Nothing in this part is intended to exclude or supersede exchange or borrow/payback operations which are normal operating procedures provided these procedures are not used to circumvent the intent of this part.

§ 211.25 Supplier substitution.

(a) Any supplier may arrange to supply any purchaser which is entitled to receive an allocation from it through another supplier or suppliers in accordance with normal business practices. The purchaser shall, however, be entitled to receive the same amount of an allocated product from the substituted supplier that it would receive if it were directly supplied by the original supplier using that supplier's allocation fraction.

(b) In order to alleviate imbalances, suppliers may make normal business exchanges among themselves.

(c) To accommodate seasonal and other fluctuations in both supply and demand, such as requirements for agricultural production, suppliers and wholesale purchasers may agree between and among themselves either to borrow on future allocations or to defer current allocations or both on a volume for volume basis within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other wholesale purchasers.

§ 211.26 Department of Defense allocations.

(a) Allocations of crude oil or any allocated product to the Department of Defense (except for housekeeping requirements) shall be supplied at an allocation level of one hundred (100) percent of current requirements without being subject to an allocation fraction.

(b) The Department of Defense shall report to the President on a semi-annual basis a bulk product purchase program, and, on an annual basis, the purchase program needed in support of the "Posts, Camps, and Stations", "Into-Plane Refueling" (at commercial/civil airports), "Marine Bunkers", and "Lubes, Greases and Specialty Products" programs. These programs shall take effect only following the approval of the President. Whenever necessary to assure that the Department of Defense is fully supplied with its current requirements, the Administrator, FEO, shall assign to suppliers the volumes of crude oil and allocated products to be allocated to the Department of Defense.

(c) The Defense Fuel Supply Center, which serves as the sole authorized procurement agency for the Department of Defense, shall be deemed a wholesale purchaser for purposes of this part.

(d) All Department of Defense requirements shall be consistent with ambient indoor temperature adjustments and other fuel saving measures taken in promoting the goal of increased energy conservation.

§ 211.27 Construction industry.

Any firm planning to award a construction contract to contractors (which may be wholesale purchaser-consumers or end-users) may apply as a new purchaser to a supplier or FEO as appropriate to be assigned a base period volume. The base period volume shall be estimated as the minimum amount sufficient to complete the proposed contract. Upon awarding the contract to a contractor, the assigned base period volume shall be transferred to the contractor by the FEO unless the contractor or its sub-contractors have a base period volume with suppliers in the area of the construction sufficient to perform the contract. If the contractor or its subcontractors have a base period volume with suppliers in the area of the construction sufficient to perform the contract, or if construction plans are terminated, FEO shall be notified by the firm and the contractor and any base period volume assigned for the construction shall terminate. To the extent that the base period volume established for the

construction is found to exceed construction requirements or the contractor or its sub-contractor has a base period volume with suppliers in the area of the construction partially sufficient to perform the contract, the firm and the contractor shall not accept any duplicating quantities and shall notify FEO immediately. Upon such notification, the FEO will adjust the base period volume accordingly. Contractors and suppliers are encouraged to arrange for exchange agreements between suppliers.

§ 211.28 Price.

The pricing provisions applicable to this part are provided in Part 212 of this chapter including provisions which allow any importer which imports an allocated product solely for his own end-use, and not for resale, to charge a margin for any volumes of that imported product it is required to sell under the provisions of this part.

§ 211.29 Synthetic Natural Gas Production.

Notwithstanding any inconsistent provision of § 211.12 and § 211.13 a firm which purchases crude oil and allocated products for use as feedstock in a synthetic natural gas plant which has requirements that exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only by application to National FEO, in accordance with forms and instructions issued by the FEO. Firms which plan to construct new synthetic natural gas plants after May 1, 1974 or enter into a plant expansion program should petition the FEO for assignment of supplier and a base period volume prior to commencing construction of such facilities. The FEO shall, in granting or denying such assignment or adjustment, consider along with the criteria listed in § 205.24 the following factors:

(a) The degree to which the wholesale purchaser has curtailed supplies of natural gas and synthetic natural gas;

(b) Projected synthetic natural gas consumption and projected market growth over the period of allocation;

(c) The source and volume of anticipated feedstocks; and

(d) Attempts by the firm to obtain alternative supplies of gas and/or feedstock sources.

2. Subpart B is revised to read as follows:

Subpart B—Definitions

§ 211.51 General definitions.

"Adjusted base period volume" means base period volume as adjusted pursuant to § 211.13 or as provided otherwise in Subparts D through K.

"Agricultural production" means all the activities classified under the industry code numbers specified in paragraph (a) below as set forth in the Standard Industrial Classification Manual, 1972 edition, except those industry code numbers listed in paragraph (b) which are excluded:

(a) *Activities included.* (1) All industry code numbers included in Division A, Agriculture, Forestry and Fishing, except as specified in paragraph (b) of this section.

(2) All industry code numbers included in Major Group 20, Food and Kindred Products, of Division D, Manufacturing, including grain and seed drying, except as specified in paragraph (b) below; and

(3) All the following other industry code numbers:

1474	Potash, Soda and Borate Minerals (Potash mining only);
1475	Phosphate Rock;
2141	Tobacco Stemming and Redrying;
2411	Logging Camps and Logging Contractors;
2421	Sawmills and Planing Mills;
2819	Industrial Inorganic Chemicals, Not Elsewhere Classified (dicalcium phosphate only);
2873	Nitrogenous Fertilizers;
2874	Phosphatic Fertilizers;
2875	Fertilizers, Mixing Only;
2879	Pesticides and Agricultural Chemicals Not Elsewhere Classified;
4212	Local Trucking Without Storage (Farm to market hauling and log trucking only);
4971	Irrigation Systems (for farm use); and
5462	Retail Bakeries, Baking and Selling.

(b) *Activities excluded.* (1) All the following industry code numbers, otherwise listed under Division A, Agriculture, Forestry and Fishing, are excluded from the definition:

0271	Fur-Bearing Animals and Rabbits (except rabbit farms which are included in the definition);
0279	Animal Specialties, Not Elsewhere Classified, (except apiaries, honey production and bee, catfish, fish and frog farms which are included in the definition);
0742	Veterinary Services for Animal Specialties;
0752	Animal Specialty Services;
0781	Landscape Counseling and Planning;
0782	Lawn and Garden Services; and
0849	Gathering of Forest Products, Not Elsewhere Classified.

(2) All the following industry code numbers, otherwise listed under Major Group 20, Food and Kindred Products, of Divisiion D, Manufacturing, are excluded from the definition:

2047	Dog, Cat and Other Pet Food;
2067	Chewing Gum; and
2085	Distilled, Rectified and Blended Liquors.

"Allocable supply" means allocable supply as defined in § 211.10(b)(1).

"Allocated products" means residual fuel oil and refined petroleum products.

"Allocation fraction" means allocation fraction as defined in § 211.10(b).

"Allocation level" means allocation level as defined in § 211.10(b)(2)(iv).

"Allocation requirement" means allocation requirement as defined in § 211.10(b)(2)(iii).

"API" means American Petroleum Institute.

"Asphalt" means asphalt as defined in ASTM standard D-288.

"ASTM" means American Society for Testing Materials.

"Assignment" means an action taken by the FEO, or an authorized State official, designating that an authorized purchaser be supplied at an allocation entitlement level determined by the FEO or authorized State official, by a specified supplier.

"Base period" means the historical period designated in Subparts C through K of this part.

"Base period volume" means base period volume as defined in § 211.10(b)(2)(ii).

"Bonded fuels" means those fuels produced outside the customs limits of the United States, held in bond under continuous United States customs custody in accordance with Treasury Department Regulations, and destined for use outside of the United States, its territories or possessions.

"Branded independent marketer" means a firm which is engaged in the marketing or distributing of refined petroleum products pursuant to—

(a) An agreement or contract with a refiner (or a firm which controls, is controlled by, or is under common control with such refiner) to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner (or any such firm), or

(b) An agreement or contract under which any such firm engaged in the marketing or distributing of refined petroleum products is granted authority to occupy premises owned, leased, or in any way controlled by a refiner (or firm which controls, is controlled by, or is under common control with such refiner), but which is not affiliated with, controlled by, or under common control with any refiner (other than by means of a supply contract, or an agreement or contract described in paragraph (a) or (b) of this definition), and which does not control such refiner.

"Coker feedstock" means any crude oil or unfinished oil, as defined by Oil Import Regulation 1, Revision 5 (32A CFR OI Reg. 1.22(f)–(h)) which is used as a feedstock to any of the various types of process units in a refinery known as "cokers."

"Commercial use" means usage by those purchasers engaged primarily in the sale of goods or services and for uses other than those involving industrial activities and electrical generation.

"Complaint" means an allegation, supported by relevant facts, of a violation of the regulations or an order issued thereunder.

"Crude oil" means a mixture of liquid hydrocarbons including lease condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.

"Current requirements" means the supply of an allocated product needed by an end-user or wholesale purchaser-consumer to meet its present supply requirements for a particular use of that product, but does not include any amounts which the end-user or wholesale purchaser-consumer (a) purchases or obtains for resale, (b) accumulates as an

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inventory in excess of that purchaser's customary inventory maintained in the conduct of its normal business practices, or (c) uses in excess of the supply necessary to meet present supply requirements as constrained by the implementation of the energy conservation program required in § 211.21.

"Degree-day formula" means any one of the various systems in use by retailers to provide wholesale purchaser-consumers or end-users with automatic delivery service of an allocated product for space-heating.

"Degrees API" or "°API" is the hydrometer scale established by the American Petroleum Institute and used to measure the specific gravity of liquids.

"Emergency Services" means law enforcement, fire fighting, and emergency medical services.

"End-user" means any firm which is an ultimate consumer of an allocated product other than a wholesale purchaser-consumer.

"Energy production" means the exploration, drilling, mining, refining, processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels, and electrical energy. It also includes the construction of facilities and equipment used in energy production, such as pipelines, mining equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing and electrical generation whose power source is petroleum based.

"Ethane" means a hydrocarbon whose chemical composition is C_2H_6.

"FEO" means the National Federal Energy Office, the appropriate regional Federal Energy Office or the delegate of either.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The FEO may, in regulations and forms issued in this part, treat as a firm:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm.

"Gas processing plant" means a facility which recovers ethane, propane, butane, and/or other natural gas products by a process of absorption, adsorption, compression, refrigeration cycling, or a combination of such processes, from mixtures of hydrocarbons that existed in a reservoir.

"Importer" means any firm (excluding the Department of Defense) that owns at the first place of storage any allocated product or crude oil brought into the United States.

"Independent marketer" means either a branded independent marketer or a non-branded independent marketer.

"Independent refiner" means a refiner which (a) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to November 27, 1973, more than 70 percent of its refinery input of domestic crude oil or 70 percent of its refinery input of domestic and imported crude oil from producers which do not control, are not controlled by, and are not under common control with such refiner, and (b) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by it through branded independent marketers or non-branded independent marketers.

"Industrial use" means usage by those firms primarily engaged in a process which creates or changes raw or unfinished materials into another form or product.

"Interruptible customers" means those purchasers receiving an allocated product pursuant to a contract which can be abrogated unilaterally by the supplier.

"LPG" means liquefied petroleum gas, and includes propane and butane, and propane/butane mixes, but not ethane.

"Local governmental unit" means any county, city, or other governmental subdivision of a State, and any special purpose district.

"Lubricants" means all grades of lubricating oils which have been blended with the necessary lubricant additives so as to produce a lubricating oil composition in a form that is designed to be used for lubricating purposes in industrial, commercial and automotive use without further modification, and lubricating greases which are solid semi-fluid products comprising a dispersion of a thickening agent in a liquid lubricant, wherein said lubricating oils and lubricating greases are comprised of greater than 10 percent of refined petroleum products by weight.

"Medical and nursing buildings" means buildings that house medical, dental or nursing activities including, but not limited to those listed in Appendix I of 6 CFR 300.18–300.19, the use of clinics, hospitals, nursing homes and other facilities.

"Middle distillate" means any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, and diesel fuel, which have a fifty percent boiling point in the ASTM D86 standard distillation test falling between 371° and 700° F. Products specifically excluded from this definition are kerosene-base and naphtha-base jet fuel, heavy fuel oils as defined in VV–F–815C or ASTM D–396, grades #4, 5, and 6, intermediate fuel oils (which are blends containing #6 oil), and all specialty items such as solvents, lubricants, waxes and process oil.

"Modified allocation level" means an allocation level used in accordance with the provisions of § 211.10(g) when a supplier's allocation fraction exceeds one (1.0).

"Motor gasoline" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties.

"Natural gas" means natural gas as defined by the Federal Power Commission.

"Nonbranded independent marketer" means a firm which is engaged in the marketing or distribution of refined petroleum products, but which (a) is not a refiner, (b) is not a firm which controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract), and (c) is not a branded independent marketer.

"PAD District" or "District" means any of the Petroleum Administration for Defense (PAD) Districts.

"Passenger transportation services" means (a) surface, including water and rail facilities and services for carrying passengers whether publicly or privately owned, including tour and charter buses and taxicabs which serve the general public; and (b) bus transportation of pupils to and from school and school sponsored activities.

"Peak shaving" means the use of propane or butane mixtures to supplement supplies of pipeline gas for distribution by gas utilities during periods of high demand.

"Petrochemical feedstock use" means usage of crude oil, residual fuel oil, and refined petroleum products for processing in a petrochemical plant.

"Petrochemical plants" means those industrial plants, regardless of capacity, that process petrochemical feedstocks and obtain at least thirty (30) percent conversion, by weight, to petrochemicals or other products that are converted to petrochemicals, so long as the weight of hydrocarbon contained in the final petrochemical is equal to at least thirty (30) percent of the initial petrochemical feedstock fed to the plant under consideration.

"Petrochemicals" means the items defined as such in section 25A of Oil Import Regulation 1 (Revision 5), (32A CFR OI Reg. 1.25A).

"Petroleum coke" means a solid residue, the final product of the condensation process in cracking, consisting mainly of highly polycyclic aromatic hydrocarbons very poor in hydrogen, including petroleum coke which when calcinated yields almost pure carbon or artificial graphite suitable for production of carbon or graphite electrodes, structural graphite, motor brushes, dry cells, etc. It includes both forms listed below:

(a) *Marketable.* Those grades of coke produced in delayed or fluid cokers which may be recovered as relatively pure carbon. This "green" coke may be further purified by calcinating or may be sold in the "green" state.

(b) *Catalyst.* In many catalytic operations (i.e., catalytic cracking) carbon is deposited on the catalyst, deactivating the catalyst. The catalyst is reactivated by burning off the carbon, using it as a fuel in the refinery process. This carbon or coke is not recoverable in a concentrated form. For statistical purposes, the amount of catalyst coke may be estimated by using an average weight percent (1.5 percent—8.5 percent) of charging stock.

"Petroleum wax" means petroleum wax as defined in ASTM standard D–288.

"Prime supplier" means the supplier, or producer as defined in Subpart D, which makes the first sale of any allocated product subject to the state set-aside into the state distribution system for consumption within the state.

"Purchaser" means a wholesale purchaser, an end-user, or both.

"Refined petroleum product" means gasoline, kerosene, middle distillate (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel.

"Refineries" means those industrial plants, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, except when such plant is a petrochemical plant.

"Refiners" means those firms that own, operate or control the operations of one or more refineries.

"Refinery gas" means a form of gas normally produced in the refining of crude oil which is predominantly used for refinery fuel.

"Region" means one of the ten regions served by FEO's regional offices.

"Regional office" means a regional office of the FEO. The regional offices are located in Boston, Massachusetts; New York, New York; Philadelphia, Pennsylvania; Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Kansas City, Missouri; Denver, Colorado; San Francisco, California; and Seattle, Washington.

"Residential use" means direct usage in a residential dwelling or church or other place of worship for space heating, refrigeration, cooking, water heating, and other residential uses.

"Residual fuel oil" means the fuel oil commonly known as: (a) No. 4, No. 5 and No. 6 fuel oils; (b) Bunker C; (c) Navy Special Fuel Oil; (d) crude oil when burned directly as a fuel; and all other fuel oils which have a fifty percent boiling point over 700°F in the ASTM D–86 standard distillation test.

"Retail sales outlet" means a site on which a supplier maintains an on-going business of selling any allocated product to end-users or wholesale purchaser-consumers.

"Road oil" means any heavy petroleum oil, including residual asphaltic oils, used as a dust palliative and surface treatment of roads and highways. It is generally produced in six grades from 0, the most liquid, to 5, the most viscous.

"Sanction" means the penalties as described in Subpart F of Part 210 of this chapter.

"Sanitation services" means the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities during emergency conditions.

"School" means an educational institution up through the secondary level that maintains a regular facility and curriculum and has a regularly organized body of students, in attendance at the place where its educational activities are regularly carried on. It does not include post-secondary education facilities.

"Shortfall" means the difference between supply and demand for crude oil or an allocated product during any period.

"Small refiner" means a refiner whose total refinery capacity (including the refinery capacity of any firm which controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

"Social service agency use" means usage by private, non-profit social service agencies which operate programs for provision of essential health and welfare services.

"State" means each of the 50 States, the District of Columbia, Puerto Rico, possessions and territories of the United States, other than the Panama Canal Zone.

"State set-aside" means, with respect to a particular prime supplier, the amount of an allocated product which is made available from the total supply of a prime supplier pursuant to § 211.17 for utilization by a State to resolve emergencies and hardships due to fuel shortages. The state set-aside amount for a particular month and state is calculated by multiplying the state set-aside percentage level by the prime supplier's estimated portion of its total supply for that month which will be sold into that state's distribution system for consumption within the state. The initial state set-aside percentage level for an allocated product is specified in the appropriate subpart for that product but is subject to change by notice of the FEO.

"State office" means the State Petroleum Allocation Office certified by FEO pursuant to § 211.15.

"Supplier" means any firm or any part or subsidiary of any firm other than the Department of Defense which supplies, sells, transfers or otherwise furnishes (as by consignment) any allocated product or crude oil to wholesale purchasers or end-users, including but not limited to refiners, importers, resellers, jobbers, and retailers.

"Supply obligation" means supply obligation as defined in § 211.10(b)(2).

"Synthetic natural gas plant" means a facility producing synthetic natural gas which results from the manufacture, conversion or reforming of petroleum hydrocarbons, and which may be easily substituted for or interchanged with pipeline quality natural gas.

"Telecommunications services" means the repair, operation, and maintenance of voice, data, telegraph, video, and similar communications services to the public by a communications common carrier, during periods of substantial disruption of normal service.

"Total supply" means the sum of a supplier's estimated production, including amounts received under processing agreements, imports, purchases and any reduction in inventory of an allocated product made pursuant to § 211.22 except as otherwise ordered by FEO. Any existing inventory, or production, importation or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in the total supply of that product.

"Utility" means a facility that generates electricity, by any means, and sells it to the public.

"Wholesale purchaser" means a wholesale purchaser-reseller or wholesale purchaser-consumer, or both.

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

"Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

3. Subpart D of Part 211 is revised to read as follows:

Subpart D—Propane

§ 211.81 Scope.

(a) This subpart describes the allocation program for propane and propane-butane mixes produced in or imported into the United States. This subpart does not apply to:

(1) Sales of bottled propane; and

(2) Propane in mixtures of light hydrocarbons produced in a refinery and used in that refinery for use other than as a feedstock.

(b) This subpart provides for a State set-aside.

§ 211.82 Definitions.

For purposes of this subpart—

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"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter.

"Bottled propane" means propane bottled in cylinders with a capacity of one hundred (100) pounds or less, provided that the cylinders are not manifolded at the time of sale.

"Dispensing station" means those retail sales outlets which sell less than 15,000 gallons per year and sell or fill only bottled propane.

"Merchant storage facility" means any facility which is utilized to store propane for firms other than the owner or operator of such a facility.

"Plant protection fuel" means the use of propane in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. This includes the protection of such material and equipment which would otherwise be damaged, but does not include sufficient quantities of propane required to maintain plant production. Propane may not be considered plant protection fuel if an alternate fuel is available and technically feasible for substitution.

"Producer" means a firm which produces propane in a refinery, natural gas processing plant or fractionating plant, or imports more than 2,000,000 gallons per year, including firms which produce natural gas and have their gas processed for their account by others but retain title.

"Producer-purchaser" means a producer which purchases or obtains propane from another producer.

"Producer-supplier" means a producer which supplies propane to another producer.

"Process fuel" means propane used to convert a substance from one form to another such as in applications requiring precise temperature controls or precise flame characteristics. Propane may not be considered process fuel if an alternate fuel is available and technically feasible for substitution.

"Propane" means the chemical C_3H_8 in its commercial forms including propane-butane mixes and the propane in other mixtures in which propane constitutes greater than ten (10) percent of the mixture by weight.

"Propane-butane mix" means a mix containing ten (10) percent or more propane by weight.

"Standby volumes" means those volumes of propane used by an industry as a temporary substitute for another product (such as natural gas) in times of shortage or curtailment of the other product. Volumes of propane which are used as a temporary substitute for a process fuel or plant protection fuel are not considered standby volumes for purposes of this subpart.

"Where no substitute for propane is available" means those circumstances in which no alternate fuel is available or in which a firm has historically relied upon propane as its sole fuel source.

§ 211.83 Allocation levels.

(a) *General.* The allocation levels in this paragraph only apply to allocations made by suppliers or producers to wholesale purchaser-consumers and end-users. Except as otherwise provided in this subpart, suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase propane under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchase-consumers which are entitled to purchase propane under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production;

(2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

(i) Emergency services;
(ii) Energy production;
(iii) Sanitation services;
(iv) Telecommunications services;
(v) Passenger transportation services;
(vi) Medical and nursing buildings;
(vii) Aviation ground support vehicles and equipment; and
(viii) Start-up, testing and flame stability of electrical utility plants.

(2) One hundred (100) percent of base period volumes for:

(i) Petrochemical feedstock use;
(ii) Synthetic natural gas plant feedstock use:
(iii) Industrial use as a process or plant protection fuel or where no substitute for propane is available; and
(iv) Governmental use.

(3) Ninety-five (95) percent of base period use for all residential use.

(4) Ninety (90) percent of base period use for the following uses:

(i) Commercial use (The maximum volume which may be obtained for this use, however, is 210,000 gallons per year);
(ii) Standby volumes or any other industrial use;
(iii) Transportation services other than passenger transportation services or aviation ground support vehicles, for vehicles equipped to use propane as of December 27, 1973; and
(iv) Schools.

(d) *Gas utilities.* The use of propane for peak shaving by gas utilities is limited to the volumes of propane equal to those amounts contracted for, held in storage by, or purchased for delivery during the base period, regardless of whether those volumes were used during the period. Propane shall not be used for peak shaving as long as the gas utility continues service during such peak shaving usage to interruptible industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any customer who can use an alternate fuel other than natural gas or propane.

§ 211.84 Modified allocation levels.

(a) For purposes of § 211.10(g), the modified allocation levels for propane which apply when a supplier's allocation fraction is in excess of one (1.0) are listed below.

(b) *Modified allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production;

(2) Department of Defense use as specified in § 211.26.

(c) *Modified allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

(i) Emergency services;
(ii) Energy production;
(iii) Sanitation services;
(iv) Telecommunications services;
(v) Passenger transportation services;
(vi) Medical and nursing buildings;
(vii) Aviation ground support vehicles and equipment;
(viii) Start-up, testing and flame stability of electrical utility plants;
(ix) Residential use;
(x) Schools;
(xi) Commercial; and
(xii) Transportation services other than passenger transportation services or aviation ground support vehicles.

(2) One hundred ten (110) percent of base period volume for:

(i) Industrial use as a process or plant protection fuel, or where no substitute for propane is available;
(ii) Petrochemical feedstock use; and
(iii) Governmental use.

(3) One hundred (100) percent of base period volumes for:

(i) Standby volumes, or any other industrial use;

(ii) *Gas utilities.* The use of propane for peak shaving by gas utilities is limited to the volumes of propane equal to those amounts contracted for, held in storage by, or purchased for delivery during the base period, regardless of whether those volumes were used during the period. Propane shall not be used for peak shaving as long as the gas utility continues service during such peak shaving usage to interruptible industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any customer who can use an alternate fuel other than natural gas or propane; and

(iii) Synthetic natural gas plant feedstock use.

§ 211.85 Supplier/purchaser relationships.

Supplier/purchaser relationships shall be as set forth in § 211.9–13, unless otherwise specified in this subpart.

§ 211.86 Method of allocation.

(a) *General.* Except as specifically otherwise provided in this subpart, the allocation of propane shall be as specified in § 211.10. Adjustments to a wholesale purchaser's base period volume specified in § 211.13 shall apply to this subpart except for those provisions for supplier initiated unusual growth adjustments found in § 211.13(b). New wholesale purchasers and end-users are subject to the requirements of § 211.12. Notwithstanding the provisions of § 211.12(c), each supplier or producer which sells propane to a wholesale purchaser-consumer, end-user or dispensing station shall determine the base period volume of those purchasers but is not required to report that determination to such purchasers except on written request by a purchaser.

(b) *State set-aside.* The initial State set-aside level for propane is three (3) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the State's distribution system for consumption within the State. Section 211.17 shall control the distribution of propane from the State set-aside.

(c) *Dispensing stations.* Notwithstanding the provisions of § 211.10, dispensing stations which sell only bottled propane to end-users shall be entitled to receive a volume of propane equal to one hundred (100) percent of the volume necessary to supply the current requirements of all end-users purchasing from them, without being subject to an allocation fraction. The maximum volume which may be obtained pursuant to this paragraph may not exceed 15,000 gallons per year.

(d) *Producers.* Notwithstanding the provisions of § 211.9–13, producers shall allocate their allocable supply in the following manner:

(1) A firm which operates both in the capacity of a producer and in the capacity of a wholesale purchaser-reseller shall only be considered as a producer for purposes of this subpart.

(2) Producer-suppliers shall allocate their total supply in the following manner:

(i) Each producer-supplier shall first allocate to each producer-purchaser which purchased from it during the base period a volume of propane equal to the same proportion of its total propane available for sale, transfer or internal use as a raw material feedstock as was provided to the producer-purchaser during the base period.

(ii) After meeting the requirements of paragraph (d) (2) (i), above, a producer-supplier shall allocate the remainder of its total supply to its purchasers in accordance with § 211.10.

(3) Producer-purchasers shall allocate their total supply in accordance with § 211.10 except that if a producer-purchaser also supplies wholesale purchaser-resellers which have certified amounts of propane to be for ultimate use under an allocation level not subject to an allocation fraction that producer-purchaser may not recertify such amounts to the producer-supplier which supplies it.

(4) A firm which qualifies as both a producer-purchaser and producer-supplier shall allocate as if it were a producer-supplier except that if such firm also supplies wholesale purchaser-resellers which have certified amounts of propane to be for ultimate use under an allocation level not subject to an allocation fraction that firm may not recertify such amounts to the producer-supplier which supplies it.

(5) A wholesale purchaser-reseller which receives a certification of allocation requirements not subject to an allocation fraction may recertify those amounts to a producer in the same manner as such amounts may be recertified to a supplier pursuant to § 211.12(d).

(6) Except as provided in this subpart, all provisions pertaining to suppliers in Subpart A shall also pertain to producers.

(e) Operators of storage facilities shall not release for shipment to gas utilities any quantity of propane which, when taken together with other amounts of propane supplied to that utility for that allocation quarter, exceeds its quantity of propane which may be supplied under the allocation level for utilities in § 211.83(d).

(f) Suppliers or producers with two or more distribution subsystems or regions independent of one another may calculate separate allocation fractions for each such area provided that the supplier or primary producer notifies the FEO by certified mail of the use of multiple allocation fractions and fully justifies such practices at least fifteen days prior to distributing any supplies pursuant to multiple allocation fractions. The FEO may disallow the use of multiple allocation fractions to the extent that it determines that such a practice contravenes the intent of this part.

(g) Producers, suppliers and wholesale purchasers (except gas utilities and industrial users) shall be permitted to accumulate an inventory of propane during the summer in quantities which are normal and reasonable for seasonal usage in accordance with its normal business practices. Inventories controlled by gas utilities and industrial users (including petrochemical producers) shall be limited to:

(1) One hundred (100) percent of inventories used for gas utilities during April 1, 1972 through March 31, 1973; and

(2) One hundred twenty (120) percent of the volumes used for all industrial uses (including standby volumes) during April 1, 1972 thorugh March 31, 1973.

If a firm currently controls greater than the above-mentioned inventories, it shall not accept an allocation from a supplier or producer until its inventories are reduced to conform to the limits imposed in this paragraph.

§ 211.87 Procedures and reporting requirements.

(a) All owners of merchant storage facilities (or operators thereof) with a capacity in excess of 500,000 gallons which store propane shall report to the Administrator, FEO, the total volume, locations, and ownership of propane in storage including that owned by the storage owner or operator of affiliated companies, and that held in transit. If it is not possible to report each separate account of "in transit" storage, then the total volume shall be reported. This same information shall be reported as of the end of each month on form FEO 103 B and filed within fifteen (15) days after the close of that month. All owners of propane in storage shall file form FEO 101 with the operator of the storage facility. These reports shall be kept on file by the storage operator, and are subject to FEO audit.

(b) All matters pertaining to the allocation of propane shall be addressed to the appropriate State office or regional FEO office as specified in § 205.13.

(c) The general reporting and recordkeeping requirements contained in subpart L of this part apply to this subpart except that the information required to be kept on FEO forms in § 211.223 may be kept by suppliers or producers in accordance with that firm's customary recordkeeping practices.

(d) A hardship application may be submitted to the appropriate State office as provided in § 211.17 for undue hardship to any wholesale purchaser-consumer or end-user resulting from the provisions of this subpart.

(e) Producers and specified wholesale purchaser-resellers shall report in accordance with forms and instructions to be issued by the FEO.

4. Subpart F is revised to read as follows:

Subpart F—Motor Gasoline

§ 211.101 Scope.

(a) This subpart applies to the mandatory allocation of all motor gasoline produced in or imported into the United States.

(b) This subpart provides for a State set-aside of motor gasoline.

§ 211.102 Definitions.

For purposes of this subpart—

"Base period" means the month of 1972 corresponding to the current month.

"Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either (a) receives de-

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livery of that product into a storage tank substantially under the control of that firm at a fixed location, (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm, or (c) receives delivery of that product for use in cargo, freight and mail hauling by truck.

"Truck" means a motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment and with a gross vehicle weight rating for a single vehicle (the value specified by the manufacturer as the loaded weight of the vehicle) or the equivalent thereof in excess of 20,000 pounds, or in the case of trucks designed primarily for drawing other vehicles and not so constructed as to carry a load other than part of the weight of the vehicle and the load so drawn, with a gross combination weight rating (the value specified by the manufacturer as the loaded weight of the combination vehicle) or the equivalent thereof in excess of 20,000 pounds.

§ 211.103 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production;

(2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of the allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Sanitation services;

(iv) Telecommunications services;

(v) Passenger transportation services;

(vi) Cargo, freight and mail hauling by truck;

(vii) Aviation ground support vehicles and equipment.

(2) One hundred (100) percent of base period use (as reduced by application of the allocation fraction) for the following uses:

(i) Industrial use;

(ii) Commercial use;

(iii) Governmental use; and

(iv) Social service agency use.

(d) *Purchasers without an allocation level.* There shall be no allocation levels for end-users which are not bulk purchasers or for purchasers which are not otherwise described in paragraphs (b) and (c) of this section. Such end-users shall be supplied in accordance with the provisions of § 211.10(d)(2).

(e) *Wholesale purchaser-resellers.* Wholesale purchaser-resellers shall receive allocations on the basis of their base period volumes as determined by § 211.12(c) and adjusted in accordance with § 211.13.

§ 211.104 Modified allocation levels.

(a) For purposes of § 211.10(g), the modified allocation levels for motor gasoline which apply when a supplier's allocation fraction is in excess of one (1.0) are listed below.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production;

(2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of the allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Sanitation services;

(iv) Telecommunications services;

(v) Passenger transportation services;

(vi) Cargo, freight and mail hauling by truck;

(vii) Aviation ground support vehicles and equipment;

(viii) Industrial use;

(ix) Commercial use;

(x) Governmental use; and

(xi) Social service agency use.

§ 211.105 Supplier/purchaser relationships.

Supplier/purchaser relationships are set forth in § 211.9–211.13 except as provided in § 211.106.

§ 211.106 Retail sales outlets.

(a) *General.* Notwithstanding the provisions of § 211.11, the provisions of this section shall apply to retail sales outlets which sell motor gasoline.

(b) *Retail sales outlets as a firm.* (1) Each firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of this subpart and, therefore, shall be a separate wholesale purchaser-reseller. The entity which merely holds a real property interest in a retail sales outlet on which another entity operates the ongoing business shall not be considered the wholesale purchaser-reseller with respect to that outlet.

(2) An independent marketer, or a small or independent refiner, which operates two or more retail sales outlets may petition the FEO for treatment of some or all of such outlets as a single firm. The FEO may allow such treatment to the extent that the petitioner can demonstrate that treatment of each outlet as a separate firm would tend to lessen its competitive market position and that allowance of the petition would not result in an inequitable distribution of gasoline in the market areas served by that marketer.

(3) A supplier's obligation to provide motor gasoline shall be determined separately for each wholesale purchaser-reseller, without distinguishing between wholesale purchaser-resellers operated by the supplier and wholesale purchaser-resellers not operated by the supplier. A supplier may not reassign all or part of an allocation entitlement from one wholesale purchaser-reseller to another, including reassignments among its own retail sales outlets, without the express written permission of FEO unless a petition for treatment as a single firm of some or all of such supplier's retail sales outlets has been granted pursuant to paragraph (b)(2) of this section.

(4) To the extent that retail sales outlets have not been considered separate firms and therefore separate wholesale purchaser-resellers in the base period volume determination required under § 211.12(c), an operator of more than one retail sales outlet shall by July 1, 1974, determine the base period volume of each of its retail sales outlets and calculate the adjustment to base period volume for unusual growth as specified in § 211.13(b)(1). To the extent that the sum of all the adjustments for each of its retail sales outlets as calculated by the operator differs from the unusual growth adjustment as calculated by the supplier in accordance with the provisions of § 211.13(b)(1) treating all outlets together as a single firm, the operator of the retail sales outlets shall notify the supplier. If the supplier disputes the automatic growth adjustment as calculated by the operator, the operator shall make application to the appropriate FEO regional office for validation of the adjustment.

(c) *Loss of allocation entitlement for going out of business.* (1) A wholesale purchaser-reseller which operates a retail sales outlet shall be deemed to have gone out of business with respect to that outlet for purposes of § 211.11 if it vacates the site on which it conducts such business. Notwithstanding the foregoing, an independent marketer shall not be deemed to have gone out of business if (i) the independent marketer vacates the site on which it formerly operated a retail sales outlet, (ii) the former site is closed as a retail sales outlet or is operated as such by a firm that is not an independent marketer, and (iii) the independent marketer that occupied the former site, within a reasonable period of time, as determined by FEO, reestablishes another retail sales outlet at another location serving substantially the same customers or market that was served by the former site.

(2) A wholesale purchaser-reseller which operates more than one retail sales outlet and intends to go out of business at one or more sites on which it conducts business may petition the FEO for an adjustment to the base period volumes of its outlets which remain in business. The FEO may allow such adjustments to the extent that it is necessary to maintain the competitive market position of an independent marketer, that the vacating of business at a particular site or sites does not result in an inequitable distribution of gasoline in the market areas served by that marketer and that such an adjustment would not otherwise be inconsistent with the objectives of the allocation program.

(d) *Suppliers of retail sales outlets.* (1) The supplier of a retail sales outlet shall be that part of a firm which actually furnishes or physically delivers the gasoline to the retail sales outlet. The operator of one or more retail sales outlets shall not be considered the supplier of its own retail sales outlets unless it operates a terminal facility from which it furnishes a product to each outlet or unless it otherwise physically delivers the gasoline to each outlet.

(2) Whenever an operator of a retail sales outlet goes out of business with respect to that retail sales outlet under paragraph (c) of this section, the supplier of that outlet shall, in calculating its allocation fraction, remove the amount of the allocation entitlement of that retail sales outlet from its supply obligation, unless the right to such allocation has transferred to a successor wholesale purchaser-reseller under paragraph (e) of this section.

(3) Any supplier which supplies its own operated retail sales outlets shall report to the National and appropriate regional FEO and to the appropriate State office whenever it ceases to supply any retail sales outlet, without regard to whether such retail sales outlet is operated by the supplier.

(e) *Transfer of entitlement.* Whenever a wholesale purchaser-reseller is deemed to have gone out of busines in accordance with paragraph (c) of this section, the right to an allocation with respect to the retail sales outlet shall be deemed to have been transferred to its successor on the site, provided such successor established the same ongoing business on the site within a reasonable period of time, as determined by FEO, after its predecessor vacates the premises.

§ 211.107 Method of allocation.

(a) The initial State set-aside level for motor gasoline for a particular month and state is three (3) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the State's distribution system for consumption within the State. Subsequent adjustments to the percentage unit will be published by the FEO.

(b) Allocation of motor gasoline to retail sales outlets and all other purchasers shall be made as specified in § 211.10 except that when a supplier has an allocation fraction greater than one (1.0), the supplier may not supply under § 211.10(g)(5) a retail sales outlet with more than 110 percent of its base period use until the FEO has been notified pursuant to the provisions of § 211.10(g)(6). The reporting requirements of § 211.10(g)(2) and (6) shall also not apply to retail sales outlets of motor gasoline.

(c) Provisions to adjust a wholesale purchaser's base period volume are specified in § 211.13. New wholesale purchasers and end-users are subject to the requirements of § 211.12.

§ 211.108 Procedures and reporting requirements.

(a) All matters pertaining to the allocation of motor gasoline shall be addressed to the appropriate State office or regional FEO office as specified within this part.

(b) The general reporting and recordkeeping requirements contained in Subpart L of this part shall apply to this subpart.

(c) A hardship application may be submitted to the appropriate State office as provided in § 211.17 for undue hardship to any wholesale purchaser or end-user resulting from the provisions of this subpart.

5. Subpart G is revised to read as follows:

Subpart G—Middle Distillate

§ 211.121 Scope.

(a) This subpart applies to all middle distillate fuels produced in or imported into the United States.

(b) This subpart provides for a state set-aside.

§ 211.122 Definitions.

For the purposes of this subpart—

"Base period" means the month of 1972 corresponding to the current month.

§ 211.123 Allocation levels.

(a) *General.* The allocation levels in this section only apply to allocations made by suppliers to wholesale purchaser-consumers and end-users. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase middle distillate fuels under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchaser-consumers which are entitled to purchase middle distillate fuels under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production;

(ii) Department of Defense use as specified in § 211.26.

(2) One hundred (100) percent of base period use for space heating requirements subject to the following specifications:

(i) No reduction for medical and nursing buildings for all uses;

(ii) Six (6) degree F reduction for residences and schools;

(iii) Ten (10) degree F reduction for all others; or

(iv) Reduction of the ambient indoor temperature by the appropriate amount, or other action which results in a fuel saving equivalent to that which would otherwise result under paragraph (b)(2)(ii)–(iii) of this section.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Manufacture of ethical drugs and related research;

(iv) Sanitation services;

(v) Telecommunications services;

(vi) Passenger transportation services;

(vii) Cargo, freight, and mail hauling except as set forth elsewhere in this section;

(viii) Aviation ground support vehicles and equipment; and

(ix) Nonmilitary marine shipping, both foreign and domestic (except cruise ships carrying passengers for recreational purposes). Sales to vessels engaged in the foreign trade of the United States shall be made on a nondiscriminatory basis in regard to flag of registration, subject to modification by the FEO following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal nondiscriminatory allocation of middle distillate fuels in foreign ports to vessels engaged primarily in the foreign trade of the United States.

(2) One hundred ten (110) percent of base period use (as reduced by application of an allocation fraction) for industrial use except for space heating.

(3) *Electric utilities.* (i) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) or as otherwise determined by the FEO upon recommendation by the Federal Power Commission (FPC), but not less than one hundred (100) percent of current requirements for nuclear plants, start-up, testing and flame stability of coal-fired plants (except for peaking uses).

(ii) In determining the middle distillate allocation for each utility, the FEO may take into account but is not limited to the following considerations:

(A) The fact that electric generating plants which now burn middle distillate fuel oil have been identified by the FEO as candidates for conversion to coal and the maximum possible extent to which such plants could be utilized after conversion;

(B) The extent to which any electric generating plants which burn coal may be utilized more fully than at present;

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(C) The extent to which it is possible for electric utilities to obtain necessary supplies of coal;

(D) The extent to which certain minimal levels of middle distillate consumption are essential, as determined by the FEO upon recommendation of the FPC, to supply portions of a power system that cannot be supplied by non-middle distillate-fired generation, or for other special considerations (Any volumes so identified shall be counted as part of the utility's total allocation);

(E) The extent to which utilities currently utilizing natural gas supplied under interruptible contracts experience gas service interruptions;

(F) Available stocks of middle distillate held by each utility.

(4) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Petrochemical feedstock use;

(ii) Synthetic natural gas plant feedstock use;

(iii) All other non-space heating uses.

§ 211.124 Modified allocation levels.

(a) For purposes of § 211.10(g), the modified allocation levels for middle distillate which apply when a supplier's allocation fraction is in excess of one (1.0) are listed below.

(b) *Allocation levels not subject to an allocation fraction.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production;

(ii) Department of Defense use as specified in § 211.26.

(2) One hundred (100) percent of base period use for space heating requirements subject to the specifications set forth in § 211.123(b)(2).

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Manufacture of ethical drugs and related research;

(iv) Sanitation services;

(v) Telecommunications services;

(vi) Passenger transportation services;

(vii) Cargo, freight, and mail hauling except as set forth elsewhere in this section;

(viii) Aviation ground support vehicles and equipment; and

(ix) Non-military marine shipping, foreign and domestic (except cruise ships carrying passengers for recreational purposes). Sales to vessels engaged in the foreign trade of the United States shall be made on a non-discriminatory basis in regard to flag of registration, subject to modification by the FEO following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal non-discriminatory allocation of middle distillate fuels in foreign ports to vessels engaged primarily in the foreign trade of the United States.

(2) For electric utilities, one hundred ten (110) percent of base period use (as reduced by application of an allocation fraction), but not less than one hundred (100) percent of current requirements for nuclear plants, start-up, testing and flame stability of coal-fired plants (except for peaking uses).

(3) One hundred ten (110) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Industrial use except for space heating;

(ii) Petrochemical feedstock use;

(iii) All other non-space heating uses not included in this section.

(4) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) for synthetic natural gas plant feedstock use.

§ 211.125 Supplier/purchaser relationships.

Supplier/purchaser relationships are set forth in §§ 211.9–211.13.

§ 211.126 Method of allocation.

(a) The initial State set-aside level for middle distillate fuels for a particular month and state is four (4) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the state's distribution system for consumption within the State. Subsequent adjustments to the percentage unit will be published by the FEO.

(b) Allocation of middle distillate fuels shall be made as specified in § 211.10. Provisions to adjust a wholesale purchaser's base period volume are specified in § 211.13. New wholesale purchasers and end-users are subject to the requirements of § 211.12.

(c) Suppliers shall, to the extent practicable, make deliveries to all space-heating end-users and wholesale purchaser-consumers on the basis of certified need. Certified need for space-heating is the calculated quantity of fuel needed to maintain the ambient indoor temperature of a building at the reduced temperature required in § 211.123(b)(2).

(1) This calculation of certified need shall be done using historical usage factors for each building heated. Where suppliers do not have an historical usage factor for a building, this factor shall be calculated based on gallons of fuel consumed and actual degree-days exposure during the latest thirty (30) day period of normal heating usage before January 15, 1974. If no such period exists, a usage factor for that unit shall be established by an initial period of normal space-heating operations, subject to review by the State Office.

(i) Historical usage factors shall be associated with units and not with end-users or wholesale purchaser-consumers.

(ii) If this calculation of certified need results in undue hardship, the owners or occupants may apply to their State Office to obtain relief.

(2) To the extent practicable, the following procedure shall be followed by heating oil suppliers:

(i) Each space-heating end-user or wholesale purchaser-consumer shall be entitled to an initial fill-up at its first delivery after these regulations become effective, if sufficient supplies are available.

(ii) At the next delivery, the supplier shall again provide a full tank and determine, to the extent possible, compliance with this part. If the space-heating end-user or wholesale purchaser-consumer has clearly not complied, the supplier shall present a warning notice to the end-user or wholesale purchaser-consumer. The warning notice shall indicate that the end-user or wholesale purchaser-consumer faces the danger of running out of fuel if it does not reduce its ambient indoor temperature by the required amount or take equivalent actions to conserve fuel.

(iii) For each subsequent delivery, the supplier shall continue to deliver only the calculated certified need regardless of the quantity required to fill the tank, unless otherwise directed by the State Office.

§ 211.127 Procedures and reporting requirements.

(a) All matters pertaining to the allocation of middle distillate fuels except to utility users shall be addressed to the appropriate State Office or Regional FEO as specified within this part. All matters pertaining to the allocation of middle distillate fuels to utility users shall be addressed to Utilities Fuel Manager, P.O. Box 2887, Washington, D.C. 20013.

(b) The general reporting and recordkeeping requirements contained in Subpart L or this part apply to this subpart.

(c) Hardship applications may be submitted to the appropriate State Office for undue hardship resulting from the provisions of this subpart.

6. Subpart H is revised to read as follows:

Subpart H—Aviation Fuels

§ 211.141 Scope.

(a) This subpart applies to the mandatory allocation of aviation fuels produced in or imported into the United States.

(b) Bonded aviation fuel is excluded from allocation; provision for bonded fuel shortfalls is addressed in § 211.146.

(c) No state set-aside is provided for in this subpart.

§ 211.142 Definitions.

For the purposes of this subpart—

"Adjusted allocable supply" means a supplier's allocable supply for a month plus the sum of the bonded fuel factors for all the international air carriers to be supplied for the month by the supplier.

"Agricultural production flying" means the use of general aviation aircraft under 14 CFR Parts 91, 133, and 137 in agricultural production, including seeding, spraying, fertilizing, and dusting of food and forestry crops by air, the use of aircraft by those engaged in agricultural production to transport priority supplies and personnel to sustain or increase crop and animal yields, to transport crop, forestry, and animal products to distribution points, and in commercial fishing.

"Air taxi"—See "Other air carrier."

"Air travel club flying" means any use of aircraft operated under 14 CFR Part 123.

"Aircraft manufacturing uses" means the consumption of aviation fuels for aircraft production, major overhaul of aircraft, static and flight testing of aircraft and components, the ferrying of aircraft from the manufacturer, and initial type aircraft certification training provided by the manufacturer for the purchaser.

"Aviation fuels" means aviation gasoline and aviation turbine fuel.

"Aviation gasoline" means petroleum based fuels designed for use in aircraft internal combustion engines, and complying with MIL–G–5572 specification (ASTM—specification D–910–70).

"Aviation turbine fuel" means all refined petroleum fuel designed to operate aircraft turbine engines. The basic specification is ASTM D–1655 which covers both Type A (kerosene base) and Type B (naphtha base).

"Base period" means (a) the calendar month of 1972 corresponding to the current month; and (b) after March 31, 1974, the calendar quarter of 1972 corresponding to the current quarter.

"Base period supplier" means for an international air carrier its base period supplier of bonded or non-bonded aviation fuel or its supplier as assigned by FEO.

"Base period volume" means for an international air carrier the volume of bonded and non-bonded aviation fuels purchased by an international air carrier during a base period.

"Bonded fuel factor" means, for each international air carrier to be supplied by a supplier, that amount of bonden aviation fuel which bears the same proportion to the total volume of bonded aviation fuel to be received by the international air carrier from all sources for a month as that amount of the international ain carrier's base period volume which was supplied by the supplier for the base period bears to the international air carrier's base period volume.

"Business flying" means any use of aircraft under 14 CFR Parts 91 and 133 by a firm for the purpose of transportation required by a business in which it is engaged and for the purpose of transporting its employees and/or property. Business flying includes such aerial uses as photography, advertising, survey and helicopter operations.

"Civil air carrier" means (a) a domestic, supplemental, and scheduled cargo air carrier; (b) an international air carrier; (c) an intrastate air carrier; (d) a local service air carrier; or (e) other air carrier.

"Commercial operator" see "Other air carrier."

"Commuter air carrier" see "Other air carrier."

"Domestic, supplemental, and scheduled cargo air carrier" means those air carriers holding a certificate of public convenience and necessity providing for interstate and overseas air transportation, issued pursuant to section 401 of the Federal Aviation Act of 1958, as amended and operating under 14 CFR Part 121.

"Emergency aviation services, safety, and mercy missions" means public or private aircraft dedicated to emergency operations, safety and mercy missions operating under 14 CFR Parts 91 or 137, except however, it does not include mercy missions of the Civil Air Patrol.

"Energy production flying" means the use of general aviation aircraft operating under 14 CFR Parts 91 and 133 in the production of energy sources, including pipeline and powerline patrol, oil and gas exploration activities, necessary movement of supplies and personnel for the production of energy resources, and other essential flying for energy production.

"FAR" means the Federal Aviation Regulations, Title 14, Chapter I, of the Code of Federal Regulations.

"General aviation" means (a) agricultural production flying; (b) air travel club flying; (c) business flying; (d) instructional flying; (e) personal nonbusiness flying; (f) energy production flying; (g) aircraft manufacturing uses; and (h) telecommunications flying.

"Instructional flying" means any use of aircraft operating under 14 CFR Parts 91, 127, and 141 for the purpose of formal instruction.

"International air carrier" means those United States air carriers operating under 14 CFR Part 121 holding a certificate of public convenienec and necessity, providing for foreign air transportation, issued pursuant to section 401 of the Federal Aviation Act of 1958, and foreign air carriers operating under 14 CFR Part 129 holding permits issued pursuant to section 402 of the Federal Aviation Act of 1958, but excluding those with permits which restrict operation to the use of aircraft not exceeding 12,500 pounds gross take-off weight.

"Intrastate air carriers" means those carriers operating under 14 CFR Part 121 licensed by a state regulatory agency, and operating equipment having more than thirty (30) seats or a pay load of at least 7,500 pounds.

"Local service air carriers" means those carriers operating under Part 121 or 127 holding a certificate pursuant to section 401 of the Federal Aviation Act of 1958, and (a) receiving Federal subsidy, or (b) operating solely within the States of Hawaii or Alaska, or (c) operating scheduled helicopter service.

"Non-flying use of aviation fuels" means the consumption of aviation fuels associated with gas turbine engines in industry, utilities and passenger transportation services.

"Other air carriers" means (a) those carriers holding a Federal Aviation Administration Air Taxi/Commercial Operator Certificate issued under 14 CFR Part 135 and operating under the exemption authority of 14 CFR Part 298 of the Civil Aeronautical Board Regulations, including operations by scheduled commuter airlines, and non-scheduled air taxi operations; (b) those foreign carriers operating under Part 129 of the FAR holding permits under section 402 of the Federal Aviation Act of 1958 authorizing casual and infrequent service with aircraft and exceeding 12,500 pounds gross take-off weight; and (c) those commercial operators of large aircraft under Federal Aviation Regulations 14 CFR Part 121, except Intrastate carriers.

"Personal non-business flying" means any use of aircraft under 14 CFR Part 91 for personal purposes not associated with a business or profession and not for hire.

"Public aviation" means any aircraft operating under 14 CFR Parts 91, 133 or 137 used exclusively in the service of the Federal government or the government of the District of Columbia or of any state, territory or possession of the United States, and any political subdivisions thereof, excluding military aircraft.

"Scheduled cargo air carrier" see "Domestic, supplemental and scheduled cargo air carrier."

"Supplemental air carrier" see "Domestic, supplemental, and scheduled cargo air carrier."

"Telecommunications flying" means the use of aircraft operating under 14 CFR Parts 91 and 133 in "telecommunications services" as defined in Subpart B of this part.

§ 211.143 Allocation levels.

(a) *General.* The allocation levels listed in this section apply only to allocations made by suppliers to wholesale purchaser-consumers and end-users. Suppliers shall allocate to all purchasers to which allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase aviation fuels under an allocation level not subject to an allocation fraction shall receive first priority and shall be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchaser-consumers which are entitled to purchase aviation fuels for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* (1) One hundred percent of current requirements for the following uses:

(i) Agricultural production flying;

(ii) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Emergency aviation services, safety and mercy missions;

(ii) Energy production flying;

(iii) Aircraft manufacturing but not to exceed one hundred thirty (130) percent of base period use;

(iv) Telecommunications flying.

(2) One hundred (100) percent of base period use (as reduced by applica-

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tion of an allocation fraction) for the following uses:

(i) Local service air carriers, including requirements for crew training and proficiency flying;

(ii) Other air carriers, including requirements for crew training and proficiency flying;

(iii) Non-flying use of aviation fuels.

(3) Ninety-five (95) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Domestic, supplemental, and scheduled cargo air carriers, including requirements for crew training and proficiency flying;

(ii) International air carriers, including requirements for crew training and proficiency flying—the total of both bonded and non-bonded fuels;

(iii) Intra-state carriers, including requirements for crew training and proficiency flying.

(d) Ninety (90) percent of base period use (as reduced by application of an allocation fraction) for business flying, including requirements for crew training and proficiency flying.

(e) Eight-five (85) percent of base period use (as reduced by application of an allocation fraction) for public aviation.

(f) Seventy-five (75) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(1) Personal non-business flying;

(2) Instructional flying;

(3) Air travel club flying including requirements for crew training and proficiency flying.

§ 211.144 Modified allocation levels.

(a) For purposes of § 211.10(g), the modified allocation levels for aviation fuels which apply when a supplier's allocation fraction is in excess of one (1.0) are listed below.

(b) *Allocation levels not subject to an allocation fraction.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production flying;

(ii) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Emergency aviation services, safety and mercy missions;

(ii) Energy production flying;

(iii) Aircraft manufacturing but not to exceed one hundred thirty (130) percent of base period use;

(iv) Telecommunications flying;

(v) Local service air carriers, including requirements for crew training and proficiency flying;

(vi) Other air carriers, including requirements for crew training and proficiency flying;

(vii) Non-flying use of aviation fuels;

(viii) Domestic, supplemental, and scheduled cargo air carriers, including requirements for crew training and proficiency flying;

(ix) International air carriers, including requirements for crew training and proficiency flying—the total of both bonded and non-bonded fuels;

(x) Intra-state carriers, including requirements for crew training and proficiency flying;

(xi) Business flying, including requirements for crew training and proficiency flying;

(xii) Public aviation;

(xiii) Personal non-business flying;

(xiv) Instructional flying;

(xv) Air travel club flying including requirements for crew training and proficiency flying.

§ 211.145 Supplier/purchaser relationships and adjustments of base period use.

(a) Unless otherwise specified, the provisions of § 211.9–§ 211.13 apply to this subpart.

(b) Civil air carriers may apply to the National FEO for an adjustment to base period use based upon changed circumstances. In processing such applications, the FEO may consider situations that indicate a need for increased amounts over base period use. FEO, following consultation with appropriate Federal agencies, shall only make adjustments for changed circumstances when there are compelling situations requiring relief.

§ 211.146 Method of allocation.

(a) Suppliers of wholesale purchasers and end-users shall allocate aviation fuels in accordance with the provisions of § 211.10.

(b) Aviation fuel for international flights shall be allocated on a non-discriminatory basis among international carriers, subject to modification by the FEO, following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal non-discriminatory allocation of aviation fuel for U.S. carriers engaged in international flights.

(c) (1) International air carriers which have traditionally used bonded aviation fuel for international flights shall be allocated non-bonded aviation fuels, including naphtha-base jet fuel, by their base period suppliers to reduce their shortages of bonded aviation fuel. Upon certification by an international air carrier to its base period suppliers that the carrier is unable to purchase or obtain sufficient bonded aviation fuel from its base period suppliers of bonded fuel for a month at prices which do not exceed the lawful price of its base period suppliers of bonded fuel for similar volumes of non-bonded aviation fuel at the desired location, the base period suppliers shall provide non-bonded aviation fuel, including naphtha-base jet fuel to that carrier. Unless the international air carrier certifies that it cannot utilize naphtha-base jet fuel, the base period suppliers may to the extent of the carrier's capability to use such fuel allocate non-bonded naphtha base jet fuel prior to allocating other non-bonded aviation fuels to the international air carrier. International air carriers which do not have base period suppliers or whose base period suppliers are unable to supply them currently with non-bonded aviation fuel shall apply to FEO for assignment of suppliers of non-bonded aviation fuels.

(2) Each base period supplier of bonded fuel shall notify international air carriers, upon request, whether the supplier will provide bonded fuel at the supplier's lawful price for its non-bonded fuel at a station. For the month of April 1974, suppliers shall notify their international air carrier purchasers whether bonded fuel can be so supplied by April 16, 1974.

(3) (i) An international air carrier which files a certification with a supplier under this paragraph shall provide such certification to its supplier at least fifteen days prior to the beginning of the month to which the certification applies. The certification shall specify the volumes of bonded aviation fuel which can be obtained for a month, the international air carrier's base period volume, the amount of the international air carrier's base period volume which was supplied by the supplier, and whether and to what extent the international air carrier can use naptha-base jet fuel.

(ii) For the period April 16, 1974 through April 30, 1974, international air carriers shall provide their suppliers with certifications pursuant to this paragraph by April 17, 1974. Suppliers shall then calculate their allocation fractions for the period April 16 through April 30, 1974, taking into account said certifications and shall make deliveries in accordance with the provisions of this paragraph. For the period of May 1 through May 31, 1974, international air carriers shall provide their suppliers with certifications pursuant to this paragraph by April 20, 1974.

(4) Suppliers of non-bonded aviation fuel shall allocate supplies of non-bonded aviation fuel as follows:

(i) The allocation fraction for providing aviation fuel pursuant to this paragraph shall be equal to the supplier's adjusted allocable supply divided by its base period volume.

(ii) For each civil air carrier to be supplied, the supplier shall multiply the civil air carrier's allocation requirement times the supplier's allocation fraction as determined pursuant to this paragraph. The resulting volume minus the bonded fuel factor for that civil air carrier shall be the amount of non-bonded aviation fuel allocated by the supplier to the civil air carrier for that month. The amount of non-bonded aviation fuel allocated each month to any civil air carrier when added to the bonded aviation fuel available to that civil air carrier shall not exceed the volume of aviation fuel which the civil air carrier would receive if the carrier were to use only non-bonded aviation fuels to meet its base period use.

(iii) If a carrier purchases or otherwise obtains a quantity of bonded aviation fuel for a month regardless of price in addition to the amount of bonded fuel which it certifies is available to it for that month under this paragraph, the carrier shall immediately report such quantity to its supplier by filing an amended certification and its supplier shall reduce by such quantity the amount of non-bonded aviation fuel which would otherwise be allocated to that carrier in the current or a subsequent month.

(5) None of the provisions of this paragraph shall affect existing contracts for the purchase of bonded aviation fuels.

(d) Civil Air Patrol assigned to mercy missions shall be provided aviation fuel from the Department of Defense allocation.

(e) Notwithstanding the provisions of § 211.143(c)(2)(iii), the use of aviation fuel for non-flying purposes by a utility may not exceed those volumes of aviation fuel contracted for or purchased during the base period. Aviation fuel shall not be used for peaking as long as the utility continues service during such peaking to interruptible non-priority industrial users (except where no suitable substitute fuel is available to the user) or to any purchaser which can use a fuel other than aviation fuel.

§ 211.147 Procedures and reporting requirements.

(a) All matters pertaining to the allocation of aviation fuels to civil air carriers (except air taxi/commercial operators) shall be addressed to the Administrator, FEO, Washington, D.C. 20461, unless otherwise provided.

(b) All matters pertaining to the allocation of aviation fuels for general aviation, air taxi/commercial operators, public aviation and non-flying uses of aviation fuels shall be addressed to the appropriate supplier. Any matters unresolved at the supplier level may be referred directly to the appropriate Regional FEO office.

(c) The general reporting and recordkeeping requirements contained in § 211.222 shall apply to this subpart. In addition, civil air carriers (excluding air taxi/commercial operators) shall make a one time only report to the Administrator, FEO, of their base period volume, or adjusted base period volume, of aviation gasoline and of both naphtha-base and kerosene-base jet fuel broken down by month. At the option of the user, this may be modified to reflect one-twelfth (1/12) of the annual allocation volumes for each month or the estimated requirements by month, not to exceed total annual allocation volume. Use of this reporting option shall be applied for purposes of choosing the most realistic figures. The report required by this paragraph shall indicate the purchases of non-bonded fuel for domestic flights, non-bonded fuel for international flights, and bonded fuel for international flights, as applicable.

(d) For general aviation wholesale purchasers, the recordkeeping requirements specified in § 211.223 shall apply provided, however, that such reports need reflect only jet fuel and aviation gasoline usage for local purchasers and their uses and activities and total pumpage per month of jet fuel and aviation gasoline.

7. Subpart I is revised to read as follows:

Subpart I—Residual Fuel Oil

§ 211.161 Scope.

(a) This subpart applies to the mandatory allocation of residual fuel oil produced in or imported into the United States.

(b) This subpart provides for a state set-aside.

§ 211.162 Definitions.

For the purposes of this subpart—

"Base period" means (a) with respect to all non-utility users, the month of 1973 corresponding to the current month and (b) with respect to all utility users the period October 1, 1973, through December 31, 1973.

§ 211.163 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to wholesale purchaser-consumers and end-users. Suppliers shall allocate to all purchasers to which allocation levls apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase residual fuel oil under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. Wholesale purchaser-consumers and end-users which are entitled to purchase residual fuel oil for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production; and

(ii) Department of Defense for use as specified in § 211.26.

(2) One hundred (100) percent of base period use for space heating requirements subject to the following specifications:

(i) No reduction for medical and nursing building uses;

(ii) Six (6) degrees F reduction for residences and schools;

(iii) Ten (10) degrees F reduction for all others;

(iv) Reduction of the ambient indoor temperature by the appropriate amount, or other actions which result in a fuel saving equivalent to that which would otherwise result under paragraph (b)(2)(ii)–(iii) of this section.

(3) The allocation level as specified each month by the FEO for utility use. In specifying the allocation levels for each utility the FEO may include but is not limited to the following considerations:

(i) Each utility within appropriate groupings shall absorb an equal percentage cutback in electricity generation, to the maximum extent possible.

(ii) The fact that electric generating plants which now burn residual fuel oil that have been identified by the FEO as candidates for conversion to coal, and the maximum possible extent to which such plants could be utilized after conversion.

(iii) The extent to which any electric generating plants which burn coal may be utilized more fully than at present.

(iv) The extent to which certain minimal levels of residual fuel oil consumption are essential, as determined by the FEO upon recommendation of the Federal Power Commission (FPC) to supply portions of a power system requirement that cannot be supplied by non-oil-fired generation, or for other special considerations. Any volumes so identified shall be counted as part of a utility's total allocation.

(v) The extent to which utilities currently utilize natural gas supplies under interruptible contracts and which have been interrupted.

(vi) Available stocks of residual fuel oil held by each utility.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Manufacture of ethical drugs and related research;

(iv) Non-military marine shipping, foreign and domestic (except cruise ships carrying passengers for recreational purposes). Sales to vessels engaged in the foreign trade of the United States shall be made on a non-discriminatory basis in regard to flag of registration, subject to modification by the FEO following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal non-discriminatory allocation of bunker fuels in foreign ports to vessels engaged primarily in the foreign trade of the United States;

(v) Sanitation services;

(vi) Telecommunications services;

(vii) Passenger transportation services.

(2) One hundred (100) percent of base period use for industrial use and all other users and uses of residual fuel oil not included in paragraph (b) or (c)(1) of this section.

§ 211.164 Modified allocation levels.

(a) For purposes of § 211.10(g), the modified allocation levels for residual fuel oil which apply when a supplier's allocation fraction is in excess of one (1.0) are listed below.

(b) *Allocation levels not subject to an allocation fraction.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production;

(ii) Department of Defense for use as specified in § 211.26.

(2) One hundred (100) percent of base period use for space heating requirements subject to the specifications set forth in § 211.163(b)(2).

(3) The allocation level as specified each month by the FEO for utility use.

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(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Manufacture of ethical drugs and related research;

(iv) Non-military marine shipping, foreign and domestic (except cruise ships carrying passengers for recreational purposes). Sales to vessels engaged in the foreign trade of the United States shall be made on a non-discriminatory basis in regard to flag of registration, subject to modification by the FEO following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal non-discriminatory allocation of bunker fuels in foreign ports to vessels engaged primarily in the foreign trade of the United States;

(v) Sanitation services;

(vi) Telecommunications services; and

(vii) Passenger transportation services.

(2) One hundred ten (110) percent of base period use (as reduced by application of an allocation fraction) for industrial use and all other users and uses of residual fuel oil not included in paragraph (b) or (c)(1) of this section.

§ 211.165 Supplier/purchaser relationships.

Unless otherwise specified, supplier/purchaser relationships are set forth in § 211.9–13.

§ 211.166 Method of allocation.

(a) *State set-aside.* The State set-aside level for residual fuel oil for a particular month and State is three (3) percent of a prime supplier's estimated portion of its total supply of residual fuel oil for non-utility use for that month which will be sold into that State's distribution system for consumption within the State. Subsequent adjustments to the percentage unit will be published by the FEO.

(b) *General.* Based on the estimated total supply of residual fuel oil, on allocation levels set forth in § 211.163, on the State set-aside percentage, and other relevant considerations, the FEO shall determine each month the portion of total supply for non-utility use and the portion of total supply for utility use for delivery the following month in accordance with the provisions of paragraphs (c) and (d) of this section.

(c) *Non-utility.* The portion of each supplier's allocable supply not directed by the FEO to be distributed for utility use shall be allocated pursuant to § 211.10. With respect to space heating uses, suppliers must comply, to the fullest extent practicable, with the provisions of paragraph (e) of this section. Notwithstanding the provisions of § 211.165 or § 211.10, suppliers may not supply a utility in excess of the amounts established pursuant to paragraph (d) of this section until the non-utility allocation levels listed in § 211.163 have been filled, unless otherwise directed by the FEO.

(d) *Utilities.* (1) For purposes of calculating the allocation of residual fuel oil to utilities for delivery during the month of February 1974—

(i) The FEO will determine the amount of residual fuel oil allocated to each utility for delivery during the month of February and publish that determination. The volume of residual fuel oil allocated to each utility shall be based upon the supply available for utilities, the considerations specified in § 211.163(b)(3) and other relevant considerations.

(ii) Based upon total deliveries from suppliers during the base period, each utility shall calculate the percentage of the utility's total deliveries during the base period which were supplied by each supplier. Within 7 days following the date of notification of allocation amounts pursuant to paragraph (d)(1)(i) of this section, each utility shall notify each of its suppliers and the FEO of the amount required to be supplied by each supplier for delivery in February 1974 and of the percentage of the amount allocated to each utility which each supplier must supply. The amount required to be supplied by a supplier shall be calculated by multiplying the utility's specified monthly allocation amount by the percentage of the utility's total deliveries during the base period which were supplied by the supplier.

(iii) Following notification by the utilities of the amounts and percentages required to be supplied by each supplier for delivery in February 1974, FEO will publish these percentages.

(2) For purposes of calculating the allocation of residual fuel oil to utilities for delivery in every month after February 1974—

(i) Each month, the FEO will determine the amount of residual fuel oil allocated to each utility for delivery in the following month. The volume of residual fuel oil allocated to each utility in a particular month shall be based upon the total supply available for utilities, the considerations specified in § 211.163(b)(3) and other relevant considerations.

(ii) Following the determination in paragraph (d)(2)(i) of this section, the FEO will publish the amounts of residual fuel oil allocated to each utility for delivery in the following month and the percentages of those amounts required to be supplied by each supplier for delivery in the following month. The amounts required to be supplied by each supplier will be calculated by multiplying each utility's specified monthly allocation amount by the percentage of the utility's total deliveries during the base period which were supplied by the supplier as computed from the information reported to FEO by the utility pursuant to the provisions of paragraph (d)(1)(ii) of this section.

(3) Within 48 hours of the notification by the utility to the supplier required in paragraph (d)(1)(ii) and, within 7 days of the date of publication by the FEO of the information set forth in paragraph (d)(2)(ii) each supplier of a utility shall notify that utility of its anticipated ability to supply, during the following month, the entire amount of residual fuel required to be supplied by that supplier. If a supplier of a utility is unable to supply its specified amount, the supplier may request an extension to the delivery period in the following month of up to 12 days. Following receipt of a request for extension, the utility must notify the supplier within 48 hours of its determination of the acceptability of the requested extension and of the amount to be delivered during the extension period. If the utility refuses to accept the extension, the supplier and utility shall notify the FEO of the reason for the request for extension by the supplier and the refusal to accept the extension by the utility. The FEO shall then determine the amounts to be delivered and the date or dates for delivery.

(4) Suppliers and utilities may petition the FEO for adjustment to the requirement of § 211.165 and paragraph (d)(1)(i) of this section, or assignment of a new supplier, in accordance with the procedures provided in Subpart B of Part 205 of this chapter. Such petitions must be filed by the 10th day of the current month in order to be considered for decision or interim relief with respect to adjustment to the allocation amounts to be published in the following month or assignment of a new supplier for the following month.

(5) Utilities may, and are encouraged to, by mutual agreement and after notice to FEO, apportion their respective allocated residual fuel oil volumes, other fuel volumes, or generated power among themselves.

(e) *Space heating uses.* To the extent practicable, suppliers shall use the following procedures for residual fuel oil distributed for space heating use. Suppliers to end-users shall calculate the quarterly allotment of their customers for space heating using the most recently available usage factors on or before November 1, 1973, for each building winter, and notify the end-user of its winter, and notify the end-user of his allotment. Where suppliers do not have an historical usage factor for a building, a usage factor shall be calculated based on gallons of fuel consumed and actual degree-days exposure in the base period. For new buildings, the usage factor shall be determined based on gallons of fuel consumed and actual degree-days exposure during the latest thirty (30) day period of normal heating usage before January 15, 1974. If no such period exists, a usage factor of that unit shall be established by an initial period of normal space heating operation, subject to review by the State Office. Suppliers to end-users shall recalculate monthly the quarterly allotment for each space heating user by applying its usage factor to actual degree-days, less an adjustment for the required reduction in ambient indoor temperature. The supplier shall notify the end-user monthly of the end-user's adjusted allotment, and shall inform the end-user whether and by how much its usage rate exceeds that required to achieve the required reduction in ambient indoor temperature, and that it faces the danger of running out of fuel if it does not reduce its ambient indoor temperature as required by § 211.163(b)(2)(iv). The supplier shall notify the appropriate Regional FEO of any customer whose usage is excessive for two successive months. Suppliers' usage factors shall be associated with units (e.g., an apartment house) and not with end-users. The usage factor of record for a unit shall be used for that unit throughout the duration of his program regardless of changes in occupants or ownership.

§ 211.167 Procedures and reporting requirements.

(a) All matters pertaining to the allocation of residual fuel oil for the electric utility industry shall be addressed separately to the Administrator, FEO, Washington, D.C., and to the Chairman, Federal Power Commission.

(b) All matters pertaining to the allocation of residual fuel oil to non-utility users of residual fuel oil shall be addressed to the appropriate State or Regional FEO offices as specified within this Part.

(c) The general reporting and recordkeeping requirements contained in § 211.222 shall apply to non-utility customers of residual fuel oil.

(d) Suppliers of residual fuel oil to utilities shall comply with the reporting requirements of § 211.222. Utilities using residual fuel oil shall comply with the reporting requirements of the Federal Power Commission and the FEO.

(e) If undue hardship results from the provisions of this subpart, hardship applications may be submitted to the appropriate State Office.

8. Subpart L is revised to read as follows:

Subpart L—General Reporting and Recordkeeping Requirements

§ 211.221 Scope.

This subpart provides the general reporting and recordkeeping requirements applicable to this part. Reporting and recordkeeping requirements that are limited in application to specific products or situations are contained in the other appropriate subparts of this part.

§ 211.222 Monthly reports by refiners and importers.

(a) Every refiner for each of its refineries; importer for each importing terminal; and gas processing plant operator for each of its processing plants shall report monthly to the National FEO in accordance with forms and instructions issued by FEO such information as is required including the following information for each allocated product:

(1) The inventory at the beginning and end of the preceding month by allocated product.

(2) Deliveries received during the preceding month by allocated products; deliveries of domestic crude oil should be segmented into new and released domestic crude oil. All allocated products should be listed by source and by country of origin for imports.

(3) Inventory fluctuations which occurred during the preceding month and were caused by other than deliveries, receipts and transfers.

(4) Total deliveries and supply redistribution in each State during the preceding month by allocated product.

(5) The estimated total supply for distribution in each State during the following month by product as described in § 211.10(b)(1) before adjustment for State set-aside and allocation requirements not subject to the supplier's allocation fraction.

(6) The estimated State set-aside volume for distribution in each State during the following month by product.

(7) The estimated volume by category for allocation requirements not subject to the supplier's allocation fraction to be supplied during the following month.

(8) Any existing inventory or production, importation, or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 by product.

(9) The allocable supply (i.e., paragraph (a)(5) minus paragraphs (a)(6), (7), and (8)), for distribution in each State during the following month, by product.

(10) The estimated supply obligation as described in § 211.10(b)(2) for the following month for purchasers to be supplied within each State, by product.

(11) The estimated average or shortfall, i.e., paragraph (a)(5) minus paragraphs (a)(7) and (10).

(12) The estimated allocation fraction, i.e., paragraph (a)(9) divided by (a)(10).

(13) The estimated total supply of allocated product which will be available in each of the following three (3) months.

(b) Beginning with the month of March, 1974, and thereafter, prime suppliers shall report monthly to the National FEO, appropriate regional offices and appropriate State Offices subparagraphs (4) through (13) of paragraph (a) above by refiner (not refinery). This report will be the basis of the State set-aside program. Notwithstanding the provisions of § 205.4 concerning constructive receipt of documents submitted by registered or certified mail, the prime supplier's monthly report must be delivered to the National FEO in Washington, D.C., on or before the tenth (10th) day prior to the commencement of the month described as "the following month" in § 211.222(a)(5).

§ 211.223 Recordkeeping requirements.

Suppliers which sell to wholesale purchaser-consumers and end-users shall maintain records on FEO forms, subject to FEO audit, which demonstrate the basis for distribution of allocable supplies among their various purchasers. These records shall contain the following information for each allocated product and for each purchaser, on a monthly basis:

(a) Purchaser identification.

(b) Base period volume, adjusted base period volume, or current requirements, as appropriate.

(c) Allocation level.

(d) Allocation requirements (item (c) multiplied by item (b)).

(e) Purchaser's share of supplier's allocable supply (item d) multiplied by the supplier's allocation fraction if the fraction applies).

(f) Actual volume supplied.

§ 211.224 Weekly petroleum reporting system.

(a) This section establishes a weekly petroleum reporting system for each refiner or other firm which operates or controls a (1) refinery, (2) bulk terminal, (3) crude oil pipeline or (4) petroleum products pipeline, and for each importer which imports petroleum products by tanker, barge, or pipeline.

(b) *Definitions.* For the purposes of this section—

"Bulk terminal" means a facility which is primarily used for the marketing of gasoline, kerosene, and distillate and residual fuel oils and which (1) has total bulk storage capacity of 2,100,000 gallons or more, or (2) receives its petroleum products by tanker, barge or pipeline.

"Crude oil pipeline" means a common carrier pipeline, licensed by the Interstate Commerce Commission, which carries crude oil.

"Petroleum products pipeline" means a common carrier pipeline, licensed by the Interstate Commerce Commission, which carries petroleum products.

(c) *Initial report.* By February 15, 1974, every refiner or other firm, and every importer which receives petroleum products by tanker, barge or pipeline, shall prepare and file with FEO a report entitled "Petroleum Reporting Address Information," in accordance with forms and instructions issued by FEO.

(d) *Weekly report.* Every refiner or other firm, and every importer which receives petroleum products by tanker, barge or pipeline, shall prepare and file with FEO a weekly report in accordance with forms and instructions issued by FEO. The weekly petroleum reporting system shall become effective February 22, 1974. The first weekly report must be received by FEO by 5 p.m., March 4, 1974.

§ 211.225 Report of new end-user and wholesale purchaser-consumer importers.

Pursuant to § 211.12(g) of this part, end-user and wholesale purchaser-consumer importers of an allocated product are required to report both to the National FEO and the appropriate regional FEO at least fifteen (15) days prior to commencing use of any allocated product which they import:

(a) The amounts and sources of these imports;

(b) Their intended use;

(c) Their projected monthly consumption; and

(d) A complete record of the domestic suppliers and amounts supplied of the allocated product which the purchaser intends to import, from January 1, 1972, to the date of the filing of the report.

[FR Doc.74–10367 Filed 5–2–74;10:07 am]

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TUESDAY, MAY 7, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 89

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federal register

Area Code 202 Phone 523-5240

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EXECUTIVE ORDER 11782

Establishing the Federal Financing Bank Advisory Council

By virtue of the authority vested in me as President of the United States of America, it is hereby ordered as follows:

SECTION 1. There is hereby established the Federal Financing Bank Advisory Council. The Council shall consist of:

(1) The Secretary of the Treasury (Chairman).

(2) The Secretary of Agriculture.

(3) The Secretary of Commerce.

(4) The Secretary of Health, Education, and Welfare.

(5) The Secretary of Housing and Urban Development.

(6) The Secretary of Transportation.

(7) The President of the Export-Import Bank of the United States.

(8) The Postmaster General.

SEC. 2. The Council shall provide advice and assistance to the Board of Directors of the Federal Financing Bank established by the Federal Financing Bank Act of 1973 (Public Law 93-224; 87 Stat. 937) concerning the administration of that act. It shall also serve as a coordinating forum to insure a broader understanding of, and support for, the Bank.

SEC. 3. The Department of the Treasury shall, to the extent permitted by law, provide administrative support for the Council.

Richard Nixon

THE WHITE HOUSE,
May 6, 1974.

[FR Doc.74-10666 Filed 5-6-74;12:32 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 18—MILK AND CREAM

Sour Cream and Related Products; Order Establishing Identity Standards

A notice of proposed rule making to establish identity standards for sour cream, sour half-and-half, and related products was published in the FEDERAL REGISTER of August 2, 1973 (38 FR 20627). The proposal was based on a petition filed by the Milk Industry Foundation, 910 17th St. NW., Washington, D.C. 20006. Standards were proposed for sour cream, sour half-and-half, acidified sour cream, and acidified sour half-and-half, the latter two products being produced by direct addition of food-grade acid, rather than by culturing with lactic acid producing bacteria. The proposed standards do not require that sour cream, for example, must be made only from cream; but would permit the use of butter, butter oil, and anhydrous milkfat as fat sources; and of whey solids, sodium caseinate, soy protein, or other safe and suitable ingredients to partially or completely replace the nonfat milk solids portion of cream.

An alternative proposal on the initiative of the Commissioner of Food and Drugs was published with the Milk Industry Foundation proposal. The Commissioner proposed, in addition to the four standards proposed by the industry, standards for "sour cream dressing" and "sour half-and-half dressing." As proposed by the Commissioner, sour cream would be made by culturing cream, with the optional addition of certain functional additives in small amounts, while sour cream dressing could contain, in addition to the required minimum of 18 percent milkfat, any safe and suitable ingredient(s).

Seven comments were received during the 60-day comment period following publication of the proposals. The issues raised by the comments and the Commissioner's conclusions are as follows:

1. One comment recommended that, in conjunction with setting standards for sour cream, standards should also be set for sour cream analogs (products which contain fat other than milkfat or are nondairy products).

The Commissioner recognizes that it may be desirable to establish standards for such sour cream analogs at some future time. However, the establishment of such standards are beyond the scope of the notice given by publication in the FEDERAL REGISTER of August 2, 1973 (38 FR 20627), and should be the subject of a separate petition supported by reasonable grounds. Any petition that is received proposing such standards will be given careful consideration.

2. Both the Milk Industry Foundation proposal and the Commissioner's proposal provided for the optional addition of characterizing flavoring ingredients, but with no change in the minimum milkfat content required in the foods. It was suggested that a reduction of the minimum milkfat content be permitted with addition of bulky flavorings such as fruits or chocolate, so that the same basic sour cream can be used for unflavored and flavored products.

The Commissioner concludes that this suggestion is reasonable, and provision therefor is included in the order set forth below.

3. Two industry comments requested that the optional use of ingredients to enhance the flavor of sour cream be permitted. These comments pointed out that the culturing process is subject to biological variation, and therefore artificial flavoring and acidifiers are sometimes needed to supplement the natural flavor and acidity resulting from culturing. One of the comments also requested that provision be made for continuation of the practice of adding sodium citrate prior to culturing as a flavor precursor.

The Commissioner concludes that the flavor of sour cream should derive principally from the fermentation products produced by culturing, but agrees that consumers expect uniformity of flavor in successive purchases of any particular brand of sour cream, and that addition of artificial flavoring is sometimes needed to assure such uniformity. In the Commissioner's proposal, §§ 18.550(b) and 18.560(b) provide for safe and suitable natural and artificial food flavorings as optional ingredients. The order retains this provision and also permits the addition of sodium citrate prior to the culturing process as a substrate for the production of diacetyl and acetylmethylcarbinol, two of the principal flavor components of sour cream. The specified limitation on use of sodium citrate, 0.1 percent by weight of the food, is the maximum amount required to achieve the intended effect. The Commissioner finds that sour cream products, which have been cultured but also contain added acidifiers, should be regarded as acidified products. Therefore, the sour cream and sour half-and-half standards set forth below do not list acidifiers as optional ingredients.

4. Two State regulatory officials objected to the provision for optional use of safe and suitable ingredients to increase the shelf life of our sour cream. They stated that in most State and local jurisdictions sour cream is a Grade "A" dairy product as defined in "Grade 'A' Pasteurized Milk Ordinance—1965 Recommendations of the United States Public Health Service" and contend that this model ordinance in section 7 forbids the use of chemical preservatives, and further that the presence of such preservatives would make unreliable the test method for coliform organisms now used to determine compliance with Grade "A" quality requirements.

While the model ordinance in the second paragraph of section 7 does state that "No process or manipulation other than pasteurization • • •" may be used to deactivate microorganisms, this language does not prohibit the addition of ingredients to retard the growth of microorganisms which are present.

The Commissioner concludes that chemical preservatives, which are now permitted in cottage cheese, should also be permitted in sour cream and related products. Interference with the detection of one microbial grouping, the coliforms, is not of sufficient importance to outweigh the advantages of inhibiting mold growth in sour cream through use of antimycotics.

5. A food firm stated that for some years it had been marketing a pourable dressing having sour cream solids as an ingredient under the name "sour cream dressing," and sought assurance that its product would not be subject to the composition requirements of the proposed new standard.

The Commissioner concludes that establishment of a "sour cream dressing" standard as proposed would not preclude the marketing of a nonstandardized pourable dressing containing sour cream in an amount sufficient to characterize it, provided that the food is not labeled "sour cream dressing" but is given some other name that is appropriate. Having considered data in the petition, comments received on the proposals, and other relevant information, the Commissioner concludes that adoption of the proposed standards as set forth below will promote honesty and fair dealing in the interest of consumers.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That Part 18 be amended by adding six new sections to read as follows:

§ 18.550 Sour cream; identity.

(a) *Description.* Sour cream results from the souring, by lactic acid producing bacteria, of pasteurized cream. Sour

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cream contains not less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of the milkfat is not less than 18 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 14.4 percent milkfat. Sour cream has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Sodium citrate in an amount not more than 0.1 percent may be added prior to culturing as a flavor precursor.

(3) Rennet.

(4) Safe and suitable nutritive sweeteners.

(5) Salt.

(6) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Method of analysis.* Referenced methods in paragraphs (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[1]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity — "Acidity — Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Sour cream" or alternatively "Cultured sour cream." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 1.12 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

§ 18.555 Acidified sour cream; identity.

(a) *Description.* Acidified sour cream results from the souring of pasteurized cream with safe and suitable acidifiers, with or without addition of lactic acid producing bacteria. Acidified sour cream contains not less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 18 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 14.4 percent milkfat. Acidified sour cream has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Rennet.

(3) Safe and suitable nutritive sweeteners.

(4) Salt.

(5) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[1]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Acidified sour cream." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 1.12 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

§ 18.560 Sour half-and-half; identity.

(a) *Description.* Sour half-and-half results from the souring, by lactic acid producing bacteria, of pasteurized half-and-half. Sour half-and-half contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Sour half-and-half has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Sodium citrate in an amount not more than 0.1 percent may be added prior to culturing as a flavor precursor.

(3) Rennet.

(4) Safe and suitable nutritive sweeteners.

(5) Salt.

(6) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[1]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Sour half-and-half" or alternatively "Cultured sour half-and-half." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 1.12 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream."

§ 18.565 Acidified sour half-and-half; identity.

(a) *Description.* Acidified sour half-and-half results from the souring of pasteurized half-and-half with safe and suitable acidifiers, and with or without addition of lactic acid producing bacteria. Acidified sour half-and-half contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Acidified sour half-and-half has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients to improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Rennet.

(3) Safe and suitable nutritive sweeteners.

(4) Salt.

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[1] See footnote 1 on this page.

[1] See footnote 1 on this page.

(5) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[1]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Acidified sour half-and-half." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 1.12 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

§ 18.570 Sour cream dressing; identity.

(a) *Description.* Sour cream dressing is made in semblance of sour cream but does not comply with the standards of identity for either sour cream under § 18.550 or acidified sour cream under § 18.555. Sour cream dressing contains not less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 18 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 14.4 percent milkfat. Sour cream dressing has a titratable acidity of not less than 0.5 percent, calculated as lactic acid. The blend of all ingredients used shall be pasteurized, except that volatile flavoring substances, enzymes, bacterial cultures, and acidifying agents may be added following pasteurization.

(b) *Optional ingredients.* Safe and suitable ingredients may be used in a quantity not greater than is reasonably required to accomplish their intended effect.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[1]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Sour cream dressing." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 1.12 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that:

(1) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

(2) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(3) Concentrated milk, dry whole milk, and reconstituted milk prepared by addition of water to concentrated milk or dry whole milk may be declared as "milk".

(4) Sweet cream buttermilk, concentrated sweet cream buttermilk, and dried sweet cream buttermilk may be declared as "buttermilk".

(5) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey".

§ 18.575 Sour half-and-half dressing; identity.

(a) *Description.* Sour half-and-half dressing is made in semblance of sour half-and-half, but does not comply with the standards of identity for either sour half-and-half under § 18.560 or acidified sour half-and-half under § 18.565. Sour half-and-half dressing contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Sour half-and-half dressing has a titratable acidity of not less than 0.5 percent, calculated as lactic acid. The blend of all ingredients used shall be pasteurized, except that volatile flavoring substances, enzymes, bacterial cultures, and acidifying agents may be added following pasteurization.

(b) *Optional ingredients.* Safe and suitable ingredients may be used in a quantity not greater than is reasonably required to accomplish their intended effect.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[1]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Sour half-and-half dressing." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 1.12 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened."

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that:

(1) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

(2) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(3) Concentrated milk, dry whole milk, and reconstituted milk prepared by addition of water to concentrated milk or dry whole milk may be declared as "milk".

(4) Sweet cream buttermilk, concentrated sweet cream buttermilk, and dried sweet cream buttermilk may be declared as "buttermilk".

(5) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey".

Any person who will be adversely affected by the foregoing order may at any time on or before June 6, 1974 file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. Unless stayed by the filing of proper objections, compliance with this order, which shall include any labeling changes required, may begin on July 8, 1974, and all products shipped in interstate commerce after December 31, 1974, shall comply with these regulations.

(Secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371.)

[1] See footnote 1 on page 15994 of this document.

[1] See footnote 1 on page 15994 of this document.

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Dated: April 30, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10428 Filed 5-6-74;8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ETHYLENE-VINYL ACETATE COPOLYMERS

The Commissioner of Food and Drugs having evaluated data in a petition (FAP 2B2766) filed by Neutron Products, Inc., Dickerson, MD 20753, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of gamma radiation from cobalt 60 to control the growth of microbiological organisms on composite film having ethylene-vinyl acetate copolymer as the surface to be used in contact with food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2570 is amended by adding thereto a new paragraph (e) to read as follows:

§ 121.2570 Ethylene-vinyl acetate copolymers.

* * * * *

(e) Ethylene-vinyl acetate copolymer films intended for contact with food may be irradiated to control the growth of microorganisms under the following conditions:

(1) Gamma photons emitted from a cobalt-60 sealed source in the dose range of 0.5–5.0 megarads.

(2) The irradiated ethylene-vinyl acetate copolymer films, when extracted with reagent grade n-heptane (freshly redistilled before use) according to methods described under § 121.2526(d)(3), at 75° F. for 30 minutes shall yield total extractives not to exceed 4.5 percent by weight of the film.

Any person who will be adversely affected by the foregoing order may at any time on or before June 6, 1974 file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on May 7, 1974.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1).)

Dated: April 30, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10427 Filed 5-6-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Sodium Thiopental for Injection

The Commissioner of Food and Drugs has evaluated a new animal drug application (46–790V) filed by Fort Dodge Laboratories, Fort Dodge, IA 50501, proposing same and effective use of sodium thiopental for injection as an anesthetic for the treatment of cats and dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section.

§ 135b.99 Sodium thiopental for injection, veterinary.

(a) *Specifications.* The drug contains sodium thiopental sterile powder for dilution with sterile water for injection.

(b) *Sponsor.* See code No. 017 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used as an anesthetic for intravenous administration to dogs and cats during short to moderately long surgical and other procedures. It is also used to induce anesthesia in dogs and cats which then have surgical anesthesia maintained by use of a volatile anesthetic.

(2) It is administered as follows:

(i) For brief anesthesia (6 to 10 minutes) a dosage of 6 to 9 milligrams per pound of body weight is suggested.

(ii) To obtain anesthesia of 15 to 25 minutes duration the suggested dosage is 10 to 12 milligrams per pound of body weight.

(iii) Use of a preanesthetic tranquilizer or morphine will decrease the dosage of sodium thiopental required, provide for smoother induction and smoother recovery, and sometimes prolong the recovery period. If morphine is used as a preanesthetic agent the dose of the barbiturate can be reduced as much as 40 to 50 percent. When a tranquilizer is administered the barbiturate dosage can be reduced 10 to 25 percent.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective May 7, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: April 30, 1974.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.74-10426 Filed 5-6-74;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

United States Standards for Grades of Canned and Solid-Pack Apricots

Correction

In FR Doc. 74–5112 appearing at page 8903 in the issue of Thursday, March 7, 1974, in Table III of § 52.2646 the following change should be made: In the second part of the table, headed "Whole unpeeled—Fill weight values", a new heading, "Whole peeled—Fill Weight Values" should be added between the 8th and 9th lines.

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 1]

PART 795—PAYMENT LIMITATIONS

Miscellaneous Amendments

Correction

In FR Doc. 74–9846 appearing at page 15021 of the issue of Tuesday, April 30, 1974, in § 795.8(c), the word "January" in the fourth and seventh lines should read "March".

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 636, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period April 28-May 4, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937), as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 636 (39 FR 14713). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.936 (Lemon Regulation 636 (39 FR 14713) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period April 28, 1974 through May 4, 1974, is hereby fixed at 255,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 1, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10405 Filed 5-6-74;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO 298-A19, etc.]

MILK IN RED RIVER VALLEY AND CERTAIN OTHER MARKETING AREAS

Order Amending Orders

7 CFR part	Marketing area	Docket No.
	GROUP II	
1104	Red River Valley	AO-298-A19.
1106	Oklahoma Metropolitan	AO-210-A31.
1120	Lubbock-Plainview, Tex	AO-328-A13.
1126	North Texas	AO-231-A37.
1127	San Antonio, Tex	AO-232-A23.
1128	Central West Tex	AO-238-A26.
1129	Austin-Waco, Tex	AO-256-A19.
1130	Corpus Christi, Tex	AO-250-A23.
1131	Central Arizona	AO-271-A15.
1132	Texas Panhandle	AO-262-A22.
1138	Rio Grande Valley	AO-335-A18.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the respective marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders, as hereby amended;

(3) The issuance of the order amending each of the specified orders, except Austin-Waco, is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas; and

(4) The issuance of the order amending the Austin-Waco order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

PART 1104—MILK IN RED RIVER VALLEY MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1104.1 General provisions.

DEFINITIONS

1104.2 Red River Valley marketing area.
1104.3 Route disposition.
1104.4 [Reserved]
1104.5 Distributing plant.
1104.6 Supply plant.
1104.7 Pool plant.
1104.8 Nonpool plant.
1104.9 Handler.
1104.10 Producer-handler.
1104.11 [Reserved]
1104.12 Producer.
1104.13 Producer milk.
1104.14 Other source milk.
1104.15 Fluid milk product.
1104.16 Fluid cream product.
1104.17 Filled milk.
1104.18 Cooperative association.

HANDLER REPORTS

1104.30 Reports of receipts and utilization.
1104.31 Payroll reports.
1104.32 Other reports.

CLASSIFICATION OF MILK

1104.40 Classes of utilization.
1104.41 Shrinkage.
1104.42 Classification of transfers and diversions.
1104.43 General classification rules.
1104.44 Classification of producer milk.
1104.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1104.50 Class prices.
1104.51 [Reserved]
1104.52 Plant location adjustments for handlers.
1104.53 Announcement of class prices.
1104.54 Equivalent price.

UNIFORM PRICE

1104.60 Handler's value of milk for computing uniform price.
1104.61 Computation of uniform price.
1104.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1104.70 Producer-settlement fund.
1104.71 Payments to the producer-settlement fund.
1104.72 Payments from the producer-settlement fund.
1104.73 Payments to producers and to cooperative associations.
1104.74 Butterfat differential.
1104.75 Plant location adjustments for producers and on nonpool milk.
1104.76 Payments by handler operating a partially regulated distributing plant.
1104.77 Adjustment of accounts.
1104.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1104.85 Assessment for order administration.
1104.86 Deduction for marketing services.

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ADVERTISING AND PROMOTION PROGRAM

1104.110 Agency.
1104.111 Composition of Agency.
1104.112 Term of office.
1104.113 Selection of Agency members.
1104.114 Agency operating procedure.
1104.115 Powers of the Agency.
1104.116 Duties of the Agency.
1104.117 Advertising, Research, Education and Promotion Program.
1104.118 Limitation of expenditures by the Agency.
1104.119 Personal liability.
1104.120 Procedure for requesting refunds.
1104.121 Duties of the market administrator.
1104.122 Liquidation.

AUTHORITY: The provisions of this Part 1104 issued under Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1104.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1104.2 Red River Valley marketing area.

"Red River Valley marketing area", hereinafter called "the marketing area", means all territory within the following counties, including all municipal corporations; Federal reservations, facilities, and installations; and State institutions located therein:

OKLAHOMA COUNTIES

Bryan.
Caddo.
Carter.
Choctaw.
Comanche.
Cotton.
Grady.
Jackson.
Jefferson.
Johnston.
Kiowa.
Love.
Marshall.
Murray.
Pushmataha.
Stephens.
Tillman.

TEXAS COUNTIES

Archer.
Baylor.
Clay.
Hardeman.
Montague.
Wichita.
Wilbarger.

§ 1104.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of any fluid milk product classified as Class I milk, other than a delivery to a milk or filled milk plant.

§ 1104.4 [Reserved]

§ 1104.5 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which there is route disposition of fluid milk products.

§ 1104.6 Supply plant.

"Supply plant" means a plant from which fluid milk products are transferred to a distributing plant(s) during the month.

§ 1104.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition of fluid milk products (except filled milk) in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1104.13; and

(2) Route disposition of fluid milk products (except filled milk) in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1104.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continue so qualified in each of the following months of January through August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January–August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of an other Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institution;

(3) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; or

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part.

§ 1104.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant, except an other order plant or a producer-handler plant, from which there is route disposition in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1104.7 and which is not an other order plant or a producer-handler plant.

§ 1104.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of producers diverted for the account of such association pursuant to § 1104.13;

(c) A cooperative association with respect to milk of its member producers picked up at the farm for delivery to the pool plant of another handler in a tank truck owned or operated by such association, or under the control of such association, by contract or otherwise, to the extent that such association supervises and controls the determination of farm weights and tests of the milk of each of such member producers;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1104.7(c).

§ 1104.10 Producer-handler.

"Producer-handler" means any person who produces milk and who operates a plant from which the route disposition in the marketing area does not exceed such person's own production and fluid milk products received from a pool plant

regulated under either this Part or Part 1106 regulating the handling of milk in the Oklahoma Metropolitan marketing area.

§ 1104.11 [Reserved]

§ 1104.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for fluid consumption by a duly constituted health authority, which milk is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1104.13 by a handler for his account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1104.44(a)(8)(iii) and the corresponding step of § 1104.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1104.13 Producer milk.

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers;

(b) Received by the operator of a pool plant at such pool plant from a handler described in § 1104.9(c);

(c) Diverted by the operator of a pool plant from such pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (f) of this section;

(d) Received from producers by a handler described in § 1104.9(c) in an amount in excess of the quantity delivered by such handler to pool plants pursuant to paragraph (b) of this section; or

(e) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (f) of this section;

(f) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert for its account, subject to the conditions of paragraph (f)(3) of this section, a total quantity of milk not in excess of total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert for his account, subject to the conditions of paragraph (f)(3) of this section, milk of producers not members of a cooperative association diverting milk pursuant to paragraph (f)(1) of this section, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant; and

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.

§ 1104.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1104.40(b)(1) from any source other than producers, handlers described in § 1104.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1104.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1104.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1104.40(b)(1)) for which the handler fails to establish a disposition.

§ 1104.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1104.40 (b) or (c)(1) (i) through (v) if is contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1104.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1104.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1104.18 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) Has and is exercising full authority in the sale of milk of its members.

HANDLER REPORTS

§ 1104.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1104.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1104.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

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(c) Each handler described in § 1104.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1104.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1104.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1104.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1104.32 Other reports.

(a) Each handler who causes milk to be diverted to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which it is to be diverted.

(b) In addition to the reports required pursuant to §§ 1104.30 and 1104.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1104.40 Classes of utilization.

Except as provided in § 1104.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1104.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1104.15; and

(6) In shrinkage assigned pursuant to § 1104.41(a) to the receipts specified in § 1104.41(a) (2) and in shrinkage specified in § 1104.41 (b) and (c).

§ 1104.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1104.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1104.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1104.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent. If farm weights and tests are not used as the basis for any such milk commingled in a tank truck with milk of producers who are not members of the cooperative association, the milk received from the cooperative association shall be the proportion of the total receipts at the plant that such milk was of the total receipts determined at the respective farms;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to

which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1104.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1104.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1104.44(a) (12) and the corresponding step of § 1104.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1104.44(a) (7) or the corresponding step of § 1104.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1104.44(a) (11) or (12) or the corresponding steps of § 1104.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3), of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1104.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1104.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible

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first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1104.43 General classification rules.

In determining the classification of producer milk pursuant to § 1104.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1104.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1104.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1104.40, 1104.41, and 1104.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1104.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1104.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1104.9(a) for each of his pool plants separately and of each handler described in § 1104.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1104.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1104.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1104.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1104.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1104.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not

subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1104.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(b) The total pounds of skim milk remilk of all handlers in each class as announced for the month pursuant to § 1104.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1104.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1104.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1104.44(a)(12) and the corresponding step of § 1104.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1104.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

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(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk and the percentage relationship of such receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to the pool plant(s) of other handlers and to nonpool plants. For the purpose of these reports the milk so received from members of such association shall be prorated to each class in accordance with the same percentage as the total receipts of producer milk bear to such utilization of milk by such handler.

CLASS PRICES

§ 1104.50 Class prices.

Subject to the provisions of § 1104.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the price for Class I milk established under Federal Order No. 106 regulating the handling of milk in the Oklahoma Metropolitan marketing area at Oklahoma City, plus 22 cents.

(b) *Class II price.* The Class II price shall be the price for Class II milk established under Federal Order No. 106 regulating the handling of milk in the Oklahoma Metropolitan marketing area.

(c) *Class III price.* The Class III price shall be the price for Class III milk established under Federal Order No. 106 regulating the handling of milk in the Oklahoma Metropolitan marketing area.

§ 1104.51 [Reserved]

§ 1104.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located outside the State of Texas and more than 40 miles from Wichita Falls, Tex., and classified as Class I milk or assigned a Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1104.50(a) shall be reduced at the rate set forth in the following schedule. The distance shall be based on the shortest highway distance, as determined by the market administrator, that the plant is from the City Hall in Wichita Falls, Tex.

Distance (miles)	*Rate per hundredweight (cents)*
40.1–70	12
70.1–100	15
For each additional 10 miles or fraction thereof in excess of 100 miles an additional	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee-plant in an amount not in excess of that by which such Class I disposition exceeds 95 percent of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1104.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1104.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1104.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1104.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1104.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1104.44(a)(14) and the corresponding step of § 1104.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1104.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1104.44(a)(9) and the corresponding step of § 1104.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1104.44(a)(7) (i) through (iv) and the corresponding step of § 1104.44(b) excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1104.44(a)(7) (v) and (vi) and the corresponding step of § 1104.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1104.44(a)(11) and the corresponding step of § 1104.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1104.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received as follows:

(a) Combine into one total the values computed pursuant to §1104.60 for all handlers who filed the reports prescribed by §1104.30 for the month and who made the payments pursuant to §§1104.71 and 1104.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to §1104.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The results shall be the "uniform price" for milk received from producers.

§ 1104.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1104.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1104.71, 1104.76, and 1104.77 subject to the provisions of § 1104.78, and from which he shall make all payments to handlers pursuant to §§ 1104.72 and 1104.77: *Provided,* That any payments due to any handler may be offset by any payments due from such handler.

§ 1104.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each person shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1104.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1104.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1104.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1104.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1104.71(a)(2) exceeds the amount computed pursuant to § 1104.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

§ 1104.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month, to each producer who did not discontinue shipping milk to such handler during the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month;

(2) On or before the 15th day of the following month, an amount equal to not less than the applicable uniform price, as adjusted pursuant to §§ 1104.74 and 1104.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to paragraph (a)(1) of this section, (ii) less deductions for marketing services made pursuant to § 1104.86, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment pursuant to § 1104.72, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall:

(i) Pay to the cooperative association on or before the 27th and 13th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer;

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member-producer (*a*) the total pounds of milk received during the preceding month, (*b*) the total pounds of butterfat contained in such milk, (*c*) the number of days of production included in such receipts, and (*d*) the amounts withheld by the handler in payment for supplies sold; and

(iii) Submit to the cooperative association on or before the 25th day of each month written information which shows for each such member-producer the total pounds of milk received during the first 15 days of the current month.

The foregoing payment and submission of information shall be made with respect to the milk, of each producer who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audits of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(3) Each handler who receives milk from a handler described in § 1104.9(c), shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(i) Partial payment for milk received during the first 15 days of the month at the rate specified in paragraph (a) of this section; and

(ii) In making final settlement, the value of such milk at the uniform price, as adjusted pursuant to §§ 1104.74 and 1104.75, less the amount of partial payment made for such milk.

§ 1104.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1104.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1104.73 for producer milk received at a pool plant, the uniform price computed pursuant to § 1104.61 shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§1104.71 and 1104.72, the uniform price plus 5 cents shall be adjusted at the rate set forth in § 1104.52 (a) applicable at the location of the nonpool plant from which the milk was

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received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1104.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1104.61 shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

§ 1104.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1104.30(b) and 1104.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1104.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1104.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1104.60 for such handler shall include, in lieu of the value of other source milk specified in § 1104.60(f) less the value of such other source milk specified in § 1104.71(a)(2)(ii), a value of milk determined pursuant to § 1104.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1104.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1104.30(b) and 1104.31(b) similar reports for each nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1104.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1104.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1104.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1104.77 Adjustment of accounts.

(a) Whenever audit by the market administrator or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such errors occurred.

§ 1104.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1104.71, 1104.77, 1104.85, or 1104.86 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and compounded on the first day of each month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1104.85 Assessment for order administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1104.13(b) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1104.44(a)(7) and (11) and the corresponding steps of § 1104.44(b), except such other source milk that is excluded from the computations pursuant to § 1104.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1104.76(a)(2).

§ 1104.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1104.73 shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of such deductions and the amount of milk for which such deduction was computed for each producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1104.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1104.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1104.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1104.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1104.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1104.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1104.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1104.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1104.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1104.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1104.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1104.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1104.110 and 1104.117.

§ 1104.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1104.110 and 1104.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secreetary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1104.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

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(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1104.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1104.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1104.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1104.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1104.121 Duties of the market administrator.

Except as specified in § 1104.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1104.113(c).

(b) Set aside the amounts subtracted under § 1104.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1104.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1104.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1104.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1104.110 through 1104.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1104.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1104.70.

PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1106 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1106.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1106.2 Oklahoma Metropolitan marketing area.

"Oklahoma Metropolitan marketing area", hereinafter called the "Marketing Area", means all the territory within Tulsa County, the city of Sapulpa, and the township of Sapulpa in Creek County; that part of Black Dog Township in 20 North, Ranges 10, 11, and 12 East in Osage County; the cities of Muskogee, McAlester, Ponca City, and Tahlequah; Oklahoma County, except Deer Creek, Deep Fork, and Luther Townships; Moore, Taylor, Case, Liberty, Norman, and Noble Townships in Cleveland County; Bales, Davis, Dent, Brinton, Rock Creek, Forest, and Earlsboro Townships in Pottawatomie County; the city and township of Guthrie in Logan County; the city and township of Stillwater and Union Township, including the city of Cushing in Payne County; and the city of Enid and Vance Air Force Base in Garfield County; all in the State of Oklahoma.

§ 1106.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of any fluid milk product classified as Class I milk other than a delivery in bulk to a milk or filled milk plant.

§ 1106.4 [Reserved]

§ 1106.5 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which there is route disposition of fluid milk products.

§ 1106.6 Supply plant.

"Supply plant" means a plant from which fluid milk products are transferred to a distributing plant(s) during the month.

§ 1106.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition (except filled milk) in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1106.13; and

(2) Route disposition (except filled milk) in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1106.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continue so qualified in each of the following months of January through August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January–August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

(c) A plant(s) operated by a cooperative association and located not more than 50 miles from the City Hall of Tulsa or Oklahoma City, Okla., at which milk is received from dairy farmers producing milk approved by a duly constituted health authority for fluid consumption if the total of fluid milk products described in paragraph (c) (1) and (2) of this section received at plants described pursuant to paragraph (a) of this section is not less than 50 percent of total milk of member producers during the month:

(1) Fluid milk products (except filed milk) transferred from such cooperative association plant(s); and

(2) Milk of member producers received from such producers.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; or

(4) A supply plant qualified pursuant to paragraph (b) of this section which meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part.

§ 1106.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a governmental agency plant, nor a producer-handler plant, from which there is route disposition in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant, except an other order plant, a governmental agency plant, or a producer-handler plant, from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1106.7

(e) "Governmental agency plant" means a plant owned and operated by a governmental agency or establishment which processes or packages milk or filled milk that is distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1106.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants:

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Provided, That in the case of recognized divisions of a corporation which are operated as separate business units, each such division shall be deemed to be a handler;

(b) Any cooperative association with respect to the milk of producers which it causes to be diverted pursuant to § 1106.13 for the account of such cooperative association;

(c) A cooperative association with respect to the milk of its member producers delivered to the pool plant of another handler in a tank truck owned or operated by such cooperative association for the account of such cooperative association. Such milk shall be considered to have been received by such cooperative association at the location of the plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1106.7(d).

§ 1106.10 Producer-handler.

"Producer-handler" means any person who produces milk and operates a plant which meets the standards in § 1106.5(a) from which there is route disposition in the marketing area, but who receives no milk from producers or other dairy farmers, and whose disposition of Class I milk does not exceed his own production and fluid milk products received from pool plants.

§ 1106.11 [Reserved]

§ 1106.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for fluid consumption by a duly constituted health authority, which is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1106.13 by a handler for his account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1106.44(a)(8)(iii) and the corresponding step of § 1106.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1106.13 Producer milk.

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers.

(b) Diverted by the operator of a pool plant from such pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (e) of this section.

(c) Received from producers by a handler described in § 1106.9(c).

(d) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (e) of this section.

(e) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert for its account, subject to the conditions of paragraph (e)(3) of this section, a total quantity of milk not in excess of total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert for his account, subject to the conditions of paragraph (e)(3) of this section, milk of producers not members of a cooperative association diverting milk pursuant to paragraph (e)(1) of this section, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant; and

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.

§ 1106.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1106.40(b)(1) from any source other than producers, handlers described in §1106.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1106.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1106.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1106.40(b)(1)) for which the handler fails to establish a disposition.

§ 1106.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1106.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1106.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1106.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk products, and contains less than 6 percent nonmilk fat (or oil).

§ 1106.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

§ 1106.19 Accounting period.

"Accounting period" shall mean a calendar month unless the handler during any calendar month makes a request in writing to the market administrator requesting two accounting periods during the month. No accounting period shall be of less than 5 days duration and the request for two accounting periods must be made at least 48 hours prior to the end of the first accounting period in the month.

HANDLER REPORTS

§ 1106.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for each accounting period in the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1106.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the accounting period of fluid milk products and products specified in § 1106.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1106.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1106.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1106.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1106.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1106.32 Other reports.

(a) Each handler who causes milk to be diverted to a nonpool plant, shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1106.30 and 1106.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1106.40 Classes of utilization.

Except as provided in § 1106.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1106.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1106.15; and

(6) In shrinkage assigned pursuant to § 1106.41(a) to the receipts specified in § 1106.41(a)(2) and in shrinkage specified in § 1106.41 (b) and (c).

§ 1106.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1106.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form

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of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1106.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1106.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1106.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1106.44(a)(12) and the corresponding step of § 1106.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1106.44(a)(7) or the corresponding step of § 1106.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1106.44(a)(11) or (12) or the corresponding steps of § 1106.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1106.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1106.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1106.43 General classification rules.

In determining the classification of producer milk pursuant to § 1106.44, the following rules shall apply:

(a) Each accounting period the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1106.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1106.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1106.40, 1106.41, and 1106.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1106.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1106.44 Classification of producer milk.

For each accounting period the market administrator shall determine the classification of producer milk of each handler described in § 1106.9(a) for each of his pool plants separately and of each handler described in § 1106.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1106.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1106.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1106.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1106.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1106.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an

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unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1106.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1106.40(b)(1) in inventory at the beginning of the accounting period that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1106.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(i) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1106.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk,

subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1106.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1106.44(a)(12) and the corresponding step of § 1106.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current avavilable data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1106.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For the purposes of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

Class Prices

§ 1106.50 Class prices.

Subject to the provisions of § 1106.52, the class prices for the month per hundred weight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.98.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1106.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1106.52 Plant location adjustments for handlers.

(a) At a plant in the State of Oklahoma, north of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties or east of Seminole, Pontotoc, Johnston, and Marshall Counties, and 50 miles or more from the city hall in Oklahoma City, the price specified in § 1106.50(a) for milk received from producers shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

(b) At a plant outside the States of Oklahoma and Texas, the price specified in § 1106.50(a) for milk received from producers shall be the price applicable at Tulsa or Ponca City, Okla., pursuant to paragraph (a) of this section reduced by 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the city halls in Tulsa or Ponca City.

(c) The distances applied pursuant to paragraphs (a) and (b) of this section shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(e) For purposes of calculating location adjustments, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and handlers described in § 1106.9(c), and the pounds assigned to Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1106.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1106.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1106.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1106.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1106.44(a)(14) and the corresponding step of § 1106.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1106.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1106.44(a)(9) and the corresponding step of § 1106.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(7) (i) through (iv) and the corresponding step of § 1106.44(b) excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(7) (v) and (vi) and the corresponding step of § 1106.44(b);

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(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(11) and the corresponding step of § 1106.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1106.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1106.61 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1106.60 for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.73 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1106.75.

(c) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1106.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1106.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1106.71, 1106.76, and 1106.77 and from which he shall make all payments to handlers pursuant to §§ 1106.72 and 1106.77.

§ 1106.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1106.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1106.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1106.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1106.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler including a cooperative association which is a handler the amount, if any, by which the amount computed pursuant to § 1106.71(a)(2) exceeds the amount computed pursuant to § 1106.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1106.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer to whom payment is not made pursuant to paragraph (d) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to § 1106.61, as adjusted pursuant to §§ 1106.74 and 1106.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 1106.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the last day of each month, to each producer for whom payment is not made pursuant to paragraph (d) of this section for milk received from him during the first 15 days of the month at not less than the Class III price for the preceding month;

(c) To a cooperative association with respect to milk for which the cooperative association is a handler on or before the 10th day of each month for milk which is caused to be delivered to such handler during the preceding month at not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1106.74, that are applicable at the location of the receiving handler's pool plant; and

(d)(1) Upon receipt of written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall:

(i) Pay to the cooperative association on or before the 13th and 27th days of each month in lieu of payments pursuant to paragraphs (a) and (b), respectively of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer;

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member producer:

(*a*) The total pounds of milk received during the preceding month;

(*b*) The total pounds of butterfat contained in such milk;

(c) The number of days on which milk was received; and

(*d*) The amounts withheld by the handler in payment for supplies sold; and

(iii) Submit to the cooperative association on or before the 25th day of each month, written information which shows for each member producer the total pounds of milk received during the first 15 days of the current month. The foregoing payment and submission of information shall be made with respect to milk of each producer, who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative and shall be subject to verification at his discretion through audits of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1106.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1106.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1106.73 for producer milk received at a pool plant, the uniform price computed pursuant to § 1106.61 shall be reduced according to the location of the pool plant at the rates set forth in § 1106.52;

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1106.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1106.61 shall be reduced according to the location of the nonpool plant at which the milk is received at the rates set forth in § 1106.52.

§ 1106.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1106.30(b) and 1106.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1106.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1106.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1106.60 for such handler shall include, in lieu of the value of other source milk specified in § 1106.60(f) less the value of such other source milk specified in § 1106.71(a)(2)(ii), a value of milk determined pursuant to § 1106.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1106.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1106.30(b) and 1106.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1106.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1106.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential

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specified in § 1106.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1106.77 Adjustments of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1106.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk described in paragraphs (a), (b), and (c) of this section. For each handler using two accounting periods in a month, the rate of payment shall be twice the rate for monthly accounting periods, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting period:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1106.44(a) (7) and (11) and the corresponding steps of § 1106.44(b), except such other source milk that is excluded from the computations pursuant to § 1106.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1106.76(a)(2).

§ 1106.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1106.73 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such money shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of the month pay such deduction to the cooperative association rendering such services, identified by a statement showing for each such producer the information required to be reported to the market administrator pursuant to § 1106.31(a). In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 1106.31(a).

ADVERTISING AND PROMOTION PROGRAM

§ 1106.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1106.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1106.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1106.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1106.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1106.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1106.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1106.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1106.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1106.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1106.110 and 1106.117.

§ 1106.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1106.110 and 1106.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1106.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1106.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1106.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1106.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1106.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1106.121 Duties of the market administrator.

Except as specified in § 1106.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1106.113(c).

(b) Set aside the amounts subtracted under § 1106.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1106.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1106.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1106.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1106.110 through 1106.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1106.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1106.70.

PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEXAS, MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1120 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1120.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1120.2 Lubbock-Plainview, Tex., marketing area.

"Lubbock-Plainview, Tex., marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties of:

Bailey.	Hale.
Castro.	Hockley.
Cochran.	Lamb.
Cottle.	Lubbock.
Crosby.	Lynn.
Dickens.	Motley.
Floyd.	Terry.
Gaines.	Yoakum.
Garza.	

all within the State of Texas, including all territory within such boundaries occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments.

§ 1120.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to a plant.

§ 1120.4 Plant.

"Plant" means the land, buildings together with their surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received from dairy farmers or processed or packaged: *Provided,* That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distribution depot for fluid milk products in transit on routes shall not be a plant under this definition.

§ 1120.5 Distributing plant.

"Distributing plant" means a plant from which there is route disposition of any Grade A fluid milk product during the month in the marketing area.

§ 1120.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk acceptable for distribution under a Grade A label is moved during the month to a distributing plant.

§ 1120.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is total route disposition, except filled milk, in an amount equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from a handler described in § 1120.9(c) during the month unless the volume so disposed of in the marketing area is less than 15 percent of such receipts or less than 1,500 pounds on a daily average: *Provided,* That if a portion of such plant, physically apart from the Grade A portion of such a plant, is operated separately and is not approved by any health authority for the receiving, transferring, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered to be a part of such pool plant pursuant to this paragraph.

(b) A supply plant from which a volume of fluid milk products, except filled milk, equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from a handler described in § 1120.9(c) is transferred during the month to a distributing plant from which during the month there is total route disposition, except filled milk, in an amount equal to not less than 50 percent of its receipts of Grade A milk from dairy farmers, cooperative associations, and from other plants and the volume to disposed of in the marketing area is at least 15 percent of such receipts or a daily average of 1,500 pounds, whichever is less: *Provided,* That if a portion of such supply plant, physically apart from the Grade A portion of such a plant, is operated separately and is not approved by any health authority for the receiving, transferring, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered to be part of such pool plant pursuant to this paragraph: *And provided further,* That any plant which was a pool plant pursuant to this paragraph in each of the months of September through November shall be a pool plant for the following months of March through June, unless written application is filed with the market administrator on or before the first day of any such months for designation as a nonpool plant for the remaining months through June.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or a State institution plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area, unless notwithstanding the provisions of this subparagraph it is regulated under such other order; or

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is fully regulated under such other Federal order.

§ 1120.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a state institution plant, nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means any nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant, a state institution plant, nor a producer-handler plant.

(e) "State institution plant" means a State owned and operated institution or establishment which processes or packages fluid milk products distributed solely on its premises or those of other State institutions or establishments. Such plant shall be exempt from all provisions of this part.

§ 1120.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to the milk of any producer which it causes to be diverted for its account pursuant to § 1120.12;

(c) A cooperative association with respect to the milk of any producer which it causes to be delivered directly from the farm to the pool plant of another handler in a tank truck owned and operated by, under contract to, or under the control of such association, unless the association notifies the market administrator and the operator of the pool plant in writing prior to the time of delivery that the transferee-handler is to be the responsible handler on such milk;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1120.7(c); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1120.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and whose only source of supply for Class I milk is his own farm production and transfers from pool plants: *Provided,* That such person furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprises of and at the personal risks of such person.

§ 1120.11 [Reserved]

§ 1120.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(1) Received at a pool plant either directly or by a handler described in § 1120.9(c); or

(2) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of either the operator of the pool plant or a cooperative association:

(i) Any day during the months of March through June; and

(ii) Not more than 15 days production during any month of July through February: *Provided,* That milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1120.44(a)(8)(iii) and the corresponding step of § 1120.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1120.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in:

(a) Milk received at a pool plant directly from producers;

(b) Milk from producers diverted in accordance with the conditions set forth in § 1120.12; or

(c) Milk received by a handler described in § 1120.9(c): *Provided,* That such milk shall be deemed to have been received by such cooperative association at a pool plant at the location of the pool plant to which it was delivered.

§ 1120.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1120.40(b)(1) from any source other than producers, handlers described in § 1120.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1120.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1120.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1120.40(b)(1)) for which the handler fails to establish a disposition.

§ 1120.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1120.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1120.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1120.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk

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(whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1120.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 1120.19 Accounting periods.

A handler may account for receipts, utilization, and classification of skim milk and butterfat at any of his pool plants for two periods within a month, each period not to be less than 7 days, in the same manner as for a month if he provides to the market administrator in writing not later than 24 hours prior to the end of an accounting period notification of his intention to use two accounting periods.

HANDLER REPORTS

§ 1120.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, each handler shall report for each accounting period in the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1120.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1120.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1120.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1120.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1120.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1120.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1120.32 Other reports.

(a) Each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the first day other source milk is received in the form of any fluid milk product at any of his pool plants his intention to receive such product, and on or before the last day such product is received his intention to discontinue receipt of such product; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1120.30 and 1120.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1120.40 Classes of utilization.

Except as provided in § 1120.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1120.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1120.15; and

(6) In shrinkage assigned pursuant to § 1120.41(a) to the receipts specified in § 1120.41(a)(2) and in shrinkage specified in § 1120.41 (b) and (c).

§ 1120.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1120.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1120.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1120.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1120.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1120.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1120.44(a)(12) and the corresponding step of § 1120.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1120.44(a)(7) or the corresponding step of § 1120.44 (b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1120.44(a)(11) or (12) or the corresponding steps of § 1120.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1120.40.

(c) *Transfers to producer-handlers and to State institution plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or a State institution plant shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a State institution plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

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(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1120.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1120.43 General classification rules.

In determining the classification of producer milk pursuant to § 1120.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1120.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1120.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1120.40, 1120.41, and 1120.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1120.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1120.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1120.9(a) for each of his pool plants separately and of each handler described in § 1120.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1120.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1120.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds in skim milk in Class II the pounds of skim milk in products specified in § 1120.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1120.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1120.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a State institution plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1120.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1120.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined; with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1120.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the

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pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1120.9(c) according to the classification of such products pursuant to § 1120.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1120.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1120.44(a)(12) and the corresponding step of § 1120.44 (b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1120.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month report to each cooperative association, upon request by such association, the percentage of producer milk caused to be delivered by such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

Class Prices

§ 1120.50 Class prices.

Subject to the provisions of § 1120.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.42.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1120.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1120.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a pool plant located either outside of the State of Texas, or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall, Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is assigned to Class I pursuant to paragraph (b) of this section or otherwise classified as Class I milk, the price specified in § 1120.50(a) shall be reduced at the rate set forth in the following table according to the location of the plant where such milk is received:

Miles from Lubbock City Hall:	*Rate per hundredweight (cents)*
100 miles but less than 110 miles	10
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1120.9(c) and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1120.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1120.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1120.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1120.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1120.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1120.44(a)(14) and the corresponding step of § 1120.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1120.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1120.44 (a)(9) and the corresponding step of § 1120.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1120.44(a)(7) (i) through (iv) and the corresponding step of § 1120.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1120.44(a)(7) (v) and (vi) and the corresponding step of § 1120.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1120.44(a)(11) and the corresponding step of § 1120.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1120.61 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(c) Add an amount equal to not less than one-half the unobligated balance on hand in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in such computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "uniform price" for producer milk.

§ 1120.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1120.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-setlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1120.71, 1120.76, and 1120.77, subject to the provision of § 1120.78, and from which he shall make all payments pursuant to §§ 1120.72 and 1120.77: *Provided,* That payments due to any handler shall be offset by any payment due from such handler.

§ 1120.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1120.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1120.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1120.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1120.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1120.71(a)(2) exceeds the amount computed pursuant to § 1120.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments due pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1120.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(1) On or before the last day of each month, to each producer from whom milk is currently being received, for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month;

(2) On or before the 15th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1120.61 as adjusted pursuant to § 1120.74; and less

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Location adjustments pursuant to § 1120.75;

(iii) Deduction for marketing services pursuant to § 1120.86; and

(iv) Proper deductions authorized by such producer;

Provided, That if by the date specified, such handler has not received full payment for such month pursuant to § 1120.72, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator, and payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) Each handler shall pay to a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk on or before the 26th day of the month and the 13th day of the month following, respectively, the amounts otherwise payable pursuant to paragraph (a) of this section, for milk received from producers whom such association certifies are its members: *Provided,* That such cooperative association submits to the handler and to the market administrator before the first day of the month for which it is to receive such payment, a written request for such payment for milk received from such certified members who are producers together with a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of such association. Such request shall be honored with respect to milk received until the first day of the month in which it receives from such association, in writing, notice either of termination of membership, or of withdrawal of the original request. Exceptions, if any, to the accuracy of certification of membership by the cooperative association, by a producer who is claimed to be a member or by a handler shall be made in writing to the mar-

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ket administrator and shall be subject to his determination;

(c) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association as a handler pursuant to § 1120.9(c) as follows:

(1) On or before the 26th day of each month for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the class prices, as adjusted by the butterfat differential specified in § 1120.74, that are applicable at the location of the receiving handler's pool plant, less the amounts paid pursuant to paragraph (c)(1) of this section; and

(d) In making payments to producers pursuant to paragraph (a)(2) of this section and to a cooperative association pursuant to paragraph (b) of this section each handler shall furnish each producer from whom he has received milk, or each such cooperative association with respect to each producer member, whichever is applicable, with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The applicable month;

(2) The identity of the handler, the Federal milk order under which the producer's milk was priced, and the producer;

(3) The daily and total pounds and the average butterfat content of milk received from such producer;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this part;

(5) The rate which is used in making the payment;

(6) The amount or the rate per hundredweight, and the nature of each deduction made by the handler; and

(7) The net amount of payment to such producer or cooperative association.

§ 1120.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1120.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price determined pursuant to § 1120.61 to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall of Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained in § 1120.52 according to the location of the pool plant at which such milk was received from producers; and

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1120.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1120.30(b) and 1120.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1120.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1120.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1120.60 for such handler shall include, in lieu of the value of other source milk specified in § 1120.60(f) less the value of such other source milk specified in § 1120.71(a)(2)(ii), a value of milk determined pursuant to § 1120.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1120.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1120.30(b) and 1120.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1120.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1120.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1120.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1120.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or account discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

§ 1120.78 Charges on overdue accounts.

There shall be added to any balance due to the market administrator pursuant to §§ 1120.71, 1120.76, 1120.77, 1120.85, and 1120.86 an amount equal to one-half of 1 percent of such balance for each month or portion thereof that payment of such balance is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1120.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler, except a handler described in § 1120.9(c), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk specified in paragraphs (a), (b), and (c) of this section: *Provided*, That if a handler elects pursuant to § 1120.19 to use two accounting periods in any month the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1120.9(c);

(b) Other source milk allocated to Class I pursuant to § 1120.44(a)(7) and (11) and the corresponding steps of § 1120.44(b), except such other source milk that is excluded from the computations pursuant to § 1120.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1120.76(a)(2).

§ 1120.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1120.73(a)(2) shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator no later than the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received by handlers from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by or responsible to him.

(b) In the case of a producer for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in said paragraph (a) of this section, such deductions from payments to be made directly to such producers pursuant to § 1120.73(a)(2) as are authorized by such producers and on or before the 15th day after the end of each month pay such deductions to the cooperative association rendering such services.

ADVERTISING AND PROMOTION PROGRAM

§ 1120.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1120.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1120.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1120.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1120.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1120.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1120.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and

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who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1120.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1120.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of agency authority pursuant to § 1120.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1120.110 and 1120.117.

§ 1120.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1120.110 and 1120.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1120.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1120.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1120.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1120.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1120.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1120.121 Duties of the market administrator.

Except as specified in § 1120.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1120.113(c).

(b) Set aside the amounts subtracted under § 1120.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1120.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1120.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1120.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1120.110 through 1120.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1120.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1120.70.

PART 1126—MILK IN NORTH TEXAS MARKETING AREA

Subpart—Order Regulating Handling

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1126.113 Selection of Agency members.
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1126.120 Procedure for requesting refunds.
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1126.122 Liquidation.

AUTHORITY: The provisions of this Part 1126 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1126.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1126.2 North Texas marketing area.

"North Texas marketing area", hereinafter called the marketing area, means all territory, including all municipal corporations, Federal military reservations, facilities, and State institutions, within the following counties, all in the State of Texas:

Anderson.	Kaufman.
Bosque.	Lamar.
Camp.	Limestone.
Cherokee.	Marion.
Cooke.	Morris.
Collin.	Navarro.
Dallas.	Panola.
Delta.	Parker.
Denton.	Rains.
Ellis.	Red River.
Erath.	Rockwall.
Fannin.	Rusk.
Franklin.	Sabine.
Freestone.	San Augustine.
Grayson.	Shelby.
Gregg.	Smith.
Harrison.	Somervell.
Henderson.	Tarrant.
Hill.	Titus.
Hood.	Upshur.
Hopkins.	Van Zandt.
Hunt.	Wood.
Johnson.	

§ 1126.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of a fluid milk product classified as Class I milk other than a delivery in bulk form to a milk processing plant.

§ 1126.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed and/or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1126.5 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted State or municipal health authority, or acceptable to an agency of the State or Federal Government for the disposition of Grade A fluid milk products in the marketing area, at which milk products are received, processed and/or packaged, and from which there is route disposition of fluid milk products in the marketing area.

§ 1126.6 Supply plant.

"Supply plant" means any plant approved by the appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which milk is moved to a pool distributing plant as follows:

(a) During the month 50 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19;

(b) During the last month of any four or less consecutive months during which period an average of 50 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19 and 15 percent or more of such receipts are thus moved and assigned during the month; or

(c) During each of the months of January through August, if (1) such plant was a supply plant pursuant to paragraph (a) or (b) of this section during each of the immediately preceding months of September through December: *Provided*, That, to remain a supply plant during August, 15 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19, and (2) the operator of such plant has filed a written request on or before January 31 with the market administrator requesting that such plant

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be designated as a supply plant through August of such year.

§ 1126.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of the receipts of Grade A milk at such plant; and

(2) Total route disposition, except filled milk equal to 50 percent or more of the receipts of Grade A milk at such plant, except that if two or more distributing plants operated by the same handler each meet the performance requirement of paragraph (a)(1) of this section and total route disposition, except filled milk, of such plants is 50 percent or more of receipts of Grade A milk at such plants, each such plant shall be deemed to have met the requirement of this subparagraph.

(b), Any supply plant.

(c) Any plant operated by a cooperative association which has been approved by any duly constituted state or municipal health authority and at which milk is received from dairy farmers holding permits or authorization from such health authority, and at least 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from the plant of the cooperative association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of January through August if such plant retains automatic pooling status under this part.

§ 1126.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units (other than to pool plants) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant nor a producer-handler plant.

§ 1126.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk diverted pursuant to § 1126.13 for the account of such cooperative association;

(c) Any cooperative association with respect to:

(1) Producer milk which it causes to be delivered during any period of less than a full month from its members directly to the pool plant of another handler if (i) during the same month such cooperative association is a handler pursuant to paragraph (a) or (b) of this section with respect to any milk of such producer, and (ii) such association notifies the handler and the market administrator in writing of its intent to become a handler with respect to such milk prior to delivery. For the purpose of location adjustments such milk shall be considered to have been received by the cooperative association at the location of the pool plant to which it is delivered; and

(2) The milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered in writing that it wishes to be the handler for such milk. The cooperative association shall be considered the handler for such milk, effective the first day of the month following receipt of such notice, and milk so delivered shall be considered for purposes of location adjustments to have been received by such cooperative association at the location of the pool plant to which it is delivered; and

(d) Any person in his capacity as the operator of a partially regulated distributing plant.

§ 1126.10 Producer-handler.

"Producer-handler" means any person who:

(a) Produces milk and operates a distributing plant;

(b) Receives no milk from producers;

(c) Disposes of no other source milk as Class I milk; and

(d) Receives from pool plants an amount of milk equal to not more than 5 percent of his own production.

§ 1126.11 [Reserved]

§ 1126.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority, which milk is:

(1) Received at a pool plant, including milk of a dairy farmer delivered to the pool plant by a handler described in § 1126.9(c); or

(2) Diverted by a handler for his account pursuant to § 1126.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person during periods of temporary degrading by any duly constituted State or municipal health authority if such health authority notifies the operator of the pool plant or the market administrator in writing of the effective date or dates of such action and subsequent reapproval;

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1126.44(a)(8)(iii) and the corresponding step of § 1126.44(b); and

(4) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1126.13 Producer milk.

"Producer milk" of a handler operating a pool plant means only that skim milk and butterfat contained in milk described in paragraphs (a) and (b) of this section, and producer milk of a handler described in § 1126.9 (b) and (c) means milk described in paragraphs (c) and (d) of this section:

(a) Milk received from producers at a pool plant except that received from a handler described in § 1126.9(c);

(b) Milk of a producer diverted by the operator of a pool plant for his account to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (e) of this section;

(c) Milk of a producer diverted by a cooperative association from the pool plant of another handler (or the pool plant of the cooperative) to a nonpool plant that is not a producer-handler plant for the account of such cooperative association, subject to the conditions of paragraph (e) of this section;

(d) Milk received from a producer by a handler described in § 1126.9(c);

(e) With respect to milk diverted to nonpool plants, milk diverted in excess of the limit specified herein shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the diverting handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler:

(1) A cooperative association may divert for its account a total quantity of producer milk equal to not more than one-third of the total producer milk of its members physically received at all pool plants during the month;

(2) A handler, other than a cooperative association, operating a pool plant(s) may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to paragraph (e)(1) of this section, in a total quantity equal to not more than one-third of the milk physically received at such handler's pool plant(s) during the month from producers who are not members of such a cooperative association;

(3) Diverted milk shall be deemed to have been received by the diverting handler at the location of the plant to which it was diverted; and

(4) Milk shall be eligible for diversion as producer milk only if the person producing such milk has been delivering milk as producer milk to a pool plant on a regular basis prior to the diversion.

§ 1126.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1126.40(b)(1) from any source other than producers, handlers described in § 1126.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1126.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1126.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1126.40(b)(1)) for which the handler fails to establish a disposition.

§ 1126.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1126.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1126.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1126.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1126.18 Cooperative association.

"Cooperative Association" means any cooperative marketing association of producers which the Secretary determines, after application by the Association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

§ 1126.19 Reserve supply credit.

The hundredweight of reserve supply credit that may be assigned to milk moved from a supply plant to a distributing plant shall be calculated as follows: From the total hundredweight of milk classified as Class I milk, except filled milk, at the distributing plant during the month, deduct Class I sales, except filled milk, to other pool plants(s) and from this result deduct an amount equal to 85 percent of the total hundredweight of milk received from producers during the month at such plant. Any plus figure resulting from this calculation shall be assigned pro rata to milk moved to such plant from supply plants unless the operator of the distributing plant notifies the market administrator in writing of a different assignment on or before the seventh day after the end of the month.

HANDLER REPORTS

§ 1126.30 Monthly reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1126.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1126.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1126.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1126.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1126.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the

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detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1126.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

(c) The market administrator shall furnish a cooperative association for its members the data furnished pursuant to paragraph (a) of this section.

§ 1126.32 Other reports.

(a) Each handler who causes milk to be diverted for his account directly from producers' farms to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) Each handler, with respect to fluid milk products and products specified in § 1126.40(b)(1) disposed of for animal feed, shall report to the market administrator such information and at such time as the market administrator may prescribe.

(c) In addition to the reports required pursuant to §§ 1126.30 and 1126.31 and paragraphs (a) and (b) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1126.40 Classes of utilization.

Except as provided in § 1126.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1126.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1126.15, plus the fluid equivalent of loss of nonfat milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed 2 percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

(6) In shrinkage assigned pursuant to § 1126.41(a) to the receipts specified in § 1126.41(a)(2) and in shrinkage specified in § 1126.41(b) and (c).

§ 1126.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1126.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1126.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective

amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1126.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1126.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1126.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1126.44(a)(12) and the corresponding step of § 1126.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1126.44(a)(7) or the corresponding step of § 1126.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1126.44(a)(11) or (12) or the corresponding steps of § 1126.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1126.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1126.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other

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order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1126.43 General classification rules.

In determining the classification of producer milk pursuant to § 1126.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1126.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1126.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1126.40, 1126.41, and 1126.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1126.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1126.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1126.9(a) for each of his pool plants separately and of each handler described in § 1126.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1126.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1126.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1126.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1126.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or

Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1126.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1126.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1126.9(c) according to the classification of such products pursuant to § 1126.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1126.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1126.44 (a)(12) and the corresponding step of § 1126.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1126.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each co-

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operative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

§ 1126.50 Class prices.

Subject to the provisions of § 1126.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.32.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1126.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1126.52 Plant location adjustments for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) "Zone I" means all territory within the following Texas counties in the marketing area:

Bosque.	Hood.
Cooke.	Hopkins.
Collin.	Hunt.
Dallas.	Johnson.
Delta.	Kaufman.
Denton.	Lamar.
Ellis.	Limestone.
Erath.	Navarro.
Fannin.	Parker.
Freestone.	Rockwall.
Grayson.	Somervell.
Hill.	Tarrant.

(2) "Zone II" means all territory in the marketing area outside Zone I and all territory in Bowie and Cass Counties, Tex., and the city of Texarkana, Ark.

(b) For producer milk received at a pool plant which is classified as Class I milk, subject to paragraph (c) of this section, the price specified in § 1126.50 (a) shall be adjusted for the location of such plant as follows:

(1) At a plant located in Zone II, such price shall be increased by any amount by which the applicable Class I price at such location pursuant to Part 1121 regulating the handling of milk in the South Texas marketing area exceeds the price specified in § 1126.50(a); and

(2) At a plant located outside Zones I and II and 110 miles or more from the city hall in Dallas, Tex., such price shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the Dallas city hall by shortest hard-surface highway distance as determined by the market administrator.

(c) For purposes of calculating such location adjustments transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of 95 percent of receipts at such plant from producers and handlers described in § 1126.9(c), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such an assignment to be made first to transferor-plants having the same Class I price, next to transferor-plants having a higher Class I price and then in sequence to plants having a lower Class I price, beginning with the plant at which the highest Class I price would apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1126.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1126.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1126.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1126.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1126.44(a)(14) and the corresponding step of § 1126.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1126.44 (a)(9) and the corresponding step of § 1126.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7) (i) through (iv) and the corresponding step of § 1126.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7) (v) and (vi) and the corresponding step of § 1126.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(11) and the corresponding step of § 1126.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1126.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers who made the reports prescribed in § 1126.30 and who made the payments pursuant to § 1126.71 for the preceding month;

(b) Add not less than one-fourth of the cash balance on hand in the producer-settlement fund, less the total amount of the contingent obligations to handlers pursuant to § 1126.72;

(c) Add the aggregate of the values of minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1126.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1126.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1126.71, 1126.76, and 1126.77 subject to the provisions of §1126.78 and from which he shall make all payments to handlers pursuant to §§ 1126.72 and 1126.77.

§ 1126.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1126.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1126.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1126.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by mutiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1126.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1126.71(a)(2) exceeds the amount computed pursuant to § 1126.71(a)(1): *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available: *And provided further,* That any amount due a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator for such handler pursuant to §§ 1126.71, 1126.77, 1126.78, 1126.85, and 1126.86.

§ 1126.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price for such month computed pursuant to § 1126.61, as adjusted pursuant to §§ 1126.74 and 1126.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 1126.72 he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer (1) for whom payment is not made pursuant to paragraph (c) of this section and (2) who has not discontinued delivery of milk to such handler, a partial payment for milk received from such producer during the first 15 days of such month computed at not less than the Class III price for 3.5 percent milk of the preceding month, without deduction for hauling.

(c) On or before the 13th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b) of this section, respectively, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payments, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1126.31.

(d) On or before the 13th day after the end of the month each handler shall pay to each cooperative association which is also a handler for milk received from it not less than the value of such milk as classified pursuant to § 1126.42 (a) at the respective class prices, as adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the receiving handler's pool plant.

§ 1126.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1126.73 (a) or (c) the uniform price computed pursuant to § 1126.61 to be paid for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rate set forth in § 1126.52.

(b) For purposes of computation pursuant to §§ 1126.71 and 1126.72 the uniform price shall be adjusted at the rates set forth in § 1126.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1126.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1126.30(b) and 1126.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distribution plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under

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any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1126.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1126.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1126.60 for such handler shall include, in lieu of the value of other source milk specified in § 1126.60(f) less the value of such other source milk (specified in § 1126.71(a)(2)(ii), a value of milk determined pursuant to § 1126.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1126.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1126.30(b) and 1126.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1126.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1126.77 Adjustment of accounts.

Whenever verification by the market administrator of any handler's reports, books, records, accounts or payments discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1126.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1126.71, 1126.73, 1126.76, 1126.77, 1126.85, or 1126.86 shall be increased three-fourths of 1 percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due: *Provided*, That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this section; and

(b) For the purpose of this section any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1126.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts from producers (including such handler's own production) except receipts by a handler described in § 1126.9(c);

(b) Receipts from a handler described in § 1126.9(c);

(c) Other source milk allocated to Class I pursuant to § 1126.44(a)(7) and (11) and the corresponding steps of § 1126.44(b), except such other source milk that is excluded from the computations pursuant to § 1126.60(d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1126.76(a)(2).

§ 1126.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1126.73, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1126.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1126.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1126.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1126.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1126.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1126.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1126.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.110,

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.110 and 1126.117.

§ 1126.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.110 and 1126.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1126.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1126.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or

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for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1126.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1126.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1126.121 Duties of the market administrator.

Except as specified in § 1126.116, the market administrator in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside the amounts subtracted under § 1126.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1126.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.70.

PART 1127—MILK IN SAN ANTONIO, TEXAS, MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1127 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1127.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1127.2 San Antonio, Tex., marketing area.

"San Antonio, Tex., marketing area", hereinafter called the "marketing area", means all the territory including all municipal corporations and all Federal military reservations, facilities and installations located within the boundaries of Bexar County, Tex.

§ 1127.3 Route disposition.

"Route disposition" means any delivery of any fluid milk product classified as Class I milk (including any delivery by a vendor or disposition at a plant store) to wholesale or retail outlets, except deliveries in bulk form to other pool plants.

§ 1127.4 [Reserved]

§ 1127.5 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Which is approved by an appropriate health authority having jurisdiction in the marketing area or by another health authority whose certification is accepted by such health authority for the processing of Grade A milk or which is acceptable to an agency of the Federal Government for distribution of milk to its installations in the marketing area;

(b) In which milk or skim milk is processed or packaged; and

(c) From which there is route disposition during the month in the marketing area or from which Class I milk is supplied to installations located in the marketing area of an agency of the Federal Government.

§ 1127.6 Supply plant.

"Supply plant" means all the buildings, premises, and facilities of a plant equipped to either receive or cool milk which is approved by the appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area, and from which an amount equal to not less than 50 percent of its receipts from dairy farmers, who would be producers if the plant qualified as a pool plant, are shipped to a distributing plant during the month: *Provided*, That any plant which qualifies as a supply plant for each of the months of July through February shall be considered to be a supply plant for the following months of March through June of such year, except that if the operator of such plant files a written request with the market administrator, supply plant status shall be terminated as of the first of the following month.

§ 1127.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant which has route disposition, except filled milk, in the marketing area equal to 15 percent or more of its receipts of milk during the month from pool plants and from dairy farmers conforming to the requirements set forth in § 1127.12.

(b) A supply plant.

(c) Any plant approved by an appropriate health authority having jurisdiction in the marketing area to supply milk for distribution as Grade A milk in the marketing area which is operated by a cooperative association, and 50 percent or more of the producer milk of members is received during the month in the pool plants of other handlers, or is transferred to such plants from the plant of the cooperative association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements for pooling pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all of the provisions of this part in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area unless notwithstanding the provisions of this subparagraph it is fully regulated under such other order; and

(3) A plant meeting the requirements for pooling pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area, but which plant is fully regulated under such other Federal order.

§ 1127.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

§ 1127.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of a member producer diverted for its account pursuant to § 1127.12 for each day's milk production that such producer's milk is diverted during the month. Milk so diverted shall be deemed to have been received by the association at a pool plant at the location of the pool plant at which the milk was received prior to diversion;

(c) A cooperative asscciation with respect to the producer milk of its members which is delivered directly from the farm to the pool plant of a handler in a tank truck owned and operated by or under contract to such cooperative association unless the cooperative association notifies the market administrator and the handler to whom the milk is delivered in writing, prior to the first day of the month, that it does not desire to be the handler for such milk. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the association at a pool plant at the location of the pool plant to which it is delivered; and

(d) Any person in his capacity as the operator of a nonpool plant from which there is route disposition in the marketing area.

§ 1127.10 [Reserved]

§ 1127.11 [Reserved]

§ 1127.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk (1) under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk, issued by an appropriate health authority having jurisdiction in the marketing area or by another health authority whose certification is accepted by such health authority, or (2) which is acceptable to

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an agency of the Federal Government for fluid consumption in its institutions or bases located in the marketing area; which is received directly from the farm at a pool plant or diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of a cooperative association: *Provided*, That if the days of production of such person for which milk is diverted exceed one-third of the days of production that milk is delivered to a pool plant during the month, such milk shall cease to be producer milk for the entire period of such diversion.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1127.44 (a) (8) (iii) and the corresponding step of § 1127.44 (b);

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; and

(4) A dairy farmer during the months of March through June, if milk from the same dairy farmer (or farm) was received at a nonpool plant operated by the same handler, as other than producer milk, on more than half the days of delivery during the preceding months of July through February.

§ 1127.13 Producer milk.

"Producer milk" means any skim milk or butterfat contained in milk of a producer received at a pool plant or diverted by a cooperative association in accordance with § 1127.9(b).

§ 1127.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1127.40 (b) (1) from any source other than producers, handlers described in § 1127.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1127.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1127.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1127.40(b) (1)) for which the handler fails to establish a disposition.

§ 1127.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a) (1) of this section or in § 1127.40 (b) or (c) (1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1127.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1127.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1127.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association (a) to have its entire activities under the control of its members, (b) to have full authority in the sale of milk of its members, and (c) to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

HANDLER REPORTS

§ 1127.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1127.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1127.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1127.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1127.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1127.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1127.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1127.32 Other reports.

In addition to the reports required pursuant to §§ 1127.30 and 1127.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1127.40 Classes of utilization.

Except as provided in § 1127.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1127.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1127.15; and

(6) In shrinkage assigned pursuant to § 1127.41(a) to the receipts specified in § 1127.41(a) (2) and in shrinkage specified in § 1127.41 (b) and (c).

§ 1127.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1127.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk;

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1127.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) [Reserved]

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1127.9 (b) or (c), but not in excess of 0 5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1127.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1127.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1127.44(a) (12) and the corresponding step of § 1127.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1127.44(a) (7) or the corresponding step of § 1127.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3 If the transferor-handler received during the month other source milk to be allocated pursuant to § 1127.44(a) (11) or (12) or the corresponding steps of § 1127.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall

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apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1127.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1127.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1127.43 General classification rules.

In determining the classification of producer milk pursuant to § 1127.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1127.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1127.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1127.40, 1127.41, and 1127.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1127.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1127.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1127.9(a) for each of his pool plants separately and of each handler described in § 1127.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1127.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1127.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1127.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1127.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1127.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from persons described in § 1127.12 (b)(4);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1127.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1127.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the

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handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1127.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should be computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from an other pool plant or a handler described in § 1127.9(c) according to the classification of such products pursuant to § 1127.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1127.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1127.44(a)(12) and the corresponding step of § 1127.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1127.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be assigned to each class in the proportion that the total producer milk in each class is to the total receipts of producer milk by such handler.

Class Prices

§ 1127.50 Class prices.

Subject to the provisions of § 1127.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.74.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1127.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1127.52 Plant location adjustments for handlers.

(a) For milk which is received from producers at a pool plant located more

than 50 miles from the city hall in San Antonio, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator and which is classified as Class I milk, the price specified in § 1127.50(a) shall be reduced 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the city hall in San Antonio, Tex.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1127.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1127.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1127.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1127.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1127.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1127.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1127.44(a)(14) and the corresponding step of § 1127.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1127.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1127.44(a)(9) and the corresponding step of § 1127.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1127.44(a)(7)(i) through (iv) and (vii) and the corresponding step of § 1127.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1127.44(a)(7)(v) and (vi) and the corresponding step of § 1127.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1127.44(a)(11) and the corresponding step of § 1127.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1127.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1127.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1127.60 for all handlers who have made the reports prescribed by § 1127.30 for the month and who have made the payment required pursuant to § 1127.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1127.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1127.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1127.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1127.70 Producer-settlement fund.

The market administrator shall establish a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1127.71, 1127.76, and 1127.77 and from which he shall make all payments pursuant to §§ 1127.72 and 1127.77.

§ 1127.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1127.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1127.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1127.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route dis-

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position in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1127.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the amount computed pursuant to § 1127.71(a)(2) exceeds the amount computed pursuant to § 1127.71(a)(1).

§ 1127.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay to a cooperative association on or before the 13th day of the month, for milk received from it during the preceding month for which such association is a handler described in § 1127.9(c), the value of such milk at not less than the class prices as adjusted by the butterfat differential specified in § 1127.74, that are applicable at the location of the receiving handler's pool plant: *Provided, however,* That for each hundredweight of milk so received during the first 15 days of any month, such handler shall, upon written request of the cooperative association make a partial payment to such association by the 26th day of the month at not less than the Class III price of the preceding month, in which case the obligation of the handler otherwise payable on or before the 13th day of the following month shall be reduced by the amount of such partial payment.

(b) Except as provided in paragraph (b)(3) of this section each handler shall make payment to each producer for milk received from such producer as follows:

(1) On or before the last day of each month, for milk received during the first 15 days of such month at not less than the price per hundredweight for Class III milk for the preceding month.

(2) On or before the 15th day after the end of the month during which the milk was received at not less than the uniform price per hundredweight computed for such month pursuant to § 1127.61 subject to the following adjustments: (i) The butterfat differential pursuant to § 1127.74, (ii) the location adjustment pursuant to § 1127.75, (iii) the payment made pursuant to paragraph (b)(1) of this section, (iv) deductions for marketing services pursuant to § 1127.86, and (v) proper deductions authorized by such producer: *Provided,* That if by such date such handler has not received full payment pursuant to § 1127.72 he may reduce his total payment to all producers pro rata by not more than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this subparagraph not later than the date for making such payments next following receipt of the balance due from the market administrator.

(3)(i) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall on or before the 20th day of each month furnish the cooperative association information showing the daily and total pounds of milk received from each of the association's member producers for the first 15 days of such month and, on or before the 10th day after the end of each month, such information for the 16th through the end of such month, and shall pay to such association on or before the 26th and 13th day of each month, in lieu of payments pursuant to paragraph (a)(1) and (2) respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(ii) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(4) In making the payments to producers pursuant to paragraph (b)(2) and (3) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show:

(i) The month for which payment is made and the identity of the handler and of the producer;

(ii) The total pounds and average butterfat test of milk received from such producer;

(iii) The minimum rate or rates at which payment to such producer is required;

(iv) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(v) The amount or rate per hundredweight of each deduction claimed by the handler; together with a description of the respective deductions; and

(vi) The net amount of payment to such producer.

§ 1127.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1127.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1127.73 for that milk which is received from producers at a pool plant located more than 50 miles from the city hall in San Antonio, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, the handler may deduct an amount equal to not more than 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the city hall in San Antonio, Tex.

(b) For the purposes of computations pursuant to §§ 1127.71 and 1127.72 the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1127.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1127.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1127.30(b) and 1127.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1127.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classsified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1127.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1127.60 for such handler shall include, in lieu of the value of other source milk specified in § 1127.60(f) less the value of such other source milk specified in § 1127.71(a)(2)(ii), a value of milk determined pursuant to § 1127.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1127.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1127.30(b) and 1127.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1127.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1127.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1127.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1127.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's books, reports, records, or accounts discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1127.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Skim milk and butterfat received from producers (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1127.44(a)(7) and (11) and the corresponding steps of § 1127.44(b), except other source milk that is excluded from the computations pursuant to § 1127.60(d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1127.76(a)(2).

§ 1127.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section each handler, in making payments to producers (other than himself) shall make a deduction of 6 cents per hundredweight of milk or such lesser deduction as the Secretary from time to time may prescribe. Such deductions shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for verification of weights and tests of milk received from such producers and in providing market information to such producers.

(b) In the case of each producer who is a member of, or who has given written authorization for the rendering of marketing services and the taking of a deduction therefor to a cooperative association, which the Secretary has determined is performing the services described in paragraph (a) of this section, such handler, in lieu of the deduction specified under paragraph (a) of this section, shall deduct from the payments to such producer the amount per hundredweight specified by such association which is not in excess of the rate authorized by such producer and shall pay such deduction to the cooperative association entitled to receive it on or before the 15th day after the end of the month during which such milk was received.

ADVERTISING AND PROMOTION PROGRAM

§ 1127.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1127.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding

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brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1127.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1127.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1127.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1127.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1127.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1127.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1127.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1127.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1127.110 and 1127.117.

§ 1127.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1127.110 and 1127.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1127.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1127.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1127.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producers participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1127.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either

of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1127.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1127.121 Duties of the market administrator.

Except as specified in § 1127.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1127.113(c).

(b) Set aside the amounts subtracted under § 1127.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1127.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1127.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1127.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1127.110 through 1127.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1127.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1127.70.

PART 1128—MILK IN CENTRAL WEST TEXAS MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1128 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

§ 1128.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1128.2 Central West Texas marketing area.

"Central West Texas marketing area," hereafter called the "marketing area," means all territory within the boundaries of the Abilene Air Force Base and within the corporate limits of the following cities and towns, all in the State of Texas:

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Abilene.
Albany.
Anson.
Aspermont.
Ballinger.
Big Spring.
Breckenridge.
Brownwood.
Cisco.
Coleman.
Colorado City.
Comanche.
Eastland.
Hamlin.
Haskell.
Knox City.
Lamesa.
Merkel.
Midland.
Mineral Wells.
Munday.
Odessa.
Ranger.
Rochester.
Rotan.
Rule.
San Angelo.
Snyder.
Stamford.
Sweetwater.
Tye.
Winters.

§ 1128.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or at a plant store) of a fluid milk product classified as Class I milk other than in bulk to a milk or filled milk processing plant.

§ 1128.4 [Reserved]

§ 1128.5 [Reserved]

§ 1128.6 [Reserved]

§ 1128.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A milk plant approved by and under the routine inspection of the health authority of any municipality in the marketing area:

(1) From which there is route disposition of Grade A fluid milk products, other than filled milk, in consumer packages in the marketing area; or

(2) At which milk is received from producers as defined in § 1128.12(a)(1) and which serves as a receiving station at which producer milk is received, weighed, and commingled and from which milk or skim milk (i) is moved during the month to a pool plant(s) specified in paragraph (a)(1) or (b) of this section, or (ii) was moved to any such plant(s) in an amount equal to 60 percent or more of the total receipts of producer milk during the months of October through January immediately preceding any month of April, May, or June during which no milk was moved to such plant(s).

(b) A milk plant approved by and under the routine inspection of a health authority other than that of a municipality in the marketing area from which there is route disposition of Grade A fluid milk products, other than filled milk, in consumer packages in the marketing area in an amount equal to 10 percent or more of the total disposition of Class I milk, except filled milk, from such plant during the month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a)(1) or (b) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which there is a greater proportion of route disposition in such other marketing area unless notwithstanding the provisions of this subparagraph it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a)(1) or (b) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is fully regulated under such other Federal order; and

(4) A plant meeting the requirements of paragraph (a)(2) of this section which (i) meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part or (ii) retains automatic pooling status for the month under another Federal order by virtue of its performance in previous months.

§ 1128.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant nor a producer-handler plant.

§ 1128.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted pursuant to § 1128.12 for the account of such cooperative association;

(c) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm for its own account, in tank truck(s) owned or operated by such association, to the pool plant of another handler described in § 1128.7 (a)(1) or (b): *Provided*, That such milk shall be deemed to have been received by the cooperative association at a pool plant at the location of the plant to which it is delivered; or

(d) Any person in his capacity as the operator of a nonpool plant from which there is route disposition during the month in the marketing area.

§ 1128.10 Producer-handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a milk plant approved by and under the routine inspection of the appropriate health authority from which there is route disposition of Grade A fluid milk products in consumer-type packages in the marketing area; and

(b) Whose disposition of fluid milk products does not exceed his own farm production and receipts of fluid milk products from pool plants.

§ 1128.11 [Reserved]

§ 1128.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person described in paragraph (a)(1) or (2) of this section and shall include any such person whose milk is received by a handler described in § 1128.9 (c) or whose milk is regularly received at a pool plant but is caused to be diverted by a handler to a nonpool plant that is not a producer-handler plant, and milk so diverted shall be deemed to have been received by the handler at the location of the pool plant at which it was received immediately prior to its being so diverted:

(1) Who produces milk under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk issued by the health authority of any municipality in the marketing area, which milk is received at a pool plant described in § 1128.7(a); or

(2) Who produces milk under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk issued by a health authority whose certification is accepted by the appropriate health authority of a municipality in the marketing area, which milk is received at a pool plant described in § 1128.7(b).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1128.44(a)(8) (iii) and the corresponding step of § 1128.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1128.13 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in:

(a) Milk received at a pool plant directly from producers;

(b) Milk of producers that is diverted pursuant to § 1128.12; or

(c) Milk received by a handler described in § 1128.9(c).

§ 1128.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1128.40 (b)(1) from any source other than producers, handlers described in § 1128.9 (c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1128.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1128.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1128.40(b)(1)) for which the handler fails to establish a disposition.

§ 1128.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1128.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1128.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1128.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1128.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

§ 1128.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1128.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1128.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1128.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1128.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1128.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1128.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

(c) The market administrator shall furnish to a cooperative association upon request the data with respect to milk of its members furnished pursuant to paragraph (a) of this section.

§ 1128.32 Other reports.

(a) Each handler who causes milk to be diverted to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant §§ 1128.30 and 1128.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1128.40 Classes of utilization.

Except as provided in § 1128.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1128.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

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(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1128.15; and

(6) In shrinkage assigned pursuant to § 1128.41(a) to the receipts specified in § 1128.41(a)(2) and in shrinkage specified in § 1128.41(b) and (c).

§ 1128.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1128.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1128.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1128.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1128.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1128.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1128.44(a)(12) and the corresponding step of § 1128.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1128.44(a)(7) or the corresponding step of § 1128.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1128.44(a)(11) or (12) or the corresponding steps of § 1128.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in

fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1128.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1128.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1128.43 General classification rules.

In determining the classification of producer milk pursuant to § 1128.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1128.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1128.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1128.40, 1128.41, and 1128.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1128.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1128.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1128.9(a) for each of his pool plants separately and of each handler described in § 1128.9 (b) and (c) by allocating the handler's receipts of

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skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1128.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1128.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1128.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1128.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1128.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1128.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1128.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the

pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1128.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1128.9(c) according to the classification of such products pursuant to § 1128.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1128.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1128.44(a)(12) and the corresponding step of § 1128.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1128.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

Class Prices

§ 1128.50 Class prices.

Subject to the provisions of § 1128.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.57.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1128.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1128.52 Plant location adjustments for handlers.

For producer milk classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price set forth in § 1128.50(a) shall be subject to the following adjustments:

(a) For milk received from producers at a pool plant located (1) east of the 103d principal meridian, (2) more than 180 highway miles from the U.S. Post

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Office in Midland, Tex., and also (3) at the following highway distances from the U.S. Post Office in Abilene, Tex., such price shall be reduced as follows:

	Cents
More than 70 miles but less than 105 miles	20
105 miles or more	25

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1128.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1128.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1128.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1128.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1128.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1128.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1128.44(a)(14) and the corresponding step of § 1128.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1128.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1128.44(a)(9) and the corresponding step of § 1128.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1128.44(a)(7)(i) through (iv) and the corresponding step of § 1128.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1128.44(a)(7)(v) and (vi) and the corresponding step of § 1128.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1128.44(a)(11) and the corresponding step of § 1128.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1128.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for all milk of 3.5 percent butterfat content received at a pool plant as follows:

(a) Combine into one total the values computed pursuant to § 1128.60 for all handlers who have made the reports prescribed in § 1128.30 and who have made the payments due pursuant to § 1128.71 for the preceding month;

(b) Add the aggregate of the values of all minus location adjustments pursuant to § 1128.75;

(c) Add not less than one-half of the unobligated cash balance on hand in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1128.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1128.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payment for Milk

§ 1128.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1128.71, 1128.76, and 1128.77, and from which he shall make all payments to handlers pursuant to §§ 1128.72 and 1128.77.

§ 1128.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1128.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1128.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1128.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1128.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the amount computed pursuant to § 1128.71(a)(2) exceeds the amount computed pursuant to § 1128.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1128.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price for such month computed pursuant to § 1128.61, as adjusted pursuant to §§ 1128.74 and 1128.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 1128.72, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payments from the market administrator: he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section for milk received during the first 15 days of such month at not less than the Class III price of the preceding month.

(c) On or before the 13th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producer. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1128.31.

§ 1128.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1128.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1128.73, the uniform price for all milk computed pursuant to § 1128.61 for milk received from producers at a pool plant shall be adjusted at the rates set forth in § 1128.52(a), applicable at the location of such plant.

(b) For purposes of computations pursuant to §§ 1128.71 and 1128.72 the uniform price for all milk shall be adjusted at the rates set forth in § 1128.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1128.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1128.30(b) and 1128.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1128.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1128.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1128.60 for such handler shall include, in lieu of the value of other source milk specified in § 1128.60(f) less the value of such other source milk specified in § 1128.71(a)(2)(ii), a value of milk determined pursuant to § 1128.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1128.7(a)(2) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1128.30(b) and 1128.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant

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which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1128.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1128.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1128.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) o this section applies.

§ 1128.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due;

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amounts so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1128.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler, except a handler described in § 1128.9(c), shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1128.9(c);

(b) Other source milk allocated to Class I pursuant to § 1128.44(a) (7) and (11) and the corresponding steps of § 1128.44(b), except such other source milk that is excluded from the computations pursuant to § 1128.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1128.76(a)(2).

§ 1128.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1128.73(a), shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative asociation is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1128.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1128.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1128.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1128.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1128.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1128.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1128.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1128.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1128.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuit to § 1128.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1128.110 and 1128.117.

§ 1128.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1128.110 and 1128.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1128.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1128.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1128.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1128.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1128.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1128.121 Duties of the market administrator.

Except as specified in § 1128.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1128.113(c).

(b) Set aside the amounts subtracted under § 1128.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1128.61(d).

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(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1128.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1128.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1128.110 through 1128.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1128.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1128.70.

PART 1129—MILK IN AUSTIN-WACO, TEX., MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1129 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1129.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1129.2 Austin-Waco marketing area.

"Austin-Waco Marketing Area," hereinafter called the marketing area, means all territory, including all municipal corporations and all Federal military reservations, facilities and installations, located within or partially within the boundaries of Travis, Hays, Lampasas, Burnet, Caldwell, Bastrop, Williamson, Bell, Falls, McLennan, Coryell, Comal and Guadalupe Counties, all in the State of Texas.

§ 1129.3 Route disposition.

"Route disposition" means the delivery (including delivery by a vendor or sale at a plant store) of fluid milk products classified as Class I milk other than as follows:

(a) Delivery in bulk to a plant, or

(b) Delivery in consumer packages from a milk processing plant to a distributing plant in an amount not in excess of the amount of producer milk received by such processing plant during the month from the operator of such distributing plant and classified as Class I milk: *Provided,* That for the purposes of this paragraph milk so transferred to such processing plant shall be considered to be producer milk to the extent that total receipts during the month of producer milk by the operator of such distributing plant exceed his gross Class I sales less: (1) Receipts of Class I milk from other fluid milk plants; (2) milk transferred as Class I milk to such milk processing plant; and (3) milk received in consumer packages from such milk processing plant.

§ 1129.4 [Reserved]

§ 1129.5 Distributing plant.

"Distributing plant" means any milk processing or packaging plant from which there is route disposition, except filled milk, in the marketing area during the month equal to more than an average of 500 pounds per day or 5 percent, whichever is less, of the Grade "A" milk and skim milk received from dairy farmers or other plants.

§ 1129.6 Supply plant.

"Supply plant" means any plant from which fluid milk or fluid skim milk is received at a distributing plant:

(a) For any of the months of February through July, on 4 or more days during the month, or in an amount equal to a daily average of not less than 3,300 pounds for such month; and

(b) For any of the months of August through January:

(1) On 10 or more days during the month, or in an amount equal to a daily average of not less than 8,300 pounds for such month; or

(2) On 4 or more days during the month, or in an amount equal to a daily average of not less than 3,300 pounds for such month, and such plant was a supply plant pursuant to paragraph (a) of this section during any month of the immediately preceding period of February through July.

§ 1129.7 Fluid milk plant.

Except as provided in paragraph (c) of this section, "fluid milk plant" means:

(a) A distributing plant or a supply plant.

(b) Any plant approved by the appropriate health authority to supply milk for distribution as Grade A milk in the marketing area if such plant is operated by a cooperative association, and 75 percent or more of the milk of the members of such association, including receipts pursuant to § 1129.9 (b) and (c), is received at the fluid milk plants of other handlers.

(c) The term "fluid milk plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An approved distributing plant which also meets the pooling requirements of another Federal order and from which the Secretary determines there is a greater quantity of route disposition, except filled milk, during the month in

such other Federal order marketing area than in the Austin-Waco marketing area;

(3) An approved distributing plant which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in the Austin-Waco marketing area than in such other Federal order marketing area, but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) An approved supply plant which (i) meets the pooling requirements of another Federal order and from which greater qualifying shipments, except filled milk, are made during the month to plants regulated under such other order than are made to plants regulated under this part, or (ii) retains automatic pooling status under another Federal order.

§ 1129.7a Approved plant.

"Approved plant" means: (a) A fluid milk plant, or (b) any milk plant from which there is route disposition in the marketing area.

§ 1129.8 Nonfluid milk plant.

"Nonfluid milk plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonfluid milk plant from which fluid milk products are moved to a fluid milk plant during the month, but which is neither an other order plant nor a producer-handler plant.

§ 1129.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more approved plants;

(b) Any cooperative association with respect to the milk of any producer which it diverts pursuant to § 1129.12; and

(c) Any cooperative association with respect to the milk of any producer which it causes to be delivered directly from the farm in bulk tank pickup truck(s) owned and/or controlled by such association, to the fluid milk plant of another handler. Such milk shall be deemed to have been received by the cooperative association at the location of the fluid milk plant to which it is delivered.

§ 1129.10 Producer-handler.

"Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which milk is received from the dairy farm(s) of such person but from no other dairy farm: *Provided,* That such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care, and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such producer in his capacity as a handler.

§ 1129.11 [Reserved]

§ 1129.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(1) Received at a fluid milk plant; or

(2) Diverted for his account by the operator of a fluid milk plant or cooperative association from such plant to a nonfluid milk plant that is not a producer-handler plant during the period January through July and on not more than one-third of the days of delivery during the month for the period August through December: *Provided,* That milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

(b) "Producer" shall not include:

(1) A producer-handler as described in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a fluid milk plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III pursuant to § 1129.44(a)(8)(iii) and the corresponding step of § 1129.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1129.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk produced by a producer and received at a fluid milk plant directly from producers or diverted pursuant to § 1129.12.

§ 1129.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1129.40(b)(1) from any source other than producers, handlers described in § 1129.9(c) or fluid milk plants;

(b) Receipts in packaged form from other plants of products specified in § 1129.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1129.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1129.40(b)(1)) for which the handler fails to establish a disposition.

§ 1129.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1129.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1129.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1129.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

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§ 1129.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 10, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

§ 1129.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his fluid milk plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the fluid milk plant to other plants;

(2) Receipts of milk from handlers described in § 1129.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other fluid milk plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1129.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler described in § 1129.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to his receipts and utilization of milk, filled milk and milk products in such manner as the market administrator may prescribe.

§ 1129.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1129.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) The market administrator, upon request, shall furnish to a cooperative association for its members the data reported pursuant to paragraph (a) (1), (2), and (3) of this section.

§ 1129.32 Other reports.

(a) Each handler, who causes milk to be diverted for his account directly from producers' farms to an unapproved plant, shall prior to such diversion, report to the market administrator and to the cooperative association, of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1129.30 and 1129.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1129.40 Classes of utilization.

Except as provided in § 1129.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1129.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1129.15; and

(6) In shrinkage assigned pursuant to § 1129.41(a) to the receipts specified in § 1129.41(a)(2) and in shrinkage specified in § 1129.41 (b) and (c).

§ 1129.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1129.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each fluid milk plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant

operator to another plant and milk received from a handler described in § 1129.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1129.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other fluid milk plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1129.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1129.42 Classification of transfers and diversions.

(a) *Transfers to fluid milk plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to another fluid milk plant or by a handler described in § 1129.9(c) to another handler's fluid milk plant shall be classified as Class I milk unless both handlers request the same classification in another class. The percentage of the total quantities of skim milk and butterfat, respectively, in products thus transferred and assigned to Class I milk shall not be greater than the percentage of skim milk and butterfat in producer milk classified as Class I milk in the plant of the transferee-handler. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1129.44(a)(12) and the corresponding step of § 1129.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1129.44(a)(7) or the corresponding step of § 1129.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1129.44(a)(11) or (12) or the corresponding steps of § 1129.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the fluid milk plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1129.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a fluid milk plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonfluid milk plants.* Skim milk or butterfat transferred or diverted in the following forms from a fluid milk plant to a nonfluid milk plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonfluid milk plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1129.30 for the month within which such transaction occurred; and

(*b*) The nonfluid milk plant operator maintains books and records showing utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonfluid milk plant and transfers of packaged fluid milk products from such nonfluid milk plant to plants

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fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonfluid milk plant from fluid milk plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonfluid milk plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonfluid milk plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonfluid milk plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonfluid milk plant from fluid milk plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonfluid milk plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonfluid milk plant shall be assigned to the extent possible in the following sequence:

(a) To such nonfluid milk plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant; and

(b) To such nonfluid milk plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonfluid milk plant;

(vii) Receipts of bulk fluid cream products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonfluid milk plant; and

(viii) In determining the nonfluid milk plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonfluid milk plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1129.43 General classification rules.

In determining the classification of producer milk pursuant to § 1129.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1129.30 and shall compute separately for each fluid milk plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1129.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1129.40, 1129.41, and 1129.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1129.9 (b) or (c) shall be determined separately from the operations of any fluid milk plant operated by such cooperative association.

§ 1129.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1129.9(a) for each of his fluid milk plants separately and of each handler described in § 1129.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1129.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1129.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1129.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the fluid milk plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1129.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1129.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to

paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other fluid milk plant of the handler, and then at each successively more distant fluid milk plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all fluid milk plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between fluid milk plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all fluid milk plants of the handler of producer milk, milk from a handler described in § 1129.9(c), fluid milk products from fluid milk plants of other handlers, and bulk fluid milk products from other order plants; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this fluid milk plant is of all such receipts remaining at this allocation step at all fluid milk plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1129.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler (excluding any duplication of utilization in each class resulting from transfers between fluid milk plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other fluid milk plant of the handler, and then at each successively more distant fluid milk plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subject to the provisions of paragraph (a)(12) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler (excluding any duplication of utilization in each class resulting from transfers between fluid milk plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that were not subtracted pursuant to paragraph (a)(8)(iii) of this section and that were not offset by transfers or diversions of bulk fluid milk products to the same other order plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other fluid milk plant of the handler, and then at each successively more distant fluid milk plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another fluid milk plant or a handler described in § 1129.9(c) according to the classification of such products pursuant to § 1129.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1129.45 Market administrator's reports concerning classification.

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid

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milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1129.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each handler operating a fluid milk plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(c) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

§ 1129.50 Class prices.

Subject to the provisions of § 1129.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.70.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1129.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1129.52 Plant location adjustments for handlers.

For milk received from producers at a fluid milk plant located outside of Zone I (Zone I comprises all the territory south of the northern boundaries of Guadalupe, Comal, Kendall, Kerr, Edwards, and Val Verde Counties, all in the State of Texas, and all territory south of a boundary formed by U.S. Highway 90 east of the marketing area to the Colorado River and thence south along the Colorado River) which is classified as Class I milk, the price specified in § 1129.50(a) shall be reduced 1.5 cents for each 10 miles or fraction thereof by the straight line distance as determined by the market administrator that the county court house of the county in which such plant is located is from the county court house in New Braunfels, Tex.

§ 1129.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1129.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1129.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1129.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1129.44(a)(14) and the corresponding step of § 1129.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1129.74, that are applicable at the location of the fluid milk plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the fluid milk plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1129.44(a)(9) and the corresponding step of § 1129.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1129.44(a)(9) and the corresponding step of § 1129.44(b) for the current month, or

(ii) The hundredweight of skim milk and butterfat remaining in Class III (exclusive of shrinkage) after the computations pursuant to § 1129.44(a)(11) and the corresponding step of § 1129.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section; and

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of receipts and utilization of skim milk and butterfat for previous months.

§ 1129.61 Computation of uniform price for each handler.

For each month, the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers by each handler as follows:

(a) Add to the amount computed pursuant to § 1129.60 the total of the location adjustments to be made pursuant to § 1129.75;

(b) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(c) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler. The result, less any fraction of a cent, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content, at fluid milk plants in Zone I.

§ 1129.62 Announcement of uniform price for each handler and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for each handler for such month.

PAYMENTS FOR MILK

§ 1129.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (d) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class III price for the preceding month.

(b) On or before the 15th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1129.61 as adjusted pursuant to §§ 1129.74 and 1129.75; plus or minus adjustments for errors made in previous payments to such producers; and less (1) payment made pursuant to paragraph (a) of this section; (2) deductions for marketing services pursuant to § 1129.86 and (3) proper deductions authorized by such producer.

(c) On or before the 13th and 26th days of each month in lieu of the payments pursuant to paragraphs (a) and (b) of this section, respectively, each handler shall pay to a cooperative association for milk which it caused to be delivered to such handler from producers and for which such cooperative association is not a handler pursuant to § 1129.9(c), if such cooperative association is authorized to collect such payments for its member-producers and has so requested the handler, an amount equal to the sum of the individual payments otherwise payable to such producers.

(d) On or before the 13th and 26th days of each month, each handler shall pay to a cooperative association for milk which was caused to be delivered to such handler by such cooperative association, and for which it is a handler pursuant to § 1129.9(c), an amount not less than the value of such milk computed by multiplying the pounds of such milk classified in each class pursuant to § 1129.44 by the class prices, as adjusted by the butterfat differential specified in § 1129.74, that are applicable at the location of the receiving handler's fluid milk plant.

(e) In making the payments to producers pursuant to paragraphs (b) and (c) or (d) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1129.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1129.75 Plant location adjustments for producers.

In making payment to producers pursuant to § 1129.73, the uniform price to be paid for producer milk received at a fluid milk plant located outside of Zone I shall be reduced 1.5 cents for each 10 miles or fraction thereof by the straight line distance as determined by the market administrator that the county courthouse of the county in which such plant is located is from the county courthouse in New Braunfels, Tex.

§ 1129.76 [Reserved]

§ 1129.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or verification of weights and butterfat tests of milk or milk products discloses errors resulting in money due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1129.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler, except a handler described in § 1129.9(c), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1129.9(c);

(b) Other source milk allocated to Class I pursuant to § 1129.44(a)(7) and (11) and the corresponding steps of § 1129.44(b); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds Class I milk received during the month at such plant from fluid milk plants and other order plants.

§ 1129.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1129.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 13th day after the end of each month and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1129.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1129.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1129.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1129.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1129.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a

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replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1129.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1129.111 and paragraph(a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1129.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1129.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1129.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1129.110 and 1129.117.

§ 1129.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business.

(b) Develop programs and projects pursuant to §§ 1129.110 and 1129.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1129.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1129.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1129.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1129.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1129.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1129.121 Duties of the market administrator.

Except as specified in § 1129.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1129.113(c).

(b) Set aside the amounts subtracted under § 1129.61(c) and received pursuant to § 1129.123 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1129.61(c).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1129.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1129.61(c) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1129.110 through 1129.123).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1129.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

§ 1129.123 Payment of advertising and promotion funds.

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1129.61(c).

PART 1130—MILK IN CORPUS CHRISTI, TEX., MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1130 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

§ 1130.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1130.2 Corpus Christi, Tex., marketing area.

"Corpus Christi, Tex., marketing area", called the "marketing area" in this part, means all the territory within the following counties, all in the State of Texas:

Brooks.
Cameron.
Duval.
Hidalgo.
Jim Wells.
Kleberg.
Live Oak.
Nueces.
San Patricio.

§ 1130.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of any fluid milk product classified as Class I milk other than a delivery to a milk or filled milk plant.

§ 1130.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities without storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1130.5 Distributing plant.

"Distributing plant" means a plant from which there is route disposition of Grade A fluid milk products during the month in the marketing area.

§ 1130.6 Supply plant.

"Supply plant" means any plant approved by an appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which milk is moved to a distributing plant.

§ 1130.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any distributing plant from which during the month:

(1) The route disposition of fluid milk products, except filled milk, within the marketing area is 10 percent or more of the receipts of Grade A milk at such plant; and

(2) The total route disposition of fluid milk products, except filled milk, is 50 percent or more of the receipts of Grade A milk at such plant.

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(b) A supply plant:

(1) During any month in which 50 percent or more of the receipts of Grade A milk from dairy farmers and handlers described in § 1130.9(c) at such plant is moved as fluid milk products, except filled milk, to pool distributing plants; or

(2) During each of the months of January through August, if such plant was a pool plant pursuant to paragraph (b)(1) of this section during each of the immediately preceding months of September through December, unless the operator of such plant has filed with the market administrator before the first day of any month written request that such plant not be a pool plant for each month through August during which it does not otherwise qualify as a pool plant.

(c) Any plant located in the marketing area and operated by a cooperative association approved by any duly constituted State or municipal health authority, and at which milk is received from dairy farmers holding permits or authorizations from such health authority, if 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from a plant of the cooperative association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is nevertheless, fully regulated under such other Federal order; and

(4) A plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months January through August, if such plant retains automatic pooling status under this part.

§ 1130.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another Federal order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant nor a producer-handler plant.

(d) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

§ 1130.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1130.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk of its producer members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant with route disposition in the marketing area.

§ 1130.10 Producer-handler.

"Producer-handler" means any person who:

(a) Produces milk and operates a distributing plant;

(b) Receives no milk from other dairy farmers;

(c) Disposes of no other source milk as Class I milk except that represented by nonfat solids used in the fortification of fluid milk products;

(d) Receives during the month from pool plants fluid milk products in a total quantity of not more than 10,000 pounds, or 5 percent of his Class I disposition, whichever is less; and

(e) Furnishes satisfactory proof to the market administrator that the maintenance, care, and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprise of and at the personal risk of such person.

§ 1130.11 [Reserved]

§ 1130.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority, which is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1130.13 by a handler for his account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1130.44(a)(8)(iii) and the corresponding step of § 1130.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1130.13 Producer milk.

"Producer milk" means skim milk and butterfat for each handler's account in milk from producers as follows:

(a) With respect to operations of a pool plant:

(1) Received directly from such producers;

(2) Received from a handler described in § 1130.9(c); or

(3) Diverted by the operator of such pool plant to a nonpool plant that is not a producer-handler plant for his account, subject to the conditions of paragraph (c) of this section.

(b) With respect to additional receipts by a cooperative association handler:

(1) Diverted by such cooperative association from the pool plant of another handler to a nonpool plant that is not a producer-handler plant for the account of such cooperative association, subject to the conditions of paragraph (c) of this section; or

(2) Received by such cooperative association from producers' farms as a handler described in § 1130.9(c) in excess of the quantity delivered to pool plants pursuant to paragraph (a)(2) of this section.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account a total quantity of milk not in excess of one-third of the total producer milk of its members received at all pool plants during the month. Diversions in excess of such quantity shall not be producer milk and the diverting cooperative shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the cooperative association fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such cooperative association;

(2) A handler operating a pool plant may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to paragraph (c)(1) of this section, in a total quantity not in excess of one-third of the milk at such pool plant during the month from producers who are not members of such a cooperative association. Milk diverted in excess of such quantity shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler;

(3) For the purposes of location adjustments pursuant to §§ 1130.52 and 1130.75, diverted milk shall be priced at the location of the nonpool plant to which diverted; and

(4) For purposes of determining qualification of pool plants pursuant to § 1130.7 (a) and (b), milk diverted pursuant to paragraph (a)(3) of this section shall be considered receipts of Grade A milk at the plant from which diverted.

§ 1130.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1130.40(b)(1) from any source other than producers, handlers described in § 1130.9(c) or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1130.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1130.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1130.40(b)(1)) for which the handler fails to establish a disposition.

§ 1130.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less that 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1130.40(b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1130.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) or cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1130.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1130.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

Handler Reports

§ 1130.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1130.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1130.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1130.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1130.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1130.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1130.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1130.32 Other reports.

(a) Each handler who causes milk to be delivered for his account directly from producers' farms to a nonpool plant shall, prior to such diversion, report to the market administrator his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required in §§ 1130.30 and 1130.31 and paragraph (a) of this section, each handler shall

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report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1130.40 Classes of utilization.

Except as provided in § 1130.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1130.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1130.15; and

(6) In shrinkage assigned pursuant to § 1130.41(a) to the receipts specified in § 1130.41(a)(2) and in shrinkage specified in § 1130.41 (b) and (c).

§ 1130.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1130.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1130.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1130.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1130.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1130.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1130.44(a)(12) and the corresponding step of § 1130.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1130.44(a)(7) or the corresponding step of § 1130.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1130.44(a)(11) or (12) or the corresponding steps of § 1130.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1130.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d) (2) (i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d) (2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1130.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1130.43 General classification rules.

In determining the classification of producer milk pursuant to § 1130.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1130.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1130.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1130.40, 1130.41, and 1130.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1130.9 (b) or

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(c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1130.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1130.9(a) for each of his pool plants separately and of each handler described in § 1130.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1130.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1130.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1130.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1130.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1130.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1130.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1130.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1130.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1130.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1130.44(a) (12) and the corresponding step of § 1130.44 (b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1130.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month report to each cooperative association, upon request by such association, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

CLASS PRICES

§ 1130.50 Class prices.

Subject to the provisions of § 1130.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $3.07.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1130.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1130.52 Plant location adjustments for handlers.

(a) For milk which is received from producers or a cooperative association

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at a pool plant located more than 80 miles, but not more than 150 miles from the city hall in Mercedes, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1130.50(a) shall be reduced 9 cents per hundredweight and for milk which is received from producers or a cooperative association at a pool plant located more than 150 miles from the city hall in Mercedes, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1130.50(a) shall be reduced 1-cent per hundredweight for each 10 miles distance or fraction thereof that such plant is from the city hall in Mercedes, Tex.

(b) For purposes of calculating such location adjustment, transfers between pool plants shall be assigned Class I location credit as follows:

(1) If in packaged form without limit; and

(2) If in bulk form, to the extent that Class I disposition at the transferee-plant exceeds the sum of (i) 95 percent of receipts at such plant from producers and handlers described in § 1130.9(c), (ii) the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, and (iii) assignments pursuant to paragraph (b)(1) of this section, such assignment to be made first to transferor plants having the same location adjustment, then in sequence to plants having a greater location adjustment, beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1130.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1130.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1130.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1130.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1130.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1130.44(a)(14) and the corresponding step of § 1130.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1130.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(9) and the corresponding step of § 1130.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1130.44(a)(9) and the corresponding step of § 1130.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1130.44(a)(12) and the corresponding step of § 1130.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(7) (i) through (iv) and the corresponding step of § 1130.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(7) (v) and (vi) and the corresponding step of § 1130.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(11) and the corresponding step of § 1130.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1130.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1130.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight applicable for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1130.60 for all handlers who have made the reports prescribed in § 1130.30 for the month and who have made the payments required pursuant to § 1130.71 for the preceding month;

(b) Add not less than one-fourth of the unobligated cash balance on hand in the producer-settlement fund;

(c) Add the aggregate of the values of the minus location adjustments pursuant to § 1130.75;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1130.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1130.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1130.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1130.71, 1130.76, and 1130.77, subject to the provisions of § 1130.78, and from which he shall make all payments to handlers pursuant to §§ 1130.72 and 1130.77.

§ 1130.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1130.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1130.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1130.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1130.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1130.71(a)(2) exceeds the amount computed pursuant to § 1130.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. Any amount due a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator from such handler, pursuant to §§ 1130.71, 1130.77, 1130.78, 1130.85, or 1130.86.

§ 1130.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(1) On or before the 25th day of each month, to each producer who has not discontinued delivery of milk to such handler, a partial payment for milk received from such producer during the first 15 days of such month at not less than the Class III milk price for the preceding month;

(2) On or before the 15th day after the end of each month, for milk received during such month, an amount not less than the uniform price computed pursuant to § 1130.61, subject to adjustments pursuant to §§ 1130.74 and 1130.75, plus or minus adjustments for errors made in previous payments to such producers, and less:

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Deductions for marketing services pursuant to § 1130.86; and

(iii) Proper deductions authorized by such producer;

(3) If by the date for payment pursuant to paragraph (a)(2) of this section, a handler has not received full payment for such month pursuant to § 1130.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payments from the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association, which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the 23d and 14th days of each month in lieu of payments pursuant to paragraph (a) (1) and (2), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) In making the payments pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount of the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producers.

(d) As follows, to each cooperative association for milk for which it is the handler pursuant to § 1130.9(c):

(1) On or before the 23d day of the month, a partial payment for milk received during the first 15 days of such month, at not less than the amount specified in paragraph (b) of this section; and

(2) On or before the 14th day of the following month, in final settlement, the value of such milk received during the month, at the uniform price, as adjusted pursuant to §§ 1130.74 and 1130.75, less the amount of payment made pursuant to paragraph (d)(1) of this section.

(e) On or before the 14th day after the end of the month, for milk received from the pool plant of a cooperative association, to such cooperative association not less than the value of such milk at the applicable price(s) for the class(es) at which transferred pursuant to § 1130.42(a), as adjusted by the butterfat differential specified in § 1130.74, that are applicable at the location of the transferee-handler's pool plant.

§ 1130.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1130.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments pursuant to § 1130.73, the uniform price computed pursuant to § 1130.61 to be paid for such milk received at a pool plant at which a location adjustment pursuant to § 1130.52 applies may be reduced by the amount of such location adjustments.

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

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§ 1130.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1130.30(b) and 1130.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1130.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1130.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1130.60 for such handler shall include, in lieu of the value of other source milk specified in § 1130.60(f) less the value of such other source milk specified in § 1130.71(a)(2)(ii), a value of milk determined pursuant to § 1130.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1130.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1130.30(b) and 1130.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1130.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1130.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1130.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1130.77 Adjustment of accounts.

Whenever verification by the market administrator of any handler's reports, books, records, accounts, or payments discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler, of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1130.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1130.71, 1130.77(a), 1130.85, or 1130.86 shall be increased one-half of 1 percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1130.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1130.13(a)(2) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1130.44(a)(7) and (11) and the corresponding steps of § 1130.44(b), except such other source milk that is excluded from the computations pursuant to § 1130.60 (d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1130.76(a)(2).

§ 1130.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1130.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator, on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of milk from producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1130.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1130.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1130.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1130.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1130.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1130.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1130.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1130.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1130.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1130.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1130.110 and 1130.117.

§ 1130.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1130.110 and 1130.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

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§ 1130.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval of all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1130.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1130.121(b)(1) shall be utilized for administrative expens of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1130.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1130.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1130.121 Duties of the market administrator.

Except as specified in § 1130.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1130.113(c).

(b) Set aside the amounts subtracted under § 1130.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1130.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1130.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1130.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1130.110 through 1130.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1130.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1130.70.

PART 1131—MILK IN CENTRAL ARIZONA MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1131 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1131.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1131.2 Central Arizona marketing area.

"Central Arizona marketing area", hereinafter called the "marketing area", means all territory within the counties of Cochise, Graham, Greenlee, Maricopa, Pima, and Pinal, and that part of Yuma County south of 33 degrees latitude (North from the Equator), all in the State of Arizona.

§ 1131.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or a plant store) of a fluid milk product classified as Class I milk other than a delivery to a plant described in § 1131.7(a).

§ 1131.4 [Reserved]

§ 1131.5 [Reserved]

§ 1131.6 [Reserved]

§ 1131.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant approved by a duly constituted state or municipal health authority for the receipt or processing of Grade A milk or which supplies processed milk to an agency of the U.S. Government located within the marketing area, from which during the month:

(1) There is route disposition, except filled milk, equal to at least 50 percent of the total receipts at the plant (i) of milk qualified by inspection to become producer milk pursuant to § 1131.13(a), and (ii) from other milk plants and handlers described in § 1131.9(c) in the form of fluid milk products, except filled milk, qualified for fluid consumption; and

(2) There is route disposition, except filled milk, in the marketing area in a volume not less than 25 percent of such receipts and also greater than an average of 600 pounds per day.

(b) Any plant which ships fluid milk products, except filled milk, approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label in a volume not less than 50 percent of its receipts of milk (from dairy farmers who would be producers if this plant qualifies as a pool plant) in the current month during the period of July through October or 20 percent in the current month during the period of November through June to a plant specified in paragraph (a) of this section: *Provided*, That if a plant qualifies in each of the months of July through October in the manner prescribed in this section such plant shall upon written application to the market administrator on or before October 31 following such compliance be designated as a pool plant until the end of the following June.

(c) A milk plant located within the marketing area at which milk may be received from the farms of dairy farmers holding permits or authorization issued by health authorities having jurisdiction in the marketing area and which is operated by a cooperative association qualified under § 1131.18 which has 75 percent or more of its member producers' milk received at the pool plants of other handlers. Milk received by such cooperative, in a truck owned or under contract to the cooperative, from a pool plant and transferred in such truck to another pool plant for the account of the cooperative shall be considered a receipt at the cooperative's plant and a transfer from such plant.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any plant qualified pursuant to paragraph (a) of this section which disposes of a lesser volume of Class I milk, except filled milk, in the Central Arizona marketing area than in a marketing area where the handling of milk is regulated pursuant to another order issued pursuant to the Act, and which is subject to the classification and pricing provisions of such other order; and

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period November through June, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of an other order issued pursuant to the Act and the Secretary determines that such plant should be exempted from this part.

§ 1131.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved during the month to a pool plant and which is not an other order plant nor a producer-handler plant.

§ 1131.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to milk of any producer which such cooperative association causes to be diverted pursuant to § 1131.13 for the account of such association;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for such milk;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person in his capacity as the operator of an other order plant described in § 1131.7(d).

§ 1131.10 Producer-handler.

"Producer-handler" means:

(a) Any person who is both a dairy farmer and the operator of a plant from which fluid milk products are disposed of as route disposition in the marketing area and who:

(1) Receives at his plant, or acquires for route disposition fluid milk products only from:

(i) His own farm production; and

(ii) Fluid milk products obtained by transfer from pool plants or other order plants in an amount not to exceed 5 percent of his total fluid milk product disposition for the month or 5,000 pounds, whichever is less;

(2) Does not reprocess or convert milk products into a fluid milk product except to increase the nonfat milk solids content above that of the fluid milk product received;

(3) Furnishes proof satisfactory to the market administrator that:

(i) The maintenance, care, and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from regulated plants) is the personal enterprise of and at the personal risk of such person in his capacity as a producer; and

(ii) The operation of such plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

(b) The governmental agency that operates a milk plant, except that a plant operated by such agency shall be a pool plant if bulk milk is delivered during the month by such governmental agency to another plant that is a pool plant and a written request is filed by the agency with the market administrator asking that its plant be considered a pool plant. If such a plant is made a pool plant at the request of the governmental agency for 1 month and thereafter resumes the status of a nonpool plant, it shall not be eligible for pool plant status again until it has been a nonpool plant for 12 consecutive months.

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§ 1131.11 [Reserved]

§ 1131.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk pursuant to the requirements specified in paragraph (a) (1) or (2) of this section, and whose milk is received directly from the farm at a pool plant or is diverted as producer milk pursuant to § 1131.13.

(1) Produces milk, on a dairy farm subject to the regular inspection by a duly constituted State or municipal health authority, under a dairy farm permit or rating issued by such authority for the production of milk to be disposed of for fluid consumption.

(2) Produces milk which is acceptable to an agency of the Federal Government for fluid consumption in its institutions or bases.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1131.44(a) (8) (iii) and the corresponding step of § 1131.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1131.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers; and

(2) Diverted from such pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section;

(b) With respect to additional receipts of a cooperative association:

(1) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the limitations and conditions of paragraph (c) of this section; and

(2) For which the cooperative association is the handler pursuant to § 1131.9 (c); and

(c) With respect to diversions to nonpool plants pursuant to paragraphs (a) (2) and (b) (1) of this section:

(1) Such diversions may be without limit during the months of December through April, but shall not be for more than 8 days' production of any producer during any other month, otherwise only milk of such producer received at a pool plant shall be producer milk; and

(2) For purposes of location adjustments pursuant to §§ 1131.52 and 1131.75, milk so diverted shall be priced at the location of the plant to which diverted.

§ 1131.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1131.40(b) (1) from any source other than producers, handlers described in § 1131.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1131.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1131.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1131.40(b) (1)) for which the handler fails to establish a disposition.

§ 1131.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a) (1) of this section or in § 1131.40 (b) or (c) (1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1131.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1131.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1131.18 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk for its members.

HANDLER REPORTS

§ 1131.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1131.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1131.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1131.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1131.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1131.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1131.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1131.32 Other reports.

(a) Each handler, except a producer-handler or a handler making payment pursuant to § 1131.76(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month, the payments made to a cooperative association pursuant to § 1131.73(d);

(2) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) On or before the day prior to diverting producer milk pursuant to § 1131.13 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1131.30 and 1131.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1131.40 Classes of utilization.

Except as provided in § 1131.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1131.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1131.15; and

(6) In shrinkage assigned pursuant to § 1131.41(a) to the receipts specified in § 1131.41(a) (2) and in shrinkage specified in § 1131.41(b) and (c).

§ 1131.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1131.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1131.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to

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which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6), of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1131.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1131.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1131.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1131.44(a)(12) and the corresponding step of § 1131.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1131.44(a)(7) or the corresponding step of § 1131.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1131.44 (a) (11) or (12) or the corresponding steps of § 1131.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant; and

(4) Unless a different utilization is claimed by both handlers, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1131.9(c) or as the operator of a pool plant described in § 1131.7(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class for such month at the pool plant(s) of the receiving handler after the computations pursuant to § 1131.44(a)(13)(i) and the corresponding step of § 1131.44(b).

(b) *Transfers or diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3), of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1131.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1131.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1131.43 General classification rules.

In determining the classification of producer milk pursuant to § 1131.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1131.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1131.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1131.40, 1131.41, and 1131.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1131.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1131.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1131.9(a) for each of his pool plants separately and of each handler described in § 1131.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1131.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1131.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1131.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month.

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1131.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1131.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1131.9(c), fluid milk products from pool plants of other handlers,

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and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1131.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk poducts from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1131.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) and (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant or a handler described in § 1131.9(c) according to the classification of such products pursuant to § 1131.42(a); and

(ii) A cooperative association in its capacity as a handler pursuant to § 1131.9(c) or as the operator of a pool plant described in § 1131.7(c) according to the classification of such products pursuant to § 1131.42(a)(4); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1131.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1131.44(a)(12) and the corresponding step of § 1131.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1131.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1131.50 Class prices.

Subject to the provisions of § 1131.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic ormula price for the second preceding month plus $2.52.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1131.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1131.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located outside Pima County and more than 30 miles by shortest highway distance as measured by the market administrator, from the nearer of the Courthouses in Maricopa and Graham Counties, Ariz., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1131.50(a) shall be reduced by 10 cents if such plant is located not more than 130 miles from the nearer courthouse and by an additional cent for each 10 miles or fraction thereof that such distance exceeds 130 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1131.9(c), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) For other source milk to which a location adjustment is applicable and for milk received from producers at a plant located in Pima County, Ariz., and which is classified as Class I milk, the price computed under § 1131.50(a) shall be increased 12 cents.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (c) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1131.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1131.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1131.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1131.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1131.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1131.44(a)(14) and the corresponding step of § 1131.44(b) for the respective class prices, as adjusted by the butterfat differential specified in § 1131.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(9) and the corresponding step of § 1131.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1131.44(a)(9) and the corresponding step of § 1131.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1131.44(a)(12) and the corresponding step of § 1131.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section:

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(7)(i) through (iv) and the corresponding step of § 1131.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(7)(v) and (vi) and the corresponding step of § 1131.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(11) and the corresponding step of § 1131.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not

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used as an offset for any other payment obligation under any order.

§ 1131.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1131.60 for all handlers who filed the reports prescribed by § 1131.30 for the month and who made the payments pursuant to §§ 1131.71 and 1131.73 for the preceding month:

(b) Add an amount equal to the total value of the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1131.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1131.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1131.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1131.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1131.71 and 1131.76 and out of which he shall make all payments pursuant to § 1131.72: *Provided*, That payments due to any handler shall be offset by any payments due from such handler.

§ 1131.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1131.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1131.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1131.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1131.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1131.71(a)(2) exceeds the amount computed pursuant to § 1131.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1131.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the 27th day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount not less than 1.3 times the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price as adjusted pursuant to §§ 1131.74 and 1131.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to paragraph (a)(1) of this section, (ii) less deductions made for marketing services pursuant to § 1131.86, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1131.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section;

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the seventh day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) the amount or rate and nature of any authorized deductions to be made from payments, and (iii) the amount and nature of payments due pursuant to § 1131.77; and

(d) Each handler who receives milk from a cooperative association in its capacity as a handler pursuant to § 1131.9(c) or as the operator of a pool plant shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received from such cooperative association during the first 15 days of the month at not less than 1.3 times the Class III price for the preceding month; and

(2) In final settlement, the value of such milk as classified pursuant to § 1131.44 at the class prices, as adjusted by the butterfat differential specified in § 1131.74, that are applicable at the location of the receiving handler's pool plant, less payment made pursuant to paragraph (d)(1) of this section.

§ 1131.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1131.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant, at the rates set forth in § 1131.52; and

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price shall not be less than the Class III price.

§ 1131.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1131.30(b) and 1131.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1131.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1131.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1131.60 for such handler shall include, in lieu of the value of other source milk specified in § 1131.60(f) less the value of such other source milk specified in § 1131.71(a)(2)(ii), a value of milk determined pursuant to § 1131.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1131.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1131.30(b) and 1131.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1131.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1131.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1131.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1131.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1131.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1131.71 or § 1131.77 relative to payments to the producer-settlement fund shall be increased one-half of 1 percent on the second day following the due date of such obligation and on the 15th day of each month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1131.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the

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end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1131.44(a) (7) and (11) and the corresponding steps of § 1131.44(b), except such other source milk that is excluded from the computations pursuant to § 1131.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1131.76(a)(2).

§ 1131.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1131.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of such deductions and the amount of milk for which such deduction was computed for each producer.

PART 1132—MILK IN TEXAS PANHANDLE MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1132 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1132.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1132.2 Texas Panhandle marketing area.

"Texas Panhandle marketing area," hereinafter called the "marketing area," means all of the territory within the counties of Armstrong, Briscoe, Carson, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Moore, Oldham, Ochiltree, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler, all in the State of Texas, and Beckham in the State of Oklahoma.

§ 1132.3 [Reserved]

§ 1132.4 [Reserved]

§ 1132.5 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1132.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1132.7(a).

§ 1132.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which a volume of Class I milk, except filled milk;

(1) Not less than 50 percent of the Grade A milk received at such plant from dairy farmers, from handlers described in § 1132.9(c), and from other plants, is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants); and

(2) Not less than 15 percent of such receipts, or an average of not less than 10,000 pounds per day, whichever is less, is so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from handlers described in § 1132.9(c) during such month: *Provided*, That if such shipments are not less than 75 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before March 1 of any year, be designated as a pool plant for the months of March through June of such year.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month on routes in such other Federal order marketing area than was disposed of to retail and wholesale outlets (excluding pool plants) in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of such Class I disposition is made in such other marketing area unless notwithstanding the provisions of this subparagraph it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the Class I dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) such Class I disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month to retail and wholesale outlets (excluding pool plants) in this marketing area than is disposed of on routes in such other marketing area but which plant is nevertheless fully regulated under such other Federal order; and

(4) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1132.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

§ 1132.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to milk of producers which is diverted pursuant to § 1132.13 for the account of such association;

(c) Any cooperative association with respect to milk of its member producers picked up at the farm for delivery to the pool plant of another handler in a tank truck owned or operated by such association or under control of such association, by contract or otherwise, in such a way that the association supervises and controls the determination of farm weights and tests of the milk of each of such member producers;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1132.7(c).

§ 1132.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers and who disposes of no fluid milk products in excess of his own milk production and fluid milk products received from pool plants.

§ 1132.11 [Reserved]

§ 1132.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (1) received at a pool plant, or (2) diverted pursuant to § 1132.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1132.44(a)(8)(iii) and the corresponding step of § 1132.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1132.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk from a producer that is handled by a pool plant operator or a handler described in § 1132.9 (b) and (c) as follows:

(a) Producer milk of a handler operating a pool plant is skim milk and butterfat in milk:

(1) Diverted by the operator of such pool plant for his account to a nonpool plant that is not a producer-handler plant, subject to the limits prescribed in paragraph (d) of this section; and

(2) Received at such pool plant directly from producers and from a handler described in § 1132.9(c). If the handler to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the entire truckload shall be considered a receipt of producer milk at the first plant of delivery.

(b) Producer milk of a handler described in § 1132.9(b) is skim milk and butterfat in milk received by such handler from producers' farms and diverted by such handler for its account to a nonpool plant that is not a producer-handler plant, subject to the limits prescribed in paragraph (d) of this section.

(c) Producer milk of a handler described in § 1132.9(c) is skim milk and butterfat in milk received by such handler from producers' farms in excess of the quantity delivered to pool plants. Such milk shall be priced to such handler at the location of the pool plant to which most of the milk in the tank truck was delivered during the month.

(d) Diverted milk is producer milk in any month only to the extent it meets conditions set forth in this paragraph:

(1) It is claimed as producer milk by the diverting handler in his report filed pursuant to § 1132.30;

(2) It is milk received from a dairy farmer who had producer status immediately prior to such diversion;

(3) It is not in excess of 15 days' production of each producer during any of the months July through February; and

(4) Such diverted producer milk shall be priced at the location of the pool plant where the producer's milk was last physically received.

§ 1132.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1132.40(b)(1) from any source other than producers, handler described in § 1132.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1132.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1132.40 (b)(1), and products produced at the plant during the same month) from any

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source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1132.40(b)(1)) for which the handler fails to establish a disposition.

§ 1132.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1132.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1132.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1132.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified, by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1132.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

Handler Reports

§ 1132.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1132.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1132.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1132.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1132.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1132.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1132.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1132.32 Other reports.

(a) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1132.30 and 1132.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1132.40 Classes of utilization.

Except as provided in § 1132.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1132.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1132.15; and

(6) In shrinkage assigned pursuant to § 1132.41(a) to the receipts specified in § 1132.41(a)(2) and in shrinkage specified in § 1132.41 (b) and (c).

§ 1132.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1132.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1132.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1132.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1132.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1132.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1132.44(a)(12) and the corresponding step of § 1132.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1132.44(a)(7) or the corresponding step of § 1132.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1132.44 (a) (11) or (12) or the corresponding steps of § 1132.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other

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order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1132.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1132.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1132.43 General classification rules.

In determining the classification of producer milk pursuant to § 1132.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1132.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1132.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1132.40, 1132.41, and 1132.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1132.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1132.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1132.9(a) for each of his pool plants separately and of each handler described in § 1132.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1132.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtacted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1132.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1132.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1132.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1132.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined.

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1132.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro

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rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1132.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1132.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1132.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classifications:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1132.44(a)(12) and the corresponding step of § 1132.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1132.44 on the basis of such report and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

Class Prices

§ 1132.50 Class prices.

Subject to the provisions of § 1132.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.25.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1132.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1132.52 Plant location adjustments for handlers.

(a) For that milk which is received from producers at a pool plant located 100 miles or more from the city hall, Amarillo, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to a distributing plant which is a pool plant in the form of a fluid milk product and assigned to Class I pursuant to paragraph (b) of this section, or otherwise classified as Class I milk, the price specified in § 1132.50(a) shall be reduced at the rate set forth in the following schedule according to the location of the plant where such milk is received:

Distance from the Amarillo City Hall (miles):	*Rate per hundredweight (cents)*
100 but less than 110	15.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1132.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1132.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1132.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1132.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1132.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1132.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1132.44(a)(14) and the corresponding step of § 1132.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1132.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1132.44(a)(9) and the corresponding step of § 1132.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1132.44(a)(7)(i) through (iv) and the corresponding step of § 1132.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1132.44(a)(7)(v) and (vi) and the corresponding step of § 1132.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1132.44(a)(11) and the corresponding step of § 1132.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1132.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price for all milk of 3.5 percent butterfat content f.o.b. pool plants located within 100 miles of the City Hall of Amarillo, Tex., as follows:

(a) Combine into one total the values computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month, except those in default of payments required pursuant to § 1132.71 for the preceding month;

(b) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1132.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be the "uniform price" for producer milk.

§ 1132.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1132.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1132.71, 1132.76, and 1132.77, and from which he shall make all payments pursuant to §§ 1132.72 and 1132.77: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

§ 1132.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1132.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1132.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1132.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order proviging for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which is allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1132.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1132.71(a)(2) exceeds the amount computed pursuant to § 1132.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the appropriate funds are available.

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§ 1132.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month, for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month.

(b) On or before the 15th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1132.61, subject to the butterfat differential computed pursuant to § 1132.74, and plus or minus adjustments for errors made in previous payments to such producer; and less (1) payment made pursuant to paragraph (a) of this section, (2) location adjustments pursuant to § 1132.75, (3) deductions for marketing services pursuant to § 1132.86, and (4) proper deductions authorized by such producer: *Provided,* That if such handler has not received full payment for such month pursuant to § 1132.72 he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator. The handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the 26th and 13th days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(3) Each handler who receives milk from a cooperative association which collects payments for its members pursuant to paragraph (c)(1) of this section shall, on or before the 20th of each month, furnish such association information showing the daily and total pounds milk received from each of the association's member producers for the first 15 days of such month and, on or before the fifth day after the end of each month, such information for the 16th through the end of such month.

(4) For producer milk received from a handler described in § 1132.9(c), each handler shall make payments as follows:

(i) On or before the 26th day of the month, a partial payment for milk received during the first 15 days of such month at not less than the amount specified in paragraph (a) of this section; and

(ii) On or before the 13th day of the following month, in final settlement, the value of such milk received during the month, at the applicable uniform price as adjusted pursuant to §§ 1132.74 and 1132.75, less the amount of payment made pursuant to paragraph (c)(4)(i) of this section.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1132.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1132.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment pursuant to § 1132.73 the uniform price pursuant to § 1132.61 to be paid for milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

Distance from the Amarillo City Hall (miles):	*Rate per hundredweight (cents)*
100 but less than 110	15.0
For each additional 10 miles or fraction thereof an additional	1.5

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the Class III price).

§ 1132.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1132.30(b) and 1132.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1132.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class purusant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1132.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1132.60 for such handler shall include, in lieu of the value of other source milk specified in § 1132.60(f) less the value of such other source milk specified in § 1132.71(a)(2)(ii), a value of milk determined pursuant to § 1132.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1132.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1132.30(b) and 1132.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1132.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1132.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1132.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1132.77 Adjustment of accounts.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1132.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 1132.72, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1132.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1132.78 Charges on overdue accounts.

There shall be added to any balance due the market administrator pursuant to §§ 1132.71, 1132.76, 1132.77, 1132.85, and 1132.86 an amount equal to one-half of 1 percent of such balance for each month or any portion thereof that payment of the balance is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1132.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1132.44(a)(7) and (11) and the corresponding steps of § 1132.44(b), except such other source milk that is excluded from the computations pursuant to § 1132.60(d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1032.76(a)(2).

§ 1132.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1132.73(b) shall deduct 6 cents per hundredweight or such lesser amounts as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) Producers' cooperative associations: In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

ADVERTISING AND PROMOTION PROGRAM

§ 1132.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative

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associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1132.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1132.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1132.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall, nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1132.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1132.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1132.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1132.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1132.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1132.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1132.110 and 1132.117.

§ 1132.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1132.110 and 1132.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1132.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1132.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1132.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1132.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1132.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1132.121 Duties of the market administrator.

Except as specified in § 1132.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1132.113(c).

(b) Set aside the amounts subtracted under § 1132.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1132.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1132.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1132.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1132.110 through 1132.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1132.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1132.70.

PART 1138—MILK IN RIO GRANDE VALLEY MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: The provisions of this Part 1138 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1138.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1138.2 Rio Grande Valley marketing area.

"Rio Grande Valley marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the counties of Bernalillo,

Chaves, Curry, De Baca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Lea, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Valencia, all in the State of New Mexico; El Paso in the State of Texas; and Archuleta, Montezuma, and La Plata, in the State of Colorado.

§ 1138.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk products classified as Class I milk, other than a delivery to a pool plant or nonpool plant.

§ 1138.4 [Reserved]

§ 1138.5 [Reserved]

§ 1138.6 [Reserved]

§ 1138.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant hereinafter referred to as a "distributing pool plant" in which fluid milk products are pasteurized or packaged and from which there is route disposition in the marketing area equal to not less than 15 percent of the total Class I sales of such plant, except filled milk, or 10,000 pounds daily (average), whichever is less: *Provided*, That the total quantity of Class I milk, except filled milk, disposed from such plant during the month is not less than 50 percent of such plant's receipts of Grade A milk, which receipts shall include all milk diverted from such pool plant to a nonpool plant by the handler operating such pool plant.

(b) Any plant hereinafter referred to as a "supply pool plant" from which during the month not less than 50 percent of its dairy farm supply of Grade A milk is moved to plants from each of which there is route disposition, except filled milk, equal to not less than 50 percent of its receipts of Grade A milk during the month and route disposition, except filled milk, in the marketing area equal to at least 15 percent of such receipts or a daily average of 10,000 pounds, whichever is less.

(c) Any plant, hereinafter referred to as a "cooperative standby pool plant," which is operated by a cooperative association, and is located within the marketing area, if 50 percent or more of the milk delivered during the month by producers who are members of such association is delivered directly or is transferred by the association to pool plants of other handlers.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any plant qualified pursuant to paragraph (a) of this section which disposes of a lesser volume of Class I milk, except filled milk, in the Rio Grande Valley marketing area than in a marketing area where the handling of milk is regulated pursuant to another order issued pursuant to the Act, and which is subject to the classification and pricing provisions of such other order; and

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period March through July, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act and the Secretary determines that such plant should be exempted from this part.

§ 1138.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area are moved to a pool plant qualified pursuant to § 1138.7 and which is not an other order plant nor a producer-handler plant.

§ 1138.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of any member producer which such cooperative association causes to be diverted pursuant to § 1138.12 for the account of such cooperative association;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notified the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be a handler for such milk. For purposes of location adjustments to producers such milk is considered to have been received from producers by the cooperative association at the location of the pool plant to which it is delivered;

(d) Any person in his capacity as the operator of a nonpool plant from which there is route disposition in the marketing area; and

(e) Any person in his capacity as the operator of a nonpool plant from which Grade A milk as shipped to a pool plant pursuant to § 1138.7(a).

§ 1138.10 Producer-handler.

(a) "Producer-handler" means any person who processes and packages milk from his own farm production, who has route disposition within the marketing area consisting of any portion of such milk, and who receives no fluid milk products from other dairy farmers or from any source other than a pool plant and receipts from pool plants shall not be in excess of 11,000 pounds per month or, any person who processes and packages certified milk from his own farm production and disposes of such milk to another plant and who receives no milk from any source except his certified herd: *Provided*, That any person who desires to qualify as a producer-handler shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the care and management of all the dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding receipts from pool plants) is the personal enterprise of and at the personal risk of such person and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of the same person.

(b) In the case of a producer-handler of certified milk, the certified dairy herd and the milk plant in which the certified milk is handled shall be considered one business unit and shall not include milk which is delivered to other handlers' plants from a noncertified herd maintained on the same farm.

(c) A governmental agency which operates a milk, or filled milk plant shall be considered a producer-handler: *Provided*, That the plant operated by such agency shall be a pool plant if bulk milk is delivered during the month by such governmental agency to another plant which is a pool plant and a written request is filed by the agency with the market administrator asking that its plant be considered a pool plant. If such a plant is made a pool plant at the request of the governmental agency for one month and thereafter resumes the status of a nonpool plant it shall not be eligible for pool plant status again until it has been a nonpool plant for 12 consecutive months.

§ 1138.11 [Reserved]

§ 1138.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is:

(1) Received at a pool plant; or

(2) Diverted for the account of the diverting handler from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(i) A cooperative association may divert for its account the milk of any member producer, whose milk is received at a distributing pool plant for at least 3 days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 25 percent in the months of March, April, May, June, July, and December and 15 percent in other months of its member producer milk received at all pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers provided each association has filed such a request in writing with the market administrator;

(ii) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(2)(i) of this section, whose milk is received at his pool plant for at least 3 days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 25 percent in the months of March, April, May, June, July, and December and 15 percent in other months of the milk received at such pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(2)(i) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk;

(iii) For purposes of the requirements of § 1138.7, milk diverted for the account of the operator of a pool plant shall be included in the receipts of the pool plant from which diverted; and

(iv) For the purposes of location adjustments pursuant to §§ 1138.52 and 1138.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted when the farm on which the milk is produced is located within the marketing area and at the location of the nonpool plant where received when the farm on which the milk is produced is located outside the marketing area.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1138.44(a)(8)(iii) and the corresponding step of § 1138.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1138.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer and received at a pool plant directly from producers or diverted pursuant to § 1138.12. Milk received at a pool plant from a handler described in § 1138.9(c) shall be considered under this part as producer milk of the pool plant operator. Milk received from producers by a handler described in § 1138.9(c) but not delivered to a pool plant shall be considered under this part as producer milk of such handler.

§ 1138.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1138.40(b)(1) from any source other than producers, handlers described in § 1138.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1138.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1138.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1138.40(b)(1) for which the handler fails to establish a disposition.

§ 1138.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1138.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1138.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1138.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1138.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

§ 1138.19 Accounting periods.

A handler may account for receipts, utilization and classification of skim milk and butterfat at his pool plant(s) for two periods within a month, each period not to be less than 7 days, in the same manner as for a month if he provides to the market administrator in writing not less than 24 hours prior to the end of an accounting period notification of his intention to use two accounting periods.

HANDLER REPORTS

§ 1138.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1138.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

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(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1138.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1138.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1138.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1138.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1138.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1138.32 Other reports.

In addition to the reports required pursuant to §§ 1138.30 and 1138.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1138.40 Classes of utilization.

Except as provided in § 1138.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1138.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section.

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1138.15; and

(6) In shrinkage assigned pursuant to § 1138.41(a) to the receipts specified in § 1138.41(a)(2) and in shrinkage specified in § 1138.41 (b) and (c).

§ 1138.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1138.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1138.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1138.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1138.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1138.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1138.44(a)(12) and the corresponding step of § 1138.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1138.44(a)(7) or the corresponding step of § 1138.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1138.44(a)(11) or (12) or the corresponding steps of § 1138.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1138.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1138.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

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(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1138.43 General classification rules.

In determining the classification of producer milk pursuant to § 1138.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1138.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1138.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1138.40, 1138.41, and 1138.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1138.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1138.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1138.9(a) for each of his pool plants separately and of each handler described in § 1138.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1138.41(b);

(2) Subtract in the following order from the total pounds of skim milk in Class I:

(i) The pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(ii) The pounds of skim milk in receipts of packaged certified fluid milk products from a producer-handler if disposed of in the same form as received;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1138.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1138.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1138.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1138.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order that were not subtracted pursuant to paragraph (a) (2) (ii) of this section;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler

of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1138.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1138.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1138.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1138.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1138.44(a) (12) and the corresponding step of § 1138.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in

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producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1138.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 13th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

§ 1138.50 Class prices.

Subject to the provisions of § 1138.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.35.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1138.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1138.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant in Zone I (comprising the counties of Bernalillo, Dona Ana, Grant, Guadalupe, Harding, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Rio Arriba, Sandoval, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, and Valencia, all in the State of New Mexico, and El Paso, Tex.), which is classified as Class I milk, the Class I price shall be the price computed pursuant to § 1138.50(a).

(b) For milk received from producers at a pool plant in Zone II (comprising the counties of Archuleta, La Plata, and Montezuma, Colorado, and San Juan, N. Mex.), and in Zone III (comprising the counties of Eddy, Chaves, Curry, De Baca, Lea, Quay, and Roosevelt, N. Mex.), which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (d) of this section, the Class I price shall be the price computed pursuant to § 1138.50 (a) minus 15 cents.

(c) For milk received from producers at a pool plant located outside the marketing area and more than 100 miles by the shortest highway distance, as determined by the market administrator, from the nearest of the county courthouses in Bernalillo or Santa Fe Counties, N. Mex., or El Paso, Tex., and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (d) of this section, the price computed pursuant to § 1138.50(a) shall be reduced by 15 cents and by an additional cent for each 10 miles or fraction thereof, that such distance calculated from the Bernalillo, Santa Fe, or El Paso County Courthouse, whichever is nearer, exceeds 110 miles.

(d) For purposes of calculating such adjustment, bulk transfers of fluid milk products between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(e) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (b) and (c) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1138.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1138.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1138.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1138.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1138.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1138.44(a)(14) and the corresponding step of § 1138.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1138.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1138.44(a)(9) and the corresponding step of § 1138.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(7)(i) through (iv) and the corresponding step of § 1138.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(7)(v) and (vi) and the corresponding step of § 1138.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(11) and the corresponding step of § 1138.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent

amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1138.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1138.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1138.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1138.71, 1138.76 and 1138.77 and from which he shall make all payments pursuant to §§ 1138.72 and 1138.77: *Provided*, That any payments due any handler shall be offset by any payments due from such handler.

§ 1138.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1138.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1138.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1138.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1138.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1138.71(a)(2) exceeds the amount computed pursuant to § 1138.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1138.61, as adjusted pursuant to §§ 1138.74 and 1138.75, plus or minus adjustments for errors made in previous payments to such producers and less (1) payments made pursuant to paragraph (a) of this section, (2) deductions for marketing services pursuant to § 1138.86 and (3) proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1138.72 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

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(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this order;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) Each handler who receives milk from a handler described in § 1138.9(c), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment in the amount specified in paragraph (a) of this section; and

(2) In making final settlement, the value of such milk at the applicable uniform price as adjusted pursuant to §§ 1138.74 and 1138.75, less the amount of partial payment made on such milk.

(f) Each handler who receives milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (c) of this section shall report on or before the eighth day after the end of the month to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) The days of delivery, the total pounds of milk, and the average butterfat test of milk received from such producer during the month;

(2) The amount or rate and nature of any deductions; and

(3) The amount of any payments due such producer pursuant to § 1138.77.

§ 1138.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at pool plants located in Zones II and III or at pool plants located outside the marketing area and more than 100 miles, as determined by the market administrator, from the nearest of the county courthouses in El Paso County, Tex., or Bernalillo, or Santa Fe Counties, N. Mex., there shall be deducted an adjustment for each such plant for all milk at the rates specified pursuant to § 1138.52.

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the uniform price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1138.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1138.30(b) and 1138.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1138.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1138.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1138.60 for such handler shall include, in lieu of the value of other source milk specified in § 1138.60(f) less the value of such other source milk specified in § 1138.71(a)(2)(ii), a value of milk determined pursuant to § 1138.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1138.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1138.30(b) and 1138.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1138.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1138.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated:

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1138.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of an other order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1138.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1138.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk described in paragraphs (a), (b), and (c) of this section. If a handler elects pursuant to § 1138.19 to use two accounting periods in any month, the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period:

(a) Producer milk including such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1138.44(a)(7) and (11) and the corresponding steps of § 1138.44(b), except such other source milk that is excluded from the computations pursuant to § 1138.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1138.76(a)(2).

§ 1138.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself for milk pursuant to § 1138.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 16th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deduction and the quantity of milk on which the deduction was computed from each producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1138.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1138.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1138.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1138.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1138.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1138.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1138.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator

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shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1138.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1138.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1138.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1138.110 and 1138.117.

§ 1138.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1138.110 and 1138.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1138.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1138.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1138.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1138.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1138.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1138.121 Duties of the market administrator.

Except as specified in § 1138.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1138.113(c).

(b) Set aside the amounts subtracted under § 1138.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1138.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1138.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1138.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (b) (2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1138.110 through 1138.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1138.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1138.70.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: August 1, 1974.

Signed at Washington, D.C., on: April 29, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-10173 Filed 5-6-74;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Amdt. 3]

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

Refunds of Assessments; Filing of Applications

This amendment would clarify the time period during which producers may file applications for refunds of assessments.

Notice was published in the April 15, 1974, FEDERAL REGISTER (39 FR 13554) regarding a proposal to amend § 1207.514 *Refunds*, of the Rules and Regulations which was recommended unanimously by the Administrative Committee of the National Potato Promotion Board on February 2, 1974. The Potato Board was established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207; 37 FR 5008). The plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The notice afforded interested persons an opportunity to file written data, views or arguments not later than April 26, 1974. None was filed.

Section 1207.514 *Refunds* requires any producer desiring a refund to request it within 90 days from the date the assessment was collected from him or withheld from his account, which also was the date a determination of assessable potatoes was made in the normal handling process and the assessment became payable. However the rule does not specify a similar time period for those producers who also handle their own potatoes. For purposes of equity, such producer-handlers should be afforded the same time period to obtain refunds as producers whose potatoes are handled by other persons. Therefore, it is required that applications for refunds be submitted to the Board within 90 days from the date a determination of assessable potatoes is made in the normal handling process.

After consideration of all relevant matters, including the proposal set forth in the notice which was unanimously recommended by the Administrative Committee of the National Potato Promotion Board, it is hereby found that this amendment of 7 CFR Part 1207.500-.546 Subpart—Rules and Regulations (37 FR 17379) will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that potatoes are (1) now being handled which should be covered by the amended rule; (2) such a change was unanimously recommended by the Administrative Committee of the National Potato Promotion Board on February 2, 1974; and (3) information regarding this proposed rule change was published in the FEDERAL REGISTER on April 15, 1974, and provided all interested parties with ample notice.

The amendment is as follows:

Revise the introductory paragraph and first sentence of § 1207.514(b) as follows:

§ 1207.514 Refunds.

A refund of assessments may be obtained by a producer only by following the procedure prescribed in this section.

* * * * *

(b) Any producer requesting a refund shall mail an application on the prescribed form to the Board within 90 days from the date the assessment become payable pursuant to § 1207.513.

* * * * *

(7 U.S.C. 2611-2627; 84 Stat. 2041).

Dated: May 1, 1974 to become effective May 6, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10404 Filed 5-6-74;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FHA Instruction 441.4]

PART 1832—EMERGENCY LOANS

Subpart B—Emergency Loan Processing

MISCELLANEOUS AMENDMENTS

Section 1832.32 (t) and (u)(1) of Chapter XVIII of Title 7 of the Code of Federal Regulations (37 FR 7293) is amended to remove reference to Form FHA 441-23, "Certification of Losses Caused by Major Disaster," which is now obsolete and to correct form titles to conform with present forms. In accordance with 5 U.S.C. 553, this amendment is being published without notice of proposed rulemaking inasmuch as it involves only agency procedure.

As amended, § 1832.32 (t) and (u)(1) read as follows:

§ 1832.32 Loan forms and routines.

* * * * *

(t) *Applicant's statement of loss or damage.* Form FHA 441-22, "Certification of Disaster Losses," will be used to certify losses. The amount of any compensation for losses received from insurance or otherwise will be shown on this form.

(u) *Taking security instruments.* (1) *Forms to be used.* Form FHA 440A25, "Financing Statement," or Form FHA 440-25, "Financing Statement," or Form FHA 440-4, "Security Agreement (Chattels and Crops)," will be used to obtain security interest in personal property in UCC States unless State requirements provide for the use of other forms. State requirements also will provide information as to whether Form FHA 440A25 or Form FHA 440-25 will be used. The financing statement and security agreement together will constitute a security instrument. Although only the financing statement is required to be filed or recorded, it is necessary also to take a security agreement in order to have a complete security instrument. (See also § 1832.11(a)(2) and (5), for method of obtaining a security interest in crops grown under contract when title to the crop is held by the contractor, or livestock that will be fed feed purchased or produced with loan funds when a first lien cannot be obtained.) Form FHA 440-4 LA, "Chattel Mortgage and Crop Pledge (Louisiana)," or Form FHA 440-4A LA, "Crop Pledge (Louisiana)," as appropriate, will be used in the State of Louisiana.

* * * * *

Effective date. This amendment is effective May 7, 1974.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70)

Dated April 23, 1974.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.74-10402 Filed 5-6-74;8:45 am]

SUBCHAPTER D—GUARANTEED LOANS

[FHA Instruction 449.1]

PART 1842—BUSINESS AND INDUSTRIAL LOANS

Miscellaneous Amendments

Section 1842.17 7 CFR Part 1842 (38 FR 29047) is amended to revise the requirement for a Conditional Commitment for Guarantee, and to clarify what information is required of the borrower. Since the changes are minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

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As amended § 1842.17 reads as follows:

§ 1842.17 Department of Labor (DL) determination.

A Contract of Guarantee shall not be issued if the Secretary of Labor certifies within 60 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of § 1842.14 (c) and (d) have not been complied with. Information for obtaining this certification will be submitted in writing to FmHA. The information will be submitted to the DL by FmHA. When requested by FmHA, the applicant will submit that information preparing and returning to FmHA:

(a) Form FmHA 449–22, "Certificate of Non-Relocation."

(b) Form FmHA 449–23, "Market and Capacity Information Report." Form FmHA 449–14, "Conditional Commitment for Guarantee," may be issued prior to receipt of the required DL certification, provided one of the conditions and requirements of the Conditional Commitment for Guarantee will be that the FmHA Contract of Guarantee will be issued only after receipt of a favorable DL certification.

(7 U.S.C. 1989; Delegation of authority by the Secretary of Agriculture, 38 FR 14944, 14948, 7 CFR 2.23; Delegation of authority by the Assistant Secretary for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.)

Effective date. This amendment is effective May 7, 1974.

Date: April 23, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74–10403 Filed 5–6–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74–WE–8–AD; Amdt. 39–1833]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC–10 Series

On April 2, 1974, § 39.13 of Part 39 of the Federal Aviation Regulations was amended by adding a new airworthiness directive AD 74–07–04 (Amendment 39–1804; 37 FR 13697), that required all United States operators of McDonnell Douglas DC–10 series airplanes, fuselage numbers 1 through 92, to inspect and replace forward passenger door emergency air bottle actuating crank stop brackets.

After issuing Amendment 39–1804, due to additional information received from the manufacturer, the agency determined that (1) the first 16 DC–10 aircraft manufactured have different part numbers on the affected parts than the rest of the aircraft manufactured; and (2) a service bulletin specifying an acceptable terminating action now exists.

Therefore, the AD is being amended to provide for the correct aircraft part numbers on the initial aircraft manufactured and to specify an acceptable terminating action in the form of the manufacturer's service bulletin.

Since this amendment provides a clarification, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is further amended by amending Airworthiness Directive AD 74–07–04 as follows:

(1) Insert words "or P/N ABA8048–49/50" after words "P/N ABA8048–41/42" wherever they appear.

(2) Delete paragraph (c) in its entirety and add a new paragraph (c), to read as follows:

(c) Within 1500 hours additional time in service after effective date of this AD, as amended, unless already accomplished, replace forward passenger door emergency air bottle actuating crank stop brackets per McDonnell Douglas Service Bulletin 52–95, dated March 18, 1974, or later FAA-approved revisions or equivalent modifications approved by the Chief, Aircraft Engineering Division, FAA Western Region. The inspections per (a) and (b) may be discontinued upon accomplishment of this modification.

This amendment becomes effective May 6, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on April 24, 1974.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.74–10407 Filed 5–6–74;8:45 am]

[Airspace Docket No. 74–EA–7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Transition Area and Control Zone, Designation and Alteration

On page 7803 of the FEDERAL REGISTER for February 28, 1974, the Federal Aviation Administration published a proposed rule which would alter the Harrisburg, Pa., Control Zone (39 FR 388) and Transition Area (39 FR 506) and designate a Middletown, Pa., Control Zone.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. June 20, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on April 19, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.171 of Part 71, of the Federal Aviation Regulations by deleting the description of the Harrisburg, Pa. control zone and by substituting the following in lieu thereof:

Within a 6.5-mile radius of the center, 40°12'59" N., 76°51'03" W., of Capital City Airport, Harrisburg, Pa.; within 2 miles each side of the extended centerline of Capital City Airport Runway 26, extending from the west end of Runway 26 to 6.5 miles west of the west end of Runway 26; within 2 miles each side of the Harrisburg, Pa. VORTAC 100° radial, extending from the 6.5-mile radius zone to 2.5 miles east of the VORTAC; excluding the portion that coincides with the Middletown, Pa. control zone east of direct lines described as follows: a line bearing 028° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa. 6.5-mile radius zone and a line bearing 191° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa. 6.5-mile radius zone.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a Middletown, Pa. control zone as follows:

MIDDLETOWN, PA.

Within a 6-mile radius of the center, 40°11'34" N., 76°45'48" W., of Harrisburg International Airport-Olmsted Field, Middletown, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 293° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 005° bearing to a 033° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 033° bearing to a 098° bearing from the airport; within 2 miles each side of the extended centerline of Harrisburg International Airport-Olmsted Field Runway 13, extending from the southeast end of Runway 13 to 6 miles southeast of the southeast end of Runway 13; excluding the portion that coincides with the Harrisburg, Pa. control zone west of direct lines described as follows: a line bearing 028° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa. 6.5-mile radius zone and a line bearing 191° from a point 40°12'23" N., 76°48'38" W., extending from said point to the point of intersection with the Harrisburg, Pa. 6.5-mile radius zone.

3. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Harrisburg, Pa. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 19.5-mile radius of the center, 40°12'59" N., 76°51'03" W., of Capital City Airport, Harrisburg, Pa., extending clockwise from a 009° bearing to a 035° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 099° bearing from the airport; within a 11.5-mile radius of the center of the airport, extending clockwise from a 099° bearing to a 161° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 161° bearing to a 233° bearing from the airport; within a 11.5-mile radius of the center of the airport, extending clockwise from a 233° bearing to a 290° bearing from the airport; within a 16.5-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 009° bearing from the airport; within 5.5 miles each side of the Harrisburg, Pa., VORTAC 274° radial, extending from the VORTAC to 11.5 miles west of the VORTAC; within 9.5 miles north and 4.5 miles south of the Capital City Airport ILS localizer west course, extending from the OM to 18.5 miles west of the OM; within a 12.5-mile radius of the center, 40°11'34" N., 76°45'46" W. of Harrisburg International Airport-Olmsted Field, Middletown, Pa., extending clockwise from a 025° bearing to a 078° bearing from the airport; within a 13.5-radius of the center of the airport, extending clockwise from a 078° bearing to a 147° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 147° bearing to a 228° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 270° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 025° bearing from the airport.

[FR Doc.74–10411 Filed 5–6–74;8:45 am]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Transition Area, Alteration

On page 6123 of the FEDERAL REGISTER for February 19, 1974, the Federal Aviation Administration published a proposed rule which would alter the Olean, N.Y., Transition Area (39 FR 557).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. June 20, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Jamaica, N.Y., on April 19, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to alter the description of the Olean, N.Y. 700-foot floor transition area by deleting, "This transition area shall be effective 0700 to 2200 hours, local time, daily."

[FR Doc.74–10409 Filed 5–6–74;8:45 am]

[Airspace Docket No. 73–SO–79]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Transition Area, Designation

On December 17, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 34672), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Jacksboro, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

In § 71.181 (39 FR 440), the following transition area is added:

JACKSBORO, TENN.

That airspace extending upward from 700 feet above the surface within a 17-mile radius of Campbell County Airport (latitude 36°20'03" N, longitude 84°09'46" W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on April 26, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc. 74–10408 Filed 5–6–74;8:45 am]

[Airspace Docket No. 73–EA–114]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Transition Area, Alteration

On page 6123 of the FEDERAL REGISTER for February 19, 1974, the Federal Aviation Administration published a proposed rule which would alter the East Hampton, N.Y., Transition Area (39 FR 484).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., June 20, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on April 19, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.181 of Part 71, Federal Aviation Regulations by deleting the description of the East Hampton, N.Y. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 40°57'36" N., 72°15'05" W., of East Hampton Airport, East Hampton, N.Y., extending clockwise from a 307° bearing to a 044° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 044° bearing to a 092° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 092° bearing to a 232° bearing from the airport; and within a 7-mile radius of the center of the airport, extending clockwise from a 232° bearing to a 307° bearing from the airport.

[FR Doc.74–10410 Filed 5–6–74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–844; Amdt. 25]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Extension of Time for Continued Use of Existing Ticket Notices

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C., on May 1, 1974.

Part 221 of the Board's Economic Regulations (14 CFR Part 221) contains provisions which require certificated air carriers and foreign air carriers availing themselves of limitations on liability to passengers for death or personal injury, and for loss, damage to, or delay in the delivery of passengers baggage, under the Warsaw Convention, to give notice of such limitations in the form of ticket and sign notices.[1] The dollar limitations specified in these notices are intended to reflect the minimum liability requirements of the Convention, which are also set forth in the carriers' tariffs.

Since the Convention's liability limitations are expressed in French gold francs, the dollar amounts in the tariffs and notices specified in Part 221 have had to be revised as a result of the U.S. dollar devaluations in 1972 and 1973. The second devaluation of the U.S. dollar thus led to the issuance of a Board order requiring tariff revisions[2] and to the issuance, in ER–837, of a rule requiring parallel revision of Part 221 notices of liability limitations.[3] However, recognizing that some carriers might still be using ticket stock ordered in good faith reliance on prior Board actions, and wishing to alleviate the expense attendant upon ordering new ticket stock to comply with its new rule, the Board explained, in ER–837, that it would allow carriers to continue using existing ticket stock until May 15, 1974.

By petition, dated April 11, 1974, the Air Transport Association of America has requested that the Board extend from May 15, 1974 to January 30, 1975 the deadline for revising all ticket notices of Convention dollar limitations on liability.[4] The petition states that ATA's carrier members will incur great expense in ordering and distributing new ticket

[1] §§ 221.75 (Special notice of limited liability for death or injury under the Warsaw Convention) and 221.176 (Notice of limited liability for baggage; alternative consolidated notice of liability limitations).

[2] Order 74–1–16, adopted January 3, 1974, 39 FR 1526.

[3] Approved February 27, 1974, effective April 4, 1974.

[4] Our action herein also disposes of a similar petition by Alitalia, filed April 30, 1974, in this docket.

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stock, as well as in recalling and destroying outstanding ticket stock. ATA's petition estimates that the expenses of individual carriers could range from $5000 to $372,300.

ATA's petition fails to demonstrate sufficient grounds to warrant extending until January 30, 1975, the time for all carriers to comply fully with the notice requirements prescribed by ER–837. Indeed, since carriers have been expressly permitted, since the issuance of ER–801, on May 10, 1973, to use ticket notices setting forth the dollar amounts prescribed in ER–837, they have in effect already had close to a full year in which to order the printing of tickets reciting the dollar amounts prescribed by ER–837.

Nonetheless, we have determined to extend from May 15, 1974, until July 15, 1974, the time during which carriers may continue to use existing ticket notices. We believe that such extension would prevent any widespread hardship to the industry. Moreover, it should be noted that the notice required by § 221.175(a) may be given by means of a separate slip of paper. Waivers to permit use of separate slips for the § 221.176(b) notice may be granted to individual carriers who apply in conformity with and make the showing required by § 221.176 (f). The alternative of using paste-overs on existing ticket stock does not require a waiver.

The ATA petition further suggests that the carriers' notice should be permitted to state the date as of which recited dollar amounts have been computed, rather than be required to be revised periodically so as to reflect currency fluctuations. The Board does not consider it necessary at this time to act upon ATA's suggestion. However, should developing circumstances indicate a real need to provide greater flexibility in the form of liability limitation notices, we shall certainly consider ATA's suggestion.

Since the within rule relieves a burden, the Board finds that notice and public procedure hereon are unnecessary and that the rule may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221) effective May 1, 1974, as follows:

1. Amend § 221.175(a), by changing the deadline date in the proviso at the end thereof, the amended paragraph (a) to read in part as follows:

§ 221.175 Special notice of limited liability for death or injury under the Warsaw Convention.

(a) • • •

Provided, however, That when the carrier elects to agree to a higher limit of liability to passengers than that provided in Article 22(1) of the Warsaw Convention, such statement shall be modified to reflect the higher limit. The statement prescribed herein shall be printed in type at least as large as 10-point modern type and in ink contrasting with the stock on: (1) each ticket; (2) a piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or (3) the ticket envelope; *And provided further,* That a carrier which has heretofore been furnishing a statement including either the sum of "$8,290" or the sum of "$9,000," in place of the sum of "$10,000" in the text of the statement prescribed by this paragraph, may continue to use such statement until July 15, 1974.

• • • • •

2. Amend § 221.176(b), by changing the deadline date in the proviso at the end thereof, the amended paragraph (b) to read in part as follows:

§ 221.176 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

• • • • •

(b) • • •

Provided, however, That carriers may include in their ticket notice the parenthetical phrase "($20.00 per kilo)" after the phrase "$9.07 per pound" in referring to the baggage liability limitation for most international travel; *And provided further,* That a carrier which has heretofore been issuing ticket notices including either the sums of "$7.50" and "$330," respectively (and the optional language of "$16.58" and "$7.50," respectively), or the sums of "$8.16" and "$360," respectively (and the optional language of "$18.00" and "$18.16," respectively), in place of "$9.07" and "$400," respectively, in the statement prescribed by this paragraph (and in place of the optional language "$20.00" and "$9.07," respectively, permitted by the first proviso to this paragraph), may continue to use such statement until July 15, 1974.

• • • • •

(Sections 204(a), 403, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, and 771 as amended; 49 U.S.C. 1324, 1373 and 1386)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–10343 Filed 5–6–74;8:45 am]

[Reg. ER–841; Amdt. 12]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Accounting and Reporting Requirements for Transport-Related Revenues and Expenses; Correction

The account title of section 6–2161 of the Uniform System of Accounts and Reports (Regulation ER–841, 39 FR 11993, April 2, 1974) should be corrected to read as follows:

2161 Unearned Security Charges.

• • • • •

Effective: March 31, 1974.

Adopted: February 27, 1974.

Dated: April 29, 1974.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–10454 Filed 5–6–74;8:45 am]

[Reg. ER–845; Amdt. 19]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Automatic Adjustment of Logair and Quicktrans Domestic Minimum Charter Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., May 1, 1974.

By ER–831, effective November 14, 1973, the Board, in response to a petition for rule making filed by Overseas National Airways, Inc. (ONA), amended Part 288 of its Economic Regulations (14 CFR Part 288) to provide for prospective automatic adjustment of Logair and Quicktrans domestic minimum rates for charter services performed pursuant to contract with the Military Airlift Command (MAC) to reflect future fluctuations in the price of jet fuel purchased by the carriers from the Department of Defense (DOD).

On December 18, 1973, ONA and Saturn Airways, Inc. (Saturn) filed a joint Petition for Reconsideration of ER–831[1] accompanied by a Motion for Leave to File an Otherwise Unauthorized Document.[2] On January 17, 1974, DOD filed an answer to the petition opposing the relief requested, and contending that the petition is procedurally inappropriate and should not be considered.

The carriers' motion is based on the contention that the base level prices for JP–4 and JP–5 jet fuel established in ER–831 were adopted as the result of an erroneous understanding by both MAC and the Board as to the actual prices of these fuels in effect on August 27, 1973, the date of ONA's petition to the Board, and procedurally, that only through reconsideration of ER–831 can this error of fact be corrected to provide relief from the date of ONA's original petition as opposed to merely prospective relief through further amendment of Part 288.

The petition for reconsideration requests first that the Board correct the factual error in ER–831 by a reduction in the base price levels of JP–4 and JP–5 jet fuel established therein from 14.9 and 16.2 cents per gallon, respectively, to 11.3 and 12.3 cents per gallon, which were the prices in effect on August 27, 1973. Second, the petitioners request that the fuel escalator clause be made effective from August 27, 1973, which was the date

[1] Previously, on November 21, 1973, ONA had filed a telegraphic petition for reconsideration. This filing was assigned Docket number 26133. On December 17, 1973, DOD filed an answer to the petition. Both the petition and answer are effectively disposed of herein.

[2] Rule 38(d) of the Board's Rules of Practice (14 CFR Part 302) states that unless expressly provided for, petitions for reconsideration of adopted rules will not be entertained. ER–831 did not expressly authorize filing of petitions for reconsideration.

ONA's petition was filed with the Board.[3] The petitioner's claim that failure to adjust the base price levels will cost each of the carriers $80,000 a month in additional fuel expenses, and estimate that a failure to make the corrected base price levels effective on the earlier date would cost ONA $189,000 and Saturn $212,000 for the period from August 27 to November 14, 1973.[4] The carriers further contend that the Board's adoption of 14.9 and 16.2 cents per gallon as the base price levels for JP–4 and JP–5 fuel was the result of erroneous advice provided the Board by MAC,[5] and that this advice combined with the time required to act on ONA's petition have benefited the government unfairly at the direct expense of the carriers.

In its answer, DOD asserts that the base price levels for JP–4 and JP–5 jet fuel established in ER–831 were the correct prices in effect on November 14, 1973, the date the amendment was adopted and effective, and contends that the Board has no jurisdiction to retroactively revise the rates for a prior period. Accordingly, DOD's position is that reconsideration based on a claim of factual error is not available.

Upon consideration, we have determined to accept the petition for reconsidertaion, and to revise ER–831 as set forth below.[6]

We are met at the outset by a question of procedure arising from the fact that our rules of practice (14 CFR Part 302) provide that petitions for reconsideration of adopted rules will not be entertained.[7] In general, we do not accept petitions for reconsideration of adopted rules because of concern for the adequacy of notice of the filing by interested persons since in a rule making proceeding as opposed to a formal investigation there are no parties upon whom service of the petition is required. For this reason, in the typical case, to insure interested persons notice of the filing we treat a so-called petition for reconsideration as an original petition for rule making and institute a new proceeding. In the present case, however, the DOD, the only party affected by the rates in question, had notice of the filing of the petition, and has availed itself of the opportunity to make its views known on the matters at issue. Under these circumstances, we find it appropriate to accept the carriers' petition, especially considering that the relief requested is more nearly akin to reconsideration than it is to a petition for rule making, and to act thereon.[8]

Turning now to consideration of the petition itself, at the outset, it should be noted that at the time the Board adopted ER–831, we believed, on the basis of information furnished by MAC, that the prices then in effect for jet fuel purchased from DOD for domestic Logair/Quicktrans charter services were at the same level as the prices in effect on August 27, 1973, the date ONA's petition was filed.[9] It now appears, however, that the prices in effect on August 27, 1973, were lower than the base price levels established in ER–831. In light of the newly-developed facts, we have determined, for the reasons set forth below, to reconsider our action in ER–831, and to revise the base price levels in the rate adjustment clause to reflect the fuel prices in effect on August 27. However, we will not retroactively revise the effective date of the clause.

As indicated, at the time ER–831 was adopted, MAC informed the Board's staff that fuel price increases originally intended to be effective July 1, 1973, but which were delayed as a result of the price freeze, had finally been implemented August 13, prior to ONA's filing. For this reason, in adopting the price escalator clause, we utilized as the base price levels prices we believed to have been in effect since early August. However, had we known that the price increases in fact had not been implemented prior to ONA's filing, we would have utilized the lower prices. Thus, the carriers' assertion that the base price levels were based upon an erroneous understanding of fuel prices in effect on August 27 is correct, and reconsideration as a result of this error is appropriate.

With respect to the carriers' request for a change in the effective date of the price adjustment clause, we reject such proposal as inconsistent with the Board's established rate-making policies and practice. The adjustment the carriers seek would require a retroactive change in the effective date of the price adjustment clause to a date prior to the institution of the rule-making proceeding. Such a change would be inconsistent with the established principle that the minimum rates in Part 288 are final and not subject to retroactive adjustment to a date prior to Board action specifically "re-opening" the rate. In addition, grant of this aspect of the petition would create uncertainty as to the finality of all existing MAC rates. Hereafter, the finality of the pre-existing MAC rate would become uncertain simply by virtue of the action of either a carrier or DOD in filing a petition. Such a situation is clearly not desirable, and we are not persuaded to depart from our established rule against such retroactive adjustments of MAC rates. While it is true that our action herein does involve a retroactive adjustment of rates beginning November 14, this action is not inconsistent with our general practice which has permitted, where appropriate, adjustments back to the date of the rule-making proceeding. In this case, the rule making was, in effect, instituted by ER–831. Moreover, the amendment herein represents the rule which we would have initially promulgated had the staff been accurately informed as to the actual fuel prices in effect in August. Under these circumstances, we do not believe that DOD can reasonably object to our action.

In consideration of the foregoing, the Board hereby amends Part 288 of its Economic Regulations (14 CFR Part 288) effective November 14, 1973, as follows:

1. Amend § 288.7(b) to read as follows:

§ 288.7 Reasonable level of compensation.

• • • • • •

(b) For Logair and Quicktrans services, other than specified in paragraph (c) of this section:

(1) • • •

Provided, however, That, effective November 14, 1973, if the price of fuel products purchased from DOD for such services varies from the base levels specified below, the total minimum compensation for the transportation provided shall be adjusted (either upward or downward, as the case may be) by the difference in the price per gallon for such products paid by the carrier and the price specified for such product below, times the number of U.S. gallons of such products purchased by the carrier from DOD for the transportation provided.

The base levels are as follows:

	Standard price per U.S. gallon
AV gas:	
115/145	$0.20
100/130	.38
91/96	.38
80/87	.38
Jet:	
JP–4	.113
JP–5	.113

• • • • •

[3] The carriers do not seek reconsideration of the Board's denial of certain other requests contained in the original petition.

[4] Similar costs would continue to be incurred at least until January 15, 1974, if the Board adopts the proposed amendments to Part 288 set forth in EDR–262, on which date the base fuel price levels would, for other reasons, revert to those being sought by the carriers in the petition.

[5] The base price levels established by the Board in ER–831 for prospective adjustment were posted by DOD for effectiveness on July 1, 1973. However, due to imposition of a price freeze by the Cost of Living Council on June 12, 1973, the July prices could not become effective before August 13, 1973. The carriers contend that the U.S. Air Force did not actually implement the July 1 prices until August 30, 1973, after ONA's petition was filed; and that the U.S. Navy did not finally implement the July prices until September 7, 1973. See the joint Supplemental Reply to the Answer of the Department of Defense dated February 8, 1974, at p. 1. These contentions are not denied by DOD.

[6] On January 22, 1974, and February 8, 1974, ONA and Saturn filed joint replies to DOD's answer accompanied by motions for leave to file. We have determined to grant the motions and have considered the replies.

[7] Rule 38(d). The carrier's petition was accompanied by a motion for leave to file an otherwise unauthorized document. Recognizing that the motion was presaged by a telegraphic petition requesting similar relief filed November 21, 1973 (see supra note 1) we will accept the motion which was not perfected until December 18, 1973, in view of the unusual circumstances hereinafter set forth, and in the absence of any objection thereto.

[8] In any event, even if we were to treat the petition as one for modification of Part 288, we find we have ample authority to act on the petition without further proceedings since all affected parties have made their views known on the matter at issue. Cf., our action in ER–819, adopted August 28, 1973.

[9] In reviewing the original petition and answer, the Board had attempted to verify the prices in effect as of August 27, 1973, and was informally advised by MAC that fuel price increases posted for July 1, 1973, were put into effect on August 13, 1973, prior to ONA's filing.

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(Secs. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, and 771, as amended (49 U.S.C. 1324, 1373, and 1386))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.74-10453 Filed 5-6-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER J—RIGHT-OF-WAY AND ENVIRONMENT

PART 790—PUBLIC HEARINGS (CORRIDOR AND DESIGN)

Design Approval

Part 790 was originally published at 38 FR 12103 on May 9, 1973.

Paragraph 790.3(d) presently concludes with the parenthetical term (PS&E approval) which conveys a misleading construction of that term. To allay any misimpression the following revision of that subsection will conclude the subsection with the word "construction" and insert "PS&E" after the word "estimates."

Paragraph (d) of 23 CFR 790.3 is amended to read as follows:

(d) "Design approval" means that action or series of actions by which the FHWA indicates to the State highway department that the essential elements of a highway as set out in § 790.9 are satisfactory or acceptable for preparation of plans, specifications and estimates (PS&E) for actual construction.

Effective Date: April 30, 1974.

NORBERT T. TIEMANN, *Federal Highway Administrator.*

[FR Doc.74-10450 Filed 5-6-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 51—REQUIREMENTS FOR THE PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

Nitrogen Dioxide Control Strategy

On August 14, 1971 (36 FR 15486), the Administrator of the Environmental Protection Agency (EPA) promulgated as 42 CFR Part 420, regulations for the preparation, adoption, and submittal of State implementation plans under section 110 of the Clean Air Act, as amended. These regulations were republished on November 25, 1971 (36 FR 22398) as 40 CFR part 51. Section 51.14, Control Strategy: Carbon monoxide, hydrocarbons, photochemical oxidants, and nitrogen dioxide was revised December 30, 1971 (36 FR 25233) specifically in regard to nitrogen dioxide.

Further regulations to revise the control strategy requirements for nitrogen dioxide were proposed on June 5, 1971 (38 FR 14672). Interested parties were provided an opportunity to comment on these amendments until July 20, 1973. Three comments were received specifically for the proposed regulations to revise the control strategy requirements. All three comments were concerned with the role that nitrogen oxides play in the formation of photochemical oxidants. In addition, one comment believed that the Agency should reconsider its proposal to revise the nitrogen dioxide control strategy requirements and another believed the Agency should modify its regulations with great care.

Presently, 40 CFR 51.14 requires States to adopt nitrogen oxides emission control regulations applicable to certain stationary sources in those AQCR's where emission standards for new motor vehicles and transportation control measures needed for carbon monoxide and/or photochemical oxidants will not result in sufficient nitrogen oxides emission reductions to insure attainment of the national standard for nitrogen dioxide. The underlying rationale for this requirement is related to the complex atmospheric chemistry involved in the formation of nitrogen dioxide in the ambient air. Very little of the nitrogen dioxide present in the ambient air is emitted as nitrogen dioxide from stationary or mobile sources. Most nitrogen dioxide is a secondary pollutant formed as a result of the oxidation of nitric oxide to nitrogen dioxide in the ambient air. Thermal oxidation of nitric oxide by atmospheric oxygen is a very slow process; however, during daylight hours, photochemical conversion of nitric oxide to nitrogen dioxide occurs rapidly, especially in the presence of high concentrations of hydrocarbons and other organic substances. In some cases, the oxidation continues, removing the nitrogen dioxide from the atmosphere. Laboratory experiments consistently have shown that the rate of photochemical conversion of nitric oxide to nitrogen dioxide decreases as concentrations or organic hydrocarbons decrease.

Although it has not been possible, thus far, to quantify the impact of hydrocarbon control on nitrogen dioxide concentrations under actual environmental conditions, EPA's position has been that the impact would be sufficient to obviate a need for widespread control of nitrogen oxides emission beyond that to be achieved directly through implementation of the Federal motor vehicle emission standards and incidentally through transportation control measures and, where necessary, control of certain stationary source emissions. In light of the final reclassification of AQCR's, as set forth elsewhere in this issue of the FEDERAL REGISTER, EPA is now promulgating a revision of 40 CFR 51.14, such that State plans for attainment of the national standard for nitrogen dioxide in Priority I AQCR's will have to include an explicit showing that the national standard will be attained. States still will be able to take credit for nitrogen oxides emission control achieved directly through the Federal motor vehicle emission standards and incidentally through transportation control measures, and, where demonstrable, indirectly through hydrocarbon emission control. Further studies of the hydrocarbon-nitrogen dioxide relationship currently are underway.

For the time being, the requirements of revised 40 CFR 51.14 will need to be applied only in the Los Angeles and Chicago AQCR's. Within four months from the date of this publication, the State of Illinois must submit a demonstration to the Administrator that the present approved control strategy for the Metropolitan Chicago AQCR is adequate to attain and maintain the national standard for nitrogen oxides. The regulations below set forth this requirement.

With respect to the Metropolitan Los Angeles AQCR, EPA previously disapproved California's control strategy for nitrogen oxides, carbon monoxide and photochemical oxidants, and promulgated a transportation control plan. On February 6, 1974, the State of California submitted a plan revision for Los Angeles which provides for a transportation control plan and a control strategy for nitrogen oxides. EPA is presently reviewing the plan to determine its adequacy in fulfilling the requirements of the revised § 51.14.

For the other three AQCR's which remain Priority I, i.e., New Jersey-New York-Connecticut, Wasatch Front (Salt Lake City), and Metropolitan Baltimore, a request for SIP revision would be required at the time of final reclassification. If additional data show that these AQCR's should be classified Priority III, the requirement for SIP revision would be rescinded. Pending final action on a new reference method for measurement of nitrogen dioxide, the adequacy of State plans for attainment of the national standard would be assessed in terms of air quality data related to the candidate methods.

The regulations set forth below shall take effect on June 6, 1974.

(42 U.S.C. 1857c-5 and 1857g(a))

Dated: April 30, 1974.

RUSSELL E. TRAIN, *Administrator.*

Part 51 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

§ 51.5 [Amended]

1. In § 51.5, paragraph (a)(1) is amended by adding at the end thereof the following note:

NOTE: The State of Illinois shall, not later than September 9, 1974, submit to the Administrator a demonstration that the control strategy approved by the Administrator for the Metropolitan Chicago Air Quality Control Region is adequate to attain and maintain the national standard for nitrogen dioxide.

2. Section 51.14, paragraph (c)(2) is revised and paragraph (c)(3) is revoked to read as follows:

§ 51.14 Control strategy: Carbon monoxide, hydrocarbons, photochemical oxidant, and nitrogen dioxide.

* * * * *

(c) * * *

(2) With respect to control of carbon monoxide and nitrogen oxides, the proportional model which may be used for purposes of this paragraph is described in § 51.13(e)(2).

(3) [Revoked]

* * * * *

[FR Doc.74-10439 Filed 5-6-74;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Plan; Pennsylvania Revision

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act the Administrator approved a plan implementing National Ambient Air Quality Standards for the State of Pennsylvania. This publication contains the Administrator's approval of a revision to that plan.

On October 15, 1973, in a letter to the Governors of fourteen States, including Pennsylvania, the Administrator advised that the responsible State agencies should proceed quickly to devise and initiate a strategy to prevent, to the greatest degree possible, any detrimental air pollution effects that might result from a probable low sulfur fuel shortage during the coming months. The Administrator emphasized the need for States to undertake feasible energy conservation measures either prior to or concurrently with any variance requests in order to minimize the need for variances. Among the other measures recommended was the formulation, according to the anticipated degree of shortage, of a comprehensive variance plan for sulfur content in fuel regulations. Priorities for granting variances would be established which would encourage the distribution (or allocation) of available low sulfur fuel to areas where it would be the most needed for the protection of public health. The Administrator described the procedures governing Governor's submissions of such variances to the Environmental Protection Agency for approval as implementation plan revisions. Criteria for approval would be as follows:

1. Compliance with EPA procedural requirements.

2. A demonstration (a) that fuel with a sulfur content low enough to enable compliance with the applicable regulation is in fact unavailable to the source, (b) that the variance requires the use of the low sulfur content fuel that is available, and (c) that the time period involved reflects the reasonably predicted period of shortage.

3. A demonstration that low sulfur fuel that might have been available to the source involved (a) is no longer available, or (b) has been allocated or distributed to other sources deserving higher priority either because of air quality considerations, or because of a Federally imposed allocation plan.

On October 3, 1973, pursuant to 40 CFR 51.4(e), the Governor of Pennsylvania's designee requested EPA approval of a procedure incorporating a 10 day notice period for State public hearings for sulfur content variance requests. On November 7, 1973, the Regional Administrator for EPA Region III granted this request.

On February 4, 1974, the Pennsylvania Department of Environmental Resources submitted for the Administrator's approval a variance to the Philadelphia portion of the approved State Implementation Plan for Atlantic Richfield Company of Philadelphia. The Philadelphia Code requires that No. 6 residual fuel oil combustion sources use fuel with no greater sulfur content than 0.5 percent by weight. The variance would permit Atlantic Richfield Company to sell fuel with a maximum sulfur content of 1.25 percent by weight for a period extending from February 1, 1974, to May 31, 1974.

After a careful evaluation of the State's submittal, the Administrator has determined that the variance is in accordance with the criteria stated above, and is therefore in accordance with the procedural and substantive requirements of 40 CFR Part 51. Information submitted by the State, corroborated by the Agency's own information, indicates that fuel allocation and redistribution measures cannot obviate the need for the variance requested, for the time period commencing February 1, 1974, and ending May 1, 1974. The expiration date authorized by EPA takes into account the current conforming fuel supply outlook. Accordingly, it is approved as a revision to the Pennsylvania Implementation Plan. As approved, it is reflected in the table below.

The State's submittal is available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; Air Management Services, Department of Public Health, 4320 Wissahickon Avenue, Philadelphia, Pennsylvania 19129; the Bureau of Air Quality and Noise Control, Department of Environmental Resources, Fulton National Building, 16th Floor, P.O. Box 2063, Harrisburg, Pennsylvania 17120; and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. In addition, EPA's evaluations of the State's submittal is available during normal business hours at the EPA Region III address listed above.

The Agency finds that good cause exists for not providing notice or permitting public comments on this action and for making it effective immediately upon publication for the following reasons:

1. The emergency nature of the current fuel shortage requires that the affected source know immediately the fuel restrictions which are applicable to it under the Pennsylvania Implementation Plan so that it may make arrangements to obtain the appropriate fuel.

2. The implementation plan revision was adopted in accordance with procedural requirements of State and Federal laws, which provided for an adequate public hearing and comments, and further participation would be impracticable.

Dated: May 1, 1974.

JOHN QUARLES, *Acting Administrator.*

§ 52.2036 Compliance schedules.

(a) * * *

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Atlantic Richfield Co.	Philadelphia..	Section 30201(a) and 30207(1)(a) (Philadelphia Air Management Code); Air Management Regulation III, Section IA.	Jan. 31, 1974	Feb. 1, 1974	May 1, 1974

* * * * * * *

[FR Doc.74-10443 Filed 5-6-74;8:45 am]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Availability of Unleaded Gasoline

On January 10, 1973, regulations were promulgated by the Environmental Protection Agency to provide for the general availability of one grade of unleaded gasoline compatible with catalytic emission control systems expected to be in general use on 1975 model year light-duty motor vehicles (38 FR 1254). Section 80.22(b) of the regulations provides that after July 1, 1974, every owner or operator of a retail outlet at which 200,000 or more gallons of gasoline were sold during any calendar year beginning with the 1971 calendar year shall offer for sale at least one grade of unleaded gasoline. Section 80.22(c) provides that every owner or operator of six or more retail outlets shall offer for sale at least one grade of unleaded gasoline at no fewer than 60 percent of such outlets after July 1, 1974.

On October 12, 1973, an amendment was proposed to the aforementioned regulations. The proposal was to delete § 80.22(c) and retain § 80.22(b) as the sole availability requirement for unleaded gasoline. The proposed amendment specifically requested comments as to the geographic dispersion, by county, of retail outlets with an annual volume over 200,000 gallons.

Several gasoline marketers have again asserted their objection to EPA's decision that affirmative requirements to market unleaded gasoline are necessary to assure its general availability. EPA addressed this question when the initial requirements were proposed and promulgated, and the Agency concluded that an

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affirmative marketing requirement is authorized by the Clean Air Act and essential to assure the general availability of unleaded gasoline.

The legislative history of the Clean Air Act shows that Congress recognized that EPA would need flexibility in promulgating regulations under section 211 if the objectives of the Act were to be achieved. The Senate Committee Report explicitly refers to the need for flexibility to assure availability of unleaded gasoline (S. Rept. No. 91–1196, 91st Cong., 2d Sess., 34–5 (1970)):

> At one time the Committee considered language that would give the Secretary only the authority to "prohibit" a fuel's introduction into commerce. After evaluation, the Committee decided that such authority should also be extended to the "control" of a fuel's introduction into commerce. This authority to "control" the use of fuels is intended to give the Secretary greater flexibility than the authority to "prohibit." For instance, the Committee expects that the Secretary may find it advisable to permit the continued sale of leaded gasolines to allow for the efficient and economic operation of automobiles presently on the highway, even if he finds it necesary to control fuels to assure the availability of non-leaded gasolines for other purposes.

It is clear from this statement that Congress did not intend that EPA prohibit the use of lead additives in all gasoline to protect emission control devices at a time when only part of the vehicle population would require unleaded fuel. The authority "to control fuels to assure the availability of nonleaded gasolines" must, in our view, be directed toward the problem of assuring general availability of unleaded gasoline when vehicles with lead-sensitive emission control systems are being introduced and constitute a small part of the market.

Economic incentives alone cannot be counted on to assure that an adequate number of gasoline retailers will market unleaded gasoline during the first or second model year after the introduction of catalyst-equipped motor vehicles when they constitute as little as 10 percent of the market. In order to offer unleaded gasoline, marketers will be obligated to add a third pump or to convert existing regular or premium pumps to offer unleaded gasoline. Although conversion to three-pump service has been widely accomplished, generally for reasons related to the requirement to offer unleaded gasoline, many marketers have been faced with the need to incur the cost of installing a third pump or giving up sale of regular or premium gasoline to make room for unleaded product. Estimates of the cost of installing a third pump range from $5,000 to $8,000. Some marketers would have preferred not to incur this cost until the market for unleaded gasoline is greater. Conversion of an existing pump saves investment in facilities, but requires that the marketer either give up customers requiring premium fuel or persuade regular grade customers to purchase unleaded gasoline. While the economic consequences of these options are not unduly severe, either option can be viewed as inconvenient or financially unattractive to many retailers until unleaded gasoline demand increases beyond the level projected for the first two model years of catalyst-equipped vehicles. For these reasons, EPA did not believe that market incentives alone could be relied upon to assure the general availability of unleaded gasoline.

EPA concluded, therefore, that reasonable affirmative marketing requirements are necessary for the protection of catalyst-equipped vehicles. Estimates of the extent of catalyst use on 1975 model year vehicles are that these devices will be installed on 60 percent to 85 percent, and possibly more, of the 1975 models. If unleaded gasoline is not generally available at a sufficient number of retail outlets, motorists will be severely inconvenienced and will not purchase vehicles equipped with advanced lead-sensitive emission control systems. This result would effectively defeat the purpose of Congress in establishing stringent emission standards for motor vehicles in the Clean Air Act of 1970. The objectives of the Act would also be frustrated if availability of unleaded gasoline is so spotty that motorists are forced to use leaded gasoline and thereby destroy the emissions-reducing capacity of the catalytic reactors.

The auto manufacturers have expressed concern that EPA adopt whatever requirements are necessary to assure that unleaded gasoline is widely available for purchasers of 1975 vehicles. In addition the American Automobile Association has recently written to EPA stressing the interest of the motorist. Their letter states that "without lead-free gas readily available, catalytic systems will be quickly damaged. This would cause the motorist to be faced with an early, expensive replacement bill. Additionally, the owner-operator would then be contributing to air pollution, probably without his knowledge."

EPA has attempted to assure that the affirmative marketing requirement will cover a sufficient number of stations to assure general availability. The present rulemaking represents the final step in a continuing effort to gather the best data possible and to refine the criteria for general availability to assure adequate coverage.

As a result of the October 12 proposed amendment, several major refiners supplied the Agency with information regarding the geographic dispersion of retail outlets by county.

Comments were received from refiners, independent distributors, owners of retail outlets, and automobile manufacturers. In addition, a report has been subsequently received from the Bureau of Census that provides information from a 1967 Census of Business which designates the number of retail outlets in each county for which gasoline sales constitute 50 percent of their total sales volume. These data are sub-divided by sales dollar volume into five categories. By dividing the sales dollar volume for each category by $0.37/gallon (estimated average price of gasoline in 1967) each outlet could be placed in a gallonage volume category.

A theme found in many of the comments from the oil industry was that the potential for overkill existed even in the amended proposal. It was noted that gasoline stations with volumes greater than 200,000 gallons per year were especially common in urban areas, and the revised formula for the designation of retail outlets that would sell unleaded gasoline did not affect this excessive station concentration. On the other hand, automobile manufacturers were particularly concerned that the revised formula would provide an insufficient concentration of outlets carrying unleaded gasoline in urban and particularly in rural areas.

The extensive data received from the Census Bureau and the petroleum companies were analyzed to assess the adequacy of the promulgation of January 10, 1973, and the proposed amendment of October 12, 1973. Although the census data were usually presented on a county basis, it was determined that, for all practical purposes, a number of large cities completely urbanized the counties in which they were located; therefore, these large city-counties could be evaluated separately from other counties as a means of drawing inferences regarding cities in general. Census information was reported on a city, in addition to a county, basis for the state of Virginia. Many of these cities were of medium size with populations ranging between 50,000 and 300,000 persons, and these data were used to evaluate the distribution of stations in medium-sized cities.

The census data were applied to the requirement expressed in the promulgation of January 10, 1973, that all stations selling at least 200,000 gallons per year of gasoline would be required to offer unleaded gasoline for sale. Two categories of cities and four categories of counties were considered separately. The results of the analysis are indicated below.

Political subdivision	Population or population density	Ratio of unleaded stations to total stations [1]
Large city	Over 500,000 persons	1:1.4
Medium-size city	50,000 to 500,000 persons	1:1.7
County [2] I	Over 1,000 persons per mi [2]	1:1.4
County [2] II	Between 100 and 1,000 per mi.[2]	1:1.6
County [2] III	Between 50 and 100 per mi.[2]	1:2.2
County [2] IV	Under 50 per mi [2]	1:3.4

[1] Ratios include a 20-percent increase to account for estimated growth in stations within each category since 1967.
[2] County population density excludes cities containing 50,000 or more persons.

While the data used in evolving the proposed requirements are the most recent available from the Census Bureau, the survey upon which the data are based is 7 years old. In order to assess the influence of recent industry trends upon the data, inquiry was made of the American Petroleum Institute (API) as to trends regarding changes in the total

number of retail outlets and outlet volume since 1967. Petroleum industry estimates indicate that the number of outlets existing today are approximately the same as existed in 1967. There has been, however, a trend toward higher gallonage pumped per outlet. Another factor that would cause an underestimate if the 1967 data were not adjusted is that the data were obtained only from outlets for which gasoline sales constitute 50 percent of their total sales. A large retail merchandiser who also sells gasoline would not have been included in the data but will be subject to the regulations, as will a motel or restaurant which sells gasoline as a sideline to its major business. Due to these considerations, it was determined that an upward adjustment for each category of 20 percent would provide a reasonable estimate of the growth since 1967 in the number of stations included in each category.

Under the 200,000 gallon/year rule, stations with unleaded gasoline will comprise about 71 percent of all outlets in large cities and 59 percent of total outlets in medium-size cities. Average county coverage will vary from 71 percent to a low of 29 percent in the most sparsely populated counties (County IV category).

The objective of the Agency is to assure that a sufficient number of stations will sell unleaded gasoline to provide the vehicle owner with a readily accessible source of fuel. It is not believed necessary that every gasoline outlet carry the product to achieve general availability, but rather that enough stations be covered to prevent the inconvenience of a motorist in search of gasoline. If unleaded fuel is not easily available, motorists may be encouraged to try to persuade retailers to put leaded gasoline in their vehicles in violation of the regulations. The detriment to air quality that would occur if a significant number of catalysts were poisoned provides the incentive for this Agency to require general availability of unleaded fuel.

The review of census information indicated that about 111,000 retail outlets would be covered by the 200,000 gallon per year requirement. This is less than the number of 160,000 outlets which appeared in the proposed amendments of October 12, 1973 and which has been determined to be an overestimate. The census and petroleum industry data did not permit a more complete review of the geographic dispersion provided by the requirement that 60 percent of the retail outlets in chains of 6 or more sell unleaded gasoline.

The requirement that 60 percent of the outlets in chains of 6 or more carry unleaded fuel may add between 40,000 to 90,000 outlets to those required to sell the product under the 200,000 gallon per year rule. It is not anticipated, however, that these additional outlets will aid materially in achieving reasonable geographic dispersion of stations selling unleaded fuel. Owners of chains would likely sell unleaded gasoline in those outlets located near terminal facilities in order to minimize transportation costs and decrease the opportunities for contamination. Little benefit would be provided to the most sparsely populated counties (the County IV category) where coverage is marginal.

The analysis of the census data has permitted the Agency to conclude that the 200,000 gallon per year requirement provides reasonable geographic dispersion of outlets carrying unleaded gasoline with the exception of counties with population densities under 50 persons per square mile. A proposed amendment to these regulations appears in this FEDERAL REGISTER that is directed at increasing the coverage in the low density counties. The achievement of general availability with the 200,000 gallons per year requirement together with the proposed amendment precludes the necessity of requiring unleaded gasoline to be sold in 60 percent of the outlets in chains of six outlets or more.

Therefore, these regulations promulgate the deletion of § 80.22(c) and the retention of § 80.22(b) as the sole availability requirement for unleaded gasoline.

These regulations represent the result of an extensive review by the Agency of the general availability requirements. The review was conducted in response to requests by members of the petroleum industry, automobile industry, and other persons interested in this subject. Requests by several commentators for a postponement of the July 1, 1974, implementation date are denied due to the planned introduction of catalyst-equipped vehicles for the 1975 model year.

Numerous comments have been received from the petroleum industry requesting that time extensions or exemptions be granted in regard to the July 1, 1974, implementation date and to specific provisions in the regulations. After evaluating the information submitted in support of these requests, the Administrator has determined that under specified circumstances such exemptions or deferments are reasonable. Therefore, these regulations permit exemptions from certain provisions for outlets in which business will be terminated by January 1, 1975. Outlets which encounter equipment procurement delays must comply with the regulations at the earliest possible date and will be subject to all provisions of the regulations on September 1, 1974. In addition, a provision has been added to permit limited relief for retailers who offer for sale more than one grade of unleaded gasoline at a retail outlet.

The regulations promulgated below shall be effective immediately.

Dated: May 1, 1974.

JOHN QUARLES,
Acting Administrator.

Part 80 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 80.22, paragraph (c) is deleted and a new paragraph (c) is substituted in its place, and a new paragraph (h) is added to read as follows:

§ 80.22 Controls applicable to gasoline retailers.

* * * * *

(c) Time extensions or exemptions to these regulations may be granted upon conformance with the following conditions: (1) Any retailer may obtain an exemption from paragraph (b) of this section for outlets at which business will be terminated by January 1, 1975. In order to obtain this exemption, the retailer must present evidence to the Regional Administrator of specific termination plans for each such outlet. Any retailer granted this exemption for a specified outlet(s) who offers for sale unleaded gasoline at such outlet after July 1, 1974, but before January 1, 1975, shall inform the Regional Administrator in writing of such an offering and shall be expected to comply with all applicable provisions of these regulations.

(2) Any retailer may obtain a time extension for compliance with paragraph (b) of this section until September 1, 1974, for outlets at which equipment procurement delays will preclude compliance with these regulations. The extension is limited to a retailer who can present evidence to the Regional Administrator, upon his request, that the equipment was ordered in a timely manner but delivery was delayed for reasons beyond the control of the retail outlet owner and an attempt to procure equipment from alternative sources was made promptly by the owner upon receipt of notice of the delay.

(3) All applications for exemptions or time extensions under paragraph (c)(1) and (c)(2) of this section must state the name and address of the applicant and address of the retail outlet, and must be received by the appropriate Regional Administrator by June 15, 1974. Applications should be sent to the Regional Administrator of the Enviromental Protection Agency in the EPA Region in which the retail outlet is located. A listing of regional office addresses follows:

Region	*Address*
I	John F. Kennedy Federal Building, Boston, Mass. 02203.
II	26 Federal Plaza, New York, N.Y. 10007.
III	Curtis Publishing Building, Sixth & Walnut Sts., Philadelphia, Pa. 19106.
IV	1421 Peachtree St. NE., Atlanta, Ga. 30309.
V	1 North Wacker Dr., Chicago, Ill. 60606.
VI	1600 Patterson St., Dallas, Tex. 75201.
VII	1735 Baltimore Ave., Kansas City, Mo. 64108.
VIII	Lincoln Tower, 1860 Lincoln St., Denver, Colo. 80203.
IX	100 California St., San Francisco, Calif. 94111.
X	1200 Sixth Ave., Seattle, Wash. 98101.

* * * * *

(h) If more than one grade of unleaded gasoline is offered for sale at a

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retail outlet covered by these regulations, compliance with paragraph (e) or (f) of this section is required for only one grade.

[FR Doc.74-10438 Filed 5-6-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 3-4.54—Procurement Clearance of Audiovisual Materials and Contracts for Public Affairs Services

Chapter 3, Title 41, Code of Federal Regulations is amended as set forth below. The purpose of this amendment is to clarify § 3-4.5400 of Subpart 3-4.54, Procurement Clearance of Audiovisual Materials and Contracts for Public Affairs Services.

Section 3-4.5400(a) is hereby deleted and the following is substituted in lieu thereof:

§ 3-4.5400 Scope of subpart.

* * * * * *

(a) Duplicating, as defined in current Government Printing and Binding Regulations.

* * * * * *

(5 U.S.C. 301; 40 U.S.C. 486(c).)

Effective Date: This amendment shall be effective on May 7, 1974.

Date: April 29, 1974.

S. H. CLARKE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74-10384 Filed 5-6-74;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5411]

ALASKA

Amendment of Public Land Orders No. 5174, No. 5179, No. 5180, and Any Order Amending the Foregoing Orders

Correction

In FR Doc. 74-3621 appearing at page 5632 in the issue of Thursday, February 14, 1974, the figure "1574" in the 5th line of paragraph 4 should read "5174".

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-17; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires, Tire Selection and Rims for Passenger Cars

Correction

In FR Doc. 74-9144, appearing at page 14594 of the issue for Thursday April 25, 1974, on page 14595 the two numbers in the right-hand column of Table I-W, reading "11.65" and "11.30", should read "11.60" and "11.35" respectively.

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Rice Lake National Wildlife Refuge, Minn.

The following special regulation is effective May 7, 1974.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MINNESOTA

RICE LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Rice Lake National Wildlife Refuge, Minnesota is permitted only on the area designated by signs as open to fishing. This posted area comprising 50 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Minneapolis, Minnesota 55111. Sport Fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) The open season for sport fishing on the refuge extends from May 18, 1974, through September 30, 1974, during daylight hours only.

(2) The use of motors on boats is not permitted. The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally which are set forth in 50 CFR Part 33, and are effective through September 30, 1974.

CARL E. POSPICHAL,
Refuge Manager, Rice Lake National Wildlife Refuge, McGregor, Minnesota 55760.

APRIL 30, 1974.

[FR Doc.74-10378 Filed 5-6-74;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—PHASE IV PRICE REGULATIONS

Submission of Final Reports

The purposes of these amendments are (1) to make it clear that monthly, quarterly and annual reports for periods ending on or before April 30, 1974, are required to be filed notwithstanding the expiration of continuing stabilization authority under the Economic Stabilization Act, (2) to waive the requirement for submission of reports for fiscal periods ending after April 30, 1974, and (3) to clarify the requirement for reporting for the quarter or other period ending on or before April 30, 1974, during which the reporting requirement terminated under § 150.161(b)(1) by virtue of decontrol actions taken by the Council during Phase IV.

In order to provide for orderly termination of reporting and compliance activities under the Economic Stabilization Program, the instructions to the Form CLC-22 are amended to provide as follows:

(1) Monthly reports (food manufacturing): the last report is the report for the last accounting month ending on or before April 30, 1974. The report for the accounting month ending April 30 is required to be filed no later than May 30.

(2) Quarterly reports: the last report is the report for the last fiscal quarter ended on or before April 30, 1974, unless the reporting requirement terminated sooner by virtue of § 150.161(b)(1). The report for a fiscal quarter ended April 30, 1974, is required to be filed no later than June 14, 1974.

(3) Fiscal year reports: the last report is the report for the last fiscal year ended on or before April 30, 1974, unless the reporting requirement terminated sooner by virtue of § 150.161(b)(1). The report for a fiscal year ended April 30, 1974, is required to be filed no later than July 29, 1974.

Authority to receive and examine reports, to require submission of necessary additional information with respect to reports, and to take remedial action in connection with violations disclosed by reports or otherwise will continue to be exercised by the Internal Revenue Service. All firms, including price category III firms and firms with respect to which a reporting requirement is waived hereunder, are reminded of the continuing record-keeping requirements under § 150.164.

Under 6 CFR 150.161(b), quarterly reporting is no longer required of a firm when during its most recent fiscal year it had exempt sales of 90 percent or more of total revenues and sales on non-exempt items were less than $50 million. In CLC Phase IV Price Notice 1974-4, it was explained that the key phrase "during its most recent fiscal year" was a reference not to the actual exempt and non-exempt sales totals for the most recent fiscal year but the exempt/non-exempt sales totals for that year calculated as though the current price exemptions had applied throughout that year. Thus, in view of the gradual extension of exempt status to more and more sales under the decontrol policy of Phase IV a firm may well have found that it met the test of 6 CFR 150.161(b)(1) at some arbitrary point in a quarter and that its reporting requirements ended before the termination of Phase IV.

The purpose of Notice 1974-4 in this respect was to make it clear that § 150.161(b)(1) is not to be interpreted in such a way as to require continued quarterly reporting for up to one year after exemption—that is, to require reports until the current fiscal year eventually becomes the most recent fiscal year. That portion of the notice dealing with § 150.161(b)(1) therefore applies only in those cases in which the 90 percent—$50 million level on a current basis is reached in the first or second fiscal quarter of a fiscal year ending in 1974 or 1975. If that level is reached within the first quarter of a fiscal year ending October 31, 1974, for example, the firm may be able to show pursuant to Notice 1974-4 that the 90 percent—$50 million test was met on the basis of annual sales and revenues in FY 1973 and that therefore no report is required for any quarters ending after January 31, 1974. On the other hand, if that level is reached in the last quarter of a fiscal year ended December 31, 1973, for example, the most recent fiscal year for purposes of § 150.161(b) is the fiscal year ended December 31, 1973 (not December 31, 1972), and the last report due under the general quarterly reporting requirements is the report for the period ended December 31, 1973.

As stated in Phase IV Price Notice 1974-5, a quarterly report is required for the entire quarter in which exemption occurs. The instructions to the Form CLC-22, as revised under these amendments, make it clear that when a price exemption occurs during the quarter, whether it triggers reporting "termination" or not, the product line concerned is reported for the entire quarter as though the exemption had not occurred. However, as in the case of a profit margin excess, a level of price increases in excess of cost-justification reported for the quarter may be excused to the extent that the firm can demonstrate, to the satisfaction of the Council, that the apparent pricing violation is attributable to exempt sales within the product line or to exemption with respect to the entire product line for a portion of the reporting period. A statement must be attached to the Form CLC-22 if price increases in excess of cost-justification are to be explained on the basis of exempt sales. This applies to Part VI of the CLC-22 and it also applies to the Schedules T (retail/wholesale) and F (food manufacturing) except that in the case of the Schedule T an "excess" is shown in terms of a markup/gross margin which exceeds that of the base period and in the case of the Schedule F in terms of revenues in excess of total permissible revenues for the product line concerned.

In Part VI of the CLC-22, exempt sales are reported on line 38 only if the sales were exempt for the entire reporting period. If the sales were exempt for only a portion of the period, they are reported on lines 1-33 as though they were not exempt, as explained above.

Termination of the profit margin limitation is subject to a 90 percent—$50 million rule in § 150.11(e) similar to that found in § 150.161(b)(1) concerning termination of quarterly reporting. In accordance with the requirement to report for the entire quarter in which termination of the reporting requirement or termination of Phase IV occurs, the profit margin portions of the CLC-22 must be completed for the "termination" quarter in accordance with instructions to the CLC-22. Since the Phase IV rules have always provided for the excusing of a profit margin excess which is attributable to exempt sales, it is not necessary to amend the CLC-22 instructions in this respect.

Because the purpose of these amendments is to provide immediate guidance with respect to the Council's policies and regulations, the Council finds that publication in accordance with normal rulemaking procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11730, 38 FR 19345; E.O. ----, 39 FR ----; Cost of Living Council Order No. 14, 38 FR 1489; Cost of Living Council Order No. 51, 38 FR ----)

In consideration of the foregoing, Part 150 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective May 1, 1974.

Issued in Washington, D.C., on May 3, 1974.

JAMES W. MCLANE,
Deputy Director, Cost of Living Council.

1. A new § 150.165 is added to read as follows:

§ 150.165 Reporting after Termination of Quarterly Reporting Requirement.

Notwithstanding termination of quarterly reporting requirements pursuant to § 150.161(b)(1) during a quarter or other period covered by a report required to be submitted pursuant to this part or an order issued by the Council, that report shall be submitted within the time required and otherwise in accordance with forms, instructions, and orders issued by the Council.

2. Appendix A to Part 150 is amended by adding at the end of the Specific Instructions to the Form CLC-22 the following:

Special Instructions for Preparation of Final Reports. The last monthly report for food manufacturing is the report for the last accounting month ending on or before April 30, 1974.

The last quarterly report is the report for the last fiscal quarter ended on or before April 30, 1974, unless the reporting requirement terminated sooner by virtue of § 150.161(b).

The last annual report is the report for the last fiscal year ended on or before April 30, 1974, unless the reporting requirement terminated sooner by virtue of § 150.161(b).

The requirement to report may have terminated during a quarter or other reporting period ended on or before April 30, 1974, by virtue of § 150.161(b). In these cases the report is required to be filed for the entire quarter or other period within the time required and otherwise in accordance with these instructions to the Form CLC-22 except as modified by these special instructions.

With respect to Part VI of the CLC-22, the information required on lines 1 through 33 is prepared as though exemption had not occurred. That is, sales which have become exempt during the quarter are reported on lines 1 through 33 together with sales which occurred prior to exemption. Only sales which were exempt for the entire quarter are shown on line 38.

The weighted average percentage price increase (column (e)) and cost-justification (column (f)) are prepared in the same manner as required for prior quarterly reports. If the figure in column (e) exceeds that in column (f), a statement may be attached which explains the extent to which the apparent violation is attributable to exempt sales. The Council will excuse the price increases in excess of cost-justification if the firm can demonstrate, to the satisfaction of the Council, that the excess was attributable to exempt sales. In order to do this the firm must demonstrate that it was in compliance for the portion of the quarter prior to exemption.

The figure to be entered in column (g) is the maximum price increase prior to exemption of the product line.

The same principles apply with respect to the Schedules F and T. Current revenues are entered in column (g) of Schedule F for the entire accounting month or quarter, including revenues from exempt sales. Section 150.606 provides that a revenue excess may be excused if attributable to exempt sales. Similarly, a markup or gross margin excess reported in columns (g) or (h) of Schedule T may be excused pursuant to § 150.312(a), if the firm can demonstrate to the satisfaction of the Council that the excess is attributable to the sale of exempt items.

[FR Doc.74-10577 Filed 5-3-74;3:46 pm]

PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

PART 153—COST OF LIVING COUNCIL PHASE IV PAY PROCEDURES

Rules With Respect to the Period After April 30, 1974

The Cost of Living Council's authority to continue to stabilize wages and salaries expired at midnight, April 30, 1974. The President has issued Executive Order 11781 39 FR, providing that the Cost of Living Council shall continue through June 30, 1974 to accomplish several purposes. The Council is specifically authorized to continue the winding down of the Phase IV controls program and may take appropriate actions with respect to any action or pending proceedings, civil or criminal, not finally determined on April 30, 1974, or with respect to any act committed prior to May 1, 1974. In exercising this authority, the Council will continue to receive requests for approval and reports, and review pay adjustments with respect to work performed prior to May 1, 1974. The Council will also take appropriate remedial action where such pay adjustments are in violation of or are unreasonably inconsistent with applicable economic controls regulations in effect on or before April 30, 1974.

The Council continues to have stabilization authority with respect to wages and salaries paid for work performed on or before April 30, 1974. Accordingly, wages and salaries may not, on or after May 1, 1974, be paid with respect to work performed on or before April 30, 1974, unless such pay adjustments are consistent with the rules of the Economic Stabilization Program that were in effect during that prior period, or unless the pay adjustments have received the approval of the Cost of Living Council.

In exercising its winding down stabilization authority over such retroactive pay adjustments, the Council will continue to rule on requests for approval and will dispose of pending administrative matters properly before the Council on April 30, 1974. Such pending matters may not be withdrawn without the approval of the Council. In addition, the Council

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will continue to receive and act on requests for approval of pay adjustments in the food industry, the health industry, and the construction industry, and will also receive and act on requests for approval of pay adjustments affecting members of executive control groups in all industries, for work performed prior to May 1, 1974. With respect to industries subject to the self-administered controls of subpart B of part 152, the Council may in appropriate cases challenge and review pay adjustments implemented on or after May 1, 1974, that have a retroactive effect into the period ending April 30, 1974.

Reports of pay adjustments required under the rules in effect on April 30, 1974 will continue to be submitted to the Council with respect to all pay adjustments implemented with respect to work performed on or before April 30, 1974. The foregoing requirements are enumerated in a new subpart N which is added to part 152 by these amendments.

The Council in these amendments simultaneously issues a new part 153, Phase IV Pay Procedures. This part 153 has been in preparation for some time and in general embodies procedural rules previously in effect but not previously consolidated into one unit. Procedural rules with respect to pay matters contained in parts 105, 130, 205 and 401 of this title are superseded. Nothing in part 153 extinguishes or otherwise modifies present procedural rules of the Council contained in part 152 of this chapter, or present procedural rules of the Construction Industry Stabilization Committee contained in Chapter V of this title.

Subpart A of part 153 contains general provisions which, except for two new sections and minor technical changes, are substantially similar to the general provisions of part 205 of the Pay Board's regulations. The two new sections are §§ 153.14 (Special proceedings) and 153.15 (Reopening decisions and orders). The former relates to examination by the Council of employee unit designations, classifications or similar matters, and the latter is simply a statement of Council policy with respect to reopening decisions and orders. Subpart B, Applications for Approval, contains procedures for initial action by the Council on applications for approval, prenotifications, requests for exception, or any other filing with respect to a proposed pay adjustment for which prior approval is required by this title. In general, subpart B sets forth the procedures utilized by the Council during most of Phases III and IV. Subpart C is new and establishes procedures governing initial actions of the Council with respect to requests for interpretation from the Office of General Counsel. Subpart D deals with pay challenges in the mandatory and self-administered sectors. In both sectors, the procedures utilized during most of Phases III and IV are set forth.

Subparts E and F establish procedures for initial actions of the Council with respect to requests for exemption, and notices of probable violation and remedial orders. In general, these provisions parallel Phase II regulations of the Cost of Living Council and Price Commission. Subpart G is a new subpart combining all requests for review of decisions issued under Subparts B, C, D, E and F, except as otherwise provided, under a single procedure. Subparts H, I, and J, which relate to petition and comment on rulemaking, published rulings, and public hearings, respectively, are again similar to Phase II rules.

Authority under this part may be exercised by the Director of the Council or his delegate. Through April 30, 1974, authority has been exercised hereunder in accordance with Cost of Living Council Orders No. 25 and 40, as amended (see, 38 FR 12775 and 22909). A new Cost of Living Council Order No. 51 from the Chairman of the Council to the Director, continues this authority.

Since Phase IV substantive regulations with respect to pay matters were previously issued and are presently effective in accordance with the provisions of Executive Order No. 11781, and Subpart N of Part 152, it is essential that the procedures governing appearances before and proceedings by the Cost of Living Council be made effective now. Consequently, in order to give immediate guidance and information to the public with respect to these pay procedures, the Council finds that publication in accordance with usual rulemaking procedures is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit written comments regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 28; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; E.O. 11781, 39 FR Cost of Living Council Order No. 14, 38 FR 1489; Cost of Living Council Order No. 51, 39 FR.)

In consideration of the foregoing, Title 6 of the Code of Federal Regulations is amended as set forth herein, effective May 1, 1974.

Issued in Washington, D.C. on May 3, 1974.

JAMES W. MCLANE,
Deputy Director,
Cost of Living Council.

1. In 6 CFR Part 152, a new Subpart N is added to read as follows:

Subpart N—Requirements for Submissions and Approval on and After May 1, 1974

Sec.
152.201 Scope.
152.202 Food industry.
152.203 Health industry.
152.204 Construction industry.
152.205 Executive control groups.
152.206 Pay adjustments subject to self-administered controls.
152.207 Pending administrative actions.
152.208 Violations.
152.209 Administrative review.

AUTHORITY: Economic Stabilization Act of 1970, as amended, Pub. L. 91-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 28; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; E.O. 11781, 39 FR; Cost of Living Council Order No. 14, 38 FR 1489; Cost of Living Council Order No. 51, 39 FR.

Subpart N—Requirements for Submissions and Approval On and After May 1, 1974

§ 152.201 Scope.

This subpart establishes general rules to define the applicability of the Economic Stabilization Program wage controls for winding down purposes on and after May 1, 1974. The rules in this subpart establish the circumstances in which requests for approval or exception are required with respect to wages and salaries paid for work performed on or before April 30, 1974. The rules in this subpart further prescribe the circumstances in which reports are required with respect to wages and salaries paid for work performed on or before April 30, 1974.

§ 152.202 Food industry.

Pay adjustments affecting employees in the food industry, paid with respect to work performed on or before April 30, 1974, remain subject to the applicable rules for prior approval and reporting set forth in Subpart H of this part on April 30, 1974. Thus, for example, a collective bargaining agreement entered into on or after May 1, 1974 that provides a retroactive increase in wages and salaries for work performed prior to May 1, 1974, is subject to the provisions of § 152.76 with respect to wages and salaries paid through April 30, 1974.

§ 152.203 Health industry.

Pay adjustments affecting employees in the health industry, paid with respect to work performed on or before April 30, 1974, remain subject to the applicable rules for prior approval and reporting set forth in subpart I of this part on April 30, 1974. Thus, for example, a pay adjustment implemented on or after May 1, 1974 retroactively through a period ending on or before April 30, 1974, requires prior approval of the Council for the amount in excess of 5.5 percent for such period, and requires prior approval in its entirety for such period if the pay adjustment applies to or affects an appropriate employee unit containing 5,000 or more employees.

§ 152.204 Construction industry.

Pay adjustments affecting employees in the construction industry paid with respect to work performed on or before April 30, 1974, remain subject to the applicable rules for prior approval and reporting set forth in subpart J of this part on April 30, 1974.

§ 152.205 Executive control groups.

(a) *General.* Pay adjustments affecting members of executive control groups (determined pursuant to section 152.130) implemented with respect to work performed on or before April 30, 1974, are subject to the provisions of § 152.130 in effect on April 30, 1974. Thus, for example, retroactive salary increases may not be implemented so as to increase the average group salary rate in excess of 5.5 percent with respect to any date prior to May 1, 1974, without prior approval of the Council.

(b) *Stock options.* Notwithstanding any other provision of this part, stock options issued on or after May 1, 1974, are exempt from and not limited by the provisions of this part.

(c) *Reporting.* Reports required under the provisions of § 152.130 with respect to a fiscal year that ends on or before April 30, 1974, or on account of incentive compensation payments made with respect to work performed on or before such date, shall be submitted to the Council as required by § 152.130. Thus, for example, if a fiscal year ends March 31, 1974, and incentive compensation payments are made with respect to that fiscal year on May 15, 1974, by a firm with annual sales or revenues in excess of $250 million, then the report required by § 152.130(f)(1) shall be submitted to the Council not later than May 25, 1974.

(d) *Prospective Form PB-3.* Notwithstanding any other provision of this part, a firm that elects to use the alternative method of computation set forth in § 152.130(d)(3)(v) if such report is not required to be submitted prior to May 1, 1974.

§ 152.206 Pay adjustments subject to self-administered controls.

Pay adjustments in industries subject to the self-administered controls of Subpart B of this part remain subject to the provisions of that subpart with respect to wages and salaries paid for work performed on or before April 30, 1974. The Council may, on or after May 1, 1974, challenge and review such pay adjustments under the provisions of Subpart F of this part if such pay adjustments have a retroactive effect with respect to the period through April 30, 1974.

§ 152.207 Pending administrative actions.

The Council shall continue to review, process, and issue appropriate decisions and orders with respect to matters pending before the Council on April 30, 1974. An administrative action pending before the Council on such date may not be withdrawn from the Council's consideration without the prior approval of the Council.

§ 152.208 Violations.

The operation of this title shall not be deemed to relieve any person of liability arising from any violation which has been committed under the Act, under any regulation of the Council, or under any order issued thereunder. The Council will continue to take appropriate compliance action on and after May 1, 1974, with respect to such violations as may have occurred.

§ 152.209 Administrative review.

The Council shall continue to receive and act, after April 30, 1974, on requests for review of actions taken under this title. Where periods of time in which review may be requested are specified elsewhere in this title, such periods shall continue to apply.

2. In 6 CFR, a new Part 153 is added to read as follows:

Subpart A—General Provisions

Sec.
153.1 Purpose and scope.
153.2 Definitions.
153.3 Appearances before the Council.
153.4 Filing of documents.
153.5 Computation of time.
153.6 Service.
153.7 Extension of time.
153.8 Subpenas; witness fees.
153.9 Request for subpena.
153.10 Motion to quash issuance of subpena.
153.11 Disclosure of information; request for confidentiality.
153.12 Consolidations.
153.13 Where to file.
153.14 Special proceedings.
153.15 Reopening decisions and orders.

Subpart B—Applications for Approval

153.21 Purpose and scope.
153.22 Initial action by the Council.
153.23 Oral presentations and hearings.
153.24 Requests for review.

Subpart C—Requests for Interpretation

153.31 Purpose and scope.
153.32 Initial action by the Council.
153.33 Requests for review.

Subpart D—Challenges

153.41 Purpose and scope.

MANDATORY SECTOR PAY CHALLENGES

153.51 Scope.
153.52 Initial action by the Council.
153.53 Oral presentations and hearings.
153.54 Requests for review.

SELF-ADMINISTERED SECTOR PAY CHALLENGES

153.61 Scope.
153.62 General.
153.63 Personal appearances.
153.64 Requests for modification or rescission.

Subpart E—Requests for Exemption

153.71 Purpose and scope.
153.72 Initial action by the Council.
153.73 Requests for review.

Subpart F—Notices of Probable Violation; Remedial Orders

153.81 Purpose and scope.
153.82 General.
153.83 Issuance of notice of probable violation to begin proceedings.
153.84 Issuance of remedial orders to begin proceedings in unusual circumstances.
153.85 Reply.
153.86 Order.
153.87 Requests for review.

Subpart G—Requests for Review

153.101 Purpose and scope.
153.102 Who may request review.
153.103 Where to file.
153.104 When to file.
153.105 Contents of request.
153.106 Review by Council.
153.107 Informal hearings.
153.108 Decision by Council.

Subpart H—Petition and Comment on Rulemaking

153.121 Purpose and scope.
153.122 Who may file.
153.123 Where to file.

Subpart I—Published Rulings

153.131 Rulings for publication.

Subpart J—Public Hearings

153.141 Purpose and scope.
153.142 Appointment of Presiding Officer.
153.143 Notice of hearing.
153.144 Powers and duties of Presiding Officer.
153.145 Record.

AUTHORITY: Economic Stabilization Act of 1970, as amended, Pub. L. 91-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 28; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; E.O. 11781, 39 FR Cost of Living Council Order No. 14, 38 FR 1489; Cost of Living Council Order No. 51, 39 FR.

Subpart A—General Provisions

§ 153.1 Purpose and scope.

(a) This part establishes procedures to be utilized in proceedings before the Cost of Living Council relating to pay stabilization matters under Part 152 of this chapter. More specifically, this part contains procedures for:

(1) Initial action with respect to applications for approval;

(2) Initial action on requests for interpretation;

(3) Initial action with respect to pay challenges in both the mandatory and self-administered sectors;

(4) Initial action on requests for exemption;

(5) Issuance of notices of probable violation and remedial orders;

(6) Requests for review;

(7) Petition and comment on rulemaking;

(8) Published rulings; and

(9) Public hearings.

(b) Procedural rules with respect to pay matters contained in Parts 105, 130, 205 and 401 of this title are hereby superseded.

(c) Nothing in this part extinguishes or otherwise modifies present procedural rules of the Council contained in Part 152 of this chapter, or present procedural rules of the Construction Industry Stabilization Committee contained in Chapter V of this title.

(d) Notwithstanding the provisions of paragraph (c) of this section, references in Part 152 of this chapter to "rules and regulations of the Pay Board in effect on January 10, 1973" (or similar language) do not have the effect of incorporating into Part 152 the procedural rules contained in Part 205 of the Pay Board's regulations. Instead, the provisions of this Part 153 shall govern.

§ 153.2 Definitions.

As used in this part, except where the context indicates otherwise, the term:

"Act" means the Economic Stabilization Act of 1970, as amended.

"Board" means the Pay Board established pursuant to section 7 of Executive Order No. 11627 (3 CFR, 1971 Comp. p. 218) and terminated effective March 1, 1973 in accordance with section 10(a) of Executive Order No. 11695.

"Council" means the Chairman of the Cost of Living Council established by Executive Order 11615 (3 CFR, 1971 Comp., p. 199) and continued under the provisions of Executive Orders 11695, 11730, and 11781, or his delegate.

"Director" means the Director of the Cost of Living Council.

"Exception" means a waiver directed to a party at interest in a particular case

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which relieves that party from the requirements of a rule, regulation, or order issued pursuant to the Act.

"Exemption" means a general waiver of the requirements of all rules, regulations, and orders issued pursuant to the Act, subject to such restrictions or limitations as may be prescribed by the Council.

"Firm" has the same meaning as in § 152.2 of this chapter.

"Hearing Officer" means a person appointed by the Director of the Cost of Living Council or his delegate to conduct a hearing.

"Interpretation" means a written statement issued by the General Counsel for the Council, or his delegate, in response to a written request filed in accordance with Subpart C of this part. It applies to the particular facts set out in the request and is based on the regulations, guidelines and published rulings of the Council, its predecessor agencies, and court decisions.

"Party at interest" means:

(1) A bargaining representative of employers who could be required to pay the wages and salaries in question, or in the absence of such bargaining representative, an employer who could be required to pay the wages and salaries in question; or

(2) A bargaining representative of employees who could receive payment of wages and salaries in question, or in the absence of such bargaining representative, an employee who could receive payment of the wages and salaries in question and who makes a written request to the Council to be made a party to the proceedings.

"Pay adjustment" has the same meaning as in § 152.2 of this chapter.

"Pay challenge" means:

(1) In a sector subject to mandatory controls, a preliminary objection to a contract in existence prior to November 14, 1971 filed by a party at interest, or the Director or his delegate; or

(2) In a sector subject to self-administered controls, a preliminary objection to a pay adjustment filed by the Director or his delegate.

"Person aggrieved" means, in cases where the Council has denied the position, in whole or in part, of a party at interest with respect to a pay adjustment, a request for interpretation, or a notice of probable violation, that party at interest.

"Petition" means a written objection to or proposal for a published ruling or regulation promulgated by the Council.

"Regulation" means a regulation issued by the Council which appears in Title 6, Code of Federal Regulations.

"Ruling" means an official interpretation by the General Counsel of the Cost of Living Council, published in the FEDERAL REGISTER, which applies the regulations and guidelines of the Cost of Living Council to a specific set of facts.

§ 153.3 Appearances before the Council.

(a) A person may take any action or make any appearance which is required or permitted by this part on his own behalf, or he may be represented by any natural person, age 21 years or older, whom he has designated to represent him. Such designation shall be in writing and signed by the person legally authorized to so designate and shall be filed with the Council.

(b) Persons appearing before the Cost of Living Council in economic stabilization matters may be barred therefrom for disreputable conduct which includes, but is not limited to, the following:

(1) Filing false or altered documents, affidavits, and other papers;

(2) Making false or misleading representations either orally or in writing; or

(3) Using intemperate or abusive language or engaging in disruptive conduct before the Council or its representative.

§ 153.4 Filing of documents.

(a) A document required to be filed with the Council under this title is considered filed when it has been received at the Cost of Living Council offices. Failure to file a document on forms prescribed by and pursuant to instructions issued by the Council may result in a filing being considered improper or untimely.

(b) Documents received after regular business hours are deemed filed on the next regular business day.

(c) An employer or employer association filing any document with respect to—

(1) A reporting or prenotification requirement under this title,

(2) An application for approval,

(3) A request for exception or exemption,

(4) A request for interpretation,

(5) A pay challenge,

(6) A reply, or request for modification or rescission of an order,

(7) A request for hearing or other election accorded the parties with respect to an interim decision and order,

(8) A notice of probable violation, or

(9) A request for review, shall at the same time serve copies of each such document on the collective bargaining agent, if any, of the affected employee unit.

(d) If any of the documents described in paragraph (c) of this section is filed by a collective bargaining agent for employees, such collective bargaining agent must at the same time serve copies on the affected employer or employer association.

(e) A certificate of service shall accompany all such documents filed with the Council.

§ 153.5 Computation of time.

(a) In computing any period of time prescribed or allowed by this chapter for the performance of any act, the day of the act, event, or default on which the designated period of time begins to run will not be counted.

(b) If the last day of the period falls on a Saturday, Sunday, or a Federal legal holiday, the period will be extended to the next day which is not a Saturday, Sunday, or Federal legal holiday.

(c) If the period prescribed or allowed is 7 days or less, an intervening Saturday, Sunday, or Federal legal holiday will not be counted.

§ 153.6 Service.

(a) All documents required to be served under this chapter are to be served personally, by registered or certified mail, or by regular U.S. mail (this option available only for service by the Council).

(b) If a person is represented by a duly authorized representative, service on the representative shall constitute service on the person.

(c) A certificate of service shall be filed with the Council for each document served.

(d) Service by mail is complete upon mailing.

§ 153.7 Extension of time.

If an action is required to be taken within a prescribed time under this title, an extension of time will be granted only upon a showing of good cause.

§ 153.8 Subpenas; witness fees.

(a) The Director of the Council, his duly authorized agent, the General Counsel, or an IRS District director of a key IRS District Office may sign and issue subpenas.

(b) A subpena may require the attendance of witnesses and the production of relevant papers, books, and documents in the possession or under the control of the person served.

(c) A subpena may be served by any person who is not a party and not less than 18 years of age.

(d) The original subpena bearing a certificate of service shall be filed with the issuing official.

(e) A witness to whom a subpena has been issued pursuant to this section shall be paid the same fees and mileage as are paid witnesses in district courts of the United States. The witness fees and mileage shall be paid by the party at whose instance the subpena was issued.

§ 153.9 Request for subpena.

(a) The Council may issue a subpena, at the request of a party at interest (or otherwise), in accordance with section 206 of the Act. The Council will not issue a subpena to a party at interest for use by the party. A request for a subpena may be filed with the Council by a party at interest in connection with any proceeding under this part. The party at interest filing such a request shall serve a copy of the request (including any supporting documentation) upon any other party at interest, and upon any person (whether or not a party at interest) to whom the subpena is to be directed.

(b) A request for subpena must include:

(1) The names of the parties to the proceeding, the number of employees in the unit, and the case number if available;

(2) A specific description of the papers, books, documents, or other data to be produced;

(3) The names and addresses of the officials who are believed to have custody of such documents;

(4) The name or title of any witness requested to appear and a description of the information sought or the testimony to be given by such witness;

(5) A certification that a written request for the same information has been served on the person or persons to whom the subpena is to be directed and that such request was denied or that 10 days have elapsed from service of such request without receipt of the requested information;

(6) A statement setting forth in detail the relevance of the information sought to the particular proceeding, with specific references to Council regulations;

(7) Argument supporting the reasonable scope of the information sought as it relates to the particular proceeding; and

(8) A prima facie showing that the information to be obtained will support the position of the party at interest requesting the subpena.

(c) A request for subpena shall be accompanied by a certification that a copy of such request has been served upon the persons referred to in paragraph (a) of this section.

(d) A request for a subpena shall be filed as early in the applicable proceeding before the Cost of Living Council as is feasible, but not later than 30 days after commencement of the proceeding before the Council. For purposes of the preceding sentence, a proceeding (e.g., an application for approval or exception, a party at interest pay challenge, etc.) shall be deemed to have commenced before the Council upon receipt by the Council of the document requiring action, or, in the case of Council-initiated challenge, upon service by the Council on the parties at interest of a notification of such challenge. Failure to file a request for a subpena within 30 days of the commencement of a proceeding may result in denial of the request for subpena. Notwithstanding the preceding sentence, the Council in its discretion, may grant an extension of time to request a subpena upon a showing of good cause.

§ 153.10 Motion to quash issuance of subpena.

Any person who would be adversely affected if the request for subpena were granted may, within 14 days of the filing of the request, file a motion with the Council to limit the scope of such subpena or to quash its issuance.

§ 153.11 Disclosure of information; request for confidentiality.

(a) In the absence of the filing of a request for confidentiality, described in paragraph (b) of this section, or if the Council determines that no serious injury would result from disclosure, the Council may release any document or other information described in paragraph (c) of this section to a party at interest requesting it, provided that the Council determines that the information is relevant in a proceeding before the Council. If a request for confidentiality is submitted and the Council determines that the information is, in fact, confidential, disclosure may still be made in accordance with means specially designed, on a case-by-case basis, to protect the positions of all parties.

(b) Any person submitting a document to the Council may simultaneously file a request for confidentiality setting forth the adverse consequences of disclosure of such document to a party at interest. Such a request should include—

(1) A specific description of those items in the document which are believed to merit confidential treatment;

(2) Reasons for such belief;

(3) A description of those persons who already have knowledge of the information claimed to be confidential; and

(4) A description of the damage that would result from disclosure.

(c) Any document or other information submitted to the Council by a party at interest on or after [date of publication in F.R.] is subject to the provisions of this section, including any document with respect to a reporting or prenotification requirement under this title, an application for approval, a request for interpretation, exception or exemption, a pay challenge, a request for review, or any document submitted at the request of the Council or in response to a subpena by the Council.

§ 153.12 Consolidations.

Upon the initiative of the Council, or in response to a party's motion, two or more applications for approval or exception, pay challenges or other cases which involve substantially the same parties or issues which are closely related, may be consolidated if it is found that such consolidation will expedite the proceedings.

§ 153.13 Where to file.

Documents submitted to the Council under Part 152 of this chapter shall be filed in accordance with the provisions of § 152.5 of this chapter, if applicable, and shall be sent, as appropriate, to the following addresses:

(a) Submissions with respect to pay adjustments affecting employees in the food industry—Office of Wage Stabilization, P.O. Box 6185, Washington, D.C. 20044.

(b) Submissions with respect to pay adjustments affecting employees in the health services industry—Office of Wage Stabilization, P.O. Box 472, Washington, D.C. 20044.

(c) Submissions with respect to pay adjustments affecting employees in the construction industry—Office of Wage Stabilization, P.O. Box 992, Washington, D.C. 20044.

(d) Submissions with respect to executive and variable compensation (and executive control groups)—Office of Wage Stabilization, P.O. Box 983, Washington, D.C. 20044.

(e) Submissions with respect to pay adjustments affecting employees in State or local government—Office of Wage Stabilization, P.O. Box 6194, Washington, D.C. 20044.

(f) Submissions with respect to pay adjustments affecting employees in the self-administered industries—Office of Wage Stabilization, P.O. Box 672, Washington, D.C. 20044.

(g) Submissions with respect to § 152.4 (pay adjustments subsequent to reduction in wages or salaries)—Office of Wage Stabilization, P.O. Box 672, Washington, D.C. 20044.

(h) Submissions with respect to requests for interpretation—Office of General Council, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

§ 153.14 Special proceedings.

(a) When any report submitted in connection with § 152.6 of this chapter or otherwise, or any audit or investigation discloses, or the Council otherwise discovers that an employer appears to have failed to make proper designations of appropriate employee units, classifications, or similar matters, the Council may begin special proceedings by issuing a notice of examination with respect to the subject designations, classifications or similar matters. In addition, the Council may issue a notice of challenge with respect to any or all pay adjustments which may be involved, and consolidate the proceedings.

(b) Proceedings to challenge pay adjustments under this section, whether involving sectors subject to mandatory controls or sectors subject to self-administered controls, will be conducted in the same manner and under the same procedures as are contained in §§ 152.51 through 152.58 of this chapter.

§ 153.15 Reopening decisions and orders.

Final administrative action by the Council creates a presumption of finality on which employers and employees may ordinarily rely. However, in rare circumstances, the Council may reopen a final administrative action for the purpose of correcting its own errors, curing a failure of notice or opportunity to participate by parties so entitled, or to exercise its continuing jurisdiction over wages and salaries because of changed conditions, equitable considerations, or the maintenance of historical relationships.

Subpart B—Applications for Approval

§ 153.21 Purpose and scope.

(a) The purpose of this subpart is to establish procedures for initial action by the Council on applications for approval, prenotifications, requests for exception, or any other filing with respect to a proposed pay adjustment for which prior approval is required by this title.

(b) Applications for approval under this subpart shall be filed in accordance with § 152.5 of this chapter and with § 153.13 unless the Council directs otherwise.

(c) Initial actions on applications for approval may be made by the Director of

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the Council or his delegate. In addition, the Council may prescribe by further regulation, order, or otherwise for further delegations under this subpart.

§ 153.22 Initial action by the Council.

(a) The Council will render its decision on the record which will consist of the application for approval, any written submissions by the parties at interest, and any information developed by the Council. However, if any oral presentation or hearing is conducted in accordance with § 153.23 or Subpart J of this part, or if the Council, in its discretion, otherwise allows an oral presentation or hearing, the record may also contain an account of such oral presentation or hearing in the form of a report, minutes, or transcript.

(b) After considering the record, the Council will either—

(1) Approve the application in full and issue a decision and order, or

(2) Issue a proposed partial approval of the application in the form of an interim decision and order.

(c) If the Council approves the application in full, it will—

(1) Serve upon the applicant and other parties to the proceedings a copy of its decision and order, and

(2) Allow any person aggrieved to request review of the Council's action pursuant to subpart G of this part.

(d) If the Council proposes to approve partially the application, it will serve upon the applicant and other parties to the proceedings a copy of—

(1) The interim decision and order.

(2) A notice of opportunity for an oral presentation or hearing, and

(3) A notice of the options available to them and explanation thereof.

(e) The options referred to in paragraph (d)(3) of this section will include—

(1) Accepting the interim decision and order,

(2) Not accepting the interim decision and order, submitting additional information and requesting an oral presentation or hearing, and

(3) Not accepting the interim decision and order, submitting additional information and not requesting an oral presentation or hearing.

(f) If the interim decision and order is accepted or if no response is received by the 21st calendar day after issuance of the notice of options, the parties at interest will be deemed to have waived the opportunity to request an oral presentation or hearing, to submit additional information, or to request review, and the interim decision and order will automatically and immediately become the final administrative action of the Council without the necessity for further service on the applicant or other parties to the proceedings.

(g) If the interim decision and order is not accepted, the Council will consider the record, including any additional information submitted in writing or by oral presentation or hearing (see § 153.23). The Council will then—

(1) Serve upon the applicant and other parties to the proceedings a copy of its decision and order, and

(2) Allow any person aggrieved to request review of the Council's action pursuant to subpart G of this part.

§ 153.23 Oral presentations and hearings.

(a) If the Council determines that an oral presentation or hearing is required or appropriate, it will direct that an oral presentation or hearing be held before the Council, its delegate, a tripartite industry wage and salary committee, panel, or a Hearing Officer. If the Council determines that a public presentation or hearing is required, those proceedings will be conducted under subpart J of this part, not under this section.

(b) The Council will notify the parties to the proceedings, in writing, of the time and place of the oral presentation or hearing.

(c) If unrepresented employees request to participate in an oral presentation or hearing, the Council may limit participation to that number of employees reasonably required to give the Council the information it needs in reaching its decision and to fairly represent the interests of the employees. Any unrepresented employees not allowed to participate in an oral presentation or hearing may nevertheless submit written arguments on the issues involved.

(d) The applicant and other parties, as appropriate, may present oral argument and submit such additional documentary evidence as the Council, its delegate, a tripartite industry wage and salary committee, panel, or Hearing Officer deems necessary to fully disclose the position of the party or parties.

(e) Unless the Council directs otherwise, within 30 days after the close of the presentation or hearing, the Hearing Officer, if one is used, will submit a report to the Council, and a recommendation with respect to the disposition of the case.

(f) Unless the Council directs otherwise, the person or committee presiding over a presentation or hearing will have the same powers given a presiding officer under subpart J of this part, except that such person or committee may not issue subpenas or orders unless that power is specifically provided for by competent authority.

§ 153.24 Requests for review.

Any person aggrieved by an initial action of the Council under this subpart may request review pursuant to subpart G of this part. The Council will not consider that a person appearing before the Council has exhausted his administrative remedies until he has filed a request for review under subpart G and final action has been taken thereunder by the Council.

Subpart C—Requests for Interpretation

§ 153.31 Purpose and scope.

(a) The purpose of this subpart is to establish procedures for initial action by the Council on requests for interpretation.

(b) Each request for an interpretation must be submitted in writing to the Office of General Counsel and contain—

(1) A complete statement of all relevant facts,

(2) The names, addresses and telephone numbers of all parties at interest (except that the names and addresses of unrepresented employees are not required),

(3) A statement as to whether a previous request for interpretation has been made to a stabilization agency on the same subject matter by the applicant or his representative and the disposition of any such request,

(4) A statement as to whether an application for approval, request for exception, prenotification, report, pay challenge, or request for exemption has been filed, or whether a notice of probable violation has issued, with respect to the same subject matter,

(5) A statement of the applicant's contentions, grounds therefor, and relevant authorities in support of his view, and

(6) A statement of the applicant's view as to the effect of Council regulations and guidelines even if he is urging no particular interpretation.

(c) An employer or employer association filing any document with respect to a request for interpretation shall at the same time serve copies of each such document on the collective bargaining agent, if any, of the affected employee unit. If a request for interpretation or any document relating thereto is filed by a collective bargaining agent for employees, such collective bargaining agent must at the same time serve copies on the affected employer or employer association. A certificate of service shall accompany all such documents filed with the Council.

(d) Advisory opinions with respect to permissible levels for wage and salary increases will not be given.

(e) Requests for interpretation under this subpart shall be filed in accordance with paragraphs (b), (c) and (d) of this section and § 153.13 unless the Council directs otherwise.

(f) Initial actions on requests for interpretation may be made by the General Counsel for the Council, or his delegate.

§ 153.32 Initial action by the Council.

After considering a request for interpretation, filed in accordance with § 153.31, and the comments or arguments, if any, of other parties at interest, the Council will—

(a) Render its interpretation,

(b) Serve upon the applicant and other parties to the proceedings a copy of such interpretation, and

(c) Allow any person aggrieved who was also a party to the proceedings to request review pursuant to subpart G of this part.

§ 153.33 Request for review.

Any person aggrieved by an initial action of the Council who was also a party to the proceedings under this subpart may request review pursuant to subpart G of this part. The Council will not consider that a person appearing before the Council has exhausted his administrative remedies until he has filed a request for review under subpart G and final action has been taken thereunder by the Council.

Subpart D—Challenges

§ 153.41 Purpose and scope.

(a) The purpose of this subpart is to establish procedures for pay challenges and initial actions by the Council with respect to such challenges in sectors subject to mandatory controls (see Subparts H, I, J and K of Part 152 of this chapter) and sectors subject to self-administered controls (see, Subparts B, F and K of Part 152 of this chapter).

(b) In a sector subject to mandatory controls, a pay challenge may be issued by the Council or filed by a party at interest. A pay challenge by a party at interest shall be filed in accordance with § 152.5 of this chapter and with §§ 153.13 and 153.51. In a sector subject to self-administered controls a pay challenge may only be issued by the Council.

(c) Initial actions with respect to pay challenges may be made by the Director of the Council or his delegate. In addition, the Council may prescribe by further regulation, order, or otherwise for further delegations under this subpart.

MANDATORY SECTOR PAY CHALLENGES

§ 153.51 Scope.

(a) In a sector subject to mandatory controls, employment contracts which existed prior to November 14, 1971 are allowed to operate according to their terms. However, any such specific contract when challenged by a party at interest or by the Council is subject to review to determine whether any wage and salary increase granted pursuant to such contract is unreasonably inconsistent with the standard or exceptions thereto as set forth in the rules and regulations of the Pay Board in effect on January 10, 1973 (see, subpart B of Part 201 of this title):

(b) Employment contracts described in paragraph (a) of this section may be challenged pursuant to subparts H (Food Industry), I (Providers of Health Care), J (Construction Industry), or K (Executive and Variable Compensation) of Part 152 of this chapter.

(c) Each pay challenge by a party at interest must be clearly designated as such, be submitted in writing in accordance with § 152.5 of this chapter and with § 153.13, and contain—

(1) A complete statement of all relevant facts,

(2) The name and address of the other party at interest,

(3) A statement as to whether a previous filing has been made with respect to the same pay adjustment together with a copy of such filing, and

(4) A statement of the challenger's contentions, grounds therefor, and relevant authorities in support of his view that the pay adjustment is unreasonably inconsistent with the standard or exceptions thereto described in paragraph (a) of this section.

§ 153.52 Initial action by the Council.

(a) The Council will render its decision on the record which will consist of the pay challenge, any written submissions by the parties at interest, and any information developed by the Council. However, if any oral presentation or hearing is conducted in accordance with § 153.53, subpart J of this part, or if the Council, in its discretion, otherwise allows an oral presentation or hearing, the record may also contain an account of such oral presentation or hearing in the form of a report, minutes, or transcript.

(b) After considering the record, the Council will either—

(1) Approve the pay adjustment in full and issue a decision and order,

(2) Dismiss the pay challenge and issue a decision and order, or

(3) Issue a proposed partial approval of the pay adjustment in the form of an interim decision and order.

(c) If the Council approves the pay adjustment in full, it will—

(1) Serve upon the parties to the proceedings a copy of its decision and order, and

(2) Allow any person aggrieved to request review of the Council's action pursuant to subpart G of this part.

(d) If the Council proposes to approve partially the pay adjustment, it will serve upon the parties to the proceedings a copy of—

(1) The interim decision and order,

(2) A notice of opportunity for an oral presentation or hearing, and

(3) A notice of the options available to them and explanation thereof.

(e) The options referred to in paragraph (d)(3) of this section will include.

(1) Accepting the interim decision and order.

(2) Not accepting the interim decision and order, submitting additional information and requesting an oral presentation or hearing, and

(3) Not accepting the interim decision and order, submitting additional information and not requesting an oral presentation or hearing.

(f) If the interim decision and order is accepted or if no response is received by the 21st calendar day after issuance of the notice of options, the parties at interest will be deemed to have waived the opportunity to request an oral presentation or hearing, to submit additional information, or to request review, and the interim decision and order will automatically and immediately become the final administrative action of the Council without the necessity for further service on the parties to the proceedings.

(g) If the interim decision and order is not accepted, the Council will consider the record, including any additional information submitted in writing or by oral presentation or hearing (see § 153.53). The Council will then—

(1) Serve upon the parties to the proceedings a copy of its decision and order, and

(2) Allow any person aggrieved to request review of the Council's action pursuant to Subpart G of this part.

§ 153.53 Oral presentations and hearings.

(a) If the Council determines that an oral presentation or hearing is required or appropriate, it will direct that an oral presentation or hearing be held before the Council, its delegate, a tri-partite industry wage and salary committee, panel, or a Hearing Officer. If the Council determines that a public presentation or hearing is required, those proceedings will be conducted under Subpart J of this part and not this section.

(b) The Council will notify the parties to the proceedings, in writing, of the time and place of the oral presentation or hearing.

(c) In unrepresented employees request to participate in an oral presentation or hearing, the Council may limit participation to that number of employees reasonably required to give the Council the information it needs in reaching its decision and to represent fairly the interests of the employees. Any unrepresented employees not allowed to participate in an oral presentation or hearing may nevertheless submit written arguments on the issues involved.

(d) The parties to the proceedings may present oral argument and submit such additional documentary evidence as the Council, its delegate, a tri-partite industry wage and salary committee, panel, or Hearing Officer deems necessary to fully disclose the position of the party or parties.

(e) Unless the Council directs otherwise, within 30 days after the close of the presentation or hearing, the Hearing Officer, if one is used, will submit a report to the Council, and a recommendation with respect to the disposition of the case.

(f) Unless the Council directs otherwise, the person or committee presiding over a presentation or hearing will have the same powers given a presiding officer under Subpart J of this part, except that such person or committee may not issue subpenas or orders unless that power is specifically provided for by competent authority.

§ 153.54 Requests for review.

Any person aggrieved by an initial action of the Council under this subpart may request review pursuant to Subpart G of this part. The Council will not consider that a person appearing before the Council has exhausted his administrative remedies until he has filed a request for review under Subpart G and final action has been taken thereunder by the Council.

SELF ADMINISTERED SECTOR PAY CHALLENGES

§ 153.61 Scope.

(a) In the sectors subject to self-administered controls, no wage or salary increase should be placed into effect

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which is unreasonably inconsistent with the standard or goals of the Economic Stabilization Program.

(b) When any report required by this chapter or any audit or investigation discloses, or the Council otherwise discovers, that a person appears to have implemented or is about to implement a wage or salary increase which is unreasonably inconsistent with the general pay standard set forth in § 152.13 of this chapter or the goals of the Economic Stabilization Program, the Council may conduct proceedings to challenge such conduct and issue appropriate orders in accordance with the provisions of §§ 153.61 through 153.64.

(c) The Council will begin proceedings under this subpart by issuing a notice of challenge to the person involved stating that the Council has reason to believe that conduct which is unreasonably inconsistent with the standards set forth in this chapter has occurred or is about to occur.

§ 153.62 General.

The procedural regulations contained in §§ 152.51 through 152.58 of this chapter (relating to pay challenges in the sectors subject to self-administered controls) are herewith adopted.

§ 153.63 Personal appearances.

(a) If a person to whom a notice of challenge has been issued requests a personal appearance, the Council will direct that an oral presentation or hearing be held before the Council, its delegate, or a Hearing Officer. If the Council determines that a public presentation or hearing is required, those proceedings will be conducted under Subpart J of this part and not this section.

(b) The Council will notify the parties to the proceedings, in writing, of the time and place of the oral presentation or hearing.

(c) If unrepresented employees request to participate in an oral presentation or hearing, the Council may limit participation to that number of employees reasonably required to give the Council the information it needs in reaching its decision and to represent fairly the interests of the employees. Any unrepresented employees not allowed to participate in an oral presentation or hearing may nevertheless submit written arguments on the issues involved.

(d) The parties to the proceedings may present oral argument and submit such additional documentary evidence as the Council, its delegate, or Hearing Officer deems necessary to fully disclose the position of the party or parties.

(e) Unless the Council directs otherwise, within 30 days after the close of the presentation or hearing, the Hearing Officer, if one is used, will submit a report to the Council, and a recommendation with respect to the disposition of the case.

(f) Unless the Council directs otherwise, the person presiding over a presentation or hearing will have the same powers given a presiding officer under Subpart J of this part, except that he may not issue subpenas or orders unless that power is specifically provided for by competent authority.

§ 153.64 Requests for modification or rescission.

Any person aggrieved by an order of the Council issued under § 152.57 of this chapter may request modification or rescission of that order in accordance with § 152.58 of this chapter. A request for review under Subpart G of this part is inappropriate.

Subpart E—Requests for Exemption

§ 153.71 Purpose and scope.

(a) All requests for pay exemption must be filed with the Office of Wage Stabilization, Cost of Living Council, 2025 M Street NW., Washington, D.C. 20508.

(b) This subpart establishes the rules of practice of the Council governing initial action on requests for pay exemption.

(c) Notwithstanding the provisions of this subpart, the Council may, on its own motion or in connection with a request for price exemption, issue a pay exemption.

§ 153.72 Initial action by Council.

After considering the request, the Council may—

(a) If it grants the exemption,

(1) Publish a regulation describing the exemption and any conditions which apply thereto, or

(2) Serve upon the applicant a copy of its order; or

(b) If it denies the exemption, in whole or in part, serve upon the applicant a copy of its order, which will contain a statement of the grounds for denial, and advise the applicant that he may request review pursuant to Subpart G of this part.

§ 153.73 Requests for review.

Any person aggrieved by an order of the Council under this subpart may request review pursuant to Subpart G of this part. The Council will not consider that a person appearing before the Council has exhausted his administrative remedies until he has filed a request for review under Subpart G and final action has been taken thereunder by the Council.

Subpart F—Notices of Probable Violation; Remedial Orders

§ 153.81 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations and the procedures for the issuance of remedial orders.

(b) A "remedial order" is an order requiring a person to cease a violation or to take action to eliminate or to compensate for the effects of a violation, or both, or which imposes other sanctions.

(c) The Council may seek an injunction or other relief provided for in § 152.154 of this chapter without complying with the procedures contained in this subpart.

(d) A violation under the provisions of Part 152 of this chapter or subpart A of this part begins when committed and not when a remedial order is issued under this subpart. Failure to comply with a remedial order is a separate violation.

§ 153.82 General.

When any report required by the Council or any audit or investigation discloses, or the Council otherwise discovers, that a person appears to be in violation of the Act or any regulation in this title, the Council may conduct proceedings to determine the nature and extent of the violations and issue remedial orders. The Council may commence proceedings by serving a notice of probable violation or by issuing a remedial order.

§ 153.83 Issuance of notice of probable violation to begin proceedings.

The Council may begin proceedings under this subpart by issuing a notice of probable violation if the Council has reason to believe that a violation has occurred or is about to occur.

§ 153.84 Issuance of remedial orders to begin proceedings in unusual circumstances.

Remedial orders may be issued to begin proceedings under this subpart if the Council finds on preliminary examination that the violations are patent or repetitive, that their immediate cessation is required to avoid irreparable injury to others or unjust enrichment to the person to whom the order is issued, or for any other unusual circumstance the Council deems sufficient.

§ 153.85 Reply.

(a) Within 10 days of receipt of a notice of probable violation issued under § 153.83 or a remedial order issued under § 153.84, the person to whom the notice or order is issue may file a reply. The reply must be in writing. Such person may also request an appointment for a personal appearance, which must be held within the 10-day period provided for reply. He may be represented or accompanied by counsel at the personal appearance. The Council will extend the 10-day reply period for good cause shown.

(b) If a person does not reply within the time allowed by a notice of probable violation, the violation will be considered admitted as alleged and the Council may issue whatever remedial order would be appropriate.

(c) If a person has not replied to the Council within the 10-day period provided and a remedial order has been issued to begin proceedings, the order will go into effect or remain in effect, in accordance with its terms as the case may be.

(d) An order which goes into effect or is permitted to remain in effect under paragraph (c) of this section or an order issued under paragraph (b) of this section is not subject to judicial or any other review with respect to any finding of fact or conclusion of law which could

have been raised in the proceedings before the Council by the filing of a reply.

§ 153.86 Order.

(a) If the Council finds, after the person has filed a reply under § 153.85, that no violation has occurred or is about to occur or that for any other reason the issuance of a remedial order would not be appropriate, it will issue an order so stating and, if necessary, revoke or modify any remedial order which already may be outstanding.

(b) If the Council finds that a violation has occurred or is about to occur and that a remedial order is appropriate, it will issue an order so stating and, if necessary, direct remedial action, vacate the suspension of any outstanding remedial order, or modify as appropriate, any outstanding remedial order. The order will state the grounds upon which it is based.

§ 153.87 Requests for review.

Any person aggrieved by an initial action of the Council under this subpart may request review pursuant to subpart G of this part. Requests for review of an order under this subpart will be accorded expedited treatment by the Council. The Council will not consider that a person appearing before the Council has exhausted his administrative remedies until he has filed a request for review under subpart G and final action has been taken thereunder by the Council.

Subpart G—Requests for Review

§ 153.101 Purpose and scope.

(a) Except as otherwise provided, this subpart establishes the procedures governing review of initial actions taken under Subparts B, C, D, E, and F of this part.

(b) Unless otherwise provided, the Council will not consider that a person who has appeared before the Council in connection with a matter arising under Subpart B, C, D, E, or F has exhausted his administrative remedies until he has filed a request for review under this subpart and final action thereon has been taken by the Council.

§ 153.102 Who may request review.

Unless otherwise provided, any person aggrieved by an initial action of the Council under Subpart B, C, D, E, or F of this part may request review hereunder.

§ 153.103 Where to file.

A request for review shall be filed with the Council official who issued the initial action or decision from which review is sought.

§ 153.104 When to file.

A request for review must be filed within 14 days of service of the initial action or decision from which review is sought.

§ 153.105 Contents of request.

(a) A request for review shall—

(1) Be in writing and signed by the appellant;

(2) Be designated clearly as a request for review;

(3) Contain a concise statement of the grounds for review and the requested relief;

(4) Be accompanied by briefs, if any;

(5) Be marked on the outside of the envelope—"Review"; and

(6) Be served on the parties at interest in accordance with § 153.4.

(b) If the request for review is from an order issued under § 153.86 and involves an outstanding remedial order, the envelope should be marked "Review—Outstanding Remedial Order."

§ 153.106 Review by Council.

(a) The Council will review its initial action if the request for review makes a prima facie showing that—

(1) The initial action was erroneous in fact or in law, or

(2) Such initial action appears to be otherwise inequitable.

(b) If the Council determines that the request for review failed to make a prima facie showing, the Council may summarily reject the request for review, notify the applicant and other parties at interest of its action, and advise the applicant that he has exhausted his administrative remedies and that he may seek judicial review under the Act.

(c) If the Council determines that the request for review has made a prima facie showing, it will proceed in accordance with the provisions of §§ 153.107 and 153.108.

§ 153.107 Informal hearings.

(a) If the Council in its discretion deems that a hearing or presentation is advisable, it may direct that an informal hearing or presentation be held before the Council, its delegate, or a Hearing Officer.

(b) The Council will notify the parties at interest and other parties, as appropriate, in writing, of the time and place of the hearing.

(c) The appellant and other parties, as appropriate, may present oral argument and submit such additional documentary evidence as the Hearing Officer, the Council, or its delegate deems necessary to fully disclose the position of the party or parties.

(d) If a Hearing Officer is used, he will conduct the hearing as expeditiously as possible in accordance with instructions received from the Council.

(e) Within 30 days after the close of the hearing, the Hearing Officer, if one is used, will submit a report to the Council, and, when the Council so directs, a recommendation with respect to the disposition of the case.

§ 153.108 Decision by Council.

(a) The Council will issue a decision in writing and direct it and an appropriate order to the person requesting review.

(b) A copy of the decision and order will be served upon the parties to the proceedings.

(c) If the decision denies the relief requested by any person aggrieved, in whole or in part, the decision will contain a statement of the grounds for denial unless the denial is self-explanatory or is affirming a prior denial.

(d) Any person aggrieved may seek judicial review under the Act if the decision denies the relief requested.

Subpart H—Petition and Comment on Rulemaking

§ 153.121 Purpose and Scope.

(a) The provisions of 5 U.S.C. 553 will be followed for the issuance of all regulations or amendments to regulations by the Council, to the extent such provisions apply.

(b) In addition, the Council will accept from interested persons written comments on or written objections to its regulations or its published rulings at any time. If in the opinion of the Council such comments or objections warrant a proceeding similar to a rule making proceeding as provided by 5 U.S.C. 553, the Council will conduct such a proceeding pursuant to notice published in the FEDERAL REGISTER.

§ 153.122 Who may file.

Any interested person may file a comment on or objection to a regulation or published ruling at any time.

§ 153.123 Where to file.

A written comment or objection to a regulation or published ruling shall be filed with the Office of General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

Subpart I—Published Rulings

§ 153.131 Rulings for publication.

(a) From time to time, the General Counsel of the Cost of Living Council will issue rulings for publication in the Federal Register which are:

(1) Of general applicability,

(2) Illustrative of a general principle, or

(3) Of assistance to the public in applying the Act, regulations and guidelines to a specific situation.

(b) Unless otherwise provided, a published ruling, being explanatory in nature, relates back to the effective date of the regulations or guidelines it explains. However, if prior to issuance of the ruling, a person changed a practice previously followed in good faith reliance upon and in accordance with the presumed intent of the regulations, the Council will, in the course of determining whether that person has violated the regulations, take into account the extent to which that person could reasonably be deemed to have prior notice of the interpretation contained in the ruling.

Subpart J—Public Hearings

§ 153.141 Purpose and scope.

(a) To the maximum extent possible, the Council will conduct formal hearings or presentations for the purpose of hearing arguments or acquiring information bearing on wage and salary increases or proposed wage or salary increases if such increases or proposed increases have or

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may have a significantly large impact upon the national economy.

(b) A formal hearing held pursuant to this subpart will be open to the public, but such hearings may be closed to the public for the purpose of receiving information considered to be confidential under section 205 of the Act.

§ 153.142 Appointment of Presiding Officer.

If a public hearing is directed by the Council in accordance with § 153.141, a Hearing Officer may be appointed by the Council to preside over such hearing. In the absence of the appointment of a Hearing Officer, the General Counsel or his delegate will preside over the hearing.

§ 153.143 Notice of hearing.

At the Council's discretion, notice will be published in the Federal Register of the nature, date, and time of the hearing and of the appointment of the Hearing Officer if appropriate. Thereafter, all documents and other papers shall be filed with the Hearing Officer, or in the absence of the appointment of a Hearing Officer, with the Executive Secretary of the Council.

§ 153.144 Powers and duties of the Presiding Officer.

(a) In addition to any other powers specified in this part, the presiding officer shall have the power:

(1) To administer oaths and affirmations;

(2) To examine or cross-examine witnesses;

(3) To issue subpenas authorized by the Act;

(4) To rule upon offers of proof and receive evidence;

(5) To regulate the course and conduct of the hearing, including—

(i) Continuing the hearing from day to day or adjourning it to a later date or different place by announcement thereof at the hearing or by other appropriate notice;

(ii) Taking official notice of any material fact not appearing in evidence in the record;

(iii) Excluding from the hearing persons who engaged in misconduct; and

(iv) Striking all related testimony of a witness who refuses to answer questions ruled to be proper;

(6) To rule on motions and to dispose of procedural requests or similar matters; and

(7) To issue recommendations and prepare orders.

(b) The presiding officer will conduct the hearing as expeditiously as possible, in accordance with instructions received from the Director or his delegate in each individual case. If a Hearing Officer is appointed as the presiding officer, he will, within 30 days after the close of the hearing, transmit the record of the hearing together with his recommendations and proposed order, if any, to the Director or other deciding official.

(c) The Hearing Officer's authority in each case will terminate upon transmitting the record of the hearing and his recommendation and proposed order, if any, to the deciding official.

§ 153.145 Record.

(a) The record of a public hearing will consist of an account of the proceedings of such hearing and all documents and exhibits submitted during the course of such hearing.

(b) The Council will determine whether the account of the hearing shall be in the form of a report, minutes or transcript. If the hearing is conducted by a Hearing Officer, such determinations will be part of the instructions given to such Officer pursuant to § 153.144(b).

(c) Copies of the account of the hearing may be obtained by any party upon payment of the fees fixed therefor, if any.

[FR Doc.74-10576 Filed 5-3-74;3:44 pm]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 80]

REGULATION OF FUELS AND FUEL ADDITIVES

Availability of Unleaded Gasoline

Regulations were promulgated on January 10, 1973, by the Environmental Protection Agency to require gasoline retail outlets to offer unleaded gasoline for sale in order to protect catalytic emission control systems on a substantial number of 1975 model year light duty motor vehicles. (38 FR 1254). These regulations obligated every owner or operator of a retail outlet at which 200,000 or more gallons of gasoline were sold during any calendar year beginning with the 1971 calendar year to offer for sale one grade of unleaded gasoline after July 1, 1974. In addition, every owner or operator of six or more retail outlets were required to offer for sale at least one grade of unleaded gasoline at no fewer than 60 percent of such outlets after July 1, 1974. On October 12, 1973, it was proposed that the regulations be amended to delete the provision which required owners or operators of chains of six or more outlets to sell unleaded gasoline in at least 60 percent of these outlets (38 FR 28301). This FEDERAL REGISTER contains the promulgation of the deletion of this provision.

An extensive analysis has been made to assess the adequacy of the remaining general availability provision that all outlets which sell 200,000 or more gallons of gasoline annually be required to carry unleaded gasoline. The results of this analysis indicate this requirement will provide general accessibility of unleaded fuel in cities and all counties except those most sparsely populated. It is estimated that the average ratio of unleaded gasoline stations to total stations will vary from 1 of 1.4 stations (70%) to 1 of 2.2 (45%) throughout most of the nation under the 200,000 gallon rule, except in counties which have a population density of under 50 persons/square mile. In these counties, only 1 of each 3.4 stations (29%) will be required to carry unleaded gasoline. Since stations are usually more widely dispersed in rural counties than in urban areas, 29 percent coverage may provide an insufficient availability of stations selling unleaded gasoline. This proposed amendment is directed at rectifying this situation by increasing the coverage in the low population density counties.

It is proposed that after January 1, 1975 an owner or operator of a retail outlet located in a county containing a population density less than 50 persons per square mile must offer unleaded gasoline at outlets which sold at least 150,000 gallons of gasoline in 1971 or later. The calculation of county population density excludes cities containing populations equal to or greater than 50,000 persons. A list of counties included in this category appears in the accompanying appendix.

Under the 200,000 gallon per year rule, about 111,000 gasoline stations are required to offer for sale unleaded gasoline. It is estimated that the inclusion of outlets selling 150,000 or more gallons in these sparsely populated counties will add approximately 10,000 more stations to those carrying the product. The average ratio of unleaded stations to total stations will be increased to 1 of every 2.1 stations or 48 percent. The Agency believes that this coverage will generally be adequate to assure the availability of unleaded fuel necessary for use in vehicles equipped with catalysts in most cities and counties.

A review of the data available to the Agency indicates that a maximum of 41 counties may have no gasoline stations and 95 counties may have as few as 1 station which will be required to offer unleaded gasoline for sale. However, due to the growth in gallonage volume pumped per station since much of the data were accumulated and the indications that some petroleum companies will sell unleaded gasoline at stations which are not covered by these regulations, we believe that considerably fewer counties will not have unleaded gasoline available. Nevertheless, even if all of these 136 counties were without a lead-free station, there are only 233,000 vehicles registered in these counties or 0.2 percent of the total United States vehicle population. If by the end of the 1975 model year 10 percent of these 233,000 vehicles required unleaded gasoline, less than 24,000 or 0.034 percent of all vehicles would be adversely affected. For the reasons mentioned, however, it is believed that a significant portion of this small vehicle population will, in fact, be serviced by unleaded outlets. EPA will continue to encourage the petroleum industry to increase the coverage of outlets selling unleaded gasoline in these counties.

The following list indicates those counties which may contain no retail outlets offering unleaded gasoline for sale.

State and County

Arkansas—Newton.
Colorado—Gilpin, Hinsdale.
Florida—Lafayette.
Georgia—Banks, Chattahoochee, Echols, Glascock, Taliaferro.
Idaho—Camas.
Illinois—Polk.
Kansas—Elk.
Kentucky—Menifee.
Mississippi—Issaquena.
Nebraska—Arthur, Banner, Garfield.
Nevada—Story.
New Mexico—Mora.
North Dakota—Sheridan, Slope.
South Dakota—Campbell, Hanson, McPherson, Mellette, Washabaugh, Ziebach.
Tennessee—Stewart, Van Buren.
Texas—Borden, Glasscock, Jeff Davis, Kenedy, Kent, Loving, McMullen.
Virginia—Bland, Charles City, Craig, King and Queen.
Wisconsin—Menominee.

The regulations, as promulgated, are directed to the availability and quality of unleaded gasoline which is offered for sale to the public. They do not now apply to public or private operators of vehicle fleets which are serviced from an outlet that does not sell to the public. A considerable number of vehicles are controlled and operated by private corporations (including rental and company fleets) and governmental entities, and the impairment of the emission control system of those vehicles that require unleaded gasoline could detrimentally affect air quality. The Agency believes that owners and operators of vehicle fleets should be subject to the provisions of these regulations with the exception of the requirement that they offer unleaded gasoline for sale to the public. This purpose is achieved by a proposed change in the definition of retail outlet to include "any establishment at which gasoline is sold, dispensed, or offered for sale to an ultimate consumer," and by an explicit exception for fleet owners from § 80.22(b).

Interested persons may submit written comments on the proposed amendment, in triplicate, to the Director of Mobile Source Enforcement Division, EG-340, Environmental Protection Agency, Waterside Mall, 401 M Street S.W., Washington, D.C. 20460.

All relevant comments postmarked on or before July 8, 1974 will be considered. Comments will be available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the Office of Public Affairs, Environmental Protection Agency, Waterside Mall, 401 M Street S.W., Room 329C, Washington, D.C. 20460.

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(Secs. 211, 301, Clean Air Act as amended (42 U.S.C. 1857f–6c, 1857g(a).)

Dated: May 1, 1974.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 80 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. In § 80.2, paragraph (j) is revised as follows:

§ 80.2 Definitions.

* * * * *

(j) "Retail outlet" means any establishment at which gasoline is sold, offered for sale, or dispensed to an ultimate consumer.

* * * * *

2. In § 80.22, paragraph (b) is revised as follows:

§ 80.22 Controls applicable to gasoline retailers.

* * * * *

(b) After July 1, 1974, every person who owns, leases, operates, controls or supervises one or more retail outlets with gasoline sales as described in paragraph (b)(1)(i) of this section or with gasoline, sales and location as described in paragraph (1)(ii) of this section shall offer for sale at each such retail outlet at least one grade of unleaded gasoline of not less than 91 Research Octane Number: Provided, however, that the octane number of unleaded gasoline offered for sale in areas where altitude is greater than 2,000 feet may be reduced one (1) octane number for each succeeding 1,000 feet, but not more than three (3) octane numbers in total.

(1) Unleaded gasoline must be offered for sale at each retail outlet:

(i) at which 200,000 or more gallons of gasoline were sold during any calendar year beginning with the year 1971;

(ii) at which 150,000 or more gallons of gasoline were sold during any calendar year beginning with the year 1971, if such retail outlet is located in a county containing a population density of less than 50 persons per square mile according to statistical data from the 1970 census of population, excluding cities containing populations of 50,000 or more persons.

(2) Any retailer may defer compliance with paragraph (b)(1)(ii) of this section until January 1, 1975. However, if a retailer subject to paragraph (b)(1)(ii) of this section offers for sale unleaded gasoline at such outlet after July 1, 1974, but before January 1, 1975, the retailer shall comply with all applicable provisions of these regulations.

(3) This paragraph shall not be applicable to retail outlets at which gasoline is not sold, offered for sale, or dispensed to the general public.

* * * * *

3. Appendix C is added as follows:

APPENDIX C—LIST OF COUNTIES WITH POPULATION DENSITIES LESS THAN 50 PERSONS PER SQUARE MILE (EXCLUDING CITIES WITH POPULATIONS EQUAL TO OR GREATER THAN 50,000 PERSONS)

State/County	Population[1]
Alabama:	
Autauga	41
Baldwin	38
Barbour	25
Bibb	22
Blount	42
Bullock	19
Butler	28
Cherokee	28
Chilton	36
Choctaw	18
Clarke	22
Clay	21
Cleburne	19
Conecuh	18
Coosa	16
Covington	35
Creshaw	22
Escambia	36
Fayette	26
Franklin	37
Geneva	38
Greene	17
Hale	24
Henry	24
Jackson	36
La Mar	24
Lawrence	40
Lowndes	18
Macon	40
Marengo	24
Marion	32
Monroe	20
Montgomery	46
Perry	21
Pickins	23
Pike	37
Randolph	32
St. Clair	44
Selby	48
Sumter	19
Tallapoosa	48
Tuscaloosa	39
Washington	15
Wilcox	18
Winston	27
Alaska:	
Aleutian Islands	1
Angoon	1
Barrow	1
Bethel	1
Bristol Bay Borough	2
Bristol Bay	1
Cordova-McCarthy	1
Fairbanks	6
Haines	1
Juneau	11
Kenai-Cook Inlet	1
Ketchikan	7
Kobuk	1
Kodiak	2
Kuskokwim	1
Matanuska-Susitna	1
Nome	1
Outer Ketchikan	1
Prince of Wales	1
Seward	1
Sitka	3
Skagway-Yakutat	1
Southeast Fairbanks	1
Upper Yukon	1
Valdez-Chitina-Whittier	1
Wade Hampton	1
Wrangell-Petersburg	1
Yukon-Koyukuk	1
Arizona:	
Apache	3
Cochise	10
Coconino	3
Gila	6
Graham	4
Greenlee	5
Maricopa	22
Mohave	2
Navajo	5
Pima	10
Pinal	13
Santa Cruz	11
Yavapai	5
Yuma	6
Arkansas:	
Arkansas	23
Ashley	27
Baxter	29
Boone	33
Bradley	20
Calhoun	9
Carroll	20
Chicot	28
Clark	25
Clay	29
Cleburne	19
Cleveland	11
Columbia	11
Columbia	34
Conway	30
Crawford	43
Cross	32
Dallas	15
Desha	25
Drew	18
Faulkner	49
Franklin	18
Fulton	13
Grant	15
Greene	43
Hempstead	27
Hot Springs	35
Howard	20
Independence	30
Izard	13
Jackson	33
Jefferson	32
Johnson	20
Lafayette	19
Lawrence	28
Lee	31
Lincoln	23
Little River	23
Logan	23
Lonoke	33
Madison	11
Marion	12
Monroe	26
Montgomery	8
Nevada	16
Newton	7
Quachita	42
Perry	10
Pike	15
Poinsett	35
Polk	15
Pope	35
Prairie	16
Randolph	20
St. Francis	49
Scott	9
Searcy	12
Sebastian	34
Sevier	22
Sharp	14
Stone	11
Union	43
Van Buren	12
White	38
Woodruff	20
Yell	15
California:	
Alpine	1
Amador	20
Calaveras	13
Colusa	11
Del Norte	14
El Dorado	26
Fresno	42
Glenn	13
Humboldt	28
Imperial	18
Inyo	2
Kern	32
Kings	48
Lake	16
Lassen	4
Madera	19
Mariposa	4
Mendocino	15
Modoc	2
Mono	1
Nevada	27
Plumas	5
Riverside	45
San Benito	13
San Bernardino	26
San Luis Obispo	33
Shasta	20
Sierra	2
Siskiyou	5
Tehama	10
Trinity	2
Tulare	39
Tuolumme	10
Colorado:	
Alamosa	16
Archuleta	2
Baca	2
Bent	4
Chaffee	10
Cheyenne	1
Clear Creek	12
Conejos	6
Costilla	3
Crowley	4
Custer	2
Delta	13
Dolores	2
Douglas	10
Eagle	4
Elbert	2
El Paso	48
Fremont	14
Garfield	5
Gilpin	9
Grand	2
Gunnison	2
Hinsdale	1
Huerfano	4
Jackson	1
Kiowa	1
Kit Carson	3
Lake	22
La Plata	11
Larimer	34
Las Animas	3
Lincoln	2
Logan	10
Mesa	16
Mineral	1
Moffat	1
Montezuma	6
Montrose	8
Morgan	16
Otero	19
Ouray	3
Park	1
Phillips	6
Pitkin	6
Prowers	8
Rio Blanco	1
Rio Grande	11
Routt	3
Saguache	1
San Juan	2
San Miguel	2
Sedgwick	6
Summit	4
Teller	6
Washington	2
Weld	22
Yuma	4
Florida:	
Alachua	45
Baker	16
Calhoun	14
Charlotte	39
Citrus	34
Collier	19
Columbia	32
De Soto	20
Dixie	8
Flagler	9
Franklin	13
Gilchrist	10
Glades	5
Gulf	18
Hamilton	15
Hardee	24
Hendry	10
Hernando	35
Highlands	30
Holmes	22
Jackson	37
Jefferson	15
Lafayette	5
Leon	48
Levy	12
Liberty	4
Madison	19
Marion	43
Nassau	32
Okeechobee	14
Osceola	19
Putnam	47
Santa Rosa	37
Sumter	27
Suwannee	28
Taylor	13
Union	34
Wakulla	10
Walton	15
Washington	20
Georgia:	
Appling	25
Atkinson	18
Bacon	28
Baker	11
Banks	30
Berrien	25
Bleckley	47
Brantley	13
Brooks	28
Bryan	15
Bullock	46
Burke	22
Calhoun	23
Camden	17
Candler	26
Charlton	7
Clay	18
Clinch	8
Coffee	37
Crawford	18
Dawson	17
Decatur	39
Dodge	31
Dooly	26
Early	24
Echols	5
McIntosh	17
Macon	32
Madison	48
Marion	14
Meriwether	39
Miller	22

[1] County density (persons per square mile) excluding cities of 50,000 or more.

State/County	Population[1]
Georgia—Con.	
Mitchell	37
Monroe	28
Montgomery	26
Morgan	28
Murray	38
Oconee	43
Oglethorpe	17
Pickens	43
Pierce	27
Pike	32
Pulaski	32
Putnam	25
Quitman	14
Rabun	23
Randolph	20
Schley	19
Screven	19
Seminole	29
Stewart	14
Talbot	17
Taliaferro	12
Tattnall	34
Taylor	20
Telfair	26
Terrell	35
Towns	28
Treutlen	29
Turner	30
Twiggs	23
Union	22
Ware	37
Warren	23
Washington	26
Wayne	28
Webster	12
Wheeler	15
White	32
Wilcox	18
Wilkes	22
Wilkinson	21
Worth	26
Hawaii:	
Hawaii	16
Kauai	48
Maui	39
Idaho:	
Ada	37
Adams	2
Bannock	47
Bear Lake	6
Benewah	8
Bingham	14
Blaine	2
Boise	1
Bonner	9
Bonneville	29
Boundary	4
Butte	1
Camas	1
Caribou	4
Cassia	7
Clark	1
Clearwater	4
Custer	1
Elmore	6
Franklin	11
Fremont	5
Gem	17
Gooding	12
Idaho	2
Jefferson	11
Jerome	17
Kootenai	28
Latah	23
Lembi	1
Lewis	8
Lincoln	3
Madison	28
Minidoka	21
Nez Perce	36
Oneida	2
Owyhee	1
Payette	31
Power	3
Shoshone	8
Teton	5
Twin Falls	21
Valley	1
Washington	5
Illinois:	
Bond	37
Brown	18
Bureau	45
Calhoun	23
Carroll	42
Cass	38
Clark	32
Clay	32
Crawford	45
Cumberland	28
De Witt	43
Douglas	45
Edgar	34
Edwards	32
Fayette	30
Ford	34
Fulton	48
Gallatin	23
Greene	31
Hamilton	20
Hancock	30
Hardin	27
Henderson	22
Iroquis	30
Jasper	22
Jersey	49
Jo Daviess	36
Johnson	22
Lawrence	47
Livingston	39
Marshall	34
Mason	30
Menard	31
Mercer	31
Monroe	49
Montgomery	43
Moultrie	41
Perry	45
Piatt	35
Pike	23
Pope	10
Pulaski	43
Putnam	31
Richland	46
Schuyler	19
Scott	24
Shelby	30
Stark	26
Union	39
Warren	40
Washington	24
Wayne	24
White	34
Indiana:	
Benton	28
Brown	28
Carroll	47
Crawford	26
Fountain	46
Franklin	43
Fulton	46
Greene	49
Harrison	43
Jasper	36
Martin	32
Newton	28
Ohio	49
Orange	42
Owen	31
Parke	33
Pike	37
Pulaski	29
Ripley	48
Spencer	43
Sullivan	44
Switzerland	29
Union	39
Warren	24
Washington	37
White	42
Iowa:	
Adair	17
Adams	15
Allamakee	24
Appanoose	29
Audubon	21
Benton	32
Boone	46
Buchanan	38
Buena Vista	36
Butler	29
Calhoun	25
Carroll	40
Cass	30
Cedar	30
Cherokee	30
Chicksaw	30
Clarke	18
Clay	32
Clayton	26
Crawford	27
Dallas	44
Davis	16
Decateur	18
Delaware	33
Dickinson	33
Dubuque	48
Emmet	36
Effingham	28
Elbert	48
Emanuel	27
Evans	39
Fonnin	34
Franklin	49
Gilmer	20
Glascock	16
Grady	38
Greene	25
Hancock	19
Harris	25
Heard	18
Irwin	22
Jasper	15
Jeff Davis	28
Jefferson	32
Jenkins	24
Johnson	25
Jones	30
Lanier	28
Laurens	40
Lee	20
Liberty	34
Lincoln	31
Long	9
Lumpkin	30
Fayette	37
Floyd	39
Franklin	23
Fremont	18
Greene	22
Grundy	28
Guthrie	21
Hamilton	32
Hancock	24
Hardin	39
Harrison	23
Henry	41
Howard	24
Humboldt	29
Ida	22
Iowa	26
Jackson	32
Jasper	48
Jefferson	36
Jones	34
Keokuk	24
Kossuth	23
Louisa	27
Lucas	23
Lyon	23
Madison	20
Mahaska	39
Mills	26
Mitchell	28
Monona	17
Monroe	22
Montgomery	30
O'Brien	30
Osceola	21
Page	35
Palo Alto	24
Plymouth	28
Pocahontas	22
Pottawattamie	29
Poweshiek	32
Ringgold	12
Sac	27
Shelby	26
Sioux	37
Tama	28
Taylor	17
Union	32
Van Bureu	18
Warren	49
Washington	33
Wayne	16
Winnebago	32
Winneshiek	32
Woodbury	21
Worth	22
Kansas:	
Allen	30
Anderson	15
Atchison	45
Barber	6
Barton	34
Bourbon	24
Brown	20
Butler	27
Chase	4
Chautaugua	7
Cherokee	37
Cheyenne	4
Clark	3
Clay	16
Cloud	19
Coffey	12
Comanche	3
Cowley	31
Decatur	6
Dickinson	23
Doniphan	23
Edwards	7
Elk	6
Ellis	27
Ellsworth	9
Finney	15
Ford	21
Franklin	35
Gove	4
Graham	5
Grant	10
Gray	5
Greeley	2
Greenwood	8
Hamilton	3
Harper	10
Haskell	6
Hodgeman	3
Jackson	16
Jefferson	23
Jewell	7
Kearney	4
Kingman	10
Kiowa	6
Labette	39
Lane	4
Linn	13
Logan	4
Lyon	38
McPherson	28
Marion	15
Marshall	15
Meade	5
Miami	33
Mitchell	11
Morris	9
Morton	5
Nemaha	17
Neosho	32
Ness	8
Norton	8
Osage	19
Osborne	7
Ottawa	9
Pawnee	11
Phillips	9
Pottawatomie	14
Pratt	14
Rawlins	4
Reno	48
Republic	12
Rice	17
Rooks	9
Rush	7
Russell	11
Scott	8
Seward	25
Sheridan	4
Sherman	7
Smith	8
Stafford	7
Stevens	6
Sumner	20
Thomas	7
Trego	5
Wabaunsee	8
Wallace	2
Washington	10
Wichita	5
Wilson	20
Woodson	10
Kentucky:	
Adair	35
Allen	36
Anderson	45
Ballard	32
Bath	32
Bracken	35
Breathitt	29
Breckinridge	27
Butler	22
Caldwell	37
Carlisle	27
Casey	30
Clay	39
Clinton	43
Crittenden	23
Cumberland	22
Elliott	29
Estill	25
Fleming	32
Gallatin	41
Garrard	40
Grant	40
Grayson	33
Green	37
Hancock	38
Harrison	46
Hart	33
Henry	38
Hickman	25
Jackson	30
Knott	41
Larue	41
Lee	25
Leslie	31
Letcher	28
Lewis	25
Lincoln	49
Livingston	24
Logan	39
Lyon	26
McCreary	30
McLean	35
Magoffin	34
Marion	49
Martin	41
Menifee	19
Metcalfe	28
Monroe	35
Morgan	27
Nicolas	32
Ohio	32
Owen	21
Owsley	25
Pendleton	36
Powell	45
Robertson	21
Rockcastle	40
Russell	41
Spencer	28
Todel	29
Trigg	21
Trinple	37
Union	47
Washington	35
Wayne	32
Webster	39
Wolfe	25
Louisiana:	
Allen	27
Avoyelles	45
Beauregard	19
Bienville	19
Caldwell	17
Cameron	6
Catahoula	16
Claiborne	22
Concordia	31
De Soto	25
East Carroll	30
East Feliciana	39
Evangeline	48
Franklin	37
Grant	20
Iberville	43
Jackson	27
Jefferson Davis	45
La Salle	21
Madison	23
Morehouse	40
Natchitoches	27
Plaquenines	24
Pointe Coupee	39
Red River	23
Richland	38
Sabine	21
St. Helena	24
St. Martin	44
Tensas	16
Union	21
Vermillion	36
Vernon	40
West Carroll	37
West Feliciana	28
Winn	17
Maine: [illegible]	
Aroostook	14
Franklin	13
Hancock	23
Lincoln	45
Oxford	21
Penobscot	37
Piscataquis	4
Somerset	10
Waldo	32
Washington	12
Maryland:	
Garrett	33
Queen Annes	49
Michigan:	
Alcona	10
Alger	9
Antrim	26
Arenac	30
Baraga	9
Benzie	27
Charlevoix	40
Cheboygan	23

[1] County density (persons per square mile) excluding cities of 50,000 or more.

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State/County	Population[1]
Michigan: Con.	
Chippewa	20
Clare	29
Crawford	12
Delta	31
Dickinson	31
Emmet	40
Gladwin	27
Gogebic	19
Houghton	34
Huron	42
Iosco	46
Iron	12
Kalkaska	9
Keweenaw	4
Lake	10
Leelanau	32
Luce	7
Mackinac	10
Manistee	37
Marquette	35
Mason	46
Menominee	24
Missaukee	13
Montmorency	9
Newaygo	33
Oceana	34
Ogemaw	21
Ontonagon	8
Osceola	26
Oscoda	8
Otsego	20
Presque Isle	20
Roscommon	19
Sanilac	37
Schoolcraft	7
Weford	35
Minnesota:	
Aitkin	6
Becker	19
Beltrami	11
Big Stone	16
Brown	47
Carlton	33
Cass	9
Chippewa	26
Chisago	42
Clay	45
Clearwater	8
Cook	3
Cottonwood	23
Crow Wing	35
Dodge	30
Douglas	35
Faribault	29
Fillmore	26
Goodhue	46
Grant	14
Houston	31
Hubbard	11
Isanti	38
Itasca	13
Jackson	21
Kanabec	19
Kandiyohi	39
Kittson	6
Koochiching	5
Lac Qui Parle	15
Lake	6
Lake of the Woods	3
Le Sueur	48
Lincoln	15
Lyon	34
Mahnomen	10
Marshall	7
Martin	35
Meeker	30
Mille Lacs	28
Morrison	24
Murray	18
Nobles	33
Norman	11
Otter Tail	23
Pennington	21
Pine	12
Pipestone	28
Polk	17
Pope	17
Red Lake	12
Redwood	23
Renville	22
Rock	23
Roseau	7
St. Louis	36
Sherburne	43
Sibley	27
Stevens	20
Swift	18
Todd	23
Traverse	11
Wabasha	33
Wadena	23
Waseca	40
Watonwan	31
Wilkin	12
Yellow Medicine	19
Mississippi:	
Amite	19
Attala	27
Benton	18
Calhoun	25
Carroll	15
Chickasaw	33
Choctaw	20
Claiborne	21
Clarke	22
Clay	46
Copiah	32
Covington	34
Franklin	14
George	26
Greene	12
Grenada	46
Hancock	36
Holmes	30
Humphreys	35
Issaquena	7
Itawamba	31
Jasper	23
Jefferson	18
Jefferson Davis	31
Kemper	14
Lafayette	36
Lamar	30
Lawrence	26
Leake	29
Lincoln	45
Madison	41
Marion	42
Marshall	34
Monroe	44
Montgomery	32
Neshoba	37
Newton	33
Noxubee	21
Panola	39
Pearl River	34
Perry	14
Pontotoc	35
Prentiss	48
Quitman	39
Scott	35
Sharkey	20
Simpson	34
Smith	21
Stone	18
Tallahatchie	30
Tate	46
Tippah	34
Tishomingo	34
Tunica	26
Union	45
Walthall	31
Wayne	20
Webster	24
Wilkinson	16
Winston	30
Yalobusha	24
Yazoo	29
Missouri:	
Adair	39
Andrew	27
Atchison	17
Audrain	37
Barry	25
Barton	18
Bates	18
Benton	13
Bollinger	14
Butler	47
Caldwell	19
Callaway	31
Camden	21
Carroll	18
Carter	8
Cedar	19
Chariton	15
Christian	27
Clark	16
Clinton	30
Cooper	26
Crawford	20
Dade	14
Dallas	19
Daviess	15
Dekalb	17
Dent	15
Douglas	11
Gasconade	23
Gentry	17
Grundy	27
Harrison	14
Henry	25
Hickory	12
Holt	15
Howard	22
Howell	26
Iron	17
Johnson	41
Knox	11
Laclede	26
Lafayette	42
Lawrence	40
Lewis	22
Lincoln	29
Linn	24
Livingston	29
McDonald	23
Macon	19
Madison	17
Maries	13
Mercer	11
Miller	25
Mississippi	40
Moniteau	26
Monroe	14
Montgomery	21
Morgan	17
New Madrid	34
Nodaway	26
Oregon	12
Osage	18
Ozark	9
Perry	31
Phelps	44
Pike	25
Polk	24
Putnam	11
Ralls	16
Randolph	47
Ray	31
Reynolds	7
Ripley	15
St. Clair	11
Ste. Genevieve	26
Saline	33
Schuyler	15
Scotland	12
Shannon	7
Shelby	16
Stoddard	31
Stone	22
Sullivan	12
Taney	21
Texas	15
Vernon	23
Warren	23
Washington	20
Wayne	11
Webster	26
Worth	13
Wright	20
Montana:	
Beaverhead	1
Big Horn	2
Blaine	2
Broadwater	2
Carbon	3
Carter	1
Cascade	8
Chouteau	2
Custer	3
Daniels	2
Dawson	5
Deer Lodge	21
Fallon	2
Fergus	3
Flathead	8
Gallatin	13
Garfield	0
Glacier	4
Golden Valley	1
Granite	2
Hill	6
Jefferson	3
Judith Basin	1
Lake	10
Lewis and Clark	10
Liberty	2
Lincoln	5
McCone	1
Madison	1
Meagher	1
Mineral	2
Missoula	22
Musselshell	2
Park	4
Petroleum	0
Philips	1
Pondera	4
Powder River	1
Powell	3
Prairie	1
Ravalli	6
Richland	5
Roosevelt	4
Rosebud	1
Sanders	3
Sheridan	3
Stillwater	3
Sweet Grass	2
Teton	3
Toole	3
Treasure	1
Valley	2
Wheatland	2
Wibaux	2
Yellowstone	10
Nebraska:	
Antelope	11
Arthur	1
Banner	1
Blaine	1
Boone	12
Box Butte	9
Boyd	7
Brown	3
Buffalo	33
Burt	19
Butler	16
Cass	33
Cedar	16
Chase	5
Cherry	1
Cheyenne	9
Clay	15
Colfax	23
Cuming	21
Custer	6
Dawes	7
Dawson	20
Deuel	6
Dixon	16
Dundy	3
Fillmore	14
Franklin	8
Frontier	4
Furnas	10
Gage	30
Garden	2
Garfield	4
Gosper	5
Grant	1
Greeley	7
Hamilton	17
Harlan	8
Hayes	2
Hitchcock	6
Holt	5
Hooker	1
Howard	12
Jefferson	18
Johnson	15
Kearney	13
Keith	8
Keya Paha	2
Kimball	6
Knox	11
Lancaster	23
Lincoln	12
Logan	2
Loup	1
McPherson	1
Madison	48
Merrick	18
Morrill	4
Nance	12
Nemaha	22
Nuckolls	13
Otoe	25
Pawnee	10
Perkins	4
Phelps	18
Pierce	15
Platte	40
Polk	15
Red Willow	18
Richardson	22
Rock	2
Saline	22
Saunders	22
Seward	25
Sheridan	3
Sherman	8
Sioux	1
Stanton	13
Thayer	13
Thomas	1
Thurston	18
Valley	10
Washington	34
Wayne	23
Webster	9
Wheeler	2
York	24
Nevada:	
Churchill	2
Clark	19
Douglas	10
Elko	1
Esmeralda	0
Eureka	0
Humboldt	1
Lander	0
Lincoln	0
Lyon	4
Mineral	2
Nye	0
Pershing	0
Storey	3
Washoe	8
White Pine	1
New Hampshire:	
Carroll	20
Coos	19
Grafton	32
New Mexico:	
Catron	0
Chaves	7
Colfax	3
Curry	28
De Baca	1
Dona Ana	18
Eddy	10
Grant	6
Guadalupe	2
Harding	1
Hidalgo	1
Lea	11
Lincoln	2
Luna	4
McKinley	8
Mora	2
Otero	6
Quay	4
Rio Arriba	4
Roosevelt	7
Sandoval	5
San Juan	10
San Miguel	5
Santa Fe	29
Sierra	2
Socorro	1
Taos	8
Torrance	2
Union	1
Valencia	7
New York:	
Allegany	44
Delaware	31
Essex	19
Franklin	26
Hamilton	3
Herkimer	47
Lewis	18
St. Lawrence	41
Schoharie	40
North Carolina:	
Alleghany	36
Anson	46
Beaufort	44
Bertie	29
Bladen	30
Brunswick	28
Camden	23
Caswell	45
Chatham	42
Cherokee	36
Clay	25
Currituck	28
Dare	18
Duplin	47
Gates	25
Graham	22
Greene	26
Hoke	42
Hyde	9
Jackson	44
Jones	21
Macon	31
Madison	36
Montgomery	39
Northampton	45
Pamlico	28
Pender	21
Perquimans	34

State/County	Population[1]
North Carolina—Con.	
Polk	49
Sampson	48
Swain	17
Tyrell	10
Warren	37
Washington	41
Yancey	40
North Dakota:	
Adams	4
Barnes	10
Benson	6
Billings	1
Bottineau	6
Bowman	3
Burke	4
Burleigh	25
Cass	12
Cavalier	5
Dickey	6
Divide	4
Dunn	2
Eddy	6
Emmons	5
Foster	7
Golden Valley	3
Grand Forks	42
Grant	3
Griggs	6
Hettinger	4
Kidder	3
Lamoure	6
Logan	4
McHenry	5
McIntosh	6
Williams	9
Ohio:	
Adams	32
Harrison	42
Hocking	48
Meigs	45
Monroe	35
Morgan	29
Noble	26
Paulding	46
Pike	43
Vinton	23
Oklahoma:	
Adair	27
Alfalfa	8
Atoka	11
Beaver	4
Beckham	17
Blaine	13
Bryan	29
Caddo	23
Canadian	36
Carter	45
Cherokee	31
Choctaw	19
Cimarron	2
Coal	11
Comanche	32
Cotton	10
Craig	19
Creek	49
Custer	23
Delaware	25
Dewey	6
Ellis	4
Garvin	31
Grady	27
Grant	7
Greer	13
Harmon	9
Harper	5
Haskell	16
Hughes	16
Jackson	38
Jefferson	9
Johnston	12
Kingfisher	14
Kiowa	12
Latimer	12
Le Flore	21
Lincoln	20
Logan	26
Coal	11
Comanche	32
Cotton	10
Craig	19
Creek	49
Custer	23
Delaware	25
Dewey	6
Ellis	4
Garvin	31
Grady	27
Grant	7
Greer	13
Harmon	9
Harper	5
Haskell	16
Hughes	16
Jackson	38
Jefferson	9
Johnston	12
Kingfisher	14
Kiowa	12
Latimer	12
Le Flore	21
Lincoln	20
Logan	26
Love	11
McClain	25
McCurtain	16
McIntosh	21
Major	8
Marshall	21
Maves	36
Murray	25
Noble	14
Nowata	18
Okfuskee	17
Osage	13
Pawnee	20
Pittsburg	30
Pontotoc	39
Pushmataha	7
Roger Mills	4
Rogers	41
Seminole	40
Sequoyah	34
Stephens	40
Texas	8
Tillman	14
Wagoner	39
Washita	12
Woods	9
Woodward	12
Oregon:	
Baker	5
Clatsop	35
Columbia	45
Coos	35
Crook	3
Curry	8
Deschutes	10
Douglas	14
Gilliam	2
Grant	2
Harney	1
Hood River	25
Jackson	34
Jefferson	5
Josephine	22
Klamath	8
Lake	1
Lane	30
Lincoln	26
Linn	31
Malheur	2
Morrow	2
Polk	48
Sherman	3
Tillamook	16
Umatilla	14
Union	10
Wallowa	2
Warsco	8
Wheeler	1
Pennsylvania:	
Bedford	42
Cameron	18
Clinton	42
Elk	47
Forest	12
Huntingdon	44
Juniata	43
Pike	22
Potter	15
Sullivan	12
Susquehanna	41
Tioga	35
Wayne	40
Wyoming	48
South Carolina:	
Abbeville	42
Allendale	23
Bamberg	40
Barnwell	31
Calhoun	30
Chesterfield	43
Clarendon	43
Colleton	26
Edgefield	33
Fairfield	29
Georgetown	41
Hampton	28
Jasper	18
Kershaw	44
Lee	45
McCormick	22
Newberry	46
Saluda	32
Willamsburg	37
South Dakota:	
Aurora	6
Beadle	3
Bennett	15
Brookings	28
Brown	22
Brule	7
Buffalo	4
Butte	3
Campbell	4
Charles Mix	9
Clark	6
Clay	32
Codington	28
Corson	2
Custer	3
Davison	40
Day	8
Deuel	9
Dewey	2
Douglas	11
Edmunds	5
Fall River	4
Faulk	4
Grant	13
Gregory	7
Haakon	2
Hamlin	11
Hand	4
Hanson	9
Harding	1
Hughes	16
Hutchinson	13
Hyde	3
Jackson	2
Jerauld	6
Jones	2
Kingsbury	9
Lake	20
Lawrence	22
Lincoln	20
Lyman	2
McCook	13
McPherson	4
Marshall	7
Meade	5
Mellette	2
Miner	8
Minnehaha	29
Moody	15
Pennington	21
Perkins	2
Potter	5
Roberts	11
Sanborn	6
Shannon	4
Spink	7
Stanley	2
Sully	2
Todd	5
Tripp	5
Turner	16
Union	21
Walworth	11
Washabaugh	1
Yankton	37
Ziebach	1
Tennessee:	
Benton	31
Bledsoe	19
Cannon	31
Carroll	43
Cheatham	43
Chester	35
Claiborne	44
Clay	28
Cumberland	31
Decatur	28
Dekalb	40
Dickson	45
Fayette	32
Fentress	25
Franklin	49
Giles	36
Grainger	49
Grundy	30
Hancock	29
Hardeman	34
Hardin	31
Haywood	38
Henderson	34
Henry	42
Hickman	20
Houston	29
Humphreys	26
Jackson	25
Johnson	39
Lake	48
Lauderdale	42
Lawrence	46
Lewis	24
Lincoln	42
McNairy	32
Macon	41
Marion	41
Marshall	46
Meigs	27
Monroe	36
Moore	29
Morgan	25
Overton	34
Perry	13
Pickett	24
Polk	27
Scott	27
Sequatchie	23
Sevier	47
Smith	39
Stewart	16
Trousdale	45
Union	43
Van Buren	15
Wayne	17
White	43
Texas:	
Anderson	26
Andrews	7
Aransas	32
Archer	6
Armstrong	2
Atascosa	16
Austin	21
Bailey	10
Bandera	6
Bastrop	19
Baylor	6
Bee	27
Blanco	5
Borden	1
Bosque	11
Brewster	1
Briscoe	3
Brooks	9
Brown	28
Burleson	15
Burnet	11
Caldwell	39
Calhoun	34
Callahan	10
Camp	42
Carson	7
Cass	26
Castro	12
Chambers	20
Cherokee	31
Childress	9
Clay	7
Cochran	7
Coke	3
Coleman	8
Collingsworth	5
Colorado	19
Comal	43
Comanche	13
Concho	3
Cooke	26
Coryell	34
Cottle	4
Crane	5
Crockett	1
Crosby	10
Culberson	1
Dallam	4
Dawson	18
Deaf Smith	13
Delta	18
De Witt	21
Dickens	4
Dimmit	7
Donley	4
Duval	6
Eastland	19
Ector	15
Edwards	1
El Paso	39
Erath	17
Falls	23
Fannin	25
Fayette	19
Fisher	7
Floyd	11
Foard	3
Franklin	18
Freestone	13
Frio	10
Gaines	8
Garza	6
Gillespie	10
Glasscock	1
Gonzales	16
Gray	29
Grimes	15
Guadalupe	47
Hale	35
Hall	7
Hamilton	9
Hansford	7
Hardeman	10
Hardin	33
Hartley	2
Haskell	10
Hays	43
Hemphill	3
Henderson	28
Hill	22
Hockley	22
Hood	15
Hopkins	26
Houston	14
Howard	41
Hudspeth	1
Hutchinson	28
Irion	1
Jack	7
Jackson	15
Jasper	27
Jeff Davis	1
Jim Hogg	4
Jim Wells	30
Jones	17
Karnes	18
Kaufman	40
Kendall	10
Kenedy	0
Kent	2
Kerr	18
Kimble	3
King	0
Kinney	1
Kleberg	39
Knox	7
Lamar	40
Lamb	17
Lampasas	13
La Salle	3
Lavaca	18
Lee	13
Leon	8
Liberty	28
Limestone	19
Lipscomp	4
Live Oak	6
Llano	7
Loving	0
Lubbock	37
Lynn	10
McCulloch	8
McMullen	1
Madison	16
Marion	22
Martin	5
Mason	4
Matagorda	24
Maverick	14
Medina	15
Menard	3
Midland	6
Milam	19
Mills	6
Mitchell	10
Montague	16
Montgomery	45
Moore	15
Morris	47
Motley	2
Nacogdoches	40
Navarro	29
Newton	12
Nolan	18
Nueces	44
Ochiltree	11
Oldham	2
Palo Pinto	31
Panola	18
Parker	38
Parmer	12
Pecos	3
Polk	13
Potter	50
Presidio	1
Rains	18
Randall	50
Reagan	3
Real	3
Red River	14
Reeves	6
Refugio	12
Roberts	1
Robertson	16
Rockwall	48
Runnels	11
Rusk	36

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State/ County	Population[1]
Texas—Con.	
Sabine	16
San Augustine	17
San Jacinto	11
San Saba	5
Schleicher	2
Scurry	17
Shackelford	4
Shelby	25
Sherman	4
Smith	43
Somervell	14
Starr	15
Stephens	9
Sterling	1
Stonewall	3
Sutton	2
Swisher	12
Taylor	10
Terrell	1
Terry	16
Throckmorton	2
Titus	40
Tom Green	5
Travis	46
Trinity	11
Tyler	14
Upshur	36
Upton	4
Uvalde	11
Val Verde	8
Van Zandt	26
Walker	35
Waller	28
Ward	16
Washington	32
Webb	1
Wharton	34
Wheeler	7
Wichita	43
Wilbarger	16
Willacy	26
Williamson	34
Wilson	16
Winkler	11
Wise	21
Wood	26
Yoakum	9
Young	17
Zapata	5
Zavala	9
Utah:	
Beaver	1
Box Elder	5
Cache	36
Carbon	11
Daggett	1
Duchesne	2
Emery	1
Garfield	1
Grand	2
Iron	4
Juab	1
Kane	1
Millard	1
Morgan	7
Piute	2
Rich	2
San Juan	1
Sanpete	7
Sevier	5
Summit	3
Tooele	3
Unitah	3
Utah	42
Wasatch	5
Washington	6
Wayne	1
Vermont:	
Addison	31
Bennington	44
Caledonia	37
Essex	8
Franklin	47
Grand Isle	43
Lamoille	28
Orange	26
Orleans	28
Windham	43
Windsor	46
Virginia:	
Alleghany	28
Amelia	21
Appomattox	28
Augusta	45
Bath	10
Bedford	37
Bland	15
Botetourt	33
Brunswick	28
Buckingham	18
Caroline	26
Carroll	47
Charles City	34
Charlotte	26
Clarke	47
Craig	10
Culpeper	47
Cumberland	21
Dickenson	48
Dinwiddie	49
Essex	28
Fauquier	40
Floyd	26
Fluvanna	26
Franklin	39
Giles	46
Goochland	35
Grayson	34
Greene	34
Greensville	32
Halifax	38
Highland	6
King and Queen	17
King George	46
King William	27
Lee	46
Louisa	27
Lunenburg	26
Madison	26
Mecklenburg	48
Middlesex	48
Nelson	25
New Kent	25
Northumberland	49
Nottoway	46
Orange	39
Patrick	33
Powhatan	29
Prince Edward	40
Rappahannock	19
Richmond	34
Rockbridge	28
Scott	45
Shenandoah	45
Southampton	31
Spotsylvania	40
Surry	21
Sussex	23
Wythe	48
Washington:	
Adams	6
Asotin	22
Benton	39
Chelan	14
Clallam	20
Columbia	5
Douglas	9
Ferry	2
Franklin	21
Garfield	4
Grant	16
Grays Harbor	31
Jefferson	6
Kittitas	11
Klickitat	6
Lewis	19
Lincoln	4
Mason	22
Okanogan	5
Pacific	17
Pend Oreille	4
San Juan	22
Skagit	30
Skamania	3
Stevens	7
Wahkiakum	14
Walla Walla	33
Whatcom	39
Whitman	18
Yakima	34
West Virginia:	
Barbour	41
Braxton	25
Calhoun	25
Clay	27
Doddridge	20
Gilmer	23
Grant	18
Greenbrier	31
Hampshire	18
Hardy	15
Jackson	45
Lewis	46
Lincoln	43
Monroe	24
Morgan	37
Nicholas	35
Pendelton	10
Pocahontas	9
Preston	39
Randolph	24
Ritchie	22
Roane	29
Summers	38
Tucker	18
Tyler	39
Webster	18
Wirt	18
Wisconsin:	
Adams	14
Ashland	16
Barron	39
Bayfield	8
Buffalo	19
Burnett	11
Chippewa	47
Clark	25
Crawford	27
Door	41
Douglas	34
Dunn	34
Florence	7
Forest	8
Grant	42
Green	46
Green Lake	48
Iowa	25
Iron	9
Jackson	5
Juneau	24
Lafayette	22
Langlade	22
Lincoln	26
Marinette	26
Marquette	19
Menominee	7
Monroe	35
Oconto	26
Oneida	22
Pepin	31
Pierce	45
Polk	29
Pierce	12
Richland	29
Rock	16
St. Croix	47
Sauk	46
Sawyer	8
Shawano	36
Taylor	17
Trempealeau	32
Vernon	31
Vilas	13
Washburn	13
Waushara	24
Wyoming:	
Albany	6
Big Horn	3
Campbell	3
Carbon	2
Converse	1
Crook	2
Fremont	3
Goshen	5
Hot Springs	2
Johnson	1
Laramie	21
Lincoln	2
Natrona	10
Niobrara	1
Park	3
Platte	3
Sheridan	7
Sublette	1
Sweetwater	2
Teton	1
Uinta	3
Washakie	3
Weston	3

[FR Doc.74-10487 Filed 5-6-74;8:45 am]

[41 CFR Part 15-1]

OPTIONS

Proposed Policy and Procedure

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1969, as amended, the Administrator is considering an amendment to 41 CFR Chapter 15, by adding a new Subpart 15-1.57, Options. The Subpart will establish EPA policy and procedures applicable to options.

Any person who wishes to submit written data, views, or objections pertaining to the proposed amendment may do so by filing them in duplicate with the Director, Contracts Management Division, Room 413, Waterside Mall, West, 401 M Street, SW., Washington, D.C. 20460 on or before June 6, 1974. All comments submitted pursuant to this notice will be available for public inspection during regular business hours in the office of the Director, Contracts Management Division.

Dated: May 1, 1974.

JOHN QUARLES,
Acting Administrator.

Subpart 15-1.57—Options

Sec.

15-1.5700 Scope of subpart.
15-1.5701 Definition of option.
15-1.5702 Applicability.
15-1.5703 Procedures.
15-1.5704 Exercise of options.
15-1.5705 Examples of option clauses.
15-1.5706 Examples of option articles for cost reimbursement contracts.

AUTHORITY: 40 U.S.C. 486(c).

Subpart 15-1.57—Options

§ 15-1.5700 Scope of subpart.

This subpart applies to contracts for supplies and services other than for

(a) The construction, alterations, or repair of buildings, bridges, roads, or other kinds of real property.

(b) Research and development, or

(c) Contracts to be awarded on a cost reimbursement basis. However, it does not preclude the use of appropriate option provisions in such contracts. Where options are used in cost reimbursement contracts examples of suggested language are included in § 15-1.5706.

§ 15-1.5701 Definition of options.

As used in this subpart, an option is a provision in a contract under which, for a specified time, the Government may elect to purchase, at an established price or at a price that can be established by reference to some specific method of calculation which will make the price certain, additional quantities of the supplies or services called for by the contract, or may elect to extend the period of performance of the contract.

§ 15-1.5702 Applicability.

(a) Option clauses may be included in contracts where increased requirements within the period of contract performance are foreseeable, or where continuing performance beyond the original period of contract performance may be in the best interest of the Government. Since options require offerors to guarantee prices for definite periods of time with no guarantee that orders will be placed, their improper use could result in prices which are unfair to either the Government or the contractor. Option clauses may require that option quantities be offered at prices no higher than those for the initial quantities or they may allow option quantities to be offered without such limitation as to price. When additional requirements are foreseeable and subsequent competition would be impracticable because of such factors as production lead time and delivery requirements, the use of options which require prices no higher than those for the initial quantities may be preferable to later negotiating a price with the contractor (in lieu of exercising such an option) at a time when he is the only practical source. An option normally should not be used where it can reasonably be foreseen that (1) supplies will have to be procured at some future date in such a quantity that would constitute an economic production run, and (2) startup costs, production lead time, and probable delivery requirements would not preclude adequate future competition.

(b) Option provisions and clauses shall not be included in contracts when—

(1) The supplies or services being purchased are readily available on the open market, except that in the case of services, option clauses may be included for foreseeable requirements if the use of such option is considered to be in the best interest of the Government;

(2) The contractor would be required to incur undue risks: e.g., the price or availability of necessary materials or labor is not reasonably foreseeable;

(3) An indefinite quantity contract or requirements contract is appropriate except that options for continuing performance may be used in such contracts;

(4) Market prices for the supplies or services involved are likely to change substantially; or

(5) The option quantities represent known firm requirements for which procurement funds are available unless (i) the basic quantity is a learning or testing quantity and there is some uncertainty as to contractor or equipment performance and (ii) realistic competition for the option quantity is impracticable once the initial contract is awarded.

(c) When options are to be evaluated pursuant to § 15-1.5703(d), the total of the basic and option periods shall not exceed five years in the case of services, and the total of the basic and option quantities shall not exceed the requirements for five years in the case of supplies. This five year limitation shall not apply to Automatic Data Processing Equipment acquisitions; however, the basic option periods shall not exceed the approved systems life as defined in the Federal Property Management Regulations.

§ 15-1.5703 Procedures.

(a) When a contract is to contain an option clause, the solicitation must contain an appropriate option provision. If the contract is to be negotiated, the determination and findings shall set forth the approximate quantity to be awarded and the extent of the increase to be permitted by the option. The contract shall limit the additional quantities of supplies or services which may be procured, or the duration of the period for which performance of the contract may be extended, under the option and will fix the period within which the option may be exercised. This period shall be set so as to afford the contractor adequate notice of the requirement for performance under the option but with respect to service contracts the period for providing adequate notice may extend beyond the contract completion date when exercise of the option would obligate funds not available in the fiscal year in which the contract would otherwise be completed. In fixing the period within which the option may be exercised consideration shall be given to (1) necessary lead time in order to assure continuous production and (2) the time required for additional funding and other necessary approval action. The period specified for exercising the option shall in all cases be kept to a minimum. When a solicitation contains an option which requires the offering of additional quantities of supplies at unit prices no higher than those for initial quantities, it shall provide that the option quantities shall not exceed 50% of the initial quantity. When unusual circumstances exist, however, the Chief, Contracts Operations Office or his designee may approve a greater percentage or quantity. The quantities and the period under option and the period during which the option may be exercised shall be justified and documented by the contracting officer in the contract file.

(b) Except as provided in (c) and (d) below, solicitations containing option provisions shall state that evaluation will be on the basis of the quantity to be awarded exclusive of the option quantity.

(c) When it is anticipated that the Government may exercise the option at time of award, the solicitation shall include an Evaluation of Options provision substantially as follows:

EVALUATION OF OPTIONS

If the Government elects to exercise an option simultaneously with award, bids or proposals will be evaluated for purposes of award on the basis of the total price for the basic quantity and the option quantity exercised with award.

(d) In firm fixed price contracts, the option quantity may be considered in the evaluation for award if, before issuance of the solicitation, it has been determined at a level higher than the contracting officer that:

(1) There is a known requirement which exceeds the basic quantity to be awarded, but either (i) the basic quantity is a learning or testing quantity and there is some uncertainty as to contractor or equipment performance, or (ii) due to the unavailability of funds, the option cannot be exercised at the time of award of the basic quantity provided that in this latter case there is reasonable certainty that funds will be available thereafter to permit exercise of the option; and

(2) Realistic competition for the option quantity is impracticable once the initial contract is awarded and hence it is in the best interests of the Government to evaluate options in order to eliminate the possibility of a buy-in. This determination shall be based on factors such as, but not limited to, substantial start-up or phase-in costs, superior technical ability resulting from performance of the initial contract, and long preproduction lead time for a new producer. In such cases, the solicitation shall contain an Evaluation of Options provision substantially as follows:

EVALUATION OF OPTIONS

(i) Bids and proposals will be evaluated for purposes of award by adding the total price for all option quantities to the total price for the basic quantity. Evaluation of options will not obligate the Government to exercise the option or options.

(ii) Any bid or proposal which is materially unbalanced as to prices for basic and option quantities may be rejected as nonresponsive. An unbalanced bid or proposal is one which is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(e) Solicitations which allow the offer of option quantities at unit prices which differ from the unit prices for the basic contract quantities shall also state that varying prices may be offered for the option quantities depending on the quantities actually ordered and the date or dates when ordered. However, if the solicitation contains an Evaluation of Options provision pursuant to paragraph (c) and (d) of this section, it shall also specify the price at which the options will be evaluated (e.g., highest option price offered or option price for specified quantities or dates).

(f) Where exercise of the option would result in increased quantities of supplies, the option may be expressed in terms of (1) percentage of specific contract line items, (2) a number of additional units of specific contract line items, or (3) additional numbered line items identified as the option quantity with the same nomenclature as line items initially included in the contract. Where exercise of the option would result in an increase in the performance of services by the contractor, the option may similarly be expressed in terms of percentages, increase in specific line items, or additional numbered line items, expressed in terms of the units of work initially used in the contract such as man hours, man years, square feet, pounds or tons handled. Where exercise of the option would result in an extension of duration of the contract, the option may be expressed in terms of an extended terminal date or of an additional time period, such as days, weeks, or months.

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§ 15–1.5704 Exercise of options.

(a) The exercise of an option by the Government requires the contracting officer's written notification to the contractor within the time period specified in the contract.

(b) Where the contract provides for price escalation and the contractor requests revision of price pursuant to such provisions, or the provision applies only to the option quantity, the effect of escalation on prices under the option must be ascertained before the option is exercised.

(c) Options should be exercised only if it is determined that—

(1) Funds are available;

(2) The requirement covered by the option fulfills an existing need of the Government; and

(3) The exercise of the option is most advantageous to the Government, price and other factors considered.

(d) Insofar as price is concerned, the determination under (c)(3) above shall be made on the basis of one of the following:

(1) A new solicitation fails to produce a better price than that offered by the option. When the contracting officer anticipates that the option price will be the best price available, he should not use this method of testing the market but should use one of the methods in paragraph (a) (2), (3), or (4) of this section.

(2) An informal investigation of prices, or other examination of the market indicates clearly that a better price than that offered by the option cannot be obtained.

(3) The time between the award of the contract containing the option and the exercise of the option is so short that it indicates the option price is the lowest price obtainable, considering such factors as market stability and a comparison of the time since award with the usual duration of contracts for such supplies and services.

(4) Established prices are readily ascertainable and clearly indicate that formal advertising or informal solicitation can obviously serve no useful purpose.

(e) Insofar as the "other factors" mentioned in paragraph (c)(3) of this section are concerned, the determination should, among other things, take into account the Government's need for continuity of operations and potential costs to the Government of disrupting operations, including the cost of relocating necessary Government furnished equipment (as, for example, in certain repair and overhaul contracts for complex equipment).

(f) When it has been determined that an option may properly be exercised in accordance with the principles set forth herein, such determination shall be set forth in writing and made a part of the contract file. Written notification to the contractor of the exercise of the option and any contract modification resulting therefrom shall cite the option article contained in the original contract as authority for the procurement of the option quantity; and no citation under 41 U.S.C. 252(c) is required.

§ 15–1.5705 Examples of option articles.

(a) An article in the contract schedule substantially as follows may be used where the contract expresses the option quantity as a percentage of the basic contract quantity or as an additional quantity of a specific line item.

OPTION FOR INCREASED QUANTITY

The Government may increase the quantity of supplies called for herein by the amount stated in the Schedule and at the unit price specified therein. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract unless the parties otherwise agree and the contract is modified accordingly.

(b) A schedule article substantially as follows may be used where the contract identifies the option quantity as a separately priced line item having the same nomenclature as a corresponding basic contract line item.

OPTION OF INCREASED QUANTITY-LINE ITEM

The Government may increase the quantity of supplies called for herein by requiring the delivery of the numbered line item identified in the Schedule as an option item, in the quantity and at the price set forth therein. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. Delivery of the items added by the exercise of this option shall continue immediately after, and at the same rate as, delivery of like items called for under this contract unless the parties otherwise agree and the contract is modified accordingly.

(c) An article substantially as follows may be used where it is intended to extend the services described in the Schedule.

OPTIONS TO EXTEND SERVICES

The Government may require the Contractor to continue to perform any or all items of services under this contract within the limits stated in the Schedule. The Contracting Officer may exercise this option, at any time within the period specified in the Schedule, by giving written notice to the Contractor. The rates set forth in the Schedule shall apply to any extension made pursuant to this option provision.

(d) An article substantially as follows may be used to provide for continuing performance of the contract beyond its original term.

OPTION TO EXTEND THE TERM OF THE CONTRACT

This contract is renewable, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor within the period specified in the Schedule; provided, that, the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least sixty (60) days before this contract is to expire. (Such a preliminary notice will not be deemed to commit the Government to renewals.) If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed—years.

§ 15–1.5706 Examples of option articles for cost reimbursement contracts.

(a) The following may be used as the article which defines an option, when the contract is a Cost Only Term Form, not involving the use of task orders. The article may be used, with appropriate modification, when the contract involves payment of fee.

ARTICLE—OPTION TO RENEW CONTRACT

1. At the option of the Government, this contract is renewable, by the Contracting Officer giving written notice of renewal to the Contractor prior to the expiration date of this contract; provided, that the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least sixty (60) days before this contract is to expire. (Such a preliminary notice will not be deemed to commit the Government to renewals.)

2. The Contractor shall continue the effort described in ARTICLE I—SCOPE OF WORK, during the ( ) month period immediately following that set forth in ARTICLE ------PERIOD OF PERFORMANCE. The parties hereto agree that upon issuance of the order exercising this option, the following modifications will be made to the contract schedule, in effect as of the date that such issuance is made:

(i) The period of performance specified in ARTICLE ---------PERIOD OF PERFORMANCE will be increased by ------ months.

(ii) The estimated cost specified in ARTICLE -------ESTIMATED COST will be increased by $------.

(b) The following may be used as the article which defines an option, where the contract is a CPFF Completion Form which contains a separated scope of work for the optional effort.

ARTICLE—OPTION FOR INCREASED SCOPE OF WORK

1. At the option of the Government, the Scope of Work of this contract may be increased to include the work set forth in Exhibit B, attached hereto and hereby made a part hereof. This option shall be exercised by the issuance of an order by the Contracting Officer citing the authority of this article. This option shall be valid for a period of ------ months from the effective date of this contract.

2. The parties hereto agree that upon issuance of the order exercising this option, the following modifications will be made to the contract schedule in effect as of the date such issuance is made:

(i) ARTICLE I—SCOPE OF WORK will be modified to incorporate Exhibit B, attached hereto, into this contract.

(ii) The period of performance specified ANCE will be increased by ------ months.

(iii) The Estimated Cost, Fixed Fee, and Total Cost Plus Fixed Fee specified in ARTICLE ------ will be increased by $------, $------, $------ and $------ respectively.

(c) The following may be used as the article which defines an option, when the contract is a Cost Plus Fixed Fee (CPFF) Term Form involving the issuance of task orders.

ARTICLE—OPTION TO EXTEND THE TERM OF THE CONTRACT

1. At the option of the Government, this contract may be extended by the Contracting Officer giving written notice of extension to the Contractor prior to the expiration date of this contract; provided, that the Contracting Officer shall have given preliminary notice of the Government's intention to extend at least sixty (60) days before this contract is to expire. (Such a preliminary notice will not be deemed to commit the Government to renewals.)

2. The Contractor shall provide approximately ------ manhours of additional direct labor in pursuit of the effort described in ARTICLE I—SCOPE OF WORK, during the ( ) month period immediately following that set forth in ARTICLE ------PERIOD OF PERFORMANCE. The parties hereto agree that upon issuance of the order exercising this option, the following modifications will be made to the contract schedule, in effect as of the date that such issuance is made:

(i) The period of performance specified in ARTICLE ------=PERIOD OF PERFORMANCE, will be increased by ( ) months.

(ii) ARTICLE ------=LEVEL OF EFFORT, will be increased from "approximately ------ manhours" to "approximately ------ manhours" and the last sentence of Paragraph A will be changed to read "not less than ------ nor more than ------ manhours."

(iii) The Estimated Cost, Fixed Fee, and Total Cost Plus Fixed Fee specified in ARTICLE ------ will be increased by $------, $------, and $------ respectively.

(d) The period of performance for the option shown in Paragraph 2 of the suggested articles may be adjusted to conform to the requirement. Additional optional periods may be included beyond the first option period provided: however, that consideration is given to the prohibitions contained in § 15–1.5702(b) and, the restrictions concerning renewal of Basic Ordering Agreements and Level of Effort Task Order Type Contracts contained in EPA Order of that title.

[FR Doc.74–10442 Filed 5–6–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Part 100]

CIVIL PENALTY ASSESSMENT PROCEDURES

On April 24, 1973, the Secretary of the Interior suspended the procedures for informal assessment of civil penalties for violations of the Federal Coal Mine Health and Safety Act of 1969 contained in Part 100 of Title 30, Code of Federal Regulations, 38 FR 10085. The suspension was in response to a decision and order of the United States District Court for the District of Columbia in National Independent Coal Operators' Association, et al v. Rogers C. B. Morton, Secretary of the Interior et al., Civil Action No. 397–72 in which the District Court declared unlawful the procedures set forth in 30 CFR Part 100, and permanently enjoined the Department in continuing to utilize or enforce these procedures. The Department appealed the District Court's decision, and in the interim instituted an amended procedure whereby a petition for assessment of civil penalty was filed with the Office of Hearings and Appeals in all cases. (See 38 FR 10086) In addition, the operator received a recommended civil penalty computed by application of a formula to the six statutory criteria contained in section 109(a)(1) of the Act. Under the interim system, the operator could close the case by paying the recommended civil penalty, or he could use it as the basis of settlement discussion.

On February 11, 1974, the United States Court of Appeals for the District of Columbia Circuit reversed the decision of the District Court and upheld the validity of the Department's civil penalty procedures codified at 30 CFR Part 100. However, in the related cases of Rogers C. B. Morton v. Delta Mining, Inc., G.M.&W. Coal Corp., and Edward Mears, et al., Nos. 73–1752, 1753 and 1848, concerning enforcement of several final assessment orders entered under the authority of the now suspended Part 100, the United States Court of Appeals for the Third Circuit has taken a contrary position and has declared that the assessment procedures contained in existing Part 100 do not meet the requirements of section 109(a)(3) of the Act.

Despite these conflicting decisions, and pending resolution of the conflict, the Department now feels that it has sufficient guidance and experience to propose a new Part 100. This new Part 100 will not affect the ongoing court litigation, nor will it affect the several thousand final orders of assessment entered under the prior regulation.

Under the proposed procedures, similar to the earlier provisions, the operator will receive an order of assessment and then be given an opportunity for either a field conference or a formal administrative hearing, as he desires. However, any matters unresolved by the conference will be filed with the Office of Hearings and Appeals for adjudication by an Administrative Law Judge.

As a convenience to the public there is published following the proposed regulations an Appendix A containing samples of the order of assessment and the card given the operator to request an informal conference or formal hearing.

A new formula method of computation is proposed in place of the formula now used. The formula computation is detailed in the proposed § 100.3 Basically, the system substitutes the addition of points for the multiplying of factors to arrive at the proposed assessment. Experience gained under the multiplication formula has shown that in a borderline case a decision one way or the other may result in doubling (a factor of 2) or cutting in half (a factor of .5) of the proposed penalty in considering just one of the statutory criteria. Under the new system which is being proposed a borderline case may receive a few additional

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points, but the overall total will not be subject to radical fluctuation.

In considering the operator's history of previous violations, it is proposed to introduce a new concept of rating previous history based on the average number of violations per inspection day at a mine in addition to considering the average number of violations per year for the preceding 24 months. This new evaluation will take into account mines which are inspected frequently and thus have greater likelihood of being cited for violations.

The size of the operator is reflected first in the different penalty conversion tables which apply to the different classes of mines as well as points which may be added according to the size of the company.

In considering gravity, the formula weighs separately three elements: the likelihood of the occurrence of the event against which the standard was directed; the severity of injury if injury occurred or were to occur; and the number of men affected if the event occurred or were to occur. The criteria of negligence is assigned points on a scale of 1 to 30 on the basis of the inspector's statement of the conditions concerning the violation. Similarly, the criteria of good faith is assigned points on a scale of minus 5 to plus 10 penalty points based upon the inspector's evaluation of the situation at the time of abatement. Information concerning these last three criteria will be obtained from an inspector's statement with the option of further recourse to the inspector where the information is not complete or needs refinement.

As under previous regulations, the Department will initially presume that an operator's ability to continue in business will not be affected by assessment of the civil penalty. If the operator comes forward with evidence to the contrary, the Office of Assessments will consider it and make an appropriate determination.

In applying the penalty tables, it should be noted that as the number of points progresses, the amount of the penalty rises at an accelerating rate. Thus, several points added to a low point accumulation will not produce as great an increase as the same number of points added to an already high point accumulation.

After receipt of the order of assessment, an operator may (1) pay the assessment, or (2) request a hearing before the Office of Hearings and Appeals, or (3) request an informal conference with the Office of Assessments. The informal conference will be held in the field near the location of the operator and will afford the operator an opportunity to discuss each violation and the facts available surrounding it. Those violations not resolved will be forwarded to the Office of Hearings and Appeals for formal adjudication.

Where an operator requests a hearing before the Office of Hearings and Appeals without a conference, the case will be forwarded immediately to the Office of the Solicitor for filing with the Office of Hearings and Appeals.

Where an operator requests neither of the two options, the order of assessment will be enforced as the final order of the Secretary pursuant to section 109 (a)(4) of the Act. In all instances, the operator will receive the Office of Assessment worksheet showing the formula computation.

Because this system can only be implemented where findings not heretofore recorded are readily available, the Department proposes to use the new assessment formula for violations occurring after the effective date of the new procedures. Violations which have occurred prior to the effective date would be assessed using the present civil penalty formula, and will be sent to the operator by the Office of Assessments. However, the operator will be given an opportunity to confer with the Office of Assessments, and, if feasible, to the extent that the operator can present new information the Office of Assessments will apply the new assessment formula to these violations. With respect to those cases filed with the Office of Hearings and Appeals which have not yet been heard by an Administrative Law Judge, the operator may file a request with the Office of Hearings and Appeals to be given an opportunity to confer informally with the Office of Assessments on the same basis. The operator must file this request within 30 days from the effective date of the final regulations.

Accordingly, notice is hereby given that pursuant to the authority contained in sections 109(a) and 508 of the Federal Coal Mine Health and Safety Act of 1969, P.L. 91-173, 83 Stat. 742, it is proposed to amend and revise Part 100, Title 30, Code of Federal Regulations as set forth below. Interested persons are invited to submit any views, data or comments concerning these proposed rules on or before June 21, 1974. Comments should be addressed to: Administrator, Mining Enforcement and Safety Administration, Department of the Interior, Washington, D.C. 20240. Copies of the proposed rulemaking are available at the Washington headquarters and all field offices of the Office of Assessments.

C. K. MALLORY,
Deputy Assistant Secretary of the Interior.

MAY 1, 1974.

PART 100—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Sec.

100.1 Purpose.
100.2 Assessment of Civil Penalties; General.
100.3 Determination of Penalty.
100.4 Procedures for Assessment of Civil Penalties.
100.5 Payment of Assessed Civil Penalty.
100.6 Request for Conference.
100.7 Request for Hearing.
100.8 Civil Penalty Cases Pending Before the Office of Hearings and Appeals.
Appendix A—Order of Assessment.

AUTHORITY: Secs. 109, 508, Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, P.L. 91-173, 30 U.S.C. 801).

§ 100.1 Purpose.

The assessment of civil penalties under section 109(a) of the Federal Coal Mine Health and Safety Act of 1969 shall be made for the purpose of maintaining the health and safety of the miner and of insuring the maximum compliance effort on the part of the coal mining industry.

§ 100.2 Assessment of Civil Penalties; General.

(a) Each Notice of Violation and Order of Withdrawal issued on or after (effective date of this part) shall be reviewed by the Office of Assessments, Mining Enforcement and Safety Administration, in accordance with the assessment procedures described in this Part to determine liability of the operator or miner and the amount of penalty to be assessed.

(b) Each pending Notice of Violation and Order of Withdrawal issued prior to (effective date of this part) and not filed with the Office of Hearings and Appeals shall be reviewed by the Office of Assessments, Mining Enforcement and Safety Administration, in accordance with the civil penalty assessment procedures described in the Office of Assessments Manual, May 1973 and in 38 FR 10086, April 24, 1973 to determine liability of the operator or miner and the amount of penalty to be assessed.

(c) Each order of assessment against an operator shall be made after taking into consideration (1) the operator's history of previous violations, (2) the appropriateness of the penalty to the size of the operator's business, (3) whether the operator was negligent, (4) the effect on the operator's ability to continue in business, (5) the gravity of the violation, and (6) the demonstrated good faith of the operator in attempting to achieve rapid compliance after notification of violation.

§ 100.3 Determination of Penalty.

(a) The amount of the penalty assessed against an operator will be determined by a formula that takes into account the six criteria stated in § 100.2(c). The formula will consist of assigning penalty points against the violation being assessed. Penalty points will be determined for each of the criteria stated in § 100.2(c) and totaled. These penalty points will be converted into a dollar amount by using the applicable penalty conversion tables listed in paragraph (g) of this section. The penalty points will be assigned within each of the six criteria according to the schedules in paragraphs (b) through (f) of this section.

(b) The Appropriateness of the Penalty to the Size of the Operator's Business. The appropriateness of the penalty to the size of the operator's business is calculated on both the size of the mine cited and the size of the company. The size of the mine is taken into account by selecting the proper penalty conversion table as listed in paragraph (b)(1) of this section. The size of the company is to be considered by using the schedule in paragraph (b)(2) of this section.

(1) *Size of Mine.*

Annual tonnage of mine	*Penalty conversion table*
Over 1,000,000	1
Over 500,000 to 1,000,000	2
Over 100,000 to 500,000	3
Over 50,000 to 100,000	4
50,000 or under	5

(2) *Size of Company.* The annual tonnage of the company to which the mine belongs will be considered in determining the appropriateness of the penalty to the size of the business of the operator, using the following schedule:

Annual tonnage of company	*Penalty points*
Over 3,000,000 tons	5
700,000 to 2,999,999	4
300,000 to 699,999	3
200,000 to 299,999	2
100,000 to 199,999	1
Under 100,000 tons	0

As used in paragraph (b)(1) and (2) of this section the term "annual tonnage" means the tonnage produced in the previous calendar year or in the case of a mine opened less than one calendar year the amount of tonnage produced converted to an annual basis.

(c) History of Previous Violations. The history of previous violations of the Act will account for a maximum of 15 penalty points towards the total amount of penalty points assessed. The penalty points for history of previous violations will be derived from the following schedules:

(1) Average number of violations assessed per year in the preceding 24 months:

Number of violations	*Penalty points*
1 to 10	0
11 to 20	1
21 to 30	2
31 to 40	3
41 to 50	4
Over 50	5

(2) Average number of violations assessed per inspection day in the preceding 24 months:

Violations per inspection day	*Penalty points*
Under 0.1	0
0.1 to 0.199	1
0.2 to 0.299	2
0.3 to 0.399	3
0.4 to 0.499	4
0.5 to 0.599	5
0.6 to 0.699	6
0.7 to 0.799	7
0.8 to 0.899	8
0.9 to 0.999	9
1 and over	10

(d) Negligence. Negligence generally means committed or omitted conduct which falls below a standard of conduct established by law to protect persons against the risks of harm. The standard of care established under the Act is that the operator of a mine owes a high degree of care to the miners employed by him. A mine operator is required to be on the alert for conditions and hazards in the mine which affect the safety or health of his employees and to take the steps necessary to correct or prevent such conditions or practices. Failure to do so is negligence on the part of the operator. This criterion will contribute a maximum of 30 penalty points to the assessment total, divided between no negligence, ordinary negligence, and gross negligence. A violation which occurs through no negligence of the operator will be assigned no penalty points for negligence. A violation which occurs through ordinary negligence of the operator will be assigned from 1 to 15 points depending on the specific facts involved. A violation which occurs through gross negligence of the operator will be assigned 16 through 30 penalty points depending on the specific facts involved. In determining the degree of negligence involved in a violation and the amount of penalty points to be assessed, the following definitions apply:

(1) *"No Negligence"* means that the operator could not reasonably have known of the violation or under the circumstances the operator had taken reasonable precautions to prevent the violation.

(2) *"Ordinary Negligence"* means the operator either failed to exercise reasonable care to prevent the violation or failed to exercise reasonable care to correct a violation he knew or should have known existed.

(3) *"Gross Negligence"* means an operator either caused the condition or practice which occasioned the violation by exercising reckless disregard of mandatory health and safety standards or he recklessly or deliberately failed to correct an unsafe condition or practice he knew or should have known existed.

(e) Gravity. This criterion will contribute a maximum of 40 penalty points to the assessment total. The points will be applied from the following schedules:

(1) Probability of the occurrence of the event against which a standard is directed may account for a maximum total of 14 penalty points using the listed definitions and schedules:

Probability of occurence	*Penalty points*
Improbable	0
Possible	1–3
Probable	4–9
Imminent	10–13
Occurred	14

As used in this paragraph the following terms have the following meanings:

Improbable	Unlikely to happen.
Possible	That which may or can happen.
Probable	That which is likely to occur.
Imminent	That which is likely to occur at any moment.

(2) Gravity of injury if it occurred or were to occur, using the listed definitions and the following schedule, may account for a maximum of 13 penalty points:

Gravity of injury	*Penalty points*
Slight	0
First aid	1
Nondisabling	2–3
Temporary total disabling	4–6
Permanent partial disabling	7–9
Permanent total disabling	10–12
Fatal	13

Types of injury or illness expected if the event caused or could cause injury are defined as follows:

Slight. Injury or illness would be treated in working area and no other treatment would be required;

First Aid. Injury or illness would require additional treatment after end of work shift;

Nondisabling. Injury or illness, other than disabling, which required treatment by a physician;

Temporary Total Disabling. The injury or illness causes the injured person to lose one full day of work or more after the day of the injury;

Permanent Partial Disabling. In injury or illness which results in the total or partial loss or use of any member of function of the body;

Permanent Total Disabling. An injury or illness which results in total incapacitation of the injured person for any gainful work;

Fatal. Any work related injury or illness resulting in death;

(3) Number of personnel affected if event occurred or were to occur.

Number of persons affected	*Penalty points*
0	0
1	1
2	2
3	3–4
4 to 5	5–7
6 to 9	8–9
10 to 15	10–12
More than 15	13

(f) Demonstrated Good Faith of the Operator Charged in Attempting to Achieve Rapid Compliance. This criteria awards negative points for a manifestly conscientious effort to achieve rapid compliance, and can contribute a maximum of 10 points as indicated in the following schedule and definitions:

Degree of good faith	*Penalty points*
Rapid	−1–−5
Normal	0–5
Lack of good faith	6–10

In determining the operator's good faith in attempting to achieve rapid compliance, the following definitions apply:

"Rapid Compliance" means there is demonstrated evidence that the operator has taken extraordinary measure to insure abatement of the violation in the shortest possible time.

"Normal Compliance" means the operator has abated the violation within the time given for abatement either originally or as extended.

"Lack of Good Faith" means the operator has been untimely and has not shown diligence and effort in attempting to abate the violation.

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(g) Penalty Conversion Tables. The penalty conversion tables which take into account the size of the mine, based on annual tonnage, shall be used to convert the point accumulation total to the appropriate amount of the penalty.

Penalty conversion table No. 1

[Over 1,000,000 tons a year]

Points	Penalty	Points	Penalty	Points	Penalty	Points	Penalty
1	3	26	86	51	257	76	618
2	6	27	91	52	266	77	667
3	9	28	96	53	275	78	726
4	12	29	101	54	284	79	796
5	15	30	106	55	293	80	878
6	18	31	111	56	303	81	973
7	21	32	117	57	313	82	1,082
8	24	33	123	58	323	83	1,206
9	27	34	129	59	333	84	1,346
10	30	35	135	60	344	85	1,503
11	33	36	141	61	355	86	1,678
12	36	37	148	62	366	87	1,873
13	39	38	155	63	377	88	2,092
14	42	39	162	64	389	89	2,341
15	45	40	169	65	401	90	2,627
16	48	41	176	66	413	91	2,958
17	51	42	183	67	426	92	3,343
18	54	43	191	68	439	93	3,793
19	58	44	199	69	453	94	4,320
20	62	45	207	70	468	95	4,936
21	66	46	215	71	484	96	5,653
22	70	47	223	72	501	97	6,485
23	74	48	231	73	521	98	7,457
24	78	49	239	74	546	99	8,609
25	82	50	248	75	578	100	10,000

Penalty conversion table No. 2

[500,000 to 1,000,000 tons a year]

Points	Penalty	Points	Penalty	Points	Penalty	Points	Penalty
1	3	26	78	51	230	76	556
2	5	27	82	52	238	77	600
3	7	28	86	53	246	78	653
4	9	29	91	54	254	79	716
5	12	30	96	55	263	80	790
6	15	31	101	56	272	81	876
7	18	32	106	57	281	82	974
8	21	33	111	58	290	83	1,085
9	24	34	116	59	300	84	1,210
10	27	35	122	60	310	85	1,350
11	30	36	128	61	320	86	1,507
12	33	37	134	62	330	87	1,683
13	36	38	140	63	341	88	1,883
14	39	39	146	64	352	89	2,107
15	42	40	152	65	363	90	2,364
16	45	41	158	66	374	91	2,662
17	48	42	165	67	386	92	3,009
18	51	43	172	68	398	93	3,414
19	54	44	179	69	410	94	3,888
20	57	45	186	70	423	95	4,442
21	60	46	193	71	436	96	5,088
22	63	47	200	72	450	97	5,839
23	66	48	207	73	468	98	6,716
24	70	49	214	74	491	99	7,753
25	74	50	222	75	520	100	9,000

Penalty conversion table No. 3

[100,000 to 500,000 tons a year]

Points	Penalty	Points	Penalty	Points	Penalty	Points	Penalty
1	2	26	69	51	205	76	494
2	4	27	72	52	212	77	534
3	6	28	76	53	219	78	581
4	8	29	80	54	226	79	637
5	10	30	84	55	234	80	702
6	12	31	89	56	242	81	778
7	14	32	94	57	250	82	865
8	16	33	99	58	258	83	964
9	18	34	104	59	266	84	1,076
10	21	35	109	60	275	85	1,202
11	24	36	114	61	284	86	1,343
12	27	37	119	62	293	87	1,500
13	30	38	124	63	302	88	1,676
14	33	39	130	64	311	89	1,875
15	36	40	136	65	321	90	2,102
16	39	41	142	66	331	91	2,363
17	42	42	148	67	341	92	2,665
18	45	43	154	68	351	93	3,016
19	48	44	160	69	362	94	3,425
20	51	45	166	70	374	95	3,903
21	54	46	172	71	387	96	4,464
22	57	47	178	72	401	97	5,126
23	60	48	184	73	417	98	5,912
24	63	49	191	74	437	99	6,851
25	66	50	198	75	462	100	8,000

Penalty conversion table No. 4

[50,000 to 100,000 tons a year]

Points	Penalty	Points	Penalty	Points	Penalty	Points	Penalty
1	2	26	60	51	181	76	434
2	4	27	64	52	187	77	468
3	6	28	68	53	193	78	509
4	8	29	72	54	199	79	558
5	10	30	76	55	205	80	615
6	12	31	80	56	212	81	681
7	14	32	84	57	219	82	757
8	16	33	88	58	226	83	844
9	18	34	92	59	233	84	942
10	20	35	96	60	240	85	1,052
11	22	36	100	61	248	86	1,175
12	24	37	104	62	256	87	1,311
13	26	38	108	63	264	88	1,464
14	28	39	113	64	272	89	1,639
15	30	40	118	65	280	90	1,839
16	32	41	123	66	289	91	2,071
17	34	42	128	67	298	92	2,340
18	36	43	133	68	307	93	2,655
19	39	44	139	69	317	94	3,024
20	42	45	145	70	328	95	3,455
21	45	46	151	71	339	96	3,957
22	48	47	157	72	351	97	4,540
23	51	48	163	73	365	98	5,220
24	54	49	169	74	383	99	6,026
25	57	50	175	75	406	100	7,000

Penalty conversion table No. 5

[Less than 50,000 tons a year]

Points	Penalty	Points	Penalty	Points	Penalty	Points	Penalty
1	1	26	52	51	150	76	366
2	3	27	55	52	156	77	396
3	5	28	58	53	162	78	433
4	7	29	61	54	168	79	477
5	9	30	64	55	174	80	528
6	11	31	67	56	180	81	587
7	13	32	70	57	186	82	654
8	15	33	73	58	193	83	729
9	17	34	76	59	200	84	812
10	19	35	80	60	207	85	904
11	21	36	84	61	214	86	1,007
12	23	37	88	62	221	87	1,121
13	25	38	92	63	228	88	1,249
14	27	39	96	64	235	89	1,396
15	29	40	100	65	242	90	1,567
16	31	41	104	66	250	91	1,767
17	33	42	108	67	258	92	2,001
18	35	43	112	68	266	93	2,274
19	37	44	116	69	274	94	2,592
20	39	45	120	70	283	95	2,962
21	41	46	125	71	292	96	3,392
22	43	47	130	72	301	97	3,891
23	45	48	135	73	311	98	4,474
24	47	49	140	74	324	99	5,165
25	49	50	145	75	342	100	6,000

(h) The Effect on the Operator's Ability to Continue in Business. It is initially presumed that the operator's ability to continue in business will not be affected by the order of assessment. The operator will be informed that he has a right under the statutory criterion to a consideration of his financial condition in mitigation of the order of assessment. The operator may submit information to the Office of Assessments concerning his financial status to show that payment of the order of assessment will affect his ability to continue in business. If the information provided by the operator indicates that the order of assessment will adversely affect his ability to continue in business, the Office of Assessments may reduce the penalty.

(i) Waiver of Use of Formula to Determine Civil Penalty. The Office of Assessments may elect to waive the use of the formula contained in this § 100.3 in determining the civil penalty for a violation of the Act if it deems that conditions concerning the violation warrant. Such special assessments shall take into account the six criteria in § 100.2(c) and all findings shall be in narrative form. All provisions of this part except the formula provisions of this § 100.3 shall apply to such special assessments.

§ 100.4 Procedures for Assessment of Civil Penalties.

(a) The Office of Assessments shall, by certified mail, serve upon the operator or miner charged a copy of the order of assessment together with a copy of the Office of Assessments worksheets showing the formula computation prepared by the Assessment Officer.

(b) The operator or miner shall have 20 days from receipt of the order of assessment to either (1) pay the penalty, (2) request, in writing, a conference with the Office of Assessments to provide information relating to the violations listed in order of assessment, or (3) request, in writing, a hearing on the violations in question before the Department's Office of Hearings and Appeals pursuant to 43 CFR Part 4. If the operator or miner does not exercise his right under this subsection within 20 days of receipt of the order of assessment, the order of assessment will be enforced under section 109(a)(4) of the Act.

§ 100.5 Payment of Assessed Civil Penalty.

(a) Payment by the operator or miner of the assessed penalty will close the case.

§ 100.6 Request for Conference.

(a) The Office of Assessments shall provide a return mailing card with each order of assessment to allow the operator or miner to indicate his desire to have a conference. Upon receipt of such request, the Office of Assessments shall arrange for a timely conference convenient to both the operator or miner and the Office of Assessments.

(b) If the operator or miner requests a conference with the Office of Assessments, he may submit any material to the official assigned his case which may be relevant to the fact of the violation or the amount of the penalty. Such information may be submitted prior to the conference and discussed during the conference. To expedite the conference, the official assigned to the case may contact the operator or miner to discuss the case prior to such conference.

(c) The Office of Assessments will consider all relevant information on the violation(s) in question presented by the operator or miner and is authorized to recalculate the assessed penalty on the basis of any new information presented to it. When the facts warrant a finding that no violation of the Act or a mandatory health or safety standard occurred, a penalty will not be assessed.

(d) If the operator or miner appears in person and the issues are resolved, he may, at this time, tender payment of the amount agreed upon and thereby dispose of the case, or he may have 10 days within which to submit payment to the Office of Assessments of the amount agreed upon and thereby dispose of the case. All such agreements must be in writing and signed by both parties. Failure to tender payment of the agreed amount within the 10-day period will result in the agreed amount being entered as the final order of the Secretary, enforceable under section 109(a)(4) of the Act.

(e) If all issues cannot be resolved during the conference, the operator or miner may settle those violations in agreement as provided in paragraph (d) of this section and have those deleted from the case. Violations not resolved will be forwarded to the Associate Solicitor—Mine Health and Safety, who shall file a petition to assess a civil penalty with the Office of Hearings and Appeals of the Department of the Interior pursuant to 43 CFR 4.540.

§ 100.7 Request for Hearing.

(a) The Office of Assessments shall provide a return mailing card with each order of assessment to allow the operator or miner to indicate his desire to have a hearing under section 109(a)(3) of the Act. When an operator or miner

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requests a hearing, the Office of Assessments shall forward the case to the Associate Solicitor—Mine Health and Safety, who shall file a petition for assessment of civil penalty with the Office of Hearings and Appeals of the Department of the Interior pursuant to 43 CFR 4.540.

(b) The petition shall be served on the operator or miner who, in accordance with the Department's Hearings and Appeals procedures (43 CFR 4.541), shall then have 30 days within which to file an answer to the petition and be afforded an opportunity for a public hearing.

(c) In accordance with 43 CFR 4.545, the Office of Hearings and Appeals shall thereafter issue an order, based on findings of fact and conclusions of law unless the petition is dismissed by consent of the parties.

(d) In assessing a penalty, the Office of Hearings and Appeals may determine de novo the amount of the civil penalty, taking into consideration the six criteria specified in section 109(a)(3) of the Act.

§ 100.3 Civil penalty Cases Pending before the Office of Hearings and Appeals.

(a) In all cases previously filed with the Office of Hearings and Appeals which have not yet been heard or decided by an Administrative Law Judge, an operator may file with the Office of Hearings and Appeals a request for a conference with the Office of Assessments as provided in § 100.4(b)(2). Such request must be postmarked on or before 30 days after the effective date of this part.

(b) Such request should identify the civil penalty case by name, docket number and assessment control number and be addressed to:

Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

The Office of Hearings and Appeals will promptly notify the Office of Assessments of those cases which have timely requested a conference.

(c) The submission of a timely conference request in those cases described in paragraph (a) of this section will operate to stay further proceedings pending holding of the informal conference, but shall in no instance warrant dismissal of the pending case. Failure to resolve the issue involved in the case by conference will result in the stay of proceedings being dissolved.

APPENDIX A—ORDER OF ASSESSMENT

AO Control No.:
Mine ID No.:
No. of Employees:
Annual Tonnage
Conversion Table No.:

Operator:
Address:
Mine Name:
Mine Location:

Upon reviewing the violations cited in the attached notices and orders and the data supplied by the Secretary's Authorized Representative I find that the violations cited below did in fact occur and applying that data to the formula described in 30 CFR 100.3 based upon the findings set forth in the attached worksheets I assess the penalty specified below.

In making this order of assessment it is presumed that the operator's ability to continue in business is not affected. You are informed that you have a right to submit information concerning your financial status and the effect of the order of assessment on your ability to continue in business to the Office of Assessments for reconsideration and possible reduction of this assessed penalty.

Pursuant to 30 CFR 100.4(b), you have 20 days from receipt of this order of assessment to either (1) pay the penalty, (2) request, in writing, a conference with the Office of Assessments to provide informtaion relating to the violations listed in the order of assessment, or (3) request, in writing, a hearing on the violations in question before the Department's Office of Hearings and Appeals pursuant to Subpart F, Part 4, Title 43, Code of Federal Regulations. If you do not exercise the rights described herein within 20 days of receipt of this order of assessment, this order of assessment will be enforced under section 109(a)(4) of the Act.

Signature

Citation designation	Date	Standard 30 CFR	Summary of criterion points from form AO-22						Penalty
			A	B	C	D	E	Total	

Pursuant to § 100.3, 30 CFR, a citation is assigned penalty points within each criterion. The total of these points is applied to a conversion table and the assessment is extracted therefrom. The selection of the table is determined by the annual tonnage of the cited mine. The subdivisions are as follows (100.3(a)(1)):

Annual tonnage of mine	*Penalty conversion table*
Over 1 million tons	1
Over 500,000 to 1 million tons	2
Over 100,000 to 500,000 tons	3
Over 50,000 to 100,000 tons	4
50,000 tons or under	5

Penalty Conversion Table No. [ ] governs this assessment.

CRITERION A. APPROPRIATENESS OF THE PENALTY TO THE SIZE OF BUSINESS OF THE OPERATOR CHARGED

This criterion is applied primarily by the selection of the penalty conversion table as described immediately above. Secondarily, penalty points are assigned based upon the annual tonnage of the company to which the cited mine belongs provided the company owns more than one mine. The points are assigned as follows:

Annual tonnage of company	*Penalty points*
Over 3,000,000 tons	5
700,000 to 2,999,999	4
300,000 to 6,999,999	3
200,000 to 299,999	2
100,000 to 199,999	1
Under 100,000 tons	0

[ ] number of penalty points assigned to this criterion.

CRITERION B. HISTORY OF PREVIOUS VIOLATIONS

(1) Average number of violations assessed per year.

Number of violations	*Penalty points*
0 to 10	0
11 to 20	1
21 to 30	2
31 to 40	3
41 to 50	4
Over 50	5

[ ] number of penalty points assigned to this category.

(2) Average number of violations assessed per inspection day.

Violations per inspection day	*Penalty points*
Under 0.1	0
0.1 to 0.199	1
0.2 to 0.299	2
0.3 to 0.399	3
0.4 to 0.499	4
0.5 to 0.599	5
0.6 to 0.699	6
0.7 to 0.799	7
0.8 to 0.899	8
0.9 to 0.999	9
1 and over	10

[ ] number of penalty points assigned to this category.

[ ] Total assigned to this criterion.

CRITERION C. NEGLIGENCE

Penalty points under this criterion range from 0 to 30 as the degree of negligence increases from "no" through "ordinary" to "gross". The degrees of negligence are explained in § 100.3(c).

---------- negligence is found.

[ ] number of penalty points assigned to this criterion.

CRITERION D GRAVITY

(1) Probability of the occurrence of the event against which the standard is directed.

Probability of occurrence	*Penalty points*
Improbable	0
Possible	1–3
Probable	4–9
Imminent	10–13
Occurred	14

[ ] number of penalty points assigned to this category.

(2) Gravity of the injury if it occurred or were to occur.

Gravity of injury	*Penalty points*
Slight	0
First aid	1
Nondisabling	2–3
Temporary total disabling	4–6
Permanent partial disabling	7–9
Permanent total disabling	10–12
Fatal	13

[ ] number of penalty points assigned to this category.

(3) Number of personnel injured.

Number injured	*Penalty points*
0	0
1	1
2	2
3	3
4 to 5	5
6 to 9	8
10 to 15	10
More than 15	13

[ ] number of penalty assigned to this category.

[ ] total penalty points assigned to this criterion.

CRITERION E. DEMONSTRATED GOOD FAITH OF THE OPERATOR CHARGED IN ATTEMPTING TO ACHIEVE RAPID COMPLIANCE

Penalty points under this criterion range from —5 to 10 as the degrees of compliance decrease from "rapid" through "normal" to "lack of good faith". The degrees of compliance are explained in § 100.3(f).

---------- is found.

[ ] number of penalty points assigned to this criterion.

To Mine Operator:

This is to advise you of your rights to a formal hearing or an informal conference on the order of assessment, ----------, as provided under § 100.4(b), Part 100—Civil Penalties for Violation of the Federal Coal Mine Health and Safety Act of 1969, Title 30, Code of Federal Regulations.

Section 100.4(b) gives you the right to an informal conference with the Office of Assessments, and a formal hearing with the Office of Hearings and Appeals. If you desire a hearing or conference, please mark the proper line below:

Conference with Office of Assessments ----------

Formal Hearing with Office of Hearings and Appeals ----------

The selection of a conference with the Office of Assessments does not waive your right to a formal hearing with the Office of Hearings and Appeals if a settlement is not reached.

If you have indicated your desire to have a conference, please complete this card:

1. ----------
Name of Mine

2. ----------
Mine I.D. No.

3. ----------
Name of Company

4. ----------
Company Office to Contact

5. ----------
Telephone No. including Area Code

If possible I would like the conference to be conducted at:

Town County State

Signature Date

[FR Doc.74-10312 Filed 5-6-74;8:45 am]

NATIONAL PARK SERVICE

[36 CFR Part 7]

YELLOWSTONE NATIONAL PARK, WYOMING

Designation of Snowmobile Routes and Related Special Regulations

In accordance with the requirements of § 2.34(c) of the general regulations pertaining to Public Use and Recreation in areas of the National Park System and pursuant to authority contained in Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), the Act of May 7, 1894 (28 Stat. 73, as amended; 16 U.S.C. 26), 245 DM-I (34 FR 13879), National Park Service Order No. 77 (38 FR 7478), as amended, Regional Director, Midwest Region Order No. 5 (37 FR 6324), as amended, notice is hereby given that amendments are proposed to § 7.13 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of these proposed amendments is to designate snowmobile routes, to define the term "Unplowed roadway," and to specify a minimum age for operators of snowmobiles in Yellowstone National Park.

In arriving at the designations of snowmobile routes, we have been guided by the criteria in sections 3 and 4 of E.O. 11644 (37 FR 2877), and the requirements of the general National Park Service regulations referred to above. In order to properly designate such routes along public highways, it was deemed necessary to define the boundaries that would determine or establish the width of the routes; i.e., the "unplowed roadway." Because of the anticipated heavy traffic, the relative high speeds of oversnow vehicles, and in the interest of promoting greater vehicle safety, we have determined it necessary, also, to fix a minimum age for operators of snowmobiles.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Moreover, regarding the designation of routes for the use of snowmobiles, the Department will adhere to the 30-day period for comment established by § 2.34(c) of this chapter, as amended in the FEDERAL REGISTER of April 1, 1974 (39 FR 11882). Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to the proposed amendments to the Superintendent, Yellowstone National Park, Wyoming 82190, on or before June 6, 1974.

Section 7.13 of Title 36 of the Code of Federal Regulations is amended as follows:

§ 7.13 Yellowstone National Park.

• • • • • •

(l) Skiing, sledding, tobogganing, snowshoeing, and oversnow vehicles. (1) The following activities are prohibited:

• • • • • •

(iv) No person under the age of 16 shall operate a snowmobile.

• • • • • •

(3) Snowmobiles:

(i) Definitions: *Unplowed Roadway.* The unplowed roadway shall be limited to that portion of the roadway located between the road shoulders designated by snow poles or poles, ropes, and signs erected by the Superintendent to regulate snowmobile activity.

(ii) Designated routes: The designated routes for snowmobile use shall be that portion of the unplowed roadway from:

(*a*) The Grand Loop Road from its junction with Terrace Springs Drive to Norris Junction.

(*b*) Norris Junction to Canyon Road.

(*c*) The Virginia Cascade Drive.

(*d*) The Grand Loop Road from Norris Junction to Madison Junction.

(*e*) The West Entrance Road from the Park Boundary at West Yellowstone to Madison Junction.

(*f*) The Grand Loop Road from Madison Junction to West Thumb.

(*g*) The Firehole Canyon Drive.

(*h*) The Blacktail Plateau Drive.

(*i*) The Fountain Flat Drive.

(*j*) The South Entrance Road from the South Entrance to West Thumb.

(*k*) The Grand Loop Road from West Thumb to its junction with the East Entrance Road.

(*l*) The East Entrance Road from the East Entrance to its junction with the Grand Loop Road.

(*m*) The Grand Loop Road from its junction with the East Entrance Road to Canyon junction.

(*n*) The Canyon Rim Drives.

(*o*) The Grand Loop Road from Canyon junction to Tower junction.

(*p*) In the developed areas of Madison Junction, Old Faithful, Grant Village, Lake, Fishing Bridge, Canyon and Norris Junction, snowmobile routes to scenic points of interest, lodging and other facilities will be designated by appropriate snow poles and signs; said routes being limited to the unplowed roadways. The criteria for determining specific routes in these areas will be: the most direct access, weather and snow conditions and the elimination of congestion and improvement of circulation in the interest of public safety.

(*q*) Maps showing designated routes shall be available at Park Headquarters and each entrance station.

(iii) The Superintendent shall determine the opening and closing dates for use of the designated snowmobile routes each year, taking into consideration snow and other weather conditions, road plowing schedules and other factors that may relate to public safety, and he shall notify the public of such dates by the posting of appropriate signs at the entrances to the routes.

(iv) Snowmobile use outside designated routes is prohibited. This prohibition shall not apply to (*1*) emergency routes designated by the Superintendent with appropriate signs and poles and (2) emergency administrative travel by employees of the National Park Service or its contractors and concessioners.

• • • • • •

JACK K. ANDERSON,
Superintendent,
Yellowstone National Park, Wyoming.

[FR Doc.74-10431 Filed 5-6-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 57]

EMERGENCY MEDICAL SERVICES TRAINING

Inter-Professional Training Grants

Section 776 of the Public Health Service Act authorizes the Secretary of Health, Education, and Welfare, to make grants to schools of medicine, dentistry, osteopathy, nursing, training centers for

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allied health professions, and other appropriate educational entities to assist in meeting the costs of training programs in the techniques and methods of providing emergency medical services, including the skills required in connection with the provision of ambulance service. Proposed regulations for this program were published in the FEDERAL REGISTER of April 29, 1974 (39 FR 15011).

This document is intended to provide notice that in addition to the funding priority established for those projects which afford, as part of their training program, clinical experience in emergency medical services systems receiving assistance under Title XII of the Public Health Service Act (§ 57.2107(b) of the proposed regulations), the Secretary, as a result of an examination of national health needs, proposes for fiscal year 1974 to give special consideration in funding to the establishment and operation of programs in interprofessional training for a team approach to the delivery of emergency medical services and the establishment and operation of programs that would provide a regional or area-wide resource for the training of one or more types of emergency medical personnel.

Written comments concerning the proposed funding priorities are invited from interested persons. Inquiries may be addressed, and data, views and arguments relating to the proposed priorities may be presented in writing in triplicate, to the Director, Bureau of Health Resources Development, Health Resources Administration, 9000 Rockville Pike, Building 31, Room 5C02, Bethesda, Maryland 20014. All comments received in response to this notice will be available for public inspection at the Office of Grants Policy, Bureau of Health Resources Development, Health Resources Administration, 9000 Rockville Pike, Building 31, Room 5B34, Bethesda, Maryland 20014 on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m. All relevant material received on or before May 22, 1974 will be considered.

Dated: April 29, 1974.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: May 2, 1974.

CASPER W. WEINBERGER,
Secretary.

[FR Doc.74-10573 Filed 5-6-74;8:45 am]

Social Security Administration

[20 CFR Part 404]

[Regs. No. 4]

FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

Quarters of Coverage and Insured Status; Disability Insured Status

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide that an individual disabled by reason of blindness (as defined in section 216(i)(1) of the Social Security Act, as amended) may qualify for a period of disability and/or disability insurance benefits if he has fully insured status. Prior to the enactment of section 117 of Public Law 92-603, such individual had to meet, in addition to the fully insured status test, one of two other insured status tests involving substantial recent covered work. (Insured status relates to the amount of covered work required to qualify for social security benefits.) Also, because section 116 of Public Law 92-603 reduced to five months the disability "waiting period" (that continuous period of time beginning with the first month of an individual's disability and ending with the month of his entitlement to disability insurance benefits), § 404.115 of the proposed amendments incorporates the appropriate changes in the points in time at which the individual may have disability insured status. New § 404.118 reflects the liberalized age computation point for men enacted by section 104 of Public Law 92-603. This computation point has been reduced from age 65 to age 62 after a 2 year phase-in period. Thereafter, men and women will receive the same treatment in determining the number of quarters of coverage required for a fully insured status.

Prior to final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before June 7, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in section 205, 216, 223, and 1102, 53 Stat. 368, as amended, 68 Stat. 1080, as amended, 70 Stat. 815, as amended, 49 Stat. 647, as amended; 42 U.S.C. 405, 416, 423, and 1302.

(Catalog of Federal Domestic Assistance Program No. 13.802, Social Security—Disability Insurance)

Dated: April 8, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: April 29, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulations No. 4 of the Social Security Administration, as amended (20 CFR 404.1 et seq.), are further amended to read as follows:

1. Paragraph (b) of § 404.115 is revised to read as follows:

§ 404.115 When disability insured status must be met.

* * * * * *

(b) *Disability insurance benefits.* To become entitled to a disability insurance benefit, in addition to meeting certain other requirements (see section 223(a) of the Act), an individual must meet the insured status requirement for disability insurance benefits as of the first full month that he was under a disability (as defined in § 404.1501(a)), or, if later,

(1) For benefits payable for months before January 1973, as of the 18th month (the 12th month, where no "waiting period" is required—see section 223(a) of the Act) prior to the month in which the application for disability insurance benefits is filed; or

(2) For benefits payable for months beginning January 1973 or later, as of the 17th month (the 12th month, where no "waiting period" is required—see section 223(a) of the Act) prior to the month in which the application for disability insurance benefits is filed, provided the application is filed:

(i) After September 1972; or

(ii) Before October 1972, and

(A) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(B) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

If the individual does not meet the insured status requirement at such times, he will be insured for disability insurance benefit purposes as of the first month thereafter in which he acquires such insured status provided that at such later time he meets all other requirements for disability insurance benefits.

2. Section 404.116 is revised as follows:

§ 404.116 Disability insured status.

(a) *Period of disability, general.* For the purpose of establishing a period of disability, an individual has disability insured status as of a calendar quarter if such individual:

(1) Would have been fully insured had the individual filed application for old-age insurance benefits on the first day of such calendar quarter (see § 404.118 for requirement regarding the point in time when fully insured status must be met); and

(2)(i) Had not less than 20 quarters of coverage during the 40-quarter period (see paragraph (e) of this section) which ends with such quarter, or

(ii) Effective with respect to applications for disability determinations filed after December 1967;

(A) Such quarter ends before the individual attains (or would attain) age 31, and

(B) Not less than one-half of the quarters during the period ending with such quarter and beginning with the quarter after he attained the age of 21 were quarters of coverage (when the number of quarters in a period is an odd number, such number is reduced by one). If the number of quarters in such period is less than 12, at least six of the quarters (including quarters prior to age 21) in the 12-quarter period ending with such quarter must have been quarters of coverage.

(b) *Period of disability—individual who is statutorily blind.* For the purpose of establishing a period of disability, an individual, who is disabled by reason of blindness (as defined in section 216(i)(1) of the Act), has disability insured status as of a calendar quarter if such individual:

(1) Meets the requirements in paragraphs (a)(1) and (a)(2)(i) of this section, or

(2) With respect to applications filed after June 1965, meets the requirements of paragraphs (a)(1), (a)(2)(ii)(A), and (a)(2)(ii)(B) of this section, or

(3) Would have been fully insured (see § 404.118) had the individual filed application for old-age insurance benefits on the first day of such quarter provided an application for a period of disability is filed

(i) After September 1972; or

(ii) Before October 1972, and

(A) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(B) Notice of the final decision of the Secretary was given before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

(c) *Disability insurance benefits, general.* For the purpose of entitlement to disability insurance benefits, an individual has disability insured status in a month if:

(1) He would have been fully insured (see § 404.118) had the individual filed application for old-age insurance benefits on the first day of such month; and

(2)(i) Had not less than 20 quarters of coverage during the 40-quarter period (see paragraph (e) of this section) which ends with the quarter in which such month occurred, or

(ii) Effective with respect to benefits for months after January 1968 on the basis of an application filed after December 1967:

(A) Such month ends before he attains (or would attain) age 31, and

(B) Not less than one-half of the quarters during the period ending with the quarter in which such month occurred and beginning with the quarter after he attained the age of 21 were quarters of coverage (when the number of quarters in a period is an odd number, such number is reduced by one). If the number of quarters in such period is less than 12, at least six of the quarters (including quarters prior to age 21) in the 12-quarter period ending with such quarter must have been quarters of coverage.

(d) *Disability insurance benefits—individual who is statutorily blind.* For the purpose of entitlement to disability insurance benefits, an individual, who established a period of disability on the basis of blindness (as defined in section 216(i)(1) of the Act), has disability insured status in a month if such individual:

(1) Meets the requirements in paragraphs (c)(1) and (c)(2)(i) of this section, or

(2) Effective with respect to benefits for months after August 1965 on the basis of an application filed after June 1965, meets the requirements of paragraphs (c)(1), (c)(2)(ii)(A) and (c)(2)(ii)(B) of this section, or

(3) Would have been fully insured (see § 404.118) had such individual filed an application for old-age insurance benefits on the first day of such quarter provided an application for disability insurance benefits is filed

(i) After September 1972; or

(ii) Before October 1972; and

(A) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(B) Notice of the final decision of the Secretary was given before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

For purpose of this paragraph, no monthly benefits under Title II of the Social Security Act shall be payable or increased by reason of this subparagraph (3) for months before January 1973.

(e) *Determining 40-quarter or other period.* In determining the 40-quarter or other period for the purpose of paragraphs (a)(2) or (c)(2) of this section, any quarter which is not a quarter of coverage, all or any part of which is included in a period of disability established for the individual, is not counted as part of such 40-quarter period or such other period. (See §§ 404.103 and 404.104.)

3. A new section 404.118 is added to read as follows:

§ 404.118 Quarters of coverage requirement for period of disability and/or disability benefits—fully insured status.

(a) The period for determining the number of quarters of coverage needed to satisfy the fully insured status requirement (see §§ 404.108–404.113) for a female will end as of:

(1) The year of attainment of age 62; or, if earlier

(2) The year in which:

(i) The period of disability begins or disability benefits are payable

(ii) The waiting period (see § 404.308) for disability benefits begins; or, if there is no waiting period

(iii) Entitlement to disability benefits begins.

(b) The period for determining the number of quarters of coverage needed to satisfy the fully insured status requirement (see §§ 404.108–404.113) for a male born January 1, 1913, or earlier will end as of:

(1) The year 1975; or, if earlier

(2) The year in which:

(i) The period of disability begins or disability benefits are payable

(ii) The waiting period (see § 404.308) for disability benefits begins, or, if there is no waiting period.

(iii) Entitlement to disability benefits begins.

(c) The period for determining the number of quarters of coverage needed to satisfy the fully insured status requirement (see §§ 404.109–404.113) for a male born January 2, 1913, or later will end as of:

(1) The year of attainment of age 62; or, if earlier

(2) The year in which:

(i) The period of disability begins or disability benefits are payable

(ii) The waiting period (see § 404.308) for disability benefits begins; or, if there is no waiting period

(iii) Entitlement to disability benefits begins.

[FR Doc.74-10382 Filed 5-6-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-AL-8]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the terminal airspace structure at Gulkana, Alaska.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before June 6, 1974 will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal

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Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska.

Application of criteria for U.S. Terminal Instrument Procedures (TERPS) for establishment of terminal controlled airspace, the conversion of the RR to an NDB, and the installation of DME arc approach system at Gulkana, Alaska, require amendments to the Gulkana, Alaska control zone and transition area. Refined coordinates of the Airport Reference Point (ARP) and revised configuration of the 1,200-foot transition area to encompass new DME holding fixes are also contained in this proposed amendment.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. Section 71.171 (39 FR 354) the Gulkana, Alaska, control zone is amended to read:

GULKANA, ALASKA

Within a 5-mile radius of the Gulkana Airport (latitude 62°09'19" N., longitude 145°-27'08" W.); within 3.5 miles each side of the Gulkana VORTAC 346° radial extending from the 5-mile radius zone to 11.5 miles N of the VORTAC; and within 3 miles each side of the Gulkana VORTAC 181° radial extending from the 5-mile radius zone to 8.5 miles S of the VORTAC.

2. In § 71.181 (39 FR 440) the Gulkana, Alaska, transition area is amended to read:

GULKANA, ALASKA

That airspace extending upward from 700 feet above the surface within 6 miles E and 10.5 miles W of the 346° radial extending from Gulkana VORTAC to 22 miles N of the VORTAC; within 4.5 miles E and 9.5 miles W of the 181° radial extending from the Gulkana VORTAC to 18.5 miles S of the VORTAC; and within a 16.5 mile radius of the Gulkana VORTAC; that airspace extending upward from 1,200 feet above the surface within 8.5 miles E and 5.5 miles W of the Gulkana VORTAC 184° radial extending from 9 miles S. to 30 miles S of the VORTAC; and within 8.5 miles W and 5.5 miles E of the Gulkana VORTAC 356° radial extending from 9 miles N to 30 miles N of the VORTAC.

The action proposed herein would alter the Gulkana, Alaska, control zone by reducing the length of the north zone extension by 2 miles and expanding the width thereof by 0.5 miles and expanding the length of the south zone extension by 0.5 miles and the width by 1.0 miles.

The 1,200-foot transition area has been deleted as stated in the FEDERAL REGISTER and redefined to encompass the holding patterns at the 15 DME fixes north and south of the Gulkana VORTAC. A 700-foot transition area has been established 22 miles N and 18.5 miles S to protect the procedure turns and a 16.5 mile radius to encompass the arc transitions for the VOR approaches. The 700-foot transition area is of sufficient size to encompass the holding patterns at the navaids.

These amendments are proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Anchorage, Alaska, on April 24, 1974.

QUENTIN S. TAYLOR,
Acting Director, Alaskan Region.

[FR Doc.74-10416 Filed 5-6-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-EA-18]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the White Plains, N.Y., Control Zone (39 FR 436) and Transition Area (39 FR 612).

A review of the airspace requirements for the White Plains, N.Y., terminal area for compatibility with Terminal Instrument Procedures (TERPS) requires alteration of the control zone and transition area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before June 6, 1974 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of White Plains, New York, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the White Plains, N.Y. control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 41°04'00" N., 73°42'33" W. of Westchester County Airport, White Plains, N.Y., extending clockwise from a 055° bearing to a 305° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 055° bearing from the airport; and within 2 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 4 miles southeast of the southeast end of Runway 16.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the White Plains, N.Y. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41°04'00" N., 73°42'33" W. of Westchester County Airport, White Plains, N.Y., extending clockwise from a 047° bearing to a 307° bearing from the airport, within a 10-mile radius of the center of the airport, extending clockwise from a 307° bearing to 047° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Carmel, N.Y. VORTAC 245° and 065° radials, extending from 5.5 miles southwest to 11.5 miles northeast of the VORTAC; within 6.5 miles southwest and 4.5 miles northeast of the Westchester County Airport ILS localizer northwest course, extending from 5.5 miles southeast of the OM to 11.5 miles northwest of the OM; within 5 miles each side of the Westchester County Airport ILS localizer northwest course, extending from the 8.5-mile radius area and 10-mile radius area to 12 miles northwest of the OM; within 5 miles each side of the extended centerline of Runway 16, extending from the southeast end of Runway 16 to 13 miles southeast of the southeast end of Runway 16; within 5 miles each side of the Carmel, N.Y. VORTAC 206° radial, extending from the 8.5-mile radius area and 10-mile radius area to the Carmel, N.Y. VORTAC; and within 5 miles each side of the Carmel, N.Y. VORTAC 232° radial, extending from 4 miles southwest to 10 miles southwest of the Carmel, N.Y. VORTAC, that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°31'00" N., 73°54'00" W., to 41°31'00" N., 73°30'00" W., to 41°25'00" N., 73°30'00" W., to 41°20'00" N., 73°44'00" W., to 41°18'00" N., 73°42'00" W., to 41°16'00" N., 73°45'00" W., to 41°20'00" N., 73°49'00" W., to 41°15'00" N., 73°59'30" W., to 41°00'00" N., 73°38'00" W., to 41°00'00" N., 73°54'00" W., to 41°08'10" N., 74°13'00" W., to 41°11'00" N., 74°09'00" W., to 41°12'00" N., 74°00'00" W., to 41°19'00" N., 74°00'00" W., to point of beginning.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 22, 1974.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[FR Doc.74-10413 Filed 5-6-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-EA-26]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Poughkeepsie, N.Y., Control Zone (39 FR 419) and Transition Area (39 FR 572).

Due to the development of a new instrument procedure for Dutchess County Airport, Poughkeepsie, New York, additional airspace will be designated to protect aircraft utilizing the new procedure.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before June 6, 1974 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Poughkeepsie, New York, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Poughkeepsie, N.Y. control zone by adding the following:

• • • and within 3.5 miles each side of the Kingston, N.Y. VORTAC 050° radial, extending from the VORTAC to 10.5 miles northeast of the VORTAC.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Poughkeepsie, N.Y. transition area by inserting after the phrase "10.5 miles northeast of the VORTAC;" the following:

• • • within 5 miles each side of the Kingston, N.Y. VORTAC 050° radial, extending from the VORTAC to 11.5 miles northeast of the VORTAC;

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 22, 1974.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[FR Doc.74-10415 Filed 5-6-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-NW-09]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Boise, Idaho Transition Area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108. All communications received on or before June 6, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108.

A review of the airspace requirements at Boise, Idaho disclosed that additional 1200' Transition Area would permit greater flexibility and more efficient use of vector procedures in the control of arrivals and departures by Boise Approach Control.

In addition, the present description is being revised at this time to incorporate some editorial changes and to eliminate redundancy in the description.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (39 FR 440) the description of the Boise, Idaho Transition Area is amended to read as follows:

BOISE, IDAHO

That airspace extending upward from 700 feet above the surface bounded by a line beginning at Latitude 43°56'00" N., Longitude 116°33'00" W., direct to Latitude 43°51'15" N., Longitude 116°25'00" W., thence via a 21.5 mile radius arc, centered on the Boise VORTAC, clockwise to Longitude 116°14'00" W., direct Latitude 43°45'00" N., Longitude, 116°14'00" W., direct Latitude 43°31'00" N., Longitude 115°52'00" W., direct Latitude 43°20'00" N., Longitude 115°58'00" W., direct Latitude 43°25'00" N., Longitude 116°25'00" W., direct Latitude 43°42'00" N., Longitude 116°57'00" W., thence to point of beginning; that airspace extending upward from 1200 feet above the surface within a 35 mile radius arc from Boise VORTAC extending clockwise from V-253 to V-4N, within a 40-mile radius arc of Boise VORTAC extending clockwise from the southeast edge of V-113 to V-500, that airspace 8 miles each side of Boise VORTAC 269° radial extending from the 40-mile radius arc to 57 miles west of the VORTAC, within 8 miles northeast and 11 miles southwest of the Boise VORTAC 295° radial, extending from the 40-mile radius arc to 75 miles northwest of the VORTAC, that airspace northwest of Boise bounded on the northwest by the McCall VORTAC 295° radial, on the east by the west edge of V-253 on the southwest by V-4; that airspace southeast of Boise extending upward from 9000 feet MSL extending from the 35 mile arc bounded on the north by V-500, on the east by the southwest edge of V-293, on the south by the north edge of V-330 and on the southwest by the northeast edge of V-4; that airspace northeast of Boise extending upward from 11,500 feet MSL, bounded on the northeast by southwest edge of V-293, on the south by the north edge of V-500, on the southwest by the 35 mile radius arc and on the west by the east edge of V-253.

This amendment is proposed under authority of Section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1654(c)).

Issued in Seattle, Washington on April 24, 1974.

J. H. TANNER,
Acting Director, Northwest Region.

[FR Doc.74-10417 Filed 5-6-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-EA-20]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the New York, N.Y., Transition Area (39 FR 555).

As a result of a periodic review of the New York, N.Y., terminal airspace it has been determined that alteration of the transition area will be required to meet present criteria. The major alteration proposes a reduction in size of the 700-foot transition area south of JFK International Airport, to be replaced by a 1,200-foot transition area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 6, 1974 will be considered before action is taken on the proposed amendment. No. hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of New York, New York, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the New York, N.Y. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 40°38'25" N., 73°46'41" W., of John F. Kennedy International Airport, New York, N.Y., extending clockwise from a 035° bearing to a 065° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 065° bearing to a 228° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 228° bearing to a 244° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 244° bearing to a 290° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 290° bearing to a 338° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 338° bearing to a 035° bearing from the airport; within 3 miles each side of the Canarsie, N.Y. VOR 210° radial, extending from the Canarsie, N.Y. VOR to 4 miles southwest of the VOR; within a 9-mile radius of the center, 40°46'36" N., 73°52.24" W., of LaGuardia Airport, New York, N.Y., extending clockwise from a 029° bearing to a 080° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 080° bearing to a 117° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 117° bearing to a 243° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 243° bearing to a 320° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 029° bearing from the airport; within 3.5 miles each side of the LaGuardia, N.Y. VOR 038° radial, extending from the LaGuardia, N.Y. VOR to 9 miles northeast of the VOR; within a 10-mile radius of the center, 40°50'57" N., 74°03'47" W., of Teterboro Airport, Teterboro, N.J., extending clockwise from a 047° bearing to a 077° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 077° bearing to a 241° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 241° bearing to a 253° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 253° bearing to a 047° bearing from the airport; within 9.5 miles northwest and 4.5 miles southeast of the Teterboro Airport ILS localizer southwest course, extending from the OM to 18.5 miles southwest of the OM; within a 9-mile radius of the center, 40°41'40" N., 74°10'02" W., of Newark International Airport, Newark, N.J.

Extending clockwise from a 011° bearing to a 071° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 071° bearing to a 123° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 123° bearing to a 150° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 150° bearing to a 232° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 232° bearing to a 255° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 255° bearing to a 011° bearing from the airport; within 2.5 miles each side of a 105° bearing from a point 40°45'24" N., 74°30'48" W., extending from the 12-mile radius area to 4 miles east of said point; within 5 miles each side of a 098° bearing from the Chatham, N.J. RBN, extending from the 12-mile radius area to 2 miles east of the Chatham, N.J. RBN; within a 10-mile radius of the center, 40°47'58" N., 74°24'56" W., of Morristown Municipal Airport, Morristown, N.J., extending clockwise from a 022° bearing to a 116° bearing from the airport within an 8.5-mile radius of the center of the airport, extending clockwise from a 116° bearing to a 116° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 264° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 264° bearing to a 335° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 335° bearing to a 022° bearing from the airport; within 6.5 miles northwest and 4.5 miles southeast of the Morristown Municipal Airport ILS localizer northeast course, extending from 5.5 miles southwest of the OM to 11.5 miles northeast of the OM; within 9.5 miles southeast and 4.5 miles northwest of the Morristown Municipal Airport ILS localizer northeast course, extending from the OM to 18.5 miles northeast of the OM; within 9.5 miles northwest and 4.5 miles southeast of a 204° bearing from the Chatham, N.J. RBN, extending from the Chatham, N.J. RBN to 18.5 miles southwest of the RBN; within 5 miles each side of the Solberg, N.J. VORTAC 067° radial, extending from the Solberg, N.J. VORTAC to 10.5 miles northeast of the VORTAC; within 5 miles each side of the Morristown Municipal Airport ILS localizer southwest course, extending from the localizer to 14.5 miles southwest of the localizer; within a 5.5-mile radius of the center, 40°31'30" N., 74°35'52" W., of Kupper Airport, Manville, N.J.

Extending clockwise from a 064° bearing to a 331° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 331° bearing to a 064° bearing from the airport; within 6.5 miles northeast and 4.5 miles southwest of the Solberg, N.J. VORTAC 298° radial and 118° radial, extending from 5.5 miles southeast to 11.5 miles northwest of the VORTAC; within a 7-mile radius of the center, 40°52'16" N., 74°17'00" W., of Caldwell-Wright Airport, Caldwell, N.J., extending clockwise from a 062° bearing to a 149° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 149° bearing to a 267° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 267° bearing to a 346° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 346° bearing to a 062° bearing from the airport; within 3.5 miles each side of a 276° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 11.5 miles west of said point; within 5 miles each side of a 281° bearing from a point 40°52'48" N., 74°20'08" W., extending from said point to 13.5 miles west of said point; within 9.5 miles northwest and 4.5 miles southeast of a 054° bearing from the Paterson, N.J. RBN, extending from the RBN to 18.5 miles northeast of the RBN; within a 6-mile radius of the center, 40°41'28" N., 74°32'06" W., of Somerset Hills Airport, Basking Ridge, N.J., extending clockwise from a 035° bearing to a 162° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 162° bearing to a 217° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 217° bearing to a 287° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 287° bearing to a 035° bearing from the airport; within 8 miles northwest and 4.5 miles southeast of a 058° bearing and a 238° bearing from the Chatham, N.J. RBN, extending from 5.5 miles southwest of the RBN to 11.5 miles northeast of the RBN; within 5 miles each side of the Sparta, N.J. VORTAC 082° radial, extending from 23 miles east of the VORTAC to 38 miles east of the VORTAC; within an 8.5-mile radius of the center, 40°37'30" N., 74°40'30" W., of Somerset Airport, Somerville, N.J.

Extending clockwise from a 044° bearing to a 138° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 138° bearing to a 274° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 274° bearing to a 312° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 312° bearing to a 044° bearing from the airport, within 8 miles southeast and 4.5 miles northwest of the Solberg, N.J. VORTAC 050° and 230° radials, extending from 5.5 miles northeast of the VORTAC to 11.5 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 41°19'00" N., 74°00'00" W., to 41°12'00" N., 74°00'00" W., to 41°11'00" N., 74°09'00" W., to 41°08'10" N., 74°13'00" W. thence northwesterly along the boundary of the State of New Jersey to 41°17'45" N., 74°33'15" W., to 41°19'00" N., 74°33'00" W., to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 40°30'00" N., 73°36'00" W.; thence east along 40°30'00" N. to the northwest edge of V–139, thence southwest along the northwest edge of V–139 to 40°12'55" N., 73°19'00" W.; to 40°14'15" N., 73°30'30" W., to 40°21'45" N., 73°40'45" W., to 40°16'35" N., 73°47'30" W., to 41°17'30" N., 73°54'45" W., to 40°17'00" N., 73°58'00" W., to 40°24'00" N., 73°58'00" W., to 40°29'00" N., 74°16'00" W., to 40°32'00" N., 74°16'00" W., to 40°41'00" N., 74°11'45" W., to 40°32'00" N., 73°49'00" W., to 40°32'00" N., 73°45'00" W., to 40°33'00" N., 73°41'00" W., to 40°41'00" N., 73°39'00" W., to 40°55'00" N., 73°50'00" W., to 40°55'00" N., 73°58'00" W., to 41°00'00" N., 73°54'00" W., to 41°00'00" N., 73°33'00" W., to 40°50'00" N., 73°42'00" W., to 40°41'00" N., 73°33'30" W., to the point of beginning. The airspace within W–106 below 3,000 feet MSL is excluded.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 745; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 22, 1974.

MARTIN J. WHITE,
Acting Director, Eastern Region.

[FR Doc.74–10414 Filed 5–6–74;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–WA–3]

TERMINAL CONTROL AREA AT ATLANTA, GEORGIA

Proposed Alteration and Expansion

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Atlanta, Ga., Terminal Control Area (TCA) by expanding the Atlanta TCA vertically to 12,500 feet MSL and horizontally to a 35-mile radius; adding east and west extensions to the 2500-foot area to accommodate parallel approaches; and deleting a portion of the surface area. Experience obtained under the proposed amendment may support later proposals to raise the upper limit of all Group I and Group II TCAs to 12,500 feet MSL.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before July 8, 1974 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons in the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

TCAs initially evolved from the 1968 Mid-Air Collision Study Program which indicated that the uncontrolled mix of VFR and IFR aircraft was a basic factor of terminal air traffic conflicts. TCAs are established to reduce the midair collision potential between large turbine-powered aircraft and unknown aircraft not operating within the air traffic control system. Air carriers account for much of the traffic at TCA locations and their involvement in a mid-air collision could be of catastrophic proportion.

There exists a potential for mid-air collision between turbine-powered aircraft being controlled by ATC and uncontrolled aircraft operating in the airspace between the floor of area positive control (18,000 feet MSL) and the tops of existing TCAs. After July 1, 1975, all aircraft operating in controlled airspace above 12,500 feet MSL will be required to have a transponder with a Mode 3/A 4096 Code capability and Mode C automatic altitude reporting capability. Further expansion of TCA airspace vertically to 12,500 feet would allow containment of jet aircraft within protected airspace during the transition into and out of the high density terminal areas.

On December 4, 1973, an FAA informal airspace meeting was held with representatives of the airspace user organizations in Atlanta to propose an expansion of TCA airspace vertically to 12,500 feet. The primary objection raised concerned a proposal for a 250-knot speed restriction within the expanded TCA. This restriction has been withdrawn.

It is therefore proposed to expand the Atlanta TCA by adding to the existing TCA a circular layer of airspace extending from 8,000 up to and including 12,500 feet MSL to a radius of 35-nautical miles from the Atlanta Airport.

The Atlanta TCA has been in effect since 1970 and has proven successful. However, during this time an additional east/west runway has been added to the Atlanta runway complex making it possible to conduct parallel ILS approaches. The present area is not large enough to procedurally contain all jet arrivals executing an ILS approach to runways 9R/27L while parallel approaches are in progress. A large number of jet aircraft being vectored for these approaches through necessity exit the TCA at the 12-mile boundary then reenter the airspace as they approach the airport.

By extending a portion of the 2500-foot area to the 20-mile radius circle, both east and west of the airport large turbine-powered aircraft being turned on to the "Low Side" of the parallel ILS approaches can be kept within the TCA. This procedure is required since vertical separation must be established prior to the lower aircraft intercepting the ILS.

In addition to the aforementioned changes, two other changes to the TCA are proposed. The geographical position of the William B. Hartsfield Atlanta International Airport has been recomputed due to the addition of an east/west runway. The east/west parallel runways were renumbered because of this expansion. These changes should be reflected in the official designation of the TCA.

Also, the extension of the surface area east of the Atlanta Airport was originally included in the TCA to accommodate large turbine-powered aircraft making an approach from the REX VOR. This procedure is not normally used by these aircraft and therefore the airspace contained in the extension should be made available to aircraft operating outside the TCA. This change is also included in this proposal.

In consideration of the foregoing, it is proposed to amend the Atlanta, Ga., TCA in § 71.401 of Part 71 of the Federal Aviation Regulations to read as follows:

ATLANTA, GA., TERMINAL CONTROL AREA

Primary Airport. Atlanta Airport (Lat. 33°38'31" N., Long. 84°25'34" W.)

BOUNDARIES

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL within a 7-mile radius of the Atlanta Airport, excluding the Fulton County Control Zone and the airspace north of a line four miles north of and parallel to the extended centerline of Runways 8/26.

Area B. That airspace extending upward from 2,500 feet MSL to and including 12,500 feet MSL within a 12-mile radius of the Atlanta Airport, and that airspace between the 12-mile and 20-mile radii, bounded on the north by the 090°T(089°M)270°T(269°M) radials of the Rex VOR and on the south by the 091°T(090°M) and 271°T(270°M) radials of the Atlanta VORTAC, excluding Area A, the Fulton County Control Zone, and the airspace north of a line four miles north of and parallel to the extended centerline of Runways 8/26.

Area C. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL within a 20-mile radius of the Atlanta Airport, excluding Area A, Area B, and the airspace north of a line one mile south of and parallel to the 271°T(271°M) and 091°T(091°M) radials of the Fulton County VOR.

Area D. That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL north of the Atlanta Airport bounded on the east by a 20-mile radius arc from the Atlanta Airport, on the south by a line one mile south of and parallel to the 271°T(271°M) and 091°T(091°M) radials of Fulton County VOR, on the west by a 20-mile radius arc from the Atlanta Airport, and on the north by the southern boundary of the area described as the Dobbins AFB Control Zone and the 260°T(259°M) radial of Norcross VOR east of the Dobbins AFB control zone.

Area E. That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 35-mile radius of the Atlanta Airport excluding Areas A, B, C, and D previously described.

This amendment is proposed under the authority of sections 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 30, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–10412 Filed 5–6–74;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1602]

HIGHER EDUCATION STAFF INFORMATION REPORT EEO–6

Reporting and Recordkeeping Requirements; Notice of Hearing

Notice is hereby given pursuant to 44 U.S.C. 1508 and § 1602.3, Equal Employment Opportunity Commission Procedural Regulations, 29 CFR 1602.3, that the Equal Employment Opportunity Commission has authorized a public hearing to be held at 10 a.m., May 22, 1974, in the hearing room of the Equal Employment Opportunity Commission, 1800 G Street NW., Washington, D.C., room 1129, for the purpose of considering views regarding proposed reporting and recordkeeping requirements for institutions of higher education as set forth in §§ 1602.47–1602.55 and Higher Education Staff Information Report EEO–6.[1] The

[1] The proposed report EEO–6 and instructions are set forth in Appendix I immediately following the proposed regulations.

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public hearing is held as required by section 709(c), 42 U.S.C. (Sup. II) 2000e-8(c), of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, and § 1602.2, Equal Employment Opportunity Commission Procedural Regulations, 29 CFR 1602.2.

The Equal Employment Opportunity Act of 1972 extended the Commission's jurisdiction to include the employment practices of educational institutions, both public and private, with 15 or more employees, except religious educational institutions with respect to the employment of individuals of a particular religion. The Act prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. Section 709(c) of the Act authorizes the Commission to require employers, employment agencies, and labor organizations to preserve such records and reports as are necessary and appropriate for the enforcement of the Act.

Accordingly, the Commission proposes to amend Title 29, chapter XIV, part 1602 of the Code of Federal Regulations to establish report and recordkeeping regulations for institutions of higher education as set forth below.

Report EEO-6 is a joint report form which will service the employment information needs of this Commission, the Office of Civil Rights of the Department of Health, Education and Welfare (OCR), the Office of Federal Contract Compliance of the Department of Labor (OFCC), and the National Center for Educational Statistics of the Office of Education, Department of Health, Education, and Welfare (NCES), Report EEO-6 will replace Report EEO-1 now required by OFCC for institutions of higher education performing services as prime government contractors. Report EEO-6 will replace the staff portion of the Higher Education General Information Survey (O.E. Form 2300-3) of NCES. The Office of Civil Rights does not have a form requiring the information to be elicited by Report EEO-6. The Report EEO-6, therefore, will avoid unnecessary duplication of effort and will benefit the public and the agencies involved pursuant to the requirements of Chapter 35, Coordination of Federal Reporting Services, Title 44 of the United States Code 3501 et seq.

The regulations provide that all institutions having fifteen or more employees must file report EEO-6 annually. The term "institution of higher education" is defined. Such institutions are also required to retain the report forms filed for the three preceding years and all records which are necessary for the completion of the report. Personnel or employment records relating to hiring, promotion, tenure, and termination are required to be kept for a period of two years.

All persons who are interested are invited to participate in the public hearing. The procedure governing the hearing is set forth in §§ 1602.4–1602.6. Equal Employment Opportunity Commission Regulations, 29 CFR 1602.4–1602.6. Each person who wishes to participate should notify, in writing, the Director of Research, Equal Employment Opportunity Commission, Public Hearing-Personal, 1800 G Street NW., Washington, D.C. 20506, by May 17, 1974. Such notification should include the name, address, and telephone number of the person, agency, or organization wishing to participate, a brief general description of the evidence or argument to be presented, and an estimation of the time which will be required for such purpose. The Commission will notify the person, agency, or organization of the approximate time it will have for presentation and the approximate time during the public hearing at which such presentation may be given. A transcript will be made of the hearing and may be purchased by the public.

Persons planning to participate in this hearing and persons who are unable to attend the hearing or who wish to supplement in any way the presentation given at the hearing may submit pertinent written data, views, and argument to the Director of Research, Equal Employment Opportunity Commission, Proposed Regulation—Personal, 1800 G Street NW., Washington, D.C. 20506, no later than May 29, 1974. Each written submission should give the name and address of the person, agency, or organization responsible for it. Copies of all written submissions will be available for examination by interested persons at the Equal Employment Opportunity Commission Library, 1800 G Street NW., Washington, D.C., room 1145, between the hours of 9:30 a.m. to 5 p.m.

It is proposed to amend 29 CFR Part 1602 by adding new subparts O, P, and Q, consisting of new §§ 1602.47, 1602.48, 1602.49, 1602.50, 1602.51, 1602.52, 1602.53, 1602.54, and 1602.55, thereto to read as follows:

Subpart O—Recordkeeping for Institutions of Higher Education

Sec.
1602.47 Definition.
1602.48 Records to be made or kept.
1602.49 Preservation of records made or kept.

AUTHORITY: Sec. 709(c), 78 State. 265, 42 U.S.C. 2000e-8(c), 29 CFR 1602.3.

§ 1602.47 Definition.

Under this subpart, the term "institution of higher education" means an institutional system, college, university, community college, junior college, and any other educational institution which offers an associate degree, baccalaureate degree or higher degree or which offers a two year program of college level studies without degree. The term "college level studies" means a post secondary program which is wholly or principally creditable toward a baccalaureate degree or terminates in an associate degree.

§ 1602.48 Records to be made or kept.

Commencing September 1, 1974, every institution of higher education, whether public or private, with 15 or more employees, shall make or keep all records, and information therefrom, which are or would be necessary for the completion of Higher Education Staff Information Report EEO-6 whether or not it is required to file such a report under § 1602.50. The instructions for completion of Report EEO-6 are specifically incorporated herein by reference and have the same force and effect as other sections of this part. Such records, and the information therefrom, shall be retained at all times for a period of three years at the central administrative office of the institution of higher education, at the central administrative office of a separate campus or branch, or at an individual school which is the subject of the records and information, where more convenient. Such records, and the information therefrom, shall be made available if requested by the Commission or its representative under section 710 of Title VII and 29 U.S.C. 161. It is the responsibility of every institution of higher education to obtain from the Commission or its delegate the necessary instructions in order to comply with the requirements of this section.

§ 1602.49 Preservation of records made or kept.

(a) Any personnel or employment record (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, tenure, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection for training) made or kept by an institution of higher eduction under § 1602.48 shall be preserved by such institution of higher education for a period of two years from the date of the making of the personnel action or record involved, whichever occurs later. In the case of the involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of two years from the date of termination. Where a charge of discrimination has been filed, or a civil action brought against an institution of higher education by the Commission or the Attorney General, the respondent shall preserve similarly at the central administrative office of the institution of higher education, at the central office of a separate campus or branch, or at the individual school which is the subject of the charge or action, where more convenient, all personnel records relevant to the charge or action until final disposition thereof. The term "personnel records relevant to the charge," for example, would include personnel or employment records relating to the person claiming to be aggrieved and to all other employees holding positions similar to that held or sought by the person claiming to be aggrieved; it would also include application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the person claiming to be aggrieved applied and was rejected. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which a person claiming to be aggrieved

may bring an action in the United States District Court or, where an action is brought against an institution of higher education by a person claiming to be aggrieved, the Commission, or the Attorney General, the date on which such litigation is terminated.

(b) The requirements of paragraph (a) of this section shall not apply to application forms and other preemployment records of applicants for positions known to applicants to be of temporary or seasonal nature.

Subpart P—Higher Education Staff Information Report EEO-6

Sec.
1602.50 Requirement for filing and preserving copy of report.
1602.51 Penalty for making of willfully false statements on report.
1602.52 Commission's remedy for failure to file report.
1602.53 Exemption from reporting requirements.
1602.54 Additional reporting requirements.

AUTHORITY: Sec. 709(c), 78 Stat. 265, 42 U.S.C. 2000e-8(c) 29 CFR 1602.3.

§ 1602.50 Requirement for filing and preserving copy of report.

On or before November 30, 1974, and annually thereafter, every public and private institution of higher education having fifteen (15) or more employees shall file with the Commission or its delegate executed copies of Higher Education Staff Information Report EEO-6 in conformity with the directions set forth in the form and accompanying instructions. Every institution of higher education shall retain at all times, for a period of three years a copy of the most recently filed Report EEO-6 at its central administrative office, at the central office of a separate campus or branch, or at an individual school which is the subject of the report, where more convenient. An institution of higher education shall make the same available if requested by the Commission or its representative under the authority of section 710 of the Act and 29 U.S.C. 161. It is the responsibility of the institutions above described in this section to obtain from the Commission or its delegate necessary supplies of the form.

§ 1602.51 Penalty for making of willfully false statements on report.

The making of willfully false statements on Report EEO-6 is a violation of 18 U.S.C. 1001, and is punishable by fine or imprisonment as set forth therein.

§ 1602.52 Commission's remedy for failure to file report.

Any institution of higher education failing or refusing to keep records, in accordance with §§ 1602.48 or 1602.49, or failing or refusing to file Report EEO-6 when required to do so, in accordance with § 1602.50, may be compelled to keep records or to file by order of an United States District Court upon application of the Commission, or Attorney General in a case involving a public institution.

§ 1602.53 Exemption from reporting requirements.

If it is claimed that the preparation or filing of the report would create undue hardship, the institution of higher education may apply to the Commission for an exemption from the requirements set forth in this part by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to date on which the report is due.

§ 1602.54 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the Higher Education Staff Report EEO-6, about the employment practices of private or public institutions of higher education whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of Title VII. Any system for the requirement of such reports will be established in accordance with the procedures referred to in section 709(c) of Title VII and as otherwise prescribed by law.

Subpart Q—Records and Inquiries as to Race, Color, National Origin, or Sex

§ 1602.55 Applicability of State or local law.

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts O, P and Q of this part, supersede any provisions of State or local law which may conflict with them.

(Sec. 709(c), 78 Stat. 265, 42 U.S.C. 2000e-8(c), 29 CFR 1602.3)

Signed at Washington, D.C., this 1st day of May, 1974.

JOHN H. POWELL, Jr.,
Chairman.

APPENDIX I—HIGHER EDUCATION STAFF INFORMATION EEO-6 FOR PUBLIC AND PRIVATE INSTITUTIONS

Federal law requires that the Equal Employment Opportunity Commission (EEOC) and the Office for Civil Rights (OCR) of the Department of Health, Education and Welfare (HEW) prescribe such records and reports as are necessary or appropriate for the enforcement of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972, and for the enforcement of Executive Order 11246 by the Office of Federal Contract Compliance (OFCC). Accordingly this report is required by the OCR to carry out the purposes of Title VI of the Act, by EEOC to carry out the purposes of Title VII as amended by the Equal Employment Opportunity Act of 1972, and by OFCC to carry out purposes of Executive Order 11246.

This compliance reporting system is being implemented by the Higher Education Reporting Committee in a joint effort of EEOC, OCR, OFCC and the National Center for Educational Statistics of the Office of Education (HEW) for the collection of employment data of public and private institutions of higher education. The applicable laws, orders and regulations issued respectively by the EEOC, OCR, and OFCC pursuant to such laws are reprinted in section 10, Definitions. The basis for the requirement of these data by the Office of Education are also explained in that section of the Appendix.

1. RECORDKEEPING REQUIREMENTS

Institutions of higher education, institutional systems, colleges and universities, including community colleges and junior colleges, public and private, with 15 or more employees are required to maintain the necessary records to complete the Higher Education Staff Information Report EEO-6. Campuses or schools within an institution or a system which are separately administered such as a branch of a parent institution or one of the administratively-equal campuses of a multicampus institution must also maintain the necessary records to complete the EEO-6 form.

2. WHEN TO FILE

This annual report must be filed with the Equal Employment Opportunity Commission no later than November 30, 1974. Employment statistics should cover the payroll period ending on or about October 31, 1974.

3. WHERE TO FILE

Forward the completed reports in triplicate to the P.O. Box shown on the EEO-6 form. All requests for additional reporting forms should also be directed to the P.O. Box address.

4. HOW TO FILE

Report forms will be preaddressed and sent directly to the particular institution (system, campus, branch, school, etc.) required to complete and file a report. A report must be filed covering total employment data of the reporting unit. An institution, campus, branch, etc., that does not receive the EEO-6 form for filing should request it from the Higher Education Reporting Committee, 1800 G Street, N.W., Washington, D.C. 20506.

A branch campus of a parent institution or one of the administratively-equal campuses of multicampus institution will complete and file a separate report.

5. REQUESTS FOR INFORMATION AND SPECIAL PROCEDURES

An institution, institutional system, campus, branch, or school which claims that preparation or the filing of Report EEO-6 would create undue hardships may apply to the Commission for a special reporting procedure, submitting a written, alternative proposal for compiling and reporting the information. Only those special procedures approved in writing by the Commission are authorized. Such authorization will remain in effect for one reporting year. Direct all requests for special exemption including proposed special reporting procedures and any other pertinent information to: Higher Education Reporting Committee, EEO-6; Equal Employment Opportunity Commission, Attention: Office of Research, 1800 "G" Street, N.W., Washington, D.C. 20506.

6. INSTRUCTIONS FOR COMPLETING EEO-6

PART I—IDENTIFICATION

A. Institution, Campus or School: Enter the name and address information including zip code, only if the preprinted label is in error, it is a new institution, campus or branch, it is a new school or the reporting unit has been renamed, consolidated or reorganized.

B. Type: Indicate, by a check mark, the type of institution, whether a 4-year college or university, community college (2 years or

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more), junior college, technical college or institute, or other.

C. Institution Covered is: Indicate, by a check mark, the institution covered by the report, whether an institutional system, a single-campus institution, etc., in accordance with the following definitions:

Institutional system. A complex of two or more institutions of higher education, each separately organized or independently complete, under the control or supervision of a single administrative body.

Single-campus Institution. A single campus (or single building or structure) with a single administrative body. (See definition of Multi-Campus Institution)

Branch Campus. A campus of an institution of higher education which is organized on a relatively permanent basis (i.e., has a relatively permanent administration), which offers an organized program or programs of academic work of at least 2 years (as opposed to courses), and which is located in a community different from that in which its parent institution is located. To be considered different from that of a parent institution, a branch shall be located beyond a reasonable commuting distance from the main campus of the parent institution.

Main Campus. In those institutions comprised of a main campus and one or more branch campuses, the main campus (sometimes called the parent institution) is usually the location of the core, primary, or most comprehensive program. Unless the institution-wide, or central-administrative office for such institutions is reported to be at a different location, the main campus is also the location of the central-administrative office.

Multi-Campus Institution. An organization bearing a close resemblance to an institutional sysem, but unequivocally designated as a single institution with either of two organizational structures, (1) an institution having two or more campuses responsible to a central administration (which central administration may or may not be located on one of the administratively-equal campuses) or (2) an institution having a main campus with one or more branch campuses attached to it.

Other. It is possible that a reporting unit may not fall within any of the above categories. Use "Other" in such cases and specify for future use by EEOC.

D. Federal Contract Information. If the institution is a Federal contractor it must answer this question and report the total amount of a prime contract with any agency of the Federal Government, Federally-assisted contract, or a subcontract at any tier under any prime Government contract amounting to more than $10,000. This information is required to meet the legal requirements of the OFCC as prescribed in 41 CFR 60–1.7 of their rules and regulations.

PART II—FULL-TIME STAFF STATISTICS—OCCUPATIONAL ACTIVITY

A. Total by Salary Class Intervals. This part will reflect total full-time employees by the primary occupational activity and salary class intervals shown in the stub of the matrix, by sex for each of the designated racial/national origin categories in columns a thru l.

Enter in the appropriate line and column the number of full-time employees who are considered by the institution to be working on a full-time basis only. These are the employees and faculty of the institution (reporting unit) whose current work assignments, regardless of title or job classification, require their services for a length of time defined by the institution as full-time employment in the particular activity. For purposes of this report, include persons who, although on sabbatical leave, are on the institution's payroll paid as full-time employees on the basis of their regular or customary functions. If there are no full-time employees in a category, enter "0" for the category.

NOTE: Salary for full-time instructional is defined as that which is considered by the institution (reporting unit) to be the salary, not including fringe benefits, paid by the institution whether the period of time of a basic contract is for a 9-10 months, 11–12 months or some other comparable length of time or salary schedule. Salary for other occupational activities is that which is considered by the institution as annual salary not including fringe benefits. Do not include employees whose services are paid by an outside contractor performing a function for the institution such as custodial, maintenance, or food service, security, etc., nor persons who volunteer or donate their services to the institutions.

Activity 1. *Executive, Administrative and Managerial.* Include individuals whose assignments require *primary* (and major) responsibility for management of the institution, or a customarily recognized department or subdivision thereof. Assignments may require the performance of work directly related to management policies or general business operations of the institution or the performance of functions in the administration of a department or subdivision thereof directly related to academic instruction. It is assumed that assignments in this category customarily and regularly require the incumbent to exercise discretion and independent judgment, and to direct the work of others. Include in this category supervisory personnel of the technical, clerical, craft, and custodial force. Deans and assistant deans who perform such functions on a full-time basis should be reported separately in Activity 2.

Activity 2. *Deans and Assistant Deans.* Include the deans and assistant deans in a full-time administrative capacity whose primary responsibility involves management functions of the institution, or a customarily recognized department or subdivision thereof, or whose assignments involve the requirements further defined above for the category "Executive, Administrative and Managerial". Do not include in this category deans and assistant deans who are considered by the institution as full-time instructional and who should be reported on Activity 3.

Activity 3. *Instructional.* Includes individuals whose specific assignments customarily are made for the purpose of instruction as a principal activity. Include deans and assistant deans who are considered by the institution as full-time instructional. Include also graduate teaching assistants and/or associates whose assignments by the institution are defined as full-time and the employer-employee relationship is clearly established or defined in accordance with the Fair Labor Standard Act of 1938, as amended. Personnel whose assignments are primarily associated with research projects as a principal activity will be reported as professional non-instructional in Activity 3 of the matrix.

Acitvity 4. *Professional non-instructional "other than Executive, etc., and Instructional."* Include individuals whose assignment require knowledge of an advanced type in a field of science or learning associated with research, business, health, guidance, etc., and which are not classified as administrative or instructional. Include persons whose principal activity is of a professional nature associated with original and creative work in an artistic field, or with organized research projects. Assignment in this category would require bachelor's, master's or doctoral degrees or their equivalent. Include full-time librarians and graduate research assistants whose research is not primarily for the purpose of fulfilling the requirements for an advanced degree but for whom the employer-employee relationship can be clearly established or defined.

Activity 5. *Clerical and Secretarial.* Include individuals whose assignments typically are associated with clerical activities and those which are specifically of a secretarial nature. Include assignments in which personnel who are responsible for internal and external communications, recording and retrieval of data (other than computer programmers) and/or information and other paper work required in an office, such as bookkeepers, stenographers, clerk typists, office-machine operators, statistical clerks, payroll clerks, etc. Include also sales clerks such as those employed full-time in the bookstore, and library clerks who are not recognized as librarians.

Activity 6. *Technical and Paraprofessionals.* Include individuals whose assignments require specialized knowledge or skills which may be acquired through experience or academic work such as is offered in many technical institutes, junior colleges or through equivalent on-the-job training. Include computer programmers and operators, draftsmen, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, dietitians, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic-physical sciences), and similar occupations not properly classifiable in other occupational-activity categories but which are institutionally defined as technical assignments. Include also personnel who may lack the usual educational requirements but who, due to some special skill, experience or need of the institution, hold positions and perform functions generally held by professionals only and therefore are classified as paraprofessionals.

Activity 7. *Crafts and Trades Including Maintenance.* Include individuals whose assignments typically require special manual skills and a thorough and comprehensive knowledge of the process involved in the work, acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Include mechanics and repairmen, electricians, stationary engineers, skilled machinists, carpenters, compositors and type-setters, etc.

Activity 8. *Service Workers.* Include individuals whose assignments require limited degrees of previously acquired skills and knowledge and in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of personnel and the student body or which contribute to the upkeep and care of buildings, facilities or grounds of the institutional property. Include chauffeurs, laundry and dry cleaning operatives, cafeteria and restaurant workers, truck drivers, bus drivers, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, construction laborers, etc.

B. Additional Information. 1. *Persons reported in activity 1 with academic rank and tenure.* Report in line 1 the number of full-time staff members included in Activity 1 of Part II who, although the principal activity is in the capacity of executive, administrator, or manager, also hold an academic rank and have tenure status within the institution.

2. *Full-time persons paid from non-institution's budget sources.* Report in line 2 the number of persons on the institution's payroll, employed full-time, who are paid in full or in part from funds that are not a part of the general operating fund budget by the institution regardless of the source of the funds. The funds may be from government agencies or private foundations for programs involving public services; research; capital improvements; administration of student-aid programs for grants, work aid, and loans; and other miscellaneous services. DO NOT include any person who is paid from other than the institution's payroll for services rendered in such programs.

PART III—FULL-TIME FACULTY BY RANK AND TENURE

Tenured. Report by race/national origin the number of deans and assistant deans, and for each of the academic ranks shown in lines 1 through 7 the total full-time instructional persons who have tenure status within the institution.

Non-tenured. Report by race/national origin the number of deans and assistant deans, and for each of the academic ranks shown in lines 1 through 7 the total full-time instructional persons who are non-tenured.

NOTE: In reporting the number of deans and assistant deans and other persons with academic rank and tenure, use the institution's criteria or requirements for either even though the definitions used by the institution may be different from those considered to be national or local standards used for such purposes. No faculty member should be reported more than once in Part III and the sum must equal the total instructional personnel reported in Part II.

PART IV—OTHER EMPLOYMENT DATA

A. *Staff Totals. Part-time.* Report in lines 1 through 7 the number of employees in their respective categories who work for a length of time in a day, week, etc., defined by the institution as part-time employment. Do Not include temporary, part-time employees such as those hired to help at registration time or to work in the bookstore for a day or two at the start of the quarter; persons who are not in the institution's payroll; nor persons who volunteer or donate their services to the institution on a part-time basis. Report the instructional staff working part-time by tenured and nontenured separately in each category.

Do not report full-time employees engaged in more than one program function involving two or more activities as part-time for each activity. They should be reported as full-time in the activity considered by the institution to the be the employee's principal activity, or the more critical one from the standpoint of assignment or work performed if the person is engaged in two separate activities for equal amounts of time or in three or more separate activities for which the time is divided equally.

New hires. Report in lines 9 through 15 the number of full-time employees in the respective categories who were hired between January 1 and September 30 of the report year. There are persons who were hired for the first time or after a break in service for full-time employment. Do Not include as new hires persons who have returned from sabbatical leave.

Report the instructional staff newly hired for full-time employment separately for tenured and non tenured.

B. *Additional information.* Report in line 1 the number of persons in the capacity of executive, administrator, manager or professional non instructional included in items 1 and 4 respectively who are employed on a part-time basis and also hold academic rank and tenure. Exclude persons employed full-time but working only part of the time in a program function involving any of the job activities. Report in line 2 the number of persons in the capacity of executive, administrator, manager or professional non instructional included in items 9 and 12 who were newly hired for full-time employment between January 1 and September 30 of the reporting year and who hold academic rank and tenure. These are persons who were hired for the first time or after a break in service. Do Not include persons who have returned from sabbatical leave during the reporting year.

7. RACE/NATIONAL ORIGIN IDENTIFICATION

You may acquire the race/national origin information necessary for this section either by visual survey of the work force, or from post-employment records as to the identity of employees. Eliciting information on the race or national origin of an employee by direct inquiry is not encouraged. An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging.

Where records are maintained, it is recommended that they be kept separately from the employee's basic-personnel file or other records available to those responsible for personnel decisions.

Since visual surveys are permitted, the fact that the race or national origin identity is not present on employment records is not an excuse for failure to provide the data. Moreover, the fact that employees may be located at different addresses does not provide an acceptable reason for failure to comply with the reporting requirements. In such cases, it is recommended that visual surveys be conducted for the employer by persons such as supervisors who are responsible for the work of the employees or to whom the employees report for instructions or otherwise.

Conducting visual surveys and keeping post-employment records of the race or national origin of employees is legal in all jurisdictions and under all Federal and State laws. State laws prohibiting inquiries and recordkeeping as to race, etc., relate only to applicants for jobs, not to employees.

The concept of race as used by the Equal Employment Opportunity Commission does not denote clearcut-scientific definitions of anthropological origins. For the purposes of this report, any employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/national origin category. For example, "Spanish Surnamed," while not a race identification, is included as a separate ethnic category because of the employment discrimination often encountered by this group. For this reason do not include Spanish Surnamed under either "white" or "black".

The designated race/national origin categories will be used as follows:

a. White should include persons of Indo-European descent, including Pakistani and East Indian.

b. Black should include persons of black African descent as well as those of the black race identified as Jamaican, Trinidadian, and West Indian.

c. Spanish Surnamed should include all persons of Mexican, Puerto Rican, Cuban, Latin American, or Spanish descent including all persons whose native language, cultural heritage, and/or ancestry are rooted in Spain or Latin America.

d. Asian American should include persons of Japanese, Chinese, Korean, or Filipino descent or whose appearance reveal Oriental, Polynesian origins.

e. American Indian should include persons who identify themselves or are known as such by virtue of tribal association or consider themselves native Americans.

f. Other should include Aleuts, Eskimos, Malayans, Thais, and others not covered by the specific categories on the form.

While the word "American" is not intended to denote citizenship, for purposes of this report noncitizens employed by institutions of higher education will be reported under "Other".

8. RECORDKEEPING REQUIREMENTS

The EEO–6 report requires the combining of some specific employment data to complete the form. Separate institutional or campus-employment data by sex and race/national origin identification in those job activities should be maintained on site in such form as is required in the EEO–6 and should be available upon request to representatives of Federal agencies. Retain copies of submitted EEO–6 forms for a period of 3 years.

9. CERTIFICATION

Enter the telephone number (include area code and extension, if any), name, title, and signature of the person who is responsible for the report and can answer questions about it.

10. DEFINITIONS

a. "EEOC" refers to the Equal Employment Opportunity Commission established under Title VII of the Civil Rights Act of 1964.

b. "OCR" refers to the Office of Civil Rights, Department of Health, Education and Welfare.

c. "OE" refers to the Office of Education, Department of Health, Education and Welfare.

d. "OFCC" refers to the Office of Federal Contract Compliance of the U.S. Department of Labor.

e. Higher Education Reporting Committee refers to an interagency committee representing EEOC, OCR, OE and the OFCC for the purpose of sponsoring the EEO–6 jointly and preventing any duplication of requirements by these agencies for employment statistics from institutions of higher education.

f. "Institution of Higher Education" refers to an institutional system, college, university, community college, junior college, and any other educational institution which offers an associate degree, baccalaureate degree or higher degree or which offers a two year program of college level studies without degree. The term "college level studies" means a post secondary program which is wholly or principally creditable toward a baccalaureate degree or terminates in an associate degree.

g. "Employee" refers to a person employed by a institution of higher education. This term shall not include any person elected to public office in a State or political subdivision of a State by the qualified voters thereof, or any person appointed by such officer to be on such officer's personal staff, or an appointee at the policy-making level, or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. However, this exemption shall not include employees subject to the civil service laws of a State government, government agency, or political subdivision.

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

HIGHER EDUCATION STAFF INFORMATION (EEO-6)

Public/Private Institutions and Campuses

FORM APPROVED:

TO:

INSTITUTION *(Check one):*
- ☐ PUBLIC
- ☐ PRIVATE *(Non-Public)*

INSTRUCTIONS: Complete this form in triplicate. The original and first copy are to be mailed to _____. Keep the remaining copy for your files. Complete Section IA if your address is different from preaddressed label above.

I. IDENTIFICATION

A. INSTITUTION/CAMPUS OR SCHOOL

1. NAME

2. STREET AND NO/POST OFFICE BOX | 3. CITY/TOWN | 4. COUNTY | 5. STATE/ZIP CODE

B. TYPE

☐ 1. 4 YEAR COLLEGE	☐ 2. UNIVERSITY	☐ 3. JUNIOR COLLEGE	☐ 4. TECHNICAL COLLEGE OR INSTITUTE
☐ 5. COMMUNITY COLLEGE (2 years or more)	☐ 6. OTHER *(Specify)*		

C. REPORT COVERS

☐ 1. AN INSTUTIONAL SYSTEM	☐ 2. SINGLE CAMPUS INSTITUTION	☐ 3. A BRANCH CAMPUS OF A PARENT INSTITUTION *(Give name below)*
☐ 4. A MAIN CAMPUS *(Parent Institution)* WITH ONE OR MORE BRANCH CAMPUSES AND/OR OTHER CAMPUSES		☐ 5. ONE OF THE ADMINISTRATIVELY EQUAL CAMPUSES OF A MULTICAMPUS INSTITUTION *(Give name below)*
☐ 6. OTHER *(Specify)*		☐ 7. NAME *(Only if Items 4 or 5 are checked)*

D. FEDERAL CONTRACT INFORMATION

The institution and/or any of its administratively equal units (1) Has a prime contract with any agency of the Federal Government, a Federally assisted contract, or a subcontract at any tier under any prime Government contract, amounting to more than $10,000 (2) Serves as a depositary of federal government funds (3) Serves as an issuing and paying agency of US Savings Bonds/Notes (4) Holds a federal government bill of lading in any amount, if yes give amount.

$ _____

II. FULL TIME STAFF STATISTICS - OCCUPATIONAL ACTIVITY

(Use Institution's definition of Full-Time Employment)

PRIMARY OCCUPATIONAL ACTIVITY BY SALARY CLASS INTERVALS	A. TOTALS: MALE WHITE A	MALE BLACK B	MALE SPANISH SURNAMED AMER C	MALE ASIAN AMER D	MALE AMER INDIAN E	MALE OTHER F	FEMALE WHITE G	FEMALE BLACK H	FEMALE SPANISH SURNAMED AMER I	FEMALE ASIAN AMER J	FEMALE AMER INDIAN K	FEMALE OTHER L	OVERALL TOTALS *(Sum of Columns A thru L)* M
1. EXECUTIVE/ADMINISTRATIVE/MANAGERIAL													
BELOW $ 7,500													
$ 7,500 - $ 9,999													
$10,000 - $12,999													
$13,000 - $15,999													
$16,000 - $18,999													
$19,000 - $24,999													
$25,000-$29,999													
$30,000 AND OVER													
TOTAL													

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11. OCCUPATIONAL ACTIVITY (Con't)

PRIMARY OCCUPATIONAL ACTIVITY BY SALARY CLASS INTERVALS	A. TOTALS: MALE WHITE A	MALE BLACK B	MALE SPANISH SURNAMED AMER C	MALE ASIAN AMER D	MALE AMER INDIAN E	MALE OTHER F	FEMALE WHITE G	FEMALE BLACK H	FEMALE SPANISH SURNAMED AMER I	FEMALE ASIAN AMER J	FEMALE AMER INDIAN K	FEMALE OTHER L	OVERALL TOTALS *(Sum of Columns A thru L)* M
2. DEANS/ASST DEANS *(In full-time administrative capacity)*													
BELOW $ 7,500													
$ 7,500 - $ 9,999													
$10,000 - $12,999													
$13,000 - $15,999													
$16,000 - $18,999													
$19,000 - $24,999													
$25,000 - $29,999													
$30,000 AND ABOVE													
TOTAL													
3. INSTRUCTIONAL													
BELOW $ 7,500													
$ 7,500 - $ 9,999													
$10,000 - $12,999													
$13,000 - $15,999													
$16,000 - $18,999													
$19,000 - $24,999													
$25,000 - $29,999													
$30,000 AND ABOVE													
TOTAL													
4. PROFESSIONAL NON INSTRUCTIONAL													
BELOW $ 7,500													
$ 7,500 - $ 9,999													
$10,000 - $12,999													
$13,000 - $15,999													
$16,000 - $18,999													
$19,000 - $24,999													
$25,000 - $29,999													
$30,000 AND ABOVE													
TOTAL													
5. CLERICAL/ SECRETARIAL													
BELOW $ 5,000													
$ 5,000 - $ 7,499													
$ 7,500 - $ 9,999													
$10,000 - $12,999													
$13,000 - $15,999													
$16,000 AND OVER													
TOTAL													
6. TECHNICAL/ PARAPROFESSIONAL													
BELOW $ 5,000													
$ 5,000 - $ 6,999													
$ 7,000 - $ 9,999													
$10,000 - $12,999													
$13,000 - $15,999													
$16,000 AND OVER													
TOTAL													

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II. OCCUPATIONAL ACTIVITY (Con't)

PRIMARY OCCUPATIONAL ACTIVITY BY SALARY CLASS INTERVALS	A. TOTALS MALE A WHITE	MALE B BLACK	MALE C SPANISH SURNAMED AMER	MALE D ASIAN AMER	MALE E AMER INDIAN	MALE F OTHER	FEMALE G WHITE	FEMALE H BLACK	FEMALE I SPANISH SURNAMED AMER	FEMALE J ASIAN AMER	FEMALE K AMER INDIAN	FEMALE L OTHER	OVERALL TOTALS (Sum of Columns A thru L) M
7. CRAFTS/TRADES (Includes maintenance)													
BELOW $ 5,000													
$ 5,000 - $ 7,499													
$ 7,500 - $ 9,999													
$10,000 - $12,999													
$13,000 - $15,999													
$16,000 AND ABOVE													
TOTAL													
8. SERVICE WORKERS													
BELOW $ 3,000													
$ 3,000 - $ 4,999													
$ 5,000 - $ 7,499													
$ 7,500 - $ 9,999													
$10,000 AND ABOVE													
TOTAL													
9. TOTAL FULL TIME													

B. ADDITIONAL INFORMATION

1. PERSONS REPORTED IN Sec IIA 1 WITH ACADEMIC RANK OR TENURE													
2. FULL TIME STAFF PAID IN FULL OR IN PART FROM NON INST. BUDGET SOURCES													

III. FULL TIME FACULTY BY RANK AND TENURE

FACULTY (Count only once)	TOTALS MALE A WHITE	MALE B BLACK	MALE C SPANISH SURNAMED AMER	MALE D ASIAN AMER	MALE E AMER INDIAN	MALE F OTHER	FEMALE G WHITE	FEMALE H BLACK	FEMALE I SPANISH SURNAMED AMER	FEMALE J ASIAN AMER	FEMALE K AMER INDIAN	FEMALE L OTHER	OVERALL TOTALS (Sum of Columns A thru L) M
TENURED													
1. DEANS/ASST DEANS													
2. PROFESSORS													
3. ASSOC. PROFESSORS													
4. ASST. PROFESSORS													
5. INSTRUCTORS													
6. LECTURERS													
7. OTHER FACULTY													
8. TOTAL													
NON TENURED													
9. DEANS/ASST. DEANS													
10. PROFESSORS													
11. ASSOC. PROFESSORS													
12. ASST. PROFESSORS													
13. INSTRUCTORS													
14. LECTURERS													
15. OTHER FACULTY													
16. TOTAL (Lines 8 & 16 to equal Sec IIA3)													

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IV. OTHER EMPLOYMENT DATA

PERSONNEL	A. TOTALS MALE A WHITE	MALE B BLACK	MALE C SPANISH SURNAMED AMER	MALE D ASIAN AMER	MALE E AMER INDIAN	MALE F OTHER	FEMALE G WHITE	FEMALE H BLACK	FEMALE I SPANISH SURNAMED AMER	FEMALE J ASIAN AMER	FEMALE K AMER INDIAN	FEMALE L OTHER	OVERALL TOTALS (Sum of Columns A thru L) M
PART TIME													
1. EXECUTIVE/ADMINISTRATIVE/MANAGERIAL													
INSTRUCTIONAL													
2. TENURED													
3. NON TENURED													
4. PROFESSIONAL NON INSTRUCTIONAL													
5. TECHNICAL													
6. CLERICAL/SECRETARIAL													
7. SERVICE WORKERS													
8. TOTALS													
NEW HIRES (Full time staff hired between 1 July 74 and Sep 30, 1974)													
9. EXECUTIVE/ADMINISTRATIVE/MANAGERIAL													
INSTRUCTIONAL													
10. TENURED													
11. NON TENURED													
12. PROFESSIONAL NON INSTRUCTIONAL													
13. TECHNICAL													
14. CLERICAL/SECRETARIAL													
15. SERVICE WORKERS													
16. TOTALS													

B. ADDITIONAL INFORMATION

1. NON INSTRUCTIONAL PART-TIME REPORTED IN SEC IVA 1 & 4 WITH ACADEMIC RANK AND TENURE													
2. NON INSTRUCTIONAL NEW HIRES REPORTED IN SEC IV A 9 & 12 WITH ACADEMIC RANK AND TENURE													

REMARKS

CERTIFICATION: I certify that the information given in this report is correct and true to the best of my knowledge and was prepared in accordance with accompanying instructions. *(Willfully false statements on this report are punishable by law, U.S. Code, Title 18, Sec 1001)*

DATE	TELEPHONE NO. (Include area code)	TYPED NAME/TITLE OF PERSON PREPARING/CERTIFYING REPORT	SIGNATURE

[FR Doc.74-10345 Filed 5-6-74;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice 419]

PROPOSED LAW OF THE SEA TREATY

Notice of Availability and Public Meeting Regarding Draft Environmental Impact Statement

Pursuant to section 102 of the National Environmental Policy Act of 1969, the Department of State, with extensive support from other concerned Federal agencies, has prepared a Draft Environmental Impact Statement with respect to a proposed treaty on the Law of the Sea. (See 39 FR 3689, January 29, 1974.)

Copies of the Draft Environmental Impact Statement may be obtained by writing to Mr. John Norton Moore, Chairman, NSC Interagency Task Force on the Law of the Sea, Room 4321, Department of State, Washington, D.C. 20520, or to the Office of Environmental Affairs, Room 7822, Department of State, Washington, D.C. 20520. Comments on the Statement may be submitted to Mr. John Norton Moore at the above address.

Notice is hereby given that a public meeting on this Draft Statement will be conducted by the Department of State on Monday, June 10, 1974, at 10 a.m., in the East Auditorium, Department of State, 2201 C Street, NW., Washington, D.C. Persons desiring to submit comments on this statement at the public meeting are encouraged to do so and are requested to notify the Office of the Chairman, NSC Interagency Task Force on the Law of the Sea, Department of State, of their plans to attend (telephone: 202–632–9098).

For the Secretary of State.

Dated: May 1, 1974.

[SEAL] CHRISTIAN A. HERTER, JR.,
Special Assistant to the Secretary of State for Environmental Affairs.

[FR Doc.74–10466 Filed 5–6–74;8:45 am]

[Public Notice CM–137]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on May 29, 1974 at 10 a.m. in room 502 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs and, with respect to the meeting announced herein, will deal particularly with tariff principles for the lease of telecommunication circuits.

The agenda of the May 29 meeting will include:

a. Completion and finalization of U.S. positions for an international meeting of CCITT Study Group III scheduled for June 10–14, 1974 insofar as such action may not have been accomplished in a preparatory meeting scheduled to take place May 8, 1974, and

b. Review of documents relating to the foregoing conference received after May 8.

Members of the general public who desire to attend the meeting on May 29 will be admitted up to the limit of the capacity of the meeting room.

Dated: April 29, 1974.

RICHARD T. BLACK,
Chairman,
U.S. National Committee.

[FR Doc.74–10385 Filed 5–6–74;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Adams, James W., 804 N. 41st, Lawton, Oklahoma, convicted on June 5, 1953, in the United States District Court for the Western District of Oklahoma.

Allbritton, William R., 257 Old Mill Lane, Dallas, Texas, convicted on June 11, 1953, in the District Court, Dallas County, Texas.

Anthony, Otis F., 1502 North Dodge, North Platte, Nebraska, convicted on September 25, 1970, in the United States District Court, District of Nebraska.

Armstrong, Roger E., 740 S. Everett Road, Harrisville, Michigan, convicted on June 24, 1969, in the Wayne County Circuit Court, Michigan.

Barrowman, Jr., Robert D., 108 Julia Street, Bay City, Michigan, convicted on June 7, 1954, in the Circuit Court for Bay County, Michigan.

Bennett, Walter A., P.O. Box 244, Norway, Maine, convicted on May 16, 1967, in the Oxford County Superior Court, Maine.

Brooks, Larry L., 9003—10th NE., Everett, Washington, convicted on October 29, 1958, and on April 3, 1962, in the Superior Court, County of King, Washington.

Bundrum, Michael Virgil, Route 2, Box 246, Jacksonville, Alabama, convicted on April 20, 1971, in the Circuit Court of Cherokee County, Alabama.

Callender, Sr., Gerald L., 4975 Wakefield N.E., Comstock Park, Michigan, convicted on July 23, 1968, in the Circuit Court, Kent County, Michigan.

Carroll, Arthur B., 1418 Edison Avenue, La Junta, Colorado, convicted on December 31, 1947, by General Court-Martial, Headquarters, Tinker Air Force Base, Oklahoma.

Collins, Walter Wells, 894 Kings Court, N.E., Atlanta, Georgia, convicted on June 24, 1966, in the Circuit Court, Broward County, Florida.

Cook, Guy R., 3115 Brisbane Street, Walla Walla, Washington, convicted on September 16, 1970, in the Superior Court, Clark County, Washington.

Daniels, Steven D., 2020 Whitewing, McAllen, Texas, convicted on November 1, 1971, in the 92nd District Court, Hidalgo County, Texas.

El-Quhir, Zafir Iben, 236 W 114th Street, Apartment 5B, New York, New York, convicted on June 9, 1965, in the Queens Supreme Court, Queens, New York.

Fallon, John E., 39 Hudson Street, Somerville, Massachusetts, convicted on November 2, 1960, in the Middlesex Superior Court, Massachusetts.

Farlee, John F., 2323 Bellwood Drive #12, Grand Island, Nebraska, convicted on April 10, 1970, in the District Court of Hall County, Nebraska.

Fish, Marshall E., Box 4, West Peru, Maine, convicted on November 12, 1942, in the Superior Court, Oxford County, Maine.

Gabbert, John M., 1302 Hyman Lane, Austin, Texas, convicted on July 7, 1969, in the 174th District Court of Harris County, Texas.

Gantt, Joe B., P.O. Box 117, Sunnyside, Florida, convicted on March 10, 1969, in the United States District Court, Northern District of Alabama.

Garner, David Gene, 4709 Tecumseh Street, Apt. 104, College Park, Maryland, convicted on January 25, 1967, in the Circuit Court, Prince George's County, Maryland.

Green, Jr., Solomon, 8772 Bessemore Street, Detroit, Michigan, convicted on February 7, 1958, in the Recorders Court, Detroit, Michigan.

Greenlaw, Donald F., R.F.D. #2, Farmington, Maine, convicted on July 10, 1967, in the Superior Court, Kennebec County, Augusta, Maine.

Helton, Charlie, Route #3, Pineville, Kentucky, convicted on May 5, 1948, in the Bell County Circuit Court, Kentucky, and on November 14, 1950, and April 5, 1955, in the United States District Court at London, Kentucky.

Hornick, Jr., Paul, 1409 Mary Drive, Johnstown, Pennsylvania, convicted on December 19, 1973, in the Court of Common Pleas, Cambria County, Pennsylvania.

Hudson, Jr., Douglas D., 329 Brentwood Road, Charlottesville, Virginia, convicted on November 30, 1970, in the Circuit Court, Albemarle County, Virginia.

Jackson, Eddie, 18441 Prest Street, Detroit, Michigan, convicted on July 20, 1949, in the Kent County, Michigan, Circuit Court.

Jacobs, Sr., Thomas Allen, 513 S.E. Lane Street, Roseburg, Oregon, convicted on January 13, 1964, in the Circuit Court, Macon County, Missouri.

Johnson, Robert L., 2818 E. Princess Ann Road, Norfolk, Virginia, convicted on April 25, 1961, in the Circuit Court, Norfolk, Virginia.

Kitteaux, Benjamin C., Box #175, Rosebud, South Dakota, convicted on July 3, 1968, in the Circuit Court, Tenth Judicial Circuit, Tripp County, South Dakota.

Leadingham, Ronald L., 2106 Jackson Avenue, Portsmouth, Ohio, convicted on November 29, 1971, in the Delaware County, Ohio, Court of Common Pleas.

Leipheimer, Ronald A., 226 East Cooper Street, Slippery Rock, Pennsylvania, convicted on October 8, 1970, in the Court of Common Pleas of Butler County, Pennsylvania.

McLaughlin, Jr., Joseph R., 748 Lake Edward Drive, Virginia Beach, Virginia, convicted on April 21, 1960, in the Circuit Court, Norfolk, Virginia.

Malcome, Gerald Wayne, Rural Route 8, Upper Springbay Road, East Peoria, Illinois, convicted on January 30, 1967, in the United States District Court, Southern Judicial District of Illinois.

Markwell, Ervin, R.R. #2, Hillsboro, Kentucky, convicted on September 24, 1957, in the United States District Court, Eastern District of Kentucky, and on November 14, 1964, and June 5, 1967, in the Fleming County Circuit Court, Kentucky.

Mauk, George O., P.O. Box 107, Wilkinson, West Virginia, convicted on October 19, 1960, in the United States District Court for the Southern District of West Virginia.

Middleswart, William Max, 210 W. 19th Street, Kearney, Nebraska, convicted on July 23, 1971, in the District Court, Dawson County, Nebraska.

Moreno, Jr., Benancio, 4907½ Rusk, Houston, Texas, convicted on May 14, 1970, in the 184th District Court, Harris County, Texas.

Munoz, Raymond G., 233 East Young Street, San Antonio, Texas, convicted on June 24, 1943, in the District Court of Bexar, County, Texas.

Northcutt, Jack G., 2296 East 14th Place, Yuma, Arizona, convicted on August 7, 1959, by the Military Training Center, ATC, Lackland AFB, Texas.

Peregoy, Harvey E., Route 1, Box 205 D, Troy, Virginia, convicted on February 13, 1969, in the Circuit Court of Albemarle County, Commonwealth of Virginia.

Quinn, Ivin F., Route 2, Ferrum, Virginia, convicted on May 6, 1952; May 9, 1957; and June 21, 1960, in the United States District Court, Western District of Virginia.

Rodgers, George A., 3015 S. Liddesdale, Detroit, Michigan, convicted on January 26, 1927, in the Circuit Court, Wyandotte County, Kansas City, Missouri, and on September 13, 1963, in the United States District Court, Eastern District of Michigan.

Savoy, Larry M., 108 Pool Street, Apt. C, Biddeford, Maine, convicted on March 23, 1967, in the Cumberland County Superior Court, Maine, and on April 17, 1967, in the York County Superior Court, Maine.

Scott, William P., 2303 Bamboo Street, Apt. 92, Mesquite, Texas, convicted on July 22, 1966, in the United States District Court, Middle District of Georgia.

Smith, David Lester, Box 116 B, R.R. #1, Lake Park, Iowa, convicted on September 1, 1971, in the District Court of the State of Iowa in and for Dickinson County.

Stevens, Leo A., 2822 West 28th Avenue, Apt. 209, Denver, Colorado, convicted on December 22, 1959, in the 20th District Court, Barton County, Kansas.

Thompson, Lester R., 66 Fern Street, Bangor, Maine, convicted on May 6, 1971, in the Aroostook County Superior Court, Houlton, Maine.

Trosson, Floyd A., 818 A Michigan Avenue, Sheboygan, Wisconsin, convicted on March 31, 1965, in the Sheboygan County Court, Wisconsin.

Victor, Walter J., 2391 Goodson, Hamtramck, Michigan, convicted on April 25, 1958, in the Detroit Recorder's Court, Detroit, Michigan.

Vinesky, John W., 2522 Vance Avenue, Wheeling, West Virginia, convicted on May 26, 1956; July 10, 1964; and June 21, 1967, in the Intermediate Court of Ohio County, West Virginia.

Walter, Eric L., 2801½ James Street, Boise, Idaho, convicted on February 14, 1972, in the Fourth Judicial District of Idaho, County of Ada.

Webster, Eugene M., R.D. #3, Whitman Road, Penn Yan, New York, convicted on March 3, 1950, and October 7, 1953, in the County Court of Monroe County, Rochester, New York.

Weese, David D., P.O. Box 271, Anson, Maine, convicted on September 12, 1972, in the Superior Court, Somerset County, Maine.

Wilson, Frank E., 408 Cedar Lane, Mt. Pleasant, Iowa, convicted on December 21, 1970, in the District Court, Henry County, Iowa.

Wilson, Sam, 2048 Van Cleave Street, Dallas, Texas, convicted on February 17, 1969, and on November 5, 1971, in the Criminal District Court No. 4, Dallas County, Texas.

Signed at Washington, D.C. this 24th day of April 1974.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.74–10424 Filed 5–6–74;8:45 am]

Office of the Secretary

[Dept. Circular Public Debt Series No. 5–74]

TREASURY NOTES OF SERIES I–1976

Invitation for Tenders

I. *Invitation for tenders.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.51 percent of their face value for $2,000,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series I–1976. The interest rate for the notes will be publicly announced by the Secretary of the Treasury on May 3, 1974. An additional amount of the notes may be allotted by the Secretary of the Treasury to Government accounts and Federal Reserve Banks at the average price of accepted tenders in exchange for Treasury notes and bonds maturing May 15, 1974. Tenders will be received up to 1:30 p.m., Eastern Daylight Savings time, Wednesday, May 8, 1974, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 7¼ percent Treasury Notes of Series D–1974 and 4¼ percent treasury bonds of 1974, maturing May 15, 1974, will be accepted at par in payment, in whole or in part, to the extent tenders are allocated by the Treasury.

II. *Description of notes.* 1. The notes will be dated May 15, 1974, and will bear interest from that date, payable on a semiannual basis on December 31, 1974, and thereafter on June 30 and December 31 in each year until the principal amount becomes payable. They will mature June 30, 1976, and will not be subject to call for redemption prior t maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The subject to call for redemption prior to notes are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. *Tenders and Allotments.* 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 8, 1974. Each tender must state the face amount of notes bid for, which must be $10,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.51 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally-insured savings and loan associations,

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States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or the securities referred to in Section I which will be accepted at par) of 5 percent of the face amounts of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept less than $2,000,000,000 of tenders, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated price from any one bidder will be accepted in full at the average price[1] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 8, 1974.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. *Payment.* 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before May 15, 1974, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226, in cash, securities referred to in Section I (interest coupons dated May 15, 1974, should be detached) or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities submitted and the amount payable on the notes allotted.

V. *Assignment of Registered Securities.* 1. Registered securities tendered as deposits and in payment for notes allotted hereunder are not required to be assigned if the notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. Specific instructions for the issuance and delivery of the notes, signed by the owner or his authorized representative, must accompany the securities presented. Otherwise, the securities should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. Notes to be registered in names and forms different from those in the inscriptions or assignments of the securities presented should be assigned to "The Secretary of the Treasury for Treasury Notes of Series I–1976 in the name of (name and taxpayer identifying number)." If notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon Treasury Notes of Series I–1976 to be delivered to _____." Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

VI. *General Provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.74-10544 Filed 5-3-74;12:01 pm]

[1] Average price may be at, or more or less than 100.00.

[Dept. Circular Public Debt Series No. 6-74]

TREASURY NOTES OF SERIES C–1978

Invitation for Tenders

I. *Invitation for Tenders.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.01 percent of their face value for $1,750,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series C–1978. The interest rate for the notes will be publicly announced by the Secretary of the Treasury on May 3, 1974. An additional amount of the notes may be allotted by the Secretary of the Treasury to Government accounts and Federal Reserve Banks at the average price of accepted tenders in exchange for Treasury notes and bonds maturing May 15, 1974. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving Time, Tuesday, May 7, 1974, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 7¼ percent Treasury Notes of Series D–1974 and 4¼ percent Treasury Bonds of 1974, maturing May 15, 1974, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. *Description of Notes.* 1. The notes will be dated May 15, 1974, and will bear interest from that date, payable on a semiannual basis on August 15, 1974, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 1978, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $10,000, $100,000 and $1,000,000. Provisions will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. *Tenders and Allotments.* 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving Time, Tuesday, May 7, 1974. Each tender must state the face amount of notes bid for, which must be $10,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.01 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, internatonal organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or the securities referred to in Section I which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept less than $1,750,000,000 of tenders, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated price from any one bidder will be accepted in full at the average price[1] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 7, 1974.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. *Payment.* 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before May 15, 1974, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226, in cash, securities referred to in Section I (interest coupons dated May 15, 1974, should be detached) or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities submitted and the amount payable on the notes allotted.

V. *Assignment of registered securities.* 1. Registered securities tendered as deposits and in payment for notes allotted hereunder are not required to be assigned if the notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. Specific instructions for the issuance and delivery of the notes, signed by the owner or his authorized representative, must accompany the securities presented. Otherwise, the securities should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereafter set forth. Notes to be registered in names and forms different from those in the inscriptions or assignments of the securities presented should be assigned to "The Secretary of the Treasury for Treasury Notes of Series C–1978 in the name of (name and taxpayer identifying number)." If notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon Treasury Notes of Series C–1978 to be delivered to _____." Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.74-10545 Filed 5-3-74;12:02 pm]

[1] Average price may be at, or more or less than $100.00.

[Dept. Circular Public Debt Series—No. 7-74]

8½ PERCENT TREASURY BONDS OF 1994–99

Invitation for Tenders

I. *Invitation for tenders.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 93.80 percent of their face value for $300,000,000, or thereabouts, of bonds of the United States, designated 8½ percent Treasury Bonds of 1994–99. An additional amount of the bonds may be allotted by the Secretary of the Treasury to Government accounts and Federal Reserve Banks in exchange for Treasury securities maturing May 15, 1974. Tenders on a competitive or noncompetitive basis will be received up to 2:00 p.m., Eastern Daylight Saving time, Wednesday, May 8, 1974. The price for the bonds will be established as set forth in Section III hereof. The 7¼ percent Treasury Notes of Series D–1974 and 4¼ percent Treasury Bonds of 1974 maturing May 15, 1974, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. *Description of bonds.* 1. The bonds will be dated May 15, 1974, and will bear interest from that date at the rate of 8½ percent per annum, payable semiannually on November 15, 1974, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1999, but may be redeemed at the option of the United States on and after May 15, 1994, in whole or in part, at par and accrued interest on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption, the bonds to be redeemed will be determiend by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

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5. The bonds will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States bonds.

III. *Tenders and allotments.* 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 2:00 p.m., Eastern Daylight Saving time, Wednesday, May 8, 1974. Each tender must state the face amount of bonds bid for, which must be $1,000 or a multiple thereof, and the price offered except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals in a multiple of .05, e.g., 100.10, 100.05, 100.00, 99.95, etc. Tenders at a price less than 93.80 will not be accepted. Noncompetitive tenders from any one bidder may not exceed $250,000. Fractions may not be used.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or the securities referred to in Section I which will be accepted at par) of 5 percent of the face amount of bonds applied for.

3. In considering the acceptance of tenders, those at the highest prices will be accepted in full to the extent required to attain the amount offered; provided, however, that tenders at the lowest of such accepted prices will be prorated if necessary. All tenders so accepted will be allotted at the price of the lowest accepted tender. Those submitting tenders will be advised of the acceptance, and awarded price, or the rejection of their bids. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept less than $300,000,000 of tenders, and his action in any such respect shall be final. Subject to these reservations noncompetitive tenders for $250,000 or less will be accepted in full at the same price as accepted competitive tenders. The price may be 100.00, or more or less than 100.00.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any bonds of this issue at a specific rate or price, until after 2 p.m., Eastern Daylight Saving time, Wednesday, May 8, 1974.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. *Payment.* 1. Settlement for accepted tenders at the price established by the auction must be made or completed on or before May 15, 1974, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226, in cash, securities referred to in Section I (interest coupons dated May 15, 1974, should be detached) or other funds immediately available by that date. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of bonds allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities submitted and the amount payable on the bonds allotted.

V. *Assignment of registered securities.* 1. Registered securities tendered as deposits and in payment for bonds allotted hereunder are not required to be assigned if the bonds are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. Specific instructions for the issuance and delivery of the bonds, signed by the owner or his authorized representative, must accompany the securities presented. Otherwise, the securities should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. Bonds to be registered in names and forms different from those in the inscriptions or assignments of the securities presented should be assigned to "The Secretary of the Treasury for 8½ percent Treasury Bonds of 1994–99 in the name of (name and taxpayer identifying number)." If bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 8½ percent coupon Treasury Bonds of 1994–99 to be delivered to _____." Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of bonds on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc. 74-10543 Filed 5-3-74;12:02 pm]

[Supp. to Department Circular
Public Debt Series No. 6-74]

8¾ PERCENT TREASURY NOTES OF SERIES C-1978

Redesignation of Interest Rate

MAY 3, 1974.

In the matter of 8¾ percent Treasury notes of Series C-1978; dated and bearing interest from May 15, 1974, due August 15, 1978.

Pursuant to the provision in Sec. I of Department Circular—Public Debt Series—No. 6-74, dated May 2, 1974, the Secretary of the Treasury announced on May 3, 1974, that the interest rate on the notes described in the circular will be 8¾ percent per annum. Accordingly, the notes are hereby redesignated 8¾ percent Treasury Notes of Series C-1978. Interest on the notes will be payable at the rate of 8¾ percent per annum.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74-10610 Filed 5-3-74;4:14 pm]

[Supp. to Dept. Circular
Public Debt Series No. 5-74]

8¾ PERCENT TREASURY NOTES OF SERIES I-1976

Redesignation of Interest Rate

MAY 3, 1974.

In the matter of 8¾ percent Treasury Notes of Series I-1976, dated and bearing interest from May 15, 1974, due June 30, 1976.

Pursuant to the provision in Sec. I of Department Circular—Public Debt Series—No. 5-74, dated May 2, 1974, the Secretary of the Treasury announced on May 3, 1974, that the interest rate on the notes described in the circular will be 8¾ percent per annum. Accordingly, the notes are hereby redesignated 8¾ percent Treasury Notes of Series I-1976. Interest on the notes will be payable at the rate of 8¾ percent per annum.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74-10609 Filed 5-3-74;4:14pm]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SYSTEMS MANAGEMENT SCHOOL BOARD OF VISITORS

Notice of Meeting

The meeting of the Board of Visitors of the Defense Systems Management School will be held in the Commandant's Conference Room, Building 202, at Fort Belvoir, Virginia, May 21–22, 1974. Presentation schedule follows: Tuesday (May 21)—9 a.m. to 5 p.m.; Wednesday (May 22)—9 a.m. to 10:30 a.m. The agenda will include reports on educational program activities and curriculum changes, the discussion of educational policies and methods, and a review of pertinent aspects of school facilities and plans. The meetings are open to the public with limitations on space available for observers requiring allocation on a first-come—first-served basis. Persons desiring to attend should call the school (664–1314) to reserve space as far in advance as possible.

Dated: May 1, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.74-10383 Filed 5-6-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 3557, R 4584 & S 5808]

CALIFORNIA

Notice of Proposed Classification of National Resource Lands for Disposal Under the Recreation and Public Purposes Act

1. Notice is hereby given of a proposal to classify the following described national resource lands for title transfer for recreation purposes under the Recreation and Public Purposes Act, 43 U.S.C. 869. This proposed classification is made pursuant to petitions for classification filed by the State of California and on the motion of the Bureau of Land Management for the purpose of adding lands to the Anza-Borrego Desert State Park.

SAN BERNARDINO MERIDIAN, CALIFORNIA

R 3557:
T. 8 S., R. 4 E.,
Sec. 14, All;
Sec. 22, All;
Sec. 24, All;
Sec. 26, All;
Sec. 36, All.
T. 8 S., R. 5 E.,
Sec. 26, All;
Sec. 28, All;
Sec. 30, Lots 1, 2, 3, 4 and E½W½, E½;
Sec. 32, Lots 1, 2, 3, 4 and N½S½, N½;
Sec. 34, Lots 1, 2, 3, 4, and N½S½, N½.
Containing 6,419.35 acres.

R 4584:
T. 8 S., R. 4 E.,
Sec. 34, All.
T. 8 S., R. 5 E.,
Sec. 22, All;
Sec. 36, Lots 3, 4 and N½SW¼.
T. 15 S., R. 8 E.,
Sec. 19, Lots 37 thru 50, Lots 52 thru 69, Lots 71 thru 80;
Sec. 20, N½NE¼, SE¼, E½SW¼, SW¼SW¼.
T. 16 S., R. 8 E.,
Sec. 27, SW¼NE¼, N½SE¼, E½NW¼.
Containing 2,516.70 acres.

S 5808:
T. 8 S., R. 4 E.,
Sec. 10, All;
Sec. 12, All;
Sec. 18, Lots 1, 2, 3, 4 and E½W½, E½;
Sec. 20, All;
Sec. 28, All;
Sec. 30, Lots 1, 2, 3, 4 and E½W½, E½;
Sec. 32, All.
T. 8 S., R. 5 E.,
Sec. 6, S½;
Sec. 18, Lots 1, 2, 3, 4 and E½W½, E½;
Sec. 20, All;
Sec. 24, All.
Containing 6,316.86 acres.

BUREAU MOTION CLASSIFICATION

T. 7 S., R. 3 E.,
Sec. 36, N½NE¼.
T. 7 S., R. 4 E.,
Sec. 28, All;
Sec. 32, All;
Sec. 34, All;
Sec. 36, All.
T. 8 S., R. 4 E.,
Sec. 2, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, Lots 3, 4, 5, SW¼SW¼;
Sec. 16, NE¼NE¼, S½N½, S½.
T. 8 S., R. 5 E.,
Sec. 4, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, N½;
Sec. 10, All;
Sec. 14, All.
Containing 7467.45 acres.

The area listed above aggregates 22,720.36 acres in Riverside and San Diego Counties, California.

2. This proposal has been discussed with other Federal agencies, state and local governmental officials, and other interested parties. Information derived from field examinations, comments and other sources indicates that these lands meet the criterion of 43 CFR 2430.4(c), which authorizes classification of lands for sale or lease under the Recreation and Public Purposes Act where they are chiefly valuable for public purposes. The lands are physically suitable and adaptable for public recreation purposes as part of the Anza-Borrego Desert State Park. The dedication of these lands to development and management for such use will be assured by provisions that will be included in the patent.

3. The disposal of 7,467.45 acres of national resource lands on the Bureau's motion is proposed because under an appropriate plan of management the State of California can assure multiple public recreation benefits consistent with the programs of the Park. These lands when separated from the lands under the petition-applications constitute a residual Bureau holding and in this instance would lead to ineffective and less efficient management of their resources values. They are considered suitable for recreation uses that can best be managed as part of the Anza Borrego Desert State Park program.

4. Classification under the Act will segregate the lands from all appropriations, including locations under the mining laws, except the form of disposal for which the lands are classified.

5. Bureau motion classification, R 06032, dated November 24, 1964, which classified the following described land for disposal by public sale (R.S. 2455) is hereby revoked:

T. 7 S., R. 3 E., S.B.M.,
Sec. 36, N½NE¼.

6. This proposal relates to the classification of the lands. When the classification becomes the final order of the Secretary, the applicant will be required to file an application or assure in writing that an application will be filed in accordance with 43 CFR 2741.3 and 2741.6 for the lands classified on the Bureau's motion. Adjudication on the merits of the subject petition-applications, including a determination on the adequacy of the plan of development and management will then be taken.

7. Information concerning the lands, including the land report and environmental records, is available for inspection and study at the Bureau of Land Management Riverside District Office. Interested parties may submit comments, suggestions or objections to the proposed classification on or before June 7, 1974, to the Riverside District Manager, Bureau of Land Management, 1414 University Avenue, Riverside, California 92507.

Dated: April 30, 1974.

DELMAR D. VAIL,
For the State Director.

[FR Doc.74-10376 Filed 5-6-74;8:45 am]

COLORADO

Craig District; Redelegation of Authority To Area Managers

Under authority of Bureau Order 701, dated July 23, 1964, and as amended April 26, 1966, the Area Managers administering the Kremmling and White River Resource Areas of the Craig District, Colorado are authorized to act on the following matters:

Within his area of responsibility in accordance with existing policies and regulations of the Department, and under direct supervision of the Craig District Manager, he may exercise the functions of the Bureau Director on the matters specified below subject to the limitations of Bureau Order 701, Part III.

AUTHORITY IN SPECIFIC MATTERS

SEC. 3.3 Fiscal affairs, the Area Manager may take action on:

(d) Trespass: Determine liability and issue notice on grazing trespass; recommend as to acceptance of settlement offer made.

SEC. 3.7 Range management. The Area Manager may take all action on:

(a) (1) Within grazing districts, the issuance of licenses and permits to graze or trail livestock.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(3) Expenditure of funds appropriated by Congress contributed by individuals, associations, advisory boards, or others

for the construction, purchase or maintenance of range improvements.

(b) Outside grazing districts, the issuance of grazing leases.

(d) Soil and moisture conservation; control of halogeton glomeratus.

SEC. 3.8 Forest Management. The Area Manager may take all action on:

(a) Disposition of forest products including sales of timber not exceeding 250 mbf.

SEC. 3.9 Land use. The Area Manager may take all action on:

(g) Disposition of materials other than forest products, not exceeding $100.00 in value.

The District Manager may at any time temporarily reserve, restrict, or withhold any portion of the above delegated authority through use of Form 1213–1 District Office Authority and Responsibility Guide.

This order will become effective on May 20, 1974.

Dated: April 29, 1974.

MARVIN W. PEARSON,
District Manager.

[FR Doc.74–10436 Filed 5–6–74;8:45 am]

[New Mexico 19878, 19879, 19880, 19881, 19883, 19884, 19885, 19886, 19887, 19889]

NEW MEXICO

Notice of Applications

APRIL 30, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southern Union Gathering Company has applied for ten 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 10 W.,
Sec. 18, Lot 17;
Sec. 19, Lots 8, 9, 10;
Sec. 20, Lots 6, 7, 8;
Sec. 21, Lots 6, 7;
Sec. 22, Lots 3, 6, 7;
Sec. 31, Lots 15, 16, 17, 18.
T. 32 N., R. 11 W.,
Sec. 13, S½SW¼, SW¼SE¼;
Sec. 14, SE¼SE¼;
Sec. 22, N½NE¼;
Sec. 23, NW¼NW¼;
Sec. 24, N½NE¼, SE¼NE¼;
Sec. 31, SE¼SE¼;
Sec. 33, N½S½, SW¼SW¼;
Sec. 34, NW¼SW¼.

These pipelines will convey natural gas across 5.817 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above ten right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–10451 Filed 5–6–74;8:45 am]

[New Mexico 20114, NM 20171, NM 20175, NM 20185 and NM 20254]

NEW MEXICO

Notice of Applications

APRIL 30, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company has applied for five 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 N., R. 11 W.,
Sec. 8, N½SW¼.
T. 27 N., R. 8 W.,
Sec. 15, NW¼SW¼.
T. 27 N., R. 7 W.,
Sec. 9, NW¼NW¼.
T. 27 N., R. 9 W.,
Sec. 14, SW¼SE¼.
T. 29 N., R. 10 W.,
Sec. 7, Lot 18;
Sec. 18, Lot 5.

These pipelines will convey natural gas across 0.488 miles of national resource land in San Juan and Rio Arriba Counties, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above five right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 74–10452 Filed 5–6–74;8:45 am]

National Park Service

HISTORIC AMERICAN BUILDINGS SURVEY ADVISORY BOARD

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Historic American Buildings Survey Advisory Board will be held at Lyndhurst, a property of the National Trust for Historic Preservation, at Tarrytown, New York, May 16 and 17, 1974.

The Historic American Buildings Survey Advisory Board was established by the Secretary of the Interior on November 17, 1933, and sanctioned by Act of Congress August 21, 1935, to render advice on matters related to the task of preserving records of the historic architectural monuments of the United States.

Members of the Advisory Board are:

Mr. D. O. Davies, New Castle, Pennsylvania
Dr. Richard W. Hale, Jr., Boston, Massachusetts
Mr. John D. Henderson, San Diego, California
Mrs. Victorine Du Pont Homsey, Wilmington, Delaware
Dr. Barclay G. Jones, Ithaca, New York
Mr. William Bodley Lane, Portland, Oregon
Dr. L. Quincy Mumford, Washington, D.C.
Prof. F. Blair Reeves, Gainsville, Florida
Miss Barbara Wriston, Chicago, Illinois

Matters to be discussed at the meeting include the following:

(1) HABS reports on 1973 staff activities.
(2) Summer field projects.
(3) Publications.
(4) Records.
(5) Proposed center for the preservation of original architectural documents.

The meeting will be open to the public. Any person may file with the Board a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact John C. Poppeliers, Division of Historic and Architectural Surveys, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240 (202–523–5566).

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address.

Dated: April 25, 1974.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc.74–10433 Filed 5–6–74;8:45 am]

LAKE MEAD NATIONAL RECREATION AREA, NEVADA

Concurrent Legislative Jurisdiction Accepted

Notice is hereby given that a Certificate of Consent of State of Nevada to Acquisition of Concurrent Legislative Jurisdiction by the United States was executed by the Nevada Tax Commission on February 11, 1974, and countersigned by the Governor. Said certificate granted the earlier request of the Department of the Interior to acquire such jurisdiction over lands of the Lake Mead National Recreation Area in the State of Nevada.

Accordingly, further notice is given that the United States has accepted the concurrent legislative jurisdiction granted by the above-mentioned "consent" effective as of February 11, 1974, under authority of the Act of February 1, 1940 (54 Stat. 19, as amended; 40 U.S.C. 255). The lands within the State of Nevada over which such jurisdiction has been accepted are depicted on Drawing No. NRA-LM 2291–A, dated July, 1966, which drawing is on file in the administrative offices of the Lake Mead National Recreation Area.

This acquisition of jurisdiction will enable the National Park Service to assume a more positive role in matters of public health and safety and to otherwise administer the area more effectively.

Done at the City of Washington, D.C., this the 22d day of April 1974.

RUSSELL E. DICKENSON,
Acting Director, National Park Service.

[FR Doc.74–10430 Filed 5–6–74;8:45 am]

MAMMOTH CAVE NATIONAL PARK

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Miss Green River Boat Concessions, Inc., authorizing it to provide concession facilities and services for the public at Mammoth Cave National Park for a period of five (5) years from January 1, 1975, through December 31, 1979.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Southeast Regional Office, 3401 Whipple Avenue, Atlanta, Georgia 30344.

The foregoing concessioner has performed its obligations under the expiring permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new contract or permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before June 6, 1974.

Interested parties should contact the Assistant Director, Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requriements of the proposed contract.

Dated: May 1, 1974.

JOHN E. COOK,
Acting Director, National Park Service.

[FR Doc.74–10435 Filed 5–6–74;8:45 am]

NATIONAL CAPITAL MEMORIAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Monday, May 13, 1974, in Room 234 at the National Capital Parks Headquarters, 1100 Ohio Drive, SW., Washington, D.C.

The committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines, and policies for memoralizing persons and events on Federal lands in the National Capital region (as defined in the National Capital Planning Act of 1952, as amended) through the media of monuments, memorials, and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital region.

The members of the committee are as follows:

Mr. Ronald H. Walker (Chairman)
Director, National Park Service
Washington, D.C.

Mr. George M. White
Architect of the Capitol
Washington, D.C.

General Mark W. Clark
Chairman, American Battle Monuments Commission
Washington, D.C.

Mr. J. Carter Brown
Chairman, Fine Arts Commission
Washington, D.C.

Mr. William H. Press
Chairman, National Capital Planning Commission
Washington, D.C.

Honorable Walter E. Washington
Mayor-Commissioner of the District of Columbia
Washington, D.C.

Mr. Larry F. Roush
Commissioner, Public Buildings Service
Washington, D.C.

The purpose of this meeting is to prepare criteria and guidelines and policies for memorializing persons and events on Federal lands in the National Capital region. Also, discuss the flying of State flags around the Washington Monument or its vicinity.

The meeting will be open to the public. Any person may file with the committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Richard L. Stanton, Assistant Director, Cooperative Activities, National Capital Parks, at area code 202–426–6715. Minutes of the meeting will be available for public inspection two weeks after the meeting at the Office of National Capital Parks, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Dated April 25, 1974.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions.

[FR Doc.74–10432 Filed 5–6–74;8:45 am]

WESTERN REGIONAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Western Regional Advisory Committee will be held between Saturday, May 18, and Tuesday, May 21. The Committee will inspect the Colorado River from Glen Canyon National Recreation Area to Phantom Ranch, Grand Canyon National Park.

The purpose of the Committee is to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or counsel from members of the public in problems and programs pertinent to the Western Region of the National Park Service.

The members of the Committee are as follows:

Mr. Ben Avery, Phoenix, Arizona
Dr. Bernard L. Fontana, Tucson, Arizona
Mr. Lewis S. Eaton, Fresno, California
Mr. James R. Hooper, Crescent City, California
Mr. Jack H. Walston, Los Angeles, California
Mr. Todd Watkins, Bishop, California
Mr. David W. Ballie, Jr., Lihue, Kauai, Hawaii
Mr. Ed Fike, Las Vegas, Nevada
Mrs. Jean E. Ford, Las Vegas, Nevada

The purpose of this field inspection is to familiarize the Committee with National Park Service management of the Colorado River. Transportation facilities will not be available for the public, but they are welcome to participate by providing their own transportation in accordance with existing National Park Service management policy and requirements for floating the Colorado River.

A meeting will be held at a future date to discuss any problems and programs pertinent to Colorado River management.

Persons wishing further information concerning the field inspection may contact Executive Assistant to the Regional Director, Ray C. Foust, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone 415–556–1486.

Dated: April 25, 1974.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc.74–10434 Filed 5–6–74;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By the notice in the FEDERAL REGISTER of February 19, 1974, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 5 (pp. 8357–8362) and April 2 (pp. 12042–12046). Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the National Register since April 2, 1974:

Alabama

Colbert County

*Barton Hall.

V 39 I 89 MAY 7 74 XUM

Hale County

Greensboro, *Magnolia Grove*, west end of Main Street.
Prairieville, **St. Andrew's Church.*

Montgomery County

Montgomery, **Yancey, William Lowndes, Law Office*, Adams and Perry Streets.

Arkansas

Nevada County

Prescott vicinity, *Prairie De Ann Battlefield*, northwest of Prescott bounded roughly by county line, U.S. 30 and line about 1 mile north of intersection with Arkansas 19 (3–22–74).

Pulaski County

Little Rock, *Hanger, Frederick, House*, 1010 Scott Street (3–15–74).

California

Los Angeles County

Los Angeles, *Watts Station*, 1686 East 103d Street (3–15–74).
Pasadena, *Neighborhood Church*, northwest corner Pasadena Avenue and California Boulevard (4–9–74).

Modoc County

Canby vicinity, *Core Site*, about 5 miles southeast of Canby in the Modoc National Forest (4–8–74).

Colorado

Jefferson County

Evergreen, *Hiwan Homestead*, Meadow Drive (4–9–74).

Delaware

New Castle County

New Castle, **Stonum*, Ninth and Washington Streets.

District of Columbia

Washington

**Aqueduct*, MacArthur Boulevard.
**Ashburton House (St. John's Church Parish House)*, 1525 H Street NW.
800 Block of F Street NW., 800–818 F Street and 527 9th Street NW. (4–2–74).
Howard Theatre, 620 T Street NW. (2–15–74).
National Academy of Sciences, 2101 Constitution Avenue NW. (3–15–74).
**U.S. Soldiers' and Airmen's Home*, Rock Creek Church Road NW.

Georgia

Bibb County

Macon, *McCrary, DeWitt, House*, 320 Hydrolia Street (3–22–74).

Lumpkin County

**Calhoun Mine.*

Walker County

Rossville, **Ross, John, House*, Lake Avenue and Spring Street.

Guam

Yigo vicinity, *Pagat Site*, S of Yigo.

Illinois

Morgan County

Jacksonville, *Beecher Hall, Illinois College*, Illinois College campus (4–8–74).

Ogle County

Polo, *Barber, Henry D., House*, 410 West Mason (3–28–74).

Indiana

Franklin County

Brookville, *Franklin County Seminary*, 412 Fifth Street (3–28–74).

Marion County

Indianapolis, *City Market*, 222 East Market Street (3–27–74).

Iowa

Ida County

Ida Grove, *Ida County Courthouse*, 401 Moorehead Street (3–15–74).

Scott County

Davenport, *LeClaire, Antoine, House*, 630 East Seventh Street (3–22–74).

Kentucky

Jefferson County

Louisville, *West Main Street Historic District*, 600–800 blocks of West Main Street (3–22–74).

Maine

Waldo County

Frankfort vicinity, *Mount Waldo Granite Works*, south of Frankfort on U.S. 1–A (3–15–74).

Maryland

Anne Arundel County

Annapolis, **Stewart, Peggy, House*, 207 Hanover Street.

Baltimore (independent city)

St. John's Protestant Episcopal Church, 3009 Greenmount Avenue (3–27–74).

Prince Georges County

Oxon Hill, *St. John's Church*, 9801 Livingston Road (4–8–74).

Washington County

Fort Frederick, **Fort Frederick State Park.*
Samples Manor, **Kennedy Farm—John Brown headquarters*, Chestnut Grove Road.

Massachusetts

Essex County

Newburyport, **Cushing, Caleb, House*, 98 High Street.
Salem, **Story, Joseph, House*, 26 Winter Street.

Suffolk County

Boston, **Sumner, Charles, House*, 20 Hancock Street.

Mississippi

Amite County

Liberty, *Amite County Courthouse*, Main Street (4–9–74).

Nebraska

Douglas County

Omaha, *Fort Omaha Historic District*, 30th Street between Fort Street and Laurel Avenue (3–27–74).

New Jersey

Mercer County

Hightstown, *Sloan, Samuel, House*, 238 South Main Street (3–28–74).

New York

New York County

New York, *Fort Jay*, Governor's Island (3–27–74).
New York, **Scott, General Winfield, House*, 24 West 12th Street.

Washington County

Schuylerville vicinity, *DeRidder Homestead*, East of Schuylerville off New York 29 on County Road 116 (3–22–74).

Westchester County

Purchase, *Reid Hall, Manhattanville College (Ophir Hall)*, Manhattanville College campus, Purchase Street (3–22–74).

North Carolina

Carteret County

Beaufort, *Old Burying Ground*, bounded by Ann, Craven, and Broad Streets (4–8–74).

Chowan County

**Hayes Plantation.*

Davie County

**Helper, Hinton Rowan, House.*

Ohio

Cuyahoga County

Cleveland, *Prospect Avenue Row House Group*, 3645–3657 Prospect Avenue (3–27–74).

Franklin County

Columbus, *Ohio Stadium*, 404 West 17th Avenue (3–22–74).

Licking County

Utica vicinity, *Melick Mound*, south of North Fork Licking River (3–27–74).

Williams County

Nettle Lake vicinity, *Nettle Lake Mound Group*, northwest of Nettle Lake (3–27–74).

Oklahoma

Seminole County

Seminole vicinity, *Mekasukey Academy*, southwest of Seminole (3–28–74).

Oregon

Coos County

Bandon, *Coquille River Light*, Bullard's Beach State Park (3–22–74).

Pennsylvania

Allegheny County

Pittsburgh, *Smithfield Street Bridge*, Smithfield Street at the Monongahela River (3–21–74).

South Carolina

Beaufort County

St. Helena Island, *Indian Hill Site*, on St. Helena Island (3–22–74).

Charleston County

Charleston, **Hibernian Hall*, 105 Meeting Street.
Charleston, **Rhett, Robert Barnwell, House*, 6 Thomas Street.
Charleston, **Rutledge, Governor John, House*, 116 Broad Street.

Tennessee

Williamson County

Franklin, **Masonic Hall*, South Second Avenue.

Texas

Dallas County

Dallas, *Swiss Avenue Historic District*, Swiss Avenue between Fitzhugh and La Vista (3–28–74).

Grimes County

Anderson, *Anderson Historic District* (3–15–74).

Hill County

Lake Whitney Estates vicinity, *Pictograph Cave*, northwest of Lake Whitney Estates (3–13–74).

Vermont

Franklin County

Highgate Falls vicinity, *Douglass & Jarvis Patent Parabolic Truss Iron Bridge*, junction of State Aid Route 2 and the Missisquoi River (3–21–74).

Orange County

Brookfield, *Brookfield Village Historic District* (3–28–74).

Washington

Jefferson County

Port Townsend vicinity, *Fort Worden Historic District*, north of Port Townsend (3–15–74).

Pierce County

Tacoma, *Union Passenger Station*, 1713 Pacific Avenue (3–15–74).

Wisconsin

Taylor County

Jump River, *Jump River Town Hall*, south of Wisconsin 73 (3–28–74).

Winnebago County

Neenah, *Grand Loggery*, Doty Park, Lincoln Street (3–22–74).

The following are corrections to previous listings in the FEDERAL REGISTER:

Alabama

Marengo County

Demopolis, **Gaineswood*, 805 South Cedar Street (1–5–72).

Mobile County

Mobile, **City Hall*, 111 South Royal Street (12–3–69).

Florida

Sumter County

Bushnell vicinity, **Dade Battlefield Historic Memorial*, 1 mile west of Bushnell and 0.6 mile west of U.S. 301 (4–14–72).

Georgia

Baldwin County

Milledgeville, **Former Governor's Mansion*, 120 South Clark Street (5–13–70).

Bibb County

Macon, **Johnston-Hay House*, 934 Georgia Avenue (5–27–71).
Macon, **Raines-Carmichael House*, 1183 Georgia Avenue (6–21–71).

Chatham County

Savannah, **Scarborough, William, House*, 41 West Broad Street (6–22–70).

Floyd County

Rome, **Chieftains (Major Ridge House)*, 80 Chatillon Road (4–7–71).

Fulton County

Atlanta, **State Capitol*, Capitol Square (5–13–70).

Gordon County

Calhoun vicinity, **New Echota*, north of Calhoun on Georgia 225 (5–13–70).

Muscogee County

Columbus, **Octagon House*, 527 First Avenue (7–29–69).

Thomas County

Thomasville, **Scarborough House (C. W. Lapham House)*, 626 North Dawson Street (8–12–70).

Troup County

LaGrange, **Bellevue*, 204 Ben Hill Street (11–7–72).

Wilkes County

Washington, **Toombs, Robert, House*, 326 East Robert Toombs Avenue (4–11–72).
Washington, **Tupper-Barnett House*, 101 West Robert Toombs Avenue (4–11–72).

Illinois

Cook County

Chicago, *Monadnock Block*, 53 West Jackson Boulevard (11–20–70).

Monroe County (also in Randolph County)

Prairie du Rocher, *French Colonial Historic District*, along Mississippi River from Old Maeystown Creek at Beagles Island southeast to Kaskaskia Island (4–3–74).

Indiana

Tippecanoe County

Lafayette vicinity, *Indiana State Soldiers Home Historic District*, north of Lafayette off Indiana 43 (1–2–74).

Louisiana

Orleans Parish

New Orleans, *Rabassa, Jean Louis, House (McDonogh No. 18 School Annex)*, 1125 St. Ann Street (2–15–74).

Maine

Aroostook County

Fort Kent vicinity, **Fort Kent State Memorial*, southwest of Fort Kent off Maine 11 (10–1–69).

Kennebec County

Augusta, **Fort Western*, Bowman Street (12–2–69).

Michigan

Kent County

Grand Rapids, *Pike, Abram W., House (Grand Rapids Art Museum)*, 230 Fulton Street, East (7–8–70).

Mississippi

Harrison County

Biloxi, *Beauvoir (Jefferson Davis Shrine)*, 200 West Beach Boulevard (9–3–71).

North Carolina

Cumberland County

Fayetteville, **Market House*, Market Square (9–15–70).

Orange County

Chapel Hill, **Playmakers Theatre (Smith Hall)*, Cameron Avenue, University of North Carolina (6–24–71).

Wake County

Raleigh, **State Capitol Building*, Capitol Square, bounded by Wilmington, Edenton, Salisbury, and Morgan Streets (2–26–70).

Pennsylvania

Philadelphia County

Philadelphia, *Christ Church Burying Ground*, Fifth and Arch Street (6–24–71).

South Carolina

Charleston County

Charleston, **The Exchange and Provost*, East Bay and Broad Streets (12–17–69).
Charleston, **Stuart, Colonel John, House*, 104–106 Tradd Street (10–22–70).
Mt. Pleasant vicinity, **Snee Farm*, about 6 miles northeast of Mount Pleasant off U.S. 17 (4–13–73).

Greenwood County

Ninety Six vicinity, **Old Ninety Six and Star Fort*, south of Ninety Six between South Carolina 248 and 27 (12–3–69).

Richland County

Columbia, **First Baptist Church*, 1306 Hampton Street (1–25–71).

Vermont

Bennington County

North Bennington, *Park-McCullough House*, southwest corner of West and Park Streets (10–26–72).

Virginia

Clarke County

Boyce vicinity, **Saratoga*, southeast of intersection of Routes 723 and 617 (2–26–70).

Hanover County

Hanover, **Hanover County Courthouse*, east side of Route 301 at intersection Routes 1006 and 301 (10–1–69).

Historic properties which are either (1) eligible for nomination to the National Register of Historic Places, or (2) nominated but not yet listed are entitled to protection under Executive Order 11593. Before an agency of the Federal government may undertake any project which may have an effect on such a property, the Advisory Council on Historic preservation shall be given an opportunity to comment on the proposal. Authorization for such comments are in section 1(3) and section 2(b) of Executive Order 11593.

The Secretary of the Interior has determined that the following properties may be eligible for inclusion in the National Register of Historic Places and are therefore entitled to protection under section 1(3) and section 2(b) of Executive Order 11593 and other applicable Federal legislation. All determinations of eligibility are made under the Secretary of the Interior's authorities in sections 2(b) and 3(f) of Executive Order 11593. This list is not complete. As required by Executive Order 11593, an agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion in the National Register.

Alabama

Dallas County

Selma, *Gill House*, 1109 Selma Avenue.

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Alaska

Northwestern District

Little Diomede Island, *Iyapana, John, House.*

Arizona

Cochise County

Sierra Vista, *Garden Canyon Petroglyphs*, Garden Canyon Road.

Yuma County

Yuma, *Southern Pacific Depot.*

California

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*

Modoc County

Canby vicinity, *Cuppy Cave*, near Pitt River in Modoc National Forest.

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Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Santa Rosa, *Santa Rosa Post Office.*

Colorado

Denver County

Denver, *Eisenhower Memorial Chapel,* Building No. 27, Reeves Street, on Lowry AFB.

Connecticut

Hartford County

Hartford, *Church of the Good Shepherd and Parish House,* intersection of Wyllys Street and Van Block Avenue.

Hartford County

Hartford, *Colt Factory Housing,* Huyshope Avenue between Sequassen and Wechasset Streets.
Hartford, *Colt Factory Housing ("Potsdam Village"),* Curcombe Street between Hendrickxsen Avenue and Locust Street.
Hartford, *Colt Park,* bounded by Wethersfield Avenue, Stonington Street, Wawarme, Curcombe and Marseek Streets, and by Huyshope and Van Block Avenues.
Hartford, *Colt, Colonel Samuel, Armory, and related factory buildings,* Van Dyke Avenue.
Hartford, *Flat-iron Building (Motto Building),* intersection of Congress Street and Maple Avenue.
Hartford, *Houses on both sides of Congress Street.*
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue,* between Morris and Wyllys Streets, particularly No. 97, No. 81, No. 65.

Middlesex County

Middletown, *Mather-Douglas-Santangelo House,* 11 South Main Street.

New London County

New London, *Thames Shipyard,* west bank of Thames River north of the U.S. Coast Guard Academy.

Delaware

Suffolk County

Lewes, *The Delaware Breakwater.*
Lewes, *The Harbor of Refuge Breakwater.*

District of Columbia, Wash.

Riggs Bank, 800 17th Street NW.

Florida

Hillsborough County

Tampa, *Federal Building, U.S. Courthouse, Downtown Postal Station,* 601 Florida Avenue.
Tampa, *Firehouse No. 10,* Ybor City.

Georgia

Chatham County

Archeological Site, North end of Skidway Island.

Clay County

Archeological Site WGC-73, downstream from Walter F. George Dam.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river on lots Nos. 45, 46, 213.

Stewart County

Rood Mounds.

Sumter County

Americus, *Aboriginal Chert Quarry,* Souther Field.

Hawaii

Moanaloa Valley.

Idaho

Ada County

Boise, *Ada Theater,* 700 Main Street.
Boise, *Alexanders,* 826 Main Street.
Boise, *Falks Department Store,* 100 North Eighth Street.
Boise, *Idaho Building,* 216 North Eighth Street.
Boise, *Idanha Hotel,* 928 Main Street.
Boise, *Simplot Building (Boise City National Bank),* 805 Idaho Street.
Boise, *Union Building,* 712½ Idaho Street.

Illinois

Cook County

Chicago, *Delaware Building,* 155 North Dearborn.
Chicago, *McCarthy Building (Landfield Building),* northeast corner of Dearborn and Washington.
Chicago, *Methodist Book Concern* (later Stop and Shop Warehouse), 12 West Washington.
Chicago, *Ogden Building,* 130 West Lake Street.
Chicago, *Oliver Building,* 159 North Dearborn Street.
Chicago, *Springer Block* (Bay, State and Kranz Buildings), 126–46 North State.
Chicago, *Unity Building,* 127 North Dearborn Street.

De Kalb County

De Kalb, *Haish Barbed Wire Factory,* corner of Sixth and Lincoln Streets.

Illinois

Lake County

Fort Sheridan, *Water Tower, Building 49,* Leonard Wood Avenue.

Indiana

Monroe County

Bloomington, *Carnegie Library.*

Kansas

Geary County

Junction City vicinity, *Main Post Area, Fort Riley, Kansas,* 4 miles northeast of Junction City.

Kentucky

Carter County

Grayson vicinity, *The Van Kitchen Home,* 7 miles south on Kentucky 7, southeast on Rosedale Road.

Estill County

Fitchburg Iron Furnace, Kentucky 975, in Daniel Boone National Forest.

Jefferson County

Louisville, *Old Louisville Historic District,* bounded on North by Broadway; on the west by Seventh and the Louisville/Nashville Railroad tracks; on the east by Interstate 65 and Brook Street; on the south by Eastern Parkway and Gaulbert Avenue.

Maryland

Frederick County

Fort Detrick, *Nallin Farm House* (Fort Detrick Building 1652).

Harford County

Aberdeen, *Gunpowder Meeting House* (Building Number E-5715), Magnolia Road.
Aberdeen, *Presbury House (Quiet Lodge)* (Building Number E-4730), Austin and Parrish Roads.

St. Marys County

Saint Inigoes, *Manor House,* Naval Electronic Systems Test and Evaluation Facility.

Michigan

Livingston County

Fenton, *Fenton Downtown Historic District,* east and west sides of Leroy Street in two blocks bounded by Ellen on the south and Silver Lake on the north, north side of Caroline Street and east side of River Street.

Missouri

Jackson County

Kansas City, *Folly's (Standard) Theater,* 12th and Central Streets.

Montana

Lewis and Clark County

Marysville, *Marysville Historic District.*

Park County

Mammouth, *Chapel at Fort Yellowstone,* Yellowstone National Park.

Nebraska

Madison County

Norfolk, *Federal Building (U.S. Post Office and Courthouse),* corner of Fourth Street and Madison Avenue.

Nevada

Nye County

The Emigrant's Trail, approximately 75 miles northwest of Las Vegas on U.S. 95.

Storey County (also in Washoe County)

Derby Diversion Dam, on the Truckee River 19 miles east of Sparks, Nev., along Interatate 80.

New Hampshire

Grafton County

Bedell Covered Bridge.

New Jersey

Warren County (also in Sussex County)

Old Mine Road Historic District.

New York

Bronx County

New York, *North Brothers Island Light Station,* in center of East River.

Greene County

New York, *Hudson City Light Station,* in center of Hudson River.

Richmond County

New York, *Romer Shoal Light Station,* located in lower bay area of New York Harbor.

Suffolk County

New York, *Fire Island Light Station,* U.S. Coast Guard Station.
New York, *Race Rock Light Station,* located south of Fishers Island, 10 miles north of Orient Point.

Ulster County

New York, *Rondout North Dike Light,* center of Hudson River at junction of Rondout Creek and Hudson River, 1 mile west of Port Ewen.

Westchester County

White Plains, *Westchester County Courthouse Complex,* corner of Main and Court Streets.

North Carolina

Brunswick County

Southport, *Fort Johnston,* Moore Street.

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks,* 23 Ramsey Street.

Jones County

Trenton, *Trenton Historic District,* north side of Trent Street at Weber Street; south to the northeast corner of Weber and Jones Streets; one block east along Jones Street; then south along the cemetery; west along cemetery to Lake View Street; along Lake View Street to Market Street; then west along Market Street 100 yards south of the southern boundary of Brock Mill Pond; west along said line to a point 100 yards west of the western boundary of Brock Mill Pond; north along Pollock Street extended to Jones Street; then east to King Street; along Trent Street to beginning.

New Hanover County

Wilmington, *Market Street Mansions District,* both sides of Market Street between 17th and 18th Streets.
Wilmington, *Wilmington Historic District,* from Cape Fear River; east along Hornet Street to Eighth Street; along Grace Street to Ninth Street; along Ninth Street to Dock Street; along Dock Street to Eighth Street to Castle Street; along Castle Street to Wright Street, then west to Cape Fear River.

Ohio

Clermont County

Neville vicinity, *Maynard House,* 2 miles east of Neville.

Pickaway County

Williamsport vicinity, *The Shack,* 5.5 miles northwest of Williamsport.

Oregon

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Light House.*

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Roosevelt Beach, *Heceta Head Light House.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Pennsylvania

Brumbaugh Homestead, Raystown Lake Project.

Adams County

Gettysburg, *Barlow's Knoll,* adjacent to Gettysburg National Military Park.

Allegheny County

Bruceton, *Experimental Mine,* U.S. Bureau of Mines, off Cochran Mill Road.
Pittsburgh, *Maine Building (A) U.S. Bureau of Mines,* Pittsburgh Experiment Station, 4800 Forbes Avenue.

Clinton County

Lockhaven, *Apsley House,* 302 East Church Street.
Lockhaven, *Harvey, Judge, House,* 29 North Jay Street.
Lockhaven, *McCormick, Robert, House,* 234 East Church Street.
Lockhaven, *Mussina, Lyons, House,* 23 North Jay Street.

Cumberland County

Carlisle, *Hessian Guardhouse Museum,* corner of Guardhouse and Garrison Lanes.

Mercer County

Greenville vicinity, *Kidd's Mills Historical Area* (Shenago River Lake), 5 miles south of Greenville, Pa., via Pennsylvania 58 and Township Road 653.

Northampton County

Dorneyville, *King George Inn and two other stone houses,* intersection of Hamilton and Cedar Crest Blvds.

Westmoreland County

Blairsville/Torrance vicinity, *Western Division-Pennsylvania Canal* (Conemauth River Lake), Ligonier Line of Pennsylvania Canal.

Tennessee

Gibson County

Milan, *Browning House,* Line "Z," Milan Army Ammunition Plant.

Texas

Bexar County

Fort Sam Houston, *Pershing House,* Quarters No. 6, Staff Post Road.
Fort Sam Houston, *Post Chapel,* Building 2200, Wilson Street.

Vermont

Windsor County

Windsor, *Post Office Building.*

Washington

Clark County

Vancouver, *Officers Row,* Fort Vancouver Barracks.

Kittitas County

Cle Elum vicinity, *Salmon la Sac Guard Station,* 18 miles north of Cle Elum on County Highway 9235.

Pierce County

Fort Lewis Military Reservation, *Wilkes, Captain, July 4, 1841, Celebration Site.*

West Virginia

Cabell County

Huntington, *Old Bank Building,* 1208 Third Avenue.

Wood County

Parkersburg, *Wood County Courthouse.*

Wisconsin

Door County

Chambers Island, *Chambers Island Lighthouse Dwelling,* northern tip Chambers Island in Green Bay, Lake Michigan.

Wyoming

Goshen County

Torrington, *Union Pacific Depot.*

Puerto Rico

Mona Island, *Sardinero Site and ball courts.*

ERNEST A. CONNALLY,
Associate Director, Professional Services.

[FR Doc.74-10114 Filed 5-6-74;8:45 am]

Office of the Secretary

[INT DES 74-48]

PROPOSED BACK BAY WILDERNESS AREA, VIRGINIA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for the Proposed Back Bay Wilderness Area, Virginia, and invites written comments on or before June 21, 1974.

The proposal recommends that 1,950 acres of the Back Bay National Wildlife Refuge, located in the City of Virginia Beach, Virginia, be included in the National Wilderness Preservation System.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife
John W. McCormack P.O. and Courthouse
Boston, Massachusetts 02109

Headquarters
Back Bay National Wildlife Refuge
Box 6125
Virginia Beach, Virginia 23456

Bureau of Sport Fisheries and Wildlife
Office of Environmental Coordination
Department of the Interior
Room 2246
18th and "C" Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

Dated: April 29, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-10421 Filed 5-6-74;8:45 am]

[INT DES 74-52]

PROPOSED UL BEND WILDERNESS AREA, MONTANA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for the Proposed UL Bend Wilderness Area, located in Montana, and invites written comments on or before June 21, 1974.

The proposal recommends that 20,893 acres of the UL Bend National Wildlife Refuge, located in south Phillips County, Montana, be included in the National Wilderness Preservation System.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife
10597 West Sixth Avenue
Denver, Colorado 80215

V 39 89 MAY 7 74 XUM

Headquarters
UL Bend National Wildlife Refuge
Box J
Malta, Montana 59538
Bureau of Sport Fisheries and Wildlife
Office of Environmental Coordination
Department of the Interior
Room 2246
18th and "C" Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

Dated: May 1, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74–10422 Filed 5–6–74;8:45 am]

[INT DES 74–51]

HUNTINGTON CANYON GENERATING STATION, UTAH—PROPOSED CONSTRUCTION OF SECOND UNIT AND 345–KV TRANSMISSION LINE

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, and the Bureau of Land Management and Bureau of Reclamation, Department of the Interior, have prepared a draft environmental statement concerning the proposed addition of a 430–MW generating unit to the Utah Power and Light Company's Huntington Canyon Station in Emery County, Utah, and construction of a 345–kV, 75-mile-long transmission line from the station to Sigurd, Utah. The Department of the Interior is the lead agency for preparation and clearance of the environmental statement.

Written comments on the draft environmental statement may be submitted to the Regional Director, Bureau of Reclamation, P.O. Box 11568, Salt Lake City, Utah 84111, within 45 days of this notice. Copies of the draft environmental statement are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343–9247.
Office of Assistant to the Commissioner—Ecology, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343–4991.
Division of Engineering Support, Technical Services and Publications Branch, Bureau of Reclamation, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234–3007.
Office of the Regional Director, Bureau of Reclamation, 125 South State Street, Salt Lake City, Utah 84111, Telephone (801) 524–5409.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director.

Dated: May 1, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74–10423 Filed 5–6–74;8:45 am]

[INT DES 74–50]

PALMETTO BEND PROJECT, TEXAS

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on an authorized water supply project for the purpose of furnishing a dependable municipal and industrial water supply to the Jackson-Calhoun Counties area located on the Gulf Coast in south Texas. In addition, the project will provide associated recreational, fish, and wildlife facilities to the surrounding area. Written comments may be submitted to the Regional Director (address below) within 45 days of this notice.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343–4991.
Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234–3022.
Office of the Regional Director, Bureau of Reclamation, Herring Plaza Box H–4377, Amarillo, Texas 79101, Telephone (806) 376–2401.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director.

Dated: April 30, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74–10377 Filed 5–6–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

TEXAS CANE SUGAR PRODUCING AREA

Hearing on Proportionate Shares for 1975–Crop

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, will conduct a public hearing to receive the views and recommendations of interested persons on the need for establishing proportionate shares for the 1975 sugarcane crop in the Texas Cane Sugar Producing Area. The hearing will be conducted in Room 3734, South Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10 a.m. on May 24, 1974.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended (7 U.S.C. 1132(b)) the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in the area will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

Views and recommendations are desired on (a) the need for establishing proportionate shares and, (b) if acreage restrictions are recommended, on all phases of a proportionate share program. Recommendations may be presented orally at the hearing, preferably supported in writing by an original and two copies of the oral statement. Views and recommendations may also be submitted in writing, in triplicate, at the hearing or may be mailed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than June 7, 1974.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. (7 CFR 1.27 (b)).

Signed at Washington, D.C., on April 30, 1974.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.74–10401 Filed 5–6–74;8:45 am]

Food and Nutrition Service

NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM, SPECIAL MILK PROGRAM AND COMMODITY ONLY SCHOOLS

Income Poverty Guidelines for Determining Eligibility for Free and Reduced Price Meals and Free Milk

Pursuant to section 9 of the National School Lunch Act, as amended (42 U.S.C. 1758) and section 4(e) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773(e)), the income poverty guidelines for determining eligibility for free and reduced-price meals in the National School Lunch Program, School Breakfast Program, and commodity only schools during fiscal year 1975 are prescribed by the Secretary in the following tables.

Under the legislation, schools are required to serve free meals to all children from families whose income is at or below the applicable family size income level in the Secretary's guidelines. Each State educational agency is required to prescribe income guidelines for both free and reduced-price meals, by family size, for use by schools in the State. The State guidelines may not be less than the applicable family size income level prescribed by the Secretary, and may not exceed the Secretary's guidelines by more than 25 percent, in the case of free meals, or 50 percent, in the case of reduced-price meals.

Section 3 of the Child Nutrition Act of 1966 as amended (42 U.S.C. 1772), requires that children who qualify for free lunches under these guidelines shall also be eligible for free milk.

For the convenience of State educational agencies, the tables also show the Secretary's income poverty guidelines when increased by 25 percent and when increased by 50 percent. The increased figures represent the maximum levels to be prescribed by State educational agencies in determining eligibility for free meals and free milk, and reduced-price meals, respectively. The Secretary's guidelines remain the minimum level for free meals and free milk; all children at or below such levels shall be served a free meal and free milk.

The Island of Guam has been included in the same guidelines as those used for Hawaii due to their comparable costs of living.

Income poverty guidelines, fiscal year 1975

Family size	Secretary's guidelines, fiscal year 1975	Guideline levels when increased by—25 percent	50 percent
48 States, District of Columbia, and Territories Except Guam			
1	$2,330	$2,910	$3,500
2	3,060	3,830	4,600
3	3,790	4,740	5,690
4	4,510	5,640	6,760
5	5,180	6,480	7,770
6	5,850	7,310	8,780
7	6,450	8,060	9,680
8	7,050	8,810	10,580
9	7,610	9,510	11,420
10	8,150	10,190	12,230
11	8,690	10,860	13,040
12	9,230	11,530	13,850
Each additional family member	540	670	810
Alaska			
1	$2,750	$3,440	$4,130
2	3,610	4,520	5,420
3	4,470	5,590	6,710
4	5,330	6,660	8,000
5	6,120	7,650	9,180
6	6,900	8,630	10,360
7	7,620	9,530	11,430
8	8,330	10,410	12,500
9	8,970	11,210	13,460
10	9,610	12,010	14,420
11	10,250	12,810	15,380
12	10,890	13,610	16,340
Each additional family member	640	800	960
Hawaii and Guam			
1	$2,610	$3,260	$3,920
2	3,430	4,290	5,150
3	4,250	5,310	6,380
4	5,060	6,330	7,590
5	5,810	7,260	8,720
6	6,550	8,190	9,830
7	7,230	9,040	10,850
8	7,910	9,890	11,870
9	8,530	10,660	12,800
10	9,140	11,430	13,720
11	9,750	12,190	14,630
12	10,360	12,950	15,540
Each additional family member	610	760	910

The Secretary's income poverty guidelines are based on the previous year's poverty level adjusted for the year-to-year change in the Consumer Price Index. This procedure is consistent with the basic procedure used by the Bureau of the Census in updating its latest statistics on poverty levels.

"Income," as the term is used in this notice, is similar to that defined in the Bureau of the Census report, "Characteristics of the Low-Income Population: 1971," Consumer Income, Current Population Reports, series P–60. No. 86, December 1972. "Income" means income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. It includes the following:

(1) Monetary compensation for services, including wages, salary, commission, or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bonds, income from estates or trust, or net rental income; (6) public assistance or welfare payments; (7) unemployment compensations; (8) Government civilian employee or military retirement or pensions or veterans' payments; (9) private pensions or annuities; (10) alimony or child support payments; (11) regular contributions from persons not living in the household; (12) net royalties; and (13) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts, and other resources which would be available to pay the price of a child's meal.

"Income" as the term is used in this notice, does not include payments to volunteers under the Domestic Volunteer Service Act of 1973, Public Law 93–113 (87 Stat. 409); nor does the term include income used for the following special hardship conditions which could not be reasonably anticipated or controlled by the household:

(1) Unusually high medical expenses; (2) shelter costs in excess of 30 percent of income as defined herein; (3) special education expenses due to the mental or physical condition of a child; and (4) disaster or casualty losses.

In applying guidelines, school food authorities may consider both the income of the family during the past 12 months and the family's current rate of income to determine which is the better indicator of the need for free and reduced-price meals.

Effective date. This notice shall be effective July 1, 1974.

Dated: May 1, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74–10320 Filed 5–6–74;8:45 am]

Forest Service

CARSON NATIONAL FOREST TIERRA AMARILLA GRAZING ADVISORY BOARD

Notice of Meeting

A special meeting of the Tierra Amarilla Grazing Advisory Board will be held at the Ghost Ranch Conference Center, Abiquiu, New Mexico, on Friday, May 31, 1974, at 10 a.m.

Phil Reynolds, President of the Tierra Amarilla Grazing Advisory Board, has requested this meeting to hear an appeal by David E. Archuleta of Cebolla, New Mexico, concerning an increase in numbers of livestock on the Canjilon Grazing Allotment.

The meeting will be open to the public. Persons who wish to attend should notify W. R. Snyder, Forest Supervisor, Carson National Forest, P.O. Box 558, Taos, New Mexico, phone (505) 758–2237. Written statements may be filed with the board before or after the meeting.

Dated: April 29, 1974.

R. KENT KENNEDY,
Acting Forest Supervisor.

[FR Doc.74–10374 Filed 5–6–74;8:45 am]

TAOS SKI VALLEY EXPANSION

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a draft environmental statement for a Proposed Taos Ski Valley Expansion, Carson National Forest, USDA–FS–DES(Adm)R3–74–02.

The environmental statement considers probable environmental effects of the expansion proposal.

The draft environmental statement was filed with CEQ on April 30, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Rm. 3230
14th & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
Southwestern Region
517 Gold Avenue, SW
Albuquerque, New Mexico 87102

Carson National Forest
Cruz Alta Road
Taos, New Mexico 87571

Single copies are available upon request to the Forest Supervisor, Carson National Forest, P.O. Box 558, Taos, New Mexico 87571; and the Regional Forester, Southwestern Region, 517 Gold SW., Albuquerque, New Mexico 87102. Copies are also available from the Colorado Plateau Environmental Advisory Council, P.O. Box 1389, Flagstaff, Arizona 86001. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

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Comments are invited from the public, State, and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to the Forest Supervisor, Carson National Forest, P.O. Box 558, Taos, New Mexico 87571. Comments must be received within 60 days from the date of this notice in order to be considered in the preparation of the final environmental statement.

W. L. EVANS,
Acting Regional Forester, R3.

[FR Doc.74-10373 Filed 5-6-74;8:45 am]

OREGON DUNES NATIONAL RECREATION AREA ADVISORY COUNCIL

Notice of Meeting

The Oregon Dunes National Recreation Area Advisory Council will meet on Wednesday, May 29th, at 10 a.m. in Florence, Oregon. This meeting will be held in the Coho Room of the Pier Point Inn.

The purpose of the meeting is to discuss wilderness suitability in the NRA, to review the Status Report of Oregon Dunes planning and to honor requests of Norm Hansen and Don Laskey who want to talk with the Advisory Council.

The meeting will be open to the public. Persons who wish to attend should notify Pamela Wilson, P.O. Box 1148, Corvallis, Oregon 97330. The telephone number is 503-752-4211, extension 502. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation. Any member of the public who wishes to speak must be recognized by the council chairman. The council chairman will decide the time when public participation will take place.

F. DALE ROBERTSON,
Forest Supervisor.

APRIL 29, 1974.

[FR Doc.74-10419 Filed 5-6-74;8:45 am]

SAWTOOTH NATIONAL RECREATION AREA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement of the General Management Plan for the Sawtooth National Recreation Area, Sawtooth National Forest, Idaho. The Forest Service report number is USDA-FS-DES (Adm) R4-74-8.

The enviornmental statement identifies and evaluates the environmental effects of the proposed general management plan. The proposed general management plan sets forth the allocation of land to recreation development and resource uses and activities; establishes objectives; document management direction, decisions, and necessary coordination between recreational and resource uses; and provides for the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values within the unit as prescribed in the legislation establishing the Sawtooth National Recreation Area (Pub. L. 92-400).

This draft environmental statement was transmitted to CEQ on April 26, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service
Federal Building, Room 4403
324-25th Street
Ogden, Utah 84401

Forest Supervisor
Sawtooth National Forest
1525 Addison Avenue East
Twin Falls, Idaho 83301

Area Ranger (Superintendent)
Sawtooth National Recreation Area
P.O. Box 438
Ketchum, Idaho 83340

A limited number of single copies are available upon request to Forest Supervisor Edwin A. Fournier, Sawtooth National Forest, 1525 Addison Aveune East, Twin Falls, Idaho 83301.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Sawtooth National Forest, 1525 Addison Avenue East, Twin Falls, Idaho 83301. Comments must be received by July 31, 1974, in order to be considered in the preparation of the final environmental statement.

Dated: April 26, 1974.

VERN HAMRE,
Regional Forester.

[FR Doc.74-10420 Filed 5-6-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3B2871]

CELANESE PLASTICS CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2871) has been filed by Celanese Plastics Co., P.O. Box 1000, Summit, NJ 07901, proposing that the food additive regulations be amended to provide for safe use of polyoxymethylene copolymer and terpolymer produced by using trioxane, ethylene oxide, and butanediol-diglycidyl ether as reactants and calcium ricinoleate, cyanoguanidine, 2-hydroxy-4-methoxy benzophenone, 2,2'-methylenebis - (4 - methyl-6-*tert*-butylphenol) N,N' - distearoylethylenediamine, and tetrakis (methylene (3,3-di-*tert*-butylhydroxyhydrocinnamate)) methane as optional adjuvant substances in articles intended to contact food.

Dated: April 29, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-10429 Filed 5-6-74;8:45 am]

Office of the Secretary

CONSUMER ADVISORY COUNCIL

Notice of Meeting

Pursuant to Pub. L. 92-463 of October 6, 1972, notice is hereby given that there will be a public meeting of the Consumer Advisory Council to the Office of Consumer Affairs, U.S. Department of Health, Education, and Welfare, which will commence at 10 a.m. on May 13 in Room 5104, New Executive Office Building, 17th and H Streets NW., Washington, D.C. 20506 and continue on the morning of May 14 in the same location.

The Consumer Advisory Council was established under section 5 of Executive Order No. 11583 issued February 24, 1971, to advise the Director of the Office of Consumer Affairs with respect to policy matters relating to consumer interests, the effectiveness of Federal programs and operation which affect the interests of consumers, problems of primary importance to consumers and ways in which unmet consumer needs can appropriately be met through Federal Government action.

The meeting is open to the public with the number of persons admitted subject to reasonable limitation according to space available. The agenda will include discussions of the consumers interest in agriculture programs, energy conservation, population issues, complaint handling mechanisms and the consumers rights to privacy.

Signed in Washington, D.C. this 1st day of May, 1974.

VIRGINIA H. KNAUER,
Director, Office of Consumer Affairs and Executive Secretary, Consumer Advisory Council.

[FR Doc.74-10381 Filed 5-6-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26366; Order 74-5-9]

BUD ANTLE, INC.

Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd Day of May 1974.

Specific commodity rates filed by Alitalia-Linee Aeree Italiane-S.p.A., Japan Air Lines Company, Ltd., Pan American World Airways, Inc., The Flying Tiger Line, Inc., Trans World Airlines, Inc.

By Order 74-3-15 (March 5, 1974) the Board dismissed the complaint of Bud Antle, Inc. (Antle) against increased westbound transpacific rates for specific commodity Item No. 0007 (Fruits and/or Vegetables, N.E.S. when tendered by the shipper wholly in Type 3 container(s)). The rates were filed by the member carriers of the International Air Transport Association (IATA) to implement a Board-approved IATA agreement involving increases in worldwide passenger fares and cargo rates to compensate for escalating fuel prices.

Antle has now submitted a petition for reconsideration of the Board's previous action, generally contending that the Boards' dismissal of the complaint did not adequately dispose of Antle's arguments.

Answers in opposition to the petition have been received from Pan American World Airways, Inc., and The Flying Tiger Line, Inc. The respondents variously assert that Antles' petition is nothing more than a recitation of its previous arguments, which the Board has adequately treated in dismissing Antle's initial complaint; that there was adequate notice of the proposed increases; that the increases fully comply with the formula adopted by the carriers, and explained by the Board in its order of approval; that the record provides sufficient and complete cost justification for the increases; and that Antle has provided no documented economic analysis, but relies solely on its own unsupported conclusions.

Upon full consideration of the petition, the answers, and all other relevant matters, the Board finds that Antle has presented no new facts or arguments which have not already been dealt with in Order 74-3-15 dismissing Antle's initial complaint. In these circumstances Antle's petition raises no new issue, and accordingly will be denied. Antle's arguments hinge on the contention that the formula of a fixed amount (four percent of the 45-kilogram general cargo rate between the U.S. West Coast and each foreign point) in the approved fuel-based rate increase in fact represents an increase of 28 percent in the low specific commodity rates used by Antle, and as such is an undue burden on Antle. The Board now has before it for consideration an IATA agreement which would establish an overall North/Central Pacific cargo rate structure, including rates for fresh produce, through December 31, 1974. Order 74-4-32 (April 4, 1974) established procedural dates for the receipt of carrier justification, comments from interested persons, and responses pertaining to this agreement, and we believe these procedures afford Antle ample opportunity to comment on the appropriate level of rates for these commodities.[2]

Accordingly, it is ordered, That:

The petition of Bud Antle, Inc. for reconsideration of Order 74-3-15 be and hereby is denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10455 Filed 5-6-74;8:45 am]

[Docket No. 25594; Order 74-5-7]

PAN AMERICAN WORLD AIRWAYS, INC. ET AL.

Exemption of Air Carriers for Military Transportation; Order on Petitions for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of May 1974.

By ER-839, adopted March 8, 1974, the Board amended Part 288 of its Economic Regulations (14 CFR Part 288) by providing a fuel surcharge of 5.15 percent[1] to the existing interim final minimum rates[2] applicable to certain foreign and overseas air transportation services performed for the Department of Defense (DOD) effective on and after January 22, 1974. Since the surcharge rate adopted was revised from the 4.5 percent originally proposed by EDR-263, January 22, 1974, the Board provided for the filing of petitions for reconsideration.

Petitions requesting reconsideration were filed by Pan American World Airways, Inc. (Pan Am), Trans World Airlines, Inc. (TWA), World Airways, Inc. (World) and the DOD, and an answer in support of Pan Am's petition was filed by Seaboard World Airlines, Inc. (Seaboard).

Pan Am's petition notes that although the 5.15 percent surcharge was based upon commercial fuel prices in effect on January 1, 1974, it was not effective until January 22, 1974, and argues that the Board's failure to make the surcharge effective retroactively deprives the carriers of revenues to which they would otherwise be entitled. Pan Am would, therefore, determine the amount of the surcharge on the basis of the carriers' average January fuel cost per gallon. According to the carrier, adjusting the calculations in ER-839 to reflect only Pan Am's average fuel cost for January produces a 5.44 percent surcharge rather than the 5.15 percent adopted. Seaboard has answered in support of the Pan Am petition, and in addition requests that the surcharge be increased to 5.49 percent to reflect its average experienced January, 1974 commercial fuel costs for MAC operations.

The TWA petition asserts that while the Board has purported to act on the basis of January 1, 1974 prices, such fuel prices are subject to retroactive adjustment, and that, as a result of such adjustments, the fuel prices used for TWA in ER-839 are understated.[3]

World in its petition renews its request for a monthly review of fuel price data, and retroactive adjustment of the surcharge to reflect the most recent fuel prices.[4] Additionally, World points out that in amending section 288.7 of Part 288 to provide for the fuel surcharge, reference was made only to regular turbojet and DC-8F-61-63 aircraft, and not of B-747 aircraft which are common rated with the DC-8-63. World requests amendment of section 288.7 to specifically include the B-747, and thus eliminate any uncertainty as to the applicability of the surcharge to such aircraft. Finally, World requests a separate surcharge of .29 percent to be applicable to MAC operations performed with B-727 equipment on Pacific Inter-island routes.

The DOD's petition indicates that although the Department does not object to the adoption of the 5.15 percent surcharge prospectively from the date ER-839 was issued, it does object to making the revised 5.15 percent surcharge effective from the date the notice of rule making was issued. In the Department's view, a revision of the amount of the surcharge back to the date of the notice is a repudiation of the principle of prospective application of interim final rates set forth in ER-819, adopted August 28, 1973, as modified in EDR-262, adopted January 15, 1974.

Upon consideration of the petitions and answer, we are not persuaded to alter our conclusions in ER-839.

[2] We would expect Antle's comments to present a detailed economics analysis of the actual impact of the rates in question, including accurate estimates of the percentage of selling, price represented by transportation cost, the proportion of Antle's total business which is actually affected by these commodity rates, and a comparison of traffic volume before and after the approved rate increases.

[1] Related to increased costs for commercial fuel incurred by the MAC carriers in the performance of long-range service for DOD.

[2] As established in ER-819, adopted August 26, 1973.

[3] The TWA petition also states that the use of a price of 11.3 cents per gallon for military fuel in EDR-263 understates the impact on the carriers of the cost of military-supplied fuel since the prevailing price for fuel obtained from the Navy is 16.3 cents per gallon. The calculations in EDR-263 were based solely upon commercial fuel prices with military-supplied fuel prices held constant. See fn. 2 to the Appendix to EDR-263. The military prices were held constant because since the adoption of ER-819, foreign and overseas MAC rates have included an automatic adjustment factor for changes in the price of fuel purchased by the carriers from military sources.

[4] By EDR-265, the Board gave notice that it proposed to amend Part 288 by adopting a procedure for monthly fuel surcharge adjustments to reflect changes in commercial fuel prices. For this reason, we find this aspect of World's petition moot.

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In general, the TWA and Pan Am petitions contend that the increased fuel surcharge rate adopted is still inadequate in that it fails to take into consideration fuel price increases subsequent to January 1. In our view, the need for prompt administrative action during this period of extreme volatility in commercial fuel prices, a major cost element in air transportation, coupled with our desire to minimize retroactive rate adjustments, requires that the fuel surcharge be based upon fuel prices in effect at a particular point in time and that it involve the minimum amount of retroactive adjustment. Under the Pan Am proposal to use average prices, it would be impossible to close the rate without at least two months of retroactivity. TWA's proposal to reflect retroactive price increases made by suppliers involves even longer retroactive periods. These proposals would, in our judgment, severely complicate administration of the surcharge and would be inconsistent with the objective of achieving prompt rate finality.

The Department of Defense, on the other hand, objects to making the revised surcharge effective from the date the notice of rule making was issued as a repudiation of the principle of prospective application of interim final rates. We do not agree. EDR-263 which originally proposed the fuel surcharge explicity stated our intention that the final rates adopted would be effective prospectively from January 22, 1974. Thus, DOD has been on notice from the date we originally instituted this proceeding of our intention to make the final rates effective from the date of the notice, and accordingly we find no basis for their objection to the retroactive application of the surcharge rate finally adopted.

As for World's proposed surcharge for Pacific inter-island service, we do not believe that the relatively small rate impact of commercial fuel cost increases incurred by World as of January 1, 1974, in the inter-island MAC operations, administratively warrants or economically requires a surcharge at this time. We will, however, continue to monitor commerical fuel price developments, and should prices continue their significant upward trend, are prepared to take timely action if warranted.[5]

Accordingly, it is ordered, That:

The petitions for reconsideration of ER-839, effective January 22, 1974, with respect to amendment of Part 288 (14 CFR Part 288) to provide a surcharge of 5.15 percent to the existing interim final minimum rates applicable to certain foreign and overseas transportation perform for the Department of Defense be and they hereby are denied.

This order will be published in the FEDERAL REGISTER.

[5] We take note of World's request for an amendment of § 288.7 to specifically mention the B-747. Since sec. 288.7 provides that the rates for B-747 aircraft are common-rated with DC-8-63 rates, we interpret ER-839 as also applicable to the B-747.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10456 Filed 5-6-74;8:45 am]

[Docket No. 25281; Order 74-4-138]

TRANSPORTES AEREOS NACIONALES, S.A.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Correction

In FR Doc. 74-9928 appearing at page 15155 of the issue for Wednesday, May 1, 1974, in the middle of the first column of page 15156, the paragraph beginning "We do not suggest * * *" should appear as the second paragraph of footnote 4.

COMMISSION ON CIVIL RIGHTS

TENNESSEE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee State Advisory Committee (SAC) to this Commission will convene at 4:00 p.m. on May 17, 1974, at the Holiday Inn, 401 West Six Street, Chattanooga, Tennessee 37408.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this meeting shall be to formulate plans for a proposed project on employment problems in the State of Tennessee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., April 30, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-10464 Filed 5-6-74;8:45 am]

WEST VIRGINIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the West Virginia State Advisory Committee (SAC) to this Commission will convene on May 10, 1974, at 6 p.m. at the Summers County Courthouse, Ballengee Street, Hinton, West Virginia 25951. These sessions shall be open to the public.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, national origin or in the administration of justice which affects persons residing in the State of West Virginia with special emphasis on the conditions in West Virginia penal institutions as they relate to the civil rights of inmates; to appraise denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, or in the administration of justice as these pertain to West Virginia penal institutions as they relate to the civil rights of inmates; and to disseminate information with respect to denials of equal protection of the laws because of race, color, religion, sex, national origin, or in the administration of justice with respect to West Virginia penal institutions; and to related areas.

These meetings will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., April 30, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-10465 Filed 5-6-74;8:45 am]

COST OF LIVING COUNCIL

[Cost of Living Council Order 51]

DIRECTOR, COST OF LIVING COUNCIL

Delegation of Authority

Pursuant to the authority vested in me as Chairman of the Cost of Living Council by Executive Order No. 11781, May 1, 1974 (herein referred to as the Order), it is hereby ordered as follows:

1. There is delegated to the Director of the Cost of Living Council all of the authorities delegated to the Chairman of the Cost of Living Council by the Order.

2. Significant policy decisions shall be made by the Director after consultation with the Chairman of the Cost of Living Council or the Cost of Living Council as appropriate.

3. The Director of the Cost of Living Council is authorized to redelegate any or all of the authorities set out in such Order that he deems necessary for the orderly and efficient exercise of the authority delegated to him.

4. All Cost of Living Council delegations in effect on April 30, 1974 are continued in effect to the extent necessary to carry out the provisions of Executive Order 11781, except that the Director may modify or supersede such delegations as he deems necessary.

5. This delegation shall be effective as of May 1, 1974.

GEORGE P. SCHULTZ,
Chairman, Cost of Living Council.

[FR Doc.74-10578 Filed 5-3-74;3:45 pm]

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on Thursday, May 9, 1974. The meeting will be open to the public on a first-come, first-served basis at 10 a.m., in Conference Room 8202, 2025 M Street, N.W., Washington, D.C.

The agenda will consist of a discussion of policy questions involving food industry wage matters, and if circumstances permit, of food industry wage cases pending before the Cost of Living Council.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Issued in Washington, D.C., on May 3, 1974.

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.74-10580 Filed 5-3-74;3:48 pm]

[Phase IV Price Notice 1974-6]

PRICE PROCEDURES AND REMEDIES

Availability After April 30, 1974

The purpose of this notice is to explain the availability of price procedures and remedies under the Economic Stabilization Program after April 30, 1974.

Under Executive Order 11781, May 1, 1974, the Council is authorized for the period May 1, 1974, through June 30, 1974, to continue to act on matters relating to prices charged prior to May 1, 1974. The Council accordingly will continue to process (1) requests for exceptions from regulations and orders; (2) requests for reconsideration of adverse actions; (3) requests for interpretations and rulings; and (4) cases concerning violations or apparent violations. The Council may also amend its regulations to accomplish its authorized functions.

Firms may therefore continue after April 30, 1974, to submit requests for exceptions, etc., in those cases where a Council decision is necessary to resolve questions which involve prices charged prior to May 1, 1974, and which remain significant after the expiration of continuing price stabilization authority under the Economic Stabilization Act. The Council will, in addition, continue to pursue and resolve compliance matters through appropriate administrative and legal channels.

All requests for exceptions, reconsiderations, interpretations and rulings are to be submitted in the customary manner.

Reports due after April 30, 1974, are to continue to be submitted to the IRS. Compliance matters will continue to be conducted primarily by the IRS. Firms should consult the amendment to the CLC-22 instructions issued on May 3, 1974, for information concerning preparation of final reports and the cut-off date for final reports.

Issued in Washington, D.C. on May 3, 1974.

JAMES W. MCLANE,
Deputy Director, Cost of Living Council.

[FR Doc.74-10579 Filed 5-3-74;3:45 pm]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Availability of EPA Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of April 1, 1974 and April 15, 1974.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix IV contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix V.

Appendix V contains a listing of the names and addresses of the sources for copies of EPA comments listed in Appendices I, III, and IV.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

Dated: April 30, 1974.

ROBERT C. BARTLETT,
Acting Director, Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statements for which comments were issued between Apr. 1, 1974, and Apr. 15, 1974*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Agriculture:			
D-AFS-60095-MT	Montana Libby Face Multiple Use Plan, Montana	LO-1	I
D-AFS-61221-WV	Eagle Lake and Associated Recreation Developments, West Virginia.	LO-2	D
D-AFS-61225-00	Management Plan for Cohutta Mountains, Chattahoochee National Forest in Tennessee and Cherokee National Forest in Georgia.	LO-1	E
D-AFS-65061-UT	American Fork Canyon-Provo Peak Planning Unit, Utah.	LO-1	I
D-AFS-65067-MT	Bitterroot North Planning Unit, Stevensville District, Montana.	LO-1	I
D-AFS-65068-ID	Salmon River Wilderness and Idaho Wilderness, Idaho	LO-1	K
D-AFS-65077-OR	Elgin Planning Unit, Umatilla National Forest, Oregon.	ER-2	K
D-AFS-65084-VA	Big Levels Management Unit, George Washington National Forest, Va.	LO-1	D
D-AFS-65086-ID	Elk City Planning Unit, Idaho	3	K
D-AFS-65091-AK	Chugach National Forest, Westside Timber Sale, Alaska	LO-1	K
D-AFS-65092-VA	Cave Mountain Lake Unit Management Plan, Virginia	LO-1	D
D-AFS-60096-MT	Multiple Use Planning Unit, Morr-Baldy, Mont.	LO-1	I
Atomic Energy Commission:			
D-AEC-00101-SC	Additional High Level Waste Facility, Savannah River Plant, South Carolina.	ER-2	A
D-AEC-00102-ID	New Waste Calcining Facility, National Reactor Test Station, Idaho.	LO-2	A
D-AEC-00103-ID	HTGR Fuels Reprocessing Facility, National Reactor Test Station, Idaho.	ER-2	A
D-AEC-00104-TN	Radioactive Waste Facilities, Oak Ridge National Laboratory, Tenn.	ER-2	A
D-AEC-00105-TN	HTGR Fuel Refabrication Plant, Oak Ridge National Laboratory, Tenn.	ER-2	A
D-AEC-06122-NC	General Atomic Fuel Fabrication Facility, North Carolina.	ER-2	A
Department of Commerce:			
D-EDA-03048-HI	Proposed Expansion of Foreign Trade, Subzone 9A, Hiri Oil Refineries, Hawaii.	ER-2	J
D-EDA-03049-HI	Honolulu Harbor, Terminal Annex of Foreign Trade, Subzone 9A, Hawaii.	ER-2	J

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APPENDIX I.—*Draft environmental impact statements for which comments were issued between Apr. 1, 1974, and Apr. 15, 1974*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
Corps of Engineers:			
D-COE-07063-WI	Columbia Generating Station, Portage, Wis.	ER-2	F
D-COE-30075-SC	Hunting Island Beach, Beaufort County, S.C.	LO-2	E
D-COE-35113-WI	Maintenance and Dredging, Dredging Disposal for Manitowoc and Two Rivers, Wis.	LO-2	F
D-COE-34106-WA	Little Goose Lock and Dam on Snake River, Wash.	LO-1	K
D-COE-32494-NJ	Coastal Inlets and Beaches from Barnegat Inlet to Longport, N.J.	LO-2	C
Department of Defense:			
D-USA-10041-AK	Malemute Zone Drop and Short Field Assault Landing Strip, Anchorage, Alaska.	LO-1	K
Department of Interior:			
D-NPS-61223-OO	Death Valley National Monument, California and Nevada.	LO-2	J
D-BIA-60097-CA	Resolution of Title to the Chemehuevi Shoreline, San Bernardino County, Calif.	LO-1	J
DR-DOI-67007-OO	Outer Continental Shelf, Hard Mineral Mining, Operating and Leasing Regulations.	ER-2	A
D-SFW-61215-NB	Fort Niobrara Wilderness Area, Nebr.	LO-2	H
D-SFW-61224-FL	Lake Woodruff Wilderness, Volusia and Lake Counties, Fla.	LO-1	E
D-NPS-61223-OO	Proposed Wilderness, Death Valley, N. Mex., Calif., and Nev.	LO-2	J
D-BPA-08018-WA	Raver Tacoma 500 kV Transmission Line, Washington.	LO-2	K
Interstate Commerce Commission:			
D-ICC-99081-OO	Docket No. 8705, Passenger Fares Between Pennsylvania and New Jersey.	ER-1	D
National Aeronautics and Space Administration:			
D-NAS-24056-MD	Granting of Easement for Sewer Outfall, Greenbelt, Md.	ER-2	D
Department of Transportation:			
D-FAA-51834-IA	Waterloo Municipal Airport, Waterloo, Iowa.	ER-2	H
D-FAA-51838-GA	Washington County Airport, Sandersville and Tennille, Ga.	LO-2	E
D-FHW-42157-CA	San Bernardino National Forest Highway FH-68, Georgia St., Route 38, San Bernardino County, Calif.	LO-1	J
D-FHW-42158-CA	South Fork Road, Mile Post 527, Six Rivers National Forest, Del Norte County, Calif.	LO-1	J
D-FHW-42159-CA	I-210, Foothill Freeway, Los Angeles, Calif.	ER-2	J
D-FHW-42164-TN	Sequatchie, Van Buren, and Warren Counties, Route 8, Tenn.	LO-1	E
D-FHW-42166-NC	Chatham-Randolph Counties, US-421, Siler City to Staley, N.C.	LO-1	E
D-FHW-42179-FL	Lake County, Fla., State Road 46.	LO-1	E
D-FHW-42188-SD	F-030-4, Beadle County, S. Dak.	LO-1	I
D-FHW-42149-CT	Relocation Route 7, Danby to Norwalk, Conn.	ER-2	B
D-FHW-42173-TX	I-635, Mesquite, at South Mesquite Creek, Tex.	LO-1	G

ERRATA.—The following alterations are made for the EPA FEDERAL REGISTER listings of draft impact statements received for which comments were issued between Mar. 16, 1974, and Mar. 31, 1974:

Under Department of Agriculture, the title to statement "D-AFS-65075-ID" is changed to read: "Soldier Mountain Ski Area Expansion, Sawtooth National Forest, Idaho."

Under Corps of Engineers, the general nature of comments categorization for "D-COE-39088-VA: Marina Facilities, Busch Properties, Inc., James River, Virginia" is changed from "LO-1" to read "ER-2".

APPENDIX II—DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III—*Final environmental impact statements for which comments were issued between Apr. 1, 1974, and Apr. 15, 1974*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Agriculture:			
F-AFS-61226-TN	Gee Creek Eastern Wilderness, Cherokee National Forest, Polk County, Tenn.	Even though EPA did not have an opportunity to review the draft statement, the agency agreed that the proposed project would preserve the present high quality environment of the area.	E
Corps of Engineers:			
F-COE-32312-LA	Atchafalaya River and Bayous, Chene, Boeuf, and Black, La.	EPA believes that there are significant interrelationships between the proposed project and the Atchafalaya Floodway Center Channel project. EPA recommended that the project be developed in consonance with the Atchafalaya Floodway Center Channel study, which is now in progress.	C
F-COE-35051-NY	Maintenance and dredging, Buttermilk Channel, New York, N.Y.	EPA generally agreed with the project as proposed. However, EPA made several recommendations for consideration by the COE for this project and future maintenance and dredging projects.	C
Department of Housing and Urban Development:			
F-HUD-85012-IA	City-University I, Urban Renewal Project, Iowa City, Iowa.	EPA expressed environmental reservations on the proposed project. The two major reservations concerned lack of sufficient data on the proposed parking garages related to air quality impacts and the potential for unacceptable noise exposure levels at the proposed residential site unless adequate attenuation measures are provided.	H
Department of Interior:			
F-BIA-67002-MT	Crow Ceded Area Coal Lease, Montana.	EPA generally agreed with the project as proposed and was generally satisfied with the responses to our comments on the draft statement.	I
F-IBR-07069-SD	Oahe Unit, Initial Stage, South Dakota.	Based on review of the final environmental statement, EPA has serious environmental concerns with portions of this project. Significant and continuing violations of water quality standards will likely occur at the Huron, S. Dak., drinking water supply on the James River. A workable water quality management plan has not been developed for the James River that will permit the desired stream uses to be maintained. Downstream water supplies on the James River proposed for this project will be similarly affected. The project may require channelization of the James River. Irrigation return flows from the Garrison project may have to be routed through the James River. Wetlands losses will be severe, and it is not clear that the planned mitigation areas will replace what is lost. EPA believes that substantial information is needed in the water quality area, and project alternatives should be considered. EPA also believes that these critical environmental issues should be resolved before decision is made to proceed with major project features, although it may be possible to proceed with the OAHE pumping plant if it is determined that the design of this facility would not be altered by subsequent resolution of environmental issues.	I
Department of Transportation:			
F-FAA-51325-KY	Madison Airport, Richmond, Ky.	EPA agreed with the project as proposed.	E
F-FHW-41674-FL	Duval County, SR.	EPA generally agreed with the project as proposed. EPA recommended, however, that contractual documents contain adequate assurance that proposed precautions, such as use of silt checks, are properly used.	E
F-FHW-42206-CA	Widening of Pomona Freeway, Montebello, Monterey Park, Rosemead, South El Monte, and County of Los Angeles, Calif.	EPA had no significant objections to the proposed project. However, EPA recommended that the noise analysis be improved.	J
Department of Defense:			
F-UAF-11043-CO	Air Force Accounting Facility, Lowery Air Force Base, Denver, Colo.	EPA encouraged DOD to extend the period of decision on the project in order to fully evaluate comments of EPA and the local residents. EPA recommended that more consideration be given to alternatives including pursuing mass transit and considering an alternative site on other Federal lands.	I

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APPENDIX IV.—*Regulations, legislation and other Federal agency actions for which comments were issued between Apr. 1, 1974, and Apr. 15, 1974*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Commerce:			
R-NOA-00003-00	15 CFR Part 921—National Oceanic and Atmospheric Administration, Estuarine Sanctuary Grants—Application and Selection Criteria Procedures.	In EPA's view, the guidelines were too vague and too restrictive to be consistent with the broad-based objective of the Coastal Zone Management Act. EPA suggested modifications to several sections of the proposed guidelines in an effort to strengthen them from an environmental point of view.	A
Department of Transportation:			
R-FHW-42185-00	23 CFR Part 476—Interstate Highway System—Substitution of Mass Transit Projects.	The regulations were found to provide a commendable flexibility in the options which State and local governments may exercise, and EPA intends to recommend segments of the Interstate System of highways which, for air quality purposes, may be candidates for substitution.	A

APPENDIX V—SOURCE FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

B. Director of Public Affairs, Region I, Room 2303, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 N. Wacker Drive, Chicago, Illinois 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.74-10315 Filed 5-6-74;8:45 am]

ENVIRONMENTAL IMPACT STATEMENTS

Statement of Policy

Section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. 4321 et seq.) (hereafter "NEPA"), implemented by Executive Order 11514 (35 FR 4247) and the Council on Environmental Quality Guidelines of August 1, 1973 (38 FR 20550), requires that Federal agencies prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to build into the agency decision making process an appropriate and careful consideration of all environmental aspects of proposed actions.

The Federal Courts of Appeals have held that the Agency need not prepare environmental impact statements for its environmentally protective activities. Environmental Defense Fund, Inc. v. EPA, 489 F.2d 1247, 1256-57 (D.C. Cir. 1973); Essex Chemical Corp. v. Ruckelshaus, 486 F.2d 427, 431 (D.C. Cir. 1973); Portland Cement Ass'n v. Ruckelshaus, 486 F.2d 375, 384-85 (D.C. Cir. 1973); Anaconda Co. v. Ruckelshaus, 482 F.2d 1301, 1305-06 (10th Cir. 1973); Buckeye Power, Inc. v. EPA, 481 F.2d 162, 174 (6th Cir. 1973); Duquesne Light Co. v. EPA, 481 F.2d 1, 9 (3d Cir. 1973); International Harvester Co. v. Ruckelshaus, 478 F.2d 615, 650 n. 130 (D.C. Cir. 1973); Appalachian Power Co. v. EPA, 477 F.2d 495, 508 (4th Cir. 1973); Getty Oil v. Ruckelshaus, 467 F.2d 349, 359 (3d Cir. 1972), cert. denied, 409 U.S. 1127 (1973).

Despite this judicial agreement that section 102(2)(C) of NEPA is not applicable to the Agency's environmental regulatory activities, the Agency has been urged to prepare environmental impact statements, H.R. Rep. No. 93-520, 93d Cong., 1st Sess. 18-19 (1973). In addition, Title III of Public Law 92-135, the 1974 Appropriations Act for Agriculture, Environmental and Consumer Protection Programs, appropriated $5,000,000 for the preparation of environmental impact statements by the Environmental Protection Agency.

The Agency believes that preparation of environmental statements will have beneficial effects for certain of its major regulatory actions. Accordingly, the Environmental Protection Agency has decided that, while it is not legally bound to do so by section 102(2)(C) of NEPA, it will voluntarily prepare environmental impact statements in connection with the major regulatory actions listed in section 1 of the following statement of policy. The voluntary preparation of impact statements in no way legally subjects the Agency to NEPA's requirements.

This statement of policy is not intended to authorize the Agency in its regulatory decision making to take into account factors, such as economic and social considerations, when and to the extent that such factors are not permitted to be considered by the authorizing legislation.

Section 1 lists the most significant substantive actions the Agency will be taking in the future. As the Agency's resources expand, as it gains program experience, and as the Agency obtains new responsibilities under future legislation, the list may be revised.

No actions under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (hereafter "FWPCA") have been included in the list, since section 511(c) of the FWPCA specifies that environmental impact statements be prepared only in connection with grants for the construction of publicly owned waste treatment plants and in connection with issuance of discharge permits to new sources. Preparation of impact statements in connection with the Federal funding of publicly owned treatment works will continue to be governed by existing Agency regulations. 40 CFR Part 6. An amendment to 40 CFR Part 6 for preparation of impact statements in connection with issuance of discharge permits to new sources will be published shortly.

In recognition of statutory and court-ordered deadlines and the need for immediate pollution abatement, section 3 provides for an orderly introduction of the environmental impact statement process. Section 3 specifies that impact statements must be prepared in connection with standards, regulations, and criteria listed in section 1 proposed after October 15, 1974. Section 3 further requires that impact statements must be prepared in connection with ocean dumping site designations proposed after October 15, 1974, and in connection with any pesticide cancellation hearing, where notice of cancellation under section 6(b)(1) (7 U.S.C. 136d(b)(1)) or notice of hearing under section 6(b)(2) (7 U.S.C. 136d(b)(2)) is published after October 15, 1974.

The Agency is presently informing the public of the environmental effects of its major regulatory actions through its environmental explanations procedure (38 FR 15653). Since the preparation of environmental impact statements will accomplish the same goal in more detail, the environmental explanations procedure will be repealed as of October 15, 1974.

The statement of policy is as follows:

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Sec.
1. Applicability.
2. Procedures.
3. Effective Date.
4. Repeal of Environmental Explanations.

SECTION 1. *Applicability.* The Environmental Protection Agency shall prepare environmental impact statements in connection with the following listed actions.

(a) *Clean Air Act* (42 U.S.C. 1857 et seq.)—

(1) National ambient air quality standards under section 109.

(2) Regulations prescribing substantive criteria with major significance for the preparation, adoption, and submittal of implementation plans by States under section 110.

(3) New source performance standards under section 111.

(4) National emission standards for hazardous air pollutants under section 112.

(5) Motor vehicle emission standards under section 202, excluding light duty vehicle standards.

(6) Regulations controlling the composition of fuel or fuel additives under section 211(c).

(b) *Noise Control Act* (42 U.S.C. 4901 et seq.)—

(1) New product noise emission standards under section 6.

(2) Railroad noise emission standards under section 17.

(3) Motor carrier noise emission standards under section 18.

(c) *Atomic Energy Act* (42 U.S.C. 2011 et seq.)—Generally applicable radiation standards under the Atomic Energy Act.

(d) *Marine Protection, Research, and Sanctuaries Act* (33 U.S.C. 1401 et seq.)—

(1) Criteria for the evaluation of permit applications under section 102(a).

(2) Designation of sites for dumping under section 102(c).

(e) *Federal Insecticide, Rodenticide, and Fungicide Act* (7 U.S.C. 135 et seq., as amended by 7 U.S.C. 136 et seq.)—

(1) Cancellation of pesticide registrations after an adjudicatory hearing under section 6(b).

(2) Pesticide disposal regulations under section 19.

SEC. 2. *Procedures.* Detailed procedures for preparation of environmental impact statements in connection with the actions listed in section 1 will be prepared in general accordance with the principles set forth in sections 1500.7 through 1500.11 of the Council on Environmental Quality Guidelines (38 FR 20550). Such procedures shall be published in the near future.

SEC. 3. *Effective Date.* Environmental impact statements shall be prepared in connection with standards, regulations, and criteria listed in section 1 proposed after October 15, 1974. Environmental impact statements shall also be prepared in connection with ocean dumping site designations proposed after October 15, 1974, and in connection with any adjudicatory hearing held pursuant to section 6 of the Federal Insecticide, Rodenticide, and Fungicide Act (7 U.S.C. 136d), where notice of intent to cancel under section 6(b)(1) or notice of intent to hold a hearing under section 6(b)(2) is published after October 15, 1974.

SEC. 4. *Repeal of Environmental Explanations.* The Environmental Protection Agency's procedures for the preparation and issuance of environmental explanations, published in the FEDERAL REGISTER on June 14, 1973 (38 FR 15653), will be repealed as of October 15, 1974. Standards, regulations, and guidelines proposed after October 15, 1974, will not require environmental explanations.

Dated: April 30, 1974.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.74-10444 Filed 5-6-74;8:45 am]

[OPP-32000/53]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, S.W., Washington, D.C. 20460.

Any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must, on or before July 8, 1974, notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 8, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 14651-A. Agricultural Enterprises, Inc., 933 West 6th Street, Fremont, Nebraska 68025. *Agri-Bon 50% Wettable Powder Insecticide with Rabon.* Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 50.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33862-R. Amore Chemicals, Inc., 2418 East Pettigrew Street, Durham, North Carolina 27703. *Amore Tower Algaecide.* Active Ingredients: Poly[oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 15.0%, Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 33862-E. Amore Chemicals, Inc., 2418 East Pettigrew Street, Durham, North Carolina 27703. *Amore Pool Algaecide.* Active Ingredients: Poly[oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 33660-O. Miss Rose Caputo, 229 Park Avenue, South, New York, New York 10003. Authorized Agent for I.PI.CI., Industria Prodotti Chimici S.p.A. Novate Milanese, Italy. *Tetradifon Technical.* Active ingredients: 2,4,5,4'-tetrachlorodiphenylsulphone 97.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660-A. Miss Rose Caputo, 229 Park Avenue, South, New York, New York 10003. Authorized Agent for I.PI.CI., Industria Prodotti Chimici S.p.A., Novate Milanese, Italy. *Ethion Technical 95.* Active Ingredients: O,O,O',O', - tetraethyl - SS'-methylene-bis-phosphorodithioate 95.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660-T. Miss Rose Caputo, 229 Park Avenue South, New York, New York 10003. Authorized Agent for I.PI.CI., Industria Prodotti Chimici S.p.A., Novate Milanese, Italy. *Ethion Technical 85.* Active Ingredients: O,O,O',O', - tetraethyl - SS'-methylene-bis-phosphorodithioate 85.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31971-G. Cut Heal, Inc., 206 Garvon, Garland, Texas 75040. *A Big Texas House and Garden Insect Killer.* Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.027%; d-trans Allethrin (allyl homolog of Cinerin I) 0.125%; Related compounds 0.009%; Aromatic petroleum hydrocarbons 0.265%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31971-L. Cut Heal, Inc., 206 Garvon, Garland, Texas 75040. *Cut-Heal Brand Horse Shampoo.* Active Ingredients: Pyrethrins 0.10%; Piperonyl butoxide technical 1.00%; Rotenone 0.12%; Other cube extractives 0.28%; Petroleum distillate 0.40%; Methylated naphthalene 0.50%; Hexachlorphene 0.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31971-U. Cut Heal, Inc., 206 Garvon, Garland, Texas 75040. *Big Tex Insecticide Concentrate.* Active Ingredients: Pyrethrins 1.20%; Piperonyl butoxide, technical 12.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7364-EU. Great Lakes Biochemical Co., Inc., 6120 West Douglas Avenue, Milwaukee, Wisconsin 53218. *Liquid Algicide.* Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 20%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 31964-E. Gessco Sales Division, Gulf Engineering Co., Inc., 1000 South Peters, New Orleans, Louisiana 70130. *Gesscocide 15.* Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 5905-293. Helena Chemical Company, 5100 Poplar Avenue, Memphis, Tennessee 38137. *Helena Cythion 25 WP.* Active Ingredients: Malathion 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 5905-289. Helena Chemical Company, 5100 Poplar Avenue, Memphis, Tennessee 38137. *Helena Wettable Sulphur.* Active Ingredients: Sulphur 90.0%. Method of Support: Application proceeds under 2(c) of interim policy.

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EPA Reg. No. 5905–97. Helena Chemical Company, 5100 Poplar Avenue, Memphis, Tennessee 38137. *Helena Chlordane 8–E–An Emulsifiable Insecticide Liquid.* Active Ingredients: Technical Chlordane 71.9%; Xylene 22.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7455–EE. Agricultural Products Division, International Multifoods Corporation, 1200 Multifoods Building, Minneapolis, Minnesota 55402. *Supersweet Ban-A-Sect II House and Garden Insect Spray.* Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimenthyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.150%; Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1148–17. Leffingwell Chemical Company, P.O. Box 188, Brea, California 92621. *Leffingwell L Hi-Par.* Active Ingredients: Petroleum Oil 98.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11746–G. Louisiana Chemical Company, 9078 West Tams Drive, Baton Rouge, Louisiana 70805. *Davis Kill-A-Bug for Pest Control.* Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4 pyrimidinyl) phosphorothioate 24.77%; Aromatic petroleum derivative solvent 13.72%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3624–RAR. Nova Products, Inc., P.O. Box 5086, Packers Station, Kansas City, Kansas 66119. *Nova Contact Spray SBP–1382 Liquid Spray 0.25%.* Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl - 3 - (2-methylpropenyl) cyclopropane carboxylate 0.350%; Pyrethrins 0.400%; Piperonyl butoxide technical 0.800%; Aromatic petroleum hydrocarbons 0.463%; Petroleum distillate 97.925%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3635–ROE. Oxford Chemicals, P.O. Box 80202, Atlanta, Georgia 30341. *Oxford 514 Insecticide.* Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 4.000%; Related compounds 0.545%; Pyrethrins 1.000%; Piperonyl butoxide technical 5.000%; Aromatic petroleum hydrocarbons 5.295%; Petroleum distillate 84.000%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9852–GA. Rite-Off Corporation, 163 Dupont Street, Plainview, New York 11803. *Rite-Off Kennel & Canine Insecticide.* Active Ingredients: Pyrethrins 0.3%; Piperonyl Butoxide, Technical 2.4%; Petroleum Distillate 1.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3509–RNO. Safe-Way Farm Products Co., 2519 East 5th Street, Austin, Texas 78762. *Safe-Way Brand Ear Tick Remedy.* Active Ingredients: Gamma Isomer of Benzene Hexachloride 3.5 Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3509–RRN. Safe-Way Farm Products Co., 2519 East 5th Street, Austin, Texas 78762. *Safe-Way Brand Malathion W–25.* Active Ingredients: Malthion 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11682–RO. Sim-Chem, Minerals and Chemicals Division, J. R. Simplot Company, P.O. Box 810, Mountain Home, Idaho 83647. *Sim-Chem Cynthion Insecticide—The Premium Grade Malathion.* Active Ingredients: Malathion O,O-dimethyl phosphorodithioate of diethyl mercaptosuccinate 95.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11682–RA. Sim-Chem, Minerals and Chemicals Division, J. R. Simplot Company, P.O. Box 810, Mountain Home, Idaho 83647. *Sim-Chem Toxaphene 8–E, An Emulsifiable Liquid—An Agricultural Insecticide.* Active Ingredients: Toxaphene 79.06%; Xylene 15.94%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 876–ENO. Velsicol Chemical Corporation, 341 East Ohio Street, Chicago, Illinois 60611. *Gold Crest Promar Bait Packs Containing Fish Flavored Bait Pellets.* Active Ingredients: Diphacinone (2-Diphenylacetyl-1,3-Indandione) 0.005%. Method of support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 876–ENA. Velsicol Chemical Corporation, 341 East Ohio Street, Chicago, Illinois 60611. *Velsicol Ramik Bait Packs Rodenticide for Control of Commensal Mice and Rats.* Active Ingredients: Diphacinone (2-Diphenylacetyl-1,3-Indandione) 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 876–ENI. Velsicol Chemical Corporation, 341 East Ohio Street, Chicago, Illinois 60611. *Velsicol Ramik Green Bait Packs.* Active Ingredients: Diphacinone (2-Diphenylacetyl-1,3-Indandione) 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 876–ENT. Velsicol Chemical Corporation, 341 East Ohio Street, Chicago, Illinois 60611. *Velsicol Ramik Red Bait Packs.* Active Ingredients: Diphacinone (2-Diphenylacetyl-1,3-Indandione) 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 876–ERR. Velsicol Chemical Corporation, 341 East Ohio Street, Chicago, Illinois 60611. *Gold Crest Promar Bait Packs Rodenticide for Control of Commensal Mice and Rats.* Active Ingredients: Diphacinone (2-Diphenylactyl-1,3-Indandione) 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 876–ERN. Velsicol Chemical Corporation, 341 East Ohio Street, Chicago, Illinois 60611. *Gold Crest Promar Bait Packs Rodenticide Containing Meat Flavored Bait Pellets.* Active Ingredients: Diphacinone (2-Diphenylacetyl-1,3- Indandione) 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33912–R. Wagnol, Inc., 2037 Desire Street, New Orleans, Louisiana 70117. *Wagnol 40 Pest Control Spray Concentrate.* Active Ingredients: O,O-Diethyl-O - (2 - isopropyl - 4-methyl-6-pyrimidinyl) Phosphorothioate 25%; Aromatic Petroleum Derivative Solvent 57%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33912–E. Wagnol, Inc., 2037 Desire Street, New Orleans, Louisiana 70117. *Wagnol 40 57% Malathion Lawn and Garden Spray Concentrate.* Active Ingredients: Malathion 57.00%; Aromatic Petroleum Derivative Solvent 33.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1748–REL. York Chemical Co., Inc., 195 Atlantic Avenue, Garden City Park, New York 11040. *Certox PDQ Roach and Insect Killer.* Active Ingredients: Pyrethrins 0.052%; Piperonyl Butoxide, Technical 0.260%; Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2 pyridyl) phosphorothioate] 0.500%; Petroleum Distillate 98.736%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: April 30, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74–10446 Filed 5–6–74;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets No. 50–335, 50–389]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS—SUBCOMMITTEE 18 ON ST. LUCIE PLANT, UNITS 1 AND 2

Notice of meeting

Correction

In FR Doc. 74–10119 appearing on page 15152 of the issue for Wednesday, May 1, 1974, in the fourth line of paragraph (a), the date which now reads "July 9, 1974", should read "May 9, 1974".

FEDERAL MARITIME COMMISSION

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS AND UNITED BRANDS CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 28, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Cyrus C. Guidry
Port Counsel
Board of Commissioners of the Port of New Orleans
P.O. Box 60046
New Orleans, Louisiana 70160

Agreement No. T–2925, between the Board of Commissioners of the Port of New Orleans (Port) and United Brands Company (United), provides for the construction and lease (with renewal options) to United of a roll-on/roll-off platform, together with a 10.16 acre tract of land and all improvements located thereon, at New Orleans, Louisiana. The facility is to be used for the berthing of vessels and for the marshalling, receipt, and delivery of containers and breakbulk cargoes. The roll-on/roll-off platform is to be designed by United and constructed and financed by Port at a cost not to exceed $450,000.00. As compensation, United will pay Port $87,000.00 annually, plus 12% annually of the construction cost of the roll-on/roll-off platform. Compensation for the use of the facility is in lieu of Port tariff charges, with the exception of Harbor Fee and Wharfage Charge on fresh bananas. Upon United's request, the Port may assign other vessels to the berthing facilities, the use of which shall be subject to Port's tariff.

Dated: May 2, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10461 Filed 5–6–74;8:45 am]

FOSS LAUNCH AND TUG CO. AND FOSS ALASKA LINE, INC.

Application for Exemption

Notice is hereby given that the following application for exemption has been filed with the Commission for approval pursuant to Section 35 of the Shipping Act, 1916, as amended (80 Stat. 1358, 46 U.S.C. 833a).

Interested parties may inspect and obtain a copy of this application at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, Room 11413; or may inspect a copy of the application at the Field Offices, New York, New York; New Orleans, Louisiana; San Francisco, California; and San Juan, Puerto Rico. Comments with reference to the application, including a request for hearing if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before May 28, 1974. A copy of any such statement shall also be forwarded to the party filing the application (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of application filed by:

Edward G. Lowry, III
Bogle, Gates, Dobrin, Wakefield & Long
14th Floor, Norton Building
Seattle, Washington 98104

in behalf of

Foss Launch & Tug Co.
and
Foss Alaska Line, Inc.

Application designated Exemption No. 17 by Foss Launch & Tug Co. and Foss Alaska Line, Inc. has been made pursuant to Section 35 of the Shipping Act, 1916, for exemption from the Intercoastal Shipping Act, 1933 and the Shipping Act, 1916, and regulations applicable thereunder, to (a) amend the currently effective exemption authorized in Title 46 Code of Federal Regulations, Section 531.26(c), scheduled to expire December 31, 1974, to apply to direct service by water of miscellaneous cargoes, including liquid in bulk, between Portland, Oregon, Houston, Texas, San Francisco, California and Los Angeles, California, on the one hand, and Prudhoe Bay, Alaska, on the other, in addition to such service between Seattle, Washington and Prudhoe Bay, Alaska; and (b) extend said exemption for a three-year period beginning January 1, 1975 and ending December 31, 1977.

After innumerable delays and uncertainties, the construction of the Trans Alaska Pipeline from Prudhoe Bay to Valdez, Alaska now appears to be a certainty. The energy crisis in general, and the shortage of gasoline and other petroleum products in particular, has demonstrated the urgency of expediting the construction and operation of the Trans Alaska Pipeline. Accordingly, it appears that numerous shipments of supplies and materials will take place from Portland, San Francisco, Los Angeles, and Houston, as well as from Seattle, to Prudhoe Bay and shippers in the former areas will require the service of numerous experienced water carriers. Houston appears to be a particularly important port for shipments to and from Prudhoe Bay as that city is a major headquarters for members of the petroleum industry.

The effect of the exemption will be to permit movements by barge to the area involved with freedom from tariff filing requirements and regulations with respect to the reasonableness of rates.

The proposed operations are radically different from that usually associated with common carriage. No sailing schedules can be maintained because of the timing operations dictated by the ice conditions in Prudhoe Bay. Much of the operation will be in the nature of proprietary carriage since in most instances the full capacity of a given barge will be chartered by a single company.

The specialized outfit of the vessels designated for certain cargoes will make it impractical for the carriers to provide uniform service for all shippers. Finally, special contracts as to the risk of loss and damage will be required due to the extraordinary hazards involved. The conditions under which the operation is conducted make rate and tariff regulation an unnecessary and undue burden.

Applicants state that the grant of this application will not increase the number of ocean voyages to take place; it will merely expedite them. The exemptions from the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933, do not involve exemptions from legislation and laws for the protection of the environment. All such laws will remain fully applicable to the Foss applicants. The exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory, or be detrimental to commence.

This exception from the tariff filing requirements and regulations of the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933, will become effective upon approval of the Commission, pursuant to Section 35, Shipping Act, 1916.

Dated: May 2, 1974.

By order of the Federal Maritime Commission,

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.74–10459 Filed 5–6–74;8:45 am]

RYAN STEVEDORING CO., INC. AND WALSH STEVEDORING CO. INC

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 28, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

E. B. Peebles, III
Armbrecht, Jackson & DeMory
Merchants National Bank Building
Post Office Box 290
Mobile, Alabama 36601

Agreement No. FF 74–6 between Ryan Stevedoring Co., Inc., the parent company of Southern Steamship Agency, Inc. (FMC–672) and Walsh Stevedoring Company, Inc. (FMC–236) provides among other things, that Ryan would acquire Walsh and the concern would thence operate as Ryan-Walsh Stevedoring Company, Inc.

The Agreement provides that the outstanding capital stock of the Walsh group will be exchanged for, converted into and become capital stock of Ryan.

The Walsh Stevedoring Company, Inc. License (FMC–236) will be revoked upon approval of the agreement.

Dated: May 2, 1974.

By order of the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10460 Filed 5–6–74;8:45 am]

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FEDERAL POWER COMMISSION

[Docket Nos. E–7674, E–8126, E–8143]

ALABAMA POWER CO.

Notice of Filing

APRIL 30, 1974.

On January 7, 1974, Alabama Power Company filed revisions to its FPC Electric Rate Tariff, Original Volume 1, filed with the Commission on November 1, 1971. The modifications incorporate revised provisions with respect to system reliability and planning and a revised term provision. Rate Schedules REA–1 and MUN–1 as modified incorporate revised provisions relating to "Availability" "Character of Service" and "Determination of Billing Demand." In addition, there are revised provisions with respect to membership corporations, cooperative corporations and municipalities.

On February 13, 1974 Alabama Power filed with the Commission reports specifying the amounts found by the Commission to be subject to refund in Docket Nos. E–7674, E–8126, E–8143.

On February 19, 1974, in Docket E–7674 Alabama Power filed 5th Revised Sheet No. 37 superseding 4th Revised Sheet No. 37 of the Index Purchasers Section of FPC Electric Tariff Original Volume No. 1, filed with the Commission on November 1, 1973. The 5th Revised Sheet No. 37 indicates the in service date of delivery point No. 14 of the Central Alabama Electrical Cooperative, as of December 5, 1973 and the in service date of delivery point No. 5 of the Clarke-Washington Electric Membership Cooperation as of December 6, 1973.

Any person desiring to be heard or to make any protest with reference to these filings should on or before May 15, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become a party to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The documents referred to in this notice are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10386 Filed 5–6–74;8:45 am]

[Docket No. RP71–106 (1973 Phase)]

CITIES SERVICE GAS CO.

Filing of Stipulation and Agreement

APRIL 30, 1974.

Take notice that on April 24, 1974, Cities Service Gas Company (Cities) filed a Stipulation and Agreement dated April 24, 1974 (Stipulation) in the above-entitled proceeding. The Stipulation recites that the parties to the proceeding, including the Commission's staff, have reached the settlement agreement set forth therein for the purpose of complete settlement and final disposition of all of the issues in the 1973 phase of this proceeding relating to the temporary rate increase of 0.59 cents per Mcf filed on January 2, 1973.

Cities states that copies of the Stipulation were served on all parties to the above-entitled proceeding.

Copies of the Stipulation are on file with the Commission and are available for public inspection. Any person desiring to comment upon the Stipulation should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 7, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10387 Filed 5–6–74;8:45 am]

[Docket No. CI74–549]

CITIES SERVICE OIL CO.

Application and Request for Waiver

APRIL 29, 1974.

Take notice that on April 5, 1974, Cities Service Gas Company (Applicant), P.O. Box 300, Tulsa, Oklahoma 74102 filed in Docket No. CI74–549 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), from Grand Isle Block 45, offshore Jefferson and LaFourche Parishes, Louisiana, at an initial base rate in excess of the Southern Louisiana area ceiling rate for said sale set forth in § 154.105 of the Commission's regulations under the Natural Gas Act (18 CFR 154.105), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to Tennessee from Applicant's 25 percent working interest in approximately 5,000 acres of offshore properties located in Grand Isle Block 45 at an initial price of 47.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment,[1] pursuant to a contract dated March 19, 1974. Said contract provides for reimbursement by Tennessee to Applicant of 100 percent of any new or additional taxes. Applicant estimates monthly sales of gas from the subject acreage at 32,000 Mcf.

Applicant states that it has not heretofore developed the subject lease and that the USGS has extended the lease's term to July 1, 1974. Applicant states further that in an effort to retain the lease with the intent to develop it, Applicant has negotiated the March 19, 1974, gas sales contract with Tennessee and by the filing of the instant application is indicating the USGS its good faith effort to retain and develop the lease. Applicant contends that such good faith on Applicant's part must be supported by prompt and favorable consideration of this application by the Federal Power Commission.

Applicant asserts that it cannot economically justify its share of the cost of drilling a well on the dedicated lease based on the current area rate. Applicant, therefore, requests a waiver of § 154.105 of the Commission's regulations under the Natural Gas Act (18 CFR 154.105) which limits Applicant to a 26.0-cent per Mcf rate for the subject gas.

In support of its proposed price of 47.0 cents per Mcf Applicant states that it intends to adopt the economic data presented by Continental Oil Company (Continental), operator of the subject lease, in its application filed March 25, 1974, in Docket No. CI74–526. Applicant states that by said application Continental and the other owners of interests propose to drill one well which appears to be sufficient to deplete the gross estimated gas reserves of 12,000,000 Mcf over a projected 12-year period. Gross well costs are stated as $5,889,049, of which $3,556,249 is attributed to net leasehold investment as of January 1, 1974, and $2,332,800 is attributed to additional projected investment costs. Projected gross operating expenses are estimated at $585,416 and regulatory expenses is estimated at 0.2 cent per Mcf.

Applicant states that it is willing to undertake its portion of the additional projected investment in the drilling and equipping of a well provided the Commission authorizes an initial rate of 47.0 cents per Mcf. Applicant states further that it is not prepared to engage in lengthy and expensive hearings in order to pursue this certificate application.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on

[1] Downward adjustment from a base of 1,000 Btu per cubic foot and upward adjustment from a base of 1,015 Btu per cubic foot.

this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10388 Filed 5–6–74;8:45 am]

[Docket No. E–8650]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Establishing Hearing Procedures, Approving Fuel Cost Adjustment Clause; Granting Petitions To Intervene and Granting Waiver

APRIL 30, 1974.

Columbus and Southern Ohio Electric Company (C&S) on March 4, 1974, tendered for filing a proposed tariff[1] and unexecuted service agreement for service to the Cities of Westerville and Jackson and the Village of Glouster, all in Ohio.[2] C&S states that the proposed tariff is similar to the present rate schedules except that the maximum capacity demand charge and the energy charge have been increased and a fuel cost adjustment clause has been added. The proposed rates would increase revenues from jurisdictional sales by $363,754 based on a test year of calendar year 1973. The existing contracts expire on May 1, 1974, for Westerville and June 30, 1974, for Glouster and Jackson.

Notice of the filing was issued on March 13, 1974, with protests and petitions to intervene due on or before March 26, 1974. Timely petitions to intervene were filed by the Cities of Jackson (Jackson) and Westerville (Westerville, collectively Cities). Cities state that they purchase electricity at wholesale from C&S and therefore have a substantial interest in the proceeding. The City of Westerville further states that the fuel cost adjustment clause does not meet the requirements of § 35.14 of the Commission's regulations and requests that the proposed changes be suspended for five months from the time they would otherwise become effective. Westerville also states that C&S should be required to furnish it with a comparison of the proposed to the existing rate showing the additional revenues which will be produced and requests a hearing. Westerville states additionally that the rates may be excessive. The City of Jackson states that the rates may be unjust, unreasonable and unduly preferential and discriminatory as to it.

Westerville's allegation that the fuel adjustment clause does not conform to § 35.14 of the Commission's regulations is unfounded. It recovers the sellers cost of fuel consumed to generate the power which it sells and is consistent with the regulations.

The statement that C&S should be required to furnish Westerville with a comparison of the proposed to existing rates is valid, and the permission for these rates to become effective, subject to refund, will be so conditioned as hereinafter ordered.

C&S requests waiver of the regulations in § 35.3 of the Commission's regulations pertaining to notice and filing more than 90 days prior to the proposed effective date for the proposed change with respect to Jackson and Glouster. Good cause exists to grant such waiver.

Our review of the filing indicates that the proposed rates may not be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall order a suspension of the rates proposed herein and establish hearing procedures.

The Commission finds:

(1) Participation by the petitioners for intervention in this proceeding may be in the public interest.

(2) It is necessary and appropriate in the public interest and to aid in the enforcement of the Federal Power Act that C&S's rate increase filing should be accepted for filing, suspended, and set for hearing as hereinafter ordered.

(3) Good cause exists to permit the proposed fuel cost adjustment clause to become effective on the proposed effective date of May 1, 1974, with respect to Westerville and June 30, 1974, with respect to Glouster and Jackson.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly section 205, thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held on June 25, 1974, in a hearing room of the Federal Power Commission, 825 North Capital Street NE., Washington, D.C. 20426, to determine if the rates, charges, classifications, and services contained in C&S's proposed rate schedules are in the public interest.

(B) Within 15 days of the issuance of this order, C&S shall: (1) provide affected jurisdictional customers and appropriate State Commissions a comparison of the proposed to the current effective rates in accordance with the provisions of §§ 35.1 and 35.2(d) of the Commission's regulations; and (2) provide the Commission with notice of compliance with this requirement.

(C) Waiver of the requirement that a filing be made not prior to 90 days before the proposed effective date is hereby granted.

(D) The proposed fuel cost adjustment clause is accepted for filing, to become effective on the proposed effective date of May 1, 1974, with respect to Westerville and June 30, 1974, with respect to Glouster and Jackson.

(E) The proposed rate increase is accepted for filing suspended for one day to become effective, subject to refund on May 2, 1974, with respect to Westerville and July 1, 1974, with respect to Glouster and Jackson, subject to the terms and conditions of this order.

(F) On or before May 14, 1974, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony of intervenors shall be served on or before June 4, 1974. Any rebuttal evidence by C&S shall be served on or before June 18, 1974.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(H) Petitioners City of Jackson and City of Westerville are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene, and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(I) Nothing contained herein should be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10389 Filed 5–6–74;8:45 am]

[Docket No. E–8105]

CONNECTICUT LIGHT AND POWER CO.

Filing of Amendment To Purchase Agreement

APRIL 30, 1974.

Take notice that Connecticut Light and Power Company (CL&P) on April 19, 1974, tendered for filing an amendment to their purchase agreement with New Bedford Gas and Edison Light Company (NBG&E). The amendment would

[1] Designated as FPC Electric Tariff, Original Volume No. 1.

[2] These Cities are not served under FPC Rate Schedule No. 14 and Supplement No. 1 thereto and Nos. 19 and 20.

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increase NBG&E's entitlements in the Cos Cob, South Meadow, and Silver Lake Gas Turbine Units from 19.163 percent to 25.059 percent for the period March 1, 1974, through April 30, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions and protests should be filed on or before May 13, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10390 Filed 5–6–74;8:45 am]

[Docket No. E–8196]

DETROIT EDISON CO.

Revised Exhibits to Electric Coordination Agreement

APRIL 30, 1974.

Take notice that on March 3, 1974, Detroit Edison Company (Applicant) filed with the Federal Power Commission certain revisions to Exhibit A and C, attached to Supplement No. 1 of the Electric Coordination Agreement between Applicant and Consumers Power Company, designated as Applicant's Rate Schedule FPC No. 17. The application states that these revisions reflect changes in the list of generating units and their capabilities, but do not result in any change to the capacity rates for the winter peak load season 1973–1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10391 Filed 5–6–74;8:45 am]

[Docket No. E–8634]

KANSAS GAS AND ELECTRIC CO.

Notice of Letter Agreement

APRIL 30, 1974.

Take notice that on February 22, 1974, Kansas Gas and Electric Company (Applicant), pursuant to § 35.13 of the Commission's regulations, filed a Letter Agreement between itself and Oklahoma Gas & Electric Company, dated May 24, 1973. The Letter Agreement provides for the sale by Applicant of 150 MW of La Cygne Unit No. 1 Participation Power for a six month period effective May 15, 1974 through November 15, 1974.

The application states that Applicant desires to sell the stated capacity to reduce its excess reserves and that Oklahoma Gas & Electric Company desires to purchase said capacity for resale to Middle South Services, Inc. (Cf. FPC Docket No. E–8635).

Oklahoma Gas and Electric Company has filed a Certificate of Concurrence in this matter.

Any person desiring to be heard or to make any protest with reference to said application, should on or before May 16, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10392 Filed 5–6–74;8:45 am]

[Docket No. E–8707]

LOUISVILLE GAS AND ELECTRIC CO.

Interconnection Agreement

APRIL 30, 1974.

Take notice that on March 29, 1974, Louisville Gas and Electric Company (Applicant) filed with the Federal Power Commission, pursuant to § 35.12 of the regulations under the Federal Power Act, a negotiated Interconnection Agreement between itself and Big Rivers Electric Cooperative (Big Rivers). Applicant requests that the Commission accept said Agreement as an initial rate schedule and assign to it an Agreement designation. The application states that the Agreement was approved by the Rural Electrification Administration on February 21, 1974.

The Agreement provides for the physical interconnection of the parties' systems and, upon completion of some necessary construction, that the two parties will be connected for synchronous operation and services as set forth in the service schedules which are attached to and part of the Agreement.

Pursuant to the Agreement, Big Rivers will construct a 138 Kw transmission line to Applicant's Cloverport, Substation, and Applicant will construct terminal facilities at such substation to accommodate the connection. The agreement recognizes that the primary benefit of the transaction belongs to Big Rivers and, therefore, Service Schedule D provides for payment by Big Rivers of a rental on the facilities constructed, used and maintained by Applicant at the substation.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10393 Filed 5–6–74;8:45 am]

[Docket No. E–8635]

OKLAHOMA GAS & ELECTRIC CO.

Letter Agreement for Sale of Power and Interconnected Operations

APRIL 30, 1974.

Take notice that on February 22, 1974, Oklahoma Gas & Electric Company (Applicant) filed with the Federal Power Commission a Letter Agreement, dated July 12, 1973, between itself and Middle South Services, Inc. (Middle South), providing that Applicant will sell and deliver 150 MW of Participation Power to Middle South for a six month period effective May 15, 1974 through November 15, 1974. The Applicant states that Middle South is acting as agent in this transaction for Arkansas Power & Light Company. The Participation Power being sold in this transaction will be purchased by Applicant from Kansas Gas and Electric Company's LaCygne No. 1 Unit, pursuant to an Agreement dated May 24, 1973.

Applicant states that the sale price to Middle South will be the same as Applicant's purchase price from Kansas Gas and Electric Company, except that Applicant will add a charge of 1 mill per kWh. Middle South has filed a Certificate of Concurrence in the transaction.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10394 Filed 5–6–74;8:45 am]

[Docket No. E–8570]

SOUTHERN CALIFORNIA EDISON CO.

Order Suspending Proposed Fuel Clause

APRIL 30, 1974.

On January 2, 1974, Southern California Edison Company (Edison) tendered for filing proposed rate schedule changes and a proposed fuel cost adjustment provision applicable to its R–1 and R–2 resale customers. By our order issued March 1, 1974, we suspended the proposed rates until August 4, 1974, set the matter for hearing, permitted various interventions, and rejected the proposed fuel clause because it failed to conform to the Commission's regulations. Such rejection was without prejudice to Edison refiling a fuel clause conforming with the Commission's regulations.

On April 1, 1974, Edison tendered for filing a revised fuel adjustment clause applicable to resale service under Schedules R–1 and R–2 providing for billing adjustments based on increases or decreases in fossil fuel costs. Edison also petition for: (1) permission pursuant to §§ 35.17(b) and 35.17(c) of the Commission's rules and regulations to file the revised fuel cost adjustment clause; (2) for waiver of §§ 1.7(b), 35.13(b)(4) and 35.13(b)(5) of the Commission's rules and regulations, to the extent that waiver is required; (3) the acceptance for filing as of April 1, 1974, of the fuel cost adjustment clause; and (4) the establishment of May 1, 1974, as the effective date for the revised fuel clause.

Notice of the filing was issued on April 4, 1974, providing for all comments and petitions to intervene to be filed on or before April 18, 1974.

On April 18, 1974, the Cities of Anaheim, Riverside, Banning, Colton, and Azusa, California (Cities) filed a protest and motion to reject Edison's revised fuel cost adjustment clause. Cities also requested that if the fuel adjustment clause is not rejected, the Commission suspend the operation of the fuel clause for five months and order a hearing to determine the lawfulness of the proposed fuel adjustment. In their filing, Cities stated that the proposed fuel adjustment clause should be rejected because it fails to accurately reflect changes in fuel costs. Anza Electric Cooperative, Inc. concurred and joined in this motion. On April 18, 1974, the City of Vernon (Vernon) protested the fuel clause adjustment filed by Edison and further protested the request by Edison for waiver of the Commission's rules permitting an effective date 30 days from filing. On April 22, 1974, Edison filed an answer to Cities' protest and motion to reject in which it claimed that many of their complaints were matters to be considered in an evidentiary hearing.

Our review of Edison's proposed fuel clause indicates that it conforms with the Commission's regulations and we shall therefore permit the proposed fuel clause to become effective. We shall, however, order a one day suspension because the proposed fuel clause depends in part on the base rates which were suspended until August 4, 1974, in our March 1, 1974 order. The sole issue left to be resolved relating to the fuel clause is whether these base rates are just and reasonable, and that issue will be explored in the hearing we scheduled for July 9, 1974 in our March 1, 1974 order.

As to Edison's request for waiver of §§ 1.7(b), 35.13(b)(4) and 35.13(b)(5), we believe good cause exists for such waiver, and we shall grant Edison's request that the proposed fuel clause be accepted for filing as of April 1, 1974.

The Commission finds:

(1) The motion to reject filed by Cities should be denied.

(2) The proposed fuel clause tendered by Edison on April 1, 1974, should be accepted for filing as of that date, and suspended for one day to become effective May 2, 1974, subject to refund.

The Commission orders:

(A) The motion to reject filed by Cities on April 18, 1974, is hereby denied.

(B) The proposed fuel clause tendered by Edison on April 1, 1974, is accepted for filing as of that date, suspended for one day, and the use thereof deferred until May 2, 1974, at which time it may be placed in effect subject to refund pending final determination of the issues in Docket No. E–8570.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10395 Filed 5–6–74;8:45 am]

[Docket No. RP72–98]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

APRIL 30, 1974.

Take notice that Texas Eastern Transmission Corporation (TETC) on April 15, 1974, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1, the following sheets:

Seventh Revised Sheet No. 13
Seventh Revised Sheet No. 13A
Seventh Revised Sheet No. 13B
Seventh Revised Sheet No. 13C
Seventh Revised Sheet No. 13D

These sheets are issued pursuant to the purchased gas cost adjustment provision contained in section 23 of the General Terms and Conditions of Texas Eastern's FPC Gas Tariff, Third Revised Volume No. 1. The change in Texas Eastern's rates proposed by this filing reflects a cost of gas adjustment to track rate increases filed by two of Texas Eastern's pipeline suppliers.

Texas Eastern proposes an effective date of May 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 6, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to became a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10396 Filed 5–6–74;8:45 am]

[Docket No. CP73–21]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Extension of Time and Postponement of Hearing

APRIL 29, 1974.

On April 8, 1974, Transcontinental Gas Pipe Line Corporation filed a motion for an extension of the procedural dates fixed by Order issued March 25, 1974, in the above-designated matter. The motion states that staff counsel has no objection to the requested postponement.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of direct case of Transcontinental and all interveners in support of application, June 28, 1974.

Hearing, July 30, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10398 Filed 5–6–74;8:45 am]

[Docket No. CP74–266]

WALLINGFORD, CONNECTICUT AND TENNESSEE GAS PIPELINE COMPANY

Notice of Application

APRIL 30, 1974.

Take notice that on April 15, 1974, the Town of Wallingford, Connecticut, Department of Public Utilities (Applicant), 100 John Street, Wallingford, Connecticut 06492, filed in Docket No. CP74–266 an application pursuant to section 7(a)

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of the Natural Gas Act for an order of the Commission directing Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Respondent), to sell and deliver natural gas to Applicant, as a successor to the Connecticut Gas Company (Conn Gas), for resale and distribution, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has proposed to acquire the gas properties of Conn Gas located in the Town of Wallingford, identified as the Wallingford District of the Connecticut Light and Power Company (CL&P) Central Division and the transmission facilities related thereto, all being offered for sale by Northeast Utilities Service Company (NUSCO), sales agent for CL&P. Applicant further states that a special act has been prepared for the General Assembly of the States of Connecticut to enable the Town of Wallingford to purchase said properties and that NUSCO has pledged its active support for the act. Applicant expects the date of sale to be on or shortly after July 1, 1974.

The Town of Wallingford has been informed that the depreciated book value of the Conn Gas properties was $3,000,000 as of December 31, 1972, and that the actual selling price will be subject to confidential negotiations. The Town intends to finance the purchase of said properties through issuance of general obligation bonds and to continue in effect the present rate schedules and policies of Conn Gas.

Applicant requests that the Commission order Respondent, currently obligated under contract with Conn Gas dated May 1, 1967, which contract requires delivery of a maximum daily quantity of 4,502 Mcf of gas at 14.73 psia until November 1, 1987, to deliver gas to the Town of Wallingford for service in the applicable service area.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10397 Filed 5-6-74;8:45 am]

[Docket No. E-8157]

WISCONSIN PUBLIC SERVICE CORP.

Order Approving Rate Settlement

APRIL 30, 1974.

On April 27, 1973, Wisconsin Public Service Corporation (WPSC) tendered for filing a proposed rate increase affecting eight wholesale customers served under wholesale Rate Schedule W-1.[1] The proposed increase would result in additional revenue at $300,427 (9.87%) based on a 1972 test year. By order issued June 26, 1973, we suspended the proposed increase for sixty days until August 27, 1973, and permitted interventions. We also required WPSC to file a revised fuel clause to conform with Section 35.14 of the Commission's Regulations under the Federal Power Act as interpreted in Opinion No. 633. WPSC filed a revised fuel clause on July 20, 1973, which was accepted for filing by letter dated February 15, 1974.

On February 11, 1974, the Presiding Administrative Law Judge certified to this Commission a proposed settlement agreement which would reduce the amount of the increase as originally filed to $226,002 based on the 1972 test year. If approved, this settlement agreement would resolve all outstanding issues in this proceeding. The following statistics summarize the significant features of the proposed settlement.

Revenue at proposed settlement rate	[2] $3,269,209
Revenue under prior rate	3,043,207
Proposed increase	226,002
Percent increase	7.43
Earned rate of return (percent)	8.57

Notice of the proposed settlement was issued on March 4, 1974, with protests or comments due on or before March 18, 1974. No comments have been received in response to the notice.

The main issues in this proceeding concerned the proper rate of return and the correct amount of hydro normalization expense permissible in the Company's cost of service. By letter dated November 12, 1973, WPSC accepted staff's normalization figures, and by letter dated December 6, 1973, WPSC accepted staff's revised capitalization showing a return on equity of 11.80 percent.[3] After WPSC accepted these changes, the proposed settlement was filed which would terminate the proceeding in this docket. The proposed settlement agreement provides as follows: (1) No aspect of the settlement agreement should be construed as acceptance of any ratemaking principle or cost of service method; (2) the effective date will be August 27, 1973; and (3) WPSC will refund to its customers the difference between the suspended rate and the settlement rate with interest at 7 percent per annum.

Upon our review of the record in this proceeding, including the settlement agreement itself, the filings, documents and pleadings submitted by the parties, and the evidence and the transcript from the prehearing conference which has been held, we conclude that the settlement agreement represents a reasonable resolution of the issues in this proceeding and will be in the public interest, and accordingly, the settlement should be approved.

The Commission finds:

The settlement agreement as certified by the Presiding Administrative Law Judge to this Commission in this docket on February 11, 1974, should be approved and made effective.

The Commission orders:

(A) The settlement agreement as certified by the Presiding Administrative Law Judge to this Commission in this docket on February 11, 1974, is hereby approved and made effective.

(B) Within 30 days from the date of this order, WPSC shall file with this Commission a revised rate schedule W-1 conforming to the rate appended to the Company's offer of settlement dated February 6, 1974, and such schedule shall be effective as of August 27, 1973.

(C) Upon the filing by WPSC of the revised schedule indicated in ordering paragraph (B) above, WPSC shall refund to the customers the difference between the suspended rate and the settlement rate with interest at 7 percent per annum.

(D) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by this Commission, and is without prejudice to any claims or contentions which may be made by this Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against WPSC or any person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A—WISCONSIN PUBLIC SERVICE CORP.

Summary of sales and revenues for 8 municipal customers for the test year 1972

Customer	Present rate	Proposed rate	Increase
Algoma, Wis.	$441,419.11	$473,775.20	$32,356.09
Daggett, Mich.	23,803.68	25,538.14	1,734.46
Eagle River, Wis.	189,064.27	202,788.94	13,724.67
New Holstein, Wis.	565,528.97	607,908.55	42,379.58
Stephenson, Mich.	75,270.76	80,728.87	5,458.11
Stratford, Wis.	112,939.74	121,249.57	8,309.83
Sturgeon Bay, Wis.	812,925.91	873,115.83	60,189.92
Two Rivers, Wis.	822,254.71	884,103.96	61,849.25
Totals	3,043,207.15	3,269,209.06	226,001.91

[1] Municipalities of Algoma, Eagle River, New Holstein, Stratford, Sturgeon Bay, and Two Rivers, Wisconsin, and the Cities of Stephenson and Daggett, Michigan.

[2] See Appendix A.

[3] See Appendix C.

APPENDIX B—WISCONSIN PUBLIC SERVICE CORP.

Cost of service, 1972

Line No.		Total	Production	Transmission	Distribution
1	Expenses:				
2	PRODUCTION				
3	Fuel	$21,899,295			
4	Other	6,038,311			
5	Total	27,937,606			
6	Purchased power	4,135,600			
7	Total	32,073,206	$32,073,206		
8	Transmission	1,314,368		$1,314,368	
9	Distribution	5,403,300			$5,403,300
10	Customer accounts	1,440,753			1,440,763
11	Sales	1,171,814			1,171,814
12	Administrative and general [1]	4,468,514	1,088,102	319,825	2,460,587
13	Total O. & M. expenses	45,872,045	$3,761,308	1,634,193	10,476,544
14	Depreciation	10,681,490	3,959,026	2,295,975	4,486,489
15	Taxes—other than income taxes	7,182,143	2,438,872	1,683,569	3,059,702
16	Total expenses	63,735,678	40,159,206	5,553,737	18,022,735
17					
18	Energy component		26,202,322		
19	Demand component	19,510,621	13,956,884	5,553,737	
20	Demand allocation factor	5.559%	5.559%	5.559%	
21	Demand allocation	1,084,595	775,863	308,732	
22	Energy allocation (4.885 percent of line 19)	1,279,983			
23	Distribution O. & M. expenses	13,570			
24	Distribution, department expenses	20,341			
25	Distribution A. & G. and taxes (on net plant ratio —0.5811 percent)	34,838			
26	Sales and customer accounts	4,477			
27	Total expenses—wholesale for resale customers	2,437,804			
28	INCOME TAXES				
29	Federal (2.234796 percent of rate base per statement J)	163,582			
30	State (0.403713 percent of rate base per statement J)	29,551			
31	Return—8.57 percent	627,303			
32	Cost of service—wholesale for resale customers	3,258,240			
33	Revenue at present rates per exhibit A	3,046,861			
34	Revenue deficiency (unadjusted)	211,379			
35	Hydro normalization	14,616			
36	Revenue deficiency	225,995			

[1] Allocated on the basis of salaries and wages.

APPENDIX C

Capitalization and rate of return, November 1973

	Amount	Ratio	Cost	Weighted component
	In thousands	*Percent*	*Percent*	*Percent*
Long-term debt	$199,440	51.91	6.97	3.62
Preferred stock	51,200	13.33	6.38	.85
Common equity	133,552	34.76	11.80	4.10
Total	384,192	100.00		8.57

[FR Doc.74-10275 Filed 5-6-74;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL CITY CORP.

Proposed Acquisition of Amfac Credit Corp.

First National City Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Amfac Credit Corporation, Los Angeles, California. Notice of the application was published on December 19, 1973, in The Los Angeles Times and on either the 18th or 19th of December, 1973, in other newspapers circulated in Los Angeles County and other counties in the southern part of California.

Applicant states that the proposed subsidiary would engage in the activities of making consumer installment personal loans, purchasing consumer installment sales finance contracts, making commercial loans, accepting consumer time "deposits", and acting as agent for the sale of consumer credit life and credit accident and health insurance and consumer credit property and casualty insurance, related to the extensions of credit by the applicant. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 28, 1974.

Board of Governors of the Federal Reserve System, April 30, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10379 Filed 5-6-74;8:45 am]

FOURTH NATIONAL CORP.

Order Approving Acquisition of Diversified Mortgage & Investment Co.

Fourth National Corporation, Tulsa, Oklahoma, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire 80 percent of the voting shares of Diversified Mortgage & Investment Company, Tulsa, Oklahoma, ("Company"), a company that engages in the activities of origination, sale and service of one-to-four family residential mortgage loans and origination of interim construction loans. Such activities have been determined by the Board to be closely related to the banking (12 CFR 225.4(a) (1) and (3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 7997). The time for filing comments and views has expired, and none has been timely received. The Board has considered this application in light of the factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, a one-bank holding company, controls The Fourth National Bank of Tulsa, Tulsa, Oklahoma ("Bank"), the seventh largest bank in Oklahoma with deposits of $115.5 million, which represents 1.5 percent of aggregate deposits in commercial banks in the State.[1] Applicant also engages in mortgage banking activities through Bank.

Bank and Company confine their mortgage lending activities largely to the Tulsa SMSA which is approximated by Tulsa County. In 1973, Bank accounted for $11.6 million in mortgage recordings, representing 1.6 percent of the total mortgages recorded in the market and ranking as the 11th largest in terms of recordings. During the same period, Company accounted for $3.8 million, representing 0.5 percent of such mortgage

[1] All banking data are as of June 30, 1973.

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recordings and ranking as the 22nd largest in terms of recordings. Bank concentrates its efforts on construction loans and conventional loans on multi-family and non-residential properties. Company emphasizes FHA and VA guaranteed loans which account for 87 percent of its lending activities. Some insignificant existing competition would be eliminated between Bank and Company, particularly with respect to construction loans. Similarly, Applicant's acquisition of Company would eliminate some potential competition between Bank and Company. In view of the large number of mortgage lenders in the market and the number of remaining independent mortgage banking firms, the Board concludes that Applicant's acquisition of Company would not have significant adverse effects on existing or potential competition nor raise significant barriers to entry.

It appears that consummation of this proposed transaction would not result in any undue concentration of resources, conflicts of interests, unsound banking practices, or any other adverse effects on the public interest. Applicant proposes to expand the types of lending services offered by Company to include a full service mortgage banking company by offering conventional residential and commercial loans. The expanded lending services to be made available through Company upon its acquisition by Applicant, as well as its increased lending capabilities resulting from the availability of Applicant's resources, should enable Company to become a more effective competitor.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. The determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended fo. good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to authority delegated hereby.

By order of the Board of Governors,[2] effective April 30, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-10380 Filed 5-6-74;8:45 am]

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Holland, and Wallich. Absent and not voting: Governors Brimmer and Bucher.

GENERAL SERVICES ADMINISTRATION

PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES FOR CONSTRUCTION MANAGEMENT DIVISION

Notice of Meeting

APRIL 30, 1974.

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Public Advisory Panel on Architectural and Engineering Services for the Construction Management Division, May 7, 1974, from 10 a.m. to 3 p.m., Room 1128, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois. This meeting will be for the purpose of considering Architect-Engineer firms to provide design services for the proposed conversion of space at the Federal Building, 1819 Pershing Road, Chicago, Illinois, and for the proposed conversion of space at the GSA Depot, Dayton, Ohio.

The meeting will be closed to the public in accordance with provisions set forth in section 10(d) of Public Law 92-463.

ARTHUR LEE SCHLANGER,
Acting Regional Director, Construction Management Division, Public Buildings Service—Region 5.

[FR Doc.74-10468 Filed 5-6-74;8:45 am]

[Federal Property Management Regs., Temporary Reg. G-16, Supplement 2]

ENERGY CONSERVATION

Reduction in Fuel Consumed by Certain Types of Motor Vehicles in the Interagency Motor Pool System

1. *Purpose.* This supplement revises from monthly to quarterly the reporting requirements for the reduction in miles operated by certain types of motor vehicles in the Interagency Motor Pool System.

2. *Effective date.* This supplement is effective on May 7, 1974.

3. *Expiration date.* This supplement expires December 31, 1974, unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.* Certain actions have collectively contributed to an increase in the supply of oil over that which was available at the onset of the Nation's energy crisis, permitting the motor vehicle fuel use restrictions imposed on Federal agencies to be modified somewhat. Consequently, reporting requirements are changed from monthly to quarterly.

6. *Changes.* Federal Property Management Regulations ,Ttmporary Regulation G-16, is revised by making pen and ink changes to show "quarterly" in lieu of "monthly" in paragraph 9a; to delete the sentence, "However, agency mileage reductions wil lbe monitored on a monthly basis," in the lead paragraph of attachment B; and to add new paragraph e to attachment A as follows:

e. GSA will make any adjustments in this attachment which are required to conform to the newly established quarterly reporting periods.

DWIGHT A. INK,
Acting Administration of General Services.

MAY 3, 1974.

[FR Doc.74-10626 Filed 5-6-74;10:56 am]

[Federal Property Management Regs., Temporary Reg. G-15, Supplement 2]

ENERGY CONSERVATION

Reduction in Motor Vehicle Fuel Consumption

1. *Purpose.* This supplement revises from monthly to quarterly the reporting requirements for reduction in fuel consumed by Government-owned, commercially leased or rented, and privately owned vehicles authorized for use on official Government business.

2. *Effective date.* This supplement is effective on May 7, 1974.

3. *Expiration date.* This supplement expires December 31, 1974, unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.* Certain actions have collectively contributed to an increase in the supply of oil over that which was available at the onset of the Nation's energy crisis, permitting the motor vehicle fuel use restrictions imposed on Federal agencies to be modified somewhat. Consequently, the reporting requirements are modified as provided in this supplement.

6. *Changes.* Federal Property Management Regulations, Temporary Regulation G-15, is revised by making pen and ink changes to show "quarter" or "quarterly", as appropriate, in lieu of "month" or "monthly" wherever the latter appears in paragraphs 8a(1) and (2) and in the report formats and paragraphs 1a and 2 of attachments B and C. Also paragraphs 8a(1) and (2) are changed to show June 30, 1974 in lieu of January 31, 1974, and attachment C is changed by modifying the second formula in paragraph 3b to read as follows:

$$\frac{3 \times \text{Average Mileage} - \text{Mileage Current Period (col. 3)}}{3 \times \text{Average Mileage}} \times 100\% = \text{Percent Reduction (col. 4)}$$

DWIGHT A. INK,
Acting Administrator of General Services.

MAY 3, 1974.

[FR Doc.74-10625 Filed 5-6-74;10:56 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (74-29)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, COMMITTEE ON AERONAUTICAL OPERATING SYSTEMS AD HOC PANEL ON TERMINAL CONFIGURED VEHICLES

Notice of Meeting

The NASA Research and Technology Advisory Council Committee on Aeronautical Operating Systems, Ad Hoc Panel on Terminal Configured Vehicles will meet on May 30-31, 1974, at the NASA Langley Research Center, Hampton, Virginia 23665. The meeting will be held in Conference Room 225 of Building 1219. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room, which is about 50 persons. All visitors must report to the Langley Research Center main gate and thence to the receptionist in Building 1219.

The NASA Research and Technology Advisory Council Committee on Aeronautical Operating Systems, Ad Hoc Panel on Terminal Configured Vehicles, serves in an advisory capacity only. The Chairman is Mr. Ralph L. Erwin, Jr. There are nine members. The following list sets forth the approved agenda and schedule for the May 30-31, 1974, meeting of the Ad Hoc Panel on Terminal Configured Vehicles. For further information, please contact Mr. Kenneth E. Hodge, Area Code 202, 755-2360.

MAY 30, 1974

Time	Topic
8:30 a.m.	Welcoming Remarks and Introductory Statements (Purpose: To provide guidance to the Panel on the extent and significance of its future activities.)
9:00 a.m.	Chairman's Remarks and Introduction of Members (Purpose: To identify the special branch of activity in the aeronautical community to which each member has devoted himself.)
9:30 a.m.	Overview of the Terminal Configured Vehicles Operating Experiments Program (Purpose: To provide the basis for subsequent discussions of specific technical elements.)
10:30 a.m.	Description of the Research Support Flight System (Purpose: To describe the primary facility to be used in the flight research program. The system consists of a B-737 aircraft uniquely equipped with advanced digital integrated navigation, guidance, control, and display systems.)
11:15 a.m.	Discussion of Flight Experiments (Purpose: To obtain Panel comments on the content and priority of simulation and flight experiments which have been defined by the Flight Experiments Working Group.)
1:15 p.m.	Panel Comments on Transport Aircraft Terminal Area Compatibility Study (Purpose: To obtain Panel comments on this study which identified the research and technology required to support development of a terminal-area-compatible airplane.)

MAY 30, 1974—Continued

Time	Topic
2:15 p.m.	Tour of the Research Support Flight System and Simulation Facilities.

MAY 31, 1974

8:00 a.m.	Summary of Systems Analysis of Approach and Landing Accidents (Purpose: To inform the Panel of the status and plans for a system study of landing accidents to identify where mistakes are likely to occur and how they may be prevented.)
9:00 a.m.	Summary Review of Flight Tests of An Advanced Electronic Display System, Aft Flight Deck, and Automatic Guidance and Control System (Purpose: To establish for the Panel the baseline performance of the Research Support Flight System.)
10:15 a.m.	Panel Members' Reports (Purpose: Panel members will have the opportunity to report on research or other activity being pursued within their company or agency which is of interest to NASA and relates to the responsibilities of this Panel.)
1:00 p.m.	Panel Members' Recommendations (Purpose: The Panel will discuss information from preceding agenda items and will develop recommendations and position statements.)
2:30 p.m.	Adjournment.

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

MAY 1, 1974.

[FR Doc.74-10406 Filed 5-6-74;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Notice and Agenda of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on June 4-5, 1974, at the offices of the National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. The meetings will commence at 9 a.m. daily in Room 4210.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration, a briefing on the progress of the Administration's library project, a briefing on share insurance activities, a briefing on two-year insured Federal credit unions, and other aspects of the Administration.

On June 4, 1974, there will be two presentations, one each by two different firms, on the subject of electronic means of making currency available to selected financial institutions. One presentation will be held at 10 a.m. and one at 2 p.m.

Matters for discussion will include legislative activities.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

HERMAN NICKERSON, JR.,
Administrator.

APRIL 30, 1974.

[FR Doc.74-10463 Filed 5-6-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR DEVELOPMENTAL BIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Developmental Biology to be held at 9 a.m. on May 30 and 31, 1974, in Room 517 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92-463.

Individuals requiring further information about this Panel may contact Dr. William A. Jensen, Program Director, Developmental Biology Program, Room 326, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 25, 1974.

[FR Doc.74-10462 Filed 5-6-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6426]

RUPP INDUSTRIES, INC.

Notice of Application To Withdraw From Listing and Registration

APRIL 30, 1974.

In the matter of Rupp Industries, Inc., Common stock, no par value.

V 39 1889 MAY 7 74 XUM

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration are set forth in the application to withdraw on file at the Commission.

The American Stock Exchange does not object to this application to withdraw, and the Company states that it will be registered under Section 12(g) of the Securities Exchange Act of 1934 and that it will continue to file periodic reports as required.

Any interested person may, on or before May 13, 1974 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10469 Filed 5-6-74;8:45 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

Classification of Registrants Separated From the Armed Forces

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portion of that Manual is considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER.

Temporary Instruction No. 622-6. Subject: Classification of Registrants Separated from the Armed Forces.

BYRON V. PEPITONE,
Director.

APRIL 30, 1974.

[Temporary Instruction No. 622-6]

CLASSIFICATION OF REGISTRANTS SEPARATED FROM THE ARMED FORCES

Issued: April 26, 1974.

1. Effective March 27, 1974, the various armed forces discontinued listing separation and reenlistment codes on the DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge). In lieu thereof, the Selective Service copy of the DD Form 214 will show the reason for discharge in plain language in the "Remarks" section (Item 27) of the form. The armed forces will furnish the reason for discharge to the separatee upon his request.

2. The separation and reenlistment codes, or reason for separation, will be completely obliterated from any DD Form 214 which is to be donated to a state agency.

3. The reason for discharge will usually provide adequate information to local boards to enable them to properly classify registrants who have been separated. In some cases (conscientious objector, sole surviving son) further information from the registrant may be required.

4. Any registrant who may request an explanation or definition of a separation or reenlistment code appearing on a previously issued DD Form 214 shall be advised to direct his request to the armed force which issued the form.

5. Any existing state operational issuances containing a list of separation and reenlistment codes are to be rescinded and destroyed immediately, and any lists of codes or code definitions remaining in local boards are to be destroyed.

6. This Temporary Instruction will terminate upon rescission or amendment.

JOHN D. DEWHURST,
Deputy Director.

[FR Doc.74-10449 Filed 5-6-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-73-11]

CHEMICO METALS CORP.

Grant of Variance

I. *Background.* Chemico Metals Corporation, P.O. Box 187, Alton, Illinois 62002 made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), and 29 CFR 1905.11 for a variance from the safety standards prescribed in 29 CFR 1910.23(c)(3). The standard requires that open sided floors adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units and similar hazards be guarded by standard railings and toeboards. The facility affected by this application is Chemico Metals Plant, Illinois Route 3, Aldenburg Road, Madison County, Illinois. Notice of the application for variance was published in the FEDERAL REGISTER on March 16, 1973 (38 FR 7156). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments and no request for a hearing have been received.

II. *Facts.* The applicant's operations involve the production of pure copper through the process of electrolytic refining. In the course of this process, employees normally stand and walk on anodes and cathodes suspended in concrete tanks (cells) which contain an electrolytic solution. During this process, standard railings are not required. However, for a period of approximately 3 hours every 28 days, the anodes and cathodes are removed from the cell. Section 1910.23(c)(3) requires that this opening be guarded by standard railings and toeboards. The work procedures involve employees hooking and unhooking the crane and helping guide the anodes and cathodes while they are being removed and replaced. These employees are protected by the load from falling into the cell. During the time the tank is empty, an employee enters it at ground level to clean it. The only employees exposed to the hazard of the open tank are those working on nearby cells, and these employees do not work closer than 4 feet to the empty cell.

During the hours the cell is open, the applicant places red flags on standard safety cones around the area where the empty cells are located. These flags are visible from any point in the cell room. In addition, tripod-mounted signs reading "Danger-Open Cells" are placed in the passageways leading to the cell room.

The cell room is isolated from the rest of the facility, is accessible only via two stairways marked "Authorized Personnel Only," and only two to four employees work in the area at any time.

III. *Decision.* 29 CFR 1910.23(c)(3) requires that regardless of height, open-sided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units, and similar hazards shall be guarded with a standard railing and toeboard. This is intended to protect the worker against a fall into these particularly hazardous areas.

While it is recognized that there is an inherent danger in having open cells, it is also recognized that a standard guardrail would seriously interfere with the performance of necessary work. In this instance the hazard exists for only 3 hours every 28 days, and the few employees exposed are familiar with the location of the empty cells. Administrative controls in the form of warning flags mounted on safety cones, tripod-mounted danger signs, and restriction of access to authorized employees have been instituted.

Considering the brief duration of the hazard, the controls in effect, the few employees exposed and their direct knowledge of the situation, it is determined that the applicant is providing employment and a place of employment as safe as that required by 29 CFR 1910.23(c)(3).

IV. *Order.* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, 29 CFR Part 1905, and in Secretary of Labor's Order No. 12-71 (36 FR 8754), it is ordered, that Chemico Metals Corporation be, and it is hereby, authorized to continue to use its present methods of administrative control in the form of warning flags and signs to guard empty tanks, in lieu of complying with the requirements of § 1910.23(c)(3); provided that the tanks remain open only for short periods of about 3 hours for about once every 28 days, and provided further that if employees working on other cells may reasonably be expected to come within 4 feet of the empty cell, physical awareness, such as roping off the area, shall be used.

As soon as possible, Chemico Metals Corporation shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on May 7, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 29th day of April, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-10418 Filed 5-6-74;8:45 am]

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federal register

TUESDAY, MAY 7, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 89

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Notification Regulations and Request for Comments on Utah area

V 39 I 89 MAY 7 74 XUM

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 101—PROFESSIONAL STANDARDS REVIEW

Subpart B—Notification and Polling of Physicians

On April 16, 1974, there was published in the FEDERAL REGISTER (38 FR 34944–34951) a notice of proposed rulemaking proposing to add a new Subpart B, entitled "Notification and Polling of Physicians," to Part 101 of Title 42, Code of Federal Regulations. The purpose of the new Subpart B of Part 101 is to establish regulations governing notification and polling of physicians in any Professional Standards Review Organization area prior to entering into an agreement under which any organization is designated as the Professional Standards Review Organization for such an area. Interested individuals and organizations were given until May 1, 1974, to submit comments and suggestions on the proposed regulations.

Since no comments and suggestions were received with regard to this notice of proposed rulemaking, the final Notification and Polling Regulations remain essentially as proposed, the one change being the substitution of "postage paid" envelope for "franked" envelope under § 101.106(a)(2).

Effective date. These regulations are effective on May 7, 1974.

Dated: May 1, 1974.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: May 2, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart B—Notification and Polling of Physicians

Sec.
101.101 Policy and applicability.
101.102 Definitions.
101.103 Determination of number of doctors in PSRO area.
101.104 Notification of Doctors.
101.105 Action by the Secretary pursuant to objections.
101.106 Action by the Secretary following poll.

AUTHORITY: Secs. 1102, 1152(f), Social Security Act (42 U.S.C. 1302, 1352(f)).

Subpart B—Notification and Polling of Physicians

§ 101.101 Policy and applicability.

(a) Section 1152(f) of the Social Security Act (42 U.S.C. 1352(f) provides that in the case of agreements entered into prior to January 1, 1976 under Part B of Title XI of the Social Security Act under which any organization is designated by the Secretary of Health, Education, and Welfare as the Professional Standards Review Organization for any area, the Secretary shall, prior to entering into any such agreement with any organization for any area, inform the doctors of medicine or osteopathy who are in active practice in such area of the Secretary's intention to enter into such an agreement with such organization.

(b) Section 1152(f) further provides that if, within a reasonable time following the service of such notice, more than 10 percentum of such doctors object to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in such area, the Secretary shall conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. If more than 50 percentum of the doctors responding to such poll indicate that such organization is not representative of such doctors in such area the Secretary may not enter into such an agreement with such organization. The regulations of this subpart are applicable to the notification and polling by the Secretary of doctors pursuant to such section 1152(f).

§ 101.102 Definitions.

As used in this subpart:

(a) "Act" means the Social Security Act, as amended (42 U.S.C. Chap. 7).

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) "Doctor" means a doctor of medicine or osteopathy engaged in the active practice of medicine or osteopathy.

§ 101.103 Determination of number of doctors in PSRO area.

For the purposes of this subpart, the Secretary will determine, on the basis of the latest available information which he deems appropriate for such purposes, the names, current mailing addresses, and total number of doctors in any area, designated in Subpart A of this part as a Professional Standards Review Organization area, with respect to which the Secretary proposes to enter into an agreement with an organization designating such organization as the Professional Standards Review Organization for such area. The information on the basis of which the total number of doctors in such area is determined by the Secretary will be available for public inspection.

§ 101.104 Notification of doctors.

In the case of any agreement entered into prior to January 1, 1976, under Part B of Title XI of the Act, whereby any organization is designated as the Professional Standards Review Organization for any area, the Secretary, prior to entering into such agreement with any such organization, will, in accordance with the provisions of this section, notify the doctors in such area of the Secretary's intention to enter into such an agreement with such organization.

(a) *Method of notice.* The notice described in this section will be published in the FEDERAL REGISTER and at least one newspaper of general circulation in the Professional Standards Review Organization area. Notice in any newspaper of general circulation will be published in not less than three consecutive issues of such newspaper. In addition, copies of the notice will, not later than the date of publication in the FEDERAL REGISTER, be mailed to organizations of practicing doctors of medicine and osteopathy, including the appropriate state and county medical and specialty societies, and hospitals and other health care facilities in the area, with a request that each such society and facility inform those doctors in its membership or on its staff who are engaged in active practice in the Professional Standards Review Organization area concerned of the contents of such notice.

(b) *Content of notice.* The notice required by this section will include the following:

(1) The date of publication in the FEDERAL REGISTER.

(2) A statement that the Secretary proposes to enter into an agreement with a named organization, designating such organization as the Professional Standards Review Organization for the area;

(3) A description of such organization, including its name, address, and the names of its principal officers;

(4) A statement that if any doctor in the area objects to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in the Professional Standards Review Organization area, he may, within 30 days of the date of publication of the notice in the FEDERAL REGISTER, mail such objection in writing addressed to the Department of Health, Education, and Welfare to the mailing address set forth in the Notice; and

(5) A statement that if more than 10 percentum of the number of doctors determined by the Secretary pursuant to § 101.103 to be in the Professional Standards Review Organization area express timely objection as described in paragraph (b)(4) of this section (which number shall be set out in the Notice), the Secretary will conduct a poll of all such doctors in accordance with § 101.106 to determine whether or not such organization is representative of such doctors in such area.

§ 101.105 Action by the Secretary pursuant to objections.

After the expiration of 30 days following the date of publication in the FEDERAL REGISTER of the Notice described in § 101.104, the Secretary will tabulate the objections described § 101.104(b)(4) which have been received and which are postmarked prior to the end of such 30-day period. The Secretary will then publish a Notice in the FEDERAL REGISTER and in at least one newspaper of general circulation serving the Professional Standards Review Organization area, and will notify by letter the appropriate State and County medical societies. as follows: either

(a) That not more than 10 per centum of the total number of doctors determined by the Secretary, pursuant to

§ 101.103, to be engaged in active practice of medicine or osteopathy in a Professional Standards Review Organization area have expressed timely objection, as described in § 101.104(b)(4), to the Secretary's entering into an agreement with the organization, and that the Secretary may proceed to enter into such agreement designating such organization as the Professional Standards Review Organization for such area; or

(b) That more than 10 per centum of the total number of doctors determined by the Secretary, pursuant to § 101.103, to be engaged in the active practice of medicine or osteopathy in a Professional Standards Review Organization area have expressed timely objection, as described in § 101.104(b)(4), to the Secretary's entering into an agreement with the organization, and that the Secretary will conduct a poll of such doctors in accordance with § 101.106. A notice published in the FEDERAL REGISTER pursuant to this paragraph will set forth the date on which such poll will be initiated, and will state that doctors in such area who have not received a ballot within 5 days after such date may request a ballot from the Secretary at an address specified in the notice.

§ 101.106 Polling of doctors.

(a) Conduct of poll. In any case in which the Secretary determines that more than 10 per centum of the total number of doctors in a Professional Standards Review Organization area have expressed timely objection as described in § 101.104(b)(4), to the Secretary's entering into an agreement with an organization, the Secretary will, at such time as he may select, conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. Such poll shall be conducted as follows: The Secretary will mail, by regular mail, to each individual doctor of medicine or osteopathy whom the Secretary determines, pursuant to § 101.103, to be engaged in the active practice of medicine or osteopathy in the Professional Standards Review Organization area, the following:

(1) A ballot in which the doctor is requested to check one of two boxes indicating that, in his opinion, the organization with which the Secretary proposes to enter into the agreement (i) is or (ii) is not representative of the doctors in such area;

(2) A preaddressed postage paid envelope; and

(3) A cover letter describing the purpose of the poll, and specifically including

(i) The date of initiation of the poll, which will be not more than two days prior to the date on which the polling material is mailed;

(ii) A request that the doctor complete the ballot and mail it by regular mail in the enclosed envelope;

(iii) A statement that if more than 50 per centum of the doctors responding to the poll indicate that the organization with which the Secretary proposes to enter into the agreement is not representative of the doctors in the area, the Secretary will not enter into such agreement with such organization; and

(iv) A statement that all completed ballots received which are postmarked within 30 days of the date of initiation of the poll by the Department of Health, Education, and Welfare officer, whose address appears on the enclosed envelope will be counted in determining the result of the poll.

(b) *Tabulation of ballots.* After the expiration of 30 days following the date of initiation of the poll as described in paragraph (a)(3)(i) of this section, the Secretary will tabulate the ballots which have been received and which are postmarked prior to the end of such 30-day period.

(1) The ballots will be tabulated in such fashion as to assure that the vote of each individual doctor responding to the poll will be secret.

(2) The tabulation proceeding will be publicly announced and will be open to the public.

(c) *Retention of ballots.* All ballots received by the Secretary will be retained for such period as may be necessary to assure their availability for a recount in accordance with § 101.107(c) and will be available for public inspection during such period at a place announced in the Notice published pursuant to § 101.107.

§ 101.107 Action by the Secretary following poll.

After tabulating the ballots received under § 101.106, the Secretary will publish a Notice in the FEDERAL REGISTER and in at least one newspaper of general circulation serving the Professional Standards Review Organization area, and will notify by letter the appropriate State and County medical societies, as follows:

(a) That not more than 50 percentum of the doctors responding to the poll indicated, by checking the appropriate box on the ballot, that the organization with which the Secretary had proposed to enter into an agreement is not representative of the doctors in the area, and that the Secretary may proceed to enter into such agreement designating such organization as the Professional Standards Review Organization for such area; or

(b) That more than 50 percentum of the doctors responding to the poll indicated, by checking the appropriate box on the ballot, that the organization with which the Secretary has proposed to enter into an agreement is not representative of the doctors in the area, and accordingly that the Secretary will not enter into such an agreement with such organization; and

(c) Such count will be final, except that the Secretary will conduct a recount if at least 5 doctors in the area so request in writing, postmarked within 10 days following the date of publication of such Notice in the FEDERAL REGISTER. Such recount will be conducted in a public proceeding, and the result of the recount will be final.

[FR Doc.74–10457 Filed 5–6–74;8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

UTAH PSRO AREA

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization

Notice is hereby given in accordance with section 1152(f) of the Social Security Act and 42 CFR 100.104, that the Secretary of Health, Education, and Welfare proposes to enter into an agreement with the Utah Professional Standards Review Organization designating it the Professional Standards Review Organization for the State of Utah.

The Secretary has determined that the Utah Professional Standards Review Organization is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Utah, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Utah. As stipulated in its Articles of Incorporation, the principal officers of Utah Professional Standards Review Organization are:

Name	*Office Held*
1. Louis Shricker, Jr., M.D.	Vice Chairman.
2. Alan R. Nelson, M.D.	Chairman.
3. Homer E. Smith, M.D.	Secretary.
4. Harold B. Liddle, M.D.	Treasurer.

The official address of the corporation is 555 East 2nd South, Salt Lake City, Utah 84102.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of Utah who objects to the Secretary entering into an agreement with the Utah Professional Standards Review Organization on the grounds that this organization is not representative of doctors in such area may, within thirty days of the date that this Notice was published in the FEDERAL REGISTER, mail such objection in writing to the Director, Office of Professional Standards Review, Department of Health, Education, and Welfare, P.O. Box #2111, Rockville, Maryland 20852. All such objections must include the physician's address, the location(s) of his office, his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e.) direct patient care and related clinical activities, administrative duties in a medical facility or other health related institution and/or medical or osteopathic teaching or research activity.

Pursuant to 42 CFR 101.103, the Secretary has determined that 1,570 doctors of medicine and osteopathy are engaged in active practice in the State of Utah. In the event that more than 10 percentum of such doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Utah Professional Standards Review Organization is representative of such doctors in such area.

Comment closing date: June 6, 1974.

Dated: May 1, 1974.

HENRY E. SIMMONS,
Deputy Assistant Secretary for Health, Director, Office of Professional Standards Review.

[FR Doc.74-10458 Filed 5-6-74;8:45 am]

federal register

TUESDAY, MAY 7, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 89

PART III

CONSUMER PRODUCT SAFETY COMMISSION

■

CONSUMER SAFETY STANDARDS

Requirements and Procedures

No. 89—Pt. III——1

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Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1105—SUBMISSION OF EXISTING STANDARDS; OFFERS TO DEVELOP STANDARDS; AND THE DEVELOPMENT OF STANDARDS

Consumer Product Safety Standards; Requirements and Procedures

In the FEDERAL REGISTER of January 4, 1974 (30 FR 1152), and pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056), the Consumer Product Safety Commission proposed regulations (16 CFR Part 1105) covering (1) the submission of existing standards to CPSC, (2) the submission to CPSC of offers to develop consumer product safety standards, and (3) the actual development of consumer product safety standards by organizations or individuals whose offers have been accepted by CPSC. Also proposed were requirements for cost contributions by CPSC toward the development of standards. The proposal invited interested persons to submit comments on or before February 4, 1974.

In response to the proposal, comments were received from the Air-Conditioning and Refrigeration Institute; Amercan Institute of Architects; American National Standards Institute; American Society of Association Executives; American Society for Testing and Materials; Association of Home Appliance Manufacturers; Mr. Bruce I. Berteisen, Prof. Joseph A. Page, and Ms. Nancy Southard of the Georgetown University Law Center; Borden, Inc.; Carpet and Rug Institute; Consumers Union of United States, Inc.; Mr. John T. Crandall; Mr. Arnold B. Elkind; Gas Appliance Manufacturers Association; Glass Container Manufacturers Institute, Inc.; Lehn & Fink Products Co., Division of Sterling Drug, Inc.; Massachusetts Public Interest Research Group; Montgomery Ward; Representative John E. Moss; National Association of Manufacturers; National Electrical Manufacturers Association; National LP–Gas Association; National Retail Merchants Association; National Swimming Pool Institute; Ohio Match Co., Subsidiary of Hunt-Wesson Foods, Inc.; Personal Safety Systems; Power Tool Institute; RCA Corp.; Sears, Roebuck & Co.; Mr. C. A. Swanson; Underwriters' Laboratories, Inc.; and Wheel Estates.

The principal issues raised by the comments and the Commission's conclusions thereon are as follows: Significant changes resulting from comments received and/or from Commission evaluations are discussed.

1. *Objectives of the act.* Proposed § 1105.1(b), regarding general policy considerations, states in part, "One of the major objectives of the Consumer Product Safety Act is to reduce unreasonable risks of injury associated with the use of consumer products by developing 'consumer product safety standards' for those products."

A comment notes that consumer product safety standards are only one of the tools available to the Commission in reducing unreasonable risk of injury and suggests adding at the end of the first sentence of proposed § 1105.1(b) the phrase "where necessary to eliminate or reduce the risk of injury."

The Commission agrees that promulgating mandatory standards is not the only means provided by the act for reducing or eliminating unreasonable risks of injury. To better express this fact, sec. 1105.1(b) has been revised to provide that the objectives of the act may be achieved through the development and promulgation of mandatory standards where they are considered necessary to eliminate or reduce the risk of injury.

2. *Description of consumer product safety standard.* A comment suggests that the description of "consumer product safety standard" in proposed § 1105.1 (b) is not consistent with the act and with the description in proposed § 1105.8 (b).

The Commission agrees that the description of "consumer product safety standard" should be consistent whenever it is used in these procedures and that the description should follow the congressionally established description. The Commission has therefore conformed the description of "consumer product safety standard" in §§ 1105.1(b) and 1105.8(b).

3. *Participation by the public.* a. A number of comments are directed toward the practicality and reasonableness of the Commission's policy of providing for the participation of any and all interested persons in the development of standards.

The Commission provided in proposed § 1105.5(a) that interested persons could participate in one of two levels of activity, "either in person or through correspondence." To clarify more fully the position of the Commission on participation by all interested persons, the Commission has, in § 1105.5(b)(1), provided for the identification by the offeror of the number and experience of the individuals the offeror intends to be directly involved (in person) in the development of standards. Others, including all of those persons who have requested the opportunity to participate in the development of the standard, will be able to contribute by corresponding directly with the offeror and conveying any information relating to hazardous product experiences or any suggestions relating to the scope and coverage of the standard. Additionally, § 1105.7(b) provides that the offeror shall send to all participants a copy of the draft standard developed by the offeror so they may review the draft standard and provide any comments on it with respect to its adequacy or effectiveness in reducing the unreasonable risks of injury.

b. Two comments question the offeror's being responsible for giving notice to individual consumers to participate in the standards development process. One addresses the need for the Commission to provide adequate notice. While the Commission accepts some of this responsibility, it recognizes that the act specifically charges the offeror with the responsibility for providing notice and opportunity for interested persons to participate in the development of standards. The Commission, in § 1105.5(a)(2), requires the offeror to develop and implement a specific plan to provide such participation.

c. In order to encourage and facilitate the participation of the public in the standards development process, the Commission, in response to another comment, has provided in § 1105.6(e) for the maintenance of a list of all persons and organizations expressing an interest in participating in the development of standards. Further, the Commission has provided in § 1105.6(e) for the transmission of a copy of the FEDERAL REGISTER notice of proceeding as well as the FEDERAL REGISTER notice of acceptance of any offer to appropriate persons and organizations on that list.

4. *Ultimate consumers.* Proposed § 1105.1(d) expresses the general policy that all interested persons, including the general public and especially ultimate consumers, are encouraged to become involved in the development of standards as offerors and participants.

Several comments object to the stress placed upon the involvement of ultimate consumers. One suggests removing this stress by placing emphasis on the involvement of qualified representatives of affected industries as well as ultimate consumers. Another suggests eliminating the word "especially" and adding the words "technical groups" after the words "interested persons".

The Commission reaffirms its policy that ultimate consumers are to be especially encouraged to become involved in the development of standards. This does not mean, however, that other persons and groups with experience and expertise are not needed or are not encouraged to participate. Accordingly, no change has been made in § 1105.1(d) regarding the importance of ultimate consumers in standards development proceedings.

5. *Ad hoc associations.* Proposed § 1105.5(c) provides for the submission of an offer by an individual member on behalf of the members of an ad hoc association which may be accepted after the Commission receives a notarized copy of a power of attorney from each member of the association authorizing the individual member to submit an offer.

Several comments express concern that ad hoc associations may not be technically competent or sufficiently well organized to develop a standard. Several of these comments suggest strengthening the requirements for ad hoc associations by emphasizing that the technical competency requirements apply to them or by requiring that ad hoc associations provide organizational documents and assurances that the association will be capable of completing the development of a standard.

One comment suggests that the procedures for power of attorney appear more onerous than is necessary and

questions whether a power of attorney is also necessary to enable an association to participate in the development of a standard by another offeror.

The concept of ad hoc associations has been introduced in these regulations to facilitate the development of standards by new or loosely formed groups. Although such groups must be capable of demonstrating competence prior to the acceptance of an offer, the Commission concludes that the procedures as proposed relating to ad hoc associations should not be made either more or less restrictive. The power of attorney requirements apply only to the submission of offers and not to participation in the development of a standard by another offeror. The power of attorney is necessary to help ensure that the person with whom the Commission is dealing is authorized to act for the other persons in the association. This requirement would become especially important in the event the Commission agrees to make a contribution toward the cost of the standards development.

In response to a comment, § 1105.5(c) has been clarified by deleting the phrase "Prior to acceptance of an offer from an ad hoc association," from the last sentence.

6. *Existing standards.* a. Several comments object to the requirement of proposed sec. 1105.4(b)(1) that existing standards submitted for consideration as proposed consumer product safety standards meet all of the requirements for standards developed by offerors.

The Commission agrees that this requirement is too broad and has revised § 1105.4(b)(1) to state that each notice of proceeding will establish the specific requirements for existing standards.

b. Several comments object to the requirement in proposed § 1105.4(b)(2) that the submission of an existing standard be accompanied by a description of the procedures used to develop the standard and a listing of the persons and organizations that participated in the development and approval of the standard.

The regulation (now § 1105.4(b)(3)) has been changed by adding the phrase "to the extent that such information is available" after the word "accompanied."

c. One comment suggests that § 1105.4 be changed to permit the submission of portions of existing standards.

In the Commission's view, existing standards should be submitted in their entirety. A provision has been added (now § 1105.4(b)(2)) to require the person submitting the existing standard to identify the portions that are appropriate for inclusion in the consumer product safety standard.

d. One comment suggests requiring that an existing standard be submitted with an evaluation of all comments received during its development.

The Commission concludes that such information would be of questionable usefulness and therefore declines to adopt the suggestion.

e. Regarding proposed § 1105.3(a)(3), one comment suggests that when the Commission publishes information with respect to an existing standard that it include an evaluation of the existing standard.

Section 1105.3(a)(3) has been changed to state that the Commission will include information respecting any deficiencies in the existing standard that would make it not totally acceptable as a mandatory standard.

f. One comment suggests deleting the reference to "foreign" standards from proposed § 1105.3(a)(3). The commentor fears that foreign standards will not be suitable for domestic producers. The commentor suggests that while they may be studied during development, they should not be made mandatory unless great care is exercised.

The Commission concludes that since foreign standards will be subject to the same scrutiny and evaluation as other standards, no change is necessary.

g. In response to a comment noting that the Commission may decide both to publish an existing standard and accept an offer to develop a standard for the same consumer product, proposed § 1105.6(a) (now § 1105.6(a)(1)) has been changed to state that the Commission may accept one or more offers to develop a standard if the Commission "(i) does not decide to publish an existing standard as a proposed consumer product safety standard, or (ii) decides to publish an existing standard as a proposed consumer product safety standard which does not address all of the specified unreasonable risks of injury associated with the product."

Additionally, for completeness, paragraph (c) has been added to § 1105.4 to prescribe the conditions under which the Commission may publish an existing standard as a proposed consumer product safety standard in lieu of accepting an offer to develop a standard.

h. In response to a comment noting that an existing standard may be submitted by anyone, the third sentence of proposed § 1105.2 has been changed by deletion of the word "their" between the words "submit" and "existing." The purpose of this change is to indicate that persons do not need to have a proprietary interest in the existing standard in order to submit it.

i. In response to a comment which notes that the Commission is not required to find that there is no acceptable existing standard before it can accept an offer to develop a standard, proposed § 1105.1(c) has been changed by deleting the phrase "if the Commission determines that there is no acceptable existing standard" from the third sentence. This change is consistent with the change indicated for § 1105.6(a) (mentioned in "g" above) and also reflects the fact that the Commission may decide to both publish an existing standard and accept an offer to develop a standard for different risks associated with the product. The third sentence of proposed § 1105.1(c) has also been amended by deleting the word "new" between the words "a" and "standard" to indicate that the standard developed by the offeror may be a modification of an existing standard and may not be entirely "new."

7. *Development period.* a. Several comments object to the sentence contained in proposed § 1105.1(h) which reads "The Commission believes, however, that as a general rule, the public interest is best served by the development of standards in the shortest possible time." The comments contend that this phrase places an undue emphasis on speed as opposed to the development of an effective and workable standard.

The Commission did not intend to imply that speed was the single most important factor in the development of a standard. The sentence (now contained in § 1105.1(i)) has been revised to reflect this policy as follows: "The Commission believes, however, that as a general rule, the public interest is best served by the development of standards in the shortest possible time commensurate with the objectives of the act and in conformance with the requirements contained in this Part 1105."

b. Proposed §§ 1105.2 and 1105.6(a) provide that the Commission will normally accept one or more offers to develop a standard within 60 days after publication of the notice of proceeding. Several comments object to this provision because it encroaches on the already short 150-day statutory period for the development of standards and could leave as few as 90 days to develop a standard.

Section 7(b) of the act states in part that "An invitation [to offer to develop the proposed consumer product safety standard] shall specify a period of time during which the standard is to be developed which shall be a period ending 150 days after the publication of the notice, unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate." Section 7(b)(4) of the act provides that the offer to develop a standard shall be submitted to the Commission within 30 days after the date of publication of the notice.

The Commission will certainly do all within its power to evaluate and accept offers within or soon after the 30-day period. The Commission concludes, however, that up to 30 additional days may be necessary to properly evaluate and accept offers. Since the act stipulates that the 150-day period shall begin when the notice of proceeding is published, the Commission is not free to change the starting date to the day offers are accepted. To compensate for the fact that this may leave as few as 90 days for the actual development of the standard (as opposed to the 120 days Congress apparently anticipated), the Commission provided in proposed § 1105.3(a)(6) (now (a)(7)) that the notice of proceeding shall specify the period of time during which the standard is to be developed and submitted to the Commission. Section 1105.1(i) states that the Commission will adopt a reasonable approach in determining the amount of time necessary to develop standards. If

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necessary, the Commission may change the length of time for the development of the standard. This may be accomplished in accepting an offer as provided for in proposed § 1105.6(e)(2) (now § 1105.6(d)(2)), or by later extending the period for development if good cause is shown and the reasons for such extension are published in the FEDERAL REGISTER. To more accurately reflect the intent of the Commission, it is concluded that the regulations as proposed should not be changed in response to the comments received on this issue, except that §§ 1105.2 and 1105.6(a) have been changed to provide that the Commission will as soon as possible, usually within 60 days, accept one or more offers to develop a standard.

c. One comment suggests that proposed § 1105.2 be changed to state that extensions of time will not be granted except in extraordinary circumstances, that 60 days shall be the maximum time for the extension of a development period, and that the general public and participants in the standards development proceeding be given the opportunity to comment on the desirability of granting an extension.

While the Commission agress that extensions should only be granted when necessary and desirable, the Commission does not agree that an arbitrary maximum is in the best interest of the public. There may be occasions when the granting of an extension of longer than 60 days would result in the completion of a standard in a shorter period of time than if the Commission were required to begin the process over or to proceed to develop a standard independently. After receiving a request for an extension, the Commission will certainly consider the views of persons having information pertinent to making the decision. However, the Commission does not agree that soliciting the views of the general public on this issue would be very helpful. Additionally, as a practical matter, the solicitation and evaluation of public comments could cause an undue delay in the development process since such solicitation of comments would, almost of necessity, require publication of the proposed extension and invitation for public comment in the FEDERAL REGISTER.

8. *Technical competence.* To implement section 7(d)(1) of the act, which provides for the acceptance of offers from technically competent offerors, several sections of these regulations were proposed to aid the Commission in determining whether offerors are technically competent to develop standards. Proposed § 1105.5 (a) and (b), regarding the submission of offers, would require that certain information be provided the Commission by the offeror in submitting an offer. Proposed §1105.6(a) established the factors the Commission would utilize in determining technical competence.

a. Several comments recommend changes in these sections which would specify the factors necessary for evaluating the offeror's technical competence in greater detail and would set forth minimum requirements, especially in the area of actual technical experience with the product to be regulated.

Although the factors to be utilized in determining technical competence might be specified in greater detail, the Commission considers the regulations as proposed to be sufficient in this respect until such time as the Commission gains sufficient experience to know which factors should be specified. Specific product experience need not be emphasized in these regulations since an offeror, in developing a plan for the participation of interested persons, should be able to overcome any personal lack of product experience by demonstrating managerial ability to obtain participants with appropriate product experience. Also, the Commission intentionally established evaluation criteria without providing minimum requirements in order to provide a degree of flexibility which would not otherwise be possible.

b. Regarding proposed § 1105.5(b)(1), which requires a statement listing the number and occupations of the personnel the offeror intends to utilize in developing the standard, several comments suggest that the phrase "personnel the offeror intends to utilize" be expanded and broken down into specific types of individual groups.

The Commission agrees and this section has been revised to require that the offeror distinguish and specify the status of the individuals the offeror plans to directly involve in the development process. Further, the term "occupations" has been replaced with the term "experience" in this section to provide the Commission with more relevant information.

c. Regarding proposed § 1105.6(a), which states that one of the factors to be considered by the Commission in determining technical competence is that the offeror has provided a rational approach to the solution of that problem, one comment suggests the deletion of this provision and the addition of the following: "that the offeror has described a rational procedure for solving that problem." The comment argues that as written, this provision would require that the offeror indicate the substance of the standard to be developed, rather than simply the procedures for developing the standard.

The Commission concludes that the suggested change should not be made since an indication of the type of standard the offeror plans to develop may be as relevant to the issue of technical competence as the procedures to be utilized in developing a standard.

9. *Commission requirements for the development of standards.* Proposed § 1105.6(a), dealing with the acceptance of offers, provides in part that the Commission will accept one or more offers if it determines that the offeror will comply with all of the requirements of the Commission for the development of a standard.

One comment contends that this section fails to specify with sufficient detail the requirements for the development of standards in general. The comment also contends that by using the word "standard" in the singular in this portion of the regulations, the Commission is stating that the development of each standard will be subject to a different set of requirements and that this is not in line with the statutory provisions of section 7 of the act.

The Commission, having considered the comment, concludes that a change in the regulations on this issue is unwarranted. The regulations in this part for the development of standards will apply to the development of all standards and are as detailed as is presently possible and desirable. The Commission chooses not to specify more detail at this time in order to provide a degree of flexibility and to gain experience in working with these regulations.

Regarding the issue of whether any Commission requirements for the development of a specific standard should be prescribed other than in these regulations, the Commission concludes that this may be necessary because of the diverse nature of the products under the Commission's jurisdiction and the different types of standards to be developed. Any additional requirements will, however, be stated in each notice of proceeding.

10. *Acceptance of more than one offer.* Proposed § 1105.6(a) states that the Commission will accept one or more offers to develop a standard. One comment suggests that more than one offer should be accepted only in unusual and urgent circumstances since some of the participants in the standards development process, particularly manufacturers, would then be forced to participate with two or more offerors and that this would waste time and money.

The Commission recognizes that it has no statutory duty to accept offers from more than one offeror and that in many instances, active participants representing the same entity would be present during the development by each of the several offerors. Where the Commission determines, however, that a better standard would be developed if there are multiple offerors, it will accept more than one offer. This may occur, for example, where multiple offerors are deemed necessary to cover all of the identified risks; to permit development with diverse and unique approaches; or to expand the probability of success. The Commission will not accept multiple offerors simply because it has received offers from more than one technically competent offeror.

11. *Notification of nonacceptance.* When the Commission has determined that an offer to develop a standard should not be accepted, the Commission shall, as provided by proposed § 1105.6(g), notify the offeror in writing of the fact that the offer has not been accepted.

Several comments suggest that this section be changed to provide for the Commission to also inform the offeror of the reasons for nonacceptance. One comment suggests that in addition to notifying individual offerors of the reasons for the nonacceptance of their offers, that the section be changed to provide for the notification to include a general description of the types of defects encountered in other unacceptable offers. This comment contends that the adoption of this suggestion would encourage unsuccessful offerors to continue to submit offers in the future.

The Commission concludes that unsuccessful offerors should, when they so request, be informed of the reasons for the nonacceptance of their offers and has changed the regulation (now § 1105.6(f)) accordingly. However, the Commission does not view the requirement that it include a discussion of the reasons for the nonacceptance of other offers as serving a useful purpose and therefore does not adopt this suggestion. Copies of letters to unsuccessful offerors will be available under the Freedom of Information Act to anyone requesting access to such information.

12. *Modification of offers.* Proposed § 1105.6(b), regarding the acceptance of offers, states as follows: "In accepting an offer to develop a standard, the Commission may require a modification of the offer as a condition of acceptance." The purpose of this provision is to permit an offeror to modify an offer which would be acceptable only if certain changes were made first.

Several comments express the concern that this provision would permit the Commission to change the offer after it had been accepted.

To more accurately reflect the Commission's intent, this provision has been changed by deleting the word "in" and replacing it with words "prior to" and adding the word "minor" to qualify "modifications."

13. *Amending standards.* Several comments express concern over the fact that the proposed regulations fail to provide procedures for updating or amending standards once they have been issued and suggest that the final regulations include such procedures. Two comments suggest the establishment of a procedure whereby the offeror who developed the standard would be appointed on a continuing basis to monitor and update the standard.

The Commission concludes that the changes suggested should not be adopted in the final regulations since section 9(e) of the act provides that where an amendment to a standard involves a material change, sections 7 and 9 of the act apply. Therefore, where the Commission believes a material change is required, it will initiate a proceeding in the same manner as it would initiate a proceeding for the development of a new standard. Where the required change is not considered material, it will amend the standard by rule in accordance with the procedure specified in section 9(a)(2) of the act.

14. *Consumer complaint letters.* One comment suggests that the regulations be changed to require all manufacturers and distributors of consumer products to file with the Commission a copy of each letter received by the company alleging a safety defect in one of its products. The purpose of this suggested requirement would be to provide the developer of a standard with information relating to consumer experiences with the product.

In response to this comment, the Commission concludes that this requirement is not appropriate for inclusion in these rules. The notice of proceeding should adequately define the risks of injury to be regulated and the Commission will make information relevant to the analysis of the hazard available to the offeror. Additionally, a Commission press release will indicate that any interested person may communicate directly with the offeror.

15. *Testing programs.* Proposed § 1105.8(a) states that recommended standards submitted by the offeror shall, where the Commission considers it to be appropriate, contain testing programs and that testing programs, where the Commission considers it to be appropriate, shall include sampling plans.

Several comments object to the requirement that sampling plans be included with the standards for one or more of the following reasons: (1) because the requirement would dilute the incentive for an offeror to develop a reasonable and technologically practicable standard; (2) because it would be better to require testing programs under section 14 of the act which deals with product certification rather than under section 7; (3) because mandatory test programs would increase compliance costs for the manufacturer without materially improving the condition causing the defect; (4) because no one testing program can be appropriately used by all manufacturers of a product; (5) because the propriety of including testing programs and sampling plans is questionable under the act; (6) because the penalties in the act for non-compliance provide all the incentives necessary to assure that products conform to Commission standards; (7) because manufacturers should have a choice of methods to determine quality control; (8) because the development of sampling plans is beyond the expertise of many would-be offerors; and (9) because sampling plans can only be developed after a standard is completed and would require an undue amount of time. Several comments endorse the concept of requiring testing programs with sampling plans. One comment suggests adding a requirement that sampling plans be based on standard acceptable quality control levels as established by the American Society for Quality Control.

The Commission concludes that it is neither necessary nor appropriate to resolve the issue of the correctness of requiring offerors to develop testing programs, including sampling plans, in these regulations. Therefore, § 1105.8(a) now provides that recommended standards shall, if the Commission considers it to be appropriate, contain reasonable testing programs, including sampling plans. This section has, however, been changed to delete the definition of the term "sampling plans." The meaning of the term will be made clear if and when the Commission determines that a sampling plan should be part of a particular standard.

16. *Test methods.* Proposed § 1105.8(a) provides that recommended standards shall be submitted, where the Commission considers it appropriate, with suitable test methods for the measurement of compliance with proposed standards which are reasonably capable of being performed by persons subject to the act or by private testing facilities.

Several comments endorse the inclusion of the requirement for test methods. One comment suggests that, except in cases where a standard is written in terms of a specific test, the requirement be changed to provide that manufacturers shall not be precluded from using other suitable test methods.

17. *Test instruments or devices.* Proposed § 1105.7(g) provides that if the Commission determines that test instruments or devices are necessary for the evaluation of the standard, the Commission may require the offeror to sell the instrument or device to the Commission at the offeror's cost.

Three comments object to this provision as being an unreasonable forced sale and suggest that the submission of plans and specifications should be sufficient.

The Commission concludes that there may be occasions where prompt evaluation of the standard requires immediate access to the use of the test instrument or device. In such a case, the mere receipt of plans and specifications may not be sufficient. The regulation has been changed, however, to provide that where the offeror does not wish to sell the instrument or device to the Commission, it may loan the instrument or device to the Commission for use during the evaluation. It has also been changed to provide that in any circumstance, detailed descriptions or plans and specifications shall be submitted.

18. *Economic and environmental impact information.* Proposed § 1105.7(c)(4) would require the offeror to maintain and submit to the Commission records consisting of a statement of the economic and environmental factors considered during the development of the standard. Proposed § 1105.8(e) would require the offeror to submit to the Commission information demonstrating that compliance with the standard would be technologically practicable as well as information, where it can reasonably be obtained, on the potential economic and environmental impact of the standard.

One comment contends that the regulations should be revised to require the offeror to take into account the economic impact of a proposed standard. Several other comments argue that offerors should not be required to prove technological practicability or to prepare economic and environmental impact statements since this responsibility properly belongs to the Commission.

The Commission recognizes that it has the responsibility for ultimately determining the technological practicability in addition to the economic and environmental reasonableness of consumer product safety standards. However, in order for the recommended standard to

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be one which would be promulgated, it is necessary for offerors to at least consider these factors and keep a record of the issues discussed. Therefore, the Commission concludes that the proposed sections of the regulations relating to these issues strike the proper balance and should not be changed.

19. *Circulation of draft standards for comment.* Regarding proposed § 1105.7, dealing with the development of recommended consumer product safety standards, subsection (b) states in part as follows: "The offeror, after considering all suggestions and contributions, shall draft a standard. The draft standard shall be sent to all participants and to other appropriate persons (including a representative number of manufacturers or wholesalers and importers of the product proposed to be regulated and consumers) for their review and concurrence. Unanimity among all participants and appropriate persons shall not be a prerequisite to the submission by the offeror to the Commisison of a standard which, in the offeror's judgment, optimally meets the terms of the offer accepted by the Commission."

a. A comment suggests that since the cost of reproducing and distributing draft standards may be quite large, the regulations should be changd to specifically provide that the Commission will bear the cost of reproducing and distributing draft standards.

The Commission concludes that since § 1105.9 already provides the mechanism for making requests for cost contributions, a special provision in these regulations is not necessary.

b. A comment notes that the phrase "for their concurrence" (as used in proposed § 1105.7(b)) is inconsistent with the sentence following since the phrase implies that agreement is necessary.

The Commission agrees and has revised § 1105.7(b) to state "for their review and concurrence or nonconcurrence."

c. One comment contends that the language of proposed § 1105.7(b) implies that the offeror may not begin drafting a standard until all suggestions and contributions have been received and suggests that the language be revised to state that the offeror shall draft the standard prior to or concurrent with the receipt of comments and suggestions.

The Commission concludes that the suggested revision should not be made since prior unilateral drafting by the offeror could vitiate the impact of the partjcipation procedures. However, the Commission does not view the language as proposed as preventing the offeror from proceeding through a series of early drafts.

d. Several comments concern the language of proposed § 1105.7(b) referring to the persons and organizations to whom the draft standard shall be sent for comment.

One comment suggests that the offeror only be required to submit the draft to proper representatives of all participants, not to all participants. Another comment makes a similar suggestion to transmit the draft to representatives of the necessary interests as opposed to individuals.

The Commission concludes that the Congress intended all interested persons to have the opportunity to participate in the development of standards and that reviewing the draft standard is one opportunity to whi.h they are entitled. Therefore, the proposed requirement for transmitting the draft standard to all participants is unchanged.

In response to the comments concerning review by representatives of the necessary interests including persons and organizations other than participants, the Commission concludes that the draft standard should be transmitted only to persons and organizations who have previously become participants. All other interested persons will have ample opportunity to express their views concerning the standard during the rulemaking procedures under section 9 of the act. The portion of § 1105.7(b) dealing with this has therefore been revised to read "The draft standard shall be sent to all participants for their review and concurrence or nonconcurrence."

20. *Evaluation of comments.* Proposed § 1105.7(c)(3) provides that each offeror must maintain written records of an evaluation by the offeror of all of the comments received by the offeror during the development of the standard.

Two comments suggest that this requirement is overly burdensome and would be counterproductive. One of the comments suggests deleting § 1105.7(c)(3) as proposed and rewriting it to state as follows: "A statement or evidence by the offeror that all of the comments received by the offeror during the development of the standard received fair and responsible consideration."

The Commission concludes that the statutory requirement for the opportunity for public participation in the development of standards requires that substantive issues raised in the comments be considered by the offeror and that the best evidence of offeror consideration is a record of the offeror's evaluation. Section 1105.7(c)(3) has, however, been changed to require that a record be maintained of "a discussion describing the basis for resolution by the offeror of all of the substantive issues raised during the development of the standard."

21. *Independent evaluations.* One comment expresses the opinion that while participation in the development of standards is to be expected by those having a monetary interest in the outcome, it may be difficult to achieve consumer participation. This comment suggests that until such time as an act is passed which provides an official consumer advocate, these regulations should contain a requirement for an independent evaluation by a private testing laboratory of each standard submitted by an offeror.

While the Commission recognizes that an independent evaluation may be necessary under certain circumstances, it sees no need to impose this obligation on itself in evaluating each and every standard submitted. Where deemed necessary, however, the Commission certainly will seek independent evaluations.

22. *Analysis of standard by the offeror.* Proposed § 1105.8(c) provides that "Each requirement of a standard [developed by an offeror] shall be supported by: (1) An analysis demonstrating that the requirement is reasonably necessary to prevent or reduce the unreasonable risks of injury identified in the notice of proceeding; and (2) a statement explaining why the requirement is in the public interest."

a. Two comments contend that references throughout these regulations and specifically in this section should not be made to "unreasonable risks of injury." It is argued that this determination requires a balancing of various factors and should not be made prior to the promulgation of the standard.

The Commission agrees that the final determination of whether the risks are unreasonable must be reserved until the promulgation proceedings when the Commission will have all the necessary facts before it. Since section 7 of the act directs that any requirement of a standard be reasonably necessary to prevent or reduce an unreasonable risk of injury associated with a product, and also directs that the notice of proceeding state the Commission's determination that a consumer product safety standard is necessary to eliminate or reduce the risk of injury, the Commission must preliminarily identify what it believes at the time to be unreasonable risks in order that the offeror's efforts will be directed only to risks which may be unreasonable. However, neither the Commission's initial identification of unreasonable risks of injury, nor the offeror's analysis referring to the risks as being unreasonable binds the Commission to the determination in instituting its promulgation proceedings. Ample opportunity will be afforded in these proceedings for interested persons to comment on and object to the Commission's determinations.

b. One comment suggests that proposed § 1105.8(c) be changed to provide that the offeror must present an "analysis" demonstrating that each requirement is in the public interest rather than a "statement." Another comment recommends that the public interest statement be required only for the entire standard and not for each requirement of the standard.

The Commission agrees with both comments and has revised § 1105.8(c) accordingly.

c. One comment questions whether the Commission will provide offerors with a hazard analysis demonstrating that the requirements are necessary.

The Commission cannot provide the offeror with an analysis demonstrating that the requirements are necessary since the Commission will not know what requirements will be developed by the offeror. The Commission will, however, make material available to the offeror relating to the risks of injury, the need for a standard, and any other information which may be helpful to the offeror.

This is provided for in § 1105.3(a)(4) of the final regulations.

23. *Proprietary information.* Proposed § 1105.7(c) provides for the maintenance by the offeror of certain records concerning the development of the standard.

One comment suggests that this section be changed to require the offeror to carefully identify confidential information. Another comment suggests adding a sentence to the end of paragraph (c) as follows: "Except that nothing in this subsection (c) shall be considered to require or permit the disclosure of trade secrets or other proprietary or private data otherwise prohibited by the Product Safety Act." The comment argues that this sentence is necessary since the act prohibits the disclosure of proprietary data.

The Commission recognizes its duty not to disclose trade secrets and other confidential information. However, certain material may be necessary for the Commission to properly evaluate the standard. Where the Commission receives such information which is legitimately entitled not be disclosed, the Commission will not disclose it. A change in these regulations is not necessary since the closing text of proposed § 1105.7(c) (now part of § 1105.7(c)(5)) provides that the availability of information is subject to the restrictions contained in the Freedom of Information Act and the Consumer Product Safety Act. A change to require that all confidential information be carefully identified is also not necessary since the Commission's regulations under the Freedom of Information Act will set forth provisions relating to the submission of confidential information to the Commission.

24. *Monitoring by Commission employees; technical assistance by the Commission.* Proposed § 1105.7(a) provides that offerors whose offers have been accepted shall cooperate with Commission liaison personnel assigned to monitor the development of the standard.

One comment asks how the Commission plans to monitor the development process. Another comment suggests that the Commission provide technical assistance to offerors in developing standards, particularly those lacking technical expertise.

The degree of Commission participation in the developmental process, especially through the device of "monitoring," has been intentionally left unspecified in these regulations. This matter is such that only experience will enable the Commission to reach the proper balance between what could be termed interference and what could be termed lack of cooperation.

25. *Satisfactory progress.* a. Regarding proposed § 1105.7(d), which provides for the submission of progress reports to the Commission for the purpose of determining whether the offeror is making satisfactory progress, two comments suggest that requirements for the submission of progress reports be more clearly specified.

The Commission agrees and has revised § 1105.7(d) to specify monthly progress reports containing certain information.

b. One comment objects to the inclusion in proposed § 1105.7(d) of a provision for Commission inspection of the offeror's facilities and developmental activities.

In the Commission's view, this authority is necessary as an aid to the Commission in determining whether the offeror is making satisfactory progress in the development of the standard.

c. Two comments suggest that satisfactory progress should not, as stated in proposed § 1105.7(d), be measured solely by completion of the development of the standard by the end of the development period. One of these comments suggests that the regulations be changed to permit the Commission to extend the development period as an alternative to terminating the offeror's role in the development process (as provided for in proposed § 1105.7(e)) when the offeror is found not to be making satisfactory progress.

The Commission agrees that there may be circumstances where extending the development period would be preferable to terminating the offeror's role in the development process and has revised § 1105.7(e) accordingly.

26. *Termination of the development proceeding.* Proposed § 1105.7(f) provides that the development proceeding may be terminated if no offeror is making satisfactory progress and that the Commission may then independently develop a proposed standard or contract with third parties for the development of a proposed standard.

Several comments address the topic of Commission policies and procedures following termination of the development proceeding. The Commission concludes that a discussion of the course of action to be taken following termination is not an appropriate subject for coverage in these regulations. Section 1105.7(f) has therefore been changed to eliminate the phrase "or contract with third parties for the development of a proposed standard," since this option would remain available to the Commission irrespective of the fact that it is not specified in these regulations.

27. *Development of standards by the Commission.* Section 7(e) of the Act provides that, except under certain circumstances, the Commission may not independently develop a proposed consumer product safety rule. These circumstances are essentially as follows: (1) that having published a notice of proceeding, the Commission has not accepted an offer to develop a standard within 30 days of the date of publication of the notice; (2) that the sole offeror whose offer has been accepted is the manufacturer, distributor, or retailer of the consumer product proposed to be regulated; or (3) that the Commission has determined that no offeror whose offer was accepted is making satisfactory progress in the development of the standard. These circumstances are restated in proposed §§ 1105.6(d) and (f) and 1105.7(f).

a. One comment suggests that proposed § 1105.6(f) be changed to state as follows: "In any case in which the sole offeror whose offer is accepted is the manufacturer, distributor, or retailer of the consumer product proposed to be regulated by the consumer product safety standard, the Commission *shall* independently proceed to develop a proposed standard during the development period." (emphasis added)

The Commission concludes that the addition of this requirement is not desirable since it could force duplicative efforts in situations not requiring independent development by the Commission. Had Congress believed that the development of a standard by the manufacturer, distributor, or retailer of a product to be regulated was inherently not in the public interest, it could have required independent development by the Commission.

b. One comment suggests that a phrase be added to proposed § 1105.6(f) as follows: "and shall independently proceed to develop or acquire the technical capability necessary to properly evaluate the standards recommended to it."

The Commission concludes that the addition of this phrase is unnecessary since it implies that the Commission will only acquire the technical capability necessary to properly evaluate standards recommended to it when the sole offeror whose offer has been accepted is the manufacturer, distributor, or retailer of the product proposed to be regulated. The Commission will always prepare itself to evaluate recommended standards irrespective of the type of offeror developing the standard.

c. A comment recommends that proposed § 1105.6(f) be changed to add a statement to the effect that when the sole offer accepted is that of a trade association the Commission may not proceed to develop a proposed standard.

The Commission concludes that the suggested change is not appropriate.

d. Several comments suggest that when the Commission proceeds to independently develop standards, it should provide for public participation in the same manner as offerors are required to provide for public participation.

Since these rules are intended to prescribe the manner in which standards will be developed by offerors, and are not intended to regulate the independent development of standards by the Commission, the Commission concludes that it is not appropriate for these rules to address the procedures for the independent development of standards by the Commission itself. Proposed § 1105.1(a) has been changed to eliminate the implication that these rules will govern the independent development of standards by the Commission.

28. *Format of recommended standards.* Proposed § 1105.8(a) provides that recommended standards shall be submitted in the format prescribed by the Commission. Proposed § 1105.8(b) provides that a standard shall be written in a manner appropriate for use as a federal mandatory standard as specified in the format established by the Commission.

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Two formats have been submitted to the Commission with the comments for consideration for use as the Commission's format. One comment notes that the offeror will need the format before undertaking the development work and suggests that the regulations be changed to require that the Commission format be published in the FEDERAL REGISTER with the notice of the acceptance of an offer.

The Commission agrees that an offeror should have the format before commencing the development of the standard and has changed § 1105.8(a) to provide that the format for each standard will be made available to the offeror on or before the acceptance of an offer.

29. *Contributions to the offeror's cost.* a. Proposed § 1105.9(h)(1) provides that the Commission will not contribute toward "Costs for the acquisition of any interest in land or buildings; however, the Commission may contribute toward the lease or rental of land or buildings."

One comment objects to Commission contributions toward the lease or rental of land or buildings as a violation of the prohibitions established in section 7(d)(2) of the act.

No change in the regulations (now § 1105.9(g)(1) is considered necessary with respect to this comment since the Commission interprets the statutory prohibition of contributions for the acquisition of land or buildings not to include payments for leases or rentals during the period of development. It is the view of the Commission that to construe the word "acquisition" to exclude contributions toward leases or rentals would not be consistent with the congressional intent for the Commission to provide assistance to consumer organizations or groups which are less likely to be able to bear the costs of standards development than are industrial trade organizations.

b. Another comment suggests that a provision be added to proposed § 1105.9(a) that the Commission may agree to contribute to the offeror's cost only in those cases in which the Commission determines that the offeror "has the technical competence and other capabilities provided in the statute and defined in these regulations." This comment contends that the criteria for contributions does not include the test of competence and will therefore not adequately protect the Commission, the public, or competing offerors.

The Commission concludes that no change in the regulations is warranted by this suggestion since Commission contributions are already subject to the acceptance of an offer from a technically competent offeror. This is provided for in § 1105.9(a), which states in part: "The Commission may, in accepting an offer, agree to contribute to the offeror's cost * * *."

c. One comment contends that the requirements for the submission of offers (§ 1105.5) are so formal that it would require considerable time and money to prepare an offer. The comment suggests that to encourage the submission of offers by consumer groups, the Commission should enter into agreements to reimburse the offeror for standards development costs based upon a "brief prospectus" rather than a formal offer.

The Commission concludes that the regulations should not be changed in response to this comment. The requirements established for the submission of offers are minimal. They contain only what the Commission believes to be essential for the proper evaluation of submitted offers.

d. One comment recommends that the regulations be revised to provide that offerors whose offers have been accepted as well as "good faith offerors" whose offers have not been accepted, be reimbursed for their costs in preparing offers. The purpose of this change would be to encourage the preparation of offers by those who might otherwise hesitate to do so.

The Commission is authorized by section 7(d)(2) of the act to contribute only to the offeror's cost in developing proposed consumer product safety standards. Since the act does not expressly authorize the Commission to reimburse offerors for the cost of preparing offers, the suggested change is not warranted.

e. One comment recommends that the regulations be revised to state that the amount of contribution requested shall have no bearing on the acceptability of an offer. The argument presented in support of this recommendation is that otherwise acceptable offers should not be rejected on the basis of the contribution requested and that the act does not authorize rejection on this basis.

The Commission agrees that the evaluation of an offer should not be affected by the amount of contribution requested by the offerors. However, the Commission does not feel it necessary to revise the proposed regulations to eliminate any consideration of the amount of the contribution requested from the decision to accept an offer.

f. Proposed § 1105.9(g) and (h) (now § 1105.9(f) and (g)) sets forth statements of items of cost toward which the Commission may contribute and items of cost toward which the Commission will not contribute. Included is a reference to the Federal Procurement Regulations, 41 CFR Part 1–15.

One comment suggests that since these regulations extend over 60 pages, the Commission should either specifically refer to the applicable sections or delete the reference to the procurement regulations.

The Commission gave consideration to developing a set of principles for determining allowable costs for which it would reimburse offerors developing standards. However, it is not known what costs can be anticipated in the course of developing a standard. Accordingly, it was decided to adopt an established set of cost principles. Although the cost principles in 41 CFR Part 1–15 are extensive, only a subpart of those principles will apply to any one development agreement, depending on the type of organization that is developing the offer. For example, if a university is developing a standard, the subpart principles governing educational institutions would apply. The Commission therefore declines to adopt the suggestion.

g. Proposed § 1105.9(h)(2) (now § 1105.9(g)(2)) provides that the Commission will not contribute toward "costs for the payment of salaries in excess of the salaries paid by the offeror to individuals at the time immediately preceding the offer."

A comment suggests amending this section by adding that "the Commission will contribute toward the salary costs of an offeror at the time that the offer is made, to pay longevity, overtime, or other routine increases to its personnel during the course of development of the standard, and will contribute toward the salaries of new employees or consultants hired by the offer to aid in the development of the standard."

The Commission agrees that part of the suggestion has merit and has revised the subsection to provide an exception for the payment of longevity and other routine increases to individuals which may acrue during the development of the standard. The Commission does not agree to include contributions toward overtime since the offeror should schedule the development of the standard without planning on overtime. Any work during overtime hours will normally be the offeror's responsibility. It is not considered necessary to revise the subsection to allow for the payment of the salaries of new employees or consultants since the language of the subsection does not now prohibit this.

h. A comment suggests that the regulations be revised to specifically provide for the Commission to contribute toward the offeror's costs when the offeror is a trade association or business corporation. The reason given is that often these groups have small budgets and could not otherwise afford to develop standards.

Although the legislative history of the act indicates that Congress intended cost contributions to be used as an aid to permit consumer organizations to engage in standards development or to participate in the development of a standard by another offeror, neither the act nor these regulations preclude contributions to other types of groups. Since the Commission has not prescribed a list of those organizations to which it might contribute, the Commission concludes that the suggested revision should not be made.

i. Proposed § 1105.9(c) states as follows: "The offeror should normally finance at least 5 percent of the total project cost. If the offeror, however, has little or no nonfederal sources of funds from which to make a cost contribution, the requirement for cost sharing may be waived by the Commission."

The Commission, having considered comments relevant to the issue of the 5-percent financing requirement, concludes that proposed § 1105.9(c) should be deleted. Although the Commission does expect offerors to commit as much of their own resources toward the development of standards as is reasonably possible, a requirement for a specific percentage contribution does not appear to be necessary.

30. *Miscellaneous.* a. One comment recommends that before a press release is issued relating to the initiation of a proceeding for the development of a standard that the press release be circulated for comment to affected manufacturers. The purpose of this would be to prevent misrepresentation and unwarranted inferences by the press. The comment contends that this procedure would be consistent with section 6(b) and (c) of the act.

Since press releases relating to the initiation of a proceeding to develop a standard will generally not identify a product by manufacturer or brand name, the Commission concludes that this recommendation need not be adopted.

b. For the purpose of achieving consistency with the act, one comment suggests changing the word "risks" in proposed §§ 1105.3(a)(1) and (2) to the word "risk."

The Commission declines to make this change since it would be impractical in most cases to proceed with the development of a standard on the basis of a single risk where more than one risk can be identified with a single consumer product.

c. In response to a comment regarding proposed § 1105.3(a)(4), professional societies have been added to the list (now § 1105.3(a)(5)) of persons invited to submit an existing standard or offer to develop a proposed standard.

d. In response to several comments regarding proposed § 1105.3(a)(5), the regulations have been changed (now § 1105.3(a)(6)) to provide that a requirement for any additional information to be submitted to the Commission, either with an existing standard or with a standard developed by an offeror, will be included in the FEDERAL REGISTER notice of proceeding to the extent the need for such additional information is known at the time the notice of proceeding is published.

e. One comment suggests addition of the word "domestic" to the list of persons in proposed § 1105.5(a) who may submit offers to develop standards. The Commission declines to adopt this suggestion since the act itself neither makes nor implies this restriction. It is noted, however, that the Commission is of the view that it can only accept offers from those fully capable of providing the opportunity for public participation within the United States.

f. Several comments suggest including the terms "trade associations" "professional or technical societies," and "retailers" in the list of organizations contained in proposed § 1105.5(a)(1) of persons to receive notice of the right to participate in the development of the standard. The Commission agrees and has made the change.

g. In response to a comment suggesting that offers may be accepted from organizations as well as from persons, proposed § 1105.6 (c) and (d)(1) has been changed to provide for the identification of the organizational affiliation of the person whose offer is accepted.

h. In response to a comment, proposed § 1105.8(e) has been changed by adding the phrase "by the offeror" between the words "obtained" and "concerning" in the last sentence and between the words "obtained" and "data" in the second sentence. This change is to indicate that potential economic and environmental effect information is to be submitted to the Commission with the standard developed by the offeror only to the extent it can reasonably be obtained by the offeror.

i. Proposed § 1105.8(e) has been changed in response to a comment by the addition of the words "small business" between the words "on" and "and" in the second sentence. This change was made in recognition of the fact that in submitting economic effect information, small business should not be overlooked.

Therefore, having evaluated the comments received, the Commission concludes that the proposed regulations, with changes, should be adopted as set forth below.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (sec. 7, Pub. Law 92–573, 86 Stat. 1212–15; 15 U.S.C. 2056), a new Part 1105 is added to Title 16, Chapter II, Subchapter B, as follows:

Sec.

1105.1 General policy considerations.
1105.2 Summary of time sequence for the development of standards.
1105.3 Commencement of proceedings.
1105.4 Submission of existing standards.
1105.5 Submission of offers.
1105.6 Acceptance of offers.
1105.7 Development of recommended consumer product safety standards.
1105.8 Recommended consumer product safety standards developed by offerors.
1105.9 Contributions to the offeror's cost.

AUTHORITY: Sec. 7, Pub. Law 92–573, 86 Stat. 1212–15; 15 U.S.C. 2056.

§ 1105.1 General policy considerations.

(a) The general policy under which the procedures in this Part 1105 are issued is that the interest and participation of the public is vital for carrying out the functions of the Consumer Product Safety Commission. Commission activities and deliberations are open to the public and afford any interested person the opportunity to participate and be heard. Accordingly, standards development activities by offerors will be open to the public and will afford the opportunity for any interested person to participate in the development of standards.

(b) The major objective of the Consumer Product Safety Act ("act") is to reduce unreasonable risks of injury associated with the use of consumer products. This objective may be achieved through the development and promulgation of mandatory "consumer product safety standards" where they are considered necessary to eliminate or reduce the risk of injury. A consumer product safety standard is a standard which will consist of (1) requirements as to performance, composition, contents, design, construction, finish, or packaging, or (2) requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions, or (3) any combination of (1) and (2). Requirements other than those relating to labeling, warnings, or instructions, shall whenever feasible be expressed in terms of performance requirements.

(c) Under the act, consumer product safety standards may originate in three ways. First, the Commission, after publishing a "notice of proceeding" in the FEDERAL REGISTER, is authorized to publish as a proposed standard an existing standard which has been previously issued or adopted by a qualified public or private agency or organization. Second, the Commission is authorized to accept offers from one or more persons or organizations to develop a standard. Third, the Commission may under certain circumstances independently develop a standard.

(d) Since safety standards are intended to eliminate or reduce unreasonable risks of injury associated with consumer products, the Commission, in issuing this Part 1105, seeks the involvement of all interested persons, the general public, and especially ultimate consumers. Ultimate consumers and their representatives, as well as all other interested persons, are invited and encouraged to become involved by submitting offers to develop standards and by participating in the development of standards by other offerors.

(e) Persons who are not members of an established organization may form a group for the express purpose of submitting offers and developing standards; such groups are referred to in these rules as "ad hoc associations."

(f) Public involvement will be encouraged through the use of extensive public notice. In addition to providing notice in the FEDERAL REGISTER, the Commission will issue a press release at the initiation of a proceeding. This release will invite any person to either submit an existing standard or offer to develop a standard. A press release will also be issued at the time an offer is accepted. This second press release will invite all interested persons to participate in the development of a standard and will describe the method by which interested persons, including ultimate consumers, may participate.

(g) The Commission will maintain a list of all persons and organizations that have expressed an interest in either being offerors or in participating in the development of standards. Copies of the FEDERAL REGISTER notice of proceeding, press release, and/or other relevant documents will be transmitted by the Commission to appropriate persons and organizations on the list that have expressed an interest in being offerors. Copies of the FEDERAL REGISTER notice of proceeding and the notice of acceptance of any offers will be transmitted by the Commission to appropriate persons and

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organizations on the list that have expressed an interest in participating in the development of standards.

(h) The act enables the Commission to contribute to the offeror's cost in developing a standard in any case in which the Commission determines that a contribution is likely to result in a more satisfactory standard. The Commission views this provision of the act as a means by which a variety of organizations will be able to develop standards. The Commission also views this provision as a means by which the Commission can assist a cross section of interested persons, including consumers, to participate in the development of standards.

(i) The act provides that the invitation for the submission of offers to develop a standard shall state the period of time during which the standard is to be developed. Congress anticipated that this period would normally end 150 days after the publication of the invitation. The act also provides that the Commission may extend or shorten the period for development if it finds for good cause that a different period of time is appropriate either at the time of the invitation or at a later time. The Commission expects to receive standards that will, if adopted, appropriately reduce the unreasonable risks of injury to the public. The Commission will adopt a reasonable approach to determining the amount of time necessary to develop standards. The Commission believes, however, that as a general rule the public interest is best served by the development of standards in the shortest possible time commensurate with the objectives of the act and in conformance with the requirements contained in this Part 1105.

§ 1105.2 Summary of time sequence for the development of standards.

The notice of proceeding inviting the submission of existing standards and the submission of offers to develop standards will specify a period of time during which the standard is to be developed and submitted to the Commission. The act specifies that this period will end 150 days after the publication of the notice in the FEDERAL REGISTER, unless the Commission for good cause finds, and includes such finding in the notice, that a different period is appropriate. Under the act, persons must submit existing standards or offers to develop standards to the Commission within 30 days after the date of publication of the notice of proceeding in the FEDERAL REGISTER. The Commission will evaluate the submissions and publish a summary of the terms of any accepted offer or offers as soon as possible, usually within 60 days after the date of publication of the notice of proceeding. In submitting an offer to develop a standard, each offeror is required to include a realistic estimate of the time required to develop the standard, including a detailed schedule for each phase of the development period. In accepting an offer and publishing a notice of the summary of the terms of each accepted offer, the Commission will either reaffirm the original period of time for the development of the standard, or, for good cause stated, establish and publicize a new period of time for the development of the standard. The standard, with all required accompanying information, must then be submitted to the Commission within the specified time, unless the Commission grants an extension and publishes a notice in the FEDERAL REGISTER stating its reasons for the extension.

§ 1105.3 Commencement of proceedings.

(a) A proceeding for the development of a consumer product safety standard shall be commenced by the publication of a "notice of proceeding" in the FEDERAL REGISTER which shall:

(1) Identify the product and clearly describe the nature of the risks of injury associated with the product;

(2) State the Commission's determination that a consumer product safety standard is necessary to eliminate or reduce the specified unreasonable risks of injury associated with the product;

(3) Include information with respect to any existing domestic, foreign, or international standard known to the Commission which may be relevant to the proceeding, including information as to any deficiencies that the Commission recognizes in each identified standard that may make it not totally acceptable as a proposed rule;

(4) Provide information concerning the availability of Commission material relating to: (i) The specific nature of the risks of injury associated with the product, (ii) the basis for the Commission's determination concerning the need for a mandatory standard, and (iii) additional information relating to the development of a mandatory standard which may be helpful to potential offerors;

(5) Include an invitation for any standards-writing organization, trade association, consumer organization, professional or technical society, testing laboratory, university or college department, wholesale or retail organization, Federal, State, or local government agency, engineering or research and development establishment, ad hoc association, or any company or person, within 30 days after the date of FEDERAL REGISTER publication of the notice:

(i) To submit to the Commission an existing standard as the proposed consumer product safety standard; or

(ii) To offer to develop a proposed consumer product safety standard;

(6) Include, to the extent known at the time the notice of proceeding is published, any requirement for additional information which is to be submitted to the Commission with either an existing standard or a standard to be developed by an offeror; and

(7) Specify the period of time during which the standard is to be developed and submitted to the Commission.

(b) The Commission will, for the purpose of providing greater public awareness of its actions, issue a press release concerning the initiation of the proceeding. The press release will summarize the information contained in the FEDERAL REGISTER notice, including the invitation to any interested organization or person to submit an existing standard or to offer to develop a proposed consumer product safety standard.

(c) The Commission will transmit a copy of the FEDERAL REGISTER notice, press release, and/or other relevant documents to appropriate persons and organizations, on a list maintained by the Commission, that have expressed an interest in being offerors for one or more standards.

§ 1105.4 Submission of existing standards.

(a) Any standards-writing organization, trade association, consumer organization, professional or technical society, testing laboratory, university or college department, wholesale or retail organization, Federal, State, or local government agency, engineering or research and development establishment, ad hoc association, or any company or person may submit a standard previously issued or adopted by any private or public organization or agency, domestic or foreign, or any international standards organization, that contains safety-related requirements which the person believes would be adequate to prevent or reduce the unreasonable risks of injury associated with the product identified by the Commission.

(b) Any submission of an existing standard should:

(1) To the extent possible, meet the requirements for standards developed by offerors contained in section 1105.8 as specified in each notice of proceeding;

(2) Identify the specific portions which are appropriate for inclusion in the proposed rule; and

(3) Be accompanied, to the extent that such information is available, by a description of the procedures used to develop the standard and a listing of the persons and organizations that participated in the development and approval of the standard.

(c) If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under the act would eliminate or reduce the unreasonable risks of injury associated with the product, then the Commission may, in lieu of accepting an offer to develop a standard under section 1105.6, publish the existing standard as a proposed consumer product safety standard.

§ 1105.5 Submission of offers.

(a) Any standards-writing organization, trade association, consumer organization, technical or professional society, testing laboratory, university or college department, wholesale or retail organization, Federal, State, or local government agency, engineering or research and development establishment, ad hoc association, or any company or person may submit an offer to develop a proposed consumer product safety standard.

Each offer shall include a detailed description of the procedure the offeror will utilize in developing the standard. Each offer shall also include:

(1) A description of the plan the offeror will use to give adequate and reasonable notice to interested persons (including individual consumers, manufacturers, distributors, retailers, importers, trade associations, professional and technical societies, testing laboratories, Federal and State agencies, educational institutions, and consumer organizations) of their right and opportunity to participate in the development of the standard;

(2) A description of the method whereby interested persons who have responded to the notice may participate, either in person or through correspondence, in the development of the standard; and

(3) A realistic estimate of the time required to develop the standard, including a detailed schedule for each phase of the standard development period.

(b) Each offeror shall submit with the offer the following information to supplement the description of the standard development procedure:

(1) A statement listing the number and experience of the personnel, including voluntary participants, the offeror intends to utilize in developing the standard. This list should distinguish between (i) persons directly employed by the offeror, (ii) persons who have made a commitment to participate, (iii) organizations that have made commitments to provide a specific number of personnel and (iv) other persons to be utilized, although unidentified and uncommitted at the time of the submission. The educational end experience qualifications of these personnel relevant to the development of the standard should also be included in the statement. This list should include only those persons who will be directly involved in person in the development of the standard; and

(2) A statement describing the type of facilities or equipment which the offeror plans to utilize in developing the standard and how the offeror plans to gain access to the facilities or equipment.

(c) Persons who are not members of an established organization may form a group for the express purpose of submitting offers and developing standards. These groups are referred to as "ad hoc associations." An offer by an ad hoc association may be submitted by an individual member if the offer states that it is submitted on behalf of the members of the association. The individual member submitting the offer shall submit to the Commission a notarized copy of a power of attorney from each member of the association authorizing the individual member to submit an offer on behalf of each other member.

§ 1105.6 Acceptance of offers.

(a)(1) If the Commission (i) does not decide to publish an existing standard as a proposed consumer product safety standard or (ii) decides to publish an existing standard as a proposed consumer product safety standard which does not address all of the specified unreasonable risks of injury associated with the product, the Commission will as soon as possible, usually within 60 days of the date of publication of the notice of proceeding in the FEDERAL REGISTER, accept one or more offers to develop a proposed consumer product safety standard.

(2) Acceptance of an offer will be based on a determination by the Commission that an offeror is technically competent, is likely to develop an appropriate standard within the period specified in the notice of proceeding or within the period determined by the Commission to be necessary and appropriate for the development of the standard, and will comply with all of the requirements of the Commission for the development of the standard.

(3) An offeror will be considered to have technical competence if the offer submitted indicates to the satisfaction of the Commission (i) that the offeror has demonstrated a thorough understanding of the problem, (ii) that the offeror has provided a rational approach to the solution of that problem, and (iii) that persons with appropriate technical expertise or experience will be utilized in the development of the standard either as employees, consultants, or volunteers.

(b) Prior to accepting an offer to develop a standard, the Commission may require minor modifications of the offer as a condition of acceptance.

(c) The Commisison shall publish in the FEDERAL REGISTER the name, address, and organizational affiliation of each person whose offer it accepts and a summary of the terms of each accepted offer including the date established for the submission of the standard.

(d) The Commisison, at or near the time of the FEDERAL REGISTER acceptance notice, will issue a press release which:

(1) Identifies each person (name, address, and organizational affiliation) whose offer has been accepted;

(2) Summarizes the terms of each accepted offer including the date established for the submission of the standard; and

(3) Invites all interested persons to participate in the development of the standard and informs them of how they may participate.

(e) The Commission will transmit to appropriate persons and organizations, on a list maintained by the Commission, that have expressed an interest in participating in the development of one or more standards a copy of the FEDERAL REGISTER notice of proceeding as well as the notice of the acceptance of any offers.

(f) All persons submitting offers to develop standards whose offers have not been accepted will be notified in writing by the Commission. If requested by an offeror, the reasons for the nonacceptance of the offer will be supplied.

(g) If the Commission does not accept an offer to develop a proposed consumer product safety standard, the Commission may independently develop a proposed consumer product safety standard. Notice of this decision will be published in the FEDERAL REGISTER.

(h) In any case in which the sole offeror whose offer is accepted is a manufacturer, distributor, or retailer of the consumer product proposed to be regulated by the consumer product safety standard, the Commission may independently proceed to develop a proposed standard during the development period.

§ 1105.7 Development of recommended consumer product safety standards.

(a) The offeror shall comply with all Commission requirements for the development of standards and with all terms of the acceptance and shall cooperate with Commission liaison personnel assigned to monitor the development of the standard.

(b) In developing a standard, the offeror shall use the method agreed upon for interested persons to participate in the development of the standard and shall fully consider all of the suggestions and contributions of the respective participants. The offeror, after considering all suggestions and contributions, shall draft a standard. The draft standard shall be sent to all participants for their review and concurrence or nonconcurrence. Unanimity among all participants shall not be a prerequisite to the submission by the offeror to the Commission of a standard which, in the offeror's judgment, optimally meets the terms of the offer accepted by the Commission.

(c) The offeror shall maintain complete written records of the development of the standard. These records shall include:

(1) The names, addresses, and titles, if any, of all persons contacting the offeror for the purpose of participating in the development of the standard;

(2) All written comments and any other information submitted by any person in connection with the development of the standard, including the dissenting views of participants and comments and information with respect to the need for the standard;

(3) A discussion describing the bases for resolution by the offeror of all of the substantive issues raised during the development of the standard;

(4) A statement of the economic and environmental factors considered during the development of the standard; and

(5) Records of all other matters relevant to the development and evaluation of the standard. These records shall be submitted to the Commission at the termination of the development period. The Commission will make these records available for public inspection and will supply copies upon request, subject to the provisions of the Freedom of Information Act (5 U.S.C. 552), section 6 of the Consumer Product Safety Act (15 U.S.C. 2055), and regulations relating to the availability of Commission records.

(d) The offeror shall provide monthly progress reports containing a summary of progress made, the work under way, the significant problems encountered,

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and the work remaining to be accomplished. These reports shall be transmitted to the Technical Analysis Division, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C., 20207. The offeror shall cooperate fully with the Commission and permit the inspection of its facilities and developmental activities by duly authorized representatives of the Commission for the purpose of determining whether satisfactory progress is being made toward the completion of the standard. The offeror shall be considered to be making satisfactory progress if the Commission concludes that the standard may reasonably be expected to be completed in accordance with the provisions of the accepted offer by the end of the development period.

(e) (1) If it appears to the Commission that an offeror is not making satisfactory progress, the offeror will be given the opportunity (i) to demonstrate ability and willingness to complete the development of the standard by the end of the development period, or (ii) to justify the need for an extension of the development period.

(2) The Commission, after consideration and due notice, may (i) terminate the offeror's role in the development process and require the offeror to submit to the Commission all information, records, and documents which pertain to the development of the standard, or (ii) extend the development period and publish notice of such extension in the FEDERAL REGISTER, with the justification for the extension. If the Commission terminates the offeror's role in the development process, the offeror shall remit all funds contributed by the Commission which have not been expended.

(f) If the Commission determines that no offeror whose offer was accepted is making satisfactory progress, the Commission may terminate the development proceeding, publish a notice of the decision to terminate in the FEDERAL REGISTER, and independently develop a proposed standard.

(g) The offeror shall submit with the standard, test instruments or devices constructed or acquired to perform compliance tests if the Commission determines that these instruments or devices are necessary for the evaluation of the standard. In such a case, the instrument or device shall be sold to the Commission at the offeror's cost or loaned to the Commission for the evaluation of the standard. Further, the offeror shall in any circumstance submit detailed descriptions or plans and specifications for the acquisition or construction of these instruments or devices.

§ 1105.8 Recommended consumer product safety standards developed by offerors.

(a) Recommended standards must be suitable for promulgation under the act. To be considered suitable, a standard shall be written in a manner appropriate for use as a Federal mandatory standard as specified in the format established by the Commission. The format for each standard will be made available by the Commission on or before the acceptance of an offer. Recommended standards shall be supported by test data or other documents or materials which the Commission requires. Recommended standards shall also, if the Commission considers it to be appropriate, contain suitable test methods and reasonable testing programs. Test methods for the measurement of compliance with proposed standards shall be reasonably capable of being performed by the Commission and by persons subject to the act or by private testing facilities. Testing programs shall, if the Commission considers it to be appropriate and so states in the FEDERAL REGISTER notice of the acceptance of the offer, include sampling plans.

(b) Recommended standards shall consist of:

(1) Requirements as to performance, composition, contents, design, construction, finish, or packaging; or

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions or requirements respecting the form of warnings or instructions; or

(3) Any combination of (1) and (2).

(c) A recommended standard shall be supported by:

(1) An analysis demonstrating that each of the requirements is reasonably necessary to prevent or reduce the unreasonable risks of injury identified in the notice of proceeding; and

(2) An analysis explaining why the recommended standard is in the public interest.

(d) Each requirement of a standard, other than requirements relating to labeling, warnings, or instructions, shall whenever feasible be expressed in terms of performance. Whenever the requirements are not expressed in terms of performance, an explanation shall be provided to support the use of the nonperformance requirements.

(e) The offeror shall, in submitting a recommended standard, include data and information to demonstrate that compliance with the standard would be technologically practicable. The offeror shall also submit, to the extent that it can reasonably be obtained by the offeror, data and information on the potential economic effect of the standard, including the potential effect on small business and international trade. The economic information should include data indicating (1) the types and classes as well as the approximate number of consumer products which would be subject to the standard; (2) the probable effect of the standard on the utility, cost, and availability of the products; (3) any potential adverse effects of the standard on competition; and (4) the standard's potential disruption or dislocation, if any, of manufacturing and other commercial practices. Further, the offeror shall include information, to the extent that it can reasonably be obtained by the offeror, concerning the potential environmental impact of the standard.

§ 1105.9 Contributions to the offeror's cost.

(a) The Commission may, in accepting an offer, agree to contribute to the offeror's cost in developing a proposed consumer product safety standard in any case in which the Commission determines:

(1) That a contribution is likely to result in a more satisfactory standard than would be developed without a contribution; and

(2) That the offeror is financially responsible.

(b) In order to be eligible to receive a financial contribution, the offeror, in addition to furnishing the information required under § 1105.5, must submit:

(1) A request for a specific contribution with an explanation as to why the contribution is likely to result in a more satisfactory standard than would be developed without a contribution;

(2) A statement asserting that the offeror will employ an adequate accounting system (one in accordance with generally accepted accounting principles) to record standard development costs and expenditures; and

(3) A request for an advance payment of funds if necessary to enable the offeror to meet operating expenses during the development period.

(c) The Commission, in publishing the terms of the accepted offer, shall include a statement of the purpose and amount of the Commission's contribution.

(d) The offeror whose offer has been accepted shall, for a period of three years after final payment under the development agreement, maintain records which fully disclose the total cost and expenditures for the project and such other records which will facilitate an effective audit. The Commission and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records relevant to the development of the standard.

(e) The Commission, based upon a finding after an informal hearing that all or part of the Commission's contribution has been or is being misused, may seek reimbursement of that part of the contribution which has been or is being misused and shall have the right, after providing due notice, to terminate the development agreement and to discontinue payments towards the contribution. For the purpose of this Part 1105, "misuse of a contribution" means a use other than that agreed upon in writing by the parties.

(f) The items of cost toward which the Commission may contribute are those allowable direct and indirect costs allocable to the development project (as set forth in the applicable subparts of Part 1–15 of the Federal Procurement Regulations (41 CFR Part 1–15)). The Commission may contribute to the costs of assuring adequate consumer participation in the development of the standard.

(g) The items of cost toward which the Commission will not contribute include:

(1) Costs for the acquisition of any interest in land or buildings; however, the Commission may contribute toward the lease or rental of land or buildings;

(2) Costs for the payment of salaries in excess of the salaries paid by the offeror to individuals at the time immediately preceding the offer, except for longevity and other routine increases which may accrue during the development of the standard;

(3) Costs for the payment of items in excess of the offeror's actual cost;

(4) Costs for items having a usable lifespan in excess of the development period, except that a contribution may be made toward the proportionate value of the item during the development period determined by subtracting the item's estimated market value at the termination of the development period from the actual acquisition cost (the cost of items purchased by the Commission under sec. 1105.7(g) cannot be included in the Commission's contribution); and

(5) Costs determined not to be allowable under generally accepted accounting principles and practices or Part 1–15, Federal Procurement Regulations (41 CFR Part 1–15).

(h) Offerors who have received contributions from the Commission shall submit to the Commission a full accounting of these contributions and shall remit all amounts not expended within 60 calendar days after the offeror submits the standard.

Since the regulations promulgated above, 16 CFR Part 1105, are procedural regulations and since their becoming effective will provide for commencement of proceedings to establish safety standards, delayed effective date is deemed inappropriate in this instance.

Effective date. The regulations promulgated above, 16 CFR Part 1105, shall become effective May 7, 1974.

(Sec. 7, Pub. Law 92–573, 86 Stat. 1212–15; 15 U.S.C. 2056)

Dated: May 1, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74–10731 Filed 5–6–74;8:45 am]

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WEDNESDAY, MAY 8, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 90

Pages 16219–16432

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federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Food Labeling for Certain Soft Drinks; Exemption When Trademark Serves as Statement of Identity; Effective Date Confirmation

An order was published in the FEDERAL REGISTER of January 30, 1974 (39 FR 3821), amending the food labeling regulations (21 CFR 1.1c(a)(5)) to exempt certain soft drinks from the requirements of 21 CFR 1.8(d) which requires that the statement of identity shall be in lines generally parallel to the base on which the package rests as it is designed to be displayed.

Pursuant to provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299–1300; 15 U.S.C. 1453, 1455) and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055–1056, as amended; 21 U.S.C. 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the subject order. Accordingly, the amendment promulgated by that order became effective April 1, 1974.

Dated: May 1, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–10555 Filed 5–7–74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RELATED PRODUCTS

Order To Provide Optional Ingredient and To Require Label Declaration of All Optional Ingredients; Effective Date Confirmation and Extension

In the FEDERAL REGISTER of November 28, 1973 (38 FR 32787), the Commissioner of Food and Drugs issued an order amending the standards of identity for (a) flour, white flour, wheat flour, plain flour (21 CFR 15.1) and whole wheat flour, graham flour, entire wheat flour (21 CFR 15.80) to permit the optional addition of harmless preparations of α-amylase obtained from Aspergillus oryzae alone or in a suitable harmless carrier and (b) flour, white flour, wheat flour, plain flour (21 CFR 15.1), self-rising flour, self-rising white flour, self-rising wheat flour (21 CFR 15.50), whole wheat flour, graham flour, entire wheat flour (21 CFR 15.80), and enriched farina (21 CFR 15.140) to require label declaration of all optional ingredients.

The order provided that any person who would be adversely affected could at any time on or before December 28, 1973, file written objections to and also request a hearing on the order amending the regulation.

No objections to the order or requests for a hearing were filed; however, one letter was received from a flour milling company which pointed out that a labeling problem would be caused by the varying effective dates between this regulation and those pertaining to enriched flours and bread as well as those promulgated by certain other recent orders. The letter requested a uniform effective date of January 1, 1975.

By an order published in the FEDERAL REGISTER of February 11, 1974 (39 FR 5188), adjustments were made in the order of October 15, 1973 (38 FR 28558), which amended the standards for enriched flours and bread, to extend the date for full compliance from April 15, 1974, to January 1, 1975.

For the sake of uniformity and in response to the request, the requirement of the order of November 28, 1973, that all labeling ordered after April 15, 1974, be in compliance is being rescinded.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that no objections were filed to the order of November 28, 1973, and the effective date for full compliance with the regulations therein is extended to January 1, 1975.

Dated: May 1, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–10556 Filed 5–7–74;8:45 am]

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Cold-Pack Cheese Labeling; Confirmation of Effective Date of Order Providing for Alternate Name

An order was published in the FEDERAL REGISTER of February 1, 1974 (39 FR 4076), amending the standard of identity for cold-pack cheese (21 CFR 19.785) to delete the provision for the name "Comminuted _____ cheese" and to provide for the name "_____ cold-pack cheese" as an alternative to the other presently provided for names "Cold-pack _____ cheese" and "_____ club cheese," the blanks in each case being filled in with the name or names of cheese varieties used in the food, in order of predominance.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the subject order. Accordingly, the amendments promulgated by that order became effective April 2, 1974.

Dated: May 1, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–10557 Filed 5–7–74;8:45 am]

SUBCHAPTER J—RADIOLOGICAL HEALTH

PART 1002—RECORDS AND REPORTS

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

Product Identification and Initial Reports

On September 17, 1973, the Commissioner of Food and Drugs published a notice of proposed rulemaking in the FEDERAL REGISTER (38 FR 26007) to amend § 278.202 (21 CFR 278.202) of Subpart C and § 278.710 (21 CFR 278.710) of Subpart H in 21 CFR Part 278. Pursuant to recodification of Part 278 published in the FEDERAL REGISTER of October 15, 1973 (38 FR 28624), these sections were transferred to Subchapter J, and are now § 1010.3 (21 CFR 1010.3) of Part 1010 and § 1002.10 (21 CFR 1002.10) of Part 1002. The proposed amendment would have discontinued the requirement that a manufacturer submit to the Secretary of Health, Education, and Welfare, the key to the code for determining the date of manufacture of an electronic product and instead require that this information be placed on the product identification tag or label affixed to the product. Interested persons were given 60 days in which to file written comments regarding the proposal.

This proposal was based, in part, upon requests to the Food and Drug Administration from members of the public for the key coded information on product labels. It was determined that the key to this coded information on labels of electronic products subject to performance

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standards does not constitute information exempt from mandatory disclosure upon request under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

On March 27, 1972, one hundred and forty-two (142) manufacturers of electronic products and industry associations, both domestic and foreign, were advised by letter of the intent to release to the public, upon request, coded information concerning the date of manufacture. All were given an opportunity to justify why such information should not be released. Twenty-six (26) manufacturers responded and 13 did not object to the disclosures. The 13 that objected stated that products are often manufactured far in advance of sale causing people to refrain from buying such merchandise if they are able to determine the date of manufacture.

It was the opinion of the Food and Drug Administration at the time this proposal was published in the FEDERAL REGISTER of September 17, 1973, that manufacturers objecting to the disclosure of information concerning the date of manufacture had not adequately substantiated their claims that such disclosure would have an adverse impact on sales.

Furthermore, permitting manufacturers to independently code the date of manufacture on labels, while at the same time allowing disclosure of this information to the public, seems an unnecessary burden upon those concerned. Also, there is a definite need for the Food and Drug Administration representative, who is field-testing an electronic product subject to a standard, to know the date of manufacture in order to ascertain the applicable provisions of a performance standard for that unit. Applicable provisions change as amendments to standards are promulgated.

Twelve responses were received on the proposal. Only one, from a state health department, voiced support. It stated that it would be easier to determine the applicable provisions of a performance standard when a product is field tested. The regulation, as revised herein, will not alter this feature.

Eleven responses in opposition to the proposal were received from electronic product manufacturers and trade associations. Four major issues were expressed in these responses. The issues and the Commissioner's conclusions are summarized as follows:

1. One comment contended that information concerning the keys to the code of the date of manufacture is exempt from disclosure under the Freedom of Information Act.

The Commissioner concludes that there is no reason to alter the interpretation that such information must be made available for public disclosure.

2. Eleven of the manufacturers stated that a given model of an electronic product is occasionally manufactured up to several years prior to sale to a consumer in order to eliminate frequent retooling; however, if the date of manufacture is clearly labeled on the product, the consumer is likely to regard the date as the date upon which the useful life of that product terminates, as in the case of photographic film. As electronic products subject to regulations issued under the Radiation Control for Health and Safety Act do not deteriorate appreciably when not in use, manufacturers urged that they be allowed to continue to code the date of manufacture. Seven letters stated that a clear identification of the date of manufacture could threaten the industry with incalculable financial loss without providing added protection of public health and safety. In support of this position, one manufacturing group presented the testimony of their public relations and marketing experts.

The Commissioner has concluded that coding the date of manufacture is not acceptable for the reasons previously cited, and because the date of manufacture is necessary to interested persons, including consumers, to determine the applicable provisions of a radiation safety performance standard to that product.

3. One comment stated that identification placed on the product to show the serial and model numbers is controlled by a computer to assure traceability in recordkeeping, and that it is difficult to sequentially date-code serial plates and retain necessary flexibility of scheduling. In response to the comment, it is noted that neither the current requirements nor the proposed amendments require that the month, year, and place of manufacture be placed on the label bearing the serial and model numbers, nor is it required that the date of manufacture be part of the serial number.

4. Two comments suggested that all manufacturers identify the month and year of manufacture by using a uniform and standard code such as the coding system of the Electronic Industries Association. Also, it was noted that the proposal did not clearly define what constitutes a code, and that writing out the total date is not conducive to computerized billing systems and data storage. It was suggested that the Food and Drug Administration consider a four-digit system to identify the date of manufacture.

As previously discussed, the Commissioner concludes that the manufacturer of electronic products subject to the standards issued under the Radiation Control for Health and Safety Act shall provide the month and year of manufacture in a form which is legible, and clearly presented without benefit of a code. This date, as set forth on the label by the manufacturer, in conjunction with the certification label provided as required by § 1010.4, would permit a determination of the radiation safety performance requirements issued under the act which are effective and applicable to the product.

Pursuant to § 6.1(b) (21 CFR 6.1(b)) of these regulations, the possible environmental consequences of this regulatory amendment have been carefully considered, and it has been determined that the action will have neither a marginal nor a significant impact upon the environment. Based upon this determination, it has been concluded that an environmental impact statement pursuant to sec. 102(2)(c) of the National Environmental Policy Act is not required. A copy of the environmental analysis report, as well as pertinent background data supporting the Commissioner's conclusions with respect to this order are available for public review in the office of the Hearing Clerk, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852.

It has been determined that amendment to § 278.710 and § 278.202 (now § 1002.10 and § 1010.3) is necessary and therefore, pursuant to the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 358 and 360A, 82 Stat. 1177–1179 and 1182–1184; 42 U.S.C. 263f, 263i) and under authority delegated to him (21 CFR 2.120), the Commissioner amends Parts 1002 and 1010 of Subchapter J as follows:

1. In part 1002, paragraph (b) of § 1002.10 is revised to read as follows:

§ 1002.10 Initial reports.

* * * * *

(b) Identify each model of the listed product together with sufficient information concerning the manufacturer's code or other system of labeling sufficient to enable the Secretary to determine the place of manufacture.

* * * * *

2. In Part 1010, paragraph (a)(2) of §1010.3 is revised to read as follows:

§ 1010.3 Identification.

(a) * * *

(2) The place and month and year of manufacture: (i) The place of manufacture may be expressed in code provided the manufacturer has previously supplied the Secretary with the key to such code. (ii) The month and year of manufacture shall be provided clearly and legibly, without abbreviation, and with the year shown as a four-digit number as follows:

Manufactured: [*Insert month and year of manufacture.*]

* * * * *

Effective date. This order shall become effective January 1, 1975.

(Secs. 358 and 360A, 82 Stat. 1177–1179 and 1182–1184 (42 U.S.C. 263f, 263i).)

Dated: May 2, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–10558 Filed 5–7–74;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Treasury Department

Section 213.3305 is amended to reflect the transfer of the functions of the Office of the Treasurer of the United States to the Office of the Secretary and placement of the affected Schedule C position under paragraph (a).

Effective May 8, 1974, subparagraph (53) is added to paragraph (a) of § 213.3305 as set out below, and paragraph (e) is revoked.

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.* * * *

(53) One Confidential Administrative Assistant to the Treasurer of the United States.

* * * * *

(e) [Revoked]

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10531 Filed 5–7–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to reflect the following title change from: one Special Assistant for All-Volunteer Force Actions to the Assistant Secretary of Defense (Manpower and Reserve Affairs) to one Special Assistant for Accession Policy to the Assistant Secretary of Defense (Manpower and Reserve Affairs).

Effective May 8, 1974, § 213.3306(a)(53) is amended as set out below.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(53) One Special Assistant for Accession Policy to the Assistant Secretary of Defense (Manpower and Reserve Affairs).

* * * * *

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10527 Filed 5–7–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense; Correction

In the FEDERAL REGISTER of March 6, 1974 (FR Doc. 74–5137) on page 8607, subparagraphs (53), (54) and (55) were added to § 213.3306(a). The correct designations for these subparagraphs are (58), (59) and (60).

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10526 Filed 5–7–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that one position of Confidential Assistant to the Assistant Secretary for International Affairs and Commodity Programs is excepted under Schedule C.

Effective May 8, 1974, § 213.3313(a)(12) is added as set out below.

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(12) One Confidential Assistant to the Assistant Secretary for International Affairs and Commodity Programs.

* * * * *

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10526 Filed 5–7–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to reflect the following title change from: One Special Assistant to the Counselor to the Secretary to One Executive Assistant to the Counselor to the Secretary.

Effective May 8, 1974, § 213.3315(a)(32) is amended as set out below.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(32) One Executive Assistant to the Counselor to the Secretary.

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10530 Filed 5–7–74;8:45 am]

PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3337 is amended to show that one position of Special Assistant to the Administrator and one position of Confidential Assistant to the Administrator are excepted under Schedule C.

Effective May 8, 1974, § 213.3337(a)(6) is amended and § 213.3337(a)(17) is added as set out below.

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* * * *

(6) Eight Confidential Assistants to the Administrator.

* * * * *

(17) One Special Assistant to the Administrator.

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10529 Filed 5–7–74;8:45 am]

PART 213—EXCEPTED SERVICE

ACTION

Section 213.3359 is amended to show that one position of Special Assistant to the Associate Director for Policy and Program Development, Office of the Associate Director for Policy and Program Development, is excepted under Schedule C.

Effective May 8, 1974, § 213.3359(o) is added as set out below.

§ 213.3359 ACTION.

* * * * *

(o) Special Assistant to the Associate Director for Policy and Program Development, Office of Policy and Program Development.

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10525 Filed 5–7–74;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

Delegation of Authority To Act on Certain Applications

1. Section 303.11 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 303.11) provides for the delegation of authority from the Corporation's Board of Directors (hereinafter the "Board") to the Director of the Corporation's Division of Bank Supervision and, where confirmed in writing by the Director of the Division of Bank Supervision, to the Corporation's Regional Directors, to act on certain applications and requests from insured State nonmember banks. Section 303.12 of the rules and regulations of the Federal Deposit Insurance Corporation places certain limitations on such delegated authority by precluding delegation where (1) a condition other than one agreed to in writing by the bank, or other than a time limitation, is to be prescribed in approving an application, (2) all necessary final approvals have not been obtained from the appropriate State authority, or (3) in the case of branch applications, certain requisites have not been met prior to approval (12 CFR 303.12 (a) and (c)).

The Board has decided to amend § 303.11 so as to provide for additional delegated authority in certain instances. Under the amendments, the Director of the Division of Bank Supervision is delegated the authority to approve but not to deny:

(1) Applications by State member banks to retain their status as insured banks upon withdrawal from membership in the Federal Reserve System;

(2) applications for approval of "phantom" bank mergers; and

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(3) applications for deposit insurance filed by new banks which are formed in connection with "phantom" bank mergers.

It is the understanding of the Board that authority to approve applications by State member banks under (1) above will be delegated to the Regional Directors by written confirmation on the part of the Director of the Division of Bank Supervision so that they can be handled, wherever possible, at the Regional Office level.

Approval of the above applications is usually a routine matter and is thus a proper subject for delegation to the Director of the Division of Bank Supervision. The amendments serve the dual objectives of reducing demands on the Board's time and of promoting and maintaining processing efficiency.

The Board has also decided to amend § 303.12(c) so as to give the Director of the Division of Bank Supervision more flexibility in applying certain of the requisites which must be satisfied before an application to establish and operate a new branch can be approved. The amendments substitute a "reasonableness" test for minimum percentage requirements with respect to:

(1) A commercial bank applicant's adjusted capital and reserves, including written commitments for additional capital funds, and

(2) an applicant's aggregate fixed asset investment, including its investment in the proposed branch.

In the case of adjusted capital and reserves of commercial banks, the Board has not amended the present requirement for branch applications which are approved at the Regional Office level. Consequently, the Regional Directors are delegated authority to approve the establishment and operation of new commercial bank branches only where the following requisite, among others, has been satisfied: The applicant's adjusted capital and reserves, including written commitments for additional capital funds, constitute at least 7.5 percent of its adjusted gross assets. However, the amendments do authorize the Director of the Division of Bank Supervision to approve the application of commercial banks with adjusted capital and reserves, including written commitments for additional capital funds, below 7.5 percent of adjusted gross assets where he is satisfied as to the capital adequacy of the applicant when viewed in light of all the circumstances which bear on such determination.

In addition, with respect to an applicant's fixed asset investment, including its investment in the proposed branch, the amendments make it clear that both direct and indirect investments will be considered in determining whether such investments are "reasonable" in relation to the applicant's earnings capacity and other pertinent bases of consideration.

Finally, the Board has decided to amend § 303.13 of the rules and regulations of the Federal Deposit Insurance Corporation which provides for other delegations of authority. The amendment delegates authority to the Director of the Division of Bank Supervision and, where confirmed in writing by the Director, to the Regional Directors, to furnish reports to the Board of Governors of the Federal Reserve System and the Comptroller of the Currency on the competitive factors involved in "phantom" bank mergers required to be approved by one or the other of those agencies.

2. Section 303.11 is amended by adding to paragraph (a) three new subparagraphs (8), (9), and (10) to read as follows:

§ 303.11 Delegation of authority to act on certain applications.

* * * * * *

(a) * * *

(8) Applications for deposit insurance filed by State and members banks upon withdrawal from membership in the Federal Reserve System; *Provided, however,* That this authority shall extend to the approval but not to the denial of such applications.

(9) Applications for "phantom" bank mergers; [11a] *Provided, however,* That this authority shall extend to the approval but not to the denial of such applications.

(10) Applications for deposit insurance filed by proposed State nonmember banks which are formed in connection with a "phantom" bank merger; *Provided, however,* That this authority shall extend to the approval but not to the denial of such applications.

3. Section 303.12 is amended by revising subparagraphs (5) and (6) of paragraph (c) and adding thereto a new subparagraph (5)(a) to read as follows:

§ 303.12 Applications where authority to act is not delegated.

* * * * * *

(c) * * *

(5) In the case of a mutual or guaranty savings bank, the applicant's adjusted [7] capital and reserves, including written commitments for additional capital funds, constitute at least 6 percent of its adjusted [7] gross assets.

(5a) In the case of a commercial bank, the applicant's adjusted [7] capital and reserves, including written commitments for additional capital funds, are determined to be adequate relative to its adjusted [7] gross assets; *Provided, however,* That the authority to make such a determination is not delegated to any Regional Director where the applicant's adjusted [7] capital and reserves, including written commitments for additional capital funds, constitute less than 7.5 percent of its adjusted [7] gross assets.

(6) The applicant's aggregate direct and indirect fixed asset investment, including its direct and indirect investment in the proposed branch,[8] is determined to be reasonable relative to its earnings capacity and other pertinent bases of consideration.

4. Section 303.13 is amended by adding a new paragraph (f) to read as follows:

§ 303.13 Other delegations of authority.

* * * * * *

(f) *Competitive factor reports on "phantom" bank mergers.* The Board of Directors has delegated to the Director of the Division of Bank Supervision, or, where confirmed in writing by the Director of the Division of Bank Supervision, to the Regional Director of the Region in which the applicant bank [11a] is located, the authority on behalf of the Board of Directors to furnish reports to the Board of Governors of the Federal Reserve System or the Comptroller of the Currency on the competitive factors involved in any "phantom" bank merger [11b] required to be approved by one or the other of those agencies.

(Sec. 5, 8(o), 9, 18(c); 64 Stat. 876, 879–80, 881–82, 80 Stat. 7–9; 12 U.S.C. 1815, 1818(o), 1819, 1828(c))

5. The rulemaking procedures set forth in the Administrative Procedure Act (5 U.S.C. §§ 553(b) and (d)) and the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 302.1, 302.2, 302.5) with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments because they constitute rules of internal corporation practice and procedure and are not substantive in nature.

6. *Effective date.* These amendments shall become effective May 8, 1974.

By order of the Board of Directors, May 2, 1974.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.74–10567 Filed 5–7–74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73–241 P]

PART 82—BOUNDARY LINES OF INLAND WATERS

Strait of Juan de Fuca, Haro Strait, and Strait of Georgia; Correction

In FR Doc. 74–7975 appearing at pages 12767–68 in the issue for Monday, April 8, 1974, the comment deadline for public comments should read, "All comments received on or before May 26, 1974, will be fully considered before final action is taken on this proposal."

[11a] As used in this paragraph (f), the term "applicant bank" means the bank which is applying for merger approval either to the Board of Governors of the Federal Reserve System or to the Comptroller of the Currency.

[11b] The term "'phantom' bank merger" is defined in footnote 2a of this Part 303.

[7] Based on classifications made at the last examination of the applicant.

[8] On a consolidated basis.

Dated: May 3, 1974.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.74–10603 Filed 5–7–74;8:45 am]

[CGD 73–12R]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Root River, Wis., Correction

The following correction is made to the amendment regarding the operation of the State Street bridge in Racine, Wisconsin, published in the FEDERAL REGISTER on April 22, 1974 at 39 FR 14201:

1. On line 6 of § 117.660(a)(2) the time is corrected to read, "12 noon to 12:15 p.m."

Effective date. This correction is effective May 8, 1974.

Dated: May 3, 1974.

W. M. BENKERT,
Chief, Office of Marine Environment and Systems.

[FD Doc.74–10604 Filed 5–7–74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Bowdoin National Wildlife Refuge

The following special regulation is issued and is effective May 8, 1974.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MONTANA

BOWDOIN NATIONAL WILDLIFE REFUGE

Sport fishing by rod, reel and pole, bow and arrow and the capturing of bait fish (minnows) by seine and minnow trap on Bowdoin National Wildlife Refuge, Phillips County, Montana is permitted on a year-around basis, but only on areas designated by signs as open to fishing. These open areas are delineated on maps available at refuge headquarters, 7 miles east of Malta, Montana and from the Regional Director, Bureau of Sport Fisheries and Wildlife, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in 50 CFR Part 33 and are effective through September 30, 1974.

JOHN R. FOSTER,
Refuge Manager, Bowdoin National Wildlife Refuge.

MAY 1, 1974.

[FR Doc.74–10515 Filed 5–7–74;8:45 am]

PART 33—SPORT FISHING

UL Bend National Wildlife Refuge

The following special regulation is issued and is effective May 8, 1974.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MONTANA

UL BEND NATIONAL WILDLIFE REFUGE

Sport fishing with hook and line and bow and arrow on UL Bend National Wildlife Refuge, Phillips County, Montana is permitted on a year-around basis on the entire refuge. Maps are available from refuge headquarters, 7 miles east of Malta, Montana and from the Regional Director, Bureau of Sport Fisheries and Wildlife, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in 50 CFR Part 33 and are effective through September 30, 1974.

JOHN R. FOSTER,
Refuge Manager, UL Bend National Wildlife Refuge.

MAY 1, 1974.

[FR Doc.74–10514 Filed 5–7–74;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Grapefruit Reg. 74, Amdt. 6]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Size Regulation

This amendment lowers to $3\frac{5}{16}$ inches the minimum diameter requirement applicable to the handling of pink seedless grapefruit grown in the production area in Florida. The specification of such lower minimum size for Florida pink seedless grapefruit is necessary to satisfy the current and prospective demand for such grapefruit. The amended regulation recognizes the size distribution of much of the pink seedless grapefruit remaining for fresh shipment.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. The lower minimum diameter requirement for fresh shipments of pink seedless grapefruit is consistent with the available supply of and current and prospective demand for such smaller sizes of grapefruit by fresh market outlets.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of pink seedless grapefruit grown in Florida.

Order. In § 905.551 (Grapefruit Regulation 74, 38 FR 25665, 28063, 31414, 34454, 34986; 39 FR 6605) the provisions of paragraph (b)(4) are amended to read as follows:

§ 905.551 Grapefruit Regulation 74.

* * * * * *

(b) * * *

(4) Any seedless grapefruit, other than pink seedless grapefruit, grown in the production area, which are smaller than $3\frac{9}{16}$ inches in diameter, or any pink seedless grapefruit which are smaller than $3\frac{5}{16}$ inches in diameter, except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: May 2, 1974, to become effective May 6, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10534 Filed 5–7–74;8:45 am]

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CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket Nos. AO-360-A6 etc.]

MILK IN MINNESOTA-NORTH DAKOTA AND CERTAIN OTHER MARKETING AREAS

Order Amending Orders

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the respective marketing area.

Upon the basis of the evidencce introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feed, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of this order amending each of the specified orders, except North Central Iowa, is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas; and

(4) The issuance of the order amending the North Central Iowa order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended and as hereby further amended.

The order set forth herein for the Des Moines, Iowa, marketing area incorporates amendments issued April 26, 1974 for this order that resulted from a separate proceeding.

PART 1060—MILK IN MINNESOTA-NORTH DAKOTA MARKETING AREA

AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulatory Handling

GENERAL PROVISIONS

Sec.
1060.1 General provisions.

DEFINITIONS

1060.2 Minnesota-North Dakota marketing area.
1060.3 Route disposition.
1060.4 Plant.
1060.5 Distributing plant.
1060.6 Supply plant.
1060.7 Pool plant.
1060.8 Nonpool plant.
1060.9 Handler.
1060.10 Producer-handler.
1060.11 [Reserved]
1060.12 Producer.
1060.13 Producer milk.
1060.14 Other source milk.
1060.15 Fluid milk product.
1060.16 Fluid cream product.
1060.17 Filled milk.
1060.18 Cooperative association.

HANDLER REPORTS

1060.30 Reports of receipts and utilization.
1060.31 Payroll reports.
1060.32 Other reports.

CLASSIFICATION OF MILK

1060.40 Classes of utilization.
1060.41 Shrinkage.
1060.42 Classification of transfers and diversions.
1060.43 General classification rules.
1060.44 Classification of producer milk.
1060.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1060.50 Class prices.
1060.51 Basic formula price.
1060.52 Plant location adjustments for handlers.
1060.53 Announcement of class prices.
1060.54 Equivalent price.

UNIFORM PRICE

1060.60 Handler's value of milk for computing uniform price.
1060.61 Computation of uniform price.
1060.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1060.70 Producer-settlement fund.
1060.71 Payments to the producer-settlement fund.
1060.72 Payments from the producer-settlement fund.
1060.73 Payments to producers and to cooperative associations.
1060.74 Butterfat differential.
1060.75 Plant location adjustments for producers and on nonpool milk.
1060.76 Payments by handler operating a partially regulated distributing plant.
1060.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1060.85 Assessment for order administration.
1060.86 Deduction for marketing services.

AUTHORITY. Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1060.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1060.2 Minnesota-North Dakota marketing area.

"Minnesota-North Dakota marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of the counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

MINNESOTA

Becker.	Marshall.
Beltrami.	Norman.
Big Stone.	Otter Tail.
Clay.	Pennington.
Clearwater.	Polk.
Douglas.	Red Lake.
Grant.	Roseau.
Hubbard.	Stevens.
Kittson.	Traverse.
Lake of the Woods.	Wadena.
Mahnomen.	Wilkin.

NORTH DAKOTA

Barnes.	Pembina.
Cass.	Ramsey.
Cavalier.	Ransom.
Dickey.	Richland.
Grand Forks.	Sargent.
Griggs.	Steele.
La Moure.	Traill.
Nelson.	Walsh.

SOUTH DAKOTA

Grant.	Roberts.
Marshall.	

§ 1060.3 Route disposition.

"Route disposition" means a delivery to a wholesale or retail outlet either directly or through a distributing facility such as a distribution point, a plant store, or a vendor of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a nonpool plant.

§ 1060.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, and/or packaged. Separate facilities used only as a reload point for transferring bulk milk or filled milk from one tank truck to another shall not be a plant under this definition. Facilities used only as a distribution point for storing fluid milk products in transit on routes shall not be a plant under this definition.

§ 1060.5 Distributing plant.

"Distributing plant" means a plant that is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which there is route disposition during the month.

§ 1060.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product that is acceptable to the appropriate health authority for distribution in the marketing area as Grade A is moved during the month to a distributing plant.

§ 1060.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is disposed:

(1) As route disposition, except filled milk, in the marketing area not less than 15 percent of Grade A milk receipts at such plant; and

(2) As route disposition, except filled milk, or by transfer to another plant and classified as Class I pursuant to § 1060.42, not less than the applicable percentage of such plant's receipts of Grade A milk:

(i) March through June, 20 percent;

(ii) July through February, 25 percent: *Provided,* That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the applicable percentage requirement of this subparagraph if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested.

(b) A supply plant from which not less than 25 percent of its producer receipts at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants qualified pursuant to paragraph (a) of this section: *Provided,* That a supply plant which qualified pursuant to this paragraph in each of the immediately preceding months of August through November shall be a pool plant for the months of March through June unless the plant operator requests the market administrator in writing that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) The term "pool plant" shall not apply to the following plants:

(1) A distributing plant from which the Secretary determines a greater portion of the route disposition, except filled milk, is made in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided,* That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(2) A distributing plant which meets the requirements set forth in paragraph (a) of this section which also meets the requirements of another marketing order on the basis of its route disposition in such other marketing area and from which the Secretary determines a greater quantity of route disposition, except filled milk, is made during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other marketing order;

(3) A supply plant from which the Secretary determines a greater proportion of its Grade A receipts, except filled milk, is shipped during the month to plants which are regulated by another plants pursuant to the Act if such shipments qualify it as a pool plant under such other order;

(4) A producer-handler plant;

(5) A governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities. Such an institution shall be exempt from all the provisions of this part; or

(6) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition.

§ 1060.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or a governmentally owned and operated institution described in § 1060.7 (c) (5), from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are shipped during the month to a distributing plant, and is not an other order plant, a producer-handler plant, or a governmentally owned and operated institution described in § 1060.7 (c) (5).

§ 1060.9 Handler.

"Handler" means:

(a) Any person (including any cooperative association) in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account pursuant to § 1060.13;

(c) Any cooperative association with respect to the milk of its member producers which is delivered directly from the farm to the pool plant of another handler in a tank truck owned, operated by, under contract to, or under the control of such cooperative association. The milk for which a cooperative association is a handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person who operates a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution as described in § 1060.7(c) (5);

(e) A producer-handler; and

(f) Any person who operates an other order plant as described in § 1060.7(c) (1), (2), or (3).

§ 1060.10 Producer-handler.

"Producer-handler" means any person who meets all of the following conditions:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no milk during the month from other dairy farmers or fluid milk products from sources other than pool plants and not more than 3,000 pounds of milk and fluid milk products (including the milk equivalent of milk products other than fluid milk products which are reconstituted into fluid milk products) during the month from any source;

(c) Receives no milk products other than fluid milk products from any source for reconstitution into fluid milk products except that received within the limitations set forth in paragraph (b) of this section; and

(d) Such person must provide proof satisfactory to the market administrator that (1) the care and management of all the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person, and (2) the operation of the processing and distributing

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business is the personal enterprise of and at the personal risk of such person.

§ 1060.11 [Reserved]

§ 1060.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (1) received at a pool plant, or (2) diverted as producer milk pursuant to § 1060.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1060.44(a)(8)(iii) and the corresponding step of § 1060.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1060.13 Producer milk.

"Producer milk" means all the skim milk and butterfat contained in Grade A milk of a producer that is:

(a) Received during the month at a pool plant directly from such producer or a handler described in § 1060.9(c);

(b) Received by a handler described in § 1060.9(c) from producers in excess of the quantity delivered to pool plants; or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant or the plant of a governmentally owned and operated institution by the operator of a pool plant or a handler described in § 1060.9(b), if such movement is specifically reported and the conditions of paragraphs (c)(1), (2), and (3) of this section have been met. Such milk shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted in applying §§ 1060.52 and 1060.75:

(1) During March through June a cooperative association handler pursuant to § 1060.9(b) may divert for its account without limit the milk of any member producer. During the months of July through February such handler may divert an aggregate quantity not exceeding 50 percent of the milk of all such producers whose milk has been received at a pool plant(s) for at least 3 days during the month.

(2) During March through June a handler in his capacity as the operator of a pool plant may divert for his account without limit the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section. During the months of July through February such handler may divert an aggregate quantity not exceeding 50 percent of the milk of all such producers whose milk has been received at his pool plant(s) for at least 3 days during the month.

(3) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to paragraphs (c)(1) and (2) of this section, the diverting handler shall specify the dairy farmers whose milk was overdiverted. Only the milk of such dairy farmer(s) which is received at a pool plant during the month shall be producer milk for such month.

§ 1060.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products, specified in § 1060.40(b)(1) from any source other than producers, handlers described in § 1060.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1060.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1060.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1060.40(b)(1)) for which the handler fails to establish a disposition.

§ 1060.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1060.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1060.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1060.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1060.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

§ 1060.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1060.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1060.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1060.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1060.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1060.9(a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1060.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1060.32 Other reports.

In addition to the reports required pursuant to §§ 1060.30 and 1060.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1060.40 Classes of utilization.

Except as provided in § 1060.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1060.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1060.15; and

(6) In shrinkage assigned pursuant to § 1060.41(a) to the receipts specified in § 1060.41(a)(2) and in shrinkage specified in §1060.41 (b) and (c).

§ 1060.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1060.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1060.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1060.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (2), (4), (5), and (6) of this section; and

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(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1060.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1060.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1060.44(a)(12) and the corresponding step of § 1060.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to 1060.44(a)(7) or the corresponding step of § 1060.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1060.44(a)(11) or (12) or the corresponding steps of § 1060.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1060.40.

(c) *Transfers to producer-handlers and to exempt government institutions.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or an exempt government institution defined in § 1060.7(c)(5) shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt government institution defined in § 1060.7(c)(5), or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1060.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1060.43 General classification rules.

In determining the classification of producer milk pursuant to § 1060.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1060.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1060.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1060.40, 1060.41, and 1060.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1060.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1060.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1060.9(a) for each of his pool plants separately and of each handler described in § 1060.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1060.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1060.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1060.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1060.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1060.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt government institution defined in § 1060.7(c)(5);

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

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(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1060.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be substracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and 8(iii) of this section;

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1060.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except at provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted. and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1060.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1060.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1060.44(a) (12) and the corresponding step of § 1060.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1060.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day of each month, report to each cooperative association which so requests the amount

and class utilization of milk received by each handler during the immediately preceding month from such cooperative association in its capacity as a handler pursuant to § 1060.9(c) and directly from members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after allocation pursuant to § 1060.44(a) (1) through (13) and the corresponding steps of § 1060.44(b).

Class Prices

§ 1060.50 Class prices.

Subject to the provisions of § 1060.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.30.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1060.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1060.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant or diverted to a nonpool plant located outside the base zone and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1060.50(a) shall be adjusted 1.2 cents for each 10 road miles or fraction thereof that such plant is located beyond the perimeter of the base zone.

(b) For the purposes of calculating such adjustments:

(1) All distances shall be by shortest hard-surfaced highways and/or all-weather-roads, as determined by the market administrator;

(2) The adjustment pursuant to this section shall be added to the Class I price if the plant is located in North or South Dakota and shall be subtracted from such price if the plant is located in Minnesota; and

(3) Transfers of fluid milk products between pool plants shall be assigned Class I milk disposition at the receiving plant, in excess of the sum of receipts at such plant from producers (including receipts from a handler described in § 1060.9(c)) and the pounds assigned as Class I milk to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to shipping plants priced at the same price, next to plants having a higher price, and then in sequence to plants having a lower price, beginning with the plant at which the highest price would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) The "base zone" shall include that portion of the marketing area in the counties of Clay, Marshall, Norman, Pennington, Polk, and Red Lake, all in the State of Minnesota; and the counties of Cass, Grand Forks, and Traill, all in the State of North Dakota.

§ 1060.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1060.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1060.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1060.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1060.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1060.44(a) (14), and the corresponding step of § 1060.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1060.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1060.44(a) (9) and the corresponding step of § 1060.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1060.44(a) (7) (i) through (iv) and the corresponding step of § 1060.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1060.44(a) (7) (v) and (vi) and the corresponding step of § 1060.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1060.44(a) (11) and the corresponding step of § 1060.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price for the preceding month applicable at the location of the pool plant and the Class III price for the current month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1060.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1060.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1060.60 for all handlers who filed the report prescribed in § 1060.30 for the month and who made the payments pursuant to §§ 1060.71 and 1060.73 for the preceding month;

(b) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1060.75;

(c) Subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1060.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

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(2) The total hundredweight for which a value is computed pursuant to § 1060.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1060.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1060.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section:

(a) Payments made by handlers pursuant to §§ 1060.71, 1060.76, and 1060.77.

(b) Payments due handlers pursuant to §§ 1060.72 and 1060.77: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1060.71, 1060.76, 1060.77, 1060.85, and 1060.86.

§ 1060.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section: *Provided*, That payment made by a cooperative association as a handler shall not relieve the transferee-handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1060.70 through 1060.75, and §§ 1060.77 through 1060.86:

(1) The sum of:

(i) The total value of milk of the handler for such month as determined pursuant to § 1060.60; and

(ii) In the case of a handler described in § 1060.9(c), the minimum amounts due from other handlers pursuant to § 1060.73(c)(1) before adjustments for butterfat content.

(2) The sum of:

(i) The amount required to be paid producers (including payments to producers through cooperative associations) pursuant to § 1060.73 before adjustment for butterfat content, deductions authorized by the producer or cooperative association, or deductions for marketing services pursuant to § 1060.86; and

(ii) The value at the uniform price applicable at the location of the plant(s) from which received of other source milk for which a value is computed pursuant to § 1060.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (a)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1060.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay (subject to the proviso of § 1060.70(b)) to each handler the amount if any by which the amount computed pursuant to § 1060.71(a)(2) exceeds the amount computed pursuant to § 1060.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1060.73 Payments to producers and to cooperative associations.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To each producer for whom payment is not made pursuant to paragraph (b) or (c) of this section:

(1) A final settlement on or before the 15th day after the end of each month during which producer milk was received, at not less than the uniform price for such milk, adjusted by the butterfat differential computed pursuant to § 1060.74 and subject to the location adjustment to producers pursuant to § 1060.75, and less the following amounts:

(i) The payments made pursuant to paragraph (a)(2) of this section;

(ii) Deductions for marketing services made pursuant to § 1060.86; and

(iii) Any deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1060.72, he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator; and

(2) A partial payment on or before the last day of each month with respect to producer milk received during the first 15 days of the month at not less than the Class III price for the preceding month (without deduction for hauling);

(b)(1) On or before the second day prior to the date payments are due individual producers as specified in this section, pay to a cooperative association which so requests and which the market administrator determines is authorized by its members to collect payments for their milk and which promises in writing to reimburse the handler the amount of any actual loss incurred by him because of any member's claim on the part of the cooperative association of the payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination;

(c) To a cooperative association which is a handler pursuant to § 1060.9(a) or (c) for milk which it caused to be delivered to such handler:

(1) A final settlement on or before the 13th day after the end of the month in which the skim milk or butterfat was received, an amount equal to not less than the applicable class prices, as adjusted by the butterfat differential specified in § 1060.74, at the location of the handler's pool plant for all skim milk and butterfat so delivered, less the amount of payment made pursuant to paragraph (c)(2) of this section; and

(2) A partial payment on or before the 26th day of each month at not less than the Class III price for the preceding month (without deduction for hauling) for all skim milk and butterfat so delivered during the first 15 days of the current month;

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of this section and §§ 1060.74 and 1060.75;

(4) The rate which is used in making payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (c)(2) of this section and § 1060.86, together with a description of the respective deductions; and

(6) The net amount of payment to the producer; and

(e) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to paragraph (b) of this section, shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 20th day of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the seventh day after the end of the month:

(i) The pounds per shipment, the total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments to such producer pursuant to § 1060.77.

§ 1060.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1060.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at a pool plant or diverted to a nonpool plant located outside the base zone, the uniform price shall be adjusted at the rate set forth in § 1060.52.

(b) For purposes of computation pursuant to §§ 1060.71(b)(2) and 1060.72 the uniform price shall be adjusted at the rates set forth in § 1060.52 applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted uniform price shall not be than the Class III price.

§ 1060.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1060.30(b) and 1060.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1060.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1060.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1060.60 for such handler shall include, in lieu of the value of other source milk specified in § 1060.60(f) less the value of such other source milk specified in § 1060.71(a)(2)(ii), a value of milk determined pursuant to § 1060.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1060.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1060.30(b) and 1060.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1060.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1060.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

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(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1060.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

§ 1060.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1060.85 Assessment for order administration.

As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to skim milk and butterfat contained in:

(a) Producer milk (including a handler's own farm production);

(b) Other source milk allocated to Class I pursuant to § 1060.44(a) (7) and (11) and the corresponding steps in § 1060.44(b), except such other source milk that is excluded from the computations pursuant to § 1060.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1060.76(a) (2).

§ 1060.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than to himself pursuant to § 1060.73(a) (1) shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received from, and to provide market information to, such producers. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1060.73(a) (1), as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association (of which such producers are members) rendering such services.

(c) When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and unless otherwise previously provided, the butterfat test.

PART 1061—MILK IN SOUTHEASTERN MINNESOTA-NORTHERN IOWA (DAIRYLAND) MARKETING AREA

Subpart—Order Regulating Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1061.85 Assessment for order administration.
1061.86 Deduction for marketing services.

AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1061.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1061.2 Southeastern Minnesota-Northern Iowa (Dairyland) marketing area.

"Southeastern Minnesota - Northern Iowa (Dairyland) marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties listed below, including all territory within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

MINNESOTA COUNTIES

Blue Earth.	Mower.
Brown.	Nicollet.
Cottonwood.	Olmsted.
Dodge.	Redwood.
Faribault.	Rice.
Fillmore.	Steele.
Freeborn.	Wabasha.
Goodhue.	Waseca.
Le Sueur.	Watonwan.
Martin.	Winona.

IOWA COUNTIES

Howard.	Winnebago.
Kossuth.	Winneshiek.
Mitchell (except city of Osage).	Worth.

§ 1061.3 Route disposition.

"Route disposition" means a delivery from a plant (including delivery from a retail store at such plant and delivery through vendors or distribution points) of any fluid milk product classified as Class I to a retail or wholesale outlet other than a milk or filled milk plant. A delivery through a vendor or through a distribution point shall be considered a route disposition of the plant at the location of the wholesale or retail outlet to which delivery is made.

§ 1061.4 [Reserved]

§ 1061.5 Distributing plant.

"Distributing plant" means a plant from which there is route disposition (either directly or through another plant) in the marketing area during the month of a Grade A fluid milk product that is packaged in such plant.

§ 1061.6 Supply plant.

"Supply plant" means a plant from which a Grade A fluid milk product is shipped during the month to a distributing plant.

§ 1061.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is disposed of during the month not less than the percentages set forth in paragraph (a) (1) and (2) of this section of the total Grade A fluid milk products received during the month at such plant, including producer milk diverted under § 1061.13(d) (2), but excluding receipts of packaged fluid milk products from other pool distributing plants and receipts from unregulated supply plants and other order plants which are assigned pursuant to § 1061.44 (a) (8) (i) and (iii) and the corresponding step of § 1061.44(b):

(1) Not less than 10 percent of such receipts is disposed of from such plant as Class I milk in the marketing area as route disposition. Such disposition is to be exclusive of filled milk and receipts of packaged fluid milk products from other pool distributing plants; and

(2) Not less than 30 percent during the months of February–August and 40 percent during the months of September–January of such receipts is disposed of as Class I milk as route disposition. Such disposition is to be exclusive of filled milk and receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which not less than 30 percent of its total Grade A milk receipts from dairy farmers during the month is delivered as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section subject to paragraph (b) (1) and (2) of this section:

(1) Any plant which qualified pursuant to this paragraph in each of the immediately preceding months of September through November shall be a pool plant for the months of December through August unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting the plant be designated a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant; and

(2) In determining the pool plant qualifications of a cooperative association's plant, member producer milk of such association which is delivered directly to plants described in paragraph (a) of this section shall be considered for purposes of this paragraph as having been first received at the cooperative's plant subject to the following conditions:

(i) Written request is made to the market administrator by the cooperative association prior to or during the month, designating the plant to be a pool plant pursuant to this subparagraph for the month, and for each month thereafter, until such request is withdrawn or terminated pursuant to paragraph (b) (2) (ii) of this section; and

(ii) Any such plant which in a succeeding month is pooled under the provisions of another order issued pursuant to the Act shall not be pooled under this subparagraph for the ensuing 12 months.

(c) The term "pool plant" shall not apply to the following plants or facilities:

(1) A producer-handler plant or an exempt governmental plant;

(2) A plant qualified as a pool plant pursuant to paragraph (a) or (b) of this section that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act unless a greater volume of fluid milk products is disposed of from such plant as route disposition, except route disposition of filled milk, in this marketing area and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order;

(3) If a portion of a plant is operated separately from the Grade A portion of a plant meeting the conditions of paragraph (a) or (b) of this section and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section; and

(4) Facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a pool plant or part of a pool plant pursuant to this section.

§ 1061.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant or an exempt governmental plant and from which fluid milk products eligible for sale as Grade A in consumer-type packages or dispenser units or filled milk are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is not an other order plant, a producer-handler plant or an exempt governmental plant and from which a Grade A fluid milk product or filled milk is shipped during the month to a pool plant.

(e) "Exempt governmental plant" means a distributing or supply plant operated by a governmental agency.

§ 1061.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant of another handler pursuant to § 1061.13;

(c) Any cooperative association with respect to milk of its producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person in his capacity as the operator of an other order plant from which during the month fluid milk products are either disposed of as route disposition in the marketing area or shipped to a pool plant.

§ 1061.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant from which Class I milk of his own production is disposed of as route disposition in the marketing area, and who receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts by plant transfer from pool plants and who receives no nonfluid milk products from any source for use in reconstituted fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk and milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are wholly the personal enterprise and risk of such person.

§ 1061.11 [Reserved]

§ 1061.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received as producer milk at a pool plant, or diverted pursuant to § 1061.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

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(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1061.44(a)(8)(iii) and the corresponding step of § 1061.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1061.13 Producer milk.

"Producer milk" means the skim milk and butterfat in Grade A milk:

(a) Received at a pool plant directly from a producer;

(b) Received at a pool plant from a handler described in § 1061.9(c);

(c) Received by a handler described in § 1061.9(c) from producers in excess of the quantity delivered to pool plants; or

(d) Moved as diverted milk, subject to the conditions in paragraphs (d)(1), (2), and (3) of this section, from a pool plant to a nonpool plant that is not a producer-handler plant. "Diverted milk" means, for any month, milk produced by a dairy farmer which a pool plant handler or a handler described in § 1061.9(b) caused to be moved from the farm to a nonpool plant that is not a producer-handler plant if such milk is claimed as producer milk and the following conditions have been met:

(1) During the months of February through August a cooperative association handler pursuant to § 1061.9(b), may divert for its account, without limit on the remaining days, the milk of any member who was a producer during the previous month or whose milk is delivered to a pool plant on at least 1 day during the current month. During the months of September through January such handler may divert as producer milk the milk of any member producer whose milk is delivered to a pool plant described in § 1061.7(a) on at least 1 day during the month except that the aggregate quantity of producer milk diverted by such handler shall not exceed the quantity of milk delivered during that month by all its member producers to pool plants described in § 1061.7(a);

(2) During February through August a handler in his capacity as the operator of a pool plant may divert for his account, without limit on the remaining days, the milk of any dairy farmer who was a producer during the previous month or whose milk is received at his pool plant on at least 1 day during the current month. During the months of September through January such handler may divert as producer milk the milk of any producer whose milk is received at his pool plant on at least 1 day during the month except that the aggregate quantity of producer milk diverted by such handler shall not exceed the quantity of milk received during the month at his pool plant from all producers except the member producers of a cooperative which diverted milk during the month pursuant to paragraph (d)(1) of this section; and

(3) If milk receipts from dairy farmers are diverted in excess of the quantities allowed pursuant to paragraphs (d)(1) and (2) of this section, the diverting handler shall specify the dairy farmers whose milk was overdiverted. If the diverting handler does not specify the dairy farmers whose milk was overdiverted, only the milk of dairy farmers which is received at a pool plant during the month shall be producer milk for such month.

§ 1061.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1061.40(b)(1) from any source other than producers, handlers described in § 1061.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1061.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1061.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1061.40(b)(1)) for which the handler fails to establish a disposition.

§ 1061.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1061.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1061.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1061.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1061.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1061.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1061.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1061.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1061.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1061.31 Payroll reports.

(a) On or before the 25th day after the end of each month, each handler described in § 1061.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1061.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1061.32 Other reports.

In addition to the reports required pursuant to §§ 1061.30 and 1061.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1061.40 Classes of utilization.

Except as provided in § 1061.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1061.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1061.15; and

(6) In shrinkage assigned pursuant to § 1061.41(a)(2) and in shrinkage specified in § 1061.41(b) and (c).

§ 1061.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1061.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1061.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1061.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to

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which percentages are applied in paragraph (b), (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1061.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1061.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1061.44(a)(12) and the corresponding step of § 1061.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1061.44(a)(7) or the corresponding step of § 1061.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1061.44(a) (11) or (12) or the corresponding steps of § 1061.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1061.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt governmental plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt governmental plant shall be classified:

(1) As Class I milk if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt governmental plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipt as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1061.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1061.43 General classification rules.

In determining the classification of producer milk pursuant to § 1061.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1061.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1061.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1061.40, 1061.41, and 1061.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1061.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1061.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1061.9(a) for each of his pool plants separately and of each handler described in § 1061.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1061.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1061.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1061.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1061.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1061.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt governmental plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragarph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk prod-

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ucts from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1061.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1061.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1061.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1061.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1061.44(a)(12) and the corresponding step of § 1061.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1061.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 20th day of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler during the immediately preceding month from such cooperative association in its capacity as a handler pursuant to § 1061.9(c) and directly from members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after allocation pursuant to § 1061.44(a)(1) through (13), and the corresponding steps of § 1061.44(b).

CLASS PRICES

§ 1061.50 Class prices.

The class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.06.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1061.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1061.52 [Reserved]

§ 106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1061.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1061.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1061.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1061.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1061.44(a)(14) and the corresponding step of § 1061.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1061.74;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1061.44(a)(9) and the corresponding step of § 1061.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1061.44(a)(7) and the corresponding step of § 1061.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the Class I price by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1061.44(a)(11) and the corresponding step of § 1061.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(f) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price for the preceding month and the Class III price for the current month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1061.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1061.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1061.60 for all handlers who filed reports pursuant to § 1061.30 for the month and who made payments pursuant to § 1061.71 for the preceding month;

(b) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(c) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1061.60(e); and

(d) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1061.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1061.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1061.71, 1061.76, and 1061.77 and out of which he shall make all payments due handlers pursuant to §§ 1061.72 and 1061.77: *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

§ 1061.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1061.60.

(2) The sum of:

(i) The value at the uniform price of such handler's receipts of producer milk; and

(ii) The value at the uniform price of other source milk for which a value is computed pursuant to § 1061.60(e).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler

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pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part and the Class III price.

§ 1061.72 Payments from the producer settlement fund.

On or before the 16th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1061.70, to each handler the amount if any, by which the amount computed pursuant to § 1061.71(a)(2) exceeds the amount computed pursuant to § 1061.71(a)(1).

§ 1061.73 Payments to producers and to cooperative associations.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To each producer for whom payment is not made pursuant to paragraph (b) and (c) of this section:

(1) On or befoer the 20th day of the following month not less than the uniform price, adjusted by the butterfat differential computed pursuant to § 1061.71 and less the following amounts:

(i) The payments made pursuant to paragraph (a)(2) of this section;

(ii) Deductions for marketing service pursuant to § 1061.86; and

(iii) Any proper deductions authorized by the producer: *Provided,* That if by such date such handler has not received full payment from the market administrator pursuant to § 1061.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator; and

(2) A partial payment on or before the fifth day of the following month to each producer who had not discontinued shipping milk to such handler at not less than the Class III price for the preceding month for producer milk received during the first 15 days of the month (without deduction for hauling);

(b) Payments required in paragraph (a) of this section shall be made on or before the second day prior to the dates set forth in paragraph (a) of this section to a cooperative association (except as specified in paragraph (c) of this section) qualified under § 1061.18, or its duly authorized agent, if the cooperative association so requests and the market administrator determines it is authorized by its members to collect payments for their milk. Payments to the cooperative association under this paragraph shall be made subject to the condition that the association has provided the handler with a promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 11th day after the end of the month, each handler shall pay a cooperative association which is a handler with respect to all skim milk and butterfat received by him from a pool plant operated by such cooperative association not less than the applicable class prices as adjusted by the butterfat differential specified in § 1061.74; and

(d) In making payment to individual producers as required by § 1061.73, each handler shall furnish each producer from whom he received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month involved, and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of the milk received from the producer;

(3) The minimum rate at which payment to the producer is required pursuant to § 1061.73;

(4) The rate used in making the payment if such rate is other than the applicable minimum;

(5) The amount (or rate) per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 1061.86, together with a description of the respective deductions; and

(6) The net amount of the payment to the producer.

§ 1061.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1061.75 [Reserved]

§ 1061.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1061.30(b) and 1061.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price; and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1061.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1061.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1061.60 for such handler shall include, in lieu of the value of other source milk specified in § 1061.60(e) less the value of such other source milk specified in § 1061.71(a)(2)(ii), a value of milk determined pursuant to § 1061.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1061.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1061.30(b) and 1061.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1061.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1061.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1061.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1061.77 Adjustment of accounts.

When verification by the market administrator of reports or payment of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1061.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1061.71, 1061.76, and 1061.77 shall be increased three-fourths of 1 percent for each month or portion thereof that such obligation is overdue: *Provided,* That,

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1061.85 Assessment for order administration.

As his pro rata share of the expense of administration, each handler shall pay to the market administrator on or before the 14th day after the end of the month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to milk handled during the month as follows:

(a) Each handler (excluding a cooperative association as the operator of a pool plant with respect to milk transferred in bulk to a pool plant of another handler) with respect to his receipts of producer milk (including such handler's own-farm production, and milk received in bulk from a pool plant owned and operated by a cooperative association);

(b) Other source milk allocated to Class I pursuant to § 1061.44(a)(7) and (11) and the corresponding steps of § 1061.44(b), except such other source milk that is excluded from the computations pursuant to § 1061.60(d) and (e); and

(c) Each handler in his capacity as the operator of a partially regulated distributing plant with respect to his route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1061.76(a)(2).

§ 1061.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1061.73 shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 18th day after the end of the month. Such moneys shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of member producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions as are authorized by such producers and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

PART 1063—MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1063.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1063.2 Quad Cities-Dubuque marketing area.

"Quad Cities-Dubuque marketing area", hereinafter called the marketing area, means the territory within the boundaries of the counties of Clinton, Dubuque, Jackson, Muscatine, and Scott in the State of Iowa; the counties of Henry, Mercer, and Rock Island, and the city of East Dubuque, in the State of Illinois, including territory within such boundaries that is occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other establishments.

§ 1063.3 [Reserved]

§ 1063.4 [Reserved]

§ 1063.5 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk from which any fluid milk product is processed or packaged and disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1063.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1063.7.

§ 1063.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which:

(1) The volume of Class I packaged fluid milk products, except filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products, other than filled milk, from other pool distributing plants, is not less than 45 percent (40 percent during each of the months of February through August) of the total Grade A fluid milk products, except filled milk, received at such plant, exclusive of receipts of packaged fluid milk products from other pool distributing plants and receipts from other order plants which are assigned pursuant to § 1063.44(a)(8)(iii) and the corresponding step of § 1063.44(b); and

(2) Not less than 15 percent of net receipts specified in paragraph (a)(1) of this section is so disposed of during the month in the marketing area on routes, except that a plant that meets such minimum requirement under this subparagraph during each of the months of September through January need dispose of only 10 percent or more of such receipts in the marketing area on routes during each of the following months of February through August.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of December through August, unless written application is filed with the market administrator on or before the 1st day of any of the months of December through August to be designated a nonpool plant for such month and for each subsequent month through August.

(c) A plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month, or during the 12-month period immediately preceeding such month, are more than the total pounds of Grade A milk received at its plant from dairy farmers during the corresponding period: *Provided*, That if written application is filed with the market administrator on or before the 5th day of any month such plant may be designated a nonpool plant for such month and for any subsequent months.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant otherwise qualified as a pool plant pursuant to paragraph (a), (b), or (c), of this section during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under paragraph (a), (b), or (c), of this section and to retail and wholesale outlets in the Quad Cities-Dubuque marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except in the following circumstances:

(i) If a distributing plant were qualified pursuant to paragraph (a) of this section during each of the 3 immediately preceding months, it would continue to be subject to all the provisions of this part until after the 3d consecutive month in which it remains so qualified and has a greater proportion of its fluid milk product disposition, except filled milk, made in the above described manner in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) A distributing plant qualified pursuant to paragraph (a) of this section that is fully regulated under another Federal order but which has greater fluid milk product (except filled milk) disposition during the month on routes in the Quad Cities-Dubuque marketing area and to pool plants qualified on the basis of route distribution in the Quad Cities-Dubuque marketing area than in such other Federal order marketing area; and

(3) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1063.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant, other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1063.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to the milk from producers diverted pursuant to § 1063.13 by the cooperative association for the account of such association;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1063.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1063.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from producers or other source milk.

§ 1063.11 [Reserved]

§ 1063.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1063.13(b).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1063.44(a)(8)(iii) and the corresponding step of § 1063.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1063.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk from a producer that is:

(a) Received at a pool plant; or

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) For pricing purposes under this part such milk shall be accounted for as received by the diverting handler at the location of the plant to which diverted: *Provided*, That milk diverted to a plant located less than 75 miles (by the shortest highway distance as determined by the market administrator) from the pool plant from which diverted or to a plant at which a higher uniform price would be applicable, shall be deemed to be received by the diverting handler at the location of the plant from which diverted; and

(2) In any of the months of September through January, milk diverted from the farm of a producer on days in excess of the number of days that milk was delivered to a pool plant from such farm during the month shall not be producer milk.

§ 1063.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1063.40(b)(1) from any source other than producers or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1063.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1063.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1063.40(b)(1)) for which the handler fails to establish a disposition.

§ 1063.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1063.40 (b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1063.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1063.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1063.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

HANDLER REPORTS

§ 1063.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1063.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1063.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his re-

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ceipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1063.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1063.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1063.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1063.32 Other reports.

In addition to the reports required pursuant to §§ 1063.30 and 1063.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1063.40 Classes of utilization.

Except as provided in § 1063.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1063.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1063.15; and

(6) In shrinkage assigned pursuant to § 1063.41(a) to the receipts specified in § 1063.41(a) (2) and in shrinkage specified in § 1063.41 (b) and (c).

§ 1063.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1063.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant).

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1063.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1063.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both

plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1063.44(a)(12) and the corresponding step of § 1063.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1063.44(a)(7) or the corresponding step of § 1063.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1063.44 (a) (11) or (12) or the corresponding steps of § 1063.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1063.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1063.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second

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plant that are set forth in this subparagraph.

§ 1063.43 General classification rules.

In determining the classification of producer milk pursuant to § 1063.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1063.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1063.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1063.40, 1063.41, and 1063.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1063.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1063.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1063.9(a) for each of his pool plants separately and of each handler described in § 1063.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1063.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1063.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1063.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1063.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1063.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1063.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1063.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1063.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1063.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1063.44(a)(12) and the corresponding step of § 1063.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1063.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

Class Prices

§ 1063.50 Class prices.

Subject to the provisions of § 1063.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

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(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.33.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1063.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1063.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price specified in § 1063.50(a) shall be adjusted as follows:

(1) At a plant in Dubuque and Jackson Counties, Iowa, and East Dubuque, Ill., subtract 10 cents;

(2) At a plant located outside the marketing area, north of U.S. Highway No. 80, and, except as provided in paragraph (a) (3) and (4) of this section, 70 miles or more, by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Hill, Rock Island, Ill., or the Post Office, West Liberty, Iowa, subtract 10 cents and subtract an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles;

(3) At a plant located in that Iowa territory beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa, and south of U.S. Highway No. 80, or within the Des Moines, Iowa, marketing area as specified in Part 1079, add any amount by which the price specified in § 1063.50(a) is exceeded by the applicable Class I price at the same location pursuant to Part 1079 regulating the handling of milk in the Des Moines, Iowa, marketing area; and

(4) At a plant located within the Central Illinois marketing area as specified in Part 1050, add any amount by which the price specified in § 1063.50(a) is exceeded by the applicable Class I price at the same location pursuant to Part 1050 regulating the handling of milk in the Central Illinois marketing area.

(b) For purposes of calculating such adjustments, transfers between pool plants shall be assigned Class I disposition at the tranferee-plant, in excess of the sum of receipts at such plant from producers, and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants having the same Class I price, next to transferor-plants having a higher Class I price, and then in sequence to the plants having a lower Class I price beginning with the plant at which the highest Class I price would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1063.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1063.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1063.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1063.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1063.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1063.44(a)(14) and the corresponding step of § 1063.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1063.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1063.44 (a)(9) and the corresponding step of § 1063.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.44(a)(7) (i) through (iv) and the corresponding step of § 1063.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.44(a)(7) (v) and (vi) and the corresponding step of § 1063.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1063.44 (a)(11) and the corresponding step of § 1063.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1063.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content f.o.b. Rock Island, Ill., as follows:

(a) Combine into one total the values computed pursuant to § 1063.60 for all handlers who made the reports prescribed in § 1063.30 for such month, except those in default of payments required pursuant to § 1063.71 for the preceding month;

(b) Add the aggregate of the values of minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1063.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1063.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be known as the uniform price for milk received from producers.

§ 1063.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1063.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1063.71, 1063.76, and 1063.77 and out of which he shall make all payments to handlers pursuant to §§ 1063.72 and 1063.77.

§ 1063.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1063.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1063.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1063.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1063.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1063.71(a)(2) exceeds the amount computed pursuant to § 1063.71(a)(1): *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1063.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1063.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 17th day after the end of each month during which milk was received, to each producer for milk received from him and for which payment is not made pursuant to paragraph (b) of this section, at not less than the uniform price as adjusted pursuant to §§ 1063.74 and 1063.75.

(b) On or before the 15th day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

(c) On or before the 10th day after the end of the month, each handler shall pay to each cooperative association which is also a handler, for milk received from it not less than the value of such milk as classified pursuant to this part at the respective class prices, as adjusted by the butterfat differential specified in § 1063.74, that are applicable at the location of the receiving handler's pool plant.

§ 1063.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1063.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk pursuant to § 1063.61 received at a pool plant shall be adjusted according to the location of the pool plant, at the rates set forth in § 1063.52; and

(b) For purposes of computations pursuant to §§ 1063.71 and 1063.72 the uniform price shall be adjusted at the rates set forth in § 1063.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1063.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1063.30(b) and 1063.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1063.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which

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such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1063.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1063.60 for such handler shall include, in lieu of the value of other source milk specified in § 1063.60(f) less the value of such other source milk specified in § 1063.71(a)(2)(ii), a value of milk determined pursuant to § 1063.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1063.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1063.30(b) and 1063.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1063.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1063.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1063.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1063.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1063.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to: (a) Producer milk, (b) other source milk allocated to Class I pursuant to § 1063.44(a)(7) and (11) and the corresponding steps of § 1063.44(b), except such other source milk that is excluded from the computations pursuant to § 1063.60(d) and (f), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1063.76(a)(2).

§ 1063.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1063.73, shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1064.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1064.2 Greater Kansas City marketing area.

"Greater Kansas City marketing area," hereinafter called "marketing area," means all the territory within the boundaries of the counties listed below, including territory within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

MISSOURI COUNTIES

Andrew.
Atchison.
Bates.
Buchanan.
Cass.
Clay.
Clinton.
Daviess.
De Kalb.
Gentry.
Henry.
Holt.
Jackson.
Johnson.
Lafayette.
Nodaway.
Pettis.
Platte.
St. Clair.
Worth.

KANSAS COUNTIES

Atchison.
Brown.
Clay.
Cloud.
Dickinson.
Doniphan.
Douglas.
Geary.
Jackson.
Jefferson.
Johnson.
Leavenworth.
Lyon.
Marshall.
Miami.
Morris.
Nemaha.
Ottawa.
Pottawatomie.
Republic.
Riley.
Saline.
Shawnee.
Wabaunsee.
Washington.
Wyandotte.

§ 1064.3 Route disposition.

"Route disposition" means a delivery (either direct or through a distributing facility such as a distribution point, a plant store, a vendor, or vending machine), other than a delivery to a pool plant or a nonpool plant, of a fluid milk product classified as Class I milk.

§ 1064.4 [Reserved]

§ 1064.5 Distributing plant.

"Distributing plant" means a plant from which during the month there is route disposition in the marketing area of Grade A fluid milk products that are processed or packaged in such plant.

§ 1064.6 Supply plant.

"Supply plant" means a plant from which a Grade A fluid milk product is shipped during the month to a pool plant.

§ 1064.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month or the immediately preceding month there is:

(1) Route disposition, except filled milk, in the marketing area that is not less than 15 percent of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant; and

(2) Route disposition, except filled milk, that is not less than the following percentage of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant: *Provided*, That the combined receipts and disposition of each handler who operates more than one distributing plant, each of which meets the performance requirements of paragraph (a)(1) of this section, shall be used in determining the percentages specified in this subparagraph:

(i) April through June, 35 percent;

(ii) September and October, 50 percent; and

(iii) All other months, 45 percent.

(b) A supply plant from which during the month 50 percent or more of the Grade A milk received at such plant from dairy farmers (including receipts from handler described in § 1064.9(c), except receipts of milk diverted pusuant to § 1064.13) is disposed of as fluid milk products (except filled milk) in one or both of the following ways: (1) Shipped to and received at pool distributing plants, or (2) as a route disposition sale in the marketing area. A supply plant which is a pool plant under this paragraph during each month of September through January shall be pooled for the following months of February through August, if the required percentage pursuant to this paragraph is not met, unless the plant operator files written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) A supply plant operated by a cooperative association in any month in which the member producer milk of such cooperative association received at pool distributing plants during the current month, or immediately preceding 12-month period ending with the current month, either by transfer from such supply plant or directly from member producers' farms, is 50 percent or more of such cooperative's total member producer milk. Such direct deliveries from member producers' farms shall be considered as having been received first at the plant of such cooperative association for the purpose of determining the qualification of such plant as a pool plant pursuant to this paragraph. If two or more cooperative associations desire to qualify a supply plant operated by one of the associations as a pool plant on the basis of their combined deliveries to pool distributing plants and have filed a written request to this effect with the market administrator on or before the first day of the month the agreement is effective, such a supply plant shall be a pool plant during the month if the above specified percentage of the total member producer milk of such cooperative associations was received at pool distributing plants during the current month, or the immediately preceding 12-month period ending with the current month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant or supply plant operated by a State educational institution;

(3) A plant from which there is route disposition in the marketing area of less than an average of 600 pounds per day;

(4) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in such other marketing area and to pool plants qualified on the basis of route disposition in such other marketing area than was so disposed of in this marketing area except that if such plant was subject to all the provisions of this part in the immediately preceding month, it

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shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its fluid product disposition, except filled milk, is made in the above described manner in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(5) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in this marketing area and to pool plants qualified on the basis of route disposition in this marketing area than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(6) A supply plant meeting the pooling requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order, and which has greater direct marketing area route disposition, except filled milk, and qualifying shipments to plants regulated under such other order than are made under this order, unless during any month of February through August automatic pool plant status for such plant is retained under this part for such month; and

(7) A supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant also qualified as a pool plant pursuant to paragraph (c) of this section.

§ 1064.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant (except the plant of a handler pursuant to § 1064.9(h), an other order plant, or a producer-handler plant) from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is not an other order plant, a producer-handler plant, or a plant of a handler pursuant to § 1064.9(h) from which a fluid milk product is shipped during the month to a pool plant.

§ 1064.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1064.13 for the account of such cooperative association;

(c) Any cooperative association with respect to the milk of its producers which is received by the cooperative from the farm for delivery to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association if the cooperative association, prior to delivery, notifies the market administrator in writing that it will be the handler for the milk. Such milk shall be considered to have been received at the location of the pool plant to which delivery is made;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant that is either a distributing plant or a supply plant;

(g) Any person who operates an unregulated supply plant; and

(h) A State educational institution which operates either a nonpool distributing plant or supply plant.

§ 1064.10 Producer-handler.

"Producer-handler" means a person who operates both a dairy farm and a distributing plant at which each of the following conditions is met during the month:

(a) Milk is received from the dairy farm of such person but from no other dairy farm;

(b) The butterfat or skim milk disposed of in the form of a fluid milk product does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm of such person and in the form of a fluid milk product from pool plants of other handlers; and

(c) Such person shall furnish proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for the production of milk in his name and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1064.11 [Reserved]

§ 1064.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1064.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act or a handler pursuant to § 1064.9(h);

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1064.44(a)(8)(iii) and the corresponding step of § 1064.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1064.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer or a handler described in § 1064.9(c);

(b) Received by a handler described in § 1064.9(c) from producers in excess of the quantity delivered to pool plants; or

(c) Diverted, subject to the following conditions, from a pool plant to a pool supply plant or to a nonpool plant that is not a producer-handler plant. "Diverted milk" is milk normally received at a pool distributing plant but which is moved directly from a dairy farm to a nonpool plant as specified in this paragraph or to a pool supply plant for the account of a handler operating a pool distributing plant or a handler described in § 1064.9(b). Such milk shall be deemed to have been received by the diverting handler at the location of the pool plant from which diverted except that milk diverted to a plant located more than 125 miles by the shortest highway distance as determined by the market administrator from the nearest of the City Halls of Kansas City, Mo., or Topeka, Kans., shall be deemed to have been received at the location of the plant to which diverted in applying §§ 1064.52 and 1064.75:

(1) A handler described in § 1064.9(b) may divert for its account the milk of any member producer whose milk is received at a pool distributing plant for at least 1 day's delivery during the month, without limit during the other days of the month. The total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of its member producer milk received at all pool distributing plants during the current month, or

(ii) The average daily quantity of its member producer milk received at pool distributing plants during the previous month, multiplied by the number of days in the current month.

(2) A handler operating a pool distributing plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section, whose milk is received at his pool distributing plant for at least 1 day's delivery during the month, without limit during the other days of the month. However, the total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of milk received at such plant during the current month from producers who are not members of a cooperative association that has diverted milk pursuant to paragraph (c)(1) of this section; or

(ii) The average daily quantity of milk received at such plant during the previous month from producers who are not members of a cooperative association that has diverted milk in the current month pursuant to paragraph (c)(1) of this section, multiplied by the number of days in the current month.

(3) Diversions in excess of the applicable percentages pursuant to paragraph (c)(1) and (2) of this section shall first be assigned to diversions to nonpool plants and any excess quantity assigned to nonpool plants shall not be producer milk and shall not be deemed to have been received by the diverting handler. The diverting handler shall specify the dairy farmers whose milk shall not be included as producer milk pursuant to this subparagraph. Excess diversions to a pool supply plant shall be producer milk at the supply plant in applying §§ 1064.7, 1064.52, and 1064.75.

§ 1064.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1064.40(b)(1) from any source other than producers, handlers described in § 1064.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1064.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1064.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1064.40(b)(1)) for which the handler fails to establish a disposition.

§ 1064.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1064.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1064.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1064.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1064.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members.

HANDLER REPORTS

§ 1064.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1064.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1064.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1064.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1064.31 Payroll reports.

(a) On or before the 23d day after the end of each month, each handler described in § 1064.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1064.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1064.32 Other reports.

In addition to the reports required pursuant to §§ 1064.30 and 1064.31, the following shall be reported to the market administrator:

(a) On or before the seventh day after the end of each month with respect to receipts at each plant of milk from each producer, each handler described in § 1064.9 (a) and (b) shall report the average butterfat test, the pounds of butterfat contained therein, the number of days on which milk was received from such producer and for each of the months of February through July, the pounds of base and excess milk received from each producer;

(b) On or before the seventh day after the end of each month of February through July, each handler described in § 1064.9(c) shall report the quantities of

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skim milk and butterfat in producer milk for which it is the handler that is base milk and excess milk; and

(c) Each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1064.40 Classes of utilization.

Except as provided in § 1064.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1064.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1064.15; and

(6) In shrinkage assigned pursuant to § 1064.41(a) to the receipts specified in § 1064.41(a)(2) and in shrinkage specified in § 1064.41 (b) and (c).

§ 1064.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1064.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1064.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1064.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1064.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1064.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (to a pool supply plant, in the case of diversion) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1064.44 (a)(12) and the corresponding step of § 1064.44(b);

(2) If the transferor-plant or diverter-plant received during the month other source milk to be allocated pursuant to § 1064.44(a)(7) or the corresponding step of § 1064.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or diverter-handler received during the month other source milk to be allocated pursuant to § 1064.44(a) (11) or (12) or the corresponding steps of § 1064.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators; transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1064.40.

(c) *Transfers to producer-handlers and transfers and diversions to a State educational institution plant.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a plant of a handler described in § 1064.9(h) shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product, except that if a handler described in § 1064.9(h) certifies that the fluid milk product is acquired for use in Class II or Class III products for research or educational purposes, such fluid milk product shall be classified in the applicable lower class; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a plant of a handler pursuant to § 1064.9(h) shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1064.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of package fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

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§ 1064.43 General classification rules.

In determining the classification of producer milk pursuant to § 1064.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1064.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1064.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1064.40, 1064.41, and 1064.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1064.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1064.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1064.9(a) for each of his pool plants separately and of each handler described in § 1064.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1064.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1064.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1064.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1064.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1064.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a handler described in § 1064.9(h);

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1064.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and

Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1064.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1064.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1064.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1064.44(a)(12) and the corresponding step of § 1064.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1064.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from such cooperative association in its capacity as a handler described in § 1064.9(c) and directly from members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after the allocation pursuant to § 1064.44(a) (1) through (13) and the corresponding steps of § 1064.44(b).

CLASS PRICES

§ 1064.50 Class prices.

Subject to the provisions of § 1064.52, the class prices for the month per hun-

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dredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.74.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1064.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1064.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located outside the marketing area and more than 50 miles but not more than 70 miles by shortest highway distance as measured by the market administrator, from the nearer of the City Halls in Kansas City, Mo., or Topeka, Kans., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1064.50(a) shall be reduced by 10 cents, and by an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 70 miles from such City Hall.

(b) For purposes of calculating such adjustment, bulk transfers between pool plants shall be assigned to the Class I disposition at the transferee-plant prorated with the sum of receipts at such plant of producer milk and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1064.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1064.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

§ 1064.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1064.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1064.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1064.44(a)(14) and the corresponding step of § 1064.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1064.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1064.44(a)(9) and the corresponding step of § 1064.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(7)(i) through (iv) and the corresponding step of § 1064.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(7)(v) and (vi) and the corresponding step of § 1064.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(11) and the corresponding step of § 1064.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1064.61 Computation of uniform price (including weighted average price and base and excess prices).

(a) For each month the market administrator shall compute the "uniform price" per hundredweight of milk of 3.5 percent butterfat content received from producers (or "weighted average price") as follows:

(1) Combine into one total the values computed pursuant to § 1064.60 for all handlers who filed the reports prescribed by § 1064.30 for the month and who made the payments pursuant to §§ 1064.71 and 1064.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1064.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1064.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price" and for the months of August through January shall be the "uniform price" for milk received from producers.

(b) For each month of February through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract from the amount resulting from the computations made pursuant to paragraph (a)(1) through (4) of this section an amount computed by multiplying the weighted average price plus 5 cents times the hundredweight of milk specified in paragraph (a)(5)(ii) of this section;

(2) Determine the value of excess milk by multiplying the hundredweight of producer milk determined to be excess milk in series beginning with Class III by the respective class prices minus 5 cents and adding together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract the value of excess milk obtained in paragraph (b)(2) of this section from the aggregate value of milk obtained in paragraph (b)(1) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of producer milk determined to be base milk; and

(6) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content received from producers.

§ 1064.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform prices for such month.

PAYMENTS FOR MILK

§ 1064.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to §§ 1064.71, 1064.76, and 1064.77.

(b) Payments due handlers pursuant to §§ 1064.72 and 1064.77: *Provided,* That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1064.71, 1064.76, 1064.77, 1064.85, and 1064.86.

§ 1064.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1064.60.

(2) The sum of:

(i) The amount required to be paid producers (including payments to producers through cooperative associations) pursuant to § 1064.73 before adjustment for butterfat content and before deductions authorized by the producer or cooperative association or for marketing services pursuant to § 1064.86; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1064.60(f).

(b) During each month of February through July each handler pursuant to § 1064.9(c), on or before the 14th day after the end of the month, shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (b)(1) of this section exceeds the amount specified in paragraph (b)(2) of this section:

(1) The total value of such association's member producer milk at the applicable weighted average price computed pursuant to § 1064.61; and

(2) The total value of such association's member producer base and excess milk at the applicable uniform base and excess prices computed pursuant to § 1064.61.

(c) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (c)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1064.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1064.71 (a)(2) or (b)(2) exceeds the amount computed pursuant to § 1064.71 (a)(1) or (b)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

§ 1064.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the applicable uniform price(s) pursuant to § 1064.61, adjusted by the butterfat differential computed pursuant to § 1064.74 and the location adjustment to producers pursuant to § 1064.75, and less the following amounts: (1) the payments made pursuant to paragraph (b) of this section, (2) deductions for marketing services made pursuant to § 1064.86, and (3) any deductions authorized by the producer: *Provided,* That if by such date such handler has not received full payment for such month pursuant to § 1064.72 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraphs (c) and (d) of this section; and (2) who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received from such producer during the first 15 days of the month at the approximate value of such milk, not to be less than the Class III price for the preceding month, without deduction for hauling.

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 20th day of the month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section less any deductions authorized in writing by such cooperative association; and

(2) On or before the 14th day after the end of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association.

(d) To a cooperative association with respect to milk for which such association is acting in the capacity of a handler pursuant to § 1064.9(c):

(1) On or before the 20th day of the month an amount equal to the rate specified in paragraph (b) of this section times the volume received during the first 15 days of the month; and

(2) On or before the 14th day after the end of each month an amount equal to not less than the value of such milk at the applicable weighted average or uniform price pursuant to § 1064.61(a), as adjusted pursuant to §§ 1064.74 and 1064.75, less payment made pursuant to paragraph (d)(1) of this section.

(e) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is re-

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quired under the provisions of §§ 1064.73, 1064.74, and 1064.75;

(4) The rate which is used in making payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1064.86 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(f) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to paragraph (c) of this section, shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 23d day of the month, the total pounds of milk received during the first 15 days of the month; and

(2) On or before the seventh day after the end of the month:

(i) The pounds per shipment, the total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1064.77.

§ 1064.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1064.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price pursuant to § 1064.61(a) and the uniform price for base milk pursuant to § 1064.61(b) for producer milk received at a pool plant or diverted from a pool plant shall be reduced according to the location of the pool plant at the rate set forth in § 1064.52, subject to § 1064.13(c).

(b) For purposes of computations pursuant to §§ 1064.71 and 1064.72 the weighted average price shall be adjusted at the rates set forth in § 1064.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

§ 1064.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant, except a plant described in § 1064.7(d)(3), shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1064.30(b) and 1064.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1064.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1064.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1064.60 for such handler shall include, in lieu of the value of other source milk specified in § 1064.60(f) less the value of such other source milk specified in § 1064.71(a)(2)(ii), a value of milk determined pursuant to § 1064.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1064.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1064.30(b) and 1064.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1064.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1064.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1064.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1064.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

§ 1064.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1064.71, 1064.73, 1064.77, 1064.85, and 1064.86 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1064.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, of:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1064.44(a)(7) and (11) and the corresponding steps of § 1064.44(b), except such other source milk that is excluded from the computations pursuant to § 1064.60(d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant (except from a plant described in § 1064.7(d)(3)) as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1064.76(a)(2).

§ 1064.86 Deduction for marketing services.

(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself pursuant to § 1064.73(a), shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator on or before the 12th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from and to provide market information to such producers.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1064.73(a), as are authorized by such producers, and on or before the 12th day after the end of each month, pay over such deductions to the association of which such producers are members, accompanied by a statement showing the amount of the deduction and the quantity of milk for which it was computed for each such producer.

BASE-EXCESS PLAN

§ 1064.90 Base milk and excess milk.

(a) "Base milk" means that producer milk received by a handler from a producer in each month of February through July that is not in excess of such producer's daily base computed pursuant to § 1064.91 multiplied by the number of days of production in the month that such milk was received by the handler.

(b) "Excess milk" means that producer milk received by a handler from a producer in each month of February through July that is in excess of base milk received from such producer in such month and shall include all milk received from a producer for whom no daily base can be computed pursuant to § 1064.91.

§ 1064.91 Computation of daily base for each producer.

The daily base for each producer applicable during each month of February through July, inclusive, shall be determined by the market administrator as follows: Divide the total pounds of milk received by a handler at a pool plant from such producer during the immediately preceding months of September through December by the number of days during such period on which milk was received from such producer or by 90 whichever is greater. In the case of producers delivering milk to a plant which first became a pool plant during or after the end of the base-forming period, the daily average base for each producer at such plant shall be that which would have been calculated for such producers for the entire base-forming period if the handler's plant had been a pool plant during such period.

§ 1064.92 Daily base rules.

(a) Except as provided in paragraph (b) of this section, a daily base shall apply only to milk produced by the producer in whose name such milk was delivered to the handler(s) during the base-forming period.

(b) A producer may transfer his daily base during the period of February through July by notifying the market administrator in writing before the last day of any delivery period that such base is to be transferred to the person named in such notice but under the following conditions only:

(1) In the event of the death or entry into military service of a producer, the entire daily base may be transferred to a member of such producer's immediate family who carries on the dairy operation on the same farm; and

(2) If a base is held jointly and such joint holding is terminated on the basis of written notice to the market administrator from the joint holders the entire daily base may be transferred to one of the joint holders, or divided in accordance with such notice between the former joint holders if they continue dairy operations.

§ 1064.93 Announcement of bases.

On or before February 1 of each year the market administrator shall notify in writing each producer who made deliveries of milk during the previous September through December and the handler receiving milk from such producer of the daily base established by such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1064.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1064.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1064.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1064.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1064.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group of participating producers, in total, pursuant to § 1064.113

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(c), one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent but not less than 1 percent of the total participating producers, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1064.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives but not less than five.

§ 1064.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1064.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1064.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more producers as Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual participating producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1064.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum. Any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1064.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the program within the scope of Agency authority pursuant to § 1064.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1064.110 and 1064.117.

1064.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1064.110 and 1064.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of power and performance of duties:

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1064.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1064.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1064.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1064.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1064.120 Procedure for requesting refunds.

Any producer may apply for refund subject to the applicable conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1064.61(a)(4): *Provided*, That such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September, respectively, was a producer under an order where the same refund notification period applied and such dairy farmer did not appropriately submit refund application during such period. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed request for refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1064.61(a)(4).

§ 1064.121 Duties of the market administrator.

Except as specified in § 1064.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1064.113(c);

(b) Set aside the amounts subtracted under § 1064.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1064.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1064.120. Such refund shall be computed at the rate of 5 cents per hunderdweight of such producer's milk pooled for which deductions were made pursuant to § 1064.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1064.110 through 1064.122).

(d) Make necessary audit to establish that all Agency funds are used only for authorized purposes.

§ 1064.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1064.70.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1065.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1065.2 Nebraska-Western Iowa marketing area.

The "Nebraska-Western Iowa marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of the counties and townships listed below, including such territory as is now occupied and as may be occupied in the future by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments. Where such establishment is partly within and partly without the designated boundaries, the marketing area shall include the entire area encompassed by such establishment.

(a) *Zone 1.*

IOWA COUNTIES

Fremont. Monona.
Harrison. Mills.
Pottawattamie (only the townships of Boomer, Crescent, Garner, Hardin, Hazel Dell, Kane, Keg Creek, Lake, Lewis, Minden, Neola, Norwalk, Rockford, Silver Creek, Washington, and York.)
Woodbury.

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NEBRASKA COUNTIES

Antelope.	Madison.
Boone.	Merrick.
Burt.	Nance.
Butler.	Nemaha.
Cass.	Nuckolls.
Cedar.	Otoe.
Clay.	Pierce.
Colfax.	Platte.
Cuming.	Polk.
Dakota.	Saline.
Dixon.	Sarpy.
Dodge.	Saunders.
Douglas.	Seward.
Fillmore.	Stanton.
Gage.	Thayer.
Hamilton.	Thurston.
Jefferson.	Washington.
Johnson.	Wayne.
Knox.	York.
Lancaster.	

SOUTH DAKOTA

That portion of Union County comprising Jefferson Township, North Sioux City, and the unorganized territory adjacent thereto, as defined and mapped in the United States 1960 Census of Population.

(b) *Zone 2.*

IOWA COUNTIES

Cass.	Sac.
Cherokee.	Shelby.
Crawford.	Sioux.
Ida.	Pottawattamie (that portion not otherwise included in Zone 1).
Montgomery.	
O'Brien.	
Page.	
Plymouth.	

(c) *Zone 3.*

NEBRASKA COUNTIES

Adams.	Harlan.
Banner.	Howard.
Box Butte.	Kearney.
Buffalo.	Keith.
Cheyenne.	Kimball.
Custer.	Lincoln.
Dawes.	Morrill.
Dawson.	Phelps.
Deuel.	Red Willow.
Franklin.	Scotts Bluff.
Frontier.	Sheridan.
Furnas.	Sherman.
Garden.	Sioux.
Gosper.	Valley.
Greeley.	Webster.
Hall.	

§ 1065.3 Route disposition.

"Route disposition" means a delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product classified as Class I to retail or wholesale outlets other than a delivery in bulk to a milk plant.

§ 1065.4 [Reserved]

§ 1065.5 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which there is route disposition of any fluid milk product during the month in the marketing area.

§ 1065.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk acceptable to a duly constituted health authority for distribution in the marketing area as Grade A milk, is shipped during the month to a pool plant qualified pursuant to § 1065.7.

§ 1065.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to not less than 15 percent of the Grade A milk received at such plant from dairy farmers, supply plants (exclusive of plants qualifying as pool plants pursuant to this paragraph), and handlers described in § 1065.9(c); and

(2) Total route disposition, except filled milk, equal to not less than 35 percent of the Grade A milk received at the plant from the sources specified in paragraph (a)(1) of this section.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and handlers described in § 1065.9(c) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of August through December shall be a pool plant for the succeeding months of January through July, unless the plant operator requests the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(c) A supply plant operated by a cooperative association if, during the month, 51 percent or more of the producer milk of members of the association is received at a pool distributing plant(s) of another handler(s), or is transferred to such plant(s) from the association's supply plant.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section from which a lesser volume of fluid milk products (not including filled milk) is disposed of in the Nebraska-Western Iowa marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period of January through July, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by a duly constituted health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1065.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1065.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant. In case a corporation with recognized divisions which are operated as separate business units operates two or more pool plants, each such division shall be the handler with respect to the pool plant(s) it operates;

(b) Any cooperative association with respect to milk of its member producers which is diverted pursuant to § 1065.13 for the account of such association;

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. The milk shall be deemed to have been received from producers by the cooperative association at the location of the plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1065.7(d).

§ 1065.10 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets all of the following conditions:

(a) Receipts of fluid milk products at his plant are solely milk of his own production and fluid milk products from pool plants of other handlers;

(b) Receives no milk products other than fluid milk products for reconstituting into fluid milk products; and

(c) The maintenance, care, and management of the dairy animals and other resources necessary to produce the milk, and the processing, packaging, and distribution of the milk (including filled milk) are the personal enterprise and the personal risk of such person.

§ 1065.11 [Reserved]

§ 1065.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received at a pool plant or by a handler described in § 1065.9(c) or is diverted as producer milk pursuant to § 1065.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1065.44 (a) (8) (iii) and the corresponding step of § 1065.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1065.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers that is:

(a) Received from producers at a pool plant;

(b) Received from producers by a cooperative association handler described in § 1065.9(c);

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant pursuant to paragraph (c) (1) or (2) of this section, subject to the conditions set forth in paragraph (c) (3) and (4) of this section;

(1) A cooperative association handler described in § 1065.9(b) may divert for its account the milk of any member-producer if at least 2 days' production of such producer is received at a pool plant(s) during the month. The total quantity of milk so diverted by the cooperative association handler shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of member-producers received at all pool plants during the current month; or

(ii) The average daily quantity of milk of member-producers received at all pool plants during the immediately preceding month, multiplied by the number of days in the current month;

(2) A handler, other than a cooperative association, in his capacity as the operator of a pool plant, may divert for his account the milk of any producer other than a member of a cooperative association, if at least 2 days' production of such producer is received at the handler's pool plant(s) during the month. The total quantity of milk so diverted by the handler shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of producers received at his pool plant(s) during the current month exclusive of milk received from producers who are members of a cooperative association; or

(ii) The average daily quantity of milk of producers received at his pool plant(s) during the immediately preceding month, exclusive of milk received from producers who are members of a cooperative association, multiplied by the number of days in the current month;

(3) In the event the quantity of milk diverted is in excess of the applicable quantity specified in paragraph (c)(1) and (2) of this section, the diverting handler shall designate the dairy farmers whose milk was overdiverted. If the handler fails to make such designation, no milk diverted by him shall be producer milk for such month; and

(4) For the purposes of location adjustments pursuant to §§ 1065.52 and 1065.75, milk so diverted shall be priced at the location of the plant to which diverted.

§ 1065.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1065.40(b)(1) from any source other than producers, handlers described in § 1065.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1065.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1065.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1065.40(b)(1)) for which the handler fails to establish a disposition.

§ 1065.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, low-fat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1065.40(b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1065.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1065.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1065.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application of the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of, or marketing, milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

§ 1065.30 Reports of receipts and utilization.

On or before the seventh day, excluding holidays, after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1065.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

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(4) Receipts of other source milk;
(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1065.40(b)(1); and
(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1065.9 (b) and (c) shall report:
(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and
(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1065.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1065.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:
(1) His name and address;
(2) The total pounds of milk received from such producer;
(3) The average butterfat content of such milk; and
(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1065.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1065.32 Other reports.

In addition to the reports required pursuant to §§ 1065.30 and 1065.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1065.40 Classes of utilization.

Except as provided in § 1065.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1065.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:
(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and
(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:
(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog or yogurt, except as otherwise provided in paragraph (c) of this section;
(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;
(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and
(4) Used to produce:
(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;
(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;
(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;
(iv) Plastic cream, frozen cream, and anhydrous milkfat;
(v) Custards, puddings, and pancake mixes; and
(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:
(1) Used to produce:
(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);
(ii) Butter;
(iii) Any milk product in dry form;
(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;
(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and
(vi) Any product not otherwise specified in this section;
(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;
(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;
(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;
(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1065.15; and
(6) In shrinkage assigned pursuant to § 1065.41(a) to the receipts specified in § 1065.41(a)(2) and in shrinkage specified in § 1065.41(b) and (c).

§ 1065.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1065.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:
(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and
(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:
(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);
(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1065.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;
(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;
(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;
(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;
(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and
(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1065.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1065.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1065.9(c) to another handler's pool plant shall be classified as follows:
(1) Such transfers from a pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:
(i) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b);
(ii) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1065.44(a)(7) or the corresponding step of § 1065.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and
(iii) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1065.44(a)(11) or (12) or the corresponding steps of § 1055.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant; and

(2) Such transfers by a handler described in § 1065.9(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class after the computations pursuant to § 1065.44(a)(13)(i) and the corresponding step of § 1065.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:
(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;
(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);
(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;
(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;
(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and
(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1065.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:
(1) As Class I milk, if transferred in the form of a fluid milk product; and
(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:
(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and
(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:
(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:
(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1065.30 for the month within which such transaction occurred; and
(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;
(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:
(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;
(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;
(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and
(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;
(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;
(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

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(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to any remaining Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1065.43 General classification rules.

In determining the classification of producer milk pursuant to § 1065.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1065.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1065.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1065.40, 1065.41, and 1065.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1065.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1065.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1065.9(a) for each of his pool plants separately and of each handler described in § 1065.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1065.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1065.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1065.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1065.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1065.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1065.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1065.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reserve direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1065.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant according to the classification of such products pursuant to § 1065.42(a) (1); and

(ii) A handler described in § 1065.9(c) according to the classification of such products pursuant to § 1065.42(a) (2); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

§ 1065.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

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(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1065.44(a) (12) and the corresponding step of § 1065.44(b), estimate and publicly announce the utilization (to the nearest whole percentage(in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1065.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of the month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

Class Prices

§ 1065.50 Class prices.

Subject to the provisions of § 1065.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.60 for pool plants located in Zone 1, plus $1.50 in Zone 2, and plus $1.75 in Zone 3.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1065.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1065.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant (or diverted to a nonpool plant) located outside the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section the Class I price shall be that effective pursuant to § 1065.50(a) at the nearest of the pricing zones as set forth in § 1065.2, subject to a reduction of 1.5 cents for each 10 road miles or fraction thereof that such plant is located more than 100 miles from the nearest of the city halls in Chadron, Grand Island, Lincoln, Norfolk, North Platte, Omaha, and Scottsbluff, all in the State of Nebraska, and Sioux City, Iowa.

(b) For the purpose of calculating such adjustments:

(1) All distances shall be by shortest hard-surfaced highways and/or all-weather roads, as determined by the market administrator; and

(2) Transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1065.9 (c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1065.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1065.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1065.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1065.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1065.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1065.44(a)(14) and the corresponding step of § 1065.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1065.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(9) and the corresponding step of § 1065.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1065.44(a)(9) and the corresponding step of § 1065.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(7) (i) through (iv) and the corresponding step of § 1065.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(7) (v) and (vi) and the corresponding step of § 1065.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(11) and the corresponding step of § 1065.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1065.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1065.60 for all handlers who filed the reports prescribed by § 1065.30 for the month and who made the payments pursuant to §§ 1065.71 and 1065.73 for the preceding month;

(b) Subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1065.75;

(c) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1065.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1065.60 (f); and

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1065.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1065.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1065.71, 1065.76, and 1065.77, and out of which he shall make all payments pursuant to §§ 1065.72 and 1065.77.

§ 1065.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1065.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1065.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1065.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1065.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1065.71(a)(2) exceeds the amount computed pursuant to § 1065.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1065.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the uniform price pursuant to § 1065.61, as adjusted pursuant to §§ 1065.74 and 1065.75, and less the following amounts:

(1) The payments made pursuant to paragraph (b) of this section;

(2) Deductions for marketing services pursuant to § 1065.86; and

(3) Any proper deductions authorized by the producer: *Provided*, That, if by such date such handler has not received full payment for such month pursuant to § 1065.72, he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator:

(b) On or before the 27th day of each month to each producer:

(1) For whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section; and

(2) Who had not discontinued shipping milk to such handler, an advance payment with respect to milk received from such producer during the first 15 days of the month an amount per hundredweight not to be less than the uniform price for the preceding month;

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association; and

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.9(c) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the uniform price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1065.74, that are applicable at the location of the receiving handler's pool plant, less payment made pursuant to paragraph (d)(1) of this section;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate at which payment to the producer is required under the provisions of §§ 1065.61, 1065.74, and 1065.75;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed

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by the handler, including any deduction claimed under paragraph (b) of this section and § 1065.86 together with a description of the respective deductions; and

(6) The net amount of payment to the producer; and

(f) Nothing in this section shall abrogate the right of a cooperative association to make payments to its member producers in accordance with the payment plan of such cooperative association.

§ 1065.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1065.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price computed pursuant to § 1065.61 shall be decreased 10 cents per hundredweight for producer milk received at a pool plant located in Zone 2, and shall be increased 15 cents per hundredweight at pool plants located in Zone 3.

(b) For producer milk received at a pool paint or diverted to a nonpool plant located outside the marketing area the uniform price shall be that effective at the nearest of the pricing zones as set forth in § 1065.2, subject to a reduction at the rates set forth in § 1065.52.

(c) For purposes of computations pursuant to §§ 1065.71 and 1065.72 the uniform price shall be adjusted at the rates set forth in § 1065.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1065.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1065.30(b) and 1065.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1065.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1065.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1065.60 for such handler shall include, in lieu of the value of other source milk specified in § 1065.60(f) less the value of such other source milk specified in § 1065.71(a)(2)(ii), a value of milk determined pursuant to § 1065.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1065.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1065.30(b) and 1065.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1065.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1065.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1065.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1065.77 Adjustment of accounts.

Adjustments of accounts shall be made as follows:

(a) Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer-settlement fund pursuant to §§ 1065.71 and 1065.72, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the account so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make such payment to such handler; and

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payments of less than is required by § 1065.73, the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1065.85 Assessment for order administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that classified pursuant to § 1065.42(a)(2)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1065.44(a)(7) and (11) and the corresponding steps of § 1065.44(b), except such other source milk that is excluded from the computation pursuant to § 1065.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1065.76(a)(2).

§ 1065.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1065.73 shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to producer milk received by such handler (except such handler's own farm production) during the month and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such service shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

ADVERTISING AND PROMOTION PROGRAM

§ 1065.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1065.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1065.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1065.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1065.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group of participating producers, in total, pursuant to § 1065.113(c), one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent but not less than 1 percent of the total participating producers it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1065.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives, but not less than five.

§ 1065.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1065.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1065.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more producers as Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual participating producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1065.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum. Any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1065.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the program within the scope of Agency authority pursuant to § 1065.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

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(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1065.110 and 1065.117.

§ 1065.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1065.110 and 1065.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1065.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1065.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1065.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1065.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1065.120 Procedure for requesting refunds.

Any producer may apply for refund subject to the applicable conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1065.61(e): *Provided;* That, such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September, respectively, was a producer under an order where the same refund notification period applied and such dairy farmer did not appropriately submit refund application during such period. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed request for refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible (on the basis of his request filed under the other order) for refunds with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1065.61(e).

§ 1065.121 Duties of the market administrator.

Except as specified in § 1065.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1065.113(c);

(b) Set aside the amounts subtracted under § 1065.61(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed;

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1065.61(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1065.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1065.61(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1065.110 through 1065.122).

(d) Make necessary audits to establish that all agency funds are used only for authorized purposes.

§ 1065.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1065.70.

PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1068.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1068.2 Minneapolis-St. Paul, Minn., marketing area.

"Minneapolis-St. Paul, Minn., marketing area" (referred to in this part as the "marketing area") means all the territory within the boundaries of the townships and counties listed below. The marketing area shall include all territory that is now, or in the future, occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishment if any part of such territory is within the designated geographical limits of the marketing area.

MINNESOTA COUNTIES

Anoka.	Mille Lacs.
Benton.	Pine.
Carver.	Ramsey.
Chisago.	Renville.
Dakota.	Scott.
Hennepin.	Sherburne.
Isanti.	Sibley.
Kanabec.	Stearns.
Kandiyohi.	Washington.
McLeod.	Wright.
Meeker.	

WISCONSIN COUNTIES

In Pierce County, the townships of:
Clifton. River Falls.

In St. Croix County, the townships of:

Hudson.	Stanton.
Kinnickinnic.	Star Prairie.
Richmond.	Troy.
St. Joseph.	Warren.
Somerset.	

§ 1068.3 Route disposition.

"Route disposition" means any delivery either inside or outside the marketing area (including disposition by a vendor or from a plant store or from vending machines) of any fluid milk product classified as Class I milk to a wholesale or retail stop, including any governmentally operated institution, but excluding any disposition of skim milk or butterfat not eligible for sale in fluid form as Grade A milk in the marketing area from a nonpool plant to any other plant or to a commercial processor of foods.

§ 1068.4 Plant.

"Plant" means the entire land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, maintained and operated at the same location primarily for the receiving, processing or other handling of milk or milk products (including filled milk). Under this definition any separate portion of a premises or facilities qualified under § 1068.7(b) used to receive, process, or otherwise handle milk shall be deemed to be a separate plant. This definition shall not include any building, premises, facilities, or equipment used primarily (a) to hold or store bottled milk or milk products (including filled milk) in finished form in transit for wholesale or retail distribution on a route(s), or (b) to transfer milk from one conveyance to another in transit from farm to plant of first receipt.

§ 1068.5 [Reserved]

§ 1068.6 [Reserved]

§ 1068.7 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section, but not any plant withdrawn pursuant to paragraph (c) of this section, or any plant exempt pursuant to paragraph (d) of this section.

(a) A plant in which milk is processed or packaged and from which not less than 15 percent of its total disposition of Class I milk (except filled milk) during the month either by the operator of such plant or by another person is route disposition within the marketing area: *Provided,* That the total quantity of Class I milk (except filled milk) disposed of from such plant during the month either inside or outside the marketing area, is equal to 30 percent or more of such plant's total receipts of skim milk and butterfat eligible for sale in fluid form as Grade A milk within the marketing area in any of the months of January through June, or to 50 percent or more of such total receipts in any of the months of July through December.

(b) Any plant from which during any month 30 percent or more of such plant's total receipts for such month from farms of skim milk or butterfat eligible for sale in fluid form as Grade A milk within the marketing area is delivered (except as filled milk) to (1) a plant(s) which has qualified pursuant to paragraph (a) of this section, (2) any other plants located within the marketing area from which route disposition is made within the marketing area, or (3) a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities: *Provided,* That if during each of the months of September, October, and November, 30 percent or more of such plant's receipts of skim milk or butterfat for such month as described above is delivered as provided in this paragraph, it shall be a pool plant through the following August: *And provided further,* That any deliveries of milk by a cooperative association during the months of September, October, and November directly from a farm(s) of its producer member(s) to a plant(s) described in paragraph (a) of this section may be considered, for purposes of this paragraph, as having been received first at a plant of such cooperative association.

(c) Upon written request by the handler to the market administrator, received or postmarked on or before the last day of any month, any plant qualified as a pool plant pursuant to paragraph (b) of this section may be withdrawn from pool plant status beginning with the next month. Any such plant

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withdrawn from automatic pool plant status may not regain such status prior to the next September 1 and then only by meeting the requirements set forth in the first proviso of paragraph (b) of this section in the same manner as a plant qualifying for pool plant status for the first time.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant withdrawn pursuant to paragraph (c) of this section; or

(3) A plant qualified as a pool plant pursuant to paragraph (a) or (b) of this section if the conditions of paragraph (d)(3) (i) and (ii) of this section are met. Such plant shall be exempt from the provisions of this part except for reports that may be required pursuant to § 1068.30(d) and verification of such reports by the market administrator in accordance with § 1000.5 of this chapter:

(i) The Secretary determines that a greater quantity of milk in fluid form is disposed of from such plant to a regulated marketing area as defined in another order issued pursuant to the Act either as route disposition, excluding filled milk, or to pool plants qualified on the basis of route disposition than is disposed of from such plant in the Minneapolis-St. Paul marketing area either as route disposition, excluding filled milk, or to pool plants qualified on the basis of route disposition.

(ii) Such milk would be subject to the class price and producer payment provisions of the other marketing agreement or order upon being made exempt from this part.

§ 1068.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products eligible for sale as Grade A in consumer-type packages or dispenser units or filled milk are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a Grade A fluid milk product or filled milk is shipped during the month to a pool plant.

§ 1068.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) Any cooperative association with respect to milk of its members diverted for its account pursuant to § 1068.13;

(c) Any cooperative association qualifying as a handler pursuant to paragraph (a) of this section shall be, for the purposes of making payments pursuant to § 1068.71, the handler also with respect to producer milk caused to be delivered for the account of such association from the farms of producers to the pool plant(s) of an other handler(s);

(d) Any person in his capacity as the operator of a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities;

(e) A producer-handler,

(f) Any person in his capacity as the operator of an other order plant from which during the month there is route disposition in the marketing area or fluid milk products are shipped to a pool plant; or

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1068.10 Producer-handler.

(a) "Producer-handler" means any person who meets all of the following conditions:

(1) Operates a dairy farm and a distribution plant at which Grade A milk of his own production is processed and packaged, and from which there is route disposition in the marketing area;

(2) Receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts of not more than 50,000 pounds of milk (3.5 percent milk equivalent of butterfat) during the month by transfer from pool plants of other handlers;

(3) Receives no nonfluid milk products from any source for use in reconstituting fluid milk products;

(4) Has route disposition consisting only of skim milk and butterfat obtained from his own farm production except that received pursuant to the exception set forth in paragraph (a)(2) of this section; and

(5) The maintenance, care and management of the dairy animals and other resources necessary to produce such milk and the processing, packaging, or distribution of such milk are the personal enterprise, and the personal risk, of such person.

(b) Any handler claiming producer-handler status shall furnish to the market administrator, for verification, evidence of his qualifications as a producer-handler pursuant to this section and shall furnish evidence of subsequent changes made in the manner of producing securing, or distributing milk that affect such qualifications as a producer-handler. Such verification by the market administrator shall be made within 15 days of receipt of the evidence and shall be effective as of the first day of the month during which verification is made.

§ 1068.11 [Reserved]

§ 1068.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant as producer milk directly from the farm or diverted pursuant to § 1068.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1068.44(a)(8)(iii) and the corresponding step of § 1068.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1068.13 Producer milk.

"Producer milk" means the skim milk and butterfat in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be priced at the location of the nonpool plant to which diverted;

(2) In any month that less than 6 days' production of a producer is delivered to pool plants the quantity of milk of the producer diverted during the month that exceeds that delivered to pool plants shall not be producer milk;

(3) During the months of September through November, a cooperative association handler may divert for his account the milk of any member producer. The total quantity of producer milk diverted by such handler in excess of 10 percent of the milk received from member producers at pool plants during the month shall not be producer milk;

(4) During the months of December through August, a cooperative association handler may divert for his account the milk of any member producer. The total quantity of producer milk diverted by such handler in excess of 25 percent of the milk received from member producers at pool plants during the month shall not be producer milk;

(5) During the months of September through November, the operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association. The total quantity of producer milk diverted by such handler in excess of 10 percent of the milk received at such pool plant during the month from producers who are not members of a cooperative association shall not be producer milk;

(6) During the months of December through August, the operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association. The total quantity of producer milk diverted by such handler in excess of 25 percent of the milk received at such pool plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(7) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (b)(3), (4), (5), and (6) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

§ 1068.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1068.40(b)(1) from any source other than producers, handlers described in § 1068.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1068.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1068.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1068.40(b)(1)) for which the handler fails to establish a disposition.

§ 1068.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1068.40(b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1068.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1068.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1068.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

§ 1068.30 Reports of receipts and utilization.

On or before the 10th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1068.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1068.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1068.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1068.31 Payroll reports.

(a) On or before the last day of each month, each handler described in § 1068.9 (a), (b), and (c) shall report to the market administrator his producer payroll for the preceding month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1068.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1068.32 Other reports.

In addition to the reports required pursuant to §§ 1068.30 and 1068.31, the following shall be reported to the market administrator:

(a) Each handler specified in § 1068.9(g) who operates an unregulated supply plant shall report as required in § 1068.30, except that the receipts of skim milk and butterfat in Grade A milk shall be reported in lieu of those in producer milk.

(b) Each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1068.40 Classes of utilization.

Except as provided in § 1068.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1068.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

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(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1068.15; and

(6) In shrinkage assigned pursuant to § 1068.41(a) to the receipts specified in § 1064.41(a)(2) and in shrinkage specified in § 1068.41 (b) and (c).

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1068.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1068.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1068.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1068.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

§ 1068.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1068.44(a)(12) and the corresponding step of § 1068.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1068.44(a)(7) or the corresponding step of § 1068.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1068.44(a)(11) or (12) or the corresponding steps of § 1068.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1068.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1068.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1068.43 General classification rules.

In determining the classification of producer milk pursuant to § 1068.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1068.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1068.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1068.40, 1068.41, and 1068.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1068.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) For classification purposes, pursuant to §§ 1068.40 through 1068.45, butterfat in skim milk either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.065 percent, unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1068.44 Classification of producer milk.

For each month the market administrator shall determine the classification

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of producer milk of each handler described in § 1068.9(a) for each of his pool plants separately and of each handler described in § 1068.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1068.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1068.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1068.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1068.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1068.40(b)(1) that was not subtracted pussuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1068.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1068.40(b)(1) in inventory at the begining of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to

this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1068.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1068.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1068.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1068.44(a)(12) and the corresponding step of § 1068.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1068.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

Class Prices

§ 1068.50 Class prices.

Subject to the provisions of § 1068.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.06.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1068.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1068.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk received at a plant located at least 35 miles (as determined by the market administrator) from the Minnesota Transfer Viaduct at University Avenue in St. Paul, Minn., shall be reduced by an amount indicated below:

Plant location (miles)	*Amount of deduction (cents)*
Less than 35	0
35 but less than 45	6

For distances of 45 miles or more, an additional 1.5 cents for each 10 miles or fraction thereof beyond 45 miles.

(b) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

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§ 1068.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1068.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1068.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1068.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1068.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1068.44(a)(14) and the corresponding step of § 1068.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1068.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1068.44(a)(9) and the corresponding step of § 1068.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(7) (i) through (iv) and the corresponding step of § 1068.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(7) (v) and (vi) and the corresponding step of § 1068.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(11) and the corresponding step of § 1068.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1068.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1068.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1068.60 for all handlers who filed reports pursuant to § 1068.30 for the month and who made the payments pursuant to § 1068.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1068.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1068.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1068.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 15th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1068.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1068.71, 1068.76, and 1068.77 and out of which he shall make all payments due handlers pursuant to §§ 1068.72 and 1068.77: *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

§ 1068.71 Payments to the producer-settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section: *Provided*, That payment made by a cooperative association as a handler pursuant to this paragraph with respect to milk transferred to another handler from the pool plant of such cooperative association or caused to be delivered to such handler from the farms of producers for the account of such cooperative association shall not relieve the transferee-handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1068.70 through 1068.75, §§ 1068.77 and 1068.78, and §§ 1068.85 and 1068.86:

(1) The total value of milk of the handler for such month as determined pursuant to § 1068.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1068.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1068.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each other according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1068.72 Payments from the producer-settlement fund.

On or before the 19th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1068.70, to each handler the amount,

if any, by which the amount computed pursuant to § 1068.71(a)(2) exceeds the amount computed pursuant to § 1068.71(a)(1).

§ 1068.73 Payments to producers and to cooperative associations.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) On or before the 11th day after the end of the month in which the skim milk or butterfat was received, to a cooperative association which is a handler, for all skim milk and butterfat received from a pool plant(s) operated by such cooperative association or caused by it to be delivered to such handler from producers' farms, at not less than the class prices, as adjusted by the butterfat differential specified in § 1068.74, that are applicable at the location of the receiving handler's pool plant, less the amount of payment made pursuant to paragraph (c) of this section.

(b) On or before the 21st day after the end of the month during which the milk was received, to each producer for milk not caused to be delivered to such handler by a cooperative association which is a handler, as follows: *Provided*, That such payment shall be made, upon request, to a cooperative association which is not a handler, or to its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this proviso shall be made on or before the 20th day after the end of such month:

(1) At not less than the uniform price computed pursuant to § 1068.61, subject to the butterfat and location differentials set forth in §§ 1068.74 and 1068.75, and less the amount of payment made pursuant to paragraph (c) of this section.

(c) Handlers (other than cooperative associations) shall make partial payments to producers and cooperative associations pursuant to paragraph (c)(1) and (2) of this section: *Provided*, That in the event any producer discontinues shipping to such handler during the month, such partial payment shall not be made and full payment for all milk received from such producer during such month shall be made pursuant to paragraphs (a) and (b) of this section.

(1) On or before the 25th day of each month, each handler shall make payment, except as set forth in paragraph (c)(2) of this section, to each producer, at not less than the applicable uniform price computed pursuant to § 1068.61 for the preceding month, for the milk of such producer received by such handler during the first 15 days of the current month;

(2) On or before the 20th day of each month, each handler shall make payment to a cooperative association which is not a handler for milk of producers from whom such association has received written authorization to collect payment, at not less than such uniform price for the preceding month, for all such milk received by such handler during the first 15 days of the current month; and

(3) On or before the 20th day of each month, each handler shall make payment to a cooperative association which is a handler, at not less than the Class I price for the current month pursuant to § 1068.50 for all skim and butterfat received from a pool plant(s) operated by such cooperative association, or caused by such association to be delivered from the producer's farms to such handler, during the first 15 days of the current month.

(4) All payments made pursuant to this paragraph shall be subject to the butterfat differential specified in § 1068.74 and location adjustments specified in § 1068.75 applicable at the location of the plant of the handler making the payment.

(d) In making payment to individual producers as required by this section, each handler shall furnish each producer from whom he received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month involved, and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of the milk received from the producer;

(3) The minimum rate at which payment to the producer is required pursuant to this section;

(4) The rate used in making the payment if such rate is other than the applicable minimum;

(5) The amount (or rate) per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 1068.86, together with a description of the respective deductions; and

(6) The net amount of the payment to the producer.

§ 1068.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1068.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments pursuant to § 1068.73 (b) and (c) for milk received at a pool plant located 35 miles or more from the Minnesota Transfer Viaduct at University Avenue in St. Paul, Minn., each handler shall deduct from the applicable price payable to such producers an amount in accordance with the location of the plant based on the rates set forth in § 1068.52; and

(b) For the purpose of computations pursuant to §§ 1068.71 and 1068.72, the uniform price shall be adjusted at the rates set forth in § 1068.52 applicable at the location of the nonpool plant from which the milk was received, except that the uniform price shall not be less than the Class III price.

§ 1068.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1068.30(b) and 1068.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

that an equivalent amount of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1068.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially

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regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1068.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1068.60 for such handler shall include, in lieu of the value of other source milk specified in § 1068.60(f) less the value of such other source milk specified in § 1068.71(a)(2)(ii), a value of milk determined pursuant to § 1068.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1068.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1068.30 (b) and 1068.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1068.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1068.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1068.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1068.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports or payments by any handler discloses errors in payments to the producer-settlement fund pursuant to §1068.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make payment to such handler.

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association discloses payment of less than is required by §1068.73, the handler shall pay the balance due such producer or cooperative association not later than the time for making payments next following such disclosure.

§ 1068.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§1068.71, 1068.76, and 1068.77(a), for which remittance has not been made by the close of business on the next day following the date specified for such payment shall be increased three-fourths of 1 percent for each month and any remaining amount due shall be increased at a similar rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously made pursuant to this section; and for the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1068.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1068.44(a)(7) and (11) and the corresponding steps of § 1068.44(b), except such other source milk that is excluded from the computations pursuant to § 1068.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1068.76(a)(2).

§ 1068.86 Deduction for marketing services.

(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1068.73, shall make a deduction of 6 cents per hundredweight, or such lesser deduction as the Secretary from time to time may prescribe, with respect to all milk received from producers' farms during the month, and shall pay such deductions to the market administrator on or before the 18th day after the end of such month. Such moneys shall be expended by the market administrator for market information to, and for the verification of weights, sampling, and testing of milk received from, said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, no such deduction shall be made.

PART 1069—MILK IN DULUTH-SUPERIOR MARKETING AREA

Subpart—Order Regulating Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1069.85 Assessment for order administration.
1069.86 Deduction for marketing services.

AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1069.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1069.2 Duluth-Superior marketing area.

"Duluth-Superior marketing area", hereinafter called the "marketing area", means all of the territory within Carlton County and the city of Duluth, in the State of Minnesota; and all of the territories within the counties of Ashland, Bayfield, and Douglas, in the State of Wisconsin.

§ 1069.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery in bulk form to a pool plant or nonpool plant.

§ 1069.4 [Reserved]

§ 1069.5 Distributing plant.

"Distributing plant" means a plant in which any Grade A fluid milk product is pasteurized or packaged and from which there is route disposition during the month in the marketing area.

§ 1069.6 Supply plant.

"Supply plant" means a plant from which Grade A milk is shipped during the month to a pool plant.

§ 1069.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which fluid milk products are pasteurized or packaged and from which there is route disposition during the month, except filled milk, equal to 50 percent or more of total receipts of Grade A milk at such plant from dairy farmers, from other plants, and from cooperative associations in their capacity as handlers and from which there is route disposition, except filled milk, in the marketing area equal to 10 percent or more of such total receipts: *Provided*, That such route disposition (not including filled milk) in the marketing area averages at least 500 pounds per day.

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the month 50 percent or more of its supply of Grade A milk from dairy farmers is moved to a distributing pool plant(s): *Provided*, That any supply plant which has qualified as a pool plant in each of the months of September, October, and November, shall be a pool plant for each of the following months of December through August unless written request for nonpool status is furnished in advance to the market administrator.

(c) A plant(s) (1) which is approved by a duly constituted health authority for the handling of Grade A milk, (2) which is operated by a cooperative association, and (3) from which the quantity of milk transferred by the association to plants specified in paragraph (a) of this section or delivered directly from the farm to such plants is equal to at least the following percentages, in the months indicated, of the quantity of Grade A milk delivered by all producers who are members of such association:

Month	Minimum percentage
September, October, November	40
April, May, June	20
All other months	30

The association shall furnish written notice to the market administrator specifying the plant(s) to be qualified pursuant to this paragraph and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the 7th day following the month to which such notice applies.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless:

(i) Such plant is qualified as a pool plant pursuant to paragraph (a), (b), or (c) of this section and a greater volume of Class I milk, except filled milk, is disposed of from such plant in the Duluth-Superior marketing area than in the marketing area regulated pursuant to such other order; or

(ii) The Secretary determines that the applicable order should more appropriately be determined on some other basis.

§ 1069.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped during the month to a pool plant.

§ 1069.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant.

(b) Any cooperative association with respect to the milk of producers which is diverted pursuant to § 1069.12 for the account of such cooperative association.

(c) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association. Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.

(d) Any person who operates a partially regulated distributing plant.

(e) A producer-handler.

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1069.10 Producer-handler.

"Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions are met during the month:

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(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) There is route disposition in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of fluid milk products does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of fluid milk products in bulk or in packaged form from pool plants of other handlers: *Provided*, That such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such person in his capacity as a handler.

§ 1069.11 [Reserved]

§ 1069.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of, or acceptable to, a duly constituted health authority, and whose milk is:

(1) Received at a pool plant; or

(2) Diverted from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association. Milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it is diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1069.44(a)(8)(iii) and the corresponding step of § 1069.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1069.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer and received at a pool plant directly from producers or diverted pursuant to § 1069.12.

§ 1069.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1069.40(b)(1) from any source other than producers, handlers described in § 1069.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1069.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1069.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in §1069.40(b)(1)) for which the handler fails to establish a disposition.

§ 1069.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1069.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1069.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1069.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1069.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association, to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

HANDLER REPORTS

§ 1069.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1069.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1069.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1069.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1069.31 Payroll reports.

(a) On or before the 25th day after the end of each month, each handler described in § 1069.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1069.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1069.32 Other reports.

In addition to the reports required pursuant to §§ 1069.30 and 1069.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1069.40 Classes of utilization.

Except as provided in § 1069.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1069.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1069.15; and

(6) In shrinkage assigned pursuant to § 1069.41(a) to the receipts specified in § 1069.41(a)(2) and in shrinkage specified in § 1069.41 (b) and (c).

§ 1069.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1069.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1069.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6), of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1069.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1069.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1069.44(a)(12) and the corresponding step of § 1069.44(b);

(2) If the transferor-plant received during the month other source milk to

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be allocated pursuant to § 1069.44(a)(7) or the corresponding step of § 1069.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1069.44(a) (11) or (12) or the corresponding steps of § 1069.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1069.40.

(c) *Transfers and diversions to producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1069.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1069.43 General classification rules.

In determining the classification of producer milk pursuant to § 1069.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1069.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1069.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1069.40, 1069.41, and 1069.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1069.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1069.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1069.9(a) for each of his pool plants separately and of each handler described in § 1069.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1069.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1069.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1069.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1069.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1069.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1069.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1069.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted

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pursuant to paragraph (a)(2), (7)(v), and 8 (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be prorata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1069.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plant shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1069.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1069.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1069.44(a)(12) and the corresponding step of § 1069.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1069.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

Class Prices

§ 1069.50 Class prices.

Subject to the provisions of § 1069.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.10.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1069.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest 0.1 cent) per 0.1 percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1069.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a plant located more than 55 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minn., or Ashland, Wis., whichever is closer, and which is classified as Class I milk, the price specified in § 1069.50(a) shall be reduced by 8 cents if such plant is located more than 55 miles but not more than 65 miles from such courthouse and by an additional 1.3 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles.

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee-plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1069.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1069.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1069.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1069.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1069.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1069.44(a)(14) and the corresponding step of § 1069.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1069.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1069.44(a)(9) and the corresponding step of § 1069.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1069.44(a)(7)(i) through (iv) and the corresponding step of § 1069.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1069.44(a)(7)(v) and (vi) and the corresponding step of § 1069.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1069.44(a)(11) and the corresponding step of § 1069.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1069.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1069.60 for all handlers who filed the reports prescribed by § 1069.30 for the month and who made the payments pursuant to §§ 1069.71 and 1069.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1069.75;

(c) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1069.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price".

§ 1069.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1069.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1069.71, 1069.76, and 1069.77, and out of which he shall make payments to handlers pursuant to §§ 1069.72 and 1069.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1069.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1069.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1069.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1069.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but

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not to be less than the Class III price) and the Class III price.

§ 1069.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1069.71(a)(2) exceeds the amount computed pursuant to § 1069.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments required by this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1069.73 Payments to producers and to cooperative associations.

On or before the 20th day after the end of each month, each handler shall make payments as follows:

(a) To each producer from whom milk was received during the month at not less than the uniform price per hundredweight computed pursuant to § 1069.61 subject to the butterfat differential computed pursuant to § 1069.74 and the location adjustment computed pursuant to § 1069.75 and less (1) deductions for marketing services pursuant to § 1069.86, and (2) other proper deductions: *Provided*, That with respect to each deduction for hauling, or for any other purpose, made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized, and properly chargeable to the producer: *And provided further*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1069.72, he may reduce pro rata his payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payment pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) A handler who has not received on the 20th day after the end of each month the balance of the payments due him from the market administrator shall not be deemed to be in violation of paragraph (a) of this section if he reduced his payments to producers by not more than the amount of the reduction payment from the producer-settlement fund. The handler shall, however, complete such payments not later than the date for making such payments next following receipt of the balance from the market administrator; and

(c) On or before the 15th day after the end of each month, to each cooperative association with respect to receipts of milk for which such cooperative association is defined as the handler not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1069.74, that are applicable at the location of the receiving handler's pool plant.

§ 1069.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1069.75 Plant location adjustments for producers and on nonpool milk.

(a) For milk which is received at a pool plant located more than 55 miles but not more than 65 miles by shortest highway distance, as determined by the market administrator, from the courthouse at Duluth, Minn., or at Ashland, Wis., whichever is closer, there should be deducted 8 cents per hundredweight and an additional 1.3 cents should be deducted for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For purposes of computations pursuant to §§ 1069.71 and 1069.72 the uniform price shall be adjusted at the rates set forth in § 1069.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1069.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1069.30(b) and 1069.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1069.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1069.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1069.60 for such handler shall include, in lieu of the value of other source milk specified in § 1069.60(f) less the value of such other source milk specified in § 1069.71(a)(2)(ii), a value of milk determined pursuant to § 1069.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1069.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1069.30(b) and 1069.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1069.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1069.74 for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1069.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1069.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount due and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1069.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1069.44(a)(7) and (11) and the corresponding steps of § 1069.44(b), except such other source milk that is excluded from the computations pursuant to § 1069.60(d) and (f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1069.76(a)(2).

§ 1069.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 1069.73, with respect to all milk received from each producer at a plant not operated by a cooperative association qualified under paragraph (b) of this section of which such producer is a member, shall deduct an amount not exceeding 3 cents per hundredweight (the exact amount to be determined by the market administrator subject to review by the Secretary) from the payments made direct to such producers and such handler shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to provide market information and to verify the accuracy of weights, sampling and testing of milk received from such producers.

(b) In the case of milk of producers who are members of a cooperative association which is actually performing the services described in paragraph (a) of this section, which is received at a plant not operated by such cooperative association, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made direct to such producers pursuant to § 1069.73, as are authorized by such producers and, on or before the 15th day after the end of such month, pay such deductions to such cooperative association.

PART 1070—MILK IN THE CEDAR RAPIDS-IOWA CITY MARKETING AREA

Subpart—Order Regulating Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1070.85 Assessment for order administration.
1070.86 Deduction for marketing services.

AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1070.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1070.2 Cedar Rapids-Iowa City marketing area.

"Cedar Rapids-Iowa City marketing area", called the "marketing area" in this part, means all the territory within the corporate limits of the cities of Cedar Rapids and Iowa City, both in the State of Iowa.

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§ 1070.3 [Reserved]

§ 1070.4 [Reserved]

§ 1070.5 Distributing plant.

"Distributing plant" means a plant in which any Grade A fluid milk product is processed or packaged and disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1070.6 Supply plant.

"Supply plant" means a plant from which Grade A milk or skim milk is shipped during the month to a pool plant qualified pursuant to § 1070.7.

§ 1070.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant from which a volume of Class I milk, except filled milk, equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before March 1 of any year, be designated as a pool plant for the months of March through June of such year.

(c) A plant (1) which is approved by a duly constituted health authority for the handling of Grade A milk; (2) which is operated by a cooperative association; and (3) from which the milk transferred by the association to plants of other handlers specified in paragraph (a) of this section plus that delivered by such association pursuant to paragraph (d) of this section and that delivered directly from the farms of members of such association to such plants is Grade A milk delivered by producers who are members of the association. If written application is filed with the market administrator on or before the 5th day of any month, such plant may be designated a nonpool plant for such month and for any subsequent months, except as provided in paragraph (e) of this section.

(d) A cooperative association with respect to Grade A milk received from dairy farmers at their farms in a tank truck owned or operated by such cooperative association and delivered in such tank truck to a pool plant: *Provided*, That such milk shall be deemed to have been received by the cooperative association at the location of the pool plant to which it is delivered by the tank truck and such location shall be deemed to be the location of such cooperative association in its capacity as the operator of a pool plant.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant specified in paragraph (a), (b), (c), or (d) of this section during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under this section and to retail and wholesale outlets in the Cedar Rapids-Iowa City marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order.

§ 1070.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1070.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to producer milk diverted by the association for its account pursuant to § 1070.13;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1070.7(e).

§ 1070.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers or from a cooperative association in its capacity as the operator of a pool plant pursuant to § 1070.7(d) and whose disposition of fluid milk products does not exceed that (a) received from a pool plant, (b) processed from milk of his own production, or (c) processed from fluid milk products received from a pool plant.

§ 1070.11 [Reserved]

§ 1070.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1070.44(a)(8)(iii) and the corresponding step of § 1070.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1070.13 Producer milk.

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received at a pool plant directly from producers; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of a pool plant or a cooperative association, subject to the following:

(1) Such diversions may be without limit during the months of April through August, but not be for more than 25 days' production of any producer during any other month and milk diverted in excess of this limit shall not be producer milk;

(2) Milk so diverted for the account of the operator of a pool plant shall be deemed to have been received at the plant from which diverted; and

(3) Milk so diverted from the plant of another handler for the account of a cooperative association shall be priced at the location of the plant from which diverted.

§ 1070.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1070.40(b)(1) from any source other than producers, or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1070.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1070.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1070.40(b)(1)) for which the handler fails to establish a disposition.

§ 1070.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1070.40(b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1070.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1070.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1070.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1070.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1070.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1070.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1070.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1070.9(a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1070.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1070.32 Other reports.

In addition to the reports required pursuant to §§ 1070.30 and 1070.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1070.40 Classes of utilization.

Except as provided in § 1070.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1070.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

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(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1070.15; and

(6) In shrinkage assigned pursuant to § 1070.41(a) to the receipts specified in § 1070.41(a)(2) and in shrinkage specified in § 1070.41 (b) and (c).

§ 1070.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1070.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1070.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1070.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1070.44(a)(12) and the corresponding step of § 1070.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1070.44(a)(7) or the corresponding step of § 1070.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1070.44(a)(11) or (12) or the corresponding steps of § 1070.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers or diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1070.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1070.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1070.43 General classification rules.

In determining the classification of producer milk pursuant to § 1070.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1070.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1070.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1070.40, 1070.41, and 1070.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1070.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1070.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1070.9(a) for each of his pool plants separately and of each handler described in § 1070.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1070.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk specified in § 1070.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1070.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1070.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this

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section applies, packaged inventory at the beginning of the month of products specified in § 1070.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1070.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler); with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iii) The pounds of skim milk to be subtracted in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1070.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted; and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1070.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1070.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1070.44(a)(12) and the corresponding step of § 1070.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1070.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association which so requests, the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

Class Prices

§ 1070.50 Class prices.

Subject to the provisions of § 1070.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.33.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1070.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1070.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located 50 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the nearer of the City Halls in Cedar Rapids and Iowa City, Iowa, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1070.50(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I utilization remaining at the transferee-plant after computations pursuant to § 1070.44(a)(12) and the corresponding step of § 1070.44(b) which is in excess of 95 percent of receipts at such plant from producers, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1070.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month

§ 1070.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1070.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1070.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1070.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1070.44(a)(14) and the corresponding step of § 1070.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1070.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1070.44(a)(9) and the corresponding step of § 1070.44(b);

(d) Add the amount obtained from multiplying the difference between the

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Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1070.44(a)(7) (i), through (iv), and the corresponding step of § 1070.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1070.44(a)(7) (v) and (vi) and the corresponding step of § 1070.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1070.44(a)(11) and the corresponding step of § 1070.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1070.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f.o.b. pool plants located within 50 miles of the city hall of Cedar Rapids or Iowa City, Iowa, as follows:

(a) Combine into one total the values computed pursuant to § 1070.60 for all handlers who filed the reports prescribed by § 1070.30 for the month and who made the payments pursuant to § 1070.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1070.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1070.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1070.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1070.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1070.71, 1070.76, and 1070.77, and out of which he shall make all payments to handlers pursuant to §§ 1070.72 and 1070.77.

§ 1070.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1070.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1070.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1070.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1070.72 Payments from the producer-settlement fund.

On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1070.71(a)(2) exceeds the amount computed pursuant to § 1070.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1070.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1070.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for milk received from him and for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price computed in accordance with § 1070.61, subject to the butterfat differential computed pursuant to § 1070.74 and less location adjustments pursuant to § 1070.75.

(b) On or before the 12th day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

(c) On or before the 11th day after the end of each month during which milk was received at a pool plant from a cooperative association in its capacity as the operator of a pool plant pursuant to § 1070.7(d), at not less than the class prices for such milk, as adjusted by the butterfat differential specified in § 1070.74, that are applicable at the location of the receiving handler's pool plant, plus an amount equal to that payable on the same quantity of producer milk pursuant to § 1070.85.

§ 1070.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1070.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1070.52; and

(b) For purposes of computations pursuant to §§ 1070.71 and 1070.72 the uniform price shall be adjusted at the rates set forth in § 1070.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1070.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1070.30(b) and 1070.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1070.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated pant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1070.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant(but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1070.60 for such handler shall include, in lieu of the value of other source milk specified in § 1070.60(f) less the value of such other source milk specified in § 1070.71(a)(2)(ii), a value of milk determined pursuant to § 1070.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1070.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1070.30(b) and 1070.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1070.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1070.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1070.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1070.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1070.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk;

(b) Other source milk allocated to Class I pursuant to § 1070.44(a) (7) and (11) and the corresponding steps of § 1070.44(b), except such other source milk that is excluded from the computations pursuant to § 1070.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1070.76(a)(2).

§ 1070.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1070.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 12th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary,

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the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions as are authorized by such producers and, on or before, the 12th day after the end of each month, pay over such deductions to the association rendering such services.

PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1076.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1076.2 Eastern South Dakota marketing area.

"Eastern South Dakota marketing area," hereinafter called the "marketing area," means all of the territory within the counties listed below, including all territory within such counties which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments:

IOWA COUNTY

Lyon.

MINNESOTA COUNTY

Rock.

SOUTH DAKOTA COUNTIES

Aurora.
Beadle.
Bon Homme.
Brown.
Clark.
Clay.
Codington.
Davison.
Day.
Douglas.
Edmunds.
Hamlin.
Hanson.
Hutchinson.
Jerauld.
Kingsbury.
Lake.
Lincoln.
McCook.
McPherson.
Miner.
Minnehaha.
Moody.
Sanborn.
Spink.
Turner.
Union (except Jefferson Township and the city of North Sioux City and the unorganized territory adjacent thereto).
Walworth.
Yankton.

§ 1076.3 Route disposition.

"Route disposition" means a delivery (including delivery by a vendor or a sale from a plant store, or distribution center) of any fluid milk product classified as Class I milk to retail or wholesale outlets, except a delivery in bulk form to a milk (including filled milk) processing plant. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing plant.

§ 1076.4 [Reserved]

§ 1076.5 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which there is route disposition during the month in the marketing area.

§ 1076.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1076.7(a).

§ 1076.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which route disposition, except filled milk, equals not less than 35 percent of the Grade A milk received at such plant from dairy farmers, handlers described in § 1076.9(c), and supply plants and not less than 15 percent of such receipts is disposed of as route disposition, except filled milk, in the marketing area.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers and handlers described in § 1076.9(c) during such month. If such shipments are not less than 50 percent of such receipts during each of the immediately preceding months of September through November, such plant shall be a pool plant for the months of March through June, unless the operator of such plant requests the market administrator in writing that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and such plant shall thereafter be a nonpool plant until it again qualifies as a pool plant on the basis of the shipping requirements set forth in this paragraph.

(c) A plant, other than a distributing plant, operated by a cooperative association if more than 50 percent of the total milk supply of producer members of such cooperative association is shipped to pool distributing plants of other handlers during the month, either directly from the farm or by transfer from the plant of the cooperative association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section from which a lesser volume of fluid milk products, except filled milk, is disposed of in the Eastern South Dakota marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period of March through June, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1076.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, and from which fluid milk products are shipped during the month to a pool plant.

§ 1076.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to the milk of producers diverted by the association for the account of such association pursuant to § 1076.13;

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case, the milk is received from producers by the cooperative association at the location of the plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1076.7(d).

§ 1076.10 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets all of the following conditions:

(a) Receipts of fluid milk products at his plant are solely milk of his own production and from pool plants of other handlers;

(b) Receives no milk products other than fluid milk products from any source for use in reconstituting fluid milk products; and

(c) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging, and distribution of the milk (including filled milk) are the personal enterprise and the personal risk of such person.

§ 1076.11 [Reserved]

§ 1076.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (1) received at a pool plant, or (2) diverted as producer milk pursuant to § 1076.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1076.44(a)(8)(iii) and the corresponding step of § 1076.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1076.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers; and

(2) Diverted from such pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section;

(b) With respect to receipts of a cooperative association:

(1) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the limitations and conditions of paragraph (c) of this section; and

(2) For which the cooperative association is the handler as described in § 1076.9(c); and

(c) With respect to diversions to nonpool plants pursuant to paragraphs (a)(2) and (b)(1) of this section:

(1) A cooperative handler may divert for its account the milk of any member producer, whose milk is delivered to a distributing pool plant on at least 3 days during the month without limit during the other days of such month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but shall not exceed 35 percent of its member producer milk received at all pool plants during any other month of the year. Diversions in excess of such percentage shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. If the cooperative association fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to a nonpool plant by such cooperative association;

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section, whose milk is received at a pool plant on at least 3 days during the month, without limit during the other days of such month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but during any other month of the year shall not exceed 35 percent of the milk received from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section. Diversions in excess of such percentage shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to a nonpool plant by such handler; and

(3) For the purpose of location adjustments pursuant to §§ 1076.52 and 1076.75, milk so diverted shall be priced at the location of the plant from which diverted.

§ 1076.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1076.40(b)(1) from any source other than producers, handlers described in § 1076.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1076.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1076.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1076.40(b)(1)) for which the handler fails to establish a disposition.

§ 1076.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1076.40(b) or (c)(1) (i) through (v) if it contains by weight at least 80 per-

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cent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1076.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1076.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1076.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

Handler Reports

§ 1076.30 Reports of receipts and utilization.

On or before the 7th day (excluding holidays) after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1076.9(c);

(3) Receipts of fluid milk products and bulk fluid cream producs from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1076.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1076.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1076.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1076.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1076.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1076.32 Other reports.

In addition to the reports required pursuant to §§ 1076.30 and 1076.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1076.40 Classes of utilization.

Except as provided in § 1076.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1076.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1076.15; and

(6) In shrinkage assigned pursuant to § 1076.41(a) to the receipts specified in § 1076.41(a)(2) and in shrinkage specified in § 1076.41 (b) and (c).

§ 1076.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1076.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1076.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests, determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding milk received by diversion and the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1076.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1076.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1076.9(c) to another handler's pool plant shall be classified as follows:

(1) Such transfers from a pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(i) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1076.44(a)(12) and the corresponding step of § 1076.44(b);

(ii) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1076.44(a)(7) or the corresponding step of § 1076.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(iii) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1076.44 (a) (11) or (12) or the corresponding steps of § 1076.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee plant; and

(2) Such transfers by a handler described in § 1076.9(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class after the computations pursuant to § 1076.44(a)(13)(i) and the corresponding step of § 1076.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1076.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

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(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1076.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1076.43 General classification rules.

In determining the classification of producer milk pursuant to § 1076.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1076.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1076.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1076.40, 1076.41, and 1076.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1076.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1076.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1076.9(a) for each of his pool plants separately and of each handler described in § 1076.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1076.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1076.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1076.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1076.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1076.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk described in § 1076.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1076.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1076.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at

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each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant according to the classification of such products pursuant to § 1076.42(a)(1); and

(ii) A handler described in § 1076.9(c) according to the classification of such products pursuant to § 1076.42(a)(2); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1076.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1076.44(a)(12) and the corresponding step of § 1076.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1076.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

CLASS PRICES

§ 1076.50 Class prices.

Subject to the provisions of § 1076.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.50.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1076.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1076.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located 100 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the nearest of the Post Offices of Aberdeen, Huron, Mitchell, Sioux Falls, and Watertown, S. Dak., and disposed of as Class I milk, the price computed pursuant to § 1076.50(a) shall be reduced 15 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition remaining at the transferee-plant after computations pursuant to § 1076.44(a)(12) and the corresponding step of § 1076.44(b) in excess of 95 percent of receipts at such plant of milk from producers and handlers described in § 1076.9(c), such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1076.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1076.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1076.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1076.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1076.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1076.44(a)(14) and the corresponding step of § 1076.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1076.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1076.44(a)(9) and the corresponding step of § 1076.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(7) (i) through (iv) and the corresponding step of § 1076.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(7) (v) and (vi) and the corresponding step of § 1076.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(11) and the corresponding step of § 1076.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1076.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1076.60 for all handlers who filed the reports prescribed in § 1076.30 for such month, except those in default of payments required pursuant to § 1076.71 and 1076.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1076.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the aggregate value computed pursuant to paragraphs (a), (b), and (c) of this section by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1076.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be the uniform price for milk received from producers.

§ 1076.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1076.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1076.71, 1076.76, and 1076.77 and out of which he shall make all payments to handlers pursuant to §§ 1076.72 and 1076.77: *Provided,* That the market administrator shall offset the payment due to a handler against payments due from each handler.

§ 1076.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1076.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1076.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1076.60(f).

(b) On or before the 25th day after the end of the month each handler who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1076.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1076.71(a)(2) exceeds the amount computed pursuant to § 1076.71(a)(1): *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1076.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1076.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 15th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight, as adjusted pursuant to §§ 1076.74 and 1076.75, plus or minus adjustments for errors made in previous payments to such producer; and less

(i) Payment made pursuant to paragraph (a)(1) of this section;

(ii) Location adjustment deductions pursuant to § 1076.75; and

(iii) Proper deductions authorized by such producer;

(b) Except as provided in paragraph (c) of this section each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(1) of this section; and

(2) On or before the 13th day after the end of each month, an amount equal to not less than the sum of the individual payments otherwise payable to producers

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pursuant to paragraph (a)(2) of this section;

(c) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler as described in § 1076.9(c) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the uniform price for the preceding month; and

(2) On or before the 13th day after the end of each month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1076.74, that are applicable at the location of the receiving handler's pool plant, and less payment made pursuant to paragraph (c)(1) of this section; and

(d) In making the payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, that shall show:

(1) The month and identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds and the average butterfat content of milk received from the producer;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate that is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1076.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1076.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price computed pursuant to § 1076.61 for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1076.52; and

(b) For purposes of computations pursuant to §§ 1076.71 and 1076.72 the uniform price shall be adjusted at the rates set forth in § 1076.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1076.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1076.30(b) and 1076.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations;

(1) Determine the value that would have been computed pursuant to § 1070.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1076.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1076.60 for such handler shall include, in lieu of the value of other source milk specified in § 1076.60(f) less the value of such other source milk specified in § 1076.71(a)(2)(ii), a value of milk determined pursuant to § 1076.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1076.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1076.30(b) and 1076.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1076.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1076.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1076.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1076.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports of payments of any handler discloses errors made in payments to or from the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days of such billing make payments to the market administrator of the amount so billed and whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days make such payment to such handler.

(b) Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association discloses payment of less than is required by § 1076.73, the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

§ 1076.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1076.71(a) shall be increased by one-half of 1 percent for each month or portion thereof that such payment is overdue.

ADMINISTRATIVE ASSESSMENT

§ 1076.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk, including such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1076.44(a)(7) and (11) and the corresponding steps of § 1076.44(b), except such other source milk that is excluded from the computations pursuant to § 1076.60 (d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1076.76(a)(2).

PART 1078—MILK IN NORTH CENTRAL IOWA MARKETING AREA

Subpart—Order Regulating Handling

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

Sec.
1078.85 Assessment for order administration.
1078.86 Deduction for marketing services.

AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1078.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1078.2 North Central Iowa marketing area.

"North Central Iowa marketing area" (hereinafter called the "marketing area") means all the territory within the boundaries of the city of Osage and the counties of Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Marshall, Tama, Webster, and Wright, all in the State of Iowa, including territory within such boundaries which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions or other establishments.

§ 1078.3 [Reserved]

§ 1078.4 [Reserved]

§ 1078.5 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other plants) located in the marketing area.

§ 1078.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1078.7.

§ 1078.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which a volume of Class I milk, except filled milk, equal to more than an average of 1,000 pounds per day or not less than 15 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other plants) in the marketing area.

(b) A supply plant for the month in which shipments of milk or skim milk are made to distributing plants which are pool plants on not less than 10 days in any of the months of September, October, and November and on not less than 5 days in other months: *Provided*, That a supply plant which was not a pool plant for each of the immediately preceding months of September, October, and November shall not be a pool plant for any month during which none of the milk or skim milk from such plant would be allocated to Class I milk pursuant to the procedure specified in

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§ 1078.44(a)(13), and the corresponding step of § 1078.44(b) at a distributing plant which is a pool plant.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant to retail or wholesale outlets and to pool plants in the North Central Iowa marketing area than in the marketing area regulated pursuant to such other order.

§ 1078.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1078.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more distributing or supply plants.

(b) [Reserved]

(c) A cooperative association with respect to Grade A milk received from dairy farmers in a tank truck, the operation of which is under the control of such cooperative association, and delivered in such tank truck to a pool plant: *Provided*, That such milk shall be deemed to have been received directly from producers at the location of the pool plant by the operator of the pool plant to which it is delivered by the tank truck.

§ 1078.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers.

§ 1078.11 [Reserved]

§ 1078.12 Producer.

Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (1) received at a pool plant, or (2) diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of the pool plant (i) any day during the months of April through June, and (ii) on not more than one-half the days on which milk was delivered from a farm during any of the months of July through March.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1078.44(a)(8)(iii) and the corresponding step of § 1078.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1078.13 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk of producers that is (a) received at a pool plant directly from producers, or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 1078.12.

§ 1078.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1078.40(b)(1) from any source other than producers, handlers described in § 1078.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1078.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1078.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1078.40(b)(1)) for which the handler fails to establish a disposition.

§ 1078.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1078.40(b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1078.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1078.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1078.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1078.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1078.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1078.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler described in § 1078.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1078.31 Payroll reports.

On or before the 20th day after the end of each month, each handler described in § 1078.9 (a) and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(a) His name and address;

(b) The total pounds of milk received from such producer;

(c) The average butterfat content of such milk; and

(d) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

§ 1078.32 Other reports.

(a) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant(s), his intention to receive such product and on or before the last day such product is received, his intention to discontinue receipt of such milk; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1078.30 and 1078.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1078.40 Classes of utilization.

Except as provided in § 1078.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1078.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1078.15; and

(6) In shrinkage assigned pursuant to § 1078.41(a) to the receipts specified in § 1078.41(a)(2) and in shrinkage specified in § 1078.41 (b) and (c).

§ 1078.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to §1078.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1078.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1078.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

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(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1078.9(c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1078.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1078.44(a)(12) and the corresponding step of § 1078.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1078.44(a)(7) or the corresponding step of § 1078.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1078.44(a)(11) or (12) or the corresponding steps of § 1078.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section;

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1078.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1078.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence;

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the folowing sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plaint's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1078.43 General classification rules.

In determining the classification of producer milk pursuant to § 1078.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1078.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1078.9(c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1078.40, 1078.41, and 1078.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1078.9(c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1078.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1078.9(a) for each of his pool plants separately and of each handler described in § 1078.9(c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1078.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid products received in packaged form from an other order plant as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1078.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1078.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Substract from the remaining pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1078.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1078.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series

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beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1078.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(12) Subject to the provisions of paragraph (a)(12) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that were not subtracted pursuant to paragraph (a)(8)(iii) of this section and that were not offset by transfers or diversions of bulk fluid milk products to the same other order plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1078.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1078.45 Market administrator's reports concerning classification.

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1078.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report:

Class Prices

§ 1078.50 Class prices.

Subject to the provisions of § 1078.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.25.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1078.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1078.52 Plant location adjustments for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) "Zone 1" means all the territory in the Iowa counties of Humboldt, Wright, Franklin, Butler, Bremer, Webster, Hamilton, Hardin, Grundy, Black Hawk, and Buchanan.

(2) "Zone 2" means all the territory in the Iowa counties of Marshall, Tama, Linn, and Johnson.

(3) "Zone 3" means all the territory in the Iowa counties of Hancock, Cerro Gordo, Floyd, and Chickasaw and the city of Osage, Iowa.

(4) "Zone 4" means all the territory in Fayette County, Iowa, and the Minnesota counties of Freeborn and Mower.

(b) For milk received from producers at a pool plant located in Zone 2, 3, or 4 and classified as Class I milk, the price specified in § 1078.50(a) shall be adjusted by the following amount:

(1) Zone 2—plus 8 cents.
(2) Zone 3—minus 5 cents.
(3) Zone 4—minus 10 cents.

(c) For milk received from producers at a pool plant located outside Zones 1, 2, 3, and 4 and classified as Class I milk, the price specified in § 1078.50(a) shall be reduced 10 cents and, if the plant is located 65 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator from the city halls of each of the cities of Fort Dodge, Marshalltown, Mason City, and Waterloo, Iowa, shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 65 miles that such plant is from the nearest of such city halls.

(d) For purposes of calculating the location adjustment applicable pursuant to this section, fluid milk products which are transferred between pool plants shall be assigned to the Class I milk remaining in the transferee-plant after calculations pursuant to § 1078.44(a)(12) and the corresponding step of § 1078.44(b) that is in excess of receipts at such plant from producers and handlers described in § 1078.9(c), such assignment to transferor-plants to be made first to plants at which a plus location adjustment is applicable, next at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1078.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1078.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1078.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1078.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1078.44(a)(14) and the corresponding step of § 1078.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1078.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1078.44(a)(9) and the corresponding step of § 1078.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1078.44(a)(9) and the corresponding step of § 1078.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III (exclusive of shrinkage) after the computations pursuant to § 1078.44(a)(11) and the corresponding step of § 1078.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section; and

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

§ 1078.61 Computation of uniform price for each handler.

For each month the market administrator shall compute a uniform price for the producer milk received by each handler as follows:

(a) Add to and subtract from the amount computed pursuant to § 1078.60, the totals of the location adjustments to be made pursuant to § 1078.75;

(b) Add if a deduction was made, or subtract if an addition was made, in computing the uniform price for such handler to the nearest cent for the preceding month the amount of such adjustment; and

(c) Divide the resulting amount by the total hundredweight of producer milk received by such handler. The quotient, adjusted to the nearest cent, shall be the uniform price for such handler for producer milk of 3.5 percent butterfat content received at plants in Zone 1. Uniform prices at plants outside Zone 1 shall be adjusted pursuant to § 1078.75.

§ 1078.62 Announcement of uniform price for each handler and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for each handler for such month.

Payments for Milk

§ 1078.73 Payments to producers and to cooperative associations.

Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 14th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1078.61, as adjusted pursuant to § 1078.74, plus or minus adjustments for errors made in previous payments to such producer; and less (1) location adjustments pursuant to § 1078.75, (2) deductions for marketing services pursuant to § 1078.86, and (3) proper deductions authorized by such producer: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk the handler shall, if requested by the cooperative association, pay such cooperative association on or before the 12th day after the end of each month an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph;

(b) In making the payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association

§ 1078.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of

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any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1078.75 Plant location adjustments for producers.

The uniform prices for milk received from producers at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1078.52.

§ 1078.76 [Reserved]

§ 1078.77 Adjustment of accounts.

Whenever verification by the market administrator of payment by a handler discloses errors resulting in money due a producer, a cooperative association, or the market administrator from such handler, or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1078.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1078.44 (a) (7) and (11) and the corresponding steps of § 1078.44(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1078.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1078.73, shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

PART 1079—MILK IN DES MOINES, IOWA, MARKETING AREA

Subpart—Order Regulating Handling

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AUTHORITY: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1079.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and make a part of this order.

§ 1079.2 Des Moines, Iowa, marketing area.

"Des Moines, Iowa, marketing area" (hereinafter called the "marketing area"), means all the territory within the boundaries of the city of Grinnell and the counties of Adair, Appanoose, Bonne, Clarke, Dallas, Decatur, Greene, Guthrie, Jasper, Lucas, Madison, Mahaska, Marion, Monroe, Polk, Story, Union, Warren, Wappello, and Wayne, all in the State of Iowa, including territory within such boundaries which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments.

§ 1079.3 [Reserved]

§ 1079.4 [Reserved]

§ 1079.5 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1079.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk, acceptable to a duly constituted regulatory agency for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1079.7.

§ 1079.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant:

(1) From which the volume of Class I filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products, other than filled milk, from other pool distributing plants, is not less than 35 percent of the combined Grade A milk received in bulk form at such plant or diverted therefrom by the plant operator or a cooperative association to a nonpool plant as producer milk; and not less than 15 percent of such receipts or an average of not less than 7000 pounds per day whichever is less, is so disposed of to such outlets in the marketing area; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (a) (1) of this section.

(b) A supply plant:

(1) From which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent (30 percent for each of the months of April through August) of the Grade A milk received at such plant from dairy farmers and handlers described in § 1079.9(c), and diverted therefrom by the plant operator or a cooperative association as producer milk pursuant to § 1079.13: *Provided*, That if such shipments are not less than 50 percent during the immediately preceding period of September through November, such plant shall be a pool plant during each of the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March through June to be designated a nonpool plant for such month and for each subsequent month through June of the same year; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (b) (1) of this section with respect to shipment to plants qualified pursuant to paragraph (a) (1) of this section.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified pursuant to this section and to retail and wholesale outlets in the Des Moines, Iowa, marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except in the following circumstances:

(i) If a distributing plant were qualified pursuant to paragraph (a) of this section during each of the 3 immediately preceding months, it would continue to be subject to all the provisions of this part until after the third consecutive month in which it remains so qualified and has a greater proportion of its fluid milk product disposition, except filled milk, made in the above-described manner in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) A distributing plant qualified pursuant to paragraph (a) of this section that is fully regulated under another Federal order but which has greater fluid milk product (except filled milk) disposition during the month on routes in the Des Moines marketing area and to pool plants qualified on the basis of route distribution in the Des Moines marketing area than in such other Federal order marketing area; and

(3) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any duly constituted regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1079.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1079.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to the milk of producers it diverts from a pool plant pursuant to § 1079.13;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant operated by another person, unless both the cooperative association and the operator of the pool plant notify the market administrator that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the qualified handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1079.7(c); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1079.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers or from sources other than pool plants and whose disposition of fluid milk products does not exceed that (a) received from a pool plant, (b) processed from milk of his own production, or (c) processed from fluid milk received from a pool plant.

§ 1079.11 [Reserved]

§ 1079.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, and which milk is:

(1) Received at a pool plant;

(2) Diverted as producer milk pursuant to § 1079.13; or

(3) Received by a handler described in § 1079.9(c).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1079.44 (a) (8) (iii) and the corresponding step of § 1079.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1079.13 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer;

(b) Received by a handler described in § 1079.9(c); or

(c) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section unless during the month at least one delivery is made to a pool plant;

(3) A cooperative association may divert the milk of any producer (other than producer milk diverted pursuant to paragraph (c) (4) of this section). The total quantity of milk so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk for which the cooperative is the handler pursuant to § 1079.9(c) and producer

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milk which the association causes to be delivered to pool plants, or diverted therefrom during the month;

(4) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(3) of this section). The total quantity so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk received at or diverted from such pool plant from producers and for which the operator of such plant is the handler during the month;

(5) Any milk diverted in excess of the limits prescribed pursuant to paragraph (c) (3) and (4) of this section shall not be producer milk and, if the diverting handler fails to designate the dairy farmers whose milk is not producer milk, then no milk diverted by such handler during the month shall be producer milk; and

(6) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted by a cooperative association from the pool plant of another handler shall not be producer milk.

§ 1079.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1079.40 (b)(1) from any source other than producers, handlers described in § 1079.9 (c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1079.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1079.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1079.40(b)(1)) for which the handler fails to establish a disposition.

§ 1079.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1079.40 (b) or (c)(1)(i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1079.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1079.17 Filled milk.

"Filled milk" means any combination or nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1079.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1079.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1079.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1079.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1079.9 (b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to a handler described in § 1079.9(b), the plant from which such milk is diverted.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1079.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1079.9 (a), (b) and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1079.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1079.32 Other reports.

(a) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1079.30 and 1079.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1079.40 Classes of utilization.

Except as provided in § 1079.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1079.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In fluid milk products destroyed or lost under extraordinary circumstances;

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1079.15; and

(7) In shrinkage assigned pursuant to § 1079.41(a) to the receipts specified in § 1079.41(a)(2) and in shrinkage specified in § 1079.41 (b) and (c).

§ 1079.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1079.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1079.9(c);

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1079.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1079.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1079.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1079.44(a)(12) and the corresponding step of § 1079.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1079.44(a)(7) or the corresponding step of § 1079.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1079.44(a)(11) or (12) or the corresponding steps of § 1079.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

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(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2) or (3) of this section;

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1079.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1079.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1079.43 General classification rules.

In determining the classification of producer milk pursuant to § 1079.44 the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1079.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1079.9 (b) and (c) that was not received at a pool plant the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1079.40, 1079.41, and 1079.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1079.9(b) and (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1079.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk and milk received from a handler described in § 1079.9(c) for each handler described in § 1079.8(a) for each of his pool plants separately and the classification of producer milk of each handler described in § 1079.9(b) and (c) that was not received at a pool plant by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1079.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1079.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1079.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1079.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1079.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1079.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1079.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the

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pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1079.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1079.9(c) according to the classification of such products pursuant to § 1079.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1079.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1079.44(a)(12) and the corresponding step of § 1079.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1079.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant of each handler during the month that was utilized in each class. For the purpose of this report the milk so delivered shall be allocated to each class in the same ratio as all producer milk received at such plant during the month.

Class Prices

§ 1079.50 Class prices.

Subject to the provisions of § 1079.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.40.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1079.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1079.52 Location adjustments for handlers.

(a) For that milk received from producers and from a handler described in § 1079.9(c) at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I milk without movement in bulk form to a pool distributing plant, the price specified in § 1079.50(a) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Multiply the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1079.44(a)(12) by 105 percent;

(2) Subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1079.9(c);

(3) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(4) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the pounds of skim milk assigned to each transferor-plant pursuant to paragraph (b)(3) of this section by the applicable location adjustment rate for each such plant, and add the resulting amounts;

(5) Assign the total amount of location adustment credits computed pursuant to paragraph (b)(4) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1079.42(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(6) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (5) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1079.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1079.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1079.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1079.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of milk received from a handler described in § 1079.9(c) and subtracted from each class pursuant to § 1079.44(a)(13) and the corresponding step of § 1079.44(b) and the pounds of producer milk in each class as determined pursuant to § 1079.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1079.44(a)(14) and the corresponding step of § 1079.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1079.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1079.44(a)(9) and the corresponding step of § 1079.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(7) (i) through (iv) and the corresponding step of § 1079.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(7) (v) and (vi) and the corresponding step of § 1079.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(11) and the corresponding step of § 1079.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1079.61 Computation of uniform price.

For each month the market administrator shall compute an aggregate value from which to determine the uniform price per hundredweight for producer milk of 3.5 percent butterfat content, f.o.b. plants located within the marketing area, as follows:

(a) Combine into one total the values computed pursuant to § 1079.60 for all pool plants for which the reports prescribed in § 1079.30 for such month were made, except those in default of payments required pursuant to § 1079.71 for the preceding month;

(b) Add an amount equal to the sum of the location adjustment deductions to be made pursuant to § 1079.75;

(c) Add an amount equal to not less than one-half of the unobligated cash balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1079.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be known as the uniform price for milk received from producers.

§ 1079.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1079.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund pursuant to §§ 1079.71, 1079.76, and 1079.77, and out of which he shall make all payments from such fund pursuant to §§ 1079.72 and 1079.77: *Provided*, That

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the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1079.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1079.60.

(2) The sum of:

(i) The value of milk received by such handler from producers and handlers described in § 1079.9(c) at the uniform price, as adjusted pursuant to § 1079.75, less in the case of a handler described in § 1079.9(c) the amount due from other handlers pursuant to § 1079.73 before adjustment for butterfat content; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1079.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. It there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price), and the Class III price.

§ 1079.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1079.71(a)(2) exceeds the amount computed pursuant to § 1079.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1079.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1079.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) and (d) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 15th day after the end of each month, for producer milk received during such month, an amount computed at not less than the uniform price pursuant to § 1079.61 adjusted pursuant to §§ 1079.74, 1079.75, and 1079.86, and less the payment made pursuant to paragraph (a)(1) of this section.

(b) Each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, which association the market administrator determines is authorized by such producers to collect payment for their milk and which has so requested the handler in writing, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 13th day after the end of each month for milk received during such month.

(c) In making the payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, which shall show:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

(d) Each handler in his capacity as the operator of a pool plant, who receives milk from a handler described in § 1079.9(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 26th day of each month for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price as adjusted pursuant to §§ 1079.74 and 1079.75, and less the payment made pursuant to paragraph (d)(1) of this section.

§ 1079.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1079.75 Location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk pursuant to § 1079.61 received at a pool plant or diverted from a pool plant shall be reduced according to the location of the plant of actual receipt at the rates set forth in § 1079.52.

(b) For purposes of computations pursuant to §§ 1079.71 and 1079.72 the uniform price shall be adjusted at the rates set forth in § 1079.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1079.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1079.30(b) and 1079.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1079.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1079.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1079.60 for such handler shall include, in lieu of the value of other source milk specified in § 1079.60(f) less the value of such other source milk specified in § 1079.71(a)(2)(ii), a value of milk determined pursuant to § 1079.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1079.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1079.30(b) and 1079.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1079.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1079.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1079.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1079.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 1079.71 and 1079.72, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 15 days of such billing, make payments to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or to a cooperative association discloses payment of an amount less than is required by § 1079.73 the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1079.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a handler described in § 1079.9(c)) shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk and milk received from a handler described in § 1079.9(c);

(b) Other source milk allocated to Class I pursuant to § 1079.44(a) (7) and (11) and the corresponding steps of § 1079.44(b), except such other source milk that is excluded from the computations pursuant to § 1079.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1079.76(a)(2).

§ 1079.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1079.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Effective date: August 1, 1974.

Signed at Washington, D.C., on April 29, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74–10172 Filed 5–2–74;8:45 am]

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Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM74-21; Order No. 508]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Recreational Development at Licensed Projects

Section 2.7 of the general rules details those responsibilities which the Commission expects a licensee to assume in the development of recreational facilities at licensed projects. One of the provisions of this Statement of General Policy is to provide adequate public access to such project facilities and waters.

Adequate public access considerations should include needs of those persons confined to wheelchairs or in need of handrails or walking aids. Steps, narrow door passages, lack of handrails, and curbs often preclude the use of recreational facilities by handicapped individuals. Many of these obstacles can be overcome through planning.

The United States Public Health Service estimates that one American out of every twelve has some degree of ambulatory limitation. Concern for the welfare of the physically handicapped and provision of appropriate facilities are not only humanitarian in nature but also lead to the increased utilization of recreational facilities by handicapped persons and their families.

Federal legislation (Pub. L. 90-480) recognizes problems of the physically handicapped and requires that the design and construction of certain buildings financed by Federal funds be such that the buildings are accessible to the physically handicapped. Legislation also has been enacted by most states to include similar provisions in publicly financed buildings. A few states require consideration for the physically handicapped in publicly used, but privately owned, buildings. Several Federal regulatory agencies have published material suggesting features that can be incorporated in the modifications or construction of new building facilities and surrounding areas to assist the physically handicapped. Some licensees already give consideration to the physically handicapped in the design of recreational facilities at their projects.

The Commission finds:

(1) In order to insure that planning of recreational facilities at all licensed projects includes consideration of features to facilitate their use by the physically handicapped, it is appropriate that the Commission Statement of General Policy on recreation be amended. Consideration of the needs of physically handicapped individuals should be one of the responsibilities which the Commission expects a licensee to assume in the planning of project recreational facilities.

(2) Good cause exists to justify issuance of this order with immediate effective date.

(3) The amendment here adopted is in the public interest and necessary and appropriate for the administration of the Federal Power Act.

(4) The notice and effective date provisions of 5 U.S.C. 553 do not apply with respect to the amendment here adopted. The amendment constitutes a statement of general policy.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h), orders:

(A) Paragraph (b) of 18 CFR 2.7 is revised to read as follows:

§ 2.7 Recreational development at licensed projects.

* * * * *

(b) To develop suitable public recreational facilities upon project lands and waters and to make provisions for adequate public access to such project facilities and waters and to include therein consideration of the needs of physically handicapped individuals in the design and construction of such project facilities and access.

(B) The amendment adopted herein shall be effective upon issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10476 Filed 5-7-74;8:45 am]

PART 159—FEES AND ANNUAL CHARGES UNDER THE NATURAL GAS ACT

CFR Correction

In the fourth line of § 159.2(a) appearing on page 78 of Title 18, Part 150 to End, revised as of April 1, 1973, the figure in parentheses "(0.0065)" is in error. As corrected, the fourth line should read "cent (0.00065) of the estimated cost of".

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-NE-19; Amdt. 39-1834]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT9D-7, -7A, and -20 Aircraft Engines

There have been instances of multiple adjacent cracked second stage turbine nozzle vanes in which the turbine vane support contacted the outer disc rim in the plane of the fir tree area resulting in turbine blade failure and disc rub. Since this condition is likely to exist or develop in other engines of the same type design, an Airworthiness Directive is being issued to require radioisotope inspection of the second stage vanes for deflection and removal of the affected engines from service if excessive deflection of the vane is discovered.

Because the affected engines have different second stage vane design configurations, several different compliance times for initial inspection are set forth in this AD, the shortest of which requires compliance within 400 hours time in service from the effective date of the AD. These compliance times for the initial inspection have been established by the agency on the basis of safety considerations and are the same as those requested by the manufacturer in the applicable service bulletin except that the shortest initial compliance time has been adjusted to reflect the time since the issuance of the service bulletin. To proceed with the issuance of a Notice in this instance could result in an extension of the initial inspection compliance time expressed in this AD. Therefore, accomplishment of the initial inspection required by this AD within the time the agency has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and this amendment becomes effective June 7, 1974. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested parties. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

The substance of this AD has been informally coordinated with the manufacturer of the engines and Air Transport Association.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt & Whitney Aircraft JT9D-7, JT9D-7A, and JT9D-20 turbofan engines.

Compliance required as follows unless already accomplished.

To preclude possible turbine blade or disc failures resulting from deflection of the second stage turbine nozzle guide vane inner support, perform a radioisotope inspection in accordance with paragraph 6 below per the following schedule:

1. Engines containing second stage vanes, P/N 708952. a. For vanes with less than 4000 hours total time in service or less than 4000 hours since the fuel nozzles and supports were last cleaned, as of the effective date of this AD, inspect prior to the accumulation of 4000 hours total time, or 4000 hours since the fuel nozzles and supports were last cleaned, or 400 hours time in service after the effective date of this AD, whichever occurs later.

b. For vanes with 4000 or more hours total time in service and 4000 or more hours since the fuel nozzles and supports were last cleaned, as of the effective date of this AD, inspect within the next 400 hours time in service.

c. Repeat the above inspection every 700 hours time in service thereafter.

2. Engines containing second stage vanes, P/N 708952, that were reworked per Pratt & Whitney Service Bulletin 3946 and reidentified to P/N 728752 and operated in engines prior to rework.

a. Inspect within the next 400 hours in service after the effective date of this AD.

b. Repeat the above inspection every 700 hours time in service thereafter.

3. For engines containing new production second stage vanes 719552, 728752, 731552, 735882, 740292, 747082, 746492, and 747172, not reworked in accordance with Service Bulletin 3946 and operated prior to the incorporation of Pratt & Whitney Service Bulletin 4146.

a. For vanes with less than 5000 hours total time in service or less than 4000 hours since the fuel nozzles and supports were last cleaned, as of the effective date of this AD, inspect prior to the accumulation of 5000 hours total time, or 4000 hours since the fuel nozzles and supports were last cleaned, or 400 hours time in service after the effective date of this AD, whichever occurs later.

b. For vanes with 5000 or more hours total time in service and 4000 or more hours since the fuel nozzles and supports were last cleaned, as of the effective date of this AD, inspect within the next 400 hours time in service.

c. Repeat the above inspection every 2500 hours time in service thereafter.

4. For engines containing second stage vanes, 719552, 728752, 731552, 735882, 740292, 747082, 746492, and 747172, that have incorporated Pratt & Whitney Service Bulletin 4146 before operation.

a. For vanes with less than 5000 hours total time in service or less than 5000 hours since the fuel nozzles and supports were cleaned, as of the effective date of this AD, inspect prior to the accumulation of 5000 hours total time or 5000 hours since the fuel nozzles and supports were cleaned, or 400 hours time in service after the effective date of this AD, whichever occurs later.

b. For vanes with more than 5000 hours total time in service and 5000 or more hours since the fuel nozzles and supports were cleaned, as of the effective date of this AD, inspect within the next 400 hours time in service.

c. Repeat the above inspection every 2500 hours time in service thereafter.

5. If any radioisotope inspection mentioned above indicates a deflection which exceeds .070 inch, remove the affected engine from service prior to further flight.

6. The inspection required above are radioisotope inspections conducted as follows:

a. For JT9D-7 and JT9D-7A engines, inspect in accordance with radioisotope inspection procedures specified in the Boeing Maintenance Manual, Section 72-00-00, Paragraph E(7), Pages 630N and 630P, revision dated March 1974, for those engines, or later Federal Aviation Administration approved revision.

b. For JT9D-20 engines, inspect in accordance with radioisotope inspection procedures specified in the McDonnell-Douglas Maintenance Manual, Section 72-00-00, Paragraph 2.G., Pages 631 and 633, revision dated May 1973, for this engine, or later Federal Aviation Administration approved revision.

7. Upon submittal of substantiating data through a Federal Aviation Administration Inspector, the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region, may adjust the compliance time.

8. For cases where vanes are mixed, if ten or more vanes of any one of the above part numbered categories are installed in an engine, the most restrictive category will apply.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to The Boeing Company, Post Office Box 3707, Seattle, Washington 98124 and McDonnell-Douglas Corporation, Douglas Aircraft Company, 3855 Lakewood Boulevard, Long Beach, California 90801. These documents may also be examined at the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803 and at Federal Aviation Administration Headquarters, 800 Independence Avenue SW., Washington, D.C. a historical file on this AD which includes the incorporated material in full is maintained by the Federal Aviation Administration at its headquarters in Washington, D.C. and at the New England Regional Office in Burlington, Massachusetts.

NOTE: Pratt & Whitney Alert Service Bulletin 4304 pertains to this subject.

This amendment becomes effective June 7, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Burlington, Massachusetts, on April 26, 1974.

NOTE: The incorporation by reference provisions in this document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

W. E. CROSBY, *Deputy Director, New England Region.*

[FR Doc.74-10538 Filed 5-7-74;8:45 am]

[Airspace Docket No. 74-SW-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Big Spring, Tex., control zone.

On March 20, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 10438) stating the Federal Aviation Administration proposed to alter the Big Spring, Tex., control zone.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

In § 71.171 (39 FR 354), the Big Spring, Tex., control zone is amended to read:

BIG SPRING, TEX.

That airspace within a 5-mile radius of Webb AFB, Big Spring, Tex. (latitude 32°12'-51" N., longitude 101°31'24" W.); within a 5-mile radius of Howard County Airport, Big Spring, Tex. (latitude 32°18'05" N., longitude 101°26'20" W.); within 2 miles each side of the Big Spring VORTAC 190° radial extending from the Webb AFB 5-mile radius zone to 1 mile S of the VORTAC; within 2 miles each side of the Big Spring VORTAC 151° radial extending from the Howard County Airport 5-mile radius zone to the VORTAC; within 3 miles each side of the Webb VORTAC 007° radial extending from the Webb AFB 5-mile radius zone to 8 miles N of the VORTAC; and within 3 miles each side of the Webb VORTAC 177° radial extending from the Webb AFB 5-mile radius zone to 8 miles S of the VORTAC. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, Tex., on April 29, 1974.

ALBERT H. THURBURN, *Acting Director, Southwest Region.*

[FR Doc.74-10539 Filed 5-7-74;8:45 am]

[Airspace Docket No. 74-WA-10]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to change the using agency for Restricted Areas R-5701 Boardman, Oreg., R-5706 Boardman, Oreg., R-6701 Admiralty Inlet, Wash., R-6705 Strait of Juan De Fuca, Wash., R-6707 Queets, Wash., and R-6713 Whidbey Island, Wash.

The change will correct the identity of the military organization for whom the restricted areas are designated.

Since designation of a different using agency is a minor amendment upon which the public is not particularly interested, notice and public procedure thereon are unnecessary. However, as it is essential that the correct using agency of the restricted areas be identified; good cause exists for making this amendment effective immediately.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective May 8, 1974, as hereinafter set forth.

1. In § 73.57 (39 FR 685):

a. The Using agency for R-5701 Boardman, Oreg., is changed to read as follows:

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Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

b. The Using agency for R–5706 Boardman, Oreg., is changed to read as follows:

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

2. In § 73.67 (39 FR 692):

a. The Using agency for R–6701 Admiralty Inlet, Wash., is changed to read as follows:

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

b. The Using agency for R–6705 Strait of Juan De Fuca, Wash., is changed to read as follows:

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

c. The Using agency for R–6707 Queets, Wash., is changed to read as follows:

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

d. The Using agency for R–6713 Whidbey Island, Wash., is changed to read as follows:

Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, Wash.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on April 29, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–10540 Filed 5–7–74;8:45 am]

[Airspace Docket No. 74–WA–8]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of RNAV Routes

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to alter the description of three RNAV routes in the Portland, Oregon Area, by renaming and relocating the SHERO Waypoint to the site of Newberg, Oregon, VORTAC. The SHERO Waypoint is less than one-half mile from the Newberg VORTAC, and when the controller attempts to identify a radar target over Newberg with the radar trackball, the computer at times will process the information as proceeding via SHERO, thereby transmitting incorrect information to other sectors. Additionally, the SHERO Waypoint and the Newberg VORTAC are so close that they should be considered as the same location.

Since this amendment does not require designating additional controlled airspace, but merely substitutes names in the route description, it is a minor editorial change on which the public would have no particular reason to comment. Therefore notice and public procedure are unnecessary.

However, since sufficient time must be allowed to make appropriate changes on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

§ 75.400 (39 FR 718, 38 FR 24204) is amended as follows:

1. In J–902R: "SHERO 45°21'05"N. 122°59'00"W. Portland, Oreg." is deleted and "Newberg, Oreg. 45°21'12"N. 122° 58'37"W. Newberg, Oreg." is substituted therefor.

2. In J–911R: "SHERO 45°21'05"N. 122°59'00"W. Portland, Oreg." is deleted and "Newberg, Oreg. 45°21'12"N. 122° 58'37"W. Newberg, Oreg." is substituted therefor.

3. In J–913R: "SHERO 45°21'05"N. 122°59'00"W. Portland, Oreg." is deleted and "Newberg, Oreg. 45°21'12"N. 122° 58'37"W. Newberg, Oreg." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c); Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 1, 1974.

GORDEN E. KEWER,
Acting Chief, Airspace and Traffic Rules Division.

[FR Doc.74–10541 Filed 5–7–74;8:45 am]

[Airspace Docket No. 74–WA–15]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to realign J–15 between Roswell, N. Mex., and Albuquerque, N. Mex., so that the existing bend in the route will be moved to the point of intersection of J–15 with J–74. This will be accomplished by extending the presently used Roswell radial, and adjusting the Albuquerque radial two degrees eastward.

This slight change will eliminate the requirement to use the Albuquerque VORTAC by jet aircraft en route from Socorro, N. Mex., to Roswell.

Because this action merely realigns a segment of J–15 by two degrees, it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. In order to provide sufficient time for changes to be depicted on appropriate charts, this amendment will be made effective on July 18, 1974.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

§ 75.100 (39 FR 699) is amended as follows: In Jet Route No. 15 "INT of the Roswell 319° and the Albuquerque, N. Mex., 128° radials;" is deleted and "INT of the Roswell 319° and the Albuquerque, N. Mex., 126° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 1, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–10542 Filed 5–7–74;8:45 am]

[Docket No. 13694; Amdt. No. 915]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the feed schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPs, effective June 20, 1974:

Chino, Calif.—Chino Arpt., VOR–A, Orig.
Chino, Calif.—Chino Arpt., VOR–1, Amdt. 1, canceled.
Fayetteville, Ark.—Drake Field, VOR–A, Amdt. 14.
Flint, Mich.—Bishop Arpt., VOR Rwy 9, Amdt. 13.
Flint, Mich.—Bishop Arpt., VOR Rwy 18, Amdt. 7.
Flint, Mich.—Bishop Arpt., VOR Rwy 27, Amdt. 10.
Flint, Mich.—Bishop Arpt., VOR Rwy 36, Amdt. 3.
Hobbs, N.M.—Lea County (Hobbs) Arpt., VOR/DME Rwy 21, Orig.
Muncie, Ind.—Delaware County-Johnson Field, VOR Rwy 14, Amdt. 7.
Muncie, Ind.—Delaware County-Johnson Field, VOR Rwy 20, Amdt. 4.
Muncie, Ind.—Delaware County-Johnson Field, VOR Rwy 32, Amdt. 4.
Painesville, Ohio—Concord Airpark, VOR–A, Amdt. 4.
Tucson, Ariz.—Tucson Int'l. Arpt., VOR–A, Amdt. 4.
Tucson, Ariz.—Tucson Int'l. Arpt., VOR/DME–A, Amdt. 2, canceled.
Tucson, Ariz.—Tucson Int'l. Arpt., VOR/DME–B, Orig.

• • • effective April 29, 1974:

Orlando, Fla.—Herndon Arpt., VOR Rwy 13, Amdt. 8.
Orlando, Fla.—Herndon Arpt., VOR Rwy 31, Amdt. 8.
Orlando, Fla.—McCoy AFB, VOR/DME Rwy 36R, Amdt. 2.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPs, effective June 20, 1974:

Fayetteville, Ark.—Drake Field, LOC Rwy 16, Amdt. 3.
Flint, Mich.—Bishop Arpt., LOC (BC) Rwy 27, Amdt. 7.
Tucson, Ariz.—Tucson Int'l. Arpt., LOC Rwy 11L, Amdt. 4.
Tucson, Ariz.—Tucson Int'l. Arpt., LOC (BC) Rwy 29R, Amdt. 4.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective July 18, 1974:

Statesville, N.C.—Statesville Municipal Arpt., NDB Rwy 20, Amdt. 2.

• • • effective June 20, 1974:

Amarillo, Tex.—Tradewind Arpt., NDB–A, Amdt. 9.
Flint, Mich.—Bishop Arpt., NDB Rwy 9, Amdt. 15.
San Angelo, Tex.—Mathis Field, NDB Rwy 3, Amdt. 9.
Tucson, Ariz.—Tucson Int'l. Arpt., NDB–A, Amdt. 3, canceled.
Tucson, Ariz.—Tucson Int'l. Arpt., NDB–C, Orig.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective June 20, 1974:

Flint, Mich.—Bishop Arpt., ILS Rwy 9, Amdt. 8.
San Angelo, Tex.—Mathis Field, ILS Rwy 3, Amdt. 12.
Tucson, Ariz.—Tucson Int'l. Arpt., ILS Rwy 11L, Amdt. 3.

5. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective June 20, 1974:

Amarillo, Tex.—Tradewind Arpt., RNAV Rwy 35, Amdt. 4.

Correction. In Docket No. 13669, Amendment 914, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated May 12, 1974, under § 97.23 effective June 13, 1974—Change effective date of Eugene, Ore.—Mahlon-Sweet Field, VORTAC Rwy 3, Original to June 20, 1974.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948; (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c) 5 U.S.C. 552(a)(1)))

Issued in Washington, D.C., on May 2, 1974.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the FEDERAL REGISTER on May 12, 1969, (35 FR 5610).

JAMES M. VINES,
Chief, Aircraft Programs Division.

[FR Doc.74–10552 Filed 5–7–74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER–846; Amdt. 22]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Definition of Large Aircraft

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By notice of proposed rulemaking EDR–255,[1] the Board proposed to amend Part 298 of the Economic Regulations to include within the definition of "large aircraft" all models of the Convair 240, 340 and 440; Martin 202 and 404; F–27 and FH–227; and Hawker Siddeley 748, as well as any other aircraft with a maximum zero fuel weight greater than 35,000 pounds. The amendment was designed to clarify the Board's intention in adopting the 30-seat/7500-pound payload limitation on air taxi aircraft in the Part 298 Weight Limitation Investigation, Orders 72–7–61 and 72–9–62.

Comments in response to the notice were filed by AAT Airlines, the Alaska Transportation Commission, American Cyanamid Company, Atlantic Aviation Corporation, Christler Flying Service, Executive Air Fleet, Executive Air Lines, Executive Air Services, Fokker-VFW, General Aviation Manufacturers Association, Golden West Airlines, Hawker Siddeley Aviation, National Air Transportation Conferences (NATC), Pacific Coast Airlines, Priority Air Dispatch, Royal Airlines, Southern Airways, Swift Air Lines, and Viking International Air Freight.

Christler Flying Service and Southern Airways support the proposed amendment, while all other respondents object to the new rule in whole or in part.

Upon consideration of the matters presented, we have decided to adopt the rule as proposed. Accordingly, the tentative findings made in EDR–255 are incorporated herein and made final.[2]

At the outset, certain general observations are in order. Some of the respondents seek, in essence, a reconsideration of the Board's determinations in the Part 298 Investigation. Others disregard those determinations and simply argue that, as a matter of policy, the Board should permit air taxis to operate large aircraft whose operating weights are artificially altered to meet the 7,500-pound payload standard. According to this view, the exclusion of these airplanes would severely limit the current aircraft types (with a takeoff weight over 12,500 pounds) that could qualify under the new 30-seat/7500-pound payload test and, as a result, would largely negate the liberalizing effects of the Part 298 Investigation.

At the heart of this contention is a mistaken notion of our purpose in EDR–255. Our action was not designed to reexamine the substantive bases of the Part 298 decision which, after all, had been reached only a year earlier after extensive hearings. Instead, the proposed amendment was offered to clarify the Board's intention in the Part 298 case by embodying within the rule itself limitations which were expressed or clearly implicit in the Opinions which accompanied the new regulation. The issue before us is therefore not whether the use of Convair 440 or similar aircraft should now be permitted under the general air taxi exemption, but whether the Part 298 decision contemplated their approval.

Proceeding on that basis, it is necessary to recall that our underlying aim in the Part 298 proceeding was to draw the line between certificated and exempted air services in a manner that would serve the needs of air taxis and small community traffic, without impinging on the basic certificated structure of air transportation. To that end, we decided not to permit exempted carriers—as a class—to use large piston or turboprop air-

[1] In Docket No. 26021, 38 FR 29480 (1973).

[2] Fokker-VFW, designer of the F.27, claims the right to a hearing on the general ground that the Board, by excluding specific aircraft from the Part 298 exemption, is taking "highly particularistic" action involving specific parties and that, as a result, standard rulemaking procedures are not sufficient to satisfy due process. In the first place, we disagree with Fokker's characterization of our action. The proposed rule is aimed not merely at a specific aircraft but at an entire category of aircraft: large piston and turboprop airplanes normally capable of carrying payloads greater than 7500 pounds but whose payloads can be reduced through artificial increases in their operating weights. While the "border line" aircraft of this type are actually named in the rule for purposes of clarity, the regulation's focus remains general and its basic purpose is to interpret the 7500 pound payload standard for air taxi aircraft adopted in the Part 298 Investigation. In any event, the Board's decision to exclude the F.27 was expressly made, after extensive hearings, in the Part 298 case in which Fokker participated as a party. (See Order 72–9–62, p. 3) Fokker has therefore already been afforded the hearing it now seeks.

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planes, which still form a significant proportion of local service carriers' fleets. In excluding such aircraft, we were concerned not only with the enforcement problems that might arise if we left it to the individual air taxi operator to limit its actual payloads on these large airplanes to 7500 pounds. Rather, we expected the new air taxi weight standard to leave local service airlines with the advantage of "more spacious cabin facilities, even on their smaller turboprop aircraft,"[3] and relied, in part, on this advantage in concluding that the new rule would not impinge on the certificated system.

Our Opinion and Order on Reconsideration, Order 72–9–62, amplified these views and noted expressly that the new standard "did not mean to qualify • • • such aircraft as the Convair 440, Martin 202 or 404, or F–27, all of which are capable of carrying payloads in excess of 7500 pounds, but whose payloads • • • can be reduced artificially—through the use of unnecessary ballast, for example."

The comments in opposition to our proposal to disqualify these aircraft, plus the Convair 240 and 340, FH–227 and Hawker Siddeley 748, do not relate their arguments to these Board determinations in the Part 298 Investigation. They either disregard those determinations or seek to evade them by a narrow interpretation of the Board's earlier position that squares neither with the literal language of the Board's Opinions nor with their spirit. For example, several respondents stress that their aircraft have no unnecessary ballast, as if that was the only artificial change in an airplane's operating weight we were concerned about in foreclosing the use of large turboprops such as the Convair 440. In the first place, Order 72–9–62 specified that extra ballast was being cited only as an example. Moreover, from the point of view of the Board's larger purpose of restricting the competitive impact of air taxis by maintaining the certificated airlines, advantage in operating aircraft with more cabin space, it obviously matters little whether air taxis are allowed to use large aircraft with empty weights increased (and payloads thereby reduced) by unnecessary ballast, on the one hand, or by the installation of unusually heavy seats, or a bar or lounge, on the other.

Similarly, the objections of some respondents to the exclusion of the Convair 240 and 340 or the Hawker Siddeley 748 rest implicitly on the fact that these were not expressly listed in Order 72–9–62 as aircraft types on this score. Under the air taxi exemption. Our list was obviously not intended to be all-inclusive; and, none of the objectors has disputed our statement (in EDR–255) that these unlisted airplanes belong in the same category as the disqualified aircraft that were named by way of example. It is quite clear, for instance, that air taxi services with the Convair 240 or Hawker Siddeley 748 would be as much of a competitive threat to the certificated network as would operations with the Convair 440 or Martin 202—and, indeed, no one has attempted to distinguish between these aircraft types on this score. Under the circumstances, there is no basis for applying a different standard to the Convair 240 and 340, FH–227 and Hawker Siddeley 748 than to the Convair 440 and similar aircraft whose exclusion from the general air taxi exemption was made explicit in our Opinion and Order on Reconsideration.

We are aware that this conclusion limits the current aircraft newly available to air taxi operators under the more liberal 7500-pound payload weight rule. However, the suggestion that this result is at odds with the Board's intention in the Part 298 proceeding is inaccurate. At that time, the Board recognized that there were only a few existing aircraft types in the 20–30-seat/7500-pound payload category that could be used by air taxis.[4] However, instead of encouraging air taxis to operate large aircraft artificially modified to meet the 7500-pound test, the Board emphasized that its primary goal in relaxing the prior weight standard was to stimulate the manufacture of new airplanes designed for third-level service.

In this connection, additional remarks are in order in response to certain claims made on behalf of one series of the Hawker Siddeley 748—the 2C or "Commuter" model. While Hawker Siddeley apparently acknowledges that the standard versions of its 748 do not qualify under the new Part 298 weight limits, it claims that the 2C series was developed especially for the U.S. commuter market and responds to the challenge issued by the Board for the manufacture of a modern commuter aircraft with 30 or fewer passenger seats and a maximum payload of 7500 pounds. We cannot agree. The Hawker Siddeley 748 2C is virtually identical to the 2A model, a 40–58-passenger aircraft with a payload of nearly 12,000 pounds. The two models have similar avionic systems, interior and exterior dimensions, empty weights, and maximum takeoff and landing weights. The most significant difference between them (aside from the number of passenger seats) is a relatively minor structural modification in the 2C which has resulted in its lower maximum zero fuel weight of 34,500 pounds. However, Hawker Siddeley's exhibit A indicates that a simple low-cost program is available to bring the zero fuel weight up to 38,500 pounds—the same as the 748 2A's weight. On the whole, the 748 2C hardly represents the sort of new commuter airplane the Board was attempting to encourage.[5] Moreover, evaluated by the same standards we have applied to other large aircraft, the 748 2C would be capable of carrying payloads in excess of 7500 pounds if not for certain artificial alterations in its cabin design—including the installation of a bar and lounge—which clearly do not detract from its competitiveness vis-a-vis turboprop aircraft used by certificated airlines.[6] Therefore, the same grounds we cited earlier for precluding the use of the Convair 440 and similar airplanes under the broad air taxi exemption apply equally to the Hawker Siddeley 748 2C.

Next, we turn to comments opposing another feature of our proposed rule: the upper limit of 35,000 pounds zero fuel weight applicable to all Part 298 aircraft. NATC claims that in imposing this weight limit the Board would be moving away from its original concept of replacing the previous rigid gross takeoff weight standard with a more flexible seating/payload capacity rule. In fact, the additional 35,000-pound zero fuel weight test is consistent with—indeed, is meant to help effectuate—our original purposes in the Part 298 proceeding. To begin with, the 30-seat/7500-pound payload limitation will continue to be the basic standard for air taxi aircraft. The further limit on the overall size of these aircraft embodied in the 35,000-pound zero fuel weight is merely intended to minimize misuse of the payload test in the manner discussed earlier (i.e., by the operation of large aircraft with empty weights artificially increased to "qualify" within the payload limitation). At the same time, as we found EDR-255, the 35,000-pound upper limit leaves aircraft manufacturers with ample flexibility to develop a modern air taxi/commuter airplane with all the comfort features we intended to make available to small community traffic through adoption of the 30-seat/7500-pound payload standard.[7]

While we find no merit in the broad attack on the 35,000-pound upper limit, a more serious objection to this aspect of the proposed rule is that it will disqualify the Grumman Gulfstream II. The Gulfstream II is essentially an executive jet transport which, despite its heavy zero fuel weight of 38,000–42,000 pounds, has always had a capacity of about 19 passengers and a maximum payload well below 7,500 pounds. However, while we agree that because of the Gulfstream II's special characteristics, its use by exempted carriers would not normally pose a serious diversionary threat to the certificated system, it does not follow that an exception should be carved out of the proposed regulation for the sole purpose of authorizing the operation of the airplane under the class exemption of Part 298. Only a handful of Gulfstream II aircraft are now being used by air taxis—none by commuter carriers.[8] Also, the record of the Part 298 case and the responses to EDR–255 indicate no widespread interest in the airplane among air taxis, in general, or commuters, in particular. We conclude, therefore, that individual exemption procedures are a more appropriate method for dealing with the modest demand for the Gulfstream II within the air taxi industry. The Board has in the past recognized the special characteristics of the Gulfstream II in approving its use by individual exemption[9] there is, thus, no reason to assume that an individual exemption requirement will (under normal circumstances) prove a burdensome obstacle in the future.

Finally, several respondents complain that the proposed rule is unfair because it would penalize them for having acquired aircraft, or contracted to do so, on the basis of a good-faith (even if erroneous) interpretation of the Part 298 payload standard. They therefore urge that the proposed rule should have only prospective effect and should not bar operations with certain large turboprops acquired before its effective date. As noted earlier, the proposed regulation is primarily interpretive in nature rather than a substantive change in a prior rule. The extent to which its adoption may nevertheless have an unfair and burdensome impact on any air taxi operator can only be determined by an examination of the facts on a case-by-case basis. The Board will be receptive to applications for individual exemptions which include an actual showing that the applicant acted reasonably and in good faith in acquiring aircraft now expressly disqualified, and that it would be unduly burdened by enforcement of the regulation.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 298 of the Economic Regulations (14 CFR Part 298) effective May 8, 1974, as follows:

Amend the definition of "large aircraft" in § 298.2 to read as follows:

§ 298.2 Definitions.

• • • • •

"Large aircraft" means any aircraft having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds; except that in connection with operations conducted within the State of Alaska or Hawaii, large aircraft shall mean an aircraft whose maximum certificated takeoff weight is more than 12,500 pounds: *Provided, however,* That, for the purposes of this part, large aircraft shall include all models of the Convair 240, 340 and 440; Martin 202 and 404; F–27 and FH–227; and Hawker Siddeley 748; and shall also include any other aircraft with a maximum zero fuel weight in excess of 35,000 pounds.

• • • • • •

(Secs. 204(a), 401, 416(b), Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 771, as amended; (49 U.S.C. 1324, 1371, 1386))

Effective: May 8, 1974.

Adopted: May 2, 1974.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.74–10584 Filed 5–7–74;8:45 am]

[3] Order 72–9–61, p. 30.

[4] Order 72–7–61, pp. 12, 13.

[5] We do not mean to suggest that modern commuter aircraft must be wholly new—as opposed to developed or modified versions of older aircraft. However, when the modification is as minor as that involved here, the claim that the 748 2C is a new airplane expressly designed to meet the needs of commuter markets is unrealistic.

[6] In fact, it is possible that at least some 748 2C aircraft could operate at payloads over 7500 pounds even as now configurated. While Hawker Siddeley lists the airplane's "typical" maximum payload as 7500 pounds, a greater payload might be carried on flights where no food is served or some other operating weight element is reduced.

[7] While several respondents suggest, without evidentiary support, that the 35,000-pound maximum may be too restrictive, it should be recalled that it will permit the operation of aircraft at least three times as heavy as those operated under the old 12,500-pound takeoff weight test.

[8] Based on commuter carriers' reports to the Board for fiscal 1973. In its comments, Executive Air Fleet states that only two Gulfstream II's are now being used by air taxis under the Board's jurisdiction.

[9] Order 71–8–75, August 17, 1971.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74–143]

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Organization of African Unity

By Executive Order No. 11767 signed February 19, 1974 (39 FR 6603), the President designated the Organization of African Unity (OAU) as a public international organization entitled to enjoy all the privileges, exemptions, and immunities provided for by the International Organizations Immunities Act of December 29, 1945 (59 Stat. 669).

The names of public international organizations currently designated as entitled to free entry privileges under the International Organizations Immunities Act are set forth in § 148.87(b) of the Customs Regulations, together with the number and date of the Executive order by which they were designated.

Accordingly, § 148.87(b) is amended by the following addition (in proper alphabetical order):

§ 148.87 Officers and employees of, and representatives to public international organization.

• • • • • •

(b) • • •

Organization	Executive order	Date
Organization of African Unity (OAU).	11767	Feb. 19, 1974

(R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759, sec. 1, 59 Stat. 669; 19 U.S.C. 66, 1498, 1624, 22 U.S.C. 288)

Inasmuch as this amendment merely corrects the listing of organizations entitled by law to claim free entry privileges as public international organizations, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

[SEAL] LEONARD LEHMAN, *Acting Commissioner of Customs.*

Approved: April 25, 1974.

MATTHEW J. MARKS, *Acting Assistant Secretary of the Treasury.*

[FR Doc.74–10535 Filed 5–7–74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Maintenance of National Ambient Air Quality Standards

On June 18, 1973 (38 FR 15834), the Administrator of the Environmental Protection Agency promulgated, among other provisions, revisions to 40 CFR Part 51, § 51.12. In part, these revisions require that State implementation plans identify by March 18, 1974 (9 months after the effective date of publication), areas which may have the potential for exceeding any national standard within the next 10-year period due to current air quality and/or projected growth rate. Under the same revisions, the Administrator was to publish by June 18, 1974, based upon this information submitted by the States, a list of potential problem areas which will be analyzed in more detail by the States. Then by June 18, 1975 (24 months after the effective date of promulgation), the States are required to submit an analysis of the impact on air quality of projected growth in each potential problem area designated by the Administrator. Where necessary, the States must also submit plans containing measures to ensure maintenance of the national standards during the ensuing 10-year period.

On January 15, 1974, the Office of Air Quality Planning and Standards issued to the States the EPA–OAQPS document, "Guidelines for Designation of Air Quality Maintenance Areas," which describes techniques which the States could use in identifying potential problem areas. This document was made available for public inspection in the FEDERAL REGISTER of February 25, 1974 (38 FR 7196). These guidelines specified that the States should analyze, as a minimum, all Standard Metropolitan Statistical Areas (SMSAs) within their jurisdiction. The Administrator has subsequently monitored the process of problem area identification, as undertaken by the States, through contact with EPA's ten regional offices. He has been favorably impressed by the efforts that most States have been making in analyzing areas, identifying problem areas and scheduling public hearings. It has become apparent, however, that States have been unable to submit the material required by the scheduled March 18, 1974, deadline. The Administrator had two basic choices as a result:

(a) to maintain the scheduled deadline, disapprove all State plans specifically for failure to comply with the provisions of § 51.12(e) (with the exception of States which do not contain Standard Metropolitan Statistical Areas), propose a list of problem areas, hold hearings and publish a final list on June 18, 1974; or

(b) to extend the deadline for a short period.

If the Administrator were to follow the former course of action, he would have to propose his own list of areas, knowing

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full well that most States were in the process of developing their lists and scheduling public hearings. As the Administrator's own rulemaking process carried forward, substantial confusion and duplication of effort would ensue. Such confusion could hinder full public participation in the formulation of the list of potential problem areas. Also, several States had requested that the Administrator extend the date for submittal of problem area identification so that the States could prepare the material more thoroughly and provide for more extensive public involvement.

Consequently, the Administrator decided to extend:

(a) the date for State submission of the identification of potential problem areas from March 18, 1974, to May 10, 1974; and

(b) the date for EPA publication of the list of potential problem areas, as based upon material submitted by the States from June 18, 1974, to August 16, 1974.

This action is anticipated to result in approximately 30 to 40 States being able to hold hearings on and submit area identification material by the revised deadline. The action below effects these extensions.

These amendments are being promulgated in final form without having first been proposed and subjected to public comment. The Administrator has found that the procedure of proposal and entertainment of public comment would be impracticable in this situation since States must be able to rely upon the new time schedule immediately. It should be stressed that the date required for submittal of the analysis of the impact on air quality of projected growth and 10-year maintenance plan in these areas remains the same—June 18, 1975. In order to avoid confusion, § 51.12(g) is also being amended to specify this June 18, 1975, date for submission, rather than implying it by requiring submission 24 months from the date of promulgation of the above-cited revisions to 40 CFR 51.12 on June 18, 1973.

(Secs. 110, 301(a), Clean Air Act, as amended 42 U.S.C. 1857c-5, 1857g(a))

Dated: May 2, 1974.

JOHN QUARLES,
Acting Administrator.

In § 51.12 of 40 CFR, Part 51, paragraphs (e) (2), (f) and (g) are revised to read as follows:

§ 51.12 Control strategy: General.

* * * * *

(e) * * *

(2) The area identification and description of method and timing required by this paragraph shall be submitted no later than May 10, 1974.

* * * * *

(f) Based on the information submitted by the State pursuant to paragraph (e) of this section, the Administrator will publish by August 16, 1974, a list of the areas which shall be subject to the requirements of paragraph (g) of this section.

(g) For each area identified by the Administrator pursuant to paragraph (f) of this section, the State shall submit, no later than June 18, 1975, the following:

(1) An analysis of the impact on air quality of projected growth and development over the 10-year period from the date of submittal.

(2) A plan to prevent any national standards from being exceeded over the 10-year period from the date of plan submittal. Such plan shall include, as necessary, control strategy revisions and/or other measures to insure that projected growth and development will be compatible with maintenance of the national standards throughout such 10-year period. Such plan shall be subject to the provisions of § 51.6.

* * * * *

[FR Doc.74-10589 Filed 5-7-74;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Final Reclassification of Air Quality Control Regions

On June 8, 1973 (38 FR 15180), the Administrator of the Environmental Protection Agency (EPA) proposed that 43 of the 47 air quality control regions that were originally classified priority I for nitrogen dioxide be reclassified priority III and retain the priority I classification in Los Angeles, Chicago, New Jersey-New York-Connecticut and Wasatch Front. Because there are conflicting data on nitrogen dioxide levels in New Jersey-New York-Connecticut and Wasatch Front, implementation of nitrogen dioxide control measures would not be required at this time.

In addition, based on the proposed reclassification, the Administrator also proposed the following actions with respect to State implementation plans:

1. Revoke his previous disapproval of nitrogen oxides control strategy with respect to the State implementation plans for the air quality control regions listed in Table 4 (June 8, 1973, 38 FR 15180) and withdraw regulations proposed by EPA dealing with control of stationary source emissions of nitrogen dioxide in these AQCR's.

2. Eliminate the requirement that the State of California's transportation control strategy for the San Francisco AQCR provide for attainment of the national standard for nitrogen dioxide; this AQCR is among those to be reclassified priority III. The transportation control strategy for this AQCR still will have to provide for attainment and maintenance of the national standards for carbon monoxide and photochemical oxidants.

3. As appropriate, alter the attainment date tables in notices of EPA action on State plans at 40 CFR Part 52 to indicate that nitrogen dioxide levels are already within the national standard.

Where States have adopted, and EPA has approved, regulations calling for control of nitrogen oxides emissions from stationary sources in AQCR's which would be reclassified from priority I to priority III, EPA will entertain State requests for implementation plan revisions that would rescind such regulations. Such revisions would have to be made in accordance with 40 CFR 51.6.

The Administrator also discussed the re-evaluation of the reference method for measuring nitrogen dioxide which was presented elsewhere in the FEDERAL REGISTER in more detail (38 FR 15174) and the question of validity of the current national air quality standard for nitrogen dioxide.

Sixteen separate comments were received on the proposed reclassification of regions for nitrogen dioxide. Six were from conservation groups or concerned citizens, 4 from state and local agencies, 3 from utility companies, 2 from industry and one from a Federal agency. In consideration of these and other comments, the proposed reclassification has been modified.

Seven comments concurred with EPA proposed actions; however, all but one provided additional comments on the ambient air quality standard or other related matters, 2 comments believed that the reclassification was premature, 2 comments proposed that Baltimore remain priority I, one comment proposed that Metropolitan Providence also remain priority I, 2 comments discussed the role of NO_x in the formation of oxidants, 1 comment suggested that the air quality standard is inconsistent with the concentration used by the Army Corps of Engineers and one comment suggested that an error has been made in publication of the proposal.

The suggested error in the proposal was concerning the classification of the Southeastern Wisconsin Intrastate Region. The region was originally classified priority I for NO_x and should be reclassified priority III. The proposal reflected this action.

The comment suggesting that the national standard is inconsistent with the one used by the Army Corps of Engineers has confused the units for the two concentrations in question. The Corps of Engineers' concentrations are in milligrams per cubic meter while those of EPA are in micrograms per cubic meter.

Comments concerning the role that NO_x plays in the formation of oxidants were addressed in the June 5, 1973, proposal (38 FR 14762) concerned with EPA's proposed action on nitrogen dioxide control strategy. The Agency is currently pursuing further studies to determine the relationship between hydrocarbons and nitrogen dioxide and to better define the role of NO_x in the formation of oxidants.

Three comments from utility companies agreed with EPA's proposed reclassification and requested EPA to encourage states to withdraw regulations dealing with the control of NO_x from stationary sources. However, there was concern over the growth and emission factors that were utilized in the analysis which formed the basis of the interim motor vehicle emission standard. Four other comments agreed with EPA's proposed action and submitted additional information concerning the national ambient air quality standard.

The information concerning the growth and emission factors utilized in the analysis of the motor vehicle emission standards will be further reviewed and considered as EPA formulates its position on the current motor vehicle emission standard for nitrogen oxides.

Among the comments received concerning the validity of the ambient air quality standard for nitrogen dioxide, opinion varied widely, from those who stated that the nitrogen dioxide standard should be rescinded pending accumulation of additional health effects data to those who judged that the present national standard provided a minimum margin of safety to public health and that extreme caution should be exercised in recommending a less stringent motor vehicle emission standard for nitrogen oxides. These comments will be considered in the continuing work of the Agency to evaluate its current ambient air quality standards and assist in the development of future standards. Further health studies designed to obtain additional data have been instituted and an orderly review of the health effects of nitrogen oxides exposures has been scheduled with the National Academy of Sciences.

Two comments believed EPA's proposed reclassification was premature and that the final action on reclassification should be postponed until more data and health studies are available. EPA is continuing to collect air quality data for nitrogen dioxide along with many State and local agencies. In addition, as mentioned previously, the Agency has initiated additional studies of the health effects of nitrogen dioxide. This data will continue to be analyzed and if for any reason the data would indicate that a change should be made, the Agency will see that the appropriate action is taken.

Three comments indicated that the Agency's proposed reclassification for NO_x for two AQCR's is incorrect. Two commentators believe that the Metropolitan Baltimore Region should remain priority I based upon recent data, using the Saltzman method, which indicates that the annual arithmetic mean for NO_2 from June 1972-July 1973 was 130 $\mu g/m^3$. The Saltzman data for 1972 was 109 $\mu g/m^3$. Also, one commentator believes that Metropolitan Providence should also remain priority I based on the Federal reference method data of 203 $\mu g/m^3$. However, EPA has declared the former reference method to be invalid. Additionally, all data obtained for Providence using the candidate methods show that levels are below the national standard and that Providence should be reclassified priority III.

Therefore, based upon the above comments, the air quality data presented in Tables 1 and 2 (38 FR 15180) and additional air quality data for the Baltimore AQCR, the proposed reclassification has been modified.

In light of the error in the reference measurement methodology used to determine nitrogen dioxide levels in the ambient air, the Agency has performed an analysis of the nitrogen dioxide standard for light duty vehicles. In formulating the Agency's position on the motor vehicle standards, growth in nitrogen oxides emissions under a variety of automotive control assumptions were projected and a preliminary review indicates that the motor vehicle standard for nitrogen oxides can be revised.

Wherever all the available data indicate that nitrogen dioxide concentrations were below the priority I cutoff point of 110 micrograms per cubic meter (annual arithmetic mean), EPA is reclassifying those regions to priority III. Thus, 42 AQCR's would be reclassified. The Los Angeles and Chicago AQCR's are the only ones where data from all three candidate methods show nitrogen dioxide concentrations exceeding 110 micrograms. They would remain priority I. In the New Jersey-New York-Connecticut, Wasatch Front (Salt Lake City), Metropolitan Baltimore AQCR's (originally priority I) and Denver AQCR (originally priority III), arsenite data show concentrations below the cutoff point, but chemiluminescence and/or Saltzman data show concentrations above 110 $\mu g/m$. Priority classifications for these four AQCR's would not be changed until more conclusive data are available; however, because the need for implementation of nitrogen oxides control measures in these AQCR's is uncertain, States would not be required to take action at this time to reduce NO_x emissions.

Based on the final reclassification, the Administrator is also finalizing the following actions with respect to State implementation plans:

TABLE 1.—*Air quality control regions affected by proposed revocation of NO_x control strategy disapproval and proposed termination of EPA rulemaking*

AQCR No.	AQCR name	Affected States
015	Phoenix-Tucson	Arizona.
042	Hartford-New Haven-Springfield.	Massachusetts.
045	Philadelphia	Pennsylvania and New Jersey.
070	St. Louis	Missouri.
085	Omaha-Council Bluffs	Nebraska.
123	Detroit-Port Huron	Michigan.
151	Northeast Pennsylvania-Upper Delaware Valley.	Pennsylvania.-New Jersey.
160	Genesee-Finger Lakes	New York.
162	Niagara Frontier	Do.
195	Central Pennsylvania	Pennsylvania.
196	South Central Pennsylvania.	Do.
197	Southwest Pennsylvania	Do.
214	Corpus Christi-Victoria	Texas.
215	Dallas-Fort Worth	Do.
216	Houston-Galveston	Do.
223	Hampton Roads	Virginia.
226	State Capital	Do.

1. Revoke his previous disapproval of nitrogen oxides control strategy with respect to the State implementation plans for the 17 air quality control regions listed in Table 1 and withdraw proposed regulations dealing with control of stationary source emissions of nitrogen oxides in these AQCR's.

2. Eliminate the requirement that the State of California's transportation control strategy for the San Francisco AQCR provide for attainment of the national standard for nitrogen dioxide; this AQCR is among those to be reclassified priority III. The transportation control strategy for this AQCR still will have to provide for attainment of the national standards for carbon monoxide and photochemical oxidants.

3. Retain his disapprovals of nitrogen oxides control strategies for New Jersey-New York-Connecticut, Wasatch Front, and the Metropolitan Baltimore Regions and hold in abeyance his proposed regulations until the final decision can be made on the classification of these regions.

4. As appropriate, alter the attainment date tables in notices of EPA action on State plans at 40 CFR Part 52 to indicate that nitrogen dioxide levels are already within the national standard.

5. Within four months from the date of publication of the revised requirements of 40 CFR 51.14 (published elsewhere in this issue of the FEDERAL REGISTER), the State of Illinois must submit a demonstration to the Administrator that the present approved control strategy for the Metropolitan Chicago AQCR is adequate to attain and maintain the national standard for nitrogen oxides. With respect to the Los Angeles AQCR, EPA previously disapproved California's control strategy for nitrogen oxides, carbon monoxide and photochemical oxidants, and promulgated a transportation control plan. On February 6, 1974, the State of California submitted a plan revision for Los Angeles which provides for a transportation control plan and a control strategy for nitrogen oxides. EPA is presently reviewing the plan to determine its adequacy in fulfilling the requirements of the revised § 51.14 to demonstration the attainment and maintenance of the nitrogen oxide standard for Los Angeles.

Where States have adopted, and EPA has approved, regulations calling for control of nitrogen oxides emissions from stationary sources in AQCR's which would be reclassified priority III, EPA will entertain State requests for implementation plan revisions that would rescind such regulations. Such revisions would have to be made in accordance with 40 CFR 51.6. However, before such a request is submitted, States should review the necessity of stationary sources control to maintain the national standards for nitrogen oxides.

The regulations promulgated below shall take effect on June 7, 1973.

(42 U.S.C. 1857c-5)

Dated: April 30, 1974.

RUSSELL E. TRAIN,
Administrator.

Subpart B—Alabama

1. In § 52.54, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen

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dioxide in the Metropolitan Birmingham Intrastate Region, with the letter "d".

Subpart D—Arizona

2. In § 52.121, the table is revised by changing the classifications for nitrogen dioxide in the Clark-Mohave Interstate and Phoenix-Tucson Intrastate Regions from "I" to "III", and in the Four Corners Interstate Region from "IA" to "III".

3. Section 52.127 is revoked.

4. In § 52.131, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Phoenix-Tucson Intrastate Region, with the letter "c".

Subpart E—Arkansas

5. In § 52.171, the table is revised by changing the classification for nitrogen dioxide in the Metropolitan Memphis Interstate Region from "I" to "III".

6. In § 52.176, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan Memphis Interstate Region, with the letter "c".

Subpart F—California

7. In § 52.221, the table is revised by changing the classifications for nitrogen dioxide in the San Francisco Bay Area and the San Diego Intrastate Regions from "I" to "III".

Subpart G—Colorado

8. In § 52.321, the table is revised by changing the classification for nitrogen dioxide in the Four Corners Interstate Region from "IA" to "III".

9. In § 52.325, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Four Corners Interstate Region, with the letter "d".

Subpart H—Connecticut

10. In § 52.371, the table is revised by changing the classification for nitrogen dioxide in the Hartford-New Haven-Springfield Interstate Region from "I" to "III".

11. In § 52.374, the attainment date table is revised by replacing the date "June 1975" for attainment of the national standard for nitrogen dioxide in the Hartford-New Haven-Springfield Interstate Region with the letter "c".

Subpart I—Delaware

12. In § 52.421, the table is revised by changing the classification for nitrogen dioxide in the Metropolitan Philadelphia Interstate Region from "I" to "III".

13. In § 52.428, the attainment date table is revised by replacing the date "January 1974" for attainment of the national standard for nitrogen dioxide in the Metropolitan Philadelphia Interstate Region with the letter "a".

Subpart J—District of Columbia

14. In § 52.471, the table is revised by changing the classification for nitrogen dioxide in the National Capital Interstate Region from "I" to "III".

15. In § 52.481, the attainment date table is revised by replacing the date "July 1975" for attainment of the national standard for nitrogen dioxide in the National Capital Interstate Region with the letter "c" and by adding footnote "c" to read as follows:

c. Air quality levels presently below secondary standard.

Subpart K—Florida

16. In § 52.521, the table is revised by changing the classifications for nitrogen dioxide in the West Central Florida and Southeast Florida Intrastate Regions from "I" to "III".

17. In § 52.523, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the West Central Florida and the Southeast Florida Intrastate Regions, with the letter "c".

Subpart L—Georgia

18. In § 52.571, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan Atlanta Intrastate and Chattanooga Interstate Regions from "I" to "III".

19. In § 52.575, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan Atlanta Intrastate and the Chattanooga Interstate Regions, with the letter "c".

Subpart O—Illinois

20. In § 52.721, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan St. Louis (Missouri-Illinois) Interstate Region from "I" to "III", and the Metropolitan Dubuque Interstate Region from "IA" to "III".

21. In § 52.727, the attainment date table is revised by replacing the date "July 1975" for attainment of the national standard for nitrogen dioxide in the Metropolitan Dubuque and the Metropolitan St. Louis (Missouri-Illinois) Interstate Regions with the letter "c".

Subpart P—Indiana

22. In § 52.771, the table is revised by changing the classifications for nitrogen dioxide in the Louisville and the Metropolitan Cincinnati Interstate Regions and the Metropolitan Indianapolis Intrastate Region from "I" to "III".

23. In § 52.783, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Louisville and the Metropolitan Cincinnati Interstate Regions and in the Metropolitan Indianapolis Intrastate Region, with the letter "e".

Subpart Q—Iowa

24. In § 52.821, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan Omaha-Council Bluffs and from "I" to "III" and in the Metropolitan Dubuque Interstate Regions from "IA" to "III."

25. In § 52.827, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan Omaha-Council Bluffs and the Metropolitan Dubuque Interstate Regions, with the letter "c".

Subpart S—Kentucky

26. In § 52.921, the table is revised by changing the classifications for nitrogen dioxide in the Louisville and Metropolitan Cincinnati Interstate Regions from "I" to "III".

27. In § 52.926, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Louisville and the Metropolitan Cincinnati Interstate Regions, with the letter "c".

Subpart V—Maryland

28. In § 52.1071, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan Baltimore Intrastate and National Capital Interstate Regions from "I" to "III".

29. Section 52.1075 is revoked.

30. In § 52.1078, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metroloplitan Baltimore Intrastate and the National Capital Interstate Regions, with the letter "d".

Subpart W—Massachusetts

31. In § 52.1121, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan Boston and Central Massachusetts Intrastate Regions and the Metropolitan Providence and Hartford-New Haven-Springfield Interstate Regions from "I" to "III."

32. Section 52.1124 is revoked.

33. In § 52.1127, the attainment date table is revised by replacing "a" for attainment of the national standard for nitrogen dioxide in the Metropolitan Boston and the Central Massachusetts Intrastate Regions and the Hartford-New Haven-Springfield Interstate Region with the letter "e".

Subpart X—Michigan

34. In § 52.1171, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan Detroit-Port Huron and Central Michigan Intrastate Regions and the Metropolitan Toledo Interstate Region from "I" to "III".

35. Section 52.1174 is revoked.

36. In § 52.1177, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan Detroit-Post Huron and the Central Michigan Intrastate Regions and in the Metropolitan Toledo Interstate Region, with the letter "c".

Subpart Y—Minnesota

37. In § 52.1221, the table is revised by changing the classification for nitrogen dioxide in the Minneapolis-St. Paul Intrastate Region from "I" to "III".

38. In § 52.1226, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Minneapolis-St. Paul Intrastate Region, with the letter "d".

Subpart Z—Mississippi

39. In § 52.1271, the table is revised by changing the classification for nitrogen dioxide in the Metropolitan Memphis Interstate Region from "I" to "III".

40 In § 52.1273, the attainment date table is revised by replacing the date "June 1975" for attainment of the national standard for nitrogen dioxide in the Metropolitan Memphis Interstate Region with the letter "b".

Subpart AA—Missouri

41. In § 52.1321, the table is revised by changing the classification for nitrogen dioxide in the Metropolitan St. Louis Interstate Region from "I" to "III".

42. Section 52.1326 is revoked.

43. In § 52.1332, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan St. Louis Interstate Region, with the letter "c".

Subpart CC—Nebraska

44. In § 52.1421, the table is revised by changing the classification for nitrogen dioxide in the Metropolitan Omaha-Council Bluffs Interstate Region from "I" to "III".

45. In § 52.1431, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan Omaha-Council Bluffs Interstate Region, with the letter "c".

46. Section 52.1433 is revoked.

Subpart DD—Nevada

47. In § 52.1471, the table is revised by changing the classification for nitrogen dioxide in the Clark-Mohave Interstate Region from "I" to "III".

Subpart FF—New Jersey

48. In § 52.1571, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan Philadelphia and Northeast Pennsylvania-Upper Delaware Valley Interstate Regions from "I" to "III".

49. Section 52.1576 is revised to delete the references to the Metropolitan Philadelphia and Northeast Pennsylvania-Upper Delaware Valley Interstate Regions.

50. In § 52.1580, the attainment date table is revised by replacing the letter "d", which designates the date for attainment of the national standard for nitrogen dioxide in the New Jersey-New York-Connecticut region with the letter "a".

Subpart GG—New Mexico

51. In § 52.1621, the table is revised by changing the classification for nitrogen dioxide in the Four Corners Interstate Region from "IA" to "III".

Subpart HH—New York

52. In § 52.1671, the table is revised by changing the classifications for nitrogen dioxide in the Niagara Frontier and Genesee-Finger Lakes Intrastate Regions from "I" to "III".

53. Section 52.1676 is revised to delete any reference to the Niagara Frontier and Genesee-Finger Lakes Intrastate Regions.

54. In § 52.1682, the attainment date table is revised by replacing the letter "a" for attainment of the national standard for nitrogen dioxide in the Niagara Frontier and the Genesee-Finger Lakes Intrastate Regions with the letter "e".

Subpart KK—Ohio

55. In § 52.1871, the table is revised by changing the classifications for nitrogen dioxide in the Greater Metropolitan Cleveland, Metropolitan Columbus and the Metropolitan Dayton Intrastate Regions and the Metropolitan Cincinnati and Metropolitan Toledo Interstate Regions from "I" to "III".

56. In § 52.1875, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the greater Metropolitan Cleveland, Metropolitan Columbus, and the Metropolitan Dayton Intrastate Regions and in the Metropolitan Cincinnati and the Metropolitan Toledo Interstate Regions, with the letter "e".

Subpart MM—Oregon

57. In § 52.1973, the attainment date table is revised by replacing the date "May, 1975" for attainment of the national standard for nitrogen dioxide in the Portland Interstate Region with the letter "b".

Subpart NN—Pennsylvania

58. In § 52.2021, the table is revised by changing the classifications for nitrogen dioxide in the Metropolitan Philadelphia and Northeast Pennsylvania-Upper Delaware Valley Interstate Regions and in the South Central Pennsylvania, Central Pennsylvania and the Southwest Pennsylvania Intrastate Regions from "I" to "III".

59. Section 52.2027 is revoked.

60. In § 52.2034, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan Philadelphia and the Northeast Pennsylvania Upper Delaware Valley Interstate Regions and in the South Central Pennsylvania, Central Pennsylvania and the Southwest Pennsylvania Intrastate Regions, with the letter "e".

Subpart OO—Rhode Island

61. In § 52.2071, the table is revised by changing the classification for nitrogen dioxide in the Metropolitan Providence Interstate Region from "I" to "III".

62. In § 52.2076, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Metropolitan Providence Interstate Region, with the letter "b".

Subpart RR—Tennessee

63. In § 52.2221, the table is revised by changing the classifications for nitrogen dioxide in the Chattanooga and Metropolitan Memphis Interstate Regions from "I" to "III".

64. In § 52.2230, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Chattanooga and the Metropolitan Memphis Interstate Regions, with the letter "c".

Subpart SS—Texas

65. In § 52.2271, the table is revised by changing the classifications for nitrogen dioxide in the Corpus Christi-Victoria, Metropolitan Houston-Galveston and the Metropolitan Dallas-Fort Worth Intrastate Regions from "I" to "III".

66. Section 52.2276 is revoked.

67. In § 52.2279, the attainment date table is revised by replacing the date July, 1975, which designates the date for attainment of the national standard for nitrogen dioxide in the Corpus Christi-Victoria, Metropolitan Houston-Galveston, and the Metropolitan Dallas-Fort Worth Instrastate Regions, with the letter "a".

Subpart TT—Utah

68. In § 52.2321, the table is revised by changing the classification for nitrogen dioxide in the Four Corners Interstate Region from "IA" to "III".

69. In § 52.2331, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Four Corners Interstate Region, with the letter "c".

Subpart VV—Virginia

70. In § 52.2421, the table is revised by changing the classification for nitrogen dioxide in the State Capital and Hampton Roads Intrastate Regions and the National Capital Interstate Region from "I" to "III".

71. Section 52.2426 is revoked.

72. In § 52.2429, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the State Capital and the Hampton Roads Intrastate Regions, and by replacing the date "June, 1975" for attainment of the national standard for nitrogen dioxide in the National Capital Interstate Region with the letter "d".

Subpart WW—Washington

73. In § 52.2471, the table is revised by changing the classification for nitrogen dioxide in the Puget Sound Intrastate Region from "I" to "III".

74. In § 52.2478, the attainment date table is revised by replacing the date

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"July 1975" for attainment of the national standard for nitrogen dioxide in the Puget Sound Intrastate Region with the letter "b".

Subpart YY—Wisconsin

75. In § 52.2571, the table is revised by changing the classifications for nitrogen dioxide in the Southeastern Wisconsin Intrastate Region from "I" to "III", and in the Metropolitan Dubuque Interstate Region from "IA" to "III".

76. In § 52.2577, the attainment date table is revised by replacing the letter "a", which designates the date for attainment of the national standard for nitrogen dioxide in the Southeastern Wisconsin Intrastate Region and in the Metropolitan Dubuque Interstate Region, with the letter "c".

[FR Doc.74-10440 Filed 5-7-74;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Hawaii; Approval and Disapproval of Compliance Schedules

On May 31, 1972 (37 FR 10842), July 27, 1972 (37 FR 15080), and May 14, 1973 (38 FR 12711), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of the Hawaii plan for the implementation of the national ambient air quality standards. On July 27, 1973, after notice and public hearings, the Governor of Hawaii submitted to the Environmental Protection Agency (EPA) revisions to the compliance schedule portion of the approved plan.

Thirty-five state compliance orders and three state variances were submitted. On February 22, 1974 (39 FR 6726) EPA proposed that the thirty-five orders be approved as compliance schedule revisions to the Hawaii implementation plan, and that the three variances be disapproved. On February 27, 1974, the State of Hawaii Department of Health notified EPA that four of the sources subject to approvable compliance schedules (Honiron Division of Ward Foods, Inc., Pacific Concrete and Rock, Ltd., Ka'u Sugar Co., Pahala Mill and Ka'u Sugar Co., Honuapo Mill) and one source subject to an unapprovable variance (Hawaiian Fruit Packers, Ltd.) had achieved compliance prior to December 31, 1973. Three additional sources (Hawaiian Western Steel, Ltd., Construction Materials Hawaii, Inc., and Hawaiian Bitumuls and Paving Co., Ltd., Puunene Plant) are subject to compliance schedules with final compliance dates which have already passed. The approval and disapproval actions related to these sources have been deleted from this final notice of rulemaking.

The remaining twenty-eight compliance orders have been found to satisfy the requirements of 40 CFR 51.15 and to be consistent with the approved control strategy. The remaining two variances, issued to the Nanakuli Paving and Rock Co., Ltd., Molokai asphalt plant and the Kohala Corp. sugar mill, do not explicitly require compliance with particulate matter emission regulations, and allow noncompliance to extend beyond the ambient air quality standards attainment date for particulate matter. They do not, therefore, meet the requirements of 40 CFR 51.15, and must be disapproved.

Each compliance schedule revision establishes a new date by which an individual source must comply with an emission limitation specified by the implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date." In each case, the schedule includes incremental steps towards compliance which are not listed in the table. Some schedules require compliance by specifying the installation of specific control devices or by the construction of new equipment and the shutdown of existing equipment. Approval of these schedules is solely on the basis that compliance is required by the specified "Final Compliance Date," regardless of the method of control specified by the schedule.

EPA has received no comments in response to the publication of the proposed approvals and disapprovals (39 FR 6726 Feb. 22, 1974). An evaluation of each schedule, as well as the schedule itself, is available for public inspection at the Hawaii Department of Health and the Region IX office of EPA at the addresses noted below. In each case, the record of the appropriate public hearing has been reviewed and considered.

Source	Location	Regulation sections involved	Date of adoption	Effective date	Final compliance date
Grove Farm Co., Inc	Koloa	12	July 27, 1973	Immediately	June 30, 1975
City and county of Honolulu	Kewalo	8, 11	do	do	July 31, 1975
County of Kauai	Lihue	7, 8	do	do	Do.
Do	Hanalei	7, 8	do	do	Do.
Do	Kekaha	7, 8	do	do	Do.
Do	Eleele	7, 8	do	do	Do.
Do	Koloa	7, 8	do	do	Do.
Do	Kapaa	7, 8	do	do	Do.
The Lihue Plantation Co., Ltd	Lihue	8, 12	do	do	Jan. 31, 1975
Oahu Sugar Co., Ltd	Waipahu	8, 12	do	do	Dec. 31, 1974
Pioneer Mill Co., Ltd	Lahaina	8, 12	do	do	June 30, 1974
Hawaiian Bitumuls & Paving Co., Ltd.	Puhi	8, 13	do	do	Do.
Do	Kaena	8, 13	do	do	Dec. 31, 1974
Hilo Coast Processing Co	Hakalau	8, 12	do	do	June 30, 1974
Do	Waiuaku	8, 12	do	do	Do.
McBryde Sugar Co. Ltd	Eleele	8, 12	do	do	July 31, 1975
Laupahoehoe Sugar Co	Oakala	8, 12	do	do	July 1, 1974
Honokaa Sugar Co	Haina	8, 12	do	do	May 31, 1975
Hawaiian Commercial & Sugar Co. Boilers 11 and 12	Puunene	8, 12	do	do	July 1, 1975
Boilers 7, 8, 9, 10	do	8, 12	do	do	Do.
Boilers	Pala	8, 12	do	do	Do.
Kiln	do	8, 13	do	do	June 15, 1974
Kaiser Cement & Gypsum Corp	Nanakuli	13	do	do	Mar. 31, 1975
Nanakuli Paving & Rock Co., Ltd	Halawa	8, 13	do	do	Mar. 1, 1975
Jas. W. Glover, Ltd	Hilo	13	do	do	Apr. 1, 1975
City and County of Honolulu	Waipahu	8, 11	do	do	July 31, 1975
Do	Kapalama	8, 11	do	do	Do.
Hawaiian Cement Corp	Ewa Beach	8, 13	do	do	Feb. 28, 1975

(b) The compliance schedules for the sources identified below are disapproved as not meeting the requirements of § 51.15 of this chapter. The regulations cited are air pollution control regulations of the State.

Environmental Protection Agency, Region IX
Enforcement Division, Room 302
100 California Street
San Francisco CA 94111

Environmental Protection Agency, Region IX
Pacific Islands Basin Office
1000 Bishop Street
Honolulu HI 96813

Hawaii State Department of Health
Air Sanitation Branch
Kapuiawa Building
Honolulu HI 96801

(42 U.S.C. 1857c-5)

Dated: May 1, 1974.

JOHN QUARLES,
Acting Administrator.

Part 52 of 40 CFR Chapter I is amended as follows:

Subpart M—Hawaii

1. A new § 52.626 is added as follows:

§ 52.626 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State. Some schedules require compliance by specifying the installation of specific control devices or by the construction of new equipment and the shutdown of existing equipment. Approval of these schedules is solely on the basis that compliance is required by the specified "Final Compliance Date", regardless of the method of control specified by the schedule.

Source	Location	Regulation sections involved	Date of adoption
Nanakuli Paving & Rock Co., Ltd.	Molokai	8, 13	July 27, 1973
Kohala Corp	Halawa	8, 12	Do.

[FR Doc.74-10441 Filed 5-7-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18179; FCC 74-382]

PART 73—RADIO BROADCAST SERVICES

Non-Network Programs

In the matter of amendment of Part 73 of the Commission's rules with respect to the availability of television programs produced by non-network suppliers (38 FR 34325) to commercial television stations and CATV systems.

1. On August 3, 1973, the Commission released the First Report and Order in this docket (FCC 73-806, 42 F.C.C. 2d 175) in which a rule was adopted limiting geographical exclusivity in non-network program contracts between television stations and program suppliers. The rule as adopted reads as follows:

Section 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

• • • • • •

(m) *Territorial exclusivity in non-network arrangements.* No television station shall enter into any contract, arrangement or understanding, express or implied, with a non-network program producer, distributor, or supplier, or other person which prevents or hinders another television station located in a community over 25 miles away, as determined by the reference points contained in § 76.53 of this chapter, from broadcasting any program purchased by the former station from such non-network program producer, distributor, supplier, or other person. As used in this subsection, the term "community" is defined as the community specified in the instrument of authorization as the location of the station.

NOTE 1: Contracts, arrangements, or understandings that are complete under the practices of the industry prior to August 7, 1973, will not be disturbed. Extensions or renewals of such agreements are not permitted because they would in effect be new agreements without competitive bidding. However, such agreements that were based on the broadcaster's advancing "seed money" for the production of a specific program or series that specify two time periods—a tryout period and a period thereafter for general exhibition—may be extended or renewed as contemplated in the basic agreement.

2. The rule was to have been effective September 7, 1973. However, on August 31, 1973 (FCC 73-890, 38 FR 24367), the Commission stayed the effective date of the rule until November 12, 1973. The stay was issued in response to requests of the Association of Maximum Servide Telecasters and others stating that they intended to file petitions for reconsideration of the Commission's action adopting the rule as set forth above. The parties filing timely petitions for reconsideration are listed below.[1] Because of unavoidable delays in the publication of public notices of the filing of several of the petitions for reconsideration, the last date for filing opposition pleadings to the petitions for reconsideration was October 1, 1973. (Order Extending Time for Filing Responses to Petitions for Reconsideration, Mimeo No. 08017, 38 FR 27218, issued September 24, 1913.) Opposition pleadings filed on or before October 1, 1973, were submitted by the parties listed below.[2]

3. The rule, as adopted, provides that program contracts negotiated on or after August 7, 1973, for non-network program material cannot provide for geographical exclusivity in excess of 25 miles from the community of license as determined by reference points contained in § 76.53 of the Commission's rules. The requests for stay set forth two primary grounds for reconsideration: (a) the 25-mile rule would prohibit exclusivity in recognized multi-city markets, and (b) the 25-mile standard amounted to an inadvertent modification of the exclusivity provided to television stations by the Commission's action in adopting the cable television rules in 1972. The Commission issued the aforementioned November 12 stay to enable it to act on the petitions for reconsideration. A major consideration in staying the effective date of the rule was to enable parties to comment on the question of exclusivity given to television stations by the 1972 cable rules which were adopted long after the filing date (February 10, 1969) for comments in the geographical exclusivity portion of this proceeding. Because of the complexity of the issues, the Commission, in response to several requests, by Order of November 9, 1973 (FCC 73-1152, 38 FR 31680), stayed the effective date of the rule indefinitely pending action on the petitions for reconsideration. On December 6, 1973, the Commission issued a public notice (FCC 73-1278, 38 FR 34325) stating that it contemplated having the petitions for reconsideration acted on by mid-January, 1974.

4. The views expressed in the petitions for reconsideration and subsequent pleadings will be generally treated on a topical basis, except in cases where specific views should be identified.

5. NCTA supports the 25-mile standard and urges that the Commission should reduce the exclusivity that a television station may secure against cable systems to 25 miles, the standard adopted by the First Report and Order herein. The oppositions of MCA, Program Suppliers, and Metromedia were specifically directed against the NCTA petition. The main premise in these three oppositions is that the exclusivity given to television stations (35 miles) by the 1972 cable rules cannot be modified without notice to and opportunity to comment by the stations. As to the NCTA petition, AMST, RKO, Midwest, and Spartan also challenge the Commission's authority to revise exclusivity permitted by the cable proceeding without notice to the parties. The comments of the parties opposing the NCTA suggestion were lengthy and vigorous. Because of the notice requirements of the Administrative Procedure Act, 5 U.S.C. 553(b), regarding notice and opportunity to comment, we are unable to consider the NCTA proposal.

6. All other parties oppose the 25-mile standard. Most urge that the Commission revoke it and handle any abuses of excess exclusivity on a complaint basis in an ad hoc manner. Some, while advocating repeal of the 25-mile standard, also propose specific alternative standards. Those alternative proposals will be analyzed in detail.

7. AMST filed a lengthy petition for reconsideration which claims that the 25-mile rule is far too broad and pervasive because it prohibits exclusivity in over 50 recognized multi-city television markets in which exclusivity is proper. It contends that the rule does not recog-

[1] Petitions for reconsideration: Association of Maximum Service Telecasters (AMST); Belo Broadcasting Corporation (Belo); Broadcast-Plaza, Inc. (Broadcast-Plaza); Cedar Rapids Television Company (Cedar Rapids); The Corinthian Stations and The Orion Stations (Corinthian and Orion); Daily Telegraph Printing Company (Daily Telegraph); Gateway Communications, Inc. (Gateway); Kaiser Broadcasting Company (Kaiser); Kansas State Network, Inc. (Kansas); Kelly Broadcasting Company (Kelly); King Broadcasting Co., et al. (King); McGraw-Hill Broadcasting Company, Inc. (McGraw-Hill); Metromedia, Inc. (Metromedia); Midwest Television, Inc. (Midwest); Multimedia, Inc. (Multimedia); National Association of Broadcasters (NAB); National Cable Television Association; Inc. (NCTA); Newhouse Broadcasting Corporation (Newhouse); Roy H. Park Broadcasting of Roanoke, Inc. (Park); Ponce Television Corporation (Ponce); RKO General, Inc., et al. (RKO); Rust Craft Broadcasting Company (Rust Craft); The Spartan Radiocasting Company (Spartan); Storer Broadcasting Company (Storer); Telemundo, Inc. (Telemundo); WAPA-TV Broadcasting Corporation (WAPA); Wichita-Hutchinson Company, Inc. (Wichita-Hutchinson); WGAL Television, Inc. (WGAL); WGN Continental Broadcasting Company (WGN); WJAC, Incorporated (WJAC); and Wometco Skyway Broadcasting Company (Wometco).

[2] Oppositions to petitions for reconsideration: American Broadcasting Companies, Inc. (ABC); Association of Maximum Service Telecasters (AMST); Columbia Pictures Industries, Inc. et al. (Program Suppliers); Corvallis TV Cable Co. (Corvallis); MCA, Inc. (MCA); Metromedia, Inc. (Metromedia); Midwest Television, Inc. (Midwest); RKO General, Inc., et al. (RKO); Scripps-Howard Broadcasting Company (Scripps-Howard); The Spartan Broadcasting Company (Spartan); Suburban Broadcasting Corporation (Suburban); Summit Radio Corporation (Summit); and WKRG-TV, Inc. (WKRG). Reply pleadings were timely filed by RKO; AMST; and WGN. The Association of Independent Television Stations, Inc. and Paducah Newspapers, Inc., Paducah, Kentucky, filed pleadings in the nature of petitions for reconsideration past the due date for filing such pleadings; they presented no material not contained in the pleadings that were timely filed, and they will be dismissed.

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nize the economic facts of the television market places, i.e., stations in actual competitive situations, and, instead, bases the exclusivity standard on the historical accident that stations were allocated to cities that are over 25 miles apart. It claims that because of the vast differences in the geographical areas of television markets, a single mileage figure based on reference points will not work. (AMST also contends that the 25-mile rule sharply restricts permissible exclusivity, insofar as cable television is concerned, in hyphenated markets.) As examples of such difference in area, AMST sets forth the Dallas-Fort Worth situation (where the separation is over 100 miles). It contends that Bismarck and Minot, because of satellite operations, are full competitors. In contrast, AMST points out, because there are two distinct recognized markets involved, there may well be a question of the propriety of any exclusivity in the case of the Hartford, Connecticut-Springfield, Massachusetts situation even though, by reference points, the cities are only 22 miles apart.

8. AMST states that the Commission's intention was to "free up" programming in situations wherein there is a small overlap of service area, but that in the First Report and Order, the rule adopted is rather to protect stations in "overshadowed" cities (cities in or near a larger television market) which serve "fringe area" audiences and which are in actual direct competition with the larger city station. AMST then sets forth eight specific situations of cities with reference points over 25 miles apart whose television stations are direct competitors. AMST concludes that there should be no rule, but rather a general policy statement should be adopted that outlines the Commission's concern with the problem of geographical exclusivity.

9. Nevertheless, AMST does set forth alternative solutions to the 25-mile rule, should the Commission not adopt its suggestion to rescind the rule and use the case-by-case method. The alternatives are: (1) a television station should at least be permitted to contract for exclusivity up to 35 miles (the specified zone of a television station defined in § 76.5 of the rules); (2) a television station should be permitted to contract for exclusivity against other stations in "designated" or "name" communities that are traditionally part of the same hyphenated market; and (3) case-by-case exceptions to the foregoing rules, but without evidentiary hearings.

10. Specific multi-city market problems are set forth in the pleadings of AMST, Belo, Broadcast-Plaza, Cedar Rapids, Corinthian and Orion, Daily Telegraph, Gateway, King, Kansas, Kelly, McGraw-Hill, Midwest, Multimedia, Newhouse, Park, Rust Craft, Spartan, Wichita-Hutchinson, WGAL, WKRG, and Wometco. All of the foregoing petitioners urge recision or revision of the rule. The petitions of Storer, Metromedia, NAB, Kaiser, RKO, WJAC, and WGN, oppose this aspect of the rule as adopted, but were topical rather than covering a specific multi-city market problem. MCA, in its opposition to the NCTA petition, also urges the Commission to reconsider the multi-city market question. Kaiser, who filed comments on the territorial exclusivity question, urges, should the 25-mile standard not be modified, that the Commission adopt a definite waiver policy to ameliorate the harshness that could occur in multi-city situations. RKO disagrees with the waiver position urged by Kaiser, because it would "work unreasonably and unequitably in all markets in which it would have an impact."

11. RKO and WGN, like AMST, urge that the Commission adopt the ad hoc approach to resolve any multi-city situations where abuses are turned up in exclusivity involving syndicated programming. Should the Commission not permit exclusivity against stations in other communities of hyphenated markets, Kaiser also asks that the Commission clarify the methods permitted to a licensee, consonant with the rule, to protect itself should the program be sold to a station in another community in the multi-city market. Ponce, Telemundo and WAPA-TV are licensees of Puerto Rican stations and contend that all communities of Puerto Rico should be considered to be one market with any TV station on the island being able to secure exclusivity against other stations on the island.

12. Suburban, the permittee of a UHF television station in Patchogue, New York, which is somewhat overshadowed by the New York City television stations, in its opposition pleading, states that it is in general support of the 25-mile rule. The opposition pleadings by Corvallis and Summit respectively the licensees of "overshadowed" stations KVDO and WAKR-TV in Salem, Oregon, and Akron, Ohio, submit alternative solutions for resolving the overshadowed situations. VHF Station KVDO at Salem is located 45 miles from Portland, Oregon. Heretofore, most non-network program contracts between the Portland stations and the suppliers provided for exclusivity against the Salem station. The solution proposed by Corvallis is to revise the rule by deleting the 25-mile standard and prohibiting the securing of exclusivity against an "overshadowed" station. Corvallis proposes a revised rule that lists "overshadowed communities" to be Akron, Ohio; Fond du Lac, Wisconsin; Manchester, New Hampshire; Modesto, California; Salem, Oregon; San Jose, California; Tulare, California; and Worcester, Massachusetts. Stations in the foregoing eight communities, either in the comments in response to the Notice or other data filed with the Commission, urged that the Commission take some action to allow them to compete for non-network programming that was denied to them because of the exclusivity provisions in contracts of television stations located some distance from them. UHF Station WAKR-TV at Akron is situated approximately 29 miles from Cleveland, Ohio. Summit submits two possible solutions that would revise the 25-mile standard, and still retain a general rule. The first alternative is to prohibit exclusivity against a station in another television market as set forth in the 1972 ARB Television Market Analysis. The second alternative is a rule that would retain a 25-mile standard, but only in the top 50 markets. These two solutions of Summit are vigorously opposed in the reply pleadings of AMST, RKO and WGN. The basis of the three oppositions is that the proposals are unrealistic and really amount to special legislation for a few "overshadowed" communities. On the other hand, ABC, in its opposition, is of the view that the 25-mile standard is probably too harsh, and submits that the alternatives proposed by Summit would assist in alleviating the "overshadowed" problem.

13. Other parties specifically commenting on the "overshadowed" market question include NAB, which states that it has no solution to the problem, but that the 35-mile standard of the specified zone adopted in the cable report, which was part of the NAB-NCTA consensus agreement, should be utilized. King and WJAC urge that the Commission adopt a case-by-case approach to resolve this "overshadowed" problem, with WJAC suggesting reference to transmitter locations of the competing stations. Storer, in general, reiterates its contention set forth in its comments in response to the notice that price is the main problem in the "overshadowed" market situation, i.e. "overshadowed" stations are simply not willing to pay the price at which a program is offered to stations serving all or a portion of the same market area. Similarly, Scripps-Howard intimates that the Akron station does not wish to pay the prevailing price for non-network programs, even though it does actively solicit advertising in competition with WEWS in the same market.

14. RKO, in its reply pleading points out that the Summit and Corvallis proposals are not feasible alternatives because they have not shown that those markets should be insulated from competition and reiterates the positions urged in its petition and opposition. AMST, also in its reply pleading, challenges a position taken by the Patchogue station that even a 35-mile standard could work to deny programming to many television stations near New York City; and, it also contends that the Summit and Corvallis proposals are not feasible as a general standard. WGN, in reply, contends the different alternatives of Suburban, Corvallis and Summit support its position that a general rule is unnecessary and unworkable.

15. Metromedia and RKO contend that the Commission is without authority to adopt rules limiting territorial exclusivity because it amounts to an unreasonable restriction on the business practices of broadcasters. RKO also contends that the rule is contrary to copyright and antitrust laws. Finally, King

contends that because of the vote on the First Report and Order (2 Commissioners voting for the document, with four Commissioners concurring in the result), the rule is procedurally defective.

16. Most of the parties contend that they never had an opportunity to comment on the modification of the exclusivity provided to television stations by the cable rules. As set forth above, the Commission, in part because of this contention, stayed the effective date of the rule.

17. As we stated in the notice of proposed rulemaking (FCC 68-511, 33 FR 7158) initiating this proceeding, the Commission had little specific information on the non-network program situation. The parties filing comments in opposition to the proposed rule supplied little factual data and their comments were very general in nature. The petitions for reconsideration are much more specific as to the multi-city market problem, and they recognize the "overshadowed" market situation as a very real one. Moreover, in these petitions, the parties had their first chance to comment on the revision of the exclusivity made available to television stations by the cable television rules. The petitions and responsive pleadings fully explore the foregoing issues and submit possible solutions to assist us in solving them.

18. We have considered all the pleadings filed concerning the First Report and Order and have concluded that the 25-mile standard should be modified. In the cable Report and Order (36 F.C.C. 2d 143 (1972)) which reflected the so-called consensus agreement, the rule permitted television stations to secure exclusivity against cable systems in other communities in hyphenated markets, as well as setting the 35-mile standard to be the specified zone of a television station. At the time that the 25-mile standard was adopted in this proceeding, we felt that the 25-mile distance would have little effect on syndicated distribution patterns, but that it might possibly open up the negotiations for programming for all stations including the so-called overshadowed stations. Moreover, there were no data on file with the Commission relating to exclusivity matters that were provided for in the cable rules as adopted in 1972. Because the date of the cable Report and Order was so much later than the closing date for filing comments in the geographical exclusivity portion of this proceeding, we, in effect, can consider the First Report and Order in this proceeding as having provided the first opportunity for the parties to comment on the possible reduction of the exclusivity for television stations provided by the cable rules in hyphenated markets.

19. We recognize that the Commission could adopt the case-by-case approach to resolve any problem situations involving abuses as to exclusivity in the syndicated programming area. However, because the process of resolution is so time consuming and because so many people will be engaged in the sales of such program fare, we believe a specific rule with limited exceptions is the most definite and prudent course of action. In addition, because the rules here adopted are intended to have a broad general applicability, it should not be assumed that any particular contract or exclusivity practice is necessarily reasonable and insulated from antitrust or other scrutiny simply because it does not violate the rules here adopted. These rules are intended only to establish some outer limits to the exclusivity practices in question. We think it likely, in fact, that even within the market lists (§ 76.51 and ARB) here relied on, that there are stations which, if purchasing exclusivity against each other, will be approaching the edge of what a full review of the circumstances might reveal to be "undue" exclusivity. U.S. v. Paramount Pictures, Inc., 66 F. Supp. 323, 70 F. Supp. 53 (S.D.N.Y., 1947), noted with approval by the Supreme Court, 334 U.S. 131 (1948). The same would, of course, hold with respect to the purchase of programming exclusivity against cable television system use. As noted in the Cable Television Report and Order, supra, footnote 54, "In some markets the designated communities are located so far apart that a sale in one does not and should not preclude a sale in the other." Although we had hoped in this proceeding to be in a position to further clarify which situations are involved, it appears that the variables are sufficiently numerous, including the geography, demography, terrain of the area as well as the characteristics of the particular stations involved, that we are now taking that step. That is, however, a matter which clearly warrants our continuing concern.

20. Even though there is still little, if any accumulated information on the operation of the cable rules, other than that contained in the comments, it may well have been premature to lower territorial exclusivity to the 25-mile standard as well as not to provide for exclusivity in the hyphenated market situations. Therefore, we shall modify the territorial exclusivity rule adopted in the First Report and Order of the present docket. We shall (a) raise the mileage standard in § 73.658(m) of the Commission's rules to 35 miles as determined by the reference points contained in § 76.53[3] of the rules, except that for a two-year period, beginning with the effective date of this modification, television stations licensed to Cleveland, Ohio, may not secure exclusivity against a television station licensed to Akron, Ohio, and television stations licensed to Stockton, California, may not secure exclusivity against a television station licensed to Modesto, California, and (b) permit television stations in hyphenated markets to secure exclusivity against other television stations in the same hyphenated markets as contained in the listing of major television markets contained in § 76.51 of the Commission's rules (for the top 100 markets), and for markets below the top 100, the listing of markets contained in the ARB Television Market Analysis for the latest year at the time the contract, arrangement or understanding is complete under practices of the industry. In addition, Puerto Rico will be considered to be a single television market so that any TV station on the island may secure exclusivity against any other station there.

21. The reference points between Cleveland and Akron are approximately 29 miles apart, and the Modesto-Stockton reference points are approximately 27 miles apart. In their respective comments in this proceeding, they have submitted data concerning the impossibility of negotiating with the program suppliers, and they have also submitted data that some negotiations had tentatively resulted in the future delivery of programs, but that the contracts were later cancelled by the suppliers prior to actual delivery of the programs. As many parties have recognized in their petitions for reconsideration, there is a genuine concern by the Commission to "free up" program availability for "overshadowed" stations. A general rule would be preferable, if feasible. However, because of the exclusivity provided to television stations by the cable rules, a revised 35-mile general rule, with a limited exception, is here being adopted. The licensee of Akron UHF station WAKR-TV has always claimed that it operates its station for Akron and does not attempt to operate as another Cleveland television station, even though it has the technical facilities to provide service to Cleveland. The Modesto UHF station's programming appears to include substantial Spanish-language programming. Because of these unique situations in Akron and Modesto and their claimed frustrations at not being able to negotiate with program suppliers because of territorial exclusivity held by Cleveland and Stockton stations, respectively, we shall, for a two-year period, not permit the Cleveland, Ohio television stations to secure territorial exclusivity against WAKR-TV, Akron, Ohio, or permit the Stockton, California television station to secure exclusivity against KLOC-TV, Modesto, California.[4]

22. With this two-year exception, WAKR-TV and KLOC-TV will have the opportunity to negotiate for syndicated program fare. Each year on September 1, these two stations will be required to submit factual data concerning their negotiations and the results of such negotiations. Hopefully, with the data obtained we can take any needed appropriate action with respect to these two specific "overshadowed" situations and the general "overshadowed" market problem.

23. It is reiterated that the Commission still has little knowledge or data concerning program distribution patterns as

[3] As provided in § 76.53, if a community does not have a listed reference point, the coordinates of the location of the main post office will be used.

[4] The difficulties encountered by KLOC-TV in their program negotiations were contained in the comments filed September 26, 1968, prior to commencing Spanish language programming.

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regard non-network syndicated programming. Still, at this time, we do not envision a requirement that such contracts should be filed with the Commission. To gain additional experience under the cable rules as they relate to syndicated program exclusivity, with the exception of the Akron and Modesto situations outlined above, we are adopting the modifications noted above. The special problems of Puerto Rico are discussed hereafter, whereby we are also creating a limited exception for that island.

24. Puerto Rico is contended to be unique, because of the fact that the language in general use is Spanish and for other reasons. It is contended by the Puerto Rican parties filing comments herein (WAPA, Ponce and Telemundo) that Puerto Rico, irrespective of distances, should be considered a single market. This is urged because the programming of the San Juan stations and the Ponce station are broadcast throughout the entire island by rebroadcast agreements, satellites, and translators. It is contended by all three parties that anything less than island-wide exclusivity would disrupt past patterns as well as inhibit the development of four diversified program "networks" (the "flagship" stations being the two San Juan stations, the San Juan-Caguas station, and the Ponce station). Because of the uniqueness of the television broadcast program situation in Puerto Rico, and because of the unanimity of the comments filed by competing stations, the island of Puerto Rico will be considered to be one market for the purposes of territorial exclusivity. (This action, however, is without prejudice to any decision to be made in Docket No. 19974, the proceeding concerning television assignments in the San Juan and Ponce, Puerto Rico area.)

25. The position of King concerning the alleged procedural defect resulting from the fact that only two Commissioners voted for the Report and Order, with a concurrence by 4 Commissioners, is not well taken. King cites no specific authority other than that the APA requires that "the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose." 5 U.S.C. § 553(c), and § 1.425 of the Commission's rules require that the "Commission will * * * issue a decision incorporating its findings and a brief statement of the reasons therefor."

26. The First Report and Order did set forth a concise general statement of the basis and purpose for adoption of the 25-mile standard, i.e., to possibly open up negotiations for non-network programming for "overshadowed" television stations, especially the UHF stations. Two Commissioners voted for the Report and Order, which is the decision of the Commission. Four Commissioners concurred in the result which means that they voted for the rule, as adopted. However, for reasons of their own, they did not issue any concurring statements. The Commission's decision, we believe, met the requirements of section 553(c) of the Administrative Procedure Act and § 1.425 of Commission's rules.

27. Metromedia contends that the Commission is without authority to adopt a mileage exclusivity standard in non-network programs on the theory that, historically, under the Sanders case, the Commission does not have authority to regulate the business of the licensee, i.e., supervisory control of programs and business management or policy. RKO claims that the Commission has not reconciled the purpose of the mileage rule with the policies of the copyright and antitrust laws. In the First Report and Order, the Commission set forth its basis for the adoption of the rule. The rule was the Commission's opinion of a reasonable one that would enable certain television stations to bid for programming. The development of broadcast stations is in the public interest and all that the Commission is attempting to do is assist in this development. Upon the showing made in the petitions for reconsideration, for the reasons set forth above, the Commission believes that the rule should be less restrictive and is so modifying it. Since the rule is less restrictive than that originally adopted, it will apply to all contracts finalized on or after August 7, 1973 (the date of publication of the First Report and Order in the FEDERAL REGISTER), a requirement that is consistent with the orders of stay previously entered in this proceeding.

28. In view of the foregoing, *it is ordered*, That the petitions for reconsideration are granted to the extent indicated above and are denied in all other respects; and *it is further ordered* That pursuant to the authority contained in Sections 4(i), 303(g) and 307(b) of the Communications Act of 1934, as amended, and because the prior notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) are unnecessary, § 73.658(m) of the Commission's rules is modified, effective May 10, 1974, as set forth in the Appendix below.

29. *It is further ordered*, That the pleadings filed by Association of Independent Television Stations, Inc. and Paduch Newspapers, Inc. are dismissed.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Adopted: April 25, 1974.

Released: May 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 73 of the Commission's Rules is amended as follows:

1. Section 73.658(m) is amended to read as follows:

§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

* * * * *

(m) *Territorial exclusivity in non-network arrangements.* No television station shall enter into any contract, arrangement or understanding, express or implied, with a non-network program producer, distributor, or supplier, or other person which prevents or hinders another television station located in a community over 35 miles away, as determined by the reference points contained in § 76.53 of this chapter (if reference points for a community are not listed in § 76.53, the location of the main post office will be used) from broadcasting any program purchased by the former station from such non-network program producer, distributor, supplier, or other person, except that a television station may secure exclusivity against a television station licensed to another designated community in a hyphenated market specified in the market listing as contained in § 76.51 of this chapter for those 100 markets listed, and for markets not listed in § 76.51 of this chapter, the listing as contained in the ARB Television Market Analysis for the most recent year at the time that the exclusivity contract, arrangement or understanding is complete under practices of the industry. As used in this subsection, the term "community" is defined as the community specified in the instrument of authorization as the location of the station.

NOTE 1: Contracts, arrangements, or understanding that are complete under the practices of the industry prior to Augusta 7, 1973, will not be disturbed. Extensions or renewals of such agreements are not permitted because they would in effect be new agreements without competitive bidding. However, such agreements that were based on the broadcaster's advancing "seed money" for the production of a specific program or series that specify two time periods—a tryout period and period thereafter for general exhibiton—may be extended or renewed as contemplated in the basic agreement.

NOTE 2: For a two-year period beginning May 10, 1974, television stations licensed to Cleveland, Ohio, and Stockton, California, may not enter into any contract, arrangement or understanding, express or implied, with a non-network program producer, distributor, or supplier, or other person which prevents Station WAKR–TV, Akron, Ohio, and Station KLOC–TV, Modesto, California, respectively, from broadcasting programs purchased by those Cleveland, Ohio, and Stockton, California stations.

NOTE 3: It is intended that the top 100 major television markets listed in § 76.51 of this chapter shall be used for the purposes of this rule and that the listing of the top 100 television markets appearing in the ARB Television Market Analysis shall not be used. The reference in this rule to the listing of markets in the ARB Television Market Analysis refers to hyphenated markets below the top-100 markets contained in the ARB Television Market Analysis. If a community is listed in a hyphenated market in § 76.51 and is also listed in one of the markets in the ARB listing, the listing in § 76.51 shall govern.

NOTE 4: The provisions of this paragraph apply only to U.S. commercial television broadcast stations in the 50 states, and not to stations in Puerto Rico or the Virgin Islands, foreign stations or noncommercial educational television or "public" television stations (either by way of restrictions on their exclusivity or on exclusivity against them).

NOTE 5: New stations authorized in any community of a hyphenated market listed in § 76.51 of this chapter or in any community of a hyphenated market listed in the ARB Television Market Analysis (for markets below the top-100 markets) are subject to the same rules as previously existing stations therein. New stations authorized in other communities are considered stations in separate markets unless and until § 76.51 is amended by Commission action, or the ARB listing is changed.

[FR Doc.74–10599 Filed 5–7–74;8:45 am]

[Docket No. 19622; FCC 74–458]

PART 73—RADIO BROADCAST SERVICES

Prime Time; Termination of Proceeding

In the matter of consideration of the operation of, and possible changes in, the prime time access rule (39 FR 12748) (§ 73.658(k) of the Commission's rules).

1. The Commission has before it the three timely-filed petitions seeking reconsideration of the Report and Order in the above-captioned proceeding, released February 6, 1974,[1] which amended § 73.658(k) of the Commission's rules, the prime time access rule. In its previous form (in effect until September 1974) this rule limited the amount of network and off-network programming during prime time to three hours each evening, with certain specific exceptions for fast-breaking or on-the-spot news coverage and for political broadcasts by legally qualified candidates for public office. "Prime time" is defined as the 4-hour period between 7–11 p.m. e.t. and P.t., 6–10 p.m. c.t. and m.t.[2] The Commission amended the prime time access rule in the February 1974 action in essentially the following ways:

(a) There are no more restrictions on the programs which stations subject to the rule (network outlets in the top 50 markets) may carry during what has been the first half-hour of prime time (7–7:30 p.m. e.t. and P.t., 6–6:30 p.m. c.t. and m.t.).

(b) There is no restriction on the use of prime time on Sundays. It appears that CBS and NBC, at least, will use the full four hours of prime time on Sundays for network programs.

(c) The only remaining restrictions are tied to a definite time period Monday–Saturday, the period from 7:30 to 8 p.m. e.t. and P.t. (6:30–7 p.m. c.t. and m.t.). These six half-hours may not be used for network or off-network material, or feature film, except that one of them each week may be used for network or off-network programs of certain types—children's "special" programs, documentaries, or public affairs programs. CBS has announced plans for a series of children's "specials" Saturdays from 7:30 to 8 p.m. e.t., and NBC has plans to use the whole hour on most Saturdays, 7–8 p.m. e.t., for a news documentary program series. The ban on feature film from these periods is the subject of two of the three petitions for reconsideration.

(d) Certain other provisions were adopted concerning sports "runovers", time-zone difference problems, etc., which probably overall amount to some liberalization of the rule, although not very much in relation to the practice which developed under it with respect to waivers in such cases. These are discussed below in connection with the petition of Sandy Frank Program Sales, Inc.[3]

2. Petitions for reconsideration of this decision were timely filed on behalf of three parties—film producers and distributors MCA, Inc. (MCA) and United Artists Corporation (UA) which also filed a petition for stay, and Sandy Frank Program Sales, Inc. (Frank) a syndicator of first-run access-period programming. Frank also filed a petition to accept a petition of more than 25 pages (see § 1.106 (f) of the rules); this is granted and the petition is accepted.[4] In substance, UA and MCA seek reversal of the decision to bar feature films completely from the 7:30–8 p.m. access periods (MCA proposes that the ban should be at least lifted for one night a week). Frank strongly supports the rule in its previous form (plus the ban on feature film) and opposes the relaxations adopted; it also urges tightening up the application of the rule by denial of most waiver requests, and the adoption of an "anti-stripping" rule which would bar "multiple showings" of the same series material during the access periods of a given week.

3. In the interest of brevity, we do not repeat here the entire background and history of the rule, nor the reasons for the modifications recently adopted except as they directly pertain to the contentions of the petitioners and the opposing parties mentioned below.[5] In the following paragraphs there are set forth in summary the arguments of the petitioners, first UA and MCA and then Frank.

THE MCA AND UNITED ARTISTS PETITIONS CONCERNING FEATURE FILMS

4. These two parties, film producers and distributors, vigorously oppose the change in the rule which would bar completely "feature film" from the Monday–Saturday 7:30–8 PM (e.t.) half hours. Their arguments, which are much the same and are discussed together herein, are generally that this is an unwarranted restriction, which really in effect amounts to a "blackout" of non-network feature film entirely in prime time, as to stations subject to the rule, causing great harm to the independent motion picture production and distribution industry and the public, and meaning that the networks (not subject to such restrictions) will tend to be the only sources of prime time movies, so that their power and dominance will be increased rather than lessened. These parties also claim that the restriction is over-broad and violates important First Amendment and anti-censorship prohibitions.

5. *The asserted effect of the restriction.* It is claimed that, whereas the Commission regarded the recent changes as a relaxation of the rule, in this respect the change is an increased and unwarranted restriction, affecting not only the particular half-hour specified but also the whole of prime time and late afternoon "fringe" time. In our recent decision (par. 86) it was stated that while licensees would lose some flexibility as a result, with respect to the 7:30–8 PM period, they were gaining it as to the 7–7:30 half hour, and thus could still present movies in the early evening. These parties assert that this is meaningless; affiliated stations in substantial numbers simply cannot be expected to run movies during hours such as 5:30 or 6 to 7:30, at the expense of early local and network news, nor, probably, would the Commission be happy if they did. Weekend evenings do not present this exact problem to the same degree, but MCA asserts that these hours on weekends are and will be taken to an increasing extent by network programming—on Sundays regularly beginning at 7 PM e.t., on Saturdays beginning at the same time for NBC affiliates at least, and, for all networks, increasing time for sports and other "specials" in the late afternoon. As to the later portion of prime time, 8 PM e.t. and after, it is asserted that preemption of network programs to present local movies will not be significant, since, with all of the movie having to fall during network hours, this will mean 90 minutes or two hours out of three hours of network material on a given evening, more than most stations will consider preempting. MCA asserts that there has been a sharp drop in prime-time preemptions by top-50-market affiliated stations for local movies from 117 per month in March 1969 (7:30–11 p.m.) to 33 in November 1973

[1] FCC 74–80, 44 FCC 2d 1081, 29 RR 2d 643, 39 FR 5585.

[2] The original rule was promulgated in May 1970 (23 FCC 2d 382), amended upon reconsideration in August 1970 (25 FCC 2d 318) and is in its currently effective form in § 73.658(k) of the Commission's rules.

[3] Although not embodied in the new rule, the decision (FCC 74–80, par. 88) set forth also the Commission's expectation that stations will devote an appropriate portion of the "cleared" time periods, or at least of total prime time, to material of particularly local significance—programs designed for children, material relating particularly to minority needs and problems, and other material particularly designed to meet the needs and problems of the station's community and service area as determined in its ascertainment efforts.

[4] Two other petitions for reconsideration were filed. One, by Screen Gems Division of Columbia Pictures Industries, Inc., has been withdrawn; the other, by Motion Picture Association of America, Inc., arrived at the Commission on March 20, two days after the closing date for petitions, and thus is late. Since the period for seeking reconsideration of a Commission action is statutory, it cannot be waived. However, this petition was later re-tendered as a statement in support of the MCA and UA petitions (its position is basically the same as theirs) and is considered and discussed below as such.

[5] For the history and background of the rule, see the Report and Order herein, FCC 74–80, para. 4–25 (29 R.R. 645–656); see para. 79–112, 44 FCC 2d 1132–1145, 29 R.R. 2d 695–709, as to the reasons for the changes made in the rule.

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(8–11 p.m.), but see footnote 13, below. This is attributed not only to scheduling problems, but to the fact that much of the local and other non-network advertising support for prime-time programs has been absorbed under the rule by "access programming." UA asserts that late evening time on these stations is largely unavailable for movies because of the local news and late-evening network programs, so that the only time left on affiliated stations for syndicated motion pictures is often morning and early afternoon, when only small audiences are available.

6. Therefore, it is claimed, there will be virtually a "blackout" on use by individual affiliated stations of feature films during prime or "fringe" time, to the serious detriment of the public and the motion picture production and distribution industry. It is urged that the market for feature films sold in syndication will be substantially curtailed, since stations will not be seeking material for such use, and what demand by stations remains will be only at considerably lower prices, reflecting the smaller audiences available at the remaining times and thus the lesser advertising support which will be forthcoming. These parties state that the prime-time rule has already led to a decline in syndicated sales of feature film of about 12 percent between 1972 and 1973 (from $49.5 to 43.6 million)[6] and this trend will simply be increased by the new restriction. UA points out that syndication sales of feature film, though currently less than the sales of theatrical features to networks ($57 million in 1973), are very important to the motion picture production industry, being relied upon to recoup production costs; and the sharp reduction in such income will have a depressing effect on both the number and the quality of motion pictures produced. The bargaining position of motion picture producers will be impaired. Thus these companies—already suffering from the impact of a number of developments such as the general decline in theatrical receipts with the growth of television, and administrative restrictions such as the "anti-siphoning" restrictions on film use on pay cable and subscription television, as well as the prime time access rule—will be hurt even further under the new ban. MCA asserts that two of the companies, Columbia Pictures and MGM, already have substantial problems.

7. It is claimed that the public will also lose substantially, both from the unavailability of movies in prime time other than on a network basis—which means that 60 percent or more of the potential audience will not have seen a desirable movie even after two network runs—and from the lower quality and freshness of material available at other times, because of the general depression of the market and lower price levels referred to above. It is claimed that there will no longer be the healthy program production industry we have found in the past to be necessary for the continued functioning of both broadcast and cable television (see Cable Television Report and Order, 36 FCC 2d 141, 169–170 (1972)).

8. Another argument is that the weakening of the syndication market for feature films will simply increase network dominance, as the only prime-time market left for movies, as to which they will be unrestricted. It is urged that this is hardly consistent with the purpose of the prime-time rule. MCA argues that the networks will simply take more of the available product and keep it for a longer time, rather than being limited to a period such as two runs which is the basis on which MCA now seeks to sell to its Network customers.

9. *The legality and propriety of the total restriction.* Both of these parties, particularly UA, urge that this total ban on use of features during the access period is unconstitutional as an over-broad restriction violative of the First Amendment, is illegal censorship, and interference with licensee judgment in programming, and improperly discriminates against feature films and their producers and distributors, in favor of other material and suppliers such as game shows and their producers, who are not subject to restrictions under the rule. UA claims that both sets of producers and sellers are equally "independent" and should be similarly treated; any Commission action to the contrary, based on its idea of what is "good for the public", is illegal and beyond its power.

10. The argument essentially is that the total ban on feature film during access periods is a restraint on First Amendment rights—freedom of speech and expression, on the right of stations to present, and viewers to have available, certain kinds of programs at certain times—and thus sustainable only when justified by a compelling need rather than mere "public benefit", and only if it is sufficiently narrow to be fully justified by that need.[7] It is claimed that the restriction fails completely to meet these standards; from the standpoint of providing more diversity of programming and curbing network control and monopoly, the new rule not only does not meet a compelling need or even provide a public benefit, but is counter-productive, lessening diversity and increasing network dominance. It is contended that this is clearly censorship, whatever the Commission may say about it—telling stations what they may and may not show, and viewers what they may or may not watch, particularly objectionable in that feature films are very popular with viewers. UA claims that the small amount of time involved, a half-hour, is no answer to this argument, because the effect goes far beyond that, in practice embracing all of prime time and late afternoon time as well. Moreover, it is urged, the idea of permitting some material during hours of small audience but banning it from high viewing periods is itself a violation of freedom of speech, like an ordinance limiting political speeches in the town square to hours when no one is likely to be on the street. Such an approach is also objectionable in that it limits the production of material by barring it from profitable hours.

11. These parties agree that the restrictions on feature films adopted in the original rule, and later modified and clarified in some respects, are artificial and not to be desired; but UA asserts that this is no reason to adopt an approach removing them but substituting "total injustice". It is claimed that rather, the earlier restrictions should be removed and the whole subject left to the free operation of the market place.

12. UA claims that the feature film ban should be repealed entirely; MCA suggests the approach of permitting them during one of the cleared access half-hours each week. This, it is said, would give licensees more flexibility and freedom to exercise their programming responsibilities, would make desirable material (locally originated movies) available to the viewing public, who may not have been able to see them otherwise (if they were not on a network or viewers missed the network showings), provide a vital source of revenue for the motion picture production industry, and encourage preemption of network programs (e.g. the hour from 8 to 9 p.m. if the movies start at 7:30).

The Sandy Frank Petition for Reconsideration

13. Sandy Frank is a syndicator of access-period programs, doing business under various corporate names, who has benefitted considerably from the prime time rule in the form it has had until our recent amendments, and who vigorously opposes the changes made. His lengthy petition for reconsideration, accompanied by a lengthy personal statement, asserts that the changes curtailing the amount of cleared access-period time will have a catastrophic impact on him and other independent producers who answered the Commission's call to produce first-run non-network programming, by sharply reducing the number of time slots which will be available for their material. It is also urged that the Commission should tighten up in administration of the rule, granting no waivers except in established situations such as sports runovers (and particularly no waivers for "off-network" material) and also that we adopt what is in effect an "anti-stripping" rule, barring exposure of material from the same program series more than once a week during the access period.[8] Frank states that he did not participate earlier in this proceeding because of limited resources and fear of reprisal from opposing major interests (though his position was informally presented to the Commission); but now, with the survival of his and other independent production and syndication entities seriously jeopardized by the rule changes made, he is coming forward (it is stated that only the really large units in the business are at all likely to survive).

14. The petition first outlines what are called "first principles", or the original purposes of the prime time access rule, which are said to be: to decrease network domination of television broadcasting; to provide opportunity for the development of new, diverse and independent program sources; and to re-establish conditions under which licensees can, to a substantial extent, exercise their responsibilities as trustees, meeting the needs and interests of their communities and service areas, as contemplated by the Communications Act.[9] By the rule, licensees are freed from the very real compulsion of having to clear network programs every night from 7:30 to 8, and from the economic temptation to present inexpensive off-network material from 7 to 7:30, and can use their own judgment as to what the public interest requires in their areas. It is asserted that the rule was adopted after years of study, to reverse a trend toward increased network dominance in such developments as increased use of prime time (3 to 3½ hours) and expansion into many non-prime hours, and increased control over their own schedules starting in the late 1950's as advertiser-licensed programs sharply decreased in number.[10] Certainly, nothing has changed since 1970 to make these considerations less important; and the original rule and its concept of 42 cleared half-hours should have been left as it was (except for stripping and waivers, assertedly the rule has worked, and there is no warrant for reversing it by reducing "cleared" time by 64 percent or more).

15. Mr. Frank states that the Commission concedes in the Report and Order (pars. 82, 85, 89) that the rule as it was did not have a full or sufficient test, but nonetheless has acted drastically to reduce the number of "cleared" access periods, without any justification except, apparently, a view that this might mean "better" programming, a judgment which is both premature and basically improper anyhow (since the Commission cannot properly get into this area and specifically, and wisely, eschewed it in adopting the rule in 1970). He argues that the 42 half-hours adopted in 1970 themselves represented a reduction from the "50–50" rule originally proposed in 1965, and certainly should not be cut further, since the remaining half-hours (no more than 15) are simply not enough to support a viable, broadly based syndication industry, which needs a large number of placement opportunities if it is to function properly. Therefore the Commission should return to the rule, and not act to jeopardize the continued existence of entities it encouraged to come into the business. The small amount of time is particularly bad because the Commission apparently relies on it also to fulfill other objectives such as children's programs and material of particular local significance—all will be short-changed.

16. It is urged that the three main areas of reduction are all unjustified, based on erroneous conclusions. As to removal of all restrictions on the present half-hour (7–7:30), Frank contends that the Commission is taking a negative and self-defeating view in refusing to get into a contest between off-network material and stripped game shows; the appropriate remedy is to ban stripping or "multiple exposure" as discussed below. It is asserted that better programming will be forthcoming as producers and syndicators get money (profits from current successes) to start producing it, and that the same objectives—limiting network control directly and through use of "off-network" product—apply in this respect as much as ever. Mr. Frank claims that permitting off-network product during this period will also work to the disadvantage of local and network newscasts, which the Commission apparently favors, by beating them in the ratings. The added time permitted for network programming—both on Sundays and the hours for children's or news-documentary-public-affairs material—is said to be completely unwarranted, in the absence of a full test and the continued existence of the "network dominance" problem. It is said that if producers and syndicators can continue to have the previous amount of time available, they will be able, from their profits, to present better material (Frank mentions plans for sports programs and children's specials). This potential will be lost with the rule changes made. To the extent that "good" programming is advanced as the justification for increased network hours other than Sundays, such as the NBC and CBS proposed Saturday scheduling, the networks still have 126 half-hours a week of their own prime time, some of which can and should be expected to be used for such purposes. Mr. Frank states that he has plans for programming of these types, if permitted to continue under the 1970 rule. The possibility of "plowing back" profits from successful access-period programs, into more ambitious undertakings, is emphasized.

17. Mr. Frank supports the total ban on feature film during the access period as adopted, as an appropriate effort to clear these hours for new material; and, to increase still further the possibility of access by as many different programs and sources as possible, he would adopt an "anti-multiple exposure" rule, providing that except for local news and public affairs, stations may not present "multiple exposures of the same program series in access time during the same week." This would bar "stripping" of game shows such as To Tell the Truth and Truth or Consequences, and also the twice-weekly presentation of other game shows such as Hollywood Squares and Let's Make a Deal. The argument is that this will increase program diversity and also provide access for many more individual program series. For example, during the 6:30–7 PM (c.t.) period in Memphis, all three stations strip game shows Monday–Friday, meaning three programs, whereas ideally there should be 15. Even in a more typical market such as Detroit, there are now only 10 individual programs during this half-hour (one stripped, Hollywood Squares twice, and 8 once), which will be only 9 this coming year and Let's Make a Deal is also presented twice. Thus, many more producers will be able to share in purchases by stations; it is said that each half-hour weekly program series is worth about $75,000 for 52 weeks in this market, or $1,125,000 for 15 programs which should be presented. Mr. Frank also asserts another possible consequence of our rule changes: if stations may freely strip off-network material during the 7–7:30 period, they may well do so and move their present stripped game shows to 7:30, reducing the number of separate programs still further. It is claimed that his change will prevent licensees from "taking the easy way out", and will result in greater program choice and more opportunity for independent program suppliers, who can raise their prices as individual programs become more popular and stations can pay more; competition will then force the individual program producers to spend more on

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[6] These figures represent syndicated sales of theatrical features and short subjects to all stations. MCA estimates that 95 percent of this represents sales of features, and 70 percent of it is sales to top-50-market stations (apparently including independents as well as affiliates).

[7] The following authorities are cited by MCA, UA, or both: Mount Mansfield Television, Inc. v. FCC, 442 F. 2d 470 (C.A. 1971) in which the prime time rule was affirmed against this line of attack as well as others; UA contends this was probably wrong and certainly so in light of experience under the rule, and in event the restrictions involved there did not go this far; National Broadcasting Co., Inc. v. U.S. 319 U.S. 190 (1943), affirming the Commission's network regulations but emphasizing the concept of licensee and viewer freedom, rather than restrictions; Associated Press v. U.S., 326 U.S. 1 (1945); Red Lion Broadcasting Co., Inc. v. FCC, 395 U.S. 367; U.S. v. Midwest Video Corp., 406 U.S. 649 (1972), noting Chief Justice Burger's concurring statement that the Commission's rules requiring cable program origination strains the outer limit of the Commission's powers; Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952), holding that motion pictures fall within the protection of the First Amendment; Banzhaf v. FCC, 405 F. 2d 1082 (C.A.D.C. 1968); Brandywine Main Line Radio, Inc. v. FCC, 473 F. 2d 16 (C.A.D.C. 1972) (dissenting opinion of Bazelon, C.J.); and the dissenting opinion of Mr. Justice Black in Scales v. U.S., 367 U.S. 203 (1961), to the effect that where First Amendment restraints are involved, mere "public benefit" is not sufficient justification.

[8] Except for the last "anti-stripping" point, much of the Frank petition is similar to the earlier arguments of parties such as NAITPD.

[9] Frank recognizes that the networking system has produced some good results, but claims that U.S. broadcasting is intended to be a system of individual licensees meeting local needs and interests, not a centralized, monolithic system producing tightly controlled national programming through the network "funnel", with the conformity and standardization which that is likely to entail.

[10] For a discussion of the background of this matter, see Report and Order, pars. 4–25.

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their material, and better programming will result.

18. Mr. Frank also urges that "administrative problems" do not justify the changes made; rather, the Commission should dispose of them by tightening up the administration of the rule. It is asserted that only in a few situations are waivers warranted (sports runovers and possibly a few other); certainly never in the "off-network" situations. In these cases, it is claimed, the suppliers of programs such as National Geographic have already had the benefit of one network run, and the access period should be preserved for the benefit of those who answered the Commision's call. If a licensee believes such a program deserves further prime-time exposure, he may, and should be required to, preempt network programs for it. The same is true of children's "special" programs, network or off-network; a 7:30 starting time may be desirable, but it is not sufficient justification for shattering the rule. Other wise, Mr. Frank does not object to waivers or a rule to accomodate occasional sports runovers (provided the events are reasonably scheduled so as to end by 7 PM e.t. as the changed rule provides), the "political broadcast" or "on-the-spot" news coverage exemptions which have been slightly broadened in the changed rule, or the provisions for pregame shows and "Summer Olympic" situations contained in the new rule (each network is allowed five pre-game shows per year, and an exemption is shows per year, and a n exemption is granted for them to use the 7:30 period on nights when they devote all of their three hours of prime time to an international sports event or other "special" programming except movies). However, there is objection to the provision of the changed rule (§ 73.658(k)(2)(ii)) which deals with time-zone-difference situations where simultaneous network programming is involved and where the rule would simply be waived as to Mountain and Pacific time zone stations in these situations. Mr. Frank maintains that such stations should be required to clear access time after the sports event if it preempts access periods in the early evening.

19. Mr. Frank's personal statement, attached to his petition, contains allegations about the syndication business and the impact of the changes. It is stated that NBC's station in Chicago would have taken Treasure Hunt for this coming year but did not do so when the rule was revised, and ABC's Detroit station bought Name That Tune instead of renewing Treasure Hunt, whereas it would have taken both under the present rule; these two developments mean a loss of nearly $200,000 for a year, and overall the loss is at least $500,000. (Frank's revenues were $1.3 million in 1973–74 and will be the same this year if the rule is changed, but would be $1.6 million with the old rule in effect, meaning a break-even instead of a $300,000 profit, and no money for development of new programs compared to $100,000 if the rule remains the same). It is claimed that under the new rule there will be, at most, 15 access half-hours per market per week (7:30–8 Monday-Friday), with some 14 programs fighting for these (11 established programs including Treasure Hunt, plus 3 others such as New Candid Camera, Name That Tune, and Salty, a children's show). Since two of these are game shows shown twice a week, right there there is more demand than there are half-hours, and this does not include numerous other popular programs (Concentration, Sale of the Century, Dealer's Choice, etc.) or the amount of the access time which is expected to be used for station's local efforts. In short, the situation will be a disaster and particularly bad for Frank's Name That Tune show, which uses 10 live musicians and is relatively expensive to produce, and whose revenue may be cut from $2.5 million to $1.5 million. Mr. Frank states that he needs to market two successful shows to stay profitable. It is said that the shortage of time for these programs will certainly mean the end of production and development of other kinds of programs only marginally profitable, such as children's programs, sports, documentaries, off-beat entertainment, and "High School Quiz Bowl" programs. It is urged that at least the new rule should be stayed for a year, to give such entitles a chance to adjust and avoid irreparable injury.

MATERIAL IN RESPONSE TO PETITIONS

20. Seven pleadings responsive to the above petitions for reconsideration were filed, including six oppositions and one statement (by the Motion Picture Association of America, Inc. (MPAA)) supporting the film producers' petitions. Of the six, three (ABC, Time-Life Films, and the Association of Independent TV Stations, Inc. (INTV)) oppose the film producers' petition; four oppose the Sandy Frank petition entirely or in part (ABC, CBS, NBC, and MCA-Screen Gems in a joint opposition).

21. *Oppositions to the MCA and UA petitions.* The main lines of argument urged against the MCA and UA petitions are: (1) the restriction is not censorship, as claimed, since the rule does not bar feature films from television or attempt to control their content but only relates to one small part of the day and not even that as to independent stations which operate in some 36 of the top 50 markets; and, in any event, this was settled by the 1971 Mount Mansfield decision sustaining the earlier rule including a not greatly different restriction, and any argument along this line would of course apply to much more than feature film; (2) to change the rule in this respect now would be the upset the delicate balance reached over-all, depriving independent producers of access time to which they are clearly entitled and requiring another look at the whole question (Time-Life claims that we would have to increase the number of access half-hours accordingly); (3) the "majors" are not really hurt by this change, which is not a significant departure from the previous rule, but actually have benefitted from the recent course of television programming and regulatory developments, including our actions[11]; and (4) the total restriction on network-affiliated stations will work to the benefit of independents in the same markets (and UHF stations), in making desirable feature film more readily available to them and restricting its use by their powerful affiliate competitors.

22. *Oppositions to the Sandy Frank petition.* ABC's opposition to the Frank petition is simply that of "administrative finality", the desirability of getting the prime-time-access question settled. It urges that the recent decision represents a reasonable balance and compromise, and should be affirmed. NBC's opposition (which does not include the "anti-stripping" proposal) is for similar reasons—reliance on the rules adopted by parties planning for this coming season, including NBC's rescheduling of its Sunday evening programming, with longer movies, and ABC points out that the ban is now total as to 6 half-hours a week, but before covered 7 hours as to much feature film. It asserts that the majors have benefitted greatly from the "syndication and financial interest" rules adopted in 1970, and from increased use of movies by the networks (it is stated that 69 percent of ABC's 1972 expenditures for prime-time programming went to major film companies). It is stated that they also benefit from the recent rule revisions in having somewhat more network time for their pictures and the relaxation of the "off-network" restrictions as to 7–7:30, permitting them to sell more readily their extensive holdings. ABC makes the same argument advanced last year to the effect that the majors are not really doing badly and some, such as MCA, extremely well. Time-Life argues that UA's request is groundless; and that one day simply is not important enough to make much difference, certainly not with respect to the matter of "network dominance." If the majors are slightly disadvantaged vis-a-vis the networks, this is of little consequence compared to the benefit to independent producers.

23. The MCA-Screen Gems petition is similar to MCA's lengthy comments in the proceeding: that the Commission must (as it has done) look at the results of the rule in terms of the general programming flowing from it, including such matters as a great concentration of time on game shows (particularly stripped programs), and increased use of foreign product. These results well justify the reduction represented by the decision. In any event, the reduction is nothing like as much as is claimed; game shows, of high and established popularity, may still be expected to have a prominent place in the 7–7:30 program picture on stations subject to the rule, but maintenance of that period as a "competition-free haven" for such material cannot be justified. It is claimed that what Frank is asking is freedom from having to compete with his fellow independent sources; the new rule itself restricts nothing. MCA–SG also oppose the anti-stripping proposal, particularly as to independents but also as to network affiliates; it is claimed that this acts to curtail the "after-market" for off-network material, particularly important to MCA and other network suppliers because the network production itself usually represents a loss.

24. *The Motion Picture Association statement.* MPAA is an association of 9 producers and distributors of feature-length motion pictures (including MCA-Universal, UA, Columbia Pictures Industries, MGM, Paramount, 20th Century-Fox, and Warner Bros., who have participated in this proceeding). The statement supports the MCA and UA contention that the total ban on feature films is inappropriate and unconstitutional, not related to any legitimate governmental objective and certainly overbroad. The same arguments mentioned above, concerning the effect on far more than the half-hour specifically mentioned, are urged, as is the importance of television to theatrical film production. It is claimed that a great number of independent producers are harmed; of 468 films submitted for rating in 1972, 158 were distributed by MPAA members, but 126 of these were actually produced by independents. A total of 118 pictures were submitted by companies having only one or two features for submission that year. It is asserted that motion pictures are a tremendously important art form, subject to protection like all art forms. Numerous Supreme Court and other decisions are cited.

SANDY FRANK REPLY TO OPPOSITIONS

25. Sandy Frank filed a lengthy reply to the four oppositions to his petition, accompanied by a petition for leave to file a pleading of over 10 pages, which is granted. Initially, it is urged that the opponents of Frank's position are the powerful interests—the networks and the "majors"—not including any non-network station licensees or any other program producers. For the most part, the rest of Frank's reply is devoted to argument with the four opposing parties, to the extent they disagree with, or do not support, its position. As to ABC, Frank expresses distress and incomprehension as to ABC's departure from its earlier position fully supporting the rule; as to NBC, and its argument concerning reliance on the Commission's decision modifying the rule, it is stated that this ignores the dependence by Frank and other independent entities on a continuation of the rule, and that certainty and time are needed by parties of one sort just as by those of another. As to CBS, Frank's chief controversy generally is the alleged failure to answer all of Frank's arguments or to carry arguments to their logical conclusion; for example, CBS has opposed Commission involvement in program evaluation but does not oppose a decision based largely on such evaluation, and it refuses to concede that the Commission was arbitrary in modifying the rule even though admitting that it has not had a full and sufficient test. Frank also claims that CBS' reference to the rule as "fencing out competition" ignores the great tendency for stations to clear network programs, which independent producers simply cannot be expected to compete with.

26. With respect to the MCA–SG petition, Frank argues with its characterization of the rule adopted in 1970 as "experimental", with the assessment of the time impact of the modifications, and with use of "programming" as a basis of decision, particularly since this was not one of the objectives of the rule to begin with. It is also claimed that it is effrontery for these parties to talk of the "competition-free haven" created by the rule, when independent producers simply cannot be expected to compete with the pressure to clear network programs or the availability of popular and cheaper off-network material. Frank claims that the opposition to its "anti-stripping" proposal, which would open time to more producers and increase diversity for viewers, is simply designed to preserve the "after-market" for off-network material, without any showing as to why the access period is needed for this. It is also urged that the Commission should rely on the assurances of Frank, Time-Life, etc., as to future programming, and that profits from present successes will be plowed back into more ambitious efforts. In conclusion, it is said that we should not act to continue the dominance of the networks and an endless cycle of off-network reruns, but that we should go back to the pro-competitive basis of the 1970 decision:

DISCUSSION AND CONCLUSIONS

27. Upon careful consideration of the foregoing matters, we are of the view that all three of the foregoing petitions must be denied, and the rule as adopted in our January–February decision (FCC 74–80) affirmed, including retention of the bar against use of feature film during the access periods, but of course not including the "anti-stripping" provision requested by Sandy Frank. Our reasons are set forth in the next several paragraphs, first as to the film company petitions and then as to the Sandy Frank petition.

28. *The MCA and UA petitions.* With respect to the argument that the "total ban" on use of feature film during access periods constitutes an over-broad restraint on freedom of expression, or illegal censorship, we simply do not agree with this argument for a number of reasons. First, we agree with ABC and other parties that this question has been settled, as far as this proceeding is concerned, by the Mount Mansfield decision of 1971 affirming the prime-time access rule (Mount Mansfield Television, Inc. v. FCC, 442 F. 2d 470, 478 (C.A. 2, 1971)). It is true that the restrictions in the rule adopted and later modified in 1970 did not bar all feature film as does the new provision, but, as ABC points out, it applied to a substantially larger amount of time, 7 hours per week as opposed to six half-hours.[12] Therefore we regard the holding in that case as determinative of the issue here. Second, the new rule does not operate to bar feature film from television or from valuable prime time, or sharply to limit its usage. The incidence of movies on television has been quite large for many years, and, in particular, has increased in the last decade as to network carriage of movies during prime time. For the week of April 7–13, 1974, according to TV Guide, the 9 stations in Washington, D.C. and Baltimore markets (6 affiliates and 3 independents) showed a total of 118 movies, 8 in the morning, 39 in afternoon or early evening, 33 in prime time, and 38 late evening (after 11 p.m.). Of the 33 prime time movies, 20 were on affiliated stations, 19 being network programs and one a local preemption. Of the 38 late evening movies, 29 were local (8 on affiliates, 21 on independents), and 9 were network. There are independent stations, not subject to the rule, in at least 36 of the top 50 markets for 1974–75, totaling, according to ABC, 83 percent of the TV homes in the areas of dominant influence of top-50-market stations. Thus, there is no reason to expect a serious curtailment of movie showing on television, either generally or as to prime or late-evening time.

29. As mentioned in the Report and Order (par. 87 and Appendix C), the presentation on large-market affiliated stations of movies during the periods which will be "lost" under the rule changes, 7:30–8 e.t. Monday-Saturday, 10:30–11 Sunday, is currently not great, amounting in November 1973 to some 32 movies a week on 18 stations (three stations "stripping" them 5 or 6 nights a week, one showing them two nights, and 14 on one night). Thus, at most only a fairly small change in practice will result from the modification of the rule. It does not appear that this will be anything like the total "blackout" envisaged by MCA and UA, since a number of stations may be expected to continue their present practice of preempting network programs to show local movies starting at 8 p.m. E.T. or after, and some may present movies ending at 7:30, as ABC's two West

[12] The 1970 restriction applied to all "cleared" prime time, one hour per night. The rule originally adopted in May 1970 barred from this hour all off-network programs part of a regular series, and feature films which had been previously shown, at any time, by a station in the market. The August 1970 revision modified these provisions to specify off-network programs (without limitation) and feature films shown by a station in the market within the past two years. Because of an ambiguity as to whether a movie shown on a network would be an "off-network program" or a "feature film" for this purpose, a Commission Public Notice of November 1972 stated that, pending decision in Docket 19622, stations might show any movie which had not been presented on a station in the market within the past two years.

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Coast stations did Monday-Friday in 1970 before the rule (with the effectiveness of the rule in 1971, they changed to a 6:30–8 schedule).

30. MCA mentions a sharp decline in local prime-time movie presentations by large-market affiliated stations, from 117 to 33 a month. To the extent that this is true in fact (see footnote 13), it does not appear to stem entirely, or chiefly, from restrictions on certain time periods.[13] MCA itself mentions one other factor, the channeling of local and other non-network advertising support into access-period programs as a result of the rule, so there is less of it available for prime-time local movies and therefore less incentive to stations to preempt network programs for this purpose. Other factors not mentioned could be the continuing increase in network prime-time movie presentations (to which individual stations see no reason to add their own programming efforts), the somewhat lessened number of theatrical feature films produced in at least some recent years, and the fact that a fairly high percentage of the latter are not regarded as suitable for television use, particularly early in the evening (see Report and Order par. 48, concerning the comments of WTIC–TV, Hartford, as to the small amount of "suitable" material, especially of suitable material which has not been on a network before it reaches syndication). These factors, of course, will continue to operate regardless of the changes in the rule recently adopted.

31. Thus, in our judgment, the feature film restriction adopted cannot be viewed as either illegal censorship or a restriction on freedom of expression, or a source of serious impact to the motion-picture production and distribution industry. It is also claimed by these parties, as it was earlier in this and other connections, that the rule change tends to increase network dominance, by making the prime-time showing of feature films take place largely if not entirely through network exhibition. We regard this as too speculative to afford a basis for changing our decision in this respect, for reasons mentioned above including the fact that it does not appear that the claimed "blackout" will materialize. Certainly, this aspect of the matter does not equal in importance the preservation of a substantial number of access periods for new non-network programs designed specifically for television. Our Docket 19622 action cut down the number of "cleared" time periods reserved for such material, and we regard it as important as to those remaining, to keep them free from the impingement which feature film usage would represent.

32. MCA and UA accuse us of discriminating among programs and types of production activities and entities, barring feature film but encouraging other material, whereas, it is claimed, the producers and distributors in both cases ae equally "independent". This argument misses the point. We assume that the "majors" and other motion picture entities are not connected with networks, and here they are regarded as "independent" just as are the producers and syndicators of first-run non-network material. As MPAA points out, many of the producers are fairly small organizations. But—and this is the basis for the distinction—the material involved here is not specifically produced for, nor does it rely entirely for exposure on, syndicated television sale. There has not been, so far, "made for TV syndication" feature film. Motion pictures either get exhibition first via theatre showing, and then go to television (either via network or via syndication) or they are "made for television", initially produced for and shown on network television. Thus, while we recognize the importance of TV exposure in the economics of much theatrical film production, this medium is not the only, nor generally the first, way these programs reach the public. In this important respect, feature films are different from first-run non-network material, which depends on TV syndication sale to individual stations for its exposure, and, as far as important prime time exposure is concerned, largely on access to the "cleared" half hours. Thus, the need for making "cleared" time available to the latter material is considerably stronger and more pressing than is the need for time for feature films. The latter, of course, also often have the network route available to them.

33. Therefore, in light of these considerations, we find that the rule must be retained as amended in our recent decision (FCC 74–80), taking into account all of the other opportunities for the presentation of feature film on television—via network, local preemptions during "network" prime time, at other hours, or at any time on independent stations in most of the top 50 markets—the somewhat added flexibility given in this respect by the removal of all restrictions from the 7–7:30 period, and the importance of preserving substantial amounts of time for the development of new non-network material made specifically for television. We reach this conclusion even as to the MCA proposal, which would remove the feature-film bar from one of the "cleared" periods each week, since that could represent a reduction of roughly 20 percent in the time available for first-run syndicated or local material.[14]

34. *The Sandy Frank petition seeking reversal of changes made.*[15] As discussed at length above, the Frank petition for reconsideration is a broad-gauged attack on our January changes relaxing the rule, particularly in reduction of the time reserved for programming which is neither network nor off-network (first syndicated and local).

35. In evaluating Frank's contentions, two things must be borne in mind. First, as pointed out in paragraph 91 of the Report and Order, the rule is a restraint. The Frank petition quarrels with our characterization of it as such (thus assertedly putting it in the same class as the "restraint" resulting from the compulsion to clear network programs); but the Court in the Mount Mansfield decision used the same characterization, although it found the restraints involved in the rule to be justifiable (Mount Mansfield Television, Inc. v. FCC, 442 U.S. 470, 478), referring to the "very real restraint" which the rule may involve. The restraining effects are obvious: a restraint on the networks in offering more than a certain amount of prime-time programming each week (4 hours less than before); and perhaps more significantly, a restraint on the activities of those producers who prefer to use the network route (such as more than 100 producers who joined as members of the National Committee on Independent Television Producers); a restraint on licensees in their ability to present more network programs if they were available and, of course, on their ability to present off-network programs and, to some extent, feature film (matters where there is generally no network "pressure" such as that assertedly used by the networks to secure clearance of current network programs); and, of course and most important, a restraint on the public's ability to watch programming (some of it quite popular) in these categories and from these sources, during the hours involved.

36. The second point is one urged by a number of opponents of the rule in earlier comments—what is sought by entities such as the NAITPD, and now Sandy Frank, is not only "access" or "opportunity" but exclusive access and opportunity or, in a sense, "freedom from competition", for programming of certain categories as to origin and auspices, to the exclusion of programming different in these respects. In this connection, TV programming may be divided into five general classes: locally produced by or under the auspices of the station; "produced for syndication"; network programming; former network or "off-network" programs; and feature film. The first two classes remain under the rule (as originally adopted and now) in the position they have always had—no Commission restriction on their access to prime time or any other time. The rule as adopted in 1970 barred, generally, material in the third and fourth classes from 7 hours a week, to preserve it for the first two, particularly the second. The fifth category, feature film, was somewhat restricted by the 1970 rule, although it also gained to some extent from the reduction in use of the third and fourth classes.

37. It is virtually hornbook law that no governmental restraint of this character is legal or appropriate except if and to the extent that it can be justified by a significant public benefit. This is certainly true as to the first point, the restraint, as shown by the cases cited by MCA, UA and MPAA in their filings herein. It appears to be equally true as to the second—exclusivity—if anything approaching an "equal protection of the laws" concept is to be maintained. The significant benefit mentioned need not be immediate, and probably it need not be entirely tangible or quantifiable (e.g., as with multiple-ownership restrictions); but it must be substantial and, if not immediate, probable or quite likely to occur; and it must be public.

38. In reaching our decision in Docket 19622, we examined the record of developments under the rule, to see if they justified these restraints and grants of exclusive access fully, and we concluded that they did not. In paragraph 92 of the Report and Order, we pointed out some aspects of the programming which had resulted, chiefly the following: increased "stripping" of material, particularly during the 7:30–8 e.t. period when there had been none before; the greatly increased use of foreign produced material (which can hardly be held to be a favorable result of a rule designed to further U.S. independent program production activity); and the concentration on game shows, not so much as such as because they are for the most part stripped material or "sixth episodes" (now 6th and 7th episodes in two cases) of material produced for daytime network stripping. We concluded (par. 91): "we do not believe the record is such as to warrant the complete restraint on network and off-network programs which the present rule provides."

Elsewhere in the decision, we called attention to other results which appeared undesirable, including the fact that desirable network children's "specials" had to run after 8 PM as the rule worked out in practice, and the decline of news-documentary or public affairs, and other documentary material in prime time. (par. 83, 101). In light of this record, we concluded that complete retention of the restraints represented by the 1970 rule could not be justified, and we modified it accordingly, permitting a relatively small increase in network programs generally, another increase in network (or off-network) time if devoted to the types of programs mentioned above, and the removal of all restrictions on the 7–7:30 period, as unwarranted. We adhere to these views.[16]

39. Frank also urges strongly that we should not have made any changes cutting back the amount of "cleared" time in light of our conclusion that the rule had not yet had a full and sufficient test. This is a misleading interpretation of our decision. As CBS points out, these statements were made largely in response to arguments of vigorous opponents of the rule, such as MCA and other major film companies, to the effect that the rule had been a dismal failure so far and nothing better could be expected in the future. Our position was stated in paragraph 91 of the Report and Order, where we said:

> In sum, while we do not believe the record is such as to warrant the complete restraint on network and off-network programming which the rule presently provides, we do not believe the rule has had a sufficient test to demonstrate what its future performance will be, so as to warrant further abandonment of it, in view of the benefits accruing • • •.

In paragraph 90 and footnote 38, we mentioned various points urged by opponents as reasons why the future would be no different from the record so far—limited economic potential in syndication, etc.—and expressed the view that these might be long-term factors, but that it had not yet been demonstrated that they would forever be the iron-clad limitations which are claimed. Therefore, bearing in mind the benefits which do flow from the rule in theory and to some extent in practice, it was not appropriate to abandon it to a greater extent. But we also had to assume that these factors may last for a long time, as limitations on developments realistically possible under the rule, and take measures to minimize the loss to the public if this should be true. We reached what we believed to be an appropriate balancing of these considerations, and we are of the same judgment today.

40. It also appears that little significance should be attached to the statements by Mr. Frank concerning his plans (not specifically discussed) for future programming of different types—sports, children's specials, documentaries, etc. As MCA points out, we have been through this before, noting in our August 1970 decision the mid-1970 statements by various producers as to their plans for the future, from which extremely little has in fact developed. If such programming developments do occur, from Frank, Time-Life, or others, the remaining "cleared" half-hours, approximately 15 in number, should provide considerable opportunity for their presentation.

41. As to the three specific changes of which Frank complains, the first is the removal of all restrictions on the first half-hour of prime time, 7–7:30 PM e.t. As to Monday–Friday, this was done because these periods produce singularly little in the way of support for new non-network material, being devoted by 90 percent of the stations subject to the rule either to news or to stripped game shows most of which were on TV, and to some extent in prime time, before the rule. Also, this is a period as to which there is no network pressure to clear time (assertedly a restriction on licensee freedom of decision) because the networks have not programmed this time. This being the case, it appears that the restriction serves little more than as a limitation on licensee freedom of choice in exercising his program responsibility—which Frank emphasizes as one of the main objectives of the rule. The other two changes, as they worked out in practice, represent increases in network programming, up to four hours on Sunday for network programs generally, and additional time on Saturdays for news-documentary, public affairs and children's programs. The general increase permitted represents a view that more opportunity should be given for those program sources which choose to operate through the network, which are deprived to some extent of access opportunity by the rule in its original form, and from which may come programming in the public interest. The second is an effort to get back into prime time certain kinds of programs—children's and documentary-public affairs—which either have tended to disappear from prime time for economic reasons or for which early evening hours are particularly important. We thought in reaching our decision that the compromise reached is appropriate, and we adhere to these views.

42. In practice, the cutback in "cleared" time is not as much as Frank believes. As mentioned, the 15 half-hours per market Monday–Friday at 7 contribute very little to the development of really new non-network programming; therefore the appropriate start is not 42 but 27 half-hours. This has been reduced by our rule changes to something in the order of 15, a reduction of about 44 per-

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[13] MCA's figure of 33 per month appears to be a considerable understatement according to our staff's study of ARB program listings for the October-November 1973 rating period (4 weeks). For example, MCA shows only one for Philadelphia in November 1973, whereas the staff's analysis of ARB data shows 4 (all by the NBC station). According to the staff's study, during this 4-week period affiliated stations in the top-50-markets presented some 190 local movies wholly or partly between the hours of 7 and 11 (e.t. and P.t., or 6–10 c.t. and m.t.). Of these, 76 started on weekdays after 8 p.m. e.t. (or were entirely between 7:30 and 10:30 on Sundays), so that they would not be affected by the rule change. Ninety-two involved time within the Monday-Saturday 7:30 access periods and thus would be precluded by the new rule on their present basis; and another 22 would not be precluded by the new rule as such but might be affected by increased network hours on Sunday or (on one NBC station) early Saturday evening.

[14] One possible approach, though not that proposed by MCA, might be to permit feature film to be used in one of the access periods if the station "cleared" an additional half-hour the same week after 8 p.m. so as to compensate. However, this might have a slight impact on the availability of time to new non-network programming (stations could count, toward compliance, a later half-hour which they would clear anyhow), and would not be consistent with the certainty which we found desirable in adopting our rule changes.

[15] Since we conclude below that the Sandy Frank "anti-stripping" proposal should not be adopted, the discussion here assumes the present situation in that respect.

[16] We also mentioned other matters such as the asserted limited economic potential for non-network as compared to network programs (par. 90 and footnote 38) and the asserted desirability of increasing the number of network programs (par. 96), concluding generally that these were too uncertain, as long-term factors, to warrant a relaxation of the rule beyond that adopted.

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cent.[17] We have found this reduction to be a reasonable compromise, and still are of that view.

43. Some other points should be noted about Frank's petition. First, it appears that Frank would have us attach, to an unwarranted extent, weight to the "first principles" mentioned in paragraph 13, above. These considerations were and are important. But the idea that we should not look further, at the record of the results under the rule, in terms of programming as otherwise, is a narrowly limited viewpoint which we find unacceptable, particularly since what is involved here is not simply access but exclusive access, as against other entities whose products may be as meritorious or more so. We have reached a compromise in this respect, preserving considerable opportunity for producers of new non-network programs, and we conclude, as we did before, that it is an appropriate one. Second, in Frank's petition, and also in his reply, there is repeated reference to the fact that, as he sees it, the giant, vested interests gain by our revisions, and the small independent loses. The answer to this is that Commission judgments generally should not be and are not made based on the size of the entity involved on either side (the proponents of the original rule here include two of the largest multiple owners, Westinghouse and Metromedia, as well as Viacom, one of the powerful production and distribution entities). Rather, we have reached a result based on what appears to be the public interest—the interest of the public. Third, it is apparent that some of Frank's contentions cannot even remotely be considered public, rather than private, considerations. Thus, one of the two particular situations about which he complains in his personal statement is that WXYZ–TV, the ABC-owned station in Detroit, will buy only one of the programs he handles, instead of the two which he asserts it would have taken had the rule remained in its earlier form.

44. Mr. Frank also objects to one of our other adjustments in the rule, concerning time-zone differences (see par. 17, hereinabove). Bearing in mind that these events occur no more than 25 times a year for each network, and that the only stations involved are those in the Mountain and Pacific time zones (a total of 9 at most), we do not see reason to upset the rule in this regard. See Report and Order, pars. 108–109. Mr. Frank and also Time-Life in its opposition to other petitions, ask that the changes in the rule, if adhered to, be postponed a year. We recently decided this question on the basis of a petition by NAITPD, and see no reason to alter our decision that the rule amendments should become effective this September, in view of the importance of making desirable changes at a reasonably early date and the speculative nature of the "irreparable injury" allegations. We adhere to our decision in this respect also. See Report and Order, pars. 113–116, and Memorandum Opinion and Order denying Stay, FCC 74–221, adopted February 27 and released March 6, 1974.

45. *The Sandy Frank "anti-stripping" proposal.* As mentioned in par. 16 hereinabove, Mr. Frank asks us to adopt an "anti-stripping" or "anti-multiple exposure" rule, under which no station could present during the access period more than one program a week from any single program series. This would bar both "stripping" of game shows or off-network material, and twice-a-week presentation of programs such as Hollywood Squares and Lets Make a Deal. This, it is claimed, would provide access opportunity for many more independent producers as well as increasing program diversity.

46. This is to a degree an interesting idea, and one which might appeal to numerous persons, without any axe to grind, as one which should be adopted. However, it is a radical departure, and might well be labelled, perhaps properly, as an "elitist" kind of Commission action—telling a viewer he cannot watch his favorite access-period program two or five nights a week, but may view it only once and be content with less appealing fare (perhaps of the same type, perhaps of a different sort) on the other nights. Obviously, this would require substantial exploration before it could be considered for adoption.

47. This concept was not at all set forth in the notice of inquiry and proposed rulemaking herein, and was never advanced in this proceeding until after our January final decision (even its informal suggestion to the Commission, mentioned in the petition, was well after the date for reply comments in March 1973). Therefore, representing as it does a sharp departure, it comes much too late for consideration in our Docket 19622 deliberations. It may be appropriate for exploration at some point in the future.

48. In view of the foregoing, *it is ordered*, That:

(a) The petitions for reconsideration filed in this proceeding on March 18, 1974, by MCA Inc., United Artists Corporation, and Sandy Frank Program Sales, Inc., are denied;

(b) The Petition for Stay filed herein by United Artists Corporation on March 18, 1974, is dismissed as moot;

(c) The motions of Sandy Frank Program Sales, Inc., for leave to file pleadings of more than the prescribed length, in connection with the petition for reconsideration and in connection with the reply to oppositions, are granted; and

(d) This proceeding, Docket 19622, is terminated.

Adopted: April 25, 1974.

Released: May 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[18]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.74–10600 Filed 5–7–74;8:45 am]

[17] Some parties supporting the original rule, such as NAIPTD, claim that the figure of 15 must be reduced by the amount which licensees will devote to programming of particular local significance, as the Commission expects according to paragraph 68 of the Report and Order. However, that statement did not specify any particular amount, and it was made clear that it applied to programming in any part of prime time and not just the 7:30 periods. Moreover, it appears that not all of Saturday time this coming year, by any means, will be taken by network programs. NBC plans 44 one-hour Saturday programs (mostly news-documentary plus some children's programs); CBS plans 44 Saturday half-hours of children's programs at 7:30; and ABC plans no more than 12 one-hour Saturday programs (6 children's plus up to 6 documentary or public-affairs). These total 156 half-hours, and leave, on Saturdays, 56 half-hours of "cleared" time at 7:30, plus 100 half-hours of time at 7 p.m. which is not restricted by the rule and is available for new material, syndicated or local. Thus, the figure of 15 "cleared" half-hours remaining appears approximately correct.

Frank's analysis also appears to assume that every syndicated program has to be shown in every market to be successful, whereas in fact very few, if any, have been so far. Fifteen "cleared" half-hours a week will accommodate only 15 programs if all have to be shown in all 50 markets; but it would accommodate 18 or 19 if a more realistic average of 40 markets is assumed.

[18] Commissioners Wiley and Reid concurring.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 924]

[Docket No. AO–317–A1]

FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Recommended Decision and Opportunity to File Written Exceptions

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed amendment of the marketing agreement and order (7 CFR Part 924), hereinafter referred to collectively as the "order", regulating the handling of fresh prunes grown in designated counties in the States of Washington and Oregon, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act," and any amendment which may result from this proceeding will also be effective pursuant to the act.

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, on or before May 23, 1974. Exceptions should be filed in quadruplicate. All such communications will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing, on the record of which this proposed amendment of the order was formulated, was held in Yakima, Washington on February 28, 1974, pursuant to a notice thereof which was published in the FEDERAL REGISTER on February 20, 1974 (39 FR 6535). The notice contained amendment proposals which had been submitted to the Secretary of Agriculture by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to the marketing agreement and order).

Material issues. The material issues presented on the record were concerned with amending the order to:

(1) Revise the provisions which authorize marketing research and development projects to include authority for production research projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fresh prunes.

(2) Authorize the issuance of expanded container regulations that could include specification of the minimum strength of material in containers of fresh prunes; and

(3) Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence adduced at the hearing and the record thereof except as to item (2) which is hereby abandoned for the reasons hereinafter cited:

(1) The order presently contains authority for committee expenditures on marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of prunes.

The order should be amended, as hereinafter set forth, to include authority for production research designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fresh prunes.

For several years the committee has conducted marketing research projects aimed at maintaining the market quality of prunes so as to promote their marketing, distribution, and consumption. During this time it has become apparent to the committee that some of the quality problems affecting the marketing, distribution, and consumption of prunes originate in the orchard. A number of factors affect the production of quality fruit such as nitogen levels, root stocks, irrigation methods and firmness of the fruit at harvest. Often in its attempts to find solutions to marketing problems, the committee has found it difficult to separate production and marketing and it has concluded that unless its research can be extended into the production of the fruit much of its past efforts are likely to be lost for lack of final conclusion as to the cause of such problems. One such problem which has been the subject of study is internal browning of prunes. The incidence of this problem appears to be related to production factors but the committee has been hampered in its efforts to deal with the problem because it has not had authority to fund research which must be conducted at the orchard level.

The committee has been dependent upon other agencies to perform any production research and it has found that such research as well as other research of primary interest to the prune industry often cannot be undertaken or continued by the universities or other agencies in the research area without supplementary industry funding. Currently, the marketing order is considered as the only available industry agency through which all of the Washington-Oregon prune production area may equitably support research designed for its primary benefit. Authorizing the committee to engage in production research as contemplated by this amendment would enable it to fund such projects to the extent necessary from assessments under the order.

While it is evident that the committee's primary interest is in being able to conduct production research which may alleviate or contribute to the solution of marketing problems, the authority should not be so limited as to preclude production research with the primary aim of more efficient production. Rather, the order should permit the committee's conduct of or participation in research projects that are partly or exclusively production oriented if the need arises. Survival of the industry dictates that production be carried out efficiently. Advancing technology and changing economic situations render it difficult to foresee all the areas of production which may require study, therefore the authority should be broad enough in scope to permit the committee, subject to approval of the Secretary, to investigate any facet of production with a view toward improving the efficiency of production. In addition, new laws and regulation enacted for the protection of consumers and the environment may require research involving industry-wide cooperation to ascertain how to produce prunes most economically under such requirements. The expanded authority should enable the committee to participate in the development of production practices and procedures to meet the requirement of such laws and regulation especially when they would have an impact on the production and marketing of prunes.

In formulating production research projects the committee should be authorized to secure the advice and service of persons knowledgeable in any segment of the research field. The committee could establish subcommittees to assist it in the efficient and expeditious planning of production research projects or programs. Such subcommittees could explore research methods, develop preliminary projects and programs, and make recommendations with respect to any such activities. Subcommittees could also evaluate project activities at any state of completion. Final decisions of any such recommendation would be the prerogative of the committee subject to approval of the Secretary. In the conduct of any

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production research projects, the committee should be authorized to conduct the projects, or to contract for the conduct of such projects, with persons or organizations that specialize in this field of activity.

In submitting projects to the Secretary for his approval, the committee should include recommendations as to the funds to be obtained from assessments under the order and its appraisal of the relative urgency of individual projects whenever several possibilities are involved. The committee should fully consider the cost of any such activities, when developing its budget, both as to additional items of expense and the applicable assessment rate. The committee should review its production research program annually to appraise its effectiveness. Copies of the annual report on the program should be provided to the Secretary and made available at the committee office for examination by producers, handlers, and other interested persons.

(2) The notice of hearing contained an amendment proposal to expand the authority for regulation of containers to include specifications of minimum strength of material. One witness supported this proposal on behalf of the Washington-Oregon Fresh Prune Marketing Committee. However, the Committee later, unanimously recommended abandonment of this proposal. The committee stated that the container situation is in a state of flux due to shortages of various types of materials and that opposition, which was not apparent at the hearing, has developed. It is therefore concluded that the proposal should be dropped from further consideration in this proceeding.

(3) No conforming changes are necessary.

Ruling on proposed findings and conclusions. March 25, 1974, was fixed as the final date for the filing of briefs with respect to the facts presented in evidence at the hearing and on the findings and conclusions that should be drawn therefrom. No brief was filed.

General findings. Upon the basis of the evidence adduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order, as hereby proposed to be amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order, as hereby proposed to be amended, regulate the handling of prunes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order, as hereby proposed to be amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing agreement and order, as hereby proposed to be amended, prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of prunes grown in the production area; and

(5) All handling of prunes grown in the production area as defined in said marketing agreement and order, as hereby proposed to be amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the marketing agreement and order. The following amendment of the order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

Redesignate and revise § 924.45 to read:

§ 924.45 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fresh prunes. The expense of such projects shall be paid from funds collected pursuant to § 924.41.

* * * * *

Dated: May 2, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-10533 Filed 5-7-74;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

DISTRIBUTION AND TRANSMISSION FACILITIES

Preparation of Plans and Specifications

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised REA Bulletin 81-9, Preparation of Plans and Specifications for Distribution and Transmission Facilities, and attached REA Form 230, Check of Plans and Specifications, to provide REA requirements and guidance to borrowers and their engineers in the preparation of plans and specifications for construction of distribution and transmission facilities using Electric System Construction Contract, REA Form 830; Electric Transmission Construction Contract, REA Form 831; or Substation and Switching Station Erection Contract, REA Form 764.

Persons interested in the provisions of revised REA Bulletin 81-9 may submit written data, views or comments to the Director, Power Supply, Management and Engineering Standards Division, Room 3313, South Building, USDA-REA, Washington, D.C. 20250, on or before June 7, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Power Supply, Management and Engineering Standards Division, during regular business hours.

A copy of the proposed revision of the REA bulletin and attachment may be secured in person or by written request from the Director, Power Supply, Management and Engineering Standards Division.

A summary of the proposed changes in the revised bulletin and checklist is as follows:

1. The present bulletin and checklist covers only plans and specifications involving the Electric System Construction Contract, REA Form 830. The revised bulletin and checklist is applicable to the latest revision of REA Form 830, and in addition, to plans and specifications for construction utilizing the Electric Transmission Construction Contract, REA Form 831 and the Substation and Switching Station Erection Contract, REA Form 764.

2. Additions have been made in the bulletin and checklist to cover all environmental design or construction requirements. The plans and specifications must incorporate applicable commitments made in an Environmental Statement or Analysis.

3. Modifications have been made in the bulletin to reflect the current requirements and procedures included in REA Bulletin 40-6, "Construction Methods and Purchase of Materials and Equipment," regarding REA approval of plans and specifications.

4. As proposed, the bulletin has been made applicable to the construction of transmission facilities by REA power supply as well as distribution borrowers.

Dated: May 1, 1974.

DAVID H. ASKEGAARD,
Assistant Administrator.

[FR Doc.74-10532 Filed 5-7-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 233]

COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

General Provisions

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare.

The proposed regulation represents the Department's views as to the scope of State discretion in establishing coverage and conditions of eligibility for the public assistance programs under titles I, IV-A, X, XIV, and XVI of the Social Security Act in light of recent actions of the U.S. Supreme Court.

Since enactment of the Social Security Act of 1935, the Department and the States have viewed the statutory provisions and legislative history of the public assistance titles of the Act as according States considerable flexibility in prescribing coverage and the conditions of eligibility for assistance. State plans were approved by the Department if they did not exclude individuals or groups on an unreasonable or arbitrary basis and did not result in the inequitable treatment of individuals. This view of the Act is reflected in the Department's current regulation at 45 CFR 233.10(a)(1)(i) and (ii). In recent years, however, the Supreme Court, in a number of actions (opinions, affirmances, and remands), has affected this view of the Act and has limited the traditional discretion of States in determining the individuals who are to be included under their public assistance programs. In response to each of these actions, the Department has issued in proposed or final form a number of regulations. See 45 CFR 233.90(b)(2), (3), and (4), and the proposed regulation at 38 FR 23802 (September 4, 1973).

While the States are, of course, bound to follow the decisions of the Supreme Court even without an articulation of their import by the Federal agency, the Department believes that because of the number of Court actions in this area in the last few years and the complexity of the issues involved, it would be useful at this time to revise its general regulation at 45 CFR 233.10(a)(1) to reflect directly the recent decisional law in this area.

In Townsend v. Swank, 404 U.S. 282 (1971), the U.S. Supreme Court noted the Department's present regulation at 45 CFR 233.10(a)(1) and implied that to the extent it permitted States to "vary eligibility requirements from federal standards" without Congressional authorization for the variance, the rule was invalid. 404 U.S. at 286. The Townsend decision, however, raised and left unresolved several questions as to the authority of the States to establish conditions of eligibility under their public assistance programs. The broad language of the decision suggested the possibility that the Court viewed the Act as precluding the States from imposing upon applicants for or recipients of assistance any requirements that affected their eligibility as determined under the Act. It appeared, however, that this interpretation of the Social Security Act was inconsistent with the Court's earlier actions in Wyman v. James, 400 U.S. 309 (1971) and Snell v. Wyman, 313 U.S. 323 (1969), affirming 281 F. Supp. 853 (N.D. N.Y. 1968), in which the Court had upheld State requirements which did affect the eligibility of individuals who were covered under the Act. Thus, questions remained with respect to the authority of the States to impose their own conditions of eligibility upon individuals eligible for assistance under the standards set forth in the Act.

In Carleson v. Remillard, 406 U.S. 598 (1972), the Court affirmed its previous disapproval of the HEW regulations (45 CFR 233.10(a)(1)). The Remillard decision, however failed to clarify the inconsistency between the Court's actions in Wyman v. James and Snell v. Wyman, supra, and its holdings in Townsend v. Swank and Remillard. Thus the question regarding the extent, if any, to which States could exclude from AFDC assistance individuals eligible therefor under Federal standards remains unanswered.

In New York State Department of Social Services v. Dublino 413 U.S. 405 (1973), the Court upheld a New York statutory scheme which permits the exclusion from the State's AFDC program of individuals eligible under the standards set forth in the definitional sections of title IV-A of the Act. The Dublino decision is important for it clarified the Court's previously ambiguous views with respect to the authority of States to impose their own conditions of eligibility for public assistance. First, the Court was careful to reaffirm the Federal State nature of the public assistance programs, stating that States must be permitted "considerable latitude" in attempting to resolve their increasing fiscal problems, including "the critical problem of mounting welfare costs and the increasing financial dependence of many of [their] citizens." 413 U.S., at 413. In addition, the Court firmly indicated that Congressional authorization for the States to exclude individuals covered under the Act exists in areas beyond the work incentive context. Citing Wyman v. James and Snell v. Wyman, the Court found that State regulations "promulgated within the legitimate sphere of State administration"—"even if they become conditions for continued assistance"—are not necessarily invalid under the Act, as construed in Townsend v. Swank. 413 U.S., at 422. Hence, in Dublino the Court indicated that States are not barred by the Act from imposing eligibility conditions which are not contained in the Act upon individuals eligible for assistance under Federal standards. Indeed, Dublino affirmed the States' discretion to impose such eligibility conditions as long as they assist the States in the efficient administration of their AFDC programs or further an independent State welfare policy and are not inconsistent with the provisions and purposes of the Social Security Act.

The attached revision of 45 CFR 233.10(a)(1) articulates for States the Department's view of the Act in light of recent Supreme Court decisions, particularly those in Townsend v. Swank, Carleson v. Remillard, and New York Department of Social Services v. Dublino, supra. It reaffirms the basic Federal-State nature of the public assistance programs and the fundamental principle that States have considerable latitude in establishing the conditions which individuals must meet in order to be eligible for assistance under the States' programs. The definitional sections of the Social Security Act (e.g. sections 406(a), 407, 408) set forth the groups of individuals who are covered under the Act (i.e., eligible for assistance under Federal standards), and the States may exclude one or more such groups from the scope of coverage under their programs only where the Act or its legislative history authorizes such an exclusion. The States may, however, impose their own conditions of eligibility which, if not satisfied, result in denial or termination of aid, if these conditions either assist the States in the efficient administration of their assistance programs or further an independent State welfare policy and are not inconsistent with the provisions and purposes of the Act. The proposed regulation reflects this view of the Act.

Thus, subparagraph (i) of the proposal provides that a State shall impose each condition of eligibility required by the Social Security Act, e.g., the condition in section 402(a)(19)(A) that every individual who is required to do so under the Act register for manpower services, training, and employment. Subparagraph (ii)(A) states that a State may provide more limited coverage than that permitted under the Social Security Act only where the Act or its legislative history authorizes a more limited coverage, e.g., the optional provision in section 406(a)(2)(B) which allows the States to exclude persons between the ages of 18 and 21 years who are regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit them for gainful employment. Subparagraph (ii)(B) provides that a State may impose conditions upon applicants for and recipients of public assistance, even if those conditions, if not satisfied, result in the denial or termination of assistance, as long as they assist the State in the efficient administration of its public assistance programs or further an independent State welfare policy and are not inconsistent with the provisions and purposes of the Act. For example, a State may require individuals to participate in a supplementary State work program as a condition of eligibility for assistance; or, as a further example, a State may establish, as a condition for including a parent's needs in his family's AFDC grant, a requirement that the parent of an AFDC child assist in establishing the paternity of a child born out of wedlock or in seeking support from a person having a legal duty to support the child (see 45 CFR 233.90(b)(4) (38 FR 10940, May 3, 1973)).

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013, on or before June 7, 1974. Comments received will be available for public inspection in Room 5326 of the Department's offices at 330 C Street, S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-245-0950).

AUTHORITY: Section 1102, 49 Stat. 647 (42 U.S.C. 1302). (Catalog of Federal Domestic

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Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid)).

Dated: April 29, 1974.

JAMES S. DWIGHT, JR.,
Administrator, Social and Rehabilitation Service.

Approved: May 2, 1974.

CASPAR W. WEINBERGER,
Secretary.

Section 233.10(a)(1) of 45 CFR Part 233 is amended to read as set forth below:

§ 233.10 General provisions regarding coverage and eligibility.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, or XVI, of the Social Security Act must:

(1) Specify the groups of individuals, based on reasonable classifications, that will be included in the program, and all the conditions of eligibility that must be met by the individuals in the groups. The groups selected for inclusion in the plan and the eligibility conditions imposed must not exclude individuals or groups on an arbitrary or unreasonable basis, and must not result in inequitable treatment of individuals or groups in the light of the provisions and purposes of the public assistance titles of the Social Security Act. Under this requirement:

(i) A State shall impose each condition of eligibility required by the Social Security Act; and

(ii) A State may:

(A) Provide more limited public assistance coverage than that provided by the Act only where the Social Security Act or its legislative history authorizes more limited coverage;

(B) Impose conditions upon applicants for and recipients of public assistance which, if not satisfied, result in the denial or termination of public assistance, if such conditions assist the State in the efficient administration of its public assistance programs, or further an independent State welfare policy, and are not inconsistent with the provisions and purposes of the Social Security Act.

(iii) There must be clarity as to what groups are included in the plan, and which are within, and which are outside, the scope of Federal financial participation.

(iv) Eligibility conditions must be applied on a consistent and equitable basis throughout the State.

(v) A plan under title XVI must have the same eligibility conditions and other requirements for the aged, blind, and disabled, except as otherwise specifically required or permitted by the Act.

(vi) Eligibility conditions or agency procedures or methods must not preclude the opportunity for an individual to apply and obtain a determination of eligibility or ineligibility.

(vii) Methods of determining eligibility must be consistent with the objective of assisting all eligible persons to qualify.

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[FR Doc.74–10574 Filed 5–7–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 34, 76, 95, 181, 193]

[CGD 74 100]

CO_2 FIXED FIRE EXTINGUISHING SYSTEMS

Proposal Regarding Operating Instructions

The Coast Guard is considering amending the details contained in operating instructions for CO_2 fixed fire extinguishing systems.

Any interested person may submit written data, views, or argument concerning this notice to U.S. Coast Guard (G-CMC/82) Washington, D.C. 20590. All communications received before June 24, 1974, will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGD 74 100) and give reasons and supporting data for any recommendations. All comments received will be available for examination in Room 8234. No hearing is contemplated, but will be held if requested by anyone who raises a genuine issue. The purpose of this proposed change is to modify the requirement which states:

> Complete but simple instructions for the operation of the System shall be located in a conspicuous place at or near the releasing control device.

The modification will require an additional instruction sheet to be posted in the CO_2 cylinder storage room. Moreover, the instruction must contain a schematic diagram of the CO_2 system and instruction on releasing the agent through alternate means, should the primary or secondary release mechanism fail. Recent casualty reports have shown that had this information been available, a number of casualties might have been avoided or their effect minimized.

In consideration of the foregoing it is proposed to amend Parts 34, 76, 95, 181, and 193 of Title 46 of the Code of Federal Regulations as follows:

1. In §§ 34.15–10(h), 76.15–10(h), 95.15–10(h), 181.20–15(d), 193.15–10(h) by revising the text to read as follows:

"Complete but simple instructions for the operation of the system(s) must be located in a conspicuous place at or near the releasing control devices and in the CO_2 cylinder storage room. These instructions must also include a schematic diagram of the system and instructions detailing alternate methods of discharging the system if the primary or secondary means of release fail."

(46 U.S.C. 375, 390b, and 391a; 49 U.S.C. 1655(b); 46 CFR 1.46(b) and 1.46(o)(4)).

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74–10605 Filed 5–7–74;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–CE–7]

ALTERATION OF TRANSITION AREA

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at St. Louis, Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before June 7, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at St. Louis, Missouri, a new instrument approach procedure is being developed for Weiss Municipal Airport, Fenton, Missouri. Accordingly, it is necessary to alter the transition area at St. Louis, Missouri, to adequately protect aircraft executing this new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is amended to read:

ST. LOUIS, MISSOURI

That airspace extending upward from 700 feet above the surface within a ten-mile radius of Lambert-St. Louis International Airport (latitude 38°44'50" N., longitude 90°21'55" W.); within five miles southeast and eight miles northwest of the Lambert-St. Louis International Airport Runway 24 ILS localizer northeast course, extending from the ten mile radius area to 12 miles northeast of the Runway 24 OM; within five miles southwest and nine miles northeast of the Lambert-St. Louis International Airport Runway 12R ILS localizer northwest course; extending from the Runway 12R OM to 12 miles northwest of the OM; within a seven mile radius of St. Charles Smartt Airport, St. Charles, Missouri (latitude 38°55'43" N., longitude 90°25'41" W.); within an eight mile radius of Civic Memorial Airport, Alton, Illinois (latitude 38°53'30" N., longitude 90°03'00" W.); within a 6.5 mile radius of Weiss Municipal Airport, Fenton, Missouri (latitude 38°32'15" N., longtitude 90°26'50" W.); and that airspace extending upward from 1,200 feet above the surface within a 33-mile radius of St. Louis International Airport; within six miles southwest and nine miles northeast of the St. Louis VORTAC 328° radial, extending from the 33-mile radius of the VORTAC; area to 36 miles northwest; within five miles northwest and eight miles southeast of the Maryland Heights VORTAC 243° radial, extending from the 33-mile radius area to 19 miles southwest of the VORTAC; within the area bounded on the west and northwest by the east and southeast by the east edge of V–14S, on the 33-mile radius area, on the southeast by the northwest edge of V–238 and on the south by the north boundary of V–88 within a 40-mile radius of Scott AFB (latitude 38°32'30" N., longtitude 89°51'05" W.); excluding the portion overlying the State of Illinois; that airspace extending upward from 2,500 feet MSL within the area bounded on the northwest by the southeast edge of V–335, on the east by the Missouri-Illinois boundary, on the south by the north edge of V–190 and on the west by the east edge extending upward of V–9; and that airspace from 4,500 feet MSL within the area bounded on the north by the south edge of V–88, on the northeast by the southwest edge of V–9W, on the south by the north edge of V–72, on the west by a line five miles west of and parallel to the St. Louis VORTAC 200° radial, on the northwest by the southeast edge of V–238; within the area bounded on the north by the south edge of V–12, on the southeast by the northwest edge of V–14N, on the southwest by the northeast edge of V–175, and on the northwest by a line five miles southeast of and parallel to the Jefferson City, Missouri, VOR 041° radial, and within the area bounded on the northeast by the southwest edge of V–52 and the Missouri-Illinois boundary, on the south by the north edge of V–4N, and on the northwest by the southeast edge of V–63.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on April 21, 1974.

GEORGE R. LACAILLE,
Acting Director, Central Region.

[FR Doc.74–10548 Filed 5–7–74;8:45 am]

[Airspace Docket No. 74–SO–47]

[14 CFR Part 71]

DESIGNATION OF TRANSITION AREA

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Brooksville, Fla., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 7, 1974, of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Brooksville transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hernando County Airport (Lat. 28°27'50" N., Long. 82°27'30" W.); within 3 miles each side of the 276° bearing from Brooksville RBN (Lat. 28°28'25" N., Long. 82°27'00" W.), extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Hernando County Airport. A prescribed instrument approach procedure to this airport, utilizing the Brooksville (private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued at East Point, Ga., on April 30, 1974.

LONNIE D. PARRISH,
Acting Director, Southern Region.

[FR Doc.74–10550 Filed 5–7–74;8:45 am]

[Airspace Docket No. 74–GL–11]

[14 CFR Part 71]

DESIGNATION OF TRANSITION AREA

Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Litchfield, Minnesota.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 7, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A standard instrument approach procedure has been developed for the Litchfield Municipal Airport, Litchfield, Minnesota. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this approach procedure by designating a transition area at Litchfield, Minnesota.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is added:

LITCHFIELD, MINNESOTA

That airspace extending upward from 700 feet above the surface within a five mile radius of the Litchfield Municipal Airport (latitude 45°08'00" N., longitude 94°30'45" W.); and within three and one half miles each side of the Darwin VORTAC 139° radial extending from the five mile radius of 11½ miles southeast of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]

Issued in Des Plaines, Illinois, on April 24, 1974.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.74–10549 Filed 5–7–74;8:45 am]

[Airspace Docket No. 74–SO–45]

[14 CFR Part 71]

ALTERATION OF VOR FEDERAL AIRWAY

Notice of Proposed Rulemaking

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign a VOR Federal Airway between Brookwood, Ala., and La Grange, Ga.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 7, 1974, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office

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of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would realign V–66 from Brookwood, Ala., direct to LaGrange, Ga. This realignment would provide a shorter route between these points thereby eliminating request for radar vectors. Also, this routing would improve traffic flow to the Atlanta, Ga., terminal area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 1, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–10547 Filed 5–7–74;8:45 am]

[Airspace Docket No. 74–SO–7]

[14 CFR Part 71]

DESIGNATION OF FEDERAL AIRWAY

Withdrawal of Notice of Proposed Rulemaking

On February 20, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 6538) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR Federal Airway from Huntsville, Ala., to Rome, Ga.

Two comments were received in response to the NPRM. The Air Transport Association of America concurred with the proposal. The Department of the Navy objected. This objection was based on the fact that the proposed airway would greatly reduce the size of two aerobatic training areas which could not be relocated at this time. The FAA acknowledges that the Navy's objection is valid and will therefore withdraw the NPRM. The withdrawal of this notice, however, does not preclude the future issuance of a similar NPRM by the FAA.

In consideration of the foregoing, notice is hereby given that the proposal contained in Airspace Docket No. 74–SO–7 (39 FR 6538) is withdrawn.

This withdrawal is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 2, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–10551 Filed 5–7–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Alaska; Proposed Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with specific exceptions, the State of Alaska plan for implementation of the national ambient air quality standards.

On August 16, 1973 and January 21, 1974, the State of Alaska Department of Environmental Conservation submitted revisions to the Administrator on their implementation plan in the form of permits issued by the State containing compliance schedules for the following companies:

Source:	Location
Alaska Lumber & Pulp Co	Sitka.
Ketchikan Pulp Co	Ward Cove.
Wrangell Lumber Co	Wrangell.

The Administrator is required by section 110 of the Act to approve or disapprove any revision of an implementation plan submitted by a State. Therefore, public comment is invited on whether the Administrator should approve or disapprove the permits named above as revisions to the State plan.

Copies of the proposed revisions are available for public inspection during normal business hours at the Office of EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101; State of Alaska Department of Environmental Conservation, Pouch O, Juneau, Alaska 99801; Cook Inlet Air Resources Management District, % Greater Anchorage Area Borough, 3500 Tudor Road, Anchorage, Alaska 99507; Fairbanks North Star Borough, 514 Second Avenue, Fairbanks, Alaska 99707; Environmental Protection Agency, Alaska Operations Office, Room G–66, Federal Building, 605 Fourth Avenue, Anchorage, Alaska 99501; and at the Freedom of Information Center, EPA, Room 329, 401 M Street SW., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate to the Regional Administrator, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101: Attention: J. Akins. Relevant comments received on or before June 7, 1974, will be considered, and will be available during normal working hours at the Region X Office.

This notice of proposed rulemaking is issued under authority of section 110(a) of the Clean Air Act as amended. 42 U.S.C. 1857c–5(a).

Dated: May 2, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74–10587 Filed 5–7–74;8:45 am]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Idaho; Proposed Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with specific exceptions, the State of Idaho plan for implementation of the national ambient air quality standards.

The Idaho State Department of Environmental and Community Services submitted revisions to the Administrator on their implementation plan in the form of compliance schedules adopted by the State for the following companies:

Source:	Location
Amalgamated Sugar Co	Mini-Cassia.
Do	Nampa.
Do	Twin Falls.
The Bunker Hill Co	Kellogg.
J. R. Simplot Co	Pocatello.
The Monsanto Co	Soda Springs.
Potlatch Corp	Jaype.
Do	St. Maries.

The Administrator is required by section 110 of the Act to approve or disapprove any revision of an implementation plan submitted by a State. Therefore, public comment is invited on whether the Administrator should approve or disapprove the compliance schedules named above as revisions to the State plan.

Copies of the proposed revisions are available for public inspection during normal business hours at the Office of EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101; Idaho Department of Environmental and Community Services, Statehouse, Boise, Idaho 83720; and at the Freedom of Information Center, EPA, Room 329, 401 M Street SW., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate to the Regional Administrator, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101: Attention: J. Akins. Relevant comments received June 7, 1974, will be considered and will be available during normal working hours at the Region X Office.

This notice of proposed rulemaking is issued under authority of section 110(a) of the Clean Air Act as amended. 42 U.S.C. 1857c–5(a).

Dated: May 2, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74–10588 Filed 5–7–74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

FEDERAL POWER COMMISSION

[Docket No. RM74–22, E–8589, Docket No. E–8550, etc.[1]]

NEW ENGLAND POWER POOL, ET AL. AND APPALACHIAN POWER CO., ET AL.

Settlement Rate Proposals; Request for Comments and Hearings

APRIL 30, 1974.

This notice is issued pursuant to the Administartive Procedure Act, 5 U.S.C. 551, et seq., (1970), and the Federal Power Act, 16 U.S.C. 791(a), et seq., (1970), particularly sections 824a, d, e, f, and 825g and h thereof. It sets forth proposed settlement rates and charges upon the basis of which a number of affected public utilities, state public service commissions and principal members of the Commission staff who have patricipated in public conferences in Docket No. E–8589, believe the Commission should resolve a number of questions arising in a series of dockets associated with fuel conservation energy transfers from the midwestern and southeastern portions of the Nation to the Middle Atlantic, New York and New England area.

This notice provides opportunity for interested parties to file comments, in the manner and within the time set forth below. The Commission will consider all filed comments, together with the public conference record and all other submittals in any of the above-docketed matters which have been submitted to the Commission, before taking any final action in these dockets.

Fundamentally, the questions which the Commission is here considering are twofold: First, we are considering the proposed settlement rates, charges, terms, and conditions of Fuel Conservation rate schedules as summarized in Exhibit C (Revised April 12, 1974), as developed in the conference record (E–8589), TR 1010–1013, 690–875, and as identified hereinafter as Appendix A (Revised April 22, 1974), which record was transmitted to the Commission by staff on April 16, 1974; second, the Commission is considering Motions, Protest and Petitions filed by the City of Richmond, Indiana, owner of Richmond Power & Light, and Congressman Michael J. Harrington, at various times, March 28, 1974, April 8, 1974, and April 15, 1974,[2] all of which oppose the proposed settlement basis for fuel conservation energy transfer arrangements and rates and charges for fuel conservation services among a number of utilities. The proposed settlement rates and charges were negotiated under the aegis of a staff conducted public conference called by the Commission in order to cope with national fuel oil shortage conditions occasioned in 1973 and 1974. The record which has been developed is a public conference type record, not an adjudicatory adversary record in which factual data are developed through direct and cross-examination procedures. The Commission's order of January 11, 1974, Order Directing Clarification of Pleading and Fixing Staff Conference, in Docket No. E–8589, established a public conference procedure. The City and Congressman Harrington have requested a hearing. This notice provides that hearing. The Commission intends to prescribe the lawful rates, charges, terms and conditions for Fuel Conservation services in this rulemaking proceeding.

The gravamen of City's objections and Congressman Harrington's objections are not clear. On the one hand, these petitioners appear to be attacking the whole fuel conservation energy transfer program of the utilities, the structure of the electric utility industry and the proposed settlement rates and charges, particularly those involving transmission services. Petitioners appear to favor an incremental cost justification. Among their objections, the following criticisms appear:

Petitions to Intervene, Protests and Motions of Richmond Power & Light, filed April 15, 1974, Docket No. E–8550, et al.

Page 8—"It is improper to disguise transmission rates as purchase and resale middleman rates, particularly where the transmitter is given unabridged control over the selection of purchasers and the quantity of purchases."

Page 8—"No mechanism is established whereby sellers and ultimate purchasers can do business directly with each other, and whereby Sellers can compete with each other on the basis of economics to make such sales, and ultimate purchasers can similarly compete for purchases."

Petition of Congressman Michael J. Harrington To Protest, For Leave To Intervene For Rejection of and Public Hearings on Filings, filed April 15, 1974, Docket No. E–8550, et al.

Page 4—"The Commission should issue orders revising the present policy in such a way that any utility may buy power from any other utility in the nation and be assured of transmission, if capacity is available, between the two points, at incremental transmission costs, not an arbitrary negotiated price."

On the other hand, Richmond Power & Light's Motion of March 28, 1974, repeated in its April 15, 1974, Petition, appears to favor certain of the settlement rates and charges (those with respect to generation) since the City states that it would engage in fuel conservation energy transfers on that basis (Petition, pp. 3–4). See also, Richmond's April 22, 1974, Reply, footnote 2, supra, (p. 2).

The Commission desires to have an evidentiary record before it in these proceedings, in passing upon the proposed settlement rates and charges, and in considering the objections thereto of the City of Richmond. Congressman Harrington or others. In particular, the Commission directs all parties having fuel conservation rate schedules proffered to the Commission in these matters to submit all cost or other justification of the proposed rates and charges for the fuel conservation energy transfers which they propose to rely upon, as well as the submission of cost or other data by any other party proffered in opposition. Specifically, the Commission desires a further explanation and development through a detailed statement of positions by the City and Congressman Harrington, as to how this Commission should grant the substantive relief they seek, other than with respect to rates and charges, and by what legal authority it would grant their requests. The Commission desires to have the cost data presentations which the City and Congressman Harrington wish the Commission to consider. The Commission desires any responses thereto by any affected interests.

The Commission believes that in these dockets it should adopt the informal hearing procedure of the Administrative Procedure Act to set rates and charges for fuel conservation services. We have legal authority for so doing. U.S. v. Florida East Coast Ry., 410 U.S. 224 (1973); Phillips Petroleum Co. v. FPC, 475 F. 2d 842 (10th Cir. 1973), cert. denied sub nom. Chevron Oil Co., et al, v. FPC, No. 73–91, 42 USLW 3401 (January 14, 1974); and U.S. v. Allegheny-Ludlum Steel Corp., 406 U.S. 742 (1972). There has not been an evidentiary hearing in various pending proceedings in Appalachian Power Company, et al., Docket Nos. E–8550, E–8565, E–8567, E–8591 and E–8614. The petitions and protests of the City of Richmond, Indiana, and Congressman Harrington request an evidentiary hearing. This notice affords that hearing. The various pleadings of the City and Congressman Harrington which were filed with the Commission after the conclusion of the April 11, 1974, public conference make it inappropriate for the

[1] See Appendix C hereto for a list of all pending docketed rate filings involving Fuel Conservation Power and Energy, pursuant to settlement agreement in Docket No. E–8589.

[2] The latest filing by the City of Richmond being "RP&L Reply to Answer of Appalachian Power Company, et al., filed April 16, 1974", which was filed by Richmond on April 22, 1974.

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Commission to adopt the procedural recommendations of Commission staff, on the conference record, for the disposition of these matters.

Pending the conclusion and final decision of the Commission in this proceeding, the Commission will consider that all settlement rates and charges as set forth in annexed Appendix A (revised) have been conditionally tendered for filing for settlement purposes and that the subject utilities are not seeking to have them become effective within 30 days after filing. However, to insure that no parties' interests are adversely affected, the Commission will, as a matter of course, by separate orders, suspend for one day the effective dates of any rate schedules which are complete and the filing utilities seek to have separately processed subject to the prior notice requirements of the Federal Power Act, 16 U.S.C. 824d. The conference record indicates that all of the subject setttlement rates have been tendered in contemplation of Commission acceptance of the settlement package. All utilities who wish to have their Appendix A filings take effect immediately, shall notify the Commission within five days hereafter of that fact, and individual orders of suspension will be issued.

There are presently pending before the Commission in a number of dockets, petitions to intervene. They are granted as hereinafter ordered.

The Commission orders:

(A) All persons who are party to this proceeding may file written comments pertaining to the proposed settlement on or before May 20, 1974, with the Secretary of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Replies to the written comments may be filed with the Secretary of the Commission on or before June 5, 1974. The initial comments and replies thereto shall state the name, title, mailing address and telephone number of the person or persons to whom communications concerning this matter should be addressed. An original and fourteen (14) conformed copies of such comments and replies to such initial comments shall be filed with the Commission, and copies of the initial comments and replies thereto shall be served upon all persons who are parties to this proceeding.

(B) All comments and replies thereto filed in response to this notice shall be under oath, acknowledged by a notary public or comparable official as follows:

----------, being duly
(Name)

sworn, deposes and says that he is (title and organization, if filing is in a representative capacity) authorized to verify and file this document, that he has examined the statement contained in the initial comments or replies thereto, and that all such statements are true and correct to the best of his knowledge, information and belief.

The persons preparing the written comments and replies thereto shall submit such filings on letter size paper (8" by 10½" or 8½" by 11") in accordance with the rules of practice and procedure of the Federal Power Commission.

(C) All interested persons who are not now a party to this proceeding may become a party to this proceeding by filing a notice of intention to respond to this notice with the Secretary of the Commission on or before May 17, 1974. Such persons shall accept the record of these proceedings as it is presently constituted and shall limit their comments, and replies to the comments of the other parties, to the matter raised in this notice, the proposed settlement rates, charges, terms and conditions of the rate schedules proposed in these proceedings, and the comments submitted in response to this notice.

(D) The Secretary of the Commission shall cause prompt publication of this notice in the FEDERAL REGISTER and shall serve this notice upon all parties to these proceedings, and to the persons listed on Appendix B hereto.

(E) All persons listed in Appendix D as having filed petitions to intervene in one or more of these proceedings are hereby made parties to these proceedings.

(F) The prehearing conference now set for May 16, 1974, and all further proceedings in Docket Nos. E-8550, E-8565, E-8567, E-8591 and E-8614 (listed in Appendix C hereto), are hereby continued subject to the further order of the Commission.

By direction of the Commission.

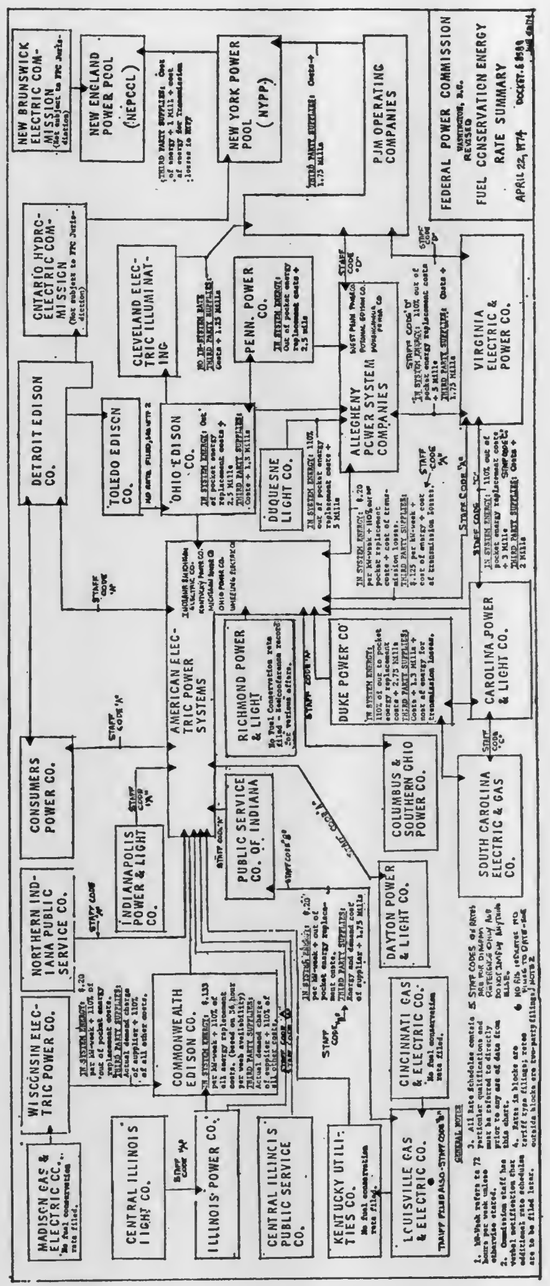
KENNETH F. PLUMB,
Secretary.

APPENDIX A

NEW ENGLAND POWER POOL PARTICIPANTS, ET AL.

Fuel Conservation Rate Schedules Diagrammatic Rate Summary of Rate Filings[1] Pursuant to Settlement Proposal in Docket No. E-8589

[1] Rate filing designations, by docket number, are listed in Appendix C hereto.



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APPENDIX B

NEW ENGLAND POWER POOL PARTICIPANTS

[Docket No. RM74-22, et al.]

Persons and parties served copies of this notice:

I. NEPOOL participants.
II. Systems to generate for and transmit energy to NEPOOL participants.
III. Systems to transmit energy to NEPOOL participants.
IV. Federal agencies.
V. Governors, resource agencies and public service commissions of affected states.
VI. Other organizations.

I. NEW ENGLAND POWER POOL PARTICIPANTS

[Docket No. RM74-22 et al.]

Organization name and address

New England Power Pool.
Single participants:
New England Power Co.; Massachusetts Electric Co.; Granite State Electric Co.; 20 Turnpike Rd., Westboro, Mass. 01581.
Fall River Electric Light Co.; Blackstone Valley Electric Co.; Brockton Edison Co.; Montaup Electric Co.; 225 Franklin St., Boston, Mass. 02107.
Cambridge Electric Light Co.; Canal Electric Co.; New Bedford Gas & Edison Light Co.; 130 Austin St., Cambridge, Mass. 02139.
The Connecticut Light & Power Co.; the Hartford Electric Light Co.; Western Massachusetts Electric Co.; Holyoke Water Power Co.; Holyoke Power & Electric Co.; P.O. Box 270, Hartford, Conn. 06101.
Vermont Electric Power Company, Inc.; 77 Grove St., Rutland, Vt. 05701.
Green Mountain Power Corp., 1 Main St., Burlington, Vt. 05401.
Central Vermont Public Service Co., 77 Grove St., Rutland, Vt. 05701.
Vermont Marble Co., 61 Main St., Proctor, Vt. 05765.
Village of Hardwick Electric Department, North Main St., Hardwick, Vt. 05843.
Vermont Electric Cooperative, Inc., School St., Johnson, Vt. 05656.
Village of Morrisville, Vt., Water & Light Department, 40 Portland St., Morrisville, Vt. 05661.
Village of Northfield Electric Department, 235 Main St., Northfield, Vt. 05663.
Washington Electric Cooperative, Inc., East Montpelier, Vt. 05651.
Village of Lyndonville Electric Department, 39 Depot St., Lyndonville, Vt. 05851.
Burlington Electric Light Department, 585 Pine St., Burlington, Vt. 05401.
Village of Johnson Water & Light Department, Johnson, Vt. 05656.
Village of Orleans Electric Department, Main St., Orleans, Vt. 05860.
Village of Readsboro Electric Department, Readsboro, Vt. 05350.
Village of Stowe Electric Department, Stowe, Vt. 05672.
Rochester Electric Light & Power Co., Rochester, Vt. 05767.
United Illumination Co., 80 Temple St., New Haven, Conn. 06500.
Boston Edison Co., 800 Boylston St., Boston, Mass. 02199.
Citizens Utilities Co., Ridgeway Center, Stamford, Conn. 06905.
Public Service Co. of New Hampshire, 1000 Elm St., Manchester, N.H. 03105.
Central Maine Power Co., 9 Green St., Augusta, Maine 04330.
Bangor Hydro-Electric Co., 33 State St., Bangor, Maine 04401.
Taunton Municipal Lighting Plant, 55 Weir St., Taunton, Mass. 02780.
Fitchburg Gas & Electric Light Department, 655 Main St., Fitchburg, Mass. 01420.
City of Holyoke Gas & Electric Department, 70 Suffolk Ave., Holyoke, Mass. 01040.
Hudson Light & Power Department, 49 Forest Ave., Hudson, Mass. 01749.
Newport Electric Corp., 45 Long Wharf Mall, Newport, R.I. 02840.
The Narragansett Electric Co., 280 Melrose St., Providence, R.I. 02901.

II. SYSTEMS TO GENERATE FOR AND TRANSMIT ENERGY TO NEPOOL PARTICIPANTS

Company name and address

Appalachian Power Co., 40 Franklin Rd. SW., Roanoke, Va. 24009.
Carolina Power & Light Co., 336 Fayetteville St., Raleigh, N.C. 27602.
Central Illinois Light Co., 300 Liberty St., Peoria, Ill. 61602.
Central Illinois Public Service, 607 East Adams St., Springfield, Ill. 62701.
Cincinnati Gas & Electric Co., P.O. Box 960, Cincinnati, Ohio 45201.
Cleveland Electric Illuminating Co., 55 Public Square, Cleveland, Ohio 44101.
Columbus & Southern Ohio Electric Co., 215 North Front St., Columbus, Ohio 43216.
The Dayton Power & Light Co., 25 North Main St., Dayton, Ohio 45401.
Detroit Edison Co., 2000 2d Ave., Detroit, Mich. 48226.
Duke Power Co., 422 South Church St., Charlotte, N.C. 28201.
Duquesne Light Co., 435 6th Ave., Pittsburgh, Pa. 15219.
Electric Energy, Inc., P.O. Box 165, Joppa, Ill. 62953.
Illinois Power Co., 500 South 27th St., Decatur, Ill. 62525.
Indiana-Kentucky Electric Corp., P.O. Box 468, Piketon, Ohio 45661.
Commonwealth Edison Co., P.O. Box 767, Chicago, Ill. 60690.
Consumers Power Co., 212 West Michigan Ave., Jackson, Mich. 49201.
Kentucky Utilities Co., 120 South Limestone, Lexington, Ky. 40507.
Louisville Gas & Electric Co., P.O. Box 354, Louisville, Ky. 40201.
Madison Gas & Electric Co., 100 North Fairchild St., Madison, Wis. 53701.
Metropolitan Edison Co., P.O. Box 542, Reading, Pa. 19603.
Michigan Power Co., 100 South Main St., Three Rivers, Mich. 49093.
Indiana & Michigan Electric Co., 2101 Spy Run Ave., Fort Wayne, Ind. 46801.
Indianapolis Power & Light Co., 25 Monument Circle, P.O. Box 1595, Indianapolis, Ind. 46206.
Monogahela Power Co., 1310 Fairmont Ave., Fairmont, W. Va. 26554.
Northern Indiana Public Service Co., 5265 Hohman Ave., Hammond, Ind. 46325.
Ohio Valley Electric Corp., P.O. Box 468, Piketon, Ohio 45661.
Pennsylvania Electric Co., 1001 Broad St., Johnstown, Pa. 15907.
Pennsylvania Power Co., 1 East Washington St., New Castle, Pa. 16103.
Pennsylvania Power & Light Co., 2 North 9th St., Allentown, Pa. 18101.
Ohio Edison Co., 47 North Main St., Akron, Ohio 44308.
Ohio Power Co., 301 Cleveland Ave. SW., Canton, Ohio 44702.
The Potomac Edison Co., Downsville Pike, Hagerstown, Md. 21740.
Public Service Co. of Indiana, Inc., 1000 East Main St., Plainfield, Ind. 46168.
South Carolina Electric & Gas Co., P.O. Box 764, Columbia, S.C. 29218.
Virginia Electric & Power Co., P.O. Box 26661, Richmond, Va. 23261.
West Penn Power Co., Cabin Hill, Greensburg, Pa. 15601.
Kentucky Power Co., Carter Ave. at 15th St., Ashland, Ky. 41101.
Wisconsin Electric Power Co., 231 West Michigan St., Milwaukee, Wis. 53201.
Toledo Edison Co., 300 Madison Ave., Toledo, Ohio 43652.

III. SYSTEMS TO TRANSMIT ENERGY TO NEPOOL PARTICIPANTS

Company name and address

Atlantic City Electric Co., 1600 Pacific Ave., Atlantic City, N.J. 08404.
Baltimore Gas & Electric Co., Gas and Electric Bldg., Baltimore, Md. 21203.
Delmarva Power & Light Co., 800 King St., Wilmington, Del. 19899.
Jersey Central Power & Light Co., New Jersey Power & Light Co., Madison Ave. at Punch Bowl Rd., Morristown, N.J. 07960.
Philadelphia Electric Co., 2301 Market St., Philadelphia, Pa. 19101.
Potomac Electric Power Co., Thomas Edison Bldg., 1900 Pennsylvania Ave., Washington, D.C. 20006.
Public Service Electric & Gas Co., 80 Park Place, Newark, N.J. 07101.
Consolidated Edison Co. of New York, Inc., 4 Irving Place, New York, N.Y. 10003.
Central Hudson Gas & Electric Corp., 284 South Ave., Poughkeepsie, N.Y. 12602.
Long Island Lighting Co., 250 Old Country Rd., Mineola, N.Y. 11501.
New York State Electric & Gas Corp., 4500 Vestall Parkway East, Binghamton, N.Y. 13902.
Niagara Mohawk Power Corp., 300 Erie Blvd. West, Syracuse, N.Y. 13202.
Orange & Rockland Utilities, Inc., 75 West Route 59, Spring Valley, N.Y. 10977.
Rochester Gas & Electric Corp., 89 East Ave., Rochester, N.Y. 14649.
Wheeling Electric Co., 51 16th St., Wheeling, W. Va. 26004.

IV. FEDERAL AGENCIES

Atomic Energy Commission.
Department of Justice.
Federal Energy Office.
Environmental Protection Agency.
Council on Environmental Quality.
Department of the Interior.
Interstate Commerce Commission.
General Services Administration.
Department of Transportation.

V. GOVERNORS, RESOURCE AGENCIES, AND PUBLIC SERVICE COMMISSIONS OF AFFECTED STATES

Wisconsin.	New Jersey.
Michigan.	Pennsylvania.
Illinois.	Delaware.
Indiana.	District of Columbia
Ohio.	West Virginia.
Vermont.	Maryland.
Maine.	Kentucky.
New Hampshire.	Virginia.
Massachusetts.	Tennessee.
Rhode Island.	North Carolina.
Connecticut.	South Carolina.
New York.	

VI. OTHER ORGANIZATIONS

Organization name and address

East Central Area Reliability Council, P.O. Box 102, Canton, Ohio 44701.
Edison Electric Institute, 90 Park Ave., New York, N.Y. 10016.
Spiegel & McDiarmid, 2600 Virginia Ave., Washington, D.C. 20037.
Richmond Power & Light, P.O. Box 908, Richmond, Ind. 47374.
Oklahoma Gas & Electric, P.O. Box 321, Oklahoma City, Okla.
Tennessee Valley Authority, 721 Power Bldg., Chattanooga, Tenn. 37402.
The Ferroalloys Associations, 1612 K Street NW., Washington, D.C. 20006.
Ohio Ferro Alloys Association, P.O. Box 8228, Canton, Ohio 44711.

Docket No.	Company	Designation	Filing date
E-8614	Public Service Co. of Indiana, Inc.	Supplement No. 2 to supplement No. 6 to rate schedule FPC No. 208 (supersedes supplement No. 1 to supplement No. 6 to rate schedule FPC No. 208).	Mar. 29, 1974
	Louisville Gas & Electric Co.	Supplement No. 2 to supplement No. 1 to rate schedule FPC No. 21 (supersedes supplement No. 1 to supplement No. 1 to rate schedule FPC No. 21 and concurs in supplement No. 1 to supplement No. 2 to supplement No. 6 to rate schedule FPC No. 208).	Do.
E-8648	Duke Power Co.	Rate schedule FPC No. 265	Mar. 4, 1974
E-8682	Wisconsin Electric Power Co.	Rate schedule FPC No. 34	Mar. 25, 1974
E-8699	West Penn Power Co.	Supplement No. 6 to rate schedule FPC No. 18	Mar. 27, 1974
	The Potomac Edison Co.	Supplement No. 6 to rate schedule FPC No. 26	Do.
	Monongahela Power Co.	Supplement No. 6 to rate schedule FPC No. 22	Do.
	Public Service Electric & Gas Co.	Supplement No. 6 to rate schedule FPC No. 36	Do.
	Philadelphia Electric Co.	Supplement No. 6 to rate schedule FPC No. 27	Do.
	Pennsylvania Power & Light Co.	Supplement No. 6 to rate schedule FPC No. 41	Do.
	Baltimore Gas & Electric Co.	Supplement No. 6 to rate schedule FPC No. 17	Do.
	Potomac Electric Power Co.	Supplement No. 6 to rate schedule FPC No. 21	Do.
	Pennsylvania Electric Co.	Supplement No. 6 to rate schedule FPC No. 45	Do.
	Metropolitan Edison Co.	Supplement No. 6 to rate schedule FPC No. 23	Do.
	Jersey Central Power & Light Co.	Supplement No. 6 to rate schedule FPC No. 21	Do.
E-8702	Central Hudson Gas & Electric Corp.	Rate schedule FPC No. 48	Do.
	Consolidated Edison Co. of New York, Inc.	Rate schedule FPC No. 30	Do.
	Long Island Lighting Co.	Rate schedule FPC No. 17	Do.
	New York State Electric & Gas Corp.	Rate schedule FPC No. 58	Do.
	Niagara Mohawk Power Corp.	Rate schedule FPC No. 80	Do.
	Orange & Rockland Utilities, Inc.	Rate schedule FPC No. 26	Do.
	Rochester Gas & Electric Corp.	Rate schedule FPC No. 14	Do.
	Public Service Electric & Gas Co.	Rate schedule FPC No. 50	Do.
	Philadelphia Electric Co.	Rate schedule FPC No. 40	Do.
	Pennsylvania Power & Light Co.	Rate schedule FPC No. 64	Do.
	Baltimore Gas & Electric Co.	Rate schedule FPC No. 27	Do.
	Potomac Electric Power Co.	Rate schedule FPC No. 30	Do.
	Pennsylvania Electric Co.	Rate schedule FPC No. 71	Do.
	Metropolitan Edison Co.	Rate schedule FPC No. 44	Do.
	Jersey Central Power & Light Co.	Rate schedule FPC No. 33	Do.
E-8704	Virginia Electric & Power Co.	Supplement No. 2 to rate schedule FPC No. 78	Mar. 28, 1974
	Baltimore Gas & Electric Co.	Supplement No. 2 to rate schedule FPC No. 15	Do.
	Philadelphia Electric Co.	Supplement No. 2 to rate schedule FPC No. 38	Do.
	Pennsylvania Electric Co.	Supplement No. 2 to rate schedule FPC No. 46	Do.
	Pennsylvania Power & Light Co.	Supplement No. 2 to rate schedule FPC No. 43	Do.
	Potomac Electric Power Co.	Supplement No. 2 to rate schedule FPC No. 23	Do.
	Metropolitan Edison Co.	Supplement No. 2 to rate schedule FPC No. 28	Do.
	Jersey Central Power & Light Co.	Supplement No. 2 to rate schedule FPC No. 23	Do.
	Public Service Electric & Gas Co.	Supplement No. 2 to rate schedule FPC No. 37	Do.
E-8706	Commonwealth Edison Co.	Rate schedule FPC No. 15	Mar. 29, 1974
	Central Hudson Gas & Electric Corp.	Rate schedule FPC No. 47	Do.
	Consolidated Edison Co. of New York, Inc.	Rate schedule FPC No. 51	Do.
	Long Island Lighting Co.	Rate schedule FPC No. 18	Do.

Electrical Week, 433 National Press Bldg., Washington, D.C. 20004.
General Motors Corp., c/o Shannon and Morley, 1700 K Street NW., Washington, D.C.
Knight Newspapers, 1195 National Press Bldg., Washington, D.C. 20004.
R. W. Beck & Associates, P.O. Box 68, Columbus, Nebr. 68601.
Office of Senator Claiborne Pell, Room 325, Russell Senate Office Bldg., Washington, D.C. 20510.
Southern Services, Inc., 600 North 18th St., Birmingham, Ala. 35202.
Alabama Power Co., 600 North 18th St., Birmingham, Ala. 35202.
Georgia Power Co., 270 Peachtree St., Atlanta, Ga. 30302.
Balch, Bingham, Baker, Hawthorne, Williams & Ward, Birmingham, Ala. 35202.
PJM Interconnection, 955 Jefferson Ave., Norristown, Pa. 19401.
New England Power Exchange, 174 Brush Hill Ave., West Springfield, Mass. 01089.
New York Power Pool, 5890 Cayman Rd., Schenectady, N.Y. 12308.
Oliphant Washington Service, 800 17th St. NW., Washington, D.C. 20006.
American Electric Power Service Corp., P.O. Box 487, Canton, Ohio 44702.
American Electric Power Service Corp., 2 Broadway, New York, N.Y. 10004.
General Public Utilities Service Corp., 260 Cherry Hill Rd., Parsippany, N.J. 07054.
LeBoeuf, Lamb, Leiby & MacRae, 1 Chase Manhattan Plaza, New York, N.Y. 10005.
Berlach, Israel, & Liberman, 26 Broadway, New York, N.Y. 10004.
City of Richmond, City Hall, Richmond, Ind. 47374.

APPENDIX C

NEW ENGLAND POWER POOL PARTICIPANTS

[Docket No. RM74-22 et al.]

Fuel conservation rate filings (revised Apr. 22, 1974)

Docket No.	Company	Designation	Filing date
E-8591	Ohio Power Co.	Supplement No. 1 to supplement No. 16 to rate schedule FPC No. 52.	Apr. 9, 1974
	The Dayton Power & Light Co.	Supplement No. 1 to supplement No. 2 to rate schedule FPC No. 31.	Do.
E-8591	Indiana & Michigan Electric Co.	Supplement No. 4 to rate schedule FPC No. 58	Feb. 4, 1974
	Consumers Power Co.	Supplement No. 4 to rate schedule FPC No. 23 (certificate of concurrence).	Do.
	The Detroit Edison Co.	Supplement No. 5 to rate schedule FPC No. 13 (certificate of concurrence).	Do.
E-8591	Ohio Power Co.	Supplement No. 3 to rate schedule FPC No. 32 (supersedes supplement No. 4).	Apr. 10, 1974
	Columbus & Southern Ohio Electric Co.	Supplement No. 6 to rate schedule FPC No. 7 (supersedes supplement No. 4).	Do.
E-8603	Indiana & Michigan Electric Co.	Supplement No. 1 to supplement No. 3 to rate schedule FPC No. 40.	Apr. 9, 1974
	Public Service Co. of Indiana, Inc.	Supplement No. 1 to supplement No. 3 to rate schedule FPC No. 40.	Do.
E-8614	Public Service Co. of Indiana, Inc.	Supplement No. 2 to supplement No. 6 to rate schedule FPC No. 208 (supersedes supplement No. 1 to supplement No. 6 to rate schedule FPC No. 208 and concurs in supplement No. 1 to supplement No. 1 to rate schedule FPC No. 21 and concurs in Public Service Co. of Indiana, Inc., supplement No. 2 to supplement No. 6 to rate schedule FPC No. 208).	Mar. 29, 1974
	Louisville Gas & Electric Co.	Supplement No. 1 to supplement No. 16 to rate schedule FPC No. 52.	Apr. 9, 1974
E-8591	Ohio Power Co.	Supplement No. 1 to supplement No. 2 to rate schedule FPC No. 31.	Do.
	The Dayton Power & Light Co.	Supplement No. 4 to rate schedule FPC No. 58	Feb. 4, 1974
E-8591	Indiana & Michigan Electric Co.	Supplement No. 4 to rate schedule FPC No. 23 (certificate of concurrence).	Do.
	Consumers Power Co.	Supplement No. 5 to rate schedule FPC No. 13 (certificate of concurrence).	Do.
	The Detroit Edison Co.	Supplement No. 3 to rate schedule FPC No. 32 (supersedes supplement No. 4).	Apr. 10, 1974
E-8591	Ohio Power Co.	Supplement No. 6 to rate schedule FPC No. 7 (supersedes supplement No. 4).	Do.
E-8603	Columbus & Southern Ohio Electric Co.	Supplement No. 1 to supplement No. 3 to rate schedule FPC No. 40.	Apr. 9, 1974
	Indiana & Michigan Electric Co.	Supplement No. 1 to supplement No. 3 to rate schedule FPC No. 40.	Do.
E-8614	Public Service Co. of Indiana, Inc.	Supplement No. 2 to supplement No. 6 to rate schedule FPC No. 208 (supersedes supplement No. 1 to supplement No. 6 to rate schedule FPC No. 208 and concurs in supplement No. 1 to supplement No. 1 to rate schedule FPC No. 21 and concurs in Public Service Co. of Indiana, Inc., supplement No. 2 to supplement No. 6 to rate schedule FPC No. 208).	Mar. 29, 1974
	Louisville Gas & Electric Co.	Supplement No. 1 to supplement No. 16 to rate schedule FPC No. 52.	Apr. 9, 1974
E-8591	Ohio Power Co.	Supplement No. 1 to supplement No. 2 to rate schedule FPC No. 31.	Do.
	The Dayton Power & Light Co.	Supplement No. 4 to rate schedule FPC No. 58	Feb. 4, 1974
E-8591	Indiana & Michigan Electric Co.	Supplement No. 4 to rate schedule FPC No. 23 (certificate of concurrence).	Do.
	Consumers Power Co.	Supplement No. 5 to rate schedule FPC No. 13 (certificate of concurrence).	Do.
	The Detroit Edison Co.	Supplement No. 3 to rate schedule FPC No. 32 (supersedes supplement No. 4).	Apr. 10, 1974
E-8591	Ohio Power Co.	Supplement No. 6 to rate schedule FPC No. 7 (supersedes supplement No. 4).	Do.
	Columbus & Southern Ohio Electric Co.	Supplement No. 1 to supplement No. 3 to rate schedule FPC No. 40.	Apr. 9, 1974
E-8602	Indiana & Michigan Electric Co.	Supplement No. 1 to supplement No. 3 to rate schedule FPC No. 40.	Do.
	Public Service Co. of Indiana, Inc.	Supplement No. 1 to supplement No. 3 to rate schedule FPC No. 40.	Do.

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Docket No.	Company	Designation	Filing date
	New York State Electric & Gas Corp.	Rate schedule FPC No. 89	Do.
	Niagara Mohawk Power Corp.	Rate schedule FPC No. 81	Do.
	Orange & Rockland Utilities, Inc.	Rate schedule FPC No. 27	Do.
	Rochester Gas & Electric Corp.	Rate schedule FPC No. 15	Do.
	NEPOOL	Rate schedule FPC No. 1	Do.
E-8710	Ohio Edison Co	Rate schedule FPC No. 118	Apr. 19, 1974.
E-8711	West Penn Power Co	Supplement No. 6 to rate schedule FPC No. 24	Do.
	Duquesne Light Co	Supplement No. 6 to rate schedule FPC No. 9 (certificate of concurrence).	Apr. 5, 1974.
E-8715	Carolina Power & Light Co.	Supplement No. 7 to rate schedule FPC No. 97	Do.
	South Carolina Electric & Gas Co.	Supplement No. 2 to rate schedule FPC No. 29	Do.
E-8716	Illinois Power Co	Supplement No. 5 to rate schedule FPC No. 9	Apr. 4, 1974.
	Indiana & Michigan Electric Co.	Supplement No. 6 to rate schedule FPC No. 3	Do.
E-8718	Central Illinois Public Service Co.	Rate schedule FPC No. 76	Apr. 8, 1974.
E-8719	Indianapolis Power & Light Co.	Supplement No. 5 to rate schedule FPC No. 1	Apr. 5, 1974.
	Indiana & Michigan Electric Co.	Supplement No. 7 to rate schedule FPC No. 21	Do.
E-8720	Carolina Power & Light Co.	Supplement No. 2 to rate schedule FPC No. 96	Do.
	Virginia Electric & Power Co.	Supplement No. 7 to rate schedule FPC No. 95 (certificate of concurrence).	Do.
E-8722	The Cleveland Electric Illuminating Co.	Supplement No. 2 to rate schedule FPC No. 4	Do.
	Public Service Electric & Gas Co.	Supplement No. 2 to rate schedule FPC No. 38	Do.
	Philadelphia Electric Co	Supplement No. 2 to rate schedule FPC No. 29	Do.
	Pennsylvania Power & Light Co.	Supplement No. 2 to rate schedule FPC No. 44	Do.
	Baltimore Gas & Electric Electric Co.	Supplement No. 2 to rate schedule FPC No. 19	Do.
	Potomac Electric Power Co.	Supplement No. 2 to rate schedule FPC No. 24	Do.
	Pennsylvania Electric Co.	Supplement No. 2 to rate schedule FPC No. 49	Do.
	Metropolitan Edison Co.	Supplement No. 2 to rate schedule FPC No. 29	Do.
	Jersey Central Power & Light Co.	Supplement No. 2 to rate schedule FPC No. 24	Do.
E-8725	Louisville Gas & Electric Co.	Rate schedule FPC No. 26	Apr. 10, 1974.
E-8726	Central Illinois Light Co	Supplement No. 1 to rate schedule FPC No. 14	Apr. 11, 1974.
	Illinois Power Co	Supplement No. 8 to rate schedule FPC No. 63 (certificate of concurrence).	Do.
E-8727	Pennsylvania Power Co	Rate schedule FPC No. 28	Apr. 12, 1974.

APPENDIX D

NEW ENGLAND POWER POOL PARTICIPANTS

[Docket No. RM74-22, *et al.*]

Intervention Petitions [2]

Docket No. E-8550: New England Power Pool Participants (granted by order of January 11, 1974); Virginia State Corporation Commission; Virginia Electric and Power Company; West Virginia Public Service Commission; Long Island Lighting Company; Richmond Power & Light Company; and City of Richmond, Indiana; and General Motors Corporation; Michael J. Harrington, Member of Congress, 6th District, Massachusetts;

Docket No. E-8565: New England Power Pool Participants;

Docket No. E-8567: New England Power Pool Participants;

Docket No. E-8589: Potomac Electric Power Company; Virginia State Corporation Commission; Public Service Electric and Gas Company; Baltimore Gas and Electric Company; Richmond Power & Light Company; and Iowa State Commerce Commission; Honorable Michael J. Harrington, Member of Congress, 6th District, Massachusetts;

Docket No. E-8591: New England Power Pool Participants; and Consumers Power Company;

Docket No. E-8602: Richmond Power & Light Company.

[FR Doc.74-10399 Filed 5-7-74;8:45 am]

[2] All applicants, petitioners, respondents and customers required to file pursuant to section 35 of the Commission's Regulations under the Federal Power Act listed in Appendix hereto, are deemed parties in these proceedings.

[Docket No. E-8726]

CENTRAL ILLINOIS LIGHT CO.

Modification of Interconnection Agreement

MAY 1, 1974.

Take notice that on April 11, 1974, Central Illinois Light Company (Applicant) filed, pursuant to section 35 of the Commission's regulations, a modification to the Interconnection Agreement, dated March 30, 1973, between Applicant and Illinois Power Company. Said Interconnection Agreement has been designated as Applicant's Rate Schedule FPC No. 14 and as Illinois Power Company Rate Schedule FPC No. 63. The modification tendered in this application deals with efforts by the parties toward conservation of fuel.

Service Schedule G in the tendered filing provides for the delivery of "Fuel Conservation Power and Energy" when such service is requested by one party and is available from the supplying party. The application states that neither company has a rate similar to the one set forth in Service Schedule G, and further states that this new rate was arrived at by negotiation.

The proposed effective date for Service Schedule G is April 3, 1974 and the Applicant requests a waiver of the Commission's notice requirements, pursuant to § 35.11 of the regulations.

Illinois Power Company has filed a Certificate of Concurrence in this matter.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commisison's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participates as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10478 Filed 5-7-74;8:45 am]

[Docket No. CP74-267]

COLORADO INTERSTATE GAS CO.

Notice of Application

MAY 1, 1974.

Take notice that on April 18, 1974, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP74-267 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities in Arapahoe County, Colorado, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to abandon and salvage natural gas purchase meter stations and lateral pipelines at the Bombing Range, Iron Horse and Dragoon II Fields, Arapahoe County, Colorado, which, Applicant states, were constructed pursuant to authority granted by budget-type certificates issued on June 1, 1972 (47 FPC 1439), May 7, 1971 (45 FPC 928), and March 9, 1973 (49 FPC 633), respectively. Applicant states that these facilities are no longer required by Applicant, since Sun Oil Company (Sun) has acquired the rights to all the gas produced from the associated acreage and will process the gas through its Denver Central Plant. Applicant states that it has installed a measurement facility and approximately 0.53 miles of lateral pipeline pursuant to a budget type certificate issued on March 9, 1973 (49 FPC 633), in order to receive said gas at Sun's plant.

In connection with the receipt of gas at a central location, Applicant intends to sell to Sun gathering lines, and dehyject to the jurisdiction of the Commission, with a book value of $84,564, connected to the Herskind No. 1 and Schmidt No. 1 Wells, which wells Sun is currently operating.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10479 Filed 5-7-74;8:45 am]

[Docket No. CP74-269]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

MAY 1, 1974.

Take notice that on April 19, 1974, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314 filed in Docket No. CP74-269 an application pursuant to sections 7 (b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a natural gas transmission loop replacement pipeline and an increase in the volumes of natural gas exchanged by it with Washington Gas Light Company (Washington Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 8.4 miles of 36-inch gas transmission pipeline loop in Loudoun County, Virginia, replacing approximately 20.1 miles of existing 26-inch gas transmission pipeline, which has experienced failures during operation and testing, in the same county.[1] Applicant alleges that the capacity of the proposed line is sufficient to replace the loss in capacity due to the retirement of the 20.1 miles of pipeline and that the new capacity will be sufficient to permit the proposed increase in service to Washington Gas.

Applicant states that it was authorized by the Commission in Docket No. CP71-198 on April 26, 1971 (45 FPC 600), to provide an exchange service to Washington Gas pursuant to a letter agreement between Washington Gas and Applicant dated December 15, 1970, which agreement is on file with the Commission as Applicant's Rate Schedule X-30 in its FPC Gas Tariff, Original Volume No. 2. Applicant indicates that it receives 35,000 Mcf of gas per day from Washington Gas' subsidiary, Hampshire Gas Company, at Applicant's Lost River Compressor Station in Hardy County, West Virginia, and that Applicant simultaneously delivers equivalent volumes to Washington Gas at existing points of delivery in Washington Gas' market area. Applicant states that Washington Gas has requested that Applicant increase the existing exchange service from 35,000 Mcf of gas per day to 50,000 Mcf of gas per day. Applicant indicates that it is willing to provide the expanded service to Washington Gas and indicates that the terms and conditions of the new exchange detailed under an April 9, 1974, agreement between Applicant and Washington Gas will be identical to the existing agreement except for the volumes exchanged. The application states that no change is contemplated in the basis of Applicant's charges to Washington Gas and that the identical unit rate is maintained and applied to the proposed increase in exchange volumes.

Applicant estimates that the cost of the proposed construction, including Commission filing fees is $2,710,000, which cost will be financed by the sale of securities to Applicant's parent company, Columbia Gas System, Inc. Applicant also indicates that the estimated net debit to retirement due to the proposed retirement of the 20.1 miles of 26-inch pipeline will be $1,468,105.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10480 Filed 5-7-74;8:45 am]

[Docket No. CI74-565]

CORPENING ENTERPRISES

Notice of Application

MAY 1, 1974.

Take notice that on April 12, 1974, A. V. Corpening, Jr., d/b/a Corpening Enterprises (Applicant), 1308 Continental National Bank Building, Fort Worth, Texas 76102, filed in Docket No. CI74-565 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Company (Northern) from Gaines County, Texas, all as more fully set forth in an application which is on file with the Commission and open to public inspection.

Applicant states that it began an emergency sale of gas to Northern from subject gathering facilities on March 14, 1974, for 180 days within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale after the emergency period for a term of one year at 45.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 Mcf of gas per day and estimates monthly gas sales to be 60,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1974, file with the Federal Power Com-

[1] The application indicates that 21,634 feet of 26-inch pipe will be removed, 32,777 feet of 26-inch pipe will be utilized in place as ground bed, and the remaining 51,458 feet of 26-inch pipe will be retired in place.

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mission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds a grant of the certificate required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10477 Filed 5-7-74;8:45 am]

[Docket No. CI74-564]

DALLAS OIL & GAS, INC.

Notice of Application

MAY 1, 1974.

Take notice that on April 12, 1974, Dallas Oil & Gas, Inc. (Applicant), Suite 101, 2995 L.B.J. Freeway, Dallas, Texas 75234, filed in Docket No. CI74-564 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Trunkline Gas Company (Trunkline) from the Scott Field, Wharton County, Texas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it began an emergency sale of natural gas from the subject acreage to Trunkline on February 8, 1974, for 180 days within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale after the emergency period for one year at 55.0 cents per Mcf at 14.65 psia within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant estimates monthly deliveries of gas to Trunkline at 90,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10481 Filed 5-7-74;8:45 am]

[Docket No. E-8744]

DELMARVA POWER AND LIGHT CO.

Change in Rate Schedule

MAY 1, 1974.

Take notice that on April 22, 1974 Delmarva Power and Light Company (Delmarva) tendered for filing a change in rate schedule. Delmarva states that its five percent rate increase is due to the Delaware five percent utilities tax which became effective January 1, 1974 for sales to Delaware municipalities made under Delmarva's FPC Electric Tariff, Volume No. 4, and Rate Schedule FPC No. 35, Supplement No. 1. Delmarva states that the Delaware Utilities Tax will accordingly require an increase in charges to its customers from and after January 1, 1974 in an amount necessary to recover such additional tax.

As provided in the "Tax Provision" clause in FPC Electric Tariff, Volume No. 4 and FPC Rate Schedule No. 35, Supplement No. 1, all billings to Delmarva wholesale for resale customers under such tariff and such rate schedule are increased by 5 percent, the amount of the tax. This amount is remitted upon collection, in its totality, to the State of Delaware.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-10482 Filed 5-7-74;8:45 am]

[Docket No. CI74-580]

GETTY OIL CO.

Notice of Application

MAY 1, 1974.

Take notice that on March 29, 1974, Getty Oil Company (Applicant), P.O. Box 1404, Houston, Texas 77001, filed in Docket No. CI74-580 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas in interstate commerce to Skelly Oil Company (Skelly) from acreage in Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to abandon the sale of gas to Skelly from the Blinebry, et al., Field, in Lea County, New Mexico, which has been made pursuant to a percentage-type contract with Skelly. Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly and as gas wells, the gas-well gas is not dedicated to Skelly. Applicant states that it proposes to abandon the subject sale because the New Mexico Oil Conservation Commission has reclassified the wells from oil wells to gas wells; and, therefore, Skelly is no longer contractually entitled to the gas from said wells.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10483 Filed 5-7-74;8:45 am]

[Rate Schedule Nos. 59, etc.]

TENNECO OIL CO. AND MONSANTO CO.

Rate Change Filings

MAY 1, 1974.

Take notice that the producers listed in the Appendix attached below have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Apr. 11, 1974	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	59	Arkansas Louisiana Gas Co.	Other Southwest.
Apr. 15, 1974	do	52	do	Do.
Do	do	105	do	Do.
Apr. 22, 1974	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77027.	45	Tennessee Gas Pipeline Co.	Texas Gulf Coast.

[FR Doc.74-10498 Filed 5-7-74;8:45 am]

[Docket No. E-8365]

KANSAS CITY POWER & LIGHT CO.

Filing of Motion To Accept Settlement Agreement

MAY 1, 1974.

Take notice that on April 26, 1974, Kansas City Power and Light Company (KCPL) filed in the above-referenced docket a Motion requesting that the Commission (a) accept a Settlement Agreement, and (b) issue an Order (i) accepting and putting into effect the revised schedules conditionally filed with the Commission's Secretary, and (ii) terminating the proceedings in this docket without further conferences or hearings herein. According to KCPL, the settlement agreement entered into with KCPL's cooperative wholesale customers, with the approval of the Commission's staff, would resolve all issues between KCPL and the parties to these proceedings. Under such settlement agreement and the revised schedules conditionally filed therewith, KCPL's proposed $743,773 increase in annual revenues based on sales to wholesale customers during the 12-month test period ended December 31, 1972, would be reduced to $530,819.

Any party to these proceedings desiring to protest such motion and settlement agreement should file comments or protests with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.10). All such comments or protests should be filed on or before May 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of the motion, the settlement agreement, and the revised schedules are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10485 Filed 5-7-74;8:45 am]

[Docket No. CI74-568]

LOUISIANA LAND AND EXPLORATION CO.

Notice of Application

MAY 1, 1974.

Take notice that on April 12, 1974, The Louisiana Land and Exploration Company (Applicant), P.O. Box 60350, New Orleans, Louisiana 70160, filed in Docket No. CI74-568 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Company (Texas Eastern), from Block 321, East Cameron Area, offshore Louisiana, all as more fully set forth in an application which is on file with Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell approximately 60,000 Mcf of gas per month at an initial rate of 60 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment, pursuant to a contract dated January 28, 1974. Said contract provides for fixed annual price escalations of 2 cents per Mcf over the 20-year life of the contract and for 7/8ths reimbursement for any new or increased taxes. Applicant requests pregranted abandonment authorization.

Applicant states that the sale is of critical importance in assisting Texas Eastern to meet the firm demands for gas on its system during the contract term, and that the contract price is lower than prices for base load sales of liquefied natural gas or synthetic gas and prices for peak shaving sales of LNG for which applications for authorization are pending before, or have been approved by, the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own re-

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view of the matter finds a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10486 Filed 5-7-74;8:45 am]

[Docket No. CI74-575]

MESA PETROLEUM CO.

Notice of Application

MAY 1, 1974.

Take notice that on April 18, 1974, the Mesa Petroleum Co. (Applicant), P.O. Box 2009, Amarillo, Texas 79105, filed in Docket No. CI74-575 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco) from the Block 22-L Field, High Island Area, offshore Jefferson County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell under the optional gas pricing procedure natural gas to Transco from the subject acreage at an initial price of 45.0 cents per Mcf at 14.65 psia. The contract for the subject sale dated April 16, 1974, provides for 0.5 cent per Mcf per year price escalations, reimbursement to seller of 87.5 percent of any new or additional taxes, and a contract term of 20 years from the date of initial delivery. Applicant estimates sales volumes will be 5,000 Mcf per day.

Applicant states that the contract price is lower than prices in recently executed and certificated interstate contracts and low in comparison wih recent intrastate contract prices and is, therefore, a bargain for the interstate market. Applicant further states that Transco and its customers would be forced to pay considerably more for alternate or substitute fuels.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10487 Filed 5-7-74;8:45 am]

[Docket No. CP72-279]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Amendment to Petition

MAY 1, 1974.

Take notice that on April 18, 1974, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP72-279 an amendment to its petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act in said docket on December 6, 1972 (48 FPC 1206), as amended October 9, 1973 (50 FPC), to delete the Town of Corn, Oklahoma (Corn), from the list of participating customers in the storage service described in said petition to amend, due notice of which was given by the Commission in the FEDERAL REGISTER on February 15, 1974 (39 FR 5818), all as more fully set forth in the amendment to the petition to amend, which is on file with the Commission and open to public inspection.

In the instant amendment Petitioner is deleting Corn from among those customers participating in Petitioner's 100-day storage service of 59,100 Mcf of gas per day, provided under Petitioner's FPC Rate Schedule S-3, which service Petitioner proposes to continue until February 28, 1975. Petitioner states that Corn has declined the storage service due to financial circumstances. Petitioner further intends to reallocate Corn's share of 18 Mcf per day to the following customers:

	Thousand cubic feet
The Peoples Gas Light & Coke Co.	13
North Shore Gas Co.	2
Illinois Power Co.	2
Iowa Electric Light & Power Co.	1
Total	18

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10488 Filed 5-7-74;8:45 am]

[Docket No. E-8641, etc.]

NEW ENGLAND POWER CO.

Order Upon Petition for Emergency Relief; Correction

APRIL 25, 1974.

In the Order upon petition for emergency relief, suspending proposed changes in rates, setting matter for hearing, consolidating proceedings and permitting interventions, issued March 29, 1974 and published in the FEDERAL REGISTER, April 8, 1974, 39 FR 12794, page 12795, third paragraph, line 14 change "April 30, 1974" to "September 1, 1974".

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10490 Filed 5-7-74;8:45 am]

[Docket No. E-8742]

NEW YORK STATE ELECTRIC AND GAS CORP.

Amendment to Agreement

APRIL 30, 1974.

Take notice that on April 17, 1974, New York State Electric and Gas Corporation (NYSEG) tendered for filing a letter agreement, dated February 21, 1974, which constitutes an amendment to its agreement, NYSEG FPC 48, dated March 12, 1970, among NYSEG, Port Authority of the State of New York, Niagara Mohawk Power Corporation and Rochester Gas and Electric Corporation. NYSEG states the said amendment extends the terms of the said agreement to November 1, 1974. According to NYSEG, the said agreement provides for the sale by NYSEG, Niagara Mohawk and Rochester Gas and Electric to the Power Authority of the State of New York of up to 200,000 kilowatts of power for supplying specified high load factor manufacturers.

NYSEG requests an effective date of April 1, 1974, for said amendment.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 13, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10489 Filed 5-7-74;8:45 am]

[Docket Nos. CP70-69, etc., RP74-80]

NORTHERN NATURAL GAS CO.

Petition to Amend

MAY 1, 1974.

Take notice that on April 19, 1974, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP70-69, et al., a petition to amend the order accompanying Opinion No. 618 issued in said dockets on May 11, 1972 (47 FPC 1202), pursuant to section 3 of the Natural Gas Act, which order authorized Applicant to export natural gas to Canada from Montana and to import gas from Canada, by authorizing Petitioner to include in its cost of service an amount derived upon the basis of a lesser volume of exported gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The importation authorized by the subject order is subject to the condition that in any rate filing made by Petitioner pursuant to section 4(e) of the Natural Gas Act for an increase in jurisdictional rates to become effective within eight years from the date of initial delivery of Montana gas, Petitioner shall not include in its total cost of service a cost of service for Montana gas delivered into the system of Trans Canada Pipe Lines Ltd. (Trans Canada) which, calculated on a unit basis, exceeds the unit cost of service derived by utilizing an annual delivered volume of 41 million Mcf, minus estimated company use gas, at the point where gas is introduced into Trans Canada's system. Petitioner requests that it no longer be subject to this condition.

Petitioner states that the projected delivery of 41 million Mcf of natural gas from its Montana reserves has not occurred as expected because of the inadequate rate of drilling, which is due to the lack of incentive supplied the producers under the present area rate of 23.5 cents per Mcf and because of inadequate production history that had to be used in predicting the output for the Tiger Ridge Field, which is Petitioner's principal area of reserves in Montana. Petitioner submits that in 1973 production from the Montana reserves dedicated to Petitioner was 29 million Mcf and that testimony by Petitioner in support of its rate filing in Docket No. RP74-80 will reflect production of 26 million Mcf for 1974. Petitioner further states that it has contracted to increase the base price for natural gas delivered at the wellhead in the Tiger Ridge-Bullhook and Sherard Areas of Montana to 40 cents per Mcf.

Petitioner requests a hearing on the instant petition and further requests that this matter be consolidated with the proceeding on the change in rate proposed in Docket No. RP74-80.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10), and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10491 Filed 5-7-74;8:45 am]

[Docket No. E-8739]

OKLAHOMA GAS AND ELECTRIC CO.

Cancellation of Rate Schedule

APRIL 30, 1974.

Take notice that on April 16, 1974 Oklahoma Gas and Electric Company (Oklahoma) tendered for filing notice of cancellation Rate Schedule Supplement No. 16 to FPC No. 21A, dated December 30, 1973. Oklahoma states the above mentioned Rate Schedule shall be completed under the provisions of its own terms on May 31, 1974.

Oklahoma proposes an effective date of May 31, 1974 for said cancellation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10492 Filed 5-7-74;8:45 am]

[Docket No. E-8741]

POTOMAC ELECTRIC POWER CO. AND SOUTHERN MARYLAND ELECTRIC CO-OPERATIVE, INC.

Notice of Complaint

MAY 1, 1974.

Take notice that on April 18, 1974, Potomac Electric Power Company (PEPCO) filed with the Commission a complaint against Southern Maryland Electric Cooperative, Inc. (SMECO) pursuant to section 206 of the Federal Power Act, and supporting testimony and exhibits, seeking a determination that the present rates for sale of electric energy to SMECO are unjust and unreasonable because they are so low as to adversely affect the public interest. PEPCO states that the present rates to SMECO are fixed by a full requirements contract entered into in 1963 which cannot expire by process of its own terms before August 1978. PEPCO alleges that the rate of return from sales to SMECO in calendar 1973, 1.41 percent, and in calendar 1974, —.57 percent, are so low as to adversely affect the public interest because they result in confiscation of PEPCO property. PEPCO further alleges that the contract rates are unjust, unreasonable, unduly preferential and discriminatory, and unlawful in that they result in the sale of energy significantly below cost at the time of energy emergency declared by this Commission.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1974. Protests will be considered by the Commisison in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10493 Filed 5-7-74;8:45 am]

[Docket No. CI74-581]

SKELLY OIL CO.

Notice of Application

MAY 1, 1974.

On April 1, 1974, Skelly Oil Company (Applicant), P.O. Box 1650, Tulsa, Okla-

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homa 74102, filed in Docket No. CI74–581 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas in interstate commerce in Winkler County, Texas, to Texaco Inc. (Texaco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to abandon the sale of gas to Texaco from the South Kermit Field, Winkler County, Texas, which has been made pursuant to a percentage-type contract with Texaco. Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Texaco, and as gas wells the gas-well gas is not dedicated to Texaco. Applicant states that it proposes to abandon the subject sale because the Texas Railroad Commission has reclassified the wells from oil wells to gas wells; and, therefore, Texaco is no longer contractually entitled to the gas from the subject acreage. Applicant states that it is currently negotiating with Transwestern Pipeline Company (Transwestern), the purchaser of the residue gas from Texaco an agreement under which it can sell the gas-well gas to Transwestern initially within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and then within contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10494 Filed 5–7–74;8:45 am]

[Docket No. E–8743]

ST. JOSEPH LIGHT & POWER CO.

Notice of Rate Schedule

MAY 1, 1974.

Take notice that on April 18, 1974, St. Joseph Light and Power Company (St. Joseph) tendered for filing as an initial rate schedule a Power Flow Agreement dated December 31, 1968, between St. Joseph and Iowa Power and Light Company.

St. Joseph states the said Agreement provides for the transformation of electric energy from 345 KV to 161 KV at the St. Joseph Substation and the transmission of this energy to a point of interconnection between the parties at the Iowa-Missouri State Line. St. Joseph further states the charges for such service for a one-year period immediately following the commencement of service are estimated to be $49,200 payable in monthly installments.

St. Joseph proposes an effective date of June 1, 1974, for said Agreement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10495 Filed 5–7–74;8:45 am]

[Docket No. CI74–569]

TEXACO INC.

Notice of Application

MAY 1, 1974.

Take notice that on April 15, 1974, Texaco Inc. (Applicant), P.O. Box 430, Bellaire, Texas 77401, filed in Docket No. CI74–569 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America (Natural) from the Block 88 Field, High Island Area, offshore Texas, all as more fully set forth in an application which is on file with the Commission and open to public inspection.

Applicant proposes to sell to Natural approximately 20,000 Mcf of gas per day for one year commencing May 31, 1974, at 45.0 cents per million Btu at 14.65 psia within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10497 Filed 5–7–74;8:45 am]

[Docket No. CI74–573]

UNION OIL COMPANY OF CALIFORNIA

Notice of Application

MAY 1, 1974.

Take notice that on April 18, 1974, Union Oil Company of California (Applicant), P.O. Box 7600, Los Angeles, California 90051, filed in Docket No. CI74–573 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Gas Transmission Corporation (Texas Gas), from the R. Parker Well No. 1, East Angelita Area, San Patricio County, Texas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it commenced a sixty-day emergency sale of natural gas to Texas Gas from said well within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for three years from the end of the emergency period at 70.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant estimates monthly deliveries of gas to Texas Gas at 54,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10498 Filed 5–7–74;8:45 am]

IMPORTATION AND PRICE OF NATURAL GAS UNDER EXPORT FROM DOMINION OF CANADA

Notice of Public Conference

MAY 3, 1974.

A public conference between members of the Federal Power Commission staff and representatives of Northwest Pipeline Corporation, Great Lakes Gas Transmission Company, Midwestern Gas Transmission Corporation, Michigan-Wisconsin Pipeline Company, Natural Gas Pipeline Company of American and Pacific Gas Transmission Company will be held in a Hearing Room at the Federal Power Commission offices, 825 North Capitol Street, NE., Washington, D.C., on Friday, May 10, 1974, at 9:30 A.M. to discuss the importation and price of natural gas under export from the Dominion of Canada.

The conference has been called pursuant to a request of Northwest Pipeline Corporation (Northwest). Northwest states that it has contacted representatives of present holders of Section 3 import authorizations, including Great Lakes Gas Transmission Company, Midwestern Gas Transmission, Michigan-Wisconsin Pipeline Company, Natural Gas Pipeline Company of America, and Pacific Gas Transmission Company, and that these representatives either support or have no objection to the convening of such a conference. Northwest also states that it has undertaken to notify each of its customers and state regulatory commissions and has solicited the cooperation of each of the above-named companies in doing the same.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10646 Filed 5–7–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 502]

ASSIGNMENT OF HEARINGS

MAY 2, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after May 8, 1974.

MC–F–11626, Eastern Freight Ways, Inc.—Investigation of Control—Associated Transport, Inc., now assigned May 13, 1974, at Washington, D.C., is postponed to June 24, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–F–11632, Eastern Freight Ways, Inc.—Control and Merger—Associated Transport, Inc., now assigned May 13, 1974, at Washington, D.C., is postponed to June 24, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138928 Sub 2, Gencom, Inc., now assigned June 11, 1974, will be held in Room 609, Federal Office Bldg., 911 Walnut St., Kansas City, Mo.

MC 133777 Sub-8, Metal Carriers, Inc., now assigned June 17, 1974; MC 135874 Sub-31, LTL Perishables, Inc., now assigned June 19, 1974; and I & S No. 8930, Export Rates to Gulf Ports, Burlington Northern Inc., now assigned June 24, 1974, at Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut St.

MC–F–12038, Arrow Motor Freight Line, Inc.—Control & Merger—Rite-Way Trucking Co., now assigned June 5, 1974, will be held in Room 609, Federal Office Bldg., 911 Walnut Street, Kansas City, Mo.

MC 111231 Sub 183, Jones Truck Lines, Inc., now assigned June 12, 1974, will be held in Room 609, Federal Office Bldg., 911 Walnut St., Kansas City, Mo.

MC 114632 Sub 65, Apple Lines, Inc., now assigned June 10, 1974, will be held in Room 609, Federal Office Bldg., 911 Walnut St., Kansas City, Mo.

MC 128981 Sub 7, Land-Air Delivery, Inc., now assigned June 3, 1974, will be held in Room 609, Federal Office Bldg., 911 Walnut St., Kansas City, Mo.

Valuation Docket No. 1423 (1971 Report), Williams Brothers Pipeling Company now assigned pre-hearing conference May 15, 1974, at Washington, D.C., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–10504 Filed 5–7–74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 2, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before May 23, 1974.

FSA No. 42830—*Fruits and Vegetables Between Points in Colorado and Utah and Points in WTL, Official, Southern and Southwestern Territories.* Filed by Western Trunk Line Committee, Agent, (No. A–2703), for interested rail carriers. Rates on fruits, fresh, or vegetables, fresh or green (not cold-pack nor frozen), in carloads, as described in the application, between points in Colorado and Utah (west of ICC Docket 28300 Boundary), on the one hand, and points in western trunk-line, official, southern and southwestern territories, on the other.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariffs—Western Trunk Line Committee, Agent, tariff 491, I.C.C. No. A–4927, and supplement 57 to Southwestern Freight Bureau, Agent, tariff SW/W–2006–J, I.C.C. No. 5056. Rates are published to become effective on May 31, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–10506 Filed 5–7–74;8:46 am]

[Rule 19, Ex Parte No. 241; 10th Rev. Exemption No. 43]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. ET AL.

Mandatory Car Service Exemption

To: The Atchison, Topeka and Santa Fe Railway Company; Burlington North-

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ern Inc.; Chicago and North Western Transportation Company; Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Chicago, Rock Island and Pacific Railroad Company; Illinois Central Gulf Railroad Company; Missouri Pacific Railroad Company; Norfolk and Western Railway Company; St. Louis-San Francisco Railway Company; Soo Line Railroad Company; Union Pacific Railroad Company.

It appearing, That there are massive movements of grain, including rice and soybeans, in progress in the states of Arkansas, Iowa, Kansas, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas, and of cotton in certain of the aforementioned states; that present supplies of plain boxcars owned by the railroads serving these states are inadequate to move the newly harvested grain and cotton to terminal facilities for safe storage; that use of available plain boxcars owned by other carriers for movements of this grain and cotton will substantially augment the car supplies of the railroads named herein.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the railroads named herein, and their short line connections, are hereby authorized to use and to accept from shippers shipments of grain and cotton originating at stations located in Arkansas, Iowa, Kansas, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas, when loaded into plain 40-ft. narrow-door boxcars of various ownerships without regard to the requirements of Car Service Rule 2.

Exception. This exemption shall not apply to plain boxcars subject to *Interstate Commerce Commission Revised Service Order No. 1174, or to Association of American Railroads' Car Relocation Directives Nos. 44 and 67; *nor to plain boxcars bearing reporting marks assigned to The Atchison, Topeka, and Santa Fe Railway Company, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, or the Soo Line Railroad Company.

Effective 12:01 a.m., April 25, 1974.

Expires 11:59 p.m., May 31, 1974.

Issued at Washington, D.C., April 25, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-10500 Filed 5-7-74;8:45 am]

[Rule 19, Ex Parte No. 241; Exemption No. 63, Amdt. 1]

BESSEMER AND LAKE ERIE RAILROAD CO. AND PENN CENTRAL TRANSPORTATION CO.

Mandatory Car Service Exemption

To: Bessemer and Lake Erie Railroad Company and Penn Central Transportation Company, George P. Baker, Robert W. Blanchette, and Richard C. Bond, Trustees.

Upon further consideration of Exemption No. 63 issued February 12, 1974.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 63 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire July 31, 1974.

This amendment shall become effective April 30, 1974.

Issued at Washington, D.C., April 30, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-10501 Filed 5-7-74;8:45 am]

[Rule 19, Ex Parte No. 241; Exemption No. 56, Amdt. 4]

ERIE LACKAWANNA RAILWAY CO. AND PENN CENTRAL TRANSPORTATION CO.

Mandatory Car Service Exemption

To: Erie Lackawanna Railway Company, Thomas F. Patton and Ralph S. Tyler, Jr., Trustees. Penn Central Transportation Company, George P. Baker, Robert W. Blanchette, and Richard C. Bond, Trustees.

Upon further consideration of Exemption No. 56 issued October 31, 1973.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 56 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire July 31, 1974.

This amendment shall become effective April 30, 1974.

Issued at Washington, D.C., April 24, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-10503 Filed 5-7-74;8:45 am]

[Rule 19, Ex Parte No. 241; Exemption No. 55, Amdt. 4]

NORFOLK AND WESTERN RAILWAY CO. AND PENN CENTRAL TRANSPORTATION CO.

Mandatory Car Service Exemption

To: Norfolk and Western Railway Company and Penn Central Transportation Company, George P. Baker, Robert W. Blanchette, and Richard C. Bond, Trustees.

Upon further consideration of Exemption No. 55, issued October 31, 1973.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 55 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire July 31, 1974.

This amendment shall become effective April 30, 1974.

Issued at Washington, D.C., April 26, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-10499 Filed 5-7-74;8:45 am]

[I.C.C. Order No. 88, Amdt. 5; Rev. Service Order No. 994]

PENN CENTRAL TRANSPORTATION CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 88 (Penn Central Transportation Company, George P. Baker, Robert W. Blanchette, and Richard C. Bond, Trustees) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 88 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1974 unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., April 30, 1974, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 30, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-10502 Filed 5-7-74;8:45 am]

[Notice No. 74]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 27, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75017. By order entered May 1, 1974, the Motor Carrier Board approved the transfer to P & G Motor Express, Inc., St. Louis, Ill., of the operating rights set forth in Certificate No. MC-60879, issued December 3, 1963, to F. T. Trucking Co., Inc., East St. Louis, Ill., authorizing the transportation of general commodities, with the usual exceptions, between Marine, Ill., and St. Louis, Mo., over specified routes, serving the intermediate and off-route points of Troy and Saint Jacob, Ill., and those within one mile of Troy, Ill.; those within one mile of Saint Jacob, Ill.; and those within five miles of Marine, Ill. Ernest A. Brooks II, 1301-02 Ambassador Building, St. Louis, Mo. 63101, attorney for applicants.

No. MC-FC-75068. By order entered May 1, 1974, the Motor Carrier Board approved the transfer to Evans Trucking Co., an Ohio corporation, Beaver Falls, Pa. of the operating rights set forth in Certificates Nos. MC-52464 and MC-52464 (Sub-No. 3), issued August 15, 1967, and August 17, 1970, respectively, to Evans Trucking Co., a Pennsylvania Corporation, Beaver Falls, Pa., authorizing the transportation of iron and steel articles, machinery, electrical equipment, iron castings, and empty reels used in transporting wire, sand, general commodities, with the usual exceptions, alloys and alloy scrap, scrap ferro-alloys and ferro-alloy fines, refractories, crucibles, grinding wheels, refractory cements and alloys, scrap refractory materials and scrap grinding-wheel materials, and abrasive grains, from, to, or between points in Maryland, Michigan, New York, Ohio, Pennsylvania, and West Virginia. David A. Turano, 100 East Broad Street, Columbus, Ohio 43215, attorney for applicants.

No. MC-FC-75080. By order entered May 1, 1974, the Motor Carrier Board approved the tarnsfer to Computer Specialists, North Bergen, N.J. of the operating rights set forth in Certificate No. MC-41688, issued December 3, 1969, to Thompson Brothers Moving, Inc., North Hackensack, N.J., authorizing the transportation of household goods as defined by the Commission, between points in Bergen, Passaic, Hudson, Union, Essex, and Morris Counties, N.J., on the one hand, and, on the other, points in New Jersey, New York, Pennsylvania, Connecticut, Massachusetts, Ohio, Maryland, and the District of Columbia. Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904, practitioner for applicants.

No. MC-FC-75092. By order entered May 1, 1974, the Motor Carrier Board approved the transfer to Donald W. Kamann, doing business as Bigfork Valley Express, Bigfork, Minn., of the operating rights set forth in Certificate of Registration No. MC-85522 (Sub-No. 1), issued July 23, 1964, to Clarence York, Sr., doing business as Bigfork Valley Express, Bigfork, Minn., evidencing a right to engage in transportation in interstate or foreign commerce of freight between specified points in Minnesota. F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104, practitioner for applicants.

No. MC-FC-75093. By order of April 30, 1974, the Motor Carrier Board approved the transfer to Bay Area-Los Angeles Express, Inc., San Francisco, Calif., of a portion of Certificate of Registration No. MC-71920 (Sub-No. 6), issued July 28, 1965, to Progressive Transportation Company, a corporation, Compton, Calif., evidencing the authority to perform a transportation service in interstate or foreign commerce corresponding in scope to that portion of the intrastate authority granted in Decision No. 61309 dated January 4, 1961, as amended by Decision No. 63045 dated January 9, 1962, by the Public Utilities Commission of the State of California which authorized the transportation of general commodities between all points in the Los Angeles Basin Territory on the one hand, and, on the other, points in the San Francisco Territory, with certain restrictions. Mr. Donald Murchison, Attorney at Law, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10505 Filed 5-7-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES

MAY 2, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 20, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-11207 (Sub-No. E-4), filed April 28, 1974. APPLICANT: Deaton, Inc., P.O. Box 938, Birmingham, Alabama 35201. Applicant's representative: C. N. Knox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from points in Manatee County, Fla., to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Taylorsville, Miss.

No. MC-41404 (Sub-No. E1), filed April 22, 1974. APPLICANT: Argo-Collier Truck Lines Corp., P.O. Box 440, Martin, Tenn. 38237. Applicant's representative: Mark L. Horne (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Charleston, S.C., to Chicago, Ill., and points in Illinois within 200 miles of Chicago, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC-52657 (Sub-No. E2), filed April 19, 1974. APPLICANT: Arco Auto Carriers, Inc., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *refuse containers* (except those having a capacity of 5 gallons or less, or those having a capacity of 9 cubic feet or less, only when moving in mixed shipments with bodies or hoists or both), from Exeter, Pa., to points in the United States on and west of the Mississippi River, including Alaska but excluding Hawaii, and points in Illinois, Minnesota, and Wisconsin, restricted against the transportation of refuse containers which because of size or weight require the use of special equipment; (2) *freight containers*, from Lansdale, Pa., to points in California, Oregon, and Washington; and (3) *new foreign-made automobiles* in secondary movements in truckaway service, (a) from Naperville, Ill., to points in Connecticut, Delaware, Florida, Georgia, Kansas, Louisiana, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Wyoming, and the District of Columbia; (b) from Naperville, Ill., to points in Alabama, on and south of a line beginning at the Alabama-Georgia State line near Cedartown, Ga., over U.S. Highway 411 to junction U.S. Highway 278 at Gadsden, Ala., thence over U.S. Highway 278 to junction U.S. Highway 11, thence over U.S. Highway 11 via Birmingham, Ala., to junction Interstate Highways 59 and 20, thence over Interstate Highways 59 and 20 to junction U.S. Highway 82, thence over U.S. Highway 82 via Tuscaloosa, Ala., to the Alabama-Mississippi State line; (c) from Naperville, Ill., to points in Arkansas south of a line beginning at the Oklahoma-Arkansas State line near Ft. Smith, Ark., along the Arkansas River to the Mississippi River near Rosedale, Miss.; and Russellville, Ark.; (d) from Naperville, Ill., to points in Mississippi on and south of a line beginning at the Arkansas-Mississippi State line near Rosedale, Miss., east over Mississippi Highway 8 to junction U.S. Highway 278, thence over U.S. Highway 278 to the Mississippi-Alabama State line near Sulligent, Ala.; (e) from Naperville, Ill., to points in Nebraska on and west of a line beginning at the Nebraska-South Dakota State line near Anoka, Nebr., south over Nebraska Highway 11 to junc-

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tion Nebraska Highway 70, thence over Nebraska Highway 58 to junction Nebraska Highway 58, thence south over Nebraska Highway 58 to junction Nebraska Highway 10, thence over Nebraska Highway 10 to the Kansas-Nebraska State line near Franklin, Nebr.; (f) from Naperville, Ill., to points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line south over U.S. Highway 62 to junction Pennsylvania Highway 948, thence over Pennsylvania Highway 948 to junction Pennsylvania Highway 66, thence west over Pennsylvania Highway 66 to junction Pennsylvania Highway 899, thence south over Pennsylvania Highway 899 to junction Pennsylvania Highway 36, thence over Pennsylvania Highway 36 to junction U.S. Highway 119, thence southwest over U.S. Highway 119 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Pennsylvania Highway 51, thence south over Pennsylvania Highway 51 to junction U.S. Highway 119, thence over U.S. Highway 119 to the Pennsylvania-West Virginia State line near Point Marion, Pa.; (g) from Walbridge, Ohio, to points in Louisiana (except those points east of a line beginning at the Mississippi-Louisiana State line south along the Amite River to junction Louisiana Highway 22 near Head of Island, La., thence west over Louisiana Highway 22 to the Mississippi River, thence along the Mississippi River to junction Louisiana Highway 20 near Vacherie, La., thence south over Louisiana Highway 20 to junction U.S. Highway 90 at Gibson, La., thence west over U.S. Highway 90 to the Lower Atchafalaya River near Amelia, La., thence south along the Lower Atchafalaya River to the Gulf of Mexico), Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming; and (h) from Columbus, Ohio, to points in Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of Lima, Ohio, in (1); Ft. Wayne, Ind., in (2); and Kenosha, Wis., in (3).

No. MC-65941 (Sub-No. E4), filed April 11, 1974. APPLICANT: Tower Lines, Inc., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: George W. Thieroff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical equipment and fixtures*, from points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania State line, thence along U.S. Highway 422 to Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to U.S. Highway 119, thence along U.S. Highway 119 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to point of beginning including points on the indicated portions of the highways specified to points in that part of Georgia on and north of a line beginning at a point east of Savannah on the Atlantic Coast and extending along U.S. Highway 50 to junction U.S. Highway 280, thence along U.S. Highway 280 to the Georgia-Alabama State line, and south of a line beginning at Augusta, Ga., and extending along U.S. Highway 1 to Louisville, Ga., thence along Georgia Highway 24 to junction Georgia Highway 22, thence along Georgia Highway 22 to Macon, Ga., and thence along U.S. Highway 80 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateway of Glen Dale, W. Va.

No. MC-65941 (Sub-No. E6), filed April 11, 1974. APPLICANT: Tower Lines, Inc., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: George V. Thieroff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty compressed-gas cylinders*, from points in North Carolina anu South Carolina on, north, and west of U.S. Highway 1, and points in Georgia on, and, north, of a line extending from the Atlantic Ocean along U.S. Highway 80 to junction U.S. Highway 280 thence along U.S. Highway 280 to the Georgia-Alabama State line to points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania state line, thence along U.S. Highway 422 to Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to U.S. Highway 119, thence along U.S. Highway 119 to the Pennsylvania-West Virginia state line, thence along the Pennsylvania-West Virginia state line to the Pennsylvania-Ohio state line, thence along the Pennsylvania-Ohio state line to point of beginning including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Natrium, W. Va.

No. MC-95540 (Sub-No. E 36), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212 5299 Rosewell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Colorado. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E 37), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Tennessee. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E 49), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Massachusetts. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E 50), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on and east of U.S. Highway 319 to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and Florence, Ala.

No. MC-95540 (Sub-No. E51), filed April 15, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida to points in Montana. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and points in Tennessee.

No. MC-95540 (Sub-No. E61), filed April 16, 1974. APPLICANT: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Connecticut. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E62), filed April 16, 1974. Applicant: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E63), filed April 16, 1974. Applicant: Watkins Motor Lines, Inc., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Mississippi. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-112822 (Sub-No. E1), filed April 12, 1974. Applicant: Bray Lines, Inc., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from points in Wisconsin (except Belleville, Wis.) to points in Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway of points in Iowa or Nebraska.

No. MC-112822 (Sub-No. E2), filed April 12, 1974. Applicant: Bray Lines, Inc., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Canned foods*, from Springdale, Ark., and points in Arkansas within 50 miles of Springdale to points in California and Nevada. The purpose of this filing is to eliminate the gateway of Delta, Colo. (b) *Dairy products*, from points in Washington to points in Arkansas, Iowa, Louisiana, Mississippi, Missouri, and Tennessee. The purpose of this filing is to eliminate the gateway of points in Minnesota.

No. MC-112822 (Sub-No. E3), filed April 19, 1974. APPLICANT: Bray Lines, Inc., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Muskogee, Okla., to points in California and Nevada. The purpose of this filing is to eliminate the gateway of Delta, Colorado.

No. MC-112822 (Sub-No. E4), filed April 19, 1974. APPLICANT: Bray Lines, Inc., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruits and vegetables*, from Stilwell, Okla., to points in California and Nevada. The purpose of this filing is to eliminate the gateway of Delta, Colo.

No. MC-112822 (Sub-No. E10), filed April 21, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from points in Oregon, to points in Arkansas, Louisiana, Mississippi, Missouri, and Tennessee. The purpose of this filing is to eliminate the gateways of points in Minnesota (except Minneapolis-St. Paul and points in the Minneapolis-St. Paul, Minn., commercial zone as defined by the Commission).

No. MC-117119 (Sub-No. E2), filed April 22, 1974. APPLICANT: Willis Shaw Frozen Express, Inc., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Frozen foods*, from Seabrook, N.J., to points in Arizona, California, Montana, Nevada, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, and Washington. The purpose of this filing is to eliminate the gateway of Elwood, Kans. (a point in the St. Joseph, Mo., commercial zone as defined by the Commission). (b) *Frozen foods*, from Salt Lake City, Ogden, and Provo, Utah, to points in Delaware and the District of Columbia. The purpose of this filing is to eliminate the gateway of Fayetteville, Ark. (c) *Frozen foods*, from points in California to points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee (except Memphis). The purpose of this filing is to eliminate the gateway of Tyler, Texas. (d) *Canned goods* in mixed loads with frozen foods or agricultural commodities as defined in Section 203(b)(6) of the Interstate Commerce Act, as amended, from points in California to points in North Carolina, South Carolina, Maryland, Delaware, and the District of Columbia.

The purpose of this filing is to eliminate the gateway of Fort Worth, Texas.

(e) *Frozen foods*, from points in Nebraska (except West Point, Millard, and points in the Omaha, Nebr., commercial zone as defined by the Commission) to points in Florida. The purpose of this filing is to eliminate the gateway of Little Rock, Ark. (f) *Frozen foods* (except frozen meats), from points in Nebraska (except West Point, Millard, and points in the Omaha, Nebr., commercial zone as defined by the Commission) to points in Georgia, North Carolina, South Carolina, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Kansas City, Mo. (g) *Frozen foods*, from Omaha, Nebr., to Springdale and Fayetteville, Ark. The purpose of this filing is to eliminate the gateways of St. Joseph, Mo., and a point in Nebraska 8 miles south of Rulo, Nebr., on Nebraska Highway 7. (h) *Frozen foods*, in packages, from Omaha, Nebr., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, Tennessee, and Virginia. The purpose of this filing is to eliminate the gateway of St. Joseph, Mo. (i) *Frozen foods*, from Omaha, Nebr., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of St. Joseph, Mo.

(j) *Frozen foods*, from Omaha, Nebr., to points in Texas. The purpose of this filing is to eliminate the gateway of St. Joseph, Mo. (k) *Frozen fruits, frozen berries, and frozen vegetables*, from points in Texas to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Hoxie, Ark. (l) *Foodstuffs*, in truckloads of 20,000 pounds or more, from points in that part of Maryland east of the Chesapeake and Delaware Canal, to Blytheville, Camden, Conway, El Dorado, Fort Smith, Hope, Hot Springs, Jonesboro, Little Rock, Paragould, Pine Bluff, Russellville, Texarkana, and Wynne, Ark. Restriction: The authority above is restricted to the transportation of the quantities indicated, when transported from one consignor to one or more consignees. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio. (m) *Foodstuffs*, in truckloads of 20,000 pounds or more, from points in that part of Maryland east of the Chesapeake Bay and South of the Chesapeake and Delaware Canal to Arkadelphia, Atkins, Batesville, Beebe, Benton, Berryville, Brinkley, Clarksville, Dermott, DeWitt, Eudora, Fayetteville, Fordyce, Forrest City, Harrison, Heber Springs, Hope, Magnolia, Malvern, McGehee, Monticello, Morrilton, Nashville, Newport, Prescott, Searcy, Stuttgart, Walnut Ridge, and Warren, Ark. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio. (n) *Frozen foods*, from points in that part of California in and north of the southern boundaries of Santa Cruz, Santa Clara, Merced, Fresno, and Mono Counties, Calif., to Omaha, Nebraska. The purpose of this filing is to eliminate the gateways of Preston, Idaho, and St. Joseph, Mo.

No. MC-127505 (Sub-No. E1), filed April 26, 1974. APPLICANT: Ralph H. Boelk, dba, R. H. Boelk Truck Lines, Rt. 2, Mendta, Ill. 61342. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags*, from New Hope, Pa., to points in Iowa, Minnesota, and Wisconsin (except Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, and Waukesha Counties, Wis.). Restriction: Restricted to the transportation of traffic originating at the plant site of Union Camp Corp. at New Hope, Pa. The purpose of this filing is to eliminate the gateway of Bloomington, Ill.

No. MC-128383 (Sub-No. E1), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as

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a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Albany County Airport, Albany County, N.Y., and Friendship International Airport, Anne Arundel County, Md., restricted to the transportation of traffic having a prior or movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E2), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Albany County Airport, Albany County, N.Y., and La Guardia Airport, New York, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E3), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Albany County Airport, Albany County, N.Y., and Newark Airport, Newark, N.J., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E4), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General* commodities (except commodities in bulk and automobiles), between Rochester-Monroe County Airport, Monroe County, N.Y., and John F. Kennedy International Airport, New York, N.Y., restricted to the transportation of traffic having a prior subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E6), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 No. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Washington National Airport, Gravelly Point, Va., and Albany County Airport, Albany County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E7), filed April 26, 1974. APPLICANT: Pinto Trucking Service Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commoditites in bulk and automobiles), between Logan International Airport, Boston, Mass., and Dulles International Airport, Fairfax and Loudoun Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E8), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Albany County Airport, Albany County, N.Y., and Dulles International Airport, Fairfax and Loudoun Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E9), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Albany County Airport, Albany County, N.Y., and Philadelphia International Airport, Philadelphia, Pa., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E10), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles) between Logan International Airport, Boston, Mass., and Washington National Airport, Gravelly Point, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E11), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobile), between La Guardia Airport, New York, N.Y., and Logan International Airport, Boston, Mass., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E14), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between John F. Kennedy International Airport, New York, N.Y., and Clarence E. Hancock Airport, Onondaga County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E15), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Pa. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Albany County Airport, Albany County, N.Y., and John F. Kennedy International Airport, New York, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E16), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodi-*

ties (except commodities in bulk and automobiles), between Clarence E. Hancock Airport, Onondaga County, N.Y., and La Guardia Airport, New York, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady Airport, Schenectady County, N.Y.

No. MC–128383 (Sub-No. E17), filed April 26, 1974. APPLICANT: Pinto Trucking Service, Inc., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Rochester-Monroe County Airport, Monroe County, N.Y., and Philadelphia International Airport, Philadelphia, Pa., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10561 Filed 5–7–74;8:45 am]

[Notice No. 16]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 3, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12) at any time, but will not operate to stay commencement of the proposed operations unless filed on or before June 7, 1974.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC–29910 (Deviation No. 29), ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11th Street, Fort Smith, Arkansas, 72901, filed April 19, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Little Rock over U.S. Highway 167 to junction Louisiana Highway 9 at or near Junction City, Ark., thence over Louisiana Highway 9 to junction U.S. Highway 79 at or near Homer, La., thence over U.S. Highway 79 to junction Interstate Highway 20 at or near Doyline, La., thence over Interstate Highway 20 to Shreveport, La., and return over the same route, for operating convenience only. The notice indicated that the carrier is presently authorized to transport the same commodities over pertinent service routes as follow: (1) From Little Rock, Ark., over Interstate 30 to junction U.S. Highway 67, thence over U.S. Highway 67 to Hope, Ark., and (2) From Hope, Ark., over Arkansas Highway 29 to the Arkansas-Louisiana State line, thence over Highway 3 to junction U.S: Highway 80, thence over U.S. Highway 80 to Shreveport, and return over the same routes.

No. MC–42487 (Deviation No. 105), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 7101 South Cicero Avenue, Chicago, Illinois 60629, filed April 26, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Sherman, Tex., over unnumbered highway (formerly portion U.S. Highway 75) to junction U.S. Highway 75, thence over U.S. Highway 75 to Atoka, Oklahoma, thence over U.S. Highway 69 to junction Interstate Highway 44, thence over Interstate Highway 44 to Springfield, Mo., thence over Missouri Highway 13 to junction Missouri Highway 7 near Clinton, Mo., thence over Missouri Highway 7 to junction U.S. Highway 71 near Harrisonville, Mo., thence over U.S. Highway 71 to Kansas City Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the some commodities over pertinent service routes as follows: From Sherman, Tex., over unnumbered highway (formerly portion of U.S. Highway 75) to junction U.S. Highway 75, thence over U.S. Highway 75 to junction unnumbered highway (formerly portion U.S. Highway 75), near Preston, Oklahoma, thence over unnumbered highway via Sapulpa, Oklahoma, to Tulsa, Oklahoma, thence over U.S. Highway 75 via Bartlesville, Oklahoma to Independence, Kansas, thence over U.S. Highway 160 to Cherryvale, Kans., thence over U.S. Highway 169 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 169, thence over U.S. Highway 169 to junction Kansas Highway 7, thence over Kansas Highway 7 to Olathe, Kansas, thence over Kansas Highway 150 to junction U.S. Highway 169, thence over U.S. Highway 169 to Kansas City, Mo., and return over the same route.

No. MC–59680 (Deviation No. 89), STRICKLAND TRANSPORTATION CO., INC., P.O. Box 5689, Dallas, Texas 75222, filed March 27, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cleveland, Ohio, over U.S. Highway 21 to junction Interstate Highway 77, thence over Interstate Highway 77 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to Newark, N.J., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cleveland, Ohio, over U.S. Highway 21 to the Ohio Turnpike, thence over the Ohio Turnpike to the Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to Newark, N.J., and return over the same route.

No. MC–59680 (Deviation No. 90), STRICKLAND TRANSPORTATION CO., INC., P.O. Box 5689, Dallas, Texas 75222, filed March 27, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cleveland, Ohio, over U.S. Highway 21 to junction Interstate Highway 77, thence over Interstate Highway 77 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 280, thence over Interstate Highway 280 to Newark, N.J., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cleveland, Ohio, over U.S. Highway 21 to junction the Ohio Turnpike, thence over the Ohio Turnpike to junction the Pennsylvania Turnpike, thence over the Pennsylvania Turnpike to junction the New Jersey Turnpike, thence over the New Jersey Turnpike to Newark, N.J., and return over the same route.

No. MC–75320 (Deviation No. 52), CAMPBELL "66" EXPRESS, INC., P.O. Box 807, Springfield, Missouri 65801, filed April 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Afton, Okla., over U.S. Highway 66 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction of Oklahoma Highway 33, thence over Oklahoma Highway 33 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 64, thence over U.S. Highway 64 to junction U.S. Highway 266, thence over U.S. Highway 266 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction Texas Highway 121, thence over Texas Highway 121 to Fort Worth, Tex., and return over the same route, for operating conveni-

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ence only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Afton, Okla., over U.S. Highway 66 to Tulsa, Okla., thence over Interstate Highway 44 (Turner Turnpike) to junction Oklahoma Highway 18, then over Oklahoma Highway 18 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to the Oklahoma-Texas State line, thence over Texas Highway 79 to Wichita Falls, Texas, thence over U.S. Highway 281 to junction of U.S. Highway 180 at or near Mineral Wells, Texas., thence over U.S. Highway 180 to Fort Worth, Texas, and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10622 Filed 5-7-74;8:45 am]

[Notice No. 37]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 3, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 98869 (Sub-No. 5) (Republication), filed September 6, 1973, and published in the FEDERAL REGISTER issue of November 15, 1973, and republished this issue. Applicant: KOSCHKEE TRANSFER, INC., Rural Route 1, Fennimore, Wis. 53809. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. An Order of the Commission, Operating Rights Board, dated March 29, 1974, and served April 25, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) (1) between the junction of U.S. Highway 18 and Wisconsin Highway 80 and the junction of U.S. Highway 18 and Wisconsin Highway 133, from the junction of U.S. Highway 18 and Wisconsin Highway 80 at or near Cobb, Wis., thence north over Wisconsin Highway 80 to junction Wisconsin Highway 133, thence west over Wisconsin Highway 133 to junction U.S. Highway 18 at or near Mt. Hope, Wis., and return over the same route, serving all intermediate points, and the off-route point of Avoca, Wis.; (2) between the junction of U.S. Highway 18 and Wisconsin Highway 39, and the junction of Wisconsin Highway 39 and Wisconsin Highway 78, over Wisconsin Highway 39, serving all intermediate points; (3) between Boscobel, Wis., and Bridgeport, Wis., from Boscobel over U.S. Highway 61 to junction Wisconsin Highway 60, thence over Wisconsin Highway 60 to Bridgeport, and return over the same route, serving all intermediate points, and (4) between Montfort, Wis., and Highland, Wis., over Iowa County Highway "I", serving all intermediate points; that applicant is fit, willing, and able properly to perform such service to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 115481 (Sub-No. 5) (REPUBLICATION), filed September 14, 1973, and published in the FR issue of November 15, 1973, and republished this issue. Applicant: GILCHRIST BROS., INC., Coastwide and Tyler Streets, Port Newark, N.J. 07114. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. An Order of the Commission, Operating Rights Board, dated March 29, 1974, and served April 25, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *lumber* from Elizabeth, N.J., to New York, N.Y., and points in Dutchess, Orange, Nassau, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and Passaic, Bergen, Essex, Hudson, Union, Somerset, Mercer, Middlesex, Monmouth, and Ocean Counties, N.J., that applicant is fit, willing, and able to properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to include Mercer County, N.J. as a destination point. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128339 (Sub-No. 3) (REPUBLICATION), filed June 27, 1973, and published in the FR issue of September 7, 1973, and republished this issue. Applicant: REGISTER VAN & STORAGE COMPANY, INC., 1371 Jacqueline Drive, Columbus, Ga. 31906. Applicant's representative: C. E. Walker, Suite 307, First National Bank Building, P.O. Box 1085, Columbus, Ga. 31906. An Order of the Commission, Operating Rights Board, dated March 20, 1974, and served April 12, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, of (1) *general commodities* (except commodities in bulk, motor vehicles, and Classes A and B explosives), in shipper or railroad owned trailers, (2) *shipper-and railroad-owned trailers*, between Columbus, Ga., on the one hand, and, on the other, points in Harris, Meriwether, Talbot, Taylor, Marion, Webster, Quitman, Chattachoochee, Stewart, and Schley Counties, Ga., restricted to the transportation of traffic having a prior or subsequent movement in rail trailer or flatcar service; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128685 (Sub-No. 17) (REPUBLICATION), filed October 23, 1973, and published in the FR issue of December 13, 1973, and republished this issue. Applicant: DIXON BROS., INC., P.O. Box 636, New Castle, Wyo. 82701. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001.

An Order of the Commission, Operating Rights Board, dated April 10, 1974, and served April 29, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *building materials, supplies* used in the construction of buildings, and *cabinets, floor coverings, furnaces, plumbing fixtures, kitchen appliances* and other such *items* used in the completion of new residential buildings from the plant site and warehouse facilities of Nordaas American Homes, at or near Minnesota Lake, Minn., to points in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming; that applicant is fit, willing, and able properly to perform such service and Interstate Commerce Act and the Commission's rules and regulations thereto conform to the requirements of the under. The purpose of this republication is to accurately describe the commodities for which the supporting shipper has requested transportation service. Because it is possible that other parties who have relied upon in the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a Certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136069 (Sub-No. 1) (REPUBLICATION), filed October 15, 1971, and published in the FR issue of December 16, 1971, and republished this issue. Applicant: COIN DEVICES CORP., 64 Broad Street, Elizabeth, N.J. 07201. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, N.J. 08817. A Decision and Order of the Commission, Division 1, dated April 18, 1974, and served April 26, 1974, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, of (1) *coins, currency, and checks* (a) between Elizabeth, N.J., on the one hand, and, on the other, Paramus, N.J., and Nanuet, N.Y., under a continuing contract or contracts with Bamberger's, of Newark, N.J., and of (2) *coins, currency, and checks* between Elizabeth, N.J., and New York, N.Y., under a continuing contract or contracts with The National State Bank of Elizabeth, N.J., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to show that authority has been granted for operations between Elizabeth and Paramus, N.J. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 30226 (Sub-No. 5) (Notice of filing of petition to modify permit), filed April 15, 1974. Petitioner: HOWELL TRUCKING COMPANY, INC., One Frozen Food Plaza, Secucus, N.J. 07094. Petitioner's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Petitioner holds a motor *contract carrier*, permit in No. MC 30226 (Sub-No. 5) issued September 22, 1972, authorizing transportation, over irregular routes of, (1) *frozen foods and foods, other than frozen*, in vehicles equipped with mechanical refrigeration, from New York, N.Y., and Jersey City, N.J., to points in New Jersey, Fairfield County, Conn., and Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Ulster, and Westchester Counties, N.Y.; and (2) *returned shipments of foods*, in vehicles equipped with mechanical refrigeration (except commodities in tank and hopper-type vehicles), from points in New Jersey, Fairfield County, Conn., and Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Ulster, and Westchester Counties, N.Y., to New York, N.Y., and Jersey City, N.J., under a continuing contract with The Great Atlantic and Pacific Tea Company, Inc., of New York, N.Y., Gristede Bros., Inc., of New York, N.Y., and Anderson, Clayton & Co., of Dallas, Tex. By the instant petition, petitioner seeks to delete Gristede Bros., Inc., as a contracting shipper and substitute in lieu thereof The Merchants Refrigerating Company as an additional contracting shipper. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 45877 (Notice of filing of petition to modify a commodity description), filed April 17, 1974. Petitioner: FINKLE'S EXPRESS, INC., P.O. Box 682, Allwood Station, Clifton, N.J. 07012. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *contract carrier* permit in No. MC 45877, issued March 14, 1942, authorizing transportation, over irregular routes, of *crude rubber, rubber products, and materials and supplies* used or useful in the manufacture and processing of rubber and rubber products, (1) between points in Bergen, Passaic, Hudson, Essex, Morris, Union, Somerset, and Middlesex Counties, N.J. on the one hand, and, on the other, New York, N.Y., and points in Westchester and Nassau Counties, N.Y.; and (2) between Butler, Clifton, Newark, and Passaic, N.J., on the one hand, and, on the other, points in Hudson, Essex, Passaic, and Morris Counties, N.J. By the instant petition, petitioner seeks to modify its commodity description to read: "*Crude synthetics, synthetic products*, and materials and supplies used or useful in the manufacture and processing of synthetics and synthetic products." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 78332 (Notice of filing of petition for modification clarification and amendment of certificate), filed April 22, 1974. Petitioner: NYLANTIC FREIGHT LINES, INC., 1415 Boston Post Road, Larchmont, N.Y. 10538. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. By Order of the Commission in No MC–FC–74980, served March 1, 1974, and consummated March 26, 1974, petitioner holds motor *common carrier* authority in No. MC 78332, to transport, *household goods* as defined by the Commission, and *loft and factory equipment and stock*, between New York, N.Y., on the one hand, and, on the other, points in Connecticut and New Jersey. By the instant petition, petitioner seeks (1) that the Commission issue an appropriate order that the petitioner be empowered and permitted to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y., Commercial Zone as established by the Commission, or in the alternative, amend its territorial description to read: "between the New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act, (the 'exempt zone') and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 89523 (Sub-Nos. 11, 18, and 20) (Notice of filing of petition to extend commodity descriptions), filed April 17, 1974. Petitioner: MID-STATES TRUCKING CO., a Corporation, 514 East Hackberry, P.O. Box 3186, Enid, Okla. 7370. Petitioner's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Petitioner holds motor *contract carrier* permits in No. MC 89523 (Sub-Nos. 11, 18, and 20) issue June 5, 1967, August 26, 1970, and April 27, 1972, respectively, authorizing transportation, over irregular routes, of in Sub-No. 11, *sodium hypochlorite solution*, in containers, from Houston, Tex., to points

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in that part of Oklahoma on and south of U.S. Highway 64, in Sub-No. 18, *sodium hydroxide solutions and dry laundry bleach*, in containers, from Houston, Tex., to points in Oklahoma; and in Sub-No. 20, *household, laundry, and cleaning compounds and supplies, and animal litter*, from Houston, Tex., to points in Oklahoma; in Sub-Nos. 11, 18, and 20, under a continuing contract or contracts with the Clorox Company. By the instant petition, petitioner seeks to extend the commodity description stated in each of the subs above, by adding the following: "cooking oil packaged in aerosol cans that is sprayed into cooking utensils to allow nonstick, burn-free frying and cooking." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 94901 (Sub-No. 1) (Notice of filing of petition to modify a commodity description), filed April 11, 1974. Petitioner: EDDY MOVING AND STORAGE CO., INC., 31 Merritt St., Port Chester, N.Y. 10573. Petitioner's representative: William P. Jackson and Terry P. Wilson, 919 18th Street NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate in No. MC 94901 (Sub-No. 1) issued January 17, 1969, authorizing transportation, over irregular routes, of *computer tapes, cards, documents and records*, between points in Bergen County, N.J., on the one hand, and, on the other, points in Westchester, Dutchess and Ulster Counties, N.Y., restricted to the transportation of packages of not more than 50 pounds each. By the instant petition, petitioner seeks to modify its commodity description to read: "computer tapes, cards, documents, records, printed matter, and machine parts, and equipment, materials and supplies used in the manufacture, sale or service of business machine." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the Federal Register.

No. MC 105350 (Sub-Nos. 10 and 13) (Notice of filing of petition to renew explosives authority), filed April 15, 1974. Petitioner: NORTH PARK TRANSPORTATION COMPANY, 5150 Columbine St., Denver, Colo. 80216. Petitioner's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, Colo. 80203. Petitioner holds motor *common carrier* certificates in No. MC 105350 (Sub-Nos. 10 and 13) issued July 2, 1956 and August 14, 1968, authorizing transportation, over regular routes, of in Sub-No. 10, *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Denver, Colo., and Kremmling, Colo., serving the intermediate points of Empire, Colo., and all intermediate points between Kremmling and Empire: From Denver over U.S. Highway 6 to Idaho Springs, Colo. (also from Denver over U.S. Highway 40 to Idaho Springs), thence over U.S. Highway 40 to Kremmling, and return over the same route; and (2) Between junction U.S. Highways 40 and 34, near Granby, Colo., and Grand Lake, Colo., serving all intermediate points: From junction U.S. Highways 40 and 34 near Granby over U.S. Highway 34 to Grand Lake, and return over the same route; and in Sub-No. 13, *general commodities* (except petroleum and petroleum products, in bulk, in tank vehicles, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those commodities requiring the use of special equipment) Between Parshall, Colo., and the terminus of Williams Fork Road in Colorado, Serving all intermediate points and all off-route points in Grand County, Colo., South of U.S. Highway 40: From Parshall over unnumbered highway (Williams Fork Road) to its terminus, and return over the same route. By the instant petition, petitioner seeks to renew its explosives authority contained in the sub-nos. specified above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the Federal Register.

No. MC 123005 (Sub-No. 2) (Notice of filing of petition to eliminate a service restriction), filed April 22, 1974. Petitioner: THE LUPER TRANSPORTATION COMPANY, a Corporation, 350 East 21st, Wichita, Kans. 67214. Petitioner's representative: Noal Albert (same address as petitioner). Petitioner holds a motor *common carrier* certificate in No. MC 123004 (Sub-No. 2) issued August 3, 1973, authorizing transportation, over irregular routes, of (1) *meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides and skins), (a) between Wichita, Kans., on the one hand, and, on the other, Memphis, Tenn., points in that part of Missouri on and south of a line beginning at the Mississippi River on the east and extending westerly along U.S. Highway 60 to junction Missouri Highway 5 near Mansfield, Mo., thence northerly along Missouri Highway 5 to junction U.S. Highway 54 near Camdenton, Mo., thence westerly along U.S. Highway 54 to the Kansas-Missouri State Boundary line, points in that part of New Mexico on and east of a line beginning at the New Mexico-Oklahoma State Boundary line, and extending westerly along U.S. Highway 64 to Clayton, N. Mex., thence southerly along New Mexico Highway 18 to junction U.S. Highway 54 near Tucumcari, N. Mex., thence southerly along U.S. Highway 54 to Alamogordo, N. Mex., thence southwesterly along U.S. Highway 70 to Las Cruces, N. Mex., thence southerly along U.S. Highway 80 to the Texas-New Mexico State Boundary line, and points in Arkansas, Louisiana, Oklahoma, and Texas; and (b) between Arkansas City, Kans., on the one hand, and, on the other, Memphis, Tenn., and points in Arizona, Arkansas, New Mexico, Oklahoma, and Texas; and (2) *such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Section D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles) and *butter, cheese and oleomargarine*, from Memphis, Tenn., points in that part of Missouri on and south of a line beginning at the Missouri-Kansas State Boundary line and extending easterly along U.S. Highway 54 to Camdenton, Mo., thence southerly along Missouri Highway 5 to Mansfield, Mo., and thence easterly along U.S. Highway 60 to the Mississippi River, and points in Arkansas, Louisiana, Oklahoma and Texas, to Wichita, Kans., restricted in (1) and (2) above to traffic originating at the named points of origin, and destined to the named points of destination.

By the instant petition, petitioner seeks to eliminate the service restriction so as to allow interline and interchange service.

NOTE.—No reference is made to petitioner's request that the authority be restricted against tacking pursuant to the Commission's order in Gateway Elimination, 119 MCC 530, codified at 49 CFR 1065. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the Federal Register.

No. MC 133794 (Sub-No. 1) (notice of filing of petition an origin point and a contracting shipper) filed April 18, 1974. Petitioner: CONVERTERS TRANSPORTATION, INC., Box 351, Garnerville, N.Y. 10923. Petitioner's representative: Edward L. Nehez, 10 East 40th Street, New York, N.Y. 10016. Petitioner holds a motor *contract carrier* permit in No. MC 133794 (Sub-No. 1) issued January 22, 1971, authorizing transportation, over irregular routes, of *piece goods and materials and supplies* used in the dyeing or finishing of piece goods, between the plantsite of Elk Piece Dye Works, Inc., Garnerville, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Union, and Passaic Counties, N.J., and points in that part of the New York, N.Y., Commercial Zone as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Act (the "exempt zone") under a continuing contract with Elk Piece Dye Works, Inc. By the instant petition, petitioner seeks to add the plant site of S D Sales Corp., Garnerville, N.Y., as a point of origin and add S D. Sales Corp., as an additional contracting shipper. Any interested person

or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the Federal Register.

No. MC 135963 (notice of filing of petition to add a terminal point), filed April 24, 1974. Petitioner: J.T.F. SHUTTLE CO., INC., 345 Soundview Avenue, Bronx, N.Y. 10472. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *contract carrier* permit in No. MC 135963, issued January 26, 1973, authorizing transportation, over irregular routes, of *such commodities* as are sold by retail mail order houses, between points in the New York, N.Y., Commercial Zone as described by the Commission in the report in *New York, N.Y. Commercial Zone*, I.M.C.C. 665, White Plains, N.Y., Providence, R.I., and Webster, Springfield, and Boston, Mass. By the instant petition, petitioner seeks to add Baltic, Conn., as an additional terminal point. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of application by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 1936 (Sub-No. 40), filed March 28, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: Herbert Burstein, 1 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except articles of unusual value, dangerous explosives articles; liquid commodities in tank vehicles, heavy machinery and equipment, building materials, household goods; office and store equipment, building materials usually hauled in dump trucks; livestock, motor vehicles), between points in the industrial, commercial and terminal area of Chicago, including Chicago, Ill.

NOTE.—Common control may be involved. The purpose of this application is to convert the Certificate of Registration issue under MC-124041 and subs thereunder to a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 proceeding in MC-F-12181 published in the FR issue of April 10, 1974. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 2202 (Sub-No. 464), filed April 16, 1974. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (1) Between Texarkana and Corning, Ark. serving all intermediate points: From Texarkana over U.S. Highway 67 to Corning, and return over the same route; (2) Between Texarkana and El Dorado, Ark., serving all intermediate points: From Texarkana over U.S. Highway 82 to El Dorado, and return over the same route; (3) Between El Dorado and Little Rock, Ark., serving all intermediate points: From El Dorado over U.S. Highway 167 to Little Rock, and return over the same route; (4) Between El Dorado and Camden, Ark., serving all intermediate points between El Dorado and Smackover: From El Dorado over Arkansas Highway 7 to Camden, and return over the same route; (5) Between Magnolia and Marianna, Ark., serving all intermediate points: From Magnolia over U.S. Highway 79 to Marianna, and return over the same route; (6) Between Conway and Eudora, Ark., serving all intermediate points: From Conway over U.S. Highway 65 to Eudora, and return over the same route; (7) Between Wilmot and the junction of U.S. Highways 165 and 65, serving all intermediate points: From Wilmot over U.S. Highway 165 to junction U.S. Highway 65, and return over the same route; (8) Between Crossett and Hamburg, Ark., serving all intermediate points: From Crosset over U.S. termediate points: From Hamburg over Highway 82 to Hamburg, and return over the same route; (9) Between Hamburg, and the junction of Arkansas Highway 81 and U.S. Highway 65, serving all intermediate points: From Hamburg over Arkansas Highway 81 to junction U.S. Highway 65, and return over the same route;

(10) Between Warren and Pine Bluff, Ark., serving all intermediate points: From Warren over Arkansas Highway 15 to Pine Bluff, and return over the same route; (11) Between DeWitt and the junction of Arkansas Highway 11 and U.S. Highway 70, serving all intermediate points: From DeWitt over Arkansas Highway 152 to junction Arkansas Highway 11, thence over Arkansas Highway 11 to U.S. Highway 70, and return over the same route; (12) Between Helena and Wynne, Ark., serving all intermediate points: From Helena over U.S. Highway 49 to junction Arkansas Highway 1, thence over Arkansas Highway 1 to Wynne, and return over the same route; (13) Between Little Rock and W. Memphis, Ark., serving all intermediate points: From Little Rock over U.S. Highway 70 to W. Memphis, and return over the same route; (14) Between Jonesboro and W. Memphis, Ark., serving all intermediate points: From Jonesboro over U.S. Highway 63 to W. Memphis, and return over the same route; (15) Between Paragould and Jonesboro, Ark., serving all intermediate points: From Paragould over Arkansas Highway 1 to Jonesboro, and return over the same route; (16) Between Batesville and junction U.S. Highways 167 and 67, serving all intermediate points: From Batesville over U.S. Highway 167 to junction U.S. Highway 67, and return over the same route; (17) Between Batesville and junction of Arkansas Highway 14 and U.S. Highway 63, serving all intermediate points: From Batesville over Arkansas Highway 14 to junction U.S. Highway 63, and return over the same route; (18) Between Fort Smith and Conway, Ark., serving all intermediate points: From Fort Smith over U.S. Highway 64 to Conway, and return over the same route; (19) Between Malvern and Hot Springs, Ark., serving all intermediate points: From Malvern over U.S. Highway 270 to Hot Springs, and return over the same route; (20) Between Hot Springs and Nashville, Ark., serving all intermediate points: From Hot Springs over U.S. Highway 70 to Kirby, thence over Arkansas Highway 27 to Nashville, and return over the same route;

(21) Between Alma and Bentonville, Ark., serving all intermediate points: From Alma over U.S. Highway 71 to Bentonville, and return over the same route; (22) Between Fort Smith and Morrilton, Ark., serving all intermediate points; From Fort Smith over U.S. Highway 71 to Greenwood, thence over Arkansas Highway 10 to Perryville, thence over Arkansas Highway 9 to Morrilton, and return over the same route; (23) Between Perryville and Little Rock, Ark., serving all intermediate points: From Perryville over Arkansas Highway 10 to Little Rock, and return over the same route; (24) Between Arkansas River and Plainview, Ark., serving all intermediate points: From the Arkansas River over Arkansas Highway 60 to Plainview, and return over the same route; (25) Between the junction of Arkansas Highways 60 and 113, and the junction of Arkansas Highways 113 and 10, serving all intermediate points and the off-route point of Fourche: From junction of Arkansas Highways 60 and 113 over Arkansas Highway 113 to junction of Arkansas Highway 10, and return over the same route; (26) Between Ola, Ark., and the junction of Arkansas Highways 7 and 60, serving all intermediate points: From Ola over Arkansas Highway 7 to junction of Arkansas Highway 60, and return over the same route; (27) Between Ola and Rover, Ark., serving all intermediate points and the off-route point of Kingston: From Ola over Arkansas Highway 28 to Rover, and return over the same route; (28) Between Rover and Danville, Ark., serving all intermediate points: From Rover over Arkansas Highway 27 to Danville, and return over the same route; (29) Between Booneville and State Sanatorium, Ark., serving all intermediate points: From Booneville over Arkansas Highway 116 to junction of Arkansas Highway 23, thence over Arkansas High-

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way 23 to State Sanatorium, and return over the same route;

(30) Between El Dorado, Ark., and the plantsite of Michigan Chemical Corporation south of El Dorado, Ark., serving no intermediate points: From El Dorado over U.S. Highway 167 to junction unnumbered highway, thence west over unnumbered highway to the plantsite of Michigan Chemical Corporation, and return over the same route; and (31) Between El Dorado, Ark., and Fordyce, Ark., over U.S. Highway 167, serving all intermediate points.

NOTE.—Common control may be involved. The purpose of this application is to convert the Certificate of Registration issued to Atlas Transit, Inc., in MC–99695 to a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 proceeding in MC–F–12175 published in the FR issue of April 3, 1974. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Little Rock, Ark.

No. MC 124744 (Sub-No. 89), filed April 17, 1974. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, P.O. Box 7344, Omaha, Nebr. 68101. Applicant's representative: Thomas D. Sutherland, P.O. Box 32028, 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible bakery supplies*, from the plantsite of Globe Products Company, Inc., in Clifton, N.J., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, Wisconsin, Ohio, Kentucky, and West Virginia.

NOTE.—Common control may be involved. Applicant seeks to acquire the contract carrier authority under MC–133002 and Sub 1 which is the authority this application seeks to convert to common carrier authority. This is a matter directly related to the Section 5 proceeding in MC–F–12157 published in the FEDERAL REGISTER issue of March 13, 1974. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 139625, filed March 25, 1974. Applicant: MEMPHIS-BIRMINGHAM EXPRESS, INC., 618 Hamilton Bank Building, Nashville, Tenn. 37219. Applicant's representative: A. O. Buck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosive, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Memphis, Tenn., and Birmingham, Ala.: From Memphis over U.S. Highway 78 to Birmingham and return over the same route, serving no intermediate points.

NOTE.—Common control may be involved. This application is a matter directly related to a Section 5 proceeding in No. MC–F12178 which has not yet been published in the Federal Register.

No. MC 87103 (Sub-No. 9), filed February 12, 1974. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 6077, Akron, Ohio 44312. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy trees, heavy safes, heavy monuments, and heavy machinery* of such size, weight and bulk that the same cannot be transported in any of the common carrier operations serving the territory in question, all of such heavy commodities to be transported in platform equipment between Lansing and various points; (2) *Heavy trees, heavy safes, heavy monuments, and heavy machinery* of such size, weight and bulk that same cannot be transported in any of the common carrier operations serving the territory in question, all of such heavy commodities to be transported in platform equipment between Lansing, Mich. and radius of 35 miles thereof and various Michigan points; and (3) *articles of commodities* of such size, weight to bulk (excluding automobiles and automobile parts which are component part thereof) as to require the use of carry-all, winch or poletrailer, or other special equipment, or which requires rigging by the carrier, between Lansing and a radius of 35 miles thereof on the one hand and various Michigan points.

NOTE.—Common control may be involved. Applicant seeks to acquire the Certificate of Registration issued to Commodore Cartage Company in MC–98835, and in connection with such purchase seeks to convert the Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter directly related to the section 5 proceeding in MC–F–11511 published in the FR issue of January 19, 1974. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC–F–11967. (Correction) (CREGER FREIGHT LINES, INC.—PURCHASE—CALVALCADE TRUCKING, INC.), published in the September 6, 1973, issue of the FEDERAL REGISTER on page 24288. Prior notice should be modified to read: CREGER FREIGHT LINES, INC.—CONTROL AND PURCHASE—CALVALCADE TRUCKING, INC.

No. MC–F–12171. (Correction) (DON WARD, INC.—PURCHASE—ESTES TRUCKING CO.), published in the March 27, 1974, issue of the FEDERAL REGISTER on page 11367. Prior notice should have shown the address of Don Ward, Inc., as 241 W. 56th Ave., Denver, CO 80216, and the address of Estes Trucking Co., as 218 E. 5th Ave., Rifle, CO 81650.

No. MC–F–12205. Authority sought for continuance in control by LEASEWAY TRANSPORTATION CORP., 21111 Chagrin Blvd., Cleveland, OH 44122, of DEDICATED FREIGHT SYSTEMS, INC., also of Cleveland, OH 44122, and for acquisition by W. J. O'Neill and P. J. O'Neill, both of Cleveland, OH 44122, of control through the acquisition by LEASEWAY TRANSPORTATION CORP. Applicants' attorney: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Operating rights sought are presently pending in No. MC–139583 (Sub-No. 1): Motor vehicle parts and accessories, and related publications, advertising material, and packaging, and shipping supplies, as a contract carrier over irregular routes, between the Ford Marketing Corporation Parts Distribution Center located in Cuyahoga Heights, Ohio, on the one hand, and, on the other, points in Ashland, Ashtabula, Auglaize, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Delaware, Erie, Fairfield, Franklin, Geauga, Guernsey, Hancock, Hardin, Holmes, Huron, Knox, Lake, Licking, Logan, Lorain, Mahoning, Marion, Medina, Mercer, Morgan, Morrow, Muskingum, Noble, Ottawa, Perry, Portage, Richland, Sandusky, Seneca, Shelby, Stark, Summit, Trumbull, Tuscarawas, Union, Wayne, and Wyandot Counties, Ohio; Allegany, Cattarugus, Cayuga, Chatauga, Erie, Gennessee, Jefferson, Livingston, Monroe, Niagara, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates Counties, N.Y.; and Crawford, Erie, Mercer, Venango, and Warren Counties, Pa., Leaseway presently controls, with Commission approval, Anchor Motor Motor Freight, Inc. (Anchor), which holds contract carrier authority pursuant to permit granted in No. MC–808 and sub-numbered proceedings thereunder, Signal Delivery Service, Inc. (Signal), which holds contract carrier authority under permits granted in No. MC–108393 and sub-numbered proceedings thereunder, Sugar Transport, Inc. (Sugar), which holds contract carrier authority under permits granted in No. MC–115924 and sub-numbered proceedings thereunder, Pep Lines Trucking Co. (Pep), which holds authority as a motor contract carrier under permits granted in No. MC–135280 and sub-numbered proceedings thereunder, and as a motor common carrier under certificates granted in No. MC–120184 and sub-numbered proceedings thereunder, Mitchell Transport, Inc. (Mitchell), which holds authority as a motor common carrier under certificates granted in No. MC–124212 and sub-numbered proceedings thereunder, and Refiners Transport & Terminal Corporation (Refiners), which holds authority as a motor common carrier under certificates granted in No. MC–50069 and sub-numbered proceedings thereunder; Gypsum Haulage, Inc. (Gypsum), which holds authority as a motor contract carrier under permits granted in No. MC–112113 and sub-numbered proceedings thereunder. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC–139583 (Sub-No. 1), is a matter directly related. The purpose of this application is to seek Commission approval for Leaseway Transportation Corp. to continue in control of Dedicated Freight Systems, Inc., when and if it becomes a motor carrier.

No. MC–F–12206. Authority sought for control by NORTH & SOUTH LINES, INCORPORATED, 1610 South Main St., Harrisonburg, VA 22801, of T. M. ZIMMERMAN COMPANY, P.O. Box 380, Chambersburg, PA 17201, and for acquisition by ROBERT E. PLECKER, also of Harrison, VA 22801, of control of T. M. ZIMMERMAN COMPANY, through the acquisition by NORTH & SOUTH LINES, INCORPORATED. Applicants' attorneys: John R. Sims, Jr., Suite 600, 1707 H St., NW., Washington, DC 20006, and John M. Musselman, P.O. Box 1146, Harrisburg, PA 17108. Operating rights sought to be controlled: *Specified commodities*, as a *common carrier*, over irregular routes, from, to, and between specified points in the States of Pennsylvania, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, West Virginia, Virginia, Ohio, Maine, New Hampshire, Vermont, North Carolina, South Carolina, Missouri, Illinois, Indiana, Michigan, and the District of Columbia, with certain restrictions, as more specifically described in Docket No. MC–112582 and sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. NORTH & SOUTH LINES, INCORPORATED, is authorized to operate as a *common carrier* in Pennsylvania, Virginia, West Virginia, Delaware, New Jersey, Maryland, North Carolina, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–107496 (Sub-No. 951), is a matter directly related.

No. MC–F–12208. Authority sought for control by AMERICAN NATIONAL CORPORATION, a noncarrier, 2661 S. Broadway, Green Bay, WI 54304, of NATIONAL REFRIGERATED TRANSPORT, INC., 1925 National Plaza, Tulsa, OK 74151, and for acquisition by AL J. SCHNEIDER AND DONALD J. SCHNEIDER, also of Green Bay, WI 54304, of control of NATIONAL REFRIGERATED TRANSPORT, INC., through the acquisition by AMERICAN NATIONAL CORPORATION. Applicants' attorneys: Charles W. Singer, 2440 E. Commercial Blvd., Ft. Lauderdale, FL 33308, and Leonard A. Jaskiewicz, Suite 501, 1730 M St. NW., Washington, DC 20036. Operating rights sought to be controlled: *Specified commodities*, as a *common carrier* over irregular routes, from, to, and between all specified points in the United States (except Alaska and Hawaii), with restrictions. AMERICAN NATIONAL CORPORATION, holds no authority from this Commission. However, it is affiliated with (1) Schneider Transport & Storage, Inc., 2661 S. Broadway, Green Bay, WI 54304; (2) Schneider Tank Lines, Inc., 200 W. Cecil St., Neenah, WI 54956; and (3) Trans-National Truck, Inc., P.O. Box 4168, Amarillo, TX 79105, which are authorized to operate as *common carriers* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–12209. Authority sought for purchase by C. MALONE TRUCKING, INC., Rear 154 Newton St., Waltham, MA 02154, of the operating rights of ROGER W. BROWN, INC., 316 New Boston St., Woburn, MA 01801, and for acquisition by ADELE MALONE, 90 Ellison Park, Waltham, MA, of control of such rights through the purchase. Applicants' attorney: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Operating rights sought to be transferred: *Brick* and *tile*, as a *common carrier* over irregular routes, from Gonic, Exeter, and Epping, N.H., and Cambridge, Bridgewater, and Westfield, Mass., to points in Massachusetts, Rhode Island, Connecticut, New Hampshire, and Vermont; *brick*, from Gonic, Exeter, and Epping, N.H., to points in Maine within 200 miles of Epping, from Boston, Mass., and points within 10 miles of Boston and those in Rhode Island, to certain specified points in New Hampshire and Maine, from North Haven, Conn., to points and places in Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, from Berlin, East Windsor Hills, and Hartford, Conn., to points and places in Maine, New Hampshire, and Vermont, to points in Rhode Island except Pawtucket and those in Kent, Providence, and Washington Counties, and to points and places in Massachusetts except Hillford, New Bedford, Taunton, and those in that part of Massachusetts on and west of Massachusetts Highway 12; *clay*, from Exeter and Epping, N.H., to Lawrence, Mass.; *reinforced steel bars*, from Medford, Boston, and Cambridge, Mass., to certain specified points in New Hampshire, those in Providence County, R.I., and those in Tolland and Hartford Counties, Conn.; *steel floor arches*, between points in New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island; terra cotta, between points in New Hampshire, between points in Massachusetts, between points in Connecticut, between points in Rhode Island, between points in Vermont; lumber and logs, between points in that part of Massachusetts on and south of a line beginning at the Vermont-New Hampshire State line near West Lebanon, N.H., and extending along U.S. Highway 4 to Potter Place, N.H., and thence along New Hampshire Highway 11 to the Maine-New Hampshire State line, on the one hand, and, on the other, points in that part of Massauchsetts on and east of Massachusetts Highway 12; *fertilizer*, in bags, from North Weymouth, Mass., to points in Cheshire and Sullivan Counties, N.H.; and return with *rejected shipments; fertilizer*, between points in Massachusetts on and east of Massachusetts Highway 12, on the one hand, and, on the other, points in Vermont, Rhode Island, New Hampshire, and Connecticut. Vendee is authorized to operate as a *common carrier* in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12211. Authority sought for control and merger by STEVENS VAN

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LINES, INC., 121 S. Niagara St., Saginaw, MI 48602, of the operating rights and property of HAMMEL MOVING & STORAGE, INC., 5415 Conner Ave., Detroit, MI 48213, and for acquisition by ARCHIBALD H. STEVENS, SR., also of Saginaw, MI 48602, of control of such rights and property through the transaction. Applicants' attorneys: Ramon S. Regan, 2255 Penobscot Bldg., Detroit, MI 48226, and Norman Hyman, 2290 First National Bldg., Detroit, MI 48226. Operating rights sought to be controlled and merged: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points in Michigan, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, between Detroit, Mich., and points within two miles of Detroit, on the one hand, and, on the other, points in Ohio, Indiana, Illinois, Pennsylvania, and New York. STEVENS VAN LINES, INC., is authorized to operate as a *common carrier* in Colorado, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, Wisconsin, West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTICE

The Atchison, Topeka, and Santa Fe Railway Company whose address is 80 East Jackson Boulevard, Chicago, Ill. 60604, the Chicago, Rock Island and Pacific Railroad Company whose address is 139 West Van Buren Street, Chicago, Ill. 60605, the Fort Worth and Denver Railway Company whose address is Fort Worth Club Building, P.O. Box 943, Fort Worth, Tex. 76101, the Missouri-Kansas-Texas Railroad Company whose address is Katy Building, 701 Commerce Street, Dallas, Tex. 75202, the St. Louis-San Francisco Railway Company, whose address is 1517 West Front Street, Tyler, Tex. 75701, the Southern Pacific Transportation Company whose address is One Market Street, San Francisco, Calif. 94105 and The Texas and Pacific Railway Company, 505 North Industrial Boulevard, Dallas, Tex. 75207, all of whom are represented by J. Kyle DuVall, Esquire, Jackson, Walker, Winstead, Cantwell & Miller, 4300 First National Bank Bldg., Dallas, Tex. 75202 and Robert G. Seaks, Esquire, 704 Southern Building, 15th and H Streets NW., Washington, D.C. 20005, hereby gives notice that they filed on March 8, 1974, an application, assigned F.D. 27595 under Section 5 of the Interstate Commerce Act for authority to each to acquire an undivided 1/8th interest in 2.09 miles of railroad in and adjacent to The Union Terminal in the city of Dallas, county of Dallas, Dallas, Tex., and for approval of their operating such line of railroad, together with other adjacent segments of railroad over which the Union Terminal Company had operating rights, in accordance with an Operating Agreement among them dated February 19, 1974. In the opinion of the Applicants, this application, if approved by order of the Commission will not result in an effect on quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-Nat'l* Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of human environment. Any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra Part (b)(1)–(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

NOTICE

Application of Amoskeag Company, a Delaware Corporation, and Dumaines, a Voluntary Association, under Section 5(2) of the Interstate Commerce Act for authority to acquire control of Maine Central Railroad Company through voting of Trusteed Stock was filed on April 23, 1974. The proposed transaction, assigned Finance Docket No. 27621, is that Applicant Amoskeag Company, Suite 4500 Prudential Tower, Boston, Massachusetts 02199 shall be permitted to vote 48,299 shares of Maine Central stock now owned by it and held in trust by the Mercantile Trust Company, National Association, as independent voting trustee and to be free to extend its control by solicitation of proxies, by acquisition of additional stock, or any other lawful means. The address of Applicant Dumaines is Suite 4500 Prudential Tower, Boston, Massachusetts 02199. The Applicants' attorneys are Alan L. Lefkowitz, Gaston Snow & Ely Bartlett, Room 1200, 225 Franklin Street, Boston, Massachusetts 02110 and John L. Davidson, Jr., Greenfield, Davidson & Mandelstamm, Suite 1516 Chemical Building, 721 Olive Street, St. Louis, Missouri 63101. The Maine Central Railroad Company, the carrier involved, operates 885.23 miles of track. The Maine Central Railroad Company operates northward and northeasterly and westward from Portland, Maine. Its western terminiare at St. Johnsbury, Vermont, and North Stratford, Vermont. Its northern terminus is Vanceboro, Maine; its eastern termini are Calais and Eastport, Maine.

The carrier involved, Maine Central, operates railroad property in the States of Maine, New Hampshire and Vermont and in the Province of New Brunswick, Canada. Applicant Dumaines through Applicant Amoskeag controls Bangor & Aroostock Railroad Company which is located wholly within the State of Maine and operates approximately 541 miles of track.

In the opinion of the Applicants, as to proceedings under this application, no major Federal action significantly affecting the quality of the human environment is involved within the meaning of 42 U.S.C. Sec. 4332(c)(2). In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-Nat'l Environmental Policy Act of 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)–(5), 340 I.C.C. 431, 461.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted should be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10623 Filed 5-7-74;8:45 am]

[Notice No. 503]

ASSIGNMENT OF HEARINGS

MAY 3, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of concellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after May 8, 1974.

Ex Parte 295 Sub 1, Increased Freight Rates and Charges, 1973—Recyclable Materials, now being assigned continued hearing May 14, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

W-1273, Aiple Towing Co., Inc., now being assigned hearing July 8, 1974 (2 weeks), at Chicago, Ill., in a hearing room to be later designated.

MC 138548 Subs 1 and 2, Indianoaks Transportation Co., now assigned June 3, 1974, at Chicago, Ill., is cancelled and the applications are dismissed.

MC 119777 Sub-271, Ligon Specialized Hauler, Inc., now assigned June 24, 1974, at Louisville, Ky., is postponed indefinitely.

MC-C-8266, Stanley S. Barstow, dba Barstow Transportation—Investigation and Revocation of Certificates—now being assigned hearing July 10, 1974 (2 days), at Hartford, Conn., in a hearing room to be later designated.

MC 130206, William J. Chernesky, now being assigned hearing July 9, 1974 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC-C-8261, Coastal Cities Coach Co.—Investigation And Revocation Of Certificates—now being assigned July 9, 1974, at Newark, N.J., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10616 Filed 5-7-74;8:45 am]

[Notice 62]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 30, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20992 (Sub-No. 31 TA), filed April 23, 1974. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: Patrick E. Quinn, 605 So. 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vegetable harvesting and handling equipment*, from Clear Lake, Wis., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, and (2) *materials, equipment, and supplies* used in the manufacturing, production, and distribution of vegetable harvesting and handling equipment, from points in the above-named destination states, to Clear Lake, Wis., for 180 days. RESTRICTION: Restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment, and further restricted to traffic originating at or destined to Clear Lake, Wis. SUPPORTING SHIPPER: Pixall Corporation, Clear Lake, Wis. 54005. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg., U.S. Courthouse, 110 So. 4th Street, Minneapolis, Minn. 55401.

No. MC 27356 (Sub-No. 7 TA) (CORRECTION), filed April 10, 1974, Published in the FEDERAL REGISTER notice No. 58, dated April 23, 1974, and republished as corrected this issue. Applicant: M-F EXPRESS, INC., 610 E. Emma Avenue, Springdale, Ark. 72764. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701.

NOTE.—The purpose of this republication is to show that applicant now seeks to operate over a *regular route*, rather than an irregular route. The rest of the application will remain as previous published in the FEDERAL REGISTER.

No. MC 30446 (Sub-No. 5 TA), filed April 24, 1974. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., 125 E. Craighead Road, Charlotte, N.C., 28225. Applicant's representative: Thomas R. Travillion, P.O. Box 5647, 3408 North Graham Street, Charlotte, N.C. 28225. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, in bulk, in closed vans, from Celriver, S.C., to Charleston, S.C., and to Savannah and/or Port Wentworth, Ga., for 180 days. SUPPORTING SHIPPER: Celanese Corporation, Manager-Domestic Traffic, John J. Nome, 1211 Avenue of the Americas, New York, N.Y. 10036. SEND PROTESTS TO: District Supervisor Terrell Price, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Road, CC516, Charlotte, N.C. 28205.

No. MC 50069 (Sub-No. 488 TA), filed April 23, 1974. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Oregon, Ohio, to points in Indiana (except Elkhart, Ind.) for 180 days. SUPPORTING SHIPPER: Coulton Chemical Corporation, 1400 Otter Creek Road, Oregon, Ohio 43616. SEND PROTESTS TO: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 107460 (Sub-No. 48 TA), filed April 23, 1974. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal roofing and accessories thereof and fabricated metal products*, from the plant site of Fabral Corporation located at or near Gridley, Ill., to points in Minnesota, and (2) *materials and supplies* used in the manufacture of metal roofing, from points in Indiana, to the plant site of Fabral Corporation located at or near Gridley, Ill., for 180 days. SUPPORTING SHIPPER: Fabral Corporation, P.O. Box 310, Gridley, Ill. 61744. SEND PROTESTS TO: Robert P. Amerine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa.

No. MC 111170 (Sub-No. 212 TA), filed April 23, 1974. Applicant: WHEELING PIPE LINE, INC., 2811 N. West Avenue, P.O. Box 1718, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium hydro sulfide*, in bulk, from plantsite of Dow Chemical in Columbia County, Ark., to Demopolis, Ala., for 180 days. SUPPORTING SHIPPER: Dow Chemical U.S.A., Eastern Division, P.O. Box 6417, Cleveland, Ohio 44101. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111729 (Sub-No. 434 TA), filed April 23, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success (NHP-PO), N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media, advertising* materials of all kinds, (a) between Austin, Minn., and La Crosse, Wis.; (b) between points in Wayne County, Mich., on the one hand, and, on the other, Anderson, Fort Wayne, Kokomo, and Richmond, Ind.; and Lexington, Ky.; and (c) from Cleveland, Ohio, to Beaver Falls, Pa.; and (2) *proofs, cuts, copy, layouts, printing plates, and advertising material, and business papers, records, audit and accounting media of*

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all kinds, restricted to packages or articles weighing in the aggregate no more than 75 pounds, from one consignor to one consignee on any one day, (a) between Indianapolis, Ind., on the one hand, and, on the other, Grand Rapids, Mich., and Peoria, Ill., and (b) between Elkhart, Ind., on the one hand, and, on the other, Battle Creek, Berrien Springs, Grand Rapids, Muskegon, and Niles, Mich., for 180 days. SUPPORTING SHIPPERS: (1) F. W. Means & Co., 2822 University Ave., Waterloo, Iowa; (2) Montgomery Ward & Co., 835 North Crest Shopping Center, Fort Wayne, Ind.; (3) AAV Companies, 31100 Solon Road, Solon, Ohio; (4) Lithotone, Inc., 1313 W. Hivelry Avenue, Elkhart, Ind.; and (5) Alexander Typesetting, Inc., 125 N. East Street, Indianapolis, Ind. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113908 (Sub-No. 312 TA) (CORRECTION), filed April 1, 1974, published in the FEDERAL REGISTER issue of April 16, 1974, and republished as corrected this issue. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Glenstone Station, P.O. Box 3180, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar, vinegar stock, and vinegar stock concentrate*, in bulk, from Nixa and Springfield, Mo., to Tacoma and Sumner, Wash., for 180 days. SUPPORTING SHIPPER: Standard Brands, Inc., Midwest Vinegar Division, 3638 North Broadway, Chicago, Ill. 60613. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

NOTE.—The purpose of this republication is to correct the community of vinegar concentrate to *vinegar stock concentrate*, in which stock was omitted in error.

No. MC 115691 (Sub-No. 31 TA), filed April 22, 1974. Applicant: MURPHY TRANSPORTATION, INC., 1414 Crawford Avenue, P.O. Box 1090, Anniston, Ala. 36201. Applicant's representative: John P. Carlton, 903 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated lumber and treated and untreated posts*, from Haleyville, Ala., to points in Wisconsin on and south of Wisconsin State Highway 29; points in Iowa on and east of U.S. Highway 69; and points in Ohio, Indiana, Illinois, Pennsylvania, New York, and the lower peninsula of Michigan, for 180 days. SUPPORTING SHIPPERS: Fullco Lumber Co., Inc., P.O. Box 617, Haleyville, Ala. 35565; Free State Lumber Company, Inc., Haleyville, Ala. 35565; Newburg Road Lumber Co., Inc., P.O. Box 548, Haleyville, Ala. 35565; and Joe A. Fuller Lumber Co., Inc., P.O. Box 190, Haleyville, Ala. 35565. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 116474 (Sub-No. 31 TA), filed April 22, 1974. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, Oreg. 97477. Applicant's representative: David C. White, 2400 SW. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Poles and piling*, for the account of J. H. Baxter & Company, from Eugene, Oreg., to points in Marin, San Francisco, San Mateo, and Santa Clara Counties, Calif., for 180 days. SUPPORTING SHIPPER: J. H. Baxter & Company, 1618 SW. First Avenue, Portland, Oreg. 97201. SEND PROTESTS TO: District Supervisor Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 119726 (Sub-No. 37 TA), filed April 22, 1974. Applicant: N.A.B. TRUCKING CO., INC., 2502 West Howard Street, P.O. Box 21006, Indianapolis, Ind. 46221. Applicant's representative: James L. Beattey, 130 East Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cardboard cartons*, knock down, from Jacksonville, Fla., to the plant site of Midland Glass Company, Inc., at Warner Robins, Ga., for 180 days. SUPPORTING SHIPPER: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. SEND PROTESTS TO: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. Street, Indianapolis, Ind. 46204.

No. MC 119726 (Sub-No. 38 TA), filed April 22, 1974. Applicant: N.A.B. TRUCKING CO., INC., 2502 West Howard Street, P.O. Box 21006, Indianapolis, Ind. 46211. Applicant's representative: James L. Beattey, 130 East Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures thereof*, including *caps, covers, and tops*, from Terre Haute, Ind., to points in Illinois, Missouri, Wisconsin, Michigan, and Ohio, for 180 days. SUPPORTING SHIPPER: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 123048 (Sub-No. 306 TA), filed April 19, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, Wis. 53401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors) weighing less than 12,000 pounds, from Baltimore, Md., to Columbus, Ohio, and Davenport, Iowa, for 180 days. SUPPORTING SHIPPER: Deutz Tractor Corporation, 2080 Peachtree Industrial Court, Chamblee, Ga. 30341. SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124078 (Sub-No. 591 TA), filed April 23, 1974. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Commodities* which because of size, weight, or shape require the use of special handling, and (b) *attachments, parts, machinery, materials, and supplies* related to the commodities named in Part (1)(a) and moving in connection therewith; (2) *self-propelled articles* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith; and (3) *commodities* which because of size, weight, or shape, do not require the use of special equipment or special handling when transported as part of the same shipment with either (a) *commodities* which because of size, weight, or shape require the use of special equipment or special handling, or (b) *self-propelled articles* each weighing 15,000 pounds or more, from Escanaba, Mich., to points in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: Harnischfeger Corporation, Milwaukee, Wis. 53246 (D. G. Ploetz, General Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 133939 (Sub-No. 3 TA), filed April 24, 1974. Applicant: IMPERIAL AIR FREIGHT SERVICE, INC., 151 Oliver Street, Newark, N.J. 07105. Applicant's representative: Charles E. Creager, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, commodities in bulk, and commodities requiring special equipment), restricted to shipments having a prior or subsequent movement by air, between John F. Kennedy International Airport, Jamaica, N.Y., and La Guardia Airport, Flushing, N.Y., and Newark Airport, Newark, N.J., on the one hand, and, on the other, points in Ulster and Dutchess Counties, N.Y., for 180 days. SUPPORTING SHIPPERS: Dolphin Communications, Inc., 181 Church Street, Poughkeepsie, N.Y. 12601; Hercules, Incorporated, 910 Market St., Wilmington, Del. 19899; Tidal Communications Corp., 121 Washington St., Poughkeepsie, N.Y. 12602; and I. C. Danczak, Inc., 209 Broadway, Port Ewen, N.Y. 12466. SEND PROTESTS TO: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 134922 (Sub-No. 76 TA), filed April 22, 1974. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts* as defined by the Commission in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 283, Appendix VII, restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment, from the plantsite and warehouse facilities of Gibson Metalux Corporation at or near Americus, Ga., to points in Arizona, California, Colorado, Idaho, New Mexico, Oregon, Utah, and Washington, for 180 days. SUPPORTING SHIPPER: Gibson Metalux Corporation, Sutterfield Road, P.O. Box 1207, Americus, Ga. 31709. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 138018 (Sub-No. 10 TA), filed April 22, 1974. Applicant: REFRIGERATED FOODS, INC., 1420 33rd Street, Denver, Colo. 80205. Applicant's representative: Arlyn L. Westergren, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex., (Moore County) to points in California, Colorado, Nebraska, Kansas, Iowa, Minnesota, Wisconsin, and Illinois, restricted to traffic originating at and destined to the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: Roger L. Buchanan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 138719 (Sub-No. 2 TA), filed April 23, 1974. Applicant: PATTERN TRUCKING COMPANY, INC., Box 297, Patten, Maine 04765. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue, Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from plant site and shipping facilities of Northern Mill and Lumber Co., Inc., at or near Patten, Maine, to points in Indiana and Illinois, for 180 days. SUPPORTING SHIPPER: Northern Mill and Lumber Co., Inc., Patten, Maine 04765. SEND PROTESTS TO: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 307, 76 Pearl St., Portland, Maine 04112.

PASSENGER APPLICATION

No. MC 107450 (Sub-No. 4 TA), filed April 12, 1974. Applicant: METROPOLITAN COACH CORPORATION, 1621 North 28th Street, Richmond, Va. 23223. Applicant's representative: Steven L. Weiman, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round trip charter operations, beginning and ending at points within 15 miles of Richmond, including Richmond, Va., and extending to Colorado, Florida, Georgia, Illinois, Louisiana, Michigan, Missouri, Ohio, South Carolina, and Tennessee, for 180 days. SUPPORTED BY: There are approximately 12 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Bldg., Richmond, Va. 23240.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74–10618 Filed 5–7–74;8:45 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MAY 3, 1974.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. MC 54798, filed April 10, 1974. Applicant: HATFIELD TRUCKING SERVICE, INC., 1625 North C Street, Sacramento, Calif. 95814. Applicant's representative: Eldon M. Johnson, The Hartford Building, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Certificate of public convenience and necessity sought to operate a freight service as follows: *General commodities*, between the following points, serving all intermediate points on the said routes and all off-route points within twenty (20) miles thereof: (1) Project City and Stockton on Interstate Highway 5; (2) Red Bluff and Merced on State Highway 99; (3) Williams and Nevada City on State Highway 20; (4) Grass Valley and Placerville on State Highway 49; (5) Sacramento and Placerville on U.S. Highway 50; (6) Auburn and the San Francisco Territory (as described in Note 1 hereto) on Interstate Highway 80; (7) Pinole and Stockton on State Highway 4; (8) The San Francisco Territory (as described in Note 1 hereto) and Stockton on Interstate Highway 580, Interstate Highway 205 and Interstate Highway 5; and (9) also serving all off-route points in the Counties of Amador, El Dorado, Lassen, Nevada, Placer, Plumas, and Sierra. In performing the service herein described, the routes and points listed above may be joined and combined, and use may be made of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service. Except that, pursuant to the authority herein sought, no shipments of the following shall be transported: (A) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff Number 4–B; (B) automobiles, trucks, and buses, viz: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis;

(C) Livestock, viz: Barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feederpigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine of wethers; (D) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (E) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (F) logs; (G) trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper; and (H) mining, building, paving, and construction materials in bulk, in dump trucks or in hopper-type trucks. Note 1: The San Francisco Territory: Between points in California (including the City of San Jose) within an area bounded by a line beginning at the point the San Francisco-San Mateo County Boundary line meets the Pacific Ocean; thence

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easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue.

Easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estate Drive, Harbord Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 74260–CCT, filed April 19, 1974. Applicant: AUSTIN TUPLER TRUCKING, INC., 6570 SW. 47th Court, Ft. Lauderdale, Fla. 33314. Applicant's representative: Richard B. Austin, 5255 NW. 87th Avenue, Miami, Fla. 33166. Certificate of public convenience and necessity sought to operate a freight service as follows:

NOTE.—Applicant seeks authority to extend its Certificate No. 1024, and Certificate No. MC 134771 so as to authorize the transportation of *Scrap metal and junk* to, from, and between all points and places in the State of Florida, on irregular routes and schedules. Intrastate, interstate, and foreign commerce authority sought.

HEARING: date, time, and place not shown. Requests for procedural information should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, Fla. 32304, and should not be directed to the Interstate Commerce Commission.

Kansas Docket No. 99579 M Route No. 10127, filed April 4, 1974. Applicant: DALE A. ZOGLEMAN, doing business as, WESTERN KANSAS EXPRESS, P.O. Box 124, Wichita, Kans. 67201. Applicant's representative: Franklin D. Gaines, 116 East 5th Street, Augusta, Kans. 67010. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, over regular routes: Part I: (1) To and from and between Wichita and Hesston, Kans., serving no intermediate points. To, from, and between Wichita, Kans., North over Interstate Highway 35 to Hesston, Kans., and return over the same route. Intrastate, interstate, and foreign commerce authority sought.

HEARING: June 17, 1974, for the entire week, at the Holiday Inn Midtown, Trophy Room, Wichita, Kans., at 10:00 A.M. Requests for procedural information should be addressed to the Kansas State Corporation Commission, Fourth floor, State Office Building, Topeka, Kans. 66612, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10620 Filed 5–7–74;8:45 am]

[Notice No. 8]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 3, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC–61599 (Deviation No. 8), CONTINENTAL SOUTHEASTERN LINES, INC., P.O. Box 2387, Charlotte, North Carolina 28201, filed April 22, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, over a deviation route as follows: (1) From Florence, S.C., over Interstate Highway 20 to junction Interstate Highway 20 and U.S. Highway 401, (2) From junction Interstate Highway 20 and U.S. Highway 401, thence over Interstate Highway 20 to junction U.S. Highway 521, (3) From junction Interstate Highway 20 and U.S. Highway 521, thence over Interstate Highway 20 to junction U.S. Highway 601, and (4) From junction Interstate Highway 20 and U.S. Highway 601, thence over Interstate Highway 20 to junction U.S. Highway 1, west of Columbia, S.C., with the following access routes: (a) From junction Interstate Highway 20 and unnumbered access road near Fort Jackson, S.C., thence over unnumbered access road to Fort Jackson, S.C., (b) From Junction Interstate Highway 20 and U.S. Highway 1 west of Columbia, S.C., thence over U.S. Highway 1 to Columbia, S.C., (c) From junction Interstate Highway 20 and South Carolina Highway 555 east of Columbia, S.C., thence over South Carolina Highway 555 to Columbia, S.C., (d) From junction Interstate Highway 20 and U.S. Highway 21 north of Columbia, S.C., thence over U.S. Highway 21 to Columbia, S.C., and (e) From junction Interstate Highway 20 and U.S. Highway 321 north of Columbia, S.C., thence over U.S. Highway 321 to Columbia, S.C., and (5) From junction Interstate Highway 95 and U.S. Highway 278 near Ridgeland, S.C., thence over Interstate Highway 95 to junction Interstate Highway 16, thence over Interstate Highway 16 to Savannah, Ga., with the following access routes: (a) From junction Interstate Highway 95 and U.S. Highway 17 near Hardeeville, S.C., thence over U.S. Highway 17 to junction U.S. Highway 17 and South Carolina Highway 170, and (b) From junction Interstate Highway 95 and Georgia Highway 21 near Monelth, Ga., thence over Georgia Highway 21 to Savannah, Ga., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follow:

(1) From Florence, S.C., over U.S. Highway 52 to Darlington, S.C., thence over U.S. Highway 401 to Sumter, S.C., thence over U.S. Highway 521 to Camden, S.C., thence over U.S. Highways 1 and 601 to junction U.S. Highway 601, thence over U.S. Highway 601 to junction South Carolina Highway 12, thence over South Carolina Highway 12 to Columbia, S.C., thence over U.S. Highway 1 and Interstate Highway 20 west of Columbia, S.C., and (2) From Ridgeland, S.C., over U.S. Highway 278 to junction South Carolina Highway 170, thence over South Carolina Highway 170 to junction U.S. Highway 17, thence over U.S. Highway 17 to Savannah, Ga., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10621 Filed 5–7–74;8:45 am]

[No. MC–F–10502, 11411, Finance Docket No. 27243, 26958]

RINGSBY TRUCK LINES, INC., ET AL.

Correction

In the matter of No. MC–F–10502, Ringsby Truck Lines, Inc.—Control—United-Buckingham Freight Lines, Inc., et al., Finance Docket No. 27243, Ringsby Truck Lines, Inc., Note and Assumption of Obligation and Liability and No. MC–F–11411, Transcon Lines—Purchase (portion)—United-Buckingham Freight Lines, Inc., and Norwalk Truck Lines, Inc. Finance Docket No. 26958, Transcon Lines, Notes.

A report and order of the Commission, Division 3, dated April 8, 1974, was served on the parties April 29, 1974; this report appears at 116 M.C.C. 588. The following corrections need to be made:

(1) Delete lines 23–28, page 624, beginning with "*provided,*" and ending with "below,".

(2) Delete last 3 lines on page 624 begining with "(a)" and ending with "counsel,".

(3) On the last line of page 624 change "(b)" to "(a)".

(4) On the second line of page 625 change "(c)" to "(b)".

Please correct your copies accordingly.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10619 Filed 5–7–74;8:45 am]

[No. AB–70, AB–55 (Sub-No. 2)]

FLORIDA EAST COAST RAILROAD CO. AND SEABOARD COAST LINE RAILROAD CO.

Abandonment of Service

In the matter of Florida East Coast Railway Company abandonment between Aurantia and Benson Junction, in Brevard and Volusia Counties, Florida and Seaboard Coast Line Railroad Company abandonment between Benson Junction and Enterprise, in Volusia County, Florida.

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, That no environmental impact statement need be issued in these proceedings, because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicants be, and they are hereby, directed to publish the appended notice in newspapers of general circulation in Volusia and Brevard Counties, Fla., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 24th day of April, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

INTERSTATE COMMERCE COMMISSION

[Notice No. AB–70]

FLORIDA EAST COAST RAILWAY COMPANY ABANDONMENT BETWEEN AURANTIA AND BENSON JUNCTION, IN BREVARD AND VOLUSIA COUNTIES, FLORIDA

[No. AB–55 (Sub-No. 2)]

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT BETWEEN BENSON JUNCTION AND ENTERPRISE, IN VOLUSIA COUNTY, FLORIDA

The Interstate Commerce Commission hereby gives notice that by order dated April 24, 1974, it has been determined that the proposed abandonments by the Florida East Coast Railway Company and the Seaboard Coast Line Railroad Company of the line of railroad between Aurantia and Benson Junction, Brevard and Volusia Counties, Fla., a total distance of approximately 30.7 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that the environmental effects are considered insignificant because traffic over the line has been minimal and sporadic, the adjacent area is primarily woodlands and marshes with little prospect for commercial development dependent upon continued rail service, and salvaging operations will not materially alter the local ecological systems.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office for Proceedings, Washington, D.C., 20423; telephone: 202–343–6989.

Interested parties may comment on this matter by the submission of representatives to the Interstate Commerce Commission, Washington, D.C., 20423, on or before May 23, 1974.

[FR Doc. 74–10617 Filed 5–7–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

AREA MANAGERS, PHOENIX, ARIZONA

Redelegation of Authority

Under authority of Bureau Order 701, dated July 23, 1964, and as amended, the Area Managers administering the Phoenix Resource Area, Lower Gila Resource Area, and the Kingman Resource Area of the Phoenix District, Arizona are authorized to act on the following matters:

Within their respective areas of responsibility in accordance with existing policies and regulations of the Department, and under direct supervision of the Phoenix District Manager, they may exercise the function of the Bureau Director on the matters specified below subject to the limitations of Bureau Order 701, Part III.

AUTHORITY IN SPECIFIC MATTERS

SEC. 3.3 *Fiscal affairs.* The Area Manager may take action on:

(d) Trespass: Determine liability and issue notice of grazing trespass; recommend as to acceptance of settlement.

SEC. 3.7 *Range management.* The Area Manager may take all action on:

(a) Grazing District Administration

(1) Within grazing districts, the issuance of licenses to graze or trail livestock.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(b) Outside grazing districts, the issuance of grazing leases.

(d) Soil and moisture conservation; control of halogeton glomeratus.

(e) Controlled brush burning in accordance with plans and specifications approved by the State Director.

(f) Protection of wild, free-roaming horses and burros.

SEC. 3.8 *Forest Management.* The Area Manager may take all action on:

(a) Disposition of forest products including sales of timber not exceeding $100.00 in value.

SEC. 3.9 *Land use.* The Area Manager may take all action on:

(g) Disposition of materials other than forest products, not exceeding $2,000.00 in value.

The District Manager may at any time temporarily reserve, restrict, or withhold any portion of the above delegated authority.

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This order rescinds all prior redelegations.

RILEY E. FOREMAN,
District Manager.

Approved:

HAROLD H. RAMSBACHER,
Acting State Director.

[FR Doc.74-10510 Filed 5-7-74;8:45 am]

[New Mexico 21304, 21305, 21306, 21307, 21308, 21359]

TRANSWESTERN PIPELINE CO.

Notice of Applications

APRIL 30, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Transwestern Pipeline Company has applied for five 6-inch and one 12-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 25 E.,
Sec. 27, SW¼SE¼;
Sec. 34, N½NE¼, E½NW¼, NW¼NW¼;
Sec. 35, NW¼NW¼, S½NW¼.
T. 20 S., R. 28 E.,
Sec. 27, W½SE¼.
T. 21 S., R. 32 E.,
Sec. 10, S½NE¼, NE¼SE¼;
Sec. 11, W½SW¼, SE¼SW¼;
Sec. 14, NW¼NE¼, S½NE¼, NE¼NW¼.
T. 23 S., R. 34 E.,
Sec. 20, W½SW¼, SE¼SW¼, S½SE¼.

These pipelines will convey natural gas across 4.43 miles of national resource lands in Lea and Eddy Counties, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above six right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10524 Filed 5-7-74;8:45 am]

Office of the Secretary

JOHN V. SALO

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Public Service Company of New Hampshire purchase of 16 shares of common stock.
(2) None.
(3) None.
(4) None.

This statement is made as of March 31, 1974.

Dated: April 15, 1974.

JOHN V. SALO.

[FR Doc.74-10565 Filed 5-7-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Notice of Meeting

The Deschutes National Forest Advisory Committee will meet at 6:00 p.m., May 9, 1974, for dinner at Paulina Lake Lodge, approximately 37 miles southeast of Bend, Oregon. (The Lodge can be reached by travelling south of Bend on Highway 97 to the Paulina Lake junction; then continuing east for approximately 12 miles.) The program will follow at 7:00 p.m.

The subjects to be discussed at this meeting will be winter recreational use in Newberry Crater and the proposed land exchange with Sunriver Properties, Inc.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor at 211 NE Revere, Bend, Oregon 97701, telephone number (503) 382-6922.

Dated: April 23, 1974.

G. ROBERT LEAVENGOOD,
Acting Forest Supervisor.

[FR Doc.74-10517 Filed 5-7-74;8:45 am]

TIMBER MANAGEMENT, STANISLAUS NATIONAL FOREST

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Timber Management Plan, Stanislaus National Forest, California USDA-FS-FES (Adm)-74-50.

The environmental statement concerns a proposed timber management plan for the management of the timber resources on the forest.

This final environmental statement was transmitted to CEQ on May 1, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.

USDA, Forest Service, 630 Sansome Street, Rm. 531, San Francisco, California 94111.

Stanislaus National Forest, 175 South Fairview Lane, Sonora, California 95370.

A limited number of single copies are available upon request to Regional Forester, Douglas R. Leisz, California Region, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: April 30, 1974.

GLENN P. HANEY,
Acting Regional Forester.

[FR Doc.74-10516 Filed 5-7-74;8:45 am]

Packers and Stockyards Administration

[P. & S. Docket No. 4931]

PEORIA UNION STOCK YARDS COMPANY, INC. AND BUSTER & CO., ET AL

Order Extending Period of Suspension of Modifications of Rates and Charges

On March 28, 1974, an order was issued instituting the following proceeding under Title III of the Packers and Stockyards Act, 1921, as amended, 42 Stat. 159, as amended (7 U.S.C. 181 et seq.):

Buster & Company;
Clifford Higgs d/b/a Higgs Cattle Company;
Illinois Livestock Marketing Company;
Fred E. Maddux d/b/a Maddux & Company;
S. Phillip Schaffner d/b/a S & S Order Buyers;
Edwin D. Coots, Ralph K. Swords, Larry Larimore, and Thomas E. McArthur d/b/a Sitton, Coots, & Swords (39 FR 12773)

Such order, among other things, suspended and deferred the operation and use by the respondent of modifications of its current schedule of rates and charges to become effective March 30, 1974, for a period of thirty days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearing in this proceeding could not be concluded within such period of suspension, an order has been issued in the above proceeding suspending and deferring the operation and use of such modifications of the current schedule of rates and charges for a further period of thirty days beyond the date when such modifications would have otherwise become effective.

Done at Washington, D.C.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

MAY 3, 1974.

[FR Doc.74-10595 Filed 5-7-74;8:45 am]

[P. & S. Docket No. 4933]

CORONA LIVESTOCK AUCTION, INC.

Order Extending Period of Suspension of Modifications of Rates and Charges

On March 29, 1974, an order was issued instituting the following proceeding under Title III of the Packers and Stockyards Act, 1921, as amended, 42 Stat. 159, as amended, (7 U.S.C. 181 et seq.):

Corona Livestock Auction, Inc.
Corona, California, a corporation
(39 FR 13185)

Such order, among other things, suspended and deferred the operation and use by the respondent of modifications of its current schedule of rates and charges to become effective April 1, 1974, for a period of thirty days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearing in this proceeding could not be concluded within such period of suspension, an order has been issued in the above proceeding suspending and deferring the operation and use of such modifications of the current schedule of rates and charges for a further period of thirty days beyond the date when such modifications would have otherwise become effective.

Done at Washington, D.C.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

MAY 3, 1974.

[FR Doc.74-10596 Filed 5-7-74;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Notice of Meeting

The National Marine Fisheries Service will conduct a 1-day meeting for the purpose of informing the public of National Marine Fisheries Service plans for improving communications with the sports and commercial fishing industries through proposed changes in the National Marketing Service Office. The meeting will be held at the Sheraton O'Hare in Chicago, Illinois, starting at 10 a.m. on Thursday, May 16. Additional information on the meeting is available from NMFS National Marketing Services Office, 100 East Ohio Street, Chicago, Illinois 60611, 312-353-5995.

JACK W. GEHRINGER,
Acting Director.

[FR Doc.74-10564 Filed 5-7-74;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT-APPL number and the title.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 276,211: Glass Polymer Composites; filed 28 July 1972, PC $4.00/MF $1.45.

DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 273,004: Method of Fabricating Hollow Balls for Use in Rolling Contact Bearing Applications; filed 18 July 1972; PC $4.00/MF $1.45.

Patent application 273,005: Pressure Control System for G-suit; filed 18 July 1972; PC $4.00/MF $1.45.

Patent application 276,338: Teflon-Lined Bearing Improvement; filed 31 July 1972; PC $4.00/MF $1.45.

Patent application 288,212: Vertical Rate Reference Computer for Control of a VTOL or STOL Aircraft at a Constant Flight Path Angle; filed 11 September 1972, PC $4.75/MF $1.45.

Patent application 293,692: Method for Modifying Polyhydroxy Ethers; filed 29 September 1972; PC $4.00/MF $1.45.

Patent application 295,787: Benzofuroisoquinoline Polymers and Method for Synthesizing Same; filed 6 October 1972; PC $4.00/MF $1.45.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Mgmt. Branch, Federal Building, General Services Division, Agricultural Research Service, Hyattsville, Maryland 20782.

Patent application 272,824: Fire and Wrinkle Resistant Organic Textiles Through Treatment with a Methylol Phosphine and an Aziridinyl Phosphorus Compound; filed 18 July 1972; PC $4.00/MF $1.45.

Patent application 274,949: A Dehydration Process to Impart Wrinkle Resistance to Cellulose-Containing Fibrous Materials; filed 25 July 1972; PC $4.00/MF $1.45.

Patent application 275,012: Improved Method of Purifying Concentrated Color Extracts from Citrus Peels; filed 25 July 1972; PC $4.00/MF $1.45.

Patent application 279,919: Preparation of Crosslinked Polyethylenimine and Impregnation of Cellulosic Material with in situ Crosslink-Polymerized Ethylenimine; filed 11 August 1972; PC $4.00/MF $1.45.

Patent application 288,802: N-Ethyl-N-3-Ethoxypropyl-Oleamides; filed 13 September 1972; PC $5.00/MF $1.45.

Patent application 288,806: Method of Increasing Covering Power of Knitted Cotton Fabric; filed 13 September 1972; PC $4.00/MF $1.45.

Patent application 288,807: The Preparation of Dibasic Dimeric Resin Acids; filed 12 September 1972; PC $4.00/MF $1.45.

Patent application 288,814: N,N-Di-n-Butyl-2-(Oleoyloxy) Propionamide; filed 13 September 1972; PC $5.00/MF $1.45.

Patent application 298,167: Recurable Cross-linked Cellulose Fabrics from Methylol Reagents and Polycarboxylic Acids; filed 16 October 1972; PC $4.75/MF $1.45.

Patent application 306,774: Production of Phosphorus and Nitrogen Containing Compounds and Polymers and Flameproofing Organic Textiles; filed 15 November 1972; PC $4.00/MF $1.45.

Patent application 324,136: Flameproofing of Cotton Cellulose with Hexamethyl Phosphorous Triamide; filed March 16, 1973; PC $4.00/MF $1.45.

Patent application 335,860: Phosphonated N,D-Disubstituted Fatty Amides; filed 26 February 1973; PC $4.00/MF $1.45.

Patent application 337,792: Polymerized Rosin Product and Process for the Production of Same; filed 5 March 1973; PC $4.00/MF $1.45.

Patent application 342,133: Modification of Cotton Textiles and Cotton/Polyester Textile Blends by Photo-Initiated Polymerization of Vinylic Monomers; filed 16 March 1973; PC $4.00/MF $1.45.

Patent application 348,558: Cotton-Oxime, Cotton-Semicarbazone, and Cotton-Hydantoin-Textile Products of High Nitrogen Content; filed 6 April 1973; PC $4.00/MF $1.45.

Patent application 348,802: N-Subatituted Fatty Acid Amide Lubricants; filed 6 April 1973; PC $4.25/MF $1.45.

Patent application 351,935: Introduction of a Temporary Stiffness into Knitted Cotton for Stability During Patterning; filed 17 April 1973; PC $4.00/MF $1.45.

Patent application 365,894: A Process for Dyeing Crosslinked Cellulosic Fabrics with Disperse Dyestuffs; filed 1 June 1973; PC $4.25/MF $1.45.

Patent application 365,895: Process for Producing Fire Resistant Organic Textile Materials; filed 1 June 1973; PC $4.00/MF $1.45.

Patent application 365,896: Flame Retardant Organic Fibrous Materials; filed 1 June 1973; PC $4.00/MF $1.45.

Patent application 374,584: 3,7 Dicyano-3,5,7-Triaza-1-Phosphabicyclo (3.3.1) Nonane and Derivatives; filed 28 June 1973; PC $4.00/MF $1.45.

Patent application 374,585: Processes to Make Olive Drab to Greenish-Gold Mineral Dye Shades for Cellulosics; filed 28 June 1973; PC $4.00/MF $1.45.

Patent application 386,922: Hammer Mill with Integral Subsampling Portion; filed 9 August 1973; PC $4.00/MF $1.45.

Patent application 391,188: Process for Producing Varicolored Fabrics via the Selective Dyeing of Cellulosic Fabrics with Different Dye Types; filed 24 August 1973; PC $4.00/MF $1.45.

Patent application 400,079: Epithioamides as Plasticizer-Stabilizers; filed 24 September 1973; PC $4.00/MF $1.45.

Patent 3,681,099: Glossy Finish Linseed Water Emulsion Paints and Nonagglomerated Pigment Composition for Said Paints; filed 4 August 1970, patented 1 August 1972; not available NTIS.

Patent 3,691,158: Hexachlorocyclopentadiene Adducts of Unsaturated Amides of Azabicyclononane; filed 16 December 1971, patented 12 September 1972; not available NTIS.

Patent 3,696,600: Apparatus for Producing Corn Yarn; filed 12 April 1971, patented 10 October 1972; not available NTIS.

Patent 3,702,338: Hydroxy-Methylated Derivatives of Resin Acids, their use in Elastomeric Polyurethanes; filed 12 May 1970, patented 7 November 1972; not available NTIS.

Patent 3,702,359: Certain Microbial Insecticides and Methods of Preparation Thereof; filed 30 October 1970, patented 7 November 1972; not available NTIS.

Patent 3,714,087: Powdered Resorcinol-Formaldehyde Treated Polysaccharide-Reinforced Elastomer Masterbatches, Compounds, and Resulting Vulcanized Rubbers; filed 28 February 1972, patented 30 January 1973; not available NTIS.

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Patent 3,729,379: Hydroxy-Conjugated Fatty Acids; filed 31 August 1971, patented 24 April 1973; not available NTIS.

Patent 3,730,829: Starch Xanthate Derivatives used in Papermaking; filed 18 October 1971, patented 1 May 1973; not available NTIS.

Patent 3,732,073: N,N-Diethylaziridinium Chloride as a Coreactant Catalyst for Reactions of N-Methylol Reagents with Cellulose; filed 26 March 1972, patented 8 May 1973; not available NTIS.

Patent 3,733,275: N-Substituted Fatty Acid Amide Lubricants; filed 21 December 1971, patented 15 May 1973; not available NTIS.

Patent 3,737,426: Biodegradeable Surfactants from Starch-Derived Glycosides; filed 25 September 1970, patented 5 June 1973; not available NTIS.

Patent 3,763,060: Starch Xanthate-Polyamide-Polyamine Interpolymer Paper Strength Additives; filed 9 June 1972, patented 2 October 1973; not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 300 7th Street, SW, Washington, DC 20590.

Patent application 449,327: An Airborne Laser Remote Sensing System for the Detection and Identification of Oil Spills; filed 8 March 1974: PC $4.00/MF $1.45.

Patent application 451,448: WEDCOM; filed 15 March 1974; PC $4.00/MF $1.45.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Maryland 20014.

Patent application 326,145: Dialyzer Cartridge; filed 23 January 1973; PC $3.00/MF $1.45.

Patent 3,726,256: Crossflow Capillary Dialyzer; filed 22 June 1971, patented 17 April 1973; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW, Washington, D.C. 20240.

Patent application 434,162: An Optical Detection System; filed 17 January 1974: PC $4.00/MF $1.45.

Patent application 435,791: Method of Preparing Bipolar Membranes and the Production of Acids and Bases Therefrom; filed 23 January 1974: PC $4.00/MF $1.45.

Patent application 438,152: Method and Apparatus for Rapid Particle Size and Mass Analysis; filed 29 January 1974: PC $4.00/MF $1.45.

Patent application 446,833: Fluidized Bed in Reverse Osmosis Processes; filed 28 February 1974: PC $4.00/MF $1.45.

Patent 2,194,054: Apparatus for Concentrating Trace Impurities in High-Purity Helium; filed 7 August 1961, patented 13 July 1965: not available NTIS.

Patent 2,804,506: Dynamagnetic Pick-Up System; filed 31 October 1951, patented 27 August 1957: not available NTIS.

Patent 2,813,823: Destructive Distillation of Hydrocarbonaceous Materials; filed 19 September 1956, patented 19 November 1957: not available NTIS.

Patent 2,825,641: Method for Melting Refractory Metals for Casting Purposes; filed 21 September 1955, patented 4 March 1958: not available NTIS.

Patent 2,860,101: Balanced Hydrogenation of Coal; filed 20 April 1953, patented 11 November 1958: not available NTIS.

Patent 2,869,419: Orthophotoscope; filed 28 August 1956, patented 20 January 1959: not available NTIS.

Patent 2,879,472: Dynamic Resistance Recorder; filed 11 October 1957, patented 24 March 1959: not available NTIS.

Patent 2,890,111: Method of Manufacturing Titanium and Titanium Alloys; filed 30 March 1956, patented 9 June 1959: not available NTIS.

Patent 2,892,924: Electrode for Melting and Arc Welding Zirconium Metal; filed 24 January 1957, patented 30 June 1959: not available NTIS.

Patent 2,901,402: Process for Destructive Distillation of Hydrocarbonaceous Materials; filed 19 July 1957, patented 25 August 1959: not available NTIS.

Patent 2,934,443: Impact Resistant Ceramic Dielectric and Method of Making Same; filed 10 October 1957, patented 26 April 1960: not available NTIS.

Patent 3,002,091: Method of Tracing the Flow of Liquids by Use of Post Radioactivation of Tracer Substances; filed 3 November 1958, patented 26 September 1961: not available NTIS.

Patent 3,012,668: Electrostatic Separator Carrier Electrode; filed 8 December 1959, patented 12 December 1961: not available NTIS.

Patent 3,223,319: Multiple Electrode Detector; filed 18 November 1964, patented 14 December 1965: not available NTIS.

Patent 3,236,682: Process for Preparation of Caustic-Resistant Containers for High-Temperature Use; filed 28 December 1962, patented 22 February 1966: not available NTIS.

Patent 3,238,098: Method of Controlling Sea Lamprey; filed 27 January 1964, patented 1 March 1966: not available NTIS.

Patent 3,244,612: Demineralization Electrodes and Fabrication Techniques Therefor; filed 29 November 1961, patented 5 April 1966; not available NTIS.

Patent 3,254,202: Automatic Swing Curve Calculator and Plotter used to Indicate Transient Stability of Power Generators; filed 2 November 1962, patented 31 May 1966: not available NTIS.

Patent 3,257,992: Coal Burning Water Tube Steam Generator Construction Embodying Integral Primary Coal Slagging Type Furnace and Secondary Furnace; filed 28 May 1964, patented 28 June 1966; not available NTIS.

Patent 3,259,762: Electrostatic Induction Power Supply; filed 16 April 1963, patented 5 July 1966; not available NTIS.

Patent 3,260,658: Process for the Recovery of Rhenium; filed 31 October 1962, patented 12 July 1966; not available NTIS.

Patent 3,264,957: Binder and Surface Coating Made from Coal and Asphalt; filed 18 January 1963, patented 9 August 1966; not available NTIS.

Patent 3,273,993: Process of Reduction Roasting of Iron Ore with Metallic Iron; filed 30 January 1964, patented 20 September 1966; not available NTIS.

Patent 3,273,995: Recovery of Zinc from Zinc Die-Cast Scrap; filed 22 May 1964, patented 20 September 1966; not available NTIS.

Patent 3,794,574: Device for Cathodically Protecting Metal Conduit System; filed 27 April 1972, patented 26 February 1974; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA—Code GP-2, Washington, DC 20546.

Patent 3,752,556: Real Time Moving Scene Holographic Camera System; patented 14 August 1973; not available NTIS.

Patent 3,764,499: Nonflammable Coating Compositions; patented 8 January 1974; not available NTIS.

[FR Doc.74-10511 Filed 5-7-74;8:45 am]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT-APPL number and the title.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 271,335: Cover Support Assembly; filed 13 July 1972; PC $4.00/MF $1.45.

Patent application 278,853; Method of, and Apparatus for Forming Grooves and Coolant Channels in and for Rocket Engine Composite Channel-Type Coolant Wall Having a Complex Surface; filed 8 August 1972; PC $4.00/MF $1.45.

Patent application 279,416: Breathing Mask Assembly; filed 10 August 1972; PC $4.00/MF $1.45.

Patent application 284,552: Preparation of Ultrahigh Purity Anhydrous Alkali Metal Halide Powders; filed 29 August 1972; PC $4.00/MF $1.45.

Patent application 287,188: Unbonded Flexure Seal Design; filed 7 May 1972; PC $4.00/MF $1.45.

Patent application 288,818: Releasable Connector Subassembly; filed 13 September 1972; PC $4.00/MF $1.45.

Patent application 289,694: Temperature Cycling Device; filed 15 September 1972; PC $4.00/MF $1.45.

Patent application 289,695: Method of Connecting a Metal Conduit to a Plastic Conduit; filed 15 September 1972; PC $4.00/MF $1.45.

Patent application 292,368: Thermally Stable Phenylated Heterocyclic Aromatic Polymers and Method of Synthesis; filed 26 September 1972; PC $4.00/MF $1.45.

Patent application 297,123: Process for Preparing Carrot Juice; filed 12 October 1972; PC $4.00/MF $1.45.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Mgmt. Branch, Federal Building, General Services Division, Agricultural Research Service, Hyattsville, Maryland 20782.

Patent application 348,840: Method for Improving the Shelf Life of Roasted Peanuts; filed 6 April 1973; PC $4.00/MF $1.45.

Patent application 374,731: Whey Solids as a Stabilizer for Agricultural Foams; filed 28 June 1973; PC $4.00/

Patent application 288,812: N-Cyclohexyl-N-2-Acetoxyethyl-Oleamide; filed 13 September 1972; PC $5.00/MF $1.45.

Patent application 328,199: Shrinkage-Control Treatment for Knitted Fabrics; filed 31 January 1973; PC $4.00/MF $1.45.

Patent application 337,791: Use of Epoxides in the Preparation of Higher Fatty Acid Anhydrides; filed 5 March 1973; PC $4.00/MF $1.45.

Patent application 360,281: Azeotropic Solvents for Permanent Press Treatments of Cotton and Cotton Blend Fabrics; filed 14 May 1973; PC $4.00/MF $1.45.

Patent application 365,897: Process for Preparing Frosted and Multicolored Cotton Pile Fabrics; filed 1 June 1973; PC $4.00/MF $1.45.

Patent application 391,189: A Monophosphorus Analog of Hexamethylenetetramine and Derivatives; filed 24 August 1973; PC $4.00/MF $1.45.

Patent 3,674,880: Methods for Preparing Valuable Keto and Hydroxy Cyclic Compounds; filed 3 January 1968; patented 4 July 1972; not available NTIS.

Patent 3,709,005: Vapor-Phase Reaction Apparatus for Treating Cellulosic Textile Materials and Garments; filed 26 January 1971; patented 9 January 1973; not available NTIS.

Patent 3,729,461: Synthesis of Glycosyl Glycerides; filed 23 December 1970; patented 24 April 1973; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Maryland 20014.

Patent application 381,234: Thumbtack Microelectrode and Method of Making Same; filed 20 July 1973; PC $4.00/MF $1.45.

Patent 3,746,683: Thromboresistant Articles Made from Polyurethanes Containing a Polypropylene Glycol-Ethylene Oxide Block Copolymer; filed 24 December 1970; patented 17 July 1973; not available NTIS.

Patent 3,785,832: Dental Primer Varnish; filed 13 October 1971, patented 15 January 1974; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, DC 20240.

Patent 2,789,888: Apparatus for Performing the Fischer-Tropsch Reaction; filed 3 March 1953; patented 23 April 1957; not available NTIS.

Patent 2,829,061: Machinable Ceramic Bonded Material and Method for Producing Same; filed 24 September 1952; patented 1 April 1958; not available NTIS.

Patent 2,947,688: Process and Apparatus for the Demineralization of Saline Water; filed 10 January 1957; patented 2 August 1960; not available NTIS.

Patent 2,996,439: Rotary Still; filed 16 December 1958; patented 15 August 1961; not available NTIS.

Patent 3,002,002: Reduction of the Thiophene Nucleus; filed 2 April 1957; patented 26 September 1961; not available NTIS.

Patent 3,010,208: Method for Determining the Authenticity of Ancient Artifacts made of Obsidian; filed 6 May 1960; patented 28 November 1961; not available NTIS.

Patent 3,116,450: Tracer Liquid Release Tube Having Frangible Elements at Opposite Ends of the Tube; filed 25 August 1961; patented 31 December 1963; not available NTIS.

Patent 3,117,586: Automatic Controller; filed 30 June 1961; patented 14 January 1964; not available NTIS.

Patent 3,137,648: Pretreatment of Minerals for Electrostatic Separation; filed 24 January 1962; patented 16 June 1964; not available NTIS.

Patent 3,150,923: Process for Removing Sulfur Dioxide from Gases; filed 18 January 1962; patented 29 September 1964; not available NTIS.

Patent 3,154,381: Progressive Melting and Crystallization of Synthetic Mica; filed 20 April 1959; patented 27 October 1964; not available NTIS.

Patent 3,164,302: Process, Removal of Oxygen and Aluminum from Metals Prepared by Aluminothermic and Similar Processes; filed 24 January 1963; patented 18 May 1965; not available NTIS.

Patent 3,184,789: Apparatus for Large-Scale Application of Monomolecular Layers to Water Surfaces using Melted Material; filed 7 April 1964; patented 25 May 1965; not available NTIS.

Patent 3,228,750: Process for Separating Rare-Earth Elements by Ion Exchange; filed 7 June 1962; patented 11 January 1966; not available NTIS.

Patent 3,250,701: Stabilization of Desalination Membranes; filed 15 September 1965; patented 10 May 1966; not available NTIS.

Patent 3,262,865: Chemical Treatment and Distillation of Sea Water; filed 15 July 1963; patented 26 July 1966; not available NTIS.

Patent 3,271,248: Method of Controlling Sea Lamprey; filed 6 January 1964; patented 6 September 1966; not available NTIS.

Patent 3,271,326: Flame Spraying of Catalytically Active Pulverized Metal Oxides on Supports; filed 22 July 1963; patented 6 September 1966; not available NTIS.

Patent 3,278,028: Flotation of Mica; filed 31 October 1963; patented 11 October 1966; not available NTIS.

Patent 3,282,678: Smelting Reduced Iron Ore Pellets in the Blast Furnace; filed 16 January 1964; patented 1 November 1966; not available NTIS.

Patent 3,292,780: Process for Improved Flotation Treatment of Iron Ores by Selective Flocculation; filed 4 May 1964; patented 20 December 1966; not available NTIS.

Patent 3,293,829: Top Closure for High Temperature Electrostatic Precipitator; filed 27 August 1963; patented 27 December 1966; not available NTIS.

Patent 3,341,258: Process for Conveying Mineral Solids Through Conduits; filed 24 May 1963; patented 12 September 1967; not available NTIS.

Patent 3,369,168: Frequency Conversion System Utilizing Modulation; filed 5 August 1966; patented 13 February 1968; not available NTIS.

Patent 3,465,235: Control of Rotating Exciters for Power System Damping; filed 16 October 1967; patented 2 September 1969; not available NTIS.

Patent 3,552,754: Tube Plate Seal; filed 15 September 1969; patented 5 January 1971; not available NTIS.

Patent 3,788,465: Device and Process for Magneto-Gravimetric Particle Separation Using Non-Vertical Separation Process; filed 28 April 1972; patented 29 January 1974; not available NTIS.

[FR Doc.74-10512 Filed 5-7-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

MEDICAL LABORATORY SERVICES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), the Director, Center for Disease Control, announces the meeting dates and other required information for the following National Advisory body scheduled to assembly during the month of June 1974.

Committee name	Date, time, place	Type of meeting and/or contact person
Medical Laboratory Services Advisory Committee.	June 20-21, 1974, 9 a.m., Room 207, Bldg. 1, Center for Disease Control, Atlanta, Ga. 30333.	Open—Contact Dr. Roslyn Q. Robinson, Room 106, Bldg. 1, Center for Disease Control, Atlanta, Ga. 30333. Code: 404-633-3262.

Purpose: To evaluate the approaches of the Bureau of Laboratories, CDC, and recommend revisions or additions, and advise on various laboratory matters and proposed regulations.

Agenda: Agenda items will provide for a review of the objectives of the Licensure and Proficiency Testing Program with consideration of improved procedures leading to more effective administration of the Clinical Laboratories Improvement Act of 1967.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: April 29, 1974.

DAVID SENCER,
Director, Center for Disease Control.

[FR Doc.74-10566 Filed 5-7-74;8:45 am]

Food and Drug Administration

PANEL ON REVIEW OF ORTHOPAEDIC DEVICES

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776 (5 U.S.C. App.)), the Food and Drug Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, of the Panel on Review of Orthopaedic Devices for an additional period of two years beyond April 25, 1974.

Authority for this committee will expire April 25, 1976, unless the secretary formally determines that continuance is in the public interest.

Dated: May 2, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10554 Filed 5-7-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-74-275]

ACTING DIRECTOR, PITTSBURGH AREA OFFICE

Designation

Mr. William L. Kaplan is hereby designated as Acting Area Director of the

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Pittsburgh Area Office for the period April 29, 1974, through May 12, 1974, with all the powers, functions, and duties redelegated or assigned to the Area Director.

Effective date: April 29, 1974.

(Secretary's Designation and Delegation of Authority published 36 FR 3389, Feb. 23, 1971.)

THEODORE R. ROBB,
Regional Administrator,
Region III (Phila.).

[FR Doc.74-10606 Filed 5-7-74;8:45 am]

Office of the Assistant Secretary for Equal Opportunity

[Docket No. (N-74-234)]

HOUSING PROBLEMS OF SPANISH-SPEAKING AMERICANS

Cancellation of Public Meeting

Notice is hereby given of cancellation of the previously announced public fact-finding meeting to be conducted by the Assistant Secretary for Equal Opportunity on the subject of housing problems of Spanish-Speaking Americans (39 FR 12774; April 8, 1974). The meeting was scheduled to convene Thursday, May 9, 1974, at 9 a.m., in the South Dade Government Center, 10710 S.W., 211 Street, Miami, Florida. It was scheduled to reconvene Friday, May 10, 1974, at 9 a.m., in the General Services Administration Executive Conference Room, Federal Building, 51 SW., First Avenue, Miami, Florida.

GLORIA E. A. TOOTE,
Assistant Secretary
for Equal Opportunity.

[FR Doc.74-10747 Filed 5-7-74;9:09 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AVIATION REVIEW CONFERENCE

The purpose of this notice is to announce the sixth annual Aviation Review Conference. Previously called the National Aviation System Planning Review Conference, the name has been changed to more properly reflect the nature of the conference. (The establishment of annual consultative planning procedures was originally documented and publicized in 33 FR 19205, dated 24 December 1968, and 35 FR 17798, dated 19 November 1970.)

The Department of Transportation announces that the sixth annual Aviation Review Conference will be held June 3-5, 1974, at the Washington Hilton Hotel, Washington, D.C. On the first day, FAA spokesmen will identify current problems and forecast future developments. The aviation industry will assess the current situation and forecast future developments and challenges facing the aviation community during the second day. The third day will focus on the discussion of major policy/planning issues facing all segments of the aviation community.

The following topics were developed in meetings with representatives of industry and user groups through the consultative planning process. The Department of Transportation encourages comments on agenda topics. These comments should be submitted to:

Associate Administrator for Plans, Attn: AAV-10, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

TOPICS

(1) Air Traffic Control.
(2) FAA Plan.
(3) Air Carriers.
(4) General Aviation.
(5) Airports.
(6) Environment.

A registration fee of $15.00, payable either in advance or at the conference, is required. The fee will include a copy of "The Year Ahead—1974, National Aviation System Plan for Fiscal Year 1975." The next NAS Ten Year Plan will be issued in the fall of 1974. Participants will have an opportunity to order these documents at the meeting.

To register for the sixth annual Aviation Review Conference, please write to the following address giving: (1) name, (2) address, (3) company/association, if any, and (4) area of interest. If preregistration is desired, please enclose a check payable to:

Federal Aviation Administration, Attn: AAV-200, 800 Independence Avenue SW., Washington, D.C. 20591.

Issued in Washington, D.C., on April 17, 1974.

F. A. MEISTER,
Acting Associate Administrator
for Plans.

[FR Doc.74-10751 Filed 5-7-74;10:26 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-440, 50-441]

CLEVELAND ELECTRIC ILLUMINATING CO., ET AL.

Notice and Order for Prehearing Conference, and Evidentiary Hearing

In the matter of Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant Units 1 and 2).

Please take notice, that pursuant to the Atomic Energy Act of 1954, as amended (Act), and the Commission's "Notice of Hearing on Application For Construction Permits" dated July 5, 1973, published in the FEDERAL REGISTER (38 FR 18481), and in accordance with the said Commission's rules of practice (10 CFR Part 2), a Prehearing Conference will be held in the above-captioned proceeding on May 23, 1974 at 10 a.m. local time at the Lake County Courthouse, Courtroom No. 3, 47 Park Place, Painesville, Ohio 44077.

The cardinal objective of said Prehearing Conference will be to settle on final preparations for the Evidentiary Session to commence the following week as noted below.

To that end:

(1) The motion to realign and petition to intervene under § 2.714 filed by the Ohio Power Siting Commission (Ohio) on March 21, 1974, supplementing and in substitution of its earlier petition to participate under § 2.715(c), is granted in view of the stipulation (received on April 18, 1974) entered into among the Cleveland Electric Illuminating Company, et al. (Applicants), the AEC Regulatory Staff (Staff), and Ohio, as well as for other good cause shown.

(2) The said stipulation between Ohio, the Applicants, and the Staff has been reviewed by the Board and is hereby approved.

(3) In accordance with several telephone conference calls between the Applicants, the Coalition For Safe Electric Power (Coalition) and the Board, it is understood that the dispute on certain matters of discovery between the Applicants and the Coalition are resolved. Accordingly, the motions to compel filed by each as against the other are considered moot.

(4) The contentions of the Coalition as set forth by agreement of the parties in a letter from the AEC Staff Counsel dated March 29, 1974, to the Board have been reviewed and are approved as matters in controversy herein.

(5) The Board expects a stipulation from the parties on authenticity, admissibility, etc., of all documents intended to be entered as evidence into the record.

(6) The Board directs that the following question be addressed: "How does the Staff reconcile its decision in favor of initially proceeding with a once-through cooling system in view of its acknowledgement in the FES of the lack of pertinent data on currents, and the lack of pertinent data on the distribution and abundance of fish larvae?" See Final Environmental Statement, paragraphs 6.1.1.1; 9.2.1.3; and 11.1.3.3.

(7) On or before May 23, 1974, the parties are directed to present to the Board the names and addresses of all prospective witnesses, correlated with the specific dates on which they are expected to appear.

Further notice is hereby given that the Evidentiary Session in this proceeding will commence at 10 a.m. local time on May 29, 1974, at the Quail Hollow Inn, Barberry Room, 11080 Concord Humbden Road, Painesville, Ohio 44077. The Board will provide an opportunity during the first day of the Evidentiary Session for all limited appearance participants to express their views either through written or oral comments.

It is so ordered.

Issued in Bethesda, Maryland, this 2d day of May 1974.

ATOMIC SAFETY AND LICENSING BOARD,
FRANK F. HOOPER,
Member.
GUSTAVE A. LINEBERGER,
Member,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.74-10474 Filed 5-7-74;8:45 am]

[Docket No. 50-367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Availability of Initial Decision for Bailly Generating Station, Nuclear 1 and Issuance of Construction Permit

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulation in Appendix D, section A.9 and A.11, to 10 CFR Part 50, notice is hereby given that an Initial Decision, dated April 5, 1974, by the Atomic Safety and Licensing Board in the above captioned proceeding authorizing issuance of a construction permit to the Northern Indiana Public Service Company for construction of the Bailly Generating Station, Nuclear 1, to be located on the southern shore of Lake Michigan in Porter County, Indiana, is available for inspection by the public in the Commission's Public Document Room (PDR) at 1717 H Street NW., Washington, D.C., and in the Westchester Township Public Library, 125 South Second Street, Chesterton, Indiana 46304.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Initial Decision is also being made available at the Office of the Governor, 206 State House, Indianapolis, Indiana 46204 and at the Lake-Porter County Regional Transportation & Planning Commission, 9290 Taft Place, Crown Point, Indiana 46307.

Based upon the record developed in the public hearing in the above captioned matter, the Initial Decision modified in certain respects the Final Environmental Statement relating to the construction of the Bailly Generating Station, Nuclear 1, prepared by the Commission's Directorate of Licensing. Pursuant to the provisions of 10 CFR Part 50, Appendix D, section A.11, the Final Environmental Statement is deemed modified to the extent that the findings and conclusions relating to environmental matters contained in the Initial Decision are different from those contained in the Final Environmental statement, dated February 1973. As required by section A.11 of Appendix D, a copy of the Initial Decision, which modifies the Final Environmental Statement, has been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

Pursuant to the above mentioned Initial Decision, the Atomic Energy Commission (the Commission) has issued Construction Permit No. CPPR-104 to the Northern Indiana Public Service Company for construction of a single unit boiling water nuclear reactor, known as the Bailly Generating Station, Nuclear 1, designed for a rated power of approximately 1931 megawatts thermal with a net electrical output of approximately 660 megawatts.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permit is effective as of the date of issuance. The earliest date for completion is March 1, 1978, and the latest date for completion is September 1, 1979. The permit will expire on the latest date for completion of the facility.

The permit is subject to a temporary restriction on site dewatering before September 1, 1974, in accordance with the Order of the Atomic Safety and Licensing Appeal Board in this proceeding dated April 30, 1974.

In addition to the Initial Decision, copies of (1) Construction Permit No. CPPR-104; (2) the report of the Advisory Committee on Reactor Safeguards, dated October 14, 1971; (3) the Directorate of Licensing's Safety Evaluation, dated February 15, 1972 and Errata thereto; (4) Supplement No. 1 to the Safety Evaluation, dated September 29, 1972; (5) Supplement No. 2 to the Safety Evaluation, dated October 31, 1973; (6) the Preliminary Safety Analysis Report and amendments thereto; (7) the applicant's Environmental Report, dated March 22, 1971, and supplements thereto; (8) the Draft Environmental Statement, dated July 14, 1972; and (9) the Final Environmental Statement, dated February 12, 1973, are also available for public inspection at the above-designated locations and in Washington, D.C. and Chesterton, Indiana. Single copies of the Initial Decision by the Atomic Safety and Licensing Board, the construction permit, the Final Environmental Statement, and the Safety Evaluation and supplements thereto may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing, Regulation.

Dated at Bethesda, Maryland this first day of May 1974.

For the Atomic Energy Commission.

WALTER R. BUTLER,
Chief, Light Water Reactors
Projects Branch 1-2, Directorate of Licensing.

[FR Doc.74-10473 Filed 5-7-74;8:45 am]

[Docket Nos. STN 50-477, 50-478]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Prehearing Conference

In the matter of Public Service Electric and Gas Company (Atlantic Generating Station, Units 1 and 2).

Notice is hereby given that, pursuant to the Atomic Energy Commission's "Notice of Hearing on Application for Site Construction Permits" published in the FEDERAL REGISTER on March 20, 1974, (39 FR 10473), and in accordance with § 2.751a of said Commission's rules of practice, 10 CFR Part 2, a special prehearing conference will be held in the above captioned proceeding on June 4, 1974, at 10:00 a.m., local time, in the Commissioners Chambers, Second Floor, City Hall, 1301 Bacharach Boulevard, Atlantic City, New Jersey.

This special prehearing conference will be held before the Atomic Safety and Licensing Board (the Board) established in the aforementioned Notice of Hearing and composed of Dr. John R. Lyman, Dr. Marvin M. Mann and Daniel M. Head, Chairman.

The application which is the subject matter of this proceeding has been made by the Public Service Electric and Gas Company on behalf of itself, Atlantic City Electric Company, and Jersey Central Power and Light Company for permits to construct site related structures and to install two floating nuclear power plants, each of which incorporates a pressurized water reactor. These plants are designated as the Atlantic Generating Station, Units 1 and 2. It is proposed that the reactors will be manufactured in Jacksonville, Florida and towed to the site. Each reactor will be designed for initial operation at 3411 thermal megawatts with a net electrical output of approximately 1150 megawatts. The proposed facilities are to be mounted on a platform and moored behind a protective breakwater in the Atlantic Ocean approximately 2.8 statute miles off the southeastern coast of New Jersey.

This special prehearing conference shall deal with the following matters:

1. Identification of the key issues;
2. Any steps necessary for further identification of the issues;
3. Outstanding petitions for intervention;
4. All pending motions;
5. The need for discovery, and the time required therefor;
6. Establishment of a schedule for further action; and
7. Such other matters as may aid in the orderly disposition of the proceeding.

At the special prehearing conference, the Board will entertain oral argument on the outstanding petitions to intervene. The petitioners, as well as the parties, will be heard in this regard. The Board will expect to be advised on issues relating both to the interest and to the contentions of the various petitioners.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing to be held at a later date to be fixed by the Board. Members of the public wishing to make limited appearances pursuant to § 2.715 (a) of the Commission's rules of practice, 10 CFR Part 2, may identify themselves at this prehearing conference but oral or written statements to be presented by limited appearances will not be received at this conference. The Board will receive such statements at the aforementioned evidentiary hearing.

The attorneys for the respective parties and any petitioners for intervention

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are directed to confer in advance of this special prehearing conference, in such manner as they may deem appropriate, and report to the Board at said conference on any stipulations regarding interest and/or matters in controversy, and on any other mutually agreeable procedures to expedite this proceeding.

Dated this 1st day of May, 1974 at Bethesda, Maryland.

By Order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74-10475 Filed 5-7-74;8:45 am]

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued two guides in its Regulatory Guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 1 to Regulatory Guide 1.12, "Instrumentation for Earthquakes," describes seismic instrumentation that will meet the Commission's requirements for prompt determination of the seismic response of nuclear plant features important to safety to permit comparison of such response with that used as the design basis. This guide generally endorses ANSIN18.5-1974 entitled, "Earthquake Instrumentation Criteria for Nuclear Power Plants." Regulatory Guide 1.76, "Design Basis Tornado for Nuclear Power Plants," describes a design basis tornado acceptable for each of three regions within the contiguous United States that a nuclear power plant should be designed to withstand.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of issued guides or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

Tornado Design Classification.
Availability of Electric Power Sources.
Requirements for Instrumentation to Assess Nuclear Power Plant Conditions During and Following an Accident for Water-Cooled Reactors.
Shared Emergency and Shutdown Power Systems at Multi-Unit Sites.
Isolation of Low Pressure Systems Connected to the Reactor Coolant Pressure Boundary.
Assumptions for Evaluating a Control Rod Ejection Accident for Pressurized Water Reactors.
Requirements for Collection, Storage, and Maintenance of Nuclear Power Plant Quality Assurance Records.
Requirements for Assessing Ability of Material Underneath Nuclear Power Plant Foundations to Withstand Safe Shutdown Earthquake.
Fire Protection Criteria for Nuclear Power Plants.
Protective Coatings for Light Water Nuclear Reactor Containment Facilities.
Inservice Surveillance of Grouted Prestressing Tendons.
Seismic Input Motion to Uncoupled Structural Model.
Primary Reactor Containment (Concrete) Design and Analysis.
Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems.
Quality Assurance Requirements for Installation, Inspection and Testing of Structural Concrete and Structural Steel.
Fracture Toughness Requirements for Vessels Under Overstress Conditions.
Material Limitations for Component Supports.
Protection Against Postulated Events and Accidents Outside of Containment.
Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants.
Assumptions Used for Evaluating the Potential Radiological Consequences of a Gas Holdup Tank Failure in a Boiling Water Reactor.
Quality Assurance Requirements for Procurement of Equipment, Materials, and Services.
Quality Assurance Requirements for Lifting Equipment.
Maintenance and Testing of Batteries.
Qualification of Class I Electrical Equipment.
Type Tests for Class IE Cables, Connections, and Field Splices for Nuclear Power Plants.
Seismic Qualification of Class I Electric Equipment.
Fracture Toughness Requirements for Materials for Class 2 and 3 Components.
Maintenance of Water Purity in PWR Secondary Systems.
Main Stream Line Sealing System Design Guidelines for Boiling Water Reactors.
Criteria for Heat-up and Cool-down Procedures.
Effects of Residual Elements on Predicted Radiation Damage.
Inservice Inspection and Testing of Steam Generators Tubing.
Component Design Criteria for Elevated Temperature Reactors.
Preoperational Testing of Emergency Core Cooling Systems for Pressurized Water Reactors.
Fuel Oil Supplies for Standby Diesel-Generators.
Assumptions Used for Evaulating the Habitability of a Nuclear Power Plant Control Room During a Postulated Toxic Chemical Release.
Assumptions Used for Evaluating the Potential Radiological Consequences of a Liquid Radioactive Waste System Accident.
Code Case Acceptability for ASME Section III Materials.
Sumps for Emergency Core Cooling and Containment Spray Systems.
Surveillance and Examination and Testing of Irradiated Fuel Rods.
Elevated Temperature Inservice Surveillance Tests for HTGR Plants.
Design Load Combinations for Component Supports.
Termination of Nuclear Reactor Operating Licenses.
Preoperational Testing of Instrument Air Systems.
Requirements for Containment Isolation.
Probable Maximum Storm Surge Flooding on Lakes and Sea Shores.
Requirements for Concrete Reactor Vessels and Containments (ASME Section III Division 2).
Instrument Span and Trip Setting.
Failed Fuel Detection System for Nuclear Power Plants.
Code Case Acceptability—ASME Section III Design and Fabrication.
Code Case Acceptability—ASME Section III Nonmetallic Materials.
Design, Qualification Test and Installation Requirements for Class 2 and 3 Safety-Related Pumps.
Seismic Response Combination of Modes and Spatial Components.
Analysis of Seismic Recorded Data.
Protection of Nuclear Power Plant Control Room Operators Against an Onsite Chlorine Release.
Self-Operated and Power Operated Safety-Related Valves Functional Specification.

(5 U.S.C. 522(a))

Dated at Bethesda, Maryland this 26th day of April, 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-10472 Filed 5-7-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25690]

OVERSEAS NATIONAL AIRWAYS, INC.

Austrian Airtransport Management Agreement; Notice of Indefinite Postponement of Prehearing Conference

Under date of April 25, 1974, counsel for ONA requested a postponement of further procedural steps in this proceeding pending determination of its motion filed under the same date to file an otherwise unauthorized document consisting of a petition for reconsideration of Order 74-3-121 setting this proceeding for hearing. ONA states that it has amended the Agreement with Austrian Airtransport to such an extent that it believes the Board may moot this proceeding.

Under date of April 30, 1974, the Flying Tiger Line Inc., which has filed a petition for leave to intervene, objected to the request of ONA to postpone further procedural steps. Pan American, Saturn Airways and the Bureau of Operating Rights have indicated that they would not comment on ONA's request.

ONA's request is granted. The prehearing conference originally to be held on May 9, 1974 (39 F.R. 13803, April 17, 1974), is hereby postponed indefinitely.

Dated at Washington, D.C., May 2, 1974.

[SEAL] ROBERT M. JOHNSON,
Administrative Law Judge.

[FR Doc.74-10583 Filed 5-7-74;8:45 am]

[Docket No. 23909 Order 74-5-14]

COMPANIA ECUATORIANA DE AVIACION, S.A.

Foreign Air Carrier Permit Applications; Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of May, 1974.

By Order E-11734, approved August 26, 1957, the Board issued a foreign air carrier permit to Compania Ecuatoriana de Aviacion, S.A. (Ecuatoriana) authorizing the carrier to engage in foreign air transportation of persons, property and mail between Ecuador, the intermediate points Cali, Colombia and Panama City, Panama and the terminal point Miami, Florida. The permit did not include off-route charter authority.[1]

On October 15, 1971 Ecuatoriana filed an application for amendment of its permit so as to authorize the conduct of off-route charter operations pursuant to Part 212 of the Board's Economic Regulations.[2] Action on the application was deferred pending confirmation that U.S. carriers would enjoy similar rights in Ecuador.[3] It now appears that the Government of Ecuador has modified its regulations to accommodate U.S. carrier requests for charter authority.

Ecuatoriana has successfully performed its presently authorized services and currently operates five passenger flights and two cargo flights per week to Miami with its Electra equipment. The carrier has no record of violations. Moreover, off-route charter authority has been granted to foreign route carriers, on the basis of reciprocity, since the Board's decision in the Foreign Off-Route Charter Service Investigation, 27 CAB 196 (1958). Since it now appears that reciprocity exists for U.S. carriers in Ecuador, off-route charter authority should also be granted to Ecuatoriana.[4]

In view of the foregoing, the Board tentatively finds and concludes that: (a) it is in the public interest to amend the foreign air carrier permit held by Compania Ecuatoriana de Aviacion, S.A. so as to authorize the carrier to engage in off-route charter trips in foreign air transportation, subject to the terms, conditions and limitations prescribed by Part 212 of the Board's Economic Regulations; (b) Ecuatoriana is fit, willing, and able to provide the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder; and (c) the public interest requires that the exercise of the privileges that would be granted in Ecuatoriana's amended permit should be subject to the terms, conditions, and limitations contained in the attached proposed form of permit, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

Accordingly, *it is ordered*, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein, and why an amended foreign air carrier permit substantially in the form attached to this order should not be issued, subject to the approval of the President pursuant to section 801 of the Act;

2. Any interested person having objections to the tentative findings and conclusions set forth herein, or to the issuance of the proposed amended foreign air carrier permit, shall file such objections within 10 days after the date of service of this order, and file with the Board and serve on the persons named in paragraph 5 a memorandum of objection specifying the part or parts of the tentative findings and conclusions or permit objected to and stating the specific grounds of any such objections;[5]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board: *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon the following Compania Ecuatoriana de Aviacion, S.A. and Braniff International.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10585 Filed 5-7-74;8:45 am]

[Docket No. 22859 Order 74-5-16]

TRANS WORLD AIRLINES, INC.

Domestic Air Freight Investigation; Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of May, 1974.

By tariff revisions bearing the issue date of March 22, 1974, and marked to become effective May 6, 1974, Trans World Airlines, Inc. (TWA) proposes to increase its domestic air freight rates as follows:

1. Cancel all westbound bulk and container specific commodity rates for all points, except from Miami and Tampa. For the latter points, some specifics will be canceled, some increased, and some retained at present levels;

2. Cancel all Type A-3 container rates and charges;

3. Cancel Type A container minimum charges for weights of less than 3,200 pounds; and

4. Increase the minimum charges for Type D containers to reflect an increased minimum chargeable weight from 500 to 575 pounds.

TWA's proposed cancellation of Type A minimum charges for containers below 3,200 pounds would result in rate increases of up to 2.3 percent. Minimum charges for Type D containers would be subject to increases of up to 10.4 percent.

In support of its proposal TWA contends, inter alia, that (1) the carrier is merely placing container minimum charges on the same basis as bulk traffic, 8.9 pounds per cubic foot; [1] (2) since

[1] Ecuatoriana obtained its permit before the Board's decision in 1958 in the *Foreign Off-Route Charter Service Investigation*, 27 CAB 196. In that case the Board granted off-route authority only to the foreign air carriers which held permits in 1955 and were made parties when the Investigation was instituted. The Board said in the opinion that carriers which had received their permits in the meantime could apply for off-route authority under setcion 402. 27 CAB 196 (206, footnote 13)

[2] A copy of the application has been transmitted to the President in accordance with section 801 of the Federal Aviation Act.

[3] In the meantime Ecuatoriana's permit was amended so as to authorize the carrier to serve Bogota as an intermediate point on its route. (Order 73-2-13, approved February 1, 1973.)

[4] By Order to Show Cause, Order 74-3-71, March 15, 1974, Docket 26509, the Board proposed certain major revisions to Part 212 of its Regulations. Compania Ecuatoriana de Aviacion, S.A. was made a party to that proceeding and the revised permit proposed to be issued herein will be subject to any revisions to Part 212 ultimately adopted in Docket 26509.

[5] Since provision is made for the filing of objections to this order, petitions for reconsideration of this order will not be entertained.

[6] Specimen permit filed as part of original document.

[1] By prior filing, TWA had published the 8.9 pounds per cubic foot dimensional weight rule for bulk shipments, although the application of the rule to cut flowers was deferred to May 10, 1974. For Type A containers, however, TWA adjusts the 8.9 pounds to allow for a 20 percent stacking loss. Hence, the actual density upon which the proposed minimum charges is based is 7.1 pounds per cubic foot.

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only 10.5 percent of Type A containers and 2.9 percent of Type D containers will be affected by the increase, the maximum average increase will be 0.21 and 0.19 percent, respectively; and (3) the proposal will generate an estimated $16,000 additional annual revenue and will encourage better utilization of container space by shippers.

In support of its proposed cancellation of westbound specific commodity rates, TWA contends that (1) westbound specific commodity rates generated only 2.33 percent of TWA's domestic air freight revenues in 1973; (2) assuming no diversion, this aspect of the proposal will have the effect of increasing TWA's domestic freight revenues by $129,000, or 0.22 percent of 1973 revenues; and (3) given the current fuel crisis and the increasing demand for capacity in the prime westbound direction, these rate discounts are no longer warranted.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

The TWA filings are one of a series of rate increases filed by domestic carriers in recent weeks. The Board has reviewed these proposed rates in the light of industry average costs of carrying air freight (including a full return on investment), which reflect recognition of the sharp increases in fuel costs recently experienced. Based upon those standards, certain of the proposed rates appear to exceed costs. Those rates include proposed increases in rates and charges for Type D containers generally with lengths of haul of 1,100 miles and over westbound and 2,300 miles and over eastbound, and in all specific commodity rates on human remains. In view of the foregoing and upon consideration of all other relevant factors, the Board finds that the proposal, to the extent it applies to such rates, and as indicated in detail in Appendix A,[1a] should be suspended.

The remaining portions of the proposal appear sufficiently related to costs that the Board will permit them to become effective. These include primarily increases in Type D container rates for distances below 1,100 miles west bound and 2,300 miles eastbound, cancellation of all Type A–3 container rates and charges, increasing the minimum weights and charges for Type A containers, and cancellation of most westbound bulk and container specific commodity rates. The proposed cancellation of specific commodity rates is being permitted, consistent with our previous disposition of similar proposals by other carriers,[2] because, in our opinion, carriers should be accorded considerable flexibility as to offering such rates, which are typically justified primarily on a value-of-service basis.[3]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a) and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A hereto are suspended and their use deferred to and including August 3, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariff and served upon Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10586 Filed 5-7-74;8:45 am]

[1a] Appendix A filed as part of the original document.

[2] See, e.g., Orders 74-4-54 and 74-4-107.

[3] In its decision in Docket 22157, United Air Lines, Inc., Specific Commodity Rates on Periodicals, Floral Products, and Seafood, Order 72-11-78, November 20, 1972, the Board stated, "Because of their inherently preferential nature, the Board does not normally require carriers to publish SCR's, but leaves the offering and justification of SCR's to the carriers' initiative. Once a carrier institutes a particular SCR it is still afforded a fairly broad area of discretion in revising such rates between the parameters of fully-allocated and incremental costs, subject to the Board's review."

ENVIRONMENTAL PROTECTION AGENCY

LAKE MICHIGAN COOLING WATER STUDIES PANEL

Notice of Meeting

Pursuant to Public Law 92–463, notice is given that a meeting of the Lake Michigan Cooling Water Studies Panel will be held at 9:30 a.m. on May 23, 1974, in meeting rooms of the Seven Continents Restaurant, O'Hare International Airport, Chicago, Illinois.

The purpose of the meeting is to continue to review and revise the draft Program Report and Research Priorities lists for Lake Michigan Cooling Water Studies previously developed by the Panel.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. Howard Zar, Environmental Protection Agency, Region V, Enforcement Branch, 1 North Wacker Drive, Chicago, Illinois 60606.

The telephone number is area code 312–353–1470.

JOHN QUARLES,
Acting Administrator.

MAY 2, 1974.

[FR Doc.74-10591 Filed 5-7-74;8:45 am]

[OPP—32000/54]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 8, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July. 8, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 8743–U. Brainerd Chemical Company, Inc., 42nd and S. Sheridan, P.O. Box 45010, Tulsa, Oklahoma 74145. *Algae-Out Concentrate.* Active Ingredients: Poly[oxyethylene - (dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5719–AN. Chacon Chemical Corporation, 5245 Chakemco Street, South Gate, California 90280. *Chacon House Plant Insect Spray.* Active Ingredients: Pyrethrins 0.056%; Rotenone 0.024%; Other cube resins 0.048%; Petroleum distillate 0.224%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 7273–105. Crown Chemicals, 4995 North Main St., Rockford, Illinois 61101. *Crown Malvex Dry Fly Bait.* Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 0.46%; Related Compounds 0.04%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 30946–G. Eagle River Chemical Company, Highway 242, P.O. Box 2648, West Helena, Arkansas 72390. *Eagle River Propanil 4 Herbicide.* Active Ingredients: 3',4'-Dichloropropionanilide 43.48%. Method of Subpart: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12477–G. Economy Service & Sales Co., 3511 N. 9th Street, Philadelphia, Pennsylvania 19140. *CP–10.* Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene - (dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 4816–482. FMC Corporation, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Aqueous Pyrenone Garden & Mosquito Spray.* Active Ingredients: Pyrethrins 0.02%; Piperonyl Butoxide, technical 0.20%; Petroleum distillate 0.06%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 5905–164. Helena Chemical Company, 5100 Poplar Ave., Suite 2900, Clark Tower, Memphis, Tennessee 38137. *Helena Brand MSMA Plus H. C. For Selective Post-Emergent Weed Control High Concentrate.* Active Ingredients: Monosodium Acid Methanearsonate 48.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660–E. Miss Rose Caputo, 229 Park Avenue, South, New York, New York 10003. Authorized Agent for I.PI.CI., Industria Prodotti Chimici S. p. A., Novate Milanese, Italy. *Simazine Technical.* Active Ingredients: 2 - chloro - 4,6-bis-(ethylamino)-s-triazine 95%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5967–RER. Moyer Chemical Company, 1310 Bayshore Highway, P.O. Box 945, San Jose, California 95108. *Moyer BHC 12–W.* Active Ingredients: Gamma isomer of Benzene Hexachloride 12.0%; Other isomers of Benzene Hexachloride 12.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5967–REE. Moyer Chemical Company, 1310 Bayshore Highway, P.O. Box 945, San Jose, California 95108. *Diazinon Dust No. 4.* Active Ingredients: O, O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 4.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5967–REN. Moyer Chemical Company, 1310 Bayshore Highway, P.O. Box 945, San Jose, California 95108. *Copper Dust No. 6.7.* Active Ingredients: Copper 6.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10462–U. Multi Chemical Products, Inc., G.P.O. Box 2380, San Juan, Puerto Rico 00936. *Diacicion F–5 Concentrate Kills Roaches.* Active Ingredients: Refined Petroleum Distillate 90.03%; O, O, Diethyl-O (2 isopropyl)4 menthyl-6-pyrimidinyl phosphoronthioate 6.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10462–L. Multi Chemical Products, Inc., G. P. O. Box 2380, San Juan, Puerto Rico 00936. *Diacicion F–7 Kills Flies, Mosquitoes and Roaches.* Active Ingredients: Petroleum Distillate 98.6125%; Piperonyl Butoxide 1.1875%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34269–E. Poolside, 1738 McMenemy Street, St. Paul, Minnesota 55117. *Poolside Algi-Rid.* Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34269–R. Poolside, 1738 McMenemy Street, St. Paul, Minnesota 55117. *Poolside Algi-Rid Concentrate.* Active ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 655–LNE. Prentiss Drug & Chemical Co., Inc., 363 7th Ave., New York, New York 10001. *Prentox Redi-Use Mouse & Rat Bait.* Active Ingredients: Warfarin (3-(a-acetonylbenzyl)-4-hydroxycoumarin) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 655–LNL. Prentiss Drug & Chemical Co., Inc., 363 7th Ave., New York, New York 10001. *Prentox Redi-Use Mouse &, Rat Bait RP for Repackaging of a Rodenticide.* Active Ingredients: Warfarin (3-a-acetonylbenzyl) - 4 - hydroxycoumarin) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 602–EUL. Ralston Purina Company, General Offices, Checkerboard Square, St. Louis, Missouri 63188. *Purina Diazinon Spray-11 12½%.* Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 12.5%; Xylene 40.2%; Petroleum distillate 40.15%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3509–RNR. Safe-Way Farm Products Co., 2519 East 5th Street, Austin, Texas 78762. *Safe-Way Brand Livestock Dust.* Active Ingredients: Toxaphene 5%; Sulphur 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11463–E. Schaefer Chemical Company, 3000 Carrollton Road, Saginaw, Michigan 48604. *Tower Treat.* Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 538–11. O. M. Scott & Sons, Marysville, Ohio 43040. *Scotts Halts Brand Crabgrass Preventer.* Active Ingredients: S-(O,O-Diisopropyl phosphorodithioate) ester of *N*-(2-Mercaptoethyl) benzenesulfonamide 11%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11682–RT. Sim-Chem, Minerals and Chemicals Division, J .R. Simplot Company, P.O. Box 810, Mountain Home, Idaho 83647. *Sim-Chem Dibrom 8EC Naled Insecticide.* Active Ingredients. Naled 58%; Xylene 20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11682–RI. Sim-Chem, Minerals and Chemicals Division, J. R. Simplot Company, P.O. Box 810, Mountain Home, Idaho 83647. *Sim-Chem Ethion 10% Granular an Agricultural Insecticide.* Active Ingredients: Ethion 10.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6720–EEN. Southern Mill Creek Products Co., Inc., P.O. Box 1096, Tampa, Florida 33601. *SMCP Pelletized Slug and Snail Bait.* Active Ingredients: 3,5-Dimethyl-4-(methylthio) phenol methylcarbamate 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6720–EEE. Southern Mill Creek Products Co., Inc., P.O. Box 1096, Tampa, Florida 33601. *SMCP Crumblized Slug and Snail Bait.* Active Ingredients: 3,5-Dimethyl-4-(methylthio)phenol methylcarbamate 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 476–2049. Stauffer Chemical Company, 1200 South 47th Street, Richmond, California 94804. *Sutan +7-E Emulsifiable Liquid Selective Herbicide for Corn.* Active Ingredients: *S*-Ethyl Diisobutylthiocarbamate 89.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 476–ERLL. Stauffer Chemical Company, 1200 South 47th Street, Richmond, California 94804. *Vernan 7-E Emulsifiable Liquid—A Selective Herbicide.* Active Ingredients: *S*-Propyl Dipropylthiocarbamate 88.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 476–ERLU. Stauffer Chemical Company, 1200 South 47th Street, Richmond, California 94804. *Eptan 7–E—Selective Herbicide Emulsifiable Liquid.* Active Ingredients: S-Ethyl Dipropylthiocarbamate 87.8%. Method of Support: Application proceeds under 2(b) of interim policy.

CORRECTION

As stated in the Notice of Receipt of Applications for Pesticide Registration—Data To Be Considered in Support of Application [OPP–32000/47] published in the FEDERAL REGISTER on April 29, 1974 (39 FR 14990), the Administrator and the applicant named in the FEDERAL REGISTER must be notified of claims by certified mail within 60 days from the date said notice is published. This period ends on July 1, 1974, rather than July 29, 1974, as cited in the notice.

REPUBLISHED ITEM

The following item represents a correction and/or change in the list of Applications Received previously published in the FEDERAL REGISTER of April 29, 1974 (39 FR 14990).

EPA File Symbol 3509–RNA. Safe-Way Farm Products Co., 2519 East 5th Street, P.O. Box 6309, Austin, Texas 78702. *Safe-Way Brand Scarlet Red Screwworm Bomb.* Active Ingredients: Gamma Isomer of Benzene Hexachloride (from Lindane) 2.66%. • • • Correction: Originally published as Benzene Hexochloride.

Dated: May 2, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-10594 Filed 5-7-74;8:45 am]

WATER QUALITY CRITERIA AND INFORMATION

Extension of Time for Comment

On October 26, 1973 (38 FR 29646), the Agency published a notice that proposed Water Quality Criteria (Vol. I) had been published. Subsequently, on October 29, 1973 (38 FR 29836), the Agency published a notice that proposed Water Quality Information (Vol. II) had been published.

The two companion volumes were published pursuant to Section 304(a) (1) and (2) of the Federal Water Pollution Control Act (33 U.S.C. 1251); 86 Stat. 816 (Pub. L. 92–500). A period of 180 days was specified within which interested members of the public were invited to submit written comments on the proposed Criteria and Information Volumes. That period expired on April 26, 1974.

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The Agency anticipated that copies of both the Criteria and Information volumes would be available to the public throughout the comment period. Production difficulties, however, delayed publication and general distribution of the reports. Because of the length, complexity and importance of the proposed criteria, and the Agency's desire to encourage informed and thoughtful public participation in their final promulagation, the Agency believes that members of the public should have access to the supporting documents on which the proposed criteria were based for a more substantial time period in which to formulate meaningful comments. Accordingly, the final date for submission of comments on the Criteria and Information Volumes is hereby extended to and including July 1, 1974.

CHARLES L. ELKINS,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-10590 Filed 5-7-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 74-464]

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

Extension of Time for New Procedures on Petitions To Deny Applications

MAY 2, 1974.

On April 17, 1974 we adopted new procedures (see Public Notice 10980) whereby existing licensees who had protested the entry of new applicants into the same market on grounds of economic competition, were to have their renewal applications designated for hearing together with the proposals of the applicants. The hearing was to determine first, whether the particular market could support an additional carrier, and if not, the hearing was to proceed on a comparative basis to establish whether grant of the new application or grant of the existing licensee's renewal application would best serve the public interest. May 1, 1974 was the date by which all economic protests had to be withdrawn in order to escape a designation order.

We now find that the May 1, 1974 withdrawal deadline is unreasonable. It will be necessary for many licensees to consult with counsel before reaching a decision whether to maintain their protests or to withdraw. In addition, several petitions have been filed requesting additional time and also questioning the propriety of our original public notice Time will be required to evaluate the comments contained therein.

Accordingly, the date by which all economic protests must be withdrawn in order to escape designation is hereby extended to June 1, 1974. By that time we shall have decided upon the merits of petitions filed in response to the original public notice; and those existing licensees with protests presently on file will have had the opportunity to consult with counsel. Pending further action, all renewal applications shall be held in abeyance.

Action by the Commission acting as a Board, May 1, 1974. Commissioners Wiley (Chairman) and Hooks, with Commissioner Reid concurring and Commissioner Quello not participating.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10601 Filed 5-7-74;8:45 am]

[FCC 74-441; Docket Nos. 20025, 20026; File Nos. BR-4354, BRH-1709]

LEFLORE BROADCASTING COMPANY, INC., AND DIXIE BROADCASTING COMPANY, INC.

License Renewal Applications; Hearing

In re applications of Leflore Broadcasting Company, Inc. (WSWG-AM), Greenwood, Mississippi, Docket No. 20025, File No. BR-4354; Dixie Broadcasting Company, Inc. (WSWG-FM), Greenwood, Mississippi, Docket No. 20026, File No. BRH-1709; For renewal of license.

1. Now under consideration are: the captioned applications; a petition to deny the application of Leflore Broadcasting Company, Inc. (Leftflore), filed January 10, 1973, by the Greenwood Communications Committee, an unincorporated association of persons in Greenwood, and by James Moore, Jake McGhee and Martha Cooley, individually and as members of the Committee; an opposition filed March 14, 1973 by Leflore; a reply filed April 10, 1973, by the petitioners; our field investigation into the operation of Station WSWG(AM); the matters left unresolved in our decision in Leflore Broadcasting Company, Inc., 36 FCC 2d 101, 24 RR 2d 953 (1972); a petition to deny the application of Dixie Broadcasting Co., Inc. (Dixie), filed May 1, 1973, by the Greenwood Communications Committee and by James More, Jake McGhee and Martha Cooley, individually and as members of the Committee; an opposition filed June 4, 1973, by Dixie; and related pleadings.[1]

2. We find that the petitioners, as a group of concerned listeners residing in the Greenwood area, are parties in interest within the meaning of section 309 (d) of the Communications Act, Office of Communication of the United Church of Christ v. FCC 359, F. 2d 994, RR 2d 2001 (D.C. Cir. 1966).

3. In regard to the AM application, Leflore contends that some of the petitioners' allegations are not "supported by affidavit of a person or persons with personal knowledge" of the facts as required by section 309(d) of the Act. In Leflore Broadcasting Company, Inc., 37 FCC 2d 655 (1972), we considered a motion filed by the petitioners for clarification or reconsideration of our first decision in this matter. We there stated:

> • • • in the ordering clauses of the first decision, we did not dispose of all matters raised in (the petitioners') pleadings. Specifically, we left open three questions that were raised by the various pleadings. The petitioners need not plead their case a second time as to those questions. (37 FCC 2d at 655)

We recognize that the list of petitioners filing the prior pleadings is not identical with the present list. Nonetheless, since some individuals appear in both lists, we believe that the present petitioners can lay claim to the material and documents included in the prior pleadings, since the same issues are raised. The prior pleadings are supported by appropriate affidavits as to matters that we can not officially notice. We conclude, therefore, that the present pleadings meet the requirements of section 309(d) of the Act.

4. The background of this proceeding, insofar as it pertains to the AM station, is set out more fully in our first decision (see 36 FCC 2d 101). Briefly stated, however, Leflore, in preparing its 1970 renewal application, conducted a survey and found a need for entertainment and non-entertainment programming directed toward the area's black community.[2] Leflore proposed to meet those needs in its application, which was granted July 14, 1970. The entertainment format was to be rhythm-and-blues music, which was selected in light of an audience preference survey. On March 8, 1971, Leflore changed its entertainment format to country-and-western music[3] and fired three black announcers. These actions resulted in the filing of the pleadings we considered in our prior decisions in this matter. Based on those pleadings, and on the findings of our own field investigation, we called for the early filing of Leflore's renewal application, and stated that based on the information then before us, we had the following questions concerning Leflore's operation of Station WSWG:

(a) Whether the licensee has carried out in good faith the representations made in its 1970 renewal application as to proposed non-entertainment programming, particularly with respect to the programming directed toward meeting the problems and needs of the Black community;

(b) Whether in light of the licensee's performance in carrying out its representations in its renewal application and subsequent written statements to the Commission, the licensee made misrepresentations to the Commission in its 1970 renewal application or those statements; and

(c) Whether the licensee has violated § 73.125 of our rules.

See 36 FCC 2d at 104. After reviewing all the pleadings and the renewal application, we believe that these questions still remain and that a hearing is required.

5. Financial hardship is the only basis that Leflore has set forth as a reason for the entertainment format change. Based on the information then before us, we stated in our first decision that we would not make inquiry as to the change in format in light of Leflore's apparently poor financial position, 36 FCC 2d at 103. We did, however, make available to the petitioners the Annual Financial Reports (FCC Form 324) for WSWG so that they could file any comments they thought appropriate as to WSWG's financial position. Moreover, because Stations WSWG (AM) and WSWG-FM shared the same facilities and employees, and because the two stations were identically owned and controlled, although licensed to separate corporations, the Form 324's for Station WSWG-FM were also made available to the petitioners. The petitioners now raise a question as to a misallocation of costs between the AM and FM operations that may have distorted the losses of WSWG (AM) when using the rhythm-and-blues format. In opposition, Leflore has submitted a letter from its certified public accountants to establish that the AM station sustained losses and that costs were reasonably allocated between the licensee of the two stations. However, the letter is neither addressed to the Commission nor in affidavit form. There is also an inconsistency between this letter and a prior letter provided by the same accountants, which raises questions as to the reliability of the information provided in the letters. Earlier, the accountants stated that the salary of Vice-President and General Manager James McCullough was paid entirely by the FM station. In the present letter, it is stated, in reference to the same time period, that the General Manager's salary was shared by the AM and FM operations. The percentage paid by each station is not indicated. The petitioners also raise questions as to the payments made to McCullough and C. D. Saunders. Saunders is President and 75 percent owner of both licensees. For example, Leflore and Dixie claimed greater combined losses ($73,777) in 1971, the year the AM station's format was changed, than in any previous year. Yet 1971 was the first year since the acquisition of WSWG(AM) that payments were made to Saunders. McCullough's salary has also been increasing substantially during years when the combined operations were losing money. His salary in 1971 was more than $7,000 higher than his salary in 1969. That increase, the payments to Saunders and the discrepancies in the accountant's statements raise a question as to whether the losses claimed are as great as indicated by Leflore. Because the losses are the only basis put forward by Leflore for changing from a format apparently preferred by a substantial portion of the area's residents, and because the change in format resulted in a substantial reduction in the availability of the preferred format, we believe that Leflore's representations that the change in format was financially necessary should be explored in hearing.

6. Leflore represented in its 1970 renewal application that 5.1 percent of a typical broadcast week would be public affairs programming. Only 0.9 percent (43 minutes) of the composite week, according to Leflore, was in fact public affairs programming. Moreover, its logs show only a 5-minutes program on June 21, 1971, as being logged as public affairs. Although not so stated in its logs, Leflore elsewhere indicates in its application, that it considers a program entitled "Self Expression Time" to be public affairs programming. Nonetheless, even if that program is included in the total amount of time during the composite week, we are able to find only a total of about 17 minutes of programming classified by the licensee as public affairs. Pursuant to Question 3(B), Section IV-A of the application form, Leflore has also submitted an analysis of its logs, but not the logs themselves, for the month of March, 1972, which it believes to be more representative than the composite week. During that month, Leflore states that 2.62 percent of its programming fell in the public affairs category which is still substantially below the amount represented in the 1970 application. In this respect, we note that in a list of programs broadcast during the last license term that the licensee believes served the needs and interests of the area, Leflore has classified several programs as public affairs which do not appear to fall in that category.[4] Specifically, programs entitled "Winter Carnival Day," "Greenwood Week," and "Miss Hospitality Pageant," based on the descriptions given, apparently should have been classified as "other" programming, not as public affairs. Thus, on the basis of information submitted, we have no assurance that Leflore broadcast even the 2.62 percent public affairs programming during March, 1972 as indicated in its analysis. Accordingly, a question is raised concerning Leflore's representations in its 1970 renewal application and its efforts to implement those representations.

7. The petitioners have requested that additional program logs be made available to the petitioners so that they may analyze them, and that they be afforded additional time to supplement their petition upon the completion of that analysis. However, such logs are subject to appropriate motions for discovery prior to hearing, and we believe such motions are more appropriate than further delaying the institution of this proceeding.

8. The materials in the pending renewal application and in the various pleadings have not resolved the questions we have about the operation of WSWG (AM), see paragraph 4, above. In view of these questions, we are unable to find that a grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

9. WSWG-FM is licensed to Dixie Broadcasting Co., Inc. whose ownership and control is identical to that of Leflore Broadcasting Company, Inc., licensee of WSWG(AM). The renewal applications for both stations indicate that during the last renewal period the two stations have been operated jointly and their programming is presently being simulcast during the hours of AM operation. The renewal applications and the various pleadings relating to the licensees' employment practices further indicate that the licensees consider the staffs of both stations to be a combined one. Therefore, any conclusions with respect to the employment discrimination and misrepresentation issues raised above will be equally applicable to Dixie. In addition, the Greenwood Communications Committee, *et al.*, filed a petition to deny the renewal of WSWG-FM alleging that the licensee had failed to seek out representative black leaders in its ascertainment efforts, had failed to propose programming to meet the needs and interests of its service area and had discriminated in its employment practices. As previously noted, the applicant's compliance with § 73.125 of the Commission's rules is already in issue, and the allegations of employment discrimination with regard to the FM station therefore require no further discussion.

10. In its opposition filed June 4, 1973, Dixie asserts that the Petition to Deny was filed without benefit of a supporting affidavit and should therefore be summarily dismissed. Dixie further contends that the petitioners have failed to allege sufficient facts to support the allegations of the Petition to Deny and that there is no factual basis to those allegations. The Petition to Deny indicates that an affidavit of verification would be forthcoming, but it does not appear that the necessary affidavit was ever filed. The Petition to Deny must therefore be dismissed pursuant to § 1.580(i) of the Commission's rules. However, the Petition to Deny raises serious public interest questions of the most basic nature, and, to the extent that these allegations rest of matters that can be officially noticed by the Commission, they will be discussed herein.

11. With regard to ascertainment, the petitioners allege that in spite of the fact that the population of Leflore County is

[1] The related pleadings are motions for extensions of time to file opposition and reply pleadings, which are hereby granted.

[2] The non-white community constitutes 50.4 percent of the population of Greenwood and 58.3 percent of the population of Leflore County, where Greenwood is located.

[3] The country-and-western format was subsequently dropped on May 3, 1971, when WSWG and WSWG-FM began simulcasting the middle-of-the-road format that WSWG-FM previously had been broadcasting. Leflore has provided no information indicating that these changes in format were preceded by a survey indicating that these had now become the preferred formats, in place of the preference for rhythm-and-blues music that had been found in its prior survey.

[4] Form 303, used for renewal applications, defines "Public Affairs" as including "talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables and similar programs primarily concerning local, national and international public affairs."

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approximately 67 percent black.[4] Dixie interviewed 35 black and 38 white community leaders, and the general public interviews consisted of 368 white and 278 black contacts with an additional 234 contacts unidentified as to race. Petitioners further assert that the station ignored certain local black leaders which, petitioner implies, would have given Dixie a different picture of the problems, needs, and interests of the area. However, petitioners have failed to plead specific facts to indicate which black leaders of significant groups within the community should have been contacted and what additional problems would thereby have been ascertained. Further, the "Primer on Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 36 FR 4029 (1971) does not require applicants to contact community leaders or members of the general public in exact proportions to the various minority groups within an area. As previously indicated, non-whites constitute 50.4 percent of the population of Greenwood and 58.3 percent of the population of Leflore County. It therefore does not appear that Dixie has been unreasonable in the number of interviews conducted of black community leaders and members of the general public.

12. Petitioners allege that Dixie's program proposal fails to serve adequately the needs and interests uncovered in the licensee's survey. Exhibit 5 of Dixie's renewal application purports to set forth the programs proposed to meet the needs ascertained. Eight programs are listed, but three of these programs (Editorials, City and Area Promotions, and How's Your Health) are proposed at "varied times" without specific frequency, time or duration. Another program, Mississippi Valley State College, is proposed "monthly" without a scheduled time or duration, and the description of that program does not reveal its form, format, or how or what community problems would be dealt with in the program. Further, Dixie's Black History program is scheduled daily for 90 seconds, but Dixie has failed to indicate the time of day of that broadcast. The remaining three programs, (Self Expression Time, Goodwill Bulletin Board, and Issues and Answers) are proposed with the requisite frequency, time, and duration, but the weekly duration of these programs differs markedly from the applicant's program proposal as set forth in other parts of its renewal application. Exhibit 8 to Dixie's renewal application indicates that these programs are considered public affairs[5] and in response to paragraph 14 of Section IV–B, Dixie indicates that it proposes 3 hours 8 minutes of public affairs programs during the typical week. However, these three programs, for which specific frequency, time, and duration are given, add up to at least 5 hours 54 minutes of "public affairs" programs per week.[6] This discrepancy raises a question as to whether Dixie intends to broadcast these programs are proposed.[6] We further note that two of the three specifically proposed programs (Self Expression Time and Goodwill Bulletin Board) are 90 seconds or less in duration. Based on Dixie's descriptions of these programs, however, it is difficult to determine whether they are public affairs programs designed to serve ascertained community problems. We, therefore, find that Dixie's program proposal raises a substantial question as to exactly what the licensee proposes to broadcast and whether the programs proposed are adequately designed to meet those ascertained needs and interests with which the licensee intends to deal; and, thus, an appropriate issue will be added. Since WSWG (AM) and FM now simulcast, the question is equally applicable to the proposed programming of WSWG(AM).

13. *Accordingly, It is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether Leflore Broadcasting Company, Inc., has carried out in good faith the representations made in its 1970 renewal application as to proposed nonentertainment programming;

(2) To determine in light of the evidence adduced under the preceding issue, whether the applicant made misrepresentations to the Commission or was lacking in candor;

(3) To determine whether the applicants or their principals made misrepresentations to the Commission or were lacking in candor in other written submissions to the Commission;

(4) To determine whether the applicants violated § 73.125 or § 73.301 of the Commission's rules;

(5) To determine whether the change in entertainment format on WSWG(AM) was, as claimed by the licensee, financially necessary;

(6) To determine the extent and nature of the applicants' proposed non-entertainment programming and whether that proposal adequately serves the ascertained problems, needs and interests of the community, as evaluated;

(7) To determine, in light of the evidence adduced under the preceding issues, whether the applicants have the requisite qualifications to be or to remain Commission licensees, and whether a grant of the applications would serve the public interest, convenience and necessity.

14. *It is further ordered,* That Johnny W. Williams, Theodore Hill, Jr., George Davis, W. S. Lee, Jr., Martna Cooley, Jake McGhee, James Moore, the Greenwood Movement and the Greenwood Communications Committee are made parties respondent to this proceeding.

15. *It is further ordered,* That the Chief of the Broadcast Bureau shall serve upon the captioned applicants, within thirty (30) days of the release of this document, a Bill of Particulars with respect to issues (1) through (4), inclusive, as to allegations of fact and information in his possession not alleged by the petitioners.

16. *It is further ordered,* That the parties respondent proceed with the initial presentation of evidence with respect to issues (1) through (6), inclusive, that the Chief of the Broadcast Bureau present the evidence described in the Bill of Particulars with respect to issues (1) through (4), inclusive, and that the applicants then proceed with their evidence and have the burden of establishing that they possess the requisite qualifications to be and to remain licensees of the Commission and that a grant of the applications would serve the public interest, convenience and necessity.

17. *It is further ordered,* That the applicants and the parties respondent shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the Commission's rules.

18. *It is further ordered,* That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: April 17, 1974.

Released: May 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74–10602 Filed 5–7–74;8:45 am]

[4] The petition does not disclose the source of this 67 percent figure. See footnote three, above.

[5] Questions as to the proper classification of public affairs programs were raised in paragraph 6, above.

[6] The total of 5 hours 54 minutes is based on 60 seconds for Self Expression Time and Goodwill Bulletin Board, each broadcast every hour during a 162 hour week. No commercial time was deducted from these programs due to their short duration. Commercial time at the rate of 20 minutes per hour was deducted from Issues and Answers.

[6] An even larger discrepancy results when other less specifically proposed programs, also classified as public affairs by the licensee, are considered.

FEDERAL MARITIME COMMISSION

[Docket No. 72–17 (Sub No. 1)]

NORTH ATLANTIC POOL

Order of Investigation and Hearing

In the matter of Agreement No. 10,000–1—Amendment of North Atlantic Pool.

Agreement No. 10,000 is a revenue pooling agreement among seven containership operators, American Export Lines, Inc. (AEL),[1] Atlantic Container Line, Ltd. (ACL), Dart Containerline Company, Ltd. (Dart), Hapag-Lloyd AG (HL), Sea-Land Service, Inc. (Sea-Land), Seatrain Lines, Inc./Seatrain International, S.A. (Seatrain) and United States Lines, Inc. (USL), common carriers in the North Atlantic Trade, i.e., the trade between United States North Atlantic ports north of Cape Hateras and Atlantic ports in Europe north of and including Bayonne to the North Cape and

[1] American Export Isbrandtsen Lines, Inc. (AEIL) at the time Agreement No. 10,000 was signed.

ports in the Baltic, Scandinavia, United Kingdom and Eire.

Agreement No. 10,000 was filed for approval on November 28, 1971, and is the product of 12 months' negotiations among the carriers conducted pursuant t Agreement No. 9899, the "Talking Agreement", which was approved by the Commission on November 24, 1970.

Notice of the filing of Agreement No. 10,000 generated 21 comments, two of which requested a hearing on the proposed agreement. By Order of Investigation served May 5, 1972, the Commission instituted Docket No. 72–17 to determine whether Agreement No. 10,000 should be approved, disapproved or modified pursuant to section 15 of the Shipping Act, 1916. Nineteen parties participated in 40 days of hearings, which produced a transcript of 4993 pages and 107 exhibits. An initial decision was issued by the then Chief Administrative Law Judge, C. W. Robinson, on December 10, 1973, approving Agreement No. 10,000 with conditions.

Exceptions to the Initial Decision were filed by various of the parties on February 26, 1974, and Replies to Exceptions were filed on April 12, 1974.

On March 1, 1974, the signatories to Agreement No. 10,000 filed a document which came to be designated Agreement No. 10,000–1, which proposed to amend Article 15.3 of Agreement No. 10,000 to read as follows:

15.3. Upon approval of the Agreement [viz., North Atlantic Pool Agreement—FMC Agreement No. 10,000] by the Federal Maritime Commission, the Pool Lines shall have a period of six (6) months to develop an overall rationalization plan reflecting the sailing and service obligations of each Member Line. Any Member Line may withdraw from the Agreement for any reason at any time during this period without prejudice and without any liability to the other lines by giving two weeks written notice of its intention to do so to the Pool Coordinator. This Subarticle shall be considered a basic part of the Pool Agreement and any approval by the Federal Maritime Commission which shall not include an approval to this Subarticle shall be considered unacceptable to the Member Lines and will therefore vitiate the Agreement. In the event of any withdrawal during this first 180-day period the penalty provisions of Subarticle 15.1 shall not be applicable, nor shall any of the other provisions of the Pool Agreement be effective.

Article 15.3 presently provides:

15.3. If satisfactory progress should not be made in the rationalization of sailings and in the evolvement of service obligations, notwithstanding any other provisions in this Agreement, during the first 180 days following initiation of the Pool Agreement any Member Line may withdraw from the Agreement by giving two weeks' written notice to the Pool Coordinator. In the event of any withdrawal during this first 180-day period the penalty provisions of Subarticle 15.1 shall not be applicable, nor shall any of the other provisions of the Pool Agreement be effective.

The proposed Article 15.3 is consistent with the conditional approval granted Agreement No. 10,000 by the initial decision wherein Judge Robinson found that:

The agreement should be approved in principle, final approval to be conditioned on the filing within six months of a rationalization plan and the acceptance of specified conditions (Initial Decision, p..118).

Additionally, the nebulous phrase "satisfactory progress * * * in the rationalization of sailings, and the evolvement of service obligations" of the present Article 15.3 is replaced in the proposed Article 15.3 by making it clear that "The Pool Lines shall have a period of six (6) months to develop an overall rationalization plan reflecting the sailing and service obligations of each Member Line."

The Massachusetts Port Authority (Massport) an intervenor and active participant in Docket No. 72–17 filed a "Statement of Position" opposing Agreement No. 10,000–1 on March 29, 1974.

Massport's statement requests that the Commission disapprove Agreement No. 10,000–1 "as a matter of law", and that if the Commission does not do so, that it set Agreement No. 10,000–1 for a hearing or reopen Docket 72–17 to consider six issues set forth in the statement.

On April 12, 1974, the Federal Maritime Commission received a letter (Appendix A) from N. S. Thompson, Chairman, Atlantic Container Line, Ltd. (ACL) one of the signatories to Agreement No. 10,000. The letter stated that ACL was conditionally withdrawing from Agreement No. 10,000, but also stated that the withdrawal would be rescinded upon Commission approval of the amendment to Article 15.3, i.e., Agreement No. 10,000–1.

On April 23, 1974, the Commission received a letter from the attorney for the signatories to Agreement No. 10,000 (Appendix B) stating, inter alia, that the signatories to Agreement No. 10,000 regard the Agreement and the amendment thereto (Agreement No. 10,000–1) as "integral parts of a comprehensive understanding, in the sense that Agreement No. 10,000 is not offered for approval unless Agreement No. 10,000–1 is to be approved simultaneously", and requesting that the Commission express its concurrence that Agreements Nos. 10,000 and 10,000–1 constitute the complete Pool Agreement before the Commission, by reopening the record in Docket No. 72–17 to afford the parties a hearing limited to the issues raised by Agreement No. 10,000–1. The letter also advised that ACL intended to rescind its conditional withdrawal notice upon issuance of the Commission's Order reopening the record in Docket No. 72–17, as requested.

It is clear that, in view of the circumstances detailed above, before Agreement No. 10,000–1 can be approved, disapproved or modified by the Commission pursuant to section 15 of the Shipping Act, 1916, (46 U.S.C. 841) a hearing should be held to afford parties wishing to do so an opportunity to adduce evidence in support of or in opposition to the approval of Agreement No. 10,000–1.

While we do not seek to limit the scope of the case which any party may wish to present at such hearing, we consider that among those issues listed in the "Statement of Position" of Massport which are novel to the question of the approvability of Agreement No. 10,000–1 (as distinct from issues raised in Docket No. 72–17 and now before the Commission, e.g., questions concerning the meaning of the present Article 15.3), are (1) what progress has been made by the signatories to Agreement No. 10,000 and Agreement No. 10,000–1 in arriving at a rationalization plan; (2) why Commission disapproval of Agreement No. 10,000–1 would vitiate Agreement No. 10,000.

Also, it is not clear from Agreement No. 10,000 or Agreement No. 10,000–1 whether withdrawal of one or more of the signatories to Agreement No. 10,000 prior to final Commission action thereon would vitiate the entire agreement.

Article 10.2 of Agreement No. 10,000 provides in pertinent part:

* * * if a Member Line's rights under this Pool Agreement should be otherwise terminated, then its Basic Percentage Entitlement shall be reassigned forthwith to other Member Lines pro rata to their respective Basic Percentage Entitlements immediately prior to the termination of the business or of the rights.

Article 20.1 of Agreement No. 10,000 provides:

This Pool Agreement and any amendment thereof shall be submitted for approval to the appropriate government Authorities and shall become effective when it has been submitted and approved by those Authorities; however, the Pool Agreement and any amendment thereof shall not become effective if any conditions of approval are not acceptable to the parties signatories hereof.

Moreover, Article 15.3 as amended by Agreement No. 10,000–1 permits any signatory to Agreement No. 10,000 to withdraw during the six-month period requested for development of the rationalization plan. The Commission, therefore, will require evidence from the proponents on the question of withdrawal by a signatory during the executory phase of Agreement No. 10,000 and the effect such withdrawal would have on Agreement No. 10,000:

Now, therefore, *it is ordered,* That the Commission on its own motion enter upon an investigation and hearing, pursuant to Sections 15 and 22 of the Shipping Act, 1916, to determine whether Agreement No. 10,000–1 should be approved, disapproved, or modified, pursuant to Section 15 of the said Act;

It is further ordered, That the proceeding hereby instituted include an investigation as to whether Agreement No. 10,000, as amended, makes provision for the continuation of the Agreement in the event of withdrawal of one of signatories during the executory phase of the Agreement or whether such withdrawal would vitiate the entire Agreement;

It is further ordered, That American Export Lines, Inc., Atlantic Container Line, Ltd., Dart Containerline Company, Ltd., Hapag-Lloyd AG, Sea-Land Service, Inc., Seatrain Lines, Inc/Seatrain International, S.A., and United States Lines, Inc., listed in Appendix C hereto,

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are hereby made respondents in this proceeding;

It is further ordered, That the Massachusetts Port Authority be made petitioner in this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge at a date and place to be hereafter determined and announced by the presiding Administrative Law Judge;

It is further ordered, That insofar as Docket No. 72–17 is now before the Commission on Replies to Exceptions, and because Agreement No. 10,000–1 is a critical component of Agreement No. 10,000, the presiding Administrative Law Judge expedite this proceeding to the fullest extent possible;

It is further ordered, That in order to avoid delay and duplication of effort, the parties to this proceeding shall have full use, for purposes of this proceeding, of the entire record in Docket No. 72–17;

It is further ordered, That the provision of 46 CFR 502.201(b) requiring leave of the Commission to take testimony by deposition if notice thereof is served within 20 days of commencement of the proceeding, and the provision of 46 CFR 502.206(c) requiring leave of the Commission to serve interrogatories if notice thereof is served within 20 days of commencement of the proceeding, are hereby waived;

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and that a copy thereof and notice of hearing be served upon respondents and petitioner, as shown in the Appendix.

It is further ordered, That any person other than respondents and petitioner, having an interest and desiring to participate in this proceeding, shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's Rules of Practice and Procedure;

It is further ordered, That all future notices, orders and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Mr. FRANCIS HURNEY,
Secretary,
Federal Maritime Commission,
1100 L Street NW.,
Washington, D.C. 20573

DEAR SIR, APRIL 12, 1974.

Agreement 10,000—North Atlantic Pool Agreement

Replies to exceptions in Docket 72–17 will be due April 12th. After such deadline we understand that Agreement 10,000 will be officially before the Commission for approval. If approved it will take effect according to its terms, and no party will thereafter be permitted to withdraw (except for specifically stated reasons) without incurring liability to the remaining pool members for a two million dollar penalty.

Atlantic Container Line Limited finds itself unable to make a final commitment at this time to participate in the pool. Such difficulty stems from changed circumstances occurring since Agreement 10,000 was executed on November 17, 1971. As a result of such changes, a commitment at this time to remain in the pool could subject ACL to financial and competitive risks which it could not prudently assume.

With an assured period of six months following approval in which to make a decision, ACL might find that adherence to the pool was feasible. Accordingly ACL proposed, and the pool signatories have filed, an Agreement amending Article 15.3 of Agreement 10,000 to allow six months after approval in which any pool member could withdraw for any reason without penalty. The pool signatories have requested prompt approval of such amendment, but the Commission has been unable to assure a decision thereon before the deadline for filing exceptions.

In these circumstances ACL has no choice but to withdraw from Agreement 10,000 which we hereby do. If satisfactory to the Commission, we will rescind our withdrawal upon approval by the Commission of the pending amendment to Article 15.3.

This notice is transmitted with regret, since we are reluctant to impair the prospect for a pool on the North Alantic, but in the absence of any assured further period in which to forecast its effect, we feel that we have no alternative.

Yours faithfully,

ATLANTIC CONTAINER
LINE, LTD.,
N. S. THOMPSON,
Chairman.

APPENDIX B

FRANCIS C. HURNEY, Esq.,
Secretary, Federal Maritime Commission,
1100 L Street NW.,
Washington, D.C. 20573

Re: FMC Docket No. 72–17, *North Atlantic Pool Agreement.*

APRIL 23, 1974.

DEAR MR. HURNEY: The signatories to the North Atlantic Pool Agreement (Agreement No. 10,000) regard that agreement and the pending amendment thereto (Agreement No. 10,000–1) as integral parts of a comprehensive understanding, in the sense that Agreement No. 10,000 is not offered for approval unless Agreement No. 10,000–1 is to be approved simultaneously.

On behalf of all signatories, it is requested that the Commission express its concurrence that Agreements Nos. 10,000 and 10,000–1 constitute the complete Pool Agreement before it by reopening the record in this proceeding and by affording the parties a hearing limited to the issues raised by Agreement No. 10,000–1. This agreement has been published in the FEDERAL REGISTER, and it has been the subject of a protest by the Massachusetts Port Authority.

Atlantic Container Limited, which submitted a conditional withdrawal from the Pool Agreement by its letter of April 12, 1974, will rescind that withdrawal notice upon the issuance of the Commission's Order reopening the record herein as requested.

Sincerely yours,

RICHARD W. KURRUS,
Attorney for the Signatories to the North Atlantic Pool Agreement.

Copies: All Signatories to the North Atlantic Pool Agreement.

APPENDIX C

American Export Lines, Inc., 17 Battery Place, New York, N.Y. 10004.
Atlantic Container Line, Ltd., 80 Pine St., New York, N.Y. 10005.
Dart Containerline, Inc., Northeast Plaza Bldg., 9th floor, 5 World Trade Center, New York, N.Y. 10048.
Hapag-Lloyd Aktiengesellschaft, c/o United States Navigation Co., Inc., 17 Battery Place, New York, N.Y. 10004.
Sea-Land Service, Inc., P.O. Box 1050, Corbin and Fleet Sts., Elizabeth, N.J. 07207.
Seatrain Lines, Inc., 25 Broadway, New York, N.Y. 10004.
United States Lines, Inc., 1 Broadway, New York, N.Y. 10004.

[FR Doc.74–10614 Filed 5–7–74;8:45 am]

[FMC–142]

PAN AMERICAN MAIL LINE, INC., AND NOPAL CARIBE LINES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 773, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 28, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Gustav E. Hulander
Vice-President
Florida Motorships Corporation
1015 North America Way
Miami, Florida 33132

Agreement No. 10126, between Pan American Mail Line, Inc. and The Northern Pan America Line d/b/a Nopal Caribe Lines, common carriers by water operating Ro/Ro vessels in the trade between Florida ports and ports in Curacao, Aruba and Bonaire, Netherlands Antilles, provides for the establishment of a rate agreement whereby the parties will agree on various rates, charges,

classifications, practices, and related tariff matters, to be charged or observed by them respectively in the specified trade, but with the reservation of the right by each of them to alter for itself any rate, charge, classification, practice or related tariff matter thus agreed upon or theretofore in force upon first giving the other party at least forty-eight (48) hours' advance notice thereof.

By Order of the Federal Maritime Commission.

Dated: May 3, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10612 Filed 5–7–74;8:45 am]

[FMC–142(a)]

PRUDENTIAL-GRACE LINES, INC., AND WATERMAN STEAMSHIP CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 28, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. L. A. Parish, Agent
Waterman Steamship Corporation
P.O. Box 1707
Mobile, Alabama 36601

Agreement No. 10127 would permit the two lines listed above to interchange barges and related equipment in conjunction with their LASH liner operations pursuant to the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: May 3, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10613 Filed 5–7–74;8:45 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 2–74]

FOREIGN-TRADE ZONE NO. 1, NEW YORK CITY

Application To Expand Area and Extend Operational Period

Notice is hereby given that the City of New York, through its Economic Development Administration, has, as zone grantee, applied to the Foreign-Trade Zones Board (the Board) for authority to expand the area of Foreign-Trade Zone No. 1, located at the Brooklyn Navy Yard, Borough of Brooklyn, New York City, and to extend the operational period for the site.

Foreign-Trade Zone No. 1 has been located within Building 77 (3rd Floor) at the Brooklyn Navy Yard since September 1972 when the Board authorized relocation of the zone there from its former Staten Island site. Considering the new site a temporary one, the City originally requested authority for three years. This application proposes the addition of some 85,000 sq. ft. of floor space to the zone on the first and second floor of Building 77, and to extend the operational period for the zone site to September 26, 1978.

As reported in the Board's annual report, during fiscal 1973 over $16 million in merchandise was handled at the zone facility which has become fully occupied. The additional space is needed to accommodate the expansion of ongoing activities as well as new firms desiring to use the facility for storing and processing foreign merchandise including liquor, automotive components, aircraft components, toiletries and tobacco products.

Most zone users are engaged in operations primarily for re-export. Those items entering domestic commerce from the zone are dutiable upon importation into U.S. Customs territory.

Copies of the City's application are available for inspection at each of the following locations:

Office of Mr. Norman Frankenheim
Property Management Services
Department of Ports & Terminals
Economic Development Administration
Room 406, Battery Maritime Building
New York, New York 10004

Office of the Executive Secretary
Foreign-Trade Zones Board
Room 6886B, U.S. Department of Commerce
14th & E Streets, N.W.
Washington, D.C. 20230

An examiners committee has been appointed to investigate the application, including the consideration of public comments. The committee consists of: (Chairman) John J. Da Ponte, Jr., Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Washington, D.C. 20230; Mr. Bart Van Lenten, Assistant Area Director for Classification and Value, New York Seaport, U.S. Customs Service, 6 World Trade Center, New York, New York 10048; and Colonel Harry W. Lombard, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, New York 10007.

Comments concerning the proposal are invited in writing (original and six copies) from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the above address and postmarked on or before May 23, 1974.

Dated: May 1, 1974.

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc.74–10559 Filed 5–7–74;8:45 am]

GENERAL SERVICES ADMINISTRATION

MISUSE OF INFORMATION SUPPLIED TO THE GOVERNMENT IN CONFIDENCE

Opportunity for Comment

The Office of Management and Budget (OMB), in memoranda to Heads of Executive Departments and Agencies, dated December 7, 1972, and March 14, 1973, established and outlined plans for coordination of executive branch efforts in response to the Commission on Government Procurement (COGP) Report. Interagency task groups made up of assigned lead and participating agencies were formed to examine and recommend executive branch positions on each of the 149 COGP recommendations. Direction of executive branch efforts on COGP matters is a function which was delegated to the General Services Administration (GSA) by Executive Order 11717 on May 9, 1973.

Following is a summary of a proposal for an executive branch position on COGP Recommendation Number 13 in Part I of the Report. The proposal was drafted by a task group which was led by the National Science Foundation (NSF) working through the Executive Subcommittee of the Committee on Government Patent Policy. COGP Recommendation I–13 calls for the formulation, via legislation, of a clear-cut judicial remedy for the benefit of persons supplying information in confidence to the Government, if that information is misused by the Government. The reasons given for the need for such legislation are that lack of such a remedy may be a deterrent in the flow of innovative information to the Government, and that fairness would require a civil remedy for damages inasmuch as the criminal provisions of 18 U.S.C. 1905, according to the COGP, do not provide for compensation of an injured party.

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This notice is published for the purpose of public information only and to offer an early opportunity for public comment on a proposal for an executive branch position on COGP Recommendation I–13. The proposal for an executive branch position is also being considered by appropriate agencies. Interested persons should submit their comments to the General Services Administration (AMC), Washington, DC 20405. To be given consideration, written comments must be received not later than 45 days from the date of this publication.

Publication of this notice does not imply acceptance by the executive branch of the proposed executive branch position.

COGP Recommendation I–13 reads as follows:

Establish a remedy for the misuse of information supplied to the Government in confidence.

TASK GROUP PROPOSAL FOR AN EXECUTIVE BRANCH POSITION ON COGP RECOMMENDATION I–13 (SUMMARY)

The task group recommended unanimously that COGP Recommendation I–13 not be adopted by the executive branch at this time. The group added, however, that this COGP recommendation be referred to a group to be appointed to study the implementation of other related COGP recommendations to determine and recommend the appropriate scope and nature of any remedy which may be needed in connection with the misuse of "technical data" (as opposed to "information") by the Government.

The task group proposal not to adopt COGP Recommendation I–13 at this time was formulated after a careful investigation of records on the issues which prompted the COGP recommendation. The task group found that there were no instances where a remedy was not available for cases alleging misuse of information supplied to the Government in confidence.

Specifically, the task group found the following: (1) Title 18 U.S.C. 1905, by providing a criminal penalty for unauthorized disclosure of confidential information by a Government employee, provides a deterrent to such disclosure;

(2) When data supplied in confidence under a contract is misused, a remedy can usually be found in breach of contract under 28 U.S.C. 1346 or 28 U.S.C. 1491;

(3) Owners of data also have available to them the vehicle of lodging a timely protest to prevent award of a contract to other than the data owner, if award would be based on data submitted in confidence.

In the course of its study, the task group examined also the legislative language proposed by the COGP (Section 5 of Appendix B on page 153, Volume 4 of the Report of the Commission on Government Procurement). The task group found that the COGP may have opened the door to unforseen problems in proposing legislation so broad that it would not be limited to information supplied by contractors, or prospective contractors in proposals, but could also include other information supplied to the Government such as income tax returns, business reports, etc.

Instances alleging Government misuse of technical data supplied in confidence appear to have involved no liability on the part of the Government for reasons such as: (1) Failure of the data owner to mark it so as to provide notice of its confidential nature; (2) removal of restrictive markings by persons other than Government personnel; (3) the Government had not agreed to receive the subject data in confidence; or (4) waiver of confidentiality by the owner.

The task group also found no case wherein any criminal action was brought under 18 U.S.C. 1905 for unauthorized disclosure of confidential information of the type discussed here. If misuse of such information is prevalent enough to require a civil remedy, the Task Group reasoned that at least some cases would have been brought under 18 U.S.C. 1905. The Task Group felt that this further supports the position that no immediate need has been shown for the legislation proposed by the COGP.

Responses Received from interested parties regarding this notice of opportunity for comment and official views received from executive departments and agencies in answer to a separate request therefor will be given careful consideration in the formulation of a final executive branch position.

Dated at Washington, D.C. on May 1, 1974.

R. E. ZECHMAN,
Acting Associate Administrator for Federal Management Policy.

[FR Doc.74–10519 Filed 5–7–74;8:45 am]

[Federal Property-Management Regulations Temporary Regulation F–218]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires April 30, 1974.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F–111	July 13, 1971	Delegation of Authority to Secretary of Defense—Regulatory Proceeding.
F–183	June 21, 1973	Do.
F–196	Oct. 24, 1973	Do.

DWIGHT A. INK,
Acting Administrator of General Services.

APRIL 30, 1974.

[FR Doc.74–10518 Filed 5–7–74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 74–30]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL

Notice of Meeting

MAY 23–24, 1974.

The NASA Research and Technology Advisory Council will meet on May 23–24, 1974, in Room 625 of Federal Office Building 10B at NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. 20546. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room, which is about 40 persons.

The NASA Research and Technology Advisory Council was established to advise NASA's senior management in the area of aeronautics and space research and technology. The Council studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives, summarizes the state of the art, assesses ongoing work, and makes recommendations to help NASA plan and carry out a program of greatest benefit to the nation. Dr. Ronald Smelt is Acting Chairman of the Council. There are 17 members on the Council itself and additional members on eight Committees and one Panel which report to the Council.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact the Executive Secretary, Mr. Fred W. Bowen, Jr., Area Code 202, 755–3710.

MAY 23, 1974

Time	Topic
9:00 a.m.	Introduction and NASA and Council Organizational and Personnel Changes (Purpose: To inform the Council of recent personnel and organizational changes within NASA and the Council itself.)
10:00 a.m.	Status of Fiscal Year 1975 Budget (Purpose: To brief the Council on Congressional action taken to date with respect to the fiscal year 1975 Office of Aeronautics and Space Technology (OAST) budget.)
10:30 a.m.	OAST Program Status (Purpose: To brief the Council on the status of major OAST programs. The Council will use this information to guide its assessment of Committee and Panel activities as presented later in the meeting.)
1:30 p.m.	Update on NASA Energy Activities (Purpose: To bring the Council up to date on NASA's work related to energy research and development in our own aerospace programs and in cooperation with other Government agencies.)

MAY 23, 1974

Time	Topic
4:00 p.m.	Committee and Panel Reports (Purpose: Committee and Panel Chairmen will present reports on the activities of their respective groups since the last Council meeting for inclusion in the overall Council report to the NASA Administrator and Deputy Administrator.)

MAY 24, 1974

8:30 a.m.	Continuation of Committee and Panel Reports
11:00 a.m.	Preparation of Council Report (Purpose: The Council will document recommendations and observations to be submitted to the NASA Administrator and Deputy Administrator.)
12:30 p.m.	Adjournment

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

MAY 6, 1974.

[FR Doc.74–10749 Filed 5–7–74;9:36 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ANTHROPOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given of a meeting of the Advisory Panel for Anthropology to be held at 9 a.m. on May 24 and 25, 1974, in Room 338 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of this panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92–463.

For further information concerning this panel, contact Dr. Iwao Ishino, Program Director, Anthropology Program, Room 205, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 30, 1974.

[FR Doc.74–10568 Filed 5–7–74;8:45 am]

ADVISORY PANEL FOR ELECTRICAL SCIENCES AND ANALYSIS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given of a meeting of the Advisory Panel for Electrical Sciences and Analysis to be held at 9 a.m. on May 29, 1974, in Room 321 and at 9 a.m. on May 30, 1974, in Room 543 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of this panel is to provide advice and recommendations concerning support for research in electrical sciences and analysis. The session on May 29 will deal with energy systems. On May 30 the topic will concern energy generation, storage, transmission and utilization. The more specific agenda for this meeting follows:

MAY 29

9:00—Welcome, Panel Chairman.
9:05—Introduction, Background and Purpose, Program Director, System Theory and Applications Program.
9:15—Presentation of Opening Remarks on Research Opportunities in Energy Systems, Panel Members.
11:30—Questions and General Discussion.
12:00—Recess for lunch.
1:00—Discussions of Key Issues.
3:00—Formulation of Panel Recommendations and Summary.
5:00—Adjournment.

MAY 30

9:00—Welcome, Panel Chairman.
9:05—Introduction, Background and Purpose, Program Director, Devices and Waves Program.
9:15—Discussion of Research Opportunities in Electrical Energy Generation, Storage, Transmission and Utilization, Panel Members.
10:00—Technology Ad Hoc Subpanel Formation for Investigation of Specific Research Opportunities.
12:00—Recess for lunch.
1:00—Presentations of Subpanels.
2:30—Formulation of Panel Recommendations and Summary.
5:00—Adjournment.

This meeting shall be open to the public. Individuals who wish to attend should inform Dr. Mohammed Ghausi, Head, Electrical Sciences and Analysis Section, by telephone (202–632–5881) or by mail (Room 342, 1800 G Street, NW., Washington, D.C. 20550) prior to the meeting. Persons requiring further information concerning this panel should contact Dr. Mohammed Ghausi at the above address. Summary minutes relative to this meeting may be obtained from the Management Analysis Office, Room K–720, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 29, 1974.

[FR Doc. 74–10569 Filed 5–7–74;8:45 am]

ADVISORY PANEL FOR HISTORY AND PHILOSOPHY OF SCIENCE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given of a meeting of the Advisory Panel for History and Philosophy of Science to be held at 9 a.m. on May 17, 1974, in Room 246 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of the panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals. The emergency situation prohibiting the publication of this notice within the newly prescribed 15-day lead time occurred due to difficulty in arranging a meeting date acceptable to all of the panel members.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92–463.

Individuals requiring further information about this panel may contact Mr. Ronald Overmann, Assistant Program Director, History and Philosophy of Science Program, Room 205, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 30, 1974.

[FR Doc.74–10570 Filed 5–7–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

IMPROVING FEDERAL ENERGY RELATED ACTIVITIES

Announcement of Study

A study requested by President Nixon on ways to improve Federal energy-related regulatory activities has been submitted in preliminary form to the Director of the Office of Management and Budget, by the interagency study group assigned to perform the study.

This study deals with the organizational arrangements for carrying out energy regulation at the Federal level. It does not deal with substantive or policy issues confronting energy regulatory bodies. The report reviews the placement among the Federal agencies of responsibility for regulating the production and distribution of energy, and the consequent interrelationships among such agencies. It does not provide an examination of the internal procedures followed by these agencies.

PUBLIC COMMENT INVITED

The proposals contained in the report are those of the Study Group and not that of the Administration. The Administration position will be developed after receipt of Congressional and public comments. The plan for conducting the study, which was drawn up late last summer, provided for widespread circularization of a preliminary report as a means of obtaining the benefit of many points of view on this important and complex subject. In accordance with this plan, comments are being invited from interested members of Congress, the heads of affected Federal agencies, State and local Governments and organizations representing the energy industry, consumers, environmentalists and other interests. Comments should be received in the

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Organization and Special Studies Division, Office of Management and Budget, Washington, D.C. 20503, by May 31, 1974.

Information is provided at the end of this notice as to how a copy of the report may be obtained.

SUMMARY REPORT OF FINDINGS AND RECOMMENDATIONS

The study group concluded that the most pressing need of the Federal energy regulation system at the present time is for mechanisms that coordinate diverse energy regulatory agencies and their functions. Many organizational schemes were explored in the report, but the study group concluded that consolidating the energy regulatory functions of existing Federal agencies into a "super-agency" would be counter-productive and disruptive at this time.

Among the recommendations in the study report are:

1. An independent National Energy Council, to provide comprehensive policy guidance to energy regulatory agencies through the formulation of national energy objectives.

2. A new licensing coordination office, to oversee the Federal licensing process and assure that it is functioning without undue delays or bottle-necks.

3. A new centralized energy data office within the executive branch, to augment the information capabilities of regulatory agencies by gathering and making available energy-related information that will assist them in deciding issues with broad supply, demand and price implications, and the institution of a unified information retrieval system.

4. A new Federal office and new State-level organizations, to work together and exchange information continually, coordinating Federal and State actions on individual energy facilities and overall energy objectives.

AVAILABILITY OF REPORT

Copies of the report entitled, "Federal Energy Regulation: An Organization Study" may be obtained from the Superintendent of Documents. Orders should refer to stock number S/N 5210-00386 and should be sent to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Make checks or money orders payable to the Superintendent of Documents in the amount of $2.80 per copy ordered.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-10513 Filed 5-7-74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 3, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503 (202-395-4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Forest Service:
Rationing Wilderness Use, Form, Single time, Planchon, Visitors to two California wildernesses.
Desolation Wilderness Trip Record, Form, Single time, Planchon, Individuals or leaders of groups traveling in desolation wilderness.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration: Restudy of Rural Physicians in Twenty Rural Missouri Counties, Form HRABHRD 0426, Single time, Caywood, Rural and Metropolitan Missouri physicians.

DEPARTMENT OF THE INTERIOR

National Park Service: Family Interview—Diary Sheet; Family Information Sheet, Form, Single time, Planchon, Individuals.
Office of Water Resources Research: Open-ended Interview Questions, Form, Single time, Sheftel, Government personnel.

REVISIONS

DEPARTMENT OF THE INTERIOR

National Park Service: Volunteer Fisherman Report, Form, Occasional, Sheftel, Yellowstone visitors who engage in fishing during visit.

DEPARTMENT OF LABOR

Manpower Administration: Job Order Form, Form MA 7-45, Occasional, Sheftel, Employers using USES services.

EXTENSIONS

FEDERAL ENERGY OFFICE

Petroleum Industry Monthly Report, Form CLC 90, Monthly, Hulett (x).
No. 2 Heating Oil Price Adjustment, Form CLC 92, 92A, Monthly, Hulett (x).
Monthly Cost Allocation Report, Form FEO 96, Monthly, Hulett (x).
Report on Prices, Costs, and Profits, Form CLC 22, Occasional, Hulett (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-10651 Filed 5-7-74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 2, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503 (202-395-4529).

NEW FORMS

AGENCY FOR INTERNATIONAL DEVELOPMENT

One-Time Letter Questionnaire, Form, Single time, Sheftel, Universities.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service: Two Requests for Proposals for 1974-76 Food Consumption Surveys, Form, Single time, Sunderhauf, Individuals.

FEDERAL RESERVE BOARD

Report of Loans Sold to Institutions Related to Weekly Reporting Banks, Form FR 416c, Weekly, Hulett, Weekly reporting commercial banks.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, HRA's Methods of Disseminating Information, Form HRAOPEL 0422, Single time, Reese, Users of HRA's information.
Geocoding Systems Application to Health Data Collected for Local, State and National Purposes, Form HRANCHS 0424, Single time, Reese/Ellett, Universities.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration: State Policies and Practices—Foreign Medical Graduates Licensure, Form HRABHSR0423, Single time, Caywood, Hospitals, professional associations.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration DAPRU Survey Form, Form, Annual, Reese, Drug abuse prevention resource units.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of the Census, Annual Survey-Finances of Insurance Trust Systems, Form F-13, Annual, Ellett, Government agencies.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-10652 Filed 5-7-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Notice of Suspension of Trading

MAY 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½ percent debentures due 1990, 5½ percent convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 2, 1974 through May 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10572 Filed 5-7-74;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Notice of Suspension of Trading

MAY 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 2, 1974 through May 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10571 Filed 5-7-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Notice of Disaster Loan Area 1058 Amdt. 2]

MISSISSIPPI

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Mississippi as a major disaster area following heavy rains and flooding beginning on or about April 12, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional county: Neshoba, and adjacent affected areas. (See 39 FR 15076 and Amendment 1 this issue)

Applications may be filed at the:

Small Business Administration
District Office
Petroleum Building, 6th Floor
Pascagoula and Amite Streets
Jackson, Mississippi 39205

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than June 27, 1974.

Dated: April 29, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10523 Filed 5-7-74;8:45 am]

[Notice of Disaster Loan Area 1058 Amdt. 1]

MISSISSIPPI

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Mississippi as a major disaster area following heavy rains and flooding beginning on or about April 12, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional Counties: Clarke, Franklin, Lauderdale, and Lincoln, and adjacent affected areas. (See 39 FR 15076)

Applications may be filed at the:

Small Business Administration
District Office
Petroleum Building, 6th Floor
Pascagoula and Amite Streets
Jackson, Mississippi 39205

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than June 21, 1974.

Dated: April 24, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10522 Filed 5-7-74;8:45 am]

[Declaration of Disaster Loan Area 1059]

VIRGINIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of April, because of the effects of a certain disaster, damage resulted to property located in the State of Virginia;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended:

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Smyth, Roanoke and Bath Counties and Staunton and Roanoke Cities, and adjacent affected areas, suffered damage or destruction resulting from tornadoes and high winds which occurred April 4, 1974.

Applications will be processed under the provisions of Pub. L. 93-24.

Office:
Small Business Administration
District Office
Federal Building, Rm. 3015
400 North Eighth Street
Richmond, Virginia 23240

2. Application for disaster loans under the authority of this declaration will not be accepted subsequent to June 24, 1974.

Dated: April 25, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10528O Filed 5-7-74;8:45 am]

[Notice of Disaster Loan Area 1060]

WISCONSIN

Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Wisconsin as a major disaster area following tornadoes beginning on or about April 21, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from victims in the following Counties: Dodge, Fond du Lac, Sheboygan and Winnebago and adjacent affected areas.

Applications may be filed at the:

Small Business Administration
District Office
122 West Washington Avenue, Rm. 713
Madison, Wisconsin 53703

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than June 28, 1974.

Dated: April 29, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10521 Filed 5-7-74;8:45 am]

TARIFF COMMISSION

[332-70]

CONVERSION OF THE TARIFF SCHEDULES OF THE UNITED STATES INTO FORMAT OF THE BRUSSELS TARIFF NOMENCLATURE

Notice of Hearings on Draft

The U.S. Tariff Commission hereby gives notice that a preliminary draft of the following chapters of the Tariff

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Schedules of the United States (TSUS) converted to the format of the Brussels Tariff Nomenclature (BTN):

87 Vehicles, other than railway or tramway rolling-stock, and parts thereof.

is being released today and that a public hearing thereon will begin at 10 a.m., e.d.t., June 3, 1974, in room 859, Federal Building and U.S. Court House, 231 W. Lafayette St., Detroit, Michigan. The purpose of this hearing is to obtain the comments and views of interested parties on the preliminary draft conversion.

Requests to appear at the hearings on this chapter must be filed in writing with the Secretary of the Commission not later than May 24, 1974. Parties who have properly entered an appearance by this date will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after May 24, 1974. Any person who fails to receive such notification by May 30, 1974, should immediately communicate with the Office of the Secretary of the Commission.

In its public notice issued March 8, 1974, regarding hearings on other chapters of the draft converted schedules (39 FR 9719 of March 13, 1974) interested parties were notified regarding the rules governing the conduct of the hearings, and the submission of written statements. The Commission's notice of March 8, 1974, applies to the hearing on the chapter being released today to the extent that it is applicable.

As each of the chapters is completed and released, copies thereof are made available for public inspection at the offices of the Commission in Washington, D.C., and New York, New York; at all field offices in the Department of Commerce. The locations of these offices are listed in the notice of March 8, 1974.

Issued: May 3, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74-10611 Filed 5-7-74;8:45 am]

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federal register

WEDNESDAY, MAY 8, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 90

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

HEALTH MAINTENANCE ORGANIZATIONS

Proposed Rulemaking

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 110]

HEALTH MAINTENANCE ORGANIZATIONS

Proposed Rulemaking

Notice is hereby given that the Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposes to establish a new subchapter J of Title 42, Code of Federal Regulations, entitled "Health Care Delivery Systems", and to issue within such subchapter a new Part 110, entitled "Health Maintenance Organizations".

The purpose of the proposed Part 110 is to implement the provisions of The Health Maintenance Organization Act of 1973, Public Law 93–222, 42 U.S.C. 300e et seq. Section 2 of this Act adds a new Title XIII to the Public Health Service Act. This set of proposed regulations is designed to permit the Secretary to provide financial assistance to entities eligible for such assistance under sections 1303, 1304, and 1305 of the Public Health Service Act. Included are subparts setting forth the requirements for a health maintenance organization, general provisions regarding Federal financial assistance, specific provisions relating to assistance for feasibility surveys, planning and initial development projects, and operating costs. Also included is a subpart dealing with the effect of certain restrictive State laws and practices which prevent an entity from doing business as a health maintenance organization.

It is expected that a second Notice of Proposed Rulemaking will be published soon. This latter publication will include regulations implementing sections 1310 ("Employees' health benefits plans") and 1312 ("Continued regulation of health maintenance organizations") of the Public Health Service Act. Section 1310 imposes on certain employers the requirement that they include in any health benefits plan offered to their employees the option of membership in qualified health maintenance organizations. Section 1312 deals with the continued regulation by the Secretary of health maintenance organizations.

The proposed regulations appended below are summarized as follows:

Subpart A. This subpart is based on the statutory definition of a health maintenance organization, found in section 1301 of the Public Health Service Act. Section 1301(b) describes the manner in which basic and supplemental health services must be provided to members, while section 1301(c) imposes certain requirements with respect to the organization and operation of the health maintenance organization. These proposed regulations also include the definitions of section 1302. With respect to determinations of priorities in funding, guidelines will explain the manner in which the criteria for identification of medically underserved areas will be employed.

Subpart B. This subpart contains the general provisions and requirements with respect to the Federal financial assistance authorized by the Health Maintenance Organization Act of 1973.

Subpart C. This subpart describes the assistance authorized by section 1303, for feasibility surveys, and describes the application requirements and project elements for such assistance.

Subpart D. Subpart D describes the assistance authorized by section 1304, for projects for planning and initial development of health maintenance organizations. It sets forth application requirements and project elements for such assistance.

Subpart E. This subpart is based on section 1305, which authorizes the Secretary to make loans and loan guarantees to assist health maintenance organizations in meeting certain operating costs during their first thirty-six months of operation or such costs during the first thirty-six months following their expansion.

Subpart G. Subpart G is based on section 1311 of the Public Health Service Act, "Restrictive State Laws and Practices".

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed new 42 CFR Part 110 to the Director, Bureau of Community Health Services, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20852, on or before June 7, 1974. Comments will be available for public inspection at Room 13–07, Parklawn Building, between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

It is therefore proposed to establish a new Subchapter J for Title 42, Code of Federal Regulations, and to issue within it a new Part 110, as set forth below.

Dated: May 2, 1974.

CHARLES C. EDWARDS,
Assistant Secretary of Health.

Approved: May 2, 1974.

CASPAR W. WEINBERGER,
Secretary.

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

Subpart A—Requirements for a Health Maintenance Organization

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110.101 Definitions.
110.102 Delivery of health services.
110.103 Payment for basic health services.
110.104 Payment for supplemental health services.
110.105 Providers of services.
110.106 Availability, accessibility and continuity of basic and supplemental health services.
110.107 Organization and operation.
110.108 Health benefits plan: basic health services.
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110.201 Applicability.
110.202 Definitions.
110.203 Application requirements.
110.204 314(b) or 314(a) agency review and comments.
110.205 Records, reports, inspection and audit.
110.206 Additional conditions.
110.207 Nondiscrimination.
110.208 Inventions or discoveries.
110.209 Publications and copyright.
110.210 Confidentiality.
110.211 Applicability of 45 CFR Part 74.
110.212 Use of funds.

Subpart C—Grants and Contracts for Feasibility Surveys

110.301 Applicability.
110.302 Eligibility.
110.303 Project elements.
110.304 Evaluation and award.
110.305 Funding duration and limitation.

Subpart D—Grants, Contracts, and Loan Guarantees for Planning and for Initial Development Costs

110.401 Applicability.
110.402 Eligibility.
110.403 Project elements for planning.
110.404 Project elements for initial development.
110.405 Funding duration and limitation.
110.406 Evaluation and award.
110.407 Loan provisions.

Subpart E—Loans and Loan Guarantees for Initial Operation Costs

110.501 Applicability.
110.502 Definitions.
110.503 Eligibility.
110.504 Project elements.
110.505 Reserve requirements.
110.506 Evaluation and award.
110.507 Funding duration and limitation.
110.508 Loan provisions.

Subpart F—Employees' Health Benefits Plans

[Reserved]

Subpart G—Restrictive State Laws and Practices

110.701 Restrictive laws and practices.

Subpart H—Continued Regulation of Health Maintenance Organizations

[Reserved]

AUTHORITY: Sec. 215, 58 Stat. 690, 42 U.S.C. 216; secs. 1301–1315, 87 Stat. 914–933 (42 U.S.C. 300e–300e–14).

Subpart A—Requirements for a Health Maintenance Organization

§ 110.101 Definitions.

As used in this Part 110:

(a) "Health maintenance organization" means a legal entity which provides basic and supplemental health services to its members in the manner prescribed, is organized and operated in the manner prescribed, and otherwise meets the requirements of section 1301 of the Act and the regulations under this subpart.

(b) "Basic health services" means:

(1) Physicians services (including consultant and referral services by a physician);

(2) Inpatient and outpatient hospital services;

(3) Medically necessary emergency health services;

(4) Short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

(5) Medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(6) Diagnostic laboratory and diagnostic and therapeutic radiologic services;

(7) Home health services; and

(8) Preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction).

(c) "Supplemental health services" means:

(1) Services of facilities for intermediate and long-term care;

(2) Vision care not included as a basic health service;

(3) Dental services not included as a basic health service;

(4) Mental health services not included as a basic health service;

(5) Long-term physical medicine and rehabilitative services (including physical therapy); and

(6) The provision of prescription drugs prescribed in the delivery of a basic health service or a supplemental health service provided by the health maintenance organization.

(d) "Member" means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

(e) "Medical group" means a partnership, association, or other group—

(1) Which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services for which the group is responsible;

(2) A majority of the members of which are licensed to practice medicine or osteopathy; and

(3) The members of which

(i) As their principal (over 50 percent) professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization or which group presents a time phased plan, not to exceed three years, to meet this requirement to which they are committed which is acceptable to the Secretary;

(ii) Pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan;

(iii) Share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff;

(iv) Utilize such additional professional personnel, allied health professions personnel, and other health personnel as are available and appropriate for the effective and efficient delivery of the services of the members of the group; and

(v) Arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group.

(f) "Individual practice association" means a partnership, corporation, association, or other legal entity which has as its primary objective the delivery or arrangements for the delivery of health services and which has entered into a written services arrangement or arrangements with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State and a majority of whom are licensed to practice medicine or osteopathy. Such written services arrangement shall provide:

(1) That such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(2) To the extent feasible

(i) That such persons shall utilize such additional professional personnel, allied health professions personnel, and other health personnel as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement;

(ii) For the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff; and

(iii) For the arrangement and encouragement of the continuing education of such persons in the field of clinical medicine and related areas.

(g) "Medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services. The Secretary shall make such a designation only after consideration of the following factors with respect to such urban or rural area:

(1) Percentage of the population with family incomes below the poverty level, according to the latest U.S. Census data, for both (A) the identified area and (B) the total proposed health maintenance organization service area;

(2) Percentage of the population which is age 65 or over, according to the latest U.S. Census data, for both (A) the identified area and (B) the total proposed health maintenance organization service area;

(3) Infant mortality rate according to local vital statistics data for both (A) the identified area and (B) the total proposed health maintenance organization service area, to the best available approximation; and

(4) Number of primary care physicians (doctors of medicine and doctors of osteopathy) in general or family practice, internal medicine, pediatrics, obstetrics and gynecology, or general surgery, in relation to the population of the total proposed health maintenance organization service area.

(h) "Community rating system" means a system of fixing rates of payments for health services. Under such a system rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. Only the following differentials in rates of payments may be established under such system:

(1) Nominal differentials in such rates may be established to reflect the different administrative costs of collecting payments from the following categories of members:

(i) Individual members (including their families),

(ii) Small groups of members (100 members or less),

(iii) Large groups of members (over 100 members), upon demonstration to the Secretary that such differentials are based upon actual costs of collecting payments or upon projected costs which the Secretary finds to be reasonably sound estimates.

(2) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 ("Contracts for Medical Care for Spouses and Children: Plans") or section 1086 ("Contracts for Health Benefits for Certain Members, Former Members and their Dependents") of Title 10 ("Armed Forces"), United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 ("Health Insurance"), of Title 5 ("Government Organization and Employees"), United States Code), or under any health benefits program for employees of States, political subdivisions of States, and other public entities. Any differentials established under this subparagraph must be approved by the Secretary.

(3) A health maintenance organization may establish a separate community rate for separate regional components of the organization upon satisfactory demonstration to the Secretary of the following:

(i) Each such regional component is geographically distinct and separate from any other regional component;

(ii) Membership is established with respect to the individual regional component, rather than with respect to the parent health maintenance organization; and

(iii) Each such regional component provides substantially the full range of basic health services to its members, without extensive referral between components of the organization for such services, and without substantial utilization by any two such components of the same health care facilities. The separate community rate for each such regional component of the health maintenance organization must be based on the different costs of providing health services in such regions. Such differentials must be approved by the Secretary.

(i) "Nonmetropolitan area" means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals.

(j) "Rural area" means any area not listed as a place having a population of 2,500 or more in Document #PC(1)–A, "Number of Inhabitants", Table VI, "Population of Places", and not listed as an urbanized area in Table XI, "Popula-

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tion of Urbanized Areas" of the same document (1970 Census, Bureau of the Census, U.S. Department of Commerce).

(k) "Non-Federal lender" means any lender other than an agency or instrumentality of the United States.

(l) "Act" means the Public Health Service Act.

(m) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

§ 110.102 Delivery of health services.

A health maintenance organization shall:

(a) Provide basic and supplemental health services to its members without limitation as to time or cost other than prescribed in the Act and these regulations; and

(b) Meet the requirements set forth in these regulations: *Provided*, that an entity which otherwise may be considered a health maintenance organization under these regulations may be considered a health maintenance organization if, with respect to its members who are entitled to benefits under Title XVIII or Title XIX of the Social Security Act, (1) it does not furnish health services for which it may not be compensated under Title XVIII or XIX, and (2) it does not fix payments under a community rating system, and (3) it does not assume full financial risk on a prospective basis for the provision to such members of basic and supplemental health services with respect to which it is not required to assume under the Medicare program or a Medicaid contract such financial risk.

§ 110.103 Payment for basic health services.

Each health maintenance organization shall provide each member basic health services for a basic health services payment which—

(a) Is to be paid on a periodic basis without regard to the dates such health services are provided;

(b) Is fixed without regard to the frequency, extent, or kind of such health services actually furnished;

(c) Is fixed under a community rating system; and

(d) May be supplemented by additional nominal copayments which may be required for the provision of specific basic health services. Each health maintenance organization may establish one or more copayment options, calculated on the basis of a single community rated premium. Every copayment option so established shall be offered to each member, whenever enrolled individually or in the case of a voluntary association to that association: *Provided*, That (1) the copayments charged by the health maintenance organization shall not exceed 50 percent of the total cost of providing any single service to its members, nor in the aggregate more than 20 percent of the total cost of providing all basic health services, (2) no copayment may be imposed on any individual or family in any calendar year, when the copayments made by such individual or family in such calendar year total 50 percent of the total annual premium cost which such individual or family would be required to pay if he or it were enrolled under an option with no copayments, and (3) in no event shall copayments be required where or in such a manner that they serve as a barrier to the utilization of health services or membership in the organization.

§ 110.104 Payment for supplemental health services.

(a) A health maintenance organization may require supplemental health services payments, in addition to the basic health services payments, for the provision of each health service included in the supplemental health services set forth in § 110.109, for which the required health manpower are locally available, and for which members have contracted.

(b) Supplemental health services payments may be made in any agreed upon manner, such as prepayment, or fee-for-service. Supplemental health services payments which are fixed on a prepayment basis, however, shall be fixed under a community rating system.

(c) Each health maintenance organization shall adopt a policy to collect payment for services rendered from third parties legally liable to pay therefor.

§ 110.105 Providers of services.

(a) Basic health services shall be provided through health professionals who are members of the staff of the health maintenance organization or through medical groups or individual practice associations, unless

(1) The services are unusual or infrequently used; or

(2) It was medically necessary, and not for reasons of convenience, that the service be provided to a member before he could have it provided by such a health professional.

(b) For purposes of paragraph (a)(1) of this section, unusual or infrequently used basic health services are those services which do not warrant provision through staff of the health maintenance organization, a medical group, and/or an individual practice association as demonstrated by the health maintenance organization to the satisfaction of the Secretary. The provision of such services not provided through the staff of a health maintenance organization or through a medical group or an individual practice association shall be arranged for by the health maintenance organization with other providers in the area. If a health maintenance organization arranges for the provision of basic health services through medical groups or individual practice associations, such arrangements shall be in the form of a written services arrangement which shall include provisions which impose on such groups or associations effective incentives such as risk-sharing and profit-sharing, designed to avoid unnecessary or unduly costly utilization of health services.

(c) Health professionals, for the purposes of the previous paragraph, means physicians, dentists, nurses, podiatrists, optometrists, and other professionals engaged in the delivery of health services who are licensed, practice under an institutional license, are certified, or practice under authority of the health maintenance organization, a medical group, individual practice association, or other authority consistent with State law.

(d) Each health maintenance organization shall provide or arrange for the provision of basic health services, or reimburse its members for the payment of such services in cases of medical necessity when such services are obtained either in-area or out-of-area from other providers when enrollees are unable to obtain such services either from the health maintenance organization in which they are enrolled, or from other providers through arrangements made by the health maintenance organization. Each health maintenance organization shall adopt procedures to review promptly all claims for reimbursement for the provision of basic health services, which procedures shall include the designation of a physician to determine the medical necessity for obtaining such services.

§ 110.106 Availability, accessibility and continuity of basic and supplemental health services.

Within the area served by the health maintenance organization, basic health services and the supplemental health services for which members have contracted shall:

(a) Be available and accessible to each of its members promptly, with respect to:

(1) Its geographic location, hours of operation, and provisions for after-hours services; and

(2) Staffing patterns within generally accepted norms for meeting the projected membership needs;

(b) Be provided in a manner which assures continuity, which will include, but not be limited to:

(1) Provision of a physician who is primarily responsible for providing for and overseeing the member's overall health care needs;

(2) Development of a medical record-keeping system through which all pertinent information relating to the medical management of the patient is accumulated and is readily available to appropriate professionals; and

(3) When medically necessary, be available and accessible 24 hours a day and 7 days a week.

§ 110.107 Organization and operation.

Each health maintenance organization shall—

(a) Have a fiscally sound operation, which will include adequate provision against the risk of insolvency;

(b) Assure continuation of benefits for the duration of the contract period for which payment continues to be made, including provisions for payments to unaffiliated providers for services rendered, and assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may obtain insurance or make other arrangements:

(1) For the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year;

(2) For the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization; and

(3) For not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year;

(c) After full and fair disclosure of benefits, coverage, rates, location, and hours of service, enroll persons who are broadly representative of the various age, social, and income groups within the area it serves except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 percent of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area: *Provided*, That in no event shall more than 50 percent of the enrolled population be composed of individuals receiving medical benefits under either Titles XVIII or XIX of the Social Security Act unless for good cause shown the Secretary waives such requirement.

(d) Have an open enrollment period of not less than thirty days at least once during each consecutive twelve-month period during which enrollment period it accepts, up to its capacity, individuals in the order in which they apply for enrollment and without regard to their health status or their requirements for health services, except that if the organization demonstrates to the satisfaction of the Secretary that—

(1) It has enrolled, or would be compelled to enroll, a disproportionate number of individuals who would be likely to utilize its services more often than an actuarially determined average of the utilization of services by current enrollees and that enrollment during an open enrollment period of an additional number of such individuals would jeopardize its economic viability, or

(2) If it maintained an open enrollment period it would not be able to comply with the requirements of paragraph (c) of this section, or

(3) It would be compelled to enroll a number of individuals which would exceed its capacity, based upon a reasonable projection of new enrollments under existing group contracts, the Secretary, at the request of the organization, may waive compliance with the open enrollment requirement of this paragraph for not more than twelve months: *Provided*, That the Secretary may provide additional such waivers to that organization if the organization submits a separate, satisfactory request and justification for each such waiver;

(e) In order to obtain a waiver of the annual open enrollment period required in paragraph (d) of this section,

(1) Submit a plan to (i) compute on a prospective basis an actuarially determined average of the utilization of services by current and/or potential enrollees, and (ii) collect data from potential entrollees and project patterns of utilization and costs in order to determine if open enrollment would jeopardize the economic viability of the organization;

(2) Indicate, upon the basis of reasonable estimates, that an open enrollment period would result in enrolling more than 50 percent Title XVIII and Title XIX beneficiaries, in violation of paragraph (c) of this section or

(3) Indicate, upon the basis of reasonable estimates, that an open enrollment period would result in the enrollment of more members than could be served within the capacity of the organization, considering the new enrollment anticipated under existing group contracts; and

(4) Provide an assurance that an waiver granted on the basis of the occurrence of certain conditions will not be utilized unless and until such conditions actually occur;

(f) Not expel or refuse to re-enroll any member because of his health status or his requirements for health services;

(g) Be organized in such a manner that assures that:

(1) No later than six months after the health maintenance organization becomes operational, at least one-third of the membership of the Board of Directors or other policy-making body of the health maintenance organization will be members of the organization: *Provided*, That no member having ownership or interest in or employed by or gaining financial rewards from his dealings with the health maintenance organization, or with a plan-affiliated institution or organization, and no members of his immediate family shall be included in the minimum one-third member representation on the Board or policy-making body; except none of the foregoing shall prohibit the payment of directors' fees or other similar fees to persons serving on such Board or body; and

(2) There will be equitable representation on such Board of Directors or other policy-making body of members from medically underserved populations served by the organization, but in no instance, if such population is to be served, will such population be without representation on the policy-making body;

(h) Be organized in such a manner that provides meaningful procedures for hearing and resolving grievances between the health maintenance organization (including the medical group or groups and other health delivery entities providing health services for the organization) and the members of the organization, which procedures will assure that grievances and complaints of the members will be transmitted in a timely manner to a decision-making level within the organization which has authority to take corrective action;

(i) Have organizational arrangements, consistent with program emphasis on quality health care, for an ongoing quality assurance program for its health services which program

(1) Stresses health outcomes;

(2) Provides review by physicians and other health professionals of the process followed in the provision of health services;

(3) Provides systematic data collection of performance and patient results, provides interpretation of such data to the practitioners, and institutes needed change; and

(4) Is designed in such a manner as is likely to meet the standards imposed on hospitals and other operating health care facilities or organizations pursuant to section 1155(e) of the Social Security Act;

(j) Provide assurance that the basic and supplemental health services provided by the organization or through arrangements with other providers will meet the requirements contained in the conditions of participation in subparts J, K, L, M, N, and Q of 20 CFR Part 405;

(k) Provide, or make arrangements for, continuing education for its health professional staff;

(l) Provide an effective procedure while safeguarding the confidentiality of the doctor-patient relationship, to develop, compile, evaluate, and report, at such times and in such manner as the Secretary may require, to the Secretary, to its members, and to the general public, statistics and other information relating to:

(1) The cost of its operations;

(2) The patterns of utilization of its services, including the effects on such utilization of its requirements, if any, for nominal copayments;

(3) The availability, accessibility, and acceptability of its services;

(4) To the extent practical, developments in the health status of its members; and

(5) Such other matters as the Secretary may require; and

(m) Be organized and operated in a manner intended to preserve human dignity.

§ 110.108 Health benefits plan: basic health services.

(a) Each health maintenance organization shall have the capacity and the capability to deliver or arrange for the delivery of the basic health services, as follows:

(1) Physician services (including consultant and referral services by a physician). Physician services shall be provided by a licensed physician, or if a service of a physician may also be provided under applicable State law by a dentist, osteopath, optometrist, or podiatrist, or other licensed health professionals, a health maintenance organization may provide physician services through such health professionals licensed to provide such services.

(2) Inpatient and outpatient hospital services. Outpatient hospital services shall include diagnostic and/or treatment services for patients who are am-

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bulatory and may be provided at a hospital or in a nonhospital-based health care facility. Outpatient and inpatient hospital services shall include rehabilitation services appropriate to short-term hospital care.

(3) Medically necessary emergency health services. Provisions for covering in-area and out-of-area medically necessary emergency health services are required or members must be reimbursed for payment of such services in accordance with § 110.105(d).

(i) In-area medically necessary emergency health services shall be:

(A) Available 24 hours a day, seven days a week;

(B) Provided through the facilities of and by the health professionals of the health maintenance organization or in special circumstances through arrangements with other providers;

(C) Provided by a physician and other licensed or ancillary personnel, readily available at all times; and

(D) Explained by the health maintenance organization to its members, including instructions on the procedures to be followed to secure such services.

(ii) Members requiring such services but who for reasons of medical necessity are unable to obtain them directly from the health maintenance organization in which they are enrolled or from providers or other persons with whom the health maintenance organization has arrangements for the provision of such services shall be reimbursed for such services by the organization.

(4) Short-term (not to exceed 20 visits per calendar year), outpatient evaluative and crisis intervention mental health services. (i) Short-term outpatient evaluative mental health services shall be available and accessible to health maintenance organization members during the normal hours of services.

(ii) Crisis intervention services shall be accessible in the same manner as are other medically necessary emergency services.

(iii) Mental health services shall be provided by or under the direction of qualified mental health professionals, and where feasible should be provided through community mental health centers.

(5) Medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs. The diagnosis and medical treatment of alcohol and drug abuse and addiction shall be provided to health maintenance organization members. Screening, referral, and followup of patients with alcohol or drug problems to appropriate ancillary resources also shall be provided.

(6) Diagnostic laboratory and diagnostic and therapeutic radiologic services. Diagnostic laboratory and diagnostic and therapeutic radiology services shall be provided or arranged for in support of basic health services.

(7) Home health services. Home health services means health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization. Where feasible, such services should be provided under the auspices of local home health agencies.

(8) Preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children's eye examinations conducted to determine the need for vision correction). Preventive health services shall be made available to members and shall include at least the following:

(i) A broad range of voluntary family planning services.

(ii) Infertility services.

(iii) Preventive dental care to protect and maintain the dental health of children through age 11 provided by a licensed dentist or other qualified personnel. Preventive dental care shall include:

(A) Oral prophylaxis, as necessary, and

(B) Topical application of fluorides and/or the prescription of fluorides for systematic use when not available in the community water supply.

(iv) Eye examinations for children through age 11, as medically indicated and in accord with acceptable medical practice, to determine the need for vision correction, and

(v) Pediatric and adult immunizations, in accord with accepted medical practice.

(9) Medical social services.

(10) Health education services and education in the appropriate use of health services and in the contribution each member can make to the maintenance of his own health. A health maintenance organization shall provide its members with (i) instruction in personal health care measures, and (ii) information about its services including recommendations on generally accepted medical standards for use and frequency of such services.

(b) The following are not required to be provided as basic health services:

(1) Corrective appliances and artificial aids;

(2) Treatment of psychiatric conditions, except as required under section 1302(1)(D) of the Act;

(3) Cosmetic surgery, unless medically necessary;

(4) Provision of prescribed drugs and medicines;

(5) Ambulance transportation, unless medically necessary;

(6) Treatment for chronic alcoholism and drug addiction, except as required by section 1302(1)(E) of the Act and paragraph (a)(5) of this section;

(7) Care for military service connected disabilities for which the member is legally entitled to services and for which facilities are reasonably available to this member;

(8) Dental care and dental x-ray, except as required by section 1302(1)(H) of the Act;

(9) Vision care, except as required by section 1302(1)(H) of the Act;

(10) Conditions that State law requires be treated in a public facility; and

(11) Inpatient benefits for the specific spell of illness for which a member is hospitalized on the effective date of his coverage, and for which the member is covered under any form of service or insurance arrangement.

§ 110.109 Health benefits plan: supplemental health services.

(a) Provided that the required health manpower is available, each health maintenance organization shall provide at least the following supplemental health services to members who have contracted therefor:

(1) Services of facilities for intermediate and long-term care;

(2) Vision care not included as a basic health service;

(3) Dental services not included as a basic health service;

(4) Mental health services not provided as a basic health service;

(5) Long-term physical medicine and rehabilitative services (including physical therapy); and

(6) Prescription drugs prescribed in the course of provision of basic or supplemental health services.

(b) A health maintenance organization is authorized, in connection with the prescription or provision of prescription drugs, to maintain, review, and evaluate a drug use profile of its members receiving such services, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and nonprescription drugs. Each health maintenance organization providing such services shall insure that:

(1) The program is developed jointly by the physicians and pharmacists associated with the health maintenance organization;

(2) The objectives of the program are described and understood by all physicians, pharmacists, and members of the health maintenance organization;

(3) Individual rights are protected and that all information regarding and identifying an individual is available only to appropriate health professionals of the health maintenance organization;

(4) The primary thrust of the program is optimum drug therapy for the individual member of the health maintenance organization; and

(5) The information obtained in drug utilization review is utilized in educational programs for professionals and members of the health maintenance organization.

Subpart B—Federal Financial Assistance: General

§ 110.201 Applicability.

The regulations of this subpart apply to the award of grants, contracts, loans, and loan guarantees to public or nonprofit private entities or private entities (other than nonprofit private entities) for projects as authorized by sections 1303, 1304, and 1305 of the Act.

§ 110.202 Definitions.

(a) "Nonprofit" as applied to private entity, agency, institution or organization means a private entity, agency, institution, or organization, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) "Section 314(a) State health planning agency" (314(a) agency) means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) of the Act; and the term "section 314(b) areawide health planning agency" (314(b) agency) means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of the Act.

(c) "Significant expansion" means (1) an increase over current membership of not less than 25 percent which will be achieved at a rate that will at least double the average annual rate of enrollment growth during the preceding two years; or (2) expansion of the service area if the Secretary determines that the provision of Federal financial assistance will accelerate the existing rate of service area growth.

§ 110.203 Application requirements.

(a) An application for a grant, contract, loan or loan guarantee shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe.

(b) The application shall contain a budget and a narrative describing the manner in which the applicant intends to conduct the project and carry out the requirements of these regulations. The application must describe the project in sufficient detail to identify clearly the nature, need, specific objectives, plan and methods of the project.

(c) The application must be executed by an individual authorized to act for the applicant and to assume in behalf of the applicant the obligations imposed by the statute, the regulations of this subpart, and any additional conditions of the award.

(d) The applicant shall submit with the application:

(1) A full financial statement; and

(2) Written verification from at least two public or two private lending agencies or institutions demonstrating that, after a formal request,

(i) Funds have been denied in the amount requested in the application, or

(ii) Funds in the amount requested in the application are available only at an interest rate in excess of those currently in effect for the loan and loan guarantee program on the date of the application.

On the basis of the information submitted, the Secretary will determine whether the applicant would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for.

(e) Each application must contain or be supported by assurances satisfactory to the Secretary that the applicant will, when operational as a health maintenance organization, enroll and maintain the maximum number of members that it can effectively serve with the available and potential resources of the health maintenance organization.

(f) Each application which evidences or projects an enrollment of at least 66 percent from a nonmetropolitan area shall identify the area in which such population resides and indicate the percent of anticipated enrollment to be drawn from such area.

(g) Each application which evidences or projects an enrollment of at least 30 percent from a medically underserved population when the health maintenance organization first receives financial assistance or becomes operational shall identify the area in which such population resides and the total population of that area, and provide the information described in § 110.101(g).

(h) Each application must verify that each 314(b) agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted (or if there is no such agency, the 314(a) agency whose section 314(a) plan covers (in whole or in part) such area) has been given at least 40 days during which to review and comment on the application. The applicant shall request that the comments of such agencies be forwarded to the Secretary through the appropriate Department of Health, Education, and Welfare Regional Office by the time the application is to be submitted to the Secretary.

(i) If under applicable State law, the application may not be submitted without the approval of the 314(b) or the 314(a) agency, the applicant shall obtain such approval which must be included as a part of the application.

(j) The application shall provide written information describing the organization's development and operation of any prior projects which were supported by funds or by loans or loan guarantees under Title XIII of the Act.

(k) Applicants for more than one grant, contract, loan, or loan guarantee under Title XIII of the Act, simultaneously or over the course of time, shall not be required to duplicate information, but shall update such information with each subsequent application.

§ 110.204 314(b) or 314(a) agency review and comments.

The appropriate 314(b) or 314(a) agency shall have an opportunity to evaluate each application for support under Title XIII of the Act submitted from its planning area in relation to such plans as the health planning agency may have developed and its current knowledge of the health planning area. The 314 agency should provide to the Secretary through the appropriate Department of Health, Education, and Welfare Regional Office comments and recommendations on approval, including the general bases for comments pertinent to inadequacies in the applications, with regard to the following:

(a) Compatibility of the proposed project with the areawide or State plan for health services;

(b) Accuracy and thoroughness of description of the medical services area in which the applicant proposes to develop, operate, or expand a health maintenance organization;

(c) Accuracy and thoroughness with which applicant has identified the population groups to be served by the proposed health maintenance organization as required by § 110.203(f) and § 110.203(g);

(d) Anticipated impact of the proposed project on the general accessibility and availability of care in the area, including:

(1) Whether proposed project meets the needs of the community for health services in proposed service area;

(2) Effects of offering an alternative form of health services to individuals or groups; and

(3) Identification and adequate description of existing barriers to the effective delivery of health services, including geographic, economic, cultural and language barriers;

(e) Economic impact, including:

(1) Effects on existing health resources or facilities;

(2) Potential of proposed project to draw new health resources into the area; and

(3) Adequacy of the population of the area as a base for the anticipated enrollment.

(f) Agency cooperation, including:

(1) Adequate plans by applicant for working cooperatively with the appropriate 314(b) and 314(a) agencies; and

(2) The experience of applicant, if any, in dealing with other segments of the health care community.

(g) Whether arrangements for services appear realistic, achievable and appropriate, including, but not limited to:

(1) Potential for proposed project to be adequately staffed to accommodate enrolled members or anticipated membership;

(2) Potential for adequate provision of the services considering availability of manpower and equipment, and success of previous attempts to recruit personnel;

(3) Availability of health professionals in the area, and adequate evidence of cooperative planning with these providers (include summaries of verbal contacts or copies of correspondence); and

(4) Reliability of evidence of support for and acceptance of the proposed project by the community.

§ 110.205 Records, reports, inspection, and audit.

Each grant is subject to the following conditions:

(a) Each grant, contract, loan, or loan guarantee awarded pursuant to this Part 110 shall be subject to the condition that the recipient shall maintain records which disclose the amount and disposition of the proceeds of the grant, contract, or loan (directly made or guaranteed), the total cost of the undertak-

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ing in connection with which such assistance was given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit, examination or evaluation to any books, documents, papers, and records of the recipients of a grant, contract, loan or loan guarantee under Title XIII of the Act which relate to such assistance.

(c) A report shall be submitted to the Secretary by the recipient of a grant, contract, loan, or loan guarantee under Title XIII of the Act not later than 60 days after the termination date of each project, describing existing and anticipated plans, developments and operations in accordance with information required under section 1306(b)(3) of the Act.

(d) Such other reports shall be submitted as the Secretary may require to meet the provisions of the Act and these regulations.

§ 110.206 Additional conditions.

The Secretary may, with respect to the approval of any grant, contract, loan, or loan guarantee, impose additional conditions prior to or at the time of any approval when, in his judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or conservation of project funds.

§ 110.207 Nondiscrimination.

Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular section 601 of such Act which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which applies to all financial assistance under this Part, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). In addition no person shall, on the grounds of sex, or creed (unless otherwise medically indicated) be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Nor shall any person be denied employment in or by such program or activity so receiving Federal financial assistance on the grounds of age, sex, creed, or marital status.

§ 110.208 Inventions or discoveries.

A grant award is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6, "Inventions and Patents (General)" and 8, "Inventions Resulting from Research Grants, Fellowship Awards, and Contracts for Research". Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligations. Laboratory notes, related technical data, and information pertaining to inventions and discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary or those he may designate at such times and in such manner as he may determine necessary to carry out such Department regulations.

§ 110.209 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the applicant may copyright without prior approval any publications, films or similar materials developed or resulting from a project supported by a grant under this Part, subject, however, to a royalty-free, non-exclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 110.210 Confidentiality.

Each grant award is subject to the condition that all information obtained by the personnel of the project from participants in the project related to their examination, care, and treatment shall be held confidential, and shall not be divulged without the individual's informed consent except as may be required by law or as may be necessary to provide service to the individual or to the Secretary as part of his duties under the Act. Information may be disclosed in summary, statistical, or other form which does not identify particular individuals.

§ 110.211 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants and contracts under this Part to State and local governments as those terms are defined in subpart A of that Part 74. The relevant provisions of Part 74 shall also apply to all other grantee organizations under this Part.

§ 110.212 Use of funds.

Any grants, contracts, loans, and loan guarantees awarded pursuant to this Part as well as other Federal funds to be used in the performance of the approved project shall be expended solely for carrying out the approved project in accordance with the statute, the regulations of this Part, and the terms and conditions of the award or assistance.

Subpart C—Grants and Contracts for Feasibility Surveys

§ 110.301 Applicability.

The regulations of this subpart, in addition to the regulations of subpart B of this Part, are applicable to grants and contracts awarded pursuant to section 1303 of the Act for projects to conduct surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations.

§ 110.302 Eligibility.

(a) *Eligible applicants.* Any public or private nonprofit entity which is or proposes to develop or become a health maintenance organization is eligible to apply for an award under this subpart.

(b) *Eligible projects.* Awards may be made pursuant to section 1303 of the Act, the regulations of subpart B, and this subpart, to eligible applicants to assist in conducting surveys or other activities to determine the feasibility of developing or expanding the operation of organizations which meet or propose to meet the requirements under subpart A of these regulations.

§ 110.303 Project elements.

An approvable application must provide:

(a) Statements which describe in detail:

(1) The goals and objectives for the proposed health maintenance organization;

(2) The administrative, managerial, and organizational arrangements and resources to be utilized to conduct the feasibility study; and

(3) The intended financial participation of the applicant, specifying the type of contributions, such as cash or services, loans of full- or part-time staff, equipment, spaces, materials, or facilities or other contributions;

(b) An assurance that the applicant will cooperate with the areawide health planning agency;

(c) Written evidence of notification to the local medical societies of the applicant's intention to apply for assistance;

(d) Letters or other forms of evidence that there is support for and acceptance of the proposed health maintenance organization by the community which the applicant proposes to serve;

(e) Concise statements of the tasks planned to accomplish each activity listed below, accompanied by a time-phased milestone chart indicating proposed funding and manpower to be allocated to each activity:

(1) Identify pertinent State laws, regulations, and practices relating to operating as a health maintenance organization;

(2) Identify population groups which would be sources of prepayment and other potential sources of payment for services when the health maintenance organization becomes operational;

(3) Explore potential sources of professional services to provide basic health services;

(4) Develop an estimate of the premium to be charged for basic health services when the proposed health maintenance organization becomes operational;

(5) Develop an estimate of the enrollment and funds required to reach the financial breakeven point; and

(6) Develop a preliminary estimate of the facilities required for operational status, capital investments which will be required, and explore possible sources of financing to provide the proposed amount and type of services as an operational health maintenance organization;

(f) Where the application requests assistance for an existing organization which provides health care services financed on a prepaid capitation basis to an enrolled population and which is or which intends to become a health maintenance organization, the applicant must also include:

(1) An identification of gaps between the applicant's current operation and the requirements of subpart A of this Part which much be addressed by the applicant during expansion;

(2) The enrollment figure, amount and type of health benefits being offered, and premiums being charged at the time of application;

(3) Projections of the proposed significant expansion, as defined in § 110.202(c);

(4) An income and expense report no older than six months;

(5) A description of the current contracts and arrangements for providing health services; and

(6) A description of other formal arrangements (risk, insurance, marketing, etc.).

§ 110.304 Evaluation and award.

Within the limits of funds available for such purpose, the Secretary may make awards to cover up to 90 percent of the cost of projects, or in the case of projects which will serve medically underserved populations, up to 100 percent of the costs, to those applicants whose projects will, in his judgment best promote the purposes of section 1303 of the Act and the regulations of this subpart, taking into account:

(a) The degree to which proposed project satisfactorily provides for elements set forth in § 110.303 above.

(b) The comments of the appropriate 314(b) agency.

(c) The degree to which the goals and objectives of the proposed project will promote the purposes of the Act and are consistent with the generally recognized capability of effectively organized and managed health maintenance organizations to reduce hospitalization, to contain medical care costs, to use effectively medical and allied health manpower, to emphasize early detection and treatment of illness, and to contribute to a better distribution and quality of health care.

(d) The capability of the applicant to organize and manage the project successfully.

(e) The soundness of the proposed plan for conducting the feasibility study and for assuring effective utilization of grant funds.

(f) The potential of the project to obtain indications of the willingness of basic medical and health care providers to participate in the operation of the health maintenance organization.

(g) The probability of financial viability based on potential sources of financial support for development and operations and potential osurces of enrollment.

(h) The inclusion of at least 30 percent of its projected enrollment from a medically underserved area.

(i) Location relative to the number of organizations providing health services to a defined population on a prepaid capitation basis, which are already operating in the proposed geographic area.

(j) The percentage of total anticipated enrollment to be drawn from nonmetropolitan areas to be served.

§ 110.305 Funding duration and limitation.

(a) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for project costs, provided, however, that any single grant may not exceed $50,000.

(b) Feasibility survey projects shall be completed within 12 months from the date of the award, provided that, for good cause shown, upon a written request and justification, the Secretary may extend such period for an additional time up to 12 months for completion of the project.

(c) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for a feasibility survey for which a grant has previously been made or a contract previously entered into.

(d) Funds under grants and contracts for feasibility surveys shall be utilized only for the activities set forth in § 110.303(e).

Subpart D—Grants, Contracts, and Loan Guarantees for Planning and Initial Development Costs

§ 110.401 Applicability.

The regulations of this subpart, in addition to the regulations of subpart B of this Part 110, are applicable to:

(a) Grants and contracts awarded pursuant to section 1304 of the Act for projects for planning, and initial development of health maintenance organizations, and

(b) Guarantees made to non-Federal lenders of payment of the principal of and interest on loans made to private entities (other than nonprofit private entities) for such projects to serve medically underserved populations.

§ 110.402 Eligibility.

(a) *Eligible applicants.* Any public or nonprofit private entity, which is or which proposes to become a health maintenance organization, is eligible to apply for a grant or contract, and any private entity (other than a nonprofit private entity) which is or which proposes to become a health maintenance organization and which proposes to serve a medically underserved population is eligible to apply for a loan guarantee under this subpart.

(b) *Eligible projects.* (1) Awards of grants or contracts may be made pursuant to section 1304 of the Act and the regulations of subpart B and this subpart to eligible applicants for planning for the establishment of health maintenance organizations, or for the significant expansion of the membership of, or areas served by, health maintenance organizations meeting the requirements of subpart A of these regulations, or for the initial development or actual expansion of such organizations;

(2) Guarantees may be made pursuant to section 1304 of the Act and the regulations of subpart B and this subpart to eligible applicants for the payment of the principal of and the interest on loans for planning projects for the establishment of health maintenance organizations, or the expansion of existing health maintenance organizations meeting the requirements of subpart. A of these regulations, or for the initial development or actual expansion of such organizations: *Provided*, that at least 30 percent of the projected enrollees of such organizations are from medically underserved areas.

§ 110.403 Project elements for planning.

An approvable application must provide:

(a) Statements which describe in detail:

(1) The goals and objectives of the proposed health maintenance organization;

(2) The administrative, managerial, and organizational arrangements and resources to be utilized in the performance of the proposed activities; and

(3) The intended financial participation of the applicant, specifying the type of contributions such as services, loans of full- or part-time staff, equipment, space, materials, facilities, or other contributions.

(b) An assurance that the applicant will cooperate with the appropriate 314 (b) agency.

(c) Written evidence of notification to the local medical societies of the applicant's intention to apply for assistance.

(d) Letters or other forms of evidence that there is support for and acceptance of the project by organizations, institutions, and/or employer groups which may participate in the development of the proposed health maintenance organization.

(e) A detailed report of the results of the survey or study which established the feasibility of developing the health maintenance organization, including information regarding each of the following:

(1) Status of the applicant in terms of pertinent State laws, regulations, and practices relating to operating as a health maintenance organization;

(2) Organizational structure of the proposed health maintenance organization;

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(3) Providers of professional services who have agreed or might reasonbly be expected to agree to provide health benefits;

(4) Identification of the population groups which would be sources of prepayment for an operational health maintenance organization and other potential sources of payment for services when operational;

(5) Sources of payment and operational support including:

(i) Preliminary estimate of the premium to be charged for basic health benefits when the proposed health maintenance organization becomes operational; and

(ii) Estimate of enrollment and income required to reach the financial breakeven point; and

(6) A preliminary estimate of facilities required for operational status, additional capital investments required, and sources of financing to provide the proposed amount and type of services as an operational health maintenance organization.

(f) Concise statements of the tasks required to accomplish each activity listed below, accompanied by a time-phased milestone chart indicating proposed funding and manpower to be allocated to each such activity:

(1) Recruit key project staff;

(2) Plan for appropriate action relating to any State legal and/or regulatory restrictions;

(3) Develop formal organization;

(4) Establish community support;

(5) Refine market estimate made in feasibility survey;

(6) Develop health benefits plan;

(7) Develop premium structure;

(8) Develop plans for marketing of the services and enrollment of members;

(9) Develop budget and financial plan; and

(10) Develop preliminary physician service agreements.

(g) Where the application requests assistance for an existing organization which provides health care services financed on a prepaid capitation basis to an enrolled population and which is or which intends to become a health maintenance organization, the application shall also include;

(1) An identification of gaps between the applicant's current operation and the requirements of Subpart A which must be addressed by the applicant during expansion;

(2) The enrollment figure, amount and type of health benefits being offered, and the premium being charged at the time of application;

(3) Projections of the proposed significant expansion, as defined in § 110.202 (c);

(4) An income and expense report no older than six months;

(5) A description of the current contracts and arrangements for providing health services; and

(6) A description of other formal arrangements (risk, insurance, marketing, etc.).

§ 110.404 Project elements for initial development.

An approvable application must provide:

(a) Written evidence satisfactory to the Secretary that the feasibility of the establishment and operation or expansion has been established by the applicant and that sufficient planning for the establishment or expansion has been conducted by the applicant.

(b) An identification of the following activities which are appropriate to the project with concise statements of the tasks necessary to accomplish each identified activity, a time-phased milestone chart and the funding and manpower which would be allocated to each such activity:

(1) Develop a schedule to meet the requirements of subpart A of this Part;

(2) Recruit and train personnel essential for operation as a health maintenance organization;

(3) Develop a comprehensive financial plan;

(4) Organize physician services;

(5) Construct/renovate health maintenance organization facilities;

(6) Organize ambulatory care facility;

(7) Formalize contract arrangements; and

(8) Initiate enrollment plan.

(c) Signed letters from at least three physicians indicating that they intend or are willing to be employed by or to contract with the proposed health maintenance organization for the provision of basic health services to its enrollees; signed letters from one or more hospitals indicating that they intend to or are willing to negotiate an agreement to admit enrollees from the proposed health maintenance organization as necessary.

(d) When the applicant intends to serve Title XIX eligibles as part of the intended enrollment, evidence that the State Title XIX agency is willing to negotiate a prepaid capitation contract in the form of a letter from the State Title XIX agency.

(e) An application for expansion of an existing organization which provides health care services financed on a prepaid capitation basis to an enrolled population and which is or which intends to become a health maintenance organization shall also include:

(1) An identification of gaps between the applicant's current operation and the requirements of subpart A of this Part which must be addressed by the applicant during expansion;

(2) The enrollment figure, amount and type of health benefits being offered, and the premiums being charged at the time of application;

(3) Projections of the proposed significant expansion, as defined in § 110.202 (c);

(4) An income and expense report no older than six months;

(5) A description of the current contracts and arrangements for providing health services; and

(6) A description of other formal arrangements (risk, insurance, marketing, etc.).

§ 110.405 Funding duration and limitation.

(a) *Planning projects.* (1) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for project costs, provided, that any single grant or contract, and the amount of principal of any single loan guaranteed under section 1304 of the Act may not exceed $125,000.

(2) Planning projects shall be completed within 12 months from the date of the award, provided that for good cause shown, upon a written request and justification, the Secretary may extend such period for an additional time up to 12 months for completion of the project.

(3) The Secretary may not make more than one additional grant or loan guarantee or enter into not more than one additional contract for a planning project for which a grant or loan guarantee has previously been made or a contract previously entered into.

(4) Funds under grants, contracts, and loans guaranteed for planning projects shall be utilized only for the activities set forth in § 110.403(f) and for activities required to fill the gaps referred to in § 110.403(g)(1).

(b) *Initial development projects.* (1) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sums necessary for project costs, provided, however, that the aggregate amount of loan guarantees, grants, and contracts for any initial development project may not exceed $1,000,000.

(2) A grant or contract may only be awarded for initial development costs in the one year period beginning on the first day of the month in which such award was made, and the combined number of grants made and contracts entered into for any initial development project under section 1304 of the Act may not exceed a total of three. A loan guarantee for an initial development project may only be made for a loan (or loans) for initial development costs incurred in a period not to exceed three years.

(3) Funds under grants, contracts, and loans guaranteed for projects for initial development shall be utilized only for the activities set forth in § 110.404 (b).

§ 110.406 Evaluation and award.

Within the limits of funds available for such purpose, the Secretary may make awards to cover up to 90 percent of the cost of projects, or in the case of projects which will serve medically underserved populations, up to 100 percent of the costs, to those applicants whose projects will, in his judgment, best promote the purposes of section 1304 of the Act and the regulations of this subpart, taking into account:

(a) The degree to which the proposed project satisfactorily provides for the elements set forth in § 110.403 or § 110.404 of this subpart.

(b) The comments of the appropriate 314(b) or 314(a) agency.

(c) Whether the feasibility of the project has been established.

(d) The appropriateness of the goals and objectives of the proposed project.

(e) The effectiveness the proposed organization may reasonably be expected to have in reducing hospitalization, containing health care cost, using medical and allied health manpower, emphasizing early detection and treatment of illnesses, and achieving a better distribution and quality of care.

(f) The capability of the applicant to organize and manage the project successfully.

(g) Evidence of the applicant's intended contribution to the project.

(h) Evidence of intent from providers expressing a willingness to be employed by or contract with the proposed health maintenance organization for the provision of basic health services.

(i) Evidence, in the form of letters, from individuals, groups or organizations indicating that they support the development and operation of the proposed health maintenance organization.

(j) The results of marketing efforts and the prospects for eventual economic viability as an operational health maintenance organization without continued Federal support.

(k) The inclusion of medically underserved populations in groups to be enrolled.

(l) Geographic position relative to the number of organizations providing health services to a defined population on a prepaid capitation basis, which are already operating in the area.

(m) The percentage of anticipated total enrollment to be drawn from nonmetropolitan areas to be served.

§ 110.407 Loan guarantee provisions.

(a) *Disbursement of loan proceeds.* The principal amount of any loan guaranteed by the Secretary under this subpart shall be disbursed to the applicant in accordance with an agreement to be entered into between the parties to the loan and approved by the Secretary.

(b) *Length and maturity of loans.* The principal amount of each loan guarantee, together with interest thereon, shall be repayable over a period of 20 years, beginning on the date of endorsement of the loan guarantee by the Secretary. The Secretary may, however, approve a shorter repayment period where he determines that a repayment period of less than 20 years is more appropriate to an applicant's total financial plan.

(c) *Repayment.* The principal amount of each loan guarantee, together with interest thereon, shall be repayable in accordance with a repayment schedule which is to be agreed upon by the parties to the loan and approved by the Secretary prior to or at the time of his endorsement of the loan. Unless otherwise specifically authorized by the Secretary, each loan guaranteed by the Secretary shall be repayable in substantially level combined installments of principal and interest, to be paid at intervals not less frequently than annually, sufficient to amortize the loan through the final year of the life of the loan.

Subpart E—Loans and Loan Guarantees for Initial Operating Costs

§ 110.501 Applicability.

The regulations of this subpart, in addition to the regulations of subpart B, are applicable to loans and loan guarantees awarded pursuant to section 1305 of the Act.

§ 110.502 Definitions.

(a) "Operating cost" means any cost which under generally accepted accounting principles is not a capital expenditure.

(b) "First 36 months of operations" means the 36 months period running from the day when the health maintenance organization first provides services to members.

§ 110.503 Eligibility.

(a) *Eligible applicants.* Any public or nonprofit private health maintenance organization is eligible to apply for a loan. Any private health maintenance organization (other than a nonprofit private health maintenance organization) which will serve a medically underserved population is eligible to apply for a loan guarantee.

(b) Eligible projects.

(1) Loans may be made pursuant to section 1305 of the Act and the regulations of subpart B and this subpart to eligible applicants to assist them in meeting the amount by which their operating costs in the period of the first 36 months of their operation exceed their revenues in such period, or in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in their membership or area served, as defined in § 110.202(c), and which are incurred in the period of the first 36 months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion.

(2) Loan guarantees may be made pursuant to section 1305 of the Act and the regulations of subpart B and this subpart to guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (b)(1) of this section, but only if such health maintenance organizations will serve a medically underserved population.

§ 110.504 Project elements.

An approvable application must provide:

(a) Statements which describe in detail:

(1) The applicant's adequate accomplishment of feasibility survey, planning, and development activities; and

(2) The health maintenance organization's management capability.

(b) Detailed information on the health maintenance organization's marketing plan and enrollment forecasts and experience.

(c) A detailed narrative statement describing:

(1) All existing and planned provider arrangements including copies of all executed contracts; and

(2) All facilities to be used in the delivery of health services.

(d) Financial information in such detail as the Secretary may prescribe.

(e) Evidence that any certificate of need required under State law for the operation of the health maintenance organization has been obtained by the applicant.

§ 110.505 Reserve requirement.

The applicant receiving a loan or loan guarantee under section 1305 of the Act shall establish a restricted reserve account beginning at the point when the revenues and expenditures of the health maintenance organization reach the breakeven point, or by the end of the 36-month period following the making of the loan or the guarantee under section 1305 of the Act, whichever is sooner, unless a longer period is approved by the Secretary. This reserve shall be so constituted as to accumulate no later than ten (10) years following the endorsement of the loan or loan guarantee, an aggregate amount equal to one year's principal of and interest on the loan, as determined under the terms of the loan made or guaranteed.

§ 110.506 Evaluation and award.

Within the limits of funds available for such purposes, the Secretary may award loans or loan guarantees to those applicants whose projects will, in his judgment, best promote the purposes of section 1305 of the Act and the regulations of the Part, taking into account:

(a) The ability of the health maintenance organization to achieve financial viability;

(b) The ability of the health maintenance organization to make repayments of the principal and interest when due and to have additional funds to defray the remaining operating deficits;

(c) The comments, if any, of the 314(b) or 314(a) agency;

(d) The relative distribution of qualified applicants with respect to the following factors:

(1) The inclusion of medically underserved populations in the groups to be enrolled;

(2) Geographical position relative to the number of organizations providing health services to a defined population on a prepaid capitation basis, which are already operating in the proposed area; and

(3) The percentage of anticipated total enrollment drawn from nonmetro-

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politan areas served or to be served by the applicant.

§ 110.507 Funding duration and limitation.

(a) The principal amount of any loan made or guaranteed under section 1305 of the Act in any fiscal year for a health maintenance organization shall not exceed $1,000,000 and the aggregate amount of principal of loans made or guaranteed under section 1305 for a health maintenance organization shall not exceed $2,500,000.

(b) A loan or loan guarantee under section 1305 of the Act shall be limited to two-thirds of the Secretary's projection of the amount by which operating costs in the first 36 months of operation exceed revenues for such period, except as approved by written waiver by the Secretary for such higher percentage of the total operating deficit.

(c) The approval of any loan or loan guarantee shall not obligate the United States in any way to make any additional loan or loan guarantee with respect to the approved application or portion thereof, except as may be otherwise set forth in the agreement between the United States and the approved applicant.

§ 110.508 Loan provisions.

(a) *Disbursement of loan proceeds.* The principal amount of any loan made or guaranteed by the Secretary under this subpart shall be disbursed to the applicant in accordance with an agreement to be entered into between the parties to the loan and approved by the Secretary.

(b) *Length and maturity of loans.* The principal amount of each loan or loan guarantee, together with interest thereon, shall be repayable over a period of 20 years, beginning on the date of endorsement of the loan or loan guarantee by the Secretary. The Secretary may, however, approve a shorter repayment period where he determines that a repayment period of less than 20 years is more appropriate to an applicant's total financial plan.

(c) *Repayment.* The principal amount of each loan or loan guarantee, together with interest thereon, shall be repayable in accordance with a repayment schedule which is to be agreed upon by the parties to the loan or loan guarantee and approved by the Secretary prior to or at the time of his endorsement of the loan. Unless otherwise specifically authorized by the Secretary, each loan made or guaranteed by the Secretary shall be repayable in substantially level combined installments of principal and interest to be paid at intervals not less frequently than annually, sufficient to amortize the loan through the final year of the life of the loan.

Subpart F—Employee's Health Benefit Plans [Reserved]

Subpart G—Restrictive State Laws and Practices

§ 110.701 Restrictive laws and practices.

(a) In the case of any entity—

(1) Which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

(i) Requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

(ii) Requires that physicians constitute all or a percentage of its governing body,

(iii) Requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

(iv) Requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and

(2) For which a grant, contract, loan, or loan guarantee was made under the Act or which is a qualified health maintenance organization for purposes of section 1310 of the Act (relating to employees' health benefits plans), such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 1301 of the Act and these regulations.

(b) No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under the Act or which is a qualified health maintenance organization for purposes of section 1310 of the Act (relating to employees' benefits plans), from soliciting members through advertising its services, charges, or other nonprofessional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgment concerning, any health professional who provides services for a health maintenance organization.

Subpart H—Continued Regulation of Health Maintenance Organizations [Reserved]

[FR Doc.74-10575 Filed 5-7-74;8:45 am]

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May 9, 1974—Pages 16433–16824

federal register

THURSDAY, MAY 9, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 91

Pages 16433–16824

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federal register

Area Code 202 Phone 523-3240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 532—PAY UNDER PREVAILING RATE SYSTEMS

Subpart K—Pay Adjustments Under Economic Stabilization Program

REVOCATION

Because of the expiration on April 30, 1974, of the Economic Stabilization Act, as amended, the Commission revokes Subpart K of Part 532 effective May 1, 1974.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10733 Filed 5–8–74;8:45 am]

Title 10—Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Environmental Effects of the Uranium Fuel Cycle; Correction

In FR Doc. 74–9076 appearing at page 14188 in the issue of Monday, April 22, 1974, the following changes should be made:

1. In the first column of Table S–3, under Effluents-chemical (MT), Liquids, the listings "NH" and "Fe"' should read:

NH_3
Fe

2. In the first and second columns of Table S–3, under Effluents-Radiological (curies), Liquids, the listings "Ru-106" and "".15" should read:

$Ru106^3$ ... .15

3. In the third column of Table S–3, the thirteenth paragraph, lines 32 through 38, should read:

Principally from fuel reprocessing plants—Whole body dose is 6 man-rem per annual fuel requirements for population within 50 mi radius. This is <0.007 percent of average natural background dose to this population. Release from Federal Waste Repository of 0.005 Ci/yr has been included in fission products and transuranics total.

4. In the third column of Table S–3, the fifteenth paragraph, lines 42 through 44, should read:

From UF_6 production-concentration 5 percent of 10 CFR 20 for total processing 27.5 model LWR annual fuel requirements.

5. In the third column of Table S–3, the eighteenth paragraph, lines 51 through 54, should read:

All except 1 Ci comes from mills—included in tailings returned to ground—no significant effluent to the environment, 1 Ci from conversion and fuel fabrication is buried.

Dated at Germantown, Md., this sixth day of May 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74–10695 Filed 5–8–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74–NW–03]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On March 8, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 9199) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Burley, Idaho, transition area.

Interested persons were given thirty days in which to submit written comments. No objections to the proposed amendment were received.

In consideration of the foregoing, the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 GMT July 18, 1974.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)) sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c))

Issued in Seattle, Wash., on April 30, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

BURLEY, IDAHO

"That airspace extending upward from 700 feet above the surface within 6.5 miles each side of the Burley BORTAC 121° radial extending from the VORTAC to 27 miles southeast of the VORTAC; within 6.5 miles each side of the Burley VORTAC 292° radial, extending from the VORTAC to 17 miles west of the VORTAC; within that airspace bounded on the southwest by a line parallel to and 9.5 miles southwest of the Burley VORTAC 323° radial, on the northwest by an arc of a 53-mile radius circle centered on Burley VORTAC, on the north by the north edge of V–500, on the east by a line parallel to and 4.5 miles east of Burley VORTAC 344° radial; and within 2.5 miles southeast and 6 miles northwest of the 036° bearing from Burley Municipal Airport, extending 9.5 miles northeast of the Burley Municipal Airport • • •" the remainder of the description remains as published.

[FR Doc.74–10630 Filed 5–8–74;8:45 am]

[Airspace Docket No. 74–SO–16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Federal Airway Segment

On March 5, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 8350) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke the west alternate to VOR Federal Airway No. 37 between Columbia, S.C., and Fort Mill, S.C.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

Section 71.123 (39 FR 307) is amended as follows:

In V–37 "Fort Mill, S.C., including a W alternate via INT Columbia 294° and Fort Mill 201° radials;" is deleted and "Fort Mill, S.C.;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on May 2, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–10628 Filed 5–8–74;8:45 am]

[Airspace Docket No. 74–SO–30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On March 25, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 11096), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Knoxville, Tenn., transition area.

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Interested persons were afforded an opportunity to participate in the rule-making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

In § 71.181 (39 FR 440), the Knoxville, Tenn., transition area is amended as follows:

"* * * excluding the portion within the Morristown, Tenn., transition area * * *" is deleted and "* * * within an 8-mile radius of Knoxville Downtown Island Airport (latitude 35° 57'45" N., longitude 83°52'30" W.); excluding the portion within Morristown, Tenn., transition area * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958. (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on April 30, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.74-10631 Filed 5-8-74;8:45 am]

[Airspace Docket No. 74-WA-11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation and Redesignation of Reporting Points

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Ainsworth, Nebr., VOR reporting point and to redesignate the Hobe, Palmetto, Shad, Snook, Squid, and Swordfish reporting points. Designation of the Ainsworth, Nebr., domestic low altitude reporting point will reduce controller workload and communication frequency congestion. Reporting points at Hobe INT, Palmetto INT, Snook INT, Squid INT, and Swordfish INT are incorrectly described by inbound bearings. Their redescription by outbound bearings does not change their locations. The Millville, N.J., RBN has been renamed Rainbow, N.J., RBN. The description of the Shad INT reporting point is amended by making this name change.

Because this action merely designates and redescribes reporting points in accordance with the requirements of current air traffic control procedures, and without altering any route structures or designated airspace, this action is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. In order to provide sufficient time for changes to be depicted on appropriate charts, this amendment will be made effective on July 18, 1974.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

Section 71.203 (39 FR 620) is amended by adding the following:

Ainsworth, Nebr.

Section 71.209 (39 FR 630) is amended as follows:

a. In Hobe INT: "INT of 195° bearing" is deleted and "INT of 014° bearing" is substituted therefor.

b. In Palmetto INT: "INT of 192° bearing" is deleted and "INT of 011° bearing" is substituted therefor.

c. In Shad INT: "INT of Millville, N.J. RBN" is deleted and "INT of Rainbow, N.J., RBN" is substituted therefor.

d. In Snook INT: "INT of 182° bearing" is deleted and "INT of 002° bearing" is substituted therefor.

e. Squid INT: is amended to read as follows:

Squid INT: INT of 192° bearing Croaton, N.C., RBN and 090° bearing Dinsmore, Fla., RBN.

f. Swordfish INT: is amended to read as follows:

Swordfish INT: INT of 182° bearing Croaton, N.C., RBN and 090° bearing Dinsmore, Fla., RBN.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 2, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-10629 Filed 5-8-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-10756]

PART 241—INTERPRETATIVE RELEASE RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Statement Regarding Maintenance of Current Books and Records by Brokers and Dealers

Inquiries have been received by the Commission requesting clarification of the requirement of Rule 17a-3(a) under the Securities Exchange Act of 1934 that every broker-dealer shall "make and keep current" certain books and records enumerated in the rule. Also, subparagraph (c) of Rule 17a-11 requires that telegraphic notice be given to the Commission when a broker or dealer fails to comply with the requirements of Rule 17a-3 to "make and keep current" books and records prescribed by the rule.

Rule 17a-3(a) requires that registered broker-dealers prepare records of transactions and dealings in securities for the accounts of the firm's customers as well as for its own risk and account, and to prepare records of other financial transactions related to the business of the broker-dealer. These requirements are intended to serve three basic regulatory purposes. First, it is expected that the broker-dealer maintain current books and records for the protection and convenience of customers; that is, customers are entitled to prompt responses to inquiries and resolution of claims relating to their accounts. Secondly, these requirements are intended to enable a broker-dealer to be aware of the extent of its compliance with the various rules and requirements, particularly the net capital and other customer protection rules,[1] and be able to demonstrate compliance to the Commission and the self-regulatory authorities without the burden of bringing books and records up-to-date being placed upon the regulatory authorities. Third, a broker-dealer should have current books and records to enable it to fulfill its obligations and responsibilities to other broker-dealers with whom business is transacted. Additionally, good business practice requires timely information for effective management decisions. In order to serve these purposes, we discuss in the following paragraphs general guidelines for the maintenance of current books and records with respect to the requirements of Rules 17a-3(a) and 17a-11.[2]

A. Order tickets and confirmations. Subparagraphs (6) and (7) of Rule 17a-3(a) require the preparation of a memorandum of each brokerage order and each principal transaction and subparagraph (8) requires maintenance of copies of confirmations of transactions for the accounts of customers and partners. These are the basic source documents and transaction records of a broker-dealer. By their nature the memoranda of brokerage and principal transactions should be prepared at the time of the transactions, and the confirmations, which are prepared from the memoranda, should be prepared and mailed on the day of the transaction or the following business day.

B. Records of original entry. The blotters or other records or original entry described in subparagraph (1) of Rule 17a-3 itemize each day's transactions in a format that facilitates posting to the general and subsidiary ledgers. Blotter records relating to securities transactions—e.g., daily purchase and sale blotters—should reflect all transactions as of the trade date and should be prepared no later than the following business day. Similarly, blotter records relating to securities movements and the receipt and disbursement of cash should reflect such transactions on the date they occur and should be prepared no later than the following business day.

C. General ledgers. The ledgers prescribed in subparagraph (2) of Rule 17a-3 are the general records reflecting all asset, liability and capital accounts and all income and expense accounts and include control accounts for subsidiary ledgers. The blotters and other records of original entry should be maintained not only on a daily basis as discussed above, but in a form which will facilitate posting of the general ledger as frequently as necessary to enable the broker-dealer to make the computations necessary to ascertain his compliance with the net capital rule and the customers' reserve requirement rule.[3] For many broker-dealers, compliance with the customers' reserve requirement entails a weekly computation based on updated general ledger account balances.

A broker-dealer is required to be in compliance with the net capital rule at all times and the general ledger must be posted as frequently as may be necessary to make that determination. Compliance with this rule and the concern for frequent computations becomes particularly important in periods of sharp changes in securities prices and increases in trading volume. Firms which are frequent participants in underwriting syndicates or which effect transactions in large blocks of stock may also find it necessary to post their ledger on a daily basis because of the need for making frequent net capital computations. If a broker-dealer effects only a limited number of transactions during an accounting period and it is clear from the nature of the business conducted that such transactions would have no material adverse effect on the broker-dealer's financial and operational condition, net capital or customers' protection requirements during the period it may be appropriate to post the general ledger on a monthly basis.[4]

D. Customer's ledger accounts. Transactions involving the purchase and sale of securities should be posted to the customer's ledger accounts described in subparagraph (3) of Rule 17a-3 no later than settlement date. Other customer transactions relating to securities movements and cash receipts and disbursements should be reflected as of the transaction date and should be posted to the accounts no later than the first business day following the transaction.

E. Subsidiary ledgers. The subsidiary ledgers and other records[5] relating to securities in transfer, dividends and interest received, securities borrowed and securities loaned, and monies loaned required under subparagraph (4)(A)-(D) should be posted no later than two business days subsequent to the date of the securities or money movements. Transactions between brokers not completed on settlement date should be posted to the appropriate fail to deliver or fail to receive ledger (or other record) no later than the first business day following settlement date; resolution of fail transactions should be recorded no later than the first business day following resolution. A broker-dealer who maintains his accounts on the trade date basis of accounting and uses "fail" accounts to reflect transactions with other brokers should post transactions to the accounts no later than two business days subsequent to the transaction date. In accordance with the provisions of Rule 17a-13(b)(5), long and short stock record differences shall be entered in an appropriate ledger account (subparagraph (4)(F)) no later than seven business days after the date of a required quarterly securities examination and verification.[6]

F. Securities position record. The securities record required by subparagraph (5) of Rule 17a-3(a) shall reflect the changes resulting from purchase and sale transactions either as broker or dealer as of clearance date, or settlement date, and should be recorded no later than the following business day.[7] In addition, other changes in securities positions should be reflected on the date of the security movement or on the following business day as of the date of the movement. Long and short securities record differences shall be entered concurrently with their recording in the subsidiary ledger required by subparagraph (4)(F).

G. Transactions in options. The record of puts, calls, spreads, straddles, and other options described in subparagraph (10) should reflect transactions as of the date an option is written, guaranteed, traded or exercised and should be prepared no later than the business day following the transaction.

H. Trial balances and capital computation. Subparagraph (11) requires the monthly preparation of a trial balance of all ledger accounts and a computation of aggregate indebtedness and net capital as of the trial balance date. These records should be prepared no later than 10 business days after the end of the accounting period, except in those instances where the records must be prepared in a lesser period to satisfy any reporting requirements established by any self-regulatory authority of which the broker-dealer is a member.[8]

I. Other records. The record of beneficial ownership of each cash or margin account (subparagraph (9) of Rule 17a-3) should be prepared before transactions are effected in an account. The employment questionnaire or application (subparagraph (12) of Rule 17a-3) should be prepared at or prior to the commencement of employment.

J. Time lag in transmission of data. Under certain limited circumstances the accounting department of a broker-dealer may not be aware of a transaction until a few days after it occurs. Transactions such as receipts and disbursements in out-of-town branches or by correspondents should be recorded no later than the day after the transaction is reported to the accounting department, and dividend and interest claims from other brokers should be recorded no later than the day after the validity of the claim is established.

K. Service bureaus. If a broker-dealer hires or engages an outside service bureau or other recordkeeping service to handle its records, the requirement to make and keep current the broker-dealer's books and records is in no way diminished and under such circumstances the broker-dealer is responsible to the same degree for maintaining current books and records as if he were maintaining them himself. Where a broker-dealer undertakes to have his books and records prepared and maintained by a service bureau or recordkeeping service, he should assure himself that the service will be provided in conformity with the Commission recordkeeping rules.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 26, 1974.

[FR Doc.74-10687 Filed 5-8-74;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM74-24; Order No. 509]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Availability of All Relevant Information Acquired by Staff Investigation in Contested Cases

MAY 2, 1974.

The Commission is herein promulgating a statement of policy with respect to

[1] Including Rule 15c3-1 or comparable requirements of a national securities exchange of which the broker-dealer is a member and Rule 15c3-3.

[2] Subsequent modification or change of applicable rules may result in the revision of the guidelines set forth herein (for example, see proposed revisions to Rule 15c1-4, Securities Exchange Act Release No. 10681, Investment Company Act Release No. 8275).

[3] Rule 15c3-3(e).

[4] In the course of posting the books at interim date during a month, it may not be necessary to make adjustments for accruals and deferrals such as for depreciation or prepaid expenses if they would not materially affect the financial condition of the broker-dealer.

[5] As used in subparagraph (4) and elsewhere in Rule 17a-3, the term, "other records" should be construed to include, where appropriate, copies of vouchers, confirmations, or similar documents which reflect the information required by the applicable subparagraph arranged in appropriate sequence and in permanent form, including similar records developed by the use of automatic data processing systems and produced or reproduced on microfilm.

[6] If counts are made on a cyclical basis in accordance with Rule 17a-3(c), any stock record difference shall be recorded within seven business days subsequent to examination and verification of a particular security.

[7] The requirement for current maintenance of the securities record can be met by broker-dealers through preparation of a full securities record weekly, supplemented by a daily "takeoff" sheet summarizing and balancing each day's securities movements.

[8] Although not specifically referred to in Rule 17a-3, the weekly or monthly computation of the amount to be on deposit under the customers' reserve requirement rule must be made in sufficient time to enable the broker-dealer to make the required deposit no later than one hour after the opening of banking business on the second business day following the date on which the computation is based, as required by Rule 15c3-3(e).

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the release of information acquired by investigations of its staff conducted pursuant to sections 8, 10, and 14 of the Natural Gas Act (52 Stat. 825, 15 U.S.C. 717g; 52 Stat. 826, 15 U.S.C. 717i; 52 Stat. 828, 15 U.S.C. 717m) which may be relevant to any matter set for formal hearing. This policy implements subsection (b) of section 8 of the Natural Gas Act which provides that no member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books, records, data, or accounts of natural gas companies except insofar as he may be directed by the Commission or by a court.

Since the Commission can act under the substantive provisions of the Natural Gas Act only upon required statutory findings [1] based upon substantial evidence,[2] it is imperative that all relevant information be available for examination by all parties to a proceeding so that the Commission will have a complete record, including substantial evidence, upon which to base its findings and make conclusions of law. The Commission is aware that natural gas companies may be reluctant to have revealed certain information obtained by staff investigation. However, when that information is relevant to matters which are the subjects of formal hearings under the substantive provisions of the Natural Gas Act, there must a weighing of the interests involved; [3] and the Commission concludes that the public interest, with which the business of transporting and selling natural gas for ultimate distribution to the public is affected,[4] outweighs the private interests of natural gas companies in maintaining the confidentiality of the information.

The Commission regards the statement of policy promulgated herein as the direction of the Commission under subsection (b) of section 8 of the Natural Gas Act to its members, officers, and employees to release the subject information; and, further, the Commission regards the statement as the legal authorization without which individuals who would disclose information might be subject to criminal sanctions under 18 U.S.C. 1905. The Commission does not regard its determination to release the subject information as limited by the provisions of 5 U.S.C. 552(b) (4) and (9).

The Commisison finds. (1) the policy adopted herein is necessary and appropriate in the administration of the Natural Gas Act.

(2) Since the statement promulgated herein concerns a matter of general policy and agency procedure, compliance with the provisions of 5 U.S.C. 553 relating to notice and hearing is unnecessary.

The Commission, acting pursuant to the authority granted by the Natural Gas Act, particularly subsection (b) of section 8 (52 Stat. 825, 15 U.S.C. 717g) and section 16 (52 Stat. 830, 15 U.S.C. 717o) thereof, and in accordance with 5 U.S.C. 553, orders:

(A) Part 2 of Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations, is amended by adding a new § 2.72 which reads as follows:

§ 2.72 Availability of information acquired by Staff Investigation in contested cases.

Pursuant to the Commission's authority under the Natural Gas Act, particularly subsection (b) of section 8 thereof, upon request by a party to the proceedings, all relevant information acquired by Commission staff, including workpapers pursuant to any staff investigation conducted under sections 8, 10, or 14 of the Natural Gas Act shall, without further order of the Commission, be free from the restraints of said subsection (b) of section 8 regarding the divulgence of information, with respect to any matter hereafter set for formal hearing.

(Subsection (b), sec. 8, 52 Stat. 825, 15 U.S.C. 717g; sec. 16, 52 Stat. 830, 15 U.S.C. 717o)

(B) The amendment adopted herein shall be effective on date of issuance.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-10640 Filed 5-8-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC CONTAINING DRUGS

Sterile Cephapirin Sodium

Correction

In FR Doc. 73-24197 appearing at page 31507 in the issue of Thursday, November 15, 1973, the antibiotic entry in § 141.506(b)(2) reading "Cephapirin Soldium" should read "Cephapirin Sodium".

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

The Administrator of the Drug Enforcement Administration has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 1308.24 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential abuse, or (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused, and so that the narcotic substance cannot in practice be removed. The Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the code of Federal Regulations (see 38 FR 18380, July 2, 1973) the Administrator hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as follows:

By amending § 1308.24(i) by adding the following chemical preparations:

§ 1308.24 Exempt chemical preparations.

* * * * * * *

(i) * * *

Manufacturer of supplier	Product name and supplier's catalog No.	Form of product	Date of application
Amersham/Searle Corp.	Δ1-[(-)-³H] Tetrahydrocannabinol, No. TRK. 446.	Ampoule: 0.005 mg to 0.06 mg.	Feb. 26, 1974
Do.	[1(n)-³H] Morphine, No. TRK. 447.	Ampoule: 0.002 mg to 0.015 mg.	Do.
Do.	[1(n)-³H] Codeine, No. TRK. 448.	do.	Do.
Do.	Diacetyl [1(n)-³H] morphine, No. TRK. 449.	Ampoule: 0.003 mg to 0.012 mg.	Do.
Do.	[1,7,8(n)-³H] Dihydromorphine, No. TRK. 450.	Ampoule: 0.0008 mg to 0.008 mg.	Do.
Hoffman-La Roche Inc.	Abuscreen Radioimmunoassay for Morphine (¹²⁵I).	Vial: 100 ml and 500 ml.	Sept. 27, 1972
Do.	Abuscreen Radioimmunoassay for Morphine (³H).	do.	Do.
Hyland Division Travenol Laboratories, Inc.	T-11.	Vial: 20 ml.	Feb. 8, 1974
Do.	T-12.	do.	Do.
Do.	T-13.	Vial: 50 ml.	Do.
Do.	T-14.	do.	Do.
Do.	T-15.	do.	Do.
Mallinckrodt.	RIA-MAT Circulating T3 1125 Kit, Cat. No. 501:	Kit containing the following:	Jan. 28, 1974
	RIA-MAT T3 Buffer	Bottle: 100 ml.	
	RIA-MAT T3 Antiserum	Vial: 2.5 ml.	
	RIA-MAT T3 Reaction Vial	Vial: 1 ml.	
	RIA-MAT T3 Standard 0 ng/ml	Vial: 1.5 ml.	
	RIA-MAT T3 Standard 0.5 ng/ml	Vial: 1.5 ml.	
	RIA-MAT T3 Standard 1.0 ng/ml	Vial: 1.5 ml.	
	RIA-MAT T3 Standard 2.0 ng/ml	Vial: 1.5 ml.	
	RIA-MAT T3 Standard 6.0 ng/ml	Vial: 1.5 ml.	
Medical Chemical Corp.	Secobarbital Standard 10 mg. percent, Cat. No. 250.	Bottle: 120 cc.	Feb. 22, 1974
Millipore Corp.	Electro-AgaroSlide, Alpha-2-Macroglobulin, Cat. No. ESEA 032 01.	Plate: 3¼" x 2¼" x 1/16".	Mar. 4, 1974
Do.	Electro-AgaroSlide, Albumin, Cat. No. ESEA 032 05.	do.	Do.
Do.	Electro-AgaroSlide Transferrin, Cat. No. ESEA 032 04.	do.	Do.
Do.	Electro-AgaroSlide, IgA, Cat. No. ESEA 032 06.	do.	Do.
Do.	Electro-AgaroSlide, Alpha-1-Antitrypsin, Cat. No. ESEA 032 00.	do.	Do.
Do.	Electro-AgaroSlide, C 3 Complement, Cat. No. ESEA 032 03.	do.	Do.
Do.	Electro-AgaroSlide, Ceruloplasmin, Cat. No. ESEA 032 02.	do.	Do.

Effective date. This order is effective on May 9, 1974. Any interested person may file written comments on or objections to the order on or before July 8, 1974. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: April 26, 1974.

ANDREW C. TARTAGLINO,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.74-10553 Filed 5-8-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 655—TRAFFIC OPERATIONS

Subpart B—Pavement Marking Demonstration Program

The Federal Highway Administrator is adding a new Subpart B to Part 655, Subchapter G, Chapter I of Title 23, CFR. The purpose of the new subpart is to prescribe the policies and procedures that the Federal Highway Administration will follow in administering the new Pavement Marking Demonstration Program established by section 205 of the Highway Safety Act of 1973.

Although certain general concepts relating to funding of projects under the new program are contained in § 655.211, detailed rules relating to the allocation of funds authorized by section 205 of the Highway Safety Act of 1973, as well as procedures for obligating those funds, will be dealt with in separate directives to be issued in the future.

In consideration of the foregoing, Chapter I of Title 23, CFR is amended by adding a new Subpart B in Part 655 of Subchapter G, reading as set forth below.

Since this amendment involves the administration of a program of public grants-in-aid, notice and public procedure thereon are unnecessary, and it is effective on the date of issuance set forth below.

This amendment is issued under the authority of section 205 of the Highway Safety Act of 1973, 23 U.S.C. 151, 23 U.S.C. 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48.

Issued on April 30, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart B—Pavement Marking Demonstration Program

Sec.
655.201 Scope of the rules in this part.
655.203 Authority.
655.205 General policies.
655.207 Procedures for participation in Pavement Marking Demonstration Program.
655.209 Marking standards.
655.211 Funding.
655.213 Evaluation and reporting.

AUTHORITY: 23 U.S.C. 151, 315 and delegation of authority at 49 CFR 1.48.

Subpart B—Pavement Marking Demonstration Program

§ 655.201 Scope of the rules in this part.

The rules in this part prescribe the policies and procedures followed by the Federal Highway Administration to implement the Pavement Marking Demonstration Program.

§ 655.203 Authority.

The Pavement Marking Demonstration Program is authorized by section 205 of the Highway Safety Act of 1973, 23 U.S.C. 151.

§ 655.205 General policies.

(a) *Eligible projects.* A pavement marking project is eligible for inclusion in a State's program if it is on any paved highway located within the State, except a highway included in the Interstate System. A project may be on either a highway on a Federal-aid system (except the Interstate System) or a highway off the Federal-aid systems, including a highway under the jurisdiction of a political subdivision of the State. However, except as provided in § 655.211, a project must not include renewal of pavement markings that conform to the standards set forth in the 1971 edition of the Manual on Uniform Traffic Control Devices.

(b) *Objective of the Program.* The objective of the Pavement Marking Demonstration Program is to demonstrate the value of pavement markings in providing greater vehicle and pedestrian safety. To this end, each project must produce a highway which has pavement markings that conform to the standards set forth in the 1971 edition of the Manual on Uniform Traffic Control Devices.[1]

(c) *Priorities for approval of programs.* In establishing programs the States shall give priority to—

(1) Projects on two-lane highways which are located in rural areas and which either are on the Federal-aid secondary system or are not included on any Federal-aid system; and

(2) Projects on routes or systems having high accident rates, when it is probable that adequate pavement markings will reduce the high accident rate.

(d) *Methods of performing work on projects.* Work on projects included in a State's program may be performed by either—

(1) Force account methods in accordance with Policy and Procedure Memorandum 21-6.2 [2];

[1] The Manual on Uniform Traffic Control Devices is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at a price of $3.50 per copy.

[2] Copies of Policy and Procedure Memorandum 21-6.2 are available for inspection and copying as prescribed in 49 CFR Part 7, App. D.

[1] 52 Stat. 822, 15 U.S.C. 717b; 52 Stat. 824, 15 U.S.C. 717f(a); 52 Stat. 824, 15 U.S.C. 717f (b); 56 Stat. 84, 15 U.S.C. 717f(e).

[2] 52 Stat. 831, 15 U.S.C. 717r.

[3] Cf. FCC v. Schreiber, et al., 381 US 279; American Sumatra Tobacco Corp. v. SEC, 110 F.2d 117.

[4] 52 Stat. 821, 15 U.S.C. 717(a).

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(2) Contracts awarded by normal competitive bid methods; or

(3) Negotiated contracts containing firm unit prices.

§ 655.207 Procedure for participation in Pavement Marking Demonstration Program.

(a) *Development of program.* A State which wishes to participate in the Pavement Marking Demonstration Program must develop, and submit to the Federal Highway Administration, a program of proposed pavement marking projects that conform to the rules in § 655.205. A program may consist of a single project for the entire State, or may be broken down by geographic areas or by systems as the State may desire.

(b) *Contents of program.* The State's program must generally describe the work to be accomplished and must include—

(1) A description of the procedures for evaluating the results of each project;

(2) A listing by counties of the number of miles of pavement to be marked by class of road (Federal-aid system and non-Federal-aid system);

(3) A description of the type of striping or other markings to be applied in each project;

(4) An estimate of the total cost of each project and of the program as a whole; and

(5) A description of the method to be used to perform the work on each project.

(c) *Submission and review of program.* A State's program must be submitted to the Federal Highway Administration Division Engineer. The Division Engineer will review the program to determine whether it conforms to the rules in this part.

§ 655.209 Marking standards.

(a) *General rule.* In the performance of pavement marking projects, the marking standards specified in the 1971 edition of the Manual on Uniform Traffic Control Devices, including the standards for pedestrian crosswalks and stop lines, must be followed. In addition, the rules in paragraphs (b) and (c) of this section apply to pavement marking projects.

(b) *Centerlines.* Centerline markings must consist of one of the three types specified in section 3B–1 of the Manual on Uniform Traffic Control Devices. Centerline markings must be applied to a highway which—

(1) Has a paved surface that is 16 feet wide or wider; and

(2) Carries an average daily traffic volume of 250 vehicles or more.

(c) *Edge lines.* Except as otherwise approved by the Administrator, edge lines as prescribed in the Manual on Uniform Traffic Control Devices must be applied to a highway which—

(1) Has a paved surface that is 20 feet wide or wider; and

(2) Carries an average daily traffic volume of 250 vehicles or more.

§ 655.211 Funding.

(a) *Eligible costs.* The entire cost of materials, labor, and equipment rental or depreciation, necessary to apply pavement markings may be paid with funds authorized to carry out the Pavement Marking Demonstration Program. In addition, those funds are available to pay the cost of renewing markings applied under this Program for as long as is necessary to enable the effectiveness of the markings to be evaluated during a period of at least two years.

(b) *Ineligible costs.* Funds authorized to carry out the Pavement Marking Demonstration Program will not be expended—

(1) To pay the cost of renewing pavement markings which were not applied under the Pavement Marking Demonstration Program and which conform to the standards set forth in the 1971 edition of the Manual on Uniform Traffic Control Devices; or

(2) To pay the cost of data collection, analysis, or evaluation. However, the costs of data collection, analysis, or evaluation may be included in a State's Highway Planning and Research Program or its Highway Safety Program, if funds allocated to either program are available.

§ 655.213 Evaluation and reporting.

(a) *Submission of report.* Each State participating in the Pavement Marking Demonstration Program must make an annual report to the Federal Highway Administrator on the progress it has made in implementing its pavement marking program and the effectiveness of the improvements made under that program. The report must be submitted to the Federal Highway Administration Division Engineer. The first report must be submitted on or before August 31, 1974. Subsequent reports must be submitted on or before August 31 of each year after 1974.

(b) *Contents of report.* The State's annual report must include—

(1) An analysis and evaluation of the change in number, rate, and severity of accidents on highways which have been marked under the State's program;

(2) The cost-benefit ratio of pavement marking improvements under the State's program, comparing the results during a period of time after application of new markings which is adequate to enable proper assessment of the benefits of the new markings with data pertaining to the same period of time before application of new markings; and

(3) Completed Form 1451 which may be reproduced locally. Data relating to a project should be in the State's report until at least two years' of data relating to that project have been reported.

[FR Doc.74–10647 Filed 5–8–74;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 567–74]

PART 45—STANDARDS OF CONDUCT

Reporting of Outside Interests

This order updates the list of Department officials required to report outside financial interests.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, paragraph (c) (2) of § 45.735–22 of Part 45 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 45.735–22 Reporting of outside interests by persons other than special Government employees.

* * * * *

(c) Statements of employment and financial interest are required of the following:

* * * * *

(2) Employees occupying the following positions:

(i) Office of the Attorney General

Administrative Assistant to the Attorney General
Assistant to the Attorney General
Director of Public Information
Assistant Directors of Public Information

(ii) Office of the Deputy Attorney General

Associate Deputy Attorneys General
Director, Office of Criminal Justice
Executive Assistant
Director, Executive Office for U.S. Attorneys
U.S. Attorneys

(iii) Office of the Solicitor General

Deputy Solicitors General

(iv) Office of Legal Counsel

Deputy Assistant Attorneys General

(v) Office of Legislative Affairs

Deputy Assistant Attorneys General
Chief, Legislative and Legal Section

(vi) Office of Management and Finance

Deputy Assistant Attorney General
Staff Directors
Director, Justice Data Center
Director, Department Publication Services Facility

(vii) Office of Watergate Special Prosecution Force

Deputy Special Prosecutor
Counsel to the Special Prosecutor
Public Information Officer
Chiefs of Task Forces
Information Systems Manager

(viii) Antitrust Division

Deputy Assistant Attorneys General
Director of Economics
Director of Operations
Deputy Director of Operations
Director, Office of Planning and Budget
Section Chiefs

(ix) Civil Division

Deputy Assistant Attorneys General
Section Chiefs

(x) Civil Rights Division

Deputy Assistant Attorneys General
Special Assistants
Executive Officer
Section Chiefs

(xi) Criminal Division

Deputy Assistant Attorneys General
Section Chiefs

(xii) Land and Natural Resources Division

Deputy Assistant Attorneys General
Section Chiefs

(xiii) Tax Division

Deputy Assistant Attorneys General
Executive Assistant
Deputy for Refund Litigation
Section Chiefs

(xvi) U.S. Marshals Service

Director
Deputy Director
U.S. Marshals

(xv) Community Relations Service

Deputy Director
Associate Director
Chief Counsel
Regional Directors

(xvi) Board of Parole

All members

(xvii) Drug Enforcement Administration

Assistant Administrators
Directors
Chief Counsel
Chief Inspector
Controller
Chief Chemists
Regional Administrators
Chief, Administrative Services Division
Contract and Procurement Officer
Contract Specialist, GS–13 and above
Chief, Compliance Division
Section Chiefs, Compliance Division
Project Officers, GS–13 and above

(xviii) Federal Bureau of Investigation

Assistant Director, Administrative Division

(xix) Federal Prison Industries, Inc.

Associate Commissioner

(xx) Immigration and Naturalization Service

Associate Commissioner, Management
Deputy Associate Commissioner, Administrative Services
Assistant Commissioner, Administration
Regional Commissioners, for Northeast, Southeast, Northwest, and Southwest Regions
Deputy Regional Commissioners for Northeast, Southeast, Northwest, and Southwest Regions
Associate Deputy Regional Commissioners, Management, for Northwest, Southeast, Northeast, and Southwest Regions

(xxi) Law Enforcement Assistance Administration

Special Assistants to the Administrator and the Deputy Administrators
Director, Executive Secretariat
General Counsel
Director, National Institute of Law Enforcement and Criminal Justice
Director, National Criminal Justice Information and Statistics Service
Director, Office of Regional Operations
Inspector General
Comptroller
Director, National Scope Programs
Director, Office of Public Information and Congressional Liaison
Director, Operations Support
Director, Planning and Management
Regional Administrators
Director, Office of Civil Rights Compliance
Director, Office of Equal Employment Opportunity
All Deputy Directors of the above offices
Employees classified at GS–13 or above who are in positions involving: (1) Contracting or procurement or (2) administering, auditing or monitoring grants and contracts

* * * * *

Dated: May 2, 1974.

WILLIAM B. SAXBE,
Attorney General.

[FR Doc.74–10674 Filed 5–8–74;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 22, Rev.]

PART 282—UNIFORM SYSTEM OF ACCOUNTS FOR MARITIME CARRIERS

On October 16, 1973, there was published in the FEDERAL REGISTER (38 FR 28682) a notice of proposed rulemaking with a proposed revision of the Uniform System of Accounts (46 CFR Part 282). The proposed revision would make substantial changes in the Uniform System of Accounts, which sets forth the manner in which operators contracting with the Maritime Administration under Titles VI and VII of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1171–1183, 1191–1206) shall keep their books, records and accounts relating to the maintenance, operation and servicing of vessels, services, routes and lines covered by such contracts. Careful consideration has been given to all comments received with respect to the proposed revision.

As a result of comments received, the following changes and additions are made to the revision as proposed:

(1) The port cost center has been subdivided into port and terminal cost centers.

(2) Account numbers for direct vessel expenses (701–749) have been revised to coincide as closely as possible with the account numbers used in the Uniform System of Accounts prior to this proposed amendment.

(3) Paragraph (k) (2) of the General Instructions has been revised to treat ordinarily delayed items of expense relating to subsidized and unsubsidized voyages alike.

(4) Clearance accounts .001–.095 have been reinstated.

(5) A new control account has been established for accrued liabilities.

(6) A new account for treasury stock transactions has been established.

(7) Account 316 for securities of related companies has been rewritten to comply with Opinion No. 18 of the Accounting Principles Board.

Accordingly, the proposed revision of 46 CFR Part 282 with the changes and additions noted above is hereby adopted.

During an operator's fiscal year beginning on or after January 1, 1974, an operator may employ presently existing accounts and convert its account numbers to conform to this amendment. Thereafter accounts must reflect completely the requirements of 46 CFR Part 282 as herein amended, with the exception of the military expense accounts 764, 766 and 768, until the Maritime Administration shall require the use of these accounts and shall give notice of such requirement in the FEDERAL REGISTER. This requirement will not take effect until the Federal Maritime Commission adopts this Uniform System of Accounts for Maritime Carriers for all operators bidding for Military Sealift Command cargos.

The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Part 282 of Title 46 of the Code of Federal Regulations as hereby revised reads as set forth below:

Effective date. This amendment shall be effective May 9, 1974.

Dated: April 26, 1974.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

Sec.
282.1 In general.

General Instructions.

(A) Definitions.
(B) Records.
(C) Accrued items.
(D) Submission of questions.
(E) Voyage accounts.
(F) Balance sheet accounts.
(G) Conversion of securities.
(H) Contingent assets and liabilities.
(I) Revenue accounts.
(J) Expense accounts.
(K) Extraordinary and prior period items.

Balance sheet accounts.

(A) ASSET ACCOUNTS.

ACCOUNT

100 Cash.
101 Cash on deposit—domestic.
106 Cash on deposit—foreign.
111 Imprest and petty cash funds.
114 Cash on hand and in transit.
115 Special cash deposits.
120 Marketable securities.
129 Discounts and premiums on marketable securities.
130 Notes receivable.
140 Notes receivable—affiliates.
150 Accounts receivable.
151 Traffic accounts receivable—U.S. Government.
152 Traffic accounts receivable—other.
153 Accounts receivable—affiliates.
155 Claims receivable.
160 Accounts receivable—Maritime Administration—operating-differential subsidy.

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Sec.
161 Accounts receivable—Maritime Administration—construction - differential subsidy.
162 Accounts receivable—Maritime Administration—other.
165 Accounts receivable—miscellaneous.
168 Accrued accounts receivable.
169 Estimated allowances for doubtful notes and accounts receivable.
170 Inventories—shoreside.
171 Vessels atores, supplies, and equipment ashore.
172 Other shipping inventories.
173 Non-shipping inventories for sale.
174 Non-shipping inventories for consumption.
175 Miscellaneous inventories.
190 Other current assets.
191 Prepaid current insurance.
192 Advances to officers and employees for expenses.
193 Other prepaid current expenses.
199 All other current assets.
200 Deferred expenses—unterminated voyages.
300 Special funds and deposits.
301 Capital reserve fund.
302 Capital construction fund.
303 Construction reserve fund.
304 Interest accruals for deposit in statutory funds.
305 Insurance funds.
306 Debt retirement funds.
307 Escrow funds.
308 Construction funds.
309 Other special funds.
310 Restricted funds.
312 Special and guaranty deposits.
315 Investments.
316 Securities of related companies.
319 Non-current notes receivable—affiliated companies.
320 Non-current accounts receivable—affiliated companies.
325 Cash value of life insurance policies.
328 Other investments.
330 Property and equipment.
331 Floating equipment—vessels.
332 Accumulated depreciation—vessels.
335 Floating equipment—barges.
336 Accumulated depreciation—barges.
337 Other floating equipment.
338 Accumulated depreciation—other floating equipment.
341 Containers.
342 Accumulated depreciation—containers.
343 Refrigerated containers.
344 Accumulated depreciation—refrigerated containers.
345 Container related equipment.
346 Accumulated depreciation—container related equipment.
347 Chassis and trailer equipment.
348 Accumulated depreciation—chassis and trailer equipment.
349 Terminal property and equipment.
350 Accumulated depreciation—terminal property and equipment.
351 Other shipping property and equipment.
352 Accumulated depreciation—other shipping property and equipment.
353 Non-shipping property and equipment.
354 Accumulated depreciation—non-shipping property and equipment.
355 Office leaseholds and leasehold improvements.
356 Accumulated amortization—office leaseholds and leasehold improvements.
357 Terminal leaseholds and leasehold improvements.
358 Accumulated amortization—terminal leaseholds and leasehold improvements.
359 Construction work in progress.
360 Other assets.
361 Claims pending.
362 Spare parts on which construction-differential subsidy has been paid.
363 Spare parts—other.
364 Notes and accounts receivable from officers and employees.
367 Deferred operating—differential subsidy receivable.
368 Other non-current notes and accounts receivable.
370 Maritime Administration allowance for obsolete vessels.
374 Miscellaneous other assets.
375 Deferred charges and prepaid expenses.
376 Prepaid long-term insurance.
384 Debt discount and expense.
385 Organization expenses.
389 Deferred prepayments and other deferred charges.
390 Goodwill and other intangible assets.
391 Goodwill.
398 Other intangible assets.
399 Accumulated amortization—other intangible assets.

(B) Liability Accounts

ACCOUNT

400 Notes payable.
401 Bank loans.
410 Insurance notes.
414 Other short-term notes.
415 Notes and accounts payable—affiliates.
420 Accounts payable.
421 Accounts payable—trade.
422 Accounts payable—traffic.
428 Accounts payable—officers and employees.
430 Accounts payable—Maritime Administration.
431 Pension and welfare funds payable.
438 Dividends payable.
439 Accounts payable—miscellaneous.
440 Accrued liabilities.
441 Accrued voyage payrolls.
442 Accrued payrolls—other.
443 Accrued liability for Federal income taxes.
444 Accrued liability for state and local taxes based upon income.
445 Accrued liability for foreign taxes.
446 Accrued liability for payroll taxes.
447 Accrued liability for other taxes.
459 Other accrued accounts payable.
479 Other current liabilities.
495 Advance ticket sales and deposits.
500 Deferred revenues—unterminated voyages.
525 Long-term debt.
526 Mortgage notes—Maritime Administration.
527 U.S. Government insured or guaranteed merchant marine bonds and notes.
530 Other bonds and debentures.
534 Other long-term debt.
540 Other long-term liabilities.
541 Non-current notes and accounts payable—affiliates.
549 Non-current notes and accounts payable—officers and employees.
550 Recapturable profits—Maritime Administration.
554 Miscellaneous other long-term liabilities.
555 Deferred credits.
556 Premium on funded debt.
563 Accumulated deferred income taxes.
564 Miscellaneous deferred credits.
565 Estimated operating allowances.
566 Estimated allowances for repairs.
570 Estimated allowances for insurance.
579 Estimated operating allowances—miscellaneous.
580 Owner's equity.
581 Capital stock issued and outstanding.
585 Capital stock subscribed.
587 Discount on capital stock.
590 Additional paid-in capital.
591 Treasury stock.
598 Retained earnings—restricted.
599 Retained earnings—unrestricted.

Revenue accounts.

(A) Ordinary Items

ACCOUNT

600 Vessel revenue.
601 Freight—foreign.
605 Freight—coastwise and intercoastal.
608 Passenger—foreign.
612 Passenger—coastwise and intercoastal.
620 Charter revenue.
624 Other voyage revenue.

(B) Subsidies

ACCOUNT

625 Operating-differential subsidy.

(C) Other Shipping Revenue

ACCOUNT

640 Collections from pools.
645 Revenue from terminal operations.
650 Revenue from cargo handling operations.
655 Revenue from tug and lighter operations.
660 Revenue from container related operations.
665 Revenue from other shipping operations.
670 Agency fees, commissions, and brokerage earned.

(D) Other Revenue Accounts

ACCOUNT

675 Interest income.
685 Dividend income.
690 Miscellaneous other income.
691 Release of premium on long-term debt.
695 Revenue from non-shipping operations.
697 Income from affiliated companies.

Operating expenses.

(A) Direct Vessel Expenses

ACCOUNT

701 Crew wages.
703 Crew fringe benefits.
704 Union payments unrelated to the crew.
708 Payroll taxes.
710 Domestic subsistence.
714 Foreign subsistence.
715 Domestic consumable stores, supplies and equipment.
716 Foreign consumable stores, supplies and equipment.
725 Other maintenance expense.
730 Insurance—hull and machinery.
732 Insurance—protection and indemnity.
734 Insurance—other marine-risk.
735 Vessel fuel.
740 Vessel repairs—domestic.
741 Vessel repairs—foreign.
742 Depreciation—vessels.
743 Time and trip charter hire.
744 Time and trip charter hire—affiliates.
745 Short-term bareboat charter hire.
746 Short-term bareboat charter hire—affiliates.
747 Long-term bareboat charter hire.
748 Long-term bareboat charter hire—affiliates.
749 Other vessel expenses.

(B) Allocated Voyage Expense

ACCOUNT

750 Allocated container and barge expense.
751 Allocated terminal expense.

(C) Port Expense

ACCOUNT

752 Cargo handling—loading/discharging.
753 Cargo handling—loading/discharging barges.
754 Cargo handling—container yard.
755 Cargo handling—container freight station.
756 Cargo handling—lighter freight station.
757 Cargo handling—lighter consolidation.
758 Cargo handling—commercial cargo.
759 Cargo handling—other.
762 Purchased off-dock container freight station services.
763 Port transportation expense—commercial.
764 Port transportation expense—military.
765 Inland transportation expense—commercial.
766 Inland transportation expense—military.
767 Substituted service transportation expense—commercial.
768 Substituted service transportation expense—military.
770 Wharfage and dockage.
771 Other port expenses.
772 Port costs of passenger operations.
773 Transit canal tolls.

(D) Idle Vessel Expense

ACCOUNT

801 Crew wages.
803 Crew fringe benefits.
804 Union payments unrelated to the crew.
808 Payroll taxes.
810 Subsistence.
815 Consumable stores, supplies and equipment.
825 Other maintenance expense.
830 Insurance—hull and machinery.
832 Insurance—protection and indemnity.
834 Insurance—other marine-risk.
835 Vessel fuel.
840 Vessel repairs.
842 Depreciation—idle vessels.
843 Time and trip charter hire.
844 Time and trip charter hire—affiliates.
845 Short-term bareboat charter hire.
846 Short-term bareboat charter hire—affiliates.
847 Long-term bareboat charter hire.
848 Long-term bareboat charter hire—affiliates.
849 Other vessel expense.

(E) Terminal Expense

855 Terminal operations expense—container yards.
856 Terminal operations expense—container freight station/breakbulk.
857 Terminal operations expense—barges.
858 Terminal operations expense—other.
859 Depreciation—terminal property and equipment.
860 Amortization—terminal leaseholds and leasehold improvements.
861 Other expense—terminal equipment.
862 Operating expense of tug and barge operations.
863 Maintenance expense of tug and barge operations.
864 Depreciation—other floating equipment.
866 Allocated terminal expense—contra.

(F) Container/Barge Expense

867 Container rental and lease expense.
868 Container rental and lease expense—affiliates.
869 Refrigerated container rental and lease expense.
870 Refrigerated container rental and lease expense—affiliates.
871 Chassis rental and lease expense.
872 Chassis rental and lease expense—affiliates.
873 Trailer rental and lease expense.
874 Trailer rental and lease expense—affiliates.
875 Barge rental and lease expense.
876 Barge rental and lease expense—affiliates.
877 Container related equipment rental and lease expense.
878 Container related equipment rental and lease expense—affiliates.
879 Other cargo handling equipment rental and lease expense.
880 Other cargo handling equipment rental and lease expense—affiliates.
881 Depreciation—container.
882 Depreciation—refrigerated containers.
883 Depreciation—chassis and trailer equipment.
885 Depreciation—barges.
886 Depreciation—container related equipment.
888 Other expense—containers.
889 Other expense—refrigerated containers.
890 Other expense—chassis.
891 Other expense—trailers.
892 Other expense—barges.
893 Other expense—other container equipment.
894 Other expense—other cargo handling equipment.
899 Allocated container/barge expense—contra.

(G) Administrative and General Expenses

901 Compensation of officers and directors.
902 Salaries and wages of employees.
903 Fringe benefits.
905 Legal fees.
906 Accounting and auditing fees.
907 Other professional fees.
910 Rental expense.
912 Utilities.
915 Communication expense.
920 Office expense.
923 Data processing equipment rental expense.
925 Dues and subscriptions.
926 Donations and contributions.
929 Entertainment and solicitation.
930 Travel expense.
931 Insurance expense.
934 Repairs and maintenance.
940 Management fees and commissions—affiliates.
941 Management fees and commissions—other.
945 Advertising—passenger.
946 Advertising—other.
950 Freight brokerage.
951 Passenger brokerage.
952 Agency fees and commissions.
955 Contributions to pools:
960 Interest expense.
961 Interest expense—affiliates.
965 Doubtful notes and accounts receivable.
970 Depreciation—other shipping property and equipment.
971 Depreciation—non-shipping property and equipment
975 Amortization—office leaseholds and leasehold improvements.
976 Amortization — debt discount and expense.
977 Amortization—organization expense.
979 Miscellaneous amortization expense.
980 Expense of non-shipping operations.
985 Income taxes accrued on ordinary income.
986 Provision for deferred income taxes.
987 Income taxes on extraordinary items.
988 Provision for deferred income taxes — extraordinary items.
989 Other taxes.
990 Miscellaneous expense.
995 Extraordinary Items.

Appendix

Clearance Accounts

.001 Masters and pursers.
.005 Allotments on wages of crews.
.010 Agents and branch houses.
.012 Sub-agency operations.
.015 Related companies; accounts current.
.025 Collections and deposits for passenger transportation.
.030 Collections on unrecorded freight manifests.
.035 Advance and prepaid beyond charges, and miscellaneous manifested items.
.040 Bar accounts.
.045 Slop chest account.
.050 Foreign exchange account.
.055 Pool participation.
.060 Stores, supplies, and equipment aboard vessels.
.095 Profit and loss account.

Financial Statements.

(A) Balance sheet.
(B) Income statement.
(C) Waterline operating revenue and expense.
(D) Vessel operating statement.

AUTHORITY: Section 204(b) of Pub. L. 74-835, 49 Stat. 1987, as amended (46 U.S.C. 1114), sec. 801 of Pub. L. 74-835, 49 Stat. 2011, as amended (46 U.S.C. 1211).

§ 282.1 In general.

(a) *Purpose.* The purpose of this Part is to provide a Uniform System of Accounts for Maritime Carriers to be followed by certain designated operators.

(b) *Scope.* Operators of all vessels receiving operating-differential subsidy pursuant to Title VI of the Merchant Marine Act, 1936, as amended (sections 601-606, 608-610; 49 Stat. 2001-2007; 46 U.S.C. 1171-1180) shall be required to keep books, records and accounts relating to such subsidized vessels as prescribed in this part, except operators receiving operating-differential subsidy for the carriage of bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics pursuant to Part 294 of this chapter. Operators under Part 294 which otherwise are not receiving operating-differential subsidy shall not be required to follow the requirements of this part, except as prescribed in § 294.15 of this chapter. Other operators may be required by contract or regulation to conform to the accounting system prescribed by this part.

(c) *Other requirements.* The books, records and accounts referred to in this section shall be retained in accordance with the provisions of § 380.24 of this chapter.

(d) *Transitional rule.* The Uniform System of Accounts for Maritime Carriers prescribed herein shall be adopted by affected operators at the start of their Fiscal Year beginning on or after January 1, 1975. During the operator's fiscal year beginning on or after January 1, 1974, the operator may employ presently existing accounts and merely convert its account numbers to conform to this revision. Thereafter, accounts must reflect completely the requirements of this Part, with the exception of the military expense accounts 764, 766 and 768, until the Maritime Administration shall require the use of these accounts and shall give notice of such requirement in the FEDERAL REGISTER. This requirement will not take effect until the Federal Maritime Commission adopts this Uniform

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System of Accounts for Maritime Carriers for all operators bidding for Military Sealift Command cargos.

General Instructions

(A) Definitions.

(1) "Additions" means structures, facilities, or equipment added to those in service and not replacing property or equipment previously in service.

(2) "Affiliated companies" or "affiliates" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the accounting carrier. Where reference is made to control (in referring to a relationship between any person or persons and other person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

(3) "Barge" means a cargo carriage technology type known as a lighter, used in the operation of LASH, SEABEE or similar operation to hold bulk, break bulk, and containerized cargo, and which may be stowed in holds or on deck, and which has the capability of floating on water and being towed from one location to another.

(4) "Break-bulk" means a cargo carriage technology type referring to cargo which is unitized by bagging, drumming, palletizing, or some other similar method, and is transported in holds of vessels without benefit of containers or barges.

(5) "Bulk" means a cargo carriage technology type referring to cargo which is not palletized, bagged, drummed, or otherwise unitized, and is transported in holds of vessels without benefit of containers or barges. Bulk cargo is considered barge cargo when it is placed in barges.

(6) "Cargo carriage technology type (CCTV)" means the classification of cargo for accounting purposes by its mode of carriage, including:

(i) Barge,

(ii) Break-bulk,

(iii) Bulk,

(iv) Container, and

(v) Vehicle.

(7) "Container" means a cargo carriage technology type referring to cargo carrying receptacle, either refrigerated, dry, or liquid, open top, flat rack, or of other configuration, which may be stowed in vessels or on deck, but which is not used as a floating vehicle which may be towed from one location to another.

(8) "Current assets" means cash other than cash held in special funds, as well as those assets that are readily convertible into cash, held for current operation, and other amounts accruing to the carrier and subject to settlement within one year from date of the balance sheet.

(9) "Current liabilities" means those obligations the amounts of which are definitely determined or can be closely estimated and which are either matured at the date of the balance sheet or become due upon demand or within one year from the date of the balance sheet.

(10) "Debt expense" means all expense in connection with the issuance and sale of evidences of long-term debt, such as fees for drafting mortgages and trust deeds; fees and taxes for issuing or recording evidences of debt; cost of engraving and printing bonds, certificates of indebtedness, and other evidences of debt; fees paid trustees; specific cost of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters, brokers, and salesmen for marketing evidences of debt; fees and expenses of listing on exchanges; and other like costs.

(11) "Discount", as applied to securities issued or assumed by the carrier, means the excess of the par or face value of the securities, over the cash value of the consideration received from the sale, plus interest or dividends accrued to the date of the sale.

(12) "Nonshipping property" means property neither used in nor held for use by the carrier in the conduct of its shipping operation.

(13) "Port expense" means an expense incurred as a direct result of the movement of cargo to and from ships and the expenses incurred in the docking and undocking of ships.

(14) "Terminal expense" means all expenses related to maintaining terminals for handling breakbulk, containers, vehicles and barges and the costs of tug, other barge operations and other floating equipment.

(15) "Premiums", as applied to securities issued or assumed by the carrier, means the excess of the cash value of the consideration received at their sale over the sum of their par or face value plus interest or dividends accrued to the date of sale.

(16) "Vehicle" means a cargo carriage technology type referring to cargo carrying receptacles or containers only when mounted on wheeled chassis which can be towed as a unit.

(17) "Shipping property" means property which is used or held for use by the carrier in the conduct of its shipping operation.

(18) "Vessel expense" means an expense incurred as a direct result of owning and operating vessels in the carriage of cargo or passengers in domestic or foreign trade, whether the vessel is in port or at sea.

(B) Records.

(1) The carrier's accounting records shall be kept in sufficient detail to show fully the facts pertaining to all entries in its accounts.

(2) Where the general ledger book entries do not contain complete information they shall be supported by other detailed records, and cross-referenced for ready identification.

(3) All records shall be filed and readily accessible for examination.

(4) All accounts reported shall conform in number and title to those prescribed in this part.

(5) Accounts included in this system may be subdivided if such subaccounts do not impair the integrity of the accounts or records prescribed in this part.

(6) Transactions shall be recorded currently so that whenever possible all transactions applicable to each month are identifiable to that month.

(C) Accrued items.

(1) When it is known that a transaction has occurred but the amount involved and its effect upon the accounts cannot be determined with absolute accuracy, the amount thereof shall be estimated and included in the appropriate revenue, expense and balance sheet accounts. Any such estimate shall be adjusted as soon after the actual amount is determined as is practicable.

(2) Accruals shall not be recorded for purely speculative items, but shall be limited to reasonable estimates based on reliable information of transactions that have been consummated.

(D) Submission of questions.

To promote and maintain uniformity of accounting, carriers shall submit all questions involving an interpretation of the accounting regulations for consideration and decision to the agency having jurisdiction over the carrier's accounts.

(E) Voyage accounts.

(1) The carrier shall keep its records in a manner that will report with respect to operating revenue, operating expense, and other accounts affected, the revenues accrued and the expenses incurred for each terminated voyage of its vessels operated.

(2) The revenues and expenses applicable to unterminated voyages at the end of an accounting period shall be transferred to account 500, "Deferred revenues—unterminated voyages" and account 200, "Deferred expenses—unterminated voyages."

(F) Balance sheet accounts.

The balance sheet accounts are intended to disclose the financial condition of the carrier as of a given date by showing the assets, liabilities, and owner's equity.

(G) Conversion of securities.

Journal entries which record the retirement of capital stock or funded debt securities by issuing in exchange the carrier's capital stock or funded debt shall be submitted to the Interstate Commerce Commission for approval before being recorded upon the books by carriers reporting to that Commission.

(H) Contingent assets and liabilities.

Contingent assets and liabilities shall not be recorded in the accounts; however, appropriate footnote disclosures shall be included as an integral part of the financial statements in order to present fairly the financial position of the carrier as of the balance sheet date. Disclosure of lease commitments by lessee shall include information required by opinion number 31 of the Accounting Principles Board with respect to total rental expense, minimum rental commitments, present value of commitments and additional disclosures. Those companies subject to the regulations of the Security and Exchange Commission (SEC) shall disclose the information required by (SEC) Regulation S–X.

(I) Revenue accounts.

(1) The revenue accounts are designed to show the amount of revenue which the carrier becomes entitled to receive from furnishing of transportation service, including services incidental thereto.

(2) The accounting for operating revenues shall be coincident with the transactions which create them. For the purpose of meeting this requirement, the carrier shall account for revenues upon an accrual basis.

(J) Expense accounts.

(1) The expense accounts are designed to show expenses of the carrier in furnishing transportation service including services incidental thereto, such as the expenses of utilization (repairs and depreciation) of the property used in such service.

(2) The accounting for expenses shall be coincident with the transactions which create them; expenses and revenues shall be matched. For the purpose of meeting this requirement, the carrier shall account for expenses on an accrual basis.

(K) Extraordinary and prior period items.

(1) *In general*—(i) *Extraordinary items.* All items of revenue and expense recognized during the year are includable in ordinary income unless the evidence clearly supports its classification as an extraordinary item as defined in authoritative accounting pronouncements. Such items are rare and should be classified separately in the income statement if material in relation to income before extraordinary items, or if material by other appropriate criteria. Circumstances which give rise to extraordinary items are those such as an act of God, an expropriation or a prohibition under a newly enacted law or regulation, provided such events clearly meet the criteria of being both unusual in nature and infrequent in occurrence. The characteristics of the particular business environment must be taken into account in determining extraordinary items. Items so excludable from ordinary income are to be entered, less applicable income taxes, directly in the account provided for extraordinary items upon approval or direction of the Maritime Administration.

(ii) *Prior period items.* Adjustments related to prior periods—and thus excluded in the determination of net income for the current period—are limited to those material adjustments which (A) can be specifically identified with and directly related to the business activities of particular prior periods, (B) are not attributable to economic events occurring subsequent to the date of the financial statements for the prior period, (C) depend primarily on determination by persons other than management, and (D) were not susceptable of reasonable estimation prior to such determination.

(iii) *Material items.* Material items are those which, unless excluded from ordinary income, would distort the accounts and impair the significance of ordinary income for the year. In determining materiality, the effects of related transactions arising from a single specific and identifiable event or plan of action that meet the criteria for an extraordinary item should be aggregated; otherwise an extraordinary item should be considered individually. As a general standard, an item to qualify for inclusion as an extraordinary or prior period item, shall exceed 1 percent of total waterline operating revenues and 10 percent of ordinary income for the year.

(2) Ordinary delayed items and adjustments arising during the current year which are applicable to voyages terminated in prior years or which are otherwise related to transactions of prior years shall be included as current income and expense but recorded against the vessel and voyage to which they relate. Ordinary delayed items exclude items of the character described in subparagraph (1) of this paragraph.

282.3 Balance Sheet Accounts.

(A) Asset Accounts

ACCOUNT

100 Cash.

(a) This account shall include the amount of current funds available for use on demand in the hands of financial officers or deposited in banks or trust companies including cash in transit for which agents or others have received credit. Cash appropriated for replacement, debt retirements, funded reserves, etc., and cash on deposit to guarantee performance of agreements shall be carried in appropriate accounts numbered 115 and 301 to 312, inclusive. If the withdrawal of any portion of the cash included in this account is restricted for any purpose whatsoever, the balance sheet must carry an appropriate notation to that effect.

(b) This account shall be subdivided into the following sub-accounts: 101, 106, 111, and 114.

101 Cash on deposit—domestic.

This account shall include all cash on deposit in banks in the United States and available for general purposes.

106 Cash on deposit—foreign.

This account shall include all cash on deposit in foreign banks and available for general purposes.

111 Imprest and petty cash funds.

This account shall include cash funds maintained at fixed amounts to be used in making change or in the nature of revolving funds for minor disbursements requiring immediate payment, the funds being regularly reimbursed from the general cash. Subsidiary accounts shall be maintained by agents or by type of fund.

114 Cash on hand and in transit.

This account shall include cash in the hands of financial officers; cash transfers between banks; and cash in transit from agents, branch houses, and employees.

115 Special cash deposits.

(a) This account shall include the amounts of cash on special deposit (other than in special funds or deposits as elsewhere provided) for the payment of dividends, interest, and other debts of a current nature, when such payments are due one year or less from date of deposit; also amounts of cash deposited to insure the performance of contracts to be performed within one year from date of deposit; and other cash deposits of a special nature not provided for elsewhere.

(b) This account shall also include cash realized from the sale of the carrier's securities and deposited with trustees to be held until disbursed for the purpose for which the securities were sold: Provided, that cash held for such purposes, including cash held for redemption of securities, shall be included in the appropriate special funds unless the liability for the disbursement is included under current liabilities.

(c) Cash on deposit in special bank accounts where the funds are available for current requirements shall be included in account 100, "Cash."

120 Marketable securities.

(a) This account shall include the cost of government securities and temporary investments in other readily marketable securities which are available for general purposes of the business. Securities issued or assumed by the carrier or by a related company shall not be included in this account.

(b) Subsidiary accounts shall be maintained as determined necessary.

129 Discounts and premiums on marketable securities.

This account may be charged with accumulation of any discount and may be credited with amortization of any premium on marketable securities, at the time of accrual or collection of interest thereon, with contra entry in Account 675, "Interest income" if it is the practice of the carrier to adjust that account to a yield basis. When the securities are disposed of, any balance applicable thereto in this account shall be transferred to the account in which the cost of such securities is recorded.

130 Notes receivable.

(a) This account shall include the amount of all collectible obligations in the form of short-term notes receivable,

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or other similar evidences (except interest coupons) of money receivable on demand or within one year from date of issue, except notes receivable from related companies subject to current settlement, which shall be included in account 140, "Notes receivable—affiliates."

(b) This account shall be divided into the following sub-accounts:

131 . Miscellaneous notes receivable
135 Subscriptions to capital stock

140 Notes receivable—affiliates.

(a) This account shall include the amount of all obligations in the form of short term notes receivable from related companies which are subject to current settlement.

(b) Items which are not subject to current settlement shall be included in account 319, "non-current notes receivable—affiliated companies."

(c) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

150 Accounts receivable.

This account shall be divided into the following subaccounts: 151–153, 155, 160–162, 165 and 168.

151 Traffic accounts receivable—U.S. Government.

(a) This account shall include accounts receivable from U.S. Government agencies arising incident to the carriage of passengers, excess baggage, freight, and mail.

(b) Subsidiary accounts shall be maintained by individual agencies and by vessels and voyages.

152 Traffic accounts receivable—other.

(a) This account shall include accounts receivable from shippers, consignees, connecting carriers, and others (excluding related companies) arising incident to the carriage of passengers, excess baggage, freight and mail.

(b) Subsidiary accounts shall be maintained by individual debtors and by vessels and voyages.

(c) Receivables from any agent with whom assignments are made to disburse vessels from revenue collections shall not be included in this account, but shall be included in account 010, "Agents and branch houses."

153 Accounts receivable—affiliates.

(a) This account shall include the amounts receivable from related companies which are subject to current settlement, such as balances in open accounts for services rendered, materials furnished, traffic accounts, rents for use of property and similar items; also interest, dividends, loans, notes and drafts for which related companies are liable.

(b) Items which are not subject to current settlement shall be included in account 320, "Non-current accounts receivables—affiliated companies."

(c) Subsidary accounts shall be maintained by companies and shall show all essential details.

155 Claims receivable.

(a) This account shall include claims transferred from account 361, "Claims pending" and other adjusted claims collectible within one year.

(b) Subsidiary accounts shall be maintained in the names of the insurance underwriters, connecting carriers, or other entities with whom the claim has been filed and detailed as to the identity of the claims outstanding within each subsidiary account.

160 Accounts receivable—Maritime Administration—operating-differential subsidy.

This account shall include operating-differential subsidy accruals, expected to be collected within one year.

161 Accounts receivable—Maritime Administration—construction-differential subsidy.

This account shall include construction-differential subsidy accruals.

162 Accounts receivable—Maritime Administration—other.

This account shall include all other current receivables that may arise from transactions between the carrier and the Maritime Administration.

165 Accounts receivable—miscellaneous.

(a) This account shall include all accounts receivable from other than related companies for which no other account is specifically provided, including all amounts receivable from officers, employees and others, which are collectible in the ordinary course of business within one year.

(b) Subsidiary accounts shall be maintained by debtors.

168 Accrued accounts receivable.

(a) This account shall be used for periodic accruals of unmatured receivables such as interest, rents, dividends and charter-hires, provided; the collection thereof is reasonably assured by past experience, anticipated provisions, or otherwise.

(b) This account shall not be charged with accrued interest on securities on deposit in account 301 "Capital reserve fund" and account 302 "Capital construction fund," with accrued receivables from related companies, which are chargeable to account 153, "Accounts receivable—affiliates," or with dividends or other returns on securities issued by the company.

169 Estimated allowances for doubtful notes and accounts receivable.

This account shall be credited at the close of each accounting period with the amount charged to account 965 "Doubtful notes and accounts receivable" to provide for estimated uncollectible notes and accounts. For balance sheet purposes, the balance in this account shall be segregated between current and non-current items.

170 Inventories—shoreside.

(a) This account shall include the cost of all unissued and unapplied materials, articles in process of manufacture by the carrier, fuel, tools, stationery, and other stores and supplies, but excluding fuel, stores, and supplies on board vessels, and spare parts includable in account 362 "Spare parts on which construction-differential subsidy has been paid" and account 363 "Spare parts—other."

(b) The costs chargeable to this account are the actual costs of the material and supplies at point of free delivery, plus custom duties, sales and other taxes, insurance, inspection, special tests, loading and unloading, and transportation charges paid from the free point of delivery to the carrier's line. No charge shall be made to this account for the cost of transporting material and supplies when performed by the carrier.

(c) An annual inventory of material and supplies shall be taken, except in instances where inventories are waived by the Interstate Commerce Commission or the Maritime Administration, and the necessary adjustments made to bring this account into harmony with the actual inventory balance. In effecting such adjustments, differences for important classes of material shall be equitably assigned among the accounts to which such classes are ordinarily chargeable.

(d) This account shall be divided into the following sub-accounts: 171–175.

171 Vessels stores, supplies, and equipment ashore.

(a) This account shall include the cost of all stores, supplies, and equipment held for delivery to vessels including quantity purchases warehoused and delivered to vessels as required.

(b) Subsidiary accounts shall be so maintained as to show location of inventories.

172 Other shipping inventories.

(a) This account shall include the cost of all stores, supplies, and equipment held for use in the conduct of the shipping business, including terminal, cargo handling, tug and lighters, and other incidental shipping operations, for which no other account is specifically provided.

(b) Subsidiary accounts shall be maintained to show location of inventories.

173 Non-shipping inventories for sale.

This account shall include inventories of merchandise for sale by firms engaged in non-shipping enterprises and shall be maintained so as to show separately the major classes of inventory such as raw materials, work in process, and finished goods.

174 Non-shipping inventories for consumption.

This account shall include the cost of all stores, supplies and equipment, held for use in the conduct of non-shipping enterprises, other than merchandise for sale.

175 Miscellaneous inventories.

This account shall include the cost of all stores, supplies and equipment acquired for use in the conduct of the business which cannot be allocated as between shipping and non-shipping enterprises.

190 Other current assets.

This account shall be divided into the following sub-accounts: 191–193 and 199.

191 Prepaid current insurance.

This account shall include the unexpired amount of insurance premiums paid, or recorded as a liability in advance of payment, but only to the extent that such premiums apply to the period within one year of the date of the balance sheet and are properly chargeable within that period to appropriate 700, 800 or 900 series of accounts. This account shall be subdivided to show separately prepayments on the several classes of insurance.

192 Advances to officers and employees for expenses.

(a) This account shall include all amounts advanced to officers and employees for travel, entertainment, and similar expenses, from which such expenses are to be paid and accounted for. This account shall not include imprest and petty cash funds in fixed amounts held by employees and branch offices for the purpose of making minor expenditures.

(b) Subsidiary accounts shall be maintained by officers and employees, agents or branch offices.

193 Other prepaid current expenses.

This account shall include the amount of prepaid current expenses, such as interest, taxes, rentals, advertising, charter hire, and similar expense not otherwise specifically provided for, but only to the extent that such prepayments apply to the period within one year from the date of the balance sheet and are properly chargeable within that period to appropriate 700, 800 or 900 series of accounts. Minor items may be charged directly to the appropriate expense accounts.

199 All other current assets.

This account shall include the amount of assets of a current nature not includable in any of the foregoing current asset accounts. Subsidiary accounts shall be maintained so as to show separately each class of other current assets.

200 Deferred expenses—unterminated voyages.

When the accounts are maintained on a terminated voyage basis, the expense of voyages in progress at the end of an accounting period shall be transferred to this account from the related voyage expense accounts. Detail coding shall be maintained by individual vessel and related voyage.

300 Special funds and deposits.

This account shall be divided into the following sub-accounts: 301–310, and 312.

301 Capital reserve fund.

This account shall be subdivided as follows:

(a) *301–1 Cash and securities—non-trust.* This account shall be charged with cash and the value of securities approved for deposit in this fund, and shall be credited with withdrawals therefrom in accordance with the provisions of section 607(b) of the Merchant Marine Act, 1936, as amended, in effect prior to the enactment of Pub. L. 91–4691 (34 Stat. 1018) and under such rules and regulations as the Maritime Administration may issue from time to time. Subsidiary accounts are to be subdivided as to depositories or trustees, as the case may be, and further subdivided to show the amount of (1) cash and (2) marketable securities, and (3) Current balances of mortgages from the sale of vessels.

(b) *301–2 Discounts and premiums, non-trust.* This account may be charged with accumulation of any discount and may be credited with amortization of any premium on securities, at the time of accrual or collection of interest thereon, with contra entry in account 675, "Interest income," if it is the practice of the carrier to adjust that account to a yield basis. When such securities are disposed of, any balance applicable thereto in this account shall be transferred to account 301–1.

(c) *301–3 Common stock trust.* This account shall be charged with the amount of the non-trust portion of the capital reserve fund transferred to the capital reserve fund—common stock trust, the acquisition cost of common stock in which the trust is invested, the income, capital gains, and other principal, and shall be credited with withdrawals therefrom and capital losses in accordance with the provisions of section 607(d) of the Merchant Marine Act, 1936, as amended, in effect prior to the enactment of Pub. L. 91–469 (84 Stat. 1018) and under such rules and regulations as the Maritime Administration may issue. Subsidiary accounts of the capital reserve fund—common stock trust are to be maintained to record cash, common stocks, and other principal.

302 Capital construction fund.

This account shall be subdivided as follows:

(a) *302–1 Cash and securities.* This account shall be charged with cash and the value of securities deposited in this fund as determined in accordance with 26 CFR 3.2(g) and shall be credited with withdrawals therefrom in accordance with the provisions of section 607 of the Merchant Marine Act, 1936, as amended, and under such rules and regulations as the Maritime Administration may issue either independently or together with the Internal Revenue Service. Subsidiary accounts are to be subdivided as to depositories or trustees, as the case may be, and further subdivided to show the amount of (1) cash, (2) marketable securities and (3) current balances of mortgages from the sale of vessels, and further subdivided in accordance with sub-paragraph 607(e)(1) of the Act—namely, (A) capital account, (B) capital gain account, (C) ordinary income account.

(b) *302–2 Discounts and premiums.* This account may be charged with accumulation of any discount and may be credited with amortization of any premium on securities, at the time of accrual or collection of interest thereon, with contra entry in account 675, "Interest income," if it is the practice of the carrier of the adjust that account to a yield basis. When such securities are disposed of, any balance applicable thereto in this account shall be transferred to account 302–1.

303 Construction reserve fund.

(a) This account shall be charged with cash and the cost of approved securities deposited in such fund, and shall be credited with withdrawals therefrom in accordance with the provisions of section 511 of the Merchant Marine Act, 1936, as amended, and section 112(b) of the Internal Revenue Code, and other Internal Revenue Acts. It shall also include accretions on investments in such fund when retained therein.

(b) Subsidiary accounts are to be maintained as described in account 301.

304 Interest accruals for deposit in statutory funds.

This account shall include the periodic (not less frequent than annual) accruals of interest on cash and securities on deposit in account 301 "Capital reserve fund", account 302, "Capital construction fund" and account 303, "Construction reserve fund" with corresponding credit to account 675, "Interest income."

305 Insurance funds.

(a) This account shall include cash, marketable securities, and other quick assets placed on deposit or in the hands of trustees to guarantee the satisfaction of obligations for losses in instances where the carrier is a self-insurer in whole or in part.

(b) Subsidiary accounts shall be maintained by depositories or trustees, as the case may be, and further subdivided as to (1) cash, (2) marketable securities and (3) other quick assets.

306 Debt retirement funds.

(a) This account shall include cash, marketable securities, and other quick assets placed on deposit or in the hands of trustees as a sinking fund to meet obligations maturing in the future, or to carry out such operations as the retirement of preferred stock or the purchase of serial bonds.

(b) Subsidiary accounts shall be maintained by depositories or trustees, further subdivided to show cash or marketable securities, other quick assets and purposes of the fund.

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307 Escrow Funds.

This account shall be charged with the amounts required to be deposited in the Escrow fund and credited with disbursements therefrom, in connection with the insurance or guarantee of obligations financed by sale of U.S. Government insured or guaranteed obligations, pursuant to the provisions of section 1111 of the Merchant Marine Act, 1936, as amended, the provisions of contracts or agreements entered into and regulations published by the Assistant Secretary of Commerce for Maritime Affairs. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Assistant Secretary for Maritime Affairs may issue.

308 Construction funds.

This account shall be charged with the amounts required to be deposited therein, representing the difference between the principal of insured or guaranteed obligations and the principal amount required to be deposited in the escrow fund or such other amounts required by contracts or agreements, and shall be credited with authorized disbursements therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Assistant Secretary of Commerce for Maritime Affairs may issue.

309 Other special funds.

(a) This account shall include cash, marketable securities, and other quick assets appropriated for replacement of unsubsidized vessels (except instances where account 303 "Construction reserve fund" is applicable), to fund reserves for pensions and any other special funds for which no specific account is provided.

(b) Subsidiary accounts shall be maintained for each class of fund by depositories or trustees, and further subdivided to show (1) cash, (2) marketable securities and (3) other quick assets.

310 Restricted funds.

This account shall be established at the time of the first deposit required therein, and shall be charged with deposits pursuant to the provisions of contracts or agreements. This account shall be credited with authorized withdrawals therefrom. These funds shall be reported separately and maintained in accordance with such rules and regulations as the Assistant Secretary of Commerce for Maritime Affairs may issue.

312 Special and guaranty deposits.

(a) This account shall include cash and marketable securities deposited to guarantee the performance of conference and similar agreements; also deposits in lieu of mortgaged property sold, and other trust deposits, to be held until equivalent property is acquired or pending other disposition. This account shall also include deposits on oil drums, ammonia cylinders and similar equipment.

(b) Subsidiary accounts shall be maintained by depositories.

315 Investments.

This account shall be divided into the following sub-accounts: 316, 319, 320, 325, and 328.

316 Securities of related companies.

This account shall include a company's investments in securities and shall be accounted for: (a) On the equity accounting basis in accordance with opinion number 18 of the Accounting Principles Board when the security held allow significant influence over the investee; (b) on the cost accounting basis when significant influence is not able to be exercised.

319 Non-current notes receivable—affiliated companies.

(a) This account shall include the amounts of all obligations in the form of notes receivable from affiliated companies which are not subject to current settlement; (b) Subsidiary accounts shall be maintained by companies and show all essential details.

320 Non-current accounts receivable—affiliated companies.

(a) This account shall include receivables from affiliated companies for other than services rendered, supplies furnished, and other transactions customarily subject to current settlement.

(b) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

325 Cash value of life insurance policies.

This account shall include the cash surrender value of life insurance policies, under which the carrier is the beneficiary, less the amount of any loans which have been obtained on such policies and not repaid.

328 Other investments.

This account shall include investment advances to companies and individuals, and miscellaneous investments not provided for elsewhere.

330 Property and equipment.

(a) This account shall include the cost of acquisition or construction, including additions and betterments, of property and equipment owned by the carrier.

(b) This account shall be divided into the following subaccounts: 331, 332, 335—338, 341—359.

331 Floating equipment—vessels.

(a) This account shall include the cost of acquistion or construction and related capitalizable costs, including additions and betterments, of vessels and of appurtenances, furniture and fixtures necessary to equip them for service, including inspection, trial runs and tests. This account also includes those costs, if capitalizable for federal income tax determination directly incurred in placing the vessel into active service, limited to the direct vessel operating expense during the period from delivery of the vessel to arrival at the first loading berth.

(b) Capitalizable costs must be determined in accordance with applicable orders, rules and regulations prescribed or adopted by the Maritime Administration. Subsidiary accounts shall be maintained in such manner as to show by vessels the original cost to the carrier and cost of additions and betterments.

332 Accumulated depreciation—vessels.

(a) This account shall be credited with all depreciation on vessels charged to accounts 742 "Depreciation—vessels" and 842 "Depreciation—idle vessels."

(b) Credit to this account applicable to subsidized vessels shall be computed on an estimated useful life of twenty-five years, except in instances where some other basis is specifically authorized by the Maritime Administration, with such allowances for residual values as approved by that Administration, and in accordance with applicable orders, rules and regulations prescribed or adopted by the Maritime Administration. Subsidiary accounts shall be maintained by individual vessel.

335 Floating equipment—barges.

(a) This account shall include the cost of acquisition or construction and related capitalizable costs, including additions and betterments of barges carried aboard vessels (e.g., LASH, SEABEE or other) and of appurtenances and fixtures necessary to equip them for service, including inspection, trial runs and tests.

(b) Subsidiary accounts shall be maintained by the various types of barges.

336 Accumulated depreciation—barges.

(a) This account shall be credited with all depreciation charged to account 885 "Depreciation—barges."

(b) Subsidiary accounts shall be maintained by the various types of barges.

337 Other floating equipment.

(a) This account shall include the cost of construction or acquisition, including additions and betterments, of other floating equipment, such as tugs, barges (other than barges carried aboard vessels which are included in account 335 "Floating equipment—barges"), scows, launches, lighters, floating cranes, etc., and of appurtenances, furniture, and fixtures necessary to equip for service including inspection, trial runs and tests.

(b) Subsidiary accounts shall be maintained in such manner as to show the foregoing information by the various types of other floating equipment.

338 Accumulated depreciation—other floating equipment.

This account shall be credited with all depreciation charged to account 864 "Depreciation—other floating equipment." Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 337, "Other floating equipment."

341 Containers.

(a) This account shall include the cost of construction or acquisition of all types of containers except refrigerated containers used for the shipping of cargo.

(b) Subsidiary accounts shall be maintained by the various types of containers within this category.

342 Accumulated depreciation—containers.

(a) This account shall be credited with all depreciation on containers which is charged to account 881 "Depreciation—containers."

(b) Subsidiary accounts shall be maintained by the various types of containers within this category.

343 Refrigerated containers.

(a) This account shall include the cost of construction or acquisition, including additions and betterments, of all types of refrigerated containers used for the shipping of cargo.

(b) Subsidiary accounts shall be maintained by the various types of containers within this category.

344 Accumulated depreciation—refrigerated containers.

(a) This account shall be credited with all depreciation on refrigerated containers which is charged to account 882 "Depreciation—refrigerated containers."

(b) Subsidiary accounts shall be maintained by the various types of containers within this category.

345 Container related equipment.

This account shall include the cost of construction or acquisition, including additions and betterments of all types of container related equipment, including container cranes, yard container movement equipment, generator sets and other auxiliary equipment and similar equipment.

346 Accumulated depreciation—container related equipment.

This account shall be credited with all depreciation on container related equipment which is charged to account 886 "Depreciation—container related equipment."

347 Chassis and trailer equipment.

(a) This account shall include the cost of construction or acquisition, including additions and betterments, of chassis equipment used in the local drayage and inland movement of cargo and cargo carrying equipment.

(b) Subsidiary accounts shall be maintained by the various types of chassis and trailer equipment within this category.

348 Accumulated depreciation—chassis and trailer equipment.

(a) This account shall be credited with all depreciation on chassis and trailer equipment which is charged to account 883, "Depreciation—chassis and trailer equipment."

(b) Subsidiary accounts shall be maintained by the various types of chassis and trailer equipment.

349 Terminal property and equipment.

(a) This account shall include the cost of construction or acquisition, including additions and betterments, of terminal, land, buildings, stevedoring and other cargo handling gear, repair yards, shore cranes, appurtenances, furniture and fixtures; and other terminal gear and equipment.

(b) Subsidiary accounts shall be subdivided between the various types of property and equipment, and shall be maintained in such manner as to show port location, original cost, and cost of additions and betterments.

350 Accumulated depreciation—terminal property and equipment.

(a) This account shall be credited with all depreciation on terminal property and equipment which is charged to account 859 "Depreciation—terminal property and equipment."

(b) Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 349, "Terminal property and equipment."

351 Other shipping property and equipment.

(a) This account shall include the cost of construction or acquisition, including additions and betterments, of land and buildings, appurtenances, furniture and fixtures, transportation equipment other than barges, containers and chassis and trailer and any other property and equipment used exclusively in shipping and auxiliary operations which are not properly chargeable to accounts 331, 335, 337, 341, 343, 345, 347, and 349.

(b) Subsidiary accounts shall be subdivided between the various types of property and equipment and maintained in such manner as to show location, original cost and cost of additions and betterments.

352 Accumulated depreciation—other shipping property and equipment.

(a) This account shall be credited with all depreciation on other shipping property and equipment (as described in account 351) which is charged to account 970, "Depreciation—other shipping property and equipment."

(b) Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 351, "Other shipping property and equipment."

353 Non-shipping property and equipment.

(a) In instances where companies are engaged in non-shipping enterprises, cost of all property and equipment which can be directly assigned to such non-shipping enterprises shall be included in this account, including cost of additions, betterments, fixtures, furniture and appurtenances.

(b) Subsidiary accounts shall be subdivided between the various types of non-shipping property and equipment, and maintained in such manner as to show location, original cost, and cost of additions and betterments.

354 Accumulated depreciation—non-shipping property and equipment.

(a) This account shall be credited with all depreciation on non-shipping property and equipment which is charged to account 971 "Depreciation—non-shipping property and equipment."

(b) Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 353, "Non-shipping property and equipment."

355 Office leaseholds and leasehold improvements.

(a) This account shall include the cost of acquiring long-term leases of office facilities and the cost of alternations thereto and fixtures installed in lease property.

(b) Subsidiary accounts shall be subdivided between the various types of property and equipment and maintained in such manner as to show location, original cost, and cost of additions and betterments.

356 Accumulated amortization—office leaseholds and leasehold improvements.

This account shall be credited with all amortization on office leaseholds and leasehold improvements which is charged to account 975 "Amortization—office leaseholds and leasehold improvements."

357 Terminal leaseholds and leasehold improvements.

(a) This account shall include the cost of acquiring long-term leases of terminals, the cost of alterations thereto and the cost of fixtures installed in leased terminal property.

(b) Subsidiary accounts shall be maintained by individual terminal.

358 Accumulated amortization—terminal leaseholds and leasehold improvements.

(a) This account shall be credited with all amortization on terminal leasehold and leasehold improvements which is charged to account 860 "Amortization—terminal leasehold and leasehold improvements."

(b) Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting account 357, "Terminal leasehold and leasehold improvements."

359 Construction work in progress.

(a) This account shall be charged with all payments incident to the costs on vessels or other transportation property in process of construction which are capitalized in accordance with generally accepted accounting procedures.

(b) Subsidiary accounts shall be subdivided as between the various kinds of construction, and maintained in such manner as to show type of construction and location. When the construction is completed, the cost thereof shall be

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credited to the account and charged to the appropriate property accounts.

360 Other assets.

This account shall be divided into the following subaccounts: 361–364, 367, 368, 370, and 374.

361 Claims pending.

(a) This account shall include any claims in litigation, and insurance claims in process of compilation or adjustment. After adjudication of claims in litigation, or adjustment of insurance claims, this account shall be credited and a charge made to account 155 "Claims receivable." Deductible average insurance losses (if policies provide deductibles) should at the same time be transferred to account 570 "Estimated allowances for insurance."

(b) Subsidiary accounts shall be subdivided as between hull underwriters, protection and indemnity underwriters, general average claims connecting carriers, and such further classes as may be necessary. Each group of subsidiary accounts shall be maintained by vessels and voyages supported by sufficient detail to permit ready identification and analysis of each claim.

362 Spare parts on which construction-differential subsidy has been paid.

This account shall include the acquisition cost (or other applicable basis) of shore side spare parts and equipment upon which construction-differential subsidy has been paid, such as propellers and tail shafts held for future installation on vessels of the carrier.

363 Spare parts—other.

This account shall include the acquisition cost (or other applicable acquisition basis) of shore side spare parts and equipment for which construction-differential subsidy has not been paid, such as propellers, propeller blades, tail shafts, pumps, rudders, hoisting engines, generators, rotors, anchors, etc. held for future installation on vessels of the carrier, the individual minimum gross book value of which is not less than $1,000.

364 Notes and accounts receivable from officers and employees.

This account shall include all amounts due from officers, directors, and employees other than (a) unpaid subscriptions to capital stock and (b) amounts collectible in the ordinary course of business within one year. Records supporting entries to this account and subsidiary accounts shall be maintained as to show separately such major classes as officers' personal accounts, employees' salary advances, and amounts due for such items as group insurance and retirement annuity deposits. The records referred to in this section shall be retained in accordance with the provisions of § 380.24 of this chapter.

367 Deferred operating-differential subsidy receivable.

This account shall include that part (if any) of accrued operating-differential subsidy receivable, the payment of which is withheld by the Maritime Administration pursuant to Pub. L. 862, 80th Congress, or any subsequent legislation having the same or substantially similar force and effect.

368 Other non-current notes and accounts receivable.

(a) This account shall include all non-current receivables from other than officers, employees, or related companies, which, by agreement, are not collectible within one year. It shall include the non-current portion of Operating-Differential Subsidy due from the Maritime Administration.

(b) Subsidiary accounts shall be maintained by individual debtors.

370 Maritime Administration allowance for obsolete vessels.

This account shall include the gross amounts allowed by the Maritime Administration for obsolete vessels traded in, except where the obsolete vessel is retained under a Use Agreement, in which case this account is charged with the net trade-in allowance. Credit this account and charge account 359 "Construction work in progress" with the amount of progress payments on new construction made by the Maritime Administration for the account of the purchaser (operator).

374 Miscellaneous other assets.

This account shall include the estimated value of salvage recoverable from property retired when the recovery of the salvage is deferred for any reason; funds on deposit with closed banks; and all other deferred items not covered by other deferred asset accounts.

375 Deferred charges and prepaid expenses.

This account shall be divided into the following sub-accounts: 376, 384, 385, and 389.

376 Prepaid long-term insurance.

This account shall include the cost of insurance premiums prepaid or recorded as a liability in advance of payment, but only to the extent that such premiums apply to a period more than one year following the date of the balance sheet. The proportions of the same premium payments properly chargeable to expenses prior to such period are provided for in account 191 "Prepaid current insurance." This account shall be subdivided to show separately prepayments on the several classes of insurance.

384 Debt discount and expense.

(a) This account shall include all discount and expense for all classes of funded debt. The debt and expense shall be amortized periodically over the respective lives of the securities by charge to account 976 "Amortization—debt discount and expense."

(b) When an issue of funded debt, or any part thereof, is refunded and at the date of refunding there is a balance of unamortized discount and expense relating to such issue, such balance, together with any premium paid in retiring such issue, shall be charged to account 990 "Miscellaneous expense" or to account 995 "Extraordinary items," as may be appropriate, in accordance with the text of these accounts.

385 Organization expenses.

This account shall include the unamortized balance of expenses incurred in the formation and development of the business. The balance of this account shall be amortized by annual charges to account 977 "Amortization—organization expense."

389 Deferred prepayments and other deferred charges.

This account shall include the amount of prepaid expenses such as interest, taxes, rentals, advertising, charter hire, and similar expense not otherwise specifically provided for in accounts 384, and 385, but only to the extent that such prepayments apply to a period more than one year following the date of the balance sheet. The proportions of the prepayments and other deferred charges in this account, properly chargeable to expenses prior to such period are provided for in account 193, "Other prepaid current expenses." Minor items and nominal payments covering such expenses may be charged directly to the appropriate expense accounts, even though they relate to periods in excess of one year.

390 Goodwill and other intangible assets.

This account shall be divided into the following sub-accounts: 391, 398 and 399.

391 Goodwill.

This account shall include only Goodwill actually purchased in taking over assets, trade name, etc., calculated to enhance future profits of the business.

398 Other intangible assets.

This account shall include the purchase price or costs of development of such intangible assets as patents, copyrights, operating rights, etc.

399 Accumulated amortization—other intangible assets.

This account shall be credited with all amortization on other intangible assets which is charged to account 979 "Miscellaneous amortization expense."

(B) Liability Accounts

400 Notes payable.

(a) This account shall include the face value of notes, drafts, and other evidences of indebtedness issued by the carrier (except interest coupons) which are payable on demand or within one year.

(b) This account shall be divided into the following subaccounts: 401, 410 and 414.

401 Bank loans.

Subsidiary accounts shall be subdivided by lender to show separately (a) amount secured and (b) amount unsecured.

410 Insurance notes.

This account shall include the face amount of notes issued by the company to cover deferred payments of insurance premiums. This account shall be maintained by creditor to show (a) notes secured and (b) notes unsecured.

414 Other short-term notes.

This account shall include notes payable within one year, for which no other account is specifically provided, but excluding notes issued to related companies. This account shall be maintained by creditor to show (a) notes secured and (b) notes unsecured.

415 Notes and accounts payable—affiliates.

(a) This account shall include notes and accounts payable to affiliated companies which are subject to settlement within one year, such as credit balances in open accounts for services rendered, materials furnished, traffic accounts, claims, rents and for interest, dividends, loans, notes, and drafts.

(b) No amount representing dividends payable shall be included in this account unless they have been declared.

(c) Items which are not subject to current settlement shall be included in account 541 "Non-current payables—affiliated companies."

(d) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

420 Accounts payable.

This account shall be divided into the following sub-accounts: 421, 422, 428, 430, 431, 438, 439.

421 Accounts payable—trade.

This account shall include all liabilities currently due to trade creditors for services rendered and supplies furnished in the general conduct of the business.

422 Accounts payable—traffic.

This account shall include exchange orders and other amounts due connecting carriers, freight and passenger brokerage, amounts due for hotel reservations and sightseeing tours, custodian funds payable such as head taxes, freight and passenger manifest stamp taxes, consular fees; advance, prepaid beyond, and transshipping charges, and claims payable, but excluding amounts due related companies.

428 Accounts payable—officers and employees.

This account shall include amounts due to officers, directors, individual stockholders, and employees, which are payable within one year.

430 Accounts payable—Maritime Administration.

This account shall include all current accounts payable to the Maritime Administration, including accrued interest, that arise from transactions with that agency.

431 Pension and welfare funds payable.

This account shall include the liability of the carrier for the amount of assets (whether contributed by the carrier or by the employees) in the hands of the treasurer or of a trustee or manager as the administrator of employees' pension, savings, relief, hospital, or other association funds.

438 Dividends payable.

This account shall include the amount of dividends declared on actually outstanding capital stock, unpaid at the date of the balance sheet except dividend payable to related companies which shall be reflected in account 415 "Notes and accounts payable—affiliates."

439 Accounts payable—miscellaneous.

This account shall include all current accounts payable to other than related companies, including unclaimed wages, taxes withheld or collected from others for the account of taxing agencies, and other items for which no other account is specifically provided.

440 Accrued Liabilities.

This account shall be divided into the following subaccounts: 441–447 and 459.

441 Accrued voyage payrolls.

This account shall include the accruals of voyage wages payable.

442 Accrued payrolls—other.

This account shall include the accruals of all other wages payable.

443 Accrued liability for Federal income taxes.

This account shall include the accruals for federal income taxes payable.

444 Accrued liability for state and local taxes based upon income.

This account shall include the accruals for state and local income taxes payable based upon income.

445 Accrued liability for foreign taxes.

This account shall include the accruals for foreign taxes payable.

446 Accrued liability for payroll taxes.

This account shall include the accruals for the employer's portion of payroll taxes payable and amounts withheld from employees wages.

447 Accrued liability for other taxes.

This account shall include the accruals for all other taxes payable for which no other account has been specifically provided.

459 Other accrued accounts payable.

(a) This account shall include periodical accruals of amounts payable other than taxes.

(b) Subsidiary accounts shall be maintained as between (1) interest, (2) rentals and (3) such other items as frequently occur.

479 Other current liabilities.

(a) This account shall include all current liabilities for which no other account has been specifically provided.

(b) Subsidiary accounts shall be maintained to show separately each class of current liability.

495 Advance ticket sales and deposits.

(a) This account shall include the credit balance remaining in account 025, "Collections and deposits for passenger transportation," after the balances in the account, have been analyzed and those relating to completed transactions have been transferred to the appropriate other accounts designated in the chart.

500 Deferred revenues—unterminated voyages.

When the accounts are maintained on a terminated voyage basis, the revenue of voyages in progress at the end of an accounting period shall be transferred to this account from the related voyage revenue accounts. Detail coding shall be maintained by individual vessel and related voyage.

525 Long-term debt.

This account shall be divided into the following subaccounts: 526, 527, 530, and 534.

526 Mortgage notes—Maritime Administration.

(a) This account shall include all mortgage notes payable to the Maritime Administration.

(b) Subsidiary accounts shall be maintained by vessel.

527 U.S. Government insured or guaranteed merchant marine bonds and notes.

This account shall include all U.S. Government insured or guaranteed merchant marine bonds and notes issued pursuant to the provisions of contracts or agreements. Subsidiary accounts shall be maintained by vessel.

530 Other bonds and debentures.

This account shall include the face amount of bonds and debentures not provided for in other accounts and shall be maintained to show full particulars in respect to each issue outstanding. Reacquired bonds and debentures shall be charged to this account at face amount.

534 Other long-term debt.

This account shall include all long-term obligations, excluding amounts due related companies, for which no other account has been specifically provided, and shall be subdivided to show separately long-term obligations secured by capital assets and unsecured long-term debt.

540 Other long-term liabilities.

This account shall be divided into the following sub-accounts: 541, 549, 550, and 554.

541 Non-current notes and accounts payable—affiliates.

(a) This account shall include all loans, advances, and other payables to related companies not subject to current settlement.

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(b) Subsidiary accounts shall be maintained by companies and shall show all essential detail.

549 Non-current notes and accounts payable—officers and employees.

This account shall include all notes and accounts payable to officers, directors, individual stockholders, and employees, which by arrangement become due later than one year from the balance sheet date.

550 Recapturable profits—Maritime Administration.

If excess profits accrue to the Maritime Administration under the "recapture" provisions of sections 606 and 607 of the Merchant Marine Act, 1936, as amended, in effect prior to the enactment of Pub. L. 91-469 (84 Stat. 1018), such profits shall be credited to this account at the close of each accounting period within a recapture period, adjusted so as to reflect the net amount of such excess profits accrued to the Maritime Administration as at that date.

554 Miscellaneous other long-term liabilities.

This account shall include all long-term liabilities for which no other account has been specifically provided.

555 Deferred credits.

This account shall be divided into the following subaccounts: 556, 563 and 564.

556 Premium on funded debt.

(a) This account shall include premiums for all classes of funded debt which are to be amortized periodically over the respective lives of the securities by credit to account 691 "Release of premium on long-term debt."

(b) When an issue of funded debt or any part thereof is refunded and at the date of refunding there is a balance of unamortized premium relating thereto, the amount of such balance shall be credited to account 690 "Miscellaneous other income" or account 995 "Extraordinary items," as may be appropriate.

563 Accumulated deferred income taxes.

This account shall be charged or credited with all amounts affecting the determination of deferred income taxes.

564 Miscellaneous deferred credits.

This account shall include all deferred income and unadjusted credits for which no other account is specifically provided.

565 Estimated operating allowances.

This account shall be divided into the following subaccounts: 566, 570 and 579.

566 Estimated allowances for repairs.

(a) This account shall be credited and account 740 "Vessel repairs—domestic" charged, when allowances are provided for equalization of domestic repairs to vessels. As actual domestic repair expenses are incurred, they shall be charged to this account. At the end of the accounting year, after all repair expenses incurred and all commitments against terminated voyages have been recorded, any balance in this account, applicable to terminated voyages shall be distributed equitably to such voyages in account 740, "Vessel repairs—domestic."

(b) Subsidiary accounts shall be maintained by vessel and consecutively by voyage.

(c) Repair expenses incurred at foreign ports shall be charged directly to account 741 "Vessel repairs—foreign."

570 Estimated allowances for insurance.

(a) Agreed amounts for Marine and P&I Insurance deductibles (if provided in the policies) should be charged to each voyage in the appropriate vessel insurance expense account and the corresponding credits posted to this account. When the amount within the deductibles average chargeable against each voyage is determined, it should be transferred from account 361 "Claims pending" as a charge to this account.

(b) This account may also be used for equalization of other insurance risks assumed by the carrier, as for example, self-carried workmen's compensation, and public liability insurance. At the end of each accounting year, any balance in this account applicable to voyages, terminated during the preceding accounting year, in those instances where the records indicate that all claims have been settled, shall be transferred to the appropriate insurance expense account, consistent with paragraph (j) of the General Instructions.

(c) Subsidiary accounts shall be maintained by the various classes of insurance for which provisions are made and shall be arranged by vessel and consecutively by voyage.

579 Estimated operating allowances—miscellaneous.

(a) This account shall include all provisions for the equalization of operating expenses for which no other allowance account is specifically provided.

(b) Subsidiary accounts shall be maintained by the various classes of expense arranged by vessels and consecutively by voyages, or by other accounting units.

580 Owners' equity.

This account shall be divided into the following sub-accounts: 581, 585, 587, 590, 591, 598, and 599.

581 Capital stock—issued and outstanding.

(a) This account shall include the par value, or for stock without par value the stated money value of the consideration received, of capital stock or other form of proprietary interest in the carrier which has been issued to purchasers and has not been reacquired and canceled. It shall also include stock issued representing appropriations of surplus for stock dividends. When capital stock is retired, this account shall be charged with the book value at which such stock is recorded herein.

(b) Recordings supporting the entries to this account shall be maintained to show the various classes and series of capital stock.

(c) A separate record shall be kept for each subclass of stock showing the number of shares authorized by the articles of incorporation and amendments, the number of shares issued, the number of shares reacquired, the number of shares canceled, the number of shares outstanding, and their book value.

585 Capital stock subscribed.

This account shall include the amount of subscriptions to capital stock of the carrier. It shall be credited with the par value, or with the subscription price of stock without par value, exclusive of dividends, if any. Concurrently, account 135 "Subscriptions to capital stock" shall be debited with the agreed price and any discount or premium shall be included in the appropriate account. When properly executed stock certificates are issued, this account shall be debited and account 581 "Capital stock—issued and outstanding" credited.

587 Discount on capital stock.

(a) This account shall include the discount incurred in connection with the sale of capital stock. Records supporting the entries to this account shall be maintained to show the discount and commissions on each class and series of capital stock.

590 Additional paid-in capital.

(a) This account shall include the amount of capital donated or paid-in as additional capital (including premiums and assessments on capital stock) and also gains from reacquired or donated shares of capital stock, from forfeiture of subscriptions and from reduction of the par or recorded value of capital stock.

591 Treasury stock.

This account shall be charged with the acquisition cost of all shares of capital stock of the corporation which have been issued and fully paid and thereafter have been reacquired by the corporation through purchase, donation or otherwise not properly includable in sinking or other funds and have not been formally cancelled in conformance with opinion number 6 of the Accounting Principles Board.

598 Retained earnings—restricted.

(a) Retained earnings restricted from distribution by agreement with others shall be credited to this account with a corresponding charge to account 599 "Retained earnings—unrestricted."

(b) Subsidiary accounts shall be maintained by classes of restrictions.

599 Retained earnings—unrestricted.

(a) All nominal accounts at the end of the accounting year shall be closed to this account.

(b) Any part of retained earnings restricted from payment as dividends shall be charged to this account, including excess profits accruing to the Maritime Administration under the "recapture" clauses in sections 606 and 607 of the

Merchant Marine Act, 1936, as amended, in effect prior to the enactment of Pub. L. 91-469 (84 Stat. 1018), which shall be credited to account 550 "Recapturable profits—Maritime Administration."

(c) This account shall include other adjustments, net of assigned federal income taxes, not provided for elsewhere in this system but only after such inclusion has been authorized by the Maritime Administration.

Revenue Accounts

(A) Ordinary Items

ACCOUNT

600 Vessel revenue.

(a) This account shall be credited with all revenue from vessel operations. Revenue items applicable to voyages in progress at the end of each accounting period shall be transferred to account 500 "Deferred revenues—unterminated voyages." Revenue items arising in connection with voyages terminated in prior years shall be accounted for as ordinary delayed items pursuant to paragraph (k) of the General Instructions.

(b) Subsidiary accounts shall be maintained by vessels and consecutively by voyages, according to the classification of revenues, as shown in the chart of accounts. Subsidiary accounts shall be subdivided according to:

(1) Cargo carriage technology type.

(2) Refrigerated and nonrefrigerated cargoes.

(3) Military procurement from competitive bid systems.

(4) Military other.

(5) Outward, intermediate and inward voyage legs.

(c) For purposes of postings in subsidiary accounts, coastwise and intercoastal service shall be deemed to be all commerce conducted by vessels between points in the United States, including Districts, Territories and possessions thereof embraced within the coastwise laws, and foreign commerce shall be deemed to be all commerce conducted by vessels over the seas other than coastwise and intercoastal commerce. Operators receiving operating-differential subsidy shall expand the subdivision in their subsidiary accounts to show, separately, revenue earned on coastwise and intercoastal legs of voyages as described in section 605(a) of Title VI of the Merchant Marine Act, 1936, as amended, as well as commerce between points in the United States including Districts, Territories, and possessions thereof and Puerto Rico embraced within the coastwise laws.

(d) The same subsidiary ledger forms may be used for both account 500 and account 600, and the sheets may be physically transferred or the totals by classification transferred to new sheets, as the carrier elects.

(e) This account shall be divided into the following subaccounts: 601, 605, 608, 612, 620, and 624.

601 Freight—foreign.

(a) This account shall include all revenue accruing from the transportation of freight based upon tariff rates or in the absence of tariff provisions on basis of contracts.

(b) It will also include the surcharge on freight revenue.

(c) It shall be charged with refunds due to errors in classification or computation of rates and charges; refunds due to errors in routing or shipping freight to the extent not reimbursed by insurance refunds and uncollectible charges on lost, damaged or destroyed freight shipments; and with refunds of overcharges assumed by the carrier under the voucher minimum.

605 Freight—coastwise and intercoastal.

(a) This account shall include all revenue accruing from the transportation of freight based upon tariff rates or in the absence of tariff provisions on the basis of contracts.

(b) It will also include the surcharge on freight revenue.

(c) It shall be charged with refunds due to errors in classification or computation of rates and charges; refunds due to errors in routing or shipping freight; refunds and uncollectible charges on lost, damaged or destroyed freight shipments to the extent not reimbursed by insurance and with refunds of overcharges assumed by the carrier under the voucher minimum.

608 Passenger—foreign.

(a) This account shall include all revenue accruing from the transportation of passengers based upon tariff rates. It shall include the revenue from transportation of passengers, the rental of staterooms, berths, or living accommodations and the furnishing of meals.

(b) The credits to this account shall be subdivided as follows among (1) revenue from passenger fares, (2) revenue from staterooms, (3) revenue from meals, and (4) revenue that cannot be separated among items (1), (2) and (3) of this paragraph.

612 Passenger coastwise and intercoastal.

(a) This account shall include all revenue accruing from the transportation of passengers based upon tariff rates. It shall include the revenue from transportation of passengers, the rental of staterooms, berths, or living accommodations, and the furnishing of meals.

(b) The credits to this account shall be subdivided as follows among (1) revenue from passenger fares, (2) revenue from staterooms, (3) revenue from meals, and (4) revenue that cannot be separated among items (1), (2) and (3) of this paragraph.

620 Charter revenue.

This account shall include revenue from the charter of vessels to others when the amount receivable for charter is not directly related to and dependent upon the commodities and volume transported, such as bareboat and time charters. Compensation is usually based upon daily or monthly hire of the vessel.

624 Other voyage revenue.

This account shall include all revenue accruing from other services by and activities aboard vessels, not otherwise provided for, such as:

Advances, prepaid beyond and manifest transactions, net credit.
Assisting vessels in distress or salvage.
Barber shop and other services to passengers aboard vessels.
Concessions aboard vessels granted to others.
Demurrage and dispatch.
Excess baggage.
Parcel rooms aboard vessels.
Radio service aboard vessels.
Refrigeration aboard vessels.
Rent from steamer chairs and other equipment to passengers.
Sale of periodicals and newsstand supplies to passengers.
Sale of buffet and bar supplies to passengers, net credit.
Sale of slop chest supplies to crew, net credit.
Refreshment, weighing and all other vending machines aboard vessels.

(B) Subsidies

ACCOUNT

625 Operating-differential subsidy.

(a) This account shall be credited with sums accruing to the carrier under the subsidy provisions of the operating-differential subsidy agreement.

(b) Subsidiary accounts shall be maintained by vessels and consecutively by voyages.

(C) Other Shipping Revenues

ACCOUNT

640 Collections from pools.

This account shall be credited with collections for each accounting period in accordance with pooling agreements by transfer from account 055, "Pool participation."

645 Revenue from terminal operations.

(a) This account shall include all revenue derived from the rental, lease, or use by others of the carrier's terminal facilities, including dockage, side wharfage, top wharfage, storage, doorways, lights, water, protective service, refrigeration, precooling, and similar service.

(b) Subsidiary accounts shall be maintained to show separately for each terminal the different kinds of revenues earned.

650 Revenue from cargo handling operations.

(a) This account shall include all revenue derived from the performance by the carrier for others of stevedoring and other cargo handling services, such as checking, tallying, receiving, delivering, coopering, loading, and discharging cargo; also use of gear, equipment, etc.

(b) Subsidiary accounts shall be maintained to show separately for each port the different kinds of revenues earned.

655 Revenue from tug and lighter operations.

(a) This account shall include all revenue derived from services performed for others by the carrier's tugs, lighters, barges, scows, launches, floating cranes and other equipment, including rental and charter hire for use of such equipment.

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(b) Subsidiary accounts shall be maintained to show separately for each port the different kinds of revenues earned.

660 Revenue from container related operations.

This account shall include all revenue derived from container related operations such as income from inland haulage of military containers, container detention charges and container interline billings.

(b) Subsidiary accounts shall be maintained to show separately for each port the different kinds of revenues earned.

665 Revenue from other shipping operations.

(a) This account shall be credited with gross revenue derived from the performance of repairs, and any other services or operations for others which are incidental to the shipping business and for which no other account is specifically provided.

(b) Subsidiary accounts shall be maintained to show separately for each port the different kinds of revenues earned.

670 Agency fees, commissions, and brokerage earned.

(a) This account shall include revenues received from others covering gross agency fees, commissions, and brokerage, less amounts paid to sub-agents therefrom.

(b) Subsidiary accounts shall be maintained by offices, and postings shall show sources of earnings and classification thereof such as agency fees, management and operating commissions, freight brokerage, passenger brokerage, and names of sub-agents in instances where such payments are charged to this account.

(D) OTHER REVENUE ACCOUNTS

ACCOUNT

675 Interest income.

(a) This account shall be credited with all interest accrued. This account shall be charged with amortization of any premium and shall be credited with accumulation of any discount on securities at the time of accrual or collection of interest thereon.

(b) Interest shall not be credited before actual collection unless its payment is reasonably assured by past experience, guaranty, anticipated provisions, or otherwise.

(c) This account shall not include interest on securities issued or assumed and owned by the carrier.

(d) This account shall be divided into sub-accounts representing sources of significant interest income. Interest from affiliated companies must be identified.

685 Dividend income.

(a) This account shall be credited with all dividends received. Dividends may be credited prior to actual collection if their payment is reasonably assured by past experience, guaranty, anticipated provisions, or otherwise. This account shall not include dividends on the carrier's own capital stock.

(b) This account shall be divided into sub-accounts representing sources of significant dividend income.

690 Miscellaneous other income.

(a) This account shall include all income not provided for elsewhere, such as:

Gain from conversion of foreign currencies (Transferred from account 050, "Foreign exchange account")
Fees collected in connection with exchange of coupon bonds for registered bonds
Gain from sale of securities
Gain from sale of shipping and nonshipping property
Gain from company bonds reacquired

(b) When the gain from the sale of property, equipment or securities, or from reacquisition of the company's own bonds is of an amount sufficiently large to constitute an extraordinary item, pursuant to paragraph (k), of the General Instructions, such gain shall be credited to account 995, "Extraordinary items."

691 Release of premium on long-term debt.

This account shall include for each fiscal period such proportion of the premium on funded debt as is transferred from account 556, "Premium on funded debt."

695 Revenue from non-shipping operations.

(a) This account shall include the gross income derived from ventures other than shipping and shipping auxiliary operations.

(b) Separate accounts shall be maintained for each enterprise and location.

697 Income from affiliated companies.

This account shall be debited or credited with the following:

(a) The accounting company's share of the current earnings or losses of affiliated companies and corporate joint ventures required to be accounted for under equity accounting.

(b) The amortization of any difference between the costs of an investment and the equity of the accounting company in the net assets of the investee.

Operating Expenses

(A) DIRECT VESSEL EXPENSES

(a) Accounts 701–749 shall be charged with all direct expenses of operation and maintenance of all vessels, for terminated and unterminated voyages.

(b) Expenses incurred for vessels in idle status shall be included in the 800 series accounts.

(c) Subsidiary accounts shall be maintained by vessels and consecutively by voyages, according to the classification of expense as shown in the chart of accounts.

(d) The same subsidiary ledger forms may be used for both account 200 and the 700 series of accounts, and the sheets may be physically transferred or the totals, by classifications, transferred to new sheets, as the carrier elects.

(e) At the conclusion of the accounting period, all items relating to unterminated voyages shall be transferred to account 200, "Deferred expenses, unterminated voyages."

(f) Expenses shall be charged according to the provisions of paragraph (k) of the General Instructions.

ACCOUNT

701 Crew wages.

This account shall include salaries and wages of masters, officers, pursers, radio operators, relief crews and other members of crews of vessels including:

(a) Regular wages.
(b) Overtime.
(c) Split wages (overlap).
(d) Bonus.
(e) Shifting allowance.
(f) Extra wages.
(g) Travel wages.
(h) Accrued wage adjustments.
(i) Crew transportation.
(j) Non-watch pay.
(k) Board and lodging.

703 Crew fringe benefits.

This account shall include all compensation to crew members other than salaries and wages. Such compensation will include, but is not limited to, vacation pay, sick leave, retirement and pension, group insurance, welfare plans, medical center contributions and joint committee payments.

704 Union payments unrelated to the crew.

This account shall include all payments to unions, such as quid pro quo and compensatory payments, made for agreed upon crew reductions.

706 Payroll taxes.

This account shall include taxes computed on the basis of a payroll such as old age benefits, unemployment compensation and similar social security taxes.

710 Domestic subsistence.

This account shall include the cost (including sales taxes and delivery and inspection charges thereon) of all edibles (but not bar and slop chest supplies and water) purchased in the United States and its Territories and possessions except the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam (excluding purchases out of bond) for consumption by passengers, officers, and crews of vessels.

714 Foreign subsistence.

This account shall include the cost (including sales taxes and delivery and inspection charges thereon) of all edibles (except bar and slop chest supplies and water) purchased in foreign countries or in the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam, or purchased in the United States out of bond, for consumption by passengers, officers and crew of vessels.

715 Domestic consumable stores, supplies and equipment.

This account shall include the cost (and related sales tax and delivery and inspection charges thereon) of all consumable stores and supplies and expendable equipment (other than edibles, bar and slop chest supplies, fuel, and water) purchased in the United States and its Territories and possessions, except the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam (excluding purchases out of bond), for use aboard vessels. The term "expendable equipment" includes all tools, utensils, instruments, small machinery, and paraphernalia of a portable or removable nature, as distinguished from "permanent equipment" fastened to the vessel or installed as an integral part thereof, and spares required by the classification societies. The cost of such permanent equipment and spares shall be included in account 740 "Vessel Repairs—Domestic," or account 741 "Vessel Repairs—Foreign."

716 Foreign consumable stores, supplies and equipment.

This account shall include the cost (including related sales taxes and delivery and inspection charges thereon) of all consumable stores and supplies and expendable equipment (other than edibles, bar and slop chest supplies, fuel, and water) purchased in foreign countries or in the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef and the Island of Guam, or purchased in the United States out of bond, for use aboard vessels.

725 Other maintenance expense.

This account shall include such expenses as laundry and pressing services; wages of shoregang labor for cleaning, painting, scraping, or other vessel-upkeep services usually performed by the crew; inspection service charges; and the cost of maintaining expendable equipment, such as adjusting compasses, rating chronometers, retinning utensils, mending linens, upholstering chairs, repairing typewriters, and other such expenses.

730 Insurance—hull and machinery.

This account shall include the cost of hull and machinery insurance, such as premiums, deductibles, and provision for deductible average losses.

732 Insurance—protection and indemnity.

This account shall include the costs of protection and indemnity insurance, such as premiums, personal injury claims, illness claims, cargo claims, provision for deductible average losses and Second Seamen's insurance premiums.

734 Insurance—other marine-risk.

This account shall include the premiums on all classes of marine-risk coverage carried by the carrier which are not properly chargeable to account 730 "Insurance—Hull and Machinery," and account 732 "Insurance—Protection and Indemnity."

735 Vessel fuel.

This account shall include the cost of fuel and of services and facilities incident to delivery, inspection and trimming thereof.

740 Vessel repairs—domestic.

This account shall include the cost of repairs (not recoverable from insurance) directly attributable to replacement by duplication of, or restoration to satisfactory condition of, damaged or worn parts of vessels, machinery, and equipment which are integral parts of vessels, including the purchase of permanent equipment and spares required by the classification societies, in the United States and its Territories and possessions, except the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam. The cost of repairing or servicing expendable equipment shall be included in account 725 "Other maintenance expense."

741 Vessel repairs—foreign.

This account shall include the cost of repairs (not recoverable from insurance) directly attributable to replacement by duplication of, or restoration to satisfactory condition of, damaged or worn parts of vessels, machinery and equipment which are integral parts of vessels, including the purchase of permanent equipment and spares required by the classification societies, in foreign countries or in the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam.

742 Depreciation—vessels.

This account shall include the accrual of depreciation of vessels owned by the carrier with a corresponding credit to account 332, "Accumulated depreciation—vessels."

743 Time and trip charter hire.

This account shall include the charter payments for hiring vessels from non-affiliated companies on a time or trip basis.

744 Time and trip charter hire—affiliates.

This account shall include the charter payments for hiring vessels from affiliated companies on a time or trip basis.

745 Short term bareboat charter hire.

This account shall include the rental or lease payments for hiring vessels from non-affiliated companies on a bareboat basis for periods of one year or less.

746 Short-term bareboat charter hire—affiliates.

This account shall include the rental or lease payments for hiring vessels from affiliated companies on a bareboat basis for periods of one year or less.

747 Long-term bareboat charter hire.

This account shall include the rental or lease payments for hiring vessels from non-affiliated companies on a bareboat basis for periods of over one year.

748 Long-term bareboat charter hire—affiliates.

This account shall include the rental or lease payments for hiring vessels from affiliated companies on a bareboat basis for periods of over one year.

749 Other vessel expenses.

This account shall include all miscellaneous expenses directly incident to the operation of vessels which are not properly chargeable to other vessel account classifications, such as:

(a) Expenses of masters.
(b) Expenses of pursers.
(c) Radio equipment rental.
(d) Seaworthy certificate.
(e) Vessel communications.
(f) Water.

(B) ALLOCATED VOYAGE EXPENSE

(a) The practice of terminated voyage accounting requires the allocation to a voyage of indirect costs incurred as a result of operating and maintaining containers and barges as well as terminals. The following accounts represent the container and barge expense and the indirect terminal expenses allocated to terminated and unterminated voyages.

(b) Subsidiary accounts shall be maintained by vessel and consecutively by voyage.

ACCOUNT

750 Allocated container and barge expense.

(a) This account shall be maintained by those operators engaged in the practice of terminated voyage accounting and shall be charged monthly for all container and barge expenses charged to accounts 867 through 894, except for accounts 881 through 886 which will be included in the Water Line Operating Revenue and Expense Statement, with a corresponding credit to account 899, "Allocated container and barge expense—contra."

(b) Subsidiary accounts shall be maintained by vessel and consecutively by voyage.

751 Allocated terminal expense.

(a) This account shall be maintained by those operators engaged in the practice of terminated voyage accounting and shall be charged monthly with all indirect terminal expenses allocated to vessels and related voyages with a corresponding credit to account 866, "Allocated terminal expense—contra" except for accounts 859, 860 and 864 which will be included in the Water Line Operating Revenue and Expense Statement.

(b) Subsidiary accounts shall be maintained by vessel and consecutively by voyage.

(C) PORT EXPENSE

(a) Accounts 752–772 shall be charged with all direct expenses related to (1) the movement of cargo to and from

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ships, and (2) port expenses incurred in the docking and undocking of ships.

(b) Subsidiary accounts shall be maintained by individual port, by vessel and consecutively by voyages and in some cases by cargo technology type.

ACCOUNT

752 Cargo handling—loading/discharging.

(a) This account shall include the cost of removing and handling break bulk, bulk, container, and vehicle cargo from the pier or in pier sheds, or from cars, barges, lighters, scows, or booms alongside, and stowing the same in or on any part of the vessel, and the cost of discharging cargo from any part of the vessel onto the pier or into pier sheds, or into or on cars, lighters, scows, or booms alongside the vessel and piling the same on the pier or in pier sheds, such as:

1. Straight time.
2. Overtime.
3. Extra labor.
4. Fringe benefits.
5. Union contributions.
6. Detentions.
7. Transportation, travel & meals.
8. Lashing/unloading.
9. Crane rental.
10. Clerk/tally.
11. Contractors commodity charges.
12. Outside contractors terminal charges.
13. Dunnage, pallets.
14. Shoring and unshoring.
15. Watchmen.

(b) Detail coding shall be maintained by cargo carriage technology types.

(c) Loading or discharging of cargo to and from LASH on SEABEE barges shall be charged to account 753, "cargo handling—loading/discharging barges."

753 Cargo handling—loading/discharging barges.

This account shall include costs of loading and discharging barges into and from vessels, including:

1. Straight time.
2. Overtime.
3. Extra labor.
4. Fringe benefits.
5. Union contributions.
6. Detentions.
7. Transportation—travel and meals.
8. Clerk/tally.
9. Contractors commodity rates.
10. Tug hire.

754 Cargo handling—container yard.

This account shall include all the costs directly incident to the handling of containers within a yard which are not properly assigned to account 752, "Cargo Handling—Loading / Discharging", as above defined.

755 Cargo handling—container freight station.

This account shall include all costs directly incident to the stuffing and unstuffing of containers. In addition, this account shall include the costs directly incident to receiving, delivery and warehousing of such cargo at the container freight station facility.

756 Cargo handling—lighter freight station.

This account shall include all costs directly incident to the loading and discharging of cargo to and from LASH and SEABEE—type barges including tug hire for positioning at the lighter freight station. In addition, this account shall include costs directly incident to receiving, delivery and warehousing of such cargo at the lighter freight station.

757 Cargo handling—lighter consolidation.

This account shall be charged for all costs incident to storing barges at dockside prior to and after delivery from shipside.

758 Cargo handling—commercial cargo.

This account shall be charged for all miscellaneous cargo costs which are unique to carriage of commercial cargo and which are never applicable to carriage of military cargo. Such costs might include:

Baggage Handling
Bill of Lading Fees
Equalizations
Inspections
Measuring Cargo Fees
Railcar Loading & Discharging

759 Cargo handling—other.

This account shall include all expenses not properly assignable to accounts 752–758 including such costs as surveys, cargo dues, etc. and those costs which cannot be assigned to a cargo technology type.

762 Purchased off-dock container freight station services.

This account shall include the costs of off-dock container freight consolidation services purchased.

763 Port transportation expense—commercial.

This account shall include the costs of transporting containers and LASH and SEABEE type barges being used for commercial cargo within the port area for vessel convenience and local pick-up and delivery, such as: Drayage, tug hire, fees and duties, miscellaneous charges, and other such expenses. Detail coding shall be maintained by cargo carriage technology type.

764 Port transportation expense—military.

This account shall include the costs of transporting containers and LASH and SEABEE type barges being used for military cargo within the port area for vessel convenience and local pick-up and delivery, such as: Drayage, tug hire, fees and duties, miscellaneous charges, and other such expenses. Detail coding shall be maintained by cargo carriage technology type. For use of this account see § 282.1(d).

765 Inland transportation expenses—commercial.

This account shall include the cost of transporting containers and LASH and SEABEE type barges being used for commercial cargo out of the port area to inland terminals or locations, overland or upriver, and to other marine terminals, such as: Rail charges, truck charges, handling charges, tug towage, and other such expenses. Detail coding shall be maintained by cargo carriage technology type.

766 Inland transportation expense—military.

This account shall include the cost of transporting containers and LASH and SEABEE type barges being used for military cargo out of the port area to inland terminals or locations, overland or upriver, and to other marine terminals, such as: Rail charges, truck charges, handling charges, tug towage, and other such expenses. Detail coding shall be maintained by cargo carriage technology type. For use of this account see § 282.1(d).

767 Substituted service transportation expense—commercial.

This account shall include the cost of transporting full or partially full containers and LASH and SEABEE type barges being used for commercial cargo from one port area to other port area(s) when such land transportation facilitates the avoidance of a vessel call at the latter port(s), such as: Rail charges, truck charges, handling charges, tug towage, and other such expenses. Detail coding shall be maintained by cargo carriage technology type and by the port avoided by use of the substituted service.

768 Substituted service transportation expense—military.

This account shall include the cost of transporting full or partially full containers and LASH and SEABEE type barges being used for military cargo from one port area to other port area(s) when such land transportation facilities the avoidance of a vessel call at the latter port(s), such as: Rail charges, truck charges, handling charges, tug towage, and other such expenses. Detail coding should be maintained by cargo carriage technology type and by the port avoided by use of the substituted service. For use of this account see § 282.1(d).

770 Wharfage and dockage.

This account shall include the cost of wharfage and dockage. Detail coding shall be maintained by cargo technology type.

771 Other port expenses.

This account shall contain detail coding by cargo technology type and shall include port service charges, dues, taxes, and other such expenses, such as:

(a) Pilotage.
(b) Vessel towage.
(c) Launch hire.
(d) Anchor dues.
(e) Canal tolls other than Panama Canal, Suez Canal and Saint Lawrence Seaway (see Account 773).
(f) Cargo dues.
(g) Entry dues and fees.
(h) Handling lines.
(i) Port dues and taxes.
(j) Dispatch.
(k) Stowage plan.
(l) Demurrage.
(m) Customs.

772 Port costs of passenger operations.

This account shall include all port costs of passenger vessels (vessels which carry more than twelve passengers) that would otherwise be charged to accounts 770, "Wharfage and dockage" and 771, "Other port expenses." Detail coding shall be maintained by cargo technology type.

773 Transit canal tolls.

This account shall include canal tolls for the Panama Canal, Suez Canal and Saint Lawrence Seaway.

(D) IDLE VESSEL EXPENSE

(a) These accounts shall include all expenses incurred during periods of idleness or inactivity between voyages.

(b) Subsidiary accounts shall be maintained by vessel and by related idle period.

ACCOUNT

801 Crew wages.

803 Crew fringe benefits.

804 Union payments unrelated to the crew.

808 Payroll taxes.

810 Subsistence.

815 Consumable stores, supplies and equipment.

825 Other maintenance expense.

830 Insurance—hull and machinery.

832 Insurance—protection and indemnity.

834 Insurance—other marine risk.

835 Vessel fuel.

840 Vessel repairs.

842 Depreciation—idle vessels.

843 Time and trip charter hire.

844 Time and trip charter hire—affiliates.

845 Short-term bareboat charter hire.

846 Short-term bareboat charter hire—affiliates.

847 Long-term bareboat charter hire.

848 Long-term bareboat charter hire—affiliates.

849 Other vessel expense.

(E) TERMINAL EXPENSE

(a) These accounts shall be charged for all expenses incident to maintaining terminals for handling breakbulk, containers, vehicle cargo and barges. In addition, all costs of tug, other barge operations, and other floating equipment shall be maintained under this category.

(b) Subsidiary accounts shall be maintained by individual terminal.

(c) Charges to accounts 855–858 will be made directly whenever possible. When a terminal provides more than one function, costs will be allocated between the individual functions as prescribed in General Order 12.

855 Terminal operations expense—container yards.

This account shall include all costs and fringe benefits related to a carrier operated container yard. These costs will include.

(a) Supervision salaries including terminal management, port captains, port engineers and non-union cargo supervisors.
(b) Supplies.
(c) Maintenance and repair of container yard property and office equipment.
(d) Security costs for permanent watchmen used within the container yard proper.
(e) Utilities for container yard buildings and for lighting of the container yard.
(f) Rent and property taxes for the container yard.
(g) Other maintenance labor including unallocated clerks, sweepers, etc.
(h) Other, including insurance, business fees, etc.

856 Terminal operations expense—container freight station/breakbulk.

This account shall include all costs and fringe benefits related to a carrier operated on dock container freight station or breakbulk terminal such as:

(a) Supervision salaries including terminal management, port captains, port engineers and non-union cargo supervisors.
(b) Supplies.
(c) Maintenance and repair of sheds, terminal property, and office equipment.
(d) Security costs of permanent watchmen used within the CFS and terminal area.
(e) Utilities.
(f) Rent and property taxes for the CFS and breakbulk terminal.
(g) Other maintenance labor including unallocated clerks, sweepers, coopers, baggage masters, etc.
(h) Other, including insurance, business license fees, etc.

857 Terminal operations expense—barges.

This account shall include all costs and fringe benefits related to a carrier operated terminal used to service LASH or SEABEE barges. These costs will include:

(a) Supervision salaries including terminal management, port captains, port engineers and non-union cargo supervisors
(b) Supplies
(c) Maintenance and repairs of terminal property, sheds and office equipment
(d) Security costs for permanent watchmen used within the terminal area
(e) Utilities for buildings and yard areas
(f) Rent and property taxes
(g) Other maintenance labor including unallocated clerks, checkers, sweepers, coopers, etc.
(h) Other, including insurance, business license fees, etc.

858 Terminal operations expense—other.

This account shall include all costs and fringe benefits related to a carrier operated terminal which cannot properly be charged to Account 855, 856 or 857. Costs will include:

(a) Supervision salaries including terminal management, port captains, port engineers and non-union cargo supervisors.
(b) Supplies
(c) Maintenance and repair of terminal property and office equipment
(d) Security costs for permanent watchmen
(e) Utilities
(f) Terminal rent and property taxes
(g) Other maintenance labor including unallocated clerks, checkers, sweepers, coopers, etc.
(h) Other, including insurance, business license fees, etc.

859 Depreciation—terminal property and equipment.

This account shall include the accrual depreciation of terminal buildings, cranes, trucks, furniture and fixtures, cargo handling gear, and equipment, tools and other terminal gear, and equipment with a corresponding credit to account 350, "Accumulated depreciation—terminal property and equipment."

860 Amortization—terminal leaseholds and leasehold improvements.

This account shall include the amortization of the cost of acquiring long-term leases, and the cost of alterations to, and fixtures installed in, leased terminal property, with a corresponding credit to account 357, "Terminal leaseholds and leasehold improvements."

861 Other expense—terminal equipment.

This account shall include costs applicable to owned terminal equipment such as maintenance and repair, licensing, property taxes, insurance, etc.

862 Operating expense of tug and barge operations.

This account shall include the expense incurred in the operation by the carrier of tugs, other barges, scows, launches, floating cranes, and similar floating equipment. Detail coding shall be maintained by port.

863 Maintenance expense of tug and other barge operations.

This account shall include the expense incurred in the maintenance by the carrier of tugs, other barges, scows, launches floating cranes and similar floating equipment and will be identified to a port.

864 Depreciation—other floating equipment.

This account shall include the accrual of depreciation of tugs, barges, scows, launches, floating cranes, and similar floating equipment with a corresponding

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credit to account 338, "Accumulated depreciation—other floating equipment."

866 Allocated terminal expense—contra.

This account shall be credited with the allocation of Terminal Expenses to Vessels and related voyages for the following expenses:

855—Terminal operations expense—container yards
856—Terminal operations expense—CFS/breakbulk
857—Terminal operations expense—barges
858—Terminal operations expense—other
861—Other expense—terminal equipment
862—Operating expenses of tug and barge operations
863—Maintenance expense of tug and barge operations

A corresponding debit shall be made to Account 751—Allocated Terminal Expense.

(F) CONTAINER/BARGE EXPENSE

(a) These accounts shall be charged with all expenses related to the use of containers, chassis and barges which are carried aboard vessels. Such costs do not include the labor for loading and unloading nor the transportation charges for moving containers and barges: Instead, such excluded expenses shall be charged to the appropriate port cost center expense accounts:

ACCOUNT

867 Container rental and lease expense.

This account shall include the rental and lease payments to nonaffiliated companies for containers.

868 Container rental and lease expense—affiliates.

This account shall include the rental and lease payments to affiliated companies for containers.

869 Refrigerated container rental and lease expense.

This account shall include the rental and lease payments to non-affiliated companies for refrigerated containers.

870 Refrigerated container rental and lease expense—affiliates.

This account shall include the rental and lease payments to affiliated companies for refrigerated containers.

871 Chassis rental and lease expense.

This account shall include the rental and lease payments to non-affiliated companies for chassis.

872 Chassis rental and lease expense—affiliates.

This account shall include the rental and lease payments to affiliated companies for chassis.

873 Trailer rental and lease expense.

This account shall include the rental and lease payments to non-affiliated companies for trailers used in vehicle operations.

874 Trailer rental and lease expense—affiliates.

This account shall include the rental and lease payments to affiliated companies for trailers used in vehicle operations.

875 Barge rental and lease expense.

This account shall include the rental and lease payments to non-affiliated companies for barges carried aboard vessels, such as LASH and SEABEE barges.

876 Barge rental and lease expense—affiliates.

This account shall include the rental and lease payments to affiliated companies for barges carried aboard vessels, such as LASH and SEABEE barges.

877 Container related equipment rental and lease expense.

This account shall include the rental and lease payments to non-affiliated companies for container related equipment, such as container cranes and yard container movement equipment.

878 Container related equipment rental and lease expense—affiliates.

This account shall include the rental and lease payments to affiliated companies for container related equipment, such as container cranes and yard container movement equipment.

879 Other cargo handling equipment rental and lease expense.

This account shall include the rental and lease payments to non-affiliated companies for other cargo handling equipment not included in accounts 867–878.

880 Other cargo handling equipment rental and lease expense—affiliates.

This account shall include the rental and lease payments to affiliated companies for other cargo handling equipment not included in accounts 867–878.

881 Depreciation—containers.

This account shall include the accrual of depreciation of containers, with a corresponding credit to account 342, "Accumulated depreciation—containers."

882 Depreciation—refrigerated containers.

This account shall include the accrual of depreciation of refrigerated containers, with a corresponding credit to account 344, "Accumulated depreciation—refrigerated containers."

883 Depreciation—chassis and trailer equipment.

This account shall include of depreciation of chassis and trailer and other transportation equipment, with a corresponding credit to account 348, "Accumulated depreciation—chassis and trailer equipment."

885 Depreciation—barges.

This account shall include the accrual of depreciation of barges carried aboard vessels with a corresponding credit to account 336, "Accumulated Depreciation—Barges."

886 Depreciation—container related equipment.

This account shall include the accrual of depreciation of container related equipment, such as container cranes and yard container movement equipment, with a corresponding credit to account 346, "Accumulated depreciation—container related equipment."

888 Other expense—containers.

This account shall include the costs of containers other than depreciation and rental and lease payments, such as insurance, taxes, and maintenance and repairs. Costs relating to the handling of containers will be charged to the appropriate cargo handling or terminal operations account.

889 Other expense—refrigerated containers.

This account shall include the costs of refrigerated containers other than depreciation and rental and lease payments, such as insurance, taxes, maintenance and repairs. Costs relating to the handling of refrigerated containers will be charged to the appropriate cargo handling or terminal operations account.

890 Other expense—chassis.

This account shall include the costs of chassis, other than depreciation and rental and lease payments, such as insurance, taxes, and maintenance and repairs. Costs relating to the handling of chassis will be charged to the appropriate cargo handling or terminal operations account.

891 Other expense—trailers.

This account shall include the costs of trailers, other than depreciation and rental and lease payments, such as insurance, taxes, and maintenance and repairs. Costs relating to the handling of trailers will be charged to the appropriate cargo handling or terminal operations account.

892 Other expense—barges.

This account shall include the costs of barges carried aboard vessels, other than depreciation and rental and lease payments, such as insurance, taxes, and maintenance and repairs. Costs relating to the handling of barges will be charged to the appropriate cargo handling or terminal operations account.

893 Other expense—other container equipment.

This account shall include the cost of maintaining other container equipment including maintenance and repairs, licensing and property tax.

894 Other expense—other cargo handling equipment.

This account shall include the cost of maintaining all other cargo handling equipment including maintenance and repairs, licensing, property taxes etc. not included in accounts 888–893.

899 Allocated container/barge expense—contra.

This account shall be credited with the allocation of container/barge expense to vessels and related voyages with a corresponding charge to Account 750 "Allocated container and barge expense", the expenses for which are included in the following accounts:

867 Container rental and lease expense.
868 Container rental and lease expense—affiliates.
869 Refrigerated container rental and lease expense.
870 Refrigerated container rental and lease expense—affiliates.
871 Chassis rental and lease expense.
872 Chassis rental and lease expense—affiliates.
873 Trailer rental and lease expense.
874 Trailer rental and lease expense—affiliates.
875 Barge rental and lease expense.
876 Barge rental and lease expense—affiliates.
877 Container related equipment rental and lease expense.
878 Container related equipment rental and lease expense—affiliates.
879 Other cargo handling equipment rental and lease expense.
880 Other cargo handling equipment rental and lease expense—affiliates.
888 Other expense—containers.
889 Other expense—refrigerated containers.
890 Other expense—chassis.
891 Other expense—trailers.
892 Other expense—barges.
893 Other expense—other container equipment.
894 Other expense—other cargo handling equipment.

(G) ADMINISTRATIVE AND GENERAL EXPENSES

(a) These accounts shall include all administrative and general expenses incurred in the operation of the business for which no other specific accounts have been provided.

(b) Additional detail coding shall be maintained by vessel and consecutively by voyage to facilitate terminated voyage accounting, with respect to accounts 950, 951 and 952.

ACCOUNT

901 Compensation of officers and directors.

This account shall include the compensation of officers and directors, including salaries, bonuses, fees and other payments for services.

902 Salaries and wages of employees.

This account shall include the compensation of all employees performing administrative and service functions that benefit overall operations other than compensation of officers and directors.

903 Fringe benefits.

This account shall include the cost of all fringe benefits of administrative and general personnel, such as:

(a) Vacation pay
(b) Sick leave
(c) Payroll taxes (employer's portion)
(d) Workmen's compensation
(e) Group insurance
(f) Pension and retirement
(g) Health and welfare
(h) Profit-sharing
(i) Other

905 Legal fees.

This account shall include fees, retainers, and other expenses for professional services of attorneys, including cost of law books, legal forms, testimony, notarial and witness fees, law and court expenses, and lawsuits.

906 Accounting and auditing fees.

This account shall include fees and other expenses for accounting or independent audit services rendered.

907 Other professional fees.

This account shall include fees and other expenses for professional services other than legal, accounting or auditing.

910 Rental expense.

This account shall include the rental costs for use of office buildings, general offices and storage space.

912 Utilities.

This acount shall include the cost of utilities, such as:

(a) Heat
(b) Light
(c) Power
(d) Water
(e) Waste removal

915 Communication expense.

This account shall include all communication expense, such as the cost of telephone, cables, telegrams, radio, postage, telex and teletype.

920 Office expense.

This account shall include the cost of office supplies, printing, equipment rental and all other general expenses relating to the operation of offices.

923 Data processing equipment rental expense.

This account shall include all rental costs of data processing equipment.

925 Dues and subscriptions.

This account shall include membership dues and fees in associations and subscriptions to periodicals and newspapers.

926 Donations and contributions.

This account shall include the cost of donations and contributions.

929 Entertainment and solicitation.

This account shall include all entertainment expenses and expenses of canvassing and solicitation in connection with the procurement of cargo.

930 Travel expense.

This account shall include all traveling expenses of officers and employees on official business of the company.

931 Insurance expense.

This account shall include premiums on insurance such as burglary, theft, robbery, premiums on fidelity bonds on officers and employees, and other such expenses.

934 Repairs and maintenance.

This account shall include the cost of repairing and maintaining general office buildings and equipment, furniture, and machines.

940 Management fees and commissions—affiliates.

This account shall include all commissions paid or payable to affiliated companies for general and financial management services.

941 Management fees and commissions—other.

This account shall include commissions paid or payable to persons or concerns other than affiliated companies acting as managing agents of the carrier. It does not include the customary agency fees and commissions paid to general and sub-agents at out-ports. Such fees should be charged to account 952, "Agency fees and commissions."

945 Advertising—passenger.

This account shall be charged with the cost of all passenger advertising.

946 Advertising—other.

This account shall be charged with all other advertising costs of the carrier.

950 Freight brokerage.

This account shall include commissions paid to brokers for procuring cargo.

951 Passenger brokerage.

This account shall include commissions paid to brokers and booking agencies for procuring passenger business

952 Agency fees and commissions.

This account shall include agency fees, attendance fees, and commissions for services performed by agents at outports. This account shall not include reimbursements to agents for those expenses incurred in the administration and supervision of port activities. Such expense shall be charged to the appropriate port expense account.

955 Contributions to pools.

This account shall be charged with contributions and other related expenses incurred with participation in pooling agreements, by transfer from account 055, "Pool participation."

960 Interest expense.

This account shall include all interest expense, other than amounts to affiliates which shall be charged to account 961. "Interest expense—affiliates", paid or payable. It shall not include interest on obligations issued and assumed and owned by the carrier.

961 Interest expense—affiliates.

This account shall include all interest paid or payable to affiliated companies.

965 Doubtful notes and accounts receivable.

This account shall be charged with provisions for reserves against all notes

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and accounts receivable considered doubtful of collection.

970 Depreciation—other shipping property and equipment.

This account shall include the accrual of depreciation of property and equipment incident to shipping and its auxiliary operations for which no other account has been specifically provided, with a corresponding credit to account 352, "Accumulated depreciation—other shipping property and equipment."

971 Depreciation—non-shipping property and equipment.

This account shall include the accrual of depreciation of property and equipment used in ventures other than shipping and shipping auxiliary operations, with a corresponding credit to account 354, "Accumulated depreciation—non-shipping property and equipment."

975 Amortization—office leaseholds and leasehold improvements.

This account shall include the amortization of the cost of acquiring long-term leases, and the cost of alterations to, and fixtures installed in, leased office property, with a corresponding credit to account 355, "Office leaseholds and leasehold improvements."

976 Amortization—debt discount and expense.

This account shall include for each fiscal period such proportion of debt discount and expense on funded debt as is transferred from account 384, "Debt discount and expense."

977 Amortization—organization expense.

Amortization of expenses incurred in the formation or development of the business shall be charged to this account as transferred from account 385, "Organization expense."

979 Miscellaneous amortization expense.

Amortization of any deferred charges for which no other account is specifically provided shall be included in this account.

980 Expense of non-shipping operations.

This account shall include the gross expense other than depreciation incurred in ventures other than shipping and shipping auxiliary operations.

985 Income taxes accrued on ordinary income.

This account shall be charged with accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income.

986 Provision for deferred income taxes.

This account shall include the tax effect of timing differences on ordinary income originating or reversing in the current period.

987 Income taxes on extraordinary items.

This account shall include the estimated income taxes consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as extraordinary items.

988 Provision for deferred income taxes—extraordinary items.

This account shall include the tax effect of timing differences on extraordinary items originating or reversing in the current period.

989 Other taxes.

(a) This account shall include all taxes other than income taxes, sales taxes, and taxes computed on basis of payrolls such as old age benefits, unemployment compensation, and similar social security taxes.

(b) Sales taxes and taxes assessed against carriers for electrical energy, telegraph, telephone, radio, cables, checks, rental and safe deposit boxes, motor vehicle licenses, and other such expenses, shall be included in the respective accounts to which the cost of the material or services is charged. Social security taxes are to be included in the respective accounts to which other fringe benefits are charged.

(c) This account shall also be charged with the costs of business licenses.

990 Miscellaneous expense.

This account shall include all expenses of a general character for which no other account is provided including expenses from conversion of foreign currencies.

995 Extraordinary items.

This account shall include extraordinary items accounted for during the current fiscal year in accordance with generally accepted accounting principles.

APPENDIX

SEC. 282.0 *Clearance accounts.* (a) This group of accounts is designed to accommodate transactions which cannot be allocated directly to balance sheet or income and expense accounts until such transactions have been completely accounted for. In the preparation of periodical financial and operating statements, it is essential that these clearance accounts be analyzed and the balances reflected therein be distributed to appropriate account classifications on such statements.

(b) The balances in this group of accounts applicable to terminated voyages, or other accounting units of a closed fiscal year, must not be carried forward to the succeeding fiscal year.

ACCOUNT

SEC. .001 *Masters and pursers.* (a) This account shall be charged with amounts advanced to or collected by masters and pursers. The account shall be credited with the net amount of vessels' payrolls, with cash advances to members of the crew, with allowable expenses incurred, with endorsed travelers checks, and unexpended cash balances returned.

(b) Subsidiary accounts shall be maintained for each master and pursuer and a separate account maintained for each voyage or other accounting unit.

SEC. .005 *Allotments on wages of crews.* This account shall be charged with payments made to allottees of crews and shall be credited with deductions made therefore on vessels' payrolls.

SEC. .010 *Agents and branch houses.* (a) This account shall serve as a clearance account for all current transactions with foreign and domestic agents, and branch houses of the carrier. The account shall be charged with cash advances to agents and branch houses, and with freight and other voyage revenue collectible by the agent or branch house in instances where arrangements are made with them to disburse vessels therefrom. Freight and other voyage revenues collectible by agents who are required to remit in full shall be recorded in account 150, "Accounts receivable." This account shall be credited with remittances by the agents or branch houses, and with approved disbursements made for the account of the carrier.

(b) Subsidiary accounts shall be maintained by names of agents or branch houses.

SEC. .012 *Sub-agency operations.* (a) This account shall serve as a clearance account for all current transactions with other principals for whom the carrier acts as agent.

(b) The balances in this account shall be reflected in account 165, "Accounts receivable—miscellaneous," and account 421, "Accounts payable" for balance sheet purposes.

SEC. .015 *Related companies; accounts current.* (a) This account shall be charged with receivables and credited with payables which are customarily subject to current settlement. Under no circumstances shall loans, advances, or other transactions, the settlement of which is deferred beyond one year, be recorded in this account.

(b) The balance in this account shall be reflected in account 153, "Accounts receivable—affiliates" or account 415, "Notes and accounts payable—affiliates," for balance-sheet purposes.

(c) Subsidiary accounts shall be arranged by company, and a description of each transaction shall be reflected in the accounts.

SEC. .025 *Collections and deposits for passenger transportation.* (a) Gross passenger ticket sales and deposits including those for future reservations, hotel accommodations, shore excursions, passenger taxes, etc., shall be credited to this account.

(b) As transportation is furnished to passengers by vessels of the carrier, this account shall be charged and account 600, "Vessel revenue," credited. Deposits or collections for other purposes, including commissions earned or payable incident thereto, shall be cleared from this account as soon as practicable to appropriate accounts designated in the Chart. The credit balances remaining in this account shall be reflected in account 495, "Advance ticket sales and deposits," for balance sheet purposes.

(c) Subsidiary accounts shall be maintained in sections corresponding to the classifications shown on the daily ticket sales report, examples of which are: Prepaid orders, one-way tickets, round-trip tickets, exchange orders, railroad fares, hotel reservations, sightseeing tours, head tax, U.S. Government stamp tax, foreign government passenger taxes, commissions due agents and brokers, and commissions earned.

SEC. .030 *Collections on unrecorded freight manifests.* (a) This account shall be credited with all collections of freight revenue from shippers or consignees prior to the recording of the revenue manifests. When the manifest is recorded, the balance in this account applicable thereto shall be cleared with a corresponding credit to account 600, "Vessel revenue."

(b) Subsidiary accounts shall be maintained by vessels and consecutively by voyages or other accounting units.

SEC. .035 *Advance and prepaid beyond charges, and miscellaneous manifested items.* (a) When vessels manifests are journalized, this account shall be credited with advance charges, prepaid beyond charges, and miscellaneous manifested items, such as: Consular fees, cargo insurance, handling, transshipment, and transfer charges. The account shall be charged with expenses incurred in the performance of the services for which these collections were made. As transactions applicable to terminated voyages are completely accounted for net debit balances in this account shall be transferred to the appropriate 700 account and net credit balances to account 600, "Vessel revenue."

(b) Subsidiary accounts should be subdivided as between advance charges, prepaid beyond changes, and miscellaneous manifested items. Each group of account should be maintained by vessels and consecutively by voyages.

SEC. .040 *Bar accounts.* (a) This account shall be charged with inventories of bar supplies aboard vessels at the beginning of each voyage for sale to passengers, and with all purchases of such supplies during the voyage. The account shall be credited with the inventory of bar supplies on hand at the end of each voyage, and with gross sales during the voyage. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transferred to the appropriate 700 accounts and net credit balances to account 600, "Vessel revenue." The balance remaining in this account after profits and losses, on sales applicable to voyages terminated during the accounting period, have been cleared to the vessel operating accounts shall be reported on the balance sheet under the classification "Inventories."

(b) The subsidiary accounts shall be maintained by vessels and consecutively by voyages.

SEC. .045 *Slop chest account.* (a) This account shall be charged with inventories of slop chest supplies aboard vessels at the beginning of each voyage for sale to members of the crew, with all purchases of such supplies during the voyage. The account shall be credited with the inventory of slop chest supplies on hand at the end of each voyage, and with all gross sales during the voyage. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transferred to the appropriate 700 account and net credit balances to account 600, "Vessel revenue." The balance remaining in this account after profits and losses, on sales applicable to voyages terminated during the accounting period, have been cleared to the vessel operating accounts, shall be reported on the balance sheet under the classification "Inventories."

(b) The subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages.

SEC. .050. *Foreign exchange account.* All gains or losses in foreign exchange shall be recorded in this account. At the close of each accounting period the balance in the account shall be transferred to account 690, "Miscellaneous—other income," or account 990, "Miscellaneous expense," as the case may be.

SEC. .055 *Pool participation.* (a) This account shall be charged with contributions to pools for the purpose of equalizing revenues in accordance with pooling agreements and shall be credited with gross collections received from pools for the same purpose.

(b) Charges against the carrier in administering the pooling agreements shall be recorded in account 925, "Dues and subscriptions." The balances in this account at the close of each accounting period, as prescribed in pooling agreements, shall be transferred to account 640, "Collections from pools," and account 955, "Contributions to pools."

(c) This account shall be maintained to show separately transactions under each pooling agreement and accounting period.

SEC. .060 *Stores, supplies, and equipment aboard vessels.* (a) Where inventories of vessels stores, supplies, and/or equipment are not taken and priced at the end of each voyage, the value of such inventories shall be charged to this account at the beginning of each contract period. The account should also be credited with the value of inventories of stores, supplies, and/or equipment at the end of each accounting period, after which any balance therein shall be charged or credited, as the case may be, to the last voyage of each vessel involved terminated during the accounting period.

(b) The accounts will not be used in instances where inventories of stores, supplies, and/or equipment are taken and priced at the end of each voyage.

(c) The balance in the account at the end of each accounting period, applicable to the subsequent account period, will be reflected in balance sheet account 200, "Deferred expense—unterminated voyages."

SEC. .095 *Profit and loss account.* At the end of the accounting year this account shall be credited or charged, as the case may be, with the balances in all ordinary, and extraordinary revenue and expense accounts, except where otherwise specifically indicated. After all entries have been made, the account shall reflect the net income for the accounting year. The net balance in this account after adjustments have been made for the accounting year shall be transferred to account 599, "Retained earnings—unrestricted."

282.6 Financial statements.

(A) BALANCE SHEET

Account Nos.	Assets
	Current assets:
100	Cash.
115	Special cash deposits.
120, 129	Marketable securities.
130	Notes receivable.
140	Notes receivable—affiliates.
150	Accounts receivable.
169	Less: Estimated allowance for doubtful notes and accounts receivable.
170	Inventories—shoreside.
190	Other current assets.
	Total current assets.
	Voyages in progress (when a net debit balance):
200	Deferred expenses—unterminated voyages.
500	Less: Deferred revenues—unterminated voyages.
	Special funds and deposits:
301	Capital reserve fund.
302	Capital construction fund.
303	Construction reserve fund.
304	Interest accounts for deposit in statutory funds.
305	Insurance funds.
306–310, 312	Other special funds and deposits.
	Total special funds and deposits.
	Investments:
316	Securities of related companies.
319	Non-current notes receivable—affiliated companies.
320	Non-current accounts receivables—affiliated companies.
325	Cash value of life insurance.
328	Other investments.
	Total investments.
	Property and equipment:
331	Floating equipment—vessels.
332	Less: Accumulated depreciation—vessels.
335	Floating equipment—barges.
337	Less: Accumulated depreciation—barges.
338	Other floating equipment.
341	Less: Accumulated depreciation—other floating equipment.
342	Containers.
343	Less: Accumulated depreciation—containers.
344	Refrigerated containers.
345	Less: Accumulated depreciation—refrigerated containers.
346	Container related equipment.
347	Less: Accumulated depreciation—container related equipment.
348	Chassis and trailer equipment.
349	Less: Accumulated depreciation—chassis and trailer equipment.
350	Terminal property and equipment.
351	Less: Accumulated depreciation—terminal property and equipment.
352	Other shipping property and equipment.
353	Less: Accumulated depreciation—other shipping property and equipment.
354	Non-shipping property and equipment.
355	Less: Accumulated depreciation — non-shipping property and equipment.
356	Office leaseholds and leasehold improvements.
357	Less: Accumulated amortization—office leaseholds and leasehold improvements.
358	Terminal leaseholds and leasehold improvements.
359	Less: Accumulated amortization—terminal leaseholds and leasehold improvements.
	Construction work in progress.
361	Total property and equipment after accumulated allowances.
362	Other assets:
363	Claims pending.
364	Spare parts on which construction-differential subsidy has been paid.
367	Spare parts—other.
368	Notes and accounts receivable from officers and employees.
370	Deferred operating-differential subsidy receivable.
374	Other non-current notes and accounts receivable.
169	Maritime Administration allowance for obsolete vessels.
	Miscellaneous other assets.
	Total other assets.
	Less: Estimated allowance for doubtful notes and accounts receivable.
	Total other assets after estimated allowance for doubtful notes and accounts receivables.

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Account Nos.	Assets
375	Deferred charges and prepaid expenses.
391	Goodwill.
398	Other intangible assets.
399	Less: Accumulated amortization—other intangible assets.
	Total assets.
	Liabilities
	Current Liabilities:
400	Notes payable.
415	Notes and accounts payable—affiliates.
420	Accounts payable.
440	Accrued liabilities.
479	Other current liabilities.
495	Advance ticket sales and deposits.
526	Mortgage notes—Maritime Administration.
527	U.S. Government insured or guaranteed merchant marine bonds and notes.
530	Other bonds and debentures.
534	Other long-term debt.
	Total current liabilities.
	Voyages in progress (when a net credit balance):
500	Deferred revenues—unterminated voyages.
200	Less: Deferred expense—unterminated voyages.
	Long-term debt (due after one year):
526	Mortgage notes—Maritime Administration.
527	U.S. Government insured or guaranteed merchant marine bonds and notes.
530	Other bonds and debentures.
534	Other long-term debt.
	Total long-term debt.
	Other liabilities:
541	Non-current payables—affiliated companies.
549	Non-current notes and accounts payable—officers and employees.
550	Recapturable profits—Maritime Administration.
554	Miscellaneous other liabilities.
	Total other liabilities.
	Deferred credits:
556	Premium on funded debt.
563	Accumulated deferred income taxes.
564	Miscellaneous deferred credits.
	Total deferred credits.
	Estimated Operating Allowances:
566	Estimated allowances for repairs.
570	Estimated allowances for insurance.
579	Estimated operating allowances—Miscellaneous.
	Total estimated operating allowances.
	Total liabilities.
	Owner's equity:
	Capital stock.
581	Issued and outstanding.
585	Subscribed.
587	Less: Discount on capital stock.
	Total capital stock.
590	Additional paid-in capital.
	Retained Earnings:
598	Restricted.
599	Unrestricted.

Account Nos.	Liabilities
591	Total retained earnings.
	Less: Treasury Stock.
	Total Owner's equity.
	Total liabilities and equity.

(B) INCOME STATEMENT

Account Nos.	
	Shipping operations:
601–670	Waterline operating revenue.
701–989	Waterline operating expense.
	Gross profit (loss) from shipping operations.
	Other income:
675	Interest income.
685	Dividend income.
690	Miscellaneous other income.
691	Release of premium on long-term debt.
697	Income from affiliated companies.
	Other deductions from income:
960	Interest expense.
961	Interest expense—affiliates.
965	Doubtful notes and accounts receivable.
976	Amortization—debt discount and expense.
977	Amortization—organization expense.
979	Miscellaneous amortization expense.
990	Miscellaneous expense.
	Net income from shipping operations.
	Nonshipping operations:
695	Revenue from non-shipping operations.
980	Expense of non-shipping operations.
971	Depreciation—non-shipping property and equipment.
	Net income (loss) from non-shipping operations.
	Income (loss) before income taxes and extraordinary items.
985, 986	Income taxes.
	Income (loss) before extraordinary items.
	Extraordinary items:
995	Extraordinary items — net credit (debit).
987, 988	Income taxes on extraordinary items—debit (credit).
	Total extraordinary items—(debit) credit.
	Net income (loss).

(C) WATER LINE OPERATING REVENUE AND EXPENSE STATEMENT

Account Nos.		Revenue	Expense	Net
	Shipping operations			
	Terminated voyage results (from sec. 282.6(D)).			
801–840, 843–849	Idle vessel expense			
640, 955	Collection from and contributions to pools			
	Gross profit (loss) from shipping operations before subsidy.			
625	Operating-differential subsidy			
	Gross profit (loss) from vessel operations after subsidy.			
645	Revenue from terminal operations			
650	Revenue from cargo handling operations			
655	Revenue from tug and lighter operations			
660	Revenue from container related operations			
665	Revenue from other shipping operations			
670	Agency fees, commissions and brokerage earned			
	Gross profit (loss) from shipping operations, before overhead, amortization, and depreciation.			
	Overhead			
901–934	Administrative and general expenses			
940	Management fees and commissions—affiliates			
941	Management fees and commissions—other			
945	Advertising—passenger			
946	Advertising—other			
989	Other taxes			
	Gross profit (loss) from shipping operations before amortization and depreciation.			
	Amortization-depreciation—shipping property and equipment			
742	Depreciation—vessels			
842	Depreciation—idle vessels			
859	Depreciation—terminal property and equipment			
864	Depreciation—other floating equipment			
881	Depreciation—container			
882	Depreciation—refrigerated containers			
883	Depreciation—chassis and trailer equipment			
885	Depreciation—barges			
886	Depreciation—container related equipment			
970	Depreciation—other shipping property and equipment			
975	Amortization—office leaseholds and leasehold improvements			
860	Amortization—terminal leaseholds and leasehold improvements			
	Total waterline revenue and expense			
	Gross profit (loss) from shipping operations			

(D) VESSEL OPERATING STATEMENT

Accounts Nos.	*Vessel revenue—terminated voyages*
601	Freight—foreign.
605	Freight—coastwise and intercoastal.
608	Passenger—foreign.
612	Passenger—coastwise and intercoastal.
620	Charter revenue.
624	Other voyage revenue.
	Total vessel revenue.
	Operating expense—terminated voyages
	Vessel expenses:
701	Crew wages.
703	Crew fringe benefits.
704	Union payments unrelated to the crew.
708	Payroll taxes.
710	Domestic subsistence.
714	Foreign subsistence.
715	Domestic consumable stores, supplies and equipment.
716	Foreign consumable stores, supplies and equipment.
725	Other maintenance expense.
730	Insurance—hull and machinery.
732	Insurance — protection and indemnity.
734	Insurance — other marine-risk.
735	Vessel fuel.
740	Vessel repairs—domestic.
741	Vessel repairs—foreign.
743	Time and trip charter hire.
744	Time and trip charter hire—affiliates.
745	Short - term bareboat charter hire.
746	Short - term bareboat charter hire—affiliates.
747	Long - term bareboat charter hire.
748	Long - term bareboat charter hire—affiliates.
749	Other vessel expenses.
	Total vessel expense.
	Voyage expenses:
750	Container and barge expenses:
	Allocated container and barge expense.
	Terminal expenses:
751	Allocated terminal expenses.
	Port expenses:
752	Cargo handling—loading/discharging.
753	Cargo handling—loading / discharging — barges.
754	Cargo handling—container yard.
755	Cargo handling—container freight station.
756	Cargo handling—lighter freight station.
757	Cargo handling—lighter consolidation.
758	Cargo handling—commercial cargo.
759	Cargo handling—other.
762	Purchased off-dock container freight station services.
763	Port transportation expense—commercial.
764	Port transportation expense—military.
765	Inland transportation expense—commercial.
766	Inland transportation expense—military.
767	Substituted service transportation expense—commercial.
768	Substituted service transportation expense—military.
770	Wharfage and dockage.
771	Other port expenses.
772	Port costs of passenger operations.
773	Transit canal tolls.
	Total port expenses.
	Brokerage expense and agency fees and commissions:
950	Freight brokerage.
951	Passenger brokerage.
952	Agency fees and commissions.
	Total brokerage expense, agency fees and commissions.
	Total voyage expense ———
	Total operating expense ———
	Terminated voyage results ———

[FR Doc.74-10562 Filed 5-8-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19739; FCC 74-469]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments in East Lansing, Mich.

Report and order. In the matter of amendment of § 73.606(b), *Table of assignments*, Television Broadcast Stations. (East Lansing, Michigan), Docket No. 19739, RM-2052.

1. The Commission has before it for consideration the May 9, 1973, notice of proposed rulemaking in this proceeding (38 FR 13491, published May 22, 1973) and comments from the proponent, the Board of Trustees of Michigan State University, seeking the designation of television Channel 23 at East Lansing, Michigan, as an educational assignment.

2. In its petition and comments the Board of Trustees pointed out that it was operating a noncommercial educational station on UHF Channel 23. (Although it was not mentioned in the original petition, it formerly shared time in the operation of VHF Channel 10 licensed to nearby Onondaga, Michigan.) In effect, the petition sought recognition of the actual use of the channel. In addition to Channel 23, Channel 69 was also listed as an East Lansing assignment, and the Board of Trustees urged us to leave the educational designation of this channel undisturbed. Other than the Board of Trustees, no party expressed any interest in the proceeding.

3. Since Channel 23 was already being put the educational use, the proposal to give *de jure* status to this *de facto* situation presents no complication. We believe that it is appropriate for the Table of Television Assignments to reflect the actual usage of the channel and it shall be charged accordingly. As to continuing the reserved status of Channel 69, however, the situation is not quite as simple. If the reservation were terminated, the channel would still be available for educational use, and for the first time it would become available for commercial use as well. On the other hand, since East Lansing has only two assignments, the proposal to maintain the reservation would effectively preclude the establishment of any commercial operation in East Lansing. Ordinarily, we would not be disposed to follow a procedure that would lead to allowing a channel to remain fallow for some period while interest in its educational use develops, when at the same time no commercial channel is available and an educational operation already exists. However, the situation involved here is atypical because of the proximity of Lansing which has three channel assignments.

Only Channel 6 of the three is in use; Channels 36 and 53 are vacant. Lansing is the far larger of the two communities and quite probably the more logical choice for locating a commercial station. In addition, lower UHF channels tend to be selected first, further suggesting that anxiety over foreclosing commercial use of Channel 69 is premature. Under these circumstances, we do not think it necessary to remove the reservation on Channel 69. If an interest in its use on a commercial basis should develop, we could then entertain an appropriate petition for rulemaking. In the meantime, we see no need to act on supposition about such future interest.

4. Therefore in accordance with the provisions of sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That, effective June 14, 1974, the Television Table of Assignments, Section 73.606(b) of the Commission's rules, insofar as the community listed below is amended to read as follows:

City	*Channel No.*
East Lansing, Mich	23, 69

5. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: May 1, 1974.

Released: May 6, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10724 Filed 5-8-74;8:45 am]

[1] Commissioners Wiley, Chairman, Reid and Hooks acting as a Board; Commissioner Quello not participating.

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 264]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Alabama	Morgan	Falkville, town of	May 7, 1974. Emergency.			
Do.	Dallas	Selma, city of	do.	Dec. 17, 1973		
Michigan	Oakland	Berkley, city of	do.			
Minnesota	Scott	Shakopee, city of	do.			
Do.	Wadena	Unincorporated areas	do.			
Oregon	Union	do.	do.			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 1, 1974.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.74-10607 Filed 5-8-74;8:45 am]

[Docket No. FI 265]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Arizona	Mohave	Unincorporated areas	May 6, 1974. Emergency.			
Massachusetts	Middlesex	Dracut, town of	do.			
Montana	Blaine	Chinook, city of	do.		Jan. 9, 1974	
Washington	Pend Oreille	Metaline, town of	do.			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: April 29, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-10663 Filed 5-8-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Medicine Lake National Wildlife Refuge, Montana

The following special regulation is issued and is effective on May 9, 1974.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MONTANA

MEDICINE LAKE NATIONAL WILDLIFE REFUGE

Sport fishing by rod, reel, pole and set lines, including use of live bait on the Medicine Lake National Wildlife Refuge, Medicine Lake, Montana, is permitted from June 15, through September 15, 1974, inclusive, but only on the area designated by signs as open to fishing. This open area comprises 800 acres and is delineated on maps available at refuge headquarters, 3 miles southeast of Medicine Lake, Montana 59247 and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver, Colorado 80225. Sportfishing is permitted on all of Medicine Lake from December 1, 1974 through March 31, 1975, inclusive. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 31, 1975.

DONALD M. WHITE,
Refuge Manager, Medicine Lake National Wildlife Refuge, Medicine Lake, Montana 59247.

MAY 3, 1974.

[FR Doc.74-10676 Filed 5-8-74;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 69-31; Notice 6]

PART 573—DEFECT REPORTS

Vehicle Identification Numbers; Response to Petitions for Reconsideration

This notice responds to petitions for reconsideration of the amendment of 49 CFR Part 573, "Defect Reports," requiring the submission to NHTSA of the vehicle identification numbers (VIN) of motor vehicles found to contain safety related defects. The amendment was published February 5, 1974 (39 FR 4578). Except insofar as granted by this notice, the requests of the petitioners are denied.

Two petitions for reconsideration, one from General Motors Corporation and the other from Chrysler Corporation, were received. Both petitions objected to the requirement that VIN's be reported in the second quarterly report filed subsequent to the initiation of the defect notification campaign. Both pointed out that the NHTSA had stated in the amendment published February 5, 1974, that it was desirable to defer reporting VIN's until six months had passed from the time a notification campaign had begun. Both petitioners argued that the time for filing the second quarterly report is frequently less than six months, and suggested that the third quarterly report rather than the second was the more appropriate quarterly report to contain vehicle identification numbers. General Motors indicated that the average elapsed time from the initiation of a notification campaign to the filing of the second quarterly report is four and one-half months, while the elapsed time until the filing of the third quarterly report is, on the average, seven and one half months. The NHTSA still believes it reasonable to allow a six-month period from the initiation of the campaign to elapse before VIN's are submitted. Accordingly, the NHTSA has granted the petitions insofar as they request that VIN's be reported in the third quarterly report submitted to NHTSA by the manufacturer.

Chrysler objected to the VIN reporting requirement generally, on the basis that it is unnecessary and will not produce the desired results. It requested that an evaluation of the usefulness of the requirement be conducted after it is in effect, and that appropriate modifications be made if the requirement fails to achieve the desired results. General Motors requested that NHTSA maintain a public record of requests for VIN's so that future consideration can be given to the extent that the data is useful, and to whom it is useful. The NHTSA believes that public availability of VIN's will facilitate locating and repairing defective vehicles no longer in the hands of first purchasers. At the same time it agrees to conduct an evaluation of the efficacy of the requirement once it is in effect. The extent of usage is a relevant aspect of an evaluation of this type, and the NHTSA sees no prohibition against maintaining a public record of requests for the information.

The amended regulation will be effective August 6, 1974, and as such will require all third quarterly reports submitted to NHTSA on or after that date to contain appropriate vehicle identfication numbers. The effective date has been changed from May 6, 1974, as a result of the change requiring the third rather than the second quarterly report to contain VIN's. As a practical matter, VIN's will be required to be reported in the third quarterly report for all defect notification campaigns initiated on or after January 1, 1974 (NHTSA campaign numbers 74–0001 and subsequent campaigns).

In light of the above, 49 CFR Part 573, Defect Reports, is amended by revising § 573.5(e) as follows:

§ 573.5 Quarterly reports.

* * * * *

(e) The information specified in paragraphs (c)(1) through (c)(8) of this section shall be included in the quarterly reports, with respect to each notification campaign, for six consecutive quarters beginning with the quarter in which the campaign was initiated, or until corrective action has been completed on all defective vehicles involved in the campaign, whichever occurs first. The information specified in paragraph (c)(9) of this section shall be included only in the third quarterly report furnished pursuant to this section.

Effective date: August 6, 1974.

(Secs. 103, 112, 113, and 119, Pub. L. 89-563, 80 Stat. 718; 15 U.S.C. 1392, 1401, 1402, 1407, and the delegation of authority at 49 CFR 1.51; Office of Management and Budget approved 04-R5628)

Issued on May 6, 1974.

GENE G. MANNELLA,
Acting Administrator.

[FR Doc.74-10795 Filed 5-7-74;12:46 pm]

[Docket No. 26; Notice 11]

PART 575—CONSUMER INFORMATION REQUIREMENTS

Uniform Tire Quality Grading; Response to Petitions for Reconsideration; Revocation

This notice revokes the Uniform Tire Quality Grading regulation published January 4, 1974 (39 FR 1037), and responds to petitions for reconsideration received with respect to the regulation.

The Uniform Tire Quality Grading regulation specified the use of "control tires" in the establishment of grades for treadwear and traction. The NHTSA expected that control tires would be manufactured by an industry source pursuant to NHTSA contract, and would be available for both industry and government use. A solicitation for a proposal to manufacture control tires was advertised to the domestic tire industry. Two proposals were received. Each, however, has been determined to be nonresponsive to the solicitation, which has accordingly been cancelled.

Due to the failure of NHTSA to procure a control tire, the agency must revoke the Uniform Tire Quality Grading regulation in its present form. The revocation of the regulation renders moot the petitions for reconsideration received.

On May 2, 1974, an order was entered by the United States District Court for the District of Columbia in the case of "Nash v. Brinegar" (Civil Action No. 177–73) requiring the NHTSA to issue, by June 15, 1974, a notice of proposed rulemaking for a revised Uniform Tire Quality Grading regulation having a proposed effective date of May 1, 1975.

In light of the above, § 575.104 "Uniform Tire Quality Grading" of Chapter V, Title 49, Code of Federal Regulations, is revoked, effective on May 9, 1974.

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(Sec. 103, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1407, 1421, 1423; delegation of authority at 49 CFR 1.51)

Issued on May 6, 1974.

GENE G. MANNELLA,
Acting Administrator.

[FR Doc.74-10796 Filed 5-7-74;12:46 pm]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Assistance to Eligible Volunteer Fire Departments

Part 2, Subtitle A of Title 7, Code of Federal Regulations, is amended to delegate to the Assistant Secretary for Conservation, Research, and Education, and to redelegate to the Chief, Forest Service, the authority to administer the program of assistance to eligible volunteer fire departments authorized by section 306(a) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(13)), and to make certain conforming amendments, as follows:

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries, and Director of Agricultural Economics

1. Section 2.19 is amended by adding a new paragraph (d)(20) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.

* * * * *

(d) *Related to forest service.* * * *

(20) Administer the program for assistance to eligible volunteer fire departments authorized by the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(13)).

* * * * *

2. Section 2.23(a) is amended to read as follows:

§ 2.23 Delegations of authority to the Assistant Secretary for Rural Development.

(a) *Related to farmers home activities.* (1) Administer the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except (i) with respect to loans for rural electrification and telephone facilities and service delegated to the Assistant Secretary for Rural Development in paragraph (c)(2) of this section; and (ii) the authority contained in section 342 of said act, 7 U.S.C. 1013a; and (iii), the authority under 7 U.S.C. 1926(a)(13), for assistance to eligible volunteer fire departments. This delegation includes the authority to collect, service, and liquidate loans made or insured by the Farmers Home Administration, or its predecessor agencies, the Farm Security Administration, the Emergency Crop and Feed Loans Offices of the Farm Credit Administration, the Resettlement Administration, and the Regional Agricultural Credit Corporations of Washington, D.C.

* * * * *

Subpart G—Delegations of Authority by the Assistant Secretary for Conservation, Research, and Education

3. Section 2.60 is amended by adding a new paragraph (a)(19) to read as follows:

§ 2.60 Chief, Forest Service.

(a) *Delegations.* * * *

(19) Administer the program for assistance to eligible Volunteer fire departments as authorized by the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(13)).

* * * * * *

Subpart I—Delegations of Authority by the Assistant Secretary for Rural Development

4. Section 2.70(a) is amended to read as follows:

§ 2.70 Administrator, Farmers Home Administration.

(a) *Delegations.* * * *

(1) Administration of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.), except (i) with respect to loans for rural electrification and telephone facilities and service delegated to the Administrator, Rural Electrification Administration in § 2.72(a)(2); and (ii) the authority contained in section 342 of said act, 7 U.S.C. 1013a; and (iii) the authority under 7 U.S.C. 1926(a)(13), for assistance to eligible volunteer fire departments. This delegation includes the authority to collect, service, and liquidate loans made or insured by the Farmers Home Administration or its predecessor agencies, the Farm Security Administration, the Emergency Crop and Feed Loans Offices of the Farm Credit Administration, the Resettlement Administration, and the Regional Agricultural Credit Corporation of Washington, D.C.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Effective date. This amendment is effective on May 6, 1974.

Dated: May 6, 1974.

For Subpart C:

EARL L. BUTZ,
Secretary.

Dated: April 22, 1974.

For Subpart G:

ROBERT W. LONG,
Assistant Secretary for Conservation, Research, and Education.

Dated: April 25, 1974.

For Subpart I:

WILLIAM W. ERWIN,
Assistant Secretary for Rural Development.

[FR Doc.74-10743 Filed 5-8-74;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Appendix—Second Apportionment of Nonfood Assistance Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1974

Pursuant to section 5(e) of the Child Nutrition Act of 1966, Pub. L. 89-642, 80 Stat. 887, nonfood assistance funds available for the fiscal year ending June 30, 1974, are reapportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama			
Alaska	$97,523	$97,523	
Arizona	113,700	113,700	
Arkansas	3,983		$3,983
California	1,034,183	1,034,183	
Colorado	58,846	54,240	4,606
Connecticut	1,085,670	1,085,670	
Delaware	21,616	21,616	
District of Columbia	4,319	4,319	
Florida	70,907	70,907	
Georgia			
Guam			
Hawaii	10,000		10,000
Idaho	97,246	97,246	
Illinois	667,673	667,673	
Indiana	536,734	536,734	
Iowa	33,913	18,346	15,567
Kansas	257,364	257,364	
Kentucky	15,979	15,979	
Louisiana	3,000	3,000	
Maine	292,501	281,876	10,623
Maryland	5,030	5,030	
Massachusetts	1,179,587	1,179,587	
Michigan	624,388	624,388	
Minnesota	348,909	348,909	
Mississippi	19,026	19,026	
Missouri	838	838	
Montana	325,616	324,393	1,222
Nebraska	139,803	101,262	38,541
Nevada	40,000	37,000	3,000
New Hampshire	178,151	178,151	
New Jersey	1,709,388	1,709,388	
New Mexico	22,957	22,957	
New York	696,124	696,124	
North Carolina			
North Dakota	22,613	20,516	2,097
Ohio	1,193,412	1,142,999	50,413
Oklahoma	31,977	31,977	
Oregon	55,430	55,430	
Pennsylvania	881,214	838,105	43,109
Puerto Rico	109,812	109,812	
Rhode Island	928,501	928,501	
South Carolina			
South Dakota	75,137	75,137	
Tennessee	39,112	39,112	
Texas	57,149	46,934	10,215
Utah	98,207	98,207	
Vermont	115,109	115,109	
Virginia	41,465	2,792	38,673
Virgin Islands	254,007	254,007	
Washington	121,050	76,332	44,718
West Virginia	74,165	58,051	16,114
Wisconsin	193,636	183,636	10,000
Wyoming	3,172	3,172	
Subtotal	13,990,141	13,087,260	302,881
Balance	64,859		
Total	14,055,000		

The survey made of nonfood assistance funds provided under section 5(a) of the Child Nutrition Act determined that only $13,219 could be released by States. This amount was determined to be too insignificant to be reapportioned and will be carried over into fiscal year 1975.

(Sec. 2, 5, 6 and 8 through 16, 80 Stat. 885-890; U.S.C. 1771, 1774, 1775, 1777-1785)

Dated: May 3, 1974.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.74-10597 filed 5-8-74;8:45 am]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. 51]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPLICATION OF CONTRACT PROVISIONS

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regulations are amended in the following respect:

1. Section 401.107 of this chapter is amended to read as follows:

§ 401.107 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the insurance contract, whenever an insured person under any contract of crop insurance entered into under these regulations, or any other regulations in this chapter issued pursuant to the Federal Crop Insurance Act, as amended, has suffered a loss to a crop which is not insured, or for which he is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which he believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, because of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation and the Board of Directors of the Corporation, or the Manager in cases involving not more than $5,000.00, finds (a) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (b) that said insured person relied thereon in good faith, and (c) that to deny said insured's claim for indemnity would not be fair and equitable, such insured person shall be entitled to such indemnity the same as if otherwise entitled thereto.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

The only change made by the proposed amendment with respect to § 401.107 is the insertion of "or the Manager in cases involving not more than $5000.00." Thus, the proposed amendment simply authorizes the Manager to make the necessary findings in cases involving not more than $5000.00, and relieves the Board of Directors of the necessity for doing so. Since the foregoing amendment contained only a change in administrative procedure consisting of a delegation of authority within the agency and involved no substantive change in the insurance contract, the Board of Directors found that it would be unnecessary to follow the procedure for notice and public participation prescribed by 5 U.S.C. 553 (b) and (c), as directed by the Secretary of Agriculture in a Statement of Policy, executed July 20, 1971 (36 FR 13804), prior to its adoption. Accordingly, said amendment was adopted by the Board of Directors on April 17, 1974, to become effective May 9, 1974.

[SEAL] LLOYD E. JONES,
Secretary, Federal Crop Insurance Corporation.

Approved on May 6, 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-10672 Filed 5-8-74;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 324]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period May 10-16, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.624 Navel Orange Regulation 324.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is holding well.

Prices f.o.b. averaged $3.55 a carton on a reported sales volume of 825 carlots last week, compared with an average f.o.b. price of $3.71 per carton and sales of 958 carlots a week earlier. Track and rolling supplies at 285 cars were down 195 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meetirig was held on May 7, 1974.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period May 10, 1974, through May 16, 1974, are hereby fixed as follows:

(i) District 1: 650,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 8, 1974.

CHARLES R. BRADEN,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service

[FR Doc.74–10928 Filed 5–8–74;11:39 am]

[Valencia Orange Reg. 464]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 10–16, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.764 Valencia Orange Regulation 464.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to improve.

Prices f.o.b. averaged $3.50 per carton on a reported sales volume of 362 carlots last week, compared with an average f.o.b. price of $3.45 per carton and sales of 259 carlots a week earlier. Track and rolling supplies at 279 cars were up 60 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 7, 1974.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 10, 1974, through May 16, 1974, are hereby fixed as follows:

(i) District 1: 300,000 cartons;

(ii) District 2: 255,000 cartons;

(iii) District 3: 195,000 cartons."

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 8, 1974.

CHARLES R. BRADEN,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service

[FR Doc.74–10927 Filed 5–8–74;11:38 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Grapefruit Reg. 14, Amdt. 3]

PART 944—FRUITS; IMPORT REGULATIONS

Minimum Size Requirement for Imports of Pink Seedless Grapefruit

This amendment lowers the minimum diameter restriction applicable to imported pink seedless grapefruit to 3$^{5}/_{16}$ inches on May 6, 1974. The restriction is the same as that applicable to grapefruit produced in Florida and regulated pursuant to Marketing Order No. 905.

This amendment is consistent with section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order imports of that commodity must meet the same or comparable requirements as those in effect for the domestically produced commodity. This regulation imposes the same size requirement on imported pink seedless grapefruit as is effective under Marketing Order No. 905, as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida.

Order. In § 944.110 (Grapefruit Regulation 14; 38 FR 26108, 28286; 39 FR 7798) the provisions of paragraph (a) are amended to read as follows:

§ 944.110 Grapefruit Regulation 14.

(a) • • •

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than 3$^{1}/_{16}$ inches in diameter except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit;

(2) Seedless grapefruit shall grade at least Improved No. 2 ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.); and

(3) Seedless grapefruit other than pink seedless grapefruit shall be not smaller than 3$^{9}/_{16}$ inches in diameter, and pink seedless grapefruit shall be not smaller than 3$^{5}/_{16}$ inches in diameter, except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit.

• • • • •

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) this amendment imposes the same restrictions on imports of pink seedless grapefruit as are applicable under amended Grapefruit Regulation 74 (§ 905.551) to the shipment of pink seedless grapefruit grown in Florida; (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of pink seedless grapefruit.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, May 2, 1974, to become effective May 6, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–10661 Filed 5–8–74;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Nursing Student Loans

In the FEDERAL REGISTER of August 30, 1973 (38 FR 23414) the Acting Director, National Institutes of Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to amend Part 57 by repealing Subpart D of Part 57 and substituting a new Subpart D in lieu thereof. The purpose of the proposed change was to implement certain statutory changes made by the Nurse Training Act of 1971 (Pub. L. 92–158).

Interested persons were afforded the opportunity to participate in the rulemaking through the submission of comments on or before October 1, 1973. The bulk of the comments received requested additions or changes which could be effectuated only through further amendments to the statute. These suggestions were: (1) That § 57.314(a) be modified to provide for deferring repayment of loans until a borrower completes his undergraduate studies, whether in nursing or other fields of study, (2) that the Secretary require schools to notify students of the reason for the approval or disapproval of their loan application (which is already standard procedure for many institutions), (3) that employed nurses aides and attendants be given preference for nursing student loans and (4) that individuals be entitled to receive 100 percent forgiveness for work in service areas.

Two other suggestions were also made The first suggestion was that a provision be added to § 57.309 prohibiting discrimination on the basis of age. This suggestion will be given serious consideration, but inasmuch as its nature requires coordination with other components of the Department, such as the Office for Civil Rights, no addition to the regulations has been made at this time. Such consideration however may dictate future amendment of the regulations in this regard. The second suggestion was that the regulations be modified to require that borrowers be given notification of the various methods for repayment of their loans. This suggestion was not implemented since, although not in the regulations, the Department already requires through its "Manual of Information, Policies, and Procedures" that schools conduct an "exit interview" with each borrower to assure that the student is aware of the obligations and benefits available to him under the program.

There have, however, been a few minor changes in the regulations as proposed, which are merely editorial and technical in nature, and are self-explanatory.

Effective date. The regulations as set forth below shall become effective on or before June 10, 1974.

Dated: February 26, 1974.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: May 3, 1974.

CASPAR W. WEINBERGER,
Secretary.

Subpart D—Nursing Student Loans

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AUTHORITY: Sec. 215, 58 Stat. 170, as amended (42 U.S.C. 216).

Subpart D—Nursing Student Loans

§ 57.301 Applicability.

The regulations in this subpart are applicable to Federal Capital Contributions and Federal Capital Loans made by the Secretary to public or other nonprofit schools of nursing under sections 822 and 827 of the Public Health Service Act and to loans made to students by such schools pursuant thereto.

§ 57.302 Definitions.

All terms not defined herein shall have the same meaning as given them under title VIII of the Act. As used in this subpart, the following terms shall have the following meanings:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare, and any other officer or employee to whom the authority involved has been delegated.

(c) "School" means a public or other nonprofit school of nursing as defined in section 843 of the Act.

(d) "Nursing Student Loan Fund or Funds" means a Fund established at a school pursuant to part B of title VIII of the Act, either with Federal Capital Contributions together with Institutional Capital Contributions, or with Federal Capital Loans. Where a school received monies from both sources of payment, reference is made to Funds.

(e) "Federal Capital Contribution" means the capital portion allotted by the Secretary to a school for deposit in a Nursing Student Loan Fund pursuant to section 824 of the Act.

(f) "Institutional Capital Contribution" means the money provided by a school, in an amount not less than one-ninth of the Federal Capital Contribution, and deposited in a Nursing Student Loan Fund.

(g) "Federal Capital Loan" means a loan made by the Secretary to a school pursuant to section 827(a) of the Act; the proceeds of which are to be deposited in a Nursing Student Loan Fund.

(h) "Nursing student loan" means the amount of money advanced to a student by a school from a Nursing Student Loan Fund as defined in paragraph (d) of this section, under a properly executed promissory note.

(i) "Educational loan" means a nursing student loan as defined in paragraph (h) of this section or the amount of money provided to a student under any other bona fide loan which the Secretary determines was reasonably necessary for meeting the student's costs of attending a school of nursing, taking into account the tuition, fees, books, equipment, living expenses, and such other expenses as the Secretary determines were reasonably necessary to enable an individual to attend such school.

(j) "Full-time student" means a student who is enrolled in a school and pursuing a course of study which constitutes a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

(k) "Half-time student" means a student who is enrolled in a school and pursuing a course of study which constitutes at least one-half of a full-time

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academic workload but less than a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

(l) "Good standing" means the eligibility of a student to continue in attendance at the school where he is enrolled as a student in accordance with the school's standards and practices.

(m) "Date upon which a student ceases to be a full-time or half-time student" means the first day of the month which is nearest to the date upon which he ceases to be a full-time or half-time student as defined in paragraphs (j) and (k) of this section, respectively.

(n) "Academic year" means the traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

(o) "Fiscal year" means the Federal fiscal year commencing on the first day of July and ending on the 30th day of June.

(p) "Permanently and totally disabled" means the inability to engage in any substantial gainful activity because of medically determinable impairment, which impairment is expected to continue for a long and indefinite period of time, or to result in death.

(q) "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Ocean Survey, and the U.S. Public Health Service.

(r) "National of the United States" means (1) a citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a)(22)).

(s) "State health authority" means the Director of the agency responsible for administering or supervising the administration of the State plan for health services under section 314(d) of the Act.

(t) "Registered nurse" means an individual who has been licensed by a State Board of Nursing to practice professional nursing pursuant to State licensing laws requiring as a minimum one of the degrees or diplomas specified in paragraph (j) of this section.

§ 57.303 Eligibility of schools.

To be eligible for a Federal Capital Contribution or a Federal Capital Loan under this subpart, the applicant shall meet the applicable requirements of sections 822(a) and 827(a) of the Act.

§ 57.304 Application by school.

(a) Each school desiring a Federal Capital Contribution or a Federal Capital Loan under Title VIII of the Act shall submit an application in such form and at such time as the Secretary may require.[1] The application shall be executed by an official authorized to act for the applicant school and to assume on behalf of the applicant school the obligations imposed by the terms and conditions of any Federal Capital Contribution or Federal Capital Loan, including the regulations of this subpart.

(b) Each application shall be reviewed to determine institutional eligibility and the reasonableness of the amount requested. When necessary to these ends, the Secretary may require the submission of additional data.

§ 57.305 Agreements for Federal Capital Contributions and Federal Capital Loans.

(a) *Federal Capital Contribution agreements.* No application for a Federal Capital Contribution shall be approved unless there is in effect an Agreement between the Secretary and the applicant school for Federal Capital Contributions pursuant to section 822 of the Act.

(b) *Federal Capital Loan agreements.* No application for a Federal Capital Loan shall be approved unless there is in effect an Agreement between the Secretary and the applicant school for Federal Capital Loans containing the terms required by section 827(b) of the Act and such additional terms and conditions, consistent with the applicable provisions of section 822 of the Act, as the Secretary deems appropriate.

§ 57.306 Allotment and payment of Federal Capital Contributions and Federal Capital Loans.

(a) *Annual allotment.* At a time determined by him, the Secretary shall make allotments to each school with which he has entered into an agreement pursuant to § 57.305. The allotment to each school, whether in the form of Federal Capital Contributions or Federal Capital Loans or a combination of both, shall be an amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of such allotment to be available for such fiscal year for the Nursing Student Loan Program as the number of full-time students in such schools bears to the estimated total number of full-time students in all such schools in all the States during such year.

(b) *Supplementary allotment from revolving fund only.* From funds which become available during any fiscal year for payment to schools from the revolving fund established by section 827(a) of the Act after the allotments pursuant to paragraph (a) of this section for such fiscal year have been made, the Secretary may, in his discretion and at such time as he shall determine, make supplementary allotments to schools with which he has Federal Capital Loan Agreements and who request funds for such fiscal year in excess of the amounts allotted to them pursuant to paragraph (a) of this section. If the total need for supplementary funds exceeds the amount determined by the Secretary to be available for supplementary allotments, the supplementary allotment to each school shall be reduced to whichever of the following is the smaller: (1) The supplementary amount requested or (2) an amount which bears the same ratio to the amount determined by the Secretary to be available for supplementary allotment as the number of full-time students estimated by the Secretary to be enrolled in such school bears to the estimated total number of full-time students enrolled for such year in all schools which request supplementary allotments. Any amounts remaining after such supplementary allotment may be allotted among schools in such manner as the Secretary determines will best carry out the purposes of the Act.

(c) *Payment.* The allotment of Federal Capital Contributions and/or Federal Capital Loans to a school shall be paid in such amounts, at such times, and in such installments as will not result in unnecessary accumulation of money in any Nursing Student Loan Fund.

§ 57.307 Federal Capital Loan Promissory note.

Each Federal Capital Loan shall be made subject to the terms of a promissory note which shall be executed by an authorized official on behalf of the borrowing school. Each such note shall include such terms with respect to the payment of interest and the repayment of principal as are consistent with the provisions of section 827 of the Act, and shall include such other terms as the Secretary finds reasonably necessary to protect the financial interests of the United States and to promote the purposes of the Act.

§ 57.308 Nursing Student Loan Funds.

(a) *Funds established with Federal Capital Contributions.* Any fund established by a school with Federal Capital Contributions shall be deposited and carried in a special account of such school. There shall be in such fund at all times monies representing the Institutional Capital Contribution, equal to at least one-ninth of the amount of the balance of the Federal Capital Contributions in such fund.

(1) Except for funds transferred as provided for in paragraph (a)(2) of this section, such fund shall be used by such school only for (i) nursing student loans to students; (ii) capital distribution as provided in section 826 of the Act or as agreed to by the school and the Secretary; and (iii) costs of litigation and, to the extent specifically approved by the Secretary, other collection costs that are in excess of the usual expenses incurred in the collection of nursing student loans.

(2) Not to exceed 20 percent of the amount paid to any such school from the appropriation for any fiscal year ending after June 30, 1969, for Federal Capital Contributions may be transferred to the sums available to the school for scholarship awards under section 860 of the Act, to be used for the same purpose as such sums; *Provided, however,* That where the Secretary finds in a particular case that a school has demonstrated an unusual need for scholarship funds, he may approve the transfer of any amount in excess of 20 percent of the amount so paid. In the case of any transfer pursuant to this subparagraph, the proportionate amount of the Institutional Capital Contribution (i.e., one-ninth of the amount so transferred) may be withdrawn by the school from such fund.

(b) *Funds established with Federal Capital Loans.* Any fund established by a school with Federal Capital Loans shall be deposited and carried in a special account of such school, and shall be used by such school only for (1) nursing student loans to students; (2) repayments of principal and interest on Federal Capital Loans; and (3) costs of litigation and, to the extent specifically approved by the Secretary, other collection costs that are in excess of the usual expenses incurred in the collection of nursing student loans.

§ 57.309 Nondiscrimination.

(a) No eligible applicant shall be denied a nursing student loan on the grounds of sex or creed.

(b) Attention is called to the requirements of section 845 of the Act and 45 CFR Part 83 which together provide that the Secretary may not enter into a contract under title VIII of the Act with any entity unless he receives satisfactory assurances that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(c) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d et seq.), which provides that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which is applicable to Federal Capital Contributions and Federal Capital Loans made under Title VIII of the Act, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(d) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance.

§ 57.310 Eligibility and selection of nursing student loan recipients.

(a) *Eligibility.* Nursing student loans from any fund may be made only to students who are:

(1) Nationals of the United States or who are in a State for other than temporary purposes and intend to become permanent residents of a State;

(2) Enrolled, or accepted for enrollment, in the school as full-time or half-time students, as defined in § 57.302 (j) and (k) respectively;

(3) In need of the amount of the loan to pursue the course of study at the school; and

(4) Capable, in the opinion of the school, of maintaining good standing in such course of study.

(b) *Selection of nursing student loan recipients and determination of need.* It shall be the responsibility of the school to select qualified applicants and to make reasonable determinations of need.

(1) In selecting nursing student loan recipients, the school shall give preference to licensed practical nurses.

(2) In determining whether a student is in need of a nursing student loan to pursue a full-time or half-time course of study at the school, the school shall take into consideration:

(i) The financial resources available to the student, and

(ii) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's financial ability to attend the school on a full-time or half-time basis.

(c) *Records of approval or disapproval.* The records of the school shall indicate the basis for approval or disapproval of all or any part of each student application for a nursing student loan.

§ 57.311 Maximum amount of nursing student loan.

(a) *Maximum per academic year.* Effective on November 18, 1971, the total of the nursing student loans made from a Fund or Funds to any student for an academic year may not exceed $2,500. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of study longer than the 9-month academic year may be proportionately increased.

(b) *Aggregate maximum.* Effective on November 18, 1971, the aggregate of nursing student loans for all years from a Fund or Funds may not exceed $10,000 in the case of any student.

§ 57.312 Evidence of student indebtedness—promissory note; security.

(a) *Evidence of indebtedness—promissory note.* Each nursing student loan to a student from any Fund or Funds shall be evidenced by a promissory note executed by the student borrower, in such form as shall be approved by the Secretary.

(1) Any substantive deviations from the promissory note form so approved shall be made only pursuant to approval by the Secretary prior to the making of any nursing student loan evidenced thereby, except that a school which elects to require security or endorsement in cases permitted under paragraph (b) of this section may include a provision reflecting such election without prior approval.

(2) Each promissory note executed subsequent to June 30, 1969, shall include a provision stating that the nursing student loan evidenced thereby shall bear interest, on the unpaid balance of such loan, computed only for periods during which repayment of the loan is required, at the rate of 3 percent per year.

(3) A copy of each executed note shall be supplied by the school to the student maker thereof.

(b) *Security.* Neither security nor endorsement shall be required except that if the borrower is a minor and if under the applicable State law the note executed by him would not create a binding obligation, then the school is permitted to require security or endorsement.

§ 57.313 Payment of nursing student loans.

(a) Nursing student loans from any Fund or Funds shall be paid to or on behalf of student borrowers in such installments as are deemed appropriate by the school, except that no school shall pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines that he needs for such period.

(b) No payment shall be made from any Fund to or on behalf of any student borrower if at the time of such payment such borrower is not a full-time or half-time student as defined in § 57.302(j) and (k), respectively.

§ 57.314 Repayment and collection of nursing student loans.

(a) *Repayment of nursing student loans.* Subject to the provisions of this paragraph, any nursing student loan including interest accrued thereon, shall be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment perod. Except as otherwise provided in this paragraph, repayment of any nursing student loan made after June 30, 1969 shall begin 9 months after the student ceases to be a full-time or half-time student: *Provided, however,* That in the case of students who received nursing student loans subsequent to June 30, 1969, but prior to November 18, 1971, repayment shall begin 9 months after the student ceases to be a full-time student.

(1) When a borrower, within such 9-month period, reenters the same or another school of nursing as a full-time or half-time student, the date upon which interest accrual and the repayment period begin shall be related to and determined by the date on which he last ceases to be a full-time or half-time student at any such school: *Provided, however,* That in the case of students who received loans subsequent to June 30, 1969, but prior to November 18, 1971, this provision will apply only if the student reentered such school as a full-time student.

(2) The following periods shall be excluded from the 10-year repayment period:

[1] Applications and instructions are available from the Regional Health Manpower Director at the Regional Office of the Department of Health, Education, and Welfare for the region in which the applicant is located.

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(i) All periods of up to a total of 3 years of active duty performed by the borrower as a member of a uniformed service;

(ii) All periods of up to a total of 3 years of service as a volunteer under the Peace Corps Act; and

(iii) All periods up to a total of 5 years during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing. For purposes of this paragraph, "otherwise pursuing advanced professional training in nursing" shall include only full-time training, beyond the first diploma or degree in nursing received by the particular borrower, of at least one academic year which will advance the borrower's knowledge of and strengthen his skills in the provision of nursing services.

(3) With respect to nursing student loans made before July 1, 1969, all periods specified in paragraph (a)(2) of this section after June 30, 1968, may be excluded from such repayment period where so agreed by the school which made such loan and the borrower: *Provided, however,*

(i) That in no such case may the total of the periods excluded from the repayment period pursuant to paragraphs (a)(2)(i) or (a)(2)(ii) of this section and the period between the date on which the borrower ceases to be a full-time student and the date on which, under the terms of the promissory note evidencing such loan, the repayment period is to begin, exceed 3 years and 9 months; and

(ii) That in any such case all periods during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, shall be excluded from the repayment period, without limitation; and

(iii) That in no such case may the total of the periods excluded from the repayment period because the borrower is otherwise pursuing advanced professional training in nursing and the period between the date on which the borrower ceases to be a full-time student and the date on which, under the terms of the promissory note evidencing such loan, the repayment period is to begin, exceed 5 years and 9 months.

(4) Each student borrower may (subject to the provisions of paragraph (b)(3) of this section) choose the repayment schedule which he prefers from those in use by the school and approved by the Secretary, but a student borrower may, at his option and without penalty, prepay all or part of the principal and accrued interest at any time.

(b) *Collection of nursing student loans.* (1) Each school at which a Fund is established shall exercise due diligence in the collection of all nursing student loans due the Fund. The school shall use such collection practices as are generally accepted among institutions of higher education and which are at least as extensive and effective as those used in the collection of other student loan accounts due the school.

(2) With respect to any nursing student loan made after June 30, 1969, the school may assess a charge for failure of the borrower to pay all or part of an installment when it is due, and, in the case of a borrower who is entitled to deferment benefits under section 823(b)(2) of the Act or cancellation benefits under section 823(b)(3) of the Act, for any failure to file timely and satisfactory evidence of such entitlement. The amount of such charge may not exceed $1.00 for the first month or part of a month by which such installment or evidence is late and $2.00 for each such month or part of a month thereafter. The school may elect to add the amount of such charge to the principal amount of the nursing student loan as of the first day after the day on which such installment or evidence was due or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(3) With respect to any nursing student loan made after June 30, 1969, the school may provide that during the repayment period of such loan, payments of principal and interest by the borrower with respect to all the outstanding nursing student loans made to him from any Nursing Student Loan Fund shall be at a rate equal to not less than $15.00 per month.

§ 57.315 Cancellation of nursing student loans for disability and death.

(a) *Permanent and total disability.* Determinations as to whether or not a student borrower is entitled to cancellation of indebtedness in accordance with section 823(b)(4) of the Act on the basis of permanent and total disability shall be made by the Secretary on the recommendation of the school to whose fund the borrower is indebted, supported by such medical certifications as the Secretary may require relating to the borrower's disability.

(b) *Death.* The determination as to whether or not a student borrower is entitled to cancellation of indebtedness in accordance with section 823(b)(4) of the Act because of the death of the borrower shall be made by the school to which the borrower is indebted on the basis of a certification of death or such other official proof as is conclusive under State law.

§ 57.316 Loan cancellation or repayment for service.

(a) *Cancellation for full-time employment as a registered nurse.* (1) Any person who obtained one or more nursing student loans from a loan Fund or Funds established under Title VIII of the Act and who engages in full-time employment as a registered nurse (including teaching in any of the fields of nurse training or service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers) shall be entitled upon compliance with the statute, the regulations of this subpart and instructions issued pursuant thereto, to have a portion of such nursing student loans canceled as follows: Fifteen percent of the total amount of such loans (plus accrued interest thereon) which is unpaid on the first day of such service, for each of the first, second, and third year of such service, and 20 percent of the total of such amount (plus accrued interest thereon) for each complete fourth and fifth year of such service thereafter, up to 85 percent of the total of such loans, plus accrued interest thereon: *Provided, however,* That with respect to nursing student loans made prior to November 18, 1971 a borrower shall only be entitled to cancellation of an amount not to exceed 50 per centum of any such loan plus accrued interest thereon) at the rate of 10 per centum of the amount of such loan (plus accrued interest thereon), which was unpaid on the first day of such service, for each complete year of such service.

(2) The determination of whether a borrower is entitled to have any portion of his nursing student loan canceled for such full-time employment as a registered nurse shall be made by the institution to whose fund such loan is payable, upon receipt and evaluation of an application for cancellation from such borrower.

(b) *Repayment and cancellation for service in shortage area.* (1) Subject to the provisions of section 823(h) of the Act and of this paragraph, any person who has obtained the degree or diploma specified in § 57.302(j) and who has obtained an educational loan as defined in § 57.302(i) of this subpart and who enters into an agreement with the Secretary to serve as a full-time registered nurse for a period of at least two consecutive years in an area in a State determined by the Secretary, after consultation with the State health authority, to have a shortage of and need for nurses, is entitled to have the principal, and interest on, such loans repaid by the Secretary as follows:

(i) Upon completion by the borrower of the first year of service as specified in the agreement, the Secretary shall pay 30 percent of the principal of, and the interest on, each such loan which is unpaid as of the date the borrower began service.

(ii) Upon completion by the borrower of the second year of such service, the Secretary shall pay another 30 percent of the principal of, and the interest on, each such loan which was unpaid as of the date the borrower began such service.

(iii) Upon completion by the borrower of the second year of such service, the shall pay another 25 percent of the principal of, and interest on, each such loan which was unpaid as of the date the borrower began such service.

(2) Notwithstanding the requirement in paragraph (b)(1) of this section of completion of such service, the Secretary shall on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower is eligible to receive such payments. Such payments will be made contingent upon a declaration by the borrower, at such times and in such manner as the Secretary may prescribe, that the borrower is then engaged in service eligible for such payments and will continue to be so engaged for the period required (in the absence of this subparagraph) to entitle the borrower to have such payments made, except that no more than 85 percent of the principal of any such loan shall be paid by the Secretary pursuant to this subparagraph.

(3) A borrower who fails to complete two years of service pursuant to the agreement entered into with the Secretary shall be liable to reimburse the Secretary for any payments made pursuant to such agreement.

(4) A borrower who fails to complete a third year of service shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (b)(2) of this section in consideration of such service.

(5) In accordance with section 823(h) of the Act, an area in a State shall be determined by the Secretary, after consultation with the State health authority, to have a shortage of and need for nurses, based upon consideration of, among other pertinent factors: (i) The latest reliable statistical data available to him regarding the number of registered nurses in an area and the population to be served by such nurses; (ii) the availability of health services to the residents of the area; (iii) particular local health problems; and (iv) designation of an area under section 329(b) of the Act as one with a critical health manpower shortage. A listing of such areas in which service as a registered nurse would qualify a borrower for repayment under paragraph (b)(1) of this section will be promulgated periodically by the Secretary and published in the FEDERAL REGISTER together with an explanation of the methodology used in determining such areas.

(6) Notwithstanding the above, any person who obtained one or more nursing student loans prior to November 18, 1971, and who engages in full-time employment as a registered nurse in a public or other nonprofit hospital in an area which has been determined by the Secretary pursuant to this subparagraph to have a substantial shortage of nurses at such hospitals shall be entitled, upon compliance with the applicable statute, regulations, and instructions, to have a portion of such loans canceled as follows: Fifteen per centum of the total of such loans (plus accrued interest thereon) which is unpaid on the first day of such service, for each year of such service beginning after August 16, 1968, up to 100 percent of the total of such loans, plus accrued interest thereon.

(i) An area shall be determined to have a substantial shortage of nurses if the number of registered nurse hours of service per patient day in the public or other nonprofit hospital serving such area is lower than the median number of registered nurse hours of service per patient day for all public or other nonprofit hospitals of its category in all States. For purposes of this subparagraph, all public or other nonprofit hospitals in all States shall be grouped by the Secretary according to the following categories:

(A) Short-term general and allied special hospitals,

(B) Psychiatric hospitals,

(C) Tuberculosis hospitals,

(D) Chronic and convalescent hospitals, and

(E) All other hospitals.

(ii) For purposes of this subparagraph, a year of service in a public or other nonprofit hospital means any 12-month period of continuous service (A) after the date the person begins service in such hospital if the area primarily served by the hospital is at that time designated as an area in which there is a substantial shortage of nurses, or (B) after the date as of which the area is designated an area with a substantial shortage of nurses if the area was so designated subsequent to the date that such person began service in the hospital: *Provided,* That, when an area's designation is changed, after a borrower would otherwise be eligible for cancellation of a portion of his loan by serving in the hospital in such area, so that such area no longer has a substantial shortage of nurses, such change in designation shall not affect the eligibility of such borrower to have a portion of his loan cancelled for any year in which he continues to serve as a nurse in the hospital in such area.

(iii) The determination of whether a borrower is entitled to have a portion of his loan cancelled in accordance with this subparagraph shall be made by the institution to whose fund such loan is payable, upon receipt and evaluation of an application for cancellation from such borrower.

(iv) All determinations of the Secretary pursuant to this subparagraph shall be made on the basis of the latest reliable statistical data available to him.

(v) Hospitals in which employment will qualify borrowers for cancellation under the provisions of this subparagraph shall be identified in a list promulgated periodically by the Secretary in the FEDERAL REGISTER.

(7) Nothing in paragraph (b)(6) of this section or paragraph (a) of this section shall be construed to prevent any person from entering into an agreement with the Secretary pursuant to section 823(h) of the Act.

§ 57.317 Repayment of loans made subsequent to November 17, 1971 for failure to complete program of study.

In the event the Secretary undertakes to repay educational loans pursuant to section 830 of the Act, he shall utilize the following criteria in making his determination as to each applicant's eligibility:

(a) An applicant will be considered to have failed to complete the course of study in nursing for which an eligible educational loan was made upon certification by a school of nursing that the individual ceased to be enrolled in such school subsequent to November 17, 1971;

(b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his expenses and financial obligations, the Secretary determines that repayment of such loan would constitute a serious economic burden on the applicant. In making such determination the Secretary shall take into consideration the net financial assets of the applicant and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary pursuant to paragraph (c) of this section;

(c) An applicant will be considered to be from a low-income family if the applicant comes from a family with an annual income below a level based on low-income thresholds by family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and multiplied by a factor to be determined by the Secretary for adaptation to this program, and the family has no substantial net financial assets. Such factor and income levels as adjusted will be published annually by the Secretary in the FEDERAL REGISTER.

(d) An applicant will be considered to be from a disadvantaged family if the individual comes from a family in which the annual income minus unusual expenses which contribute to the economic burden borne by the family does not exceed the low-income levels published by the Secretary pursuant to paragraph (c) of this section and the family has no substantial net financial assets;

(e) An applicant will be considered as not having resumed his nursing studies within two years following the date the individual ceased to be a student upon a certification so stating from the applicant; and

(f) An applicant will be considered as not reasonably expected to resume his nursing studies within two years following the date upon which he terminated such studies based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties: *Provided, however,* That the Secretary shall only repay educational loans made subsequent to November 17, 1971.

§ 57.318 Records, reports, inspection and audit.

(a) *Record and reports.* (1) Each Federal Capital Contribution and Federal Capital Loan shall be subject to the condition that the school shall maintain such records, and file with the Secretary

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such reports relating to the operation of the Nursing Student Loan Fund or Funds, as the Secretary may find necessary to carry out the purposes of the Act and the regulations. Where any school has both a Fund established with Federal Capital Contributions and a Fund established with Federal Capital Loans, records shall be kept separately for each Fund. All such records shall be retained until such time as agreed upon with the Secretary that there is no further need for retention and must not be destroyed regardless of completion of a Federal audit.

(2) The following individual student records not related to the operation of the Fund must be retained for five years after the individual student has ceased to be at least a half-time student:

(i) Approved or disapproved student applications for assistance;

(ii) Documentation of the financial need of applicants;

(iii) Reasons for approval or disapproval of applications, and

(iv) Such other records as the Secretary may prescribe.

Such individual student records may be destroyed at the end of such five-year period except that in all cases where questions have arisen as a result of Federal audit, such records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a Federal Capital Contribution or a Federal Capital Loan shall constitute the consent of the applicant school to inspection and fiscal audit, by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives, of the fiscal and other records of the applicant school which relate to such Contribution or Loan.

§ 57.319 Additional conditions.

The Secretary may with respect to any agreement entered into with any school pursuant to § 57.305, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the purposes of the agreement, the interest of the public health or the conservation of funds awarded.

§ 57.320 Noncompliance.

Whenever the Secretary finds that a participating school has failed in a material respect to comply with the applicable provisions of the Act or the regulations of this subpart he may, on reasonable notice to the school, withhold further payments of Federal Capital Contributions or Federal Capital Loans, and take such other action, including the termination of any agreement, as he finds appropriate to carry out the purposes of the applicable provisions of the Act and regulations. In such case no further expenditures shall be made from the Nursing Student Loan Fund or Funds involved until the Secretary determines that there is no longer any such failure of compliance.

[FR Doc.74-10741 Filed 5-8-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 212]

ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Use of National Forest System Roads

It is proposed to amend several existing regulations in Part 212, Chapter II, Title 36 of the Code of Federal Regulations, as amended on December 5, 1973 (38 FR 33474), to clarify and simplify road system management.

Increased traffic on the Forest Service road system requires some regulations be made applicable to all roads to protect the roads from damage and to increase the safety of the users. No new regulations are proposed. This proposed amendment is intended to make certain regulations applicable to all Forest Service roads and eliminate the requirement to designate the roads as Special Service to apply them.

To accomplish this, § 212.7 is revised, and §§ 212.10 and 212.11 are amended to bring them into accord with § 212.7. Section 212.9 is amended by deleting the last sentence in paragraph (c) which is in conflict with Pub. L. 91-646 as it pertains to compensation limits for easements or rights of use acquired by the United States.

All person who wish to submit written data, views, or objections pertaining to the proposed amendment may do so by submitting them to the Department of Agriculture, Forest Service, Division of Engineering, Washington, D.C. 20250, on or before June 24, 1974.

All written submissions made pursuant to this notice will be available for public inspection in the Forest Service, Division of Engineering, during regular business hours (7 CFR 1.27(b)).

Accordingly, it is proposed to amend Part 212 as follows:

1. Section 212.7 is revised to read as follows:

§ 212.7 Road System Management.

(a) *Traffic rules.* Rules set forth under this paragraph shall apply to all roads under the jurisdiction of the Forest Service.

(1) *General.* Traffic on roads is subject to State traffic laws where applicable except when in conflict with the rules herein prescribed.

(2) *Specific.* The following specific traffic rules shall apply unless otherwise expressly authorized in writing and use in violation of these rules is prohibited.

(i) The load, weight, length, and width limitations of vehicles shall be in accordance with the laws of the States wherein the road is located. Greater or lesser limits may be imposed by the Forest Service and these greater or lesser limits shall be effective when signs giving notice thereof have been posted upon the road or segment of any road affected by these limits.

(ii) Roads, or segments thereof, may be restricted, by the Chief, to use by certain classes of vehicles or types of traffic. Use restrictions shall be effective when signs giving notice thereof have been posted at the entrances to these roads, or road segments, and notices have been made available to the public at the offices designated in § 200.7 of this chapter. Classes of vehicles are defined to include, but not be limited to, distinguishable groupings such as passenger cars, buses, trucks, motorcycles, snowmobiles, and trailers. Types of traffic are defined to include, but not be limited to, groupings such as commercial hauling, recreation, and administrative.

(iii) Permits or other written authorization may be required by the Chief for commercial hauling. Requirements for permit or other written authorization shall be effective when signs giving notice thereof have been posted upon the road.

(3) *Closures.* The Chief may close roads, or segments thereof, to all vehicle use, except when in conflict with written authorization. Closures shall be effective when signs giving notice thereof have been posted at the entrance to these roads or road segments and notices have been made available to the public at the offices designated in § 200.7 of this chapter. Using vehicles upon a road during any period when the road is closed is prohibited.

(4) *Road damage.* Damaging and leaving in a damaged condition any road, or segment thereof, is prohibited.

(b) *Special Service Roads*—(1) *Authority.* Where the traffic rules in paragraph (a) of this section need to be supplemented to accomplish the purpose of these regulations, the Chief may designate a Forest Development Road, or segment thereof, a "Special Service Road" and further control or regulate the use of the road: *Provided*, That

(i) The road is not a part of the highway system of a State, county, or other public road authority.

(ii) The United States controls the right-of-way.

(2) *Traffic Rules.* Traffic on Special Service roads is subject to paragraph (a) of this section, and to State traffic law, where applicable, except to the extent the Chief deems it necessary to prescribe rules in addition thereto or in conflict therewith to accomplish the purposes of the regulations of this Part 212. These additional rules shall be posted at the entrances to the roads and be available to the public at the offices designated in § 200.7 of this chapter. Violation of the posted rules is prohibited.

(c) *Cost Recovery on Forest Service Roads.* The Chief may determine that a share of the cost of acquisition, construction, reconstruction, improvement, or maintenance of a road, or segment thereof, used or to be used for commercial hauling of non-Federal forests products and other non-Federal products, commodities and materials, should be borne by the owners or haulers thereof. The Chief may condition the permission to use a road, or segment thereof, upon payment to the United States of the proportionate share of the cost and bearing proportionate maintenance as determined to be attributable to the owner's or hauler's use in accordance with § 212.11. This condition to use roads would apply where the owners or haulers: (1) have not shared in the cost of acquisition, construction, reconstruction, or improvement, and (2) have not made contributions to pay their proportionate share of the costs.

(d) *Maintenance and Reconstruction of Forest Service Roads by Users.*—(1) *Maintenance.* The Chief may require, but not in conflict with an existing permit, easement, contract, or other agreement, the user or users of a road, including purchasers of Government timber and other products, to maintain the roads in a satisfactory condition commensurate with the particular use requirements of each. The maintenance to be borne by each user shall be proportionate to total use and no individual user shall be required to perform or bear the costs of maintenance other than that commensurate with his use.

(2) *Reconstruction.* The Chief may require, but not in conflict with an existing permit, easement, contract, or other agreement, the user or users of a road to reconstruct it when, at the time the use is requested, reconstruction is determined to be necessary to accommodate his use.

(3) *Deposits in Lieu of Performance.* If the maintenance or reconstruction cannot be so provided or if the Chief determines that maintenance or reconstruction by a user would not be practical, the Chief may require that sufficient funds be deposited by the user to provide his portion of the total maintenance or reconstruction costs. Deposits made to cover maintenance or reconstruction of roads shall be used for the purposes deposited, except that: (1) Deposits received

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for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates, and (ii) unexpended balances upon accomplishment of the purposes for which deposited shall be transferred to miscellaneous receipts or refunded.

(e) *Deposits for Making Delayed Payments to Cooperator.* Any fees or other collections received by the Chief under the terms of an agreement or other document providing for delayed payments to the Government's cooperator for use of a road shall be placed in a fund available for making these payments.

2. Paragraph (c) of § 212.9 is revised to read as follows:

§ 212.9 Access Procurement by the United States.

* * * * *

(c) *Methods of Compensation for Easements and Rights of Use Acquired by the United States.* Compensation in negotiated acquisitions may be: (1) By payment from appropriated funds; (2) pursuant to reservation in the grant of easement to the United States whereby the grantor reserves the right to require haulers of Federal timber or other Federal products over the road conveyed or thereafter constructed by the grantor to make payments to the grantor in accordance with the terms of the reservation; (3) by granting reciprocal rights; or (4) by a combination of these methods.

* * * * *

§ 212.10 [Amended]

3. Paragraph (b) of § 212.10 is deleted.

4. Paragraphs (d) and (f) of § 212.11 are revised to read as follows:

§ 212.11 Principles for Sharing Use of Roads.

* * * * *

(d) *Cost Recovery by the United States from others.* When roads are used under permit for commercial hauling instead of under cooperative agreement, any cost to be recovered by the United States will be calculated in proportion to the planned use of the road. The road cost used in such calculation will be the amount or estimated amount expended in the acquisition, construction, reconstruction, and improvement of that capacity of the road required to serve the use needs of all parties that are or reasonably can be expected to use the road. The road costs shall not exceed the replacement value of the road. Such road share-cost payments will be through deposits in advance of use unless the user provides a payment bond satisfactory to the Chief guaranteeing that payments will be made promptly upon billing by the Forest Service.

* * * * *

(f) *Road Maintenance and Resurfacing.* Cooperators will share the road maintenance and resurfacing costs under suitable agreements to perform, arrange for performance by others, or by making deposits with the Forest Service which will be used to pay the cost of work necessary to keep such roads in satisfactory condition commensurate with use requirements of each cooperator. No cooperator shall be required to perform or bear such costs other than those occasioned by its individual use. Other users will bear costs in accordance with § 212.7(d).

* * * * *

(25 Stat. 357, 26 Stat. 1103, 30 Stat. 35–36, 1233, 38 Stat. 430, 46 Stat. 1421, 64 Stat. 82, 72 Stat. 885, as amended, 74 Stat. 215, 78 Stat. 1089 (16 U.S.C. 471, 478, 498, 525, 528–531, 532, 536, 551, 572, 23 U.S.C. 101, 205, 40 U.S.C. 257, 258a et seq.); 42 Atty. Gen. Op. No. 7; Comp. Gen. B–65972, May 19, 1947; 40 Comp. Gen. 372; 41 Comp. Gen. 1; 41 Comp. Gen. 576, and 42 Comp. Gen. 590)

ROBERT W. LONG,
Assistant Secretary for Conservation, Research and Education.

MAY 6, 1974.

[FR Doc.74–10745 Filed 5–8–74;8:45 am]

Soil Conservation Service

[7 CFR Part 612]

SNOW SURVEYS AND WATER SUPPLY FORECASTS

Proposed Policy and Procedures for Administration

The Soil Conservation Service (SCS) plans to codify its policy and procedures for the administration of a cooperative snow survey and water supply forecast program.

Interested persons may participate in the proposed rulemaking by submitting written data, views, or arguments as they may desire. All communications received on or before June 17, 1974, will be considered before action is taken on the proposed policy and procedures. The proposal contained in this notice may be changed in the light of comments received.

The policy and procedures are proposed under the authority of 26 Stat. 653; Sec. 8, Reorg. Plan No. IV of 1940, 54 Stat. 1234 (5 U.S.C. App.); 5 FR 2421, 3 CFR 1938–1943 Comp. P 1288.

(Catalog of Federal Domestic Assistance Program No. 10.907, National Archives Reference Services)

Dated May 3, 1974.

KENNETH E. GRANT,
Administrator.

PART 612—SNOW SURVEYS AND WATER SUPPLY FORECASTS

Sec.
612.1 Purpose and scope.
612.2 Snow survey and water supply forecast activities.
612.3 Data collected and forecasts.
612.4 Eligible individuals or groups.
612.5 Dissemination of water supply forecasts and basic data.
612.6 Application for water supply forecast service.
612.7 Forecast user responsibility.

AUTHORITY: 26 Stat. 653; Sec. 8, Reorg. Plan No. IV of 1940, 54 Stat. 1234 (5 U.S.C. App.); 5 FR 2421, 3 CFR 1938–1943 Comp. P. 1288.

§ 612.1 Purpose and scope.

This part sets forth Soil Conservation Service (SCS) policy and procedure for the administration of a cooperative snow survey and water supply forecast program. The program provides agricultural water users and other water management groups in the western states area with water supply forecasts to enable them to plan for efficient water management. The program also provides the public and the scientific community with a data base that can be used to accurately determine the extent of the snow resource. The western states area comprises Alaska, Arizona, California (east side of the Sierra Nevada mountain range only), Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

§ 612.2 Snow survey and water supply forecast activities.

To carry out the cooperative snow survey and water supply forecast program, SCS:

(a) Establishes, maintains, and operates manual and automated snow course and related hydrometeorological networks.

(b) Determines and provides information on the expected water supply including seasonal streamflow data. If pertinent and appropriate to the needs of cooperators and not otherwise available to them, the information includes items such as peak flow, date of peak flow, date the flow will recede to a specified value, length of time flow will remain above specific values, volume of flow between or above specific flow values, forecast procedures for operating reservoirs, and forecasts required for operation of reservoirs.

(c) On request and to the extent SCS resources and any required cooperator contributions are available, establishes hydrometeorological stations to collect and provide data and necessary interpretive analyses to the requesting party.

(d) Develops and encourages use of new techniques and equipment for improving data collection and processing.

(e) Cooperates with other federal, state, and local agencies, organizations, and Canadian provinces and agencies in carrying out snow survey activities, and by written agreement SCS may accept cooperators' funds, materials, equipment, and services for this purpose.

§ 612.3 Data collected and forecasts.

(a) Basic data are currently collected at numerous sites in the western states area. Each site includes a snow course where snow depth and the water equivalent of snow is measured. Many of these sites also provide related hydrometeorological data, such as precipitation, temperature, humidity, solar radiation, and wind.

(b) Water supply forecasts in the western states area are generally made monthly from January through June. Forecasts may be made more frequently for an established need when data are available to SCS.

§ 612.4 Eligible individuals or groups.

(a) Any individual or group who is a significant water user and who would benefit from a water supply forecast may obtain forecasts from SCS on a regular basis provided data are available to SCS to develop a forecast at the desired location.

(b) The program collects and interprets data as a service and an aid to agricultural interests, particularly those served by or affiliated with soil, water, and other conservation districts. Information collected by SCS for these agricultural users is also made available to other Federal, state, and private agencies and to the general public without charge. Cooperator financial contribution is usually required for special measurements or interpretations beyond the scope of the regular program.

§ 612.5 Dissemination of water supply forecasts and basic data.

Water supply outlook reports prepared by SCS and its cooperators containing water supply forecasts and basic data are usually issued monthly by each SCS state office in the western states area for the months of January through June. Other reports jointly issued by SCS and its cooperators include a fall water supply summary, annual and accumulative summaries of data, and a western states area report covering water supply outlook.

§ 612.6 Application for water supply forecast service.

Requests for obtaining water supply forecasts or related assistance may be directed to any SCS office in the western states area. SCS offices are described in Part 600 of this chapter.

§ 612.7 Forecast user responsibility.

The forecast user's obligation to the federal government is to give appropriate credit and recognition to SCS for information furnished. The federal government does not assume any responsibility for management decisions the user makes which may be based in whole or part on information provided by SCS.

[FR Doc.74–10663 Filed 5–8–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[14 CFR Part 103]

[46 CFR Part 146]

[49 CFR Parts 170, 171, 172, 173, 174, 175, 176, 177]

[Docket Nos. HM–103, 112; Notices 73–9–73–10]

CONSOLIDATION OF HAZARDOUS MATERIALS REGULATIONS

Notice of Extension of Time To File Comments

On January 24, 1974, the Hazardous Materials Regulations Board ("the Board") published Docket No. HM–103; Notice No. 73–10 (39 FR 3164) and Docket No. HM–112; Notice No. 73–9 (39 FR 3022). The comment period in the two notices closes May 28, 1974.

Several petitions have been received by the Board requesting extension of the comment period in both notices. Requests have been filed for time extensions up to September 25, 1974. The Board has considered the reasons submitted in these petitions and has decided that some extension of the comment period is reasonable. Accordingly, the Board has extended the period for comments in both notices of proposed rulemaking from May 28, 1974 to August 31, 1974.

(Transportation of Explosives Act (18 U.S.C. 831–835), sec. 6 Department of Transportation Act (49 U.S.C. 1655); Title VI, section 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h), 1655(c)); Dangerous Cargo Act, as amended (46 U.S.C. 170); Tank Vessel Act of 1936, (46 U.S.C. 391a, 46 U.S.C. 375, 46 U.S.C. 416, 49 U.S.C. 1655(b)(1)), 49 CFR 1.46(b)

Issued in Washington, D.C., on May 2, 1974.

ALAN I. ROBERTS,
Secretary, Hazardous Materials Regulations Board.

[FR Doc.74–10632 Filed 5–8–74;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Special Curie Definitions and Concentration Values in Air and Water for Uranium and Thorium; Correction

In FR Doc. 74–8805 appearing at page 13671 in the issue of Tuesday, April 16, 1974, the following change should be made:

1. In the first column on page 13672 the ninth line in proposed new footnote 3 to Appendix B should read "$SA=(0.4+0.38E+0.0034E^2)\ 10^{-6}$".

Dated at Germantown, Md., this sixth day of May 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74–10696 Filed 5–8–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 81, 87, 91, 93, 94]

[Docket No. 19869 etc.]

ESTABLISHMENT OF PRIVATE OPERATIONAL-FIXED MICROWAVE RADIO SERVICE

Order Extending Time for Filing Comments

In the matter of amendment of the Commission's rules to establish a Private Operational-Fixed Microwave Radio Service (Part 94), Docket No. 19869; Amendment of Parts 7, 9, 10, 11, and 16 (now 81, 87, 91 and 93) of the Commission's rules to provide for the assignment of frequencies in the bands above 952 MC to operational fixed stations in such services upon a showing that harmful interference will not be caused to existing stations, Docket No. 14179; Petition for rulemaking filed by the National Association of Manufacturers to amend Part 91, RM–1862; Petition for rulemaking filed by the Utilities Telecommunications Council to amend Part 2, RM–339; Petition for rulemaking from American Petroleum Institute to amend Parts 2, 81, 87, 91 and 93, RM–2272. Published at 39 FR 7805, Thursday, February 28, 1974.

In response to a request from the Utilities Telecommunications Council, and for good cause demonstrated therein: *It is ordered*, Pursuant to § 0.331(b)(4) of the Commission's rules, that the time for filing reply comments in the above captioned proceeding is extended from May 1, 1974, until May 15, 1974.

Adopted: April 30, 1974.

Released: May 1, 1974.

[SEAL] CHARLES A HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 74–10727 Filed 5–8–74;8:45 am]

[47 CFR Part 43]

[Docket No. 20035; FCC 74–460]

TELEPHONE COMPANIES, WIRE-TELEGRAPH, OCEAN-CABLE CARRIERS AND RADIO-TELEGRAPH CARRIERS

Proposed Changes in Wages and Hours Schedules

In the matter of amendment of Annual Reports Form M, for telephone companies, Form O for wire-telegraph and ocean-cable carriers, and Form R for radiotelegraph carriers to change the wages and hours schedules, Docket No. 20035.

1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. It is proposed to amend Schedules 70C of Form M and 408A and 408B of Forms O and R to widen the range of hourly wage categories from the present range of "Less than $1.60" to "$4.75 and over" to "Less than $2.00" to "$8.50 and over." This proposal would replace the present two twenty-cent intervals and eleven twenty-five cent intervals with eight twenty-five cent intervals and nine fifty-cent intervals. The proposal would result in an increase in the total number of wage categories from 15 to 19.

3. These changes are being proposed in recognition (a) of a change in the minimum wage from the present rate of $1.60 per hour to $2.00 per hour and (b) of the substantial increase in wage rates that has been experienced in the communications industry in recent years. The minimum wage rate of $1.60 an hour became effective in 1968 under the Fair Labor Standards Amendments of 1966. Pursuant to our request, the Bureau of Labor Statistics (BLS) of the Department of Labor, which uses the data reported in Schedules 70C, 408A and 408B for statistical purposes has informally recommended that the wage interval begin at "Less than $2.00" followed by eight twenty-five cent intervals to $3.99 and nine fifty-cent intervals to $8.49 with a

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terminal category of "$8.50 and over." Because individual pay rates are more dispersed now than when the forms were developed in 1935 the Bureau requests that four wage intervals be added. In addition, it has been determined from data reported in the wages and hours schedules of the annual reports of the communication carriers subject to the reporting requirements of this Commission that in 1971 there were less than .05 percent of employees receiving less than $1.60 an hour and less than 1 percent of employees receiving from $1.60 to $1.99 an hour. However, there was approximately 34 percent of the employees receiving $4.75 and over. Therefore, as suggested by BLS, we are proposing that the wage intervals begin at less than $2.00 and extend to $8.50 and over.

4. In Docket No. 17792 released on June 7, 1968 the Commission stated that in the event of further amendments to the Fair Labor Standards Act with respect to minimum wages, it will order appropriate changes to Schedules 70C, 408A and 408B without issuing any notice of proposed rule making. As previously mentioned, this notice provides for comprehensive revision of these schedules in addition to recognizing the increase in the minimum wage rate from $1.60 to $2.00 per hour. The Commission notes, however, that the "Fair Labor Standards Amendments of 1974" also provide for an increase in the minimum wage rate to $2.10 per hour effective January 1, 1975 and $2.30 per hour effective January 1, 1976. It is the intention of the Commission, therefore, to revise, without a further rule making proceeding the schedules discussed herein in the 1975 and 1976 report forms to recognize the new minimum wage rates which are to become effective January 1, 1975 and January 1, 1976, respectively. The form of the revised schedules will be to establish one category less than the minimum wage fixed by the "Fair Labor Standards Amendments of 1974" in each year with two twenty-cent intervals in 1975 and one twenty cent interval in 1976 together with a combination of twenty-five cent and fifty-cent intervals and one interval for all employees being paid in excess of the range covered by the highest fifty-cent interval with the total number of intervals not to exceed nineteen.

5. If the foregoing proposal is adopted, it is proposed that the amendments will be made effective in the report forms for the year 1974.

6. In view of the foregoing, it is proposed to amend Annual Reports Form M for Telephone Companies, Form O for Wire-Telegraph and Ocean-Cable Carriers, and Form R for Radiotelegraph Carriers as set forth in the attached Appendix below.

7. This notice of proposed rulemaking is issued under authority contained in sections 4(i), 201, 219 and 220 of the Communications Act of 1934, 47 U.S.C. 154 (i), 201, 219 and 220.

8. Pursuant to applicable procedures set forth in 47 CFR 1.415, interested persons may file comments on or before June 17, 1974, and reply comments on or before July 1, 1974. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this Notice. Comments in response to this Notice will be available for public inspection in the Commission's Broadcast and Dockets Reference Room.

9. In accordance with the provision of 47 CFR 1.419, an original and fourteen copies of all statements or briefs shall be furnished to the Commission.

Adopted: May 1, 1974.

Released: May 6, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

I. In Annual Report Form M for Telephone Companies, columns g through u are amended and new columns v through y are added to Schedule 70C, Wages and Hours, to read as follows:

Less than $2.00, $2.00 to $2.24, $2.25 to $2.49, $2.50 to $2.74, $2.75 to $2.99, $3.00 to $3.24, $3.25 to $3.49, $3.50 to $3.74, $3.75 to $3.99, $4.00 to $4.49, $4.50 to $4.99, $5.00 to $5.49, $5.50 to $5.99, $6.00 to $6.49, $6.50 to $6.99, $7.00 to $7.49, $7.50 to $7.99, $8.00 to $8.49, and $8.50 and over.

II. Annual Report Form O for Wire-Telegraph and Ocean-Cable Carriers and Form R for Radiotelegraph are amended to read as follows:

1. In Schedule 408A, Employees and Their Salaries—Radiotelegraph and Ocean-Cable, columns h through v are amended and new columns w through z are added to read as follows:

Less than $2.00, $2.00 to $2.24, $2.25 to $2.49, $2.50 to $2.74, $2.75 to $2.99, $3.00 to $3.24, $3.25 to $3.49, $3.50 to $3.74, $3.75 to $3.99, $4.00 to $4.49, $4.50 to $4.99, $5.00 to $5.49, $5.50 to $5.99, $6.00 to $6.49, $6.50 to $6.99, $7.00 to $7.49, $7.50 to $7.99, $8.00 to $8.49, and $8.50 and over.

2. In Schedule 408B, Employees and Their Salaries—Wire-Telegraph, columns h through v are amended and new columns w through z are added to read as follows:

Less than $2.00, $2.00 to $2.24, $2.25 to $2.49, $2.50 to $2.74, $2.75 to $2.99, $3.00 to $3.24, $3.25 to $3.49, $3.50 to $3.74, $3.75 to $3.99, $4.00 to $4.49, $4.50 to $4.99, $5.00 to $5.49, $5.00 to $5.99, $6.00 to $6.49, $6.50 to $6.99, $7.00 to $7.49, $7.50 to $7.99, $8.00 to $8.49, and $8.50 and over.

[FR Doc.74-10723 Filed 5-8-74;8:45 am]

[1] Commissioners Wiley, Chairman, Reid and Hooks, acting as a board; Commissioner Quello not participating.

[47 CFR Part 73]

[Docket No. 19928]

FM BROADCAST STATIONS IN CERTAIN CITIES IN ILLINOIS AND INDIANA

Proposed Table of Assignments; Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations. (Danville and Hoopeston, Illinois; Fowler, Lafayette, and Terre Haute, Indiana), Docket No. 19928, RM-1971, RM-2203, RM-2161, RM-2244.

1. On January 25, 1974, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on February 5, 1974, 39 FR 4586. The date for filing comments has expired and the time for filing reply comments is presently May 8, 1974. (Published at 39 FR 13788, Wednesday, April 17, 1974.)

2. On April 30, 1974, the General Counsel of Wabash College Radio filed a request for an extension of time until June 7, 1974, in order to file comments on the counterproposal of Logansport Broadcasting Company filed on March 27, 1974. Wabash College Radio states that due to prior commitments, counsel that has previously been retained by them is unable to assist them in this matter and therefore Wabash College Radio must retain special counsel. Although actively seeking to secure such special counsel, it is felt by them that a reply comment date of May 8, 1974 will not give the new counsel sufficient time to familiarize himself with Wabash's position and to properly respond to the counterproposal.

3. We are of the view that the public interest would be served by extending the time in this proceeding. *Accordingly, it is ordered*, That the date for filing reply comments is extended to and including June 7, 1974.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: April 30, 1974.

Released: May 3, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-10729 Filed 5-8-74;8:45 am]

[47 CFR Part 73]

[Docket No. 19974; FCC 74-411]

TELEVISION STATIONS IN PONCE, PUERTO RICO

Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.606 (b) of the Commission's rules, the table of television assignments, to change Channel 7 at Ponce, Puerto Rico to a Ponce-San Juan assignment; general

policy questions involved in the proposal to move transmitter location of the Ponce, Puerto Rico Channel 7 station to a point closer to San Juan, Puerto Rico, Docket No. 19974.

1. This proceeding was begun by notice of inquiry and of proposed rulemaking or proposed statement of policy, adopted March 13 and released March 20, 1974 (FCC 74-253) and published at 39 FR 11112, Monday, March 25, 1974. Basically, the proceeding involves consideration of various approaches to a proposal by Ponce Television Corporation, licensee of WRIK-TV, Ponce, P.R. (WRIK) to move its transmitter site to a point closer to San Juan than to Ponce; the proceeding was prompted by a "Petition for Declaration of Policies" filed by WRIK last September.

2. The notice specified the dates of comments and reply comments as April 22, and May 3, 1974, respectively. By petitions filed March 28 and March 29, the licensees of the two San Juan Commercial television stations (both VHF), WAPA-TV Broadcasting Corporation (WAPA-TV) and Telemundo, Inc. (WKAQ-TV), ask that the times be extended to June 21 and July 22, 1974, respectively. Their petitions are supported by two other parties, American Colonial Broadcasting Corp. (licensee of WKBM-TV, Caguas-San Juan) and Suburban Broadcasting Corporation, applicant for a UHF permit at San Juan (application tendered last September). WRIK, the original petitioner herein strongly opposes the request, or any extension at least at this time.

3. The two petitioning San Juan licensees urge that the time allotted in the Notice—40 days from its adoption, and 33 from release of the full text—is simply not enough in view of the novel character and wide-ranging scope of the proceeding, involving some fundamental matters, three basic elements (inquiry, proposed rule making and a proposed policy statement), and a number of specific areas and questions, some of them requiring engineering or economic factual analysis. WAPA-TV, in particular, claims that to insist on the schedule set would constitute denial of due process to WRIK's opponents. WAPA-TV submits affidavits from its engineering and economic consultants, the former stating that at least 60 days and probably more (from March 27) will be necessary for preparation of engineering material on the various issues mentioned (coverage of San Juan, "shadowing" and gains and losses in service), which must get into the substantial terrain problems involved in this rugged area. The economic consultant's affidavit states that 60 days beyond April 22 is necessary for work based on economic data, program rating material, and WRIK's annual financial statements. WAPA-TV and WKAQ-TV both urge that the short time allowed is particularly inappropriate in view of the fact that more time is permitted in much simpler rule-making proceedings, and at least three months is generally permitted in inquiry-rule making proceedings. These parties state that WRIK is doubtless anxious for very fast favorable action, in hopes of cutting its losses; but this is not crucial in view of the ultimate ownership of the station by Transamerica Corp., a wealthy conglomerate which is not really seriously affected; and, in any event, the continuation of the present situation is largely the fault of WRIK, which withdrew its move application in June 1972 and then waited 16 months to file the present "Petition for Declaration of Policies". The two supporting statements by the other two parties are to the same effect but less specific.

4. WRIK vigorously opposes the request, urging that expedition is required because of the urgency of this matter (presumably meaning continuing economic problems for the station), an element asserted not present in other rule-making proceedings. Under these conditions, parties seeking more time have a heavy burden, which is certainly not met. It is urged that only WAPA-TV, among these parties, attempted to advance specific reasons why more time is necessary; and even those assertions do not afford justification. It is claimed that the two San Juan stations and others have known of the nature of WRIK's request at least since September when the original petition was filed, and, indeed, have probably done a good deal of the required work in preparation for the hearing on WRIK's earlier application (before it was withdrawn). Thus, assertedly, there is no reason why the dates set in the Notice should not be expected to be met. It is claimed that essentially these parties seek further delay in order to maintain their competitive advantage over WRIK-TV for a longer period; and if WRIK-TV can meet the comment dates set, they should be able to also. WRIK states that if these parties proceed diligently and, later, a short additional period such as 10 days is required, it will not oppose such an extension.

DECISION

5. Upon consideration of the foregoing, we are of the view that a considerably greater amount of time should be granted for comments and replies herein, than that originally given, although not as much as requested in the WAPA-TV and WKAQ-TV petitions. In reaching this conclusion, we are aware of the desirability of expedition from WRIK's standpoint, and we intend to reach a decision herein at a reasonably early date. However, in view of the number of matters involved—both some important legal and policy questions, and factual matters such as those mentioned above—it appears that substantially more time is warranted, to permit the parties to deal with these matters reasonably fully and provide maximum assistance to the Commission. It is also true, of course, that to the extent there has been a delay in this matter, WRIK is as responsible for it as anyone, first by withdrawing its application to move and then by waiting some 15 or 16 months to file the petition which prompted this proceeding.

6. Another factor is that it is unlikely that a postponement of the comment date to the end of May or early June will substantially delay the decision in this matter. As is well known, there are now only four members on the Commission, and one of the four is leaving the country in mid-April to attend an international communications conference, and will not return till about June 17. Unless one or additional Commissioners are confirmed and sworn in, there is no possibility of a decision before that time; and it is not certain whether that will occur, or, even if it does, whether the new Commissioners will feel they can appropriately vote on this matter early after joining the Commission. Under these circumstances, we believe it appropriate to set new dates for comments which are likely to produce a decision by about the beginning of July, and we are specifying June 3 for comments and June 24 (3 weeks later) for reply comments. These periods should be enough to permit adequate treatment of the various matters involved, especially since, as WRIK points out, for the most part the matters are not new to the parties at this point. The further extension requested by WAPA-TV and WKAQ-TV, until late June and late July, appears to be too long, running the risk of postponing a decision until this fall.

7. *Accordingly, it is ordered*, That the time for filing comments in this proceeding is extended to and including June 3, 1974; and the time for filing reply comments herein is extended to and including June 24, 1974.

Adopted: April 16, 1974.

Released: May 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10725 Filed 5-8-74;8:45 am]

[47 CFR Part 73]

[Docket No. 19975]

FM BROADCAST STATIONS IN JEFFERSONTOWN, KY.

Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Jeffersontown, Kentucky), Docket No. 19975, RM-2137.

1. On March 15, 1974, the Commission, under delegated authority, adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on March 25, 1974 (39 FR 11111). The dates for filing comments and reply comments were set as April 30, 1974 and May 10, 1974, respectively.

2. On April 30, 1974, counsel for the petitioner in this case, Charles N. Cutler, requested an extension of time

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to May 7, 1974, in which to file comments herein. Counsel states that the additional time is necessary to enable him to file adequate comments in response to the Commission's notice of proposed rulemaking.

3. We are of the view that the public interest would be served by extending the time in this proceeding. *Accordingly, it is ordered,* That the dates for filing comments and reply comments are extended to and including May 7, 1974 and May 17, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: May 4, 1974.

Released: May 3, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-10728 Filed 5-8-74;8:45 am]

[47 CFR Part 73]
[Docket No. 19982]

TV BROADCAST STATIONS IN MOUNTAIN VIEW, ARKANSAS

Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.606(b), *Table of assignments,* TV Broadcast Stations. (Mountain View, Arkansas), Docket No. 19982, RM-2297.

1. In response to a petition for rulemaking filed by the Arkansas Educational Television Commission (AETC), the Commission, on March 22, 1974, issued a notice of proposed rulemaking in the above-entitled matter which was published in the FEDERAL REGISTER on April 1, 1974 (39 FR 11931). The dates for comments and reply comments are May 6, 1974, and May 16, 1974, respectively.

2. On April 30, 1974, counsel for Mid-America Television Company filed a request for an extension of the comment date for a period of 30 days, to and including June 6, 1974. Mid-America, licensee of television Station KMOS-TV, Sedalia, Missouri, has underway engineering studies relating to the potential of interference to its operation from the proposed transmitter location of the Mountain View station. However, counsel states that the questions raised by the proposal are complex and the time allowed for filing comments is not sufficient for them to complete these studies and to prepare and file its comments.

3. We are of the view that the public interest would be served by extending the time in this proceeding. *Accordingly, it is ordered,* That the dates for filing comments and reply comments are extended to and including June 6, 1974 and June 17, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: May 2, 1974.

Released: May 3, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-10730 Filed 5-8-74;8:45 am]

[47 CFR Part 76]
[Docket No. 19995, etc.]

CABLE TELEVISION SYSTEMS

Order Regarding Network Program Exclusivity Protection; Extension of Time for Filing Comments

In the matter of amendment of Subpart F of Part 76 of the Commission's rules and regulations with respect to network program exclusivity protection by Cable Television Systems, Docket No. 19995, RM-2275; amendment of Part 76, Subpart G, of the Commission's rules and regulations relative to Program origination by Cable Television Systems; and inquiry into the development of Cablecasting Services to formulate regulatory policy and rulemaking, Docket No. 19988; amendment of Part 76 of the Commission's rules and regulations relative to the advisability of Federal preemption of Cable Television technical standards or the imposition of a moratorium on Non-Federal standards, Docket No. 20018; amendment of Part 76 of the Commission's rules and regulations relative to an inquiry on the need for additional rules in the area of Public proceedings and qualifications for franchisees—§ 76.31(a)(1), Docket No. 20019; amendment of Part 76 of the Commission's rules and regulations relative to requiring additional assurances on the establishment of line extension provisions in franchises—§ 76.31(a) (1), (2), Docket No. 20020; amendment of Part 76 of the Commission's rules and regulations relative to amending existing franchise duration rules—§ 76.31(a)(3) to lengthen maximum term and impose a minimum term, Docket No. 20021; amendment of Part 76 of the Commission's rules and regulations relative to an inquiry on the advisability of adding specific rules to § 76.31(a)(3) regarding franchise expiration, cancelation and continuation of service, Docket No. 20022; amendment of part 76 of the Commission's rules and regulations relative to an inquiry on the need for new regulations in the area of transfers of control of cable television franchises, Docket No. 20023; amendment of Part 76 of the Commission's rules and regulations relative to a specific requirement in § 76.31(a)(5) that the local official responsible for subscriber complaints be identified in the franchise, Docket No. 20024.[1]

1. In order to facilitate the filing of considered and thoughtful comments in the captioned Cable Television rulemaking proceedings, the comment and reply dates are rescheduled as follows:

Docket No.	Comments due	Reply comments due
19995 (Network exclusivity)	June 17, 1974	July 9, 1974
19998 (Mandatory origination)	May 24, 1974	June 8, 1974
20018 (Technical standards)	Aug. 2, 1974	Aug. 20, 1974
20019 (Franchise selection)	July 26, 1974	Aug. 13, 1974
20020 (Line extension policy)	June 28, 1974	July 16, 1974
20021 (Franchise duration)	July 5, 1974	July 23, 1974
20022 (Franchise expiration, cancellation, etc.)	July 19, 1974	Aug. 6, 1974
20023 (Cable system transfers)	July 12, 1974	July 30, 1974
20024 (Complaint procedures)	June 28, 1974	July 16, 1974

2. The due dates in other current Cable Television rulemaking proceedings in which the original filing schedule is retained are:

Docket No.	Comments Dne	Reply Comments Due
18891 (Newspaper cross-ownership).	May 15, 1974	
20028 (Carriage of late-night programming).	May 31, 1974	June 11, 1974
19990 (Addition of Newark to N.Y.C. Market).	May 16, 1974	May 27, 1974

3. This action is taken by the Acting Chief, Cable Television Bureau pursuant to authority delegated in § 0.289 of the Commission's rules and regulations.

Adopted: May 1, 1974.

Released: May 3, 1974.

[SEAL] DAVID D. KINLEY,
Acting Chief,
Cable Television Bureau.

[FR Doc.74-10726 Filed 5-8-74;8:45 am]

[1] First published at 39 FR 13561, Monday, April 15, 1974.

FEDERAL HOME LOAN BANK BOARD

[No. 74-390]

[12 CFR Part 545]

FEDERAL SAVINGS AND LOAN SYSTEM

Electronic Funds Transfer Through Remote Service Units

MAY 6, 1974.

The Federal Home Loan Bank Board considers it desirable to propose amendments to Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purpose of expanding the Board's existing "pilot" project funds transfer regulation, § 545.4-2, and extending the effectiveness of said § 545.4-2, as amended, until June 30, 1975. Under this proposal, applications to establish remote service units or to participate in the establishment of such units would be accepted by the Board until December 31, 1974. The proposal would also delete those provisions of § 545.14-5, captioned "Satellite office", which refer to "fully automated satellite office" so that all provisions relating to remotely furnished financial services would be contained in a single regulation.

The Board continues to receive requests by Federal savings and loan associations to provide electronic funds transfer services to their customers, including the operation of systems in places of business, even though present § 545.4-2 terminates on July 9, 1974. As amended, § 545.4-2 is of a brief and temporary nature and is designed to permit continued limited experimentation until June 30, 1975, by Federal associations in the operation of electronic funds transfer systems. The Board is of the opinion that reports from, and observations of, the actual operation of one or more systems will continue to furnish valuable experience and information to the Board, the savings and loan industry, and the public relating to the substance of any permanent regulations which the Board may promulgate regarding such systems. The Board is proposing to amend § 545.4-2 for the principal purpose of continuing to permit Federal associations, subject to prior approval by the Board of a plan submitted by such an association, to operate selective "pilot" projects of this kind on a limited basis for the purposes stated above, and for a limited period of time. Existing place-of-business funds transfer systems authorized under present § 545.4-2 would not be affected by the amendment of that section. However, the continued operation of existing place-of-business funds transfer systems after July 9, 1974, would require approval by the Board.

Section 545.4-2(a), *General provisions,* would permit a Federal association to establish, maintain or use one or more "remote service units" located in the State in which such association's home office is located or within the primary service area of any branch office of such association located outside of such State.

Section 545.4-2(b), *Financial services authorized for remote service units,* would establish a list of permitted financial services which could be performed at a remote service unit. Deposits, loan payments and withdrawals would be permitted at such units, but no account could be opened at such a unit nor could withdrawals in excess of an account holder's balance be made. The provision would empower the Board to permit other services to be offered at remote service units upon application on a case-by-case basis.

The first sentence of § 545.4-2(c), *Advertising,* is intended to prohibit misleading or inaccurate advertising. The second sentence would empower the Board to revise or terminate advertisements.

Section 545.4-2(d), *Bonding requirements,* would require Federal associations establishing remote service units to take all steps necessary to protect their interest in the financial services processed at each such unit, including the acquisition of fidelity, forgery and other insurance, and is intended to cover such questions as the physical security of cash dispensing machines and the prevention of fraudulent use of remote service units.

Section 545.4-2(e), *Participation with other financial institutions,* permits a Federal association to share the use of a remote service unit with one or more financial institutions insured by either the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation or with any other financial institutions as the Board may approve. However, § 545.4-2(e) would provide that the Board may require a Federal association to share the use of a remote service unit (at a reasonable cost) with the home office or any branch office of a financial institution insured by the Federal Savings and Loan Insurance Corporation if such unit is located in the primary service area of such office. It is intended that this provision together with paragraph (f) would require each Federal association which desires to share a remote service unit to make application to the Board and require application to the Board for any subsequent sharing of such remote service unit with other financial institutions. The last sentence of paragraph § 545.4-2(e) would prohibit exclusive dealing agreements between a Federal association and business organizations at which remote service units may be located.

Section 545.4-2(f), *Applications,* would require that before establishment, maintenance or use of a remote service unit or participation in the establishment, maintenance or use of such a unit a Federal association must receive written approval by the Board. Applications would be required to demonstrate that safeguards acceptable to the Board to insure the privacy and confidentiality of account information will be established and maintained. Paragraph (f) would prohibit any material alteration of an approved remote service unit without prior approval by the Board. In order that the Board may monitor the pilot pojects established pursuant to this regulation, this provision would require Federal associations to provide the Board with such reports as it may require relating to the operations of remote service units. Section 545.4-2(f) would also provide for the termination or alteration of a Federal association's participation in the establishment, maintenance or use of a remote service unit.

Section 545.4-2(g), *Consideration of competitive implications,* would provide that the Board will consider the competitive implications of applications under § 545.4-2 and may request the views of the Antitrust Division of the Department of Justice or request that an application receive clearance from that Division by means of a business review letter.

Section 545.4-2(h), *Definitions,* would define, inter alia, a "remote service unit" to mean an information processing device and associated equipment by means of which financial services are rendered to the public and which, for activation and account access, is dependent upon the use of a machine-readable instrument (i.e. not a passbook) in the possession and control of the account holder. The term "remote service unit" would include both "on-line" computer terminals and "off-line" cash dispensing machines but would not include terminal or teller machines using passbooks or other systems in which the terminal does not machine-read and verify account numbers.

The Board continues to be of the opinion that the operation by financial institutions of various electronic funds transfer systems is a matter of major importance which involves making decisions in which the public should be given a full opportunity to participate.

Accordingly, the Board hereby proposes to amend Part 545 as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552 by May 24, 1974, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 545.4-2 **Remote service units (temporary provision).**

(a) *General provisions.* Notwithstanding any other provision of this part other than this section, a Federal association may establish, maintain or use one or more remote service units located (1) within the State in which the home office of such association is located; or (2) within the primary service area of any branch office of such association located outside of such State. A remote service unit may be, but is not required to be, located in a place of business other than a place of business solely of a Federal association such as a retail sales establishment, shopping center, office building, factory, or transportation terminal.

(b) *Financial services authorized for remote service units.* A Federal association may, to the extent authorized by a resolution of its board of directors, render one or more of the following financial services to the public through or by means of a remote service unit;

(1) The placing or transferring of funds to the credit of savings accounts or deposits of such association, but no savings accounts or deposits may be opened at such a unit;

(2) Withdrawals of savings accounts or deposits in such association, which withdrawals may be total or partial and may be effected through the use of nontransferable orders or authorizations but not through the use of negotiable or transferable orders or authorizations to the association: *Provided,* That in no case may the association permit or authorize withdrawals in excess of a holders balance in such an account or deposit;

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(3) Receiving payments related to loans invested in or being serviced by such association; and

(4) Such other financial services as the Board may approve upon application therefor.

(c) *Advertising.* No advertisement, announcement or solicitation by a Federal association relating to a remote service unit may be inaccurate or misleading with respect to the services which may be effected at such a unit. Any advertisement, announcement or solicitation by a Federal association relating to a remote service unit is subject to revision or termination by the Board.

(d) *Bonding requirements.* A Federal association shall take all steps necessary to protect its interest in the financial services processed at each remote service unit, including acquisition of fidelity, forgery and other appropriate insurance.

(e) *Participation with other financial institutions.* Except as provided in this paragraph, a Federal association may, but is not required to, participate in the establishment, maintenance or use of one or more remote service units with one or more financial institutions insured by the Federal Savings and Loan Insurance Corporation or by the Federal Deposit Insurance Corporation, or with such other financial institutions as the Board may approve. The Board may require a Federal association to permit such participation at a reasonable cost by other institutions insured by the Federal Savings and Loan Insurance Corporation with respect to their home offices or branch offices in whose primary service area a remote service unit is located. A Federal association may not enter into an agreement of any kind for the exclusive right to use a remote service unit at any location of a business organization of any kind, or under which other financial institutions would be excluded from using a remote service unit at any location of such business organization where such Federal association does not use a remote service unit.

(f) *Applications.* (1) A Federal association may not establish, maintain, or use a remote service unit, or participate in the establishment, maintenance, or use of a remote service unit, without prior written approval by the Board. Applications for Board approval to establish a remote service unit shall be filed on or before December 31, 1974. One original and one copy of any application pursuant to this section shall be filed with the Director, Office of Industry Development, Federal Home Loan Bank Board, Washington, D.C. 20552, and two copies of any such application shall be sent to the Supervisory Agent. An applicant may file additional information in support of its application and may amend the application. The Director or the Supervisory Agent may request an applicant to furnish additional information.

(2) Applications shall demonstrate that the applicant will establish and maintain safeguards acceptable to the Board to insure the privacy and confidentiality of account information.

(3) Except as may be otherwise provided in a resolution by the Board in a particular case, the participation in or the establishment, maintenance or use of a remote service unit pursuant to this section shall not be altered in any material respect from that approved by the Board under this section unless in compliance with the procedures of this section an application to do so is filed and approved by the Board prior to making such alteration.

(4) A Federal association which participates in or establishes, maintains or uses a remote service unit pursuant to this section shall submit to the Board, at such association's expense, such reports as the Board may require relating to the operation of such unit. The Board may require such Federal association to modify or terminate, in whole or in part, such participation, establishment, maintenance or use. Any contract, agreement or understanding, whether written or oral, between or among a Federal association and any other financial institution or other business organization relating to the participation, establishment, maintenance or use of a remote service unit by such Federal association shall be subject to any rules and regulations which the Board may hereafter prescribe or any resolution which the Board may adopt, including without limitation, a requirement that any such contract, agreement or understanding be terminated.

(g) *Consideration of competitive implications.* The Board will consider competitive implications of applications made under this section and may, in an appropriate case either (1) request the views of the Antitrust Division of the Department of Justice; or (2) specifically request that a Federal association making an application under this section request a business review letter from the Antitrust Division of the Department of Justice pursuant to the provisions of 28 CFR 50.6, as amended.

(h) *Definitions.* As used in this section—

(1) The term "remote service unit" means an information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted, whether instantaneously or otherwise, to a financial institution and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account or deposit. The term "remote service unit" includes both "on-line" computer terminals and "off-line" cash dispensing machines, but does not include terminals or teller machines using passbooks or other systems in which the terminal does not machine-read and verify account numbers.

(2) The term "State" means the States of the Union, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(3) The term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the home office of the Federal association is located or any other officer or employee of such Bank designated by the Board as agent as provided by §§ 501.10 and 501.11 of this chapter.

(i) *Termination.* This section and approval granted under this section shall automatically terminate at the close of June 30, 1975.

§ 545.14–5 Satellite office.

(a) *Nature of a satellite office.* An office of a Federal association which is not its home office or a branch office approved pursuant to § 545.14 shall be deemed to be a satellite office if it meets the requirements of a satellite office as described in this section and if it is a satellite of the association's home office or a branch office in that it is located in the primary service area, as determined by the Board or Supervisory Agent, of such home office or branch office. Any business of a Federal association, as authorized by the association's board of directors, may be transacted at a satellite office.

* * * * *

(d) *Specific provisions.* Each application for permission to establish a satellite office will be considered or processed pursuant to the provisions of this section. Approval of such an application pursuant to this section will be subject to the following provisions and any other conditions, requirements, and limitations the Board may specify in a particular case:

(1) A satellite office may be, but is not required to be, located within premises principally occupied by a retail sales establishment or any other business organization. A satellite office shall be operated in conformity with the following physical requirements:

(i) The satellite office shall not occupy more than 500 square feet of floor space; and

(ii) Provision shall not be made for more than 4 teller stations.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74–10877 Filed 5–8–74;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 74–11]

RULES OF PRACTICE AND PROCEDURE

Enlargement of Time To File Comments

MAY 3, 1974.

Upon request of interested persons and good cause appearing, time within which comments may be filed in response to the notice of proposed rulemaking in this proceeding (39 FR 11117, Monday,

March 25, 1974) is enlarged to and including May 24, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10708 Filed 5–8–74;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 157]

[Docket No. RM74–23]

INFORMATION ON GAS SUPPLY AND DELIVERABILITY IN APPLICATIONS FOR CERTIFICATES UNDER THE NATURAL GAS ACT

Notice of Proposed Rulemaking

MAY 2, 1974.

Take notice that pursuant to section 553 of Title 5 of the U.S. Code and sections 7 and 16 of the Natural Gas Act (52 Stat. 825, 56 Stat. 83, 15 U.S.C. 717f (c); 56 Stat. 84, 15 U.S.C. 717f(d); 56 Stat. 84, 15 U.S.C. 717f(e); and 52 Stat. 830, 15 U.S.C. 717o) the Commission proposes to amend § 157.14 of Part 157, Subchapter E of Chapter I, Title 18 of the Code of Federal Regulations, by revising paragraph (a)(10) thereof, 18 CFR 157.14(a)(10), to require to be included as Exhibit H to applications for certificates of public convenience and necessity filed pursuant to section 7 of the Natural Gas Act certain information with respect to gas supply and deliverability which presently may be incorporated by reference when applicants have filed annual reports required by § 260.7 of Statements and Reports (Schedules), 18 CFR 260.7. It is proposed to require gas supply and deliverability to be set forth and not incorporated, as now allowed, by reference to FPC Form No. 15, the annual report prescribed by § 260.7. An Exhibit H would be required in all applications for authorization to increase existing sales, facilities or capacity; to construct new facilities to make new sales; to alter any type of gas service; and to attach new sources of supply except budget-type applications filed under paragraph (b) of § 157.7 of the regulations under the Natural Gas Act, 18 CFR 157.7(b).

Paragraph (a)(10) presently provides that companies filing Form No. 15 may incorporate by reference in their certificate applications the gas supply and deliverability information in said reports, except with respect to applications for authorization to serve major new markets or to serve major existing markets from new sources of gas supply over new routes. This procedure does not give the Commission access to the latest available gas reserve data since the most recent Form No. 15 may contain data up to 15 months out of date and in cases of new reserve attachments does not make available any reserve data. Since timely data are necessary in processing applications, Commission personnel are required to seek out such data by protracted correspondence and/or field trips which result in delays in the administrative process. In addition, failure to include gas supply and deliverability data in applications often denies the public access to non-confidential information.

Because of deepening energy supply problems, there is a clear obligation placed on the Commission to review more critically the gas supply aspects of pipeline certificate applications. There is a pressing need for more comprehensive and timely gas reserve and deliverability data that is not filed in applications lacking an Exhibit H. The additional burden placed on the filing company is fully justified by improved service to the public interest.

The Commission proposes to require that gas supply and deliverability information be set forth in all applications made under section 7 of the Natural Gas Act in which the authorization sought may be dependent upon the applicants' gas supply or where the service to be provided may have an effect on the applicants' ability to serve present customers. The data would not be required in budget-type applications under paragraph (b) of § 157.7 of the regulations under the Natural Gas Act or for facilities realignment or replacement. In all other applications the information would have to be set forth to the extent that it is relevant to the particular facility, sale or other authorization which is sought.

The Commission is cognizant of the potential reluctance of some applicant companies to include in their applications supply and deliverability data which they or their producer suppliers may regard as confidential. Therefore, the proposed amended rule requires the filing of summary supply and deliverability information as Exhibit H and permits the furnishing of the complete data to the Commission separately in a confidential status. Applicants should realize, of course, that the Commission cannot be guarantor of the confidential status of supply and deliverability data [1] and that it may not be possible for the Commission to grant authorizations based upon data not available for evaluation by all parties to proceedings in an evidentiary record and which cannot be examined and probed through witnesses. In such cases it might be necessary for applicants and their producer suppliers to release data from a confidential status as a condition to consideration of applications and issuance of certificates. Concurrently herewith the Commission is amending its General Policy and Interpretations by adding § 2.72 thereto which provides that all relevant information acquired by the Commission staff, including workpapers, pursuant to any staff investigation conducted under sections 8, 10, or 14 of the Natural Gas Act shall, without further order of the Commission, be free from the restraints of section 8(b) of the Natural Gas Act regarding the divulgence of information, with respect to any matter set for formal hearing.

The Commission proposes to amend § 157.14 of Part 157, in paragraph (a)(10) by revising (vi) thereof to read as follows:

§ 157.14 Exhibits.

(a) * * *

(10) * * *

(vi) Pipeline companies which have filed annual reports in conformity with § 260.7 of this chapter will be required to file additional information with regard to gas supply and deliverability in support of applications for certificates for authorization to increase existing sales, facilities or capacity; to construct new facilities to make new sales; to alter any type of gas service; and to attach new sources of supply except budget-type applications filed under paragraph (b) of § 157.7. In all other applications the pipeline company may rely on the information set forth in said annual report, by reference thereto, unless otherwise ordered by the Commission. When gas supply and deliverability information is required to be in the application and is not permitted to be incorporated by reference, such information need pertain only to the supply and deliverability for that phase of the company operations which would be affected by the facility or sale for which authorization which is sought, except that total system supply and deliverability information shall be included in all applications for authorization to serve major new markets or to serve major existing markets from new sources of gas supply over new routes. In those instances in which the information contained in the annual report required by § 260.7 of this chapter is not permitted to be incorporated by reference and in which the applicant or his producer supplier regards the required information as confidential, there shall be included in the application as Exhibit H a statement showing total reserves for the proposed project segregated into proven and probable reserves, a description of the leases and/or offshore blocks from which the reserves may be available without relating specific reserves to specific properties, and as much of the information required by subdivisions (i) through (v) of this subparagraph and subdivision (vii) of this subparagraph which the applicant or his supplier do not regard as confidential. Any reserves claimed as possible potential must be accompanied by a description of the leases and/or offshore blocks for which these reserves are claimed and copies of the gas purchase contracts or option agreements under which the applicant has a claim to any reserves discovered. If information is excluded from the application as confidential, there shall be included in the application a statement that such information has been excluded and the reasons therefor, and all of such information shall be

[1] See Reliability of Electric and Gas Service, Docket No. R–405, Order of Modification to Authorize Compliance with Congressional Subpoena Duces Tecum, issued June 22, 1973, 38 FR 17275 (June 29 1973) and Order Updating Nationwide Investigation, issued August 1, 1973, 33 FR 21182 (August 6, 1973), amended August 16, 1973, 38 FR 22823 (August 25, 1973).

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furnished to the Commission to be held and examined in a confidential status. The Commission reserves the right to require the release of information from a confidential status as a condition for consideration of an application or issuance of a certificate. The receipt, maintenance, and consideration of information in a confidential status is subject to the requirements of paragraph (f) of § 1.36 and § 2.72 of this chapter and the laws of the United States.

• • • • •

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than June 17, 1974, data, views, comments, or suggestions, in writing, concerning all or part of the amendment proposed herein. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C., during regular business hours. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing requests a conference with the staff of the Federal Power Commission to discuss the proposed amendment. The staff, in its discretion, may grant or deny requests for a conference. The Commission will consider all written submittals before acting on the proposed amendment.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10639 Filed 5-8-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF JUSTICE

RESIDENTS, PEARL RIVER COUNTY, MISS.

Certification of the Attorney General Regarding Voting Rights

In accordance with section 6 of the Voting Rights Act of 1965, (Pub. L. 89-110) I hereby certify that I have received complaints in writing from twenty or more residents of Pearl River County, Mississippi, alleging that they have been denied the right to vote under color of law on account of race or color and I believe such complaints are meritorious. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on August 7, 1965 (30 FR 9897).

WILLIAM B. SAXBE,
Attorney General of the United States.

APRIL 29, 1974.

[FR Doc.74-10659 Filed 5-8-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[OCS Order No. 11]

OIL AND GAS PRODUCTION RATES PREVENTION OF WASTE, AND PROTECTION OF CORRELATIVE RIGHTS

Notice of Lessees and Operators of Federal Oil and Gas Leases in the Outer Continental Shelf, Gulf of Mexico Area; Correction

The following sentence was inadvertently omitted from OCS Order No. 11 which appeared in the FEDERAL REGISTER on May 6, 1974 (39 FR 15885).

Subparagraph 10.A.(1) *Gas Vapors.* should read "When gas vapors are released from storage and other low pressure production vessels if such gas vapors cannot be economically recovered or retained."

HENRY W. COULTER,
Acting Director.

[FR Doc.74-10660 Filed 5-8-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74-95]

BETHLEHEM MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 4861(c) (1970), Bethlehem Mines Corporation has filed a petition to modify the application of 30 CFR 75.1405 to its Mine No. 41 located at Bethlehem, Pennsylvania.

30 CFR 75.1405 provides as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

Petitioner proposes that the requirements of 30 CFR 75.1405 be suspended in respect to Mine No. 41 for the duration of its limited operations, for the following reasons:

(a) Automatic couplers provide no greater protection to employees than do the standard link-and-pin couplers presently in use at Mine No. 41. During an 11-year period, the safety experience of Mine No. 41 with automatic couplers in use was better than the safety experience at Mine No. 44, where automatic couplers were in use.

(b) Although automatic couplers are more sophisticated mechanically than the link-and-pin couplers, this degree of sophistication is a liability in terms of increased maintenance requirements due to the fact that they are more easily damaged. In addition, damaged equipment, until it can be repaired and even though it is repaired quickly, poses an obvious threat to safety.

(c) The physical characteristics of the mine make it impossible for automatic couplers to be installed since cars equipped with automatic coupling devices could not be raised and lowered within the confines of the shafts in which the haulage cages are located.

(d) Even if the size of the existing shafts did not make it impossible to raise and lower cars equipped with automatic couplers, the cars could not be equipped with such devices by the time currently projected for cessation of operations of the mine, to wit, the middle of 1975.

Petitioner proposes an alternative method for achieving the result contemplated by 30 CFR 75.1405 which will at all times guarantee no less than the same protection afforded by such standard. Petitioner proposes to:

(a) Issue coupling hooks to members of the transportation crew. These coupling hooks will allow the couplings to be made without endangering the safety of the employee performing the coupling operation.

(b) Instruct all transportation crew employees in the proper use of the coupling hooks, and review such instructions periodically.

(c) Petitioner has been advised that the link-and-pin-coupling apparatus on certain types of mine cars can be modified so that the employee performing the coupling can move a lever located at the side of the car, which in turn will raise and lower the coupling pin. Investigations are currently being conducted to determine if the coupling devices on the mine cars at Mine No. 41 can be modified in a similar manner.

(d) Maintain supervisory observation of the transportation crews while the crews work; continue to make job safety analysis studies; continue to assure that haulage practices comply with company policy, as well as with federal and state requirements; continue to discuss with individual employees job safety analysis studies as well as federal and state regulations; and continue safety discussion classes on a weekly or more frequent basis.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 10, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director, Office of Hearings and Appeals.

APRIL 30, 1974.

[FR Doc.74-10656 Filed 5-8-74;8:45 am]

[Docket No. M 74-96]

BETHLEHEM MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Bethlehem Mines Corporation has filed a petition to modify the application of 30 CFR 75.303 to its Ellsworth Division's Mines Nos. 51, 58, and 60 located at Bethlehem, Pennsylvania.

30 CFR 75.303 provides as follows:

Within 3 hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of

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the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane, and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require.

Petitioner proposes an alternative method for achieving the purpose intended by the provisions of section 303(d)(1) of the Act. The alternative method proposed by Petitioner will at all times guarantee no less than the same measure of protection afforded the miners by such standard. In fact, the application of section 303(d)(1) itself involves a diminution of safety to the miners. The diminution of safety introduced by application of the subject standard would be virtually eliminated, or reduced to a minimum, by applying the proposed alternative method.

Petitioner proposes that the application of the subject standard be modified with respect to pre-shift examination of main haulage roads as follows:

(a) Apply eight hours instead of three hours as the time frame for pre-shift examinations of main haulage roads, outby the working section.

(b) After idle periods, and before one designated shift each day of operation, the examination of such main haulage roads outby the working sections shall continue to include tests for methane of all high places where methane is likely to accumulate in the event of interruption to ventilation as defined in section 303(t)(3) of the Act. The other examinations of such main haulage roads, ventilation not having been interrupted since the last prior examination, shall be carried out as a moving examination.

Application of the subject standard will result in a diminution of safety, for the following reasons:

(a) The mines will be forced to utilize a great number of certified persons who are in great demand but in short supply. There is not sufficient personnel available, therefore, to perform such preshift examinations of main haulage roads in addition to the other essential duties of such persons. To the extent that certified persons are required to make such examinations for oncoming shifts in Petitioner's three-shift mines, they will be taken away from other duties that are more important insofar as safety of the miners is concerned. In view of the fact that coal is produced on three consecutive operating shifts on a five or six day basis each week, the possibility of undetected hazards is truly minimal.

(b) Such pre-shift examinations of main haulage roads within a three-hour period will add needless traffic and congestion in these haulage roads at the busiest times of production shifts, will greatly add to the exposure of certified persons, and will also greatly add to the mental strain of motormen who should not be distracted except for essential interruptions.

(c) Such multiplicity of main haulage road examinations when confined to the three-hour period as found in section 303(d)(1) will tend to discourage the future use of one way traffic in separate main haulage roads. The system of one way traffic is being seriously considered for improvement in safety and more orderly operations. A diminution of safety is brought about when the operator is discouraged from installing separate main haulageway systems.

(d) A more thorough examination can be accomplished when more time is available for that purpose, consequently the chances of eliminating possible hazards are increased.

The mines will be examined in the same manner, covering essentially the same route, from examination to examination. The time interval between the points examined throughout the main-track haulage roads, therefore, will be approximately eight hours. Clearly, the method proposed by the Petitioner meets all objectives of the Act, and constitutes a more thorough examination, conducted in a safer manner, than do the provisions of section 303(d)(1).

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 10, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director, Office of Hearings and Appeals.

APRIL 30, 1974.

[FR Doc.74-10658 Filed 5-8-74;8:45 am]

[Docket No. M 74-110]

CLEAR CREEK COAL COMPANY, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Clear Creek Coal Company, Inc., has filed a petition to modify the application of 30 CFR 75.1405 to its Clear Creek No. 2 Mine located at Monterey, Tennessee.

30 CFR 75.1405 provides as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner states the following:

For the past four (4) years solid bottom cars with a rotary dump installed on the surface have been utilized in the subject mine. There have been no accidents, in which employees were injured, arising out of this phase of the company's operation since the mine was opened. The safety record of the mine has consistently lowered it's workmen's compensation rate so that it is currently entitled to the lowest compensation rate which is afforded any coal mining operation in the State of Tennessee.

Detailed haulage procedure, hoisting procedure and safety features employed in the alternate proposal are as follows:

HAULAGE PROCEDURE

Six loaded mine cars are hauled from the loading point to the sidetrack at the foot of the slope by means of a six-ton electric locomotive. A second locomotive follows this loaded trip. The loaded cars are parked on the sidetrack, and the motorman uncouples the locomotive from the trip. The motor man on the No. 2 locomotive switches onto the empty sidetrack and couples to the empty cars. The No. 2 locomotive pulls the empty trip to the switching point near the working section, parks the trip of cars, uncouples from them, and switches out of the way. The motorman on the No. 1 locomotive couples the locomotive to the parked trip of cars, and pushes them to the loading point.

HOISTING PROCEDURE

After the sidetrack is cleared, the rope-hooker uncouples the first loaded car, and connects the safety-dog to the rear of the car. Retreating to the shelter-hole, he signals the hoistman to lower the empty car from the surface to the empty sidetrack. The rope is removed from the empty car and is connected to the loaded car. The loaded car is hoisted to the surface and into the rotary dump. The coal is dumped into the storage bin. The empty car is lowered to the sidetrack. This procedure is continued until the last car has been dumped. This car remains on the surface until another loaded trip has been parked on the sidetrack and the locomotives have cleared the area at the bottom of the slope.

SAFETY FEATURES

1. All mine cars are coupled and uncoupled by the rope-hookers (2) when cars are parked on a straight and level sidetrack with no locomotive coupled to either end of the trip of cars.

2. Operators of the locomotives couple and uncouple from the trip of cars when cars and locomotives are parked on a straight and level, track. The operator, while seated in his control deck of the locomotive, uncouples the locomotive from the loaded trip at the sidetrack and couples to the empty trip at the switching point.

The alternate method will at all times guarantee a standard of protection not less than would be afforded by the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 10, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director, Office of Hearings and Appeals.

APRIL 30, 1974.

[FR Doc.74-10655 Filed 5-8-74;8:45 am]

[Docket No. M 74-105]

H & L COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), H & L Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 1 Mine located at Laurel Branch, Buchanan County, Virginia.

30 CFR 77.1605(k) provides as follows:

Berms or guards shall be provided on the outer bank of elevated roadways.

The alternate method which Petitioner proposes to establish in lieu of the mandatory standard is as follows:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

2. Roadway surfaces shall be kept free of debris, excessive water and snow and ice, and maintained as free as practicable of small ditches (washboard effects).

3. A traffic system should be put into use for these roads requiring that loaded vehicles have the right-of-way on the highwall side of roads regardless of their direction of travel.

4. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs should also be posted designating passing points.

5. All equipment operators should be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

6. All haulage vehicles shall have:
(a) Original manufacturers brakes.
(b) Engine or Jacobs brakes.
(c) Emergency (parking) braking system.

7. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

8. A minimum width of 30 feet shall be provided and maintained along two-lane roads, and where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

9. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet; if visibility is obscured by brush or other materials, passing points shall not be more than 500 feet apart.

10. Where abrupt drop-offs are present along the outer banks, super-elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

11. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

Petitioner further states that the alternate method outlined above, will, at all times, gurantee no less than the same measure of protection afforded the miners at the Petitioner's mine by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 10, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director, Office of Hearings and Appeals.

APRIL 30, 1974.

[FR Doc.74-10657 Filed 5-8-74;8:45 am]

Bureau of Indian Affairs

TURTLE MOUNTAIN RESERVATION, NORTH DAKOTA

Ordinance Legalizing the Introduction, Sale, or Possesion of Intoxicants

MAY 3, 1974.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Pub. L. 277, 83rd Congress, 1st Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Turtle Mountain Reservation, North Dakota was adopted on February 6, 1974 by the Turtle Mountain Tribal Council, which has jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

ORDINANCE 19

TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

Pursuant to the authority vested in the Tribal Council of the Turtle Mountain Band of Chippewa Indians, by its Constitution, particularly Article IX, under (a) of section 3.

Be it enacted by the Tribal Council of the Turtle Mountain Band of Chippewa Indians that Titles 18 and 19, "Business Regulations and Licenses," and "Alcohol Beverage Controls," pages 203 through 219, be adopted and added to the Turtle Mountain Tribal Code of 1968.

TITLE 19—ALCOHOL BEVERAGE CONTROLS
CHAPTER 1901—GENERAL PROVISIONS

19.0101 *Definitions.* For the purpose of this chapter:

1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.

2. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.

3. "Liquor" shall mean any alcoholic beverage except beer.

4. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society, or any other organization; and should include the singular and the plural.

5. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of, and keeping for sale of such alcoholic beverages.

6. "Package" and "original package" shall mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.

7. "Club" or "lodge" shall include any corporation or association organized for civic, fraternal, social or business purposes, or the promotion of sports, which has at least 200 members at the time of application for license.

8. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.

9. "Off-sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.

10. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

19.0102 *Exceptions.* 1. This chapter shall not apply to wines delivered to priests, rabbis, and ministers for sacramental use.

2. This Chapter shall not be construed to apply to the following articles, when they are unfit for beverage purposes:

a. Denatured alcohol produced and used pursuant to Acts of Congress and the regulations thereunder;

b. Patent, proprietary, medical, pharmaceutical, antiseptic and toilet preparations;

c. Flavoring extracts, syrups, and food products;

d. Scientific, chemical, and industrial products; nor to the manufacture or sale of said articles containing alcohol.

19.0103 *Licensing required.* No person shall sell at retail within the limits of the Reservation any alcoholic beverage without first having obtained a license therefor as herein provided.

19.0104 *License—term of.* 1. All licenses issued hereunder shall be for a period of not

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more than one year and shall expire on the 30th day of June in each year. Where a license is granted for a period less then a year any subsequent renewal thereof must be made for the full annual term.

2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees therefore shall be as follows:

a. If the short term be for three months or less, the license fee therefore shall be 25 percent of the annual license fee.

b. If the term be for more than three months and less than six months, the license fee therefore shall be 50 percent of the annual license fee.

c. If the term be for more than six months but less than nine months, the license fee therefore shall be 75 percent of the annual license fee.

d. For any term in excess of nine months, the full annual license fee shall be paid.

19.0105 *License—classes of.* 1. On and off sale liquor licenses at an annual fee of $600.00 dollars.

2. Off sale liquor license at an annual fee of $300.00 dollars.

3. On and off sale beer license at an annual fee of $600.00 dollars.

4. Off sale beer license at an annual fee of $300.00 dollars.

19.0106 *License—lodges or clubs.* The combined fee for all four classes of licenses shall be in the sum of $1200.00 dollars per year for a lodge or club with a membership up to 500, and shall be in the sum of $1200.00 dollars for a lodge or club with a membership over 1,500.

19.0107 *License—qualifications for.* No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, if an individual, must be a citizen of the United States, and be person of good moral character.

2. If applicant is a corporation, the manager of the licensed premises and the officers, directors and stockholders must be citizens of the United States and persons of good moral character. Corporate applicants must first be properly registered with the Secretary of the Tribal Council.

3. If applicant is a co-partnership, all the members must be citizens of the United States and residents of North Dakota for a period of more than one year prior to the date of application, and be persons of good moral character.

4. Applicant or manager must not have been convicted of a felony.

5. Building in which business is to be conducted must meet Tribal and state requirements regarding the sanitation and safety.

6. If applicant's place of business is to be conducted by a manager or agent, said manager or agent must possess the same qualifications required of the licensee.

19.0108 *License—application for.* Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the Tribal Council of this Reservation, filed with the Tribal Secretary, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises.

2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization and place of residence of the applicant for a period of one year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date incorporated, the state where incorporated, the purpose for which said corporation was incorporated, and if such corporation was incorporated, and if such corporation is a subsidiary of any corporation, the name of the parent corporation.

3. The legal description and the address of the premises for which license is sought.

4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.

5. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.

6. Whether the applicant has ever had a license revoked or cancelled by any Tribal, municipal, state or federal authority, and if so, the date of such cancellation, the place and authority cancelling same, and the reason for such cancellation.

7. Whether the applicant has ever been convicted of the violation of any law of any Indian Tribe, the United States or of any state, or of the violation of any local ordinance, with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of places, and courts, in which said convictions were had.

8. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state or Tribal laws or local laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation, and the reasons assigned therefore.

9. Whether the applicant has ever been convicted of any other crime than stated in subsections (7) and (8) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed, and the court in which convicted.

10. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management, or control of the establishment for which license is sought.

11. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures, or equipment in the premises for which license is sought, and if so, the names and address of such person, together with a statement of the interest so held.

12. Whether the applicant has any interest whatsoever, directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. The provision is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, and within the borders of the United States.

13. The occupation which the applicant has followed during the past five years.

14. The names and addresses of at least three business references.

15. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.

16. Whether the applicant is engaged in any other business or intends to be engaged in any other business than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if any employee, the name and address of the employer.

17. The classification of license applied for.

18. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized, and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the Tribal Council a list of the members belonging to such lodge or club.

19. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any peace officer of this Tribe.

19.0109 *License—applicant fitness.* The Captain of Police or such other person or officer as may be designated by the Tribal Council shall, upon the filing of an application, investigate the facts as stated in the application and the character, reputation and fitness of the applicant, and shall report on said matters to the Tribal Council.

19.0110 *License—limit to one applicant.* Not more than one license of each classification shall be issued or granted to any applicant, and each license shall be valid only for the specific premises licensed.

19.0111 *License—limit of number.* The maximum number of each classification of license which may be issued shall be limited to one per each 1500 population according to the last official census.

19.0112 *License—location of.* No license shall be issued to or transferred to any person, firm, or corporation to engage in the sale of beer or alcoholic beverages within the Reservation without approval as to the location of said licensed business by the Tribal Council. The application for approval shall be in writing filed with the Council. Public hearing shall then be had of said application, upon notice published in the official minutes of the Tribal Council two (2) times, the first publication to be at least 15 days before the hearing date set for hearing said application. At the time of hearing the Tribal Council shall in its discretion determine if said location is in harmony with the public interest and welfare of the community, and shall consider among other things the following factors:

1. The convenience of police regulation.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings, or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on or off sale or both of licensee.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. Public convenience and necessity.

19.0113 *License—posting of.* License issued hereunder shall be posted in a conspicuous place in the premises for which the license has been issued.

19.0114 *License—transfer of.* No license under the provision of this chapter shall be transferable and any attempt to do so shall constitute a violation of the provisions of this chapter.

19.0115 *License fees—disposition of.* All license fees collected under this chapter shall be transferable to the treasurer of the Tribal Council and credited to the general fund of the Turtle Mountain Band of Chippewa Indians.

19.0116 *Hours and time of sale.* No licensee shall sell, serve, or permit to be sold, served or consumed on the premises named in the license any alcoholic beverages between the hours of 1:00 a.m. on Sundays and 8:00 a.m. on Mondays, or between the hours of 1:00 a.m. and 8:00 a.m. on all other days of the week or on Memorial Day, Good Friday, Christmas Day or after 8:00 p.m. on Christmas Eve, or between the hours of 1:00 a.m. and 8:00 p.m. on the day of any statewide, Tribal, County, or other election affecting the electors of this Reservation.

19.0117 *Licensee's responsibility.* Every licensee is hereby made responsible for the conduct of his place of business and is required to maintain order and sobriety in such place of business, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person, nor shall any intoxicated person be permitted to remain upon the premises.

19.0118 *Cashing certain checks prohibited.* No licensee hereunder shall cash any bank check, voucher, order, or document of any kind drawn by a County Welfare Board, or any state or federal agency in payment for wages made for work done on any so-called work relief project, or for relief purposes, which by its terms authorizes or permits any person presenting such bank check, voucher, order or document to receive payment of money.

19.0119 *Sales prohibited—items.* No licensee shall sell on the licensed premises any item other than alcoholic beverages, soft drinks, tobacco products, drink mixing supplies, peanuts, pretzels, potato chips and related sundries; except a licensee may sell alcoholic beverages in a restaurant separated from the room in which alcoholic beverages are opened or mixed if gross sales of food are at least equal to sales of alcoholic beverages in the dining area.

19.0120 *Sales prohibited—persons.* No licensee, his agent, or employee shall sell any alcoholic beverages to a person under 21 years of age, a habitual drunkard, an incompetent, or an intoxicated person.

19.0121 *Minors in licensed premises.* No licensee shall permit any person under 21 years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under 21 years may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

19.0122 *Age identification.* Before selling alcoholic beverages to any person, or before determining whether any person shall remain upon the licensed premises, a licensee, his agent or employee may require a statement in writing and signed by said person of such person's age. Any person who makes a false statement as to his or her age, or signs a name other than his own or her own to any such statement, shall be guilty of violation of this Chapter.

19.0123 *Street sales prohibited.* The sale or consumption of alcoholic beverages upon or across any street, alley, or public way is prohibited.

19.0124 *Premises, equipment of.* Premises licensed hereunder for on sale alcoholic beverages shall be equipped with tables, chairs, booths and stools in a sufficient number to accommodate reasonably the patrons.

19.0125 *Closed or screened areas.* No premises licensed for on-sale of alcoholic beverages shall contain any side rooms, closed booths, or other screened enclosures, nor shall any screen, partition, curtain, blind, or obstruction of any kind prevent a clear view at all times of all parts of the interior of the premises licensed. All booths located in such premises shall open directly into the main part of said premises and shall be accessible from the aisles therein.

19.0126 *Purchase from licensed wholesaler.* No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title V of the North Dakota Century Code; and each licensee hereunder shall keep on file all invoices covering purchases by him of such alcoholic beverages showing the name and license number of the wholesaler, and such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer.

19.0127 *Toilets required.* The premises for which an On-Sale License is granted must be equipped with adequate and sufficient lavatories and toilets, separately maintained for men and women, and kept in a clean and sanitary condition. The On-Sale License may be revoked when the foregoing requirements, or any other health ordinance or regulation, is not, at all times, strictly observed.

19.0128 *Bottle clubs.* No person shall operate an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises.

19.0129 *Deliveries—off licensed premises.* 1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.

2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage, to any person within the reservation provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.

3. Where any retail alcoholic beverage or beer license is a club or lodge, such licensee shall sell to members and their guests only.

19.0130 *Termination or revocation of licenses.* 1. Licenses issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one or more of the following contingencies.

a. The death of the licensee unless upon application to the Tribal Council by personal representative of the decedent, the Tribal Council shall consent to the carrying on of the business by the personal representative.

b. When the licensee ceases business at the location licensed, unless a new location has been approved.

c. When the licensee be adjudged bankrupt.

d. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this Chapter.

e. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or been revoked.

2. License issued pursuant to this ordinance may, in the discretion of the Tribal Council, be either revoked or suspended for such period of time as deemed appropriate, upon the following grounds:

a. When the licensee has been convicted of violating any of the provisions of this Chapter.

b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the Turtle Mountain Indian Reservation.

3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and such license may also be cancelled and revoked or suspended at any time by the governing body for any cause deemed by said governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the Tribal Courts.

4. When any license is terminated or revoked for cause. Or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

19.0131 *Persons less than twenty-one years prohibited—exceptions.* It shall be unlawful for any person under twenty-one years of age to purchase, attempt to purchase or be in possession of alcoholic beverages or furnish money to any person for such purchase or enter any licensed premises where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian.

19.0132 *Violation of provisions of this chapter (Indian).* Any Indian violating any of the provisions of this chapter, shall be guilty of an offense and shall be punished by a fine of not more than one hundred dollars, or by confinement for not more than thirty days or by both such fine and confinement with costs.

19.0133 *Violations of provisions of this chapter (Non-Indian).* Any non-Indian licensee violating any of the provisions of this Chapter shall be removed from the reservation pursuant to Article IX, Section 4 of the Constitution and By-laws of the Turtle Mountain Band of Chippewa Indians.

LAFOLLETTE BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.74-10654 Filed 5-8-74;8:45 am]

Bureau of Land Management

[Arizona 7693]

ARIZONA

Notice of Application

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) Southern Pacific Pipe Lines, Inc., has applied for a 20-inch petroleum products pipeline right-of-way across the following lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 1 S., R. 6 W.,
Sec. 31, lot 3, SE¼NW¼ and NE¼SW¼.
T. 2 S., R. 7 W.,
Sec. 1, lots 3 and 4 and SW¼NW¼;
Sec. 2, SW¼, NW¼SE¼, and S½NE¼;
Sec. 3, S½SE¼;
Sec. 9, SE¼NE¼, SE¼SW¼, W½SE¼, and NE¼SE¼;
Sec. 10, NW¼ and N½NE¼;
Sec. 16, NW¼ and NW¼SW¼;
Sec. 17, SE¼ and SE¼NE¼;
Sec. 20, NW¼NE¼, E½NW¼, SW¼NW¼, and W½SW¼;
Sec. 29, W½W½NW¼ and NW¼SW¼;
Sec. 30, E½E½;
Sec. 31, lot 4 and E½NE¼, SW¼NE¼, E½SW¼, and NW¼SE¼.

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T. 3 S., R. 7 W., unsurveyed
Sec. 6, NW¼NW¼.
T. 2 S., R. 8 W, unsurveyed
Sec. 36, S½SE¼.
T. 3 S., R. 8 W., unsurveyed
Sec. 1, NE¼ and W½;
Sec. 2, SE¼SE¼;
Sec. 10, SE¼SE¼;
Sec. 11, W½ and NE¼;
Sec. 15, NE¼, SW¼, SE¼NW¼, and NW¼SE¼;
Sec. 21, NE¼, SW¼, and NW¼SE¼;
Sec. 22, NW¼NW¼;
Sec. 28, NW¼NW¼;
Sec. 29, E½NE¼, SW¼NE¼, SW¼SW¼, E½SW¼, and NW¼SE¼;
Sec. 31, E½NE¼, SW¼NE¼, SW¼SW¼, E½SW¼ and W½SE¼;
Sec. 32, NW¼NW¼.
T. 4 S., R. 8 W.,
Sec. 6, lots 3, 4, and 5.
T. 4 S., R. 9 W.,
Sec. 1, S½SE¼ and NE¼SE¼;
Sec. 11, SE¼NE¼ and N½S½;
Sec. 12, NW¼ and NW¼NE¼;
Sec. 17, N½SW¼, SE¼NW¼, SW¼SW¼, S½NE¼, and NE¼NE¼;
Sec. 18, S½SE¼ and NE¼SE¼;
Sec. 19, lots 1 and 2, NW¼NW¼NE¼ and NE¼NW¼.
T. 5 S., R. 11 W.,
Sec. 19, lot 4, S½NE¼, N½SE¼, and E½SW¼.
T. 5 S., R. 12 W.,
Sec. 25, NW¼ and N½NE¼;
Sec. 26, SW¼, NW¼SE¼, and SE¼NE¼;
Sec. 33, SE¼NE¼, N½SE¼, NE¼SW¼, SW¼SW¼, and NW¼SE¼SW¼.
T. 6 S., R. 12 W.,
Sec. 5, lots 1 and 2.
T. 6 S., R. 14 W.,
Sec. 34, NW¼SW¼;
Sec. 35, NW¼NW¼.
T. 7 S., R. 14 W.,
Sec. 4, lots 3 and 4;
Sec. 5, lot 1, S½NE¼, SE¼NW¼, and N½SW¼.
T. 7 S., R. 15 W.,
Sec. 14, N½NW¼;
Sec. 15, NE¼NE¼;
Sec. 17, S½SW¼SE¼;
Sec. 20, N½NW¼.
T. 7 S., R. 16 W.,
Sec. 22, SE¼SE¼;
Sec. 23, that portion of the NE¼SE¼ lying within Railroad Right-of-Way;
Sec. 24, SE¼NE¼;
Sec. 27, that portion of the N½NW¼ lying within Railroad Right-of-Way;
Sec. 28, NE¼NE¼;
Sec. 29, SE¼NE¼.
T. 8 S., R. 17 W.,
Sec. 28, NW¼NW¼.
T. 8 S., R. 20 W.
Sec. 7, lots 1, 9, 10 and 13, SW¼NE¼ and SE¼SE¼;
Sec. 17, lots 6, 7, and 13, SE¼SW¼, NW¼SW¼, and SW¼SE¼;
Sec. 20, lots 4 and 5, SW¼NE¼ and E½SE¼;
Sec. 21, S½NW¼SW¼ and SW¼SW¼;
Sec. 27, SW¼SW¼SW¼;
Sec. 28, E½NW¼, NE¼NW¼NW¼, W½SE¼, and SE¼SE¼;
Sec. 34, SE¼, SW¼NE¼, and NW¼;
Sec. 35, S½SW¼.
T. 8 S., R. 21 W.,
Sec. 1, lot 13 and SE¼SW¼;
Sec. 3, lots 13 and 14, and S½SW¼;
Sec. 4, SE¼SE¼;
Sec. 8, lots 5, 6, and 7;
Sec. 9, N½NE¼;
Sec. 10, N½NE¼;
Sec. 12, SE¼NE¼;
Sec. 17, lot 1;
Sec. 18, lot 9 and NW¼NE¼.
T. 9 S., R. 19 W.,
Sec. 5, SW¼SW¼;
Sec. 8, NE¼NW¼;
Sec. 9, SW¼NW¼ and SE¼NE¼;
Sec. 10, N½NW¼ (acquired).
T. 9 S., R. 20 W.,
Sec. 1, N½S½ and SW¼NW¼;
Sec. 2, lots 1, 2, and 3 and SE¼NE¼.

This pipeline will convey petroleum products across approximately 45 miles of Federal lands in Yuma and Maricopa Counties. The route of the pipeline will follow Right-of-Way granted under Serial AR 08806 and generally will be contained within the present right-of-way on which the railroad tracks of the Southern Pacific Transportation Company run.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Division of Technical Services, 3022 Federal Building, Phoenix, Arizona 85025.

Dated: May 2, 1974.

GLENDON E. COLLINS,
Chief,
Division of Technical Services.

[FR Doc.74-10648 Filed 5-8-74;8:45 am]

[Wyoming 45531]

WYOMING

Notice of Application

MAY 2, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Company of Wyoming has applied for a natural gas pipeline in the following townships:

SIXTH PRINCIPAL MERIDIAN, WYOMING

Tps. 18 and 19 N., R. 99 W.
Tps. 17, 18, 19 and 20 N., R. 100 W.
T. 20 N., Rs. 101, 102 and 103 W.

The pipeline will be an extension of the Nitchie Gulch Field to North Baxter Field gathering system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

PHILIP C. HAMILTON,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.74-10650 Filed 5-8-74;8:45 am]

[New Mexico 20280]

NEW MEXICO

Notice of Application

MAY 1, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southern Union Gas Company has applied for a 2and 4 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 12 W.,
Sec. 25, N½NW¼.

These pipelines will convey natural gas across .444 miles of national resource land in San Juan County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above right-of-way application.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.74-10679 Filed 5-8-74;8:45 am]

[New Mexico 21350]

NEW MEXICO

Notice of Application

MAY 2, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a 10¾ inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 26 E.,
Sec. 11, N½S½.
Sec. 12, N½S½.
T. 24 S., R. 27 E.,
Sec. 7, N½S½.
Sec. 8, SW¼NW¼, NW¼SW¼.

This pipeline will convey natural gas across 3.269 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above right-of-way application.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.74-10678 Filed 5-8-74;8:45 am]

[New Mexico 21335-8, 21420, 21421, 21423]

NEW MEXICO

Notice of Applications

MAY 2, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4½ inch natural gas

pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 30 E.,
Sec. 31, SE¼NE¼.
T. 22 S., R. 27 E.,
Sec. 3, SE¼SE¼
Sec. 11, W½NW¼.
T. 23 S., R. 34 E.,
Sec. 27, SW¼NW¼, N½SW¼, SE¼SW¼, SW¼SE¼.
T. 24 S., R. 27 E.,
Sec. 7, NE¼SW¼.
Sec. 8, SW¼NW¼.

These pipelines will convey natural gas across 1.919 miles of national resource lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above seven right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.74-10677 Filed 5-8-74;8:45 am]

[INT DES 74-53]

PROPOSED FEDERAL COAL LEASING

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Department of the Interior, has prepared a draft environmental statement for resumption of competitive leasing of Federal coal reserves from public lands in the western United States.

Program objectives include developing a managed coal leasing program which will determine the amount of coal which should be developed in specific areas on a time schedule to assure that public land coal resources will most effectively meet energy needs. Procedural steps in the proposed program include this coal programmatic 102 statement, preliminary tract identification which will include a call for indications of areas of interest, and lease sale scheduling.

Written comments on this draft statement received on or before June 24, 1974, will be given careful consideration. Public hearings may be scheduled within the same 45-day review period. Upon completion of the review period, the Bureau will weigh all information and comments received, and if the decision is to proceed further, will prepare a final environmental statement. Only after completion of the final environmental statement and compliance with all the requirements of NEPA and the Council on Environmental Quality guidelines issued pursuant to it, will a final decision be made whether to proceed with the coal leasing program.

Copies of this draft have been distributed to State governments, industry representatives, and conservation groups. A limited number of additional copies are available to the public through the BLM State offices in Anchorage, Alaska; Phoenix, Arizona; Sacramento, California; Denver, Colorado; Boise, Idaho; Billings, Montana; Reno, Nevada; Santa Fe, New Mexico; Portland, Oregon; Salt Lake City, Utah; Cheyenne, Wyoming, or from the Bureau of Land Management (723), Washington, D.C. 20240.

Comments concerning the environmental statements and impacts should be addressed to Director, Bureau of Land Management (723), 18th and C Sts., NW, Washington, D.C. 20240. These comments must be submitted on or before June 24, 1974 to be considered in the preparation of the final environmental statement.

Dated: May 3, 1974.

CURT BERKLUND,
Director.

[FR Doc.74-10703 Filed 5-8-74;8:45 am]

Office of the Secretary

[INT DES 74-54]

PROPOSED CHARLES M. RUSSELL NATIONAL WILDLIFE RANGE, MONTANA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a draft environmental statement for the Proposed Charles M. Russell National Wildlife Range, Montana, and invites written comments on or before June 24, 1974.

The proposal recommends 176,140 acres of the Charles M. Russell National Wildlife Range, Fergus, Garfield, McCone, Petroleum, Phillips and Valley Counties, Montana, be designated as wilderness within the National Wilderness Preservation System.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife
10597 West Sixth Avenue
Denver, Colorado 80215

Headquarters
Charles M. Russell National Wildlife Range
Box 110
Lewiston, Montana 59457

State Director
Bureau of Land Management, Federal Building
316 N. 26th Street
Billings, Montana 59101

Bureau of Sport Fisheries and Wildlife
Office of Environmental Coordination
Department of the Interior
Room 2246
18th and "C" Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

Dated: May 3, 1974.

ROYSTON C. HUGHES,
Assistant Secretary
of the Interior.

[FR Doc.74-10704 Filed 5-8-74;8:45 am]

NATIONAL WILD AND SCENIC RIVERS SYSTEM

Clarion River Found Not Qualified

Notice is hereby given in accordance with section 7(b)(i) of the Wild and Scenic Rivers Act, Pub. L. 90-542, October 2, 1968, that the Secretaries of the Interior and Agriculture have concluded, on the basis of study, that the Clarion River, Pennsylvania, should not be included in the national wild and scenic rivers system.

ROGERS C. B. MORTON,
Secretary of the Interior.

MAY 6, 1974.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.74-10744 Filed 5-8-74;8:45 am]

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Notice of Meeting

Notice is hereby given that the Oil Shale Environmental Advisory Panel will meet May 16 and 17, 1974, at Rangely Junior College, Rangely, Colorado. The agenda will include an on-the-ground tour of the two leased Federal oil shale tracts, consideration of policy guidelines to be recommended to the responsible Federal officials, presentations by the two Colorado lessee groups, recommendations to the U.S. Geological Survey Mining Supervisor on a partial exploration plan for Colorado Tract C-b and discussion of any additional plans submitted to the panel by May 16. The meeting will begin at 8 a.m., Thursday, May 16 and conclude at 5 p.m., Friday, May 17, 1974.

The meeting will be open to the public. Time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Advisory Panel Chairman prior to the meeting. Any interested person may file a written statement with the Panel for its consideration. The Advisory Panel Chairman is Mr. William L. Rogers. Written statements may be submitted at the meeting or mailed to Mr. William L. Rogers, Office of the Secretary, Department of the Interior, Room 688, Building 67, Denver Federal Center, Denver, Colorado 80225. Further information concerning this meeting may be obtained from Mr. Henry O. Ash, Department of the Interior, Denver Federal Center, Denver, Colorado at (303) 234-3275. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Office of the Special Assistant to the Secretary, Department of the Interior, Room 688,

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Building 67, Denver Federal Center, Denver, Colorado.

Dated: May 6, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.74-10681 Filed 5-8-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Order 905]

SHIPPERS ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to the provisions of section 10(a)(2) of Pub. L. 92-463, notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruits, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Committee will meet in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time, on May 16, 1974.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the Committee includes the receipt and review of market supply and demand information incidental to consideration of the need for modification of current grade and size limitations applicable to domestic and export shipments of the named fruits.

The names of Committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, PO Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: May 3, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-10662 Filed 5-8-74;8:45 am]

Animal and Plant Health Inspection Service

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Status

The purpose of this document is to give publi cnotice concerning the status of plant protection and quarantine programs of the Department as they relate to environmental impact statemens on continuing programs. Pursuant to the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321, et seq.) and Executive Order 11514 (35 FR 4247) of March 7, 1970, in providing timely public information on Federal plans and programs with environmental impact, notice is hereby given that on March 14, 1974, the Animal and Plant Health Inspection Service provided the Council on Environmental Quality with the following status report:

Plant Protection and Quarantine Programs has prepared or collaborated in the preparation of environmental impact statements for the following activities in 1972 and 1973: Airport treatment programs, boll weevil diapause program, gypsy moth, grasshoppers, imported fire ant, and witchweed. The 1974 final gypsy moth statement is in the review stage and should be submitted shortly. An addendum to the imported fire ant statement, USDA-APHIS-ADM-73-2, was submitted on January 11, 1974.

The pesticide use proposed for 1974 on these programs has been reviewed by the Program Review Panel of the Federal Working Group on Pest Management. Only minor comments were received and will not materially affect the planned pest control work.

The statement for airport treatment programs, USDA-APHIS-PPQ-ADM-73-1, is still current and no significant changes are contemplated.

The statement for the cooperative boll weevil diapause control program, USDA-APHIS-PPQ-ADM-72-4, describes our current plans with the following exceptions. In the original plan, aldicarb (Temik) was applied infurrow at planting time in the trap plots at 1 pound per acre and 4 to 6 weeks later as a sidedress treatment at 2 pounds per acre. In the 1974 plan we will only apply Detroit, Michigan 48201. Article: aldicarb as an infurrow treatment at 1 pound per acre. The total acreage of the trap plots will amount to about 200 acres. It is estimated the base acreage to be treated with malathion in 1974 will be about 150,000 acres. In the statement it is approximately 100,000 acres.

The statement for grasshopper control, USDA-APHIS-PPQ-72-2, is essentially the same for 1974. It is estimated about 1.5 million acres could be treated in Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Utah, Wyoming, and Washington. Last year approximately 2.8 million acres were treated in the Western States and Texas.

The statement for witchweed control is still current except for the use of ethylene gas on about 12,000 acres. This will involve the use of one application applied by injection to cultivated land at a rate of 1½ pounds per acre. A wide range of agricultural crops may be planted on the treated lands. An exemption for ethylene has been requested from the Environmental Protection Agency under Pesticide Petition Number 4E1457.

There may be some tests conducted on small plots on some of these programs. However, all nonregistered uses will be accomplished under experimental permit or exemption related to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

Done at Washington, D.C., this 3d day of May, 1974.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.74-10742 Filed 5-8-74;8:45 am]

Food and Nutrition Service

[FSP No. 1974-3.2, Amdt. 28]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance—Hawaii

Correction

In FR Doc. 74-9596, appearing on page 14983 in the issue of Monday, April 29, 1974, the 1 person entry for monthly income $210 to $229.99 in the *Monthly coupon allotments and purchase requirements-Hawaii* table reading "44" should read "42".

Forest Service

BUCKS LAKE UNIT; PLUMAS NATIONAL FOREST

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Use Plan, Bucks Lake Unit, Plumas National Forest, California, USDA-FS-R5-DES (Adm)-74-3.

The environmental statement concerns a proposed land use management plan for the 44,936 acres of National Forest lands known as the Bucks Lake Unit of the Plumas National Forest, in Plumas County, California. Seven thousand six hundred sixty-three acres within this unit have been inventoried as "Roadless."

This draft environmental statement was filed with CEQ on May 3, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Building, Room 3231
12th St. & Independence Ave., SW
Washington, D.C.

Regional Forester's Office
630 Sansome St., Room 531
San Francisco, California

Forest Supervisor's Office
Plumas National Forest
Quincy, California

Oroville Ranger Station
Plumas National Forest
875 Mitchell Ave.
Oroville, California

A limited number of single copies are available, upon request, from Forest Supervisor Lloyd Britton, Plumas National Forest, Box 1500, Quincy, California 95971.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effect for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor Lloyd Britton, Plumas National Forest, Box 1500, Quincy, California 95971. Comments must be received on or before July 8, 1974, in order to be considered in the preparation of the final environmental statement.

Dated: May 1, 1974.

T. W. KOSKELLA,
Acting Regional Forester.

[FR Doc.74-10649 Filed 5-8-74;8:45 am]

CIBOLA NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The Cibola National Forest Grazing Advisory Board will meet May 22 and 23, 1974 starting at 8 a.m. on May 22 at the Magdalena Ranger Station, Magdalena, New Mexico 87825. From the Ranger Station the group will proceed to the Baldy Allotment and will ride the Allotment on May 22 and May 23.

The purpose of this meeting will be to review the decision of Forest Supervisor Lloyd to reduce cattle numbers on the Baldy Allotment.

The meeting will be open to the public. Anyone attending the meeting should provide his or her own horse that is capable of traversing difficult terrain and long distances. A horse trailer will also be needed.

Persons who wish to attend should notify Supervisor Lloyd through telephone number 766-2185 or at 10308 Candelaria NE, Albuquerque, New Mexico 87112. Written statements may be filed with the committee before or after the meeting.

Dated: May 3, 1974.

W. L. LLOYD,
Forest Supervisor.

[FR Doc.74-10653 Filed 5-8-74;8:45 am]

GUNNISON NATIONAL FOREST AND GRAND MESA-UNCOMPAHGRE NATIONAL FORESTS MULTIPLE USE ADVISORY COMMITTEES

Notice of Meetings

The Gunnison National Forest Multiple Use Advisory Committee will meet at 1:30 p.m., May 23, 1974 at the Forest Service building, 216 North Colorado, Gunnison, Colorado.

The Grant Mesa-Uncompahgre National Forests Multiple Use Advisory Committee will meet at 1:30 p.m., May 24, 1974 at the Shavano Building, 101 North Uncompahgre Avenue, Montrose, Colorado.

The purpose of these meetings is to discuss land use planning procedures, water use on National Forest lands, and to make preliminary plans for the summer field meeting.

The meetings will be open to the public. Persons who wish to attend should notify Forest Supervisor John T. Minow, 1063 Main, Delta, Colorado (telephone 303-874-4411). Written statements may be filed with the committees before or after the meetings.

The committees have established the following rules for public participation:

1. A member of the public wishing to present an oral statement should notify Forest Supervisor John T. Minow at least three days prior to the meetings.

2. Any member of the public may be permitted to present oral statements at the meetings by the committee chairmen to the extent that time permits.

Dated: May 3, 1974.

JOHN T. MINOW,
Acting Forest Supervisor, Gunnison, National Forest; Forest Supervisor, Grand Mesa-Uncompahgre National Forest.

[FR Doc.74-10675 Filed 5-8-74;8:45 am]

SPREAD CREEK-NORTH GROS VENTRE PLANNING UNIT

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Spread Creek-North Gros Ventre Planning Unit, Bridger-Teton National Forest, Wyoming. The Forest Service report number is USDA-FS-FES (Adm) R4-74-64.

The purpose of this environmental statement is to allocate National Forest System lands within the unit to specific resource uses and activities; establish management objectives; document management direction, decisions, and the needed coordination between resource uses and activities; and provide for protection, use, and development of a variety of resources found within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects. The mix of uses provided for includes moderate levels of consumptive resource uses. Major uses and activities include: livestock grazing, timber harvesting, roadbuilding, mining, camping, hunting, fishing, and general outdoor recreation.

This final environmental statement was transmitted to CEQ on May 2, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service
Federal Building, Room 4403
324-25th Street
Ogden, Utah 84401

Forest Supervisor
Bridger-Teton National Forest
Forest Service Building
Jackson, Wyoming 83001

District Forest Ranger
Gros Ventre Ranger District
Forest Service Building
Jackson, Wyoming 83001

A limited number of single copies are available upon request to Forest Supervisor Charles T. Coston, Bridger-Teton National Forest, Forest Service Building, Jackson, Wyoming 83001.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: May 2, 1974.

VERN HAMRE,
Regional Forester.

[FR Doc.74-10680 Filed 5-8-74;8:45 am]

Office of the Secretary

NATIONAL WILD AND SCENIC RIVERS SYSTEM

Clarion River Found Not Qualified

CROSS REFERENCE: For a document issued jointly by the Department of the Interior, Office of the Secretary, on the above Clarion River matter, see FR Doc. 74-10744, *supra*.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

AMERICAN MUSEUM OF NATURAL HISTORY ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 701.8 of the regulations provides in pertinent part:

The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 day period. • • • If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final

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decision by the Deputy Assistant Secretary on the application within the context of § 701.11.

The meaning of the section is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 701.8 further provides:

"• • • the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant."

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket number: 73-00126-36-46070. Applicant: American Museum of Natural History, Central Park West & 79th Street, New York, New York 10024. Article: Scanning Electron Microscope, Model S4. Date of denial without prejudice to resubmission: December 13, 1973.

Docket number: 73-00132-01-01100. Applicant: University of Chicago, Department of Pathology, Pritzker School of Medicine, 950 East 59th Street, Chicago, Illinois 60637. Article: Sequence Analyzer, JAS-47K. Date of denial without prejudice to resubmission: December 5, 1973.

Docket number: 73-00329-01-77030. Applicant: Texas A&M University, Department of Chemistry, College Station, Texas 77843. Article: PS-100 High Resolution/Wide Line Multi-Nuclear Spectrometer System. Date of denial without prejudice to resubmission. December 13, 1973.

Docket number: 74-00076-33-43420. Applicant: The University of Oklahoma, Purchasing Department, 660 Parrington Oval, Room 321, Norman, Oklahoma 73069. Article: Micromanipulator, Type MZ-10 and accessories. Date of denial without prejudice to resubmission: December 13, 1973.

Docket number: 74-00079-33-46040. Applicant: DHEW/PHS, Food and Drug Administration, Contracts & Procurement Branch, National Center for Toxicological Research, Jefferson, Arkansas 72079. Article: Electron Microscope, Model EM 201. Date of denial without prejudice to resubmission: December 18, 1973.

Docket number: 74-00093-98-77065. Applicant: Iowa State University, Iowa 50010. Article: Educational Mossbauer Analyzer, Model EMS-21. Date of denial without prejudice to resubmission: December 18, 1973.

Docket number: 74-00217-90-16295. Applicant: Cornell University, Philips Hall, Ithaca, New York 14850. Article: Chromium Doped Indium Phosphide Crystal Slices. Date of denial without prejudice to resubmission: December 13, 1973.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-10671 Filed 5-8-74;8:45 am]

CITY COLLEGE OF N.Y.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00469-01-77095. Applicant: City College of New York, Department of Chemistry, 138th Street and Convent Avenue, New York, N.Y. 10031. Article: Photoelectron spectrometer. Manufacturer: Perkin-Elmer, United Kingdom. Intended use of article: The article is intended to be used for research into the electronic structure and chemical bonding in metal-organic, inorganic and organic compounds. Particular compounds include organophosphines and organosilicon compounds, nitrones and pyridine N-oxides. The article will also be used by graduate students for their research as partial fulfillment of requirements for the Ph. D. or Masters Degree. The students will be instructed in the use of the instrument, and its application to research problems.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capabilities to vaporize a specimen by heating to temperatures up to 250° C and to contain the specimen in the resultant vapor state for analysis. The most closely comparable domestic instrument, the Model ESCA 36, manufactured by McPherson Instrument, Action, Massachusetts, does not possess the sample heating capability. The National Bureau of Standards (NBS) advised in its memorandum dated April 9, 1974 that the sample heating capability is pertinent to the purposes for which the article is intended to be used. We, therefore, find that the ESCA 36 is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-10669 Filed 5-8-74;8:45 am]

COUNCIL ON LIBRARY RESOURCES, INC.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00181-99-07795. Applicant: Council on Library Resources, Inc., One DuPont Circle, Suite 620, Washington, D.C. 20036. Article: Automatic Library Card Camera and Transport System. Manufacturer: MEGA System Design Ltd., Canada. Intended use of article: The article is intended to be used to automatically film catalog cards to be used in all courses involving use of library in major academic institutions. Comments: No comments have been received with respect to this application. Decision: Application denied. Because the article possesses no scientific value for the purposes for which it is intended, a prima facie case is not presented upon which to base a finding of scientific equivalency. Reasons: Item 851.60 of the Tariff Schedules of the United States (TSUS) provides, inter alia, for duty-free treatment with respect to "Articles entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes * * * if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States". The law provides that the Secretary of Commerce, who has delegated this authority to the Deputy Assistant Secretary for Resources and Trade Assistance, is to determine "whether an instrument or apparatus of equivalent scientific value to such [the foreign] article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States" (headnote 6(c), Schedule 8, Part 4, TSUS). In order for the Deputy Assistant Secretary to make this determination of domestic availability (i.e., "being manufactured in the United States"), it is clear that some scientific use for the foreign article, whether educational or research, must be intended.

The National Bureau of Standards (NBS) advised in its memorandum dated April 1, 1974 that the article has "no scientific nor educational purpose pertinent to duty-free entry under Pub. L. 89-651 [Item 851.60, TSUS]. We, therefore, can make no findings on scientific equivalence."

Accordingly, we find that the foreign article does not possess any scientific value for the purposes for which it is intended to be used. Therefore, there being no value against which to gauge equivalency, the possible availability of domestic equivalents cannot be determined.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-10665 Filed 5-8-74;8:45 am]

CREIGHTON UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00269-33-46040. Applicant: Creighton University, Boyne School of Dental Science, 2810 Webster Street, Omaha, Nebraska 68178. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Intruments, NVD, The Netherlands. Intended use of article: The article is intended to be used in research to identify the cytological deviations which are evident clinically and experimentally as variations in the process of inflammation and repair. Experiments being carried out include:

(1) Examination of surgical specimens for quantitation of inflammatory types and qualification of activity of these cells based on number and appearance of intracellular organelles,

(2) Examination of experimental specimens which have been altered by pharmacological methods and/or treated with specific reagents. The article will also be used for educational purposes in the course "Advanced Oral Biology" by undergraduate and graduate students.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (November 29, 1972).

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU-4C electron microscope which was formerly manufactured by the Forgflo Corporation and which is currently supplied by Adam David Company. The Model EMU-4C electron microscope was a relatively complex instrument designed for research, which required a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 27, 1974 that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74-10664 Filed 5-8-74;8:45 am]

JOSLIN DIABETES FOUNDATION, INC., ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00212-33-46040. Applicant: Joslin Diabetes Foundation Inc., 170 Pilgrim Road, Boston, Massachusetts 02215. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of the embryology and developmental aspects of changing pancreatic beta cell function and sensitivity to glucose as well as the morphologic events which are responsible for insulin secretion in the adult organism. These studies will involve conventional and high resolution electron microscopy of stained and unstained sections of biological tissues and high resolution electron microscopy of replicas of freeze-cleaved tissues. Application received by Commissioner of Customs: November 12, 1973. Advice submitted by the Department of Health, Education, and Welfare on: February 25, 1974. Date of order: November 27, 1973.

Docket number: 74-00218-33-46040. Applicant Wayne State University, Kresge Eye Institute, 540 East Canfield, Detroit, Michigan 48201. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to analyze various tissues of the eye from experimental animals as well as some from human sources. This will include studies of (a) ultrastructural properties of cell membranes, and how they change during the process of wound healing and regeneration, (b) stimulation of ribosome production following injury or exposure of tissues to blood serum in organ culture, (c) ultrastructural changes which occur during corneal preservation, and (d) Herpes virus infections in the cornea. Other studies involving the extraocular muscles and the iris are also planned. Application received by Commissioner of Customs: November 20, 1973. Advice submitted by the Department of Health, Education, and Welfare on: February 25, 1974. Date of order: November 6, 1973.

Docket number: 74-00253-33-46040. Applicant: Presbyterian University of Pennsylvania Medical Center, 51 N. 39th Street, Philadelphia, Pennsylvania 19104. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of isolated blood vessels, heart and skeletal muscle from normal experimental subjects as well as diseased organs. The major objective of the investigations is to determine the source of calcium used for contraction in various muscles and the cellular loci where calcium is sequestered when muscle is relaxed. The investigation of diseased blood vessels will be used to determine the sites of deposition

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of calcium in atherosclerosis, while similar studies on blood vessels will be directed toward determining the fundamental defect in producing high blood pressure. The article will also be used in the research training of graduate students and post-doctoral fellows. Application received by Commissioner of Customs: December 19, 1973. Advice submitted by Department of Health, Education, and Welfare on: March 26, 1974. Date of order: December 17, 1973.

Comments: No comments have been received in regard to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article has a specified resolving capability of 3.0 Angstroms. The most closely comparable domestic instrument available at the time the articles were ordered was the Model EMU–4C electron microscope which was formerly produced by the Forgflo Corporation and which is currently supplied by Adam David Company. The Model EMU–4C had a specified resolving capability of five Angstroms. (Resolving capability bears an inverse relationship to its numerical rating in Angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Model EMU–4C was not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74–10667 Filed 5–8–74;8:45 am]

HARVARD MEDICAL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74–00156–33–46040. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, Massachusetts 02115. Article: Electron Microscope, Model JEM 100B and Goniometer Stage. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry out a wide variety of studies in the following areas: viral morphogenesis and structure; genetics; immunology, medical and pathogenic bacteriology; physiology, protein and nucleic acid structure and function; and determination of subcellular components of both normal and virally infected bacterial and animal cells. The article will also be used by faculty and technical staff to pursue their research, and by graduate students to carry out research projects needed to complete the Ph. D. degree in Microbiology and Molecular Genetics. In addition, the article will be used in graduate course in Theory and Techniques of Electron Microscopy.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (July 25, 1973). Reasons: The foreign article has a specified resolving capability of 3.0 Angstroms. The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU–4C electron microscope which was formerly manufactured by the Forgflo Corporation and is currently being supplied by the Adam David Company. The Model EMU–4C had a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated January 25, 1974 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4C was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74–10668 Filed 5–8–74;8:45 am]

MEMPHIS HOSPITAL, TENN., ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before May 29, 1974.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER (37 FR 3892), prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00402–33–90000. Applicant: Methodist Hospital, 1265 Union Avenue, Memphis, Tennessee 38104. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for detecting and localizing disease processes of the brain, its coverings, and the eyes. The article will also be of most value in planning treatment such as surgical excision, and radiotherapy. This new technique will be a most valuable tool to be used in the teaching programs in Radiology, Neurosurgery, Ophthalmology, Pathology and others and as an adjunct to existing diagnostic methods. Application received by Commissioner of Customs: March 28, 1974.

Docket Number: 74–00407–33–90000. Applicant: Hahnemann Medical College and Hospital, 230 North Broad Street, Philadelphia, Pa. 19102. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for clinical use to evaluate patients for potential intracerebral pathology. The article will also be used to supplement the current training of neuroradiologists, neurosurgeons, and neurologists. Application received by Commissioner of Customs: March 29, 1974.

Docket number: 74–00418–33–46040. Applicant: Health Research Department,

666 Elm Street, Buffalo, New York 14203. Article: Electron Microscope, Model Elmiskop 51. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used to examine leukemic blasts from humans as well as other human cancers such as Ewing Sarcoma, breast cancer, etc. Experiments will involve examining material from human tumors as an aid in diagnosis. Different material will be examined and compared with the response to chemotherapy and radiation therapy, on an ultrastructural basis. The article will also be used in the course, Techniques of E.M. to teach students the principals of fixation, dehydration, and embedding of tissues for electron microscopy; and provide practical training in the use of the electron microscope. Application received by Commissioner of Customs: March 29, 1974.

Docket number: 74–00420–33–46040. Applicant: NASA-Ames Research Center, Moffett Field, California 94035. Article: Electron Microscope, Model Elmiskop 101B. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to provide high resolution electron diffraction and microscopy analysis of results of well controlled heterogeneous nucleation, epitaxial thin film growth and in-situ oxidation experiments. In addition, the article will be used in the investigation of the crystallographic structure and chemical composition of microscopic precipitates in titanium alloys which are of particular interest to NASA's hydrogen embrittlement program. Application received by Commissioner of Customs: April 9, 1974.

Docket number: 74–00422–01–77095. Applicant: Emory University, Department of Chemistry, Atlanta, Georgia 30322. Article: Photon Correlation Spectrometer. Manufacturer: Precision Devices & Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used for the study of pure liquids and liquid solutions of materials whose molecules show liquid crystal properties by low angle laser light scattering. Materials in the molecular weight range of 10^2 to 10^5 will be studied. Light scattering experiments as a function of angle temperature, concentration and possibly pressure will be carried out. Application received by Commissioner of Customs: April 9, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.74–10670 Filed 5–8–74;8:45 am]

National Bureau of Standards

PROPOSED FEDERAL INFORMATION PROCESSING STANDARD CODE EXTENSION TECHNIQUES IN 7 OR 8 BITS

Request for Comments

Under the provisions of Pub. L. 89–306, the Secretary of Commerce is authorized to establish uniform Federal ADP standards. A proposed standard on code extension techniques in 7 or 8 bits[1] that is based upon the Federal adoption of voluntary industry standards which were developed by the American National Standards Institute and the International Organization for Standardization is being recommended for Federal use. This proposed standard specifies methods of extending ASCII (the American Standard Code for Information Interchange) (FIPS–1) by remaining in either a 7 bit environment or increasing to an 8 bit environment and building upon the structure of ASCII to describe various means of extending the control and graphic sets of the code.

Prior to the submission of a final endorsement of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section which deals with the technical requirements of the standard. The first section is provided in its entirety in this notice.

Interested parties may obtain copies of the technical specifications from, and may submit comments to, the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, on or before August 7, 1974.

Dated: May 2, 1974,

RICHARD W. ROBERTS,
Director.

[FR Doc.74–10537 Filed 5–8–74;8:45 am]

PROPOSED REVISION TO FEDERAL INFORMATION PROCESSING STANDARD 21—COBOL

Request for Comments

Under the provisions of Pub. L. 89–306, the Secretary of Commerce is authorized to establish uniform Federal ADP standards. A proposed revision to Federal Information Processing Standard 21—COBOL[1] is being recommended for Federal use. It is based on the Federal adoption of the voluntary industry standard that has been developed by the American National Standards Institute. This proposed revision supersedes FIPS PUB 21 and reflects major changes and improvements to the earlier COBOL specification.

Prior to the submission of a final endorsement of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section which deals with the technical requirements of the standard. The first section is provided in its entirety in this notice.

Interested parties may obtain a copy of the technical specifications from and may submit comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, on or before August 7, 1974.

Dated: May 2, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74–10536 Filed 5–8–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COMMITTEE OF THE EDUCATION OF BILINGUAL CHILDREN

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that a subcommittee meeting of the Advisory Committee on the Education of Bilingual Children will be held from 9 a.m. Tuesday, May 14, 1974, to 4:30 p.m. through Friday, May 17, 1974, in Room 3945 Regional Office Building, 26 Federal Plaza, New York, New York 10007.

This is a subcommittee of the Advisory Committee on the Education of Bilingual Children established pursuant to section 708 of the Bilingual Education Act (20 U.S.C. 880b–5) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning the preparation of general regulations for and with respect to policy matters arising in the administration of the Bilingual Education Act.

The above described meeting shall be open to the public. The proposed agenda for this meeting is the drafting of a position paper on bilingual education which will in final form be turned in to the Commissioner of Education. Other relevant matters which the subcommittee deems germane to the issue shall also be discussed.

Records shall be kept of all proceedings, and shall be available for public inspection at Room 3045, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C. 20202.

Signed at Washington, D.C., on May 2, 1974.

JAMES B. ROBERTS,
Executive Officer, BSS.

[FR Doc.74–10633 Filed 5–8–74;8:45 am]

[1] Filed as part of the original doucment.

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GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Notice of Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance in the construction of noncommercial educational broadcasting facilities have been accepted for filing as of the respective dates indicated below under the provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390–399) and in accordance with 45 CFR 60.8.

Any interested person may, pursuant to 45 CFR 60.10, within 30 calendar days from the date of this publication, file comments regarding these applications with the Chief, Educational Broadcasting Facilities Branch, Division of Technology and Environmental Education, Office of Education, Washington, D.C. 20202.

EDUCATIONAL TELEVISION

Board of Regents, University of New Mexico and Board of Education, City of Albuquerque, Albuquerque, New Mexico 87102, File No. 428-T/T0161SC, for the improvement of noncommercial educational television station KNME on Channel 5, Albuquerque, NM. Proposal determined acceptable: April 1, 1970. Estimated project cost: $264,000. Grant requested: $198,000. Application signed by: F. C. Hempen, General Manager, Director of Television.

Florida West Coast Educational Television, Inc., 908 South 20th Street, Tampa, Florida 33605, File No. 429-T/T0024SC, for the improvement of noncommercial educational television station WEDU on Channel 3, Tampa, FL. Proposal determined acceptable: November 2, 1970. Estimated project cost: $312,500. Grant requested: $234,375. Application signed by: R. Le Roy Lastinger, Executive Vice President and General Manager.

Metropolitan Board of Education, 2601 Bransford Avenue, Nashville, Tennessee 37204, File No. 430T/T0179SC, for the improvement of noncommercial educational television station WDCN on Channel 8, Nashville, TN. Proposal determined acceptable: September 15, 1972. Estimated project cost: $597,851. Grant requested: $448,388. Application signed by: Elbert L. Brooks, Director of Schools.

Connecticut Education Television Corporation, 24 Summit Street, Hartford, Connecticut 06106, File No. 431-T/T0034SC, for the improvement of noncommercial educational television production facilities of WEDW-TV, Bridgeport and the proposed noncommercial television station WEDY, New Haven. Proposal determined acceptable: July 30, 1973. Estimated project cost: $470,000. Grant requested: $352,500. Application signed by: John C. Lennhoff, Vice President.

Connecticut Educational Television Corporation, 24 Summit Street, Hartford, Connecticut 06106, File No. 432-T/T0055SC, for the improvement of the noncommercial educational television control center, Hartford, Connecticut. Proposal determined acceptable: July 30, 1973. Estimated project cost: $439,168. Grant requested: $329,376. Application signed by: John C. Lennhoff, Vice President.

Nebraska Educational Television Commission, Box 83111, Lincoln, Nebraska 68501, File No. 433-T/T0070SC, for the improvement of the noncommercial educational television State network. Proposal determined acceptable: August 1, 1973. Estimated project cost: $563,606. Grant requested: $422,704. Application signed by: Jack G. McBride, General Manager.

Metropolitan Indianapolis Television Association, Inc., 1440 North Meridan Street, Indianapolis, Indiana 46202, File No. 434-T/T0085SC, for the improvement of noncommercial educational television station WFYI on Channel 20, Indianapolis, IN. Proposal determined acceptable: August 2, 1973. Estimated project cost: $247,224. Grant requested: $185,418. Application signed by: Howard S. Wilcox, Treasurer.

St. Lawrence Valley Educational Television Council, Inc., P.O. Box 114, Watertown, New York 13601, File No. 435-T/T0053SC, for the improvement of noncommercial educational television station WNPE on Channel 16, Watertown, New York. Proposal determined acceptable: August 2, 1973. Estimated project cost: $242,869. Grant requested: $182,152. Application signed by: Mr. Richard A. Jones, President.

Board of Trustees, Coast Community College District, 1370 Adams Avenue, Costa Mesa, CA 92626, File No. 436-T/T0027SC, for the improvement of noncommercial educational television station KOCE-TV on Channel 50, Huntington Beach, CA. Proposal determined acceptable: August 2, 1973. Estimated project cost: $364,004. Grant requested: $272,953. Application signed by: Norman E. Watson, Chancellor.

Regents of New Mexico State University, Box 3J-NMSU, Las Cruces, New Mexico 88003, File No. 437-T/T0065SC, for the improvement of noncommercial educational television station KRWG-TV on Channel 22, Las Cruces, NM. Proposal determined acceptable: August 13, 1973. Estimated project cost: $99,807. Grant requested: $74,807. Application signed by: K. R. Hafen, Vice President of Finance.

Community Television of Southern California, 4400 Sunset Drive, Los Angeles, California 90027, File No. 438-T/T0207SC, for the improvement of noncommercial educational television station KCET on Channel 28, Los Angeles, CA. Proposal determined acceptable: August 13, 1973. Estimated project cost: $919,361. Grant requested: $689,521. Application signed by: James R. Berns, Director of Business Affairs.

Blue Ridge ETV Association, 1215 McNeil Drive, S.W., P.O. Box 15, Roanoke, Virginia 24001, File No. 439-T/T0105SC, for the improvement of noncommercial educational television station WBRA on Channel 15, Roanoke, VA. Proposal determined acceptable: December 11, 1973. Estimated project cost: $417,981. Grant requested: $313,486. Application signed by: E. V. Rexrode, Jr., Vice President and General Manager.

State Educational Radio and Television Facility Board, P.O. Box 1758, Des Moines, Iowa 50306, File No. 440-T/T0093SC, for the establishment of a noncommercial educational television station on Channel 38, Red Oak, IA. Proposal determined acceptable: December 13, 1973. Estimated project cost: $2,108,257. Grant requested: $509,257. Application signed by: Hubert V. Cordier, Interim Executive Director.

WHYY, Inc., 4548 Market Street, Philadelphia, Pennsylvania 19139, File No. 441-T/T0102SC, for the improvement of noncommercial educational television station WHYY on Channel 12, Wilmington, Delaware. Proposal determined acceptable: December 13, 1973. Estimated project cost: $686,628. Grant requested: $514,971. Application signed by: Warren A. Kraetzer, Executive Vice President and General Manager.

Illinois Valley Public Telecommunications Corporation, 1501 West Bradley Avenue, Peoria, Illinois 61606, File No. 442-T/T0104SC, for the improvement of noncommercial educational television station WTVP on Channel 47, Peoria, IL. Proposal determined acceptable: December 13, 1973. Estimated project cost: $482,018. Grant requested: $361,513. Application signed by: Philip Weinberg, President.

Hampton Roads Educational Television Association, Inc., 5200 Hampton Boulevard, Norfolk, Virginia 23508, File No. 443-T/T0091SC, for the expansion of noncommercial educational television station WHRO-TV on Channel 15, Hampton-Norfolk, Virginia. Proposal determined acceptable: December 14, 1973. Estimated project cost: $753,000. Grant requested: $293,183. Application signed by: Randolph S. Brent, General Manager.

Metropolitan Pittsburgh Public Broadcasting, Inc., 4802 Fifth Avenue, Pittsburgh, Pennsylvania 15213, File No. 444-T/T0107SC, for the improvement of noncommercial educational television stations WQED and WQEX, Channels 13 and 16, Pittsburgh, PA. Proposal determined acceptable: December 14, 1973. Estimated project cost: $537,635. Grant requested: $403,226. Application signed by: Samuel J. Francis, Controller.

Springfield Community Television, Inc., P.O. Box 21, Springfield, Missouri 65802, File No. 445-T/T0108SC, for the establishment of a noncommercial educational television station on Channel 21, Springfield, MO. Proposal determined acceptable: December 14, 1973. Estimated project cost: $1,326,059. Grant requested: $994,544. Application signed by: Jerry L. Redfern, Secretary.

University of Utah, KUED Room 101, Music Hall, University of Utah, Salt Lake City, Utah 84112, File No. 446-T/T0174SC, for the improvement of noncommercial educational television station KUED on Channel 7, Salt Lake City, Utah. Proposal determined acceptable: December 14, 1973. Estimated project cost: $960,695. Grant requested: $511,325. Application signed by: W. S. Partridge, Vice President for Research.

Santa Clara County Board of Education, 45 Santa Teresa Street, San Jose, California 95110, File No. 447-T/T0090SC, for the improvement of noncommercial educational television station KTEH on Channel 54, San Jose, CA. Proposal determined acceptable: December 18, 1973. Estimated project cost: $250,077. Grant requested: 187,515. Application signed by: Glenn W. Hoffman, General Manager and County Superintendent of Schools.

Alaska Public Television, Inc., 308 G Street, Anchorage, Alaska 99501, File No. 448-T/T0096SC, for the establishment of a noncommercial educational television station on Channel 7, Anchorage, AK. Proposal determined acceptable: December 18, 1973. Estimated project cost: $770,125. Grant requested: $577,593. Application signed by: William T. McCaughan, President.

Tacoma School District No. 10, 601 South 8th Street, P.O. Box 1357, Tacoma, Washington 98402, File No. 449-T/T0097SC, for the improvement of noncommercial educational television station KTPS on Channel 62, Tacoma, Washington. Proposal determined acceptable: December 18, 1973. Estimated project cost: $128,642. Grant requested: $96,482. Application signed by: Mr. Toney Shelton, Business Manager, Deputy Secretary.

Milwaukee Area Board of Vocational, Technical, and Adult Education, 1015 North Sixth Street, Milwaukee, Wisconsin 53203, File No. 450-T/T0098SC, for the expansion of noncommercial educational television station WMVS on Channel 10, Milwaukee, WI. Proposal determined acceptable: December 18, 1973. Estimated project cost: $616,416. Grant requested: $462,312. Application signed by: William L. Ramsey, District Director.

Louisiana ETV Authority, Box 44064, Baton Rouge, Louisiana 70804, File No. 451-T/T109SC, for the establishment of a noncommercial educational television station on Channel 13, Monroe, LA. Proposal determined acceptable: December 18, 1973. Estimated project cost: $792,165. Grant request: $594,124. Application signed by: H. Max Fetty, Executive Director.

Louisiana ETV Authority, Box 44064, Baton Rouge, Louisiana 70804, File No. 452-T/T0110SC, for the improvement of noncommercial educational television station WLPB-TV on Channel 27, Baton Rouge, and proposed station, Ch 13, Monroe, Louisiana. Proposal determined acceptable: December 18, 1973. Estimated project cost: $649,568. Grant requested: $487,176. Application signed by: H. Max Fetty, Executive Director.

Board of Regents for Education, State of Rhode Island and Providence Plantations, 199 Promenade Street, Providence, Rhode Island 02908, File No. 453-T/T0116SC, for the expansion of noncommercial educational television station WSBE on Channel 36, Providence, Rhode Island. Proposal determined acceptable: December 18, 1973. Estimated project cost: $410,000. Grant requested: $307,500. Application signed by: Grace M. Glynn.

Central California Educational Television, Inc., P.O. Box 6, Sacramento, California 95801, File No. 454-T/T0124SC, for the improvement of noncommercial educational television station KVIE on Channel 6, Sacramento, California. Proposal determined acceptable: December 18, 1973. Estimated project cost: $329,334. Grant requested: $247,001. Application signed by: Arthur A. Paul, Executive Vice President and General Manager.

Public Communications Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Texas 75201, File No. 455-T/T0120-SC, for the improvement of noncommercial educational television station KERA-TV on Channel 13, Dallas, Texas. Proposal determined acceptable: December 18, 1973. Estimated project cost: $133,820. Grant requested: $100,365. Application signed by: Robert A. Wilson, President.

KQED, Inc., 1011 Bryant Street, San Francisco, CA 94103, File No. 456-T/T0122SC, for the improvement of noncommercial educational television station KQED on Channel 9, San Francisco, CA. Proposal determined acceptable: December 18, 1973. Estimated project cost: $313,845. Grant requested: $235,383. Application signed by: Bernard Mayes, Executive Vice President.

The University of Arizona, Radio-Film-TV Bureau, Tucson, Arizona, File No. 457-T/T0127SC, for the improvement of noncommercial educational television station KUAT on Channel 6, Tucson, Arizona. Proposal determined acceptable: December 19, 1973. Estimated project cost: $205,000. Grant requested: $153,750. Application signed by: A. Richard Kassander, Jr., Vice President for Research.

Boise State College, 1910 College Boulevard, Boise, Idaho 83725, File No. 458-T/T0128-SC, for the improvement of noncommercial educational television station KAID on Channel 4, Boise, Idaho. Proposal determined acceptable: December 19, 1973. Estimated project cost: $239,960. Grant requested: $179,970. Application signed by: Jack A. Schlaefle, General Manager.

Southern Colorado State College, 2200 Bonforte Blvd., Pueblo, Colorado 81001, File No. 459-T/T0131SC, for the improvement of noncommercial educational television station KTSC on Channel 8, Pueblo, Colorado. Proposal determined acceptable: December 19, 1973. Estimated project cost: $315,200. Grant requested: $236,400. Application signed by: Harry P. Boldes.

The State of Oregon, acting by and through The State Board of Higher Education, Oregon Educational and Public Broadcasting Service (OEPBS), P.O. Box 1375, Eugene, Oregon 97403. File No. 460-T/T-0134SC, for the improvement of noncommercial educational television stations KOAC, Ch 7, Corvallis, and KOAP, Ch 10, Portland, Or gon. Proposal determined acceptable: December 19, 1973. Estimated project cost: $101,133. Grant requested: $75,848. Application signed by: Donald G. Larson, Secretary.

The Board of Regents of Florida Acting for and on Behalf of Florida State University, 202 Dodd Hall, Florida State University, Tallahassee, Florida 32306, File No. 461-T/T0136SC, for the improvement of noncommercial educational television station WFSU on Channel 11, Tallahassee, Florida. Proposal determined acceptable: December 19, 1973. Estimated project cost: $483,370. Grant requested: $362,528. Application signed by: Robert M. Johnson, Provost, Grad. Studies and Research.

WGBH Educational Foundation, 125 Western Avenue, Boston, Massachusetts 02134, File No. 462-T/T0137SC, for the expansion of noncommercial educational television station WGBH on Channel 2, Boston, MA. Proposal determined acceptable. December 19, 1973. Estimated project cost: $574,365. Grant requested: $430,774. Application signed by: David O. Ives, President.

Center of Excellence, Inc., Post Office Box 379, Williamsburg, Virginia 23185, File No. 463-T/T0149SC, for the establishment of a noncommercial educational television station on Channel 46, West Point, Virginia. Proposal determined acceptable: December 19, 1973. Estimated project cost: $497,000. Grant requested: $372,750. Application signed by: Stephen D. Harris, Secretary-Treasurer.

San Bernardino Community College District, 631 S. Mt. Vernon Avenue, San Bernardino, California 92403, File No. 464-T/0154SC, for the improvement of noncommercial educational television station KVCR on Chanel 24, San Bernardino, CA. Proposal determined acceptable: December 19, 1973. Estimated project cost: $400,265. Grant requested: $298,402. Application signed by: Raymond F. Ellerman, Superintendent.

Educational Communications Board, 732 North Midvale Boulevard, Madison, Wisconsin 53705, File No. 465-T/T0166SC, for the improvement of noncommercial educational television station WHWC on Channel 28, Colfax, Wisconsin. Proposal determined acceptable: December 19, 1973. Estimated project cost: $653,759. Grant requested: $490,259. Application signed by: Doris Ullrich, Chairman.

Fresno County Board of Education, 2314 Mariposa Street, Fresno, California 93721, File No. 466-T/T0106SC, for the establishment of a noncommercial educational television station on Channel 18, Fresno, CA. Proposal determined acceptable: December 21, 1973. Estimated project cost: $574,113. Grant requested: $430,583. Application signed by: Earnest A. Poore, Supt.

Ohio Educational Television Network, 2470 North Star Road, Columbus, Ohio 43221, File No. 467-T/T0111SC, for the improvement of noncommercial educational television station WOET-TV on Channel 16, Kettering, Ohio. Proposal determined acceptable: December 21, 1973. Estimated project cost: $760,046. Grant requested: $567,710. Application signed by: Dave L. Fornshell, Executive Director.

Virgin Islands Public TV System, WTJX-TV, Channel 12, PO Box 5077, Charlotte Amalie, St. Thomas, Virgin Islands 00801, File No. 468-T/T0125SC, for the improvement of noncommercial education television station WTJX on Channel 12, Charlotte Amalie, St. Thomas, Virgin Islands. Proposal determined acceptable: December 21, 1973. Estimated project cost: $310,000. Grant requested: $232,000. Application signed by: Patrick N. Williams, Chairman, Board of Directors.

WGBH Educational Foundation, WGBY Division, One Armory Square, Springfield, Massachusetts 01105, File No. 469-T/T0161SC, for the improvement of noncommercial educational television station WGBY on Channel 57, Springfield, MA. Proposal determined acceptable: December 21, 1973. Estimated project cost: $742,325. Grant requested: $556,743. Application signed by: John T. Caldwell, Jr., General Manager.

Sunflower Educational Television Corporation, 309 East 3rd Street, P.O. Box 288, Wichita, Kansas 67202, File No. 470-T/T0151SC, for the improvement of noncommercial educational television station KPTS on Channel 8, Hutchinson/Wichita. Proposal determined acceptable: December 27, 1973. Estimated project cost: $155,383. Grant requested: $116,537. Application signed by: Joel J. Parenteau, Executive Vice President.

West Virginia Board of Regents, West Virginia University, Charleston, West Virginia 26505, File No. 471-T/T0160SC, for the expansion of noncommercial educational television station WWVU on Channel 24, Morgantown, WV through translators for Moorefield and Wardensville, WV. Proposal determined acceptable: December 27, 1973. Estimated project cost: $72,632. Grant requested: $54,474. Application signed by: James G. Harlow, President.

Twin City Area Educational Television Corporation, 1640 Como Avenue, St. Paul, Minnesota 55108, File No. 472-T/T0159SC, for the expansion and improvement of noncommercial educational television stations KTCA and KTCI on Channels 2 and 17, St. Paul/Minneapolis, MN. Proposal determined acceptable: December 28, 1973. Estimated project cost: $617,612. Grant requested: $463,209. Application signed by: John C. Schwarzwalder, Executive Vice President.

Greater Cincinnati Television Educational Foundation, 2222 Chichasaw Street, Cincinnati, Ohio 45219, File No. 473-T/T0163SC, for the improvement of noncommercial educational television station WCET on Channel 48, Cincinnati, OH. Proposal determined acceptable: December 28, 1973. Estimated project cost: $474,910. Grant requested: $318,560. Application signed by: Charles W. Vaughan, President and General Manager.

Maryland Public Broadcasting Commission, Bonita Avenue, Owings Mills, Maryland 21117, File No. 474-T/T0165SC, for the establishment of a noncommercial educational television station on Channel 22, Annapolis, MD. Proposal determined acceptable: December 28, 1973. Estimated project cost: $1,368,100. Grant requested: $813,600. Application signed by: Frederick Breitenfeld, Executive Director.

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City of Atlanta, Board of Education, 224 Central Avenue, S.W., Atlanta, Georgia 30303, File No. 475–T/T0167SC, for the improvement of noncommercial educational television station WETV on Channel 30, Atlanta, GA. Proposal determined acceptable: December 28, 1973. Estimated project cost: $569,738. Grant requested: $427,303. Application signed by: Alonzo Crim, Superintendent.

Eastern New Mexico University, Box 2047, Portales, New Mexico 88130. File No. 476–T/T0169SC, for the improvement of noncommercial educational television station KENW on Channel 3, Portales, NM. Proposal determined acceptable: December 28, 1973. Estimated project cost: $105,825. Grant requested: $79,369. Application signed by: Charles W. Meister, President.

Mississippi Authority for Educational Television, Post Office Drawer 1101, Jackson, Mississippi 39205. File No. 477–T/T0201SC, for the improvement of the Mississippi noncommercial educational television network. Proposal determined acceptable: December 29, 1973. Estimated project cost: $1,218,500. Grant requested: $913,875. Application signed by: William R. Smith, Executive Director

Arkansas ETV Commission, 350 South Donaghey, Conway, Arkansas 72032, File No. 478–T/T0117SC, for the establishment of a noncommercial educational television station on Channel 19, Jonesboro, Arkansas. Proposal determined acceptable: January 21, 1974. Estimated project cost: $886,379. Grant requested: $481,039. Application signed by: Lee Reaves, Director.

University of Maine, Alumni Hall, Orono, Maine 04473, File No. 479–T/T0185SC, for the improvement of the Maine Public Broadcasting network. Proposal determined acceptable: January 28, 1974. Estimated project cost: $62,266. Grant requested: $46,700. Application signed by: Herbert L. Fowle, Jr., Vice Chancellor for Business and Financial Affairs.

University of North Carolina, 910 Raleigh Road, Chapel Hill, North Carolina 27514, File No. 480–T/T0188SC, for the improvement of State ETV network remote production center based at North Carolina State University, Raleigh, NC. Proposal determined acceptable: January 29, 1974. Estimated project cost: $396,453. Grant requested: $297,339. Application signed by: George E. Bair, Director of Educational Television.

University of North Carolina, 910 Raleigh Road, Chapel Hill, North Carolina 27514. File No. 481–T/T0187SC, for the improvement of the State ETV network production capability, University of North Carolina, Chapel Hill, NC. Proposal determined acceptable: January 29, 1974. Estimated project cost: $389,393. Grant requested: $292,046. Application signed by: George E. Bair, Director of Educational Television.

Ball State University, WIPB TV Muncie, Indiana 47306, File No. 482–T/T0191SC, for the improvement of noncommercial educational television station WIPB on Channel 49, Muncie, Indiana. Proposal determined acceptable: January 30, 1974. Estimated project cost: $140,634. Grant requested: $105,474. Application signed by: John J. Pruis, President.

Greater Toledo ETV Foundation, P.O. Box 2330, Toledo, Ohio 43603, File No. 483–T/T0192SC, for the improvement of noncommercial educational television station WGTE on Channel 30, Toledo, Ohio. Proposal determined acceptable: January 30, 1974. Estimated project cost: $322,245. Grant requested: $241,683. Application signed by: E. Dana Cox, Jr., Vice President and General Manager.

Secretary of Education, Commonwealth of Puerto Rico, Radio and TV Services, Urb. Industrial Tres Monjitas-Cesar Gonzales Ave. Calaf Corner, Hato Rey, Puerto Rico 00919, File No. 484–T/T0194SC, for the improvement of noncommercial educational television station WIPM on Channel 3, Mayaguez, Puerto Rico. Proposal determined acceptable: January 30, 1974. Estimated project cost: $1,840,000. Grant requested: $1,380,000. Application signed by: Dr. Ramon A. Cruz, Secretary of Education.

North Central ETV, Inc., 4500 South University Drive, Fargo, North Dakota, File No. 485–T/T0197SC, for the improvement of noncommercial educational television stations KGFE and KFME, Channels 13 and 2, Fargo/Grand Forks, ND. Proposal determined acceptable: February 1, 1974. Estimated project cost: $348,722. Grant requested: $261,559. Application signed by: Dennis L. Falk, Executive Secretary.

Department of Education, Pago Pago, American Samoa 96799, File No. 486–T/T0199SC, for the improvement of noncommercial educational television station KVZK on Channel 4, Pago Pago, American Samoa. Proposal determined acceptable: February 1, 1974. Estimated project cost: $328,024. Grant requested: $162,000. Application signed by: Richard W. Stevens, Station Manager.

University of New Hampshire, WENH TV New Hampshire Network, Box 2, Durham, New Hampshire 03824. File No. 487–T/T0200SC, for the improvement of the New Hampshire noncommercial educational television network. Proposal determined acceptable: February 1, 1974. Estimated project cost: $58,646. Grant requested: $43,985. Application signed by: Robert N. Faiman, Vice President for Research and Special Program Administration.

Milwaukee Area District, Board of Vocational, Technical and Adult Education, 1015 North 6th Street, Milwaukee, Wisconsin 53203. File No. 488–T/T0208SC, for the expansion of noncommercial educational television station WMVT on Channel 36, Milwaukee, WI. Proposal determined acceptable: February 5, 1974. Estimated project cost: $287,124. Grant requested: $215,343. Application signed by: William L. Ramsey, District Director.

Superintendent of Public Instruction, State Capitol, Helena, Montana 59601, File No. 489–T/T0141SC, for the establishment of a noncommercial educational television station on Channel 7, Butte, MT. Proposal determined acceptable: February 20, 1974. Estimated project cost: $722,000. Grant requested: $499,998. Application signed by: Dolores Colburg, Superintendent of Public Instruction.

Arkansas ETV Commission, 350 South Donaghey, Conway, Arkansas 72032, File No. 490–T/T0209SC, for the establishment of a noncommercial educational television station on Channel 13, Fayetteville, AK. Proposal determined acceptable: March 4, 1974. Estimated project cost: $919,683. Grant requested: $459,842. Application signed by: Lee Reaves, Director.

Ohio Educational Television Network Commission, 2470 North Star Road, Columbus, Ohio 43221, File No. 491–T/T0214SC, for the improvement of noncommercial educational television station WBGU on Channel 57, Lima, Ohio. Proposal determined acceptable: March 21, 1974. Estimated project cost: $279,419. Grant requested: $209,565. Application signed by: Dave L. Fornshell, Executive Director.

The Public Broadcasting Council of Central New York, Inc. 506 Old Liverpool Road, Liverpool, New York 13088, File No. 492–T/T0092SC, for the expansion of noncommercial educational television station WCNY on Channel 24, Syracuse, NY. Proposal determined acceptable: March 25, 1974. Estimated project cost: $212,955. Grant requested: $159,710. Application signed by: Richard H. Thomas, President and General Manager.

University of Nebraska at Omaha, Radio/TV Department, Box 688, Downtown Station, Omaha, Nebraska 68101, File No. 493–T/T0211SC, for the improvement of noncommercial educational television station KYNE–TV on Channel 26, Omaha, NE. Proposal determined acceptable: March 25, 1974. Estimated project cost: $53,674. Grant requested: $40,256. Application signed by: Ronald Roskens, Chancellor.

State Board of Directors for Educational Television, 310 East Clark Street, Vermillion, South Dakota 57069, File No. 494–T/T0216SC, for the improvement of the noncommercial educational television network of South Dakota. Proposal determined acceptable: March 25, 1974. Estimated project cost: $595,679. Grant requested: $446,679. Application signed by: Richard Cleveland, Chairman.

EDUCATIONAL RADIO

Atlanta Board of Education, 224 Central Avenue, S.W., Atlanta, Georgia 30324, File No. 151–R/T0032SC, for the expansion of noncommercial FM radio station WABE broadcasting on 90.1 Mh/z, Atlanta, GA. Proposal determined acceptable: December 17, 1972. Estimated project cost: $85,881. Grant requested: $61,410. Application signed by: J. W. Leston, Superintendent.

Sangamon State University, Springfield, Illinois 62708, File No. 152–R/T0041SC, for the establishment of a noncommercial educational FM radio station broadcasting on 91.9 Mh/z, Springfield, IL. Proposal determined acceptable: July 3, 1973. Estimated project cost: $261,569. Grant requested: $195,950. Application signed by: Robert C. Spencer, President.

Southern Tier Educational TV Association, Inc., P.O. Box 97, Endwell, New York 13760, File No. 153–R/T0067SC, for the establishment of a noncommercial educational FM radio station broadcasting on 89.3 Mh/z, Binghamton, New York. Proposal determined acceptable: August 13, 1973. Estimated project cost: $143,068. Grant requested: $104,751. Application signed by: Phillip P. Jackson, General Manager.

Maricopa County Community College District, KMCR–FM, 524 West Washington Street, Phoenix, Arizona 85003, File No. 154–R/T0087SC, for the improvement of noncommercial educational FM radio station KMCR broadcasting on 91.5 Mh/z, Phoenix, Arizona. Proposal determined acceptable: November 30, 1973. Estimated project cost: $42,333. Grant requested: $31,750. Application signed by: A. W. Flowers, Vice President for Business Affairs.

San Antonio Community Radio Corporation, P.O. Box 6487, San Antonio, Texas 78209. File No. 155–R/T0088SC, for the establishment of a noncommercial educational FM radio station broadcasting on 89.1 Mh/z, San Antonio, Texas. Proposal determined acceptable: December 6, 1973. Estimated project cost: $104,429. Grant requested: $70,845. Application signed by: Pleasant J. McNeel, President.

Morehead State University, P.O. Box 764, Morehead, Kentucky 40351, File No. 156–R/T0101SC, for the improvement of noncommercial FM radio station WMKY broadcasting on 90.3 Mh/z, Morehead, KY. Proposal determined acceptable: December 13, 1973. Estimated project cost: $70,595. Grant requested: $52,946. Application signed by: Adron Doran, President.

Board of Trustees, Southern Illinois University, 1056 Communications Bldg, SIU, Carbondale, Illinois 62901, File No. 157–R/T0103SC, for the expansion of noncommercial FM radio station WSIU, broadcasting on 91.9 Mh/z, Carbondale, IL. Proposal determined acceptable: December 13, 1973. Estimated Project cost: $95,548. Grant requested: $71,661. Application signed by: David R. Derge, President; SIU at Carbondale.

Mohawk-Hudson Council on Educational Television, Inc., 17 Fern Street, Schenectady, New York 12306. File No. 158–R/T0183SC, for the improvement of noncommercial FM radio station WMHT, broadcasting on 89.1 Mh/z, Schenectady, New York. Proposal determined acceptable: August 13, 1973. Estimated project cost: $31,700. Grant requested: $23,775. Application signed by: Donald E. Schein, President.

Minnesota Educational Radio, Inc., 400 Sibley Street, St. Paul, Minnesota 55118, File No. 159–R/T0100SC, for the improvement of noncommercial educational radio station KCCM, broadcasting on 91.1 Mh/z, Morehead, MN. Proposal determined acceptable: December 14, 1973. Estimated project cost: $73,475. Grant requested: $55,068. Application signed by: William H. Kling, President.

University of South Dakota, Vermillion, South Dakota 57069, File No. 160–R/T-0178SC, for the expansion of noncommercial educational FM radio station KUSD, broadcasting on 89.7 Mh/z, Vermillion, SD. Proposal determined acceptable: December 14, 1973. Estimated project cost: $35,759. Grant requested: $26,759. Application signed by: Richard L. Bowen, President, University of South Dakota.

Radio Station KANU–FM, The University of Kansas, Broadcasting Hall, Lawrence, Kansas 6604-, File No. 161–R/T0064SC, for the expansion of noncommercial educational FM radio station KANU broadcasting on 91.5 Mh/z, Lawrence, Kansas. Proposal determined acceptable: December 18, 1973. Estimated project cost: $15,400. Grant requested: $98,550. Application signed by: Raymond Nichols, Chancellor.

Greater Toledo ETV Foundation, Inc., 415 North St. Clair, P.O. Box 2330, Toledo, Ohio 43603, File No. 162–R/T0094SC, for the establishment of a noncommercial FM radio station broadcasting on 91.2 Mh/z, Toledo, Ohio. Proposal determined acceptable: December 18, 1973. Estimated project cost: $107,273. Grant requested: $80,455. Application signed by: Mr. E. Dana Cox, Jr., Vice President and General Manager.

University of Northern Colorado, Carter Hall 201, Greeley, Colorado 80639, File No. 163–R/T0095SC, for the improvement of noncommercial educational FM radio station KUNC, broadcasting on 91.7 Mh/z, Greeley, Colorado. Proposal determined acceptable: December 18, 1973. Estimated project cost: $74,373. Grant requested: $55,780. Application signed by: Mr. Richard R. Bond, President.

Double Helix Corporation, Box 8167, Pierre Laclede Station, St. Louis, Missouri, File No. 164–R/T0113SC, for the establishment of a noncommercial FM radio station broadcasting on 88.1 Mh/z at St. Louis, MO. Project determined acceptable: December 18, 1973. Estimated project cost: $236,175. Grant requested: $177,131. Application signed by: Thomas J. Thomas, General Manager.

Pittsburgh Community Broadcasting Corp., Box 10250, Pittsburgh, Pennsylvania 15232, File No. 165–R/T0118SC, for the establishment of a noncommercial educational FM radio station broadcasting on 91.7 Mh/z, Pittsburgh, PA. Proposal determined acceptable: December 18, 1973. Estimated project cost: $117,965. Grant requested: $88,474. Application signed by: Ellory Schempp, President.

University of Massachusetts, Radio Station WFCR, Amherst, Massachusetts 01002, File No. 166–R/T0119SC, for the improvement of noncommercial FM radio station WFCR broadcasting on 88.5 Mh/z, Amherst, MA. Proposal determined acceptable: December 18, 1973. Estimated project cost: $19,288. Grant requested: $14,466. Application signed by: Godwin G. Oyewole, General Manager.

The Library Board, Huntsville Public Library, P.O. Box 443, Huntsville, Alabama 35804, File No. 167–R/T0129SC, for the establishment of a noncommercial educational FM radio station, broadcasting on 89.3 Mh/z, Huntsville, AL. Proposal determined acceptable: December 18, 1973. Estimated project cost: $183,071. Grant requested: $137,303. Application signed by: Elbert L. Watson, Director.

University of Maine, Alumni Hall, Orono, Maine 04473, File No. 168–R/T0157SC, for the establishment of a noncommercial educational FM radio station broadcasting on 91.1 MH/z, Presque Island, Maine. Proposal determined acceptable: December 18, 1973. Estimated project cost: $193,580. Grant requested: $145,185. Application signed by: Harry W. Gordon, Treasurer.

Springfield Technical Community College, One Armory Square, Springfield, Massachusetts 01105, File No. 169–R/T0168SC, for the expansion of noncommercial educational FM radio station WTCC broadcasting on 90.7 Mh/z, Springfield, MA. Proposal determined acceptable: December 18, 1973. Estimated project cost: $79,983. Grant requested: $58,755. Application signed by: Edmond P. Garvey, President.

Northern Community Radio, Box 196, Lake Elmo, Minnesota 55042, File No. 170–R/T0130SC, for the establishment of a noncommercial educational radio station, broadcasting on 91.7 Mh/z, Grand Rapids, MN. Proposal determined acceptable: December 19, 1973. Estimated project cost: $90,000. Grant requested: $67,500. Application signed by: Richard V. McClear, President.

Board of Higher Education for the State of Oregon, Oregon Educational and Public Broadcasting Service (OEPBS), P.O. Box 3175, Eugene, Oregon 97403, File No. 171–R/T0135SC, for the expansion of noncommercial educational AM radio station KOAC broadcasting on 550 k/c, Corvallis, Oregon. Proposal determined acceptable: December 19, 1973. Estimated project cost: $88,151. Grant requested: $66,113. Application signed by: Donald R. Larson, Secretary to the Oregon State Board of Higher Education.

School Board of Dade County, Division of Instruction, Department of Educational Media, 1410 Northeast 2nd Avenue, Miami, Florida 33132, File No. 172–R/T0139SC, for the expansion of noncommercial FM radio station WLRN, broadcasting on 91.3 Mh/z, Miami, Florida. Proposal determined acceptable: December 19, 1973. Estimated project cost: $132,523. Grant requested: $99,392. Application signed by: E. L. Whigham, Superintendent of Schools.

Radio Free Georgia Broadcasting Foundation, Inc., Box 5332, Atlanta, Georgia 30307, File No. 173–R/T0144SC, for the expansion of noncommercial educational FM radio station WRFG broadcasting on 89.3 Mh/z, Atlanta, GA. Proposal determined acceptable: December 19, 1973. Estimated project cost: $23,993. Grant requested: $17,933. Application signed by: John R. Miller, President.

Northwest Jr. College, Senatobia, Mississippi 38668, File No. 174–R/T0145SC, for the expansion of noncommercial educational FM radio station WNJC broadcasting on 90.1 Mh/z, Senatobia, MS. Proposal determined acceptable: December 19, 1973. Estimated project cost: $64,330. Grant requested: $48,249. Application signed by: R. D. McLendon, President.

Board of Education, Governing Board, Long Beach Unified School District, 701 Locust Avenue, Long Beach, California 90813, File No. 175–R/T0148SC, for the improvement of noncommercial educational FM radio station KLON broadcasting on 88.1 Mh/z, Long Beach, CA. Project determined acceptable: December 19, 1973. Estimated project cost: $88,715. Grant requested: $66,536. Application signed by: Francis Laufenberg, Associate Superintendent, Business Services.

Minnesota Educational Radio, Inc., Collegeville, Minnesota 56321, File No. 176–R/T0156SC, for the improvement of noncommercial educational FM radio station KSJR broadcasting on 90.1 Mh/z, Collegeville, MN. Proposal determined acceptable: December 19, 1973. Estimated project cost: $199,460. Grant requested: $149,595. Application signed by: William H. Kling, President.

Moorpark College, 7075 Campus Road, Moorpark, California, File No. 177–R/T0158SC, for the establishment of a noncommercial FM radio station, broadcasting on 91.7 Mh/z, Moorpark, CA. Proposal determined acceptable: December 19, 1973. Estimated project cost: $84,046. Grant requested: $63,035. Application signed by: H. J. Sheffield, Superintendent.

Agape Broadcasting Foundation, Inc., 3454 Shenandoah, Dallas, Texas 75205, File No. 178–R/T0164SC, for the establishment of a noncommercial educational FM radio station, broadcasting on 90.9 Mh/z, Dallas, TX. Proposal determined acceptable: December 19, 1973. Estimated project cost: $187,766. Grant requested: $140,824. Application signed by: Dennis J. Gross, President.

Jack Straw Memorial Foundation, KBOO (FM), 3129 S.E. Belmont Street, Portland, Oregon 97214, File No. 179–R/T0089SC, for the improvement of noncommercial educational FM radio station KBOO broadcasting on 90.7 Mh/z, Portland, Oregon. Proposal determined acceptable: December 21, 1973. Estimated project cost: $80,650. Grant requested: $60,487. Application signed by: John M. Ross, Station Manager.

Worcester Inter Collegiate Network, Inc., 75 Grove Street, Worcester, Massachusetts 01605, File No. 180R/T0112SC, for the expansion of noncommercial educational FM radio station WICN, broadcasting on 90.5 Mh/z, Worcester, MA. Proposal determined acceptable: December 21, 1973. Estimated project cost: $33,088. Grant requested: $24,816. Application signed by: Keith J. Thompson, General Manager.

Community Radio Workshop, Inc., 336½ East Pettigrew Street, Durham, North Carolina 27701, File No. 181–R/T0114SC, for the improvement of noncommercial educational FM radio station WAFR broadcasting on 90.3 Mh/z, Durham, NC. Proposal determined acceptable: December 21, 1973. Estimated project cost: $80,104. Grant requested: $60,078. Application signed by: Robert E. Spruill, President.

Arizona Board of Regents for the benefit of the University of Arizona, Tucson, Arizona 85721, File No. 182–R/T0126SC, for the establishment of a noncommercial educational FM radio station broadcasting on 90.5 Mh/z, Tucson, AZ. Proposal determined acceptable: December 21, 1973. Estimated project cost: $75,000. Grant requested: $56,250. Application signed by: Sherwood E. Carr, Contracting Officer.

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Community Television, Inc., 2037 Main Street, Jacksonville, Florida 32206, File No. 183–R/T0143SC, for the improvement of noncommercial educational FM radio station WJCT broadcasting on 89.9 Mh/z, Jacksonville, FL. Proposal determined acceptable: December 21, 1973. Estimated project cost: $91,550. Grant requested: $68,662. Application signed by: Fred Rehman, President.

Utah State University of Agriculture and Applied Science, KUSU–FM, Logan, Utah 84322. File No. 184–R/T0152SC, for the expansion of noncommercial educational FM radio station KUSU broadcasting on 91.5 Mh/z, Logan, UT. Proposal determined acceptable: December 21, 1973. Estimated project cost: $50,871. Grant requested: $38,154. Application signed by: M. K Jeppesen, Contracts Officer.

Sound and Print United, Inc., P.O. Box 365, Warrenton, North Carolina 27589, File No. 185–R/T0153SC, for the establishment of a noncommercial educational FM radio station, broadcasting on 89.3 Mh/z, Warrenton, NC. Proposal determined acceptable: December 21, 1973. Estimated project cost: $193,225. Grant requested: $91,850. Application signed by: Valeria L. Lee, President.

North Carolina State University, P.O. Box 5748, Raleigh, North Carolina 27607, File No. 188–R/T0203SC, for the expansion of noncommercial educational FM radio station WKNC, broadcasting on 88.1 Mh/z, Raleigh, NC. Proposal determined acceptable: December 21, 1973. Estimated project cost: $21,720. Grant requested: $16,290. Application signed by: Donald K. Byrnes, General Manager.

The Board of Regents Acting for and on Behalf of Florida State University, WFSU–FM Radio, Diffenbaugh Building, Tallahassee, Florida 32306, File No. 187–R/T0132SC, for the expansion of noncommercial educational FM radio station WFSU broadcasting on 91.5 Mh/z. Proposal determined acceptable: December 28, 1973. Estimated project cost: $92,198. Grant requested: $69,148. Application signed by: Mr. David E. Platts, Director of Radio.

Seattle School District #1, 815 Fourth Avenue, North, Seattle, Washington 98103, File No. 188–R/T0142SC, for the improvement of noncommercial educational FM radio station KNHC broadcasting on 89.5 Mh/z, Seattle, WA. Proposal determined acceptable: December 28, 1973. Estimated project cost: $39,000. Grant requested: $29,250. Application signed by: M. E. Hickey, Associate Superintendent.

Pataphysical Broadcasting Foundation, Inc., P.O Box 423, Santa Cruz, California 95061, File No. 189–R/T0162SC, for the improvement of noncommercial educational radio station KUSP, broadcasting on 88.9 Mh/z, Santa Cruz, CA. Proposal determined acceptable: December 28, 1973 Estimated project cost: $99,353. Grant requested: $74,515. Application signed by: David M. Freedman, General Manager.

Amarillo Junior College District, P.O. Box 447, Amarillo, Texas 79178, File No. 190–R/T0170SC, for the establishment of a noncommercial educational FM radio station broadcasting on 93.1 Mh/z, Amarillo, Texas. Project determined acceptable: December 28, 1973. Estimated project cost: $42,072. Grant requested: $31,554. Application signed by: W. L. Prather, Business Manager.

Board of Control, Northern Michigan University, Marquette, Michigan 49855, File No. 191–R/T0172SC, for the expansion of noncommercial educational FM radio station WNMR broadcasting on 90.1 Mh/z, Marquette, Michigan. Proposal determined acceptable: December 29, 1973. Estimated project cost: $100,000. Grant requested: $75,000. Application signed by: William G. Mitchell, Director of Learning Resources.

Granfalloon Denver Educational Broadcasting, Inc., 4085 West 13th Avenue, Denver, Colorado 80204, File No. 192–R/T0175SC, for the establishment of a noncommercial FM radio station, broadcasting on 89.3 Mh/z, Denver, CO. Proposal determined acceptable: December 29, 1973. Estimated project cost: $90,795. Grant requested: $68,104. Application signed by: Gerald Greene, Executive Director.

Pacifica Foundation, KPFT–FM, 618 Prairie Street, Houston, Texas 77002, File No. 193–R/T0176SC, for the expansion of noncommercial educational FM radio station KPFT, broadcasting on 90.1 Mh/z, Houston, Texas. Proposal determined acceptable: December 29, 1973. Estimated project cost: $44,297. Grant requested: $32,-981. Application signed by: Lawrence S. Yurdin, Manager.

Chattahooche Valley Public Radio, Inc., P.O. Box 1754, Columbus, Georgia 31902, File No. 194–R/T0155SC, for the establishment of a noncommercial educational FM radio station, broadcasting on 90.5 Mh/z, Columbus, GA. Proposal determined acceptable: January 3, 1974. Estimated project cost: $12,461. Grant requested: $31,825. Application signed by: Spurgeon A. Glenn, Jr., President.

University of North Carolina at Chapel Hill, Dept. of Radio, Television, and Motion Pictures, Chapel Hill, North Carolina 27514, File No. 195–R/T0186SC, for the improvement of noncommercial educational FM radio station WUNC, broadcasting on 91.5 Mh/z, Chapel Hill, NC Proposal determined acceptable: January 29, 1974. Estimated project cost: $183,715. Grant requested: $137,786. Application signed by: William F. Little, Vice Chancellor, Development and Public Service.

Wayne State University, WDET–FM, 5035 Woodward Avenue, Detroit, Michigan 48202, File No. 196–R/T0195SC, for the improvement of noncommercial educational FM radio station WDET, broadcasting on 101.9 Mh/z, Detroit, Michigan. Proposal determined acceptable: January 30, 1974. Estimated project cost: $151,049. Grant requested: $113,287. Application signed by: Edward L. Cushman, Executive Vice President and Treasurer.

Pacifica Foundation, 3729 Cahuenga Boulevard, North Hollywood, California 91604, File No. 197–R/T0196SC, for the improvement of noncommercial educational FM radio station KPFK, broadcasting on 90.7 Mh/z, Los Angeles, CA. Proposal determined acceptable: January 30, 1974. Estimated project cost: $198,748. Grant requested: $149,061. Application signed by: Jonas Rosenfield, Jr., Vice President.

Public Communication Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Texas 75201, File No. 198–R/T0198-SC, for the improvement of noncommercial educational FM radio station KZAG, broadcasting on 90.1 Mh/z, Dallas, TX. Proposal determined acceptable: February 1, 1974. Estimated project cost: $46,990. Grant requested: $35,243. Application signed by: Robert A. Wilson, Executive Vice President.

Kearney State College, KOVF AM/FM, 905 West 25th Street, Kearney, Nebraska 68847, File No. 199–R/T0205SC, for the improvement of noncommercial educational FM radio station KOVF, broadcasting on 91.3 Mh/z, Kearney, NE. Proposal determined acceptable: February 5, 1974. Estimated project cost: $12,265. Grant requested: $9,199. Application signed by: Gary F. Olson, Vice President of the College.

Bascomb Memorial Broadcasting Foundation, Inc., 2699 South Bayshore Drive, Suite 900E, Miami, Florida 33133, File No. 200–R/T0204SC, for the establishment of a noncommercial educational FM radio station, broadcasting on 88.9 Mh/z, Miami, FL. Proposal determined acceptable: February 11, 1974. Estimated project cost: $87,680. Grant requested: $85,760. Application signed by: Robert B. Stulberg, Editorial Director.

The Board of Trustees of the University of Alabama for the University of Alabama, P.O. Box 1247, Huntsville, Alabama 35807, File No. 201–R/T0206SC, for the establishment of a noncommercial educational FM radio station (WUAH), Huntsville, AL. Proposal determined acceptable: February 15, 1974. Estimated project cost: $71,043. Grant requested: $53,282. Application signed by: Joseph C. Dowdle, Vice President for Administration.

Madison College, Department of Communications Arts, Harrisonburg, Virginia 22801, File No. 202–R/T0133SC, for the expansion of noncommercial educational FM radio station WMRA, broadcasting on 91.7 Mh/z, Harrisonburg, Virginia. Proposal determined acceptable: March 14, 1974. Estimated project cost: $98,232. Grant requested: $73,673. Application signed by: Ronald E. Carrier, President.

(Catalog of Federal Domestic Assistance Program No. 13.413, Educational Broadcasting Facilities Program.)

This notice issued in Washington, D.C.

Dated: April 30, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74–10257 Filed 5–8–74;8:45 am]

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (34 FR 1279, January 25, 1969, as amended), is hereby further amended to clarify responsibilities within the Office of Planning, Research, and Evaluation. For such purposes, Section 5–B is amended as follows:

Delete, from Office of Planning, Research, and Evaluation, the heading "Office of Program Analysis and Evaluation" and all that follows under that heading; and "Office of Operational Planning and Control" and all that follows under that heading. Substitute therefor the following:

OFFICE OF PROGRAM ANALYSIS AND EVALUATION

This Office has primary responsibility for advising the Administrator and Associate Administrator for Planning, Research, and Evaluation in matters concerning the analysis and evaluation of SRS programs and their alternatives, and Research and Demonstration priorities. Provides leadership, technical assistance, guidance, and coordination to

program units in matters pertaining to program analysis and evaluation. Serves as a contact point for the Office of the Administrator with the Office of the Assistant Secretary for Planning and Evaluation. Based on the analytic program, the Office provides input in the development of the SRS long-range plan, insuring its adequacy as a basis for deriving operating and legislative planning. In this regard, the Office initiates and directs studies and analyses of program objectives and accomplishments, compares benefits and costs of alternative programs, and explores future needs in relation to planning programs. To support these activities, the Office provides leadership and direction in: (a) The development of an analytical and evaluation plan to address major program and policy issues; (b) the development of study methodologies, measures of program performance, and data to support their implementation; (c) the performance of policy and program analyses to define policy options and possible implications for use in long-range planning; and (d) contributions to the development of Research and Demonstration priorities necessary to initiate a Research and Demonstration plan and formulate Research and Demonstration budgets.

OFFICE OF PROGRAM PLANNING AND CONTROL

This Office provides leadership and direction to all elements of the Central and Regional Offices in: (1) Translating designated program priorities into specific attainable goals; (2) Developing operational objectives and plans which will advance goal attainment, and ensuring that the operational goals are based on a thorough assessment of program capabilities and are thus realistic and feasible; (3) Assuring that necessary resources are deployed to achieve objective plans; (4) evaluating the accomplishment of operational objectives; and (5) the design, development, and implementation of agencywide long-range planning systems and procedures for insuring the optimal participation of SRS organizational units in the development and update of the SRS long-range plan and its linkage to operational plans and budgets."

Dated: May 1, 1974.

S. H. CLARKE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74–10560 Filed 5–8–74;8:45 am]

SOCIAL SECURITY ADMINISTRATION

Federal Agency—Regional Maps and Tables; Correction

In the Directory of Federal Regional Structure, published in the FEDERAL REGISTER of November 27, 1973, the map appearing at page 32718, which outlines the regional boundaries for the Bureau of District Office Operations in the Social Security Administration, should be shown as follows:

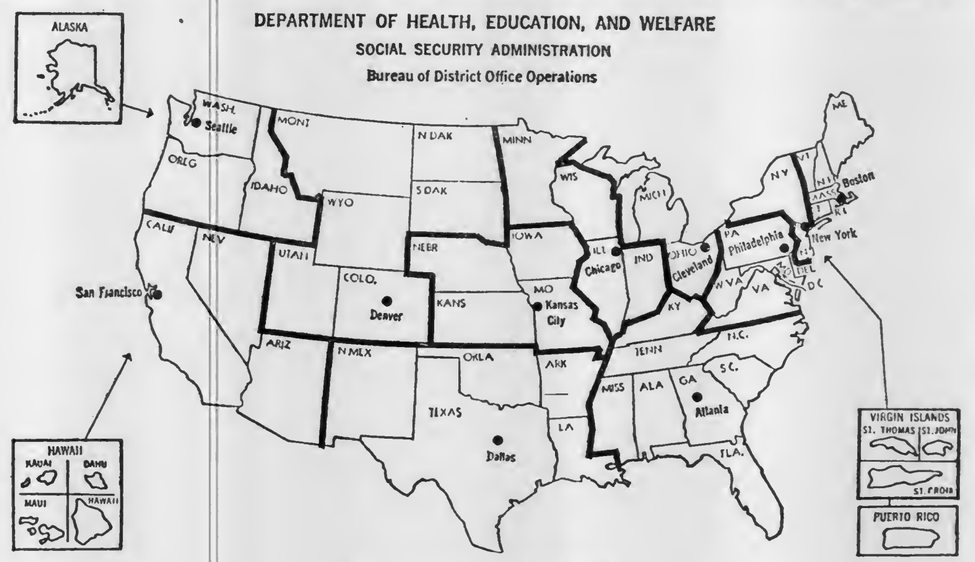
Dated: May 1, 1974.

S. H. CLARKE,
Acting Assistant Secretary for Administration and Management.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SOCIAL SECURITY ADMINISTRATION

Bureau of District Office Operations



[FR Doc.74–10624 Filed 5–8–74;8:45 am]

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ATOMIC ENERGY COMMISSION

[Docket No. 50-412]

DUQUESNE LIGHT CO. ET AL.

Issuance of Construction Permit

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated April 25, 1974, the Atomic Energy Commission (the Commission) has issued Construction Permit No. CPPR-105 to The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company for construction of a pressurized water nuclear reactor at the applicants' site on the south bank of the Ohio River in Beaver County, Pennsylvania. The proposed reactor, known as the Beaver Valley Power Station, Unit No. 2, is designed for a rated power of approximately 2660 megawatts thermal with a net electrical output of approximately 852 megawatts.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permit is effective as of its date of issuance. The earliest date for the completion of the facility is February 1, 1979, and the latest date for completion is February 1, 1980. The permit shall expire on the latest date for completion of the facility.

A copy of (1) the Initial Decision, dated April 25, 1974; (2) Construction Permit No. CPPR-105; (3) the report of the Advisory Committee on Reactor Safeguards, dated December 11, 1973; (4) the Directorate of Licensing's Safety Evaluation Report dated November 9, 1973, and Supplements 1 and 2 to the Safety Evaluation Report dated January 29, 1974 and March 20, 1974, respectively; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicants' Environmental Report dated November 6, 1972, and supplements thereto; (7) the Draft Environmental Statement dated March 1973; and (8) the Final Environmental Statement dated July 1973, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Beaver Area Memorial Library, 100 College Avenue, Beaver, Pennsylvania. A copy of the construction permit and the Safety Evaluation may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Md., this 3d day of May 1974.

For the Atomic Energy Commission.

D. B. VASSALLO,
Chief, Light Water Reactors Project Branch 1-1, Directorate of Licensing Regulation.

[FR Doc.74-10694 Filed 5-8-74;8:45 am]

[Docket Nos. 50-416, 50-417]

MISSISSIPPI POWER & LIGHT CO. AND GRAND GULF NUCLEAR STATION

Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e)(1) of the Atomic Energy Commission's (Commission) regulations, the Commission has authorized the Mississippi Power & Light Company to conduct certain site activities in connection with the Grand Gulf Nuclear Station (Units 1 and 2) prior to a decision regarding the issuance of a construction permit.

The activities that are authorized include site clearing and grubbing limited to area needed to construct the facility and dispose of waste materials; excavation and disposal of overburden and spoil in construction area; construction of sediment control structures; preparation of subgrades for railroad spur, access roads, drainage structures, and channels; excavation and drainage of power block area structures; sealing base of excavation with mud mat; erection of construction buildings; construction and improvement of access and work roads and parking lots; construction of a railroad spur; construction of sewage facilities; construction of two water tanks and pipe distribution ssytem; construction of a 115kV transmission line from Port Gibson to the site; and construction of a fence around the work area.

The authorization is subject to certain conditions, including termination of the authorized work if the application for the construction permit is denied or if an amendment to the application concerning financing of the project is not submitted before July 1, 1974, as well as adherence to an environmental protection program during construction work.

Any activities undertaken pursuant to this authorization are entirely at the risk of the applicant, and the granting of the authorization has no bearing on the issuance of a construction permit with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

An Initial Decision on National Environmental Policy Act issues by the Atomic Safety and Licensing Board in this proceeding was issued on April 5, 1974. An order on site suitability, pursuant to 10 CFR 50.10(e)(2)(ii), was issued by the Board on May 3, 1974. A copy of: (1) The Initial Decision of April 5, 1974; (2) the Board's order of May 3, 1974; (3) the applicant's Preliminary Safety Analysis Report and amendments thereto; (4) the applicant's Environmental Report, and amendments thereto; (5) the staff's Final Environmental Statement dated August 1973; (6) the staff's supplemental testimony concerning site suitability; and (7) the Commission's letter of authorization dated May 3, 1974, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the office of the Deputy Chancery Clerk, Claiborne County Courthouse, Port Gibson, Mississippi.

Dated at Bethesda, Md. this 3rd day of May 1974.

For the Atomic Energy Commission,

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.74-10693 Filed 5-8-74;8:45 am]

MYER BENDER

Certification

Pursuant to section 205, Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), I certify that the national interest requires that Mr. Myer Bender, an employee of the Oak Ridge National Laboratory (a Government-owned laboratory operated for the Atomic Energy Commission by the Union Carbide Corporation) and a member of the Atomic Energy Commission's Advisory Committee on Reactor Safeguards (ACRS), be permitted to act as agent for the Union Carbide Corporation in the performance of work under contract W-7405-ENG 26, provided, however, that this exemption from sections 203 and 205 of Title 18 U.S.C. shall not permit Mr. Myer Bender to act as agent for the company in dealing with the Commission's Regulatory Staff or the ACRS in any particular matter involving the company.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: May 3, 1974.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-10697 Filed 5-8-74;8:45 am]

SPENCER H. BUSH

Certification

Pursuant to Section 205, Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), I certify that the national interest requires that Dr. Spencer H. Bush, University of California, Berkeley, and a member of the Atomic Energy Commission's Advisory Committee on Reactor Safeguards (ACRS), be permitted to act as agent for the University in the performance of work under contract W-7405 (ENG-48) provided, however, that this exemption from sections 203 and 205 of Title 18 U.S.C. shall not permit Dr. Bush to act as agent for the University in dealing with the Commission's Regulatory Staff or the ACRS in any particular matter involving MIT.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: May 3, 1974.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-10699 Filed 5-8-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26245]

AMERICAN AIRLINES, INC., AND PAN AMERICAN WORLD AIRWAYS, INC.

Notice of Hearing Regarding Route Exchange Agreement

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on June 5, 1974, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on February 21, 1974, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., May 6, 1974.

[SEAL] WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.74-10715 Filed 5-8-74;8:45 am]

[Docket No. 26560 and 26563; Order 74-5-20]

PAN AMERICAN WORLD AIRWAYS, INC., AND TRANS WORLD AIRLINES, INC.

Order Granting Extension of Time To File Answers

MAY 6, 1974.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., the 6th day of May 1974.

On April 3, 1974, Pan American World Airways, Inc., and Trans World Airlines, Inc., petitioned the Board for subsidy under section 406(b) of the Federal Aviation Act of 1958. By a motion filed April 23, 1974, the Department of Transportation (DOT) requests a 45-day extension of time for filing answers to these petitions to allow completion of its analysis and preparation of an answer.

In its motion DOT indicates that the issue of whether to provide subsidy for U.S. International carriers is a complicated matter and requires careful study. They note that time is needed to analyze current economic data and to study potential effects of proposed pooling arrangements. Furthermore, they want time to evaluate recently modified rules of the Federal Energy Office which give international carriers access to lower-priced domestic fuels. The Department of Transportation also wants time to examine carrier forecasts recently submitted in the Transatlantic Route Renewal Case in Docket 25908.

The reasons for delay put forward by DOT indicate an intent to consider matters that are evidentiary in nature in preparing its answer. However, answers to mail-rate petitions are intended to provide a vehicle for stating positions on the legal sufficiency of and expressions of initial views on the petitions. The Board cannot consider evidentiary material at this point since the only issue before it is whether to set down the matters for hearings or otherwise dispose of the petitions.

Because of the importance of these cases and the complexity of issues involved we will grant, as requested, an extension of time to file proper answers. However we will limit the extension to 21 days rather than 45 days. Since an answer need not be based on examination of evidence, this should provide ample time in which to prepare an answer.

Accordingly, it is ordered, That:

1. Pursuant to Rule 17 of the Board's rules of practice, the motion of the Department of Transportation is hereby granted, in part, and the due date for filing of answers to petitions in Dockets 26560 and 26563 is hereby extended to May 14, 1974.

2. This order shall be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10716 Filed 5-8-74;8:45 am]

[Docket No. 26085]

E. ANDREW DEEDS, II

Notice of Proposed Approval

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded until May 20, 1974 within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., May 6, 1974.

[SEAL] WILLIAM B. CALDWELL, Jr.,
Director, Bureau of Operating Rights.

[Docket No. 26065]

Issued under delegated authority.

Application of E. Andrew Deeds, II, pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Order of approval.

E. Andrew Deeds, II requests that the Board approve, pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended (the Act) or grant other appropriate relief with respect to his ownership of Nordleasco, Ltd. while he controls Air North, Inc.[1]

Air North is a non-certificated commuter air taxi operator providing services in the New England-New York area and is a contractor to both Allegheny Airlines, Inc. and

[1] Mr. Deeds also owns 11% of the stock of ANA, Ltd., a fixed-base operator at Burlington, Vermont International Airport.

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Delta Airlines, Inc. for the purpose of serving various certificated points on those carriers' routes under arrangements which have been approved by the Board.[2] Mr. Deeds is Chairman of the Board, President, and sole stockholder of Air North.

Nordleasco was incorporated in September 1973 and is currently a corporate shell. Mr. Deeds is president and owns all of its stock. When actuated Nordleasco will be engaged in the purchase, sale and lease of aircraft, primarily the Nord 262 and possibly its follow-on version, to be known as the Fregate, and will establish a maintenance and overhaul base at Burlington, Vermont to provide support for Nord aircraft operated in the United States, Canada, the Caribbean and Mexico. The application states that aircraft will be acquired outside the U.S. and that a conditional contract has been entered into by Nordleasco with a Danish operator for the purchase of eight Nord 262's. Nordleasco is also in the process of negotiating a distributorship agreement with Societe Nationale Industriale Aerospatiale, the French manufacturer of the Nord, under which Nordleasco would become an authorized repair center, would provide spare parts and technical support, and would act as sales agent for the Nord and the Fregate, should the latter be certificated for use in the U.S.[3]

The applicant asserts that the common control of Air North and Nordleasco raises no conflicts of interest or other problems inconsistent with the Act; and that there could be no anti-competitive effect on other commuter carriers since the Nord aircraft is available in some quantity (97 were built) and other arrangements have been or are being made to insure their availability.[4] Thus the applicant further submits that the Air North-Nordleasco relationships would not create a monopoly, restrain competition or otherwise jeopardize another air carrier.

Additionally, the applicant asserts that, insofar as transactions between Air North and Nordleasco are concerned, they will be at arms-length and any purchasea or leases will be at prevailing terms;[5] that all intercompany transactions will be available for Board scrutiny if desired and that Air North will suffer no disadvantage as a result of Mr. Deed's common control. The application notes also that, if Air North were the acquiring party, the exemption from section 408 provided by Part 298 of the Board's Economic Regulations would apply.

No comments concerning the matter or requests for a hearing have been received.

[2] See Order 73-6-60, June 15, 1973 and cases cited therein.

[3] The applicant states the view that none of these agreements are subject to section 412 of the Act.

[4] See Allegheny Airlines, Inc. et al., Docket 25988.

[5] Mr. Deeds contends that, in view of his 100 percent ownership of both Air North and Nordleasco, it would be unreasonable to assume that Air North would be forced to accept or be overcharged for Nord aircraft and that any incentive in this direction would be reduced when he sells part interest in Nordleasco as he plans to do.

Notice of intent to dispose of this application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than one day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing it is concluded that Mr. Deeds is a person controlling an air carrier and that Nordleasco is a person engaged in a phase of aeronautics within the meaning of section 408 of the Act and that the transaction described herein is subject to section 408(a)(6). However the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and thereby tend to restrain competition, nor does it appear to jeopardize another air carrier not a party thereto. Furthermore no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is found that the public interest does not require a hearing. The Board has previously approved the control by persons controlling an air carrier, of aircraft maintenance and leasing activities.[6] Under the circumstances it does not appear that the instant transaction will be inconsistent with the public interest or that the requirements of section 408 will be otherwise unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.13 it is found that the foregoing acquisition should be approved without a hearing under the third proviso of section 408(b) of the Act.

Accordingly, it is ordered, That:

The acquisition of Nordleasco by Mr. Deeds be and it hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10722 Filed 5-8-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

MAY 6, 1974.

On October 1, 1973, there was published in the FEDERAL REGISTER (38 FR 27235) a letter dated September 26, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs implementing those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China which establish export limitations on man-made fiber textile products in Category 224, among other categories, produced or manufactured in the Republic of China and exported to the United States during the twelve-month period which began on October 1, 1973. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 12(a) of the Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, as amended, which provides for administrative arrangements.

Accordingly, pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of May 6, 1974 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the present sublimit for certain man-made fiber textile products in Category 224 to provide sublimits of 200,000 pounds for men's knit suits (T.S.U.S.A. Nos. 380.0420 and 380.8143); and 600,000 pounds for men's knit suit-type coats (T.S.U.S.A. Nos. 380.0402 and 380.8103) for the agreement year which began on October 1, 1973 and extends through September 30, 1974.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

MAY 6, 1974.

DEAR MR. COMMISSIONER: On September 26, 1973, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the tewelve-month period beginning October 1, 1973 of wool and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of China, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Pursuant to paragraph 12(a) of the Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the sublimit established in the aforesaid directive of September 26, 1973, for man-made fiber textile products in Category 224 as follows:

[1] The term "adjustment" refers to those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China which provide, in part, that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; for limited interfiber flexibility between cotton textiles and man-made fiber textile products of the comparable category; and for administrative arrangements.

[6] Order 73-10-43, October 12, 1973, Docket 25906, Arthur C. Allyn et al.

Category	*Twelve-month level of restraint*
224 ----------	8,589,744 pounds (of which not more than 200,000 pounds shall be in T.S.U.S.A. Nos. 380.0420 and 380.8143, and not more than 600,000 pounds shall be in T.S.U.S.A. Nos. 380.0402 and 380.8103)[2]

[2] The amended sublimits have not been adjusted to reflect any entries made on or after October 1, 1973.

The actions taken with respect to the Government of the Republic of China and with respect to imports of man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-10794 Filed 5-8-74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

CYANOACRYLATE-BASED ADHESIVES

Commision Decision Regarding Cyanoacrylate-Based Adhesives

The purpose of this notice is to announce the Commission's decision in regard to the action it will take concerning cyanoacrylate based adhesives used in or around the household. In response to a letter dated September 19, 1973, from Consumers Union, the Consumer Product Safety Commission began an investigation into the safety aspects of cyanoacrylate based adhesives.

Staff information based on testing indicated that cyanoacrylate glues are "hazardous substances" within the meaning of that term under the Federal Hazardous Substances Act because they are eye irritants. As such, these glues are deemed "misbranded" under the Act unless properly labeled. As a result of the Commission's investigation, the Commission staff discovered that several cyanoacrylate adhesive products were "misbranded" under the Federal Hazardous Susbtances Act because they were not properly labeled in regard to eye irritancy. The Commission has taken appropriate measures pursuant to the Federal Hazardous Substances Act to ensure compliance with the Federal Hazardous Substances Act in this regard.

On February 27, 1974, the Commission held a hearing to obtain information and views on other safety aspects of cyanoacrylate adhesives, particularly the characteristic of this product to almost instantaneously bond skin to skin. As a result of these hearings, investigation by the Commission staff, laboratory data, and literature relating to the safety and use of cyanoacrylate adhesives, the Commission concludes that, at this time, the consumer is not subject to an unreasonable risk of injury from the fast-bonding characteristic of cyanoacrylate adhesives.

In the event that a consumer accidentally (or intentionally) bonds skin to skin, simple procedures such as peeling (rolling) apart the bonded parts rather than pulling apart with a direct opposing action will provide relief. Accordingly, other than insuring compliance with the labeling provision of the Federal Hazardous Substances Act, the Commission does not intend to take further action with regard to cyanoacrylate adhesives at this time.

This decision does not, however, preclude the Commission from reconsidering its position if the receipt of additional data or information should so warrant.

Dated: May 6, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74-10746 Filed 5-8-74;8:45 am]

VINYL CHLORIDE-CONTAINING SELF-PRESSURIZED PRODUCTS

Requirement for Notification as a Potential Substantial Product Hazard

The purpose of this publication is to give notice that the Consumer Product Safety Commission has determined that self-pressurized consumer products containing vinyl chloride as a propellant or ingredient are products with a defect which could create a substantial product hazard. Therefore, anyone who is manufacturing, or has manufactured, such products is required to submit certain information (specified below) to this Commission.

Section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)) requires every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product contains a defect which could create a substantial product hazard, to immediately inform the Commission of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect. Failure to furnish information required by section 15(b) is unlawful under section 19(a)(4) of the act (15 U.S.C. 2068(a)(4)) and may subject a person who so fails to civil and/or criminal penalties.

To implement section 15(b) of the act, the Commission, on February 19, 1974, published regulations (16 CFR Part 1115) in the FEDERAL REGISTER (39 FR 6061), effective March 21, 1974, setting forth the time, manner, and content of notifications necessary to adequately inform the Commission of consumer product defects which could create a substantial risk of injury. The preamble of this Part 1115 indicates that the notification requirements under section 15(b) of the act are applicable to products subject to regulation under authority of the acts transferred to the Commission by section 30 of the Consumer Product Safety Act (15 U.S.C. 2079). These transferred acts include the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), and the Refrigerator Safety Act (15 U.S.C. 1211 et seq.). The aforementioned transferred acts have been brought under the notification requirements of section 15(b) of the Consumer Product Safety Act because, as stated in the preamble to Part 1115: "Upon considering the numerous possibilities of risk to the consuming public by products falling within the authority of these acts, the Commission finds under section 30(d) of the [Consumer Product Safety] Act that such risks can neither be eliminated nor reduced to a sufficient extent in a timely fashion unless the Commission is notified under section 15(b) of the act. This finding by the Commission is based on the fact that none of the provisions of the transferred acts require notification to be made to the Commission upon the obtaining of information which reasonably supports the existence of a substantial product hazard. The Commission has determined this type of notification to be essential for the purpose of protecting the consuming public against unreasonable risks of injury associated with consumer products * * *"

Therefore, the Commission has determined that notifications must be made for vinyl chloride-containing products irrespective of the fact that such products are subject to regulation under the Federal Hazardous Substances Act. This determination, however, does not mean that such products will necessarily be regulated under the Consumer Product Safety Act. Since a notification under section 15(b) does not signify automatic regulation of the product under the Consumer Product Safety Act, the Commission intends to regulate vinyl chloride-containing products under provisions of the Federal Hazardous Substances Act.

Additionally, the Commission notes that manufacturers of vinyl chloride-containing consumer products in aerosol form must provide the information specified below even though the particular product may not have been distributed in commerce after May 14, 1973 (the date of establishment of the Consumer Product Safety Commission). As stated in the preamble to 16 CFR Part 1115, manufacturers who obtain information after May 14, 1973, that one of their products contains a defect which could create a substantial product hazard, are required to comply with the notification requirements of section 15(b) of the act even though the product was distributed in commerce prior to May 14, 1973.

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The determination that self-pressurized consumer products containing vinyl chloride contain a defect which could create a substantial product hazard is based on recent information on the possible toxicity of vinyl chloride monomer as a propellant or ingredient in the propellant-solvent system of self-pressurized consumer products. The grounds for this determination are as follows:

(1) Human data showing production of angiosarcomas in certain individuals who have worked in plants manufacturing polyvinyl chloride polymers and/or vinyl chloride monomer; and

(2) Animal data showing production of various tumors, including angiosarcomas, in rats exposed to inhalation of vinyl chloride monomer (Professor Cesare Maltoni, Instituto di Oncologica, Bologna, Italy).

These data are contained in the transcript of an "Informal Fact Finding Hearing on Possible Hazards of Vinyl Chloride Manufacture and Use", U.S. Department of Labor, Occupational Safety and Health Administration, February 15, 1974. A copy of this document is available for public inspection at the Office of the Secretary, Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C. 20207.

The Commission has received a petition from the Health Research Group "to immediately prohibit the continued use of vinyl chloride as a propellant for aerosolized consumer products and to remove all products containing vinyl chloride as a propellant from the market because there is substantial evidence that vinyl chloride is carcinogenic." A notice proposing a ban under the Federal Hazardous Substances Act will be published in the near future and will include a copy of the petition.

Accordingly, the Consumer Product Safety Commission, pursuant to section 6(c) of the Consumer Product Safety Act (15 U.S.C. 2055(c)), hereby informs manufacturers of self-pressurized consumer products containing vinyl chloride monomer as a propellant or ingredient in their propellant-solvent system that the Commission considers such products to contain a defect which could create a substantial product hazard.

Although 16 CFR 1115.7(a) sets forth 23 specific items of information to be submitted in writing to the Commission, this notice, pursuant to § 1115.7(d), requires that information submitted to the Commission in this instance include only the 7 items listed below. Additional information may, of course, also be submitted. Therefore, manufacturers of consumer products (as that term is defined in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)) in self-pressurized form that contain vinyl chloride monomer as a propellant or ingredient in their propellant-solvent system are required, under section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)) and regulations issued thereunder (16 CFR Part 1115), to provide the following information in writing to Dr. Alan Ehrlich, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207 (301 496–7698) on or before May 20, 1974.

(1) Identification of specific self-pressurized products by type and brand, in which vinyl chloride monomer is now, or has been, used as a propellant or ingredient of the propellant-solvent system;

(2) Production and sales history including inventory turnover rates through the entire chain of distribution of vinyl chloride monomer as a propellant or ingredient of the propellant-solvent system of self-pressurized products;

(3) Identifying features, such as use of package designs or production codes that will identify the self-pressurized products containing vinyl chloride monomer as a propellant or ingredient in the propellant-solvent system;

(4) Patterns of consumer usage for self-pressurized products containing vinyl chloride monomer as a propellant or ingredient in the propellant-solvent system, including frequency and duration of exposure, and place and purpose of use;

(5) If available, acute and chronic toxicity data relative to vinyl chloride and products containing vinyl chloride;

(6) If available, human experience data relative to vinyl chloride and products containing vinyl chloride, including adverse effects and associated disease entities believed to be relevant;

(7) If available, special studies, such as metabolic, mutagenic and teratologic studies involving vinyl chloride.

In accordance with 16 CFR 1115.9, information submitted to the Commission in response to this notice shall be signed either by the chief executive officer of the notifying company or by the person to whom the responsibility has been delegated in writing.

Dated: May 6, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74-10732 Filed 5-8-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/55]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 8, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after this July 8, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 33861–E. AGRI-future Company, 15708 Lop Road, Burnsville, Minnesota 55337. *"Soumatic" I Seed Box Seed Protectant.* Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 40.0%; HCB (Hexachlorobenzene) 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33861–R. AGRI-future Company, 15708 Loop Road, Burnsville, Minnesota 55337. *"Soumatic" II Seed Box Seed Protectant.* Active Ingredients: Captan N[(trichloromethyl)thio]-4-cyclohexene-1, 2-dicarboximide 20.0%; Maneb (Manganese ethylenebisdithiocarbamate 20.0%; Lindane (Gamma isomer of Benzene Hexachloride) 18.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 264–267. Amchem Products, Inc., Brookside Avenue, Ambler, Pennsylvania 19002. *Amchem Ethrel Plant Regulator.* Active Ingredients: Ethephon [(2-chloroethyl) phosphonic acid] 21.3%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 3876–RNO. Betz Entec, Inc., 4636 Somerton Road, Trenose, Pennsylvania 19047. *Betz Entec 344.* Active Ingredients: Sodium dimethyl dithiocarbamate 15.0%; Nabam (disodium ethylene bisdithiocarbamate) 15.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660–R. Miss Rose Caputo, 229 Park Avenue South, New York, New York 10003. Authorized agent for I.PI.CI.—Industria Prodotti Chimici S.p.A. NOVATE MILANESE—ITALY. *Atrazine Technical.* Active Ingredients: 2-chloro-4-ethylamino-6-isopropylamino - s - triazine 96%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660–G. Miss Rose Caputo, 229 Park Avenue South, New York, New York 10003. Authorized agent for I.PI.CI.—Industria Prodotti Chimici S.p.A. NOVATE MILANESE—ITALY *Trifluralin Technical.* Active Ingredients: a,a,a-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine 97%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660–L. Miss Rose Caputo, 229 Park Avenue South, New York, New York 10003. Authorized agent for I.PI.CI.—Industria Prodotti Chimici S.p.A. NOVATE MILANESE—ITALY. *Prometryne Technical.* Active Ingredients: 2,4-bis(isopropylamino) - 6 - methylthio - s - triazine 97%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33660–I. Miss Rose Caputo, 229 Park Avenue South, New York, New York 10003. Authorized agent for I.PI.CI.—Industria Prodotti Chimici S.p.A. NOVATE MILANESE—ITALY. *Ametryne Technical.* Active Ingredients: 2-ethylamino-4-isopropylamino-6-methylthio-s-triazine 97%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 239–EUEE. Chevron Chemical Company, Ortho Division, 940 Hensley Street, Richmond, California 94804. *Paraquat CL Concentrate.* Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 30946–E. Eagle River Chemical Company, P.O. Box 2648, West Helena, Arkansas 72390. *Eagle River Propanil 3 Herbicide.* Active Ingredients: 3',4'-Dichloropropionanilide 35.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–IA. Farmcraft, Inc., 8900 S.W. Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Captan 5.* Active Ingredients: Captan N(Trichloromethylmercapto) - 4-cyclohexene - 1,2-dicarboximide 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871–IA. Farmcraft, Inc., 8900 S.W. Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Captan 7.5.* Active Ingredients: Captan-N-Trichloromethylmercapto - 4 - cyclohexene - 1,2-dicarboximide 7.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 869–RUI. Green Light Company, P.O. Box 16192, San Antonio, Texas 78246. *Green Light General Purpose Fungicide Liquid Flowable Spray.* Active Ingredients: Manganese 4.60%; Zinc 0.57%; Ethylene bisdithiocarbamate ion 17.83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 869–RUT. Green Light Company, P.O. Box 16192, San Antonio, Texas 78246. *Green Light Tomato Bloom Spray.* Active Ingredients: p-Chlorophenoxyacetic Acid 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 407–GAL. Imperial Inc., P.O. Box 423, Shenandoah, Iowa 51601. *Imperial No. 4 Low Volatile 2,4,5–T Brush and Weed Killer.* Active Ingredients: 2,4,5-Trichlorophenoxyacetic Acid, Butoxy Propyl Esters 68.9%. Method of Support: Application proceeds under 2(c) interim policy.

EPA File Symbol 407–GAA. Imperial Inc., P.O. Box 423, Shenandoah, Iowa 51601. *Imperial No. 2+2 Low Volatile Brush and Weed Killer.* Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butoxy Propyl Esters 36.3%; 2,4,5-Trichlorophenoxyacetic Acid, Butoxy Propyl Esters 34.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970–RN. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Hexan (Fungicide).* Active Ingredients: Captan 40.0%; Hexachlorobenzene 20.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970–RG. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Tacker 5.7.* Active Ingredients: Captan 7.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970–RR. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *80 Cap W.P.* Active Ingredients: Captan 80%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970–RU. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *50 Cap W.P.* Active Ingredients: Captan 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970–RE. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Stop Mold Plus.* Active Ingredients: Food Grade Propionic Acid 99.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 10163–7. Jessen & Company, DBA/The Dune Company, P.O. Box 406, Calipatria, California 92233. *Prokil Methyl Parathion 5.* Active Ingredients: (O,O-dimethyl O-p-nitrophenyl thiophosphate) Methyl Parathion 55.37%; Aromatic petroleum derivatives 39.53%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 2342–756. Kerr-McGee Chemical Corp. Kerr-McGee Center, Oklahoma City, Oklahoma 73125. *Gro-Tone Copper Spray.* Active Ingredients: Copper expressed as Metallic 46.25%. Method of Support: Application proceeds under 2(c) of iterim policy.

EPA Reg. No. 1148–8. Lemingwell Chemical Company Division, Thompson-Hayward Chemical Co., 111 S. Berry Street, Brea, California 92621. *Nutra-Spray Basic Copper Carbonate.* Active Ingredients: Copper (expressed as metallic) 51.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021–RGRT. McLaughlin Gormley King Company, 8810 Tenth Avenue N., Minneapolis, Minnesota 55427. *Pyrocide Intermediate 7208.* Active Ingredients: Pyrethrins 2.0%; Piperonyl butoxide, technical 16.0%; Di-n-propyl isocinchomeronate 16.0%; Petroleum distillate 66.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021–RGRA. McLaughlin Gormley King Company, 8810 Tenth Avenue N., Minneapolis, Minnesota 55427. *Pyrocide Intermediate 5770.* Active Ingredients: Pyrethrins 10.000%; Piperonyl butoxide, technical 20.000%; N-octyl bicycloheptene dicarboximide 30.000%; Petroleum distillate 40.000%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1258–915. Olin Corp., Agricultural Division, P.O. Box 991, Little Rock, Arkansas 72203. *Olin Mildew Rid.* Active Ingredients: Calcium Hypochlorite 32%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 538–77. O. M. Scott & Sons, Marysville, Ohio 43040. (*Scotts*) *Halts Plus Crabgrass Preventer Plus Lawn Fertilizer.* Active Ingredients: S-(O,O-Diisopropyl phosphorodithioate) ester of N-(2-Mercaptoethyl) benzenesulfonamide 5.10%; 2,4-Dichlorophenoxyacetic acid 0.76%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.76%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 538–37. O. M. Scott & Sons, Marysville, Ohio 43040. (*Scotts*) *ProTurf Brand 28–0–7 Fertilizer with Weedgrass Preventer.* Active Ingredients: S-(O,O-Diisopropyl phosphorodithioate) ester of N-(2-Mercaptoethyl) benezenesulfonamide 7.40%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11682–RL. Sim-Chem, Minerals and Chemicals Division, J.R. Simplot Company, P.O. Box 810, Mountain Home, Idaho 83647. *Sim-Chem P.S.T. 6 Potato Seed Treater.* Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 476–581. Stauffer Chemical Company, 1200 South 47th Street, Richmond, California 94804. *Captan 50–WP A Fungicide for Plant Disease Control.* Active Ingredients: Captan: N-((trichloromethyl) thio)-4-cyclohexene - 1,2 - dicarboximide 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 11687–68. Transvaal, Inc., P.O. Box 69, Marshall Road, Jacksonville, Arkansas 72076. *Transvaal Copoloid-6 Liquid Copper Fungicide.* Active Ingredients: Copper expressed as metallic 6.0%. Method of Support: Application proceeds under 2 (c) of interim policy.

EPA File Symbol 876–ENU. Velsicol Chemical Coporation, 341 East Ohio Street, Chicago, Illinois 60611. *Velsicol Brush Buster III Herbicide.* Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 12.78%; Dimethylamine salts of related acids 1.72%; Dimethylamine salt of 2,4-dichloro-phenoxyacetic acid 12.78%; Dimethylamine salt of 2,4,5-trichlorophenoxyacetic acid 12.68%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 876–ENL. Velsicol Chemical Corporation, 341 East Ohio Street, Chicago, Illinois 60611. *Velsicol Brush Buster Herbicide.* Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 12.90%; Dimethylamine salts of related acids 1.80%; Dimethylamine salt of 2,4-dichoioro-phenoxyacetic acid 25.80% Method of Support: Application proceeds under 2(b) of interim policy.

Dated: May 2, 1974.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.74–10593 Filed 5–8–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE, PANEL 2

Notice of Meeting

MAY 3, 1974.

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the CTAC Panel 2 Committee on May 30, 1974, to be held at the Jerrold Electronics Corporation, 200 Witmer Road, Horsham, Pennsylvania. The time of the meeting is 10 a.m.

Jerrold is located north of Philadelphia, north of the Pennsylvania Turnpike, near Willow Grove.

DIRECTIONS

From Washington: Take Allegheny Airlines Commuter to North Philadelphia Airport.

From Philadelphia International Airport: Take a limousine to the George Washington Motel in Willow Grove. (Travel time about one hour.)

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Upon arrival at either North Philadelphia Airport or George Washington Motel, call Ken Simons' office for transportation to Jerrold, (215) 674-4800.

The agenda is as follows:

(1) Laboratory demonstration of nominal zero beat interference and discussion of measurement techniques required for the Panel 3 experiments.

(2) Report on technical facilities for preparing video tapes for the experiments.

(3) Report on personnel to carry on the experiments.

(4) Further consideration of text conditions.

(5) Recommendations to the Steering Committee.

Any member of the public may attend or may file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. Cort Wilson, FCC, 1919 M Street NW., Washington, D.C. 20554—(202) 632-9797.

Dated: April 30, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10731 Filed 5-8-74;8:45 am]

FEDERAL MARITIME COMMISSION

MARYLAND PORT ADMINISTRATION AND MAHER TERMINALS, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 29, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Eldered N. Bell, Jr.
Director of Transportation
Maryland Department of Transportation
19 South Charles Street
Baltimore, Maryland 21201

Agreement No. T-2947, between the Maryland Port Administration (MPA), and Maher Terminals, Inc. (Maher), provides for a month-to-month lease of certain facilities at Dundalk, Maryland, including 50,000 square feet of floor space in Shed 2, 25,000 square feet of floor space in Shed 6, and approximately 4 acres of paved outside storage area. Maher shall have exclusive control over the scheduling of vessels at Berth 2, with MPA retaining secondary rights to the use of the berth. As an incident to Maher's lease of space at Shed 6, MPA will grant requests by Maher to berth vessels of the Baltic Shipping Co. (Baltic) at Berth 6, provided such berth is not already occupied or programmed for occupation during the period requested by Maher. The space in Shed 6 is to be used exclusively for Baltic cargo only, unless MPA grants its approval for some other use. Maher will publish its own tariff and collect for its own account all terminal charges incurred by vessels at Berth 2, with the exception that charges collected on any vessel assigned to the berth by MPA shall accrue to MPA unless such cargo is placed within Maher's leased premises. Whenever, a Maher vessel is assigned a berth other than Berth 2 and there is no other vessel at Berth 2, Maher will collect all amounts due under MPA's tariff. Whenever a Maher vessel is assigned a berth other than Berth 2 and there is another Maher vessel berthed at Berth 2, Maher will collect wharfage due under MPA's tariff. In both instances, for Maher to receive the tariff charges, the cargo discharged from the vessel must be placed within Maher's leased facility or loaded on the vessel from Maher's premises. As rental, Maher will pay MPA a monthly fee of $18,750.00 plus all taxes and assessments arising out of its operations as well as all taxes on improvements placed on premises by Maher.

Dated: May 6, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10711 Filed 5-8-74;8:45 am]

NEW YORK FREIGHT BUREAU (HONG KONG)

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, on or before May 20, 1974. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, NW
Washington, D.C. 20036

Agreement No. 5700 DR-4 is an application on behalf of the member lines of the New York Freight Bureau (Hong Kong), for permission under Section 14b to modify Article 1(c) of the approval dual rate system and form of contract of that conference to incorporate the following provision:

; provided, so long as the Bureau remains a party to Agreement No. 10,108, the Merchant will not be deemed in violation of this contract for undertaking to ship or cause to be shipped any of its ocean shipments moving from Hong Kong and Taiwan to Atlantic and Gulf Coast Ports of the United States on vessels of the Independent Line parties to the said Agreement.

Agreement No. 10108 is a rate making arrangement of the member lines of the New York Freight Bureau (Hong Kong), as one party only, with American Export Line, Orient Overseas Line, Orient Overseas Container Line and Zim Container Line, Inc., four independent carriers, within the trading area of that conference.

Dated: May 6, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10712 Filed 5-8-74;8:45 am]

NEW YORK FREIGHT BUREAU (HONG KONG)

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, NY., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 20, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Agreement No. 5700-20, entered into by the member lines of the New York Freight Bureau (Hong Kong), amends Article 11 of the conference agreement to incorporate substantive changes in the approved conference self-policing system as set forth in said amendatory agreement.

Dated: May 6, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10709 Filed 5-8-74;8:45 am]

PACIFIC FAR EAST LINE, INC. AND AMERICAN PRESIDENT LINES, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, NY., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 29, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

W. H. Williams, Vice President
American President Lines
1625 Eye Street, N.W. Suite 1012
Washington, D.C. 20006

Agreement No. T-2941, between Pacific Far East Line, Inc. (PFEL) and American President Lines, Ltd. (APL) provides for certain terms, conditions and understandings between PFEL and APL in connection with the joint-use lease agreement between the San Francisco Port Commission, PFEL, and APL, and known as Federal Maritime Commission Agreement No. T-2297 as amended. The purpose of Agreement No. T-2941 is to enable APL to utilize portions of Pier 96. APL agrees to pay PFEL certain monies in addition to that provided for in Agreement No. T-2297 and pursuant to the terms of PFEL's Container Terminal and Container Freight Station tariff. In addition, proviso is made for the apportionment of rent payments between the parties based, in part, on respective traffic volumes under T-2297-1.

Dated: May 6, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10705 Filed 5-8-74;8:45 am]

SAN FRANCISCO PORT COMMISSION, ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 29, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or deteriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Richard A. Bobier, Chief Counsel
Port of San Francisco
Ferry Building
San Francisco, California 94111

Agreement No. T-2297-1, between the San Francisco Port Commission (Port), Pacific Far East Line, Inc. (PFEL) and American President Lines (APL), modifies the basic agreement between the Port and PFEL which provides for the 50-year lease of premises known as Pier 96. The premises will continue to be used for the docking and servicing of vessels, particularly LASH vessels and containerized vessels, and the transfer, etc., of cargo and passengers in connection therewith. The purpose of the modification is to (1) permit joint use of Pier 96 by both PFEL and APL; (2) increase the rental accordingly; and (3) apportion expenses of parts of the terminal between PFEL and APL.

Dated: May 6, 1974.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10707 Filed 5-8-74;8:45 am]

TRANS-PACIFIC FREIGHT CONFERENCE (HONG KONG)

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New

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York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 20, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, NW
Washington, D.C. 20036

Agreement No. 14–40, entered into by the member lines of the Trans-Pacific Freight Conference (Hong Kong), amends Article 11 of the conference agreement to incorporate substantive changes in the approved conference self-policing system as set forth in said amendatory agreement.

Dated: May 6, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10710 Filed 5–8–74;8:45 am]

TRANS-PACIFIC FREIGHT CONFERENCE (HONG KONG)

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, on or before May 20, 1974. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, NW.
Washington, D.C. 20036

Agreement No. 14 DR–5 is an application on behalf of the member lines of the Trans-Pacific Freight Conference (Hong Kong), for permission under Section 14b to modify Article 1(c) of the approved dual rate system and form of contract of that conference to incorporate the following provision:

; provided, so long as the Conference remains a party to Agreement No. 10,107, the Merchant will not be deemed in violation of this contract for undertaking to ship or cause to be shipped any of its ocean shipments moving from Hong Kong and Taiwan to Pacific Coast Ports of the United States on vessels of the Independent Line parties to the said Agreement.

Agreement No. 10107 is a ratemaking arrangement of the member lines of the Trans-Pacific Freight Conference (Hong Kong), as one party only, with Orient Overseas Line, Orient Overseas Container Line, Pacific Far East Line, Inc. and Zim Container Line, Inc., four independent carriers, within the trading area of that conference.

Dated: May 6, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–10708 Filed 5–8–74;8:45 am]

EDWARD J. DENEKA, ET AL.

Applicants for Independent Ocean Freight Forwarders License

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Edward J. Deneka
1363 Perry Street
Des Plaines, Illinois 60016
Dolphin Freight Forwarders, Inc.
3120 West 16th Avenue
Hialeah, Florida 33012

OFFICERS

Arnold E. Arrazola, President
Esther B. Arrazola, Vice President
Arsenio P. Arrazola, Treasurer
Martha R. Arrazola, Secretary

David Paul Simard d/b/a
Dramis
82 Toronto Avenue
Providence, Rhode Island 02905

Laudania Seaways, Inc.
6903 Cypress Road (B–20)
Fort Lauderdale, Florida 33317

OFFICERS

Samuel W. Shores, President
Margaret E. Shores, Secretary/Treasurer
David E. Shores, Vice President

Air-Sea Brokers, Inc.
395 Maverick Street
Logan International Airport
East Boston, Massachusetts 02128

OFFICERS

Thomas J. Whelan, President
James E. Francis, Jr., Treasurer
Benjamin T. Eisenstadt, Clerk

La Flor De Mayo Express, Inc.
571 Jackson Avenue
Bronx, New York 10455

OFFICERS

Frank Hernandez, President
Ines Hernandez, Treasurer
Ana C. Hernandez, Secretary

Dated: May 6, 1974.

By the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–10714 Filed 5–8–74;8:45 am]

WEST LINE, LTD.

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P–17 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C–1,010.

Whereas, West Line, Ltd. (formerly Alaska Cruise Lines, Ltd.) c/o Westours, Inc., 100 West Harrison Plaza, Seattle, Washington 19189, has ceased to operate the passenger vessels Glacier Queen, Yukon Star, and Polar Star.

It is ordered, that Certificate (Performance) No. P–17 and Certificate (Casualty) No. C–1,010 issued to Alaska Cruise Lines, Ltd. and reissued to West Line, Ltd. covering the Glacier Queen, Yukon Star and Polar Star, be and are hereby revoked effective May 3, 1974.

It is further ordered, That a copy of tihs order be published in the FEDERAL REGISTER and served on the certificants.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–10713 Filed 5–8–74;8:45 am]

[Docket No. 73–55]

NON-VESSEL OPERATING COMMON CARRIERS

Domestic Offshore Tariff Proceedings

Correction

In FR Doc. 74–10201, appearing at page 15537, in the issue of Friday, May 3, 1974, the agency bracket should read as set forth above.

FEDERAL POWER COMMISSION

[Docket No. CP71–290, CP73–283]

CONSOLIDATED SYSTEM LNG CO.

Availability of Staff Draft Environmental Impact Statement

MAY 8, 1974.

Notice is hereby given in the above Docket, that on February 26, 1974, as required by § 2.82(b) of Commission Order No. 415–C, a draft environmental statement prepared by the Staff of the Federal Power Commission was made available for comments. This statement deals with the application by Consolidated System LNG Company for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act authorizing construction and operation of 191.1 miles of 30-inch pipeline extending from Loudoun County, Virginia to Clinton County, Pennsylvania and two 6,800 horsepower compressor stations.

This statements has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, and at its Regional Office located at 26 Federal Place, 22nd Floor, New York, New York 10007. Copies may be obtained from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before June 14, 1974.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to § 1.8 of the Commission's rules of practice and procedure. Petitioners must also file timely comments on the draft statement in accordance with § 2.82(c) of Order No. 415–C.

All petitions to intervene must be filed on or before June 24, 1974.

MARY B. KIDD,
Secretary.

[FR Doc.74–10752 Filed 5–8–74;8:45 am]

NATIONAL GAS SURVEY TECHNICAL ADVISORY COMMITTEE TASK FORCES

Determination and Certification Regarding Renewal

MAY 8, 1974.

The Chairman of the Federal Power Commission has determined that renewal of the terms of the National Gas Survey's three Distribution-Technical Advisory Committee Task Forces (Facilities, Finance, and Regulation and Legislation), from and after May 25, 1974, to and including a date not later than December 31, 1974, is necessary in the public interest in connection with the performance of duties imposed by law upon the Commission.

This notice is published pursuant to Commission General Order No. 464, issued December 19, 1972, paragraph (4)(e) and authorities referred to therein, 48 FPC 1484, 1490. See also Office of Management and Budget, Advisory Committee Management, 39 FR 12389.

By order issued December 21, 1971, 46 FPC 1352, the Commission established the task forces to be subordinate organizationally to their respective parent committees. The purpose of these task forces, as indicated in the Commission's order of April 6, 1971, 45 FPC 530, is to perform work assigned to them by their respective advisory committees. As renewed, the subject task forces would function as set forth in those orders for the additional period described above. Reports of the technical advisory task forces covering their work performed to date have been submitted to the Commission through their respective technical advisory committees. It is contemplated that the task force and committee reports, along with the Commission report, will be published prior to the end of the calendar year 1974, and the subject task forces are proposed not to be extended thereafter.

The exigencies of the national energy crisis and long-term energy policy strategy has been more fully delineated since commencement of the National Gas Survey in 1971. Accordingly, it is clear that certain phases of the present gas shortage originally studied by the Survey's task forces require further investigation and analysis. The Office of Management and Budget, Committee of Management Secretariat, has determined that renewal of the subject task forces as set forth above is consistent with the requirements of the Federal Advisory Act, 86 Stat. 770.

Renewal of these task forces will be reflected in an appropriate Commission order to be issued after May 23, 1974.

JOHN N. NASSIKAS,
Chairman.

[FR Doc.74–10753 Filed 5–8–74;8:45 am]

[Docket No. E–8745]

ARKANSAS POWER AND LIGHT CO.

Filing of Amendment to Service Agreement

MAY 2, 1974.

Take notice that on April 23, 1974, Arkansas Power and Light Company (APL) tendered for filing the Third Amendment to the Electric Service Agreement Between the City of West Memphis and Arkansas Power and Light Company. The original agreement, dated February 2, 1967, has been designated Rate Schedule FPC No. 55.

Arkansas Power and Light states that the proposed amendment provides for an increase in the maximum kilowatts provided at the Lehi Point of Delivery to 30,000 Kw. APL requests an effective date of June 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 14, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10636 Filed 5–8–74;8:45 am]

[Docket No. RP74–4]

CITIES SERVICE GAS CO.

Further Extension of Time and Postponement of Hearing

MAY 2, 1974.

On April 25, 1974, Staff Counsel filed a motion, as amended on April 29, 1974, for a further extension of the procedural dates fixed by notice issued February 27, 1974, in the above-designated matter. The motion states that all of the parties to the proceeding concurred in the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of Staff's Revised Schedules May 15, 1974.
Intervener Service, June 24, 1974.
Company Rebuttal, August 5, 1974.
Hearing, September 10, 1974, (10 a.m. e.d.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74–10638 Filed 5–8–74; 8:45 am]

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[Docket No. RP74–77]

COLORADO INTERSTATE GAS CO.

Proposed Tariff Rate Changes

MAY 1, 1974.

Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), tendered for filing, on March 29, 1974, proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1[1] to become effective May 1, 1974. CIG states that the proposed changes would increase revenues from jurisdictional sales and service by $5.3 million over those rates presently being collected subject to refund in Docket No. RP73–93 and by $10.3 million over the proposed settlement rates in that proceeding, inclusive of appropriate PGA adjustments and the March 1, 1974 rate increase attributable to the transfer of CIG's producing properties to a subsidiary in Docket No. RP74–68. The proposed increase is based on a test year of the twelve-month period ending December 31, 1973, as adjusted.

The filing was noticed on April 3, 1974, with petitions to intervene due on or before April 19, 1974. Numerous petitions to intervene have been filed.[2]

Our review of the filing and the issues raised therein indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We shall therefore order a suspension of rates proposed herein for the full statutory period and establish hearing procedures.

Additionally, we have previously stated[3] that conjunctive billing procedures may be inconsistent with our policies in determining appropriate rates. Accordingly, we believe that the issue of CIG's conjunctive billing procedures should be fully explored and developed within the evidentiary hearing herein ordered. To permit full discussion of these issues, we shall provide dates for the service of evidence by all parties on this question as well as all other issues in this docket.

In this filing CIG uses the unmodified "Seaboard" method of cost classification, allocation and rate design. In light of Commission Opinion No. 671, issued October 31, 1973, in "United Gas Pipeline Company," Docket No. RP72–75, wherein the Commission adopted two part rates based upon the classification of 75 percent of fixed costs to commodity and 25 percent of fixed costs to demand, the burden shall be on CIG to justify any commodity rate levels reflecting inclusion of less than 75 percent of "Seaboard" fixed costs.

We note that CIG has included in the tariff sheets proposed herein costs associated with uncertificated facilities.[4] CIG requests waiver of § 154.63(e)(2)(ii) of the regulations to permit such costs to be included in the subject rate filing. CIG states that such facilities will be constructed and in service by the time the revised rates proposed in the filing become effective, subject to refund after a 5 month suspension.

For good cause shown, we shall grant waiver of § 154.63(e)(2)(ii) of the regulations and permit the costs associated with the uncertificated facilities to be included in the filing and to become effective, subject to refund, after suspension; *Provided, however,* That should such facilities not be certificated and placed in service on the date the proposed rates take effect, subject to refund, CIG shall file substitute tariff sheets including rates which reflect only those facilities which have been certificated.

Additionally, we note that CIG has included certain items in its filing which are the subject of litigation in Docket No. RP73–93. These items include the price differential between the P–1 and G–1 rate schedules and payments for coal options and water rights. We shall permit such items to be reflected in the proposed tariff sheets, subject to the disposition of those items in the decision in Docket No. RP73–93.

The Commission finds.

(1) The proposed changes in CIG's FPC Gas Tariff should be accepted for filing, suspended for five months, and the use thereof deferred until October 1, 1974.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges in CIG's FPC Gas Tariff, as proposed to be amended in this docket.

(3) Good cause exists to permit the intervention of the above mentioned petitioners.

(4) Good cause exists to grant waiver of § 154.63(e)(2)(ii) to the regulations as hereinafter ordered and conditioned.

The Commission orders.

(A) Pursuant to the Authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held on September 24, 1974, for the purpose of cross-examination concerning the lawfulness and reasonableness of the rates and charges in CIG's FPC Gas Tariff, as proposed to be amended herein.

(B) Within thirty days of the issuance of this order, CIG shall file its direct testimony and exhibits on the conjunctive billing issue. The Commission Staff shall file its evidence on all issues on or before August 13, 1974. Any intervenor evidence on all issues shall be filed on or before August 27, 1974. Any rebuttal evidence by CIG shall be filed on or before September 10, 1974.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commissions' rules of practice and procedure.

(D) Pending hearing and a decision thereon, CIG's proposed revised tariff sheets are accepted for filing and suspended for the full statutory period of five months and the use thereof deferred until October 1, 1974, and until such time as they are made effective in the manner provided in the Natural Gas Act: *Provided, however,* That if certificate approval has not been granted in Docket Nos. CP74–199 and CP74–209 by October 1, 1974, CIG shall file substitute tariff sheets reflecting exclusion of costs associated with the facilities which are the subject of the aforementioned dockets.

(E) Waiver of § 154.63(e)(2)(ii) is granted, subject to the condition set forth in Ordering Paragraph D above.

(F) The above mentioned petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,[5]
Secretary.

[FR Doc.74–10642 Filed 5–8–74;8:45 am]

[1] Sixth Revised Sheet No. 5, Sixth Revised Sheet No. 6, Sixth Revised Sheet No. 66.

[2] Citizens Utility Company; The City of Colorado Springs, Colorado; Kansas-Nebraska Natural Gas Company, Inc.; Peoples Natural Gas Division of Northern Natural Gas Company; Public Service Company of Colorado; Western Slope Gas Company; Cheyenne Light, Fuel and Power Company.

[3] El Paso Natural Gas Company, Docket Nos. RP71–137 and RP72–151, issued November 7, 1972; Texas Eastern Transmission Company, Docket No. RP72–96, issued June 28, 1973; Columbia Gas Transmission Corporation, et al., Docket No. RP73–86, et al., issued November 23, 1973; Transcontinental Gas Pipeline Corporation, Docket No. RP74–48, issued January 31, 1974.

[4] Docket No. CP74–199 (Expansion of CIG's Fort Morgan Storage Field) and Docket No. CP74–209 (Additional Looping of CIG's Wyoming Line).

[5] Commissioner Brooke, dissenting, would not require (supra, Page 2) that CIG conform its cost classification and allocation and rate design to the 75–25 prescription of the United case.

[Docket No. E–7806]

ILLINOIS POWER CO.

Extension of Time

MAY 2, 1974.

On April 12, 1974, Illinois Power Company filed a motion for an extension of time to file amendments to its rate schedules with the Cooperatives required by Order issued March 19, 1974, in the above-designated matter. The motion states that the nine Cooperatives support the request.

Upon consideration, notice is hereby given that the time is extended to and including June 18, 1974, within which Illinois Power Company shall file amendments to its rate schedules as required by the order issued March 19, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10634 Filed 5–8–74;8:45 am]

[Docket No. RP74–49]

NORTHWEST PIPELINE CORP.

Extension of Time and Postponement of Hearing

MAY 2, 1974.

On April 25, 1974, Northwest Pipeline Corporation filed a motion for an extension of time for filing its testimony as required by Order issued February 21, 1974, in the above-designated matter. The motion states that the proposed date is acceptable to all of Northwest's major customers.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Case-in-Chief by Northwest, including its testimony and exhibits on the impact and implementation of an Order No. 467–B curtailment plan on its system, July 15, 1974.

Hearing, August 13, 1974 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10635 Filed 5–8–74;8:45 am]

[Docket No. RP73–23]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Substitute Tariff Sheets

MAY 2, 1974.

Take notice that on April 19, 1974, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two substitute gas tariff sheets to its FPC Gas Tariff, Original Volume No. 1. Lawrenceburg states that these sheets, designated Substitute Fifth Revised Sheet No. 3–A superseding Substitute Fourth Revised Sheet No. 3–A and Substitute Fifth Revised Sheet No. 18–B superseding Substitute Fourth Revised Sheet No. 18–B, are being filed to replace prior sheets, filed on April 15, 1974, which were incorrectly identified.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10645 Filed 5–8–74;8:45 am]

[Docket No. RI74–214]

NORTHERN PUMP CO.

Notice of Petition for Special Relief

MAY 1, 1974.

Take notice that on April 18, 1974, Northern Pump Company, (Petitioner), 1915 57th Avenue North, Minneapolis, Minnesota 55430, filed a petition for special relief in Docket No. RI74–214, pursuant to Order No. 481 and § 2.76. Petitioner requests special relief from the area rate prescribed in Opinion No. 586 with respect to sales of natural gas to Cities Service Gas Company from its Kraus Gas Unit in the Hugoton-Field, Finney County, Kansas. Petitioner seeks a rate of 30.0 cents per Mcf.

Petitioner proposes to rework the well and estimates that such reworking will permit it to sell additional reserves of approximately 250,000 Mcf over the next 10–12 years. Petitioner further states that because of reduced pressures, limited producing capabilities, and increasing water production, further production from the Unit is uneconomical at the existing rate of 13.2 cents per Mcf, and premature abandonment will result unless the relief requested is granted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10641 Filed 5–8–74;8:45 am]

[Docket No. E–8748]

ORANGE AND ROCKLAND UTILITIES, INC.

Initial Rate Schedule

MAY 2, 1974.

Take notice that on April 25, 1974 Orange and Rockland Utilities, Inc. (ORU) tendered for filing an initial rate schedule of a proposed agreement between ORU and Consolidated Edison Company of New York, Inc. (Con Edison). ORU states that the initial rate schedule is for the sale of Firm Capability and Associated Energy by ORU to Con Edison from ORU's share of the capability of Bowline Point Generating Station Unit No. 2.

ORU proposes an effective date of April 28, 1974 or as soon thereafter as Unit No. 2 is placed in commercial operation and will terminate April 26, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10644 Filed 5–8–74;8:45 am]

[Docket No. E–8735]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Filing Proposed Changes in Rates and Charges

MAY 2, 1974.

Take notice that on April 15, 1974 Public Service Electric and Gas Company (PSE&G), tendered for filing a Supplemental Interconnection Agreement between itself and Atlantic City Electric Company (ACE), which supplements the previous Interconnection Agreement between the same parties dated March 1, 1969 (PSE&G FPC Rate Schedule No. 43).

Also filed are Supplemental Schedules with respect to facilities, metering points and determination of the revised monthly settlement under the terms and conditions of the Supplemental Interconnection. Agreement. The Supplemental Interconnection Agreement provides for a New-freedom Monroe 230-kv Interconnection replacing the Berlington-Monroe 138-kv interconnection, an addition of the New Freedom-Silver Lake-Cox's Corner 230-kv interconnection.

ACE's certificate of concurrence is simultaneously filed. It is requested that the Supplemental Interconnection Agreement and Supplemental Schedules

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be deemed effective as of May 29, 1971, the date of initial service.

Any person desiring to be heard or to make any protest with reference to the subject matter of this notice should on or before May 24, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protest filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. The documents referred to above are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10643 Filed 5-8-74;8:45 am]

[Docket No. RP73-99]

SOUTHWEST GAS CORP.

Tendered Tariff Sheets

MAY 2, 1974.

Take notice that on April 18, 1974 Southwest Gas Corporation (Southwest) tendered for filing copies of Third Substitute Fourth Revised Sheet No. 3A, Original PGA-1 in its FPC Gas Tariff, Original Volume No. 1. Southwest states that the purpose of its filing is to comply with the Commission's "Order Approving Settlement Agreement" issued April 8, 1974 in this docket. Southwest claims its tendered tariff sheet reflects a reduction of .070 cents per therm in Southwest's rates currently in effect. Southwest also requests that the Commission grant waiver under Section 154.51 of its Regulations under the Natural Gas Act and permit the proposed rates to become effective May 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 13, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10637 Filed 5-8-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. E-31]

ACQUISITION OF MOTOR VEHICLES

Revised Policies and Procedures

1. *Purpose.* This regulation provides revised policies and procedures to be followed in purchasing sedans, station wagons, and light trucks covered by Federal Standard Number 122 and Interim Federal Standards Numbers 00292 and 00307; and leasing motor vehicles in excess of the maximum order limitation ($500) of Federal Supply Schedule, Industrial Group 751—Motor Vehicle Rental Without Driver.

2. *Effective date.* This regulation is effective upon publication in the Federal Register.

3. *Expiration date.* This regulation expires September 30, 1974, unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to all executive agencies. Other Federal agencies are encouraged to conform so that maximum benefits may be realized.

5. *Background.* To further the President's program for achieving reduction in the consumption of the Nation's energy by Government agencies, policy guidance has been developed and published in Federal Management Circular (FMC) 74-1, Federal energy conservation. In consonance with the general policy contained therein, this regulation specifically restricts acquisition of motor vehicles by executive agencies to subcompact or compact vehicles to the extent practicable in consideration of the accomplishment of agencies' missions. In addition, to achieve more efficient management of Government-operated vehicles, the use of a single agency as the primary source for determining the availability of motor vehicles will result in greater control over the type and number of vehicles leased and in the reduction of fuel consumption.

6. *Acquisition of motor vehicles—a. Purchase of sedans, station wagons, and light trucks.* In furtherance of the objective stated in paragraph 5, agencies shall purchase sedans, station wagons, and light trucks equipped with engines and accessories which will achieve the maximum reduction in energy consumption commensurate with optimum achievement of their missions and functions. Agencies shall follow the policy and procedures set forth below when purchasing sedans, station wagons, and light trucks.

(1) *Sedans and station wagons.* With respect to the purchase of sedans and station wagons, agencies shall acquire only those vehicles as defined in Federal Standard Number 122 as follows: Sedans, type I, class A, subcompact, or class B, compact; station wagons, type I, subcompact/compact passenger vehicles. Requisitions for new passenger vehicles submitted to the General Services Administration for other than those specified above shall contain a certification by the agency head or his designee that the larger vehicle requisitioned is essential to the agencys' mission. The certification may be placed on the GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice; military interdepartmental purchase request (MIPR); other acceptable requisitioning document; or on an appropriate attachment thereto. Agency passenger vehicle requisitions for other than type I vehicles omitting such certification shall be satisfied with the appropriate type I vehicle at the discretion of GSA.

(2) *Light trucks.* Requirements for light trucks shall be requisitioned in accordance with the provisions of this regulation, FPMR 101-26.501, and interim Federal Standards Numbers 00292 (Tables I through VIII) and 00307 (Tables I through XI) as applicable. The agency head or his designee shall certify on the GSA Form 1781 or other appropriate document that each light truck requisitioned represents the minimum capacity/performance vehicle which will satisfy the requirements in consideration of overall safety, economy, and efficiency.

(3) *Additional systems and equipment.* The procurement of additional systems and equipment for new sedans, station wagons, and light trucks under the provisions of FPMR 101-26.501(a) shall be accomplished only after the essentiality of the additional systems and equipment has been considered in terms of the primary objective of reduced fuel consumption as opposed to the end use of the vehicle.

b. Leasing of motor vehicles. All requirements for leased vehicles exceeding the maximum order limitation ($500) of Federal Supply Schedule, Industrial Group 751—Motor Vehicle Rental Without Driver, shall be submitted to the General Services Administration for appropriate action as shown below. The request shall include full justification as to the need for such leased vehicles and a certification that other means of transportation are not available or not suitable. Further, the type of vehicle requested shall be limited to type 1A or 1B unless certified by the agency head or his designee that the larger vehicle is essential to the agency's mission. The anticipated duration of the lease shall also be included in the request.

(1) Agencies establishing new requirements for leased vehicles, nationwide, shall submit such requirements to the General Services Administration (FZ), Washington, D.C. 20406, for a determination whether the requirements can be satisfied with vehicles from the Interagency Motor Pool System. The Office of Transportation and Public Utilities (FZ) will notify agencies and the appropriate GSA regional offices regarding decisions on vehicle allocations or, where motor pool vehicles are not available, advise agencies to proceed with leasing action.

(2) For other than national requirements, agencies shall first submit such requirements to the Regional Director, Motor Equipment Division, Federal Supply Service, of the supporting GSA region, for a determination whether the requirements can be satisfied with vehicles from the Interagency Motor Pool System. If motor pool vehicles are available, the agency will be so notified by the regional office. If motor pool vehicles are not available, GSA will return the request to the agency for leasing action.

(3) Leasing of medium and heavy trucks for periods of less than 90 days and all charter services are exempted from the provisions of this regulation.

7. *Assistance.* The General Services Administration will assist agencies in the acquisition of motor vehicles.

a. With respect to the purchase of sedans, station wagons, and light trucks, information pertaining to related specifications and standards may be obtained from the Automotive Division (FMA), telephone (703) 557-7800. Inquiries concerning motor vehicle procurement matters may be obtained from the Automotive Division (FPM), telephone (703) 557-8300. The mail address for these organizations is General Services Administration ((FMA) or (FPM), as applicable), Washington, DC 20406.

b. With respect to leasing, agencies may obtain assistance from the Regional Director, Procurement Division, Federal Supply Service, of the supporting GSA region.

8. *Effect on other issuances.* This regulation supplements the policy in FPMR 101-26.501 as it applies to the purchase of motor vehicles. Further, FPMR Temporary Regulations E-26, Leasing of motor vehicles, dated November 28, 1973; and E-28, Acquisition of sedans, station wagons, and light trucks, dated January 28, 1974, are canceled.

9. *Comments or suggestions.* Agency views concerning the effect or impact of this regulation on agency operations or programs should be submitted to General Services Administration (FF), Washington, DC 20406, no later than June 1, 1974, for consideration and possible incorporation into the permanent regulation.

DWIGHT A. INK,
Acting Administrator of General Services.

MAY 7, 1974.

[FR Doc.74-10889 Filed 5-8-74;9:54 am]

[Federal Property Management Regs.; Temporary Reg. D-45]

POSTMASTER GENERAL

Revocation of Delegation of Authority

1. *Purpose.* This regulation revokes a delegation of authority to the Postmaster General to appoint uniformed guards of the United States Postal Service as special policemen and to issue needful rules and regulations in connection with the protection of certain buildings of the Postal Service situated throughout the United States, because the Postmaster General has now obtained such authority from Congress.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires April 30, 1974.

4. *Revocation.* This revocation identifies the delegation which is no longer in force due to accomplishment of the purpose for which is was issued. Accordingly, the following FPMR temporary regulation is hereby revoked:

Number, date, and subject
D-32, February 7, 1972, Delegation of Authority to the Postmaster General, United States Postal Service.

DWIGHT A. INK,
Acting Administrator of General Services.

APRIL 26, 1974.

[FR Doc.74-10673 Filed 5-8-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 6, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Telecommunications Policy, Marine Information Broadcast Questionnaire, Form ----, Single time, Sheftel, Marine Industry and Recreational boater.

REVISIONS

FEDERAL ENERGY ADMINISTRATION

Refiner Quarterly Report, Form FEO 900A, Single time, Lowry/Caywood, Refiners of crude oil.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Recertification of Family Income and Composition, Section 235(b), Forms HUD 93101, HUD 93101A, HUD 93101B, Annually CVA, Homeowners receiving assistance and mortgage lenders.

EXTENSIONS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Fish Tagging Report, Form ----, Occasional, Evinger (x), Sportfishermen.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-10817 Filed 5-8-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR RESEARCH MANAGEMENT IMPROVEMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Research Management Improvement to be held at 9 a.m. on May 23 and 24, 1974, in Room 540 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of the panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals. The emergency situation prohibiting the publication of this notice within the newly prescribed 15-day lead time occurred due to difficulty in arranging a meeting date satisfactory to all of the panel members.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

Individuals requiring further information about this panel may contact Ms. Jean DeBell, Program Director, Research Management Improvement Program, Room 706, 1800 G Street, NW., Washington, D.C. 20550.

Dated: May 2, 1974.

T. E. JENKINS,
Assistant Director for Administration.

[FR Doc.74-10702 Filed 5-8-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Filing of Proposed Amendments to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed proposed amendments to its Option Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1).

The proposed amendment to Rule 101(c) of its Clearing Corporation would eliminate the requirement that Clearing Banks be located in Chicago, Illinois.

The proposed amendment to Rule 204 of the Clearing Corporation would designate the copy of any item delivered by the Clearing Corporation to a Clearing

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Member's lock box in Chicago as the original and definitive copy of that item.

The proposed amendment to Rule 903 of the Clearing Corporation would expressly require Clearing Members delivering and receiving underlying securities in jurisdictions other than Illinois to pay any applicable stock transfer or other taxes imposed by the jurisdiction where delivery takes place, to hold the Clearing Corporation harmless in respect of such taxes, and to furnish to the Clearing Corporation on request evidence as to the payment thereof.

The proposed amendments will become effective on or before June 10, 1974, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendments to CBOE's plan either before or after such amendments have become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 132-37784. The proposed amendments are, and all such comments will be available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 1, 1974.

[FR Doc.74-10688 Filed 5-8-74;8:45 am]

[812-3593]

ASTRON FUND, INC., ET AL.

Notice of Application for Order of Exemption

MAY 2, 1974.

Notice is hereby given that Astron Fund, Inc. ("Astron"), a Washington corporation registered as an open-end diversified management investment company under the Investment Company Act of 1940 ("Act"); and Bondstock Corporation ("Bondstock"), 1100 One Washington Plaza, Tacoma, Washington 98402, a Delaware Corporation registered as an open-end, diversified management investment company under the Act, and Frank Russell Co., Inc., ("Russell"), a broker-dealer registered under the Securities Exchange Act of 1934 and the principal underwriter for Astron and Bondstock (Astron, Bondstock, and Russell are collectively referred to as "Applicants") have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from the provisions of section 22(d) of the Act to permit Bondstock to offer shareholders of Astron the right to invest the proceeds of certain liquidating distributions in shares of Bondstock at net asset value without the payment of any sales or service charges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The Application represents that at a meeting of Astron's Board of Directors held on January 22, 1974, its Board determined to liquidate and dissolve Astron. Pursuant to that determination, preliminary proxy soliciting materials, seeking shareholder approval of a Plan of Liquidation and Dissolution ("Plan of Liquidation") at a special meeting of shareholders scheduled for April 26, 1974 have been filed with the Commission for mailing to shareholders. The application represents that upon adoption by Astron shareholders of the Plan of Liquidation, there will be an initial liquidating distribution amounting to approximately 90 percent of Astron's net assets. The remaining assets of Astron will be distributed when Astron's Board concludes that it is no longer reasonable to pursue certain claims Astron may have against a former officer and others.

Section 22(d) of the Act, in pertinent part, prohibits the sale of any redeemable security issued by a registered investment company at a price other than the current public offering price described in the prospectus. Applicants request an exemption from section 22(d) of the Act, to the extent necessary, to permit Bondstock to offer its shares at the net asset value thereof to Astron shareholders investing the proceeds of Astron's liquidating distributions.

Applicants represent that by investing in shares of Astron, Astron's shareholders have evidenced an intent to pursue their investment goals by investing in a mutual fund whose principal investment objective is growth of capital and which is managed by Russell. Applicants state that the investment objectives, the investment policies and restrictions, the tax status, the management and the management fee of Astron and Bondstock are substantially the same; and state that the expense ratio of Bondstock has been substantially lower in recent years than the expense ratio of Astron. Applicants state that they believe that it is in the interest of Astron's shareholders who wish to do so to permit them to invest, without the payment of any additional sales or service charges, the proceeds of the liquidating distributions in shares of Bondstock at the net asset value.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provisions or provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than May 24, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued by the Commission as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10685 Filed 5-8-74;8:45 am]

[812-3566]

E. I. DU PONT DE NEMOURS AND CO.

Notice of Filing of Application

MAY 2, 1974.

Notice is hereby given that E. I. du Pont de Nemours and Company ("Applicant"), 1007 Market Street, Wilmington, Delaware 19898, a Delaware corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting the proposed sale by Applicant to Block Engineering, Inc. ("Block"), a Delaware corporation, of 540,000 shares of the common stock of Block, representing Applicant's entire ownership in Block, for $675,000 in cash and a six-year 6½ percent subordinated note in the amount of $675,000. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein, which are summarized below.

Christiana Securities Company ("Christiana"), a registered closed-end investment company, owns approximately 28.1 percent of the outstanding common stock of Applicant, which in turn owns approximately 33.6 percent of the outstanding common stock of Block. Under section 2(a)(9) of the Act, both Applicant and Block are presumed to be controlled by Christiana and under section 2(a)(3) of the Act, both Applicant and Block are also affiliated persons of Christiana.

Applicant states that its initial investment in Block in 1962 was part of Applicant's then active program to support technologically oriented embryonic companies through minority investments and was undertaken without contemplation of maintaining its minority equity position indefinitely. During the intervening years, investment in Block has not resulted in any particularly close compatability to Applicant's endeavors. In these circumstances, Applicant has, from time to time in recent years, considered the possibility of disposing of its minority interest in Block.

It was against this background that Applicant considered Block's offer, made in March 1973, to acquire Applicant's holding in Block substantially on the above terms. Applicant had not received any indication, despite various recent efforts in that direction, that another purchaser could be found who would acquire the holding on comparable terms. High and low bid prices on Block common stock during the period of negotiations (approximately March 1973 through August 1973) were 3¾ and 2⅛, respectively. The provisions of the proposed sale were negotiated at arm's length and Applicant believes that the terms negotiated with Block appropriately reflect the market conditions existing during the period of negotiations, and that these terms are fair and reasonable to all parties concerned.

At Block's request, the agreement between Applicant and Block provides that Block's purchase of Applicant's interest in Block be conditioned on the prior or simultaneous consummation of the following transaction between Block and United States Trust Company of New York, which represents a group of private investors (hereinafter referred to collectively as "U.S. Trust"): U.S. Trust will exchange the 8½ percent subordinated notes due May 31, 1975, issued to U.S. Trust by Block in 1969 in the aggregate principal amount of $500,000 ($450,000 of which remain outstanding), and the 7¼ percent subordinated convertible notes due November 30, 1979, issued to U.S. Trust by Block in 1969 in the aggregate principal amount of $1,000,000 convertible into Block common stock at the rate of $16⅔ per share, as follows: (1) $1,305,000 of subordinated notes for 216,000 shares of Block common stock, at $6.04 per share and (2) $145,000 of subordinated notes for cash in such amount together with accrued or deferred interest thereon. The application states that Block negotiated separately and independently on the one hand with Applicant and on the other hand with U.S. Trust.

From the time of their initial investment in Block in 1969, the U.S. Trust investors have desired an equity investment in Block, rather than a debt investment; the $16⅔ per share conversion price contained in the convertible debt of Block held by these investors was negotiated in the light of the bid price of Block common stock during the fall of 1969, which ranged from $16¾ to $11¾ during the period September through December 1969, and which was $11¾ in mid-December 1969 when the convertible debt was issued. Such price levels then afforded some support for the belief that conversion of the debt at $16⅔ a share might be advantageous in the foreseeable future.

Since then, conversion at that price would not have been advantageous to the investors; instead, they have been faced with the prospect of having their investment in Block essentially tied up until the debt is repaid and of receiving their return thereon in the form of current interest income rather than capital gains. In these circumstances, the investors were attracted to an opportunity to convert all of their debt holdings in Block to equity at a per share conversion price which would close a substantial majority of the gap between the $16⅔ per share price and current market levels—recognizing that Block could not have been expected to agree to terms which would close that gap entirely.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling to such company or any company controlled by such registered investment company any security or other property, with certain exceptions, unless the Commission finds, upon application under section 17(b) of the Act, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Notice is further given that any interested person may, not later than May 28, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10686 Filed 5-8-74;8:45 am]

[70-5493]

INDIANA & MICHIGAN ELECTRIC CO. AND AMERICAN ELECTRIC POWER COMPANY, INC.

Notice of Proposed Transactions

MAY 2, 1974.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, New York 10004, a registered holding company, and Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, its electric utility subsidiary company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b) and 12 thereof and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

I&M proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $70,000,000 aggregate principal amount of First Mortgage Bonds, to mature in not less than 5 and not more than 30 years. The interest rate (which will be expressed in a multiple of ⅛ of 1 percent) and the price (which will be not less than 100 percent, unless I&M shall authorize a lower percentage not less than 99 percent, and shall not exceed 102.75 percent) will be determined by competitive bidding. The terms of the Bonds preclude I&M from redeeming any such Bonds prior to June 1, 1979 if such redemption is for the purpose of refunding such Bond with proceeds of funds borrowed at a lower effective interest cost.

I&M also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 300,000 shares of a new series of its cumulative preferred stock, par value $100 per share. The dividend rate (which will be a multiple of .04 of 1 percent) and the price to be paid by I&M (which shall not be less than $100 per share or more than $102.75 per share) will be determined by competitive bidding. Prior to June 1, 1979, none of the shares of the preferred stock may be redeemed if such redemption is for the purpose of refunding such share, directly or indirectly, through the incurring of debt or the issuance of stock ranking equally with or prior to the preferred stock at an interest or dividend cost less than the dividend cost to I&M of the preferred stock.

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AEP proposes to make a cash capital contribution of $10,000,000 to I&M. Neither the Bonds nor the preferred stock will be issued and sold unless I&M shall have received prior to such sale and subsequent to March 31, 1974 cash capital contributions from AEP which aggregate $30,000,000. The making of $20,000,000 of such cash capital contributions by AEP has been previously authorized on June 29, 1973 (Holding Company Act Release No. 18013).

The proceeds realized from the sale of the Bonds and cumulative preferred stock will be applied within 90 days after such sale to the payment of a like principal amount of unsecured short-term indebtedness of I&M consisting of notes and demand notes payable to banks and commercial paper. At March 31, 1974, $149,506,000 principal amount of such unsecured short-term debt was outstanding and, it is anticipated that at the time of the sale of the Bonds and cumulative preferred stock, following receipt of the cash capital contributions, approximately $100,000,000 principal amount of such unsecured short-term debt will be outstanding. The proceeds from the cash capital contribution or contributions received by I&M from AEP will be applied, together with other funds available to I&M, to the payment of unsecured short-term indebtedness of I&M.

Expenses of I&M in connection with the proposed transactions will be filed by amendment. The proposed transactions are subject to the jurisdiction of the Public Service Commission of Indiana and the Michigan Public Service Commission, and no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 29, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10684 Filed 5-8-74;8:45 am]

[File No. 500-1]

NATIONAL ALFALFA DEHYDRATING AND MILLING CO.

Suspension of Trading

MAY 3, 1974.

The common stock of National Alfalfa Dehydrating And Milling Company being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of National Alfalfa Dehydrating And Milling Company being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 6, 1974 through May 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10691 Filed 5-8-74;8:45 am]

[70-5495]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Notice of Issue and Sale of Common Stock

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, a registered holding company and a public-utility company, and Pennsylvania Power Company ("Pennsylvania"), 1 East Washington Street, New Castle, Pennsylvania 16103, its electric utility subsidiary, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10 and 12(f) of the Act and Rules 43 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 3,000,000 shares of its authorized but unissued common stock, par value $9 per share. Pennsylvania proposes to issue and sell to Ohio Edison, its parent, and Ohio Edison proposes to purchase from Pennsylvania, 340,000 shares of its authorized and unissued common stock at a price per share equal to the par value thereof ($30 per share), for a total cash consideration of $10,200,000. It is proposed that 200,000 of these shares be issued and sold in June, 1974, with the remaining 140,000 shares be issued and sold in September, 1974. The proceeds from the sale of the common stock will be used for the repayment of unsecured short-term debt incurred by Ohio Edison (estimated to amount to $52,000,000 at the time of such issue) with the remainder to be used for construction purposes. The proceeds from the sale of the common stock will be applied to the repayment of bank loans (estimated to aggregate $8,000,000 in June and $10,200,000 in September) with the remainder to be used for construction purposes.

The fees and expenses to be paid by Ohio Edison in connection with the issue and sale of the additional common stock will be filed by amendment. The fees and expenses to be paid in connection with the issue and sale by Pennsylvania of its common stock, all of which are to be paid by Pennsylvania, are estimated to total $1,500, including legal fees of $1,000. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed issue and sale of the Ohio Edison's common stock and that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issue and sale of the Pennsylvania common stock and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 29, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations

promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10683 Filed 5-8-74;8:45 am]

[File No. 24FW-1595]

PETROLEUM ENERGY INVESTORS, LTD.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Opportunity for Hearing

MAY 2, 1974.

I. Miller Management Services, Inc. ("MMS"), a California corporation organized December 7, 1970, with offices located at 2483 East Bayshore, Suite 208, Palo Alto, California, filed with the Commission on July 18, 1973, a Form 1-A Notification with attached exhibits, including an offering circular, relating to an offering of 100 limited partnership units at an offering price of $5,000 per unit in Petroleum Energy Investors, Ltd. ("Petroleum"), a limited partnership to be formed to acquire, explore and develop oil and gas properties in Oklahoma, Texas and other states. MMS was to act as general partner for Petroleum. The offering has not commenced.

II. The Commission, on the basis of information reported by the staff, has reason to believe that:

A. The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The failure to disclose all promoters and affiliates;

2. The failure to disclose the sale of unregistered securities;

3. The failure to disclose a temporary restraining order and subsequent preliminary injunction against the issuer and its president, Follis O. Miller; and

4. The failure to disclose that the issuer had been placed in receivership.

B. The terms and conditions of Regulation A have not been met in the following respects:

No Regulation A exemption is available to MMS under the provisions of Rule 252(c)(4) and Rule 252(d)(2) in that MMS, Follis O. Miller and Sant Pallan, an affiliate of MMS, are subject to a decree of a court of competent jurisdiction of the State of California preliminarily enjoining and restraining such persons from engaging in any violations of the California Securities Act.

C. The proposed offering, if made, would be in violation of Section 17 of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

It is ordered, pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and hereby is, temporarily suspended;

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within thirty days of the entry thereof;

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for a hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for the said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10692 Filed 5-8-74;8:45 am]

[File No. 500-1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

MAY 3, 1974.

The common stock of Stratton Group, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 5, 1974 through May 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10690 Filed 5-8-74;8:45 am]

[811-1871]

VENTUREVEST CORP.

Notice of Filing of Application

MAY 2, 1974.

Notice is hereby given that Venturevest Corp., ("Applicant"), 1665 Route #10, Morris Plains, New Jersey 07950, registered as a closed-end, non-diversified management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Delaware corporation on December 16, 1955, under the name American Laundrimation Corp., which name was changed to Laundrimation, Inc. on April 2, 1956. Applicant adopted its present name on January 26, 1970. Applicant represents that it operated as a commercial, non-investment company until May, 1969. Applicant registered under the Act on May 23, 1969.

The application states that on June 14, 1973, the shareholders of Applicant voted to approve the decision of Applicant's board of directors to change the fundamental policy of Applicant to one which would cause it not to be an investment company. Since June 14, 1973, Applicant has not invested in any securities, reinvested in any securities, or, except to the limited extent necessary to dispose of the securities which were owned by Applicant on June 14, 1973, traded in any securities. Further, Applicant has not and does not hold itself out as being engaged primarily in the business of investing, reinvesting or trading in securities, and is not now engaged and does not now propose to engage in the business of investing, reinvesting, owning, holding or trading in securities in such a manner as to cause section 3(a)(3) of the Act to apply to Applicant. Applicant now is engaged in various entrepreneurial activities consistent with its change in fundamental policy, including the development of a bedding product, the patent on which is owned by Applicant and of two other new instructional products, whose copyrights are owned by Applicant and which are to be marketed by Applicant.

Applicant represents that it currently owns no investment securities, U.S. Government securities, or other securities. Applicant retains a contractual right to a percentage of the cash profits, if any, realized upon the sale of certain Achievement Inc. stock by an entity to which Applicant sold said stock. There is, however, no current market for said stock, and the board of directors of Applicant considers this contractual right to be worthless.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to

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be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 28, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or of law proposed to be controverted, or such person may request a notification if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following May 28, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10692 Filed 5–8–74;8:45 am]

[File No. 500–1]

ZENITH DEVELOPMENT CORP.

Notice of Suspension of Trading

MAY 2, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zenith Development Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 3:45 p.m., e.d.t. on May 2, 1974 and through May 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10689 Filed 5–8–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 504]

ASSIGNMENT OF HEARINGS

MAY 6, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

I&S M–27554, Automobile Parts or Accessories, Between Points in Central States, now assigned May 7, 1974 is cancelled.

MC–99208 Sub 11, Skyline Transportation, Inc., now assigned June 3, 1974, at Knoxville, Tenn., will be held in GSA Conference Room, 301 Cumberland Building.

MC–138857, W. L. Burgess, DBA Burgess Trucking Co., now assigned June 10, 1974, Paducah, Ky., will be held at the Holiday Inn, 727 Joe Clifton Drive.

MC–138876, James D Caroll, DBA Rapid Express, now assigned May 20, 1974, at Baton Rouge, La., is postponed indefinitely.

MC–FC 74226, Taylor Freight System, Inc., Philadelphia, Pa., Transferee and Dependable Container Service, Inc., Brooklyn, N.Y., Transferor; and MC–FC 74488, Jetex Freight Systems, Inc., Newton, Pa., Transferee and James H. Russell, Smithfield, R.I., Transferor, now assigned May 14, 1974, at Washington, D.C., is cancelled and the application is dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–10736 Filed 5–8–74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 6, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before May 24, 1974.

FSA No. 42831—*Commodity Rates from and to Baytown, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B–467), for interested rail carriers. Rates on property moving on point-to-point commodity rates, from or to Baytown, Texas, on the Missouri Pacific Railroad Company and Southern Pacific Transportation Company, to or from points in the United States and Canada.

Grounds for relief—Rate relationship.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–10738 Filed 5–8–74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 3, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's "Gateway Elimination" rules (49 CFR Part 1065 (a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 20, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC–25798 (Sub-No. E4), filed April 11, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food products*, from Port Wentworth, Ga., to points in Colorado, Kansas, Nebraska, North Dakota, South Dakota, and points in Iowa on and west of a line beginning at U.S. Highway 52 and the Iowa-Minnesota State line, and thence along U.S. Highway 52 to its intersection Iowa Highway 150, thence south on Iowa Highway 150 to its intersection with U.S. Highway 151, thence east on U.S. Highway 151 to its intersection with Iowa Highway 1, thence south on Iowa Highway 1 to its intersection with Iowa Highway 2, thence west on Iowa Highway 2 to its intersection with Iowa Highway 15, thence south on Iowa Highway 15, to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateways of Asheville, N.C., and California, Mo.

No. MC–25798 (Sub-No. E15), filed April 28, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables* (1) from points in Florida to points in Michigan, Minnesota, Ohio, West Virginia, and Wisconsin; (2) from points in Florida west of the eastern boundary of Jefferson County in that portion of Kentucky east of a line beginning at the intersection of Kentucky Highway 61 and the Kentucky-Tennessee state line, thence along Kentucky Highway 61 to Elizabethtown, thence north along U.S. Highway 31W to its intersection with U.S. Highway 60, thence west on U.S. Highway 60 to its intersection with Kentucky Highway 79, thence north on Kentucky Highway 79 to the Kentucky-Indiana state line; (3) from points in Florida west of the eastern boundary of Jefferson County to points in that portion of Illinois on and north of a line beginning at the Illinois-Indiana state line and U.S. Highway 460, thence along U.S. Highway 460 to its intersection with U.S. Highway 40, thence west on U.S. Highway 40 to the Illinois-Missouri state line; (4) from points in Florida west of the eastern boundary of Jefferson County to points in Indiana (except points of Posey, Vanderburgh, Warrick, Spencer, Perry, Dubuis, Gibson, and Pike Counties).

No. MC–25798 (Sub-No. E13), filed April 28, 1974. Applicant: CLAY HYDER TRUCKING LINE, INC., P.O. Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen strawberries*, in containers, from points in Tennessee on and west of a line beginning at U.S. Highway 411 at the Tennessee-Georgia State line and along said Highway to its intersection with Tennessee Highway 33, thence North along Tennessee Highway 33 to its intersection with U.S. Highway 25E to the Tennessee-Virginia State line, to points in New York on and east of U.S. Highway 81 and to points in Pennsylvania on and east of U.S. Highway 15. The purpose of this filing is to eliminate the gateway of Hendersonville, N.C.

No. MC–25798 (Sub-No. E17), filed April 28, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen citrus products and citrus products*, not canned and not frozen, from points in Florida to points in Iowa, Colorado, Kansas, Nebraska, North Dakota, and South Dakota. The purpose of this filing is to eliminate the gateway of California, Mo.

No. MC–65941 (Sub-No. E1), filed April 11, 1974. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: George V. Thieroff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between points in that part of West Virginia bounded by a line beginning at Kenova, W. Va., and extending along U.S. Highway 60 to Charleston, thence along U.S. Highway 119 to the West Virginia-Pennsylvania State line, thence along the West Virginia-Pennsylvania State line to U.S. Highway 30, thence along U.S. Highway 30 to West Virginia Highway 2, thence along West Virginia 2 to West Virginia Secondary Highway 3, thence along West Virginia Secondary Highway 3 to West Virginia Highway 66, thence along West Virginia Highway 66 to U.S. Highway 30, thence along U.S. Highway 30 to the West Virginia-Ohio State line, and thence along the West Virginia-Ohio State line to point of beginning including points on the indicated portions of U.S. Highways 60 and 119, but not on the indicated portions of the other highways specified, on the one hand, and, on the other, points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania State line, thence along U.S. Highway 422 to Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to U.S. Highway 119, thence along U.S. Highway 119 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to point of beginning including points on the indicated portions of the highways specified; and (2) from Wheeling, W. Va., and points in West Virginia within 30 miles of Wheeling, Clarksburg, and Mannington, W. Va., and Martins Ferry, Ohio, to points in that part of Georgia on and north of a line beginning at Augusta and extending along U.S. Highway 1 to Louisville, thence along Georgia Highway 24 to junction Georgia Highway 22, and thence along Georgia Highway 22 through Macon to Columbus, and points in that part of North Carolina and South Carolina on, north, and west of U.S. Highway 1. The purpose of this filing is to eliminate the gateways of Clarksburg and Wheeling, W. Va.

No. MC–95540 (Sub-No. E4), filed April 11, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from Sioux City, Iowa, to points in Mississippi. The purpose of this filing is to eliminate the gateway of Union City, Tenn.

No. MC–95540 (Sub-No. E54), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Louisiana. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E55), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida to points in Oregon. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and points in Tennessee.

No. MC–95540 (Sub-No. E35), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on, east, and south of a line beginning at St. Marys River, thence south along U.S. Highway 17 to Palatka, thence along Florida Highway 20 to intersection with Florida Highway 19, thence along Florida Highway 19 to junction with U.S. Highway 441, thence along U.S. Highway 441 to Leesburg, thence along Florida Highway 33 to Polk City, thence along Interstate Highway 4 to Lakeland, thence along U.S. Highway 98 to junction with Florida Highway 60, thence along Florida Highway 60 to junction with U.S. Highway 17, thence along U.S. Highway 17 to Punta Gorda, thence along U.S. Highway 41 to Naples on the Gulf of Mexico, to points in Alabama. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–99540 (Sub-No. E44), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212. 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

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No. MC–95540 (Sub-No. 59), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Ohio. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E60), filed April 16, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and Florence, Ala.

No. MC–95540 (Sub-No. E69), filed April 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Illinois. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E72), filed April 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and dairy products* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Buffalo, N.Y., to points in Mississippi. The purpose of this filing is to eliminate the gateway of Union City, Tenn.

No. MC–95540 (Sub-No. E76), filed April 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Virginia west of a line beginning at the Chesapeake Bay and U.S. Highway 360, thence along U.S. Highway 360 to its junction with U.S. Highway 17, thence along U.S. Highway 17, to its junction with the Colonial National Parkway, thence along said Parkway to its junction with Virginia Highway 5, thence along Virginia Highway 5 to its junction with Virginia Highway 156, thence along Virginia Highway 156 to its junction with Virginia Highway 10, thence along Virginia Highway 10 to its junction with Virginia Highway 36, thence along Virginia Highway 36 to Petersburg, Va., thence along Interstate 85 to the Virginia-North Carolina state line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–109772 (Sub-No. E1), filed April 21, 1974. Applicant: ROBERTSON TRUCK-A-WAYS, INC., 7101 East Slauson Avenue, Los Angeles, California 90040. Applicant's representative: Arthur J. Woodard (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New and used automobiles, trucks, and buses* (except those which have been repossessed, embezzled, stolen, or wrecked, and except trailers), in secondary movements, in truckaway service, between points in Utah and points in that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif.; and (2) *new and used motor vehicles* (except trailers, trucks, and used motor vehicles which have been repossessed, embezzled, stolen, or damaged), in secondary movements, in truckaway service, between points in Utah and points in that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif. The proposed operations are restricted as follows: in (1) above, restricted against the use of these rights in conjunction with any operating rights in driveaway or truckaway service, in initial movements, held by Dallas & Mavis Forwarding Co., Inc., for the through transportation of traffic under such combination; in (2) above, restricted against the transportation of new motor vehicles in connection with the rights held by Dallas & Mavis Forwarding Co., Inc., through interline, for the through transportation of traffic under such combination; and in (1) and (2) above, restricted against the transportation of new motor vehicles which are in the course of a continuous movement from a point of manufacture or assembly in Michigan, Indiana, and Wisconsin. The purpose of this filing is to eliminate the gateway of points in Arizona in (1); points in Nevada in (2).

No. MC–112822 (Sub-No. E6), filed April 19, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargine, table sauces, table spreads, salad dressing, vegetable oils, shortening, lard, tallow and animal fats*, in cans, from the plantsites and storage facilities of Anderson, Clayton & Co., at Sherman, Tex., to points in Nevada. The purpose of this filing is to eliminate the gateway of Delta, Colo.

No. MC–112822 (Sub-No. E8), filed April 19, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Jacksonville, Ill., to points in California. The purpose of this filing is to eliminate the gateway of Delta, Colo.

No. MC–112822 (Sub-No. E9), filed April 21, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74025. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine*, from the plantsites and storage facilities of Anderson, Clayton & Co., at Jacksonville, Ill., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of points in Missouri.

No. MC–112822 (Sub-No. E14), filed April 21, 1974. Applicant: BRAG LINES, INCORPORATED, P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine*, from the plant site or storage facilities of Kent Products, Inc., at Kansas City, Mo., to points in Arizona, California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of points in Nebraska.

No. MC–112822 (Sub-No. E16), filed April 22, 1974. Applicant: BRAY LINES, INCORPORATED, P.O. Box 1191, Cushing Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California to points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Idaho.

No. MC–114019 (Sub-No. E1), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, glass containers and accessories therefor, and paper cartons* used in the packing and shipping of glassware and glass containers, restricted to the transportation of shipments when moving from, to, or between glassware manufacturing plants or warehouses or other facilities of such plants, or when moving from, to, or between warehouse plants, or other facilities of food packing and processing plants, from Lancaster, Ohio, to points in Missouri, Wisconsin, Iowa, Minnesota, North Dakota, South Dakota, and Nebraska. The purpose of this filing is to eliminate the gateways of Richmond, Ind., and Streator, Ill.

No. MC–114019 (Sub-No. E2), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard and paperboard products*, restricted to shipments when moving from, to, or between warehouses, and wholesale, retail, or chain outlets of food business houses, or when moving from, to, or between food processing plants, or warehouses or other facilities of such plants, from points in Wisconsin and Iowa to Detroit, Mich. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–114019 (Sub-No. E3), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glassware, NOI, other than cut, glass containers*, common or parts thereof, viz, bottles, except siphon bottles and bottles fitted with siphons; *jars and packing glasses*, not exceeding 5 gallons in capacity, with or without their equipment of caps, covers, or stoppers; *caps, covers or tops* (other than display) for bottles, glassware, or jars, not otherwise indexed by name; and *paper shipping cartons*, from South Connellsville, Pa., to points in Missouri, Wisconsin, and Iowa. (2) *Glass containers* (except siphon bottles and bottles fitted with siphons), covers, caps, and accessories for glass containers and paper shipping cartons, from South Connellsville, Pa., to points in Minnesota, North Dakota, South Dakota, and Nebraska, Restricted in (1) and (2) above, to the transportation of shipments when moving from, to, or between glassware manufacturing plants, or warehouses or other facilities at such plants, or when moving from, to, or between warehouses, plants, or other facilities of food packing and processing plants. The purpose of this filing is to eliminate the gateway of Richmond, Ind., and/or Streator, Ill.

No. MC–114019 (Sub-No. E4), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Glassware, glass containers, and closures* thereof and *accessories* therefore, and *paper cartons* used in the packing of glass articles, from Zanesville, Ohio, to points in Missouri, Wiscosnin, Illinois, Iowa, and the Upper Peninsula of Michigan; (b) *glass containers, covers, caps, and accessories*, therefore, and *paper cartons* used in the packing and shipping of glass containers, from Zanesville, Ohio, to points in Minnesota, North Dakota, South Dakota, and Nebraska. The authority described in (a) and (b) above, restricted to the transportation of shipments moving from, to, or between glassware manufacturing plants, or warehouses or other facilities of such plants, or when moving from, to, or between warehouses, plants, or other facilities of food packing and processing plants. The purpose of this filing is to eliminate the gateway of Richmond, Ind., and Streator, Ill.

No. MC–115331 (Sub-No. E1), filed April 15, 1974. Applicant: TRUCK TRANSPORT INCORPORATED, 230 Saint Clair Ave., East Saint Louis, Ill. 62201. Applicant's representative: J. R. Ferris (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals* (except liquid fertilizers, liquid oxygen, liquid hydrogen, and liquid nitrogen), in bulk, in tank vehicles, (a) from Selma, Mo., and points within 5 miles of Selma, Mo., to points in Michigan and Wisconsin; and (b) from the plant site of Foster Grant Co., Inc., at Peru, Ill., to points in Missouri and Nebraska; (2) *liquid chemicals*, in bulk, in tank vehicles, (a) from Selma, Mo., and points within 5 miles of Selma, Mo., to points in Minnesota and Texas (except points in Texas on and north of U.S. Highway 70 and points in Chambers, Montgomery, Harris, Ft. Bend, Galveston, Liberty, and Brazaria Counties), and points in Louisiana (except those points which lie on and east of a line beginning at the Arkansas-Louisiana State Boundary line thence south along U.S. Highway 165 to its junction with U.S. Highway 84, thence easterly along U.S. Highway 84 to the Louisiana-Mississippi State Boundary Line); (b) from the plant sites of the Olin-Mathieson Chemical Corporation at or near Ordill, Ill., to points in the Upper Peninsula of Michigan, Minnesota, Texas (except points in Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty, and Brazaria Counties), and Wisconsin; and (c) from the plant site of the Hawkeye Chemical Company at or near Clinton, Iowa, to points in Arkansas, Louisiana, Oklahoma, and Tennessee; and (3) *chemicals, in bulk*, from Port Neal Industrial Complex and Big Soo Terminal and the plant sites of and warehouse and storage facilities utilized by Terre International, Inc., American Cyanamid Company and Monsanto Company, located in Woodbury County, Iowa, and Dakota County, Nebr., to points in Louisiana and Mississippi; restricted in (1), (2), and (3) against the transportation of (i) Spent catalyst to points in Louisiana and Texas, and (ii) fertilizer and fertilizer ingredients to points in Louisiana. The purpose of this filing is to eliminate in (1) (a) the gateway at the plant site of Foster Grant Co., Inc., at Peru, Ill.; in (1) (b) the gateway at the plant site of the Hawkeye Chemical Company at or near Clinton, Iowa; in (2) (a) the gateway of Malvern, Ark.; in (2) (b) the gateway at the plant site of the Hawkeye Chemical Company at or near Clinton, Iowa, and Malvern, Ark.; in (2) (c) the gateway at Selma, Mo., and points within 5 miles of Selma, Mo., and Malvern, Ark.; and in (3) the gateway of Malvern, Ark.

No. MC–128383 (Sub-No. E5), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road. Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Washington National Airport, Gravelly Point, Va., and Broome County Airport, Broome County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E12), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Logan International Airport, Boston, Mass., and Newark Airport, Newark, N.J., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E18), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Greater Buffalo International Airport, Erie County, N.Y., and Philadelphia International Airport, Philadelphia, Pa., restricted to the transportation of

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traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC-128383 (Sub-No. E19), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles) between La Guardia Airport, New York, N.Y., and Rochester-Monroe County Airport, Monroe County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC-128383 (Sub-No. E20), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Rochester-Monroe County Airport, Monroe County, N.Y., and Friendship International Airport, Anne Arundel County, Md., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC-128383 (Sub-No. E21), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Rochester-Monroe County Airport, Monroe County, N.Y., and Washington National Airport, Gravelly Point, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC-128383 (Sub-No. E35), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Philadelphia International Airport, Philadelphia, Pa., and Clarence E. Hancock Airport, Onondaga County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC-128383 (Sub-No. E36), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Broome County Airport, Broome County, N.Y., and Dulles International Airport, Fairfax and Loudoun Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County N.Y.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10701 Filed 5-8-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 6, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 19, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-11207 (Sub-No. E3), filed April 25, 1974. Applicant: DEATON, INC., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: C. N. Knox (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building board, insulation board, fiberboard, pulpboard, and wallboard, and parts, materials, and accessories incidental to the transportation and installation thereof*, from the plant and warehouse sites of the United States Gypsum Company in Pittsylvania County, Va., located at or near Danville, Va., to points in Arkansas in and west of the counties of Phillips, Arkansas, Lonoke, Faulkner, Van Buren, Searcy, and Boone (except Little Rock in Pulaski County and Fort Smith in Crawford County). The purpose of this filing is to eliminate the gateway of Greenville, Miss.

No. MC-25798 (Sub-No. E18), filed April 28, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Waynesville, N.C., to points in Florida, and points in Georgia on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of Canton, N.C.

No. MC-65941 (Sub-No. E 2), filed April 11, 1974. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: George V. Thieroff (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and tops therefor, corrugated boxes and sheets, and wooden bottle carriers*, from points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania State line, thence along U.S. Highway 422 to Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to U.S. Highway 119, thence along U.S. Highway 119 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the point of beginning including points on the indicated portions of the highways specified to Martinsville, Va., and points in North Carolina and South Carolina on, north, and west of U.S. Highway 1, and points in Georgia on and north of a line extending from the Atlantic Ocean along U.S. Highway 80 to junction U.S. Highway 280, thence along U.S. Highway 280 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateway of Fairmont and Parkersburg, W. Va.

No. MC-95540 (Sub-No. E 24), filed April 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and tops therefor, corrugated boxes and sheets, and wooden bottle carriers*, from points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania State line, thence along U.S. Highway 422 to Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to U.S. Highway 119, thence along U.S. Highway 119 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the point of beginning including points on the indicated portions of the highways specified to Martinsville, Va., and points in North Carolina and South Carolina on, north, and west of U.S. Highway 1, and points in Georgia on and north of a line extending from the Atlantic Ocean along U.S. Highway 80 to junction U.S. Highway 280, thence along U.S. Highway 280 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateway of Fairmont and Parkersburg, W. Va.

No. MC-95540 (Sub-No. E 24), filed April 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Tifton, Fla.

ning at the Mississippi-Alabama State Boundary line, thence along Mississippi Highway 12 to Columbus, thence along U.S. Highway 82 to Starkville, thence along Mississippi Highway 12 to Kosciusko, thence along Mississippi Highway 43 to junction with Mississippi Highway 16, thence along Mississippi Highway 16 to Canton, thence along Interstate Highway 55 to Jackson, thence along Mississippi Highway 18 to Port Gibson, thence along Mississippi Highway 552 to the Mississippi-Louisiana State boundary. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E65), filed April 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212-5299 Roswell Road, NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Tifton, Fla.

No. MC-95540 (Sub-No. E66), filed April 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212-5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to the District of Columbia. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E68), filed April 18, 1974. Applicant: WATKINS TRUCK LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in New York. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E79), filed April 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to the District of Columbia. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E80), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from points in California on and south of a line beginning at San Francisco, thence along Interstate Highway 80 to Oakland, thence along Interstate Highway 580 to Manteca, thence along California Highway 120 to Benton Station, thence along U.S. Highway 6 to the California-Nevada State line, to points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Pennsylvania Highway 15 to Harrisburg, thence along Interstate Highway 81 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E87), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from points in California on and south of a line beginning at San Francisco, thence along Interstate Highway 80 to Oakland; thence along Interstate Highway 580 to the junction with California Highway 120 thence along California Highway 120 to Benton Station; thence along U.S. Highway 6 to the California-Nevada State line, to points in Maryland. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E88), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products*, as described in Section A of Appendix to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from points in California on and south of Interstate Highway 8, to points in Maryland. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E90), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Texas. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E94), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Fremont, Nebraska, to points in Florida on and east of Florida Highway 85. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E95), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Rhode Island. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E96), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Fremont, Nebraska, to points in Florida on and east of Florida Highway 85. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E97), filed April 19, 1974. Applicant: WATKINS

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MOTOR LINES, INC., P.O. Box 1636, Atlanta, GA 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Connecticut. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E98), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Michigan. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E99), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California on and south of Interstate Highway 8 to points in Maryland. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E100), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in West Virginia. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–100666 (Sub-No. E19), filed April 22, 1974. Applicant: MELTON TRUCK LINES, INC., 1129 Grimmett Drive, P.O. Box 7666, Shreveport, Louisiana 71107. Applicant's representative: Richard W. May (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compound, joint sealer, bonding cement, and accessories* used in the installation of such products (except commodities in bulk), from Waco, Tex., to Poplar Bluff and Sikeston, Mo., and points in that part of Missouri east and south of a line beginning at the junction of Interstate Highway 67 and the Missouri-Arkansas state line, thence north on Interstate Highway 67 to the junction of Interstate Highway 67 and Interstate Highway 60, thence east on Interstate Highway 60 to the Mississippi River. The purpose of this filing is to eliminate the gateway of Little Rock, Ark. (2) *Plastic pipe, tubing, conduit, valves, fittings, and accessories* used in the installation of such products (except oil-field commodities as described by the Commission in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), and *compound joint sealer* and *bonding cement* (except in bulk), from Waco, Tex., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Mount Vernon, Tex.

No. MC–112822 (Sub-No. E5), filed April 19, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit and tomato juice*, from Kennewick, Wash., to points in Kansas, Missouri, and Oklahoma. The purpose of this filing is to eliminate the gateway of La Jara, Colo.

No. MC–112822 (Sub-No. E7), filed April 19, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except dairy products), from Chicasha, Okla., to points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateways of Macon, Milan, Marshall, Moberly, or Carrollton, Mo.

No. MC–112822 (Sub-No. E11), filed April 21, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine*, from the plantsites and storage facilities of Anderson, Clayton & Co., at Jacksonville, Ill., to points in Idaho, Montana, Nevada, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway of points in Nebraska.

No. MC–112822 (Sub-No. E18), filed April 28, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in packages and containers, from Casper, Wyo., to points in Alabama, Arkansas, Louisiana, Mississippi, and that part of Missouri on and south of U.S. Highway 50 and on and east of a line beginning at Jefferson City, Mo., and extending along U.S. Highway 54 to Camdenton, Mo., thence along Missouri Highway 5 to Lebanon, Mo., thence along U.S. Highway 66 to Springfield, Mo., thence along U.S. Highway 65 to the Arkansas-Missouri State line (except points in the St. Louis commercial zone as defined by the Commission). The purpose of this filing is to eliminate the gateway of Coffeyville, Wichita, or El Dorado, Kans., or points in Kansas within the Kansas City, Mo.-Kansas City, Kans., commercial zone as defined by the Commission.

No. MC–112822 (Sub-No. E19), filed April 28, 1974. Applicant: BRAY LINES, INCORPORATED, P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in packages and containers, from Wichita, Kans., to points in Colorado. Restriction: The authority above is restricted against traffic having a prior movement by rail from Houston, Tex. The purpose of this filing is to eliminate the gateway of El Dorado, Kans.

No. MC–112822 (Sub-No. E21), filed April 28, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in packages and containers, from Wichita, Kans., to points in Nevada. The purpose of this filing is to eliminate the gateway of Ponca City, Okla.

No. MC–112822 (Sub-No. E23), filed April 28, 1974. Applicant: BRAY LINES, INCORPORATED, P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from Wichita, Kans., to points in Idaho, Montana, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Ponca City, Okla.

No. MC–112822 (Sub-No. E24), filed April 28, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from Wichita, Kans., to points in Idaho, Montana, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Casper, Wyo.

No. MC–112822 (Sub-No. E25), filed April 28, 1974. Applicant: BRAY LINES INCORORATED, P.O. Box 1191, Cushing, OK 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from El Dorado, Kans., to points in Idaho, Montana, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Casper, Wyo.

No. MC–112822 (Sub-No. E26), filed April 28, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in packages and containers, from El Dorado, Kans., to points in Utah. The purpose of this filing is to eliminate the gateway of Enid and Ponca City, Okla.

No. MC–128383 (Sub-No. E13), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Logan International Airport, Boston, Mass., and Friendship International Airport, Anne Arundel County, Md., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E22), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Greater Buffalo International Airport, Erie County, N.Y., and Newark Airport, Newark, N.J., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E23), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Greater Buffalo International Airport, Erie County, N.Y., and John F. Kennedy International Airport, New York, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E24), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Clarence E. Hancock Airport, Onondaga County, N.Y., and Friendship International Airport, Anne Arundel County, Md., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E25), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Rochester-Monroe County Airport, Monroes County, N.Y., and Newark Airport, Newark, N.J., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E32), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Newark Airport, Newark, N.J., and Clarence E. Hancock Airport, Onondaga County, N.Y., restricted to the transportation of traffic having prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E34), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobile), between Clarence E. Hancock Airport, Onondaga County, N.Y., and Dulles International Airport, Fairfax and Loudoun Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E33), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobile), between Rochester-Monroe County Airport, Monroes County, N.Y., and Newark Airport, Newark, N.J., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10734 Filed 5–8–74;8:45 am]

[Notice 75]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 29, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–75064. By order entered May 2, 1974, the Motor Carrier Board approved the transfer to William A. Long, Inc., Bealeton, Va., of the operating rights set forth in Permits Nos. MC–134129 (Sub-No. 2) and MC–134129 (Sub-No. 4), issued October 15, 1970, and September 19, 1972, respectively, to William A. Long, Bealeton, Va., authorizing the transportation of culvert pipe, culvert sectional plate, and couplings and coatings for culvert pipe and sections, from Cessna, Pa., to Bealeton, Va.; cul-

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vert banding and coupling material, coatings, and steel plates used in the manufacture of culvert pipe and couplings, from Bealeton, Va., to Cessna, Pa.; steel coil, from the plant site of Bethlehem Steel Corporation, at Sparrows Point, Md., to Cessna, Pa.; culvert pipe, culvert sectional plate, and couplings and coatings for culvert pipe and sections, from Bealeton and Dublin, Va., to points in North Carolina and West Virginia; from Cessna, Pa., to Dublin, Va., and points in North Carolina; and from Ashland, Ky., to Bealcton and Dublin, Va., and points in West Virginia, under a continuing contract or contracts with Lane Junita Inc., of Bedford, Pa., and its affiliate Lane-Pencarva, Inc., of Bealeton, Va. Daniel B. Johnson, 1123 Munsey Building, 1329 E Street NW., Washington, D.C. 20004, attorney for applicants.

No. MC-FC-75090. By order entered May 1, 1974, the Motor Carrier Board approved the transfer to Austin W. Hulcher, doing business as Hulcher Trucking, Virden, Ill., of the operating rights set forth in Certificates Nos. MC-69981, MC-69981 (Sub-No. 9), and MC-69981 (Sub-No. 11), issued February 2, 1960, March 6, 1962, and November 20, 1969, respectively, to Adolph E. Hulcher (Austin W. Hulcher, Executor) and Austin Hulcher, doing business as A. E. Hulcher & Son, Virden, Ill., authorizing the transportation of washing machines, ironers, and supplies and parts therefor, laundry driers, home deep freezers and parts thereof, ranges and parts thereof, freezers, underground water-main pipe and fittings and fire hydrants and fittings, and electric garbage disposal units, from, to, or between specified points in Illinois, Iowa, and Missouri. Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701, attorney for applicants.

No. MC-FC-75110. By order entered May 3, 1974, the Motor Carrier Board approved the transfer to Murray Rude Services, Inc., Brooklyn, N.Y., of the operating rights set forth in Certificate No. MC-124619 (Sub-No. 1), issued December 12, 1963, to Rude System of Towing, Inc., Brooklyn, N.Y., authorizing the transportation of wrecked and disabled motor vehicles and replacements thereof, fork lift trucks, car and truck cranes, and house trailers, by use of wrecker equipment, between points in New York, Vermont, Rhode Island, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Virginia, Maine, and the District of Columbia. Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102, attorney for applicants.

No. MC-FC-75121. By order entered May 3, 1974, the Motor Carrier Board approved the transfer to Bodo Transport, Inc., Jersey City, N.J., of the operating rights set forth in Certificate No. MC-129000, issued July 9, 1971, to Conduit Rapid Delivery Co., Inc., New York, N.Y., authorizing the transportation of general commodities, with the usual exceptions, between New York, N.Y., on the one hand, and, on the other, Bayonne, Clifton, East Paterson, Edgewater, Haledon, Hawthorne, Jersey City, Passaic, Paterson, Totowa, and Weehawken, N.J. Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904, practitioner for transferee and Martin Werner, 2 West 45th St., New York, N.Y. 10036, attorney for transferor.

No. MC-FC-75124. By order of May 3, 1974, the Motor Carrier Board approved the transfer to Rollie W. McIntosh, doing business as McIntosh Trucking, Cincinnati, Ohio, of the operating rights in Permit No. MC-133658 issued March 18, 1970 to R. L. Booth, Cincinnati, Ohio, authorizing the transportation of casting, patterns, and parts thereof between a specified plant site at Cincinnati, Ohio, on the one hand, and, on the other, Connersville and Richmond, Ind. John L. Alden, 50 West Broad St., Columbus, Ohio, 43215, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10737 Filed 5-8-74;8:45 am]

[Notice 63]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 1, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30844 (Sub-No. 503 TA), filed April 24, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000, Box zip 50704, Waterloo, Iowa 50702. Applicant's representative: Paul Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by retail department stores, from Bayonne, N.J., to Detroit, Southfield, South Gate, Roseville, and Madison Heights, Mich., and St. Louis, Mo. for 180 days. SUPPORTING SHIPPER: Korvettes, Division of Arlen Realty & Develop. Corp., 450 West 33rd St., New York, N.Y. 10001. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 48423 (Sub-No. 4 TA), filed April 19, 1974. Applicant: G. E. BELMORE, doing business as MOTOR TRANSIT COMPANY, 5822 N. Interstate Avenue, Portland, Oreg. 97217. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals* and junk automobiles, from the International Boundary line (United States-Canada) at or near Blaine, Wash., to Seattle, Kent, and Tacoma, Wash., and Eugene and Portland, Oreg., for 180 days. SUPPORTING SHIPPER: Moffat Scrap Metal Yard, 1277 Mitchell Road, Vancouver, British Columbia, Canada. SEND PROTESTS TO: District Supervisor Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 106398 (Sub-No. 704 TA), filed April 17, 1974. Applicant: NATIONAL TRAILERS CONVOY, INC., 525 South Main Street, P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from points in McCurtain County, Okla., to points in Texas, Arkansas, Louisiana, Missouri, and New Mexico, for 180 days. SUPPORTING SHIPPER: Mike Hopper, Pres. & Gen. Mgr., Beachwood Mobile Homes, Box 629, Highway 70 West, Idabel, Okla. 74745. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240-Old P.O. Building, 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 109584 (Sub-No. 153 TA), filed April 23, 1974. Applicant: ARIZONA-PACIFIC TANK LINES, a Corporation, 5773 South Prince Street, Littleton, Colo. 80120. Applicant's representative: Kenneth A. Willhite (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cranberry juice*, in bulk, in tank vehicles, from Markham, Wash., to Visalia, Calif., for 180 days. SUPPORTING SHIPPER: Real Fresh, Inc., P.O. Box 1551, Visalia, Calif. 93277. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 117160 (Sub-No. 6 TA), filed April 25, 1974. Applicant: ROBERTS CARTAGE, INC., 2088 South Arlington Street, P.O. Box 7162, Akron, Ohio 44306. Applicant's representative: Robert W. Oliver, 1100 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives), restricted to shipments having prior or subsequent movement by aircraft or moving in substituted service for air transportation, between Cleveland-Hopkins Airport, Cleveland, Ohio, and Greater Pittsburgh Airport, Allegheny County, Pa., for 180 days. SUPPORTING SHIPPERS: The Flying Tiger Line, Inc., Cleveland-Hopkins Airport, Cleveland, Ohio; American Airlines, Cleveland-Hopkins Airport, Cleveland, Ohio; Emery Air Freight Corp., 17831 Englewood Drive, Middleburgh Hts., Ohio 44130; and Jet Air Freight, Cargo Road, United Cargo Bldg., Cleveland, Ohio 44135. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 118159 (Sub-No. 143 TA), filed April 24, 1974. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Jack R. Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Alabama, Florida, Georgia, North Carolina, Mississippi, Tennessee, South Carolina, Arkansas, Louisiana, Illinois, Indiana, Kentucky, Michigan, Wisconsin, and Ohio, restricted to traffic originating at and destined to the named points, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., Ralph L. McGee, General Traffic Manager, 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 119777 (Sub-No. 294 TA), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from Slocomb, Ala. and Colfax, N.C., to Addison, Ill., Jacksonville, Fla., Atlanta, Ga., Lakeland, Fla., Baltimore, Md., Lincoln Park, N.J., Billings, Mont., Los Angeles, Calif., Bloomington, Minn., Memphis, Tenn., Buffalo, N.Y., Miami, Fla., Canton, Mass., Milwaukee, Wis., Charlotte, N.C., New Orleans, La., Chicago, Ill., North Kansas City, Mo., Chillicothe, Ohio, Philadelphia, Pa., Cincinnati, Ohio, Phoenix, Ariz., Cleveland, Ohio, Pittsburgh, Pa., Columbia, Md., Pocatello, Idaho, Daly City, Calif., Portland, Oreg., Denver, Colo., Sacramento, Calif., East Rutherford, N.J., Santa Fe Springs, Calif., Emeryville, Calif., St. Louis, Mo., Farmers Branch, Tex., San Jose, Calif., Fort Lauderdale, Fla., Seattle, Wash., Fort Myers, Fla., Spokane, Wash., Fresno, Calif., Tampa, Fla., Great Falls, Mont., Taylor, Mich., Houston, Tex., Tulsa, Okla., Indianapolis, Ind., and West Palm Beach, Fla., for 180 days. SUPPORTING SHIPPER: Mr. Gerald L. Hoch, Manager—Distribution, ITT—Grinnell Corporation, 260 West Exchange Street, Providence, R.I. 02901. SEND PROTESTS TO: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 123255 (Sub-No. 42 TA), filed April 24, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware*, from Lancaster, Ohio, to Boston, Mass., and its commercial zone; Edison, N.J., New York, N.Y., and its commercial zone; Philadelphia, Pa., and its commercial zone; and Buffalo, N.Y., and its commercial zone, for 180 days. SUPPORTING SHIPPER: Anchor Hocking Corporation, Broad and Main Streets, Lancaster, Ohio 43130. SEND PROTESTS TO: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 220 Federal Building & U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 124078 (Sub-No. 592 TA), filed April 24, 1974. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Limedale, Ind., to Philadelphia, Pa., for 180 days. SUPPORTING SHIPPER: Lone Star Industries, Inc., 2511 East 46th Street, Indianapolis, Ind. 46205 (W. R. Payne, Jr., Regional Vice President). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124221 (Sub-No. 44 TA), filed April 23, 1974. Applicant: HOWARD BAER, P.O. Box 27, Route 98W, Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable fat, frozen desserts, water ices, and dairy products* (except in bulk, in tank vehicles), from the plant and warehouse facilities of Merritt Foods Company, Kansas City, Mo., to points in the United States in and east of the states of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, restricted to a continuing contract or contracts with Howard Baer, for 180 days. SUPPORTING SHIPPER: Merritt Foods Company, 2840 Guinotte, Kansas City, Mo. 64120. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 126196 (Sub-No. 9 TA), filed April 24, 1974. Applicant: LUVERNE S. CHRISTENSEN, doing business as CHRISTENSEN TRUCK LINE, 206 West 11th Street, Redwood Falls, Minn. 56283. Applicant's representative: Charles E. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and agricultural equipment and attachments, parts, and accessories* for agricultural machinery and agricultural equipment from the plantsites, storage facilities, and experimental farms of: (1) Deere and Company located in Rock Island County, Ill. and Polk, Wapello, Dubuque, and Blackhawk Counties, Iowa; and (b) International Harvester Company located in Rock Island and Fulton Counties, Ill., to points in Yellow Medicine, Renville, Lyon, Redwood, Kandiyohi, McLeod, Swift, Lac Qui Parle, Watonwan, Brown, Nobles, Murray, Sibley, Lincoln, and Chippewa Counties, Minn., for 180 days. SUPPORTING SHIPPERS: There are approximately 18 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 128030 (Sub-No. 65 TA), filed April 22, 1974. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, R.R. #1, Urbana, Ill. 61801. Applicant's representative: R. C. Stout (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crates, towers, water cooling air conditioners* with or without blowers or fans and *parts thereof*, from Paxton, Ill., to points in Florida, New York, Maryland, Ohio, New Jersey, Pennsylvania, and the District of Columbia; and between plantsite of Baltimore Aircoil at Paxton, Ill., and plantsite of Baltimore Aircoil in Baltimore, Md., for 180 days. SUPPORTING SHIPPER: Mr. George E. Klein,

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Traffic Manager, Baltimore Aircoil Company, Inc., R.R. #2, Box 7, Paxton, Ill. 60957. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 128279 (Sub-No. 23 TA), filed April 23, 1974. Applicant: ARROW FREIGHTWAYS, INC., P.O. Box 25125, 150 Woodward Road SE., Albuquerque, N. Mex. 87125. Applicant's representative: Edwin E. Piper, Jr., 1115 Simms Building, Albiquerque, N. Mex. 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, requiring special unloading equipment, from Denver and Pueblo, Colo., to points in New Mexico, for 180 days. SUPPORTING SHIPPER: The Summit Pressed Brick and Tile Company, P.O. Box 533, Pueblo, Colo. 81002. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 135082 (Sub-No. 7 TA), filed April 23, 1974. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., 415 Rankin Road NE., Albuquerque, N. Mex. 87107. Applicant's representative: Edwin E. Piper, Jr., 1115 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, requiring special unloading equipment, from Denver, Colo., Pueblo and Trinidad, Colo., to points in New Mexico, for 180 days. SUPPORTING SHIPPER: The Summit Pressed Brick and Title Company, P.O. Box 533, Pueblo, Colo. 81002. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N.Mex. 87101.

No. MC 138036 (Sub-No. 5 TA), filed April 25, 1974. Applicant: J & S, INC., 127 Larchfield Drive, McKeesport, Pa. 15135. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail drug and variety stores, and *equipment, materials, and supplies* used in the conduct of such business (excluding commodities in bulk), between the facilities of Thrift Drug Division of J. C. Penney Company, Inc., in Falls Township (Bucks County), Pa., on the one hand, and, on the other, points in Georgia, Kentucky, North Carolina, South Carolina, and Tennessee, under a continuing contract or contracts with Thrift Drug Division of J. C. Penney Co., Inc., of New York, N.Y., for 180 days. SUPPORTING SHIPPER: Thrift Drug Division of J. C. Penney Company, Inc., 615 Alpha Drive, Pittsburgh, Pa. 15238. SEND PROTESTS TO: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 138328 (Sub-No. 12 TA), filed April 22, 1974. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32nd Avenue, P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: D. L. Ehrlich (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and dry feed ingredients* (except in tank vehicles), from Buhl, Idaho, to points in Arizona, Idaho, Iowa, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wisconsin, for 160 days. SUPPORTING SHIPPER: Rangen, Inc., Thorleif Rangen, Secretary-Treasurer, P.O. Box 706, Buhl, Idaho 83316. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Suite 620, Union Pacific Plaza, 110 North 14 St., Omaha, Nebr. 68102.

No. MC 139730 TA, filed April 23, 1974. Applicant: WOOD TRUCKING, INC., P.O. Box 4065, Macon, Ga. 31208. Applicant's representative: William Addams, 5299 Roswell Road NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone*, in bulk, in dump trucks, from points in Jones County, Ga., to points in Florida in and north of Volusia, Lake, Sumter, and Citrus Counties, for 180 days. SUPPORTING SHIPPER: Hitchock Corporation, P.O. Box 2206, Macon, Ga. 31208. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 W. Peachtree St. NW., Room 309, Atlanta, Ga. 30309.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10735 Filed 5-8-74;8:45 am]

[Ex Parte No. 305]

NATIONWIDE INCREASE OF TEN PERCENT IN FREIGHT RATES AND CHARGES, 1974

Authority To File

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 3d day of May 1974.

It appearing, that, as set forth in some detail in the order herein denying the request for short notice, entered on April 29, 1974, most of the nation's railroads[1] and certain connecting water and motor carriers seek authority to publish a nationwide general increase of 10 percent in freight rates and charges, subject to unidentified exceptions, and subject to a refund rule;

It further appearing, that in the report in Ex Parte No. 295, Increased Freight Rates and Charges, 1973, Nationwide, 344 I.C.C. 589, it was required that in future proposals for general increases by the railroads a showing should be made regarding (1) efforts to update tariffs and (2) efforts to improve service, that while no reference is made to (1) in the petition and accompanying statements, the carriers have been complying with the requirement in the report in Ex Parte No. 295 by filing periodic reports of the progress in tariff updating, and that a showing has been made with respect to the other matter.

It further appearing, that the data accompanying petition shows that the proposed increase would produce additional revenues of $1.5 billion ($505 million in the East, $272 million in the South, and $723 million in the West); and that it would improve the railroads' rate of return from 3.08 to 5.27 percent nationally (from 0.56 to 2.99 in the East, from 5.40 to 7.48 in the South, and from 4.21 to 6.26 in the West);

It further appearing, that, referring to the Commission's reference, in the report in Ex Parte Nos. 265 and 267, Increased Freight Rates 1970 and 1971, 339 I.C.C. 125, 181–182, to a rate of return of 6 percent on net investment and the statement that such a return represents what "the respondents must make every effort to attain if they are to be in a position to provide the improved services which will be needed in the future," the petitioners urge that the proposed 10 percent increases, resulting in a national rate of return of 5.27 percent, would be consistent with that position;

It further appearing, that the petitioners contend that they are in urgent need of additional revenue for necessary maintenance and capital investment to prevent deterioration of the properties used to perform the service and to expand service to meet the demand; that since the filing of the proposed increase in pending Ex Parte No. 303, Increased Freight Rates and Charges, 1974, Nationwide, the price of materials alone has increased by $475 million and other operating expenses by $175 million, and that taxes will increase by $282 million; and that the remaining $568 million to be realized from the proposed increase presumably would be used to improve "the ability of the railroad system to meet the transportation requirement of the country;"

If further appearing, that is consideration of the evidence submitted to show that additional revenue is required to offset inflated prices of materials, to improve maintenance, and to increase net railway operating income to a level indicated by the Commission to be required in the report in Ex Parte Nos. 265 and 267, and especially in view of the need of certain railroads to improve their cash flow within the reasonably near future to continue operations, the railroads should be authorized to file the proposed increase to become effective on not less than 30 days' notice, subject to protests and suspension;

[1] The Long Island Rail Road did not join in the petition.

It further appearing, that as previously indicated, the carriers seek a 10 percent increase in their rates and charges, subject, however, to certain exceptions which they have not identified; that since the filing of the petition, official notice is taken of a news item suggesting that some carriers, in certain instances, do not intend to increase their rates and charges on certain commodities at all, and, some carriers, in other instances, intend to apply an increase of less than 10 percent to certain commodities; and, that in order for the general public to have an overall view of the proposal, the carriers should, upon the filing of the tariffs or schedules implementing the authority herein granted, set forth a complete list of exceptions, if any, to the general proposal, including holddowns, flagouts, and provisions for no increases, and, the special permission order so provides; therefore,

It is ordered, That a proceeding be, and it is hereby, instituted into the revenue needs of the railroads of the United States, and that all common carriers by railroad subject to the Interstate Commerce Act be, and they are hereby made respondents hereto.

It is further ordered, That in publishing the proposed increase in accordance with the special permission authority hereinafter granted, subject to protest and suspension, the schedules shall be published to become effective on June 5, 1974, upon not less than 30 days' notice, and shall include the refund provision prescribed in said permission.

It is further ordered, That protests and verified statements in opposition shall be filed to reach the Commission on or before May 24, 1974 (12 days prior to the published effective date of the proposed schedules), and replies thereto will be due 5 days thereafter, or on May 29, 1974; that the verified statements will be considered as protests and will be made a part of the formal record, along with those filed by the respondents in support of the proposal. All protests, by wire and otherwise, received previously will be considered as such. For the Commission's use, the original and 24 copies of all documents to be filed in accordance with this order should be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, Room 5342, but a lesser number of copies may be filed upon a showing of good cause. One copy of each document shall be served (except that where parties are able to do so, 25 copies should be served) upon the representative of the petitioning railroads, Mr. Thormund A. Miller, American Railroads Building, Room 527, 1920 L Street NW., Washington, D.C. 20036.

It is further ordered, That any person or persons believing that the tariff proposal filed hereunder will have a significant effect upon the quality of the human environments are hereby invited to comment upon this matter in any statements that may be filed.

It is further ordered, That the request for fourth-section relief will be considered following the filing of protests and statements in opposition and of replies thereto.

And it is further ordered, That in all other respects the petition be, and it is hereby, denied.

[Special Permission No. 74-3440]

It is ordered, For good cause shown:

1. All petitioning railroads, and water and motor carriers to the extent they have joint rates with said railroads, and their tariff-publishing agents, be, and they are hereby, authorized to depart from the Commission's tariff-publishing rules to publish and file tariffs, to become effective on June 5, 1974, upon not less than 30 days' notice to the Commission and to the public, providing for increased rates and charges as set forth in the petition.

(a) By publication and filing of a master tariff of increased rates and charges, and supplements thereto, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

> In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with 4 percent interest.
>
> In the event an increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increases collected with 4 percent interest.

The master tariff shall bear an expiration date not beyond one year after the effective date, which may not be canceled or extended except upon specific authorization of this Commission, and all relief herein expires with that date. The master tariff must initially contain all provisions for application of the increases (including provisions for no increases, if any) following which (unless suspended) any provisions other than those of a general character may be canceled and transferred to the particular tariffs affected upon a common effective date with appropriate notation to that effect in the master tariff amendment.

The master tariff shall contain provisions stating that the fuel surcharge increases authorized by the Commission, as set forth in a separate table in the master tariff, shall be applied to subjected rates and charges prior to the application of the increases authorized to be filed in Ex Parte No. 305.

(b) By publication and filing of a connecting link supplement to each tariff (to be made subject to the master tariff), connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs), provided each copy officially filed is hand marked in the appropriate places as to the supplement number and the I.C.C. number of the tariff it supplements.

(c) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publications are identified in the tariffs and made subject to the refund clause worded substantially as in paragraph 1(a) herein.

(d) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff.

(e) By publication and filing of a supplement to Tariff of Surcharges Account Increases in Fuel Costs X-301-C, Traffic Executive Association-Eastern Railroads, I.C.C. No. C-1027, and other agents, providing for the cancellation thereof concurrent with the effective date of the master tariff authorized in paragraph 1(a) herein.

2. (a) The master tariff and supplements thereto, and all other tariffs and amendments to tariffs, that employ the short-form methods authorized herein shall bear the notation:

> Form of publication authorized I.C.C. permission No. 74-3440

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear the notation:

> Publication made in accordance with I.C.C. permission No. 74-3440.

3. Connecting-link supplements authorized herein shall be exempt from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. Outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed are subject to protest and possible suspension or rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See for example Increased Freight Rates and Charges, 1972, 341, I.C.C. 288, 336, and Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, 188. Rate increase tables on grain shall progress in one-half cent increments.

It is further ordered, That notice of this order be given by serving a copy thereof on each party to the proceeding in Ex Parte No. 303, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10739 Filed 5-8-74;8:45 am]

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[Notice No. 36]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

MAY 3, 1974.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by § 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 2052 (Sub-No. 8), filed April 3, 1974. Applicant: BLAIR TRANSFER, INC., 203 South 9th Street, Blair, Nebr. 68008. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Farm feed wagons, manure spreaders, elevators, platform feeders, grader blade attachments, plow harrows*, from Blair, Nebr., to points in North Dakota, South Dakota, Minnesota, Iowa, Missouri, Kansas, Ohio, Illinois, and Michigan; and (2) *returned shipments and materials, supplies, and equipment* utilized in the manufacturing, sale, and distribution of the commodities specified in (1) above in the reverse direction, restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 2359 (Sub-No. 22), filed March 22, 1974. Applicant: DAMEO, INC., 568 Central Avenue, Somerville, N.J. 08876. Applicant's representative: Morton E. Kiel, Suite 693, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except in bulk), from the plantsite of Johns-Manville Perlite Corporation, located at or near Woodstock, Va., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, under contract with Johns-Manville Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 2900 (Sub-No. 257), filed April 1, 1974. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving the Clinton Industrial Park, located at or near Clinton, Miss., as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss., or Washington, D.C.

No. MC 5227 (Sub-No. 13), filed March 27, 1974. Applicant: ECONOMY MOVERS, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, 521 South 14th St., Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings, knocked down, and in sections;* (2) *building sections and panels;* and (3) *metal prefabricated structural components;* (a) from the plantsite and warehouse facilities of American Buildings Company, at Atlantic, Iowa, to points in Arizona, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Wisconsin, and Wyoming; (b) between the plantsite and warehouse facilities of American Buildings Company, at Atlantic, Iowa, on the one hand, and, on the other, the plantsite and warehouse facilities of American Buildings Company, at Jamestown, Ohio, restricted to traffic originating at the named origin points and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lincoln or Omaha,, Nebr.

No. MC 5479 (Sub-No. 84), filed March 29, 1974. Applicant: TAJON, INC., R.D. 5, Mercer, Pa. 16137. Applicant's representative: Donald E. Cross, 918 Sixteenth Street NW., Suite 700, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Schuylkill County, Pa., to Tonawanda, N.Y., and Detroit, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 5888 (Sub-No. 36), filed April 5, 1974. Applicant: MID-AMERICAN LINES, INC., 127 West 10th Street, 11th Floor, Kansas City, Mo. 64105. Applicant's representative: Louis A. Hoger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of the Western Electric Company, Inc., located west of Goddard, Kans., as an off-route point in connection with carrier's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, or Washington, D.C.

No. MC 18088 (Sub-No. 56), filed March 27, 1974. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Industrial Parkway, Sycamore, Ala. 35149. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Birmingham and Sycamore, Ala., on the one hand, and, on the other, points in Georgia, South Carolina, and Tennessee, restricted to the transportation of traffic received from or delivered to connecting carriers at Birmingham and Sycamore, Ala., and points in their respective Commercial Zones.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 28060 (Sub-No. 25), filed March 19, 1974. Applicant: WILLERS, INC., doing business as WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, S. Dak. 57103. Applicant's representative: Bruce E. Mitchell, Suite 1600, First Federal Building, 40 Marietta St., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as defined by the Commission in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Fergus Falls, Minn., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, restricted to traffic originating at the plantsite and facilities of John Morrell & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 29886 (Sub-No. 308), filed April 5, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627 Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors, and* (2) *tractors attachments or parts* when moving in mixed shipments with (1) above, from the plantsite and storage facilities of Allis-Chalmers Corporation, located in Milwaukee County, Wis., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 40978 (Sub-No. 21), filed March 18, 1974. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a Corporation, 3321 Highway 141 South, Sheboygan, Wis. 53081. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New institutional household and office furniture, fixtures, and equipment*, from points in Ohio and Monroe, Mich., to points in Illinois, Wisconsin, and Minnesota.

NOTE.—Applicant intends to tack Sub 17 with the requested authority at the town of Sheboygan Falls, Wis., to serve points in the upper peninsula of Michigan. If a hearing is deemed necessary, applicant requests it be held at Cleveland or Columbus, Ohio.

No. MC 43475 (Sub-No. 60), filed April 1, 1974. Applicant: GLENDENNING MOTORWAYS, INC., 1665 West County Road C, St. Paul, Minn. 55113. Applicant's representative: James L. Nelson, 325 Cedar Street, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Lake Nebagamon, Wis., as an off-route point in connection with carrier's regular route operations, over U.S. Highway 2 between Duluth, Mich., and Hurley, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Duluth, Minn.

No. MC 45764 (Sub-No. 20), filed March 26, 1974. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., Industrial Highway and Saville Ave., Eddystone, Pa. 19103. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical generating equipment*, the transportation of which, because of size and weight, require the use of special equipment or special handling and *materials and supplies* used in the installation thereof, between El Segundo, Calif., East Hartford, Hartford, and Windsor, Conn., Edgemoor and Wilmington, Del., Intercession, Palm Beach, and West Palm Beach, Fla., Louisville, Ky., Baltimore, Md., Ashland, Mass., Minneapolis and St. Cloud, Minn., Tenafly, N.J., Holbrook (Long Island), and New York, N.Y., Portland, and Salem, Oreg., Berwick, Philadelphia, and Pittsburgh, Pa., Brownsville, Houston, and Laredo, Tex., and Beloit and Nellsville, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the plant sites or other facilities of Turbo Power & Marine Systems, Inc., its affiliates, and subcontractors.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hartford, Conn., Washington, D.C., or Philadelphia, Pa.

No. MC 50897 (Sub-No. 4), filed March 28, 1974. Applicant: JEFFERSON TERMINAL AND WAREHOUSING, INC., 1100 Jefferson Street, Hoboken, N.J. 07030. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fabrics, textiles, unfinished piece goods and yarn*, between Hoboken, N.J.; Newburgh, N.Y.; Philadelphia, Pa., and points in Nassau and Suffolk Counties, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 52460 (Sub-No. 140), filed April 1, 1974. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, in containers and related advertising material and empty containers* returned, (1) from Fort Worth, Tex., to Joplin and Lamar, Mo., Memphis, Tenn., Blytheville, Newport, Paragould, and Helena, Ark., and points in Louisiana and Mississippi; and (2) from Memphis, Tenn., to points in Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 52657 (Sub-No. 714), filed April 1, 1974. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those

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designed to be drawn by passenger automobiles), in initial truckaway and driveaway service, *trailer converter dollies, containers and bodies*, from Fort Worth and Longview, Tex., Memphis, Tenn., Omaha, Nebr., and Minden, La., to points in the United States (excluding Alaska and Hawaii); and (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary truckaway and driveaway service, *trailer converter dollies, containers, and bodies*, between points in the United States (excluding Alaska and Hawaii), on the one hand, and, on the other, Fort Worth and Longview, Tex., Memphis, Tenn., Omaha, Nebr., and Minden, La.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 52657 (Sub-No. 715), filed April 1, 1974. Applicant: AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: S. J. Zangri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles) *and trailer converter dollies*, in secondary movements in truckaway service, between points in the United States (excluding Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 52709 (Sub-No. 324), (CLARIFICATION), filed February 11, 1974, published in the FR issue of April 11, 1974, and republished as clarified this issue. Applicant: RINGSBY TRUCK LINES, INC., 5773 South Prince St., P.O. Box 192, Littleton, Colo. 80120. Applicant's representative: Kenneth A. Willhite (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Greeley, Colo., and Denver, Colo., to points in Connecticut, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. The purpose of this republication is to clarify the commodity exemption, as stated herein. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Salt Lake City, Utah.

No. MC 53965 (Sub-No. 91), filed March 25, 1974. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Drawer 838, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Omaha, Nebr., to points in Missouri and points in the St. Louis, Missouri-East St. Louis, Illinois Commercial Zone, restricted to traffic originating at Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 59728 (Sub-No. 26), filed March 22, 1974. Applicant: MORRISON MOTOR FREIGHT, INC., 1100 East Jenkins Blvd., Akron, Ohio 44306. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from Dayton and Cincinnati, Ohio, to LaPlace, Ill., points in that part of Illinois bounded by a line beginning at the Mississippi River and extending along U.S. Highway 36 to LaPlace, Ill., thence along Illinois Highway 32 to Effingham, Ill., thence along U.S. Highway 45 to Brookport, Ill., thence along the Ohio River to the Mississippi River, and thence along the Mississippi River to the point of beginning including points on the indicated portons of the highways specified, and those in Kansas and Missouri.

NOTE.—Common control may be involved. Applicant intends to tack the requested authority with the existing authority: (1) at Cincinnati, Ohio, to provide a through service from Portland, Ohio, and from Washington Court House, Ohio; and (2) at Dayton, Ohio, to provide a through service from Chillicothe, Ohio, and from Washington Court House, Ohio, to those destination points named above. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 60987 (Sub-No. 21), filed April 1, 1974. Applicant: ARKIN TRUCK LINES, INC., 1600 S. Indiana Ave., Chicago, Ill. 60616. Applicant's representative: G. S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and materials, supplies, and equipment*, used in the maintenance and operation of printing plants (except commodities in bulk, in tank vehicles), between the plantsite of R. R. Donnelley and Sons Co., Inc., located at or near Willard, Ohio, on the one hand, and, on the other, points in Indiana, under contract with R. R. Donnelley and Sons Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Illinois.

No. MC 64932 (Sub-No. 529), filed March 27, 1974. Applicant: ROGERS CARTAGE COMPANY, a Corporation, 10735 S. Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Jacksonville, Ark., to points in Colorado, Iowa, North Carolina, and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 82079 (Sub-No. 38), filed April 4, 1974. Applicant: KELLER TRANSFER LINE, INC., 1239 Randolph Avenue SW., Grand Rapids, Mich. 49507. Applicant's representative: J. M. Neath, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and foodstuffs*, in mechanically refrigerated equipment, from Detroit, Mich., to points in Michigan, and *return of damaged and rejected merchandise*.

NOTE.—Common control was approved in MC-F-9433. If a hearing is deemed necessary, the applicant requests it be held at Lansing, Mich., or Chicago, Ill.

No. MC 85255 (Sub-No. 48), filed March 15, 1974. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, 3720 Airport Way S., Seattle, Wash. 98124. Applicant's representative: Clyde H. MacIver, 1001 Fourth Avenue, Suite 3712, Seattle, Wash. 98154. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials*, for the production of aluminum including chemicals in bags, aluminum fluoride and cryolite, insulating brick, and refractory materials, including carbon lining and carbon cathode blocks, from Tacoma, Seattle, Bellingham, Wash., and ports of entry on the International Boundary between the United States and Canada, located at or near Blaine, Wash., to the Intalco Plant, located at or near Ferndale, Wash.; and (2) *Primary aluminum basic shapes*, i.e., ingot, billets, blooms, pig, or slabs, weighing from 1,500 to 22,000 pounds each, from the Intalco plant, located at or near Ferndale, Wash., to Tacoma, Seattle, Bellingham and Blaine, Wash.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 94635 (Sub-No. 3), filed March 27, 1974. Applicant: INTERSTATE SAND AND GRAVEL TRANSPORTATION, INC., 717 Elmer Street, Vineland, N.J. 08360. Applicant's representative: Jacob P. Billig, 1126 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crushed stone and slag*, from points in Bucks, Burks, Leigh, Lebanon, Lancaster, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Delaware, to points in Burlington, Camden, Gloucester, Salem, Cumberland, Cape May, and Atlantic Counties, N.J.; and (2) *Sand, gravel, stone, and clay*, from points in Burlington, Camden, Gloucester, Salem, Cumberland, Cape May, and Atlantic Counties, N.J., to points in Delaware; (1) and (2) above, under a continuing contract or contracts, with Mayslanding Sand and Gravel Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 95876 (Sub-No. 150), filed March 27, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials, and supplies* used in the quarrying, manufacturing, and installation of granite, marble, slate, and stone (except commodities in bulk), (1) between points in California, on the one hand, and, on the other, points in Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, Washington, West Virginia, Wisconson, Wyoming, and the District of Columbia; (2) between points in Burnet, Gillespie, and Llano Counties, Tex., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia; (3) between points in Greer, Johnston, Kiowa, and Tillman Counties, Okla., on the one hand, and, on the other, points in Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia; and (4) between points in Georgia, on the one hand, and, on the other, points in Idaho, Iowa, Minnesota, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, Wisconsin, Wyoming, Upper Peninsula of Michigan, and Chicago, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 95876 (Sub-No. 151), filed April 5, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Detroit and Southfield, Mich., to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 100449 (Sub-No. 48), filed March 28, 1974. Applicant: MALLINGER TRUCK LINE, INC., R.F.D. 4, Fort Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from the plantsite and storage facilities utilized by John Morrell and Co., at Fergus Falls, Minn., to points in Illinois, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, restricted to traffic originating at the named plantsite and storage facilities.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 102616 (Sub-No. 898), filed March 7, 1974. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Akron, Ohio 44319. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from Heath, Ohio, and points within 10 miles thereof to points in Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

No. MC 103191 (Sub-No. 42), filed April 2, 1974. Applicant: THE GEO. A. RHEMAN CO., INC., 2019 Elgin Street, P.O. Box 2095, Station A, Charleston, S.C. 29403. Applicant's representative: Harris G. Andrews, P.O. Box 4255, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, between New Orleans, La., on the one hand, and, on the other, Cincinnati, Ohio, and points in Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 106398 (Sub-No. 703), filed April 1, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial shipments, from points in Franklin Parish, La., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La.

No. MC 106644 (Sub-No. 178), filed April 4, 1974. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Atlanta, Ga. 30318. Applicant's representative: W. Randall Tye, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agriculture and forest implements, plows, and planters*, and (2) *parts for* the items in (1) above, from Mableton, Ga., to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 106674 (Sub-No. 130), filed April 1, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rough Lumber*, from points in Kentucky, to Middle Point, Ohio; and (2), *Pallets*, from Middle Point, Ohio, to points in Illinois, Indiana, Michigan, Wisconsin, and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 106674 (Sub-No. 131), filed April 4, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and materials, and supplies and accessorics* used in the installation thereof, from the plantsites of Johns-Manville Corporation, located at or near Jackson, Tenn., and Wilton, Iowa, to points in Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 708), filed April 4, 1974. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lavatories, sinks, faucets, and materials, supplies, and equipment* used in the manufacturing,

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distributing, and installation of such commodities (other than commodities in bulk), between the plantsites and warehousing facilities of Unarco Industries, Inc., at Paris, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 709), filed April 4, 1974. Applicant: PRE FAB-TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reinforcing steel*, from Bowie, Md., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107934 (Sub-No. 25), filed April 2, 1974. Applicant: BYRD MOTOR LINE, INC., P.O. Box 828, Lexington, N.C. 27292. Applicant's representative: John R. Sims, Jr., Suite 600, 1707 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the plant site of Dixie Furniture Co., Inc., located at or near Linwood, N.C., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C.

No. MC 108676 (Sub-No. 64), filed April 1, 1974. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, Tenn. 37917. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sewage disposal units and equipment, water treatment units and equipment, tertiary filters, and flow splitter boxes;* (2) *accessories and parts* for the commodities named in (1) above, and; (3) *component parts* used in conjunction with ecological and environmental control systems, from Jacksonville, Fla., and Baltimore, Md., to points in the United States in and east of Wisconsin, Iowa, Missouri, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Jacksonville, Fla.

No. MC 109095 (Sub-No. 21), filed March 25, 1974. Applicant: ANDERSON MOTOR SERVICE, INC., 1516 E. 14th Street, St. Louis, Mo. 63106. Applicant's representative: G. M. Rebman, 314 North Broadway, Suite 1230, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Paper and paper products, paper tubes, paper board, composite cans, tin plate, and steel can ends and adhesives*, serving the plantsite and shipping facilities of Universal Packaging Corporation, located in High Ridge (Jefferson County), Mo., approximately one mile south of Interstate Highway 44 on Antire Road, approximately ½ mile south of the St. Louis County, Missouri, State line, as an off-route point in connection with its authorized regular route operations between St. Louis, Mo., and Indianapolis, Ind. over U.S. Highway 40.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 109431 (Sub-No. 15), filed March 28, 1974. Applicant: FRANK C. KLEIN & CO., INC., 3600 E. 46th Avenue, Denver, Colo. 80216. Applicant's representative: John H. Lewis, The 1650 Grant St. Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anti-stripping asphalt additive*, in bulk, in tank vehicles, from Rocky Mountain Arsenal, Denver, Colo., to points in Minnesota, Wisconsin, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Colorado, Idaho, Arizona, Nevada, Washington, Oregon, and California.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 109533 (Sub-No. 57), filed March 28, 1974. Applicant: OVERNITE TRANSPORTATION COMPANY, a Corporation, 1100 Commerce Road, Richmond, Va. 23224. Applicant's representative: Eugene T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Lexington, Ky., and Corinth, Ky.: From Lexington over U.S. Highway 25 to Corinth, and return over the same route, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lexington or Frankfort, Ky.

No. MC 109689 (Sub-No. 264) (CLARIFICATION), filed February 22, 1974, published in FR issue of April 11, 1974, and republished as clarified this issue. Applicant: W. S. HATCH CO., a Corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, (1) from Salt Lake City and points within 10 miles thereof, to points in Arizona, Idaho, Wyoming, and Nevada; and (2) from points in Wyoming to Salt Lake City, Utah and points within 10 miles thereof.

NOTE.—The purpose of this republication is to clarify the tacking as stated herein. Applicant states that the requested authority can be tacked with its existing authority on petroleum and petroleum products as follows: in Sub-No. 238 at Fredonia, Ariz., to serve points in New Mexico and Colorado; in lead certificate, at Salt Lake City, Utah, to provide a through service from points in Wyoming to points in Lincoln, White Pine, Elko, Eureka, Nye, Lander, Pershing and Humbolt Counties, Nev.; in Sub-No. 52 at Salt Lake City, Utah to provide a through service from points in Wyoming to points in Utah; in Sub-No. 3 at Salt Lake City, Utah, from points in Wyoming to specified points in Nevada; on petrochemicals, in Sub-No. 26 at Salt Lake City, Utah, to provide a through service from points in Wyoming to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, and Utah; and on road oil and asphalt, in Sub-No. 25 at Salt Lake City, Utah to provide a through service from points in Wyoming to points in Idaho south of the southern border of Idaho County, Idaho. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 110325 (Sub-No. 59), filed March 25, 1974. Applicant: TRANSCON LINES, A Corporation, P.O. Box 92220, Los Angeles, Calif. 90009. Applicant's representative: Jerome Biniasz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of P.P.G. Industries, Inc., located near Wichita Falls, Tex., as an off-route point in connection with carrier's regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 111729 (Sub-No. 427), filed March 25, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media, and advertising material* of all kinds, (a) Between Shippensburg, Pa., and Martinsburg, W. Va.; (b) Between New Ulm, Minn., on the one hand, and, on the other, Plainview, Nebr., Freeman and Parkston, S. Dak., Alma, Blair, Boyceville and Turtle Lake, Wis., and points in Iowa; (c) Between St. Cloud, Minn., on the one hand, and, on the other, Eau Claire, Wis., and Mason City, Iowa; and (d) Between Minneapolis, Minn. and points in Illinois; (2) *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, exposed and processed microfilm and prints, and advertising materials* moving therewith (excluding motion picture film used primarily for commercial theatre and television exhibition), Between

Minneapolis, Minn., and points in Illinois; (3) *External and internal cardiac pacemakers, leads, cables, magnets, pacemaker-generator batteries, carotid sinus nerve stimulators, drop foot stimulators, cardiac fibrillators, service kits, business papers, records, audit and accounting media and advertising materials* of all kinds pertaining thereto, Between Atlanta, Ga., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee restricted to traffic having an immediately prior or subsequent movement by air or motor vehicle; and (4) *Blood, blood specimens, tissue specimens, biopsy specimens, biological cultures and specimens, urine specimens, and test tubes and containers* therefor, *business papers and records* related thereto, From points in Illinois on and south of U.S. Highway 136, to Clayton, Mo.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Minneapolis, Minn.

No. MC 111729 (Sub-No. 430), filed April 4, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: Russell S. Bernhard, Esq., 1625 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit and accounting media of all kinds, and advertising material of all kinds, related thereto*, (1) between Chicago, Ill. and points in Missouri (except St. Louis County, Missouri), (2) between Oak Brook, Ill., and Lansing, Mich., and (3) between Richmond, Va., and Greenville, S.C.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112801 (Sub-No. 154), filed March 28, 1974. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aqua ammonia, with additives*, in bulk, in tank vehicles, from Union, Ill., to points in Minnesota, Wisconsin, Ohio, Illinois, Indiana, and Michigan; and (2) *Aqua ammonia, spent*, in bulk, in tank vehicles, from points in Minnesota, Wisconsin, Ohio, Illinois, Indiana, and Michigan, to Union, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113751 (Sub-No. 17), filed April 5, 1974. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, Wis. 54981. Applicant's representative: Edward Solie, Executive Building—Suite 100, 4513 Vernon Blvd., Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from the plantsite and storage facilities of the American Potato Company in Portage County, Wis., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 113828 (Sub-No. 214), filed March 29, 1974. Applicant: O'BOYLE TANK LINES, INCORPORATED, P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from points in Lugoff, S.C., to points in North Carolina, South Carolina, Alabama, Georgia, Florida, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113828 (Sub-No. 215), filed March 25, 1974. Applicant: O'BOYLE TANK LINES, INCORPORATED, P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, from Chesapeake, Va., to points in the United States on and east of U.S. Highway 85.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113828 (Sub-No. 216), filed April 2, 1974. Applicant: O'BOYLE TANK LINES, INCORPORATED, P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen Solutions*, in bulk, in tank vehicles from the storage facilities of Skyline Terminals, Inc., at Baltimore, Md., to points in Delaware and Virginia. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113908 (Sub-No. 311), filed March 25, 1974. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* used in the manufacture of products by food, drug, and agricultural industries, in bulk, from Springfield and Verona, Mo., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies*, used in the manufacture of (1) above, from points in the United States (except Alaska and Hawaii) to Springfield and Verona, Mo.; (1) and (2) above, restricted to traffic originating at the points of origins and destined to the destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 114194 (Sub-No. 173), filed April 3, 1974. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks, II, 1301–02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn and products of soybeans and blends* thereof, in bulk, in tank vehicles, from the plantsites and warehouse facilities of Archer Daniels Midland Company at or near Decatur, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 114211 (Sub-No. 227), filed March 29, 1974. Applicant: WARREN TRANSPORT, INC., 324 Manhard, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Patrick Smyth, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, from the facilities of Bird & Son, Inc., Shreveport, La., to points in Illinois, Indiana, Iowa, Kansas, Missouri, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Little Rock Ark., Dallas, Tex., or Chicago, Ill.

No. MC 114211 (Sub-No. 228), filed March 29, 1974. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, plywood, and particle board*, from Silsbee, Tex., to points in Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Minnesota, Iowa, Missouri, Illinois, Indiana, and Wisconsin; and (2) *Plywood*, from Bon Wier, Tex., to points in Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Minnesota, Iowa, Missouri, Illinois, Indiana, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex.

No. MC 114273 (Sub-No. 171), filed March 27, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Knochar, Suite 315 Commerce Exchange Building, 2720 First Avenue, NE., P.O. Box 1943, Cedar Rapids, Iowa 52406.

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Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Yorkville, Warren, Martins Ferry, Mingo Junction, and Steubenville, Ohio, Benwood, Beechbottom and Wheeling, W. Va., and Allenport and Monessen, Pa., to points in Iowa, Nebraska, Minnesota and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 173), filed April 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Wrought iron pipe*, from plantsite of Jones & Laughlin Steel, Specialty Tube Division, Oil City, Pa., to Rock Island, Ill., and points in Iowa and Nebraska.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 174), filed April 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Sharon, Pa., to Cedar Rapids, Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 178), filed April 8, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Bldg., 2720 First Ave. NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Aliquippa and Pittsburgh, Pa., to points in Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 180), filed April 5, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric motors*, from Cambridge, Ohio, to St. Paul, Minn., and Racine, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114284 (Sub-No. 59), filed March 29, 1974. Applicant: FOX-SMYTHE TRANSPORTATION COMPANY, a Corporation, P.O. Box 82307, Stockyards Station, Oklahoma City, Okla. 73108. Applicant's representative: John E. Jandera, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson & Co., Inc. at Cherokee, Iowa, to points in Texas, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No MC 114533 (Sub-No. 297), filed March 27, 1974. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Warren W. Wallin, 330 S. Jefferson St., Chicago, Ill. 60606. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Detroit, Mich., on the one hand and, on the other, points in Illinois and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 128616 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 114725 (Sub-No. 61), filed March 25, 1974. Applicant: WYNNE TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from the terminal located on the Ammonia Pipeline of Mapco, Inc. located at or near Clay Center, Kans., to points in Nebraska, Iowa, and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 114725 (Sub-No. 62), filed March 29, 1974. Applicant: WYNNE TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral seal oil*, from West Branch, Mich., to Sycamore, Ill., Council Bluffs, Iowa, Omaha, Nebr., and Tulsa, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 114897 (Sub-No. 111), filed April 4, 1974. Applicant: WHITFIELD TANK LINES, INC., 300–316 N. Clark, P.O. Drawer 9897, El Paso, Tex. 79989. Applicant's representative: J. P. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in Dallas and Tarrant Counties, Tex., to points in New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex.

No. MC 115311 (Sub-No. 165), filed March 28, 1974. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire hydrants, valves, cast iron pipe fittings, indicator post, floor stands, service and valve boxes, and attachments and accessories therefor*, (1) from Chattanooga, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and Virginia; and (2) from Albertville, Ala., to points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115496 (Sub-No. 21), filed March 27, 1974. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from the plantsite and warehouse facilities of International Paper Company, located in Georgetown County, S.C., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Mobile, Ala.

No. MC 115570 (Sub-No. 8), filed March 25, 1974. Applicant: WALTER A. JUNGE, INC., P.O. Box 91531, 3818 84th St. SW., Tacoma, Wash. 98491. Applicant's representative: George R. LaBissoniere, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper*, from West Tacoma, Wash., to points in Oregon, under contract or contracts with Boise Cascade Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 115814 (Sub-No. 11), filed April 1, 1974. Applicant: MARK TRUCKING, INC., Trella Street, P.O. Box 5701, Belleville, Pa. 17004. Applicant's representative: James W. Hagar, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), and *dairy products* in bulk, from points in Belleville, Pa., to points in West Virginia, under a continuing contract with Abbotts Dairies, Division of Fairmont Foods Corporation, Philadelphia, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115869 (Sub-No. 7), filed April 1, 1974. Applicant: DALBY TRANSFER AND STORAGE, INC., P.O. Box 7187, Colorado Springs, Colo. 80933. Applicant's representative: John P. Thompson and Susan E. Ayer, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except petroleum and petroleum products, in bulk, and Classes A and B explosives), between points in Colorado (except to, from or between points in Boulder County, Colo.); and (2) *household goods as defined by the Commission and articles* which because of size or weight require the use of special equipment (a) between points in Boulder County, Colo., and (b) between points in Boulder County, Colo., on the one hand, and, on the other, points in Colorado. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 116300 (Sub-No. 15), filed April 5, 1974. Applicant: NANCE AND COLLUMS, INC., Post Office Drawer J, Fernwood, Miss. 39635. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Building, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt, salt products and mineral mixtures, and* (2) *products* used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, when moving in mixed loads with salt, salt products, mineral mixtures, from points in Louisiana (except New Orleans, Gretna and Destrehan), to points in Louisiana, Texas, and Arkansas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La. or Jackson, Miss.

No. MC 116725 (Sub-No. 21), filed April 2, 1974. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, Pa. 19438. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from points in Ohio, Indiana, and Illinois, to the plantsite or sites of Keller's Creamery Co., in Harleysville, and Franconia Township (Montgomery County), Pa., south of Cowpath Road.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 116763 (Sub-No. 274), filed April 4, 1974. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from Dunkirk, N.Y., to points in Connecticut, Massachusetts, Rhode Island, Maine, Vermont, New Hampshire, New Jersey, Maryland, Virginia, those points in Pennsylvania on and east of U.S. Highway 200, the District of Columbia, and Bronx, Kings, Nassau, Queens, Richmond, Suffolk, and Westchester Counties, N.Y., restricted to traffic originating at Dunkirk, N.Y., and destined to the territory named.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 117391 (Sub-No. 10), filed March 27, 1974. Applicant: E. L. REDDISH TRANSPORTATION, INC., 1020 Schmieding Lane, P.O. Box 207, Springdale, Ark. 72764. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from Plymouth, Ind., and points in Allegan County, Mich., to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, under a continuing contract or contracts with Pilgrim Farms, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 117574 (Sub-No. 237), filed March 27, 1974. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: J. W. Hagar, 100 Pine St., P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from Cinnaminson, N.J.; Floreffe, Pa., and Erwin, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117644 (Sub-No. 36), filed March 29, 1974. Applicant: D & T TRUCKING CO., INC., P.O. Box 2611, New Brighton, Minn. 55112. Applicant's representative: William J. Boyd, 29 La-Salle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Macaroni, noodles, spaghetti, and vermicelli, and sauces therefor, and bread crumbs*, from Warminster, Pa., to points in Iowa, Nebraska, South Dakota, North Dakota, and California; and (2) *bread crumbs* from Warminster, Pa., to Chicago, Ill. and Milwaukee, Wis., under continuing contract with V. LaRosa and Sons, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Chicago, Ill.

No. MC 117644 (Sub-No. 38), filed April 1, 1974. Applicant: D & T TRUCKING CO., INC., P.O. Box 2611, New Brighton, Minn. 55112. Applicant's representative: William J. Boyd, 29 South LaSalle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Minnesota and Wisconsin, to points in Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Florida, under contract with Land O'Lakes, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 117940 (Sub-No. 122), filed April 1, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas* and (2) *Agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act when transported in mixed loads with bananas, from Charleston, S.C., to ports of entry on the International Boundary line between the United States and Canada, located in Minnesota and North Dakota.

NOTE.—Applicant holds contract carrier authority in MC 114789 Sub 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 118202 (Sub-No. 36), filed April 1, 1974. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 503, Winona, Minn. 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as defined by the Commission in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Fergus Falls, Minn., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the

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District of Columbia, restricted to traffic originating at the plantsite and facilities utilized by John Morrell and Company.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 118989 (Sub-No. 111), filed March 28, 1974. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, Wis. 53221. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products and pulpboard products, and paper mill supplies*, from the plantsites of Hoerner Waldorf Corporation located at Ontonagon, Mich.; Franklin, Ohio, and Channahon, Ill., to points in Illinois, Indiana, Minnesota, Wisconsin, Iowa, Missouri, Ohio, Michigan, North Dakota, and South Dakota; and (2) *scrap paper and paper mill supplies*, from points in Iowa, Illinois, Indiana, Minnesota, Wisconsin, Missouri, Ohio, Michigan, North Dakota, and South Dakota, to the plantsites of Hoerner Waldorf Corporation at Ontonagon, Mich.; Franklin, Ohio, and Channahon, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119099 (Sub-No. 14), filed April 4, 1974. Applicant: BJORKLUND TRUCKING, INC., 1st Avenue NE. and 8th Street, Buffalo, Minn. 55313. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from Minneapolis, and St. Paul, Minn., to points in North Dakota and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 119384 (Sub-No. 27), filed April 1, 1974. Applicant: MORTON TRUCK LINES, INC., 101 West Willis Avenue, Perry, Iowa 50220. Applicant's representative: Robert R. Rydell, 900 Savings and Loan Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses* and *such commodities* as are used by meat packers in the conduct of their business as defined in Appendix I, Sections A, C and D to the Commission's report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), between the plant site and storage facilities of Oscar Mayer and Company, located at or near Madison, Wis., and the plant site and storage facilities of Oscar Mayer and Company, located at or near Davenport, Iowa, restricted to traffic originating at and destined to the above named points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa, or Chicago, Ill.

No. MC 119641 (Sub-No. 120), filed February 19, 1974. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, P.O. Box 2278, Colee Station, Ft. Lauderdale, Fla. 33303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Golf carts*, from points in Florida, to points in East Moline, Ill.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119656 (Sub-No. 28) filed March 27, 1974. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, Ind. 46996. Applicant's representative: Akli E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Waste containers*, from Winamac, Ind., to points in Illinois, Kentucky, Michigan,. Minnesota, Ohio, and Wisconsin, and (2) *equipment, materials and supplies* used in the manufacture of waste containers, and *truck bodies*, from Illinois, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin, to Winamac, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 119767 (Sub-No. 310), filed April 1, 1974. Applicant: BEAVER TRANSPORT CO., a Corporation, P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson and Company, Inc., located at or near Albert Lea, Minn., to points in Indiana, Kentucky, Michigan, and Ohio, restricted to traffic originating at the above-named origin point and destined to the above-named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119767 (Sub-No. 312), filed April 1, 1974. Applicant: BEAVER TRANSPORT CO., a Corporation, P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson and Company, Inc., located at or near Albert Lea, Minn., to points in Illinois, Iowa, Missouri, and Wisconsin, restricted to traffic originating at the above-named origin point and destined to the above-named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119777 (Sub-No. 293), filed April 1, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements, farm machinery, and farm trailers*, from the plantsite and storage facilities of Midland Agriculture, Inc., at or near Aurora, Nebr., to points in Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming; and (2) *supplies and materials* used in the manufacture of items in (1) above, from points in the above named states, to the plantsite and storage facilities of Midland Agriculture, Inc., at or near Aurora, Nebr.

NOTE.—Applicant holds contract carrier authority in MC 126970 (Sub-No. 1) and other subs, therefore dual operations may be involved. Common Control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 121107 (Sub-No. 13), filed March 28, 1974. Applicant: PITT COUNTY TRANSPORTATION COMPANY, INC., P.O. Box 207, Farmville, N.C. 27828. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp*, from Askin, N.C., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 121673 (Sub-No. 1), filed March 29, 1974. Applicant: WESTERN MOTOR FREIGHT, INC., 1420 West Sheridan, Oklahoma City, Okla. 73106. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment and those of unusual value), (1) Between Wichita Falls, Tex., and Snyder, Okla., serving no intermediate points: (a) From Wichita Falls, Tex. via U.S. Highway 281 to Lawton, Okla., thence via U.S. Highway 62 to Snyder, Okla., and return over the same route; and (b) From Wichita Falls, Tex., via U.S. Highway 281 to Randlett, Okla., thence via U.S. Highway 70 to its junction with U.S. Highway 18, thence via U.S. Highway 183 to Snyder, Okla, and return over the same route; (2) Between Wichita Falls, Tex., and Altus, Okla., serving no intermediate points: (a) From Wichita Falls, Tex., via U.S. Highway 281 to Lawton, Okla., thence via U.S. Highway 62 to Altus, Okla., and return over the same route; and (b) From Wichita Falls, Tex., via U.S. Highway 281 to Randlett, Okla., thence via U.S. Highway 70 to Davidson, Okla., thence via U.S. Highway 183 to Frederick, Okla., thence via Oklahoma Highway 5 to its junction with U.S. Highway 283, thence via U.S. Highway 283 to Altus, Okla., and return over the same route:

(3) Between Wichita Falls, Tex., and Altus, Okla., serving no intermediate points: From Wichita Falls, Tex., via U.S. Highway 287 to Vernon, Tex., thence via U.S. Highway 283 to Altus, Okla., and return over the same route; (4) Between Oklahoma City, Okla. and Madge, Okla., serving the intermediate points of Mangum, Reed, Vinson, Hobart, Lone Wolf and Granite, Okla., serving the off-route points of Willow and Brinkman, Okla.: From Oklahoma City, via U.S. Highway 66 and Interstate Highway 40 to Clinton, thence via U.S. Highway 183 to Hobart, thence via Oklahoma Highway 9 to Madge, and return over the same route; (5) Between Oklahoma City, Okla. and Altus, Okla., serving the intermediate points of Lugert and Blair, Okla.: From Oklahoma City, via U.S. Highway 66 and Interstate Highway 40 to Clinton, thence via U.S. Highway 183 to Hobart, thence via Oklahoma Highway 9 to Lone Wolf, thence via Oklahoma Highway 44 to Altus, and return over the same route; (6) Between Oklahoma City, Okla. and Snyder, Okla., serving all intermediate points between Snyder and Hobart, Okla.: From Oklahoma City, via U.S. Highway 66 and Interstate Highway 40 to Clinton, thence via U.S. Highway 183 to Snyder, and return over the same route; (7) Between Oklahoma City, Okla., and Hobart, Okla., serivng all intermediate points between Snyder and Hobart, Okla.: From Oklahoma City, via U.S. Highway 62 to its junction with the H. E. Bailey Turnpike, thence via H. E. Bailey Turnpike to Lawton, thence via U.S. Highway 62 to Snyder, thence via U.S. Highway 183 to Hobart, and return over the same route; (8) Between Oklahoma City, Okla. and Madge, Okla., serving all intermediate points between Snyder and Madge, Okla.: From Oklahoma City, via U.S. Highway 62 to its junction with the H. E. Bailey Turnpike thence via H. E. Bailey Turnpike to Lawton, thence via U.S. Highway 62 to Altus, thence via U.S. Highway 283 to Mangum, thence via Highway 9 to Madge, and return over the same route;

(9) Between Oklahoma City, Okla., and Hollis, Okla., serving the intermediate points of Duke and Gould, Okla., and between Hollis, Okla., and Madge, Okla., serving all intermediate points by the way of Oklahoma Highway 30: From Oklahoma City, via U.S. Highway 62 to its junction with the H. E. Bailey Turnpike, thence via H. E. Bailey Turnpike to Lawton, thence via U.S. Highway 62 to Hollis, and return over the same route; (10) Between Oklahoma City, Okla., and Eldorado, Okla., serving the intermediate point of Olustee, Okla.: From Oklahoma City, via U.S. Highway 62 to its junction with the H. E. Bailey Turnpike, thence via H. E. Bailey Turnpike to Lawton, thence via U.S. Highway 62 to junction with Oklahoma Highway 44, thence via Oklahoma Highway 44 to Eldorado, Oklahoma, and return over the same route; and (11) Between Oklahoma City, Okla., and Hobart, Okla.: From Oklahoma City, via U.S. Highway 62 to H. E. Bailey Turnpike, thence via H. E. Bailey Turnpike to junction Oklahoma Highway 9, thence via Oklahoma Highway 9 to Hobart, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's regular route operation.

NOTE.—The purpose of (4) through (11) above, inclusive is to convert the present Certificate of Registration, M.C. 121673, to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla. or Dallas, Tex.

No. MC 123048 (Sub-No. 301), filed April 1, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 Twenty-First Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Snow throwers*, from Lake Mills, Wis., to points in California, Colorado, Iowa, Michigan, and Washington; and (2) *lawn mowers and accessories, attachments and parts for lawn mowers and snow throwers*, from Lake Mills, Wis., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Madison, Wis.

No. MC 123048 (Sub-No. 302), filed March 27, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 Twenty-First Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Bethlehem Steel Corporation, at Lackawanna, N.Y., to points in Illinois, Indiana, Minnesota, Ohio, Wisconsin, and the Lower Peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123407 (Sub-No. 167), filed April 1, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, couplings, and materials and supplies* used in the installation thereof, from Bristol and Evansville, Ind., to points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind. or Washington, D.C.

No. MC 123407 (Sub-No. 168), filed April 1, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Knocked down metal buildings and wrought iron or steel conduit and conduit fittings*, from Parkersburg and Winfield, W. Va., to points in and east of Montana, Wyoming, Colorado, and New Mexico; and (2) *Materials and supplies* used in the manufacture and distribution of the above described commodities (except commodities in bulk, in tank vehicles), from the above described destination territory, to Parkersburg and Winfield, W. Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Charleston, W. Va., or Washington, D.C.

No. MC 123872 (Sub-No. 23), filed March 25, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts and materials* used in the manufacture of furniture and furniture parts (except in bulk), from points in Missouri, to points in Kentucky and Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 123872 (Sub-No. 24), filed March 29, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Drawer 2607, Hickory, N.C. 28601. Applicant's representative: Theodore

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Polydoroff, 1250 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Western Potato Service, Inc., at or near Grand Forks, N. Dak., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn.; Charlotte, N.C., or Washington, D.C.

No. MC 123872 (Sub-No. 25), filed April 1, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from the plantsite and shipping facilities of Metal Bed Rail, Inc., a subsidiary of Leggett and Platt, Inc., located at or near Linwood, N.C., to Brenham, Tex., Houston, Tex., Oklahoma City, Okla., and Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 123872 (Sub-No. 26), filed April 1, 1974. Applicant: W AND L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts, gas grill casings, lawnmower frames, and street light hoods and parts* (except in bulk), from the plantsite and shipping facilities of EST Company, a subsidiary of Leggett and Platt, Inc., located at or near Grafton, Wis., to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 124078 (Sub-No. 586), filed March 25, 1974. Applicant: SCHWERMAN TRUCKING CO., a Corporation, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal fats, vegetables oils, and blends thereof*, in bulk, in tank vehicles, from Chattanooga, Tenn., to points in Delaware, Indiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, and Pennsylvania; (2) *alumina hydrate and talc*, from points in Murray County, Ga., to points in Alabama, Florida, North Carolina, South Carolina, and Tennessee; and (3) *salt*, in bulk, from Wilmington, N.C., to points in South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Atlanta, Ga.

No. MC 124144 (Sub-No. 12), filed March 27, 1974. Applicant: ROBERT N. TOOMEY, doing business as ROBERT N. TOOMEY TRUCKING CO., 1516 South George Street, York, Pa. 17403. Applicant's representative: Charles E. Creager, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chain and miscellaneous attachment and hardware* therefor, *cable, wire rope, chain manufacturing machinery and equipment, and advertising display paraphernalia*, from York, Pa., to points in Washington, Oregon, California, Idaho, Nevada, Montana, Wyoming, Utah, Arizona, Colorado, New Mexico, Oklahoma, and Texas, under contract with Campbell Chain Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124359 (Sub-No. 16), filed March 29, 1974. Applicant: WIL-HELEN, INC., 1409 16th Avenue, Greeley, Colo. 80631. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tile, carpeting, linoleum, rugs, padding, molding, adhesives, and materials and supplies* used in installation of tile and carpets, from East Rutherford and Salem, N.J.; Itasca, Ill., and Dallas and Mineral Wells, Tex., to points in Colorado; points in Albany, Goshen, Laramie, and Natrona Counties, Wyo.; and points in Cheyenne, Kimball, Perkins, and Scottsbluff Counties, Nebr., restricted to service performed under a continuing contract with Wholesale Flooring, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 124896 (Sub-No. 6), filed March 29, 1974. Applicant: WILLIAMSON TRUCK LINES, INC., Thorne & Ralston Streets, P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Appleton, Wis., to points in Kentucky, Tennessee, Virginia, West Virginia, Maryland, North Carolina, South Carolina, Delaware, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 124896 (Sub-No. 7), filed March 29, 1974. Applicant: WILLIAMSON TRUCK LINES, INC., Thorne & Ralson Streets, P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Wilson & Co., located at or near Cherokee, Iowa, to points in North Carolina, South Carolina, and Tennessee, restricted to the transportation of traffic originating at the above origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 125358 (Sub-No. 16), filed April 3, 1974. Applicant: MID-WEST TRUCK LINES LTD., a Corporation, 1216 Fife Street, Winnipeg, Manitoba, Canada. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Internal combustion engines*, from Lima, Ohio, to ports of entry on the International Boundary line between the United States and Canada, at or near Pembina, North Dakota.

NOTE.—Applicant holds common carrier authority in MC 125358, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at (1) St. Paul, Minn., and (2) Chicago, Ill.

No. MC 125533 (Sub-No. 6) (PARTIAL CORRECTION), filed October 29, 1973, published in the FR issue of December 13, 1973, republished in the FR issue of January 17, 1974 and March 28, 1974, and in the fourth publication, as corrected this issue. Applicant: GEORGE W. KUGLER, 2800 East Waterloo Road, Akron, Ohio 44312. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215.

NOTE.—The purpose of this partial republication is to indicate the correct Docket Number MC–125533 (Sub-No. 6) in lieu of MC–125522 (Sub-No. 6). The rest of the application remains as previously published.

No. MC 126930 (Sub-No. 11), filed March 25, 1974. Applicant: BRAZOS TRANSPORT CO., a Corporation, P.O. Box 2746, Lubbock, Tex. 79408. Applicant's representative: John C. Sims, 1607 Broadway, Lubbock, Tex. 79401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap or waste paper*, from points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Nebraska, Tennessee, and Texas, to Pryor, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lubbock, Tex., or Buffalo, N.Y.

No. MC 127042 (Sub-No. 142), filed March 29, 1974. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98-Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Wilson & Co., Inc. at Cedar Rapids, Iowa, to points in Nebraska, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 127115 (Sub-No. 8), filed March 25, 1974. Applicant: MILLER S TRANSPORT, INC., 510 West Third North, Hyrum, Utah 84319. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foam and cellular expanded plastics, rubber and related accessories*, (1) from Santa Ana, Calif., to points in Utah and Idaho, under contract with Calfoam Corporation (2) In Orange and Anaheim, Calif., to points in Utah and Idaho, under contract with General Tire & Rubber Co. and (3) from Compton, City of Commerce and Oakland, Calif., and Portland, Oreg., to points in Utah and Idaho and Reno and Elko, Nev., under contract with United Foam Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Los Angeles, California.

No. MC 127196 (Sub-No. 15), filed March 25, 1974. Applicant: KLINE TRUCKING, INC., Rural Delivery 1, P.O. Box 355, Millville, Pa. 17846. Applicant's representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stainless steel milk holding, cooling, and processing equipment, and accessories;* (2) *materials, supplies, and component parts* used in the manufacture and maintenance of the items in part (1); (3) *advertising materials and displays* pertaining to the items in part (1), from Lake Bluff, Ill., and Lake Mills, Wis., to points in the United States including Alaska but excluding Hawaii, restricted to the transportation of shipments originating at Lake Bluff, Ill., and Lake Mills, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 127253 (Sub-No. 50), filed March 25, 1974. Applicant: R. A. CORBETT TRANSPORT, INC., P.O. Box 728, Waskom, Tex. 75692. Applicant's representative: Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in bulk, (1) from points in Caddo, Bossier, and Webster Parishes, La., to points in Texas, Oklahoma, Arkansas, Mississippi, Alabama, Florida, South Carolina, Georgia, and Tennessee and (2) from Longview, Tex., to points in Texas, Oklahoma, Louisiana, Arkansas, Mississippi, Alabama, Florida, South Carolina, Georgia, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Shreveport, La.

No. MC 127274 (Sub-No. 43), filed April 1, 1974. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Muncie, Ind. 47302. Applicant's representative: Donald W. Smith, Suite 2465-One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products and wood pulp*, from Calhoun, Tenn., to points in Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127539 (Sub-No. 33), filed April 2, 1974. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 115th Street, Tacoma, Wash. 98421. Applicant's representative: George R. LaBissoniere, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chocolate coating*, from Salina, Oakdale, and Burlingame, Calif., to the plantsites of Brown & Haley, at Tacoma, Wash.; and (2) *shelled almond nuts*, from points in Kern, Sacramento, Solano, Sutter, Butte, and Yuba Counties, Calif., to the plantsites of Brown & Haley, at Tacoma, Wash.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 127625 (Sub-No. 17), filed March 29, 1974. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, S.C. 29059. Applicant's representative: Frank B. Hand, Jr., P.O. Box 446, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, wood shavings, and wood sawdust*, between points in North Carolina, South Carolina, and Georgia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., or Atlanta, Ga.

No. MC 127834 (Sub-No. 102), filed March 28, 1974. Applicant: CHEROKEE HAULING & RIGGING, INC., 540–42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: M. Bryan Stanley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Hamilton, Ohio, to points in Tennessee and Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 128343 (Sub-No. 26), filed April 4, 1974. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic products, and supplies* used in the manufacture and distribution of plastic materials and plastic products, from North Smithfield, R.I., and Halls, Tenn., to New Orleans, La., under continuing contract with The Tupperware Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I.

No. MC 128383 (Sub-No. 53), filed April 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives and motor vehicles requiring the use of special equipment), between Logan International Airport, located at or near Boston, Mass., John F. Kennedy International Airport, located at or near New York, N.Y., Newark Airport, located at or near Newark, N.J., Philadelphia International Airport, located at or near Philadelphia Pa., Baltimore-Washington International Airport, located in Anne Arundel County, Md., Washington National Airport, located at or near Gravelly Point, Va., Dulles International Airport, located in Loudon and Fairfax Counties, Va., Douglas Municipal Airport, located at or near Charlotte, N.C., Hartsfield International Airport, located at or near Atlanta, Ga., Miami International Airport, located at or near Miami, Fla., Detroit Metropolitan Airport, located at or near Detroit, Mich., Cleveland Hopkins International Airport, located at or near Cleveland, Ohio, the Greater Cincinnati Airport, located at or near Cincinnati, Ohio, Memphis International Airport, located at or near Memphis, Tenn., New Orleans International Airport, located at or near New Orleans, La., Chicago-O'Hare International Airport, located at or near Chicago, Ill., General Mitchell Field, located at or near Milwaukee, Wis., Minneapolis-St. Paul International Airport, located at or near Minneapolis, Minn., points in California, Portland International Airport, located at or near Portland, Oreg., Spokane International Airport, located at or near Spokane, Wash., the Seattle-Tacoma International Airport, located at or near Seattle, Wash., Boeing Field International Airport, located at or near Seattle, Wash., Kansas

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City International Airport, located at or near Kansas City, Mo., on the one hand, and, on the other, Tulsa International Airport, located at or near Tulsa, Okla., Will Rogers World Airport, located at or near Oklahoma City, Okla., the Wiley Post Airport, located at or near Oklahoma City, Okla., and points in Texas, restricted to traffic having a prior or subsequent movement by air or moving in substitute for air service.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128383 (Sub-No. 54), filed April 5, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles requiring the use of special equipment), having a prior or subsequent movement by air or moving in a substitute air service, between Bangor International Airport, at or near Bangor, Maine; Cleveland Hopkins International Airport, Cleveland, Ohio; Greater Southwest International Airport at or near Forth Worth, Tex.; Dallas Love Field at or near Dallas, Tex., on the one hand, and, on the other, Logan International Airport at or near Boston, Mass.; Los Angeles International Airport at or near Los Angeles, Calif., and San Francisco International Airport at or near San Francisco, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129808 (Sub-No. 13), filed April 1, 1974. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., West Highway 30, Grand Island, Nebr. 68801. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies*, used in the manufacture and production of metal scaffolding towers, conveyors, pumps and *parts and accessories* therefor, from points in the United States (except Alaska and Hawaii), to the plantsite of Morgen Manufacturing Co., located at or near Yankton, S. Dak., under a continuing contract or contracts with Morgen Manufacturing Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 129876 (Sub-No. 10), filed April 4, 1974. Applicant: DuBOIS TRUCKING, INC., P.O. Box 502, Montpelier, Vt. 05602. Applicant's representative: John P. Monte, Box 568, Barre, Vt. 05641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from the Albany, N.Y., Commercial Zone and Comstock, N.Y., to Barre, Barre Town, Berlin, Montpelier, Northfield, and Williamstown, Vt., under continuing contract with Twin City Fuel Co., Inc.

NOTE.—Applicant holds common carrier authority in MC–119808, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt.; Boston, Mass.; or Washington, D.C.

No. MC 133221 (Sub-No. 18), filed March 25, 1974. Applicant: OVERLAND CO., INC., 1991 Buford Highway, Lawrenceville, Ga. 30245. Applicant's representative: Mr. Bruce E. Mitchell, 40 Marietta Street, First Federal Building, Suite 1600, Atlanta, Ga. 30245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material*, from the plantsite of Fibreboard Corp. at or near Grambling, La., to points in the United States (except Alaska, and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 133655 (Sub-No. 74), filed April 4, 1974. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Charles W. Singer, Suite 1000, 327 S. La Salle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refined copper and materials and supplies* used in the manufacture and distribution of refined copper; and (2) *metal of extraordinary value*, between Amarillo, Tex., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York, Pennsylvania, Rhode Island, New Jersey, Delaware, Maryland, Virginia, Arizona, California, Colorado, New Mexico, Utah, Nevada, Wyoming, Montana, Idaho, Oregon, Washington, and the District of Columbia.

NOTE.—Common control may be involved If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Chicago, Ill.

No. MC 133689 (Sub-No. 53), filed April 5, 1974. Applicant: OVERLAND EXPRESS, INC., 651 First Street SW., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Potatoes, potato products, and potato by-products, and related equipment, materials and supplies*, when moving with the above; and (2) *food ingredients* (except commodities in bulk), from Fosston and Crookston, Minn., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, North Carolina, South Carolina, West Virginia, Ohio, Kentucky, Tennessee, Indiana, Michigan, Illinois, Wisconsin, Missouri, Kansas, Nebraska, South Dakota, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or Minneapolis, Minn.

No. MC 133708 (Sub-No. 11), filed April 1, 1974. Applicant: FIKSE BROS., INC., 12647 East South Street, Artesia, Calif. 90701. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Crushed or pulverized lime rock*, in bags, from the plant site of Patins Linestone Products, located near Lucern Valley, Calif., to Phoenix, Ariz.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 133779 (Sub-No. 7), filed December 26, 1973. Applicant: FUNDIS COMPANY, a Corporation, 110 West Broadway, Lovelock, Nev. 89419. Applicant's representative: Pete Fundis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Diatomaceous earth*, in bulk, from the plantsites of Eagle-Picher Industries, Inc., located in Storey and Pershing Counties, Nev., to points in Arizona, California, Idaho, Oregon, Utah, Washington, and Wyoming; and (2) *soda ash*, in bulk, from points in San Bernardino County, Calif., and Sweetwater County, Wyo., to the plantsites of Eagle-Picher Industries, Inc., located in Pershing and Storey Counties, Nev.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lovelock, or Reno, Nev.

No. MC 134094 (Sub-No. 3), filed March 25, 1974. Applicant: HEIGHT'S SERVICE, INC., 521 E. Nevada Avenue, St. Paul, Minn. 55101. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials, premiums, and malt beverage dispensing equipment*, when moving in mixed loads with malt beverages, (1) from Milwaukee and Beloit, Wis., to Hastings, Minn., under contract with Stoffel Beverage Co., Inc.; (2) from Minneapolis-St. Paul, Minn., to Lombard, Ill., under contract with C. G. Distributing Company, Inc., and (3) from Milwaukee, La Crosse, and Chippewa Falls, Wis., to St. Paul, Minn., under contract with John McLean Distributing Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 134308 (Sub-No. 8), filed April 1, 1974. Applicant: CADDO EXPRESS, INC., 1257 East Reno, Oklahoma City, Okla. 74834. Applicant's representative: Benjamin E. Butts, 116 West Eighth Street, Chandler, Okla. 74834. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Classes A

and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Buffalo, Okla., and Coldwater, Kans.: From Buffalo, Okla., over U.S. Highway 183 to junction U.S. Highway 160 near Sitka, Kans., thence over U.S. Highways 160 and 183 to Coldwater, Kans., and return over the same route, serving all intermediate points, and serving the off-route points of Ashland and Protection, Kans.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla., or Wichita, Kans.

No. MC 134645 (Sub-No. 10), filed March 15, 1974. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, Minn. 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as defined by the Commission in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Chicago, Ill., to Fort Atkinson, Wis., and St. Paul, Minn.

NOTE.—Applicant holds contract carrier authority in MC 124071 and Sub-No. 4, therefore dual operations may be involved. If a hearing is demeed necessary, applicant requests it be held at Chicago, Ill., or St. Paul, Minn.

No. MC 135284 (Sub-No. 2), filed April 4, 1974. Applicant: FLEETWOOD TRANSPORTATION CORP., 520 North Seventh Ave., Scranton, Pa. 18503. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk), (1) from Fleetwood, Pa., to points in Virginia and West Virginia; and (2) from points in Pennsylvania, New York, New Jersey, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia, to Fleetwood, Pa., under continuing contract or contracts with Agfoods, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135732 (Sub-No. 6), filed April 1, 1974. Applicant: AUBREY FREIGHT LINES, INC., 625 Grove Street, Elizabeth, N.J. 07207. Applicant's representative: Jack H. Blanshan, 29 South LaSalle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Appleton, Wis., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 110884 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135913 (Sub-No. 5), filed March 25, 1974. Applicant: BREEN TRUCKING, INC., 8459 Church Road, Grosse Ile, Mich. 48138. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coated foundry sand*, from the facilities of C–E Cast Products, at or near Rockwood, Mich., to points in Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Massachusetts, and the District of Columbia; (2) *materials and supplies used in the manufacture and distribution of coated foundry sand*, from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Vermont, and the District of Columbia, to the facilities of C–E Cast Products, at or near Rockwood, Mich.; (3) *foundry core compounds and high temperature bonding mortar and cement* (except in bulk), from the facilities of C–E Cast Products, at or near Rockwood, Mich., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kansas, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Vermont, and the District of Columbia; and (4) *materials and supplies used in the manufacture and distribution of Foundry core compounds and high temperature bonding mortar and cement*, from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kansas, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Vermont, and the District of Columbia, to the facilities of C–E Cast Products, at or near Rockwood, Mich., under contract with C–E Cast Products.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 135949 (Sub-No. 6), filed April 1, 1974. Applicant: O. H. BALDRIDGE AND SONS, INC., 1907 Esther, Centralia, Ill. 62801. Applicant's representative: Gregory M. Rebman, 1230 Boatmen's Bank Building, 314 N. Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pre-stressed and pre-cast concrete products*, from the plantsite and facilities of Nelsen Concrete Products, Inc., located at or near Centralia, Ill., to points in the St. Louis Commercial Zone, St. Louis County, St. Charles County, Warren County, Franklin County, and Jefferson County, Mo., points in Indiana on and south of U.S. Highway 36 and points in Kentucky on and west of U.S. Highway 31E; and *returned or rejected shipments* of the same commodities, from the above specified destination points to the specified origin point named above, under a continuing contract or contracts with Nelsen Concrete Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 136008 (Sub-No. 26), filed March 25, 1974. Applicant: JOE BROWN COMPANY, INC., Box 1669, Ardmore, Okla. 74301. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Haskell, Latimer, LeFlore and Pittsburg Counties, Okla. and Johnson and Logan Counties, Ark., to points in Morris County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 136212 (Sub-No. 10), filed April 4, 1974. Applicant: JENSEN TRUCKING COMPANY, INC., 213 S. Washington Street, P.O. Box 37, Papillion, Nebr. 68046. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Lincoln, Nebr. 68507. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inedible boneless meat*, from Ogden, Utah, Twin Falls, Boise, and Idaho Falls, Idaho, to Portland, Oreg., Madison and Milwaukee, Wis., Topeka, Kans., St. Joseph, Mo., Chicago and Kankakee, Ill., and Crete, Nebr.; and (2) *pet food ingredients* from Norfolk, Ainsworth, Scottsbluff, and Laurel, Nebr., to points in Kansas, Missouri, Iowa, Ohio, Massachusetts, and Pennsylvania, parts (1) and (2) are restricted to traffic originating at and destined to the named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Salt Lake City, Utah.

No. MC 136343 (Sub-No. 29), filed April 5, 1974. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Egg cartons, egg cases, egg baskets, filler flats, and containers*, for the account of Bartlett's Egg Dispatch, Inc., between points in Indiana, Kentucky, South Carolina, Georgia, Alabama, Mississippi, Florida, Illinois, Wisconsin, and Michigan.

NOTE.—Applicant holds contract carrier authority in MC 96098 and subs thereunder,

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therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 136689 (Sub-No. 3), filed March 25, 1974. Applicant: SLAUGHTER TRANSPORTATION CORPORATION, 1806 Holland Avenue, Houston, Tex. 77029. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid cooking oil's*, in containers, from Houston, Tex., to points in Louisiana and (2) *animal litter, bleaching and cleaning compounds and liquid cooking oils*, in containers, from Houston, Tex., to points in New Mexico, under contract with The Clorox Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 136786 (Sub-No. 51), filed April 1, 1974. Applicant: ROBCO TRANSPORTATION, INC., Suite 205, 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Val Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55416. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite and storage facilities utilized by Western Potato Service, Inc., at Grand Forks, N. Dak., to points in California, Nevada, Utah, Colorado, Arizona, New Mexico, Arkansas, Louisiana, Mississippi, Kentucky, West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Alabama, Georgia, and Florida; and (2) *foodstuffs*, from the plantsite and storage facilities utilized by Potato Service, Inc., at Presque Isle and Caribou, Maine, to points in Texas, Louisiana, Arkansas, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Kentucky, Virginia, West Virginia, Ohio, Indiana, Illinois, Michigan, Missouri, Iowa, Wisconsin, and Minnesota, restricted to the transportation of shipments originating at the plantsites and storage facilities of Potato Service, Inc., at Caribou and Presque Isle, Maine, and Western Potato Service, Inc., at Grand Forks, N. Dak., and destined to the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Minneapolis, Minn.

No. MC 136786 (Sub-No. 52), filed April 1, 1974. Applicant: ROBCO TRANSPORTATION, INC., Suite 205, 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Val Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, confectionery products, cough drops, and chewing gum* (except in bulk in tank vehicles) *and advertising materials and supplies* moving therewith (a) from Reading, Pa., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, and Ohio; (b) from Duryea, Pa., to points in Georgia, Florida, Alabama, Texas, Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Kansas, Colorado, California, Oregon, Washington, and Pittsburgh, Pa.; (c) from Boston, Mass., to points in Ohio, Michigan, Indiana, Kentucky, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, California, Oregon, and Washington; (d) from Boston, Mass., and N. Grosvenor Dale, Conn., to points in Pennsylvania, Ohio, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Oklahoma, Texas, California, and Georgia; (e) from Freehold, N.J., and Covington, Tenn., to points in Wisconsin, Illinois, Indiana, Ohio, Michigan, Minnesota, North Dakota, South Dakota, Nebraska, New Mexico, Colorado, Wyoming, Montana, Idaho, Washington, Oregon, California, Nevada, Utah, Iowa, Missouri, Kansas, Oklahoma, Arkansas, Louisiana, and Texas; and (2) *candy and confectionery products, chocolate coatings and syrups* (except commodities in bulk in tank vehicles) *and advertising materials and supplies* moving therewith, from Cambridge and Mansfield, Mass., and Sayesville, Cumberland, and Pawtucket, R.I., to Portland, Oreg.; Dallas and Houston, Tex.; Los Angeles and Emeryville, Calif.; and Salt Lake City, Utah, restricted to traffic originating at the plant sites and storage facilities utilized by Luden's, Inc. in (1)(a); Topps Chewing Gum Inc., in (1)(b); Schrafft Candy Company in (1)(c); Deron Confectionery Co., Inc., in (1)(d); Charms Company in (1)(e); and Nabisco Confections, Inc., in (2).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 136786 (Sub-No. 53), filed April 1, 1974. Applicant: ROBCO TRANSPORTATION, INC., Suite 205, 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Val Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55416. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plant site and storage facilities utilized by Totino's Finer Foods, Inc., at Fridley and Minneapolis, Minn., to points in New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, and Florida, restricted to traffic originating at the plantsite and storage facilities utilized by Totino's Finer Foods, Inc., and destined to points in the name states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 136857 (Sub-No. 1), filed April 1, 1974. Applicant: ROSELAND TRUCKING CORP., P.O. Box K, Roseland, N.J. 07068. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except meat and meat products, and commodities in bulk), from Roseland, N.J., to points in Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida; and (2), *Materials and supplies*, used in the manufacture and packaging of foodstuffs, from the destination states named above, to Roseland, N.J., (1) and (2) above under a continuing contract, or contracts, with M. Planer and Son, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 138299 (Sub-No. 3), filed March 29, 1974. Applicant: TRAILS TRUCKING, INC., 719 Union Street, Montebello, Calif. 90640. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods and supplies*, from Portland, Oreg., to points in California, under contract or contracts with Nabisco, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 138345 (Sub-No. 2), filed April 4, 1974. Applicant: BASIL B. GORDON AND CLAY M. POPE, a partnership, doing business as VALLEY SPREADER COMPANY, 260 North 9th Street, Brawley, Calif. 92227. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk, from points in Imperial County, Calif., to points in Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Yuma, Ariz., or Los Angeles, Calif.

No. MC 138385 (Sub-No. 2) (AMENDMENT), filed February 26, 1974, published in the FR issue of April 11, 1974, and republished as amended, this issue. Applicant: D & G TRANSPORTATION, INC., 20 Cameron Street, Clinton, Mass. 01510. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cereal, plastic, articles, lunch and picnic kits, napkins, salt, pepper, sugar, condiments and straws*, from Clinton, Mass., to points in New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Tennessee, Ohio, California, District of Columbia, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and New Jersey; and (2) *plastic pellets*, (except in bulk), from Kobuta, Pa., to Clinton, Mass., under continuing contract

with Van Brode Milling Co., Inc., and Wonder Container Corporation.

NOTE.—The purpose of this republication is to include "cereal" in the commodity description, which was inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 138432 (Sub-No. 3), filed March 29, 1974. Applicant: GARLAND GEHRKE, Route 1, Lincoln, Ill. 62656. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Glass containers, bottles or jars, and caps, covers, stoppers, tops, and fiberboard boxes* when transported in the same vehicle with glass containers, bottles or jars, between Lincoln, Ill., and points in Illinois having a prior or subsequent rail haul.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138527 (Sub-No. 1), filed March 29, 1974. Applicant: HESS, INC., P.O. Box 533, Fairbury, Nebr. 68352. Applicant's representative: Bradford E. Kistler, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from St. Louis, Mo., to Fairbury, Nebr.; and (2) *empty bottles and containers*, used in the transportation of the commodities named in (1) above, from Fairbury, Nebr., to St. Louis, Mo., under contract with Fairbury Sales Company, restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract or contracts with Fairbury Sales Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 138719 (Sub-No. 1), filed March 29, 1974. Applicant: PATTEN TRUCKING COMPANY, INC., Box 297, Patten, Maine 04765. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite of Northern Mill and Lumber Co., at or near Patten, Maine, to points in Alabama, District of Columbia, Maine, Florida, Georgia, Illinois, Indiana, Kentucky, Missouri, North Carolina, South Carolina, and Tennessee, under a continuing contract with Northern Mill and Lumber Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 139034 (Sub-No. 2), filed March 26, 1974. Applicant: CHARLES MACE, doing business as MACE TRUCKING CO., 5808 17th St. Apt. C 4, Great Bend, Kans. 67530. Applicant's representative: (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from La Crosse, Kans., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with LaCrosse Furniture Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Kansas City, Mo.

No. MC 139291, filed November 16, 1973. Applicant: LONDERGON TRUCKING CO., a Corporation, 2410 McDonough Street, Joliet, Ill. 06436. Applicant's representative: David H. Armstrong, Suite 1620, Ten South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer in bottles, cans, kegs, and other beer containers, and empty bottles, kegs, and other beer containers*, (1) between the plantsites of Pabst Brewing Co., located at Milwaukee, Wis.; G. Heileman Brewing Company, located at Sheboygan and La Crosse, Wis.; Pearl Brewing Co., located at St. Joseph, Mo.; and Stroh Brewing Co., located at Detroit, Mich.; and (2) between Chicago Heights, Elk Grove Village, and Joliet, Ill., under contract with Pabst Brewing Co., at Milwaukee, Wis.; G. Heileman Brewing Co., at Sheboygan and La Crosse, Wis.; Pearl Brewing Co., at St. Joseph, Mo.; and Stroh Brewing Co., at Detroit, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139306 (Sub-No. 1), filed March 21, 1974. Applicant: DEL R. STANAGE AND JOE R. STANAGE, doing business as STANAGE TRANSPORTATION, 121 Indian Springs Road, Hot Springs, Ark. 71901. Applicant's representative: Del R. (Ray) Stanage (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cullet* (broken glass), in bulk, in dump vehicles, between Ft. Smith, Little Rock, Malvern, and Wilson Springs, Ark.; Wichita, Kans.; Hattiesburg, Jackson, Meridian, Natchez, and Vicksburg, Miss.; Dyersburg, Tenn.; and Abilene, Brownwood, Dallas, Paris, San Antonio, and Wichita Falls, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 139367 (Sub-No. 2), filed April 1, 1974. Applicant: AKRON EXPRESS, INC., 1821 East Market Street, Akron, Ohio 44305. Applicant's representative: Mark J. Sheriff, 8 East Broad Street, Ninth Floor, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, dealt in by rubber and rubber products manufacturers (except commodities in bulk), (1) between the warehouses or plantsites of the B. F. Goodrich Company, located at or near Columbus, Medina, and Akron, Ohio, on the one hand, and, on the other, points in the Detroit, Mich., Commercial Zone; (2) between the plantsite of the B. F. Goodrich Company, located at or near Akron, Ohio, on the one hand, and, on the other, the warehouse of the B. F. Goodrich Company, located at or near Medina, Ohio; and (3) between the plantsites of the B. F. Goodrich Company, located at Fort Wayne, Ind., on the one hand, and, on the other, the warehouses or plantsite of the B. F. Goodrich Company, located at Columbus, Medina, and Akron, Ohio; (1), (2) and (3) above, under a continuing contract, or contracts, with B. F. Goodrich Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 139457 (Sub-No. 1), filed March 28, 1974. Applicant: G. L. SKIDMORE, doing business as JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 35, Paris, Tex. 75460. Applicant's representative: Dan Felts, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned and preserved foodstuffs*; and (2) *canned and packaged animal food*, from the plantsite and storage facilities of the Campbell Soup Company, located at or near Paris, Tex., to points in Oklahoma; and (3) *returned shipments of the above described commodities*, from points in Oklahoma to the plantsite and storage facilities of the Campbell Soup Company, located at or near Paris, Tex., under contract with the Campbell Soup Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas or Houston, Tex.

No. MC 139462 (Sub-No. 1), filed April 4, 1974. Applicant: RONALD R. PLUTA, doing business as BRONCO VAN AND STORAGE, 1061 Tervin Avenue, Salinas, Calif. 93901. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Monterey, Santa Cruz, San Luis Obispo, and San Benito Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salinas or Monterey, Calif.

No. MC 139487 (Sub-No. 1), filed April 2, 1974. Applicant: COBO, INC., Route 2, Box 78–A, Round Rock, Tex. 78664. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lightweight aggregate*, in bulk, in specialized dump motor vehicle, from the plantsite of Superock, Inc., at or near Streetman, Tex., to points in Oklahoma, Louisiana, and Arkansas.

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NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 139555 (Sub-No. 2), filed March 25, 1974. Applicant: MODULAR TRANSPORTATION CO., a Corporation, 421 West Fulton Street, Grand Rapids, Mich. 49502. Applicant's representative: William D. Parsley, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles) *and trailer converter dollies and containers*, (1) from the plantsite of Fruehauf Corporation at or near Milan, Mich., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin; (2) from the plantsite of Fruehauf Corporation at or near Fort Madison, Iowa, to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin; (3) from the plantsite of Fruehauf Corporation at or near Fort Wayne, Ind., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin; (4) from the plantsite of Fruehauf Corporaton at or near Uniontown, Pa., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin; and (5) secondary movements, between points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. Applicant holds contract carrier authority in MC 134071 Sub 4 pending therefore dual operations may be involved also. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 139589 (Sub-No. 2), filed March 12, 1974. Applicant: SOUTHWEST LIVESTOCK HAULING CO., P.O. Box 429, Brownwood, Tex. 76801. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal feedstuffs*, in bags or bulk, and *feed preservatives*, (1) from Brownwood and Sweetwater, Tex., to points in Arkansas, Louisiana, Oklahoma, and Des Moines, Iowa; and (2) from Des Moines, Iowa, to Brownwood and Sweetwater, Tex., restricted to traffic originating at or destined to the plant sites, facilities, or warehouses of Triple "F" Feeds of Texas, Inc., under contract or contracts with Triple "F" Feeds of Texas, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex., or Dallas, Tex.

No. MC 139608 (Sub-No. 1) (PARTIAL CORRECTION), filed March 13, 1974, published in the FR issue of April 25, 1974, and republished as corrected in part this issue. Applicant: R. H. TRUCKING, INC., Route 2, Nichols, S.C. 29581. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004.

NOTE.—The purpose of this partial republication is to indicate the correct Docket No. as MC 139608 (Sub-No. 1) in lieu of MC No. 139653 as previously published. The rest of the notice remains as originally published.

No. MC 139626 (Sub-No. 1), filed March 25, 1974. Applicant: RUSE TRANSFER COMPANY, a Corporation, P.O. Box 178, Tabor, Iowa 51653. Applicant's representative: Gene Eaton, P.O. Box 317, Sidney, Iowa 51652. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed and feed ingredients, animal and poultry medications, fencing and building materials, lumber, iron and steel articles*, as used on a farm, *agricultural implements and parts, machinery and machine parts, insecticides, pesticides, herbicides, and seed*, (a) from points in Arkansas, Illinois, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, and Texas, to the facilities of Farm Feeds, located at or near Tabor and Bartlett, Iowa; and (b) from the facilities of Farm Feeds, located at or near Tabor and Bartlett, Iowa, to points in the defined Kansas, Missouri, and points in Nebraska in a territory beginning at the Iowa-Nebraska State Boundary line on U.S. Highway 34, thence west to its intersection with Nebraska Highway 66, thence west via Nebraska Highway 66 to its intersection with Nebraska Highway 50, thence south via Nebraska Highway 50 to the Kansas-Nebraska state line, thence south via Kansas Highway 63 to its intersection with Kansas Highway 16, thence east via Kansas Highway 16 to its intersection with Kansas Highway 116, thence east via Kansas Highway 116 to its intersection with U.S. Highway 159, thence south via U.S. Highway 159 to its intersection with U.S. Highway 59, thence north via U.S. Highway 59 to Kansas-Missouri state line, thence east via U.S. Highway 59 to its intersection with Missouri Highway 116, thence east via Missouri Highway 116 to intersection with U.S. Highway 69, thence north via U.S. Highway 69 ending at the Iowa-Missouri state line, and points in Iowa; and (2) *Petroleum products, fertilizers, anhydrous ammonia, insecticides, pesticides, and herbicides;* (a) from points in Arkansas, Illinois, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, and Texas, to the facilities of Tabor Fertilizer Corporation, located at or near Tabor and Bartlett, Iowa; and (b) from the facilities of Tabor Fertilizer Corporation, located at or near Tabor and Bartlett, Iowa, to the same destination territory as set out in paragraph (1)(b) above.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 139628 (Sub-No. 2), filed April 3, 1974. Applicant: GLENN DAVID COWAN & JAMES ESTILL COWAN, a partnership, Route 1, East Bernstadt, Ky. 40741. Applicant's representative: Herbert D. Liebman, 403 West Main Street, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from the plantsite of Avalon Cheese Company of London, Ky., Inc., at London, Ky., and Eaglepass Cheese Company, Inc., Albany, Ky., to the plantsite of The Borden Foods Company, Van Wert, Ohio, and *empty containers on return*, under continuing contracts with Avalon Cheese Company of London, Ky., Inc. and Eaglepass Cheese Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Ky., or Frankfort, Ky.

No. MC 139643, filed March 25, 1974. Applicant: SEVEN DAY COMPANY, a Corporation, Post Office Box 1213, 212½ South Third Street, Woodville, Miss. 39669. Applicant's representative: Jerry H. Blount, Suite L120 Capital Towers, 125 South Congress Street, Jackson, Miss. 39201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood blanks on pallets*, from the plant site of Ames A. McDonough Company, Woodville, Miss., to points in Memphis and Lebanon, Tenn., under contract with Ames A. McDonough Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 139645, filed March 18, 1974. Applicant: SERVICE MOTOR FREIGHT, INC., 133 East Atlantic Avenue, Lawnside, N.J. 08045. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* (except lumber, structural steel, and hardware), (a) between Chester, Pa., on the one hand, and, on the other, points in Baltimore, Baltimore City, Harford, Cecil, and Prince Georges Counties, Md., Kent and New Castle Counties, Del., Kings, Queens, Richmond, Bronx, New York, and Westchester Counties, N.Y., and those in New Jersey and the District of Columbia, and (b) Between Philadelphia, Pa., and Camden, N.J., on the one hand, and, on the other, Baltimore, Md., points in New Jersey, the District of Columbia, those in Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, and Philadelphia Counties, Pa., Kent and New Castle Counties, Del., Baltimore, Cecil, Harford, and Prince Georges Counties, Md., and Bronx, New York, Kings, Queens, Richmond, and Westchester Counties, N.Y.; (2) *Fiberglas materials and products* including *fibrous glass mineral wool products* and *fibrous glass textile materials and products, and plastic materials and products* (except liquid commodities, in bulk, in tank vehicles), between Barrington, N.J., on the one hand, and, on

the other, points in Georgia, Illinois, Indiana, Kentucky, Maine, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, West Virginia, Vermont, the Lower Peninsula of Michigan, that part of Pennsylvania west of Fulton, Huntingdon, Blair, Centre, Clinton, and Potter Counties, Pa., and that part of New York west or north of Chemung, Tompkins, Cayuga, Oswego, Oneida, Herkimer, Hamilton, Warren, and Washington Counties, N.Y., with no transportation for compensation on return except as otherwise authorized; (3) *fiberglas materials and fiberglas products, fibrous glass mineral wool products, fibrous glass textile materials*, and *fibrous glass textile products*, and *plastic materials* and *plastic products* (except liquid commodities, in bulk, in tank vehicles), from Barrington, N.J., to points in Virginia, Maryland, Massachusetts, Connecticut, Rhode Island, Delaware, Pennsylvania, New Jersey, New York, and the District of Columbia;

(4) *Fibrous glass textile material sand fibrous glass materials products*, and *plastic materials and plastic products* (except liquid commodities, in tank vehicles), from Ashton, R.I., and Huntington, Pa., to Barrington, N.J.; (5) *equipment, materials, and supplies* used in the installation and erection of fiberglas materials and products, fibrous glass mineral wool products, fibrous glass textile materials and products, and plastic material and products, from Barrington, N.J., to points in Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, West Virginia, the Lower Peninsula of Michigan, and the District of Columbia; (6) *pulpboard, fibreboard boxes, paper and paper products* (except printing and fine papers), from Spotswood, N.J., to points in New York, New Jersey, New Hampshire, Pennsylvania, Rhode Island, Massachusetts, Maine (except Aroostook County), Maryland, Delaware, Vermont, Connecticut, Virginia, and the District of Columbia; (7) *precast concrete products*, except commodities the transportation of which, because of size or weight, require the use of special equipment, from the Camden Architectural Cast Stone Co., Inc., plantsite about 12 miles south of Camden, N.J. (three miles west of North-South Freeway), to points in Connecticut, Delaware, Maryland, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia;

(8) *Corrugated paper, corrugated paper products*, and *commodities used in the manufacture thereof* (except in bulk), and *scrap paper and waste paper*, between Tallman, N.Y., on the one hand, and, on the other, points in Pennsylvania, Vermont, Massachusetts, Connecticut, New Jersey, Rhode Island, Maryland and Delaware; (9) *paper products*, from the Parkway Industrial Center in Anne Arundel County, Md., to points in Delaware, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia; (10) *paper and paper products*, from Whippany, N.J., to points in Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania and Rhode Island; (11) *materials and supplies* (except commodities in bulk) used in the manufacture of paper and paper products, from points in Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island, to Whippany, N.J.; (A) The authority in paragraphs 1 through 5 is restricted to traffic originating at or destined to the plantsites, warehouses or shipping facilities of Owens-Corning Fiberglas Corporation, of Toledo, Ohio; (B) The authority in paragraph 6 is restricted to traffic originating at or destined to the plantsites, warehouses or shipping facilities of Inland Container Corporation; (C) The authority in paragraph 7 is restricted to traffic originating at or destined to the plantsites, warehouses or shipping facilities of Camden Architectural Cast Stone Co., Inc.; (D) The authority in paragraphs 8 through 11 is restricted to traffic originating at or destined to the plantsites, warehouses or shipping facilities of International Paper Company.

NOTE.—Applicant holds all of the above authority as a contract carrier in Permit MC-3094 and Subs 10, 11, 13, 14, 15, 17, 19, and 21 (pending) and seeks by this application to convert said authority to common carrier operations. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 139658, filed March 28, 1974. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, Ga. 31201. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road, NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Basic slag*, from points in Jefferson County, Ala.; and (2) *dolomitic limestone*, in bulk, in dump trucks, from points in Lee County, Ala., to points in and south of Troup, Meriwether, Pike, Lamar, Monroe, Bibb, Twiggs, Wilkinson, Johnson, Emanuel, Bulloch, Effingham, and Chatham Counties, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 139685, filed April 2, 1974. Applicant: SPEEDWAY CARRIERS, INC., P.O. Box 2218, 1040 Price Street, Pomona, Calif. 91767. Applicant's representative: Donald L. Stern, Suite 530, Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lamp ballasts, not enclosed in channels*, from the plantsite and storage facilities of the General Electric Company, at Danville, Ill., to Denver, Colo., Albuquerque, N.M., and points in California, Oregon, Washington, and Minnesota; and (2) *plastic resins and plastic sheets, in containers*, from the plantsite and storage facilities of the General Electric Company, at Mt. Vernon, Ind., to Salt Lake City, Utah, Phoenix, Ariz., Albuquerque, N.M., Boulder, Denver, and Ft. Collins, Colo., and points in California, Oregon, and Washington, under contract with the General Electric Co., at Danville, Ill., and Mt. Vernon, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139689, filed March 29, 1974. Applicant: BAILEY'S MOVING AND STORAGE COMPANY, a Corporation, 640 North Main Street, No. Salt Lake City, Utah 84054. Applicant's representative: Bob Linnell, 3600 South 124th, Seattle, Wash. 98168. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between points in Box Elder, Cache, Weber, Morgan, Davis, Salt Lake, Wasatch, Tooele, Rich, Utah, Sanpete, Juab, Carbon, Duchesne, and Uintah Counties, Utah, restricted to the transportation of traffic having a prior or subsequent movement beyond said points in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Salt Lake City or Ogden, Utah.

PASSENGER APPLICATIONS

No. MC 39491 (Sub-No. 14), filed March 21, 1974. Applicant: COLONIAL COACH CORP., 17 Franklin Turnpike, Mahwah, N.J. 07430. Applicant's representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, N.Y. 11021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, beginning and ending at New York, N.Y., and extending to the Neshaminy Park Race Track, Bucks County, Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 101883 (Sub-No. 5), filed March 18, 1974. Applicant: PAUL CAVALLO BUS LINE, 301 W. Osie Street, Gillespie, Ill. 62033. Applicant's representative: Paul Cavallo (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle, in round-trip charter operations, beginning and ending at points in Macoupin, Montgomery, Jersey, and Madison Counties, Ill. (except Alton, Ill., and points in Madison County south of Route 140), and extending to points in Minnesota, Wisconsin, Iowa, Kansas, Arkansas, Kentucky, Tennessee, Indiana, Ohio, Michigan, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or St. Louis, Mo.

No. MC 139677 filed April 2, 1974. Applicant: AUTO/BUS CORPORATION,

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850 Fernham Lane, Forestville, Md. 20028. Applicant's representative: William M. Thomson, 521 Powell Drive, Rt. 1, Annapolis, Md. 21401. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (a) *Passengers and their baggage*, and (b) *automobiles* accompanying the passengers described in (a), in separate vehicles, (1) Between Providence, R.I., and New York, N.Y.: From the terminal facilities utilized by AUTO/BUS CORPORATION located at Providence, R.I., southwest over Interstate Highway 95 to the terminal facilities utilized by AUTO/BUS CORPORATION in the New York, N.Y., Commercial zone, and return over the same route, serving no intermediate or off-route points; (2) Between New York, N.Y., and Washington, D.C.: From the terminal facilities utilized by AUTO/BUS CORPORATION in the New York, N.Y., Commercial Zone over Interstate Highway 95 to junction New Jersey Turnpike near Hackensack N.J., thence southwest over the New Jersey Turnpike to junction J. F. Kennedy Memorial Highway near Wilmington, Del., thence southwest over J. F. Kennedy Memorial Highway to junction Interstate Highway 695 near Baltimore, Md., thence counterclockwise around Interstate Highway 695 to junction Interstate Highway 95, thence southwest over Interstate Highway 95 to junction Interstate Highway 495 near Washington, D.C., thence clockwise around Interstate Highway 495 to the terminal facilities utilized by AUTO/BUS CORPORATION in the Washington, D.C., Commercial Zone and return over the same route, serving no intermediate or off route points; (3) Between Washington, D.C. and Orlando, Fla.:

From the terminal facilities utilized by AUTO/BUS CORPORATION in the Washington, D.C., Commercial Zone clockwise around Interstate Highway 495 to junction Interstate Highway 95, thence south over Interstate Highway 95 to junction Interstate Highway 4 near Daytona Beach, Fla., thence south over Interstate Highway 4 to the terminal facilities utilized by AUTO/BUS CORPORATION at Orlando, Fla., and return over the same route, serving no intermediate or off-route points (applicant indicates that for that incomplete portion of Interstate Highway 95 between a point nine miles south of Petersburg, Va., and Kingsland, Ga., it will traverse parallel routes including portions of U.S. Highway 301, U.S. Highway 15, U.S. Highway 17, U.S. Highway 17A, Interstate Highway 16, U.S. Highway 341, Georgia Highway 303, and access roads connecting Interstate Highway 95 with above listed highways); (4) Between Orlando, Fla., and Miami, Fla.: From the terminal facilities utilized by AUTO/BUS CORPORATION south-west over Interstate Highway 4 to junction Florida Turnpike, thence southeast over Florida Turnpike to junction Interstate Highway 95 in Dade County, Fla., thence south over Interstate Highway 95 to the terminal facilities utilized by AUTO/BUS CORPORATION at Miami, Fla., and return over the same route, serving no intermediate of off-route points; and (5) Between Orlando, Fla., and the terminal facilities utilized by AUTO/BUS CORPORATION on Florida Highway 865 approximately five miles south of Ft. Myers Beach, Fla.: From the terminal facilities utilized by AUTO/BUS CORPORATION at Orlando, Fla., southwest over Interstate Highway 4 to junction Florida Highway A557, thence south over Florida Highway A557 to junction U.S. Highway 17 at Cypress Gardens, Fla., thence south over U.S. Highway 17 to junction U.S. Highway 41 at Punta Gorda, Fla., thence south over U.S. Highway 41 to junction Florida Highway 865, thence west and north over Florida Highway 865 to the terminal facilities utilized by AUTO/BUS CORPORATION on Florida Highway 865 approximately five miles south of Ft. Myers Beach, Fla., and return over the same route, serving no intermediate or off-route points.

NOTE.—Applicant indicates it intends to join the requests for authority in (1) through (5) above. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., Providence, R.I., or Orlando, Fla.

No. MC 139721, filed April 3, 1974. Applicant: ALL WORLD TRAVEL, INC., 1306 Knox Avenue, Easton, Pa. 18042. Applicant's representative: Paul F. Ruch, Jr. (address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their luggage*, in limousine service limited to driver and nine passengers, between points in Northhampton County, Pa., and Warren County, N.J., to the piers and airports at Newark, N.J., Philadelphia, Pa., and New York, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Allentown, Pa., and as an alternate: Philadelphia, Pa.

BROKER APPLICATION

No. MC 130238, filed April 4, 1974. Applicant: AUTOMOBILE CLUB OF SOUTHERN INDIANA INCORPORATED, 300 Southeast Riverside Drive, Evansville, Ind. 47713. Applicant's representative: William H. Van Deest, 1167 Lombard Avenue, Evansville, Ind. 47715. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Evansville, Ind., to sell or offer to sell the transportation of *passengers in groups and baggage of passengers*, beginning and ending at Evansville, Ind. and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Evansville, Ind. with alternate choices: Louisville, Ky., Indianapolis, Ind.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10615 Filed 5-9-74;8:45 am]

FEDERAL ENERGY OFFICE

ENVIRONMENTAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Environmental Advisory Committee will meet Wednesday, May 22, 1974 at 9:30 a.m., in Room 3140A, Federal Energy Office, New Post Office, Benjamin Franklin Station, 12th and Pennsylvania Avenue NW., Washington, D.C.

The committee was established to advise the Administrator, Federal Energy Office, with respect to general environmental aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

The agenda for the meeting is as follows:

1. Proposed Energy Facility Siting Legislation.
2. National Environmental Policy Act.
3. Clean Air Act Amendments.
4. Recommendations of prior meeting, March 12, 1974.

Further information concerning this meeting may be obtained from Ken Woodcock, Federal Energy Office, Washington, D.C., 202/961-8656.

Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

The meeting is open to the public; however space and facilities are limited.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-10926 Filed 5-8-74;11:21 am]

STATE REGULATORY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the State Regulatory Advisory Committee will meet Thursday, May 16, 1974 at 9:00 a.m. in Room 3400, Federal Energy Office, New Post Office, Benjamin Franklin Station, 12th and Pennsylvania Avenue NW., Washington, D.C.

The committee was established to advise the Administrator, Federal Energy Office, with respect to State utility regulatory commission interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

The agenda for the meeting is as follows:

1. Restructure of Utility Rates
2. Curtailment of Natural Gas
3. Consideration of Interruptible Gas Contracts
4. Organizational matters

Further infomation concerning this meeting may be obtained from Clarke Grover, Federal Energy Office, Washington, D.C., 202/961-7575.

Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

The meeting is open to the public; however space and facilities are limited.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-10925 Filed 5-8-74;11:21 am]

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preservatives, (1) from Brownwood and Sweetwater, Tex., to points in Arkansas, Louisiana, Oklahoma, and Des Moines, Iowa; and (2) from Des Moines, Iowa, to Brownwood and Sweetwater, Tex., restricted to traffic originating at or destined to the plant sites, facilities, or warehouses of Triple "F" Feeds of Texas, Inc., under contract or contracts with Triple "F" Feeds of Texas, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex., or Dallas, Tex.

No. MC 139608 (Sub-No. 1) (PARTIAL CORRECTION), filed March 13, 1974, published in the FR issue of April 25, 1974, and republished as corrected in part this issue. Applicant: R. H. TRUCKING, INC., Route 2, Nichols, S.C. 29581. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, and fertilizer ingredients

850 Fernham Lane, Forestville, Md. 20028. Applicant's representative: William M. Thomson, 521 Powell Drive, Rt. 1, Annapolis, Md. 21401. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (a) *Passengers and their baggage*, and (b) *automobiles* accompanying the passengers described in (a), in separate vehicles, (1) Between Providence, R.I., and New York, N.Y.: From the terminal facilities utilized by AUTO/BUS CORPORATION located at Providence, R.I., southwest over Interstate Highway 95 to the terminal facilities utilized by AUTO/BUS CORPORATION in the New York, N.Y., Commercial zone, and return over the same route, serving no intermediate or off-route points; (2) Between New York, N.Y., and Washington, D.C.: From the terminal facilities utilized by AUTO/BUS CORPORATION in the New York, N.Y., Commercial Zone over Interstate Highway 95 to junction New Jersey Turnpike near Hackensack N.J., thence southwest over the New Jersey Turnpike to junction J. F. Kennedy Memorial Highway near Wilmington, Del., thence southwest over J. F. Kennedy Memorial Highway to junction Interstate Highway 695 near Baltimore, Md., thence counterclockwise around Interstate Highway 695 to junction Interstate Highway 95, thence southwest over Interstate Highway 95 to junction Interstate Highway 495 near Washington, D.C., thence clockwise around Interstate Highway 495 to the terminal facilities utilized by AUTO/BUS CORPORATION in the Washington, D.C., Commercial Zone and return over the same route, serving no intermediate or off route points; (3) Between Washington, D.C. and Orlando, Fla.:

From the terminal facilities utilized by AUTO/BUS CORPORATION in the Washington, D.C., Commercial Zone clockwise around Interstate Highway 495 to junction Interstate Highway 95, thence south over Interstate Highway 95 to junction Interstate Highway 4 near Daytona Beach, Fla., thence south over Interstate Highway 4 to the terminal facilities utilized by AUTO/BUS CORPORATION at Orlando, Fla., and return over the same route, serving no intermediate or off-route points (applicant indicates that for that incomplete portion of Interstate Highway 95 between a point nine miles south of Petersburg, Va., and Kingsland, Ga., it will traverse parallel routes including portions of U.S. Highway 301, U.S. Highway 15, U.S. Highway 17, U.S. Highway 17A, Interstate Highway 16, U.S. Highway 341, Georgia Highway 303, and access roads connecting Interstate Highway 95 with above listed highways); (4) Between Orlando, Fla., and Miami, Fla.: From the terminal facilities utilized by AUTO/BUS CORPORATION south-west over Interstate Highway 4 to junction Florida Turnpike, thence southeast over Florida Turnpike to junction Interstate Highway 95 in Dade County, Fla., thence south over Interstate Highway 95 to the terminal facilities utilized by AUTO/BUS CORPORATION at Miami, Fla., and return over the same route, serving no intermediate of off-route points; and (5) Between Orlando, Fla., and the terminal facilities utilized by AUTO/BUS CORPORATION on Florida Highway 865 approximately five miles south of Ft. Myers Beach, Fla.: From the terminal facilities utilized by AUTO/BUS CORPORATION at Orlando, Fla., southwest over Interstate Highway 4 to junction Florida Highway A557, thence south over Florida Highway A557 to junction U.S. Highway 17 at Cypress Gardens, Fla., thence south over U.S. Highway 17 to junction U.S. Highway 41 at Punta Gorda, Fla., thence south over U.S. Highway 41 to junction Florida Highway 865, thence west and north over Florida Highway 865 to the terminal facilities utilized by AUTO/BUS CORPORATION on Florida Highway 865 approximately five miles south of Ft. Myers Beach, Fla., and return over the same route, serving no intermediate or off-route points.

NOTE.—Applicant indicates it intends to join the requests for authority in (1) through (5) above. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., Providence, R.I., or Orlando, Fla.

No. MC 139721, filed April 3, 1974. Applicant: ALL WORLD TRAVEL, INC., 1306 Knox Avenue, Easton, Pa. 18042. Applicant's representative: Paul F. Ruch, Jr. (address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their luggage*, in limousine service limited to driver and nine passengers, between points in Northhampton County, Pa., and Warren County, N.J., to the piers and airports at Newark, N.J., Philadelphia, Pa., and New York, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Allentown, Pa., and as an alternate: Philadelphia, Pa.

BROKER APPLICATION

No. MC 130238, filed April 4, 1974. Applicant: AUTOMOBILE CLUB OF SOUTHERN INDIANA INCORPORATED, 300 Southeast Riverside Drive, Evansville, Ind. 47713. Applicant's representative: William H. Van Deest, 1167 Lombard Avenue, Evansville, Ind. 47715. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Evansville, Ind., to sell or offer to sell the transportation of *passengers in groups and baggage of passengers*, beginning and ending at Evansville, Ind. and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Evansville, Ind. with alternate choices: Louisville, Ky., Indianapolis, Ind.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10615 Filed 5-9-74;8:45 am]

FEDERAL ENERGY OFFICE

ENVIRONMENTAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Environmental Advisory Committee will meet Wednesday, May 22, 1974 at 9:30 a.m., in Room 3140A, Federal Energy Office, New Post Office, Benjamin Franklin Station, 12th and Pennsylvania Avenue NW., Washington, D.C.

The committee was established to advise the Administrator, Federal Energy Office, with respect to general environmental aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

The agenda for the meeting is as follows:

1. Proposed Energy Facility Siting Legislation.
2. National Environmental Policy Act.
3. Clean Air Act Amendments.
4. Recommendations of prior meeting, March 12, 1974.

Further information concerning this meeting may be obtained from Ken Woodcock, Federal Energy Office, Washington, D.C., 202/961-8656.

Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

The meeting is open to the public; however space and facilities are limited.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-10926 Filed 5-8-74;11:21 am]

STATE REGULATORY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the State Regulatory Advisory Committee will meet Thursday, May 16, 1974 at 9:00 a.m. in Room 3400, Federal Energy Office, New Post Office, Benjamin Frankiln Station, 12th and Pennsylvania Avenue NW., Washington, D.C.

The committee was established to advise the Administrator, Federal Energy Office, with respect to State utility regulatory commission interests and problems related to the policy and implementation of programs to meet the current national energy crisis.

The agenda for the meeting is as follows:

1. Restructure of Utility Rates
2. Curtailment of Natural Gas
3. Consideration of Interruptible Gas Contracts
4. Organizational matters

Further infomation concerning this meeting may be obtained from Clarke Grover, Federal Energy Office, Washington, D.C., 202/961-7575.

Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

The meeting is open to the public; however space and facilities are limited.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-10925 Filed 5-8-74;11:21 am]

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THURSDAY, MAY 9, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 91

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

PETROLEUM REFINING POINT SOURCE CATEGORY

Effluent Guidelines and Standards

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Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 419—PETROLEUM REFINING POINT SOURCE CATEGORY

On December 14, 1973 notice was published in the FEDERAL REGISTER (38 FR 34542), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory, and integrated subcategory of the petroleum refining category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory, and integrated subcategory of the petroleum refining category of point sources, by amending 40 CFR Ch. I, Subchapter N, to add a new Part 419. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision, which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory, and integrated subcategory. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Segment of the Petroleum Refining Point Source Category" (December 1973) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Petroleum Refining Industry" (September 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows. The regulation as promulgated contains some significant departures from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not made.

(a) *Summary of major comments.* The following responded to the request for comments which was made in the preamble to the proposed regulation: Interstate Sanitation Commission; Shell Oil Company; Phillips Petroleum Company; Getty Oil Company; Union Oil Company of California; Exxon Company, USA; Larry D. Killion; American Petroleum Industry; Standard Oil Company of Ohio; UOP Process Division; Gulf Oil; City of Buffalo; Mobil Oil Corporation; Macario Independent Refinery; Texaco Incorporated; Standard Oil Company of Indiana; National Wildlife Federation; State of California; County of Erie, NY; State of Alaska; Los Angeles County; Buffalo (N.Y.) Area Chamber of Commerce; State of Colorado; State of Michigan; U.S. Water Resources Council; Sun Oil Company; Department of the Interior; The Honorable Henry P. Smith, III; State of North Carolina.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and EPA's response to those comments.

(1) Clean rainfall limits should be set at the same level as treatment plant effluent to avoid having to treat marginally contaminated runoff.

The handling of storm runoff was reevaluated and the run-off from a refinery was broken down further to consider tankfield runoff, process area runoff and other noncontaminated runoff. This reevaluation also considered the treatment of marginally contaminated runoff. (See "Development Document," Section VII).

As a result of this evaluation a limit of 35 mg/1 TOC and 15 mg/1 oil and grease (both maximums) was set for both tankfield runoff and other uncontaminated runoff. (This is changed from 15 mg/1 of TOC and no visible sheen). The limits for contaminated runoff (process area runoff treated along with other process wastes) should remain the same.

(2) The definition of feedstocks should include imported catalytic cracker feed, reformer feed and petrochemical feeds.

Since these feeds do not receive full processing at the refinery and are free of some contaminants (removed during prior processing), no allocation based on throughput should be given. The additional waste loads caused by the processing required is taken into account by the higher process factor the refinery will receive. (See "Development Document," Section IX).

(3) Once-through cooling water should not be included in a production based allocation. The reasons for this statement and alternate approaches given are as follows:

(a) The March 7, 1973 guidance excluded once-through water from consideration; (b) the low concentrations contained have no environmental impact; (c) analytical techniques do not allow for accurate results at low concentrations; and (d) a separate limit of 5 mg/1 of TOC (net) should be used.

An evaluation of water flow data from over one hundred refineries, both with recycle and once-through cooling water systems, showed that only 25 percent of the total flow from recycle refineries results from cooling tower blowdown. In addition, the once-through refineries showed higher process waste flows than the recycle refineries. Therefore, once-through cooling water is being excluded from the production based allotment and a separate limit of 5 mg/1 of TOC is being set to prevent gross contamination of these waters. (See "Development Document"; section IX; Supplement B, "Refinery Water Use".)

(4) Limits should be based on a monthly average rather than 30 day running average. (Running average—any thirty consecutive days).

The limits are set in terms of a running average to prevent slackening off at the end of any fixed period and therefore guarantee optimum performance at all times.

(5) There isn't enough variability allowed between the daily and monthly limits. Arguments given to justify higher values were as follows:

(a) Data were not random or normally distributed; (b) variability not being met by some refineries using BPCTCA end-of-pipe; and (c) high analytical errors.

The variability factors can not be compared as a ratio of daily and monthly (30 day average) values. Both the daily and 30 day average variabilities were based on the annual average. The daily variability predicts the maximum day over a period of a year and the 30 day average variability predicts the maximum 30 day average in any year.

These variabilities were computed from data taken from several plants (one year's or more data in each case). The variability factors therefore include all of the errors (resulting variability) that result from sampling and analytical technique and accuracy.

The date from the plants analyzed were found to be either normally or log normally distributed.

The fact that certain refineries, which already have the end-of-pipe treatment as defined by BPCTCA, are showing higher variabilities than those of the exemplary plants only points out that BPCTCA as defined should include factors other than end-of-pipe treatment (i.e. good water use practices, good housekeeping, etc.). (See "Development Document," section IX, "Statistical Variability of a Properly Designed and Operated Waste Treatment Plant"; Supplement B, "Variability").

The daily maximum variability was increased to reflect a 99 percent probability of occurrence. This was done to reduce the number of technical violations.

TOC limit should be eliminated and set later as its ratio to BOD5 is determined at each refinery.

The limits set for TOC are necessary because of the many instances when BOD5 COD, or both are not practical limits (as a result of analytical errors, time limitations, etc.). (See "Development Document," section IX; "Procedure for Development of BPCTCA Effluent Limitations").

The ratio of TOC/BOD, proposed at 1.8 was raised to 2.2.

(7) A subcategorization should be made based on the age of the refinery because of non-segregated sewers and the inequitable financial burden.

Those refineries with non-segregated sewers will probably have to either segregate their once-through cooling water or go to recycle cooling. This has already been done by many older refineries and was considered as part of the economic evaluation.

(8) The American Petroleum Institute has proposed a method to further subcategorize the petroleum industry. This approach is based on a mathematical analysis of the 1972 EPA/API Raw Waste Load Survey Data. This analysis (not yet completed) proposes to determine the relative effect of various process types on the total refinery flow.

An intensive investigation of this approach has been carried out. As a result, it was found that both size (feedstock throughput) and process configuration weigh heavily in determining the final flows. Tables have been included in the regulation to allow variation within each subcategory based on both size and process configuration. (See "Development Document," section IV; Supplement B, "Refinery Configuration Analysis").

The size and process factors determined from the above investigation were used to further subcategorize the petroleum industry.

(9) Special consideration should be given for refineries charging California crudes because of the high nitrogen, sulfur and naphthenic acid content.

The heavy (10–20 API gravity) nature of the California crudes requires more intensive processing (cracking, etc.) than lighter grades of crude. From the data available, the process factor (based on severity of operations) adequately accounts for the higher raw waste loads seen in refineries running California crudes. (See "Development Document," Section IV; Supplement B, "California Crudes".)

(10) There is no allowance given in the guidelines for the contaminants present in the intake water (net vs. gross), which are said to be especially significant in once-through cooling water.

The effluent limitations guidelines have generally been developed on a gross or absolute basis. However, the Agency recognizes that in certain instances pollutants will be present in navigable waters which supply a plant's intake water, in significant concentrations, which may not be removed to the levels specified in the guidelines by the application of treatment technology contemplated by BPCTCA.

Accordingly, the Agency is currently developing amendments to its NPDES permit regulations (40 CFR Part 125) which will specify the situations in which the Regional Administrator may allow a credit for such pollutants. The regulations will be proposed for public comment in the near future.

(11) Some correspondents endorsed the proposal made to the Administrator by the Effluent Standards and Water Quality Information Advisory Committee. This proposal is for a significantly different approach to the development of effluent guidelines.

The above-mentioned proposals are under evaluation as a contribution toward future refinements on guidelines for some industries. The Committee has indicated that their proposed methodology could not be developed in sufficient time to be available for the current phase of guideline promulgation. Its present state of development does not provide enough evidence to warrant the Agency's delaying issuance of any standard in hopes that an alternative approach might be preferable.

(12) The BATEA limits were objected to because they are based on pilot plant data.

The Agency recognizes that the technology specified herein as best available technology economically achievable has not been demonstrated in day-to-day operations in this industrial category. However, in determining whether technology has been "demonstrated" for the purposes of standards which must be achieved by 1983, the Agency does not believe that the same high degree of confidence that the technology will work must exist as is the case for 1977 standards. In making the judgment as to whether or not the technology is "available," the Agency examined a wide range of information, including the use of the technology to treat similar wastes in other industrial categories, pilot plant and demonstration projects, and laboratory and other experimental data on various waste treatment processes. Based on such data and information, and the application of the Agency's best judgment, the technology specified herein was determined to constitute the best available technology economically achievable for the petroleum refinery category.

It is recognized that, in some cases, the industry must itself perform some of the pilot plant and other developmental work which will be necessary to bring the technology into full utilization. This does not however, alter the Agency's judgment that the technology is "available," is "economically achievable," and can be brought on line in time to achieve full compliance by 1983, as required by the Act.

(13) The flow basis, based on 97 percent recycle flow, is too restrictive to be met by older refineries with once-through cooling water and does not consider the varying process complexities within subcategories.

The flow basis is not a flow restriction. It was used to determine the expected pounds/day from a refinery with good water use and the specified end-of-pipe treatment scheme. The refinery with once-through cooling water may continue to discharge that water.

The guideline takes into consideration the difference in expected flow caused by varying process complexities by the use of a process factor that varies the limits within each subcategory based on process configuration. (See "Development Document"; Section IX).

(14) EPA failed to adequately consider factors such as raw material used, products produced, processes, and waste water constituents.

The use of the process factors directly considers the processes used. The raw materials used, products produced and the waste water constituents are covered indirectly because each determines or is determined by the process configuration of each refinery. (See "Development Document"; Section IV; Supplement B, "Refinery Configuration Analysis").

(15) No allowances have been made for malfunctions, breakdowns, and upsets of the treatment plant. Since it may take several weeks to recover from a severe upset, a procedure for reporting these circumstances and obtaining a temporary variance is necessary.

The guideline is based on normal operation. Any consideration of other than normal operation will be covered in the NPDES permits.

(16) The COD limits are too low because of test tolerances. EPA analytical methods state minimum reportable concentrations 200 mg/1 in water with 1,000 mg/1 of chloride.

Standard methods tolerance at 150 mg/1 of COD is ±14 mg/1 at 1,000 mg/1 of chloride. There will still be cases where extremely high chloride levels will negate the use of this test and that is one of the reasons for limits being set for three oxygen demanding parameters (BOD5, COD, and TOC).

(17) Data from pilot plant carbon systems indicate removal efficiencies (percent removal) less than those used for BATEA limits. (BOD, COD, oil and grease).

The pilot plant values used are referenced in Table 65 of the Development Document. Concentrations, not removal efficiencies were used to set BOD and oil and grease limits for BATEA.

(18) The oil and grease limits should be raised because the references in the Development Document showed 10 mg/1 attainable from bio-treatment and 7 mg/1 from activated carbon, yet the guideline is based on 5 mg/1.

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The guideline limit (BPCTCA) is based on neither bio-treatment nor activated carbon, but on a polishing step after bio-treatment (i.e., polishing ponds, filters, etc.) (See "Development Document," sections VII and IX).

(19) Consideration should be given to refineries in northern climates because of the effect of temperature on biological treatment systems.

Of the many refineries currently meeting EPA's guidelines for BOD5, several are located in northern climates (e.g. Billings, Montana; Alma, Michigan). (See supplement B, refinery data).

(20) The Economic Impact Analysis states, "It is not expected that any significant economic impact would result from imposing the 1977 and 1983 effluent limitations." This is not true, especially in the light of the current and future unstable situation of crude oil supply.

An economic impact analysis of pollution controls on the refinery industry completed February, 1974 states "As a result of recent world developments there is a substantial differential between world cartel prices and U.S. domestic oil prices. If this continues, there is reason to suggest that a number of the projected small refinery closures might not occur. Certainly the ability to attract long-term financing for pollution abatement is greatly enhanced by the price differential that exists." (See supplement B, "Impact on Refineries of Pollution Control Regulations", February, 1974).

(21) Oil and grease limits should be based on a maximum effluent concentration of 1 mg/l and should be limited by concentration and not on pounds-production values.

There is neither a demonstrated treatment technology to guarantee 1 mg/l of oil and grease effluent concentration, nor an accepted analytical procedure to measure it.

(22) Effluent limits should be set as lbs/1000 gals of waste water flow based on a specified end-of-pipe treatment and a documented flow for each individual refinery.

This approach does not adequately consider the importance of the in-plant requirements of BPCTCA (good water use, housekeeping, etc.) (See "Development Document", sections VII and IX).

(23) Ammonia levels based on 80 percent removal from the median raw waste load (API separator effluent) and the BPCTCA removal step for ammonia is in-plant in the form of a stripper.

Even though the primary removal of ammonia in a refinery should be done during sour water stripping many refineries have not optimized toward ammonia removal (units designed for sulfide removal). The optimization of stripping for ammonia removal or the installation of two stage strippers is considered BPCTCA. In addition, ammonia will be removed in the treatment plant as it is needed to provide nutrient nitrogen for the biological system. (See "Development Document", section VII).

(24) The economic impact for the removal of chromium and zinc was not considered.

The zinc limit has been deleted as a result of an analysis of the zinc raw waste loads from over one hundred refineries. Only a small percentage of these refineries' raw waste loads exceeded the guideline zinc limit.

A similar analysis showed almost 50 percent of the refineries (using cooling towers, chromium appears in refinery wastes because of its use as a corrosion inhibitor in recycle cooling systems) meeting the total chromium limits with their raw waste. Since the solubility of Cr+3 is less than 0.1 mg/l between pH 6.0 to 9.0, the remaining refineries should meet the guidelines limits by removing the insoluble Cr+3 along with other suspended solids.

The reduction of Cr+6 to Cr+3 occurs naturally in a typical refinery waste because of the presence of reducing agents such as sulfides and sulfites.

The above factors will mean that no additional costs (for removal of chromium) should be involved for the majority of refineries above those required to meet the other parameter limits. (See supplemental B, "Raw Waste Load Survey—Zinc and Chromium").

(25) There is a need to monitor and control all identified pollutants such as TDS, cyanide and various other specific ions, in addition to the eleven parameters already being monitored and controlled.

The parameters limited in the guidelines are those which are fairly common to the industry and for which there is existing technology in use in the industry for their removal. The control and monitoring of any additional parameters might be called for on an individual basis to meet water quality standards.

(26) Promulgation is considered to be appropriate provided it is subject to realistic revision as new data becomes available.

The Act provides for periodic review and revisions as appropriate.

(b) Revision of the proposed regulation prior to promulgation.

As a result of public comment and continuing review and evaluation of the proposed regulation by EPA, the following changes have been made in the regulation.

(1) As a result of some changes in the subcategorization (low and high cracking combined to form the new cracking subcategory and the topping subcategory being defined as those refineries without cracking) a reevaluation of the median flows within each subcategory was made. The changes made are as follows: topping from 12 gal/bbl to 20 gal/bbl; cracking from (low) 17 gal/bbl, (high) 21 gal/bbl to 25 gal/bbl; petrochemical from 25 gal/bbl to 30 gal/bbl; lube from 37 gal/bbl to 45 gal/bbl; and integrated from 45 gal/bbl to 48 gal/bbl. The parameter limits which are flow based were adjusted accordingly.

(2) The limits on storm water runoff from tankfields and non-process areas were changed from 15 mg/l of TOC and no sheen to 35 mg/l of TOC and 15 mg/l of oil and grease (both maximums). These limits are set at those same maximum concentrations expected if the runoff were passed through the treatment plant.

(3) A further subcategorization of the industry was made based on process configuration and size.

(4) Zinc was eliminated as a parameter to be limited industry wide. Further evaluation of the API/EPA Raw Waste Load Survey showed only a small percentage of the industry over the zinc limits set.

(5) The ammonia limits were changed based on the changes in the subcategorization.

(6) The ratio of TOC/BOD5 was changed from 1.8 to 2.2.

(7) Once-through cooling water was excluded from the production based allocation and a maximum concentration of 5 mg/l of TOC was set.

(8) The daily maximum values were increased to reflect a 99 percent probability of occurrence. This was done to limit the number of technical violations of the permit.

(9) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) *Economic impact.* The changes that were made to the proposed regulations for the petroleum refining category do not substantially affect the initial economic analysis. The changes detailed above reflects a reevaluation of the efficiency of various treatment systems and further subcategorization of the industry to more equitably distribute the economic burden. These revisions, however, do not effect the conclusions of the economic impact study.

(d) *Cost-benefit analysis.* The detrimental effects of the constituents of waste waters now discharged by point sources within the Petroleum Refining point source category are discussed in Section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the Petroleum Refining Point Source Category".

It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in Section VI, the pollutants discharged have substantial and damaging impacts

on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines Petroleum Refining Industry" (December 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the petroleum refining industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) *Solid waste control.* Solid waste control must be considered. The waterborne wastes from the petroleum refining industry may contain a considerable volume of metals in various forms as a part of the suspended solids pollutant. Best practicable control technology and best available control technology as they are known today require disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In some cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate precautions (e.g., impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(f) Publication of information on processes, procedures, or operating methods which results in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of section 304(c) of the Act, a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category," is being published and will be available for purchase from the Government Printing Office, Washington, D.C. 20401 for a nominal fee.

(g) *Final rulemaking.* In consideration of the foregoing, 40 CFR Ch. I, Subchapter N is hereby amended by adding a new Part 419, Petroleum Refining Point Source Category, to read as set forth below. An order of the Federal District Court for the District of Columbia entered in "NRDC v. Train" (Civ. No. 1609–73) on November 26, 1973, required that the Administrator sign final effluent limitations guidelines for this industry category by March 15, 1974. That order was subsequently modified on March 15, 1974, and the date for signing extended until April 15, 1974. On the same date the District Court ordered that the effective date for effluent limitations guidelines established by its November 26 order remain applicable and not be affected by the extension in the publication date. The effective date for effluent limitations guidelines for this industry established by the Court's November 26 order is May 12, 1974. Accordingly, good cause is found for the final regulation promulgated as set forth below to be effective on May 12, 1974.

Dated: April 30, 1974.

JOHN QUARLES,
Acting Administrator.

Subpart A—Topping Subcategory

Sec.
419.10 Applicability; description of the topping subcategory.
419.11 Specialized definitions.
419.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.14 [Reserved]
419.15 Standards of performance for new sources.
419.16 Pretreatment standards for new sources.

Subpart B—Cracking Subcategory

419.20 Applicability; description of the cracking subcategory.
419.21 Specialized definitions.
419.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.24 [Reserved]
419.25 Standards of performance for new sources.
419.26 Pretreatment standards for new sources.

Subpart C—Petrochemical Subcategory

419.30 Applicability; description of the petrochemical subcategory.
419.31 Specialized definitions.
419.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.34 [Reserved]
419.35 Standards of performance for new sources.
419.36 Pretreatment standards for new sources.

Subpart D—Lube Subcategory

419.40 Applicability; description of the lube subcategory.
419.41 Specialized definitions.
419.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.44 [Reserved]
419.45 Standards of performance for new sources.
419.46 Pretreatment standards for new sources.

Subpart E—Integrated Subcategory

419.50 Applicability; description of the integrated subcategory.
419.51 Specialized definitions.
419.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
419.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
419.54 [Reserved]
419.55 Standards of performance for new sources.
419.56 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92–500.

Subpart A—Topping Subcategory

§ 419.10 Applicability; description of the topping subcategory.

The provisions of this subpart are applicable to discharges from any facility which produces petroleum products by the use of topping and catalytic reforming whether or not the facility includes any other process in addition to topping and catalytic reforming. The provisions of this subpart are not applicable to facilities which include thermal processes (coking, visbreaking, etc.) or catalytic cracking.

§ 419.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "runoff" shall mean the flow of storm water.

(c) The term "ballast" shall mean the flow of waters, from a ship, which is treated at the refinery.

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(d) The term "feedstock" shall mean the crude oil and natural gas liquids fed to the topping units.

(e) The term "once-through cooling water" shall mean those waters discharged that are used for the purpose of heat removal and that do not come into direct contact with any raw material, intermediate or finished product.

(f) The following abbreviations shall mean: (1) Mgal means one thousand gallons; (2) Mbbl means one thousand barrels (one barrel is equivalent to 42 gallons).

§ 419.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	22.7	12.0
TSS	13.9	8.2
COD*	117	60.3
Oil and grease	6.9	3.7
Phenolic compounds	.168	.076
Ammonia as N	2.81	1.27
Sulfide	.149	.068
Total chromium	.345	.20
Hexavalent chromium	.0071	.0031
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	8.0	4.25
TSS	4.9	2.9
COD*	41.2	21.3
Oil and grease	2.5	1.3
Phenolic compounds	.060	.027
Ammonia as N	.99	.45
Sulfide	.053	.024
Total chromium	.122	.071
Hexavalent chromium	.0025	.0011
pH	Within the range 6.0 to 9.0.	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor.

1,000 barrels feedstock per stream day	*Size factor*
0 to 49.9	1.02
50 to 99.9	1.21
100 to 149.9	1.44
150 or greater	1.57

(2) Process factor

Process configuration	*Process factor*
1.0 to 3.99	0.60
4.0 to 6.99	1.00
7.0 to 9.99	1.66
10.0 to 12.99	2.77
13.0 to 15.0 or greater	4.09

(3) See the comprehensive example Subpart D § 419.42(b) (3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph and attributable to runoff and ballast, which may be discharged after the application of best practicable control technology currently available, by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (b) of this section:

(1) *Runoff.* The allocation allowed for storm runoff flow, as kg/cu m (lb/m gal), shall be based solely on that storm flow (process area runoff) which is treated in the main treatment system. All additional storm runoff (from tank fields and non-process areas), that has been segregated from the main waste stream for discharge, shall not exceed a concentration of 35 mg/1 of TOC or 15 mg/1 of oil and grease when discharged.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.048	0.026
TSS	.029	.017
COD*	.37	.19
Oil and grease	.015	.008
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 gal of flow)	
BOD5	0.40	0.21
TSS	.24	.14
COD*	3.1	1.6
Oil and grease	.126	.067
pH	Within the range 6.0 to 9.0.	

(2) *Ballast.* The allocation allowed for ballast water flow, as kg/cu m (lb/Mgal), shall be based on those ballast waters treated at the refinery.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.048	0.026
TSS	.029	.017
COD*	.47	.24
Oil and grease	.015	.008
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 gal of flow)	
BOD5	0.40	0.21
TSS	.24	.14
COD*	3.9	2.0
Oil and grease	.126	.067
pH	Within the range 6.0 to 9.0.	

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	2.5	2.0
TSS	2.4	2.0
COD*	10.0	8.0
Oil and grease	.50	.40
Phenolic compounds	.012	.0090
Ammonia as N	.68	.51
Sulfide	.055	.035
Total chromium	.124	.105
Hexavalent chromium	.0026	.0017
pH	Within the range 6.0 to 9.0	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	0.92	0.75
TSS	.88	.75
COD*	3.5	2.8
Oil and grease	.18	.14
Phenolic compounds	.0043	.0031
Ammonia as N	.24	.18
Sulfide	.019	.015
Total chromium	.044	.037
Hexavalent chromium	.00097	.00062
pH	Within the range 6.0 to 9.0.	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per steam day	*Size factor*
0 to 49.9	1.02
50 to 99.9	1.21
100 to 149.9	1.44
150 or greater	1.57

(2) Process factor

1.0 to 3.99	0.60
4.0 to 6.99	1.0
7.0 to 9.99	1.66
10.0 to 12.99	2.77
13.0 to 15.0 or greater	4.09

(3) See the comprehensive example Subpart D § 419.42(b) (3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to runoff and ballast, which may be discharged after the application of best available technology economically achievable by a point source subject to the provisions of this subpart. These allocations are in addition to the discharge allowed by paragraph (b) of this section:

(1) *Runoff.* The allocation allowed for storm runoff flow, as kg/cu m (lb/Mgal), shall be based solely on that storm flow (process area runoff) which is treated in the main treatment system. All additional storm runoff (from tankfields and non-process areas), that has been segregated from the main waste stream for discharge, shall not exceed a concentration of 35 mg/1 of TOC or 15 mg/1 of oil and grease when discharged.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.0105	0.0085
TSS	.010	.0085
COD*	.028	.022
Oil and grease	.0020	.0016
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 gal of flow)	
BOD5	0.088	0.071
TSS	.084	.071
COD*	.24	.19
Oil and grease	.018	.014
pH	Within the range 6.0 to 9.0.	

(2) *Ballast.* The allocation allowed for ballast water flow, as kg/cu m (lb/Mgal), shall be based on those ballast waters treated at the refinery.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.0105	0.0085
TSS	.010	.0085
COD*	.038	.030
Oil and grease	.0020	.0017
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 gal of flow)	
BOD5	0.088	0.071
TSS	.084	.071
COD*	.32	.26
Oil and grease	.018	.014
pH	Within the range 6.0 to 9.0.	

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/1.

§ 419.14 [Reserved]

§ 419.15 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	11.8	6.3
TSS	7.3	4.0
COD*	61	32
Oil and grease	3.6	1.9
Phenolic compounds	.088	.043
Ammonia as N	2.8	1.3
Sulfide	.078	.035
Total chromium	.18	.105
Hexavalent chromium	.0037	.0017
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	4.2	2.2
TSS	2.6	1.5
COD*	21.7	11.2
Oil and grease	1.3	.70
Phenolic compounds	.031	.016
Ammonia as N	1.0	.45
Sulfide	.027	.012
Total chromium	.064	.037
Hexavalent chromium	.0013	.00082
pH	Within the range 6.0 to 9.0.	

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 bbl of feedstock per stream day	*Size factor*
0 to 49.9	1.02
50 to 99.9	1.21
100 to 149.9	1.44
150 or greater	1.57

(2) Process factor

Process configuration	*Process factor*
1.0 to 3.99	0.60
4.0 to 6.99	1.00
7.0 to 9.99	1.66
10.0 to 12.99	2.77
13.0 to 15.0 or greater	4.09

(3) See the comprehensive example Subpart D § 419.42(b) (3).

(c) The following allocations constitute the quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to runoff and ballast, which may be discharged by a new source subject to the provisions of this subpart. These allocations are in addition to the discharge allowed by paragraph (b) of this section:

* In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1000 mg/l (1000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgment of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

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(1) *Runoff.* The allocation allowed for storm runoff flow, as kg/cu m (lb/Mgal), shall be based solely on that storm flow (process area runoff) which is treated in the main treatment system. All additional storm runoff (from tankfields and non-process areas), that has been segregated from the main waste stream for discharge, shall not exceed a concentration of 35mg/l of TOC or 15 mg/l of oil and grease when discharged.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.048	0.026
TSS	.029	.017
COD [1]	.37	.19
Oil and grease	.015	.0080
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 gal of flow)	
BOD5	0.40	0.21
TSS	.24	.14
COD [1]	3.1	1.6
Oil and grease	.126	.067
pH	Within the range 6.0 to 9.0.	

(2) *Ballast.* The allocation allowed for ballast water flow, as kg/cu m lb/Mgal), shall be based on those ballast waters treated at the refinery.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per cubic meter of flow)	
BOD5	0.048	0.026
TSS	.029	.017
COD [1]	.47	.24
Oil and grease	.015	.008
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 gal of flow)	
BOD5	0.40	0.21
TSS	.24	.14
COD [1]	3.9	2.0
Oil and grease	.126	.067
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the topping subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 419.15; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant."

Subpart B—Cracking Subcategory

§ 419.20 Applicability; description of the cracking subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping and cracking, whether or not the facility includes any process in addition to topping and cracking. The provisions of this subpart are not applicable however, to facilities which include the processes specified in Subparts C, D, or E of this part.

§ 419.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "runoff" shall mean the flow of storm water.

(c) The term "ballast" shall mean the flow of waters, from a ship, which is to be treated at the refinery.

(d) The term "feedstock" shall mean the crude oil and natural gas liquids fed to the topping units.

(e) The term "once-through cooling water" shall mean those waters discharged that are used for the purpose of heat removal and that do not come into direct contact with any raw material, intermediate or finished product.

(f) The following abbreviations shall mean: (1) Mgal means one thousand gallons; (2) Mbbl means one thousand barrels (one barrel is equivalent to 42 gallons).

§ 419.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	28.2	15.6
TSS	17.1	10.2
COD [1]	210	109
Oil and grease	8.4	4.5
Phenolic compounds	.21	.10
Ammonia as N	18.8	8.5
Sulfide	.18	.082
Total chromium	.43	.25
Hexavalent chromium	.0087	.0040
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	9.9	5.5
TSS	6.1	3.6
COD [1]	74	38.4
Oil and grease	3.0	1.6
Phenolic compounds	.074	.036
Ammonia as N	6.6	3.0
Sulfide	.065	.029
Total chromium	.15	.088
Hexavalent chromium	.0031	.0014
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	*Size factor*
0 to 34.9	0.89
35 to 74.9	1.00
75 to 109.9	1.14
110 to 149.9	1.31
150 or greater	1.41

(2) Process factor

Process configuration	*Process factor*
1.5 to 3.49	0.58
3.50 to 5.49	0.81
5.50 to 7.49	1.13
7.50 to 9.49	1.60
9.50 to 10.50 or greater	1.87

(3) See the comprehensive example Subpart D § 419.42(b) (3).

(c) The provisions of § 419.12(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged a total organic carbon concentration not to exceed 5 mg/l.

§ 419.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	3.4	2.7
TSS	3.2	2.7
COD [1]	19.2	15.4
Oil and grease	.68	.54
Phenolic compounds	.016	.011
Ammonia as N	4.6	3.5
Sulfide	.075	.048
Total chromium	.16	.14
Hexavalent chromium	.0035	.0022
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	1.2	0.99
TSS	1.2	.99
COD [1]	6.8	5.4
Oil and grease	.24	.19
Phenolic compounds	.0055	.0039
Ammonia as N	1.6	1.2
Sulfide	.026	.017
Total chromium	.058	.049
Hexavalent chromium	.0013	.0008
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgment of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	*Size factor*
0 to 34.9	0.89
35 to 74.9	1.00
70 to 109.9	1.14
110 to 149.9	1.31
150 or greater	1.41

(2) Process factor

Process configuration	*Process factor*
1.5 to 3.49	0.58
2.50 to 5.49	0.81
5.50 to 7.49	1.13
7.50 to 9.49	1.60
9.50 to 10.50 or greater	1.87

(3) See the comprehensive example Subpart D § 419.42(b) (3).

(c) The provisions of § 419.13(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.24 [Reserved]

§ 419.25 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	16.3	8.7
TSS	9.9	5.8
COD [1]	118	61
Oil and grease	4.8	2.6
Phenolic compounds	.119	.058
Ammonia as N	18.8	8.6
Sulfide	.105	.048
Total chromium	.24	.14
Hexavalent chromium	.0050	.0022
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	5.8	3.1
TSS	3.5	2.0
COD [1]	41.5	21
Oil and grease	1.7	.93
Phenolic compounds	.042	.020
Ammonia as N	6.6	3.0
Sulfide	.037	.017
Total chromium	.084	.049
Hexavalent chromium	.0018	.00081
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

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(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	*Size factor*
0 to 34.9	0.89
35 to 74.9	1.00
75 to 109.9	1.14
110 to 149.9	1.31
150 or greater	1.41

(2) Process factor

Process configuration	*Process factor*
1.5 to 3.49	0.58
3.50 to 5.49	.81
5.50 to 7.49	1.13
7.50 to 9.49	1.60
9.50 to 10.50 or greater	1.87

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.15(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the cracking subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 419.25: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant."

Subpart C—Petrochemical Subcategory

§ 419.30 Applicability; description of the petrochemical subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping, cracking and petrochemical operations, whether or not the facility includes any process in addition to topping, cracking and petrochemical operations. The provisions of this subpart shall not be applicable however, to facilities which include the processes specified in Subparts D or E of this part.

§ 419.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "runoff" shall mean the flow of storm water.

(c) The term "ballast" shall mean the flow of waters, from a ship, which is to be treated at the refinery.

(d) The term "feedstock" shall mean the crude oil and natural gas liquids fed to the topping units.

(e) The term "once-through cooling water" shall mean those waters discharged that are used for the purpose of heat removal and that do not come into direct contact with any raw material, intermediate or finished product.

(f) The term "petrochemical operations" shall mean the production of second generation petrochemicals (i.e. alcohols, ketones, cumene, styrene, etc.) or first generation petrochemicals and isomerization products (i.e. BTX, olefins, cyclohexane, etc.) when 15 percent or more of refinery production is as first generation petrochemicals and isomerization products.

(g) The following abbreviations shall mean: (1) Mgal means one thousand gallons; (2) Mbbl means one thousand barrels (one barrel is equivalent to 42 gallons).

§ 419.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	34.6	18.4
TSS	20.6	12.0
COD[1]	210	109
Oil and grease	11.1	5.9
Phenolic compounds	.25	.120
Ammonia as N	23.4	10.6
Sulfide	.22	.099
Total chromium	.52	.30
Hexavalent chromium	.0115	.0051
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	12.1	6.5
TSS	7.3	4.25
COD[1]	74	38.4
Oil and grease	3.9	2.1
Phenolic compounds	.088	.0425
Ammonia as N	8.25	3.8
Sulfide	.078	.035
Total chromium	.183	.107
Hexavalent chromium	.0040	.0018
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per steam day	*Size factor*
0 to 49.9	0.73
50 to 99.9	.87
100 to 149.9	1.04
150 or greater	1.13

(2) Process factor

Process configuration	*Process factor*
3.25 to 4.74	0.67
4.75 to 6.74	.91
6.75 to 8.74	1.27
8.75 to 10.25 or greater	1.64

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.12(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	4.6	3.7
TSS	4.4	3.7
COD[1]	22	17
Oil and grease	.90	.72
Phenolic compounds	.022	.015
Ammonia as N	5.6	4.2
Sulfide	.099	.063
Total chromium	.22	.19
Hexavalent chromium	.0048	.0031
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	1.7	1.3
TSS	1.6	1.3
COD[1]	7.6	6.1
Oil and grease	.32	.26
Phenolic compounds	.0077	.0054
Ammonia as N	2.0	1.5
Sulfide	.035	.022
Total chromium	.080	.068
Hexavalent chromium	.0017	.0011
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) o fthis section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 bbl of feedstock per stream day	*Size factor*
0 to 49.9	0.73
50 to 99.9	.87
100 to 149.9	1.13
150 or greater	1.13

(2) Process factor

Process configuration	*Process factor*
3.25 to 4.74	0.67
4.75 to 6.74	.91
6.75 to 8.74	1.27
8.75 to 10.25 or greater	1.64

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.13(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provision of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.34 [Reserved]

§ 419.35 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m^3 of feedstock)	
BOD5	21.8	11.6
TSS	13.1	7.7
COD[1]	133	69
Oil and grease	6.6	3.5
Phenolic compounds	.158	.077
Ammonia as N	23.4	10.7
Sulfide	.140	.063
Total chromium	.32	.19
Hexavalent chromium	.0062	.0031
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	7.7	4.1
TSS	4.6	2.7
COD[1]	47	24
Oil and grease	2.4	1.3
Phenolic compounds	.056	.027
Ammonia as N	8.3	3.8
Sulfide	.050	.022
Total chromium	.116	.068
Hexavalent chromium	.0024	.0011
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	*Size factor*
0 to 49.9	0.73
50 to 99.9	.87
100 to 149.9	1.04
150 or greater	1.13

(2) Process factor

Process configuration	*Process factor*
3.25 to 4.74	0.67
4.75 to 6.74	.91
6.75 to 8.74	1.27
8.75 to 10.25 or greater	1.64

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.15(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the petrochemical subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 419.35: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant."

Subpart D—Lube Subcategory

§ 419.40 Applicability; description of the lube subcategory.

The provisions of this subpart are applicable to all discharges from any facility which produces petroleum products by the use of topping, cracking and lube oil manufacturing processes, whether or not the facility includes any process in addition to topping, cracking and lube oil manufacturing processes. The provisions

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of this subpart are not applicable however, to facilities which include the processes specified in Subparts C and E of this part.

§ 419.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this Chapter shall apply to this subpart.

(b) The term "runoff" shall mean the flow of storm water.

(c) The term "ballast" shall mean the flow of waters, from a ship, which is to be treated at the refinery.

(d) The term "feedstock" shall mean the crude oil and natural gas liquids fed to the topping units.

(e) The term "once-through cooling water" shall mean those waters discharged that are used for the purpose of heat removal and that do not come into direct contact with any raw material, intermediate or finished product.

(f) The following abbreviations shall mean: (1) Mgal means one thousand gallons; (2) Mbbl means one thousand barrels (one barrel is equivalent to 42 gallons).

§ 419.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	50.6	25.8
TSS	31.3	18.4
COD[1]	360	187
Oil and grease	16.2	8.5
Phenolic compounds	.38	.184
Ammonia as N	23.4	10.6
Sulfide	.33	.150
Total chromium	.77	.45
Hexavalent chromium	.017	.0076
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	17.9	9.1
TSS	11.0	6.5
COD[1]	127	66
Oil and grease	5.7	3.0
Phenolic compounds	.133	.065
Ammonia as N	8.3	3.8
Sulfide	.118	.053
Total chromium	.273	.160
Hexavalent chromium	.0059	.0027
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per steam day	Size factor
30 to 69.9	0.71
70 to 109.9	.81
110 to 149.9	.93
150 to 199.9	1.09
200 or greater	1.19

(2) Process factor

Process configuration	Progress factor
6.0 or less to 8.0	0.88
8.0 to 9.99	1.23
10.0 to 11.99	1.74
12.0 to 14.0 or greater	2.44

(3) Example of the application of the above factors.

Calculation of the process configuration

Process category	Processes included	Weighting factor
Crude	Atm. crude distillation	1
	Vacuum crude distillation.	
	Desalting.	
Cracking and coking.	Fluid cat. cracking	6
	Vis-breaking.	
	Thermal cracking.	
	Moving bed cat. cracking.	
	Hydrocracking.	
	Fluid coking.	
	Delayed coking.	
Lube	Further defined in the development document.	13
Asphalt	Asphalt production	12
	Asphalt oxidation.	
	Asphalt emulsifying.	

EXAMPLE.—*Lube refinery 125 1,000 bbl per stream day throughput*

Process	Capacity (1,000 bbl per stream day)	Capacity relative to throughput	Weighting factor	Processing configuration
Crude:				
Atm	125	1		
Vacuum	60	.48		
Desalting	125	1		
Total		2.48	× 1 =	2.48
Cracking—FCC	41	.328		
Hydrocracking	20	.160		
Total		.488	× 6 =	2.93
Lubes	5.3	.042		
	4.0	.032		
	4.9	.039		
Total		.113	× 13 =	1.47
Asphalt	4.0	0.032	× 12 =	.38
Refinery process configuration			=	7.26

NOTES

See table § 419.42(b)(2) for process factor. Process factor = 0.88.
See table § 419.42(b)(1) for size factor for 125 1,000 bbl per stream day lube refinery. Size factor = 0.93.
To calculate the limits for each parameter, multiply the limit § 419.42(a) by both the process factor and size factor.
BOD5 limit (maximum for any 1 day) = 11.8 × 0.88 × 0.93 = 9.7 lb. per 1,000 bbl of feedstock.

(c) The provisions of § 419.12(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	7.8	6.3
TSS	7.4	6.3
COD[1]	40	32
Oil and grease	1.4	1.1
Phenolic compounds.	.034	.024
Ammonia as N	5.6	4.2
Sulfide	.16	.10
Total chromium	.36	.31
Hexavalent chromium.	.0081	.0052
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	2.7	2.2
TSS	2.6	2.2
COD[1]	13.8	11.0
Oil and grease	.59	.40
Phenolic compounds.	.012	.0087
Ammonia as N	2.0	1.5
Sulfide	.055	.035
Total chromium	.13	.11
Hexavalent chromium.	.0029	.0018
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	Size factor
30 to 69.9	0.71
70 to 109.9	.81
110 to 149.9	.93
150 to 199.9	1.09
200 or greater	1.19

(2) Process factor

Process configuration	Process factor
6.0 or less to 7.99	0.88
8.0 to 9.99	1.23
10.0 to 11.99	1.74
12.0 to 14.0 or greater	2.44

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.13(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.44 [Reserved]

§ 419.45 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 m³ of feedstock)	
BOD5	34.6	18.4
TSS	20.6	12.1
COD[1]	245	126
Oil and grease	10.5	5.6
Phenolic compounds.	.25	.12
Ammonia as N	23.4	10.7
Sulfide	.220	.10
Total chromium	.52	.31
Hexavalent chromium.	.0115	.0052
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 1,000 bbl of feedstock)	
BOD5	12.2	6.5
TSS	7.3	4.3
COD[1]	87	45
Oil and grease	3.8	2.0
Phenolic compounds.	.088	.043
Ammonia as N	8.3	3.8
Sulfide	.078	.035
Total chromium	.180	.105
Hexavalent chromium.	.0056	.0018
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per steam day	Size factor
30 to 69.9	0.71
70 to 109.9	.81
110 to 149.9	.93
150 to 199.9	1.09
200 or greater	1.19

(2) Process factor

Process configuration	Process factor
6.0 or less to 7.99	0.88
8.0 to 9.99	1.23
10.0 to 11.99	1.74
12.0 or greater	2.44

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.15(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provision of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the lube subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 419.45: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant."

Subpart E—Integrated Subcategory

§ 419.50 Applicability; description of the integrated subcategory.

The provisions of this subpart are applicable to all discharges resulting from any facility which produces petroleum products by the use of topping, cracking, lube oil manufacturing processes, and petrochemical operations, whether or not

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the facility includes any process in addition to topping, cracking, lube oil manufacturing processes and petrochemical operations.

§ 419.51 **Specialized definitions.**

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "runoff" shall mean the flow of storm water.

(c) The term "ballast" shall mean the flow of waters, from a ship, which is to be treated at the refinery.

(d) The term "feedstock" shall mean the crude oil and natural gas liquids fed to the topping units.

(e) The term "once-through cooling water" shall mean those waters discharged that are used for the purpose of heat removal and that do not come into direct contact with any raw material, intermediate or finished product.

(f) The term "petrochemical operations" shall mean the production of second generation petrochemicals (i.e., alcohols, ketones, cumene, styrene, etc.) or first generation petrochemicals and isomerization products (i.e., BTX, olefins, cyclohexane, etc.) when 15% or more of refinery production is as first generation petrochemicals and isomerization products.

(g) The following abbreviations shall mean: (1) Mgal means one thousand gallons; (2) Mbbl means one thousand barrels (one barrel is equivalent to 42 gallons).

§ 419.52 **Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 m³ of feedstock)		
BOD5	54.4	28.9
TSS	32.6	19.2
COD[1]	388	198
Oil and grease	17.1	9.1
Phenolic compounds	.40	.192
Ammonia as N	23.4	10.6
Sulfide	.85	.158
Total chromium	.82	.48
Hexavalent chromium	.017	.0079
pH	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 bbl of feedstock)		
BOD5	19.2	10.2
TSS	11.6	6.8
COD[1]	136	70
Oil and grease	6.0	3.2
Phenolic compounds	.14	.008
Ammonia as N	8.3	3.8
Sulfide	.124	.056
Total chromium	.29	.17
Hexavalent chromium	.0062	.0028
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and the maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	*Size factor*
70 to 144.9	0.69
145 to 219.9	.89
220 or greater	1.02

(2) Process factor

Process configuration	*Process factor*
6.0 or less to 7.49	0.78
7.5 to 8.99	1.00
9.0 to 10.5 or greater	1.30

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.12(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic concentration not to exceed 5 mg/l.

§ 419.53 **Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 m³ of feedstock)		
BOD5	8.8	7.1
TSS	8.4	7.1
COD[1]	47	38
Oil and grease	1.7	1.4
Phenolic compounds	.041	.029
Ammonia as N	5.6	4.2
Sulfide	.19	.12
Total chromium	.44	.37
Hexavalent chromium	.0092	.0059
pH	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 bbl of feedstock)		
BOD5	2.2	2.6
TSS	2.0	2.6
COD[1]	16.8	13.4
Oil and grease	.60	.48
Phenolic compounds	.015	.010
Ammonia as N	2.0	1.5
Sulfide	.066	.042
Total chromium	.15	.13
Hexavalent chromium	.0033	.0021
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgement of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	*Size factor*
70 to 144.9	0.69
145 to 219.9	.89
220 or greater	1.02

(2) Process factor

Process configuration	*Process factor*
6.0 or less to 7.49	0.78
7.5 to 8.99	1.00
9.0 to 10.5 or greater	1.30

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provisions of § 419.13(c) (1) and (2) apply to discharges of process waste water pollutants atttributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.54 **[Reserved]**

§ 419.55 **Standards of performance for new sources.**

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 m³ of feedstock)		
BOD5	41.6	22.1
TSS	24.7	14.5
COD[1]	295	152
Oil and grease	12.6	6.7
Phenolic compounds	.30	.14
Ammonia as N	23.4	10.7
Sulfide	.26	.12
Total chromium	.64	.37
Hexavalent chromium	.013	.0059
pH	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 bbl of feedstock)		
BOD5	14.7	7.8
TSS	8.7	5.1
COD[1]	104	54
Oil and grease	4.5	2.4
Phenolic compounds	.105	.051
Ammonia as N	8.3	3.8
Sulfide	.093	.042
Total chromium	.220	.13
Hexavalent chromium	.0047	.0021
pH	Within the range 6.0 to 9.0.	

[1] In any case in which the applicant can demonstrate that the chloride ion concentration in the effluent exceeds 1,000 mg/l (1,000 ppm), the Regional Administrator may substitute TOC as a parameter in lieu of COD. Effluent limitations for TOC shall be based on effluent data from the plant correlating TOC to BOD5.

If in the judgment of the Regional Administrator, adequate correlation data are not available, the effluent limitations for TOC shall be established at a ratio of 2.2 to 1 to the applicable effluent limitations on BOD5.

(b) The limits set forth in paragraph (a) of this section are to be multiplied by the following factors to calculate the maximum for any one day and maximum average of daily values for thirty consecutive days.

(1) Size factor

1,000 barrels of feedstock per stream day	*Size factor*
70 to 144.9	0.69
145 to 219.9	.89
220 or greater	1.02

(2) Process factor

Process configuration	*Process factor*
6.0 or less to 7.49	0.78
7.5 to 8.99	1.00
9.0 to 10.5 or greater	1.30

(3) See the comprehensive example Subpart D § 419.42(b)(3).

(c) The provision of § 419.15(c) (1) and (2) apply to discharges of process waste water pollutants attributable to storm water runoff and ballast water by a point source subject to the provisions of this subpart.

(d) The quantity and quality of pollutants or pollutant properties controlled by this paragraph, attributable to once-through cooling water, are excluded from the discharge allowed by paragraph (b) of this section. Once-through cooling water may be discharged with a total organic carbon concentration not to exceed 5 mg/l.

§ 419.56 **Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act for a source within the integrated subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 419.55: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant."

[FR Doc.74-10448 Filed 5-8-74;8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 419]

PETROLEUM REFINING POINT SOURCE CATEGORY

Proposed Application of Effluent Limitations Guidelines for Existing Sources to Pretreatment Standards for Incompatible Pollutants

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 419—Petroleum Refining Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory, and integrated subcategory of the petroleum refining point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 419) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants.) Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; *And provided further*, That "when the effluent limitations guidelines for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made staging the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 419.15, 419.25, 419.35, 419.45, and 419.55 of the proposed regulation for point sources within the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory, and integrated subcategory (December 14, 1973; 38 FR 34542), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 419.16, 419.26, 419.36, 419.46 and 419.56 which state the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category" is now being published. The economic analysis report entitled "Economic Analysis of Proposed Effluent Guidelines, Petroleum Refining Industry," (September 1973) was made available at the time of proposal. Copies of the Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribed national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the manufacture of petroleum products, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of petroleum products. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the petroleum refining category. (38 FR 34542; December 14, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 419) which currently is being published as Part II in this issue of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory and integrated subcategory, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the Development Document, the process wastes from the topping subcategory, cracking subcategory, petrochemical subcategory, lube subcategory and integrated subcategory have process wastes that are high in COD, TOC, oil and grease, ammonia, sulfide, phenolic compounds, total chromium and hexavalent chromium. These parameters are treatable to various levels using modes of treatment (biological treatment plus mixed media filters, sour water strippers, etc.) which are more extensive than those comparable to a publicly owned treatment works. These parameters are therefore considered incompatible.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 419 be amended to add §§ 419.14, 419.24, 419.34, 419.44, and 419.54 as set forth below. All comments received on or before June 10, 1974, will be considered.

Dated: April 30, 1974.

JOHN QUARLES,
Acting Administrator.

Part 419 is proposed to be amended as follows:

Subpart A—Topping Subcategory

Subpart A is amended by adding § 419.14 as follows:

§ 419.14 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 419.12 above shall apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

Subpart B—Cracking Subcategory

Subpart B is amended by adding § 419.24 as follows:

§ 419.24 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 419.22 above shall apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

Subpart C—Petrochemical Subcategory

Subpart C is amended by adding § 419.34 as follows:

§ 419.34 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 419.32 above shall apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

Subpart D—Lube Subcategory

Subpart D is amended by adding § 419.44 as follows:

§ 419.44 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 419.42 above shall apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

Subpart E—Integrated Subcategory

Subpart E is amended by adding § 419.54 as follows:

§ 419.54 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible, pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 419.52 above shall apply, and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

[FR Doc.74-10447 Filed 5-8-74;8:45 am]

FEDERAL REGISTER, VOL. 39, NO. 91—THURSDAY, MAY 9, 1974

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federal register

THURSDAY, MAY 9, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 91
PART III

ENVIRONMENTAL PROTECTION AGENCY

■

BUILDERS PAPER AND ROOFING FELT SEGMENT OF THE BUILDERS PAPER AND BOARD MILLS POINT SOURCE CATEGORY

Effluent Guidelines and Standards

No. 91—Pt. III——1

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Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 431—BUILDERS PAPER AND ROOFING FELT SEGMENT OF THE BUILDERS PAPER AND BOARD MILLS POINT SOURCE CATEGORY

Subpart A—Builders Paper and Roofing Felt

On January 14, 1974 notice was published in the FEDERAL REGISTER (39 FR 1818) that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the builders paper and roofing felt subcategory of the builders paper and board mills category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the builders paper and board mills category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 431. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the builders paper and roofing felt subcategory. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Builders Paper and Roofing Segment of the Builders Paper and Board Mills Point Source Category" (January 1974) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Pulp, Paper, and Paperboard Industry" (Selected Segments) (September 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participtate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

(a) *Summary of comments.* The following responded to the request for written comments contained in the preamble to the proposed regulations: The Brown Company, State of Colorado (Department of Public Health), National Council of the Paper Industry for Air and Stream Improvement, Inc., United States Department of the Interior, United States Department of Commerce.

Each of the comments was reviewed and analyzed carefully. The following is a summary of the significant comments and the Agency's response to those comments.

(1) One commenter suggested that a settleable solids limitation should be included in the guidelines. It was suggested that while mills with extensive water reuse may be able to meet the guidelines without external treatment, a settleable solids limitation is needed in order that the mills do not discharge their unsettled "bleed-off" waste water containing a heavy load of settleable solids without some form of primary treatment.

The Agency agrees with this comment, as mills with extensive water reuse and without any external treatment may be able to meet the proposed guidelines while still causing a sludge bed problem. To alleviate the potential for sludge bed buildup in receiving waters, a settleable solids limitation equivalent to primary treatment has been incorporated into the final regulations. The costs of the primary treatment necessary for these mills was initially incorporated in the economic impact analysis and thus, the addition of a settleable solids limitation does not affect the conclusions of the economic impact analysis.

(2) The comment was made that the potential for the elimination of wastewater discharge should be stressed as an alternative to external treatment. Also, suggestions for additions to the development document were submitted.

For this industry, a possible alternative to external treatment is extensive water reuse and there is a potential for the elimination of discharge. However, the technologies for the elimination of discharges are still in the development stage and such technologies cannot yet be considered to be available.

The suggestions for stressing extensive water reuse as a possible alternative to external treatment were incorporated into the development document.

(3) The concept of temperature variance was endorsed by several commenters. However, it was suggested that the variance should not be a one-step allowance at 25° F but should be progressive below 60° F to reflect the temperature effects on biological activity in treatment systems. Several methods of implementation were suggested.

The Agency believes that mills operating in Northern climates should design their treatment facilities to account for the effects of extremely cold temperatures upon effluent quality. In addition, other factors, such as raw waste load, appear to affect the final effluent quality as much as extremely cold temperatures. Therefore, the temperature variance was removed from the regulations, and the regulations were revised based upon the exemplary mills' maximum pollutant discharge period with emphasis placed upon exemplary mills operating in Northern climates. Thus, the revised regulations reflect the effects of temperature and other factors upon the final effluent quality.

(4) One commenter stated that it should be made clear in the development document that the technology of mixed-media filtration is in the development stages and not applicable to this category of discharges.

The Agency believes that the technology of mixed-media filtration has been successfully demonstrated in other industry categories and in the treatment of municipal wastes. The technology is judged to be transferrable to the builders paper and board industry category as the waste characteristics to which mixed-media filtration has been successfully applied are similar to those in builders paper and roofing felt mill effluents.

(5) One comment was made that the construction schedules for treatment systems as presented in the proposed development document do not consider many factors, such as review and negotiation, increasing delay in equipment delivery and the effects of climate upon construction.

The original intent of the inclusion of construction schedules was not to establish specific rules for construction but to present a basic example of what can be done and the amount of time that might be involved. The several factors mentioned were considered but it is recognized that factors such as increasingly slow equipment deliveries are difficult to predict. However, it is emphasized that the construction schedules are only guides and are considered valid for that purpose.

(6) One commenter anticipated that the mills cited as exemplary might be out of compliance with the proposed regulations a substantial percentage of the time.

This comment relates to the statistical approach which was used to determine the proposed guidelines. However, the guidelines were revised to reflect the removal of the temperature variance and the effect of other factors such as raw waste upon final effluent quality. The revised guidelines were based on the maximum operating period of the exemplary mills which should insure that exemplary mills will meet the guidelines.

(7) The comment was made that the data base was insufficient to support the BPCTCA guidelines. Suggestions were submitted that provided a basis for a more accurate evaluation of available data.

The data base was derived from an extensive search for information and data as discussed in the Development Document. The Agency believes that the resulting data base is sufficient to support the guidelines. Data is nonexistent for many mills; however, the in-plant manufacturing processes are very similar between all mills in the builders paper and roofing felt segment, and the Agency feels that the available data adequately represents the industry.

(8) The comment was made that the selection of exemplary mills should be based upon external controls rather than internal controls.

It is the opinion of the Agency that the Act does not preclude considering some in-plant control changes as part of BPCTCA. Section 304(b)(1)(B) includes consideration of "the process employed" and "process changes" as part of the determination of BPCTCA. Where an in-plant change can be implemented by 1977 and meets the other requirements of section 304(b)(1), there is no reason to differentiate such control measure from any other control measure or practice imposed as part of BPCTCA. The in-plant changes which have been identified as available in 1977 are practices which are in common use in the industry.

(9) One commenter indicated that the economic impact to certain portions of the industry will be higher than indicated in the economic analysis. Specifically, the commenter objected to the conclusion that the guidelines would have no impact on the 25 percent of the builders paper and roofing felt industry which, while not now using municipal wastewater disposal systems, have access to them. The commenter stated that the mills will be required to pay user fees for access into the municipal systems, thereby having an economic impact.

The intent of indicating no economic impact upon those mills with access to municipal treatment was that the mills would not be impacted to the point of closure. The additional costs for these mills were initially incorporated into the economic impact analysis with regard to potential price effects.

(b) *Revision of the proposed regulation prior to promulgation.* As a result of public comments and continuing review and evaluation of the proposed regulations by the EPA, the following changes have been made in the regulation.

(1) A limitation on settleable solids equivalent to primary treatment was added to the regulations to prevent mills with extensive water reuse and no external treatment from discharging their unsettled bleed-off waste water without any treatment.

(2) The temperature variance was removed and the guidelines were revised to reflect the effects of temperature and other factors upon final effluent quality.

(3) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicablity of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) *Economic impact.* The changes that were made to the proposed regulations do not substantially affect the costs associated with treatment, and therefore do not alter the conclusions of the initial economic analysis. However, the economic impact has been revised to reflect the additional information received. As a result, a total of 3–4 small mills may be expected to close in the event of a recessionary period rather than the initial estimate which included an additional six mills, previously assessed to have a moderate probability of closure. The potential price increase has been presented as a range due to the cyclic nature of demand, and the resulting varying ability of the industry to pass on the cost of pollution control.

(d) *Cost-benefit analysis.* The detrimental effects of the constituents of waste waters now discharged by point sources within the builders paper and roofing felt segment of the builders paper and board mills manufacturing point source category are discussed in Section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the Builders Paper and Roofing Felt Manufacturing Segment of the Builders Paper and Board Mills Point Source Category" (May 1974). It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines Pulp, Paper and Paperboard Industry" (September 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the pulp, paper, and paperboard industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) *Solid waste control.* Solid waste control must be considered. The waterborne wastes from the builders paper and roofing felt industry may contain a considerable volume of metals in various forms as a part of the suspended solids pollutant. Best practicable control technology and best available control technology as they are known today, require disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In some cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate precautions (e.g., impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(f) *Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.* In conformance with the requirements of section 304(c) of the Act, a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Builders Paper and Roofing Felt Manufacturing Segment of the Builders Paper and Board Mills Point Source Category," has been published and is available for purchase from the Government Printing Office, Washington, D.C. 20402 for a nominal fee.

(g) *Final rulemaking.* In consideration of the foregoing, 40 CFR Chapter I, Subchapter N is hereby amended by adding

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a new Part 431, Builders Paper and Roofing Felt Segment of the Builders Paper and Board Mills Point Source Category, to read as set forth below. An order of the Federal District Court for the District of Columbia entered in "NRDC v. Train" (Civ. No. 1609–73) on November 27, 1973, required that the Administrator sign final effluent limitations guidelines for this industry category by March 29, 1974. That order was subsequently modified on March 14, 1974, and the date for signing extended until May 13, 1974. Thereafter, on March 15, 1974, the District Court ordered that the effective date for effluent limitations guidelines established by its November 27 order remain applicable and not be affected by the extension in the publication date. The effective date for effluent limitations guidelines for this industry established by the Court's November 27 order is May 13, 1974. Accordingly, good cause is found for the final regulation promulgated as set forth below to be effective on May 9, 1974.

Dated: May 2, 1974.

JOHN QUARLES,
Acting Administrator.

Subpart A—Builders Paper and Roofing Felt Subcategory

Sec.

431.10 Applicability; description of the builders paper and roofing felt subcategory.
431.11 Specialized definitions.
431.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
431.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
431.14 [Reserved]
431.15 Standards of performance for new sources.
431.16 Pretreatment standards for new sources.

Subpart A—Builders Paper and Roofing Felt Subcategory

AUTHORITY: Secs. 301, 304(b), 304(c), 306(b), 306(c) and 307(c) Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314(b), 1314(c), 1316(b), 1316(c), 1317(c); 86 Stat. 816 et seq.; Pub. L. 92–500.

§ 431.10 Applicability; description of the builders paper and roofing felt subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of saturating paper, flooring paper, deadening paper, and all other papers known as building papers or roofing felts.

§ 431.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "settleable solids" shall mean the amount of settleable matter present in a sample as determined by the test as described in "Standard Methods for the Examination of Water and Waste Water," 13th Edition.

§ 431.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	5.0	3.0
TSS	5.0	3.0
Settleable solids	Not to exceed 0.2 ml/l.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per ton of product)	
BOD5	10.0	6.0
TSS	10.0	6.0
Settleable solids	(1)	(1)
pH	Within the range 6.0 to 9.0.	

[1] No comparable English units.

§ 431.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	1.75	1.0
TSS	1.75	1.0
Settleable solids	Not to exceed 0.2 ml/l.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per ton of product)	
BOD5	3.5	2.0
TSS	3.5	2.0
Settleable solids	(1)	(1)
pH	Within the range 6.0 to 9.0.	

[1] No comparable English units.

§ 431.14 [Reserved]

§ 431.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)	
BOD5	1.75	1.0
TSS	1.75	1.0
Settleable solids	Not to exceed 0.2 ml/l.	
pH	Within the range 6.0 to 9.0.	
	English units (pounds per ton of product)	
BOD5	3.5	2.0
TSS	3.5	2.0
Settleable solids	(1)	(1)
pH	Within the range 6.0 to 9.0.	

[1] No comparable English units.

§ 431.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the builders paper and roofing felt subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter, shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 431.15; *Provided* That, if the publicly owned treatment works which receives the pollutants is committed in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

[FR Doc.74–10581 Filed 5–8–74;8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 431]

BUILDERS PAPER AND BOARD MILLS POINT SOURCE CATEGORY

Application of Effluent Limitations Guidelines for Existing Sources to Pretreatment Standards for Incompatible Pollutants

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended, (the Act) ; 33 U.S.C. 1251, 1311, 1314 and 1317(b) ; 86 Stat. 816 et seq.; Pub. L. 92–500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 431—Builders Paper and Board Mills Manufacturing Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the builders paper and roofing felt subcategory of the builders paper and board mills point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 431) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants). Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

> In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further that *when the effluent limitations guidelines for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatments.* (Emphasis added).

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Section 431.15 of the proposed regulation for point sources within the builders paper and roofing felt subcategory (January 1974; 39 FR 1818) contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains § 431.16 which states the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final development document entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Builders Paper and Roofing Felt Segment of the Builders Paper and Board Mills Point Source Category" is now being published. The economic analysis report entitled "Economic Analysis of Proposed Effluent Guidelines, Pulp, Paper, and Paperboard", (September 1973) was made available at the time of proposal. Copies of the final Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmntal quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of this material, the material may be made available in an alternate format.

The development document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the manufacture of builders paper and roofing felts, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The development document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of builders paper and roofing felt. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the builders paper and board mills category (39 FR 1818; January 14, 1974). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 431) which currently is being published immediately preceding this document in the Rules and Regulations section of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the builders paper and roofing felt subcategory, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the development document the waste water from the building paper and roofing felt subcategory are all similar in types of pollutant contents. The pollutants are organic materials and solids. These waste water pollutants are considered compatible to treatment in a municipal system, and the guidelines should not apply.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 431 be amended to add § 431.14 as set forth below. All comments received on or before June 10, 1974 will be considered.

Dated: May 2, 1974.

JOHN QUARLES,
Acting Administrator.

40 CFR Part 431 is proposed to be amended by adding § 431.14 as follows:

§ 431.14 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 431.12 above shall not apply and, subject to the provisions of Part 128 of this chapter, concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

[FR Doc.74–10582 Filed 5–8–74;8:45 am]

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federal register

THURSDAY, MAY 9, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 91

PART IV

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

■

GUN CONTROL

Published Ordinances of Political Subdivisions of States

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GUN CONTROL

Published Ordinances of Political Subdivisions of States

Pursuant to the provisions of section 921(a)(19), Title 18, United States Code, and § 178.24, Title 26, Code of Federal Regulations (26 CFR Part 178), the following is the annual revised compiled list of the published laws of political subdivisions of States, which are determined to be relevant to the enforcement of Chapter 44, Title 18, United States Code, relating to firearms.

The list of ordinances of each State is preceded by relevant State statutes pertaining to the purchase and possession of firearms.

This revised compilation is in implementation of Title I of the Gun Control Act of 1968 (18 U.S.C. Chapter 44; 82 Stat. 1213) and supersedes that list published on May 8, 1973 (38 F.R. 11933).

[SEAL]

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms,
Department of the Treasury.

ALABAMA

State Law

ALA. CODE ANN. TITLE 14

170. *Selling, etc., pistol or bowie knife to minor.* Any person who sells, gives, or lends to any minor any pistol or bowie knife, or other knife of like kind or description, shall, on conviction, be fined not less than fifty nor more than five hundred dollars.

171(1). *Sale of firearms or ammunition to residents of adjoining states; purchase in adjoining states.* (1) Any resident of Alabama authorized to sell and deliver rifles, shotguns and ammunition may sell and deliver them to a resident of any state adjoining Alabama. Any purchaser of such firearm or ammunition may take or send it out of the state, or have it delivered to his place of residence.

(2) Any resident of Alabama who legally purchases rifles, shotguns and ammunition in any state adjoining Alabama, may take delivery of said weapons either in the state where they were purchased, or in Alabama.

172. *Definitions.* As used in this article, unless the context requires a different meaning: "pistol" means any firearm with a barrel less than twelve inches in length; "crime of violence" means any of the following crimes, or an attempt to commit any of them, namely, murder, manslaughter (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, kidnapping, and larceny; "person" includes any firm, partnership, association or corporation.

174. *Certain persons forbidden to possess pistol.* (a) No person who has been convicted in this state or elsewhere of committing or attempting to commit a crime of violence shall own a pistol or have one in his possession or under his control.

(b) No person who is a drug addict or an habitual drunkard shall own a pistol or have one in his possession or under his control.

178. *Delivery to minors and others forbidden.* No person shall deliver a pistol to any person under the age of eighteen or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.*

179. *Sales regulated.* No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, the pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence. The seller shall within six hours after such application, sign and attach his address and forward by registered mail one copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven days be sent by him with his address to the director of public safety; the triplicate he shall retain for six years. This section shall not apply to purchases by licensed retailers from manufacturers, wholesalers or jobbers, or to purchases by wholesalers or jobbers from manufacturers.

180. *Dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

181. *Dealer's licenses, by whom granted and conditions thereof.* The duly constituted licensing authorities of any city, town or political subdivision of this state may grant licenses in forms prescribed by the secretary of state, effective for not more than one year from date of issue, permitting the licensee to sell pistols at retail within this state subject to the following conditions in addition to those specified in section 179 of this title, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this article. The business shall be carried on only in the building designated in the license. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read. No pistol shall be sold in violation of any provisions of this article, nor shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity. A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the secretary of state and shall be personally signed by the purchaser and by the person effecting the sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, color and place of birth of purchaser and a statement signed by the purchaser that he has never been convicted in this state or elsewhere of a crime of violence. One copy shall within six hours be sent by registered mail to the chief of police of the municipality or the sheriff of the county of which the dealer is a resident; the duplicate the dealer shall within seven days send to the secretary of state; the triplicate the dealer shall retain for six years. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of any premises where it can readily be seen from the outside. The fee for issuing said license shall be fifty cents which fee shall be paid into the state treasury.

182. *Certain transfers forbidden.* No person shall make any loan secured by a mortgage, deposit or pledge of a pistol contrary to this article, nor shall any person lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this article.

183. *False information forbidden.* No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

184. *Alteration of identifying marks prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification of any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

185. *Antique pistols.* This article shall not apply to the purchase, possession, or sale of pistols as curiosities or ornaments or to the transportation of such pistols unloaded and in a bag, box or securely wrapped package, but not concealed on the person.

ALA. CODE ANN. TITLE 35

175. *Commanding officer may order certain places closed.* When any part of the militia of Alabama is in active service by order of the governor or other civil magistrate, to aid in the enforcement of the laws, the commanding officers of such troops may order the closing of any places where intoxicating liquors, arms, ammunition, dynamite, or other explosives are sold, and forbid the selling, bartering, lending or giving away of any of said commodities in the city, town, or village where the troops are on duty, or in the vicinity of such place, or for so long as any of the troops remain on duty in said vicinity. Such orders shall take effect whether any civil officer has issued a similar order or not; and the commanding officer of such troops may continue said prohibition in force until the departure of the troops, although the sheriff, mayor or intendant of the county, city, or town, or villages may have prescribed an earlier or different date after which such selling, bartering, lending or giving away shall be carried on.

ALA. CODE ANN. TITLE 57

94(1). *Defacement of trade or other identifying marks on motors, guns, machinery, etc.* Any person who defaces, or permits same to be done, with intent to defraud any trademark or other identifying mark on any automobile motor or other motor, pistols, guns, electrical equipment, radios, motor vehicles, refrigerators, furniture, household or office equipment or any other personal property when said property is encumbered with a mortgage, conditional sale contract or other lien, shall be guilty of a misdemeanor and shall, on conviction, be fined not less than twenty-five dollars nor more than five hundred dollars and may be imprisoned in the county jail or sentenced to hard labor for not more than six months.

94(2). *Presumption of guilt.* Any person (other than the absolute owner of said property, while same is free and clear of mortgages, retention of title contracts or other encumbrances) found in possession of such property under any claim of right, with knowledge that said property has been defaced by a person or persons with intent to defraud after said trademarks or other identifying marks have been defaced shall be presumed to be guilty of defacing said marks and shall be punished as provided in section 94(1) hereof unless said person in possession overcomes the presumption by clear and convincing proof.

Anniston

3. No seller of a pistol shall deliver the pistol to a purchaser thereof until seventy-two hours shall have elapsed from the time of the application for the purchase thereof. When delivered, the pistol shall be securely wrapped and shall be unloaded.

4. The provisions of sections 1–3 shall apply to a gift of a pistol just as though the person making such gift were a seller and the person to whom such gift is made were a purchaser thereof and no such gift shall be made except in accordance with such sections.

5. No person shall deliver a pistol to any person under the age of eighteen or to one he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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6. This division shall be applicable within the corporate limits and police jurisdiction of this city and shall be construed as supplementing, in such territory, and as not in conflict with, Code of Alabama, Title 14, Sections 172 to 186.

Birmingham

56–3. *Delivery of pistol or Bowie knife to minor.* No person shall sell give or lend to any minor any pistol or Bowie knife or other knife of like kind or description.

56–12. *Definitions.* For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Crime of violence Murder, manslaughter (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to rob, assault with intent to murder, robbery, burglary, kidnapping and larceny or the crime of attempting to commit any of the aforesaid crimes.

Pistol. Any firearm with a barrel less than twelve inches in length.

56–14. *Possession by certain person prohibited.* (a) No person who has been convicted in the state or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control. (b) No person who is a drug addict or an habitual drunkard shall own a pistol or have one in his possession or under his control.

56–20. *Statement required of persons desiring to purchase—Filing.* At the time of applying for the purchase of a pistol, the person desiring to make such purchase shall sign in duplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence; provided, that this requirement shall not apply to purchases by licensed retailers from manufacturers, wholesalers or jobbers, or to purchases by wholesalers or jobbers from manufacturers or to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

56–22. *Delivery to purchaser.* No seller of a pistol shall deliver the pistol to a purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof. When delivered, the pistol shall be securely wrapped and shall be unloaded.

56–24. *Delivery to certain persons forbidden.* No person shall deliver a pistol to any person under the age of eighteen or to one he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

14–22. *Prohibiting sale of firearms, alcoholic beverages, etc., authorized.* Whenever any mob, riot or tumult has occurred in the city or there is reasonable cause to apprehend an occurrence thereof, the mayor may in his judgment issue his proclamation ordering the closing of all shops or other places where the business of selling arms, ammunitions, dynamite, or other explosives is carried on, and forbidding the selling, lending, giving away, bartering or otherwise disposing of any of such articles, until such time as in his judgment such occupation may be carried on without danger to the public peace and safety. It shall be unlawful for any person with knowledge of such proclamation or after having been informed thereof by a policeman, fireman or other employee of the city or any peace or military officer of the state or the United States of America to violate the same. • • •.

Brighton

1. All statutory and common law misdemeanors against the State of Alabama are hereby adopted as laws and Ordinances of the City of Brighton.

2. All criminal laws of the State of Alabama by which statutory or common law misdemeanors against the State of Alabama are determined and declared shall be adopted as laws and Ordinances of the City of Brighton, and any and all acts which under said laws of the State of Alabama are held to be misdemeanors, or punishable as such, shall be violations of the laws and Ordinances of the City of Brighton.

5. No seller, within the corporate limits of the City of Brighton, or within the police jurisdiction thereof, shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof and, when delivered, such pistol shall be securely wrapped and shall be unloaded. • • • This section shall not apply to purchases by licensed retailers from manufacturers, wholesalers or jobbers, or to purchases by wholesalers or jobbers from manufacturers.

Decatur

19–28. *Firearms—Selling during riot.* Whenever any mob, riot or tumult occurs in the city, all persons therein who sell arms, ammunition, dynamite or other explosives, shall immediately close their shops, or other places where such business is carried on, and keep them closed and refrain from selling, bartering, lending or giving away any of the articles above mentioned, until such time as public notice shall be given by the sheriff, mayor or chief of police, that such places may be opened and such business carried on, and any person failing to close such shop or other place where any of the businesses above mentioned are carried on, or who sells, barters or gives away any of the articles above mentioned, after knowing, or having good reason to believe, that a riot, mob or tumult has occurred, or is then going on shall forfeit his license, and forever thereafter be debarred from engaging in such business, and may be punished as provided in section 1–8 of this Code. • • •.

Eufaula

884. *Definitions.* As used in this chapter the term "pistol" shall mean any firearm with a barrel less than twelve inches in length, and the term "crime of violence" shall mean the crime of murder, manslaughter, rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, kidnapping or larceny or the crime of attempting to commit any of the aforesaid crimes, and the term "exempt person" shall mean a marshal, deputy marshal, sheriff, deputy sheriff, prison or jail warden, deputy prison or jail warden, policeman or other authorized law enforcement officer, or a person regularly engaged in the business of manufacturing, repairing or dealing in firearms, and the term "nonexempt person" shall mean any person other than an exempt person.

885. *Permit to Receive Pistol Required.* It shall be unlawful for any exempt or nonexempt person, or for any employee, servant or agent of any exempt or nonexempt person, to sell, give, lend or deliver a pistol to any nonexempt person unless the latter have in his possession, and deliver to the former, an unrevoked original of a permit issued by the chief of police authorizing him to receive a pistol.

It shall be unlawful for any nonexempt person to buy, borrow, or accept delivery of a pistol from another unless such nonexempt person have in his possession, and deliver to such other, an unrevoked original of a permit issued by the chief of police authorizing such nonexempt person to receive a pistol.

886. *Same—application;* • • •. Any person desiring to buy, borrow or accept delivery of a pistol from another may apply to the chief of police in writing for a permit to receive a pistol. • • •.

891. *Ex-convict not to possess pistol.* No person who has been convicted in the State of Alabama or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control.

892. *Altering, obliterating or removing names or numbers from pistols.* No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification of any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

894. *Sale to or possession by minor of toy pistol.* No person shall expose for sale, sell or give away to any boy or girl under the age of eighteen years, any toy pistol in which blank cartridges, or a metallic cartridge containing a leaden ball can be used, or in which powder and balls can be used or can be exploded, and any such boy or girl having in his possession or using any pistol of any kind described in this section, shall, on conviction, be punished as hereinafter provided.

896. *Delivery of pistol or bowie knife to minor.* Any person who sells, gives or lends to any minor any pistol or bowie knife, or other knife of like kind or description, shall, on conviction, be punished as hereinafter provided.*

Fairfield

2–31. *Power to close certain places in case of riot.* Whenever any mob, riot or tumult has occurred or there is reasonable cause to apprehend an occurrence thereof in the city or in the vicinity thereof, the mayor shall have power to issue his proclamation, ordering the closing of all shops or other places where the business of selling arms, ammunition, dynamite or other explosives, is carried on, and forbidding the selling, lending, giving away, bartering or otherwise disposing of any such articles, until such time as, in his judgment, such occupation may be carried on without danger to the public peace and safety.

Florence

15–39. *Selling to or use by minors.* It shall be unlawful for any person to sell, give, lend or otherwise place in the possession of any minor, any pistol, firearm or other weapon which may be concealed upon the person, and it shall be unlawful for any minor to have in his possession or use any such firearm or weapon in the city.*

Gardendale

2. *Definitions.* As used in this Ordinance, the term "pistol" shall mean any firearm with a barrel less than twelve inches in length, and the term "crime of violence" shall mean

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

the crime of murder, manslaughter, rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, kidnapping or larceny or the crime of attempting to commit any of the aforesaid crimes. • • •.

6. *Ex-convict not to possess pistol.* No person who has been convicted in the State of Alabama or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control.

7. *Altering, obliterating or removing names or numbers from pistols.* No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification of any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

11. *Delivery of pistol or bowie knife to minor.* Any person who sells, gives or lends to any minor any pistol or bowie knife, or other knife of like kind or description, shall, on conviction, be punished as provided in Section 2 of Ordinance #13.*

Midfield

5. No seller, within the corporate limits of the City of Midfield, or within the police jurisdiction thereof, shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof and, when delivered, such pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol, the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model and manufacturer's number of the pistol to be purchased and a statement he has never been convicted in this state or elsewhere of a crime of violence. The seller shall, within six hours after such application, sign and attach his address and forward by registered mail or personally deliver one copy of such statement to the chief of police. This section shall not apply to purchases by licensed retailers from manufacturers, wholesalers or jobbers, or to purchases by wholesalers or jobbers from manufacturers.

Mobile

4. *After proclamation of a civil emergency,* the Mayor of the City of Mobile may also in the interest of public safety and welfare make any or all of the following orders: • • • (g) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of an character whatsoever. (h) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.

Montgomery

45–4. *Selling or giving small pistols to minors.* It shall be unlawful for any person in the city to sell, give or deliver to any minor any small pistol or any pistol known as a toy pistol, in which powder and ball can be used, or a metallic cartridge containing a leaden ball which can be exploded.

45–5. *Possession of small pistols by minors.* It shall be unlawful for any minor in the city to have in his possession or use any small pistol, or any pistol known as a toy pistol, in which powder and ball can be used, or a metallic cartridge containing a leaden ball which can be exploded.

Oxford

1. Any person applying for the purchase of a pistol shall sign in duplicate and deliver to the seller a statement containing his full name, address occupation, color place of birth, the date and hour of application, the caliber, make, model and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence; provided, that this requirement shall not apply to purchases by licensed retailers from manufacturers, wholesalers or jobbers, or to purchases by wholesalers or jobbers from manufacturers or to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

2. The seller receiving a statement filed as provided in Section One shall, within six hours after such application, sign and attach his address and forward by registered mail one copy of such statement to the chief of police of this city. The duplicate copy of such statement shall be retained by the seller for six years.

3. No seller of a pistol shall deliver the pistol to a purchaser thereof until seventy-two hours shall have elapsed from the time of the application for the purchase thereof. When delivered, the pistol shall be securely wrapped and shall be unloaded.

4. The provisions of Sections One–Three shall apply to a gift of a pistol just as though the person making such gift were a seller and the person to whom such gift is made were a purchaser thereof and no such gift shall be made except in accordance with such sections.

5. No person shall deliver a pistol to any person under the age of eighteen or to one he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind

Ozark

14–29. *Definitions.* "Pistol" as used in this article, means any firearm with barrel less than twelve (12) inches in length.

"Person", as used in this section, includes firm, partnership, association or corporation.

14–30. *Application of provisions.* This article shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

14–32. *Possession of arms by persons convicted of violent crimes.* No person who has been convicted in this city or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control.

14–34 *Delivery of pistols to certain persons prohibited.* No person shall deliver a pistol to any person under the age of eighteen (18) or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard or of unsound mind.*

14–48. *Orders issuable by mayor.* After a proclamation of a civil emergency, the mayor of the City of Ozark may also, in the interest of public safety and welfare, make any or all of the following orders:

(b) Order the closing of gasoline stations and other establishments, the chief business of which is the sale, distribution or dispensing of gasoline, liquid, flammable or combustible products.

(c) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever

(d) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.

14–49. *Acts prohibited during proclaimed civil emergency.* (a) *Molotov cocktail.* After the proclamation of a civil emergency, no person shall make, carry, possess or use any "molotov cocktail", or petroleum base fire bomb or other incendiary missile, a "molotov cocktail" as herein contemplated shall mean a gasoline-filled bottle or container with a fuse type wick inserted in the neck (commonly used in World War II).

Selma

17–229. *Selling, giving or lending to minor.* It shall be unlawful for any person to sell, give or lend to any minor any air gun, firearm or Bowie knife or other knife of like kind or description.*

Sylacauga

16–31. *Required to receive.* It shall be unlawful for any exempt or nonexempt person, or any employee, servant, or agent of any exempt or nonexempt person to sell, give, lend or deliver a pistol to any nonexempt person unless the latter has in his possession and shall deliver to the former, an unrevoked original of a permit issued by the chief of police authorizing him or her to receive a pistol.

16–32. *Required to acquire.* It shall be unlawful for any nonexempt person to buy, borrow, or accept delivery of a pistol from another unless such nonexempt person has in his or her possession and deliver to such other, an unrevoked original of a permit issued by the chief of police authorizing such nonexempt person to receive a pistol.

Thomasville

2. *Permit to receive pistol—required.* A. It shall be unlawful for any exempt or nonexempt person, or for any employee, servant or agent of any exempt or nonexempt person, to sell, give, lend or deliver a pistol to any nonexempt person unless the latter have in his possession, and deliver to the former, an unrevoked original of a permit issued by the Chief of Police authorizing him to receive a pistol.

B. It shall be unlawful for any nonexempt person to buy, borrow, or accept delivery of a pistol from another unless such nonexempt person have in his possession, and deliver to such other, an unrevoked original of a permit issued by the Chief of Police authorizing such nonexempt person to receive a pistol.

3. *Same—Application; investigation; issuance; number and disposition of copies; fee; revocation.* Any person desiring to buy, borrow or accept delivery of a pistol from another may apply to the Chief of Police in writing for a permit to receive a pistol • • •.

Tuscaloosa

34–13. *Definitions.* For the purpose of this article, the following words and phrases shall have the meanings herein ascribed to them:

Crime of violence. The term "crime of violence" means any of the following crimes, or an attempt to commit any of them: Murder, manslaughter (except manslaughter arising out of the operation of a vehicle) rape, mayhem, assault with intent to rob, assault with intent to murder, robbery, burglary, kidnapping and larceny.

Pistol. The word "pistol" shall mean any firearm with a barrel less than twelve (12) inches in length.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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Purchaser. The term "purchaser" shall, in addition to its ordinary and customary meaning, include any person who receives a pistol by gift, pledge or loan.

Seller. The term "seller" shall, in addition to its ordinary and usual meaning, include any person who delivers a pistol to another by way of loan, gift or pledge.

34–15. *Sale or delivery to minors, drug addicts, etc., prohibited.* No person shall sell, give or deliver a pistol to any person under the age of eighteen (18) or to one who he has reason to believe has been convicted of a crime of violence, or is a drug addict, a habitual drunkard or of unsound mind.*

34–16. *Sale to unknown purchaser.* No person shall sell a pistol to any purchaser, under any circumstances, unless the purchaser is personally known to the seller or shall present clear evidence of his identity and age.

34–17. * * *; *Delivery to purchaser.* * * * No person shall deliver a pistol to the purchaser thereof until forty-eight (48) hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, the pistol shall be securely wrapped and shall be unloaded.

34–20. *Certain purchases and sales excepted from article.* This article shall not apply to the purchase or sale of pistols as curiosities or ornaments, nor shall the same apply to purchases by licensed retailers, manufacturers, wholesalers or jobbers.

ALASKA

State Law

ALASKA STATS. ANN.

11.55.030. *Possession by convicts.* A person who has been convicted of a felony, or a misdemeanor involving assault and battery, assault with a dangerous weapon, burglary, robbery and like crimes, by a court in the state, or by the courts of the United States or of another state or territory, may not own or have in his possession or under his custody or control a pistol, revolver, or other firearm capable of being concealed about his person, or carry concealed about his person a knife with a blade over two inches long or a dirk or dagger, slingshot, metal knuckles, or an instrument by the use of which injury could be inflicted upon the person or property of another.

11.55.070. *Possession of firearm while under influence of intoxicating liquor or drug.* A person who, while under the influence of intoxicating liquor or an exhilarating or stupefying drug, carries, has in his possession or under his control, or uses or discharges a firearm is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment in a jail for not more than one year, or by both.

Kodiak

3. *Minors—firearms.* It shall be unlawful for any person to give, barter, sell, lease, or otherwise make available to any person under the age of eighteen (18) years, any firearm, including but not limited to pistols, rifles, and shotguns, within the City.*

Fairbanks

(5) No person shall purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of eighteen (18) years without written permission of his parent or guardian.*

(1) No person shall cast, throw, light, or fire any squib, rocket, cracker, torpedo, grenade, gun, revolver, pistol, dynamite cap, or cartridge, or other combustible firecrackers or fireworks of any kind.

(2) No person shall exhibit, or have in his possession, with intent to give away, or sell, or offer for sale, within the City of Fairbanks, any squib, rocket, cracker, torpedo, grenade, gun, revolver, pistol, dynamite cap, or cartridge, or other combustible firecrackers or fireworks of any kind.

Seward

15–13. *Same—Sale of firearms to.* It shall be unlawful for any person to give, barter, sell, lease or otherwise make available to any person under the age of eighteen years any firearm, including but not limited to pistols, rifles, and shotguns, within the city.

ARIZONA

State Law

ARIZ. REV. STATS. TITLE 13

13–917.02. *Regulation of firearms by state.* Ordinances of any political subdivision of this state relating to the possession, carrying, sale and use of firearms in this state shall not be in conflict with this chapter.

13–918. *Sale or gift of firearm to minor; punishment.* A. A person who sells or gives to a minor under the age of eighteen years, without written consent of the minor's parent or legal guardian, a firearm, ammunition or toy pistol by which dangerous and explosive substances may be discharged, is guilty of a misdemeanor.*

13–919. *Possession of pistol by criminal; definitions.* A. It is unlawful for a person who has been convicted of a crime of violence in any court of the United States, its territories, districts or possessions, or of the several states, to possess a pistol, unless such person has been pardoned for such crime or has by law regained full status as a citizen.

C. "Pistol" within the provisions of this section means any weapon with a barrel less than twelve inches in length, which is designed to expel a projectile by the action of expanding gas.

D. "Crime of violence" within the provisions of this section means murder, manslaughter with a dangerous weapon or implement other than an automobile, assault with a dangerous weapon, rape, mayhem, kidnaping, robbery, burglary or assault with intent to commit any offense punishable by imprisonment for more than one year.

13–924. *Firearm purchase in other states.* A. A person residing in this state, or a corporation or other business entity maintaining a place of business in this state, may purchase or otherwise obtain firearms anywhere in the United States if such purchase or acquisition fully complies with the laws of this state and the state in which the purchase or acquisition is made and the purchaser and seller, prior to the sale or delivery for sale, have complied with all the requirements of the Federal Gun Control Act of 1968, Public Law 90–618, § 922, subsection (C)[1] and the Code of Federal Regulations, Volume 26, § 178.96, subsection (C).

B. For purposes of this section, all terms are to be given the meaning prescribed by the Federal Gun Control Act of 1968, Public Law 90–618, § 921.[2] Added Laws 1971, Ch. 42, § 1.

(NOTE: Because of the restrictions in Federal Gun Control Act (Public Law 90–618) Arizona residents are authorized to purchase only rifles and shotguns in contiguous states only, i.e., California, Colorado, Nevada, Utah and New Mexico.)

ARIZ. REV. STATS. TITLE 26

26–178. *Illegal possession of equipment; penalty.* A. A person having in his possession a uniform, arms, equipment, supplies or other military property of the state or United States, who secretes, disposes of, offers for sale or in any manner pledges, retains or refuses to deliver to an officer entitled to demand possession of the property, or who, being a member of the national guard, wears, when not on duty, such uniform or equipment without permission of his commanding officer, is, if the property is of a value more than fifty dollars, guilty of a felony, and if the value is less than fifty dollars, guilty of a misdemeanor punishable as provided by law.

Bisbee

6–4–5. *Registration of dealers required:* Every person who deals in arms, ammunition and explosives, or either of them, shall register as such dealer in a book for that purpose kept by the Chief of Police. In said book he shall write his name, his business or occupation and the address of his place of business.

Casa Grande

F. *Sale of weapons to minors.* A person who sells or gives to a minor under the age of eighteen years, without written consent of the minor's parent or legal guardian, a weapon, ammunition or toy pistol by which dangerous and explosive substances may be discharged, is guilty of a misdemeanor.*

Jerome

2. *Any person, firm or corporation who shall sell,* give, rent, barter or furnish within the town of Jerome, any rifle, carbine, shotgun, pistol, revolver or any firearm whatsoever, or any ammunition or cartridge for any rifle, carbine, shot-gun, pistol, revolver or any firearm whatsoever to any person unless such person shall at the time have and show the permit herein provided for from the Marshal of the town of Jerome shall be guilty of a misdemeanor * * *.

Phoenix

23–43. *Dealers in firearms—registration required.* Every person dealing in firearms, ammunition or explosives shall register as a dealer in a book to be kept by the Chief of Police for that purpose. In the book shall be written the name of such dealer, the character of his business and the street number at which such business is located and carried on.

23–46.1. *Unlawful to make, possess or dispose of a fire bomb; penalties; exceptions.* (a) Definitions. Disposes of—To give, give away, loan, offer, offer for sale, sell, transfer, hurl, throw, or cause to be hurled or thrown.

Fire bomb—A breakable container containing a flammable liquid with a flash point of one hundred fifty degrees fahrenheit or less, having a wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be a fire bomb for the purposes of this Section.

(b) Offenses. A person is guilty of a misdemeanor who: (1) Possesses any of the component parts of a fire bomb with intent to wilfully and maliciously use such material, substance or device to set fire to or burn any buildings or property. (2) Possesses, manufactures or disposes of a fire bomb.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

(c) Exceptions. The provisions of Subsections (a) and (b) of this Section shall not prohibit: (1) The authorized use or possession of any material, substance or device described in such Subsections by a member of the Armed Forces of the United States or National Guard of the State of Arizona, or by firemen, police officers or peace officers authorized by the properly constituted authorities and acting in the course of their official duties; (2) The use or possession of any material, substance or device described therein when used solely for scientific research or educational purposes, or for any lawful burning; (3) The manufacture or disposal of a fire bomb for the parties or purposes described in this Subsection.

ARKANSAS

State Law

ARK. STATS. TITLE 41

41–4507. *Uniform machine gun act—Definitions.* "Machine Gun" applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than five shots or bullets may be rapidly, or automatically, or semi-automatically discharged from a magazine, by a single function of the firing device.

"Crime of Violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnaping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering, and larceny.

"Person" applies to and includes firm, partnership, association or corporation.

41–4509. *Offensive or aggressive purposes—Penalty.* Possession or use of a machine gun for offensive or aggresive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of (not less than ten (10) years).

41–4510. *Offensive or aggressive purpose defined.* Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose;

(a) when the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or

(b) when in the possession of, or used by, an unnaturalized foreign-born person or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or

(c) when the machine gun is of the kind described in section 8 [§ 41–4514] and has not been registered as in said section required; or

(d) when empty or loaded pistol shells of 30 (.30 in. or 7.63 mm.) or larger caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

41–4511. *Evidence of possession or use of machine gun.* The presence of a machine gun in any room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

41–4518. *Tear gas—Carrying or possession a misdemeanor.* Any person who shall carry or have in his possession any tear gas in any form whatever, and any person who shall carry or have in his possession any gun, bomb, grenade, cartridge or other weapon designed for the discharge of tear gas, shall be guilty of a misdemeanor.

41–4525. *Residents of this state authorized to purchase rifles, shotguns or ammunition in an adjacent state.* Hereafter, a resident of this State shall be permitted to purchase a rifle, shotgun, or ammunition in an adjacent state; such sales are hereby expressly authorized pursuant to the regulations issued under the Federal Gun Control Act of 1968 * * *.

El Dorado

23–27 A. *Pistols, sale and transfer regulated-definitions.* (1) The term "person" includes any individual, partnership, association, or corporation.

(2) The term "pistol" means any firearm with a barrel less than twelve inches in length, except cap and ball, flintlock, wheellock or matchlock hand guns.

(3) The term "manufacturer or dealer" means any person engaged in the business of manufacturing or selling pistols at wholesale or retail, or of accepting or pledging pistols as security for loans.

(4) The term "gun collector" means any person who as a hobby but not for profit shall collect and traffic in pistols.

(5) The term "crime of violence" means murder, manslaughter (except negligent manslaughter arising out of traffic accidents), rape, mayhem, kidnapping, burglary, robbery, assault with intent to kill, commit rape, or rob; or assault with intent to commit any offense punishable by imprisonment for more than one year.

(6) The term "fugitive from justice" means any person who has fled or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.

23–27 B. *Pistols, sale and transfer regulated-license required; sales restricted.* (1) It shall be unlawful for any manufacturer, dealer, or gun collector, except a manufacturer, dealer, or collector having a valid federal firearms license, to sell any pistol at wholesale or retail, or to lease or to pledge or accept any pistol as security for a loan.

(2) When delivered, all pistols must be securely wrapped and must be unloaded.

(3) It shall be unlawful for any person to sell, lease, lend or otherwise transfer a pistol to any person who he knows or has reasonable cause to believe has been convicted of a crime of violence, or who is a fugitive from justice, or who is of unsound mind, or who is a drug addict, or who is under the influence of liquor at the time of the sale or who is under the age of twenty-one years.

23–27 C. *Pistols, sale and transfer regulated-possession by certain persons prohibited; permit to display serial number; record of sales.* (1) It shall be unlawful for any person who has been convicted of a crime of violence in any court of the United States, the several states, territories, possessions or the District of Columbia, or who is a fugitive from justice, to possess a pistol within this city.

(2) It shall be unlawful for any person under age of eighteen to possess a pistol. The provisions of this section shall not apply to the issue of pistols to members of the State Militia, R.O.T.C., or armed forces of the United States for training or active duty.

(3) It shall be unlawful for any person to sell, lease, lend, or otherwise transfer a pistol to any person under twenty-one years of age except as provided in paragraph 2 above.

(4) It shall be unlawful for any person to purchase, receive, possess, sell, lease or otherwise transfer any pistol from which the manufacturer's identification mark or serial number has been removed.

Little Rock

25.96. *Pistols, sale and transfer regulated—Definitions.* (a) The term "person" includes any individual, partnership, association, or corporation.

(b) The term "pistol" means any firearm with a barrel less than twelve inches in length, except cap and ball, flintlock, wheellock or matchlock hand guns.

(c) The term "manufacturer or dealer" means any person engaged in the business of manufacturing or selling pistols at wholesale or retail, or of accepting or pledging pistols as security for loans.

(d) The term "gun collector" means any person who as a hobby but not for profit shall collect and traffic in pistols.

(e) The term "crime of violence" means murder, manslaughter (except negligent manslaughter arising out of traffic accidents), rape, mayhem, kidnapping, burglary, robbery, assault with intent to kill, commit rape, or rob; or assault with intent to commit any offense punishable by imprisonment for more than one year.

(f) The term "fugitive from justice" means any persons who has fled or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.

25–97. *Same—License required; sales restricted.* (a) It shall be unlawful for any manufacturer, dealer, or gun collector, except a manufacturer, dealer, or collector having a valid federal firearms license, to sell any pistol at wholesale or retail, or to lease or to pledge or accept any pistol as security for a loan.

(b) When delivered, all pistols must be securely wrapped and must be unloaded.

(c) It shall be unlawful for any person to sell lease, lend or otherwise transfer a pistol to any person who he knows or has reasonable cause to believe has been convicted of a crime of violence, or who is a fugitive from justice, or who is of unsound mind, or who is a drug addict, or who is under the influence of liquor at the time of the sale, or who is under the age of twenty-one years.

25–98. *Same—Possession by certain persons prohibited; permit to display; serial number; record of sales, etc.* (a) It shall be unlawful for any person who has been convicted of a crime of violence in any court of the United States, the several states, territories, possessions or the District of Columbia, or who is a fugitive from justice, to possess a pistol within this city.

(b) It shall be unlawful for any person under age of eighteen to possess a pistol. The provisions of this section shall not apply to the issue of pistols to members of the State Militia, R.O.T.C., or armed forces of the United States for training or active duty.

(c) It shall be unlawful for any person to sell, lease, lend, or otherwise transfer a pistol to any person under twenty-one years of age except as provided in paragraph (b) above.

(f) It shall be unlawful for any person to purchase, receive, possess, sell, lease or otherwise transfer any pistol from which the manufacturer's identification mark or serial number has been removed.

Morrilton

11–64. *Same—Sale of weapons and ammunition.* Any person who shall sell, barter or exchange or otherwise dispose of or in any manner furnish to any person, any dirk, or bowie knife, or a sword or a spear in a cane, brass or metal knucks, or any kind of pistol of any kind whatever except such as are used in the army or navy of the United States, and known as the navy pistol, or any kind of cartridge for any pistol, or any person who shall keep any such arms or cartridges for sale in the city shall be deemed guilty of a misdemeanor.

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Springdale

22-21. *Sale, loan, etc., weapons to intoxicated persons, etc.* It shall be unlawful for any person to sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person whom he knows or has reasonable cause to believe is under the influence of alcohol or any narcotic, drug, stimulant, or depressant, or who is of unsound mind, or who is a member of any subversive organization.

22-22. *Possession of weapons by felons, intoxicated persons, etc.* It shall be unlawful for any person who has been convicted of a felony, or who is under the influence of alcohol or a narcotic or drug, to wear or have about his person or in any vehicle in which he is an occupant any firearm or other dangerous or deadly weapon.

CALIFORNIA

State Law

WEST'S ANN. CALIF. CODES, PENAL CODE

1203.4 *Discharged probationer; change of plea or vacation of verdict; dismissal of charge; release from penalties and disabilities; application; pleading prior conviction in prosecution for subsequent offenses.* (a) Every defendant who has fulfilled the conditions of his probation for the entire period thereof or has been discharged from probation prior to the termination of the period thereof shall, at any time thereafter, if he is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and he shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted. The probationer shall be informed of this right and privilege in his probation papers. The probationer may make such application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed.

Dismissal of an accusation pursuant to this section does not permit a person to own, possess, or have in his custody or control any firearm capable of being concealed upon the person or prevent his conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after the effective date of the amendment of this section enacted at the 1970 Regular Session of the Legislature.

(b) Subdivision (a) of this section does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

12001. "Pistol," "revolver" and "firearm capable of being concealed upon the person" as used in this chapter apply to and include any device, designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than twelve inches in length. "Pistol," "revolver," and "firearm capable of being concealed upon the person" as used in Sections 12021, 12072, and 12073 include the frame or receiver of any such weapon.

12001.5 Except as provided in Section 12020, nothing in this chapter shall be construed as authorizing the manufacture, importation into the state, keeping for sale, offering for sale, or giving, lending, or possession of any sawed-off shotgun, as defined in Section 12020.

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition or who carries concealed upon his person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison for not less than one year nor more than five years.

(b) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon without handles for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison for not less than one year nor more than five years.

(c) (1) As used in this section a "sawed-off shotgun" means a shotgun having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

12021. (a) Any person who is not a citizen of the United States and any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or who is addicted to the use of any narcotic drug, who owns or has in his possession or under his custody or control any pistol, revolver, or other firearm capable of being concealed upon the person is guilty of a public offense, and shall be punishable by imprisonment in the state prison not exceeding 15 years, or in a county jail not exceeding one year or by a fine not exceeding five hundred dollars ($500), or by both.

(b) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment; or

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both such punishments.

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any of the weapons mentioned in Section 653k, 12020, or 12025 is a nuisance.

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, a nuisance.

(c) Any weapon described in subdivision (a), or, upon conviction of defendant, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed under federal law to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his identification of the weapon and proof of ownership.

1. Section 12070 of the Penal Code is amended to read:

12070. No person shall engage in the business of selling or otherwise transferring, or shall advertise for sale, or offer or expose for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person, unless he has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

12071. The duly constituted licensing authorities of any city or county shall accept applications for, and may grant licenses permitting the licensee to sell at retail within the county, city and county, city, town or other municipality pistols, revolvers, and other firearms capable of being concealed upon the person. If a license is granted it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue, and be subject to the following conditions, for breach of any of which the license shall be subject to forfeiture. • • •.

3. No pistol or revolver shall be delivered (a) within five days of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor (b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

12072. No person, corporation or dealer shall sell, deliver, or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person to any person whom he has cause to believe to be within any of the classes prohibited by Section 12021 from owning or possessing such firearms, nor to any minor under the age of 18 years. In no event shall any such firearm be delivered to the purchaser within 5 days of the application for the purchase thereof, and when delivered such firearm shall be securely wrapped and shall be unloaded. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer any such firearm to any other person within this State who is not personally known to the vendor. Any violation of the provisions of this section is a misdemeanor.

12076. The purchaser of any firearm capable of being concealed upon the person shall sign, and the dealer shall require him to sign his legal name and affix his residence address and date of birth to the register in, quadruplicate and the salesman shall affix his signature in quadruplicate on each sheet as a witness to the signature of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date and any person violating any of the provisions of this section is guilty of a misdemeanor.

Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the State Bureau of Criminal Identification and Investigation at Sacramento and the third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

If, on receipt of its two copies of the original sheet, it appears to the bureau that the purchaser resides in a district other than that to which a copy of the original sheet is required to be mailed, the bureau shall transmit one of its copies to the head of the municipal police department, if any, in the district in which the purchaser resides or, if none, to the sheriff of the county in which he resides.

If the bureau determines that the purchaser is a person described in Section 12021 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of such fact.

12078. The preceding provisions of this article do not apply to sales of concealable firearms made to persons properly identified as full-time paid officers of a city police department, sheriff's department, district attorney's office, the California Highway Patrol, or the State Department of Justice, nor to sales of concealable firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by such governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser is employed, identifying the purchaser and authorizing the purchase. The certification shall be delivered to the seller at the time of purchase and the purchaser shall identify himself as the person authorized in such certification. On the day the sale is made, the dealer shall forward by prepaid mail to the Bureau of Criminal Identification and Investigation a report of such sale and the type of information concerning the buyer and the firearm sold as is indicated in Section 12077.

12090. Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the State Bureau of Criminal Identification and Investigation, on any pistol or revolver, without first having secured written permission from the bureau to make such change, alteration or removal shall be punished by imprisonment in the state prison for not less than one year nor more than five years.

12091. Possession of any pistol or revolver upon which the name of the maker, model, manufacturer's number or other mark of identification has been changed, altered, removed, or obliterated, shall be presumptive evidence that the possessor has changed, altered, removed, or obliterated the same.

12093. Any person who places or stamps on any pistol or revolver any number except one assigned to it by the bureau is guilty of a misdemeanor. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when such restoration is authorized by the bureau, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

12094. Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his possession any pistol or revolver which does not bear the manufacturer's number or other mark of identification in its original condition or as restored, or a distinguishing number or mark assigned to it by the State Bureau of Criminal Identification and Investigation is guilty of a misdemeanor.

12200. The term "machine gun" as used in this chapter means any weapon which shoots, or is designed to shoot, automatically, more than one shot, without manual reloading, by a single function of the trigger and includes any frame or receiver which can only be used with such weapon. The term shall also include any combination of parts designed and intended for use in converting a weapon into a machine gun.

12201. Nothing in this chapter shall prohibit the sale to, purchase by, or possession of machine guns by police departments, sheriffs' offices, city marshals' offices, or the military or naval forces of this State or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession of machine guns by regular, salaried, full-time members of a police department, sheriff's office, or city marshal's office when on duty and such use is within the scope of their duties.

12220. Any person, firm or corporation, who within this State sells, offers for sale, possesses or knowingly transports any firearms of the kind commonly known as a machine gun, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison not to exceed five years or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

12230. Chief of the Bureau of Criminal Identification and Investigation may issue permits for the possession and transportation or possession or transportation of such machine guns, upon a showing satisfactory to him that good cause exists for the issue thereof to the applicant for such permit but no permit shall be issued to a person who is under 18 years of age.

12231. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and permits shall be uniform throughout the State on forms prescribed by the Bureau of Criminal Identification and Investigation.

12250. The Chief of the Bureau of Criminal Identification and Investigation may grant licenses in a form to be prescribed by him effective for not more than one year from the date of issuance, to permit the sale at the place specified in the license of machine guns subject to all of the following conditions, upon breach of any of which the license shall be revoked: • • •

3. No machine gun shall be delivered to any person not authorized to receive the same under the provisions of this chapter.

12301. (a) The term "destructive device," as used in this chapter, shall include any of the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(b) The term "explosive," as used in this chapter, shall mean any explosive defined in Section 12000 of the Health and Safety Code.

12302. Nothing in this chapter shall prohibit the sale to, purchase by, or possession of, or use of destructive devices by:

(a) Any peace officer listed in Section 830.1 or 830.2, or any peace officer in the Department of Justice authorized by the Attorney General, while on duty and acting within the scope and course of his employment.

(b) Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his employment.

12303. Any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison for a term not to exceed five years, or by a fine not to exceed five thousand dollars ($5,000) or both such fine and imprisonment.

12303.6. Any person, firm, or corporation who, within this state, sells, offers for sale, or knowingly transports any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a felony and is punishable by imprisonment in the state prison not exceeding 15 years.

12304. Any person, firm or corporation who, within this state, sells, offers for sale, possesses or knowingly transports any fixed ammunition of a caliber greater than .60 caliber, except as provided in this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed six months or by a fine not to exceed one thousand dollars ($1,000), or by both such fine and imprisonment.

A second or subsequent conviction shall be punished by imprisonment in the county jail for a term not to exceed one year, or by imprisonment in the state prison for a term not to exceed three years, or by a fine not to exceed three thousand dollars ($3,000), or by both such fine and imprisonment.

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12305. Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of such business from the Chief of the Bureau of Criminal Identification and Investigation. Such permit shall be issued upon a satisfactory showing to him that good cause exists for the issuance thereof and after the payment of a fee of fifty dollars ($50). Such permit shall be valid for a period of one year only.

12306. Any person, firm or corporation, other than those included in Section 12305, shall obtain a permit from the Chief of the Bureau of Criminal Identification and Investigation before possessing or transporting any destructive device. The chief may issue such a permit upon a satisfactory showing that good cause exists for the issuance thereof, and after the payment of a fee of ten dollars ($10). The chief shall issue a permit without payment of a fee upon a satisfactory showing that the possessor of such destructive devices is a bona fide collector of destructive devices. Such permit shall be valid for a period of one year only.

12500. The term "silencer" as used in this chapter shall apply to and include all devices or attachments of any kind designed, used or intended for use in silencing the report of a firearm.

12501. Nothing in this chapter shall prohibit any peace officer listed in Section 830.1, or the military or naval forces of this state or of the United States from possessing silencers for official use in the discharge of their duties.

12520. Any person, firm or corporation who within this State possesses any device of the kind commonly known as a silencer for firearms is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison not to exceed three years or by a fine not to exceed five thousand dollars ($5,000), or by both.

12550. No person shall sell any firearm to any minor who is at least 16 years of age, but not over the age of 18 years without the written consent of a parent or legal guardian of the minor.*

Violation of this section is a misdemeanor.

12551. Every person who sells to a minor any firearm, air gun, or gas-operated gun, designed to fire a bullet, pellet or metal projectile, is guilty of a misdemeanor.

12560. Every person who has been convicted of a felony under the laws of the United States, of the State of California, or of any other state, government, or country and who used a firearm in the commission of such felony, who owns or has in his possession or under his custody or control any firearm is punishable by imprisonment in the state prison not exceeding 15 years, or in a county jail not exceeding one year or by a fine not exceeding five hundred dollars ($500), or by both such term of imprisonment and such fine.

12570. Any person residing in this state may purchase any rifle or shotgun, as defined in the federal Gun Control Act of 1968 (18 U.S.C., Sec. 921 et seq.), in a state contiguous to this state pursuant to paragraph (3), subdivision (b), Section 922 of Title 18 of the United States Code, and in conformance with the rules and regulations prescribed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968. The purchase of any such rifle or shotgun pursuant to this section is also subject to any other applicable laws of this state and all such laws of the contiguous state in which the rifle or shotgun is purchased.

Alameda

16–512. *Maxim silencer.* It is hereby declared to be unlawful for any person, firm or corporation to have in its or his possession any Maxim silencer to be used, or that may be used, on any firearm or arms, or any similar apparatus or device to be used, or that may be used, on any firearm or arms.

16–517. *Firearms and air rifles—Use or possession of by minors.* It shall be unlawful for any persons to sell or give to any minor in the City of Alameda under the age of eighteen (18) years, or to allow any such minor to possess, use or discharge, or for any such minor to possess, use, or discharge, any rifle, gun, pistol, revolver, air rifle, B-B gun, or other similar instrument from or by means of which any bullet, shot or other missile of any kind may be projected; provided that the provisions of this section shall not apply to the possession of such firearms or other instruments by such minors in bona fide shooting galleries, gun clubs, or organizations or educational institutions authorized to give military instruction, while such firearms or other instruments are being used as a part of such instruction, nor to the possession of unloaded firearms, air rifles or other such instruments by any such minor as an employee of a merchant, when such possession is in the usual course of his employment.**

16–521. *Sale, etc., except to permit holder unlawful.* It shall be unlawful for any person, firm, association or corporation to sell, lease or otherwise transfer a pistol, revolver or other firearm of a size capable of being concealed upon the person, unless the person to whom the same is sold, leased or otherwise transferred, shall first exhibit a permit duly issued by the Chief of Police authorizing such person to acquire such weapon.

16–522. *Permit to acquire firearm—Application—Issuance—Sale not to be made without permit—Endorsement.* Upon satisfactory proof being made to him that the person applying therefor is of good moral character and that good cause exists for the issuance thereof, the Chief of Police may issue to such person a numbered permit authorizing such person to purchase, lease or otherwise acquire a pistol, revolver or other firearm of a size capable of being concealed on the person, such application shall be made in the applicant's own handwriting, and shall set forth his name, residence, business and business address, the kind of firearm desired and the reason for his application. The permit, which shall be issued in duplicate, shall show the name, residence and business of the person to whom issued and his description, including height, weight, age, color of hair, skin and eyes, and be countersigned by the permittee himself at the time of issuance. The Chief of Police shall retain the duplicate copy in the files of his office. No such sale, lease or other transfer of such a firearm shall ever be made without such a permit and unless the description of the person desiring such acquisition shall correspond with the description in such permit, nor unless such permit is then and there surrendered to the person from whom such firearm is received. The person selling, leasing or otherwise transferring such firearm shall endorse upon the permit the make, number and caliber of such firearm and immediately transmit the permit to the Chief of Police.

16–524. *Purchase or acceptance of firearm without permit unlawful.* It shall be unlawful for any person in the City of Alameda to purchase or accept delivery from any person, firm, association or corporation, outside the City, of any pistol, revolver or other firearm of a size capable of being concealed on the person, without first having procured a permit from the Chief of Police as provided in Section 16–522.

16–525. *Article not applicable to officers or dealers receiving or transporting firearms.* Nothing in this chapter shall apply to duly elected or appointed peace officers of any political subdivision of the State, or to bona fide dealers receiving or transporting unloaded pistols, revolvers or other firearms in the regular course of business.

Alameda County

4–11.0 *Definition of dangerous weapon.* Dangerous weapon shall mean and include:

4–11.1 *Use, possession, discharge, sale of dangerous weapons.* Except as otherwise provided in Section 4–11.2, it shall be unlawful for any person in the unincorporated territory of Alameda County to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished to a minor, or to allow any minor to use or possess or discharge, or for any minor to use or possess or discharge a dangerous weapon.

4–11.2 *Same: exceptions.* Nothing in this article shall be deemed or construed to prohibit the selling, giving, loaning, or furnishing to any minor, upon written consent of the parent or guardian of such minor, any dangerous weapon as defined in subdivision (f) of Section 4–11.0; nor to prohibit such minor from using or having in his possession, care custody or control any such dangerous weapon as so defined in the event that such possession, care, custody, control or use is had with the consent of the parent or guardian of such minor and is under the direct supervision and control of some adult person; nor to prohibit any minor from using or having in his possession or control any dangerous weapon which is in good faith in his possession or control or use for his lawful occupation or employment or for the purpose of lawful recreation.**

Alhambra

2642. *Section one:* It shall be unlawful for any person, firm or corporation to sell, exchange, give, loan or furnish to any person under eighteen years of age, any spring back knife, sling shot or sling device having a rubber band more than one-eighth of an inch (1/8 in.) in width; or any gun, revolver, pistol, BB gun, pellet gun, or firearm of any description which discharges or propels any missile; or any crossbow or bow more than three feet (3 ft.) in length; or any metal or pointed tipped arrows; or any spring gun, air gun or blow gun designed or intended to discharge any shot or other deadly or dangerous missile; or any ammunition, cartridge or shell; or any other device containing any explosive substance designed and intended for use in any of the weapons enumerated herein.**

Artesia

I. Except as otherwise provided in Section 4 hereof, it shall be unlawful in the City of Artesia for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.*

II. Except as otherwise provided in Section 4 hereof, it shall be unlawful in the City of Artesia for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen (18) years, any cartridge, shell, ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from, any gun, revolver, pistol, or firearm.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

Azusa

8.09.020. *Possession of dangerous weapons by minors prohibited.* Except as otherwise provided for in this Chapter, it shall be unlawful for any person under the age of eighteen years to have in his possession, or under his control, care, or custody, any gun, revolver, pistol, firearm, simulated firearm, spring gun, air gun, air rifle, sling, sling shot or device designed or intended to discharge or capable of discharging any dangerous missile or any cartridge, firearm or device containing any explosive substance designed or intended to be used in or fired from any gun, pistol, or firearm or simulated firearm.

8.09.030. *Providing dangerous weapons to minors unlawful.* Except as otherwise provided for in this Chapter it shall be unlawful for any person to sell, give, loan or in any way furnish, or to cause or permit to be sold, given, or loaned, or in any way furnished, to any minor person under the age of eighteen years, any gun, revolver, pistol, firearm, simulated firearm, spring gun, air gun, air rifle, sling, sling shot, or device designed or intended to discharge or capable of discharging any dangerous missile or explosive substance. This Section shall not apply to or include any person who shall loan, give, or furnish to any minor person under the age of eighteen years any firearm or weapon or device when and only when it is so loaned, given or furnished to comply with and when such minor person under eighteen years of age actually participates in shooting at any of the designated target ranges in Section 8.09.050 or while going to and returning from such target ranges.*

Baldwin Park

3508. No person shall sell at retail within the city, pistols, revolvers, or other firearms capable of being concealed upon the person without first having obtained a permit from the Chief of Police authorizing such person to make such sale. For the purpose of this section the Chief of Police is hereby designated as the licensing authority.

3509. The Chief of Police may issue a permit for the sale of firearms upon receiving an application in conformity with the form prescribed by the Attorney General and further in conformity with Article 4, Chapter 1, Title 2, Part 4 of the Penal Code of the State of California.

3520. Except as otherwise provided in Section 3520.3 hereof, it shall be unlawful in the City of Baldwin Park for any person, firm or corporation to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed or intended to discharge or capable of discharging any dangerous missile.*

3520.1 Except as otherwise provided in Section 3520.3 hereof, it shall be unlawful in the City of Baldwin Park for any person, firm or corporation to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished to any person under the age of eighteen (18) years, any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in, or fired from any gun, revolver, pistol, or firearm.*

3520.3 Nothing in this chapter shall be deemed or construed to prohibit in the City of Baldwin Park the giving, loaning, or furnishing to any person under the age of eighteen (18) years any articles mentioned in Sections 3520, and 3521 hereof, nor to prohibit any persons under the age of eighteen (18) years from having in his or her care, custody, or control, any article mentioned in Section 3520.2 hereof in the event that such possession, care, custody, or control of such article is had with the consent of the parent or guardian of such person, or in the event that such person is under the direct supervision and control of some adult person.

Bellflower

3400. Except as otherwise provided in Section 3403 hereof, it shall be unlawful in the City of Bellflower for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnish, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designated or intended, to discharge, or capable of discharging, of any dangerous missile.*

3401. Except as otherwise provided in Section 3403 hereof, it shall be unlawful in the City of Bellflower, for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished to any person under the age of eighteen (18) years any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in, or fired from, any gun, revolver, pistol, or firearm.

3403. Nothing in Sections 3400, 3401, * * * shall be deemed or construed to prohibit in said City of Bellflower the selling, giving, loaning, or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in Sections 3400 and 3401 hereof; * * *.*

Belmont

11.6. *Sale of firearms to minors.* No person shall sell, deliver or transfer to any person under the age of eighteen years ownership of any pistol, revolver or other similar weapon capable of being concealed upon the person designed to discharge a solid projectile propelled by the expansion of a gas.*

Beverly Hills

3–7.02. *Furnishing weapons to minors.* It shall be unlawful for any person to sell, exchange, give or loan, or to cause or permit to be sold, exchanged, given or loaned, any gun, revolver, pistol, spring or air gun, slingshot, device intended to discharge any shot or other dangerous or deadly missile or firearm of any description to any person under the age of eighteen (18) years.*

3–7.03. *Furnishing ammunition to minors.* It shall be unlawful for any person to sell, exchange, give or loan, or to cause or permit to be sold, exchanged, given or loaned, any cartridge, shell or other device containing any explosive or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearm of any description containing any explosive or any ammunition of any description to any person under the age of eighteen (18) years.*

3–7.04 *Possession of weapons by minors: duty of parents.* (a) *Possession by minors.* It shall be unlawful for any person under the age of eighteen (18) years to have in his possession, care, custody or control any gun, revolver, pistol, spring or air gun, slingshot, device capable of discharging any shot or other dangerous or deadly missile or firearm of any description, or any cartridge, shell or other device containing any explosive, or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearm of any description, or any ammunition of any description containing any explosive.

(b) *Duty of parents.* It shall be unlawful for any parent, guardian or person having custody of any person under eighteen (18) years of age to permit such person under eighteen (18) years of age to have, use or have in his possession, care, custody or control any gun, revolver, pistol, spring or air gun, slingshot, device capable of discharging any shot or other dangerous or deadly missile or firearm of any description, or any cartridge, shell or other device containing any explosive, or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearm of any description, or any ammunition of any description containing any explosive.

Buena Park

18–13. *Possession or use of firearms prohibited.* No person under the age of eighteen years shall use or have in his possession any firearm, spring gun, air rifle, slingshot or ammunition within the city.

18–14. *Giving, selling, etc., of firearms to minors.* No person shall give, sell or loan to any person under the age of eighteen years any firearm, spring gun, air rifle, slingshot or ammunition.

Burbank

20–57. *License to sell firearms at retail.* Any person engaging in the business of selling or otherwise transferring, or renting, or advertising for sale, or offering or exposing for sale or transfer or rental at retail, pistols, revolvers, or other firearms capable of being concealed upon the person, shall obtain the license required by Title 2, Chapter 1, Article 4, of the Penal Code of the State of California from the License Division, the purpose of this section being to provide for the granting of the local license prescribed by Section 12071 and amendments thereto of said Penal Code. No license shall be issued by the License Division hereunder unless first approved by the Chief of Police, in writing. Said license shall be in form as prescribed by the Attorney General and subject to the conditions prescribed by Section 12071 and amendments thereto of the Penal Code of the State of California.

20–58. *Unlawful to sell without prior notice to chief of police.* No person shall sell, deliver or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person, to any person without notifying the Chief of Police of the intended sale or transfer at least twenty-four (24) hours before the transfer is made, giving the name and address of the transferor, a description of the firearm, and the name and address of the transferee. * * *.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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20–63. *Sale of ammunition to minors.* No person shall sell, exchange, give or loan to any person under sixteen (16) years of age any ammunition, cartridge, shell, pellets, BB shot, shot or other missile designed for use in any firearm or spring or air gun or gas operated gun of any description. Shooting galleries and ranges may furnish ammunition to person under sixteen (16) years of age to be expended at the gallery or range under the supervision of a responsible adult, provided the parent or guardian personally appears and consents in writing.*

20–64 *Possession of firearms by minors.* (a) No person under sixteen (16) years of age shall have in his possession any firearm, spring gun, air gun or gas operated gun, or ammunition for such weapons.

This section shall not apply to a minor under the age of sixteen (16) years when engaged in shooting as provided for in Section 20–59 hereof, or when traveling to and from any of the places mentioned in Subsections (a), (b) and (c) of Section 20–59 for the purposes of shooting.

(b) *Other dangerous devices.* No person under sixteen (16) years of age shall have in his possession any other device not mentioned in Subsection (a) capable of discharging a dangerous or deadly missile unless engaged in shooting or practicing at a location designated for such purpose by the Chief of Police, or when traveling to or from any such location, or when defending life or property.

(c) *Applicability.* The preceding Subsections (a) and (b) shall be applicable to minors between sixteen (16) and eighteen (18) years of age, in possession of the items mentioned therein, without the consent of a parent or legal guardian.

8–14. *Firearms.* Every person engaging in the business of selling or otherwise transferring, or renting, or advertising for sale, or offering or exposing for sale or transfer or rental at retail, pistols, revolvers, or other firearms, shall pay for revenue purposes a license fee of one (1%) percent of the total gross receipts collected from the sale or rental of such firearms; provided, however, that in no event shall the license fee be less than Twelve ($12.00) Dollars per year.

Cerritos

9.16.010 *Selling firearm to minor unlawful.* Except as otherwise provided in Section 9.16.040, it is unlawful for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended to discharge, or capable of discharging, any dangerous missile.**

9.16.020 *Selling dangerous weapon unlawful.* Except as otherwise provided in Section 9.16.040, it is unlawful for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen years, any cartridge, shell, ammunition, or device containing an explosive substance designed, or intended to be used in, or fired from, any gun, revolver, pistol or firearm.**

9.16.040. *Exceptions.* Nothing in this chapter shall be deemed or construed to prohibit in the city the selling, giving, loaning, or furnishing to any person under the age of eighteen years, upon the written consent of the parent or guardian of such person, any article mentioned in Sections 9.16.010 and 9.16.020; nor to prohibit any such person under the age of eighteen years from having in his or her possession, care, custody or control, any article mentioned in Section 9.16.030 in the event that such possession, care, custody or control of such article is had with the consent of the parent or guardian of such person and is under the direct supervision and control of some adult person; nor to prohibit any such person under the age of eighteen years from firing, discharging, shooting or operating, any article mentioned in Section 9.16.030 when such person is accompanied by, and under the direct care and control of some adult person and is lawfully engaged in shooting any inanimate target or trapshooting device.

Chula Vista

508–1. *Firearms—"Sale to Minors".* No person shall sell, exchange, give or loan to any person under the age of 16 years any spring back knife, gun, revolver, pistol or firearm of any description or any spring or airgun or other device designed or intended to discharge any pellets, or other deadly or dangerous missile, or any ammunition, cartridge, shell or other device, whether containing any explosive substance or not, designed and intended for use in any weapons enumerated herein.*

508–2. *Firearms—"Minors Possession of".* No person under the age of sixteen years shall have in his possession, care, custody or control any article or thing set forth in the preceding section.

750–1. *Permit from Chief of Police.* No person shall engage in the business of selling or otherwise transferring, or advertise for sale or transfer any pistol, revolver or other firearm capable of being concealed upon the person, without first obtaining a license from the Chief of Police. * * *.

Clovis

4–6 07. *Sale of firearms.* (a) No person who is engaged in the business of selling, leasing, or otherwise transferring, and no person who sells, leases, or otherwise transfers, either title to or possession of a pistol, revolver, or other firearm of a size capable of being concealed upon the person, shall sell, lease, or in any other way transfer title to or possession of such pistol, revolver or other firearm, or deliver the same pursuant to such sale, lease, or transfer, unless the person to whom the same is sold, leased, transferred, or delivered shall at the time exhibit a permit duly issued by the Chief of Police authorizing such person to acquire such pistol, revolver, or firearm; nor shall any person not having such permit receive or accept delivery or transfer of possession of such pistol, revolver, or other firearm of a size capable of being concealed on the person.

(c) No person shall sell, exchange, give, loan, or otherwise dispose of to any person under the age of eighteen (18) years any spring-back knife, rifle, pistol, revolver, gun, slungshot, slingshot, or any firearm of any description using B-B pellets, bullets, or shots, or which expels a deadly or dangerous missile by spring, air, gas, or gunpowder, or any ammunition, cartridge, shell, or other device capable of being projected or projecting a missile, whether or not containing any explosive substance.**

Compton

3603. *Firearms—Sale to minors.* No person shall sell, exchange, give or loan to any person under 18 years of age any gun, revolver, pistol or firearm of any description or any spring or air gun designed or intended to discharge any shot or other deadly or dangerous missile, or any ammunition, cartridge, shell, or device containing any explosive substance designed and intended for use in any weapons enumerated herein.**

3603.1 *Minors—Possession of.* No person under 18 years of age shall have in his possession, care, custody or control any article or thing mentioned in the preceding section.

Contra Costa County

44–4.002 *Firearms—Possession by minors.* No minor under the age of sixteen years shall possess or use firearms of .22 calibre or greater or air guns except under the direct supervision and control of an adult.

44–4.008 *Firearms—Ammunition sale to minors.* No person shall sell or give to any minor under the age of sixteen years any ammunition capable of being used in any firearm, unless the minor is accompanied by a parent, legal guardian or adult authorized by the parent.*

Corona

4–4–1. *Minors, firearms, etc., sale, etc., to.* No person except a parent or guardian shall purchase from, sell, exchange, give, lend or furnish to any person under the age of eighteen years a revolver or pistol of any description, shotgun, or rifle which may be used for the explosion of cartridges, or any airgun, "B-B gun", gas operated or spring gun, or any ammunition therefor, or any knife or knives having the appearance of a pocket knife, the blade or blades of which can be opened by a flick of a button, pressure on the handle or any mechanical devices; or any instrument, toy, or weapon commonly known as a "slingshot", or any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such intrument is called by any name set forth above or by any other name.

4–4–2. *Possession prohibited.* No person under the age of eighteen years shall have in his possession, care, custody or control any of the articles mentioned in Section 4–4–1 except within his own domicile or except when accompanied by and under the immediate supervision of a parent or guardian, or having in his possession written permission signed by such parent or guardian permitting him to have any of said articles in his possession.

Culver City

36–9. *Minors—Sale of firearms to.* It shall be unlawful for any person to sell, exchange, give or loan to any person under 18 years of age, any gun, revolver, pistol or firearm of any description, or any spring or air gun designed or intended to discharge, or capable of discharging, any dangerous missile.**

36–10. *Same—Possession of firearms.* No person under 18 years of age shall have in his possession, care, custody or control any article or thing mentioned in the preceding Section.

Daly City

16–5. *Firearms, explosives, cartridge or metallic caps—Sale, exchange, etc., to minors under eighteen years of age.* No person shall expose for sale, sell or offer for sale, barter or exchange or offer to barter or exchange to or with any minor under the age of eighteen years, any pistol or other firearm or any instrument capable of receiving or discharging any charge of powder, cartridge or other explosive, or any cartridge or metallic cap, whether loaded or not with ball.**

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

16–6. *Same—Possession by minors under eighteen years of age.* No person under the age of eighteen years shall have in his possession, expose, use or discharge any pistol or other firearm, or have in his possession any instrument capable of receiving or discharging any charge of powder, cartridge or other explosive, or any cartridge or metallic cap whether loaded with ball or not.

Downey

4112. *Weapons: Furnishing to minors.* Except as otherwise provided in Section 4114 hereof, no person shall sell, give, loan, or in any way furnish to any person under the age of eighteen (18) years, any springback knife, gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed or intended to discharge, or capable of discharging any dangerous missile, or any cartridge, shell ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from, any gun, revolver, pistol, or firearm.**

4113 *Minors. Possession.* Except as otherwise provided in Section 4114 hereof, no person under the age of eighteen (18) years shall fire, discharge, shoot, or operate, or have in his or her possession, care, custody, or control, any springback knife, gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended to discharge, or capable of discharging, any dangerous missile, or any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in or fired from any gun, revolver, pistol, or firearm.

4114. *Exceptions.* Nothing in Sections 4112 or 4113 shall be deemed or construed to prohibit the selling, giving, loaning or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in said Sections, nor to prohibit any such person under the age of eighteen (18) years from having in his or her possession, care, custody or control, any article mentioned in said Sections hereof in the event that such possession, care, custody, or control of such article is had with the consent of the parent or guardian of such person and is under the direct supervision and control of some adult person; * * *.*

Duarte

9.52.060 *Furnishing weapons to minors prohibited.* Except as otherwise provided in Section 9.52.090, it shall be unlawful in the city of Duarte for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.**

9.52.080 *Use or possession by minors prohibited.* Except as otherwise provided in Section 9.52.090, it shall be unlawful in the city of Duarte, for any person under the age of eighteen years to fire, discharge, shoot, or operate, or to assist or participate in the firing, discharging, shooting, or to have in his or her possession, care, custody or control, any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot or device designed, or intended to discharge, or capable of discharging any dangerous missile or any cartridge, shell, ammunition, or device containing any explosive substance designed or intended to be used in or fired from any gun, revolver pistol or firearm.

El Cajon

18–12 *Sale to minors.* No person shall sell within the city to any minor child any dart, arrow or sharp pointed missile, pistol, revolver, gun, rifle or any other firearm or device fired or discharged by explosives.**

El Cerrito

3501. *Sale of firearms to minors.* It shall be unlawful for any person to sell to any minor in the City of El Cerrito, or to allow any such minor to carry any firearm, or gun, or rifle or other gun or device discharging by the use of powder, air or springs or any sling or sling-shot except when accompanied by parent or legal guardian: provided that the provisions of this section shall not apply to the possession of such firearms, or other such instruments, by such minors in bona fide shooting galleries, or on pistol and rifle ranges, the locations of which have been approved by the Council.*

El Monte

12.3. *Permits required. a. Permits shall be obtained:* (1) To manufacture, possess, store, sell or otherwise dispose of explosives, blasting agents, or small arms ammunition.

12.5. *General requirements. a.* The manufacture of any explosives, blasting agents, including small arms ammunition, and pyrotechnics, as herein defined, shall be prohibited unless such manufacture is authorized by the Chief of the Bureau of Fire Prevention. This shall not apply to hand loading of small arms ammunition prepared for personal use when not for resale.

4250. *Firearm. Defined.* For the purposes of this Part, a firearm is defined as any object capable of discharging or projecting any missile, including but not limited to: shotgun, rifle, pistol, revolver, slingshot, air rifle, B-B gun, target pistol, target gun, nigger shooter, penshooter, tommy gun, wham-o gun, or any other similar device for the discharging or propelling of missiles capable of inflicting injury to person or property.

4251. *Same. Possession by minors prohibited.* No person under the age of 16 years shall own, possess, shoot, discharge, or use any firearm.

4252. *Same. Parental duty.* No parent, guardian, custodian or person in charge of any person under the age of 16 years shall permit any such person under the age of 16 years to own, possess or use any firearm.

4253. *Same. Sale to minors prohibited.* No person shall give, lend, sell, deliver, or transfer possession of any firearm to a person under the age of 16 years.*

Fontana

32–11. *Sale, etc., of weapons, ammunition, etc., to minors.* No person shall sell, exchange, give or lend to any person under eighteen years of age any snap-blade, spring-blade, or gravity knife, gun, revolver, pistol or firearm of any description or any spring or air gun or other device designed or intended to discharge any pellets, B-B shot, shot or other deadly or dangerous missile, or any ammunition, cartridge, shell or other device, whether containing any explosive substance or not, designed and intended for use in any weapons enumerated herein:

No portion of this section shall prohibit the giving, lending or possession of any air rifle, pellet gun, rifle, shotgun or pistol, or any ammunition for such firearm, air rifle or pellet gun for the purpose as set forth in sections 32–1 and 32–7 nor prohibit the selling thereof for such purpose provided the minor has the written consent of a parent or legal guardian.*

Fremont

3–3100. *Sale of weapons to minors.* Except as otherwise provided in section 3–3103 of this Code, no person shall sell, give, loan, or in any way furnish to any person under the age of sixteen years, any gun, revolver, pistol, firearm, spring gun, air gun, B-B gun, sling, slingshot, bow and arrow, or other device designed or intended to discharge, or capable of discharging, any dangerous missile.*

3–3101. *Sale of ammunition to minors.* Except as otherwise provided in section 3–3103 of this Code no person shall sell, give, loan, or in any way furnish, to any person under the age of sixteen years, any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in, or fired from any gun revolver, pistol, or other firearm.*

3–3102. *Possession and use of weapons by minors.* Except as otherwise provided in section 3–3103 of this Code, no person under the age of sixteen years shall fire, discharge, shoot, or operate, or participate in the firing, discharging, shooting, or operating, or have in his possession, care, custody, or control, any gun, revolver, pistol, firearm, spring gun, air gun, B-B gun, sling, slingshot, bow and arrow, or device designed or intended to discharge, or capable of discharging any dangerous missile, or any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in or fired from any gun, revolver, pistol, or other firearm.

3–3103 *Prohibition does not apply to licensed hunters* Nothing in sections 3–3100, 3–3101 or 3–3102 of this Code shall be deemed or construed to prohibit the selling, giving, loaning, or furnishing of any article mentioned in sections 3–3100 and 3–3102 of this Code, to any person under the age of sixteen years who is the holder of a valid hunting license issued to such person in accordance with the provisions of the Fish and Game Code of the state; nor prohibit any such licensee under the age of sixteen year from using or possessing any article mentioned in section 3–3102 of this Code. Nothing in this chapter shall be deemed or construed to prohibit any person under the age of sixteen years from firing, discharging, shooting, or operating any article mentioned in section 3–3102 of this Code, when such person is the holder of a valid state hunting license and is engaged in hunting any wild game or predatory bird or animal which may be lawfully hunted and killed, or is lawfully engaged in shooting at any inanimate target or trapshooting device while accompanied by, and under the direct care and control of some responsible adult person, at an established shooting range with a safe background.*

Fullerton

7.20.010. *Firearms—Providing prohibited.* No person shall sell, exchange, give or loan any gun revolver, pistol or firearms of any description, to any person under the age of eighteen years.

7.20.020. *Cartridge or shell—Providing prohibited.* No person shall sell, exchange, give or loan any cartridge, shell or other device containing any explosive, or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearm of any description, containing any explosive, to any person under the age of eighteen years.*

*NOTE: Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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7.20.040. *Firearms—Possession by minor prohibited.* No person under the age of eighteen years shall have in his or her possession, care, custody or control any gun, revolver, pistol, spring or air gun, or firearm of any description, or any cartridge, shell or other device designated and intended for use in connection with any gun, revolver, pistol or firearm of any description containing any explosive.*

7.20.050. *Exceptions—Permit from police.* The provisions of this chapter shall not be applicable to sales, exchanges, gifts or loans to persons over the age of fourteen years and under the age of eighteen years who have secured a permit from the Chief of Police. * * *.*

Gardena

3-3.101. *Definitions.* For the purposes of this article, certain words and terms used herein are defined as follows: (a) "Firearm" shall include, but not be limited to, any gun, revolver, pistol, firearm, spring gun, air gun, gas gun, sling, sling shot, or device designed or intended to discharge, or capable of discharging, any dangerous missile or any cartridge, shell, ammunition, or device containing any explosive substance, spring, or other impelling force devised or intended to be used or fired from any gun, revolver, pistol, or firearm.

3-3.103. *Possession of firearms by minors.* No person under eighteen (18) years of age shall have in his possession, care, custody, or control any knife, any blade of which exceeds three (3") inches in length, or any snap-blade or spring-blade knife, regardless of the length of the blade, or any firearm.

3-3.104. *Furnishing firearms to minors.* It shall be unlawful for any person to sell, exchange, give, or loan to any person under eighteen (18) years of age any firearm.*

Glendale

11-10. *Firearms and weapons generally—Selling, lending, etc., to persons under eighteen years of age.* No person shall sell, exchange, give or loan, or cause or permit to be sold, exchanged, given or loaned in the city, any gun, revolver, pistol or firearm of any description to any person under the age of eighteen years.*

11-11. *Same—Selling, lending, etc., ammunition to persons under age of eighteen.* No person shall sell, exchange, give or loan, or cause or permit to be sold, exchanged, given or loaned in the city, any cartridge, shell or other device containing any explosive, or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearm of any description, or any ammunition of any description containing any explosive, to any person under the age of eighteen years.*

11-13. *Same—Persons under age of eighteen not to possess firearms, ammunition, etc.* No person under the age of eighteen years shall have in his possession, care, custody or control in the city, any gun, revolver, pistol, spring or air gun, or firearm of any description, or any cartridge, shell or other device containing any explosive, or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearm of any description, or any ammunition of any description containing any explosive.

Hawaiian Gardens

3400. Except as otherwise provided in Section 3403 hereof, it shall be unlawful in the City of Hawaiian Gardens for any person, firm or corporation to sell, give, lend or in any way furnished, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.*

3401. Except as otherwise provided in Section 3403 hereof, it shall be unlawful in the City of Hawaiian Gardens, for any person, firm or corporation, to sell, give, lent, or in any way furnished, or to cause or permit to be sold, given, lent, or in any way furnished, to any person under the age of eighteen (18) years any cartridge, shell, ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from any gun, revolver, pistol, or firearm.*

3403. Nothing in this Chapter shall be deemed or construed to prohibit in said City of Hawaiian Gardens the selling, giving, lending or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in Sections 3400 and 3401 hereof; * * *.*

Hawthorne

8-302. *Firearms and ammunition to minors.* (a) Selling, etc. No person shall sell, exchange, give or loan any gun, revolver, pistol or other firearm, or any cartridge, shell, ammunition, or other device containing any explosive, or designed and intended for use in connection with any gun designed and intended to discharge any pellet, shot or other dangerous missile, to any person under the age of eighteen (18) years.*

(b) Possession, etc. No minor under the age of eighteen (18) years shall have in his possession, care, custody or control any gun, revolver, pistol, or other firearm, or any cartridge, shell, ammunition, or other device, containing any explosive, or designed and intended for use in connection with any gun, revolver, pistol or other firearm.

Hayward

3-4.00 *Dangerous weapon. Definition. Dangerous weapon shall mean and include:*

6. Any rifle, gun, pistol, revolver, air rifle, B-B gun, air gun, sling, sling shot, or other similar instrument or device designed or intended to discharge or capable of discharging a bullet shot, or other missile of any kind.

3-4.10 *Use, possession, discharge, sale of dangerous weapons.* Except as otherwise provided herein, it shall be unlawful for any person in the City to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished to a minor, or to allow any minor to use or possess or discharge, or for any minor to use or possess or discharge a dangerous weapon.

3-4.11 *Same. Exceptions.* Nothing in this Article shall be deemed or construed to prohibit the selling, giving, loaning or furnishing to any minor, upon written consent of the parent or guardian of such minor, any dangerous weapon as defined in subdivision 6 of Section 3-4.00 * * *.*

Inglewood

5-19.1. *Firearm sale to minor prohibited.* It shall be unlawful for any person to sell, exchange, give or loan to any person under eighteen years of age, any spring-blade knife, gun, revolver, pistol or firearm of any description or any spring or air gun or other device designed or intended to discharge any B-B shot, shot or other deadly or dangerous missile, or any ammunition, cartridge, shell or other device, whether containing any explosive substance or not, whether designed or intended for use in any weapons enumerated herein or not.*

5-19.2. *Firearm possession by minors prohibited.* It shall be unlawful for any person under 18 years of age to have in his possession, care, custody or control, any weapon or article designated in Section 5-19.1.*

Irwindale

4140. *Weapons. Sale to minors.* Except as otherwise provided in Section 4143 hereof, no person shall sell, give, loan, or in any way furnish to any person under the age of eighteen years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.*

4141. *Ammunition. Sale to minors.* Except as otherwise provided in Section 4143 hereof, no person shall sell, give, loan, or in any way furnish to any person under the age of eighteen years, any cartridge, shell, ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from, any gun, revolver, pistol, or firearm, except ordinary paper caps for toy cap guns.*

4142. *Weapons. Minors, possession and use prohibited.* Except as otherwise provided in Section 4143 hereof, no person under the age of eighteen years shall fire, discharge, shoot, or operate, or assist or participate in the firing, discharging, shooting, or operating, or have in his or her possession, care, custody, or control, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile, or any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in or fire from any gun, revolver, pistol, or firearm.

4143. *Same. Same. Consent of parent.* Nothing contained in Sections 4140, 4141 or 4142 shall be deemed or construed to prohibit the selling, giving, loaning, or furnishing to any person under the age of eighteen years, upon the written consent of the parent or guardian of such person, any article mentioned in said sections; nor to prohibit any such person under the age of eighteen years from having in his or her possession, care, custody or control any article mentioned in Section 4142 in the event that such possession, care, custody, or control of such article is had with the consent of the parent or guardian of such person and is under the direct supervision and control of some adult person; nor to prohibit any such person under the age of eighteen years from firing, discharging, shooting, or operating any article mentioned in Section 4142 when such person is accompanied by, and under the direct care and control of, some adult person and is engaged in hunting any wild game or predatory bird or animal, if any, which may be lawfully hunted and killed in said City, or is lawfully engaged in shooting at any inanimate target, or trapshooting device, while accompanied by, and under the direct care and control of, some such adult person.*

Isleton

42.1. *It shall be unlawful for any person,* firm, co-partnership, association or corporation to sell at retail within the Town of Isleton any pistol, revolver or other firearm capable of being concealed upon the person, as such firearms are defined by the terms of Chapter 339 of the Statutes of the State of California of the year 1923, without first procuring from said Town of Isleton, a license so to do.

2-3. *No pistol or revolver shall be delivered* (a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor (b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

Lakewood

3520. *Unlawful Sale, Gift or Furnishing.* Except as otherwise provided in Section 3520.3 hereof, it shall be unlawful in the City of Lakewood for any person, firm or corporation to sell, give, loan or in any way furnish or to cause or permit to be sold, given, or loaned to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot, bows, arrows, or bows and arrows, or devices designed or intended to discharge or capable of discharging any dangerous missile.*

3520.1. Except as otherwise provided in Section 3520.3 hereof, it shall be unlawful in the City of Lakewood for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen (18) years, any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in, or fired from, any gun, revolver, pistol, or firearm.*

3520.3 Nothing in this chapter shall be deemed or construed to prohibit in said City of Lakewood the selling, giving, loaning, or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in sections 3520 and 3520.1 hereof, * * *.*

La Mesa

10.28.010. *Firearm defined.* As used in this chapter, the word "firearm" means any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive. The word "explosive" includes, but is not limited to, compressed air.

10.28.020. *Possession of firearm by infant.* No person under the age of eighteen shall be allowed to have in his possession within the city limits of the city of La Mesa any firearm presently capable of expelling a projectile.

La Mirada

9.40.010. Except as otherwise provided in Section 9.40.040 hereof, it shall be unlawful in the City of Mirada Hills for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnish, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.*

9.40.020. Except as otherwise provided in Section 9.40.040 hereof, it shall be unlawful in the City of Mirada Hills, for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished to any person under the age of eighteen years (18), any cartridge, shell, ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from, any gun, revolver, pistol, or firearm.*

9.40.040. Nothing in Sections 9.40.010, 9.40.020, * * * shall be deemed or construed to prohibit in the City of Mirada Hills the selling, giving, loaning, or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in Sections 9.40.010 and 9.40.020 hereof; * * *.*

La Puente

3.12.090 *Retail sale permit—Required.* No person shall sell at retail within the city, a pistol, revolver or other firearm capable of being concealed upon the person without first having received a permit from the County Sheriff authorizing such persons to make such sale.

3.12.140 *Furnishing firearms to minors prohibited.* Except as otherwise provided in Section 3.12.170, it shall be unlawful in the City of La Puente for any person, firm or corporation to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished; to any person under the age of eighteen years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot, or device designed or intended to discharge, or capable of discharging, any dangerous missile.*

3.12.150 *Furnishing ammunition to minors prohibited.* Except as otherwise provided in Section 3.12.170, it is unlawful in the city for any person, firm or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen years, any cartridge, shell, ammunition, or device containing any explosive substance or not, designed and intended for use in any weapons enumerated herein.*

3.12.160 *Possession of firing of firearm by minor prohibited.* Except as otherwise provided in Section 3.12.170, it is unlawful in the city for any person under the age of eighteen years to fire, discharge, shoot, or operate, or to assist or participate in the firing, discharging, shooting or operating, or to have in his or her possession, care, custody or control any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot, or device designed, or intended to discharge, or capable of discharging, any dangerous missile, or any cartridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in or fired from, any gun, revolver, pistol or firearm.

3.12.170 *Exceptions from prohibition.* Nothing in this chapter shall be deemed or construed to prohibit in the city the selling, giving, loaning, or furnishing to any person under the age of eighteen years, upon the written consent of the parent or guardian of such person, any article mentioned in Sections 3.12.140 and 3.12.150, nor to prohibit any such person under the age of eighteen years from having in his or her possession, care, custody or control, any article mentioned in Section 3.12.160 in the event that such possession, care, custody or control of such article is had with the consent of the parent or guardian of such person and is under the direct supervision and control of some adult person.**

Long Beach

4180.4—*Same—Sale, gift or loan of firearms to*—No person, as principal, agent or otherwise, shall sell, exchange, give or loan, or cause or permit to be sold, exchanged, given or loaned, any gun, revolver, pistol or firearm of any description to any person under the age of eighteen years.*

4180.5—*Same—Sale, etc., of BB shot and ammunition to persons under eighteen years of age*—No person as principal, agent or otherwise, shall sell, exchange, give or loan any BB shot, pellet, or other missile designed or intended for use in any spring gun, air gun, air pistol or other pistol or gun, or any cartridge, shell or other device containing any explosive and designed or intended for use in any gun, revolver, pistol, or firearm of any description, to any person under the age of eighteen years.*

4180.7. *Possession by minor under eighteen of firearms, air guns or ammunition.* No person, as principal, agent or otherwise, under the age of eighteen years, shall have in his or her possession, care, custody or control, any gun, revolver, pistol, spring gun or firearm of any description, or any cartridge, shell or other device containing any explosive, and designed or intended for use in any gun, revolver, pistol or firearm of any description, or any explosive ammunition of any description whatsoever.

Los Angeles

45.01. *Firearms—Knives—Sale to minors.* No person shall sell, exchange, give or loan to any person under 18 years of age any springback knife, gun, revolver, pistol or firearm of any description or any spring or airgun or other device designed or intended to discharge any pellets, B-B shot, shot or other deadly or dangerous missile, or any ammunition, cartridge, shell or other device, whether containing any explosive substance or not, designed and intended for use in any weapons enumerated herein.*

45.02. *Firearms — Minors — Possession of.* No person under 18 years of age shall have in his possession, care, custody or control any article or thing mentioned in the preceding section.

103.314. *Sellers of concealable firearms:* (a) Definition. "Seller of Concealable Firearms" shall be any person who sells or offers for sale at retail any pistols, revolvers, or other firearms capable of being concealed upon the person, including any pistol, revolver or gun which detonates or fires an explosive compound in any manner and discharges or is capable of being altered so as to discharge a projectile.

(b) Permit required. No person shall engage in, conduct, manage, or carry on the business of seller of concealable firearms without a written permit from the Board.

(c) Fixed location. Each permittee must have a fixed place of business. Sales of concealable firearms may only be made at said fixed location.

Los Angeles County

1567-1. Except as otherwise provided in section 4 hereof, it shall be unlawful in the unincorporated territory of Los Angeles County, for any person, firm, or corporation, to sell, give loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen (18) years, any gun, revolver pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.*

1567-2. Except as otherwise provided in section 4 hereof, it shall be unlawful in the unincorporated territory of said Los Angeles County, for any person, firm, or corporation, to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen (18) years, any car-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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tridge, shell, ammunition, or device containing any explosive substance, designed or intended to be used in, or fired from, any gun, revolver, pistol, or firearm.*

1567–4. Nothing in this ordinance shall be deemed or construed to prohibit in said Los Angeles County the selling, giving, loaning, or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in Section 1 and 2 hereof: * * *.**

Los Gatos

17–13. *Sale to minors; possession and use by minors.* No person shall sell to any minor in the town under the age of sixteen years, and no person shall sell or give to any minor in the town under the age of eighteen years, without written consent of his parent or guardian, any rifle, gun, pistol, revolver, air rifle, B-B gun, or other similar instrument from or by means of which any bullet, shot or other missile of any kind may be projected.**

Lynwood

22–38. *Furnishing ammunition to persons under eighteen.* Except as otherwise provided in this article, it shall be unlawful in the city for any person to sell, give, loan or in any way furnish or to cause or permit to be sold, given, loaned or in any way furnished to any person under the age of eighteen (18) years any cartridge, shell, ammunition or device containing any explosive substance, designed or intended to be used in or fired from any gun, revolver, pistol or firearm.**

22–40. *Persons under eighteen possessing or discharging firearms and other weapons.* Except as otherwise provided in this article, it shall be unlawful in the city for any person under the age of eighteen (18) years to have in his possession, care, custody or control any firearm, air gun or spring gun, slingshot, sling or device designed or intended to discharge, or capable of discharging any dangerous missile, or any cartridge, shell, ammunition or device containing any explosive substance designed or intended to be used in or fired from any firearm.

22–41. *Parental consent for persons under eighteen.* Nothing in this article shall be deemed or construed to prohibit in the city the selling, giving, loaning or furnishing to any person under the age of eighteen (18) years upon the written consent of the parents or guardian of such person any article mentioned in this article, nor to prohibit any person under the age of eighteen (18) years from having in his possession, care, custody and control any weapon mentioned in this article in the event that such possession, care, custody or control of such article is had with the consent of the parent or guardian of such person and is under the direct supervision and control of some person over the age of twenty-one (21) years.**

Montclair

4–5.01. *Definitions.* For the purposes of this chapter, certain words and phrases used herein are defined as follows:

(a) "Firearm" shall mean and include, but shall not be limited to, any gun, revolver, pistol, firearm, spring gun, air gun, gas gun, sling, slingshot, or device designed or intended to discharge, or capable of discharging, any dangerous missile or any cartridge, shell, ammunition, or device containing any explosive substance or spring or other impelling force devised or intended to be used or fired from any gun, revolver, pistol, or firearm.

4–5.03. *Possession by minors.* No person under eighteen (18) years of age shall have in his possession, care, custody, or control any knife any blade of which exceeds three (3") inches in length, or any snap blade or spring blade knife regardless of the length of the blade, or any firearm.

4–5.04. *Sales to minors.* It shall be unlawful for any person to sell, exchange, give, or loan to any person under eighteen (18) years of age any firearm.*

Monterey Park

9.84.010 *Possession—by minor.* No person shall give, sell or loan to any person under the age of eighteen years, any firearm, spring gun, air rifle, sling shot or ammunition.*

9.84.020 *Possession—prohibited.* No person under the age of eighteen years, shall use or have in his possession any firearm, spring gun, air rifle, sling shot or ammunition within the city.

Monta Vista

1. *Definitions: firearms:* The words "Firearm" or "Firearms" as used in this Ordinance, includes, but is not limited to: any gun, revolver, pistol, firearm, spring gun, air gun, gas gun, sling, sling shot or defise, designed or intended to discharge or capable of discharging any dangerous missile or any cartridge, shell, ammunition or device containing any explosive substance, spring or other impelling force devised or intended to be used or fired from any gun, revolver, pistol or firearm.

Deadly or dangerous weapon: The words "Deadly or Dangerous Weapon" as used in this ordinance, includes, but is not limited to: any dirk or dagger; any knife with a blade three (3") inches or more in length, any snapblade or springblade knife, regardless of the length of the blade; any ice pick or similar sharp stabbing tool; any straight edge razor or any razor or other blade fitted to a handle; any dangerous or deadly weapon within the meaning of any law of the State of California restricting the use thereof; and any cutting, stabbing or bludgeoning weapon or device capable of inflicting grievous bodily harm and any firearm.

3. *That no person under eighteen (18) years of age* shall have in his possession, care, custody or control, any knife, any blade of which exceeds three (3") inches in length; or any snap blade, or spring blade knife, regardless of the length of the blade, or any firearm or firearms.

4. *It shall be unlawful for any person to sell,* exchange, give or loan to any person under eighteen (18) years of age, any firearm or firearms as defined in Section 1 of this Ordinance.*

Norwalk

4302. *Miners, Selling or Giving Weapons to.* Except as otherwise provided in Section 4305, no person shall sell, give, loan, or in any way furnish, or cause or permit to be sold, given, loaned, or in any way furnish, to any person under the age of 18 years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.*

4303. *Same, Providing Ammunition to.* Except as otherwise provided in Section 4305, no person shall sell, give, loan, or in any way furnish, or cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of 18 years, any cartridge, shell, ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from, any gun, revolver, pistol, or firearm.*

4305. *Same, Exception to.* Nothing in this Chapter shall be deemed or construed to prohibit the selling, giving, loaning, or furnishing to any person under the age of 18 years, upon written consent of the parent or guardian of such person, any article mentioned in Sections 4302 and 4303 hereof; * * *.**

Oakland

2–2.30. *Firearms and air rifles. Use or possession of by minors.* It shall be unlawful for any person to sell or give to any minor in the City of Oakland under the age of eighteen (18) years, or to allow any such minor to use or discharge, or for any such minor to use or possess, any rifle, gun, pistol, revolver, air rifle, B–B gun, or other similar instrument from or by means of which any bullet, shot or other missile of any kind may be projected; provided, that the provisions of this section shall not apply to the possession of such firearms or other instruments by such minors in bona fide shooting galleries, gun clubs, or organizations or educational institutions authorized to give military instruction, while such firearms or other instruments are being used as a part of such instruction, nor to the possession of unloaded firearms, air rifles or other such instruments by any such minor as an employee of a merchant, when such possession is in the usual course of his employment.*

2–2.31. *Maxim silencers.* It shall be unlawful for any person to have in his possession any Maxim silencer to be used or that may be used on any firearm or any similar apparatus or device to be used or that may be used on any firearm.

Paramount

30–33. *Sale to minors.* Except as otherwise provided in section 30–36, it shall be unlawful in the city for any person to sell, give, loan or in any way furnish, or to cause or permit to be sold, given, loaned or in any way furnished, to any person under the age of eighteen years, any gun, revolver, pistol, firearm, spring gun, air gun, slingshot or device designed or intended to discharge, or capable of discharging, any dangerous missile.*

30–34. *Sale of ammunition to minors.* Except as otherwise provided in section 30–36, it shall be unlawful for any person to sell, give, loan or in any way furnish, or to cause or permit to be sold, given, loaned or in any way furnished, to any person under the age of eighteen years, any cartridge, shell, ammunition or device containing any explosive substance, designed or intended to be used in, or fired from, any gun, revolver, pistol or firearm.*

30–36. *Exceptions to sections 30–33 to 30–35.* Nothing in this chapter shall be deemed or construed to prohibit in the city the selling, giving, loaning or furnishing to any person under the age of eighteen years, upon the written consent of the parent or guardian of such person, any article mentioned in sections 30–33 and 30–34; nor to prohibit any such person under the age of eighteen years from having in his possession, care, custody or control any article mentioned in section 30–35 in the event that such possession, care, custody or control of such article is had with the consent of the parent or guardian of such person and is under the direct supervision and control of some adult person; nor to prohibit any such person under the age of eighteen years from firing,

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

discharging, shooting, or operating any article mentioned in section 30–35 when such person is accompanied by, and under the direct care and control of, some adult person and is engaged in hunting any wild game or predatory bird or animal which may be lawfully hunted and killed in the city, or is lawfully engaged in shooting at any inanimate target, or trapshooting device, while accompanied by, and under the direct care and control of, some such adult person.**

Pico Rivera

3520. *Unlawful sale, gift or furnishing.* Except as otherwise provided in Section 3520.3 hereof, it shall be unlawful in the City of Pico Rivera for any person, firm, or corporation to sell, give, loan or in any way furnish or to cause or permit to be sold, given, or loaned to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot, bows, arrows, or bows and arrows, or devices designed or intended to discharge or capable of discharging any dangerous missile.*

3520.1. Except as otherwise provided in Section 3520.3 hereof, it shall be unlawful in the City of Pico Rivera for any person, firm, or corporation to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot, or device designed, or intended to discharge, or capable of discharging, any dangerous missile.

3520.3. Nothing in this chapter shall be deemed or construed to prohibit in said City of Pico Rivera the selling, giving, loaning, or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in sections 3520 and 3520.1 hereof, * * *.**

Piedmont

12.5. *Firearms, etc.—Sales or gifts to minors; use or possession by minors; exceptions.* It shall be unlawful for any person to sell or give to any minor in the city, under the age of eighteen years, or to allow any such minor to possess, use or discharge, or for any such minor to use or possess, any rifle, gun, pistol, revolver, air rifle, B-B gun, slingshot or other similar instrument from or by means of which any bullet, shot or other missile of any kind may be projected; provided, however, that the provisions of this section shall not apply to the possession of such firearms or other instruments by such minors in bona fide shooting galleries, gun clubs or organizations and educational institutions authorized to give firearm instructions, while such firearms or other instruments are being used as a part of such instructions, nor to the possession of unloaded firearms, air rifles or other such instruments by any such minor as an employee of a merchant, when such possession is in the usual course of his employment.*

Pittsburg

583.2. No person, firm or corporation shall sell, offer for sale, deliver, transfer, or give to any minor under the age of eighteen (18) years, nor shall such minor under the age of eighteen (18) years keep, carry or possess, any pistol, revolver, gun, rifle or other firearm or device, regardless of the length of the barrel thereof, discharging by the use of powder, air or springs, any bullet, shot or other object; provided that the provisions of this section shall not apply to the possession of firearms, or other such devices, by such minors under eighteen (18) years in duly licensed shooting galleries and/or on pistol and rifle ranges approved by the Chief of Police.*

Placentia City

(c) *It shall be unlawful to sell,* give away, barter, or trade, any gun, pistol, or firearms or any air gun or pistol or any spring gun or pistol or any device that shoots or propels pellets or missiles by any means, to any minor under the age of eighteen years without the written consent of the Police Department.*

(d) *It shall be unlawful to sell,* give away, barter, or trade any ammunition, pellets, missiles or any device used for shooting from pistols, guns or fire arms, or any spring-loaded gun or pistol or device that shoots or propels or missiles by any means to any person under the age of eighteen years without the written consent of the Police Department.**

(e) *It shall be unlawful for any parent,* juvenile, or any person, to transport or have shipped into the City of Placentia, any of the above-mentioned items for the use of any person under the age of eighteen years.

Redding

19.19. *Same—Sale of firearms thereto.* It shall be unlawful to expose for sale, sell, or offer for sale, barter or exchange, to or with any minor under the age of eighteen years, any pistol or other firearm, or any instrument capable of discharging any charge of powder, or other explosives, or any cartridge loaded with ball.*

Rosemead

3501. *Ammunition prohibited to minors.* Except as otherwise provided in Section 3503 hereof, it shall be unlawful in the City of Rosemead, for any person, firm, or corporation, to sell, give, lend, or in any way furnish, or to cause or permit to be sold, given, lent, or in any way furnished, to any person under the age of eighteen (18) years, any cartridge, shell, ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from any gun, revolver, pistol, or firearm.*

3500. *Firearms prohibited to minors.* Except as otherwise provided in Section 3503 hereof, it shall be unlawful in the City of Rosemead for any person, firm, or corporation, to sell, give, lend or in any way furnish, or to cause or permit to be sold, given, lent, or in any way furnished, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile.*

3503. Nothing in this Chapter shall be deemed or construed to prohibit in said City of Rosemead the selling, giving, lending, or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in Sections 3500 and 3501 hereof; nor to prohibit any such person under the age of eighteen years from having in his or her possession, care, custody or control any article mentioned in Section 3502 hereof in the event that such possession, care, custody, or control of such article is had with the consent of the parent or guardian of such person and is under the direct supervision and control of some adult person.*

Sacramento

48.7. *Purchase and sale of certain firearms.* It shall be unlawful for any person in the city to purchase any small firearm that may be concealed upon the person, without first procuring a written permit from the chief of police to do so.

It shall be unlawful for any person in the city to sell or dispose of any such small firearm to any person not holding such written permit, which permit shall be exhibited to the seller or dealer at the time the sale is made.

San Bernardino

1. No person except a parent or guardian shall purchase from, sell, exchange, give, lend or furnish to any person under the age of 16 years a revolver or pistol of any description, shotgun, or rifle which may be used for the explosion of cartridges, or any air-gun, "B-B gun," gas-operated gun or spring gun, or any knife or knives having the appearance of a pocket knife, the blade or blades of which can be opened by a flick of a button, pressure on the handle or other mechanical devices; or any instrument, toy or weapon commonly known as a "slingshot," or any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth above or by any other name.

2. No person under the age of 18 years shall have in his possession, care, custody or control any of the articles mentioned in Section One of this ordinance except within his own domicile or except when accompanied by and under the immediate supervision of a parent or guardian.

San Bernardino County

22.016 *Purchase of firearms.* No person except a parent or guardian shall purchase from, sell, exchange, give, lend or furnish to any person under the age of eighteen years a revolver or pistol of any description, shotgun, or rifle which may be used for the explosion of cartridges, or any airgun, "B–B" gun, gas-operated gun or spring gun, or any knife or knives having the appearance of a pocketknife, the blade or blades of which can be opened by a flick of a button, pressure of the handle or other mechanical devices; or any instrument, toy or weapon commonly known as a "sling shot," or any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth above or by any other name. Any such weapon possessed in violation of this chapter may be confiscated by any peace officer.*

San Bruno

16–6. *Firearms—Sale to and possession by minors.* (b) No person shall sell, deliver or transfer to any person under the age of eighteen years any pistol, revolver or other similar weapon capable of being concealed upon the person, designed to discharge a solid projectile propelled by the expansion of a gas.*

San Carlos

7330. *Definition of "firearms."* Firearms is defined as a cannon, gun, pistol, revolver, automatic pistol, rifle, shotgun, "BB" gun, air gun, pellet gun, or any other weapon of similar nature designed to discharge a projectile by the expansion of a gas.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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7335. *Sale of certain firearms prohibited to minors.* No person shall sell, deliver or transfer to any person under the age of eighteen years any pistol, revolver or other similar weapon capable of being concealed upon the person, designed to discharge a solid projectile propelled by the expansion of a gas.*

San Diego County

21.1201. *License required.* It shall be unlawful for any person to sell at retail pistols, revolvers and other firearms capable of being concealed upon the person, and hereinafter referred to as concealable weapons, unless such seller has been issued a license by the Tax Collector of the County of San Diego as provided in this chapter.

21.1207. *Delivery of firearms.* No concealable weapon shall be delivered: (a) Within ten days of the application for the purchase thereof; nor (b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity. When delivered, such concealable weapon shall be unloaded and securely wrapped.

San Dimas

22-1. *Sale of firearms to minors prohibited; exception.* Except as otherwise provided in this chapter (no person shall sell, give, lend or in any way furnish, or cause or permit to be sold, given, lent or in any way furnish, to any person under the age of eighteen years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot or device designed or intended to discharge, or capable of discharging, any dangerous missile.*

22-2 *Sale of ammunition to minors prohibited; exception.* Except as otherwise provided in this chapter, no person shall sell, give, lend or in any way furnish, or cause or permit to be sold, given, lent or in any way furnish, to any person under the age of eighteen years, any cartridge, shell, ammunition or device containing any explosive substance, designed or intended to be used in or fired from any gun, revolver, pistol or firearm.*

22-4. *Minors exempted from prohibitions under certain conditions.* Nothing in this chapter shall be deemed or construed to prohibit the selling, giving, lending or furnishing to any person under the age of eighteen years, upon the written consent of the parent or guardian of such person, any article mentioned in sections 22-1 and 22-2; * * *.**

San Francisco, City and County of

521. *Sale of firearms and explosive cartridges to minors prohibited.* It shall be unlawful for any person or persons within the limits of the City and County of San Francisco to expose for sale, sell or offer for sale, barter or exchange, or offer to barter or exchange to or with any minor under the age of seventeen years any pistol or other firearm or any toy pistol or imitation of any pistol or firearm, or instrument capable of receiving or discharging any charge of powder, cartridge or other explosive, or any cartridge or cap, whether loaded or not with ball.*

613. *Regulating sale of concealed weapons.* It shall be unlawful for any person in the business of selling, leasing or otherwise transferring pistols, revolvers or other firearms of a size capable of being concealed on the person, to sell, lease or otherwise transfer such pistol, revolver or other firearm, unless the person to whom such sale, lease or transfer is made shall exhibit a permit issued by the Chief of Police of this city and county authorizing such person to purchase, lease or otherwise acquire such pistol, revolver or other firearm.

617. *Exceptions.* This section and Sections 612 to 616, inclusive of this Article, shall not apply to wholesale dealers, in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms, merchandise by mail, express or other mode of shipment to points outside the City and County of San Francisco.

San Jose

4258. *Selling pistol to minor.* No person shall sell, dispose of or give to any minor under the age of eighteen years, any pistol, air gun or other weapon capable of receiving and discharging any charge, cartridge or explosive without the written request of his parent or guardian; and no minor under the age of eighteen years shall have in his possession any such pistol or weapon unless by the written consent of his parent or guardian.*

San Leandro

4-1-100. No person shall within this City:

4-1-104. Sell, loan, or give any firearm or ammunition to any person under 18 years of age without his parents' prior written consent.*

4-1-105. Sell, loan, or give any firearms or ammunition to any person under 16 years of age.*

San Marino

14.3 *Firearms, Ammunition, etc.—selling, etc., to minors.* 1. Sale, etc., of firearms to minors. It shall be unlawful for any person to sell, exchange, give or loan, or to cause or permit to be sold, exchanged, given or loaned, any gun, revolver, pistol or firearms of any description to any person under the age of eighteen years.*

2. *Sale, etc., of ammunition to minors.* It shall be unlawful for any person to sell, exchange, give or loan, or to cause or permit to be sold, exchanged, given or loaned, any cartridge, shell or other device containing any explosive, or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearms of any description, or any ammunition of any description, containing any explosive to any person under the age of eighteen years.

4. *Unlawful possession by minors.* It shall be unlawful for any person under the age of eighteen years to have in his possession, care, custody or control any gun, revolver, pistol, spring or BB or air gun or firearms of any description, or any cartridge, shell or other device containing any explosive or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearms of any description, or any ammunition of any description containing any explosive.

San Mateo County

3250.5. *Sale of certain firearms prohibited to minors.* No person shall sell, deliver or transfer ownership to any person under the age of eighteen (18) years any pistol, revolver or other similar weapon capable of being concealed upon the person and designed to discharge a solid projectile propelled by the expansion of a gas.*

3255.0. *Portions of penal code adopted.* The provisions of Sections 12070-12077, inclusive, of the Penal Code of the State of California, pertaining to the licensing of retailers selling pistols, revolvers, and other firearms capable of being concealed upon the person, are hereby adopted in the County of San Mateo and shall be in full force and effect in this County.

Santa Barbara

9.36.010. *Definitions.* For the purposes of this chapter the following words and phrases when used in this chapter shall have the meanings respectively ascribed to them by this section: (1) "Business" means retail and not wholesale business. (2) "Convicted" means entry of plea of guilty, or found guilty by court or jury. (4) "Firearms" means any gun, rifle, shotgun, pistol, revolver or any other device which projects a missile by an explosive type of ammunition, including but not limited to firearms capable of being concealed upon the person. (5) "Permit" means any permit issued under and as provided in this chapter. (6) "Permittee" means any person issued a permit under the provisions of this chapter

9.36.040. *Certain persons not permitted to sell, transfer, etc.* No permittee under this chapter shall permit anyone, to whom the transfer of any firearm is prohibited, to sell, deliver, lease, rent or in any manner transfer any firearm.

9.36.090. *Delivery of firearms to minors prohibited.* No person engaged in the business of selling or otherwise transferring firearms shall sell, deliver, lease, rent or in any manner transfer, furnish, give or cause to be sold, delivered, leased, rented, transferred, furnished or given any firearm to any person under the age of eighteen years. Members of businessman's immediate family, are excepted.*

9.36.130. *Sale of ammunition to certain persons prohibited—Exception.* No person, whether or not such person is engaged in the business of selling ammunition for firearms, shall sell ammunition for any firearm to any person to whom the sale or transfer of any firearm using such ammunition is prohibited under this chapter. Minors with written consent of their parent or legal guardian are excepted.*

9.36.160. *Dealings without permit prohibited.* No person without holding a current permit as provided in this chapter shall engage in the business of selling or otherwise transferring or advertising for the sale of any firearms.

Santa Clara

18-26 *Pistol, air guns, etc.—Sale to minors without request of parent prohibited.* It shall be unlawful within the city for any person to sell, dispose of or give to any minor under the age of eighteen (18) years, any pistol, airgun or other weapon capable of receiving and discharging any charge, cartridge or explosive without the written request of his parent or guardian.*

Santa Fe Springs

1567. *Sale to minors.* No person shall give, sell or loan to any person under the age of eighteen years, any gun, firearm, spring gun, air rifle, slingshot or ammunition.

1568. *Possession, use and sale of firearms, slingshots, ammunition, etc., permitted with consent and supervision of parents.* Nothing in section * * * 1567 shall be deemed or construed to prohibit any of the following: (a) The selling, giving, lending or furnishing to any person under the age of eighteen years, upon the written consent of the parent or guardian of such person, any article mentioned in section 1567.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

Santa Maria

17-8. *Firearms—Sales to or possession by minors.* It shall be unlawful for any person to sell to any minor in the city or to allow any such minor, or for any minor to carry, unless in a suitable case or securely wrapped, any firearm or gun, or rifle or other gun or device discharging by the use of powder, air or springs, any bullet or shot of any kind, or to carry any sling or slingshot, except when accompanied by parent or legal guardian; provided, that the provisions of this section shall not apply to the possession of such firearms, or other such instruments, by such minors in bona fide shooting galleries, or on pistol and rifle ranges, the locations of which have been approved by the council.

Santa Monica

3505. *Retailer's permit for the Sale of Certain Firearms.* No person shall sell at retail within the City any pistol, revolver or other firearm capable of being concealed upon the person without first having received a permit from the Chief of Police authorizing such person to make such sale.

3509. *Firearms, knives, and other devices. Sale to minors.* No person shall sell, exchange, give, or loan to any person under 18 years of age any spring-back knife, gun, revolver, pistol, or firearm of any description or any spring or airgun or any sling or slingshot or other device designed or intended to discharge or propel any pellets, B-B shot, shot, or other deadly or dangerous missile, or any ammunition, cartridge, shell, or other device, whether containing any explosive substance or not, designed and intended for use in any weapons or devices enumerated or described herein.*

3510. *Same. Possession by Minors.* No person under 18 years of age shall have in his possession, care, custody, or control any article or thing mentioned in the preceding section.

3511. *Same. Exceptions.* It is the intent of the preceding sections to absolutely prohibit the sale or exchange to, and the possession by a person under the age of 16 years of, any of the articles or things mentioned therein. Provided, nothing in these sections shall be construed to prohibit any person under the age of 18 years from having in his possession or using any article or device described in Section 3509 when it is with the consent of a parent or guardian for the purpose of lawfully engaging in contests or games of skill and lawfully shooting at targets upon established target ranges, whether public or private, while such person is using such article or device upon such target ranges, or while going to and from such ranges and, provided further, that such person is accompanied by and under the direct care and control of some person over the age of 21 years.

South Lake Tahoe

18-13. *Definitions.* For the purposes of this article, the term "dangerous weapon" shall mean and include: (f) Any rifle, gun, pistol, revolver, air rifle, B-B gun, air gun, slingshot, or other similar instrument or device designed or intended to discharge or capable of discharging a bullet, shot, or other missile of any kind.

18-16. *Use, possession, discharge, sale of dangerous weapons.* Except as provided in Sec. 18-17, it shall be unlawful for any person to sell, give, loan, or in any way furnish, or to cause or permit to be sold, given, loaned, or in any way furnished to a minor, or to allow any minor to use or possess or discharge, or for any minor to use or possess or discharge a dangerous weapon. For the purposes of this article only, a minor is a person who is under the age of 18 years.

18-17. *Exceptions.* Nothing in this article shall be deemed or construed to prohibit the selling, giving, loaning, or furnishing to any minor, upon written consent of the parent or guardian of such minor, any dangerous weapon as defined in subdivision (f) of Sec. 18-13; nor to prohibit such minor from using or having in his possession, care, custody, or control any such dangerous weapon as so defined in the event that such possession, care, custody, control or use is had with the consent of the parent or guardian of such minor and is under the direct supervision and control of some person over the age of 21 years.*

Stockton

4-044. *Sale of firearms and/or ammunition to minors:* It shall be unlawful, in the City of Stockton, to sell firearms and/or ammunition of any kind to minors under the age of fourteen (14) years, unless accompanied by parent or guardian.**

4-045. *Sale of concealed firearms:* It shall be unlawful to sell pistols, revolvers, or other firearms capable of being concealed upon the person, at retail, within the City of Stockton, without a license * * *.

4-046. *License to sell:* The City Manager is hereby authorized to issue licenses to sell, at retail, within the City of Stockton, pistols, revolvers, and other firearms capable of being concealed upon the person. Such licenses shall be issued in the form prescribed by the Attorney General and shall be effective for not more than one year from date of issue.

4-046.1 *License*—Chief of police to approve: The said licenses shall be issued only after a report in writing concerning said prospective licensee has been made by the Chief of Police to the City Manager. Said licenses shall not be issued to any person who: (a) Has been convicted of a felony and has served a term of imprisonment therefor in a State or Federal prison, (b) Has been convicted of any violation of the Dangerous Weapons Control Law of the State of California, or (c) Is not of good moral character.

Temple City

3500. Except as otherwise provided in Section 3503 hereof, it shall be unlawful in the City of Temple City for any person, firm or corporation, to sell, give, lend or in any way furnish, or cause or permit to be sold, given, lent, or in any way furnished, to any person under the age of eighteen (18) years, any gun, revolver, pistol, firearm, spring gun, air gun, sling, slingshot, or device designed, or intended to discharge, or capable of discharging, any dangerous missile.*

3501. Except as otherwise provided in Section 3503 herein it shall be unlawful in the City of Temple City, for any person, firm or corporation, to sell, give, lend, or in any way furnish or cause or permit to be sold, given, lent, or in any way furnished, to any person under the age of eighteen (18) years, any cartridge, shell, ammunition, or device containing any explosive substance, designed, or intended to be used in, or fired from any gun, revolver, pistol, or firearm.*

3502. Except as otherwise provided in Section 3503 hereof it shall be unlawful in said City of Temple City, for any person under the age of eighteen (18) years to fire, discharge, shoot or operate, or to assist or participate in the firing, discharging shooting, or operating, or to have in his or her possession, care, custody or control, any gun, revolver, pistol, firearm, spring gun, air gun, sling, sling shot, or device designed, or intended, to discharge, or capable of discharging, any dangerous missile, or any cartridge, shell, ammunition, or device containing any exploding substance, designed or intended to be used in or fired from, any gun, revolver, pistol, or firearm.

3503. Nothing in this Chapter shall be deemed or construed to prohibit in said City of Temple City the selling, giving, lending or furnishing to any person under the age of eighteen (18) years, upon the written consent of the parent or guardian of such person, any article mentioned in Sections 3500 and 3501 hereof;*

Thousand Oaks

3-17.06. *Prohibited sales, trades, exchanges, or bartering.* No person, firm, or corporation at any swap meet, whether they be the operator or an exhibitor or any other person or entity, shall sell, exchange, display, offer for sale or exchange or barter at any swap meet any of the following items of personal property: * * *

(b) Any hand gun, rifle, shot gun, or other type of firearm by whatever name, or any deadly weapon;

(c) Any flammable liquids, including but not limited to gasoline, kerosene, acetone, thinners, and solvents; ammunition, blasting agents, liquid petroleum gases or other combustible gases; any type of fireworks, explosives, acids, caustics, or oxidizing agents.

Torrance

45.3.6. *Firearms, air guns, etc. in possession of minors.* It shall be unlawful for any person under the age of eighteen (18) years of age to have in his possession, custody or control, within the corporate limits of the City, any gun, revolver, pistol, spring or air gun, or firearm of any description, or any cartridge, shell or other device containing any explosive, or any cartridge, shell or other device designed and intended for use in connection with any gun, revolver, pistol or firearm of any description, or any ammunition of any description containing any explosive.

Union City

9.72.010 *Dangerous weapon defined.* "Dangerous weapon" means and includes: F. Any rifle, gun, pistol, revolver, air rifle, B-B gun, air gun, sling, sling shot or other similar instrument or device designed or intended to discharge or capable of discharging a bullet, shot or other missile of any kind.

9.72.020 *Use, possession, discharge or sale.* Except as otherwise provided in this chapter it is unlawful for any person in the city to sell, give, loan or in any way furnish, or to cause or permit to be sold, given, loaned or in any way furnished to a minor, or to allow any minor to use or possess or discharge, or for any minor to use or possess or discharge a dangerous weapon.

9.72.030 *Exceptions.* Nothing in this chapter shall be deemed or construed to prohibit the selling, giving, loaning or furnishing to any minor, upon written consent of the parent or guardian of such minor, any dangerous weapon as defined in Section 9.72.010; nor prohibit such minor from using or having in his possession, care, custody or control any such dangerous weapon as so defined in the event that such possession, care, custody,

*NOTE – Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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control or use is had with the consent of the parent or guardian of such minor and is under the direct supervision and control of some adult person; not to prohibit any minor from using or having in his possession or control any dangerous weapon which is in good faith in his possession or control or use for his lawful occupation or employment or for the purpose of lawful recreation. * * *

Upland

4270.1. *Firearms defined.* The words "Firearm" or "Firearm" as used in this Part, includes, but is not limited to, any gun, revolver, pistol, firearm, spring gun, air gun, gas gun, sling, sling shot or device, designed or intended to discharge or explode of discharging any dangerous missile or any cartridge, shell, ammunition or device containing any explosive substance, spring or other impelling force devised or intended to be used or fired from any gun, revolver, pistol or firearm.

4270.2. *Deadly or dangerous weapons defined.* The words "Deadly or Dangerous Weapon" as used in this Part, includes, but is not limited to: any dirk or dagger; any knife with a blade three inches or more in length, any snapblade, gravity or spring-blade knife, regardless of the length of the blade; any ice pick or similar sharp stabbing tool; any straight edge razor or any razor or other blade fitted to a handle; any dangerous or deadly weapon within the meaning of any law of the State of California restricting the use thereof; and any cutting, stabbing or bludgeoning weapon or device capable of inflicting grievous bodily harm and any firearm.

4270.4 *Minors. Possession of firearms, knives, etc.* That no person under eighteen years of age shall have in his possession, care, custody or control, any knife, any blade of which exceeds three inches in length; or any snapblade, gravity or spring blade knife, regardless of the blade, or any firearm or firearms.

4270.5 *Minors. Giving firearms etc., prohibited.* It shall be unlawful for any person to sell, exchange, give or loan to any person under eighteen years of age any firearm or firearms as defined in Section 4270.1 of this Part.**

4270.10. *Exceptions.* The aforegoing shall not apply or be deemed to apply in the following case.

(a) When the firearm or weapon is in the possession of any peace officer for use in the enforcement of law;

(b) When the firearm or weapon is in the possession of a person who has a valid permit to possess and carry the same issued by a duly authorized governmental authority;

(c) When any such firearm is being used at or in connection with the operation of any lawful pistol or rifle range in accordance with rules and regulations approved by the Chief of Police of the City in which, or the City Council of said City; and

(d) In the case of ordinary rifles, shotguns, tools or sporting apparel possessed or carried in good faith for use of honest work, trade or business or for the purpose of legitimate game hunting sport or recreation.

Walnut Creek

3-04 *Sale of weapons to minors.* It shall be unlawful for any person to sell to any minor under 21 years of age, or to allow any such minor to buy ammunition for any firearm, bb rifle, or other gun or device discharging by the use of powder, air, or springs, or bb, slug or slingshot, except when accompanied by an authorized person over eighteen (18) years of age, provided, however, that the provisions of this chapter shall not apply to the possession of such firearms, or other instruments or ammunition therefor, by such minors in bona fide shooting galleries, or on a pistol and rifle range, the locations of which have been approved by the Council.**

West Covina

4492. *Providing minors with firearms unlawful.* No person shall sell, exchange, give or loan to any person under eighteen years of age any gun, revolver, pistol or firearm of any description or any spring or air gun designed or intended to discharge any shot or other deadly or dangerous missile, or any ammunition, cartridge, shell, or other devise containing any explosive device designed and intended for use in any of the weapons enumerated herein.**

4495. *Possession of firearms by minor prohibited.* No person under eighteen years of age shall have in his possession, care, custody or control any article or thing mentioned in Section 4492 hereof.

Westminster

3700.8 *Sale, etc. of bb shot and ammunition to persons under eighteen years of age.* No person as principal, agent or otherwise shall sell, exchange, give or lend any BB shot, pellet or other missile designed or intended for use in any spring gun, air gun, air pistol or other pistol or gun, or any cartridge, shell or other device containing any explosive and designed or intended for use in any gun, revolver, pistol or firearm of any description, to any person under the age of eighteen (18) years of age without the consent of the parent or guardian of said minor under the age of eighteen (18) years.*

3700.9. *Sale, etc. of air gun to minor under eighteen.* No person, as principal, agent or otherwise, shall sell, exchange, give or lend or cause or permit to be sold, exchanged, given or lent any spring gun or air gun, or other gun designed or intended to discharge any shot or dangerous or deadly missile, to any person under the age of eighteen (18) years, without the consent of the parent or guardian of said minor under the age of eighteen (18) years.*

3700.10 *Possession by minor under eighteen of firearms, air guns or ammunition.* No person, as principal, agent or otherwise under the age of eighteen (18) years, shall have in his or her possession, care, custody or control any gun, revolver, pistol, spring gun, air gun or firearm of any description, or any cartridge shell or other device containing any explosive, and designed or intended for use in any gun, revolver, pistol or firearm of any description or any explosive ammunition of any description whatsoever without the express consent of the parent or guardian of said minor under the age of eighteen (18) years.

Whittier

4260.12 *Minors—Firearms, etc., selling etc., to prohibited.* No person shall sell, give, loan or in any manner furnish or cause or permit to be sold, given, loaned, or furnished to any person under the age of eighteen years any gun, revolver pistol, firearm, spring gun, air gun, sling, sling shot or device designed or intended to discharge or capable of discharging any dangerous missile. The provisions of this Section shall not apply to the loan or use of firearms to such persons for use on a permitted range or shooting gallery in connection with any firearms training program sponsored by the City or any of its departments.**

4260.12(a). *Same—Ammunition, explosives, etc. selling to prohibited.* No person shall sell, give, loan or in any manner furnish or cause to be furnished to any person under the age of eighteen years any cartridge, shell, ammunition or device containing any explosive substance designed or intended to be used in or fired from any gun, revolver, pistol or firearm.**

4260.12(b). *Same—Possession of—Prohibited.* No person under the age of eighteen years shall have in his possession, care or control any gun, revolver, pistol, firearm, spring gun, air gun or similar device, except as provided in this Part.

COLORADO

State Law

COLO. REV. STATS.

40-12-101. *Definitions.* (1) The following definitions apply to this article: (a) "Blackjack" includes any billy, sand club, sand bag, or other hand-operated striking weapon consisting, at the striking end of an encased piece of lead or other heavy substance, and at the handle end, a strap or springy shaft which increases the force of impact.

(b) "Firearm silencer" means any instrument, attachment, weapon, or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any such weapon.

(c) "Short rifle" means a rifle having a barrel less than sixteen inches long, or an overall length of less than twenty-six inches.

(d) "Short shotgun" means a shotgun having a barrel or barrels less than eighteen inches long or an overall length of less than twenty-six inches.

(e) "Gas gun" means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device, and includes projectiles designed for use in such a device.

(f) "Bomb" means any explosive or incendiary device or molotov cocktail as defined in section 53-7-3, C.R.S. 1963, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

(g) "Machine gun" means any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger.

(2) The provisions of this article shall not be held to prohibit any act by a peace officer in the lawful discharge of his duties.

40-12-102. *Possessing an illegal weapon.* (1) As used in this section, the term "illegal weapon" means a blackjack, bomb, firearm silencer, gas gun, machine gun, short shotgun, short rifle, metallic knuckles, gravity knife or switchblade knife.

(2) A person other than a peace officer or member of the armed forces of the United States or Colorado national guard acting in the lawful discharge of his duties, or a person who has a valid permit and license pursuant to federal code for such weapon, commits a class 1 misdemeanor if he knowingly possesses an illegal weapon.

40-12-103. *Possession of a defaced firearm.* A person commits a class 3 misdemeanor if he knowingly and unlawfully possesses a firearm, the manufacturer's serial number of which, or other distinguishing number or

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

identification mark, has been removed, defaced, altered, or destroyed.

40-12-106. *Prohibited use of weapons.* (1) A person commits a class 2 misdemeanor if: (d) He has in his possession a firearm while he is under the influence of intoxicating liquor or of a narcotic drug, or dangerous drug. Possession of a permit issued under 40-12-105(2)(c), is no defense to a violation of this subsection.

40-12-108. *Possession of weapons by previous offenders.* Any person previously convicted of bulary, arson, or a felony involving the use of force or violence or the use of a deadly weapon, or attempt or conspiracy to commit such offenses, under the laws of the United States of America, the state of Colorado, or another state, within the ten years next preceding or within ten years of his release from incarceration, whichever is greater, who shall possess, use, or carry upon his person a firearm or other weapon mentioned in sections 40-12-101 to 40-12-106, commits a class 5 felony. A second or subsequent offense under this section is a class 4 felony.

53-4-1. *Insurrection — firearms prohibited.*—Whenever in the opinion of the governor a condition of riot, insurrection or invasion exists in this state, or in any county, city, town, or district in this state, he shall have the right to declare the state or any such county, city, town, or district, to be in a state of riot, or insurrection, or invasion, by proclamation, and to prohibit the purchase, manufacture for sale or use, receiving, carrying or use, or the selling, giving away, transportation, or otherwise disposing of, or the permitting of others to obtain possession of, any firearms or ammunition in the places covered by said proclamation or in any other portion of the state designated by him during the time that said proclamation remains in force.

53-4-2. *Permit to bear arms.*—If the governor at any time shall issue his proclamation as provided in section 53-4-1, declaring the state, or any county, city, town, or district within the state to be in a state of riot, or insurrection, or invasion, it shall be unlawful while said proclamation is in force, for any person, firm or corporation within the territory covered by said proclamation to purchase, manufacture for sale or use, receive, transport, carry or use, any firearm or ammunition, or to sell, give away, or otherwise dispose of, or permit others to obtain possession of any firearm or ammunition, without a written permit from the governor or his regularly authorized representative. No permit shall be issued by the governor or his representative unless and until the person so desiring such permit shall satisfy the governor or his representative that the same is to be used in defense of his home, person or property. This section shall not apply to legally authorized peace officers, or sheriffs, designated by the governor or his representative, or members of the national guard of Colorado. No permit shall be issued to allow the purchase, manufacture for sale or use, receipt, use, transportation or disposing of firearms or ammunition by anyone not a citizen of the United States or to anyone who has not been a resident of the state of Colorado for more than one year prior to the issuance of the proclamation mentioned in section 53-4-1.

53-6-3. *Declaration of policy—residents.*—(1)(a) It is hereby declared by the general assembly that it is lawful for a resident of this state, otherwise qualified, to purchase or receive delivery of a rifle or shotgun in a state contiguous to this state, subject to the following restrictions and requirements: (b) The sale must fully comply with the legal conditions of sale in both such contiguous states.

(c) The purchaser and the licensee must have, prior to the sale or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) of the federal "Gun Control Act of 1968", applicable to interstate transactions other than at the licensee's business premises.

Aurora

10-3-2. *Sale of weapons.* It shall be unlawful for any person to sell, loan, or furnish any gun, pistol, or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to any minor.*

Boulder

36-11. *Sales, etc., to drunkards, drug addicts and minors.* It is unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability, or to any minor under the age of eighteen years.*

Brighton

7-445. *Unlawful to sell weapons to intoxicated persons.* It shall be unlawful for any person, firm or corporation to sell, loan, or furnish any instrument or weapon designated in Sections 7-441 or 7-444 to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation or excitability, or to any minor.*

Colorado Springs

G. *Selling weapons to intoxicated persons or minors*—It shall be unlawful for any person to purchase, sell, loan, or furnish any dangerous or deadly weapon to any person intoxicated or under the influence of alcohol or any narcotic or dangerous drug or glue, or to any person in a condition of agitation and excitement, or to any minor under the age of eighteen (18) years.*

Commerce City

14-112. *Furnishing to certain persons prohibited.* It shall be unlawful for any person to purchase, sell, loan, or furnish any gun, pistol, or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to any minor under the age of eighteen (18) years.*

Cortez

11-6-6. *Unlawful to sell weapons to intoxicated persons.* A. It shall be unlawful for any person, firm or corporation to purchase, sell, loan, or furnish any gun, pistol, or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to any minor under the age of 18 years.*

Creede

10-5-18. *Selling weapons to intoxicated persons.* (a) It shall be unlawful for any person, firm, or corporation to purchase, sell, loan, or furnish any gun, pistol, or other firearm to which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to any minor under the age of eighteen (18) years.*

(b) Further, such unlawful purchase, sale, loan, or furnishing shall be grounds for revocation of any license issued by the Town of Creede, Colorado to such person, firm or corporation.

Denver, City and County of

.7. *Identification and records concerning sales, etc.* .7-1. Every person who sells, rents, or exchanges at retail any weapon designated in Sections 845.1 or 845.6 of this Code shall require the vendee, lessee, or person with whom such exchange is made to furnish more than one type of identification before such sale, rental, or exchange is consummated.

.7-3. It shall be unlawful for any person who purchases, rents, or exchanges any weapon designated in Section 845.1 or 845.6 of this Code to give a false or fictitious name, or any other false, fraudulent, or incorrect information to the person from whom such weapon is purchased, or rented, or with whom such weapon is exchanged at the time such purchase, rental, or exchange is made.

.8. *Unlawful to sell weapons to intoxicated persons or minors.* .8-1. It shall be unlawful for any person to sell, loan, or furnish any instrument or weapon designated in Sections 845.1 or 845.6 of this Code to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to any minor.

.10. *Incendiary or explosive device.* .10-1. For the purposes of this Section 845.10, an incendiary or explosive device shall include, but not by way of limitation, any device consisting in whole or in part of flammable material or other material having the capability of exploding, igniting, or burning.

.10-3. It shall be unlawful for any person to prepare or to assist in the preparation of an incendiary or explosive device; to possess, handle, store, transport, or sell any such device, knowing the same is to be thrown, placed, or caused to be placed for the purpose of causing injury to any person, or damage to property.

Edgewater

.6. *Unlawful to sell weapons to intoxicated persons.* .6-1. It shall be unlawful for any person, firm or corporation to sell, loan, or furnish any instrument or weapon designated in Section 846.4 of 846.1-1 to any person under the influence of alcohol, or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to any minor.*

Englewood

11-3-4. *Certain sales prohibited.* It shall be unlawful for any person to purchase, sell, loan, or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol, or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation or excitability, or to any minor under the age of 18 years.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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Grand Junction

19–60. *Furnishing to intoxicated persons.* No person shall, directly or indirectly, sell, barter, loan or deliver any deadly or dangerous weapon to any drunk or intoxicated person.

Greeley

15–47. *Possessing an illegal weapon.* (a) As used in this section, the term "illegal weapon" means a blackjack, bomb, firearm silencer, gas gun, machine gun, short shotgun, short rifle, metallic knuckles, knife, gravity knife, or switchblade knife.

(b) A person other than a peace officer or member of the armed forces of the United States or Colorado National Guard commits the violation of this section if he knowingly possesses an illegal weapon.

15–48. *Possession of a defaced firearm.* A person commits a violation of this section if he knowingly possesses a firearm, the manufacturer's serial number of which, or other distinguishing number or identification mark, has been removed, defaced, altered or destroyed.

15–51. *Using weapon in a prohibited manner.* (a) A person commits a violation of this section if: * * * (4) He has in his possession a firearm while he is under the influence of intoxicating liquor or of a narcotic drug, or dangerous drug.

15–52. *Definitions.* (a) The following definitions apply to this division: (1) *Blackjack* includes any bill, sand club, sand bag, or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance, and at the handle end, a strap or springy shaft which increases the force of impact.

(2) *Firearm silencer* means any instrument, attachment, weapon, or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any such weapon.

(3) *Short rifle* means a rifle having a barrel less than sixteen (16) inches long, or an overall length of less than twenty-six (26) inches.

(4) *Short shotgun* means a shotgun having a barrel or barrels less than eighteen (18) inches long or an overall length of less than twenty-six (26) inches.

(5) *Gas gun* means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device, and includes projectiles designed for use in such a device.

(6) *Bomb* means any explosive or incendiary device or Molotov cocktail which is not specifically designed for lawful and legitimate use in the hands of its possessor.

(7) *Machine gun* means any firearm, whatever its size and usual designation, that shoots automatically more than one (1) shot, without manual reloading, by a single function of the trigger.

Las Animas

23–6. *Sale, rental, etc., of firearms to certain persons prohibited.* It shall be unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability. Further, such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the city to such person.

Littleton

26.6 *Sale, etc., of firearms to certain persons prohibited.* It shall be unlawful for any person to purchase for or to sell, loan, or furnish any gun, pistol, or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability, or to any minor under the age of eighteen years.*

Pueblo

11–1–35. *Firearms; sale; etc. to minors; consent.* It shall be unlawful for any person to sell, give or loan to any minor under the age of eighteen years of age any type of firearms or ammunition whatsoever without first contacting the parent or parents or the legal guardian of such minor and obtaining from such parent or parents or the legal guardian written consent to such gift, sale, or loan; provided, however, where a minor has been emancipated by law or marriage it shall be sufficient, upon proper showing mode, for the Chief of Police to authorize such sale, gift or loan.**

CONNECTICUT

State Law

CONN. GEN. STATS. ANN. TITLE 29

29–27. *"Pistol" and "revolver" defined.* The term "pistol" and the term "revolver," as used in sections 29–28 to 29–38, inclusive, mean any firearm having a barrel less than twelve inches in length.

29–28. *Permit for selling or carrying pistols or revolvers.* No person shall advertise, sell, deliver, or offer or expose for sale or delivery, or have in his possession with intent to sell or deliver, any pistol or revolver at retail without having a permit therefor issued as hereinafter provided. The chief of police or, where there is no chief of police, the warden of the borough or the first selectman of the town, as the case may be, may, upon the application of any person, issue a permit in such form as may be prescribed by the commissioner of state police for the sale at retail of pistols and revolvers within the jurisdiction of the authority issuing such permit. Upon the application of any person having a bona fide residence or place of business within the jurisdiction of any such authority or upon the application of any bona fide resident of the United States having a permit or license to carry any firearm issued by the authority of any state or subdivision of the United States, such chief of police, warden or selectman may issue a permit to such person to carry a pistol or revolver within the jurisdiction of the authority issuing the same, provided such authority shall find that such applicant intends to make no use of any pistol or revolver which he may be permitted to carry thereunder other than a lawful use and that such person is a suitable person to receive such permit. Said commissioner may, upon application, issue, to any holder of any such permit, a permit to carry a pistol or revolver within the state. Each permit to carry any pistol or revolver shall be issued in triplicate and one of the copies issued by said commissioner shall be delivered to the person to whom issued, one shall be delivered forthwith to the authority issuing the local permit and one shall be retained by said commissioner, and the local authority issuing any such permit shall forthwith deliver one of such copies to the person to whom issued and one copy to said commissioner and shall retain one of such copies. No permit for carrying a pistol or revolver shall be issued to an alien under the provisions of this section.

29–28a. *Application for permit. Notice of decision to applicant.* (a) Requests for permits under section 29–28 shall be submitted to the issuing authority on application forms prescribed by the commissioner of state police. Upon written request by any person for a permit not on a prescribed applicatfon form, or upon request by any person for such application form, the issuing authority shall supply such forms. When any such request is made in person at the office of the issuing authority, the authority shall supply such application form immediately. When any such request is made in any other manner, the authority shall supply such application form not later than one week after receiving such request. If such application form is not supplied within the time limited by this section, the request therefor shall constitute a sufficient application. (b) The issuing authority shall, not later than six weeks after a sufficient application for a permit has been made, inform the applicant that his request for a permit has been approved or denied.

29–31. *Display of permit to sell. Record of sales.* No sale of any pistol or revolver shall be made except in the room, store or place described in the permit for the sale of pistols and revolvers, and such permit or a copy thereof certified by the authority issuing the same shall be exposed to view within the room, store or place where pistols or revolvers are sold or offered or exposed for sale, and no sale or delivery of any pistol or revolver shall be made unless the purchaser or person to whom the same is to be delivered is personally known to the vendor of such pistol or revolver or the person making delivery thereof or unless the person making such purchase or to whom delivery thereof is to be made provides evidence of his identity. The vendor of any pistol or revolver shall keep a record of each pistol or revolver sold in a book kept for that purpose, which record shall be in such form as is prescribed by the commissioner of state police and shall include the date of the sale, the caliber, make, model and manufacturer's number of such pistol or revolver and the name, address and occupation of the purchaser thereof, and shall be signed by the purchaser and by the person making the sale, each in the presence of the other, and shall be preserved by the vendor of such pistol or revolver for at least six years.

29–33. *No sale to aliens. Application to purchase. Waiting period.* No person, firm or corporation shall sell at retail, deliver or otherwise transfer any pistol or revolver to any alien. No person, firm or corporation shall deliver any pistol or revolver at retail except upon written application on a form prescribed and furnished by the commissioner of state police, in triplicate, one copy of which shall be mailed by first class mail on the day of receipt of such application to the chief of the police department of the municipality within which the applicant resides or, where there is no chief of police, the first selectman or warden of such municipality, as the case may be, and to the commissioner of state police, and no sale or delivery of any pistol or revolver shall be made until the expiration of one week from the date of the mailing of such copies. Any such municipal authority or said commissioner, having knowledge of the conviction of such applicant of a felony, shall forthwith notify the person, firm or corporation to whom such application was made and no pistol or revolver shall be by him or it sold or delivered to such applicant. When any pistol or revolver is delivered in connection with the sale or purchase, such pistol or revolver shall be enclosed in a package, the paper or wrapping of which shall be securely fastened, and no pistol or revolver when delivered on any sale or purchase shall be loaded or contain therein any gunpowder or other explosive or any bullet, ball or shell. Upon the delivery of any pistol or revolver, the purchaser shall sign in quadruplicate a receipt for such pistol or revolver which shall contain the name, address and occupation of such purchaser, the date of sale, caliber, make, model and manufacturer's number and a general description thereof. Two of such quadruplicate receipts shall, within twenty-four hours thereafter, be mailed by first class mail by the vendor of such pistol or revolver to the commissioner of state police and one to the authority issuing the permit for the sale of such pistol or revolver and the other, together with the original application, shall be retained by such vendor for at least six years. The waiting period herein specified during which delivery may not be made shall not apply to the holder of a valid state permit to carry pistols and revolvers, nor to any federal marshal, sheriff, parole officer or peace officer. The provisions of this section shall not apply to antique pistols or revolvers. An antique pistol or revolver, for the purposes of this section, means any pistol or revolver utilizing an early type of ignition, including but not limited to, flintlocks, wheel locks, matchlocks, percussions and pin-fire, but no pistol or revolver which utilizes center fire or rim fire cartridges shall be deemed to be an antique pistol or revolver.

29–34. *False information. Sale to minors prohibited.* No person shall make any false statement or give any false information connected with any purchase, sale or delivery of any pistol or revolver, and no person shall sell, barter, hire, lend, give or deliver to any minor under the age of eighteen years any pistol or revolver.*

29–36. *Altering or removing identification mark.* No person shall alter, remove or obliterate the name of any maker or model or any maker's number or other mark of identification on any pistol or revolver. The possession of any pistol or revolver upon which any identifying mark, number or name has been altered, removed or obliterated shall be prima facie evidence that the person owning or in possession of such pistol or revolver has altered, removed or obliterated the same.

29–38a. *Out-of-state purchase or acquisition of rifles or shotguns.* (a) For the purposes of the federal gun control act of 1968, Public Law 90–618, 18 U.S.C. 921 et seq., and any applicable law of this state, any appli dent in this state, including a corporation or other business entity maintaining a place of business in this state, may purchase or otherwise receive a delivery of a rifle or shotgun in the states of New York or Rhode Island or in the Commonwealth of Massachusetts, unless such purchase or receipt of delivery violates any applicable law of this state, any applicable law of the state in which such purchase or receipt of delivery takes place, or any applicable provision of said gun control act of 1968, as amended.

(b) Nothing in subsection (a) of this section shall be deemed to deprive any such resident of this state of any rights granted to such resident under title 18 U.S.C. section 922(a)(5), section 922(b)(3)(B) or section 922(b)(3)(C).

CONN. GEN. STATS. ANN. TITLE 53

53–202. *Machine guns.* (1) "Machine gun," as used in this section, shall apply to and include a weapon of any description, loaded or unloaded, from which more than five shots or bullets may be rapidly, or automatically, or semi-automatically, discharged from a magazine, by a single function of the firing device. "Crime of violence," as used in this section, shall apply to and include any of the following-named crimes or an attempt to commit any of the same: Murder, manslaughter, kidnapping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering and larceny. (2) Any person who possesses or uses a machine gun in the perpetration or attempted perpetration of a crime of violence shall be imprisoned not more than twenty years. (3) Any person who possesses or uses a machine gun for an offensive or aggressive purpose shall be imprisoned not more than ten years. (4) The possession or use of a machine gun shall be presumed to be for an offensive or aggressive purpose: (a) When the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun was found; or (b) when in the possession of, or use by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any state or federal court of record of the United States of America, its territories or insular possessions; or (c) when the machine gun is of the kind described in subsection (7) hereof and has not been registered as therein required; or (d) when empty or loaded pistol shells of thirty (.30 in. or 7.63 mm.) or larger caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof. (5) The presence of a machine gun in any room, boat or vehicle shall be presumptive evidence of the possession or use of the machine gun by each person occupying such room, boat or vehicle. (6) Each manufacturer shall keep a register of all machine guns manufactured or handled by him. Such register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt, of each machine gun, the name, address and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given or delivered. Upon demand, any manufacturer shall permit any marshal, sheriff or police officer to inspect his entire stock of machine guns, and parts and supplies therefor, and shall produce the register, herein required, for inspection. Any person who violates any provision of this subsection shall be fined not more than two thousand dollars. (7) Each machine gun in this state adapted to use pistol cartridges of thirty (.30 in. or 7.63 mm.) or larger caliber shall be registered in the office of the commissioner of state police within twenty-four hours after its acquisition and, thereafter, annually, on July first. Blanks for registration shall be prepared by said commissioner and furnished upon application. To comply with this subsection, the application as filed shall show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which the gun was acquired. The registration data shall not be subject to inspection by the public. Any person who fails to register any gun as required hereby shall be presumed to possess the same for an offensive or aggressive purpose. The provisions of this subsection shall not apply to any machine gun which has been registered under the provisions of subsection (6) and which is still in the actual possession of the manufacturer. * * * (9) No provision of this section shall apply to the manufacture of machine guns for sale or transfer to the United States government, to any state, territory or possession of the United States or to any political subdivision thereof or to the District of Columbia.

East Haven

D. No person, persons, firm, or corporation shall sell or expose for sale any blank pistol or any other pistol in the Town of East Haven.

New Haven

18–12. *Firearms and ammunition; sales to children.* No person shall sell to any child under the age of sixteen (16) years, without the written consent of the parent or guardian of such child, any cartridge or fixed ammunition of which any fulminate is a component part, or any gun, pistol, or other mechanical contrivance arranged for the explosion of such cartridge, or of any fulminate.*

Seymour

13–7. *Same—Sale to children prohibited.* It shall be unlawful and is hereby prohibited for any person or persons, firm, corporation or association to sell or offer for sale to any person under the age of sixteen (16) years any air gun or rifle or pistol, B-B gun, spring gun or pistol, or rifle, or any other implement which impels with force a pellet of any kind or any gun or rifle or pistol which fires or which is designed or intended to fire a bullet, shell or pellet by means of gunpowder, or other chemical propellant which such devices are generally known as firearms, within the limits of the Town of Seymour.*

13–8. *Same—Ownership, possession, use by children prohibited; exception.* It shall be unlawful and is hereby prohibited for any person or persons, under the age of sixteen (16) years to own, possess, use or carry any air gun or rifle or pistol, B-B gun, spring gun or rifle or pistol, or any other implement which impels with force a pellet of any kind or any gun, rifle or pistol which fires or which is designed or intended to fire a bullet, shell or pellet by means of gunpowder or other chemical propellant which such devices are generally known as firearms, within the limits of the Town of Seymour.

Provided, however, that a person under sixteen (16) years of age can have the use of a rifle or other device described in this section, provided they are with their parents or guardians and under their supervision.

DELAWARE

State Law

DEL. CODE ANN. TITLE 11

464. *Possession or sale of spring or air weapon or silencer; exceptions.* (a) Whoever owns, possesses, sells, or in any manner has control of—

*NOTE: Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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(3) any device, including what is commonly known as a maxim silencer, which may be attached to any weapon or firearm for the purpose of silencing or making less audible the sound of the discharge or firing thereof, shall be fined in such amount or imprisoned, for such term, or both, as the court, in its discretion, may determine.

(d) No child under 16 years of age shall have possession of any firearm or what is commonly known as a B.B. or air rifle or the shot therefor unless under the direct supervision of a full adult. The parents or the legal guardian of a child violating the provisions of this subsection shall be fined an amount not to exceed $25 and shall be held financially liable for any property damage or physical injury that occurs as the result of such violation.

(e) Subsections (c) and (d) of this section shall apply only to New Castle County. As amended 52 Del. Laws, Ch. 33, eff. May 5, 1959.

465. *Possession, test firing and transportation of machine gun; exceptions.* (a) Whoever, other than the state military forces or duly authorized police departments, has a machine gun in his possession within this State, is guilty of a felony and shall be fined in such amount or imprisoned for such term, or both, as the court, in its discretion, may determine; provided, however, that the provisions contained herein shall not apply to persons possessing machine guns for scientific or experimental research and development purposes, which machine guns have been duly registered under the provisions of the National Firearms Act of 1968. A copy of said registration shall be kept with any such machine gun and shall be made available for inspection by federal, state and local law-enforcement officers upon request.

(b) A machine gun shall be defined as any firearm actually capable of discharging more than 1 cartridge by a single pull of the trigger; and any firearm incapable of discharging more than 1 cartridge by a single pull of the trigger shall not be considered a machine gun.

(c) Any test firing within the State shall be made at facilities approved by the adjutant general of the Delaware National Guard or the secretary of the department of public safety and shall be supervised by their duly appointed delegate.

(d) No machine gun may be conveyed or transported unless it is disarmed by removal of its bolt; the disarmed machine gun and its bolt may be transported in the same vehicle, but they must be transported in separate locked containers.

465A. *Manufacture, sale, possession and delivery of sawed-off shotgun; penalty.* (a) No person shall manufacture, make, deliver, transport, trade, give, sell, or possess a short-barrelled or sawed-off shotgun except as specifically authorized by the secretary of public safety consistent with public safety and necessity.

(b) The term "shotgun" as used in this section means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed and redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(c) The term "short-barrelled" or "sawed-off shotgun" as used in this section means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(d) Whoever violates this section shall be guilty of a felony and shall be fined not less than $500 nor more than $2,000, imprisoned not less than 1 year nor more than 5 years, or be fined and imprisoned.

468B. *Purchase and possession of firearms by certain persons prohibited.* Any person, having been convicted in this State or elsewhere of a felony or a crime of violence involving bodily injury to another, whether or not armed with, or having in his possession any firearm during the commission of such felony, or crime of violence, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium (unless he possesses a certificate of a medical doctor or psychiatrist licensed in Delaware that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm), or any person who has been convicted for the unlawful use, possession, or sale of a narcotic or non-narcotic drug, who purchases, owns, possesses, or controls any firearm or weapon capable of firing a missile or projectile with sufficient force to cause death or serious bodily injury shall be fined not less than $500 nor more than $2,000, or imprisoned not less than 90 days nor more than 5 years, or both.

Any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium shall be granted 60 days from the enactment of this Act to procure and possess a certificate from the State Board of Trustees of the Mental Health Department stating that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm.

Any person having been convicted in this State or elsewhere of a felony or a crime of violence involving bodily injury to another, or having been convicted for the unlawful use, possession, or sale of a narcotic or non-narcotic drug, may apply to the State Board of Pardons for permission to purchase, own, or possess a firearm. The decision of the Board shall be final. The Board may adopt such rules, regulations, and procedures as are necessary to effectuate the provisions of this section.

DEL. CODE ANN. TITLE 24

901. *Necessity for license; exceptions.* No person shall sell or expose to sale, any pistol or revolver, or revolver or pistol cartridges, stiletto, steel or brass knuckles, or other deadly weapon made especially for the defense of one's person, without first having obtained a license therefor, which license shall be known as "Special License to Sell Deadly Weapons". No person licensed or unlicensed shall possess, sell, or offer for sale any switch blade knife.

This section shall not apply to toy pistols, pocket knives, or knives used in the domestic household, or surgical instruments or tools of any kind.

902. *Application and fee for license; duration.* Whoever desires to engage in the business of selling any of the articles referred to in the first paragraph of section 901 of this title shall apply to the State Tax Department and obtain a license to conduct such business, for which he shall pay the sum of $50. The license shall entitle the holder thereof to conduct such business until the first day of June next succeeding its date.

903. *Sale to minors or intoxicated persons.* No person shall sell to a minor or any intoxicated person any of the articles referred to in the first paragraph of section 901 of this title.

DELAWARE CODE ANN. TITLE 28

802. Lawful Acts. It shall be lawful for a person residing in this State (including a corporation or other business entity maintaining a place of business in this State) to purchase or otherwise obtain a rifle or shotgun in a State contiguous to this State and to receive or transport such rifle or shotgun into this State, subject however, to such other laws of the State or its political subdivision as may be applicable and subject to the provisions of Section 102 of the Gun Control Act of 1968, Public Law 90-618, 18 U.S.C. Section 921 et seq.

Delmar

13-2. No person shall offer for sale any gun, pistol, rifle or BB-Gun or any gunpowder, gunshot, rifle bullets or ammunition of any description to any one under the age of sixteen years old within the Town limits of the Town of Delmar, Delaware.*

Dover

20-34. *Sales to intoxicated persons and minors prohibited.* It shall be unlawful for any person to purchase from, or sell, loan or furnish any weapon mentioned in Section 20-29(a) and -31(a) to any person under the influence of any alcoholic beverage or any narcotic drug, stimulant or depressant, to any person in a condition of agitation and excitability or to a minor under the age of eighteen (18) years.*

Wilmington

39-1. *Ammunition dealers—definitions.* For the purposes of section 39-2, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Ammunition. Any material used in discharging any type of firearm or any projectile discharged by such firearm.

Minor. Any person under the age of eighteen years.

39-2. *Same—Restrictions on storage and display; sales to minors; identification and registration of purchasers.* (a) Any person engaged in the business of selling ammunition shall be required to comply with the following:

(4) No person shall sell, give or deliver any ammunition to minors; provided, that this section shall not apply to ammunition supplied by a parent or guardian to his child for lawful purposes.

(5) No person shall sell any ammunition which can be used in pistols, revolvers or other hand guns unless the purchaser produces satisfactory written identification and registers his name and address.

39-18.1 *"Manufacture, delivery, sale or possession of certain weapons prohibited".* (a) It shall be unlawful for any person to manufacture, make, deliver, transport, trade, give, sell, or possess a smooth-bore shot revolver, short-barreled rifle, zip gun, converted tear gas gun, or converted starter pistol.

(b) 1. The term "smooth-bore shot revolver" as used in this section means a revolver with a smooth-bore having been reamed out so that it can be used to fire shot-shell.

2. The term "short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches.

3. The term "zip-gun" means any weapon or instrument not originally designed to be a firearm which has been made or altered to discharge a projectile with sufficient force to cause death or physical injury.

4. The term "converted tear gas gun" as used in this section means a tear gas gun which has been altered to fire a projectile with sufficient force to cause death or physical injury.

5. The term "converted starter pistol" as used in this section means a starter pistol which has been altered to fire a projectile with sufficient force to cause death or physical injury.

(c) Any law enforcement officer while performing his lawful duties within the City shall be exempted from the effect of this section.

39-21. *Same—Sale, etc., of firearms to minors.* It shall be unlawful for any person to sell, give away, dispose of or otherwise directly or indirectly furnish, within the city, to any minor under the age of eighteen years, any gun, pistol, revolver or other firearm whatsoever.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

DISTRICT OF COLUMBIA

D.C. CODE TITLE 22

22-3201. *Possession, sale, transfer, and use of dangerous weapons—Definition.* "Pistol," as used in this chapter, means any firearm with a barrel less than twelve inches in length.

"Sawed-off shotgun," as used in this chapter, means any shotgun with a barrel less than twenty inches in length.

"Machine gun," as used in this chapter, means any firearm which shoots automatically or semi-automatically more than twelve shots without reloading.

"Person," as used in this chapter, includes individual, firm, association, or corporation.

"Sell" and "purchase" and the various derivatives of such words, as used in this chapter, shall be construed to include letting on hire, giving, lending, borrowing, and otherwise transferring.

"Crime of violence," as used in this chapter, means any of the following crimes, or an attempt to commit any of the same, namely: Murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment in the penitentiary.

22-3203. *Unlawful possession of a pistol.* No person shall own or keep a pistol, or have a pistol in his possession or under his control, within the District of Columbia, if—

(1) he is a drug addict;

(2) he has been convicted in the District of Columbia or elsewhere of a felony;

(3) he has been convicted of violating section 22-2701, section 22-2722, or sections 22-3302 to 22-3306; or

(4) he is not licensed under section 22-3210 to sell weapons, and he has been convicted of violating sections 22-3201 to 22-3216.

No person shall keep a pistol for, or intentionally make a pistol available to, such a person, knowing that he has been so convicted or that he is a drug addict. Whoever violates this section shall be punished as provided in section 22-3215, unless the violation occurs after he has been convicted of a violation of this section, in which case he shall be imprisoned for not more than ten years.

22-3207. *Selling pistol to minors and others.* No person shall within the District of Columbia sell any pistol to a person who he has reasonable cause to believe is not of sound mind, or is forbidden by section 22-3203 to possess a pistol, or, except when the relation of parent and child or guardian and ward exists, is under the age of twenty-one years.

22-3208. *Transfers of firearms regulated.* No seller shall within the District of Columbia deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, except in the case of sales to marshals, sheriffs, prison or jail wardens or their deputies, policemen, or other duly appointed law-enforcement officers, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he is not forbidden by section 22-3203 to possess a pistol. The seller shall, within six hours after such application, sign and attach his address and deliver one copy to such person or persons as the superintendent of police of the District of Columbia may designate, and shall retain the other copy for six years. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section 22-3214 as entitled to possess the same, and then only after permission to make such sale has been obtained from the chief of police of the District of Columbia. This section shall not apply to sales at wholesale to licensed dealers.

22-3209. *Dealers of weapons to be licensed.* No retail dealer shall within the District of Columbia sell or expose for sale or have in his possession with intent to sell, any pistol, machine gun, sawed-off shotgun, or blackjack without being licensed as provided in section 22-3210. No wholesale dealer shall, within the District of Columbia, sell, or have in his possession with intent to sell, to any person other than a licensed dealer, any pistol, machine gun, sawed-off shotgun, or blackjack.

22-3210. *Licenses of dealers of weapons—Records—By whom granted—Conditions thereof.* The commissioners of the District of Columbia may, in their discretion, grant licenses and may prescribe the form thereof, effective for not more than one year from date of issue, permitting the licensee to sell pistols, machine guns, sawed-off shotguns, and blackjacks at retail within the District of Columbia subject to the following conditions in addition to those specified in section 22-3209, for breach of any of which the license shall be subject to forfeiture and the licensee subject to punishment as provided in this chapter.

3. No pistol shall be sold (a) if the seller has reasonable cause to believe that the purchaser is not of sound mind or is forbidden by section 22-3203 to possess a pistol or is under the age of twenty-one years, and (b) unless the purchaser is personally known to the seller or shall present clear evidence of his identity. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the persons designated in section 22-3214 as entitled to possess the same, and then only after permission to make such sale has been obtained from the superintendent of police of the District of Columbia.

22-3211. *False information forbidden in sale of weapons.* No person shall, in purchasing a pistol or in applying for a license to carry the same, or in purchasing a machine gun, sawed-off shotgun, or blackjack within the District of Columbia, give false information or offer false evidence of his identity.

22-3212. *Alteration of identifying marks of weapons prohibited.* No person shall within the District of Columbia change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark or identification on any pistol, machine gun, or sawed-off shotgun. Possession of any pistol, machine gun, or sawed-off shotgun upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same within the District of Columbia: Provided, however, that nothing contained in this section shall apply to any officer or agent of any of the departments of the United States or the District of Columbia engaged in experimental work.

22-3213. *Exceptions.* This chapter shall not apply to toy or antique pistols unsuitable for use as firearms.

22-3214. *Possession of certain dangerous weapons prohibited—Exceptions.* (a) No person shall within the District of Columbia possess any machine gun, sawed-off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, slung shot, sand club, sandbag, switch-blade knife, or metal knuckles, nor any instrument, attachment, or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms: Provided, however, that machine guns, or sawed-off shotguns, and blackjacks may be possessed by the members of the Army, Navy, Air Force or Marine Corps of the United States, the National Guard, or Organized Reserves when on duty, the United States Postal Service or its employees when on duty, marshals, sheriffs, prison or jail wardens, or their deputies, policemen, or other duly-appointed law-enforcement officers, officers or employees of the United States duly authorized to carry such weapons, banking institutions, public carriers who are engaged in the business of transporting mail, money securities, or other valuables, wholesale dealers and retail dealers licensed under section 22-3210.

22-3215a. *Manufacture, transfer, use, possession or transportation of molotov cocktails, or other explosives for unlawful purposes, prohibited—definitions—penalties.* (a) No person shall within the District of Columbia manufacture, transfer, use, possess, or transport a molotov cocktail. As used in this subsection, the term "molotov cocktail" means (1) a breakable container containing flammable liquid and having a wick or a similar device capable of being ignited, or (2) any other device designed to explode or produce uncontained combustion upon impact; but such term does not include a device lawfully and commercially manufactured primarily for the purpose of illumination, construction work, or other lawful purpose.

(b) No person shall manufacture, transfer, use, possess, or transport any device, instrument, or object designed to explode or produce uncontained combustion, with the intent that the same may be used unlawfully against any person or property.

(c) No person shall, during a state of emergency in the District of Columbia declared by the Commissioner pursuant to law, or during a situation in the District of Columbia concerning which the President has invoked any provision of chapter 15 of title 10, United States Code, manufacture, transfer, use, possess, or transport any device,

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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instrument, or object designed to explode or produce uncontained combustion, except at his resident or place of business.

(d) Whoever violates this section shall (1) for the first offense, be sentenced to a term of imprisonment of not less than one and not more than five years, (2) for the second offense, be sentenced to a term of imprisonment of not less than three and not more than fifteen years, and (3) for the third or subsequent offense, be sentenced to a term of imprisonment of not less than five years and of any term of years up to life imprisonment. In the case of a person convicted of a third or subsequent violation of this section, chapter 402 of title 18, United States Code (Federal Youth Corrections Act) shall not apply.

POLICE REGULATIONS OF THE DISTRICT OF COLUMBIA

50. *Definitions.* 1. When used in these Regulations (Article 50 through 55 of the Police Regulations of the District of Columbia), unless the context requires otherwise, the terms "pistol," "sawed-off shotgun," "machine gun," "person," and "sell" and "purchase" shall have the meanings ascribed to them in the Act of Congress entitled "An act to control the possession, sale, transfer and use of pistols and other dangerous weapons in the District of Columbia," as amended, approved July 8, 1932 (47 Stat. 650, D.C. Code, sec. 22-3201 et seq.). Other terms used in these Regulations, unless the context otherwise requires, shall have the meanings ascribed to them as follows:

(a) "Commissioner" means the Commissioner of the District of Columbia or his designated agent.

(b) "Chief of Police" and "Chief" mean the Chief of Police of the Metropolitan Police Department of the District of Columbia or his designated agent.

(c) "District" means the District of Columbia.

(d) "Firearm" means any pistol, rifle or shotgun which will or is designed to, or may readily be converted to, expel a projectile by the action of an explosive; or the frame or receiver of any such pistol, rifle, or shotgun; but does not include a firearm that is not designed or redesigned to use rim fire or center fire fixed ammunition or manufactured in or before 1898.

(e) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifle bore for each single pull of the trigger.

(f) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and a weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than twenty-six inches.

(g) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(h) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm, machine gun, short-barrel rifle or sawed-off shotgun.

(i) The term "destructive device" means any firearm, weapon or automatic weapon which is not a pistol, rifle, shotgun, sawed-off shotgun or machine gun defined herein and includes any explosive not commonly used for lawful commercial purposes, explosive bomb, poison gas bomb, tear gas or tear gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will, or is designed to or may readily be converted to expel a projectile by the action of any explosive and having any barrel with a bore of one-half inch or more in diameter; excluding however,

(1) a pneumatic gun, spring gun, or B–B gun which expels a single globular projectile not exceeding 0.18 inch in diameter;

(2) any device used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial ammunition; or

(3) any device used exclusively for signalling or safety, and required or recommended by the U.S. Coast Guard or the Interstate Commerce Commission.

(j) "Dealer" means (i) any person engaged in the business of selling firearms or ammunition, (ii) any person engaged in the business of manufacturing or repairing firearms or of making or fitting special barrels, stocks or trigger mechanisms to firearms, or (iii) any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money. The term "licensed dealer" means any dealer licensed under the provisions of these Regulations.

(k) "Manufacturing" means manufacturing, producing, making or remaking any firearm, destructive device or ammunition for sale or distribution.

(l) "Act" means the Act of Congress, entitled "An Act to control the possession, sale, transfer and use of pistols and other dangerous weapons, in the District of Columbia," as amended, approved July 8, 1932 (47 Stat. 650, D.C. Code, sec 22-3201 et seq.).

(m) The term "these Regulations" means the regulations and provisions contained in Articles 50 through 55 of the Police Regulations of the District of Columbia as adopted by the District of Columbia Council and any orders issued by the Commissioner pursuant to authority transferred to him by the Council in such Articles.

(n) "Carry" means to carry, transport or possess on or about one's person, or in such close proximity to one's person as to be easily and readily accessible.

51. *Requiring the registration of firearms in the District of Columbia.* 1. Except as herein provided, no person shall within the District, possess, or keep under his control, or sell or otherwise dispose of any pistol, or rifle or shotgun unless such person is the holder of a valid registration certificate for such pistol, rifle or shotgun.

2. (a) Each licensed dealer who sells a pistol, rifle or shotgun to a person in whose possession the pistol, rifle or shotgun must be registered shall require from the purchaser a completed application for the registration of the pistol, rifle or shotgun and shall file the application with the Chief of Police at the time of sale.

(b) Each person who within the District possesses, or keeps under his control any pistol, rifle or shotgun purchased or acquired prior to the effective date of these Regulations, shall make an application to register such pistol, rifle or shotgun within 120 days immediately following the effective date of these Regulations.

(c) Each person who brings into the District any pistol, rifle or shotgun acquired outside of the District, or who causes a rifle or shotgun to be lawfully delivered to him within the District, shall make an application to register such pistol, rifle or shotgun within forty-eight hours after he brings such pistol, rifle or shotgun into the District or within forty-eight hours after such rifle or shotgun is delivered to him in the District.

(d) Each person within the District who otherwise acquires possession or control of any pistol, rifle or shotgun shall make an application to register such pistol, rifle or shotgun within forty-eight hours after he acquires possession or control of the same; except as provided in Art. 55, sec. 6 of these Regulations.

7. It shall be the duty of the registered owner of a pistol, rifle or shotgun—

(b) to notify the Chief of Police in writing of the sale, transfer or other disposition of any pistol, rifle or shotgun registered to him within forty-eight hours following such sale, transfer or disposition, except as provided for in Art. 55, sec. 6 of these Regulations. Such notification shall contain—

(1) the name, residence and business address within the District, the occupation, and date of birth of the person to whom the pistol, rifle or shotgun has been sold or transferred;

(2) the make, model, caliber or gauge, manufacturer's identification number, serial number, and other identifying marks of the pistol, rifle or shotgun sold or transferred; and

(3) the number of the registration certificate issued to the registered owner.

(c) to return to the Chief of Police of registration certificate for any pistol, rifle or shotgun which is lost, stolen or destroyed, or which he sells, transfers or otherwise disposes of at the time he notifies the Chief of Police of such loss, theft, destruction, sale, transfer or other disposition.

8. No person shall within the District—

(a) lend or give, or allow the use of a registration certificate issued to him by any other person for identification; except, that when a registered owner of a pistol, rifle or shotgun lends or delivers the same to another person in accordance with the provisions of Art. 55, sec. 6 of these Regulations he shall deliver to such other person the registration certificate for each pistol, rifle or shotgun so loaned or delivered.

(b) represent himself as the owner of a registration certificate issued to another person.

10. This Article of these Regulations shall not apply to—

(a) any person licensed under Art. 55 of these Regulations as a licensed retail dealer; provided, that this exception shall only apply to pistols, rifles or shotguns acquired by such person in the normal conduct of his business and kept by such person at his place of business; and further, provided, that this exception shall not apply to such person for any pistol, rifle or shotgun kept by him for his private use or protection, or for the protection of his business; or

(b) any non-resident of the District participating in any lawful recreational activity in the District involving the use of pistols, rifles or shotguns; or transporting such pistol, rifle or shotgun to or from such lawful recreational activity; provided, that such non-resident shall upon demand of any enforcement officer exhibit proof that his possession of such pistol, rifle or shotgun is registered and legal in the jurisdiction in which he resides; or proof of residence in a jurisdiction which does not require registration of a pistol, rifle or shotgun;

(c) any officer, agent or employee of the District of Columbia or the Federal Government, or any officer, agent or employee of the government of any state or subdivision thereof, or any member of the Armed Forces of the United States, the National Guard or the Organized Reserves, when such officer, agent, employee or member is authorized to carry a pistol, rifle or shotgun and who is carrying a pistol, rifle or shotgun while on duty in the performance of his official authorized functions; • • •

52. *Regulating the sale and carrying of firearms in the District of Columbia.* 1. (a) Any person who is not subject to any of the disabilities enumerated in Sec. 7 of the Act (D.C. Code, sec. 22-3207) shall be entitled to purchase a pistol within the District, and a seller is lawfully entitled to sell a pistol to such a person. No such person shall be denied the purchase of a pistol except as provided in the Act.

(c) Any person who is not subject to any of the disabilities set forth in sec. 5(c) of this article shall be entitled to purchase and carry a rifle or shotgun in the District, and a seller shall be entitled to sell a rifle or shotgun to such a person.

2. (b) No person shall purchase, own, possess or carry on or about his person any rifle or shotgun unless he possesses a valid rifle and shotgun license therefor issued to him pursuant to Sec. 5 of this Article.

(c) No person shall within the District sell or transfer any rifle or shotgun to a purchaser who is not a retail dealer licensed under Art. 54 of these Regulations; and no person who is not a licensed retail dealer shall purchase or otherwise acquire any rifle or shotgun from any seller unless—

(1) the purchaser exhibits to the seller a valid rifle and shotgun license issued according to Section 5 of this Article; and

(2) the seller forwards to the Chief of Police at the time of the sale the purchaser's application register the rifle or shotgun being sold pursuant to Art. 51, Sec. 2(a) of these Regulations; or within forty-eight hours following the sale a written notification of sale pursuant to Art. 51, Sec. 8(b).*

(d) No person within the District shall import or cause to be delivered to him within the District any rifle or shotgun unless he shall within forty-eight hours following delivery to him, submit an application to register the rifle or shotgun pursuant to Art. 51, Sec. 2(c) of these Regulations.

3. Each person who is required by Sec. 8 of the Act (D.C. Code, sec. 22-3208) to submit a statement when applying to purchase a pistol, or who is required by Sec. 4 of the Act (D.C. Code, sec. 22-3204) to have a license to carry a pistol, or who is required by sec. 2(b) of this Article to have a license to purchase or carry a rifle or shotgun shall submit such statement to the seller or an application for such license directly to the Chief of Police in the form and number prescribed by the Chief.

4. (a) Each statement on application to purchase a pistol shall be signed by the applicant purchaser and the seller, and each application for a license shall be signed by the applicant for the license.

(b) Each such statement or application shall contain that information prescribed by the Chief of Police which in his judgment is necessary to conduct efficient and thorough investigations, and to effectuate the purposes of the Act and these Regulations. Each statement or application shall contain at least the following information:

(1) the full name, and any other name by which the applicant is or has been known;

(2) the home address, and any other address at which the applicant has resided within five years immediately prior to the submission of the statement or application.

(3) the present business or occupation, any business or occupation in which the applicant has engaged for five years immediately prior to the application, and the addresses of such businesses or places of employment;

(4) the date and place of birth of the applicant;

(5) the sex of the applicant;

(6) a statement by the applicant that he is not ineligible to purchase or possess a pistol under Section 7 of the Act (D.C. Code, sec. 22-3207) or not ineligible for a license to carry a pistol under Sec. 6 of the Act (D.C. Code, sec. 22-3206), or not ineligible under Sec. 5(c) of this Article to purchase or carry a rifle or shotgun; and indicating whether he has previously been denied any pistol, or rifle or shotgun license, registration certificate or permit by the Federal Government or any state government or subdivision thereof including the District Government; and whether he has been involved in any mishap involving a pistol, or rifle or shotgun, including the date, place, and circumstances and the names of any persons injured or killed;

(7) a statement by the applicant of his need to purchase or carry a pistol, rifle or shotgun, and his intended use of the same;

(8) the caliber, make, model, manufacturer's identification number, serial number, and any other identifying marks on the pistol, rifle or shotgun to be purchased or carried; and

(9) the name and address of the seller, and his retail license number if he is a licensed dealer under Art. 55 of these Regulations.

5. (a) No person shall be approved by the Chief of Police to purchase a pistol if the Chief after investigation determines that a pistol could not lawfully be sold to such person under Section 7 of the Act (D.C. Code, sec. 22-2307).

(b) No person shall be issued a license to carry a pistol by the Chief of Police if the Chief after investigation determines that such person is ineligible for such license under Section 6 of the Act (D.C. Code, sec. 3206).

(c) Except as provided for in subsection (d) of this section, no person shall be issued a license to purchase or carry a rifle or shotgun if the Chief of Police determines after investigation that such person—

(1) is under the age of twenty-one years;

(2) is not of sound mind; provided, that the Chief of Police shall determine that the person is not of sound mind to purchase, possess and carry a rifle or shotgun if he determines that such person has been adjudicated mentally incompetent, or has been acquitted of any criminal charge by reason of insanity by any court or has been adjudicated a chronic alcoholic by any court and provided, that three years after such conviction adjudication or acquittal, the Chief of Police shall disregard the disabilities of this subsection if, after an investigation, he is satisfied that the applicant is mentally and physically capable of owning, possessing and using a pistol in a safe and responsible manner.

(3) is a drug addict; provided, that the Chief of Police shall determine that the person is a drug addict if he determines that such person (i) is an abusive user of narcotic drugs as defined by section 4731 of the Internal Revenue Code 1954, as amended (Aug. 16, 1954, 68A Stat. 557, ch. 736; Apr. 22, 1960, 74 Stat. 57 Pub. L. 88-429, sec. 4(a), (b); 26 U.S.C., sec. 4731); or (ii) is an abusive user of dangerous drugs as defined by or under the Act entitled the "Dangerous Drug Act for the District of Columbia", approved July 24, 1956 (70 Stat. 612, title II, sec. 202 D.C. Code, sec. 33-701);

(4) has been convicted in any jurisdiction of a crime involving the use of physical force against a person punishable by imprisonment for more than one year, or is under indictment for such a crime; or

(5) he has been convicted in any jurisdiction of any of the following offenses punishable by imprisonment for less than one year; any offense involving a physical assault; any offense committed while carrying a firearm or weapon; using, possessing or selling any narcotic or dangerous drug; or any violation of a law restricting the sale, receipt, possession, use or transportation of a firearm or destructive device; provided, that three years after such conviction, the Chief of Police may disregard the disabilities of this subsection if, after an investigation, he is satisfied that the applicant is mentally and physically capable of owning, possessing and using a rifle or shotgun in a safe and responsible manner; or

(6) suffers from a physical defect which would make it unsafe for him to use a rifle or shotgun; or

(7) has indicated by threatening speech or other behavior that he is likely to make unlawful use of a rifle or shotgun; or

(8) has been adjudicated negligent in a firearms mishap causing death or injury to another human being; or

(9) is otherwise ineligible to purchase or possess a pistol under section 3 of the Act (D.C. Code, sec. 22-3203).

(d) The Chief of Police shall deny a rifle or shotgun license if the Chief determines, after investigation or test, that the applicant—

(1) does answer to one or more of the descriptions enumerated in subparagraphs (c)(1) through (c)(9) of this section; or

(2) has failed to demonstrate satisfactorily a knowledge of the laws of the District of Columbia pertaining to rifles and shotguns and the safe and responsible use of the same in accordance with tests and standards prescribed by the Chief of Police; or

(3) has vision less than that required to obtain a valid driver's license under the laws of the District; provided, that possession of a valid driver's license shall be prima facie evidence that an applicant's vision is not deficient.

(e) The Chief of Police shall issue to applicant a numbered rifle and shotgun license if the Chief determines, after investigation that the applicant does not answer to any of the descriptions enumerated in subparagraphs (c)(1) through (c)(9) of this section.

(f) The Chief of Police may issue to an applicant between the ages of eighteen and twenty-one years old who is otherwise qualified under subsection (c) a numbered restricted rifle and shotgun license if—

(1) the application is accompanied by a signed statement by the parent or guardian of the applicant (i) that the applicant has the permission of the parent or guardian to use a rifle or shotgun, and (ii) that the parent or guardian assumes civil liability for all damages resulting from the actions of the applicant in the use of the rifle or shotgun; and

(2) if the applicant is not disqualified by subsection (d) in any respect except his age.

9. (a) Section 2(b) of this Article shall not apply to—

(1) any person directly transporting any rifle or shotgun to any police precinct house to surrender the same to the Chief of Police;

(2) any nonresident of the District ac-

*NOTE: Apparently should read Art. 51, sec. 7(b).

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tively participating in any lawful recreational activity in the District involving the use of a rifle or shotgun, transporting a rifle or shotgun directly to or directly from such lawful recreational activity, provided, that such nonresident shall upon demand of any law enforcement officer exhibit proof that his carrying about of a rifle or shotgun is permitted and legal in the jurisdiction in which he resides; or proof of residence in a jurisdiction which does not license the carrying about of a rifle or shotgun;

(3) any officer, agent or employee of the District of Columbia or the Federal Government, or any officer, agent or employee of the government of any state or subdivision thereof, or any member of the armed forces of the United States, the National Guard or the Organized Reserves, when such officer, agent, employee or member is authorized to carry a rifle or shotgun, and who is carrying a rifle or shotgun while on duty in the performance of his official authorized functions;

(4) any person between the ages of 15 and 18 years of age uses a rifle or shotgun as authorized by Art. 55, sec. 8(b) of these Regulations.

(b) Notwithstanding any provision of this Article, it shall be lawful in the District for a seller to sell a rifle or shotgun to a nonresident of the District who is a citizen of the United States and who does not have a license issued under this Article; provided, that such nonresident purchaser possesses and exhibits to the seller a valid license or permit for the purchase, possession or use a rifle or shotgun issued to him by the United States government or by any state or subdivision thereof.

(c) Any rifle or shotgun being carried shall, except when lawful use is imminent, be unloaded and securely wrapped or encased in a closed container.

53 *Regulating the sale of firearm ammunition.* 1. No person shall within the District sell or otherwise transfer ammunition for a firearm to another unless

(a) The sale or transfer is made in a face-to-face transaction;

(b) The purchaser exhibits at the time of the sale or transfer a valid certificate of registration issued under these regulations;

(c) The ammunition sold or transferred is of the same caliber or gauge as the firearm described in the certificate of registration and suitable for use therein;

(d) The purchaser signs a receipt for the ammunition, which receipt shall be maintained by the seller for six months.

2. No person shall within the District of Columbia purchase or possess ammunition for a firearm unless he is the holder of a valid certificate of registration issued under the regulations; and unless the ammunition is of the same gauge or caliber as the firearm described in the certificate of registration issued to such person.

3. For purposes of Secs. 1 and 2 above, a valid firearm registration certificate issued by the United States or any state or subdivision thereof shall be sufficient to authorize ammunition sales to and purchases by persons who are not residents of the District.

4. This Article shall not apply to sales or transfers to government agencies, duly appointed law enforcement officers, or persons duly licensed as dealers of weapons under Section 10 of the Act (D.C. Code, sec. 22-3210).

5. This Article shall not apply to bona fide collectors of ammunition who are purchasing ammunition for their collections. Any such collector may obtain an ammunition collector's certificate from the Chief of Police, upon proof, submission of a statement, verified by the Chief, that he is, in fact, a bona fide collector. This certificate shall be exhibited to the seller whenever the collector purchases ammunition for his collection. The seller shall keep records of all ammunition sales to collectors for six months.

54 *Regulating and licensing dealers in dangerous weapons.* 1. (a) No person shall within the District engage in the business of selling, or manufacturing, or repairing any pistol, rifle, shotgun, or ammunition without first obtaining a license as provided in sec. 2 of this Article.

(b) The Commissioner may grant licenses, effective for not more than one year from date of issue, permitting the licensee to sell, or to manufacture, or to repair pistols, rifles, shotguns or ammunition. Whenever any such licensee breaches any condition upon which his license was issued or violates any provision of these Regulations or of any provision of section 7 of the Act (D.C. Code, sec. 22-3207), which is applicable to any such licensee or any applicable regulation made pursuant to such Act, the license shall be suspended or revoked and the licensee shall be subject to punishment as provided in these Regulations.

4. (a) Any dealer within the District who transports or delivers firearms to another dealer in the District shall, before delivery of the firearm, furnish to the Chief of Police an invoice listing his name, his home and business addresses, his license number, the name and address of the dealer to whom such firearms are to be delivered, the place of origin of the shipment, the quantity of firearms transported, and the serial number of each firearm in the shipment.

(b) If such shipment is by common carrier, a copy of the invoice shall be delivered to the common carrier. No common carrier shall knowingly deliver a shipment of firearms to a dealer within the District without having received a copy of such invoice. The copy of the invoice shall be left with the dealer at the time of delivery.

(c) If such shipment is by other than common carrier, the copy of the invoice shall be furnished to the dealer at the time of delivery.

5. (a) No person licensed under this Article shall sell a pistol, rifle, shotgun, or ammunition to any person whom he knows or has reasonable cause to believe is ineligible to own a pistol, rifle or shotgun under Section 7 of the Act (D.C. Code, sec. 22-3207) or Article 52, sec. 5(c) of these Regulations.

7. Beginning one year after the effective date of these Regulations, no retail dealer licensed under this Article shall sell or offer for sale in the District any pistol, rifle or shotgun, which does not have imbedded into the metal portion of such pistol, rifle or shotgun a unique manufacturer's identification number or serial number unless the retail dealer shall have imbedded into the metal portion of such pistol, rifle or shotgun a unique dealer's identification number.

9. (a) No pawnbroker in the District shall sell or offer for sale any firearm or ammunition, or loan money secured by mortgage, deposit or pledge of any firearm or ammunition without obtaining a license under this Article.

(b) No licensed dealer shall take or receive any firearm by way of mortgage, pledge or pawn without also taking and retaining during the term of such pledge or pawn, the registration certificate of the firearm mortgaged, pledged or pawned. If such firearm is not redeemed, the dealer shall return the registration certificate to the Chief of Police and register the firearm in his own name.

55. *Miscellaneous provisions.* 1. (a) It shall be unlawful for any person purchasing any pistol, rifle, shotgun or ammunition, or applying for any certificate of registration or license under these Regulations, or in giving any information pursuant to the requirements of these Regulations, to give false information or offer false evidence of his identity.

(b) It shall be unlawful for anyone to forge or alter any application, registration certificate, temporary evidence of registration, or license submitted, retained or issued under these Regulations.

(c) It shall be unlawful for any person within the District to change, alter, remove, or obliterate the name of the maker, model, manufacturer's identification number, serial number, or other mark of identification on any pistol, rifle or shotgun; provided, that nothing contained in this section shall apply to any officer or agent of any department or agency of the United States or the District Government who is engaged in research or experimental work.

(d) It shall be unlawful for any person within the District to own, possess, sell, offer for sale, purchase or offer to purchase any destructive device, or military type weapon including weapons known as hand grenades, cannons, anti-tank guns and bazookas; provided, that this section shall not apply to any agency or department of the District of Columbia or Federal Government or to any person licensed or authorized by the Federal Government to own, possess, sell or purchase such weapons.

4. (c) The Commissioner may prohibit the sales of ammunition when he determines that the design, construction or material composition of such ammunition makes it unsuitable or unsafe for any lawful use.

6. Except for transfers to licensed dealers, no person shall loan or otherwise allow another person to possess, carry or use any firearm unless such firearm is being loaned for a legitimate purpose, and for a period not to exceed 30 days; and unless—

"(a) the person to whom the firearm is loaned possesses a valid license for such firearm issued to him pursuant to section 6 of the Act (D.C. Code, sec. 22-3206) or to Art. 52 of these Regulations; or

(b) such person to whom the firearm is loaned is at least fifteen years of age, does not possess a valid license because of his age, and is a member or student of an organization or school which teaches firearm safety and use. Where such circumstances exist, it shall be lawful to loan a rifle or shotgun to such person for instruction, military or military type drill, or legitimate recreational activity; provided, that the use of the rifle or shotgun is immediately supervised by a person licensed pursuant to Art. 52 of these Regulations; and provided, the rifle or shotgun is registered to the organization, school, parent or guardian of the user, and further provided, that the rifle or shotgun is surrendered immediately following its use to the organization, school, or parent or guardian of the user."

7. (a) Except as provided in the immediately preceding section, no person shall within the District keep any firearm or ammunition for, or intentionally make any firearm or ammunition available to any person who would not qualify under these Regulations for a License for such firearm.

(b) No person shall hold a firearm or loan any money on a firearm as security for the payment or repayment of any debt or pledge, except as otherwise provided for in Art. 55, sec. 8 of these Regulations.

8. No person shall within the District sell or otherwise transfer a firearm or ammunition to a purchaser who is under the influence of alcohol or a narcotic or dangerous drug. No person shall within the District carry or use any firearm while under the influence of alcohol or a narcotic or dangerous drug.

10. (a) "Applications required by these Regulations for registration or licensing of firearms possessed, purchased or acquired by, or delivered to, persons within the District prior to the effective date of these regulations must be submitted within 120 days after that date. No such person shall be deemed in default under the registration provisions of these regulations if his application to register is submitted within that time. Nor shall any such person be deemed in default under the licensing provisions of these regulations while his application for a license, submitted within that time, is still pending.

(b) The registration and licensing requirements established by these regulations shall be immediately effective, from the effective date of these Regulations, for firearms purchased or acquired by, or delivered to, persons within the District after that date."

14. "These Regulations shall become effective on February 15, 1969; provided that the Chief of Police may accept applications for registration of firearms immediately upon adoption of these Regulations."

FLORIDA

State Law

FLA. STATS. ANN.

250.32. *Commanding officer's control of arms sales.* When any part of the militia of Florida is in active service by the order of the governor to aid in the enforcement of the laws, the commanding officer of such troops may order the closing of any places where arms, ammunition, dynamite, explosives, or intoxicating liquors, are sold, and forbid the selling, bartering, lending or giving away of any of said commodities in the city, town or village where the troops are on duty, or in the vicinity of such place, for so long as any of the troops remain on duty in said vicinity. Such orders shall take effect whether any civil officer has issued a similar order; and the commanding officer of such troops may continue said prohibition in force until the departure of the troops, although the sheriff, mayor or intendent of the county, city, town or village may have prescribed an earlier or different date after which such selling, bartering, lending or giving away shall be carried on.

790.001 *Definitions.* The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this chapter, except where the context otherwise requires.

(1) "Antique firearm" means any firearm manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1898; and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(3)(b) "Tear gas gun," "chemical weapon" or "device" shall apply to all weapons of such nature except those designed to be carried in a woman's handbag or a man's pants or coat pocket or designed as a pocket pencil or pen and containing not more than one half (½) ounce of chemical.

(4) "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will, or is designed to or may readily be converted to, expel a projectile by the action of any explosive and has a barrel with a bore of one half inch or more in diameter and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. "Destructive device" shall not include:

(a) A device which is not designed, redesigned, used, or intended for use as a weapon;

(b) Any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device;

(c) Any shotgun other than a short-barreled shotgun; or

(d) Any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

(5) "Explosive" means any chemical compound or mixture that has the property of yielding readily to combustion or oxidation upon application of heat, flame, or shock, including but not limited to dynamite, nitroglycerin, trinitrotoluene, ammonium nitrate when combined with other ingredients to form an explosive mixture, blasting caps and detonators; but not including:

(a) Shotgun shells, cartridges or ammunition for firearms;

(b) Fireworks as defined in § 791.01;

(c) Smokeless propellent powder or small arms ammunition primers, if possessed, purchased, sold, transported or used in compliance with § 552.241;

(d) Black powder in quantities not to exceed that authorized by chapter 552, or by any rules or regulations promulgated thereunder by the department of insurance, when used for or intended to be used for the manufacture of target and sporting ammunition or for use in muzzle loading flint or percussion weapons.

(6) "Firearm" means any weapon (including a starter gun) which will, or is designed to or may readily be converted to, expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" shall not include an antique firearm.

(7) "Indictment" means an indictment or an information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(8) "Law enforcement officer" means:

(a) All officers or employees of the United States or the State of Florida, or any agency, commission, department, board, division, municipality, or subdivision thereof, who have authority to make arrests;

(b) Officers or employees of the United States or the State of Florida, or any agency, commission, department, board, division, municipality, or subdivision thereof, duly authorized to carry a concealed weapon;

(c) Members of the armed forces of the United States, the organized reserves, state militia, or Florida National Guard, when on duty, when preparing themselves for or going to or from military duty, or under orders;

(d) Employees of the state prisons or correctional systems who have been so designated by the division of adult corrections of the department of health and rehabilitative services or by a superintendent of an institution;

(e) All peace officers;

(f) All state attorneys, United States attorneys, county solicitors, and county prosecutors and their respective assistants and investigators.

(9) "Machine gun" means any firearm, as defined herein, which shoots, or is designed to shoot, automatically or semi-automatically, more than one (1) shot, without manually reloading, by a single function of the trigger.

(10) "Short barreled shotgun" means a shotgun having one (1) or more barrels less than eighteen (18) inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six (26) inches.

(11) "Short barreled rifle" means a rifle having one (1) or more barrels less than sixteen (16) inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six (26) inches.

790.17. *Furnishing weapons to minors under eighteen years of age, etc.* Whoever sells, hires, barters, lends or gives any minor under eighteen (18) years of age any pistol, dirk, or other arm or weapon, other than an ordinary pocketknife, without permission of the parent of such minor or the person having charge of such minor, or sells, hires, barters, lends or gives to any person of unsound mind any dangerous weapon, other than an ordinary pocketknife, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment not exceeding three (3) months, or by fine not exceeding fifty dollars ($50.00).*

790.18. *Selling arms to minors by dealers.* It is unlawful for any dealer in arms to sell to minors any pistol, springfield rifle or other repeating rifle, bowie knife or dirk knife, brass knuckles or sling shot, and every person violating this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of fifty dollars or by imprisonment in the county jail not more than six months.

790.22. *Use of BB guns, air or gas operated guns or firearms by child under sixteen; limitation.* (1) The use for any purpose whatsoever of BB guns, air or gas operated guns or a firearm as defined in this act, by any child under the age of sixteen (16) years is prohibited unless such use is under the supervision and in the presence of an adult.

(2) Any adult responsible for the welfare of any child under the age of sixteen (16) years who knowingly permits such child to use or have in his possession any BB gun, air or gas operated guns or any firearm in violation of the provisions of subsection (1) of this section, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or not more than three hundred dollars ($300.00) or by imprisonment in the county jail for not longer than thirty (30) days.

790.26. *Assembly of handguns.*—(1) It is unlawful for any person in this state to assemble any pistol, revolver, or other handgun from parts manufactured or originating from outside the United States. This provision shall not apply to the importation of parts intended and used solely for the repair of such weapons.

(2) Any person who violates the provision of this act is guilty of a misdemeanor of the second degree, punishable as provided in

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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§ 775.082 or § 775.083. The assembly of each weapon in violation of this act shall constitute a separate and distinct offense.

790.221 *Possession of short-barreled rifle, short-barreled shotgun or machine gun; penalty.* (1) It is unlawful for any person to own or to have in his care, custody, possession or control any short-barreled rifle, short-barreled shotgun, or machine gun which is, or may readily be made, operable, but this section shall not apply to antique firearms.

(2) Any person convicted of violating this section is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state penitentiary not to exceed five (5) years.

(3) Firearms in violation hereof which are lawfully owned and possessed under provisions of federal law are excepted.

COMPILER'S NOTE: Florida residents legally possessing short-barreled shotguns, short-barreled rifles or machine guns under federal law may transfer such weapons pursuant to 26 U.S.C. Section 5812 to another Florida resident; they would not come within the proscription of Section 790.221, Florida Statutes.

790.23. *Felons; possession of firearms unlawful; exception; penalty.* (1) It is unlawful for any person who has been convicted of a felony in the courts of this state, or of a crime against the United States, which is designated as a felony, or convicted of an offense in any other state, territory or country punishable by imprisonment for a term exceeding one (1) year, to own or to have in his care, custody, possession or control any firearm, as defined herein, or to carry a concealed weapon, as defined herein, but to include all tear gas guns, chemical weapons or devices.

(2) This section shall not apply to a person having been convicted of a felony whose civil rights have been restored or to a person convicted of a felony for antitrust violation, unfair trade practice, restraints of trade, nonsupport of dependents, bigamy or other similar offenses.

(3) Any person convicted of violating this section shall be guilty of a felony, and upon conviction shall be punished by imprisonment in the state penitentiary for not less than one (1) year nor more than twenty (20) years.

Alachua County

1: Handgun means any weapon commonly refererd to as a pistol, other than a BB gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.

2: No retail establishment or pawn shop shall sell or deliver a handgun to any purchaser until three (3) complete days have elapsed after application to purchase has been made.

3: No wholesale establishment shall sell or deliver a handgun to any purchaser except to another wholesale establishment or retail establishment until three (3) complete days have elapsed after application to purchase has been made.

4: It shall be unlawful for anyone to purchase a handgun from any establishment mentioned in Sections 2 and 3 hereof without a valid application hereinafter provided for.

5: All sales and deliveries of handguns except as provided in Section 3 hereof shall require an approved application form to be filed with the seller by applicant. Applications for the purchase of handguns shall be available only in the office of the Sheriff of Alachua County, Florida. The Board of County Commissioners shall provide the application form which shall include such statistical data as shall be necessary to identify the applicant. All applications shall be completed in the Sheriff's Office and signed by the applicant in duplicate, the original to be retained by the Sheriff.

6: • • • Before the sale or delivery of a handgun within Alachua County, the Seller shall be required to receive from buyer the copy of the approved application. Should the seller determine or have reason to believe that the application has been forged or contains false information, he shall make no sales based thereon but shall immediately report such information to the Sheriff's Office for further investigation.

Bay Harbor Islands

2. Any person who shall have in his possession in the Town of Bay Harbor Islands any pistol, revolver, or other firearm, or any dangerous or deadly weapon of a size which may be concealed upon the person, without a written license therefor, issued to him as hereinafter prescribed, shall be guilty of a misdemeanor. Possession shall include but not be limited to in a person's house or in his automobile.

11. Every license issued pursuant to this ordinance shall expire on the first day of May after the date of issuance, provided, however, that any such license may be limited as to time to expire on a date fixed in the license prior to such date. Each license issued to possess a weapon not to be carried on the person shall specify the place where the licensee shall possess the same. Each original application for a license to carry a weapon on the person shall be accompanied by a photograph of the applicant in duplicate which photograph shall be taken within thirty (30) days prior to the filing of such application and one copy of which shall be attached to the license and the other remain with the application.

13. This ordinance shall not apply to sheriffs, policemen, or to other duly appointed peace officer, nor to duly authorized members of military or civil organizations when parading, nor to the members thereof when going to and from the place of meeting of their respective organizations.

Belle Glade

17–40. *Weapons—Procedure for acquiring.* (a) It is unlawful for any person to purchase, acquire or receive delivery of any pistol or revolver of any description unless he has first filed a notice of intent to acquire same with the chief of police.

(c) It is unlawful for any person to sell, barter, exchange or deliver, or cause to be delivered, any revolver or pistol to any other person without having previously obtained the registration certificate hereinbefore described from the person seeking actual delivery of such firearm and, upon receipt of such certificate, it is unlawful to fail to report to the chief of police within twenty-four (24) hours thereafter the serial number of such revolver or pistol and the name and address of the person to whom it is delivered.

Boynton Beach

17–50. *Same—Sale, purchase from, furnishing to persons under influence of drugs, alcohol, etc.; minors.* It shall be unlawful for any person to purchase from, sell, loan or furnish any weapon in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability, or to a minor.

Clearwater

13–32. *Buying or receiving goods from minors.* It shall be unlawful for any person conducting an auction house, or for any pawnbroker, junk dealer or secondhand dealer to loan money to or buy or receive from any minor any goods, chattels or other article of personal property; provided, however, this section shall not apply to any minor who has in his possession the written consent to the proposed transaction signed by a parent or guardian, nor shall it apply to any minor whose disabilities of nonage have been removed as provided by law.

13–34. *Chapter applies to guns, pistols, etc.* All the provisions herein provided for receiving, registering, reporting, holding and disposing of personal property generally shall specifically apply to pistols, guns and firearms of all kinds.

Cocoa Beach

15–35. *Weapons—Dangerous—Sale, loans, etc., to intoxicated persons, etc.* It shall be unlawful for any person to sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person whom he knows or has reasonable cause to believe is under the influence of alcohol or any narcotic, drug, stimulant, or depressant, or who is of unsound mind, or who is a member of any subversive organization.

15–36. *Firearms—Possession by felons, intoxicated persons, etc.* It shall be unlawful for any person who has been convicted of a felony, or who is under the influence of alcohol or a narcotic or drug to wear or have about his person or in any vehicle in which he is an occupant any firearm or other dangerous or deadly weapon.

Coral Gables

20–15. *Firearms—Sale.* (a) Definition. The word "firearm" as used in this section shall be construed to mean any revolver, pistol, auto-loading pistol, any modified shotgun or rifle having an overall length of less than 26-inches, rifles having barrels less than 16-inches, and shotguns having a barrel length of less than 18-inches, machine guns, submachine guns and machine pistols or any fully automatic weapons capable of firing more than one shot at each pull of the trigger. This section shall not apply to any antique weapons with flint or percussion ignition using only black powder, or to modern replicas of such weapons, or to antique rifles using ammunition which is no longer manufactured or commercially sold.

(b) Application. Any person desiring to purchase or receive delivery of a revolver or other firearm shall be required to give the seller or the person from whom delivery shall be obtained, whether by purchase or gift, in writing, on a form to be supplied by the chief of police, a duplicate statement containing true and correct information which shall be signed by the applicant, • • •.

(c) Sale of firearms to minors restricted. It shall be unlawful for any person knowingly and wilfully to sell, lend, lease, rent, give or deliver any firearm to any person under the age of twenty-one (21) years unless accompanied by a parent or guardian, in which event, both the minor and the parent or guardian shall be required to fill out the application form, as provided in section 20–15(b) hereof.

(d) Sale of firearms to felons prohibited. It shall be unlawful for any person knowingly or wilfully to sell, lend, give or deliver any firearm to any person convicted of a felony.

(e) Sale of firearms to users of narcotics prohibited. It shall be unlawful for any person knowingly or wilfully to sell, lend, give, or deliver any firearm to any person addicted to the use of narcotics, or users of drugs, stimulants or depressants.

(f) Sale of firearms to persons under the influence of intoxicating beverages. It shall be unlawful for any person knowingly or wilfully to sell, lend, give or deliver any firearm to any person under the influence of intoxicating beverages.

20–16.1. *Same—Waiting period required; investigation.* (a) Dealers or persons licensed to sell firearms shall, before selling, lending, renting, leasing, giving or delivering the firearms, maintain a permanent record of one copy of the registration or application and shall forward the other copy, after first inserting the serial number of such firearm (make, model, barrel length, caliber, type, finish) to the chief of police by first class mail, not later than twenty-four (24) hours after the close of the business day in which the transaction took place. No firearm shall be delivered to any person until seventy-two (72) hours after sale or deposit, or notification of intent to purchase is received.

(b) Delivery of a firearm may be made after a twenty-four (24) hour waiting period, only, under the circumstances and to those persons listed below:

(1) Applicant must furnish any United States of America, State of Florida, County, or Municipal I.D. card as a condition precedent to issuance, and must be fingerprinted and photographed by the issuing authority and the applicant's photo affixed as a part of said I.D. card. The above shall be issued in the name of the purchaser and signed by him, and shall be on an approved list promulgated by the chief of police.

(2) Applicant must furnish a positive identification card to which a fingerprint and photograph are attached.

(c) The following shall be exempt from either the seventy-two (72) or twenty-four (24) hour waiting period required:

(1) Wholesale dealers who have valid state, county and/or municipal licenses in their business intercourse with retail dealers for the sale of firearms; retail dealers who have valid state, county and/or municipal licenses in their business intercourse with other retail dealers for the sale of firearms; wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms, merchandise by mail, express or other mode of shipment, to points outside the city, nor to sales or transfer of firearms that do not use a self-containing cartridge.

(2) Purchasers who have been issued pistol or revolver permits by any governmental agency (United States of America, State of Florida, county or municipal) as special police officers. The applicant must present an I.D. card from the issuing authority.

Whenever an identification card is utilized for the waiver of the seventy-two (72) hour or twenty-four (24) hour waiting period, as set forth in the foregoing provisions of sections 20–15, 20–16, and 20–16.1, the following information shall be imprinted on the application:

The issuing agency or authority;

The card number;

The name and address identical to that on the card.

(3) Persons who are on record with the police department as having previously purchased a pistol, revolver, or firearm as defined in section 20–15 (a) hereof.

(4) Persons trading an operable pistol, revolver or firearm, as defined in section 20–15 (a), for another similar operable pistol, revolver or firearm.

(d) The provisions of section 20–16 shall not apply to gun shows, conferences or conventions which are staged by a duly recognized nonprofit state or national organization.

Dade County

21–7. *Sale of firearms to.* It shall be unlawful for any person to sell or offer for sale, barter or exchange, or offer to barter or exchange to or with any minor under the age of twenty-one years any pistol or other firearm capable of inflicting bodily harm except upon written parental consent.

21–16. *Sale, loan, etc., weapons to intoxicated persons, etc.* It shall be unlawful for any person to sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person whom he knows or has reasonable cause to believe is under the influence of alcohol or any narcotic, drug, stimulant, or depressant, or who is of unsound mind, or who is a member of any subversive organization. In addition to all other penalties, such unlawful sale, loan or furnishing shall be grounds for revocation of any license issued by the county to such person.

21–20. *Registration of sales and transfers required;* • • •. (c) Waiting period required. The person to whom such pistol, revolver or other firearm is sold, leased or otherwise transferred shall wait, and the dealer shall require him to wait, a period of seventy-two (72) hours prior to such person acquiring possession of such pistol, revolver or other firearm.

(d) Fictitious name prohibited. Any person signing a fictitious name or address in such register is guilty of a violation of this section.

(e) Exceptions. This section shall not apply to wholesale dealers in their business intercourse with retail dealers nor to retail dealers in their business intercourse with other retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms, merchandise by mail, express or other mode of shipment, to points outside the county, nor to sales or transfer of firearms that do not use a self-containing cartridge.

21–20.1. *Definitions.* (a) The word firearm as used in this division, shall be construed to mean any firearm, weapon, revolver, pistol, autoloading pistol, modified rifle or shotgun, or any similar mechanism by whatever name known, which is designed to expel a projectile through a gun barrel by the action of any explosive, having the size, length or dimensions which make it capable of being concealed upon the person, but the word firearm shall not be construed to mean guns that do not use self-contained cartridges.

(b) The word sale includes transfer, assignment, pledge, lease, loan, barter, or gift.

21–20.2. *License—Required to sell.* (a) It shall be unlawful for any person who, without being licensed as provided in this division, to engage in the business of selling or otherwise transferring any firearm, or to advertise for sale, or offer or expose for sale or transfer any firearm defined in section 21–20.1 or to engage in the business of repairing firearms or in the business of gunsmithing.

This section applies to persons in the firearms business or in the business of gunsmithing, and does not apply to (1) sales or trades by an unlicensed person to a person licensed hereunder, nor to (2) isolated sales, transfers or trades between unlicensed persons who are not engaged in the firearms business or in the business of gunsmithing.

(b) The provision of this section shall not apply to gun shows, conferences or conventions which are staged under the auspices of a duly recognized nonprofit, state or national organization.*

*Compilers Note: Sections 21–16, 21–20, 21–20.1 and 20–20.2 have recently been amended, however, the amendments appear to be contradictory, therefore, the amendments have not been included in this edition.

21–20.13. *Sale of firearm with serial number defaced prohibited.* It shall be unlawful to sell any firearm whose serial number has been altered, changed, disfigured or defaced.

21–20.14. *Sale or delivery of firearms or ammunition to certain classes of persons.* It shall be unlawful to sell or deliver any firearm or any ammunition therefor to any person who the seller has reasonable grounds to believe is under the influence of intoxicating liquor, narcotic drugs or barbiturates, or hallucinogens, or is addicted to the use of any narcotic drug or barbiturate, or hallucinogens, or is a habitual alcoholic, or is of unsound mind; or has been convicted of a felony; or is a fugitive from justice; or is a member of a subversive organization.

De Land

21–21. *Weapons—Allowing minors or habitual drunkards to obtain firearms.* No person shall sell, give, lend or otherwise place in the possession of any minor or habitual drunkard, any pistol, revolver or other weapon which may be concealed on the person.

21–25. *Same—Machine guns.* It shall be unlawful for any person to possess, use, keep or store any machine gun, sub-machine gun or similar firearm within the city. The provisions of this section shall not apply to the United States Army, Navy, National Guard or any duly constituted and authorized law enforcement officer of the United States government, the State of Florida, or the city.

Dunedin

15–35. *Same-Registration of small arms required.* It shall be unlawful for any person to own, possess, carry or otherwise have control of any .22 rifle, air rifle, air pistol or other similar device, in the city, unless first the ownership thereof be registered within the city.

15–37. *Change of ownership.* All changes of ownership or possession shall be registered in the same manner as provided in section 15–36.

Fort Pierce

19–50. *Weapons—Permit of purchasers required.* (a) It shall be unlawful for any person to purchase, give away or sell any pistol, revolver, one-hand firearms, blackjack, metallic knuckles, handcuffs or other similar equipment used primarily by police officers, within the corporate limits of the city, unless and until a permit shall have first been obtained from the chief of police of the city by the person to whom such articles are to be sold or delivered.

Gainesville

18–40. *Sale to minors.* It shall be unlawful for any person to sell to any minor within the corporate limits of the city, a pistol, gun or other weapon shooting a cartridge.

For the purposes of this section, a "pistol, gun or other weapon shooting a cartridge" shall include toy pistols designed to shoot a blank cartridge and any weapon so de-

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signed that by explosive force a bullet may be propelled from it.

Green Cove Springs

11–8. *Firearms—Permit for sale.* It shall be unlawful for any person to sell to any person any such pistols, revolvers, firearms which may be concealed upon the person or rifles of a caliber larger than .22 caliber without first having obtained a permit in writing from the chief of police or mayor of the city approving such sale to such person, which permit shall be kept by such person, on file for inspection by city officials for a period of one year from the date of such sale or other disposition.

11–9. *Same—Sale to minor, incompetent.* No person shall sell, give, lend or otherwise place in the possession of any minor, known habitual drunkard or known incompetent any pistol, revolver, firearm which may be concealed upon the person or rifle of a caliber larger than .22 caliber.*

Hallandale

782–1. *Definitions.* (a) The word "firearm" as used in this ordinance, shall be construed to mean any firearm, weapon, revolver, pistol, autoloading pistol, modified rifle or shotgun, or any similar mechanism by whatever name known, which is designed to expel a projectile through a gun barrel by the action of any explosive, having the size, length or dimensions which make it capable of being concealed upon the person, but the word "firearm" shall not be contrued to mean guns that do not use self-contained cartridges.

(b) The word "sale" includes transfer, assignment, pledge, lease, loan, barter, or gift.

782–2. *Unlawful to sell firearm without a license:* (a) It shall be unlawful for any person who, without being licensed as provided in this ordinance, to engage in the business of selling or otherwise transferring any firearm, or to advertise for sale, or offer or expose for sale or transfer any firearm defined in Section 1 of this ordinance, or to engage in the business of repairing firearms or in the business of gunsmithing. This section applies to persons in the firearms business or in the business of gunsmithing, and does not apply to (1) sales or trades by an unlicensed person to a person licensed hereunder, nor to (2) isolated sales, transfers, or trades between unlicensed persons who are not engaged in the firearms business or in the business of gunsmithing.

(b) The provisions of this section shall not apply to gun shows, conferences or conventions which are staged under the auspices of a duly recognized non-profit, state or national organization.

782–3. *Licenses to sell.* The city commission may grant licenses in the form prescribed by the city commission permitting the licensee to sell said firearms within the city on the premises named therein.

782–12. *Sale or delivery of firearms or ammunition to certain classes of persons.* It shall be unlawful to sell or deliver any firearm or any ammunition therefor to any person who the Seller has reasonable grounds to believe is under the influence of intoxicating liquor, narcotic drugs or barbiturates, or hallucinogens, or is addicted to the use of any narcotic drug or barbiturate, or hallucinogens, or is an habitual alcoholic, or is of unsound mind, or has been convicted of a felony; or is a fugitive from justice; or is a member of a subversive organization.

Hialeah

21–31. *Minors—Weapons, unlawful to distribute to.* It shall hereafter be unlawful for any person to sell, barter, lend, give or deliver any pistol, dirk, or other deadly weapon to any minor under seventeen years of age; or to sell, barter, lend, give or deliver any pistol, dirk, or other deadly weapon to any minor between the ages of seventeen and twenty-one years of age without the express written approval of one of the parents of such a minor, or the legal guardian of such minor.

21–42. *Weapons—Sales to minors under eighteen.* No gun, revolver, pistol, cannon or firearm of any description shall be sold or given to anyone under the age of eighteen years.*

21–44. *Same—Blank cartridges and pistols.* No blank cartridges or blank cartridge pistols shall be kept in stock or sold in the City.

Hollywood

22–8. *Sale of firearms and ammunition—definitions. Ammunition.* All pistol or revolver ammunition, shotgun shells, metallic ammunition suitable for uses in rifles or any .22 caliber rimfire ammunition. No distinction shall be recognized between new and reloaded ammunition.

Firearms. Any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive.

Firearms and ammunition dealers' licenses. Any person engaged in the business of selling new or used firearms or ammunition or cartridge cases, primers, bullets or propellant powder, at wholesale or retail, and shall include pawnbrokers, or any person engaged in the business of repairing such firearms or manufacturing or fitting special barrels, stocks, trigger mechanisms or breech mechanisms to firearms.

22–9. *Same—Dealer's license.* (1) All firearms and ammunition dealers shall obtain a firearms and ammunition dealer's license from the city and the cost of same shall be fifty dollars ($50.00) per year.

Homestead

30–A. *Blank cartridge use prohibited.* No blank cartridges or blank cartridge pistols shall be kept in stock or sold in the City of Homestead. No gun, revolver, pistol, cannon or firearm of any description shall be sold or given to anyone in the City under the age of eighteen years. No gun, revolver, pistol, cannon or firearm of any description shall be sold unless a record of the name and address of the person to whom such weapon is sold, shall be kept in a separate book by such selling agent, together with a record of the manufacturers' number or other marks by which such weapon may be identified.*

31–A. *Notice of intention to purchase firearms.* Any person desiring to purchase or receive delivery of a revolver or other firearm of any description shall hereby be required to first give to the seller or to the person from whom delivery shall be obtained, in writing, a duplicate statement containing true and correct information concerning his/her name, occupation, residence and last prior residence before coming to the City of Homestead, Florida.

B. *Certificate on purchase of firearms.* No person shall sell, barter, exchange or deliver, or cause to be delivered any revolver or other firearm of any description to any person, without having previously obtained in writing from the person seeking actual delivery of such firearms, a statement of his/her true name, occupation, residence and the last previous residence before coming to the City of Homestead, Florida.

90–G2–4:1. *Declaration of emergency.* Whenever the Mayor, Vice-Mayor or the City Manager determines that there has been an act of violence or a flagrant and substantial defiance of or resistance to a lawful exercise of public authority, and that, partly on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to health, safety, welfare or protection of persons, or damage to property, all of which constitutes a threat to public peace or order and to the general welfare of the city or a part or parts thereof, he may declare that a state of emergency exists within the city or any part or parts thereof.

2. *Authority of mayor, vice-mayor or city manager to declare emergency measures.* Whenever the Mayor, Vice-Mayor or the City Manager declares that a state of emergency exists, the emergency measures provided in Section 4 of this Ordinance shall thereupon be in effect during the period of said emergency and throughout the city, and the Mayor, Vice-Mayor or the City Manager may order and promulgate all or any of the emergency measures provided in Section 4 of this Ordinance, in whole or in part, and with such limitations and conditions as he may deem appropriate, and any such emergency measure so ordered and promulgated shall thereupon be in effect during the period of said emergency, and in the area or areas for which the emergency has been declared. • • •.

3. *Definitions. Firearm.* The term "firearm" shall mean any revolver, pistol, automatic loading pistol, shotgun or rifle, machine gun, submachine gun, machine pistol or any fully automatic weapon capable of firing more than one shot at each pull of the trigger.

4. *Emergency measures.* (a) The sale or other transfer of possession, with or without consideration, offer to sell or so transfer, and the purchase of any ammunition or firearms of any size or description is prohibited.

(c) The possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of his duty, is prohibited.

(d) The possession of any firearm in any place, public or private, by a non-resident who has not been issued a permit for the purchase and possession of firearms, is prohibited.

(j) The possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid or gas is prohibited.

Jacksonville

328.101. *Certificate from sheriff required for license to deal in certain firearms.* No office of the City shall issue to any person a license to sell, vend or deal in pistols, revolvers or other firearms which may be concealed upon the person, until such person shall have obtained from the Sheriff a certificate that such person is trustworthy, reliable and fit to deal in, sell and vend such revolvers, pistols or other firearms. • • •.

328.202. *Allowing minors or habitual drunkards to obtain firearms.* It shall be unlawful and a Class D offense against the City for any person to sell, give, lend or otherwise

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

place in the possession of any minor or habitual drunkard, any pistol, revolver or other weapon which may be concealed on the person.*

328.205. *Machine guns.* It shall be unlawful for any person to possess, use, keep or store any machine gun, sub-machine gun or similar firearm within the City. The provisions of this section shall not apply to the Armed Forces or any duly constituted and authorized law-enforcement officer of the United States government, the State of Florida, or the City.

Jacksonville Beach

16–10. *Concealable weapons—Certificate from city council prerequisite to license to deal in.* No officer of the city shall issue to any person a license to sell, vend or deal in pistols, revolvers or other firearms which may be concealed upon the person, until such person shall have obtained from the city council a certificate that such person is trustworthy, reliable and fit to deal in, sell and vend such revolvers, pistols or other firearms. • • •.

16–11. *Same—Registry of firearms sold; information to be registered; weekly report to police of sales; permit for each sale.* • • • provided, however, that no person shall sell to any person any such firearms, pistols or deadly weapon without first having obtained a permit in writing from the chief of police or city manager approving such sale to the person. The permit shall be kept by such person on file for inspection for a period of one year from the date of the sale.

16–13. *Same—Allowing minors or habitual drunkards to obtain firearms.* No person shall sell, give, lend or otherwise place in the possession of any minor or habitual drunkard any pistol, revolver or other weapon which may be concealed on the person.*

Lantana

16–25. *Same—Sale prohibited without permit.* No dealer or vendor in firearms, shall sell, hire, barter, lend or give to any other person any pistol, gun or other firearm, except upon written permit of the chief of police, provided that nothing in this section shall prevent the sale, hire, barter, loan or gift of any such weapon to any duly authorized law enforcement officer of the United States, State of Florida, or any political subdivision thereof, for such officer's use in the discharge of his duties.

Miami

61–1. *Sale of firearms generally.* (a) "Firearm" defined. The word "firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however 1. any pneumatic gun, spring gun, or B–B gun which expels a single globular projectile not exceeding .18 inch in diameter; 2. any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or 3. any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition.

(d) "Sale to minors restricted." It shall be unlawful for any person knowingly and willfully to sell, lend, lease, rent, give or deliver any firearm to any person under the age of twenty-one unless accompanied by a parent or guardian, in which event both the minor and the parent or guardian shall be required to fill out the application form.

(e) "Sale to felons prohibited." It shall be unlawful for any person knowingly or willfully to sell, lend, give or deliver any firearm to any person convicted of a felony.

(f) "Sale to users of narcotics prohibited." It shall be unlawful for any person knowingly or willfully to sell, lend, give or deliver any firearm to any person addicted to the use of narcotics or users of drugs, stimulants or depressants.

(g) "Sale to persons under the influence of intoxicating beverages." It shall be unlawful for any person knowingly or willfully to sell, lend, give or deliver any firearm to any person under the influence of intoxicating beverages.

61–2. *Delivery of firearms.* (a) Dealers or persons licensed to sell firearms shall, before selling, lending, renting, leasing, giving or delivering the firearm, maintain a permanent record of one copy of the registration or application and shall forward the other copy, after first inserting the serial number of such firearm, and also description of the firearm (make, model, barrel length, caliber, type, finish) to the chief of police by first class mail, not later than twenty-four hours after the close of the business day in which the transaction took place. No firearm shall be delivered to any person until seventy-two hours after sale or deposit, or notification of intent to purchase is received.

(b) Delivery of a firearm may be made after a twenty-four hour waiting period only under the circumstances and to those persons listed below:

1. Applicant must furnish any United States of America, state, county or municipal I.D. card as a condition precedent to issuance, and must be fingerprinted and photographed by the issuing authority and the applicant's photo affixed as a part of such I.D. card. The above shall be issued in the name of the purchaser and signed by him, and shall be on an approved list promulgated by the chief of police.

2. The applicant must furnish a positive identification card to which a fingerprint and photograph are attached.

(c) The following shall be exempt from either the seventy-two hour or twenty-four hour waiting period required:

1. Wholesale dealers who have valid state, county or municipal licenses in their business intercourse with retail dealers for the sale of firearms; retail dealers who have valid state, county or municipal licenses in their business intercourse with other retail dealers for the sale of firearms; wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms, merchandise by mail, express or other mode of shipment, to points outside the city, nor to sales or transfer of firearms that do not use a self-containing cartridge.

2. Purchasers who have been issued pistol or revolver permits by any governmental agency (United States of America, state, county or municipal) as special police officers. The applicant must present an I.D. card from the issuing authority.

Whenever an identification card is utilized for the waiver of the seventy-two hour or twenty-four hour waiting period, as set forth in the foregoing provisions, the following information shall be imprinted on the application:

a. The issuing agency or authority.

b. The card number.

c. The name and address identical to that on the card.

3. Persons who are on record with the police department as having previously purchased a pistol, revolver or firearm as defined in section 61–1(a).

4. Persons trading an operable pistol, revolver or firearm, as defined in section 61–1 (a), for another similar operable pistol, revolver or firearm.

(d) The provisions of this section shall not apply to gun shows, conferences or conventions which are staged by a duly recognized nonprofit state or national organization.

61–3. *Sale of weapons, firearms, tear gas pens, etc., to minors.* (a) It shall be unlawful for any person to sell, offer for sale, barter, lend, give or deliver any fountain pen, starter gun, device or other instrument designed to discharge or for the purpose of discharging tear gas or other injurious gas, or any pistol, dirk or other deadly weapon, to any minor under seventeen years of age.*

(b) It shall be unlawful for any person to sell, offer to sell, barter, lend, give or deliver any fountain pen, starter gun, device or other instrument designed to discharge or for the purpose of discharging tear gas or other injurious gas, or any pistol, dirk or other deadly weapon, to any minor between the ages of seventeen and twenty-one years of age without the express written approval of one of the parents or the legal guardian of such minor.

61–4. *Purchase by other persons of prohibited articles for minors.* It shall be unlawful for any minor to engage or utilize the services of any other person, and it shall be unlawful for any person, whether for remuneration or not, to procure for such minor any article which the minor himself is prohibited by law to purchase.

61–5. *Sale, etc., of firearms to intoxicated, etc., persons.* It shall be unlawful for any person to sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used to any person whom he knows or has reasonable cause to believe is under the influence of alcohol or any narcotic, drug, stimulate or depressant, or who is of unsound mind, or who is a member of any subversive organization. In addition to all other penalties, such unlawful sale, loan or furnishing shall be grounds for revocation of any license issued by the city to such person.

45A–1 *"Definitions.* "Firearm". The term "firearm" shall mean any revolver, pistol, automatic loading pistol, shotgun or rifle, machine gun, submachine gun, machine pistol or any fully automatic weapon capable of firing more than one shot at each pull of the trigger.

45A–3. *Authority of City Manager to declare emergency measures.* Whenever the City Manager declares that a state of emergency exists, the emergency measures provided in Section 4 of this Ordinance shall thereupon be in effect during the period of said emergency and throughout the city, and the City Manager may order and promulgate all or any of the emergency measures provided in Section 4 of this Ordinance, in whole or in part, and with such limitations and conditions as he may deem appropriate, and any such emergency measure so ordered and promulgated shall thereupon be in effect during the period of said emergency, and in the area or areas for which the emergency has been declared. Upon the declaration of an emergency by the City Manager, as soon as practicable, the Commission shall imme-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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diately convene for the purpose of determining whether or not an emergency does exist. Their finding in the matter shall be conclusive. Upon finding that no emergency does in fact exist, this Ordinance shall not be operative.

45A–4. *Emergency measures.* (a) The sale or other transfer of possession, with or without consideration, offer to sell or so transfer, and the purchase of any ammunition or firearms of any size or description is prohibited.

(c) The possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of his duty, is prohibited.

(d) The possession of any firearm in any place, public or private, by a non-resident who has not been issued a permit for the purchase and possession of firearms, is prohibited.

Miami Beach

25.104. *Sale of firearms, generally.* (a) "Firearms" defined. The word "firearm" as used in this section and the following sections shall be construed to mean any revolver, pistol, automatic pistol, shotgun, rifle, machine gun, sub-machine gun, machine pistol, or any fully automatic weapon capable of firing more than one shot at each pull of the trigger, or any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive, or any firearm muffler or any firearm silencer, or any part or parts of such firearms. This section and the following section, shall not apply to any automatic weapon with flint or percussion ignition using only black powder, or to modern replicas of such weapons, or to antique or replicas of cartridge pistols, or rifles using ammunition which is no longer manufactured or commonly sold, or to stud guns used as tools by tradesmen.

25.105. *Sale of firearms.* It shall be unlawful for any dealer or person licensed to sell firearms, to sell, lend, lease, give or deliver any firearm to any person unless such person first presents to the dealer or vendor an application approved by the chief of police.

25.110. No firearm shall be delivered to any person until 72 hours after the sale of any firearm.

25.112. It shall be unlawful for any person knowingly and wilfully to sell, lease, lend, give or deliver any firearm to any person under the age of 21; or to any person convicted of a felony, or to any person addicted to the use of narcotics, or to users of drugs, stimulants or depressants, or to any person of unsound mind, or to any person under the influence of intoxicating beverages, or to any person who has been released from a mental institution within the past five years.

25.112 1. The following persons shall be exempt from the provisions of this ordinance: (a) Members of the militia, national guard, Florida state guard, army, navy, air force, marine corps, coast guard, the organized reserves, and other armed forces of the state and of the United States, when on duty, or when training or preparing themselves for military duty, or while subject to recall or mobilization;

(b) Sheriffs, marshals, prison or jail wardens, constables, policemen, Florida highway patrolmen, game wardens, revenue officers, forest officials, and other peace and law enforcement officers, their full-time paid deputies and assistants; full-time paid peace officers of other states, and of the federal government who are carrying out official duties while in Florida;

(c) Officers or employees of the state or United States duly authorized to carry a concealed weapon.

25.112.2. The following shall be exempt from the 72-hour waiting period required: (a) Wholesale dealers who have valid state, county or municipal licenses in their business intercourse with retail dealers for the sale of firearms; retail dealers who have valid state, county or municipal licenses in their business intercourse with other retail dealers in the regular or ordinary transportation of unloaded firearms.

(b) Purchasers who have been issued pistol or revolver permits by any governmental agency (United States of America, state, county or Municipal) as special police officers. The applicant must present an I.D. card from the issuing authority. Whenever an identification card is utilized for the waiver of the 72-hour waiting period as set forth in the foregoing provisions, the following information shall be imprinted on the application: (1) The issuing agency or authority. (2) The card number. (3) The name and address identical to that on the card.

(c) Persons who are on record with the Police Department as having previously purchased a pistol, revolver or firearm.

25.115. No person shall engage in the business of selling firearms unless a license shall have been procured from the City Council as herein provided, and it shall be unlawful for any person to engage in the business of selling firearms without first procuring such license from the City Council.

Mount Dora

14–35. *Minors prohibited from buying firearms, ammunition, explosives.* It shall be unlawful for any person under eighteen (18) years of age to purchase firearms, "BB" pellets or ammunition of any and all types including 22-caliber ammunition, or any other explosives, from any merchant, business house or vendor in the city.

14–36. *Merchant prohibited from selling firearms, ammunition, explosives to minors.* It shall be unlawful for any merchant, business house or vendor, or any person, firm or corporation to sell to any person under eighteen (18) years of age any firearms, "BB" pellets, or ammunition of any and all types, including 22 caliber ammunition, or any other explosives, within the city.

Neptune Beach

18-69 *Weapons—Certificate from city council prerequisite to license to deal in.* No officer of the city shall issue to any person a license to sell, vend or deal in pistols, revolvers or other firearms which may be concealed upon the person, until such person shall have obtained from the city council a certificate that such person is trustworthy, reliable and fit to deal in, sell and vend such revolvers, pistols or other firearms. • • •.

16–70. *Same—Registry of firearms sold; information to be registered; weekly report to city marshal of sales; permit for each sale.* It shall be unlawful for any person to sell or otherwise dispose of any of the weapons, hereinabove mentioned, without first obtaining and entering into such registry all the information required by this section; provided, however, that no person shall sell to any person any such firearms, pistols or deadly weapons without first having obtained a permit in writing from the city marshal or city council approving such sale to the person. The permit shall be kept by such person on file for inspection for a period of one year from the date of the sale.

16–72. *Same—Allowing minors or habitual drunkards to obtain firearms.* No person shall sell, give, lend or otherwise place in the possession of any minor or habitual drunkard any pistol, revolver or other weapon which may be concealed on the person.*

North Palm Beach

3. *Sales to intoxicated persons and minors.* No pawnbroker, second-hand dealer or other person engaged in business in the Village shall purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 18 years.*

Ocala

15–96. *Firearms—Sale to intoxicated persons or minors.* It shall be unlawful for any person to purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of eighteen years.*

Palm Beach Gardens

17–10. *Concealed weapons; selling weapons; possession of weapons. No person within the city shall:* (g) Purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to, any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 18 years, or to any known convicted felon who has not had his civil rights restored according to law.*

Pasco County

1: *Definitions.*—As used in this chapter; "Pistol" means any small firearm, loaded or unloaded, with a barrel of twelve (12) inches or less, fired by hand. The term shall include all firearms having one or more barrels, such as revolvers, automatics, derringers and the like, capable of discharging loaded ammunition.

"Purchaser" means any person who receives a pistol from another by purchase, exchange, gift or loan.

"Seller" means any person who sells, furnishes, loans, exchanges, gives or in anyway delivers a pistol to another.

2: *Seventy-two hour waiting period required.*—No sale or delivery or exchange of any pistol or revolver shall be made to a purchaser until the expiration of seventy-two (72) hours from the time that an initial offer to purchase said pistol or revolver is made by the purchaser to the seller.

Pinellas County

1: *Definitions.* (a) Firearm as used in this division shall be construed to mean any firearm, weapon, revolver, pistol, auto-loading pistol, modified rifle or shotgun, or any similar mechanism by whatever name known, which is designed to expel a projectile or gas through a gun barrel by the action of any explosive, having the size, length or dimensions which make it capable of being concealed upon the person, and originally designed or altered to be used by one hand and having a barrel length of less than 16 inches, and an overall length of less than 26½ inches, but the word firearm shall not be construed to mean guns that do not use self-contained cartridges.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

(b) Saturday Night Special shall mean any firearm which is 32 caliber or smaller, whose barrel is less than 3 inches, except those whose frame is an investment cast or forged steel, or investment cast or forged high tensile alloy.

(c) Sale includes transfer, assignment, pledge, lease, loan, barter, or gift.

2: *Prohibition.* It shall be unlawful for any person to sell or otherwise transfer any Saturday Night Special as defined hereinabove or offer or expose for sale or transfer any such Saturday Night Special.

3: *Exception.* The sale of Saturday Night Specials to law enforcement agencies or for authorized military use shall not be subject to the limitations herein set forth.

Pinellas Park

13–16 (67). *Guns, dealers in revolvers, pistols, ammunition, etc.* Approval of city manager with the recommendation of police department as well as separate license in addition to other retail merchant's license required.

Pompano Beach

31.16. *Firearms, discharging; sale of ammunition.* • • •. (b) It shall be unlawful for any person to sell, barter or give to any other person under the age of sixteen (16) years in the city, ammunition for a firearm, air rifle or air pistol (commonly known as BB guns); provided, however, that this ordinance shall not apply to parents or guardians giving such ammunition to their own children, in case of a parent, or to the children over whom they may have lawful custody and control, in the case of a guardian.*

31.62. *Acts deemed unlawful during emergency.* (b) *Closing of business establishments*—It shall be unlawful for any person or business establishment which is of the type ordered to close without regard to its location within the city, or which is ordered to close because of its location within an area of disorder, to:

(2) Continue selling, distributing or giving away of any firearms or ammunition of any character whatsoever; • • •.

Quincy

35–1. *License to sell—Required.* No person shall, within the corporate limits of the city: (a) Engage in the sale of pistols, machine guns or submachine guns, or (b) Operate or manage any business where pistols, machine guns or submachine guns are sold, without first procuring a license for the sale of same as provided herein.

35–9. *Licensee may not sell outside place of business.* No licensee shall make sale of, or sell, any pistols, machine guns or submachine guns outside of the place of business licensed hereunder.

35.12. *Registration of pistols, machine guns and submachine guns required.* No person shall, within the corporate limits of the city:

(a) Owners or possessors. Own or possess, or have in his possession, custody or control, a pistol, machine gun or submachine gun, without first having registered the same with the chief of police.

Riviera Beach

13–36. *It shall be unlawful* for any dealer in arms, guns, rifles or other weapons, to sell to minors any pistol, rifle, repeating rifle, tear gas, gun, flair, gun, bowie knife or dirk knife, brass knuckles, slingshot or any type of air pressure rifle discharging B.B. shot or pellets, or any other type of dangerous weapon.*

South Miami

15–25. *Firearms-Notice of intent to purchase.* It shall be unlawful for any person to purchase or receive delivery of a revolver, rifle, or firearm of any description in the city without first filing a notice of such intention with the desk officer at the police station, in the city, giving his name, information concerning his residence, a full description of said firearm, and the place where such weapon will be obtained.

15–26. *Same—Selling or receiving without certificate.* It shall be unlawful to sell, barter, exchange or deliver, or cause to be bought, sold, bartered or exchanged or delivered, any revolver, gun, rifle or other firearm to any person in the city without having previously obtained a registration certificate • • •, from the person seeking actual delivery of such firearm, • • •.

St. Petersburg

25.76. *Same—sale to minors.* It shall be unlawful for any person to sell to any minor within the corporate limits of the city, a pistol, gun or other weapon shooting a cartridge.*

For the purposes of this section a "pistol, gun or other weapon shooting a cartridge" shall include toy pistols designed to shoot a blank cartridge and any weapon so designed that by explosive force a bullet may be propelled from it.

25.77. *Same—registration of sales of pistols, revolvers, and other like weapons.* (1) Every retail dealer who dealer who deals in and sells pistols, revolvers, or any other weapons which are generally described and referred to as a "hand gun" shall require the purchaser to register his name, age and place of residence in a book the dealer shall keep for that purpose. The dealer shall record in said book the date of sale, the make, model, type, and the number of the weapon purchased. This register shall be available for the inspection of any law enforcement officer, and be kept available for two years from the date of purchase. A card shall be furnished to the police department containing the particulars aforesaid on a form furnished by such department within a reasonable time after each sale.

(2) It shall be unlawful for any dealer of weapons described in Paragraph (1) or any agent or employee to fail or refuse to comply with the provisions of said Paragraph.

(3) It shall be unlawful for any person purchasing a weapon as described in Paragraph (1) to give a false name, age or place of residence as provided in this Section.

(4) This section shall not be applicable to the sale of any bona fide antique weapon that is incapable of being fired.

Surfside

13–43. *Same—Receiver of firearms to furnish certain information in writing.* Any person in the town desiring to purchase or receive delivery of a revolver or other firearm of any description shall be and hereby is required first to give to the seller of to the person from whom delivery shall be obtained, in writing, a duplicate statement containing true and correct information concerning his name, occupation, residence and last prior residence before coming to the town.

13–44. *Same—Seller of firearms to obtain designated information in writing.* It shall be unlawful for any person to sell, barter, exchange or deliver, or cause to be delivered any revolver, gun, or other firearm to any other person, without having previously obtained, in writing, from the person seeking actual delivery of such firearm, a statement of his true name, occupation, residence, and the last previous residence before coming to the town.

13–46. *Same—Report to police of possession.* Any person having in his possession, actually or constructively, any revolver, gun or other firearm of any description, within the town, shall file with the police department a certificate or statement in writing giving his true name, occupation, residence, and a full and complete description of such revolver, gun or other firearm in his possession.

Tallahassee

3. *It shall be unlawful* for any person, firm or corporation within the City of Tallahassee to sell, give, lend or otherwise place in the possession of any minor any pistol, revolver or other firearm which may be concealed on the person.*

Tampa

24–114. *Firearms—Machine guns, "sawed-off" shotguns and rifles prohibited.* It shall be unlawful for any person to have in his possession within the corporate limits of the city any machine gun, or shotgun or rifle having a barrel of less than twenty (20) inches in length, or any firearm equipped with a silencer, or any other firearm, which is capable of being concealed on the person. This section shall not apply to a pistol, revolver, or blank or tear gas gun authorized by this chapter. This section shall not be applicable to regular law enforcement officers who are permanently employed and devote their full time as federal, state, county or municipal law enforcement officers.

24–116. *Molotov cocktail, firebombs, etc.;* • • •. (a) It shall be unlawful for any person to make, carry, possess or use any type of "Molotov cocktail," gasoline or petroleum base firebomb, or any other incendiary missile or any explosive bomb, device or missile unless the same is otherwise permitted as a lawful act pursuant to the laws and ordinances of this city.

West Miami

14–16. *Minors—sale of weapons to.* It shall hereafter be unlawful for any person to sell, barter, lend, give or deliver any pistol, dirk, or other deadly weapon to any minor under seventeen (17) years of age. It shall further be unlawful for any person to sell, barter, lend, give or deliver any pistol, dirk, or other deadly weapon to any minor between the ages of seventeen (17) and twenty-one (21) years of age without the express written approval of one of the parents, or legal guardian of such a minor.*

West Palm Beach

51.1. *Permit for purchase, sale, etc.—Required.* It shall be unlawful for any person to purchase, give away or sell any pistol, revolver, one-hand firearms, blackjack, knuckles, handcuffs or other similar equipment used primarily by police officers, within the city, unless and until a permit shall have first been obtained from the chief of police by the person to whom such article is to be sold or delivered.

GEORGIA

State Law

GEORGIA CODE ANN. TITLE 26

26–1404. *Criminal possession of explosives.* A person commits criminal possession of explosives when he possesses, manufactures, or transports any explosive compound and

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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either intends to use such explosive to commit a felony or knows that another intends to use such explosive to commit a felony. A person convicted of criminal possession of explosives shall be punished by imprisonment for not less than one nor more than 10 years.

26-1405. *Criminal possession of an incendiary.* (a) A person commits criminal possession of an incendiary when he possesses, manufactures, sells offers for sale, gives away, or transports a fire bomb or molotov cocktail.

(b) The terms "fire bomb" and "molotov cocktail" mean any device, by whatever name called, made of a breakable container containing a flammable liquid or compound with a flash point of 150 degrees Fahrenheit or less which has a wick or any similar material, which, when ignited, is capable of igniting such flammable liquid or compound when such device is thrown or dropped. These terms do not include a device which is manufactured or produced for the primary purpose of illumination or for marking detours, obstructions, defective paving or other hazards on streets, roads, highways and bridges.

(c) Subsection (a) does not apply to a device coming within the definition of subsection (b) when it is in the use, possession or control of a member of the armed forces of the United States, or a fireman or a law enforcement officer when acting in his official capacity or otherwise under proper authority.

(d) A person convicted of criminal possession of an incendiary shall be punished by imprisonment for not less than one nor more than three years, or by a fine not exceeding $1,000 or by both.

26-2905. *Furnishing weapons to minors.* A person commits a misdemeanor when he knowingly sells to or furnishes to a person under the age of 21 years a pistol, metal knuckles, or knife designed for the purpose of offense and defense.

26-2906. *Machine guns; sale, etc., illegal.* A person commits a felony when he sells, manufactures, purchases, possesses, or carries a machine gun and upon conviction shall be punished by imprisonment for not less than one nor more than five years. A machine gun is any weapon from which more than eight shots or bullets may be discharged by a single function of the firing device. This section shall not apply to or affect the manufacture, for, or the transportation, or sale of machine guns to persons exempted under section 26-2907, provided said machine guns are broken down in a non-functioning state or are not immediately accessible.

26-2907. *Exemptions.* Sections 26-2901, 26-2902, 26-2903, and 26-2906 shall not apply to or affect any of the following persons while engaged in pursuit of official duty or when authorized by Federal or State law, regulation or order: (1) peace officers; (2) wardens, superintendents, and keepers of prisons, penitentiaries, jails, or other institutions for the detention of persons accused or convicted of an offense; (3) persons in the military service of the State or of the United States; (4) persons employed in fulfilling defense contracts with the Government of the United States or agencies thereof when possession of the weapon is necessary for manufacture, transport, installation, and testing under the requirements of such contract.

A prosecution based upon a violation of sections 26-2901, 26-2902, 26-2903, or 26-2906 need not negative any exemptions.

CHAPTER 26-99A. CRIMINAL PROVISIONS UNOFFICIALLY CODIFIED.

26-9910a. *Georgia firearms and weapons act; short title.* This law [§§ 26-9910a through 26-9916a] shall be known and may be cited as the "Georgia Firearms and Weapons Act."

26-9911a. *Same; possession of certain types of firearms, dangerous weapons and silencers prohibited.* No person shall have in his possession any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon, or silencer, except as provided in section 26-9914a.

26-9912a. *Same; punishment.* A person commits an unlawful possession of firearms or weapons when he knowingly has in his possession any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon or silencer, as defined in this law [§§ 26-9910a through 26-9916a], and upon conviction for such he shall be punished by imprisonment for not less than one nor more than five years.

26-9913a. *Same; definitions.* (a) The term "sawed-off shotgun," as used in this law [§§ 26-9910a through 26-9916a], shall mean any weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, to use the energy of the explosives in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger, and which has an overall length of 15 inches or less.

(b) The term "sawed-off rifle," as used in this law, shall mean a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifle bore for each single pull of the trigger, and which has a barrel (or barrels) of less than 16 inches in length (or has an over-all length of less than 26 inches).

(c) The term "machine gun," as used in this law, means any weapon which shoots, or is designed to shoot, automatically, more than six shots, without manual reloading, by a single function of the trigger.

(d) The term "dangerous weapon," as used in this law, shall mean any weapon commonly known as a "rocket launcher," "bazooka" or "recoilless rifle," which fires explosive or nonexplosive rockets designed to injure or kill personnel or destroy heavy armor or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a "mortar" which fires high explosive from a metallic cylinder, and which is commonly used by the armed forces as an anti-personnel weapon or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a "hand grenade" or other similar weapon which is designed to explode and injure personnel or similar weapon used for such purpose.

(e) The term "person," when used in this law, shall include any individual, partnership, company, association or corporation.

(f) The term "silencer," when used in this law, shall mean any device for silencing or diminishing the report of any portable weapon, such as rifle, carbine, pistol, revolver, machine gun, shotgun, fowling piece, or other device from a shot, bullet or projectile may be discharged by an explosive.

26-9914a. *Same; exceptions to provisions of law.* The provisions of this law [§§ 26-9910a through 26-9916a] shall not apply to:

(a) A peace officer of any duly authorized police agency of this State or of any political subdivision thereof, or a law enforcement officer of any department or agency of the United States, who is regularly employed and paid by the United States, this State or any such political subdivision, or an employee of the Board of Corrections of this State who is authorized in writing by the director thereof to transfer or possess such firearms while in the official performance of his duties.

(b) A member of the National Guard or of the armed forces of the United States, to-wit: the Army, Navy, Marine Corps, Air Force or Coast Guard, who, while serving therein, possesses such firearm in the line of duty.

(c) Any sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon or silencer which has been modified or changed to the extent that it is inoperative. Examples of the requisite modification include: weapons with their barrel or barrels filled with lead or hand grenades filled with sand or other nonexplosive materials.

(d) Each sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon or silencer which is possessed by a person who is authorized to possess the same because he has registered the sawed-off shotgun, sawed-off rifle, machine gun, dangerous weapon or silencer in accordance with the dictater of the National Firearms Act, approved August 16, 1964, 68A Stat. 725 (26 U.S.C. 5841-5862).

26-9915a. *Same; burden of proof of exceptions, etc.* In any complaint, information, accusation or indictment, and in any action or proceeding brought for the enforcement of any provision of this law [§§ 26-9910a through 26-9916a], it shall not be necessary to negative any exception, excuse, proviso or exemption contained in this law, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

26-9916a. *Same; construction of law.* This law [§§ 26-9910a through 26-9916a] shall be deemed and shall be construed to be cumulative of and supplemental to any existing laws of this State applicable to the subject or subjects governed by this law: Provided, however, that in the event any provisions of this law are in conflict with existing laws, then the provisions in this law shal: govern and take precedence.

GEORGIA CODE ANN. TITLE 86

86-1302. *Closing places where firearms and ammunition are sold, etc.* Whenever any force of the organized militia is or has been called out for the performance of any duty under the provisions of section 86-106, it shall be lawful for the commanding officer of such force, if in his judgment the maintenance of law and order in the area into which such force has been ordered will be thereby promoted, to close places where arms and ammunition are sold, and all places where disorder is likely to occur.

86-9907. *Unlawful sale or disposal of arms or ammunition, etc.* Any person who shall sell or dispense arms or ammunition in violation of an order of a commanding officer under the authority of section 86-1302, or who shall maintain a place ordered to be closed under said authority, shall be guilty of a felony, and upon conviction thereof shall be confined to the penitentiary for not less than two nor more than five years.

GEORGIA CODE ANN., TITLE 92A

92A-901. *License for dealers.* Any person, firm, retail dealer, wholesale dealer, pawnbroker, or corporation who shall sell, dispose of, or offer for sale, or cause or permit to be sold, disposed of or offered for sale any caliber pistol, revolver or short barreled firearm of less than 15 inches in length, whether the same shall be their own property or whether they shall sell the same as agents or employees of others, shall obtain from the Department of Public Safety a license permitting the sale of said caliber pistols and guns. Nothing in this Chapter shall apply to or prohibit the casual sales of the articles referred to between individuals or bona fide gun collectors.

92A-1601. *Purchase by Georgia residents in contiguous States.* Residents of the State of Georgia may purchase rifles and shotguns in any State contiguous to the State of Georgia, provided such residents conform to applicable provisions of statutes and regulations of the United States, of the State of Georgia, and of the contiguous State in which the purchase is made.

Atlanta

20-55. *Definition of "pistol."* A "pistol", for the purpose of this article, is any small firearm fired by hand, capable of being concealed upon the person or being strapped around some portion of the body. The term shall include all small firearms having one or more barrels, such as revolvers, automatics, derringers and the like, discharging ball or similar ammunition and usually called pistols.

20-56. *License to deal in pistols; required, prerequisite to issuance.* No license shall be issued to dealers in pistols, wholesale or retail, until the party applying for such license shall have received a special permit from the mayor and board of aldermen to deal in pistols.

20-61. *Sale of .22 caliber firearms prohibited; exception.* (a) It shall be unlawful for any person to sell, possess for sale, exhibit for sale, display or advertise for the purpose of sale, any .22 caliber pistol, revolver or derringer with a barrel three inches or less in length, which sells at a retail price of less than thirty-nine dollars ($39.00).

(b) It shall be unlawful for any person to sell, to possess for sale, exhibit for sale, display or advertise for the purpose of sale, any pistol, revolver, or derringer described in subsection (a), designed and manufactured to fire blank cartridges and ammunition containing explosive charges only, if such pistol, revolver or derringer may be adapted to fire cartridges and ammunition containing projectiles, provided, however, that this section shall not apply to any pistol, revolver, or derringer to be used in any organized high school, college, professional or other recognized athletic events.

20-62. *Sale, delivery, assembly of firearms constructed of materials with melting temperature of less than eight hundred degrees Fahrenheit prohibited.* (a) The term "weapon" means a firearm designed to be held and fired by the use of a single hand. The term also includes a combination of parts in the possession or under the control of a person from which a weapon can be assembled. The term does not include antique firearms, or any firearm which comes within the definition set forth in Section 5845(a) of the Internal Revenue Code of 1954.

(b) It shall be unlawful for any person to sell, deliver or assemble any weapon if the frame or receiver thereof is a die casting of zinc alloy or any other material which has a melting temperature of less than eight hundred (800) degrees Fahrenheit. All such weapons are hereby found and declared to be dangerous to the user and those in the immediate vicinity of the user.

20-66. *Registration required by aliens possessing firearms.* Every foreign born alien living within or coming into the city, having or gaining possession of any firearms, such as pistols, rifles, shotguns, machine guns or any other such instruments of any kind and character, shall register same with the chief of police, giving such information as may be required by the chief of police or those working under his orders. Aliens coming into the city and bearing or possessing any of the firearms described herein shall register same within twenty-four hours after arrival within the city.

20-67. *Disposition; permit required.* After any firearm, as is described in section 20-66, has been registered with the chief of police, no person shall dispose of same without a permit from the chief of police.

20-68. *Application for permit to dispose of firearm.* The application for the permit required by the preceding section shall give such information as may be required by the chief of police.

20-69. *Notice of purchase, possession to be given to chief of police.* No person shall purchase or come into possession of firearms from any alien without notifying the chief of police of his intention a reasonable time in advance and securing permission from such officer to obtain possession of same.

20-73. *Definitions.* As used in this article unless the context otherwise requires, terms shall have the meanings ascribed as follows:

Dealer means any person regularly engaged in the business of selling firearms as defined herein.

Firearms means any pistol, revolver or derringer, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive, and a firearm muffler or a firearm silencer, or any part or parts of such weapon.

Identification means any driver's license, birth certificate, U.S. military identification card, baptismal or christening certificate, employee's identification card provided same shows age and home address of employee and U.S. passport.

Person includes an individual, partnership, association or corporation.

20-74. *Identification of purchaser.* No dealer in firearms as defined herein shall sell, trade or dispose of, in any way, any firearm unless the person obtaining said firearm shall furnish identification to the said dealer setting forth his name, present address and age.

Augusta

14-8. *Ammunition—Sale, etc., to minors.* It shall be unlawful for any person to sell or furnish a minor with pistol ammunition or to sell or furnish a minor seventeen years of age and under with any other kind of ammunition, including rifle and shotgun ammunition * * *.*

Chatham County

11-9038.1 *Handguns.* (a). Every person desiring to purchase or otherwise acquire a pistol, revolver, or other type handgun in Chatham County, Georgia, outside the boundaries of any incorporated municipality therein, shall sign in duplicate and deliver to the seller or person disposing thereof an application for the purchase of a pistol, revolver, or other type handgun, containing his full name, address, height, weight, race, date of birth, place of birth, and social security (or other identification) number, type of weapon, model, caliber or gauge, serial number and manufacturer. The application in duplicate shall be on a form as prescribed by the Chatham County Commissioners.

(b) The seller or persons disposing of such weapons shall within six hours after such application, sign and attach his address and deliver the two copies of the application to the office of the Chief of Police of Chatham County. It shall be unlawful to give false information or offer false evidence of the identity of such person in making such application or in acquiring a weapon as set forth herein. No person shall, within Chatham County, outside the boundaries of any municipality therein, deliver or otherwise dispose of a pistol, revolver, or other type handgun, until seventy-two hours shall have elapsed from the time of receipt of the application in the office of the Chief of Police of Chatham County.

(c) No person within Chatham County, outside the corporate boundaries of any municipality therein, shall sell or otherwise dispose of a pistol, revolver, or other type handgun to a person whom he has reasonable cause to believe is not a fit and proper person to possess the same, is not of sound mind, is under 21 years of age, is a drug addict, or is a person who has been convicted of a crime of violence.

(d) If, within the seventy-two hours waiting period required by this ordinance, the Chief of Police of Chatham County or a person designated by him from his office shall inform the proposed seller or person proposing to dispose of a pistol, revolver, or other type handgun, that the applicant is not a fit and proper person to possess the weapon, is not of sound mind, is under 21 years of age, is a drug addict or is a person who has been convicted of a crime of violence, such information shall be prima facie evidence that the seller or person disposing thereof had reasonable cause to believe the applicant is unqualified to acquire such a weapon. A crime of violence, as used in this Ordinance, shall be taken to mean murder, manslaughter, rape, mayhem, kidnapping, burglary, robbery by force, aggravated assault, and aggravated battery.

(e) This Ordinance shall not be construed to apply to toy pistols, toy revolvers, or toy weapons of any kind, or antique souvenir weapons used only for display or decoration purposes.

Columbus

14-64. *Same—Notice; investigation; approval; waiting period.* No person doing business in the city or its police district shall sell or deliver any pistol or pistol cartridges until all of the following regulations have been complied with strictly:

Before selling or delivering any pistol or pistol cartridges, such dealer shall notify, in writing, the chief of police, in such notice giving the name, address and description of the prospective purchaser. The prospective purchaser shall, at the same time, furnish to the chief of police three written and signed testimonials vouching for the general good character of the prospective purchaser and such prospective purchaser shall also submit to having his fingerprints taken by the police department of the city. The chief of police shall make full investigation, and should he, in his discretion, find that the prospective purchaser is of good moral character, and that such pistol or cartridges are desired for legal and purely defensive purposes only, he shall approve the sale; but if, on the other hand, the chief of police should find that the prospective purchaser is not of good moral character, or that the pistol or cartridges are desired for illegal purposes, or for other than purely defensive purposes, he shall disapprove the proposed sale, and when so disapproved, it shall be unlawful for any such dealer to sell or deliver such pistol

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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or cartridges to the prospective purchaser. In the absence of the chief of police, his duties and discretion hereunder shall be performed and exercised by the officer of the police department in charge of such department during the absence of the chief.

No pistol or pistol cartridges shall be sold or delivered by any such dealer until the period of five days shall have elapsed after the service on the chief of police of the notice of the proposed sale.

14–65. *Dangerous weapons; prohibited.* No person shall within the city or its police district, sell, exchange or keep on hand for the purpose of sale any of the following named articles: Shotgun or rifle with barrel length of less than eighteen inches, knucks, dirk, sword-cane, blackjack, Bowie-knife, spring-back knife, switch-blade knife, or any knife with a blade exceeding four inches in length; but it is not the intention hereof to prohibit case knives, butcher knives or other knives customarily used for domestic or industrial purposes only.

14–66. *Exclusion from chapter.* The preceding sections of this chapter are not applicable to pawnbrokers and pawnbrokers' sales stores, they being regulated by provisions of this Code specifically relating to them; but this chapter is applicable to all other persons, and the words "persons" or "person," as used herein, shall in addition to them, include their managers, agents, clerks and employees.

15–8. *Prohibited items—Receiving.* No pawnbroker or pawnbroker's sales store shall take in pawn, or receive, sell or exchange any of the following named articles: shotgun or rifle with barrel length of less than eighteen inches, knucks, dirk, sword-cane, blackjack, Bowie-knife, spring-back knife, switch-blade knife, or any knife with a blade exceeding four inches in length; but it is not the intention hereof to prohibit case knives, butcher knives or other knives customarily used for domestic or industrial purposes only.

15–9. *Same—Possessing.* No pawnbroker or pawnbroker's sales store shall own or keep on hand any of the weapons named or referred to in the preceding section hereof.

15–10. *Pistols and cartridges; sale, notice, police findings.* All pawnbrokers and pawnbrokers' sales stores shall at all times keep in their places of business a complete list and description of all pistols and pistol cartridges owned by them or held in pawn, and this provision applies also to pistols and cartridges purchased by such stores from regular dealers in pistols and pistol cartridges. All provisions of this chapter with reference to other articles shall be applicable to the keeping and sale of pistols and pistol cartridges, and in addition thereto the following regulations and prohibitions shall be applicable to pistols and pistol cartridges:

(a) No pawnbroker or pawnbroker's sales store shall sell any pistol or pistol cartridges unless and until all of the following regulations have been complied with strictly:

Before selling any pistol or pistol cartridges, the pawnbroker or pawnbroker's sales store shall notify, in writing, the chief of police, and in such notice giving the name, address and description of the prospective purchaser. The prospective purchaser shall, at the same time, furnish to the chief of police three written and signed testimonials vouching for the general good character of the prospective purchaser, and such prospective purchaser shall also submit to having his fingerprints taken by the police department. The chief of police shall make full investigation, and should he, in his discretion, find that the prospective purchaser is of good moral character and that such pistol or cartridges are desired for legal and purely defensive purposes only, he shall approve the sale; but if, on the other hand, the chief of police should find that the prospective purchaser is not of good moral character or the pistol or cartridges are desired for illegal purposes or for other than purely defensive purposes, he shall disapprove the proposed sale, and, when so disapproved, it shall be unlawful for the pawnbroker or pawnbroker's sales store to sell such pistol or cartridges to the prospective purchaser. In the absence of the chief of police, his duties and discretion hereunder shall be performed and exercised by the officer of the police department of the city in charge of such department during the absence of the chief.

(b) No pistol or pistol cartridges shall be sold by any pawnbroker or pawnbroker's sales store until the period of five days shall have elapsed after the service on the chief of police of the notice of the proposed sale.

These regulations regarding pistols shall also be complied with before a pawnbroker or pawnbroker's sales store shall deliver a pistol to the transferee of a pawn ticket.

Decatur

16–7.1. *Same—Sale, etc., by dealers—definitions.* For the purposes of sections 16–7.2 to 16–7.5, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Dealer. Any person regularly engaged in the business of selling firearms as defined herein.

Firearms. Any pistol, revolver or derringer, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive, and a firearm muffler or a firearm silencer, or any part or parts of such weapon.

Identification. Any driver's license, birth certificate, U.S. military identification card, baptismal or christening certificate, employee's identification card; provided, same shows age and home address of employee and U.S. passport.

Person. An individual, partnership, association or corporation.

16–7.2. *Same—same—Identification of purchaser required.* No dealer in firearms as defined herein shall sell, trade or dispose of, in any way, any firearms unless the person obtaining such firearm shall furnish identification to the dealer setting forth his or her name, present address and age.

Jackson

Be it ordained by the Mayor and Council of the City of Jackson, and it is hereby ordained by the authority of the same that from and after the passage and adoption of this ordinance it shall be unlawful for any person to provide, furnish, or sell any pistol, rifle or gun to any person under the age of 21 to have, control, or possess any pistol or concealed weapons within such municipality and any person so violating this ordinance shall be guilty of disorderly conduct and subject to fine or imprisonment in the discretion of the Mayor or recorder.

Macon

14–28. *Permit required to sell or purchase pistol or revolver.* (a) It shall be unlawful for any person, merchant or pawnbroker in the City of Macon to sell any pistol or revolver to any person unless said person first presents to such person, merchant or pawnbroker a written permit issued to said person by the chief of police of the City of Macon authorizing him to purchase a pistol or revolver.

(b) It shall be unlawful for any person to purchase in the City of Macon any pistol or revolver from any person, merchant, or pawnbroker without first having secured from the chief of police of the City of Macon a written permit authorizing him to purchase a pistol or revolver.

(j) The provisions of section 14–28 of said Code, as herein enacted, shall not apply to sales of pistols or revolvers at wholesale by persons, firms and corporations, licensed by the City of Macon to sell the same at wholesale, to persons, firms or corporations, licensed by the City of Macon to sell pistols and revolvers at wholesale or retail, nor to sales at wholesale by such licensed wholesalers to any bona fide wholesale or retail dealer in pistols and revolvers whose establishment is located and whose business is transacted outside the corporate limits of the City of Macon, nor shall the provisions of section 14–28 of said Code, as herein enacted, apply to purchase of pistols and revolvers by such wholesale and retail dealers, it being the purpose and intent of this paragraph to exempt the bona fide sale at wholesale of pistols and revolvers from the application of section 14–28 of said Code.

(k) No person, who is the holder of a valid and subsisting license to carry a pistol or revolver, issued to him by the Ordinary of the County of his residence in the State of Georgia, pursuant to sections 26–5103 and 26–5104 of the Code of Georgia, 1933, annotated, shall be required to secure a permit from the chief of police in order to purchase a pistol or revolver in the City of Macon and sales of pistols and revolvers to persons, so licensed, are hereby authorized without the requirement of issuance of permits to purchase the same being issued to them by the chief of police.

Rossville

61. Be it ordained by the Mayor and the Council of the City of Rossville, Georgia: 1. That, from and after the final adoption of this Ordinance, all wholesale and retail sellers, vendors, and merchants selling, exchanging, or otherwise changing ownership or title to any and all types of firearms within the City of Rossville, Georgia, or conveying or transferring title thereto, shall, before actual delivery of such firearms, make and keep on file in his place of business a record and registration of such firearms. * * *

Savannah

"24–105. *Fire arms—Sale—Report and record.* Every person desiring to purchase or otherwise acquire in the City a pistol, revolver, or other type handgun, shall sign in duplicate and deliver to the seller or person disposing thereof an application for the purchase of a pistol, revolver, or other type handgun, containing his full name, address, height, weight, race, date of birth, place of birth, and social security (or other identification) number, the type of weapon, model, caliber or gauge, serial number and manufacturer. The application in duplicate may take the form of the United States Department of Treasury, Internal Revenue Service, Alcohol and Tobacco Tax Division Form 4473, "Fire Arms Transaction Record."

The seller or persons disposing of such weapons shall within six hours after such application, sign and attach his address and deliver the two copies of the application to the Office of the Chief of Police of the City of Savannah.

It shall be unlawful to give false information or offer false evidence of the identity of such person in making such application or in acquiring a weapon as set forth herein.

No person shall, within the City of Savannah, deliver or otherwise dispose of a pistol, revolver, or other type handgun, until

seventy-two hours shall have elapsed from the time of receipt of the application in the Office of the Chief of Police of Savannah.

No person within the City of Savannah shall sell or otherwise dispose of a pistol, revolver, or other type handgun to a person whom he has reasonable cause to believe is not a fit and proper person to possess the same, is not of sound mind, is under 21 years of age, is a drug addict, or is a person who has been convicted of a crime of violence.

* * *. Within the seventy-two hour waiting period required by this Section, the Chief of Police of Savannah or a person designated by him from his office shall inform the proposed seller or person proposing to dispose of a pistol, revolver, or other type handgun, that the applicant is not a fit and proper person to possess the weapon, is not of sound mind, is under 21 years of age, is a drug addict or is a person who has been convicted of a crime of violence, such information shall be prima facie evidence that the seller or person disposing thereof had reasonable cause to believe the applicant is unqualified to acquire such a weapon.

A crime of violence, as used in this Ordinance, shall be taken to mean murder, manslaughter, rape, mayhem, kidnapping, burglary, robbery by force, aggravated assault, and aggravated battery.

This section shall not be construed to apply to toy pistols, toy revolvers, or toy weapons of any kind.

It shall be unlawful for any person to fail, refuse, or neglect to comply with the provisions of this Section."

Tifton

Be it enacted by the City of Tifton, by and through the Board of City Commissioners of said city, and it is hereby enacted by the authority of the same that from and after passage of this Ordinance it shall be unlawful for any person, firm, or corporation within the said city to keep on hand for sale or barter, or to sell to any person, firm or corporation, any pistols or revolvers, without first obtaining fom the authorities of said city a license to sell said pistols or revolvers.

Be it further enacted that any person engaged in the sale of revolvers or pistols after having obtained a license for such sales is by this ordinance prohibited from accepting in pawn any pistol or revolver from any minor.

Valdosta

18–39. *Weapons—Sales of, regulated.* (a) It shall be unlawful for any person, firm or corporation to sell to any purchaser any pistol, dirk or switch-blade knife without complying with the following provisions of this section:

(1) The merchant or dealer from whom a prospective buyer shall seek to purchase such weapon shall, before making a sale to such prospective purchaser, obtain from such prospective purchaser his or her name; place of residence; age; occupation, and a statement as to whether applicant has been convicted of any crime of violence or charged with the violation of criminal law in this or any other state.

(2) The information obtained by such inquiry shall be entered in writing or in print upon a printed form provided therefor by the police department and shall be made in duplicate. The duplicate copy shall be delivered at once by hand or by mail to the police department.

(3) Having obtained such information, the merchant or dealer, shall forthwith, before any sale is made, contact the chief of police, or, in his absence, one authorized to act in his stead, and inform the chief or his alter ego of the information obtained from the prospective purchaser. It shall then be the duty of the chief or of the officer authorized to speak for him to advise the merchant or dealer that he may, or may not, as the case may be, sell the object involved to the customer.

(4) It shall then be the duty of the merchant or dealer promptly to deliver to the police department a duplicate of the questions propounded to the purchaser, together with a duplicate of the answers made by him, all as recorded in the printed form provided therefor. Where such a sale is made, a description of the item sold, including serial number, if any, shall be entered on said form by said seller in the place provided.

(5) For obtaining the consent and approval of the police department to make such sale, the merchant or dealer may communicate with the chief of police or with one authorized by him to act in his stead in person or by telephone. In so doing the merchant or dealer shall give full and complete information with respect to the proposed purchaser, his name, age, color, place of residence, criminal record, if any, and such other information as the police may require. Failure to furnish truthful information on the part of such purchaser shall be deemed a violation of this section.

Waycross

1. *Definitions.* The following words as used in this chapter shall have the meanings ascribed to them: (1) *Firearm.* The word "firearm", as used in this chapter, shall be construed as including any pistol, revolver, rifle or shotgun of whatever form of action, caliber or gauge. (2) *Ammunition.* The word "ammunition" shall be construed as meaning any pistol or rifle cartridge or shotgun shell and like cartridges and shells, of any caliber or gauge with bullet or projectile or shots made up within the same shell or cartridge with the propelling charge.

2. *Permit to purchase, receive or accept—Required.* It shall be unlawful for any person to purchase, receive or accept in any manner any firearm or ammunition within the city without first having obtained a written permit from the chief of police of the city authorizing such person to receive or accept such firearm or ammunition.

No person shall sell, deliver, barter or give, or otherwise transfer a firearm or ammunition within the city to any person who is not the holder of a written permit from the chief of police authorizing such person to purchase, receive or accept such firearm or ammunition. In no case shall any person deliver a firearm or ammunition to the person to whom it is to be sold or transferred until approved by the chief of police.

6. *Same—Transfer at time of sale and at time of reports.* It shall be the duty of any person who sells, transfers, or gives away any firearm or ammunition as provided in this chapter, at the time such sale, gift or delivery is made, to require the holder of such permit to deliver the permit to such person who sells, transfers or gives away any firearm or ammunition. It shall be the duty of any such person who sells, transfers or gives away any firearm or ammunition to deliver such permit to the chief of police at the time the report of such sale or gift is made, as provided in this chapter, (8–18–42, § 8.)

7. *Same—Chapter not to be construed as permit.* Nothing contained in this chapter shall be in any manner construed as a permit to carry a revolver, pistol or like firearm contrary to any ordinance of the city or the laws of the state. (8–18–42, § 9.)

8. *Reports of sales and gifts required.* Every person who sells, delivers or gives to any person in the city, except to regular dealers in such articles, any firearm or ammunition, shall, within twenty-four hours after making such sale or gift, make and file with the chief of police a legible report, written in the English language, stating therein the date of such sale or gift, the correct name, age, residence, height, weight, nationality and race of such purchaser or donee, and such written report shall also contain the make, kind, description, caliber, model, manufacturer's number or other marks of identification of such firearm or ammunition sold or delivered; provided, that each day of failure to make such report shall be a separate offense.

GUAM

*Repealed. See New Law following Wyoming

8900.1. *Firearms and destructive devices prohibited.* No person shall manufacture, purchase, sell, possess or carry any firearm or destructive device other than as hereinafter provided. Handguns and long guns may be purchased, sold, transferred, possessed and carried in accordance with the provisions of this Chapter.

8900.2. *Chapter not applicable.* This Chapter shall not apply to: (1) Law enforcement officers while engaged in official duty except to the extent that particular provisions of this Chapter are expressly made applicable to them.

(2) Persons in the Armed Forces of the United States or the National Guard, whenever such persons are engaged in official duty except to the extent that particular provisions of this Chapter are expressly made applicable to them.

8900.3. *Definitions.* (a) 'Department' means the Department of Public Safety of the government of Guam.

(b) 'Handgun' means a pistol or revolver with an overall length less than eighteen (18) inches in length.

(c) 'Long gun' means a rifle with one or more barrels more than sixteen (16) inches in length, or a shotgun with one or more barrels more than eighteen (18) inches in length.

(d) 'Gun' means a handgun or long gun.

(e) 'Carry' means having on one's person or in a motor vehicle or other conveyance.

(f) 'Firearm' means (1) a shotgun having a barrel or barrels of less than eighteen (18) inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than twenty-six (26) inches or a barrel or barrels of less than eighteen (18) inches in length; (3) a rifle having a barrel or barrels of less than sixteen (16) inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than twenty-six (26) inches or a barrel or barrels of less than sixteen (16) inches in length; (5) any other weapon, as defined in subsection (j); (6) a machinegun; (7) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Director finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(g) 'Machinegun' means any weapon which shoots, is designed to shoot, or can be readily

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restored to shoot, automatically more than one shot, without manual reloading by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

(h) 'Rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(i) 'Shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(j) 'Any other weapon' means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels twelve (12) inches or more, less than eighteen (18) inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(k) 'Destructive device' means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellent charge of more than four (4) ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term 'destructive device' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordinance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of Section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(l) 'Antique firearm' means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(m) 'Unserviceable firearm' means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(n) 'Make' and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this Chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

(o) 'Transfer' and the various derivatives of such word shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

(p) 'Dealer' means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

(q) 'Importer' means any person who is engaged in the business of importing or bringing firearms into Guam.

(r) 'Manufacturer' means any person who is engaged in the business of manufacturing firearms.

(s) 'Concealed weapon' means a gun firearm or destructive device carried on a person in such a manner that it cannot be seen by the naked eye, but would be available for use by the individual attempting this concealment or by any other person aware of the gun's existence.

8900.4. *Identification cards.* (a) No person shall acquire any handgun, long gun or ammunition unless he hold a valid identification card issued pursuant to this Chapter. The identification card is evidence of the holder's eligibility to possess and use or carry, handguns, long guns or ammunition.

(b) Indentification cards shall be issued and reviewed every three (3) years only by the Department of Public Safety or pursuant to regulations made by the Department by designated law enforcement agencies of local government. The identification card shall have on its face all of the following:

(1) The name and address of the holder.

(2) The sex, height and weight of the holder.

(3) The birth date of the holder.

(4) The date of expiration for the card which shall be three (3) years from the date of the holders next birthday.

(5) A photograph of the holder taken by the issuing agency immediately prior to issuance.

(6) An endorsement setting forth the extent of the holder's eligibility to possess, use and carry guns, and whether or not the holder may carry a concealed weapon.

(7) The number of the identification card.

(c) An applicant for an identification card shall make application therefor on a form approved by the Department of Public Safety and shall supply such information as may be necessary to afford the issuing agency reasonable opportunity to ascertain the facts required to appear on the face of the identification card, and to determine whether the applicant complies with all requirements of this Chapter to possess and use, or carry handguns, long guns, or either as the case may be.

(d) No identification card shall issue, unless the issuing agency is satisfied that the applicant may lawfully possess and use, or carry guns of the type or types enumerated on the identification card. Unless the application for use and possession is denied, the identification card shall issue within thirty (30) days from the date of application, or, if the identification card includes eligibility to carry a handgun, within sixty (60) days.

(e) No person shall be issued an identification card if he has been:

(1) Acquitted of any criminal charge by reason of insanity.

(2) Adjudicated mentally incompetent.

(3) Convicted of a crime of which actual or attempted personal injury or death is an element.

(4) Convicted of a crime in connection with which firearms or other dangerous devices were used or found in his possession.

(5) Convicted of a crime of which the use, possession or sale of narcotics or dangerous drugs is an element.

(6) Convicted of any felony.

(f) Identification cards shall not be issued to any person who is not a citizen of the United States, except a duly accredited official representative of a foreign country. Cards for official representatives shall expire when such persons no longer represent their country, when their term of office expires, when they have been decertified or when their reason for having such an identification card expires.

(g) No person shall be issued an identification card if he has a physical or mental defect, condition, illness, or impairment which makes him unable to use a gun with proper control.

Any person suffering from a physical or mental defect, condition, illness or impairment which would make him ineligible for an identification card pursuant to this paragraph may submit the certificate of a physician licensed to practice in this territory to the issuing agency or officer. If the certificate states that in the best opinion of the subscribing physician the defect, condition, illness or impairment does not make the applicant incapable of possessing and using a gun without danger to the public safety, the identification card may be issued.

(h) Any person who is ineligible for an identificaion card by reason of conviction of a crime, which is not a felony, may be issued such a card if his most recent discharge from probation or parole or the termination of his most recent sentence, whichever is later, is more than ten (10) years from the time of application for identification card and if the issuing agency finds that his record, taken as a whole, does not indicate that his possessing and using, or carrying, a gun, as the case may be, are not likely to constitute a special danger to the public safety.

8900.5. *Purchase, possession and use of handgun.* No person shall purchase, possess or use a handgun, unless he is the holder of an identification card issued pursuant to this Chapter evidencing the eligibility of such person to purchase, possess and use a handgun. Such person shall be at least eighteen (18) years of age.*

8900.7. *Purchase, possession and use of long guns.* (a) No person shall purchase, possess or use a long gun, unless he meets all the requirements of Section 8900.4, of this Chapter except as modified in this Section

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

and is the holder of an identification card issued pursuant to this Chapter.

(b) Any person otherwise meeting the requirements of Section 8900.4 of this Chapter may purchase a long gun if he is at least eighteen (18) years of age.

(c) Any person who otherwise meets the requirements of Section 8900.4 of this Chapter and is the holder of an identification card issued pursuant to this Chapter may possess and use a long gun if he is at least fourteen (14) years of age, or if between the ages of ten (10) and fourteen (14) years, is accompanied by a person at least eighteen (18) years of age who is the holder of an identification card issued pursuant to this Chapter, who is the registered owner of such long gun and who is carrying cards demonstrating the same.

8900.8. *New residents.* Any United States citizen who is in legal possession of a gun or ammunition therefor pursuant to the laws of the jurisdiction of any other territory or state of the United States shall have a period of thirty (30) days after having arrived in Guam in which to apply for an identification card and during that period, may continue to use the gun and, for that purpose, the gun is legally in his possession until an identification card is issued or denied to him. Thereafter, his purchase, possession and use of guns or ammunition shall be in accordance with the requirements of this Chapter and any regulations pursuant thereto.

8900.9. *Law enforcement officers.* (a) Possession, use and carriage of guns, other firearms and dangerous devices by law enforcement officers derives from the laws governing the powers, functions and organizations of the police and other organized forces of peace officers. Eligibility of law enforcement officers to possess, use and carry guns, other firearms or dangerous devices is not subject to the holding of identification cards or any other qualifications prescribed in this Chapter or in regulations pursuant thereto.

(b) Transfer of any gun from or to a law enforcement officer or agency shall, except as provided in Subsection (a) of this Section, be subject to the provisions of this Chapter and regulations made pursuant thereto.

8900.10. *Transfers of guns.* (a) No dealer, manufacturer or wholesaler shall transfer handguns or long guns, except pursuant to an annual license therefor as provided in this Section.

(b) Any person, firm, corporation, association, or other entity proposing to engage in the business of selling guns at retail shall apply for a dealer's license. The application shall contain the following information:

(1) The name and address of the applicant, including the address of each separate location within this territory at which the applicant proposes to do business pursuant to the license, and

(2) If the applicant is a partnership or association, the names and addresses of the partners or associates, or

(3) If the applicant is a corporation, the names and addresses of the officers and directors.

(4) Such other information bearing on the applicant's ability to operate the business in a manner consonant with the public safety as the Department of Public Safety may require.

8900.14. *Repair.* (a) No person, other than a dealer or manufacturer licensed pursuant to this Chapter shall repair guns or accept the same for repair.

(b) No person shall accept any gun for repair, unless he is shown an identification card evidencing eligibility of the holder to possess and use a gun of the type offered for repair. Prior to returning any such gun, the manufacturer or dealer shall make a record identical with that required for the purchase of a gun pursuant to Section 8900.13, and shall maintain such record for at least one (1) year.

(c) Nothing in this Section shall be construed to prohibit the repair or maintenance of a gun by the owner thereof.

8900.15. *Ammunition.* (a) No person may sell ammunition, unless he is a manufacturer, wholesaler or dealer, licensed pursuant to this Chapter. If the sale is other than to another manufacturer, wholesaler or dealer, the sale shall not be made until the seller has ascertained that the purchaser is the holder of an identification card evidencing eligibility to possess and use a gun of the type for which the ammunition is suited. Upon sale, the seller shall record the quantity, type and caliber or gauge sold or transferred, the name and address of the purchaser and the number of the purchaser's identification card. United States citizens authorized to possess and use guns and ammunition pursuant to Section 8900.8 of this Chapter, may purchase ammunition for a gun upon presentation of his nonresident gun license or hunting license and, in such case, the seller may substitute full information identifying the nonresident gun license or hunting license for information concerning the identification card.

(b) No person who has purchased ammunition shall sell it to any person other than a dealer licensed pursuant to this Chapter. Upon receipt of ammunition, the dealer shall make, keep and transmit all records with respect to the ammunition in the manner required by this Section for ammunition sold by him.

8900.16. *Private sale or transfer.* No person other than a manufacturer, wholesaler or dealer licensed pursuant to this Chapter shall transfer a gun to any person other than a manufacturer, wholesaler or dealer without first ascertaining that the transferee is the holder of an identification card issued pursuant to this Chapter. Prior to any such transfer, the transferor shall furnish to the Department of Public Safety in person or by registered or certified mail, return receipt requested, a properly completed form approved by the Department providing information equivalent to that required to be furnished by a dealer upon the transfer by him of a gun.

8900.17 *Security transactions.* (a) No person, other than a licensed dealer, shall receive a gun as a pledge or pawn, or in any other manner as security.

(b) A dealer receiving a gun as a pledge, pawn, or otherwise as security, shall record promptly the date of receipt; the full description of the item or items received (including the manufacturer, type and serial number or numbers, if any); the name and address of the person making the pledge, pawn, or other deposit as security; and the number of said person's identification card. No dealer shall accept the pledge, pawn, or other deposit as security unless the person making the same exhibits an identification card evidencing his entitlement to possess and use a gun of the type involved. A dealer shall further immediately report to the Department of Public Safety any person attempting to pledge or pawn a weapon for which he does not have an identification card.

(c) Upon the return or other disposition of the gun in his possession pursuant to this Section, the dealer shall make a record of the return or other disposition, including the date thereof and the name and address of the person to whom the gun was returned or disposed. No gun shall be returned or disposed of to any person who, at the time of such return or disposition, does not exhibit a valid identification card issued in his own name and entitling him to possess and use the type of gun involved.

8900.18 *Manufacturers and wholesalers.* (a) No person shall manufacture or deal in guns or ammunition at wholesale unless:

(1) He is the holder of a dealer's license issued pursuant to Section 8900.11; or

(2) He is the holder of a license issued pursuant to this Section. * * *.

(d) No dealer or wholesaler on Guam shall sell any gun unless it has been assigned a unique serial number and such number has been inscribed in or on the gun in such manner as will resist removal, alteration, defacement or obliteration. The Department of Public Safety may make regulations for the style of such serial numbers and for the manner of their inscription.

8900.20 *Cancellation, denial, suspension and revocation of licenses.* (a) Any license issued pursuant to this Chapter shall be surrendered for cancellation immediately on the discontinuance or termination of business or upon the holder's discontinuing the manufacturing, selling, acquisition for sale or repair of guns and the sale of ammunition. * * *.

(d) Any person who, by reason of the suspension or revocation of his identification card is no longer eligible to continue in possession of a gun, shall surrender any and all guns and ammunition to the Department of Public Safety or shall dispose of the guns and ammunition forthwith under the direction and supervision of the Department of Public Safety. In the case of suspension of an identification card, the owner of the gun or ammunition may request that the Department of Public Safety keep same during the period of suspension and, except as herein provided, the gun or ammunition shall be restored to the owner when he again becomes eligible to possess same and requests return. Any gun or ammunition in the possession of the Department of Public Safety pursuant to this subsection may be disposed of, without compensation to the owner, upon revocation of the suspended identification card or at the end of thirty (30) days after receipt. However, if proceedings in connection with the suspension or revocation are not yet finally determined, disposal shall not be until such final determination has been made. * * *.

8900.21. *Shipment and delivery of guns and ammunitions.* (a) Any person who ships, transports or delivers guns to a manufacturer, wholesaler or dealer in this territory shall, before delivery, furnish to the Department of Public Safety an invoice listing his name and address, the name and address of the manufacturer, wholesaler or dealer to whom such guns are to be delivered, the place of origin of the shipment, the number of guns of each type and the manufacturer and serial number of each gun in the shipment. No manufacturer, wholesaler or dealer shall purchase or accept delivery of any gun from any person failing to comply with the provisions of this paragraph.

(b) Any person who ships, transports or delivers ammunition to a manufacturer, wholesaler or dealer in this territory shall, before delivery, furnish to the Department of Public Safety an invoice listing his name and address, the name and address of the manufacturer, wholesaler or dealer to whom the ammunition is to be delivered, the place of origin of the shipment and the quantity of ammunition of each type in the shipment. No manufacturer, wholesaler or dealer shall

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purchase or accept delivery of any ammunition from any person failing to comply with the provisions of this paragraph.

(c) If shipment is by common carrier, a copy of the invoice required by Subsections (a) and (b) shall be delivered to the common carrier. No common carrier shall knowingly deliver a shipment of guns or ammunition to any manufacturer, wholesaler or dealer within this territory without having received a copy of such invoice. The copy of the invoice shall be left with the manufacturer, wholesaler or dealer at the time of delivery.

8900.23. *Prohibitions.* No person shall: (a) Manufacture, purchase, sell, possess or carry any firearm or destructive device, except a registered handgun or long gun for which such person is authorized pursuant to this Chapter to manufacture, purchase, sell, possess or carry.

(b) Knowingly remove, obliterate or alter the serial number of any gun.

(c) Knowingly deface, alter or destroy an identification card.

(d) Acquire, possess or use any firearm silencer or muffler.

8900.25. *Emergencies.* In case of emergency concerning the public safety declared by the Governor, all establishments dealing in guns or ammunition may be ordered closed by order of the Governor and required to remain closed during the continuance of the emergency. During any such closure, any and all guns and ammunition belonging to or in the keeping of a closed establishment may be impounded.

8900.26. *Guns on effective date of Act.* (a) Any person having in his possession a gun on the effective date of this Act shall, within ninety (90) days of such effective date, furnish to the Department of Public Safety on a form approved by the Department equivalent information concerning any gun in his possession. No person possessing an unregistered gun and complying with the provisions of this Section shall be subject to any penalty under this or any other law for possession of an unregistered gun.

(b) If, prior to the expiration of the ninety (90) day period provided in Subsection (a), the gun is transferred, the transferor shall comply with the provisions of this Act for furnishing of information on transfer and need not comply with Subsection (a).

HAWAII

State Law

HAWAII REVISED STATUTES

134-1. *Definitions.* As used in this chapter: "Firearm" means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon, and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

"Crime of violence" means any of the following crimes, namely: murder, manslaughter, rape, kidnapping, robbery, burglary, and those certain crimes set forth in sections 724-4, 724-5 and 734-6.

Pistol" or "revolver" means any firearms of any shape whatsoever with barrel less than twelve inches in length and capable of discharging loaded ammunition or any noxious gas.

134-2. *Registration, mandatory.* Every person arriving in the State who brings with him firearms of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, or ammunition of any type and description, shall within forty-eight hours after arrival, register the same with the chief of police of the county of his place of business or if there be no place of business, his residence, or if there be neither place of business, or if there be no place of sojourn.

Registration shall not be required for: (a) any device designed to fire loose black powder; (b) a device not designed to fire or made incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition; and/or (c) all unserviceable firearms and destructive devices registered with the Director, Alcohol, Tobacco and Firearms Division of the U.S. Internal Revenue Service as provided in Part 179 of Title 26, Code of Federal Regulations.

The registration shall be on such forms as may be designated by the department of the attorney general and shall include a description of the class of firearms and ammunition owned by him, or in his possession, together with the name of the maker and the factory number, if known or ascertainable, and the source from which possession was obtained.

Within ten days after the end of each month the respective chiefs of police shall furnish to the department duplicate copies of all registrations made during the preceding month.

No fee shall be charged for the registration.

Any person who fails to comply with this section shall be fined not more than $250.

134-3. *Permits to acquire; registration; penalty.* No person shall acquire the ownership of a firearm of any description (other than a rifle or shotgun having a barrel length of eighteen inches or over), whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight or otherwise, until he has first procured from the chief of police of the county of his place of business, or if there be no place of business, his residence, or if there be neither place of business nor residence, his place of sojourn, a permit to acquire as prescribed herein; provided, when title to any such firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of same. Further, no person shall keep in his possession any such firearm which is owned by another, irrespective of whether or not the owner has consented to its possession, without a permit from the chief of police of the aforesaid county; provided, that any pistol or revolver, which is registered under, and in respect of which the owner has fully complied with, this chapter, may be loaned to another even though he be a minor, upon a target range, for a period not longer than to allow the other person to then and there use it for target shooting, without a permit.

Each chief of police may issue permits, within his jurisdiction, to acquire such firearms, to citizens of the United States, at the age of eighteen years or more, and to duly accredited official representatives of foreign nations. Each chief of police may also issue permits to aliens of the age of twenty years or more for use of rifles and shotguns for a period not exceeding sixty days, after the alien has first procured a hunting license under sections 191-1 to 191-6.

Applications for the permits shall be signed by the applicant upon forms to be specified by the department of the attorney general and shall be signed by the issuing authority. One copy of the permit shall be retained by the issuing authority, as a permanent official record. The permit shall be void unless used within ten days after the date of issue. In all cases where possession is acquired from another person in the State the permit shall be signed in ink by the holder thereof and shall be delivered to and taken up by the person who is transferring title to the firearm, who shall make entry thereon setting forth in the space provided, the name of the person to whom the firearm was transferred, and the make, style, caliber, and number as applicable. He shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. In case receipt of the firearm is had by mail, express, freight or otherwise, from sources without the State, the person to whom the permit has been issued shall make the prescribed entries thereon, sign it in ink, and cause it to be delivered, or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm. No person shall sell, give, loan, or deliver into the possession of another any firearm or ammunition except in accordance with this section.

Any person acquiring a firearm under this section shall, within five days of acquisition, register it in the manner prescribed by section 134-2.

No fee shall be charged for permits under this section.

134-4. *Transfer of rifles and shotguns.* No transfer of any rifle or shotgun having a barrel length of eighteen inches or over, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, shall be made in any event to any person under the age of eighteen years, and no person under the age of twenty years shall possess any such rifle or shotgun, except as provided by section 134-5.

It shall be unlawful for any person to own or possess such rifle, unless he is a citizen of the United States, or an alien who has procured a hunting license under sections 191-1 to 191-6 and a firearms permit under section 134-3.

134-5. *Possession by licensed hunters and minors.* Any person of the age of sixteen years or over, and any person under the age of sixteen years while accompanied by an adult, who has procured a hunting license under sections 191-1 to 191-6, may, while actually engaged in hunting or while going to and from the place of hunting, or while actually engaged in target shooting upon a target range, carry and use any lawfully acquired rifle or shotgun and suitable ammunition therefor.

134-7. *Ownership or possession by fugitive from justice or by person convicted of certain crimes prohibited; * * *.* (a) No person who is a fugitive from justice shall own or have in his possession or under his control any firearm or ammunition therefor. As used in this section the term "fugitive from justice" means any person who has fled from any State, territory, the District of Columbia, or possession of the United States to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding.

(b) No person who has been convicted in this State or elsewhere, of having committed a felony, or of the illegal use, possession, or sale of any drug, shall own, or have in his possession, or under his control any firearm or ammunition therefor.

134-8. *Ownership, etc., of machine guns, automatic rifles, silencers, etc., prohibited; penalty.* The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, submachine guns, automatic rifles, or rifles with barrel lengths less than 16 inches, or shotguns with barrel

length less than 18 inches, cannon, mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms, or any hand grenade, dynamite or other explosives, blasting caps, bombs or bombshell is prohibited. Any person violating this section shall be imprisoned for a term of not less than two years nor more than five years, without probation.

134-10. *Alteration of identification marks prohibited; penalty.* No person shall wilfully alter, remove, or obliterate the name of the make, model, manufacturer's number, or other mark of identity of any firearm or ammunition. Possession of a firearm or ammunition upon which any mark of identity has been altered, removed, or obliterated shall be presumptive evidence that the possessor has altered, removed, or obliterated the same. Any person who violates this section shall be imprisoned for a term of not less than one year nor more than two years, without probation.

134-11. *Exemptions.* Sections 134-6 to 134-9 shall not apply:

(1) To members of police departments, sheriffs, members of military and naval forces of the State and of the United States, mail carriers, and law enforcement officers;

(2) To regularly enrolled members of any organization duly authorized to purchase or receive the weapons from the United States or from the State, provided the members are at, or going to or from their places of assembly, or target practice;

(3) To persons employed by the State or subdivisions thereof or the United States whose duties require them to be armed, while the persons are in the performance of their respective duties, or while going to and from their respective places of duty;

(4) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii while on official assignment in that State to carry firearms without registration. The governor of the State or his duly authorized representative may enter into compacts with other States to carry out this section.

Nor shall sections 134-2 and 134-3 apply to such firearms or ammunition as are a part of the official equipment of any federal agency.

134-31. *License to sell and manufacture firearms; fee.* The annual fee for a license to sell and manufacture firearms for sale in the State either at wholesale or retail, shall be $10, and shall be payable to said director of finance. A license issued hereunder shall expire on June 30 next following the date of issuance of the license unless sooner terminated. Application for renewal of license shall be filed on or before June 30 of each year.

134-32. *License to sell and manufacture firearms; conditions.* Every license issued pursuant to this part shall be issued and shall be regarded as having been accepted by the licensee subject to the following conditions:

(1) That the licensee shall at all times comply with all provisions of law relative to the sale of firearms.

(2) That the license may during any time of national emergency or crisis, as defined in section 134-34, be canceled or suspended.

(3) That all firearms in the possession and control of any licensee may at any time of national emergency or crisis, as defined in section 134-34, be seized and held in possession or purchased by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the licensee and the government of the United States or the government of the State may agree upon some other disposition of the same.

134-34. *National emergency, when.* A national emergency or crisis shall be deemed to have arisen when the governor, the commanding general of the U.S. Army, Pacific, and the commandant of the 14th Naval District and Hawaiian Sea Frontier have, in the exercise of their discretion, so determined.

IDAHO

State Law

IDAHO CODE TITLE 18

18-3302. *Concealed and dangerous weapons—Possession and exhibition—Sale to minors.* If any person, excepting officials of a county, officials of the state of Idaho, officials of the United States, peace officers, guards of any jail, or any officer of any express company on duty, shall carry concealed upon or about his person, any dirk, dirk knife, bowie knife, dagger, sling shot, pistol, revolver, gun or any other deadly or dangerous weapon within the limits or confines of any city, town or village, or in any public assembly, or in any mining, lumbering, logging, railroad or other construction camp, public conveyances or on public highways within the state of Idaho, or shall, in the presence of one or more persons, exhibit any deadly or dangerous weapon in a rude, angry or threatening manner, or shall have or carry such weapons upon or about his person when intoxicated or under the influence of intoxicating drinks, or shall, directly or indirectly, sell or deliver, loan or barter to any minor under the age of sixteen years any such weapon without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine of not less than $25.00 nor more than $200.00, and by imprisonment in the county jail for a period of not less than twenty days nor more than ninety days: provided, however, that any person shall be allowed to carry any of the above weapons in the places mentioned above on securing a permit from the sheriff of the county after satisfying the sheriff or the necessity therefor.

18-3308. *Selling explosives, ammunition or firearms to minors.* No person, firm, association or corporation shall sell or give to any minor under the age of sixteen years any powder, commonly called gunpowder, of any description, or any dynamite or other explosive, or any shells or fixed ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of twenty-two caliber or smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five dollars nor more than $100, or be imprisoned in the county jail not less than ten days nor more than thirty days, or be punished by both such fine and imprisonment in the discretion of the court.*

18-3314. *Resident's purchase of firearm in contiguous state.*—Residents of the state of Idaho may purchase rifles and shotguns in a state contiguous to Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such a purchase in Idaho and in the contiguous state in which the purchase is made.

18-3315. *Resident of contiguous state—Purchase of firearm in Idaho.*—Residents of a state contiguous to the state of Idaho may purchase rifles and shotguns in Idaho, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such purchase in Idaho and in the state in which such persons reside.

ILLINOIS

State Law

ILL. ANN. STATS. (SMITH-HURD) CHAPTER 38

24-1. *Unlawful use of weapons.* (a) A person commits the offense of unlawful use of weapons when he knowingly:

(3) Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance; or

(4) Carries concealed in any vehicle or concealed on or about his person except when on his land or in his own abode or fixed place of business any pistol, revolver or other firearm; or

(5) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries any weapon from which more than 8 shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than 18 inches in length, or any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails.

24-2. *Exemptions* (a) Subsections 24-1(a)(3), 24-1(a)(4) and 24-1(a)(10) do not apply to or affect any of the following:

(1) Peace officers or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

(2) Warden, superintendents and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense, while in the performance of their official duty, or while commuting between their homes and place of employment.

(3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard or the Reserve Officers Training Corps, while in the performance of their official duty.

(4) Special agents employed by a railroad or a public utility to perform police functions while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment; watchmen while actually engaged in the performance of the duties of their employment; security guards while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment, provided that such commuting is accomplished within one hour from departure from home or place of employment, as the case may be, and that such security guard has successfully completed a course of study, approved by and supervised by the Depart-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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ment of Registration and Education, consisting of not less than 30 hours of training which shall include theory of law enforcement, liability for acts and the handling of weapons, provided, however, that any person who has been employed as a security guard for six months prior to the effective date of this Amendatory Act shall not be required to have successfully completed such course until July 1, 1974. The Department of Registration and Education shall provide suitable documentation to demonstrate the successful completion of such course. Such documentation shall be carried by the security guard at all times when he is in possession of a concealable weapon. For purposes of this Section, Security guards means persons employed by a licensed detective agency as defined by "AN ACT to provide for Licensing and Regulating Detectives and Detective Agencies," approved June 26, 1933, as amended, who are so employed for any of the purposes enumerated in Section 1(B) of such Act.

(5) Agents and investigators of the Illinois Legislative Investigating Commission authorized by the Commission to carry the weapons specified in Subsections 24–1(a)(3) and 24–1(a)(4), while on duty in the course of any investigation for the Commission.

(G) Manufacture, transportation, or sale of weapons to persons authorized under (1) through (5) of this Subsection to possess those weapons.

(h) Subsections 24–1(a)(4) and 24–1(a)(10) do not apply to or affect any of the following:

(1) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, patrons of such ranges while such members or patrons are using their firearms on those target ranges.

(2) Duly authorized military or civil organizations while parading, with the special permission of the Governor.

(3) Licensed hunters or fishermen while engaged in hunting or fishing.

(4) Transportation of weapons broken down in a non-functioning state or not immediately accessible.

(c) Subsection 24–1(a)(7) does not apply to or affect any of the following:

(1) Peace officers.

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.

(3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duty.

(4) Manufacture, transportation, or sale of machine guns to persons authorized under (1) through (3) of this Subsection to possess machine guns, if the machine guns are broken down in a non-functioning state or not immediately accessible.

(d) Subsection 24–1(a)(1) does not apply to the purchase, possession or carrying of a black-jack or slung shot by a peace officer.

(e) Subsection 24–1(a)(8) does not apply to any owner, manager or authorized employee of any place specified in that Subsection nor to any law enforcement officer.

(f) Subsection 24–1(a)(10) does not apply to members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while using their firearms on those target ranges.

(g) An information or indictment based upon a violation of any Subsection of this Article need not negative any exemptions contained in this Article. The defendant shall have the burden of proving such an exemption.

24–3. *Unlawful sale of firearms.* A person commits the offense of unlawful sale of firearms when he knowingly:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under 18 years of age; or *

(b) Sells or gives any firearm to a person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; or

(c) Sells or gives any firearm to any narcotic addict; or

(d) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction within 5 years from release from the penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed; or

(e) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past 5 years; or

(f) Sells or gives any firearms to any person who is mentally retarded; or

(g) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun for at least 24 hours after application for its purchase has been made. However, this paragraph shall not apply to: (1) the sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his employment as a bank guard, armed truck guard, or other similar employment; or (2) a mail order sale of a firearm to a nonresident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; or (3) the sale of a firearm to a nonresident of Illinois while at a firearm showing or display recognized by the Illinois Department of Law Enforcement; or (4) the sale of a firearm to a dealer licensed under the Federal Firearms Act of the United States.

(h) While holding any license under the Federal "Gun Control Act of 1968", as amended, as a dealer, importer, manufacturer or pawnbroker; manufactures, sells or delivers to any unlicensed person a handgun having a barrel, slide, frame or receiver which is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit. For purposes of this paragraph, (1) "firearm" is defined as in "An Act relating to the acquisition, possession and transfer of firearms and firearm ammunition, to provide a penalty for the violation thereof and to make an appropriation in connection therewith", approved August 3, 1967, as amended; (2) "handgun" is defined as a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which a firearm can be assembled.

(i) Paragraph (h) of this Section shall not include firearms sold within 6 months after enactment of this amendatory Act of 1973, nor shall any firearm legally owned or possessed by any citizen or purchased by any citizen within 6 months after the enactment of this amendatory Act of 1973 be subject to confiscation or seizure under the provisions of this amendatory Act of 1973. Nothing in this amendatory Act of 1973 shall be construed to prohibit the gift or trade of any firearm if that firearm was legally held or acquired within 6 months after the enactment of this amendatory Act of 1973.

24–3.1. *Unlawful possession of firearms and firearm ammunition.* (a) A person commits the offense of unlawful possession of firearms or firearm ammunition when:

(1) He is under 18 years of age and has in his possession any firearm of a size which may be concealed upon the person.

(2) He is under 21 years of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession; or

(3) He has been convicted of a felony under the laws of this or any other jurisdiction within 5 years from release from the penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed, and has any firearms or firearm ammunition in his possession; or

(4) He is a narcotic addict and has any firearms or firearm ammunition in his possession; or

(5) He has been a patient in a mental hospital within the past 5 years and has any firearms or firearm ammunition in his possession; or

(6) He is mentally retarded and has any firearms or firearm ammunition in his possession.

24–5. *Defacing identification marks of firearms.* (a) Any person who shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification of any firearm commits a Class A misdemeanor.

(b) Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

83–1. *Legislative declaration.* It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety and welfare of the public, it is necessary and in the public interest to provide a system of identifying persons who are not qualified to acquire or possess firearms and firearm ammunition within the State of Illinois by the establishment of a system of Firearm Owner's Identification Cards, thereby establishing a practical and workable system by which law enforcement authorities will be afforded an opportunity to identify those persons who are prohibited by Section 24—3.1 of the "Criminal Code of 1961", as amended,[1] from acquiring or possessing firearms and firearm ammunition.

83–1.1. *Definitions.* For purposes of this Act: "Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

(1) any pneumatic gun, spring gun, or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter;

(2) any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(3) any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition;

(4) an antique firearm (other than a machine-gun) which, although designed as a weapon, the Department of Law Enforcement finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

"Firearm Ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm; excluding, however:

(1) any ammunition exclusively designed for use with a device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(2) any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

83–2. *Requisites for acquisition or possession—Exempted persons or entities.* (a) No person may acquire or possess any firearm or any firearm ammunition within this State without having in his possession a Firearm Owner's Identification Card previously issued in his name by the Department of Law Enforcement under the provisions of this Act.

(b) The provisions of this Section regarding the possession of firearms and firearm ammunition do not apply to:

(1) United States Marshals, while engaged in the operation of their official duties;

(2) Members of the Armed Forces of the United States or the National Guard, while engaged in the operation of their official duties;

(3) Federal officials required to carry firearms, while engaged in the operation of their official duties;

(4) Law enforcement officials of this or any other jurisdiction, while engaged in the operation of their official duties;

(5) Members of bona fide veterans organizations which receive firearms directly from the armed forces of the United States, while using such firearms for ceremonial purposes with blank ammunition.

(6) Nonresident hunters during hunting season, with valid nonresident hunting licenses and while in an area where hunting is permitted; however, at all other times and in all other places such persons must have their firearms unloaded and enclosed in a case;

(7) Nonresidents while on a firing or shooting range recognized by the Department of Law Enforcement; however, such persons must at all other times and in all other places have their firearms unloaded and enclosed in a case;

(8) Nonresidents, while at a firearm showing or display recognized by the Department of Law Enforcement; however, at all other times and in all other places such persons must have their firearms unloaded and enclosed in a case;

(9) Nonresidents, whose firearms are unloaded and enclosed in a case; and

(10) Nonresidents, who are currently licensed or registered to possess a firearm in their resident state; and

(11) Unemancipated minors while in the custody and immediate control of their parent or legal guardian or other person in loco parentis to such minor if such parent or legal guardian or other person in loco parentis to such minor has a currently valid Firearm Owner's Identification Card.

83–3. *Requisites for transfer.* (a) No person within this State may knowingly transfer, or cause to be transferred, any firearm or any firearm ammunition to any person within this State unless the transferee with whom he deals displays a currently valid Firearm Owner's Identification Card which has previously been issued in his name by the Department of Public Safety under the provision of this Act.

(c) The provisions of this Section regarding the transfer of firearm ammunition shall not apply to those persons specified in paragraph (b) of Section 2 of this Act. (Chapter 38, § 83–2.)

83–6. *Contents of identification card.* A Firearm Owner's Identification Card, issued by the Department of Public Safety at such places as the Director of the Department shall specify, shall contain the applicant's name, residence, date of birth, sex, physical description, recent photograph and such other personal identifying information as may be required by the Director. Each Firearm Owner's Identification Card must have printed on it the following: "CAUTION—This card does not permit bearer to UNLAWFULLY carry or use firearms."

83–7. *Duration of identification card.* Except as provided in Section 8 of this Act (Chapter 38, § 83–8), a Firearm Owner's Identification Card issued under the provisions of this Act shall be valid for the person to whom it is issued for a period of 5 years from the date of issuance.

83–8. *Denial of application or revocation and seizure of identification card—Grounds.* The Department of Law Enforcement has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under this Act only if the Department finds that the applicant or the person to whom such card was issued is or was at the time of issuance:

(a) A person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent;

(b) A person under 21 years of age who does not have the written consent of his parent or guardian to acquire and possess firearms and firearm ammunition, or whose parent or guardian has revoked such written consent, or where such parent or guardian does not qualify to have a Firearm Owner's Identification Card;

(c) A person convicted of a felony under the laws of this or any other jurisdiction within the prior 5 years or a person confined to a penitentiary within the prior 5 years;

(d) A person addicted to narcotics;

(e) A person who has been a patient of a mental institution within the past 5 years; or

(f) A person who is mentally retarded.

Addison

2. *Permit.* It shall be unlawful for any person to sell or give away to any person within the Village of Addison any firearm unless such person so purchasing or receiving such firearm shall have a valid State of Illinois Gun Owner's Identification Card and shall have secured a written permit for the purchase of said firearm from the Chief of Police, and it shall be the duty of the person selling or giving away firearms to receive and keep such written permits from the Chief of Police in a permanent file for inspection purposes. Every such person with a license to deal in firearms shall, on demand, allow the Chief of Police or his deputy to enter for inspection during normal business hours, all stock on hand and shall on request of such officer, produce for inspection all written permits issued by the Chief of Police for the sale of such firearms, and the register so required to be kept. It shall be the duty of the Chief of Police to refuse such permits to:

(A) A person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; (B) A person under 21 years of age who does not have the written consent of his parent or guardian to acquire and possess firearms and firearm ammunition, or whose parent or guardian has revoked such written consent, or where such parent or guardian does not have a currently valid Firearm Owner's Identification Card; (C) A person convicted of a felony under the laws of this or any other jurisdiction within the prior 5 years or a person confined to a penitentiary within the prior 5 years; (D) A person addicted to narcotics; (E) A person who has been a patient of a mental institution within the past 5 years; or (F) A person who is mentally retarded.

In case the Chief of Police shall find the applicant not to possess any of the above disqualifications, it shall be his duty to grant such permit.

4: *Minors.* It shall be unlawful for any person to sell or give away to any minor any firearm which can be concealed on the person within the corporate limits of the Village of Addison.

Alsip

442–4. *After the proclamation of a civil emergency,* the Mayor of the Village of Alsip may also, in the interest of public safety and welfare, make any or all of the following orders: * * *.

(d) order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

Alton

698. *Firearms—minors.* No person shall sell, loan, or furnish to any minor any gun, pistol, revolver or other firearm within the City of Alton; provided, that minors may be permitted, with the consent of their parents or guardians to use firearms on the premises of a duly licensed shooting gallery, gun club or rifle club.

2588.1. It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell or give away to any person within the City, any pistol, revolver, derringer, shot gun and rifle (capable of being concealed on the person), antique firearms, stiletto, sword, bayonet, and machette of all descriptions with a blade three or more inches in length or blackjack or sap, or other weapon of like character, which can be concealed on the person, without securing a license so to do * * *.

Aurora

29–24. *Unlawful use of weapons—prohibited.* (a) A person commits the offense of unlawful use of weapons when he knowingly:

(6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen (18) inches in length, or any bomb, bombshell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails; or * * *.

(c) Section 29–24(a)(7) does not apply to or affect any of the following:

(1) Peace officers.

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.

(3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duty.

(4) Manufacture, transportation, or sale of machine guns to persons authorized under (1) through (3) of this subsection to possess

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*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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machine guns, if the machine guns are broken down in a nonfunctioning state or not immediately accessible.

29–27. *Furnishing firearms to minors.* No person shall sell, loan, or furnish to any minor any gun, pistol, or other firearm within the city; provided that minors may be permitted, with the consent of their parents or guardians, to use firearms on the premises of a duly licensed shooting gallery, gun club, or rifle club.

48–11. *Dealer's license required.* It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, dagger, stiletto, billie, derringer, Bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license so to do.

48–17. *Disposing of weapon to unauthorized persons.* It shall be unlawful for any person to sell, barter, or give away to any person within the city, any deadly weapon mentioned in section 48–11, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the chief of police as hereinafter required.

48–25. *Required.* It shall be unlawful for any person to purchase any deadly weapon mentioned in section 48–11, which can be concealed on the person, without first securing from the chief of police a permit so to do.

48–33. *License required.* It shall be unlawful for any person to engage in the business of repairing any pistol, revolver, derringer, or other firearm, which can be concealed on the person without securing a license so to do.

Berwyn

36–6. *Definition.* "Firearms," for the purposes of this article, are pistols, revolvers, guns and small arms of a size and character that may be concealed upon or about the person.

36–7. *License to sell concealable firearms required.* It shall be unlawful for any person to engage in the business of selling, or to sell or give away to any person within the city, any firearms which are of such size or nature as may be concealed upon the person, without securing a license therefor.

36–9. *Licensee not to sell concealable firearms; exception.* No person having secured a license required by section 36–7 of this Code, shall sell, loan or give away any firearm described in section 36–6 of this Code to any person who has not secured a permit from the chief of police to purchase such firearm.

36–11. *Persons ineligible for permits.* No person shall be permitted to purchase a firearm without having secured a permit from the chief of police. Such permit shall not be issued to a criminal, vagabond, minor under eighteen years of age or an alien.*

Bloomington

69. *Minors—selling, etc., weapons to prohibited.* No person shall sell, give, loan, hire, barter, furnish, or offer to sell, give, loan, hire, barter or furnish to any minor within the City any gun, pistol, revolver, fowling piece, or toy firearm in which any explosive substance can be used or any Bowie knife, dirk, dagger, switch blade knife, or other deadly weapon of a like character.

Blue Island

1.01. *Definition.* "Firearms", for the purposes of this ordinance, are pistols, revolvers, derringers, handguns or small arms of such size and nature that may be readily concealed on or about the person.

2.01. *License Required.* It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell, lease, loan or give away to any resident of the City of Blue Island, any firearms which are of such size or nature as may be readily concealed on or about the person, without securing a license therefor.

6.01. *Unlawful Sale.* It shall be unlawful for any seller of firearms to sell, lease, loan or give away any firearm to any person residing in the State of Illinois unless such person shall have been issued a Firearms Owner's Identification Card as provided in the "Criminal Code of 1961" as amended, or to sell firearms in violation of the provisions of the "Criminal Code of 1961" as amended, or in violation of the provisions of any federal act regulating the sale of firearms.

7.01. *Permit Required.* It shall be unlawful for a seller of firearms to sell, lease, loan or give away any firearms to any resident of the City of Blue Island who has not secured a permit from the Chief of Police to purchase such firearm as hereinafter provided.

Cahokia

4. *No person, firm or corporation* shall sell or give or loan to any person under the age of 18 years any firearm or other deadly weapon in the Village of Cahokia, Illinois.*

Caseyville

3. *Sale of certain weapons to minors prohibited.* No person, firm or corporation shall sell or deliver, or loan or barter, either directly or inadvertently, to any minor under the age of twenty-one (21) years, any kind of firearms, bowie knife, spring back knife, razor, metal knuckles, sword, cane, dagger, sling shot, or any other similar deadly weapon, without the consent of the parent or guardian of such minor.

Centralia

16–1–4. *Unlawful use of weapons.* A person commits the offense of unlawful use of weapons when he knowingly:

(1) Sells, manufacturers, purchases, possesses or carries any bludgeon, black-jack, slung-shot, sand-club, sand-bag, shotgun with a barrel less than 18 inches in length, metal knuckles or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or

(6) Possesses any device or attachement of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries any weapon from which more than eight shots or bullets may be discharged by a single function of the firing device.

C. Subsection 16–1–4 (7) shall not apply to or affect any of the following:

(1) Peace Officers.

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of an offense.

(3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duty.

(4) Manufacture, transportation, or sale of machine guns, to persons authorized under (1) through (3) of the subsection to possess such, provided said machine guns are broken down in a non-functioning state or not immediately accessible.

16–1–6. *Unlawful sale of firearms.* A person commits the offense of unlawful sale of firearms when he knowingly:

(1) Sells or gives any firearms of a size which may be concealed upon the person to any person under 18 years of age; or*

(2) Sells or gives any firearm to any narcotic addict; or

(3) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction within 5 years from release from the penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed.

Centreville

204. *Weapons.* No pawnbroker shall receive or have in his possession as a pledge or purchase any revolver, pistol, blackjack, machine gun, or sawed-off shotgun.

Champaign

13.505. *Weapons.* No pawnbroker shall receive as a pledge or purchase any revolver, pistol, black-jack, or sawed-off shotgun. And no pawnbroker shall display in his window or shop any such weapons for sale.

Chicago

11.1–4. At the time of sale the seller shall complete a registration form, designed or approved by the City Collector, which shall contain the date of the sale or gift, the full name, address, age, physical description and occupation of the person to whom the firearm is sold or given, the price of the firearm, the kind, description and serial number or other identifying marks of the firearm, the purpose for which it is purchased and obtained, the permit number, and other relevant information deemed necessary by the City Collector.

11.1–5. At such time of sale the seller shall witness to the best of his knowledge that the information submitted on the registration form by the purchaser is true and correct and that the transaction is not in violation of the law.

11.1–6. The completed registration form, signed by both the seller and the purchaser, shall be mailed by the seller to the office of the City Collector no later than 48 hours after the sale.

11.1–8. The City Collector shall forward to every purchaser, recipient, or possessor of a registered firearm a registration certificate within 30 days of registration. The certificate shall state the full name, address, age, physical description of the registrant, the kind, description and serial number or other identifying marks of the individual firearm to which it applies, which will not be transferable and shall be carried simultaneously with the firearm and shall be exhibited to any police officer upon his demand for inspection. Registration shall not make lawful the carrying or possession of a firearm if prohibited by any other law. The registration provisions of this Chapter shall not apply to manufacturers, transporters or wholesale or retail sellers of firearms or those persons with exempt status pursuant to subsections (a)(1), (a)(2), and (a)(3) of Section 24–2 of the Illinois Criminal Code.

11.1–14. For the purposes of this Chapter the term "firearm" means any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive and a firearm muffler or firearm silencer or any part or parts of such weapon.

11.1–15. Any person under 18 years of age, any narcotic addict, any person who has been convicted of a felony under the laws of this State or any other jurisdiction within 5 years from release from penitentiary or within 5 years of conviction of penitentiary sentence has not been imposed, and any person who has been released from a mental institution or from the custody of the Illinois Youth Commission within the last 5 years, or is mentally retarded, and any person who possesses any firearm, the possession of which is prohibited by any State or Federal law relating to weapons or firearms, shall be ineligible to register pursuant to this Chapter. Any purported registration by any of the above-described persons shall be null and void.

11.1–16. A person may not possess or harbor any firearm, whether concealed or not concealed, if such person is ineligible to register such firearm with the licensing authority pursuant to the provisions of this Chapter.

183–1. It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license so to do.

183–6. It shall be unlawful for any person to sell, barter, or give away to any person within the city, any deadly weapon mentioned in section 183–1, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the superintendent of police as hereinafter required. This section shall not apply to sales made of such articles which are to be delivered or furnished outside the city.

183–7. It shall be unlawful for to purchase any deadly weapon mentioned in section 183–1, which can be concealed on the person without first securing from the superintendent of police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality, and other elements of identification of the person desiring such permit, and the applicant shall present such evidence of good character as the superintendent of police at his discretion may require.

The superintendent of police shall refuse such permit to any person under 18 years of age, any narcotic addict, any person who has been convicted of a felony under the laws of this State or any other jurisdiction within 5 years from release from penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed, and any person who has been released from a mental institution or from the custody of the Illinois Youth Commission within the last 5 years, or is mentally retarded. Otherwise, in case he shall be satisfied that the applicant is of good moral character, it shall be the duty of the superintendent of police to grant such permit.

183–9.1 *Gunsmiths.* It shall be unlawful for any person to engage in the business of repairing any pistol, revolver, derringer, or other firearm which can be concealed on the person without securing a license so to do.

Chicago Heights

30–101. *Unlawful use of weapons.* A person commits the offense of unlawful use of weapons when he knowingly:

(f) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(g) Sells, manufactures, purchases, possesses or carries any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen (18) inches in length, or any bomb, bombshell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails; or

30–104. *Unlawful sale of firearms.* A person commits the offense of unlawful sale of firearms when he knowingy:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under eighteen (18) years of age; or*

(b) Sells or gives any firearm to a person under twenty-one (21) years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; or

(c) Sells or gives any firearm to any narcotic addict; or

(d) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction within five (5) years from release from the penitentiary or within five (5) years of conviction if penitentiary sentence has not been imposed; or

(e) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past five (5) years; or

(f) Sells or gives any firearm to any person who is mentally retarded; or

(g) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least seventy-two (72) hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun for at least twenty-four (24) hours after application for its purchase has been made. However, this paragraph shall not apply to:

(1) The sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his employment as a bank guard, armed truck guard, or other similar employment; or

(2) A mail order sale of a firearm to a nonresident of this state under which the firearm is mailed to a point outside the boundaries of this state; or

(3) The sale of a firearm to a nonresident or display recognized by the state department of public safety; or

(4) The sale of a firearm to a dealer licensed under the federal firearms act.

30–105. *Unlawful possession of firearms and firearm ammunition.* A person commits the offense of unlawful possession of firearms or firearm ammunition when:

(a) He is under eighteen (18) years of age and has in his possession any firearm of a size which may be concealed upon the person.

(b) He is under twenty-one (21) years of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession; or

(c) He has been convicted of a felony under the laws of this or any other jurisdiction within five (5) years from release from the penitentiary or within five (5) years of conviction if penitentiary sentence has not been imposed, and has any firearms or firearm ammunition in his possession; or

(d) He is a narcotic addict and has any firearms or firearm ammunition in his possession; or

(e) He has been a patient in a mental hospital within the past five (5) years and has any firearms or firearm ammunition in his possession; or

(f) He is mentally retarded and has any firearms or firearm ammunition in his possession.

Cicero

38–9. *Sale or gift of deadly weapons concealable on person—License—Required.* It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license so to do.

38–12. *Application to, permission from, superintendent of police required.* No pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon can be sold unless application is made to the superintendent of police of the town stating that a request has been made for the purchase of a pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon, fully describing the type of weapon sought to be purchased, the name, address and age of purchaser and for what purpose said weapon is about to be purchased. Then if the superintendent of police of the town grants authority for said sale, then said sale shall be consummated. If in the discretion of the superintendent of police the sale of such weapons might jeopardize the safety and welfare of the people, he shall refuse to grant permission for the sale of said weapon. The same proceeding shall be followed in the event a licensee desires to give away a weapon as a gift.

38–14. *Prohibited to other than licensed dealers, or persons granted permits.* It shall be unlawful for any person to sell, barter, or give away to any person within the town, any deadly weapon mentioned in section 38–9, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the superintendent of police of the town as hereinafter required. This section shall not apply to sales made of such articles which are to be delivered or furnished outside the town.

38–15. *Purchasers required to obtain permit; permits prohibited to minors and persons convicted of crime.* It shall be unlawful for any person to purchase any deadly weapon mentioned in section 38–9 which can be concealed on the person without first securing from the superintendent of police of the town a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality, and other elements of identification of the person desiring such permit, and the applicant shall present such evidence of good character as the superintendent of police at his discretion may require.

It shall be the duty of the superintendent of police to refuse such permit to any person having been convicted of any crime, and a permit shall be refused to all minors.

Clarendon Hills

156. *Selling firearms to minors unlawful.* No person shall sell, loan or furnish to any minor, any gun, pistol, fowling piece or other firearm, air gun or toy pistol on which percussion caps are used, within the Village of Clarendon Hills, under a penalty of not less than five dollars nor more than fifty dollars for each offense.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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Countryside

8–11.01 *License required.* It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell or give away, any loaded paper shells, metallic shot, loaded cartridges, bank cartridges, percussion caps, primers, detonators, or any other explosives without having first obtained a license therefor.

8–11.11 *Minors.* It is hereby declared to be unlawful for any person to sell, deliver, or give to any person under eighteen years of age any of the items set forth in 8–11.01.

Crest Hill

1. *Violation.* It shall be unlawful for any person to engage in the business of selling or to sell, or offer for sale or give away to any person within the city any pistol, revolver, Bowie knife, dagger or other weapons of like character without securing a license to do so.

3. *Sale to minors.* None of the articles enumerated in Section 1, or of like character, shall be sold to any minor.*

5. *Permit.* No sale of any revolver, pistol, Bowie knife, or other deadly weapons which can be concealed on the person shall be made by any licensee to any purchaser unless such purchaser shall first exhibit to such licensee a permit for the purchase thereof, issued by the chief of police of this city. * * * It shall be the duty of the chief of police to refuse such permit to all minors or persons having been convicted of any crime.

Creve Coeur

6–2–17: *Unlawful use of weapons:* (A) *It shall be unlawful for any person to:* 6. Possess any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

7. Possess or carry any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen inches (18") in length, or any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance, such as, but not limited to, black powder bombs and Molotov cocktails; * * *.

Decatur

1. *Firearms:* 1. No person, firm or corporation shall sell, give, loan, hire, barter, furnish or offer for sale, or give, loan, hire, barter or furnish to any minor under the age of sixteen (16) years within the City, without the written consent of the parent or legal guardian of said minor, any gun, pistol, revolver, fowling piece or other firearm or any toy gun, toy pistol, toy fowling piece or other toy firearm in which any explosive substance can be used; or any bowie knife, dirk, dagger, slingshot or metallic knuckles, or other deadly weapon of like character **

DeKalb

52.10 *Firearms and airguns.*** (b) *Selling to minors.* No person shall sell, give, loan or furnish to any minor within the City any pistol, revolver, airgun, derringer, Bowie knife, switch blade knife, dirk or other weapon of like character (shotguns and rifles excepted).*

East Peoria

29. *Unlawful use of weapons.* (a) It shall be unlawful for any person to:

(6) Possess any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm;

(7) Possess or carry any weapon from which more than 8 shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than 18 inches in length, or any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance, such as, but not limited to, black powder bombs and Molotov cocktails.

East St. Louis

1. It shall be unlawful for any person, firm or corporation to engage in the business of selling or to sell or give away to any person within the City, or to bargain or negotiate with any person within the City for any pistol, revolver, derringer, knife, dirk, stiletto with a blade three or more inches in length, or other weapon of like character, which can be concealed on the person, without securing a license so to do * * *.

5. It shall be unlawful for any person, firm or corporation to sell, barter or give away to any person within the City of East St. Louis, Illinois, any pistol, revolver, derringer, knife, dirk, stiletto with a blade three or more inches in length, or any other weapon of like character which can be concealed on the person, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the Chief of Police * * *.

6. It shall be unlawful for any person to purchase any pistol, revolver, derringer, knife, dirk, stiletto with a blade three or more inches in length, or other weapon of like character which can be concealed on the person without first securing from the Chief of Police a permit so to do * * *.

7. It shall be the duty of the Chief of Police to refuse such permit to:

(a) All persons having been convicted of any crime;

(b) All minors.*

Elgin

30-804. *Emergency orders.* After the proclamation of a civil emergency, the Mayor of the City of Elgin may also in the interest of public safety and welfare make any or all of the following orders: (c) Order the discontinuance of selling, distributing, or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle. (d) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

Elmhurst

51.19 *Firearms to minors.* No person shall sell, loan or furnish to any minor, any gun, pistol or other firearm or any airgun or toy pistol on which percussion caps are used.*

Elmwood Park

52–3. *Definition of "firearm".* Firearms for the purposes of this chapter are pistols, revolvers, guns and small arms of a size and character that may be concealed upon or about the person.

52–5. *License to sell firearms—required.* It shall be unlawful for any person to engage in the business of selling or to sell, or give away, to any person within the village, any firearms which are of such size or nature as may be concealed upon the person, without securing a license therefor.

52–7. *Permit to purchase firearms.* No person shall be permitted to purchase a firearm without having secured a permit from the chief of police. Such permit shall not be issued to a criminal, vagabond, minor under eighteen years of age or an alien. Application for permit shall state the type of firearm desired, the name, age, sex, residence, nationality, height, weight, and complexion.

52–8. *Sales, etc., of firearms to persons without permit.* No person, having secured a license to sell firearms shall sell, loan, or give away, any such weapon to any person who has not secured a permit from the chief of police to purchase such weapon.

52–11. *Sale, etc., of firearms to minors.* No person shall sell or give to any alien or to any minor under the age of eighteen years any firearm of a size which may be concealed upon the person.

Evanston

48–6. *Permit for purchase of pistol; inspection of stock, etc.* It shall be unlawful for any person dealing in firearms to sell, barter, loan or give away to any person within the city, any pistol, revolver or other weapon of like character which can be concealed upon the person, unless such person so purchasing or receiving such weapon shall have secured a written permit for the purchase of such article, from the chief of police. * * *.

It shall be the duty of the chief of police to refuse such permit to:

(a) All persons having been convicted of any crime;

(b) All minors.*

In case the chief of police shall be satisfied that the applicant is of good moral character, it shall be his duty to grant such permit.

48–7. *Selling firearms to minors.* It shall be unlawful for any person to sell, loan or furnish to any minor, any gun, pistol, fowling-piece or other firearm, within the corporate limits of the city.*

Evergreen Park

32–11. *License required to engage in business or to sell or give away deadly weapons.* It shall be unlawful for any person to engage in the business of selling or to sell or give away any pistol, revolver, dagger, stiletto, billie, derringer, Bowie knife, dirk or other deadly weapon, which can be concealed on the person without securing a license so to do.

32–18. *Purchaser required to secure permit to purchase deadly weapon;* * * * It shall be unlawful for any person to purchase any deadly weapon mentioned in section 32–11, which can be concealed on the person without first securing from the chief of police a permit so to do.

32–36: *License required to engage in business.* It shall be unlawful for any person to engage in the business of repairing any pistol, revolver, derringer or other firearm, which can be concealed on the person without securing a license so to do.

Franklin Park

17–202. *Affidavit required for sales.* (a) No person licensed under the provisions of this article having secured such a license, shall sell or give away any deadly weapons as defined in this division to any person within this village who has not filled out, signed and had witnessed by a notary public a federal firearms affidavit.

(b) It shall be unlawful, for any person to purchase any deadly weapon as defined in this article without filling out a federal firearms affidavit in writing, setting forth in such affidavit the name, address, age, height, weight, complexion, nationality and other elements of identification. Upon witnessing the identification of the applicant, the officer of the company, clerk or secretary, holding a notary public seal from the state shall notarize the affidavit. It shall be the duty of the notary, upon witnessing the identification of the applicant to affix his notary seal and sign the affidavit, refusing any applicant whom he concludes is a minor, lacks proper identification, shows physical signs of being a narcotic, or is unemployed.

17–211. *Required.* It shall be unlawful for any person to engage in the business of selling, or to sell or give away to any person within the village, any deadly weapon as defined in this article, without securing a license so to do as provided in this division and the general licensing provisions of this chapter.

Glencoe

24–49. *Sale of weapons which can be concealed.* It shall be unlawful to sell any firearms which can be concealed on or about the person in the village.

24–50. *Sale, etc., to minors.* No person shall sell, loan or furnish to any minor any gun, pistol or other firearm, or any air gun or ammunition for any firearm or air gun within the village.

Glen Ellyn

12.23 (e) *Sales to Intoxicated Persons and Minors.* No person shall purchase from or sell, loan or furnish any weapon in which any explosive substance can be used to any person under the influence of alcohol or any narcotic drug, or to any person in a condition of agitation or excitability, or to a minor under the age of eighteen years.

Granite City

1: It shall henceforth be unlawful for any person, firm, or corporation to sell, display for sale, or offer to sell to any minor, any revolver, pistol, shotgun or rifle or any air gun, "BB" gun, gas-operated gun, spring gun, or any instrument, toy or weapon commonly known as a six-shooter, sling shot, whether such instrument is called by any name set forth above or by any other name.

2: It shall be unlawful to sell or offer to sell to any minor any shell, cartridge, charge, pellet, ammunition or other device to be used, discharged or propelled from any of the items mentioned in Section 1 hereof.

Harvey

29–374. No person shall sell, loan, or furnish to any minor, any gun, pistol, or other firearm, or any toy gun, toy pistol, or other toy firearm, in which any explosive substance can be used, or any air-gun, spring-gun, slung-shot, or any similar weapon or device within the city. * * *.*

1811–4. After the proclamation of a civil emergency, the Mayor of the City of Harvey may also in the interest of public safety and welfare make any or all of the following orders: (c) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(d) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

Highland Park

134.001. *Definitions: For the purpose of this chapter.* (A) The term "person" includes any individual, corporation, company, association, partnership, society or joint stock company.

(B) The term "hand gun" means any device, or part of a device, by whatever name known, which is designed or may be readily converted to expel a projectile or projectiles by the action of an explosive, expansion of gas or air, or escape of gas or air, having an over-all length of 18 inches or less and designed to be held and operated with and by one hand.

(C) The term "Chief of Police" means the head law enforcement officer of the City of Highland Park or his duly authorized agent.

134.002. *Manufacture, assembly, sale prohibited—special permit.* No person shall engage in the business of manufacturing, assembling or selling, within the corporate limits of the City of Highland Park, any hand gun as defined in Section 134.001 of this Code, except in compliance with the provisions of this Chapter. No person shall engage in the business of manufacturing, assembling or selling such hand guns without first having been granted a special permit therefor by the City Council. No such permit shall be granted to any person ineligible to register a hand gun in accordance with the requirements of Sections 134.007 and 134.010, nor to any person who fails to meet the standards for Federal and Illinois Dealer's licenses.

Hodgkins

1. *License to sell, loan or give away:* It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell, loan or give away to any person, within the Village, any pistol, revolver, derringer, bowie knife, switchblade knife, dirk, air rifle or air gun, or any toy firearms or other toy in the nature of a firearm in which any explosive substance can be used, or other weapon of like character, without securing a license so to do as hereinafter provided, and no person, firm or corporation having secured such a license, shall sell or give away such weapon to any person within the Village who has not secured a permit from either the Chief of Police or the Village Clerk to purchase such weapon in the manner hereinafter provided.

Hoffman Estates

1. *License:* It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell, loan or give away to any person, within the Village, any pistol, revolver, derringer, bowie knife, dirk, air rifle or air gun, or any toy firearms or other toy in the nature of a firearm in which any explosive substance can be used, or other weapon of like character, without securing a license so to do as hereinafter provided, and no person, firm or corporation having secured such a license, shall sell or give away such weapon to any person within this Village who has not secured a permit from either the Chief of Police or the Village Clerk to purchase such weapon in the manner hereinafter provided.

2. *Application:* Any person, firm or corporation desiring to sell or offer for sale firearms or other dangerous weapons in the Village of Hoffman Estates, shall make application in writing to the Board of Trustees for a license so to do. * * *

5. *Permit:* It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk or weapon of like character, without first securing from the Village Clerk a permit so to do.

6. *Refusing permit:* It shall be the duty of the Chief of Police to refuse his approval of such permit to:

(a) All persons having been convicted of any crime.

(b) All minors. * * *.

Island Lake

7. *Unlawful use of weapons.* (5) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(6) Sells, manufactures, purchases, possesses or carries any weapon from which more than 8 shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than 18 inches in length, or any bomb, bomb-shell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails * * *.

Joliet

32–19. *License required.* It shall be unlawful for any person to engage in the business of selling or to sell or offer to sell or give away to any person within the city any pistol, rifle, shotgun, revolver, Bowie knife, dagger or other weapons of like character without first securing a license to do so. * * *

32–21. *Sales to minors.* None of the articles governed by this article or of like character, shall be sold to any minor.*

32–22. *Permit required for concealable weapons.* (a) No sale of any revolver, pistol, Bowie knife, or other deadly weapon which can be concealed on the person shall be made by any licensee under this article to any purchaser unless the purchaser shall first exhibit to the licensee a permit for the purchase thereof, issued by the chief of police of the city.

Kankakee

10–27. *Authority to make certain orders.* After the proclamation of a civil emergency, the mayor of the city may also in the interest of public safety and welfare make any or all of the following orders:

(3) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(5) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(6) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms or ammunition.

136–1. *Unlawful use of weapons.* (A) A person commits the offense of unlawful use of weapons when he knowingly: (1) Sells, manufactures, purchases, possesses or carries any bludgeon, black-jack, sling shot, sand club, shotgun with a barrel less than 18 inches in length, metal knuckles or any knife,

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*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife; or • • •

(8) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

La Grange

155–110. *Fixed ammunition—license.* Any person or corporation desiring a license for the sole purpose of keeping, selling, or giving away loaded ball cartridges or shot shells for use in rifles, pistols or shotguns shall be entitled to a license upon application made as provided in Chapter 155 of this code, provided that such licensee shall not have on hand at any time more than 25,000 rounds of such ammunition.

Lake Bluff

52.02. No person shall sell, loan or furnish to any minor, any gun, pistol, fowling piece, or other firearm within the limits of the Village of Lake Bluff.*

Lindenhurst

41.01. *Gun dealers—license required.* No person shall engage in the business of selling or sell or give away any pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license to do so. • • •.

41.06. *Restrictions on sale or gift.* It shall be unlawful for any person to sell, barter or give away to any person within the village any deadly weapon mentioned in this section except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the village marshal as herein required. This does not apply to sales made of such articles which are to be delivered or furnished outside the village.

41.07. *Permit to purchase weapon.* It shall be unlawful for any person to purchase any deadly weapon mentioned in this section without first securing from the village marshal a permit to do so. • • •.

41.09 *Gunsmiths—license required.* No person shall engage in the business of repairing any pistol, revolver, derringer, or other firearm which can be concealed on the person without securing a license to do so as provided in chapter 31.

41.14. *Permit.* No such licensees shall sell or give away any such weapon to any person within the village who has not secured a permit from the village marshal to purchase such weapon in the manner herein provided.

Lockport

15–1. *License—Manner of issuance.* It shall be unlawful for any person, firm or corporation to engage in the business of selling or to sell, or offer for sale or give away to any person within the City limits any pistol, rifle, shotgun, revolver, bowie-knife, dagger or other weapons of like character without securing a license to do so.*

15–3. *Sale to minors.* None of the articles enumerated above, or of like character, shall be sold to any minor.

15–5. *Permit.* No sale of any revolver, pistol, bowie-knife, or other deadly weapons which can be concealed on the person shall be made by any licensee to any purchaser unless said purchaser shall first exhibit to said licensee a permit for the purchase thereof, issued by the Chief of Police of this City. It shall be the duty of the Chief of Police to refuse such permit to all minors or persons having been convicted of any crime.

Lombard

9.16.040. *Selling firearms to minors unlawful.* No person shall sell, loan or furnish to any minor any gun, pistol or other firearm, in which any explosive substance can be used, within the limits of the village.*

Maywood

8.259. *It shall be unlawful for any person* to engage in the business of selling, or to sell or give away, any pistol, revolver, dagger, stiletto, billie, derringer, Bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license so to do.

8.265. *It shall be unlawful for any person* to purchase any deadly weapon mentioned in Section 8.259, which can be concealed on the person without first securing from the Chief of Police a permit so to do. • • •.

It shall be the duty of the Chief of Police to refuse such permit to any person having been convicted of any crime, and any minor. • • •.

8.268. *It shall be unlawful for any person* to engage in the business of repairing any pistol, revolver, derringer, or other firearm which can be concealed on the person without securing a license so to do.

McCook

9–10–3. *License to sell:* Firearms for the purposes of this Chapter are pistols, revolvers, guns, and small arms of a size and character that may be concealed upon or about the person. It shall be unlawful for any person to engage in the business of selling or to sell, or give away, to any person, any firearms which are of such size or nature as may be concealed upon the person, without securing a license therefor. And no person, having secured such license, shall sell, loan, or give away, any such weapon to any person who has not secured a permit from the Chief of Police to purchase such weapon.

9–10–4. *Purchasers of firearms:* No person shall be permitted to purchase a firearm without having secured a permit from the Chief of Police. Such permit shall not be issued to a criminal, vagabond, minor under eighteen (18) years of age or an alien. • • •

9–10–8. *Sale or gift:* No person shall sell or give to any alien or to any minor under the age of eighteen (18) years any firearm of a size which may be concealed upon the person.*

Melrose Park

93.1 *Generally:* • • • No person shall sell, loan or furnish to any minor any gun, pistol, fowling piece or other firearm, within the corporate limits of the Village of Melrose Park. • • • No person, firm or corporation shall engage in the business of selling or sell or give away to any person within the Village of Melrose Park, any pistol, revolver, derringer, bowie knife, dirk or other weapon, of light character which can be concealed on the person, and no person, firm or corporation having secured such a license, shall sell or give away any such weapon to any person within the Village who has not secured a permit from the Chief of Police or President of the Village to purchase such weapon in the manner hereinafter provided. • • •.

93.2 *License to sell firearms:* Any person, firm or corporation desiring a license authorizing the sale of any of the deadly weapons mentioned in the foregoing Section shall make application in writing to the President of the Village, setting out in such application the full name and residence of the applicant, if an individual, and if a firm or corporation the name and residence of each of its members or officers. Such application shall also set out the location at which it is intended or desired to conduct such business. • • •.

93.3 *Other requirements:* (b) It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the Chief of Police or the President of the Village a permit so to do. Before any such permit is granted, an application in writing shall be made therefore, setting forth in the application the name, address, age, height, weight, complexion, nationality and other elements of identification, of the person desiring such permit. Such application shall also contain a recommendation that the permit shall issue, from two persons who shall be known to the Chief of Police or the President as persons of reputation and residents of the Village at least one year, or who shall appear to be taxpayers residing within the Village.

Midlothian

6–4–4. *Sale to minors prohibited.* It shall be unlawful to sell, loan or give, to any person under the age of eighteen (18) years any BB gun, pellet gun, or other weapon capable of projecting or discharging projectiles of any type by any force, bean blowers, or any other dangerous or deadly weapon or instrument of like character.

It shall be unlawful to sell, loan or give to any person under the age of eighteen (18) years any ammunition, BB's or other projectiles which could be used as ammunition with any of the weapons referred to in the foregoing provisions of this Section.

6–4–8. *Shotguns; sale to minors.* It shall be unlawful to sell a shotgun or shotgun shells to any person under the age of twenty-one (21) years.

Moline

27–47. *Unlawful use of weapons.* A person commits the offense of unlawful use of weapons when he knowingly: • • •

(f) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(g) Sells, manufactures, purchases, possesses or carries any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen (18) inches in length, or any bomb, bombshell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails; or • • •

27–48. *Unlawful sale of firearms.* A person commits the offense of unlawful sale of firearms when he knowingly:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under eighteen (18) years of age; or*

(b) Sells or gives any firearm to a person under twenty-one (21) years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent; or

(c) Sells or gives any firearm to any narcotic addict • • •

(d) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this state or any other jurisdiction; or

(e) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past five (5) years; or

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

(f) Sells or gives any firearm to any person who is mentally retarded; or

(g) Delivers any firearm, incidental to a sale, without withholding delivery of such firearm for at least seventy-two (72) hours after application for its purchase has been made. However, this subsection shall not apply to:

(1) The sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his employment as a bank guard, armed truck guard, or other similar employment; or

(2) A mail order sale of a firearm to a nonresident of the state under which the firearm is mailed to a point outside the boundaries of the state; or

(3) The sale of a firearm to a nonresident of the state while at a showing or display recognized by the state department of public safety; or

(4) The sale of a firearm when another firearm is traded-in for the firearm purchased, in whole or in part; or

(5) The sale of a firearm to a dealer licensed under the Federal Firearms Act of the United States.

Morton Grove

132.100 *Selling deadly weapons; sales to minors.* (B) No person shall sell, give, loan, hire, barter, furnish, or offer to sell, give, loan, hire, barter or furnish to any minor within the village any gun, pistol, revolver, fowling-piece, or other firearm, or any toy gun, toy pistol, toy fowling-piece, or other toy firearm in which any explosive substance can be used, or any bowie knife, dirk, dagger, or other deadly weapon of a like character, • • •.*

Niles

22–44. *Affidavit to purchase firearms.* (a) It shall be unlawful for any person dealing in firearms to sell, barter, loan, or give away to any person within the village any pistol, revolver, or other firearm of like character which can be concealed upon the person, unless such person so purchasing or receiving such firearm shall have filed with the dealer an affidavit affirming the requirements stated below, and it shall be the duty of the person dealing in firearms to receive and keep such affidavit in a permanent file for inspection purposes. • • •

(b) The following persons are covered by the section and not eligible to purchase a firearm:

(1) Any person convicted of a felony;

(2) Any minor under the age of eighteen (18) years;

(3) A narcotic addict.

22–45. *Selling, furnishing firearms to minors.* It shall be unlawful for any person to sell, give, loan or furnish to any minor under the age of eighteen (18) years any gun, pistol, rifle, revolver or other firearm within the corporate limits of the village.*

Northbrook

17.25. *Unlawful use of weapons.* A person commits the offense of unlawful use of weapons when he knowingly:

(a) Sells, manufactures, purchases, possesses, or carries any bludgeon, blackjack, sling-shot, sand-club, sand-bag, shotgun with a barrel less than 18 inches in length, metal knuckles or any knife, commonly referred to as a switchblade knife which has a blade that opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife; or

(f) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(g) Sells, manufactures, purchases, possesses, or carries any weapon from which more than eight shots or bullets may be discharged by a single function of the firing device.

(c) Paragraph 17.25(g) shall not apply to or affect any of the following: (1) Peace officers. (2) Wardens, superintendents, and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense. (3) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, while in the performance of their official duty. (4) Manufacture, transportation, or sale of machine guns to persons authorized under (1) through (3) of this paragraph 17.26 (c) to possess such, provided said machine guns are broken down in a non-functioning state or not immediately accessible. • • •.

Oak Park

45.1. *Definition of "firearms".* "Firearms" for the purposes of this chapter are pistols, revolvers, guns and small arms of a size and character that may be concealed upon or about the person.

45.2. *Sale of firearms and other weapons prohibited.* It shall be unlawful to sell any firearms, air guns, air pistols, spring guns or spring pistols or other device which is calculated or intended to propel or project a bullet, pellet, pointed arrow or similar projectile to any person who has been previously convicted of a crime or to any person under eighteen years of age or to an alien.

45.3. *Application to purchase firearms.* No person shall be permitted to purchase a firearm with out first filing an application therefor with the seller. • • • A copy of the application shall be forthwith furnished to the Chief of Police and no firearm shall be delivered to the purchaser until two days have elapsed from the filing of the application with the Chief of Police.

45.4. *License and permit to deal in firearms—required.* It shall be unlawful for any person to engage in the business of selling or to sell, or give away, to any person within the village, any firearms which are of such size or nature as may be concealed upon the person, without securing a license therefor.

45.9. *Defacing identification marks.* No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification on any firearm. Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

45.10. *Sale, etc., of firearms to infants or aliens.* No person shall sell or give to any alien or to any minor under the age of eighteen years any firearm of a size which may be concealed upon the person.*

Oregon

8–6–3: *Firearms:* No person shall sell, loan, exchange, deliver or give away to any minor any gun, pistol, fowling piece or other firearm within the corporate limits of the City.*

Peoria

41–4. *License to sell, etc.—Required.* It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, dagger, stiletto, billie, derringer, Bowie knife, dirk or other deadly weapon, which can be concealed on the person, without securing a license so to do.

41–8. *Required certificate and thumb print.* It shall be unlawful for any person to sell, barter, or give away to any person within the City, any deadly weapon mentioned in Section 41–4 of this code, except to licensed dealers, without first obtaining from the customer a signed statement in which the customer states that he is over twenty-one (21) years of age, that he is not under indictment for, nor has been convicted of, a crime punishable by imprisonment for a term of one year or more, that he is not a fugitive from justice, nor an unlawful user of or addicted to a depressant, stimulant or narcotic drug, nor that he has been adjudicated mentally defective or has been committed to a mental institution • • •.

41–11. *Restriction on sale.* It shall be unlawful for any person to sell, barter or give away, to any person within the city, any deadly weapon mentioned in section 41–4 of this Code, to any person known to him to be under twenty-one (21) years of age or of unsound mind or under indictment or a drug addict or a fugitive from justice or who has been convicted of a crime of violence.

Peoria Heights

1. *License required.* It shall be unlawful for any person to engage in the business of selling any pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license to do so from the Village Clerk.

5. *Restrictions on sale or gift.* It shall be unlawful for any person to sell, barter, or give away to any person within the Village any deadly weapon mentioned in Section 1 hereof, to any person known to him to be under twenty-one (21) years of age, of unsound mind, or under indictment, or a drug addict, or a fugitive from justice, or who has been convicted of a crime of violence.

Pinckneyville

39. *Minors not to have certain weapons.* No person, not being the father, guardian or employer of a minor, shall, by himself, agent, servant, or employee, directly or indirectly, sell, give, loan, hire or barter to any such minor, within the city, any pistol, revolver, derringer, bowie knife, dirk, slung shot or other weapon of like character.*

Rockford

7–260. *License required.* It shall be unlawful for any person to engage in the business of repairing or selling, or to repair, sell or give away to any person within the city a new or used pistol, revolver, derringer, bowie knife, dirk or other weapon of similar character which can be concealed upon the person, without first having secured a license.

7–261. *Permit to purchase.* It shall be unlawful for any person to purchase or receive as a gift any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed upon the person without first securing a permit from the chief of police, whose duty it shall be to refuse all permits to persons who have been convicted of any crime and all minors. • • •

7–262. *Sale to be to licensed dealers and holders of permits.* It shall be unlawful for any person to sell, barter, exchange or give away to any person within the city, any

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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pistol, revolver, derringer, dirk, or other weapon of like character which can be concealed upon the person, except to a licensed dealer and to persons who have secured a permit for the purchase of such articles from the chief of police.

7-263. *Sales to minors; displays.* It shall be unlawful for any person to give, loan, or sell any pistol, revolver, derringer, bowie knife, dirk, or other deadly weapon of similar character to any person under the age of twenty-one (21) years • • •.

19-48. *Unlawful use of weapons.* (a) A person commits the offense of unlawful use of weapons when he knowingly: • • •

(6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen (18) inches in length, or any bomb, bombshell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails; or • • •

Sec. 19-52. *Furnishing bullets, pellets, arrows, etc., to minors.* It shall be unlawful for any person to sell, give or deliver any ammunition, ball, bullet, pellet, steel-tipped arrow or other missile or projectile to any person under the age of eighteen (18) years and it shall be unlawful for any person under the age of eighteen (18) years to obtain any ammunition, ball, bullet, pellet, steel-tipped arrow or other missile or projectile by purchase, sale or gift, or in any other manner.

Rolling Meadows

13-36. *Same—Handling, possession by minors.* (a) *Prohibited.* It shall be unlawful for any parent or guardian of any child under the age of eighteen (18), to permit, suffer or allow any such child to handle or have in his possession within the city any cannon, gun, pistol or any toy gun, toy cannon, toy pistol, air gun or any other similar weapon which if discharged is of sufficient force or power to inflict bodily injury.

Schaumburg

Five: *Permit.* It shall be unlawful for any person dealing in firearms to sell, barter, loan or give away to any person within the Village, any pistol, revolver or any other firearm of like character which can be concealed upon the person, unless such person so purchasing or receiving such firearm shall have secured a valid firearm owner's identification card from the Department of Public Safety of the State of Illinois. Every such person dealing in firearms shall, on demand, allow any police officer, sheriff or deputy sheriff to enter and inspect all stock on hand and shall, on request of such officer, produce for inspection the Register so required to be kept.

Six: *Minors.* It shall be unlawful for any person to sell or give to any minor, any pistol, revolver or other firearm that may be concealed upon the person within the corporate limits of the Village.*

Skokie

27-17. *Permit.* It shall be unlawful for any person dealing in firearms to sell, barter, loan or give away to any person within the Village of Skokie, any pistol, revolver, or other firearm of like character which can be concealed upon the person, unless such person so purchasing or receiving such firearm shall have secured a written permit for the purchase of such firearm, from the Chief of Police, • • •. It shall be the duty of the Chief of Police to refuse such permits to:

(A) All persons having been convicted of any crime;

(B) All minors.

27-18. *Minors.* It shall be unlawful for any person to sell, loan or furnish to any minor any gun, pistol, rifle, revolver or other firearm within the corporate limits of the Village.*

South Beloit

18-10. *Unlawful use of weapons—prohibited.* (a) A person commits the offense of unlawful use of weapons when he knowingly: • • •:

(6) Posses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses, or carries any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen (18) inches in length, or any bomb, bombshell, grenade, bottle, or other container containing an explosive substance, such as but not limited to black powder bomb and Molotov cocktails; or • • •.

32. *Firearms—canon—not to furnish to minors.* No person shall fire or discharge any gun, pistol, revolver, fowling-piece or other firearm within the corporate limits of the City, nor shoot, discharge or fire off any canon or piece of artillery in said City, and no person shall sell, loan or furnish to any minor any such gun, pistol, revolver, fowling-piece or other firearms. This shall not apply to officers and persons authorized by law to carry and use such firearms.*

South Elgin

18. *Unlawful use of weapons.* No person shall commit the offense of unlawful use of weapons. A person commits the offense of unlawful use of weapons when he knowingly: (1) sells, manufactures, purchases, possesses or carries any bludgeon, black-jack, slungshot, sand-club, sand-bag, shotgun with a barrel less than 18 inches in length, • • •.

(6) possess any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

Springfield

31.45. *Minors not to handle or possess firearms, air guns, etc.* It shall be unlawful for any parent or guardian of any child under the age of eighteen, to permit, suffer or allow any such child to handle or have in his possession within the city, any cannon, gun, pistol or any toy gun, toy cannon, toy pistol, air gun or any other similar weapon, or which if discharged is of sufficient force or power to inflict bodily injury.

Streamwood

19.1001. *Definition of firearm.* Firearm for the purpose of this article is a pistol, revolver, gun and small arms of a size and character that may be concealed upon or about the person.

19.1002. *Definition of deadly weapon.* A deadly weapon is a firearm as hereinabove defined including but not limited to knives, axes, hatchets, swords, black jacks, slingshot, razor, tear gas, bomb, any object containing noxious liquid, gas or substance.

19.1005. *Permit to purchase firearms.* No person shall be permitted to purchase a firearm without having secured a permit from the chief of police. Such permit shall not be issued to a criminal, vagabond, minor under eighteen years of age or an alien.

19.1006. *License and permit to deal in firearms.* It shall be unlawful for any person to engage in the business of selling or to sell, or give away, to any person within the village, any firearms which are of such size or nature as may be concealed upon the person, without securing a license therefor. No person, having secured such license, shall sell, loan or give away, any such weapon to any person who has not secured a permit from the chief of police to purchase such weapon.

Summit

6-7-1: *License required:* It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon, any air rifle or air gun, or any toy firearms or other toy in the nature of a firearm in which any bullet, pellet, or other object can be expelled by means of air pressure or any explosive substance without securing a license therefor. No person who has not secured a permit from the Chief of Police so to do, and no person having secured such license shall sell or give away any such weapon to any person within the Village who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

6-7-5: *Permit required:* It shall be unlawful for any person to purchase any weapon described in Section 6-7-1 hereof, without first securing from the Chief of Police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application, the name, address, age, height, weight, complexion, nationality, and other elements of identification of such person desiring such permit. Such application shall also contain a recommendation from two (2) persons who shall appear to be taxpayers residing within the Village that the permit shall issue.

Swansea

27.28 *Unlawful possession of firearms and firearm ammunition.* (a) A person commits the offense of unlawful possession of firearms or firearm ammunition when: (1) He is under eighteen (18) years of age and has in his possession any firearm of a size which may be concealed upon the person.

(2) He is under twenty-one (21) years of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession; or

(3) He has been convicted of a felony under the laws of this or any other jurisdiction within five (5) years from release from the penitentiary or within five (5) years of conviction penitentiary sentence has not been imposed, and has any firearms or firearm ammunition in his possession; or

(4) He is a narcotic addict and has any firearms or firearm ammunition in his possession; or

(5) He has been a patient in a mental hospital within the past five (5) years and has any firearms or firearm ammunition in his possession; or

(6) He is mentally retarded and has any firearms or firearm ammunition in his possession.

Tuscola

18-51. *Same—Selling or furnishing to minors.* Whoever, not being the father, guardian or employer of a minor by himself or agent, shall sell, give, loan, hire or barter to any minor within the corporate limits of the city, any pistol, revolver, derringer, bowie knife, dirk or other deadly weapon of like character, capable of being secreted upon the person shall be subject to penalty as provided by section 1-8 of this Code.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

Urbana

21.56. *Weapons—infants.* Any person who, not being the father, guardian or employer of a minor, by himself or agent, shall sell, give, loan, hire or barter to any minor within the corporate limits of the city, any pistol, revolver, derringer, Bowie-knife, dirk or other deadly weapon of like character, capable of being secreted upon the person, shall be subject to the penalties set out in section 1.6 of this Code.*

Venice

9-5-4: *Weapons:* No pawnbroker shall receive as a pledge or purchase any revolver, pistol, blackjack or sawed-off shotgun; and no pawnbroker shall display in his window or shop any such weapons for sale.

Washington

16-26. *Same—Selling, etc., weapons to prohibited.* No person shall sell, give, loan, hire, barter or furnish, to any minor within the city, any gun, pistol, revolver, fowling-piece or toy firearm, in which any explosive substance can be used, or any Bowie knife, dirk, dagger or other deadly weapon of a like character.*

Wauconda

2103.3. *Unlawful use of weapons.* A person commits the offense of unlawful use of weapons when he knowingly: (1) Sells, manufactures, purchases, possesses or carries any bludgeon, black-jack, sling-shot, sand-club, sand-bag, shotgun with barrel less than 18 inches in length • • •.

(6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries any weapon from which more than 8 shots or bullets may be discharged by a single function of the firing device.

2103.5. *Unlawful sale of firearms.* A person commits the offense of unlawful sale of firearms when he knowingly: (a) Sells or gives any firearms of a size which may be concealed upon the person to any person under 18 years of age; or*

(b) Sells or gives any firearm to any narcotic addict; or

(c) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction within 5 years from release from the penitentiary or within 5 years of conviction if penitentiary sentence has not been imposed.

2103.7 *Defacing identification marks of firearms.* (b) Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

Waukegan

44.16. *Dealers in deadly weapons.* (a) License Required. No person shall engage in the business of selling or sell or give away any pistol, revolver, dagger, stiletto, billie, derringer, bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license to do so • • •.

(b) Approval The Chief of Police shall approve the application before a license shall be issued.

(f) Restrictions on sale or gift. It shall be unlawful for any person to sell, barter or give away to any person within the city any deadly weapon mentioned in this section except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the Chief of Police as herein required. This does not apply to sales made of such articles which are to be delivered or furnished outside the city.

(g) Permit to purchase weapon. It shall be unlawful for any person to purchase any deadly weapon mentioned in this section without first securing from the Chief of Police a permit to do so. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality, and other elements of identification of the person desiring such permit. It shall be the duty of the Chief of Police to refuse such permit to any person convicted of any crime, and any minor.

44.17. *Gunsmiths.* (a) License Required. No person shall engage in the business of repairing any pistol, revolver, derringer, or other firearm which can be concealed on the person without securing a license to do so • • •.

71.30 *Sale of weapons to minor or alien.* No person shall sell or give to any alien or to any minor under the age of 18 years any firearms or dangerous or deadly instruments of any character.*

Western Springs

63.3 *Fixed ammunition—license.* Any person or corporation desiring a license for the sole purpose of keeping, selling, or giving away loaded ball cartridges or shot shells for use in rifles, pistols, or shotguns shall be entitled to a license upon application made as provided in chapter 27 of this code, provided that such licensee shall not have on hand at any one time more than 25,000 rounds of such ammunition.

Wheaton

17-83. *Enumeration of dangerous, deadly weapons.* The term "dangerous or deadly weapon" as used herein shall include pistols, revolvers, rifles or other firearms, daggers, billies, bowie knives, and any other deadly weapons which, except for this article, may be lawfully possessed by any person.

17-84. *Selling, furnishing to minors; exceptions.* It shall be unlawful for any person to sell, give, or loan to any minor under the age of eighteen (18) years any deadly or dangerous weapon. • • •.*

17-93. *License—required.* It shall be unlawful for any person to engage in the business of selling or otherwise dealing in dangerous or deadly weapons (hereafter called a dealer) in the city without securing a license therefor.

Wilmette

5-10.1. *License required;* • • •. It is unlawful for any person to engage in the business of making, selling, or repairing firearms of any type, size or description without first having obtained a license therefor.

5-10.2. *Permit to purchase.* It shall be unlawful for any person dealing in firearms to sell, barter, loan or give away to any person within the Village of Wilmette firearms of any type, size or description, unless such person so purchasing or receiving such firearm shall have secured a written permit for the purchase of such firearm, from the Chief of Police. • • •

It shall be the duty of the Chief of Police to refuse such permits to:

(a) All persons having been convicted of a crime.

(b) All minors.*

Winnetka

5-44. *Weapons.* No pawnbroker shall receive as a pledge or purchase any revolver, pistol, machine gun, blackjack or sawed-off shotgun, and no pawnbroker shall display in his window or shop any such weapons for sale.

13-51. *Weapons—Sale to minors prohibited.* No person shall sell, loan or furnish to any minor any gun, pistol or other firearm, or any air gun or ammunition for any firearm or air gun, within the limits of the village.*

Worth

40.6. *License and permit to deal in firearms—required.* It shall be unlawful for any person to engage in the business of selling or to sell, or give away, to any person within the Village, any firearms which are of such size or nature as may be concealed upon the person, without securing a license therefor. No person, having secured such license, shall sell, loan or give away, any such weapon to any person who has not secured a permit from the Chief of Police to purchase such weapon.

Zion

16-160. *Dealing in, displaying weapons.* No pawnbroker shall receive as a pledge or purchase any revolver, pistol, blackjack or sawed-off shotgun. No pawnbroker shall display in his window or shop any such weapon for sale.

28-1. *Unlawful use or carrying of weapons—defined.* (a) A person commits the offense of unlawful use of weapons when he knowingly:

(6) Possesses any device or attachment of any kind designed, used, or intended for use in silencing the report of any firearm; or

(7) Sells, manufactures, purchases, possesses or carries any weapon from which more than eight (8) shots or bullets may be discharged by a single function of the firing device, any shotgun with a barrel less than eighteen (18) inches in length, or any bomb, bombshell, grenade, bottle or other container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails; • • •

28-14. *To be licensed.* It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any pistol, revolver, dagger, stiletto, billy, derringer, Bowie knife, dirk, or other deadly weapon which can be concealed on the person, without securing a license to do so.

28-20. *Restrictions on sale or gift.* It shall be unlawful for any person to sell, barter, or give away to any person within the city any deadly weapon mentioned in this article except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the chief of police as hereinafter required. This section shall not apply to sales made of such articles which are to be delivered or furnished outside the city.

28-21. *Permit required to purchase; application.* It shall be unlawful for any person to purchase any deadly weapon mentioned in this article which can be concealed on the person without first securing from the chief of police a permit so to do. Before any such

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, comolexion, nationality, and other elements of identification of the person desiring such permit.

28-34. *License required.* It shall be unlawful for any person to engage in the business of repairing any pistol, revolver, derringer, or other firearm which can be concealed on the person without securing a license so to do.

INDIANA

State Law

IND. STATS. ANN. (BURNS) TITLE 10

10-4701. *Intoxicated persons—Sale or gift of weapons to.*—Whoever sells, barters, gives, or delivers any pistol, dirk, bowie-knife, dagger, or any other dangerous or deadly weapon, to any person at the time in a state of intoxication, knowing him or her to be in a state of intoxication, or to any person who is in the habit of becoming intoxicated, and knowing him or her to be a person who is in the habit of becoming intoxicated, shall upon conviction be fined in any sum not exceeding one thousand dollars ($1.000) or imprisoned in the county jail not less than thirty (30) days nor more than six (6) months or both such fine or imprisonment in the discretion of the court.

10-4702. *Minors—Sale or gift of weapons to.* It shall be unlawful for any person to sell, barter or give to any other person under the age of twenty-one (21) years any pistol, dirk or bowie-knife, slung-shot, knucks or other deadly weapon that can be worn or carried concealed upon or about the person, or to sell, barter or give to any person under the age of twenty-one (21) years any cartridges manufactured and designed to be used in a pistol or revolver. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00).

10-4712. *Machine guns and bombs—Ownership, possession, or control.* Whoever shall be the owner of, or have in his possession, or under his control, in an automobile, or in any other way, a machine gun or bomb loaded with explosives, poisonous or dangerous gases, shall be deemed guilty of a felony, and upon conviction thereof, shall be imprisoned for a term of not less than one (1) year nor more than five (5) years.

10-4713. *Machine guns and bombs—Operation and discharge.* Whoever shall discharge, fire off, or operate any loaded machine gun, or whoever shall drop from an airplane, automobile, or from any building or structure, or who shall throw, hurl, or drop from ground or street, or keep in his possession and under his control any bomb filled with deadly or dangerous explosives, or dangerous or poisonous gases, shall be deemed guilty of a felony and upon conviction shall be imprisoned for a term of not less than two (2) nor more than ten (10) years.

10-4714. *Machine guns and bombs—Exceptions from application of chapter.*—The provisions of this chapter [§§ 10-4712—10-4714] shall not be construed to apply to any of the following named persons and acts, nor to apply under any of the following described circumstances, to wit: (a) To members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing; (b) To machine guns or bombs kept for display as relics and which are rendered harmless and not useable; (c) To any of the police, sheriffs or other officers of this state or the United States of America charged with the duty of law enforcement while acting within the scope of their employment and in connection with an in the furtherance of their duties; (d) To persons lawfully engaged in the display, testing or use of fireworks; or (e) To persons, firms agencies of the state government; or corporations and the employees, servants, or agents of such persons, firms, agencies, or corporations authorized or permitted by law to engage in and engaged in the business of manufacturing, assembling, conducting research on or testing machine guns, bombs, airplanes, tanks, armored vehicles or ordnance equipment or supplies while or when acting within the scope of and in furtherance of such business; and (f) To persons, firms or corporations possessing, or having applied to possess machine guns under applicable United States Statutes, providing, that such machine guns shall also be transferred as are handguns, as provided in IC 1971, 35-23-4.1-7 [§ 10-4751g].

10-4751a *Firearms—Definitions.*—As used in this chapter (a) The term "firearm" means any weapon which is capable of or designed to or which may readily be converted to expel a projectile with deadly force by means of an explosion;

(b) The term "handgun" means any firearm designed or adapted so as to be aimed and fired from one hand regardless of barrel length, or any other firearm with a barrel less than sixteen [16] inches in length, or an overall length of less than twenty-six [26] inches;

(c) The term "crime of violence" includes each of the following offenses or an attempt to commit any of them: murder, voluntary manslaughter, kidnapping for the purpose of ransom, rape, malicious mayhem, assault or assault and battery with intent to commit a felony, aggravated assault and battery, robbery, bank robbery, automobile banditry, and burglary in the first or second degree. The term also includes any felony or attempted felony in which bodily harm or the threat of bodily harm is directed against a human being or in which harm is done or threatened against a place of human habitation or employment;

(d) The term "person" includes firms, corporations, partnerships, or associations, as well as human beings;

(e) The term "place of abode" means a place of residence which is more than temporary in nature and to which the dweller, when absent, intends to return;

(f) The term "superintendent" means the superintendent of the Indiana state police department;

(g) The term "retail" means the sale of handguns singly or in small quantities to one who intends to be the ultimate user thereof;

(h) The term "wholesale" means the sale of handguns singly or in bulk lots to one lawfully licensed to deal in the same, or the sale of a handgun or handguns to a governmental law enforcement agency for issue to its law enforcement officers, agents or employees;

(i) The term "dealer" means any person who holds himself out as a buyer and seller of handguns on a regular and continuing basis;

(j) The term "police officer" means any state, city, or town law enforcement officer who is employed with unlimited police authority on a full-time basis to enforce the laws of the state of Indiana.

10-4751d *Persons excepted.*—The provisions of section 3 of this chapter do not apply to marshals, sheriffs, prison or jail wardens or their deputies, judicial officers, policemen or other law enforcement officers, or while they are on duty, to members of the armed forces of the United States or of the national guard or organized reserves; nor do the provisions of section 3 [§ 10-4751c] of this chapter apply to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state, provided such members are at or are going to or from their place of assembly or target practice, or to officers or employees of the United States duly authorized to carry handguns, or to employees of express companies when engaged in company business, or to any person engaged in the business of manufacturing, repairing or dealing in firearms or the agent or representative of any such person having in his possession, using or carrying a handgun in the usual or ordinary course of that business, or to any person while carrying a handgun unloaded and in a secure wrapper from the place of purchase to his place of abode or fixed place of business, or to a place of repair or back to his place of abode or fixed place of business, or in moving from one place of abode or business to another.

10-4751f *Prohibited sales or transfers.*—No person, except an individual acting within a parent-child or guardian-ward relationship shall sell, give or in any other manner transfer the ownership of a handgun to any person under the age of eighteen [18], and in no event shall any person sell, give, or in any manner transfer the ownership or possession of a handgun to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, or is a habitual drunkard, or is of unsound mind.

10-4751g *Persons to whom regulations apply—Seven day waiting period—Application for sale or transfer of handgun—Fingerprints—Fee—Penalty.*—The regulation of the sale of handguns imposed by this chapter shall apply equally to an occasional sale, trade or transfer between individual persons and to retail transactions between dealers and individual persons.

(a) Except as otherwise provided in this section, this section does not apply to sales at wholesale. No transferor shall deliver a handgun to a transferee until at least seven [7] calendar days shall have elapsed from the time of the application for the transfer and, when delivered, the handgun shall be securely wrapped and unloaded.

(1) The seven [7] day waiting period shall not apply to marshals and sheriffs and their deputies and policemen and other law enforcement officers. Any marshal, sheriff, deputy sheriff, policeman or other law enforcement officer who takes advantage of this exception to purchase a handgun for someone other than himself shall be guilty of a misdemeanor.

(2) The seven [7] day waiting period shall also be waived for any person to whom a qualified or unlimited handgun-carrying license has been issued, upon exhibition of the license to the transferor. The transferor shall note on the application-to-purchase form the serial number of the license, the expiration date, the issuing authority, and the notation "waiting period waived," together with the date on which the handgun or handguns are released to the applicant. Any person using or seeking to use a false, counterfeit, spurious or altered handgun-carrying license to obtain a handgun contrary to the provisions of this chapter shall be subject to the penalties provided in section 18 of this chapter.

(b) At the time of applying for the transfer of a handgun, the transferee shall complete and sign an application in triplicate in the presence of the transferor containing the following information: Date and hour of the transfer, name, full address, occupation, sex, color of eyes, color of hair, race, complexion, age, place of birth, date of birth, nationality, height, weight, build, scars and marks, and the make, model, caliber designation and manufacturer's serial number of the handgun or handguns transferred. This application, in triplicate, shall be deposited with the transferor who shall, within eight [8] hours of the time of execution of the application, sign and attach his address and forward by first class mail or deliver in person one [1] copy of the application to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident; one [1] copy duly signed by the transferor shall at the same time be forwarded by him with his address to the superintendent; and he, the transferor, shall retain one [1] copy for six [6] years. If the superintendent shall by administrative rule require, the application forms forwarded to the superintendent may be accompanied by a full or partial set of legible and classifiable fingerprints of the transferee, taken by the transferor or by an agent of the transferor. Repeated instances of the transferor intentionally forwarding illegible fingerprints shall, in the case of a dealer, constitute grounds for the suspension or revocation of the dealer's license. Upon receipt of the handgun transfer application forms, the chief of police or sheriff, and the superintendent shall search the records of their respective departments concerning the transferee, and they shall forward immediately in both verbal and written form to the transferor any information constituting grounds for nondelivery of the handgun or handguns. In the case of the occasional transfer of a handgun between individuals, both the transferor and the transferee shall complete the application and fingerprint forms at any sheriff's office, police station, state police post, or licensed dealer, with the required fingerprints to be taken by a qualified person and the forms being forwarded to the appropriate chief of police or sheriff and to the superintendent, by the person taking the fingerprints. No charge shall be made for this service by any police agency; however, a dealer may charge a fee not to exceed two dollars [$2.00] for his services in assisting in the processing of the transfer, which fee is to be assessed of the transferor. It is the intent of this chapter that all sale forms shall be completed by the transferee in the presence of the transferor and that delivery of the handgun or handguns not take place until the seven [7] day waiting period has elapsed or has been waived as indicated above. Any notice from the chief of police or sheriff or from the superintendent indicating that the information on the transferee's application is untrue or incomplete or that the transferee has been convicted of a violation of this chapter or any crime of violence shall be grounds for nondelivery of the handgun or handguns, and in such case, delivery shall not occur without written approval of the superintendent.

(c) Delivery of a handgun by the transferor or his agent to the transferee prior to the expiration of the seven [7] day waiting period, except when the waiting period has been waived under this section, or delivery to any transferee without the superintendent's written approval after receiving notice of grounds for nondelivery is a misdemeanor and in addition, constitutes grounds for the immediate suspension of the retail dealer's license.

(d) No additional record of any lawful transfer of any firearm shall be made or maintained by any local or state official or agency; and, all forms utilized in executing lawful firearm transfers, with the sole exception of those remaining with the transferor, shall be forwarded within six [6] months to the transferee indicated on the forms. Said forms shall then be retained by the transferee as proof of ownership of the firearm or firearms listed thereon.

10-4751h *Retail dealer—License required.*—A retail dealer shall not sell, trade, or otherwise transfer or expose for sale, trade, or transfer, or have in his possession with intent to sell, trade, or transfer, any handgun without being licensed under section 9 of this chapter.

10-4751i *License as retail handgun dealer—Application — Fingerprints — Fee — Conditions.*—A person desiring a license as a retail handgun dealer shall apply to the sheriff of the county in which he resides, or if he is a resident of another state and has a regular place of business in this state, then to the sheriff of the county in which he has a regular place of business. The officer to whom the application is made shall ascertain concerning the applicant his name, full address, occupation, sex, race, age, place of birth, date of birth, nationality, height, weight, build, color of eyes, color of hair, complexion, scars and marks, and any criminal record (minor traffic offenses excepted). In addition, the officer to whom the application is made shall search his records, conducting an investigation into the applicant's character and reputation. Based on the information contained in the application, which the officer shall verify for accuracy, and the results of the officer's investigation, the officer to whom the application is made shall forward this information in as many copies as the superintendent shall designate together with his recommendation for approval or disapproval, and one [1] set of legible and classifiable fingerprints of the applicant to the superintendent, who may make whatever further investigation he deems necessary. In addition, whenever disapproval is recommended, the officer to whom the application was made shall provide the superintendent and the applicant with his complete reasons for the disapproval in writing. If the officer to whom the application is made recommends approval, he shall instruct the applicant in the proper method of taking legible and classifiable fingerprints. If it appears to the superintendent that the applicant is of good character and reputation and a proper person to be so licensed, he shall issue to said applicant a retail handgun dealer's license which shall be valid for a period of two [2] years from the date of issue. The fee for said license shall be five dollars [$5.00], which shall be deposited with the officer to whom the application is made who shall in turn forward it to the superintendent for deposit with the treasurer of state when the application is approved by the superintendent. In the event that said application is disapproved by the superintendent, said fee shall be returned to the applicant, along with the complete reasons, in writing, for the disapproval. No retail dealer's license shall be issued to any person who has been convicted of a crime of violence in this state or any state or country, or who has been convicted of a felony violation of this chapter [§§ 10-4751a—10-4751r]. A retail dealer's license shall permit the licensee to sell handguns at retail within this state subject to the following conditions in addition to those specified elsewhere in this chapter for breach of any of which the license may be suspended or revoked in accordance with applicable law and in addition the licensee may be subject to punishment as provided in this chapter:

(a) The business shall be carried on only in the site designated in the license and a separate license shall be required for each separate retail outlet. In the event a licensed dealer moves his place of business, he shall promptly notify the superintendent, who shall at once issue an amended license certificate valid for the balance of the license period. This section shall not apply to sales at wholesale.

(b) The license, certified by the issuing authority, shall be displayed on the business premises in a prominent place where it can be seen easily by prospective customers.

(c) No handgun shall be sold in violation of any provisions of this chapter, nor shall any handgun be sold under any circumstances unless the purchaser is personally known to the seller or presents clear evidence of his identity.

10-4751j *Loan secured by handgun prohibited.*—No person shall make any loan secured by a mortgage, deposit, or pledge of a handgun.

10-4751k *Penalty for giving false information or evidence of identity—Confiscation and disposal of handgun.*—No person, in purchasing or otherwise securing delivery of a handgun or in applying for a license to carry a handgun, shall give false information or offer false evidence of identity. In addition to any penalty provided by this chapter [§§ 10-4751a—10-4751r], any handgun obtained through false information shall be subject to confiscation and disposition as provided in this chapter. Upon notice of a violation of this section by the superintendent, it shall be the duty of the sheriff or chief of police or corresponding officer of the jurisdiction in which the purchaser resides, to confiscate the firearm and retain it as evidence pending trial for the offense.

10-4751l *Alteration, removal or obliteration of identifying marks prohibited.*—No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's serial number, or other mark of identification on any handgun, except as provided by applicable United States Statute.

10-4751m *Firearms exempted.*—This chapter [§§ 10-4751a—10-4751r] does not apply to any firearm not designed to use fixed cartridges or fixed ammunition, or any firearm made on or before 1898.

10-4751n *Waiver of disability or pardon of conviction—Effect.*—A waiver of disability from United States authorities or a full pardon from the governor or other chief executive of the state, county or jurisdiction in which a conviction for any crime of violence or violation of this chapter [§§ 10-4751a—10-4751r] took place, shall, as to the conviction so pardoned, remove any disability under this chapter imposed by that conviction.

10-4751q *Use of false or altered handgun license unlawful.*—It is unlawful for any person to use, or to attempt to use, a false, counterfeit, spurious, or altered handgun-carrying license to obtain a handgun contrary to the provisions of this chapter.

Hammond

27-201. *Explosives—Permit.* 1. No person or corporation shall keep, sell or offer for sale, or give away, anywhere within the City any gunpowder, guncotton, giant powder, dynamite, nitroglycerine, fulminate of mercury, or other high explosives of similar nature, in any quantity, whether in bulk or made up or kept in packages or cartridges, or kept, sell or offer for sale, or give away, anywhere within the City, any loaded paper or metallic shot shells or cartridges designed or intended to be used for shot guns, pistols, rifles or other firearms, or percussion caps or primers

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with or without anvils, without a license permit issued for that purpose as hereinafter provided; Provided however that nothing herein contained shall be held to prevent any person from keeping on his own premises, for his own use, a quantity of gunpowder not exceeding one pound, or loaded shells or cartridges not exceeding five hundred in number.

Indianapolis

10–607. *Firearms for minors.* No person shall sell, loan or furnish to any minor, under the age of eighteen years, any gun, pistol, or other firearm, or any toy gun, toy pistol, or other toy firearm in which any explosive substance is or can be used, within the city; except that minors over fifteen years of age may be permitted, with the consent of their parents or guardians, to use firearms on the premises of a duly licensed shooting gallery, gun club, or rifle club, or to shoot game birds, in accordance with other provisions of this code, or the law.*

10–1008. *Selling weapons to narcotic users, etc.* No person shall sell, give, barter, exchange, lend, or otherwise dispose of, or place in the possession of any known, or suspected, habitual user of narcotics, or any known, or suspected, criminal or person with criminal purpose, any type of machine-gun or sawed-off shotgun, or pistol, or revolver, or ammunition therefor, or any knucks, billy, sandbag, dagger, dirk, bowie-knife, or stiletto, or any spring gun, or sword-cane, or any other dangerous weapon of any similar character, which may be carried or concealed on or about the person and which are commonly used and fit to be used unlawfully to inflict harm on or to any person.

Marion

1. *Sale and use of firearms by minors.* Be it ordained by the Common Council of the City of Marion, that it shall be and is hereby declared to be unlawful for any person to sell or give away within this city, to any minor, any rifle or gun for shooting powder and ball, or any air rifle, air gun, flipper or sling shot or other gun, rifle or device for shooting and propelling missiles and it shall be unlawful for any minor to have in his possession any such gun, rifle, flipper, sling shot or device on any of the public streets, alleys, lanes, avenues or commons of said city.

New Whiteland

8. *Selling weapons to narcotic users, etc.* No person shall sell, give, barter, exchange, lend or otherwise dispose of, or place in the possession of any known, or suspected, habitual user of narcotics, or any known, or suspected, criminal or person with criminal purpose, any type of machine-gun or sawed-off shotgun, or pistol, or revolver, or ammunition therefor, or any knucks, billy, sandbag, dagger, dirk, bowie knife, or stiletto, or any spring gun, or sword-cane, or any other dangerous weapon of any similar character, which may be carried or concealed on or about the person and which are commonly used and fit to be used unlawfully to inflict harm on or to any person; or any tools or devices or jimmies, commonly used for burglary: Provided, however, that ordinary pocket-knives, with blades not exceeding five inches in length and as so known and sold in legitimate trade, shall not be included in the terms of this section, and also that the provisions of this section shall not apply to any military forces, peace officers, or other persons so excepted by law for the possession, use, or disposal of any such things.

West Lafayette

2–38. *Powers of mayor.* (a) *Proclamation.* When, in the judgment of the mayor, a civil emergency as defined in this article is deemed to exist, he shall forthwith proclaim in writing the existence of same. In case of the absence of the mayor from the city, the chief of police shall be authorized to act in his stead.

(c) *Additional regulations.* After proclamation of a civil emergency, the mayor may also in the interest of public safety and welfare make any or all of the following orders:

(7) Order the discontinuance of selling, distributing, dispensing or giving away of firearms and ammunition.

IOWA

State Law

IOWA CODE ANN.

695.18. *Sale of dangerous weapons prohibited.* It shall be unlawful to sell, to keep for sale, or offer for sale, loan, or give away, dirk, dagger, stiletto, metallic knuckles, sandbag, or skull cracker, silencer, and no pistol or revolver shall be sold to any person under the age of eighteen years. The provisions of this section shall not prevent the selling or keeping for sale of hunting and fishing knives.

695.19 *Dealer's permit to sell.* It shall be unlawful for any person, firm, association, or corporation to engage in the business of selling, keeping for sale, exchange, or to give away to any person within the state, any revolver, pistol, or pocket billy, or other weapons of a like character which can be concealed on the person, without first securing a permit from the proper officials having authority to issue such permit.

695.20 *Record of permits to sell.* The chief of police, sheriff, or mayor shall have authority to issue permits to sell and shall keep a correct list of all persons to whom permits to sell are issued, together with the number of such permit and the date each is revoked, and furnish the county recorder a copy of all such permits issued and revocations made.

695.26. *Selling firearms to minors.* No person shall knowingly sell, present, or give any pistol or revolver to any minor. Any violation of this section shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, or by imprisonment in the county jail not less than ten nor more than thirty days. Nothing herein contained shall prohibit the sale of ammunition to minors who have been licensed to hunt by the state of Iowa and to those minors who by reason of hunting on their own premises are not required by law to have a hunting license.

695.29 *Purchase or sale of firearms in contiguous states.* A resident of Iowa not otherwise precluded by applicable law, may purchase firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories in states contiguous to Iowa. This authorization is enacted in conformance with Gun Control Act of 1968, 18 U.S.C. section nine hundred twenty-two (922)(b)(3)(A). In the event that presently enacted federal restrictions on the purchase of firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories are repealed by the United States Congress or set aside by courts of competent jurisdiction, this section shall in no way be interpreted to prohibit or restrict the purchase of firearms, shotguns, rifles, ammunition, reloading components, or firearms accessories by residents of Iowa otherwise competent to purchase the same in contiguous or other states.

A dealer licensed in Iowa may sell or deliver a rifle or shotgun, and a collector licensed in Iowa may sell or deliver a rifle or shotgun if it is a curio or relic, to a resident of an adjacent state, if the purchaser's state of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of Iowa and the adjacent state, and the purchaser and licensee have, prior to the sale or delivery for sale of the rifle or shotgun, complied with all the requirements of the Federal Gun Control Act of 1968.

696.1. *Possession.* No person, firm, partnership, or corporation, except law enforcement officers, shall knowingly have in his or its possession or under his or its control any machine gun of any nature or kind.

696.2. *Aiding possession.* No person, firm, partnership, or corporation shall do any act with the intent to enable any other person, firm, partnership, or corporation to obtain possession of such gun.

696.4. *Exceptions.* Sections 696.1 to 696.3, inclusive, shall not apply to:

1. Peace officers as herein provided.
2. Persons who are members of the national guards.
3. Persons in the service of the government of the United States.
4. Banks.

696.5. *Interpretative clause.* Section 696.4 shall not be construed to exempt any person therein specified when the possession charged had no connection with the official duties or service of said person.

696.6. *Relics* It shall be a defense that the machine gun or machine which the accused is charged with possessing was a gun which was in general use prior to November 11, 1918, and was, prior to the commencement of the prosecution, rendered permanently unfit for use, and was possessed solely as a relic.

696.7. *Additional exception.* This chapter shall not apply to any person or persons, firm, or corporation engaged or interested in the improvement, the invention, or manufacture of firearms.

697.10 *Definitions.* As used in this Chapter, unless the context otherwise indicates:

1. "Explosive device" means any material, container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible materials or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects.

2. "Incendiary device" means any inflammable material or container containing an inflammable liquid or material whose ignition, by fire, friction, concussion, detonation, or other method is intended to produce destructive effects primarily through combustion rather than explosion.

3. "Molotov cocktail" means a breakable container containing an explosive or inflammable liquid or other substance, having a wick or similar device capable of being ignited, and may be described as either an explosive or incendiary device. A "molotov cocktail" is not intended to mean a device commercially manufactured primarily for the purpose of illumination or other such uses.

697.11 *Unlawful materials—exceptions.* It shall be unlawful for any person to receive, possess, sell, purchase, or manufacture a bomb, bombshell, grenade, or incendiary or explosive device including but not limited to black powder bombs and molotov cocktails, or, with intent to assemble them, the materials which may be assembled into any such device and any person violating any of the provisions of this section shall be guilty of a felony and shall, upon conviction thereof, be punished by a fine of not more than two thousand dollars or by imprisonment in the penitentiary or men's or women's reformatory for not more than five years, or by both such fine and imprisonment, or by imprisonment in the county jail for not more than six months; provided, however, that this section shall not apply to military and law-enforcement agencies and their personnel, and persons, firms, or corporations engaged in business, occupational or recreational use of commercial explosives, fireworks, firearms, or ammunition when possession and use is otherwise authorized or permitted by law. Section 697.10 and this Section shall have no application to the possession or sale of rifle, pistol, or shotgun ammunition; nor shall it prohibit the use, sale, or possession of primers, percussion caps, brass, powder, and other components and supplies for hand loading or reloading rifle, pistol, or shotgun ammunition or loading muzzle-loading arms, where the same is for lawful purposes.

Cedar Rapids

63.16. *Prohibition against bombs.* No person shall sell, manufacture, produce, distribute, purchase, carry, possess or use any bomb, bombshell, grenade, bottle or other container containing an explosive, flammable, noxious gas, or chemical substance, such as but not limited to black powder bombs and Molotov cocktails. The provisions of this section shall not apply to any duly constituted police or military authorities or peace officers in the discharge of their duties.

Des Moines

26–11. *Report to chief of police.* Every secondhand dealer, or other merchant, shopkeeper or dealer who shall purchase or receive from any person any guns, pistols, or parts thereof, shall within twenty-four hours after purchasing or receiving such articles report the same in writing to the chief of police, * * *.

No person purchasing or receiving any such article shall melt up, destroy or dispose of the same without making such report or within fifteen days after such report is made, except upon written permit from the chief of police.

Marshalltown

76. *It shall be unlawful:* 13. *Weapons—Minors.* To sell, loan or give any pistol or revolver to any person under the age of 21 years.

14. *Sale of arms—license.* To sell or keep for sale or exchange or to give away to any person, any revolver, pistol, pocket billy, or other weapon of a like character, which can be concealed on the person, without first securing a permit from the proper officer, having authority to issue such permit.

Sac City

(e) *Sales to intoxicated persons and minors.* Purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to, any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 16 years.*

KANSAS

State Law

KAN. STAT. ANN. TITLE 21

21–4201. *Unlawful use of weapons.* (1) Unlawful use of weapons is knowingly: (a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen (18) inches in length, metal knuckles or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or fails or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement; or

(g) Selling, manufacturing, purchasing, possessing or carrying any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.

(2) *Exemptions.* (a) Subsections (1) (a), (b), (c), (d) and (g) of this section shall not apply to or affect any of the following: (i) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer; (ii) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime; (iii) Members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; (iv) Manufacture of, transportation to, or sale of weapons to person authorized under (i) through (iii) of this subsection to possess such weapons.

(b) Subsection (1)(d) of this section shall not apply to or affect the following: (i) Watchmen while actually engaged in the performance of the duties of their employment; or (ii) Licensed hunters or fishermen while engaged in hunting or fishing; or (iii) Persons licensed as private detectives by the state of Kansas, detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service.

21–4203. *Unlawful disposal of firearms.* (1) Unlawful disposal of firearms is knowingly:

(a) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age; or*

(b) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict; or

(c) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the defendant has not been imprisoned in the penitentiary.

(2) Unlawful disposal of firearms is a class A misdemeanor.

21–4204. *Unlawful possession of a firearm.* (1) Unlawful possession of a firearm is:

(a) Possession of any firearm by an habitual drunkard or narcotics addict; or

(b) Possession of a firearm with a barrel less than twelve (12) inches long by a person who, within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the defendant has not been imprisoned in the penitentiary.

(2) Violation of subsection (1)(a) of this section is a class B misdemeanor; violation of subsection (1)(b) is a class D felony.

21–4205. *Defacing identification marks of a firearm.* (1) Defacing identification marks of a firearm is the intentional changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(2) Possession of any firearm upon which any such mark shall have been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, or obliterated the same.

(3) Defacing identification marks of a firearm is a class B misdemeanor.

21–4206. *Confiscation and disposition of weapons.* (1) Upon conviction of a violation of sections 21–4201, 21–4202 or 21–4204 of this article, any weapon seized in connection therewith shall remain in the custody of the trial court.

(2) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court, be destroyed, preserved as county property, or sold and the proceeds of such sale shall be paid to the county general fund.

KANS. STAT. ANN. TITLE 48

48–1801. *Public crisis or emergency; proclamation by governor, when; contents and scope of proclamation; powers and duties of governor; orders, rules and regulations.* During times of public crisis resulting from disaster, rioting, catastrophe or other public emergency within this state, or reasonable apprehension of immediate danger thereof, the governor may, upon his own volition or upon application of the mayor of any city or the person legally acting for the mayor in his absence or the county attorney of any county or the attorney general of the state proclaim a state of emergency. Prior to the issuance of such proclamation, the governor shall find by investigation or otherwise that because of disaster, rioting, catastrophe or other emergency condition, the public peace and safety is imperiled, that human life and property is endangered by such emergency conditions and that the normal and ordinary processes of state and local government are inadequate to safeguard the public peace and safety and the lives and property of citizens.

The proclamation of the governor shall recite his findings, shall declare that a state of public emergency exists, and shall designate the boundaries of the affected area. Following such proclamation or declaration, the governor may promulgate such reasonable orders, rules and regulations as he deems necessary to protect life and property, or to bring the emergency situation within the affected area under control. Without limiting the scope of the same, said orders, rules and regulations may provide for the control of traffic, including public and private transportation, within the area or any section thereof; designation of specific zones within the area in which occupancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated; control of places of amusement and assem-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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bly, and of persons on public streets and thoroughfares; establishment of a curfew; control of the sale, transportation and use of alcoholic beverages and liquors and cereal malt beverages; control of the possession, sale, carrying and use of firearms, other dangerous weapons, and ammunition; and control of the storage, use, and transportation of explosives, or inflammable materials or liquids deemed to be dangerous to public safety. Such orders, rules and regulations shall be effective from the time and in the manner prescribed in such orders, rules and regulations and shall be made public as provided therein. Such orders, rules and regulations may be amended, modified, or rescinded from time to time by the governor during the pendancy of the emergency, but shall cease to be in effect upon declaration by the governor that the emergency no longer exists.

48–1903. *Purchase or receipt of rifle or shotgun in contiguous state by resident of Kansas; restrictions.* It is hereby declared to be lawful for a resident of this state to purchase or receive delivery of a rifle or shotgun in a state contiguous to this state, subject to the following restrictions and requirements:

(a) The sale must fully comply with the legal conditions of sale in both such states; and

(b) Prior to the sale or delivery for sale of the rifle or shotgun, the purchaser and the licensee must have complied with all of the requirements of section 922(c) of the federal gun control act of 1968, applicable to interstate transactions other than at the licensee's business premises.

Atchison

21–124. *Unlawful use of weapons.* (1) Prohibited uses. Unlawful use of weapons is knowingly:

(a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen (18) inches in length, metal knuckles or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement; or • • •.

21–129. *Unlawful disposal of firearms.* (1) Unlawful disposal of firearms is knowingly:

(a) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age; or*

(b) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict; or

(c) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the defendant has not been imprisoned in the penitentiary.

21–130. *Defacing identification marks of a firearm.* (1) Defacing identification marks of a firearm is the intentional changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(2) Possession of any firearm upon which any such mark shall have been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, or obliterated the same.

Bonner Springs

17–113. *Unlawful disposal of firearms.* (1) Unlawful disposal of firearms is knowingly: (a) Selling, giving or otherwise transferring any firearm with a barrel of less than twelve (12) inches long to any person under eighteen (18) years of age; or*

(b) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict; or

(c) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the defendant has not been imprisoned in the penitentiary.

Cherryvale

12–310. *Firearms in possession of minors.* Every minor who shall have in his possession any pistol, revolver, or toy pistol by which cartridges may be exploded or any dirk, bowie knife, brass knucks, slung shot, or other dangerous weapons, shall be guilty of a misdemeanor.

12–311. *Firearms, furnishing to minors.* Every person who shall trade, give, loan, or otherwise furnish any pistol, revolver, toy pistol, or any dirk, bowie knife, brass knucks, slung shot or other dangerous weapons to any minor, or any person of unsound mind, shall be guilty of a misdemeanor.

Concordia

15–37. *Unlawful use of weapons generally.* 15–37(a). The following acts shall constitute unlawful use of weapons and a misdemeanor: (1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sand-club, shotgun with a barrel less than eighteen (18) inches in length, metal knuckles or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement; • • •.

(6) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

15–40. *Unlawful disposal of firearms.* Unlawful disposal of firearms is knowingly: (1) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age; or*

(2) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict; or

(3) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the defendant has not been imprisoned in the penitentiary.

Dodge City

20–118. *Unlawful use of weapons.* (1) *Prohibited uses. Unlawful use of weapons is knowingly:* (a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sand-club, shotgun with a barrel less than eighteen (18) inches in length,

(f) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

20–121. *Unlawful disposal of firearms.* (1) Unlawful disposal of firearms is knowingly: (a) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age; or (b) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict; or (c) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the defendant has not been imprisoned in the penitentiary.*

Hutchison

24–1001. *Unlawful use of weapons.* (a) Unlawful use of weapons is knowingly: • • •.

(6) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

(7) Selling, manufacturing, purchasing, possessing or carrying any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.

24–1003. *Unlawful disposal of firearms. Unlawful disposal of firearms is knowingly:* (1) Selling, giving or other wise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age; or*

(2) Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict; or

(3) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the offender has not been imprisoned in the penitentiary.

Independence

17–212. *Furnishing weapons to minors.* Any person who shall sell, trade, give, loan or otherwise furnish any pistol, revolver or toy pistol by which cartridges or caps may be exploded, or any dirks, Bowie knife, brass knuckles, slung shots or other dangerous weapons to any minor, or to any person of notoriously unsound mind shall, upon conviction thereof, be fined in any sum not exceeding One Hundred Dollars ($100), or be imprisoned not to exceed thirty (30) days, or be both so fined and imprisoned.*

17–213. *Possession of weapons.* Any person who shall have in his possession any pistol, revolver, or toy pistol by which cartridge may be exploded or any dirk, Bowie knife, brass knuckles, slung shots or other dangerous weapons shall, upon conviction thereof, be fined in any sum not exceeding One Hundred Dollars ($100), or be imprisoned not to exceed thirty (30) days, or be both so fined and imprisoned.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

Junction City

18–3a101. *Registration.* 1. From and after the effective date of this ordinance, no pistol, revolver or other firearm with a barrel less than 10 inches in length shall be sold in the City of Junction City, Kansas, unless the purchaser thereof shall have first obtained a registration certificate to be issued by the Chief of Police of the City.

18–3a103. *Persons not eligible for certificate of registration.* 3. No certificate of registration shall be issued to any of the following classes of persons:

a. Any person under the age of 21 years.

b. Any person convicted of a felony as defined in K.S.A. 21–2611.

c. Any person who is addicted to the use of narcotics or is mentally retarded or is an habitual drunkard.

18–3a104. *Waiting period.* 4. No firearms as herein described shall be delivered into the possession of the purchaser thereof until a period of 48 hours shall have transpired from the time of issuance of such certificate of registration and said certificate shall have been presented to the seller.

18–3a105. *Exclusions.* 5. The provisions of this Ordinance shall not apply to any duly authorized police officer, marshal, sheriff, constable, or other law enforcement officer designated by the federal, state, county or municipal governments, who purchase weapons to be used in the performance of their duties.

Kansas City

39–4. *Permit to purchase or receive pistol or revolver—Required; exceptions.* It shall be unlawful for any person to sell, loan for a consideration or give, or purchase, borrow for a consideration or accept as a gift, any pistol, revolver, or gun of any kind, with a barrel less than nine (9) inches long, unless the purchaser, borrower or person accepting the same has then and there a permit, dated less than ten (10) days prior to such sale, loan or gift, issued by the chief of police, authorizing such person to purchase or accept a pistol or revolver. Such permit must be retained by the vendor and returned to the chief of police with a complete description of the gun sold within three (3) days of the sale.

This section shall not apply to sales of collector's items made and consummated at hobbyists' conventions.

39–6. *Same*—issuance. After fifteen (15) days, the Chief of Police may, in his discretion, issue such permit required by Section 39–4 to any person filing the proper application, except dope addicts, alcoholics, or persons having been convicted of a crime involving violence or the use of firearms, and upon obtaining a clearance from the F.B.I. Identification Division for the applicant.

39–7. *Small firearms to be stamped with trade mark, name of maker, model and serial number.* No dealer in firearms, either at wholesale or retail, shall have in his possession for the purpose of sale or sell any pistol, revolver or other firearm of a size which may be concealed upon the person, unless such firearm has plainly and permanently stamped, upon the metallic portion thereof, the trade mark, the name of the maker, the model and factory serial number thereof, which number shall not be the same as that of any other such weapon of the same model made by the same maker. No person within the city shall lease, buy or in any wise procure the possession of any pistol, revolver or other firearm of a size which may be concealed upon the person, unless such firearm is stamped as required by this section.

Nothing in this section shall be considered or construed as forbidding or making it unlawful for a dealer in or manufacturer of pistols, revolvers or other firearms of a size which may be concealed upon the person, located in this city, to ship into other states or foreign countries any such articles, whether stamped as required by this section or not so stamped.

Leavenworth

14–1001. *Unlawful use of weapons.* Rules and regulations relating to use of weapons and subsequent exemptions shall be as follows: a. Unlawful Use of Weapons is knowingly:

1. Selling, manufacturing, purchasing, possession or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen inches (18") in length, metal knuckles or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement; • • •.

6. Possession of any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

7. Selling, manufacturing, purchasing, possessing or carrying any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.

14–1003. *Unlawful disposal of firearms.* Unlawful disposal of firearms is knowingly: a. Selling, giving or otherwise transferring any firearm with a barrel less than twelve inches (12") long to any person under eighteen (18) years of age; b. Selling, giving or otherwise transferring any firearms to any habitual drunkard or narcotic addict; c. Selling, giving or otherwise transferring any firearm with a barrel less than twelve inches (12") long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the offender has not been imprisoned in the penitentiary.

14–1016. *Molotov cocktails.* Unlawful possession, use and transportation of "Molotov Cocktail" is the transporting, use or possession or control of a container of incendiary or explosive material, liquid, solvent or mixture, equipped with a fuse, wick or other detonating device of a kind commonly known as "Molotov Cocktail."

Manhattan

2609–1. From and after the effective date of this ordinance, no person, partnership or corporation, regularly engaged in the sale of pistols, revolvers or other firearms with a barrel less than 10 inches, may deliver possession of such firearms, until the expiration of forty-eight (48) hours from the date the sale of said firearm is consummated. For the purpose of this ordinance, a sale of firearms shall be deemed consummated when the dealer shall have received a written commitment from the buyer legally binding the latter to purchase said firearm.

2609–2. Any dealer subject to the provisions of Section 1 hereof shall forthwith upon the consummation of the sale of such firearms as defined herein, report such sale to the Chief of Police of Manhattan, Kansas, within twenty-four (24) hours after the consummation of the sale of said firearm, describing therein the firearms sold. The description shall contain the serial number, caliber and make or manufacturer of the firearm if such information is available. Further, the Chief of Police shall be notified of the purchaser's name and address and the date and time when the possession of said firearm will occur.

2609–3. Any dealer who shall violate or fail to comply with the provisions of this ordinance, or any person who as a buyer of such firearms shall give false information to said dealer or otherwise visible any of the provisions of this ordinance, shall upon conviction be fined One Hundred Dollars ($100.00) or imprisoned in the City Jail for not more than thirty (30) days, or both such fine and imprisonment.

Merriam

3—*Permit to purchase or receive pistol or revolver—Required: Exceptions* It shall be unlawful for any person to sell, loan for a consideration or give, or purchase, borrow for a consideration, or accept as a gift, any pistol, revolver, or gun of any kind, with a barrel less than 9 inches long, unless the purchaser, borrower, or person accepting the same has then and there a permit, dated less than 10 days prior to such sale, loan, or gift, issued by the Chief of Police, authorizing such person to purchase or accept a pistol or revolver. Such permit must be retained by the vendor and returned to the Chief of Police with a complete description of the gun sold within five days of the sale. This Section shall not apply to sales of collectors' items made and consummated at hobbists' conventions, nor to firearms that do not use a fixed, metallic cartridge.

5. *Issuance.* The Chief of Police shall issue a permit required by Section 4 to any person filing proper application, except drug addicts, alcoholics, or person having been convicted of a crime involving violence or the use of firearms, or those persons who have been legally adjudicated incompetent.

6: *Small firearms* To be stamped with trademark, name of maker, model and serial number.

No dealer in firearms, either at wholesale or retail, shall have in his possession for the purpose of sale or sell any pistol, revolver, or other firearm of a size which may be concealed upon the person, unless such firearm has plainly and permanently stamped, upon the metallic portion thereof, the trademark, the name of the maker, the model and factory serial number thereof, which number shall not be the same as that of any other such weapon of the same model made by the same maker. No person within the city shall lease, buy, or in anywise procure the possession of any pistol, revolver, or the firearm, of the size which can be concealed upon the person, unless such firearm is stamped as required by this Section. Nothing in this Section shall be considered or construed as forbidding or making it unlawful for a dealer in or manufacturer of pistols, revolvers, or other firearms of a size which may be concealed upon the person, located in this city, to ship into other states or foreign countries any such articles, whether stamped as required by this Section or not.

Mission

283–3. *Permit to purchase or receive pistol or revolver—Required. Exceptions:* It shall be unlawful for any person to sell, loan for a consideration or give, or purchase, borrow for a consideration or accept as a gift, any pistol, revolver, or gun of any kind, with a barrel less than nine (9) inches long unless the purchaser, borrower or person accepting the same has then and there a permit, dated less than ten (10) days prior to such sale, loan or gift, issued by the Chief of Police,

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authorizing such person to purchase or accept a pistol or revolver. Such permit must be retained by the vendor and returned to the Chief of Police with a complete description of the gun sold within three (3) days of the sale.

This section shall not apply to sales of collector's items made and consummated at hobbyists' conventions, nor to firearms that do not use a fixed metallic cartridge.

283–5. *Permit to purchase or receive pistol of revolver—Issuance.* After investigation and approval by the Chief of Police, he shall issue a permit as required by section four (4) to any responsible person 21 years of age or older filing the proper application, except dope addicts, felons, alcoholics, emotionally disturbed persons, or persons having been convicted of a crime involving violence or the use of firearms.

283–6. *Small firearms to be stamped with trademark, name of maker, model and serial number.* No dealer in firearms, either at wholesale or retail, shall have in his possession for the purpose of sale or sell any pistol, revolver or other firearm of a size which may be concealed upon the person, unless such firearm has plainly and permanently stamped upon the metallic portion thereof the trademark, the name of the maker, the model and factory serial number thereof, which number shall not be the same as that of any other such weapon of the same model made by the same maker. No person within the city shall lease, buy or in anywise procure the possession of any pistol, revolver or other firearm of a size which may be concealed upon the person, unless such firearm is stamped as required by this section.

Newton

17–1001. *Unlawful use of weapons.* (a) Unlawful use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possession or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen (18) inches in length, metal knuckles or any knife, commonly referred to as a switchblade, which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement; • • •.

(6) Possession of any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

(7) Selling, manufacturing, purchasing, possessing or carrying any firearm designed to discharge or capable of discharging automatically more than once by a single function of the trigger.

17–1003. *Unlawful disposal of firearms.* Unlawful disposal of firearms is knowingly:

(a) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age; or*

(b) Selling, giving or otherwise transferring any firearm to any habitual drunkard or narcotic addict; or

(c) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person who has been convicted of a felony under the laws of this or any other jurisdiction if such sale, gift or transfer is made to such convicted person within five (5) years after his release from the penitentiary or within five (5) years after his conviction if the offender has not been imprisoned in the penitentiary.

Olathe

9.16.050.1 *Minors or incompetents, furnishing weapons to.* It shall be unlawful for any person to sell, trade, give, loan or otherwise furnish any pistol, revolver or toy pistol by which cartridges or caps may be exploded, or any dirk, Bowie knife, knucks, slung shot, or other dangerous weapon to any minor person or person of unsound mind.*

Pittsburg

15–605. *Furnishing weapons to minors or persons of unsound mind.* Any person who shall sell, trade, give, loan or otherwise furnish any pistol, revolver or toy pistol by which cartridges or caps may be exploded, or any dirks, Bowie knife, brass knuckles, sling shots or other dangerous weapons to any minor or to any person of notoriously unsound mind shall, upon conviction thereof, be fined in any sum not less than $5.00 nor more than $100.00.*

15–606. *Possession of weapons by minors.* Any minor who shall have in his possession any pistol, revolver or toy pistol by which cartridges may be exploded or any dirk, Bowie knife, brass knuckles, sling shot or other dangerous weapon shall, upon conviction thereof, be fined in any sum not less than $1.00 nor more than $10.00.

Prairie Village

10.04.620 *Unlawful use of weapons.* A. Unlawful use of weapons is: 1. Selling, manufacturing, purchasing, possessing, or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen inches in length, metal knuckles or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement; • • •

6. Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any pistol, revolver, rifle, or shotgun.

Roeland Park

279–3. *Permit to purchase or receive pistol or revolver—Required: Exceptions.* It shall be unlawful for any person to sell, loan for a consideration or give, or purchase, borrow for a consideration or accept as a gift, any pistol, revolver, or gun of any kind, with a barrel less than nine (9) inches long, unless the purchaser, borrower or person accepting the same has then and there a permit, dated less than ten (10) days prior to such sale, loan or gift, issued by the chief of police, authorizing such person to purchase or accept a pistol or revolver. Such permit must be retained by the vendor and returned to the chief of police with a complete description of the gun sold within three (3) days of the sale.

This section shall not apply to sales of collector's items made and consummated at hobbyists' conventions, nor to firearms that do not use a fixed metallic cartridge.

279–6. *Small firearms to be stamped with trade mark, name of maker, model and serial number.* No dealer in firearms, either at wholesale or retail, shall have in his possession for the purpose of sale or sell any pistol, revolver or other firearm of a size which may be concealed upon the person, unless such firearm has plainly and permanently stamped, upon the metallic portion thereof, the trade mark, the name of the maker, the model and factory serial number thereof, which number shall not be the same as that of any other such weapon of the same model made by the same maker. No person within the city shall lease, buy or in any wise procure the possession of any pistol, revolver or other firearm of a size which may be concealed upon the person, located in this city, to ship into other states or foreign countries any such articles, whether stamped as required by this section or not so stamped.

Topeka

12–240. *Furnishing weapons to minors or persons of unsound mind.* It shall be unlawful for any person to sell, give, loan or otherwise furnish any pistol or revolver by which cartridge may be exploded, or any dirk, Bowie knife, knucks, sling shot, or other dangerous weapons to any minor, or to any person of notorious unsound mind.*

Valley Center

9.78.010 *Unlawful use defined.* Unlawful use of weapons is knowingly: A. Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen inches in length, metal knuckles or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement; or • • •

F. Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or • • •.

Wichita

5.88.040. *Machine guns, sawed off rifles and shotguns.* It shall be unlawful for any person, other than a sheriff or other peace officer or any military unit of the state or of the United States, or any common carrier for hire, to transport or have in his possession or under his control, any firearm known as a machine rifle, machine gun, submachine gun or any shotgun or rifle with a barrel less than eighteen inches in length, or any silencer; provided, that banks, trust companies or other institutions or corporations subject to unusual hazard from robbery or holdup who have secured permits from the sheriff of the county in which they are located for one or more of their employees to have such firearms, may possess such firearms; provided, further, that museums, American Legion posts and other similar patriotic organizations may possess such firearms when not used as a weapon and when possessed as a curiosity, ornament or keepsake.

KENTUCKY

State Law

KEN. REV. STAT. (BALDWIN'S)

435.230. *Carrying concealed deadly weapon; selling deadly weapon to minor.* (1) Any person, not expressly authorized by law, who carries concealed a deadly weapon, other than an ordinary pocket knife, on or about his person, or any person who sells a deadly weapon, other than an ordinary pocket knife, to a minor, shall be confined in the penitentiary for not less than two nor more than five years.*

237.020 *Right of Kentucky residents to buy firearms in contiguous states; reciprocity as to residents of contiguous states.* (1) Residents of the Commonwealth of Kentucky shall have the right to purchase rifles, shotguns, and any other firearms which they are permitted to purchase under federal law from properly licensed dealers, manufacturers, importers, or collectors located in states contiguous to the Commonwealth of Kentucky.

(2) Residents of states contiguous to the Commonwealth of Kentucky may purchase rifles, shotguns, and any other firearms which they are permitted to purchase under federal law from properly licensed dealers, manufacturers, importers, or collectors located in the Commonwealth of Kentucky.

(3) All such sales shall conform to the requirements of federal law, the Kentucky Revised Statutes, applicable local ordinances, and the law of the purchaser's state.

237.030 *Definitions for KRS 237.040 and 237.050.* (1) "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device and includes the unassembled components from which such a device can be made.

(2) "Booby trap device" includes any device, or substance designed to surreptitiously or covertly take life, endanger life or destroy or damage property and shall not include firearms.

237.040 *Criminal possession of destructive device or booby trap device.* A person is guilty of criminal possession of a destructive device or a booby trap device when he possesses, manufactures, or transports such substance or device with:

(1) Intent to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States; or

(2) Knowledge that some other person intends to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States.

(3) Mere possession without substantial evidence of the requisite intent is insufficient to bring action under KRS 237.030 to 237.050.

237.050 *Exemptions.* KRS 237.030 to 237.050 shall not apply to:

(1) Destructive devices or booby trap devices which are possessed by the government of the United States, this state, or a political subdivision thereof;

(2) Any device which is lawfully possessed under the Gun Control Act of 1968, the Organized Crime Control Act of 1971, or any other law of the United States or this state, unless a crime is committed therewith;

(3) Non-lethal devices placed on the premises of the owner or the lawful occupant thereof for his own self-protection or the protection of the said property;

(4) The setting of traps suitable and legal for the taking of game by persons licensed or permitted to do so by the game laws of the Commonwealth;

(5) Inert devices which cannot readily be restored to operating condition; or

(6) The acquisition, possession, use, or control of firearms.

237.990 *Penalties.* Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be imprisoned in the penitentiary for not less than one nor more than five years, or punished by a fine of not more than $1,000, or both.

Danville

1. No person, firm or corporation whether a licensed or unlicensed dealer or one who sells in a casual sale, shall sell any pistol, revolver, Derringer, Bowie knife, dirk or other weapon of like character which can be concealed on or about the person except to one to whom a permit for the purchase of a weapon has been issued as is provided in No. 2 of this Ordinance. Only one such weapon shall be sold for each permit so issued.

Erlanger

130.01 *Sale of pistol or like weapon; permit required.* (A) No person shall sell, give away or otherwise supply to any person, any pistol, revolver, derringer or other weapon of like character, which is capable of being concealed on or about the person, without first requiring such person as a condition to receiving said weapon, to produce to such supplier a written permit to purchase or otherwise receive such weapon issued by the City of Erlanger and signed by the chief of police • • •.

(B) No person shall purchase or otherwise receive any pistol, revolver, derringer or other weapon of like character, which can be concealed on the person, without first securing from the City of Erlanger, a weapon permit signed by its chief of police • • •.

It shall be the duty of the chief of police to refuse such weapon permit to (1) any person who has been convicted of any crime; (2) any vagabond, vagrant, inebriate or mental incompetent; (3) any minor.

The sale, donation, supplying or transfer of any pistol, revolver, derringer, or other weapon of like character, pursuant to the authority of a weapon permit issued by the City of Erlanger, as hereinbefore set forth, shall be accomplished within 10 days from the date of the issuance of such weapon permit and such weapon permit shall be void after the expiration of 10 days from the date of its issuance.

Fort Thomas

IV. *During the existence of a civil* emergency as proclaimed under Section II hereof, no person shall make, carry, possess or use any type of gasoline or petroleum base fire bomb, "Molotov Cocktail", or other incendiary missile.

Lexington Fayette Urban County Government

13–57. *Weapons—License and permits for concealed deadly weapons—Required.* It shall be unlawful for any person to engage in the business of selling, or to sell, give away or otherwise dispose of to any person within the city any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on or about the person, without securing a license so to do, • • •, and no person having secured such license shall sell, give away or otherwise dispose of any such weapon to any person within the city who has not secured a permit from the chief of police to purchase a weapon • • •.

13–59. *Same—Permit for purchase, refusal of permit when.* (a) It shall be unlawful for any person in the city to purchase any pistol, revolver, derringer, bowie knife or dirk, or other weapon of like character, which can be concealed on the person, without first securing from the chief of police a permit so to do.

14–40. *Supplying small arms ammunition.* No person shall sell, give, or otherwise supply to any child under the age of eighteen years in the city any small arms ammunition, and no person shall purchase for the use of or place such small arms ammunition in the possession of any such child in the city.

Louisville

I. *Definitions.* When used in this Ordinance, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine.

Antique firearm. (a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) Any replica of any firearm described in paragraph (a) of this definition if such replica (1) is not designed or redesigned for using rim fire or conventional center fire fixed ammunition, or (2) uses rim fire or conventional center fire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

Collector. Any person who acquires, holds, or disposes of firearms as curios or relics.

Concealable firearm. Any pistol, or revolver, or other weapon by whatsoever name known, other than an antique firearm as herein defined, designed to be fired by the use of a single hand, and which is designed to fire or is capable of firing a fixed metallic cartridge, or the frame or receiver of such a weapon; the term "concealable firearm" shall include any other such weapons irrespective of their original design which have received such extensive modification to stock, barrel or otherwise as to make them sufficiently small to be readily concealable on the person: in addition, the term "concealable firearm" shall include tear gas guns, tear pens, tear gas pencils, pen guns, mace cans, or other similar devices capable of firing, projecting, expelling or spraying tear gas, mace, or any similar gas, chemical or substance which may be dangerous or injurious to human health or safety.

Curios or relics. Firearms which are of special interest to collectors by reason of some quality other than is ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

(a) Firearms which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms which are certified by the curator of a municipal, state or federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period or event.

Dealer. Any person engaged in the business of selling concealable firearms at wholesale or retail; any person engaged in the business of repairing concealable firearms or of making or fitting special barrels, stocks or trigger mechanisms to concealable firearms; or any person who is a pawnbroker.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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Felony. Any offense punishable by imprisonment for a term exceeding one (1) year. The term shall not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two (2) years or less.

Frame or receiver. That part of a concealable firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Fugitive from justice. Any person who has fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

Indictment. Includes an indictment or information in any Court under which a crime punishable by imprisonment for a term exceeding one (1) year may be prosecuted.

Pawnbroker. Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, or any concealable firearm as security for the payment or repayment of money.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

II. *Sale or transfer of concealable firearms.* No sale, transfer or delivery of a concealable firearm shall be made within the City of Louisville to any of the following:

(a) A person under twenty-one (21) years of age;

(b) A person under indictment for, or who has been convicted in any Court of a felony;

(c) A person who has been convicted of a misdemeanor involving the handling, carrying, furnishing or misuse of a firearm within five (5) years;

(d) A person who is a fugitive from justice;

(e) A person who has been adjudicated as a mental defective or incompetent, or any person who is a known drug addict;

(f) A person who is not a resident of the Commonwealth of Kentucky;

(g) A person who has been convicted of public drunkenness three (3) or more times within the year last past before the proposed sale, transfer or delivery;

(h) A person who has a conviction record of three or more misdemeanors involving the employment of physical violence against another person within three (3) years last past before the proposed sale, transfer or delivery.

III. *Ownership or possession of concealable firearms.* It shall be unlawful for anyone within the following categories to own, possess or exercise any degree of control over a concealable weapon:

(a) A person under twenty-one (21) years of age;

(b) A person under indictment for, or who has been convicted in any court of a felony,

(c) A person who has been convicted of a misdemeanor involving the handling, carrying, furnishing, or misuse of a firearm within five (5) years;

(d) A person who is a fugitive from justice;

(e) A person who has been adjudicated as a mental defective or incompetent or who has been committed to any mental institution.

(f) A person who has a conviction record of three or more misdemeanors involving the employment of physical violence against another person within three (3) years last past before the proposal sale, transfer or delivery.

IV. *Licensing of dealer.* Any person who engages in the business of a dealer as defined in this Ordinance in the City of Louisville shall secure a license from the City to conduct such business and shall pay an annual license fee of Twenty-five dollars ($25.00). No person shall be so licensed unless he is the holder of a current Federal license issued by the Internal Revenue Service under the provisions of Title 18, U.S.C., Chapter 44. Any such license issued to a dealer hereunder shall authorize him to do business only at the premises stated on such license and any change of address or location of a dealer's business shall be reported to the office of the Chief of Police and to the office of the Commissioners of the Sinking Fund within twenty-four (24) hours of such change.

IX. *Collectors license.* Any person qualifying as a collector as defined in this Ordinance may make application to the Louisville Division of Police for issuance of a "Collectors License" and shall pay for said license the sum of Ten dollars ($10.00); said license shall be renewable annually for an additional fee of Five dollars ($5.00) for each subsequent renewal thereof; said license shall permit the licensee to buy firearms qualifying as curios and relics under the provisions of this Ordinance from any person and to buy from, sell to, trade with or otherwise dispose of or acquire such items from others similarly licensed who are residents of the City of Louisville or the Commonwealth of Kentucky and shall further authorize said licensee to transport any such firearms into or through the City of Louisville for display at a gun show or similar gathering or function.

XIII. *Exclusions.* 1. Despite any language to the contrary contained herein, it shall be lawful for the following persons to acquire, transfer, or purchase concealable firearms from a dealer or pawnbroker without the necessity of the affidavit and waiting period required by this Ordinance:

(a) Any governmental agency which is authorized to own or acquire firearms;

(b) Licensed dealers, manufacturers, wholesalers in all transactions between similiarly licensed persons, in their usual course of business;

(c) Licensed pawnbrokers accepting a firearm as security or pledge for loan, unless or until the pawnbroker makes a sale or transfer or the firearm pledged to a person other than the owner, at which time the affidavit required by this Ordinance and the waiting period shall be complied with, and the report of such sale or transfer shall be made as provided herein.

2. Despite any language to the contrary contained herein, it shall be lawful for the following persons to transport, possess and lawfully use concealable firearms for lawful purposes:

(a) Non residents of Louisville who are regularly enrolled members of any state or federal organization, service or agency whose members are legally authorized to purchase, or receive and transport concealable firearms;

(b) Non residents of Louisville regularly enrolled as members of clubs organized for firearms collecting or organized target shooting while such members are going to or from collectors gun shows, competitions and other organized convocations of such clubs;

(c) Non residents while lawfully engaged in hunting, fishing, or camping or going to or returning from hunting, fishing or camping;

(d) Non residents engaged in the business of manufacturing, repairing or dealing in firearms, or the agent or representative of such person while engaged in the lawful course of such business.

Newport

117.01. *Licensing of dealer.* Every person, firm or corporation, hereinafter called "Dealer", engaged in the business of buying or selling pistols, revolvers and like or similar instruments, whether such business is carried on as the only business or in conjunction with other lines of business, shall secure a license from the City of Newport, and shall pay an annual license fee of $25.00 to conduct the business of buying or selling pistols, revolvers and like or similar instruments, and said $25.00 license fee shall be in addition to any other business license held by said dealer.

117.04. *Purchaser's qualifications.* No "Dealer" shall make any sale of, or deliver any pistol, revolver, or like or similar instrument to any person without first requiring such person to execute an affidavit in triplicate copy, either typewritten or in plain legible English handwriting and which shall contain the following information: The Purchaser's name, age, address, description, place of employment, citizenship and statement of criminal record. If the prospective purchaser is an alien or if his record indicates he has been involved in any felony or any misdemeanor involving the use of firearms, then the "Dealer" shall not make any sale of or deliver any pistol, revolver, or like or similar instrument to such person. The "Dealer" shall be further charged with the responsibility of refusing to make a sale to any person who appears visibly agitated or under stress, and who cannot give a reasonable or proper explanation of such behavior. The "Dealer" shall complete any sale to a prospective purchaser only if it appears that such person has good cause to fear an injury to his person or property or that such pistol, revolver or like or similar instrument is to be used for a lawful purpose.

117.07. *Sale to unlicensed "dealers."* It shall be unlawful for any person, firm or corporation to sell a revolver, pistol or like or similar instrument to any unlicensed "Dealer" at any time.

117.08. *Sale to minors.* It shall be unlawful for any person, firm or corporation to sell a revolver, pistol or like or similar instrument to any minor at any time.

117.09. *Wholesalers excepted.* Nothing contained in this Ordinance shall apply to sales at wholesale to a licensed "Dealer"..

131.03 *Purchase of weapons regulated.* (A) No person shall sell, give away or otherwise supply to any person, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on or about the person, without first requiring such person to produce to them a permit to carry such weapon, signed by the chief of police, as hereinafter provided.

(B) No person in the city shall purchase any pistol, revolver, derringer, bowie knife or dirk, or other weapon of like character, which can be concealed on the person, without first securing from the chief of police a permit to do so. Before any such permit is granted, an application in writing shall be made therefor setting forth in such application the name, sex, address, age, height, weight, complexion and nationality of the person desiring such permit. Such application shall also contain a recommendation that the permit issued from 2 persons who shall be known to the chief of police as persons of good reputation and residents of the city for at least 1 year, or who shall appear to be taxpayers residing within the city.

It shall be the duty of the chief of police to refuse such permit to (1) all persons who have been convicted of any crime; (2) all vagabonds, vagrants or inebriates, or who are for any reason known to be irresponsible; (c) all minors. Otherwise, it shall be the duty of the chief of police to grant such a permit.

Park Hills

I. *Licensing of dealer:* Every person, firm or corporation hereinafter called "Dealer", engaged in the business of buying or selling pistols, revolvers and like or similar instruments, whether such business is carried on as the only business or in conjunction with other lines of business, shall secure a license from the City of Park Hills, and shall pay an annual license fee of $25.00 to conduct the business of buying or selling pistols, revolvers and alike or similar instruments, and said $25.00 license fee shall be in addition to any other business license held by said dealer.

IV. *Purchaser's qualifications.* No "Dealer" shall make any sale of, or deliver any pistol, revolver, or like or similar instrument to any person without first requiring such person to execute an affidavit in tripilicate copy, either typewritten or in plain legible English handwriting and which shall contain the following information: The Purchaser's name, age, address, description, place of employment, citizenship and statement of criminal record. If the prospective purchaser is an alien or if his record indicates he has been involved in any felony or any misdemeanor involving the use of firearms, then the "Dealer" shall not make any sale of or deliver any pistol, revolver or like or similar instrument to such person. The "Dealer" shall be further charged with the responsibility of refusing to make a sale to any person who appears visibly agitated or under stress, and who cannot give a reasonable or proper explanation of such behavior. The "Dealer" shall complete any sale to a prospective purchaser only if it appears that such person has good cause to fear an injury to his person or property or that such pistol, revolver, or like or similar instrument is to be used for a lawful purpose.

VII. *Sale to unlicensed "dealers."* It shall be unlawful for any person, firm or corporation to sell a revolver, pistol or like or similar instrument to any unlicensed "Dealer," at any time.

VIII. *Sale to minors.* It shall be unlawful for any person, firm or corporation to sell a revolver, pistol or like or similar instrument to any minor at any time.*

LOUISIANA

State Law

LA. STATS. ANN. R.S., TITLE 14

91. *Unlawful sales to minors.* Unlawful sales to minors is the selling, or otherwise delivering for value by anyone over the age of seventeen of any intoxicating or spirituous liquors, or any firearm or other instrumentality customarily used as a dangerous weapon, to any person under the age of twenty-one. Lack of knowledge of the minor's age shall not be a defense.

95. *Illegal carrying of weapons.* A. Illegal carrying of weapons is: (2) The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

LA. STATS. ANN. R.S., TITLE 29

30. *Closing certain business places when military forces on active duty.* Whenever any of the military forces of this state are on active duty pursuant to the order of the governor, the commanding officer may order the closing of any place where arms, ammunition, dynamite, or other explosives or intoxicating liquors are sold, and he may forbid the sale, barter, loan, or giving away of any of these articles as long as any of the troops remain on duty in the vicinity.

LA. STATS. ANN. R.S., TITLE 40

1751. *Definitions.* For purposes of this Part, "machine gun" includes all firearms of any calibre, commonly known as machine rifles, machine guns, and sub-machine guns, capable of automatically discharging more than eight cartridges successively without reloading, in which the ammunition is fed to the gun from or by means of clips, disks, belts, or some other separable mechanical device. "Manufacturer" includes all persons manufacturing machine guns; "Merchant" includes all persons dealing with machine guns as merchandise.

1752. *Handling of machine guns unlawful; exceptions.* No person shall sell, keep or offer for sale, loan or give away, purchase, possess, carry, or transport any machine gun within this state, except that:

(1) All duly appointed peace officers may purchase, possess, carry, and transport machine guns.

(2) This Part does not apply to the Army, Navy, or Marine Corps of the United States, the National Guard, and organizations authorized by law to purchase or receive machine guns from the United States or from this state. The members of such Corps, National Guard and organizations may possess, carry, and transport machine guns while on duty.

(3) Persons possessing war relics may purchase and possess machine guns which are relics of any war in which the United States was involved, may exhibit and carry the machine guns in the parades of any military organization, and may sell, offer to sell, loan, or give the machine guns to other persons possessing war relics.

(4) Guards or messengers employed by common carriers, banks, and trust companies, and pay-roll guards or messengers may possess and carry machine guns while actually employed in and about the shipment, transportation, or delivery, or in the guarding of any money, treasure, bullion, bonds, or other thing of value. Their employers may purchase or receive machine guns and keep them in their possession when the guns are not being used by their guards or messengers

(5) Manufacturers and merchants may sell, keep or offer for sale, loan or give away, purchase, possess, and transport machine guns in the same manner as other merchandise except as otherwise provided in this Part. Common carriers may possess and transport unloaded machine guns as other merchandise.

1753. *Transfers of possessions permitted in certain cases; method.* No manufacturer or merchant shall permit any machine gun to pass from his possession to the possession of any person other than:

(1) A manufacturer or a merchant.

(2) A common carrier for shipment to a manufacturer or merchant,

(3) A duly authorized agent of the Government of the United States or of this state, acting in his official capacity.

(4) A person authorized to purchase a machine gun under the provisions of paragraphs (1) and (4) of R.S. 40:1752.

Manufacturers or merchants shall not deliver a machine gun to any of the persons authorized to purchase it under the provisions of paragraphs (1) and (4) of R.S. 40:1752 unless the person presents a written permit to purchase and possess a machine gun, signed by the sheriff of the parish in which the manufacturer or merchant has his place of business or delivers the machine gun. The manufacturer or merchant shall retain the written permit and keep it on file in his place of business. Each sheriff shall keep a record of all permits issued by him.

1755. *Penalty.* A. Any manufacturer who:

(1) Passes possession of or delivers a machine gun to any person in violation of R.S. 40: 1753; or

(2) Fails to keep an accurate register, as required in R.S. 40: 1754; or

(3) Fails to produce or account for a sheriff's permit for each machine gun sold by him for which a permit is necessary under the provisions of R.S. 40: 1753, shall be imprisoned at hard labor for not less than one year nor more than five years.

1781. *Definitions.* For the purpose of this Part, the following terms have the meanings ascribed to them in this Section:

(1) "Dealer" means any person not a manufacturer or importer engaged in this state in the business of selling any firearm. The term includes wholesalers, pawnbrokers, and other persons dealing in used firearms.

(2) "Department" means the Department of Public Safety.

(3) "Firearm" means a shotgun having a barrel of less than twenty inches in length, or a rifle having a barrel of less than sixteen inches in length; or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive, if that weapon is capable of being concealed on the person; or a machine gun or gas grenade; and includes a muffler or silencer for any firearm, whether or not the firearm is included within this definition.

(4) "Importer" means any person who imports or brings into the state any firearm.

(5) "Machine gun" means any weapon, including a submachine gun, which shoots or is designed to shoot automatically more than one shot without manual reloading, by a single function of the trigger.

(6) "Manufacturer" means any person who is engaged in this state in the manufacture, assembling, alteration, or repair of any firearm.

(7) "Muffler" or "silencer" includes any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive and is not limited to mufflers and silencers for firearms as defined in this Section.

(8) "Transfer" includes the sale, assignment, pledge, lease, loan, gift, or other disposition of any firearm.

1782. *Exemptions from part.* This Part does not apply to the following persons and things:

(1) Sheriffs or equivalent municipal officers in municipalities of over ten thousand, when they are acting in their official capacity.

(2) The arms, accoutrements, and equipment of the military and naval forces of the United States or of other officers of the United States authorized by law to possess weapons of any kind.

(3) The arms, accoutrements, and equipment of the militia.

(4) Any firearm which is unserviceable and which is transferred as a curiosity or ornament.

1783. *Registration with department of public safety.* Every person possessing any firearm shall register with the department the number or other mark identifying the firearm, together with his name, address, and place

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns, and handgun ammunition to persons under twenty-one (21) years of age.

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of business or employment, the place where the firearm is usually kept, and, if the person is other than a natural person, the name and home address of the executive officer thereof having control of the firearm and the name and home address of the person having actual possession thereof.

1784. *Application to possess or transfer.* No person shall continue to possess or shall transfer any firearm without the prior approval of the department. Interested persons shall file written applications in duplicate on application forms issued in blank for those purposes by the department. In the case of transfers of any firearm, applications shall be filed by both the proposed vendor and the proposed vendee.

The applications shall set forth, in the original and duplicate, the manufacturer's number or other mark identifying the firearm. Both the original and duplicate shall be forwarded to the department. If approved, the original shall be returned to the applicant.

1785. *Possession or dealing in unregistered or illegally transferred weapons.* No person shall receive, possess, carry, conceal, buy, sell, or transport any firearm which has not been registered or transferred in accordance with this Part.

1803. *Purchase of rifle or shotgun or ammunition.* It shall be lawful for any person residing in this state, including any corporation or other business entity maintaining a place of business in this state, to purchase or otherwise obtain a rifle or shotgun or ammunition in any state which is contiguous to this state and to receive or transport such rifle or shotgun or ammunition into this state and to permit any person residing in a contiguous state to purchase shotguns, rifles or ammunition in this state and to receive or transport such rifles, shotguns or ammunition in this state.

Baton Rouge

5. *Orders mayor-president authorized to issue.* After the proclamation of any civil emergency, the mayor-president, or in the event of his absence or inability to act, the president pro tempore of the parish council, may also in the interest of the public safety and welfare make any or all of the following orders:

(g) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms, or ammunition of any character whatsoever.

(h) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms or ammunition.

Bogalusa

59. *Unlawful sales to minors and purchases by minors.* Unlawful sales to minors is the selling, or otherwise delivering for value by anyone over the age of seventeen of any intoxicating or spirituous liquors or any firearm or other instrumentality customarily used as a dangerous weapon, to any person under the age of twenty-one. Lack of the knowledge of the minor's age shall not be a defense.

Crowley

8–44. *Weapons—Illegal carrying.* (2) The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

(b) Whoever commits illegal carrying of weapons shall be guilty of a misdemeanor.

DeRidder

7–68. *Unlawful sales to minors and purchases by minors.* Unlawful sales to minors is the selling, or otherwise delivering for value by anyone over the age of seventeen (17) of any firearm or other instrumentality customarily used as a dangerous weapon, to any person under the age of twenty-one (21). Lack of the knowledge of the minor's age shall not be a defense.

East Baton Rouge Parish

94. *Illegal use of weapons or dangerous instrumentalities.* (2) The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

Houma

9–31. *Illegal carrying.*

(a) *Defined.* Illegal carrying of weapons is: (2) The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon at anytime by an enemy alien.

Jefferson Parish

12–17. *Firearms—Definitions.* (a) Dealer means any person, not a manufacturer or importer, engaged in this parish in the business of selling any firearm. The term includes wholesalers, pawnbrokers and other persons dealing in new and/or used firearms.

(b) Firearm means a shotgun having a barrel of less than twenty inches in length, or a rifle having a barrel of less than sixteen inches in length, or any other weapon, including a pistol or revolver, from which a shot, discharged by an explosive, if that weapon is capable of being concealed on the person; and includes a muffler or silencer from any firearm whether or not the firearm is included in this definition.

(c) Muffler or silencer includes any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, shotgun, fowling piece or other device from which a shot, bullet or projectile may be discharged by an explosive and is not limited to mufflers and silencers for firearms as defined herein.

(d) Crime of violence means murder, manslaughter, except negligent homicide arising out of a traffic accident, rape, mayhem, kidnapping, burglary, robbery, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one (1) year, and includes any crime defined as a felony under the laws of the State of Louisiana.

(e) Weapon means any instrument, by whatever name known, which is designed to expel a projectile or projectiles by the action of any explosive.

(f) Fugitive from justice means any person who has fled or is fleeing from any law enforcement officer to avoid prosecution or incarceration for a crime of violence or to avoid giving testimony in any criminal proceeding.

12–17.1 *Permit required to purchase.* (a) Any person purchasing or acquiring ownership of any firearm shall immediately thereafter, within a period of 48 hours, excluding legal holidays, make application for a permit as hereinafter provided.

12–17.2. *Same—Unlawful to sell to minor without consent of parents.* It shall be unlawful for any person to sell any weapon to any person under eighteen (18) years of age without first having received the written consent of said person's parents.*

12–18. *Same—Application for permit to purchase.* Any person purchasing or acquiring ownership of any firearm shall file a written application, in triplicate form, issued in blank for that purpose, with the permit department of the sheriff's office for this parish.

12–18.2. *Same—Who is entitled to permit.* Any person over eighteen (18) years of age making an application shall be entitled to be issued a permit for a firearm unless he shall have been convicted of a crime of violence in a court of this State or any other state, territory, or District of Columbia and who has not had his civil rights restored (whether by official act or termination of time) or he is under arrest (whether released on bond or not) or under indictment for a crime of violence or who is a fugitive from justice or convicted of drug addiction or habitual drunkenness or who has been confined to a mental institution, or belongs to any group or organization which is regarded as subversive under the laws of this state or United States or is now or has been engaged in any subversive activity.*

12–18.3. *Same—Investigation of applicant for permit.* The hour and date shall be written on the application and a reasonable length of time shall be allowed, not to exceed seventy-two (72) hours from the time of application, excluding legal holidays, within which to investigate and verify statements contained in the application and the identity of the person making it before the application is approved as of right.

12–18.4. *Same—Exceptions.* The provisions of sections 12–17—12–18.3 shall not apply to the sheriff, his deputies, or any duly, legally, constituted officer of the law or law enforcement officer while acting in their official capacity, nor shall same apply to the arms, accoutrements and equipment of the military and naval forces of the United States, or of any other officers of the United States authorized by law to possess firearms of any kind; nor shall same apply to the arms, accoutrements and equipment of the militia, any firearm which is unserviceable and which is transferred as a curiosity or ornament, nor shall same apply to a licensed authorized dealer in firearms.

Jennings

60. *Illegal carrying of weapons* is, • • • (2) The ownership, possession, custody or use of any firearm or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

Kenner

10–93. *Wholesale dealers in pistols, rifles or cartridges.* Every wholesale dealer in pistols, pistol cartridges, blank pistols, blank cartridges, and all rifles except .22 and .25 calibers, and rifle cartridges, except .22 and .25 calibers, shall pay an annual license on the said business. • • •

No dealer shall be deemed a wholesale dealer unless he sells to dealers for resale.

10–94. *Retail dealers in pistols, rifles or cartridges.* (b) No person shall sell, at wholesale or retail, pistols, or pistol cartridges, blank pistols or blank pistol cartridges, or any rifles, except rifles of .22 and .25 calibers or any cartridges, except rifle cartridges of .22 and .25 calibers, without first obtaining the license required by the State of Louisiana in R.S. 47:382 and 47:383, and without first obtaining the license imposed by this article authorizing the sale of pistols, or pistol cartridges, blank pistols or blank pistol cartridges, rifles or rifle cartridges.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns, and handgun ammunition to persons under twenty-one (21) years of age.

Lafayette City

B. *No person shall sell, at wholesale or retail,* pistols or pistol cartridges, blank pistols or blank pistol cartridges, or any rifles, except rifles of .22 and .25 calibers or any cartridges, except rifle cartridges of .22 and .25 calibers, without first obtaining the license required by the State of Louisiana in Title 47, Section 382 and Section 383, and without first obtaining the license imposed by this Ordinance authorizing the sale of pistols, or pistol cartridges, blank pistols or blank pistol cartridges, rifles or rifle cartridges.

Lafayette Parish

B. *No person shall sell, at wholesale or retail,* pistols or pistol cartridges, blank pistols or blank pistol cartridges, or any rifles, except rifles of .22 and .25 calibers or any rifle cartridges, except rifle cartridges of .22 and .25 calibers, without first obtaining the license required in this Section or in Section 32 of this Ordinance, or without first obtaining the license which may be imposed by any municipal or parochial authority for the sale of pistols or pistol cartridges, blank pistols or blank pistol cartridges, rifles or rifle cartridges.

Many

59. *Unlawful sales to minors and purchases by minors.* Unlawful sales to minors is the selling, or otherwise delivery for value by anyone over the age of seventeen of any intoxicating or spirituous liquors, or any firearm or other instrumentality customarily used as a dangerous weapon, to any person under the age of twenty-one. Lack of Knowledge of the minors' age shall not be a defense.

Monroe

10–20. *Dangerous weapons—Illegally carrying.* It shall be unlawful for any person to commit the act of the illegal carrying of weapons. Illegal carrying of weapons is:

(2) The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

Morgan City

10–11. *Knives, brass knuckles, etc.; sale of firearms to minors.* It shall be unlawful for any person to sell, offer or expose for sale within the corporate limits of the city, any gimlet knife, dirk knife, stiletto spring knife, brass knuckles, iron knuckles, or slingshots or to sell firearms to minors.

New Orleans

67–7. *Unlawful to sell, etc., certain weapons to persons under eighteen.* It shall be unlawful for any person to sell, lease or give through himself or any other person any pistol, dirk, Bowie knife, toy pistol for which cartridges are used or other dangerous weapon which may be carried concealed to any person under the age of eighteen years.*

67–10. *Sale of pistols, etc., forbidden except upon compliance with article.* It shall be unlawful for any person in the city to sell, give away, lend, exchange or otherwise dispose of or transfer in the city or for any person to purchase, borrow, accept as a gift, exchange or otherwise receive any pistol, revolver, automatic pistol or firearm whatsoever capable of being concealed on the person, except as authorized by this article.

67–11. *Application to purchase articles referred to in preceding section.* Prior to the actual delivery or transfer of any of the articles mentioned in the preceding section, the person desiring to obtain any such article shall file a written application, in duplicate, with the Superintendent of Police of the city. • • • The Superintendent of Police may also require the fingerprints of the applicant as part of such application.

67–12. *Oath that applicant has not been charged with felony.* Each applicant for a permit under the provisions of this article shall be required to swear under oath, before the Superintendent of Police or any other officer of the Department of Police, designated by the Superintendent, that he has not been previously charged with or convicted of any felony.

67–13. *Approval stamp on application; use of application.* The Superintendent of Police or other officer or agent designated by him shall write or stamp the hour and the date on which any application to purchase articles is filed and may require a reasonable time thereafter, not to exceed seventy-two hours, within which to investigate and verify the statements contained in the application and the identity of the person making it before the application is approved, as of right.

The date and hour of approval shall be written on the application, together with the name of the officer approving it. Such application shall not be used by any other person than the one signing it.

67–14. *How transfer made.* The transfer under applications to purchase articles under this article shall be made only between the hours of 9:00 A.M. and 5:00 P.M. on the following day stated therefor in the approved application and such transfer shall be openly and publicly made and only to the person signing the application.

67–17. *Unlawful to obtain for or transfer to another, etc.* It shall be unlawful for any person to obtain the transfer of any article for the account of, or to sell, give away, lend, exchange or otherwise dispose of any such article to another person and it shall be unlawful for any person to employ or procure anyone to apply for or obtain the transfer of any such article or to aid and abet in such violation of this article.

Welsh

59. *Unlawful sales to minors and purchases by minors.* Unlawful sales to minors is the selling, or otherwise delivering for value by anyone over the age of seventeen of any intoxicating or spirituous liquors, or any firearm or other instrumentality customarily used as a dangerous weapon, to any person under the age of twenty-one. Lack of the knowledge of the minor's age shall not be a defense.

Westwego

457–I. Be it ordained by the Mayor and Board of Aldermen of the City of Westwego, that it shall be unlawful for any person, firm or corporation to sell, offer for sale, assign, pledge, lease, loan, give away, transfer or purchase any pistol revolver or rifle of whatever nature or kind, without first having obtained from the Sheriff of the Parish of Jefferson, Permit Department, a permit therefor.

Zachary

2–21. *Enumeration of powers after proclamation of civil emergency.* After the proclamation of any civil emergency, the mayor, or in the event of his absence or inability to act, the mayor pro tempore of the board of aldermen, may also in the interest of the public safety and welfare make any or all of the following orders:

(g) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms, or ammunition of any character whatsoever.

(h) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms or ammunition.

11–41. (a) *Illegal carrying of weapons is* • • •. (2) The ownership, possession, custody or use of any firearm or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

MAINE

State Law

MAINE REV. STATS. ANN. TITLE 12

2458. *Silencers; automatics; capacity.* No person shall sell, offer for sale, use or have in his possession any gun, pistol or other firearms, fitted or contrived with any device for deadening the sound of explosion. Whoever violates any provision of this section shall forfeit such firearm or firearms and the device or silencer, and shall further be subject to the penalties of section 3060. Any

MAINE REV. STATS. ANN. TITLE 15

391. *Definitions.* The following words and phrases when used in this chapter are defined as follows:

"Pistol," "revolver" and "firearm" mean a weapon capable of being concealed upon the person and shall include all firearms having a barrel of less than 12 inches in length.

392. *Application.* The penal provisions of Section 393 shall not apply to any person commissioned as a law enforcement officer or employed as a guard or watchman.

393. *Possession forbidden.* It shall be unlawful for any person who has been convicted of a felony under the laws of the United States or of the State of Maine, or of any other state, to have in his possession any pistol, revolver or any other firearm capable of being concealed upon the person until the expiration of 5 years from the date of his discharge or release from prison or termination of probation. Such a person convicted of any offense, except misdemeanors, the maximum punishment for which is a fine of $100 or less, or imprisonment for 90 days or less, during the 5-year period, shall be forever barred from having in his actual or constructive possession any of the weapons described herein. Anyone violating any of the provisions of this chapter shall be guilty of a felony, and upon conviction thereof, shall be punished by by imprisonment for not less than one nor more than 5 years.

MAINE REV. STATS. ANN. TITLE 17

502. *Construction, assembling or possession.* Except for lawful purposes in any instance, whoever knowingly constructs, assembles, or knowingly has in his possession any device, bomb or infernal machine capable of being exploded, or knowingly possesses materials appropriate for the construction thereof, shall be punished by a fine of not more than $1,000 or by imprisonment of not more than 15 years, or by both.

853. *Selling firearms, dangerous weapons or ammunition to children.* Whoever gives, furnishes or sells to any child under the age of 16 years any dangerous weapon or firearm

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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or ammunition, except in cases where the parents, guardians, teachers or instructors of children may furnish them with such weapons for hunting or target shooting outside the thickly settled portions of any town or city, or where such weapons may be used in any licensed shooting gallery, shall be deemed guilty of encouraging, causing or contributing to the delinquency or distress of such child and, upon conviction, shall be punished by a fine of not more than $100 or by imprisonment for not more than 60 days.*

2321. *Crime.* It shall be unlawful for any person to possess a machine gun within the geographical boundaries of the State of Maine.

2322. *Definition.* Machine gun shall be a weapon of any description, by whatever name known, which is capable of discharging a number of projectiles in rapid succession by one manual or mechanical action on the trigger or firing mechanisms.

2323. *Right to possess, carry or transport.* Any law enforcement officer of the State of Maine, any law enforcement officer of another state or a territory of the United States, members of the Armed Forces, Maine National Guard and Maine State Guard may possess a machine gun if the possession or carrying of such weapon is in the discharge of his official duties and has been authorized by his appointing authority.

Machine guns manufactured, acquired, transferred or possessed in accordance with The National Firearms Act, as amended, shall be exempt from this chapter.

2324. *Confiscation and seizure.* Any machine gun as defined in section 2322, possessed in violation of this chapter, is declared to be contraband and is subject to forfeiture to the State. Any law enforcement officer shall have the power to seize the same with due process.

MAINE REV. STATS. ANN. TITLE 25

2041. *Purchase by Maine residents in another state.* Residents of the State may purchase rifles and shotguns in a state contiguous to the State of Maine, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the law applicable to such purchase in the state of Maine and in the contiguous state in which the purchase is made.

Biddeford

1. No person, firm, or corporation in the City of Biddeford shall sell, give, or deliver to any person any gun as hereinafter defined, except in accordance with the provisions of the following sections.

2. A hand gun shall mean a firearm having a barrel length of less than fifteen inches and designed and intended to be fired with one hand, using fixed ammunition.

3. Such person, firm or corporation shall require the person seeking to purchase or obtain such hand gun to sign a certificate containing the following information: * * *

4. Such person, firm or corporation shall deliver such certificate to the Chief of Police of the City of Biddeford, or his duly authorized representative at Police Headquarters, and said Chief of Police or his duly authorized representative shall have 72 hours after receipt of said certificate to make an examination of the records contained in the Police Department of the City of Biddeford and in State Police Headquarters at Augusta, Maine to determine from such records whether the person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery, or a felony; is a user of or addicted to marijuana or any other depressant, stimulant, or narcotic drug; or has been committed to, or voluntarily been a patient at, a mental institution and to report such finding to the person, firm, or corporation filing such certificate.

5. Any person, firm, or corporation selling, giving or delivering a hand gun to any person before the expiration of said 72 hours or when notified within said period by the Chief of Police, or his authorized representative, that a person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery, or a felony; is a user of or addicted to marijuana or any other depressant, stimulant, or narcotic drug; or has been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution and to report such finding to the person, firm, or corporation filing such certificate.

6. *Any person, firm, or corporation* selling and delivering, giving or lending a hand gun to any person without complying with the provisions of this Ordnance, or before the expiration of said seven calendar days or when notified within said period by the Chief of Police, or his duly authorized representative, that a person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery, or a felony; or has been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution shall be guilty of a violation of this ordinance and subject to a fine of not more than $100.00 to be recovered for the use of the Town of Cape Elizabeth upon complaint to the District Court.

6. *Any person* who signs a certificate containing false information for the purpose of complying with the provisions of this Ordinance, or who accepts a hand gun without complying with the provisions of this Ordinance, shall be guilty of a violation of this Ordinance and subject to a fine of not more than $100.00 to be recovered for the use of the Town of Cape Elizabeth upon complaint to the District Court.

Falmouth

1. *Definition.* No person, firm, or corporation in the Town of Falmouth shall sell, give, or in any manner transfer title to any person any hand gun as hereinafter defined, except in accordance with the provisions of the following sections.

2. *Hand Gun.* A hand gun shall mean a firearm having a barrel length of less than fifteen inches and designed and intended to be fired with one hand, using fixed ammunition.

3. *Certificate.* Such person, firm, or corporation shall require the person seeking to purchase or obtain such hand gun to sign a certificate containing the following information: * * *.

4. *Waiting period.* Such person, firm, or corporation shall deliver such certificate to the Chief of Police of the Town of Falmouth, or his duly authorized representative, at Police Headquarters, and said Chief of Police or his duly authorized representative shall have 72 hours after receipt of said certificate to make an examination of the records contained in the Police Department of the Town of Falmouth and in the State Police Headquarters at Augusta, Maine to determine from such records whether the person signing such certificate has been convicted of, or is under complaint or indictment for assault, assault and battery, or a felony; is a user of or addicted to marijuana or any other depressant, stimulant, or narcotic drug; or has ever been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at a mental institution and to report such finding to the person, firm, or corporation filing such certificate.

5. *Penalty for selling.* Any person, firm, or corporation selling, giving, or delivering a hand gun to any person before the expiration of said 72 hours or when notified within said period by the Chief of Police, or his authorized representative, that a person signing such certificate has been convicted of, or is under complaint or indictment for assault, assault and battery, or a felony; is a user of or addicted to marijuana or any other depressant, stimulant, or narcotic drug; or has been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution shall be guilty of a violation of this ordinance and subject to a fine of not more than $100.00.

Lewiston

28–1. *Sale of weapons to minors prohibited; placard required.* (a) It shall be unlawful for any person in the city to sell or offer for sale any pistol, rifle, air rifle, gun, dirk, Bowie knife, slingshot, or any other weapon of like kind to any child under the age of sixteen (16) years.*

(b) In any establishment in the city wherein any pistol, rifle, air rifle, gun, dirk, Bowie knife, slingshot, or any other weapon of like kind is offered for sale, there shall be conspicuously posted in such establishment by the person in charge of the operation of such establishment a placard or notice setting forth the provisions of this section. The heading of such placard or notice shall be printed in type not less than one and one-half (1½) inches in height and the body of said placard or notice shall be printed in type no smaller than eighteen (18) point pica. It shall be unlawful for any person in the city to sell or offer for sale any such weapon unless such placard or notice shall be conspicuously posted as required by this section.

28–29. *Defined.* For the purpose of this article, a hand gun shall mean a firearm having a barrel length of less than fifteen (15) inches and designed and intended to be fired with one (1) hand using fixed ammunition, except antique hand guns as defined by federal gun law.

28–32. *Conveyance to conform to regulations.* No person in the city shall sell, rent or exchange to any person any hand gun, except in accordance with the provisions of this article.

28–33. *Purchaser to sign application; contents of application.* Any person desiring to sell, rent or exchange a hand gun shall require the person seeking to purchase or obtain such gun to sign an application containing the following information:

28–34. *Police to examine purchaser's record.* The person proposing to sell, rent or exchange a hand gun shall deliver to the police department the application required by this article, upon which shall be endorsed the time of receipt by the officer receiving the application. Upon receipt of the application, the police department shall, as soon as possible, but within seventy-two (72) hours thereafter, make an examination of its records, the records of the state police and the records of such other law enforcement agencies as necessary to determine whether the person signing the application has been convicted of, or is under complaint or indictment for assault, assault and battery, threatening display of or carrying a concealed firearm or weapon, or any felony; has been convicted of the sale, use or possession of marijuana or any other depressant, stimulant or other narcotic drug; or has ever been adjudged by a court to be a mental defective or has been voluntarily or involuntarily committed to a mental institution.

28–35. *Disposition prohibited pending investigation, after notification of bad record; notification procedure.* No person shall sell, rent or exchange any hand gun to an applicant during the period of investigation required by this article or thereafter if notified during such period by the police department that the applicant has been convicted of, or is under indictment or complaint for assault, assault and battery, threatening display of or carrying a concealed firearm or weapon, or any felony; has been convicted of the sale, use or possession of marijuana or any other depressant, stimulant, or other narcotic drug; or has ever been adjudged by a court to be a mental defective or has been voluntarily or involuntarily committed to a mental institution. Said notification shall be delivered to the person proposing to sell, rent or exchange the hand gun by an officer of the police department, obtaining at the time of delivery a receipt or acknowledgment of the notification and the time and date received, whenever possible.

Portland

318.1 *No person, firm, or corporation* in the City of Portland shall sell, give, or deliver to any person any hand gun as hereinafter defined, except in accordance with the provisions of the following sections.

318.2 *A hand gun shall mean* a firearm having a barrel length of less than fifteen inches and designed and intended to be fired with one hand, using fixed ammunition.

318.3 *Such person, firm, or corporation* shall require the person seeking to purchase or obtain such hand gun to sign a certificate * * *.

318.4 *Such person, firm, or corporation* shall deliver such certificate to the Chief of Police of the City of Portland, or his duly authorized representative, at Police Headquarters, and said Chief of Police or his duly authorized representative shall have 72 hours after receipt of said certificate to make an examination of the records contained in the Police Department of the City of Portland and in State Police Headquarters at Augusta, Maine to determine from such records whether the person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery, or a felony; is a user of or addicted to marijuana or any other depressant, stimulant, or narcotic drug; or has ever been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution and to report such finding to the person, firm or corporation filing such certificate.

318.5 *Any person, firm, or corporation selling,* giving, or delivering a hand gun to any person before the expiration of said 72 hours or when notified within said period by the Chief of Police, or his authorized representative, that a person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery, or a felony; is a user of or addicted to marijuana or any other depressant, stimulant, or narcotic drug; or has been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution shall be guilty of a violation of this ordinance and subject to a fine of not more than $100.00.

Presque Isle

20. *Sale and use of firearms.* A. No person shall sell to any child under the age of sixteen years, without the written consent of a parent or guardian of such child, any cartridge, or any gun, pistol or other mechanical contrivance arranged for the explosion of such cartridge.*

South Portland

6–4–2.7. *Sales to intoxicated persons and minors.* No person shall purchase from, or sell, loan or furnish any weapon in which any explosive substance can be used to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of eighteen (18) years.

6–4–2.8.1. *No person, firm,* or *corporation* in the City of South Portland shall sell, give, or deliver to any person any hand gun except in accordance with provisions of the following sections:

6–4–2.8.2 *Such person, firm, or corporation* shall require the person seeking to purchase or obtain such firearm to sign a certificate * * *.

6–4–2.8.3. *Such person, firm or corporation* shall deliver such certificate to the Chief of Police of the City of South Portland, or his duly authorized representative, at Police Headquarters, and said Chief of Police or his duly authorized representative shall have seven (7) days after receipt of said certificate to make an examination of the records contained in the Police Department of the City of South Portland and in the State Police Headquarters at Augusta, Maine, and other appropriate records to determine from such records whether the person signing such certificate has been convicted of, or is under complaint or indictment for assault, assault and battery, or a felony; is a user of or addicted to marijuana or any other depressant, stimulant or narcotic drug; or has ever been judged by a Court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution and to report such finding to the person, firm or corporation filing such certificate.

Westbrook

24–14. *Defined.* A handgun shall mean a firearm having a barrel length of less than fifteen (15) inches and designed and intended to be fired with one hand, using fixed ammunition.

24–15. *Disposition regulated.* No person in the city shall sell, give or deliver to any person any handgun as hereinbefore defined, except in accordance with the provisions of the following sections.

24–16. *Purchaser, etc., to sign certificate; contents; penalty.* (a) A person selling, giving or delivering a handgun to any person shall require such person to sign a certificate * * *.

24–17. *Police chief to run investigation on purchasers.* One disposing of a handgun shall deliver the certificate required by the preceding section to the chief of police at police headquarters, and the chief shall have seven (7) days after receipt of such certificate to make an examination of the records contained in the police department and in the state police headquarters, in Augusta, Maine, or other departments, to determine from such records whether the person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery or a felony; is a user of or addicted to marijuana or any other depressant, stimulant or narcotic drug; or has ever been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution and to report such findings to the person filing such certificate.

MARYLAND

State Law

MD. ANN. CODE, ARTICLE 27

372. *Definitions.* "Machine gun" as used in this subtitle, means a weapon, of any description, by whatever name known, loaded or unloaded, from which more than one shot or bullet may be automatically discharged from a magazine, by a single function of the firing device.

"Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder of any degree, manslaughter, kidnapping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering and larceny.

"Person" applies to and includes firm, partnership, association or corporation.

374. *Use of machine gun for aggressive purpose.* Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the State penitentiary for a term of not more than ten years.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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375. *What constitutes aggressive purpose.* Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose:

(a) When the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or

(b) When in the possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or

(c) When the machine gun is of the kind described in § 379 and has not been registered as in said section required; or

(d) When empty or loaded shells which have been used or are susceptible of being used in the machine gun are found in the immediate vicinity thereof.

377. *Exceptions.* Nothing contained in this subtitle shall prohibit or interfere with:

(1) The manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States, the several states or of any political subdivision thereof, or the transportation required for that purpose;

(2) The possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;

(3) The possession of a machine gun for a purpose manifestly not aggressive or offensive.

379. *Registration of machine guns.* Every machine gun now in this State shall be registered with the Superintendent of the Maryland State Police, on June 1, 1933, and annually thereafter. If acquired hereafter it shall be registered within 24 hours after its acquisition. Blanks for registration shall be prepared by the Superintendent of the State Police and furnished upon application. To comply with this section the application as filed must show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which the gun was acquired. The registration data shall not be subject to inspection by the public. Any person failing to register any gun as required by this section shall be presumed to possess the same for offensive or aggressive purpose.

406. *Sale, etc., of deadly weapon or ammunition therefor to minor; exceptions.* It shall be unlawful for any person, be he licensed dealer or not, to sell, barter or give away any firearms whatsoever, or other deadly weapons or any ammunition therefor, to any minor under the age of eighteen years, except with the express permission of a parent or guardian of such minor. Any person violating this section shall on conviction thereof pay a fine of not less than fifty nor more than two hundred dollars, together with the costs of prosecution; and upon failure to pay said fine and costs shall be committed to jail and confined therein until such fine and costs are paid, or for the period of sixty days, whichever shall first occur, provided, however, that the provisions of this section shall not apply to a member of any organized militia in Maryland, when said member is engaged in supervised training, marksmanship activities or any other performance of his official duty, and provided further that none of the restrictions or limitations contained herein shall apply to any adult or qualified supervisor or instructor of a recognized organization engaged in the instruction of marksmanship.*

441. *Definitions.* (a) As used in this subtitle—

(b) The term "person" includes an individual, partnership, association or corporation.

(c) The term "pistol or revolver" means any firearm with barrel less than twelve inches in length, including signal, starter, and blank pistols.

(d) The term "dealer" means any person engaged in the business of selling firearms at wholesale or retail, or any person engaged in the business of repairing such firearms.

(e) The term "crime of violence" means abduction; arson; burglary, including common-law and all statutory and storehouse forms of burglary offenses; escape; housebreaking; kidnapping; manslaughter, excepting involuntary manslaughter; mayhem; murder; rape; robbery; and sodomy; or an attempt to commit any of the aforesaid offenses; or assault with intent to commit any other offense punishable by imprisonment for more than one year.

(f) The term "fugitive from justice" means any person who has fled from a sheriff or other peace officer within this State, or who has fled from any state, territory or the District of Columbia, or possession of the United States, to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

442. *Sale or transfer of pistols and revolvers.* (a) Right to regulate sales preempted by State.—All restrictions imposed by the laws, ordinances or regulations of all subordinate jurisdictions within the State of Maryland on sales of pistols or revolvers are superseded by this section, and the State of Maryland hereby preempts the rights of such jurisdictions to regulate the sale of pistols and revolvers.

(b) Application to purchase or transfer.—No dealer shall sell or transfer any pistol or revolver until after seven days shall have elapsed from the time an application to purchase or transfer shall have been executed by the prospective purchaser or transferee, in triplicate, and forwarded by the prospective seller or transferor to the superintendent of the Maryland State Police.

(c) Same—Disposition of copies.—The dealer shall promptly after receiving an application to purchase or transfer, completed in accordance with subsection (e) below, forward one copy of the same, by certified mail, to the Superintendent of the Maryland State Police. The copy forwarded to the said Superintendent shall contain the name, address, and signature of the prospective seller or transferor. The prospective seller or transferor shall retain one copy of the application for a period of not less than three years. The prospective purchaser or transferee shall be entitled to the remaining copy of the application.

(d) Same—Statement of penalties for supplying false information required.—The application to purchase or transfer shall bear the following legend: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than two years, or a fine of not more than $1,000, or both."

(e) Same—Information required.—The application to purchase or transfer shall contain the following information:

(1) Applicant's name, address, occupation, place and date of birth, height, weight, race, eye and hair color and signature. In the event the applicant is a corporation, the application shall be completed and executed by a corporate officer who is a resident of the jurisdiction in which the application is made.

(2) A statement by the applicant that he or she:

(i) Has never been convicted of a crime of violence, in this State or elsewhere, or of any of the provisions of this subtitle.

(ii) Is not a fugitive from justice.

(iii) Is not an habitual drunkard.

(iv) Is not an addict or an habitual user of narcotics, barbiturates or amphetamines.

(v) Has never spent more than thirty consecutive days in any medical institution for treatment of a mental disorder or disorders, unless there is attached to the application a physician's certificate, issued within thirty days prior to the date of application, certifying that the applicant is capable of possessing a pistol or revolver without undue danger to himself or herself, or to others.

(vi) Is at least eighteen years of age.*

(vii) Has or has not submitted a prior application and, if so, when and where.

(3) The date and hour the application was delivered in completed form to the prospective seller or transferor by the prospective purchaser or transferee.

(g) Sale prohibited to disapproved applicant; exceptions.—No dealer shall sell or transfer a pistol or revolver to an applicant whose application has been timely disapproved, unless such disapproval has been subsequently withdrawn by the Superintendent of the Maryland State Police and/or his duly authorized agent or agents or overruled by the action of the courts pursuant to subsection (h) below.

(h) Hearing; judicial review.—Any prospective purchaser or transferee aggrieved by the action of the State Police may request a hearing within 30 days from the date when written notice was forwarded to such aggrieved person by writing to the Superintendent of State Police, who shall grant the hearing within fifteen days of said request. Said hearing and subsequent proceedings of judicial review, if any, thereupon following shall be conducted in accordance with the provisions of the Administrative Procedure Act.

(i) Notification of completed transaction; permanent record of sales and transfers.—Any dealer who sells or transfers a pistol or revolver in compliance with this subtitle shall forward a copy of the written notification of such completed transaction, within seven days from the date of delivery of the said pistol or revolver, to the Superintendent of the Maryland State Police, whose duty it shall be to maintain a permanent record of all such completed sales and transfers of pistols and revolvers in the State. The notifications shall contain an identifying description of the pistol or revolver sold or transferred including its caliber, make, model, manufacturer's serial number, if any, and any other special or peculiar characteristics or marking by which the said pistol or revolver may be identified.

(j) Construction of section.—Nothing in this section shall be construed to affect sales and/or transfers for bonafide resale in the ordinary course of business of a person duly licensed under § 443 of this subtitle, or sales, transfer, and/or the use of pistols or revolvers by any person authorized or required to sell, transfer, and/or use such pistols or revolvers as part of his or her duties as a member of any official police force or other law enforcement agency, the armed forces of the United States, including all official reserve organizations, or the Maryland National Guard.

(k) Penalties.—Any person who knowingly gives any false information or makes any material misstatement in an application required by this section, or who fails to

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

promptly forward such application to the Superintendent of the Maryland State Police or his duly authorized agent or agents, or who sells or transfers a pistol or revolver to a person other than the one by whom application was made, or who otherwise sells, transfers, purchases, or receives transfer of a pistol or revolver in violation of this section, shall upon conviction thereof be subject to the penalties hereinafter provided in § 448 of this subtitle.

443. (A) No person shall engage in the business of selling pistols or revolvers unless he lawfully possesses and conspicuously displays at his place of business, in addition to any other license required by law, a pistol and revolver Dealer's License issued by the Superintendent of the Maryland State Police or his duly authorized Agent or Agents. Such license shall identify the licensee and the location of his place of business. One such license shall be required for each place of business where pistols or revolvers are sold.

445. *Restrictions on sale, transfer and possession of pistols and revolvers.* (a) Right to regulate transfer and possession of pistols and revolvers preempted by State.—All restrictions imposed by the laws, ordinances or regulations of all subordinate jurisdictions within the State of Maryland on possession or transfers by private parties of pistols and revolvers are superseded by this section and the State of Maryland hereby preempts the right of such jurisdictions to regulate the possession and transfer of pistols and revolvers.

(b) Sale or transfer to criminal, fugitive, etc.—It shall be unlawful for any dealer or person to sell or transfer a pistol or revolver to a person whom he knows or has reasonable cause to believe has been convicted of a crime of violence, or of any of the provisions of this subtitle, or is a fugitive from justice, or is an habitual drunkard, or is addicted to or an habitual user of narcotics, barbiturates or amphetamines, or is of unsound mind, or to any person visibly under the influence of alcohol or drugs, or to any person under eighteen years of age.*

(c) Possession by criminal, fugitive, etc.—It shall be unlawful for any person who has been convicted of a crime of violence, or of any of the provisions of this subtitle or who is a fugitive from justice or a habitual drunkard, or addicted to or an habitual user of narcotics, barbiturates or amphetamines, to possess a pistol or revolver.

446. *Sale, transfer, etc., of stolen pistol.* It shall be unlawful for any person to possess, sell, transfer or otherwise dispose of any stolen pistol or revolver, knowing or having reasonable cause to believe same to have been stolen.

447. *Antique or unserviceable firearms excepted.* The provisions of this subtitle shall not be construed to include any antique or unserviceable firearms sold or transferred and/or held as curios or museum pieces.

481A. It shall be lawful for any Maryland resident to purchase a rifle or shotgun from a federally licensed gun dealer in an adjoining state provided the purchaser is eligible to purchase a rifle or shotgun under the laws of such state.

Baltimore

81. *Definitions.* (1) The term "person" includes an individual, partnership, association or corporation.

(2) The term "pistol or revolver" as used in this subtitle means any firearm with barrel less than twelve inches in length.

(3) The term "dealer" means any person engaged in the business of selling firearms at wholesale or retail, or any person engaged in the business of repairing such firearms.

(4) The term "crime of violence" means murder, manslaughter, rape, mayhem, kidnaping, burglary, housebreaking; assault with intent to kill, commit rape, or rob; assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.

(5) The term "fugitive from justice" means any person who has fled from a sheriff or other peace officer within this State, or who has fled from any State, Territory, or the District of Columbia, or possession of the United States, to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

85. *Convicts not to possess.* No person who has been convicted in this State or elsewhere for a crime of violence, shall own a pistol or have one in his possession or under his control.

88. *Delivery to minors and others.* No person shall deliver a pistol to any person under the age of twenty-one (21), except members of the Maryland State Guard and members of the Maryland Minute Men, or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind, or to any person visibly under the influence of liquor or of drugs. It shall be unlawful for any person to make any loan, secured by a mortgage, deposit or pledge, of a pistol or revolver.

89. *Order required for transfer.* No seller, transferrer or donor shall deliver a pistol to the purchaser, transferee or donee thereof except upon a written order, dated not more than sixty days prior thereto, and signed by the Police Commissioner of Baltimore City, or his agent, * * *. Such application shall be executed in triplicate. Said Police Commissioner, or his agent, shall immediately make an investigation of the applicant and if such investigation does not disclose that such applicant is under the age of twenty-one (21) years or has been convicted of a crime of violence, or is an habitual drunkard, or a drug addict, or is of unsound mind, said Police Commissioner or his agent, at the expiration of five days after such application is filed, shall sign an order in triplicate (which order shall be attached to said application), authorizing the applicant to purchase, transfer or give away a pistol. Said order shall contain a place for the signature of the purchaser, transferee or donee, and no seller, transferrer or donor shall deliver a pistol to the purchaser, transferee or donee unless the signature of such purchaser, transferee or donee shall be affixed to such order in triplicate in the presence of the seller, transferrer or donor and unless it shall appear that the signature affixed to such order is the same signature as the signature which appears on the application. * * *.

90. *False information.* No person shall, in purchasing or otherwise securing delivery of a pistol, or in registering the same, give false information or offer false evidence of his identity.

Baltimore County

18–7. *Purchase, sale, etc., in connection with minors.* (a) It shall be unlawful for any person under the age of twenty-one years to purchase, trade or acquire in any other manner, or to use or possess, or to attempt to use or possess, any gun, pistol, rifle, shotgun or any other type of firearm, without having first complied with the provisions of this section. Before so acquiring, using or possessing, or attempting to acquire, use or possess, any such firearm, the possessor or use, or prospective possessor or user, shall first file with the police department a statement of possession or use, which statement shall be retained by the police department. Such statement shall be endorsed by the parents or guardians of such person under twenty-one years of age, attesting to the knowledge of the parents or guardians of the acquisition, use or possession, or prospective acquisition, use or possession of any firearms. Such endorsement executed by the parents or guardians also shall provide clearly and with no exceptions or qualifications that any negligence of such person under twenty-one years of age in the use or possession of any firearm shall be imputed to the parents or guardians, and that the parents or guardians shall be jointly and severally liable with such person under twenty-one years of age for any civil damages caused by such negligence. All statements as required and provided for under this section shall be signed and sworn to before a person authorized to administer oaths. Nothing in this section shall be construed as requiring the registration or listing of firearms by serial number, or otherwise except as firearms.

(b) It shall be unlawful for any person to sell, give or in any manner transfer to any other person under the age of twenty-one years, any firearm unless the statements of acquisition, use or possession, or prospective acquisition, use or possession have been filed with the police department, as required herein.

(c) The provisions of this section shall not be construed to include any antique or unserviceable firearms sold or transferred or held as curios or museum pieces.

Capitol Heights

22. It shall be unlawful for any person, firm, or corporation, be he licensed dealer or not, to sell, barter, or give away any firearms, or ammunition whatsoever, or other deadly weapons, to any minor under the age of sixteen years.**

Cumberland

19–11. *Firearms—Pistols, revolvers, etc.—permit required.* No person shall sell, give or lend to any person within the city a revolver, pistol or other small firearm, unless such person has a permit from the Chief of Police authorizing the possession of such revolver, pistol or other small firearm. This section shall apply to all persons within the city, whether such persons are engaged in the business of buying and selling revolvers, pistols or other small firearms or not.

District Heights

6. It shall be unlawful for any child or children under the age of eighteen (18) years, to have in his possession whether for use or not, any shot-gun, rifle, pistol, firearm, air-gun, bow and arrow (other than an infant's toy), sling-shot, bean shooter, or any other fire-arm or missile propelling device, except and unless said child or children shall be engaging in "target practice" as above provided and permitted.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns, and handgun ammunition to persons under twenty-one (21) years of age.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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Laurel

5–3. *Specific restrictions authorized.* During the existence of a proclaimed state of emergency, the mayor may impose by proclamation any or all of the following restrictions:

(a) Prohibit or regulate the possession off one's premises of explosives, firearms, ammunition or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof: • • •

Montgomery County

57–1 *Definition.* The following words and phrases shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

Crime of violence. Murder, voluntary manslaughter, rape, mayhem, kidnapping, robbery, burglary, housebreaking, arson, assault with intent to murder, ravish or rob, assault with a deadly weapon or assault with intent to commit any offense punishable by imprisonment for more than one year.

Fixed ammunition. Any ammunition composed of a projectile or projectiles, a casing and a primer, all of which shall be contained as one unit.

Fugitives from justice. Any person for whom criminal proceedings have been instituted, warrant issued or indictment presented to the grand jury, who has fled from a sheriff or other peace officer within this state, or who has fled from any state, territory, District of Columbia or possession of the United States, to avoid prosecution for crime of violence or to avoid giving testimony in any criminal proceeding involving a felony or treason.

Gun. Any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

Pistol or revolver. Any gun with a barrel less than sixteen inches in length that uses fixed ammunition.

Sell or purchase. Such terms and the various derivatives of such words shall be construed to include letting on hire, giving, lending, borrowing or otherwise transferring.

57–6. *Transfer of rifles or shotguns to minors.* It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any rifle or shotgun designed to use explosive ammunition or any projectile therefor within the county to a minor under the age of eighteen years; provided, that nothing contained within this section shall be construed to apply where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between such person and the minor, or in connection with a regularly conducted or supervised program of marksmanship training or participation.

57–7. *Unlawful ownership or possession of firearms.* It shall be unlawful for any person to use, carry, transport or keep a rifle or shotgun, or discharge a pistol, or to have a rifle or shotgun in his possession, custody, or control within the county, if;

(a) He is an unlawful user of or addicted to marijuana or any depressant or stimulant drug (as defined in section 201 (v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731 (a) of the Internal Revenue Code of 1954), or is under treatment for such addiction; or

(b) He has been convicted in any court of a crime of violence, or of trafficking in narcotics or of a criminal violation of any of the provisions of article 27, sections 441 to 448, subtitle "Pistols", Annotated Code of Maryland, 1957 or any Federal firearms control laws; or

(c) He is a fugitive from justice; or

(d) He has been confined to any hospital or institution for treatment of a mental disorder or for mental illness unless a licensed physician has by affidavit stated that he is familiar with the person's history of mental illness and that in his opinion the person is not disabled by such illness in a manner which should prevent his possessing a rifle or a shotgun; or

(e) He is a member of a subversive organization or of any Comunist organization (as that term is defined in the Internal Security Act of 1950, as amended); or

(f) He has been confined to any hospital or institution for treatment of alcoholism unless a licensed physician has by affidavit stated that he is familiar with the person's history of alcoholism and that, in his opinion, the person is no longer suffering from a disability in such a manner which should prevent his possessing a rifle or shotgun.

57–9. *Exemptions from provisions of chapter.* Nothing in this chapter shall apply to the purchase, ownership or possession of bona fide antique guns which are incapable of use as a gun. Further, nothing in this chapter shall be deemed to prohibit the owner or tenant of any land from carrying or discharging a firearm on his land for the purpose of killing predatory animals which prey upon, damage or destroy his property, livestock or crops.

57–10. *Certificate of good conduct.* Any person disqualified from the ownership, use or possession of firearms by section 57–7 (except a person so disqualified because of a conviction of a crime involving the use of a firearm or other weapon) may apply for a certificate of good conduct for relief from such disability; provided, however, that any person convicted of a violation of the Gun Control Act of 1968 or the National Firearms Act shall not be eligible to apply for a certificate of good conduct for a period of one year after the entry of a final judgment of conviction of any such violation. The application shall be filed with the superintendent of police who may relieve the applicant from such disability by issuing a certificate of good conduct. The superintendent shall issue such a certificate if it is established to his satisfaction that the circumstances regarding the applicant's conviction and the applicant's record and reputation are such that the applicant would not be likely to act in a manner dangerous to the public safety and the granting of the certificate, in the opinion of the superintendent, would not be contrary to the public interest. The decision of the superintendent may, within thirty days after the decision is rendered, be appealed by the applicant to the circuit court.

Prince George's County

12–3. *Same—Sale, transfer, etc., to minors.* It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any gun or weapon described in section 12–2 designed to use explosive ammunition or any projectile therefor, within the county to a minor under the age of seventeen years, except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between such person and the minor.•

This section shall not apply to any pistols or revolvers regulated by sections 441 to 448, article 27, Annotated Code of Maryland, 1957.

Takoma Park

8–51. *Definitions; weapons, confiscation.* (a) As used in this Division: (1) *Dangerous weapons* shall mean any pistol, excluding those defined in Subsection (a)(2), sawed off shotgun, machine gun, black jack, brass knuckles, sling shot, sand club, sandbag, switch blade knife, or any knife with a blade exceeding three (3) inches in length.

(2) *Pistol or revolver* means any firearm with a barrel less than twelve (12) inches in length, including signal, starter and blank pistols.

(b) Where a weapon is taken from a person who has subsequently been convicted of carrying a dangerous weapon it is properly confiscated by the police authorities.

8–53. *Sales permit required.* (a) No person shall engage in or conduct the business of selling, bartering, hiring, lending, or giving any dangerous weapon without having previously obtained from the Clerk a special license authorizing the conduct of this business by this person. The Clerk is authorized to grant a license, without fee therefor, upon the filing with him by the applicant a bond, with sureties to be approved by the Mayor and Council, conditioned in a penal sum as they shall fix, to the City, for the compliance by the applicant with all the provisions of this Section.

8–57. *Sales to minor prohibited.* No person shall sell, barter, hire, lend, or give to any minor under the age of twenty-one (21) years any dangerous weapon.

8–58. *Sales of weapons to minors prohibited.* (a) No person shall sell to any child or children under the age of eighteen (18) years, firearms, ammunition gunpowder, gun caps, or other explosives in any quantity or quantities.

(b) Toy pistol caps as legalized under Maryland State Law shall not be construed to be prohibited under this Section.

Upper Marlboro

Sec. 12–3. Same—sale, transfer, etc., to minors. It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any gun or weapon described in section 12–2, designed to use explosive ammunition or any projectile therefor, within the county to a minor under the age of seventeen years, except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between such person and the minor.

This section shall not apply to any pistols or revolvers regulated by sections 441 to 448, article 27, Annotated Code of Maryland, 1957.

MASSACHUSETTS

State Law

MASS. GEN. LAWS ANN. CHAPTER 140

121. *Firearms Definitions, Exceptions.* In sections one hundred and twenty-two to one hundred and thirty-one F, inclusive, "firearm" shall mean a pistol, revolver or other weapon of any description loaded or unloaded, from which a shot or bullet can be discharged and of which the length of barrel is less than sixteen inches or eighteen inches in the case of a shotgun, and the term "length of barrel" shall mean that portion of a firearm, rifle, shotgun or machine gun through which a shot or bullet is driven, guided or stabilized, and shall include the chamber. A "machine gun" is a weapon of any description, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, and includes a submachine gun. The term "ammunition" shall mean cartridges or cartridge cases, primers (igniter), bullets or propellent powder designed for use in any firearm, rifle or shotgun. The term "ammunition" shall also mean tear gas cartridges, chemical mace, or any device or instrument which contains or emits a liquid, gas, powder, or any other substance designed to incapacitate.

The words "purchase" and "sale" include exchange; the word "purchaser" shall include exchanger; and the verbs "sell" and "purchase", in their different forms and tenses, shall include the verb exchange in its appropriate form and tense, and the term "gunsmith" as used in this chapter shall mean and include any person who engages in the business of repairing, altering, cleaning, polishing, engraving, blueing or performing any mechanical operation on any firearm, rifle, shotgun or machine gun. The word "conviction" shall mean a finding or verdict of guilty, or a plea of guilty whether or not final sentence is imposed. "Licensing Authority" shall mean the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them.

Where the local licensing authority has the power to issue licenses or cards under this chapter, but no such authority exists, any resident or applicant may apply for such license or firearm identification card directly to the commissioner of the department of public safety and the commissioner shall for this purpose be the licensing authority.

Sections one hundred and twenty-two to one hundred and twenty-nine D, inclusive, and sections one hundred and thirty-one A, one hundred and thirty-one B and one hundred and thirty-one E shall not apply to

(A) any firearm, rifle or shotgun including any firearm, rifle or shotgun with matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before eighteen hundred and ninety-eight;

(B) any replica, or any firearm, rifle or shotgun described in clause (A) if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) manufacturers or wholesalers of firearms, rifles, shotguns or machine guns.

123. *Conditions of licenses granted under § 122.* A license granted under section one hundred and twenty-two shall be expressed to be and shall be subject to the following conditions:—First, That the provisions in regard to the nature of the license and the building in which the business may be carried on under it shall be strictly adhered to. Second, That every licensee shall, before delivery of a firearm, rifle or shotgun, make or cause to be made a true, legible entry in a sales record book to be furnished by the commissioner of public safety and to be kept for that purpose, specifying the complete description of the firearm, rifle or shotgun, including the make, serial number, if any, type of firearm, rifle or shotgun whether sold, rented or leased, the date of each sale, rental or lease, the license to carry firearms number or permit to purchase number and the identification card number in the case of a firearm or the identification card number or the license to carry firearms number in the case of a rifle or shotgun, the sex, residence and occupation of the purchaser, renter or lessee, and shall before delivery, as aforesaid, require the purchaser, renter or lessee personally to write in said sales record book his full name. Said book shall be open at all times to the inspection of the police. Third, That the license or a copy thereof, certified by the official issuing the same, shall be displayed on the premises in a position where it can easily be read. Fourth, That no firearm, rifle or shotgun, or machine gun shall be displayed in any outer window of said premises or in any other place where it can readily be seen from the outside. Fifth, That the licensee shall, once a week, send a copy of the record of sales, rentals and leases made by him for the preceding seven days to the commissioner of public safety. Sixth, That every firearm, rifle or shotgun shall be unloaded when delivered. Seventh, That no delivery of a firearm or of ammunition therefor shall be made to any minor nor to any person not having a license to carry firearms issued under the provisions of section one hundred and thirty-one nor shall any delivery of a rifle or shotgun or ammunition therefor be made to any person not having a license to carry firearms issued under the provisions of section one hundred and thirty-one or a firearm identification card issued under the provisions of section one hundred and twenty-nine B; provided, however, that delivery of a firearm by a licensee to a person possessing a valid permit to purchase said firearm issued under the provisions of section one hundred and thirty-one A and a valid firearm identification card issued under section one hundred and twenty-nine B may be made by the licensee to the purchaser's residence or place of business. Eighth, That no firearm shall be sold, rented or leased to a minor or a person who has not a permit then in force to purchase, rent or lease the same issued under section one hundred and thirty-one A, and a firearm identification card issued under the provisions of section one hundred and twenty-nine B, or unless such person has a license to carry firearms issued under the provisions of section one hundred and thirty-one; nor shall any rifle or shotgun be sold, rented or leased to a person who has not a valid firearm identification card as provided for in section one hundred and twenty-nine B, or has a license to carry firearms as provided in section one hundred and thirty-one; and that no machine gun shall be sold, rented or leased to any person who has not a license to possess the same issued under section one hundred and thirty-one. Ninth, That upon the sale, rental or lease of a firearm, subject to a permit to purchase issued under the provisions of section one hundred and thirty-one A, the licensee under section one hundred and twenty-two shall take up such permit to purchase and shall endorse upon it the date and place of said sale, rental or lease, and shall transmit the same to the commissioner of public safety: and that upon the sale, rental or lease of a machine gun shall endorse upon the license to possess the same the date and place of said sale, rental or lease, and shall within seven days transmit a notice thereof to said commissioner. In case of a sale under the provisions of section one hundred and thirty-one E the licensee under section one hundred and twenty-two shall write in the sales record book the number of the license to carry firearms issued the purchaser under the provisions of section one hundred and thirty-one, or the number of the firearm identification card issued the purchaser under the provisions of section one hundred and twenty-nine B, whichever is applicable under the provisions of condition Eighth of this section. Tenth, That this license shall be subject to forfeiture as provided in section one hundred and twenty-five for breach of any of its conditions, and that, if the licensee hereunder is convicted of a violation of any such conditions, this license shall thereupon become void. Eleventh, That the second, fifth, eighth and ninth conditions shall not apply to a gunsmith with regard to repair or remodeling or servicing of firearms, rifles or shotguns unless said gunsmith has manufactured a firearm, rifle or shotgun for the purchaser, but said gunsmith shall keep records of the work done by him together with the names and addresses of his customers. Such records shall be kept open for inspection by the police at all times. Twelfth, That any licensee shall keep records of each sale, rental or lease of a rifle or shotgun, specifying the description of said rifle or shotgun, together with the name and address of the purchaser, renter or lessee, and the date of such transaction. No licensee shall sell any rifle or shotgun, contrary to the provisions of section one hundred and thirty.

128A. *Sales, etc., by certain unlicensed residents who sell, etc., not more than four firearms, etc. within calendar year, etc.* The provisions of section one hundred and twenty-eight shall not apply to any resident of the commonwealth who, without being licensed, as provided in section one hundred and twenty-two, sells, exposes for sale, or has in his possession with intent to sell not more than four firearms including rifles and shotguns, in any one calendar year; provided, however, the seller has a firearm identification card or a license to carry firearms, is an exempt person under the conditions of clauses (n), (o), (r) and (s) of the fourth paragraph of section one hundred and twenty-nine C, or is permitted to transfer ownership under the conditions of section one hundred and twenty-nine D and the purchaser has, in the case of sale or transfer of a firearm, a permit to purchase issued under the provisions of section one hundred and thirty-one A and a firearm identification card issued under section one hundred and twenty-nine B, or has such permit to purchase and is an exempt person under the provisions of section one hundred and twenty-nine C, or has been issued a license to carry firearms under the provisions of section one hundred and thirty of this chapter, or in the case of sale or transfer of a rifle or shotgun, the purchaser has a firearm identification card or a license to carry firearms or is an exempt person as hereinbefore stated; and provided, further, that such resident reports within seven days, in writing to the commissioner of public safety on forms furnished by said commissioner, the names and addresses of the seller and the purchaser of any such firearm, rifle or shotgun, together with a complete description of the firearm, rifle or shotgun, including the calibre, make and serial number and the purchaser's license to carry firearms number, permit to purchase number and firearm identification card number, permit to purchase number and identifying number of such documentation as is used to establish exempt person status in the case of a firearm or the purchaser's license to carry number or firearm identification card number or said document identity number, in the case of a rifle or shotgun.

128B. *Reports by residents and nonresidents purchasing or obtaining firearms, etc.* Any resident of the commonwealth who purchases or obtains a firearm, rifle or shotgun or machine gun from any source within or without the commonwealth, other than from a licensee under section one hundred and twenty-two or a person authorized to sell firearms under section one hundred and twenty-eight A, and any nonresident of the commonwealth who purchases or obtains a firearm, rifle, shotgun or machine gun from any source within or without the commonwealth, other than such a licensee or person,

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and receives such firearm, rifle, shotgun or machine gun, within the commonwealth shall within seven days after receiving such firearm, rifle, shotgun or machine gun, report, in writing, to the commissioner of public safety the name and address of the seller or donor and the buyer or donee, together with a complete description of the firearm, rifle, shotgun or machine gun, including the caliber, make and serial number.

129. Whoever in purchasing, renting or hiring a firearm, rifle, shotgun or machine gun, or in making application for any form of license or permit issued in connection therewith, or in requesting that work be done by a gunsmith, gives a false or fictitious name or address or knowingly offers or gives false information concerning the date or place of birth, his citizenship status, occupation, or criminal record, shall for the first offense be punished by a fine or not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than one year, or both; and for a second or subsequent offense, shall be punished by imprisonment for not less than two and one half years nor more than five years in the state prison.

129B. *Firearm identification card; disqualification of applicants; time for denial, etc., of application; suspension or revocation; form; renewal; reports, etc., on applicant.* Any person residing or having a place of business within the jurisdiction of the licensing authority may submit to the licensing authority application for a firearm identification card, which such person shall be entitled to, unless the applicant (a) has within the last five years been convicted of a felony in any state or federal jurisdiction, or within that period has been released from confinement where such person was serving a sentence for a felony conviction; or (b) has been confined to any hospital or institution for mental illness, except where the applicant shall submit with the application an affidavit of a registered physician that he is familiar with the applicant's history of mental illness and that in his opinion the applicant is not disabled by such illness in a manner which should prevent his possessing a firearm, rifle or shotgun, or (c) has within the last five years been convicted of a violation of any state or federal narcotic or harmful drug law, or within that period has been released from confinement for such a conviction; or is or has been under treatment for or confinement for drug addiction or habitual drunkenness, except when he is deemed to be cured of such condition by a registered physician, he may make application for said card after the expiration of five years from the date of such confinement or treatment and upon presentation of an affidavit issued by said physician to the effect that the physician knows the applicant's history of treatment and that in his opinion the applicant is deemed cured, or (d) is at the time of the application under the age of fifteen, or (e) is at the time of the application fifteen years of age or over but under the age of eighteen except where the applicant submits with his application a certificate of his parent or guardian granting the applicant permission to apply for a card or (f) is an alien.

The licensing authority may not prescribe any other condition for the issuance of a card and it shall within thirty days from the date of application either approve the application and issue the card or deny the application and notify the applicant of the reason for such denial in writing. Pending issuance of the card, a receipt for the fee paid shall, after five days from issuance, serve as a valid substitute, unless the applicant is disqualified. Written notice of denial of the application shall void the receipt and require its immediate surrender. A card may be revoked by the licensing authority or his delegate or suspended for such period as he may set, only upon the occurrence of any event which would have disqualified the holder from being issued the card. Any suspension or revocation of a card shall be in writing and shall state the reason therefor. Upon revocation or suspension, the licensing authority shall take possession of said card and receipt for fee paid for such card.

Any applicant or holder aggrieved by a denial, revocation or suspension of a card may within ninety days after receipt of notice appeal to the district court for a review of such action.

Said card shall be in a form prescribed by the commissioner and shall contain an identification number, the name and address of the holder, his place and date of birth, his height, weight, and hair and eye color, and his signature and shall be captioned "Firearm Identification Card". The application for a card shall be made in multiple on a form prescribed by the commissioner which shall require the applicant affirmatively to state that he is not disqualified for any of the foregoing reasons from possession of a card.

Said card shall be valid until revoked or suspended. The fee for an application and card shall be two dollars which shall be payable to the licensing authority and shall not not be prorated or refunded in case of revocation or denial. The card holder shall notify, in writing, both the issuing authority and the commissioner of public safety of any change in his address. Such notification shall be made within ten days of its occurrence.

Upon receipt of an application for a card, the licensing authority shall forward a copy of such application to the commissioner of public safety, who shall within twenty-one days advise in writing of any disqualifying criminal record, if any, of the applicant and whether there is reason to believe that the applicant is disqualified for any of the foregoing reasons for possessing a card. The licensing authority may make inquiries concerning the applicant to the department of mental health for the purpose of determining eligibility for the firearm identification card and shall receive prompt and full cooperation from such department for that purpose in any investigation of an applicant.

129C. *Same subject; restrictions on possession, transfer, etc., of firearms, etc.; reports; persons and uses exempted from provisions of section; purchases by certain exempt persons.* No person, other than a licensed dealer or one who has been issued a license to carry a pistol or revolver, or an exempt person as hereinafter described, shall own or possess any firearm, rifle, shotgun or ammunition unless he has been issued a firearm identification card by the licensing authority pursuant to the provisions of section one hundred and twenty-nine B.

No person shall sell, give away, loan or otherwise transfer a rifle or shotgun or ammunition other than (a) by operation of law, or (b) to an exempt person as hereinafter described, or (c) to a licensed dealer, or (d) to a person who displays his firearm identification card, or license to carry a pistol or revolver.

A seller shall, within seven days, report all such transfers to the commissioner of public safety according to the provisions set forth in section one hundred and twenty-eight A, and in the case of loss, theft or recovery of any firearm, rifle or shotgun, a similar report shall be made forthwith to both the commissioner and the licensing authority in the city or town where the owner resides.

The provisions of this section shall not apply to the following exempted persons and uses:

(*a*) Any device used exclusively for signalling or distress use and required or recommended by the United States Coast Guard or the Interstate Commerce Commission, or for the firing of stud cartridges, explosive rivets or similar industrial ammunition;

(*b*) Federally licensed firearms manufacturers or wholesale dealers, or persons employed by them or by licensed dealers, or on their behalf, when possession of firearms, rifles or shotguns and ammunition therefor is necessary for manufacture, display, storage, transport, installation, inspection or testing;

(*c*) To a person voluntarily surrendering a firearm, rifle or shotgun to a licensing authority, the commissioner or his designee if prior written notice has been given by said person to the licensing authority or the commissioner, stating the place and approximate time of said surrender;

(*d*) The regular and ordinary transport of firearms, rifles or shotguns and ammunition therefor as merchandise by any common carrier;

(*e*) Possession by retail customers for the purpose of firing at duly licensed target concessions at amusement parks, piers and similar locations, provided that the firearms, rifles or shotguns and ammunition therefor to be so used are firmly chained or affixed to the counter and that the proprietor is in possession of a firearm identification card or license to carry firearms;

(*f*) Possession of rifles and shotguns and ammunition therefor by nonresident hunting licenses during hunting season;

(*g*) Possession of rifles and shotguns and ammunition therefor by nonresidents while on a firing or shooting range;

(*h*) Possession of rifles and shotguns and ammunition therefor by nonresidents traveling in or through the commonwealth, providing that any rifles or shotguns are unloaded and enclosed in a case;

(*i*) Possession of rifles and shotguns and ammunition therefor by nonresidents while at a firearm showing or display organized by a regularly existing gun collectors' club or association;

(*j*) Possession of rifles and shotguns by nonresidents while at a firearm showing or display organized by a regularly existing gun collectors' club or association;

(*j*) Any new resident moving into the commonwealth, or any resident of the commonwealth upon being released from active service with any of the armed services of the United States with respect to any firearm, rifle or shotgun then in his possession, for sixty days after such release or after the time he moves into the commonwealth;

(*k*) Any person under the age of fifteen with respect to the use of a rifle or shotgun by such person in hunting or target shooting, provided that such use is otherwise permitted by law and is under the immediate supervision of a person holding a firearm identification card or a license to carry firearms, or a duly commissioned officer, noncommissioned officer or enlisted member of the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard or military service of the commonwealth or reserve components thereof, while in the performance of his duty;

(*l*) The possession or utilization of any rifle or shotgun during the course of any television, movie, stage or other similar theatrical production, or by a professional photographer or writer for examination purposes in the pursuit of his profession, providing such possession or utilization is under the immediate supervision of a holder of a firearm identification card or a license to carry firearms;

(*m*) The temporary holding, handling or firing of a firearm for examination, trial or instruction in the presence of a holder of a license to carry firearms, or the temporary holding, handling or firing of a rifle or shotgun for examination, trial or instruction in the presence of a holder of a firearm identification card, or where such holding, handling or firing is for a lawful purpose;

(*n*) The transfer of a firearm, rifle or shotgun upon the death of an owner to his heir or legatee shall be subject to the provisions of this section, provided that said heir or legatee shall within one hundred and eighty days of such transfer, obtain a firearm identification card or a license to carry firearms if not otherwise an exempt person who is qualified to receive such or apply to the licensing authority for such further limited period as may be necessary for the disposition of such firearm, rifle or shotgun;

(*o*) Persons in the military or other service of any state or of the United States, and police officers and other peace officers of any jurisdiction, in the performance of their official duty or when duly authorized to possess them, provided, however, that private or sporting use of such firearms, rifles or shotguns shall be subject to the provisions applicable to non-exempt persons and uses;

(*p*) Possession of rifles and shotguns by nonresidents bearing a current license, permit or identification card to possess any firearm, rifle or shotgun in the state in which they reside;

(*q*) Any nonresident from a contiguous state, provided he is eighteen years of age or over when acquiring a rifle or shotgun, or ammunition, provided it is removed from the commonwealth within fourteen days of such acquisition, and provided that he is in compliance with his own state law and has the proper firearms license if required, and provided, further, that in the case of a rifle or shotgun the seller notifies the chief of police where the purchaser resides of the transfer, description and serial number of the rifle or shotgun and the name, address and license number of the purchaser and seller;

(*r*) Possession by a veteran's organization chartered by the Congress of the United States or included in clause (12) of section five of chapter forty and possession by the members of any such organizations when on official parade duty or ceremonial occasions;

(*s*) Possession by federal, state and local historical societies, museums, and institutional collections open to the public, provided such firearms, rifles or shotguns are unloaded, properly housed and secured from unauthorized handling.

Any person, exempted by clauses (o), (p) and (q), purchasing a rifle or shotgun and ammunition therefor shall submit to the seller such full and clear proof of identification, including shield number, serial number, military or governmental order or authorization, military or other official identification, other state firearms license, or proof of nonresidence, as may be applicable. * * *.

130. *Penalty for selling, etc., firearms, etc., to minor or alien.* Whoever sells or furnishes a firearm or machine gun or ammunition therefor to any alien or to a minor or whoever sells or furnishes a rifle or shotgun or ammunition therefor to an alien who does not hold a permit card issued to him under section one hundred and thirty-one H, or to a minor eighteen years of age or older, except to such minor who being eighteen years of age or older displays either a license to carry firearms or a firearms identification card, and a sporting or hunting license issued to him in the case of ammunition, or displays such license to carry, or firearm identification card together with said sporting or hunting license, and the written consent of his parent or guardian that a rifle or shotgun be sold to him or furnished to him in the case of a rifle or shotgun, or to a minor under eighteen years of age, shall have his license to sell firearms, machine guns or ammunition revoked and shall not be entitled to apply for such a license for ten years from the date of revocation and shall be punished by a fine of not less than five hunderd or more than one thousand dollars. Nothing in this section or section one hundred and thirty-one E shall be construed to prohibit a parent or guardian from allowing his child or ward, who has not attained age fifteen, the supervised use of a rifle or shotgun or ammunition therefor, according to the provisions of section one hundred and twenty-nine C nor from furnishing his child or ward, who has attained age fifteen, with a rifle or shotgun or ammunition therefor, provided said child or ward, being fifteen years of age or older, has a valid firearm identification card, issued to him, nor shall it be construed as prohibiting as instructor from furnishing rifles or shotguns or ammunition therefor to pupils, provided said instructor has the consent of the parent or guardian of the minor.

131A. *Permits to purchase, rent, or lease firearm; penalty.* A licensing authority under section one hundred and thirty-one, upon the application of a person qualified to be granted a license thereunder by such authority, may grant to such a person, other than a minor, a permit to purchase, rent or lease a firearm, rifle or shotgun if it appears that such purchase, rental or lease is for a proper purpose, and may revoke such permit at will. The commissioner of public safety or a person authorized by him, upon the application of a person licensed under section one hundred and thirty-one F, may grant to such licensee, other than a minor, a permit to purchase, rent or lease a firearm, rifle or shotgun, or to purchase ammunition therefor, if it appears that such purchase, rental or lease is for a proper purpose, and may revoke such permit at will. Such permits shall be issued on forms furnished by the commissioner of public safety, shall be valid for not more than ten days after issue, and a copy of every such permit so issued shall within one week thereafter be sent to the said commissioner. Whoever knowingly issues a permit in violation of this section shall be punished by a fine of not less than five hundred nor more than one thousand dollars and by imprisonment for not less than six months nor more than two years in a jail or house of correction. The fee for such permits shall be two dollars.

131E. *Purchase by licensed resident; purchase for use of another, etc., prohibited; penalty.* Any resident of the commonwealth except a minor may purchase firearms, rifles and shotguns from any dealer licensed under section one hundred and twenty-two, or from such person as shall be qualified under section one hundred and twenty-eight A, or ammunition therefor from a licensee under section one hundred and twenty-two B, upon presentation of a valid license to carry firearms issued to him under the provisions of section one hundred and thirty-one, or a permit to purchase issued to him under section one hundred and thirty-one A together with a firearm identification card issued to him under the provisions of section one hundred and twenty-nine B, or said permit to purchase together with proof of exempt status under the provisions of section one hundred and twenty-nine C, in the case of a firearm, or in the case of a rifle or shotgun, said license to carry or said firearm identification card or said proof of exempt status, except that no rifle, shotgun or ammunition therefor shall be sold to any minor under eighteen years of age nor to any minor eighteen years of age or older unless such minor displays a license to carry firearms or a firearm identification card issued to him, a hunting or sporting license issued to him, and the written consent of his parent or guardian to purchase a particular rifle or shotgun, except, however, that said written consent shall not be required for purchase of ammunition only. Any person who uses said license to carry firearms or firearm identification card for the purpose of purchasing a firearm, rifle or shotgun for the unlawful use of another, or for resale to or giving to an unlicensed person, shall be punished by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not less than six months nor more than two years in a jail or house of correction, or by both such fine and imprisonment. A conviction of a violation of this section shall be reported forthwith by the court to the licensing authority which issued the license or firearm identification card, which shall immediately revoke the license or firearm identification card of such person. No new license or firearm identification card under section one hundred and twenty-nine B or section one hundred and thirty-one shall be issued to any such person within two years after the date of said revocation.

131F. *Temporary license to carry firearms issued to non-residents, etc.* A license, otherwise in accordance with provisions of this section, may be issued to a nonresident employee, whose application is endorsed by his employer, of a federally licensed Massachusetts manufacturer of machine guns to possess within the commonwealth a machine gun for the purpose of transporting or testing relative to the manufacture of machine guns, and the license shall be marked "temporary license to possess a machine gun" and may be issued for any term not to exceed two years and shall expire in accordance with the provisions of section one hundred and thirty-one.

131H. *Permit to possess, etc., firearms by aliens.* No alien shall own or have in his possession or under his control a firearm, rifle or shotgun, except as provided in this section. The commissioner of public safety may, after an investigation, issue a permit to an alien to own or have in his possession or under his control a rifle or shotgun; subject to such terms and conditions as said commissioner may deem proper. The fee for such permit shall be two dollars and twenty-five cents. Upon issuing such permit said commissioner shall so notify, in writing, the chief of police or the board or officer having control of the police in the city or town in which such alien resides. Each such permit card shall expire at twelve midnight on December thirty-first next succeeding the effective date of said permit, and shall be revocable for cause by said commissioner. In case of revocation, the fee for such permit shall not be prorated or refunded. Whenever any such permit is revoked, said commissioner shall given notification as hereinbefore provided. The permit issued to an alien under this section shall be subject to sections one hundred and twenty-nine B and one hundred and twenty-nine C except as otherwise provided by this section.

Violation of any provision of this section shall be punished by a fine of not less than five hundred nor more than one thousand

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dollars, and by imprisonment for not more than six months in a jail or house of correction. If, in any prosecution for violation of this section, the defendant alleges that he has been naturalized, or alleges that he is a citizen of the United States, the burden of proving the same shall be upon him. Any firearm, rifle or shotgun owned by an alien or in his possession or under his control in violation of this section shall be forfeited to the commonwealth. Any such firearm, rifle or shotgun may be the subject of a search warrant as provided in chapter two hundred and seventy-six.

The director of law enforcement of the department of natural resources, his assistants, natural resource officers, deputy natural resource officers, wardens as defined in section one of chapter one hundred and thirty-one, members of the state police, members of the metropolitan district commission police in areas over which they have jurisdiction, and all officers qualified to serve criminal process shall arrest, without a warrant, any person found with a firearm, rifle or shotgun in his possession if they have reason to believe that he is an alien and if he does not have in his possession a valid permit as provided in this section.

MASS. GEN. LAWS ANN. CHAPTER 148

35. *Possession of bombs and explosives; penalty.* No person shall have in his possession or under his control any bomb or other high explosive, as defined by the rules and regulations made under section nine, contrary to the provisions of this chapter or of any rule or regulation made thereunder. Whoever violates this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than two and one half years, or both, and any bomb or explosive found in his possession or under his control on such violation shall be forfeited to the commonwealth. Any officer qualified to serve criminal process may arrest without a warrant any person violating this section.

MASS. GEN. LAWS ANN. CHAPTER 266

102A. *Possession of infernal machine; notice of seizure.* Whoever, other than a police or other law enforcement officer acting in the discharge of his official duties, has in his possession or under his control an infernal machine or a similar instrument, contrivance or device shall be punished by imprisonment in the state prison for not more than ten years or in jail for not more than two and one half years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment, and the said machine, instrument, contrivance or device shall be forfeited to the commonwealth. The term "infernal machine," as used in this section, shall include any device for endangering life or doing unusual damage to property, or both, by fire or explosion, whether or not contrived to ignite or explode automatically and whether or not disguised so as to appear harmless. Notice of the seizure of any such machine, instrument, contrivance or device shall be sent forthwith to the commissioner of public safety and the article seized shall be subject to his order.

102B. *Possession, etc., of molotov cocktail or similar device; exceptions; penalties.* Whoever makes, sells, uses or has in his possession or under his control a bottle or other breakable container containing a flammable liquid into which has been fixed or placed a wick or similar device, and which bottle or container when ignited and thrown will cause a fire or explosion, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than two and one half years, or both.

The provisions of this section shall not apply to flares, lanterns, fireworks or other such devices used for signal or illumination purposes, or for any other lawful purpose.

Whoever violates any provision of this section may be arrested without a warrant and held in custody in jail or otherwise until a complaint be made against him for such offense unless previously admitted to bail, which complaint shall be made as soon as practicable and in any case within twenty-four hours, Sundays and legal holidays excepted.

MASS. GEN. LAWS ANN. CHAPTER 269

10. *Penalty for unlawfully carrying dangerous weapons, possessing machine gun, etc.* Whoever, except as provided by law, carries on his person, or carries on his person or under his control in a vehicle, a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty, loaded or unloaded, without permission under sections one hundred and thirty-one or one hundred and thirty-one F of chapter one hundred and forty; or whoever so carries any stiletto, dagger, dirk knife, any knife having a double-edged blade, or a switch knife, or any knife having an automatic spring release device by which the blade is released from the handle, having a blade of over one and one half inches, or a slung shot, black jack, metallic knuckles or knuckles of any substance which could be put to the same use and with the same or similar effect as metallic knuckles, or a sawed-off shotgun; or whoever, when arrested upon a warrant for an alleged crime or when arrested while committing a breach or disturbance of the public peace, is armed with or has on his person, or has on his person or under his control in a vehicle, a billy or other dangerous weapon other than those herein mentioned, shall be punished by imprisonment for not less than two and one half years nor more than five years in the state prison, or for not less than six months nor more than two and one half years in a jail or house of correction, except that, if the court finds the defendant has not been previously convicted of a felony, he may be punished by a fine of not more than fifty dollars or by imprisonment for not more than two and one half years in a jail or house of correction; or whoever, after having been convicted of any of the aforesaid offenses commits the like offense or any other of the aforesaid offenses, shall be punished by imprisonment in the state prison for not less than five years, for a third such offense, by imprisonment in the state prison for not less than seven years, and for a fourth such offense, by imprisonment in the state prison for not less than ten years. The sentence imposed upon a person who, after a conviction of an offense under this paragraph, commits the same or a like offense, shall not be suspended, nor shall any person so sentenced be eligible for parole or receive any deduction from his sentence for good conduct. Whoever, except as provided by law, possesses a machine gun as defined in section one hundred and twenty-one of chapter one hundred and forty, without permission under section one hundred and thirty-one of said chapter, shall be punished by imprisonment in the state prison for life or for any term of years. Upon conviction of a violation of this section, the firearm or other article shall, unless otherwise ordered by the court, be confiscated by the commonwealth. The firearm or article so confiscated shall, by the authority of the written order of the court be forwarded by common carrier to the commissioner of public safety, who, upon receipt of the same, shall notify said court or justice thereof. Said commissioner may sell or destroy the same, and, in case of a sale, after paying the cost of forwarding the article, shall pay over the net proceeds to the commonwealth.

The court may, if the firearm or other article was lost by or stolen from the person lawfully in possession of it, order its return to such person, and where it has been the finding of the court that a person has been guilty of unlawful possession of a firearm, but makes the further finding that such possession was in ignorance of the law, the court may order the return of said firearm to its owner upon his compliance with those regulations relative to the establishment of lawful possession.

Whoever, within this commonwealth, produces for sale, delivers or causes to be delivered, orders for delivery, sells or offers for sale, or fails to keep records regarding, any rifle or shotgun without complying with the requirement of a serial number, as provided in section one hundred and twenty-nine C of chapter one hundred and forty, shall for the first offense be punished by confinement in a jail or house of correction for not more than two and one-half years, or by a fine of not more than five hundred dollars.

Whoever fails to keep records or report serial numbers, if required to do so by section one hundred and twenty-nine C of chapter one hundred and forty, shall be punished by imprisonment in a jail or house of correction for not more than two and one half years or by a fine or not more than five hundred dollars.

Whoever owns, possesses, or transfers possession of a firearm, rifle, shotgun or ammunition without complying with the requirement relating to the firearm identification card provided for in section one hundred and twenty-nine C of chapter one hundred and forty shall be punished by imprisonment in a jail or house of correction for not more than one year or by a fine of not more than five hundred dollars.

A second violation of this paragraph shall be punished by imprisonment in a jail or house of correction for not more than two years or by a fine of not more than one thousand dollars or both.

Whoever knowingly fails to deliver or surrender a revoked or suspended license to carry firearms issued under the provisions of sections one hundred and thirty-one or one hundred and thirty-one F of chapter one hundred and forty, or firearm identification card, or receipt for the fee for such card, or a firearm, rifle or shotgun, as provided in section one hundred and twenty-nine D of chapter one hundred and forty, unless an appeal is pending, shall be punished by imprisonment in a jail or house of correction for not more than two and one-half years or by a fine of not more than one thousand dollars.

Whoever, not being a law enforcement officer, and notwithstanding any license obtained by him under the provisions of chapter one hundred and forty, carries on his person a firearm as hereinafter defined, loaded or unloaded, in any building or on the grounds of any college or university without the written authorization of the board or officer in charge of said college or university shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or both. For the purpose of this paragraph "firearm" shall mean any pistol, revolver, rifle or smoothbore arm from which a shot, bullet or pellet can be discharged by whatever means.

For the purpose of this section "sawed-off shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than twenty-six inches.

10A. *Sale, etc., of silencers for firearms.* Whoever sells or keeps for sale, or offers, or gives or disposes of by any means other than submitting to an authorized police official, or uses or possesses, any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm shall be punished by imprisonment for not more than five years in the state prison or for not more than two and one half years in a jail or house of correction. Upon conviction of a violation of this section, the instrument, attachment, or other article shall be confiscated by the commonwealth and forwarded, by the authority of the written order of the court, to the commissioner of public safety, who shall destroy said article.

11A. *Definitions.* For the purpose of this section and sections eleven B, eleven C and eleven D, the following words shall have the following meanings:

"Firearm", a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty, or a rifle or shotgun.

"Serial number", the number stamped or placed upon a firearm by the manufacturer in the original process of manufacture.

"Identification number", the number stamped or placed upon a firearm by the commissioner of public safety under authority of section eleven D.

11C. *Removing, defacing, etc., serial or identification number of firearm.* Whoever, by himself or another, removes, defaces, alters, obliterates or mutilates in any manner the serial number or identification number of a firearm, or in any way participates therein, and whoever receives a firearm, with knowledge that its serial number or identification number has been removed, defaced, altered, obliterated or mutilated in any manner, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not less than one month nor more than two and one half years. Possession or control of a firearm the serial number or identification number of which has been removed, defaced, altered, obliterated or mutilated in any manner shall be prima facie evidence that the person having such possession or control is guilty of a violation of this section; but such prima facie evidence may be rebutted by evidence that such person had no knowledge whatever that such number had been removed, defaced, altered, obliterated or mutilated, or by evidence that he had no guilty knowledge thereof. Upon a conviction of a violation of this section said firearm or other article shall be forwarded, by the authority of the written order of the court, to the commissioner of public safety, who shall cause said firearm or other article to be destroyed.

11E. *Firearms sold, etc., by manufacturers and dealers to have serial identification numbers; penalty.* All firearms, rifles and shotguns of new manufacture, manufactured or delivered to any licensed dealer within the commonwealth shall bear serial numbers permanently inscribed on a visible metal area of said firearm, rifle, or shotgun, and the manufacturer of said firearm, rifle or shotgun shall keep records of said serial numbers and the dealer, distributor or person to whom the firearm, rifle or shotgun was sold or delivered. No licensed dealer shall order for delivery, cause to be delivered, offer for sale or sell within the commonwealth any newly manufactured firearm, rifle or shotgun received directly from a manufacturer, wholesaler or distributor not so inscribed with a serial number nor shall any licensed manufacturer or distributor of firearms, rifles or shotguns deliver or cause to be delivered within the commonwealth any firearm, rifle or shotgun not complying with this section.

No licensed manufacturer within the commonwealth shall produce for sale within the United States, its territories or possessions any firearm, rifle or shotgun not complying with paragraph one of this section. Whoever violates this section shall be punished by a fine of five hundred dollars. Each such violation shall constitute a separate offense.

12. *Manufacturing, etc., slung shot, etc.* Whoever manufactures or causes to be manufactured, or sells or exposes for sale, an instrument or weapon of the kind usually known as a dirk knife, switch knife or any knife having an automatic spring release device by which the blade is released from the handle, having a blade of over one and one half inches, slung shot, sling shot, bean blower, sword cane, pistol cane, bludgeon, blackjack, or metallic knuckles or knuckles of any other substance which could be put to the same use and with the same or similar effect as metallic knuckles, shall be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than six months; provided, however, that sling shots may be manufactured and sold to clubs or associations conducting sporting events where such sling shots are used.

Boston

(120) *Firearms, license to carry or possess.* The fee for a license to carry firearms in the commonwealth or to possess therein a machine gun granted by the police commissioner under setcion 131 of chapter 140 of the General Laws shall be $5.00.

(121) *Firearms, permit to purchase, rent or lease.* The fee for a permit to purchase, rent or lease a firearm granted by the police commissioner under section 131A of chapter 140 of the General Laws shall be $5.00.

(122) *Firearms, license to sell, rent or lease.* The fee for a license to sell, rent or lease firearms, rifles, shotguns or machine guns granted by the police commissioner under section 122 of chapter 140 of the General Laws shall be $25.00.

Fall River

20–3. *Ammunition and guns—sale to minors.* No person shall sell to any minor under the age of sixteen years, without the written consent of his parent or guardian, any cartridge or fixed ammunition containing any fulminate, or any gun, pistol or other contrivance intended for the explosion of such cartridge, ammunition or fulminate.*

MICHIGAN

State Law

MICH. COMP. LAWS ANN. TITLE 28

28.91. *Terms defined.* 1. As used in this act:

(a) "Pistol" means any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm.

(b) "Purchaser" means any person who receives a pistol from another by purchase, gift or loan.

(c) "Seller" means any person who sells, furnishes, loans or gives a pistol to another.

28.92 *Purchasing, carrying or transporting pistol; license; issuance; qualifications; signatures; execution; contents; disposition of copies; inapplicability of section; transfer of inherited pistols.* Sec. 2. (1) No person shall purchase, carry or transport a pistol without first having obtained a license therefor as prescribed herein, except that any person who brings a pistol into this state and who is either on leave from active duty with the armed forces of the United States or who has been discharged from such active duty shall obtain a license for the pistol within 5 days after his arrival into this state. The commissioner or chief of police, or his duly authorized deputy, in incorporated cities or in incorporated villages having an organized department of police, and the sheriff, or his authorized deputy, in parts of the respective counties not included within incorporated cities or villages, may issue licenses to purchase, carry or transport pistols to applicants residing within the respective territories herein mentioned. No such license shall be granted to any person unless he is 18 years of age or over, a citizen of the United States and has resided in this state 6 months or more, and in no event shall such a license be issued to a person who has been convicted of a felony or confined therefor in this state or elsewhere during the 8-year period immediately preceding the date of such application or has been adjudged insane in this state or elsewhere unless he has been restored to sanity and so declared by court order. (2) Applications for such licenses shall be signed by the applicant under oath upon forms provided by the director of the department of state police, hereinafter referred to as the director. The foregoing of any matter on an application is a felony. Licenses to purchase, carry or transport pistols shall be executed in triplicate upon forms provided by the director and shall be signed by the licensing authority. Three copies of such license shall be delivered to the applicant by the licensing authority. Upon sale of the pistol the seller shall fill out the license forms describing the pistol sold, together with the date of sale, and sign his name in ink indicating that such pistol was sold to the licensee. The licensee shall also sign his name in ink indicating the purchase of such pistol from the seller. The seller may retain a copy of the license as a record of the sale of the pistol. The licensee shall return 2 copies of the license to the licensing authority within 10 days following the purchase of the pistol. One copy of such license shall be retained by the licensing authority as a permanent official record for a perod of 6 years and the other copy shall be forwarded by the licensing authority within 48 hours to the director. Such license shall be void unless used within 10 days after the date of its issue. This section does not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, nor to the sale, barter or exchange of pistols kept solely as relics, curios, or antiques not made for modern ammunition or permanently deactivated. This section does not prevent the transfer of ownership of pistols which are inherited if the license to purchase is approved by the chief of police, sheriff, or their authorized deputies, and signed by the administrator or administratrix of the estate or by the next of kin having authority to dispose of such property.

28.98. *Inapplicability of certain sections.* 12. Sections 2 and 9 do not apply to a duly authorized police or correctional agency of

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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the United States or of the state or any subdivision thereof, nor to the army, air force, navy or marine corps of the United States, nor to organizations authorized by law to purchase or receive weapons from the United States or from this state, nor to the national guard, armed forces reserves or other duly authorized military organizations, or to members of the above agencies or organizations for weapons used for the purposes of or incidental to such agencies or organizations, nor to a person holding a license to carry a pistol concealed upon his person issued by another state, nor to the regular and ordinary transportation of pistols as merchandise by authorized agents of any person licensed to manufacture firearms.

28.419. *Definitions.* 222. "Pistol" as used in this chapter means any firearm, loaded or unloaded, 30 inches or less in length, or any firearm, loaded or unloaded, which by its construction and appearance conceals it as a firearm. "Purchaser" means any person who receives a pistol from another by purchase, gift or loan. "Seller" means any person who sells, furnishes, loans or gives a pistol to another.

28.420 *Selling pistols and firearms.* 223. (1) Any person who sells a pistol without complying with section 2 of Act No. 372 of the Public Laws of 1927, as amended, being section 28.422 of the Compiled Laws of 1948, shall be guilty of a misdemeanor.

(2) Any person who sells a firearm more than 30 inches in length to a person under 18 years of age shall be guilty of a misdemeanor.

28.421. *Selling, etc., machine guns, silencers, blackjacks, etc.; exceptions.* 224. Any person who shall manufacture, sell, offer for sale or possess any machine gun or firearm which shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger, or any muffler, silencer or device for deadening or muffling the sound of a discharged firearm, or any bomb, or bomb shell, blackjack, slung shot, billy, metallic knuckles, sand club, sand bag, or bludgeon or any gas ejecting device, weapon, cartridge, container or contrivance designed or equipped for or capable of ejecting any gas which will either temporarily or permanently disable, incapacitate, injure or harm any person with whom it comes in contact, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years or by a fine of not more than $2,500.00. The provisions of this section shall not apply to any person manufacturing firearms, explosives or munitions of war by virtue of any contracts with any department of the government of the United States, or with any foreign government, state municipality or any subdivision thereof, or to any person duly licensed to manufacture, sell or possess any machine gun or gas ejecting device, weapon, cartridge, container or contrivance above mentioned.

28.426. *Pawnbrokers, second-hand dealers, junk dealers, accepting pistol, offering or displaying it for resale.* 229. Any pawnbroker who shall accept a pistol in pawn or any second-hand or junk dealer, as defined in Act No 350 of the Public Acts of 1917, who shall accept a pistol and offer or display the same for resale, shall be guilty of a misdemeanor.

28.427. *Alteration of pistols; presumptive evidence of alteration.* 230. Any person who shall wilfully alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identity of any pistol, shall be guilty of a felony, punishable by imprisonment in the state prison not more than two [2] years or fine of not more than one thousand (1,000) dollars. Possession of any such firearm upon which the number shall have been altered, removed or obliterated, shall be presumptive evidence that such possessor has altered, removed or obliterated the same.

28.429(1). *Purchaser of pistol without license, false statement in application.* 232a. Any person who shall purchase a pistol without having obtained a license to purchase as provided in section 2 of Act No 372 of the Public Acts of 1927, as amended, shall be guilty of a misdemeanor. Any person who shall intentionally make a false statement in any application for a license to purchase a pistol, under section 2 of Act No 372 of the Public Acts of 1927, as amended, shall be guilty of a misdemeanor.

28.434. *Possession or use of fire-arm by person under influence of liquor or drug.* 237. Any person under the influence of intoxicating liquor or any exhilarating or stupefying drug who shall carry, have in possession or under control, or use in any manner or discharge any fire-arm within this state, shall be guilty of a misdemeanor.

28.559(1). *Explosives; furnishing to minor.* 327a. Any person who sells or furnishes to any minor under the age of 18, without first having procured the written consent of the parent or guardian of the minor, any bulk gunpowder, dynamite, blasting caps or nitroglycerin is guilty of a misdemeanor.

MICH. COMP. LAWS ANN. TITLE 3

3.4(1). *Governor's power to declare emergency, designate area involved; power to regulate traffic and transportation, public and private; places of assembly; alcoholic beverages, firearms, other dangerous weapons, ammunition; explosives, inflammable materials.* 1. During times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state, or reasonable apprehension of immediate danger thereof, when public safety is imperiled, either upon application of the mayor of a city, sheriff of a county, the commissioner of the Michigan state police, or upon his own volition, the governor may proclaim a state of emergency and designate the area involved. Following such proclamation or declaration, the governor may promulgate such reasonable orders, rules and regulations as he deems necessary to protect life and property, or to bring the emergency situation within the affected area under control. Without limiting the scope of the same, said orders, rules and regulations may provide for the control of traffic, including public and private transportation, within the area or any section thereof; designation of specific zones within the area in which occupancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated; control of places of amusement and assembly, and of persons on public streets and thoroughfares; establishment of a curfew; control of the sale, transportation and use of alcoholic beverages and liquors; control of the possession, sale, carrying and use of firearms, other dangerous weapons, and ammunition; and control of the storage, use, and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety. Such orders, rules and regulations shall be effective from the date and in the manner prescribed in such orders, rules and regulations and shall be made public as provided therein. Such orders, rules and regulations may be amended, modified, or rescinded, in like manner, from time to time by the governor during the pendency of the emergency, but shall cease to be in effect upon declaration by the governor that the emergency no longer exists.

4.127(1). *Residents purchasing firearms in contiguous states.* Section 1. Residents of this state may purchase rifles and shotguns in any state contiguous thereto if they conform to the federal gun control act of 1968 and the regulations issued thereunder, as administered by the secretary of the treasury and the laws of the state where the purchase is made.

Allen Park

8–137. (d) *It shall be unlawful for any person* under 18 years of age to purchase, carry or transport a firearm on any public street or in any public place. It shall be unlawful for any person to sell a firearm to any person under 18 years of age.*

Belding

12.11 *Dangerous weapons.* No person shall possess any machine gun, sawed-off shotgun, or any instrument or weapon of the kind commonly known as blackjack, slingshot, sand club, sandbag, switch-blade knife, or metal knuckles, or any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearm except as is otherwise permitted by law.

Bloomfield Hills

8.01. *It shall be unlawful* for any person under 18 years of age to purchase, carry or transport a firearm on any public street or in any public place.

7.01. It stall be unlawful for any person to sell a firearm to any person under 18 years of age.*

Buchanan

11.4. *Dangerous weapons.* No person shall possess any machine gun, sawed off shot gun, or any instrument or weapon of the kind commonly known as blackjack, sling shot, sand club, sandbag, switchblade knife, or metal knuckles, or any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearm except as is otherwise permitted by law.

Center Line

8–108. *Dangerous weapons; possession prohibited, exceptions.* (a) No person shall within the city possess any machine gun, sawed off shotgun, revolver, pistol, gun or any instrument or weapon of the kind commonly known as a blackjack, sling shot, sand club, sandbag, switch-blade knife, or metal knuckles, nor any instrument, attachment, or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms except as is otherwise permitted by law.

Dearborn Heights

9.215. *Sale or purchase.* It shall be unlawful for any person under eighteen (18) years of age to purchase, carry or transport a firearm on any public street or in any public place. It shall be unlawful for any person to sell a firearm to any person under eighteen (18) years of age.*

Detroit

66–1–1. *"Firearm" defined.* The word "firearm," as used in this article, shall be construed to include any shot gun, rifle or other device of a similar character, except pistols.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

66–1–2. *Permit required to purchase pistols.* No person shall purchase a pistol without first having obtained a permit to do so from the commissioner of police. No person or agent thereof shall sell or deliver a pistol to any person unless such person has obtained a permit therefor from the commissioner of police, which permit shall be given to the person making such sale or delivery and muat be kept by him.

66–4–1. The word "Firearm," except as otherwise specifically defined in this Code, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion.

66–4–4. It shall be unlawful for any person under 18 years of age to purchase, carry or transport a firearm on any public street or in any public place. It shall be unlawful for any person to sell a firearm to any person under 18 years of age.*

Ecorse

3–4.2 *Unregistered firearms—sale or purchase of firearms.* Any person who shall own or possess any pistol, weapon or device without the same being registered as required by Section 9 of Act 272 of the Public Acts of the State of Michigan for the year 1927, as amended; and also any person who shall purchase or sell a pistol, weapon or device without license as required by Act 272 of the Public Acts of the State of Michigan for 1927, as amended, shall be guilty of a misdemeanor and shall be punished as provided in Article I, Chapter I of this Code.

Escanaba

130.11 (D) *Dangerous weapons.* No person shall possess any machine gun, sawed off shot gun, or any instrument or weapon of the kind commonly known as blackjack, sling shot, sand club, sandbag, switch-blade knife, or metal knuckles, or any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearm except as is otherwise permitted by law.

7–116. *Possessing dangerous weapons.* (a) No person shall, within the city, possess any machine gun, sawed-off shotgun, any instrument or weapon of the kind commonly known as a black-jack, sling shot, sand club, sand bag, or switch-blade knife, or metal knuckles, nor any instrument, attachment or appliance for causing the firing of any firearm to be silent or lessened or muffled, except as is otherwise permitted by law.

Flushing

7–117. *Weapons.* No person in the city shall: 5. "Sales to Intoxicated Persons or Minors." Purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to, any person under the influence of alcohol or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of eighteen (18) years.*

Gladstone

504.06. *Possession of Weapons.* No child under the age of 18 years shall be allowed to have in his possession or control, or use, any air guns, sling shots, shot guns, rifles or other dangerous weapons within the City.

504.07. *Sale to Minors of Weapons.* No person shall sell, furnish, or give to or permit any child under the age of 18 years to have in his possession or use any air rifle, sling shot, shot gun, rifle or other dangerous weapon within the City.*

Grand Haven

8–209. *Dangerous weapons; possession prohibited.* No person shall possess any machine gun, sawed off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, sling shot, sand club, sandbag, switch-blade knife, or metal knuckles, nor any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms, except as is otherwise permitted by law.

Grosse Pointe Farms

24. *Firearms, sale to minors.* It shall be unlawful for any person under eighteen (18) years of age to purchase any firearm. It shall be unlawful for any person under the age of eighteen (18) years to transport a firearm on any public street or in any public place unless such person be accompanied by a parent or guardian and such transportation be to or from a duly constituted target range, or location for hunting if such person has in his possession a valid Hunting License issued by State authority.

Hazel Park

15. *Dangerous weapons; possession prohibited.* (a) No person shall possess any machine gun, sawed off shotgun, or any instrument or weapon of the kind commonly known as a black-jack, sling shot, sand club, sandbag, switch-blade knife, or metal knuckles, nor any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms, except as is otherwise permitted by law.

Highland Park

4. It shall be unlawful for any person to sell, give, furnish or deliver to any person or persons, any pistol, revolver or other small firearm, without first receiving from said person or persons a written permit in accordance with the laws of the State of Michigan. Such permits shall be preserved and filed in accordance with the laws of the State of Michigan.

Keego Harbor

4–4. *Offenses Against Public Safety.* No person in the city shall: (1) Weapons—(e) "Sales to Intoxicated Persons and Minors." Purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to, any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 21 years.

Lake Orion

9. *Sales to minors.* It shall be unlawful for any person, firm or corporation to sell, offer to sale, give away or distribute any firearm, sling shot, air gun, air rifle, air pistol or other like weapon to any person in the Village of Lake Orion who is under the age of twenty-one years.

Lapeer

19.09. *Firearms.* (d) No person shall sell, loan or furnish to any minors any firearm, or any toy firearm in which any explosive substance can be used, or any dynamite, dynamite fuse, or caps, gunpowder, or any other explosive substance.*

Lincoln Park

D. *It shall be unlawful* for any person under 18 years of age to purchase, carry or transport a firearm on any public street or in any public place. It shall be unlawful for any person to sell a firearm to any person under 18 years of age.*

Marshall

20.02. *Firearms.* (b) No person shall sell, loan or furnish to any minors any firearm, or any toy firearm in which any explosive substance can be used, or any dynamite, dynamite fuse or caps, gunpowder, or any other explosive substance.*

(c) Any person selling, loaning or keeping firearms within the City of Marshall shall comply with all the laws of the State of Michigan governing the use, sale, registration, storage, carrying, keeping and any other provisions concerning firearms.

(d) The word "firearm" includes any instrument whereby any projectile is shot or discharged by means of powder, compressed air, springs, or other means.

Oak Park

30.108. *It shall be unlawful* for any person under 18 years of age to purchase, carry or transport a firearm on any public street or in any public place. It shall be unlawful for any person to sell a firearm to any person under 18 years.*

Pontiac

2. Following such proclamation as set forth in Section 1 of this ordinance, the Mayor or other proclaiming authority as set forth in Section 1, may promulgate such reasonable orders, rules and regulations as he or they deem to be necessary to protect life and property and to maintain law and order, and preserve the public health, safety, and welfare, or to bring the emergency situation within the affected area or areas under control, or to provide safeguards against threatened encroachment upon the public health, safety, welfare and preservation and maintenance of law and order. Said orders, rules and regulations may provide for the control of traffic of all types, designation of specific zones within the area or areas in which occupancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated, control of places of amusement and assembly, and control of persons on public streets and thoroughfares, establishment of a curfew, control of the sale, transportation, dispensing and use of alcoholic beverages and liquors, of every form and type, and control of the sale, carrying, possession, storing and use of firearms or other dangerous weapons, ammunition, explosives and inflammable materials or liquids, deemed to be dangerous to the public safety.

3. Said orders, rules, regulations and proclamations, referred to or provided for in this ordinance, shall be effective from the date, time, and in the manner therein prescribed and shall be made public by announcement through any news media of general publication or general broadcasting in the Pontiac area, and if no such media is publishing or broadcasting at the time of the proclamation or is unable for any reason to disseminate said announcement, then said orders, rules, proclamations and regulations shall be made public by posting the text thereof in three conspicuous public places within the City. Such orders, rules, proclamations and regulations may be amended, modified or rescinded in like manner from

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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time to time by the Mayor, or other issuing authority as provided for in Section 1 of this ordinance, during the pendency of the emergency, but shall cease to be in effect upon declaration by the Mayor, or said issuing authority, that the emergency no longer exists.

Port Huron

9.117. *Weapons prohibited.* It shall be unlawful for the parent or guardian of any minor child under the age of 18 years to wilfully permit such minor child under the age of 18 years to use or have in his or her possession any pistol, rifle, shotgun, spring gun, air gun, sling-shot, bow and arrow, or other weapon capable of or designed to discharge any shot, pellet or missile likely to inflict bodily injury, except and unless such minor child under the age of 18 years shall be, at the time of his or her use or possession of any gun or weapon herein described, under the direct supervision or control of his or her parent or guardian or some other adult person.*

Royal Oak

276.1. (c) *It shall be unlawful* for any person, firm or corporation to sell, offer for sale, give away or distribute any firearm, sling-shot, airgun, or other light weapon to any minor in the City of Royal Oak, who is under the age of sixteen years.*

Saginaw

807 *Failure to complete and return license to purchase pistol.* 807.1 It shall be unlawful for the purchaser or any pistol to be or remain in possession thereof if the completed license to purchase the same shall not have been returned to the licensing authority within ten (10) days of the purchase of the pistol, as required by law.

Southfield

9.129 *Dangerous weapons: possession prohibited, exceptions* (1) No person shall within the City possess any machine gun, sawed off shotgun, or any instrument or weapon of the kind commonly known as black-jack, sand club, or metal knuckles, nor any instrument, attachment, or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms except as is otherwise permitted by law.

Sterling Heights

7. (1) No person shall possess any machine gun, sawed off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, sling shot, sand club, sandbag, switch-blade knife, or metal knuckles, nor any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms, except as is otherwise permitted by law.

Three Rivers

79-1. The City of Three Rivers ordains, That it shall not be lawful for any person directly or indirectly, himself or by his clerk, agent or employe, to sell, keep for sale, give away, furnish or use, within the limits of the City of Three Rivers, any firecracker, blank cartridge, toy pistol, dynamite or any other explosive or any cap or other device containing any explosive; Provided, however, That this provision shall not apply to the sale of gun powder or gun or revolver ammunition in the regular course of trade nor to the sale of dynamite that is to be used for a necessary purpose.

Trenton

9.171. *Dangerous weapon.* (1) No person shall possess any machine gun, sawed off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, sling shot, sand club, sand bag, switch-blade knife, or metal knuckles, nor any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms, except as is otherwise permitted by law.

Troy

9.79. *Regulation, control of the possession and transportation of firearms within the city.* (3) It shall be unlawful for any person under 18 years of age to purchase, carry or transport a firearm on any public street or in any public place. It shall be unlawful for any person to sell a firearm to any person under 18 years of age.*

Warren

8-210. *Dangerous weapons.* (1) No person shall possess any machine gun, sawed-off shotgun, or any instrument or weapon of the kind commonly known as a blackjack, sling shot, sand club, sandbag, switch-blade knife, or metal knuckles, nor any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms, except as is otherwise permitted by law.

Waterford

61-IX *Sales to Minors.* It shall be unlawful for any person, firm or corporation to sell, offer for sale, give away or distribute any firearm, sling shot, air gun, air rifle, air pistol or other like weapon to any person in the Township of Waterford who is under the age of twenty-one years.

61-X. *Unlawful act of parent or guardian.* It shall be unlawful for any parent, guardian or other person having custody or charge of any person under the age of twenty-one years to knowingly permit such minor to have in his possession or use any firearm, sling shot, air gun, air rifle, air pistol, or other weapons, as defined herein, except in a duly licensed shooting gallery or target range.

MINNESOTA

State Law

M.S.A. PUBLIC HEALTH AND SAFETY

609.02. *Definitions.* 1. "Crime" means conduct which is prohibited by a statute and for which the actor may be sentenced to imprisonment with or without a fine.

2. "Felony" means a crime for which a sentence of imprisonment for more than one year may be imposed.

3. "Misdemeanor" means a crime for which a sentence of not more than 90 days or a fine of not more than $300 or both may be imposed.

4. "Gross misdemeanor" means any crime which is not a felony or misdemeanor.

4a. *Petty misdemeanor.* "Petty misdemeanor" means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than $100 may be imposed.

5. "Conviction" means any of the following accepted and recorded by the court:

(1) A plea of guilty; or

(2) A verdict of guilty by a jury or a finding of guilty by the court.

6. "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

609.66. *Dangerous weapons.* 1. Acts prohibited. Whoever does any of the following is guilty of a misdemeanor.

(6) Sells or has in his possession any device designed to silence or muffle the discharge of a firearm; or

(7) Without the parent's or guardian's consent, furnishes a child under 14 years of age, or as a parent or guardian permits such child to handle or use, outside of the parent's or guardian's presence, a firearm or airgun of any kind, or any ammunition or explosive; or

(8) In any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the written consent of his parent or guardian or of the police department or magistrate of such municipality.*

609.67. *Machine guns.* 1. "Machine gun" means any firearm designed to discharge, or capable of discharging automatically more than once by a single function of the trigger.

2. Except as otherwise provided herein, whoever owns, possesses, or operates a machine gun may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $5,000, or both.

3. The following persons may own or possess a machine gun provided the provisions of subdivision 4 are complied with:

(1) Law enforcement officers for use in the course of their duties;

(2) Wardens of penal institutions and other personnel thereof authorized by them and persons in charge of other institutions for the retention of persons convicted or accused of crime, for use in the course of their duties; and

(3) Persons possessing machine guns as war relics, museum pieces, or as objects of curiosity, ornament, or keepsake, and not useable as a weapon.

5. This section does not apply to members of the armed services of either the United States or the state of Minnesota for use in the course of their duties.

624.71. *Gun control, application of federal law.* 2. Notwithstanding any other law to the contrary, it shall be lawful for a resident of Minnesota to purchase firearms and ammunition in a contiguous state in any instance where such sale and delivery is lawful under the federal Gun Control Act of 1968 (Public Law 90-618).**

Appleton

6.06. *Weapons, sale to minors.* No person shall sell, give, loan, or in any wise furnish any firearm or ammunition to a minor under the age of eighteen years without the written consent of his parents or guardian, or of a police officer of this village.*

6.07. *Minors not to use firearms.* No minor under the age of fourteen years shall handle or have in his possession or under his control except while accompanied by his parent or guardian any firearm, air or gas rifle of any kind for hunting or target practice, or any other purpose. No parent or guardian shall knowingly permit any minor to violate this section.

Arden Hills

1. *Definitions.* Deadly weapons. The term "deadly weapons" as used herein shall include the following: (1) All firearms; (2) bows and arrows when the arrows are pointed or tipped; (3) all instruments used to expell at high velocity any pellets of any kind, including, but not limited to, BB guns and air rifles; (4) sling shots; (5) metal knuckles; and (6) switchblade knives, being knives with retractable blades.

4. The selling, giving, loaning, or furnishing in any way of any deadly weapon to a minor under the age of 18 years without the written consent of his parents or guardian is hereby prohibited.

5. No minor under the age of 14 years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any deadly weapon.*

Blaine

101. *Weapons* .01. The term "deadly weapons" as used herein shall include the following: (1) All firearms; (2) Bows and arrows when arrows are point tipped; (3) All instruments used to expel at high velocity any pellets of any kind, including, but not limited to B-B guns and air rifles; (4) Sling shots; (5) Sand clubs; (6) Metal knuckles; and (7) Daggers, dirks and knives.

101.02 (1) Whoever does any of the following is guilty of a misdemeanor: * * *

6. Sells or has in his possession any device designed to silence or muffle the discharge of a firearm; or * * *

101.03. The selling, giving, loaning, or furnishing in any way of any deadly weapon to a minor under the age of 18 years without written consent of his parents or guardian, or of a police officer or magistrate is hereby prohibited.*

101.04. No minor under the age of 14 years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any deadly weapon.

Bloomington

203. *Providing firearms to minors.* 01. *Restriction.* Every person who shall sell, give, loan or in any wise furnish any firearm or ammunition to a minor under the age of eighteen years without the written consent of his parents or guardian, or of a police officer or magistrate shall be guilty of a misdemeanor.*

Brooklyn Center

19-402. *Dangerous weapons.* 1. "Dangerous weapon" means any firearm, airgun or pellet gun, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

2. Section 609.66 of the Minnesota Criminal Code (West 1963) Laws of 1963, Chapter 753 is hereby adopted by reference and shall have the same force and effect as though set out at length herein.

Buhl

510:02. *Deadly weapons.* It shall be unlawful in the Village of Buhl for any person, persons, firm or corporation to manufacture or cause to be manufactured, sell, keep for sale, offer or dispose of any instrument or weapon of the kind usually known as a slingshot, sand club, metallic knuckles, dirk, dagger, sword, pistol, revolver, air gun, stiletto, pocket bill, sand bag, skull cracker, razor or other offensive and dangerous weapon or instrument, or to give or sell any pistol or fire-arm to a person under the age of eighteen years, without the written consent of a magistrate or the mayor of the said village or the chief of police or marshal of said village.*

Coon Rapids

7-1000. *Weapons.* 7-1001. The term "deadly weapons" as used herein shall include the following:

(1) All firearms;

(2) Bows and arrows when arrows are pointed tipped;

(3) All instruments used to expel at high velocity any pellets of any kind, including, but not limited to B-B guns and air rifles;

(4) Sling shots;

(5) Sand clubs;

(6) Metal knuckles; and

(7) Daggers, dirks, and knives.

7-1002. *Subdivision 1.* Whoever does any of the following is guilty of a misdemeanor: (6) *Sells or has in his possession any device designed to silence or muffle the discharge of a firearm; * * *.

7-1003. The selling, giving, loaning, or furnishing in any way of any deadly weapon to a minor under the age of 18 years without written consent of his parents or guardian, or of a police officer or magistrate is hereby prohibited.*

7-1004. No minor under the age of 14 years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any deadly weapon.

Cottage Grove

27-13. *Furnishing to minors.* No person, within the limits of the village, shall: * * * (b) Furnish a minor under eighteen years of age with a firearm, airgun, ammunition or explosive without the written consent of his parent, guardian, the police department or magistrate of this village.*

27-14. *Silencers.* No person, within the limits of the village, shall sell or have in his possession any device designed to silence or muffle the discharge of a firearm.

Crystal

1. *Definitions.* 1.02. Specific terms: The following terms have the following meanings:

(a) "Person" shall mean any natural individual, firm, partnership, trust, estate, club, association or corporation. As applied to partnerships or associations the word includes the partners or members thereof, as applied to corporations it includes the officers, agents, or employees thereof who are responsible for the act referred to. The singular includes the plural, and the plural includes the singular. The masculine gender includes the feminine gender.

(b) "Military type weapon" shall mean any firearm such as bazookas, machine guns, mortars, grenadea, molotov cocktails and similar weapons.

(c) "Firearm" shall mean any weapon from which is propelled any missile, projectile, bullet, or other mass by means of explosives or gas.

(d) "Hand gun" shall mean any firearm having a barrel of less than twelve inches in length.

2. *Prohibitions relating to military type weapons.* 2.01. No person within the corporate limits of the City of Crystal shall own, keep, carry or have possession of any military type weapon as defined in this ordinance.

Deephaven

8. *Minors not to use fire arms.* No minor under the age of 18 years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent, guardian or competent supervision, any fire arms, air guns, sling shots, bows and arrows, ammunition or other weapons of any kind for hunting or target practice or any other purpose.

27. *Sale of firearms to minor.* No person, firm or corporation shall sell, offer for sale, or give away, or in anywise furnish any firearms or ammunition to a minor under the age of 18 years, without the written consent of such minor's parents or guardian or of a peace officer or magistrate.*

Duluth

49-6. *Possession, use, etc., of firearm silencers prohibited.* No person shall use, own or possess any type of silencer for a firearm or possesa any firearm equipped so that a silencer may be attached to such firearm.

49-8. *Possession of firearms by minors.* No minor under the age of eighteen years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of a parent or guardian, any firearm of any kind for hunting or target practice or any other purpose

49-15. *License—required.* No person shall engage in the business of selling or renting guns, pistols or other firearms without first having obtained a license to do so.

49-20. *Sales and rentals to minors.* No person shall sell, rent, give, loan or in anywise furnish any firearm, air gun or ammunition to a minor under the age of eighteen years without the written consent of his parents or guardian or of a police officer or magistrate of the city.*

Eagan

9.01—*Definitions.* 5.—*Assault weapons* shall mean any weapon other than firearms having personal assault characteristics including, but not limited to dagger, switchblade knife, stiletto, dirk, spring blade knife, push-button knife, blackjack, sand club, pipe club, chain club, brass knuckles, molotov cocktails, grenades and explosive devices.

9.02—*Prohibition.* 3.—*Persons prohibited.* It shall be unlawful for any person within the Town of Egan to own, possess, carry or have in his custody or control any firearms or ammunition unless such person:

A. Shall be at least 18 years of age or shall hold a firearms safety certificate recognized by the Minnesota Department of Conservation or be enrolled in a program to qualify for said certificate or if under 18 years of age is accompanied by his parent or guardian or by an adult who has written permission from the minor's parent or guardian.

B. Shall not within the previous five years have been: 1. Convicted of a felony or drug addiction under the laws of this state or any other jurisdiction, or a violation of this Ordinance or any other law relating to weapons. 2. Committed under the statutory procedures of this state or any other jurisdiction to any institution for treatment of a mental, drug, or alcoholic condition.

4.—*Possession and transporting of assault weapons.* It shall be unlawful for any person within the Town of Eagan to carry on his person or to transport by any means any assault weapon for any purpose whatever except by law enforcement officers or military personnel in the course of their duties.

Ely

410:02. *Deadly weapons.* No person shall manufacture or cause to be manufac-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

**NOTE.—Because of the restrictions in the Federal Gun Control Act of 1968 (Public Law 90-618) Minnesota residents are authorized to purchase only rifles and shotguns in contiguous states and not other types of firearms.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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tured, sell, keep for sale, offer, or dispose of, any instrument or weapon of the kind usually known as sling shot, sand club, or metal knuckles; or without the written consent of a magistrate, shall sell or give any pistol or firearm to a person under the age of eighteen years.*

Fairmont

6.20. *Dangerous weapons and articles.* 1. Acts prohibited. It is unlawful for any person to: * * * F. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; * * *

(G) Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parent or guardian or of the Police Department.*

Farmington

6-1-15. *Dangerous weapons:* It shall be unlawful for any person to do any of the following: * * * (G) Sell or have in his possession any device designed to silence or muffle the discharge of a firearm.

(H) Without the parent's or guardian's consent, furnish a child under fourteen (14) years of age, or as a parent or guardian permit such child to handle or use, outside of the parent's or guardian's presence, a firearm or airgun of any kind, or any ammunition or explosive; (I) Furnish a minor under eighteen (18) years of age with a firearm, airgun, ammunition or explosive without the written consent of his parent or guardian or of the Police Department of the Village.*

Golden Valley

525:00. *Definitions.* 1. *general terms.* Terms used in this ordinance, unless expressly defined, shall have the meanings prescribed by the Statutes of the State of Minnesota for the same terms.

2. *Specific terms.* The following terms shall have the following meanings: (a) "Person" shall mean any natural individual, firm, partnership, trust, estate, club, association or corporation. As applied to partnerships or associations, the word includes the partners or members thereof, as applied to corporations it includes the officers, agents, or employees thereof who are responsible for the act referred to. The singular includes the plural, and the plural includes the singular. The masculine gender includes the feminine gender.

(b) "Firearm" shall mean any weapon from which is propelled any missile, projectile or bullet through a barrel by means of explosives, excluding any device used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial ammunition and any antique firearm.

(c) "Long gun" shall mean a rifle, shotgun or similar gun not designed to be fired from the hand.

(d) "Hand gun" shall mean any firearm designed to be fired from the hand.

(e) "Secured container" shall mean a case or container completely closed by being zipped, snapped, buckled, tied or otherwise securely fastened with no portion of the firearm exposed.

(g) "Dealer" shall mean a person licensed to sell, manufacture or repair firearms.

(h) "Antique firearm" shall mean: (i) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (ii) any replica, or any firearm described in part (i) of this subparagraph if such replica is not designed or redesigned for using rim fire or conventional center fire fixed ammunition, or uses rim fire or conventional center fire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

525:10. *Persons prohibited.* 1. It shall be unlawful for any persons within the corporate limits of the Village of Golden Valley to own, possess, carry or have in his custody or control any firearm unless such person shall not within the previous five years have been:

(a) Convicted of a felony or drug addiction under the laws of this state or any other jurisdiction.

(b) Committed under the statutory procedures of this state or any other jurisdiction to any institution for treatment of a mental, drug or alcoholic condition, unless such person so committed shall have been issued a permit, currently in force, pursuant to Section 525:06 (5). 2. It shall be unlawful for any person to be in possession of, carry or transport any firearm while under the influence of alcohol, or hallucinatory chemical, or narcotics, or other drugs.

525:02 *Sales, gift or delivery of firearms.* It shall be unlawful for any person within the Village of Golden Valley to sell, give, or deliver any firearm to any other person if such other person is prohibited by the terms of Section 525:01 from owning, possessing, carrying, or having in his custody or control a firearm and if said seller, giver or deliver known or had reasonable cause to believe such person was so prohibited.

525:04. *Report of sale, gift, or delivery of hand guns.* Every person within the corporate limits of the Village of Golden Valley who agrees to sell, deliver or give to any person a hand gun as defined in this ordinance shall within five (5) days after such agreement to sell, deliver or give, make and file with the Village Clerk a legible written report. * * *. No person who intends to sell, deliver or give to any person a hand gun as defined in this ordinance shall deliver actual possession to the person to receive the hand gun until a copy of the report required by this section containing the certification of the Golden Valley Public Safety Director, or his designee, that said sale, delivery or gift may be made, is returned to the person who intends to sell, deliver or give away said hand gun, or until three (3) days (excluding Saturday, Sunday and holidays) after making and filing with the Village Clerk the required report of sale, whichever comes first.

None of the provisions of this section 525.04 shall apply to gifts of hand guns between husband and wife, or parent and child, but all other gifts of hand guns must comply with the requirements hereof.

Granite Falls

6.06. *Weapons, sale to minors.* No person shall sell, give, loan, or in any wise furnish any firearm or ammunition to any minor under the age of eighteen years without the written consent of his parents or guardian, or of a police officer or magistrate of this city.*

Hastings

9.20. *Dangerous weapons and articles.* 1. *Acts prohibited.* It is unlawful for any person to: F. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; or

G. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parent or guardian or of the Police Department.*

Hibbing

Firearms, sale and possession. 7-14.1. It shall be unlawful in the Village of Hibbing for any person, persons, firm or corporation to manufacture or cause to be manufactured, sell, keep for sale, offer or dispose of any instrument or weapon of the kind usually known as a slingshot, sand club, metallic knuckles, dirk, dagger, sword, pistol, revolver, air gun, stiletto, pocket billy, sand bag, skull cracker, razor or other offensive and dangerous weapon or instrument, or to give or sell any pistol or fire-arm to a person under age of eighteen (18) years, without the written consent of a magistrate or the president of the said village or the chief of police or marshal of said village * * *.*

Hopkins

4. *Sale of firearms to minors.* Every person who shall sell, give away, or in any wise furnish any firearms or ammunition to a minor under the age of eighteen years without the written consent of his parents or guardian or of a peace officer or magistrate, shall be guilty of a misdemeanor.*

6. *Minors not to use firearms.* No minor under the age of fourteen years shall handle, or have in his possession or under his control except while accompanied by or under the immediate charge of his parent or guardian, any firearm of any kind for hunting or target practice or any other purpose. Every person violating any of the foregoing provisions or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor.

Hoyt Lakes

2. *Use of fire arms by minors.* No minor under the age of 14 years shall handle or have in his possession or under his control, except while accompanied by or under immediate charge of his parent or guardian, any fire arm or air gun of any kind for hunting or target practice or for any other purpose. Every person violating the foregoing provision or aiding or knowingly permitting any such minor to violate the same shall be guilty of a misdemeanor.

International Falls

1. No person within the limits of the City of International Falls shall manufacture or cause to be manufactured, sell, keep for sale, offer, or dispose of, any instrument, or weapon of the kind usually known as a dirk, dagger, sword, pistol, stiletto, metallic knuckles, pocket billie, sand bag, skull cracker, sling shot, or other offensive and dangerous weapons or instruments, or without the written consent of the Mayor shall sell or give any revolver or firearm of any description to a person under the age of eighteen years.*

Lauderdale

2. *Specific terms.* The following terms shall have the following meanings. (a) "Firearm" shall mean any weapon from which is propelled any missile, projectile, bullet, or other mass through a barrel by means of explosives or gas or air, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus and instruments or equipment when used by licensed physicians or veterinarians in the course and scope of their professions.

(b) "Handgun" shall mean any firearm having a barrel of less than twelve inches in length and capable of being concealed on the person.

(c) "Military type weapon" shall mean any destructive device and the ammunition designed only for such device having firepower, mass, explosive or incendiary characteristics of weapons such as cannons having a bore diameter larger than one-half inch, bazookas, machine guns, fully automatic weapons, mortars, grenades, Molotov cocktails, but not including shotguns, rifles, pistols or revolvers.

(d) "Assault weapon" shall mean any weapon other than a firearm or military type weapon having the designed personal assault characteristics of any dagger, dirk, stiletto, switchblade knife, spring blade knife, push button knife, blackjack, sandclub, pipe club, chain club, or metal knuckles.

(e) "Ammunition" shall mean any projectile, bullet, or other mass prepared for insertion in and propulsion from any firearm.

(f) "Secured container" shall mean a locked case legibly marked "firearms" having no mechanical features designed for immediate weapons removal or use and containing no other nonrelated objects, except that a "secured container" for a rifle or shotgun may mean a weapon case, such as leather, fibre, canvas or plastic secured with a zipper, clasp, buckle, or ties.

2. *Persons prohibited from possessing firearms.* (1) No person who has not attained the age of 18 years shall have any firearm in his custody or control, or carry the same on his person, within the limits of the Village of Lauderdale except when he is accompanied by his parent or legal guardian, while participating under adult supervision as a member of a registered target shooting or sportsmen's club, gun-training program, gun show, parade or similar event for which a permit has been issued by the Chief of Police, or unless he holds a firearms safety certificate recognized by the Minnesota Department of Conservation, or is actually enrolled in a program to obtain the same.

(2) No person shall have any firearm in his possession or control, or carry the same on his person, within the limits of the Village of Lauderdale who has been convicted of any felony, or who is addicted to the use of drugs or who is under the influence of drugs or alcohol.

4. *Weapons prohibited.* No person shall own, keep, carry, or have in his possession anywhere in the Village of Lauderdale any military type weapons, or any assault weapon, or any stolen weapon, except military personnel engaged in the course of their duties and peace officers, unless he holds a permit to possess the same as collectors' items or for use in officially recognized competition. "Officially recognized competition" includes all competitions held under the sponsorship of a registered target shooting or sportsman's club which is duly authorized to obtain firearms or ammunition from the United States.

6. *License required to sell firearms.* No person shall engage in the business of selling or dealing in firearms or ammunition in the Village of Lauderdale without first obtaining a license to do so from the Village Council. The fee for such license shall be $10.00, payable annually to the Village Council and Village Clerk. Upon application for issuance or renewal of license the licensee shall provide to the Village Clerk his name, address, and location of his business. Such license may be revoked by the Council for violation of any ordinance or law related to the conduct of the business.

7. *Permits and registrations.* Permits and registrations required hereunder shall be accomplished in the following manner: (1) Any organization may register as a target shooting or sportsman's club by filing a statement with the Chief of Police setting forth the names and addresses of the officers of said club, which shall be kept current by the club as the officers shall change from time to time. There shall be no fee for such registration, which may be revoked at any time by the Council for any violation of laws or ordinances relating to firearms.

(2) Any person not prohibited from owning or possessing firearms may obtain a permit to possess a military type of assault weapon as a collectors' item, or to possess a military type weapon for participation in officially recognized competition upon application therefor to the Chief of Police. Such application shall set forth the applicant's full name, address and citizenship, the date of acquisition of the weapon and the source of acquisition, the caliber, make, model and manufacturer's number of the weapon and the use to which the weapon is to be put. The Chief shall issue such permit, without fee, if he concludes the applicant is of good moral character and intends to use the weapon for a lawful purpose.

Mahtomedi

4. No minor under the age of 18 years shall within the Village of Mahtomedi, handle or have in his possession or under his control, except when accompanied by or under the immediate charge of his parent or guardian, any fire-arm of any kind whatever, or ammunition of any kind for use therein, or any sling-shot, sling, air-gun, spring gun, or the like; nor shall any such minor within the corporate limits of said village fire or discharge any such fire-arm, sling, sling-shot, air gun, spring gun or the like, whether accompanied by his parent or guardian or otherwise; nor shall any person fire or discharge any gun, pistol or other fire weapon within said village limits.

Mankato

9.30. *Dangerous weapons and articles.* 1. Acts Prohibited. It is unlawful for any person to: * * * F. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; or G. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parents or guardian or of the Police Department.*

Maplewood

1210.010 *Permit.* No person shall purchase, receive or accept a revolver or pistol within the Village of Maplewood without first having obtained a written permit from the Chief of Police of said Village, authorizing him to purchase, receive or accept such revolver or pistol.

1210.020. *Sale without permit prohibited.* No person, firm or corporation shall sell, deliver, display for sale, offer for sale, or otherwise transfer a pistol or revolver within the Village of Maplewood to any person who is not the holder of a written permit from the Police Chief of Maplewood, authorizing him to purchase, receive or accept such revolver or pistol, and in no case shall any person, firm or corporation deliver a pistol or revolver to the person to whom it is sold, or to be transferred unless such sale or transfer is made pursuant to approval of the Chief of Police in the manner hereinafter provided.

1210.030. *Restrictions of permit.* The Chief of Police shall upon application, issue a written permit to purchase a revolver or pistol within the Village of Maplewood to any citizen of the United States who is of good moral character and has never been convicted of a felony, if it appears that such person has a reasonable and lawful purpose in mind for the purchase of such pistol or revolver and that the same will be used only for a lawful purpose. Such permit issued by the Chief of Police shall be valid for a period of five (5) days from its date of issuance.

1210.040. *Transfer of permit.* Before the delivery of a pistol or revolver purchased, or to be transferred, the purchaser or the person to whom such revolver is to be delivered shall surrender his permit to the seller or transferor and shall sign in duplicate and deliver to said seller a statement containing his full name, address and nationality, the date of the sale or transfer, the caliber, make, model and manufacturer's serial number of the weapon. The seller or transferor shall immediately deliver to the Chief of Police one copy of such statement and such seller shall indorse upon such statement his signature. This copy of the statement shall be indorsed by the Chief of Police and retained for his permanent records. The weapon shall not be released by the seller for delivery to the purchaser or transferee until the Police Chief has approved such sale.

1210.050. *Terms.* The words "pistol or revolver" as used in this ordinance shall be construed as meaning any fire arm with a barrel less than twelve (12) inches in length.

Mendota Heights

5. *Possession of Weapons by Minors.* No minor under the age of eighteen years shall, within the corporate limits of the Village of Mendota Heights, handle or have in his possession or under his control, except when accompanied by or under the immediate charge of his parent or guardian, any fire-arm of any kind whatsoever, or ammunition of any kind for use therein, or any sling-shot, sling, air-gun, bow and arrow, spring-gun, or the like; nor shall any such minor, within the corporate limits of the Village, fire or discharge any such fire-arm, sling, slingshot, bow and arrow, spring-gun or the like, whether accompanied by his parent or guardian, or otherwise

Section 6. Sale to minors. No person, firm, or corporation shall, within the corporate limits of the Village of Mendota Heights, give, sell, or otherwise furnish any firearms or air-guns of any kind, or any ammunition of any kind for use therein, to any minor under age of eighteen years, without the written consent of the parent or guardian of the said minor. Said permission shall be preserved by the person furnishing such arms or ammuntion, and shall be open to inspection at all reasonable times by all members of the Police Department, the Sheriff or his deputies, or the Judges of any court of record in this State.*

Section 9. Definitions.

B. Specific terms. The following terms shall have the following meanings:

(1) *Firearm.* Shall mean any weapon from which is propelled any missile, projectile, bullet, or other means of explosives or gas or air, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus and instruments or equipment when used by licensed physicians or veterinarians in the course and scope of their professions.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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(2) *Handgun.* Shall mean any firearm having a barrel of less than twelve inches in length and capable of being concealed on the person.

(3) *Military type weapon.* Shall mean any destructive device and the ammunition designed only for such device having firepower, mass, explosive or incendiary characteristics of weapons such as cannons having a bore diameter larger than one-half inch, bazookas, machine guns, fully automatic weapons, mortars, grenades, Molotov cocktails, but not including shotguns, rifles, pistols or revolvers.

(4) *Assault weapon.* Shall mean any weapon other than a firearm or military type weapon having the designed personal assault characteristics of any dagger, dirk, stiletto, switchblade knife, spring blade knife, push button knife, blackjack, and sand-club, chain club, or metal knuckles.

(5) *Ammunition.* Shall mean any projectile, bullet, or other mass prepared for insertion in and propulsion from any firearm.

(6) *Secured container.* Shall mean a locked case legibly marked "firearm" having no mechanical features designed for immediate weapons removal or use and containing no other non-related objects, except that a "secured container" for a rifle or shotgun may mean a weapon case, such as leather, fibre, canvas or plastic secured with a zipper, clasp, buckle or ties.

12. *Sale, gift, or delivery of firearms.* A. No person shall purchase, receive or accept a handgun within the Village of Mendota Heights without first having obtained a written permit from the Chief of Police authorizing him to purchase, receive or accept such handgun.

The Chief of Police shall, upon application, issue a written permit to purchase or receive a handgun within the Village of Mendota Heights to any citizen of the United States who is of good moral character and has never been convicted of a felony, if it appears that such person has good cause to fear an injury to his person or property, or that such handgun is to be used for a lawful purpose. Such permit shall be valid for a period of five days from its date.

D. No person shall sell, lend, give, or deliver to any person any military type weapon or assault weapon except upon presentation of a valid permit to possess the same issued to the transferee by the Chief of Police as provided in Paragraph (B) hereinabove. The person making such sale, loan, gift, or delivery shall, within five days thereafter, mail or deliver said permit to the Chief of Police.

E. No person shall knowingly sell, lend, give, or deliver any firearm to any person forbidden to own or possess the same by law or ordinance.

F. Nothing contained in this section shall apply to sales at wholesale to dealers.

13. *License required to sell firearms.* No person shall engage in the business of selling or dealing in firearms or ammunition in the Village of Mendota Heights without first obtaining a license to do so from the Village Council.

Minneapolis

877.010. *Definitions.*

2. *Specific terms.* The following terms shall have the following meanings:

(a) "Person" shall mean any natural individual, firm, partnership, trust, estate, club, association or corporation. As applied to partnerships or associations, the word includes the partners or members thereof, as applied to corporations it includes the officers, agents, or employees thereof who are responsible for the act referred to. The singular includes the plural, and the plural includes the singular. The masculine gender includes the feminine gender.

(b) "Firearm" shall mean any weapon from which is propelled any missile, projectile or bullet by means of explosives or gas and shall include air and "BB" guns.

(c) "Long gun" shall mean a rifle, shotgun or similar gun not designed to be fired from the hand.

(d) "Hand gun" shall mean any firearm designed to be fired from the hand.

(e) "Military type weapon" shall mean any destructive device and the ammunition designed only for such device having firepower, mass, explosive or incendiary characteristic of weapons such as cannons having a bore diameter of larger than one-half inch, bazookas, machine guns, fully automatic weapons, mortars, grenades, Molotov cocktails, but not including shotguns, rifles, pistols or revolvers included in definitions (c) and (d) above. Destructive devices which are not firearms and ammunition for any military type weapon which is inert and not readily restorable, both mechanically and by intent, shall be exempted from the provisions of this ordinance.

(f) "Assault weapon" shall mean any weapons other than firearms or military type weapons having the designed personal assault characteristics of any dagger, dirk, atiletto, switchblade knife, spring blade knife, push button knife, blackjack, sand-club, pipe club, chain club, or metal knuckles.

(g) "Ammunition" shall mean any complete round prepared for insertion in and propulsion from any firearm.

(j) "Dealer" shall mean a person licensed to sell, manufacture or repair firearms.

877.020. *Persons prohibited.* It shall be unlawful for any person within the corporate limits of the City of Minneapolis to own, possess, carry, or have in his custody or control any firearms or ammunition unless such person:

1. Shall be at least 18 years of age or shall hold a firearms safety certificate recognized by the Minnesota Department of Conservation or be enrolled in a program to qualify for said certificate.

2. Shall not within the previous five years have been:

(a) Convicted of a felony or drug addiction under the laws of this state or any other jurisdiction; or a violation of this ordinance or any other law relating to weapons.

(b) Committed under the statutory procedures of this state or any other jurisdiction to any institution for treatment of a mental, drug or alcoholic condition.

It shall be unlawful for any person to be in possession of, carry or transport any firearm or ammunition while under the influence of alcohol, or hallucinatory chemical, or narcotics, or other drugs.

877.040. *Weapons prohibited.* It shall be unlawful for any person within the City of Minneapolis to own, keep, carry or have in his custody or control any of the following:

1. Military type or assault weapons, unless the person in possession of such weapon has in his possession the permit provided in Section 877.080.

2. Any firearm or ammunition which the transferee knows or has reasonable cause to believe has been stolen or transferred in violation of this ordinance.

The provisions of this section shall not apply to law enforcement or military personnel while engaged in the course of their duties.

877.050. *Sales, gift or delivery of weapons and ammunition.* It shall be unlawful for any person within the City of Minneapolis to sell, give, or deliver to any person:

1. Any weapon prohibited under Section 877.040, unless the weapon to be received is a military type weapon or assault weapon and the person to receive the weapon has secured the permit provided in Section 877.080.

2. Any firearm or ammunition for such firearm if such person is:

(a) Under the age of 18 years if the firearm is a long gun or under the age of 21 years if the firearm is a hand gun, except for legitimate firearm activities set forth in Section 877.030(4) or unless the recipient shall qualify under Section 877.020(1).

(b) Under the influence of alcohol, hallucinatory chemicals, narcotics or other drugs.

(c) Prohibited from ownership, possession, custody, or control of firearms under Section 877.020, and seller or giver knew or had reasonable cause to believe such person was prohibited.

877.070. *Report of sale, gift, or delivery of handguns.* Every person within the corporate limits of the City of Minneapolis who agrees to sell, deliver or give to any person a handgun as defined in this ordinance shall within five (5) days after such agreement to sell, deliver or give, make and file with the City Clerk a legible written report, * * *.

The City Clerk shall provide the reporting forms on which such reports shall be made, and shall make such forms freely available to licensed gun dealers. Persons not licensed dealers may secure such reporting forms from the City Clerk or any licensed gun dealer.

No person who intends to sell, deliver or give to any person a handgun as defined in this ordinance shall deliver actual possession to the person to receive the handgun until three (3) days excluding Saturday, Sunday, and holidays, after making and filing with the City Clerk the required Report of Sale.

677.080. *Permit for military type and assault weapons.* The owner or purchaser of a military type or assault weapon may be issued a permit by the City Clerk for possession either as a collector's item or as a military type weapon used in officially recognized competition, or assault weapon, provided such person is not prohibited from owning or possessing firearms under this ordinance.

Montevideo

5-1-32: *Firearms; minors:* No minor under the age of fourteen (14) years shall handle, or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any person, firm or corporation deliver a practice or any other purpose. No parent or guardian shall knowingly permit any minor to violate this Section.

5-1-71: *Weapons; sale to minors:* No person shall sell, give, loan, or in any wise furnish any firearm or ammunition to a minor under the age of eighteen (18) years without the written consent of his parents or guardian, or of a police officer or magistrate of the City.*

Mound

51.30. *Minors—Firearms.* No person, or persons, shall hereafter within the Village of Mound, sell, give, loan or in anywise furnish any firearm, air gun, ammunition or dynamite to a minor under the age of 18 years without the written consent of his parents or guardian or of a police or magistrate of the village, nor sell, give, loan or in anywise furnish any fireworks to any person.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

North St. Paul

101.010. *Permit.* No person shall purchase, receive or accept a revolver or pistol within the Village of North St. Paul without first having obtained a written permit from the Chief of Police of said Village, authorizing him to purchase, receive or accept such revolver or pistol.

101.020. *Sale without permit prohibited.* No person, firm or corporation shall sell, deliver, display for sale, offer for sale, or otherwise transfer a pistol or revolver within the Village of North St. Paul to any person who is not the holder of a written permit from the Police Chief of North St. Paul, authorizing him to purchase, receive or accept such revolver or pistol, and in no case shall any firearm of any kind for hunting or target pistol or revolver to the person to whom it is sold, or to be transferred unless such sale or transfer is made pursuant to approval of the Chief of Police in the manner hereinafter provided.

101.030. *Restrictions of permit.* The Chief of Police shall upon application, issue a written permit to purchase a revolver or pistol within the Village of North St. Paul to any citizen of the United States who is of good moral character and has never been convicted of a felony, if it appears that such person has a reasonable and lawful purpose in mind for the purchase of such pistol or revolver and that the same will be used only for a lawful purpose. Such permit issued by the Chief of Police shall be valid for a period of five (5) days from its date of issuance.

101.040. *Transfer of permit.* Before the delivery of a pistol or revolver purchased, or to be transferred, the purchaser or the person to whom such revolver is to be delivered shall surrender his permit to the seller or transferor and shall sign in duplicate and deliver to said seller a statement containing his full name and address, the date of the sale or transfer, the caliber, make, model and manufacturer's serial number of the weapon. The seller or transferor shall immediately deliver to the Chief of Police one copy of such statement and such seller shall indorse upon such statement his signature. This copy of the statement shall be indorsed by the Chief of Police and retained for his permanent records. The weapon shall not be released by the seller for delivery to the purchaser or transferee until the Police Chief has approved such sale.

101.050. *Terms.* The words "pistol or revolver" as used in this ordinance shall be construed as meaning any fire arm with a barrel less than twelve (12) inches in length.

101.060. *Wholesale to dealers does not apply.* Nothing contained herein shall apply to the sales at wholesale to dealers.

Plymouth

1.14. *Dangerous articles.* (b) It shall be unlawful to sell, give, loan, or in anywise furnish any firearm or ammunition to a minor under the age of 18 years without the written consent of his parents or guardian or of a police officer or magistrate.*

Richfield

5.29. *Firearms.* 1. *Definitions.* The following terms have the meanings ascribed to them in this section: (1) "Crime of violence" means murder, manslaughter, rape, mayhem, kidnapping, burglary, housebreaking; assault with intent to kill, commit rape or rob; assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year.

(2) "Firearm" means any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of expanding gases.

(3) "Fugitive from justice" means any person who has fled or is fleeing from any law enforcement officer to avoid prosecution or incarceration for a crime of violence or to avoid giving testimony in any criminal proceeding.

(4) "Manufacturer or dealer" means any person engaged in the business of manufacturing, repairing or selling firearms at wholesale or retail, or of accepting or pledging firearms as security for loans within the city.

(5) "Pistol" means any firearm with a barrel less than 12 inches in length.

(6) "Subversive organization" means any group, committee, club, league, society, association or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure or overthrow of the government of the United States or any state or political subdivision thereof by the use of force, violence, military measures or threats of one or more of the foregoing.

2. *License required.* It is unlawful for any manufacturer or dealer to sell at wholesale or retail, to lease or to pledge or accept as security for a loan, any firearm without first having procured a license.

9 *Unlawful disposition of firearms.* It is unlawful for any dealer to sell, lease, lend or otherwise transfer a firearm to any person who he knows or has reasonable cause to believe has been convicted of a crime of violence, is a fugitive from justice, is of unsound mind, is a drug addict or a habitual drunkard, or who is a member of a subversive organization.

Rochester

1. *Dangerous weapons.* No person shall: * * * (5) possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against some other person; or (6) sell or have in his possession any device designed to silence or muffle the discharge of any firearm; or (7) without the parent's or guardian's consent, furnishes a child under 14 years of age, or as a parent or guardian permits such child to handle or use, outside of the parent's or guardian's presence, a firearm or airgun of any kind, or any ammunition or explosive; or (8) furnish to any minor under 18 years of age any firearm, airgun, ammunition or explosive without the written consent of the parent or guardian, or of the police department.*

Roseville

160.090. *Sale to minors under 18.* No person shall give, sell or otherwise furnish any firearms or air guns of any kind, or any ammunition of any kind for use therein, to any minor under the age of 18 years without the written consent of the parent or guardian of said minor. Said permission shall be preserved by the person furnishing such arms or ammunition, and shall be open to inspection at all reasonable time by all law enforcement officers or the Judges of any court of record in the State.*

161.010. *Registration required.* No person shall purchase, sell, trade, own or have in his possession any revolver or hand gun without registering the same with the Chief of Police.

Shakopee

V. *Silencers prohibited.* No person shall use, own or possess any type of silencer for a firearm or possess any firearm equipped so that a silencer may be attached to such firearm.

VII. *Possession of firearms by minors.* No minor under the age of 14 years shall handle or have in his or her possession or under his or her control except while accompanied by and under the immediate charge of a parent or legal guardian, any firearm of any kind for hunting or target practice or any other purpose.

Shoreview

1211.101. *Definitions.* Weapon means any gun, pistol, revolver, slingshot, sand club, metal knuckles, daggers, dirk, bowie knife, razor, air rifle, air gun, B-B gun, spring gun, bow and arrow, switch blade, firearm or any similar device for the propulsion of shot or other metal pellet by whatever means, and any other dangerous or deadly weapon or instrument. Person means any person, firm, partnership or corporation.

1211.050. *License required.* No persons shall deal in or sell at retail or wholesale without a license, any gun, pistol, revolver, bow and arrow or knife.

1211.056. *Condition of license.* Every license shall be granted subject to the following conditions and all other provisions of this and any other Chapter of the Shoreview Municipal Code or other Ordinance or State Law. (2) No weapon of any sort shall be sold or furnished to any person under twenty-one (21) years of age.

South St. Paul

808.01. *Firearms purchase restricted.* No person shall purchase, receive or accept a revolver, pistol, and other firearm having a barrel of 10 inches or less in length, without first having obtained a written permit from the Chief of Police authorizing him to purchase, receive or accept such a firearm.

808.02 *Firearms sale restricted.* No person shall sell, deliver, or otherwise transfer a pistol, revolver, or other firearm having a barrel of 10 inches or less in length, within the City to any person who is not the holder of a written permit from the Chief of Police authorizing him to purchase, receive or accept such firearm.

808.03. *Firearm permit required.* Applications for permits to purchase, receive and accept any revolver, pistol, or other firearm having a barrel of 10 inches or less in length, shall be made to the Chief of Police upon blanks to be provided therefor and shall give the name of the applicant, his age, occupation, place of residence, height, weight, complexion, nationality, and such other information and elements of identification and good character as the Chief of Police may require. No person applying for such permit shall give false or untrue information, or offer false evidence of his identity. It shall be the duty of the Chief of Police to refuse such permits to all persons having been convicted of a felony, and to minors, drug addicts and such persons as he has reasonable cause to believe are not of sound mind. If the Chief of Police shall be satisfied, after investigation made that the applicant is a suitable person of sound mind and discretion and of good moral character, and that such firearm is to be used for a lawful purpose, he shall grant to the applicant a written permit authorizing him to purchase, receive or accept such firearm. The Chief of Police may at any time revoke any and all such permits so issued.

808.06. *Firearm identification marks.* No

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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person shall change, alter or obliterate the name of the make, model, manufacturer's number or other mark of identification, and no person shall keep in his possession or under his control any such firearm upon which the name of the make, model, manufacturer's number, or other mark of identification has been to his knowledge changed, altered, renewed or obliterated.

St. Louis Park

4:700. *Minors not to have firearms or switch blade knives.* No minor under the age of eighteen years shall handle, or have in his possession, or under his control, except while accompanied by, or under the immediate charge of, his parent or guardian, any firearm of any kind whether for hunting or target practice or any other purpose, nor any switch blade knife. No person shall knowingly permit any such minor to violate this section.

4:701. *Firearms for minors.* No person shall sell, give away, or in any wise furnish any firearms or ammunition or switch blade knife to a minor under the age of eighteen years without the written consent of his parents or guardian or of a peace officer or magistrate.*

St. Paul

425.01. *Definitions.* 1. "General Terms." Terms used in this ordinance, unless expressly defined, shall have the meanings prescribed by the Statutes of the State of Minnesota for the same terms. 2. "Specific Terms." The following terms shall have the following meanings.

(a) "Firearm" shall mean any weapon from which is propelled any missile, projectile, bullet, or other mass through a barrel by means of explosives or gas or air, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus and instruments or equipment when used by licensed physicians or veterinarians in the course and scope of their professions.

(b) "Handgun" shall mean any firearm having a barrel of less than twelve inches in length and capable of being concealed on the person.

(c) "Military type weapon" shall mean any destructive device and the ammunition designed only for such device having firepower, mass, explosive or incendiary characteristics of weapons such as cannons having a bore diameter larger than one-half inch, bazookas, machine guns, fully automatic weapons, mortars, grenades, Molotov cocktails, but not including shotguns, rifles, pistols or revolvers.

(e) "Ammunition" shall mean any projectile, bullet, or other mass prepared for insertion in and propulsion from any firearm.

425.02. *Persons prohibited from possessing firearms.* (1) No person who has not attained the age of 18 years shall have any firearm in his custody or control, or carry the same on his person, within the limits of the City of St. Paul except when he is accompanied by his parent or legal guardian, while participating under supervision as a member of a registered target shooting or sportmen's club, gun-training program, gun show, parade or similar event for which a permit has been issued by the Chief of Police, or unless he holds a firearms safety certificate recognized by the Minnesota Department of Conservation, or is actually enrolled in a program to obtain the same.

(2) No person shall have any firearm in his possession or control, or carry the same on his person, within the limits of the City of St. Paul who has been convicted of any felony, or who is addicted to the use of drugs or who is under the influence of drugs or alcohol.

425.04. *Weapons prohibited.* No person shall own, keep, carry, or have in his possession anywhere in the City of St. Paul any military type weapons, or any assault weapon, or any stolen weapon, except military personnel engaged in the course of their duties and peace officers, unless he holds a permit to possess the same as collectors' items or for use in officially recognized competition. "Officially recognized competition" includes all competitions held under the sponsorship of a registered target shooting or sportsman's club which is duly authorized to obtain firearms or ammunition from the United States.

425.06. *Sale, gift, or delivery of firearms.* 1. No person shall purchase, receive or accept a handgun within the City of St. Paul without first having obtained a written permit from the Chief of Police authorizing him to purchase, receive or accept such handgun.

2. Before the delivery of a handgun purchased or to be transferred, the purchaser or person to whom such handgun is to be delivered shall surrender his permit and shall sign in duplicate and deliver to the seller or transferrer a statement containing his full name, address and citizenship, the date of the sale or transfer, the caliber, make, model and manfacturer's number of the weapon. The seller or person intending to transfer such handgun shall immediately deliver to the Chief of Police one copy of such statement, and if it appears that the person to whom such weapon is sold or to be transferred has been permitted to purchase, accept or receive such handgun, the Chief of Police shall endorse upon such statement his approval of the purchase or transfer.

4. No person shall sell, lend, give, or deliver to any person any military type weapon or assault weapon except upon presentation of a valid permit to possess the same issued to the transferee by the Chief of Police as provided in Subdivision 2. The person making such sale, loan, gift, or delivery shall, within five days thereafter, mail or deliver said permit to the Chief of Police.

5. No person shall knowingly sell, lend, give, or deliver any firearm to any person forbidden to own or possess the same by law or ordinance.

425.07. *License required to sell firearms.* No person shall engage in the business of selling or dealing in firearms or ammunition in St. Paul without first obtaining a license to do so from the City Council.

St. Paul Park

d. *No minor* under the age of fourteen years shall handle or have in his possession or under his control except while accompanied by or under the immediate charge of his parent or guardian, any firearm or air gun of any kind and use for hunting, target practice or any other purpose.

St. Peter

1. Whoever does any of the following shall be guilty of a misdemeanor:

(5) Sells or has in his possession any device designed to silence or muffle the discharge of a firearm.

(7) Without the parent's or guardian's consent, furnishes to a child under 14 years of age, or as a parent or guardian permits such child to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or handle ammunition or explosive.

(8) Furnishes a minor under 18 years of age with a firearm, air gun, ammunition, or explosive, without the written consent of his parent or guardian or of the city Police Department.*

2. Nothing in this section prohibits the possession of the articles mentioned by museums or collectors of art or for other lawful purposes of public exhibition.

Two Harbors

(e) *Sales to intoxicated persons and minors.* No person within the City shall purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to, any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 18 years.*

Virginia

3. *Dangerous weapons.* It shall be unlawful for any person, persons, firm or corporation to manufacture or cause to be manufactured, sell or keep for sale, offer or otherwise dispose of, any instrument or weapon of the kind usually known as sling-shot, sanuclub or metal knuckles, or to sell or give any pistol or firearm to a person under the age of eighteen years, without written permit of the Mayor of the City of Virginia; or to attempt to use against another or with intent so to use, to carry, conceal or possess any of the weapons hereinbefore specified, or any dagger, dirk, knife, pistol or other dangerous weapon.*

8. *Use of arms by minors.* No minor under the age of fourteen (14) years shall handle, or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any fire arm of any kind for hunting or target practice, or any other purpose and it shall be unlawful for any person or persons to aid or knowingly permit any such minor to have such fire arms in his possession while unaccompanied by or under the immediate charge of his parent or guardian.

Wabasha

2. *It shall be unlawful* for any person under the age of fourteen years to handle or have in his possession or under his control, within the City of Wabasha, any firearm of any kind, except while accompanied by, or under the immediate charge of his parent or guardian.

Waseca

8.20. *Dangerous weapons and articles.* Subd. 1. Acts prohibited. It is unlawful for any person to: F. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; or

G. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parent or guardian or of the Police Department.*

White Bear Lake

1303.050. *Dangerous weapons.* No minor under the age of 18 years shall handle or have in his possession or under his control, except when accompanied by or under the immediate charge of his parent or guardian, any firearm of any kind whatsoever, or ammunition of any kind for use therein, or any sling-shot, sling, air-gun, spring-gun, or the like; nor shall any such minor fire or discharge any such fire-arm, sling, slingshot, air-gun, spring-gun or the like, whether accompanied by his parent or guardian, or otherwise.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

No person shall give, sell, or otherwise furnish any firearms or air-guns of any kind, or any ammunition of any kind for use therein, to any minor under age of 18 years, without the written consent of the parent or guardian of the minor. Said permission shall be preserved by the person furnishing such arms or ammunition, and shall be open to inspection at all reasonable times by all members of the police department, the Sheriff or his deputies, or the judge of any court of record in the State.*

MISSISSIPPI

State Law

MISS. CODE ANN. 25

7015–31. *Explosives—Seller to keep records—When sale of explosives unlawful.* Every person who sells or otherwise disposes of dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives, shall keep an accurate record of the name of the purchaser, his address, quantity, and the general purpose of its intended use. It shall be unlawful to sell dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives unless the person making the sale knows the purchaser and the general purpose for which such explosive or its counterpart will be used.

7015–32. *Sales of explosives to be reported—Regulation by municipalities.* Every seller of dynamite, nitroglycerine, explosives, gas bombs, dynamite caps, nitroglycerine caps, fuses, detonators or other similar explosives shall report any sale, transfer of title, or removal to the sheriff of the county where such transfer or removal took place within twenty-four (24) hours on forms to be provided. Should the sale, transfer of title or removal of explosives be within a municipality, then a report shall also be made within twenty-four (24) hours to the chief of police on forms to be provided. The governing authorities of municipalities shall have the power to adopt ordinances for the further regulation and control of dynamite, nitroglycerine and similar explosives.

MISS. CODE ANN. TITLE 33

33–7–307. *Authority to close establishments.* Whenever any part of the military forces of this state is on active duty pursuant to the order of the governor, the commanding officer may order the closing of any place where intoxicating liquors, arms, ammunition, dynamite or other explosives are sold, and forbid the sale, barter, loan or the giving away of these articles so long as any of the troops remain on duty in the vicinity where the place ordered closed may be located.

MISS. CODE ANN. TITLE 45

45–9–1. *Weapons to be registered; exceptions.* (1) Every person in this state who now owns or has in his possession, or who shall hereafter acquire any pistol or revolver, or any machine guns, sub-machine guns, and/or similar firearms or any other high power rifle with a velocity of more than 2,000 feet per second at the muzzle, shall be required to register such weapon in the manner and within the time hereinafter specified; provided, however, that the provisions of sections 45–9–1 to 45–9–17 shall not apply to any person, firm or corporation regularly engaged in the sale of such weapons in the usual course of business from an established and permanent place of business, except as herein provided; and provided, further, that the provisions of sections 45–9–1 to 45–9–17 shall not apply to any firearms manufactured prior to January 1, 1900, nor to any firearm manufactured since that date which is not capable of being discharged and which has been procured and has been kept by the owner thereof as a relic or historical specimen nor to any firearms furnished to the organized militia of this state, or the armed forces of the United States for their use.

(2) Sections 45–9–1 to 45–9–17 shall not apply to collectors of firearms whose collection is registered with the National Rifle Association or other licensed national collectors firearms association.

45–9–3. *Time and place of registration.* All registrations of weapons under the provisions of sections 45–9–1 to 45–9–17 shall be made with the sheriff of the county in which the person owning or possessing same resides, or if such person has no fixed residence within this state, then such weapon shall be registered with the sheriff of the county in which such weapon is usually kept or maintained. All such weapons now owned or possessed by any person or which may be hereafter acquired within eighty (80) days after the effective date hereof shall be registered with such sheriff within ninety (90) days after the effective date of sections 45–9–1 to 45–9–17, and thereafter all such weapons which shall be acquired, owned or possessed shall be registered with such sheriff within ten (10) days after the acquisition thereof by such person.

45–9–5. *Registration, procedure for.* All registrations of such weapons shall be made in duplicate, on forms to be provided by the board of supervisors of each county, which forms shall require the following information: (1) The name and address of the owner or person possessing such weapon; (2) The age, race, and sex of such person; (3) A fully detailed description of such weapon, giving the make, model and serial number; (4) The name and address of the person from whom such weapon was acquired or purchased; and (5) Where such weapon is usually kept. Such form shall be fully filled out by the person owning or possessing such weapon, and the completed form shall be filed, in duplicate, with the sheriff of the proper county. Both the original and duplicate of such forms shall be signed by the registrant and his signature shall be witnessed by two responsible persons, whose addresses shall be shown upon the registration form.

45–9–7 *Registration forms, how filed.* The original registration form so filed shall be retained by the sheriff in a safe and convenient file to be furnished him by the board of supervisors for that purpose. All such registrations shall be filed and arranged in alphabetical order and shall be open to the inspection of any person at any time during the regular hours of business.

45–9–17. *Transfer of firearms.* It will be necessary to register firearms under sections 45–9–1 to 45–9–17 only one time as long as said firearm remains in the possession of the person registering same, provided that when the registered firearm shall be sold or given away by the person registering same, then the person acquiring possession of such firearm shall register same as herein provided.

45–9–19. *Purchase of rifles and shotguns in contiguous states.* It is declared that it is in the public interest to authorize residents of this state to purchase or otherwise obtain rifles and shotguns in states contiguous to this state in compliance with such other laws of this state or its political subdivisions as may be applicable and in compliance with Section 102 of the Gun Control Act of 1968, Public Law 90–618, 18 USC 921 et seq.

As used in this section, the term "a state contiguous to this state" shall mean any state with a border touching a border of this state. As used in this section, all other terms shall be given the meaning prescribed in 18 USC 921 (the Gun Control Act of 1968, Public Law 90–618) and the regulations duly promulgated thereunder as presently enacted or promulgated and as hereinafter modified.

It shall be lawful for a person residing in this state (including a corporation or other business entity maintaining a place of business in this state) to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this state and to receive or transport such rifle or shotgun into this state.

This section shall not apply or be construed to affect in any way the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.

MISS. CODE ANN. TITLE 97

97–37–1. *Deadly weapons—carrying deadly weapon and use of imitation firearm prohibited—penalties.* Any person who carries, concealed in whole or in part, any bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack, slingshot, pistol, revolver, or any rifle with a barrel of less than sixteen (16) inches in length, or any shotgun with a barrel of less than eighteen (18) inches in length, machine gun or any fully automatic firearm or deadly weapon, or any muffler or silencer for any firearm, whether or not it is accompanied by a firearm, or uses or attempts to use against another any imitation firearm, shall upon conviction be punished as follows:

(a) By a fine of not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00), or by imprisonment in the county jail for not more than six (6) months, or both, in the discretion of the court, for the first conviction under this section.

(b) By a fine of not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00), and imprisonment in the county jail for not less than thirty (30) days, nor more than six (6) months, for the second conviction under this section.

(c) By imprisonment in the state penitentiary for not less than one (1) year, nor more than five (5) years, for the third or more convictions under this section.

(d) By imprisonment in the state penitentiary for not less than one (1) year, nor more than five (5) years, for any person previously convicted of any felony, who is convicted under this section.

97–37–5. *Deadly weapons—possession by convicted felon as evidence of crime.* The possession of any deadly weapon as described in section 97–37–1 by any person who has been convicted of a felony under the laws of this state, any other state, or of the United States, shall be prima facie evidence of a violation of that section.

97–37–7. *Deadly weapons—persons permitted to carry weapons—bond.* It shall not be a violation of section 97–37–1 or any other statute for pistols, firearms or other suitable and appropriate weapons to be carried by duly constituted bank guards, company guards, watchmen, railroad special agents or duly authorized representatives, agents or employees of a patrol service, guard service, or a company engaged in the business of transporting money, securities or other valuables, or persons similarly employed and

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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engaged, while actually engaged in the performance of their duties as such, provided that such persons are under bond in a sum of not less than one thousand dollars ($1,000.00) for the lawful and faithful performance of their duties, the cost of which bond shall be paid by the employer of such persons; and, further, provided that such persons have first made written application and obtained a permit so to do from the sheriff of the county in which they are employed. Provided, however, that where the duties of any person covered by the provisions of this paragraph may carry him into more than one county, such person may file a bond in the sum of two thousand dollars ($2,000.00) with the secretary of state, for the lawful and faithful performance of his duties, the cost of the bond shall be paid by the employer of such person, and, provided, further, that such person has first made written application with and obtained a permit so to do from the secretary of state, and said permit shall be valid as a statewide permit, for which the secretary of state shall collect a fee of two dollars ($2.00). No such permit shall be issued to any person who has ever been convicted of a felony under the laws of this or any other state or of the United States.

It shall further not be a violation of section 97–37–1 or any other statute for pistols, firearms or other suitable and appropriate weapons to be carried by game and fish law enforcement officers or investigators employed by the attorney general while engaged in the performance of their duties as such.

97–37–9. *Deadly weapons—defenses against indictment for carrying deadly weapon.*—Any person indicted or charged for a violation of section 97–37–1 may show as a defense:

(a) That he was threatened, and had good and sufficient reason to apprehend a serious attack from any enemy, and that he did so apprehend; or

(b) That he was traveling and was not a tramp, or was setting out on a journey and was not a tramp; or

(c) That he was a law enforcement or peace officer in the discharge of his duties; or

(d) That he was at the time in the discharge of his duties as a mail carrier; or

(e) That he was at the time engaged in transporting valuables for an express company or bank; or

(f) That he was a member of the armed forces of the United States, National Guard, State Militia, Civil Defense Corps, guard or patrolman in a state or municipal institution while in the performance of his official duties; or

(g) That he was in lawful pursuit of a felon; or

(h) That he was lawfully engaged in legitimate sports; or

(i) That at the time he was a company guard, bank guard, watchman or other person enumerated in section 97–37–7 and was then actually engaged in the performance of his duties as such, and then held a valid permit from the sheriff or the secretary of state to carry the weapon.

And the burden of proving either of said defenses shall be on the accused.

97–37–11. *Deadly weapons—dealers to keep record of cartridges and weapons sold.* Every merchant or dealer or pawnbroker that sells bowie-knifes, dirk-knifes, pistols, brass or metallic knuckles or slungshots, or pistol or rifle cartridges, shall keep a record of all sales of such weapons and cartridges sold, showing the description of the weapons and kind and caliber of cartridges so sold, the name of the purchaser, and the description of weapons and the quantity of cartridges and date of sale. This record to be opened to public inspection at any time to persons desiring to see it. The dealer who violates this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than twenty-five dollars.

97–37–13. *Deadly weapons—weapons and cartridges not to be given to minor or intoxicated person.* It shall not be lawful for any person to sell, give or lend to any minor or person intoxicated, knowing him to be a minor or in a state of intoxication, any deadly weapon, or other weapon the carrying of which concealed is prohibited, or pistol cartridge; and, on conviction thereof, he shall be punished by a fine not less than twenty-five dollars nor more than two hundred dollars, or imprisoned in the county jail not exceeding three months, or both.

97–37–23. *Explosives—unlawful possession—duty of officers to make search and seize explosives.* (1) It is unlawful for any person to have in his possession dynamite caps, nitro glycerine caps, fuses, detonators, dynamite, nitro glycerine, explosives, gas or stink bombs, or other similar explosives peculiarly possessed and adapted to aid in the commission of a crime; except such person or persons who are engaged in a lawful business which ordinarily requires the use thereof in the ordinary and usual conduct of such business, and who possess said articles for the purpose of use in said business; and upon conviction of any person thereof, he shall be punished by imprisonment in the penitentiary not exceeding five years, or in the county jail not exceeding one year. The possession of such explosives by one who does not customarily use same in his regular and ordinary occupational activities shall be prima facie evidence of an intention to use same for such unlawful purposes.

(2) It shall be the duty of any sheriff, constable, marshal, or policeman in a municipality, or any person vested with general police authority, who has reason to believe and does believe that the above described explosives are being transported or possessed for aid in the commission of a crime, forthwith to make a reasonable search of such person or vehicle, and to seize such explosives and to at once arrest the person or persons having possession or control thereof. Such officer or officers proceeding in good faith shall not be liable either civilly or criminally for such a search and seizure without a warrant, so long as said search and seizure is conducted in a reasonable manner, it appearing that the officer or officers had reason to believe and did believe that the law was being violated at the time such search was instituted. And the officer or officers making such search shall be competent to testify as a witness or witnesses as to all facts ascertained by means of said reasonable search or seizure, and all such explosives seized shall be admitted in evidence. But this section shall not authorize the search of a residence or home, or room, or building, or the premises belonging to or in the possession lawfully of the party suspected, without a search warrant.

97–37–31. *Silencers on firearms—manufacture, sale, possession or use unlawful.* It shall be unlawful for any person, persons, corporation, or manufacturing establishment, within this state, to make or manufacture for sale in the State of Mississippi, any instrument or device which, if used on firearms of any kind, will arrest or muffle or tend to lessen the report of said firearm when shot or fired. It shall be unlawful to sell, offer for sale or to give away, in this state any such instrument or device, and it shall be unlawful for any person to own, use or have in his possession, any such instrument or device. Any person, corporation or manufacturing establishment violating this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars and not more than one hundred dollars, or imprisoned in the county jail not less than thirty days nor more than sixty days, or both.

Vicksburg

14–93. *Dispensing to minor or intoxicated person.* It shall be unlawful for any person to sell, give, or lend to any minor, or person intoxicated, knowing him to be a minor or in a state of intoxication, any deadly weapon, or other weapon the carrying of which concealed is prohibited, or pistol cartridge.

MISSOURI

State Law

V.A.M.S. TITLE 38

407.500. *Missouri residents may purchase rifles and shotguns in contiguous states, when* Residents of the state of Missouri may purchase rifles and shotguns in a state contiguous to the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968,[1] and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the contiguous state in which the purchase is made.

564.590. *Machine gun, possession a felony—Exceptions.* It shall be unlawful for any person to sell, deliver, transport, or have in actual possession or control any machine gun, or assist in, or cause the same to be done. Any person who violates this section shall be guilty of a felony and punished by imprisonment in the state penitentiary not less than two nor more than thirty years, or by a fine not to exceed five thousand dollars, or by both such fine and imprisonment; provided, that nothing in this section shall prohibit the sale, delivery, or transportation to police departments or members thereof, sheriffs, city marshals or the military or naval forces of this state or of the United States, or the possession and transportation of such machine guns, for official use by the above named officers and military and naval forces in the discharge of their duties.

564.600. *Machine gun—Defined.* The term "machine gun" as used in section 564.590 shall be construed to apply to and include all firearms known as machine rifles, machine guns or sub-machine guns capable of discharging automatically and continuously loaded ammunition of any caliber in which the ammunition is fed to such gun from or by means of clips, disks, drums, belts or other separable mechanical device.

564.610. *Dangerous and concealed weapons, prohibitions concerning—Exceptions—Penalty.* If any person shall carry concealed upon or about his person a dangerous or deadly weapon of any kind or description, or shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, political, literary or social purposes, or to any election precinct on any election day, or into any courtroom during the sitting of court, or into any other public assemblage of persons met for any lawful purpose other than for militia drill, or meetings called under militia law of this state, having upon or about his person, concealed or exposed, any kind of firearms, bowie knife, springback knife, razor, metal knucks, billy, sword cane, dirk, dagger, slung shot or other similar deadly weapons or shall, in the presence of one or more persons, exhibit any such weapons in a rude, angry or threatening manner, or shall have any such weapon in his possession when intoxicated, or, directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by imprisonment by the department of corrections for not more than five years, or by imprisonment in the county jail not less than fifty days nor more than one year, but nothing contained in this section shall apply to legally qualified sheriffs, police officers and other persons whose bona fide duty is to execute process, civil or criminal, make arrests, or aid in conserving the public peace, nor to persons traveling in a continuous journey peaceably through this state.

564.620. *Pistol, revolver or firearms to be plainly marked.* No wholesaler or dealer therein shall have in his possession for the purpose of sale, or shall sell, any pistol, revolver, or other firearm of a size which may be concealed upon the person, which does not have plainly and permanently stamped upon the metallic portion thereof, the trademark or name of the maker, the model and the serial factory number thereof, which number shall not be the same as that of any other weapon of the same model made by the same maker, and the maker, and no wholesale or retail dealer therein shall have in his possession for the purpose of sale, or shall sell, any such weapon unless he keep a full and complete record of the description of the weapon, the name and address of the person from whom purchased and to whom sold, the date of the purchase or sale, and in the case of retailers the date of the permit and the name of the sheriff granting the same, which record shall be open to inspection at all times by any police officer or other peace officer of this state.

564.630. *Concealed weapon permits—How obtained.* 1. No person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein, for the purposes of commerce, shall directly or indirectly buy, sell, borrow, loan, give away, trade, barter, deliver or receive, in this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, unless the buyer, borrower or person receiving the weapon shall first obtain and deliver to, and the same be demanded and received by, the seller, loaner, or person delivering the weapon, within thirty days after the issuance thereof, a permit authorizing the person to acquire the weapon.

2. The permit shall be issued by the sheriff of the county in which the applicant for a permit resides in this state, if the sheriff be satisfied that the person applying for the same is of good moral character and of lawful age, and that the granting of the same will not endanger the public safety. The permit shall recite the date of the issuance thereof and that the same is invalid after thirty days after the date, the name and address of the person to whom granted and of the person from whom the weapon is to be acquired, the nature of the tranaction, and a full description of the weapon, and shall be countersigned by the person to whom granted in the presence of the sheriff. The sheriff shall receive therefor a fee of fifty cents which shall be remitted to the county treasurer for deposit in the general revenue fund of the county.

3. If the permit be used, the person receiving the same shall return it to the sheriff within thirty days after its expiration, with a notation thereon showing the date and manner of the disposition of the weapon. The sheriff shall keep a record of all applications for the permits and his action thereon, and shall preserve all returned permits.

4. No person shall in any manner transfer, alter or change the permit or make a false notation thereon or obtain the same upon any false representation to the sheriff granting the same, or use or attempt to use or permit granted to another.

5. No permit shall be required for an antique firearm or replica thereof. The term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

564.640. *Weapons must be stamped.* No person within this state shall lease, buy or in any wise procure the possession from any person, firm or corporation within or without the state, of any pistol, revolver or other firearm of a size which may be concealed upon the person, that is not stamped as required by section 564.620; and no person shall buy or otherwise acquire the possession of any such article unless he shall have first procured a written permit so to do from the sheriff of the county in which such person resides, in the manner as provided in section 564.630.

Belton

6.9. *Weapons.* (e) "Sales to intoxicated persons and minors." No pawnbroker, secondhand dealer, or other person engaged in business shall purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used, to any person under the influence of alcohol, or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 18 years.

Blue Spring

15-28. *Mayor's authority during state of emergency; curfew regulations; penalty for violation of section.* (a) Proclamation of state of emergency. The mayor is hereby authorized, in the event of riot or civil disobedience or when actions of riot or civil disobedience appear imminent, to declare, by proclamation, that a state of emergency exists in the city.

(b) Emergency curfew. The mayor is hereby authorized in the event of the declaration of such emergency, to order an emergency curfew, at such hours as he shall deem necessary, to be in effect not to exceed seventy-two (72) hours at any one time without further orders of the board of aldermen.

(d) Certain businesses and establishments to be closed. The following businesses and establishment shall be ordered closed during the time and term of said curfew: (3) Any establishment selling firearms or ammunition.

Boonville

49.08. *Sale of weapons to minors.* No person shall sell to any child under the age of sixteen years, without the written consent of the parent or guardian of such child, any cartridge of fixed ammunition of which any fulminate is a component part, or any gun, rifle, pistol, revolver, dirk, dagger, or any knife not made to open and shut.*

Branson

52. *Permits required—a. Permits shall be obtained:* (1) To manufacture, possess, store, sell or otherwise dispose of explosives, blasting agents, or small arms ammunition * * *.

Bridgeton

16–60. *Same—Sale of firearms or cartridges to minor.* No person shall sell to any minor any firearm without the consent of the parent or guardian of such minor; or, without such consent, sell to any minor under the age of sixteen (16) years any cartridge or shell of fixed ammunition which part is detonated by any type of primer.*

Cape Girardeau

18–100. *Sale of weapons to minors; restrictions.* No person shall sell to any child under the age of sixteen years without the written consent of the parents or guardian of such child any cartridge or fixed ammunition of which fulminate is a component part, or any gun, rifle, pistol, revolver, bowie knife, dirk, dagger or switch blade knife.*

Charleston

12–59. *Selling ammunition to minors.* Any person within the limits of this city, who shall give, lend, barter, or sell to any minor under the age of eighteen (18) years, without the written consent of the guardian or parents of such minor any cartridge of fixed ammunition, either blank or loaded with shot or ball, of which fulminate is a component part, or any gun, rifle or revolver, bowie knife or dagger, shall be deemed guilty of a misdemeanor.

Columbia

7.1500. *Weapons—Carrying concealed; delivering to minors.* If any person shall, within the city, carry concealed upon or about his person any deadly or dangerous weapon, or * * * shall directly or indirectly sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the city prison not less than five days nor more than six months, or by both such fine and imprisonment.

Crestwood

53.09. *Sale of firearms or ammunition to minors.* No person shall sell to any minor any firearm without the consent of the parent or guardian of such minor, or, without such consent sell to any minor under the age of sixteen years any cartridge or shell or fixed ammunition of which fulminate is a component part.*

El Dorado Springs

19. If any person within the corporate limits of the city * * * having upon or about his person any kind of firearms, bowie knife, dirk, dagger, sling shot, or other deadly weapon * * * shall directly or indirectly sell or deliver, loan or barter, to any minor any such weapon without the consent of the parent or guardian of such minor, he shall upon conviction be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the city prison not less than five days nor more than six months, or by both such fine and imprisonment.

Excelsior Springs

24–86. *Sale of firearms, etc., to minors.* If any person shall directly or indirectly, sell

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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or deliver, loan or barter to any minor any kind of firearms, bowie knife, dirk, dagger, sling shot, or other deadly weapon, without the consent of the parent or guardian of such minor, within the city, he shall be deemed guilty of a misdemeanor.*

Flat River

79. *Sale to minors.* Any person within the corporate limits of this city who shall sell to any child under the age of sixteen years, without the written consent of the parent or guardian of such child, any cartridge or any gun, rifle, pistol, revolver, bowie knife, dirk, dagger, or any knife not made to open and shut shall be deemed guilty of a misdemeanor.*

Fulton

18–8. *Sale, etc., of deadly weapons to minor.* No person within the city shall sell, deliver, loan or barter to any child under the age of sixteen years, without the written consent of the parents or guardian of such child, any cartridge or fixed ammunition of which any fulminate is a component part, or any gun, rifle, pistol, revolver, Bowie knife, dirk, dagger, or any knife not made to open and shut.*

Independence

12.150. *Weapons. E. Sales to intoxicated persons and minors.* No pawnbroker, second-hand dealer, or other person engaged in business shall purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 18 years.

Jefferson City

3. *Explosives, firearms and weapons.* 3.1 No person shall, in this City, * * * having upon or about his person any kind of firearms, * * * directly or indirectly sell, deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor; * * *.*

1268. *Sale of pistols, knives and cartridges to children, prohibited.* Any person, within this city, who shall sell to any child under the age of sixteen years, without the written consent of the parents or guardian of such child, any cartridge or fixed ammunition of which any fulminate is a component part, or any gun, rifle, pistol, revolver, bowie knife, dirk, dagger, or any knife not made to open and shut, shall be deemed guilty of a misdemeanor.*

Joplin

38.132. *Weapons—Sale, etc., to minor of firearm, air gun, etc.* It shall be unlawful within the city for any person to sell, loan or furnish, to any minor any gun, pistol or other firearm or any toy gun, toy pistol or other toy firearm in which any explosive substance can be used, or any air rifle, air gun or similar gun from which shot, pellets, bullets, or projectiles can be fired.*

Kansas City

26.161. *Sale of firearms to minors.* No person shall, directly or indirectly, sell or deliver, loan or barter to any person under eighteen (18) years of age, without the consent of the parent or guardian of such minor, any kind of firearm, gun, revolver, pistol, starter pistol or starter pistol with automatic ejector or firearm of any description, or air gun or other device designed or intended to discharge any pellets, B-B shot, shot or other deadly or dangerous missile, casing or any ammunition, cartridge, shell or other device, whether containing any explosive substance or not, designed and intended for use in any weapons or devices enumerated or described herein.*

26.186. *Machine guns.* (a) Possession prohibited. Every person who, within the city, possesses any firearm of the kind commonly known as a machine gun, as hereinafter defined, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment at the municipal farm not to exceed one year, or by a fine not to exceed five hundred dollars ($500.00) or by both such fine and imprisonment.

(d) Definition. The term "machine gun," as used in this section, shall be construed to apply to and include all firearms known as machine rifles, machine guns or submachine guns capable of discharging, automatically and continuously, loaded ammunition of any caliber, in which ammunition is fed to such gun from or by means of clips, disks, drums, belts or other separable mechanical device.

26.188. *Explosive or flammable devices.* It shall be unlawful for any person to make, use, or possess on his person, or under his control, any explosive device, including a molotov cocktail, containing flammable, combustible or explosive material or substance which can be used as a fire bomb either by igniting the fuse or breaking the device; provided however, any person who can show that he is engaged in any lawful activity, business, calling, employment, or occupation requiring him to have such a device or such material or substance in his possession or under his control, is hereby exempt from the operation of this section.

Kirksville

46. *Carrying deadly weapons, etc.* If any person within the city of Kirksville * * * having upon or about his person any kind of fire arms, bowie-knife, dirk, dagger, slungshot, or other deadly weapon, * * * shall, directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by a fine not to exceed one hundred dollars or by imprisonment not to exceed three months.*

Marceline

9. *No person* * * * having upon or about his person, any kind of firearms * * * directly or indirectly loan or barter to any minor any such weapon without the consent of the parent or guardian of such minor.*

Marshall

20–29. *Weapons—Carriage, display.* It shall be unlawful for any person * * * having upon or about his person, * * * any kind of firearms, * * * directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor; * * *.*

Mexico

44.4. *Weapons transactions with incompetent persons, etc., prohibited.* No person in this city shall purchase or borrow from or sell, loan or furnish to any person who is (a) under the influence of alcohol or any narcotic drug, stimulant or depressant; or (b) in a condition of agitation or excitability; or (c) legally incompetent or a minor under the age of eighteen years any weapon in which any explosive substance can be used.

Monroe City

4.3. *Sale of Pistols, Knives, and Cartridges to children prohibited.* Any person within this city who shall sell to any child under the age of sixteen years, without the written consent of the parent or guardian of such child, any cartridge of fixed ammunition of which any fulminate is a component part, or any gun, rifle, pistol, revolver, bowie-knife, dirk, dagger, or any knife not made to open and shut shall be deemed guilty of a misdemeanor.*

Nevada

23–28. *Same—sale or furnishing to minors.* No person in the city shall sell, give, furnish or procure or deliver any revolver, pistol, shotgun, rifle or other firearm capable of propelling a metal object or projectile by means of an explosive substance to any minor under the age of eighteen years without the written consent of the parent, guardian or other person having control of the minor.*

23–80. *Same—Sale to intoxicated persons, etc.* No person in the city shall sell, loan or furnish a weapon described in section 23–78 or other weapon in which an explosive substance can be used to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation or excitability.

Poplar Bluff

22–70. *Sale of firearms, etc., to minors.* If any person shall directly or indirectly, sell or deliver, loan or barter to any minor any kind of firearm, bowie knife, dirk, dagger, slingshot, or other deadly weapon, without the consent of the parent or guardian of such minor, within the city, he shall be deemed guilty of a misdemeanor.*

Richmond

10. *If any person* * * * having upon or about his person, any kind of fire-arm, * * * shall directly or indirectly loan or barter to any minor, any such weapon without the consent of the parent or guardian of such minor, he shall upon conviction be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the city prison not less than five days nor more than six months, or by both such fine and imprisonment.*

Shrewsbury

5. *No person shall sell* to any minor any firearms of any kind without the consent of the parent or guardian of such minor, or, without such consent, sell to any minor under the age of sixteen years any cartridge or shell of fixed ammunition of which fulminate is a component part.*

Sikeston

9–208. *Dangerous or deadly weapons.* (a) No person shall, directly or indirectly, sell, loan, barter, deliver or give to any minor any dangerous or deadly weapon without the written consent of such minor's parent or guardian.*

Slater

1. If any person shall, * * * having upon or about his person, * * * any kind of firearms, * * * directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall be deemed guilty of a misdemeanor * * *.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

Springfield

26–10. * * * *Sale of weapons to minors.* No person shall * * * sell or deliver, loan or barter to any minor any * * * weapon without the consent of the parent or guardian of such minor.*

St. Joseph

16–161. *Machine guns.* (a) *Possession.* It shall be unlawful for any person within the city, to possess any firearm of the kind commonly known as a machine gun, as hereinafter defined.

(b) *Scope of section.* Nothing in this section shall prohibit the police department, and the members thereof, sheriffs or the members of the military or naval forces of this state or of the United States from possessing such firearms for official use in the discharge of their duties.

(d) *Definition.* The term "machine gun" as used in this section shall be construed to apply to and include all firearms known as machine rifles, machine guns or submachine guns capable of discharging, automatically and continuously, loaded ammunition of any caliber, in which the ammunition is fed to such gun from or by means of clips, disks, drums, belts or other separable mechanical device.

St. Louis

754.020. *Sale of weapons to minors.* No dealer or merchant who sells toys, firearms, guns or similar weapons, shall sell deliver or give any air rifle, air gun or pistol, spring gun, or gun or rifle operated with a gas-propelled cartridge, metal or sharp pointed arrow, tear gas gun, vapor gas gun, or any other similar weapon, to any minor under the age of 17 years.*

754.030. *Sale of certain weapons to minors prohibited.* No person shall sell or deliver, loan or barter, either directly or indirectly, to any minor under the age of 21 years, any kind of firearms, bowie knife, spring back knife, razor, metal knucks, bill, sword cane, dirk, dagger, slung shot, or other similar deadly weapon, or tear gas gun, vapor gas gun, or any other similar weapon, without the consent of the parent or guardian of such minor.

756.010. *Definition.* As used in this Chapter, the term "minor" shall mean anyone under the age of 21 years.

777.070. *Carrying weapons by felons prohibited.*—No person convicted of a felony within the next five (5) years immediately preceding under any State or Federal law shall own, possess or carry on or about his person in the City of St. Louis any firearm, pistol, revolver, shotgun or rifle.

St. Louis County

712.020. *Definitions.*—The term "Firearm" as is used in this Chapter means any rifle, shotgun, weapon or similar mechanism by whatever name known, which is designed to expel a projectile or projectiles thorugh a gunbarrel, tube, pipe, cylinder or similar device by the action of any explosive. The term "Firearm" shall not apply to devices used exclusively for commercial, industrial or vocational purposes.

712.030. *Scope.*—The provisions of this code shall apply to that area of St. Louis County outside the incorporated cities, towns and villages.

712.040. *Specific actions, prohibited.*—1. it shall be unlawful for any person to sell, give, lend or otherwise transfer any firearm to any person sixteen (16) years of age or younger except where the relationship of parent and child, guardian and ward, or adult instructor and pupil exists between such person, and the person sixteen (16) years of age or younger, or in the case of a gift or loan, where such gift or loan is made with the consent of the parent or guardian of such person sixteen (16) years of age or younger * * *.*

Stanberry

Sale of firearms etc., to children prohibited. Any person within the city who shall sell to any child under age of sixteen years, without consent in writing of the parents or guardian of such child, any cartridge of fixed ammunition, or blank cartridge, or any gun, rifle, pistol, revolver, bowie knife, dirk, dagger, or any knife not made to open or shut shall be deemed guilty of a misdemeanor.*

Sweet Springs

31.116. *Sale of weapons to minors.* Any person who shall within the City, directly or indirectly sell or deliver, loan or barter to any minor any kind of firearms, bowie knife, dagger, slingshot, or other dangerous weapon, without the consent of the parent or guardian of such minor, shall upon conviction thereof be deemed guilty of a misdemeanor.*

Valley Park

302.090: *Weapons.* a. It is unlawful to: (5) Directly or indirectly, sell or deliver, loan or barter to any minor any such weapon without the consent of the parent or guardian of such minor; or * * *.*

Warrensburg

16–85. *Sale of firearms, etc., to minors.* If any person shall directly or indirectly, sell or deliver, loan or barter to any minor any kind of firearms, bowie knife, dirk, dagger, sling shot, or other deadly weapon, without the consent of the parent or guardian of such minor, within the city, he shall be deemed guilty of a misdemeanor.*

Webb City

17–61. *Same—Firearms and ammunition not to be provided to minors.* It shall be unlawful for any person within the city to sell, give away or otherwise dispose of, to any minor, firearms or ammunition of any type, including but not limited to blank cartridges, air guns and air pistols, excepting toy pistols which shoot paper caps only, or to allow such to be done by any person in his employ or under his control.

c. *Small arms ammunition* shall mean any shotgun, rifle, pistol or revolver cartridge and cartridges for propellant-actuated power devices and industrial guns.

50. *Permits required.* a. Permits shall be obtained: (1) To manufacture, possess, store, sell or otherwise dispose of explosives, blasting agents, or small arms ammunition.

Wentzville

7–504. *Offenses against public safety.* No person in the city shall: (2) Weapons. (e) Sales to Intoxicated Persons and Minors. Purchase from, or sell, loan, or furnish, any weapon in which any explosive substance can be used to, any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 21 years.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

MONTANA

State Law

REV. CODE OF MONTANA

11–957. *Fire hazardous manufactories—firearms—concealed weapons.* The city or town council has power: To regulate, restrain, or prevent the carrying on of manufactories dangerous in causing or producing fires, and to prevent and suppress the sale of firearms, and carrying of concealed weapons.

69–1901. *Definitions.* The term "explosive" or "explosives" whenever used in this act shall be held to mean and include any chemical compound or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

69–1902. *Prohibitions and exceptions.* No person shall manufacture, have, keep, or store explosives in this state, except in compliance with this act, except that explosives may be manufactured without compliance with this act in the laboratories of schools, colleges and similar institutions, for the purpose of investigation and instruction.

It shall be unlawful to sell, give away, or otherwise dispose of, or deliver to any person under eighteen (18) years of age any explosives, whether said person is acting for himself or for any other person.

69–1919. *Existing ordinances not affected.* Nothing contained in this act shall affect any existing ordinance, rule or regulation of any city or municipality not less restrictive than this act governing the manufacture, storage, and sale of explosives, or affect, modify, or limit the power of cities or municipalities in this state to make ordinances, rules, or regulations not less restrictive than this act, governing the manufacture, storage, sale, use, or transportation of explosives within their respective corporate limits.

94–8–201. *Definitions.* "Machine gun" applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than six shots or bullets may be rapidly, or automatically, or semi-automatically discharged from a magazine, by a single function of the firing device.

"Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnaping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering, and larceny.

"Person" applies to and includes firm, partnership, association or corporation.

94–8–204. *Presumption of possession or use for offensive or aggressive purpose.* Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose:

(a) When the machine gun is on premises not owned or rented, for bona fida permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or

(b) When in the possession of, or used by, an unnaturalized foreignborn person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or

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(c) When the machine gun is of the kind described in section 94–8–208 and has not been registered as in said section required; or

(d) When empty or loaded pistol shells of 30 (.30 in. or 7.63 mm.) or larger caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

94–8–206. *Exceptions.* Nothing contained in this act shall prohibit or interfere with:

1. The manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose;

2. The possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;

3. The possession of a machine gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber, for a purpose manifestly not aggressive or offensive.

94–8–208. *Registration of machine guns now in state and hereafter acquired—presumption from failure to register.* Every machine gun now in this state adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber shall be registered in the office of the secretary of state, on the effective date of this act, and annually thereafter. If acquired hereafter it shall be registered within twenty-four hours after its acquisition. Blanks for registration shall be prepared by the secretary of state, and furnished upon application. To comply with this section the application as filed must show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which, the gun was acquired. The registration date shall not be subject to inspection by the public. Any person failing to register any gun as required by this section, shall be presumed to possess the same for offensive or aggressive purpose.

94–8–219. *When Montana residents may purchase rifles or shotguns in contiguous states.* Residents of Montana may purchase any rifle or rifles and shotgun or shotguns in a state contiguous to Montana, provided that such residents conform to the applicable provisions of the federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States secretary of the treasury, and provided further, that such residents conform to the provisions of law applicable to such purchase in Montana and in the state in which the purchase is made.

94–8–223. *Sale or manufacture of Maxim silencers and various explosives for wrongful use a felony.* Any person who shall make, manufacture, compound, buy, sell, give away, offer for sale or to give away, transport, or have in possession any Maxim silencer, bomb, nitroglycerin, giant, oriental, or thunderbolt powder, dynamite, ballistite, fulgarite, detonite, or any other explosive compound, or any inflammable material, or any instrument or agency, with intent that the same shall be used in this state or anywhere else for the injury or destruction of public or private property, or the assassination, murder, injury, or destruction of any person or persons, either within this state or elsewhere, or knowing that such explosive compounds or such materials, instruments, or agencies are intended to be used by any other person or persons for any such purpose, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for not less than five years nor more than thirty years, or by a fine of not less than one thousand dollars nor more than twenty-thousand dollars, or by both such fine and imprisonment.

94–8–225. *Same—possession presumptive evidence of what.* The possession of any Maxim silencer or bomb of any kind, or chemical compounds intended only for the destruction of life or property, shall be presumptive evidence that the same are intended to be used in the destruction of or injury to property or life, within the meaning of this Act.

Deer Lodge

2. It shall be unlawful for any person, firm, co-partnership, Association, or Corporation, to sell to any person under the age of 18 years, BB guns, air rifles, or rifles or firearms unless such person is accompanied by his or her guardian.*

NEBRASKA

State Law

Neb. R.R.S.

28–1010. *Machine guns; sale unlawful; exceptions; penalty.* It shall be unlawful for any person, firm or corporation, its or their agents or servants, to sell or cause to be sold or otherwise to dispose of any machine gun to any person in the State of Nebraska, except officers of the law, agents of the United States government, or agents of the law enforcement department of the State of Nebraska. If any person, firm or corporation, or its or their agents or servants, violate any of the provisions of this section, they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one thousand dollars nor more than ten thousand dollars.

28–1011.10. *Firearm; person under eighteen, unlawful to possess; exception; violation; penalty.* It shall be unlawful for any person under the age of eighteen years to possess a pistol, revolver, or any other form of short-barreled hand firearm. The provisions of this section shall not apply to the issue of pistols, revolvers, or any other form of short-barreled hand firearms to members of the armed forces of the United States, active or reserve, state militia, or Reserve Officers Training Corps, when on duty or training, or to the temporary loan of pistols, revolvers, or any other form of short-barreled firearms for instruction under the immediate supervision of a parent or guardian or adult instructor. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail for not to exceed thirty days, or by both such fine and imprisonment.

28–1011.14. *Fugitive from justice, defined.* As used in sections 28–1011.14 to 28–1011.19, fugitive from justice shall mean any person who has fled or is fleeing from any law enforcement officer to avoid prosecution or incarceration for a felony.

28–1011.15. *Fugitive from justice; firearms; knuckles; possession; unlawful.* It shall be unlawful for any person who has been convicted of a felony, or who is a fugitive from justice, to possess any firearm with a barrel less than twelve inches in length, or brass or iron knuckles. Such felony conviction may have been had in any court of the United States, the several states, territories, or possessions, or the District of Columbia.

28–1011.16. *Fugitive from justice; pistol; receive, possess, sell, lease; unlawful.* It shall be unlawful for any person to receive, possess, sell, or lease, other than by delivery to law enforcement officials, any pistol from which the manufacturer's identification mark or serial number has been removed.

28–1011.17. *Bomb, bombshell, grenade, explosive substance; receive; possess; sell; purchase; manufacture; unlawful; exception.* It shall be unlawful for any person to receive, possess, sell, purchase, or manufacture any bomb, bombshell, grenade, bottle, or other such container containing an explosive substance, such as but not limited to black powder bombs and Molotov cocktails; Provided, that this section shall not apply to military and law enforcement agencies and personnel, and persons, firms, or corporations engaged in businesses or occupations involving commercial explosives, fireworks, firearms, ammunition, or agriculture, when possession and use is otherwise authorized or permitted by law.

28–1011.20. *Firearms: purchase, sell, trade, convey: conditions.* The State of Nebraska herewith permits its residents, not otherwise precluded by any applicable laws, to purchase, sell, trade, convey, deliver, or transport rifles, shotguns, ammunition, reloading components or firearm accessories in Nebraska and in states contiguous to Nebraska. This authorization is enacted to implement for this state the permissive firearms sales and delivery provisions in section 922 (b), (3) (A) of Public Law 90–618 of the 90th Congress, Second Session. In the event that presently enacted federal restrictions on the purchase of rifles, shotguns, ammunition, reloading components or firearms accessories are repealed by the United States Congress or set aside by courts of competent jurisdiction, this section shall in no way be interpreted to prohibit or restrict the purchase of shotguns, rifles, ammunition, reloading components, or firearms accessories by residents of Nebraska otherwise competent to purchase same in contiguous or other states.

28–825. *Emergency personnel, defined; assault on; penalty; dangerous weapon or substance, defined.* (1) A person is guilty of the crime of assault on emergency personnel if he assaults or threatens in a menacing manner or strikes or wounds a person coming within the definition of emergency personnel which is committed in an area:

(a) In which a declared state of emergency exists; or

(b) Within the immediate vicinity of which a riot is occurring or is threatening to occur.

(2) Emergency personnel shall include peace officers, firemen, ambulance attendants, utility workers, doctors, nurses, and other persons lawfully engaged in providing essential services during the emergency.

(3) Dangerous weapon or substance shall mean a revolver, pistol, bowie knife, dirk or knife with a dirk blade attachment, brass or iron knuckles, Molotov cocktails, or any deadly weapon, ammunition, explosive, incendiary device, or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when probable cause exists that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when probable cause exists that such part or ingredient will be so used.

(4) Any person convicted of an assault on emergency personnel shall be fined in a sum not exceeding five hundred dollars, or be imprisoned in the county jail not exceeding six months. Any person who commits an assault upon emergency personnel with or through the use of any dangerous weapon or substance is guilty of a felony and shall, upon conviction thereof, be imprisoned in the Nebraska Penal and Correctional Complex for not less than one year nor more than five years.

28–826. *Dangerous weapon; transport or possess off own premises; penalty.* (1) Except as otherwise provided in this section, it is unlawful for any person to transport or possess off his own premises any dangerous weapon or substance as defined in subsection (3) of section 28–825, in any area:

(a) In which a declared state of emergency exists; or

(b) Within the immediate vicinity of which a riot is occurring.

(2) The provisions of this section shall not apply to emergency personnel.

(3) Any person convicted of a violation of the provisions of this section shall be fined in a sum not to exceed five hundred dollars, or be imprisoned in the county jail for not more than six months.

28–827. *State of emergency; declaration; effect; violation; penalty.* (1) Whenever a state of emergency has been declared to exist pursuant to section 28–828, the emergency measures provided in subsection (2) of this section shall thereupon be in effect during the period of such emergency and within the area defined in the declaration of such state of emergency.

(2) (a) The sale or other transfer of possession, with or without consideration, offer to sell or so transfer, and the purchase of any ammunition, guns and other firearms of any size or description is prohibited.

(b) The displaying by or in any store or shop of any ammunition, guns and other firearms of any size or description is prohibited. The owner or one in possession of such store or shop shall, during the existence and such emergency, place such items in a locked, fireproof container stored away from public access.

(c) The possession in a public place of a pistol, revolver, rifle or a shotgun by any person, except emergency personnel, is prohibited.

(g) The sale or other transfer of possession, with or without consideration of gasoline or any other flammable or combustible liquid, except by delivery into a tank properly affixed to an operable motor-driven vehicle, bike, scooter and necessary for the propulsion thereof, is prohibited.

(h) The possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid is prohibited.

(4) The provisions of this section shall not apply to emergency personnel as defined in subsection (2) of section 28–825.

28–828. *State of emergency; declaration; effect.* (1) A mayor of a municipality, a chairman of the board of county commissioners and the Governor, within their respective jurisdictions, may declare the existence of a state of emergency for all or part of such jurisdiction according to the provisions of subsection (2) of this section; *Provided*, that when the Governor determines that a state of emergency exists, he must further find that local control of the emergency is insufficient to assure adequate protection for lives and property. Local control shall be deemed insufficient only if: (a) Needed control cannot be imposed locally because local authorities responsible for preservation of the public peace have not taken steps necessary for effectual control of the emergency that has arisen; (b) the area in which the state of emergency exists has spread across local jurisdictional boundaries and the local control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; or (c) the scale of the emergency is so great it exceeds the capability of local authorities to cope with it.

(2) Whenever the appropriate official determines that there has been an act of violence or a flagrant and substantial defiance or resistance to a lawful exercise of public authority, and that, partly on account thereof, there is probable cause to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience to the law, and substantial injury to persons or to property, all of which constitute a threat to public peace or order, he may declare that a state of emergency exists; *Provided*, That the proclamation declaring such state of emergency must contain a clear and concise statement of the area to which it applies.

(3) All prohibitions and restrictions imposed by proclamation shall take effect immediately upon publication of the proclamation in the area affected unless the proclamation sets a later time. For the purpose of requiring compliance, publication may consist of reports of the substance of the proclamation in the mass communications media serving the affected area or other effective means of disseminating the necessary information quickly. As soon as practicable, appropriate distribution of the full text of any proclamation shall be made.

(4) Proclamations may be extended as to time or area, amended or rescinded by proclamation. Proclamations shall expire at the end of the fifth day after their last imposition unless sooner terminated by proclamation by the appropriate official.

81–829.40. *Disaster and Civil Defense Agency; Governor; control.* * * * (6) In addition to any other powers conferred upon the Governor by law, he may: * * *

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; and * * *.

Aurora

2. *It shall be unlawful* for any person to sell or give away to any person under the age of sixteen (16) years any rifle, gun, pistol, air gun, blank cartridge revolver or any other firearm, or any sling shot loaded with rock or leaden or other dangerous missiles. It shall be unlawful for any person under the age of sixteen (16) years to have in his possession any firearm or weapon as described above or any ammunition designed for use in said above described firearms or weapons unless said individual is accompanied by a person of legal age.*

Gering

6–4–3: *Sale to minors:* It shall be unlawful for any person within the Corporate Limits of the City to sell or give away to any minor under the age of twenty-one (21) years, or for any such minor to have in his possession, any revolver, pistol, gun or firearm of any description or calibre or any cartridges or ammunition loaded with powder or powder and ball of any size or dimension without first procuring the consent of such minor's parent or guardian.*

Grand Island

22–10. *Same—Furnishing, etc., to minors.* It shall be unlawful for any person to sell, loan, give or furnish to any minor, any gun, fowling piece, or other firearm including air rifles or sling shots, within the city.

Hastings

11–511. *Sale to intoxicated persons and minors.* No person in the City shall purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of eighteen (18) years.*

Kearney

21.13 *Same—Sale to and possession by minors.* It shall be unlawful for any person within the city to sell or give way to any minor under the age of eighteen years, or for any such minor to have in his possession, any revolver, pistol, gun or firearm of any description or calibre or any cartridges of ammunition loaded with powder, or powder and ball of any size or dimension without first procuring the consent of such minor's parent or guardian.*

Kimball

6–4–4: *Sale to persons under eighteen years of age forbidden:* It shall be unlawful for any person to sell or give away to any other person under the age of eighteen (18) years, or for any person under the age of eighteen (18) years to have in his possession, any revolver, pistol, gun or firearm of any description or calibre or any cartridges or ammunition loaded with powder or powder and ball of any size or dimension without first procurring the consent of such persons, parent or guardians.*

Lincoln

9.28.020. *Minors not to be furnished with firearms and weapons.* It shall be unlawful for any person to sell, loan or furnish to any minor any gun, fowling piece, or other firearm, or any pocket knife having a blade more than three inches in length; provided, it shall be lawful to sell, loan or furnish shotguns, rifles, and .22-caliber pistols, of a type commonly used for hunting, to persons eighteen years of age or older.*

Omaha

25.53.010. *Possession of an unregistered firearm.* It shall be unlawful for any person to own, have possession of or maintain control over any firearm which has not been registered to said person with the Chief of Police in accordance with this Chapter, except when such possession or control is with the knowledge and express consent of the person in whose name such firearm is registered.

25.53.030. *Manner of registration.* Any person desiring to register a firearm shall make an application to the Chief of Police stating therein that he (1) is a citizen of the United States of America, (2) is over the age of 21 years and (3) has never been convicted of a felony. The application shall inquire as to any record of mental disorder or misdemeanor convictions of the applicant and the purpose of the applicant for acquiring the firearm.

25.53.040. *Issuance or denial of a permit.* Upon the filing of an application for registration of a firearm, the Chief of Police shall issue a permit or deny a permit and furnish the applicant the specific reasons for the denial in writing. A failure to furnish the applicant a written denial shall constitute issuance of a permit.

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* NOTE.—Licensees under the Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

* Note.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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25.53.050. *Time allowed to consider an application.* The Chief of Police shall be permitted 7 days in which to consider an application for registration of a firearm. The Chief of Police may take custody of the firearm in the applicant's possession while the application is under consideration whenever he determines that it is in the best interests of public safety to do so.

25.93.010. *Sale of a firearm to a minor.* It shall be unlawful for any person to sell to a minor any firearm or ammunition therefor.

25.93.030. *Purchasing or renting a firearm.* It shall be unlawful for any person to sell or rent a firearm to any person who has not obtained a written permit form the Chief of Police as provided for in this Title.

25.93.040. *Pawning a firearm.* It shall be unlawful for any person to pawn, pledge or store a firearm or to accept a firearm in pawn or as a pledge of or for storage from a person who has not registered it as provided for in this Title.

NEVADA

State Law

NEVADA REVISED STATUTES

202.260. *Infernal machines.* 1. It shall be unlawful for any person to manufacture or procure any dynamite machine or device or other device for the destruction of life or property, or to have either of the same in his possession.

2. Any person violating the provisions of this section shall be guilty of a felony.

202.300. *Use of firearms by minor under 14 years.* 1. No minor under the age of 14 years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of an adult person, any firearm of any kind for hunting or target practice or for other purposes.

2. Every person violating any of the provisions of subsection 1, or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor.

202.310. *Sales of certain firearms to minors under 18 years unlawful.* 1. Any person in this state who sells or barters to another under the age of 18 years either a pistol, revolver or a firearm capable of being concealed upon the person shall be guilty of a misdemeanor.

2. The term "firearm capable of being concealed upon the person" as used in this section applies to and includes all firearms having a barrel less than 12 inches in length.

202.360. *Alien, ex-felon not to possess firearm capable of being concealed on person; penalty.* 1. The terms "pistol," "revolver," and "firearm capable of being concealed upon the person," as used in this section, apply to and include all firearms having a barrel less than 12 inches in length.

2. After July 1, 1925, no unnaturalized foreign-born person, and no person who has been convicted of a felony in the State of Nevada, or in any one of the states of the United States of America, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America shall own or have in his possession or under his custody or control any pistol, revolver or other firearm capable of being concealed upon the person.

4. Nothing in this section applies to or affects:

(a) Sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed police officers.

(b) Any person summoned by any such officers to assist in making arrests or preserving the peace while the person so summoned is actually engaged in assisting such officer.

(c) **Members of the Armed Forces of the** United States when on duty.

202.370. *Definitions.* 1. "Shell," "cartridge" or "bomb" shall be construed to apply to and include all shells, cartridges or bombs capable of being discharged or exploded, when such discharge or explosions will cause or permit the release or emission of tear gas.

2. "Tear gas" shall be construed to apply to and include all liquid, gaseous or solid substances intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispersed in the air.

3. "Weapon designed for the use of such shell, cartridge or bomb" shall be construed to apply to and include all revolvers, pistols, fountain pen guns, billies, riot guns or other form of device, portable or fixed, intended for the projection or release of tear gas except those regularly manufactured and sold for use with firearm ammunition.

202.380. *Sale, possession of tear gas bombs, weapons without permit unlawful; exceptions.* 1. Every person, firm or corporation who within the State of Nevada knowingly sells or offers for sale, possesses or transports any form of shell, cartridge or bomb containing or capable of emitting tear gas, or any weapon designed for the use of such shell, cartridge or bomb, except as permitted under the provisions of NRS 202.370 to 202.440, inclusive, shall be guilty of a gross misdemeanor.

2. Nothing in NRS 202.370 to 202.440, inclusive, shall prohibit police departments or regular salaried members thereo', sheriffs and their regular salaried deputies, or the military or naval forces of this State or of the United States from purchasing, possessing or transporting such shells, cartridges or bombs for official use in the discharge of their duties.

202.390. *Weapon to bear name of manufacturer and serial number; penalty for removal.* 1. Each tear gas weapon sold, transported or possessed under the authority of NRS 202.370 to 202.440, inclusive, shall bear the name of the manufacturer and a serial number applied by him.

2. No person shall change, alter, remove or obliterate the name of the manufacturer, the serial number or any other mark of identification on any tear gas weapon. Possession of any such weapon upon which the same shall have been changed, altered, removed or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same.

3. Any person who violates any of the provisions of this section is guilty of a gross misdemeanor.

202.400. *Permit for possession, transportation, protective system, to be issued by director of Nevada highway patrol.* 1. It shall be lawful for the director of the Nevada highway patrol to issue a permit for the possession and transportation of such shells, cartridges, bombs or weapons upon proof to the director that good cause exists for the issuance thereof to the applicant for such permit.

2. The permit may also allow the applicant to install, maintain and operate a protective system involving the use of such shells, cartridges, bombs or weapons in any place which is accurately and completely described in the application for the permit.

202.440. *Licenses for retail sale of bombs, weapons; conditions.* The director of the Nevada highway patrol may also grant licenses in a form to be prescribed by him, effective for not more than 1 year from the date of issuance, to permit the sale at retail, at the place specified in the license, of such shells, cartridges, bombs or weapons, and to permit the installation and maintenance of protective systems involving the use of such shells, cartridges, bombs or weapons, subject to the following conditions, upon breach of any of which the license shall be subject to forfeiture:

1. Such business shall be carried on only in the building designated in the license.

2. Such license or certified copy thereof must be displayed on the premises in a place where it may easily be read.

3. No such shell, cartridge, bomb, or weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of NRS 202.370 to 202.440, inclusive. No protective system involving the use of such shells, cartridges, bombs or weapons shall be installed, nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of such system.

4. A complete record must be kept of sales made under the authority of the license, showing the name and address of the purchaser, the quantity and description of the articles purchased, together with the serial number, if any, the number and date of issue of the purchaser's permit, and the signature of the purchaser or purchasing agent. No sale shall be made unless the permit authorizing possession and transportation of shells, cartridges, bombs or weapons is displayed to the seller and the information herein required is copied therefrom. This record shall be open to the inspection of any peace officer or other person designated by the director of the Nevada highway patrol.

598.060. *Sales of rifles, shotgun to residents of Nevada and contiguous states in accordance with provisions of federal law.* 1. Residents of the State of Nevada may purchase rifles and shotguns in states contiguous to Nevada if:

(a) Such residents conform to the applicable provisions of the federal firearms control law (18 U.S.C. § 921 et seq.) and any regulation promulgated thereunder.

(b) Such residents conform to the provisions of law applicable to such a purchase in Nevada and in the state where the purchase is made. * * *.

Carson City

8.20.020. *Sale of dangerous weapons to minors prohibited.* It shall be unlawful for any person, firm or association to sell or dispose of any dirk, dirk knife, sword, sword cane, billy, slung shot, revolver, pistol, gun or other dangerous or deadly weapon to any person under the age of twenty-one years. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding twenty dollars, or imprisonment in the city jail not exceeding ten days, or both such fine and imprisonment.

Clark County

12.04.010. *Definitions.* In this chapter, unless the context clearly requires otherwise, the following definitions shall apply and be effective:

Dealer: The term "dealer" means any person engaged in the business of buying or selling pistols at wholesale or retail, or of accepting pledges of pistols as security for loans.

Firearms capable of being concealed. The term "firearm capable of being concealed" shall mean any gun, pistol, revolver or other firearm the barrel of which does not exceed twelve inches in length from which a dangerous projectile may be propelled by explosives, springs, gas or air, as a means of propulsion.

12.04.020. *Dealing in pistols without permit unlawful.* It shall be unlawful within the unincorporated area of Clark County, for any person, except a dealer having a pistol permit issued under the provisions of this chapter, to engage in the business of buying or selling pistols at retail or wholesale, or of accepting pledges of pistols as security for loans, and no such permit shall authorize the leasing of any pistol.

12.04.030. *Business to which pistol permits may be issued.* Applications for pistol permits to buy, sell or accept pistols as security for loans under this chapter, shall be accepted only from hardware stores, gunsmith shops, sporting goods stores, antique gun dealers and pawn shops, licensed by Clark County.

12.04.050. *Persons prohibited from purchasing or owning pistols.* It shall be unlawful in the unincorporated area of Clark County, for any person to receive from another by loan, gift, purchase, or in any manner, or attempt to obtain in any manner or have in his possession or control, a pistol as defined by this chapter who:

(a) Has been convicted of a felony in the state of Nevada, or in any state or territory of the United States or any political subdivision thereof;

(b) Is a fugitive from justice;

(c) Is an unlawful user or seller of narcotics;

(d) Is a habitual drunkard;

(e) Is a member of an organization advocating criminal syndicalism * * *.

(f) Is foreign born and not a naturalized citizen of the United States;

(g) Has been adjudged insane in this state or any other state and has not subsequently been adjudged sane.

12.04.060 *Prohibited sales and transfer of a pistol.* It shall be unlawful for any person or a dealer in pistols to sell, lease, lend, or otherwise transfer a pistol to any person whom he knows or has reasonable cause to believe:

(a) Is under the influence of intoxicating beverages;

(b) Is mentally ill or disturbed;

(c) Is seventeen years of age or under;*

(d) Is a person prohibited from purchasing a pistol as provided in Section 12.04.050.

12.04.070. *Certain persons prohibited from purchasing or owning pistols.* It shall be unlawful for any person who is included in any one or more of the categories set forth in Section 12.04.050 of this chapter, to receive from another by loan, gift, purchase or in any other manner, or in any manner whatsoever, to attempt to obtain, or have in his or her possession or control, any pistol; provided, however, that a person under the age of eighteen years may have a pistol in his or her possession, or under his or her control, while accompanied by or under the immediate charge of his or her parent, guardian, or other responsible adult, and while engaged in hunting or target practice or other lawful purpose.

12.04.080. *Time between sale and delivery of pistol.* When any sale of a pistol is made by a dealer under this chapter, seventy-two hours must elapse between the time of sale and the time of delivery to the purchaser. When delivered, all pistols must be securely wrapped and be unloaded, and must be accompanied by a receipt signed by the dealer, setting forth the name, address, and description of the purchaser or transferee, a complete description of the pistol (including the manufacturer, model and manufacturer's serial number thereof), the date and time of sale, and the date and time of delivery, of such pistol, and advise to the purchaser or transferee that the pistol must be registered with the sheriff within twenty-four hours.

12.04.090. *Exceptions to Section 12.04.080.* The aforessid seventy-two hour waiting period shall not apply to the sale of a pistol to any person who, at the time of such sale, produces bona fide documentary evidence that he is a member of a federal law enforcement agency; or a peace officer of the state of Nevada or any political subdivision thereof, regularly employed for pay by the state or such subdivision; or that he currently owns a pistol which is duly registered in his name with any law enforcement agency in Clark County. And said waiting period shall not apply to any person who requires the use of a pistol in connection with his employment, and who receives written permission from the sheriff with express waiver of the waiting period; however, all of the other provisions herein shall apply to any such sales.

12.04.120. *Sale or possession of certain pistols prohibited.* It shall be unlawful to purchase, sell, or in any manner to transfer, or have in possession or control, any pistol on which the name of the manufacturer, or the model, or the manufacturer's serial number has been removed, obliterated, concealed, or altered.

12.04.140. *Sale of foreign made pistols with ammunition restricted.* No pistol of foreign make shall be sold with ammunition for the same unless the ammunition is expressly designed for use with such pistol.

12.04.150 *Sale of homemade pistols prohibited.* No homemade pistols shall be bought or sold except as provided by law under the Federal Firearms Act.

12.04.160. *Condition of pistols sold.* All secondhand and used pistols, except antique pieces, sold or purchased, shall be in a safe and operable condition.

12.04.170. *Unlawful to permit persons under eighteen years to have possession or control of pistol.* It shall be unlawful within the unincorporated area of Clark County, for any person to aid, or knowingly permit, another under eighteen years of age to handle, or have in his or her possession, or under his or her control, any pistol, except while accompanied, by or under the immediate charge of, his or her parent, guardian, or other responsible adult and while engaged in hunting, target practice, or other lawful purpose.

12.04.200. *Registration of firearms capable of being concealed.* It is hereby made unlawful for any person to own or have in his possession, within the unincorporated area of Clark County, a gun, pistol, revolver, or other firearm capable of being concealed unless the same has first been registered with the sheriff or with a police department of any of the incorporated cities of Clark County.

12.04.210. *Unlawful transfer of firearms capable of being concealed. It shall be unlawful* for any person to sell, give away, or permanently pass possession to another person of any pistol, revolver or other firearm capable of being concealed, unless the transferor thereof first registers, or causes said weapon to be registered to the transferee and new owner thereof, either with the sheriff, or with a police department of one of the incorporated cities of Clark County.

Henderson

4. It shall be unlawful for any person to sell, give away or permanently pass possession of a gun, pistol, revolver or other firearm without first having the weapon registered to the new owner thereof, with the Chief of Police of the City of Henderson, Nevada, by the seller, giver or person permanently passing possession thereof.

Las Vegas

6-4-1. *Pistol defined.* The term "Pistol" shall mean any small firearm fired by hand, loaded or unloaded, capable of being concealed upon the person. The term shall include all small firearms with a barrel or barrels not exceeding twelve inches (12") in length including revolvers, automatics, derringers and like weapons from which a dangerous projectile may be propelled by means of explosives, springs, gas or air, except any smooth bore pistol designed and manufactured exclusively for propelling BB shot not exceeding .177 caliber by means of springs, gas or air.

6-4-2. *Person defined.* The term "Person" shall mean any individual partnership, association or corporation

6-4-3. *Dealer defined.* The term "Dealer" shall mean any person engaged in the business of buying or selling pistols at wholesale or retail, or of accepting pledges of pistols as security for loans.

6-4-4. *Dealing in pistols without permit unlawful.* It shall be unlawful for any person, except a dealer having a pistol permit issued under the provisions of this Chapter, to engage in the business of buying or selling pistols at retail or wholesale, or of accepting pledges of pistols as security for loans, and no such permit shall authorize the leasing of any pistol.

6-4-7. *Sales to certain persons prohibited.* It shall be unlawful for a dealer or any other person to sell, lease, rent or otherwise transfer a pistol to any person whom he knows or has reasonable cause to believe is included within any one or more of the following categories:

A. Who is under the age of 18 years.

B. Who is under the influence of intoxicating beverages.

C. Who is a fugitive from justice.

D. Who has been convicted of a felony in the State of Nevada or any State or territory of the United States or any political subdivision thereof.

E. Who is an unlawful user or seller of narcotics.

F. Who is a member of an association advocating criminal syndicalism as defined in Section 203.160 through 203.190 of the Nevada Revised Statutes.

G. Who is foreign born and not a naturalized citizen of the United States of America.

H. Who has been adjudged insane in this State or elsewhere and has not subsequently been adjudged sane by a court of competent jurisdiction.*

6-4-8. *Certain persons prohibited from purchasing or owning pistols.* It shall be unawful for any person who is included within any one or more of the categories set forth in Section 7 of this Chapter, to receive from another by loan, gift, purchase or in any manner, or to attempt to obtain in any manner or have in his or her possession or control any pistol; provided, however, that a person under the age of 18 years may have a pistol in his or her possession or under his or her control while accompanied by or under the immediate charge of his or her parent, guardian, or responsible adult and while engaged in hunting or target practice or other lawful purpose.

6-4-9. *Seventy-two hours must elapse between sale and delivery of pistol.* When any

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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sale of a pistol is made by a dealer under this Chapter, seventy-two (72) hours must elapse between the time of sale and the time of delivery to the purchaser, and when delivered, all pistols must be securely wrapped, must be unloaded and must be accompanied by a receipt, signed by dealer, setting forth the name, address and description of the purchaser or transferee, a complete description of the pistol, including the manufacturer, model and manufacturer's serial number thereof, the date and time of sale and the date and time of delivery of such pistol, and a statement notifying the purchaser or transferee that said pistol must be registered with the Chief of Police within twenty-four (24) hours.

The aforesaid seventy-two (72) hour waiting period shall not apply to the sale of a pistol to any person who, at the time of such sale, produces bona fide documentary evidence that he is a member of a federal law enforcement agency, that he is a peace officer of the State of Nevada or any political subdivision thereof who is regularly employed for pay by the State or such subdivision, or that he currently owns a pistol which is duly registered in his name with any law enforcement agency in Clark County, Nevada, nor shall said waiting period apply to any person who requires the use of a pistol in his employment and receives written permission from the Chief of Police to waive said waiting period; provided, however, that all of the other provisions shall apply to any of such sales.

6-4-12. *Sale or possession of certain pistols prohibited.* It shall be unlawful to purchase, sell, or to transfer in any manner or to have in possession or control any pistol on which the name of the manufacturer, model or manufacturer's serial number has been removed or altered.

6-4-14. *Sale of foreign made pistols with ammunition restricted.* No pistol of foreign make shall be sold with ammunition for the same unless said ammunition is expressly made for the pistol.

6-4-15. *Sale of home-made pistols prohibited.* No home-made pistols shall be bought or sold except as provided by law under the Federal Firearms Act.

6-4-16. *Condition of pistols sold.* All secondhand and used pistols, except antique pieces, sold or purchased shall be in a safe and first class condition.

6-4-17. *Unlawful to permit persons under 18 years to have possession or control of pistol.* It shall be unlawful for any person to aid or knowingly permit another under the age of 18 years to handle or have in his or her possession or under his or her control any pistol except while accompanied by or under the immediate charge or his or her parent, guardian or responsible adult and while engaged in hunting, target practice or other lawful purpose.

North Las Vegas

7.22.100. *Furnishing minor with ammunition.* It is unlawful for any person to sell, offer to sell or to give or lend any minor under the age of eighteen years any ammunition for any firearms.*

7.23.010. *Definitions.* Unless the context clearly requires otherwise, the following definitions shall apply and be effective in this chapter.

Dealer. The term "dealer" shall mean any person engaged in the business of buying or selling pistols at wholesale or retail, or of accepting pledges of pistols as security for loans as set forth herein.

Pistol. The term "pistol" shall mean any small firearm fired by hand, loaded or unloaded, capable of being concealed upon the person. The term shall include all small firearms with a barrel or barrels not exceeding twelve inches in length including revolvers, automatics and derringers from which a dangerous projectile may be propelled by explosives.

7.23.020. *Dealer's license.* It shall be unlawful for any person, except a dealer having a pistol permit issued under the provisions of this chapter, to engage in the business of buying or selling pistols at retail or wholesale or to lease or to pledge or accept any pistol as security for a loan.

7.23.030. *Sales business restricted.* Application for a pistol permit shall be accepted only from the owners of licensed antique gun dealers, gunsmith shops, hardware, stores, pawnshops, secondhand stores and sporting goods stores where pistols may be sold or purchased in compliance with this chapter.

7.23.080. *Waiting period.* When any sale of a pistol is made by a dealer under this chapter, seventy-two hours must elapse between the time of sale and the time of delivery to the purchaser and, when delivered all pistols must be unloaded.

This section shall not apply to Federal law enforcement agencies or to a police officer of the state of Nevada or any subdivision thereof who is regularly employed and paid by the state or subdivision, or to any person who currently owns a pistol which is duly registered in his name with any law enforcement agency of Clark County or who has a currently valid permit to carry a concealed pistol, nor shall it apply to any person who requires the use of a pistol in his employment and receives written permission from the chief of police to waive the seventy-two hour waiting period.

7.23.110. *Satisfactory pistol identification required.* It shall be unlawful to purchase, sell or to transfer in any manner, or to have in possession or control, any pistol on which the name of the manufacturer, model and manufacturer's serial number has been removed or altered unless, if upon presentation for registration, the pistol can otherwise be identified to the satisfaction of the chief of police, in which case the means of identification shall be noted upon the registration card.

7.23.120. *Persons prohibited from purchasing or owning pistols.* It shall be unlawful for any person to receive from another by loan, gift, purchase or in any manner, or attempt to obtain in any manner or have in his possession or control, a pistol as defined by this chapter who:

(a) Has been convicted of a felony in the state of Nevada, or in any state or territory of the United States or any political subdivision thereof.

(b) Is a fugitive from justice.

(c) Is an unlawful user or seller of narcotics.

(d) Is an habitual drunkard.

(e) Is a member of an organization advocating criminal syndicalism * * *.

(f) Is foreign born and not a naturalized citizen of the United States of America.

(g) Has been adjudged insane in this state or any other state and has not subsequently been adjudged sane.

7.23.130. *Prohibited sales and transfers of pistols.* It shall be unlawful for any person or a dealer in pistols to sell, lease, lend, or otherwise transfer a pistol to any person whom he knows or has reasonable cause to believe:

(a) Is under the influence of intoxicating beverages.

(b) Is mentally ill or disturbed.

(c) Is under eighteen years of age.

(d) Is a person prohibited from purchasing a pistol as provided in Section 7.23.120.*

7.23.150. *Sales of foreign made pistols.* No pistol of foreign make shall be sold with ammunition for the same unless the ammunition is expressly designed for use with such pistol.

7.23.160. *Homemade pistols prohibited.* No homemade pistols shall be bought or sold except as provided by law under the Federal Firearms Act.

7.23.170. *Condition of pistols sold.* All secondhand and used pistols except antique pieces, sold or purchased shall be in a safe, operable condition.

7.23.200. *Blank cartridge pistols prohibited.* Possession, transportation, sale or use of a blank cartridge pistol, except for theatrical purposes or for the training or exhibiting of dogs or for signal purposes in athletic sports or by railroads for signal purposes or for use by the United States Armed Forces or any organization of war veterans or by peace officers, is prohibited.

NEW HAMPSHIRE

State Law

N.H.R.S.A. CHAPTER 159

159:1. *Definition.* Pistol or revolver, as used herein, means any firearm with barrel less than sixteen inches in length. It does not include antique pistols or revolvers. An antique pistol or revolver, for the purposes of this chapter, means any pistol or revolver utilizing an early type of ignition, including, but not limited to, flintlocks, wheel locks, matchlocks, percussions and pin-fire, but no pistol or revolver which utilizes center fire or rim fire cartridges shall be deemed to be an antique pistol or revolver.

159:3. *Possession by aliens; felons.* No unnaturalized foreign-born person, and no person who has been convicted of a felony against the person or property of another, shall own or have in his possession or under his control a pistol or revolver, except as hereinafter provided. Whoever violates the provisions of this section shall be imprisoned not more than two years, and upon conviction the pistol or revolver shall be confiscated and destroyed.

159:7. *Permit to purchase.* No person shall sell, deliver or otherwise transfer a pistol or revolver to a person who is an unnaturalized foreign-born person, or has been convicted of a felony against the person or property of another, except upon delivery of a written permit to purchase, signed by the selectmen of the town or the mayor or chief of police of the city. Before a delivery is made the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name, address and nationality, the date of sale, the caliber, make, model and manufacturer's number of the weapon. The seller shall, within seven days, sign and forward to the chief of police of the city or selectmen of the town one copy thereof and shall retain the other copy for one year. This section shall not apply to sales at wholesale. Where neither party to the transaction holds a dealer's license no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Whoever violates the provisions of this section shall be fined not more than one hundred dollars, or imprisoned not more than one year, or both.

159:8. *License to sell.* The selectmen of a town and the chief of police of a city may grant licenses, the form of which shall be prescribed by the secretary of state, effective for not more than one year from date of issue, permitting the licensee to sell at retail pistols and revolvers subject to the following conditions, for breach of any of which the licensee shall be subject to forfeiture:

III. No pistol or revolver shall be delivered to a purchaser not personally known to the seller or who does not present clear evidence of his identity; nor to an unnaturalized foreign-born person or a person who has been convicted of a felony unless he has a permit as required by section 7.

159:11. *False information.* If any person in purchasing or otherwise securing delivery of a pistol or revolver shall give false information or offer false evidence of his identity he shall for a first offense be fined not less than one hundred dollars and not more than five hundred dollars, and for a second or subsequent offense he shall be imprisoned not less than one year and not more than three years.

159:12. *Sale to minors.* Any person who shall sell, barter, hire, lend or give to any minor any pistol or revolver shall be fined not more than one hundred dollars, or imprisoned not more than three months, or both. This section shall not apply to fathers, mothers, guardians, administrators or executors who give a revolver to their children or wards or to heirs to an estate.

159:13. *Changing marks.* No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification on any pistol or revolver. Possession of any such firearms upon which the same shall have been changed, altered, removed or obliterated shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same. Whoever violates the provisions of this section shall be fined not more than two hundred dollars, or imprisoned not more than one year, or both.

N.H.R.S.A. CHAPTER 159-A

159-A:1. *Purchase in contiguous states.* Residents of the state of New Hampshire may purchase rifles and shotguns in a state contiguous to the state of New Hampshire, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of New Hampshire and in the contiguous state in which the purchase is made.

N.H.R.S.A. CHAPTER 644

644:15. *Furnishing Arms to Persons Under Sixteen.* Any person who shall sell, barter, hire, lend or give to any person under the age of sixteen years any cartridges or shotshells suitable for discharging in any rifle, pistol, revolver or shotgun shall be guilty of a violation. This section shall not apply to fathers, mothers or guardians of such children.*

NEW JERSEY

State Law

N.J. STATS. ANN.

2A:151-1. *Definitions.* The following definitions apply to this chapter:

a. Firearm or firearms includes any pistol, revolver, rifle, shotgun, machine gun, automatic and semiautomatic rifle, or other firearm as the term is commonly used, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectile, ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances.

b. Pistol or revolver includes any firearm with an over-all length less than 26 inches, or a shotgun having a barrel or barrels of a length less than 18 inches, or a rifle having a barrel length less than 16 inches.

c. Rifle and shotgun includes all other firearms with over-all length of 26 inches or greater, provided the length of the barrel or barrels, if a shotgun, is 18 or more inches, and if a rifle is 16 or more inches but does not include machine guns or automatic rifles as defined in section 2A:151-49.

d. Person includes any individual, corporation, partnership, firm or association of any kind or nature whatsoever; any public entity of any kind or nature; the plural as well as the singular and any gender.

i. Explosive includes any chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible materials or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States pharmacopeia.

2A:151-2. *Pawnbrokers not to deal in weapons.* Any pawnbroker who sells or possesses for sale or to lend or give away, any firearm or dangerous instrument of any kind usually known as a blackjack, sling shot, slung shot, billy, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife or knife as defined in chapter 5, laws of 1952 (C. 2A:151-62), stiletto, cestus, or similar band studded with metal for fitting on the knuckles, loose wool imbedded with metal filings, razor blades imbedded in wool slivers, handcuffs, iron claws, grenade, bomb or other explosive is guilty of a high misdemeanor.

2A:151-5. *Additional sentence for armed criminals.* Any person who commits or attempts to commit an assault, robbery, larceny, burglary, breaking and entering, rape, murder, mayhem, arson, abduction, extortion, kidnapping, sodomy or treason, or who is a fugitive from justice, when armed with or having in his possession any firearm, whether or not capable of being discharged or dangerous instrument of any kind usually known as a blackjack, sling shot, slung shot, billy, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife or knife as defined in chapter 5 of the laws of 1952 (C. 2A:151-62), razor, stiletto, cestus, or similar band studded with metal for fitting on the knuckles, loose wool imbedded with metal filings, razor blades imbedded in wood slivers, handcuffs, iron claws, grenade, bomb or other explosive or any object or device, whether toy or imitation, having an appearance similar to or capable of being mistaken for any of the foregoing, shall, in addition to the punishment provided for the crime, be punished on a first conviction by imprisonment for not less than one nor more than 10 years; upon a second conviction by imprisonment for not less than 3 nor more than 15 years; upon a third conviction by imprisonment for not less than 5 nor more than 20 years; and upon a fourth or subsequent conviction, by imprisonment for not less than 10 years nor more than for life, in the discretion of the court. No such additional punishment shall be imposed unless the indictment shall have averred that the person was armed with or had in his possession any such instrument and conviction was had thereon.

2A:151-8. *Persons not to have firearms or dangerous instruments.* Any person, having been convicted in this state or elsewhere of any crime enumerated in section 2A:151-5, whether or not armed with or having in his possession any firearm or dangerous instruments enumerated in section 2A:151-5, or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium unless he possesses a certificate of a medical doctor or psychiatrist licensed in New Jersey or other satisfactory proof that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm, or any person who has been convicted for the unlawful use, possession or sale of a narcotic or controlled dangerous substance as defined in article 2 of Public Laws 1970 Chapter 226 (c24:21-3 et seq.), who purchases, owns, possesses or controls any firearm or any of the said dangerous intruments, is guilty of a misdemeanor.

2A:151-9. *Sale of weapons to certain persons forbidden.* Any person shall have the right to refuse to sell any firearm or dangerous instrument to any other person, provided however that any person who knowingly sells any firearm to a person who does not possess and exhibit to the seller a permit to purchase in the case of a pistol or revolver or a firearms purchaser identification card in the case of a rifle or shotgun; or where the seller has reason to believe that the person is of unsound mind or suffers from a physical defect or sickness which would make it unsafe for him to handle firearms, is guilty of a misdemeanor. The presentation of a permit for the purchase of a pistol or revolver, or the signing of a certification and presentation of a firearms purchaser identification card for the purchase of a rifle or shotgun as set forth in section 2A:151-32. shall be prima facie evidence of compliance with the requirements of this chapter.

2A:151-10. *Sale of weapons or explosives to minors; exceptions.* Any person who knowingly offers, sells, lends, leases or gives to any person under the age of 18 years, any firearm, grenade, bomb or other explosive or any chemical compounds or ingredients for explosives or instructions for the use of such chemical compounds or ingredients as explosives or a toy pistol or other instrument from which a loaded or blank cartridge may be fired, or any loaded or blank cartridge therefor, is guilty of a misdemeanor; provided however that a person may lend a firearm to a minor who may borrow same for the purpose of carrying, firing or using said firearm under section 2A:151-11, and provided further said minor furnishes the owner with written consent to his use thereof by his parent or legal guardian.

2A:151-10.1. *Sale of weapons or explosives to minors; liability for civil damages.* Any person who knowingly offers, sells, lends, leases or gives such explosives, chemical compounds, ingredients or instructions in violation of this act shall be liable for personal injury and property damage resulting from such violation, if the injury or damage is caused by an explosion for which a person under 18 years of age is directly responsible. In a suit for damages under this act, the doctrines of assumption of the risk and con-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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tributory negligence shall not be a defense to bar recovery by any person.

Nothing in this act shall be construed so as to prevent the use of materials in the teaching of science or related subjects in public or private elementary or secondary schools or institutions of higher education or the free circulation of books and materials from public libraries, reading rooms or the libraries of duly incorporated educational or scientific foundations.

2A:151–11. *Unlawful acquisition of firearms or explosives by minors; exceptions.* Any person under the age of 18 years who purchases, barters, borrows, acquires or exchanges any firearm, grenade, bomb or other explosive or any chemical compounds or ingredients for explosives or instructions for the use of such chemical compounds or ingredients as explosives, is guilty of a misdemeanor or an act of juvenile delinquency as may be provided otherwise in the statutes; except that any such person may carry, fire or use any firearm in the actual presence or under the direct supervision of his father, mother, guardian or some other person who is himself a holder of a permit to carry a pistol or revolver or a firearms purchaser identification card, or for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, or for the purpose of competition or target practice in and upon a firing range approved by the governing body or chief of police of the municipality in which such range is located or the National Rifle Association and which is under competent supervision at the time of such competition or target practice, and except further that a minor under the age of 18 years who has successfully completed a hunter's safety course taught by a qualified instructor or conservation officer and carries in his possession a certificate indicating the successful completion of such a course and has a valid hunting license in his own name, may carry and use a rifle or shotgun as otherwise provided in this chapter, for the purpose of hunting during the regularly designated hunting season.

2A:151–12. *Manufacture or sale of dangerous instruments prohibited.* a. Any person who manufactures or causes to be manufactured, or sells or keeps for sale, or offers, gives or disposes of any dangerous instrument of the kinds usually known as a sling shot, slung shot, sandclub, sandbag, bludgeon, metal knuckles, dagger, dirk, knife as defined in chapter 5 of the laws of 1952 (C. 2A:151–62), stiletto, grenade, bomb, or other explosive, cestus, or similar band studded with metal for fitting on the knuckles, loose wool imbedded with metal filing, razor blades imbedded in wood slivers, to any person, except in accordance with federal or state law is guilty of a misdemeanor.

2A:151–14. *Silencers forbidden.* Any person who manufactures, sells, purchases or possesses, except for military or police purposes, any muffler, silencer or device for deadening or muffling the sound of a firearm when discharged, is guilty of a misdemeanor.

2A:151–15. *Altering serial number, etc., of firearm; sale.* Any person who alters, changes, removes, disfigures, obliterates or defaces the name of the maker, model, manufacturer's or serial number, or other mark of identification of any firearm; and any person who sells, leases or transfers any firearm whose serial number has been altered, changed, disfigured or defaced is guilty of a misdemeanor.

2A:151–16. *Antiques and ornaments excepted.* This chapter does not apply to antique firearms which are incapable of being fired or discharged or which do not fire fixed ammunition, or those manufactured before 1898 for which cartridge ammunition is not commercially available, and are possessed as curiosities or ornaments or for their historical significance or value.

2A:151–24. *Conditions.* d. No pistol or revolver shall be delivered to any person:

1. Unless the person has obtained a permit to purchase under the provisions of sections 2A:151–32 through 2A:151–39;

2. Until 7 days have elapsed after date of the application for the permit;

3. Unless the person either is personally known to the seller or presents evidence of his identity;

4. Unless the pistol or revolver is unloaded and securely wrapped;

f. No rifle or shotgun shall be delivered to any person;

1. Unless the person has obtained a firearms purchaser identification card under the provisions of this chapter;

2. Unless the person has exhibited his firearms purchaser identification card and furnished the seller, on a form prescribed by the superintendent, a certification signed by him which shall contain among other things the name, permanent home address and firearms purchaser identification card number of said person. The certification shall be retained by the dealer and shall for law enforcement purposes be made available for inspection by regular police officers of an organized police department of the county in which the retail business is located, county prosecutors and members of their staffs authorized by them, and members of the state police.

2A:151–28. *Duplicate copies to be delivered.* Within 5 days of the date of the sale, assignment or transfer, the dealer shall deliver or mail by certified mail, return receipt requested to the office of the chief of police of the municipality in which the purchaser resides, or to the office of the captain of the precinct of the municipality in which the purchaser resides, and to the superintendent, legible copies of the entries in the register on the duplicate copies of the register forms. If hand delivered a receipt shall be given to the dealer therefor.

Where a sale, assignment or transfer is made to a purchaser who resides in a municipality having no chief of police, the dealer shall, within 5 days of the transaction, mail a duplicate copy of the register sheet to the clerk of the county within which the purchaser resides.

2A:151–32. *Permit and purchaser identification card required.* A. No person shall sell, give, transfer, assign or otherwise dispose of, nor receive, purchase or otherwise acquire a pistol or revolver unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or has first secured a permit to purchase a pistol or revolver as provided by this article.

B. No person shall sell, give, transfer, assign or otherwise dispose of nor receive, purchase or otherwise acquire a rifle or shotgun unless the purchaser, assignee, donee, receiver or holder is licensed as a dealer under this chapter or possesses a valid firearms purchaser identification card, and first, exhibits said card to the seller, donor, transferor or assignor, and unless the purchaser, assignee, donee, receiver or holder signs a written certification, on a form prescribed by the superintendent, which shall indicate that he presently complies with the requirements of section 2A:151–33, and shall contain his name, address and firearms purchaser identification card number of dealer's registration number, and which shall be retained by the seller as provided in section 2A:151–24, provided that a person who is not a dealer may file the certification with the chief of police of the municipality in which he resides or with the superintendent.

2A:151–33. *Permit to purchase; identification card; who may obtain.* No person of good character and who is of good repute in the community in which he lives, and who is not subject to any of the disabilities set forth in this section of other sections of this chapter, shall be denied a permit to purchase a pistol or revolver or a firearms purchaser identification card, except as hereinafter set forth:

a. No pistol or revolver purchase permit or firearms purchaser identification card shall be issued to any person who has ever been convicted of any crime, to any drug dependent person as defined in P.L. 1970, Chapter 226 (c24:21–2), to any person who is confined for a mental disorder to a hospital, mental institution or sanitarium, or to any person who is presently a habitual drunkard; or

b. To any person who suffers from a physical defect or sickness which would make it unsafe for him to handle firearms, to any person who has ever been confined for a mental disorder, or to any alcoholic, unless any of the foregoing persons produce a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that he is no longer suffering from that particular disability in such a manner that would interfere with or handicap him in the handling of firearms; or

c. To any person under the age of 18 years; or*

d. To any person where the issuance would not be in the interest of the public health, safety or welfare.

2A:151–34. *Permit or identification card; issuance.* The chief of police of an organized full-time police department of the municipality where the applicant resides or the superintendent in all other cases shall, upon application, issue to any person qualified under the provisions of section 2A:51–33, a permit to purchase a pistol or revolver or a firearm purchaser identification card.

2A:151–36. *Granting of permit, identification card; fee; validity.* The application for the permit to purchase a pistol or revolver, or for the firearms purchase identification card, together with a fee of $2.00 shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, within 10 days from the date of receipt of the application for residents of this state and within 15 days for nonresident applicants. A permit to purchase a pistol or revolver shall be valid for a period of 90 days from the date of issuance and may be renewed by the issuing authority for good cause for an additional 90 days. A firearms purchaser identification card shall be valid permanently or until such time as the holder becomes subject to any of the disabilities set forth in section 2A:151–33, whereupon the card shall be void and shall be returned within 5 days by the holder to the superintendent, who shall then advise the licensing authority.

2A:151–39. *Number of weapons permitted.* A person shall not be restricted as to the number of pistols or revolvers he may purchase, if he applies for and obtains permits to purchase the same, but only one pistol or revolver shall be purchased or delivered on each permit, except that a person shall not be restricted as to the number of rifles or shotguns he may purchase provided he possesses a valid firearms purchaser identification card and provided further that he signs the certification required in section 2A:151–32B for each transaction.

2A:151–48. *False representations in applications or in purchases.* Any person who gives or causes to be given any false information, or signs a fictitious name or address, in applying for a firearms purchaser identification card or a permit to purchase or a permit to carry a pistol, revolver, or other firearm, or in completing the certificate or any other instrument required by this act in purchasing or otherwise acquiring delivery of any rifle, shotgun, pistol, revolver or other firearm, is guilty of a high misdemeanor.

2A:151–49. *"Machine gun or automatic rifle" defined.* The term "machine gun or automatic rifle," as used in this chapter, means any weapon, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition, which can be loaded into the weapon, mechanism or instrument and fired therefrom.

2A:151–50. *Sale, purchase or possession of machine guns; penalty.* Any person who sells, gives, loans, furnishes or delivers a machine gun or automatic rifle to another person, or a person who purchases, has or possesses any machine gun or automatic rifle, is guilty of a high misdemeanor.

2A:151–51. *Exceptions to section 2A:151–50.* Section 2A:151–50 of this title does not apply to any person having a license to purchase, have and possess a machine gun or automatic rifle, when the license has been obtained in the manner hereinafter provided; nor to the authorized agents or servants of the licensee; nor to the officers and members of a duly authorized military organization; nor to the officers and members of the police force of any municipality, or of the state; nor to any sheriff or undersheriff; nor to any county prosecutor, his assistants, detectives and employees.

2A:151–52. *License to procure machine gun; application; reference and approval; issue of license.* Any person who desires to purchase, have and possess a machine gun or automatic rifle may apply to a judge of the county court of the county in which the applicant resides for a license to do so. The application shall be in writing and shall state in detail the reasons why the applicant desires a license. Upon the application being presented to the judge, he shall refer it to the sheriff of the county or to the chief police officer of the municipality in which the applicant resides, for his investigation and approval. If the application is approved by the sheriff or chief police officer, the judge may issue a license under his hand and the seal of the court to the applicant to purchase, have and possess a machine gun or automatic rifle, for his own protection and for the protection of his servants and employees.

2A:151–55. *False representations in permit applications or in purchases.* Any person who gives or causes to be given any false information, or signs a fictitious name or address, in applying for a permit to purchase or possess a machine gun or automatic rifle, or in purchasing or otherwise acquiring delivery thereof, is guilty of a high misdemeanor.

2A:151–58. *Possession or carrying of bombs.* Any person, except a duly appointed law enforcement officer, or a member of the armed forces of the United States, or of the national guard or organized reserves when on duty, who possesses or carries on or about his person or in a vehicle, any bomb or bombshell, except for blasting or other commercial use, is guilty of a high misdemeanor.

2A:151–59. *Possession of bombs, molotov cocktails with intent to use unlawfully; as evidence of intent; exceptions.* Any person who has in his possession or control any shell, bomb or similar device charged or filled with one or more explosives or any bomb or device commonly known as a fire bomb, "molotov cocktail," or any container charged or filled with an explosive, combustible or incendiary substance, with intent to use the same or cause the same to be used for an unlawful purpose, is guilty of a high misdemeanor, and shall be punished by imprisonment in the State Prison for not more than 25 years.

"Molotov cocktail" as used in this amendment means a breakable container containing flammable liquid and having a wick or similar device capable of being ignited, but is not intended to mean a device commercially manufactured primarily for the purpose of illumination, or other such uses.

The possession, sale or control by a person or persons of any such device or container so charged or filled, is prima facie evidence of an intent to use the same or to cause the same to be used for an unlawful purpose.

This section does not apply to the regular Armed Forces of the United States or its Allies, or to the duly authorized militia of any State or territory thereof, or to the police or fire departments of this State or any municipality or county thereof, provided they are acting in their official capacity and in the performance of their duties; nor does this section apply to explosives or combustibles or incendiary substances while the same are being transported in conformity with the regulations adopted by the interstate commerce commission.

2A:170–17. *Persons possessing ammunition, explosive missiles, fuses, etc., to notify police; presentation for inspection.* Any person who has or becomes the possessor of any ammunition, explosive missile, shell, projectile, fuse designed for use with any weapon, or other explosive weapon, which is loaded or as to which it cannot be determined by casual inspection whether or not it is loaded, except such as is possessed for any lawful commercial or other purpose in connection with which the use of explosives is authorized, or is suitable for use in a pistol, revolver, shotgun or rifle, shall notify the police authorities of the municipality in which he resides or the state police that the same is in his possession and shall present the same to them for inspection.

Belleville

1. *The manufacture, storage or display for sale* at retail or wholesale, or the sale at retail or wholesale of fireworks and cartridges, is hereby prohibited within the limits of the Town of Belleville, in the County of Essex.

3. *The storage or display for the sale* at retail or wholesale, or the sale at retail or wholesale of cartridges whether loaded or blank, is prohibited within the limits of the Town of Belleville, in the County of Essex.

7. The within ordinance shall not prohibit the sale or storage of bullets or cartridges for hunting purposes, when sold in stores that deal in sportsmen and hunting equipment.

Clementon

28. *Sell, barter, give or distribute* any ammunition of an explosive nature for firearms or any pistol, rifle, shotgun or firearm of any description or kind to any person or child under the age of twenty-one years.

Cresskill

246–5. *Purchasing or selling a firearm.* Any resident of the Borough of Cresskill purchasing or selling a firearm of any description within the Borough of Cresskill shall report the same forthwith to the Chief of Police, giving a full and complete description of said firearm.

Deal

5–7.1 *Definitions.* a. Firearms includes any pistol, revolver, shotgun, machine gun, automatic and semi-automatic rifle, or other firearm as the term is commonly used, or any gun, bow, arrow, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectile, ball, slug, pellet, arrow, dart, missile or bullet, or any gas, vapor or other noxious thing by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. * * *

5–7.3 *Compliance with State Statute.* No person shall possess, carry, sell, exchange, store or retain any firearm or other device as defined above except in accordance with the provisions of 2A:151–1 through 2A:151–55 of the Revised Statutes of New Jersey.

Fairlawn

12.3 *Permits required.* a. Permits shall be obtained: (1) To manufacture, possess, store, sell or otherwise dispose of explosives, blasting agents, or small arms ammunition.

12.5. *General Requirements.* a. The manufacture of any explosives, blasting agents, including small arms ammunition, and pyrotechnics, * * *, shall be prohibited unless such manufacture is authorized by the Chief of the Bureau of Fire Prevention. This shall not apply to hand loading of small arms ammunition prepared for personal use when not for resale.

Glassboro

69–3. *Permits required to sell or store ammunition and gunpowder.* No person, firm or corporation shall sell or store gunpowder, gun shells or cartridges without having first obtained a permit from the Chief of the Fire Department, who shall inspect the place where same is to be kept.

Irvington

22–14. *Same—Parents, etc., not to purchase for minors under sixteen or permit such minors to purchase, possess.* * * * No parent, guardian, or person standing in loco parentis of any minor under the age of sixteen years shall purchase for such minor or shall knowingly permit such minor, who is in his care or custody, to purchase, have, hold, possess, own, * * * any of the articles or guns or devices described in section 22–13.*

Kenilworth

1. Except as hereinafter excepted, no person shall discharge or use any air rifle, air gun, spring gun, slingshot, bow and arrow, shotgun or firearm of any kind, or any other missile projecting device or contrivance of any kind within the Borough of Kenilworth.

2. No parent, guardian, or person, standing in loco parentis of any minor under the age of sixteen (16) years shall purchase for such minor or shall knowingly permit such minor, who is in his or her care or custody to purchase, have, hold, possess, own, any of the articles or guns or devices described in Section 1.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling, or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

*NOTE.—Licensees under the Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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Lincoln Park

1. *The storage and sale of fire works, gun powder and ammunition* in the Borough of Lincoln Park shall be subject to the following rules and regulations:

A permit for the storage and sale of fire works, gun powder and ammunition must be obtained from the Clerk of the Borough. All such permits shall expire on the first day of January after the issuance thereof. All permits issued as aforesaid shall be exposed in a conspicuous place in the place of business of the applicant.

No blank cartridge pistol or blank cartridge shall be sold or kept in stock; no pistol or fire arm of any description shall be sold to anyone under the age of fifteen years.**

Manasquan

II. No person shall possess, carry, sell, exchange, store or retain any firearm or other device as defined in Section I hereof, except in accordance with the provisions of 2A:151–1 through 2A:151–55 of the Revised Statutes of New Jersey.

Millburn

25–1–7. *Regulations concerning minors; responsibility of father or guardian.* No person shall knowingly offer, sell, lend, lease or give to any person under the age of eighteen years any machine gun, automatic rifle, revolver, pistol or other firearm, or other instrument of any kind known as a black-jack, slingshot, billy, sand-club, sandbag, bludgeon, metal knuckles, dagger, dirk, dangerous knife, stiletto, bomb or other high explosive, or any instrument or weapon commonly known as a toy pistol in or upon which any loaded or blank cartridges may be used, or any loaded or blank cartridges for any such pistol. No persons under the age of eighteen years shall purchase, barter or exchange any gun, pistol, toy pistol or other firearm, or any instrument or weapon in which any loaded or blank cartridges may be used, * * *.

Northfield

1. *That from and after the passage of this ordinance,* it shall be unlawful for any person, persons or corporation, to offer for sale, make sale of or use, any gun or guns, pistol or pistols, firearms or fireworks, of any description whatsoever, within the limits of the City of Northfield, without a special permit or license therefor.

Paulsboro

35–1. *Permission for use required.* It shall be unlawful to sell or use within the limits of the Borough of Paulsboro, at any time, any blank cartridge, pistol or gun, cap pistol or gun, cartridge cannon, toy gun, pistol or cannon firing an explosive of any kind or character, firecrackers, cap bombs, torpedoes, skyrockets, roman candles, pinwheels, sparklers or any other article, apparatus or device within the general category of fireworks, and fireworks of all kinds and descriptions, without permission first had and obtained in writing for the same * * *.

Pine Hill

1. *Prohibited acts and conduct.* A. No person shall, within the limits or bordering the limits of the Borough of Pine Hill: * * *

(28) *Sell, barter, give or distribute* any ammunition of an explosive nature for firearms or any pistol, rifle, shotgun or firearm of any description or kind to any person or child under the age of twenty-one (21) years.

Piscataway

7–7–1. *It shall be unlawful* for any person to carry or possess a loaded gun or any firearm until licensed or authorized by State or Federal Authorities, or both.

Prospect Park

136.1. That it shall be unlawful to exhibit for sale or sell any pistols, cap pistols, firearms or fireworks of any and all descriptions within the limits of the Borough of Prospect Park.

Sea Girt

41–1. *Definitions.* "Firearm or Firearms"—Includes any pistol, revolver, shotgun, machine gun, automatic and semiautomatic rifle, or other firearm as the term is commonly used, or any gun, device or instrument in the nature of a weapon, from which may be fired or ejected any solid projectile, ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. The term "firearm" or "firearms" shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol, carbon dioxide or compressed-air gun or pistol, or any other device which employs as a propelling force a spring, elastic band, carbon dioxide, compressed or other gas, vapor or compressed air, and which is capable of ejecting any bullet, pellet or missile whatsoever with sufficient force to injure a person.

"Person"—Includes any individual, corporation, partnership, firm or association of any kind or nature whatsoever; the plural as well as the singular in any gender.

41–3. *Possession or sale prohibited; exception.* No person shall possess, carry, sell exchange, store or retain any firearm or other device as defined in § 41–1 hereof except in accordance with the provisions of 2A:151–1 through 2A:151–55 of the Revised Statutes of New Jersey.

Tenafly

4. *Any purchase or sale* of a firearm of any description within the Borough of Tenafly shall be made in compliance with the Laws of the State of New Jersey applicable thereto.

Winfield

5. *An ordinance to regulate the manufacture, storage, sale, keeping or conveying of gun powder, nitroglycerine, dynamite and other explosives.* 1. No person, firm or corporation shall manufacture, store, sell, keep or convey gun powder, nitroglycerine, dynamite or other explosives within the limits of this Township.

6. *An ordinance to regulate and prohibit the sale and use of guns, pistols, fire arms, and fire works.* 1. No person, firm or corporation shall sell or use guns, pistols, fire arms or fire works within this Township without having previously obtained a permit for same from the Township authorities.

NEW MEXICO

State Law

40A–7–8. *Firearms—Sale and purchase.* Residents of states contiguous to New Mexico may purchase firearms in New Mexico. Residents of New Mexico may purchase firearms in states contiguous to New Mexico.*

Alamagordo

5–6–4. *Transactions with minors.* It shall be the responsibility of each person or firm who buys, sells or loans money on secondhand or used firearms to ascertain whether or not the person with whom the transaction is consummated is a minor under the age of twenty-one (21) years and to report to the Chief of Police of the City any transaction with such minor.

Albuquerque

2.10. B. Unlawful sale of a deadly weapon consists of giving, selling, trading, bartering, or exchanging for anything of value any deadly weapon or ammunition for any firearm to any person under the age of 18 years; provided, however, that nothing herein contained shall be construed to prevent any parent or legal guardian from purchasing such a weapon for his child or ward.

Artesia

21.36. *Sale of firearms to minors.* No person shall sell, deliver or transfer to any person under the age of eighteen years ownership of any pistol, revolver or other similar weapon capable of being concealed upon the person designed to discharge a solid projectile propelled by the expansion of a gas.

Espanola

18. *Weapons—furnishing firearms, etc., to persons under sixteen.* It shall be unlawful for any person to furnish, sell or offer for sale to any person under sixteen years of age any firearm, air gun or slingshot within the city.* *

19. *Same—possession or firearm by person under sixteen.* It shall be unlawful for any person under sixteen years of age to have in his possession any firearm, air gun or slingshot within the city, except that when such person is under the immediate supervision of an adult instructor or teacher such possession shall not be considered a violation of this section.

Grants

6–1–58 *Firearms—furnishing to minors.*— No person shall sell, loan or furnish to any minor below the age of sixteen any gun, pistol or other firearm within the limits of the Town, nor shall any person in the Town sell or give to any minor below the age of sixteen any explosive ammunition. * *

Las Cruces

G. *Sales to minors:* It shall be unlawful to give, sell, trade, barter or exchange for anything of value any deadly weapon, air rifle, air gun or B-B gun or ammunition for any firearm to any person under the age of 18 years provided that this section shall not be construed to prevent any parent or legal guardian from purchasing firearms or ammunition for his child or ward.

Las Vegas

7–1–14. G. *Sales to minors.* It is unlawful to give, sell, trade, barter or exchange for anything of value any deadly weapon, air rifle, air gun or B-B gun, or ammunition for any firearm to any person under the age of 18 years provided that this section shall not be construed to prevent any parent or legal guardian from purchasing firearms or ammunition for his child or ward.

Lovington

7–1–14. *Deadly weapons.* (g) *Sales to minors.* It is unlawful to give, sell, trade, barter or exchange for anything of value any deadly weapon, air rifle, air gun or B-B gun, or ammunition for any firearm to any person under the age of eighteen years provided that this section shall not be construed to prevent any parent or legal guardian from purchasing firearms or ammunition for his child or ward.

Raton

9. F. *Unlawful sale of a deadly weapon consists* of giving, selling, trading, bartering, or exchanging for anything of value any deadly weapon or ammunition for any firearm to any person under the age of 18 years; provided, however, that nothing herein contained shall be construed to prevent any parent or legal guardian from purchasing such a weapon for his child or ward.

Santa Fe

15–31. *Weapons—Furnishing firearms, etc., to persons under sixteen.* It shall be unlawful for any person to furnish, sell or offer for sale to any person under sixteen years of age any firearm, air gun or slingshot within the city.*

Tatum

5.12. (g) *Sales to minors.* It is unlawful to give, sell, trade, barter or exchange for anything of value any deadly weapon, air rifle, air gun or B-B gun, or ammunition for any firearm to any person under the age of eighteen (18) years provided that this section shall not be construed to prevent any parent or legal guardian from purchasing firearms or ammunition for his child or ward.

NEW YORK

State Law

NEW YORK CONSOL. LAWS (McKINNEY'S) PENAL LAW

265.00. *Definitions.* As used in this article and in article four hundred, the following terms shall mean and include:

1. "Machine-gun" means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun.

2. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearms to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearms.

3. "Firearm" means any pistol, revolver, sawed-off shotgun or other firearm of a size which may be concealed upon the person.

6. "Dispose of" means to dispose of, give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.

7. "Deface" means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.

8. "Gunsmith" means any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on, any firearm or machine-gun.

9. "Dealer in firearms" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any pistol or revolver. Dealer in firearms shall not include a wholesale dealer.

10. "Licensing officer" means in the city of New York the police commissioner of that city; in the county of Nassau the commissioner of police of that county; in the county of Suffolk the sheriff of that county except in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown, the commissioner of police of that county; and elsewhere in the state a judge or justice of a court of record having his office in the county of issuance.

11. "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

12. "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

265.05. *Possession of weapons and dangerous instruments and appliances.* 1. Any person who has in his possession any explosive or incendiary bomb, bombshell, firearm silencer, machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use is guilty of a class D felony.

2. Any person who has in his possession any firearm which is loaded with ammunition, or who has in his possession any firearm and, at the same time, has in his possession a quantity of ammunition which may be used to discharge such firearm is guilty of a class D felony. Such possession shall not, except as provided in subdivision three of this section, constitute a felony if such possession takes place in such person's home or place of business.

3. Any person who has in his possession any firearm, gravity knife, switchblade knife, cane sword, billy, blackjack, bludgeon, metal knuckles, sandbag, sandclub or slungshot is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.

4. Any person under the age of sixteen years who has in his possession any of the weapons, instruments, appliances or substances specified in the first three subdivisions of this section, or any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air, or any gun, or any instrument or weapon in or upon which any loaded or blank cartridges may be used, or any loaded or blank cartridges or ammunition therefor, or any dangerous knife, shall be adjudged a juvenile delinquent.

5. Any person not a citizen of the United States who has in his possession any dangerous or deadly weapon other than those prohibited to him in the first two subdivisions of this section is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.

6. Any person who has in his possession a rifle or shotgun and who has been convicted anywhere of a felony or any one of the misdemeanors or offenses mentioned in section five hundred fifty-two of the code of criminal procedure is guilty of a class A misdemeanor.

NOTE: The pertinent provisions of section five hundred fifty-two of the code of criminal procedure referred to in subsection 6 of 265.05, above, are as follows:

4. (a) The following offenses defined in the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding escape from prison; that kind of disorderly conduct defined in subdivisions six and eight of section seven hundred and twenty-two of such former penal law; violations of sections four hundred eighty-three, four hundred eighty-three-b, four hundred eighty-four-h and article one hundred six of such former penal law; that kind of sodomy or rape which was designated as a misdemeanor; violation of section seventeen hundred forty-seven-d and seventeen hundred forty-seven-e of such former penal laws; any violation of any provision of article thirty-three of the public health law relating to narcotic drugs which was defined as a misdemeanor by section seventeen hundred fifty-one-a of such former penal law, and any violation of any provision of article thirty-three-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by section seventeen hundred forty-seven-b of such former penal law.

(b) The following offenses defined in the penal law: Illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; that kind of loitering defined in subdivision three of section 240.35; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortional articles; permitting prostitution; promoting prostitution in the third degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty.

7. Any person who has in his possession any explosive substance with intent to use the same unlawfully against the person or property of another is guilty of a class B felony.

8. Any person who knowlingly has in his possession a machine-gun or firearm which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun or firearm is guilty of a class D felony.

11. Any person who knowingly has in his possession a rifle, shotgun or firearm in or upon a building or the grounds, used for educational purposes, of any school, college or university without the written authorization of such educational institution, is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.

265.10. *Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances.* 1. Any person who manufactures or causes to be manufactured any machine-gun is guilty of a class D felony. Any person who manufactures or causes to be manufactured any switchblade knife, gravity knife, billy, blackjack, bludgeon, metal knuckles, sandbag, sandclub or slungshot is guilty of a class A misdemeanor.

3. Any person who disposes of any machine-gun or firearm silencer is guilty of a class D felony. Any person who knowingly buys, receives, disposes of, or conceals a machine-gun or firearm which has been de-

*NOTE: Because of the restrictions in the Federal Gun Control Law of 1968 (Public Law 90–618) the above legislation will authorize New Mexico residents to purchase only rifles and shotguns in contiguous states and not other types of firearms.

**NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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faced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun or firearm is guilty of a class D felony.

4. Any person who disposes of any of the weapons, instruments or appliances specified in subdivision three of section 265.05 is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.

5. Any person who disposes of any of the weapons, instruments, appliances or substances specified in subdivision four of section 265.05 to any other person under the age of sixteen years is guilty of a class A misdemeanor.

6. Any person who wilfully defaces any machine-gun or firearm is guilty of a class D felony.

265.20. Exemptions. a. Sections 265.05, 265.10, 265.15 and 270.05 shall not apply to:

1. Possession of any of the weapons, instruments, appliances or substances specified in sections 265.05 and 270.05 by the following:

(a) Persons in the military service of the state of New York when duly authorized by regulations issued by the chief of staff to the governor to possess the same, members of the division of state police, peace officers as defined in section one hundred fifty-four of the code of criminal procedure and persons appointed as railroad policemen pursuant to section eighty-eight of the railroad law.

(b) Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.

(c) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.

2. Possession of a machine-gun, firearm, switchblade knife, gravity knife, billy or blackjack by a warden, superintendent, headkeeper or deputy of a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same.

3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under section 400.00.; provided, that such a license shall not preclude a conviction for the offense defined in subdivision ten of section 265.05.

4. Possession of a rifle, shotgun or longbow for use while hunting, trapping or fishing, by a person, not a citizen of the United States, carrying a valid license issued pursuant to article four, part four of the conservation law.

5. Possession of a rifle or shotgun by a person who has been convicted as specified in section 265.05, subdivision six to whom a certificate of good conduct has been issued pursuant to section two hundred forty-two, subdivision three of the executive law.

265.40. • • • It shall be lawful for a person or persons residing in this state to purchase or otherwise obtain a rifle and/or shotgun in a contiguous state, and to receive or transport such rifle and/or shotgun into this state; provided, however, such person is otherwise eligible to possess a rifle and/or shotgun under the laws of this state.

270.00. *Unlawfully dealing with fireworks.* 1. Definition of "fireworks." The term "fireworks," as used in this section, is defined and declared to be and to include any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, torpedoes, skyrockets, Roman candles, bombs, sparklers or other combustible or explosive of like construction, or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, or other device containing any explosive substance. The provisions of this definition however, shall not be deemed to include (1) flares of the type used by railroads or any warning lights commonly known as red flares, or marine distress signals of a type approved by the United States Coast Guard or (2) toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times.

4. Sales of ammunition not prohibited. Nothing contained in this section shall be construed to prevent, or interfere in any way with the sale of ammunition for revolvers or pistols of any kind, or for rifles, shot guns, or other arms, belonging or which may belong to any persons whether as sporting or hunting weapons or for the purpose of protection to them in their homes, or, as they may go abroad; and manufacturers are authorized to continue to manufacture, and wholesalers and dealers to continue to deal in and freely to sell ammunition to all such persons for such purposes.

5. Notwithstanding the provisions of subdivison four of this section, it shall be unlawful for any dealer in firearms to sell any ammunition designed exclusively for use in a pistol or revolver to any person, not authorized to possess a pistol or revolver. The violation of this section shall constitute a class B misdemeanor.

400.00. *Licenses to carry, possess, repair and dispose of firearms.* 1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) of good moral character; (b) who has not been convicted anywhere of a felony or any one of the following misdemeanors or offenses.

(i) The following offenses defined in the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven; illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding escape from prison; that kind of disorderly conduct defined in subdivisions six and eight of section seven hundred and twenty-two of such former penal law; violations of sections four hundred eighty-three, four hundred eighty-three-b, four hundred eighty-four-h and article one hundred six of such former penal law; that kind of sodomy or rape which was designated as a misdemeanor; violation of section seventeen hundred forty-seven-d and seventeen hundred forty-seven-e of such former penal law; any violation of any provision of article thirty-three of the public health law relating to narcotic drugs which was defined as a misdemeanor by section seventeen hundred fifty-one-a of such former penal law, and any violation of any provision of article thirty-three-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by section seventeen hundred forty-seven-b of such former penal law.

(ii) The following offenses defined in the penal law: Illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; that kind of loitering defined in subdivision three of section 240.35; endangering the welfare of a child; the offenses defined in article two hundred thirty-five; issuing abortional articles; permitting prostitution; promoting prostitution in the third degree; the offenses defined in article one hundred thirty; the offenses defined in article two hundred twenty; (c) who has stated whether he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; and (d) concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply.

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a pistol or revolver shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held at witnesses in criminal cases, provided that application is made therefor by such commissioner, warden, superintendent or head keeper; (e) have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof; and (f) have, possess, collect, and carry antique pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and (ii) any replica of any pistol described in clause (i) hereof if such replica—

(1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

3. Applications. Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the superintendent of state police. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he is a citizen of the United States, whether or not he complies with each requirement for eligibility specified in subdivision one of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application shall submit one photograph of himself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof.

6. License: validity. Any license issued pursuant to this section shall be valid notwithstanding the provisions of any local law or ordinance. No license shall be transferable to any other person or premises. A license to carry or possess a pistol or revolver, not otherwise limited as to place or time of possession, shall be effective throughout the state, except that the same shall not be valid within the city of New York unless a special permit granting validity is issued by the police commissioner of that city. Such license to carry or possess shall be valid within the city of New York in the absence of a permit issued by the police commissioner of that city, provided that (a) the firearms covered by such license are being transported by the licensee in a locked container; and (b) the trip through the city of New York is continuous and uninterrupted. A license as gunsmith or dealer in firearms shall not be valid outside the city or county, as the case may be, where issued.

7. License: form. Any license issued pursuant to this section shall, except in the city of New York, be approved as to form by the superintendent of state police. A license to carry or possess a pistol or revolver shall have attached the licensee's photograph, and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee. Such license shall specify the weapon covered by calibre, make, model, manufacturer's name and serial number, or if none, by any other distinguishing number or identification mark, and shall indicate whether issued to carry on the person or possess on the premises, and if on the premises shall also specify the place where the licensee shall possess the same. If such license is issued to an alien, or to a person not a citizen of and usually a resident in the state, the licensing officer shall state in the license the particular reason for the issuance and the names of the persons certifying to the good character of the applicant. Any license as gunsmith or dealer in firearms shall mention and describe the premises for which it is issued and shall be valid only for such premises.

12. Records required of gunsmiths and dealers in firearms. Any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as a peace officer or other exempt person pursuant to section 265.20. The licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department or unit, in the case of an exempt person. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York and county of Nassau, and elsewhere in the state to the executive department, division of state police.

NEW YORK CONSOL. LAWS (McKINNEY'S) VILLAGE LAW

89. *General powers of the board of trustees.* 58. Firearms and explosives. May prohibit, restrain, regulate and license the storage, sale or discharge of firearms, fireworks and other explosives and the explosion of gun powder and gun cotton.

NEW YORK CONSOL. LAWS (McKINNEY'S) GENERAL MUNICIPAL LAW

209-m. *Outside service by local police; civil disturbance control.* 6. a. Notwithstanding any inconsistent provision of law, general or special, in the event of natural disaster, rioting, catastrophe, or similar public emergency within the territorial limits of any local government, or in the event of reasonable apprehension of immediate danger thereof, and upon a finding by the chief executive officer thereof that the public safety is imperiled thereby, such chief executive officer may proclaim a state of emergency within any part or all of the territorial limits of such local government. Following such proclamation and during the continuance of such state of emergency, the chief executive officer may promulgate the following orders to protect life and property or to bring the emergency situation under control. Such orders may, within any part or all of the territorial limits of such local government, provide for:

(6) the regulation and control of the possession, storage, display, sale, transport and use of firearms, other dangerous weapons and ammunition;

(7) the regulation and control of the possession, storage, display, sale, transport and use of explosives, and flammable materials and liquids.

Binghamton

2. *Emergency powers.* Whenever the Mayor declares the existence of a state of special emergency, and during such period, the Mayor shall have the power and authority to invoke any or all of the following provisions, in whole or in part, which shall apply to all of the City or to the part or parts of The City of Binghamton so declared to be in a state of special emergency: • • •

C. *Weapons.* No person shall sell, purchase, use, carry or transport any firearm, rifle, shot gun, pistol, machine gun, cannon, revolver, zip gun, bow and arrow, slingshot, incendiary missile, Molotov cocktail, bomb, gasoline, kerosene, flammible liquid, dynamite, explosive, nitro glycerine, tear gas, chemical, hand grenade, rock, bottle, glass, sword, spear, knife, rumble chain, brick, club or any instrument of offensive or defensive combat, unless in the performance of his official duties or authorized by the Mayor or by the Binghamton Chief of Police.

Buffalo

1403. *License required for the possession and sale of fixed ammunition for small arms.* No person, firm or corporation shall store, keep for sale or offer for sale any fixed ammunition for small arms without a license from the director of licenses upon the approval of the chief of the bureau of fire prevention at wholesale or retail. The said license shall expire on December thirty-first of each year following the date of issuance. • • •.

Hempstead

6-57. *Permits for sale of ammunition.* (a) *Required; issuance.* Permits for the sale and storage for the sale of ammunition may be granted in the discretion of the village board. Application shall be made in writing to the village clerk; • • • Such permit shall apply only to the premises and persons stated and to the class and kind of ammunition mentioned therein and shall be subject to such conditions and restrictions as the board may prescribe.

Mount Vernon

78-15. *Prohibition against fire bombs or "Molotov Cocktails".* (a) Prohibition: No person or organization shall assemble, manufacture, produce, distribute, store or possess fire bombs or "Molotov Cocktails" or any similar devices which employ the use of gasoline or any other flammable or combustible substance. (b) Fire Bomb or "Molotov Cocktail" defined:—

A glass or other breakable or collapsible portable container in which is contained gasoline or other flammable or combustible liquid with a wick attached thereto, which upon impact will burn, explode or ignite. (c) Penalties: Any violation of a provision of this ordinance shall be punishable by a fine which shall not exceed $150.00 in amount or to imprisonment not exceeding 150 days, or to both fine and imprisonment. (d) The provisions contained in this section shall not apply to duly authorized members of the organized Militia of the State of New York or the Armed Forces of the United States.

New York City

436-5.0. *Firearms.*—a. Pistols or revolvers, keeping or carrying. 1. The commissioner shall grant and issue licenses and permits

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hereunder pursuant to the provisions of section eighteen hundred ninety-six and nineteen hundred three of the penal law, which licenses and permits shall expire on December thirty-first of the year of issuance.

2. Every applicant for a license to have and possess a pistol or revolver in a dwelling or place of business in the city shall pay therefor a fee of twenty dollars for each year or part thereof and for each renewal or for replacement of a lost license a fee of ten dollars.

436–6.0. *Control and regulation of the disposition, purchase and possession of firearms, rifles and shotguns.* Definitions. Whenever used in this chapter the following terms shall mean and include:

1. "Firearm." Any pistol, revolver, sawed-off shotgun, rifle or other firearm of a size which may be concealed upon the person.

2. "Rifle." A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger.

3. "Shotgun." A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell, to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

4. *"Gunsmith."* Any person, firm, partnership, corporation, or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving, or trueing, or who in the course of such business performs any mechanical operation on any rifle, shotgun, firearm or machine gun, [except such person employed by any agency of government of the city, state, or nation, or employed in the repair or adjustment of arms for the United States military forces or any subdivision thereof. Gunsmith shall not include a wholesale dealer.]

5. "Dealer in firearms." Any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any pistol or revolver or other firearms which may be concealed upon the person. Dealer in firearms shall not include a wholesale dealer.

6. "Dealer in rifles and shotguns." Any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any rifle, or shotgun. Dealer in rifles and shotguns shall not include a wholesale dealer.

7. "Ammunition." Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shot gun or other dangerous weapon.

8. "Dispose of." To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.

9. "Deface." To remove, deface, cover, alter, or destroy the manufacturer's serial number or any other distinguishing number or identification mark.

10 "Commissioner." The police commissioner of the city of New York.

11. "Control Board." The firearms control board as established in section 436–6.2.

12. "Appeals Board." The rifle and shotgun purchase and possession permit appeals board as established in section 436–6.7.

13. "Permit." The permit for purchase and possession of rifles and shotguns issued by the control board.

14. "Certificate." The certificate of registration for possession of rifles and shotguns.

15. "Mental defective." Any person affected with mental defectiveness from birth or from an early age to such an extent that he is incapable of managing himself and his affairs, who for his own welfare or the welfare of others or of the community requires supervision, control or care, and who is not mentally ill or of unsound mind to such an extent as to require his certification to an institution for the mentally ill.

436–6.1 *Licensing of gunsmiths, of wholesale manufacturer of firearms, of assemblers of firearms, or of dealers in firearms.* a. It shall be unlawful for any person to engage in the business of gunsmith, wholesale manufacturer of firearms, assembler of firearms, or of dealer in firearms, unless such person, firm, partnership, corporation or company has obtained a license in the manner prescribed in this section.

b. No license shall be issued or renewed pursuant to this section except by the commissioner, and then only after investigation and finding that all statements in a proper application for a license or renewal are true. No license shall be issued or renewed except for any applicant:

(1) of good moral character;

(2) who has not been convicted anywhere of a felony or of any of the following misdemeanors or offenses: • • •

(3) who has stated whether he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; and

(4) concerning whom no good cause exists for the denial of the license.

c. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city. • • •

k. The conviction of a licensee anywhere of a felony or any of the misdemeanors or offenses enumerated in paragraph two, of subdivision b, of this section, shall operate as a revocation of the license. • • •

436–6.3. *Licensing of dealers in rifles and shotguns.* No person shall engage in the business of purchasing, selling, licensing, or in any manner disposing of shotguns or rifles unless he has been issued a permit for the purchase and possession of shotguns and rifles, and prominently displays in his place of business a license as a registered dealer in shotguns and rifles. • • •.

436–6.6. *Permits for possession and purchase of rifles and shotguns.* It shall be unlawful to dispose of any rifle or shotgun to any person unless said person is the holder of a permit for possession and purchase of rifles and shotguns; it shall be unlawful for any person to have in his possession any rifle or shotgun unless said person is the holder of a permit for the possession and purchase of rifles and shotguns.

The disposition of a rifle or shotgun, by any licensed dealer, to any person presenting a valid rifle and shotgun permit issued to such person, shall be conclusive proof of the legality of such disposition by the dealer.

a. Requirements—No person of good character and who is of good repute in the community and who is not subject to any of the disabilities set forth in this section or other sections of this chapter, shall be denied a permit to purchase and possess a rifle or shotgun unless the applicant:

1. is under the age of eighteen, or

2. has been convicted in this state or elsewhere of a felony or any misdemeanor or offense set forth in section 552 of the code of criminal procedure, unless such person has received a certificate of good conduct pursuant to subdivision 3 of section 242 of the executive law, or

3. has ever been confined to any hospital or institution, public or private, for mental illness, alcoholism, drug addiction, except where such person has a written statement by a physician duly licensed to practice medicine in the state of New York and specializing in psychiatric medicine, that the applicant is a sound person to possess a rifle or shotgun without danger of harm to himself or any other person, or

4. suffers from a physical defect or sickness which would make it unsafe for him to handle firearms, rifles or shotguns except where such person has a written statement from a physician duly licensed to practice medicine in the state of New York, or other satisfactory proof, that he is no longer suffering from a disability in such a manner that it would interfere with or incapacitate him in the handling of a rifle or shotgun, or

5. is a mental defective, or

6. is a habitual drunkard, or

7. has been adjudicated mentally incompetent and with respect to whom such adjudication remains outstanding, or

8. is addicted to narcotic drugs, or

9. has received a dishonorable discharge from the military service of the United States by reason of an action found constituting a felony or a misdemeanor or offense set forth in section 552 of the code of criminal procedure; or

10. Where the issuance of a permit to such a person would not be in the interests of public health, safety or welfare.

f. Validity—Any person to whom a rifle and shotgun permit has been validly issued pursuant to this chapter may possess a rifle or shotgun. No permit shall be transferred to any other person. Every person carrying a rifle or shotgun shall have on his person a permit which shall be exhibited for inspection to any police officer upon demand. Failure of any such person to so exhibit his permit shall be presumptive evidence that he is not duly authorized to possess a rifle or shotgun and the same may be considered by the control board as cause for forfeit of such permit. A permit shall be valid for three (3) years and shall be subject to automatic renewal, upon sworn application, and without investigation, unless the control board has reason to believe that the status of the applicant has changed since the previous application.

h. Non-residents.—Non-residents of the city of New York may apply for a rifle or shotgun permit subject to the same conditions, regulations and requirements as residents of the city of New York.

A non-resident of the city of New York who has not been issued a permit may nevertheless, purchase a rifle or shotgun from a licensed dealer provided that:

1. He subscribes and affirms or swears to a written statement that he does not suffer from any of the disabilities set forth in subdivision a of this section which would prohibit him from receiving a permit if he were a resident of the city of New York, and that he would be legally permitted to purchase a rifle or shotgun in the city or state in which he resides.

2. The rifle or shotgun so purchased is transmitted by the dealer directly to the purchaser's residence.

3. In the event the purchaser is traveling to another country by rail, ship or plane, the dealer is hereby authorized to deliver such rifle or shotgun at the appropriate terminal to a representative of the railroad, airline or shipping company, for placement aboard such train, plane or ship.

436–6.9. *Certificates of registration.* a. It shall be unlawful for any person to have in his possession any rifle or shotgun unless said person is the holder of a certificate of registration for such rifle or shotgun. It shall be unlawful for any person, not a licensed dealer, to dispose of any rifle or shotgun for which he does not have a certificate of registration.

e. Disposition of rifles and shotguns—No person lawfully in possession of a rifle or shotgun shall dispose of same except to a licensed dealer in firearms, licensed dealer in rifles and shotguns, the holder of a valid rifle and shotgun permit, or to an exempt person as enumerated in this chapter.

Any person so disposing of a rifle or shotgun shall report the disposition on forms provided by the control board setting forth the rifle and shotgun permit number of both seller and purchaser, the make, caliber, type, model and serial number, if any, and if the seller is a licensed dealer the certificate of registration number, of all such rifles and shotguns. Such form shall be signed by both seller and purchaser and the original shall be forwarded to the control board within seventy-two hours of the disposition, one copy shall be retained by the seller, another by the purchaser.

1—If the seller is a licensed dealer, he shall at the time of the sale issue a certificate of registration to the purchaser provided to the dealer for that purpose by the control board and shall forward to the control board the duplicate thereof, together with the report of disposition

2—If the seller is not a licensed dealer the control board shall, if the purchaser's rifle permit is valid, issue the certificate of registration within ten days of the receipt by the control board of the report of disposition. Pending receipt of the certificate, but in no event for any longer than fourteen days from the date of purchase, the copy of the report of disposition shall serve in lieu of the purchaser's certificate of registration.

436–6.10. *Exemptions.* The sections requiring rifle and shotgun permits and certificates shall not apply as follows:

a. Minors. Any person under the age of eighteen years may carry, fire, or use any rifle or shotgun in the actual presence or under the direct supervision of any person who is himself a holder of a rifle or shotgun permit, or for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision or for the purpose of competition or target practice in and upon a firing range approved by the commissioner or any other governmental agency authorized to provide such approval, or the national rifle association, which is under competent supervision at the time of such competition or target practice, and providing that the rifle or shotgun is otherwise properly registered or exempt from registration by virtue of some other provision of this chapter.

b. Antiques and ornaments. The provisions of this chapter shall not apply to antique rifles and shotguns which are incapable of being fired or discharged or which do not fire fixed ammunition, or those weapons manufactured prior to 1894 and those weapons whose design was patented and whose commercial manufacture commenced prior to 1894 and whose manufacture continued after 1894 without any substantial alteration in design or function, and for which cartridge ammunition is not commercially available and are possessed as curiosities or ornaments or for their historical significance and value.

c. Persons in the military service in the state of New York, when duly authorized by regulations issued by the chief of staff to the governor to possess the same, and police officers, and other peace officers.

d. Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.

e. Persons employed—in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.

Any such person exempted by sections c, d and e above, may purchase a rifle or shotgun only from a licensed dealer, and must submit to the dealer full and clear proof of identification, including shield number, serial number, military or governmental order or authorization, and military or other official identification. Any dealer who disposes of a rifle or shotgun to any exempt person without securing such identification shall be in violation of these sections.

g. The regular and ordinary transport of rifles and shotguns as merchandise provided that the person transporting such rifles and shotguns where he knows or has reasonable means of ascertaining what he is transporting notifies, in writing, the control board of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by the control board as it may deem necessary for investigation as to whether the consignee may lawfully receive and possess such rifles and shotguns.

j. Nothing herein contained shall be construed to be a prohibition of the conduct of business by manufacturers, wholesale dealers, interstate shippers, or any other individuals or firms properly licensed by the federal government.

k. Special theatrical permit. Nothing herein contained is intended to prevent the possession or utilization of any rifle or shotgun during the course of any television, movie, stage or other similar theatrical production, or by a professional photographer in the pursuance of his profession, provided however, that the rifle or shotgun so used shall be properly registered and a special theatrical permit shall have been issued by the control board without the requirements for fingerprinting and investigation set forth for rifle and shotgun permits.

436–6.11. *Sale and purchase of ammunition.* At any time after one year from the effective date of this section no ammunition suitable for use in a rifle of any caliber or for any shotgun shall be sold or given away, or otherwise disposed of to any person who has not been issued a rifle and shotgun permit and a certificate of registration and who does not exhibit same to the dealer at the time of purchase. In no event shall rifle or shotgun ammunition be sold to any such person except for a shotgun, or for the specific caliber of rifle, for which the certificate of registration has been issued.

A record shall be kept by the dealer of each sale or any other disposition of ammunition under this section which shall show the type and quantity of ammunition sold, the name and address of the person receiving same, the date and time of the transaction, and the numbers of the permit and certificate exhibited as required by this section.

436–6.13. *Identifying marks.* a. Defacing. Any person who alters, changes, removes, disfigures, obliterates or defaces the name of the maker, model, manufacturer's or serial number of a rifle or shotgun shall be in violation of this section.

b. Any rifle or shotgun sold or otherwise disposed of by a licensed dealer, at any time after six months of the effective date of this act, which does not contain a manufacturer's or serial number, must have imbedded into the metal portion of such rifle or shotgun a dealer's number. Failure to so mark and identify any rifle or shotgun shall be a violation of this section.

C19–38.0. *Storage and sale.*—a. Permit. It shall be unlawful to store, sell or offer for sale any ammunition in excess of two hundred small arm cartridges without a permit.

Pelham Manor

20—*Firearms* (a) It shall be unlawful for any person without proper license issued under the laws of the State of New York to possess or carry any pistol, revolver, sawed-off shotgun or other firearms as defined in Section 1 of this Code of General Ordinances of a size which may be concealed upon the person except in the case of any person who is specifically exempt from the State licensing provisions under the laws of the State of New York.

Rochester

47–5. *Rifles, guns, revolvers and dangerous instruments.* A. No person shall sell, loan, lease, give or offer to any child under eighteen years of age, or to any other person to whom a permit has not been issued by the Commissioner of Public Safety, any revolver, pistol or instrument which may be used as a weapon in which the propelling force is compressed air, compressed gas, a spring or any elastic substance and which releases darts, pellets, bullets, metallic particles or other materials capable of endangering life or property, or causing bodily injury, or any instrument commonly known as a blank gun in which any loaded or blank cartridge or ammunition is or may be used. No person shall make such sale, loan, lease, gift, transfer or offer, unless the person acquiring the item or items above named exhibits to him a permit issued by the Commissioner of Public Safety and produces identification that that person acquiring said item or items is the same person to whom the permit has been issued.*

No person shall sell, loan, lease, give or offer to any child under eighteen years of age any loaded or blank cartridges or ammunition commonly used in the said type of revolver, pistol, gun or instrument which may be used as a weapon, described in this section.*

Suffolk County

2. *Definitions:* (a) The term "firearm" means any handgun (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, including: a pistol; a revolver; an automatic; or the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or the trigger, barrel or cylinder of any such weapon.

(b) The term "manufacturer" means any person engaged in the manufacturer of any firearm, or the assembly of any firearm for the purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this local law.

(c) The terms "person", "applicant" and "whoever" include any individual, corporation, company, association, firm, partnership, society or joint stock company.

(d) The term "Commissioner" shall mean

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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the Commissioner of the Suffolk County Police Department, or such member of the Department as the Commissioner may designate to handle the licenses authorized by this local law.

3. *Prohibited conduct.* It shall be unlawful for any person to manufacture or assemble any firearm within the confines of Suffolk County without having first obtained a written license from the Commissioner of the Suffolk County Police Department, as hereinafter prescribed.

4. *License requirements and fees.* (a) No person shall engage in business as a firearms manufacturer in Suffolk County until he has filed an application with, and received a license to do so from, the Commissioner of the Suffolk County Police Department • • •.

Utica

16–4. *Fireworks, firearms, pyrotechnics.* (a) *Definitions.* (2) "Small arms ammunition" whenever used in this section, shall be held to mean any shotgun, rifle, pistol, or revolver cartridges.

(b) *Sale, manufacture, delivery, use.* No person shall manufacture, cause to be manufactured, store, handle, transport, sell, keep for sale, offer, give, dispose of, or discharge any firearms except as provided in the Penal Code, nor any pyrotechnics or small arms ammunition within the city without permission from the common council or written permission from the commissioner of public safety, or the mayor.

NORTH CAROLINA

State Law

N.C.G.S.

14–288.1. *Definitions.* Unless the context clearly requires otherwise, the definitions in this Section apply throughout this Article: "Chairman of the Board of County Commissioners." The chairman of the board of county commissioners or, in case of his absence or disability, the person authorized to act in his stead. Unless the governing body of the county has specified who is to act in lieu of the chairman with respect to a particular power or duty set out in this Article, the term "chairman of the board of county commissioners" shall apply to the person generally authorized to act in lieu of the chairman.

"Dangerous Weapon or Substance." Any deadly weapon, ammunition, explosive, incendiary device, or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used.

"Mayor." The mayor or other chief executive official of a municipality or, in case of his absence or disability, the person authorized to act in his stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the word "mayor" shall apply to the person generally authorized to act in lieu of the mayor.

"Municipality." Any active incorporated city or town, but not including any sanitary district or other municipal corporation that is not a city or town. An "active" municipality is one which has conducted the most recent election required by its charter or the general law, whichever is applicable, and which has the authority to enact general police-power ordinances.

"State of Emergency." The condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, or whenever the occurrence of any such condition is imminent.

14–288.7. *Transporting dangerous weapon or substance during emergency; possessing off premises; exceptions.* (a) Except as otherwise provided in this Section, it is unlawful for any person to transport or possess off his own premises any dangerous weapon or substance in any area: (1) In which a declared state of emergency exists; or (2) Within the immediate vicinity of which a riot is occurring.

(b) This Section does not apply to persons exempted from the provisions of Section 14–269 with respect to any activities lawfully engaged in while carrying out their duties.

14–288.8. *Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction; exceptions.* (a) Except as otherwise provided in this Section, it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any weapon of mass death and destruction.

(b) This Section does not apply to: (1) Persons exempted from the provisions of Section 14–269 with respect to any activities lawfully engaged in while carrying out their duties. (2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or destructive devices validly licensed under the laws of the United States or the State of North Carolina, while lawfully engaged in activities authorized under their licenses. (3) Persons under contract with the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts. (4) Inventors, designers, ordnance consultants and researchers, chemists, physicists, and other persons lawfully engaged in pursuits designed to enlarge knowledge or to facilitate the creation, development, or manufacture of weapons of mass death and destruction intended for use in a manner consistent with the laws of the United States and the State of North Carolina.

(c) The term "weapon of mass death and destruction" includes; (1) Any explosive, incendiary, or poison gas: Bomb; or Grenade; or Rocket having a propellant charge of more than four ounces; or Missile having an explosive or incendiary charge of more than one-quarter ounce; or Mine; or Device similar to any of the devices described above; or (2) Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; or (3) Any machine gun, sawed-off shotgun, or other weapon designed for rapid fire or inflicting widely-dispersed injury or damage (other than a weapon of a type particularly suitable for sporting purposes); or (4) Any combination of parts either designed or intended for use in converting any device into any weapon described above and from which a weapon of mass death and destruction may readily be assembled.

The term "weapon of mass death and destruction" does not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of Section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes, in accordance with Chapter 44 of Title 18 of the United States Code.

14–288.12. *Powers of municipalities to enact ordinances to deal with states of emergency.* (a) The governing body of any municipality may enact ordinances designed to permit the imposition of prohibitions and restrictions during a state of emergency.

(b) The ordinances authorized by this Section may permit prohibitions and restrictions: • • •; (4) Upon the possession, transportation, sale, purchase, storage, and use of dangerous weapons and substances, and gasoline; • • •. The ordinances may delegate to the mayor of the municipality the authority to determine and proclaim the existence of a state of emergency, and to impose those authorized prohibitions and restrictions appropriate at a particular time.

(c) This Section is intended to supplement and confirm the powers conferred by Sections 160–52, 160–200(7), and all other general and local laws authorizing municipalities to enact ordinances for the protection of the public health and safety in times of riot and other grave civil disturbance or emergency.

14–288.13. *Powers of counties to enact ordinances to deal with states of emergency.* (a) The governing body of any county may enact ordinances designed to permit the imposition of prohibitions and restrictions during a state of emergency.

(b) The ordinances authorized by the Section may permit the same prohibitions and restrictions to be imposed as enumerated in Section 14–288.12(b). The ordinances may delegate to the chairman of the board of county commissioners the authority to determine and proclaim the existence of a state of emergency, and to impose those authorized prohibitions and restrictions appropriate at a particular time.

14–288.15. *Authority of Governor to exercise control in emergencies.* (a) When the Governor determines that a state of emergency exists in any part of North Carolina, he may exercise the powers conferred by this Section if he further finds that local control of the emergency is insufficient to assure adequate protection for lives and property.

(c) The Governor when acting under the authority of this Section may: (1) By proclamation impose prohibitions and restrictions in all areas affected by the state of emergency; and • • •.

(d) The Governor in his discretion, as appropriate to deal with the emergency then occurring or likely to occur, may impose any one or more or all of the types of prohibitions and restrictions enumerated in Section 14–288.12(b), and may amend or rescind any prohibitions and restrictions imposed by local authorities.

14–315. *Selling or giving weapons to minors.* If any person shall knowingly sell, offer for sale, give or in any way dispose of to a minor any pistol or pistol cartridge, brass knucks, bowie-knife, dirk, loaded cane or slingshot, he shall be guilty of a misdemeanor.

14–316. *Permitting young children to use dangerous firearms.* (a) It shall be unlawful for any parent, guardian, or person standing in loco parentis, to knowingly permit his child under the age of twelve years to have the possession, custody or use in any manner whatever, any gun, pistol or other dangerous firearm, whether such weapon be loaded or unloaded, except when such child is under the supervision of the parent, guardian or person standing in loco parentis. It shall be unlawful for any other person to knowingly furnish such child any weapon enumerated herein. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding thirty days.

14–402. *Sale of certain weapons without permit forbidden.* It shall be unlawful for any person, firm, or corporation in this State to sell, give away, or dispose of, or to purchase or receive, at any place within the State from any other place within or without the State, unless a license or permit therefor shall have first been obtained by such purchaser or receiver from the sheriff of the county in which such purchase, sale, or transfer is intended to be made, any pistol, so-called pump-gun, bowie knife, dirk, dagger, slung-shot, blackjack or metallic knucks.

It shall be unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee, within the State of North Carolina any pistol, so-called pump-gun, bowie knife, dirk, dagger or metallic knucks without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same, the permit from the sheriff as provided in § 14–403. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned not less than thirty days nor more than six months, or both, in the discretion of the court.

"Antique firearm" as defined by G.S. 14–409.11, and "historic edged weapon" as defined by G.S. 14–409.12, are hereby excepted from the provisions of this section.

14–403 *Permit issued by sheriff; form of permit.*—The sheriffs of any and all counties of this State are hereby authorized and directed to issue to any person, firm, or corporation in any such county a license or permit to purchase or receive any weapon mentioned in this article from any person, firm, or corporation offering to sell or dispose of the same.• • •

14.409. *Machine guns and other like weapons.* It shall be unlawful for any person, firm or corporation to manufacture, sell, give away, dispose of, use or possess machine guns, sub-machine guns, or other like weapons: Provided, however, that this section shall not apply to the following:

Banks, merchants, and recognized business establishments for use in their respective places of business, who shall first apply to and receive from the sheriff of the county in which said business is located, a permit to possess the said weapons for the purpose of defending the said business; officers and soldiers of the United State army, when in discharge of their official duties, officers and soldiers of the militia and the State guard when called into actual service, officers of the State, or of any county, city or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties; the manufacture, use or possession of such weapons for scientific or experimental purposes when such manufacture, use or possession is lawful under federal laws and the weapon is registered with a federal agency, and when a permit to manufacture, use or possess the weapon is issued by the sheriff of the county in which the weapon is located. Provided, further, that automatic shot-guns and pistols or other automatic weapons that shoot less than thirty-one shots shall not be construed to be or mean a machine gun or sub-machine gun under this section; and that any bona fide resident of this State who now owns a machine gun used in former wars, as a relic or souvenir, may retain and keep same as his or her property without violating the provisions of this section upon his reporting said ownership to the sheriff of the county in which said person lives.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be fined not less than five hundred ($500.00) dollars, or imprisoned for not less than six months, or both, in the discretion of the court.

14–409.10. *Purchase of rifles and shotguns out of State.* It shall be lawful for citizens of this State to purchase rifles and shotguns and ammunition therefor in states contiguous to this State.

14–409.11. *"Antique firearm" defined.* The term "antique firearm" means any firearm manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1898; and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

14–415.1. *Possession of firearms, etc., by felon prohibited.* (a) It shall be unlawful for any person who has been convicted in any court in this State, in any other state of the United States or in any federal court of the United States of a crime, punishable by imprisonment for a term exceeding two years, to purchase, own, possess or have in his custody, care or control, any hand gun or pistol.

Every person violating the provisions of this section shall be guilty of a felony and shall be imprisoned for not more than 10 years in the State prison or shall be fined an amount not exceeding five thousand dollars ($5,000).

(b) In all cases where the person is charged under the provisions of this section, the record or records of prior convictions of any offense whether in courts in this State, or in courts of any other state or in any court of the United States shall be admissible in evidence, but only for the purpose of proving that said person has been convicted of a previous offense the punishment for which may be more than two years. The term 'conviction' is defined as a final judgment in any case of any offense having a maximum permissible penalty of more than two years without regard to the plea entered or to the sentence imposed. A judgment of a conviction or a plea of guilty to such an offense certified to a superior court of this State from the custodian of records of any state or federal court under the same name as that by which the defendant is charged shall be prima facie evidence that the identity of such person is the same as the defendant so charged and shall be prima facie evidence of the facts so certified.

(c) The indictment charging the defendant under the terms of this section shall be separate from any indictment charging him with other offenses related to or giving rise to a charge under this section. An indictment which charges the person with violation of this section must set forth the date that the prior offense was committed, the type offense and the penalty therefor, and the date that the defendant was convicted or plead guilty to such offense, the identity of the court in which the conviction or plea of guilty took place and the verdict and judgment rendered therein.

14.415.2. Any person whose citizenship is restored under the provisions of Chapter 13 of the General Statutes, any comparable State or federal statute, shall thereafter be exempted from the provisions of 14.415.1.

Charlotte

11–18(246a). *Pistols, dealers in pistols, etc.* License required of dealers in pistols and/or metallic pistol cartridges or cartridges used in pistols.

Edenton

(a) *"Molotov Cocktail"* is defined as any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents, which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.

(b) *"Firebomb"* is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

2. *Prohibited acts.* It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov Cocktail or other firebomb.

3. *Possession of materials restricted.* It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov Cocktails or other firebombs, other than on his or their premises.

Elizabeth City

6–3.1. *Public safety.* I: It shall be unlawful for any merchant within the City of Elizabeth City to engage in the business of selling or exchanging pistols without being licensed by the City Council of the City of Elizabeth City to engage in such business.

II: A new section shall be added to such ordinance, designated as Section III.1, reading as follows: All employees of a licensed merchant who are authorized to make a sale of pistols shall apply to the Chief of Police on a form to be prepared by him for a license to sell pistols as an employee of a licensed merchant and such application shall be passed upon by the City Council and if approved, a license shall be granted. It shall be unlawful for any employee of a licensed merchant to engage in the sale of pistols without being first licensed in accordance with the above provisions.

Franklinton

1(e) During the existence of a proclaimed state of emergency when a curfew has been imposed, it shall be unlawful for anyone subject to such curfew to possess off one's own premises, buy, sell, give away, or otherwise transfer or dispose of any explosive, firearms, ammunition, or dangerous weapon of any kind.

(a) *"Molotov cocktail"* is defined as any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents, which is filled with an inflammable fluid substance, and which is fitted with a fuse or wick.

(b) *"Firebomb"* is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

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2. *Prohibited acts.* It shall be unlawful for any person or persons to manufacture, possess, transport, or use any Molotov Cocktail or other firebomb.

Mount Holly

1. *State of emergency; curfew authorized.* (a) During the existence of a proclaimed state of emergency the Mayor (of the City of Mt. Holly) may impose by proclamation any or all of the following restrictions:

(1) Prohibit or regulate the possession off one's premises of explosives, firearms, ammunition, or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof.

Pineville

(F) During the existence of a proclaimed state of emergency when a curfew has been defined and imposed, it shall be unlawful for anyone subject to curfew: (2) To possess off one's own premises, buy, sell, give away, or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapon of any kind.

16-41. *Definitions.* For the purpose of this division, the following terms shall have the meanings herein ascribed:

Firebomb. Any type of object designed or constructed so that upon being propelled, it will explode or ignite at its area of impact.

Molotov Cocktail. Any breakable container or any container which is designed in such a manner that upon being propelled, it will upon impact empty its contents, which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.

16-42. *Prohibited acts.* It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov Cocktail or other firebomb.

16-43. *Possession of materials restricted.* It shall be unlawful for any person to possess all the items of materials needed to manufacture Molotov Cocktails or other firebombs, other than on his own premises.

Shelby

(1) *"Molotov cocktail"* is defined as any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents, which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.

(2) *"Fire bomb"* is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

(b) *Manufacture, possession, transportation, or use.* It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov cocktail or other fire bomb.

(c) *Possession of materials restricted.* It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov cocktails or other fire bombs, other than on his or their premises.

Southern Pines

9-8. *Same—Permitting possession or use by child.* Any person, being the parent or guardian of, or standing in loco parentis to, any child under the age of twelve (12) years, who shall knowingly permit such child to have the possession or custody of, or use in any manner whatever, any gun, pistol or other dangerous firearm, whether such firearm is loaded or unloaded, or any other person who shall knowingly furnish such child any such firearm, shall be guilty of a misdemeanor.

Warsaw

(a) *"Molotov Cocktail"* is defined as any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents, which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.

(b) *"Firebomb"* is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

2. *Prohibited acts.* It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov Cocktail or other firebomb.

3. *Possession of materials restricted.* It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov Cocktails or other firebombs, other than on his or their premises.

Washington

13-5. *Curfew during state of emergency.* (2) To possess off one's own premises, buy, sell, give away or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapon of any kind.

Williamston

(a) *"Molotov Cocktail"* is defined as any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents, which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.

(b) *"Firebomb"* is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

2. *Prohibited acts.* It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov Cocktail or other firebomb.

3. *Possession of material restricted.* It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov Cocktails or other firebombs, other than on his or their premises.

Wilson

20-49. *Same—Parental responsibility.* Any person being the parent or guardian of or standing in loco parentis to any child under the age of sixteen (16) years who shall knowingly permit such child to have the possession or custody of, or use in any manner whatever any air rifle, air gun or pistol or who shall knowingly furnish such child with any such gun shall be deemed guilty of a misdemeanor.

20-65. *Prohibited activities.* During the existence of a proclaimed state of emergency when a curfew has been imposed, it shall be unlawful for anyone subject to such curfew: • • •

(b) To possess off one's own premises, buy, sell, give away, or otherwise transfer or dispose of any explosives, firearms, ammunition, or dangerous weapon of any kind; • • •.

Zebulon

1. *State of emergency; curfew authorized.* • • • (1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition, or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof; • • •.

NORTH DAKOTA

State Law

N.D.C.C. CHAPTER 62

62-01-01. *"Pistol" defined.* "Pistol" as used in this chapter means any firearm having a barrel less than twelve inches long.

62-01-02. *Committing crime when armed—Punishment.* Any person who shall commit or attempt to commit murder, manslaughter, except manslaughter arising out of the operation of an automobile, kidnaping, mayhem, assault to do great bodily harm, or any other aggravated assault, robbery, burglary, extortion, larceny, making or possessing burglar's instruments, buying or receiving stolen property, aiding escape from prison, or unlawfully possessing or distributing habit-forming narcotic drugs, when armed with a pistol, may be punished by imprisonment for not more than ten years in addition to the punishment provided for the crime.

62-01-04. *Who not to possess pistols.* The following persons shall not own a pistol or have one in their possession or under their control: 1. A person who has been convicted anywhere within the last ten years of any of the crimes of murder, manslaughter, robbery, burglary, kidnaping, arson, extortion, mayhem, forcible rape, unlawful entry, and any assault except simple assault and battery or any other crime involving the use of or possession of a pistol.

2. A person who is under the age of seventeen years or who is a drug addict an alcoholic, or who is emotionally unstable.

62-01-05. *Carrying pistols prohibited—Exceptions.* Except as otherwise provided in this section no person without a license shall carry a pistol, either openly or concealed, in any vehicle or on or about his person, save on his own land, in his own abode or fixed place of business, or on a target range. This prohibition, however, shall not apply to:

1. Marshals, sheriffs, prison or jail wardens or their regularly employed deputies, policemen, or other law-enforcement officers of any state or political division thereof;

2. Members of the armed forces of the United States when on duty or when going to or from duty;

3. The members of the national guard, organized reserves, or state guard organizations, when on duty or going to or from duty;

4. Officers or employees of the United States duly authorized to carry a pistol;

5. Any person engaged in manufacturing repairing, or dealing in pistols or the agent or representative of such person possesing using, or carrying a pistol in the usual or ordinary course of such business;

6. Any common carrier; or

7. Any person permitted by law to possess a pistol while carrying such pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair, or back to his home or place of business, or in moving from one place of abode or business to another.

62-01-09. *Regulation of sales of pistols.* No person shall sell, deliver, or otherwise transfer a pistol to any other person unless such other person shall:

1. Exhibit a license to carry a pistol; or

2. Be one of the persons exempted under the provisions of section 62-01-05.

The person to whom a pistol is sold, delivered, or otherwise transferred must be known or identified to the person making the sale, delivery, or transfer. Before delivery of the pistol, the person to whom the same is sold, delivered, or otherwise transferred must sign and deliver to the person selling, delivering, or transferring the same, a statement in triplicate containing the full name, age, address, and occupation of the person receiving the pistol, and the caliber, make, model, and manufacturer's number of the pistol, and the number of the license possessed by the person obtaining the pistol. The person transferring the pistol, within seven days after such transfer, shall sign and attach his address to and forward by registered or certified mail the original statement signed by the person obtaining the pistol to the secretary of state, the duplicate to the chief of police of the city, marshall of the village, or sheriff of the county of which the person so transferring the pistol is a resident, and he shall retain the other copy for six years. This section shall not apply to purchase by licensed retailers from manufacturers, wholesalers, or jobbers, or to purchase by wholesalers or jobbers from manufacturers.

62-01-11. *Selling pistol to minors prohibited—Penalty.* Any person who shall sell, barter, hire, lend, or give any pistol to any minor under the age of seventeen years shall be guilty of a misdemesnor and shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment.

62-01-12. *Prohibited transfers.* No person shall deliver a pistol to any person if he has reasonable cause to believe that person is prohibited by law from possessing a pistol. No person shall make any loan secured by a mortgage, deposit, or pledge of a pistol. Any person may lend a pistol for not more than 30 days to any person who holds a license to carry a pistol. A person not a licensed retailer shall not sell or give away a pistol without complying with the provisions of section 62-01-09.

62-01-13. *Dealer's license required.*—Before any retail dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell or transfer, any pistol, he must be licensed by the federal government and, in cities requiring such license, by the duly constituted licensing authorities of such city.

62-01-14. *Dealers' licenses—By whom granted and conditions thereof.* Any city may provide by ordinance for the licensing of retail dealers in pistols. If such license is required, it shall be effective for not more than one year from the date of issue, and shall permit the licensee to sell pistols at retail within the said city. If such licenses are issued, they shall be subject to the following conditions, for the breach of any of which the license shall be subject to forfeiture:

3. No pistol shall be delivered:

a. On the day of the application for the purchase;

b. Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor

c. Unless the purchaser shall exhibit a license to carry a pistol;

62-01-15. *Penalty for sale without dealer's license.*—Any retail dealer who, without being licensed as provided in section 62-01-13 sells or otherwise transfers, advertises or exposes for sale or transfer, or has in his possession with intent to sell or otherwise transfer, any pistol, shall be punished by imprisonment in the penitentiary for not less than two years.

62-01-16. *False information prohibited.* No person, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, shall give false information or offer false evidence of his identity.

62-01-17. *Prohibited alterations in pistols.* No person shall change, alter, remove, or obliterate any mark of identification on a pistol, such as the name of the maker, model, or manufacturer's number. Possession of any pistol upon which any such identification mark has been changed, altered, removed, or obliterated shall be evidence sufficient to justify a court or jury in finding that the possessor has violated the provisions of this section.

62-01-19. *Antique pistols.* This chapter shall not apply to the purchase, possession, or sale as curiosities or ornaments, of pistols more than fifty years old nor to the transportation of such pistols unloaded and in a bag, box, or securely wrapped package, but not concealed on the person.

N.D.C.C. CHAPTER 62-02

62-02-01. *Definitions.* The term "machine gun, submachine gun, or automatic rifle" as used in this chapter shall mean and include a weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot, and having a reservoir, belt, or other means of storing and carrying ammunition which can be loaded into the weapon, mechanism, or instrument and fired therefrom at a rate of five or more shots to the second.

62-02-02. *License required.* No person shall purchase, sell, have, or possess a machine gun, submachine gun, automatic rifle of a caliber larger than twenty-two, or a bomb loaded with explosives or poisonous or dangerous gases unless he has a license permitting him to purchase, sell, have, or possess such weapon.

62-02-05. *License — Provisions — Records.* The license shall permit the licensee to purchase, sell, have or possess a machine gun, submachine gun, automatic rifle of a caliber larger than twenty-two, or a bomb loaded with explosives or poisonous or dangerous gases for his own protection and for the protection of his servants and employees. It shall contain a description of the gun or rifle licensed, including the name of the manufacturer, the number and caliber of the weapon, or if the license is for a bomb, an accurate description thereof together with any identifying marks thereon. The license shall be issued in duplicate and the district judge shall send the duplicate copy to the superintendent of criminal identification, who shall file and preserve the same in his office as a permanent record.

62-02-06. *Penalty for selling, delivering, or possessing machine gun, automatic rifle, submachine gun, or bomb.* Any person who shall sell, give, loan, furnish, deliver, purchase, have, or possess any machine gun, submachine gun, automatic rifle of a caliber larger than twenty-two, or any bomb loaded with explosives or poisonous or dangerous gases, without a license, shall be guilty of a felony and shall be punished by imprisonment in the penitentiary for not more than ten years or by a fine of not more than three thousand dollars, or by both such fine and imprisonment.

62-02-07. *Persons exempt from provisions of this chapter.* The provisions of this chapter shall not apply to the following persons:

1. The authorized agent and a servant of a person who has a license to purchase, sell, have, or possess a machine gun, submachine gun, automatic rifle of a caliber larger than twenty-two, or a bomb loaded with explosives or poisonous or dangerous gases;

2. Officers and members of a duly authorized military organization;

3. Officers and members of the police force of any municipality or sheriffs, deputy sheriffs, or other officers having police powers under the laws of this state.

N.D.C.C. CHAPTER 62-04.

62-04-01. *Use and sale of "silencer" prohibited—Penalty.* Any person who sells, offers for sale, or uses any device for or attachment to any firearm which will silence or deaden the sound or natural report of the weapon when it is discharged shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ninety days nor more than six months, or by both such fine and imprisonment. The use of any such device by a member of the national guard or of the regular army, on any rifle range in this state under the supervision of a commissioned officer shall not be a violation of this section.

62-04-05. *Manufacture, use, and sale of blank cartridge firearms and firecrackers prohibited.* Any person who manufactures, uses, sells, or keeps for sale within this state any blank cartridge pistol, blank cartridge revolver, or other blank cartridge firearm, or blank cartridge caps containing dynamite, or firecrackers exceeding more than three inches in length and one-half inch in diameter, is guilty of a misdeameanor.

N.D.C.C. CHAPTER 62-05

62-05-01. *Declaration of policy.* The legislative assembly finds that it is in the public interest to authorize residents of this state to purchase or otherwise obtain rifles and shotguns in states contiguous to this state in compliance with such other laws of this state as may be applicable, and in compliance with section 102 of the Gun Control Act of 1968, Public Law 90-618, 18 U.S.C. section 921 et seq.

62-05-02. *Resident may purchase rifle or shotgun in contiguous state.* It shall be lawful for a person residing in this state, including a corporation or other business entity maintaining a place of business in this state, to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this state, and to receive or transport such rifle or shotgun into this state.

62-05-03. *Federal firearms licensees—Not applicable to.*—This chapter shall not apply or be construed to affect in any way the purchase, receipt, or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers, or collectors.

62-05-04. *Definitions.* 1. As used in this chapter the term "a state contiguous to this state" shall mean any state having a common border with this state. 2. As used in this chapter, all other terms shall be given the meaning prescribed in 18 U.S.C. section 921, Gun Control Act of 1968, Public Law 90-618, and the regulations promulgated thereunder as presently enacted or promulgated and as hereafter modified.

Fargo

25-2701. *"Pistol" defined.* The term "pistol" as used in this article means any firearm having a barrel less than twelve inches long.

25-2702. *License to sell pistols required—Expiration of license.* No person, firm, or corporation shall sell, trade, or otherwise transfer or expose for sale or transfer, or have in his possession with intent to sell, trade, or transfer any pistol without first obtaining a license to sell pistols as herein provided. All licenses granted under the provisions of this article shall expire at the expiration of the calendar year in which issued.

25-2705. *Regulation of sales of pistols by dealer or individuals.* No person shall sell, deliver, or otherwise transfer a pistol to any other person unless such other person shall: 1. Exhibit a license to carry a pistol; or 2. Be one of the persons exempted under the

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

provisions of section 62-01-05 of the North Dakota Century Code.

The person to whom a pistol is sold, delivered, or otherwise transferred must be known or identified to the person making the sale, delivery, or transfer. Before delivery of the pistol, the person to whom the same is sold, delivered, or otherwise transferred must sign and deliver to the person selling, delivering, or transferring the same, a statement in triplicate containing the full name, age, address, and occupation of the person receiving the pistol and the caliber, make, model, and manufacturer's number of the pistol.

Grafton

1. *Definitions:* 1. "Retail Dealer" shall be any person, firm or corporation purchasing pistols for resale. 2. "Pistols" shall be any firearm having a barrel less than twelve (12) inches long. 3. "Purchaser" shall be any person, firm or corporation obtaining a pistol either by purchase or gift, or by any other means, from a retail dealer.

2. No retail dealer in pistols shall sell a pistol within the City limits of the City of Grafton before he has obtained a license from the City.

3. Any license issued in accordance with this Ordinance shall be subject to the following conditions, for the breach of any of which the license shall be subject to forfeiture: (3.) No pistol shall be delivered: a. On the day of the application for the purchase; b. Unless the purchaser either is personally known to the seller, or shall present clear evidence of his identity; nor c. Unless the purchaser shall exhibit a license to carry a pistol issued in his name; nor d. Unless the Chief of Police shall have been notified at least twenty-four (24) hours before delivery of a pistol of the name of the prospective purchase and the caliber of the pistol intended to be sold.

Mandan

6-0401. *Firearms not to be furnished to minors.* It shall be unlawful for any person, firm or corporation to sell or rent firearms to minors within the limits of the city of Mandan.

6-0403. *Blank cartridges, pistols, etc.; manufacture, use, and sale of.* No person shall manufacture, use, sell, or keep for sale within the city of Mandan any blank cartridges, pistols, blank cartridge revolver, or other blank cartridge firearms, blank cartridge caps containing dynamite, or firecrackers exceeding three inches in length and exceeding one-half of an inch in diameter.

Minot

23-124. *Sales to intoxicated persons and minors.* No person in the city shall purchase from, or sell, loan, or furnish any weapon in which any explosive substance can be used to any person under the influence of alcohol or any narcotic drug stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of twenty-one (21) years.

Valley City

8-9. *Pistol defined.* The term "pistol" means any firearm having a barrel less than twelve inches long.

8-11. *License—Required; term.* No retail dealer shall sell or otherwise transfer or expose for sale or transfer, or have in his possession with intent to sell or transfer, any pistol without first obtaining a license as provided in this article. All licenses granted under the provisions of this article shall expire at the expiration of one year from the date of issue.

8-12. *Same—Qualifications.* No person may obtain a retail dealer's pistol license within the city without first being licensed by the federal government to sell pistols and exhibiting such federal license to the city auditor, and unless the applicant is a resident of the city.

8-13. *Weapons—Conditions of issuance.* (c) No pistol shall be delivered:

(1) On the day of the application for the purchase.

(2) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

(3) Unless the purchaser shall exhibit a license to carry a pistol.

OHIO

State Law

OHIO REVISED CODE ANN. (PAGES) TITLE 29

2923.11 *Definitions.* As used in sections 2923.11 to 2923.24 of the Revised Code:

(A) "Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(B) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(C) "Handgun" means any firearm designed to be fired while being held in one hand.

(D) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(E) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges.

(F) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(G) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporize manufacture;

(2) Any device, including without limitation starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device, or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried, or used as a firearm.

(H) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonation containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(I) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(J) "Dangerous ordnance" means any of the following, except as provided in division (K) of this section:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device

(3) Nitroglycerin, nitrocellulose, nitrostarch PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite-pecretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarring, excavating, or demolitions;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(K) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (K)(3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio, or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921 (A) (4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

2923.13 *Having weapons while under disability.* (A) Unless relieved from disability as provided in section 2923.14 of the Revised Code, no person shall knowingly acquire, have, carry, or use any firearm or dangerous ordnance, if any of the following apply:

(1) Such person is a fugitive from justice;

(2) Such person is under indictment for or has been convicted of any felony of violence, or has been adjudged a juvenile delinquent for commission of any such felony;

(3) Such person is under indictment for or has been convicted of any offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse, or has been adjudged a juvenile delinquent for commission of any such offense;

(4) Such person is drug dependent or in danger of drug dependence, or is a chronic alcoholic;

(5) Such person is under adjudication of mental incompetence.

(B) Whoever violates this section is guilty of having weapons while under disability, a felony of the fourth degree.

2923.14 *Relief from disability.* (A) Any person who, solely by reason of his disability under division (A) (2) or (3) of section 2923.13 of the Revised Code, is prohibited from acquiring, having, carrying, or using firearms, may apply to the court of common pleas in the county where he resides for relief from such prohibition.

(B) The application shall recite the following:

(1) All indictments, convictions, or adjudications upon which the applicant's disability is based, the sentence imposed and served, and probation, parole, or partial or conditional pardon granted, or other disposition of each case;

(2) Facts showing the applicant to be a fit subject for relief under this section.

(C) A copy of the application shall be served on the county prosecutor, who shall cause the matter to be investigated, and shall raise before the court such objections to granting relief as the investigation reveals.

(D) Upon hearing, the court may grant the applicant relief pursuant to this section, if all of the following apply:

(1) The applicant has been fully discharged from imprisonment, probation, and parole, or, if he is under indictment, has been released on bail or recognizance.

(2) The applicant has led a law-abiding life since his discharge or release, and appears likely to continue to do so;

(3) The applicant is not otherwise prohibited by law from acquiring, having, or using firearms.

(E) Cost of the proceeding shall be charged as in other civil cases, and taxed to the applicant.

(F) Relief from disability granted pursuant to this section:

(1) Applies only with respect to indictments, convictions or adjudications recited in the application;

(2) Applies only with respect to firearms lawfully acquired, possessed, carried or used by the applicant;

(3) Does not apply with respect to dangerous ordance;

(4) May be revoked by the court at any time for good cause shown and upon notice to the applicant;

(5) Is automatically void upon commission by the applicant of any offense embraced by division (A) (2) or (3) of section 2923.13 of the Revised Code, or upon the applicant's becoming one of the class of persons named in division (A) (1), (4), or (5) of such section.

2923.15 *Using weapons while intoxicated.* (A) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(B) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

2923.17 *Unlawful possession of dangerous ordnance.* (A) No person shall knowingly acquire, have, carry, or use any dangerous ordnance.

(B) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry, or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers, and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable federal law;

(3) Importers, manufacturers, and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used under the laws of this state and applicable federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685, and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen, and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to section 2923.18 of the Revised Code, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used for the purposes and in the manner specified in such license or permit.

(C) Whoever violates this section is guilty of unlawful possession of dangerous ordnance, a misdemeanor of the first degree.

2923.18 *License or permit to possess dangerous ordnance.* (A) Upon application to the sheriff of the county or safety director or police chief of the municipality where the applicant resides or has his principal place of business, and upon payment of the fee specified in division (B) of this section, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry, or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators, and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive device acquired, possessed, carried, or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried, or used for agricultural purposes as defined in section 3743.01 of the Revised Code.

(3) Scientists, engineers, and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried, or used by any such person while acting within the scope of his duties;

(5) In the discretion of the issuing authority, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used for a legitimate research, scientific, educational, industrial, or or other proper purpose.

(B) Application for a license or temporary permit under this section shall be in writing under oath to the sheriff of the county or safety director or police chief of the municipality where the applicant resides or has his principal place of business. The application shall be accompanied by an application fee of fifty dollars when the application is for a license, and an application fee of five dollars when the application is for a temporary permit. The fees shall be paid into the general revenue fund of the county or municipality. The application shall contain the following information:

(1) The name, age, address, occupation, and business address of the applicant, if he is a natural person, or the name, address, and principal place of business of the applicant, if the applicant is a corporation;

(2) A description of the dangerous ordnance for which a permit is requested;

(3) A description of the place or places where and the manner in which the dangerous ordnance is to be kept, carried, and used;

(4) A statement of the purposes for which the dangerous ordnance is to be acquired, possessed, carried, or used;

(5) Such other information as the issuing authority may require in giving effect to this section.

(C) Upon investigation, the issuing authority shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry, or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried, and used by the applicant for a legitimate purpose.

(D) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage, or use of the dangerous ordnance as the issuing authority considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(E) A temporary permit shall be issued for the casual use of explosives and explosive devices, and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance, or for any non-consumable dangerous ordnance, which license need not specify an expiration date, but the issuing authority may specify such expiration date, not earlier than one year from the date of issuance, as it considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(F) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the state. The holder of a license may use such dangerous

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ordnance anywhere in the state. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the issuing authority.

(G) The issuing authority shall forward to the state fire marshall a copy of each license or temporary permit issued pursuant to this section, and a copy of each record of a transaction in dangerous ordnance and of each report of lost or stolen dangerous ordnance, given to the local law enforcement authority as required by divisions (A)(4) and (5) of section 2923.20 of the Revised Code. The state fire marshall shall keep a permanent file of all licenses and temporary permits issued pursuant to this section, and of all records of transactions in, and losses or thefts of dangerous ordnance forwarded by local law enforcement authorities pursuant to this section.

2923.20 *Unlawful transactions in weapons.* (A) No person shall:

(1) Recklesaly sell, lend, give, or furnish any firearm to any person prohibited by section 2923.13 or 2923.15 of the Revised Code from acquiring or using any firearm, or recklessly sell, lend, give, or furnish any dangerous ordnance to any person prohibited by section 2923.13, 2923.15, or 2923.17 of the Revised Code from acquiring or using any dangerous ordnance;

(2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (A) of this section;

(3) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;

(4) When transferring any dangerous ordnance to another, recklessly fail to require the transferee to exhibit such identification license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

(5) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in such person's possession or under his control.

(B) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of division (A)(1) or (2) of this section is a felony of the fourth degree. Violation of division (A)(3) or (4) of this section is a misdemeanor of the second degree. Violation of division (A)(5) of this section is a misdemeanor of the fourth degree.

2923.21 *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

(B) Whoever violates this section is guilty of improperly furnishing firearms to a minor, a misdemeanor of the second degree.

2923.22 *Permitted interstate transactions in firearms.* (A) Any resident of Ohio age eighteen or over, and not prohibited by section 2923.13 or 2923.15 of the Revised Code or any applicable law of another state or the United States from acquiring or using firearms, may purchase or obtain a rifle, shotgun, or ammunition therefor in Indiana, Kentucky, Michigan, Pennsylvania, or West Virginia.

(B) Any resident of Indiana, Kentucky, Michigan, Pennsylvania, or West Virginia, age eighteen or over, and not prohibited by section 2923.13 or 2923.15 of the Revised Code or the laws of his domicile or the United States from acquiring or using firearms, may purchase or obtain a rifle, shotgun, or ammunition therefor in Ohio.

(C) Any purchase and sale pursuant to this section shall be for such purposes and under such circumstances and upon such conditions as are prescribed by the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 922 (b)(3), and any amendments or additions thereto or reenactments thereof.

Akron

672.01 *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable or inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder; • • •

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactment thereof, and regulations issued thereunder.

672.05 *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 293, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07 *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institutions and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose. • • •

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director of Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.10 *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Alliance

557.02. *Permit required to purchase or exchange certain weapons.* No person shall buy, purchase or obtain in exchange any revolver, pistol, bowie knife, dirk or other weapon of like character having a blade more than three inches in length without first having obtained a permit from the Police Chief to make such purchase or exchange.

557.04. *Delivery of permit to seller; monthly returns.* The permit issued by the Police Chief • • • shall be delivered by the applicant to and retained by the person selling such weapon. The person selling such weapon shall preserve and retain all permits and shall, on the first day of each and every month, deliver to the Police Chief all the permits collected in accordance with which any weapons have been sold.

557.05. *Selling to person without permit to purchase.* No person shall sell, exchange or offer for sale or exchange any weapon described in Section 557.02, except to a person who has first obtained a permit therefor from the Police Chief.

Amberley Village

131.06. *Sale of firearms to minors.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Ashtabula

549.01 *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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carriage, and is designed and safe for use only with black powder;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05 *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or the organized militia of this or any other bers of the armed forces of the United States or the organized milita of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties.

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07 *Unlawful transactions in weapons.* (a) No person shall: • • •

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place; • • •

549.08 *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one; • • •

551.01 *Definitions.* As used in this chapter, certain words are defined as follows:

(a) "Firearm" has the same meaning as defined in Section 549.01(b).

(b) "Pistol" means any firearm with a barrel less than twelve inches in length.

(c) "Manufacturer" or "dealer" means any person engaged in the business of manufacturing, repairing or selling firearms at wholesale or retail.

551.04 *Sales, transfers and displays regulated.* (a) No manufacturer or dealer, except a manufacturer or dealer having a license issued under the provisions of this chapter, shall sell any firearm at wholesale or retail.

Avon Lake

672.10 *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Bay Village

591.07. *Minors carrying, possessing and puchasing weapons.* (d) No person shall barter, trade, furnish or give to a minor under the age of eighteen years a musket, rifle, shotgun, tear-gas pen, revolver, pistol or ammunition therefor, or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Bedford

547.08 *Weapons dealers; license required.* No person in this City shall sell, transfer, give away, or otherwise dispose of any pistol, revolver or other firearm, having a barrel not exceeding twelve (12) inches in length, measured by the insertion therein of a rod with the receiver or slide closed or any bowie knife or dirk or other weapon of like character, which can be concealed on the person without first securing an annual license to do so upon application to the Chief of Police of Bedford. Said licenses are not transferable and shall be issued only to firearms dealers, being any person, firm or corporation regularly engaged in the business of selling or trading firearms or ammunition at wholesale or retail within the City of Bedford and shall not be issued to any applicant whose license has been revoked nor to any applicant who has been convicted of a violation of any section of this Chapter 547 until the expiration of five (5) years from the effective date of such revocation or five (5) years from the date of conviction.

547.11 *Dealer's license revocation.* In case the City Manager shall be satisfied that any firearms dealer has violated any provision of this chapter, he may and shall revoke the license to such person for the selling of such weapons. No other license shall be issued to such person for a period of five (5) years thereafter.

547.12 *Limitation on purchase, sale and transfer.* No person shall purchase or acquire by gift or transfer any of the weapons mentioned in Section 547.08 who (as to any one of the following):

(a) Is under twenty-one years of age;

(b) Is a fugitive from justice or is at the time under court adjudication of mental incompetence;

(c) Refuses or neglects to give necessary information required in any application he is required to prepare;

(d) Is a person convicted of an illegal use or possession of narcotics;

(e) Is, at the time of his application, under the influence of alcohol or any other dangerous drug or narcotic;

(f) Has been convicted of a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect; provided, however, that such person shall have eligibility restored as to this subparagraph after ten (10) years have elapsed from the date or completion of any sentence, probationary period or parole;

(g) Is a person convicted of more than one (1) misdemeanor involving the use of force and violence or threats of the use of force and violence against the person of another within one (1) year prior to his application.

It shall be the duty of the seller of the aforesaid weapons as a condition of his permit, to obtain the information required by this chapter in affidavit form, and have such form signed and sworn to before a notary public by such applicant on three copies, one to be delivered to the purchaser at the time of sale, the second to be delivered to the Chief of Police as required by Section 547.10 and the third to be kept by the seller for a period of not less than six months. • • •

No holder of a permit as required by Sections 547.08 and 547.09 shall sell one of the weapons named in Section 547.08 without first obtaining the information in proper affidavit form as required herein. Failure to comply with these regulations shall be grounds for revocation of the permit license.

Beachwood

541.01 *Definitions.* (a) "Chief of Police" means the Chief of Police of the City, or his duly authorized agents.

(b) "Encased" means enclosed in a case, container or receptacle, designed and constructed specifically for the purpose of enclosing a firearm, but shall not include a holster for a pistol or revolver.

(c) "Firearm" means any weapon, including a handgun, by whatever name known, or the barrel, receiver or any part of the firing mechanism of such weapon, which is designed to eject or propel a projectile by the action of an explosive or combustible propellant, but does not include inoperable firearms which cannot be rendered operable.

(d) "Handgun" means any pistol, revolver or other firearm, having a barrel not exceeding twelve inches in length, measured by the insertion therein of a rod with the receiver or slide closed, but does not include handguns designed and safe only for use with black powder.

(e) "Firearms dealer" means any person, firm or corporation, regularly engaged in the business of selling or trading firearms or ammunition at wholesale or retail within the limits of the City, whether as the principal business of such person, firm or corporation, or in addition thereto.

(f) "Fugitive from justice" means a person who flees, escapes from custody, conceals or attempts to use any other unlawful means to avoid prosecution or punishment for a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia or any foreign country with which the United States has a treaty of extradition in effect.

(g) "Resident" means any person who has a place of residence within the limits of the City.

(h) "Nonresident" means any person who does not have a place of residence within the limits of the City.

(i) "Minor" means any person under the age of twenty-one years.

541.03 *Prohibitions.* (a) No person shall purchase, own, possess, receive, have on or about his person or use any firearm or ammunition, if such person is a fugutive from justice or is, at that time, under court adjudication for mental incompetence, or has been committed to a mental institution, hospitalized or has received hospital treatment for any mental disorder, alcoholism, or narcotic addiction within the previous ten years, unless a doctor indicates, in writing, that such person is completely recovered and sufficiently stable to own or possess a firearm or ammunition.

(b) No person shall purchase, receive, have on or about his person or use any firearm or ammunition while under the influence of alcohol, any narcotic drug, hallucinogen or other dangerous drug or stimulants as defined by Title 21 of the United States Code, Section 321(v), known as the Drug Abuse Control Amendments of 1965 effective February 1,

(c) No person shall purchase, own, possess, receive, have on or about his person or use any firm or ammunition if such person has been convicted of a felony involving the use or threat of use of force or violence against the person of another under the laws of this City, the State of Ohio or any other state, the United States or any of its territories or possessions, the District om Columbia or any foreign country with which the United States has a treaty of extradition in effect, provided, however, such person shall be eligible to possess, purchase, own, receive or have on or about his person or use a handgun or handgun ammunition after ten years have elapsed from the date of completion of any sentence, probationary period or parole imposed upon such person so convicted.

(d) No person shall knowingly sell, transfer, give, deliver or furnish any firearms or ammunition to any person prohibited by this section from purchasing, owning, possessing, receiving, having on or about his person or using such firearms or ammunition.

541.05 *Identification card required.* (a) No person shall purchase, own, possess, receive, have on or about his person or use any handgun unless such person has a handgun owner's identification card issued to him and in effect pursuant to this section, or unless such person has been issued a dealer's license pursuant to Section 541.07, or unless such person is exempt from the requirements of an identification card pursuant to Section 541.06. • • •

(d) A handgun owner's identification card shall not be issued to any person who is:

(1) A person prohibited by Section 541.03 from purchasing, owning, possessing, receiving, having on or about his person or using any firearm or ammunition.

(2) A minor.

(3) A person convicted of an illegal use or possession of narcotics.

(4) A person with more than one conviction of a misdemeanor involving the use of force and violence, or the threat of the use of force and violence against the person of another within ten years prior to his application for such identification card.

(e) No person shall knowingly give any false information in making application for a handgun owner's identification card, and no person shall use or attempt to use a handgun owner's identification card to purchase, own, possess, receive, have on or about his person or use any handgun, knowing such identification card to belong to another, or knowing it was obtained by means of false information or when it is void by reason of the holder's becoming a member of the class of persons prohibited by this section from being issued a handgun owner's identification card.

(f) No person shall use or attempt to use his handgun owner's identification card to obtain any handgun for any person who does not have a handgun owner's identification card issued to him and in effect pursuant to this section, and no person shall knowingly permit his identification card to be used by another to purchase, own, possess, receive, have on or about the person or use any handgun or handgun ammunition.

(g) A possessor of a handgun owner's identification card shall become ineligible to possess such a card if he becomes one of that class of persons set forth in subsection (d) hereof, and he shall, thereupon, immediately forfeit such card and return the same to the Chief of Police, and he shall, within thirty days from the date of foreiture, dispose of any handguns in his possession in accordance with the provisions of this chapter.

(h) A nonresident of the City who owns, manages or operates a business within the City, or whose terms of employment require him to own, possess or have on or about his person a handgun during his employment with the City, or any nonresident of the City passing through Beachwood who complies with the prerequisites of this chapter, may make application for and obtain a handgun owner's identification card, pursuant to the provisions of this section.

(1) Any applicant who is denied a handgun owner's identification card may appeal that order of denial to the Gun Control Appeals Board, in accordance with Section 541.02.

541.06 *Exemptions.* (a) The requirements of a handgun owner's identification card contained in Section 541.05 do not apply to the purchase, ownership, possession, receipt, having on or about the person or use of any handgun or handgun ammunition by:

(1) Any state or the United States, or any political subdivision, department or agency of either.

(2) Officers or agents of any state or the United States, or any political subdivision, department or agency of either; members of the organized militia of any state, or the Armed Forces of the United States; or law enforcement officers of any political subdivision to the extent that the official duties of any such persons require them to purchase, own, possess, receive, carry or use handguns.

(3) Licensed dealers of handguns and their agents and servants, to the extent that the purchase, ownership, possession, receipt or use of handguns is in the ordinary course of business.

(4) Nonresidents of the City who are residents of the State, provided that such persons are not prohibited by the provisions of Sections 541.03 and 541.05, and possess and exhibit upon request, such valid permit, authorization or identification issued by the chief of police or the sheriff of their place of residence to purchase, own, possess, receive, carry or use any handgun; and provided, further, that handguns in the possession of or under the control of nonresidents shall at all times be unloaded and encased, except while on a suitable firing range, or while unloaded at a public firearms display, show or exhibition. The requirements of a valid permit, authorization or identification as required by this subparagraph shall not apply to a nonresident who enters the City with firearms for the sole and only purpose of exhibiting or trading such firearms at a public firearms display, show or exhibition, or for the sole and only purpose of participating in an organized and sanctioned pistol match. The permit, authorization or identification provided for in this subparagraph shall be valid for thirty days only from the date thereof.

(5) Nonresidents of the City, moving to the City for the purpose of establishing residence herein, during a period not exceeding thirty days from the date of their entry into the City for such purpose, provided that such persons shall possess and exhibit upon request such valid permit, authorization or identification as may be required by the laws of their former domicile to own, possess, receive or have on or about the person any handgun.

(6) Executors, administrators, guardians, receivers, trustees in bankruptcy and other fiduciaries duly qualified and appointed by a court of competent jurisdiction, when acting in their fiduciary capacity, and their attorneys.

(7) Heirs and legatees acquiring any handgun or handgun ammunition through distribution of any estate, and other persons other than fiduciaries acquiring any handgun through operation of law, during a period not exceeding sixty days from the date of their coming into possession of any handgun.

(8) Carriers, warehousemen and others engaged in the business of transporting or storing firearms, handguns and their agents, to the extent that the ownership, possession, receipt or having on or about the person of business and in conformity with the laws of this State or the United States.

(9) Residents of the City who acquire, by purchase or otherwise, a handgun or handguns during a period not exceeding thirty days from such purchase or acquisition.

(b) No person shall purchase, or otherwise obtain, or attempt to purchase or otherwise obtain, any handgun by claiming an exemption pursuant to this section from the requirement of a handgun owner's identification card contained in Section 541.05, knowing such claim of exemption to be false.

541.07 *Dealer's license.* (a) Every firearms dealer in the City shall procure a license to engage in such business. Any firearms dealer engaged in such business at more than one permanent location in the City shall procure a separate license for each separate permanent location. Application for such license shall be made to the Chief of Police.

(b) Upon application and payment of the fee prescribed in Section 541.08, the Chief of Police shall issue a license to engage in business as a firearms dealer. The Chief of Police shall not issue a license to any applicant whose prior license has been revoked, nor to any applicant who has been convicted of a violation of any section of this chapter until the expiration of five years from the effective date of such revocation or five years

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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from the date of conviction. The Gun Control Appeals Board may authorize the issuance of a permit within a lesser period of time if an appeal is taken to it under the provisions of Section 541.02. No person, firm or corporation shall be issued a firearms dealer's license who does not meet the qualifications required to secure a handgun owner's identification card. The license issued pursuant to this section shall be prominently displayed by every firearms dealer at his place of business.

(c) No person, firm or corporation shall engage in business as a firearms dealer in this City without a license as provided by this section. • • •

541.10 *Revocation of license.* (b) No firearms dealer whose license has been revoked pursuant to this section shall engage in business as a firearms dealer in this City for a period of five years from the effective date of such revocation, unless otherwise authorized to do so by order of the Gun Control Appeals Board. Each day of continuing violation shall be deemed a separate offense.

(c) No firearms dealer shall employ, or enter into any partnership or corporation with any person, firm or corporation whose firearms dealer's license has been revoked pursuant to the provisions of this section.

541.11 *Further prohibitions; sales; purchases; transfers.* (a) No person shall, in the City, purchase or otherwise obtain ownership or possession of, or as security for a loan, any handgun from any person, unless the transferor exhibits a handgun owner's identification card valid on its face, issued to the transferor pursuant to Section 541.05, or unless the transferor exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 541.06.

(b) No person in this City shall sell, deliver, transfer or furnish any handgun to any person in this City unless the transferee exhibits a handgun owner's identification card valid on its face and issued to the transferee pursuant to Section 541.05, or unless the transferee exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 541.06.

Belpre

131.06. *Sale of firearms to minors.* (A) No person shall sell, barter, furnish or give to a minor under the age of 17 years, an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefore, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

(C) This section is not applicable to a minor under the age of 17 years who is hunting in accordance with sec. 1533.13 of the Revised Code.

Bexley

13–106. *Unlawful transactions in weapons.* (A) No person shall: • • • (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to section 13–105 of the general offense code or 2923.17 of the Ohio Revised Code. • • •

13–107. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

Blue Ash

131.06. *Sale of firearms to minors.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age. • • •.*

Bowling Green

587.06. *Sale of firearms to minors.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor. • • •.*

Brunswick

517.06 *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervison or control of a responsible adult.

Cambridge

529.03. *Sale of firearms.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm or ammunition therefor, • • •.*

Campbell

131.06. *Sale of firearms to minors.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

134.03. *Unlawful sale of weapons.* (A) No person shall sell to any other person any pistol, revolver or other weapon which may be concealed upon the person without first obtaining a permit from the mayor to sell same.

Canton

527.02. *Permit required to purchase or exchange.* It shall be unlawful for any person to buy, purchase, or obtain in exchange, any revolver, pistol, bowie knife, dirk or other weapon of like character which can be concealed on the person, without first having a permit from the chief of police to make such purchase or exchange.

527.06. *Selling to person without permit to purchase.* It shall be unlawful for any person to sell, exchange, or offer for sale or exchange, any revolver, pistol, bowie knife, dirk or other weapon of like character which can be concealed on the person, except to a person who has first obtained a permit therefor from the chief of police.

527.09. *Furnishing or permitting minor under seventeen to use firearms, etc.* It shall be unlawful for any person owning or having charge or control of any musket, rifle, shot gun, revolver, pistol or any other firearm, or ammuniiton therefor, to sell, barter, furnish or give the same to a minor under the age of seventeen years, or knowingly to permit any such weapon to be used by a minor under such age.*

Carlisle

672.09. *Unlawful transactions in weapons.* (a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance purusant to Section 672.05.

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Carrollton

672.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle, shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable and inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactment thereof, and regulations issued thereunder.

672.05. *Unlawful Possession of Dangerous Ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosive, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosive and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerouse ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant ot 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordinance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder;

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07 *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction.

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.09. *Unlawful transactions in weapons.* (a) No person shall:

(1) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality;

(3) Knowingly fail to report to the Police Department forthwith the loss or theft of any firearm or dangerous ordnance in such person's possession or under his control.

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Centerville

549.01 *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following.

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangreous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder;

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R. C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Chagrin Falls

549.01 *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to quire, have, carry or use any dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections:

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Cincinnati

7. *Emergency orders.* The city manager, or the mayor if he has assumed command as provided in Section 6 above, or the vice-mayor if he has assumed command in the absence of the mayor, may, as he deems advisable in the interest of the public peace, health, safety or welfare and in regard to the specific area or areas of the city imperiled by the public danger or emergency or the city as a whole, as he deems advisable, make and enforce orders to do any or all of the following: • • •.

(f) Order the closing of gasoline stations and other establishments engaged in the retail sale, distribution or dispensing or giving away of liquid flammable or combustible products.

(g) Prohibit or restrict the sale, distribution, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(h) Order the closing of any and all establishments or portions thereof engaged in the sale, distribution, dispensing or giving away of firearms and/or ammunition.

(i) Prohibit or restrict the carrying or possession on the public streets or public sidewalks or in any public park or square or any other public place a weapon or any object intended to be used as a weapon including but not limited to firearms, bows and arrows, air rifles, sling shots, knives, razors, broken bottles, fire bombs, missile of any kind, clubs, blackjacks, billies, chains or similar items.

708-1. *Aliens.* No alien shall own or have in his possession or under his control a dangerous weapon.

708-3. *Minors.* No person shall sell, barter, lend or give to a minor under the age of sixteen (16) years, an air-gun, musket, rifle, shotgun, revolver, pistol or ammunition therefor, bowie knife, dirk or any other dangerous weapon, and no minor under the age of sixteen (16) years shall buy, barter, hire, borrow, receive or possess an air-gun, musket, rifle, shotgun, revolver, pistol or ammunition therefor, bowie knife, dirk, or any other dangerous weapon.*

708-7. *Obliterating identification marks prohibited.* No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification on any dangerous weapon.

No person shall keep in his possession or under his control any dangerous weapon upon which the name of the maker, model, manufacturer's number or other mark of identification has been to his knowledge changed, altered, removed or obliterated.

708-9. *Dealers in weapons; license fees.* Every retail dealer in firearms, ammunition for firearms, or dangerous weapons, shall pay a license fee of two hundred thirty-four dollars and fifty cents ($234.50) per annum, and such license may be granted by the city manager upon written application of any such dealer. Where a dealer deals only in shotguns and rifles of regulation size manufactured for hunting and sporting purposes only, and the ammunition therefor, the annual license fee shall be the sum of twelve dollars and fifty cents ($12.50). The application shall set forth the place of business of the applicant, the nature of the business, the names of all the partners, if a partnership, and the names of all officers, if a corporation. The city manager may authorize the city treasurer to issue a license to the applicant, if he is satisfied that the applicant is of good repute in the conduct of such business, and that the conduct of such business will not be detrimental to the public safety and welfare. • • •.

708-11. *Restriction on pawnbrokers.* If a dealer licensed under the provisions of Section 708-9 carries on the business of pawnbroker or second-hand dealer, he shall not sell any firearms or dangerous weapons except shotguns and rifles of regulation size manufactured for hunting and sporting purposes only.

708-13. *Form of application to purchase dangerous weapon.* The city manager shall prescribe a form of application covering the purchase of dangerous weapons. Such form shall provide for the recording of the following facts: • • •.

708-15. *Restriction on sale of weapons.*

No dealer shall sell a dangerous weapon to any person, unless such person shall fill out in full and sign an application blank as provided for in Section 708-13. No dealer shall sell such weapon to any purchaser with whom he is not personally acquainted, unless

* NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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such purchaser is identified by a person who is personally known to him.

The application shall be executed in triplicate. The dealer shall mail the original of each application to the city manager at the close of each business day. One copy shall be delivered to the purchaser and one preserved in the files of the dealer. The dealer's copies of used application blanks, and all unused application blanks, shall be kept by the dealer so as to be open for inspection by city police officers at all times.

The provisions of this section and of Section 708–13 shall not apply to sales at wholesale nor to sales of firearms which have a barrel over twelve (12) inches in length.

708.17. *Sale of pistol ammunition.* No dealer shall sell pistol ammunition to any purchaser with whom he is not personally acquainted, unless such purchaser is identified by a person with whom he is personally acquainted.

Cleveland

11.2301. *Permit to dispose of concealable weapons.* It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell or give away to any person, within the city, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without securing a permit so to do, as hereinafter provided, and no person, firm or corporation having secured such a permit, shall sell or give away any such weapon to any person within this city who has not secured a permit from the chief of police to purchase such weapon in the manner hereinafter provided.

11.2302. *Application for license.* Any person, firm or corporation desiring a license authorizing the sale of any of the deadly weapons mentioned in section 11.2301 shall make application in writing to the Director of Public Safety, setting out in such application the full name and residence of the applicant, if an individual, and if a firm or corporation the name and residence of each of its members or officers. Such applicant shall also set out the location at which it is intended or desired to conduct such business. Upon the receipt of such application it shall be the duty of the director of public safety to issue a license to the applicant.

11.2305. *Permit to purchase concealable weapons; Application.* It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the chief of police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification, of the person desiring such permit. Such application shall also contain a recommendation that the permit shall issue, from two persons who shall be known to the chief of police as persons of good reputation and residents of the city for at least one year, or who shall appear to be taxpayers residing within the city.

11.2306. *Sale of firearms or ammunition to minors.* No person, firm or corporation shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Nothing in this section shall be deemed to prohibit or render it unlawful to possess, use, or furnish for use any such firearm, together with such ammunition as is necessary, for the purpose of receiving and being given instructions and training in marksmanship and the proper handling, use and care of such firearms on any suitable range, which at the time of such instruction and use, is under the supervision and control of a competent adult instructor provided that the giving of such instruction and the training is supervised by an organization or association which has been and continues to be approved for this purpose by the Adjutant General or provided that said Instructor is the parent of the person receiving such instruction.

11.2309. *Duties of Chief of Police.* It shall be the duty of the chief of police to refuse such permit to: (a) All persons having been convicted of any crime; (b) All vagabonds; (c) All minors. Otherwise, it shall be the duty of the chief of police to grant such permit.

Cleveland Heights

541.01. *Definitions.* (a) "Chief of Police" means the Chief of Police of the City of Cleveland Heights or his duly authorized agents.

(b) "Encased" means enclosed in a case, container or receptacle, designed and constructed specifically for the purpose of enclosing a firearm, but does not include a holster for a pistol or revolver.

(c) "Firearm" means any weapon, including a handgun, by whatever name known, or the barrel, receiver or any part of the firing mechanisms of such weapon, which is designed to eject or propel a projectile by the action of an explosive or combustible propellant, but does not include inoperable firearms which cannot be rendered operable.

(d) "Handgun" means any pistol, revolver or other firearm, having a barrel not exceeding twelve inches in length, measured by the insertion therein of a rod with the receiver or slide closed, but does not include handguns designed and safe only for use with black powder.

(e) "Firearms dealer" means any person, firm or corporation regularly engaged in the business of selling or trading firearms or ammunition at wholesale or retail within the limits of the City, whether as the principal business of such person, firm or corporation, or in addition thereto.

(f) "Fugitive from justice" means a person who flees, escapes from custody, conceals or attempts to use any other unlawful means to avoid prosecution or punishment for a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect.

(g) "Resident" means any person who has a factual place of residence within the limits of the City.

(h) "Nonresident" means any person who does not have a factual place of residence within the limits of the City.

(i) "Minor" means any person under the age of twenty-one years.

541.03. *Prohibitions.* (a) No person shall purchase, own, possess, receive, have on or about his person, or use any firearm or ammunition, if such person is a fugitive from justice or is at that time under court adjudication of mental incompetence.

(b) No person shall purchase, receive, have on or about his person, or use any firearm or ammunition while under the influence of alcohol, any narcotic drug, hallucinogen or other dangerous drug.

(c) No person shall purchase, own, possess, receive, have on or about his person, or use any handgun or handgun ammunition if such person has been convicted of a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect, provided, however, such person shall be eligible to possess, purchase, own, receive or have on or about his person or use a handgun or handgun ammunition after ten years have elapsed from the date of completion of any sentence, probationary period or parole imposed upon such person so convicted.

(d) No person shall knowingly sell, transfer, give, deliver or furnish any firearms or ammunition to any person prohibited by this section from purchasing, owning, possessing, receiving, having on or about his person, or using such firearms or ammunition.

541.05. *Owner's identification card required; application, fee and issuance.* (a) No person shall purchase, own, possess, receive, have on or about his person, or use any handgun except upon a suitable firing range, unless such person has a handgun owner's identification card issued to him and in effect pursuant to this section, or unless such person is exempt from the requirements of an identification card pursuant to Section 541.06.

(d) A handgun owner's identification card shall not be issued to any person who is:

(1) A person prohibited by Section 541.03 from purchasing, owning, possessing, receiving, having on or about his person, or using any firearm or ammunition;

(2) A minor;

(3) A person convicted of an illegal use or possession of narcotics;

(4) A person with more than one conviction of being drunk or disorderly within one year prior to his application for such identification card;

(5) Any person with more than one conviction of a misdemeanor involving the use of force and violence, or the threat of the use of force and violence against the person of another within one year prior to his application for such identification card.

(h) A nonresident of the City who owns, manages or operates a business within the City, or whose terms of employment require him to own, possess or have on or about his person a handgun during his employment within the City, or any nonresident of the City passing through the City who complies with the prerequisites of this chapter, may make application for and obtain a handgun owner's identification card pursuant to the provisions of this section.

541.06. *Exemptions.* (4) Nonresidents of the City who are residents of the State of Ohio; provided that such persons are not prohibited by the provisions of Section 541.03 or 541.05, and possess and exhibit upon request such valid permit, authorization, or identification issued by the Chief of Police or the Sheriff of their place of residence to purchase, own, possess, receive, carry or use any handgun, and provided, further, that handguns in the possession of or under the control of nonresidents shall at all times be unloaded and encased, except while on a suitable firing range, or while being used for lawful hunting, or while unloaded at a public firearms display, show or exhibition. The requirements of a valid permit, authorization or identification as required by this subsection shall not apply to a nonresident

*NOTE:—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

who enters the City with firearms for the sole and only purpose of exhibiting or trading such firearms at a public firearms display, show or exhibition, or for the sole and only purpose of participating in an organized and sanctioned pistol match. The permit, authorization or identification provided for in this subsection shall be valid for thirty days only from the date thereof.

(5) Nonresidents of the City moving to this City for the purpose of establishing residence herein, during a period not exceeding thirty days from the date of their entry into this City for such purpose; provided that such persons shall possess and exhibit upon request such valid permit, authorization or identification as may be required by the laws of their former domicile to own, possess, receive or have on or about the person any handgun.

541.07. *Restrictions on sales, purchases and transfers.* (a) No person shall, in the City, purchase or otherwise obtain ownership or possession of, or as security for a loan, any handgun from any person, unless the transferer exhibits a handgun owner's identification card valid on its face, issued to the transferor pursuant to Section 541.05, or unless the transferor exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 541.06.

(b) No person in this City shall sell, deliver, transfer or furnish any handgun to any person in this City unless the transferee exhibits a handgun owner's identification card valid on its face and issued to the transferee pursuant to Section 541.05, or unless the transferee exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 541.06.

(c) Any person in the City who sells, transfers, gives away, or otherwise disposes of a handgun to any other person, shall, within five days following such sale, transfer, gift or other disposition, report the same to the Chief of Police, together with the manufacturer's name of such handgun, the caliber and serial number of such handgun, and if no serial number is contained thereon, an adequate description of the weapon.

541.08. *Dealer's license required: application and issuance.* (a) Every firearms dealer in the City shall procure a license to engage in such business. Any firearms dealer engaged in such business at more than one permanent location in this City shall procure a separate license for each separate permanent location. Application for such license shall be made to the Chief of Police.

(b) Upon application and payment of the fee prescribed in Section 541.09, the Chief of Police shall issue a license to engage in business as a firearms dealer. The Chief of Police shall not issue a license to any applicant whose prior license has been revoked, nor to any applicant who has been convicted of a violation of any section of this chapter until the expiration of five years from the effective date of such revocation or five years from the date of conviction. The Gun Control Appeals Board may authorize the issuance of such a permit within a lesser period of time if an appeal is taken to it under the provisions of Section 541.02. No person, firm or corporation shall be issued a firearms dealer's license who does not meet the qualifications required to secure a handgun owner's identification card. The license issued pursuant to this section shall be prominently displayed by every firearms dealer at his place of business.

Clyde

134.03. *Sale of firearms to minors.* (A) No person shall sell, barter, furnish or give to a minor under the age of 17 years an air gun, musket, rifle shotgun, revolver, pistol or other firearm, or ammunition therefor, or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Columbus

123.02. *Proclamations.* When a state of emergency has been proclaimed as provided in Section 123.01 of the Codes of the City of Columbus Ohio, 1959, any of the officers named therein, acting in accordance therewith, is authorized to issue such proclamations as he deems necessary to protect life and property. Said proclamation may include, but is not limited to, the establishment of curfew prohibiting the sale of beer or intoxicating liquor; prohibiting the sale of firearms; restricting or prohibiting movement into, out of, or within the affected area or areas; or prohibiting or limiting the assemblage of persons.

545.01. *License required; purchase permits.* It shall be unlawful for any person to engage in the business of selling, or to sell, or to give away to any person, within the City, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, nor shall any person doing business as a pawnbroker sell or give away or permit to be redeemed or removed from deposit or pledge, any of the deadly weapons hereinabove mentioned, without securing a license to do so. No person having secured such a license shall sell or give away, or permit to be redeemed or removed from deposit or pledge, any such weapon unless the person so purchasing, acquiring, redeeming or removing such property shall have secured a permit from the Director of Public Safety to purchase, acquire, redeem or remove such weapon * * *.

545.02. *License application; fee.* Any persons desiring a license authorizing the sale, disposition or redemption, or removal from deposit or pledge, of any of the deadly weapons mentioned in C.C. 545.01 shall make application in writing to the Director of Public Safety, setting out in such application the full name and residence of the applicant, if an individual, and if a firm or corporation, the names and residences of each of its members or officers. Such application shall also set out the location at which it is intended or desired to conduct such business. Upon the receipt of such application, it shall be the duty of the Director of Public Safety to issue a license to the applicant upon his payment to the City Treasurer of the annual license fee of five dollars ($5.00).

545.05. *Purchase permit applications;* * * *. It shall be unlawful for any person to purchase, or redeem, or remove from deposit or pledge, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character which can be concealed on the person, without first securing from the Director of Public Safety a permit to do so. * * *.

545.06. *Prohibited permittees; fees.* It shall be the duty of the Director of Public Safety to refuse the permit required by C.C. 545.05 to the following persons:

(a) All persons having been convicted of any crime.

(b) All vagabonds; and

(c) All minors.

Otherwise it shall be the duty of the Director of Public Safety to grant such permit upon the payment of a fee of one dollar ($1.00).

2323.01. *Definitions.* As used in Title 23, Chapter 2323 of the Columbus City Codes:

(A) "Deadly Weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(B) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(C) "Handgun" means any firearm designed to be fired while being held in one hand.

(D) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(E) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges.

(F) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(G) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device, or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried, or used as a firearm.

(H) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arrange so as to explode.

(I) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(J) "Dangerous ordnance" means any of the following, except as provided in division (K) of this section:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

2323.05. *Possession of dangerous ordnance* (A) No person shall knowingly acquire, have, carry, or use any dangerous ordnance.

(B) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry, or use dangerous

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handguns, ammunition to persons under twenty-one (21) years of age.

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ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers, and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable federal law;

(3) Importers, manufacturers, and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used under the laws of this state and applicable federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685, and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen, and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 2923.18 of the Revised Code, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used for the purposes and in the manner specified in such license or permit.

(C) Whoever violates this section is guilty of unlawful possession of dangerous ordnance, a misdemeanor of the first degree.

Cortland

1. That any person not a citizen of the United States and not registered under a similar registration act residing or entering the Village of Cortland be and hereby is required to register with and furnish fingerprints to the Mayor • • •.

2. It shall be unlawful for such non-citizen to purchase, carry or possess any firearm or other dangerous weapon and such firearms or dangerous weapon shall be delivered forthwith to the Mayor and by him impounded for a period of two years.

Cuyahoga Falls

545.08. *Sale of explosives to minors.* No person shall sell, give away or otherwise dispose of or deliver to any person under twenty-one years of age any explosives, as defined in Ohio R. C. 3743.01(A), whether such person is acting for himself or for any other person.

545.10. *Possession of firearms by certain persons prohibited.* (a) Definitions. (1) "Firearms" means any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of expanding gases, but shall not include any weapon not designed to fire or capable of firing fixed cartridge or fixed shotshell ammunition. (2) "Pistol" means any firearm with a barrel less than twelve inches in length. (3) "Manufacturer" or "dealer" means any person engaged in the business of manufacturing, repairing or selling firearms at wholesale or retail. (4) "Fugitive from justice" means any person who has fled or is fleeing from any law enforcement officer to avoid prosecution or incarceration for a felony or to avoid giving testimony in any criminal proceeding. (5) "Subversive organization" means any group, committee, club, league, society, association or combination of individuals, the purpose of which or one of the purposes of which is the establishment, control, conduct, seizure, or overthrow of the Government of the United States or of any state or political subdivision thereof, by the use of force, violence, military measures or threats of one or more of the foregoing.

(b) Possession prohibited. (1) No person who has been convicted of a felony in any court of the United States, the several states, territories, possessions, commonwealth, countries or the District of Columbia, or who is a fugitive from justice, or of unsound mind, or a drug addict or an habitual drunkard, shall possess a firearm within the City. (2) No person who is a member of a subversive organization shall possess a firearm within the City. (3) No person under the age of eighteen shall possess a pistol. The provisions of this subsection (b)(3) do not apply to the issuance of pistols to members of the Armed Forces of the United States, active or reserve, State Militia or ROTC, when on duty or training, or to the temporary loan of pistols for instruction under the immediate supervision of a parent or guardian or adult instructor.

545.11 *Sales and transfers regulated.* (a) No person shall receive, possess, sell, lease or otherwise transfer any pistol from which the manufacturer's serial numbers or letters have been removed.

(b) No manufacturer or dealer, except a manufacturer or dealer having a license issued under the provisions of Section 545.12, shall sell any firearm at wholesale or retail.

(c) No person shall sell, lease, lend or otherwise transfer a firearm to any person whom he knows or has reasonable cause to believe has been convicted of a felony, or who is a fugitive from justice, of unsound mind, a drug addict, an habitual drunkard or a member of a subversive organization.

(d) When delivered, all pistols must be securely wrapped and must be unloaded.

(e) No person shall sell, lease, lend or otherwise transfer a pistol to any person under seventeen years of age except as provided in Section 545.10.

545.12. *Manufacturers' and dealers' licenses* • • •. Application for a manufacturer's or dealer's license shall be made to the Safety Director of the City on forms prescribed and furnished by the City. • • •.

545.13 *False information prohibited.* (a) No person in applying for a license as a manufacturer or dealer shall give false information or offer false evidence of his identity.

(b) No person shall give false information concerning the matters referred to in Section 545.10 or concerning his age or his name and address, or offer false evidence of his identity when purchasing a pistol.

Dayton

13-101. *Definitions.* (A) "Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(B) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(C) "Handgun" means any firearm designed to be fired while being held in one hand.

(D) "Semi-automatic Firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(E) "Automatic Firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic Firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges.

(F) "Sawed-off Firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(G) "Zip-Gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device, or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried, or used as a firearm.

(H) "Explosive Device" means any device designated or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive Device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(I) "Incendiary Device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(J) "Dangerous Ordnance" means any of the following, except as provided in Division (K) of this section:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(K) "Dangerous Ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued for as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887. Has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in Division (K)(3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio, or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

13-105. *Unlawful transactions in weapons.* (A) No person shall: • • • (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 13-105 of the General Offense Code or 2923.17 of the Ohio Revised Code, • • •.

13-107. *Improperly furnishing firearms to a minor.* (A) No person shall: (1) Sell any firearm to a person under age eighteen; (2) Sell any handgun to a person under age twenty-one; (3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or markmanship under the supervision or control of a responsible adult.

1036-6. *Possession of explosive, flammable devices regulated.* No person shall make, use, or possess on his person or have under his control, a molotov cocktail or any other explosive device containing flammable, combustible, or explosive material or substance which can be used as a fire bomb either by igniting the fuse, and/or breaking the device; provided, however, any person engaged in any lawful activity, business, calling, employment, or occupation requiring him to have such a device or such material or substance in his possession or under his control is hereby exempt from the operation of this section.

East Cleveland

545.11. *Definitions.* (a) "Firearms" means any weapon, including a handgun, by whatever name known, or the barrel, receiver, or any part of the firing mechanism of such weapon, which is designed to eject or propel a projectile by the action of an explosive or combustible propellant, but does not include inoperable firearms which cannot be rendered operable.

(b) "Handgun" means any pistol, revolver or other firearm, having a barrel not exceeding twelve (12) inches in length, measured by the insertion therein of a rod with the receiver or slide closed, but does not include handguns designed and safe only for use with black powder.

(c) "Firearms dealer" means any person, firm or corporation regularly engaged in the business of selling or trading firearms or ammunition at wholesale or retail within the limits of the City of East Cleveland, whether as the principal business of such person, firm or corporation, or in addition thereto.

(d) "Fugitive from justice" means a person who flees, escapes from custody, conceals or attempts to use any other unlawful means to avoid prosecution or punishment for a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect.

(e) "Resident" means any person who has a factual place of residence within the limits of the City of East Cleveland, Ohio.

(f) "Nonresident" means any person who does not have a factual place of residence within the limits of the City of East Cleveland, Ohio.

(g) "Minor" means any person under the age of twenty-one (21) years.

545.12. *Prohibitions.* (a) No person shall purchase, own, possess, receive, have on or about his person, or use any firearm or ammunition, if such person is a fugitive from justice or is under adjudication of mental incompetence.

(b) No person shall purchase, receive, have on or about his person, or use any firearm or ammunition while under the influence of alcohol, any narcotic drug, hallucinogen, or other dangerous drug.

(c) No person shall purchase, own, possess, receive, have on or about his person, or use any handgun or handgun ammunition if such person has been convicted of a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect, provided, however, such person shall be eligible to possess, purchase, own, receive or have on or about his person or use a handgun or handgun ammunition after ten (10) years have elapsed from the date or completion of any sentence, probationary period or parole imposed upon such person so convicted.

(d) No person shall knowingly sell, transfer, give, deliver or furnish any firearms or ammunition to any person prohibited by this section from purchasing, owning, possessing, receiving, having on or about his person, or using such firearm or ammunition.

545.14. *Identification card required—registration of handguns required.* (a) No person shall purchase, own, possess, receive, have on or about his person, or use any handgun except upon a suitable firing range, unless such person has a handgun owner's identification card issued to him and in effect pursuant to this section, or unless such person is exempt from the requirements of an identification card pursuant to Section 545.15 of the Codified Ordinances of the City of East Cleveland, Ohio.

(f) A handgun owner's identification card shall not be issued to any person who is:

(1) A person prohibited by Section 545.12 of the Codified Ordinances of the City of East Cleveland, Ohio, from purchasing, owning, possessing, receiving, having on or about his person, or using any firearm or ammunition;

(2) A minor;

(3) A person convicted of an illegal use or possession of narcotics;

(4) A person with more than one (1) conviction of being drunk or disorderly with one (1) year prior to his application for such identification card;

(5) Any person with more than one (1) conviction of a misdemeanor involving the use of force and violence, or the threat of the use of force and violence against the person of another within one (1) year prior to his application for such identification card.

(k) A nonresident of the City who owns, manages or operates a business within the City, or whose terms of employment require him to own, possess or have on or about his person a handgun during his employment within the City, or any nonresident of the City passing through East Cleveland who complies with the prerequisites of this ordinance may make application for and obtain a handgun owner's identification card pursuant to the provisions of this section.

545.15 *Exemptions.* (a) The requirements of a handgun owner's identification card contained in Section 545.14 of the Codified Ordinances of the City of East Cleveland do not apply to the purchase, ownership, possession, receipt, having on or about the person, or use of any handgun or handgun ammunition by:

(4) Nonresidents of the City of East Cleveland who are residents of the State of Ohio; provided that such persons are not prohibited by the provisions of Sections 545.12 or 545.14 of the Codified Ordinances of the City of East Cleveland, and possess and exhibit upon request such valid permit, authorization, or identification issued by the Chief of Police or the Sheriff or their place of residence to purchase, own, possess, receive, carry, or use any handgun, and provided, further, that handguns in the possession of or under the control of nonresidents shall at all times be unloaded and encased, except while on a suitable firing range, or while being used for lawful hunting, or while unloaded at a public firearms display, show or exhibition. The requirements of a valid permit, authorization or identification as required by this subsection shall not apply to a non-resident who enters the City with firearms for the sole and only purpose of exhibiting or trading said firearms at a public firearms display, show or exhibition, or for the sole and only purpose of participating in an organized and sanctioned pistol match. The permit, authorization or identification provided for in this sub-section shall be valid for thirty (30) days only from the date thereof.

(5) Nonresidents of the City of East Cleveland, Ohio moving to this City for the purpose of establishing residence herein, during a period not exceeding thirty (30) days from the date of their entry into this City for such purpose; provided that such persons shall possess and exhibit upon request such valid permit, authorization, or identification as may be required by the laws of their former domicile to own, possess, receive, or have on or about the person any handgun.

545.16 *Further prohibitions—Sales—Purchases—Transfers.* (a) No person in this City shall purchase or otherwise obtain ownership or possession of, or as security for a loan, any handgun from any person, unless the transferor exhibits a handgun owner's identification card valid on its face, issued to the transferor pursuant to Section 545.14 of the Codified Ordinances of the City of East Cleveland, Ohio, or unless the transferor exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 545.15 of the Codified Ordinances of the City of East Cleveland, Ohio.

(b) No person in this City shall sell, deliver, transfer, or furnish any handgun to any person in this City unless the transferee exhibits a handgun owner's identification card valid on its face and issued to the transferee pursuant to Section 545.14, or unless the transferee exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 545.15 of the Codified Ordinances of the City of East Cleveland, Ohio.

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(c) No person in this City shall sell, transfer, give away, or otherwise dispose of a handgun to any other person unless, within five (5) days following said sale, transfer, gift, or other disposition, he shall report same to the Chief of Police of the City of East Cleveland, together with the manufacturer's name of said handgun, the caliber and serial number of said handgun, and if no serial number is contained thereon, an adequate description of the weapon.

545.17. *Dealers license.* (a) Every firearms dealer in this City shall procure a license to engage in such business. Any firearms dealer engaged in such business at more than one permanent location in this City shall procure a separate license for each such permanent location. Application for such license shall be made to the Chief of Police.

(b) Upon application and payment of the fee prescribed in Section 545.18 of the Codified Ordinances of the City of East Cleveland, Ohio, the Chief of Police shall issue a license to engage in business as a firearms dealer. No license shall be issued to any applicant whose license has been revoked nor to any applicant who has been convicted of a violation of any section of this ordinance until the expiration of five (5) years from the effective date of such revocation or five (5) years from the date of conviction. No person, firm or corporation shall be issued a firearms dealer's license who does not meet the qualifications of a handgun owner's identification card. The license issued pursuant to this section shall be prominently displayed by every firearms dealer at his place of business.

(c) Ninety (90) days after the adoption of this ordinance, no person, firm, or corporation shall engage in business as a firearms dealer in this City without a license as provided by this section. Each day of continuing violation of this section shall be deemed a separate offense.

East Lake

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) when transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05. • • •

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall: (1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Elyria

757.01. *Permit required for purchases.* No person shall purchase in the City any pistol, revolver, bowie knife, dirk, blackjack or other weapon of like character which can be concealed on the person without first securing from the Chief of Police a permit to do so.

757.03. *Conditions for granting permits.* The Chief of Police shall refuse to grant such a permit to:

(a) Persons convicted of any crime

(b) Vagabonds; and

(c) Minors under the age of seventeen years.

Otherwise the Chief of Police shall grant such permit, as provided in this chapter.*

757.05. *Sales to persons without permits.* No person shall sell to any person within the City any pistol, revolver, bowie knife, dirk, blackjack or other weapon of like character which can be concealed on the person unless the person to whom such weapon is sold presents to such person selling the same a permit properly signed by the Chief of Police, and such sale shall be unlawful unless made within fifteen days from the date of the signing of such permit by the Chief of Police, and such sale shall be unlawful unless such person makes and files a report of such sale with the Chief of Police as provided in this chapter.

Englewood

11. *Firearms sold to minors:* It shall be unlawful for any dealer in firearms in said Village to sell any revolver or other pistol of any kind whatever to any minor or minors.

Euclid

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age.*

751.01. *Permit to dispose of concealable weapons.* It shall be unlawful for any person to engage in the business of selling, or to sell or give away to any person within the city, any pistol, revolver, derringer, bowie knife, dirk, or other weapon of like character, which can be concealed on the person, without securing a permit to do so; • • • and no person having secured such a permit, shall sell or give away any such weapon to any person within this City who has not secured a permit from the Chief of Police to purchase such.

751.05. *Permit to purchase concealable weapons.* It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk, or other weapon of like character, which can be concealed on the person, without first securing from the Chief of Police a permit to do so.

Fairview Park

532.01. *Permit to dispose of concealable weapons.* It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell or give away to any person, within the city, any pistol, hand gun, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without securing a permit to do so, as hereinafter provided, and no person, firm or corporation having secured such a permit, shall sell or give away any such weapon to any person within this city who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

532.02. *Application for license.* Any person, firm or corporation desiring a license authorizing the sale of any of the deadly weapons mentioned in the preceding section shall make application in writing to the Chief of Police • • •.

532.05. *Sale of firarms or ammunition to minors.* No person, firm or corporation shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol, hand gun, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Nothing in this Section shall be deemed to prohibit or render it unlawful to possess, use, or furnish for use any such firearm, together with such ammunition as is necessary, for the purpose of receiving and being given instructions and training in marksmanship and the proper handling, use and care of such firearms on any suitable range, which, at the time of such instruction and use, is under the supervision and control of a competent adult instructor provided that the giving of such instructions and the training is supervised by an organization or association which has been and continues to be approved for this purpose by the Adjutant General or provided that such Instructor is the parent of the person receiving such instruction.

532.07. *Permit to purchase concealable weapons.* It shall be unlawful for any person to purchase any pistol, hand gun, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the Chief of Police a permit so to do. • • •.

532.08. *Duties of Chief of Police.* It shall be the duty of the Chief of Police to refuse such permit to: (a) All persons having been convicted of a felony; (b) All persons having been convicted of a misdemeanor involving moral turpitude or convicted of assault and battery; (c) All minors; • • •.

Findlay

49.5. *No firearms, etc., for minors under seventeen.* It shall be unlawful for any person or persons, in the city, to sell, barter, furnish or give to a minor under the age of seventeen years, a resident of the city, an air-gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Franklin

672.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other military piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or re-enactment thereof, and regulations issued thereunder. (ORC 2923.11)

672.05 *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07. *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties.

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date or issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.09 *Unlawful transactions in weapons.* (a) No person shall:

(1) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality;

(3) Knowingly fail to report to the Police Department forthwith the loss or theft of any firearm or dangerous ordnance in such person's possession or under his control.

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672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Galion

549.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containnig an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; * * *

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or addition thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections.

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder;

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.08 *Unlawful transactions in weapons.* (a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05.

549.08. *Unlawful transactions in weapons, minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Green Springs

38.12. *Sale of explosives to minors.* It shall be unlawful to sell, offer for sale or give away to a minor any explosive cap, cartridge, shell, guncotton or other similar article containing explosives."

Greenville

509.03. *Sale of firearms.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

This section is not applicable to a minor under the age of seventeen years who is hunting in accordance with Ohio Revised Code 1533.13, or to persons exempted under Ohio Revised Code 2903.07.

Grove City

131.06. *Sale of firearms to minors.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age. This section is not applicable to a minor under the age of seventeen years who is hunting in accordance with Section 1533.13 of the Revised Code.*

Hamilton

729.01. *Record of sale.* It shall be unlawful to sell any firearm, dagger, stiletto, brass or iron knuckles, or billy, unless at the time of such sale the vendor records in a book to be kept for that purpose:

(a) The name and address of the purchaser;

(b) The purpose for which the purchase is made;

(c) The date of such purchase and the hour when such purchase was made;

(d) An accurate description of the item purchased, the number thereof, and the name of the maker thereof;

(e) A description of the purchaser, which description shall set forth his age, his height, the color of his hair, and color of his eyes, and any other identifying marks or characteristics;

(f) A description of the clothing worn by the purchaser;

(g) A description of all visible scars or marks on the face and hands of the purchaser, and of any apparent deformity; and

(h) Whether the purchaser is smooth shaven or wears a mustache, a beard, a goatee, or side whiskers.

729.03. *Sale to minors.* It shall be unlawful to sell any weapon enumerated in Section 729.01 to any person under the age of twenty-one years.

729.04. *Dangerous weapons dealers license.* A license is hereby required, to be obtained in the manner provided in this code, for every dangerous weapons dealer operating in the City of Hamilton.

1309.01. *Identifying marks on weapons.* It shall be unlawful to change, alter, remove, or destroy the name of maker, model, manufacturer's number, or other mark of identification or to sell any dangerous weapon, or to keep or have in possession dangerous weapon capable of use, on which any such mark of identification has been changed, altered, removed, or destroyed, to the knowledge of the person having or selling such weapon.

1315.18. *Possession of explosive, flammable devices regulated.* No person shall make, use, or possess on his person or have under his control, a molotov cocktail or any other explosive device containing flammable, combustible, or explosive material or substance which can be used as a fire bomb either by igniting the fuse and/or breaking the device; provided, however, any person engaged in any lawful activity, business, calling, employment, or occupation requiring him to have such a device or such material or substance in his possession or under his control is hereby exempt from the operation of this section.

Hilliard

134.01. *Definitions.* (A) "Deadly weapon" means any instrument, device, or thing capable of expelling or propelling one or more specially adapated for use as a weapon, or possessed, carried, or used as a weapon.

(B) "Firearm" means any deadly weapon capable of inflicting death, and designed or projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(C) "Handgun" means any firearm designed to be fired while being held in one hand.

(D) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single funtcion of the trigger.

(E) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges.

(F) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(G) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device, or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carrier, or used as a firearm.

(H) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency nad a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(I) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(J) "Dangerous ordnance" means any of the following, except as provided in division (K) of this section:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(K) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (K)(3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio, or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

134.04. *Possession of dangerous ordnance.* (A) No person shall knowingly acquire, have, carry, or use any dangerous ordnance.

(B) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry, or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers, and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers, and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purpose specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder;

(6) Carriers, warehousemen, and others engaged in business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to section 2923.18 of the Revised Code, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used for the purposes and in the manner specified in such license or permit.

(C) Whoever violates this section is guilty of unlawful possession of dangerous ordnance, a misdemeanor of the first degree.

Hillsboro

131.06. *Sale of firearms to minors.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.

This section is not applicable to a minor

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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under the age of seventeen years who is hunting in accordance with section 1533.13 of the Revised Code.

Independence

589.01 *License to dispose of concealable weapons.* It shall be unlawful for any person, firm or corporation to engage in the business of selling within the city, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without securing a license so to do, as hereinafter provided, and no person, firm or corporation having secured such a permit, shall sell or give away any such weapon except in strict accordance with all municipal, state and federal laws pertaining to firearms.

589.06. *Sale of firearms or ammunition to minors.* No person, firm or corporation shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Nothing in this section shall be deemed to prohibit or render it unlawful to possess, use, or furnish for use any such firearms, together with such ammunition as is necessary, for the purpose of receiving and being given instructions and training in marksmanship and the proper handling, use and care of such firearms on any suitable range, which, at the time of such instruction and use, is under the supervision and control of a competent adult instructor, provided that the giving of such instruction and the training is supervised by an organization or association which has been and continues to be approved for this purpose by the Chief of Police, or provided that said instructor is the parent of the person receiving such instructions.

Ironton

134.3. *Sale of firearms to minors.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, b/b gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or, being the owner, or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Kent

549.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; * * *

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections:

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

549.07. *Unlawful transactions in weapons.* (a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05, * * *

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

549.13. *License to sell weapons.* (a) No person shall engage in the business of selling, or sell or give away to any person within the City, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without securing a license to do so as provided in Section 549.14 and no person having

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

secured such a license, shall sell or give away any such weapon to any person within this City who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

549.14. *Application for license.* Any person desiring a license authorizing the sale of any of the deadly weapons mentioned in Section 549.13 shall make application in writing to the Mayor, setting out in such application the full name and residence of the applicant, if an individual, and if a firm or corporation, the name and residence of each of its members or officers. Such applicant shall also set out the location at which it is intended or desired to conduct such business. Upon the receipt of such application it shall be the duty of the Mayor to issue a license to the applicant.

549.17 *Application for permit to buy weapon.* (a) No person shall purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the Chief of Police a permit to do so.

549.18. *Issuance of permit to buy weapon.* The Chief of Police shall refuse to issue a permit to purchase any weapon mentioned in Section 549.17 to all persons who have been convicted of any crime to vagabonds and minors. Otherwise he shall issue the permit.

Kenton

672.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon is issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or re-enactment thereof, and regulations issued thereunder.

672.05. *Unlawful possession of dangerous ordnance.*

(a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder;

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07. *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Safety Director or Police Chief of the Municipality. The application shall be accompanied by an application fee of fifty dollars ($50.00) when the application is for a license, and an application fee of five dollars ($5.00) when the application is for a temporary permit. The fees shall be paid into the General Fund of the Municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he is a natural person, or the name, address and

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principal place of business of the applicant, if the applicant is a corporation;

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.09. *Unlawful transactions in weapons.* (a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality;

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Lakewood

549.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

549.07. *Unlawful transactions in weapons.*

(a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05, • • •

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult. • • •

549.13. *License to sell weapons.* (a) No person, firm or corporation shall engage in the business of selling, or sell or give away to any person, within the City, any deadly weapon which can be concealed on the person, without securing a license to do so as hereinafter provided, and no person, firm or corporation having secured such a license shall sell or give away any such weapon to any person within this City who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

549.17. *Permit to purchase weapons; application.* (a) No person shall purchase any deadly weapon which can be concealed on the person without first securing from the Chief of Police a permit to do so. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification, of the person desiring such permit. Such application shall also contain a recommendation, that the permit shall issue, from two persons who shall be known to the Chief of Police as persons of good reputation and residents of the City at least one year or who are taxpayers residing within the City.

Lancaster

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age.*

Lima

993.05. *Authority of Mayor in case of riot.* When there is, in the opinion of the Mayor a tumult, riot, mob or body of men acting together with the intent to commit a felony or to do or offer to do violence to person or property and resist the laws of the State within the corporate limits or there is reasonable apprehension thereof, the Mayor may issue his proclamation prohibiting the traffic in, sale, giving away or furnishing of firearms, ammunition and explosives to any person within the City. Upon the issuance of the proclamation, it shall be unlawful for any person to traffic in, sell, give away or furnish firearms, ammunition or explosives of whatsoever kind to any person within the corporate limits.

993.07. *Selling weapons to minors.* It shall be unlawful for any person to sell, barter, furnish or give to a minor under the age of seventeen years, an air-gun, B-B gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly to permit it to be used by a minor under such age.*

Lockland

114.04. *Firearms trade.* No pawnbroker or second-hand dealer shall sell, pawn, take in trade, loan money on or deal in firearms.

136.03. *Sale of firearms to minors.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Lorain

549.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" means without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

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*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder;

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05, • • •

549.08 *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Loudonville

672.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(3) Nitroglycerin; nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives, amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employes a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or re-enactment thereof, and regulations issued thereunder.

672.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law.

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07. *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Safety Director or Police Chief of the Municipality. The application shall be accompanied by an application fee of fifty dollars ($50.00) when the application is for a license, and an application fee of five dollars ($5.00) when the application is for a temporary permit. The fees shall be paid into the General Fund of the Municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he is a natural person, or the name, address and principal place of business of the applicant, if the applicant is a corporation;

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.08. *Failure to secure dangerous ordnance.* (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

672.09. *Unlawful transactions in weapons.* (a) No person shall: • • •

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, • • •

672.10 *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Lyndhurst

529.03 *Sale of firearms to minors.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Mansfield

13-106. *Unlawful transactions in weapons.* (A) No person shall: • • •

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to section 13-105 of the general offense code or 2923.17 of the Ohio revised code, • • •

13-107. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

Marietta

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age.*

This section is not applicable to a minor under the age of seventeen years who is hunting in accordance with Ohio R. C. 1533.13 or to persons exempted under Ohio R. C. 2903.07.

Marion

546.06. *Unlawful transactions in weapons.* (A) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 546.05 of The General Offense Code or 2923.17 of The Ohio Revised Code, • • •.

546.07. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

Marysville

131.06. *Sale of firearms to minors.* No person shall sell, barter, furnish, or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor • • •.

Mayfield Heights

549.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adopted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(3) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry, or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections:

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05, • • •.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

549.13. *Sale license, purchase permit required.* (a) No person shall sell, offer to sell, exhibit for sale or engage in the business of selling firearms, air guns, B-B guns or similar weapons, ammunition or explosives without first securing a license to do so from the Chief of Police, as provided in Section 549.14. No person shall sell any weapon or other article as herein defined, which is concealable on the person, to any person within the City who has not secured a permit from the Chief of Police to purchase such weapon, in the manner provided in Section 549.15.

549.14. *License application information; fee and renewal.* Any person desiring a license authorizing the sale of any of the weapons or other articles mentioned in Section 549.13, shall make application in writing to the Chief of Police, upon forms supplied by him, setting forth the full name and residence of the applicant, if an individual, and if a firm or corporation, the full name and residence of each of its members or officers, and any person owning ten percent or more of the outstanding capital stock, and further setting forth the location at which it is intended or desired to conduct such business.

549.15. *Permit application information; fee and disposition.* (a) No person shall purchase a particular weapon or other article as specified in Section 549.13, concealable on the person, without first securing a permit to do so. Before any such permit is granted, an application in writing shall be made to the Chief of Police, on forms to be supplied by him, setting forth the name, residence, age, height, weight and other pertinent information for identification of the person desiring such permit, including fingerprints, if requested, by the Chief of Police. Such application shall be accompanied by a fee of one dollar ($1.00) and upon issuance shall be valid for the purchase of one particular weapon therein described. Such permit shall be given to and collected by the seller, and filed with the City in the seller's report of sales of such weapons.

549.16. *License or permit refusal.* It shall be the duty of the Chief of Police to refuse a license to engage in the business of selling or a permit to purchase any weapon or other article mentioned in Section 549.13 to any person who has been convicted of any crime other than a traffic offense, to any vagrant, any suspicious person, any minor under the age of eighteen years generally or any person who has violated a provision of this chapter during the preceding year.

Moraine

134.05. *Selling firearms to minors.* No pawnbroker or dealer in firearms in the city shall sell any revolver or other pistol or any kind whatsoever to any minor.*

Newburgh Heights

1. *Permit to dispose of concealable weapons.* It shall be unlawful for any person, firm or corporation to engage in the business of selling, or to sell or give away to any person, within the Village, any pistol, hand gun, revolver, derringer, bowie knife, dirk, or other weapon of like character, which can be concealed on the person, without securing a permit to do so, as hereinafter provided, and no person, firm or corporation having secured such a permit, shall sell or give away any such weapon to any person within this village who has not secured a permit from the Chief of Police to purchase such weapons in the manner hereinafter provided.

5. *Sale of firearms or ammunition to minors.* No person, firm or corporation shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle shotgun, revolver, pistol, hand gun, or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

8. *Permit to purchase concealable weapons.* It shall be unlawful for any person to purchase any pistol, hand gun, revolver, derringer, bowie knife, dirk or other weapon of like character ,which can be concealed on the person, without first securing from the Chief of Police a permit to do so.

9. *Permit of the chief of police.* It shall be the duty of the Chief of Police to refuse such permit to. (a) All persons having been convicted of a felony; (b) All persons having been convicted of a misdemeanor involving moral turpitude or convicted of assault and battery; (c) All minors.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

North Canton

131.06. *Sale of firearms to minors.* (A) No person shall sell, barter, furnish or give to a minor under the age of seventeen years, an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age • • •.*

134.14. *Sale of explosives to minor.* No person shall sell, offer to sell or give away to a minor, any explosive cap, cartridge, shell, guncotton or other similar article containing explosives.

North Royalton

545.10. *Sale or gift of concealable firearms.* No person shall sell, barter, furnish or give to any other person any pistol, revolver, derringer or other firearm of like character and caliber, which can be concealed on the person, without providing the Chief of Police with a copy of the United States Department of the Treasury Form 4473, at least seventy-two hours prior to such purchaser or donee taking possession of such firearm.

Olmstead Falls

672.07. *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Safety Director or Police Chief of the Municipality. The application shall be accompanied by an application fee of fifty dollars ($50.00) when the application is for a license, and an application fee of five dollars ($5.00) when the application is for a temporary permit. The fees shall be paid into the General Fund of the Municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he is a natural person, or the name, address and principal place of business of the applicant, if the applicant is a corporation;

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.08. *Failure to secure dangerous ordnance.* (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

672.09. *Unlawful transactions in weapons.* (a) No person shall: • • •

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, • • •

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Ontario

672.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece

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which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordinance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921 (A)(4), and any amendments or additions thereto or re-enactment thereof, and regulations issued thereunder.

672.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07. *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Safety Director or Police Chief of the Municipality. The application shall be accompanied by an application fee of fifty dollars ($50.00) when the application is for a license, and an application fee of five dollars ($5.00) when the application is for a temporary permit. The fees shall be paid into the General Fund of the Municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he is a natural person, or the name, address and principal place of business of the applicant, if the applicant is a corporation;

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.08. *Failure to secure dangerous ordnance.* (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

672.09. *Unlawful transactions in weapons.* (a) No person shall:

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality;

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Orrville

549.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder;

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to section 549.05, * * *.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall: (1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Parma

553.08. *Sale of explosives, firearms and ammunition to minors.* (a) No person shall sell, give away or otherwise dispose of or deliver to any person under twenty-one years of age any explosives, as defined in Ohio R.C. 3743.01 (A), whether such person is acting for himself or for any other person.

(b) No person shall sell, give, barter or otherwise dispose of any air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, to a minor under the age of seventeen years.*

787.01. *Definition.* As used in this chapter, "person" means individual persons, firms or corporations.

787.02. *Sales license and purchase permit required.* No person shall engage in the business of selling, or sell or give away to any person, or barter or exchange with any person, within the City, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character which can be concealed on the person, without securing a license to do so as hereinafter provided. No person, having secured a license, shall sell, give away, barter or exchange any weapon to any person within the City who has not secured a permit from the Director of Public Safety to purchase or otherwise receive such weapon in the manner hereinafter provided.

787.06. *Purchase permit; application information.* No person shall purchase or receive as donee or as one who barters or exchanges, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character which can be concealed on the person, without first securing from the Director of Public Safety a permit to do so. Before any permit is granted, an application in writing shall be made therefor, setting forth in the application the name, address, age, height, weight, complexion, nationality and other elements of identification of the person desiring the permit. The application shall also contain a recommendation that the permittee is known to the Chief of Police as a person of good reputation and a resident of the City for at least one year, or who appears to be a taxpayer residing within the City.

787.08. *Purchase permits restricted.* It shall be the duty of the Director of Public Safety to refuse a purchase permit to:

(a) All persons having been convicted of any felony;

(b) All vagabonds;

(c) All minors under the age of seventeen years.*

Otherwise, it shall be the duty of the Director to grant such permit.

Parma Heights

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age. * * *.*

Perrysburg

511.06. *Unlawful transactions in weapons.* (A) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit show-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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ing him to be authorized to acquire dangerous ordnance pursuant to section 511.05 of the Codified Ordinances of the City or 2923.17 O.R.C., or * * *.

511.07. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult. * * *

Pleasant Hill

38.10. *Sale of explosives to minors.* It shall be unlawful to sell, offer for sale or give away to a minor any explosive cap, cartridge, shell, guncotton or other similar article containing explosives.

Portsmouth

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age.*

This section is not applicable to a minor under the age of seventeen years who is hunting in accordance with Ohio R. C. 1533.13 or to persons exempted under Ohio R. C. 2903.07.

705.32. *Dealers in firearms and ammunition;* * * *. All dealers in guns, revolvers, pistols, firearms, ammunition for firearms or dangerous weapons shall pay a license fee of ten dollars ($10.00) per annum.

Ravenna

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age. * * *.*

Reading

65–82–I. No person shall sell, barter, furnish, or give to a minor under the age of 17 years, an air gun, musket, rifle, shotgun, revolver, pistol, or other firearm, or ammunition therefor, * * *.*

Sandusky

13–106. *Unlawful transactions in weapons.* (A) No person shall: * * * (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 13–105 of the General Offense Code or 2923.17 of the Ohio Revised Code, * * *

13–107. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

Shaker Heights

709.04. *Definitions.* (a) *"Chief of Police"* means the Chief of Police of the City of Shaker Heights or his duly authorized agents.

(b) *"Encased"* means enclosed in a case, container or receptacle, designed and constructed specifically for the purpose of enclosing a firearm, but shall not include a holster for a pistol or revolver.

(c) *"Firearm"* means any weapon, including a handgun, by whatever name known, or the barrel, receiver, or any part of the firing mechanism of such weapon, which is designed to eject or propel a projectile by the action of an explosive or combustible propellant, but does not include inoperable firearms which cannot be rendered operable.

(d) *"Handgun"* means any pistol, revolver or other firearm, having a barrel not exceeding twelve (12) inches in length, measured by the insertion therein of a rod with the receiver or slide closed, but does not include handguns designed and safe only for use with black powder.

(e) *"Firearms dealer"* means any person, firm or corporation, regularly engaged in the business of selling or trading firearms or ammunition at wholesale or retail within the limits of the City of Shaker Heights whether as the principal business of such person, firm or corporation, or in addition thereto.

(f) *"Fugitive from justice"* means a person who flees, escapes from custody, conceals or attempts to use any other unlawful means to avoid prosecution or punishment for a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect.

(g) *"Resident"* means any person who has a factual place of residence within the limits of the City of Shaker Heights, Ohio.

(h) "Nonresident" means any person who does not have a factual place of residence within the limits of the City of Shaker Heights, Ohio.

(i) "Minor" means any person under the age of twenty-one (21) years.

709.07. *Prohibitions.* (a) No person shall purchase, own, possess, receive, have on or about his person, or use any firearm or ammunition, if such person is a fugitive from justice or is at that time under court adjudication for mental incompetence, or has been committed to a mental institution, hospitalized, or has received hospital treatment for any mental disorder, alcoholism or narcotic addiction within the previous ten (10) years, unless a doctor indicates in writing that such person is completely recovered and sufficiently stable to own or possess a firearm or ammunition.

(b) No person shall purchase, receive, have on or about his person, or use any firearm or ammunition while under the influence of alcohol, any narcotic drug, hallucinogen, or other dangerous drug.

(c) No person shall purchase, own, possess, receive, have on or about his person, or use any firearm or ammunition if such person has been convicted of a felony involving the use or threat of use of force or violence against the person of another under the laws of this City, the State of Ohio, or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect, provided, however, such person shall be eligible to possess, purchase, own, receive or have on or about his person or use a handgun or handgun ammunition after ten (10) years have elapsed from the date of completion of any sentence, probationary period or parole imposed upon such person so convicted.

(d) No person shall knowingly sell, transfer, give, deliver or furnish any firearms or ammunition to any person prohibited by this section from purchasing, owning, possessing, receiving, having on or about his person, or using such firearms or ammunition.

709.09. *Identification card required.* (a) No person shall purchase, own, possess, receive, have on or about his person, or use any handgun except upon a suitable firing range, unless such person has a handgun owner's identification card issued to him and in effect pursuant to this section, or unless such person has been issued a permit to carry a firearm pursuant to Section 709.18 of the Codified Ordinances, or unless such person has been issued a Dealer's License pursuant to Section 709.11 of the Codified Ordinances, or unless such person is exempt from the requirements of an identification card pursuant to Section 709.10 of the Codified Ordinances.

(d) A handgun owner's identification card shall not be issued to any person who is:

(1) A person prohibited by Section 709.07 of the Codified Ordinances from purchasing, owning, possessing, receiving, having on or about his person, or using any firearm or ammunition;

(2) A minor;

(3) A person convicted of an illegal use of possession of narcotics;

(4) A person with more than one (1) conviction of being drunk or disorderly within one (1) year prior to his application for such identification card;

(5) Any person with more than one (1) conviction of a misdemeanor involving the use of force and violence, or the threat of the use of force and violence against the person of another within two (2) years prior to his application for such identification card.

(h) A nonresident of the City who owns, manages or operates a business within the City, or whose terms of employment require him to own, possess or have on or about his person a handgun during his employment within the City, or any nonresident of the City passing through Shaker Heights who complies with the prerequisites of this ordinance, may make application for and obtain a handgun owner's identification card pursuant to the provisions of this section.

(4) Nonresidents of the City of Shaker Heights; provided that such persons are not prohibited by the provisions of Sections 709.07 or 709.09 of the Codified Ordinances from possessing or using handguns, and possess and exhibit upon request such valid permit, authorization, or identification issued by the Chief of Police or the Sheriff of their place of residence to purchase, own, possess, receive, carry, or use any handgun. The requirements of a valid permit, authorization or identification as required by this subsection shall not apply to a nonresident who enters the City with firearms for the sole and only purpose of exhibiting or trading said firearms at a public firearms display, show or exhibition, or for the sole and only purpose of participating in an organized and sanctioned pistol match.

(5) New residents of the City of Shaker Heights, Ohio, moving to this City for the purpose of establishing residence herein, during a period not exceeding thirty (30) days from the date of their entry into this City for such purpose; provided that such person shall possess and exhibit upon request such valid permit, authorization, or identification

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

as may be required by the laws of their former domicile to own, possess, receive, or have on or about the person any handgun.

709.11 *Dealer's license.* (a) Every firearms dealer in the City of Shaker Heights shall procure a license to engage in such business. Any firearms dealer engaged in such business at more than one permanent location in this City shall procure a separate license for each separate permanent location. Application for such license shall be made to the Chief of Police.

(b) Upon application and payment of the fee prescribed in Section 709.12 of the Codified Ordinances, the Chief of Police shall issue a license to engage in business as a firearms dealer. The Chief of Police shall not issue a license to any applicant whose prior license has been revoked, nor to any applicant who has been convicted of a violation of any section of this ordinance until the expiration of five (5) years from the effective date of such revocation or five (5) years from the date of conviction. The Gun Control Appeals Board may authorize the issuance of such a permit within a lesser period of time if an appeal is taken to it under the provisions of Section 709.06 of the Codified Ordinances. No person, firm or corporation shall be issued a firearms dealer's license who does not meet the qualifications required to secure a handgun owner's identification card. The license issued pursuant to this section shall be prominently displayed by every firearms dealer at his place of business.

Sheffield Lake

545.10. *Sale and possession of firearms and explosives.* (a) *Definitions.* As used in this section:

(1) "Firearm" means any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; or the frame or receiver of any such weapon; or any firearm muffler or firearm silencer.

(2) "Pistol" means any firearm with a barrel less than twelve inches in length.

(3) "Manufacturer" or "dealer" means any person engaged in the business of manufacturing, repairing or selling firearms at wholesale or retail.

(4) "Fugitive from justice" means any person who has fled or is fleeing from any law enforcement officer to avoid prosecution or incarceration for a felony or to avoid giving testimony in any criminal proceeding.

(5) "Subversive organization" means any group, committee, club, league, society, association or combination of individuals, the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure or overthrow of the Government of the United States, or of any state or political subdivision thereof, by the use of force, violence, military measures or threats of one or more of the foregoing.

(b) *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age an air gun, musket, rifle, shotgun, revolver pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age. This subsection is not applicable to a minor under the age of seventeen years who is hunting in accordance with Ohio R. C. 1533.13 or to persons exempted under Ohio R. C. 2903.07.*

(c) *Possession restricted.* (1) No person who has been convicted of a felony in any court of the United States, the several states, territories, possessions, commonwealth countries or the District of Columbia, or who is a fugitive from justice, of unsound mind, a drug addict or an habitual drunkard, shall possess a firearm within the City.

(2) No person who is a member of a subversive organization shall possess a firearm within the City.

(3) No person under the age of eighteen shall possess a pistol. The provision of this subparagraph shall not apply to the issue of pistols to members of the Armed Forces of the United States, active or reserve, State Militia or ROTC, when on duty or training, or to the temporary loan of pistols for instruction under the immediate supervision of a parent, guardian or adult instructor.

(4) No person shall sell, lease, lend or otherwise transfer a pistol to any person under seventeen years of age, except as provided in subparagraph (3) hereof.*

(d) *Nonserialized pistols.* No person shall receive, possess, sell, lease or otherwise transfer any pistol from which the manufacturer's serial numbers or letters have been removed.

(e) *Sales, transfers and displays regulated.* (1) No manufacturer or dealer, except a manufacturer or dealer having a license issued by the Sheffield Lake Division of Police, shall sell any firearm at wholesale or retail.

(2) No person shall sell, lease, lend or otherwise transfer a firearm to any person who he knows or has reasonable cause to believe has been convicted of a felony, or who is a fugitive from justice, of unsound mind, a drug addict, an habitual drunkard or a member of a subversive organization.

(3) When delivered, all pistols must be securely wrapped and must be unloaded.

(f) *False information prohibited.* (1) No person in applying for a license as a manufacturer or dealer shall give false information or offer false evidence of his identity.

(2) No person shall give false information concerning the matters referred to in subsections (c) (1) and (c) (2) or concerning his age or his name and address or offer false evidence of his identity when purchasing a pistol.

Shelby

33–68–1. No person within the corporate limits of the City of Shelby, Ohio, shall purchase, own, possess, receive, have on or about his person, or use any pistol, rifle, shotgun, or other firearm, or a knife with a blade longer than three inches, if such person has been convicted of a felony involving the use or the threat of use of force or violence under the laws of the State of Ohio or any other state or federal laws, unless said person has received written permission to do so by the Chief of Police of the City of Shelby, Ohio.

33–68–2. No person within the corporate limits of the City of Shelby, Ohio, shall purchase, receive, have on or about his person, or use any firearm while under the influence of alcohol, intoxicating liquor, any narcotic drug, hallucinogen, or other dangerous drug.

33–68–3. No person within the corporate limits of the City of Shelby, Ohio shall purchase, receive, have on or about his person, or use any firearm, if such person is a fugitive from justice or is under adjudication of mental incompetence.

Sidney

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age. This section is not applicable to a minor under the age of seventeen years who is hunting * * *.*

South Euclid

587.01. *License required for sale of weapons.* No person shall engage in the business of selling, or sell or give away to any person within the City any pistol, revolver, derringer, bowie knife, dirk, billy, blackjack, brass knuckles or other weapon of like character, which can be concealed on or about the person, without first securing a license to do so as hereinafter provided. No person having secured such a license shall sell or give away any such weapon to any person within the City who has not first secured from the Chief of Police a permit to purchase such weapon in the manner hereinafter provided.

587.02. *Application for license.* Any person desiring a license authorizing the sale of any of the deadly weapons specified in Section 587.01 shall make application in writing to the Director of Public Safety, setting forth in such application the full name and residence of the applicant, if an individual, and if a firm or corporation the full name and residence of each of its members or officers, and further setting forth the location at which it is intended or desired to conduct such business.

587.05. *Permit to buy weapon.* No person shall purchase or acquire by gift or otherwise any pistol, revolver, derringer, bowie knife, dirk, billy, blackjack, brass knuckles or other weapon of like character, which can be concealed on or about the person, without first securing a permit to do so. Before any such permit is granted, an application in writing shall be made therefor to the Chief of Police, setting forth therein the name, residence, age, height, weight, complexion, nationality and other elements of identification of the person desiring such permit. Such application shall also contain recommendations that such permit shall be issued from two persons who shall be known to the Chief of Police as persons of good reputation and residents of the City for at least one year, or who shall appear to be taxpayers residing within the City.

587.06. *Refusal to issue permit or license.* It shall be the duty of the Director of Public Safety to refuse such license to engage in the business of selling, or to sell or to give away, any of the deadly weapons hereinbefore mentioned, and it shall be the duty of the Chief of Police to refuse such permit to purchase or acquire by gift or otherwise any such weapon, to any person who has been convicted of any crime, any vagrant, any suspicious person or any minor.*

Springdale

672.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921 (A)(4), and any amendments or additions thereto or reenactment thereof, and regulations issued thereunder.

672.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07. *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Safety Director or Police Chief of the Municipality. The application shall be accompanied by an application fee of fifty dollars ($50.00) when the application is for a license, and an application fee of five dollars ($5.00) when the application is for a temporary permit. The fees shall be paid into the General Fund of the Municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he is a natural person, or the name, address and principal place of business of the applicant, if the applicant is a corporation;

(c) Upon investigation, the Safety Director of Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date

of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.08. *Failure to secure dangerous ordnance.* (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

672.09. *Unlawful transactions in weapons.* (a) No person shall: • • •

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality;

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Springfield

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age.*

545.07. *Possession of explosive or flammable devices prohibited; exceptions.* No person shall make, use or possess on his person or have under his control, a molotov cocktail or any other explosive device containing flammable, combustible or explosive material, or any substance which can be used as a fire bomb either by igniting the fuse and/or breaking the device. However, any person engaged in any lawful activity, business, calling, employment or occupation requiring him to have such a device or such material or substance in his possession or under his control is hereby exempt from the operation of this section.

545.08. *Sale of explosives to minors.* No person shall sell, give away or otherwise dispose of or deliver to any person under twenty-one years of age any explosives, as defined in Ohio R.C. 3743.01(A), whether such person is acting for himself or for any other person.

Steubenville

549.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the act of "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05, • • •.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Stow

672.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adopted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adopted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device;

(3) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or re-enactment thereof, and regulations issued thereunder.

672.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968" 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 262 and 263, 10 U.S.C 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07 *License or permit to possess dangerous Ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial institution and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.09. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality.

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Tallmadge

71.2.2 *Sale of firearms to minors.* 1. No person shall sell, order, furnish or give to a minor under the age of seventeen years, an air gun, musket, rifle, shot gun, revolver, pistol or other firearm, or ammunition therefore, or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

Tiffin

549.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is innoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device: • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 232 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others en-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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gaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05. * * *.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Toledo

17–19–1. *Definitions.* 1. "Firearm" means any weapon, including a handgun, by whatever name known, or the barrel, receiver, or any part of the firing mechanism of such weapon, which is designed to eject or propel a projectile by the action of an explosive or combustible propellant, but does not include inoperable firearms which cannot be rendered operable.

2. "Handgun" means any pistol, revolver, or other firearm, having a barrel not exceeding twelve (12) inches in length, measured by the insertion therein of a rod with the receiver or slide closed, but does not include handguns designed and safe only for use with black powder.

3. "Firearms dealer" means any person, firm or corporation regularly engaged in the business of selling or trading firearms or ammunition at wholesale or retail within the limits of the City of Toledo, whether as the principal business of such person, firm, or corporation, or in addition thereto.

4. "Fugitive from justice" means a person who flees, escapes from custody, conceals or attempts to use any other unlawful means to avoid prosecution or punishment for a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect.

5. "Resident" means any person who has a factual place of residence within the limits of the City of Toledo.

6. "Nonresident" means any person who does not have a factual place of residence within the limits of the City of Toledo.

7. "Minor" means any person under the age of twenty-one years.

17–19–2. *Prohibitions.* 1. No person shall purchase, own, possess, receive, have on or about his person, or use any firearm or ammunition, if such person is a fugitive from justice or is under adjudication of mental incompetence.

2. No person shall purchase, receive, have on or about his person, or use any firearm or ammunition while under the influence of alcohol, any narcotic drug, hallucinogen, or other dangerous drug.

3. No person shall purchase, own, possess, receive, have on or about his person, or use any handgun or handgun ammunition, if such person has been convicted of a felony involving the use or the threat of use of force or violence under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia, or any foreign country with which the United States has a treaty of extradition in effect, provided however, such person shall be eligible to possess, purchase, own, receive or have on or about his person or use a handgun or handgun ammunition after ten (10) years have elapsed from the date of completion of any sentence, probationary period or parole imposed upon such person so convicted.

4. No person shall knowingly sell, transfer, give, deliver, or furnish any firearm or ammunition to any person prohibited by this section from purchasing, owning, possessing, receiving, having on or about his person, or using such firearm or ammunition.

17–19–4. *Identification card required.* 1. No person shall purchase, own, possess, receive, have on or about his person, or use any handgun except upon a suitable firing range, unless such person has a handgun owner's identification card issued to him and in effect pursuant to this section, or unless such person is exempt from the requirement of an identification card pursuant to Section 17–19–5 of the Toledo Municipal Code.

4. A hand gun owner's identification card shall not be issued to any person who is:

A. A person prohibited by Section 17–19–2 of the Toledo Municipal Code from purchasing, owning, possessing, receiving, having on or about his person, or using any firearm or ammunition;

B. A minor;

C. A person convicted of an illegal use or possession of narcotics;

D. A person with more than one conviction of being drunk and disorderly within one year prior to his application for such identification card;

E. Any person with more than one conviction of a misdemeanor involving the use of force and violence, or the threat of the use of force and violence against the person of another within one year prior to his application for such identification card.

17–19–5. *Exemptions.* 1. The requirements of a handgun owner's identification card contained in Section 17–19–4 of the Toledo Municipal Code do not apply to the purchase, ownership, possession, receipt, having on or about the person, or use of any handgun or handgun ammunition by:

A. Any state of the United States, or any political subdivision, department, or agency of either;

B. Officers or agents of any state or the United States or any political subdivision, department, or agency of either, members of the organized militia of any state or the armed forces of the United States, or law enforcement officers of any political subdivision to the extent that the official duties of any such person require him to purchase, own, possess, receive, carry, or use handguns;

C. Licensed manufacturers and dealers, and their agents and servants, to the extent that the purchase, ownership, possession, receipt, or use of any handgun is in the ordinary course of business;

D. Nonresidents of the City of Toledo who are residents of the State of Ohio; provided that such persons are not prohibited by the provisions of Section 17–19–2 or 17–19–4 of the Toledo Municipal Code, and possess and exhibit upon request such valid permit, authorization, or identification issued by the Chief of Police or the Sheriff of their place of residence to purchase, own, possess, receive, carry, or use any handgun and provided, further, that handguns in the possession of or under the control of nonresidents shall at all times be unloaded and encased, except while on a suitable firing range, or while being used for lawful hunting, or while unloaded at a public firearms display, show or exhibition. The requirements of a valid permit, authorization or identification as required by this subsection shall not apply to a nonresident who enters the city with firearms for the sole and only purpose of exhibiting or trading said firearms at a public firearms display, show or exhibition, or for the sole and only purpose of participating in an organized and sanctioned pistol match. The permit, authorization or identification provided for in this subsection shall be valid for thirty days only from the date thereof.

E. Nonresidents of the City of Toledo, Ohio, removing to this city for the purpose of establishing residence herein, during a period not exceeding thirty days from the date of their entry into this city for such purpose; provided that such persons shall possess and exhibit upon request such valid permit, authorization, or identification as may be required by the laws of their former domicile to own, possess, receive, or have on or about the person any handgun.

F. Executors, administrators, guardians, receivers, trustees in bankruptcy, and other fiduciaries duly qualified and appointed by a court of competent jurisdiction, when acting in their fiduciary capacity, and their attorneys.

G. Heirs and legatees acquiring any handgun or handgun ammunition through distribution of an estate, and other persons other than fiduciaries acquiring any handgun through operation of law, during a period not exceeding sixty days from the date of their coming into possession of any handgun.

H. Carriers, warehousemen, and others engaged in the business of transporting or storing firearms, handguns and their agents, servants, to the extent that the ownership, possession, receipt, or having on or about the person of any handgun by such persons is in the ordinary course of business and in conformity with the laws of this state or the United States.

2. No person shall purchase or otherwise obtain, or attempt to purchase or otherwise obtain, any handgun by claiming an exemption pursuant to this section from the requirement of a handgun owner's identification card contained in Section 17–19–4 of the Toledo Municipal Code knowing such claim of exemption to be false.

17–19–6. *Further prohibitions.* 1. No person in this city shall purchase or otherwise obtain ownership or possession of, or as security for a loan, any handgun from any person, unless the transferor exhibits a handgun owner's identification card valid on its face, issued to the transferor pursuant to Section 17–19–4 of the Toledo Municipal Code, or unless the transferor exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 17–19–5 of the Toledo Municipal Code.

17–19–7. *Dealers license.* 1. Every firearms dealer in this city shall procure a license to engage in such business. Any firearms dealer engaged in such business at more than one permanent location in this city shall procure a separate license for each such permanent location.

17–19–9. *Records.* 3. No firearms dealer or any agent or employee of such dealer shall fail to comply with this section or knowingly cause any false information to be entered on a record of sale of any handgun, and no purchaser of any handgun shall give any false information for entry on such record of sale.

Trotwood

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age. * * *.

545.13. *Sale license, purchase permit required.* No person, firm or corporation shall give, sell, offer to sell, exhibit for sale or engage in the business of selling firearms, air guns, B–B guns, knives described in Section 545.02, or other weapons, ammunition, explosives or fireworks without first securing a license to do so from the Chief of Police, as hereinfater provided. No person, firm or corporation shall sell or give away any weapon, as herein defined, which is concealable on the person, to any person within the Municipality who has not secured a permit from the Chief of Police to purchase such weapon, in the manner hereinafter provided.

545.16. *License or permit refusal.* It shall be the duty of the Chief of Police to refuse such license to engage in the business of selling or permit to purchase any of the weapons hereinbefore mentioned to any person who has been convicted of any crime, other than traffic offenses, any vagrant, any suspicious person, any minor under the age of eighteen years or any person having violated the provisions of this chapter during the preceding year.

University Heights

626.01. *Definitions.* As used in this chapter: (a) "Firearm" means any weapon, including a handgun, by whatever name known, or the barrel, receiver or any part of the firing mechanism of such weapon, which is designed to eject or propel a projectile by the action of an explosive or combustible propellant, but does not include inoperable firearms which cannot be rendered operable.

(b) "Handgun" means any pistol, revolver or other firearm, having a barrel not exceeding twelve inches in length, measured by the insertion therein of a rod with the receiver or slide closed, but does not include handguns designed and safe only for use with black powder.

(c) "Firearms dealer" means any person, firm or corporation regularly engaged in the business of selling or trading firearms or ammunition at wholesale or retail within the limits of the City, whether as the principal business of such person, firm or corporation, or in addition thereto.

(d) "Fugitive from justice" means a person who flees, escapes from custody, conceals or attempts to use any other unlawful means to avoid prosecution or punishment for a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia or any foreign country with which the United States has a treaty of extradition in effect.

(e) "Resident" means any person who has a factual place of residence within the limits of the City.

(f) "Nonresident" means any person who does not have a factual place of residence within the limits of the City.

(g) "Minor" means any person under the age of twenty-one years.

626.02. *Prohibitions.* (a) No person shall purchase, own, possess, receive, have on or about his person or use any firearm or ammunition if such person is a fugitive from justice or is under adjudication of mental incompetence.

(b) No person shall purchase, receive, have on or about his person or use any firearm or ammunition while under the influence of alcohol, any narcotic drug, hallucinogen or other dangerous drug.

(c) No person shall purchase, own, possess, receive, have on or about his person or use any handgun or handgun ammunition if such person has been convicted of a felony under the laws of this or any other state, the United States or any of its territories or possessions, the District of Columbia or any foreign country with which the United States has a treaty of extradition in effect. However, such person shall be eligible to possess, purchase, own, receive or have on or about his person or use a handgun or handgun ammunition after ten years have elapsed from the date of completion of any sentence, probationary period or parole imposed upon such person so convicted.

(d) No person shall knowingly sell, transfer, give, deliver or furnish any firearm or ammunition to any person prohibited by this section from purchasing, owning, possessing, receiving or having on or about his person or using such firearm or ammunition.

626.04. *Identification card required.* (a) No person shall purchase, own, possess, receive, have on or about his person or use any handgun, except upon a suitable firing range, unless such person has a handgun owner's identification card issued to him and in effect pursuant to this section, or unless such person is exempt from the requirements of an identification card pursuant to Section 626.05.

(d) A handgun owner's identification card shall not be issued to any person who is:

(1) A person prohibited by Section 626.02 from purchasing, owning, possessing, receiving, having on or about his person or using any firearm or ammunition;

(2) A minor;

(3) A person convicted of an illegal use or possession of narcotics;

(4) A person with more than one conviction of being drunk and disorderly within one year prior to his application for such identification card;

(5) Any person with more than one conviction of a misdemeanor involving the use of force and violence, or the threat of the use of force and violence, against the person of another within one year prior to his application for such identification card.

(1) A nonresident of the City who owns, manages or operates a business within the City, or whose terms of employment require him to own, possess or have on or about his person a handgun during his employment within the City, or any nonresident of the City passing through the City who complies with the prerequisites of this chapter, may make application for and obtain a handgun owner's identification card pursuant to the provisions of this section.

(4) Nonresidents of the City who are residents of the State, provided that such persons are not prohibited by the provisions of Section 626.02 or 626.04 and possess and exhibit upon request such valid permit, authorization or identification issued by the Chief of Police or the Sheriff of their place of residence to purchase, own, possess, receive, carry or use any handgun, and provided, further, that handguns in the possession of or under the control of nonresidents shall at all times be unloaded and encased, except while on a suitable firing range, or while being used for lawful hunting, or while unloaded at a public firearms display, show or exhibition. The requirements of a valid permit, authorization or identification as required by this subsection shall not apply to a nonresident who enters the City with firearms for the sole purpose of exhibiting or trading such firearms at a public firearms display, show or exhibition, or for the sole purpose of participating in an organized and sanctioned pistol match. The permit, authorization or identification provided for in this subsection shall be valid for only thirty days from the date thereof;

(5) Nonresidents of the City moving into the City for the purpose of establishing residence herein, during a period not exceeding thirty days from the date of their entry into the City for such purpose, provided that such persons possess and exhibit upon request such valid permit, authorization or identification as may be required by the laws of their former domicile to own, possess, receive or have on or about the person any handgun;

(6) Executors, administrators, guardians, receivers, trustees in bankruptcy and other fiduciaries duly qualified and appointed by a court of competent jurisdiction, when acting in their fiduciary capacity, and their attorneys;

(7) Heirs and legatees acquiring any handgun or handgun ammunition through distribution of any estate, and other persons other than fiduciaries acquiring any handgun through operation of law, during a period not exceeding sixty days from the date of their coming into possession of any handgun;

(8) Carriers, warehousemen and others engaged in the business of transporting or storing firearms or handguns, and their agents and servants, to the extent that the ownership, possession, receipt or having on or about the person of any handgun by such persons is in the ordinary course of business and in conformity with the laws of this State or the United States.

626.06. *Further prohibitions; sales; purchases; transfers.* (a) No person in the City shall purchase or otherwise obtain ownership or possession of, or as security for a loan, any handgun from any person, unless the transferor exhibits a handgun owner's identification card valid on its face, issued to the transferor pursuant to Section 626.04, or unless the transferor exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 626.05.

(b) No person in the City shall sell, deliver, transfer or furnish any handgun to any person in the City unless the transferee exhibits a handgun owner's identification card valid on its face and issued to the transferee pursuant to Section 626.04 or unless the transferee exhibits evidence that he is exempt from the requirement of an identification card pursuant to Section 626.05.

626.07. *Dealer's license required.* (a) Every firearms dealer in the City shall procure a license to engage in such business. Any firearms dealer engaged in such business at more than one permanent location in the City shall procure a separate license for each such permanent location. Application for such license shall be made under oath to the Chief of Police.

(b) Upon application and payment of the fee prescribed in Section 626.08 the Chief shall issue a license to engage in business as a firearms dealer. No license shall be issued to any applicant whose license has been revoked nor to any applicant who has been convicted of a violation of any provision of this chapter until the expiration of five years from the effective date of such revocation or five years

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from the date of conviction. No person shall be issued a firearms dealer's license who does not meet the qualifications for a handgun owner's identification card. The license issued pursuant to this section shall be prominently displayed by every firearms dealer at his place of business.

(c) Ninety days after the adoption of this section, no person shall engage in business as a firearms dealer in this City without a license as provided by this section. Each day of continuing violation of this section shall be deemed a separate offense.

672.09. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one; • • •

Wadsworth

529.02. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age.

This section is not applicable to a minor under the age of seventeen years who is hunting in accordance with Ohio R.C. 1533.13 or to persons exempted under Ohio R.C. 2903.07

Wapakoneta

134.03. *Sale of firearms to minors.* (A) No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefore, or, being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.

Warren

545.04. *Sale of firearms; dealer's license; purchaser's permit.* No person shall engage in the business of selling or sell or give away to any person within the City any pistol, revolver, derringer, blackjack or other weapon of like character, which can be concealed on the person, without securing a license to do so • • •. No person, having secured such a license, shall sell or give away any such weapon to any person who has not secured a permit from the Chief of Police to purchase such weapon.

545.08. *Permit required of purchaser.* No person shall purchase any pistol, revolver, derringer, blackjack or any weapon of like character which can be concealed on the person, without first securing from the Police Chief a permit to do so.

545.10. *Qualifications of permittee.* It shall be the duty of the Police Chief to refuse such permits to: (a) all persons having been convicted of any crime, (b) all vagabonds, (c) all minors. Otherwise it shall be the duty of the Police Chief to grant such permit.

Warrensville Heights

672.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including, without limitation, a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes, without limitation, any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb and any device designed or specially adapted to cause physical harm to persons or property by means of fire and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor, unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subparagraph (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or re-enactment thereof, and regulations issued thereunder. (ORC 2923.11)

672.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents or employees of this or any other state or the United States, members of the Armed Forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or re-enactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213; 18 U.S.C. 923, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this State and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned or given by the Secretary of the Army pursuant to 70A Stat. 282 and 283, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or re-enactments thereof, with respect to dangerous ordnance, when lawfully possessed and used for the purposes specified in such sections;

(5) Owners of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to the Act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or re-enactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this State and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Section 672.07, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

672.07 *License or permit to possess dangerous ordnance.* (a) Upon application to the Safety Director or Police Chief of the Municipality, and upon payment of the fee specified

in subsection (b) hereof, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use dangerous ordnance, for the following purposes:

(1) Contractors, wreckers, quarrymen, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business;

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes as defined in Ohio R.C. 3743.01;

(3) Scientists, engineers and instructors, with respect to dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction;

(4) Financial instittuion and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his duties;

(5) In the discretion of the Safety Director or Police Chief, any responsible person, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Safety Director or Police Chief of the Municipality. The application shall be accompanied by an application fee of fifty dollars ($50.00) when the application is for a license, and an application fee of five dollars ($5.00) when the application is for a temporary permit. The fees shall be paid into the General Fund of the Municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he is a natural person, or the name, address and principal place of business of the applicant, if the applicant is a corporation;

(c) Upon investigation, the Safety Director or Police Chief shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using dangerous ordnance;

(2) The applicant is age twenty-one or over, if he is a natural person;

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and insure the safety of persons and property;

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the Safety Director or Police Chief considers advisable to protect the security of the dangerous ordnance and insure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices and other consumable dangerous ordnance, and shall expire within thirty days of its issuance. A license shall be issued for the regular use of consumable dangerous ordnance or for any nonconsumable dangerous ordnance, which license need not specify an expiration date, but the Safety Director or Police Chief may specify such expiration date, not earlier than one year from the date of issuance, as he considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the State. The holder of a license may use such dangerous ordnance anywhere in the State. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the Municipality.

672.08. *Failure to secure dangerous ordnance.* (a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

672.09. *Unlawful transactions in weapons.* (a) No person shall: • • •

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 672.05, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the County Sheriff or Safety Director or Police Chief of the Municipality;

672.10. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under the age of eighteen;

(2) Sell any handgun to a person under the age of twenty-one;

(3) Furnish any firearm to a person under the age of eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearm safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Waterville

510.06. *Unlawful transactions in weapons.* (A) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 510.05 of the General Offense Code or 2923.17 of the Ohio Revised Code, • • •.

510.07. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one; • • •.

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

West Carrollton

529.03. *Sale of firearms.* No person shall sell, barter, furnish or give to a minor under the age of seventeen years an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof knowingly permit it to be used by a minor under such age.

This section is not applicable to a minor under the age of seventeen years who is hunting in accordance with Ohio R.C. 1533.13 or to persons exempted under Ohio R.C. 2903.07.

West Milton

131.06. *Sale of firearms to minors.* (A) No person shall sell, barter, furnish, or give to a minor under the age of seventeen, an air gun, musket, rifle, shotgun, revolver, pistol or other firearm, or ammunition therefor, or being the owner or having charge or control thereof, knowingly permit it to be used by a minor under such age.*

(B) This section is not applicable to a minor under the age of seventeen years who is hunting in accordance with Sec. 1533.13 of the Revised Code. (RC Sec. 2903.06) Penalty, see Sec. 130.99.

Whitehall

549.01. *Definitions.* As used in this chapter:

(a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat. 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections:

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05, • • •.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

549.16. *Sale or gift of deadly weapons; license required.* (A) No person shall sell or give away to any person within the City any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character which can be concealed on the person, nor shall any person doing business as a pawnbroker sell or give away or permit to be redeemed or removed from deposit or pledge, any of the deadly weapons hereinabove mentioned without securing a license to do so from the Chief of Police; and no person having secured such a license shall sell or give away, or permit to be redeemed or removed from deposit or pledge, any such weapon unless the person so purchasing, acquiring, redeeming or removing such property shall have secured a permit as required by Section 549.17.

549.17. *Purchase of deadly weapons; permit required.* (A) No person shall purchase, redeem or remove from deposit or pledge any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character which can be concealed on the person without first securing from the Chief of Police a permit to do so.

Wickliffe

549.14. *Permit to sell or purchase concealable weapon required.* (a) Permit Required. No person shall engage in the business of selling, or sell or give away to any person within the City, any pistol, revolver or similar weapon, which can be concealed on the person, without securing a permit to do so, as hereinafter provided. No person having secured such a permit shall sell or give away any such weapon to any person within this City who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

(e) *Permit to purchase concealable weapon.* No person shall purchase any pistol, revolver or similar weapon which can be concealed on the person, without first securing from the Chief of Police a permit to do so. Before any such permit is granted, an application in writing shall be made setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification of the person desiring such permit. Such application shall also contain a recommendation that the permit be issued from two persons known to the Chief of Police as persons of good reputation and residents of the City for at least one year, or who appear to be taxpayers residing within the City.

Willoughby

38.10 *Sale of explosives to minors.* It shall be unlawful to sell, offer for sale or give away to a minor any explosive cap, cartridge, shell, guncotton or other similar article containing explosives.

785.01. *License to dispose of concealable weapons.* No person shall engage in the business of selling, or sell or give away to any person within the city, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without securing a license to do so, as hereinafter provided. No person having secured such a license shall sell or give away any such weapon to any person within the city who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

785.05. *Permit to purchase concealable weapons.* No person shall purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the Chief of Police a permit to do so. • • •.

Wintersville

771–1. It shall be unlawful for any person to engage in the business of selling, or to sell or give away to any person within the Village, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without securing a license to do so, as hereinafter provided, and no person having secured such a license, shall sell or give away any such weapon to any person within this Village who has not secured a permit from the Chief of Police to purchase or receive the weapon • • •.

771–2. It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the Chief of Police a permit to do so. • • •.

771–3. It shall be unlawful for any person other than a citizen of the United States to own or possess firearms within the limits of the Village and no permit shall be issued under the provisions of this chapter either of sale or to purchase firearms by any persons not a citizen of the United States.

Worthington

549.06. *Unlawful transactions in weapons.* (A) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05 of the General Offenses Code of 2923.17 of the Ohio Revised Code, • • •.

549.07. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

Xenia

549.01. *Definitions.* As used in this chapter: (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(b) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(c) "Handgun" means any firearm designed to be fired while being held in one hand.

(d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than eighteen cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(g) "Zip-gun" means any of the following:

(1) Any firearms of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as such;

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried or used as a firearm.

(h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(j) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:

(1) Any automatic or sawed-off firearm, or zip-gun;

(2) Any explosive device or incendiary device; • • •

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition therefor.

(k) "Dangerous ordnance" does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition therefor, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition therefor unless such firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type described in subsection (k)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(A)(4), and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

549.05. *Unlawful possession of dangerous ordnance.* (a) No person shall knowingly acquire, have, carry or use any dangerous ordnance.

(b) This section does not apply to:

(1) Officers, agents, or employees of this or any other state or the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, to the extent that any such person is authorized to acquire, have, carry or use dangerous ordnance and is acting within the scope of his duties;

(2) Importers, manufacturers, dealers and users of explosives, having a license or user permit issued and in effect pursuant to the "Organized Crime Control Act of 1970," 84 Stat. 952, 18 U.S.C. 843, and any amendments or additions thereto or reenactments thereof, with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of this state and applicable Federal law;

(3) Importers, manufacturers and dealers having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance lawfully acquired, possessed, carried or used under the laws of this state and applicable Federal law;

(4) Persons to whom surplus ordnance has been sold, loaned, or given by the secretary of the army pursuant to 70A Stat, 262 and 263, 10 U.S.C. 4684, 4685 and 4686, and any amendments or additions thereto or reenactments thereof, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in such sections:

(5) Owners of dangerous ordnance registered in the national firearms registration and transfer record pursuant to the act of October 22, 1968, 82 Stat. 1229, 26 U.S.C. 5841, and any amendments or additions thereto or reenactments thereof, and regulations issued thereunder.

(6) Carriers, warehousemen and others engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of this state and applicable Federal law;

(7) The holders of a license or temporary permit issued and in effect pursuant to Ohio R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried or used for the purposes and in the manner specified in such license or permit.

549.07. *Unlawful transactions in weapons.* (a) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Section 549.05 • • •.

549.08. *Improperly furnishing firearms to a minor.* (a) No person shall:

(1) Sell any firearm to a person under age eighteen;

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling or marksmanship under the supervision or control of a responsible adult.

Yorkville

774.–1. *License required.* It shall be unlawful for any person, firm, or corporation, to engage in the business of selling, or to sell or give away to any person within the Village of Yorkville, any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without securing a license to do so, • • •, and no person, firm, or corporation having secured such a license, shall sell or give away any such weapon to any person within this Village who has not secured a permit from the Chief of Police to purchase or receive the weapon • • •.

774–5. *Application for permit by individual to purchase.* It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk or other weapon of like character, which can be concealed on the person, without first securing from the Chief of Police a permit to do so. • • •

774–6. *Permit to purchase firearms to be refused—when.* It shall be the duty of the Chief of Police to refuse such permit to: (a) All persons having been convicted of any crime. (b) All vagabonds. (c) All minors.

774–7. *American citizenship required for sale or purchase of firearms.* It shall be un-

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lawful for any person other than a citizen of the United States to own or possess firearms within the limits of the Village and no permit shall be issued under the provisions of this chapter either for sale or to purchase firearms by any person not a citizen of the United States.

Youngstown

13-106. *Unlawful transactions in weapons.* (A) No person shall: (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to section 13-105 of the General Offense Code or 2923.17 of the Ohio Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the County or Safety Director or Police Chief of the municipality where the transaction takes place. * * *

13-107. *Improperly furnishing firearms to a minor.* (A) No person shall:

(1) Sell any firearm to a person under age eighteen.

(2) Sell any handgun to a person under age twenty-one;

(3) Furnish any firearm to a person under age eighteen, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

OKLAHOMA

State Law

OKL. ST. ANN. TITLE 21

1272. *Carrying weapons.*—It shall be unlawful for any person in the State of Oklahoma to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, switchblade knife, spring-type knife, knife having a blade which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon.

1273. *Selling weapons to minors.* It shall be unlawful for any person within this State, to sell or give to any minor any of the arms or weapons designated in the two preceding sections.

1288. *Purchase of firearms, ammunition and equipment in contiguous states by Oklahoma residents* * * *(a) Residents of the State of Oklahoma may purchase rifles, shotguns, ammunition, cartridge and shotgun shell handloading components and equipment in a state contiguous to the State of Oklahoma, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the State of Oklahoma and in the contiguous state in which the purchase is made. * * *.

1289.3 "Pistols" defined.—"Pistols" as used herein shall mean any firearm capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels less than sixteen (16) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include flare guns, underwater fishing guns or blank pistols.

1289.4 "Rifles" defined.—"Rifles" as used herein shall mean any firearm capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels more than sixteen (16) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include archery equipment, flare guns or underwater fishing guns. In addition, any rifle capable of firing "shot" but primarily designed to fire single projectiles will be regarded as a "rifle".

1289.5 "Shotguns" defined.—"Shotguns" as used herein shall mean any firearm capable of discharging a series of projectiles of any material which may reasonably be expected to be able to cause lethal injury, with a barrel or barrels more than eighteen (18) inches in length, and using either gunpowder, gas or any means of rocket propulsion, but not to include any weapon so designed with a barrel less than eighteen (18) inches in length. In addition, any "shotgun" capable of firing single projectiles but primarily designed to fire multiple projectiles such as "shot" will be regarded as a "shotgun".

1289.10 Furnishing firearms to mentally incompetent or insane persons.—It shall be unlawful for any person to knowingly transmit, transfer, sell, lend or furnish any shotgun, rifle or pistol to any person who is under an adjudication of mental incompetency, or to any person who is a moron, idiot or is insane.

1289.12 Selling or transferring of firearms to convicted felons, disturbed persons or persons under influence of alcohol or drugs—Displaying notice.—It shall be unlawful for any person within this state to knowingly sell, trade, give, transmit or otherwise cause the transfer of rifles, shotguns or pistols to any convicted felon, nor shall it be lawful for any person within this state to knowingly sell, trade, give, transmit or otherwise cause the transfer of any shotgun, rifle or pistol to any individual who is under the influence of alcohol or drugs or is mentally or emotionally unbalanced or disturbed. All persons who engage in selling, trading or otherwise transferring firearms will display this section prominently in full view at or near the point of normal firearms sale, trade or transfer.

1321.1. *Citation.* This Act shall be known and referred to as the Oklahoma Riot Control and Prevention Act.

1321.2. *Definitions.* As used in this Act:

"State of Emergency" means an emergency proclaimed as such by the Governor pursuant to Section 3 of the Act.

"Governor" means the Governor of this State or, in case of his removal, death, resignation, or inability to discharge the powers and duties of his office, then the person who may exercise the powers of Governor pursuant to the Constitution and laws of this State relating to succession in office.

1321.4. *Acts which may be proclaimed prohibited.* (a) The Governor during the existence of a State of Emergency, by proclamation, may, in the area described by the proclamation, which said proclamation shall not cover any part or portion of the State not affected by public disorder, disaster, or riot at the time said proclamation is issued, prohibit:

(3) the manufacture, transfer, use, possession, or transportation of a Molotov Cocktail or any other device, instrument, or object designed to explode or produce uncontained combustion;

(4) the transporting, possessing, or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operations of motor vehicles, normal home use or legitimate commercial use;

(5) the possession of firearms or any other deadly weapon by a person (other than a law enforcement officer) in a place other than that person's place of residence or business.

Ada

395.60. *Weapons prohibited to certain persons.* * * *. It shall be unlawful for any Licensee under this Chapter to sell, loan or give away any firearm, knife or other dangerous weapon to a minor, a known drunkard, or any person known to be under the influence of intoxicating liquors or drugs, or to any person who is known as an habitual user of drugs, or to any person who is commonly known to be a "police court character" which is defined to be a person who has been convicted of three or more offenses against the ordinances of this City other than traffic offenses in the police court of this City, or to any person known to have been previously convicted of any felony. Before such firearm, knife or other weapon may be sold, loaned or given to any person, such person's identification shall be determined by such Licensee. * * *.

551.B. *Furnishing certain weapons to minors unlawful.* It shall be unlawful for any person within the City of Ada, Oklahoma, to sell or give to any minor any of the arms or weapons designated in the preceding section.

Healdton

2. *It shall be unlawful for any person* to sell to a minor any pistol, revolver, bowie knife, dirk, dagger, sling shot, sword, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense or offense, within the corporate limits of the City of Healdton.

Hominy

14c. *Weapons, selling or giving them to minors.* The act of selling or giving to any minor any pistol, revolver, device, bowie knife, dirk, dagger, billy club, metal knucks or any other dangerous weapon is a public offense.

Hugo

14-40. *Pistol permit required.* It shall be unlawful and an offense for any person to purchase, receive or accept in any manner any revolver, pistol or other like firearm within the City of Hugo, Oklahoma without first having obtained a written permit from the chief of police of the City of Hugo, authorizing such person to receive or accept such revolver, pistol or other like firearm.

14-41. *Definition.* The word "pistol" or "revolver" as used in this article shall be construed as meaning any firearm with a barrel less than twelve (12) inches long.

14-42. *Sale allowed only to permit holders.* No person, firm or corporation shall sell, deliver, barter or give, or otherwise transfer a pistol, revolver or other like firearm within the City of Hugo to any person who is not the holder of a written permit from the chief of police of Hugo authorizing such person to purchase, receive or accept such revolver, pistol, or other like firearm; and in no case shall any person, firm or corporation deliver a pistol or revolver or other like firearm to the person to whom it is to be sold or transferred until approved by the chief of police of Hugo in the manner provided hereinafter.

Lawton

6-63. *Purchase of pistol. Permit required.* It is unlawful for any person to purchase, receive, or accept in any manner any revolver, pistol, or other like firearm within the City of Lawton, Oklahoma, without first having obtained a written permit from the police department of the City of Lawton, Oklahoma, authorizing such person to purchase, receive, or accept such revolver, pistol, or other like firearm. Provided, that regular dealers in such articles may accept such articles without a permit at any time.

6-64. *No sale to person without permit.* No person, firm, or corporation shall sell, deliver, barter, or give, or otherwise transfer a pistol, revolver, or other like firearm within the City of Lawton, Oklahoma, to any person who is not a holder of a written permit from the police department of Lawton, Oklahoma, authorizing such person to purchase, receive, or accept such revolver, pistol, or other like firearm; and in no case shall any person, firm, or corporation deliver a pistol, revolver, or other like firearm to the person to whom it is to be sold or transferred until approved by the police department of Lawton, Oklahoma. * * *.

6-66. *Persons ineligible for permit; investigation.* It is the duty of the police department of Lawton, Oklahoma, to refuse such permits to all persons having been convicted of a felony under the laws of the State of Oklahoma or of any other state of the United States, and to all minors, drug addicts, unnaturalized foreign-born persons, and such other persons as he has reasonable cause to believe are not of sound mind and discretion and of good moral character. When he has reasonable cause to believe that such revolver, pistol, or other like firearm is to be used for lawful purposes, it shall be the duty of the police department to issue a qualified applicant a written permit authorizing him to purchase, receive, or accept such revolver, pistol, or other like firearm. Any permit so issued shall not be valid for a period in excess of thirty days.

6-69. *Duty of seller.* It shall be the duty of any person, firm, or corporation who sells, transfers, or gives away any pistol, revolver, or like firearm, as provided in this article, at the time such sale, gift, or delivery is made, to require the holder of such permit to deliver the permit to such person, firm, or corporation who sells, transfers, or gives away any pistol, revolver, or like firearm; and it shall be the duty of any person, firm, or corporation who sells, transfers, or gives away any pistol, revolver, or like firearm to deliver such permit to the police department of Lawton, Oklahoma, at the time the report of such sale or gift is made, as provided in this article.

Midwest City

23-138. *"Pistol" and "revolver" defined.* The word "pistol" or "revolver" as used in this division shall mean any firearm with a barrel less than twelve (12) inches long.

23-139. *Permit required.* It shall be unlawful for any person to purchase, receive or accept in any manner any revolver or pistol within the city without first having obtained a written permit from the chief of police of the city authorizing such person to receive or accept such revolver or pistol.

23-140. *Applications; information required.* Applications for permits to purchase, receive or accept any revolver or pistol as required by this division shall be made to the chief of police upon blanks to be provided therefor. Such application shall give the name of the applicant, his age, occupation, place of residence, height, weight, race, nationality and such other information and evidence of identification and character as the chief of police may require.

23-142. *Persons ineligible for permit.* It shall be the duty of the chief of police to refuse permits required by this division to all persons having been convicted of a felony under the laws of the State of Oklahoma, or of any other state, or of the United States, and to all minors, drug addicts, unnaturalized foreign-born persons and such persons as he has reasonable cause to believe are not of sound mind.

23-145. *Transfer to person without permit prohibited.* No person shall sell, deliver, barter, give or otherwise transfer a pistol or revolver within the city to any person who is not the holder of a written permit from the chief of police of the city authorizing such person to purchase, receive or accept such revolver or pistol; and in no case shall any person deliver a pistol or revolver to the person to whom it is to be sold or transferred until approved by the chief of police in the manner provided in this division.

23-146. *Seller to require permit and deliver to chief of police.* It shall be the duty of the person who sells, transfers or gives away any pistol or revolver as provided in this division, at the time such sale, gift or delivery is made, to require the holder of such permit to deliver the permit to the seller. It is the duty of the seller to deliver such permit to the chief of police at the time the report of such sale or gift is made as required by this division.

23-147. *Private sales to be reported.* Every person who sells, deliver or gives to any person in the city, except to regular dealers in such articles, any revolver, or pistol shall, within twenty-four (24) hours after making such sale or gift, make and file with the chief of police a legible report, written in the English language, stating therein the date of such sale or gift, the correct name, age, residence, height, weight, color of hair and eyes, nationality and race of such purchaser or donee. Such written report shall also contain the make, kind, description, caliber, model, manufacturer's number or other marks of identification of such pistol or revolver sold or delivered. Each day of failure to make such report shall be a separate offense.

Muskogee

18-7. *Application for purchases of weapons.* (a) All persons handling, selling or offering for sale, transferring or delivering any pistol, revolver, dirk, bowie knife, dagger, billy, brass, iron or other metal knucks, or any knife having a spring handle, or any similar dangerous or deadly weapon capable of being carried or concealed upon the person, shall, at the time of the sale or delivery thereof to any purchaser or other person receiving such a weapon, require the purchaser or other person receiving the same to sign and swear to an application for the purchase thereof upon a written blank showing the name, age, sex, occupation, color of hair, color of eyes, weight, height, complexion, place of residence, the length of time such applicant has resided at such place of residence, and containing a description of the weapon for the purchase of which application is made, including the make, caliber and factory number, if any, thereon. The dealer or person selling or delivering any such weapon shall, at the time of the sale or delivery to such purchaser, require that the application have shown thereon, for the purpose of identification, the fingerprints of the purchaser.

(b) It shall be the duty of all persons subject to the provisions of this section to deliver to the police department of the city, not later than the day following any delivery or sale of any weapon hereunder, the application containing the information above required and the signature and fingerprints of the purchaser.

(c) The provisions of this section shall not apply to the sale, delivery or transfer of weapons between individuals who are not dealers therein, nor shall the provisions hereof apply to weapons commonly and usually used in hunting game and not capable of being carried concealed about the person.

Oklahoma City

21-53. *Receipt of pistol; permit required.* No person shall purchase, receive, or accept in any manner any pistol without first having obtained a written permit from the Chief of Police authorizing the person to receive or accept the pistol.

21-54. *Transfer of pistol to person without permit.* (a) Transfer without permit. No person shall transfer a pistol to any person who is not a holder of a written permit from the Chief of Police authorizing the person to purchase, receive or accept the pistol.

(b) Delivery of pistol only after Police approval. No person shall deliver a pistol to the person to whom it is to be transferred until approved by the Chief of Police in the manner provided in this Division.

21-55. *Application for permit to receive pistol.* (a) Contents of application. Applications for permits to purchase, receive or accept any pistol shall be made to the Chief of Police upon blanks to be provided. The application shall give the name of the applicant, his age, occupation, place of residence, height, weight, race, and nationality and other information and evidence of identification and good moral character as the Chief of Police may require.

(b) False information in pistol application. No person applying for a permit shall give false information or offer false evidence of his identity.

21-56. *Persons ineligible for pistol permit; investigation.* The Chief of Police shall refuse to issue the permits described in Sections 21-53 and 21-55 to all persons having been convicted of a felony under the laws of the State, or of any other state, or of the United States, and to all minors, drug addicts, unnaturalized foreign born persons and such other persons as he has reasonable cause to believe are not of sound mind. If the Chief of Police shall be satisfied after an investigation that the applicant is a suitable person of sound mind and discretion and of good moral character, and that the pistol is to be used for lawful purposes, he shall issue the applicant a written permit authorizing him to purchase, receive or accept the pistol.

21-58. *Transfer of pistols to be reported; separate offense for each day of failure to report.* Every person who transfers to any person, except to regular dealers in these articles, any pistol shall, within twenty-four (24) hours after making the transfer, make and file with the Chief of Police a legible report, written in the English language, stating the date of the transfer, the correct name, age, residence, height, weight, color of hair, eyes, race and nationality of the transferee. This written report shall also contain the make, kind, description, caliber, model, manufacturer's number, or other marks of identification of the pistol transferred. Each day of failure to make this report shall be a separate offense.

21-59. *Transfers of pistols.* No person shall purchase, receive or accept in any manner, or transfer any pistol between 5:00 P.M. and 8:00 A.M.

21-62. *Antique pistols excepted.* Nothing contained in this Division shall be deemed to apply to antique pistols which are incapable of being used as pistols.

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21–165. *Sale or gift of explosives to minors.* No person shall sell, give, or deliver to any minor any of the following explosives: Gunpowder, blasting powder, giant powder, gun cotton, nitroglycerin, dynamite, dynamite caps, or other explosives of a similar character.

21–166. *Sale to or possession of weapons by minors* (a) No person under the age of twenty-one (21) years shall carry, discharge, use or be in possession of any firearm, weapon, air gun, gas-operated gun, or any bow or sling type instrument made for the purpose of throwing or projecting missiles of any kind and capable of inflicting injury. (b) No person shall sell to a minor any of the firearms or weapons named in Subsection (a).

Shawnee

48–3. *Sale of weapons to minors prohibited.* It shall be unlawful for any person in the city to sell to any minor any of the arms or weapons enumerated in Section 48–1. It shall be unlawful for any person, in the city to sell to a minor any rifle, shotgun or any firearm of any character without a written consent of parent or guardian of such minor. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed fifty dollars.

48–6. *"Pistol" and "revolver" defined.* The words "pistol" and "revolver", as used in this article, shall be construed as meaning any firearm with a barrel less than twenty inches long.

48–7. *Applicability of article.* Nothing contained in this article shall be in any manner construed as a permit to carry such revolver, pistol or similar firearm contrary to any regulation of the city or the laws of the state.

Nothing contained in this article shall be deemed to apply to antique pistols or revolvers which are incapable of being used as such.

48–8. *Permit to purchase, receive, etc.—Required.* No person shall purchase, receive or accept in any manner any revolver, pistol or other similar firearm within the city, without first obtaining a written permit from the chief of police authorizing such person to receive or accept such revolver, pistol or other similar firearm.

48–9. *Same—Application.* Applications for permits to purchase, receive or accept any revolver, pistol or other similar firearm shall be made to the chief of police upon blanks to be provided therefor, • • •, and no person applying for such permit shall give false information or offer false evidence of his identity.

48–10. *Same—Prerequisites to issuance; issuance.* It shall be the duty of the chief of police to refuse permits for pistols, revolvers and other similar firearms to all persons who have been convicted of a felony under the laws of the state, any other state or the United States, and to all minors, drug addicts, unnaturalized foreign-born persons and such other persons as he has reasonable cause to believe are not of sound mind. If the chief of police is satisfied, after investigation made, that the applicant is a suitable person, of sound mind and discretion and of good moral character, and that such revolver, pistol, or other similar firearm is to be used for lawful purposes, it shall be the duty of the chief of police to issue to such applicant a written permit authorizing him to purchase, receive or accept such revolver, pistol or similar firearm.

48–12. *Sale of pistols, revolvers, etc.* (a) No person shall sell, deliver, barter, give or otherwise transfer a pistol, revolver or other similar firearm within the city to any person who is not the holder of a written permit from the chief of police authorizing such person to purchase, receive or accept such revolver, pistol or other similar firearm; and in no case shall any person deliver a pistol or revolver or other similar firearm to the person to whom it is to be sold or transferred until approved by the chief of police in the manner provided in this chapter.

(c) It shall be the duty of any person who sells, transfers or gives away any pistol, revolver or similar firearm as provided in this section, at the time such sale, gift or delivery is made, to require the holder of the required permit to deliver the permit to such person who sells, transfers or gives away any pistol, revolver or similar firearm; and it shall be the duty of any such person who sells, transfers or gives away any pistol, revolver or similar firearm to deliver such permit to the chief of police at the time the report of such sale or gift is made.

Tulsa

443. *Sales permitted—Rules.* All persons trading, selling or offering for sale, any pistol, revolver, dirk, dagger, bowie knife, capable of being carried concealed upon the person, shall at the time any such weapons are sold or delivered, require such person receiving or purchasing such weapon to sign an application for the purchase of such weapon, upon blanks to be furnished by the City of Tulsa to the dealers in weapons of the above description. • • • The dealer selling such weapon shall also, at the time of sale or delivery, require such person to make and leave with such dealer, a record of such purchaser's fingerprints, such prints to be made upon suitable blanks to be furnished to such dealer by the said City of Tulsa. • • •

Provided, the provisions of this section shall not apply to the sale or transfer of weapons herein defined between individuals who are not dealers in such weapons; nor to the sale of weapons usually used in hunting game and which are not capable of being carried concealed upon the body of the person carrying the same.

OREGON

State Law

O.R.S.

166.210. *Definitions.* (1) "Pistol," "revolver" and "firearms capable of being concealed upon the person," apply to and include all firearms having a barrel less than 12 inches in length.

(2) "Machine gun" means a weapon of any description by whatever name known, loaded or unloaded, from which two or more shots may be fired by a single pressure on the trigger device.

166.250. *Unlawful possession of weapons.* (1) Except as otherwise provided in this section, ORS 166.230, 166.260, 166.270, 166.280, 166.290, or 166.410 to 166.470, any person who possesses or has in his possession any machine gun, or carries concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver or other firearm capable of being concealed upon the person, without having a license to carry such firearm as provided in ORS 166.290, is guilty of a misdemeanor, unless he has been convicted previously of any felony or of any crime made punishable by this section, ORS 166.230, 166.260, 166.270, 166.280, 166.290 or 166.410 to 166.470, in which case he is guilty of a felony.

(2) This section does not prohibit any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270, from owning, possessing or keeping within his place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at his place of residence or place of business is required of any such citizen.*

(3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

166.260. *Persons not affected by ORS 166.250.* ORS 166.250 does not apply to or affect:

(1) Sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed peace officers.

(2) Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.

(3) The possession or transportation by any merchant of unloaded firearms as merchandise.

(4) Members of the Army, Navy, or Marine Corps of the United States, or of the National Guard, when on duty.

(5) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

(6) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organizations.

(7) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(8) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

166.270. *Aliens and convicts forbidden to possess arms.* Any unnaturalized foreign-born person or any person who has been convicted of a felony against the person or property of another or against the Government of the United States or of this state, or of any political subdivision of this state, who owns, or has in his possession or under his custody or control any pistol, revolver, or other firearm capable of being concealed upon the person, or machine gun, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years.

166.430. *Licenses to sell at retail.* Licensing authorities of any city, county, town or other municipality within this state may grant licenses in form prescribed by the Attorney General, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the municipality, pistols, revolvers and other firearms capable of being concealed upon the person, subject to the following conditions, for breach of any of which the license is subject to forfeiture:

(3) Before any pistol or revolver shall be delivered:

(a) One hundred twenty hours shall have elapsed after application for the purchase and

* NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

the register entries required by ORS 166.420 have been completed; and

(b) The purchaser either is personally known to the seller or presents clear evidence of his identity.

(5) When a pistol or revolver is delivered it shall be unloaded and securely wrapped.

166.440 *Unlicensed persons selling or advertising for sale concealable firearms.* Any person who, without being licensed as provided in ORS 166.430, engages in the business of selling or otherwise transferring, or who advertises for sale or offers or exposes for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person, is guilty of a misdemeanor.

166.450. *Obliteration or change of identification marks on firearms.* Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years. Possession of any such firearm upon which the same has been changed, altered, removed or obliterated, is presumptive evidence that the possessor has changed, altered, removed or obliterated the same.

166.460. *Antique firearms excepted.* ORS 166.230, 166.250 to 166.270, 166.280, 166.290, 166.410 to 166.450, and 166.470 do not apply to antique pistols or revolvers incapable of use as such.

166.470. *Limitations and conditions for sales of concealable firearms.* No person shall sell, deliver or otherwise transfer any pistol, revolver or other firearm capable of being concealed upon the person to any person whom he has cause to believe to be within any of the classes prohibited by ORS 166.270 from owning or possesing such firearms, nor to any minor under the age of 18 years. Such firearm shall not be delivered to the purchaser on the day of the application for its purchase, and when delivered it shall be securely wrapped and unloaded. When neither party to the transaction holds a dealers' license, the vendor shall not sell or otherwise tranafer any such firearm to any other person within this state who is not personally known to the vendor. Violation of this section is a misdemeanor.

166.480. *Sale or gift of explosives and firearms to children.* Any person who sells, exchanges, barters or gives to any child, under the age of 14 years, any explosive article or substance, other than an ordinary firecracker containing 10 grains of gunpowder; or who sells, exchanges, barters or gives to any such child any firearms, or other device of a like kind, ordinarily used or ordinarily capable of being used in discharging gunpowder in a greater quantity than 10 grains; or who sells, exchanges, barters or gives to any such child, any instrument or apparatus, the chief utility of which is the fact that it is used, or is ordinarily capable of being used, as an article or device to increase the force or intensity of any explosive, or to direct or control the discharge of any such explosive, is guilty of a misdemeanor.

166.490. *Purchase of firearms in certain other states.* (1) As used in this section, unless the context requires otherwise:

(a) "Contiguous state" means California, Idaho, Nevada or Washington.

(b) "Resident" includes an individual or a corporation or other business entity that maintains a place of business in this state.

(2) A resident of this state may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive in this state or transport into this state such rifle or shotgun, unless the purchase or transfer violates the law of this state, the state in which the purchase or transfer is made or the United States.

(3) This section does not apply to the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.

(4) This section expires and stands repealed upon the date that section 922(b)(3) of the Gun Control Act of 1968 (18 U.S.C. 922(b)(3)) and regulations pursuant thereto are repealed or rescinded.

480.070. *Fire bombs prohibited; exceptions.* (1) No person shall possess a fire bomb. For the purpose of this section a "fire bomb" is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having an integral wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illuminating shall be deemed to be a fire bomb for the purpose of this section.

Corvallis

41. It shall not be lawful for any person or persons, within the limits of the city of Corvallis, to give or furnish, or sell to any minor or minors, under the age of 18 yrs. any target gun, or airgun, or pistol, or revolver, or shotgun, or any firearms, without the written order of the parent or legal guardian of such minor. • • •.

Eugene

3.440 *Weapons—Conditions of license.* Every license issued to a business dealing in deadly weapons or firearms is issued upon the following terms and conditions: (b) The licensee will not sell, deliver, or otherwise transfer a pistol, revolver or other firearm capable of being concealed on the person to a person whom he has cause to believe is an alien or who has been convicted of a felony.

(c) The licensee shall not sell, deliver, or otherwise transfer a weapon to a minor under the age of 18 years.*

(f) No pistol or revolver shall be delivered on the day of the application for the purchase, and when delivered, shall be unloaded and securely wrapped, unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

Fossil

79–2. *Unlawful to sell firearms, etc.* That hereafter it shall be unlawful for any person or dealer in the Town of Fossil to sell, expose, or offer for sale, or in any manner furnish or dispose of to any resident of the Town of Fossil, or to any person for use in said Town, or to any minor person at any time, any blank cartridge pistol or revolver, or any blank cartridges, or any of the explosives, firecrackers, or fireworks, the use of which is prohibited in Section 1 of this Ordinance.

Gresham

483–1. On and after October 1, 1968, it will be necessary for any person, firm or corporation to do business within the City of Gresham for the sale of firearms, particularly pistols, revolvers and other firearms, to secure an annual City license for the sale of such firearms. • • • All licenses issued for the sale of firearms shall be subject to the following conditions:

3. No pistol or revolver shall be delivered on the day of the application for the purchase, or unless the purchaser either is personally known to the seller or presents clear evidence of his identity; • • •.

Klamath Falls

47–13. *Sale, offering for sale, etc., prohibited.* No person shall sell, offer for sale, or give away, either as the owner or the agent of the owner thereof, any gun or device which can be carried on or about a person and used for the purpose of releasing gas, fumes or liquids, to blind, or impair the eyesight, or sicken, or disable a human being. Such gun is hereby declared to be a dangerous weapon.

47–14. *Permit required to carry on person; exception.* No person shall carry or have on or about his person, or in his possession, any weapon described in section 47–13, without first securing a permit from the sheriff of the county, granting him to such privilege; except that duly authorized peace officers, are not included in this section.

Myrtle Creek

5–6.5. (e) *Sales to intoxicated persons and minors.* No person shall purchase from or sell, loan, or furnish any weapon in which any explosive subetance can be used to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 18 years.*

Oregon City

6–4–1. *Definitions:* (A) As used in this chapter, "firearm" means a pistol, revolver, gun, rifle or other ordnance, including a miniature weapon, which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air.

(C) "Deadly weapon" means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

6–4–7. *Sale or distribution of miniature firearms and ammunition:* It is unlawful for any person to give, furnish, loan, sell, offer for sale, or distribute any miniature pistol, firearm, or instrument capable of receiving or discharging any cartridge, charge of powder, or other explosive or any ammunition therefor, within the City.

6–4–9. *Sale or distribution of deadly weapons or ammunition to minors; possession by minors:* It is unlawful for any person to give, furnish, loan or sell to any minor under eighteen (18) years of age any deadly weapon as defined in 6–4–1, and it is unlawful for any person to give, furnish, loan or sell any ammunition to any minor to be used or capable of being used in any deadly weapon as defined in 6–4–1; and it is unlawful for any such minor to have any such deadly weapon or ammunition in his or her possession; and it shall be unlawful for any parent or guardian of any minor to permit such minor to have such a deadly weapon or ammunition in his or her possession, except that in the case of concealable deadly weapons, such as pistol or revolver, it is unlawful to sell these weapons to anyone under the age of twenty one (21) years.

6–4–10. *Licenses to sell at retail.* Licensing authorities of Oregon City may grant licenses in form prescribed by the Attorney General of the State of Oregon, effective for not more than one year from date of issue, permitting the licensee to sell at retail within Oregon City pistols, revolvers and

* NOTE.—Licensee under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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other firearms capable of being concealed upon the person, subject to the following conditions, for breach of any of which the license is subject to forfeiture:

(C) Before any pistol or revolver shall be delivered: 1. One hundred twenty (120) hours shall have elapsed after application for the purchase and the register entries required by ORS 166.420 have been completed; and • • •

(F) Firearms received in trade or for resale by a dealer must be checked with the Chief of Police within one hundred twenty (120) hours of receiving same to determine whether it is a stolen or illegal weapon.

Portland

7.168.010. *Fees.* (a) Dealers in weapons. Dealers in deadly weapons or firearms shall pay an annual license fee of fifty dollars.

7.168.020. *Deadly weapon or firearm dealer defined.* Any person engaging in the business of selling or offering for sale at retail or wholesale any pistol, revolver, derringer, bowie knife or other weapon of like character that can be concealed upon the person, is considered a dealer in deadly weapons or firearms.

7.168.040. *Conditions of license.* Every license issued under the provisions of this chapter is issued upon the following terms and conditions:

(1) The licensee shall observe all the provisions of the ordinances of the city, of the laws of the state relating to the business of dealing in deadly weapons or firearms; the licensee will not sell, deliver, or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person to any person whom he has cause to believe is an alien or who has been convicted of a felony, nor will he sell, deliver, or otherwise transfer any such weapon to any minor under the age of eighteen years; *

(4) No pistol or revolver shall be delivered on the day of the application for the purchase, and when delivered, shall be unloaded and securely wrapped; or unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; • • •

14.04.020. *Dangerous or deadly weapon.* As used in this code, "dangerous or deadly weapon" includes any revolver, pistol or other firearm, metal knuckles, a straight razor, any instrument or weapon of the kind commonly known as a blackjack or sap, or any type of knife other than an ordinary pocket knife with a blade not longer than three and one-half inches. When carried with intent to use the same unlawfully against another, "dangerous or deadly weapon" also includes any instrument or device capable of inflicting injury to the person or property of another.

14.32.060. *Sale or distribution of miniature firearms and ammunition.* It is unlawful for any person to give, furnish, loan, sell, offer for sale, or distribute any miniature pistol, firearm, or instrument capable of receiving or discharging any cartridge, charge of powder, or other explosive or any ammunition therefor, within the city.

14.32.080. *Sale or distribution of dangerous or deadly weapons or ammunition to minors—Possession by minors.* It is unlawful for any person to give, furnish, loan or sell to any minor under eighteen years of age any dangerous or deadly weapon as defined in Section 14.04.020; and it is unlawful for any person to give, furnish, loan or sell any ammunition to any minor to be used or capable of being used in any dangerous or deadly weapon as defined in Section 14.04.-020; and it is unlawful for any such minor to have any such dangerous or deadly weapon or ammunition in his or her possession; and it shall be unlawful for any parent or guardian of any minor to permit such minor to have such a dangerous or deadly weapon or ammunition in his or her possession.*

Springfield

8-20-1. *Definition.* A weapons dealer is any person engaged in the business of selling or offering for sale at retail rifles, pistols, revolvers, derringers, or other weapons or firearms of like character. a. Any person selling or offering for sale a firearm bought for lawful personal use or purchasing a firearm for lawful personal use, and engaging in not more than two such transactions per year shall not be subject to the provisions of this article nor considered to be a weapons dealer.

8-20-2. *Licenses.* It shall be unlawful for any person to engage in a business as a weapons dealer without first having obtained a license from the City Recorder to do so.

8-20-5. *Condition of license.* Every license issued to a business dealing in weapons is issued upon the following terms and conditions:

(b) The licensee will not sell, deliver, or otherwise transfer a pistol, revolver or other firearm capable of being concealed on the person to a person whom he has cause to believe is an alien or who has been convicted of a felony.

(c) The licensee shall not sell, deliver or otherwise transfer a weapon to a person who is under the age of 18 years, intoxicated or under any obvious abnormal mental condition.*

(f) No pistol or revolver or other firearms capable of being concealed on the person shall be delivered sooner than 120 hours after the application for the purchase and when delivered, shall be unloaded and securely wrapped, unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

PENNSYLVANIA

State Law

PENN. STATS. ANN. (PURDON'S) TITLE 18

908. *Prohibited offensive weapons* (a) Offense defined.—A person commits a misdemeanor of the first degree if, except as authorized by law, he makes repairs, sells, or otherwise deals in, uses, or possess any offensive weapon.

(b) Exception.—It is a defense under this section for the defendant to prove by a preponderance of evidence that he possessed or dealt with the weapon solely as a curio or in a dramatic performance, or that he possessed it briefly in consequence of having found it or taken it from an aggressor, or under circumstances similiarly negativing any intent or likelihood that the weapon would be used unlawfully.

(c) Definition.—As used in this section "offensive weapon" means any bomb, grenade, machine gun, sawed-off shotgun, fire-arm specially made or specially adapted for concealment or silent discharge, any blackjack, sandbag, metal knuckles, dagger, knife, razor or cutting instrument, the blade of which is exposed in an automatic way by switch, push-button, spring mechanism, or otherwise, or other implement for the infliction of serious bodily injury which serves no common lawful purpose.

6102. *Definitions* Subject to additional definitions contained in subsequent provisions of this subchapter which are applicable to specific provisions of this subchapter, the following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Firearm." Any pistol or revolver with a barrel less than 12 inches, any shotgun with a barrel less than 24 inches, or any rifle with a barrel less than 15 inches.

"Crime of violence." Any of the following crimes, or an attempt to commit any of the same, namely: murder, rape, aggravated assault, robbery, burglary, entering a building with intent to commit a crime therein, and kidnapping.

6105. *Former convict not to own a firearm, etc.* No person who has been convicted in this Commonwealth or elsewhere of a crime of violence shall own a firearm, or have one in his possession or under his control.

6110. *Persons to who delivery shall not be made* No person shall deliver a firearm to any person under the age of 18 years, or to one he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.*

6111. *Sale of firearms* (a) Time and manner of delivery.—No seller shall deliver a firearm to the purchaser thereof until 48 hours shall have elapsed from the time of the application for the purchase thereof, and when delivered, said firearm shall be securely wrapped and shall be unloaded.

(b) Statement to be signed by purchaser.—At the time of applying for the purchase of a firearm, the purchaser shall sign in quadruplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, length of barrel, make, model, and manufacturer's number of the firearm to be purchased, and a statement that he has never been convicted in this Commonwealth, or elsewhere, of a crime of violence. The seller shall, within six hours after such application, sign and attach his address and forward by registered or certified mail one copy of such statement to the chief or head of the police force or police department of the city, or the sheriff of the county of the place of business of the seller, the duplicate, duly signed by the seller, shall, within seven days, be sent by him, with his address, to the Commissioner of the Pennsylvania State Police, the triplicate he shall retain for six years, and the quadruplicate with the proper signature and address of the seller shall, within six hours after such application, be forwarded by registered or certified mail to the chief or head of the police force or police department of the city or to the sheriff of the county of which the buyer is a resident.

(c) Exemption.—This section shall not apply to sales at wholesale.

6112. *Retail dealer required to be licensed* No retail dealer shall sell, or otherwise transfer or expose for sale or transfer, or have in his possession with intent to sell or transfer, any firearm without being licensed as provided in this subchapter.

6115. *Loans on, or lending or giving firearms prohibited* No person shall make any loan secured by mortgage, deposit, or pledge of a firearm; nor shall any person lend or give a firearm to another or otherwise deliver a firearm contrary to the provisions of this subchapter.

6116. *False evidence of identity* No person shall, in purchasing or otherwise securing delivery of a firearm or in applying for a license to carry the same, give false information or offer false evidence of his identity.

*NOTE.—Licensees under the Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

6117. *Altering or obliterating marks of identification* (a) Offense defined.—No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any firearm.

(b) Presumption.—Possession of any firearm, upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same.

6118. *Antique firearms* This subchapter shall not apply to antique firearms unsuitable for use and possessed as curiosities or ornaments.

6141. *Purchase of firearms in contiguous states* (a) General rule. It is lawful for a person residing in this Commonwealth, including a corporation or other business entity maintaining a place of business in this Commonwealth, to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this Commonwealth and to receive or transport such rifle or shotgun into this Commonwealth.

(b) Applicability of section.—(1) This section applies to residents of this Commonwealth who obtain rifles or shotguns from a state contiguous to this Commonwealth in compliance with the Gun Control Act of 1968, State laws and local ordinances. (2) This section shall not apply or be construed to affect in any way the purchase, receipt or transportation or rifles and shotguns by Federally licensed firearms manufacturers, importers, dealers or collectors.

(c) Definitions.—(1) As used in this section the term "a state contiguous to this Commonwealth" means any state having a common border with this Commonwealth. (2) The other terms used in this section shall have the meanings ascribed to them by Public Law 90-618 known as the "Gun Control Act of 1968."

6302. *Sale or lease of weapons and explosives* (a) Offense defined.—A person is guilty of a misdemeanor of the first degree if he sells or causes to be sold or leases to any person under 18 years of age any deadly weapon, cartridge, gunpowder, or other similar dangerous explosive substance.

(b) Exception.—The provisions of subsection (a) of this section shall not prohibit hunting by minors under 18 years of age permitted under provisions of The Game Law.

6303. *Sale of starter pistols* (a) Offense defined.—A person is guilty of a misdemeanor of the first degree if he sells, causes to be sold, gives or furnishes to any person under the age of 18 years, or if he, being under the age of 18 years, purchases, accepts, receives or possesses, any pistol commonly referred to as "starter pistol" specially designed to receive and discharge blank cartridges only or similar pistol.

(b) Exception.—Nothing in this section shall prohibit the use of starter pistols for the purpose of starting or officiating at athletic events, use in dramatic productions, or other similar events.

7306. *Incendiary devices* (a) Offense defined.—A person is guilty of a misdemeanor of the first degree if he owns, manufactures, sells, transfers, uses or possesses any incendiary device or similar device or parts thereof, including but not limited to a "molotov cocktail."

(b) Exception.—The provisions of subsection (a) of this section shall not apply to authorized personnel of the United States, the Commonwealth or any political subdivision, who use incendiary devices as part of their duties.

(c) Definition.—As used in this section the phrase "incendiary device," means any inflammable liquid enclosed in a readily breakable container that can be equipped with an igniter of any type.

Abington Township

Sale or furnishing weapons to persons under the age of eighteen years. 2. Whoever knowingly and wilfully sells or causes to be sold, or supplies or furnishes to any person under eighteen (18) years of age any rifle, air rifle or air gun of any description in the Township of Abington, shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine not exceeding fifty dollars and in default of the payment of such fine and costs shall be sentenced to imprisonment in the County Jail not exceeding ten (10) days.

California

4-4. *Sales to intoxicated persons and minors.* No person in the Borough shall sell, loan, or furnish any weapon in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant, or depressant or to any person in a condition of agitation and excitability, or to minor under the age of 18 years.*

Clifton Heights Borough

1. That it shall be unlawful and it is hereby prohibited for any person, persons, firm or corporation to store, sell, offer or expose for sale at retail, use or discharge, or have in their possession with intent to sell at retail or with intent to use or discharge and/or to use or discharge within the limits of the BOROUGH OF CLIFTON HEIGHTS any air gun, air pistol, spring gun, or pistol, starter guns, blank guns, beebe guns, sling shots or any implement not a firearm which impels with force a pellet of any kind. "At retail" shall mean any sale of less than one dozen such articles, or any sale to anyone not a bona fide dealer therein.

Harrisburg

721.02. *Emergency measures.* 1. Whenever the Mayor pursuant to Section 721.01 of this Code of Ordinances declares that a state of emergency exists, (a) the emergency measures provided in Paragraph 2 of this Section shall thereupon be in effect during the period of said emergency and throughout the City.

2. (a) The sale or transfer of possession, with or without consideration, the offering to sell or so transfer and the purchase of any ammunition, guns or other firearms of any size or description is prohibited. (b) The displaying by or in any store or shop of any ammunition, guns or other firearms of any size or description is prohibited. • • •.

Lancaster

747.03. *Sale of deadly weapons.* The provisions of this article shall not apply to air guns or pistols, gas-powered guns or pistols having rifled barrels and being commonly used for target practice and the shooting of small game. For the purposes of this article, such articles shall be deemed to be deadly weapons and may be sold by dealers licensed to sell firearms after proper application has been made by the purchaser thereof on forms prepared by the Commissioner of Police and supplied by him to the dealer. The dealer shall have the prospective purchaser of such weapon fill out the application and shall immediately thereafter file a copy of said application with the Commissioner of Police. If the Commissioner of Police does not notify the dealer that he has any objection to the sale within a period of forty-eight (48) hours thereafter, then the dealer may complete the sale and file a record of such completion with the Commissioner of Police on forms to be supplied by said Commissioner.

Lower Moreland Township

69-1a. Any person in Lower Moreland Township under eighteen (18) years of age, unless acting under the supervision of and in the presence of a parent or guardian, who purchases or possess any pellets or shot for an air gun or ammunition for a rifle or other firearm, shall upon summary conviction by any Justice of the Peace of this Township, pay a fine not in excess of Fifty ($50.00) Dollars and in default of payment shall undergo imprisonment not in excess of twenty (20) days."

69-1b. Any person in Lower Moreland Township who shall sell, furnish or give any pellets or shot for an air gun or ammunition for a rifle or other firearm to any person under eighteen (18) years of age, unless the minor receiving the aforesaid shot, pellets or ammunition is accompanied by and acting under the supervision of a parent or guardian, shall upon summary conviction by any Justice of the Peace of Lower Moreland Township pay a fine not in excess of One Hundred ($100.00) Dollars and in default of payment shall undergo imprisonment not in excess of thirty (30) days.

69-2. Whoever knowingly and wilfully sells or causes to be sold, to any person under eighteen (18) years of age any rifle, air rifle, or air gun of any description in the Township of Lower Moreland, shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine not exceeding fifty dollars ($50.) and in default of the payment of such fine and costs, shall be sentenced to imprisonment in the County Jail not exceeding ten (10) days.

Marcus Hook Borough

The Borough Council of the Borough of Marcus Hook does ordain: 1. That it shall be unlawful for any person or persons to use and/or sell any device known as air rifles, B. B. guns, or guns of any nature which expel, shot or project a bullet, pellets, shot or any article whatsoever by use of air or otherwise within the limits of the Borough of Marcus Hook.

McKeesport

1. *Be it ordained and enacted by the City of McKeesport* in Council assembled, and it is hereby ordained and enacted by the authority of the same, That from and after the passage of this ordinance, it shall be unlawful for any person or persons, firm or corporation to engage in the sale, barter or trade of revolvers or pistols without first obtaining a license from the Mayor of the City of McKeesport to so engage in this business, • • •.

2. *It shall be unlawful for any person or persons,* firm or corporation to sell to any individual any revolver or pistol without prospective purchaser first having secured a permit from Police Department showing the name of the prospective purchaser, together with said prospective purchaser's address and occupation.

Mt. Lebanon Township

3. *No person, firm or corporation shall* sell or offer for sale any rifle, shot-gun, revolver, pistol, flobert rifle, or air gun, unless they, or it, shall have first received a written license so to do, signed by the Township

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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Manager of said Township. • • •

Mt. Oliver Borough

5. No person other than duly authorized personnel of the Borough, City, County, State or Federal law enforcement agencies, shall carry, sell, or display, barter, loan, give away, transfer, transport, discharge, or use any weapon, ammunition or explosive device of any kind or nature whatsoever including firearms, air rifles, bows and arrows, swords, knives, razors, bayonets, axes, hatchets, bombs, missiles or any other weapon or device designed or intended to inflict bodily harm or injury to property at any place within the Borough.

Philadelphia

10–814. *Acquisition or transfer of firearms* (1) Definition.

(a) Firearm. Any rifle, pistol, revolver, gun or shotgun.

(b) Department. Department of Licenses and Inspections.

(2) Prohibited conduct. No person shall acquire or transfer any firearm in the City, and no person shall acquire a firearm outside of the City, which is brought into the City, unless application has been made to, and license obtained from, the Department.

(4) License. (a) No license shall be issued unless the Police Department, after due investigation, approves the application.

(5) Duty of transferor or vendor.

(a) No transferor or vendor shall give, transfer, sell or deliver possession of any firearm to any person unless the transferee or vendee supplies to the transferor or vendor the required license for the scrutiny of the vendor or transferor.

(b) If no manufacturer's number of the firearm appears on the license, the transferor or vendor shall insert said number in the designated space, and shall forthwith notify the Police Department of the sale or transfer of the particular firearm and advise the Police Department of the manufacturer's number of said firearm which was inserted on the license.

(6) Exclusions. No license shall be required under this section.

(a) by any governmental agency which owns or acquires firearms; or

(b) for transfer of firearms between a manufacturer and a duly licensed dealer, or between one licensed dealer and another dealer, in their usual course of business; or

(c) for licensed pawnbrokers, accepting a firearm as security or pledge for a loan, until the pawnbroker makes a sale or transfer of the firearm pledged to a person other than the owner, at which time a license shall be obtained for the sale or transfer, as provided herein.

9–606. *Ammunition.* (2) *Definitions.* In this Section the following definitions apply: (a) *Ammunition.* Any material used in discharging any type of firearm or any projectile discharged by said firearm. (b) *Minor.* Any person under the age of 18 years.

(3) *Prohibitions.* (a) Any person engaged in the business of selling ammunition shall be required to comply with the following: • • •

(b) No person shall sell, give or delivery any ammunition to minors; provided, that this Section shall not apply to ammunition supplied by a parent or guardian to his child or children, for lawful purposes.•

(c) No person shall sell any ammunition which can be used in pistols, revolvers or other hand guns unless the purchaser produces satisfactory written identification and registers his name and address.

(4) *Licenses.* (a) No person shall sell any ammunition unless he first receives a license from the Department.

Scranton

1. The Council of the City of Scranton ordains that for the purpose of preventing the carrying of concealed deadly weapons and the commission of other crimes and breaches of the peace, it shall be unlawful for any person, whether as principal or agent, to sell or otherwise dispose of any pistol, revolver, (including those for discharge of blank cartridges) slung-shot, handy-billy, dirk-knife, or other deadly weapon readily capable of concealment upon the person, unless a permit for such sale or other disposition has first been obtained from the Superintendent of the Bureau of Police in the manner hereinafter provided.

2. Every person desiring to purchase or acquire any weapon enumerated in Section 1 of this ordinance may make written application therefor accompanied by payment of a fee of $1.00 to the Superintendent of the Bureau of Police for the use of the City of Scranton. Said application shall set forth the reasons why such purchase or acquisition is desired and such other information as said Superintendent may require. If said Superintendent shall deem such application well grounded and such applicant to be of good moral character, he shall grant a non-transferable permit, which shall be signed by the applicant in the presence of said Superintendent or his duly authorized representative.

3. Such permit shall authorize the applicant within thirty days thereafter to purchase or otherwise lawfully acquire a weapon of the class enumerated in Section 1 of this ordinance, upon the surrender of such permit and the signing thereof for the purposes of comparison in the presence of the person selling or otherwise disposing of said weapon.

Shamokin Borough

52–4. *Purchase, sale or discharge of fireworks, etc., prohibited; exception.* From and after the passage of this ordinance, it shall be unlawful for any person or persons to purchase, sell or discharge any firecrackers, rockets, squibs, guns, pistols or other firearms or fireworks of any kind within the limits of the Borough of Shamokin (now City) unless a license for exhibition is granted for the same by the Chief Burgess (now Mayor) or the Borough Council (now City Council).

Springfield Township

545–3. The Board of Commissioners of the Township of Springfield does ordain: Whoever knowingly and willfully sells or causes to be sold or supplies or furnishes to any minor person any rifle, air rifle, or air gun of any description or ammunition or pellets for the same, or bow and arrows, or shotguns, guns or any firearm or weapon from which a shot or other object is discharged by an explosive force, in the Township of Springfield shall upon conviction thereof in a summary proceeding before a Justice of the Peace, be sentenced to pay a fine not exceeding $50.00 and in default of the payment of fine and costs, shall be sentenced to imprisonment in the County Jail not exceeding ten days.

Swissvale Borough

1464–3. No person, firm or corporation shall sell or offer for sale any rifle, shot-gun, revolver, pistol, flobert rifle, or air gun, to any person under twenty-one (21) years of age.

1579–2. *Every prospective purchaser* of any of the foregoing arms shall first apply to the Police Department for a permit, giving such information as to the said Department shall require, and no permit shall be issued until after three (3) days have elapsed from the date of application. No seller of said arms shall sell such arms or guns without said permit.

Upper Southampton

39.2 *Whoever knowingly and willfully* sells or causes to be sold or supplies or furnishes to any person under eighteen years of age, any gun, rifle, air rifle, or air gun, or any firearm of any description in the Township of Upper Southampton, shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine not exceeding One Hundred ($100.) Dollars, and in default of the payment of such fine and costs, shall be sentenced to imprisonment in the County Jail for a period not exceeding thirty (30) days.•

West Conshohocken Borough

246–3. It shall be unlawful and it is hereby prohibited for any person, persons, firms or corporations, to transfer, store, sell, offer or expose for sale, or to have possession with intent to sell any gun, pistol, shotgun, rifle or other firearm within the Borough of West Conshohocken, unless duly licensed according to law.

Williamsburg

3. It shall be unlawful for any person who knowingly and wilfully sells or causes to be sold to any person under 16 years of age, any deadly weapon or knowingly or wilfully to sell any cartridge, gun powder or other dangerous and explosive substance.•

Wyomissing Borough

578–1(c) *Dealing with Minors and Certain Other Persons.* Purchase from, or sell, loan, give, trade, deliver or otherwise furnish any weapon described in sub-section (b) herein, or ammunition therefor, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of 18 years; excepting bows and arrows with respect to minors.•

PUERTO RICO

L.P.R.A. Title 25

413. *Sale or transportation of machine guns.* Any person who sells or keeps for sale, or offers, gives, leases, or loans, or otherwise disposes of or transports any instrument or weapon of the kind usually known as a machine gun shall be guilty of a felony. This section shall not apply to the manufacture, sale or delivery of machine guns for the use of the police and other peace officers, or for the use by officers or employees of the Government of Puerto Rico or of the United States, prisons, penitentiaries, Commonwealth or municipal jails, or for the use of the armed forces of the United States or of Puerto Rico.

415. *Possession of machine gun or sawed-off shotgun.* Any person who possesses or uses a machine gun, or a sawed-off shotgun, shall be guilty of a felony. This section shall not be applicable to the possession or use of machine guns in the discharge of their official duties by members of the police, by wardens, superintendents, or any of their deputies of any prison, penitentiary, district or municipal jail, or other institution for the detention of persons convicted of or charged with any offense or held as witnesses in criminal cases or any other public peace officers; nor shall it apply to the possession or use of machine guns by any person when on duty in the service of the armed forces of the United States or of Puerto Rico, or in the postal, customs, and immigration services of the United States or in any service of the Government of the United States authorized by the law of its creation to use such weapons, nor to the possession by common carriers while the latter transports them directly for delivery at any point for the use of the officers or persons above named.

416. *Possession of pistol or firearm without license.* Any person who has or possesses any pistol, revolver, or other firearm without having a license therefor issued as hereinafter provided, shall be guilty of a misdemeanor and, if previously convicted of any violation of this chapter, or of any of the offenses specified in section 427 of this title, or uses the weapon in the commission of any of such offenses, shall be guilty of a felony.

420. *Possession or sale of silencer.* Any person who has in his possession, sells, or keeps for sale, loans, offers, gives or disposes of any instrument, attachment, weapon or appliance, for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearm, shall be guilty of a felony. The provisions of this section shall not apply to the members of the Police of Puerto Rico or the National Guard, nor to the members of the armed forces of the United States.

421. *Serial number or name of owner on firearm—Removal or defacement.* Every firearm shall bear, so as not [to] be easily altered or defaced, the name of the gunsmith or the trade-mark under which the firearm shall be sold or the name of the importer, and furthermore a serial number or the full name of the owner engraved thereon. The requirement that every firearm shall have engraved thereon a serial number or the name of the owner thereof shall not apply to guns or rifles whose barrel is 18 inches long or more, nor to rifles .22 caliber or less, whose barrel is 16 inches long or more, manufactured in Puerto Rico to be exported abroad by the gunsmith himself. The gunsmith shall be under obligation to take all reasonable measures and precautions to prevent that such firearms be stolen or otherwise removed from the gunsmith's warehouses where they are stored pending shipment and that same be offered, held for sale, sold, leased, or delivered to any person within Puerto Rico.

Any person shall be guilty of a felony who:

(a) Wilfully removes, defaces, covers, alters, or destroys the serial number of any firearm or the name of the owner thereof; or who:

(b) Knowingly buys, sells, receives, alienates, transfers, carries or has in his possession any firearm from which the serial number or name of the owner thereof has been removed, defaced, altered, or destroyed; or who:

(c) Being a dealer in firearms or a gunsmith, or an agent or representative of such dealer or gunsmith, knowingly purchases, sells, receives, delivers, alienates, transfers, carries, or has in his possession any firearm on which the serial number or name of the owner thereof has been removed, defaced, covered, altered, or destroyed.

425. *License to possess firearms; weapons for farmers.* The Chief of Police of Puerto Rico may, when an application therefor is presented to him by any householder, merchant, or farmer, and provided the requirements hereinafter provided for are complied with, issue to such applicant a license to have and possess a pistol or revolver, and authorizing him, if a householder, to have and possess such weapon in his residence, or if a merchant, to have and possess a weapon in his place of business, or, if a farmer, a weapon in his farm. The license provided for by this section shall not authorize to carry such weapon outside the residence, place of business or farm, as the case may be.

The Chief of Police of Puerto Rico may also issue a license to any person to have and possess a shotgun on a farm of which such person may be the owner, possessor, or administrator.

The provisions of this paragraph shall not be construed in the sense of authorizing the Chief of Police of Puerto Rico to issue licenses to have and possess in the same farm more than one short weapon (revolver or pistol) and a long weapon (shotgun).

427. *Grounds for refusing to issue license.* The Chief of Police of Puerto Rico shall not issue a license to have and possess a firearm to any person convicted in or outside Puerto Rico of any of the following offenses or of the attempt to commit the same: murder in any degree, voluntary manslaughter, kidnapping, rape, mayhem, assault with the intent to commit murder or manslaughter, aggravated assault and battery, when such offense was committed with a cutting, piercing or fire weapon, robbery, burglary, larceny, arson, incest, or violation of sections 1247–1257 of Title 33, or violation of section 1442 of Title 33; nor to any person who is mentally unbalanced, or a habitual drunkard or a narcotic or drug addict; nor to any person convicted for the violation of the provisions hereof.

430. *Persons who may lawfully carry weapons.* (a) The following may lawfully have, possess, bear, transport and carry weapons:

1. Members of the Armed Forces of the United States and of Puerto Rico in the discharge of their duties as such and under the provisions of the laws and regulations of their respective organizations.

2. The members of the Police of Puerto Rico under the provisions of the regulations of the said organization.

3. The Superintendent of Prisons, heads of Commonwealth penitentiaries and jail wardens, under the regulations provided by the Secretary of Justice.

4. Penal guards and convict guards, under the regulations provided by the Secretary of Justice.

5. United States customs and immigration officials, while in the discharge of their duties.

(b) A revolver or pistol may be lawfully owned, possessed, borne, transported, and carried by:

1. The judges and prosecuting attorneys of the courts of justice.

2. Any officer of the Government of Puerto Rico when a permit to carry firearms should, in the opinion of the Chief of Police of Puerto Rico, be issued to the said officer by reason of the duties of his position and the said permit is issued to him by the Chief of Police of Puerto Rico.

3. Mail carriers in the performance of their duties.

4. The marshals and deputy marshals of any tribunal or court.

5. Carriers of public funds while such funds are in their custody.

6. Carriers of private funds and custodians of private funds in banking institutions while such funds are in their custody, upon issuance to them of a permit by the Superior Court of Puerto Rico, before which such carriers or custodians, or their employers, shall have justified their need for such permit.

7. Internal-revenue collectors and agents while in the performance of their duties and provided they have been so authorized by the Chief of Police of Puerto Rico at the request of the Secretary of the Treasury of Puerto Rico to carry a revolver or a pistol.

432. *License to sell or deal in firearms and ammunition; report of transactions.* (a) No person may engage in the business of gunsmith or dealer in firearms and ammunition without holding a license therefor issued by the Secretary of the Treasury upon favorable report of the Chief of Police of Puerto Rico.

(b) The provisions of subdivision (a) above shall likewise be applicable to dealers who introduce firearms and ammunition into Puerto Rico. • • •

(d) Any dealer in firearms and ammunition who holds a license issued in accordance with this chapter may acquire a firearm registered in the Weapons Register under the provisions of subdivisions (a), (b) and (d) of section 439 of this title, by purchase from the person who has it registered in his name, provided such person has a license to have and possess said firearms, issued in accordance with this chapter. Before a firearm is sold under the provisions of this subdivision, both the vendor and the vendee shall give notice thereof in writing to the Chief of Police, and the former shall deliver to said officer his license to have and possess a firearm. The sale of a firearm under the provisions of this subdivision shall not prevent the vendor from obtaining a new license to have and possess a firearm in accordance with this chapter.

434. *Qualifications of dealer applicant.* No license as gunsmith or dealer in firearms and ammunition shall be issued to a person not over 21 years of age, and not a citizen of Puerto Rico and of the United States.

436. *Conditions for dealers' operations; records of transactions.* Any person, partnership or corporation, to whom or to which a license has been issued under the foregoing sections may engage in the retail sale of firearms and ammunition or in the gunsmith business, under the following conditions:

3. Under no circumstance shall a weapon or shall ammunition be sold unless the vendor is personally acquainted with the buyer, or the latter clearly establishes his identity. This requirement shall not apply to gunsmith businesses as regards firearms and/or ammunition for export.

437. *Acquisition of weapons by persons authorized in section 430.* The officials and persons lawfully authorized to have, possess, carry, convey and transport firearms under the provisions of subdivision (a) and paragraphs 4, 5 and 7 of subdivision (b) of section 430 of this title, shall obtain such weapons and the ammunition therefor through the heads of their respective departments or services.

438. *Sales of weapons and ammunition without licenses prohibited; sales slips.* No dealer in firearms or ammunition shall deliver a firearm to a purchaser without the latter's handing over to him a license to have and possess a firearm, duly issued in accordance with the provisions of this chapter, and unless said license contains an authorization for the purchase of such firearm, and said dealer shall not sell to such purchaser [any] other weapon than the one described in said license. The dealer in firearms and ammunition shall separate from such license and keep the sales slip, and shall return the license to the purchaser. No weapon shall be sold to the holder of a license from which the sales slip has been removed, and in no case shall a pistol, revolver, or other firearm be delivered to the purchaser thereof until after forty-eight (48) hours have elapsed from the time he applies for the purchase.

•NOTE.—Licensees under the Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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and the same shall be delivered to him unloaded and securely wrapped.

No dealer in firearms or ammunition shall sell any quantity of ammunition to any person failing to present a license to carry, or a license to have and possess a firearm.

445. *Hunting and target shooting arms excepted.* The provisions of this chapter shall not apply to the possession, bearing, carrying, transportation and use of hunting and target shooting arms to all of which the acts in force on the matter shall apply.

446. *Collections of antique weapons; certificates of uselessness.* No provision hereof shall prevent that private collections of antique weapons, which may not be used as weapons, be preserved and maintained and that their owners possess them as ornaments or as matters of curiosity, nor the collections of weapons kept as relics, but for the preservation of any weapon of those included in this section the prior inspection thereof and approval therefor by the Chief of Police of Puerto Rico shall be necessary and the latter shall render such weapons useless, so that the same may not be used as such. The Chief of Police of Puerto Rico shall issue a certificate of uselessness of all the weapons possessed under the provisions of this section, and the possession of any weapon not included in said certificate shall be subject to all the provisions hereof.

454. *Definitions.* For the purposes of this chapter, the phrases and terms hereinafter listed shall have the following meaning and definition.

(a) "Machine gun" is a weapon of any description, irrespective of size, by whatever name designated or known, loaded or unloaded, from which may be repeatedly or automatically discharged a number of bullets contained in a magazine, ribbon or other removable receptacle by one continued pull of the trigger. The term machine gun also includes a submachine gun.

(b) "Firearm" means any weapon by whatever name known, capable of discharging one or more ammunitions through the expanding action of gases.

(c) "Ammunition" means any bullet, cartridge, projectile, buckshot, or any load placed or which may be placed in a firearm to be discharged.

(f) "Gunsmith" means any person, firm, partnership, or corporation engaging in the manufacture, repairing, altering, assembling, cleaning, polishing, engraving, or trueing, or performing any mechanical operation for another on any pistol, revolver, or other firearm.

(g) "Dealer in firearms or ammunition" shall mean any person, firm, partnership or corporation who, per se or through its agents, servants, or employees, purchases or introduces for sale, sells, trades, exchanges, offers for sale, or displays for sale, or has for sale, in his business establishment or other place, whether or not also used as a residence or for any other purpose, any pistol, revolver, firearm, or ammunition.

(i) "Householder" means any person who has established a permanent home, domicile or residence under his own responsibility and authority. There may not be more than one householder in any permanent home, domicile or residence.

(j) "Dwellings" and "Buildings" mean the whole part of a structure used or occupied by a single person or a single family.

(k) "Vehicle" means any device serving for the transportation of persons or things by land, sea, or air.

(l) "Person", "Merchant" and "Farmer" for the purposes of sections 425, 426, 427, 428, 429 of this title, shall include a partnership or corporation, but any license requested for the benefit of such artificial person under the provisions of the sections mentioned, may be granted only in the name of a specific officer or employee of such artificial person, provided such officer or employee meets the requirements prescribed in this chapter.

(m) "Police" means the Police Force of Puerto Rico.

(n) "Chief of Police of Puerto Rico" means the Chief of the Police of Puerto Rico.

541. *Concealed weapons and instruments.* It shall be a misdemeanor, punishable as provided in section 546 of this title, to bear, carry, transport, possess or sell any weapon, instrument or device whose general configuration conforms to that of a revolver or pistol and which is capable of detonating blank shells, blank cartridges or any other unit not provided with a missile, that could produce explosion through combustion, including among such weapons instruments or devices, those revolvers, pistols, instruments and devices known by the name of starter's pistol, blank cartridge pistols, blank cartridge revolvers, blank starter's pistols, blank pistols, blank revolvers, blank starter's revolvers, or any others whose general configuration conforms to those of a revolver or pistol and which fires blank cartridges, blank capsules, or blank shells. By blank capsule, blank shell or blank cartridge shall be understood any hollow unit, cylindric or cubic in form, not provided with a missile, containing in its interior any chemical agent or compound capable of producing explosion by combustion, and provided with a percussion-sensitive detonator.

542. *Exceptions.* Excepted from the provisions of section 541 above are revolvers especially manufactured for sportive events and theatrical shows and used for such purposes, provided the barrel thereof is a solid cylinder with no orifice whatsoever and ending in a cone.

RHODE ISLAND

State Law

R.I.L. TITLE 11

11-13-3. *Sale of fulminate cartridges or contrivances to minors.* No person shall sell to any child under the age of fifteen (15) years, without the written consent of a parent or guardian of such child, any cartridge or fixed ammunition of which any fulminate is a component part, or any gun, pistol or other mechanical contrivance arranged for the explosion of such cartridge or of any fulminate. Nothing in this section shall authorize the sale of any blank cartridge except as provided in § 11-13-5. Every person violating the provisions of this section shall be fined not less than ten dollars ($10.00) nor more than twenty dollars ($20.00) for each offense.

11-13-4. *Toy canes or devices for firing blanks.* No person or persons shall sell, expose for sale, or have in his or their possession with intent to sell or use, or shall discharge or use, within this state, any repeating toy cane for discharging any explosive, any toy pistol or any other toy device designed or used for the discharge of blank cartridges.

11-13-8. *Delivery or transportation of unmarked explosives or inflammable substances.* Every person who shall knowingly deliver or cause to be delivered to any person or carrier any box, can or other package of nitroglycerine, gunpowder, naphtha or other equally inflammable and explosive substance, material or fluid, not marked with a plain and legible label describing its contents, or who shall remove or cause to be removed any such label or mark, or who shall carry or cause to be carried on any vessel, car or vehicle operated in the transportation of passengers by a common carrier, which vessel, car or vehicle is carrying passengers for hire, any box, can or other package of nitroglycerine, gunpowder, naphtha, guncotton or substance or material containing guncotton, or any other equally inflammable and explosive material, substance or fluid, shall be fined not more than ten thousand dollars ($10,000) or imprisoned not more than five (5) years.

11-47-2. *Definition of terms.* When used in §§ 11-47-1 to 11-47-56, inclusive, the following words and phrases shall be construed as follows:

"Pistol" shall include any pistol or revolver, and any shotgun, rifle or similar weapon with overall length less than twenty-six (26) inches, but shall not include any pistol or revolver designed for the use of blank cartridges only.

"Machine gun" shall include any weapon which shoots automatically and any weapon other than twenty-two (22) caliber rim fire which shoots more than fourteen (14) shots semi-automatically without reloading.

"Firearm" shall include any machine gun, pistol, rifle, air rifle, air pistol, "blank gun," "BB gun," so-called or other instrument from which steel or metal projectiles are propelled, except such instruments propelling such projectiles which instruments are designed or normally used for a primary purpose other than as a weapon.

"Person" shall include individual, partnership, firm, association or corporation.

"Licensing authorities" shall mean the board of police commissioners of a city or town where such board has been instituted, the chief of police or superintendent of police of other cities and towns having a regular organized police force, and in towns where there is no chief of police or superintendent of police it shall mean the town clerk who may issue licenses upon the recommendation of the town sergeant, and it shall also mean any other person or body duly authorized by the city or town charter or by state law.

"Crime of violence" shall mean and include any of the following crimes or an attempt to commit any of the same, viz.: murder, manslaughter, rape, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon, assault or battery involving grave bodily injury, and/or assault with intent to commit any offense punishable as a felony.

"Fugitive from justice" shall mean any person who has fled from any state, territory, the District of Columbia, or possession of the United States to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

"Sell" shall include let or hire, give, lend and transfer, and the word "purchase" shall include hire, accept and borrow, and the expression "purchasing" shall be construed accordingly.

11-47-5. *Possession of arms by person convicted of crime of violence or who is a fugitive from justice.* No person who has been convicted in this state or elsewhere of a crime of violence or who is a fugitive from justice shall purchase, own, carry, transport or have in his possession or under his control any firearm.

11-47-6. *Possession of arms by mental incompetents, drug addicts, and persons adjudicated an habitual drunkard.* No person who is under guardianship or treatment or confinement by virtue of being a mental incompetent, or who has been adjudicated or is under treatment or confinement as a drug addict, or who has been adjudicated or is

under treatment or confinement as an habitual drunkard shall purchase, own, carry, transport or have in his possession or under his control any firearm. Any person affected by the provisions of this section, other than a person who has been pronounced criminally insane by competent medical authority, after the lapse of a period of five (5) years from the date of being pronounced cured by competent medical authority, may, upon presentation of an affidavit issued by competent medical authority to the effect that he is a mentally stable person and a proper person to possess firearms, make application for the purchase of said firearm(s). If said person has no other disqualifying record he will be allowed to purchase and possess firearms.

11-47-7. *Possession of pistol or revolver by alien.* No unnaturalized foreign born person who has resided in the United States for less than ten (10) years shall purchase, own, carry, transport or have in his possession or under his control any pistol or revolver. The provisions of this section shall be waived in the case of an unnaturalized foreign born person arriving in or passing through this state for the purpose of competing in a match organized under the auspices of a national shooting organization.

11-47-8. *License required for carrying pistol—possession of machine gun.* No person shall, without a license therefor, issued as provided in §§ 11-47-11, 11-47-12, and 11-47-18, carry a pistol or revolver in any vehicle or conveyance or on, or about his person whether visible or concealed, except in his dwelling house or place of business or on land possessed by him or as provided in §§ 11-47-9 and 11-47-10, and no person shall manufacture, sell, purchase or possess a machine gun except as otherwise provided in this chapter. Every person violating the provision of this section shall, upon conviction, be punished by imprisonment for not less than one (1) nor more than five (5) years and except for a first conviction under this section shall not be afforded the provisions of suspension or deferment of sentence, nor of probation.

11-47-20. *Sale or possession of silencers.* It shall be unlawful within this state to manufacture, sell, purchase or possess, any muffler, silencer or device for deadening or muffling the sound of a firearm when discharged. Violations of this section shall be punished by imprisonment for not less than one (1) year and one (1) day.

11-47-21. *Restrictions on possession or carrying of explosives or noxious substances.* Any person, except a member of the state police, the sheriff or his deputies, or a member of the police force of any city or town, or a member of the army, navy, air force, or marine corps of the United States, or of the national guard or organized reserves when on duty, who possesses, or carries on or about his person or in a vehicle, a bomb or bombshell, except for blasting or other commercial use, or who, with intent to use the same unlawfully against the person or property of another, possesses or carries any explosive substance, or any noxious liquid, gas or substance, shall be guilty of a violation of this chapter and punished as hereinafter provided.

11-47-23. *False information in securing pistol or license.* No person shall in purchasing or otherwise securing delivery of a pistol or revolver or in applying for a license to carry the same, give false information or offer false evidence of his identity. Violation of the provisions of this section may be punished by imprisonment for not more than five (5) years.

11-47-24. *Alteration of marks of identification on firearms.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any firearm. Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same. Violation of the provisions of this section may be punished by imprisonment for not more than one (1) year and one (1) day.

11-47-25. *Antique firearms and collections.* Sections 11-47-1 to 11-47-56, inclusive, shall not apply to antique firearms unsuitable for use nor to collections of firearms as curios, souvenirs, or for educational, scientific or any similar purpose without intent to use such firearms.

11-47-30. *Sale of firearms to minors.* It shall be unlawful within this state for any person to sell any firearm to any person under fifteen (15) years of age.*

11-47-31. *Sale of ammunition to minors.* It shall be unlawful within this state for any person to sell any ammunition, including any priming charge of powder, propelling charge of powder or any form of missile or projectile to be ejected from a firearm to any person under fifteen (15) years of age.*

11-47-32. *Possession of ammunition by minor.* Except as provided in § 11-47-33, it shall be unlawful within this state for any person under fifteen (15) years of age to possess and use ammunition, including any priming charge of powder, propelling charge of powder or any form of missile or projectile to be ejected from a firearm.

11-47-33. *Possession of firearms by minors.* It shall be unlawful within this state for for any person under fifteen (15) years of age to possess and use any firearm unless he shall hold a permit therefor as provided in § 11-47-34, and only in the presence of a qualified adult at any regular and recognized camp or rifle range approved by the Rhode Island state police or by the chief of police of the city or town in which such camp or rifle range is located; and provided, further, however, that said person under fifteen (15) years of age may carry such firearm, unloaded, in a suitable case to and from his home and such camp or range and from such camp or range to other such camp or range.

11-47-34. *Firearms permits to minors.* The Rhode Island state police or the chief of police of the city or town in which such person resides shall issue permits to any person under fifteen (15) years of age only upon satisfactory proof of being engaged in a course of training in the use of firearms at a regular and recognized camp or rifle range, and further provided that such person has the written consent of a parent or guardian. Valid membership cards of junior gun clubs or of junior divisions of senior gun clubs incorporated in the state of Rhode Island shall be prima facie evidence of such person under fifteen (15) years of age being engaged in a course of training in the use of firearms at a regular and recognized camp or rifle range.

11-47-35. *Sale of concealable weapons.* No seller shall deliver a pistol or revolver to a purchaser thereof until seventy-two (72) hours shall have elapsed from twelve o'clock noon of the day following the day of application for the purchase thereof, and when delivered, said pistol or revolver shall be unloaded and securely wrapped, with the bill of sale therefor to be inclosed within said wrapper with said pistol or revolver. Any loyal law abiding citizen of this state twenty-one (21) years of age or older, and any member of the armed forces of the United States who is stationed in this state and who has the written permission of his commanding officer and who is twenty-one (21) years of age or older, may upon application purchase or acquire a pistol or revolver. At the time of applying for the purchase of a concealable firearm the purchaser shall accomplish and sign in triplicate and deliver to the seller the application form prescribed below, and in no case shall it contain the serial number of the pistol or revolver.

(APPLICATION FORM OMITTED)

The seller shall on the date of application, sign and forward by registered mail or by delivery in person, the original and duplicate copies of said application to the superintendent of the Rhode Island state police or the chief of police in the city or town in which the seller has his residence or place of business. The superintendent of the Rhode Island state police or the chief of police in the city or town in which the seller has his residence or place of business shall mark or stamp the original copy of the application form with the date and time of receipt and return it by the most expeditious means to the seller. The triplicate copy duly signed by the seller shall within seven (7) days be sent by him by registered mail to the attorney-general. The seller shall retain the original copy duly receipted by the police authority to whom sent or delivered for a period of six (6) years with other records of the sale. It shall be the duty of the police authority to whom the duplicate copy of the application form is sent or delivered to check the applicant's record to ascertain whether he falls under the provisions of §§ 11-47-5, 11-47-6, 11-47-7, or 11-47-23. If after the lapse of seventy-two (72) hours from twelve o'clock noon of the day following application, no disqualifying record has been received from the investigating police authority by the seller, he will deliver the firearm applied for to the applicant. Upon the finding of no record that would disqualify the applicant under the provisions of the above cited sections of this chapter, and in no case later than thirty (30) days after the date of application, the duplicate and triplicate copies of the application will be destroyed. The provisions of this section shall not apply to bona fide sales at wholesale to duly licensed retail dealers, nor to purchases by retail dealers duly licensed under the provisions of § 11-47-39.

11-47-37. *Delivery to minors and others forbidden.* No person shall deliver a concealable firearm to any person under the age of twenty-one (21) or to one who he has reasonable cause to believe falls under the provisions of §§ 11-47-5, 11-47-6, 11-47-7, or 11-47-23.

Central Falls

17-23. *Weapons—Possessing, harboring, etc.*—No person shall own, possess, harbor, carry or in any manner use or exercise control of any so-called actually or inherently dangerous weapon or instrumentality, such as a dagger, dirk, brass knucks, switch blade, rifle, gun, musket, blunderbuss, fowling piece, pistol, air gun, spring gun, dart gun or any contrivance arranged to discharge shot, bullets, arrows, darts, shells or other missiles in the limits of the city, except by special permission of the city council upon the recommendation of the chief of police, who shall prescribe such rules and regulations as each case may require. The city council shall ex-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering firearms and ammunition to persons under eighteen (18) years of age.

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ercise their discretion in each case and shall decide accordingly having in mind the best interests of the populace at large, and more particularly so during any war period.

17–25. *Same—Sale to minors.* No person shall sell or dispose of to any minor who has no special license to have the same in his possession any of the articles or contrivances mentioned in the two preceding sections. Any person violating this section shall be held responsible for any damage or injury caused as a result of his act.

East Providence

20–14. No person shall sell or offer to sell any rifle, gun, pistol, air gun, spring gun, sling shot or similar contrivance arranged to discharge missiles to any person under the age of twenty-one years.

SOUTH CAROLINA

State Law

S.C. CODE

15–1388. *Selling, etc., weapons to minors.* If any person shall knowingly sell, offer for sale, give or in any way transfer to a minor any pistol or pistol cartridge, brass knucks, bowie knife, dirk, loaded cane or slingshot he shall be guilty of a misdemeanor. Any person being the parent or guardian of or attending in loco parentis to any child under the age of twelve years who shall knowingly permit such child to have the possession or custody of or use in any manner whatever any gun, pistol or other dangerous firearm, whether such firearm be loaded or unloaded, or any person who shall knowingly furnish such child any firearm shall be guilty of a misdemeanor and, upon conviction, shall be fined not exceeding fifty dollars or imprisoned not exceeding thirty days.

16–121. *Definitions.*—When used in this article: (a) The words "machine gun" apply to and include all firearms commonly known as machine rifles, machine guns and submachine guns of any calibre whatsoever capable of automatically discharging more than eight cartridges successively without reloading in which the ammunition is fed to such gun from or by means of a clip, disk, belt or other separable mechanical device.

(b) "Sawed-off shotgun" means a shotgun having a barrel or barrels of less than eighteen inches (18") in length or a weapon made from a shotgun which as modified has an overall length of less than twenty-six inches (26") or a barrel or barrels of less than eighteen inches (18") in length.

(c) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed shotgun shell, but does not include an antique firearm as defined in this section.

(d) "Sawed-off rifle" means a rifle having a barrel or barrels of less than sixteen inches (16") in length or a weapon made from a rifle which as modified has an overall length of less than twenty-six inches (26") or a barrel or barrels of less than sixteen inches (16") in length.

(e) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed cartridge, but does not include an antique firearm as described in this section.

(f) "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1896, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

16–123. *Storing, keeping or possessing.*—It shall be unlawful for any person to store, keep, possess or have in possession or permit another to store, keep, possess or have in possession any machine gun or firearm commonly known as a machine gun, sawed-off shotgun, sawed-off rifle, except as provided in 16–125 and 126.

16–124. *Selling, renting or giving way.* It shall be unlawful for any person to sell, rent or give away or be interested, directly or indirectly, in the sale, renting, giving away or otherwise disposing of any machine gun or firearm commonly known as a machine gun.

16–125. *Exceptions.* The provisions of this article shall not apply to the Army, Navy or Air Force of the United States, the National Guard and organizations authorized by law to purchase or receive machine guns, or sawed-off shotguns or sawed-off rifle, from the United States or from this State and the members of such organizations. Any peace officer of the State or of any county or other political subdivision thereof, State constable, member of the highway patrol, railway policeman, warden, superintendent, head keeper or deputy of any State prison, Penitentiary, workhouse, county jail, city jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases or person on duty in the postal service of the United States or any common carrier while transporting direct to any police department, military or naval organization or person authorized by law to possess or use a machine gun, or sawed-off shotgun or sawed-off rifle, may possess machine guns, or sawed-off shotgun or sawed-off rifle, when required in the performance of their duties. Nor shall the provisions hereof be construed to apply to machine guns, or sawed-off shotgun or sawed-off rifle, kept for display as relics and which are rendered harmless and not usable.

16–126. *Application for permission to keep; registration and permit.* Every person permitted by § 16–125 to possess a machine gun, or sawed-off shotgun or sawed-off rifle, and any person elected to or appointed to any office or position which entitles such person to possess a machine gun, or sawed-off shotgun or sawed-off rifle, immediately after such election, shall file in the office of the Secretary of State on a blank to be supplied by the Secretary of State on request therefor an application to be properly sworn to, which shall be approved by the sheriff of the county in which the applicant resides or has his principal place of business and shall include the applicant's name, residence and business address, description including sex, race, age, weight, height, color of eyes and color of hair, whether or not ever charged or convicted of any crime, municipal, state or otherwise, and where, if so charged, and when the same was disposed of. The applicant shall also give a description, including the serial number and make, of the machine gun, or sawed-off shotgun or sawed-off rifle, which he possesses or desires to possess. Thereupon, the Secretary of State shall file such application in his office, registering such applicant together with the information required in the application in a book or index to be kept for that purpose, assign to him a number and issue to him a card which shall bear the signature of the applicant and which he shall keep with him while he has such machine gun or sawed-off shotgun or sawed-off rifle in his possession. Such registration shall be made on the date application is received and filed with the Secretary of State and shall expire on December thirty-first of the year in which the license is issued.

16–129. *Definitions.*—When used in this article: (a) *"Pistol"* means any firearm designed to expel a projectile from a barrel less than twelve inches in length, but shall not include any firearm generally recognized or classified as an antique, curiosity or collector's item, or any that does not fire fixed cartridges or fixed shotgun shells.

(b) The term *"dealer"* means any person regularly engaged in the business of selling firearms at retail.

(c) The term *"crime of violence"* means murder, manslaughter (except negligent manslaughter arising out of traffic accidents), rape, mayhem, kidnapping, burglary, robbery, housebreaking, assault with intent to kill, commit rape, or rob, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.

(d) The term *"fugitive from justice"* means any person who has fled from or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.

(e) The term *"subversive organization"* means any group, committee, club, league, society, association or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure or overthrow of the government of the United States or any state or political subdivison thereof, by the use of force, violence, espionage, sabotage, or threats or attempts of any of the foregoing.

(f) The term *"conviction"* as used herein shall include pleas of guilty, pleas of nolo contendere and forfeiture of bail. (1965 (54) 578).

16–129.1. *Carrying pistol unlawful; exceptions.*—It shall be unlawful for anyone to carry about the person, whether concealed or not, any pistol, except as follows: • • •

(5) Any person regularly engaged in the business of manufacturing, repairing, repossession or dealing in firearms, or the agent or representative of such person while possessing, using or carrying a pistol in the usual or ordinary course of such business.

16–129.2. *Sale, etc., of pistol to certain persons unlawful; possession or acquisition of pistol by such persons unlawful; stolen pistols.*—It shall be unlawful for any person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange or transport for sale into this State any pistol to:

(a) Any person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions or the District of Columbia or who is a fugitive from justice or a habitual drunkard or a drug addict or who has been adjudicated mentally incompetent.

(b) Any person who is a member of a subversive organization.

(c) Any person under the age of twenty-one, but this shall not apply to the issue of pistols to members of Armed Forces of the United States, active or reserve, National Guard, State Militia or R. O. T. C., when on duty or training or the temporary loan of

pistols for instruction under the immediate supervision of a parent or adult instructor.

(d) Any person who by order of a circuit judge or county court judge of this State has been adjudged unfit to carry or possess a pistol, such adjudication to be made upon application by any police officer, or by any prosecuting officer of this State, or sua sponte, by the court, but any person who shall be the subject of such an application shall be entitled to reasonable notice and a proper hearing prior to any such adjudication.

(e) It shall be unlawful for any person covered in (a), (b), (c) or (d) of this section to possess or acquire pistols within this State.

(f) No person shall knowingly buy, sell, transport, pawn, receive or possess any stolen pistol or one from which the original serial number has been removed or obliterated.

16–129.3. *Retail dealers to be licensed.*—No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

16–129.6 *Mortgage or pledge of pistol.*—Only a licensed dealer shall make a loan secured by a mortgage, deposit or pledge of a pistol and the dealer shall keep such records as are required herein. A licensed dealer may mortgage any pistol or stock of pistols but shall not deposit the same with any other person. (1965 (54) 578.)

16–129.6:1. *Certain pistols may not be sold.*—No licensed retail dealer shall sell any pistol or other handgun which has die-cast frame or receiver which melts at a temperature of less than eight hundred degrees Fahrenheit.

66–581. *Purchase in contiguous state.*—Any resident of this State including a corporation or other business entity maintaining a place of business in this State, who may lawfully purchase and receive delivery of a rifle or shotgun in this State, may purchase a rifle or shotgun in a contiguous state and transport or receive the same in this State; *provided*, that the sale meets the lawful requirements of each such state, meets all lawful requirements of any Federal statute, and is made by a licensed importer, licensed manufacturer, licensed dealer, or licensed collector.

66–582. *Purchase in this State by resident of contiguous state.*—Residents of any State contiguous to this State may purchase rifles and shotguns in this State; *provided*, such residents conform to applicable provisions of statutes and regulations of this State, the United States, and of the contiguous state in which such persons reside.

Aiken

14A–1. *Definitions. When used in this article:* (a) *Pistol* means any firearms designed to expel a projectile from a barrel less than twelve inches in length, but shall not include any firearm generally recognized or classified as an antique, curiosity or collector's item, or any that does not fire fixed cartridges or fixed shotgun shells.

(b) The term *dealer* means any person regularly engaged in the business of selling firearms at retail.

(c) The term *crime of violence* means murder, manslaughter (except negligent manslaughter arising out of traffic accidents), rape, mayhem, kidnapping, burglary, robbery, housebreaking, assault with intent to kill, commit rape, or rob, assault with a dangerous weapon, or assault with intent to commit any of the aforesaid offenses.

(d) The term *fugitive from justice* means any person who has fled from or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.

(e) The term *subversive organization* means any group, committee, club, league, society, association or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure or overthrow of the government of the United States, the State of South Carolina, or the City of Aiken, by the use of force, violence, espionage, sabotage, or threats or attempts of any of the foregoing.

(f) The term *conviction* as used herein shall include pleas of guilty, pleas of nolo contendere and forfeiture of bail.

14A–3. *Sale to certain persons unlawful; possession or acquisition by such persons unlawful; stolen pistols.* It shall be unlawful for any person to knowingly sell, deliver, lease, rent, barter, exchange or transport for sale into this city any pistol to:

(a) Any person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions or the District of Columbia or who is a fugitive from justice or a habitual drunkard or a drug addict or who has been adjudicated mentally incompetent.

(b) Any person who is a member of a subversive organization.

(c) Any person under the age of twenty-one (21), but this shall not apply to the issue of pistols to members of Armed Forces of the United States, active or reserve, National Guard, State Militia or R.O.T.C., when on duty or training or the temporary loan of pistols for instruction under the immediate supervision of a parent or adult instructor.

(d) Any person who by order of a circuit judge or county court judge of this state has been adjudged unfit to carry or possess a pistol, such adjudication to be made upon application by any police officer, or by any prosecuting officer of this State, or sua sponte, by the court, but any person who shall be the subject of such an application shall be entitled to reasonable notice and a proper hearing prior to any such adjudication.

(e) It shall be unlawful for any person covered in (a), (b), (c) or (d) of this section to possess or acquire pistols within this city.

(f) No person shall knowingly buy, sell, transport, pawn, receive or possess any stolen pistol or one from which the original serial number has been removed or obliterated.

14A–4. *Retail dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

14A–6. *Giving false information in applying for license.* No person in applying for any license under this article shall give false information or offer false evidence of his identity, or give false information concerning the matters referred to in this article.

Anderson

35–7. *Definitions.* For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Conviction. The term "conviction" shall include pleas of guilty, pleas of nolo contendere and forfeit of bail.

Crime of violence. Murder, manslaughter, except negligent manslaughter arising out of traffic accidents, rape, mayhem, kidnapping, burglary, robbery, housebreaking, assault with intent to kill, commit rape, or rob, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.

Dealer. Any person regularly engaged in the business of selling firearms at retail.

Fugitive from justice. Any person who has fled from or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.

Pistol. Any firearm designed to expel a projectile from a barrel less than twelve inches in length, but such term shall not include any firearm generally recognized or classified as an antique, curiosity or collector's item, or any that does not fire fixed cartridges or fixed shotgun shells.

Subversive organization. Any group, committee, club, league, society, association or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure or overthrow of the government of the United States or any state or political subdivision thereof, by the use of force, violence, espionage, sabotage or threats or attempts of any of the foregoing.

35–9. *Sale, etc., to certain persons prohibited; possession by such persons.* It shall be unlawful for any persons to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange or transport for sale into the city any pistol to:

(a) Any person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions or the District of Columbia or who is a fugitive from justice or a habitual drunkard or a drug addict or who has been adjudicated mentally incompetent.

(b) Any person who is a member of a subversive organization.

(c) Any person under the age of twenty-one, but this shall not apply to the issue of pistols to members of armed forces of the United States, active or reserve, national guard, state militia or R.O.T.C. when on duty or training or the temporary loan of pistols for instruction under the immediate supervision of a parent or adult instructor.

(d) Any person who by order of a circuit judge or county court judge of this state has been adjudged unfit to carry or possess a pistol, such adjudication to be made upon application by any police officer, or by any prosecuting officer of this state or sua sponte, by the court, but any person who shall be the subject of such an application shall be entitled to reasonable notice and a proper hearing prior to any such adjudication.

(e) It shall be unlawful for any person covered in subsections (a), (b), (c), or (d) of this section to possess or acquire pistols within this state.

35–10. *Purchase, sale, possession, etc., of stolen, etc., pistol.* No person shall knowingly buy, sell, transport, pawn, receive or possess any stolen pistol or one from which the original serial number has been removed or obliterated.

35–11. *Retail dealer's license—required.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as provided by this article.

35–13. *Same—Giving false information to secure, etc.* No person in applying for any license under this article shall give false information or offer false evidence of his identity, or give false information concerning the matters referred to in this article.

Andrews

10–14. *Pistols, manufacturing, carrying and selling.* It shall be unlawful for any person to possess or carry about the person or about any vehicle owned or controlled by him, whether concealed or not, any pistol less than twenty (20) inches long and three

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(3) pounds in weight; and, it shall be unlawful for any person to manufacture, sell, offer for sale, lease, rent, barter, exchange or transport any such weapon in the Town; provided however that this does not apply to legally appointed state, county or Town police officers; * * *.

Charleston

49-2. *Possession, sale, etc., of tear gas bombs, etc.* It shall be unlawful for any person to have in his possession, sell or offer for sale in the city, any bomb, tube gun, gun or other device containing or intended to contain or discharge tear gas or other noxious or offensive or harmful gases or fluids.

Florence

19-55. *Weapons—carrying, sale, etc., of pistols of certain size and weight.* It shall be unlawful for anyone to carry about the person, whether concealed or not, any pistol less than twenty inches long and three pounds in weight or for any person to manufacture, sell, offer for sale, lease, rent, barter, exchange or transport for sale or into this city any pistol of less length and weight. * * *; provided, this section shall not apply to peace officers in the actual discharge of their duties or to the carrying or keeping of pistols by persons while on their own premises nor abridge the right of self-defense.

Greenville

38-4. *Pistols less than twenty inches long and three pounds in weight.* It shall be unlawful for anyone to carry about the person, whether concealed or not, any pistol less than twenty inches long and three pounds in weight or for any person to manufacture, sell, offer for sale, lease, rent, barter, exchange or transport for sale or into the city any pistol of less length and weight. This section shall not be construed to apply to peace officers in the actual discharge of their duties or to the carrying or keeping of such pistols by persons while on their own premises nor to abridge the right of self-defense.

Greer

29-7. *Sale, etc., of pistols to certain persons unlawful; possession or acquisition of pistols by certain persons unlawful; stolen pistols.* It shall be unlawful for any person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange or transport for sale into this state any pistol to:

(a) Any person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions or the District of Columbia or who is fugitive from justice or a habitual drunkard or a drug addict or who has been adjudicated mentally incompetent.

(b) Any person who is a member of a subversive organization.

(c) Any person under the age of twenty one, but this shall not apply to the issue of pistols to members of Armed Forces of the United States, active or reserve, National Guard, state Militia or R.O.T.C., when on duty or training or the temporary loan of pistols for instruction under the immediate supervision of a parent or adult instructor.

(d) Any person who by order of a circuit judge or county court judge of this state has been adjudged unfit to carry or possess a pistol, such adjudication to be made upon application by any police officer, or by any prosecuting officer of this state, or sua sponte, by the court, but any person who shall be the subject of such an application shall be entitled to reasonable notice and a proper hearing prior to any such adjudication.

(e) It shall be unlawful for any person covered in (a), (b), (c) or (d) of this section to possess or acquire pistols within this state.

(f) No person shall knowingly buy, sell, transport, pawn, receive or possess any stolen pistol or one from which the original serial number has been removed or obliterated.

Jonesville

1. That from and after the passage of this ordinance it shall be unlawful for any person, firm, corporation or association to sell, barter, exchange, or give away to induce trade; or to offer for sale, exchange, barter or giving away to induce trade and such firearm or weapon as is usually designated and known as a "pistol".

Lake City

11. *Firearms—carrying and sale generally.* It shall be unlawful for any person to carry about the person, whether concealed or not, any firearm less than twenty inches long or less than three pounds in weight. It shall also be unlawful for any person to sell or offer for sale any firearm of less length or weight than herein stated; provided, however that this section shall not apply to peace officers in the actual discharge of their duty, nor to keeping and carrying pistols by persons while on their own premises.

Laurens

10-25. (A) *Manufacture, carriage, sale.* It shall be unlawful in the city for anyone to carry about the person, whether consealed or not any pistol less than twenty inches long and three pounds in weight or for any person to manufacture, sell, offer for sale, lease, rent, barter, exchange or transport for sale or into this city any pistol of less length and weight; * * *.

Newberry

10-74. *Same—Sale of pistols, rifles, etc.* It shall be unlawful for any person, or any agent of any person in the city, to sell to any person any pistol, rifle or other species or kinds of firearms, except shotguns, unless the person purchasing the same, if a citizen of the city, has a permit in writing from the chief of police to purchase the same, or if not a citizen of the city, has a permit in writing from the sheriff of the county to purchase the same, such permit to specify the kind and amount of firearms allowed to be purchased thereunder and to be filed with the person from whom the same is purchased, who shall within ten days after any sale file the permit with the officer issuing the same.

10-75. *Same—Purchasing or receiving pistol, rifle, etc., without permit.* It shall be unlawful for any person to purchase or receive in the city any firearm enumerated in the preceding section, without first having obtained the permit as provided in the preceding section.

Rock Hill

25-36. *Sale restricted.* No person shall sell, deliver, lease, rent, barter, exchange or transport for sale any pistol to any person unless and until he has enquired of and received a report in writing from the chief of police as to whether or not such person has been convicted of a crime of violence, is a fugitive from justice, an habitual drunkard, a drug addict, a mental incompetent, or is a member of a subversive organization, a minor or a person who has been adjudged unfit to carry or possess a weapon by a circuit or county court judge.

Spartanburg

24-72. *Same—Firearms—Pistols under twenty inches long or three pounds in weight.* It shall be unlawful for any person to carry about his person in the city, whether concealed or not, any pistol less than twenty inches long and three pounds in weight. It shall be unlawful for any person to manufacture, sell or offer for sale, lease, rent, barter, exchange or transport for sale into the city, any pistol of less length and weight. * * *.

SOUTH DAKOTA

State Law

SDCL, CHAPTER 22-14A

22-14A-1. *Destructive device defined.*—The term "destructive device" shall be limited to the following: (1) Any projectile containing any explosive or incendiary material or any other chemical substance, including but not limited to, that which is commonly known as tracer or incendiary material or any other chemical substance, including but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than .60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designated primarily for emergency, distress signaling or hobby purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of one hundred and fifty degrees Fahrenheit or less and has a wick or similar device capable of being ignited.

(6) Any other thing that is designed for the purpose of harming any person or property and contains any flammable material, or explosive as defined by § 22-14A-2.

22-14A-3. *Fireworks not destructive device or explosive.*—A "destructive device" or "explosive" shall not include permissible fireworks enumerated and described in SDCL 34-37-5.

22-14A-4. *Possession of destructive device as felony—punishment.*—Any person, firm, or corporation who, within this state, possesses any destructive device, other than fired ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a felony and may be punished by imprisonment in the county jail for a term not to exceed one year, or in the state penitentiary for a term not to exceed five years, or by a fine not to exceed five thousand dollars or by both such fine and imprisonment.

SDCL 1967, CHAPTER 23-7

23-7-1. *Definition of terms.* "Pistol," as used in this chapter, means any firearm with a barrel less than sixteen inches in length and designed to expel a projectile or projectiles by the action of an explosive.

"Machine gun" applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than five shots or bullets may be rapidly, or automatically, or semiautomatically discharged from a magazine, by a single function of the firing device.

"Crime of violence" as used in this chapter, means any of the following crimes or an attempt to commit or a conspiracy to commit any of the same, namely: murder, manslaughter, rape, mayhem, any assault prohibited by SDCL 22-18-9, 22-18-10, 22-18-11, 22-18-12 or 22-18-14, riot while armed, robbery, burglary, possession of burglary tools, housebreaking, breaking and entering, kidnaping, extortion by force or fear, and any other crime in the commission of which the perpetrator used force, or was armed with a deadly, dangerous or sharp weapon, or used any bomb, explosive or destructive device.

"Person," as used in this chapter, includes firm, partnership, association or corporation.

23-7-2. *Antique pistols excepted from chapter.* This chapter shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

23-7-3. *Person convicted of crime or violence not to own or possess pistol—felony—punishment.*—No person who has been convicted in this state or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control. Violation of this section is a felony, and upon conviction thereof, such person shall be sentenced to the penitentiary for a term not to exceed three years, and in addition may be fined not to exceed two thousand dollars.

23-7-3.1. *Delivery of pistol to person convicted of crime of violence—misdemeanor.*—Any person who gives, loans or sells a pistol to a person convicted of a crime of violence in this state or elsewhere, and knows that said person has been so convicted, is guilty of a misdemeanor.

23-7-4. *Delivery of pistol to incapacitated person prohibited.* No person shall deliver a pistol to any person under the age of eighteen or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

23-7-9. *Delivery of pistol to purchaser—waiting period—wrapped and unloaded.* No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and when delivered said pistol shall be securely wrapped and shall be unloaded.

23-7-10. *Application for purchase of pistol—statement delivered to seller, form and contents, distribution of copies.* At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence. The seller shall within six hours after such application sign and attach his address and forward by registered or certified mail one copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven days be sent by him with his address to the secretary of state; the triplicate he shall retain for six years.

23-7-11. *Regulation does not apply to sale of pistols at wholesale.* Sections 23-7-9 and 23-7-10 shall not apply to sales at wholesale.

23-7-12. *False information or false evidence of identity to secure pistol or license prohibited.* No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

23-7-13. *Transfer of pistol contrary to chapter forbidden.* No person shall make any loan secured by a mortgage, deposit, or pledge of a pistol; nor shall any person lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this chapter.

23-7-14. *License required of retail dealer.* No retail dealer shall sell or otherwise transfer or expose for sale or transfer, or have in his possession with intent to sell or otherwise transfer, any pistol without being licensed as provided in § 23-7-15.

23-7-15. *License of retail dealer—Issuance — Duration — Conditions — Fee.* — The duly constituted licensing authorities of any city, town, or political subdivision of this state, may grant licenses in forms prescribed by the secretary of state effective for not more than one year from date of issue, permitting the licensee to sell pistols at retail within this state subject to the conditions set forth in §§ 23-7-16 to 23-7-20, inclusive, in addition to those specified in §§ 23-7-9 and 23-7-10, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in §§ 23-7-24. The fee for issuing said license shall be two dollars, which fee shall be collected by the official issuing such license, and shall be remitted by him to the state treasurer.

23-7-16. *Retail dealer—place of business.* A business licensed pursuant to § 23-7-15 shall be carried on only in the building designated in the license.

23-7-18. *Sale of pistol by retail dealer—restrictions.* No pistol shall be sold in violation of any provisions of this chapter, nor shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

23-7-21. *Identification marks on pistols—alteration prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same.

23-7-26. *Guns for military and scientific purposes and small caliber machine guns excepted from chapter.* Nothing contained in this chapter shall prohibit or interfere with: (1) The manufacture for and sale of machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose;

(2) The possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;

(3) The possession of a machine gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber for a purpose manifestly not aggressive or offensive.

23-7-27. *Register of machine guns kept by manufacturer—required contents.* Every manufacturer shall keep a register of all machine guns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery, or receipt of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given, or delivered or from whom it was received; and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given, or delivered or from whom received.

23-7-30. *Registration by owners of guns—Office of secretary of state—Time.* Every machine gun in this state adapted to use cartridges of any caliber shall be registered in the office of the secretary of state within twenty-four hours after its acquisition, and annually thereafter on July first.

23-7-31. *Registration blanks—data required—not subject to public inspection.* Blanks for registration shall be prepared by the secretary of state and furnished upon application. To comply with § 23-7-30 the application as filed must show the model and serial number of the gun, the name, address, and occupation of the person in possession, and from whom and the purpose for which the gun was acquired. The registration data shall not be subject to inspection by the public.

23-7-32. *Failure to register gun—Possession for offensive or aggressive purpose presumed.* Any person failing to register any gun as required by § 23-7-30 shall be presumed to possess the same for offensive or aggressive purpose.

23-7-33. *Conditions raising presumption of possession of gun for offensive or aggressive purpose.* Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose:

(1) When the machine gun is on premises not owned or rented for bona fide permanent residence or business occupancy by the person in whose possesssion the machine gun may be found; or

(2) When in the possession of or used by an unnaturalized foreign-born person or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or

(3) When the machine gun is of the kind described in § 23-7-30 and has not been registered as in said section required; or

(4) When empty or loaded pistol shells of 30 (.30 in. or 7.63 mm.) or larger caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

23-7-34. *Possession or use of gun for offensive or aggressive purpose—Punishment.* Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not more than fifteen years.

23-7-40. *Purchase of rifles and shotguns by residents of South Dakota * * *—Implementation of federal provisions.* The state of South Dakota herewith permits * * * residents of this state, not otherwise precluded by any applicable laws, to purchase, sell, trade, convey, deliver, or transport rifles, shotguns, ammunition, reloading components * * * in states contiguous to South Dakota. This authorization is enacted to implement for this state the permissive firearms sales and delivery provisions in section 922(b), (3)(A) of Public Law 90-618 of the 90th United States Congress, second session.

SDCL, CHAPTER 26-10

26-10-9. *Restrictions on use of firearms by children under fifteen—misdemeanor—penalty.* It shall be unlawful for any person under the age of fifteen years to have or use any kind of firearm without the knowledge and consent of his parent or guardian. It shall be unlawful for any parent or guardian having legal charge or control of a person under fifteen years of age to permit such minor to have or use while loaded, any firearm, in or within one mile of the platted

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portion of any city or town. Any parent, guardian, or minor violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding fifty dollars.

Aberdeen

9.1601. *License.* Any person, persons, firm or corporation desiring to engage in the business of selling pistols at retail shall, before engaging in such business, file with the City Auditor a written statement and application setting forth his or its intentions to engage in such business * * *.

Huron

5.44.010. *License to sell.* Any person, persons, firm, or corporation, desiring to engage in the business of selling pistols at retail, shall, before engaging in such business, file with the city auditor, a written statement and application setting forth his or its intention to engage in such business * * *.

Pierre

G. *Sales to Minors.* It shall be unlawful to give, sell, trade, barter or exchange for anything of value any deadly weapon, air rifle, air gun or B-B gun, or ammunition for any firearm to any person under the age of 18 years * * *.

Sioux Falls

8.1802. *Dealers to be licensed.* No retail dealer shall sell or otherwise transfer or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer within the limits of the City of Sioux Falls, any pistol without being licensed as hereinafter provided.

Watertown

12.0801. *License to sell—Any person, persons, firm, or corporation,* desiring to engage in the business of selling pistols at retail, shall, before engaging in such business, file with the City Auditor, a written statement and application setting forth his or its intention to engage in such business and shall give a description by lot and block of the premises on which said business is to be carried on. Said statement and application shall be accompanied by a fee of five dollars; two dollars of said fee is to be remitted by the City to the State Treasurer when the license is granted, and the three dollars to cover the expense of the City in making an investigation and having license issued, such license to be for the period of one year or fraction thereof and shall expire on the 31st day of December in the year issued.

TENNESSE

State Law

T.C.A. TITLE 39

39–4901. *Carrying dangerous weapons—Penalty.* Any person who shall carry in any manner whatever, with the intent to go armed, any razor, dirk, bowie knife or other knife of like form, shape or size, sword cane, ice pick, sling shot, blackjack, brass-knucks, spanish stiletto, or a fountain pen pistol or gun, or like instrument containing a firing pin capable of shooting tear gas or pistol cartridges, or any pistol or revolver of any kind whatever, except the army or navy pistol which shall be carried openly in the hand, or any other dangerous weapon, shall be guilty of a misdemeanor.

39–4904. *Selling or disposing of dangerous* weapons. It is a misdemeanor to sell, or offer to sell, or to bring into this state for the purpose of selling, giving away, or otherwise disposing of any knife or other prohibited weapon mentioned in § 39–4901; and the person guilty thereof, for each knife or other prohibited weapon shall, upon conviction, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be imprisoned in the county jail not less than one (1) month nor more than six (6) months, such jail sentence to be in the discretion of the trial judge. Provided, however, any person licensed by the state of Tennessee to sell rifles or other firearms may stock and sell pistols and/or sidearms to persons desiring them for protection of their home, business, or for target practice; however, sales to aliens, persons who have been convicted of a crime of violence, fugitives from justice, persons of unsound mind, minors, drunkards, drug addicts, and persons who have been convicted of the illegal sale of alcoholic beverages, are excluded.

Any person desiring to purchase a pistol or sidearm as above provided shall certify to the seller that he is not one of the persons listed above as excluded from legal sale of such firearm, and the person having the gun for sale, whether it be a firearms dealer engaged in the business of selling firearms, new or used, or any other person, shall file with the sheriff of the county wherein such sale is to be made, and with the chief of police if the sale be within a municipality, a copy of the certificate as notice to such law enforcement officer of the pending sale. Such certificate must also show the purpose for which the gun is to be used. If, after fifteen (15) days from the time of the receipt of such notice, the sheriff and/or chief of police make no objection tending to show that such proposed purchaser is in fact excluded by law from legal purchase, as set out above, the sale may be consummated and the gun delivered to the purchaser, together with a bill of sale therefor. The fifteen (15) days' notice of pending sale provided for above must be made by registered mail and return receipt requested unless the officer or officers, as the case may be, personally acknowledge receipt of such notice. The said certificate to be filed with the law enforcement officer shall carry the right thumb print of the applicant along with the information as to race, height, weight, age, color of eyes, color of hair and sex of the applicant. Provided, however, the sheriff and/or police chief may issue a written approval of such certificate, after investigation, within the fifteen (15) day period.

The fifteen (15) day waiting period shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, or licensed collectors who meet the requirements of the first paragraph above and certify prior to the transaction the legal and licensed status of both parties. The burden shall fall upon the transferor to determine the legality of the transaction in progress. The fifteen (15) day waiting period shall not apply to transactions or transfers between a licensed importer, licensed manufacturer, or licensed dealer and a bona fide law enforcement agency or said agency's personnel as defined under § 39–4902. However, all other provisions and requirements of the preceding paragraph above must be observed. The burden of proof of the legality of such transactions or transfers shall rest upon the transferor.

Nothing in this section shall preclude any person eligible to purchase a pistol or sidearm, as set out above, from making an occasional sale of a used or second-hand gun legally purchased by him without being licensed to do business as such; but whenever such sale is made, the same procedure must be followed as is provided above for persons licensed by the state of Tennessee to engage in such business. * * *

39–4905. *Selling or giving weapons to minor—Penalty.* Any person who sells, loans, or gives to any minor a pistol, bowie knife, dirk, hunter's knife, or like dangerous weapon, except a gun for hunting, is guilty of a misdemeanor, and shall be fined not less than one hundred dollars ($100) and be imprisoned in the county jail, in the discretion of the court.

39–4915. *Purchase of rifles and shotguns in contiguous states by residents of Tennessee.* Any resident of the state of Tennessee who may legally purchase a rifle or shotgun in this state may purchase a rifle or shotgun in a contiguous state provided the sale meets the legal requirements in each state, meets all legal standards of any federal statute, and is made by a licensed importer, licensed manufacturer, licensed dealer, or licensed collector.

39–4917. *Prohibited firearms—Definitions.* —For the purposes of §§ 39–4917—39–4920 the following terms shall have the meaning ascribed in this section:

(a) "Sawed-off shotgun" means a shotgun having a barrel or barrels of less than eighteen inches (18") in length or a weapon made from a shotgun which as modified has an overall length of less than twenty-six inches (26") or a barrel or barrels of less than eighteen inches (18") in length.

(b) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed shotgun shell, but does not include an antique firearm as defined in this section.

(c) "Sawed-off rifle" means a rifle having a barrel or barrels of less than sixteen inches (16") in length or a weapon made from a rifle which as modified has an overall length of less than twenty-six inches (26") or a barrel or barrels of less than sixteen inches (16") in length.

(d) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifle bore for each single pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed cartridge, but does not include an antique firearm as described in this section.

(e) "Machine gun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manual reloading, by a single function of the trigger; the frame or receiver of any such weapon; any combination of parts designed and intended for use in converting a weapon into a machine gun; and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(f) "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(g) "Unserviceable firearm" means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(h) "Manufactures any weapon" means making, putting together, altering, modifying, any combination of these, or otherwise producing a sawed-off shotgun, sawed-off rifle, or machine gun.

(i) "Sells or disposes of" means sells, offers for sale, assigns, pledges, leases, loans, gives away, transfers or otherwise disposes of.

(j) "Person" includes a corporation, firm, company, partnership or association.

39–4918. *Manufacture, possession or sale of sawed-off shotgun, sawed-off rifle, or machine gun—Penalty.*—Any person who manufactures, imports, purchases, possesses, sells or disposes of, in this state, any weapon of the kind commonly known as a sawed-off shotgun, sawed-off rifle, or machine gun shall upon conviction thereof, for each offense, be imprisoned in the penitentiary for a term of not less than one (1) nor more than five (5) years; or in the county jail or workhouse for a term not to exceed one (1) year, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and jail or workhouse sentence in the discretion of the court.

COMPILER'S NOTE.—Tennessee State Law indicates a minor is a person who is under eighteen years of age. Licensees under the Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

Chattanooga

25–10. *Dangerous weapons—Sale.* It shall be unlawful for any person to sell or offer for sale in the city any pistol, pistol cartridges, dirk, large knife or brass knucks; provided, that this section shall not apply to the sale of regular army and navy pistols.

Greeneville

5–101. *Sale of firearms.* Only persons, firms, or corporations licensed by the State of Tennessee to sell rifles or other firearms may stock and sell pistols and/or sidearms within the corporate limits of the Town of Greeneville. Firearms may be sold to persons desiring same for the protection of their home or business or for target practice but for no other purpose.

The sale of pistols and/or sidearms within the corporate limits of the Town of Greeneville to aliens, persons who have been convicted of a crime of violence, fugitives from justice, persons of unsound mind, minors, drunkards, drug addicts, or persons who have been convicted of the illegal sale of alcoholic beverages, is prohibited.

Any person desiring to purchase a pistol or sidearm within the corporate limits of the Town of Greeneville shall certify to the seller that he is not one of the persons hereinabove designated as being excluded from the legal sale of such firearms. The person having the gun for sale, whether it be a firearm dealer engaged in the business of selling firearms, new or used, or any other person, shall file with the chief of police of the Town of Greeneville, a copy of the certificate as notice to such law enforcement officer of the pending sale.

The certificate must also show the purpose for which the gun is to be used. If, after three (3) days from the time of the receipt of such notice, the chief of police makes no objection tending to show that such proposed purchaser is excluded by this section from legal purchase as above set out, the sale may be consummated and the gun delivered to the purchaser, together with a bill of sale therefor. The three (3) day notice of the pending sale provided for above must be made by registered mail and return receipt requested unless the officer to whom such notice must be given personally acknowledges receipt of such notice.

Nothing in this section shall preclude any person eligible to purchase a pistol or sidearm, as set out above, from making an occasional sale of a used or secondhand gun legally purchased by him even though such person is not licensed to engage in such business. However, when such sale is made, the same procedure must be followed as is described above for persons licensed by the State of Tennessee to engage in such business.

Knoxville

11A–4. *Closing of certain businesses; discontinuance of certain sales.* After proclamation of a civil emergency the chief administrative officer may at his discretion, in the interest of public safety and welfare:

(e) Order the discontinuance of selling, distribution, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle, airplane or motor powered boat.

(f) Order the closing of gasoline stations, and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.

(g) Order the discontinuance of selling, distributing, dispensing or giving away any fire-arms or ammunition of any character whatsoever.

(h) Order the closing of all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of fire-arms and/or ammunition.

28–103. *Firearms—Sale.* (b) Any person licensed by the State of Tennessee to sell rifles or other firearms may stock and sell pistols and/or sidearms to persons desiring them for protection of their home, business, or for target practice; however, sales to aliens, persons who have been convicted of a crime of violence, fugitives from justice, persons of unsound mind, minors, drunkards, drug addicts, and persons who have been convicted of the illegal sale of alcoholic beverages, are excluded.

(c) Any person desiring to purchase a pistol or sidearm as above provided shall certify to the seller that he is not one of the persons listed above as excluded from legal sale of such firearms, and the person having the gun for sale, whether it be a firearms dealer engaged in the business of selling firearms, new or used, or any other person, shall file with the chief of police a copy of the certificate as notice to such law enforcement officer of the pending sale. Such certificate must also show the purpose for which the gun is to be used. If, after three (3) days from the time of the receipt of such notice, the chief of police makes no objection tending to show that such proposed purchaser is in fact excluded by law from legal purchase, as set out above, the sale may be consummated and the gun delivered to the purchaser, together with a bill of sale therefor.

(d) The three (3) day notice of pending sale provided for above must be made by registered mail and return receipt requested unless the officer personally acknowledges receipt of such notice.

(e) The seller shall deliver to the chief of police a legible true copy of the bill of sale showing the name of the firearm, the caliber, serial number, finish of the firearm, such as nickel.

Lawrenceburg

I—*Definitions* (3) "Explosive weapon" means any explosive, incendiary, or poison gas:

(A) bomb;
(B) grenade;
(C) rocket;
(D) mine;
(E) shell, missile, or projectile that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage.

(4) "Firearm" means any weapon designed, made, or adapted to expel a projectile by the action of an explosive, or any device readily convertible to that use.

(5) "Firearm silencer" means any device designed, made, or adapted to muffle the report of a firearm.

(6) "Handgun" means any firearm with a barrel length of less than twelve (12) inches that is designed, made, or adapted to be fired with one hand.

(9) "Machine gun" means any firearm that is capable of shooting more than two (2) shots automatically, without manual reloading, by a single function of the trigger.

(10) "Rifle" means any firearm designed, made, or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

(11) "Short barrel" means a barrel length of less than sixteen (16) inches for a rifle and eighteen (18) inches for a shotgun, or an overall firearm length of less than twenty-six (26) inches.

(12) "Shotgun" means any firearm designed, made or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire through a smooth-bore barrel either a number of ball shot or a single projectile by a single function of the trigger. * * *

III—*Prohibited weapons.* (a) An individual, corporation, or association commits an offense if he intentially or knowingly possesses, manufactures, transports, repairs, or sells:

(1) an explosive or an explosive weapon;
(2) a device principally designed, made, or adapted for delivering or shooting an explosive weapon;
(3) a machine gun;
(4) a short-barrel rifle or shotgun;
(5) a firearm silencer; * * *

(c) It is an affirmative defense to prosecution under this section, which the actor must prove by a preponderance of the evidence:

(1) that his conduct was incident to dealing with the weapon solely as a curio, ornament, or keepsake, and if the weapon is a type described in subsections (a)(1)–(a)(5), that it was in a nonfunctioning condition and could not readily be made operable; or

(2) that his possession was brief and occurred as a consequence of having found the weapon or taken it from an aggressor.

(d) An offense under subsections (a)(1)–(a)(5) is a felony; and offense under subsection (a)(6) is a misdemeanor.

IV—*Unlawful sale of firearm* (a) An individual, corporation, or association commits an offense if:

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(1) he intentionally, knowingly, or recklessly sells, loans, or makes a gift of a firearm to a minor; or

(2) he intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to a person who is intoxicated;

(3) he intentionally, knowingly, recklessly, or with criminal negligence violates the provisions of SECTION V of this Ordinance.

(b) It is a defense to subsection (a)(1) that:

(1) a rifle or shotgun was sold, loaned, or given to a minor for the purposes of hunting; and

(2) the actor is not required to obtain a license under Section V or this Ordinance.

(c) For purposes of this section, "intoxicated" means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body.

(d) An offense under this section is a misdemeanor.

V—*Lawful Sale of Firearms* (a) Only persons, firms or corporations licensed by the State of Tennessee to sell rifles or other firearms may stock and sell pistols and/or sidearms within the corporate limits of the City of Lawrenceburg. Firearms may be sold to person desiring same for the protection of their homes or business or for target practice but for no other purpose.

(b) The sale of pistols and/or sidearms within the corporate limits of the City of Lawrenceburg to aliens, persons who have been convicted of a crime of violence, fugitives from justice, persons of unsound mind, minors, drunkards, drug addicts, or persons who have been convicted of the illegal sale of alcoholic beverages, is prohibited.

(c) Any person desiring to purchase a pistol or sidearm within the corporate limits of the City of Lawrenceburg shall certify to the seller that he is not one of the persons hereinabove designated as being excluded from the legal sale of such firearms. The person having the gun for sale, whether it be a firearm dealer engaged in the business of selling firearms, new or used, or any other person, shall file with the chief of police of the City of Lawrenceberg, a copy of the certificate as notice to such law enforcement officer of the pending sale.

(d) The certificate must also show the purpose for which the gun is to be used. If, after three (3) days from the time of the receipt of such notice, the chief of police makes no objection tending to show that such proposed purchaser is excluded by this section from legal purchase as above set out, the sale may be consummated and the gun delivered to the purchaser, together with a bill of sale therefor. The three (3) day notice of the pending sale provided for above must be made by registered mail and return receipt requested unless the officer to whom such notice must be given personally acknowledges receipts of such notice.

(e) Nothing in this section shall preclude any person eligible to purchase a pistol or sidearm, as set out above, from making an occasional sale of a used or secondhand gun legally purchased by him even though such person is not licensed to engage in such business. However, when such sale is made, the same procedure must be followed as is described above for persons licensed by the State of Tennessee to engage in such business.

Lebanon

10–212.1. *Selling or disposing of dangerous weapons.* It shall be unlawful to sell, or offer to sell, or to bring into the City of Lebanon for the purpose of selling, giving away, or otherwise disposing of any knife, or other prohibited weapon mentioned in section 10–212. Provided, however, any person licensed by the State of Tennessee to sell rifles or other firearms may stock and sell pistols and/or sidearms to persons desiring them for protection of their home, business, or for target practice; however, sales to aliens, persons who have been convicted of a crime of violence, fugitives from justice, persons of unsound mind, minors, drunkards, drug addicts, and persons who have been convicted of the illegal sale of alcoholic beverages are excluded.

Any person desiring to purchase a pistol or sidearm as above provided shall certify to the seller that he is not one of the persons listed above as excluded from legal sale of such firearms, and the person having the gun for sale, whether it be a firearms dealer engaged in the business of selling firearms, new or used, or any other person, shall file with the chief of police a copy of the certificate as notice to such law enforcement officer of the pending sale. Such certificate must also show the purpose for which the gun is to be used. If, after fifteen (15) days from the time of the receipt of such notice, chief of police makes no objection tending to show that such proposed purchaser is in fact excluded by law from legal purchase, as set out above, the sale may be consummated and the gun delivered to the purchaser, together with a bill of sale therefor. The fifteen (15) days notice of pending sale provided for above must be made by registered mail and return receipt requested unless the chief of police, personally acknowledges receipt of such notice. The said certificate to be filed with the chief of police shall carry the right thumb print of the applicant along with the information as to race, height, weight, age, color of eyes, color of hair and sex of the applicant.

Nothing in this section shall preclude any person eligible to purchase a pistol or sidearms, as set out above, from making an occasional sale of a used or second-hand gun legally purchased by him without being licensed to do business as such; but whenever such sale is made, the same procedure must be followed as is provided above for persons licensed by the State of Tennessee to engage in such business.

Provided, however, before any person, firm, or corporation shall engage in the business of selling, offering for sale, giving away or otherwise disposing of any pistol, revolver or other hand gun in the City of Lebanon; such person, firm, or corporation shall first obtain a permit.

McMinnville

12–54. *Selling, giving weapons to minor.* Any person who sells, loans, or gives to any minor a pistol, bowie knife, dirk, hunter's knife, or like dangerous weapon, except a gun for hunting, is guilty of a misdemeanor.

Nashville

41–2–1. *Definitions.* For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Crime of violence. Murder; manslaughter; rape; mayhem; kidnapping; burglary; housebreaking; assault with intent to kill, commit rape or rob; assault with a dangerous weapon; or assault with intent to commit any offense punishable by imprisonment.

Firearm. Any weapon by whatever name known, which is designed to expel a projectile by the action of expanding gases.

Fugitive from justice. Any person who has fled or is fleeing from any law-enforcement officer to avoid prosecution or incarceration for a crime of violence or to avoid giving testimony in any criminal proceeding.

Manufacturer or dealer. Any person engaged in the business of manufacturing, repairing or selling firearms at wholesale or retail, or of accepting or pledging firearms as security for loans.

Pistol. Any firearm with a barrel less than twelve inches in length.

Subversive organization. Any group, committee, club, league, society, association or combination of individuals, the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure or overthrow of the government of the United States or of the state or of the metropolitan government by the use of force, violence, military measures or threats of one or more of the foregoing.

41–2–2. *Persons to whom firearms not to be sold, loaned or otherwise transferred.* It shall be unlawful for any person to sell, lease, lend or otherwise transfer a firearm within the urban services district to any person whom he knows or has reasonable cause to believe has been convicted of a crime of violence or who is a fugitive from justice or who is of unsound mind or who is a drug addict or an habitual drunkard or who is a member of a subversive organization.

41–2–3. *Persons forbidden to possess firearms.* It shall be unlawful for any person who has been convicted of a crime of violence in any court of the United States, the several states, territories, possessions or the District of Columbia, or who is a fugitive from justice, or is of unsound mind or is a drug addict or an habitual drunkard, to possess a firearm within the urban services district.

It shall be unlawful for any person who is a member of a subversive organization to possess a firearm within the urban services district.

41–2–4. *Stolen firearms.* It shall be unlawful within the urban services district for any person to receive, conceal, store, barter, sell, lease, lend or otherwise transfer, or to pledge or accept as security for a loan, any firearm, knowing or having reasonable cause to believe the same to have been stolen.

41–2–5. *Obliteration, removal or alteration of manufacturer's identification mark or number.* It shall be unlawful for any person to obliterate, remove, change or alter the manufacturer's identification mark or number on any pistol. Whenever, in a trial for a violation of this section, the defendant is shown to have or have had possession of any such pistol, such fact shall be presumptive evidence that the defendant obliterated, removed, changed or altered the manufacturer's identification mark or number, unless the defendant can produce a bill of sale indicating that the pistol was legally purchased and that the manufacturer's identification mark or serial number was obliterated or defaced at the time of purchase.

41–2–9. *Sale, lease or transfer to persons under twenty-one.* No person shall sell, lease or transfer a pistol, except when the relation of parent and child or guardian and ward exists, to any person under the age of twenty-one years.

41–2–10. *False information * * * in purchasing firearm.* * * * No person shall give false information concerning his name and address or offer false evidence of his identity when purchasing a firearm.

TEXAS

State Law

TEX. PENAL ANN. (VERNON'S)

46.01. *Chapter definitions.* In this chapter: * * * (2) "Explosive weapon" means any explosive, incendiary, or poison gas bomb, grenade, rocket, or mine, that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, and includes a device principally designed, made, or adapted for delivery or shooting an explosive weapon.

(3) "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include antique or curio firearms that were manufactured prior to 1899 and that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter.

(4) "Firearm silencer" means any device designed, made or adapted to muffle the report of a firearm.

(5) "Handgun" means any firearm that is designed, made, or adapted to be fired with one hand. * * *

(9) "Machine gun" means any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

(10) "Short-barrel firearm" means a rifle with a barrel length of less than 18 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches.

46.05. *Unlawful possession of firearms by felon.* (a) A person who has been convicted of a felony involving an act of violence or threatened violence to a person or property commits an offense if he possesses a firearm away from the premises where he lives.

(b) An offense under this section is a felony of the third degree.

46.06. *Prohibited weapons* (a) A person commits an offense if he intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

(1) an explosive weapon;

(2) a machine gun;

(3) a short-barrel firearm;

(4) a firearm silencer;

(5) a switchblade knife; or

(6) knuckles.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a penal institution.

(c) It is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to the National Firearms Act, as amended.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct was incidental to dealing with a switchblade knife, springblade knife, or short-barrel firearm solely as an antique or curio.

(e) An offense under this section is a felony of the second degree unless it is committed under Subsection (a)(5) or (a)(6) of this section, in which event it is a felony of the third degree.

46.07. *Unlawful transfer of firearm* (a) A person commits an offense if he:

(1) sells, rents, leases, loans, or gives a handgun to any person knowing that the person to whom the handgun is to be delivered intends to use it unlawfully or in the commission of an unlawful act;

(2) intentionally or knowingly sells, rents, leases, or gives or offers to sell, rent, lease, or give to any child younger than 18 years any firearm; or*

(3) intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to any person who is intoxicated.

(b) For purposes of this section, "intoxicated" means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body.

(c) It is an affirmative defense to prosecution under Subsection (a)(2) of this section that the transfer was to a minor whose parent or the person having legal custody of the minor had given written permission for the sale or, if the transfer was other than a sale, the parent or person having legal custody had given effective consent.

(d) An offense under this section is a Class A misdemeanor.

46.08. *Interstate purchase* A resident of this state may, if not otherwise precluded by law, purchase firearms, ammunition, reloading components, or firearm accessories in contiguous states. This authorization is enacted in conformance with Section 922(b)(3)(A), Public Law 90–618, 90th Congress.

GOVERNOR'S EMERGENCY POWERS

Art. 5890e. 1. It is hereby declared to be the legislative intent to recognize the Governor's broad power of action in the exercise of the police power of the state to provide adequate control over persons and conditions during such periods of impending or actual public crisis or disaster. It is also recognized that local governmental units may need to take emergency action during such time of impending and actual crisis and it is the legislative intent to provide the means whereby such local units of government may take steps to protect the public's lives and property, and maintain the operation of the government. The provisions of this Act shall be broadly construed to effectuate this purpose.

3. During time of riot or unlawful assembly by three or more persons acting together by use of force or violence or if a clear and present danger exists of the use of force or violence, or during time of natural disaster or man-made calamity, the Governor may proclaim a state of emergency and designate the area involved upon the application of the chief executive officer of a county, city, or local municipality; or upon the application of the governing body of a county, city, or local municipality. Following such proclamation, the Governor may promulgate such reasonable orders, rules, and regulations as he deems necessary to protect life and property, or to bring the emergency situation within the affected area under control. Such orders, rules, and regulations may provide for the . . . control of the sale, carrying, and use of firearms or other dangerous weapons and ammunition; and the control of the storage, use, and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety. . . . Such orders, rules, and regulations may be amended, modified, or rescinded, in like manner, from time to time by the Governor throughout the duration of the emergency, but in any event shall cease to be in effect 72 hours from the time of the proclamation, unless proclaimed for a shorter period or terminated at an earlier time by proclamation of the Governor. Such state of emergency, and all powers incident thereto, may be extended by proclamation of the Governor for as many successive like periods of not in excess of 72 hours each as may be reasonably necessary to protect the health, life, and property of the affected area and its inhabitants.

Art. 6889–6 *State and national defense.* 5. (a) The governor is responsible for meeting the dangers to the state and people presented by disasters.

(b) Under this Act, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law. * * *

(g) In addition to any other powers conferred upon the governor by law, he may: * * *

(8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; * * *

Ballinger

Selling pistol to minor. 48. If any person, within the Corporate limits of the City of Ballinger, Texas, shall knowingly sell, rent, or lease any pistol to a minor or to any other person under the heat of passion, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten, nor more than two hundred dollars.

Deer Park

4. *After proclamation of a civil emergency,* the Mayor of the City of Deer Park, Texas may also, in the interest of public safety and welfare, make any or all of the following orders: (g) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunitions of any character whatsoever. (h) Order the closing of an or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.

1. *No person shall* make, carry, possess or use any type of "Molotov Cocktail", gasoline or petroleum base fire bomb, or other incendiary missile, within the City of Deer Park, Texas. 2. The words "Molotov Cocktail", as used herein, shall mean a gasoline or kerosene filled bottle or container, with a fuse or wick inserted in the neck.

Denton

14–51. *Definitions; purposes of provisions.* The following definitions shall apply to this article and shall be liberally construed to effectuate its general purpose which is declared to be the prevention of any sale or transfer of any potentially dangerous product to any person not under the mayor's direct supervision, to reduce the availability of such dangerous products to a minimum, and to keep all unauthorized persons off public property, and from gathering into groups having riot or looting potential:

(e) *Crisis:* Any disaster, natural or man-made, rioting, catastrophe or similar public emergency, actual or impending, as determined by the mayor. A state of crisis shall be considered the same as a state of emergency for the purposes of Revised Civil Statutes Article 5890e (Acts 1969, 61st Leg. Pg. 2658, Ch. 877, emergency effective June 21, 1969).

(d) *Dangerous product:* Any material or product which could reasonably be expected to be used as a tool of arson, explosive or weapon, including but not limited to: Gasoline and other liquid flammable and combustible products; dynamite and other explosives; firearms and ammunition; and knives and other dangerous weapons.

14–52. *Authority to declare state of crisis* The mayor is hereby authorized to declare by proclamation a state of crisis, and to take any action deemed necessary to provide adequate control over persons and conditions during such periods of impending or actual public crisis or disaster, and it is the intent of this council to provide the means whereby the mayor may take steps to protect lives

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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and property, and maintain the operation of the government, until the city council, or the Governor of the State of Texas, shall further act.

14–53. *Powers of mayor upon declaring crisis.* Upon declaring such crisis, the mayor shall have the following powers: (b) To limit or prohibit the sale or dispensing of any dangerous product or alcoholic beverage, with or without the imposition of a curfew.

(c) To place any limitation upon, or prohibition against, the operation of any establishment selling, distributing, dispensing or giving away any dangerous product or alcoholic beverage.

Falfurrias

2. No person, firm, company, corporation or association shall exhibit or have in his possession, with intent to give away or sell or offer for sale or sell, within the City Limits of the City of Falfurrias, Texas, any squib, rocket, cracker, torpedo, grenade, gun, revolver, pistol, cap or cartridge, or other combustible fireworks of any kind in the City of Falfurrias, Texas, provided, however, that this section shall not apply to the sale of any such article or articles at wholesale to merchants conducting business entirely without the City of Falfurrias, Texas, or to the sale by wholesalers for private or public demonstration as hereinafter provided.

Fort Worth

15–423. *Small arms ammunition.* A. *"Small arms ammunition" defined.* Small arms ammunition, whenever used in this article, shall mean any shotgun, rifle, pistol* or revolver cartridge.

B. *Manufacture.* No person shall manufacture any small arms ammunition within the city. This provision shall not be construed as prohibiting the hand-loading of small arms ammunition for private use and not for resale.

C. *Sale, etc.* No person shall store for sale, sell or present for sale any small arms ammunition without a permit.

22–1. *Definitions. Secondhand dealer.* The term "secondhand dealer" is used in its ordinary and usual trade acceptance meaning, and shall also mean and include any person engaged in any of the following:

Collecting, handling, buying, trading, selling or engaging in the sale or traffic of any of the following:

Used or secondhand wearing apparel consisting of hats, shoes, overcoats, raincoats and any and all kinds of clothing; used or secondhand watches, jewelry, diamonds, luggage, musical instruments, shotguns, rifles, revolvers and all other kinds of firearms; and any and all kinds of used goods, wares and merchandise which are handled by pawnbrokers and secondhand dealers in the usual course of trade.

Junk dealers, junk dealer and dealers in junk. The term "junk dealers", "junk dealer", "dealers in junk" and "secondhand dealers", are hereby used synonymously, and unless otherwise expressly stated, shall include both class "A", secondhand dealers and class "B" junk dealers, as the same are classified in Section 22–8.

22–3. *License requirements generally.* No junk dealer or secondhand dealer shall transact or engage in business within the city unless and until he shall have obtained an annual license therefor, which license may be procured by complying with the following provisions:

(g) *Requirements as to bond in case of class "A" dealers.* If the application for a license shall be for junk dealer of class "A" or a secondhand dealer, such license shall not issue unless and until the applicant shall execute a bond in accordance with the terms of section 22–4.

Harlingen

III. *It shall hereafter be unlawful for any adult person* to deliver to or place in the hands of, any minor under the age of seventeen (17) years any fire-arm, air-rifle, sling-shot, or other device for the propelling of destructive missiles, or to place any such fire-arm, air-rifle, sling-shot, or other device for the propelling of destructive missiles in a place readily accessible to any minor under the age of seventeen (17) years.

IV. *Fire-arms as used herein shall be defined* to include any pistol, rifle, shot-gun, designed to propel any bullet, pellet, slug or metal object or other solid substance by means of force of an explosion of gun powder, explosive liquid of any kind, or explosive gas of any kind.*

San Antonio

26.27. *Explosives, etc.; furnishing to minors.* It shall be unlawful for any person within the city to sell to, give to, or place in the possession of, any person under the age of sixteen years any leaded cartridge, or any explosive of any kind, or to sell to, give to or place in the possession of any person under the age of sixteen years, any gun or toy gun, capable of exploding or discharging any explosive cap or cartridge, or any toy cannon, capable of exploding or discharging any explosive cap or cartridge, or any other firearm of any description, capable of exploding or discharging any explosive cap or cartridge of any description.

15–135. *Manufacture prohibited.* (a) No person shall manufacture, within the limits of the city, small arms ammunition. This shall not be construed as prohibiting, the hand loading of small arms ammunition for private use and not for resale. For this purpose not more than 15 pounds of smokeless powder and 1,000 small arms primers packed in approved I.C.C. containers shall be permitted to be kept on hand, without a permit.

15–136. *Permit required.* No person shall store, sell or offer for sale any small arms ammunition without permit.*

UTAH

State Law

UTAH CODE ANN. TITLE 76

76–10–306. *"Infernal machine" defined.*—An infernal machine is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical, or compound, or knife, loaded pistol, or gun, or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled, or opened, or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb, or property.

76–10–307. *Infernal machine—Delivery to common carrier, mailing, or placement on premises.*—Every person who delivers or causes to be delivered to any express or railway company or other common carrier, or to any person, any infernal machine, knowing it to be such, without informing the common carrier or person of the nature thereof, or sends it through the mail, or throws or places it on or about the premises or property of another, or in any place where another may be injured thereby in his person or property, is guilty of a felony of the second degree.

76–10–308. *Infernal machine—Construction or possession.*—Every person who knowingly constructs or contrives any infernal machine, or with intent to injure another in his person or property, has any infernal machine in his possession is guilty of a felony of the third degree.

76–10–309. *Infernal machine—Venue of prosecution for shipping.*—Any person knowingly delivering any infernal machine to any railway, express, or stage company, or to any person or company whatever, for transmission to any person in another county may be prosecuted in the county in which he delivers it or in the county to which it is transmitted.

76–10–501. *Definitions.*—For the purpose of this part:

(1) "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In construing whether an item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon, the character of the instrument, object, or thing; the character of the wound produced, if any; and the manner in which the instrument, object, or thing was used shall be determinative.

(2) "Firearms" means pistols, revolvers, sawed-off shotguns, or sawed-off rifles, and/or any device that could be used as a weapon from which is expelled a projectile by any force.

(3) "Sawed-off shotgun" means a shotgun having a barerl or barrels of less than eighteen inches in length, or in the case of a rifle, having a barrel or barrels of less than sixteen inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification or otherwise) if the weapon as modified has an overall length of less than 26 inches.

(4) "Prohibited area" means any place where it is unlawful to discharge a weapon.

(5) "Crime of violence" means murder, voluntary manslaughter, rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or an attempt to commit any of the foregoing offenses.

(6) "Bureau" means the Utah state bureau of criminal identification.

76–10–503. *Possession of dangerous weapon by convicted person, drug addict, or mentally incompetent person prohibited.*—Any person who is not a citizen of the United States or any person who has been convicted of any crime of violence under the laws of the United States, the state of Utah or any other state, government, or country, or who is addicted to the use of any narcotic drug, or any person who has been declared mentally incompetent shall not own or have in his possession or under his custody or control any dangerous weapon as defined in this part. Any person who violates this section is guilty of a class A misdemeanor, and if the dangerous weapon is a firearm or sawed-off shotgun he shall be guilty of a felony of the third degree.

76–10–519. *Hand gun dealers' records.*—All dealers who sell hand guns in the state of Utah shall cause a record form, provided by the bureau, to be filled out in triplicate. The dealer shall retain one copy and forward the original and one copy to the local police chief or sheriff within ten days from the date of sale. The police chief or sheriff shall, within ten days of the receipt of the original and the copy, forward the original to the bureau. A violation of this section is an infraction.

76–10–520. *Number or mark assigned to pistol or revolver by bureau.*—The bureau upon request may assign a distinguishing number or mark of identification to any pistol or revolver whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the bureau has been destroyed or obliterated.

76–10–521. *Unlawful marking of pistol or revolver.*—Any person who places or stamps on any pistol or revolver any number except one assigned to it by the bureau is guilty of a class A misdemeanor. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the bureau, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

76–10–522. *Alteration of a number or mark on pistol or revolver.*—Any person who changes, alters, removes, or obliterates the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the bureau, on any pistol or revolver, without first having secured written permission from the bureau to make the change, alteration, or removal, shall be guilty of a class A misdemeanor.

76–10–524. *Purchase of firearms in contiguous states pursuant to federal law.*—This part will allow purchases of firearms and ammunition by residents in contiguous states pursuant to the Federal Fire Arms Gun Control Act of 1968, section 922, paragraph B, No. 3.

Logan City

12–7–10. *Revolvers, sale to minors, display prohibited.* It shall be unlawful for any person, firm or corporation to exchange with, buy from, or sell to any minor under the age of eighteen (18) years any gun, pistol or revolver; or to show or display any pistol or revolver in any window or showcase in this city.

12–12–9. *Sales to intoxicated persons and minors.* No person in Logan City shall purchase from, or sell, loan or furnish any weapon in which any explosive substance can be used to any person under the influence of alcohol or any narcotic drug, stimulant or depressant or to any person in a condition of agitation and excitability or to a minor under the age of eighteen (18) years of age.*

Murray

17–6. *Sales of firearms and other weapons prohibited.* It shall be unlawful for any person to sell, give or furnish to any minor any firearm, air gun or other instrument designed to throw missiles.

20–23. *Firearms and explosives—Permit for purchase.* It shall be unlawful for any person, other than a manufacturer or wholesaler thereof to or from a wholesale or retail dealer therein, for the purpose of commerce, directly or indirectly, to buy, sell, borrow, loan, give away, trade, barter, deliver or receive, within the city, any pistol, revolver, gun or similar weapon, or any ammunition, shell, powder, dynamite or other explosive, unless the buyer, borrower or person receiving such weapon, ammunition or explosive shall first obtain and deliver to and the same be demanded and received by the person selling, loaning or delivering such weapon, ammunition or explosive, within thirty days after the issuance thereof, a permit of the chief of police authorizing such person to acquire such weapon, ammunition or explosive.

Such permit may be issued by the chief of police if he is satisfied that the person applying for the same is of good moral character and of lawful age, and that the purpose for which the same is sought is lawful, and the granting of the same will not endanger public safety. • • • No such permit shall be issued to any minor.*

20–24. *Same—Register to be kept;* • • •. It shall be unlawful for any person to sell, loan, or give away any pistol, dynamite or other explosive without first making a full and complete record in a book kept by him for that purpose, • • •.

Provo

12.12.040. *Minors—Sale to—Prohibited.* It shall be unlawful for any person, firm or corporation to give or to sell or to furnish to any minor under the age of fourteen years, any pistol, gun, target gun or other firearm or air gun.*

12.12.050. *Sale of firearms to be recorded—Purchaser to register weapon.* It shall be unlawful for any person to sell, loan or give away any pistol, revolver, gun or similar weapon, without first making a full and complete record in a book kept by him for that purpose, • • •.

Salt Lake City

32–6–5. *Unlawful to sell firearms to children under fourteen.* It shall be unlawful for any person, firm or corporation to give, sell or furnish to any minor under the age of fourteen years, any firearm, airgun, rubber flipper, bow and arrow, or any other such type instrument designed to propel or throw missiles.*

32–6–6. *Prohibited sale of pistols and revolvers.* It shall be unlawful, except as hereinafter provided, for any person, firm or corporation, directly or indirectly, to buy, sell, borrow, loan, give away, trade, barter, deliver or receive within the city limits of Salt Lake City, any pistol or revolver using explosive ammunition, unless the buyer, borrower, or person receiving such weapon, shall first complete a record form to be kept by the seller, lender or other person furnishing such pistol or revolver. Said form shall contain such statements of identity, address, and purpose of use as may be prescribed by the chief of police upon forms to be furnished to all such sellers or lenders by the chief of police. Said completed forms shall be made available to the police department for inspection and filing in the manner and at the times to be designated by the chief of police.

Provided, however, that no form need be completed for sales or shipments from or to a manufacturer or wholesaler of such pistols or revolvers to or from a wholesaler or retail dealer for the purpose of commerce.

Salt Lake County

16–4–1. *Unlawful use of weapons.* (1) A person commits the offense of unlawful use of weapons when he knowingly:

(a) Sells, manufactures, purchases, possesses or carries any • • • shotgun with a barrel less than eighteen inches in length, • • • or

(f) Possesses any device or attachment of a kind designed, used or intended for use in silencing the report of any firearm.

16–4–3. *Record of sale.* It shall be unlawful for any person to sell, loan or give away any pistol, revolver, gun or similar weapon, powder, dynamite or other explosive without first making a full and complete record in a book kept by him for that purpose, • • •.

16–4–4. *Seller to require permit.* It shall be unlawful for any person to sell, trade or otherwise furnish to another any pistol, revolver or concealable gun or weapon unless the person to whom said pistol, revolver, gun or weapon is sold, traded or otherwise furnished exhibits and delivers to the person selling, trading or furnishing such pistol, revolver, gun or weapon a permit issued by the sheriff authorizing and permitting the person to purchase or receive such pistol, revolver, gun or other concealable weapon.

16–4–5. *Obtaining weapons without permit illegal.* It shall be unlawful for any person to purchase or otherwise obtain a pistol, revolver, gun or other concealable weapon without first obtaining a permit from the sheriff.

16–4–6. *Possession by minors.* It shall be unlawful for any minor to possess or have in his or her possession in any place, whether public or private, within the limits of the county, any gun, revolver, or firearm, or any kind of airgun, rubber flipper, bow and arrow or other weapon or instrument of similar nature designed to throw missiles, unless permission for the possession and use of such instrument be given in writing to such minor by his or her parent, or guardian, or person having the charge or control of such minor.

16–4–8. *Furnishing to minors.* It shall be unlawful for any person, firm or corporation except a parent or guardian, to give, or to sell or to furnish to any minor, any instrumentality named in the above-mentioned provisions.*

VERMONT

State Law

VT. STATS. ANN. TITLE 13

4007. *Furnishing firearms to children.* A person, firm or corporation, other than a parent or guardian, who sells or furnishes to a minor under the age of sixteen years a firearm or other dangerous weapon or ammunition for firearms shall be fined not more than $50.00 nor less than $10.00. This section shall not apply to an instructor or teacher who furnishes firearms to pupils for instruction and drill.*

4008. *Possession of firearms by children.* A child under the age of sixteen years shall not, without the consent of his parent or guardian, have in his possession or control a pistol or revolver constructed or designed for the use of gunpowder or other explosive substance with leaden ball or shot. A child who violates a provision of this section shall be deemed a delinquent child under the provisions of chapter 11 of Title 33.

4010. *Gun silencers.* A person who manufactures, sells or uses or possesses with intent to sell or use, an appliance known as or used for a gun silencer shall be fined $25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers for military purposes when so used or possessed under proper military authority and restriction.

4013. *Zip guns; switchblade knives.* A person who possesses, sells or offers for sale a weapon commonly known as a "zip" gun, or a weapon commonly known as a switchblade knife, the blade of which is three inches or more in length, shall be imprisoned not more than ninety days or fined not more than

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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4014. *Purchase of firearms in contiguous states.* Residents of the state of Vermont may purchase rifles and shotguns in a state contiguous to the state of Vermont provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the contiguous state in which the purchase is made.

VIRGINIA

State Law

VA. CODE ANN. TITLE 15.1

15.1–523. *Pistols and revolvers; license tax on dealers.* The governing body of any county may impose a license tax of not more than twenty-five dollars on persons engaged in the business of selling pistols and revolvers to the public.

15.1–524. *Same; reports of sales.* The governing body of any county may require sellers of pistols and revolvers to furnish the clerk of the circuit court of the county, within ten days after sale of any such weapon, with the name and address of the purchaser, the date of purchase, and the number, make and calibre of the weapon sold. The clerk shall keep a record of the reports.

15.1–525. *Same; in certain counties.* Chapter 297 of the Acts of 1944, approved March twenty-nine, nineteen hundred forty-four, requiring permits to sell or purchase pistols or revolvers in any county having a density of population of more than one thousand a square mile, is continued in effect.

VA. CODE ANN. TITLE 18.1

18.1–78.6. *Manufacture, possession, use, etc., of fire bombs.* (a) For the purpose of this section, "fire bomb" means a container containing gasoline, kerosene, fuel oil, derivative thereof, or similar flammable substance, with a flash point of one hundred seventy degrees Fahrenheit or less, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, derivative thereof or similar flammable substance; provided that no similar device commercially manufactured and used solely for the purpose of illumination shall be deemed to be a fire bomb.

(b) It shall be unlawful for any person to possess materials with which fire bombs or explosives as defined in 40.1.23 can be made with the intent to manufacture fire bombs or explosives. If other circumstances surrounding the case shall show that fire bombs or explosives are intended to be made, possession of such materials with which fire bombs or explosives may be made shall be prima facie evidence of an intent to manufacture fire bombs or explosives.

(c) It shall be unlawful to manufacture, distribute, possess or use a fire bomb or explosives.

(d) Violators of this section shall be guilty of a felony, and shall be confined in the penitentiary not less than one nor more than five years.

(e) Nothing in this section shall prohibit the authorized manufacture, use or possession of any material, substance, or device by a member of the armed forces of the United States, firemen or law-enforcement officer; nor shall it prohibit the manufacture, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose.

18.1–258. *Definitions.* When used in this article: (1) "Machine gun" applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than seven shots or bullets may be rapidly, automatically or semi-automatically, discharged from a magazine, by a single function of the firing device, and also applies to and includes weapons, loaded or unloaded, from which more than sixteen shots or bullets may be rapidly, automatically, semiautomatically or otherwise discharged without reloading.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnaping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

18.1–260. *Use of machine gun for aggressive purpose.* Unlawful possession or use of a machine gun for an offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the State penitentiary for a term of from one to ten years.

18.1–261. *What constitutes aggressive purpose.* Possession or use of a machine gun shall be presumed to be for an offensive or aggressive purpose:

(1) When the machine gun is on premises not owned or rented for bona fide permanent residence or business occupancy by the person in whose possession the machine gun may be found;

(2) When the machine gun is in the possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions;

(3) When the machine gun is of the kind described in § 18.1–265 and has not been registered as in such section required; or

(4) When empty or loaded shells of thirty (thirty one-hundredths inch or seven and sixty-three one-hundredths millimeter) or larger caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

18.1–263. *What article does not apply to* Nothing containing in this article shall prohibit or interfere with:

(1) The manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose;

(2) Machine guns and automatic arms issued to the National Guard of Virginia by the United States or such arms used by the United States Army or Navy or in the hands of troops of the National Guards of other states or territories of the United States passing through Virginia, or such arms as may be provided for the officers of the State Police or officers of penal institutions;

(3) The possession of a machine gun for scientific purposes, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake; or

(4) The possession of a machine gun other than one adapted to use cartridges of thirty (thirty one-hundredths inch or seven and sixty-three one-hundredths millimeter) or larger caliber, for a purpose manifestly not aggressive or offensive.

18.1–265. *Registration of machine guns.* Every machine gun in this State adapted to use cartridges of thirty (thirty one-hundredths inch or seven and sixty-three one-hundredths millimeter) or large caliber shall be registered with the Department of State Police annually. It shall be registered within twenty-four hours after its acquisition. * * *

18.1–268.1. *Definitions.* When used in this article: (1) "Sawed-off" shotgun applies to any weapon, loaded or unloaded, originally designed as a shoulder weapon, utilizing a self-contained cartridge from which a number of ball shot pellets or projectiles may be fired simultaneously from a smooth or rifled bore by a single function of the firing device and which has a barrel length of less than eighteen inches for smooth bore weapons and sixteen inches for rifled weapons. Weapons of less than 225 caliber shall not be included.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

18.1–268.3. *Possession or use of "sawed-off" shotgun for offensive or aggressive purpose.* Unlawful possession or use of a "sawed-off" shotgun for an offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the State penitentiary for a term of not less than ten years.

18.1–268.4. *What constitutes offensive or aggressive purpose.* Possession or use of a "sawed-off" shotgun shall be presumed to be for an offensive or aggressive purpose:

(1) When the "sawed-off" shotgun is found in the possession of an individual at the scene of a riot or civil disturbance, unless such possession is on premises owned or rented by the individual for residential, recreational or business purposes and obviously for defense of his person, family or property during such riot or civil disturbance;

(2) When the "sawed-off" shotgun is in the possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions;

(3) When the "sawed-off" shotgun is of the kind described in § 18.1–268.1 and has not been registered as required in § 18.1–268.8 [§ 18.1–268.7]; or

(4) When the "sawed-off" shotgun is found in the possession of an individual under circumstances indicating his preparation to participate in a riot or civil disturbance or his preparation for the commission of a crime of violence.

18.1–268.5. *Exceptions to application of article.* Nothing contained in this article shall prohibit or interfere with:

(1) The manufacture for, and sale of "sawed-off" shotguns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose;

(2) "Sawed-off" shotguns and automatic arms issued to the national guard of Virginia by the United States or such arms used by the United States army or navy or in the hands of troops of the national guards of other states or territories of the United States passing through Virginia, or such arms as may be provided for the officers of the State Police or officers of penal institutions;

(3) The possession of a "sawed-off" shotgun for scientific purposes, or the possession of a "sawed-off" shotgun not usable as a firing weapon and possessed as a curiosity, ornament, or keepsake.

18.1–268.7. *Registration of "sawed-off" shotguns.*—Every "sawed-off" shotgun in this State shall be registered with the Department of State Police within twenty-four hours after its acquisition. Thereafter it shall be registered annually. Blanks for registration shall be prepared by the Superintendent of State Police, and furnished upon application. To comply with this section the application as filed shall be notarized and shall show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which the gun was acquired. The Superintendent of State Police shall immediately upon registration required in this section furnish the registrant with a certificate of registration, which shall be kept by the registrant and produced by him upon demand by any peace officer. Failure to keep or produce such certificate for inspection shall be a misdemeanor and punishable by a fine of not less than five nor more than one thousand dollars, and any peace officer may, without warrant, seize the "sawed-off" shotgun and apply for its confiscation as provided in § 18.1–268.8. No registered "sawed-off" shotgun shall be transferred without the registrant notifying in writing the Superintendent of State Police of the name and address of the transferee. The registration data shall not be subject to inspection by the public. Any person failing to register any gun as required by this section shall be presumed to possess the same for offensive or aggressive purpose.

18.1–344. *Furnishing certain weapons to minors.* If any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switchblade knife or bowie knife, having good cause to believe him to be a minor under eighteen years of age, * * * such person shall be guilty of a misdemeanor * * *.*

VA. CODE ANN. TITLE 59.1

59.1–148.1. *Purchase of firearms in contiguous state.* Any resident of the Commonwealth of Virginia, including a corporation or other busineses entity maintaining a place of business in this State, who may lawfully purchase and receive delivery of a rifle or shotgun in this State, may purchase a rifle or shotgun in a contiguous state and transport or receive the same into the Commonwealth of Virginia provided the sale meets the lawful requirements of each such state, meets all lawful requirements of any federal statute, and is made by a licensed importer, licensed manufacturer, licensed dealer, or licensed collector.

Abingdon

29–6. *Selling pistols, etc., to minors under eighteen years of age.* No person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age. * * *.*

Alexandria

41–8. *Procedure for sale of pistols or revolvers; sale to certain persons prohibited.* Every person desiring to purchase or otherwise acquire in the city a pistol or revolver shall sign in duplicate and deliver to the seller or person disposing thereof an application for the purchase of a pistol or revolver, * * *. Forms for such applications shall be furnished by the superintendent of police at the expense of the city. It shall be unlawful for any person to give false information or offer false evidence of his identity in making such application or in acquiring a pistol or revolver. No person shall within the city deliver or otherwise dispose of a pistol or revolver until seventy-two hours shall have elapsed from the time of the application.

No person shall within the city sell or otherwise dispose of a pistol or revolver to a person whom he has reasonable cause to believe is not a fit and proper person to possess the same, is not of sound mind, is under the age of eighteen years, is a drug addict, or is a person who has been convicted of a crime of violence.*

If, within the seventy-two hour waiting period required by this section, the superintendent of police or anyone designated by him shall inform the proposed seller or person proposing to dispose of a pistol or revolver that the applicant is not a fit and proper person to possess the weapon, is not of sound mind, is under the age of eighteen years, is a drug addict or is a person who has been convicted of a crime of violence, such information shall be prima facie evidence that the seller or person disposing thereof had reasonable cause to believe the applicant is so unqualified to acquire such weapon.

A crime of violence, as used in this section, shall be taken to mean murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, housebreaking, robbery, larceny, assault with intent to kill, commit rape or robbery, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment in the penitentiary or an attempt to commit any of such crimes.

41–13. *Permits for engaging in business as dealers—Required.* Any person desiring to engage in the business of selling or dealing in pistols or revolvers in the city at retail shall obtain from the superintendent of police to permit to deal in such weapons. This permit shall be in addition to the revenue license required by section 58–394, of the Code of Virginia, and of any city revenue license.

Appomattox

17–4. *Sale, etc., of guns, dirks, etc., to minors under age of eighteen years.* If any person sells, barters, gives or furnishes, or causes to be sold, bartered, given or furnished to any minor under eighteen years of age a gun, rifle, air rifle, pistol, cartridge, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor.*

Arlington County

CHAPTER 297, ACTS OF ASSEMBLY OF 1944

1. In any county having a density of population of more than one thousand a square mile, as shown by the last preceding United States census, any person, firm or corporation engaged in the business of selling pistols or revolvers at retail shall, before making any such sale, register as such a dealer with the chief of police of the county and obtain from him a permit to sell such weapons to persons entitled to buy them, which permit he shall issue upon his being satisfied with the fitness of the dealer to engage in such business. Such permits shall be issued for a period of one year.

Any person desiring to buy at retail or otherwise acquire a pistol or revolver shall first apply to the chief of police, hereinafter called the Chief, for a permit so to do, and shall at the same time give to the Chief such information as he requires concerning his fitness to own and possess such weapon. The Chief may grant such permit, or refuse same or defer the applicatfon until he has made an independent investigation of the applicant; provided no permit shall be granted to any person under the age of eighteen years, nor until the Chief is satisfied that the applicant is a proper person to own and have the weapon in his possession.

No dealer holding a permit issued hereunder shall sell, give, barter, exchange or furnish a pistol or revolver to any person unless he delivers to the dealer the permit of the Chief as required in this act. Upon the delivery of any such weapon to any person by the dealer, he shall endorse on the permit the date of delivery, the name and address of the person to whom delivered, the number, and the make and calibre of the pistol or revolver, and shall return the permit to the Chief not later than the day following that on which the weapon was sold or furnished.

The Chief shall make and preserve in his office a record of all permits issued by him hereunder, showing thereon the dates when and the persons to whom issued.

Any person violating any provision of this act shall be guilty of a misdemeanor.

NOTE: Arlington County, Virginia comes within the purview of the aforementioned act.

11–47. *Pistol dealers.* Every person selling pistols in the county shall pay for the privilege an annual license tax of twenty-five dollars, which tax shall not be prorated. Before issuing any license under the provisions of this section the Commissioner of the Revenue shall obtain from the applicant evidence that he has obtained a permit from the Chief of Police in accordance with Acts of Assembly 1944, Chapter 297.

Bedford

25–4. *Furnishing pistols, dirks, etc., to minors under eighteen years of age.* If any person sells, barters, gives or furnishes, or causes to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor * * *.*

Bridgewater

4–37. *Prohibiting sales to minors.* It shall be unlawful for any person to sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age, any pistol, dirk, bowie knife, black jack, metal knucks, tear gas pen or gun or other weapon of like kind, having good cause to believe him or her to be a minor under eighteen years of age.*

Bristol

9–8. *Definition.* "Small arms ammunition", wherever used in this division, shall be taken to mean any shotgun, rifle, pistol or revolver cartridges.

9–9. *Permit for manufacture, etc.* No person shall manufacture or reload within the city any small arms ammunition, except pursuant to a permit issued by the bureau of fire prevention. Upon due application therefor, the

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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bureau of fire prevention may issue a permit to a properly qualified person for manufacturing or reloading small arms ammunition in the city. Such permit shall impose such restrictions as in the opinion of the chief of the bureau of fire prevention may be necessary properly to safeguard life and property in each case.

9–10. *Permit for sale, etc.* No person shall store for sale, or sell or offer for sale any small arms ammunition, except pursuant to a permit issued by the bureau of fire prevention. Upon due application therefor, the bureau of fire prevention may issue a permit to a properly qualified person for storing for sale, selling or offering for sale small arms ammunition in the city. Such permit shall impose such restrictions as in the opinion of the chief of the bureau of fire prevention may be necessary properly to safeguard life and property in each case.

Brunswick County

Report of sales of pistols and revolvers; penalty. All sellers of pistols and revolvers shall furnish the Clerk of the Circuit Court of Brunswick County, Virginia, within ten (10) days after sale of any such weapon, with the name and address of the purchaser, the date of purchase and the number, make and calibre of the weapon sold. The Clerk shall keep a record of the reports. Any person, persons, business, or agency failing to comply with this requirement shall be subject to a fine of not exceeding one hundred dollars and imprisonment in jail for not exceeding six months, either or both.

Sellers to obtain identity of purchaser; presumption. In obtaining the name and address of the purchaser, as hereinabove provided, if the purchaser be not personally known to the seller, the seller shall use such means and methods to secure the correct name and address as are generally employed in Brunswick County to obtain the correct identity of a person tendering a check for payment, and proof of failure to do so shall establish a presumption that the above-required report has not been furnished if it be proved that said name and address, or either of them, were incorrect at the time of sale.

Purchasers to notify sheriff of intention to purchase pistols and revolvers. Any person intending to purchase a pistol or revolver shall first notify the Sheriff of Brunswick County of his intention so to do at least thirty (30) days before said purchase and shall state the type and calibre or calibres of said weapon or weapons and the name of the intended seller and purchaser. Whereupon, the Sheriff shall execute a writing, signed by him, showing thereon said information and shall deliver a copy thereof to the intended purchaser to exhibit to the seller.

Charlottesville

16A–50. *Dealers in firearms, dirks and Bowie knives.* No person, firm or corporation shall sell firearms, dirks or Bowie knives without having first procured a license therefor. • • •.

19–85. *Firearms—Sales, etc., to minors.* No person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age, firearms, cartridges, dirks, switch-blade knives or Bowie knives, having good cause to believe such minor to be under eighteen years of age.

The term "firearms," as used in this section, shall be construed to include any gun, rifle or pistol adapted to the use in any form of powder and shot (or balls) or cartridges, whether such firearms be called "toy pistols," "toy guns," or otherwise.*

19–85.1. *Firearms—Sale of firearms, dirks or Bowie knives—Permit required.* No person shall sell firearms, dirks or Bowie knives without having first procured the annual written consent of the city manager to engage in such business. This same consent shall be used by such person in applying for his business license under the License Tax Ordinance.

Chesapeake

17–60. *Same—Permit generally.* No person shall sell, lease, rent, give or otherwire furnish within the city any pistol, dirk, switch blade knife, slingshot or any weapon of like kind, unless and until a permit, granted by the Chief of Police, shall be presented authorizing the holder of such permit to acquire such weapon, which permit shall be surrendered to the person furnishing such weapon, who shall preserve it for inspection, upon request, by the police of the city.

17–61. *Same—Permit for persons under eighteen years of age.* It shall be unlawful for any person under the age of eighteen years to shoot, carry or use any firearms within the city unless a permit is first obtained from the chief of police, except when on a properly established target shooting range which is being supervised by a representative of the armed services of the United States or the state, or an instructor certified by the National Rifle Association. Application for such permit shall be made in person to the chief of police of the city and the applicant shall be accompanied by his parent or guardian who shall give his approval to the issuance of the permit. A minor under eighteen years of age shall be accompanied by an adult while hunting, except on property owned by his family.

Chesterfield

7–20. *Weapons—pistol dealers—License required; tax.* Any person engaged in the business of selling pistols and revolvers to the public shall obtain an annual county pistol dealer's license and shall pay therefor the sum of twenty-five dollars.

Clifton Forge

13–44. *Selling or furnishing to minors.* It shall be unlawful for any person to sell, barter, give or furnish, or cause to be sold, bartered, given, or furnished to any minor under eighteen (18) years of age, a pistol, dirk, bowie knife, having good cause to believe him to be a minor under eighteen (18) years of age.*

Colonial Heights

12–80. *Dirks, Bowie knives, firearms, etc.* Every person who engages in the business of dealing in or selling of dirks, Bowie knives or other kinds of firearms or weapons not otherwise taxed shall pay a license tax of $100.00; provided, however, that nothing in this section shall apply to any person regularly licensed as a retail merchant under section 12–110.

16–52. *Weapons—Furnishing to minors under eighteen.* It shall be unlawful for any person to sell, barter, give, furnish, or cause to be sold, bartered, given, or furnished to any minor under eighteen years of age, a pistol, dirk, or Bowie knife, having good reason to believe him to be a minor under eighteen years of age.*

Covington

31–3. *Furnishing pistol, dirk, etc., to minor under eighteen years of age.* It shall be unlawful for any person to sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age, any pistol, dirk, switchblade knife, Bowie knife, or any air rifle, air pistol or like devise, having good cause to believe him to be a minor under eighteen years of age.*

31–4. *Selling cartridges, etc., to persons under eighteen years of age:* It shall be unlawful for any person to sell, give, lend, barter or furnish or cause to be sold, given, lent, bartered or furnished to any person under the age of eighteen years any gunpowder or similar explosive substance, shells, cartridges, shot or pellets.

31–5. *Possession, transportation, etc., of guns, etc., by persons under eighteen years of age.* It shall be unlawful for any person under the age of eighteen years to have in his possession or to carry or transport any gun, pistol, cannon or similar instrument capable of shooting or firing any shell, bullet, cartridge or exploding any powder or similar substance or propelling any ball, bullet, shot or pellet or similar object, by any means, for a distance of more than fifty feet.

Culpeper

27–4. *Furnishing certain weapons to minors.* No person shall sell, barter, give or furnish or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switchblade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age. • • •.*

Elkton

33–2. *Sale of certain weapons to minors under age of eighteen years.* It shall be unlawful for any person to sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age any pistol, dirk, Bowie knife, black jack, metal knucks, tear gas, pen or gun, or other weapon of like kind, having good cause to believe him to be a minor under eighteen years of age.*

Emporia

14–75. *Same—Pistol permit required prior to purchase.* It shall be unlawful for any person to purchase a pistol of any calibre or description within the city unless such person shall have obtained a written permit from the chief of police of the city authorizing such purchase.

14–76. *Same—Exhibiting pistol permit to seller.* It shall be unlawful for any person to sell a pistol of any calibre or description within the city to any person unless such purchaser shall first exhibit to the person selling the pistol, a written permit, executed by the chief of police of the city, authorizing the sale and purchase of a pistol within the city.

Fairfax

1966–2B. (A) *Definitions.* The following terms, whenever used in this article shall have the meanings respectively set forth in this section, unless a different meaning is clearly required by the context:

"Applicant." Any person, firm, or corporation applying to the Chief of Police for certificate of registration to sell firearms or for authority to purchase a pistol.

"Chief of Police." The Chief of the City of Fairfax Police Department or his designated agent.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

"Crime of Violence." Any of the following crimes or an attempt to commit any of the same, to-wit: Murder, voluntary manslaughter, rape, robbery, burglary, kidnapping, mayhem, and assault.

"Fixed Ammunition." Any ammunition composed of a projectile or projectiles, a casing and a primer, all of which shall be contained as one unit.

"Habitual Drunkard." Any person who has been convicted of being drunk in public three or more times within a period of one year.

"Licensed Dealer." Any person, firm or corporation engaged in the business of selling at retail or renting pistols in the City of Fairfax, who is either licensed, or required to be licensed, as such under State or Federal Law.

"Person." As used in this Ordinance includes individual, firm, association, or corporation.

"Pistol." Any firearm with a barrel less than sixteen inches in length that uses fixed ammunition.

(B) *Dealers registration required* • • •. (1) Any person, before engaging in the business of selling at retail or renting pistols in the City of Fairfax, Virginia, shall be required to register with the Chief of Police on application forms furnished by the Chief of Police. • • •

(C) *Dealers not to sell, etc., without registration.* (1) It shall be unlawful for any person, firm or corporation to engage in the business of selling at retail or renting pistols without having in force a registration approved by the Chief of Police as hereinbefore provided. • • •

(E) *Dealers not to sell, etc., to minors and other persons.* (1) No licensed dealer, or other person, shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under 21 years of age, a pistol, having good cause to believe him to be a minor under 21 years of age nor shall any licensed dealer or other person sell, lend, rent, or otherwise transfer any pistol to any person whom he has reasonable cause to believe has been convicted of a crime of violence or a felony within the past 10 years, or is a drug addict, or is an habitual drunkard or is a fugitive from justice or is of unsound mind, nor to any person who has validly been denied the right to purchase, borrow, rent, or otherwise acquire a pistol by the Chief of Police under the provisions of this article.

(F) *Acquisition of pistols from dealers or other persons.* (1) Any person desiring to purchase, borrow, rent or otherwise acquire a pistol from a licensed dealer or other person shall make application under oath on forms provided by the Chief of Police • • •.

(G) *Approval of application.* (1) No licensed dealer or other person shall sell, rent, or transfer, any pistol to any purchaser who does not exhibit an application approved by the Chief of Police.

(H) *Waiting period for sale of pistols.* (1) Except as hereinafter provided the Chief of Police shall approve the application of a purchaser of a pistol within 72 hours of the delivery of the same to the Chief of Police, excluding Saturdays, Sundays, and Holidays, unless he shall find one or more of the enumerated statements on the application to be untrue.

(2) Where the applicant is a nonresident of the City of Fairfax, but has been a resident of the State of Virginia for more than 3 years, immediately preceding the date of application the aforesaid time shall be extended to 5 days.

(3) Where the applicant is a nonresident or has not resided in the State of Virginia for a period of 3 years next preceding the date of application the time shall be extended to 30 days.

(I) *Notice of rejection.* (1) If, within the prescribed period, the Chief of Police shall inform in writing the licensed dealer or other person who proposes to sell the pistol that the application was rejected for one or more of the following reasons, (a) the applicant is under the age of 21 years, or (b) has been committed to an institution for treatment of mental illness, or drug addiction, and has not been discharged therefrom for a period of 10 years preceding the date of said application, or (c) has been convicted of a crime of violence, or (d) has been convicted of a felony within the past 10 years, or (e) is an habitual drunkard, or (f) the applicant is a fugitive from justice, or (g) that a statement on the application is untrue, it shall be unlawful for the dealer to deliver the pistol to the applicant.

(2) A copy of the letter of denial of the Chief of Police shall be furnished the applicant by the licensed dealer.

(K) *Exemptions.* (1) This article shall not apply to: (a) purchases by any licensed dealer registered in accordance with the provisions of this article; (b) rental of pistols by persons eighteen years of age or over while used upon a supervised rifle or pistol range; (c) the delivery of a pistol to its lawful owner by any person with whom such pistol has been left on consignment for safekeeping or for repairs; (d) a wholesale purchase from a licensed dealer by any person, firm or corporation engaged in the business of manufacturing, repairing, or selling pistols at retail.

Fairfax County

Article 1. In general. 28–1. *Definitions.* For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Gun. The term "gun" shall include any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas or compressed air.

Missile. The term "missile" shall mean any projectile propelled by a self contained propellant. • • •.

28–4. *Transfer, etc., of guns to minors prohibited; exceptions.* It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any gun, as defined by section 28–1, or any projectile therefor within the county to a minor under the age of eighteen years, except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between such person and the minor.*

28–8. *Same—Application; forms; rules and regulations; fee.* Any dealer other than a dealer licensed to sell firearms desiring a license to sell, lend, rent or otherwise transfer guns or projectiles therefor, shall make application to the supervisor of assessments of the county who shall provide the necessary forms and shall prescribe by reasonable rules and regulations the information to be contained in such application. The applicant for such dealer's license shall pay a fee of five dollars per annum.

28–11. *Dealers not to sell, etc., to minors.* It shall be unlawful for any licensed dealer to sell, lend, rent or otherwise transfer guns or projectiles therefore to a minor.

28–12. *Giving, lending, etc., to minors.* It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any gun or projectiles therefor to a minor, except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between person and the minor.

28–16. *Definitions.* The following terms, whenever used in this article, shall have the meanings respectively set forth in this section unless a different meaning is clearly required by the context:

Chief of police. The chief of the county police department or his designated agent.

Crime of violence. Any of the following crimes or an attempt to commit any of the same: Murder, voluntary manslaughter, rape, robbery, burglary, kidnapping and assault.

Habitual drunkard. Any person who has been convicted of being drunk in public three or more times within a period of one year.

Fixed ammunition. Any ammunition composed of a projectile or projectiles, a casing and a primer, all of which shall be contained as one unit.

Licensed dealer. Any person engaged in the business of selling at retail or renting pistols in the county who is either licensed or required to be licensed as such under state or federal law.

Pistol. Any firearm with a barrel less than sixteen inches in length that uses fixed ammunition.

28–17. *Registration of dealers—Required; application; granting or denial; appeal from denial.* Any person, before engaging in the business of selling at retail or renting pistols in the county, shall be required to register with the chief of police on application forms furnished by the chief of police. The application form shall contain the following information: • • •.

28–18. *Same—Engaging in business while unregistered prohibited; display of registration certificate.* It shall be unlawful for any person to engage in the business of selling at retail or renting pistols without having in force a registration statement endorsed by the chief of police as hereinbefore provided.

The registration statement shall be displayed on the premises where the pistols are sold or rented.

28–20. *Sale of pistols to minors, drug addicts, habitual drunkards, etc., prohibited.* No licensed dealer shall sell, barter, give or furnish or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, having good cause to believe him to be a minor under eighteen years of age, nor shall any licensed dealer sell, lend, rent or otherwise transfer any pistol to any person whom such dealer has reasonable cause to believe has been convicted of a crime of violence or is a drug addict or is an habitual drunkard or is a fugitive from justice or is of unsound mind nor to any person who has validly been denied the right to purchase, borrow, rent or otherwise acquire a pistol by the chief of police under the provisions of this article.*

28–21. *Application for acquisition of pistol.* Any person desiring to purchase, borrow, rent or otherwise acquire a pistol from a licensed dealer shall make application on forms provided by the chief of police. • • •.

28–22. *Waiting period prior to delivery of pistol to purchaser—required.* No licensed dealer shall deliver any pistol to the purchaser thereof until seventy-two hours, excluding Saturdays, Sundays and holidays, shall have elapsed from the time the application has been received by the chief of police. The chief of police shall cause a postal card to be mailed to the dealer on the same

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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day the application is received in his office stating the time and date the application was received.

28–23. *Same—Grounds for prohibiting delivery; notice to dealer of prohibition.* If, within the seventy-two hour period, the chief of police shall inform, in writing, which shall not be privileged, the licensed dealer who proposes to sell the pistol that the applicant to purchase such pistol is (1) under the age of eighteen years, (2) a person who has been committed to an institution for treatment of mental illness or drug addiction and has not been discharged therefrom for a period of three years preceding the date of such application, (3) has been convicted of a crime of violence or (4) is an habitual drunkard, it shall be unlawful for the dealer to deliver the pistol to the applicant. A copy of the letter of denial of the chief of police shall be furnished the applicant by the licensed dealer.*

28–25. *Exemptions from article.* This article shall not apply to:

(a) Marshals, sheriffs, prison or jail wardens or their deputies, policemen or other law enforcement officers currently employed as such.

(b) Any person having state department diplomatic immunity or any official branch of a federal, state or local government.

(c) Purchases by any licensed dealer registered in accordance with the provisions of this article.

(d) Rental of pistols by persons eighteen years of age or over while used upon a supervised rifle or pistol range.

(e) The delivery of a pistol to its lawful owner by any person with whom such pistol has been left on consignment, for safekeeping or for repairs.

(f) A wholesale purchase from a licensed dealer by any person engaged in the business of manufacturing, repairing or selling pistols at retail.

Falls Church

40–1. *Definitions.* For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Crime of violence. Any of the following crimes, or any attempt to commit any of the same: Murder; manslaughter; rape; mayhem; maliciously disfiguring another; abduction; kidnapping; burglary; house-breaking; larceny; any assault with intent to kill, commit rape or robbery; assault with a dangerous weapon; or assault with intent to commit any offense punishable by imprisonment in the penitentiary.

Machine gun. Any weapon which shoots, or is designed to shoot, automatically or semi-automatically, more than one shot, without manually reloading, by a single function of the trigger, but not a shotgun or twenty-two calibre rifle.

Pistols. Any firearm with a barrel less than twelve inches in length.

Sawed-off shotgun. Any shotgun with a barrel less than twenty inches in length.

Sell and purchase. Includes letting or hiring and similar forms of transferring.

40–3. *Unlawful possession of pistol.* (a) No person shall own or keep a pistol, or have a pistol in his possession or under his control, within the city if:

(1) He is a drug addict.

(2) He has been convicted in the city or elsewhere of a felony.

(3) He has been convicted of soliciting for prostitution, vagrancy or keeping a bawdy or disorderly house.

(4) He is not licensed under section 40–10 to sell weapons, and he has been convicted of violating section 40–2.

(5) He is a habitual drunkard.

(b) No person shall keep a pistol for, or intentionally make a pistol available to, such a person, knowing that he has been so convicted or that he is a drug addict or a habitual drunkard. Whoever violates this section shall be punished as provided in this Code, unless the violation occurs after he has been convicted of a violation of this section, in which case he shall be confined for not more than one year in jail.

40–7. *Sales of pistols to certain persons prohibited.* No person shall within the city sell any pistol to a person who he has reasonable cause to believe is not of sound mind, or is forbidden by section 40–3 to possess a pistol, or, except when the relation of parent and child or guardian and ward exists, is under the age of twenty-one years.

40–8. *Transfers of firearms regulated.* No seller shall within the city deliver a pistol to the purchaser thereof until seventy-two hours shall have elapsed from the time of the application for the purchase thereof; except, that the chief of police, in his discretion, may authorize in writing the seller to deliver a pistol to the purchaser during the seventy-two hours period, and, when delivered, the pistol shall be securely wrapped and shall be unloaded. • • • No machine gun, sawed-off shotgun or blackjack shall be sold to any person other than the persons designated in section 40–14 as entitled to possess the same and then only after permission to make such sale has been obtained from the chief of police of the city. This section shall not apply to sales at wholesale to licensed dealers.

40–9. *Weapon dealer's license—Required.* No retail dealer shall, within the city, sell or expose for sale or have in his possession with intent to sell, any pistol, machine gun, sawed-off shotgun or blackjack without being licensed as provided in section 40–10. No wholesale dealer shall, within the city, sell, or have in his possession with intent to sell, to any person other than a licensed dealer, any pistol, machine gun, sawed-off shotgun, or blackjack.

40–10. *Same—Issuance; conditions; records.* The city council may, in their discretion, grant licenses and may prescribe the form thereof, effective for not more than one year from date of issue, permitting the licensee to sell pistols, machine guns, sawed-off shotguns and blackjacks at retail within the city subject to the following conditions, in addition to those specified in section 40–9 for breach of any of which the license shall be subject to forfeiture and the licensee subject to the punishment as provided in this Code; • • •

(3) No pistol shall be sold (a) if the seller has reasonable cause to believe that the purchaser is not of sound mind or is forbidden by section 40–3 to possess a pistol or is under the age of twenty-one years, and (b) unless the purchaser is personally known to the seller or shall present clear evidence of his identity. No machine gun, sawed-off shotgun, or blackjack shall be sold to any person other than the person designated in section 40–14 as entitled to possess the same, and then only after permission to make such sale has been obtained from the chief of police of the city.

40–11. *False information forbidden in sale of weapons.* No person shall, in purchasing a pistol or in applying for a license to carry same, or in purchasing a machine gun, sawed-off shotgun or blackjack within the city, give false information or offer false evidence of his identity.

40–12. *Alteration of identifying marks of weapons.* No person shall within the city, change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification on any pistol, machine gun or sawed-off shotgun. Possession of any pistol, machine gun or sawed-off shotgun upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered or obliterated the same within the city; provided that nothing contained in this section shall apply to any officer or agent of any of the departments of the United States or the city engaged in experimental work.

40–13. *Toy or antique pistols.* This chapter shall not apply to toy or antique pistols unsuitable for use as firearms.

40–14. *Possession of certain dangerous weapons prohibited.* (a) No person shall, within the city, possess any machine gun, sawed-off shotgun or any instrument or weapon of the kind commonly known as a blackjack, sling shot, sand club, sandbag, switchblade knife or metal knuckles, nor any instrument, attachment or appliance for causing the firing of any firearm to be silent or intended to lessen or muffle the noise of the firing of any firearms; provided, that machine guns or sawed-off shotguns, and blackjacks may be possessed by the members of the Army, Navy or Marine Corps of the United States, the National Guard or organized reserves when on duty, the Post Office Department or its employees when on duty, marshals, sheriffs, prison or jail wardens, or their deputies, policemen, or other duly-appointed law enforcement officers, officers or employees of the United States duly authorized to carry such weapons, banking institutions, public carriers who are engaged in the business of transporting mail, money, securities or other valuables, wholesale dealers and retail dealers licensed under section 40–10.

Farmville

18–49. *Same—Permits for purchase and sale.* (a) No person within the town shall purchase or otherwise procure as his own property or for temporary use any pistol, dirk, bowie knife, black jack or any weapon of like kind unless and until that person shall procure from the chief of police a permit in writing signed by the chief of police, granting the person permission to make the purchase or procure the weapon. The permit shall be delivered to and kept on file by the person from whom the purchase is made and from whom the weapon is procured and shall be open to inspection to any police officer. No person shall sell, give or deliver to any person within the town any pistol, dirk, bowie knife, black jack or any other weapon of like kind unless the person to whom such weapon is sold, given or delivered shall thereupon deliver the permit to the person who shall sell, give or deliver such weapon.

18–50. *Same—Sale to minors.* It shall be unlawful for any person to sell, barter, give, furnish or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk or bowie knife, having good reason to believe him to be a minor under eighteen years of age.*

Franklin

31–7. *Selling pistols, etc., to minors under eighteen years of age.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor • • •.*

Fredericksburg

17.1–25. *Furnishing certain weapons or tobacco in any form to minors.* If any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or bowie knife, having good cause to believe him to be a minor under eighteen years of age, or if any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under sixteen years of age cigarets or tobacco in any form, having good cause to believe him to be a minor under sixteen years of age such person shall be guilty of a misdemeanor and be fined not less than two dollars and fifty cents nor more than one hundred dollars.*

28.1–218. *Pistols, dirks.* On every person, firm or corporation, engaged in the business of selling pistols, or dirks, there shall be a specific license tax of $100.00. Any pistol designed to fire a cartridge, whether blank or lead, shall be included in the provision of this section. Not pro-rated.

Front Royal

15–61. *Pistol dealers.* For every license for engaging in the business of selling pistols, there shall be paid a license tax of fifteen dollars per year. Such license tax shall not be prorated.

32–2. *Furnishing pistols, dirks, etc., to minors under eighteen years of age.* If any person sells, barters, gives or furnishes, or causes to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor • • •.*

Galax

20–128. *Weapons—Sales, etc., to minors—* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen (18) years of age, firearms, cartridges, dirks, switchblade knives or Bowie knives, having good cause to believe such minor to be under eighteen (18) years of age, he shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00).

The term "firearms", as used in this section, shall be construed to include any gun, rifle or pistol adapted to the use in any form of powder and shot (or balls) or cartridges, whether such firearms be called "toy pistols," "toy guns," or otherwise.*

Greensville County

On or after 1 January 1966, it shall be unlawful for any person, firm, or organization to purchase a pistol of any calibre or description within Greensville County, Virginia, unless such person, firm, or organization shall have obtained a written permit from the Sheriff of Greensville County, Virginia, authorizing such purchase. On or after 1 January 1966, it shall be unlawful for any person, firm, or organization to sell a pistol of any calibre or description within Greensville County, Virginia, to any person, firm, or organization unless said purchaser exhibits a written permit executed by the Sheriff of Greensville County, Virginia, authorizing such purchase.

Hampton

41–4. *Sale of certain weapons to minors under age of eighteen years.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age, a pistol, dirk, switch-blade knife or bowie knife, having good cause to believe him to be under eighteen years of age, such person shall be guilty of a misdemeanor • • •.*

Harrisonburg

19–53. *Same—Furnishing to persons under eighteen years of age.* It shall be unlawful for any person to sell, barter, give or furnish or cause to be sold, bartered, given or furnished to any minor under eighteen years of age, any pistol, dirk or bowie knife, having good cause to believe him to be a minor under eighteen years of age.*

Henrico County

8–3. *Permits—Certain permits obtainable from police chief.* Every person desiring a license under the provisions of this chapter for furnishing detective service, detective, medicine vendor or desiring to sell or offer to sell at retail, pistols or revolvers, or to buy at retail or otherwise acquire a pistol or revolver, shall first apply to the chief of police for a permit and shall produce to the chief of police, evidence of the good character of the individual, the members of the firm, or the chief officers of the corporation, as the case may be. It shall thereupon be the duty of the chief of police to make a reasonable investigation of the character of the individual, or of each member of the firm, or of each chief officer of the corporation as the case may be, and if he be satisfied that the individual, the members of the firm, or the principal officers of the corporation, as the case may be, be of good moral character and fit to engage in the proposed business, or to buy, sell or otherwise acquire a pistol or revolver, he shall issue the permit. The form of the application for the permit and the form of the permit itself shall be prepared and furnished by the chief of police.

Hopewell

41–2. *Possession of pistols, etc., of home-made construction.* It shall be unlawful for any person within the city to have in his possession, make or manufacture and sell or trade any pistol, gun or rifle of home-made construction; provided, however, that this shall in no way apply to pistols, guns and rifles or other like firearms that are manufactured by reputable persons that are engaged in such a manufacturing business.

41–3. *Sale of certain weapons to minors under age of eighteen years.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age, a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be under eighteen years of age, such person shall be guilty of a misdemeanor • • •.*

Jarratt

I. (A) On or after the 23rd day of January, 1968, it shall be unlawful for any person, firm or organization to purchase a pistol of any calibre or description within the Town of Jarratt, Virginia, unless such person, firm or organization shall have obtained a written permit from the Chief of Police of the Town of Jarratt, Virginia, authorizing such purchase.

(B) On or after the 23rd day of January, 1968, it shall be unlawful for any person, firm or organization to sell a pistol of any calibre or description within the Town of Jarratt, Virginia, to any person, firm or organization unless said purchaser exhibits a written permit executed by Chief of Police of the Town of Jarratt, Virginia, authorizing such purchase.

(C) On or after the 23rd day of January, 1968, it shall be unlawful for any person, firm or organization to purchase a rifle of any calibre or description within the Town of Jarratt, Virginia, unless such person, firm or organization shall have obtained a written permit from the Chief of Police of the Town of Jarratt, Virginia, authorizing such purchase.

(D) On or after the 23rd day of January, 1968, it shall be unlawful for any person, firm or organization to sell a rifle of any calibre or description within the Town of Jarratt, Virginia, to any person, firm or organization unless such purchaser exhibits a written permit executed by Chief of Police of the Town of Jarratt, Virginia, authorizing such purchase.

II. (A) On or after the 23rd day of January, 1968, it shall be unlawful for any person, firm or organization to offer for sale any pistol of any calibre or description within the Town of Jarratt, Virginia, unless such person, firm or organization shall have obtained a written permit from the Chief of Police of the Town of Jarratt, Virginia, authorizing such person, firm or organization to sell such pistol.

(B) On or after the 23rd day of January, 1968, it shall be unlawful for any person, firm or organization to offer for sale any rifle of any calibre or description within the Town of Jarratt, Virginia, unless such person, firm or organization shall have obtained a written permit from the Chief of Police of the Town of Jarratt, Virginia, authorizing such person, firm or organization to sell such rifle.

Leesburg

24–7. *Selling pistols, etc., to minors under eighteen years of age.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor • • •.*

Lexington

27–5. *Sale, etc., of guns, dirks, etc., to minors under age of eighteen years.* If any person sells, barters, gives or furnishes, or causes to be sold, bartered, given of furnished to any minor under eighteen years of age a gun, rifle, air rifle, pistol, cartridge, dirk, switchblade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor • • •.*

Luray

28–5. *Furnishing pistols, dirks, etc., to minors under eighteen years of age.* If any person sell, barter, give or furnish or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age, a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor • • •.*

Lynchburg

33–2. *Selling, etc., dangerous weapons to minors.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished, to any minor under

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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eighteen years of age, any firearms, cartridges, dirks or Bowie knives, air rifles, air guns, hunting arrows or fireworks in any form, having good cause to believe such minor to be under eighteen years of age, such person shall, upon conviction, be fined not less than ten dollars, nor more than one hundred dollars.

The term "firearms", as used in this section, shall be construed to include any gun, rifle or pistol adapted to use in any form powder and shot, or balls or pellets, or cartridges, whether such firearms be called "toy pistols," "toy guns," or otherwise.*

Manassas Park

30–4. *Possession of pistols, etc., of home-made construction.* It shall be unlawful for any person within the town to have in his possession, make or manufacture and sell or trade any pistol, gun or rifle of home-made construction; provided, that this shall in no way apply to pistols, guns and rifles or other like firearms that are manufactured by reputable persons that are engaged in such a manufacturing business.

Narrows

45. Be it ordained by the council of the town of Narrows that it shall be unlawful for any child under 18 years of age to have in possession within the town of Narrows, any air-rifle, gravel shooter, sling-shot, or small caliber firearm, and that it shall be unlawful for the parent of any child under the age of 18 years to permit such child to possess any such air-rifle, gravel shooter, sling-shot or small caliber firearm.

Newport News

42–1. *Sale of certain firearms, etc., to minors under eighteen years of age.* It shall be unlawful for any person to sell to any minor under eighteen years of age any firearm or deadly weapon of any description, or the ammunition therefor.*

For the purpose of this section, the word "firearm" shall be taken to mean any instrument used in the propulsion of shot, shell, bullet or pellet, by the action of gunpowder exploded within it.

Norfolk

51–5. *Furnishing certain weapons to minors under eighteen; permitting minors under eighteen to own etc., certain weapons.* No person shall, within the city, purchase for or sell, lease, give or lend to any minor child under the age of eighteen years, any pistol, rifle, air rifle, gun, dirk, Bowie knife, slungshot, slingshot, whip of more than thirty-six inches in length or any weapon of like kind.*

51–7. *Permit for purchase of certain weapons.* No person shall sell, lease, rent, give or otherwise furnish within the city any pistol, dirk, Bowie knife, slungshot or any weapon of like kind, unless and until a permit, granted by the judge of the corporation court in term time, shall be presented authorizing the holder of such permit to acquire such weapon, which permit shall surrender to the person furnishing such weapon, who shall preserve it for inspection, upon request, by the police of the city.

Petersburg

48–8. *Permits to buy, etc., pistol, dirk, slung shot.* No person within the city shall purchase or otherwise procure, as his own property, or for temporary use, any pistol, dirk, Bowie knife, slung shot, blackjack or any weapon of the like kind, or any pistol or rifle ammunition, unless and until such person shall procure from the chief of police of the city a permit in writing, signed by the chief of police, granting such person permission to make such a purchase or to procure such weapon, and such permit shall be delivered to and kept on file by the person from whom such purchase is made or from whom such weapon is procured, and shall be open to inspection by any police officer of the city. No person shall sell, give or deliver to any person within the city any pistol, dirk, Bowie knife, slung shot, blackjack or any other weapon of the like kind, unless the person to whom such weapon is sold, given or delivered shall thereupon deliver to the person who shall sell, give or deliver such weapon, a permit such as is referred to above. Nothing in this section shall apply to the sale, gift or delivery, or to the purchase or procurement of low-powered rifles or rifle ammunition therefor of 22-calibre and under, commonly used for target practice purposes.

48–11. *Sale of certain weapons to minors under age of eighteen years.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age, a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be under eighteen years of age, such person shall be guilty of a misdemeanor * * *.*

Portsmouth

38–7. *Sale, etc., to minors.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age, a pistol, dirk or Bowie knife, having good cause to believe him to be a minor under eighteen years of age, he shall, upon conviction, be fined not less than two dollars and fifty cents nor more than one hundred dollars.

38–9. *Required; definitions.* No person shall sell, rent, give or otherwise furnish (hereinafter referred to as "sell") to any person within the city any pistol, dirk, Bowie knife, sling shot, switch-blade knife or any weapon of a like kind, unless and until the recipient thereof (hereinafter referred to as "purchaser") shall present to such person (hereinafter referred to as "dealer") a permit granted by the chief of police authorizing the purchaser to purchase or acquire such weapon.*

38–10. *Issuance; regulations applicable when weapon is to be carried concealed.* Whenever the applicant for a permit as required in section 38–9 produces a certified order of the judge of the court of hustings authorizing the applicant to carry the subject weapon as a concealed weapon, the chief of police shall issue such permit.

In cases where the subject weapon is not to be carried as a concealed weapon, the chief of police shall issue the permit to purchase or acquire subject to the following regulations:

(1) The applicant must personally sign and complete a written application for the permit.

(2) The applicant must be fingerprinted by the police department.

(3) A report of the police records of the applicant must be obtained by the police department from the Federal Bureau of Investigation.

(4) The applicant must show a lawful use for the subject weapon.

(5) When such investigation discloses that the public welfare will be prejudiced by permitting a person of known mental instability or criminal activity involving breach of the peace, such a permit shall not be granted.

Prince Edward County

(1) No person within the County of Prince Edward shall purchase or otherwise procure as his own property, or for temporary use, any pistol, dirk, Bowie knife, black jack or any weapon of like kind, unless and until, such person shall procure from the Sheriff of Prince Edward County a permit, in writing, signed by the Sheriff, granting such person permission to make such purchase or procure such weapon, and such permit shall be delivered to and kept on file by the person from whom such purchase is made and from whom such weapon is procured and shall be open to inspection to any police officer. No person shall sell, give or deliver to any person within the County of Prince Edward any pistol, dirk, bowie knife, black jack or any other weapon of like kind, unless the person to whom such weapon is sold, given or delivered shall thereupon deliver to the person whom shall sell, give or deliver such weapon a permit as is referred to above.

Richmond

17–44. *Manufacture of small arms ammunition.* No person shall manufacture within the limits of the city any small arms ammunition. This shall not be construed as prohibiting the handloading of small arms ammunition for private use and not for resale.

37–209. *Pistols and revolvers.* (a) Every persons engaged in the business of selling or offering for sale at retail pistols or revolvers shall obtain a special permit therefor from the director of public safety, as required under section 37–97 of this Code, before any license will be issued, as well as obtain a revenue license as a merchant.

(b) No person shall be allowed to buy at retail or otherwise acquire a pistol or revolver without a permit issued by the director of public safety in accordance with section 37–97 of this Code. Nothing herein shall apply to a person duly licensed in the city as a wholesale merchant, buying and selling such weapons in the ordinary course of business.

(c) No person to whom a permit is issued under this section or under section 37–97 of this Code shall sell, give, barter, exchange or furnish a pistol or revolver to any person, unless such person delivers to such licensee the permit of the director of public safety required in this section. Upon the delivery of any such weapon to any person by the licensee, he shall endorse on the permit the date of delivery, name and address of such person, together with the number, make and calibre of the pistol or revolver, and shall return the permit to the director of public safety not later than 11:00 A.M. of the day following that on which such weapon was sold or furnished.

40–1. *Definitions.* When used in this chapter the following words shall have the meanings ascribed to them as follows:

"Ammunition." An explosive cap, cartridge, pellet, ball, missile or projectile adapted for use in a firearm, toy pistol, or toy rifle.

"Firearm." A weapon in which ammunition may be used or discharged by explosion, pneumatic pressure or mechanical contrivance, but shall not mean a toy pistol or toy rifle.

"Minor." A person under the age of twenty-one years.

40–4. *Sale or exchange.* No person shall sell or exchange within the city limits any pistol, dirk, Bowie knife, slung shot, switchblade knife or any weapon of a like kind, or pistol or rifle ammunition, unless and until he shall

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

first have obtained a permit to be granted by the director of public safety to sell or exchange such weapon. Such permit shall be exhibited to the person to whom such is sold or exchanged, and on request shall be exhibited for inspection by any police officer of the city.

40–5. *Purchase.* No person shall purchase, or otherwise procure as his own property or for temporary use any pistol, dirk, Bowie knife, slung shot, switchblade knife or any weapon of a like kind, or pistol or rifle ammunition, unless and until he shall procure a permit from the director of public safety granting permission to make such purchase or to procure the same for use as aforesaid, which permit shall be filed with the person from whom such purchase or exchange is made; provided, that nothing in this section shall apply to the sale or exchange of low-power rifles or rifle ammunition known or designated as 22-calibre, commonly used for target practice purposes.

40–11. *Same—Sale, etc., of ammunition firearms to; exceptions.* It shall be unlawful for any person to sell, give or lend ammunition to a minor.

It shall be unlawful for any person to sell, give or lend a firearm to a minor.

The provisions of this section shall not apply to persons who are members of the armed forces of the United States or the state when such persons and minors who are members of such forces are acting under armed forces orders.

The provisions of this section shall not apply to persons who lend firearms to minors who are members of the cadet corps of public, private or parochial schools for use in connection with their membership in such cadet corps.

The provisions of this section shall not apply to persons who are engaged in instructing others, including members of the cadet corps of public, private or parochial schools, in the use of firearms; provided, that such persons have had valid written permits issued to them by the director of public safety authorizing such instruction. The director of public safety shall issue such permits upon the written application of such persons therefor when he is satisfied after investigation that the place at which such instruction is to be given is a safe place therefor and that such persons are of good moral character and are qualified to instruct others in the use of firearms.

Rocky Mount

12–86. *Furnishing pistols, dirks, etc., to minors under eighteen years of age.* No person shall sell, barter, give or furnish or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age, a pistol, dirk, switchblade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age. * * *.*

Salem

31–6. *Selling, etc., pistols, etc., to minors under eighteen years of age.* No person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age, a pistol, dirk, switchblade knife or bowie knife, having good cause to believe him to be a minor under eighteen years of age.*

Smithfield

Any person, firm, corporation, or association in the Town of Smithfield, Virginia, which sells any pistol or revolver, shall, when requested by a prospective purchaser to sell him such a firearm, first send the purchaser to the Chief of Police of the Town of Smithfield, or his authorized representative * * *. The Chief shall fill out a report either authorizing or declining to authorize, as the case may be, the purchase or the weapon, and the purchaser shall return to the seller with this police report. Should the report authorize the sale, the seller may proceed to sell the weapon requested, but if not so authorized, then the said seller shall not complete the sale.

Southampton County

12–1. *Pistol permit.* No person shall purchase a pistol within the county without obtaining a permit from the sheriff to do so. Such pistol shall only be for the use of the purchaser. In order to obtain such a permit, the applicant shall be eighteen years of age or older, a resident of the county and shall not be a known felon or a former inmate of a mental institution. All nonresidents of the county shall present a letter to the sheriff of the county from the chief of police or sheriff of his city, town or county, stating that such applicant can qualify for a permit under this section and is a resident of that city, town or county, prior to obtaining a permit under this section.

12–6. *Selling pistols, etc., to minors under eighteen years of age.* No person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age.*

Stanley

31. *Prohibiting sales to minors.* It shall be unlawful for any person to sell, barter, give or furnish, to any minor under eighteen years of age, any pistol, dirk, bowie knife, blackjack, metal knucks, tear gas pen or gun, or any weapon of like kind having good cause to believe him or her under eighteen years of age.*

Staunton

30–2. *Selling, etc., to minor under eighteen.* If any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switch-blade knife or bowie knife, having good cause to believe him to be a minor under eighteen years of age, he shall be guilty of a misdemeanor and be fined not less than twenty-five dollars nor more than one hundred dollars.*

Strasburg

32–5. *Furnishing pistols, dirks, etc., to minors under eighteen years of age.* No person shall sell, barter, give or furnish or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age a pistol, dirk, switchblade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age. Any person violating the foregoing provisions of this section shall be fined not less than two dollars and fifty cents nor more than one hundred dollars.*

Suffolk

13–38. *Weapons—Permit for purchase of pistols, cartridges, dirks, etc.* No person shall sell, within the city, any pistol, dirk, bowie knife, slung shot or any weapon of like kind or pistol cartridges unless and until the proposed purchaser shall present to such seller a permit, granted by the Chief of Police of the city or the judge of the circuit court of the city, allowing purchase of such weapon or cartridges * * *.

Virginia Beach

38–5. *Permit prerequisite to purchase of certain weapons.* No person shall sell, lease, rent, give or otherwise furnish to any person within the city any pistol, dirk, Bowie knife, slungshot or any weapon of like kind, unless a permit granted by the chief of police or such other officer of the police department as may be designated in writing by the chief thereof; shall be presented authorizing the holder of such permit to acquire such weapon, which permit shall be surrendered to the person furnishing such weapon, who shall preserve it for inspection, upon request, by the police of the city.

Warrenton

11–51. *Pistol dealers.* Every person selling pistols in the town, in addition to any other tax provided, shall pay for the privilege a license tax of ten dollars per annum, which license tax shall not be prorated.

24–6. *Selling pistols, etc., to minors under eighteen years of age.* If any person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age, a pistol, dirk, switchblade knife or bowie knife, having good cause to believe him to be a minor under eighteen years of age, such person shall be guilty of a misdemeanor * * *.*

Waverly

Be it ordained by the Council of the Town of Waverly, that no person shall be permitted to sell pistols or revolvers within the corporate limits of the Town of Waverly, Virginia, without registration of the sale thereof, together with the name of the seller, name and address of the purchaser, age of purchaser, date of sale, and serial number of the firearm; that the sale of firearms to any person under the age of eighteen years shall be prohibited.*

Waynesboro

16–14. *Firearms, knives, explosives, etc.—Sales, etc., to minors prohibited.* No person shall sell, barter, give or furnish or cause to be sold, bartered, given or furnished to any minor under eighteen years of age, firearms, pellet guns, dirks, Bowie knives, black powder or any other explosives.

The term "firearms", as used in this section, shall be construed to include any gun, pellet gun, rifle or pistol adapted to the use of any form of powder and shot (or balls) or cartridges, whether such firearms be called "toy pistols", "toy guns" or otherwise, and shall include pellet guns using air pressure.*

Woodstock

28–6. *Furnishing pistols, dirks, etc., to minors under eighteen years of age.* It shall be unlawful for any person to sell, barter, give or furnish or cause to be sold, bartered, given or furnished, to any minor under eighteen years of age a pistol, dirk, switchblade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age. * * *.*

11–51. *Pistol dealers.* Every person selling pistols in the town, in addition to any other tax provided, shall pay for the privilege a license tax of ten dollars per annum, which license tax shall not be prorated.

Wytheville

9–I. *Furnishing certain weapons to certain minors.* No person shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under eighteen years of age a pistol, dirk, switchblade knife or Bowie knife, having good cause to believe him to be a minor under eighteen years of age * * *.*

*NOTE.—Licensees under the Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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VIRGIN ISLANDS

V.I. CODE ANN. TITLE 23

451. *Definitions.* As used in this chapter, unless the context clearly requires otherwise

(a) "Ammunition" means any bullet, cartridge, projectile, buckshot, or any load placed or which may be placed in a firearm to be discharged.

(b) "Commissioner" means the Commissioner of Public Safety of the Virgin Islands.

(c) "Department" means the Department of Public Safety of the Virgin Islands.

(d) "Firearm" means any device by whatever name known, capable of discharging ammunition by means of gas generated from an explosive composition, including any air gun or spring gun or any "BB" pistols or "BB" guns that have been adapted or modified to discharge projectiles as a firearm.

(e) "Crime of violence" means any of the following crimes, or an attempt to commit any of the same, namely: Murder in any degree, voluntary manslaughter, rape, arson, mayhem, kidnapping, assault in the first degree, assault with or by means of a deadly or dangerous weapon, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering and larceny.

(f) "Dealer in firearms and/or ammunition" means any person engaged in the business of selling firearms and/or ammunition, for a profit or gain.

(g) "Gunsmith" means any person who engages in the business of repairing, altering, clearing, polishing, engraving, blueing or performing any mechanical operation on any firearm on an individual order basis.

452. *Applicability of chapter.* No person shall have, possess, bear, transport or carry a firearm within the Virgin Islands, or engage in the business of dealer in firearms and/or ammunition or the business of gunsmith, except in compliance with the provisions of this chapter.

453. *Persons who may lawfully carry firearms.* (a) The following persons, in the discharge of their official duties, and in accordance with and subject to the conditions and restrictions imposed by the laws and regulations applicable to their conduct, may lawfully have, possess, bear, transport and carry firearms in the Virgin Islands:

1. Members of the Armed Forces of the United States or of the organized reserves;

2. Officers and employees of the United States duly authorized by Federal law to carry firearms;

3. Persons employed in fulfilling defense contracts with the United States Government or agencies thereof where possession or use of firearms is necessary under the provisions of such contracts.

4. Members of the Police Force of the Virgin Islands, marshals, or other duly authorized peace officers;

5. Penitentiary and jail wardens and guards.

(b) The persons authorized by subsection (a) of this section lawfully to have, possess, bear, transport and carry firearms shall obtain such weapons and ammunition therefor only through the duly authorized officers or heads of their respective services or departments.

454. *Persons who may be licensed to carry firearms.* A firearm may be lawfully had, possessed, borne, transported or carried in the Virgin Islands by the following persons, provided a license for such purpose has been issued by the Commissioner in accordance with the provisions of this Chapter:

1. An officer or employee of the Government of the Virgin Islands in cases where such license, in the judgment of the Commissioner, should be issued to such officer or employee by reason of the duties of his position;

2. An agent, messenger or other employee of a common carrier, bank or business firm, whose duties require him to protect money, valuables or other property in the discharge of his duties; and provided, that the employer of such person shall have justified to the satisfaction of the Commissioner the need for the issuance of the license;

3. A person having a bona fide residence or place of business within the Virgin Islands, who established to the satisfaction of the Commissioner that he has good reason to fear death or great injury to his person or property, or who establishes any other proper reason for carrying a firearm, and the circumstances of the case, established by affidavit of the applicant and of at least two credible persons, demonstrate the need for such license;

4. A person licensed to and actively engaged in the business of manufacturing, repairing or dealing in firearms in the Virgin Islands, or the agents or representatives of any such person, having necessity to handle or use firearms in the usual or ordinary course of business;

5. With respect to a rifle or a shotgun a person possessing a valid and current Virgin Islands hunting license.

455. *Application for license; form, oath; fees.* (a) Every application for a license to have and possess a firearm shall be made under oath and on forms which the Commissioner shall prepare for such purpose. For the purposes of the enforcement of the provisions of this chapter, the applicant shall furnish all information as may be required of him by the Commissioner.

457. *Contents of license.* A license issued pursuant to the provisions of section 454 of this chapter shall provide for the following:

1. That the same is not transferable and shall be carried by the licensee at all times when in possession of the firearm for which it was issued;

2. The term thereof, which shall not exceed one year;

3. Places where, times when, and circumstances under which the firearm may be carried;

4. Description of the firearm authorized to be carried, showing the serial number, if any;

5. Grounds for issuance;

6. Grounds for revocation;

7. A dealer's coupon which shall be removed and retained by any person who sells or otherwise provides the licensee with any firearm contemplated in such license.

458. *Grounds for refusing to issue license.* The Commissioner shall not issue a license to have and possess a firearm to any person convicted in or outside the Virgin Islands of any crime of violence; or of any violation of a narcotic or "harmful drug" law; nor to any person who is mentally incompetent, or a habitual drunkard or a narcotic or drug addict; nor to any person convicted for the violation of the provisions of this chapter; nor to any person who for justifiable reasons is deemed to be an improper person by the Commissioner.

460. *Reciprocal recognition of out-of-state licenses.* Unless otherwise prohibited by any state or federal law, a license to possess or to carry firearms, issued by any competent authority of any state or territory of the United States and in accordance with the same or similar requirements as set forth in the preceding sections pertaining to the applicant's eligibility, and the establishment of his reputation through fingerprints, shall be recognized as valid within the Virgin Islands and shall allow the holder thereof to exercise all of the privileges in connection therewith, while said licensee is a visitor or transient resident herein.

461. *License to sell firearms and/or ammunition; gunsmiths; report of transactions; private transfer sales to minors or aliens.* (a) No person may engage in the business of dealer in firearms and/or ammunition or as a gunsmith without holding a license therefor issued by the Commissioner of Finance upon favorable report of the Commissioner of Public Safety.

(b) Each transaction referring to the importation, or to the sale of firearms and ammunition between dealers, shall be reported to the Commissioner on forms which he shall provide, and the name, domicile, place of business, and the number of the license of the vendor and vendee, as well as the quantities and descriptions of the firearms or ammunition which are the subject of each transaction, shall be set forth therein, as required by the Commissioner.

(c) Any person, not otherwise engaged in the business of a dealer in firearms and/or ammunition, may transfer a firearm to another by sale, gift, exchange or otherwise only upon prior reporting to the Commissioner of the details of the proposed transaction. The Commissioner shall thereupon determine the eligibility of the proposed transferee for a license to possess firearms, and shall make such further determination as may be necessary in the circumstances.

(d) No person licensed or otherwise, may sell or furnish firearms or ammunition to a minor, except that a shotgun or rifle of such type or caliber as the Commissioner may prescribe or ammunition therefor, may be sold or furnished by a licensed dealer to a minor who displays a hunting or sporting license issued him in accordance with the laws of the Virgin Islands, and who further displays the written consent of his parent, guardian, or other responsible person acting in their absence and interest, in which such sale or delivery has been authorized.

462. *Application for dealer's or gunsmith's license; form and content; term; fee; renewals.* (a) Any person wishing to obtain a license to engage in the business of dealer in firearms and/or ammunition or the business of gunsmith, or both, shall file with the Commissioner of Finance a sworn application in the manner provided by the said Commissioner of Finance in consultation with the Commissioner of Public Safety which application shall contain all the information necessary so that the license may be issued in accordance with the provisions of this chapter. Such application shall be transmitted to the Commissioner of Public Safety and no license shall be issued under this section without the latter Commissioner first making an investigation of all the statements set forth in the application and without the records of the Department first being examined for the purposes of determining any prior conviction of the applicant, and only when such an investigation establishes that the statements of the applicant are true, and that the applicant has not been convicted of any crime of violence and the Commissioner so certifies, recommending that the license be issued. Where the applicant is a corporation or partnership, no license shall be issued if any officer of the corporation, or partner of the partnership, has been convicted of any crime of violence.

(b) Licenses hereunder shall be issued for a term of one year, expiring in any event on the 15th day of January succeeding the date of issuance.

(c) The annual fee for a license as a dealer in firearms and/or ammunition shall be $50, for a license as gunsmith, $50, and for a license as both, $75.

463. *Qualifications of dealer or gunsmith.* No license to engage in the business of gunsmith or of dealer in firearms and/or ammunition shall be issued to a person not over 21 years of age, and not a resident of the Virgin Islands and a citizen of the United States. When the applicant is a corporation, it shall be organized under the laws of the Virgin Islands, and if a partnership, all partners shall be residents of the Virgin Islands and citizens of the United States.

465. *Conditions for dealers' operations; records of transactions.* Any person, to whom a license has been issued under section 461 of this chapter may engage in the business of gunsmith or of dealer in firearms and/or ammunition under the following conditions.

3. Under no circumstance shall a weapon or shall ammunition be sold unless the vendor is personally acquainted with the buyer or the latter clearly establishes his identity.

466. *Sales of weapons and ammunition without licenses prohibited; sales' slips.* No dealer in firearms or ammunition shall deliver a firearm to a purchaser without the latter's handing over to him a license to have and possess a firearm, duly issued in accordance with the provisions of this chapter, and unless said license contains an authorization for the purchase of such firearm, and said dealer shall not sell to such purchaser any other weapon than the one described in said license. The dealer in firearms and ammunition shall separate from such license and keep the dealer's coupon, and shall return the license to the purchaser. No weapon shall be sold to the holder of a license from which the coupon has been removed, and in no case shall a pistol, revolver, or other firearm be delivered to the purchaser thereof until after forty-eight (48) hours have elapsed from the time he applies for the purchase and the same shall be delivered to him unloaded and securely wrapped.

No dealer in firearms or ammunition shall sell any quantity of ammunition to any person failing to present a firearm license.

476. *Collections of antique firearms; certificates of uselessness.* No provision hereof shall prevent that private collections of antique firearms, which may not be used as weapons, be preserved and maintained and that their owners possess them as ornaments or as matters of curiosity, nor the collections of firearms kept as relics, but for the preservation of any weapon of those included in this section the prior inspection thereof and approval therefor by the Commissioner shall be necessary and he shall render such firearms useless, so that the same may not be used as such. The Commissioner shall issue a certificate of uselessness of all the weapons possessed under the provisions of this section, and the possession of any firearm not included in said certificate shall be subject to all the provisions hereof.

480. *False information forbidden in sale of weapons.* No person shall, in purchasing a firearm or in applying for any license or in making any report hereunder give or offer false or misleading information or offer false evidence of his identity.

481. *Alteration of identifying marks of weapons prohibited.* No person shall within the Virgin Islands change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark or identification on any pistol, machine gun, or sawed-off shotgun. Possession of any pistol, machine gun, or sawed-off shotgun upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same within the Virgin Islands: Provided, however, that nothing contained in this section shall apply to any officer or agent of the United States or the Government of the Virgin Islands engaged in experimental work.

485. *Regulations.* The Commissioner may issue, modify and amend, from time to time, such rules and regulations, not inconsistent with this chapter or the provisions of other law, which he may deem necessary or appropriate to carry out the purposes of this chapter, which rules and regulations, upon approval by the Governor, shall have the force and effect of law.

WASHINGTON

State Law

WASH. REV. CODE ANN. TITLE 9

9.40.110. *"Fire bombs"—Definitions.* For the purposes of RCW 9.40.110 through 9.40.130, as now or hereafter amended, unless the context indicates otherwise:

(1) "Disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

(2) "Incendiary device" means any material, substance, device, or combination thereof which is capable of supplying the initial ignition and/or fuel for a fire and is designed to be used as an instrument of wilful destruction. However, no device commercially manufactured primarily for the purpose of illumination shall be deemed to be an incendiary device for purposes of this section.

9.40.120. *Penalty.* Every person who possesses, manufactures, or disposes of an incendiary device knowing it to be such is guilty of a felony, and upon conviction, shall be punished by imprisonment in a state prison for a term of not more than twenty-five years.

9.40.130. *Exceptions.* RCW 9.40.120 shall not prohibit the authorized use or possession of any material, substance, or device described therein by a member of the armed forces of the United States or by firemen, or peace officers, nor shall these sections prohibit the use or possession of any material, substance, or device described therein when used solely for scientific research or educational purposes or for any lawful purpose. RCW 9.40.120 shall not prohibit the manufacture or disposal of a fire bomb for the parties or purposes described in this section.

9.41.010. *Terms defined.* "Short firearm" or "pistol" as used in RCW 9.41.010 through 9.41.160 means any firearm with a barrel less than twelve inches in length.

"Crime of violence" as used in RCW 9.41.010 through 9.41.160 means any of the following crimes or an attempt to commit any of the same: "Murder, manslaughter, rape, riot, mayhem, first degree assault, second degree assault, robbery, burglary and kidnapping.

9.41.040. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control. Such person upon being convicted of a violation of this section shall be guilty of a felony and punished by imprisonment in the state penitentiary for not less than one year nor more than ten years.

9.41.080. *Delivery to minors and others forbidden.* No person shall deliver a pistol to any person under the age of twenty-one or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

9.41.090. *Sales regulated—Application to purchase—Grounds for denial.* In addition to the other requirements of RCW sections 9.41.010 through 9.41.150 as now or hereinafter amended, no seller shall deliver a pistol to the purchaser thereof until seventy-two hours shall have elapsed from the time of the application for the purchase thereof as provided herein, and, when delivered, said pistol shall be securely wrapped and shall be unloaded

At the time of applying for the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller an application containing his full name, address, occupation, place of birth, and the date and hour of the application; and a description of the weapon including, the make, model, caliber and manufacturer's number; and a statement that he has never been convicted in this state or elsewhere of a crime of violence, drug addiction or habitual drunkenness, or is legally judged to be of unsound mind. The seller shall, by the end of the business day, sign and attach his address and deliver the original of such application to the chief of police of the municipality or the sheriff of the county of which the seller is a resident. The seller shall deliver the pistol to the purchaser following seventy-two hours thereafter unless the seller is notified in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser has been convicted in this state or elsewhere of a crime of violence, drug addiction, or habitual drunkenness, or is legally judged to be of unsound mind. The chief of police of the municipality or the county sheriff shall maintain a file containing the original of the application to purchase a pistol.

9.41.093. *Exemptions.* The following shall be exempt from the provisions of section 9.41.090 RCW as now or hereinafter amended: sales by wholesalers to dealers; and the sale of antique pistols exempted by the provisions of RCW 9.41.150, as amended.

9.41.110. *Dealer's licenses, by whom granted and conditions thereof—Wholesale sales excepted—Permits prohibited.* The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licenses effective for not more than one year from the date of issue permitting the licensee to sell pistols within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the license subject to punishment as provided in RCW 9.41.010 through 9.41.160.

(1) The business shall be carried on only in the building designated in the license.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

(3) No pistol shall be sold (a) in violation of any provisions of RCW 9.41.010 through 9.41.160, nor (b) shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

(4) A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the director of licenses and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the purchaser and a statement signed by the purchaser that he has never been convicted in this state or elsewhere of a crime of violence. One copy shall within six hours be sent by registered mail to the chief of police of the municipality or the sheriff of

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the county of which the dealer is a resident; the duplicate the dealer shall within seven days send to the director of licenses; the triplicate the dealer shall retain for six years.

(5) This section shall not apply to sales at wholesale.

(6) The dealer's licenses authorized to be issued by this section are general licenses covering all sales by the licensee within the effective period of the licenses.

(7) Except as provided in RCW 9.41.090 as now or hereinafter amended, every city, town and political subdivision of this state is prohibited from requiring the purchaser to secure a permit to purchase or from requiring the dealer to secure an individual permit for each sale.

The fee paid for issuing said license shall be five dollars which fee shall be paid into the state treasury.

9.41.130. *False information forbidden.* No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

9.41.140. *Alteration of identifying marks—Exceptions.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same. This shall not apply to replacement barrels in old revolvers, which barrels are produced by current manufacturers and therefor do not have the markings on the barrels of the original manufacturers who are no longer in business.

9.41.150. *Exemptions.* RCW 9.41.010 through 9.41.160 shall not apply to antique pistols and revolvers manufactured prior to 1898 and held as collector's items.

9.41.170. *Alien's license to carry firearms.* It shall be unlawful for any person who is not a citizen of the United States, or who has not declared his intention to become a citizen of the United States, to carry or have in his possession at any time any shotgun, rifle, or other firearm, without first having obtained a license from the director of motor vehicles, and such license is not to be issued by the director of motor vehicles except upon the certificate of the consul domiciled in the state and representing the country of such alien, that he is a responsible person and upon the payment for the license of the sum of fifteen dollars: PROVIDED, That this section shall not apply to Canadian citizens resident in a province which has an enactment or public policy providing substantially similar privilege to residents of the state of Washington and who are carrying or possessing weapons for the purpose of using them in the hunting of game while such persons are in the act of hunting, or while on a hunting trip, or while such persons are competing in a bona fide trap or skeet shoot or any other organized contest where rifles, pistols, or shotguns are used as to weapons used in such contest. Nothing in this section shall be construed to allow aliens to hunt or fish in this state without first having obtained a regular hunting or fishing license. Any person violating the provisions of this section shall be guilty of a misdemeanor.

9.41.190. *Machine guns prohibited.* That it shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun: Provided, however, That such limitation shall not apply to any peace officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state of Washington.

9.41.200. *Machine gun defined.* For the purpose of RCW 9.41.190 through 9.41.220 a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

9.41.240. *Use of firearms by minor.* No minor under the age of fourteen years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian or other adult approved for the purpose of this section by the parent or guardian, or while under the supervision of a certified safety instructor at an established gun range or firearm training class, any firearm of any kind for hunting or target practice or for other purposes. Every person violating any of the foregoing provisions, or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor.

WASH. REV. CODE ANN. TITLE 19

19.70.010. *Out-of-state purchasing authorized.* Residents of Washington may purchase rifles and shotguns in a state other than Washington: *Provided*, That such residents conform to the applicable provisions of the federal Gun Control Act of 1968, Title IV, Pub. L. 90-351 as administered by the United States Secretary of the Treasury: *And provided further*, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which such purchase is made.

WASH. REV. CODE ANN. TITLE 26

Be it enacted by the Legislature of the State of Washington: 1. Sections 1, 3, and 4, chapter 126, Laws of 1895 as last amended by section 37, chapter 292, Laws of 1971 ex. sess. and RCW 26.28.080 are each amended to read as follows:

Every person who: • • •

(5) Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol; •

Shall be guilty of a gross misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another. • • •.

Aberdeen

4. It shall be unlawful for any person within the City of Aberdeen to sell, give away, loan or cause to be sold, given or loaned, to any minor under the age of 18 years, any gun, revolver, pistol or the cartridges therefor • • •.•

8. It shall be unlawful for any person who is not a citizen of the United States or who has not declared his intention to become a citizen of the United States, to carry or have in his possession at any time within the City of Aberdeen any shotgun, rifle or other firearms without first having obtained a license from the Director of Licenses as provided by Section 9.41.160 RCW.

Auburn

7.04.360. *Short firearm and crime of violence defined.* "Short firearm" as used in Sections 7.04.370 through 7.04.530 means any firearm with a barrel less than twelve inches in length. "Crime of violence" as used in Sections 7.04.370 through 7.04.530 means any of the following crimes or an attempt to commit any of the same: Murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

7.04.371. *Definitions.* The following words and phrases shall have the following meanings:

(1) "Pistol" means any firearm or other weapon for the purpose of discharging a projectile by means of compressed air, chemical combustion or otherwise and having a barrel less than twelve inches in length, but shall not include antique pistols or revolvers manufactured prior to 1898 and so held as collector's items.

(2) "Crime of violence" means any of the following crimes or an attempt to commit any of the same: murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

(3) "Fugutive from justice" means a person who, having committed a crime, flees from the jurisdiction where it was committed to evade arrest.

(4) "Law enforcement officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses.

7.04.372. *Pistol sale—Record sent to police chief.* It is unlawful for any merchant, business, or secondhand dealer, or any clerk, agent, representative or employee of any such merchant, business or secondhand dealer, to sell, give away, or dispose of any pistol to any person at retail, unless such person is personally known to the seller or shall present clear evidence of his identity, or without completing a true record, in triplicate, of every pistol sold or disposed of. The written record shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, date and place of birth of the purchaser, and a statement signed by the purchaser that he is not a fugitive from justice and that he has never been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness and has never been confined to a mental institution. One copy of the record shall within six hours after the signing be sent by registered mail to the chief of police, or in the alternative, may be personally delivered to the office of the chief of police within such period of time, and the chief of police, shall, within seventy-two hours, exclusive of Sundays and legal holidays, investigate the information contained in the record, and shall notify the merchant within such time period if the prospective purchaser is a person prohibited to purchase a pistol by the terms of this chapter.

7.04.373. *Pistol sale—Waiting period required.* It is unlawful for any merchant, business, or secondhand dealer, or any clerk agent, representative or employee of any merchant, business or secondhand dealer, to deliver any pistol to any purchaser unless the merchant, business or secondhand dealer has mailed or personally delivered a copy of the record to the chief of police as required by Section 7.04.372 and the seventy-two hour waiting period after delivery of the notice as provided in Section 7.04.372 has expired without the receipt of a notice from the chief of police that the prospective purchaser is a person prohibited to purchase a pistol by the terms of this chapter, provided that this section shall not apply to sales at wholesale, or to sales to persons exhibiting a valid license to carry a pistol concealed issued pursuant to RCW 9.41.070, or to sales to law enforcement officers as specified in RCW 9.41.060.

7.04.374. *Pistol purchase forbidden to convicted persons.* It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness or has been confined to a mental institution to purchase a pistol, in the city, and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

7.04.380. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

Bellevue

7.28.010. *Definitions.* "Short firearm" or "pistol" as used in this chapter means any firearm with a barrel less than 12 inches in length. "Crime of violence" as used in this chapter means any of the following crimes or an attempt to commit any of the same: murder, manslaughter, rape, riot, mayhem, first-degree assault, second-degree assault, robbery, burglary, and kidnaping.

7.28.040. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence or of drug addiction or of habitual drunkenness or who has been confined in a mental institution shall own a pistol or have one in his possession or under his control.

7.28.080. *Delivery to minors and certain others forbidden.* No person shall deliver a pistol to any person under the age of 21 or to one whom he has reasonable cause to believe has been convicted of a crime of violence or of drug addiction or of habitual drunkenness or has been confined to a mental institution.

7.28.090. (2) No seller shall deliver a pistol to the purchaser thereof until 72 hours shall have elapsed from the time of the application for the purchase thereof as provided herein, and when delivered, said pistol shall be securely wrapped and shall be unloaded. • • •. This section shall not apply to sales at wholesale.

7.28.100. *Pistol dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as provided by law under the requirements of RCW 9.41.110.

7.28.120. *Alteration of identifying marks on pistol prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

7.28.130. *False information in obtaining pistol.* No person shall in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same give false information or offer false evidence of his identity.

7.28.150. *Machine guns prohibited.* It shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or to have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun; provided, however, that such limitation shall not apply to any police officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the State of Washington.

7.28.160. *Machine gun defined.* For the purpose of this chapter a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt or other separable mechanical device for storing, carrying or supplying ammunition which can be loaded into such weapon, mechanism, or instrument and fired therefrom at a rate of five or more shots per second.

7.28.170. *Machine guns or parts contraband.* All machine guns, or parts thereof, illegally held or possessed are hereby declared to be contraband, and it shall be the duty of all police officers to seize said machine gun, or parts thereof, wherever and whenever found.

Bellingham

17.32.040. *Sale to minor prohibited.* The sale, giving away or other disposition of any revolver or pistol or any ammunition for same to persons under the age of 18 years in the City of Bellingham, be, and hereby is, prohibited.•

Bothell

10.1. *Firearm defined.* The word firearm shall include but not be limited to mean any weapon or device capable of propelling a missile through the force of compressed air or gas, or spring, or similar device.

10.2. *Dangerous weapon defined.* The word dangerous weapon shall include but not be limited to mean any weapon or device capable of propelling a missile through the force of compressed air or gas, or through the contraction or expansion of any rubber band or spring, or similar device, and shall include compressed air rifles and pistols and slingshots.

10.3. *Pistol defined.* The word pistol as used in this ordinance means any firearm with a barrel less than twelve (12) inches in length.

10.4. *Certain persons forbidden to possess firearms.* No person who has been convicted in this state of elsewhere of a crime of violence, shall own a firearm or have one in his possession or under his control.

10.7. *Delivery to minors and certain others forbidden.* No person shall deliver a pistol to any person under the age of 21 or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

10.9. *Sale of cartridge, ammunition or gunpowder forbidden to certain minors.* No person shall give, sell, or otherwise make available to any minor under the age of 16 years any cartridge or ammunition for firearms or the ingredients thereof: Provided that this section shall not apply to a parent or guardian who provides such minor with ammunition for a use which is lawful.

10.12. *Sales regulated.* No seller shall deliver a pistol to the purchaser thereof unless said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, birthplace, the date and hour of application, the calibre, make, model and manufacturers number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence. The seller, within 6 hours after such application is made, shall sign and attach his address and forward by registered mail or deliver by hand one copy of such statement to the Chief of Police; and the duplicate duly signed by the seller shall within 7 days be sent by him with his address to the Director of Licenses; the triplicate he shall retain for six years. This section shall not apply to sales at wholesale.

10.13. *Dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell or otherwise transfer any pistol without being licensed as provided by law under the requirements of Revised Code of Washington Section 9.41.110, as the same now is or hereafter may be amended.

10.14. *Certain transfers forbidden.* No person other than a duly licensed dealer shall make any loan secured by mortgage, deposit, or pledge of a firearm for a loan. A duly licensed dealer may mortgage any pistol or stock of pistols but shall not deposit or pledge the same with any other person. No person shall lend or give a firearm to another known, or with reasonable knowledge believed, to have suicidal tendencies, or otherwise deliver a pistol contrary to the provision of this ordinance.

10.15. *Alteration of identifying marks prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

10.16. *False information forbidden.* No person shall in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity or address.

10.17. *Exceptions.* This ordinance shall not apply to antique firearms unsuitable for use as firearms and possessed as curiosities or ornaments.

10.18. *Machine guns or parts contraband.* All machine guns, or parts thereof, illegally held or possessed are hereby declared to be contraband, and it shall be the duty of a police officer to seize said machine gun, or parts thereof.

Buckley

10.40.010. *Definitions.* The term "crimes of violence" as used in this chapter means any of the following crimes or an attempt to commit any of the same: murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping. "Short firearm," as used in this chapter, means any firearm with a barrel less than twelve inches in length.

10.40.040. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control.

10.40.080. *Delivery restricted.* No person shall deliver a pistol to any person under the age of twenty-one or to one whom he has reasonable cause to believe has been con-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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victed of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

10.40.090. *Selling.* In addition to the other requirements of RCW Sections 9.40.010 through 9.41.150, no seller shall deliver a pistol to the purchaser thereof until seventy-two hours have elapsed from the time of the application for the purchase thereof as provided herein, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of the purchase of a pistol the purchaser shall sign in duplicate and deliver to the seller an application containing his full name, address, occupation, place of birth, and the date and hour of the application; and a description of the weapon including the make, model, caliber and manufacturer's number; and a statement that he had never been convicted in this state or elsewhere of a crime of violence, drug addiction or habitual drunkenness, or is legally judged to be of unsound mind. The seller, shall, by the end of the business day, sign and attach his address and deliver the original of such application to the town marshal or the sheriff of the county of which the seller is a resident. The seller shall deliver the pistol to the purchaser following seventy-two hours thereafter unless the seller is notified in writing by the town marshal or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser has been convicted in this state or elsewhere of a crime of violence, drug addiction, or habitual drunkenness, or is legally judged to be of unsound mind. The town marshal or the county sheriff shall maintain a file containg the original of the application to purchase a pistol.

10.40.100. *Pistol dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as provided by law under the requirements of RCW 9.41.110 and 18 U.S.C. Sec. 923.

10.40.110. *Dealer loans—Transfer of pistols.* No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit or pledge for a loan shall keep such records and make such reports as are provided by law for pawnbrokers and secondhand dealers in cities of the first class (RCW Chapter 19.60). A duly licensed dealer may mortgage any pistol or stock of pistols but shall not deposit or pledge the same with any other person. No person shall lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this chapter.

10.40.120. *Altering pistol identification.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark has been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

10.40.130. *False information in obtaining pistol.* No person shall in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same give false information or offer false evidence of his identity.

10.40.140. *Antique pistols excepted.* This chapter shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

10.40.150. *Machine guns prohibited.* It is unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or to have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun; provided, however, that such limitation shall not apply to any police officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state.

10.40.160. *Machine gun defined.* For the purpose of this chapter "machine gun" means any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt or other separable mechanical device for storing, carrying or supplying ammunition which can be loaded into such weapon, mechanism, or instrument and fired therefrom at a rate of five or more shots per second.

10.40.170. *Machine guns or parts contraband.* All machine guns, or parts thereof, illegally held or possessed are declared to be contraband, and it shall be the duty of all police officers to seize said machine guns, or parts thereof, wherever and whenever found.

Camas

6.12.010. *Giving to minors under eighteen or intoxicated persons prohibited.* It shall be unlawful for any person, persons, firm or corporation, to sell, barter, exchange, give or otherwise dispose of any firearm or dangerous explosive, to any minor under the age of eighteen (18) years, or to any person in an intoxicated condition within the city limits of the City of Camas, Washington.*

Centralia

5.96.010. *License to sell required.* Any person engaging in the business of selling or offering to sell any pistol, revolver, derringer, bowie knife, or other weapon of like character that can be concealed on the person, shall first obtain a license as a dealer in deadly weapons or firearms, and it shall be unlawful for any person licensed, to sell or give away any such weapon without reporting the sale or gift in the manner provided in Section 5.96.040, and to sell or give away any such weapon to any person who has not secured a permit from the chief of police to purchase such weapon as herein provided.

5.96.020. *Permit required for purchase.* It shall be unlawful for any person to purchase any pistol, revolver, derringer, bowie knife, dirk or weapon of like character, which can be concealed on the person, without first securing from the chief of police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification of the person desiring the permit. The chief of police may, at his discretion, require a recommendation that the permit shall be issued, from two persons who shall be known to the chief of police as persons of good reputation and residents of the city for at least one year.

5.96.030. *Persons prohibited from purchase.* It shall be the duty of the chief of police to refuse such permit to:

(1) All persons having been convicted of any felony;

(2) All vagabonds;

(3) All minors; otherwise it shall be the duty of the chief of police to grant such permit.*

Chelan

27. *Minors,* • • • *selling* • • • *firearm to.* Every person who: 5. Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver, or pistol, shall be guilty of a misdemeanor.*

Des Moines

41. *Certain persons forbidden to possess arms.* No person who has been convicted in this State or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control.

46. *Delivery to minors and others forbidden.* No person shall deliver a pistol to any person under the age of twenty-one years or to one whom he has reasonable cause to believe has been convicted of a crime of violence or is a drug addict, a habitual drunkard or of unsound mind.

47. *Sales regulated.* No seller shall deliver a pistol to the purchaser thereof until 72 hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped, and shall be unloaded.

53. *Machine guns—Prohibition.* That it shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or to have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun; provided, however, that such limitation shall not apply to any police officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the State of Washington.

54. *Machine gun defined.* For the purpose of this Ordinance a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir, clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at a rate of five or more shots per second.

55. *Machine guns or parts contraband.* All machine guns, or parts thereof, illegally held or possesed are hereby declared to be contraband, and it shall be the duty of all police officers to seize said machine gun, or parts thereof, wherever and whenever found.

Everett

4.23.010. *License—Required.* It shall be unlawful for any person, firm or corporation engaged in the business of selling or disposing of short firearms to sell or give away to any person within the City of Everett any pistol, revolver or short firearm or weapon of like character which can be concealed on the person without securing a license so to do as hereafter provided from the City of Everett and the State of Washington.

4.23.020. *Dealer's license—Required.* Any person, firm or corporation engaged in the business of selling or disposing of pistols, revolvers or short firearms shall first secure and have in his or its possession and in full force and effect a dealer's license issued by the City of Everett and a dealer's license as provided by R.C.W. 9.41.110 of the laws of the State of Washington.

6.14.010. *Sale to persons under sixteen—Unlawful.* It shall be unlawful for any person or persons to sell or offer for sale any revolver, pistol or toy pistol, within this City, and every person who shall sell, give, furnish or cause to be furnished to any person under the age of 16 years, any revolver, pistol, toy pistol, or other pocket weapon in which explosives may be used, shall be deemed guilty of a misdeamonor, • • •.*

6.22.010. *Identification required—Investigation.* It is unlawful for any merchant or secondhand dealer, or any clerk, agent or employee of any merchant or secondhand dealer, to sell, give away or dispose of any pistol to any person at retail, unless (1) the person is personally known to the seller or shall present clear evidence of his identity, and (2) unless the merchant or secondhand dealer shall complete a true record in triplicate of every pistol sold or disposed of and submit the record to the chief of police of the city of Everett. One copy shall be sent by registered mail to the chief of police of the city of Everett on the same date as the record is completed. The chief of police of the city of Everett, shall within seventy-two hours, exclusive of Saturdays, Sundays and holidays, investigate the information contained in the record.

6.22.020. *Delivery regulations.* It is unlawful for any merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealers to deliver any pistol to any purchaser within seventy-two hours exclusive of Saturdays, Sundays or holidays after the dealer has mailed a copy of the complete record in accordance with Section 6.22.010. Also it is unlawful for any merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealer to deliver any pistol to any person known by the merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealer, to be a person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence or of drug addiction or of habitual drunkenness or has been confined to a mental institution. • • • This section shall not apply to sales at wholesale or to sales to law enforcement officers.

6.22.030. *Prohibited purchasers.* It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness or who has been confined to a mental institution, to purchase a pistol in this city, and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

Fircrest

9.24.040. *Possession of arms—Certain persons prohibited.* No person who has been convicted in this state or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control. The term "crime of violence" as used in this penal code means any of the following crimes or an attempt to commit any of the same: Murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

9.24.070. *Delivery to minors and addicts.* No person shall deliver a pistol to any person under the age of twenty-one or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, or habitual drunkard or of unsound mind.

9.24.120. *Exceptions.* This chapter shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

9.24.130. *Machine guns.* It shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport or have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine guns, provided, however, that such limitation shall not apply to any police officer in the discharge of official duty.

9.24.140. *Machine gun defined.* For the purpose of this penal code a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, sub-machine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir, clip, disc, drum, belt, or other separable mechanical device for storing, carrying or supplying ammunition which can be loaded into such weapon, mechanism or instrument, and fired therefrom at a rate of five or more shots per second.

9.24.150. *Machine guns or parts contraband.* All machine guns or parts thereof, illegally held or possessed are hereby declared to be contraband.

Kennewick

10.24.050. *Sale to minors prohibited.* It is unlawful for any person within the city to sell, give, or permit to be sold or given to any person under the age of twenty-one years, any revolver or pistol.

King County

1. The following words and phrases used herein shall be construed as follows: (a) "Pistol" means any firearm or other weapon for the purpose of discharging a projectile by means of compressed air, chemical combustion or otherwise and having a barrel less than twelve inches in length, but shall not include antique pistols or revolvers manufactured prior to 1898 and held as collector's items.

(b) "Crime of violence" means any of the following crimes or an attempt to commit any of the same: Murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

2. It is unlawful for any merchant or secondhand dealer, or any clerk, agent or employee of any merchant or secondhand dealer, to sell, give away or dispose of any pistol to any person at retail, unless such person is personally known to the seller or shall present clear evidence of his identity, nor without completing a true record in triplicate of every pistol sold or disposed of. • • • One copy shall within six hours be sent by registered mail to the Sheriff of King County who shall, within seventy-two hours, exclusive of Sundays and holidays, investigate the information contained in said record and report his findings to the merchant or secondhand dealer.

3. It is unlawful for any merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealer to deliver any pistol to any purchaser until said merchant or secondhand dealer has received a report from the Sheriff that said purchaser is not a fugitive from justice and that said purchaser has never been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness and has never been confined to a mental institution; provided, that if such merchant or secondhand dealer does not receive such report from the Sheriff within seventy-two hours, exclusive of Sundays and holidays, after he has mailed a copy of the record to the Sheriff as required by Section 2, then such merchant or secondhand dealer may deliver the pistol to the purchaser; provided further, that this section shall not apply to sales at wholesale, or to sales to persons exhibiting a valid license to carry a pistol concealed issued pursuant to RCW 9.41.070, or to sales to law enforcement officers.

4. It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness or has been confined to a mental institution to purchase a pistol and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

8.40.020. *Supplying firearms or ammunition to minor unlawful.* It is unlawful for any person in King County, state of Washington, outside the boundaries of incorporated cities and towns within King County, to sell, barter, hire, loan or give, or permit to be sold, bartered, hired, loaned or given to any minor under the age of twenty-one years, any revolver, pistol or similar firearm or any ammunition for the same.

Kirkland

11.28.030. *Delivery to minors and certain others forbidden.* No person shall deliver a pistol to any person under the age of twenty-one or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

11.28.120. *Pistol—delivery to purchaser.* In addition to the other requirements of Sections 11.28.110 through 11.28.160, no seller shall deliver a pistol to the purchaser thereof until seventy-two hours have elapsed from the time of the application for the purchase thereof as provided herein, and when delivered, the pistol shall be securely wrapped and shall be unloaded.

11.28.130. *Pistol—purchasing—information required—procedure.* At the time of applying for the purchase of a pistol, the purchaser shall sign in duplicate and deliver to the seller an application containing his full name, address, occupation, place of birth, and the date and hour of the application; and a description of the weapon including the make, model, caliber and manufacturer's number; and a statement that he has never been convicted in this state or elsewhere of a crime of violence, drug addiction or habitual drunkenness, or has never been legally judged to be of unsound mind. The seller shall, by the end of the business day, sign and attach his address and deliver the original of such application to the chief of police of the city. The seller shall deliver the pistol to the purchaser following seventy-two hours thereafter, unless the seller is notified in writing by the chief of police of the city of denial. The application shall not be denied unless the purchaser has been convicted in this state or elsewhere, of a crime of violence, drug addiction or habitual drunkenness, or is legally judged to be of unsound mind. The chief of police for the city shall maintain a file containing the original of the application to purchase a pistol.

11.28.150. *Pistol—dealer—license required.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as a dealer pursuant to RCW Chapter 9.41.

11.28.170. *Possession of firearms by prohibited persons unlawful.* It is unlawful for any person prohibited from possessing a firearm (as therein defined) under Title VII of the "Omnibus Crime Control and

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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Safe Streets Act of 1968" as amended by Title III of the "Gun Control Act of 1968" (Sections 1201 through 1203 inclusive) to possess such a firearm within the corporate limits of the city.

11.28.180. *Noncitizens—license required.* It is unlawful for any person subject to the licensing requirements of RCW 9.41.170 relating to noncitizens of the United States to carry or possess any shotgun, rifle or other firearm without first obtaining such license.

Longview

15–4. *Possession by convicted persons.* No person who has been convicted in this state or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control.

15–7. *Delivery of minors and certain other persons.* No person shall deliver a pistol to any person under the age of twenty-one or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

15–8. *Sales by dealers.* Sales by dealers shall be regulated as hereinafter provided: (a) The City Clerk of said city shall grant licenses in forms prescribed by the Washington State Director of Licenses effective for not more than one year from the date of issue permitting the licensee to sell pistols within this state subject to the following conditions, for breach of any of which the license shall be forfeited and upon conviction of any such breach the licensee shall be deemed guilty of a misdemeanor and punished as provided in Sec. 1–8 of this Code of Ordinances. (1) The business shall be carried on only in the building designated in the license. (2) The license or copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read. (3) No pistol shall be sold (a) in violation of any provisions of this Chapter, nor, (b) shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

15–9. *Dealer's license.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any short firearm without being licensed as provided by law.

15–12. *Alteration of identifying marks.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same. This shall not apply to replacement barrels in old revolvers, which barrels are produced by current manufacturers and therefor do not have the markings on the barrels of the original manufacturers who are no longer in business.

15–13. *Antiques; excepted.* This Chapter shall not apply to antique pistols and revolvers manufactured prior to 1898 and held as collector's items.

15–15. *Machine guns—Defined.* A machine gun is herein defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at a rate of five or more shots per second.

15–16. *Same—Prohibited.* It shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or to have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun; provided, however, that such limitation shall not apply to any police officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state of Washington.

Lynwood

10.04.360. *Crime of violence defined.* The term "crime of violence" as used in this chapter means any of the following crimes or an attempt to commit any of the same: murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

10.04.370. *Firearm defined.* The word "firearm" shall include but is not limited to mean any weapon or device capable of propelling a missile through the force of combustion or explosion of gunpowder or similar substance.

10.04.400. *Persons convicted of crimes of violence not to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence, shall own a pistol or have one in his possession under his control.

10.04.450. *Delivery to minors and certain other persons.* No person shall deliver a pistol to any person under the age of twenty-one or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard or of unsound mind.

10.04.460. *Use of firearms by minor.* No minor under the age of sixteen years shall handle or have in his possession, or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any firearm of any kind, for hunting or target practice, or for other purposes. Every person violating any of the foregoing provisions, or aiding or knowingly permitting any such party to violate the same, shall be guilty of a misdemeanor.

10.04.470. *Regulating sales—Purchaser's statement.* No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, birthplace, the date and hour of application, the calibre, make, model and manufacturer's number of the pistol to be purchased and statement that he has never been convicted in this state or elsewhere of a crime of violence. The seller within six hours after such application, shall sign and attach his address and forward by registered mail one copy of such statement to the chief of police; and the duplicate duly signed by the seller shall within seven days be sent by him with his address to the director of licenses; the triplicate he shall retain for six years. This section shall not apply to sales at wholesale.

10.04.480. *Dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as provided by law under the requirements of RCW 9.41.110.

10.04.490. *Certain transfers of weapons prohibited.* No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit or pledge for a loan. He shall keep such records and make such reports as are provided by law for pawnbrokers and secondhand dealers in cities of the first class. A duly licensed dealer may mortgage any pistol or stock of pistols but shall not deposit or pledge the same with any other person. No person shall lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this chapter.

10.04.500. *Alteration of identifying marks prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

10.04.510. *Purchasing weapon by use of false information.* Any person who shall in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same give false information or offer false evidence of his identity shall be guilty of a misdemeanor.

10.04.520. *Antique pistols excepted.* This chapter shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

Marysville

6.64.010. *Definitions. Short firearm, pistol.* The term "short firearm" or "pistol" as used in this chapter means any firearm with a barrel less than twelve inches in length. *Crime of violence.* The term "crime of violence" as used in this chapter means any of the following crimes or an attempt to commit any of the same: murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnaping.

6.64.040. *Convicted persons.* No person who has been convicted in this state or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control.

6.64.080. *Prohibited pistol delivery.* No person shall deliver a pistol to any person under the age of twenty-one or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

6.64.090. *Commercial sales of pistols—records.* The chief of police shall grant licenses in forms prescribed by the director of licenses effective for not more than one year from the date of issue, permitting the licensee to sell pistols within this city • • •.

6.64.100. *Pistol dealers—license required.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as provided by law under the requirements of RCW 9.41.110.

6.64.110. *Prohibited transfer of pistols.* No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit or pledge of a pistol. Any licensed dealer receiving a pistol as a deposit or pledge for a loan shall keep such records and make such reports as are provided by law for pawn-brokers and secondhand dealers in cities of the first class. A duly licensed dealer may mortgage any pistol or stock of pistols but shall not deposit or pledge the same with any other person. No person shall lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this chapter.

6.64.120. *Pistol identifying mark alteration.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

6.64.140. *Unusable pistols.* This chapter shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

6.64.150. *Machine guns prohibited.* It shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or to have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun; provided, however, that such limitation shall not apply to any police officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state of Washington.

6.64.160. *Machine gun defined.* For the purpose of this chapter a "machine gun" is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip disc, drum, belt or other separate mechanical device for storing, carrying or supplying ammunition which can be loaded into such weapon, mechanism, or instrument and fired therefrom at a rate of five or more shots per second.

Mercer Island

7.505.07. *Certain acts prohibited—belief minor in representative capacity, no defense—penalty, Every person who:* • • •:

5. Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years any revolver or pistol, shall be guilty of a misdemeanor.*

Mountlake Terrace

5.07.010. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence, shall own a firearm or have one in his possession under his control.

5.07.014. *Delivery to minors and others forbidden.* No person shall deliver a pistol to any person under the age of 21 or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

5.07.015. *Sales regulated.* It is unlawful for any merchant or secondhand dealer, or any clerk, agent or employee of any merchant or secondhand dealer, to sell, give away or dispose of any pistol to any person at retail, unless such person is personally known to the seller or shall present clear evidence of his identity, nor without completing a true record in triplicate of every pistol sold or disposed of. • • • One copy shall within six hours be sent by registered mail to the chief of police of the City of Mountlake Terrace who shall, within seventy-two hours, exclusive of Sundays and holidays, investigate the information contained in said record and report his findings to the merchant or secondhand dealer.

5.07.0151. It is unlawful for any merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealer to deliver any pistol to any purchaser until said merchant or secondhand dealer has received a report from the chief of police that said purchaser is not a fugitive from justice and that said purchaser has never been convicted in this state or elsewhere of a crime of violence, nor an offense involving narcotics nor of repeated drunkenness and has never been confined to a mental institution; provided, that if such merchant or secondhand dealer does not receive such report from the chief of police within seventy-two hours, exclusive of Sundays and holidays, after he has mailed a copy of the record to the chief of police as required by Section 2, then such merchant or secondhand dealer may deliver the pistol to the purchaser; provided further, that this section shall not apply to sales at wholesale, or to sales to persons exhibiting a valid license to carry a pistol concealed issued pursuant to RCW 9.41.070, or to sales to law enforcement officers.

5.07.0152. It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or an offense involving narcotics or of repeated drunkenness or has been confined to a mental institution to purchase a pistol in this city, and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

5.07.016. *Dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as provided by law under the requirements of Revised Code of Washington Section 9.41.110, as the same now is or hereafter may be amended.

5.07.017. *Certain transfers forbidden.* No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit, or pledge for a loan. • • • No person shall lend or give a firearm to another known, or with reasonable knowledge believed to have suicidal tendencies or otherwise deliver a pistol contrary to the provisions of this ordinance.

5.07.018. *Alteration of identifying marks prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

5.07.019. *False information forbidden.* No person shall in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same give false information or offer false evidence of his identity.

5.07.020. *Exceptions.* This ordinance shall not apply to antique firearms unsuitable for use as firearms and possessed as curiosities or ornaments.

5.07.021. *Machine guns or parts contraband.* All machine guns, or parts thereof, illegally held or possessed are hereby declared to be contraband, and it shall be the duty of all police officers to seize said machine gun, or parts thereof, wherever and whenever found.

5.07.022. *Dangerous weapons—evidence.* Every person who shall manufacture, sell or dispose of or have in his possession any instrument or weapon of the kind usually known as sling shot, sand club, zipgun, or metal knuckles; shall furtively carry, or conceal any dagger, dirk, knife, or other dangerous weapon or firearm; or who shall use any contrivance or device for suppressing the noise of any firearm, shall be guilty of a misdemeanor.

5.07.023. *Definitions.* The word firearm shall include but be not limited to mean any weapon or device capable of propelling a missile through the force of combustion or explosion of gunpowder or similar substance.

Ocean Shores

7.28.040. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control.

7.28.080. *Delivery to minors and certain others forbidden.* No person shall deliver a pistol to any person under the age of twenty-one or to one whom he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

7.28.090. *Pistol sales regulated.* No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, • • •.

7.28.100. *Pistol dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer any pistol without being licensed as provided by law under the requirements of RCW 9.41.110.

7.28.110. *Certain transfers of pistols forbidden.* No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit or pledge for a loan shall keep such records and make such reports as are provided by law for pawnbrokers and second-hand dealers in cities of the first class (RCW Chapter 19.60). A duly licensed dealer may mortgage any pistol or stock or pistols but shall not deposit or pledge the same with any other person. No person shall lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this chapter.

7.28.120. *Alteration of identifying marks on pistol prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

7.28.140. *Exceptions for unusable pistols.* This chapter shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

7.28.150. *Machine guns prohibited.* It shall be unlawful for any person to manufacture, own, buy, sell loan, furnish, transport, or to have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun; provided, however, that such limitation shall not apply to any police officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state of Washington.

7.28.160. *Machine gun defined.* For the purpose of this chapter a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip disc, drum, belt or other separable mechanical device for storing, carrying or supplying ammunition which can be loaded into such weapon, mechanism, or instrument and fired therefrom at a rate of five or more shots per second.

Olympia

9.41.040. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime

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*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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of violence, shall own a pistol or have one in his possession or under his control. * * *.

9.41.080. *Delivery to minors and others forbidden.* No person shall deliver a pistol to any person under the age of twenty-one or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

9.41.090. *Sales regulated—application to purchase—grounds for denial.* In addition to the other requirements of RCW sections 9.41.010 through 9.41.150 as now or hereinafter amended, no seller shall deliver a pistol to the purchaser thereof until seventy-two hours shall have elapsed from the time of the application for the purchase thereof * * *.

9.41.093. *Exemptions.* The following shall be exempt from the provisions of RCW 9.41.090 as now or hereinafter amended: sales by wholesalers to dealers; and the sale of antique pistols exempted by the provisions of RCW 9.41.150, as amended.

9.41.100. *Dealers to be licensed.* No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

9.41.120. *Certain transfers forbidden.* No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit or pledge of a pistol. Any licensed dealer receiving a pistol as a deposit or pledge for a loan shall keep such records and make such reports as are provided by law for pawnbrokers and second-hand dealers in cities of the first class. A duly licensed dealer may mortgage any pistol or stock of pistols but shall not deposit or pledge the same with any other person.

9.41.140. *Alteration of identifying marks—exceptions.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same. This shall not apply to replacement barrels in old revolvers, which barrels are produced by current manufacturers and therefor do not have the markings on the barrels of the original manufacturers who are no longer in business.

9.41.150. *Exemptions.* RCW 9.41.010 through 9.41.160 shall not apply to antique pistols and revolvers manufactured prior to 1898 and held as collector's items.

9.41.170. *Alien's license to carry firearms—exception.* It shall be unlawful for any person who is not a citizen of the United States, or who has not declared his intention to become a citizen of the United States, to carry or have in his possession at any time any shotgun, rifle, or other firearm, without first having obtained a license from the director of motor vehicles, and such license is not to be issued by the director of motor vehicles except upon the certificate of the consul domiciled in the state and representing the country of such alien, that he is a responsible person and upon the payment for the license of the sum of fifteen dollars: *Provided*, That this section shall not apply to Canadian citizens resident in a province which has an enactment or public policy providing substantially similar privilege to residents of the state of Washington and who are carrying or possessing weapons for the purpose of using them in the hunting of game while such persons are in the act of hunting, or while on a hunting trip, or while such persons are competing in a bona fide trap or skeet shoot or any other organized contest where rifles, pistols, or shotguns are used as to weapons used in such contest. * * *.

9.41.190. *Machine guns prohibited.* That it shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession, or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun: *Provided, however*, That such limitation shall not apply to any peace officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state of Washington.

9.41.200 *Machine gun defined.* For the purpose of RCW 9.41.190 through 9.41.220 a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

Pasco

9.24.060. *Selling revolvers and pistols to minors.* It is unlawful for any person within the city to sell, give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol.*

Raymond

5.04.010. *Unlawful to sell firearms or air rifles to minors.* It shall be unlawful for any person, firm or corporation to sell any firearms or air rifles, or B. B. guns to minors.

Renton

5–15. *Machine guns—Prohibition.* That it shall be unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession, or under control, any machine gun: Provided, however, that such limitation shall not apply to any police officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state of Washington.

5–16. *Machine gun defined.* For the purpose of this Ordinance a machine gun is defined as any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, and/or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into such weapon, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

5–17. *Machine guns or parts contraband.* All machine guns, or parts thereof, illegally held or possessed are hereby declared to be contraband, and it shall be the duty of all police officers to seize said machine gun, or parts thereof, wherever and whenever found.

2424–I: The following words and phrases used herein shall have the following meanings, to-wit: A. "Pistol" means any firearm or other weapon for the purpose of discharging a projectile by means of compressed air, chemical combustion or otherwise and having a barrel less than twelve inches in length, but shall not include antique pistols or revolvers manufactured prior to 1898 and so held as collector's items.

B. "Crime of violence" means any of the following crimes or an attempt to commit any of the same: Murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

C. "Fugitive from justice" means a person who, having committed a crime, flees from the jurisdiction where it was committed to evade arrest.

D. "Law enforcement officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses.

2424–II: It is unlawful for any merchant, business, or second-hand dealer, or any clerk, agent, representative or employee of any such merchant, business, or second-hand dealer, to sell, give away, or dispose of any pistol to any person at retail, unless such person is personally known to the seller or shall present clear evidence of his identity, nor without completing a true record, in triplicate, of every pistol sold or disposed of. * * *. One copy of such record shall within six (6) hours after the signing thereof be sent by registered mail to the Chief of Police of the City of Renton, or in the alternative, may be personally delivered to the office of the Chief of Police within said period of time, and the Chief of Police shall, within seventy two (72) hours, exclusive of Sundays and Legal Holidays, investigate the information contained in said record, and report his findings to the merchant, business or second-hand dealer.

2424–III: It is unlawful for any merchant, business, or second-hand dealer, or any clerk, agent, representative or employee of any merchant, buiness or second-hand dealer, to deliver any pistol to any purchaser until said merchant, business, second-hand dealer has received a report from the Chief of Police that said purchaser is not a fugitive from justice and has never been convicted in this state or elsewhere of a crime of violence, or of drug addiction, or habitual drunkenness and has never been confined to a mental institution; provided that if such merchant, business or second-hand dealer does not receive such report from the Chief of Police within seventy-two (72) hours, exclusive of Sundays and Legal Holidays, after he has mailed or personally delivered a copy of the record to the Chief of Police as required by Section II, then such merchant, business or second-hand dealer may deliver the pistol to the purchaser; provided further that this Section shall not apply to sales at wholesale, or to sales to persons exhibiting a valid license to carry a pistol concealed issued pursuant to RCW 9.41.070, or to sales to law enforcement officers as specified in RCW 9.41.060.

2424–IV: It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness or has been confined to a mental institution to purchase a pistol in the City of Renton, and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

Richland

9.04.280. *Selling, etc., of revolvers and pistols to minors less than eighteen.* It shall be unlawful for any person within the city to sell, give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

Seattle

12.43.010. *Definitions.* The following words and phrases used herein shall be construed as follows: (a) "Pistol" means any firearm or other weapon for the purpose of discharging a projectile by means of compressed air, chemical combustion or otherwise and having a barrel less than twelve inches in length, but shall not include antique pistols or revolvers manufactured prior to 1898 and held as collector's items;

(b) "Crime of violence" means any of the following crimes or an attempt to commit any of the same: Murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping;

(c) "Fugitive from justice" means a person who, having committed a crime, flees from the jurisdiction where it was committed to evade arrest;

(d) "Law enforcement officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses.

12.43.020. *Procedure for sale.* It is unlawful for any merchant or secondhand dealer, or any clerk, agent or employee of any merchant or secondhand dealer, to sell, give away or dispose of any pistol to any person at retail, unless such person is personally known to the seller or presents clear evidence of his identity, nor without completing a true record in triplicate of every pistol sold or disposed of. Such record shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the purchaser, and a statement signed by the purchaser that he is not a fugitive from justice and that he has never been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness and has never been confined to a mental institution. One copy shall within six hours be sent by registered mail to the chief of police of the city of Seattle who shall, within seventy-two hours, exclusive of Sundays and holidays, investigate the information contained in the record and report his findings to the merchant or secondhand dealer.

12.43.030. *Delivery to purchaser.* It is unlawful for any merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealer to deliver any pistol to any purchaser until the merchant or secondhand dealer has received a report from the chief of police that the purchaser is not a fugitive from justice and that the purchaser has never been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness and has never been confined to a mental institution; provided, that if such merchant or secondhand dealer does not receive such report from the chief of police within seventy-two hours, exclusive of Sundays and holidays, after he has mailed a copy of the record to the chief of police as required by Section 12.43.020, then such merchant or secondhand dealer may deliver the pistol to the purchaser; provided further, that this section shall not apply to sales at wholesale, or to sales to persons exhibiting a valid license to carry a pistol concealed issued pursuant to RCW 9.41.070, or to sales to law enforcement officers.

12.43.040. *Unlawful for certain persons to purchase.* It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness or has been confined to a mental institution to purchase a pistol in this city, and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

12.43.050. *Penalty for violation.* Any person violating or failing to comply with any of the provisions of this chapter shall upon conviction thereof be fined in a sum not to exceed five hundred dollars or imprisoned in the city jail for a term not exceeding one hundred eighty days, or both so fined and imprisoned.

3. It is unlawful for any merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealer to deliver any pistol to any purchaser until said merchant or secondhand dealer has received a report from the chief of police that said purchaser is not a fugitive from justice and that said purchaser has never been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness and has never been confined to a mental institution; provided, that if such merchant or secondhand dealer does not receive such report from the chief of police within seventy-two hours, exclusive of Sundays and holidays, after he has mailed a copy of the record to the chief of police as required by Section 2, then such merchant or secondhand dealer may deliver the pistol to the purchaser; provided further, that this section shall not apply to sales at wholesale, or to sales to persons exhibiting a valid license to carry a pistol concealed issued pursuant to RCW 9.41.070, or to sales to law enforcement officers.

4. It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness or has been confined to a mental institution to purchase a pistol in this city, and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

5. Any person violating or failing to comply with any of the provisions of this ordinance shall upon conviction thereof be fined in a sum not to exceed five hundred dollars or imprisoned in the city jail for a term not exceeding one hundred eighty days, or both so fined and imprisoned.

Snohomish

9.04.360. *Selling, etc., of revolvers and pistols to minors.* It shall be unlawful for any person within the city to sell, give, or permit to be sold or given to any person under the age of twenty-one years, any revolver or pistol.

Spokane

20. *Certain persons forbidden to possess arms.* No person who has been convicted in this state or elsewhere of a crime of violence shall own a pistol or have one in his possession or under his control.

25. *Sales regulated.* No seller shall deliver a pistol to the purchaser thereof until seventy-two hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. * * *. This section shall not apply to sales at wholesale.

30. *False information forbidden.* No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

35. *Alteration of identifying marks prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such marks shall have been changed, altered, removed or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same; Provided, that this section shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

45. *Delivery to minors and others forbidden.* No person shall deliver a pistol to any person under the age of twenty-one or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard or of unsound mind.

46. *Unlawful to manufacture, sell or possess certain weapons or to use silencer on firearms.* No person shall manufacture, sell, dispose of or have in his possession any instrument or weapon of any kind usually known as slung shot, sand club, metal knuckles, spring-blade knife or any knife the blade of which is automatically released by a spring mechanism or other mechanical device; or furtively carry or conceal any dagger, dirk, knife or other dangerous weapon; or use any contrivance or device for suppressing the noise of any firearm.

Spokane County

6.05.050. *Persons prohibited from owning or possessing pistol.* No person who has been convicted in this state or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control.

6.05.050. *Sales regulated.* No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped and shall be unloaded.

6.05.070. *Giving of false information prohibited.* No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

6.05.080. *Alteration of identifying marks prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same; PROVIDED, this section shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

6.05.090. *Delivery to minors and others prohibited.* No person shall deliver a pistol to any person under the age of twenty-one or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard or of unsound mind.

Tacoma

8.66.030. *Sale to minors under eighteen.* No person shall, within the City of Tacoma, sell, give or loan, or cause to be sold, given or loaned, to any minor under the age of eighteen years, any gun, revolver, pistol, toy

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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pistol, or the cartridges therefor, or any dirk, dagger, knuckles, slingshot, or other deadly weapon. Every person violating this section shall be deemed guilty of a misdemeanor and fined in a sum not exceeding one hundred dollars; and it shall be no defense to a prosecution for a violation of this section that the minor acted or was believed by the defendant to act as the agent or representative of another.*

8.66.080. *Definitions.* The following words and phrases used in Sections 8.66.080 to 8.66.120, inclusive, shall be construed as follows:

1. "Pistol" means any firearm or other weapon for the purpose of discharging a projectile by means of compressed air, chemical combustion or otherwise and having a barrel less than twelve inches in length, but shall not include antique pistols or revolvers manufactured prior to 1898 and held as collector's items.

2. "Crime of violence" means any of the following crimes or an attempt to commit any of the same: Murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

3. "Fugitive from justice" means a person who, having committed a crime, flees from the jurisdiction where it was committed to evade arrest.

4. "Law enforcement officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses.

8.66.090. *Records required before sale.* It is unlawful for any merchant or secondhand dealer, or any clerk, agent or employee of any merchant or secondhand dealer, to sell, give away or dispose of any pistol to any person at retail, unless such person is personally known to the seller or shall present clear evidence of his identity, nor without completing a true record in triplicate of every pistol sold or disposed of. * * *. One copy shall within six hours be sent by registered mail to the chief of police of the City of Tacoma who shall, within seventy-two hours, exclusive of Sundays and holidays, investigate the information contained in said record and report his findings to the merchant or secondhand dealer.

8.66.100. *Delivery prohibited prior to receipt of records.* It is unlawful for any merchant or secondhand dealer or any clerk, agent or employee of any merchant or secondhand dealer to deliver any pistol to any purchaser until said merchant or secondhand dealer has received a report from the chief of police that said purchaser is not a fugitive from justice and that said purchaser has never been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness and has never been confined to a mental institution; provided, that if such merchant or secondhand dealer does not receive such report from the chief of police within seventy-two hours, exclusive of Sundays and holidays, after he has mailed a copy of the record to the chief of police as required by Section 8.66.090, then such merchant or secondhand dealer may deliver the pistol to the purchaser; provided further, that this section shall not apply to sales at wholesale, or to sales to persons exhibiting a valid license to carry a pistol concealed issued pursuant to RCW 9.41.070, or to sales to law enforcement officers.

8.66.110. *Sales prohibited to certain persons.* It is unlawful for any person who is a fugitive from justice or who has been convicted in this state or elsewhere of a crime of violence, or of drug addiction or of habitual drunkenness or has been confined to a mental institution to purchase a pistol in this city, and it is further unlawful for any such person to fail to disclose such information when applying for the purchase of a pistol.

Yakima

8.28.010. *Use by minors.* No person under the age of twenty-one years shall be issued a county license for the possession and use of a handgun or pistol. Persons twenty-one years of age or over may be issued licenses for handguns and pistols subject to RCW 9.41.070.

WEST VIRGINIA

State Law

W. VA. CODE ANN.

61-3-8. *Prohibitions as to molotov cocktails; penalty.* It shall be unlawful for any person to make, carry, possess, sell, give or use any type of incendiary device, commonly known as a molotov cocktail, which is hereby defined to mean a makeshift incendiary bomb made of a breakable container filled with flammable liquid and provided with a wick composed of any substance capable of bringing a flame into contact with the liquid, but is not intended to mean a device commercially manufactured primarily for the purpose of illumination, or other such use.

Any person who shall violate any provision of this section shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one year nor more than five years.

The possession, sale or control by a person or persons of any such device or container containing flammable liquid is prima facie evidence of a violation of this section.

61-6-1a. *Control of riots and unlawful assemblages.* Members of the department of public safety, sheriffs and mayors, and those acting under their order, may, when engaged in suppressing a riot, rout or unlawful assemblage, cordon off any area or areas threatened by such riot, rout or unlawful assemblage, and may take all actions which are necessary and reasonable under the emergency to restore law and order, and such actions may be, but are not limited to, the following:

(a) Prohibit the sale, offering for sale, dispensing, furnishing or transportation of firearms or other dangerous weapons, ammunition, dynamite or other dangerous explosives in, to or from such areas.

(b) Prohibit the sale, offering for sale, dispensing, furnishing or consumption of alcoholic beverages or nonintoxicating beer in a public place in such areas, and prohibit the transportation of alcoholic beverages or nonintoxicating beer in, to or from such areas.

(c) Impose curfews, as required, to control movement of persons in, to and from such areas.

(d) Enter a private dwelling or other building or other private place in such areas when in fresh pursuit of a rioter, when in search of a sniper who has fired upon a person from such a dwelling or other building or place or when in search of firearms, other dangerous weapons, ammunition, dynamite or other dangerous explosives when there is reason to believe that such items are stored in the said dwelling, building or place and that they will be removed therefrom before a search warrant could be obtained.

No person shall willfully fail to obey a lawful order of any mayor, sheriff, deputy sheriff, municipal police officer, member of the department of public safety, or other officer, given pursuant to this section.

Any person who violates an order given pursuant to the authority of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

61-7-8. *Possession of machine guns, high-powered rifles, or ammunition therefor; permits; aliens may not possess firearms.* It shall be unlawful for any person to carry, transport, or have in his possession, any machine gun, sub-machine gun, or what is commonly known as a high-powered rifle, or any gun of similar kind or character, or any ammunition therefor, except on his own premises or premises leased to him for a fixed term, until such person shall have first obtained a permit from the superintendent of the department of public safety of this State, and approved by the governor, or until a license therefor shall have been obtained from the circuit court as in the case of pistols, and all such licenses, together with the numbers identifying such rifles, shall be certified to the superintendent of the department of public safety: Provided, that nothing herein contained shall prevent the use of rifles by bona fide rifle club members who are freeholders or tenants for a fixed term in this State, at their usual or customary place of practice, or licensed hunters in the actual hunting of game animals. No such permit shall be granted by said superintendent except in cases of riot, public danger, and emergency, until such applicant shall have filed his written application with said superintendent, in accordance with the rules and regulations that may be from time to time prescribed by said department of public safety relative thereto, which application shall be accompanied by a fee of two dollars to be used in defraying the expense of issuing such permit, and such application shall contain the same provisions as are required to be shown under the provisions of section two [§ 61-7-2] of this article, by applicants for pistol license, and shall be duly verified by such applicant, and at least one other reputable citizen of this State. Any such permit as granted under the provisions of this section may be revoked by the governor at his pleasure, and upon the revocation of any such permit, the department of public safety shall immediately seize and take possession of any such machine gun, sub-machine gun, high-powered rifle, or gun of similar kind and character, held by reason of such permit, and any and all ammunition therefor; and the department of public safety shall also confiscate any such machine gun, sub-machine gun, and what is commonly known as a high-powered rifle, or any gun of similar kind and character, and any and all ammunition therefor, so owned, carried, transported or possessed contrary to the provisions of this section, and shall safely store and keep the same, subject to the order of the governor.

No alien shall own, keep or possess any firearm of any kind or character.

61-7-9. *Display of dangerous weapons for sale or hire; sale to unnaturalized person; penalties for violation of this section or 61-7-8.* It shall be unlawful for any person, firm or corporation to place or keep on public display to passersby on the streets, roads or alleys, for rent or sale, any revolver, pistol, dirk, bowie knife, slung shot, or other dangerous weapons of like kind or character or any machine gun, sub-machine gun or high-powered rifle, or any gun of similar kind or character, or any ammunition for the same. All dealers licensed to sell any of the foregoing arms or weapons shall take the name, address, age and general appearance of the purchaser, as well as the maker of the gun, manufacturer's serial number and the caliber, and report the same at once in writing to the superintendent of the department of public safety. It shall be unlawful for any person to sell, rent, give or lend any of the arms mentioned in this article to an unnaturalized person.

61-7-14. *Purchase of firearms in contiguous state.* Any resident of this State, including a corporation or other business entity maintaining a place of business in this State, who may lawfully purchase and receive delivery of a rifle, shotgun or any other legal firearm, or any part thereof, in this State, may purchase the same in a state contiguous to this State and transport or receive the same into this State provided the sale meets the lawful requirements of any federal statute, and is made by a licensed importer, licensed manufacturer, licensed dealer or private collector.

Beckley

25-3. *Sale or rental of weapons to minors under eighteen.* It shall be unlawful for any person to rent or sell any machine gun, high-powered rifle or any gun of similar kind or character, or revolver, pistol, dirk, bowie knife or other dangerous weapon of like kind or character, or any ammunition for any such weapon, to any person under the age of eighteen years, unless at the time of such rental or sale such minor shall be accompanied by his parents, or one of them, or by the minor's legal guardian.*

Benwood

210.02. *Selling or giving to minors.* No person shall sell or give away to a person under twenty-one years of age, any revolver or other pistol, dirk, bowie knife, switch blade knife, slingshot, razor, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character.

210.06. *Sale to person not holding permit.* No person shall sell, deliver, transfer or otherwise dispose of any pistol, revolver or other firearms of the kind described in Section 210.05, to any person who is not the holder of a written permit, bearing the signature of the Chief of Police, authorizing such person to purchase, receive or accept such pistol, revolver or other firearm.

210.07. *Purchase without permit.* No person shall purchase, receive or accept any pistol, revolver or other firearm of the kind described in Section 210.05 without first obtaining a written permit from the Chief of Police authorizing such person to purchase, receive or accept such pistol, revolver or other firearms.

210.13. *Exceptions.* Nothing contained in this article shall be deemed to apply to the sale, transfer, purchase or receipt of antique pistols or revolvers which are incapable of being used as firearms.

Charleston

7. *Sale of firearms, fireworks or explosives to children.* No person shall sell to any child under the age of sixteen years firearms, gunpowder, gun caps as defined under W. Va. Code, Ch. 29, Art. 3, Section 28, fireworks or other explosives, in any quantity.*

Clarksburg

17-72. *Same—Sale to persons under sixteen years of age; sale of explosives to persons under sixteen prohibited.* It shall be unlawful for any person to sell, offer or give to any child or children under the age of sixteen years, firearms, gunpowder, gun caps, fireworks or other explosives of like kind and character in any quantity whatever.*

Logan

15-4. *Sale, etc., to minor under sixteen of firearms or explosives.* It shall be unlawful for any person to sell or give to any minor under the age of sixteen years firearms or gunpowder or other explosives in any quantity.*

Martinsburg

35-5. *Display of dangerous weapons for sale or hire; sale to unnaturalized person.* * * *. It shall be unlawful for any person to sell, rent, give or lend any of the arms mentioned in article 7, chapter 61, Michie's West Virginia Code, 1961, to an unnaturalized person.

Morgantown

31-8. *License—Required.* No person shall sell, offer for sale, display, rent or exchange any dangerous or deadly weapon, including, but not by way of limitation, any revolver, pistol, dirk, Bowie knife, sling shot, billies, metallic or false knuckles or other weapons of like kind within the city without first obtaining a license to engage in any such business.

31-15. *Sale, etc., to intoxicated persons, minors under eighteen, etc.* It shall be unlawful for any person or dealer licensed under this article to sell, loan or furnish any of the dangerous or deadly weapons mentioned and described in this article to any person under the influence of alcohol, or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of eighteen years, or to an unnaturalized person.*

Moundsville

14-81. *Weapons.* The annual license fee to sell or offer for sale pistols, revolvers, dirks, slungshots, billies, bowie knives, metallic or other false knuckles, or other weapons of like kind, shall be ten dollars. No license shall be issued without the prior certification of the chief of police of the city.

Weirton

553.08 *Sale of arms to unnaturalized person or minor.* No person shall sell, rent, give or lend any of the arms mentioned in this article to any unnaturalized person and no person shall sell any of the arms mentioned in this article to any minor under the age of sixteen years.*

Wheeling

537.02 *Selling or giving to minors.* No person shall sell or give away to a person under twenty-one years of age, any revolver or other pistol, dirk, bowie knife, switch blade knife, slingshot, razor, billy, metallic or other false knuckles, or any other dangerous or deadly weapon of like kind or character.

537.05. *Sale, transfer of concealed weapons.* No person shall sell, lend, give away, exchange or transfer, or purchase, receive or accept any pistol, revolver or firearms of any kind whatsoever which is capable of being concealed on the person, except as authorized and provided by this article.

537.06. *Sale to person not holding permit.* No person shall sell, deliver, transfer or otherwise dispose of any pistol, revolver or other firearms of the kind described in Section 537.05, to any person who is not the holder of a written permit, bearing the signature of the Chief of Police, authorizing such person to purchase, receive or accept such pistol, revolver or other firearm.

537.07. *Purchase without permit.* No person shall purchase, receive or accept any pistol, revolver or other firearm of the kind described in Section 537.05 without first obtaining a written permit from the Chief of Police authorizing such person to purchase, receive or accept such pistol, revolver or other firearms.

537.10. *Vendor to demand permit from purchaser.* At the time of the sale or delivery of a pistol, revolver or other firearm of the kind described in Section 537.05, the vendor or transferor thereof shall demand of and receive from the purchaser or recipient of such pistol, revolver or other firearm, a permit, issued pursuant to the provisions of this article authorizing such purchaser or recipient to purchase or receive such pistol, revolver or other firearm.

537.13. *Exceptions.* Nothing contained in this article shall be deemed to apply to the sale, transfer, purchase or receipt of antique pistols or revolvers which are incapable of being used as firearms.

537.14. *False information.* No person shall give or issue any false information or data for the purpose of obtaining, or aiding and abetting another in obtaining, a pistol, revolver or other firearm of the kind described in Section 537.05 in violation of the terms and provisions of this article.

WISCONSIN

State Law

WISC. STATS. ANN.

164.01. *Definitions.* (1) "Machine gun" applies to and includes a weapon of any description by whatever name known from which more than two shots or bullets may be discharged by a single function of the firing device.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnaping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering, and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

164.03. *Possession for aggressive purpose.* Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than 10 years.

164.04. *Possession when presumed for aggressive purpose.* Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose:

(1) When the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or

(2) When in the possession of, or used by, an unnaturalized foreign-born person, or a person, who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or

(3) When the machine gun is of the kind described in section 164.08 and has not been registered as in said section required; or

(4) When empty or loaded pistol shells of 30 (.30 in. or 7.63 mm.) or larger caliber which have been used or are susceptible of

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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use in the machine gun are found in the immediate vicinity thereof.

164.06. *Exceptions.* Nothing contained in this chapter shall prohibit or interfere with the manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose; the possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake; the possession of a machine gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber, for a purpose manifestly not aggressive or offensive.

164.08. *Owner to register machine gun.* Every machine gun now in this state adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber shall be registered by the owner in the office of the secretary of state on May 15, 1933 and annually thereafter. If acquired hereafter it shall be registered within 24 hours after its acquisition. Blanks for registration shall be prepared by the secretary of state, and furnished upon application. To comply with this section the application as filed must show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which, the gun was acquired. The registration data shall not be subject to inspection by the public. Any person failing to register any guns, as required by this section, shall be presumed to possess the same for offensive or aggressive purpose.

164.20. *Machine guns and other weapons; use in certain cases; penalty.* (1) No person shall sell, possess, use or transport any machine gun or other full automatic firearm, nor shall any person sell, possess, use or transport any bomb, hand grenade, projectile, shell or other container of any kind or character into which tear gas or any similar substance is used or placed for use to cause bodily discomfort, panic, or damage to property.

(2) Any person violating any of the provisions of this section shall be punished by imprisonment in the state prison for a term of not less than one year nor more than three years.

(3) The provisions of this section shall not apply to the sale, possession, use or transportation of any such weapons or containers to or by any national guardsman in line of duty, any civil enforcement officer of the state or of any city or county, or any person duly authorized by the chief of police of any city or the sheriff of any county to sell, possess, use or transport such weapons or containers; nor shall the restriction on transportation apply to common carriers.

175.30. *Purchase of firearms in contiguous states permitted.* It is lawful for a resident of this state or a corporation or other business entity maintaining a place of business in this state to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this state if the transfer complies with federal law and the laws of both states.

939.22. *Words and phrases defined.* In the criminal code, the following words and phrases have the designated meanings unless the context of a specific section manifestly requires a different construction:

(10) "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

941.22. *Possession of pistol by minor.* (1) Any minor who goes armed with a pistol or any person who intentionally sells, loans or gives a pistol to a minor may be fined not more than $500 or imprisoned not more than one year in county jail or both.

(4) In this section "pistol" means any firearm having a barrel less than 12 inches long.

943.06. *Molotov cocktails.* (1) As used in this section, "fire bomb" means a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but does not mean a device commercially manufactured primarily for the purpose of illumination.

(2) Whoever possesses, manufactures, sells, offers for sale, gives or transfers a fire bomb may be fined not more than $500 or imprisoned not more than 6 months or both.

(3) This section shall not prohibit the authorized use or possession of any such device by a member of the armed forces or by firemen or law enforcement officers.

Appleton

8.01. (4) *Sale of dangerous weapons to minors prohibited.* No person shall buy for, sell or give away to any minor any dangerous weapon except household purpose knives or knives having blades less than 3 inches long without first having obtained the written consent of the parent or guardian of such minor. The term "dangerous weapon" shall mean and include the following instruments: blackjack, billy, sandclub, pistol, revolver, any instrument which impels a missile by compressed air, spring, or other means, any weapon in which loaded or blank cartridges are used, crossknuckles of any metal, barbed or blade type bowie knife, dirk knife, dirk, dagger, switch blade knife, or any knife which has a blade that may be drawn without the necessity of contact with the blade itself but is instead automatically opened by a slight pressure on the handle or some other part of the knife and is commonly known as a switch blade knife, straight-edge razor or any other knife having a blade 3 inches or longer. Instruments not herein specifically enumerated are none the less dangerous weapons when they fall within the terms of the above definition.

(3) *License for sale of weapons.* (a) No person shall engage in the business of buying or selling, or shall sell or give away to any person, or buy or receive of any person, within the Village, any weapon listed or defined as dangerous, except rifles or shotguns used for hunting purposes, air rifles, weapons used solely for target practice purposes, straight-edge razors, household purpose knives, any knife having a blade less than 3 inches, or instruments necessary to certain trades, crafts, professions, or sports, without securing a license to do so, and no person having such license shall sell or give away any such weapon to any person within the Village who has not secured a permit from the Chief of Police to purchase such weapon.

(4) *Selling weapons to minors prohibited.* No person shall engage in the business of buying or selling or shall sell or give away to any minor under the age of 21, any weapon listed or defined as dangerous, except household purpose knives or knives having blades less than 3 inches.

(6) *Permit required for purchase of dangerous weapons.* No person shall purchase or obtain by gift or otherwise without first securing from the Chief of Police a permit, any dangerous weapon, except a rifle, or shotgun used for hunting purposes, air rifle, weapon used solely for target practice purposes, sporting goods, as hereinbefore defined.

Beloit

(3) No person shall sell any firearm, blackjack, billy, bludgeon, cross-knuckles, knuckles of any metal, bowie knife, dirk-knife, dirk dagger or switch blade knife, or loan such items to any minor within the City.

Cudahy

954–1. *It shall be unlawful for any person under the age of eighteen* (18) to purchase any blackjack, billy, bludgeon, metal knuckles, revolver or pistol upon which any loaded or blank cartridges are used. Every person who deals in dangerous weapons or guns shall keep a record of sales of such dangerous weapons or guns, which records shall have the name, address, date of birth, identification number of the weapon or gun and a signed statement by the purchaser that he is the individual making the purchase and that the information contained in the statement is true and correct. The record shall also show whether or not the purchase is for the individual or as a gift to another. No sale shall be made to persons having been convicted of a felony.*

15.07. *Use of fire bombs and other similar devices.* (1) No person shall make, carry possess, sell, give, or use any type of "Molotov Cocktail", which is defined to mean a flammable liquid filled bottle or container with a fuse, wick, or any other type of ignition or detonating device, flammable liquid fire bomb or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.

Glendale

24.20. *Making, possession, transfer or use of fire bombs and other similar devices.* (a) No person shall make, carry, possess, sell, give, transfer to another or use any type of fire or explosive creating device which is defined to mean a flammable-liquid filled bottle or container with a fuse, wick, or any other type of ignition or detonating device, flammable liquid fire bomb or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.

Hales Corners

14.01. (1) *Definitions: Dangerous weapon.* The term "dangerous weapon" shall include any instrument which by its capabilities of use is liable to produce death or great bodily harm. The following are dangerous per se: blackjack, billy, sandclub, sandbag, bludgeon, sling shot, slung shot, pistol, revolver, any instrument which impels a missile by compressed air, spring, or other means, any weapon upon which loaded or blank cartridges are used, cross-knuckles of any metal, barbed or blade type arrowhead, bowie knife, dirk knife, dirk, dagger, switch blade knife, or any knife which has a blade that may be drawn without the necessity of contact with the blade itself but is instead automatically opened by slight pressure on the handle or some other part of the knife and is commonly known as a switch blade knife, straight-edge razor or any other knife having a blade 3 inches or longer. Instruments not herein specifically enumerated are none the less dangerous weapons when they fall within the terms of the above definition.

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

straight-edge razors, household purpose knives, any knife having a blade less than 3 inches, or instruments necessary to certain trades, crafts, professions or sports. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification of any person desiring such permit.

Kenosha

11.02–R. *Possession or use of fire bombs and other similar devices.* (1) It shall be unlawful for any person to make, carry, possess, sell, give, or use any type of "Molotov Cocktail" which is defined to mean a flammable-liquid filled bottle or container with a fuse, wick, or any other type of ignition or detonating device.

(2) It shall be unlawful for any person to make, carry, possess, sell, give, or use any type of flammable-liquid fire bomb or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.

11.06. *Dangerous weapons.* B. "Sale Forbidden". No person shall sell, loan or give away any gun, pistol, revolver or other dangerous or deadly weapon to any minor or intoxicated person.

Madison

25.01. *Sale of firearms.* (1) Definition: For the purpose of this section: (a) "Firearm." The term "firearm" means a shotgun or a rifle or any weapon made from a rifle or shotgun (modification or otherwise) or any other weapon, including a pistol or revolver, from which a shot is discharged by an explosive or propellant, but not including a stud gun when used for its intended purpose. (b) "Rifle." The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of a propellant to fire only a single projectile through a rifle bore for each single pull of the trigger. (c) "Shotgun." The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of a propellant to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.*

(4) No person under eighteen (18) years of age shall go armed with a pistol or revolver and no person shall intentionally sell, loan or give a pistol or revolver to any person under eighteen (18) years of age. This subsection does not apply to a person, under eighteen (18) years of age who is armed with a pistol or revolver when such pistol or revolver is used in target practice under supervision of an adult nor does it apply to an adult who transfers a pistol or revolver to a person under eighteen (18) years of age for use only in target practice under his direct supervision.

(5) No person under the age of eighteen (18) shall go armed with a firearm of any type nor a pneumatic pellet gun and no person under the age of eighteen (18) years shall have in his possession any ammunition for any firearm and no person shall intentionally sell, loan or give any firearm or pneumatic pellet gun or ammunition therefor to any person under the age of eighteen (18) years. This subsection shall not apply to anyone under eighteen (18) years of age who is armed with a firearm under the supervision of an adult when such firearm is being used in target practice or hunting, nor does it apply to an adult who transfers a firearm to a person under eighteen (18) years of age for use only in target practice or any hunting under his direct supervision.

(6) Notwithstanding any other provision of this section to the contrary, this section shall not apply to any person, firm, association or corporation acting under the control and at the direction of the state of Wisconsin or the United States Government.

Menomonee Falls

10.01 (1) (i) *Sale to Minors.* No person shall sell or give away any firearm, rifle, shotgun, spring gun, air gun, pneumatic pellet gun, or any instrument which impels a missile or pellet by compressed air or gas, spring or other means, or ammunition therefor, to any person under the age of 18 years.*

Middleton

16.01–(b) *Possession of Ammunition and sale to minors.* No minor person under the age of 18 years shall have in his possession any ammunition for any firearm, rifle, spring gun, air gun or pneumatic pellet gun. No person shall intentionally sell or give away any firearm, rifle, spring gun, air gun or pneumatic pellet gun, or ammunition therefor, to any person under the age of 18 years.

Milwaukee

105.34. *Definition.* The term "dangerous weapon" shall mean and include any instrument which by its capabilities of use is liable to produce death or great bodily harm. The following are dangerous per se: blackjack, billy, sandclub, sandbag, bludgeon, sling shot, slung shot, pistol, revolver, any instrument which impels a missile by compressed air, spring, or other means, any weapon upon which loaded or blank cartridges are used, cross-knuckles, knuckles of any metal, barbed or blade type, arrowhead, bowie knife, dirk knife, dirk dagger, switch blade knife, or any knife which has a blade that may be drawn without the necessity of contact with the blade itself but is instead automatically opened by slight pressure on the handle or some other part of the knife and is commonly known as a switch blade knife, straight-edge razor or any other knife having a blade three inches or longer. Instruments not herein specifically enumerated are none the less dangerous weapons when they fall within the terms of the above definition.

105.34.4. *Use of fire bombs prohibited.* (1) No person shall make, carry, possess, sell, give, or use any type of "Molotov Cocktail," which is defined to mean a flammable-liquid filled bottle or container with a fuse, wick, or any other type of ignition or detonating device, flammable liquid fire bomb, or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.

105.43. *License for sale of weapons.* It shall be unlawful for any person, firm or corporation to engage in the business of buying or selling, or to sell or give away to any person, or to buy or receive of any person, within the city, any weapon listed or defined as dangerous in Section 105–34, except rifles or shotguns used for hunting purposes, air rifles, weapons used solely for target practice purposes, straight-edge razors, household purpose knives, any knife having a blade less than three inches, or instruments necessary to certain trades, crafts, professions, or sports, without securing a license so to do as provided in Section 105–44, and no person, firm, or corporation having such license shall sell or give away any such weapon to any person within the city who has not secured a permit from the chief of police to purchase such weapon in the manner provided in Section 105–48. It is the intent of this section that no permit to purchase or no license to sell shall be required for the purchase or sale of sporting goods, which are defined as any of those items that further interest in the commonly accepted fields of sport.

105.43.5. *Unlawful to sell weapons to minors.* It shall be unlawful for any person, firm or corporation to engage in the business of buying or selling, or to sell or give away to any minor under the age of 18 any weapon listed or defined as dangerous in Section 105–34, except household purpose knives or knives having blades less than three inches.

105.46. *Permit required for purchase of dangerous weapon.* It shall be unlawful for any person to purchase or obtain by gift or any method, scheme or device by which possession is obtained without first securing from the chief of police a permit so to do, any weapons listed or defined as dangerous in Section 105–34, except rifles or shotguns used for hunting purposes, air rifles, weapons used solely for target practice purposes, sporting goods as defined in Section 105–43, straight-edge razors, household purpose knives, any knife having a blade less than three inches, or instruments necessary to certain trades, crafts, professions or sports. • • • No person shall mutilate a shotgun or rifle or destroy the identification marks of any firearm. No shotgun or rifle shall be shortened to barrell length of less than 18 inches nor shall anyone remove the serial number from any weapon.

Oshkosh

18–24. *Furnishing firearms to minors prohibited.* No person shall sell, loan or furnish to any minor any gun, pistol, fowling piece or other firearm within the city.*

Port Washington

9.11. *Sale of weapons.* (1) *License required.* No person shall engage in the business of selling, or shall sell or give away to any person, within the City, any blackjack, slingshot, billy, sandclub, sandbag, bludgeon, metal knuckles, revolver, pistol, air rifle or other instrument or weapon which uses loaded or blank cartridges, except rifles and shotguns used for hunting purposes, without securing a license so to do as herein provided, and no person having such license shall sell or give away any such weapon to any person within the City who has not secured a permit from the Chief of Police • • •.

(5). *Permit to purchase.* No person shall purchase or possess any of the weapons or articles enumerated in subsection (1) until he has obtained a permit for such purpose from the Chief of Police.

Racine

25.06. *Dangerous or concealed weapons.* (2) The term "dangerous weapon" means any instrument which by its capabilities of use is liable to produce death or great bodily harm. The following are dangerous per se: blackjack, billy, sandclub, sandbag, bludgeon, sling shot, slung shot, pistol, revolver, any instrument which impels a missile by compressed air, spring, or other means, any weapon upon which loaded or blank cartridges are used, cross knuckles, knuckles of any metal, barbed or blade type, arrowhead, bowie knife, dirk knife, dirk dagger, switch blade knife, or any knife which has a blade that may be drawn without the necessity of contact with the blade itself but is instead automatically opened by slight pressure on the handle or some other part of the knife and is commonly known as a switch blade knife, straightedge razor or any other knife having a blade three inches or longer. Instruments not herein specifically enumerated are nonetheless dangerous weapons when they fall within the terms of the above definition.

(5) No person shall engage in the business of buying or selling, or sell or give away to any minor under the age of 18, any dangerous weapon, except household purpose knives or knives having blades less than 3 inches.*

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

V 39 91 MAY 9 74 XUM

25.41 *Possession or use of fire bombs and other similar devices.* (1) It shall be unlawful for any person to make, carry, possess, sell, give, or use any type of "Molotov Cocktail" which is defined to mean a flammable-liquid filled bottle or container with a fuse, wick, or any other type of ignition or detonating device.

(2) It shall be unlawful for any person to make, carry, possess, sell, give, or use any type of flammable-liquid fire bomb or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.

(3) The provisions of paragraphs 1 and 2 of this Section shall not apply to any device used in any training program authorized by the Chief of the Racine Fire Department or the Chief of the Racine Police Department, nor to any person engaged in such an authorized training program while so engaged.

Shorewood

13–601. *Definition.* The term "dangerous weapon" shall mean and include any instrument which by its capabilities of use is liable to produce death or great bodily harm. The following are dangerous per se: blackjack, billy, sandclub, sandbag, bludgeon, slingshot, slung shot, pistol, revolver, any instrument which impels a missile by compressed air, spring, or other means, any weapon upon which loaded or blank cartridges are used, cross-knuckles, knuckles of any metal, barbed or blade type arrowhead, bowie knife, dirk knife, dirk, dagger, switch blade knife, or any knife which has a blade that may be drawn without the necessity of contact with the blade itself but is instead automatically opened by slight pressure on the handle or some other part of the knife and is commonly known as a switch blade knife, straight edge razor or any other knife having a blade three (3) inches or longer. Instruments not herein specifically enumerated are nonetheless dangerous weapons when they fall within the terms of the above definition.

13–604. *Permit required for purchase of dangerous weapons.* (1) It shall be unlawful for any person to purchase or obtain by gift or any method, scheme or device by which possession is obtained, without first securing from the Chief of Police a permit so to do, any weapons listed or defined as dangerous in Section 13–601 except rifles or shotguns used for hunting purposes, air rifles, weapons used solely for target practice purposes, sporting goods, as defined in Section 13–605, straight edge razors, household purpose knives, any knife having a blade less than three inches, or instruments necessary to certain trades, crafts, professions or sports. * * *

(3) No person shall mutilate a shotgun or rifle or destroy the identification marks on any firearm. No shotgun or rifle shall be shortened to barrel length of less than 18 inches nor shall anyone remove the serial number from any weapon.

13–605. *License for sale of weapons.* It shall be unlawful for any person, firm or corporation to engage in the business of buying or selling, or to sell or give away to any person, or to buy or receive of any person, within the city, any weapon listed or defined as dangerous in Section 13–601, except rifles or shotguns used for hunting purposes, air rifles, weapons used solely for target practice purposes, straight edge razors, household purpose knives, any knife having a blade less than three inches, or instruments necessary to certain trades, crafts, professions, or sports, without securing a license so to do as provided in Section 13–607, and no person, firm or corporation having such license shall sell or give away any such weapon to any person within the Village who has not secured a permit from the Chief of Police to purchase such weapon in the manner provided in Section 13–604.

13–606. *Unlawful to sell to minors.* It shall be unlawful for any person, firm or corporation to engage in the business of buying or selling, or to sell or give away to any minor, any weapon listed or defined as dangerous in Section 13–601, except household purpose knives or knives having blades less than three inches.

13–610. *Possession of pistol by minor.* (a) It shall be unlawful for a minor to be armed with a pistol or for any person to intentionally sell, load or give a pistol to a minor.*

(d) In this Section, "pistol" means any firearm having a barrel less than twelve (12) inches long.

Stevens Point

17.01(1)(b) *Firearms to minors.* No person shall sell, loan or furnish to any minor any gun, pistol, fowling piece or other firearm within the city.*

Wauwatosa

6.06. *Sale and use of dangerous weapons and guns.* (1) Definitions. In this section, unless the context otherwise requires: "Dangerous Weapon," means any blackjack, slingshot, billy, sandclub, sandbag, bludgeon, metal knuckles, any knife having a blade of 3 inches or more, or other similar article.

"Dangerous gun" means any revolver, pistol, air rifle, including all types of BB guns, rifle, shotgun, or any instrument or weapon in which loaded or blank cartridges or shells are used.

"Person" means any person, firm, or corporation.

(2) No person shall engage in the business of selling or giving away any dangerous weapon or gun without obtaining a license as hereinafter provided, and no person having such license shall sell or give away any such dangerous weapon or gun who has not secured a permit from the Chief of Police to obtain such dangerous weapon or gun as hereinafter provided.

This provision does not apply to rifles or shotguns used for hunting purposes, target practice weapons, or any sporting goods item defined as any of those items that further interest in the commonly accepted fields of sport, straight edge razors, household purpose knives, any knife having a blade less than 3", or instruments necessary to certain trades, crafts, professions or sports.

(4) * * *—Handguns of any caliber shall not be sold to persons convicted of a felony or to minors."*

(5) No person shall purchase any dangerous weapon or gun without securing a permit therefor from the Chief of Police. * * *.

This subsection shall not apply to rifles or shotguns used for hunting purposes, target practice weapons, or any sporting goods items defined in any of those items that further interest in the commonly accepted fields of sport, straight edged razors, household purpose knives, any knife having a blade less than 3", or instruments necessary to certain trades, crafts, professions, or sports, except as to persons convicted of crime or to minors.

(7) No person shall mutilate any revolver, pistol, shotgun, rifle, or any other firearm or destroy the identification marks thereon.

West Milwaukee

3.15. *Firearms.* 2. *Sale and display regulated.* No person, firm, or corporation shall engage in the business of selling, sell or give away any blackjacks, sling shots, billy, sand bag or sand club, bludgeon, metal knuckles, revolvers, pistols, rifles, shot gun, machine gun, grenade, bomb or any other weapon in which loaded or blank cartridges, shells, gas, explosives, or other projectiles are intended to be used, or display or exhibit for sale any such weapon, cartridges, shells, gas, explosives or projectiles, except in accordance with a seller's permit or dealer's license issued pursuant to Subsection (3); and such sale or gift shall be made only to a person not otherwise prohibited from purchasing or using such items by the provisions of Subsection (4).

3. *Dealers' licenses.* Dealers' licenses shall be issued by the Chief of Police and shall expire automatically on May 1st following the date thereof, and shall be issued upon the filing of a written application form approved by said Chief of Police and presentation of a receipt showing the payment of the annual fee of Ten ($10.00) Dollars to the Village Treasurer. Every such licensee shall make out and deliver to the Chief of Police every 24 hours a legible and correct report of any sale or gift made under authority of such license during the preceding twenty-four hours which report shall contain the date of such sale or gift, the name of the purchaser or donee, his or her address and age, the number, kind, and description of such weapon, and the purpose for which said weapon was acquired.

4. *Purchase of.* No person shall purchase or receive any of the weapons or items mentioned in Subsection (2) if said person: a. is under eighteen years of age, or, b. is under indictment in any court for a crime punishable by imprisonment for a term exceeding one year, or, c. has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or, d. is a fugitive from justice, or, e. is an unlawful user of, or addicted to, marihuana or a depressant, stimulant, or narcotic drug, or, f. is under the influence of a drug or is intoxicated, or, g. has ever been adjudged mentally defective or has ever been committed to a mental institution, or, h. has been discharged from the Armed Forces under dishonorable conditions, or, i. is an alien illegally in the United States, or, j. is a person who, having been a citizen of the United States, has renounced his citizenship.*

3.22 *Use of fire bombs and other similar devices.* (1) No person shall make, carry, possess, sell, give, or use any type of "Molotov Cocktail," which is defined to mean a flammable-liquid filled bottle or container with a fuse, wick, or any other type of ignition or detonating device, flammable liquid bomb or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.

White Fish Bay

15.12. *Weapon dealers.* (1) *Sale and display prohibited.* No person shall engage in the business of selling, sell or give away any blackjack, sling shot, billy, sand bag, sand club, bludgeon, metal knuckles, revolvers, pistols, shot gun, machine gun, grenade, bomb or any other weapon in which loaded or blank cartridges, shells, gas, explosives or other projectiles are intended to be used, or display or exhibit for sale any such weapon, cartridges, shells, gas, explosives or projectiles or any sign, poster, display card or other matter advertising or suggesting the sale of any such weapon, cartridge, shell, gas, explosive or projectile, except in accordance with a dealer's license issued pursuant to subsection (2) and shall make such sale or gift only to a person holding a buyer's license

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-on (21) years of age.

issued and in effect pursuant to subsection (3).

(2) *Dealers' licenses.* Dealers' licenses shall be issued by the Chief of Police and shall expire automatically on May 1 following the date thereof, and shall be issued upon the filing of a written application in form approved by said Chief of Police * * *.

(3) *Buyers' licenses.* Buyers' licenses shall be issued by the Chief of Police upon an application in writing, setting forth the name, address, age, height, weight, complexion, nationality and other means of identification of the applicant; also, the purpose for which said weapon is to be used and full detail as to conviction of the applicant of any crime. * * *.

(4) *Purchase of.* No person shall purchase or receive any of the weapons mentioned in subsection (1) without first securing a license so to do as provided in subsection (3).

(5) *Rifles and shot guns for hunting purposes excepted.* The provisions of subsections (1) to (4), both inclusive, shall not apply to rifles or shot guns under twenty (20) inches length of barrel and ammunition for same, commonly and lawfully used for hunting purposes in this state.

Wisconsin Dells

11. *No person shall sell* any firearms, blackjack, billy, bludgeon, crossknuckles, knuckles of any metal, bowie knife, dirk knife, dirk, dagger, switch blade knife or any other knife having a blade three inches or longer to any minor in the City of Wisconsin Dells * * *.

WYOMING

State Law

WYO. STATS. ANN. TITLE 6

6–241. *Possession of weapons by aliens.* Every person, not being a citizen of the United States, who shall own, possess, wear or carry any dirk, pistol, shot gun, rifle, or other fire arm, bowie knife, dagger, or any other dangerous or deadly weapon, shall upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) or imprisoned in the county jail not more than six months, or by both such fine and imprisonment.

6–243. *Dealer's and pawnbroker's firearms register—Required to be kept; information to be shown.* All wholesalers, retailers, dealers and pawn brokers are hereby required to keep a record of all firearms which may come into their possession, whether new or second hand, which record shall be known as the firearms register. Such register shall contain the following information, to-wit: The name of the manufacturer, person, persons, firm or corporation from whom the firearm was obtained, the date of its acquisition, its manufacturer's number, its color, its caliber, whether the same is new or second hand, whether it is an automatic, a revolver, a single shot pistol, a rifle, a shotgun or a machine gun, the name of the party to whom said firearm is sold in such purchaser' handwriting and the date of such sale.

6–244. *Same—To be signed by purchasers.* Every person who purchases any firearm from any retailer, pawn broker or dealer, shall sign his name or make his mark properly witnessed, if he cannot write, on said firearm register, at the time of the delivery to him of any firearm so purchased.

6–246.1. *Rifles and shotguns—Defined.* Rifle—a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Shotgun—a weapon designed and redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

6–246.3. *Same—Resident may purchase or receive delivery; restrictions and requirements.* It is hereby declared by the State of Wyoming that it is lawful for a resident of the State of Wyoming, otherwise qualified, to purchase or receive delivery of a rifle or shotgun in a state contiguous to the State of Wyoming, subject to the following restrictions and requirements:

(a) The sale must fully comply with the legal conditions of sale in both such contiguous states.

(b) The purchaser and the licensee must have, prior to the sale or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) of the Federal Gun Control Act of 1968 [18 U.S.C. § 922(c)], applicable to interstate transactions other than at the licensee's business premises.

Cheyenne

46–1. *Definitions.* Dealer: Any person engaged in the business of selling firearms at wholesale or retail or of accepting pledges or pistols as security for loans. Firearm: Any weapon which is designed to expel a projectile by the action of expanding gases.

46–5. *Possession of firearms—Criminals, drug addicts, etc.* No person who has been convicted of a crime of violence in any court of the United States, the several states, territories, possessions or the District of Columbia or who is a fugitive from justice or is of unsound mind or is drug addict or a habitual drunkard or is a member of a subversive organization shall possess a firearm within the city.

46–6. *Same—Minors.* No person under the age of eighteen years shall possess a firearm. This section shall not apply to the issuance of pistols to members of the State Militia, R.O.T.C., or the armed forces of the United States for training or active duty or to temporary loans of pistols for instruction under the immediate supervision of a parent or guardian.

46–7. *Sale, possession, etc., of firearms without manufacturer's identification mark prohibited.* No person shall receive, possess, sell, lease or otherwise transfer any firearm from which the manufacturer's identification mark or serial number has been removed.

46–9. *Exceptions.* This chapter shall not apply to duly appointed officers of the city, county or state or of the United States in the lawful discharge of their duties as such officers, nor to transactions in which delivery is made of a pistol by mail or other common carrier to a destination not within the city.

46–10. *License—Required.* No person shall sell any firearm at wholesale or retail or shall lease, pledge or accept any firearm as security for a loan without obtaining a license therefor.

46–14. *Pistols—Sale and delivery.* When any sale of a pistol, the overall length of which is less than six inches, is made under this article, forty-eight hours must elapse between the time of the sale and the time of delivery to the purchaser. All pistols shall be securely wrapped and unloaded when delivered to the purchaser.

46–16. *Sales, etc., to criminals, dope addicts, etc.* No person shall sell, lease, lend or otherwise transfer a firearm to any person whom he knows or has reasonable cause to believe has been convicted of a crime of violence or is a fugitive from justice or is of unsound mind or is intoxicated or is a drug addict or an habitual drunkard or is a member of a subversive organization.

46–17. *Sales, etc., to minors.* No dealer shall sell, lease, lend or otherwise transfer a firearm to any person under twenty-one years of age except as provided in section 46–6.

Cody

34–4. *Furnishing deadly weapons * * * to minors.* It shall be unlawful for any person to sell, barter, give away, or to dispose of in any other way, to any person under the age of twenty-one years, any pistol, dirk, knife, slingshot, knucks, or any other deadly weapon of any kind, which can be worn or concealed upon the person.

It shall further be unlawful to sell, barter, give to or dispose of in any other way to any person under the age of sixteen years any cartridges manufactured and designed for use in a pistol.*

Powell

8.24. *Disposing of weapons to minors.* It shall be unlawful for any person to sell, barter, give away, or to dispose of in any other way, to any person under the age of twenty-one years, any pistol, dirk, bowie knife, slingshot, knucks, or any other deadly weapon of any other kind whatsoever, which can be worn or concealed upon the person, and it shall further be unlawful to sell, barter, give to or dispose of in any other way to any person under the age of sixteen years any cartridges manufactured and designed for use in a pistol.*

8.25. *Police excepted.* The provisions of this Article shall not apply to any duly appointed law enforcement officer in the lawful discharge of his duties as such officer.

Sheridan

19–44. *Weapons—Sale, etc., to minors.* It shall be unlawful for any person to sell, barter or give to any other person under the age of twenty-one years any pistol, dirk or Bowie knife, slingshot, knucks or other deadly weapon that can be worn, carried or concealed upon or about the person, or to sell, barter or give to any person under the age of sixteen years any cartridges manufactured and designated for use in a pistol.*

GEORGIA

State Law—(Continued)

GENERAL ASSEMBLY OF GEORGIA

An Act to amend an Act known as Georgia Firearms and Weapons Act approved April 8, 1968 (Georgia laws 1968, page 983), so as to define the term "shotgun"; to change the definition of the term "sawed-off shotgun"; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. An Act known as the "Georgia Firearms and Weapons Act," approved April 8, 1968 (Georgia laws 1968, page 983), is hereby amended by striking subsection (a) of section 4 in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

"(a)(1). The term 'shotgun' means a weap-

*NOTE.—Licensees under The Gun Control Act of 1968 are prohibited from selling or delivering handguns and handgun ammunition to persons under twenty-one (21) years of age.

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on designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

"(2). The term 'sawed-off shotgun' means a shotgun or any weapon made from a shotgun (whether by alteration, modification, or otherwise) having one or more barrels less than eighteen inches in length or if such weapon as modified has an overall length of less than twenty-six inches."

Section 2. This Act shall become effective upon its approval by the Governor or upon its becoming law without his approval.

Section 3. All laws and parts of laws in conflict with this Act are hereby repealed.

Effective date: March 21, 1974.

GUAM*

Territorial Law

GOV'T CODE, TERRITORY OF GUAM

Chapter X of Title IX of the Government Code of Guam is hereby repealed and reenacted to read as follows:

8900. *As used in this Chapter:* (a) 'Firearm' means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

(b) 'Pistol' or 'revolver' means any firearm of any shape whatever, and designed to be fired with one hand with a barrel less than twelve inches (12") in length and capable of discharging loaded ammunition or any noxious gas.

(c) 'Rifle' means a firearm designed, made, redesigned or remade, and intended to be fired from the shoulder and to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such firearm which may be readily restored to fire loaded ammunition, and any antique rifle or long gun, regardless of the type of charge or projectile used, which is capable of being used as a weapon.

(d) 'Shotgun' means any firearm designed, made, redesigned or remade and intended to be fired from the shoulder and to fire through a smooth barrel either a number of projectiles (ball shot) or a single projectile, and shall include any such firearm which may be readily restored to fire any of the above, and shall also include any firearm of any age designed and capable of firing the above-mentioned projectiles.

(e) The terms 'Director' and 'Department' means the Director of Public Safety and the Department of Public Safety respectively.

8900.1. *This Chapter shall not apply to:* (a) Law enforcement officers when using firearms authorized by the Director in their official duty.

(b) Persons in the Armed Forces of the United States engaged in official duty.

(c) Devices which are not designed or redesigned for use as a weapon. Any device, although originally designed as a firearm, which has been redesigned, or was designed initially for use as, a signalling, pyrotechnic, line-throwing, safety, industrial or similar device, surplus ordnance sold, loaned or given by the Secretary of the Army pursuant to the provisions of Sections 4684(2), 4685 or 4686 of Title 10 of the United States Code is not covered by this Chapter.

8901. *Ownership, etc. of certain firearms prohibited.* The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, sub-machine guns, automatic rifles or any other firearm not a rifle having a barrel length of sixteen (16) inches or greater, or not a shotgun having a barrel length of eighteen (18) inches or greater, or a revolver or pistol having a barrel length of more than twelve (12) inches is prohibited. Mufflers, silencers, or devices for deadening the sound of discharged firearms are also prohibited. Any person violating this section shall be imprisoned for a term of not less than two years nor more than five years, without probation.

8901.1. *Ownership, etc. permitted.* Any person who qualifies under this Chapter may lawfully own, possess, use or carry any rifle, shotgun, pistol or revolver not prohibited by Section 8901 subject to the conditions and penalties provided in this Chapter.

8901.2. *Dealer, etc. must register.* Any person who is in the business of selling, buying, renting, or trading any firearm shall register with the Department of Public Safety under the terms and conditions set forth in this Chapter and the rules and regulations adopted hereunder before engaging in any of the above activities. The term 'in the business of' shall mean any person, natural or legal, who engages in the above activities for profit or who so engages on behalf of others, but shall not include private sales, loans, gifts or transfers of lawfully possessed firearms which have been registered and possessed under the provisions of Sections 8901.1 and 8903 of this Chapter.

8902. *Identification card required.* No person shall own, possess, use, carry or acquire any firearm which is lawful under Section 8901.1 unless he shall have first obtained from the Department an identification card evidencing his right to such ownership, possession, use or carrying, concealed or otherwise, as stated upon the face of the Card. Said Card shall be in the possession of the holder and on his person whenever he is using or has in his possession a fream. • • •

8903.2. *Upon transfer to a pawnbroker,* and upon retransfer from the pawnbroker to either the owner or to another person, a new registration must be obtained. • • •

8904.1. (a) No person may use or possess a firearm, regardless of ownership of the firearm, without possession of an identification card evidencing his eligibility to possess, use or carry such firearms.

(b) No person shall transfer, loan, give, sell either as a part of a business or individually, or permit the use of any firearm unless the person receiving the firearm has an identification card evidencing his eligibility to receive, possess, use and carry the type of firearm which he is to receive, borrow, use, buy or possess or carry. • • •

(d) No person shall wilfully alter, remove, or obliterate the name of the make, model, manufacturer's number, or other mark of identity of any firearm or ammunition. Possession of a firearm or ammunition upon which any mark of identity has been altered, removed, or obliterated shall be presumptive evidence that the possessor has altered, removed, or obliterated the same.

(e) If any person, in complying with any of the requirements of this Chapter, knowingly gives false information, or knowingly offers false evidence of any of the facts required by the Department or by this Chapter, he shall be guilty of perjury and punished therefor as provided by Section 126 of the Penal Code. Additionally, upon conviction, such person shall not be eligible for an identification card for a period of ten years, and any existing identification card issued to such person shall be revoked, and any firearms possessed pursuant to such identification card forfeited.

8905. *Dealers, etc. must register.* Any person who is a dealer, manufacturer, wholesaler, or retailer of firearms or ammunition within the territory of Guam who must register pursuant to Section 8901.2 shall do so by supplying the Department with information required by it relative to the name of the business, name or names of the owners, whether the business is a corporation, sole proprietorship, partnership or any other form, relative to the types of firearms sold, manufactured, bought or repaired by such business, to the security of the storage areas of the business wherein the firearms are stored and any other information deemed necessary by the Department. Upon receipt of the necessary information, the Department shall issue a registration card, which shall be prominently displayed at the place of business of the person or firm so registered, and copies to be displayed at each location where firearms are sold.

8905.1. Any person or firm licensed pursuant to Section 8905.2 shall, in the conduct of his business:

(1) Display no firearms or ammunition in any place where they can be seen from outside the premises.

(2) Keep all firearms and ammunition in a securely locked place at all times except when they are actually being shown to a customer or when actually being repaired or worked on.

(3) Permit only persons who are holders of identification cards making them eligible to purchase, possess and use the firearms sold by the registrant or repaired by the repair facility to have access to the firearms or ammunition, except that nothing in this section shall be construed to require a customer to show an identification card prior to his engaging in a transaction for which an identification card is required by this Chapter.

(4) Sell only to persons who have a valid identification card making them eligible to purchase, own, possess, use and carry the firearm or ammunition which is the subject of the transaction.

(5) Keep a continuing and up-to-date inventory of all firearms and ammunition in his possession and report the loss, theft, damage or destruction of the same to the Department immediately upon the discovery of the event.

8905.2. No person, other than the owner or possessor of a firearm, may accept any firearm for repair without having first been shown a valid identification card showing the person delivering the firearm to such person accepting it for repair to be eligible to possess the firearm in question. No firearm shall be returned to any person after repair or other work done on it without the repairer having seen the identification card of the one to whom the firearm is to be given.

8908. *Fees.* • • • (b) the annual registration fee for every dealer, manufacturer, wholesaler, retailer and repairer shall be One Hundred Dollars ($100.00) and shall be payable to the Treasurer of Guam for the account of the Department of Public Safety before any such registration may be issued, renewed or a duplicate issued. • • •

(d) Registrations for dealers, retailers, wholesalers, manufacturers and repairers shall be renewed annually at the same time as the business license is renewed, and shall be prorated on the same scale as is the business license for the establishment involved.

COMPILER'S NOTE.—Chapter X of Title IX of the Government Code of Guam as shown in the Text, was repealed and reenacted as shown above effective February 28, 1974.

[FR Doc.74-10901 Filed 5-8-74;10:56 am]

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federal register

FRIDAY, MAY 10, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 92

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federal register

Area Code 202 Phone 523-5240

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Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18262; FCC 74–470]

FUTURE USE OF CERTAIN FREQUENCY BAND

Second Report and Order

In the matter of an inquiry relative to the future use of the frequency band 806–960 MHz; and amendment of Parts 2, 18, 21, 73, 74, 89, 91, and 93 of the rules relative to operations in the land mobile service between 806 and 960 MHz; Docket No. 18262; FCC 74–470.

1. This rulemaking proceeding deals with the allocation of frequency spectrum in the 806–947 MHz band to the land mobile radio service and to the development of regulations pertaining to the future use of that spectrum. The first phase of the proceeding, initiated on July 17, 1968, with a notice of proposed rulemaking and notice of inquiry (33 FR 10807) and consummated on May 20, 1970, with a first report and order and second notice of inquiry (35 FR 8644), accomplished a general reallocation of spectrum in the 806–947 MHz band with the effect of providing an additional 115 MHz of spectrum to the land mobile radio service. It also provided a tentative sub-allocation of this spectrum within the land mobile service, with 75 MHz being allocated for the development of high capacity common carrier mobile communications systems to be operated by wireline common carriers and 40 MHz for the development of efficient private and shared systems for use by eligibles in the Industrial, Land Transportation and Public Safety Radio Services (Parts 89, 91 and 93 of the rules). The second and current phase of this proceeding was initiated with the second notice of inquiry, released coincident with the first report and order (38 FR 27082), and deals in greater detail with the questions of spectrum allocations within the land mobile service and the development of systems standards and other regulations applicable to the new 900 MHz land mobile bands.

2. In the second notice of inquiry, the Commission requested interested parties to undertake detailed technical and marketing studies looking toward the future use of the 900 MHz band to meet the public need for land mobile radio services to and beyond the year 1980. Special emphasis was placed on the need for greater spectrum efficiency in designing new systems for this band. In December of 1971, a number of parties submitted written reports describing the results of their developmental efforts. Supplemental filings and comments on the initial reports were received in July of 1972. Many of the technical reports and comments contained new data or raised policy questions which had not been previously addressed in this proceeding. Therefore, to allow interested parties an opportunity to present their views on these matter, the Commission received oral presentations on May 14 and 15, 1973.

3. During the course of the second phase of this proceeding some 58 parties filed written statements and/or were represented in oral arguments to the Commission. The names of these parties are listed in Appendix A. Numerous comments and letters have also been received from members of the public and Congress and have been taken into consideration. All of the information submitted to the Commission has been thoroughly analyzed and care taken to ensure that all positions and arguments are fully understood. We have now reached the point in this proceeding where we believe it appropriate to decide the major policy questions, to finalize the basic frequency allocation and to adopt specific regulations governing the licensing of 900 MHz land mobile systems. For convenience and clarity we have arranged our discussion of these matters in three sections. The first section deals with frequency allocation and related matters; the remaining sections deal with policies and regulations pertaining to the various systems to be accommodated in the 900 MHz band. Rules being adopted at this time are contained as follows.

4. The main areas of controversy throughout the current phase of this proceeding have centered on questions of spectrum allocations and Commission policies toward the regulation of the various land mobile systems which have been proposed for operation in the 900 MHz band. Before discussing our conclusions regarding those matters, we believe it will be useful to briefly define the land mobile systems which are being considered for this band.

5. The cellular system, as proposed by AT&T and others in this proceeding, is a sophisticated, high capacity land mobile system requiring a large capital investment and a substantial spectrum allocation. The spectrum assigned to such a system would be divided into discrete channels which are assigned in groups to small geographical cells covering a defined service area. The key to the cellular system's high capacity is its ability to shrink the size of those cells while holding the total amount of spectrum used by the system constant. What results is a multiple re-use of channels throughout a given geographical area and more traffic intensity per unit of spectrum in advanced stages of development than other land mobile communications system proposed to date. This is achieved, however, with considerable expense and technical complexity. Fortunately, the expense can be shared over a much larger user base than with other systems. To date, two companies, Bell Laboratories and Motorola, have submitted detailed cellular system proposals to the Commission. Although the basic systems concepts are identical, there are some technical differences which affect the amount of spectrum each system would need to operate efficiently. The primary technical difference lies in the bandwidth of the discrete channels. The AT&T proposal calls for channel widths which are 60 percent wider than those proposed by Motorola. On the surface it might appear that 60 percent more spectrum would then be needed for the AT&T proposal over that of Motorola. However, complicating the argument over bandwidth is the ability to re-use channels at close geographical spacing. According to AT&T, the wider bandwidth allows for more intensive channel re-use, which outweighs any initial spectrum saving due to the narrower channels. There is also a difference in the type of service to be provided on the two proposed systems. The AT&T system would be utilized for fleet dispatch as well as mobile telephone service, whereas Motorola's system is designed for mobile telephone service only. This difference has a significant impact on the amount of spectrum each would need. AT&T's dual purpose system calls for 64 MHz while the initially proposed Motorola telephone-only system would need 19 MHz.

6. The second class of system under consideration is the multichannel trunked system. This system is similar in concept to so-called community repeaters widely employed in the private dispatch service today except that the users would have access to a number of channels instead of just one. Actual channel access is controlled by a central computer, which gives a user the first available channel or places the user in a waiting line (queue) to be served in turn. This technique provides the user a higher grade of service than is possible in comparably loaded nontrunked systems by reducing the amount of time he must wait for a channel and/or reducing the probability that his call will be blocked. Small scale trunked land mobile systems are presently being used to a limited degree by common carriers providing mobile telephone services in the

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450 MHz band. The innovation lies in its intended application to vehicular fleet dispatching and the potential of using many more channels per system than is now possible. As proposed by both General Electric and Motorola, trunked dispatch systems would be suitable either for large single users, cooperative groups or users on a cost shared basis, or commercial operators providing service for hire. The nature of trunked systems makes them particularly suitable for serving different types of users on the same group of channels without interference. With today's single-channel systems it is generally desirable to put similar types of users on the same channels in order to control interference. That approach, however, requires separate allocations of channels for the various classes of users which often leads to spectrum inefficiencies. In the trunked system, different types of users can be intermixed more readily as they operate essentially independently of each other, the computer assigning channels on demand. Once a user is assigned a channel, it is his exclusively for the duration of his call and no one else on the system can listen or interrupt during normal operation.

7. The final category of system proposed for the 900 MHz band is the basic conventional land mobile system in use today in the lower frequency bands. While these systems may also employ one or more channels, their distinguishing feature is manually controlled channel access as opposed to the computer control used in trunked systems. This makes the conventional system simpler and cheaper, but causes some loss of traffic efficiency resulting in either fewer mobiles per channel or lower service quality. The degree of such inefficiency depends largely upon the traffic characteristics of the users. Our analysis would indicate that for a significant segment of the land mobile requirement, particularly where short range, short message communications are involved, the conventional system can be as or more efficient than the trunked system. Therefore, considering its lower cost and greater operational simplicity, the conventional system, we feel, has a definite place in the 900 MHz band alongside the more sophisticated systems described above.

DISCUSSION OF ALLOCATIONS

8. In the past, the Commission has treated land mobile spectrum requirements from a service perspective, allocating blocks of spectrum, usually on a nation-wide basis, to each of the twenty or so radio service categories. This method of allocation has led to parochialism among the users and inequitable situations where spectrum shortage and abundance exist side by side in the same cities. In this docket, we are proceeding to meet land mobile spectrum requirements in a somewhat different manner. Rather than allocating according to user categories or services, we have chosen to allocate by system type and to allow the market to determine ultimately how much spectrum is utilized by the various types of users. With this in mind, the allocation problem becomes a matter of defining the systems to be accommodated, determining how much spectrum will be needed to satisfy the demand for such systems over a reasonable period of time, and arranging the separate allocations in an orderly plan, taking into account the technical characteristics of the systems and their electrical compatibility with each other and with systems in neighboring bands.

9. The concept of allocating spectrum for systems rather than services has been accepted or encouraged by many who have participated in this docket. To be sure, some of today's service groups have asked for their own private allocations of radio spectrum, but the weight of arguments in the proceeding recognizes the drawbacks of such allocations and supports specific allocation proposals along the lines of systems or broad types of service, e.g., dispatch or mobile telephone. A half dozen different allocation plans were proposed in the various filings in this proceeding, each of which has been carefully considered in developing our own plan.

10. Throughout this docket the Commission, industry, and the public have been dealing with innumerable unknowns, ranging from radio propagation phenomena and new system technologies to innovative service offerings and future market projections for these services. While we now believe that we have a better grasp of these factors through our analysis of the information submitted to the Commission and discussions with industry and user groups, there are still a number of technical questions which only further developmental work can answer, and the ultimate demand for the proposed systems can only be determined in the market itself. For these reasons it is important that any allocation plan be flexible enough to cope with new and often unforseen technological and economic forces. We feel the allocation plan which we are advancing provides us with that flexibility while amply satisfying presently defined needs.

I. *Frequency Allocations to Cellular Land Mobile Communications Systems.* 11. Originally in this docket the Commission tentatively allocated 75 MHz for the use of wireline common carriers to develop cellular land mobile and air/ground systems. The size of this allocation was generally supported by the wireline industry and by a number of radio equipment manufacturers. However, it was opposed as being excessive by the radio common carriers, most radio equipment manufacturers, independent equipment sales outlets, private user organizations, and a large number of private users themselves. The Department of Justice and Office of Telecommunications Policy also deemed this allocation to be excessive.

12. At the time the allocation was made, in 1970, there was very little evidence to indicate if 75 MHz of spectrum was too much or too little for the intended purpose. Little was known about cellular technology and even less about the potential market for such a system. Based on our current understanding of these factors, we have concluded that the 64 MHz which AT&T proposed for a domestic public cellular land mobile system is somewhat excessive.[1] According to most market projections, 64 MHz of spectrum would handle the foreseeable demand for mobile telephone and a substantial portion of the dispatch market to the end of this century in our biggest cities. In the medium to small urban areas, those of two million and under, such an allocation would give the operator enough capacity to handle the total land mobile demand, dispatch and telephone, far beyond the time frame contemplated in this proceeding. Consequently, we are reducing the size of the allocation for cellular systems to 40 MHz. In addition, we will not assign the full 40 MHz to any single operator all at once. Rather, in each area the system operator will be given the minimum amount of spectrum required for that area initially. Additional spectrum will be made available upon a showing of need. This plan is similar to AT&T's as outlined for Philadelphia in its December 1970 technical filing. In AT&T's plan a start-up system could be established by utilizing only 12.5 MHz. As the system grew it would utilize additional spectrum until the allocation was exhausted. After that, further expansion would require cell division. Our plan, therefore, differs from AT&T's in the size of the total allocation and in the fact that the Commission will retain control over the unused portion of the allocation until actually needed in each system. We note that our approach is similar in effect to the recommendation of the Office of Telecommunications Policy which called for an initial allocation of 14 MHz for cellular systems with additional reserve to be allocated as required.

13. A 40 MHz cellular system utilizing 40 KHz channeling should have an ultimate capacity to handle about 105,000 telephone subscribers and 105,000 dispatch users (see AT&T December 1970 filing, page 40). This is sufficient capacity to handle the predicted market for mobile telephone to the year 1990 in the largest cities, plus one quarter or more of the dispatch market in those areas. There is, however, considerable uncertainty involved in predicting the mobile telephone market. This uncertainty results primarily from the possibility of the service developing into a consumer item. For this reason we have also strategically placed spectrum reserves totalling 20 MHz in proximity to the cellular allocation which could be used in the event of unexpected growth. We must stress, however, that the marketing studies submitted to the Commission do not indicate that such would be the case, at least in the foreseeable future. Moreover, should a consumer market develop, it would most probably require spectrum in excess of the total available in the 900 MHz range. Therefore, we cannot realistically plan for that kind of growth in this proceeding but would have to look to other regions of the spectrum to obtain the necessary capacity.

[1] AT&T proposed to use the remaining 11 MHz for public air-ground service.

14. AT&T has argued that an allocation of less than 64 MHz for a cellular system would result in an increase in the cost of the service. The Commission has studied this point carefully, but we do not feel that the cost penalty of reduction from 64 to 40 MHz would be significant. Using AT&T's own data, the proposed reduction in available spectrum for the cellular system will raise the shared facility cost per mobile unit by about 20 percent. In as much as the shared facilities' cost represents only about one-half to one-third of the total cost to the user, the 20-percent cost penalty is reduced to less than 10 percent in his overall bill. Moreover, the capacity and ultimate cost of mobile telephone service in a celluar system is highly dependent on technology. For instance, a reduction in channel spacing, which some have argued is feasible, could increase the total system capacity and affect ultimate costs. The application of mass production techniques and competition in the production of mobile units for the cellular system could drive prices down below that which is presently foreseen. Despite these uncertainties over the future market for mobile telephone service, we believe the 40 MHz proposed for a cellular system is sufficient and will provide for adequate growth and reasonable costs over the foreseeable future.

II. *Frequency Allocations to Air/Ground Communications Systems.* 15. At this time we are making no allocation for a public air/ground system. AT&T had proposed that 11 MHz be used for such a system although it made no factual showing in this docket to substantiate any appreciable public demand for the service which cannot be met through the use of channels presently allocated for that purpose. Furthermore, ARINC, in its July 1972 comments, noted the Air Traffic Conference of 1963 adopted a resolution which, in effect, prevents the use of public air/ground systems in scheduled service. Therefore, the spectrum which might have been allocated for air/ground service is being incorporated into the several reserve bands mentioned earlier. Should it be warranted, a separate proceeding may be instituted in the future to consider the overall question of public air/ground communications spectrum requirements. Also, the proposals of ARINC for additional spectrum for general aviation use in this band are being denied on the grounds that such proposals were considered on their merits and denied in the First Report and Order herein (paragraphs 21 through 23). No new information has been submitted by ARINC which would alter that decision. Furthermore, this band is not well suited for aeronautical services which generally require a high degree of international standardization. The use of these frequencies for mobile services in the United States will be in derogation of ITU Region II allocations and coordination of aeronautical service with neighboring countries would be difficult, if not impossible.

III. *Frequency Allocations to Conventional and Trunked Land Mobile Communications Systems.* 16. The next allocation which we will discuss is for conventional and trunked systems. For the most part, we expect those systems to be used for fleet dispatch operations of the kind now accommodated under the so-called private land mobile services. In the 1970 Report and Order, the Commission tentatively allocated 40 MHz of the 900 MHz spectrum for private land mobile services. The size of this allocation has not been seriously disputed in this proceeding, although some parties, notably equipment manufacturers and user groups, urged that the private allocation be larger. These same parties later supported the OTP recommendation of 40 MHz to be allocated for "any mobile service to be offered on a non-rate regulated competitive basis".

17. At this time we are making available an allocation of 30 MHz of spectrum for conventional and trunked systems with additional reserve bands so placed as to be readily accessible for future growth if needed. Base don market projections given by industry, 30 MHz should be sufficient in most areas well into the 1980's, and the reserve bands will take care of any unforeseen growth within and beyond that time frame. As will be discussed further in a later section, it is our intent that the allocation for conventional and trunked systems be available for both private and commercial (third party) operation and used for either mobile telephone or fleet dispatch service. These provisions are discussed in more detail in the section below dealing with the regulation of these systems.

IV. *Frequency Provisions for Industrial Scientific and Medical (ISM) Devices.* 18. Throughout this proceeding the General Electric Company has urged us to reconsider our plan to reduce the size of the ISM (industrial, scientific and medical) spectrum provision from 50 MHz to 26 MHz. General Electric claims that such a reduction will make it impossible to continue manufacturing economical microwave ovens for this band. It argues that a minimum of 38 MHz is needed to make an oven which is competitively priced and capable of cooking all types of foods properly. Although there appears to be some merit to GE's arguments, we are not inclined to give up our ultimate goal of reducing the ISM emission limits to 26 MHz. To reopen all or a large part of the original ISM provision would cause a serious reduction in the amount of spectrum available for land mobile communications services in this range. On the other hand, it is likely to be 10 to 15 years before the full land mobile allocation will be required and thus some interim provision can be made for continued use of wide-band ISM ovens during this period. This should provide necessary time for the production of ovens capable of utilizing the narrower emission, without crippling the industry by forcing it into tighter standards which are not now feasible. Our decision, therefore, is to establish a guard band 12 MHz wide immediately above the regular ISM provision so that the total spectrum available for microwave ovens would be 38 MHz. However, this guard band would carry a time limitation of 5 years, after which the band would revert exclusively to land mobile use. This will provide an opportunity for the oven industry to continue development of more spectrally efficient devices which can meet the narrower bandwidth. In the meantime, the temporary 12 MHz ISM guard band could be considered for sharing by land mobile or related services which can tolerate oven interference and which do not require a paired allocation.

V. *Land Mobile Reserve Allocations.* 19. Most parties who filed allocation proposals in this docket recommended the establishment of reserve bands to accommodate new land mobile services or unexpected growth in existing services. We feel that this concept is an excellent one and a generous amount of reserve spectrum has been incorporated into our allocation plan. Our plan calls for 8 reserve bands with a total of 45 MHz. The bands are so positioned as to allow the greatest flexibility in expanding the proposed services and for accommodating new services. The reserve bands also provide buffers between high and low power land mobile stations and provide some degree of flexibility in coping with special problems along the Canadian and Mexican borders. These reserve bands are not being allocated to any specific use at this time, but are merely designated as land mobile reserve. Their allocation in the future will be the subject of separate rule making as the need arises.

VI. *Treaty Considerations.* 20. Under present international treaty obligations land mobile operations in the 900 MHz band will be in derogation of the ITU allocation table for Region II. Such derogations are permitted under No. 115 of the International Radio Regulations, provided we afford protection to assignments operating in accordance with the ITU allocation table and accept any interference from such operations. The obligation to protect both Canadian and Mexican television assignments between 806 and 890 MHz will mean that the assignment of some types of land mobile operations, primarily high powered and/or omni-directional stations, will be impaired close to the border areas. This is especially true in Detroit and Buffalo, where even low powered mobile units might cause interference in certain nearby Canadian UHF-TV coverage areas. In exceptional cases such as these, the national allocation table we have outlined might be modified to provide land mobile spectrum relief in the reserve sections above 890 MHz. The need for such adjustment would be the subject of future rule making if necessary. In order to meet international commitments, we intend to examine all applications for land mobile stations within possible interference range of each border to ensure that harmful interference to Canadian or Mexican assignments will not result. This procedure will apply to land mobile operations within the entire band 806 to 947 MHz. More specific coordination procedures may be adopted at a later date as a result of our continuing discussions with the respective administrations.

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POLICIES RELATING TO CELLULAR COMMUNICATIONS SYSTEMS

I. *Ownership of Cellular Systems.* 21. The parties filing comments have generally not questioned allowing wireline carriers to operate cellular systems. There has been a general feeling of malaise about letting wireline monopolies expand in the mobile communications market which has been traditionally served primarily by competitive entities. However, the wireline carriers are the only organizations which have demonstrated that they possess the resources and the expertise necessary to establish cellular systems which would have nationwide compatibility. AT&T was the only entity which submitted a comprehensive proposal for developing and implementing compatible cellular systems. Therefore, we have concluded that wireline carriers should be permitted to operate cellular systems. Moreover, since a cellular system is technically complex, expensive, and requires a large amount of spectrum to make it economically viable, competing cellular systems would not be feasible in the same area. Also, as these systems will require extensive interconnection with the wireline telephone system, and nation-wide compatibility is desirable, we have concluded that only wireline carriers should be licensed to operate them.

II. *Restrictions on Wireline Telephone Companies.* 22. A major concern voiced to the Commission by various parties to this proceeding deals with potential anti-competitive action on the part of wireline telephone companies through the use of cross-subsidies. It is feared that the guaranteed revenues generated by the telephone companies in their wireline operations will be used to give them an advantage in the sale of mobile dispatch services on the cellular system.

23. The Commission is fully aware of the danger of unchecked cross-subsidization in a competitive communication market and we fully intend to take appropriate steps to ensure that this practice does not take place. Therefore, as a minimum we shall require that any wireline telephone company establish a wholly separate operating company with separate books of account, separate officers and separate personnel in order to operate a cellular land mobile system as well as any other separation requirements we may deem necessary to prevent cross-subsidization. We shall establish detailed regulations and procedures for the separation of subsidiary and parent organizations at a later date.

24. While we think that establishment of separate operating companies with separate books of account, separate officers and separate operating personnel will go far to prevent the cross-subsidization feared by many parties, we will also impose certain other restrictions on the wireline companies. They, for the most part, have already been accepted by the Bell System and the independent telephone companies. Thus, the wireland companies will not be permitted, directly or indirectly, to manufacture, provide or maintain mobile equipment. In addition, the base station components must be manufactured by companies wholly independent of the wireline carriers.[2] All contracts between any telephone company and its mobile telephone affiliate or subsidiary shall be filed with the Commission and records of all money flows and exchanges or flows of property (of whatever kind) between them shall be maintained and reported periodically in accordance with rules specified by the Commission. Moreover, any telephone company will be required to offer interconnection services to the public on the same basis as it does to its mobile telephone affiliate or subsidiary. We should like to think that these measures are sufficient to provide regulatory control of the cross-subsidization problem.

25. A number of the parties filing comments expressed a concern that permitting the wireline carriers to offer dispatch services through their cellular systems could, because of their ability to cross-subsidize, result in anti-competitive practices and eventual market dominance by the wireline companies. On the other hand, dispatch or dispatch related service makes up a substantial part of the initial market for cellular systems proposed by the wireline carriers. To exclude dispatch-type services entirely could delay or even prevent the implementation of any cellular systems. Also, if cellular systems can, through natural economies, provide lower-priced dispatch services, the public should not be denied that benefit. We have therefore concluded that the operators of cellular systems should be allowed to provide some dispatch services. With regard to the cross-subsidization issue, we feel that the restrictive measures described above will greatly minimize the ability of wireline carriers to cross-subsidize. However, we think it desirable to place some restriction on "fleet type" automatic dispatch offerings by operators whereby a dispatcher can call several vehicles simultaneously. In this regard, there is technical evidence that the widespread use of "fleet call" in a cellular system would substantially reduce its efficiency, thus eliminating an important reason for having a cellular system at all. Therefore, we will not allow cellular systems to offer dispatcher-originated communications service with "fleet call" capability whereby a single dispatcher can automatically call several vehicles simultaneously.

III. *Developmental Authorization of Cellular Systems.* 26. Initially, we will authorize only developmental systems until we are reasonably sure that all factors necessary for regular implementation are accomplished. Developmental systems will be authorized on a one-to-a-market basis and only one system per telephone company. For system planning purposes the entire 40 MHz of spectrum may be considered as being available although the Commission may limit initial assignments of spectrum to less than 40 MHz. Therefore, any proposal for an initial developmental authorization must include a request for the minimum amount of spectrum required for the area proposed to be served. Additional spectrum, beyond that specified in initial developmental authorizations, will be made available upon a demonstrated showing of need and in accordance with criteria to be set forth in a subsequent rule making proceeding to amend Part 21 of the rules to provide for the regular licensing of cellular systems. That proceeding will also provide technical standards, loading criteria, etc. It will be instituted when more detailed technical information becomes available through the developmental systems.

27. The guidelines under which developmental cellular systems will be authorized are contained in Appendix B.

THE ASSIGNMENT PLAN FOR PRIVATE, SHARED, AND COMMON USER COMMUNICATION SYSTEMS IN THE 900–MHZ BAND

Preliminary Comments. 28. In the past we have made separate allocations and provided different regulatory schemes for private systems of communication and for radio facilities used to provide service to the public. The former were authorized in the Safety and Special Radio Services and the latter in the Common Carrier Services. Nevertheless, over the years, especially during the course of the decade just passed, hybrid arrangements for radio communication facilities have evolved in the private services, particularly under our cooperative use and multiple licensing practices.

29. We have examined what we plan to do, here, in the light of the history of the foregoing regulatory framework and of the development of the land mobile services, and we have decided to modify, considerably, the traditional scheme of regulation we have followed in the past. Thus, while we still believe, as we have made clear in prior portions of this Report and Order, that common carrier-type regulation is appropriate for the large cellular land mobile radio systems (which, because of their design, can most effectively be operated by a single entity), we have determined that such manner of administrative control is neither appropriate or desirable for the variegated systems of communication we plan to authorize in the 806–821 MHz and 851–866 MHz bands.

30. In this connection we would point out that while some systems of land mobile radio communication have been authorized as common carriers, the vast majority of those employing radio are licensed in the private services. These private systems serve vital needs and requirements of governmental, industrial, and land transportation entities, but, unlike facilities licensed in the Domestic Public Radio Services, they operate under restrictions and limitations as to the persons who may employ them; as to the purposes for which they may be used; and as to the kind of messages that may be transmitted. The scheme of regulation we adopt here parallels that used in the private services. Accordingly, while our action departs from the traditional approach to administrative control over

[2] Wireline carriers will be allowed to manufacture and maintain radio equipment for use in initial developmental cellular systems. However, this equipment may not be used when the system becomes operational or in developmental systems offering service to the public.

public and private systems of radio communication, it does follow closely assignment policies and practices used in the private services. Thus, in major respects, our plan is not entirely new or untried; rather, it arises out of and amplifies and builds on what we have found to be an effective and efficient method of management of the radio spectrum.[3]

31. To explain, our new plan is designed to permit the establishment of a large variety of systems of radio communication to meet the many and varied requirements of different users. The assignment plan is flexible. It will allow police eligibles (and other classes of users, as well) to establish their own radio facilities and to manage them in ways they think best meet their individual requirements. Also, they may share facilities with other classes of users on a cooperative basis; or form nonprofit corporations or associations to serve as licensee and to manage their systems for them. In this way they will be able to spread the costs over a broader base and reduce capital and operating expenses proportionally. Finally, under certain conditions, we would license a person to provide service, on a commercial basis, to a single customer, say a large metropolitan police department. That is one possibility. Another would be to license a common user system to provide service to a number of small police forces, which may be operating in adjacent jurisdictions, under some arrangement which would afford all the means of communication they require at low cost and in an efficient manner. And, of course, many other variations of such arrangements will be possible. Our plan provides for this.

32. In addition, eligibiles will have the choice of trunked or conventional systems. Further, within each of those modes of operation, they will have a variety of ways in which to use radio, and this will permit them to tailor, to a fine degree, the communication systems they elect to establish. Added to this, overlaying all of these alternatives, they will have an option to switch from one type of system to another, and then back again, should any prove to be unsatisfactory or not to work out as expected.

33. A plan of this kind is feasible, for we now have sufficient spectrum space to offer a large number of options to the land mobile community. Thus, in any one area, and in adjacent areas, too, we have the potential for 600 single-channel conventional systems; or 30, 20-channel, or 60, 10-channel, or 120, 5-channel trunked systems. There are other combinations, too. Therefore, overall, with the spectrum we are making available for immediate use and with what we are holding in reserve, we are assured, perhaps more so than ever before, that we will be able to accommodate the needs and requirements of land mobile operations, in a most effective and efficient manner (with little or no congestion), for many years to come.

34. We are fully aware (the parties have not failed to remind us of this) that some of the entities we propose to license, i.e., entrepreneur-operated, common-user systems, could be licensed as common carriers and regulated under Title II of the Communications Act, However, our basic goal in this proceeding is, as it has been since its inception, to make available to the land mobile service additional spectrum and to do this in a way that would promote the larger and more effective use of this spectrum in the public interest, all in conformity with our duties, obligations, and responsibilities under Title III of the Act. Moreover, the type of radio operations planned, here, for the land mobile services at 900 MHz, were not envisioned by the original drafters of the Communications Act. In this instance, the radio services we are establishing fall somewhere between what Congress had in mind in framing the provisions of Title II and what it intended to cover under Title III of the Act. In these circumstances, then, we feel we have the discretion necessary to select the regulatory tools we believe will most effectively promote the public interest.

35. In accomplishing this goal, we are free, we believe, to adopt whatever comprehensive regulatory scheme is best suited for the purpose. In this instance, on the basis of the extensive record in this rule making, and also in light of our experience, particularly that over the past two decades, we find that our plan for the use of the MHz spectrum would not be best implemented by restricting the number of licensees. We are of the view, rather, that reliance should be placed on the competitive forces present in the communications market to give land mobile users the options and choices we feel should be theirs. In this connection, then, we have concluded that we do have the necessary statutory authority to choose one regulatory process which is preferable, on demonstrable grounds, over another which is not at all suited to the objectives of the action we propose to take. This, we think, is the central holding in United States v. Southwestern Cable Co., et al., 392 U.S. 157 (1968); and Philadelphia Television Broadcasting Co. v. Federal Communications Commission, 123 U.S. App. D.C. 298, 359 F. 2d 282 (1966).

36. In this connection, we have, of course, addressed ourselves to the argument advanced by a number of the parties that the Communications Act, together with certain precedents cited in support of the proposition, compel the conclusion that we do not have discretion in this matter to select one regulatory scheme over another; that we must treat any entity offering commercial service to eligibles or licensees in the private services or to the public as a common carrier and regulate that entity as a common carrier. But we do not think we are restricted or limited in this way in carrying out our duties and responsibilities under the Act of assuring the most effective and efficient use of the radio spectrum under whatever controlling circumstances exist. We believe, rather, that the Communications Act, read as a whole, directs us to regulate the use of the radio frequencies that are available in the way that affords maximum benefits to the public, and that is what we have done, here.[4]

37. In this connection, we would point out that we have allocated 30 MHz of spectrum space, or an equivalent of 600 25 kHz voice-grade channels, for the future development of mostly dispatch-type land mobile radio communications systems. Further, this is a new range of spectrum for land mobile use, much higher than that used in these services in the past. Thus, as we have mentioned, new system design; new equipment; and new marketing practices are to be worked out as the frequencies are placed in use. In these circumstances, we cannot predict with any degree of certainty what types of communication systems will emerge or what methods of marketing will make them most available to the land mobile communication users. However, our experience over the past 25 years teaches us that detailed subdivision of the spectrum, with attendant restrictions, does not always promote the fullest and most efficient utilization of radio frequencies. Accordingly, we have grouped varying classes of users and varying methods of use together and we have allocated for their use the entire band of 30 MHz. We did this specifically and intentionally, for we wanted the competitive forces in the market place and the relative needs of each user or group of users to decide what assignments are made first and to whom such assignments are made. In this way the three basic types of eligibles are placed

[3] The Commission has long treated private and land mobile communication systems under a specialized regulatory scheme. Basically, we have expanded that plan, here, to cover a wider range of alternatives for establishing or obtaining communication services. In accomplishing this objective, we have abandoned, to a large degree, the service categories employed in the past, and we have also combined private, shared, and common user systems under a single assignment and regulatory plan which we believe to be more efficient than that used in the past.

[4] It is pointed out that such a licensing practice would be at variance with that presently used in authorizing service in the Domestic Public Radio Services, under Part 21 of our rules. This is so. But where we find it necessary, in achieving a desirable goal, to abandon a trail once followed, and to turn to a new one, we must have the right to do so. There must be progress, and we must be able to learn through experience what is good and what is not, and to act upon that experience. For this reason and others set out, above, in our opinion, we deny the "Motion for Severance of the Issue of Multiple-User Licensees from the Frequency Allocation Aspects of this Proceeding and for Resolution of that Issue in an Evidentiary Hearing," filed herein on October 19, 1973, by the National Association of Radiotelephone Systems (NARS). The issue NARS points to has been debated at length. Parties, including NARS, have addressed themselves to it in their comments and pleadings and in oral argument, too, and we see no need for further proceedings to decide this legal question. Accordingly, as stated, the referenced motion is denied.

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on equal footing, i.e., private, shared, and common user systems have commensurate or corresponding opportunities to apply for and to establish systems of radio communication required to carry out authorized functions and activities. No person is excluded and no person can exclude, by recourse to challenges on economic or other grounds inconsistent with this plan, so there will be open entry to the market and competition among users, but all this on a fair basis as we have just described.

38. With this spectrum, with the combinations mentioned, we believe that the competitive forces of the market place can be relied upon to provide the foundation upon which we may properly rest our regulatory approach. To illustrate, as to the cost and quality of service, or as to the form it takes, there is no need for regulatory measures like those imposed on common carrier operations, for each user will be free to negotiate with multiple suppliers and communication companies for the facilities he needs. Also, in certain circumstances, he may apply for and construct his own system, should he find that mode of operation to his advantage. Or he may join with others to bring together the necessary elements of a radio system under our "cooperative use" practices; or form a nonprofit association or corporation for the purpose; or rely on a trade organization, which may offer communication services to its members on a nonprofit, cost-shared basis. All of these avenues are open to the user; and with them we feel he is protected from those abuses that might arise, were the circumstances other than what they are.

39. Additionally, we think it very important that we exercise our authority and adopt a regulatory plan which is greatly simplified. We want the burden on the applicant to be significantly less. We would like to cut down on the costs to the public, particularly in the case of those seeking to bring service to it through common user systems. Also, we find it imperative to adopt procedures which will enable us to authorize eligible persons to establish the radio stations applied for at a much earlier date than is possible under current processes that now apply to radio common carriers.[6]

We believe this can be best accomplished by adopting our plan—a plan we have modeled and fashioned on our practices and procedures in the private services, where a higher level of administrative efficiency does obtain.

40. On that point, we think it clear that no one user will necessarily have to look to a single business entity for service. This is as it should be, at least in the context of the fundamental objectives we have set for ourselves in the formulation of our 900 MHz assignment plan. Those objectives, we will mention again, are to provide a maximum number of ways under which a maximum number of qualified persons may, at the earliest date possible, with the least administrative delay and under minimum procedural restraints, provide themselves with the means of radio communication they may require to enable them to conduct their affairs in an efficient and effective manner.

41. Furthermore, there are great advantages to the public in having at 900 MHz a multiplicity of sources for the kinds of equipment and related facilities needed to meet the requirements of land mobile users. Companies of this kind—providing such services and facilities—can and do function independently, competing with one another for business, all without any adverse impact on the public. This being so, our plant is premised in part on the nature of the requirements of land mobile users; and we think it clear that "limited competition" or "natural monopoly" approaches, where detailed and complex regulatory procedures are imposed, would be antithetical to the best interests of these users and to the public, too.

42. Further, we are convinced that we, for our part, must not carry forward to the 900 MHz band the burdens and delays inherent in present procedures, used in regulating common carriers, except, of course, with regard to cellular service to be provided by wire line telephone companies. It is our view that it is very much in the public interest to shed this heavy cloak and exchange it for one with far greater flexibility and far greater promise for maximizing the potential of utilization of the radio spectrum at 900 MHz.[6]

43. Finally, we emphasize that our new assignment plan and the scheme of regulation we have devised to implement it are designed to be carried out on a national basis. All of the 600 radio channels are made available nationwide. The frequency assignment methodology and technical standards and our operational rules are to apply nationwide, where each frequency assignment will control where the next may be made—this without regard to state boundaries or varying local jurisdictions. In these circumstances, the methods which potential users may employ to make use of radio frequency must also be compatible on a nationwide basis. If they are not, we will not be able to achieve the goals we have set for ourselves—goals which we feel certain will bring to the public what we foresee to be means for efficient, effective, and low cost communications.

44. We recognize that some state and local authorities, in exercising jurisdiction over intrastate common carrier communications, may attempt to impose regulations and controls over some or all types of common user systems which would be inconsistent with our allocation scheme for 900 MHz. In this regard we are particularly concerned about regulation which may take the form of limiting or excluding potential users or classes of users from utilizing this band.[7] Such action would be in direct conflict with our attempt in this proceeding to establish a nationwide system of radio communications consistent with our obligation under Title III of the Communications Act. Both sections 2(b) and 221 (b) of the Act, which reserve to the states jurisdiction to regulate intrastate common carrier communications, begin with language that makes it clear that state action must yield to the sole jurisdiction and power of the Commission to provide for allocation of the radio spectrum and to issue radio licenses. We think both these sections make it clear that Congress did not intend that such regulatory powers the state may be given with respect to intrastate communications be used to inhibit or thwart the Commission in exercise of its obligations in establishing a uniform national plan for use of radio frequencies. We stated in Telerent Leasing Corp., 45 FCC 2d 204, 220, 223: "State action must yield to the sole jurisdiction and powers of the Commission to license radio facilities in the public interest" and that "no state regulation can oust this Commission from its clear jurisdiction."[8] Moreover, the Supreme Court has held that federal exclusion of state law is inescapable where compliance with both federal and state regulation is impossible. Florida Lime & Avocado Growers, Inc. *v.* Paul, 373 U.S. 132, 142–143 (1963). Accordingly, we assert Federal primacy in this area and declare that any state regulatory action that may be taken with regard to users or potential users of the 900 MHz band that is inconsistent with the rules and policy promulgated in this proceeding is unlawful. While we are reluctant to take such preemptive action, we believe it imperative to the success of this program.

[6] We would note that, over the years, where procedures have been followed that provided for consideration of economic impact on common carriers, we have witnessed what seems to us are interminable delays in the authorization of service, in some cases extending up to 4 or 5 years and at times longer. Many of these delays, in our view, had or have little or nothing to do with the ultimate merits of any given proposal; rather, they are primarily the result of efforts on the part of existing carriers to keep out competition. These efforts have been effective in delaying, if not limiting competition; and, in some cases, they have frustrated the actions of persons interested in establishing what might very well have been a valuable service to the public, all with few, if any, corresponding benefits in terms of the overall public interest, convenience, and necessity.

[6] In this regard, our 900 MHz plan will require a minimum of time for adjustments to service parameters, because we have, in our technical and loading standards, built-in allowances to permit expansion of service as it is required, all without major study or evaluation on our part. That is one of the features of the new plan, i.e., it has been conceived in a way which will permit us to eliminate the costly, time consuming, case-by-case treatment of every change or variation in the method of operation or in the charges or types of service provided by the licensee.

[7] In addition to generally frustrating the objectives of this proceeding, any state restriction limiting the number of users would have a negative impact on frequency allocation. Rather than attempting to determine by administrative process the best use of the radio spectrum, our new plan at 900 MHz harnesses the competitive forces of the market place as a regulatory tool to insure efficient and effective frequency use. If those that are first licensed do not effectively utilize frequencies or provide for public need, opportunity will encourage others to seek radio facilities which, under free competition (and the rules we have designed), will supplant the less effective radio users.

[8] Under appeal, U.S. Court of Appeals for the Fourth Circuit.

LICENSING 900-MHZ STATIONS

Eligibility. 45. Under our assignment plan, there will be three basic license classifications. Facilities will be authorized either as private, or shared, or common user stations. Under the first heading, private systems, we will license any person or entity eligible in any of the radio services included under Parts 89, 91, and 93 of the rules.

46. In the second license classification, we include, as eligibles, any person or entity offering to provide communication services and facilities, on a not-for-profit, cost-shared basis, to persons eligible under either Part 89, 91, or 93 of the rules. Thus, the licensee may be an individual licensee; a non-profit corporation or association, formed for the purpose of providing radio facilities to qualified participants; or it may be an entity such as a medical society or industry organization which has as its primary purpose some function other than the provision of communication services for their members.

47. Under the third and last license category, we have grouped commercial common user systems. These include any commercial concern offering to provide service to persons eligible under either Part 89, 91, or 93 of the rules, on the one hand, and on the other, to the public, in general, without regard to the eligibility factor. As we will point out, later, arrangements of the first type will be regulated differently from those of the other type; but in neither case will the licensee be subject to regulation as a common carrier.

48. Reviewing, then, there are to be three license categories, that is, one for private systems; another for shared systems; and the third for commercial common user facilities. Private systems, we envisage, will not be unlike those authorized under our present rules. Shared systems are to be operated on a not-for-profit, cost-shared basis, and they are to be available only to persons eligible in the private services. But the third license category is a new one, for under it commercial concerns will be able to provide communications services for profit, either to eligibles under Parts 89, 91, and 93, or, alternatively, to the public, in general.[9]

Policy on Interconnection. 49. Our new rules also place restrictions on interconnection. In this regard, our policy will be to permit full interconnection only in those cases in which the licensee provides radiotelephone services, on a commercial basis, to the public. Thus, where the licensee serves himself (a private system), or where he provides service to eligibles on a not-for-profit, cost-shared basis (a shared system), or where service is offered to a restricted class of eligible users, but on a commercial basis (one of the two forms of common user systems), interconnection with the wire line facilities of the telephone company serving the area will be limited to those situations in which it is accomplished manually, by a person in the employ of the licensee or user, at the licensee's or user's principal place of business. Interconnection at a control point common to more than one licensee or user will not be allowed.[10]

50. Our policy on interconnection is being adopted because our continuing experience with it, in the private services, has convinced us that the mode of operation is basically incompatible with dispatch-type requirements. Thus, where interconnection is used, message time invariably increases, and, further, it brings into play a number of factors which decreases system efficiency. These factors include dial-up time requirements; use of "hold" features of telephone facilities; and a tendency not to monitor the channel before transmission, even in those cases in which the equipment employed is designed to permit it. Accordingly, while we know that interconnection is desirable in certain situations and necessary in others, we make limited provision for it, as previously explained.

Other Restrictions on Operation and Use of 900-MHz Systems. 51. We have said that we plan to license 900-MHz stations under three basic categories, namely, as private systems, where licensees use their stations in carrying out authorized activities and functions; next, as shared systems, where service and facilities are provided to eligible persons on a not-for-profit, cost-shared basis; or, finally, as common user systems, where commercial firms offer facilities and services either to eligibles in the private services or to the public.

52. Now, in every instance in which service is to be provided solely to eligibles in the private services (in three of the four use categories just mentioned), there are to be three additional license restrictions. First, radio facilities so authorized may only be used for purposes expressly allowed in the radio services included under Parts 89, 91, and 93 of the rules. Second, each licensee or user must be shown to be eligible for facilities, either under this subpart or in the radio services, listed, above. Third, all messages and transmissions must be limited to those permitted in the services in which the participants are eligible.

53. These license restrictions are in contrast to those governing stations employed to provide radiotelephone services to the public. In the latter system, interconnection is to be allowed. There are to be no restrictions on the class of persons served, and messages of all types may be transmitted. In brief, common user systems of this type are to have the maximum degree of flexibility in the way, and by whom, they are employed; whereas, private, shared and common user facilities, used to serve specific classes of eligibles, are to be restricted and designed in a way that will permit qualified persons to conduct certain activities and functions in an efficient manner.[11]

Filing and Processing of Applications for 900 MHz Facilities. 54. Applications for stations are to be submitted to the Commission at its offices in Washington, D.C.[12] All applicants are to use FCC Form 400, along with the additional information which must be submitted in connection with 900-MHz facilities.[13]

55. Our plan is to process these applications essentially in the order in which they are received. Once received, the proposal will be reviewed to determine whether it is acceptable for filing, i.e., not deficient in any material respect. If it is acceptable, it will be assigned a "priority", based primarily on the date and time it was filed. It will then be placed on our "processing line" for consideration "in turn". Where possible, the application will be granted. Should this not be possible, the proposal will be dismissed or denied, depending on the circumstances, and returned to the applicant, and, in this event, he will lose his assigned "priority".

56. These procedures will be followed until all of the channels available in the

[9] While, as we have indicated, we will not treat these commercial ventures as common carriers, this does not mean that they will not be regulated. They will be, but in a way which will promote, in our view, the fuller and more effective use of the new spectrum in the public interest.

[10] This practice is now being followed in connection with shared community repeaters authorized in the Business Radio Service in the 450–470 MHz band. It has worked well, and we have received no complaints from licensees that the restriction interferes in any meaningful way with their traditional dispatch-type operations.

[11] This point may be illustrated by the use made of radio systems by public utilities, eligibles in the Power and Petroleum Radio Services. There, radio is used as a "tool", so that these enterprises may provide utility service on a more effective and efficient basis. And in the Fire and Police Radio Services, where, again, radio is used as a "tool," not in the conduct of the personal affairs of policemen and firemen, but to allow officials to carry out their governmental functions in a more effective and efficient manner. That is the essence of the private services, and we preserve it in the 900-MHz licensing processes through the limitations and restrictions placed on systems operated for, or by, groups eligible in these services.

[12] Applicants proposing operation within the Chicago Spectrum Management Region as defined in the First R&O Docket No. 19150, adopted Oct. 28, 1971, 36 FR 2167 shall file their application on Form 425 with the Chicago Regional Office. A subsequent order will be issued delegating authority to the Chicago Regional Office for the processing of such applications. Rules adopted herein will apply in the Chicago Region pending possible future rule making dealing specifically with 900 MHz land mobile operation in that Region.

[13] While we have not established a schedule of fees for filing or grant of applications for 900 MHz facilities, we plan to do so following the issuance of our report and order in this proceeding. Meanwhile, we will accept applications for filing, subject, however, to the payment of the required fees at such time as they are established.

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area are assigned. At that time, all applications on file, proposing operation in the area in question, will be placed in "pending status", if the applicant has made this election. Following this, each application in "pending status" will be considered "in turn" at such time as additional frequencies become available.[14] Where the applicant has not made this election (that his proposal be retained in "pending status"), it will be returned to him. He may, then, either file it at a later date or submit it, in modified form, for consideration for grant in some other area or region.[15]

57. We should emphasize, here, that applications for stations in the 900–MHz band will be processed and considered within the framework of specific standards, those set out in our rules. If the proposal meets these specifications, it will be granted. If it does not, it will either be dismissed, or denied, or kept in pending status, whichever action the facts of the case demand. In general, then, there are to be no hearings on comparative or economic issues, as such; and petitions to deny, in general, will not be entertained nor will other procedural or administrative remedies be available, except where the law so prescribed.[16]

58. These practices have been worked out, with care, to enable us to attain our primary objectives, i.e., to provide the maximum number of channels for communication to the maximum number of qualified users at the earliest possible date, all with a minimum of regulatory "red tape", but with options as to how, and from whom, service may be obtained.

59. Achievement of these goals is possible, we think for we have sufficient spectrum space, with additional channels in reserve, to permit the establishment of multiple facilities in any one area or region and to duplicate them in adjacent cities and communities. With this, and with the licensing alternatives provided for, there will be no need for comparative consideration of proposals. Besides, such hearings would preclude implementation of our scheme of regulation, since it rests, in an essential way, on there being free and open competition in each area between persons offering equipment and services.[17]

SELECTION AND ASSIGNMENT OF FREQUENCIES IN THE 900–MHz BAND

Preliminary Considerations. 60. As pointed out, we have allocated 30 MHz for use in providing service to persons qualified to operate at 900–MHz. This has been done in two bands, with 15 MHz allocated in the 806–821 MHz band and 15 MHz in the 851–866 MHz band.

61. In both trunked and conventional systems, mobile station transmitting frequencies will be selected from those available in the 806–821 MHz band and base station transmitting frequencies, from those allocated in the 851–866 MHz band. There will be uniform 25-kHz channeling; and the spacing between associated mobile and base station frequencies, in each instance, will be 45 MHz.

62. This 30-MHz allocation makes possible a number of options for system design. For example, we could authorize 600, single-channel conventional stations. On the other hand, we could have 30 trunked systems, with 20 channels each; or 60, with 10 channels; or 120 with 5 channels. There are other combinations, too; but the important feature of our plan is its flexibility. This flexibility gives assurance that competitive forces in the market place can operate freely and allow the establishment of the best combination of services and facilities possible under the present state-of-the-art.

63. But, initially, as a matter of policy, we have decided not to authorize, in any one area or region, more than 100 25-kHz channel pairs for conventional use and 200 25-kHz channel pairs for trunked systems. The remaining 300 25 kHz frequency pairs will be temporarily reserved to give us an opportunity to study system development trends in the available spectrum. Further, we do not want to allow one type of system to dominate the market, where the other might better serve the needs and requirements of eligible users. Accordingly, as an interim safeguard, we will impose the restriction mentioned.

Frequency Assignments for Trunked Systems. 64. Applicants for trunked systems will be assigned frequencies in groups, from 5 to 20 channels, depending on the nature of the service to be provided; the area to be served; the class and number of users or customers to be offered facilities; and a number of other factors.

65. Mobile station transmitting frequencies for trunked operation will commence with Channel No. 1 at 820.9875 MHz, followed by Channel No. 2 at 820.9625 MHz, and proceed to the band end with uniform 25-kHz channeling. Base station transmitting frequencies will commence with 865.9875 MHz, Channel No. 1, followed by 865.9625 MHz, Channel No. 2, and proceed to the band end with uniform 25-kHz channeling.[18]

Frequency Assignments for Conventional Systems. 66. Applicants for conventional systems will be assigned channel pairs in accordance with applicable loading criteria.[19] Where justified, on the basis of the showing made by the applicant, one or more channel pairs will be made available to him for use in his system of communications. However, the absolute maximum number of channels that will be made available for use in a conventional system will be five, regardless of the number of mobile units the applicant plans to serve.[20]

67. Mobile station transmitting frequencies for conventional systems will commence with Channel No. 1 at 806.0125 MHz, followed by Channel No. 2 at 806.0375 MHz, and proceed to the band end with uniform 25-kHz channeling. Base station transmitting frequencies will commence with Channel No. 1 at 851.0125 MHz, followed by Channel No. 2 at 851.0375 MHz, and proceed to the band end with uniform 25-kHz channeling.[21] As in the case of trunked systems, discussed immediately, above, the spacing between associated mobile and base station frequencies will uniformly be 45 MHz.

Authorization of Operational Fixed Stations in the 900-MHz Band. 68. Much thought has been given to whether operational fixed stations should be permitted in the 900–MHz band. However, for the same reasons that have persuaded us in the past, we will only allow control stations and then only with specific limitations similar to those now applying to such stations in the 450–470 MHz band.

69. These limitations require that the control station operate on the assigned frequency of the associated mobile station. Also its use is subject to the condition that harmful interference not be caused to stations of licensees authorized to use the frequency for mobile service communications. Further, and in order to minimize potential interference, directional antennas will be required at control stations and their power output will have to be adjusted so that the control station's signal at the controlled station will not exceed by more than 6 dB the signal of an associated mobile transmitting from the same location as the control station.

PROTECTION PARAMETERS FOR OPERATION IN THE 900–MHz BAND

In General. 70. We gave much thought to the development of appropriate protection parameters for stations operating at 900 MHz. In doing so, we kept in mind our basic objective of authorizing multiple systems of communication capable of providing a variety of services to a large number of eligible persons and, also, to the public, in general. To attain this objective, we knew we would have to have a regulatory plan which would be relatively simple to implement and which would allow us to pass on each proposal in an orderly but expeditious manner, without recourse to highly complex and time consuming procedural and adjudicatory processes.[22]

71. With this in mind, we first looked into the question of whether protection should be accorded both co-channel and adjacent channel operations. We concluded that adjacent channel protection would not be necessary in making frequency assignments. Our plan of placing all base station transmitters in one band separated by 45 MHz from the base station receiving band eliminates the potential for adjacent channel interference between base stations. We recognize the potential of random adjacent channel interference when a mobile receiver is in close proximity of a base station transmitting on an adjacent channel. We believe, however, that the probability of intersystem interference to be so small and random as not to be a serious problem. Also, the possibility of intersystem adjacent channel interference within a trunked group of frequencies, in our view, can and should be minimized or eliminated by the system operator. Our greatest concern (with regard to adjacent channel interference possibilities) had been that control stations, operating at fixed points, might cause harmful interference of this type. But by limiting power and by our other requirements, we feel that the adjacent channel interference potential will be controlled. Accordingly, we have concluded that adjacent channel interference need not be taken into account in 900 MHz channel assignments, and we have not done so.[23] And, by taking this approach, we will be able to achieve great flexibility in the assignment and use of frequencies in both conventional and trunked systems of communications.

72. We also concluded that transmitter intermodulation interference would not be a factor in making frequency assignments. The principal source of this interference stems from high powered base stations operating in close proximity, both physically and frequency wise. Trunked systems will create this situation by their very nature. But odd order transmitter intermodulation products of the magnitude to cause a problem will fall outside this particular band and the overall allocation structure is such as to minimize the problem.

73. In summary, we have concluded that adjacent channel interference and possible interference from intermodulation can be disregarded, in this instance, in establishing protection parameters for 900–MHz systems.[24] It follows that our assignment plan is based primarily on co-channel operating characteristics, particularly in terms of propagation of signals and on the design of available receiving equipment. With this decided, we turn to a discussion of the various considerations which went into determining the specific co-channel separation requirements for trunked and conventional systems of communication.

Co-Channel Station Separation. 74. As just mentioned, in establishing mileage separations for co-channel stations, a number of factors were taken into consideration. Among these were permissible power and antenna height. Next, whether the same maxima should be specified for trunked and conventional systems; and, in addition, whether these maxima should be identical for urban, in contrast to suburban, operations. Also, the quality of service and the related consideration, interference levels, are important parameters.

75. As to the specification of permissible power and antenna height, propagation characteristics at 900 MHz and probable station locations were looked into.[25] On the latter point, we have concluded that most trunked and conventional stations will be established in areas of relatively high population density. It would seem certain that trunked systems would be located there, since they will be expensive to construct and operate and only in the larger markets will there be present an economic base sufficient to support them. Further, it is most likely that the majority of conventional systems will also be located in heavily populated areas, because it is in such locations that greatest frequency shortages have been experienced.

76. Our study of the desirable level of signals in 900–MHz systems, led us to conclude that we should set maximum power and antenna height at 1 kilowatt (ERP) and 1000 feet (AAT), or the equivalent, respectively.[26] This will be for all trunked operations and for those conventional systems with transmitter sites located within 15 miles from the geographic center of the Urbanized Areas listed at Table 1 of § 89.751(g) of our new regulations. For conventional systems with transmitter sites more than 15 miles from the geographic center of the referenced Urbanized Areas, we felt lower power and antenna height could be used. In those regions there are generally fewer tall buildings; line-of-sight conditions are not uncommon; and the absorption factor is down. Accordingly, we felt it reasonable to set the limits at 500 watts (ERP) and 500 feet (AAT), respectively.[27] Nonetheless, should these power and antenna height parameters for suburban stations prove to be unduly restrictive, we will take the steps neces-

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[14] We should add, "together with those submitted at a later date, seeking facilities in the same area." We do not intend to preclude the filing of applications even where the frequencies allocated for use in a given region have been exhausted.

[15] This may be an alternative course of action an applicant may wish to follow, because we will not permit anyone to file multiple applications for radio facilities where such proposals are situated so that if one application is granted, some other one, filed by the same applicant in an adjacent area, would have to be denied or dismissed.

[16] These procedures parallel those employed by us in licensing radio facilities in the private services. There, we have found they work well, enabling us to license facilities with the minimum delay, for the benefit not only of the licensee but, ultimately, for the public, as well.

[17] Our experience under the licensing procedures presently employed in the private services, where hearings have not been necessary, contrasted to the administrative delays occasioned by the processes applicable to common carrier regulation, confirms our views in this regard. We see no reason why the same benefits should not be translated to apply at 900 MHz.

[18] The band ends referred to will be determined by the policy mentioned, above, at para. 63.

[19] See § 89.802, et seq., of the new rules.

[20] Where an eligible has requirements for additional frequencies, he must meet those needs through the use of a trunked system. We emphasize a maximum of 5 channel pairs will be assigned to any one licensee for use in a conventional system.

[21] As in the case of trunked systems, the interim criteria will apply, here, too. See para. 63, supra.

[22] In the future, when our computer procedures and capabilities are advanced further, new licensing and assignment methodology will be utilized. But, for the present, we must evaluate proposals on the basis of the standards and criteria set out in our opinion and our new 900 MHz rules.

[23] This is our present thinking, nevertheless we may make a further evaluation of this factor in our Chicago Spectrum Management Region.

[24] As in the case of potential adjacent channel interference, the possible impact of intermodulation interference may be studied further in our Chicago Spectrum Management Region.

[25] On propagation at 900MHz, we studied both our own R–6602 curves and the so-called Okumura curves, referred to an relied on by a number of the parties filing comments. We found no great differences in the signal levels predicted. The major distinction between them involved the dissimilar receiving environment in which the test data was gathered. As to this, we applied a correction factor; and with it, there was very close correspondence in the two sets of data. Overall, we believed the data to be highly reliable, and we used it in predicting signal level contours and corresponding service area mileages.

[26] Our objective is to provide a high quality signal to about 50 percent of the locations, 50 percent of the time, within the service area of the stations. To accomplish this objective would require a signal approximately 20 dB above receiver threshold, at the edge of the service area. We have also assumed, based upon the record of this proceeding, that receivers will be available with a sensitivity of 0.45 microvolts across a 50 ohm antenna terminal for 20 dB SINAD. On this basis, the average desired signal level should be 40 dBu at the edge of the service area. Based on available propagation data, R–6602 curves modified to account for mobile antenna receiving heights, urban, suburban, or rural environments, terrain, roughness, etc., this quality of service could be afforded in the order of 20 miles in an urban environment with a 1000 feet (AAT) antenna and 1 kilowatt power (ERP). To maintain this quality of service with a margin to permit solid capture of the FM receiver, the interfering signal from a distant co-channel station should be 10 dB less than the desired signal at the boundary of the service area of the protected station. This would mean that the interfering signal could not exceed 30 dBu in 10 percent of the locations, 50 percent of the time.

The value of 40 dBu was employed for a number of reasons, but in simple terms we selected it because we determined that it would, in the absences of interference, enable the licensee of a 900-MHz facility to give a high level of service in the area in which he planned to operate. At 900 MHz this is important, because systems and equipment will be relatively expensive; and there must be some compensating factor for the investment required to establish service.

[27] While it might be argued that greater range in suburban areas is desirable, because the distances between points of communication would seem likely to be more than that found in urban areas, we still believe the lower limits are warranted. In part, our reason has to do with our plan for loading suburban-conventional systems, where 25-mile radii will be employed, not 15-mile radii used in connection with urban-conventional systems. In any event, under suburban/rural conditions, we would expect a useable signal to be received at essentially the same levels as for urban stations with greater power and antenna height.

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sary to adjust these values. These are maximum values for power and antenna height; and the applicant, of course, must justify his request based on his coverage requirement.

77. Summarizing on this aspect of the rule making, we have set 1 kilowatt (ERP) and 1000 feet (AAT) as the maximum permissible power and antenna height for trunked systems and for urban-conventional facilities. For suburban-conventional systems, we selected 500 watts (ERP) and 500 feet (AAT) as the limits.[28] With these powers and antenna heights we are certain all classes of stations will offer satisfactory service to those using them.[29] But there is one further matter to take into account, establishing limits on interference.

78. As to interference, we concluded that the undesired signal should be 10 dB down from the desired one. This will mean that at the 40 dBu contour, of the protected station, the signal strength of the lower priority facility should not exceed 30 dBu. Translated in terms of mileage, it simply means that the two facilities, to afford one another the protection required, must be 70 miles apart. For suburban conventional stations, the distance is less, 45 miles. This is due to the use of lower power and antenna height. Accordingly, these are the values we will use, but they will not be applied in the same manner to trunked and conventional systems, due to the complexity of the loading problem, to be discussed, below.

Trunked Systems. 79. As just stated, the separation between co-channel trunked systems is to be 70 miles. This standard is to apply in every case, regardless of where the trunked facility is located. This is feasible in trunked operations, because the applicant must make an initial showing that the facilities requested will be occupied in conformity with the applicable loading criteria.

Conventional Systems. 80. As we have said, for urban-conventional systems, a basic co-channel separation of 70 miles is required to enable the licensee to produce signal levels sufficient to give good, or highly reliable, service. For suburban-conventional systems, the separation is 45 miles. But we cannot apply this criterion directly, because, for conventional system, special provisions must be made to make loading feasible. For this purpose, for now, we have decided to use a simple protected-area approach. For urban-conventional systems, this will be that area circumscribed by a circle with 15 mile radaii. This will be measured from the designated geographic center of the Urbanized Area involved, as set out in § 89.751(g), Table 1, of the new rules. Accordingly, all applications for urban-conventional systems (those specifying a transmitter site within 15 miles from the geographic center of the mentioned Urbanized Areas) will be considered, for loading purposes, with any existing or proposed co-channel facility in that area until the channel in question is fully occupied in accordance with the loading criteria set out in our new rules. Further, once a channel pair is assigned for use within the reference 15 mile radaii, it will be treated as unavailable for use by any applicant specifying an antenna site outside the 15 mile area, in that vicinity, of course.

81. For suburban-conventional systems (those with transmitter sites more than 15 miles from the geographic center of the mentioned Urbanized Areas), we have decided to consider, for loading purposes, all proposals for facilities specifying a tranmitter site within 25 miles of the site of an existing suburban station or within 25 miles of the site specified in a prior filed proposal. Once the channel pair in question is occupied, in accordance with applicable standards, it will be treated as no longer available. Further, once a channel has been selected for occupancy by suburban-conventional stations, it will be unavailable for assignment for use in an urban-conventional system, that is, in the same general area.[30]

82. As stated, these measures are necessary to allow us to load conventional systems vertically. To do this, we must have some area or point of reference. The latter would be a more desirable approach; but as the number of co-channel stations multiplied, the problem of determining which systems should be taken into consideration in deciding whether a given channel was fully occupied or not rapidly becomes an impossible one, at least at the present stage of development of our frequency management program.

83. Accordingly, we plan to use the 15 and 25 mile radaii specification. With this decided, it is necessary to adjust mileage separations for conventional stations to account for the protected areas. Therefore, in the case of urban-conventional systems, assignments on occupied co-channel frequencies will not be made unless the proposed site of the new facility is at least 85 miles from the geographic center of the Urbanized Area involved. As to suburban-conventional systems, assignments on occupied co-channel pairs will not be made unless the site of the proposed station is at least 70 miles from the first suburban co-channel station authorized and this is to be the rule regardless of whether the channel assigned to that station is fully occupied or not.[31]

CHANNEL LOADING STANDARDS

In General. 84. For channel loading, in the absence of actual experience and data, especially for trunked systems of radio communication of the type we have under consideration at 900 MHz, we felt we should rely on the number of mobile units in operation as a base from which to set up channel occupancy figures. We have used mobile units, for, over the years, in the land mobile services, we have developed a series of guides for determining the channel requirements of licensees in the several services.

85. For example, in the Police Radio Service, we have found that, as a general rule, a channel pair can be employed in an effective manner in dispatching 50 mobile units of the vehicular type and an even greater number of portable or hand carried units. In this we recognize that there are no two situations exactly alike and that there are many factors to be taken into account. Among them are average message length; the number of units in operation in any given time period; the number of times, each hour, the dispatcher and mobiles originate calls; the number of dispatchers on duty at any one time; the size of the system (the number of communication channels available for use at any one point in time); and, certainly, the nature of the functions and activities of the licensee. All of these factors have an impact on system capacity. Nevertheless, as an overall or average measure, we have determined that in the Police Radio Service, 50 vehicular mobile units per channel is a reasonable and realistic criterion to apply in licensing stations in that service.

86. This may be contrasted to the Business Radio Service. There, the frequencies allocated were intended to be shared more intensively, because they were designated to serve a much broader group of eligibles and there were inherent differences in the nature of the communications of businessmen and of

[28] The Commission, however, is concerned with the practice of serving mobile users who require small areas of coverage on trunked systems which are essentially wide area coverage systems. Such situations are known to exist in the operation of wide-area repeaters in the lower land mobile bands. While not prohibited, this practice should be discouraged in the 900 MHz band, as it could lead to serious deficiencies in overall spectrum utilization. Accordingly, the Commission will be watchful of the effects of such practice on the efficient development of the 900 MHz band and may impose corrective regulation in the future if warranted.

[29] As previously mentioned, equivalent power for antenna heights in excess of 1000 feet are established and set out at § 89.651 (c), Table 1 of the new rules. For a trunked or urban-conventional station, 1 kilowatt (ERP) is the maximum power regardless of whether an antenna of less than 1000 feet is employed. For suburban-conventional stations, the same principle applies, that is, the maximum power is 500 watts (ERP) regardless of the height of the antenna above average terrain, even when it is less than 500 feet (AAT).

[30] We wish to be clear on what we mean here. We do not intend to imply that a frequency pair, once designated for use in either an urban-conventional, or suburban-conventional system, may not be used elsewhere for one type of system or another. This is not the case. Locally, its use will be restricted. Nationally, it will not be.

[31] In any case in which the proposed transmitter site is within the 15 and 25 mile radaii, such application, of course, will be studied with co-channel stations in the protected areas, until such time as the channel is loaded in accordance with applicable standards. We would note, however, that all of these procedures are subject to further study and review, and based on day-to-day operating data, we may find they can be improved. Should this be so, appropriate steps will be taken to reflect this experience.

police departments. Consequently, higher loading standards were employed, with each frequency or channel licensed to serve approximately 90 mobiles. In densely populated areas, where the demand for business frequencies turned out to be very great and message loads correspondingly heavy, this norm did not always provide licensees with the communication capabilities they felt they needed. Nonetheless, overall, the 90 mobile criterion proved to be a good guide in licensing stations in the Business Service.

87. Similar conclusions have been arrived at as to frequency loading in the other services. To illustrate, in the Taxicab Radio Service, we know that a frequency pair can be employed effectively in dispatching 150 mobiles or more; and we have set channel loading in that service at a higher level. Further, the communication needs and requirements of licensees in the Power and Petroleum Radio Services are not the same as those in other radio services. This is in part due to the fact that radio facilities are used in different ways and for different purposes by licensees in the several services. But we have found that users can be grouped together for loading purposes; and that mobile units can serve as a good guide for frequency assignment purposes.

88. There is an added factor of some significance. Where a channel is assigned for the exclusive use of a particular licensee, circuit discipline of a high order can be maintained. It is relatively easy to do so, for the employees using the system are under the direct control of the licensee; and he has an interest in seeing to it that his messages to and from his mobile units are not delayed. Also, system monitoring can be performed in a more efficient manner, since station operators do not have to listen for the signals of other licensees. This eliminates, to a high degree, objectionable interference and message interruptions which cause inefficiencies. With these considerations in mind, we have differentiated between systems which are licensed to provide service to a single entity and those serving several licensees. In doing this, we have designated categories for single licensees; for 2 to 5 licensees; and for over 5 licensees.[32]

89. Summarizing, then, on the basis of the foregoing considerations and also from what we have learned from the vast record in this proceeding, we have developed the norms or general rules to assist us in determining when an assigned frequency is to be treated as occupied, or not occupied, in terms of its capacity to serve in an effective way the requirements of the users. We used this background in assisting us in setting the loading requirements at 900 MHz.

Loading Trunked Systems. 90. For trunked operations, we have separated user groups under five major headings, with police and fire eligibles in one group; business licensees in another; inter-urban and urban passenger motor carriers in the third group; and, in the fourth group, the "all other" classification, we would include the remaining service categories. For radiotelephone operations, a special criterion is used, due to the nature of such systems of communication.[33]

91. While we recognize that trunking provides added efficiencies in the use of the spectrum and improved communication service, to the present time we are not certain of the degree of improvement in channel capacity. In this regard, while we recognize certain data does exist as to wire line telephone operation, we are not sure that the same criteria can be applied to the types of 900–MHz systems with which we are concerned, here. There are many variables, and we feel that we do not have sufficient experience with the interplay of these factors to permit us to establish definite loading standards at this time.

92. In the light of these considerations, but using such information as has been made available to us on this subject, we have designated levels for channel loading which we believe most closely approach what actual operating experience will indicate. Accordingly, although these criteria must be treated as interim in nature, we will require, until operating data becomes available, that they be followed. In this connection, we will ask our licensees to maintain traffic records to assist us in any future re-evaluation of our standards.

93. For the purpose, then, we require trunked system serving the various user groups to be loaded as follows: [34]

	5 channels	10 channels	20 channels
Police and fire group	300	750	1,500
Business group	500	1,000	2,000
Passenger motor carriers	800	1,600	2,500
All other groups	400	800	1,600
Radiotelephone group	200	400	800

94. It is our belief that these interim loading parameters will provide users with high quality service on an efficient basis. But, as we have said, we consider these measures as interim ones, which, if necessary or desirable, will be modified to conform with what actual operating conditions show loading should be. Further, as we have indicated, we will not permit conventional systems to be used for radio-telephone operations. Our basic reason for this is that in conventional mode, principally because of the nature of telephonic communication, use of single channels or groups of single channels is inefficient for that purpose.

Loading Conventional Systems. 95. Loading standards for conventional systems were developed out of the general considerations which we have outlined, above. As in the case of trunked facilities, we have grouped together users which we feel have similar or at least compatible communication requirements. Thus, police and fire users are grouped together. For them, the loading criterion will be 50 mobiles or 100 portable units. This standard is to apply only where the system is not shared with other police and fire users.

96. We have pointed out that some conventional systems will be vertically loaded. In such cases, it is appropriate to use different criteria; and we have done so. Thus, where a channel is shared by 2 to 5 licensees, the 40 vehicular, 80 portable rule will apply. Where it is used by over 5 licensees, the standard will be 30 vehicular and 60 portable units. This is for the police and fire group. The requirements for other groups are set out in the pertinent loading table.[35]

97. There is one difference in loading trunked and conventional systems which we will mention. In the former, no provision is made for eligibles in the Taxicab Radio Service. This is because the method of communication used by taxicab companies is such that no improvement in it can be achieved through trunking. This is the case in that communications generally flow from the dispatcher to the mobile units. Also, we have made no provision in the Taxicab Group for "portables". This is based on the fact that this kind of use is not usual in taxicab operations.

98. In order to qualify for a channel pair for use in a conventional system, an applicant must certify that, in his service category, whatever that might be, he will have a minimum of 70 percent of the mobiles specified in operation not later than 8 months from the date of the grant of his proposal. If 70 percent of the mobiles specified in the applicant's proposal equals 70 percent of the occupancy requirement of the applicant's service category or group, then the channel pair or pairs involved will be assigned for his exclusive use. Also, just as in the case of trunked operations, when a licensee is able to show that his facility is loaded to 90 percent of its assigned capacity, he may then apply for an additional channel pair or pairs, depending on the facts of the case.

LOADING SYSTEMS SERVING MULTIPLE SERVICE GROUPS

Trunked Systems. 99. As we have indicated, we have not allocated the frequencies to the various land mobile services. Therefore, all persons will be permitted to share systems with other eligibles in the private services. Systems serving this type of mix of eligibles in the private services will be loaded in accordance with the "Business Radio

[32] See § 89.802 of the new rules which deals with loading requirements for conventional systems.

[33] Applicants may apply for radiotelephone systems only where trunked operation is planned. Conventional systems, because of the efficiency element, may not be employed for this mode of use.

[34] See § 89.801 of the new rules which sets out loading requirements for trunked facilities.

[35] See § 89.802 of the new rules which sets out the various user groups and gives loading requirements for each.

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Group". This will mean for a 5-channel system, loading will be set at 500 units; for a 10-channel system, at 1,000 units; and for a 20-channel trunked system, 2,000 mobile units.

Conventional Systems. 100. The same principle as used in trunked operations will apply to conventional systems serving a mix of users. There, we will apply the 70/140 criterion, that is 70 mobiles, and 140 portables, where shared by two through five users, and the 50/100 criterion where shared by more than five licensees, are the standards for channel occupancy.

Other Considerations Applying to Loading Trunked and Conventional Systems. 101. In loading trunked and conventional systems there are certain additional considerations which must be given attention. In this connection, we will examine each proposal to determine the mode of operation asked. Where, for example, an applicant requests a mobile relay facility, if he is to share, it must be with others using the same mode of communication, i.e., mobile relay with mobile relay.[38]

102. Further, two-frequency simplex operation will not be combined with mobile relay use; nor will we combine either of these modes of operation with full duplex systems. They are not compatible with one another.

103. In general, then, we will only assign the same frequencies for systems which involve the same mode of operation. In addition, we will not, where possible, mix user groups in vertical loading. This is because the loading criteria applicable varies, and this makes it undesirable and, at times, impossible to mix users. However, where this becomes necessary, the loading standard for the "mixed group" will be used. Also, in assigning frequencies for shared use in conventional systems in any one particular area, we will consider, among other things, the nature of the applicant's activities.

104. These are the major factors that we will take into account in loading channels. But we should note that where an applicant demonstrates that he can meet the requirement for occupancy in the group in which he applies, he will be permitted to use the license facility in any way permitted in the service in which he is eligible.

105. Accordingly, in loading 900 MHz systems, we will not only be concerned with the number of vehicles or portables the applicant plans to use, but we will also take into consideration the planned mode of operation; the service group into which the applicant falls; and, among other features, the number of persons licensed to use a given frequency in a given area. We plan to build our assignment plan on this basis; however, we will continue to examine our methodology, and we will take corrective steps to improve it when we can.

Additional Requirements for Common User Systems. 106. One further matter, in order to promote the competition envisioned at 900 MHz and, also, to prevent manufacturers or equipment companies from gaining dominance in this market, we will limit such concerns to a single trunked system in a market and to no more than a total of 5 trunked systems nation-wide, except on a showing that the limitation should not apply in a given case. This approach will offer the opportunity to potential competitors to enter the field and to compete successfully with entities of the type mentioned. We are permitting equipment companies into this field, because we want to bring to bear their experience and know-how in the development of trunked and conventional systems. We feel this approach has advantages, for these facilities will be expensive to construct and we are not certain that the means of financing them will be otherwise available at initial stages. Once proven out, and the manufacturers will have an incentive to make the investment to accomplish this, a greater amount of capital will most surely be available. Further, we want pilot systems to be established at an early date; and the manufacturers have clearly demonstrated a willingness to enter the market immediately. While we proceed along these lines with caution, because of possible adverse impacts on competition, with the safeguards we have built into our rules we foresee no problems. Also, we will watch the progress made; study any effects; and take remedial action. However, we wish to observe that we may find no adverse impact; and, in that case, we would extend the privilege to manufacturers to operate in additional markets.

107. In addition to the foregoing, we will expect manufacturers providing commercial service to so design their systems that equipment obtainable from different companies can be readily used in it. We anticipate that an effort toward this end will be undertaken at an early date. However, should this not turn out to be the case, we may find it necessary to develop system standards, ourselves.

108. Finally, we wish to be clear that it is our intention to review and study continually all aspects of our assignment plan. In this regard, we fully recognize that the subject concept is new. It is in part untried and untested. Most likely changes and modifications will have to be made; and we will be alert to adjust our policies, standards, and criteria to what the public interest requires. This will be done on our own motion; and, in addition, we would expect, and we request, significant input from the land mobile industry and from land mobile users and those representing them. However, we are confident of the soundness of the structure of the measures we have adopted; of the desirability of the goals and objectives we have set for ourselves; and of the benefits to the public that will flow out of our approach to licensing at 900 MHz.

Subpart S. 109. Subpart S will only be added to Part 89. However, it should be understood that the rules set out in Subpart S are to apply to all systems of communication included under Parts 91 and 93 of the rules. In the future, we plan to incorporate these rules with those of Parts 91 and 93.

110. We would also point out that some of the procedural rules set out in Subpart S may not be in complete harmony with the procedural rules contained in Subpart F of Part 1. Where there is a conflict, the rules in new Subpart S will, of course, be controlling.

General Accounting Office Requirements. 111. Our new rules will require applicants and licensees of 900 MHz systems to submit certain information and data in addition to that now furnished. This, of course, is subject to approval by the General Accounting Office (GAO). Steps will be taken to obtain the necessary clearance. When GAO has decided the matter, a public notice will be issued. Until then applications may not be filed.

112. *Accordingly, it is ordered,* effective June 17, 1974, that Parts 2, 89, 91, and 93 of the rules are amended as follows; and that the interim guidelines governing the developmental authorization and operation of cellular systems, set forth in Appendix B, are adopted. Authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended.

113. *It is further ordered,* That the proceeding in Docket No. 18262 is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Adopted: May 1, 1974.

Released: May 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION[39],
[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 2, 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

1. In § 2.106, columns 5–11 of the table are amended to read as follows:

[38] We wish it to be very clear that we will authorize radiotelephone service only on trunked systems.

[39] Commissioners Reid and Hooks concurring; Commissioner Quello not participating.

§ 2.106 Table of frequency allocations.

United States			Federal Communications Commission			
Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services / of stations
5	6	7	8	9	10	11
•	•	•	•	•	•	•
470–902	NG	806–821	LAND MOBILE	Land Mobile		Conventional and trunked systems.
	(NG30)					Reserve.
	(NG43)	821–825	LAND MOBILE			Cellular systems.
	(US36)	825–845	LAND MOBILE	Land Mobile		Reserve.
	(US88)	845–851	LAND MOBILE			Conventional and trunked systems.
	(US100)	851–866	LAND MOBILE	Base		Reserve.
	(US116)	866–870	LAND MOBILE			Cellular systems.
	(NG52)	870–890	LAND MOBILE	Base		Reserve.
	(NG65)	890–902	LAND MOBILE			
902–928	G				915	Industrial, scientific, and medical equipment.
	(US36)					
	(US115)					
928–960	NG	928–947	LAND MOBILE			Reserve.
	(US36)	•	•	•	•	•
	(US116)					
	(US—)					

2. In the list of footnotes immediately following the table in § 2.106, footnote US115 is amended and a new US footnote is added in proper numerical sequence, to read as follows:

US115 The Frequency 915 MHz is designated for industrial, scientific, and medical purposes. Except as provided by US215, emissions must be confined within the limits of ± 13 MHz of that frequency. Radiocommunications services operating within those limits must accept any harmful interference that may be experienced from the operation of industrial, scientific, and medical equipment.

• • • • •

US215 Emissions from microwave ovens manufactured on and after January 1, 1980, for operation on the frequency 915 MHz must be confined within the band 902–928 MHz. Emissions from microwave ovens manufactured prior to January 1, 1980, for operation on the frequency 915 MHz must be confined within the band 902–940 MHz. Radiocommunications services operating within the band 928–940 MHz must accept any harmful interference that may be experienced from the operation of microwave ovens manufactured before January 1, 1980.

PART 89—PUBLIC SAFETY RADIO SERVICES

2. In § 89.103(a), the table is amended to read as follows:

§ 89.103 Frequency stability.

(a) • • •

Frequency range	All fixed and base stations	All mobile stations	
		Over 3 W	3 W or less
MHz	*Percent*	*Percent*	*Percent*
Below 25	0.01	0.01	0.02
25 to 50	.002	.002	.005
50 to 450	[1] .0005	.0005	.005
450 to 470	[2,4] .00025	.0005	.0005
470 to 512	.00025	.0005	.0005
806 to 830	.00015	.00025	.00025
851 to 968	.00015	.00025	.00025
950 to 1,427	[3]	[3]	[3]
1,427 to 1,435	[2] .03	.03	.03
Above 1,435	[3]	[3]	[3]

3. In § 89.105, paragraph (a) is amended and paragraph (e) is added to read as follows:

§ 89.105 Types of emission.

(a) Except as provided in paragraphs (c), (d), and (e) of this section, stations in these services will be authorized to use only A3 or F3 emission for radiotelephoney. The authorization to use A3 or F3 emission is construed to include the use of tone signals or signalling devices the function of which is limited to establishing or maintaining voice communications or to actuate emergency warning devices used solely for the purpose of advising the general public or emergency personnel of an impending emergency situation.

• • • • •

(e) Operation in the frequency bands 806 to 821 and 851 to 866 MHz is limited to F3 emission.

4. In § 89.107(b)(2), the Table is amended to read as follows:

§ 89.107 Emission limitations.

• • • • •

(b) • • •
(2) • • •

Frequency band (MHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)
25 to 50	20	5
50 to 150	[1] 20	[1] 5
150 to 450	20	5
450 to 470	[2] 20	[2] 5
470 to 512	20	5
806 to 821	20	5
851 to 866	20	5

• • • • •

5. In § 89.109, Paragraphs (d) and (i) are amended to read as follows:

§ 89.109 Modulation requirements.

• • • • • •

(d) Each transmitter in the frequency ranges 25 to 50, 150.8 to 162, 450 to 512, 806 to 821, and 851 to 866 MHz shall be equipped with an audio low-pass filter. Such filter shall be installed between the modulation limiter and the modulated stage and shall meet the specifications contained in paragraph (h) or (i) of this section. The provisions of this paragraph do not apply to transmitters of licensed radio-communications systems operated wholly within the limits of one or more of the territories or possessions of the United States or Alaska, or Hawaii, except those systems operating in the frequency ranges 806 to 821 MHz, and 851 to 866 MHz.

• • • • • •

(i) For stations authorized in the 450–470 MHz band on or after November 1, 1967, and for all stations authorized in the 470–512, 806–821, and 851–866 MHz bands, at audio frequencies between 3 kHz and 20 kHz, the low-pass filter required by the provisions of paragraph (d) of this section shall have an attenuation greater than the attenuation at 1 kHz by at least: 60 $\lg_{10}$ (f/3) decibels. Where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

• • • • • •

6. In § 89.111(b), the Table is amended to read as follows:

§ 89.111 Power and antenna height.

• • • • •

(b) • • •

Frequency range (MHz)	Maximum plate power input to the final radio frequency stage (watts)	Maximum effective radiated power (watts)
1.3 to 3	2,000	
3 to 25	1,000	
25 to 100	500	
100 to 470	600	
470 to 512		1,000
806 to 821	[2]	[2]
851 to 866	[2]	[2]
Above 950	[1]	[1]

[1] To be specified in the station authorization.
[2] For power limitations see § 89.651.
[3] The output power of a transmitter on any authorized frequency in this service shall not exceed 256 W (24 dBW).

• • • • •

7. In Part 89, a new Subpart S is added to read as follows:

Subpart S—Special Regulations Governing Licensing and Use of Frequencies in the 806–821 MHz and 851–866 MHz Bands

GENERAL INFORMATION

Sec.
89.601 Purpose.
89.602 Definitions.
89.603 Organization and applicability of rules.
89.604. Eligibility.
89.605 Station identification.

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GENERAL RESTRICTIONS AND LIMITATIONS ON OPERATION OF CONVENTIONAL AND TRUNKED SYSTEMS AUTHORIZED IN THE 806–821 MHz AND 851–866 MHz BANDS

Sec.
89.651 Limitations on power and antenna height.
89.652 Restrictions on operational fixed stations.
89.653 Restriction on interconnection.
89.654 Restriction on permissible communications.
89.655 Limitations on use and mode of operation of systems licensed in the 896–821 MHz and 851–866 MHz bands.
89.656 Special conditions governing the furnishing of radio equipment by licensees.
89.657 Restriction on licensing manufacturers and equipment suppliers to furnish service in the 806–821 MHz and 851–866 MHz bands.
89.658 Acceptability of transmitters for licensing in the 806–821 and 851–866 MHz bands.

APPLICATION AND PROCESSING PROCEDURES

89.701 Forms to be used.
89.702 Supplemental information to be furnished by applicants for facilities under this subpart.
89.703 Supplemental reports required of licensees authorized under this subpart.
89.704 Processing of applications.

POLICIES GOVERNING THE SELECTION AND ASSIGNMENT OF FREQUENCIES FOR USE IN THE 806–821 MHz AND 851–866 MHz BANDS

89.751 Selection and assignment of frequencies.

CHANNEL LOADING REQUIREMENTS FOR TRUNKED AND CONVENTIONAL SYSTEMS

89.801 Trunked systems.
89.802 Conventional systems.
89.803 Other criteria to be applied in assigning channels for use in conventional systems of communication.
89.804 Other criterion to be applied in licensing channels for use in trunked systems of communication.

AUTHORITY: Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).

Subpart S—Special Regulations Governing Licensing and Use of Frequencies in the 806–821 MHz and 851–866 MHz Bands

GENERAL INFORMATION

§ 89.601 Purpose.

The purpose of this subpart is to set out the regulations governing licensing and use of conventional and trunked systems of communication to operate in the 806–821 MHz and 851–866 MHz bands.

§ 89.602 Definitions.

Channel loading. The number of mobile stations assigned to operate on a co-channel basis within the same service area.

Co-channel interference. Interference caused in one communication channel by a transmitter operating on the same channel.

Conventional radio system. A method of operation in which one or more radio frequency channels are assigned to mobile and base stations but are not employed as a trunked group. An "urban-conventional system" is one whose transmitter site is located within 15 miles of the geographic center of any of the first 50 urbanized areas (ranked by population) of the United States. A "suburban-conventional system" is one whose transmitter site is located more than 15 miles from the geographic center of the first 50 urbanized areas. See Table 21, Rank of Urbanized Areas in the United States by Population, page 1–87, U.S. Census (1970).

Duplex radio communication. A method of radio communications, commonly used in radiotelephone systems, involving simultaneous two-way independent transmission in both directions accomplished through the use of two radio frequency channels, one for each direction of transmission.

Geographic center. The geographic center of an urbanized area is defined by the coordinates given at Table 1 of paragraph (g) of § 89.751 of this subpart.

Trunk (telephony). A one- or two-way channel provided as a common traffic artery between switching equipment.

Trunk group. All of the trunks of a given type or characteristic that extend between two switching points.

Trunked radio system. A method of operation in which a number of radio frequency channel pairs are assigned to mobile and base stations in the system for use as a trunk group.

§ 89.603 Organization and applicability of rules.

The rules in this subpart set forth the procedural and substantive regulations which apply, distinctly, to land mobile systems licensed to operate in the 806–821 MHz and 851–866 MHz bands. They are to be read in conjunction with applicable requirements contained in Parts 89, 91, and 93 of this chapter; however, to the extent the provisions of this subpart conflict with those set out in Parts 89, 91, and 93 of this chapter, the former are to be treated as controlling, insofar as licensing and use of frequencies in the 806–821 MHz and 851–866 MHz bands are involved.

§ 89.604 Eligibility.

The following persons and entities are eligible for licensing in the 806–821 MHz and 851–866 MHz bands.

(a) Any person or entity eligible for licensing under either Part 89, 91, or 93 of this chapter.

(b) Any person or entity proposing to provide dispatch service, subject to the restrictions set forth in this subpart, to any person or entity eligible for licensing under either Part 89, 91, or 93 of this chapter on a not-for-profit, cost-shared basis.

(c) Any person or entity, except wire line telephone common carriers, proposing to provide dispatch service, subject to the restrictions set forth in this subpart, to any person or entity eligible under Part 89, 91, or 93 of this chapter.

(d) Any person or entity, except wire line telephone common carriers, proposing to provide radiotelephone service to the public over trunked systems of communication.

§ 89.605 Station identification.

(a) Conventional systems of communication shall be identified in accordance with existing regulations governing such matters.

(b) Trunked systems of communication shall be identified through the use of an automatic device which transmits the call sign of the base station facility at 30-minute intervals. Such station identification shall be made on the lowest frequency in the base station trunk group assigned to the licensee. Should this frequency be in use at the time station identification is required, such identification may be made at the termination of the communication in progress on this frequency. Identification may be by voice or International Morse Code. When the call sign is transmitted in International Morse Code, it should be at a rate of between 15 to 20 words per minute; and it should be transmitted by the means of tone modulation of the transmitter, the tone frequency being between 800 and 1000 hertz. The level of modulation is to be high enough to be clearly discernible, but low enough not to be disruptive of voice communications in progress.

GENERAL RESTRICTIONS AND LIMITATIONS ON OPERATION OF CONVENTIONAL AND TRUNKED SYSTEMS AUTHORIZED IN THE 806–821 MHz AND 851–866 MHz BANDS

§ 89.651 Limitations on power and antenna height.

(a) The maximum effective radiated power and antenna height, respectively, for base stations used in suburban-conventional systems of communication operating in the 851–866 MHz band shall be no greater than 500 watts (27 dBw) and 500 feet above average terrain (AAT). These are maximum values; and applicants, of course, will be required to justify power levels and antenna heights requested.

(b) The maximum effective radiated power and antenna height, respectively, for base stations used in trunked and urban-conventional systems authorized in the 851–866 MHz band shall be no greater than 1 kilowatt (30 dBw) and 1000 feet above average terrain (AAT), or the equivalent thereof, determined from Table 1 of subparagrph (b) of this section. These are maximum values; and applicants, of course, will be required to justify power levels and antenna heights requested.

(c) Table 1. Equivalent powers and antenna heights for base stations operating in the 851–866 MHz band.

Antenna Height (AAT) (in feet)	*Power (watts)*[1]
4,501 to 5,000	65
4,001 to 4,500	70
3,501 to 4,000	75
3,001 to 3,500	100
2,501 to 3,000	140
2,001 to 2,500	200
1,501 to 2,000	350
1,001 to 1,500	600
Up to 1,000 [2]	1,000

[1] Power is given in terms of effective radiated power (watts).

[2] Maximum permissible power and antenna height are 1 kilowatt (ERP) and 1,000 feet (AAT), respectively. Licensees will not be permitted to exceed the specified 1,000-watt power limitation, regardless of whether or not use is made of an antenna which is less than 1,000 feet in height (AAT).

(d) The maximum output power for mobile stations operating in the 806–821 MHz band is 100 watts (20 dBw).

§ 89.652 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 806–821 and 851–866 MHz bands.

(1) Control stations associated with one or more mobile relay stations, will be authorized only on the assigned frequency of the associated mobile station. Use of a mobile service frequency by a control station of a mobile relay system is subject to the condition that harmful interference not be caused to stations of licensees authorized to use the frequency for mobile service communication.

(2) Control stations shall in all cases employ directional antennas with the main lobe of radiation directed toward the station, or stations, being controlled. In each case, the antenna used, consistent with reasonable design, shall produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station and limits radiation in other directions to the extent feasible.

(3) The strength of the signal of a control station, controlling a single mobile relay station, may not exceed, by more than 6 dB, at the antenna terminal of the mobile relay receiver, the signal strength produced there by a unit of the associated mobile station. When the fixed station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference need be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location which is not more than one-fourth mile from the control station site.

(4) Each application for a control station to be authorized under the provisions of this paragraph shall be accompanied by a statement certifying that the output power of the proposed transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio shall be kept with the station records and shall be made available, upon request, for inspection by Commission personnel.

§ 89.653 Restriction on interconnection.

(a) Automatic interconnection with land line facilities shall be permitted only in those cases where the licensee provides radio telephone services to the public on a commercial basis.

(b) Systems licensed for use by an individual person or entity eligible under either Part 89, 91, or 93 of this chapter; or to any person or entity providing service to any person or entity eligible under either Part 89, 91, or 93 on a not-for-profit, cost-shared basis; or to any person or entity providing service on a commercial basis to any class of persons or entities eligible under Part 89, 91, or 93 of this chapter shall not be interconnected with the wire line facilities of any telephone company, except where such interconnection is accomplished manually at the licensee's or user's place of business. Further, such interconnection may not be accomplished at any station or control point common to more than one licensee or user.

(c) In those situations where a licensee is permitted to interconnect with the facilities of a land line carrier pursuant to this section, it shall be the obligation of the local land line carrier to provide interconnection under reasonable terms and conditions upon reasonable request therefor.

§ 89.654 Restriction on permissible communications.

(a) Systems licensed for use by persons eligible under Parts 89, 91, and 93 of this chapter may be employed solely for the transmission of messages permissible in the radio service or services in which those persons are so eligible.

(b) Trunked radiotelephone systems licensed for use by the public shall not be subject to the limitation set out at paragraph (a) of this section.

§ 89.655 Limitations on use and mode of operation of systems licensed in the 806–821 MHz and 851–866 MHz bands.

(a) A system licensed for use by a person or entity eligible under either Part 89, 91, or 93 of this chapter may be employed for any purpose or operated in any manner which is consistent with the regulations governing the service in which the user is eligible; *Provided,* The loading standard which applies to the system is met and the channel or channel pairs are assigned to that person or entity for its exclusive use.

(b) Trunked systems licensed to be used by more than one person or entity may be employed for telephony, only.

(c) Systems licensed to provide radiotelephone service to the public on a commercial basis may offer such service employing full duplex, continuous carrier mode of operation: *Provided, however,* Facilities of this type will be authorized for operation in trunked mode, only.

(d) Systems licensed to provide service to more than one person or entity eligible under Part 89, 91, or 93 of this chapter may, in conformity with the following restrictions, be used:

(1) Only for purposes expressly allowed under Parts 89, 91, and 93 of this chapter.

(2) Only by persons who are shown to be eligible for facilities, either under this subpart or in the radio services included under Parts 89, 91, and 93 of this chapter.

(3) Only for the transmission of messages or signals permitted in the service in which the participants are eligible.

§ 89.656 Special conditions governing the furnishings of radio equipment by licensees.

Every licensee of a trunked or conventional system furnishing service on a commercial basis, under this subpart, shall afford every user or customer the option of purchasing or leasing the necessary associated control and mobile station radio gear. Should the user or customer elect to lease the equipment, he (the user or customer) must be given the further right to cancel the lease agreement at any time, without penalty, on ten days' written notice to the licensee.

§ 89.657 Restriction on licensing manufacturers and equipment suppliers to furnish service in the 806–821 MHz and 851–866 MHz bands.

No person engaged in the manufacture or sale of radio equipment to be used in systems authorized under this subpart, or who has any direct or indirect interest in any such manufacturing or sales enterprise, may be licensed to operate more than one common user trunked system of communications used to provide commercial service to eligibles or to the public in any one market, and no more than 5 such systems in the United States, unless a showing is made demonstrating that the public interest, convenience, and necessity would be served and that an exception is warranted.

§ 89.658 Acceptability of transmitters for licensing in the 806–821 and 851–866 MHz bands.

Except for transmitters used in developmental stations, each transmitter utilized by a station authorized for operation in these bands must be a type which is included on the Commission's current Radio Equipment List, or be of a type which has been type-accepted by the Commission for use in these bands.

APPLICATION AND PROCESSING PROCEDURES

§ 89.701 Forms to be used.

Applications for conventional and trunked radio facilities shall be submitted on FCC Form 400, and such applications shall be filed with the Commission, at its offices in Washington, D.C. Where the facility is to be established in the Chicago Regional area, FCC Form 425 shall be used and all such applications shall be filed with the Chicago Regional Office.

§ 89.702 Supplemental information to be furnished by applicants for facilities under this subpart.

(a) Applicants for conventional or trunked systems of communication shall,

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in addition to the information required by FCC Form 400 or FCC Form 425 furnish the following data and material.

(1) Where the applicant is a person eligible under Part 89, 91, or 93 and proposes to provide dispatch service solely to itself, then the applicant need submit only the information required by FCC Form 400 or 425, except as otherwise indicated in this section, below.

(2) Where the applicant is a person proposing to provide dispatch service to eligibles under either Part 89, 91, or 93 of this chapter on a not-for-profit, cost-shared basis, he shall furnish:

(i) A copy of the plan or agreement under which service will be offered. It must be in sufficient detail to show that such service will be provided at cost.

(ii) A statement of the purposes for which the system is to be used and the planned mode of operation.

(iii) The names and addresses of each person to participate in the sharing arrangement.

(iv) A statement showing that each participant is eligible to use the system for the purposes for which it is to be employed.

(3) Where the applicant is a person proposing to provide dispatch service to eligibles under either Part 89, 91, or 93 of this chapter on a commercial basis, he shall supply:

(i) A statement of the purposes for which the system is to be used and the planned mode of operation.

(ii) A statement certifying that no person not eligible to use the proposed facility for the purposes for which it is to be authorized will be offered or provided service over or through the licensee's system.

(iii) A copy of the basic agreement under which the dispatch service will be offered.

(4) Where the applicant is a person proposing to provide radiotelephone service to the public on a commercial basis, he shall furnish:

(i) A statement of the purposes for which the system is to be used and the planned mode of operation.

(ii) A copy of the basic agreement under which the radiotelephone service will be offered.

(5) Where the applicant proposes to provide service to other persons on a commercial basis, and where it has any interest of any kind whatsoever in any company engaged either in the sale or manufacture of radio equipment, in addition to the information required in this section, it shall accompany its application with:

(i) A full description of the applicant's interest in any such company or companies.

(ii) A list of any other radio station facility or facilities in which the applicant has any interest whatsoever.

(iii) The location and station designation of any facility identified in subparagraph (ii) of paragraph (a)(5) of this section.

(iv) Where the applicant has any interest whatsoever in any concern which provides radio communication services to persons other than itself, as to all such concerns, the applicant shall include in his filing the information required by subparagraphs (ii) and (iii) of paragraph (a)(5) of this section.

(b) All applicants for conventional systems shall specify the number of vehicle or portable units to be placed in operation upon grant of the authorization and the number of such units that will be placed in operation within 8 months of the date of grant.

(c) All applicants of trunked systems shall specify the number of mobile units to be placed in operation within the term of the license.

(d) Each applicant shall furnish a functional system diagram illustrating the inter-relationship of all stations being applied for, together with technical details (including antenna height (ATT) and effective radiated power (ERP)), together with his proposed area of coverage and the signalling methods he will employ.

§ 89.703 Supplemental reports required of licensees authorized under this subpart.

(a) Licensees providing service to persons eligible either under Part 89, 91, or 93, on a not-for-profit, cost-shared basis, shall, prior to furnishing service to any user not previously identified, notify the Commission of its intention to do so, and furnish the Commission with sufficient information as to the prospective user to enable it to determine whether this person is eligible to participate in the sharing arrangement. Service to the participant may commence 30 days after such notification, unless the licensee is advised, in writing, of any deficiency in the licensee's showing or in the eligibility of the person to be served. In the latter case, until the deficiency is corrected or the user is shown to be qualified and eligible, he may not participate in the use of the system.

(b) Where a licensee provides service under the terms of an agreement, on a not-for-profit, cost-shared basis, such agreement may not be modified in any material respect until the changes in the terms and conditions are reported to, and approved by, the Commission.

(c) Where a licensee provides service on a commercial basis, he shall not modify, in any material respect, the basic agreement under which such service is provided until the changes in its terms and conditions are reported to, and approved by, the Commission.

(d) Licensees offering service on a commercial basis to any person or entity eligible under either Part 89, 91, or 93, or to the public, must report, annually and at the time of filing applications for renewal of license, the number of mobile units being served; and such licensees shall, at that time, give the name and full address of each customer; the number of mobile units operated by each of them; and such other data as the party reporting may feel would be helpful in determining channel occupancy of the system, together with a certification that the terms of the basic agreement under which service is provided have not been modified or changed in any material respect. Such data shall be current as of the day and date falling 30 days prior to the date on which such licensees are required to file for renewal of their licenses, or, for the annual reports, at the close of the 12-month period covered by the annual report. The licensees of systems of the type covered by the provisions of this rule shall maintain records which, if referred to, will support any of the information required to be filed in the subject report. These records shall be available to the Commission upon request.

(e) Licensees furnishing service to eligible persons on a not-for-profit, cost-shared basis, shall, within 30 days of the close of the first full calendar year of operation, and each year thereafter, submit a report setting out the following information:

(1) A certification that during the period covered by the report, services have been offered and provided in accordance with the terms and conditions of the agreement approved by the Commission; that said agreement has not been modified or changed, except with the express approval of the Commission; and that records have been kept which show that service and facilities were made available on a not-for-profit, cost-shared basis. These records shall be available to the Commission upon request.

(2) A list of persons served during the period covered by the report.

(3) The number of mobile units operated by each user and a statement showing whether these units are of the vehicular or portable type.

(4) The total number of units served by the system during the period of the report, together with the number served on January 1st and on December 31st of the year of the report; and the average number of such mobile units served during this period of time.

(f) Licensees of trunked systems serving only themselves shall report annually, and at the time of filing applications for renewal of licenses, the number of mobile units being served, together with such other data as the licensees may feel would be helpful to the Commission in determining channel occupancy of their systems. Records supporting the information required in these reports shall be maintained by the licensees and shall be available to the Commission upon request.

(g) All licensees of conventional systems, in addition to the other requirements of this section, shall report the number of vehicular and portable units placed in operation within 8 months of the date of the grant of his license. Such reports shall be filed within 30 days from that date.

(h) All licensees of trunked systems shall report the date on which construction of the authorized facility began; that part of the facility completed; and the schedule for completion of construction of any part of the system not yet finished.

§ 89.704 Processing of applications.

(a) Applications for facilities to operate in the 806–821 MHz and 851–866 MHz bands will be processed as follows:

(1) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, they will be assigned a file number and put in pending status. If not, they will be returned to the applicant.

(2) All applications in pending status will be processed in the order in which they are received. The order in which they are received will be determined by the time and date on which the original proposal was filed with the Commission.

(3) Each application will then be reviewed to determine whether it can be granted. Should it be granted, frequencies or channels will be assigned by the Commission in accordance with its assignment policies and loading criteria.

(4) Where, upon examination, it is determined that the proposal must be dismissed, that application will be returned; and the priority accorded it will no longer obtain.

(5) Where, upon examination, it is determined that the proposal cannot be granted or dismissed; but that it must be designated for hearing, such action will be taken. In this event, the applicant will not lose the priority accorded it and frequencies will be set aside for use in the proposed system in the event of ultimate favorable action by the Commission on the application. Should the proposal be denied, the frequencies reserved will become immediately available for assignment to other persons; and this will be so regardless of whether or not appeal by any party to the proceeding is made to the courts; *Provided, however,* The grant will not become effective for a period of thirty days to allow any interested party to request a stay of the action the Commission plans to take.

POLICIES GOVERNING THE SELECTION AND ASSIGNMENT OF FREQUENCIES FOR USE IN THE 806–821 MHz AND 851–866 MHz BANDS

§ 89.751 Selection and assignment of frequencies.

(a) The Commission will select and assign frequencies for operation in the 806–821 MHz and 851–866 MHz bands.

(1) For trunked systems, the assignment of frequencies will be made, in accordance with applicable loading criteria, in minimum groups of five and in maximum groups of twenty channel pairs. All mobile and control station frequencies will be chosen from those allocated in the 806–821 MHz band. Mobile station transmitting frequencies will commence with Channel No. 1 at 820.9875 MHz, followed by Channel No. 2 at 820.9625 MHz, and proceed to the band end with uniform 25-kHz channeling; and base station transmitting frequencies will be selected by the Commission and assigned from those allocated in the 851–866 MHz band, commencing with Channel No. 1 at 865.9875 MHz, followed by Channel No. 2 at 865.9625 MHz, and proceed to the band end with uniform 25-kHz channeling. The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(2) For conventional systems the assignment of frequencies will be made in accordance with applicable loading criteria. Accordingly, depending upon the number of mobile units to be served, the applicant may either be required to share a channel, or, if the applicant shows a sufficient number of mobile units to warrant the assignment of one or more channels for its exclusive use, he may be licensed to use such channel or channels on an exclusive basis in his area of operation.

(3) For conventional systems, mobile station transmitting frequencies, as well as those for use by control stations, will be selected from those allocated in the 806–821 MHz band. Mobile and control station transmitting frequencies will commence with Channel No. 1 at 806.0125 MHz, followed by Channel No. 2 at 806.0375 MHz, and proceed to the band end with uniform 25-kHz channeling. Base station transmitting frequencies will be selected and assigned from those allocated in the 851–866 MHz band, with Channel No. 1 commencing at 851.0125 MHz, followed by Channel No. 2 at 851.0375 MHz, and proceed to the band end with uniform 25-kHz channeling. The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(b) Stations authorized by the Commission to operate in the 806–821 MHz and 851–866 MHz band will be afforded protection solely on the basis of the mileage separation criteria set out below. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

(1) For trunked systems, the separation between co-channel systems shall be 70 miles.

(2) For urban-conventional systems, the separation between co-channel base stations shall be 70 miles; provided, however, where the transmitter site of a previously authorized, co-channel facility is located at any point within 15 miles from the geographic center of any one of the 50 Urbanized Areas listed in Table 1, at paragraph (g) of this section, then the distance between the transmitter site of the proposed co-channel conventional system and the geographic center of the urbanized area involved shall be a minimum of 85 miles.

(3) For suburban-conventional systems, the separation between co-channel base stations shall be 45 miles; *Provided, however,* For all proposals for facilities specifying a transmitter site within 25 miles of the site of an existing suburban-conventional station, or within 25 miles of the site specified in a prior filed application for such station, the separation shall be 70 miles.

(c) Notwithstanding the provisions of paragraph (b)(2) of this section, where an assigned channel of an urban-conventional system is not fully loaded in accordance with applicable loading criteria, and where the transmitter site of that system is located within 15 miles from the center of the urbanized area involved, the Commission may issue additional authorizations for facilities to be located within 15 miles of the center of that urbanized area until the channel in question is occupied in conformity with applicable loading criteria.

(d) Notwithstanding the provisions of paragraph (b)(3) of this section, where an assigned channel of a suburban-conventional system is not fully loaded in accordance with applicable loading criteria, the Commission may issue additional authorizations for facilities to be located within 25 miles of the transmitter site of the first station authorized until the channel in question is occupied in conformity with applicable loading criteria.

(e) UHF television translator stations using UHF output channels from Channel 70 through Channel 83, shall operate on a secondary basis to land mobile stations using the UHF bands allocated under this subpart for land mobile use, and, accordingly, such television translator stations will not be protected from interference from such authorized land mobile stations.

(f) Pending further negotiations with Canada and Mexico, land mobile stations operating in the 806–890 MHz band shall do so on a secondary basis to any Canadian or Mexican television station placed in operation on television channels in this band.

(g) *Table 1, Urbanized Areas.*

Urbanized area	Geographic center	
	N. latitude	W. longitude
Akron, Ohio	41°05′00″	85°30′44″
Albany-Schenectady-Troy, N.Y.	42°39′01″	73°45′01″
Atlanta, Ga.	33°45′10″	84°23′37″
Baltimore, Md.	39°17′26″	76°36′45″
Birmingham, Ala.	33°31′01″	86°48′36″
Boston, Mass.	42°21′24″	71°03′24″
Buffalo, N.Y.	42°45′26″	85°21′37″
Chicago, Ill.	41°52′26″	87°38′22″
Cincinnati, Ohio	39°06′07″	84°30′25″
Cleveland, Ohio	41°29′51″	81°41′50″
Columbus, Ohio	39°57′47″	83°00′17″
Dallas, Tex.	32°47′09″	96°47′37″
Dayton, Ohio	39°45′32″	84°11′43″
Denver, Colo.	39°44′58″	104°59′22″
Detroit, Mich.	42°19′48″	83°02′57″
Fort Lauderdale-Hollywood, Fla.	26°07′30″	80°09′00″
Fort Worth, Tex.	32°44′55″	97°51′44″
Houston, Tex.	29°45′26″	95°21′37″
Indianapolis, Ind.	39°46′07″	86°09′46″
Jacksonville, Fla.	30°19′44″	81°39′42″
Kansas City, Mo.-Kans.	39°04′56″	94°35′20″
Los Angeles, Calif.	34°03′15″	118°14′28″
Louisville, Ky.-Ind.	38°14′47″	85°45′49″
Miami, Fla.	25°46′37″	80°11′32″
Memphis, Tenn.-Miss.	35°08′46″	90°08′13″
Milwaukee, Wis.	43°02′19″	87°54′15″
Minneapolis-St. Paul, Minn.	44°58′57″	93°15′43″
New Orleans, La.	29°56′53″	90°04′10″
New York-Northeastern New Jersey	40°45′06″	73°59′39″
Norfolk-Portsmouth, Va.	36°51′10″	76°17′21″
Oklahoma City, Okla.	35°28′26″	97°31′04″
Omaha, Nebr.-Iowa	41°15′42″	95°56′14″
Philadelphia, Pa.-N.J.	39°56′58″	75°09′21″
Phoenix, Ariz.	33°27′12″	112°04′26″
Pittsburgh, Pa.	40°26′19″	80°00′00″
Portland, Oreg.-Wash.	45°31′06″	122°40′35″
Providence-Pawtucket-Warwick, R.I.-Mass.	41°49′32″	71°21′41″
Rochester, N.Y.	43°09′41″	77°36′21″
Sacramento, Calif.	38°34′57″	121°29′41″
St. Louis, Mo.-Ill.	38°37′45″	90°12′22″
St. Petersburg, Fla.	27°46′18″	82°38′19″
San Antonio, Tex.	29°25′37″	98°29′06″
San Bernardino-Riverside, Calif.	34°06′30″	117°17′28″

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Urbanized area	Geographic center	
	N. latitude	W. longitude
San Diego, Calif.	32°42'53"	117°09'21"
San Francisco-Oakland, Calif.	37°46'39"	122°24'40"
San Jose, Calif.	37°20'16"	121°53'24"
Seattle, Wash.	47°36'32"	122°20'12"
Springfield-Chicopee-Holyoke, Mass.-Conn.	42°06'21"	72°36'32"
Toledo, Ohio-Mich.	41°39'14"	83°32'39"
Washington, D.C.-Maryland-Virginia	38°53'51"	77°00'33"

CHANNEL LOADING REQUIREMENTS FOR TRUNKED AND CONVENTIONAL SYSTEMS

§ 89.801 Trunked systems.

(a) Trunked systems of communication will be authorized on the basis of the loading criteria set out in this section.

(b) Table 1, Loading requirements for trunked systems.

Service group[1]	Vehicular radio units[2]		
	5-channel systems	10-channel systems	20-channel systems
Police and fire group	300	750	1,500
Business radio group	500	1,000	2,000
Motor carrier group (urban and interurban passenger carriers only)	800	1,600	2,500
Other services group	400	800	1,600
Mixed service group	500	1,000	2,000
Radiotelephone group	200	400	800

[1] No provision is made for use of trunked systems by persons eligible in the Taxicab Radio Service, since this mode of communication is not compatible with normal transmission requirements of taxicab companies.
[2] For loading trunked systems of communication, no distinction is made between vehicular and portable mobile units.

(c) Each applicant for trunked facilities shall certify that a minimum of 70 percent of the mobile units specified in its application will be placed in operation not later than the date on which the term of his license for the system expires.

(d) Any licensee, at any time its authorized trunked system is occupied to 90 percent of its specified capacity, may apply for additional channels. Assignments will be made based, first, upon the availability of frequencies for use by the licensee; and, second, based upon the showing made by the licensee of its requirements for additional channel pairs.

(e) Licensees of trunked facilities must commence construction within six months from the date of grant and complete construction within one year or such further time as the Commission may allow.

§ 89.802 Conventional systems.

(a) Conventional systems of communication will be authorized on the basis of the loading criteria set out in this section.

(b) Table 1, loading requirements for conventional systems.

Service group	Channel loading—units per channel vehicular/portable		
	Single licensee	2–5 licensees	Over 5 licensees
Police and fire group[1]	50/100	40/80	30/60
Business radio group	90/180	70/140	50/100
Taxicab radio group[2]	150	125	100
Motor carrier radio group (urban and interurban passenger motor carriers, only)	150/300	125/250	100/200
Other services group	70/140	50/100	40/60
Mixed service group		70/140	50/100

[1] Full sharing of channels allocated in the 806–821 and 851–866 MHz bands is permissible; and where the eligibles in one service share facilities in common with persons eligible in one of the other radio services, i.e., where channels are jointly used on this basis, then the loading criteria shall be 70/140 or 50/100 mobile and portable units per channel.
[2] No loading criteria for portable units in the taxicab radio group are given, since the requirement for units of this type has not been established in that service.

(c) Every applicant for a conventional system of communication shall certify that a minimum of 70 percent of the mobile units specified in its application will be placed in operation not later than 8 months after the date of grant of his license for the system.

(d) Where licensees, authorized under the provisions of paragraph (c) of this section, do not load the channel or channels assigned in accordance with specified loading criteria, any (assigned channel) not so occupied shall be available for assignment to other applicants. All authorizations for conventional systems are issued subject to this condition.

(e) Any licensee, at any time its authorized conventional system is occupied to 90 percent of its specified capacity, may apply for additional channel pairs. Assignments will be made based, first, upon the availability of frequencies for use by the licensee, and, second, based upon the showing made by the licensee of its requirements for additional channel pairs.

§ 89.803 Other criteria to be applied in assigning channels for use in conventional systems of communication.

(a) In every case, the Commission will examine a proposal to determine the requirements of the applicant in terms of the number of mobile units to be served, together with the nature of the activities the applicant is engaged in. Where the applicant shows that the channel will be loaded to 70 percent of its assigned capacity, then that channel will be made available to that applicant for its exclusive use in the area in which he proposes to operate. Where the showing made justifies the assignment of more than one channel to the applicant, then additional frequencies will be made available for his use.

(b) Where a commercial concern proposes to furnish service to either eligibles under either Part 89, 91, or 93, or to the public, using a conventional system of communication, its application will be considered on the same basis as that of an applicant for private or shared communication facilities.

(c) In loading channels, the Commission will further consider the mode of operation planned; the purposes for which the system is to be used, as noted; the persons to be served by the station and other factors. The other factors shall include the following:

(1) Mobile relay or repeater operations will not be assigned on channels to be used in two-frequency simplex mode, and conversely.

(2) Systems employing full duplex mode of operation will not be licensed on frequencies assigned for mobile relay or two-frequency simplex systems.

(3) Applicants in one service group, where possible, will not be required to share with applicants in other service groups, where the loading criteria of the services involved are different, except where circumstances require it.

(4) Push-to-talk operations will not be licensed on channels which are to be used under other modes of operation, except in those cases where it is shown that such method of operation is feasible.

(d) Conventional systems will not be authorized for radiotelephone operations.

(e) The Commission, in addition to the foregoing standards, set out at paragraph (c) of this section, may take into consideration any other factor which might enable the persons licensed to use a given channel or channels in more efficient and effective ways.

(f) No applicant shall be required to obtain any approval from a state or local regulatory authority to operate facilities authorized pursuant to these rules. State or local regulation may be exercised only to the extent that it does not limit competition or otherwise conflict with these rules. There shall be no limit on the number of systems authorized to operate in any one given area except that imposed by allocation limitations; and no person authorized to operate any radio facility under the provisions of this subpart shall have a right to protest proposals on grounds other than violation of or inconsistency with the provisions of this subpart. All grants are made subject to this condition and to the other conditions and standards set out in this subpart.

§ 89.804 Other criterion to be applied in licensing channels for use in trunked systems of communication.

There shall be no limit on the number of trunked systems authorized to operate in any one given area except that imposed by allocation limitations; and no person authorized to operate any trunked radio facility shall have a right to protest any other proposal on grounds other than violation of an inconsistency with the provisions of this subpart. All grants are made subject to the conditions and standards set out in this subpart.

PART 91—INDUSTRIAL RADIO SERVICES

8. In § 91.102(a), the table is amended to read as follows:

§ 91.102 Frequency stability.

(a) • • •

Frequency range	Transmitter (input) power			
	Fixed and base stations		Mobile stations	
	Over 300 W	300 W or less	Over 3 W	3 W or less
MHz	*Percent*	*Percent*	*Percent*	*Percent*
Below 25[1]	0.005	0.01	0.01	0.02
25 to 50	.002	.002	.002	.005
50 to 450	[2] .0005	.0005	.0005	.005
450 to 470	[1, 3] .00025	[2, 3] .00025	.0005	[3] .0005
470 to 512	.00025	.00025	.0005	.0005
806 to 821	.00015	.00015	.00025	.00025
851 to 866	.00015	.00015	.00025	.00025
950 to 1,427	(4)	(4)	(4)	(4)
1,427 to 1,435	[4] .03	[4] .03	.03	.03
Above 1,435	(4)	(4)	(4)	(4)

• • • • • •

9. In § 91.103, paragraph (a) is amended and paragraph (c) is added to read as follows:

§ 91.103 Types of emission.

(a) Except as provided in paragraph (b) and (c) of this section, stations in these services will be authorized to use only A3 or F3 emission for radiotelephony. The authorization to use A3 or F3 emission will be construed to include the use of tone signals or signalling devices whose sole function is to establish or maintain communication between stations.

• • • • • •

(c) Operation in the frequency bands 806 to 821 and 851 to 866 MHz is limited to F3 emission.

10. In § 91.104(b)(2), the table is amended to read as follows:

§ 91.104 Emission limitations.

• • • • • •

(b) • • •
(2) • • •

Frequency range (MHz)[2]	Maximum plate power input to the final radio frequency stage (watts)	Maximum effective radiated power (watts)
1.6 to 6	2,000	
25 to 100	500	
100 to 216	600	
216 to 220	(1)	(1)
220 to 470	600	
470 to 512		1,000
806 to 821		(3)
851 to 866	(3)	(3)
Above 950	(1)	(1)

[1] To be specified in the station authorization.
[2] For power limitations see sec. 89.851.
[3] The output power of a transmitter on any authorized frequency in this service shall not exceed 250 W (24 dBW).

Frequency band (MHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)
25 to 50	20	5
50 to 150	[1] 20	[1] 5
150 to 450	20	5
450 to 470	[2] 20	[2] 5
470 to 512	20	5
806 to 821	20	5
851 to 866	20	5

• • • • • •

11. In § 91.105, Paragraphs (f) and (h) are amended to read as follows:

§ 91.105 Modulation requirements.

• • • • • •

(f) Each transmitter which is operated on a frequency in the bands 450 to 512, 806 to 821, and 851 to 866 MHz and which is provided with a modulation limiter in accordance with the provisions of paragraph (c) of this section shall also be equipped with an audio low-pass filter in accordance with the provisions of paragraph (g) or (h) of this section.

• • • • • •

(h) For stations authorized in the 450–470 MHz band on or after November 1, 1967, and for all stations authorized in the 470 to 512, 806 to 821, and 851 to 866 MHz bands, the audio low-pass filter required by provisions of the preceding paragraphs of this section shall be installed between the modulation limiter and the modulated stage and, at audio frequencies between 3 kHz and 20 kHz, shall have an attenuation greater than the attenuation at 1 kHz by at least: 60 $\log_{10}$ (f/3) decibels. Where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

• • • • • •

12. In § 91.106(b), the table is amended to read as follows:

§ 91.106 Power and antenna height.

• • • • • •

(b) • • •

Frequency range	All fixed and base stations	All mobile stations	
		Over 3 W	3 W or less
MHz	*Percent*	*Percent*	*Percent*
Below 25	0.01	0.01	0.02
25 to 50	.002	.002	.005
50 to 450	[1] .0005	.0005	.005
450 to 470	[2, 4] .00025	.0005	[2] .0005
470 to 512	.00025	.0005	.0005
806 to 821	.00015	.00025	.00025
851 to 866	.00015	.00025	.00025
950 to 1,427	(3)	(3)	(3)
1,427 to 1,435	[4] .03	.03	.03
Above 1,435	(3)	(3)	(3)

13. A new Section 91.116 is added to read as follows:

§ 91.116 Frequencies in 806 to 821, 851 to 866 MHz bands.

For criteria governing the use of frequencies in the 806 to 821 and 851 to 866 MHz bands see Part 89, Subpart S.

PART 93—LAND TRANSPORTATION RADIO SERVICES

14. In § 93.102(a), the table is amended to read as follows:

§ 93.102 Frequency stability.

(a) • • •

Frequency band (MHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)
25 to 50	20	5
50 to 150	[1] 20	[1] 5
150 to 450	20	5
450 to 470	[2] 20	[2] 5
806 to 821	20	5
851 to 866	20	5
Above 866	(4)	(4)

• • • • • •

17. In § 93.105, paragraphs, (f) and (h) are amended to read as follows:

§ 93.105 Modulation requirements.

• • • • • •

(f) Each transmitter which is operated on a frequency in the bands 450 to 512, 806 to 821, and 851 to 866 MHz and which is provided with a modulation limiter in accordance with the provisions of paragraph (c) of this section shall also be equipped with an audio low-pass filter in accordance with the provisions of paragraph (g) or (h) of this section.

• • • • • •

(h) For stations authorized in the 450–470 MHz band on or after November 1, 1967, and for all stations authorized in the 470–512, 806 to 821, and 851 to 866 MHz bands, the audio low-pass filter required by the provisions of the preceding paragraph of this section shall be installed between the modulation limiter and the modulated stage and, at audio frequencies between 3 kHz and 20 kHz, shall have an attenuation greater than the attenuation at 1 kHz at least: 60 $\log_{10}$ (f/3) decibels. Where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

• • • • • •

18. In § 93.106(b), the table is amended to read as follows:

§ 93.106 Power and antenna height.

• • • • • •

(b) • • •

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Frequency range (MHz)	Maximum plate power input to the final radio frequency stage (watts)	Maximum effective radiated power (watts)
30 to 100	500	
100 to 470	[1] 120	
470 to 512		1,000
806 to 821		(4)
851 to 866	(3)	(4)
Above 960	(2)	

[1] In the frequency band 450–470 MHz maximum plate power input in excess of 120 W but not in excess of 600 W may be authorized in accordance with the provision of subpart E of this part, upon submission of the required showings.
[2] [Reserved].
[3] As specified in § 93.111.
[4] For power limitations see sec. 89.651.
[5] The output power of a transmitter on any authorized frequency in this service shall not exceed 250 W (24 dBW).

* * * * *

19. A new § 93.116 is added to read as follows:

§ 93.116 Frequencies in the 806 to 821 and 851 to 866 MHz bands.

For criteria governing the use of frequencies in the 806 to 821 and 851 to 866 MHz bands see Part 89, Subpart S.

APPENDIX A

ALPHABETICAL LIST OF PARTICIPANTS

Aeronautical Radio, Inc.
AIL, A Division of Cutler-Hammer
Airsignal International, Inc.
American Petroleum Institute
American Telephone and Telegraph Company
American Transit Association
Association of American Railroads
Association of Maximum Service Telecasters, Inc.
Associated Public—Safety Communications Officers, Inc.
Atlanta Transportation Association
Boston Cab Company
Chicago Communication Service
Chicago Transit Authority
City of Fort Lauderdale, Florida
Collins Radio Company
Communications, Inc.
Digital Paging Systems, Inc.
Electronic Industries Association
Gainesville Industrial Electric Company
General Electric Company (Major Appliance Business Group)
General Electric Company (Mobile Radio Department)
GTE Service Corporation
Henry Ford Hospital
Integrated Systems Technology, Inc.
International Association of Chiefs of Police
International Association of Fire Chiefs
International Bridge, Tunnel, and Turnpike Association, Inc.
International Bridge, Tunnel, and Turnpike Association, Inc.
International Municipal Signal Association
Jeremiah Courtney
Lake Side Communications
Magnavox Company
Martin Marietta Corporation
Mobilfone, Inc.
Motorola
Mueller Electronics
National Association of Broadcasters
National Association of Business and Educational Radio, Inc.
National Association of Radiotelephone Systems
National Association of Regulatory Utility Commissioners
New Jersey Hospital Association
Radio Broadcasting Company
Ram Broadcasting Corporation
RCA Corporation
Sangamo Electric Company
Scott Communications Company
Southeast Ohio Emergency Medical Service
Special Industrial Radio Service Association, Inc.
St. Louis Electronics
Terminal Taxi Company
United States Department of Justice
United States Independent Telephone Association
United States Office of Telecommunications Policy
United States Small Business Administration
United Telecommunications, Inc.
Utilities Telecommunications Council
Xerox Corporation
Yellow Cab Company of Greater Buffalo, Inc.

APPENDIX B

GUIDELINES UNDER WHICH DEVELOPMENTAL AUTHORIZATIONS FOR CELLULAR SYSTEMS IN THE 806–947 MHZ FREQUENCY BANDS WILL BE ISSUED

I. *Eligibility.* Developmental authorizations for cellular systems in the 806–947 MHz frequency band will be issued only to existing and proposed wireline communication common carriers who are legally, financially and otherwise qualified to conduct experimentation for the development of engineering, operational data and techniques directly related to the establishment of a high capacity mobile telephone system which is based upon a cellular concept and regulated under Part 21 of the Commission's rules.

II. *Scope of Service.* Developmental authorizations will be issued for development of a high capacity mobile telephone system, including provisions for mobile telephone and automatic dispatch service to be governed by Part 21 of the rules and regulations.

III. *Adherence to Program of Research and Development.* The program of research and development, as stated by an applicant in the application for construction permit or license or stated in the instrument of station authorization, shall be substantially adhered to unless the licensee is otherwise authorized by the Commission.

IV. *Terms of Grant: General Limitations.* a. Developmental authorizations shall normally be issued for one year or longer as the Commission may deem appropriate in any particular case, and shall be subject to cancellation without a hearing by the Commission at any time upon notice to the licensee.

b. Where some phases of the developmental program are not covered by the General Rules of the Commission or by Part 21 of the rules, the Commission may specify supplemental or additional requirements or conditions in each case as it may deem necessary in the public interest, convenience or necessity.

c. Frequencies allocated to the service toward which such development is directed will be assigned for developmental operation on a one system per market area basis.

d. Only one developmental system will be authorized any single applicant.

e. No interference shall be caused to the regular services of stations operating in accordance with the Commission's Table of Frequency Allocations (§ 2.106 of the rules and regulations);

f. All systems shall be designed for nationwide compatibility for roamer operation.

g. The rendition of communication service for hire is not permitted unless specifically authorized by the Commission.

h. The grant of a developmental authorization carries with it no assurance that the developmental program, if successful, will be authorized on a permanent basis.

V. *Supplementary Showing Required.* a. Authorizations for development of a cellular system will be issued only upon a showing that the applicant has a definite program of research and development, the details of which shall be set forth, having reasonable promise of substantial contribution to these services within the term of such authorization. In addition to showing that the applicant is financially qualified or that adequate provision has been made to underwrite the costs of the proposed venture, a specific showing should be made as to the factors which the applicant believes qualify him technically to conduct the research and development program, including a description of the nature and extent of engineering facilities which applicant has available for such purpose.

b. Expiring developmental authorizations may be renewed only upon the applicant's compliance with the objectives of the authorization sought to be renewed and upon a factual showing that further progress in the program of research and development requires further radio transmission and that the public interest, convenience or necessity would be served by renewal of such authorization.

VI. *Developmental Report Required.* a. Upon completion of the program of research and development, or, in any event, upon the expiration of the instrument of station authorization under which such investigations were permitted, or at such times during the term of the station authorization as the Commission may deem necessary to evaluate the progress of the developmental program, the licensee shall submit, in duplicate, a comprehensive report on the following items, in the order designated:

1. Report on the various phases of the project which were investigated.

2. Total number of hours of operation on the frequencies assigned.

3. Copies of any publication on the project.

4. A listing of any patents applied for, including copies of any patents issued as a consequence of the activities carried forth under the authorization.

5. Detailed analysis of the result obtained.

6. Any other pertinent information.

b. In addition to the information required by paragraph (a) of this section, the developmental report of a station authorized for the development of a proposed radio service shall include comprehensive information on the following items:

1. Probable public support and methods of its determination.
2. Practicability of service operations.
3. Interference encountered.
4. Pertinent information relative to merits of the proposed service.
5. Propagation characteristics of frequencies used, particularly with respect to the service objective.
6. Frequencies, if any, believed to be more suitable and reasons therefore.
7. Type of signals or communications employed in the experimental work.

c. Normally, developmental reports will be made a part of the Commission's public records. However, an applicant may request that the Commission withhold from the public certain reports and associated material relative to the accomplishments achieved under developmental authorization, and, if it appears that such information should be withheld, the Commission will so direct.

[FR Doc.74–10598 Filed 5–9–74;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that two positions of Special Assistant to the Under Secretary are excepted under Schedule C.

Effective on May 10, 1974, § 213.3384 (a) (9) is added as set out below.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(9) Two Special Assistants to the Under Secretary.

* * * * *

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10870 Filed 5–9–74;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President; Correction

In the FEDERAL REGISTER of May 3, 1974 (FR Doc. 74–10212) on page 15383 § 213.3303(k) (2) was added, it should be § 213.3303(k) (3) as set out below.

§ 213.3303 Executive Office of the President.

* * * * *

(k) *Federal Energy Office.* * * *

(3) One Secretary to the Deputy General Counsel.

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant, to the Commissioners.

[FR Doc.74–10871 Filed 5–9–74;8:45 am]

PART 733—POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Residence of Howard County, Maryland

Section 733.124 is amended to include political activity privileges to employee residents of Howard County, Maryland.

Section 733.124(b) is amended by adding "Howard County (April 25, 1974)" between "Greenbelt (Oct. 4, 1940)" and "Hayattsville (Sept. 20, 1940)" under the heading "In Maryland".

((5 U.S.C. 1308, 3301, 3302, 7301, 7324, 7325, 7327; 42 U.S.C. 2729); E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10869 Filed 5–9–74;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 20]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Apportionment of Funds to States

The purpose of this amendment to the regulations governing the School Breakfast and Nonfood Assistance Programs and State Administrative Expenses is to provide the authority for State educational agencies and FNSROs to approve applications for nonfood assistance to be financed over a period of three consecutive fiscal years. This authority is also applicable with respect to reserve funds withheld to assist schools without food service. The authority may be appropriately utilized in those situations where a school or school district makes application and is approved to purchase extensive equipment in an amount which exceeds the funds available therefor in the hands of the State or FNSRO for the fiscal year in which the school's application is made. Likewise, the school or school district which acquires partial and/or inadequate equipment with reserve funds available for one fiscal year may still be considered as a school(s) without food service and qualify for additional monies from the no-food-service reserve in the next two fiscal years. However, in either situation, the obligation of funds for three fiscal years is contingent upon future availability of appropriated monies.

Since this amendment affects internal management of the program funds and does not adversely affect any participating school(s), notice and public participation procedure is impracticable and unnecessary.

Accordingly, in 7 CFR Chapter II, Part 220 is amended by adding a new paragraph to § 220.12, reading as follows:

§ 220.12 Apportionment of funds to States.

* * * * *

(d) If, in any fiscal year, the amount of funds made available under paragraph (a) or paragraph (a–1) of this section to any State agency, or FNSRO where applicable, is insufficient to pay the entire amount of funds requested and justified in the application of a School Food Authority, the State agency, or FNSRO where applicable, may approve the entire amount justified on condition that such amount will be paid to the School Food Authority, to the extent that sufficient funds are available therefor, over a period not to exceed three consecutive fiscal years beginning with the fiscal year in which the application was approved. If the application was for equipment for a school which, at the time of the application, was without a food service, the State agency, or FNSRO where applicable, may use funds available under paragraph (a–1) during the three year period to pay the entire amount of the funds approved.

(Catalog of Federal Domestic Assistance Program No. 10.553 National Archives Reference Services)

Effective date: This amendment will become effective on July 1, 1974.

Dated: May 8, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74–10902 Filed 5–9–74;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 8]

PART 780—APPEAL REGULATIONS

Requests for Reconsideration and Appeals Requiring Special Handling

Section 780.11 of the appeal regulations, 7 CFR Part 780, is amended by revising paragraph (a) to read as follows:

§ 780.11 Requests for reconsideration and appeals requiring special handling.

(a) Determinations made by a State committee with respect to (1) the establishment of farm yields for wheat, feed grain, and cotton, (2) the establishment of wheat allotments, (3) the establishment of farm feed grain allotments, (4) the establishment of upland cotton base acreage allotments, (5) the establishment of conserving bases, (6) matters rising under the tobacco discount variety program, and (7) eligibility provisions of the livestock feed program are not appealable to the Deputy Administrator.

Effective date. The changes in the foregoing amendment of Part 780 relate to its applicability to the 1974–77 programs for feed grains, wheat, and upland cotton. Farmers are completing their plans for the 1974 crop year, and it is essential that the foregoing amendment of Part 780 be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, this

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amendment shall become effective May 10, 1974.

Signed at Washington, D.C., May 3, 1974.

GLENN A. WEIR,
Acting Administrator.

[FR Doc.74-10828 Filed 5-9-74;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 638]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 12-18, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.938 Lemon Regulation 638.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is about unchanged.

Average f.o.b. price was $5.87 per carton the week ended May 4, 1974 compared to $5.73 per carton the previous week.

Track and rolling supplies at 140 cars were down 6 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 7, 1974.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 12, 1974, through May 18, 1974, is hereby fixed at 265,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: May 8, 1974.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-11043 Filed 5-9-74;11:47 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Hog Cholera Eradication and Free States

This amendment deletes the State of Texas from the list of Hog Cholera Eradication States in 9 CFR 76.2(f), as amended, and adds said State to the list of Hog Cholera Free States in § 76.2(g) upon the basis of a determination that such State qualifies for hog cholera free status under § 76.2(g). The special provisions in 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from such Eradication or Free States remain applicable to Texas.

The removal of the State of Texas from the list of Hog Cholera Eradication States and the addition of this State to the list of Hog Cholera Free States affects the Federal indemnities payable under other regulations (9 CFR Part 56, as amended) for swine slaughtered because of hog cholera in the State of Texas.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the reference to the State of Texas in paragraph (f) is deleted, and paragraph (g) is amended by adding thereto the name of said State.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 35 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective May 10, 1974.

The amendment does not change the requirements under the regulations in 9 CFR Part 76 with respect to the interstate movement of swine or swine products. It has the effect of relieving restrictions on indemnity payments under the regulations in 9 CFR Part 56 and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 7th day of May 1974.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service

[FR Doc.74-10881 Filed 5-9-74;8:45 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Importation of Slaughter Animals; Clarification

Statement of considerations: The purpose of this amendment is to clarify and bring up to date with present practice the requirements contained in 9 CFR Part 92, to provide that all livestock imported for slaughter go direct to a recognized slaughtering establishment operating under Federal or State inspection and approved by Veterinary Services to receive such animals for slaughter.

Accordingly, 9 CFR Part 92, is hereby amended in the following respects:

1. In § 92.1 paragraphs (m) and (n) are amended to read:

§ 92.1 Definitions.

* * * * *

(m) *Recognized slaughtering establishment.*[10] An establishment where slaughtering operations are regularly carried on under Federal or State inspection and which has been approved by Veterinary Services to receive animals for slaughter under this Part.

(n) *Immediate slaughter.* Consignment directly from the port of entry to a recognized slaughtering establishment[10] and slaughter thereat within two weeks from the date of entry.

* * * * *

§§ 93.23, 92.28, 92.40 [Amended]

2. In §§ 92.23, 92.28(c), and 92.40 in the second sentence the term "recognized slaughtering center" is deleted and the term "recognized slaughtering establishment"[10] is substituted therefor.

3. In § 92.40 the first sentence is amended by inserting after the reference to "§ 92.33" the word "and" and by deleting the phrase "and 92.39(a)."

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134b, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

[10] The name of recognized slaughtering establishments approved under this Part may be obtained from the Area Veterinarian in Charge, Veterinary Services, for the State of destination of the shipment.

Effective date. The foregoing amendment shall become effective May 10, 1974.

This amendment clarifies and brings up to date with present practice the requirements for importation of slaughter animals under the regulations of this Part 92 and does not impose or relieve any restrictions. The amendment should be made effective promptly to be of maximum benefit to persons affected. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of May 1974.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-10826 Filed 5-9-74;8:45 am]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS: ORGANISMS AND VECTORS

Miscellaneous Amendments

On September 18, 1973, a notice of proposed amendments to Part 113 was published in the FEDERAL REGISTER, Volume 38, Number 180, page 26118.

On December 18, 1973, a notice of proposed amendments to Part 108, Part 114, and Part 116 was published in the FEDERAL REGISTER, Volume 38, Number 242, page 34736.

On January 25, 1974, a notice of proposed amendments to Part 112 was published in the FEDERAL REGISTER, Volume 39, Number 18, page 3275.

The basic requirements included in these amendments have been in effect for several years and have been utilized by Veterinary Services and by industry during that time. These amendments would codify in the regulations such requirements as have been issued in administrative memorandums. The publication of these amendments is done to make more readily available to the general public the nature of these requirements.

These amendments to Part 112 were proposed to update the current label requirements for biological products. They include requirements found essential for proper labeling. They also include authorization for the issuance of export certificates to licensees interested in foreign commerce. A proposed new label requirement in the form of a caution statement for bacterins authorized for use as diluents was published in § 113.85(d)(2). This requirement has been redesignated as § 112.7(h).

These amendments codify in Part 113 some test methods, procedures, and criteria established by Veterinary Services for evaluating biological products to be pure, safe, potent, and efficacious and not to be worthless, contaminated, dangerous, or harmful. All products are required to meet the applicable requirements before marketing release is authorized. Regulations proposed as § 114.-12, "Biological products prepared from animal blood" have been combined with the regulations in § 113.75 under the caption of "General requirements for biological products of animal blood origin."

These amendments contain a complete revision of Part 114. The regulations in this part pertain to the production of biological products in a licensed establishment. They include guidelines for preparing an Outline of Production in addition to the requirements to be met. Among the items added are personnel requirements. The designation of an official representative of each licensee to act as contact with Veterinary Services is required. "Gentamicin" is added to the list of permitted antibiotics.

These amendments expand the regulations in Part 116 by codifying detailed recordkeeping requirements now published in administrative memorandums.

After due consideration of all revelant matters, including the proposals set forth in the aforesaid notices of rulemaking, and the comments and views submitted by interested persons, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (U.S.C. 151-158), the amendments of Parts 108, 112, 113, 114, and 116 of Subchapter E, Chapter 1, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notices are hereby adopted and are set forth herein, subject to the following noted modifications:

1. Section 108.2 has been reworded by deleting "and shipment" and substituting "a brief description" for "detailed explanation" as being more desirable. Section 108.5 lead paragraph has been changed to "A brief description" also.

2. Section 108.6 lead paragraph has been reworded to permit submission of preliminary drawings for comment. Section 108.6(a) has been reworded for clarity.

3. Section 108.8 (a) and (b) have been reworded for clarity.

4. Section 108.9(b) has been reworded for clarity.

5. Section 108.10(a) spelling of "establishment" is corrected.

6. Section 112.2(a)(11) is changed to limit the requirement to cartons containing more than one final container.

7. Section 113.85(d)(2) has been reworded for clarity and redesignated as a new paragraph 112.7(h) as being more appropriately codified.

8. Section 112.7(d)(5) has been reworded for clarity.

9. The proposed mouse test in § 113.39 was revised to permit subcutaneous injection as an alternate to intraperitoneal injection, to limit its use to liquid products and to redesignate it as § 113.33 (b). Where § 113.39 appears, § 113.33(b) is substituted. Section 113.39 is reserved.

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10. The proposed guinea pig test in § 113.38 is revised to permit subcutaneous injection.

11. Section 113.65 is revised to establish Veterinary Services as the source of seeds for production of tuberculin; to permit the testing of bulk samples; and minor changes for clarification.

12. Section 113.66 and § 113.67 are revised for clarity and correctness.

13. "Salmonella" is spelled out in § 113.66 and "serum" corrected.

14. The general requirements for products of blood origin proposed in § 113.75 are combined with the requirements for preparing such products proposed as § 114.12.

15. Section 113.76 is revised for clarity, specificity, and accuracy. Bulk testing has been added as an alternate. "Twenty-25° C" is substituted for "room temperature."

16. Section 113.77 has been changed to permit a tolerance of two controls and observation period reduced to 10 days.

17. Section 113.78 has been changed for clarification and correctness.

18. Section 113.79 and § 113.80 has been changed to permit the use of animals other than horses and to correct minor errors.

19. Section 113.85 has been revised by rewording the definitions for bacterin, toxoid, and bacterin-toxoid as being more meaningful and complete. Reference to previous publications has been deleted and label requirements for bacterins authorized for use as diluents moved to § 112.7(h). Redesignation of paragraphs made and text corrected where indicated for clarification and accuracy.

20. The lead paragraphs of §§ 113.86, 113.87, 113.88, 113.91, 113.92, 113.93, 113.94, 113.95, 113.96, 113.97, 113.98, 113.99, 113.100, 113.101, and 113.104 which pertain to products subject to requirements in § 113.85 have been rewritten to include a reference to § 113.85 for completeness and clarification. Also, where the phrase "has been rendered sterile and nontoxic" appeared, the phrase "has been inactivated and is nontoxic" has been substituted as being more meaningful. Minor changes in these sections have been made for clarification and accuracy of the test procedure prescribed. In addition, the following changes have been made:

21. The potency test in § 113.94 has been deleted in favor of tests written into the filed Outline of Production until further data on the proposed test can be developed. Section 113.98 is reserved. "Room temperature" is changed to "20 to 25° C" in § 113.99.

22. The caption for § 113.100 has been changed to "§ 113.100 *Staphylococcus Aureaus Bacterin-Toxoid*" to limit its application to that product. Minor changes made for accuracy.

23. The captions of § 113.101, § 113.102, and § 113.103 have been changed to include "Multocida (avicida)." "Approved Outline of Production" has been changed in § 113.101 to "filed Outline of Production" for accuracy. Minor changes made for clarification. Age of turkeys allowed in § 113.103 reduced to 6 weeks.

24. Swine protection test in proposed § 113.112 redesignated as § 113.104(e). Reference to its use has been made in § 113.112. Other minor changes made in § 113.104 for clarification.

25. Sections 113.105 to 113.109 are reserved.

26. Minor changes have been made in § 113.110 to clarify the conditions of the tests. The upper limit of viable *Brucella abortus* organisms has been deleted as being unnecessary. Redesignation of paragraphs made as indicated.

27. Minor changes also have been made in § 113.111 for clarity and accuracy.

28. The table of contents for Part 114 is corrected to show the proper caption for §§ 114.5 and 114.12. A printing error is corrected in § 114.5. Section 114.6 is reworded for clarity. Proposed § 114.7(b) is deleted; § 114.7(c) is renumbered § 114.7(b) and "competent" is substituted for "well versed;" § 114.7(d) is renumbered § 114.7(c) and subparagraph § 114.7(c) (2) is reworded for clarity.

29. Section 114.8(e) (1) is reworded for clarity.

30. Paragraph V of the Outline Guide in § 114.9(c) is clarified by deleting the words "by number" and to be consistent with the other Outline Guide presented. Paragraph VI of the Outline Guide in § 114.9(c) is amended to conform with the other Outline Guides presented by adding the volume of fill.

31. Paragraph III B of the Outline Guide in § 114.9(d) is amended by substituting the word "and" for "or" for completeness. Paragraph IV B of the Outline Guide in § 114.9(d) is amended for clarity and completeness.

32. Section 114.10 is amended to permit the use of a penicillin and streptomycin combination.

33. Section 114.11 is changed to include centigrade readings of temperatures. The word "such" is deleted in the last sentence as too restrictive.

34. Material in § 114.12 has been recodified as part of § 113.75. Section 114.12 is reserved.

35. Section 114.13(a) (2) has been reworded for clarity. The lead paragraph in § 114.13(c) has been reworded to provide for antitoxins separately.

36. A new § 114.13(c) (2) has been added and § 114.13(c) (2) renumbered § 114.13(c) (3).

37. Section 114.14(a) (2) and § 114.14 (b) (2) have been reworded for clarity.

38. Section 114.18(d) has been reworded to remove the "R" requirement, but substitute a new serial number for the records.

39. Section 116.1(a) has been rewritten to require the "time" where critical.

40. Section 116.8 the word "such" has been deleted and "all" substituted for clarification of disposition records requirements.

1. Part 108—*Sanitation Requirements for Licensed Establishments*—is amended to read:

PART 108—FACILITY REQUIREMENTS FOR LICENSED ESTABLISHMENTS

Sec.

108.1 Applicability.
108.2 Plot plans, blueprints, and legends required.
108.3 Preparation of plot plans.
108.4 Preparation of blueprints.
108.5 Preparation of legends.
108.6 Revision of plot plans, blueprints, and legends.
108.7 Filing of plot plans, blueprints, and legends.
108.8 Construction of buildings.
108.9 Dressing rooms and other facilities.
108.10 Outer premises and stables.
108.11 Water quality requirements.

AUTHORITY: 37 Stat. 832–833; 21 U.S.C. 151–158.

§ 108.1 Applicability.

Unless otherwise authorized by the Deputy Administrator, all buildings, appurtenances, and equipment used in the preparation of biological products shall be in compliance with the regulations in this part. Each land area on which such buildings and appurtenances are located shall be identified by an address which shall appear on the establishment license.

§ 108.2 Plot plans, blueprints, and legends required.

Each applicant for an establishment license shall prepare a plot plan showing all buildings for each particular land area, blueprints for each building used in the preparation of biological products and legends containing a brief description of all activities in each room or area.

§ 108.3 Preparation of plot plans.

Plot plans shall show all of the buildings on a particular land area, whether or not they are all used for the preparation and initial shipping of biological products; *Provided*, That, when a great number of buildings are on the same premises, only those surrounding the buildings used for preparation and initial shipping of biological products shall be shown. The presence of the remainder of the buildings may be accounted for by a single statement denoting the total number of such buildings not used for the preparation or shipping of biological products.

(a) Reduce the entire premises to any standard scale on one sheet of paper which meets any of the American standard trimmed sizes. Indicate the scale used.

(b) Clearly mark the boundaries of the licensed premises and indicate what marking denotes the boundaries. Such boundaries shall coincide with some readily apparent perimeter line. Identify all fences, walls, or streets.

(c) Show buildings as reduced dimensional drawings in the proper scale distance relationship with each other.

(d) Number, letter, or otherwise identify all buildings so that they may be correlated with the respective blueprints and legends.

(e) Describe on the plot plan the use of immediate adjacent properties such as, residential area, pasture, box factory, or the like.

(f) Show compass points.

(g) Show date of preparation.

(h) Apply signature of responsible official of the firm.

§ 108.4 Preparation of blueprints.

(a) Blueprints, drawn to any suitable scale, on regular blueprint paper or a good grade of white paper of any one of the American standard trimmed sizes shall be acceptable; *Provided*, That the same scale shall be used for future revisions unless the entire blueprint is revised. Indicate the scale used.

(b) Use a single sheet of paper for each floor of all buildings in which biological products are prepared. Illustrate in detail the areas in each building utilized for such preparation.

(c) If only a portion of a floor is used in the preparation of a biological product, the blueprint shall illustrate the entire floor in essentially the same detail throughout. All functions or activities performed in the remainder of the floor shall be indicated.

(d) Identify the floors if the drawing is not for all floors in a multiple-story building and identify activities on each floor.

(e) Identify all rooms by letters or numbers.

(f) Show the location of important stationary equipment by a suitable code which will be further identified on legends.

(g) Explain on the blueprint or on the legend, by a statement or listing, which rooms are equipped with water outlets, drains, and lighting. Show the location of doors and windows.

(h) Show compass points.

(i) Show building number.

(j) Show date of preparation.

(k) Apply signature of responsible official of firm.

§ 108.5 Preparation of legends.

A brief description of the activities performed in each room or area shall be prepared as provided in this section and shall be referred to as a legend. Legends shall be provided for each plot plan and each blueprint or drawing. All pages of the legends shall be numbered, identified with corresponding plot plan or blueprint, and submitted in booklet form either stapled together or clipped into a suitable folder.

(a) Plot plan legends shall show the following:

(1) Number of each building and the functions performed in each: *Provided*, That if it is a multiple-story building in which biological products are prepared or handled, briefly describe functions performed on each floor.

(2) A practical and nontechnical description of construction materials used throughout those buildings used entirely or partially for production and handling of biological products.

(b) Blueprint legends shall show the following:

(1) A listing of all rooms by identifying letters or numbers and the product code numbers for products prepared in whole or in part in each room. Exceptions may be listed for general purpose areas or rooms. Functions performed in each area and room shall be described.

(2) A listing of the coded stationary equipment.

(3) A general listing of other essential biological equipment such as mills, centrifuges, mixing tanks, bottling and sealing equipment, and the like, which are not regarded as stationary but are maintained in certain rooms.

§ 108.6 Revision of plot plans, blueprints, and legends.

Preliminary drawings may be submitted to Veterinary Services for comment prior to construction of new facilities or when remodeling is anticipated, old facilities are to be torn down, or other changes affecting the workflow are to be made. The licensee shall:

(a) Prepare revised plot plans, blueprints, or legends and submit to Veterinary Services for review and filing when changes have been completed. Also prepare a statement to accompany each revision to identify, by date of the superseded item, what is being superseded.

(b) Prepare a drawing of the revised rooms, unit, or section to the same scale as the blueprint on file which shall be stamped and applied to the existing blueprint. If changes are numerous, prepare a new blueprint.

(c) Drawings of new buildings may be added to existing plot plans. Indicate the distance from surrounding buildings and boundary lines.

(d) Any change prescribed in this section shall necessitate a change in one or more pages of the respective legends. The revised pages shall carry the same numbers as superseded pages.

§ 108.7 Filing of plot plans, blueprints, and legends.

Three copies of all plot plans, blueprints, and legends, including revisions, shall be submitted to Veterinary Services for review and filing. When the reviewer takes exception to a submitted item, such item shall be returned with appropriate comments for correction and resubmission. Acceptable submissions shall be stamped as filed and the date noted. One stamped copy shall be returned and two copies retained for Veterinary Services files.

§ 108.8 Construction of buildings.

(a) The floors, walls, ceilings, partitions, posts, doors, and all other parts of all structures, rooms, or facilities used for the preparation of biological products or ingredients of biological products at licensed establishments shall be of such material, construction, and finish as may be readily and thoroughly cleaned.

(b) All rooms used in connection with the preparation of biological products shall be so constructed and arranged as to prevent cross-contamination of such biological products. Halls or walkways shall be provided for the movement of personnel or materials to each biological products preparation area without going through another such area.

(c) Rooms or compartments separate from the remainder of the establishment shall be provided at licensed establishments for preparing, handling, and storing virulent or dangerous microorganisms and products.

(d) All rooms and compartments at licensed establishments shall have an adequate air handling system to supply proper ventilation sufficient to insure sanitary and hygienic conditions for the protection of the products and personnel.

(e) The supply of hot and cold water at licensed establishments shall be ample and clean. Adequate facilities shall be provided for the distribution of water in each establishment and for the washing of all containers, machinery, instruments, other equipment, and animals used in the preparation of a biological product.

(f) There shall be an efficient drainage and plumbing system for each licensed establishment and premises thereof, and all drains and gutters shall be properly installed with approved traps and vents.

§ 108.9 Dressing rooms and other facilities.

Each licensed establishment shall have dressing rooms, toilet facilities, and lavatory accommodations, including hot and cold running water, soap, towels, and the like. They shall be in sufficient number, ample in size, conveniently located, properly ventilated, and meeting all requirements as to sanitary construction and equipment.

(a) These rooms and facilities shall be separate from rooms or compartments in which biological products are prepared, handled, or stored.

(b) These rooms and facilities shall be so located in the establishment as to be readily accessible to all persons without having to enter or pass through biological products preparation areas.

§ 108.10 Outer premises and stables.

(a) The outer premises of licensed establishments, embracing docks, driveways, approaches, yards, pens, chutes, and alleys shall be drained properly and kept in a clean and orderly condition. No nuisance shall be allowed in any licensed establishment or on its premises.

(b) Stables or other premises for animals used in the production or testing of biological products at licensed establishments shall be properly ventilated and lighted, appropriately drained and guttered, and kept in sanitary condition.

(c) Every practical precaution shall be taken to keep licensed establishments free of flies, rats, mice, and other vermin. The accumulation, on the premises of an establishment, of any material in which flies or other vermin may breed is forbidden. Suitable arrangements, in keeping with the local health practices, shall be made for the disposal of all refuse.

§ 108.11 Water quality requirements.

A certification from the appropriate water pollution control agency, that the

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establishment is in compliance with applicable water quality control standards, pursuant to section 401 of the Federal Water Pollution Control Act, as amended (86 Stat. 877; 33 U.S.C. 1341), shall be filed with Veterinary Services for each licensed establishment.

PART 112—PACKAGING AND LABELING

2. Section 112.2(a)(8) is amended; (a)(11) is added; and (e) is amended to read:

§ 112.2 Final container label, carton label and enclosure.

(a) • • •

(8) In the case of a biological product recommended for use in domestic animals, the edible portion of which may be used for food purposes, a withholding statement of not less than 21 days to read: "Do not vaccinate within (insert number) days before slaughter" or "Do not vaccinate food-producing animals within (insert number) days before slaughter:" *Provided,* That longer periods shall be stated when deemed necessary by the Deputy Administrator. Very small final container labels are exempted from this requirement.

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(11) The number of final containers of biological product and the number of doses in each final container shall be stated on each carton label for all cartons containing more than one final container of biological product. The number of final containers of diluent, if any, and the quantity in each shall also be stated on each carton label.

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(e) When label requirements of a foreign country conflict with the requirements as prescribed in this part, special labels may be approved for use on biological products to be exported to such country. When laws, regulations, or other requirements of foreign countries require exporters of biological products prepared in a licensed establishment to furnish official certification that such products have been prepared in accordance with the Virus-Serum-Toxin Act and regulations issued pursuant thereto, such certification may be made by Veterinary Services upon request of the licensee.

3. Section 112.3 is amended by adding a new paragraph (g) to read:

§ 112.3 Diluent labels.

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(g) The establishment license number or the permit number, as the case may be, in one of the forms provided in § 112.2(a)(3).

4. Section 112.7 is amended by adding a lead paragraph; amending paragraphs (d)(4) and (e)(5) and adding paragraphs (g) and (h).

§ 112.7 Special additional requirements.

The label requirements in this section are additional to those prescribed elsewhere in this part.

• • • • •

(d) • • •

(4) • • •

(iv) Intramuscular injection at one site in the thigh shall be recommended.

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(5) A statement containing the recommended action to be taken in cases of exposure to the vaccine virus shall be prominently placed on all enclosures and also placed on carton labels for all cartons containing more than one final container of biological product. Satisfactory recommendations may be found in the U.S. Department of Health, Education, and Welfare. Public Health Service, Center for Disease Control Weekly Report, June 24, 1972.

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(g) In the case of autogenous bacterins and autogenous vaccines, labels shall include the recommended dose, the number of repeat doses, if any, and the interval between doses: *Provided,* That the label shall not show:

(1) The identity of the herd or flock from which the cultures were isolated; or

(2) The name(s) of the person(s) responsible for making the isolations; or

(3) A recommendation for use of the product in a herd or flock other than the one from which the cultures were isolated.

(h) In the case of bacterins authorized in § 113.85 of this subchapter to be used as diluents in combination packages, the carton labels and enclosures used with serials of bacterin which are either not tested by the viricidal activity test provided in § 113.35 of this subchapter or have been found unsatisfactory by such viricidal activity test shall contain the statement: "CAUTION: DO NOT USE AS DILUENT FOR LIVE VIRUS VACCINES."

5. The table of contents for Part 113—Standard Requirements is amended; § 113.33 is amended by adding a new paragraph (b); §113.38–§ 113.49 are amended; and new sections §§ 113.65–113.112 are added to read:

PART 113—STANDARD REQUIREMENTS

APPLICABILITY

Sec.

113.1 Compliance.
113.2 Reserved.
113.3 Sampling of biological products.
113.4 Exemptions to tests.
113.5 General testing.
113.6 Veterinary Services testing.
113.7 Multiple fractions.
113.8 Virus titrations in lieu of test for antigenicity.

STANDARD PROCEDURES

113.25 Culture Media for detection of bacteria and fungi.
113.26 Detection of viable extraneous bacteria and fungi in all biological products except live vaccines.
113.27 Detection of viable extraneous bacteria and fungi in live vaccines.
113.28 Detection of mycoplasma contamination.
113.29 Determination of moisture content in desiccated biological products.
113.30 Detection of Salmonella contamination.
113.31 Detection of avian lymphoid leukosis.
113.32 Detection of Brucella contamination.
113.33 Mouse safety tests.
113.34 Detection of hemagglutinating viruses.
113.35 Detection of viricidal activity.
113.36 Detection of extraneous pathogens by the chicken inoculation test.
113.37 Detection of extraneous pathogens by the chick embryo inoculation test.
113.38 Guinea pig safety test.
113.39–113.49 Reserved.

INGREDIENT REQUIREMENTS

113.50 Ingredients of biological products.
113.51 Requirements for primary cells used in biological products production.
113.52 Requirements for selection of cell lines.
113.53 Requirements for ingredients of animal origin.

DIAGNOSTICS AND REAGENTS

113.65 Tuberculin, Intradermic.
113.66 Pullorum Antigen.
113.67 Avian Mycoplasma Antigen.
113.68–113.74 Reserved.

BLOOD ORIGIN PRODUCTS

113.75 General requirements for biological products of animal blood origin.
113.76 Tetanus Antitoxin.
113.77 Swine Erysipelas Antiserum.
113.78 Canine Distemper-Hepatitis-Leptospira Antiserum.
113.79 Clostridium Perfringens Type C Antitoxin.
113.80 Clostridium Perfringens Type D Antitoxin.
113.81–113.84 Reserved.

INACTIVATED BACTERIAL PRODUCTS

113.85 Bacterins, toxoids, and bacterin toxoids.
113.86 Leptospira Pomona Bacterin.
113.87 Leptospira Icterohaemorrhagiae Bacterin.
113.88 Leptospira Canicola Bacterin.
113.89–113.90 Reserved.
113.91 Clostridium Chauvoei Bacterin.
113.92 Clostridium Hemolyticum Bacterin.
113.93 Clostridium Novyi Bacterin-Toxoid.
113.94 Clostridium Sordellii Bacterin-Toxoid.
113.95 Clostridium Botulinum Type C Bacterin-Toxoid.
113.96 Clostridium Perfringens Type C Toxoid and Bacterin-Toxoid.
113.97 Clostridium Perfringens Type D Toxoid and Bacterin-Toxoid.
113.98 Reserved.
113.99 Tetanus Toxoid.
113.100 Staphylococcus Aureus Bacterin-Toxoid.
113.101 General requirements for Pasteurella Multocida (avicida) Bacterins.
113.102 Pasteurella Multocida (avicida) Bacterin, Type 1.
113.103 Pasteurella Multocida (avicida) Bacterin, Type 3.
113.104 Erysipelas Bacterin.
113.105–113.109 Reserved.

LIVE BACTERIAL VACCINES

113.110 Brucella Abortus Vaccine.
113.111 Anthrax Spore Vaccine-Nonencapsulated.
113.112 Erysipelas Vaccine.

AUTHORITY: 37 Stat. 832–833 (21 U.S.C. 151–158).

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§ 113.33 Mouse safety test.

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(b) Bulk or final container samples of completed product from liquid products, such as but not limited to antiserums and bacterins, shall be tested for safety in accordance with the test provided in this paragraph.

(1) Unless otherwise prescribed in the Standard Requirement or approved in a filed Outline of Production for the product, a 0.5 ml dose shall be injected intraperitioneally or subcutaneously into eight mice and the animals observed for 7 days.

(2) If unfavorable reactions attributable to the product occur in any of the mice during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided,* That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

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§ 113.38 Guinea pig safety test.

The guinea pig safety test provided in this section shall be conducted when prescribed in a Standard Requirement or approved Outline of Production for a biological product. When desiccated products are tested, final container samples of completed product prepared for administration in the manner recommended on the label shall be used. When liquid products are tested, either bulk or final container samples of completed product shall be used.

(a) Unless otherwise specified in the Standard Requirement or approved Outline of Production for the product, a 2 ml does shall be injected either intramuscularly or subcutaneously into each of two guinea pigs and the animals observed for 7 days.

(b) If unfavorable reactions attributable to the product occur in either of the guinea pigs during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided,* That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

§§ 113.39–113.49 [Reserved]

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DIAGNOSTICS AND REAGENTS

§ 113.65 Tuberculin, Intradermic.

Tuberculin, Intradermic, is a filtrate produced from cultures of Pn, C, and Dt strains of *Mycobacterium tuberculosis* (supplied by Veterinary Services) which has been inactivated and is nontoxic. Each serial shall be tested for purity, safety, potency, and special chemical tests in accordance with the conditions prescribed for each test. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Each serial shall be tested for purity as provided in this paragraph.

(1) Final container samples of completed product shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(2) A 20 ml sample shall be centrifuged and the sediment examined microscopically for the presence of acidfast (Ziehl-Nielsen stain) or other microorganisms (Gram stain). A serial which contains microorganisms is unsatisfactory for release.

(b) *Safety test.* Final container samples of completed product from each serial shall be tested for safety. Two mature guinea pigs shall be injected subcutaneously with 1 ml and observed for 10 days. If unfavorable reactions attributable to the product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided,* That if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be subjected to a comparison test using a Reference Tuberculin supplied by Veterinary Services. Test animals shall be 10 sensitized white female guinea pigs from one source which weigh 500–700 grams at the beginning of the test and which have not been used in a previous test. The comparison test shall be conducted in accordance with the procedures prescribed in paragraph (c) (1), (2), (3), (4), (5), (6), (7), and (8) of this section.

(1) The guinea pigs shall be sensitized with a sterile heat-killed suspension of equal amounts of strains Pn, C, and Dt of *Mycobacterium tuberculosis.* The heat-killed sensitizing agent shall be injected in a volume of 0.5 ml per guinea pig. The guinea pigs shall be considered sensitized for testing not less than 30 days nor more than 120 days post-injection.

(2) The guinea pigs shall be prepared for sensitivity testing at least 4 hours prior to the injection of tuberculin. The entire abdominal and flank areas shall be clipped, a depilatory agent applied for 5–10 minutes, the area rinsed with warm water, and dried.

(3) Dilutions of 1:100, 1:200, and 1:400 shall be prepared with the Reference Tuberculin and the unknown tuberculin. Three test sites on each side of and equidistant from the abdominal midline shall be chosen on each guinea pig. Using a tuberculin syringe and needle, 0.05 ml of each dilution shall be injected intradermally at one of the test sites which has been randomly selected for the dilution.

(4) The sensitivity of the tuberculins shall be determined 24 hours after injected by measuring the area of erythema. Measurements in millimeters shall be made anterior of the greatest diameter and perpendicular to the first measurement. The square millimeter shall be calculated by multiplying the two measurements.

(5) The total area of response for each tuberculin tested shall be determined by adding the areas of erythema for each dilution of each of the test animals in a group. The sums of the areas of erythema for all three dilutions of each tuberculin shall be added to give the total area of tuberculin response.

(6) The total tuberculin response area of the serial being tested shall be expressed as a percentage of the total tuberculin response area of the Reference Tuberculin. (The total response area of the serial divided by the total response area of the Reference Tuberculin times 100.)

(7) If the total tuberculin response area of the serial being tested does not fall between 75 percent and 125 percent of the total tuberculin response area of the Reference Tuberculin, the serial is unsatisfactory.

(8) Two unsensitized guinea pigs are given 0.05 ml intradermal injections of 1:4 and 1:10 dilutions of both the serial being tested and the Reference Tuberculin as a control for nonspecific positive reactions. If positive reactions are observed with the Reference Tuberculin, the test is considered a "No Test" and repeated. If positive reactions are observed with the serial being tested only, the serial is unsatisfactory.

(d) *Special chemical tests and requirements.* Final container samples of completed product from each serial shall be tested as follows:

(1) *Hydrogen ion concentration.* The hydrogen ion concentration shall be determined with a pH meter which has been standardized with a pH 7.0 buffer just prior to use. The pH of the product shall be 7.0±0.3.

(2) *Total nitrogen determination.* The nitrogen content shall be determined by the Kjeldahl method on duplicate 15 ml samples consisting of 5 ml from each of three vials. The total nitrogen content of the product shall be 0.18 percent±0.06 percent.

(3) *Trichloroacetic acid precipitable nitrogen.* The determination of precipitable nitrogen by a final concentration of 4 percent trichloroacetic acid shall be made by the Kjeldahl method on duplicate 15 ml samples, consisting of 5 ml from each of three vials. The trichloroacetic acid precipitable nitrogen content shall be 0.047 percent±0.01 percent.

(4) *Phenol determination.* The phenol content shall be determined by direct titration with a standardized bromide-bromate solution. (A correction factor of 0.04 should be subtracted from the final value in the determination of phenol in tuberculin.) The phenol content shall be 0.54 percent±0.04 percent.

(5) *Clarity.* The product shall be optically clear and free from any extraneous particles.

§ 113.66 Pullorum antigen.

Pullorum Antigen shall be produced from a culture of representative strains of *Salmonella pullorum* which are of known antigenic composition, high agglutinability, but are not sensitive to negative and nonspecific serum. Each serial shall be tested for purity, density, preservative content, sensitivity, homogeneity, and hydrogen ion concentration. A serial found unsatisfactory by any prescribed test shall not be released.

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(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as prescribed in § 113.26. In addition, each serial shall be free from extraneous organisms as determined by Gram staining and microscopic examination.

(b) *Nephelometric determination of bacterial density.* The bacterial density shall be 80±15 times McFarland No. 1 standard for stained antigen K's and 50±10 times McFarland No. 1 standard for tube antigen.

(c) *Preservative requirements.* (1) The formalin content of Pullorum Stained Antigen K shall be 1.0±0.2 percent as determined by a colorimetric method.

(2) The phenol content for Pullorum Tube Antigen shall be 0.55±0.05 percent as determined by direct titration with a standardized bromide-bromate solution.

(d) *Sensitivity requirements.* (1) Each serial of antigen shall be compared with a reference antigen of known sensitivity using positive and negative chicken serum. The manufacturers' recommendations for use on the accompanying label or package insert shall be followed. The recommended time limit specified for each antigen shall be carefully observed in the test.

(2) A total of at least 12 serums shall be used. This shall include at least three definitely positive, at least three weakly positive, and at least six negative serums. At least three positive chicken serums diluted with negative chicken serum shall be used to further assay comparative sensitivity between test and reference plate antigens. All test antigens shall agree closely with the reference antigen. Tests in which variation of readings between the reference and test antigen would result in a different National Poultry Improvement Plan classification shall be regarded as unsatisfactory. No unsatisfactory tests among the six or more negative serums and not more than one unsatisfactory test among the six or more positive serums shall be permitted. All tests performed shall be included for evaluation of the sensitivity assay. In the event of an unsatisfactory test using positive serums, at least three additional definitely positive and three additional weakly positive serums shall be tested. If not more than one unsatisfactory test is obtained with the additional serums, the antigen shall be acceptable.

(e) *Homogeneity requirement.* Antigens shall show no evidence of autoagglutination or unusual appearance such as the presence of flakes, specks, or a preponderance of filament forms. Gross microscopic examination shall be made in this determination.

(f) *Hydrogen ion concentration.* The hydrogen ion concentration shall be determined with a pH meter which has been standardized with a pH 4.0 buffer just prior to use. The pH of Pullorum Stained Antigen K shall be 4.6±0.4. No pH level is specified for Pullorum Tube Antigen but after dilution as recommended for use, it shall have a pH of 8.2 to 8.5.

§ 113.67 Avian mycoplasma antigen.

Mycoplasma antigens shall be prepared from organisms grown in broth cultures that are inactivated and standardized. Plate antigens shall be stained with an acceptable dye, but tube antigens shall be unstained. Final container samples of completed product from each serial shall be tested for density, preservative content, homogeneity, hydrogen ion concentration, purity, sensitivity, and specificity in accordance with the conditions prescribed for each test. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Density requirements.* A 2.5 ml sample of completed antigen shall be diluted with 2.5 ml of Sorenson's buffer solution (use buffer solution at pH 6.0 for Mycoplasma Gallisepticum Plate Antigen and at pH 7.0 for Mycoplasma Gallisepticum Tube Antigen and Mycoplasma Synoviae Plate Antigen) in a modified Hopkins tube and sedimented at 1,000 × g in a refrigerated centrifuge at 20° C for 90 minutes. If the packed cell volume of the completed antigen is not 1.0 percent (± 0.2 percent), the serial is unsatisfactory.

(b) *Preservative requirements.* Only preservatives written in an approved Outline of Production shall be used. If phenol is used, a direct titration with a standardized bromide-bromate solution shall be made; *Provided,* That if the final concentration of phenol is not 0.25 percent (± 0.05 percent), the serial is unsatisfactory.

(c) *Homogeneity requirements.* (1) Plate antigen shall be checked on a plate for homogeneity. If plate antigen is not homogeneous and free of visible particles and clumps, the serial is unsatisfactory.

(2) Tube antigen shall be checked for homogeneity and autoagglutination. If tube antigen is not homogeneous and free of large visible particles and clumps, or if it autoagglutinates, the serial is unsatisfactory.

(3) Stereo-microscopic examination shall be used when necessary to evaluate a granular appearing antigen.

(d) *Hydrogen ion concentration.* The hydrogen ion concentration shall be determined with a pH meter which has been standardized with a pH buffer just prior to use. The pH of Mycoplasma Gallisepticum Antigen shall be 6.0±0.2; the pH of Mycoplasma Gallisepticum Tube Antigen and Mycoplasma Synoviae Plate Antigen shall be 7.0±0.2.

(e) *Purity requirements.* The antigen shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(f) *Sensitivity requirements.* (1) Mycoplasma Gallisepticum Antigen—Plate or Tube Test reactions of the serial shall be compared with a reference antigen using both known positive and negative chicken and turkey serums (the positive serums shall have varying degrees of reactivity from weakly positive to strongly positive). Five positive serums shall be tested against plate antigen in the 1:4 dilution or tube antigen in the 1:20 dilution; five negative serums shall be tested against plate antigen undiluted or tube antigen in the 1:20 dilution. If negative serums do not have negative reactions in this test, the serial is unsatisfactory. If the test antigen and the reference antigen do not have similar reactions with the positive serums, the serial is unsatisfactory; *Provided,* That a variation is permitted with one of the five serums in the set of positive serums used.

(2) Mycoplasma Synoviae Antigen, Plate—Test reactions of the serial shall be compared with a reference antigen using both known negative chicken serum and positive chicken serums. The five negative serums shall be tested against the antigen undiluted and the positive serums shall be tested against the antigen in the 1:4 dilution. If negative serums do not have negative reactions in this test, the serial is unsatisfactory. If the test antigen and the reference antigen do not have similar reactions with the positive serums, the serial is unsatisfactory; Provided, That a variation is permitted with one of the five serums in the set of positive serums used.

(g) *Specificity requirements.* Mycoplasma Synoviae Antigen shall be examined for cross-agglutination with Mycoplasma gallisepticum antiserum. If cross-agglutination occurs, the serial is unsatisfactory.

§§ 113.68–113.74 [Reserved]

BLOOD ORIGIN PRODUCTS

§ 113.75 General requirements for biological products of animal blood origin.

Each serial of biological product prepared from the blood of animals shall comply with the general requirements prescribed in this section unless otherwise provided for in a Standard Requirement or approved Outline of Production for such product. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) Biological products of animal blood origin prepared in the United States shall be obtained from blood of animals maintained at licensed establishments. Such products offered for importation into the United States shall be prepared from the blood of animals maintained at the establishment entered on the permit as having prepared the product.

(b) Only healthy animals shall be used and the fitness shall be determined by physical examination by, or under the supervision of, a veterinarian and by tests for infectious diseases.

(1) No animal shall be used while showing clinical signs of disease. If the body temperature is normal, this restriction shall not apply to an animal having localized lesions, contusions, or slight lameness, but shall apply if the animal is feverish, in pain, or distress.

(2) New animals shall be subjected to applicable tests for the species. Such tests shall be listed in the filed Outline of Production and records maintained of results obtained. No animal shall be used for production of blood which has been found positive when tested for an infectious disease. Retests shall be conducted as deemed necessary by the Deputy Administrator.

(c) Serum and antiserum of equine origin shall be heated at 58.5° C. for 60 minutes, with a tolerance of 0.5° above and below that temperature. Serum and antiserum of bovine and porcine origin shall be heated in like manner for 30 minutes. Neither serum nor antiserum shall contain preservative at the time of heating.

(d) Serum and antiserum heated as provided in paragraph (c) of this section, shall be cooled immediately thereafter to 15° C. or lower, and thus held until properly preserved. It shall be preserved, mixed, and tested by methods described in the licensee's outline.

(e) Licensees shall keep detailed records relative to each batch of antiserum or serum pasteurized and each serial prepared for marketing. Recording thermometer charts shall bear full information concerning the antiserum or serum heated and tests made of the equipment.

(f) *Purity requirements.* Biological products of animal blood origin shall contain only serum constituents, preservatives, and safe amounts of chemicals used in the manufacturing procedures. Final container samples of completed product shall be tested for viable microorganisms as provided in § 113.26.

(g) *Safety requirements.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(h) If no label claim for specific antibody content can be substantiated by the licensee, the product shall be considered a normal serum; *Provided,* That, if the serum does contain demonstrable antibodies which have been produced in response to specific antigens injected into the blood producing animals, the product shall be considered an antiserum, except that:

(1) An antiserum concentrated at least twofold by the removal of water may be considered an antibody concentrate; and

(2) An antiserum fractionated by suitable means to remove most of the nonglobulin material and concentrated to increase the amount of globulin at least twofold over the amount in the original antiserum may be considered a globulin concentrate.

(i) Normal serum, antiserum, and antiserum derivatives shall contain at least one preservative in the following table. The amount shall be within the range of concentration set forth and the type used shall be indicated on the label.

(1) Phenol 0.25 to 0.55 percent, or
(2) Cresol 0.10 to 0.30 percent, and/or
(3) Thimerosal 0.01 to 0.03 percent, or
(4) Other preservative(s) specified in the approved Outline of Production for the product.

(j) If a potency test has been issued in a Standard Requirement or is written in an approved Outline of Production for an antiserum, an antiserum concentrate, or a globulin concentrate, the potency shall be sufficient for the product to satisfactorily meet the requirements of such test. Unless otherwise specified in the test procedure, the test sample of antiserum concentrate or globulin concentrate shall be diluted with 1 percent peptone solution to a volume equal to the contents of the sample times the concentration factor specified in such approved Outline of Production prior to conducting the test.

(k) If a potency test has not been issued in a Standard Requirement or is not written into an approved Outline of Production for an antiserum, an antiserum concentrate, or a globulin concentrate, such product shall meet the requirements in this paragraph.

(1) The globulin content of antiserum, normal serum, and globulin concentrate shall be determined by electrophoretic mobility or other equally acceptable tests.

(i) The globulin content of antiserum and normal serum shall equal or exceed the amounts per ml listed according to the species of origin as follows:

Species:	*Globulin (mg/ml)*
Bovine	45
Equine	50
Porcine	35
Canine	25
Feline	25

(ii) The globulin content of globulin concentrate shall exceed the value given for the antiserum from a particular species by the multiple of the concentration factor prescribed in the approved Outline of Production.

(iii) Globulin concentrates shall be fractionated in such a manner that the protein content shall contain greater than 90 percent globulin as determined by electrophoretic mobility or other acceptable tests.

(2) The level of protein content for antiserum and normal serum shall equal or exceed the amounts per ml listed according to the species of origin as follows:

Species:	*Protein (mg/ml)*
Bovine	60
Equine	60
Porcine	55
Canine	45
Feline	45

(3) The protein content of an antiserum concentrate shall exceed the value given in the table for the antiserum from a particular species in paragraph (f) (2) of this section by the multiple of the concentration factor prescribed in the approved Outline of Production.

§ 113.76 Tetanus Antitoxin.

Tetanus Antitoxin is a specific antibody obtained from the blood of healthy horses hyperimmunized with an antigen prepared with a toxin-producing strain of *Clostridium tetani.* Each serial shall meet the general requirements provided in paragraph (a) of this section and shall be tested for purity, safety, and potency as provided in paragraphs (b), (c), and (d) of this section. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *General requirements.* The amount of antitoxin in a final container shall be the amount which is delivered from such container when opened and inverted until the flow stops. A graduated volumetric cylinder which conforms to the National Bureau of Standards requirements shall be used. The reading shall be made at the bottom of the meniscus and recorded to the nearest 0.1 ml.

(1) All final containers of Tetanus Antitoxin shall yield not less than the labeled unitage of antitoxin throughout the dating period. The minimum package size permitted for marketing in the United States shall be a 1,500 unit vial.

(2) The expiration date of Tetanus Antitoxin shall be not more than 3 years after the date of a potency test demonstrating that the recoverable volume of the final container provides a 20 percent excess over the labeled unitage.

(b) *Purity test.* Final container samples of completed product from each serial shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(c) *Safety test.* Final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(d) *Potency test.* Bulk or final container samples of completed product from each serial shall be assayed to calculate the units of tetanus antitoxin in each final container. A comparative toxin-antitoxin neutralization test shall be conducted using a standard antitoxin and a standard toxin. All dilutions shall be made with a M/15 phosphate buffered (pH 7.4) physiological saline with 0.2 percent gelatin.

(1) One ml of the standard antitoxin shall be diluted before use so the final volume contains 0.1 unit per ml. The dilution shall be held at 20 to 25° C for 30 minutes prior to combination with a test dose of toxin.

(2) The standard toxin test dose is that amount which when mixed with 0.1 unit of standard antitoxin, incubated at 20 to 25° C for 1 hour, and injected subcutaneously into a 350 gram guinea pig, results in death of that guinea pig within approximately 96 hours with clinical signs of tetanus. The toxin shall be diluted so the test dose shall be in 2.0 ml.

(3) A mixture of diluted standard toxin and diluted standard antitoxin shall be made so 0.1 unit of antitoxin in 1 ml is combined with a test dose of toxin. This standard toxin-antitoxin mixture shall be held at 20 to 25° C for 1 hour before injections of guinea pigs are made.

(4) A sample from each serial of antitoxin shall be prepared as was the standard toxin-antitoxin mixture, except the amount of anti-toxin shall be based on an estimation of the expected potency. The final titration shall include a test at the expected unit value, one dilution above and one below.

(5) Normal guinea pigs weighing within a range of 340–380 grams shall be used. Pregnant guinea pigs must not be used.

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(i) Each of two guinea pigs (controls) shall be injected subcutaneously with a 3.0 ml dose of the standard toxin-antitoxin mixture. Injections shall be made in the same order that antitoxins were added to the toxin-antitoxin mixtures. These shall be observed parallel with the titration of one or more unknown antitoxins.

(ii) Two guinea pigs shall be used as test animals for each of three dilutions of the unknown antitoxin. A 3.0 ml dose shall be injected subcutaneously into each animal.

(6) Controls shall be observed until all are dead, or for 6 days, the time of death being recorded in hours. For a satisfactory test, the controls must die with clinical signs of tetanus within 12 hours of each other and within an overall time of 60 to 120 hours with the mean time of death being approximately 96 hours. The clinical signs to be observed are increased muscle tonus, curvature of the spine, asymmetry of the body outline when the resting animal is viewed from above, generalized spastic paralysis, particularly of the extensor muscles, inability to rise from a smooth flat surface when the animal is placed on its side, or any combination of these signs. If the control guinea pigs do not respond in this manner, the entire test shall be repeated.

(7) Potency of a new antitoxin is determined by finding the mixture which will protect the test animal the same as the standard toxin-antitoxin mixture. Test animals dying sooner than the controls indicate the unit value selected in that dilution was not present, whereas those living longer indicate a greater unit value.

§ 113.77 Swine erysipelas antiserum.

Swine Erysipelas Antiserum shall be prepared from the blood of horses hyperimmunized with antigenic strains of *Erysipelothrix insidiosa*. Each serial shall be tested for purity, safety, and potency as provided in this section. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and subserial shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested using the following two-stage test:

(1) In the first stage, each of 40 Swiss albino mice, each weighing 16–20 grams, shall be injected subcutaneously with 0.1 ml of antiserum. Twenty-four hours post-injection, the injected mice and 10 additional mice designated as controls shall be challenged subcutaneously with the same culture of *Erysipelothrix insidiosa*.

(2) If less than eight of the 10 controls do not die from erysipelas within 7 days post-challenge, the test is invalid. All dead mice shall be examined to determine if the cause of death was the erysipelas organism.

(3) The antiserum injected mice shall be observed for 10 days post-challenge and all deaths recorded. The second stage shall be required when 7–10 of the antiserum injected mice die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

(4) The results of the test shall be evaluated according to the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of deaths for a satisfactory test	Cumulative total number of deaths giving an unsatisfactory test
1	40	40	6 or less	11 or more.
2	40	80	12 or less	13 or more.

§ 113.78 Canine Distemper-Hepatitis-Leptospira Antiserum.

The antiserum shall be prepared from blood of dogs hyperimmunized with canine distemper virus, canine hepatitis virus, and one or more leptospira species until the final product shall provide passive immunity against the disease agents named on the label. Each serial and subserial shall be tested for purity, safety, and potency as provided in this section. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and subserial shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b). Also, each of two healthy dogs shall be injected subcutaneously with the maximum dose recommended on the label per 1 pound body weight of a dog and each shall be injected intravenously with the maximum dose recommended on the label per 1 pound body weight of a dog. The injected dogs shall be observed for 14 days for unfavorable reactions. If unfavorable reactions attributable to the product occur in one or both of the dogs, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency tests.* Bulk or final container samples of completed product from each serial shall be tested for potency as provided in this paragraph. Concentrated products shall be diluted to the equivalence of regular serum before testing. Standard antiserums and standard viruses, available upon request to Veterinary Services, shall be used.

(1) *Distemper fraction.* A virus neutralization test using chick embryo inoculation technique or acceptable tissue culture system shall be conducted.

(i) Serial threefold dilutions shall be made of the serum under test and the standard antiserum. A volume of each serial dilution of serum shall be mixed with an equal volume of standard virus. For use in the test, the standard virus shall be diluted to contain 100–1,000 ID_{50} per 0.1 ml.

(ii) A 1:2 dilution of the standard virus, as prepared for use in the test, shall be titrated in tenfold dilutions to determine the actual amount of virus used in the neutralization test. These dilutions shall be incubated along with serum/virus mixtures before inoculation of culture tubes.

(iii) After 1 hour incubation at room temperature, 0.2 ml of each serum/virus mixture shall be inoculated onto the chorioallantoic membrane of at least five chicken embryos 6–8 days old. The inoculated embryos shall be incubated at 35–37° C for 6–7 days and the chorioallantoic membranes examined. Calculate the 50 percent end point of neutralization (ND_{50}) by the Reed and Muench or other acceptable statistical method.

(iv) The reciprocal of the ND_{50} dilution of the test serum divided by the reciprocal of the ND_{50} dilution of the standard serum is the test serum to standard ratio. A serial is unsatisfactory unless the average ratio of two tests is 0.67 or more.

(2) *Hepatitis fraction.* A virus neutralization test using canine kidney cell culture as the indicator system shall be conducted.

(i) Serial threefold dilutions shall be made of the antiserum under test and the standard antiserum. A volume of each serial dilution of serum shall be mixed with an equal volume of standard virus. The standard virus shall contain 100–1,000 $TCID_{50}$ per 0.1 ml.

(ii) A 1:2 dilution of the standard virus, as prepared for use in the test, shall be titrated in tenfold dilutions to determine the actual amount of virus used in the neutralization test. These dilutions shall be incubated along with serum/virus mixtures before inoculation of culture tubes.

(iii) After 1 hour incubation at room temperature, 0.2 ml of each serum/virus mixture shall be inoculated into five culture tubes containing dog kidney cell monolayers. The inoculated tubes shall be incubated at 35–37° C.

(iv) The tubes shall be observed daily for specific cytophathogenic changes from the 4th to 10th day postinoculation. The test shall be terminated before the 10th day if additional cytopathogenic changes do not occur in virus titration tubes over a 48 hour period.

(v) Results shall be recorded and the 50 percent end point of neutralization (ND_{50}) calculated by the Reed and Muench or other acceptable statistical method.

(vi) The reciprocal of the ND_{50} dilution of the test serum divided by the reciprocal of the ND_{50} dilution of the standard serum is the test serum to standard ratio. A serial is unsatisfactory unless the average ratio of two tests is 0.67 or more.

(3) *Leptospira fraction.* Young adult hamsters, each weighing 40–50 grams, shall be used as test animals. For each species of leptospira antibody included in the product, each of at least five hamsters shall be injected with 60 percent of the minimum dose recommended on the label for 1 pound body weight of a dog and at least five additional hamsters shall be used as controls.

(i) Within 24 hours following injection, the five injected hamsters and the five control hamsters for each species of leptospira shall be challenged intraperitoneally with a suspension of virulent leptospira organisms representative of the species. A dose of 10–1,000 hamster LD_{50} shall be used. Both groups shall be observed for 14 days post-challenge and the results noted.

(ii) The test shall be conclusive if at least 80 percent of the controls in each group die from leptospirosis as demonstrated by acceptable cultural methods.

(iii) If the test is considered conclusive as provided in paragraph (c) (3) (ii) of this section, and less than 80 percent of the injected hamsters in a group remain normal during the observation period, the serial is unsatisfactory.

§ 113.79 Clostridium Perfringens Type C Antitoxin.

Clostridium Perfringens Type C Antitoxin shall be prepared from the blood of animals hyperimmunized with Clostridium Perfringens Type C toxin. Each serial shall be tested for purity, safety, and potency as provided in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested using the toxin-neutralization test for Beta Antitoxin provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Beta Antitoxin which reacts with L_o and L_+ doses of Standard Toxin according to their definitions.

(ii) *L_o dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L_+ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Beta Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Beta Antitoxin Standard and which is either supplied by or acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Beta toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solution shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) The antitoxin content of the test sample shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 10 International Units of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 L_o doses per ml and make a second dilution of Standard Toxin to contain 10 L_+ doses per ml.

(iii) Dilute 1 ml of the test sample with 49 ml of diluent and combine 1 ml of this dilution with 1 ml of the Standard Toxin diluted to contain 10 L_o doses.

(iv) Combine 10 International Units of Standard Antitoxin with 10 L_o doses of diluted Standard Toxin and combine 10 International Units of Standard Antitoxin with 10 L_+ doses of diluted Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(3) Test Interpretation. (i) If any mice inoculated with the mixture of 10 International Units of Standard Antitoxin and 10 L_o doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with the mixture of 10 International Units of Standard Antitoxin and 10 L_+ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of Clostridium Perfringens Type C Antitoxin diluted 1:50 and 10 L_o doses of Standard Toxin die, the antitoxin is considered to contain less than 500 International Unit per ml and the serial is unsatisfactory.

§ 113.80 Clostridium Perfringens Type D Antitoxin.

Clostridium Perfringens Type D Antitoxin shall be prepared from the blood of animals hyperimmunized with Clostridium Perfringens Type D toxin. Each serial shall be tested for purity, safety, and potency as provided in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested using the toxin-neutralization test for Epsilon Antitoxin provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Epsilon Antitoxin which reacts with L_o and L_+ doses of Standard Toxin according to their definitions.

(ii) *L_o dose.* The largest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L_+ dose.* The smallest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Epsilon Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Epsilon Antitoxin Standard and which is either supplied by or acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Epsilon toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solution shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) The antitoxin content of the test sample shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 1 International Unit of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 L_o doses per ml and make a second dilution of Standard Toxin to contain 10 L_+ doses per ml.

(iii) Dilute 1 ml of the test sample with 33 ml of diluent and combine 1 ml of this dilution with 1 ml of the Standard Toxin diluted to contain 10 L_o doses.

(iv) Combine 1 International Unit of Standard Antitoxin with 10 L_o doses of Standard Toxin and combine 1 International Unit of Standard Antitoxin with 10 L_+ doses of Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour, and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(3) Test Interpretation. (i) If any mice inoculated with the mixture of 1 International Unit of Standard Antitoxin and 10 L_o doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*,

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That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with mixture of 1 International Unit of Standard Antitoxin and 10 L_o doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided, That,* if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of Clostridium Perfringens Type D Antitixin diluted 1:34 and 10 L_o doses of Standard Toxin die, the antitoxin is considered to contain less than 34 International Unit per ml and the serial is unsatisfactory.

§ 113.81–§ 113.84 [Reserved]

INACTIVATED BACTERIAL PRODUCTS

§ 113.85 Bacterins, toxoids, and bacterin-toxoids.

Basic requirements for bacterins, toxoids, and bacterin-toxoids are provided in this section.

(a) A *bacterin* shall be an antigenic suspension of organisms, representing a whole culture or a concentrate thereof, with or without the unevaluated growth products, which has been inactivated as demonstrated by acceptable tests writen into the filed Outline of Production for the product.

(b) A *toxoid* shall be a sterile, antigenic filtrate resulting from growth of bacterial organisms in a cultural medium which has had the bacterial cells removed, has been inactivated without appreciable loss of antigenic value as measured by suitable tests, and which is nontoxic as demonstrated by acceptable tests written into the filed Outline of Production.

(c) A *bacterin-toxoid* shall be:

(1) A suspension of organisms, representing a whole culture or a concentrate thereof, with the toxic growth products from the culture which has been inactivated without appreciable loss of antigenic value as measured by suitable tests, the inactivation of organisms and toxins being demonstrated by acceptable tests written into the filed Outline of Production; *Provided,* That, it shall contain cellular antigens and shall stimulate the development of antitoxin; or

(2) A combination product combining one or more toxoids or bacterin-toxoids with one or more bacterins or one or more bacterin-toxoids.

(d) Bacterins used as diluents. Bacterins authorized for use as diluents in combination packages include Leptospira Pomona Bacterin, Leptospira Canicola Bacterin, Leptospira Icterohaemorrhagiae Bacterin, and Pasteurella Bacterin. All serials and subserials of these bacterins shall be subject to the applicable requirements in paragraphs (e) and (f) of this section.

(e) Only serials tested for viricidal activity in accordance with the test provided in § 113.35 and found satisfactory by such test shall be packaged as diluent for desiccated fractions in combination packages.

(f) If formaldehyde is used as the inactivating agent and the serial has not been found satisfactory by the viricidal activity test, bulk or final container samples of completed product from each serial shall be tested for residual free formaldehyde content using the Basic Fuchsin Test.

(1) The residual free formaldehyde content of biological products containing Clostridial antigens shall not exceed the equivalent of 0.5 percent formaldehyde solution (1,850 parts per million formaldehyde.)

(2) The residual free formaldehyde content of bacterins, bacterin-toxoids, and toxoids other than those containing Clostridial antigens, shall not exceed the equivalent of 0.2 percent formaldehyde solution (740 parts per million formaldehyde.)

§ 113.86 Leptospira pomona bacterin.

Leptospira Pomona Bacterin shall be produced from a culture of *Leptospira pomona* which has been inactivated and is nontoxic. Each serial of biological product containing *Leptospira pomona* fraction shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product shall be diluted with physiological saline so that each 0.25 ml contains not more than 1/800th of the dose recommended on the label and shall be tested for potency, using the two-stage test provided in this paragraph.

(1) *Vaccinates.* Inject each of 10 young adult hamsters, each weighing 50–90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly in accordance with the label recommendations for use.

(2) *Controls.* Retain 10 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira pomona* organisms, using a dose of 10–1,000 hamster LD_{50} as determined by titration.

(4) *Post-challenge period.* Observe the vaccinates and controls for 14 days postchallenge and record all deaths. If eight or more controls die of leptospirosis, the test is valid and the results shall be evaluated according to the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total dead hamsters for satisfactory serial	Cumulative total dead hamsters for unsatisfactory serial
1	10	10	2 or less	5 or more.
2	10	20	5 or less	6 or more.

(5) If three or four vaccinates die in the first stage, the second stage shall be conducted in a manner identical to the first stage.

(6) If the second stage is used, each serial shall be evaluated according to the second part of the table. On the basis of cumulative results, each serial shall either pass or fail.

§ 113.87 Leptospira Icterohaemorrhagiae Bacterin.

Leptospira Icterohaemorrhagiae Bacterin shall be produced from a culture of *Leptospira icterohaemorrhagiae* which has been inactivated and is nontoxic. Each serial of biological product containing *Leptospira icterohaemorrhagiae* fraction shall meet the applicable requirements in § 113.85 and be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product shall be diluted with physiological saline so that each 0.25 ml contains not more than 1/80th of the dose recommended on the label and shall be tested for potency, using the two-stage test provided in this paragraph.

(1) *Vaccinates.* Inject each of 10 young adult hamsters, each weighing 50–90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly in accordance with the label recommendations for use.

(2) *Controls.* Retain 10 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14-18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira icterohaemorrhagiae* organisms using a dose of 10–1,000 hamster LD_{50} as determined by titration.

(4) *Post-challenge period.* Observe the vaccinates and controls for 14 days postchallenge and record all deaths. If eight or more controls die of leptospirosis, the test is valid and the results shall be evaluated according to the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total dead hamsters for satisfactory serial	Cumulative total dead hamsters for unsatisfactory serial
1	10	10	2 or less	5 or more.
2	10	20	5 or less	6 or more.

(5) If three or four vaccinates die in the first stage, the second stage shall be used. The second stage shall be conducted in a manner identical to the first stage.

(6) If the second stage is used, each serial shall be evaluated according to the second part of the table. On the basis of cumulative results, each serial shall either pass or fail.

§ 113.88 Leptospira Canicola Bacterin.

Leptospira Canicola Bacterin shall be produced from a culture of *Leptospira canicola* which has been inactivated and is nontoxic. Each serial of biological product containing *Leptospira canicola* fraction shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. Serials found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product shall be diluted with physiological saline so that each 0.25 ml contains not more than 1/80th of the dose recommended on the label and shall be tested for potency, using the two-stage test provided in this paragraph.

(1) Vaccinates. Inject each of 10 young adult hamsters, each weighing 50–90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly in accordance with the label recommendations for use.

(2) Controls. Retain 10 additional hamsters from the same group as unvaccinated controls.

(3) Challenge. From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira canicola* organisms using a dose of 10–1,000 hamster LD_{50} as determined by titration.

(4) Post-challenge period. Observe the vaccinates and controls for 14 days postchallenge and record all deaths. If eight or more controls die from leptospirosis, test is valid and the results shall be evaluated according to the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total dead hamsters for satisfactory serial	Cumulative total dead hamsters for unsatisfactory serial
1	10	10	2 or less	5 or more.
2	10	20	5 or less	6 or more.

(5) If three or four vaccinates die in the first stage, the second stage shall be used. The second stage shall be conducted in a manner identical to the first stage.

(6) If the second stage is used, each serial shall be evaluated according to the second part of the table. On the basis of cumulative results, each serial shall either pass or fail.

§ 113.89–§ 113.90 [Reserved]

§ 113.91 Clostridium Chauvoei Bacterin.

Clostridium Chauvoei Bacterin shall be produced from a culture of *Clostridium chauvoei* which has been inactivated and is nontoxic. Each serial of biological product containing *Clostridium chauvoei* fraction shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. Serials found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the two-stage test provided in this paragraph.

(1) Each of eight guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 9 to 10 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium chauvoei* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of the eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD_{50} of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days post-challenge and all deaths recorded.

(3) For a valid test, at least 80 percent of the controls shall die within the 3 day post-challenge observation period. If this requirement is met, the results of the potency test shall be evaluated according to the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of deaths for a satisfactory test	Cumulatives total number of deaths giving an unsatisfactory test
1	8	8	1 or less	3 or more.
2	8	16	4 or less	5 or more.

The second stage shall be required only when exactly two animals die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

§ 113.92 Clostridium Hemolyticum Bacterin.

Clostridium Hemolyticum Bacterin shall be produced from a culture of *Clostridium hemolyticum* which has been inactivated and is nontoxic. Each serial of biological product containing *Clostridium hemolyticum fraction* shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the two-stage test provided in this paragraph.

(1) Each of the eight guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 9 to 10 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium hemolyticum* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of the eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD_{50} of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days post-challenge and all deaths recorded.

(3) For a valid test, at least 80 percent of the controls shall die within the 3 day post-challenge observation period. If this requirement is met, the results of the potency test shall be evaluated according to the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of deaths for a satisfactory test	Cumulative total number of deaths giving an unsatisfactory test
1	8	8	1 or less	3 or more.
2	8	16	4 or less	5 or more.

The second stage shall be required only when exactly two animals die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

§ 113.93 Clostridium Novyi Bacterin-Toxoid.

Clostridium Novyi Bacterin-Toxoid shall be produced from a culture of *Clostridium novyi* which has been inactivated and is nontoxic. Each serial of biological product containing *Clostridium novyi* fraction shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found

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unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the following two-stage test provided in this paragraph.

(1) Each of eight guinea pigs, each weighing 300 to 500 grams, shall be injected subcutaneously with a guinea pig dose. A second guinea pig dose shall be injected 9 to 10 days after the first dose. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium novyi* challenge material, available upon request from Veterinary Services, shall be used for challenge 14 to 15 days following the last injection of the product. Each of the eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected intramuscularly with approximately 100 LD_{50} of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days post-challenge and all deaths recorded.

(3) For a valid test, at least 80 percent of the controls shall die within the 3 day post-challenge observation period. If this requirement is met, the results of the potency test shall be evaluated according to the table:

Stage	Number of vaccinates	Cumulative number of animals	Cumulative total number of deaths for a satisfactory test	Cumulative total number of deaths giving an unsatisfactory test
1	8	8	1 or less	3 or more.
2	8	16	4 or less	5 or more.

The second stage shall be required only when exactly two animals die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

§ 113.94 Clostridium Sordellii Bacterin-Toxoid.

Clostridium Sordellii Bacterin-Toxoid shall be produced from a culture of *Clostridium sordellii* which has been inactivated and is nontoxic. Each serial of biological product containing *Clostridium sordellii* fraction shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the test written into the filed Outline of Production.

§ 113.95 Clostridium Botulinum Type C Bacterin-Toxoid.

Clostridium Botulinum Type C Bacterin-Toxoid shall be produced from a culture of *Clostridium botulinum Type C* which has been inactivated and is nontoxic. Each serial of biological product containing *Clostridium botulinum* Type C fraction shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Beta Antitoxin which reacts with L_0 and L_+ doses of Standard Toxin according to their definitions.

(ii) *L_+ dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L_+ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Beta Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Beta Antitoxin Standard and which is either supplied by or acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Beta toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone and 0.25 grams of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recommended cattle dose. The dose for a combination product having both Type C and Type D fractions shall be half of the recommended cattle dose; *Provided*, That if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled and the serum tested for antitoxin content.

(i) When eight or more rabbits are bled, equal quantities of serum from each shall be combined and tested as a single pooled serum.

(ii) When only four to seven rabbits are bled, the serums shall be individually tested.

(iii) If less than four rabbits are bled, the test is invalid and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 10 International Units of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 L_0 doses per ml and make a second dilution of Standard Toxin to contain 10 L_+ doses per ml.

(iii) Combine 10 International Units of Standard Antitoxin with 10 L_0 doses of diluted Standard Toxin and combine 10 International Units of Standard Antitoxin with 10 L_+ doses of diluted Standard Toxin.

(iv) Combine 1 ml of undiluted serum with 10 L_0 doses of diluted Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(5) Test Interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 10 International Units of Standard Antitoxin and 10 L_0 doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with mixture of 10 International Units of Standard Antitoxin and 10 L_+ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of serum with 10 L_0 doses of Standard Toxin die, the serum is considered to contain less than 10 International Units per ml.

(iv) If less than 4 of 4 or less than 80 percent of individual serums from at least five to seven rabbits or if the single pooled serum from eight or more rabbits contain(s) less than 10 International Units per ml, the serial is unsatisfactory.

§ 113.97 Clostridium Perfringens Type D Toxoid and Bacterin-Toxoid.

Clostridium Perfringens Type D Toxoid and Clostridium Perfringens Type D Bacterin-Toxoid shall be produced from a culture of *Clostridium Perfringens* Type D which have been inactivated and is nontoxic. Each serial shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the Epsilon toxin-neutralization test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Epsilon Antitoxin which reacts with L_0 and L_+ doses of Standard Toxin according to their definitions.

(ii) *L_+ dose.* The largest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L_+ dose.* The smallest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Epsilon Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Epsilon Antitoxin Standard and which is either supplied by or acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Epsilon toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone at 0.25 grams of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recommended sheep dose. The dose for a combination product having both Type C and Type D fractions shall be half of the recommended cattle dose; *Provided*, That, if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled, and the serum tested for antitoxin content.

(i) When eight or more rabbits are bled, equal quantities of serum from each shall be combined and tested as a single pooled serum.

(ii) When only four to seven rabbits are bled, the serums shall be individually tested.

(iii) If less than four rabbits are bled, the test is invalid and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 1 International Unit of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 L_0 doses per ml and make a second dilution of Standard Toxin to contain 10 L_+ doses per ml.

(iii) Combine 1 International Unit of Standard Antitoxin with 10 L_0 doses of diluted Standard Toxin and Combine 1 International Unit of Standard Antitoxin with 10 L_+ doses of diluted Standard Toxin.

(iv) Dilute 1 ml of serum with 1 ml of diluent (1:2) and combine with 10 L_+ doses of diluted Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(5) Test Interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 1 International Unit of Standard Antitoxin and 10 L_0 doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with mixture of 1 International Unit of Standard Antitoxin and 10 L_+ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of serum with 10 L_0 doses of Standard Toxin die, the serum is considered to contain less than 2 International Units per ml.

(iv) If less than four of four or less than 80 percent of individual serums from at least five to seven rabbits or if the single pooled serum from eight or more rabbits contain(s) less than 2 International Units per ml, the serial is unsatisfactory.

§ 113.98 [Reserved]

§ 113.99 Tetanus Toxoid.

Tetanus Toxoid shall be produced from a culture of *Clostridium tetani* which has been inactivated and is nontoxic. The toxoid may be either adsorbed, precipitated, or purified and concentrated. Each serial of biological product containing *tetanus toxoid* fraction shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for

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potency. Each of at least 10 guinea pigs, each weighing 500 grams±10 percent, shall be injected subcutaneously with 0.4 of the dose recommended on the label for a horse.

(1) Six weeks after injection, all surviving guinea pigs shall be bled, and equal portions of serum but not less than 0.5 ml from each shall be pooled. Serum from not less than eight animals shall be used.

(2) The pooled serum shall contain at least two antitoxin units per ml as determined by titrating it in the manner prescribed for tetanus antitoxin in § 113.76. A 1:20 dilution of the pooled serum shall be made so that the final dilution contains 0.1 antitoxin unit per ml. The dilution shall be held at 20 to 25° C for 30 minutes prior to combining with a test dose of toxin. The test dose of standard toxin shall be mixed in proper proportion with the diluted pooled serum, incubated at 20 to 25° C for 1 hour and inoculated subcutaneously into two guinea pigs.

(3) The test dose of the standard toxin shall be verified against 0.1 of a unit of standard antitoxin in two guinea pigs which serve as the control animals.

(4) If the control animals do not die of tetanus within 60–120 hours, the test is not valid and must be repeated. In a valid test, if the vaccinated animals do not survive as long as the control animals, the serial is unsatisfactory.

§ 113.100 Staphylococcus Aureus Bacterin-Toxoid.

Staphylococcus Aureus Bacterin-Toxoid shall be prepared from toxoided broth cultures of selected toxogenic strains of *Staphylococcus aureus* which has been inactivated and is nontoxic. Each serial of biological product containing Staphylococcus Aureus Bacterin-Toxoid shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product shall be tested for safety as provided in § 113.33 (b). Also, the rabbits used in the potency test provided in paragraph (c) of this section shall constitute an additional safety test. If unfavorable reactions attributable to the product occur in any of the rabbits during the observation period, the serial is unsatisfactory.

(c) *Potency test.* Rabbits, each weighing 2000–3000 grams, shall be used as test animals. Either a five rabbit individual serum test or an eight rabbit pooled serum test shall be conducted. At the start of the test, individual serums from the five rabbits or pooled serums from the eight rabbits shall contain less than 0.2 alpha antitoxin units per ml.

(1) Each rabbit shall be given a series of not more than three intramuscular injections at 7 day intervals (1.0 ml, 2.0 ml, 3.0 ml) and observed from 7–14 days following the third injection. At the end of the observation period, a blood sample shall be taken from each rabbit.

(2) The sample of serum from each rabbit, if the five rabbit individual test is conducted or a pooled sample of equal quantities of serum from the rabbits if the eight rabbit pooled serum test is conducted, shall be tested to determine the staphylococcus alpha antitoxin units per ml as provided in paragraph (c) (3), (4), (5), (6), (7), and (8) of this section.

(3) Inactivate rabbit serum 56° C for 30 minutes.

(4) Make serial twofold dilutions of the serum samples and conduct the test, usng 1 ml of the serial dilutions. Appropriate controls should be included for accurate interpretations.

(5) Add 1 ml of the standardized toxin containing the established "Lh" dose. The "Lh" dose is the amount of toxin which when mixed with one unit of standard antitoxin produces a 50 percent hemolysis of rabbit red blood cells.

(6) Incubate toxin-antitoxin mixture at room temperature for 30 minutes and add 1 ml of a 1.5 percent suspension of washed freshly drawn rabbit red blood cells suspended in normal saline to each tube. Mix and incubate the combined product in a 37° C water bath for 1 hour. Refrigerate at 5° C overnight.

(7) Read the hemolysis produced and establish the 50 percent end point. The 50 percent end point of hemolysis should be established by determining the size of the button produced by the unlysed red blood cells.

(8) Determine the units of antitoxin per 1 ml of serum.

(9) If the individual samples from four of the five rabbits in the individual serum test or the pooled samples from the eight rabbits in the pooled serum test do not contain three alpha antitoxin units per ml, the serial is unsatisfactory.

§ 113.101 General Requirements for Pasteurella Multocida (avicida) Bacterins.

Pasteurella Multocida (avicida) Bacterin shall be prepared from cultures of *Pasteurella multocida*, Avian Strains, Type 1 or Type 3 or both (Little and Lyons Classification) which have been inactivated and is nontoxic; *Provided*, That, avian strains of types other than Types 1 and 3 may be added if written into the filed Outline of Production for the product.

(a) Each serial shall meet the applicable requirements in § 113.85. Each serial containing Type 1 strains shall be tested as provided in § 113.102 and each serial containing Type 3 strains shall be tested as provided in § 113.103. Serials containing Types 1 and 3 shall be tested as provided in § 113.102 and § 113.103.

(b) If avian strains of types other than Types 1 and 3 have been added, each serial shall also be tested for such strains as provided in the filed Outline of Production.

§ 113.102 Pasteurella Multocida (avicida) Bacterin, Type 1.

Each serial of Pasteurella Multocida (avicida) Bacterin containing Type 1 strains shall be tested as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Observation of the vaccinated chickens in the potency test provided in paragraph (c) of this section shall constitute a safety test. If unfavorable reactions attributable to the product occur in the chickens during the prechallenge period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency test.* Bulk or final container samples of completed product shall be tested for potency of the Type 1 strain, using the two-stage test provided in this paragraph. Chickens, at least 12 weeks of age, obtained from the same source and hatch, shall be properly identified and used as provided in this paragraph.

(1) *Vaccinates.* Each of not more than 21 chickens shall be injected with the dose and by the route recommended on the label. A second dose shall be injected after 3 weeks and the chickens observed for an additional 2 week prechallenge period.

(2) *Positive controls.* Each of not more than 21 chickens shall be injected with two doses of a reference bacterin available from Veterinary Services upon request.

(3) *Unvaccinated controls.* Each of not more than 21 chickens shall held as controls.

(4) *Challenge.* Not less than 14 days after the section injection, each of 20 vaccinates, each of 20 positive controls, and each of 20 unvaccinated controls shall be challenged intramuscularly with a minimum of 250 colony-forming units of virulent *Pasteurella multosida*, Strain X–73, Type 1 (Little and Lyons Classification) and observed daily for a 14 day post-challenge period. Only dead birds shall be considered in evaluating the product.

(5) If nine or more positive controls die, the test may be declared inconclusive and repeated.

(6) If 16 or more unvaccinated controls die, the test is valid and stage one potency test results shall be evaluated according to stage one of the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for satisfactory serial	Cumulative total number of dead vaccinates for unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(7) The serial shall pass or fail based on the stage one results of the potency test; *Provided*, That, if seven or eight vaccinates die in the first stage, the second stage shall be required.

(8) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results, a serial shall either pass or fail the second stage.

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for satisfactory serial	Cumulative total number of dead vaccinates for unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

§ 113.103 Pasteurella multocida (avicida) Bacterin, Type 3.

Each serial of *Pasteurella multocida* (avicida) Bacterin containing Type 3 strains shall be tested as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Observation of the vaccinated turkeys in the potency test provided in paragraph (c) of this section shall constitute a safety test. If unfavorable reactions attributable to the product occur in the turkeys during the prechallenge period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency test.* Bulk or final container samples of completed product shall be tested for potency of the Type 3 strain, using the two-stage test provided in this paragraph. Turkeys, at least 6 weeks of age, obtained from the same source and hatch, shall be properly identified and used as provided in this paragraph.

(1) *Vaccinates.* Each of not more than 21 turkeys shall be injected with the dose and by the route recommended on the label. A second dose shall be injected after 3 weeks and the turkeys observed for an additional 2 week prechallenge period.

(2) *Positive controls.* Each of not more than 21 turkeys shall be injected with two doses of a reference bacterin available from Veterinary Services upon request.

(3) *Unvaccinated controls.* Each of not more than 21 turkeys shall be held as controls.

(4) *Challenge.* Not less than 14 days after the second injection, each of 20 vaccinates, each of 20 positive controls, and each of 20 unvaccinated controls shall be challenged intramuscularly with a minimum of 150 colony-forming units of virulent *Pasteurella multocida*, Strain P–1059, Type 3 (Little and Lyons Classification) and observed daily for a 14 day post-challenge period. Only dead birds shall be considered in evaluating the product.

(5) If nine or more positive controls die, the test may be declared inconclusive and repeated.

(6) If 16 or more unvaccinated controls die, the test is valid and stage one potency test results shall be evaluated according to stage one of the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for satisfactory serial	Cumulative total number of dead vaccinates for unsatisfactory serial
1	20	20	6 or less	9 or more.
2	20	40	15 or less	16 or more.

(7) The serial shall pass or fail based on the stage one results of the potency test; *Provided*, That, if seven or eight vaccinates die in the first stage, the second stage shall be required.

(8) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results, a serial shall either pass or fail the second stage.

§ 113.104 Erysipelas Bacterin.

Erysipelas Bacterin shall be produced from a culture of *Erysipelothrix insidiosa* which has been inactivated and is nontoxic. Each serial of biological product containing erysipelas bacterin shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency tests.* Bulk or final container samples of completed product shall be tested by either the mouse protection test provided in paragraph (d) of this section or the swine protection test provided in paragraph (e) of this section.

(d) When the mouse protection test is conducted, the ability of the bacterin to be tested (Unknown) to protect mice shall be compared with a standard bacterin (Standard) which is either supplied by or is acceptable to Veterinary Services.

(1) Bacterins with a 2 ml recommended dose for swine shall be diluted 1:2.5 with physiological saline solution and tested the same as bacterin with a 5 ml recommended dose. At least three threefold dilutions shall be made with the Standard and comparable threefold dilutions for the Unknowns.

(2) For each dilution of the Standard and each dilution of the Unknown, a group of at least 16 mice, each weighing 16–20 grams, shall be used. Each mouse in a group shall be injected subcutaneously with 0.5 ml from the appropriate dilution.

(3) Each injected mouse shall be challenged subcutaneously 14–21 days after being injected with the diluted bacterin. A 0.5 ml dose containing at least 100 mouse LD_{50} of a suitable culture of *Erysipelothrix insidiosa* shall be used. All survivors in each group of mice shall be recorded 10 days post-challenge.

(4) *Test for valid assay.* The same consecutive dilutions of the Standard and Unknown need not to be used in the test for valid assay, but the following requirements shall be met:

(i) At least two dilutions of the Standard and two dilutions of the Unknown shall protect more than 0 percent and less than 100 percent of the mice inoculated. The lowest dilution of the Standard shall protect more than 50 percent and the highest dilution less than 50 percent.

(ii) Subtract the numbers of surviving mice injected with the lowest dilution, middle dilution, and highest dilution of the Unknown from the numbers of surviving mice injected with the corresponding dilutions of the Standard. Designate the differences as No. 1, No. 2, and No. 3.

(iii) Adjust difference No. 2 to zero by adding the proper figure using a plus or minus sign as needed. Add the same figure to Difference No. 1 and to Difference No. 3.

(iv) Consult this table to see if the results obtained are included.

Difference 1	*Range of Difference 3*
−9	−7 to −2 inclusive
−8	−8 to 0
−7	−9 to +2
−6	−9 to +3
−5	−9 to +4
−4	−9 to +5
−3	−9 to +6
−2	−9 to +7
−1	−8 to +7
0	−8 to +8
1	−7 to +8
2	−7 to +9
3	−6 to +9
4	−5 to +9
5	−4 to +9
6	−3 to +9
7	−2 to +9
8	0 to +8
9	2 to +7

(v) If the results do not appear, the test is invalid. If the results do appear, the test is valid and the potency of the Unknown can be compared with the Standard.

(5) Using the same dilutions used to determine validity, obtain the total survivors of the Unknown and the total survivors of the Standard. If the total number of survivors for the Standard exceeds the total number of survivors for the Unknown by a number greater than six, the Unknown is unsatisfactory.

(e) When the swine protection test is conducted, susceptible pigs shall be used as test animals. Each of four pigs (vaccinates) shall be injected with one pig dose as recommended on the label. Four additional pigs shall be held as unvaccinated controls. Fourteen to twenty-one days post-vaccination, the vaccinates and the controls shall be challenged with a virulent *Erysipelothrix insidiosa* culture by the percutaneous, or intradermal, or intramuscular route and observed for 7 days.

(1) A satisfactory challenge shall be evidenced in the controls by a bacteremia, a high body temperature, and clinical signs of sickness, including but not limited to acute illness with hyperemia

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of the abdomen and ears possibly terminating in suddent death; moribund and anorexia, with or without metastatic skin lesions; slowness with variable anorexia, stiffness, and/or joint involvement; and any combination of these symptoms and lesions.

(2) If at least 75 percent of the controls do not show characteristic symptoms of swine erysipelas during the observation period, including but not limited to a body temperature of 105.6° F or higher on at least 2 days or 107° F or higher for at least 16 hours, the test shall be considered inconclusive; *Provided*, That control pigs which meet the criteria requirements for susceptibility except for high body temperature shall be considered susceptible if sacrificed and organisms identified as *Erysipelothrix insidiosa* can be isolated from the blood, spleen, or other organs.

(3) To demonstrate immunity after challenge, the vaccinates shall remain free of lesions or symptoms of erysipelas and the body temperature shall not exceed 104.6° F for longer than 1 day. If at least 75 percent of the vaccinates do not demonstrate immunity to erysipelas throughout the observation period, the serial or subserial is unsatisfactory.

§ 113.105–§ 113.109 [Reserved]

LIVE BACTERIAL VACCINES

§ 113.110 Brucella Abortus Vaccine.

Brucella Abortus Vaccine shall be prepared as a desiccated live culture bacterial vaccine from smooth colonial forms of the *Brucella abortus* organism, identified as Strain 19. Each serial and subserial shall be tested for purity, potency, and moisture content. A serial or subserial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity tests.* Each serial and subserial shall be tested for purity as provided in this paragraph.

(1) Macroscopic and microscopic examination shall be made on bulk samples from production containers. If organisms not typical of *Brucella abortus* organisms are evident, the serial or subserial is unsatisfactory.

(2) To meet the requirements prescribed in § 113.27(b), at least four single-dose or two multiple-dose final container samples of completed product shall be tested by inoculating one potato agar slant, one tube of Dextrose Andrades broth with gas tube (or equivalent) and one tube of thioglycollate broth from each sample. If organisms not typical of *Brucella abortus* organisms are evident, the serial or subserial is unsatisfactory.

(3) Bacterial dissociation test. Final container samples of completed product from each serial and subserial shall be tested for bacterial dissociation. Smooth colonies are the desired form. Rough colonies are undesirable terminal dissociation forms. Intermediate and intermediate-to-rough are also undesirable.

(i) The sample container shall be rehydrated and streaked on one potato agar plate in such a manner as to produce confluent colonies. Artificial reflected light shall be used so that the rays pass through the plate at a 45° angle.

(ii) If the vaccine contains more than 5 percent rough colonies or more than 15 percent total undesirable colonies, the serial or subserial is unsatisfactory. If organisms or growth not characteristic of *Brucella abortus* are found, the serial or subserial is unsatisfactory. The test may be repeated one time using double the number of samples; *Provided*, That, if the test is not repeated, the serial or subserial is unsatisfactory.

(b) *Potency test.* Each serial and each subserial shall be tested for potency.

(1) At least four single-dose or two multiple-dose final container samples of completed product shall be tested for the number of viable organisms per cubic centimeter of rehydrated vaccine. A bacterial count shall be made on tryptose agar plates from suitable dilutions using 1 percent peptons as a diluent.

(2) If freshly prepared *Brucella abortus* vaccine does not contain at least 10 billion viable *Brucella abortus* organisms per cubic centimeter of rehydrated vaccine, the serial or subserial is unsatisfactory.

(3) If tested at any time within the expiration period, each cubic centimeter of rehydrated vaccine does not contain 5 billion viable *Brucella abortus* organisms, the serial or subserial is unsatisfactory.

§ 113.111 Anthrax Spore Vaccine—Nonencapsulated.

Anthrax Spore Vaccine—Nonencapsulated shall be a live spore suspension prepared for nonencapsulated variants of *Bacillus anthracis* which has been proven to be immunogenic and relatively nonpathogenic. Each serial and subserial shall be tested for purity, safety, and potency as prescribed in this section. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Each serial or first subserial shall be tested for purity as provided in this paragraph to meet the requirements prescribed in § 113.27(b).

(1) Bulk samples of spore suspension or completed product shall be tested for microorganisms other than *Bacillus anthracis*. One ml shall be inoculated onto each of five plates of nutrient agar, incubated at 35–37° C and examined macroscopically and microscopically daily for 7 days. If growth not characteristic of *Bacillus anthracis* is detected, the serial or subserial is unsatisfactory.

(2) Each of five final container samples of completed product shall be tested as follows:

(i) One ml shall be inoculated into one tube of either thioglycollate or nutrient broth, incubated at 37° C for 7 days and examined for microorganisms other than *Bacillus anthracis*. If microorganisms other than *Bacillus anthracis* are detected, the serial or subserial is unsatisfactory.

(ii) One ml shall be inoculated into one vessel of Soybean Casein Digest Medium, incubated at 20–25° C for 14 days, and examined for fungi. If fungi are detected, the serial is unsatisfactory.

(3) Bacterial dissociation test. Vaccine from each bulk container shall be streaked onto the surface of two serum agar plates (50 percent bovine serum with nutrient agar) in such a manner so to produce isolated colonies over a major portion of the plates. The plates shall be incubated under an atmosphere of 30 percent CO_2 at 37° C and examined under a dissection-type microscope using obliquely transmitted light daily for at least 3 days. If the colonies are not of the rough opaque type, the serial is unsatisfactory. Questionable colonies shall be subcultured and the organisms inoculated into guinea pigs to check for undesirable reactions. If undesirable reactions occur, the serial is unsatisfactory.

(b) *Safety test.* The prechallenge period of the potency test provided in subparagraph (c) (2) of this section constitutes a safety test. If 80 percent of the vaccinates survive the prechallenge period, the serial is satisfactory for safety; *Provided*, That

(1) If less than 80 percent of the vaccinates survive the prechallenge period, each of five young sheep or goats shall be inoculated subcutaneously with a total of two cattle doses which may be fractionally administered in two sites and the animals observed for 14 days; and

(2) If any sheep or goat shows evidence of persistent or progressive edema (does not subside in 4 or 5 days) or does not survive the observation period, the serial or subserial is unsatisfactory.

(c) *Potency tests.* The spore count provided in this paragraph shall be conducted on each serial and each subserial. The vaccination challenge test provided in this paragraph shall be conducted on each serial.

(1) Spore count. Final container samples of completed product shall be diluted in tenfold steps. Each dilution that may be significant shall be plated in triplicate on nutrient or tryptose agar, inverted, and incubated at 35–37° C for 24–48 hours. The plates showing proper dispersion of colonies shall be counted and averaged. If the spore count average is less than 2,000,000 spores per bovine dose, the serial or subserial is unsatisfactory.

(2) Bulk or final container samples of completed product shall be tested for potency in healthy guinea pigs weighing 400 to 500 grams each.

(i) Each of at least 10 guinea pigs shall be vaccinated subcutaneously on the abdominal area with one-half the dose recommended for cattle and observed for 14 days. The vaccinated guinea pigs and six unvaccinated control guinea pigs shall be challenged with a suspension of anthrax spores virulent to guinea pigs and observed an additional 10 days.

(ii) If five of the six unvaccinated controls do not die during the 10 day post-challenge observation period, the test is inconclusive and may be repeated.

(iii) If at least five of the six unvaccinated controls die and less than 80 percent of the vaccinates remain well during the post-challenge observation period, the serial or subserial is unsatisfactory.

§ 113.112 Erysipelas Vaccine.

Erysipelas Vaccine shall be prepared as a desiccated live culture of an avirulent or modified strain of *Erysipelothrix insidiosa* which has been proven to be nonpathogenic and nontoxic. Each serial and subserial shall be tested for purity, safety, potency, and moisture content. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Bulk or final container samples of completed product from each serial shall be tested by colonial observation and gram stain of organisms plated on a suitable solid media to meet the requirements prescribed in § 113.27(b).

(b) *Safety test.* Final container samples of completed product from each serial and subserial shall be tested as provided in § 113.33(b).

(c) *Potency tests.* Final container samples of completed product from each serial and subserial shall be tested for potency as provided in § 113.104(e).

6. Part 114 is amended to read:

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Sec.

114.1 Applicability.
114.2 Products not prepared under license.
114.3 Separation of establishments.
114.4 Identification of biological products.
114.5 Micro-organisms used as seed.
114.6 Mixing biological products.
114.7 Personnel at licensed establishments.
114.8 Outline of Production required.
114.9 Outline of Production guidelines.
114.10 Antibiotics as preservatives.
114.11 Temperature and light.
114.12 Reserved.
114.13 Expiration date determination.
114.14 Extension of the expiration date for a serial or subserial.
114.15 Disposal of unsatisfactory products and byproducts.
114.16 Producing subsidiaries.
114.17 Rebottling of biological products.
114.18 Reprocessing of biological products.

AUTHORITY: 37 Stat. 832–833; 21 U.S.C. 151–158.

§ 114.1 Applicability.

Unless otherwise authorized by the Deputy Administrator, all biological products prepared for shipment or delivered for shipment from one State or territory or the District of Columbia to another State or territory or the District of Columbia shall be prepared in accordance with the regulations in this part. The licensee or permittee shall adopt and enforce all necessary measures and shall comply with all directions the Deputy Administrator prescribes for carrying out such regulations.

§ 114.2 Products not prepared under license.

(a) When an establishment license is issued, if biological products which were not prepared in compliance with the regulations are in the establishment, such products shall not be shipped or delivered for shipment or otherwise dealt with as having been prepared under such regulations.

(b) After an establishment license has been issued, biological products shall not be prepared in or brought onto the premises of the licensed establishment if such products are not prepared in compliance with the regulations.

§ 114.3 Separation of establishments.

(a) Each licensed establishment shall be separate and distinct from any other establishment in which a biological product is prepared.

(b) No biological products authorized to be prepared in a licensed establishment shall be prepared in whole or in part by another licensed establishment unless authorized in advance by the Deputy Administrator.

§ 114.4 Identification of biological products.

Suitable tags or labels of a distinct design shall be used for identifying all ingredients used in the preparation of biological products, all component parts to be combined to form a biological product, all biological products while in the course of preparation and all completed biological products held in storage at licensed establishments: *Provided*, That, if such ingredients, components, or biological products are not so identified, they shall be disposed of as provided in § 114.15.

§ 114.5 Micro-organisms used as seed.

Micro-organisms used in the preparation of biological products at licensed establishments shall be free from the causative agents of other diseases or conditions. A complete record of such micro-organisms shall be kept currently correct and a list submitted to Veterinary Services upon request of the Deputy Administrator.

§ 114.6 Mixing biological products.

Each biological product, when in liquid form, shall be mixed thoroughly in a single container. During bottling operations, the product shall be constantly mixed sufficient to maintain physical uniformity of the entire fill. A serial number, with any other markings that may be necessary for ready identification of the serial, shall be applied to identify it with the records of preparation and labeling.

§ 114.7 Personnel at licensed establishments.

(a) Each licensee shall designate a person(s) to make all official contacts with Veterinary Services on matters pertaining to the preparation of biological products under the Virus-Serum-Toxin Act. The licensee shall file three copies of biographical summary with Veterinary Services for such designated person and for each person responsible for any phase of preparation of a biological product.

(b) All personnel employed in the preparation of biological products at a licensed establishment shall be competent in good laboratory techniques through education or training, or both, so as to consistently prepare high quality products.

(c) All biological products prepared at licensed establishments shall be prepared and handled with due sanitary precautions. Good sanitary measures shall be practiced at all times by all personnel involved in such preparation and handling of biological products.

(1) The clothing worn by persons while preparing biological products shall be clean. All persons, immediately before entering laboratory rooms of a licensed establishment, shall change their outer clothing or effectively cover the same with gowns or other satisfactory clean garments.

(2) Unsanitary practices such as, but not limited to, eating, smoking, or expectorating on the floors or otherwise creating a nuisance in any room, compartment, or place in which biological products are prepared, handled, or stored at licensed establishments are prohibited.

§ 114.8 Outline of Production required.

An Outline of Production shall be on file with Veterinary Services for each licensed biological product or for each biological product authorized to be imported into the United States for Distribution and Sale. Preparation of a biological product in a licensed establishment shall be in accordance with the Outline of Production for such product filed with Veterinary Services as provided in this section, but subject to changes as may be required under § 114.8(f).

(a) The Outline of Production shall be prepared as prescribed in § 114.9 and submitted to Veterinary Services for filing. When objectionable features, if any, are corrected and no further exceptions are taken by Veterinary Services to an Outline of Production for a biological product, such Outline of Production shall be approved for filing.

(b) Each page shall be stamped as filed on the date such action was taken in the bottom right hand corner. Although the filed outline may be referred to as an approved outline, approval for filing constitutes no endorsement by Veterinary Services of such biological product or the methods and procedures used to prepare such biological product.

(c) The original and two copies shall be retained by Veterinary Services and the remaining copies returned.

(d) Each licensee shall review each Outline of Production for accuracy and sufficiency not less frequently than once a year. Revisions necessary to bring an Outline of Production into compliance with the regulations shall be submitted to Veterinary Services.

(e) When a list of licensed products to be continued in production at a licensed establishment is requested by the Deputy Administrator in accordance with § 102.5 (d) of this subchapter, the licensee shall supplement the list with information for each product as follows:

(1) The Outline of Production currently being used shall be identified as to the date when last revised and filed with Veterinary Services and the date of the last review made by the licensee.

(2) The Outline of Production to be kept in the active file shall be designated.

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If more than one has been filed for a product, only the Outline of Production currently being used shall be included.

(f) The Deputy Administrator may, upon the basis of information not available to him at the time the current Outline of Production for a biological product was filed, object to the methods or procedures being used in the preparation of such biological product and notify the licensee to modify the filed Outline of Production to eliminate such objections. If the licensee does not comply with the notice, the Deputy Administrator may, after affording opportunity for a hearing to the licensee, suspend the product license for the biological product involved; in which case, the licensee shall not prepare such product until subsequent notice of withdrawal of the suspension is given to the licensee.

§ 114.9 Outline of Production guidelines.

Each Outline of Production shall be prepared in accordance with the applicable directions provided in this section.

(a) *General requirements.* (1) The original and not more than four copies of each Outline of Production or special outline or revised pages of either shall be prepared on heavy paper (8.5" x 11") of a type receptive to permanent stamp ink.

(2) The name of the biological product (or component), the establishment license number, and the date prepared shall appear on a front cover page and each page of the Outline of Production or special outline. The name of the licensee (or foreign manufacturer) shall appear on the front cover page.

(3) The pages shall be numbered in the upper center. At least 1½ inch margin shall be left at the top of the first page and a 2 inch margin at the bottom of each page for the Veterinary Services stamp.

(4) Amended pages shall be numbered the same as those being superseded. They shall bear the date prepared and refer to the date on the pages being superseded. If one replacement page supersedes more than one page, the new page shall indicate same, but if several replacement pages are added to supersede one page, the page number followed by letters shall be used.

(5) The last page of the original and one copy of either a new or a completely rewritten Outline of Production and each page revised separately shall be signed in the lower left corner by the authorized representative of the licensee (or foreign producer). Stamped or facsimile signatures are not acceptable.

(6) A summary of changes shall appear on an attached page and refer to each page, paragraph, or subparagraph being changed.

(7) Transmittal forms shall be used for the original and subsequent revisions. Blank forms shall be available upon request to Veterinary Services.

(b) *Special outline.* An outline describing the preparation of a component of a biological product or an operation performed in the preparation of a biological product may be required if such special outline could be referred to in Outlines of Production to eliminate repetition. Each special outline shall be identified by number and shall not be used until accepted and filed by Veterinary Services.

(c) Outline of Production for antiserum, antitoxin, and normal serum shall be written according to the following:

OUTLINE GUIDE FOR PRODUCTION OF ANTISERUM AND ANTITOXIN AND NORMAL SERUM

License No. Name of Product Date

I. *Serum animals.* A. Species, conditions, age, and general health.

B. Examination, preparation, care, quarantine, tests, and treatment of animals before injections are started.

C. Holding, handling, exercising, and monitoring the condition of animals after injections are started.

II. *Antigens.* A. Composition and character of the antigen.

1. Micro-organisms.

2. Source and date of accession of each micro-organism.

3. Strains.

4. Proportions of each micro-organism and strain.

B. Identification methods used for each micro-organism and frequency with which these methods are applied.

C. Virulence and purity of cultures or antigen and the determination and maintenance thereof. Range of subcultures or passages to be used in production.

D. Attenuation, if any, before use for production purposes.

E. Character, size, and shape of containers used for growing micro-organisms.

F. Media used for stock, seed, and antigen cultures (composition and reaction of). May refer to a special outline by number.

G. Preparation of the antigen or toxin and toxoid. Complete and full description of each step and its manner of accomplishment and number these steps in sequence. Include all tests for each antigen, and the specifications for character, identity, virulence, concentration, and standardization.

III. *Immunization of animals.* A. Outline fully with special attention given to the following:

1. Character and dose of the antigen.

2. Method and frequency of injections.

3. Time required for immunization or hyperimmunization.

4. Preliminary bleedings and tests, if any, to ascertain quality of serum.

5. All other similar matters, including treatments between bleedings.

B. Period of time elapsing between last injection and first bleeding; and between bleedings.

C. Technique of bleeding operations; volume of blood collected at each bleeding; and period of rest.

IV. *Preparation of the biological product.* A. Describe fully and show each step of preparation from the first bleeding to the completion of the preserved product in bulk containers prior to filling of final containers.

B. Composition of the preservative and proportions used. Indicate at which step of production, and the method used in adding the preservative.

C. Agglutination and complement-fixation titers and the methods of their determinations.

D. Disposition of unsatisfactory biological products and infective materials not used in production.

E. Assembly of units to make a serial; volume of the average serial; and the volume of the maximum serial.

V. *Testing.* Indicate the stages in the preparation of the biological product at which samples are collected. Refer to all applicable Standard Requirements. Outline all additional tests in detail and state minimum requirements for each satisfactory test.

A. Purity.

B. Safety.

C. Potency.

D. Other tests.

VI. *Post preparatory steps.*

A. Form and size of final containers in which the product is to be distributed.

B. Methods and techniques of filling final containers. Volume of fill for each size final container.

C. Collection, storage, and submission of representative samples. Indicate at which steps in the production these samples are taken.

D. Expiration date based on the earliest date of harvest and the date of the last satisfactory potency test.

E. Use, dosage, and route of administration for each animal species for which it is recommended.

F. Include any additional pertinent information.

(d) Outline of Production for *vaccines, bacterins, antigens,* and *toxoids* shall be written according to the following:

OUTLINE GUIDE FOR VACCINES, BACTERINS, ANTIGENS, AND TOXOIDS

License No. Name of Product Date

I. *Composition, etc., of the product.* A. Micro-organisms used. Give the isolation and passage history.

B. Source and date of accession of each micro-organism.

C. Strains.

D. Proportions of each strain.

II. *Cultures.* A. Brief description of methods of identifying each micro-organism and the frequency with which these methods are applied.

B. Virulence and purity of cultures and the determination and maintenance thereof. Range of subcultures or passages to be used in production.

C. Composition and reaction of media used for seed and production cultures. Include the source of eggs, tissue, or cell cultures, and the tests to determine that eggs, tissues, and cells are free of contamination.

D. Character, size, and shape of containers used for growing cultures.

E. Storage conditions of seed cultures.

F. Methods of preparing suspensions for seeding or inoculation.

G. Technique of inoculating (1) seed media; (2) production media. Titer or concentration of inoculum, and the volume of medium for each size and type of culture container.

H. Period of time and conditions for incubation and degree of temperature used for each micro-organism or group of micro-organisms.

I. Character and amount of growth; observation as to contamination of growth.

J. Method of attenuation, if any, before used for production purposes.

III. *Harvest.* A. Handling and preparation of cultures and media (including eggs) before removal of micro-organisms or tissues for production purposes.

B. Minimum and maximum period of time elapsing from time of inoculation until harvest.

C. Technique of harvesting micro-organisms or tissues (specify) for production purposes.

D. Specifications for acceptable harvest material.

E. Handling of discarded material not used in production.

F. Include any additional pertinent information.

IV. *Preparation of the product.* Describe fully and show each step of preparation from harvest of antigen containing tissues or production cultures to the completion of the finished product in final containers. In describing the preparation of the product, emphasize the following:

A. Method of inactivation, attenuation, or detoxification.

B. Composition of preservative, adjuvant or stabilizer, and proportions used stated in such a manner that the concentration can be calculated; stage and method of addition.

C. Method and degree of concentration.

D. If product is standardized to give concentration of antigen, show procedures and calculations.

E. 1. Assembly of units to make a serial (illustrate by example).

2. Volume of average serial.

3. Volume of maximum serial.

4. Any other pertinent information.

F. Volume of fill for each size vial. Type of vial if unusual.

G. Method and technique of filling and sealing of final containers.

H. Desiccation, including moisture control. Give maximum percent moisture.

I. Amount of antigenic material per dose or doses in final container.

V. *Testing.* Indicate the stages in the preparation of the biological product at which the samples are collected. Refer to all applicable Standard Requirements. Outline all additional tests in detail and state the minimum requirement for each satisfactory test.

A. Purity.

B. Safety.

C. Potency.

D. Moisture, if desiccated.

E. Any other tests.

VI. *Post preparatory steps.* A. Form and size of final containers in which the product is to be distributed.

B. Collection, storage, and submission of representative samples. Indicate at which steps in the production these samples are taken.

C. Expiration date based on the earliest date of harvest and the date of the last satisfactory potency test. If applicable, give the date of lyophilization.

D. Use, dosage, and route of administration for each animal species for which the biological product is recommended.

(e) Outlines of Production for allergenic extracts shall be written according to the following:

OUTLINE GUIDE FOR ALLERGENIC EXTRACTS

License No. Name of Product Date

I. *Composition of the product.* A. Source and type of raw material.

B. Weight/volume concentration.

II. *Preparation of the product.* A. Describe fully and show each step of preparation to the completion of the finished product in true containers. In describing the preparation of the product, emphasize the following:

1. Method of extraction.

2. Composition of preservative, adjuvant or stabilizer, and proportions used; stage and method of addition.

3. Method and degree of concentration.

4. Standardization of the product.

5. (a) Assembly of units to make a serial.
(b) Volume of average serial.
(c) Maximum serial.

6. Volume of fill for each size vial.

7. Method and technique of filling and sealing of final containers.

8. Amount material per dose or doses in final container.

III. *Testing.* Indicate the stages in the preparation of the biological product at which the samples are collected. Refer to all applicable Standard Requirements. Outline all additional tests in detail and state the minimum requirement for each satisfactory test.

A. Purity.

B. Safety.

C. Potency.

D. Any other tests.

E. Include any additional pertinent information.

IV. *Post preparatory steps.* A. Form and size of final containers in which the product is to be distributed.

B. Collection, storage, and submission of representative samples. Indicate at which steps in the production these samples are taken.

C. Expiration date based on the earliest date of harvest and the date of the last satisfactory potency test.

D. Use, dosage, and route of administration for each animal species for which the biological product is recommended.

§ 114.10 Antibiotics as preservatives.

Antibiotics are authorized for use as preservatives for biological products if used within the limitations as to kinds and amounts prescribed in this section.

(a) When an antibiotic or combination of antibiotics, with or without a fungistat is to be used in the preparation of a biological product, the kind(s) and amount(s) of each shall be specified in the outline for such product in such a way that the concentration in the final product may be calculated. Except as may be approved by the Deputy Administrator, only those individual antibiotics or combinations of antibiotics listed in paragraphs (b) and (c) of this section shall be used.

(b) Permitted individual antibiotics:

(1) The antibiotic level of a specified individual antibiotic in one ml. of a biological product, when prepared as recommended for use, shall not exceed the amounts listed in this paragraph: *Provided,* That in the case a desiccated biological product is to be used with an indefinite quantity of water or other menstruum, the determination shall be based on 30 ml. per 1,000 dose vial or equivalent.

(2) Except as prescribed in paragraph (c) of this section, only one antibiotic shall be used as a preservative in a biological product. The kind and maximum amount per ml. of such antibiotic shall be restricted to:

Amphotericin B	2.5 mcg.
Nystatin (Mycostatin)	30.0 units
Tetracyclines	30.0 mcg.
Penicillin	30.0 units
Streptomycin	30.0 mcg.
Polymyxin B	30.0 mcg.
Neomycin	30.0 mcg.
Gentamicin	30.0 mcg.

(c) Permitted combinations:

(1) Penicillin and streptomycin.

(2) Either amphotericin B or nystatin, but not both, may be used with one of the other antibiotics listed in paragraph (b) of this section, or with a combination of penicillin and streptomycin, or with a combination of polymyxin B and neomycin.

(3) The maximum amount of each antibiotic in a combination shall be the amount prescribed for such antibiotic in paragraph (b) of this section.

(d) Antibiotics used in virus seed stock purification are not restricted as to kind or amounts provided carryover into the final product is controlled and specified in outlines of production.

§ 114.11 Storage and handling.

Biological products at licensed establishments shall be protected at all times against improper storage and handling. Completed product shall be kept under refrigeration at 35° to 45° F (2° to 7° C) unless the inherent nature of the product makes storage at a different temperature advisable, in which case, the proper storage temperature shall be specified in the filed Outline of Production. All biological products to be shipped or delivered shall be securely packed.

§ 114.12 [Reserved]

§ 114.13 Expiration date determination.

Unless otherwise provided for in a Standard Requirement or filed Outline of Production, the expiration date for each serial and subserial shall be computed in accordance with the conditions provided in this section.

(a) *Harvest date.* The earliest date of harvest for any component of a biological product and the date of the last satisfactory potency test shall be considered in determining the expiration date.

(1) The date of harvest for products prepared from animal blood or live animal tissues including chicken embryos shall be the date such blood or tissues were collected.

(2) The date of harvest for products prepared by inactivating (killing) micro-organisms shall be the date the chemical or physical inactivating method is applied.

(3) The date of harvest for products prepared with living micro-organisms grown in artificial media shall be the date the cultures are removed from the production incubators.

(4) If the harvest date cannot be established by the criteria provided in paragraph (a) (1), (2), or (3) of this section, the means of establishing the harvest date shall be written into the filed Outline of Production.

(b) *Live vaccines.* The expiration dates for live vaccines shall be determined in accordance with the conditions prescribed in this paragraph.

(1) Each serial of vaccine shall be tested for virus content at release and at its approximate expiration date until a statistically acceptable stability record has been established. All estimations of virus content shall be based on valid 50 percent end point titrations.

(2) The date of lyophilization shall not exceed 12 months from date of harvest. The storage conditions from date of harvest to date of lyophilization shall be shown to be suitable as established by adequate data.

(c) *Inactivated biological products.* The expiration dates for inactivated products, normal serums, and antiserums shall be determined in accordance with the conditions prescribed in a Standard Requirement or filed Outline of Production for the product. At no time shall the date be more than 3 years from the date of harvest.

(1) The expiration date for a product shall be determined by stability tests confirmed by potency tests on at least five

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consecutive serials until 6 months beyond the date requested by the licensee.

(2) The expiration dates of antitoxins shall be calculated from the date of a satisfactory potency test as prescribed in a Standard Requirement or filed Outline of Production.

(3) Subsequent changes in the expiration date may be granted based upon stability data designed to show adequate potency of the product on or after the dating requested.

§ 114.14 Extension of the expiration date for a serial or subserial.

(a) The expiration date shall not be extended:

(1) If a U.S. Standard of Potency has not been developed for all fractions of the product; or

(2) For any serial or any portion of any serial which has left the licensed premises; or

(3) For a serial or portion of a serial if the expiration date has been extended previously.

(b) An extension of the expiration date may be granted if a request from the licensee is substantiated by valid test data obtained prior to the original expiration date and the following conditions are met:

(1) The new expiration date shall not exceed 6 months beyond the maximum time from harvest permitted by the currently filed Outline of Production; and

(2) Redated serials shall be retitrated or otherwise tested for potency by the licensee at or near the original expiration date and the results submitted to Veterinary Services. If found to be below the potency standards established by Veterinary Services, such serials shall be removed from the market.

§ 114.15 Disposal of unsatisfactory products and byproducts.

All biological products found to be unsatisfactory for marketing, all refuse or other materials deemed unsatisfactory for production purposes, all carcasses (part or whole) of production or test animals, and all undesirable byproducts of manufacture shall be disposed of as may be required by the Deputy Administrator.

§ 114.16 Producing subsidiaries.

(a) A production facility shall be used by only one producer (licensee or subsidiary) at one time except when cultures are incubated and when in-process, partially processed, or completed products are stored.

(b) For the purpose of maintaining separate production:

(1) Beginning of production shall be when the media is inoculated; or when tissue-producing animals or cell cultures are inoculated; or when the bleeding of serum animals occurs.

(2) Ending of production shall be when the product is a completed product in bulk containers with only bottling, labeling, or testing remaining.

(c) There shall be sufficient delay between operations of two producers to permit proper cleaning and disinfection of facilities when required.

(d) Storage of completed products may be in a common facility provided they are adequately identified. If not labeled, tags or markers shall be used.

§ 114.17 Rebotling of biological products.

The Deputy Administrator may authorize the rebottling of a completed product in liquid form subject to the conditions prescribed in this section.

(a) All or part of a serial which has not left the licensed establishment may be aseptically returned to the mixing tank, thoroughly mixed, and rebottled in new final containers.

(b) The rebottled product shall be adequately identified by serial number or subserial number, as the case may be.

(c) Required purity tests for final container samples of the product shall be conducted on new samples selected from the rebottled product (serial or subserials). Rebottled product found to be unsatisfactory by such tests shall not be released.

(d) New test samples from each serial or subserial and copies of test reports of all tests conducted on the rebottled product shall be submitted to Veterinary Services.

(e) The licensee shall not release the rebottled product unless notified by Veterinary Services that such product is eligible for release. Production records shall show the results of all tests conducted and shall accurately reflect the actions taken.

§ 114.18 Reprocessing of biological products.

The Deputy Administrator may authorize a licensee to reprocess a serial of completed product in liquid form subject to the conditions prescribed in this section.

(a) Reprocessing shall not include any method or procedure which would be deleterious to the product.

(b) The serial shall be uniformly reprocessed and thoroughly mixed prior to bottling in final containers.

(c) All required tests for purity, safety, potency, and efficacy for the product shall be conducted on the reprocessed product. A serial found unsatisfactory by a required test shall not be released.

(d) The reprocessed serial shall be identified by a new serial number and the records for the serial shall accurately reflect the action taken.

(e) Test samples of the reprocessed serial and test reports for all tests conducted shall be submitted to Veterinary Services. The licensee shall not release the serial until notified by Veterinary Services that the serial is eligible for release.

7. Part 116 is amended to read:

PART 116—RECORDS

Sec.

116.1 Applicability and general considerations.
116.2 Inventory and disposition records.
116.3 Label records.
116.4 Sterilization and pasteurization records.
116.5 Reports.
116.6 Animal records.
116.7 Test records.
116.8 Completion and retention of records.

AUTHORITY: 37 Stat. 832–833; 21 U.S.C. 151–158.

§ 116.1 Applicability and general considerations.

Each licensee and each foreign manufacturer of biological products imported into the United States shall maintain detailed records of information necessary to give a complete accounting of the activities within each establishment. Such records shall include, but shall not be limited to the items enumerated in this part.

(a) Records shall be made concurrently with the performance of successive steps in the preparation of a biological product. Such records shall include the date and where critical, the time that each essential step was taken, the identity and quantity of ingredients added or removed at each step, and any loss or gain from start to finish in such preparation.

(b) Records shall be legible and indelible; shall be as detailed as necessary for a clear understanding of each step by one experienced in the preparation of biological products; and shall be verified by initials or signature of the person immediately responsible for the action taken.

(c) Records (other than disposition records) required by this part shall be completed by the licensee or the foreign manufacturer, as the case may be, before any portion of a serial of any product shall be marketed in the United States or exported.

§ 116.2 Inventory and disposition records.

(a) Records shall show the quantity and location of each biological product being prepared, in storage, and in distribution channels.

(b) Detailed disposition records, in a form satisfactory to the Deputy Administrator, shall be maintained by each licensee, each distributor, and each permittee showing the sale, shipment, or other disposition made of the biological products handled by such person.

§ 116.3 Label records.

(a) Each licensee and permittee shall maintain a list of all approved labels currently being used. Each label shall be identified as to:

(1) Name and product code number as it appears on the product license or permit for the product;

(2) Where applicable, the size of the package (doses, ml, cc, or units) on which the label shall be used;

(3) Label number and date assigned; and

(4) Name of licensee or subsidiary appearing on the label as the producer.

(b) All labels printed shall be accounted for and an inventory maintained. Records shall include the disposition of such labels including those not used in labeling a product.

§ 116.4 Sterilization and pasteurization records.

Records shall be made by means of automatic recording devices or an equivalent accurate and reliable system. Such records shall be identified with the ingredients, equipment, or biological product subjected to sterilization or pasteurization.

§ 116.5 Reports.

When required by the Deputy Administrator, reports containing accurate information of production activities in each establishment by the licensee or the foreign manufacturer whose products are either being offered for importation or being imported into the United States, as the case may be, shall be prepared and forwarded to Veterinary Services. Records necessary to make such reports shall be maintained in each establishment.

§ 116.6 Animal records.

Complete records shall be kept for all animals at a licensed establishment. Results of tests performed, antigens or treatment administered, maintenance and production records, disposition records, necropsy records, if any, and all other pertinent records shall be included.

§ 116.7 Test records.

Detailed records of all tests conducted on each serial and each subserial shall be maintained by the licensee. Summaries of such tests shall be prepared from such records and submitted to Veterinary Services prior to release of the serial or subserial. Blank forms for such summaries shall be available from Veterinary Services upon request.

§ 116.8 Completion and retention of records.

All records (other than disposition records) required by this part shall be completed by the licensee or the foreign manufacturer, as the case may be, before any portion of a serial of any product may be marketed in the United States or exported. All records shall be retained for a period of 2 years after the expiration date of the product involved and for such longer period as may be required by the Deputy Administrator in specific cases.

NOTE.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective Date: The amendments to Part 112 in § 112.2(a)(11), § 112.3(g), § 112.7(d)(4)(iv), § 112.7(d)(5), and § 112.7(h) shall become effective January 1, 1975. The amendments to Part 112 in § 112.2(a)(8), § 112.2(e), the lead paragraph in § 112.7, and § 112.7(g), and the amendments to Part 108, Part 113, Part 114, and Part 116 shall become effective June 10, 1974.

Done at Washington, D.C., this 6th day of MAY 1974.

J. M. HEJL,
Acting Deputy Administrator Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-10880 Filed 5-9-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Correction

In FR Doc. 74-10367, appearing at page 15960 in the issue for Monday, May 6, 1974, in § 211.2, between the undesignated first paragraph and paragraph (a), insert the following section heading:

§ 211.9 Supplier/purchaser relationships.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	8	Apr. 30, 1974
New York	8	Apr. 25, 1974
Philadelphia	8	Do.
Cleveland	8	Do.
Richmond	8	Do.
Atlanta	8	Apr. 29, 1974
Chicago	8	Apr. 26, 1974
St. Louis	8	Do.
Minneapolis	8	Do.
Kansas City	8	Apr. 25, 1974
Dallas	8	Do.
San Francisco	8	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston [1]	10	Apr. 30, 1974
New York	10	Apr. 25, 1974
Philadelphia	10	Do.
Cleveland	10	Do.
Richmond [1]	10	Do.
Atlanta [1]	10	Apr. 29, 1974
Chicago [1]	10	Apr. 26, 1974
St. Louis [1]	10	Do.
Minneapolis [1]	10	Do.
Kansas City [1]	10	Apr. 25, 1974
Dallas [1]	10	Do.
San Francisco	10	Do.

[1] A rate of 8 percent was approved, effective on the indicated dates on advances to nonmember banks, to be applicable in special circumstances resulting from implementation of changes in Regulation J (see 37 FR 12714).

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, May 1, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10836 Filed 5-9-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-WE-18-AD; Amdt. 39-1842]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model TPE331-1-151B, -2-201C, -3U-307G, -5-251C -5-251K and -6-251M Engines

There have been failures of the fuel control system on Airesearch Model TPE 331-1-151B, -2-201C, -3U-307G, -5-251C, -5-251K and -6-251M engines that could result in the engine not properly responding to power and condition lever movement and setting. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to require a modification and recurring inspection of the fuel control assembly

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mounting and support bracket fasteners on AiResearch Model TPE331-1-151B, -2-201C, -3U-307G, -5-251C, -5-251K and -6-251M engines. The manufacturer has also issued operational instructions covering this subject. Although not mandatory, the agency concurs with the substance of these instructions, and urges observance herewith. The AD contains a note to reflect this determination.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AIRESEARCH MANUFACTURING COMPANY OF ARIZONA: Applies to Model TPE331-1-151B, -2-201C, -3U-307G, -5-251C, -5-251K, and -6-251M engines.

Compliance required as indicated.

To detect, correct and prevent loosening of the fuel control assembly mounting and support bracket fasteners, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this AD, unless previously accomplished, replace the fuel control assembly support bracket with a new bracket in accordance with instructions contained in paragraph 2.B. of AiResearch Service Bulletin TPE331-73-0028, dated April 29, 1974, or later FAA-approved revisions.

(b) Within 100 hours time in service after accomplishment of paragraph (a), above, or 25 hours additional time in service after the effective date of this AD, whichever occurs later, and intervals not to exceed 100 hours time in service thereafter, inspect and retorque the fuel control assembly and support bracket mounting fasteners in accordance with the procedures contained in paragraph 2.C. of AiResearch Service Bulletin TPE331-73-0028, dated April 29, 1974, or later FAA-approved revisions.

(c) Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region, upon submission of adequate substantiation data.

NOTE.—AiResearch Operating Information Letter OI-331-3, Revision A, dated April 19, 1974, provides pertinent operational information. Flight crews are urged to obtain a copy of this letter and acquaint themselves with the information presented therein.

This amendment becomes effective May 13, 1974.

This amendment is made under the authority of section 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California, on May 2, 1974.

ARVIN O. BASNIGHT,
Director,
FAA Western Region.

[FR Doc.74-10778 Filed 5-9-74;8:45 am]

[Airworthiness Docket No. 74-WE-19-AD; Amdt. 39-1837]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch TSCP 700-4B Auxiliary Power Units

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted April 17, 1974, and made effective immediately by telegram dated April 17, 1974, to all known United States operators or owners of aircraft in which the AiResearch Model TSCP 700-4B auxiliary power units (APU) are installed (McDonnell Douglas Model DC-10). The airworthiness directive requires the installation of a placard to prohibit all inflight operation of the APU. The APU may still be used in ground operations. The telegraphic AD constituted an interim action. An inspection program and modifications are under development for future AD action. Equivalent procedures and placards may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately to all known operators or owners of aircraft incorporating AiResearch Model TSCP 700-4B Auxiliary Power Units (APU) (installed in McDonnell Douglas DC-10 Series airplanes). These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons:

AIRESEARCH: Applies to Model TSCP 700-4B Auxiliary Power Units (APU) installed in McDonnell Douglas Model DC-10 aircraft.

Pursuant to the authority of the Federal Aviation Act of 1958, delegated to me by the Administrator the following airworthiness directive applicable to AiResearch Model TSCP 700-4B Auxiliary Power Units (APU) (installed in McDonnell-Douglas Model DC-10 Series Aircraft) is effective immediately upon receipt of this telegram because of numerous reports of fatigue cracks in the fuel control differential pressure regulator body. The presence of crack(s) can allow fuel to leak into the APU compartment. Compliance required as indicated, unless already accomplished. Within 25 hours additional time in service, install a placard in view of the flight crew to prohibit all in-flight operation of the APU. Thereafter the APU may not be used in flight but may be used in ground operations.

NOTE.—This is interim AD action. An inspection program and modifications are under development for future AD action. Equivalent procedures and placards may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment is effective May 13, 1974, for all persons except those to whom it was made effective immediately by telegram dated April 17, 1974.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California on May 1, 1974.

ARVIN O. BASNIGHT,
Director,
FAA Western Region.

[FR Doc.74-10779 Filed 5-9-74;8:45 am]

[Docket No. 74-NW-7-AD; Amdt. 39-1838]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-100, -100B and -200 Series Airplanes

There have been cracks in the upper wing splice at wing station 360 on Boeing Model 707 series airplanes. One crack was as long as 67 inches. These cracks impair the structural integrity of the wing and could lead to structural failure. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection and repair, as necessary, of the upper wing splice at wing station 360.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697 § 39.13 of Part 39 of the Federal Aviation Administration is amended by adding the following new airworthiness directive:

BOEING: Applies to Boeing Model 707-100 series, -100B series and -200 series airplanes certificated in all categories.

Compliance required as indicated. To detect cracks in the upper wing splice plate and upper rib cap at wing station 360, accomplish the following:

Unless X-Ray inspected within the last 300 flights, X-Ray inspect the upper wing surface splice plate and rib cap at wing station 360 within the next 25 flights after the effective date of this AD, on airplanes with more than 24,000 flights, or within the next 50 flights after the effective date of this AD, on airplanes with more than 17,000 flights in accordance with instructions in Boeing Alert Service Bulletin No. 3160 dated April 19, 1974, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region. If cracks are found, repair, as necessary, prior to further flight in accordance with instructions approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

The Manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents may obtain copies upon request to The Boeing Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, Boeing Field, Seattle, Washington.

This amendment becomes effective on May 10, 1974.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Washington on May 2, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in this document were approved by the Director of the Federal Register.

[FR Doc.74-10780 Filed 5-9-74;8:45 am]

[Docket No. 74-NW-8-AD; Amdt. 39-1836]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

There has been a failure of the horizontal stabilizer hinge pin assembly on a Boeing 727 airplane. Loss of this pin assembly allows free play of the horizontal stabilizer which can cause airplane porpoising and if allowed to progress could lead to structural damage of the horizontal stabilizer rear spar.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection for integrity and installation of threaded retention rods on all Boeing Model 727 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applies to all model 727 series airplanes certificated in all categories. Compliance required as indicated.

(A) Unless already accomplished on airplanes which have been delivered after September 30, 1973, or which have had new horizontal stabilizer hinge pins, P/N 69-14410, installed since that time, conduct the inspection and modification of paragraph (C) below, within the next 15 days after the effective date of this AD.

(B) Unless already accomplished on all other airplanes, conduct the inspection and modification of paragraph (C) below, within the next 6 months after the effective date of this AD.

(C) Inspect the horizontal stabilizer hinge pins for integrity, replace as necessary, and install threaded retention rods, P/N 69-67076, or equivalent, in accordance with Boeing Alert Service Bulletin 727-55-59, or FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The Manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents may obtain copies upon request to The Boeing Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, Boeing Field, Seattle, Washington.

This amendment becomes effective on May 10, 1974.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Washington, on May 2, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER.

[FR Doc.74-10781 Filed 5-9-74;8:45 am]

[Docket No. 74-GL-4; Amdt. 39-1839]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison Models A6441FN-606 and 606A Propellers

Pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89), an airworthiness directive was adopted on April 11, 1974, and made effective immediately as to all known United States operators of Detroit Diesel Allison Aeroproducts Model A6441FN-606 and -606A propellers. The directive requires that propellers be completely stripped, inspected for corrosion and replated per Detroit Diesel Allison Overhaul Manual 1AC3 at 36 months from the initial installation on an aircraft following the time they were last stripped, inspected for corrosion and replated. For propellers which had not been stripped, inspected for corrosion and replated within the last 27 to 55 months specific times and/or dates were established by which this work was to be accomplished. In the case of new blades and hubs, the directive provided that they could remain in service for 40 months after initial installation on an aircraft before the required work must be accomplished. The directive further required that after the accomplishment of the stripping, inspection for corrosion and replating as described, all blades and hubs must be stripped, inspected for corrosion and replated per Detroit Diesel Allison Overhaul Manual 1AC3 at intervals of not to exceed 36 months.

A review of the airworthiness directive issued April 11, 1974, indicated that a typographical error occurred in the setting forth of the various time periods in the schedule. Also, it has been determined that in the case of new hubs or propellers, provision had not been made for such hubs or propellers in operation for 31 months or more, since initial installation on an aircraft, which was commensurate with that given to other hubs and propellers. Further, it has been determined that the stripping, inspection for corrosion and replating can be accomplished in accordance with Detroit Diesel Allison Overhaul Manual 1AC3 or an equivalent approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Great Lakes Region.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately for all known U.S. Operators of Detroit Diesel Allison Aeroproducts Model A6441FN-606 and -606A propellers by individual telegrams dated April 11, 1974. These conditions still exist and the airworthiness directive, amended as noted above, is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective for all persons.

DETROIT DIESEL ALLISON AEROPRODUCTS: Applies to Detroit Diesel Allison Aeroproducts Model A6441FN-606 and -606A propellers.

Compliance required as indicated, unless already accomplished:

(a) For propeller blades and hubs, installed on an aircraft prior to the effective date of this Airworthiness Directive, that have been stripped, inspected for corrosion, and replated per Detroit Diesel Allison Overhaul Manual 1AC3 or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region, within the preceding 27 months prior to the effective date of this AD, remove from service before 36 months since date of initial installation on an aircraft following stripping, inspecting for corrosion and replating.

(b) For propeller blades and hubs, installed on an aircraft prior to the effective date of this AD, that have been stripped, inspected for corrosion and replated per Detroit Diesel Overhaul Manual 1AC3 or equivalent, but this work has not been accomplished within the preceding 27 months prior to the effective date of this AD, remove from service in accordance with the following schedule:

On the effective date of this AD, the number of months since the date of initial installation on an aircraft after being stripped, inspected for corrosion, and replated as described above:

	Remove from service by—
Over 55 mo	25 flight hours after effective date of this AD.
55 mo	May 11, 1974.
53 to 54 mo	June 11, 1974.
48 to 52 mo	July 11, 1974.
42 to 47 mo	Oct. 11, 1974.
27 to 41 mo	Jan. 11, 1975.

(c) New propeller blades and hubs may continue in service 40 months since initial installation on aircraft. However, those in service, at the effective date of this AD, more than 31 months since initial installation on aircraft shall be removed from service at or before the time or dates specified in the schedule under paragraph (b).

(d) Propeller blades and hubs removed from service pursuant to paragraphs (a), (b), or (c), stripped, inspected for corrosion and replated as set forth above, and installed on an aircraft shall thereafter be removed from service, stripped, inspected for corrosion, and replated as described above at intervals not to exceed 36 months.

(e) Propeller blades and hubs initially installed on an aircraft on or after the effective date of this AD shall be stripped, in-

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spected for corrosion and replated, as described above, at intervals no greater than 36 months from date of initial installation; provided, however, that new propeller blades and hubs may continue in service for 40 months since initial installation.

(f) Extensions of compliance times or date may be obtained from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Great Lakes Region, upon submission of acceptable substantiating data to support the extension.

This amendment is effective May 17, 1974, and was effective April 11, 1974, for all recipients of the telegram dated April 11, 1974, which contained this amendment.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423 and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Des Plaines, Illinois on May 3, 1974.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.74-10782 Filed 5-9-74;8:45 am]

[Docket No. 74-GL-3; Amdt. 39-1840]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric Models CF6-6D, 6D1, 6H; and CF6-50A, 50C, 50E, and 50H Turbofan Engines

There have been uncontained failures of the rotor in the starter on CF6 Engines in DC-10 Aircraft that could result in injury to personnel or damage to the aircraft. Since this condition is likely to exist or develop in other engines of the same type, an Airworthiness Directive is being issued to require modification of the starter as well as periodic inspection and maintenance.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

GENERAL ELECTRIC: Applies to Models CF6-6D, 6D1, 6H; and CF6-50A, 50C, 50D, 50E, and 50H Turbofan Engines.

Compliance required as indicated.

To prevent possible explosive disintegration of the AiResearch P/N 384022 pneumatic starter accomplish the following:

(a) Within the next 75 hours' time in service after the effective date of this Airworthiness Directive, unless already accomplished, and every 150 hours thereafter, inspect the starter magnetic plug and service as necessary in accordance with the instructions of section 80-13 of the CF6 Maintenance Manual.

(b) Within the next 300 hours' time in service after the effective date of this Airworthiness Directive, unless already accomplished, and every 600 hours thereafter, change the starter oil in accordance with the instructions of section 80-13 of the CF6 Maintenance Manual.

(c) Before December 31, 1974, unless already accomplished, modify the starter to incorporate the improvements specified in General Electric Service Bulletins (CF6-6) 80-2, or (CF6-50) 80-1, or in subsequent FAA approved revisions.

(d) Upon submission of substantiating data through an FAA Principal Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA Great Lakes Region, may adjust the repetitive inspection times specified in paragraphs (a) and (b).

This amendment becomes effective May 17, 1974.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued at Des Plaines, Illinois, on May 3, 1974.

VAN H. GLASS,
Acting Director,
Great Lakes Region.

[FR Doc.74-10783 Filed 5-9-74;8:45 am]

[Docket No. 13695; Amdt. 39-1844]

PART 39—AIRWORTHINESS DIRECTIVES

Mitsubishi Model MU-2B Airplanes

Pursuant to the authority delegated to me by the Administrator an airworthiness directive (AD) was adopted on April 19, 1974, and made effective immediately upon receipt of the airmail letter AD as to all known United States operators of Mitsubishi Heavy Industries, Ltd., Model MU-2B and MU -2B-10, -15, -20, -25, -30, and -35 airplanes because of the report of an inflight failure and separation of a front windshield outer pane on a Mitsubishi Model MU-2B-35 airplane. The AD requires inspections of the front windshield prior to each takeoff and the replacement of front windshields and the correction of malfunctioning air conditioning systems if found necessary.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known U.S. operators of Mitsubishi Model MU-2B and MU-2B -10, -15, -20, -25, -30, and -35 airplanes by airmail letter dated April 19, 1974. These conditions still exist and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

MITSUBISHI HEAVY INDUSTRIES LIMITED: Applies to Mitsubishi Models MU-2B, MU-2-B10, MU-2B-15, MU-2B-20, MU-2B-25, MU-2B-30, and MU-2B-35 airplanes.

Compliance is required as indicated.

To detect cracks and optical distortion in the front windshield outer panes that could result from the discharge of unusually hot defogging air caused by an air conditioning system failure, accomplish the following:

(a) Before further flight and thereafter prior to each takeoff, from outside the aircraft, visually inspect the outer lower edge of the left hand and right hand front windshield outer panes for cracks and small oval shaped optical distortions. The inspections required by this paragraph constitute preventive maintenance and may be performed by those persons authorized to perform preventive maintenance under FAR 43.

NOTE.—Distortions generally appear at the same intervals as those of the defogging air outlet holes, approximately 0.5 inches apart, and in an area approximately 0.8 inches above the top of the outside bottom windshield retainer edge. Particular attention should be given to theee areas during the inspections required by paragraph (a).

(b) If cracks or small oval shaped optical distortions are found during an inspection required by paragraph (a), before further flight, accomplish the following and continue to inspect in accordance with paragraph (a) of this AD:

(1) Replace the windshield outer pane in which a crack or optical distortion is found in accordance with the performance rules of FAR 43.13.

NOTE.—Mitsubishi replacement windshield part numbers are as follows: Aircraft with electrically heated windshields incorporated in accordance with Mitsubishi Service Recommendation No. 014—Windshield part numbers 010A-931026-11 and -12. Other aircraft—Serial numbers 4 through and including 7—Windshield part numbers 010A-31026-1 and -2; Serial numbers 8 and up—Windshield part numbers 010A-31450-1 and -2.

(2) Correct the malfunctioning of the air conditioning system in accordance with the performance rules of FAR 43.13.

(c) Notwithstanding the compliance time for repair specified in paragraph (b) of this AD, the aircraft may be flown in accordance with FAR 21.197 to a base where the repair can be performed; provided that, the aircraft is not pressurized.

NOTE.—Mitsubishi Heavy Industries Limited MU-2 Service Bulletin No. 163, dated March 4, 1974, pertains to this subject. Mitsubishi Maintenance Manuals for the Model MU-2B and MU-2B-10, -15, -20, -25, -30, and -35 airplanes contain information relating to the replacement of windshield panes and the trouble shooting of cabin air conditioning systems.

This amendment is effective May 10, 1974, as to all persons except those persons to whom it was made effective upon receipt of the airmail letter dated April 19, 1974, that contained this amendment.

Issued in Washington, D.C., on May 3, 1974.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.74-10785 Filed 5-9-74;8:45 am]

[Docket No. 74-NE-22; Amdt. 39-1835]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT8D Aircraft Engines

There have been reported instances of intermixing of different type material second, third and fourth stage turbine nozzle guide vanes during the overhaul of certain Pratt & Whitney JT8D aircraft engines. This different vane material has not been approved for installation on these engines and may result in rearward movement of the vane assembly with subsequent contact with the rotor blade and disc assembly. Since this condition is likely to exist or develop in all the engines which have been exposed to this intermix of different vane materials, an Airworthiness Directive is being issued to require removal of these non-approved vanes. In this connection, the agency has determined that the potential rearward movement is of such a nature as to permit continued operation of the JT8D-9 and -9A engines for 800 hours without affecting the airworthiness of the engine. Also, the agency has concluded that these engines may be safely operated for an additional 6000 hours providing that a specified clearance exists between the vanes and the rotor assembly. Therefore, the AD requires a one time radioisotope inspection of the JT8D-9 and -9A engines within 800 hours to determine the amount of existing clearance between the vane and the rotor assembly. If the clearance is found to be less than the minimum, the AD requires the removal of the non-approved vanes prior to the accumulation of 25 hours time in service after the inspection. If the clearance is determined to be equal to or more than the minimum, the AD will require replacement of non-approved vanes prior to the accumulation of 6000 hours time in service after the effective date of the AD. Finally, the agency has determined that, due to their different operating characteristics, the JT8D-7 and -7A engines may be safely operated for an additional 6000 hours. Accordingly, as to those engines, the AD requires that the non-approved vanes be removed prior to 6000 hours time in service after the effective date of the AD.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PRATT & WHITNEY AIRCRAFT. Applies to Pratt & Whitney Aircraft JT8D-7, -7A, -9 and -9A turbofan engine models with the following serial numbers:

Group I JT8D-9 and -9A engines affected

665152 665158 665161 665165 665169 665170
665179 665180 665181 665194 665197 665201
665202 665207 665208 665213 665215 665216
665218 665219 665220 665221 665231 665244
665245 665246 665252 665254 665258 665279
665282 665283 665285 665288 665289 665303
665304 665311 665312 665315 665317 665318
665321 665324 665326 665329 665331 665334
665335 665336 665338 665340 665345 665347
665358 665364 665370 665371 665372 665375
665380 665381 665384 665386 665388 665389
665390 665392 665393 665402 665404 665406
665408 665410 665413 665416 665417 665418
665421 665424 665429 665430 665434 665435
665436 665437 665438 665440 665441 665442
665443 665447 665448 665455 665459 665463
665467 665468 665472 665480 665481 665489
665491 665494 665519 665520 665521 665528
665529 665530 665531 665532 665533 665536
665537 665538 665547 665548 665549 665550
665551 665552 665558 665559 665560 665561
665562 665563 665629 665630 665631 665634
665636 665637 665658 665659 665660 665661
665662 665663 665664 665665 665666 665667
665668 665669 665681 665682 665683 665703
665704 666789 666803 666807 666810 666838
666862 666884 666892 666901 666913 674162
674399 674401 674250 674262 674266 674299
674314 674316 674325 674329 674333 674335
674341 674354 674355 674359 674361 674373
674374 674375 674376 674379 674380 674381
674384 674390 674391 674400 674404 674409
674422 674431 674482 674487 674488 674489

Group II JT8D-7 and -7A engines affected

649110 649149 649160 649163 649201 649206
649216 649226 649238 649248 649273 649279
649301 649356 649477 649494 649518 649528
649529 649541 649648 653327 653328 653348
653381 653443 653451 653455 653523 653577
653604 653660 653690 653713 653734 653748
653813 653828 653843 653863 653922 653959
654012 654041 654044 654102 654145 654153
654311 654353 654357 654378 654406 654439
654451 654468 654479 654483 654487 654496
654512 654560 654563 654568 654571 654579
654582 654586 654595 654597 654601 654605
654608 654625 654642 654653 654666 654669
654679 654704 654705 654721 654724 654756
654757 654771 654793 654800 654803 654804
654807 654818 654819 654830 654842 654848
654857 654865 654874 654890 654891 654894
654895 654902 654912 654915 654927 654928
654929 654939 654941 654947 654952 654954
654955 654976 654985 654987 654997 655013
655020 655021 655048 655050 655060 655073
655259 656936 656940 656946 656961 656983
657058 657093 657098 657432

Compliance required as indicated unless previously accomplished. To preclude interference between the second, third, and fourth stage turbine stators and their respective turbine rotors, as a result of a possible mixing of different material stators, accomplish the following:

For Group I engines, prior to the accumulation of 800 hours time in service after the effective date of this AD, determine the axial clearance between the second and third stage turbine stators and their respective turbine rotors in accordance with Trans World Airlines NDT Procedures Manual, Part 3, Gamma Ray Inspection No. 201E—JT8D-9 Turbine Stators Second and Third Stage, dated April 24, 1974, or later FAA approved revision, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region. If the axial clearance is below the specified limit in the above procedures manual, remove the engine prior to the accumulation of 25 hours time in service since inspection and replace all second, third, and fourth stage stator vanes not approved for that engine model. If the axial clearance is greater than the specified limit in the above procedures manual, prior to the accumulation of 6,000 hours after the effective date of this AD, inspect for and replace all second, third, and fourth stage stator vanes not approved for that engine model.

For Group II engines, prior to the accumulation of 6,000 hours time in service after the effective date of this AD, inspect for and replace all second stage stator vanes not approved for the engine model.

Trans World Airlines' inspection procedure identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from Trans World Airlines may obtain copies upon request from Trans World Airlines, Kansas City International Airport, P.O. Box 20126, Kansas City, Missouri. These documents may also be examined at the Office of the Regional Counsel, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803 and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

Upon submission of substantiating data through an FAA Maintenance Inspector by an owner or operator, the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the compliance time.

This amendment becomes effective May 21, 1974.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Burlington, Massachusetts on May 1, 1974.

FERRIS J. HOWLAND,
Director, New England Region.

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.74-10784 Filed 5-9-74;8:45 am]

[Airspace Docket No. 74-SO-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On March 20, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 10438), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Cherry Point, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

In § 71.181 (39 FR 440), the Cherry Point, N.C., transition area is amended as follows:

"• • • longitude 76°53'00" W.); • • •" is deleted and "• • • longitude 76°53'00" W.); within a 6-mile radius of Beaufort-Morehead City Airport, Beaufort, N.C. (latitude 34°44'00" N., longitude 76°39'45" W.); within 3 miles each side of the 132° bearing from Marine Cherry Point RBN, extending

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from the 6-mile radius area to the 8.5-mile radius area " • • • " is substituted therefor.

This amendment is made under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 1, 1974.

DUANE W. FREER,
Acting Director,
Southern Region.

[FR Doc.74-10786 Filed 5-9-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-847; ER Amdt. No. 7]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Amendment to Filing Time Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By notice of proposed rule making EDR-257, dated November 12, 1973,[1] the Board proposed certain amendments to Parts 217, 239, 242, 243 and 298 of its Economic Regulations (14 CFR Parts 217, 239, 242, 243 and 298), which would: (1) require that certain reports due under these parts be received, rather than postmarked, by a specified due date; (2) prescribe a list of due dates for such filings; (3) require that requests for extensions of time for such filings be received not later than three (3) days prior to the due date; and (4) clarify the applicability of Part 239 to foreign carriers.

Comments in response to the notice were submitted by Air Zaire, Lufthansa German Airlines (Lufthansa), Pan American World Airways, Inc. (Pan Am) and Philippine Air Lines (Philippine).

Upon consideration of the comments, the Board has decided to adopt the amendments with modifications hereinafter discussed. Except to the extent modified herein, the tentative findings set forth in the Explanatory Statement of EDR-257 are incorporated herein and made final.

In EDR-257, the Board observed that the adoption of these amendments would make the reporting requirements of the Parts consistent with those in Part 241, one of the Board's primary information systems. We also pointed out that the reasons for proposing and adopting the reporting changes in EDR-257 were essentially the same as those underlying our proposal and adoption of the changes in Part 241, as set forth in EDR-227 and ER-773, respectively.

The comments of Lufthansa, Pan Am and Philippine were in opposition to the portion of the proposed rule which would eliminate references to postmarks and require instead that reports be received by the Board on or before a particular date. Lufthansa and Philippine contend that as foreign air carriers such a change would impose a particular hardship because of the geographic location of the data needed to prepare the reports. Pan Am's position is that it is difficult to insure that documents forwarded to the Board through the U.S. Postal Service will arrive at or before any specified time or date.

The Board has not found the arguments in opposition to the proposed specific due dates to be persuasive. Public policy requires that information, in order to serve the purpose for which it is collected and compiled, must be available to users as soon as practicable after the date or period to which it relates. In this regard, the Office of Management and Budget (OMB) in Circular No. A-91 (revised) dated April 26, 1972, stated that the shortest possible interval should exist between the date or period to which data refer and the date when compilation is completed, and the prompt public release of the figures should be made after compilation. In that circular, OMB also stated that the prompt release of official statistics on a regular schedule is of vital importance to the proper management of both private and public affairs.

The present irregularity in receipt of submittals from the carriers causes the Board's staff considerable administrative difficulty both in enforcing timely reporting by the carriers and in scheduling the coding, keypunching, editing, and processing of reported data. Too often, information disseminated by the Board, for which there is considerable demand, has been delayed by the irregular receipt of carrier reports. Carrier group and industry summaries of information cannot be computed until essentially all data is received by the Board.

Enforcement of timely reporting is thus imperative, because late reports from a few carriers can cause delay and sporadic availability of carrier data for staff analysis and reporting to the Board, evaluations of carrier financial fitness, compilations for Board publications, dissemination to other Government agencies, and for meeting commitments to international air transportation bodies.

It has been our experience that enforcement of timely reporting is significantly hampered when due date requirements are permitted to be determined by reference to postmarks, since the use of postage meters by many carriers makes it exceedingly difficult to ascertain whether overdue filings are attributable to delays in mail delivery or to late mailings by the carriers. The prescription of specific due dates for receipt of reports therefore provides a sounder basis for the enforcement of reporting requirements, as demonstrated by the improvement in the promptness with which we have been receiving reports filed under Parts 239 and 241, since those parts were amended to prescribe the due dates for our receipt rather than for postmarks.

As stated in the notice of proposed rule making, the Board is aware that the time allowed for filing may be lessened by the change from postmark to receipt filings. However, it should be noted that this regulation does not purport to, and is not intended to, restrict carriers to a specific means of delivery, such as the U.S. Postal Service. It should also be pointed out that, as we observed in EDR-257, this regulation does not represent a novel approach to the problem of on-time reporting, as it has long been our practice to require that documents presented in proceedings before the Board be actually received on the date set for their filing, without regard to the mode of delivery.

Air Zaire objects to the amendment which would require foreign air carriers to file reports on nonexistent operations, *i.e.*, foreign air carriers which do not exercise their rights under section 402 of the Federal Aviation Act. The carrier contends that the proposed rule would place a continuing burden on foreign carriers, such as Air Zaire, which are not operating to the United States. Under the subject amendment to Part 239, foreign air carriers which do not exercise their rights to serve the United States are required to file only a schedule appropriately noting such fact, so that the reporting burden is quite minimal. Since the alleged burden on the reporting carriers is clearly outweighed by our regulatory need to know which foreign air carriers are not exercising their permit authority, we have determined to make this proposed rule final.

This rule is being made effective June 30, 1974, so that it will be applicable to reports due August 10, 1974, for the quarter ended June 30, 1974. This should provide adequate lead time for achieving compliance with the rule, given the length of time between its date of publication and the prescribed due date for the quarterly report.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 217 of the Economic Regulations (14 CFR Part 217), effective June 30, 1974, as follows:

1. Amend paragraph (b) of § 217.3 to read as follows:

§ 217.3 Report of civil aircraft charters performed by foreign air carriers.

• • • • • •

(b) Three copies of CAB Form 217[10] shall be filed for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year. These reports shall be submitted to the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, so as to be received on or before the due dates indicated below:

SCHEDULE OF DUE DATES

Filing for quarter ended	*Due date*
Mar. 31	May 10
June 30	Aug. 10
Sept. 30	Nov. 10
Dec. 31	Feb. 10

[1] Docket 26092, 38 FR 31842, November 19, 1973.

[10] CAB Form 217 may be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

2. Revise § 217.4 to read as follows:

§ 217.4 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If a request is denied, the foreign air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(Secs. 204(a) and 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; (49 U.S.C. 1324, 1372))

Effective: June 30, 1974.

Adopted: April 16, 1974.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.74-10717 Filed 5-9-74;8:45 am]

[Reg. ER-848; ER Amdt. No. 4]

PART 239—REPORTING DATA PERTAINING TO FREIGHT LOSS AND DAMAGE CLAIMS BY CERTAIN AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

Requirements for Requesting Extensions of Filing Time, Due Dates of Reports, and Clarification of Foreign Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By notice of proposed rule making EDR-257, dated November 12, 1973,[1] the Board proposed, *inter alia*, certain amendments to Part 239. For the reasons set forth in ER-847 (Part 217), published contemporaneously herewith, the Board hereby amends Part 239 of the Economic Regulations (14 CFR Part 239).

This rule is being made effective June 30, 1974, so that it will be applicable to reports due August 10, 1974, for the quarter ended June 30, 1974. This should provide adequate lead time for achieving compliance with the rule, given the length of time between its date of publication and the prescribed due date for the quarterly report.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 239 of the Economic Regulations (14 CFR Part 239), effective June 30, 1974, as follows:

1. Amend paragraphs (a), (b), and (d) of § 239.2, and delete and reserve paragraph (e) thereof, the section, as amended, to read in part, as follows:

§ 239.2 Applicability of part and CAB Form 239 filing requirements.

(a) This part applies to all certificated route carriers and certificated supplemental air carriers, commuter air carriers under Part 298 of the Board's Economic Regulations (14 CFR Part 298), air freight forwarders and international air freight forwarders under Parts 296 and 297 of the Board's Economic Regulations, respectively (14 CFR Parts 296, 297), and foreign route air carriers authorized to engage in scheduled air services.

(b) Two copies of each schedule in the CAB Form 239[1] report entitled "Report of Freight Loss and Damage Claims," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 239 Report," so as to be received on or before the due date specified in that list.

[1] CAB Form 239 may be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

List of schedules in CAB Form 239 report

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Quarterly	May 10, Aug. 10, Nov. 10, Feb. 10.
A	Report of Freight Loss and Damage Claims Paid	do	Do.
B	Analysis of Shortage	do	Do.
C	Analysis of Claims Processed	do	Do.
D	Summary of Freight Loss and Damage Claims Paid	Annually	Feb. 10.

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

• • • • • •

(d) Schedules B and D shall be filed by all certificated route air carriers, certificated supplemental air carriers, commuter air carriers, air freight forwarders and international air freight forwarders and foreign route air carriers.[2]

(e) [Reserved]

• • • • • •

2. Redesignate footnote "33" to paragraph (d) of § 239.2 as footnote "2" and amend its text to read as follows:

3. Revise § 239.3 to read as follows:

§ 239.3 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

4. Revise § 239.4 to read as follows:

[2] Only foreign route air carriers authorized to serve the United States are required to file Schedules B and D of CAB Form 239. Data called for in such reports shall relate only to freight traffic from and/or to the United States and claims relating thereto.

§ 239.4 Certification.

The certificate of the officer in charge of the carrier's accounts, executed in duplicate, shall accompany each Form 239 filed with the Board. The certificate is the cover sheet of Form 239 and applise to all schedules and documents filed therewith.

(Secs. 204(a), 402 and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 766; (49 U.S.C. 1324, 1372 and 1377))

Effective: June 30, 1974.

Adopted: April 16, 1974.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.74-10718 Filed 5-9-74;8:45 am]

[Reg. ER-849; ER Amdt. No. 5]

PART 242—REPORTING RESULTS OF SCHEDULED ALL-CARGO SERVICES

Requirements for Requesting Extensions of Filing Time and Due Dates of Reports

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By notice of proposed rule making EDR-257, dated November 12, 1973,[1] the Board proposed, *inter alia*, certain amendments to Part 242. For the reasons set forth in ER-847 (Part 217), published contemporaneously herewith, the Board hereby amends Part 242 of the Economic Regulations (14 CFR Part 242), effective June 30, 1974, as follows:

1. Amend the table of contents so that the table, in pertinent part, reads as follows:

• • • • • •

242.1 Applicability.
242.2 CAB Form 242—Report of Scheduled All-Cargo Services; filing requirements.
242.3 Extension of filing time.

[1] Docket 26092, 38 FR 31842, November 19, 1973.

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. . . . . .

2. Revise § 242.2 to read as follows:

§ 242.2 CAB Form 242—Report of Scheduled All-Cargo Services; filing requirements.

(a) Two copies of each schedule in CAB Form 242 report[1] entitled "Report of Scheduled All-Cargo Services," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 242 Report," so as to be received on or before the due date specified in that list.

(b) List of Schedules in CAB Form 242 Report.

[1] CAB Form 242 may be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Semi-annually	August 15 and April 5.
B	Invested Capital-Scheduled All-Cargo Services	do	Do.
P	Operating Statement-Scheduled All-Cargo Services	do	Do.
T	Aircraft Statistics-Scheduled All-Cargo Services	do	Do.
	Statement of Allocation Procedures	Initially and upon revision.	With other schedules when required.

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

3. Revise § 242.3 to read as follows:

§ 242.3 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(Secs. 204(a) and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766 (49 U.S.C. 1324, 1377))

Effective: June 30, 1974.

Adopted: April 16, 1974.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR, *Acting Secretary.*

[FR Doc.74-10719 Filed 5-9-74;8:45 am]

[Reg. ER-850; ER Amdt. No. 2]

PART 243—REPORT OF CHARTER SERVICES PERFORMED FOR THE MILITARY AIRLIFT COMMAND

Requirements for Requesting Extensions of Filing Time and Due Dates of Reports

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By notice of proposed rule making EDR-257, dated November 12, 1973,[1] the Board proposed, *inter alia*, certain amendments to Part 243. For the reasons set forth in ER-847 (Part 217), published contemporaneously herewith, the Board hereby amends Part 243 of the Economic Regulations (14 CFR Part 243).

This rule is being made effective June 30, 1974, so that it will be applicable to reports due August 10, 1974, for the quarter ended June 30, 1974. This should provide adequate lead time for achieving compliance with the rule, given the length of time between its date of publication and the prescribed due date for the quarterly report.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 243 of the Economic Regulations (14 CFR Part 243), effective June 30, 1974, as follows:

1. Revise § 243.2 to read as follows:

§ 243.2 Applicability and CAB Form 243 filing requirements.

(a) This part applies only to certificated air carriers performing Category B, Logair, or Quicktrans charter services under fiscal year contracts with the Military Airlift Command. Scheduled carriers operating full planeload Category X charters may include the results of such operations with Category B charters: *Provided*, That all Category X data are included—i.e., revenues, expenses, and traffic statistics: *And provided further*, That no data for "quasi-Category X" scheduled services are included.

(b) Three copies of each schedule in the CAB form 243[2] report, entitled "Report of Charter Services Performed for the Military Airlift Command," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 243 Report," so as to be received on or before the due date specified in that list.

(c) List of Schedules in CAB Form 243 Report.

[1] Docket 26092, 38 FR 31842, November 19, 1973.

[2] CAB Form 243 may be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Quarterly	June 1, Sept. 1, Dec. 1, March 30.
D-1	Summary of Invested Capital—MAC Charter Contracts.	do	Do.
D-2	Summary of Financial Results of Operations—MAC Charter Contracts.	do	Do.
D-3	Summary of Operating Statistics and Aircraft Utilization—MAC Charter Contracts.	do	May 10, Aug. 10, Nov. 10, Feb. 10.
D-4	Statement of Allocation Procedures—MAC Charter Contracts.	Initially and upon revision.	May 10, Aug. 10, Nov. 10, Feb. 10 when required.
D-4a	Certification of Previously Filed Allocation Procedures—MAC Charter Contracts.	Annually	Aug. 10 (not required if D-4 is filed).

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

2. Revise § 243.3 to read as follows:

§ 243.3 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

3. Revise § 243.5 to read as follows:

§ 243.5 Certification.

The certificate of the officer in charge of the carrier's accounts, executed in triplicate, shall be filed quarterly with the Board. This certificate is the cover sheet of Form 243 and applies to all schedules and documents filed therewith and those that have been submitted previously as parts of this report for each quarter.

(Secs. 204(a) and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; (49 U.S.C. 1324, 1377))

Effective: June 30, 1974.

Adopted: April 16, 1974.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR, *Acting Secretary.*

[FR Doc.74-10720 Filed 5-9-74;8:45 am]

[Reg. ER-851; ER Amdt. No. 23]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Requirements for Requesting Extension of Filing Time and Due Dates of Reports

By Notice of proposed rule making EDR-257, dated November 12, 1973,[1] the Board proposed, *inter alia*, certain amendments to Part 298. For the reasons set forth in ER-847 (Part 217), published contemporaneously herewith, the Board hereby amends Part 298 of the Economic Regulations (14 CFR Part 298).

This rule is being made effective June 30, 1974, so that it will be applicable to reports due August 10, 1974, for the quarter ended June 30, 1974. This should provide adequate lead time for achieving compliance with the rule, given the length of time between its date of publication and the prescribed due date for the quarterly report.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 298 of the Economic Regulations (14 CFR Part 298), effective June 30, 1974, as follows:

1. Amend § 298.60 by revising paragraph (b) and adding a new paragraph (c), to read as follows:

§ 298.60 Report of scheduled air taxi operations.

. . . . . .

(b) Three copies of each schedule in the CAB Form 298-C report entitled "Report of Scheduled Operations of Commuter Air Carriers," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 298-C Report," so as to be received on or before the due date specified in that list.

(c) List of Schedules in CAB Form 298-C Report.

[1] Docket 26092, 38 FR 31842, November 19, 1973.

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Quarterly	May 10, Aug. 10, Nov. 10, Feb. 10.
A-1	Report of Aircraft Operated	do	Do.
T-1	Report of On-Line Origin and Destination of Traffic	do	Do.
T-2	Report of Flights Operated	do	Do.

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Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

2. Revise § 298.61 to read as follows:

§ 298.61 Filing of flight schedules—current schedules and subsequent modifications.

Each commuter air carrier shall file with the Director, Office of Facilities and Operations, Civil Aeronautics Board, Washington, D.C. 20428, to be received within thirty (30) days after commencing operations, a copy of its most recent published flight schedules, along with a statement of rates and fares charged for transportation on scheduled flights. Thereafter, if any modification in such schedules or statement of rates or fares is made, a copy of such modifications shall be filed, to be received by the Board not later than ten (10) days after the modification becomes effective.

3. Revise § 298.62 to read as follows:

§ 298.62 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

4. Revise § 298.63 to read as follows:

§ 298.63 Certification.

The certificate of the officer in charge of the carrier's accounts, executed in triplicate, shall be filed quarterly with the Board. This certificate is the cover sheet of Form 298–C and applies to all schedules and documents filed therewith.

(Secs. 204 and 416, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771 (49 U.S.C. 1324, 1386))

Effective: June 30, 1974.

Adopted: April 16, 1974.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.74–10721 Filed 5–9–74;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

AMOUNT OF PAYMENTS WHERE CUSTOMARY CHARGES FOR SERVICES FURNISHED ARE LESS THAN REASONABLE COST

On September 13, 1973, there was published in the FEDERAL REGISTER (38 FR 25448) a notice of proposed rulemaking with proposed amendments to Subpart D of Regulations No. 5 (20 CFR Part 405), regarding implementation of section 233 of Pub. L. 92–603 entitled "Amount of Payments Where Customary Charges for Services Furnished are Less Than Reasonable Cost." Interested persons were given until October 15, 1973, to submit written comments or suggestions thereon. Comments and suggestions received with regard to this notice of proposed rulemaking, responses thereto, and changes in the proposed regulations are summarized below.

1. Many comments urged that the proposed regulations be revised so that the provider's health insurance reimbursable costs and health insurance charges be compared to each other on an aggregate basis—without regard to whether the related services were rendered under Part A or Part B of title XVIII of the Social Security Act. Upon reconsideration, the Department believes that it was the intent of Congress that providers be able to rationally establish charges consistent with overall provider objectives and without regard to whether Medicare reimbursement for these services resulted from Part A or Part B. This suggestion is adopted and the regulations have been revised to indicate that the comparison will be between total health insurance charges and total health insurance costs without regard to whether the services were rendered under Part A or Part B of title XVIII.

2. Comments were received indicating that providers were inhibited in taking action to raise charges by uncertainty as to their ability to do so under economic stabilization rules. Other providers indicated that they were unable to gauge the effect of these provisions on their operations due to the uncertainty as to how such terms as "customary charges," "nominal charges," and "public providers" would be defined. The law has been amended to change the effective date of these provisions to apply to cost reporting periods beginning on or after January 1, 1974, to assure that providers will not suffer undue hardship and may reasonably comply with the new rules.

3. The statute authorizes reimbursement to public providers on the basis of fair compensation if such public provider furnishes services free of charge or for a nominal charge. Section 405.455(e), as published in the notice of proposed rulemaking, defined fair compensation to be the same as reasonable cost. No comments on this point have been received and the same definition of fair compensation is now proposed. However, many comments were received about the definition of "public provider" and "nominal charges."

(a) Some commenters indicated that the definition of "public provider" should be revised to include providers, not operated by a governmental agency, which receive public support either through charitable contributions or as a subsidy from a governmental agency. The Department believes that it was the intent of Congress to utilize the ordinary meaning ascribed to "public" i.e., only those providers actually operated by a governmental agency. Therefore, this suggestion has not been adopted.

(b) Public providers whose charges are more than 50 percent of cost, but who actually collect less than 50 percent of the cost of delivering services, requested that revenues rather than charges be compared to cost to determine whether they should be exempt from the effect of section 233 of Pub. L. 92–603. As the statute is specific in extending the exception to public providers whose charges, and not revenue collections, are nominal, we are unable to adopt this suggestion.

4. Some commenters indicated they were unsure of our interpretation or application of the term "customary charges." As the proposed regulations indicate by specific reference to existing regulations, the term "customary charges" simply means the same consistent charges that providers have been recording on Medicare bills since the start of the program.

5. Other commenters indicated they were unsure of the interpretation of the term "reasonable effort to collect such charges." This term envisions that the same effort be used to collect the charges as is required for recognition of health insurance program bad debts under § 405.420(e)(2) of the regulations.

6. Various editorial changes have also been made in the interest of clarity.

The regulations are issued under the authority contained in sections 1102, 1814(b), 1833(a), 1871, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 302, as amended, 79 Stat. 321; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395hh.

Effective date. These amendments shall be effective for cost accounting periods beginning on or after January 1, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged—Supplementary Medical Insurance)

Dated: January 10, 1974.

J. B. CALDWELL,
Commissioner of Social Security.

Approved: May 2, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Paragraph (a) of § 405.401 is revised to read as follows:

§ 405.401 Introduction.

(a) Under the health insurance program for the aged, the amount paid to any provider of services for the covered services furnished to beneficiaries is required by section 1814(b) and section 1833(a)(2) of the Social Security Act to be the reasonable cost of such services. However, with respect to cost reporting periods beginning after December 31, 1973, payments to providers of services are based on the lesser of the reasonable cost of services or the customary charges to the general public for such services.

* * * * * *

2. Paragraph (a) of § 405.402 is revised to read as follows:

§ 405.402 Cost reimbursement; general.

(a) In formulating methods for making fair and equitable reimbursement for services rendered beneficiaries of the program, payment is to be made on the basis of current costs of the individual provider, rather than costs of a past period or a fixed negotiated rate. All necessary and proper expenses of an institution in the production of services, including normal standby costs, are recognized. Furthermore, the share of the total institutional cost that is borne by the program is related to the care furnished beneficiaries so that no part of their cost would need to be borne by other patients. Conversely, costs attributable to other patients of the institution are not to be borne by the program. Thus, the application of this approach, with appropriate accounting support, will result in meeting actual costs of services to beneficiaries as such costs vary from institution to institution. However, with respect to cost reporting periods beginning after December 31, 1973, payments to providers of services for services rendered health insurance program beneficiaries are based on the lesser of the reasonable cost of services or the customary charges to the general public for such services.

* * * * * *

3. Paragraph (a) of § 405.451 is revised to read as follows:

§ 405.451 Cost related to patient care.

(a) *Principle.* All payments to providers of services must be based on the reasonable cost of services covered under title XVIII of the Act and related to the care of beneficiaries. Reasonable cost includes all necessary and proper costs incurred in rendering the services, subject to principles relating to specific items of revenue and cost. However, for cost reporting periods beginning after December 31, 1973, payments to providers of services are based on the lesser of the reasonable cost of services covered under title XVIII of the Act and furnished to program beneficiaries or the customary charges to the general public for such services, as provided for in § 405.455.

* * * * * *

4. The following new section is added to read as follows:

§ 405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.

(a) *Principle.* Providers of services will be paid the lesser of the reasonable cost of services furnished to beneficiaries or the customary charges made by the provider for the same services. Public providers of service rendering services free of charge or at a nominal charge will be paid fair compensation for services furnished to beneficiaries. This principle is applicable to services rendered by providers in cost reporting periods beginning after December 31, 1973.

(b) *Definitions.*—(1) *Customary charges.* Customary charges for services rendered to beneficiaries are the charges as defined in § 405.452(d)(4). Such charges must be recorded on all bills submitted for program reimbursement. Where the provider does not actually impose such charges in the case of most patients liable for payment for its services on a charge basis or fails to make reasonable efforts to collect such charges from patients liable for payment for its services on a charge basis, customary charges for services rendered to beneficiaries shall be the charges as defined in § 405.452(d)(4) and recorded on the bills submitted for program reimbursement reduced in proportion to the ratio of the aggregate amount actually collected from patients liable for payment for services on a charge basis to the amounts that would be realized had charges consistent with the charges as defined in § 405.452(d)(4) and recorded on the bills submitted for program reimbursement been paid by or on behalf of all patients liable for payment on a charge basis.

(2) *Reasonable cost.* For purposes of comparison with customary charges, the reasonable cost of services furnished to beneficiaries shall exclude (i) payments made to a provider as reimbursement for bad debts arising from noncollection of Medicare deductible and coinsurance amounts, (ii) amounts which represent the recovery of excess depreciation resulting from termination, or a decrease in Medicare utilization (§ 405.415(d)(3)) applicable to prior cost periods, (iii) amounts applicable to prior cost periods resulting from disposition of depreciable assets (§ 405.415(f)), and (iv) payments to funds for the donated services of teaching physicians.

(3) *Public provider.* A public provider means any provider operated by a Federal, State, county, city, or other local Government agency or instrumentality.

(4) *Nominal charges.* A public provider's charges are considered nominal where the aggregate charges are less than one-half of the reasonable cost of services or items represented by such charges.

(5) *New provider.* A new provider is an institution that has operated as the type of facility for which it is certified in the program (or the equivalent thereof) under present and previous ownership for less than 3 full years.

(c) *Aggregation of charges.* It is appropriate that, on an aggregate basis, payments to a provider for covered services rendered beneficiaries under title XVIII should not exceed the customary charges made by the provider to the general public for the same services. In comparing charges and costs, customary charges for items and services, and the reasonable cost of such items and services will be aggregated, without regard to whether the related services were reimbursable under Part A or Part B of title XVIII. The principle established is to be applied after the provider's charges and costs have been adjusted in accordance with the requirements set forth in paragraph (b)(2) of this section and in §§ 405.480–405.488, to exclude any amounts attributable to physicians' services not reimbursable to the provider on a reasonable cost basis and to exclude costs and charges with respect to noncovered provider services.

Example. The reasonable cost of covered services furnished to program beneficiaries by a provider for a cost reporting period is $125,000. The customary charges to these beneficiaries for these services totaled $110,000. The amount to be reimbursed this provider will be $110,000 less deductible and coinsurance amounts to be borne by program beneficiaries.

(d) *Accumulation of unreimbursed costs and carryover to subsequent periods.*—(1) *General.* Any provider of services whose charges are lower than costs in any cost reporting period beginning after December 31, 1973, may carry forward costs attributable to program beneficiaries which are unreimbursed under the provisions of this section for the two succeeding reporting periods. Where beneficiary charges exceed reasonable cost in such subsequent periods, such previously unreimbursed amounts carried forward shall be reimbursed to the provider to the extent that such previously unreimbursed amounts carried forward, together with costs applicable to program beneficiaries in such subsequent periods, do not exceed customary charges with respect to services to program beneficiaries in such subsequent periods. If such two succeeding cost reporting periods combined include fewer than 24 full calendar months, the provider may carry forward costs unreimbursed under this section for one additional reporting period.

Example. In the reporting period ending December 31, 1974, the provider's reimbursable costs attributable to covered services

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furnished program beneficiaries were $100,000. The provider's customary charges for these services were $90,000. The provider will, therefore, be reimbursed $90,000 less any deductible and coinsurance amounts but will be permitted to carry the unreimbursed $10,000 forward for the next two succeeding reporting periods. If, in the reporting period ending December 31, 1975, the charges to beneficiaries for covered services exceeded the reimbursable reasonable costs of such services by $10,000 or more, the provider could recover the entire $10,000 previously not reimbursed. If, however, beneficiary charges exceeded costs by $8,000, this amount would be added to the provider's reimbursable costs for this period. The balance of the unreimbursed amount or $2,000 would be carried over to the next reporting period.

(2) *New provider.* A new provider of services may carry forward for five succeeding cost reporting periods costs attributable to program beneficiaries which are unreimbursed under the provisions of this section during a base period, which includes any cost reporting period which begins after December 31, 1973, and ends on or before the last day of its third year of operation. Where beneficiary charges exceed reasonable cost in the five succeeding reporting periods, such previously unreimbursed amounts carried forward shall be reimbursed to the provider to the extent that such previously unreimbursed amounts carried forward, together with costs applicable to program beneficiaries in such subsequent periods, do not exceed customary charges with respect to services to program beneficiaries in such subsequent periods. If such five succeeding cost reporting periods combined include fewer than 60 full calendar months, the provider may carry forward costs unreimbursed under this section for one additional reporting period.

Example. A provider begins its operations on March 5, 1972. However, it begins to participate in the Medicare program as of January 1, 1973, and reports on a calendar year basis. Since it would be subject to the application of the provision for its cost reporting period beginning with January 1, 1974, it would be permitted to accumulate any unreimbursed costs (excess of costs over its charges) incurred during this reporting period. Since this cost reporting period ends before the end of the third year of operation, its carryover period will be the succeeding five cost reporting periods ending with December 31, 1979. (Had this provider begun its operations on July 1, 1973, and become a participating provider as of the same date (with a fiscal year ending June 30), it would have been able to accumulate any unreimbursed costs for the two cost reporting periods ending June 30, 1975, and June 30, 1976. Its carryover period would then be the five cost reporting periods ending no later than June 30, 1981, in the case of costs unreimbursed in either of the reporting periods ending June 30, 1975, and June 30, 1976.

(e) *Public providers.*—Fair compensation to public providers rendering services free of charge or at nominal charges, as defined in paragraph (b)(4) of this section, for the services they furnish will be the reasonable costs of covered services, as defined in this subpart.

[FR Doc.74-10740 Filed 5-9-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Listing of Color Additives for Cosmetic Use Exempt From Certification; Disodium EDTA-Copper

The Commissioner of Food and Drugs, on the basis of a petition (CAP No. 800069), submitted by Revlon Research Center, Inc., Bronx, NY 10473, and other relevant information, finds that disodium EDTA-copper is suitable and safe for use in the coloring of cosmetics under the conditions prescribed by this order and that certification is not necessary for the protection of the public health.

Disodium EDTA-copper is currently provisionally listed in § 8.501(g) (21 CFR 8.501(g)) for use in cosmetics under the name copper versenate. There are no other color additive petitions nor progress reports, as required by the color additive regulations (21 CFR Part 8), for the use of disodium EDTA-copper (copper versenate) in cosmetics. Accordingly, copper versenate will be deleted from § 8.501(g) when this order becomes effective.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c) and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c) and (d))) and under the authority delegated to the Commissioner (21 CFR 2.120), Part 8 is amended in Subpart H by adding a new § 8.8006 to read as follows:

§ 8.8006 Disodium EDTA-copper.

(a) *Identity.* The color additive disodium EDTA-copper is disodium [[*N,N'*-1,2 - ethanediylbis[*N* - (carboxymethyl) glycinato]](4-) - *N,N',O,O',O^N,O^N'*]cuprate(2-).

(b) *Specifications.* Disodium EDTA-copper shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Total copper, not less than 13.5 percent.
Total (ethylene-dinitrilo) tetraacetic acid, not less than 62.5 percent.
Free copper, not more than 100 parts per million.
Free disodium salt of (ethylene-dinitrilo) tetraacetic acid, not more than 1.0 percent.
Moisture, not more than 15 percent.
Water insoluble matter, not more than 0.2 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as AS), not more than 3 parts per million.

(c) *Uses and restrictions.* Disodium EDTA-copper may be safely used in amounts consistent with good manufacturing practices in the coloring of shampoos which are cosmetics.

(d) *Labeling requirements.* The labeling of the color additive shall conform to the requirements of § 8.32.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health and therefore batches thereof are exempt from the requirements of section 706(c) of the act.

Any person who will be adversely affected by the foregoing order may at any time on or before June 10, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective July 9, 1974, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)))

Dated: May 6, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10823 Filed 5-9-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Antioxidants and/or Stabilizers for Polymers

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 3B2899) filed by Ciba-Geigy Corp., Ardsley, NY 10502, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in acrylonitrile-butadiene-styrene copolymers used in the manufacture of articles or components of articles that contact food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2566(b) is amended by adding to the item "Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate" a new limitation to read as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

• • • • • •

(b) List of substances:

Substances	Limitations
• • •	• • •
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate.	For use only: • • • 4. At levels not to exceed 0.5 percent by weight of acrylonitrile-butadiene-styrene copolymers used in accordance with prior sanction or regulations in this Subpart F.
• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time on or before June 10, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective May 10, 1974.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: May 6, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10824 Filed 5-9-74;8:45 am]

PART 121—FOOD ADDITIVES

Republication; Correction

In FR Doc. 65-13706 appearing at page 15845 in the issue of Thursday, December 23, 1965, the item "Diethylene glycol monoethyl ether" was inadvertently omitted from the list of substances in § 121.2520(c)(5) on page 15946. As corrected, § 121.2520(c)(5) is amended by alphabetically inserting the omitted item to read as follows:

§ 121.2520 Adhesives.

• • • • • •

(c) • • •
(5) • • •

COMPONENTS OF ADHESIVES

Substances	Limitations
• • •	• • •
Diethylene glycol monoethyl ether	
• • •	• • •

Dated: May 6, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10825 Filed 5-9-74;8:45 am]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER I—PATENT OFFICE, DEPARTMENT OF COMMERCE

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

International Trademark Classification; Correction

In FR Doc. 73-10996 appearing at page 14681 in the issue of Monday, June 4, 1973 (38 FR 14681), the language in the tenth line of the sixth paragraph of the preamble reading "mark was registered" should read "application was filed", and the language in the sixth line of revised § 2.85(b) reading "registration was granted" should read "application was filed."

Dated: April 26, 1974.

C. MARSHALL DANN,
Commissioner of Patents.

Approved: May 3, 1974.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.74-10822 Filed 5-9-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

PART 5A-1—GENERAL

PART 5A-7—CONTRACT CLAUSES

Option To Extend the Term of Contract

This change to the General Services Administration Procurement Regulations (GSPR) provides standard procedures for the extension of contracts and a clause for use in requirements type contracts when extending such contracts.

Section 5A-1.376-2 is amended as follows:

§ 5A-1.376-2 Exercise of options.

• • • • •

(d) An "Option to Extend the Term of Contract" clause for use in requirements type contracts is provided in § 5A-7.103-92.

The table of contents for Part 5A-7 is amended to add the following:

5A-7.103-92 Option to extend the term of contract.

Section 5A-7.103-92 is added as follows:

§ 5A-7.103-92 Option to extend the term of contract.

Where it is to the Government's advantage to extend existing contracts, the contractual clause specified below is authorized for use. Contracting officers are cautioned that such action must be predicated on a decision that an extension is in the best interest of the Government.

OPTION TO EXTEND THE TERM OF CONTRACT

The term of this contract may be extended by mutual consent of the parties, provided:

(a) A written notice of intent to extend is given to the Contractor 60 days before expiration of the current contract (this notice shall not be deemed to commit the Government to an extension).

(b) The extension of the contract shall be signed by both parties using Standard Form 30, Amendment of Solicitation/Modification of Contract.

(c) The extension shall be for a period of no more than 60 days.

(d) The prices of the current contract shall remain unchanged during the period of the extension.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Effective date. These regulations are effective April 30, 1974.

Dated: April 30, 1974.

M. J. TIMBERS,
Commissioner, FSS.

[FR Doc.74-10831 Filed 5-9-74;8:45 am]

PART 5A-72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Monthly Supply Potential and Method of Award Clauses

The following prescribes revised monthly supply potential and related method of award clauses and revised guidelines to be used when they are utilized.

Section 5A-72.105-16 is amended as follows:

§ 5A-72.105-16 Monthly Supply Potential (MSP) and Method of Award clauses.

• • • • • •

(c) *Guidelines for use of the MSP and Method of Award clauses.* (1) Items or groups of items will not be subdivided for award purposes. It should be noted that subdivision for partial quantities may be made only as progressive awards (see § 5A-72.105-15).

(2) The MSP clause provides space for bidders to insert their MSP's for individual items, or to furnish a combined MSP for all items or groups of items. This space shall not be rearranged or relocated in the item listing as it is designed to encourage bidders to furnish a combined MSP for as many items or groups of items as possible.

(3) Estimated requirements for the contract period and estimated peak monthly requirements (EPMR) shall be shown for each item whether the award is to be made on individual items or in the aggregate.

(4) The contracting officer shall use the estimated quantities and EPMR's

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furnished by the Office of Supply Control in solicitations. Changes to the quantities furnished by Supply Control may be made by the contracting officer only after coordination with that office. Adjustments to the selected quantities shall be made to bring them in line with Standard Pack requirements and to round off the quantities.

(5) The number of orders which may be expected to be placed during the contract period will be shown in the FXI Requirements Forecast. This figure shall be shown in solicitations in parenthesis next to the EPMR. Accordingly, a note has been added to the MSP clause shown below to explain the significance of this parenthetical figure to bidders.

(d) *The Monthly Supply Potential clause.*

MONTHLY SUPPLY POTENTIAL

(a) The estimated requirements of the Government for the contract period and the estimated peak monthly requirements are shown in the schedule of items. Bidders are requested to indicate, in the spaces provided, the total quantity per month which they are willing to furnish. This monthly supply potential will be used in order to preclude the placement of orders in excess of a Contractor's production capacity. Bidders are urged to group as many items or groups of items as possible in setting their monthly supply potential since the items or groups for which they may be eligible for award cannot be predetermined. Such grouping will make it possible to make the fullest use of the production capacity of each successful bidder. For example, if a bidder's production facilities can produce all of the items, or groups, solicited, the bidder may insert a single overall limitation on the quantity that he can supply. Bidders are cautioned that in order to qualify for an award, their monthly supply potential must cover the Government's estimated peak monthly requirement for each item or group to be awarded. Groups or individual items will not be subdivided for award purposes.

(b) If a bidder does not specify a monthly supply potential, he will be deemed to offer to furnish 125 percent of the Government's estimated peak monthly requirement for the item or group of items. The quantity determined shall then be considered as the bidder's monthly supply potential.

BIDDER'S MONTHLY SUPPLY POTENTIAL

Item or groups of items	*Bidder's monthly supply potential*

(c) For each bid item or group of bid items awarded pursuant to this solicitation, the Contractor shall be obligated to fill all orders (regardless of destination) received by him during any one calendar month after the effective date of the contract if the aggregate total quantity of such orders does not exceed either (i) his stated monthly supply potential or (ii) if no monthly supply potential is stated, 125 percent of the estimated peak monthly requirement for the item(s) awarded.

(d) The Contractor may refuse to accept orders, or portions thereof, in excess of the monthly quantities he is required to accept, which are received in any 1 calendar month. This refusal must be written and mailed to the ordering office within 5 days after receipt of the order. Failure to refuse the order within 5 days shall be deemed to be acceptance of the order by the Contractor.

(e) If the Contractor will not accept any additional orders after reaching his required monthly total, he is required to notify the Contracting Officer. This refusal shall be made within 5 days of the receipt of the order or the order will be deemed to have been accepted.

(f) Orders, or portions thereof, which have been properly refused by the Contractor may be procured outside of the contract without prejudice to either party.

(g) Delivery (shipment) of orders, or portions thereof, which have been accepted by the Contractor shall be made within the same number of days as required for orders under the contract which are not in excess of the required monthly quantity.

NOTE: The estimated peak monthly requirements shown in this solicitation are based primarily on the Government's economic order quantity. In order to give Contractors an indication as to the frequency of orders, the number of orders expected to be placed during the contract period is shown in parenthesis next to the estimated peak monthly requirements. Computations as to the frequency of orders are necessarily based on past experience, and Contractors are cautioned that this ordering pattern may change. This information is furnished to facilitate Contractors' production planning and has no bearing on the contractual obligations of either party.

(e) *The Method of Award clause for use with MSP clause.* * * *

METHOD OF AWARD

(a) Award will be made to the low responsive bidder based on the Government's estimated peak monthly requirements. The quantity awarded will be limited by the offeror's stated monthly supply potential. Within the limits prescribed by the offeror, the Government will apply bidder's monthly supply potential to any items or groups of items offered, as the Government's interest requires. Because groups or individual items will not be subdivided for award purposes, offeror's monthly supply potential must cover the Government's estimated peak monthly requirements for each group or item to be awarded to the bidder.

(b) Award will be made as follows:

(1) Groups _____: In the aggregate by group. The low aggregate bidder will be determined by multiplying the unit price submitted on each item by the estimated quantity specified, and adding the resultant extensions. In order to qualify for an award on a group, prices must be submitted on each item within the group.

(2) Items _____: Item-by-item.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective on April 30, 1974.

Dated: April 30, 1974.

M. J. TIMBERS,
Commissioner, FSS.

[FR Doc. 74-10755 Filed 5-9-74;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 180—DESEGREGATION OF PUBLIC EDUCATION

Amendments to Regulations for Title IV General Assistance Centers

Notice is hereby given that pursuant to the authority contained in Title IV of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C. 2000c), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, hereby amends Part 180 of Title 45 of the Code of Federal Regulations by amending §§ 180.13, 180.22, 180.23, and 180.24, as set forth below.

The amendments set forth provisions to protect the confidentiality of proposals submitted pursuant to subparts A and B until after the decisions on funding have been made, to create an additional service area for subpart B, and to revise the criteria for judging proposals submitted pursuant to subpart B.

The Request for Proposals procurement procedure is being utilized in fiscal year 1974 to award technical assistance service contracts to General Assistance Centers under Title IV of the Civil Rights Act of 1964. Sections 180.13, 180.22, 180.23, and 180.24 of the current regulations have been amended to conform with several minor and technical changes included in the RFP. The amendments do not substantially alter either the intent or the major procedural requirements related to the establishment of Title IV General Assistance Centers.

The amendments do not alter or differ from the funding criteria contained in the RFP which all potential offerors received. The changes made are intended to govern the award of contracts for the current fiscal year. In view of the time remaining in the fiscal year for consideration and review of proposals and since the changes are in the nature of technical amendments to conform the regulations to applicable procurement procedures, it has been determined that resort to proposed rule making procedures would be impracticable and contrary to the public interest under 5 U.S.C. § 553 (b).

Effective date: The effective date of this document shall be June 10, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.405; Civil Rights Act of 1964, Title IV; Sections 403, 404, and 405; Public Law 88-352; 42 U.S.C. 2000c, 2-4.)

Dated: April 12, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: May 6, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 180 of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 180.13 is revised to read as follows:

§ 180.13 Proposals.

(a) An applicant desiring to enter into an arrangement pursuant to this subpart for any fiscal year shall submit to the Commissioner a proposal for such fiscal year, which proposals shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds awarded on the basis of such proposal only for the activities described in § 180.12. Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of proposals submitted under this subpart could result in another applicant obtaining a competitive advantage.

(42 U.S.C. 2000c-2.)

* * * * *

2. Section 180.22 is amended by revising paragraph (b) (1) to read as follows:

§ 180.22 Authorized activities.

* * * * *

(b) *Service areas.* (1) Activities authorized under paragraph (a) of this section shall be carried out in one of the following designated service areas, to be specified by the applicant in its proposal:

Area:	*States*
1	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island.
2	New York, New Jersey, Puerto Rico, Virgin Islands.
3	Pennsylvania, Delaware, Maryland.
4	Virginia, West Virginia, District of Columbia.
5	North Carolina.
6	South Carolina.
7	Georgia.
8	Florida.
9	Alabama.
10	Mississippi.
11	Kentucky, Tennessee.
12	Ohio.
13	Indiana.
14	Illinois.
15	Michigan.
16	Wisconsin, Minnesota.
17	Texas.
18	Louisiana.
19	Oklahoma.
20	Arkansas.
21	New Mexico.
22	Iowa, Nebraska, Kansas, Missouri.
23	North Dakota, South Dakota, Montana, Colorado, Wyoming, Utah.
24	California, Nevada, Arizona.
25	Hawaii, Guam, American Samoa, Trust Territory of the Pacific Islands.
26	Oregon, Washington, Idaho.
27	Alaska.

* * * * *

3. Section 180.23 is amended by revising paragraph (a) to read as follows:

§ 180.23 Proposals.

(a) An applicant desiring to enter into an arrangement pursuant to this subpart for any fiscal year shall submit to the Commissioner a proposal for such fiscal year, which proposal shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds awarded on the basis of such proposal only for the activities described in § 180.22. Such proposals shall contain the information and materials described in § 180.13(b). Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of proposals submitted under this subpart could result in another applicant obtaining a competitive advantage.

(42 U.S.C. 2000c-2.)

* * * * *

4. Section 180.24 is amended by revising paragraph (a) to read as follows:

§ 180.24 Criteria for awards.

(a) In approving proposals under this subpart, the Commissioner shall apply the following criteria:

(1) *Concentration of minority group students (27 points).* The number of minority group students enrolled in the public schools of the desegregating or desegregated school boards, municipalities, school districts, or other governmental units including State agencies legally responsible for operating a public school or schools which have requested technical assistance from the applicant, for the fiscal year preceding the fiscal year for which assistance is sought.

(2) *Needs assessment (9 points).* (i) The magnitude of desegregation-related educational needs assessed by the applicant with respect to desegregating or desegregated school boards, municipalities, school districts, or other governmental units within the applicant's service area, and (ii) the degree to which the applicant has demonstrated by objective evidence the existence of such needs.

(3) *Statement of objectives (12 points).* The degree (i) to which the applicant sets forth specific, measurable objectives for its program, project, or activity, in relation to specifically identified educational needs, and (ii) to which such objectives are realistically attainable within the limits of the project period and the available resources.

(4) *Activities (35 points).* (i) *Project design (23 points).* The extent to which (a) the proposal provides for a continuing exchange of information between the applicant and the school boards, municipalities, school districts, or other governmental units proposed to be served; (b) the proposed program, project, or activity promises to involve a substantial proportion of the desegregating or desegregated school boards, municipalities, school districts, or other governmental units within the applicant's service area; (c) the proposed program, project, or activity is part of a comprehensive, long-range approach to desegregation planning and implementation; and (d) the proposed services are concentrated upon classes or categories of beneficiaries which are sufficiently limited and specific to give promise of significant results:

(ii) *Staffing (12 points).*—The extent to which the proposal (a) contains evidence of background, training, and experience on the part of the professional staff employed or to be employed by the applicant in coping with special educational problems occasioned by desegregation; (b) the professional and other staff employed or to be employed by the applicant reflects the racial or ethnic composition of the population to be served; and

(5) *Evaluation (7 points).*—The extent to which the applicant sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation, and (ii) a method of reviewing the proposed program, project, or activity in the light of such data.

(6) *Budget (10 points).* The degree to which (i) the proposal sets forth the lowest cost in relation to the numbers of minority group students to be served; and (ii) the proposal reflects prudent and balanced use of equipment, subcontracts, travel, and other support costs.

(42 U.S.C. 2000c-2.)

* * * * *

[FR Doc.74-10791 Filed 5-9-74;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-105; Amdt. Nos. 172-25, 173-80, 179-12]

TANK CAR UTILIZATION

Correction

In FR Doc. 74-9856 appearing at page 15034 in the issue of Tuesday, April 30, 1974, make the following corrections:

1. In § 173.123 paragraph (a)(5), in the first line insert the footnote "1" after the figure 105A100.

2. In § 173.263 paragraph (a)(9), in the second line change the figure 11AW60W5 to read 111A60W5.

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Transportation Control Plan

On November 12, 1973, a notice of final rulemaking was published in the FEDERAL REGISTER (38 FR 31232) setting forth Transportation Control Plans for five Air Quality Control Regions (AQCR) in California.

An amendment to the gasoline transfer vapor control regulation, § 52.255(c)(3)(iii) has been included to correct an error made in the promulgation. As published, a one-year exemption was given to small bulk plants if more than 90 percent of the daily volume transferred was to storage tanks requiring vapor recovery (that is, if less than 10 percent of daily volume was to storage tanks not requiring vapor recovery). As amended, and originally intended, a one-year exemption is allowed to small bulk plants if less than 10 percent of daily volume transferred is to storage tanks requiring vapor recovery (that is, if greater than 90 percent of daily volume transferred is to storage tanks not requiring vapor recovery).

This correction simply clarifies the existing regulation and therefore good

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cause has been found for publishing it as final rulemaking and for making it effective immediately.

(Sections 110(c), 301(a) of the Clean Air Act, 42 U.S.C. 1857c-5(c), 1857g)

Dated: May 3, 1974.

JOHN QUARLES,
Acting Administrator.

Section 52.255 of Part 52 of Chapter I, Title, Title 40 of the Code of Federal Regulations is amended as follows:

§ 52.255 Gasoline Transfer Vapor Control.

* * * * *

(c) * * *

(3) * * *

(iii) Facilities that do not have more than a 20,000 gallon per day throughput and distribute less than 10 percent of daily volume to delivery vessels that in turn service storage tanks that are required to have a vapor return of vapor balance system will not be required to have a vapor recovery system in operation before January 1, 1977. Facilities that exclusively service delivery vehicles which in turn service storage tanks that do not have a required vapor return or vapor balance system will not be required to have a vapor recovery system.

[FR Doc.74-10809 Filed 5-9-74;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Benomyl

A petition (PP 4F1421) was filed by E.I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodities bean vine forage at 50 parts per million and beans at 2 parts per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerances are being established.

3. The tolerances established by this in meat and milk are adequate to cover residues resulting from the proposed and established uses and § 180.6(a)(1) applies for milk and § 180.6(a)(2) applies for meat. Residues from the proposed use are not expected in eggs and poultry.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.294 is amended by adding the new paragraph "50 parts per million * * *" and by revising the paragraph "2 parts per million * * *", as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

50 parts per million in or on bean vine forage.

* * * * *

2 parts per million in or on beans and peanut hulls.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before June 10, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on May 10, 1974.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 6, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-10810 Filed 5-9-74;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Profluralin; Correction

In FR Doc. 74-8457, appearing at page 13259, in the issue for Friday, April 12, 1974, on page 13260, § 180.348, the word reading "cyclopropylmethyl" in the third line should be corrected to read "cyclopropylmethyl."

PART 170—WORKER PROTECTION STANDARDS FOR AGRICULTURAL PESTICIDES

Restatement of Certain Existing Standards

The Environmental Protection Agency adopts this Part 170 as standards and procedures governing worker protection requirements for pesticides and herein reiterates certain existing requirements having a bearing on this area.

Background information and basis for the standards. Since 1947 pesticide products have been subject to regulation under the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA;" 7 U.S.C. 135 et seq.) and have been and are required to be properly registered with this Agency. Before a pesticide was registered by the Agency, products were reviewed and evaluated with respect to usefulness and the risks they posed to man, beneficial animals, and the environment. This evaluation of risks included consideration of potential hazards to pesticide applicators and others including farm workers who might come in contact with the product during transportation, storage, application, or after the product had been applied. After an evaluation of these risks, determinations were made as to directions for use, warning statements, and restrictions, including reentry times, necessary to protect man and the environment.

Concern for the protection of all persons, including farm workers, who might be exposed to pesticides during and after application has been an integral part of the FIFRA registration process for many years. Restrictions against workers entering treated fields have been required for many pesticide products. These restrictions include label requirements specifying a permissible field reentry time to requirements for protective clothing, warnings against unnecessarily exposing workers to the risks posted by pesticides and specific exposure precautions. Since pesticide products on the market vary widely in toxicity and formulations, label requirements by EPA and predecessor Agencies, have been established on the basis of a careful chemical and crop use analysis.

The 1972 Amendments to the Federal Insecticide, Fungicide and Rodenticide Act (86 Stat. 973) retain pesticide registration and labeling as the primary standard setting vehicle. But the statute broadens Federal pesticide regulatory authority by making it "unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling" (7 U.S.C. 136j(a)(2)(G)). These new provisions are essential to the broad purpose of the new Act to protect man and the environment from unreasonable adverse effects of pesticides.

Notices of proposed rulemaking. Pursuant to its authority and responsibility under FIFRA, as amended, to provide protection for farm workers exposed to pesticides, a notice was published in the FEDERAL REGISTER on July 31, 1973 (38 FR 20361) notifying interested parties of the intent of EPA to hold public hearings on the subject of farm worker protection and proposing certain standards in this area. The schedule of hearings was amended by further notices in the FEDERAL REGISTER on August 31 and October 12, 1973 (38 FR 21694, 38 FR 23556). Hearings at 13 locations throughout the United States were completed in an attempt to obtain as much relevant information as possible to permit sound determinations on these and other issues.

Based on an evaluation of the hearing record and other available information, a second notice of proposed rulemaking was published in the FEDERAL REGISTER on March 11, 1974 (39 FR 9457). Interested parties were requested to submit their views on this proposal on or before April 12, 1974. After receiving several requests for additional time, this comment period was extended until April 26, 1974 (39 FR 13179).

The response to this proposal was unusually heavy with approximately 1000 written statements submitted and several conferences with interested parties. Written statements were received from growers, grower organizations, farm labor organizations, pesticide manufacturer organizations representatives of Federal and State local governments, the academic community, and general public interest groups. While the position taken by interested parties varied considerably on the specific provisions of the proposed regulations, they can generally be summarized as follows:

1. A majority of the comments received stressed that there is no proven need for additional restrictions as proposed. They expressed the belief that current labeling restrictions provide protection to farm workers from pesticide poisonings.

2. Several of the proposed definitions were confusing and comments urged simplification and clarification of these terms. This was particularly true with respect to the definition of "farm worker" or "worker" as proposed. The inclusion of children under 12 years of age who might be in the field at any time for any reason was strongly protested as to its relevance to worker protection.

The definition of protective clothing was opposed as inadequate by growers, manufacturers and labor groups. They expressed the view that gloves would increase the hazard by increasing absorption of pesticide residues confined in the gloves. The requirement of a hat with a brim was considered impractical since it would be very difficult to keep on the head during many hand labor operations such as fruit thinning, and thus may increase hazard as contrasted with other head coverings.

3. The proposed 12 hour post-application time was indicated to be arbitrary and that many operations can be carried out safely within 12 hours after application and commonly recognized safe practices require this. It was further pointed out that under certain drying conditions 12 hours is not adequate to assure drying of sprays.

4. Posting treated fields as expressed in the proposed regulations is impractical, ineffective and prohibitively expensive if required for all pesticide applications. Concern over warning workers was encouraged but the method was different depending upon crop oriented and worker related practices.

5. Comments concerning those highly toxic materials specified in § 170.6 which would require a 48 hour post-application time stressed that differences in crops, dosages and geographical areas should be more adequately considered before establishing a national standard of this type. Specific studies, experience and examples were cited. Some authorities felt that certain of the chemicals designated in this section did not warrant a 48 hour post-application time and requested reduction of the interval or deletion of the chemical from the list. The inclusion of Galecron/Fundal in this section caused particular concern because of the relatively low dermal toxicity and the record of safe use.

6. Many of those responding expressed great concern over the proposed harvest entry times in §§ 170.100 through 170.113. The application of preharvest intervals established in connection with registration and tolerance setting to worker protection was challenged as unwarranted and unrelated. The State of California has established reentry times for certain pesticides on specific crops which are equal to or exceed the preharvest interval. These are, however; designed to solve specific local problems and could be continued.

Applicability of existing standards. Labeling for currently registered products are required to bear adequate directions for use, warnings and cautions which are designed to prevent injury to man and the environment, and any additional restrictions necessary to prevent illegal contamination of food or feed. The necessary protective clothing and equipment to protect the applicator and other persons involved in handling and applying pesticides are set forth on the label or each pesticide product.

Labeling restrictions have been developed to prevent illegal contamination of feed and food. Prior to registration of pesticides for use on crops, tolerances or other clearances under the Food, Drug, and Cosmetic Act (68 Stat. 514 (21 U.S.C. 246a)) are established to cover any residues which can reasonably be expected to remain on food or feed at harvest. As a part of the registration and tolerance setting process, the timing and rate of application and a minimum period of time between last application and harvest is clearly defined. For example, a label for a parathion product bearing directions for use on applies must include a statement such as: Do not apply within 14 days of harvest. This is the period of time determined to be necessary for the reduction of residues on the fruit to a level below the one part per million tolerance.

While the initial consideration in establishment of preharvest intervals is normally the reduction of residues on the crops to acceptable levels, they are usually more than adequate to protect workers who are harvesting the crop from excessive residues on the fruit and foliage.

EPA requirements and precautions for pesticide use, including farmworker reentry times, are contained on the labels of a number of presently registered pesticide products and have been contained therein for some years. Label use restrictions are presently enforceable by law with both civil and criminal penalties for misuse under sections 12 and 14 of FIFRA as amended (7 U.S.C. 136j(a)(2)(G), 1361(a)). Labeling includes not only material affixed to the pesticide container, but all other instructional material accompanying the product in the channels of trade. In addition to the standards herein adopted, the Agency will continue to enforce current and future label requirements including directions for use and precautionary statements which are crop/use oriented and more restrictive.

Establishment or Worker Protection Standards. After consideration of the responses to the March 11 proposal, reevaluation of the hearing record and other available information, it has been determined that additional general standards should be adopted as a precaution against possible adverse effects to farm workers. The regulations issued herewith include the following provisions:

1. A prohibition against applying pesticides when unprotected workers are in the area being treated.

2. A requirement that unprotected workers not enter fields treated with pesticides until sprays have dried or dusts have settled (with noted exceptions for longer reentry times or situations not requiring reentry times).

The March 11 proposal would have required a 12 hour period immediately following treatment during which time workers would not be permitted in treated fields unless protective clothing was worn. After consideration of the responses to this proposal it was determined that waiting until sprays dried or dusts settled was more practical and would in many cases provide greater protection to workers than the 12 hour period. It was indicated also that sprays applied to crop during the late afternoon may require more than 12 hours to dry if followed by heavy dew.

3. A listing of certain highly toxic pesticides (as determined by 40 CFR 162.8) which requires a longer reentry time is indicated in § 170.3. A thorough review of the data on these pesticides and the comments received in response to the March 11 proposal supports this action. Reentry times of 24—48 hours are established for 12 highly toxic pesticides. The March 11 proposal would have placed Galecron/Fundal in this category. A reevaluation of the dermal toxicity and the absence of any reported cases of illness resulting from exposure to crops treated with this pesticide has convinced EPA that the March 11 proposal with respect to Galecron Fundal is not warranted.

The proposed 48 hour interval has been reduced to 24 hours for Guthion, Phosalone, EPM and Ethion. This was based largely on the experience of regulatory agencies who have determined through

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experience that a 24 hour period is adequate.

4. A description of the protective clothing requirements for workers who must enter treated fields prior to expiration of the designated "reentry time". The requirement of a wide brimmed hat and fingerless gloves as proposed in the March 11 notice has been modified.

5. If labeling is more restrictive than the standards set forth, the labeling restrictions will take precedence over the requirements stated in the general regulations.

6. Situations where these requirements will not apply because of other restrictions or their non-agricultural aspects have been specifically provided for. This includes situations where the risk is not considered to warrant restrictions beyond those required on labeling and certain agricultural and non-agricultural applications to which these standards are not addressed.

7. A requirement that workers be given appropriate and timely warnings when working in fields to be treated with pesticides is retained. The March 11 proposal would have required posting for fields treated with any pesticide. This has been shown to be unworkable and unnecessary for all cases. The requirement that warning be given to workers or that fields be properly posted or both is considered to be feasible and adequate and is provided for in the final regulation.

8. A recognition of state responsibility and authority to set additional restrictions to meet local problems as warranted, and sanction of such action by EPA. The record indicates the significance, if not the scientific basis, of different problem severity in different geographical/climatic regimens. EPA will encourage states to carry out this responsibility.

9. The March 11 proposal would have established "harvest entry times" equal to the preharvest intervals on a chemical/crop basis for 13 highly toxic pesticides. During this time farm workers not wearing proposed protective clothing would not have been permitted to enter treated fields to harvest crops or perform other work resulting in more than one half hour per workday of exposure to treated crops. While it was recognized that such "harvest entry times" would provide potential over-protection of workers, it was presumed that this would not work an undue hardship on growers or farm workers. This presumption has proven to be incorrect based on numerous statements of growers, grower associations, Federal and state research, extension and regulatory agencies, and individuals. It has been shown that entry after 48 hours following treatment is often necessary under conditions that would make protective clothing impractical and unnecessary.

These worker protection standards will be subject to a continuing review and various provisions will be added, deleted, or amended as warranted by new or additional information. The specific standards set forth in 170.3(b)(ii) and the exemptions set forth in 170.4(c) will be of a continuing nature with additions and changes made as research results become available or reviews of existing data are completed. EPA is sponsoring a number of research programs to determine what adverse effects if any may be expected when workers are exposed to crops treated with certain commonly used pesticides. Examples of the pesticide use pattern to be investigated include the use of parathion on citrus in California and the use of parathion on peaches in the State of Washington. In addition EPA will be issuing regulations and guidelines under the amended FIF RA which will set forth more specific requirements for registration with respect to reentry problems.

Further Restrictions by States:

State agencies have responsibilities for the control of pesticides under State laws. The California Department of Food and Agriculture has under state law established reentry intervals and other requirements for certain pesticide uses based on special problem situations arising within that State. When special situations exist which require restrictions to protect workers in addition to those set by this Agency, the responsible State agencies are encouraged to establish such additional restrictions as warranted by available data. State agencies should report such information and actions to EPA so that consideration may be given to the need for additions or changes in the national standards. EPA will cooperate with state agencies in the evaluation of local problems and encourages establishment and compliance with state restrictions which are more stringent than those set forth above.

Pursuant to the authority vested in me by section 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (86 Stat. 997), this part 170 is adopted and shall become effective on June 10, 1974. Registrants with products currently registered under the Act will be advised of any required labeling changes to reflect these requirements.

Dated: May 8, 1974.

JOHN QUARLES,
Acting Administrator.

Sec.
170.1 General.
170.2 Definitions.
170.3 General standard.
170.4 State standards, labels and exemptions.
170.5 Warnings.

170.1 General.

This part contains occupational safety and health standards for farm workers performing hand labor operations in fields after ground (other than those incorporated into the soil), aerial or other type of application of pesticides.

170.2 Definitions.

Terms used in this subpart shall have the meanings set forth for such terms in the Act. In addition, as used in this subpart, the following terms shall have the meanings stated below:

(a) The term "reentry time" means the period of time immediately following the application of a pesticide to a field when unprotected workers should not enter as provided for in § 170.3(b).

(b) The term "farm worker" or "worker" means any person or persons engaged in agricultural hand labor in the field.

(c) The term "field" means any treated land area, or part thereof, upon which one or more pesticides are used for agricultural purposes, all as specified by this part.

(d) The term "protective clothing" means at least a hat or other suitable head covering, a long sleeved shirt and long legged trousers or a coverall type garment (all of closely woven fabric covering the body, including arms and legs), shoes and socks.

170.3 General standard.

(a) *Application.* No owner or lessee shall permit the application of a pesticide in such a manner as to directly or through drift expose workers or other persons except those knowingly involved in the application. The area being treated must be vacated by unprotected persons.

(b) *Reentry times.* (1) No owner or lessee shall permit any worker not wearing protective clothing (under § 170.2 (d)) to enter a field treated with pesticides until sprays have dried or dusts have settled, unless exempted from such requirements, or a longer reentry time has been assigned to that pesticide;

(2) Pesticides containing the following active ingredients have a reentry time of at least the interval indicated:

	Hours
(i) Ethyl parathion	48
(ii) Methyl parathion	48
(iii) Guthion	24
(iv) Demeton	48
(v) Azodrin	48
(vi) Phosalone	24
(vii) Carbophenothion	48
(viii) Metasystox-R	48
(ix) EPN	24
(x) Bidrin	48
(xi) Endrin	48
(xii) Ethion	24

(3) The preceding requirements of this part notwithstanding, workers should not be permitted to enter treated fields if special circumstances exist which would lead a reasonable man to conclude that such entry would be unsafe.

170.4 State standards, labels and exemptions.

(a) Nothing herein shall prevent a duly authorized state regulatory agency from setting and enforcing more restrictive standards for workers in fields treated with pesticides,

(b) If the label for a pesticide bears restrictions against workers entering treated fields which are more stringent than those set forth above, the label restrictions shall apply,

(c) The restrictions set forth in this part shall not apply with respect to:

(1) Mosquito abatement treatments and related public pest control programs;

(2) Greenhouse treatments which are applied in accordance with labeling directions and restrictions;

(3) Livestock and other animal treatments which are applied in accordance with labeling directions and restrictions;

(4) Treatment of golf courses and similar non-agricultural areas which are applied in accordance with labeling directions and restrictions.

170.5 Warnings.

(a) When workers are expected to be working in a field treated or to be treated with a pesticide, appropriate and timely warning to such workers shall be given. The warning may be given orally and/or by posting warning signs at the usual points of entrance to the field, and/or on bulletin boards at points where the workers usually assemble for instructions. Where any person has reason to believe that a farm worker is unable to read, he shall give the farm worker oral warning and make reasonable effort to ensure understanding of such warning. When required, warnings shall be given in appropriate languages other than the English language. Oral warnings should be given in such a manner as to inform workers of areas or fields which should not be entered without protective clothing, the period of time the area or field should be vacated and actions to take in case of accidental exposure.

[FR Doc.74-10995 Filed 5-9-74;10:06 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 4]

LABELING AND ADVERTISING OF WINE

Hearing on Proposed Regulatory Changes Regarding Metric Standards of Fill

Notice is hereby given under section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)), of a public hearing to begin at 10 a.m. (e.d.t.) on Tuesday, June 11, 1974, in the George S. Boutwell Auditorium, seventh floor, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. At that time and place all interested parties will be afforded the opportunity to be heard, in person or by authorized representative, concerning the following proposed regulatory changes in 27 CFR Part 4.

The Wine Institute, a trade association representing a number of wine producers in California, has petitioned the Bureau of Alcohol, Tobacco and Firearms for amendment of certain provisions relating to the labeling and advertising of wine (27 CFR Part 4) issued under the provisions of the Federal Alcohol Administration Act (27 U.S.C. 205). The following proposals were among those included in their petition:

Proposal 1. Metric Standards of Fill. To strike the regulations setting forth standards of fill for wine contained in 27 CFR 4.72(a) and substitute in their place the following sizes based on the metric system:

3 liters	(3 liters.)
1.5 liters	(1½ liters.)
1 liter	(1 liter.)
0.75 liter	(¾ liter.)
0.375 liter	(⅜ liter.)
0.187 liter	(⅛ liter.)

Comment. A vast majority of the world's industrial nations presently use the metric system of measure or plan to do so in the near future. The metric system is widely utilized in world trade and commerce and is the internationally recognized system of measurement. Numerous legislative proposals introduced into the United States Congress have sought the replacement of our current system of measure based upon English units, with the metric system. Although legislation has yet to be passed, most observers believe that the United States will "go metric" within a few years.

Adoption of these metric standards of fill would conform United States bottle sizes with the 6 sizes which appear to be widely discussed internationally. Adoption of these metric standards of fill would also enable domestic wine producers to bottle wine in the same bottles for both domestic and international sale since these metric standards of fill would be acceptable to other nations.

The proposed change to metric units of measure should not substantially alter present bottle capacities since the metric standards of fill correspond closely to the most popular bottle sizes used in the United States. For example, the .75 liter bottle which equals 25.36 fluid ounces, corresponds to the ⅘ quart, the equivalent of 25.60 fluid ounces.

In an effort to help educate consumers as to metric sizes, the proposed rule making set forth below provides that when metric standards of fill are applied prior to November 1, 1976, the net contents would be stated in both metric units and equivalent units in English measure. After November 1, 1976, equivalent units could be shown but would not have to be shown.

Proposal 2. Container Units per Shipping Case. To add a subsection to 27 CFR 4.72 to specify the number of container (bottle) units that must be packed in a shipping case or shipping container. The Wine Institute proposes that the following container units per shipping case be adopted on a mandatory basis:

Container size:	Units per case
3 liters	4
1.5 liters	6
1 liter	12
0.75 liter	12
0.375 liter	24
0.187 liter	48

Comment. Presently, no similar provision exists with respect to case sizes; however, by tradition most wineries pack the same number of bottles per case or shipping container.

If wine cases are standardized, marketing and pricing of wine could be simplified since each case containing the same size bottle would contain the same quantity in liters. Therefore, a "case" of wine would automatically represent the precise quantity of wine in both number of bottles and liters to the retailer or consumer depending upon the bottle size. Standard case sizes in liters might aid producers, wholesalers and retailers in determining state or federal taxes and in records keeping.

It is proposed to make this requirement effective November 1, 1976 in order to coincide with the proposed date for mandatory metric bottling of wine.

Proposal 3. Standards of Fill for Imported Wines. To extend the proposed standards of fill to all wines imported into the United States. The Wine Institute's proposal is to eliminate the exemption from standard of fill requirements presently granted to wines imported into customs custody in original containers as set forth in 27 CFR 4.70(b).

Comment. This proposal seeks to eliminate the exemption of imported wines from standard wine container requirements including the standard of fill requirements established at § 4.72(a). Since foreign wines are currently imported in a wide variety of container sizes, removal of this exemption would reduce imported wines to a limited number of bottle sizes which would correspond to those used by domestic producers.

Since no standard of fill is imposed upon imported wines, numerous container sizes of wines are imported, many of slightly different capacities (e.g., 23, 23.5, 24, 25, 25.6, or 26 ounces), and there may be at least some element of deception under present conditions. Imposition of the standards of fill with resultant limitations on allowable bottle sizes, upon both domestic and imported wines would create 6 easily distinguishable bottle sizes applicable to all wines both domestic and imported.

A public hearing was conducted on October 26, 1971, in Washington, D.C. which dealt with this proposal. However, it was rejected at that time on grounds that: (1) Each wine producing nation bottles wine in a size traditional to that country; (2) most nations use the metric system to which the United States does not conform; and (3) bottling according to the United States standards of fill would force foreign wine producers to bottle wines exclusively for the United States market; many might be reluctant to do so since at time of bottling, many wine producers do not know the destination of their wines.

The objections raised at the previous public hearing to removal of the exemption from standards of fill granted imported wines, would be overcome with adoption of metric standards of fill acceptable for use in international trade. Adoption by the international community of the standards of fill set forth in proposal 1 would aid in satisfying these objections.

The effective date of this proposal would be delayed until November 1, 1976, to correspond with the date that metric bottling of wines becomes mandatory for domestically bottled wine. This would allow foreign as well as domestic bottlers the opportunity to convert their wine production to the new metric standards through changes in machinery, bottles and labels.

Proposal 4. Applicability of Current Standards of Fill. To permit wine to be bottled or packed in the metric sizes set forth in proposal 1 as well as in the standards of fill presently contained in 27 CFR 4.72(a) for a period of two years after the effective date of the adoption of the proposed regulations. The Wine Institute further proposes that bottling in the metric sizes be mandatory after the expiration of the two year period.

Comment. Adherence to the proposed standards of fill would be optional for a period of two years from the adoption of the proposed regulations. During this time bottlers could bottle either according to the present or proposed standards of fill. The two-year period would enable bottlers to make the necessary changes in bottles, machinery and labels to permit metric bottling. This period would also serve to acquaint the consumer with the new bottle sizes. However, no bottler would be prohibited from using the current bottle sizes until the expiration of the two-year period.

Proposal 5. Exemption for Previously Bottled Wine. To permit wine bottled under the present standards of fill prior to the expiration of the two-year period to be sold and shipped at any time after that date.

Comment. Wines bottled according to the current standards of fill before the expiration date of the two-year transition period would be specifically exempted from the new standards of fill requirements. Since wine commonly is aged in the bottle, many bottlers will continue to maintain stocks of vintage wines bottled according to the current standards of fill, long after metric bottling is mandatory. This proposal would allow marketing of these wines at some later date without rebottling in order to comply with the proposed standards of fill. This exemption would apply to both domestic and foreign wines.

In order to enforce this provision relative to imported wines, it is further proposed that after October 31, 1976, wine imported in original containers which do not conform to the standards of fill imposed by §§ 4.73(a) and 4.74, be accompanied by a certificate signed by the bottler or packer that such wine was bottled prior to November 1, 1976.

This proposal was not advanced by the Wine Institute.

On the basis of the foregoing comments, it is proposed to amend the regulations relating to the labeling and advertising of wine (27 CFR Part 4) substantially as follows:

1. Amend § 4.10 by (1) amending the definition of "Gallon", paragraph (j), to make it clear that units of liquid measure authorized in Part 4 need not be of the English system of measurement; and (2) redesignating present paragraph (o) as paragraph (p) and inserting a new paragraph (o) which provides the definition of a "liter." As amended, § 4.10 reads as follows:

§ 4.10 Meaning of terms.

* * * * *

(j) *Gallon.* "Gallon" means United States gallon of 231 cubic inches of alcoholic beverage at 60 F. Liquid measures expressed in ounces, pints, or quarts are subdivisions of the gallon as so defined.

* * * * *

(o) *Liter.* "Liter" means a volume of liquid measure equivalent to 33.82 United States fluid ounces.

(p) *Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

2. Amend § 4.37 by (1) adding a new paragraph (b) requiring that bottles filled according to the metric standards of fill prior to November 1, 1976, also show the equivalent volume in the English system of measure; (2) redesignating present paragraphs (b), (c), (d), (e), and (f) as paragraphs (c), (d), (e), (f), and (g); (3) permitting net contents of wine not bottled according to a specific standard of fill to be expressed in either the English or metric system of measure for wines bottled prior to November 1, 1976; and (4) updating the references to the standards of fill in present paragraphs (a) and (c). As amended, § 4.37 reads as follows:

* * * * *

§ 4.37 Net contents.

(a) The net contents of wine for which a standard of fill is prescribed in Subpart H shall be stated in the same manner and form in which such standard of fill is set forth therein.

(b) When net contents of wine are expressed in liter measure as prescribed by the standards of fill at § 4.73(a), the equivalent volume in the English system of measure shall also be shown for wine bottled prior to November 1, 1976. The equivalent volumes shall be expressed as follows:

3 liters (3 quarts, 5.44 fl. oz.)
1.5 liters (1 quart, 1 pint, 2.72 fl. oz.)
1 liter (1 quart, 1.82 fl. oz.)
0.75 liter (1 pint, 9.36 fl. oz.)
0.375 liter (12.68 fl. oz.)
0.187 liter (6.34 fl. oz.)

(c) The net contents of wine for which no standard of fill is prescribed in Subpart H shall be stated in the metric system of measure except that, for wine bottled prior to November 1, 1976, net contents may be expressed in the English system of measure as follows:

(1) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(5) If more than a gallon, the net contents shall be stated in gallons and fractions thereof.

(d) All fractions shall be expressed in their lowest denomination.

(e) The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(f) The statement of net contents shall indicate exactly the volume of wine within the container, except that the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of containers resulting solely from unavoidable difficulties in manufacturing such containers so as to be of uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation.

The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(g) Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

Par. 3. Add a new section to provide that the bottler of imported wine furnish to customs a certificate stating that such imported wine was bottled or packed prior to November 1, 1976, if such wine is to be released from customs custody on or after that date in containers not conforming to the standards of fill at §§ 4.73(a) and 4.74. As added, § 4.46 reads as follows:

§ 4.46 Certificate of non-standard fill.

Imported wine in original containers in which imported shall not be released from customs custody after October 31, 1976, if such wine is not in containers conforming to the standards of fill prescribed at §§ 4.73(a) and 4.74 unless such wine is accompanied by a statement signed by the bottler or packer that the wine was bottled or packed prior to November 1, 1976.

Par. 4. Amend § 4.70 to remove the exemption from the standard wine container requirements currently granted to imported wine, and to grant certain exemptions from the metric standards of

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fill to wines bottled before the effective date of the proposed amendment to the regulations. As amended, § 4.70 reads as follows:

§ 4.70 Application.

(a) Except as provided in paragraph (b) or (c) of this section, no person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine unless such wine is bottled or packed in the standard wine containers herein prescribed.

(b) Sections 4.70–4.74 shall not apply (1) to sake; or (2) to wine packed in containers of 5 gallons or more; or (3) to imported wine in the original containers in which entered in customs custody if such wine was bottled or packed on or before October 31, 1976; or (4) to wine domestically bottled or packed, either in or out of customs custody, prior to October 24, 1943, if the container, or the label on the container, bears a conspicuous statement of the net contents thereof, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

(c) Sections 4.73 and 4.74 shall not apply to wine domestically bottled or packed, either in or out of customs custody, prior to November 1, 1976, if such wines were bottled or packed according to the standards of fill prescribed in § 4.72(a).

Par. 5. Amend § 4.71 to update the reference in paragraph (2) to the standards of fill, and in paragraph (3) to the headspace requirements. As amended, § 4.71 reads as follows:

§ 4.71 Standard wine containers.

* * * * *

(2) *Fill.* It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in § 4.72 or 4.73; and

(3) *Headspace.* It shall be made and filled as to have a headspace not in excess of 6 percent of its total capacity after closure if the net contents of the container is .187 liter or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

Par. 6. Amend § 4.72 by adding a new paragraph (c) which states that the present standards of fill will no longer be effective on or after November 1, 1976. As added, § 4.72(c) reads as follows:

§ 4.72 Standards of fill.

* * * * *

(c) The standards of fill in paragraph (a) of this section shall not apply on or after November 1, 1976. The metric standards of fill prescribed in § 4.73(a) may be substituted for the standards of fill in paragraph (a) of this section on or after November 1, 1974, but must be applied on or after November 1, 1976.

Par. 7. Add a new section prescribing metric standards of fill for the bottling of wine, to be used optionally in lieu of standards prescribed at § 4.72(a) on and after November 1, 1974, but to be mandatory on and after November 1, 1976. Section 4.73 reads as follows:

§ 4.73 Metric standards of fill.

(a) The standards of fill for wine shall be the following subject to the tolerances hereinafter allowed:

3 liters
1.5 liters (1½ liters)
1 liter
0.75 liter (¾ liter)
0.375 liter (⅜ liter)
0.187 liter (3/16 liter)

(b) The tolerances in fill shall be the same as are allowed by § 4.37 in respect to statement of net contents upon labels.

(c) *Effective date.* The effective date of this section shall be November 1, 1976 except that, the standards of fill prescribed in paragraph (a) of this section may be applied in lieu of those listed at § 4.72(a) on or after November 1, 1974.

Par. 8. Add a new section prescribing the number of bottles which shall be packed per shipping case or shipping container when metric standards of fill are applicable. Section 4.74 reads as follows:

are applicable. Section 4.74 reads as follows:

§ 4.74 Bottles per shipping case.

Wines bottled subject to the standards of fill expressed in § 4.73(a) shall be packed with the following number of bottles per shipping case or shipping container:

Bottle sizes:	*Bottles per case*
3 liters	4
1.5 liters	6
1 liter	12
0.75 liter	12
0.375 liter	24
0.187 liter	48

Requests to present oral testimony. All persons who desire to present oral testimony should so advise the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, not later than June 4, 1974. Requests shall be submitted in an original and three copies and must include (1) the name and address of the party submitting the request, (2) the name and address of the person or persons who will present oral testimony, and (3) the approximate length of time desired for the presentation of testimony.

Submission of written material. Any interested party may submit to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, in an original and nine copies, relevant written data, views, or arguments for incorporation into the record of hearing. Written material must be submitted not later than June 4, 1974. Written comments or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22(d)(7). The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of comments or suggestions exempt from disclosure. The name of any person submitting comments (whether or not exempt from disclosure in whole or in part) is not exempt from disclosure.

At the conclusion of the hearing, a reasonable time will be afforded interested parties for examination of the record and submission of written arguments and briefs.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

APRIL 26, 1974.

Date: May 7, 1974.

Approved:

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.74-10793 Filed 5-9-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 71]

GENERAL PROVISIONS

Proposed Identification of Certain Swine for Interstate Movement

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 123, 125), the Animal and Plant Health Inspection Service is considering amending Part 71, Title 9, Code of Federal Regulations to provide for a uniform system of identification for swine moved interstate.

Statement of considerations. Significant progress has been made in the control and eradication of swine diseases in the United States in recent years. However, there is reason to believe that various communicable diseases of swine still exist in all the States and Territories, the District of Columbia, and Puerto Rico, and there is an urgent need for a uniform system of swine identification which would make it possible to trace diseased or exposed swine moved interstate back to their herds of origin in order to locate foci of infection with minimum delay and prevent further interstate spread of swine diseases.

Such a system would provide for a practical and economical means of identifying all swine moved interstate and for the surveillance of such swine for disease at concentration points and slaughtering establishments. It would contribute substantially to the Department's surveillance system for foreign animal diseases, to the emergency hog cholera eradication program and to all other swine disease eradication programs and activities which depend greatly upon the ability to trace swine found to be affected with various diseases at slaughter to their herds of origin.

In the hog cholera eradication program, documented cases exist wherein the lack of identification of diseased swine moved interstate resulted in failure to locate the source of infection with the subsequent spread of the disease requiring the expenditure of large sums to eradicate outbreaks that later occurred. Also the diversion of slaughter swine which were carriers of the disease, from slaughter to feeding or breeding, much of which could have been controlled had all such swine been properly identified, was the principal factor in the widespread dissemination of hog cholera in fiscal year 1973.

The eradication of tuberculosis in swine requires the use of identification procedures whereby swine diagnosed as tubercular at slaughter can be traced back through marketing channels to their herds of origin. Without such identification the source of infection cannot be located and eradicated. Present industry methods for identifying swine usually facilitate tracing of diseased animals to the point of purchase only, where commingling of swine from multiple sources makes further tracing extremely difficult and in many cases impossible.

The eradication of brucellosis in swine is based primarily on the collection of blood samples at slaughter with traceback of reacting animals to their origin. A system of identification which makes such tracing possible is imperative if infected herds are to be located and the infection eradicated.

The successful eradication of swine diseases depends upon the Department's ability to traceback to the place of origin, swine found diseased at the place of slaughter, at concentration points or at farms. The maintenance of appropriate records by persons involved in the handling of such swine is essential for such traceback. Accordingly this document includes a request for the keeping of such records by such persons.

Due to the rapid transport of animals and animal products in international channels of trade, the threat of introduction and spread of foreign animal diseases affecting swine, such as foot-and-mouth disease, swine vesicular disease, or African swine fever, is ever present and makes it essential that foci of infection be located and suppressed in the most rapid manner possible. Surveillance of identified swine at slaughter is the best means of monitoring the Nation's swine population for such diseases should they occur in this country.

At the present time, swine identification requirements are limited to the identification of certain swine moved interstate under the hog cholera regulations contained in 9 CFR Part 76. This proposal would provide for a more extensive system of identification of all swine for the purpose of preventing the interstate spread of either native or exotic communicable diseases of swine.

The regulations in 9 CFR Part 71, would be amended as follows:

A new § 71.19 would be added to read:

§ 71.19 Identification of swine for interstate movement.

All interstate movements of swine shall comply with the applicable provisions of this Part and other parts of this Subchapter.

(a) Swine which are moved interstate shall be individually identified by one of the following approved methods:

(1) *Slaughter swine or swine for sale for slaughter.* To provide for traceback to their herd of origin: [8] All swine moved interstate for slaughter or for sale for slaughter shall be individually identified to the herd of origin [9] by a Veterinary Services-approved tattoo code applied [7] to the shoulder area of each swine prior to such interstate movement and before they are commingled with swine from any other source. However, such swine may be moved interstate, without such prior identification, directly from a herd of origin [9] to a slaughtering establishment operating under the provisions of the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), or a State inspected slaughtering plant, or to a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), or a market agency or dealer registered under said Packers and Stockyards Act, if such swine are individually identified to the herd of origin [9] by a Veterinary Services-approved tattoo code applied [7] to the shoulder area of each swine upon arrival thereat and before they are commingled with swine from any other source.[6]

(2) *Swine other than for slaughter.* To provide for traceback of swine to their herd of origin [9]: All swine moved interstate for any purpose other than slaughter or for sale for slaughter shall be individually identified to the herd of origin [9] by a Veterinary Services-approved eartag,[10] prior to such interstate movement and before they are commingled with swine from any other source, and such swine shall be accompanied by an official inspection certificate issued by a Veterinary Services or State inspector, or an accredited veterinarian, or a shipping permit, bill of lading, waybill, or invoice, stating (1) the name and address of the owner or shipper, (2) the place from which the swine were moved interstate, (3) the destination of the swine, (4) the number of swine covered by the document, and (5) the individual numbers of the approved eartags or registry identification. This document which accompanies the swine shall be delivered by the carrier to the consignee.[11] However, such swine may be moved interstate without such prior identification or documentation directly from a herd of origin [9] to a stockyard posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), or to a market agency or dealer registered under said Packers and Stockyards Act, if such swine are individually identified to the herd of origin [9] by a Veterinary Services-approved eartag [10] upon arrival thereat and before they are commingled with swine from any other source.[11] Further, registered swine may be identified in the same manner as recorded with the particular registry association in lieu of the approved eartag.

(b) Each person who ships, transports, or otherwise causes the movement of the swine interstate is responsible for the identification of the animals as required by this section. No such person shall remove or tamper with or cause the removal of or tampering with an identification tattoo or eartag required in this section for interstate movement of swine, except at the time of slaughter, or as may be authorized by the Deputy Administrator, Veterinary Services, upon request in specific cases and under such conditions as he may impose to insure continuing identification.

[6] The herd of origin of swine shipped for slaughter or for sale for slaughter is any place where such swine were farrowed or any other place where they were maintained for a minimum of 30 days immediately prior to shipment.

[7] Veterinary Services-approved tattoo codes will be assigned to owners, market agencies, dealers, and other persons upon application to the State Animal Health Official or the Area Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service, for the State in which such owner, market agency, dealer, or other person maintains his principal place of business.

[8] It is requested that the operator of each livestock concentration point, slaughter establishment or other place of business where such swine are identified on arrival in accordance with this section, enter such identification on the yarding receipt, scale ticket, invoice, waybill, or similar document relating to the swine, and that such document be maintained on file at the place of business for at least one year and be made available for inspection during ordinary business hours upon request by a Veterinary Services or State inspector.

[9] The herd of origin for swine other than swine shipped for slaughter or for sale for slaughter shall be the farm or other place where such swine were farrowed or maintained for breeding purposes.

[10] Serial numbers of eartags to be used will be assigned to owners, market agencies, dealers, and other persons upon application to the State Animal Health Official or the Area Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service, for the State in which such owner, market agency, dealer, or other person maintains his place of business.

[11] It is requested that the operator of each livestock concentration point or other place of business where such swine are identified upon arrival in accordance with this section, enter such identification on the yarding receipt, scale ticket invoice, waybill, or similar document relating to the swine and that such documents be maintained on file at the place of business for at least one year and be made available for inspection during ordinary business hours upon request by a Veterinary Services or State inspector. It is further requested that the official inspection certificate or other document required by this section to accompany certain swine interstate be maintained on file at the farm or other place of business of the consignee for at least one year and be made available for inspection during ordinary business hours upon request by a Veterinary Services or State inspector.

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(c) The Deputy Administrator, Veterinary Services, upon request to him, may approve other identification systems in specific cases and under such conditions as he may prescribe if he determines that such systems provide the necessary information to allow for traceback of the swine to their herd of origin.

Any person who wishes to submit written data, views or arguments concerning the proposed amendment may do so by filing them with Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782 before August 12, 1974.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 7th day of MAY 1974.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-10882 Filed 5-9-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket OSH-36]

VINYL CHLORIDE

Proposed Standard

1. *Background.* Vinyl chloride (chloroethene) Chemical Abstracts Service Registry No. 75015, is a synthetic chemical made by oxychlorination of ethylene or by hydrochlorination of acetylene. It is the parent compound of a series of themoplastic resin polymers and copolymers which are widely used for containers, wrapping film, electrical insulation, pipe, conduit, and a variety of other products. Vinyl chloride has been made commercially in this country since 1939 and present production is in excess of seven billion pounds per year.

Vinyl chloride (VC) is a gas at ambient temperature and pressure and is a chlorinated hydrocarbon which has moderate liver toxicity. The previous standard set a ceiling value of 500 parts per million (ppm) (29 CFR 1910.93, Table G-1).

On January 22, 1974, the Occupational Safety and Health Administration (OSHA) was informed by the National Institute for Occupational Safety and Health (NIOSH) that the B. F. Goodrich Chemical Company reported that deaths of several of its employees from a rare liver cancer (angiosarcoma) may have been occupationally related. As a result of this notification and after consultation with the National Institute for Occupational Safety and Health (NIOSH), and a joint inspection of the plant by OSHA, NIOSH, and the Kentucky Department of Labor, a fact-finding hearing on possible hazards involved with the manufacture and use of VC was announced on January 30, 1974 (39 FR 3874) and held on February 15, 1974.

2. *Carcinogenicity of VC.* Information produced at this hearing demonstrated that exposure of laboratory animals (mostly Sprague-Dawley rats) to VC by inhalation at and below the then current OSHA standard of 500 ppm induced tumors, including angiosarcomas of the liver. Professor Cesare Maltoni, of the Instituto di Oncologia, Bologna, Italy, reported on a series of experiments on the effect of exposure of rats, mice, and hamsters to VC at concentrations of 10,000; 6,000; 2,500; 500; 250; and 50 ppm for varying periods of time (TR-43-63). Some of the experiments have been concluded, and others are still ongoing. The experimental results reported were that tumors have been observed in groups of animals exposed to VC at concentrations as low as 250 ppm. No tumors were observed in the group of animals exposed to VC at a concentration of 50 ppm. It also appears that the total number of tumors, as well as the numbers of angiosarcomas of the liver, decreased as the concentrations of VC were reduced to 250 ppm. Another experiment by Professor Maltoni was reported underway involving the exposure of 300 animals to VC at concentrations of 50 ppm, in order to assess in a more definitive way whether that level of exposure produces tumors in animals. Data reported by Torkelson, Oyen and Rowe (American Industrial Hygiene Association J 22: 254-361 (1961)) indicate that exposure to VC at concentrations of 50 ppm failed to induce tumors in rats, hamsters, rabbits, and dogs.

The employees of the B. F. Goodrich Chemical Company who died from angiosarcoma of the liver had an average exposure of approximately 19 years to vinyl chloride, at unknown concentrations, and variable exposures to other volatile chemicals. (TR 93). Some employees of Union Carbide, Firestone Tire and Rubber, and Goodyear were also reported in post-hearing comments to have had exposure to vinyl chloride and to have died from angiosarcoma of the liver. Finally, autopsies of four deceased employees revealed their liver angiosarcoma tumors were histologically indistinguishable from the angiosarcoma tumors observed in Professor Maltoni's experimental animals.

3. *The Emergency Temporary Standard.* On the basis of all information available at that time, and the fact that employees were being exposed at levels around the experimentally observed effect level of 250 ppm, an Emergency Temporary Standard (ETS) was promulgated on April 5, 1974 (39 FR 12342) as 29 CFR 1910.93q. This standard reduced the level from a ceiling of 500 ppm to 50 ppm ceiling. It was expressly recognized that this standard limiting exposures to a 50 ppm level was intended to be a tentative, interim standard, to be in effect no longer than six months, during which time the whole question of possible safe exposure to VC would be reconsidered more fully and in the light of more information, especially results of experiments which were known to be underway at that time.

4. *Additional information.* On April 15, 1974, information and data were presented to representatives of OSHA, NIOSH and the EPA by the Industrial Bio-Test Laboratories, Northbrook, Illinois, concerning results of animal exposure studies with VC, sponsored by the Manufacturing Chemists Association (MCA). Although only preliminary in nature, these results revealed that 2 out of 200 mice exposed to VC concentrations of 50 ppm for 7 hours a day, five days a week, for approximately 7 months, developed angiosarcomas of the liver.

The Industrial Bio-Test Lab data indicate that exposure to VC at 50 ppm may well constitute a serious health hazard to employees. Also, the question of a safe level of exposure for humans cannot be determined at this time, and may continue as a matter for scientific deliberation for many years. We therefore conclude that it is now necessary to propose to change the 50 ppm level established in the ETS to as low a level as can be detected using methodologies outlined in this proposal.

(5) *The proposed permanent standard.* The requirements for a complete standard under section 6(b) of the Occupational Safety and Health Act of 1970 are much more comprehensive than the provisions of the ETS promulgated on April 5. The following proposals are responsive to the additional information on the carcinogenicity of VC, and the requirements of the Act.

A. *Level of exposure.* The proposed standard for employee exposure is set at no detectable level, as determined by a sampling and analytical method capable of detecting vinyl chloride at concentrations of 1 ppm with an accuracy of 1 ppm±50 percent. Although more sensitive methods may be available now or in the future, the methodological sensitivity proposed appears to be the most feasible and generally available. A method of 1 ppm sensitivity has been recommended to OSHA by NIOSH. To minimize the number of persons at risk, a requirement would be established for regulating areas where vinyl chloride is manufactured, reacted, stored, handled, released, repackaged, or used, including operations with polyvinyl chloride containing detectable levels of vinyl chloride. Access to the areas would be limited to authorized employees.

B. *Monitoring.* A program of monitoring would be required to establish whether there are detectable levels in regulated areas and to permit determination of employee exposures on an individual basis. Provision would also be made for an opportunity to observe monitoring by employees or their designated representatives, as required by section 8(c)(3) of the Act.

C. *Control methods.* Where detectable levels of VC are monitored, two programs would be triggered; an engineering and work practice program to reduce levels below detectability; and while this is on-going, a respiratory protection program for employees in the regulated area.

Engineering controls and work practices are favored methods of compliance because they tend to avoid contamination of the ambient air in the workplace. Accordingly, it is proposed to require the institution of engineering controls and of workpractice methods as soon as feasible, and to require the use of respirators pending the institution of such controls, to supplement such controls where they are insufficient to reduce concentrations of vinyl chloride below the detectable level, in specified work situations, and in cases of emergency. The proposal for continuous flow and pressure demand types of respirators is based on the recommendations of NIOSH, which has observed leakage through chemical cartridge respirators at high concentrations of VC.

A requirement would also be established for the provision and use of protective clothing for employees in the regulated areas. The protective clothing would minimize skin contact with VC vapor, and would provide some measure of protection from splash of liquid in the event of a spill or rupture of equipment. Food, beverages, and like products would be prohibited in the regulated area.

Written operational and emergency plans would be required, along with employee training in routine and emergency duties. Specific requirements would be established for emergency actions and for routine maintenance and decontamination operations, including vessel entry, which are known to present particular hazards.

The purposes of operational and emergency plans and training are to apprise employees of the hazards to which they may be exposed, of the precautions they must take to avoid such hazards, and to rehearse employees in the procedures they must follow in emergencies.

D. *Medical surveillance.* Comprehensive requirements for employee medical examinations are proposed, including necessary tests. Some additional guidance is included for the convenience of physicians. The proposed requirements have been recommended to OSHA by NIOSH as reasonably appropriate to detect liver dysfunction which may be indicative of, or predisposing to, the development of liver angiosarcomas.

E. *Records and reports.* Records of monitoring, medical examinations, and entry to regulated areas are proposed, with provision for access by appropriate OSHA and NIOSH officials. Specific provisions for employee access to monitoring records are included, as well as the requirement to furnish a copy of a medical record to an employee's physician on the employee's request. Establishments conducting VC operations would be required to identify themselves to OSHA, and to report incidents (accidents) resulting in the release of vinyl chloride.

Accordingly, pursuant to sections 6(b), 6(c), and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1596, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 12-71 (36 FR 8754) and 29 CFR Part 1911, it is hereby proposed to amend 29 CFR Part 1910 by revising § 1910.93q as set forth below.

Written data, views, and arguments concerning the proposals may be mailed to the Docket Officer, Docket OSH-36, Room 230, 1726 M Street, N.W., Occupational Safety and Health Administration, Washington, D.C. 20210, postmarked not later than June 10, 1974.

Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may file objections to the proposals, requesting an informal hearing with respect thereto, in accordance with the following conditions:

(1) The objections must include the name and address of the objector;

(2) The objections must be postmarked on or before June 10, 1974;

(3) The objections must specify the provisions of the proposed rule to which objection is taken, and must state the grounds therefor;

(4) Each objection must be separately stated and numbered; and

(5) The objections must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

As revised, § 1910.93q would read as follows:

§ 1910.93q Vinyl Chloride.

(a) *Scope and application.* (1) This section applies to any area or operation in which vinyl chloride (chloroethene), Chemical Abstracts Service Registry No. 75015, is manufactured, reacted, released, repackaged, stored, or used, including areas and operations involving polyvinyl chloride where detectable levels of vinyl chloride are released.

(2) This section does not apply to the handling or use of fabricated products made entirely or in part of polyvinyl chloride.

(b) *Definitions.* (1) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor or his designee.

(2) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer; and any employee who enters such an area as a designated representative of employees to exercise an opportunity to observe monitoring and measuring of vinyl chloride.

(3) "Closed container" means any container which prevents the release of vinyl chloride to the environment.

(4) "Contaminated" means capable of releasing a detectable level of vinyl chloride.

(5) "Decontamination" means reduction of vinyl chloride concentrations to less than detectable levels.

(6) "Detectable level" means an airborne concentration of vinyl chloride measurable by a sampling and analytical method capable of measuring concentrations of 1 ppm, with an accuracy of 1 ppm±50 percent.

(7) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the Director.

(8) "Emergency" means an unforseen circumstance or set of circumstances, resulting in the release of vinyl chloride into areas occupied by employees.

(9) "Exposure" means actual contact with vinyl chloride when unprotected by required personal protective equipment and clothing.

(10) "Fabricated product" means a finished product or part of such product, made of polyvinyl chloride, entirely or in part, including semifinished products such as film, sheet, block, bar, or extrusion stock.

(11) "OSHA Area Director" means the Director for the Occupational Safety and Health Administration Area Office having jurisdiction over the geographic area in which the establishment is located.

(12) "Polyvinyl chloride" means polyvinyl chloride homopolymer or copolymer before such is converted to a fabricated product.

(13) "Protective clothing" means clothing protective against vinyl chloride.

(14) "Vinyl chloride" means vinyl chloride monomer.

(15) "Waste resin" means any resin or other reaction products removed in the cleaning of equipment, such as vessels and piping.

(c) *Reference.* College of American Pathologists, 230 N. Michigan Ave., Chicago, Illinois 60601.

(4) *Regulated areas.* (1) A regulated area shall be established where (i) vinyl chloride is manufactured, reacted, released, repackaged, stored, or used; or (ii) polyvinyl chloride capable of releasing detectable levels of vinyl chloride is manufactured, reacted, released, repackaged, stored, or used.

(2) Access to regulated areas shall be limited to authorized employees.

(3) A daily roster of employees entering regulated areas shall be made and maintained. The rosters, or summaries thereof, shall be kept for at least 20 years.

(e) *Monitoring.* (1) Every regulated area shall be monitored for detectable levels of vinyl chloride.

(2) The monitoring shall assure that any exposure may be determined for each authorized employee with a confidence level of 95 percent.

(3) Employees or their designated representatives shall be afforded an opportunity to observe monitoring and measuring required by this paragraph.

(i) Where exercise of an opportunity requires entry to an area where the use

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of protective clothing, equipment, facilities, or procedures is required, such clothing, equipment, facilities, and procedures shall be provided to all persons entitled to exercise the opportunity, at no cost to any of them.

(ii) Persons exercising the opportunity shall be instructed regarding:

(A) The toxicity and fire hazard of vinyl chloride; and

(B) The protective steps and measures necessary for their protection.

(iii) Observers shall be permitted, without interference to the persons performing the monitoring and measuring, to:

(A) Observe all steps and procedures related to the collecting, processing, and evaluation of particular monitoring and measurement samples;

(B) Record quantities and results obtained;

(C) Observe the condition of monitoring and measuring equipment;

(D) Receive a demonstration of the calibration and function tests of the monitoring and measuring equipment performed on site; and

(E) Examine instructions and documents related to the procedures and equipment for monitoring and measuring.

(4) Accurate and complete records of all required monitoring shall be made and maintained for not less than 20 years. Such a record shall (i) state the date of such monitoring and the levels determined; and (ii) identify the instruments and methods used.

(f) *Engineering controls and work-practice methods.* (1) Where detectable levels of vinyl chloride are measured, immediate protection shall be provided against exposure to vinyl chloride by the use of engineering controls, workpractice methods, and respirators as follows:

(i) Feasible engineering controls and workpractice methods shall immediately be used to reduce airborne concentrations of vinyl chloride below the detectable level;

(ii) Wherever feasible engineering controls and workpractice methods which can be instituted immediately are not sufficient to reduce concentrations of vinyl chloride below the detectable level, they shall nonetheless be used to reduce the concentrations to the lowest practicable level, and shall be supplemented by means of respirators in accordance with paragraph (g) of this section;

(iii) Wherever no feasible engineering control or workpractice method can be instituted immediately, immediate respiratory protection shall be provided in accordance with paragraph (g) of this section; and

(iv) In any case covered by paragraph (f)(1) (ii) or (iii) of this section, the employer shall also undertake as soon as practicable a program to reduce airborne concentrations of vinyl chloride below the detectable level, or to the greatest extent feasible, solely by means of engineering controls and workpractice methods and as soon as feasible.

(2) There shall be tests made for process or equipment leaks and for emission of vinyl chloride which may result from workpractices. The frequency of these tests shall be such as to insure the integrity of equipment and adherence to proper workpractices.

(g) *Respiratory protection.* (1) A respiratory protection program in accordance with § 1910.134 shall be established and implemented where respirators are required to be used by this section.

(2) Respirators shall be used only in cases of emergency and where required by any other provision of this section. Respirators may not be used in lieu of feasible engineering controls or workpractice methods.

(3) Respirators or combinations of respirators for protection against vinyl chloride shall be selected from among the following:

(i) A positive pressure full facepiece self-contained breathing apparatus;

(ii) A pressure-demand full facepiece self-contained breathing apparatus operating in the pressure-demand mode;

(iii) A combination type "C" pressure-demand full facepiece respirator operating in the pressure-demand mode and a pressure-demand self-contained breathing apparatus operating in the pressure-demand mode; or

(iv) A combination type "C" continuous flow respirator and a pressure-demand self-contained breathing apparatus operating in the pressure-demand mode.

(h) *Protective clothing.* (1) Employees entering regulated areas shall be provided full-body protective clothing, footwear or shoe covers, and gloves, at no cost to them, and required to wear it while in the regulated area.

(2) Where polyvinyl chloride powder containing detectable levels of vinyl chloride is handled, employees shall also be:

(i) Provided and required to wear headeoverings;

(ii) Required to remove all protective clothing at each exit from the regulated area; and

(iii) Required to shower after the last exit of the day.

(3) Clean protective clothing shall be provided whenever contaminated or soiled, but not less frequently than weekly. Contaminated clothing shall be decontaminated before reuse by removal for laundering or disposal.

(i) *Hygiene facilities and practices.* (1) Where employees are required by this section to wear protective clothing and equipment, change rooms shall be provided in accordance with § 1910.141(e).

(2) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(3) Storage or consumption of food or beverages, storage or use of smoking or non-food chewing products, and the storage or application of cosmetics are prohibited in regulated areas.

(j) *Emergeney situations.* (1) A written operational plan for emergency situations shall be developed for each regulated area.

(2) In the event of an emergency, appropriate portions of the plan shall be put into operation.

(i) Hazardous conditions created by the emergency shall be eliminated and the affected area shall be decontaminated prior to the resumption of normal operations.

(ii) Special medical surveillance by a physician shall be instituted within 24-hours for employees present in the affected area at the time of the emergency.

(iii) Where an employee has a known contact with liquid vinyl chloride such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(iv) An incident report on the emergency shall be reported as required in paragraph (q)(2) of this section.

(3) Each authorized employee shall be trained in a program relating to the hazards of vinyl chloride and the precautions for safe use.

(i) The program shall include:

(A) The nature of the fire hazard, and the necessary protective steps;

(B) The nature of the toxic hazard, including local and systemic effects, acute and chronic effects including specifically the carcinogenic hazard;

(C) The specific nature of operations which could result in exposure to vinyl chloride, and necessary protective steps;

(D) The purpose for and application of the medical surveillance program;

(E) The purpose for and application of decontamination practices;

(F) The purpose for and significance of emergency practices and procedures;

(G) The employee's specific role under normal operating or emergency conditions;

(H) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of vinyl chloride;

(I) The purpose for and application of specific first aid procedures and practices;

(J) A review of this standard at the employee's first training and indoctrination program and annually thereafter.

(ii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(k) *Signs and labels.* (1) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT AREA
AUTHORIZED PERSONNEL ONLY

(2) Areas containing operations covered in paragraph (k)(1)(4) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT IN THIS AREA
FULL IMPERVIOUS AIR-SUPPLIED EQUIPMENT REQUIRED
AUTHORIZED PERSONNEL ONLY

(3) Containers of waste or other materials contaminated with vinyl chloride shall be labeled:

VINYL CHLORIDE CONTAMINATED MATERIAL
CANCER-SUSPECT AGENT
DISPOSE OF OR DECONTAMINATE USING AUTHORIZED PRECEDURES

(4) Containers of polyvinyl chloride containing detectable levels of vinyl chloride shall be labeled:

POLYVINYL CHLORIDE
CONTAINS VINYL CHLORIDE
VINYL CHLORIDE IS A CANCER-SUSPECT AGENT
ABSORBED BY BREATHING AND THROUGH SKIN

(5) Containers of vinyl chloride shall be labeled:

VINYL CHLORIDE
DANGER
EXTREMELY FLAMMABLE GAS UNDER PRESSURE
MAY POLYMERIZE WITH EXPLOSIVE FORCE
POISON
CANCER SUSPECT AGENT AND ANESTHETIC
ABSORBED BY BREATHING AND THROUGH SKIN

(6) No statement shall appear on or near any required sign, label or instruction, which contradicts or detracts from the effect of any required warning, information or instruction.

(l) *Maintenance and decontamination.* (1) Emphasis shall be placed upon immediate clean up of spills, periodic inspection, prompt repair of equipment and leaks, and proper handling, storage and disposal or decontamination of materials to prevent airborne contamination and accidental skin contact with vinyl chloride. Waste materials, equipment, and other sources of vinyl chloride in closed containers, may not be placed in areas of excessive temperature or sunlight since build-up of internal pressure may result in rupture of the container, fire or explosion.

(2) Waste resins or other materials contaminated with vinyl chloride shall be placed in closed containers pending disposal or decontamination.

(3) Appropriate procedures shall be developed and implemented for the decontamination or disposal of all such waste material.

(4) In maintenance or repair operations on contaminated—systems or equipment, including vessel entry, employees engaged in such operations shall be (i) provided with and required to wear and use a whole-body air-supplied suit impervious to vinyl chloride, and a respirator in accordance with paragraph (g) of this section; and (ii) required to shower after removing protective equipment.

(5) Protective clothing and equipment shall be clean and dry for each use.

(6) When vessels or piping systems are opened local exhaust ventilation shall be provided to remove the escaping vapor from all occupied areas.

(7) (i) Vessels to be entered shall first be ventilated and monitored so that the concentration of vinyl chloride is reduced to a level within the protection factor capability of the protective equipment.

(ii) When vessels are to be entered, all piping to such vessel shall be:

(A) Opened, blanked and tagged; or

(B) Where welded piping is in use, not less than 2 valves in series, which isolate the vessel from any other connection to such line, must be closed and secured.

(iii) No employee shall enter a vessel, except when another employee properly trained and equipped for entry is present and is observing the employee in the vessel. The observer shall have means for signalling for help in the event the employee experiences problems. Under such conditions, the observer shall signal for help, and shall not enter to assist the employee until another person is present to observe.

(m) *Transportation loading and unloading.* (1) Facilities for the loading and unloading of vinyl chloride to and from containers shall have each transfer line and vapor-equalizing line equipped with vent connections, and shall have an inert gas purging system. Vent and purge effluent shall be returned to a process stream or flared in a safe location.

(2) Procedures shall be developed and implemented for the transfer of vinyl chloride. Written copies of such procedures shall be provided employees engaged in such operations, and such employees shall be fully trained and rehearsed in all procedures.

(3) Employees engaged in transfer operations shall be provided with and required to wear respirators in accordance with paragraph (g) of this section.

(n) *Polymer handling operations.* (1) Containers of polyvinyl chloride releasing detectable levels of vinyl chloride shall be opened and transferred only under local exhaust ventilation which reduces the concentration of vinyl chloride below the detectable level.

(2) Hot operations, such as but not limited to milling, calendering and extruding, which release detectable levels of vinyl chloride, shall be carried on only under local exhaust ventilation which reduces the concentration of vinyl chloride below the detectable level.

(o) *Medical surveillance.* Not later than ---------- 1974, a program of medical surveillance shall be instituted, and shall provide each authorized employee with an opportunity for examinations in accordance with this paragraph. All medical examinations and procedures shall be performed by or under the supervision of a licensed Doctor of Medicine (MD) or Doctor of Osteopathy (DO). All medical examinations and tests shall be provided without cost to the employee.

(1) At the time of initial employment, or upon institution of screening, a physical examination shall be performed with specific attention to detecting enlargement of liver or spleen by abdominal palpation.

(2) At the time of initial employment or upon institution of screening, and annually thereafter, a medical history checklist shall be completed by the employee. This list shall include questions concerning:

(i) Alcohol intake;

(ii) Past history of hepatitis;

(iii) Past exposure to potential hepatotoxic agents, including drugs and chemicals;

(iv) Past history of blood transfusions; and

(v) Past history of hospitalizations.

(3) At the time of initial employment, or upon institution of screening, a serum specimen shall be obtained for screening with respect to the following bio-chemical determinations of liver function:

(i) Total bilirubin;

(ii) Alkaline phosphatase;

(iii) Serum glutamic oxalacetic transaminase (SGOT);

(iv) Serum glutamic pyruvic transaminase (SGPT); and

(v) Gamma glustamyl transpeptidase (GGTP).

(4) Additional tests that may optionally be considered for use in screening include:

(i) Lactic dehydrogenase;

(ii) Serum protein determinations;

(iii) Serum protein electrophoresis; and

(iv) Platelet count.

(5) Laboratory analyses for all biological specimens included in medical examinations shall be performed in laboratories accredited by the College of American Pathologists or licensed under 43 CFR Part 74.

(6) If the results of screening required in paragraph (o)(3) of this section are normal, screening shall be repeated:

(i) Every six months for employees who have been employed in vinyl chloride related operations for 10 years or more; and

(ii) Annually for all other employees entering regulated areas.

(7) If one or more liver function tests performed are abnormal, serum testing shall be repeated as soon as possible, preferably within two to four weeks. If no abnormalities are present upon re-screening, serum testing shall be repeated in three months.

(8) If abnormalities persist upon re-screening, the employee shall be withdrawn from areas where contact with vinyl chloride is possible, and an individualized medical workshop shall be instituted. Suggested as initial steps are a complete physical examination and various special procedures such as hepatitis B antigen determination and liver scanning. If liver function abnormalities are determined to be unrelated to liver disease, the employee may be permitted to return to vinyl chloride-related employment, subject to individual medical evaluation.

(9) A complete and accurate record of the results of medical examinations shall be made and maintained for the duration of employment plus five years, or for 20 years, whichever is longer.

(p) *Records.* (1) Records of monitoring and measuring, medical records, and regulated area entry rosters and summaries, shall be made available for examination and copying upon request to authorized representatives of the Assistant Secretary and the Director.

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(2) In the event that the employer ceases to do business and there is no successor to receive and retain his records for the prescribed period, these records shall be transmitted by registered mail to the Director, and each employee individually notified in writing of this transfer.

(3) Employees and their designated representatives shall be provided access to examine and copy records of monitoring and measuring.

(4) Former employees shall be provided acces to examine and copy records reflecting their own exposures.

(5) Upon written request of any employee, a copy of the medical record of such employee shall be furnished to a physician designated by the employee in such request.

(q) *Reports.* (1) Not later than _____ _____ the following information shall be reported to the OSHA Area Director. Any change in such information shall be reported to the OSHA Area Director within 15 days of such change.

(i) The address and location of each establishment which has one or more regulated areas; and

(ii) The number of employees in each regulated area during normal operations, including maintenance.

(2) Incidents which result in the release of vinyl chloride into any area where employees may be exposed shall be reported in accordance with this paragraph.

(i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the OSHA Area Director.

(ii) A written report shall be filed with the OSHA Area Director within 15 calendar days thereafter and shall include:

(A) A specification of the amount of material released;

(B) A description of the area involved and the extent of known and potential employee exposure and area affected;

(C) A report on any medical treatment of affected employees and any medical surveillance program implemented; and

(D) An analysis of the circumstances of the incident, and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(3) Upon completion of any monitoring and measuring which discloses that any employee has actually been exposed to detectable levels of vinyl chloride, each such employee shall be individually notified in writing. The notice shall:

(i) Be delivered not later than 10 working days after completion of the monitoring and measuring;

(ii) State the actual exposure in terms of concentration and time; and

(iii) State the steps which have been taken, are being taken, and will be taken, with specific completion dates, to terminate the exposure and prevent a recurrence.

(Secs. 8(b), 6(c), and 8(c), 84 Stat. 1593, 1596, 1599 (29 U.S.C. 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754))

Signed at Washington, D.C. this 6th day of May, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74–10748 Filed 5–9–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

[Docket No. 13696; Notice 74–19]

TRANSPORT CATEGORY AIRPLANES

Type A Passenger Emergency Exit Capacity

The FAA is considering rule making to revise the passenger seating configuration limit that is applicable to Type A exits on transport category airplanes. Sections 25.807(c) (2) and (3) of the Federal Aviation Regulations (FARs) currently provide that for each pair of Type A exits (consisting of one on each side of the fuselage) the airplane may have a maximum passenger seating configuration of 100.

This advance notice of proposed rule making is being issued in accordance with the FAA's policy for early institution of public proceedings in actions related to rule making. An "advance" notice is issued to invite early public participation in the identification and selection of a course or alternate courses of action with respect to a particular rule making problem.

Interested persons are invited to participate in the rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. Communications should be received on or before July 9, 1974, to assure proper consideration. All comments submitted will be available, both before and after the closing date for comments, for examination by interested persons.

The regulatory provisions relating to Type A exits that are contained in § 25.807 of the Federal Aviation Regulations were adopted by Amendment 25–15, effective October 24, 1967. That amendment also established the provision, in § 25.803(c), that manufacturers show by demonstration that the maximum seating capacity of an airplane having a capacity of more than 44 passengers can be evacuated to the ground within 90 seconds, under conditions prescribed in the regulation. As discussed in the preamble to Amendment 25–15, the allowable passenger seating limit of 100 that was established for each pair of Type A exists was less than the evacuation capacity that had been demonstrated by test. As a result of receiving data and information tending to indicate that some of the considerations leading to the conservative limitation may no longer be applicable, the FAA has instituted a regulatory study project to reevaluate the limitation. The study will include the factors originally considered in establishing the limitation as well as any other factors found to be pertinent. Those factors originally considered include pertinent evacuation tests and demonstrations, exterior slides, the number, location, and size of aisles and passageways, and evacuation system reliability.

Data available to the FAA on in-service evacuations, slide deployments, and evacuation demonstrations indicate that more than 100 passengers have been evacuated through a Type A exit within 90 seconds. The data further indicate that Type A exit systems may have higher in-service reliability than was anticipated at the time the limitation was established in the regulations. However, the FAA believes it is important to review all relevant data on safety and cost considerations that may be applicable to any proposed change in the Type A exit passenger seating limitation. To this end, the FAA solicits data, views, and arguments from all interested persons on the questions set forth below. Data supporting an answer should be submitted or identified sufficiently that the FAA may obtain or develop it.

1. Do the data available on evacuation tests and in-service incidents that relate to the evacuation capacity of Type A exits under emergency conditions indicate that the 100 passenger limitations may safely be increased?

2. What reliability has been demonstrated for Type A exit systems by service experience and tests?

3. What relationships may be established between reliability and passenger emergency evacuation capability of Type A exits?

4. How would the emergency evacuation capability of Type A exits be affected by specific increases in passenger seating capacity and by specific passenger seating configuration considerations?

5. If there are other factors that should be considered, how should the relevant data be related to the emergency evacuation capability of Type A exits?

6. If the commentator recommends specific passenger capacities for consideration, what economic and safety benefits or penalties would be associated with them?

Issued in Washington, D.C., on May 2, 1974.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.74–10787 Filed 5–9–74;8:45 am]

[14 CFR Part 39]

[Docket No. 74–NW–4–AD]

AIRWORTHINESS DIRECTIVES

Boeing Model 737–100/200 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Boeing Model 737–100/200 Series Airplanes. There have been four reports of erratic air data indications on pitot-static flight instruments on the 737–100/200 series airplanes which have been traced to excessive amounts of water accumulating in the pitot-static lines after heavy rain and high wind conditions. Erratic air data indications could result in a serious airplane accident during landing or take off.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require (A) draining the pitot-static lines after a heavy rain storm, and (B) terminating the airworthiness directive by modifying the pitot-static tubes to include a vertical rise on the Boeing Model 737–100/200 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Attention: Regional Counsel, Airworthiness: Rules Docket, FAA Building, Boeing Field, Seattle, Washington 98108. All communication received on or before July 10, 1974, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BOEING: Applies to all Model 737 airplanes, certificated in all categories, listed in Boeing Service Bulletin 737–34–1031 dated March 1, 1974, or later FAA approved revisions. To prevent erroneous information from being displayed on the pitot-static flight instruments:

(A) (1) Unless already accomplished within the last 300 hours' time in service, or modified in accordance with section (B), drain the pitot-static lines within the next 800 hours' time in service after the effective date of this AD.

(2) Repeat section (A)(1) before the first flight after the airplane has sustained ground exposure to a rain storm reported by the U.S. National Weather Service or an accredited observer as heavy (R+) or greater.

(B) As a terminating action to this AD, within the next 2500 hours' time in service after the effective date of this AD, modify the pitot-static tubing to include a vertical rise just inboard of each pitot-static probe in accordance with Boeing Service Bulletin 737–34–1031, dated March 1, 1974, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

Issued in Seattle, Washington on May 2, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.74–10788 Filed 5–9–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–SO–48]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Tifton, Ga., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 10, 1974, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Tifton transition area described in § 71.181 (39 FR 440) would be amended as follows:

"• • • long. 86°29'06" W.) • • •" would be deleted and "• • • long. 86°-29'06" W.); within a 5-mile radius of Eaglehead Airport (lat. 31°23'00" N., long. 83°36'00" W.) • • •" would be substituted therefor.

The proposed amendment is required to provide controlled airspace protection for IFR operations at Eaglehead Airport. A special prescribed instrument approach procedure to this airport, utilizing Tifton VOR, is proposed in conjunction with the alteration of this transition area. If the proposed alteration is acceptable, the airport operating authorization will be changed from VFR to IFR.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 2, 1974.

DUANE W. FREER,
Acting Director,
Southern Region.

[FR Doc.74–10789 Filed 5–9–74;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 40, 50, 70]

LIGHT-WATER-REACTOR FUEL CYCLE FACILITIES

"As Low as Practicable" Guidelines

In 1971, the Atomic Energy Commission amended its regulations to improve the framework in 10 CFR Part 20 for assuring that reasonable efforts are maintained by Commission licensees to keep releases of radioactive materials in effluents as low as practicable. The term "as low as practicable" as used in Commission regulations means as low as is practicably achievable taking into account the state of technology and the economics of improvements in relation to benefits to the public health and safety and in relation to the utilization of atomic energy in the public interest. Also in 1971, the Commission published proposed amendments to 10 CFR Part 50 to provide numerical guidance on as low as practicable guidelines for light-water-cooled nuclear power reactors. This guidance was in the form of specific design objectives and limiting conditions for operation of such reactors.

In 1973, the Commission initiated comprehensive engineering and environmental studies to form the basis for providing specific guidance on as low as practicable effluent releases for fuel cycle facilities other than reactors. The Commission is now considering amending its regulations 10 CFR Parts 40, 50, and 70 to include specific as low as practicable guidance for effluent releases from licensed uranium mills, uranium hexafluoride refineries, enriched uranium fuel fabrication plants, fuel reprocessing facilities, and plutonium mixed oxide fuel fabrication plants.

The purpose of this notice is to invite advice and recommendations on this matter from all interested persons. Specifically, comments are requested on the following questions:

1. Is it desirable to develop more definitive criteria for design objectives for fuel cycle facility waste treatment systems to keep levels of radioactive materials in effluents as low as practicable? If so, should the criteria be in the form of:

a. Waste treatment equipment requirements and performance specifications; or

b. Ranges of numerical criteria; or

c. Other? (Specify)

2. If the criteria are in the form of waste treatment equipment requirements, what should be required on the basis of technology already in commercial use?

3. If the criteria are in the form of ranges of numerical criteria, should they be in the form of ranges of:

a. Quantities of radionuclides released in gaseous and liquid effluents?

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b. Concentrations of radionuclides in effluents at the point of release on-site?
c. Concentrations of radionuclides in the environment?
d. Annual exposures to individuals offsite?
e. Average annual radionuclide intake guides for population groups?
f. Annual exposures to population groups
g. Annual average exposures to the whole population (man-rems)?
h. Other? (specify)

4. If more definitive criteria were to be derived in any one of the above categories on the basis of available technology not yet in routine use, what equipment or ranges of numerical criteria would be appropriate?

5. As a result of further technological advances and of more experience with techniques already under development, can substantial further reduction of releases of radioactive materials in effluents be obtained? If not, why not? If such incremental reductions can be obtained, what are:
a. The processes involved?
b. The media and nuclides involved?
c. The extent of the additional reduction?
d. The probable length of time before the process could be commercially feasible?
e. The expected cost to the facility operator?
f. Any expected problems with the process in plan operation that may increase inplant risks?

The Commission has concluded that action to include in its regulations "as low as practicable" guidelines for fuel cycle facilities would constitute a major Federal action significantly affecting the quality of the human environment and as such will require the preparation of an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA). Accordingly, an impact statement(s) will be prepared should the Commission determine it is in the public interest to proceed to amend its regulations as described above.

Under the President's Reorganization Plan No. 3 of 1970, the Environmental Protection Agency (EPA) is responsible for establishing generally applicable environmental radiation standards for the protection of the general environment from radioactive materials. EPA is issuing an advance notice of proposed rule making, concurrently with the issuance of this AEC notice of intent to amend its regulations, providing notice that EPA is considering issuing generally applicable standards under its authority to assure protection of the general public from exposure to radiation resulting from the normal operations of the entire light-water reactor uranium fuel cycle (pg. 16906). EPA generally applicable standards would apply to environmental radiation resulting from operations of the entire fuel cycle and will not differentiate class of facility.

The specific guidance on levels of radioactive material that may be considered "as low as practicable" in effluent releases from uranium mills, uranium hexafluoride refineries, enriched uranium fuel fabrication plants, fuel reprocessing facilities and plutonium mixed oxide fuel fabrication plants, which is the subject of this AEC notice, would be formulated to be compatible with and implement any generally applicable environmental standards established by EPA. The EPA would reflect AEC's findings as to practicability of emission controls in establishing its generally applicable standards.

Interested persons are invited to submit written comments and suggestions with respect to the foregoing matters, or any other matters pertinent to the subject matter of his notice. Comments should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff by June 24, 1974. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201))

Dated at Washington, D.C. this 1st day of May 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-10818 Filed 5-9-74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 213]

[Docket No. 26677; EDR-268]

TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS

Filing and Approval of Schedules of Foreign Air Carriers

MAY 7, 1974.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 213 of its Economic Regulations (14 CFR Part 213) so as to revise the provisions of § 213.3(c) thereof which relate to the issuance of an order requiring the holder of a foreign air carrier permit covered by a bilateral agreement to file copies of its existing and proposed schedules with the Board for approval. The principal features of the proposed amendment are explained in the attached explanatory statement and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before June 10, 1974, and in reply comments received on or before June 20, 1974, will be considered before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

Explanatory Statement. Part 213 of the Board's Economic Regulations was adopted to give the Board powers, analogous to those of most foreign governments, to issue orders requiring foreign air carriers to file their schedules of service with the Board, and to permit the Board, subject to Presidential stay or disapproval, to disapprove those schedules which are found to be contrary to applicable law or to adversely affect the public interest. However, under the present provisions of the regulation issuance of an order requiring the filing of schedules by a foreign air carrier operating pursuant to a bilateral agreement requires findings different from an order directed to a carrier of a nation with which there is no such agreement.

Section 213.3(b) applies in the case of a foreign air carrier whose section 402 permit for scheduled foreign air transportation is not covered by a bilateral air transport agreement between the United States and the permit holder's country. Upon a finding "that the public interest so requires," the Board may issue a schedule-filing order with respect to such foreign air carrier. However, under § 213.3(c),[1] which is applicable to foreign air carriers whose permits for scheduled air transportation are covered by a bilateral air transport agreement between the United States and the permit holder's country, the Board must make, in addition to a "public interest" finding, a further finding that the foreign air carrier's government (or aeronautical authority) has, over the objections of the United States, restricted[1] a U.S. carrier's operating rights provided for in such bilateral agreement.

It is not clear that this required additional finding provides for Board action under Part 213 in various circumstances where foreign governmental (or aeronautical authority) action or inaction has the effect of depriving U.S. carriers of a fair and equal opportunity to exercise operating rights provided for in an applicable air transport agreement. The deprivation of fair and equal opportunity can impair U.S. operating rights as much as action which denies such rights. Accordingly, the Board is tentatively of the view that § 213.3(c) should be clarified to in terms provide for utilization of the Part 213 procedures in such circumstances. Specifically the Board proposes to amend § 213.3(c) to add, as

[1] The applicable language of § 213.3(c), detailing such "restriction," reads, "• • • taken action which impairs, limits, terminates, or denies operating rights provided for in such air transport agreement, of any U.S. air carrier designated thereunder with respect to flight operations to, from, through, or over the territory of such foreign government."

an alternative to the existing requisite finding (i.e., the finding required in addition to the "public interest" finding) that the government or aeronautical authorities, over the objections of the United States Government, have "• • • (2) otherwise denied or failed to prevent the denial of, in whole or in part, the fair and equal opportunity to exercise the operating rights, • • •" provided for in the applicable bilateral air transport agreement, with respect to a U.S. air carrier designated under the agreement.

The revision here proposed is consistent with, and is intended to further, the "Bermuda Principles" incorporated in United States bilateral air transport agreements with other countries. The "Bermuda Principles" provide, inter alia, that "there shall be a fair and equal opportunity for the airlines of each contracting party to operate on any route covered by this Agreement." As the United States and British Governments emphasized in their Joint Statement and Press Release, issued at the time of the negotiation of the Bermuda Agreement, such "fair and equal opportunity" does not contemplate any "predetermination of frequency or capacity or of any arbitrary division of air traffic between countries and their national airlines." Rather such "fair and equal opportunity" incorporates the machinery of the bilateral which serves to "obviate unfair competition by unjustifiable increases of frequencies or capacity," as well as to obviate other practices which may deprive one country's carriers of a fair and equal opportunity to compete for traffic on the route.[2]

The Board has recently completed a study which indicates that several foreign governments do in fact engage in various practices which have had the effect of depriving U.S. carriers of a fair and equal opportunity to exercise rights granted to such carriers by the applicable bilateral air transport agreement.[3] As reflected in the Joint U.S.-U.K. statement, such a denial can arise from the failure of a foreign government, or its aeronautical authorities, to take appropriate action to deter its carriers from the operation of excessive capacity in a manner inconsistent with the principles set forth in the bilateral agreement. Particular problems in this regard may arise from excessive scheduling made possible by drawing upon a large volume of so-called "Sixth Freedom" traffic; i.e., traffic originating or destined to points beyond the homeland of the carrier and carried via the homeland to or from the United States. The Bermuda principles provide that carriers of the respective parties to the bilateral agreement are entitled to carry a reasonable amount of "Fifth Freedom" third-country "fill up" traffic as appropriate and necessary for through airline operations between the airline's homeland and distant points. However, services geared substantially to traffic from beyond the homeland in essence constitute third-country operations, outside the scope of homeland-originating through services contemplated by the Fifth Freedom authorizations in the bilateral. When a pattern of such operations develops, it is clear such operations may constitute an unwarranted infringement upon the basic "Third" and "Fourth Freedom" direct transport rights of the national carriers of the United States and the third country to or from which such traffic is carried. The fair and equal opportunity of U.S. carriers may thus be seriously jeopardized.

Other practices, which may equally deprive U.S. carriers of such a fair and equal opportunity, are detailed in the Board's study. Examples of such governmental actions would include limitations upon the remittance of funds; limitations upon U.S. carriers doing business in the foreign country; discriminatory currency conversion rules; or discriminatory or inequitable landing or other fees or air traffic control rules. Such action, or inaction, can effectively inhibit real competitive equality to a degree which should warrant appropriate action in the public interest under section 213.3.

The revision of § 213.3(c), as proposed, would insure the ability of the U.S. Government to take effective action in such cases. With respect to our bilateral partners, the amendment would, in effect, give this government the same control over foreign air carriers' schedules as the governments of those carriers possess over U.S.-flag carriers' schedules. The Board would, of course, observe all relevant provisions of any applicable bilateral agreement before invoking the Part 213 procedure. Specifically, the Board would defer any proposed Part 213 action insofar as necessary to comply with consultation procedures contemplated by the bilateral. For this reason, our bilateral partners need not fear that the proposed rule would in any way impair U.S. bilateral obligations. However, because of the relationship between the proposed revision of Part 213 and United States rights and obligations under outstanding bilateral air transport agreements, the Board will submit its final rules to the President for approval.

It is therefore proposed to amend Part 213 of the Board's Economic Regulations (14 CFR Part 213) as follows:

Amend § 213.3(c) to read as follows:

§ 213.3 Filing and approval of schedules.

• • • • • •

(c) In the case of any foreign air carrier permit for scheduled air transportation which is the subject of an air transport agreement between the United States and the government of the holder, the Board may with or without hearing issue an order, similar to that provided for in subsection (b) of this section, if it makes the findings provided for in that subsection and, in addition, finds that the government or aeronautical authorities of the government of the holder, over the objections of the United States Government, have: (1) Taken action which impairs, limits, terminates, or denies operating rights, or (2) otherwise denied or failed to prevent the denial of in whole or in part, the fair and equal opportunity to exercise the operating rights, provided for in such air transport agreement, of any U.S. air carrier designated thereunder with respect to flight operations to, from, through, or over the territory of such foreign government.

Excerpt from "Joint Statement Relating to the International Air Transport Policy of the United States and British Governments," (14 Dept. St. Bull., No. 347, 302–6 (February 24, 1946)).

• • • • • •

4. Consequently, both parties believe • • • they should follow the basic principles agreed to at Bermuda, including particularly

(A) fair and equal opportunity to operate air services on international routes and the creation of machinery to obviate unfair competition by unjustifiable increases of frequencies or capacity;

(B) the elimination of formulae for the predetermination of frequencies or capacity or of any arbitrary division of air traffic between countries and their national airlines;

(C) the adjustment of Fifth Freedom traffic with regard to:

(1) traffic requirements between the country of origin and the countries of destination,

(2) the requirements of through airline operation, and

(3) the traffic requirements of the area through which the airline passes after taking account of local and regional services.

• • • • • •

Excerpt from the "Joint Press Release of the United Kingdom and United States Delegations on the Work of the Bermuda Conference—January–February, 1946." (Dept. of State Press Release No. 103. February 11, 1946).

• • • • • •

• • • At the same time the principles provide for fair and equal opportunity for air carriers of the two Nations to operate between their respective territories and to provide air transport facilities matched to the needs of the public. The fair and equal opportunity referred to above does not imply the allocation of frequencies by agreement but only the right of each nation to

[2] See in this connection, Joint Statement Relating to the International Air Transport Policy of the United States and British Governments, 14 Dept. St. Bull., No. 347, 302–6 (February 24, 1946); Joint Press Release of the United Kingdom and the U.S. Delegations on the Work of the Bermuda Conference—January–February, 1946, Dept. of State Press Release No. 103, February 11, 1946; George P. Baker (Chairman of the U.S. Delegation to the Bermuda Conference), The Bermuda Plan as the Basis for a Multilateral Agreement, lecture delivered at McGill University, April 18, 1947. Excerpts of pertinent portions of these documents are attached hereto.

[3] See "Restrictive Practices Used by Foreign Countries to Favor their National Carriers," prepared by the Bureau of International Affairs, Civil Aeronautics Board, August 1973. The unclassified section of this study is available from the Civil Aeronautics Board, Publication Services Section, Room 515, 1825 Connecticut Ave., N.W., Washington, D.C. 20428.

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offer the services it believes justified under the principles agreed to * * *. This paragraph in referring to the carriage by air carriers of one of the two nations of so called "Fifth Freedom" traffic—that is passengers and cargo between two foreign countries—recognizes this Fifth Freedom privilege, granted in the Annex, so long as the carriage of these loads does not defeat the primary objective of the agreed international air services which is to provide air transport adequate for the traffic between the country of origin of the aircraft and the country of destination of the traffic.

* * * * *

Excerpt from George P. Baker (Chairman of the U.S. Delegation to the Bermuda Conference), "The Bermuda Plan as the Basis for a Multilateral Agreement" (Lecture delivered at McGill University, April 18, 1947).

* * * * *

* * * The purpose of the two statements mentioned [fair and equal opportunity and taking consideration of the interest of the air carriers of the other government so as not to effect unduly its services] was, as they were drawn up at Bermuda, to protect against "unfair trade practices" and I remember clearly in the discussions which took place while the wording of these paragraphs was being formed that it was well understood by all concerned that the freedom of the management of an airline company to put on or take off schedules would be the same as the present freedom of either of two competing bus lines between New York and Washington to experiment with their schedules without restriction. It was also clearly understood, however, that one company should not indulge in practices which were specifically for the purpose of driving a competitor out of business in any way unless that should take place indirectly through one line giving much better service at fair rates for such service * * * There was certainly no intention that free opportunity to compete on a fair basis and the right to do half the business were, as concepts, even distantly related. The line giving the service most desired by the travelers on that route was to be allowed to carry as many as wished to travel on it. The overall principle was that the airline of any country properly certificated by that country should have a fair chance to show the traveling public the kind of service it could supply but the apportionment of traffic between airlines would be the result of consumer choice.

As a protection, however, purely destructive practices of one line against another should not be allowed nor should the subsidizing of one airline more than another be allowed to enable one airline to give the same service to the public at a lower rate. These were the thoughts behind the phrasing of the paragraphs just mentioned. I clearly remember the conversations which took place.

The above statements immediately follow the paragraph which states that air transportation facilities available to the traveling public should bear close relationship to the public need for such transportation. The purpose of this paragraph was to prevent the continued operation of aircraft at unnecessarily low load factors since it was realized that such activity would be generally detrimental to all lines servicing the route. Such cases might be those where a government might desire to support excessive operations of its own airline for competitive advantage or where one private airline with strong financial backing felt it could afford competitive over-servicing to its advantage over a competitor without such strong financial backing. There was, as I remember, no difficulty in getting general acceptance of the phraseology covering this point. There is in the three paragraphs under discussion clear understanding that there shall be a fair field and no favor for the certificated airlines taking part in air transport over any route. There is, however, neither in these three paragraphs nor anywhere else in the Agreement, nor was there meant to be, any intention that there should be equal apportionment of traffic between such lines * * *

The other paragraph in the final act which has come in for much discussion by other than the two parties to the Agreement is that dealing with the Fifth Freedom traffic * * *. There were certain clear principles behind this paragraph: (1) No country should have the right to operate "merry-go-round" services between two foreign countries (unless, of course, so requested by those countries). (2) Services upon which Fifth Freedom traffic could be carried should be through service out from or back to the home country.

* * * * * *

[FR Doc.74-10862 Filed 5-9-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Hydrocarbon Exhaust Emission Standards and Test Procedures To Permit Exclusion of Methane

On April 30, 1971, the Administrator of the Environmental Protection Agency promulgated a national primary and secondary ambient air quality standard for hydrocarbons (36 FR 8186). This ambient air quality standard specifies the maximum concentration of hydrocarbons (excluding methane) considered by the EPA to be consistent with attainment of the national primary and secondary ambient air quality standard for photochemical oxidants. Methane is excluded from the measurement of atmospheric hydrocarbon concentrations to determine compliance with the ambient air quality standard because methane is not considered to participate in the atmospheric photochemical reactions leading to the formation of photochemical oxidants, and because substantial ambient levels of methane are known to originate from uncontrollable sources.

On July 2, 1971, the Administrator of the Environmental Protection Agency promulgated a hydrocarbon exhaust emission standard applicable to new gasoline fueled light duty motor vehicles beginning with the 1975 model year (36 FR 12652). On April 11, 1973, the Administrator granted a one year suspension of the effective date of that standard and promulgated interim hydrocarbon emission standards applicable to such vehicles during the 1975 model year (38 FR 10317, April 26, 1973). The above-mentioned light duty vehicle hydrocarbon exhaust emission standards, and standards promulgated by the EPA which limit exhaust hydrocarbon emissions from new light duty Diesel motor vehicles, new light duty trucks, and new gasoline fueled and Diesel heavy duty engines, all require that total hydrocarbons (including methane) in the vehicle's or engine's exhaust meet specified limits. Measurement of total hydrocarbons, rather than nonmethane hydrocarbons, was specified in the promulgation of these motor vehicle emission standards because at the time of their promulgation adequate techniques for the routine measurement of methane in motor vehicle exhaust were not considered by the Administrator to be available for promulgation, because the methane fraction of the hydrocarbon emissions from current vehicles was taken to be inconsequentially low, and since emission control systems were expected to reduce all components of the hydrocarbon exhaust equally.

On June 29, 1973, the Ford Motor Company submitted a petition to the Environmental Protection Agency requesting amendment of the motor vehicle and motor vehicle engine exhaust emission test procedures to permit exclusion of methane in determining compliance with Federal motor vehicle emission standards. In suport of that request, the petition includes information on the failure of methane to participate in atmospheric reactions leading to the formation of photochemical oxidants, on the quantities of methane contained in the exhaust of light duty motor vehicles equipped with various types of emission control systems, and on the availability of instrumental methods for measurement of methane in light duty motor vehicle exhaust. The petition states that failure to exclude methane in determining compliance of light duty motor vehicles with Federal emission standards for exhaust hydrocarbons makes control of nitrogen oxide emissions from the vehicles more difficult and causes fuel economy to suffer, although no data are included in the petition to substantiate or quantify the magnitude of these effects.

In response to the petition by the Ford Motor Company, the Environmental Protection Agency is considering proposing regulations which would employ the measurement of non-methane hydrocarbons, rather than total hydrocarbons, to determine compliance with Federal motor vehicle and motor vehicle engine emission standards. In making such a change, the numerical values of exhaust emission standards for hydrocarbons would be changed to equivalent values expressed in terms of non-methane hydrocarbon emissions. However, while the conversion of motor vehicle exhaust hydrocarbon standards to a non-methane basis would appear a technically desirable goal, such a change would require significant expenditures of resources by the Environmental Protection Agency, motor vehicle manufacturers, and other motor vehicle emissions testing laboratories for modification of existing equipment and procedures. Furthermore, before such proposed rulemaking could be promulgated, substantial efforts would be required by the Environmental Protection Agency to establish revised testing procedures and to determine the magnitudes of non-methane hydrocarbon emission standards equivalent to present total hydrocarbon standards.

In order to obtain further information needed to evaluate a number of technical issues relating to such a regulatory change and to better determine the advantages and disadvantages of making such a change, the Environmental Protection Agency invites comments from all interested parties. Since catalytic converters may preferentially reduce the photochemically reactive portion of the hydrocarbon exhaust, the current "total" hydrocarbon standard may unnecessarily penalize vehicles equipped with these converters. For this reason information relating to making such a change for light duty vehicles and light duty trucks is especially sought since a large proportion of the post 1975 model year light duty vehicles and light duty trucks are expected to use catalytic converters in their emission control systems. In addition, although all comments relevant to this matter will be considered, comments are particularly solicited on the following aspects:

(1) *Identification of non-reactive hydrocarbon components of motor vehicle exhaust which should be excluded in determining compliance with motor vehicle emission standards.* In addition to methane, Environmental Protection Agency scientists have identified ethane, propane, acetylene, and benzene as components of motor vehicle hydrocarbon exhaust which can be considered to be essentially non-reactive in the formation of photochemical oxidants. Comments are solicited on the exclusion of the above compounds in determining compliance with motor vehicle hydrocarbon exhaust emission standards as well as on any additional compounds measured in the current total hydrocarbon determination which do not significantly participate in the formation of photochemical oxidants.

(2) *Availability of methods for routine measurement of non-reactive hydrocarbon components in motor vehicle exhaust.* Comments are solicited on the availability of measurement methods suitable for use in conjunction with the Federal emission test procedures prescribed in this part to determine exhaust emission of the hydrocarbon compounds referred to in item (1) above. Such comments should indicate: the degree of development of the methods; commercial availability of instruments required for use of the methods, including lead-time which would be required to provide adequate numbers of such instruments for general use in Federal and private motor vehicle emission testing facilities; ranges of concentration measurable using the method, and accuracy and precision of the method; and cost of using the method relative to the current method for measurement of total hydrocarbons specified in this part, considering both the costs of the necessary materials and equipment for using the method and the manpower required for its use. When methods of non-reactive hydrocarbon measurement which are not compatible with present EPA procedures for collecting and analyzing the exhaust gas are suggested, such comments are requested on the availability of compatible alternative collection and analysis procedures (e.g., when instrumentation suggested for light duty diesel powered vehicles is not compatible with the continuous exhaust analysis procedures used for these vehicles). Such comments are also sought on the availability of methods which could be used to directly quantify the photochemical reactivity of motor vehicle exhaust hydrocarbon emissions without separate determination of individual chemical species.

(3) *Quantities of reactive and non-reactive hydrocarbon compounds in motor vehicle exhaust.* Comments are solicited on the quantities of non-reactive hydrocarbon compounds referred to in item (1), above, which are found in exhaust emissions from current motor vehicles and motor vehicle engines and from vehicles and engines using advanced emission control systems or alternative engine designs likely to be used in future years. Comments are also sought on the extent to which adoption of advanced emission control systems or alternative engine designs may lead to changes in the photochemical reactivity of the remainder of the organic exhaust emissions.

(4) *Impact of total vs. reactive hydrocarbon standards.* Comments are solicited on the extent to which reactive hydrocarbon emission standards requiring reductions (from 1970 levels for light duty vehicles and from uncontrolled levels for heavy duty engines) equal to those required by presently promulgated standards for total hydrocarbons could be achieved at lower cost, with increased fuel economy, reduced maintenance requirements, or other savings to the prospective vehicle purchaser. Comments are also sought on the extent to which such cost savings might be offset by increased costs of motor vehicle compliance testing using reactive hydrocarbon measurement methods.

(5) *Lead time required for implementation of non-reactive hydrocarbon testing.* Comments are solicited on the lead-time which motor vehicle and motor vehicle engine manufacturers and other private emission testing laboratories would require to implement testing methods for non-reactive hydrocarbon exhaust emissions.

(6) *Impact of reactive hydrocarbon standards on other motor vehicle compliance efforts.* Comments are solicited on the extent to which exclusion of non-reactive hydrocarbon compounds including exclusion of methane, ethane, propane, acetylene, and benzene, referred to in item (1) above, in determining compliance with Federal hydrocarbon exhaust emission standards for new motor vehicles and new motor vehicle engines, would impact on the effective conduct of other current or planned motor vehicle emission compliance efforts. In particular, comments are sought on the extent to which State motor vehicle emission inspection and maintenance programs using non-dispersive infrared measurement techniques for hydrocarbon emissions measurements would be adversely affected by adoption of reactive exhaust hydrocarbon standards for new vehicles and engines.

Information responsive to this advance notice may be submitted in writing. All such written material should be submitted with five copies to the Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Office of Mobile Source Air Pollution Control (AW-455). To be effectively considered, all relevant material should be received not later than July 9, 1974. Comments submitted will be made available for public inspection during normal business hours at the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

This advance notice of proposed rule making is issued under the authority of Section 202, 206, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1(a)).

Dated: May 1, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-10807 Filed 5-9-74;8:45 am]

[40 CFR Part 180]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Binapacryl; Proposed Revocation

In the FEDERAL REGISTER of April 13, 1966 (31 FR 5723), the Secretaries of Agriculture and Health, Education, and Welfare issued a joint statement to the effect that all pesticides registered for use on food or feed on a no-residue, or zero tolerance, basis must have negligible residue tolerances established by December 31, 1970 or registration would be canceled. Susequently, it was agreed that, in general, registrations should be continued in those situations where petitions had been submitted prior to December 31, 1970, but that in no event would any such registration be continued without tolerance beyond December 31, 1971 (notice was published in the FEDERAL REGISTER of December 5, 1970; 35 FR 18550)). Because a number of these petitions were submitted just prior to the December 31, 1970 deadline and because amendments to the petitions were subsequently submitted, interim tolerances were established in connection with many such petitions pending the completion of final review and action. An order establishing interim tolerances for combined residues of the insecticide and fungicide binapacryl (2-*sec*-butyl-4,6-dinitrophenyl - 3 - methyl-2-butenoate) and its metabolite 2-*sec*-butyl-4,6-dinitrophenol in or on apples, grapes, and

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pears at 0.2 part per million was published in the FEDERAL REGISTER of August 30, 1972 (37 FR 17554) in connection with Pesticide Petition No. 8F0728 submitted by the FMC Corp., Middleport, NY 14105.

Accordingly, on the initiative of the Administrator and because data are inadequate to support the establishment of permanent tolerances and because FMC Corp. has withdrawn Pesticide Petition No. 8F0728 (notice of withdrawal was published in the FEDERAL REGISTER of February 26, 1974 (39 FR 7484))), it is concluded that the interim tolerances for combined residues of binapacryl and its aforesaid metabolite in or on apples, grapes, and pears at 0.2 part per million should be revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), (m), 68 Stat. 514, 517; 21 U.S.C. 346a (e), (m)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that § 180.319 *Interim tolerances* be amended by deleting the item "Binapacryl (2-*sec*-butyl-4,6-dinitrophenyl-3-methyl-2-butenoate) * * *" from the list of items in the table.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before June 10, 1974, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons may, on or before June 10, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: April 30, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-10308 Filed 5-9-74;8:45 am]

[40 CFR Part 190]

ENVIRONMENTAL RADIATION PROTECTION REQUIREMENTS

Normal Operations of Activities in the Uranium Fuel Cycle

Reorganization Plan No. 3, which became effective on December 2, 1970, transferred certain functions from the Atomic Energy Commission to the Environmental Protection Agency "* * * to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material." The Environmental Protection Agency is planning to issue generally applicable standards under this authority to assure protection of the general public from exposure to radiation from normal operations of the uranium fuel cycle. As used herein the uranium fuel cycle means all facilities or operations, including transportation, that are involved in the processing, fissioning, and reprocessing of uranium for the production of electrical power by light-water reactors, from the time uranium ore leaves the mine through the reprocessing of uranium after burnup in reactors and its eventual recycle back into fuel supply. Nuclear power generation based on recycled plutonium fuel, plutonium fuel, or thorium fuel are excluded from this consideration, as are mining operations, but future consideration of these activities is contemplated when appropriate.

Reorganization Plan No. 3 transferred to the Environmental Protection Agency the responsibility for establishing generally applicable environmental radiation standards for the protection of the general environment from radioactive materials. The responsibility for the implementation and enforcement of these EPA radiation standards remained with the Atomic Energy Commission. The standards considered herein will implement this division of responsibilities by stating generally applicable environmental radiation standards that normal operations of all facilities comprising the uranium fuel cycle should satisfy in the general environment outside their site boundaries; such standards will apply to environmental radiation resulting from the combined operations of the entire fuel cycle. The implementation of these standards through the issuance and enforcement of licenses for individual facilities, including technical specifications of effluent points, is expected to be carried out by the Atomic Energy Commission under its responsibilities. Therefore, EPA will reflect AEC's findings as to practicability of emission controls in its deliberations. In this regard, the AEC has announced in this issue of the FEDERAL REGISTER (39 FR 16902) its intent to consider rulemakings providing design and operating guidance for several types of facilities in the uranium fuel cycle to keep radioactive materials in effluents "as low as practicable." It is anticipated that EPA's generally applicable standards for the uranium fuel cycle will be effectively implemented through such design and operating guidance.

A major national effort has been underway for more than a decade to develop light-water-cooled nuclear reactors using enriched uranium for fuel for the generation of electrical power. The current rapid growth of this energy source also requires increases in associated activities and operations of the uranium fuel cycle. Increases are expected in the various operations involved in the processing of uranium ore to supply enriched uranium for the increasing generation of electricity by power reactors. Similar increases will also be necessary in fuel fabrication, fuel reprocessing, and transportation requirements.

The Agency believes that existing Federal Radiation Protection Guidance is not, by itself, entirely adequate to control the impacts associated with these expanded activities for three principal reasons: (1) the control of individual sources of radiation under existing guidance that radiation doses be maintained as far below Federal Radiation Protection Guides "as practicable" does not require sufficiently explicit consideration of total population dose, (2) existing guidance does not adequately deal with the long-term impact of the release of long-lived nuclides to the environment, and (3) a recent study by the National Academy of Sciences—National Research Council [1] concluded that current Federal Radiation Protection Guides for the average exposure of the population are "unnecessarily high."

The standards envisioned by this advance notice of rulemaking will be designed to provide environmental and public health protection from the potential effects of normal radioactive effluents from all operations within the uranium fuel cycle. These standards will include consideration of the particular health risks attributable to environmental radiation due to operations of the uranium fuel cycle and the general capability and costs of measures available to mitigate these risks. Although the standards will encompass abnormal but anticipated releases of radioactive material to the environment associated with effluent control measures, potential releases associated with the possibility of accidents involving the nuclear safety of facilities are beyond the scope of the proposed rulemaking, which is limited to environmental radiation due to normal operations.

A number of long-lived radionuclides are discharged to the environment as a result of planned operations within the fuel cycle, with consequent buildup of environmental levels and commitments for population dose that may persist for tens, hundreds, or thousands of years. The extent of population doses which may occur as a result of such commitments are related to the physical half-life of the radionuclide, the extent of its dispersion through environmental media, and the period over which it remains available in the environment so that it can interact with and expose humans and other species through air and water directly, by direct radiation, or by accumulation in and transferral through food chains. The Agency believes it is important to recognize this perspective of radiation risk in addition to that of annual exposure of individuals, which is an adequate measure only for shorter-lived radionuclides, and to consider appropriate standards to control such long-term dose commitments.

In addition to protection against environmental buildup of long-lived materials, standards are also contemplated to limit doses to the whole body or organs of individuals due to short-lived radioactive effluents.

On June 9, 1971, the Atomic Energy Commission proposed (36 FR 1113) an Appendix I to 10 CFR Part 50 setting forth new design and operation guides for light-water-cooled power reactors. After a careful examination of current waste treatment technology for such plants, EPA concluded at that time that the proposed design guides could be implemented so that design doses to individuals offsite would routinely be limited to less than 5 millirems per year, and that operational control measures could be taken to limit doses to the maximum exposed individual to well within the range of 20–40 millirems per year proposed as limiting conditions of operation. The Agency further decided for the time being not to exercise its authority to propose generally applicable standards for radioactive material in the general environment from light-water-cooled nuclear power reactors. These findings were stated by the Agency on February 23, 1972, at the rulemaking hearing on proposed Appendix I conducted by the Atomic Energy Commission, and will be reviewed along with additional information developed for the uranium fuel cycle.

With respect to standards for the uranium fuel cycle it is important both to limit the public health and environmental impact of radiation doses to the public due to planned releases to the lowest levels feasible and to keep key facilities in the uranium fuel cycle in operation in order to maintain the benefits to the health and welfare of society provided by a continuous uninterrupted supply of electric power. The Agency will attempt to strike a balance between these two goals in proposing standards for the uranium fuel cycle.

Pursuant to the Atomic Energy Act of 1954, as amended, advance notice is hereby given that proposed additions to 40 CFR Part 190 are contemplated specifying generally applicable standards for environmental levels of exposure and radioactive materials due to normal operations of activities in the uranium fuel cycle. Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be sent to the Criteria and Standards Division, Office of Radiation Programs, Environmental Protection Agency, Washington, D.C. 20460, on or before June 24, 1974. The agency also will consider the need for holding technical public hearings after the comment period ends. All communications received on or before June 24, 1974, will be considered by the Administrator before taking action on the proposed rule. Communications received in response to this notice may be examined in the Agency's Public Affairs Office, 4th and M Streets, SW., Washington, D.C. 20460.

JOHN QUARLES,
Acting Administrator.

MAY 6, 1974.

[FR Doc.74-10805 Filed 5-9-74;8:45 am]

[1] Report of the Committee on Biological Effects of Ionizing Radiation entitled "The Effects on Populations of Exposures to Low Levels of Ionizing Radiation" National Academy of Sciences, Washington, D.C. (November, 1972)

[13 CFR Part 108]

LOANS TO LOCAL AND STATE DEVELOPMENT COMPANIES

Proposed Change of Interest Rate for State Development Companies

Notice is hereby given that pursuant to authority contained in section 501 of the Small Business Investment Act of 1958 (SBI Act), Pub. L. 85-699, 27 Stat. 694, as amended, it is proposed to revise, as set forth below, § 108.501-1(f), Part 108 of Chapter 1, Title 13 of the Code of Federal Regulations.

Prior to the final adoption of such revision, consideration will be given to any comments. Such comments should be submitted in writing, in triplicate, to the Office of Community Development, Small Business Administration (SBA), Washington, D.C. 20416, on or before May 20, 1974.

Information: Revised § 108.501-1(f) would alter policy to establish the rate of interest charged for section 501 loans at the cost of money to the Treasury with an 8 percent maximum ceiling. This change is being made to adjust the program to today's economy.

It is proposed that Part 108 be amended to read as follows:

108.501-1 Section 501 Loans.

* * * * * *

(f) *Interest Rate.* The rate of interest on section 501 loans to state development corporations shall be at a rate (not to exceed 8 percent per annum) which shall be established annually at the beginning of each fiscal year by the Administer, taking into consideration the average market yield on outstanding U.S. Treasury obligations of comparable maturity, plus such additional charge, if any, to cover other costs of the program as the Administrator may determine and as consistent with the section 501 program.

THOMAS S. KLEPPE,
Administrator.

MAY 6, 1974.

[FR Doc.74-10996 Filed 5-9-74;10:11 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[CM-138]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on June 3, 1974 at 10 a.m. in Room 847 of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The agenda of the June 3 meeting concerns preparation for participation in meetings of a Working Party of CCITT Study Group 1 of the International Telecommunication Union to be held in Geneva, Switzerland, October 7–11, 1974, and will include a review of word count studies already made by the participants and plans for additional word count studies to be made during the next two months.

Members of the general public who desire to attend the meeting on June 3 will be admitted up to the limit of the capacity of the meeting room.

Dated: May 2, 1974.

RICHARD T. BLACK,
Chairman,
U.S. National Committee.

[FR Doc. 74-10867 Filed 5-9-74;8:45 am]

[CM-139]

NATIONAL REVIEW BOARD FOR THE CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

Notice of Meeting

The Executive Committee of the National Review Board for the Center for Cultural and Technical Interchange Between East and West (East-West Center) will meet in open session at 515 22nd Street NW., Washington, D.C., in Room 507 on June 3, 1974 from 9:30 a.m. to 4:30 p.m.

The Committee will discuss the incorporation of the East-West Center.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Executive Secretary by telephone in advance of the meeting. Telephone: 632-2841.

Dated: May 3, 1974.

CAROL M. OWENS,
Executive Secretary.

[FR Doc.74-10868 Filed 5-9-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[New Mexico 21356]

NEW MEXICO

Notice of Application

MAY 1, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company has applied for a 10¾ inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 S., R. 24 E.,
Sec. 28, SE¼, E½SW¼.

This pipeline will convey natural gas across 0.350 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above right-of-way application.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10863 Filed 5-9-74;8:45 am]

[New Mexico 20270, 20271, 20272 and 20279]

NEW MEXICO

Notice of Applications

MAY 1, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southern Union Gas Company has applied for four 2-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 11 W.,
Sec. 7, Lot 1, NE¼NW¼.
T. 31 N., R. 12 W.,
Sec. 26, SW¼NE¼, S½NW¼, N½SW¼.

These pipelines will convey natural gas across .804 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above four right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10865 Filed 5-9-74;8:45 am]

[New Mexico 19888 and 19890]

NEW MEXICO

Notice of Applications

MAY 1, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southern Union Gathering Company has applied for two 2-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 10 W.,
Sec. 7, lot 9;
Sec. 20, lots 4, 5, 6, 7.

These pipelines will convey natural gas across .465 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above two right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10866 Filed 5-9-74;8:45 am]

OUTER CONTINENTAL SHELF OFFSHORE EAST TEXAS AND LOUISIANA

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR 3301.3 (1972), nominations are hereby requested for areas in the Outer Continental Shelf Offshore East Texas and Louisiana (Tentative Sale # 38) for possible oil and gas leasing under the Outer Continental Shelf Lands Act [43 U.S.C. 1331-1343 (1970)]. Nominations will be considered for any or all of the following mapped areas:

1. All that area shown on Outer Continental Shelf Leasing Maps—Texas No. 5, 5B, 6, 6A, 7, 7A, 7B and 7C. These eight maps are now arranged in a set, which sells for $5.

2. All that area shown on Outer Continental Shelf Leasing Maps—Louisiana No. 1 through No. 11A. This is a set of 26 maps, which sells for $15.

3. All that area on Outer Continental Shelf Leasing Map NG 15-1 (Bay City) landward of the 600 meter depth contour and east of the east boundary of the E 60 range of blocks (approximate longitude 95°08.1' W). This is an individual map, available at $2.

4. All that area on Outer Continental Shelf Leasing Maps NG-15-2 (Garden Banks), NH 15-12 (New Orleans), NG 15-3 (New Orleans South No. 1), NH 16-7 Mobile South No. 1, and NH 16-10 (Mobile South No. 2) landward of the 600 meter depth contour. These are available individually at a price of $2 each.

All these maps may be purchased from the Manager, Gulf of Mexico Outer Continental Shelf Office, Bureau of Land Management, Suite 3200, The Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113. All nominations must be described in accordance with the Outer Continental Shelf Leasing Maps prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

In addition to requesting nominations by industry of tracts for possible oil and gas leasing within the specified areas, this notice also requests particular geological, environmental, biological, archaeological, socio-economic or other information which might bear upon leasing and development within this general area. Information on these subjects will be helpful in the final section of tracts pursuant to 43 CFR 3301.4. This information is sought from Federal, State and local governments; industry; universities; research institutes; environmental organizations; and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision as to whether or not to offer particular tracts within these areas for lease. Comments relating to general matters which would be applicable to oil and gas operations in any part of the Outer Continental Shelf are not sought at this time.

Nominations and comments must be submitted not later than June 28, 1974, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf—East Texas-Louisiana" or "Comments on leasing in the Outer Continental Shelf—East Texas-Louisiana," as appropriate. They must be submitted to the Director, Attention 730, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Manager, Geological Survey, Suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, Louisiana 70002 and to the Manager, Gulf of Mexico Outer Continental Shelf office, Bureau of Land Management at the address cited above.

Tracts will be selected for competitive bidding pursuant to the established Departmental procedures and only after compliance with all requirements of the National Environmental Policy Act of 1969 [42 U.S.C. 4321-4347 (1970)]. Notice of any tracts selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date and hour at which bids will be received and opened.

CURT BERKLUND,
Director,
Bureau of Land Management.

Approved: May 7, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.74-10799 Filed 5-9-74;8:45 am]

National Park Service

[Order No. 1]

ADMINISTRATIVE OFFICER AND ADMINISTRATIVE ASSISTANT

Golden Gate National Recreation Area; Delegation of Authority

Delegation of Authority Regarding Execution of Contracts for Supplies, Construction, Equipment and Services.

1. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $25,000 for supplies, equipment and services, including construction in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

2. *Administrative Assistant.* The Administrative Assistant may execute and approve contracts not in excess of $2,000 for supplies, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478) dated March 22, 1973: Western Region Order No. 7 (37 FR 6326) dated March 28, 1972.)

Dated: February 14, 1974.

WILLIAM J. WHALEN,
Superintendent, Golden Gate National Recreation Area.

[FR Doc.74-10801 Filed 5-9-74;8:45 am]

[Order No. 1]

ADMINISTRATIVE OFFICER AND ADMINISTRATIVE ASSISTANT

Minute Man National Historical Park; Delegation of Authority

Delegation of Authority Regarding Execution of Contracts and Purchase Orders for equipment, supplies or services.

1. *Administrative Officer.* The Administrative Officer, Minute Man National Historical Park, may execute, approve and administer contracts not in excess of $2,000 for supplies, equipment or services, including construction, in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Officer in behalf of any area under the administration of Minute Man National Historical Park.

2. *Administrative Assistant.* The Administrative Assistant, Minute Man National Historical Park, may issue Purchase Orders not in excess of $500 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Administrative Assistant in behalf of any area under the administration of Minute Man National Historical Park.

3. This order supersedes Boston Group Order No. 2 dated November 27, 1972, (38 FR 810).

(National Park Service Order No. 77, (38 FR 7478) as amended; North Atlantic Region Order No. 1, (39 FR 3695)).

Dated: February 19, 1974.

DAVID L. MOFFITT,
Superintendent, Minute Man National Historical Park.

[FR Doc.74-10800 Filed 5-9-74;8:45 am]

[Order No. 6]

ADMINISTRATIVE OFFICER AND PURCHASING AGENT

Colonial National Historical Park, Va.; Delegation of Authority

Delegation of Authority Regarding Execution of Contracts and Purchase Orders for Equipment, Supplies, or Services.

1. *Administrative Officer.* The Administrative Officer, Colonial National Historical Park, may execute, approve, and administer contracts not in excess of $25,000 for supplies, equipment or services including construction, in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

2. *Purchasing Agent.* The Purchasing Agent, Colonial National Historical Park, may issue Purchase Orders not in excess of $2,500 for supplies, equipment or services in conformity with applicable regulations and statutory authority and sub-

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ject to the availability of appropriated funds.

3. This order supersedes Order No. 5 dated May 22, 1972, (37 FR 12735).

(National Park Service Order No. 77, (38 FR 7478) as amended; Mid-Atlantic Region Order No. 1 (39 FR 3694).)

Dated: February 11, 1974.

JAMES R. SULLIVAN,
Superintendent, Colonial National Historical Park.

[FR Doc.74-10804 Filed 5-9-74;8:45 am]

[Order No. 2]

CLERK, TYPING

Guilford Courthouse National Military Park; Delegation of Authority

Section 1. Clerk, Typing. The Clerk, Typing may execute and approve contracts not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Clerk, Typing in behalf of any area administered by the Superintendent, Guilford Courthouse National Military Park.

Section 2. Re-Delegation. The authority delegated in this Order Number may not be re-delegated.

Section 3. Revocation. This order supersedes Order No. 1 issued August 29, 1963 and published in 28 FR 9482.

(National Park Service Order No. 77 (38 FR 7478), as amended Southeast Region Order No. 5 (37 FR 7721), as amended).

Dated: December 3, 1973.

WILLARD W. DANIELSON,
Superintendent.

[FR Doc.74-10802 Filed 5-9-74;8:45 am]

[Order No. 2]

ADMINISTRATIVE ASSISTANT

Ocmulgee National Monument, Ga.; Delegation of Authority

Delegation of Authority Regarding Execution of Purchase Orders for Supplies, Equipment or Services.

1. *Administrative Assistant.* The Administrative Assistant may execute and approve purchase orders not in excess of $2,000 each for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

2. *Revocation.* This order supersedes Order No. 1 issued May 15, 1963 (28 FR 4859).

(National Park Service Order No. 77 (38 FR 7478), as amended, Southeast Region Order No. 5 (37 FR 7721), as amended.)

Dated: December 19, 1973.

W. P. CRAWFORD,
Superintendent, Ocmulgee National Monument.

[FR Doc.74-10803 Filed 5-9-74;8:45 am]

Office of the Secretary

[INT FES 74-20]

SANTA YNEZ UNIT, SANTA BARBARA CHANNEL, OFF CALIFORNIA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the U.S. Geological Survey, Department of the Interior, has prepared a final environmental impact statement on an Exxon Company, U.S.A. proposed plan of development of 17 Outer Continental Shelf oil and gas leases known as the Santa Ynez Unit, Santa Barbara Channel, off California.

Reading copies of the three-volume final environmental impact statement on "Proposed Plan of Development, Santa Ynez Unit, Santa Barbara Channel, off California" are available at the following places:

U.S. Geological Survey
Public Inquiries Office
National Center, Mail Stop 341
Reston, Virginia 22092

U.S. Geological Survey Library
Building No. 5, Pacific Coast Center
345 Middlefield Road
Menlo Park, California 94025

U.S. Geological Survey Library
Building 25, Denver Federal Center
Denver, Colorado 80225

U.S. Geological Survey
Public Inquiries Office
1012 Federal Building
1961 Stout Street
Denver, Colorado 80202

U.S. Geological Survey
Public Inquiries Office
7638 Federal Building
300 North Los Angeles Street
Los Angeles, California 90012

U.S. Geological Survey
Public Inquiries Office
108 Skyline Building
508 Second Avenue
Anchorage, Alaska 99501

U.S. Geological Survey
Public Inquiries Office
504 Custom House
555 Battery Street
San Francisco, California 94111

Santa Barbara City Library
Anapamu & Anacapa Streets
Santa Barbara, California 93101

Upon written request individual copies may be obtained from the Chief, Conservation Division, U.S. Geological Survey National Center, Mail Stop 650, Reston, Virginia 22092, or from the Area Oil and Gas Supervisor, 7744 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

ROYSTON C. HUGHES,
Acting Secretary of the Interior.

[FR Doc.74-10864 Filed 5-9-74;8:45 am]

[Int (Fes 74-22)]

GUILFORD COURTHOUSE NATIONAL MILITARY PARK, NORTH CAROLINA

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for proposed Development Concept Plan—Guilford Courthouse National Military Park, North Carolina.

The final environmental statement considers the development of a new visitor center; sequential tour routes for foot, bicycle and auto travel; historic restorations; improved utilities and miscellaneous site improvements.

Copies of the final environmental statement are available from or for inspection at the following locations:

Southeast Region
National Park Service
3401 Whipple Avenue
Atlanta, Georgia 30344

Office of the Superintendent
Blue Ridge Parkway
P.O. Box 7606
Asheville, North Carolina 28807

Office of the Superintendent
Guilford Courthouse National Military Park
P.O. Box 9334
Greensboro, North Carolina 27408

Dated: May 9, 1974.

W. W. LYONS,
Deputy Under Secretary of the Interior.

[FR Doc.74-11038 Filed 5-9-74;11:49 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

CERTAIN STOCKYARDS AND LIVESTOCK MARKETS

Approval and of Withdrawal of Approval

The regulations in 9 CFR Part 76, as amended, contain restrictions on the interstate movement of swine and swine products to prevent the spread of hog cholera and other swine diseases. This document adds certain livestock markets to the list of livestock markets approved for purposes of the regulations on the basis of a determination of their eligibility for such approval under § 76.18 of the regulations and removes from the list certain other livestock markets which have been found no longer to qualify for such approval.

The following livestock markets preceded by an asterisk are specifically approved to handle any class of swine and those livestock markets not preceded by an asterisk are specifically approved to handle slaughter swine only:

GEORGIA

Bainbridge Auction Market.	Bainbridge.
County Line Milling Company.	Pelham.
Dawson Livestock Company.	Dawson.
Effingham County Stockyard.	Springfield.
Flint River Livestock Market.	Bainbridge.
Forshee Livestock Company Inc.	Statesboro.
Fortner Buying Station	Kite.
*Grady County Swine Producers Association.	Cairo.
Grady Stockyards, Inc	Cairo.
*Lolli Sales Pavilion	Macon.
Mitchell County Livestock Market.	Camilla.
Mt. Vernon Hog Market	Mt. Vernon.
Seaboard Stockyard	Colquitt.

ILLINOIS

*Interstate Producers Livestock Association.	Fieldon.

INDIANA

*Huntington Livestock Company.	Huntington.

IOWA

Heinold Hog Market	Birmingham.
Heinold Hog Market	Donnellson.
*Middletown Auction Sales, Inc.	Middletown.
*Wayland Livestock Auction Market.	Wayland.

KANSAS

*Junction City Livestock Sales, Inc.	Junction City.

KENTUCKY

Adair County Stockyards	Columbia.
Brown Livestock Company.	Clinton.
Farmers Livestock Market.	Morganfield.
*Kentucky-Tennesse Livestock Market.	Guthrie.
*Madison Sales Co., Inc	Richmond.
*Maysville Stockyard	Maysville.
*Murray Livestock Co	Murray.
*Ohio Valley Producers Livestock Association.	Clinton.
*Rockcastle Feeder Pig Sales.	Broadhead.
*Schneider & Colston Sale Barn.	S. Walton.
Square Deal Slaughter Swine Stockyards.	Nancy.
*Winchester Stockyards	Winchester.

MINNESOTA

*Farmers Livestock Auction Market.	Caledonia.
*Geneva Livestock Exchange.	Geneva.
*Jackson Livestock Exchange, Inc.	Jackson.
*Lamberton Stockyards	Springfield.
Morrell Hog Buying Station.	Madison.
*So. St. Paul Union Stockyards.	So. St. Paul.
*Spring Valley Sales Co., Inc.	Spring Valley.
*Wisconsin Feeder Pig Marketing Co-op.	Perham.

MISSISSIPPI

*Glynn Robinson Stockyard.	West Point.
Liberty Stockyard	Liberty.
*Triangle Stock Yard, Inc.	Columbus.

MISSOURI

Armour & Company	Bethany.
*Buffalo Sale Barn	Buffalo.
*Callaway Stock Sales Company.	Fulton.
*Central Missouri Sales Co., Inc.	Sedalia.
*Edina Auction Market, Inc.	Edina.
*Farmers Auction Company.	Mountain View.
*Four State Livestock Auction Center.	Diamond.
Kleen-Leen, Inc	Jackson.
*Licking Livestock Auction.	Licking.
*Olean Livestock Market	Olean.
Otto Hollon Hog Market	Milan.
*Potosi Livestock Market	Potosi.
*St. James Livestock Auction.	St. James.

MISSOURI—Continued

*Southern Missouri Hog Sales, Inc.	Mountain Grove.
Swift Fresh Meats Company.	Eolia.
*Ireland & Thorne Livestock Market, Inc.	Trenton.

NORTH CAROLINA

D. F. Foust Livestock Auction Market, Inc.	Greensboro.
Lumberton Auction Company.	Lumberton.
*MCM Livestock, Inc	Whiteville.

NORTH DAKOTA

*Watford City Livestock Auction.	Watford City.

OHIO

Filz Rancho, Inc	Greenville.
Producers Livestock Association.	Woodville.

TENNESSEE

Algood Stockyard	Algood.
Nashville Union Stockyard.	Nashville.
So. Memphis Stock Yards Company.	Memphis.

TEXAS

*Pantex Feeder Pig Sale	Darrouzett.

VIRGINIA

Farmers Livestock Market, Inc. of Tazewell, Virginia.	Tazewell.

WEST VIRGINIA

*United Livestock Sales Company.	Parkersburg.

WYOMING

*Stockman's Livestock Company.	Torrington.

The following livestock markets are *deleted* from the specifically approved lists:

DELAWARE

*C. Stanley Short, Inc	Kenton.

GEORGIA

Parkers Stockyard	Statesboro.
Waycross Livestock Market.	Waycross.

ILLINOIS

Krey Stockyard	Pleasant Hill.

IOWA

*Anthon Pig Company	Anthon.
Delbert Bullard	West Point.
Milton Hog Company	Milton.
*Smith Feeder Pig Company.	Sheldon.
*Wayland Sales Company, Inc.	Wayland.

KENTUCKY

Brown and Whayne Livestock Company.	Clinton.
Lebanon Stockyards, Inc	Lebanon.
*New Walton Stockyards	So. Walton.
Walton Sales Barn	Walton.

MISSOURI

Krey Stockyards	Eolia.
*Licking Livestock Sale	Licking.
*North Missouri Sale Pavilion.	Trenton.
Penn Packing Company—Hog Buying Station.	Unionville.
Potosi Livestock Market	Potosi.

MISSISSIPPI

*West Point Stockyards, Inc.	West Point.

MONTANA

*Public Auction Yards	Billings.

NORTH CAROLINA

*Cape Fear Livestock Market, Inc.	Fayetteville.
J & R Hog Market	Lumberton.
Valleydale Hog Buying Station.	Henderson.

OHIO

Filz Ranch Livestock	Greenville.
Ohio Valley Livestock Corp. d/b/a Lewisburg Livestock Yard.	Lewisburg.

TENNESSEE

Henderson Sales Co	Henderson.
*Hughes Feeder Pigs	Guys.
*Mid-South Feeder Pigs Center.	Lebanon.

TEXAS

Breckenridge Stockyards	Breckenridge.
Clifton Livestock Commission Company, Inc.	Clifton.
Meridian Livestock Auction	Meridian.
Moore's Livestock Commission Company.	McKinney.
Port City Stockyards Company.	Sealy.

WEST VIRGINIA

Weston Livestock Sales Company.	Weston.

WYOMING

*Wyoming Cow Palace Auction.	Torrington.

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 5, 23 Stat. 32, as amended; sec. 1, 75 Stat. 481; sec. 1, 32 Stat. 791, as amended; secs. 3 and 4, 33 Stat. 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 114g, 120, 125, 126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141).)

Effective date. The foregoing notice shall become effective on May 9, 1974.

This action imposes certain restrictions necessary to prevent the spread of hog cholera and relieves certain restrictions presently imposed. It should become effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative, procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this action are impracticable and contrary to the public interest, and good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of May, 1974.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-10827 Filed 5-9-74; 8:45 am]

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Commodity Credit Corporation

[Amdt. 9]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1974)

The CCC Monthly Sales List for the fiscal year ending June 30, 1974, published in 38 FR 19259 is amended as follows:

1. The last sentence of section 1(b) entitled "General" published in 38 FR 19259 as amended in 38 FR 22808 and 26012 and 39 FR 10305 is revised to read as follows:

Interest at 11½ percent will be charged for delinquent payments on consignment and track sales of grain from the date of sale to the date payment is received.

2. The sixth sentence of section 1(c) entitled "General" published in 38 FR 19259 as amended in 38 FR 22808 and 26102 and 39 FR 10305 is revised to read as follows:

"Interest to date of payment will be at 11½ percent."

Effective Date: 2:30 p.m. (e.d.t.) April 30, 1974.

Signed at Washington, D.C. on May 3, 1974.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.74-10829 Filed 5-9-74;8:45 am]

Forest Service

JACKPINE GULCH TIMBER SALE

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Jackpine Gulch Timber Sale, Forest Service Report Number USDA-FS-FES (Adm.) 74-61.

The environmental statement concerns a proposed sale of 7,930 MBF of timber from 19 cutting blocks covering 964 acres located in Madison County, State of Montana, Madison Ranger District, Beaverhead National Forest. The sale will require construction of 11.3 miles of permanent single lane road with turnouts with a safe driving speed of 10 miles per hour. An additional 11.8 miles of temporary roads will be required for access into and within the individual cutting blocks. Timber harvested in clearing road right-of-way will add 480 MBF of timber to the total cut.

This final environmental statement was filed with CEQ on May 2, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave., SW
Washington, D.C. 20250

USDA Forest Service
Northern Region
Federal Building, Room 3077
Missoula, MT 59801

USDA, Forest Service
Beaverhead National Forest
Corner Highway 41 and Skihi St.
P.O. Box 1258
Dillon, MT 59725

USDA Forest Service
Madison Ranger District
Ennis, MT 59729

A limited number of single copies are available upon request to Charles R. Hartgraves, Forest Supervisor, Beaverhead National Forest, P.O. Box 1258, Dillon, Montana 59725.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

KEITH M. THOMPSON,
Acting Regional Forester, Northern Region, Forest Service.

MAY 2, 1974.

[FR Doc.74-10850 Filed 5-9-74; 8:45 am]

DEPARTMENT OF COMMERCE

Social and Economic Statistics Administration

ANNUAL SURVEY ON POLLUTION ABATEMENT EXPENDITURES

Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to initiate an annual survey on pollution abatement expenditures for the year 1973 and for each year thereafter, under the authority of Title 13, United States Code, sections 181, 224 and 225. This survey is significant in the manufacturing area and on the basis of information and recommendations received by the Bureau of the Census the data will have significant application to the needs of the public and industry and are not available from non-governmental or other governmental sources.

The amount actually spent for pollution abatement will have a very important impact on the U.S. economy. The magnitude of these expenditures requires that they be given special consideration in forecasts and in general background for economic policies. The Census Bureau in cooperation with the Bureau of Economic Analysis is preparing to develop comprehensive, consistent estimates of actual expenditures for pollution abatement. These estimates will be compatible with the framework of Gross National Product (GNP) accounts and, hence, will be most useful for analyses by government, industry and the general public.

This survey, if conducted, shall begin not earlier than June 10, 1974.

In order to evaluate the content of the questionnaire, the Bureau of the Census has conducted a preliminary study. A sample of over 1,100 establishments was selected in order to determine the reportability of the questionnaire. Based on the review of the responses to this survey, a more complete study is feasible.

Copies of the proposed form are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey should be submitted in writing to the Director of the Census Bureau by June 10, 1974, and will receive consideration.

Dated: May 7, 1974.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

[FR Doc.74-10853 Filed 5-9-74;8:45 am]

VOTING RIGHTS

Determination of Director of the Bureau of the Census

In accordance with section 4(b)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973b) as amended by section 4 of the Voting Rights Act Amendment of 1970 (Pub. L. 91-285) and the determination of the Attorney General made pursuant to the Act published in the August 1, 1970 issue of the FEDERAL REGISTER (35 FR 12354) the Director of the Bureau of the Census has determined that in the following political subdivisions considered as a separate unit less than 50 per centum of the persons of voting age residing therein voted in the presidential election of November 1968.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

POLITICAL JURISDICTIONS WITH LESS THAN 50 PERCENT VOTING IN PRESIDENTIAL ELECTION OF NOVEMBER 1968

CONNECTICUT

New Haven County:	Tolland County:
Southbury town	Mansfield town
New London County:	
Groton town	

NEW HAMPSHIRE

Cheshire County:	Hillsborough County:
Rindge town	Antrim town
Coos County:	Merrimack County:
Millsfield twp.	Boscawen town
Pinkhams grant	Rockingham County:
Stewartstown town	Newington town
Stratford town	Sullivan County:
Grafton County:	Unity town
Benton town	

MAINE

Aroostook County:	Kennebec County:
Caswell plantation	Chelsea town
Limestone town	Lincoln County:
Ludlow town	Somerville plantation
Nashville plantation	Penobscot County:
Reed plantation	Carroll plantation
Woodland town	Charleston town
Unorg. Terr. of Connor	Webster plantation
Cumberland County:	Waldo County:
New Gloucester town	Waldo town
Hancock County:	Washington County:
Sullivan town	Beddington town
Winter Harbor town	Cutler town

MASSACHUSETTS

Barnstable County:	Middlesex County:
Bourne town	Ayer town
Sandwich town	Shirley town
Franklin County:	Norfolk County:
Sunderland town	Wrentham town
Hampshire County:	Worcester County:
Amherst town	Harvard town
Belchertown town	

[FR Doc.74-10854 Filed 5-9-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

ASBESTOS IN SURFACE WORK AREAS OF UNDERGROUND COAL MINES AND SURFACE COAL MINES

Occupational Exposure; Public Hearing

Whereas, on November 7, 1972, a proposed mandatory health standard for occupational exposure to asbestos in surface work areas of underground coal mines and surface coal mines was proposed in the FEDERAL REGISTER (37 FR 23645); and

Whereas, on April 10, 1974, the Secretary of the Interior published a notice specifying that prior to the last day of the period fixed for the submission of comments, he received written objections to the standard stating the grounds for such objections with sufficient particularity and requesting a public hearing on such objections (39 FR 1303).

Now, therefore, pursuant to section 101(g) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811 (g)) a public hearing will begin at 9:30 a.m. on June 5, 1974, in Conference Room E of the Department of Health, Education, and Welfare's Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, for the purpose of receiving relevant evidence on the standard proposed for occupational exposure to asbestos in surface coal mines and surface work areas of underground coal mines.

Dr. Raymond T. Moore, Associate Director, National Institute for Occupational Safety and Health is designated as the Chairman of the hearing.

The hearing shall be conducted in an informal but orderly manner. Persons making statements need not be sworn or make affirmation. Each such person shall be given the opportunity to make a statement concerning the issues under consideration, an opportunity to make supplementary statements, which may include comments on or rebuttal of other persons' views, and an opportunity to make recommendations concerning the issues in any of the statements. Any party may appear in person or by counsel.

A verbatim record of the proceedings of the hearing sessions will be maintained. All written statements, charts, tabulations, and other data will be received in the record. The Chairman shall submit to the Secretary of Health, Education, and Welfare the transcript of the hearing and all material submitted for the record together with recommended findings of fact. Within 60 days after the completion of the hearing, the Secretary will make findings of fact concerning the issues presented at the hearing which will be made public. Thereafter, a standard for occupational exposure to asbestos in surface coal mines and surface work areas of underground coal mines, with or without modifications, as appropriate, will be transmitted by the Secretary to the Secretary of the Interior for promulgation.

Persons who wish to participate in the hearing shall send written notification to Dr. Raymond T. Moore, NIOSH, Room 3-50, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, not later than 7 days preceeding the hearing stating the time requested for their respective presentations.

Dated: May 3, 1974.

MARCUS M. KEY,
Director, National Institute for Occupational Safety and Health.

[FR Doc.74-10849 Filed 5-9-74;8:45 am]

Office of Education

ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Developing Institutions will be held June 13 and 14, 1974, from 9 a.m. to 4 p.m. in Room 2328, Regional Office Building 3, 7th & D Streets, SW., Washington, D.C.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (Pub. L. 92-463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of that Title.

The meeting of the Council shall be open to the public. Interested persons who wish to speak at the meeting are requested to write to Dr. Preston Valien on or before June 6. The proposed agenda includes (1) discussion of junior college funding (2) presentations by various junior college associations (3) funding decisions of the Basic and Advanced Institutional Development Programs. Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Director of the College and University Unit, BPE, located in Room 4682, ROB, 7th & D Streets, SW.

Signed at Washington, D.C. on May 7, 1974.

PRESTON VALIEN.

[FR Doc.74-10851 Filed 5-9-74;8:45 am]

NATIONAL ADVISORY COMMITTEE ON THE HANDICAPPED

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the National Advisory Committee on the Handicapped will be held on May 29-31, 1974, at 8:30 a.m., in the Captain's Room, Channel Inn, 650 Water Street, SW., Washington, D.C.

The National Advisory Committee on the Handicapped is established under (20 U.S.C. 123g) section 448(b) of the General Education Provisions Act. The Committee is established to review the administration and operation of programs for the handicapped in the Office of Education, and make recommendations for their improvement.

The meeting of the Committee shall be open to the public. The proposed agenda includes discussions regarding implementation of NACH 1974 Annual Report Recommendations; open discussion by Members of organization, goals, objectives and tasks of NACH; review of 1974 Annual Report; theme for 1975 Annual Report; and reports from members who attended National Conventions. Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the Deputy Commissioner, Bureau of Education for the Handicapped, located in Room 2100, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

Signed at Washington, D.C. on May 6, 1974.

EDWIN W. MARTIN,
Deputy Commissioner, Bureau of Education for the Handicapped.

[FR Doc.74-10852 Filed 5-9-74;8:45 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Notice of Public Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on May 22-24, 1974, at 9:00 a.m. local time, in the auditorium of the HEW-North Building, 330 Independence Avenue SW., Washington, D.C.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities concerning the quality of training offered by educational institutions and programs. It also serves to advise the Commissioner in fulfilling his

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statutory obligation to publish a list of State agencies which he has determined to be reliable authorities concerning the quality of public postsecondary vocational education in their respective States, pursuant to section 438(b) of the Higher Education of 1965, as amended by Pub. L. 92–318.

The meeting of the Committee shall be open to the public on May 22 through the early afternoon of May 23, for presentations by representatives of nationally recognized and State agencies which have petitions for recognition pending before the Committee, and for review of a variety of policy items. The public session will also include presentations by the American Council on Education and the Department of Defense relevant to the request by the Defense Intelligence School for degree-granting authority.

Under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and clauses (4) and (6) of subsection (b) of section 552(b) of Title 5 of the United States Code, the meeting will be closed to the public from approximately 2 p.m. on Thursday, May 23, through the session on May 24. Closure of the meeting is to allow a free and frank discussion of the pending petitions for recognition and renewal of recognition. These petitions contain confidential financial information of institutions. In addition, matters are discussed, the release of which would amount to a clearly unwarranted invasion of personal privacy of individuals. These portions of the petitions are exempt from disclosure under 5 U.S.C. 552(b) (4) and (6). A discussion of the petitioner and the working papers necessarily ranges back and forth from exempt and nonexempt material, and the exempt portion cannot be separated out during the Committee's deliberation. Records shall be kept of all Committee proceedings.

Signed at Washington, D.C., on May 7, 1974.

JOHN R. PROFFITT,
Director, Accreditation and Institutional Eligibility Staff, Office of Education.

[FR Doc.74–10821 Filed 5–9–74;8:45 am]

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Notice of Extension of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 411 (b)(1) of Title IV, Part A, Subpart 1, of the Higher Education Act of 1965 as amended (20 U.S.C. 1070a(b)(1)), the final cutoff date for the receipt of applications for the determination of expected family contributions for the 1973–1974 Educational Opportunity Grant Program is being extended for students attending post-secondary institutions which are located in areas that have been declared to have suffered a "major disaster" as defined in section 2(a) of the Act of September 3, 1950 (42 U.S.C. 1855a(a)), and which have suffered significant damage as a result of such a disaster occurring between April 1, 1974 and April 10, 1974. The previous cutoff date of April 1, 1974 was published in the FEDERAL REGISTER of February 27, 1974 (39 FR 7608).

Applications for determining expected family contributions for the 1973–74 academic year from students attending institutions described above must be received by the Office of Education at the following address, BEOG, P.O. Box B, Iowa City, Iowa 52240, on or before June 1, 1974.

An application sent by mail will be considered received on time if the application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service.

(20 U.S.C. 1070a(b)(1)).

(Catalog of Federal Domestic Assistance No. 13.539, Basic Educational Opportunity Grant Program)

Dated: May 7, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74–10879 Filed 5–9–74;8:45 am]

EMERGENCY SCHOOL AID

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the National Advisory Council on Equality of Educational Opportunity will convene at 9 a.m. on Friday, June 28 and reconvene at 9 a.m. on Saturday, June 29 at the Miami Beach Hyatt House, 5445 Collins Avenue, Miami Beach, Florida.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92–318, Title VII). The Council is established to advise the Assistant Secretary for Education with respect to the operation of programs under the Act, and to review the operation of such programs.

The meeting of the Council shall be open to the public. The proposed agenda includes Subcommittee Reports, a report of the Site Visitations, a further recommendation on evaluation, a discussion on a Policy Statement to be included in the 2nd Interim Report, a discussion on a recommendation on minority group isolation, and there will be a further sampling of video tapes on Bilingual education.

Signed at Washington, D.C. on May 7, 1974.

HERMAN R. GOLDBERG,
Associate Commissioner for School Systems.

[FR Doc.74–10878 Filed 5–9–74;8:45 am]

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (34 FR 1279, January 25, 1969, as amended), is hereby further amended to reflect changes in the Office of Reseach and Demonstrations, and the Rehabilitation Services Administration. For such purposes, Section 5–B is amended as follows:

Delete the "Office of Research and Demonstrations", "Division of Studies on Rehabilitation and Employability", "Division of Studies on Social Services and Life Support," and "Division of Research Utilization," and substitute therefor the following:

OFFICE OF RESEARCH AND DEMONSTRATIONS (5K12)

Advises the Associate Administrator for Planning, Research, and Evaluation (OPRE) on all domestic and international R&D activities. Establishes SRS policy regarding domestic and international R&D management, review, and planning. Establishes priorities, plans, and implements the domestic and international R&D program authorized by those portions of the Social Security Act administered by SRS, dealing with income maintenance, medical assistance, and social services. Assesses the priorities, plans and objectives of, and reviews and evaluates the overall domestic and international R&D program authorized by the Rehabilitation Act of 1973. Provides for the development of policies and guidelines concerning domestic and international R&D operations throughout SRS. Insures appropriate input of R&D results into program policy, the planning process, and the development of improved service delivery at the State level. Responsible for coordinating SRS participation in international research and exchange activities and for insuring conformance to U.S. foreign policy.

Delete, under the heading *Rehabilitation Services Administration*, that portion which reads, "; collaborates in the conduct of research and demonstration programs to evolve new approaches toward more meaningful lives for the handicapped;", and substitute therefor the following: "; conducts a program of research and demonstrations to evolve new approaches toward more meaningful lives for the handicapped;".

Delete, under the heading, *Office of Planning and Policy Development*, that portion which reads, "Designs and directs evaluation activities of all programs and provides liaison and coordination of agency input to the rehabilitation and habilitation aspects of the SRS research and demonstration program.", and substitute therefor the following: "Designs and directs evaluation activities of all RSA programs."

Add, after "Office of Planning and Policy Development" the following:

OFFICE OF REHABILITATION RESEARCH AND DEMONSTRATIONS (5503)

Directs and manages the overall Research and Demonstrations program of the Rehabilitation Services Administration so that it is responsive to program goals and needs, and to overall SRS policy guidance on R&D objectives. Rehabilitation Research and Demonstration grants or contracts are made for the purpose of planning and conducing research, demonstration and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps. Responsible for preparation and implementation of a yearly and five-year plan for domestic and international rehabilitation research and demonstrations, consistent with legislation and policy and priority guidelines set by the Administrator of SRS. Suggests new and expanded program goals to meet the needs of the handicapped, especially the severely disabled. In coordination with the Associate Administrator, OPRE, maintains relationships with Rehabilitation Services Administration-related research organizations including The National Science Foundation, The National Academy of Sciences and other domestic and international agencies. In coordination with OPRE, conducts research and demonstrations under provisions of Pub. L. 86–610 and section 202(b)5 of the Rehabilitation Act of 1973 as well as interchange of experts and technical assistance under the same provisions.

Dated: May 7, 1974.

S. H. CLARKE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74–10884 Filed 5–9–74;8:45 am]

Public Health Service

ASSISTANT SECRETARY FOR HEALTH

Delegation of Authority

Notice is hereby given that on April 30, 1974, the Secretary delegated to the Assistant Secretary for Health all of the authority vested in the Secretary to perform all functions under sections 627(b) and 627(c) of Title VI and section 1308(c) of Title XIII of the Public Health Service Act, as amended, with regard to: (1) the sale of loans made under Title VI for the modernization or construction of a public hospital or other health facility; (2) the sale of loans made under Title XIII to assist public or nonprofit private health maintenance organizations in meeting their operating costs; and (3) entering into agreements with purchasers concerning the terms and conditions of such sales.

This authority may be redelegated by the Assistant Secretary for Health, as appropriate, to a head of one of the six principal operating subdivisions of the Public Health Service. This authority may not be further redelegated.

Dated: May 2, 1974.

S. H. CLARKE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.74–10793 Filed 5–9–74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–74–224]

PROCEDURES FOR IMPLEMENTING THE LEAD-BASED PAINT ACT

Notice of Place of Public Hearing

On April 8, 1974, HUD published a notice of public hearing in the FEDERAL REGISTER, 39 FR 12774–5, in connection with the development of procedures for implementing the Lead Based Paint Poisoning Prevention Act, as amended by Pub. L. 93–151, and indicated therein that the hearing place would be announced in a later publication.

This is to announce that the hearing will be held as scheduled, to begin on May 20, 1974, at 9 a.m. and to end no later than May 24, 1974, in the auditorium of the General Services Administration Building located at 18th and F Streets, NW., Washington, D.C.

Dated: MAY 5, 1974.

JAMES T. LYNN,
Secretary of Housing and Urban Development.

[FR Doc.74–10875 Filed 5–9–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

BACARDI IMPORTS INC., ET AL.

Special Permits Issued

Pursuant to Docket No. HM–1, rule-making procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR Part 170, following is a list of new DOT Special Permits upon which Board action was completed during April 1974:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6858	Bacardi Imports Inc., Miami, Fla., to ship Alcohol, n.o.s., and other flammable liquids, in non-DOT specification steel portable tanks.	Cargo vessel, Highway.
6862	Stauffer Chemical Co., Westport, Conn., to ship certain Corrosive liquids in metal cans packed in DOT Specification 12A fiberboard boxes.	Cargo vessel, Highway, Rail express, Cargo-only aircraft.
6870	Edlow International Co., Washington, D.C., to ship certain Radioactive materials packages having separation distances that deviate from § 177.842(b).	Highway.
6873	Allied Chemical Corp., Houston, Tex., to make import shipments of Sodium arsenate, solid in non-DOT Specification removable head steel drums, equivalent to DOT–37A drums, in containerized loads.	Cargo vessel, Highway.
6874	ICI America Inc., Wilmington, Del., to ship Cyanide of sodium, solid in strong non-DOT Specification plywood boxes.	Cargo vessel, Highway.
6875	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del., to ship a Nitrogen gas mixture in seamless, titanium cylinders otherwise constructed in compliance with DOT Specification 3A.	Highway, Cargo only aircraft, Rail freight, Rail express.
6876	Continental Wall Panel, Gardena, Calif., to ship Bromotrifluoromethane charged with nitrogen in non-DOT Specification spherical steel pressure vessels.	Highway, Rail freight, Rail express.
6877	Dow Chemical Co., Freeport, Tex., to ship certain liquids corrosive to skin but not to steel in steel inside or outside packagings.	Highway, Rail freight, Rail express, Cargo-only aircraft.

ALAN I. ROBERTS,
Secretary.

[FR Doc.74–10830 Filed 5–9–74;8:45 am]

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ATOMIC ENERGY COMMISSION

[Docket Nos. 50-400—50-403]

CAROLINA POWER & LIGHT CO.

Notice of Hearing and Order To Settle on Contentions

MAY 6, 1974.

In the matter of the Carolina Power & Light Company (Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4).

Please take notice that, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules of Practice, the Atomic Safety & Licensing Board ("the Board") will conduct a public evidentiary hearing on June 4, 1974 concerning the above-captioned application for construction permits to build four pressurized water nuclear reactors on the Applicant's site about 20 miles southwest of Raleigh, North Carolina, in Wake and Chatham Counties, to be known as the Shearon Harris Nuclear Power Plant. The evidentiary hearing will commence at 9:30 a.m., e.d.t., June 4, 1974, at the following location:

Wake County Courthouse
Federal Street
Courtroom No. 4, 2nd Floor
Raleigh, North Carolina 27602

The issues to be determined in this proceeding will be those health, safety and environmental matters set forth in the Commission's notice of hearing dated September 21, 1972 (37 FR 20344, Sept. 29, 1972), as well as the matters in controversy between the parties, as set forth in prior prehearing conference orders of this Board, together with such further modifications to specific contentions as may result from complying with other provisions of this Notice and Order.

Interested members of the public are invited to attend the public hearing.

CONTENTIONS

The parties are directed to confer regarding the desirability, if any, of amending, deleting or modifying in any way the specific contentions already admitted by the Board in this proceeding, in light of the change in the type of cooling system to be used by the Carolina Power & Light Company ("Applicant"). If the Joint Intervenors wish to re-word, delete or modify the contentions in any way, and unanimous agreement between counsel for all parties cannot be obtained to the allowability of the changes, the Intervenors must file with the Board within seven (7) days of the date of this Order a brief setting forth the proposed changes and reasons why they should be allowed, with service on all parties. The Applicant shall then have five (5) days thereafter to reply, and the Staff five (5) days after the filing of the Applicant's reply. The Board will then resolve the dispute prior to the evidentiary hearing, with or without supplemental oral argument (to be determined after receipt of submissions).

It is so ordered.

Issued at Bethesda, Maryland this 6th day of May, 1974.

For the Atomic Safety and Licensing Board.

THOMAS W. REILLY, Esq.,
Chairman.

[FR Doc.74-10756 Filed 5-9-74;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Availability of Decision and Issuance of Amendment to Facility Operating License

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D, Section A.9 and A.11, to 10 CFR Part 50, notice is hereby given that a decision dated April 4, 1974, by the Atomic Safety and Licensing Appeal Board in the above captioned proceeding authorizing issuance of an amended license to the Consolidated Edison Company of New York, Inc., for operation of the Indian Point Nuclear Generating Unit 2, located in Westchester County, New York, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

The Decision is also being made available at the New York State Office of Planning Services, 488 Broadway, Albany, New York 12207, and the Tri-State Regional Planning Commission, 100 Church Street, New York, New York 10007.

Based on the record developed in the public hearing in the above captioned matter, the Decision of the Atomic Safety and Licensing Appeal Board modified in certain respects the Initial Decision of the Atomic Safety and Licensing Board dated September 25, 1973, and the contents of the Final Environmental Statement relating to the licensing for operation of the Indian Point Nuclear Generating Unit 2, prepared by the Commission's Directorate of Licensing. Pursuant to the provisions of 10 CFR Part 50, Appendix D, Section A.11, the Initial Decision of the Atomic Safety and Licensing Board and the Final Environmental Statement are deemed modified to the extent that condition 2.E extends the interim operation from May 1, 1978 to May 1, 1979, subject to certain environmental conditions for operation of the plant imposed upon the licensee during such interim operation. As required by Section A.11 of Appendix D, a copy of the Decision which modifies the Final Environmental Statement, has been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

Pursuant to the above mentioned Decision, the Atomic Energy Commission (the Commission) has issued Amendment No. 6 to Facility Operating License DPR-26 to Consolidated Edison Company of New York, Inc., for operation of a pressurized water nuclear reactor known as the Indian Point Nuclear Generating Unit 2, at steady state reactor core power levels not in excess of 2758 megawatts thermal, in accordance with the provisions of the license and the Technical Specifications.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The amended license is effective as of its date of issuance and shall expire on October 14, 2006.

In addition to the Decision, copies of (1) the Initial Decision dated September 25, 1973; (2) Amendment No. 6 to Facility Operating License DPR-26; (3) the Report of the Advisory Committee on Reactor Safeguards dated September 23, 1970; (4) the Directorate of Licensing's Safety Evaluation dated November 16, 1970, and Supplements 1, 2, and 3 thereto, dated November 20, 1970, July 1971, and September 3, 1971, respectively; (5) the Final Facility Description and Safety Analysis Report and amendments thereto; (6) the applicant's Environmental Report dated August 6, 1970, and supplements thereto; (7) the Draft Environmental Statement dated April 13, 1972; and (8) the Final Environmental Statement dated September 1972, are available for public inspection at the above designated locations in Washington, D.C., and New York. Single copies of the Decision by the Atomic Safety and Licensing Appeal Board, the license, the Final Environmental Statement, and the Safety Evaluation may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing, Regulation.

Dated at Bethesda, Maryland, this 6th day of May, 1974.

For the Atomic Energy Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.

[FR Doc.74-10757 Filed 5-9-74;8:45 am]

[Docket No. 50-155]

CONSUMERS POWER CO.

Notice of Issuance of Amendment to Facility License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DRP-6 issued to the Consumers Power Company which revised Technical Specifications

for operation of the Big Rock Point Nuclear Plant located in Charlevoix County, Michigan. This amendment is effective as of its date of issuance, and will expire six months thereafter.

The amendment permits a temporary change from 6 seconds to 10 seconds in the inlet ventilation valve closure requirement.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations, and the Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated April 29, 1974, (2) Amendment No. 5 to License No. DPR-6, with any attachments, and (3) the letter to Consumers Power Company which includes an evaluation of the requested amendment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy each of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing-Regulation.

Dated at Bethesda, Maryland, this 2d day of May, 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-10820 Filed 5-9-74;8:45 am]

PROPOSED LEGISLATION TO AMEND THE PRICE-ANDERSON ACT

Availability of Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed legislation to amend the Price-Anderson Act is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Office of Antitrust and Indemnity, Directorate of Licensing.

Pursuant to National Environmental Policy Act interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal agencies are being provided with copies of the Draft Environmental Statement. Comments are due by June 24, 1974. When comments thereon by Federal officials and others are received by the Commission, such comments will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Regulatory staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Office of Antitrust and Indemnity, Directorate of Licensing.

Dated at Bethesda, Maryland, this 6th day of May 1974.

For the Atomic Energy Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust and Indemnity, Directorate of Licensing.

[FR Doc.74-10819 Filed 5-9-74;8:45 am]

[Docket Nos. 50-463, 50-464]

PHILADELPHIA ELECTRIC CO.

Availability of Draft Environmental Statement for the Fulton Generating Station

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed Fulton Generating Station, Units 1 and 2, to be constructed by the Philadelphia Electric Company in Fulton Township, Lancaster County, Pennsylvania, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Lancaster County Library, 125 North Duke St., Lancaster, Pa. 17602. The Draft Environmental Statement is also being made available at the Department of State Planning, 301 West Preston St., Baltimore, Md. 21201 and the Turnpike Planning & Development Commission, 1200 11th Avenue, Altoona, Pa. 16601. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Environmental Report, as supplemented, submitted by the Philadelphia Electric Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on December 21, 1973 (38 FR 35036).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by July 1, 1974. Comments by Federal, State and local officials or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and at the Lancaster County Library, Lancaster, Pennsylvania. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the regulatory staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 7th day of May 1974.

For the Atomic Energy Commission.

B. J. YOUNGBLOOD,
Chief, Environmental Projects Branch 3, Directorate of Licensing.

[FR Doc.74-10957 Filed 5-9-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26574]

AIR AFRIQUE

Foreign Air Carrier Permit Renewal, Republic of the Congo-New York, Via Intermediate Points; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on June 4, 1974, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before May 28, 1974.

Dated at Washington, D.C., May 7, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10861 Filed 5-9-74;8:45 am]

[Docket No. 26361; Order 74-5-29]

UNION DE TRANSPORTS AERIENS (U.T.A.)

Order Amending Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of April, 1974.

Application of Union de Transports Aeriens (U.T.A.) for amendment of its foreign air carrier permit pursuant to

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section 402 of the Federal Aviation Act of 1958.

By Order 74–3–114, served March 28, 1974, the Board directed all interested persons to show cause why, subject to the approval of the President pursuant to section 801 of the Federal Aviation Act, the Board should not issue an amended foreign air carrier permit to Union de Transports Aeriens (U.T.A.). The Board also directed all interested persons to show cause why the Board should not make final its tentative findings and conclusions that:

(1) It is in the public interest to amend the foreign air carrier permit held by Union de Transports Aeriens so as to authorize the carrier to engage in foreign air transportation of persons, property, and mail between a point or points in the islands of New Caledonia, Tahiti, and Bora Bora; the intermediate points Nandi, Fiji, Pago Pago, American Samoa and Honolulu, Hawaii, and the terminal point, Los Angeles, California;

(2) U.T.A. is fit, willing, and able to provide the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder; and

(3) The public interest requires that the exercise of the privileges that would be granted in U.T.A.'s amended permit should be subject to the terms, conditions, and limitations contained in the attached proposed form of permit, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

The time for filing objections has passed and none has been received. Accordingly, we have concluded that the tentative findings and conclusions set forth in Order 74–3–114 should be made final and that the amended foreign air carrier permit attached hereto should issue to U.T.A.

Accordingly, it is ordered, that:

1. The tentative findings and conclusions made in Order 74–3–114 dated March 26, 1974, be and they hereby are made final;

2. An amended foreign air carrier permit in the form attached hereto be issued to Union de Transports Aeriens (U.T.A.);

3. Said permit shall be signed on behalf of the Board by its Secretary, shall have affixed thereto the seal of the Board, and shall be effective upon the effective date of this order; and

4. This order shall become effective upon the date of its approval by the President of the United States.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

THE WHITE HOUSE,

Approved: May 3, 1974.

RICHARD NIXON

[Issued pursuant to Order 74–5–29]

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Union de Transports Aeriens (U.T.A.) is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

Between a point or points in the islands of New Caledonia, Tahiti, and Bora-Bora; the intermediate points Nandi, Fiji; Pago Pago, American Samoa; and Honolulu, Hawaii; and the terminal point Los Angeles, California.

The holder hereof shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall not carry local, connecting, or stopover traffic between Nandi, Fiji and Pago Pago, American Samoa until such time as the United States of America receives such rights from the Government of Fiji.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of France for French international air service.

This permit shall be subject to all applicable provisions of any treaty convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and France shall be parties.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E–23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on May 3, 1974. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by airlines designated by the Government of France, or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of France in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Services Agreement between the Government of the United States and the Government of France, effective March 27, 1946, as amended by exchanges of notes, including that of May 29, 1969. *Provided, however*, That clause (3) of this paragraph shall not apply if prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and France are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the 19th day of April, 1974.

Issuance of this permit to the holder approved by the President of the United States on May 3, 1974 in Order 74–5–29.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–10860 Filed 5–9–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50002]

CALIFORNIA

Notice of Issuance of Experimental Use Permit for Predator Control (Coyotes)

On January 18, 1974, notice was given in the FEDERAL REGISTER (39 FR 2295) that specific procedures and plans for the experimental use of a sodium cyanide spring-loaded ejector unit in the State of Texas were being developed by the Environmental Protection Agency (EPA) in cooperation with that State. This program was formulated, approved, and published in the FEDERAL REGISTER on February 27, 1974 (39 FR 7617). It was hoped that the Texas program might serve as a model for any additional State requests.

The California Department of Food and Agriculture has also applied to the EPA pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 983), for an experimental use permit for a similar program. This permit (No. 10965–EXP–1G) is being issued in accordance with 40 CFR 162.19 as promulgated in the FEDERAL REGISTER on January 31, 1974 (39 FR 3939) and allows the use of sodium cyanide in the sodium cyanide spring-loaded ejector mechanism (SCSLEM) for control of predation by coyotes. The SCSLEM is to be used only in an experimental program approved by the EPA in Tehama County, California, under the supervision and control of approved applicators as designated by the California Department of Food and Agriculture. The applicant states that eventually consideration will be given to additional quantities for use in other counties.

This program began on April 11, 1974, and will expire on May 30, 1975. However, it may be revoked at any time for violation of the terms thereof, or to avoid deleterious effects on the environment.

The Agency invites interested persons to submit written comments in triplicate with reference to this notice to the Federal Register Section, Technical Services Division (HM–569), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Room EB–29, Washington, D.C. 20460. The comments must be received on or before June 10, 1974, and should bear the notation OPP–50002. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

The application, the permit issued and the label and directions for use of sodium cyanide in the SCSLEM are available for public inspection at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, SW., Washington, D.C.

PROGRAM FOR EXPERIMENTAL USE OF SODIUM CYANIDE SPRING-LOADED EJECTOR MECHANISM (SCSLEM) FOR PREDATOR CONTROL IN STATE OF CALIFORNIA

I. *Purpose.* Sodium cyanide will be used in the spring-loaded ejector mechanism (SCSLEM) in an experimental program in the State of California. This experimental program is designed to measure the usefulness of the SCSLEM as a method of reducing domestic livestock losses due to predation by coyotes. This program is also designed to evaluate the effect of the method on nontarget species.

II. *Control.* The program will be under the direction of the Director of the California Department of Food and Agriculture. General supervision will be the responsibility of the Control and Eradication Unit of the Department of Food and Agriculture. Implementation of the program will be by the Tehama County Department of Agriculture. Up to 32 other counties will be included in the program when they meet the requirements of this program. (All references made in this plan to Tehama County or to the Tehama County Agricultural Commissioner will hold for other counties and Commissioners.)

III. *Implementation of the Experimental Program.* The program will include four study areas in Tehama County in northern California that have a history of serious economic loss to livestock from coyote predation. Different methods of coyote control will be evaluated in each of the four study areas.

Area "A": Control will be restricted to the use of the SCSLEM by approved applicators.

Area "B": Coyote control will consist of trapping without the use of the SCSLEM.

Area "C": Predator control by steel traps in this area will be supplemented by SCSLEM during the principal lambing and calving period from September through May when steel trapping during this period has not prevented economic loss to livestock on private property; or when adverse weather conditions render all normally accepted control measures ineffective.

Area "D": This area will utilize prevention coyote control only (denning, trapping, shooting).

The proposed experimental program will begin about April 11, 1974, and will terminate May 30, 1975.

The Agricultural Commissioner of the county involved in the program may order the SCSLEM and capsules from the manufacturer: M–44 Safety Predator Control Company, 2501 W. Washington, Midland, Texas 79701.

The use of SCSLEM's shall be restricted to State or county personnel. The applicators will be approved by the Department of Food and Agriculture upon successful completion of an EPA–approved training program conducted by the Control and Eradication Unit of the Department of Food and Agriculture in the county involved with the program. Landowners or farm livestock operators will not be authorized to use sodium cyanide or to place or retrieve SCSLEM's. The training program will include information necessary for the applicator to understand the nature of the chemical and the device, the techniques of selection of placement sites, actual setting of the SCSLEM's, selection of SCSLEM baits or scents, SCSLEM placement inspections, record keeping and reporting, proper storage of the chemical capsules and the device when not in use, and method for disposal of used or inoperative capsules. Special emphasis will be given to environmental and human safety precautions to be observed when using the SCSLEM. The participation of the Bureau of Sport Fisheries and Wildlife of the U.S. Department of the Interior in the training program is encouraged and permitted to the extent authorized by that Agency's rules and regulations and interpretations of administrative orders.

Written permission must be granted by the landowner to allow representatives of the California Departments of Food and Agriculture and Fish and Game, the Tehama County Department of Agriculture, the Environmental Protection Agency and the U.S. Bureau of Sport Fisheries and Wildlife to enter upon the property where the device is to be used for the purpose of inspecting and monitoring all aspects of the experimental program. Any person (supervisor, applicator, or other person) found to be using the materials improperly or falsifying required data will be denied further use of the SCSLEM's, and may be subject to the civil and criminal penalties under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. Failure to adhere to the provisions of this program could result in suspension of the program.

Devices and capsules will be available only to, and be used only by, approved SCSLEM applicators. The applicators shall obtain the capsules and devices only from the Tehama County Agricultural Commissioner's office. The Agricultural Commissioner is responsible for securing the landowner's permission for use of the SCSLEM in the study areas. The antidote, amyl nitrate capsules, must be available for the pesticide applicators; each pesticide applicator must be advised of the antidote.

A. Records of each applicator who obtains the chemical capsules and/or device will be submitted to and maintained by the Tehama County Agricultural Commissioner. These records will include:

1. Name of approved SCSLEM applicator.

2. Name of ranch or farm owner in study areas A and C (SCSLEM areas).

3. Location of ranch or farm headquarters, direction and mileage from nearest town.

4. The designated area in which the SCSLEM will be used.

5. The number of devices and capsules obtained and returned.

6. Monthly records submitted by each approved applicator.

7. A signed agreement to comply with the terms of the experimental program.

Records of other county personnel engaged in the evaluation plan shall be submitted to and maintained by the Tehama County Agricultural Commissioner.

All records will be made available to the Department of Food and Agriculture.

B. The following data must be obtained by the applicators for each designated area (A, B, C and D) and submitted to the Agricultural Commissioner:

1. Initial Report.

a. Name of designated area.

b. Size of study area (a minimum of five square miles).

c. Location in the county.

d. Name of ranch or ranches.

e. Property owner or owners.

f. Number and value of livestock losses caused by coyotes in 1973. (Losses in 1973 will be obtained from polling of producers by mail, phone, and personal contact, records, and from other sources.)

2. Report on a monthly basis.

a. Name of designated area.

b. Livestock population (obtained from livestock operators in the study area).

c. Number of livestock losses and cause. Records shall be maintained on Department of Food and Agriculture Form 3C, "Predatory Animal Damage Report".

d. Number of coyotes taken. Include the following for each take: date, age and sex, method of take.

(1) Trap—time period from set to take (man hours),

(2) Gun—time involved to take (man hours),

(3) Denning—time involved for take (man hours), and

(4) Aerial gunning (man hours). Permit for aerial gunning is required by the California Department of Fish and Game.

e. Number of nontarget species taken.

(1) Species taken.

(2) Description of placement of trap (physical features, i.e., fence line, gully, saddle, etc.).

(3) Number of days trap exposure before catch.

(4) Nontarget species seen in vicinity of trap site.

3. Biannual reports for study areas A, B, C and D. Data will be obtained by the applicators and submitted to the Agricultural Commissioner. Coyote population will be determined by one or more of the following census methods:

a. Scent post activity.

b. Roadside siren activity.

c. Visual counts.

d. Transect counts.

Census surveys will be made in February 1974, September 1974, February 1975, and May 1975. The California Department of Fish and Game will assist in estimating coyote populations for areas to be surveyed.

4. Additional data required monthly for study areas A and C (SCSLEM areas) to be obtained by approved applicators and submitted to the Agricultural Commissioner.

a. Map showing locations of each SCSLEM placed in the field. The map should be of sufficient detail so that a person unfamiliar with the placement of the SCSLEM will be able to locate them.

b. Date of placement of devices.

c. Period of time SCSLEM's are used. Record climatic conditions during this period.

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d. Number of SCSLEM's being used in the field.

e. Date of retrieval of devices.

f. Species and number of animals killed by the SCSLEM.

g. For each animal taken:

(1) Placement of the device, i.e., terrain, fence row, gully, etc.

(2) Length of time SCSLEM set before take.

(3) Species taken, age and sex, embryo count of gravid coyotes.

(4) Was the take a target species.

(5) Distance of carcass from device.

h. Number of discharges without animal take.

i. Accidents involving humans. All accidents involved with the use of SCSLEM's regardless of the seriousness, shall be reported immediately, according to Department of Food and Agriculture regulations regarding pesticides.

C. The following guidelines must be observed in the experimental program:

1. Livestock losses, number of coyotes taken and number of non-target animals taken shall be verified by the Agricultural Commissioner.

2. The maximum number of SCSLEM's to be placed in areas A and C will be at the discretion of the Department of Food and Agriculture. The number will not exceed 150 devices per study area. The number of sodium cyanide capsules to be used should not exceed 900 per study area. Normally, five devices are used per section (one per 128 acres) and not less than six capsules per unit are required. However, the number must be flexible to meet the needs. All used and unused sodium cyanide capsules shall be returned to the Tehama County Agricultural Commissioner.

Total for the program: 900 mechanisms and 1800 capsules.

3. The SCSLEM's shall be placed to minimize the hazard to nontarget species.

4. The SCSLEM's shall be used only on private lands. The SCSLEM's shall not be used in:

a. San Joaquin kit fox range as identified by the California Department of Fish and Game.

b. Urban or incorporated areas.

c. Such other areas that may be zoned out to protect the public health and safety.

d. Such areas where use of the mechanism will harm other endangered or threatened species that may be attracted to the SCSLEM.

5. Approved bilingual warning signs shall be posted in treatment areas (A and C) and adequate surveillance maintained. In all cases where SCSLEM's are used, warning signs shall be posted at main entrances, gateways, or commonly used access points. Warning signs shall clearly alert the public to the toxic nature of cyanide and the danger to pets. Elevated warning signs shall be placed in the immediate vicinity of the SCSLEM clearly warning persons not to handle the device.

6. All signs are to be removed at the end of the treatment period.

7. Extreme care shall be taken to prevent any theft or loss of SCSLEM's and the possibility of their subsequent use by unauthorized persons.

IV. *Evaluation.* The Control and Eradication Unit of the Department of Food and Agriculture and the County Agricultural Department concerned will tabulate the field data.

Evaluation of the experimental program will be made by the California Departments of Food and Agriculture and Fish and Game.

The evaluation will include:

1. Economic analysis of the program.

2. The impact of SCSLEM's on nontarget species.

3. The effects of the SCSLEM on reducing livestock losses in areas where SCSLEM's are used as compared to livestock losses in areas where the SCSLEM's are not used.

4. Determination of the cost of controlling coyotes with the SCSLEM as compared to denning, trapping, shooting, or other methods used to control coyotes in California.

5. Effectiveness and economics of reducing livestock losses from coyotes only during the principal lambing and calving period from September through May.

6. The selectivity of the SCSLEM when used to control coyotes.

7. The effect of use of the SCSLEM with regard to human safety.

8. The amount of coyote control that can be achieved through the use of the SCSLEM without causing unreasonable adverse effects on the environment.

Dated: May 6, 1974.

JAMES L. AGEE,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-10811 Filed 5-9-74;8:45 am]

STATE OF KANSAS

Request for State Program Approval for Control of Discharges to Navigable Waters

On May 29, 1973, the State of Kansas submitted a request to Robert Fri, then acting Administrator of the U.S. Environmental Protection Agency, for approval of its state program for control of discharges of pollutants to navigable waters under the National Pollutant Discharge Elimination System (section 402 of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500).

A public hearing concerning the Kansas request was held on July 17, 1973, at Topeka, Kansas. On September 28, 1973, EPA Administrator Russell Train notified Governor Docking of Kansas that revisions to the Kansas program were necessary, as follows:

(1) Legislation must be enacted which authorizes the State to issue permits which apply, and insure compliance with, any applicable requirements of sections 301, 302, 306 and 307 of the FWPCA, as required by section 402(b)(1)(A); and

(2) Regulations must be promulgated establishing authorities equivalent to those which would be established by those set forth in the draft regulations attached to this letter.

Following the accomplishment of the two above revisions, I will promptly approve the Kansas program for participation in the NPDES and suspend the issuance of permits as to those navigable waters subject to the Kansas Program.

The 1974 Kansas Legislature enacted Senate Bill 698 which took effect on March 14, 1974. On April 19, 1974, the Kansas Board of Health promulgated regulations implementing the National Pollutant Discharge Elimination System in Kansas. On the basis of these actions, the State of Kansas has resubmitted its request for approval of its program.

Section 402(b) of the Act provides that the Governor of a State desiring to administer the NPDES program to control discharges into navigable waters within its jurisdiction may submit to the Administrator of the U.S. EPA a full and complete description of the program it intends to administer, including a statement from the State Attorney General that the laws of the State provide adequate authority to carry out the described program. The Administrator is required to approve each such submitted program unless the program does not meet the requirements of § 402(b) and U.S. EPA's Guidelines. Among other authorities, the State must have: (1) Adequate authority to issue permits which comply with all pertinent requirements of the Act; (2) adequate authority, including civil and criminal penalties, to abate violations of permits; and (3) authority to insure that the Administrator, the public, any other affected agencies, are given notice of each application and are given the opportunity for a public hearing before acting on each permit application. Also, the State must have and commit itself to use manpower and resources sufficient to act on all outstanding permit applications in a timely manner and consistent with the periods prescribed by the Act. U.S. EPA's Guidelines establishing State Program Elements Necessary for Participation in the NPDES were published in volume 37 of the FEDERAL REGISTER, December 22, 1972 (40 CFR 124), beginning at page 28390.

The State of Kansas proposed that the Kansas State Department of Health operate this program for control of discharges into navigable waters of the State in compliance with the Act. Chief officials are Robert D. Barnett, President, Kansas State Board of Health; James D. Mankin, Executive Secretary, Kansas State Board of Health; and Melville W. Gray, Chief Engineer and Director, Division of Environmental Health.

The program description, including SB 698 and the regulations as promulgated, may be inspected by the public at the Kansas State Department of Health, Division of Environmental Health, 535 Kansas Avenue, Topeka, Kansas 66608 (913/296-3821), or at the Regional Library, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore Avenue, Kansas City, Missouri 64108 (816/374-5838).

All interested persons wishing to comment upon the State's request or its program submission are invited to submit written comments in person or by mail by June 12, 1974, to Jerome H. Svore, Regional Administrator, U.S. Environmental Protection Agency, Region VII, at the above address.

All comments received by June 12, 1974, will be considered by the Administrator of the U.S. Environmental Protection Agency in making his decision regarding Kansas' request for State program approval.

ALAN G. KIRK II,
Assistant Administrator for Enforcement and General Counsel.

MAY 7, 1974.

[FR Doc.74-10816 Filed 5-9-74;8:45 am]

THERMAL DISCHARGE TECHNICAL GUIDANCE MANUAL

Notice of Availability of Draft Manual

On March 28, 1974, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking establishing the procedures and standards for imposition of alternative effluent limitations on thermal discharges, pursuant to section 316(a) of the Federal Water Pollution Control Act, 33 USC 1251, 1326(a) (39 FR 11434).

During the past several weeks the Agency has been preparing a technical guidance manual designed to assist EPA Regional Offices and State water pollution control agencies in evaluating requests for modification of proposed effluent limitations pursuant to section 316 (a). A draft version of the manual recently has been distributed to EPA regional personnel and representatives of State pollution control agencies for their review and suggestions.

Because of the general public interest in the subject matter of the manual, the Agency has determined to make copies of the draft version available to the public. Interested members of the public may obtain a copy of the draft technical manual by writing to Mr. John Christian, Environmental Protection Agency, Room 807, Waterside Mall, East Tower, Washington, D.C. 20460.

The Agency is required by order of the United States District Court for the District of Columbia to promulgate effluent limitations guidelines under sections 301 and 304(b) of the Act for the steam electric power generating category by August 26, 1974, and expects to promulgate final regulations implementing section 316(a) by approximately that date. The public comment period for both of the above proposed regulations closes on June 26, 1974. Any views on or suggestions for revision of the draft technical guidance manual should be received by EPA by June 26, 1974.

Dated: May 6, 1974.

JAMES L. AGEE,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-10814 Filed 5-9-74;8:45 am]

WATER QUALITY STRATEGY PAPER, SECOND EDITION

Notice of Availability of Report

Notice is given of the publication by the Environmental Protection Agency of the Water Quality Strategy Paper, Second Edition. This paper, which sets program objectives and discusses program policies and sequencing in the implementation of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500) and the Marine Protection, Research, and Sanctuaries Act (Pub. L. 92-532), is intended as guidance for the conduct of EPA and State water pollution control programs. Each year, States are to develop State strategies on program objectives and priorities in response to this national Strategy Paper.

Pub. L. 92-500 provides the public with the opportunity to participate in the development of water pollution control programs. Individuals, organizations, businesses, or governmental units may find the Strategy Paper to be a useful tool in understanding the Act and EPA's present program perspectives.

The Strategy Paper is reviewed and revised each year. Many States and representatives of various environmental, industrial, trade, and governmental organizations, along with EPA, provided comments and critiques on this edition of the Strategy Paper as it was being developed. As an annual document, further comments or suggestions are welcomed on a continuing basis. Comments should be addressed to, and copies can be received from:

Walter S. Groszyk, Jr., Chief, Water Program Planning and Accomplishment Branch, Water Planning Division (AW-454), Environmental Protection Agency, Room 815, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

CHARLES L. ELKINS,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-10815 Filed 5-9-74;8:45 am]

[OPP-32000/56]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or, before July 9, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 9, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 3876-RNI. Betz Entec, Inc., 4636 Somerton Road, Trevose, Pennsylvania 19124. *Betz Entec 342 Slime Control Agent.* Active Ingredients: Dodine (dodecylguanidine acetate) 10.0 percent; Isopropanol 30.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3876-RRN. Betz Entec, Inc., 4636 Somerton Road, Trevose, Pennsylvania 19047. *Betz Entec 343.* Active Ingredients: 1,3-dichloro-5,5-dimethylhydantoin 48 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4643-EU. Dearborn Chemical Division, Chemed Corporation, 300 Genesee Street, Lake Zurich, Illinois 60047. *Dearcide 731 Oxidizing Microbicide.* Active Ingredients: Sodium Dichloro-s-Triazinetrione 30 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6900-RUO. J. J. Dill Company, 1407 Ravine Road, P.O. Box 788, Kalamazoo, Michigan 49005. *Dill Diazinon OS.* Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 48.80 percent; Aromatic petroleum derivative solvent 43.61 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1258-652. Olin Corporation, Agricultural Division, P.O. Box 991, Little Rock, Arkansas 72203. *Salvo (Low Volatile) Weed Killer.* Active Ingredients: 2-ethylhexyl ester of 2,4-Dichlorophenoxyacetic Acid 85.9 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1364-R. The Parawax Company, P.O. Box 477, Council Bluffs, Iowa 51501. *Paxcide NF Swimming Pool Algaecide.* Active Ingredients: Poly[oxyethylene (dimethylimino) ethylene - (dimethylimino)ethylene dichloride] 10.0 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 538-RRR. O. M. Scott & Sons, Marysville, Ohio 43040. *Scotts Proturf New Insecticide III.* Active Ingredients: Chlorpyrifos[O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 1.00 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 538-53. O. M. Scott & Sons, Marysville, Ohio 43040. (*Scotts*) *Super Halts Plus Brand Crabgrass Preventer Plus Lawn Fertilizer.* Active Ingredients: S-(O-O-Diisopropyl phosphorodithioate) ester of *N*-(2-Mercaptoethyl) benzenesulfonamide 4.60 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 538-RRN. O. M. Scott & Sons, Marysville, Ohio 43040. (*Scotts*) *Pro-Turf Selective Poa Annua Control.* Active Ingredients: Linuron [3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea] 3.50 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12020-T. Stavely Chemicals Limited, Stavely Works, Chesterfield, Derbyshire S43 2 PB, England, *Staveley Diuron 80.* Active Ingredients: Diuron 03-(3,4-dichlorophenyl)-1,1-dimethylurea 80 per-

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cent. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: May 2, 1974.

JOHN B. RITCH, JR.,
Director,
Registration Division.

[FR Doc.74-10592 Filed 5-9-74;8:45 am]

FEDERAL MARITIME COMMISSION

STATE OF CONNECTICUT AND CONNECTICUT TERMINAL CO., INC.

Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 30, 1974. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

John Cunningham
Kominers, Fort, Schlefer & Boyer
1776 F Street, Northwest
Washington, D.C. 20006

Agreement No. T-2373-1, between the State of Connecticut and Connecticut Terminal Company, Incorporated, amends the basic agreement which provides for the lease and operation of State Pier No. 1, New London, Connecticut. The purpose of the amendment is to extend the lease and operating agreement for six months beyond the present expiration date of June 30, 1974.

By Order of the Federal Maritime Commission

Dated: May 7, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10885 Filed 5-9-74;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46.

Certificate No.	*Owner/operator and vessels*
01145---	Det Bergenske Dampskibsselskab: *Nornews Service, Nornews Express.*
01231---	Aktieselskapet Tonsbergs Hvalfangeri: *Ferder.*
01428---	Ocean Transport & Trading Limited: *El Brega.*
01857---	OHG I FA Bernhard Schulte: *Anna Schulte.*
01935---	Partnership between Steamship Co., Svendborg, Ltd., and Steamship Company of 1912, Ltd.: *Maersk Hauler.*
01991---	Malmros Rederi Aktiebolag: *Malmros Multina.*
02038---	Polskie Linie Oceaniczne: *Frycz Modrzewski.*
02192---	Eretria Development Corp. SA: *Juanita H.*
02197---	Matson Navigation Co.: *Transontario, Transoneida, Transchamplain.*
02314---	A/S Athene (Jorgen Bang): *Athene.*
02462---	Hellenic Lines, Ltd.: *Hellenic Champion, Hellenic Challenger, Hellenic Carrier.*
02493---	Sheridan Transportation Co.: *Sea Star.*
02582---	Jugoslavenska Tankerska Plovidba-Oour Jugotanker: *Posavina.*
02724---	Security Barge Line, Inc.: *ST 100.*
02958---	Kawasaki Kisen K.K.: *Lions Gate Bridge.*
02977---	J. Ray McDermott & Co., Inc.: *McDermott Jet Barge No. 4, McDermott Tidelands 012, McDermott Tidelands 014*
03047---	E. I. Du Pont de Nemours & Co.: *TCB 306, TCB 307, TCB 308.*
03139---	Offshore Marine, Ltd.: *Lundy Shore.*
03482---	Ryutsu Kaiun K.K.: *Ryuyu Maru, Ryuei Maru.*
03635---	Hines, Inc.: *Hines 431 B.*
03857---	Jones & Laughlin Steel Corp.: *J & L X-252, J & L X-254, J & L X-259, J & L X-253, J & L X-257, J & L No. 5 Barge.*
03918---	Mobil Shipping & Transportation Co.: *Mobil Mariner.*
04037---	C. F. Bean, Inc.: *Lenel Bean, Jim Bean, Bean No. 24, Bean No. 18.*
04136---	Thomas Marine Co.: *Richard E. Girouard.*
04157---	Commonwealth of Virginia Department of Highways: *Jamestown.*
04196---	Otto Candies, Inc.: *OC-160.*
04400---	Peterson Builders, Inc.: *Leconte.*
04567---	Ken Hieng Navigation (Panama) Corp. S.A.: *Ken Lung.*
04601---	American Tuna Boat Association: *Diana C.*
04884---	Hall Corporation Shipping, Ltd.: *Ungava Transport.*
04941---	Olau-Line, Ltd.: *Olau Thor.*
05165---	Sun Oil Co. of Pennsylvania: *Jar 5.*
05425---	Georgia Transporters, Inc.: *CTC 1001.*
05520---	Union Carbide Corp.: *CC-410.*
05549---	Polska Zegluga Morska: *Uniwersytet Gdanski, Uniwersytet Warszawski.*
05577---	Far Eastern Shipping Co.: *Bogatyr-2, Mikhail Vladimirskiy Putivl, Komsomolets Artema, Vladimir Mordvinov, Pervomaysk.*
05578---	Baltic Shipping Co.: *Nazar Gubin, Semyon Kosinov, Volgoles, Komiles, Dvinoles, Severoles, Abakanles, Arkhangelskles, Alapajevskles, Alatyrles, Angarskles, Brianskles, Floating Dock 105, Dolinsk, Vasya Alekseev.*
05579---	Black Sea Shipping Co.: *Maxim Gorky, Leonid Sobinov.*
05581---	Latvian Shipping Co.: *Nikolay Kopernik.*
05696---	Gestioni Esercizio Navi Sicilia-G.E.N.S. SPA: *Capo Mele.*
05767---	Neptune Orient Lines, Ltd.: *Neptune Aries.*
06025---	Sanpan Towing Co., Inc.: *Debbie Lee.*
06130---	Northern Shipping Co.: *Pioneer Moskvy, Vlas Nichkow.*
06248---	Commercial Corp. "Sovrybflot": *Karl Libknecht.*
06300---	The Delaware River and Bay Authority: *M V Delaware.*
06409---	India Steamship Co., Ltd.: *Indian Reliance, Indian Renown, Indian Resolve, Indian Resource. Indian Progress.*
06814---	Navegadora Tropical S.A.: *Efcharis.*
06903---	Sun Shipbuilding & Dry Dock Co.: *Yard Hull No. 66.*
06921---	Lee Lai Maritime S.A. (Panama): *Chieh Hui, Chieh Hwang.*
07255---	Teh Tung Steamship Co., Ltd.: *Happy Pacific, Monterosa, Coral Volans.*
07382---	Marushin Senpaku Kabushiki Kaisha: *Shinyu Maru.*
08071---	Anglo Nordic Bulkships (Management), Ltd.: *Nordic Courier.*
08436---	International Shipping & Trading Corp.: *Acclivity Prince.*
08568---	Aries Marine Shipping Co.: *Ultrasea.*
08598---	Armatrice Santa Chiara S.P.A.: *Ambrosiana.*
08617---	Fairmont Enterprises, Ltd.: *Fairship.*
08709---	Bibby Freighters, Ltd.: *Arya Bod.*
08790---	Agtek International, Inc.: *Marjorie R.*
08796---	Saint Spyridon Maritime Co., Ltd.: *Tarseus III.*
08833---	General Metals of Tacoma, Inc.: *Robert H. Smith, Edmonds, Twin Harbor.*
08877---	Monte Mabu Shipping Corp.: *Mabu.*
08883---	Seacrest Shipping Co. S.A.: *Falcon.*
08891---	Nasugbu Navigation Co.: *Nasugbu.*
08893---	Compania Universal Naviera S.A.: *Tropical Hibiscus.*
08899---	Barge Equipment Co.: *Swann 18.*
08902---	Golden Arrow Navigation Co., Ltd., Famagusta: *Golden Arrow.*
08910---	Alasia Steamship Co., Ltd.: *Stalo-2.*
08916---	Rederij M. S. "Spray": *Spray.*
08920---	Hydromar Corp. of Delaware: *Hydro-Atlantic.*
08921---	Honorable Carriers, Inc.: *Lorana.*

Certificate No.	*Owner/operator and vessels*
08922---	Vicmar Navigator Sea Carriers S.A.—Panama: *Vicmar Navigator.*
08926---	Napier Shipping Co.: *World Ares.*
08928---	Shibley Boats Panama, S.A.: *Percheron.*
08929---	Elmo Navigation, Inc.: *Stolt Eagle.*
08930---	Nilhat Shipping Co., Ltd.: *Charisma N., Alexandra N.*
08933---	Norness U.K. Ltd.: *Nordic Clansman.*
08934---	Armement Deppe S.A.: *Dart Europe.*
08955---	Lonborg Rederierne A/S: *Philip Lonborg.*
08956---	Marenviado Armadora S.A.: *Alea.*
08957---	Sunvictor Maritime Co., Ltd.: *Sunvictor.*
08958---	Campos Shipping Co., Ltd.: *Cosmaria.*
08959---	Perennial Motors Transport, Inc.: *Perennial Ace.*
08960---	Midigiri Shipping Corp. of Monrovia: *Midigiri.*
08961---	Incan Ships, Ltd.: *Incan Superior.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10886 Filed 5-9-74;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01017---	Westfal-Larsen & Co. A/S: *Fossanger, Ilovanger.*
01027---	Flensburger Befrachtungskontor Uwe C. Hansen & Co.: *Stern Hasselburg.*
01067---	Klosters Rederi A/S: *Trailer Express.*
01069---	Oglebay Norton Co.: *Robert C. Norton, Frank Purnell, J. H. Hillman, Jr.*
01099---	Scottish Ore Carriers Ltd.: *Crinan.*
01106---	N.V. Stoomvaart-Maatschappij "Oostzee": *Loppersum.*
01167---	Marvalor Sociedad de Transportes S.A.: *Don Manuel.*
01231---	Aktieselskapet Tonsbergs Hvalfangeri: *Brisk.*
01304---	Furness Withy & Co., Ltd.: *Sagamore, Edenmore.*
01330---	Shell Tankers (U.K.), Ltd.: *Plagiola.*
01408---	Colmenar Compania Naviera S.A. Panama: *Capetan Lemos.*
01421---	Bibby Line, Ltd.: *Arya Bod.*
01517---	Salamis A/S: *Skausund.*
01561---	Lubeck Linie Aktiengesellschaft: *Fredenhagen.*
01574---	Fearnley & Eger: *Fernwind.*
01719---	Unterweser Reederei G.m.b.h.: *Langelsheim.*
01875---	Sicula Sarda-Compagnia Armatoriale Siciliana S.P.A.: *Sunprince.*
01904---	Waterman Steamship Corp.: *Hurricane.*
02052---	Cosmo Maritime Corp.: *Cosmaria.*
02163---	Rederiet "Ocean" A/S Copenhagen: *Thora Dan.*
02167---	Sartori & Berger: *Carmen.*
02198---	The Peninsular & Oriental Steam Navigation: *Trecarne, Orissa.*
02255---	Calmedia S.P.A. di Navigazione: *Calasetta, Calarossa, Calabella.*
02288---	"Cosarma": *Aurora.*
02416---	Boland & Cornelius, Inc.: *H Lee White.*
02460---	Dampskibsselskabet "Norden" Aktieselskab: *Nordholm, Norduglimt.*
02929---	Sofiumar-Societe D'Armement Fluvial & Maritime: *Port La Nouvelle.*
02931---	Diapool Compania Nav. S.A.: *Athen.*
02956---	Ashland Oil, Inc.: *BC 1.*
03067---	Vickers Towing Co., Inc.: *George, Grace, Governor, Tracy, Nita Vickers.*
03121---	Carga Transpacifica Navegacion S.A. PN: *Aristodimos.*
03484---	Sanko Kisen K.K.: *Mokusel Maru.*
03499---	El-Yam Bulk Carriers (1967) Ltd., Israel: *Har Meron.*
03519---	Toko Shosen K.K.: *Riko Maru.*
03625---	Hygrade Operators, Inc.: *Blue Line 106.*
03630---	The Sun Shipping Co., Ltd. (Hong Kong): *Tong Shin.*
03635---	Hines, Inc.: *Nancy Picton.*
03691---	Spentonbush Transport Service, Inc.: *No. 210.*
03775---	Penn Navigation Co.: *Penn Leader.*
04007---	Egon Oldendorff: *Catharina Oldendorff.*
04069---	Omnium Transportation Co.: *Omnium Ranger.*
04088---	Petrolane Offshore Construction Services, Inc.: *Alligator, Octopus.*
04113---	Mon River Towing, Inc.: *GBL-7, GBL-8, GBL-9, GBL-10.*
04128---	Skips A/S Westray: *Bruni.*
04157---	Commonwealth of Virginia, Virginia Department of Highways: *Bridgeport.*
04196---	Otto Candies, Inc.: *OC-602.*
04224---	NMS Chemical Corp.: *N.M.S. No. 1900, N.M.S. No. 1901.*
04226---	National Marine Service, Inc.: *Beauregard, National Mariner, L.T.C. No. 38, ETT 125.*
04269---	Vronca Compania Naviera S.A.: *Kyra Katina.*
04393---	World Wide Transport, Inc.: *Conoco Sopi.*
04411---	The Ulster Steamship Co., Ltd.: *Fair Head.*
04594---	The Valley Line Co.: *MV 532, MV 224.*
04640---	McAllister Lighterage Line, Inc.: *Spartan, Weeks 211.*
04933---	The Revilo Corp.: *Florida Power Corp. Barge 8.*
04980---	Netherlands Mead N.V.: *Santo Antonio.*
05048---	F. Laeisz: *Pentelikon.*
05105---	Alvin Maritime S.A.: *Alvin.*
05190---	The Robertsport Navigation Co., Inc.: *Calli.*
05278---	Twin City Barge & Towing Co.: *TCB 50.*
05425---	Georgia Transporters, Inc.: *JTS-500.*
05598---	Pateras Brothers, Ltd.: *Arsenal.*
05753---	Veb Deutfracht Internationale Befrachtung Und Reederei: *Fritz Reuter.*
05792---	Korea Wonyang Fisheries Co., Ltd.: *No. 1 Korbee, No. 2 Korbee, No. 3 Korbee, No. 5 Korbee, No. 6 Korbee, No. 7 Korbee, No. 1 Koram, No. 2 Koram, No. 3 Koram, No. 101 Koram, No. 102 Koram, No. 103 Koram.*
05854---	Levin Metals Corp.: *IX-SS-313.*
05894---	Yutana Barge Lines, Inc.: *OB No. 6, OB No. 2.*
06052---	Marukyo Suisan Kabushiki Kaisha: *Nadayoshi Maru 1, Nadayoshi Maru 3.*
06143---	Koyu Gyogyo Seisen Kumiai: *Takamiyamaru No. 7.*
06149---	Thomas Towing Corp.: *T-128.*
06300---	The Delaware River and Bay Authority: *S.S. New Jersey.*
06768---	Sea Contracting Corp.: *Volta Peace.*
06787---	Evergreen Marine (Singapore) Private, Ltd.: *Ever Fortune.*
07040---	Chemical Transportation Co.: *Marine Dow Chem.*
07074---	Hae Woi Industrial Co., Ltd.: *Luna No. 22, St. Thomas No. 102, St. Thomas No. 101.*
07085---	Ocean Search, Inc.: *Alcoa Seaprobe.*
07125---	Coast Navigation, Inc., Nyala Shipping Corp.: *Ajax.*
07136---	Nam Sung Wonyang Fisheries Co., Ltd.: *No. 71 Nam Sung.*
07135---	Nautilous IV Compania Naviera S.A.: *Emilia G.*
07290---	Hollywood Terminals, Inc.: *May Can 1.*
07390---	N.V. Nieuw Amsterdam: *Nieuw Armsterdam.*
07440---	Cape Henry Shipping Co., Ltd., Limassol: *Cape Henry.*
07587---	Great Kern Shipping Corp.: *Carbo Cougar.*
07812---	Cape Canaveral Shipping Co. Inc., Monrovia: *Cape Canaveral.*
07913---	Sealion Navigation Co., Ltd.: *Sealion.*
07950---	Norman Offshore Services, Inc.: *Ranger, DB-4.*
08071---	Anglo Nordic Bulkships (Management), Ltd.: *Naess Norseman, Naess Courier.*
08117---	Montauk Maritime, Ltd.: *Montauk.*
08135---	Veb Fischkombinat Rostock: *Peter Nell.*
08136---	Dong Bang Ocean Fisheries Co., Ltd.: *No. 51 Dong-Bang.*
08163---	Dong Won Fisheries Co., Ltd.: *Dong Won No. 503.*
08165---	Dong Won Industrial Co., Ltd.: *Dong Won No. 81.*
08434---	H & H Ship Service Co.: *Humboldt.*
08536---	Dithmarsia Reederei G.m.b.h. & Co. KG Rendsburg: *Fleethorn.*
08709---	Bibby Freighters, Ltd.: *Pacific Bridge.*
08866---	Constant Shipping Co.: *World Promise.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10887 Filed 5-9-74;8:45 am]

[Docket No. 74-17; Agreement No. 9955-1]

A/S BILLABONG, ET AL.

Order of Investigation and Hearing

Pursuant to section 15 of the Shipping Act, 1916, an agreement among A/S Billabong; Westfal-Larsen & Co. A/S; Fred. Olsen & Co.; and Star Shipping A/S, has been filed for approval and assigned Federal Maritime Commission Number 9955-1. The agreement is a petition to extend approval of the approved

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basic cooperative working arrangement, as modified, infra, for an indefinite period beyond the present termination date of November 12, 1974, and modifies the approved basic agreement to (1) reflect the corporate name change of Star Bulk Shipping Company A/S to Star Shipping A/S, and change references throughout the basic agreement, which presently read Star Bulk Shipping Company A/S and/or Star Bulk to read Star Shipping A/S and/or Star, respectively, and (2) establish a new Article 2a. reading as follows:

"Expenses of Star" shall be all expenses defined as expenses of Star by the Board of Directors in its discretion and incurred by Star in the course of carrying on activities authorized by the Board of Directors, including, but not limited to, any vessel charter hire of any kind (including time, voyage, bareboat or other charter hire, howsoever, calculated) paid or payable to owners of vessels (other than Billabong, Westfal-Larsen and Fred. Olsen) which are chartered by Star.

Notice of the filing of Agreement No. 9955–1 was published in the FEDERAL REGISTER on February 11, 1974. Pursuant to such publication, protests against the approval of said agreement and comments were submitted on behalf of Sea-Land Service, Inc. and the Trans-Pacific Freight Conference of Japan/Korea and its member lines, established carriers in certain trades covered by the worldwide shipping operation authorized by the cooperative working arrangement. An investigation and hearing on the issues raised by the protestants has been requested.

The protestants object to the approval of Agreement No. 9955–1 on the grounds that, among other things, said agreement (1) is discriminatory and unfair as between carriers, and as between shippers, importers and exporters of the United States; and (2) is detrimental to the commerce of the United States and contrary to the public interest, all in violation of section 15 of the Shipping Act, 1916.

A reply to the protests and comments has been filed on behalf of Star Shipping A/S, alleging that the agreement is being protested on grounds which have nothing to do with the agreement itself and in the hope of delaying renewal of the agreement beyond its termination date.

The Commission has considered the protests and comments and the reply thereto and has concluded that Agreement No. 9955–1 should be made the subject of a formal investigation to determine whether it should be approved, disapproved, or modified pursuant to section 15 of the Shipping Act, 1916. Since it is recognized that Agreement No. 9955 will terminate on November 12, 1974, unless extended, the Commission desires that the investigation herein ordered be expedited so that the issues raised in the hearing may be resolved prior to the termination of the basic agreement.

It is therefore ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether Agreement No. 9955–1 is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or is in violations of the Shipping Act, 1916, and, therefore, whether it should be approved, disapproved or modified;

It is further ordered, That A/S Billabong; Westfal-Larsen & Co. A/S; Fred. Olsen & Co.; and Star Shipping A/S are hereby made respondents in this proceeding.

It is further ordered, That Sea-Land Service, Inc. and the Trans-Pacific Freight Conference of Japan/Korea and its member lines, through their respective counsels whose names and addresses are shown in the Appendix hereto, are hereby made petitioners in this proceeding.

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge at a date and place to be hereafter determined and announced by the presiding Administrative Law Judge. Since the agreement expires on November 12, 1974, the Commission expects the hearing to be expedited so a decision may be rendered prior to that date.

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and that a copy thereof and notice of hearing be served upon respondents and petitioners, as shown in the Appendix.

It is further ordered, That any person other than respondents and petitioners, having an interest and desiring to participate in this proceeding, shall file a petition for leave to intervene in accordance with Rule 5(l) (46 CFR 502.72) of the Commission's rules of practice and procedure.

It is further ordered, That all future notices, orders and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or pre-hearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

APPENDIX

(Respondents)

A/S Billabong
P.O. Box 1088
Radstuplass, 2
Bergen, Norway

Westfal-Larsen & Co. A/S
General Steamship Corporation, Ltd., General Agents
400 California Street
San Francisco, California 94104

Fred. Olsen & Co.
Fred. Olsensguten, 2
Oslo 1, Norway

Star Shipping A/S
Star Shipping (U.S.W.C.) Inc., As Agent
235 Montgomery Street
San Francisco, California 94104

R. Frederic Fisher, Esq.
Lillick, McHose, Wheat, Adams & Charles
311 California Street
San Francisco, California 94104
(Attorneys for respondents)

(Petitioners)

Sea-Land Service, Inc.
P.O. Box 1050
Elizabeth, New Jersey 07207

Edward M. Shea, Esq.
Regan & Mason
The Farragut Building
900 Seventeenth Street, N.W.
Washington, D.C. 20006
(Attorneys for Sea-Land Service, Inc.)

Trans-Pacific Freight Conference of Japan/Korea
James E. Mazure, Chairman
Sumitomo Seimei Yaesu Building, 2nd Floor
3, 4-Chome, Yaesu
Chuo-Ku, Tokyo, Japan

Charles F. Warren, Esq.
George A. Quadrino, Esq.
Law Offices of Charles F. Warren
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036
(Attorneys for the Trans-Pacific Freight Conference of Japan/Korea and its member lines)

(Member Lines)

American President Lines, Ltd.
601 California Street
San Francisco, California 94108

Barber Lines A/S
Barber Steamship Lines, Inc., General Agents
17 Battery Place
New York, New York 10004

Compania Peruana de Vapores
Kerr Steamship Co., Inc., General Agents
One California Street
San Francisco, California 94111

Japan Line, Ltd.
Japan Line (New York) Services, Ltd., General Agents
One World Trade Center
Suite 2867
New York, New York, 10048

Kawasaki Kisen Kaisha, Ltd.
"K" Line—Kerr Corporation, General Agents
29 Broadway
New York, New York 10006

Knutsen Line
Boyd, Weir & Sewell, Inc., General Agents
17 Battery Place
New York, New York 10004

Mitsui O.S.K. Lines, Ltd.
One World Trade Center
Suite 2211
New York, New York 10048

Nippon Yusen Kaisha, Ltd.
One World Trade Center
Suite 5031
New York, New York 10048

Pacific Far East Line, Inc.
One Embarcadero Center
San Francisco, California 94111

Phoenix Container Liners, Ltd.
Kerr Steamship Company, Inc., General Agents
One California Street
San Francisco, California 94111

Sea-Land Service, Inc.
P.O. Box 1050
Elizabeth, New Jersey 07207

Seatrain International, S.A.
Seatrain Lines, Inc. (Container Division)
Port Seatrain
Weehawken, New Jersey 07087

Showa Shipping Co., Ltd.
Norton, Lilly & Co., Inc., General Agents
425 California Street
San Francisco, California 94104

States Steamship Company
320 California Street
San Francisco, California 94104

United States Lines, Inc.
One Broadway
New York, New York 10004

Yamashita-Shinnihon Steamship Co., Ltd.
Texas Transport & Terminal Co., Inc., General Agents
21 West Street
New York, New York 10006

Zim Container Service
One World Trade Center, Suite 2969
New York, New York 10048

[FR Doc.74–10888 Filed 5–9–74;8:45 am]

FEDERAL POWER COMMISSION

ALASKA POWER SURVEY; EXECUTIVE ADVISORY COMMITTEE

Notice of Meeting and Agenda

Agenda for the third meeting of the Executive Advisory Committee to be held in Federal Building, 605 4th Avenue, Anchorage, Alaska, June 18, 1974, at 1 p.m.

Presiding: Mr. James V. House, Chairman, Executive Advisory Committee.
1. Meeting Call to Order—James V. House.
2. Introduction:
a. Self-introductions of those present.
b. Review of purpose and scope of Alaska Power Survey.
3. Technical Advisory Committees:
a. Reports of Chairmen.
b. Submission of Draft Reports.
4. Discussion of TAC Reports.
5. Other Committee Business.
6. Adjournment—James V. House.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD, *Acting Secretary.*

[FR Doc.74–10758 Filed 5–9–74;8:45 am]

[Docket Nos. E–8250, E–8071 and E–8142]

ARKANSAS POWER AND LIGHT CO.

Further Extension of Time and Change of Dates of Prehearing Conference and Hearing

MAY 3, 1974.

On April 26, 1974, counsel for Conway Corporation, *et al*, intervenors, filed a motion for an extension of the procedural dates set by the notice issued February 28, 1974, in the above-designated proceeding. The motion also requests that the prehearing conference be scheduled as soon as possible to resolve discovery problems. Counsel states that none of the parties oppose the motion.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are further modified as follows:

Prehearing Conference, May 21, 1974 (10 a.m. e.d.t.).
Service of evidence by intervenors, May 28, 1974.
Service of rebuttal evidence, June 17, 1974.
Hearing, July 15, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–10762 Filed 5–9–74;8:45 am]

[Docket No. R–427]

CONNECTICUT LIGHT AND POWER CO.

Extension of Time and Postponement of Hearing

MAY 3, 1974.

In the matter of a statement of policy implementing the Economic Stabilization Act of 1970 (Pub. L. 91–15, 84 Stat. 799, as amended by Pub. L. 92–15, 85 Stat. 38 and Executive Orders Nos. 11615 and 11627).

On April 22, 1974, Cities filed a motion for an indefinite postponement of the hearing fixed by Order issued April 4, 1974, in the above-designated matter or, in the alternative, for a 30-day postponement of the procedural dates. On April 29, 1974, Connecticut Light and Power Company filed a response in opposition to an indefinite postponement.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Testimony and Exhibits by Cities, June 28, 1974.
Service of Rebuttal testimony and exhibits, July 23, 1974.
Hearing, August 6, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–10759 Filed 5–9–74;8:45 am]

[Docket No. E–8522]

DELMARVA POWER & LIGHT CO.

Further Extension of Time and Postponement of Prehearing Conference and Hearing

MAY 3, 1974.

On April 30, 1974, Staff Counsel filed a motion for a further extension of the procedural dates fixed by notice issued March 21, 1974, in the above-designated matter. The motion states that there is no objection to the motion by any of the parties.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of Staff's Evidence, May 7, 1974.
Service of Intervener's Evidence, May 21, 1974.
Service of Company's Rebuttal Evidence, June 4, 1974.
Prehearing Conference, June 18, 1974 (10 a.m. e.d.t.)
Hearing, To commence upon the conclusion of the prehearing conference.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–10764 Filed 5–9–74;8:45 am]

[Docket No. CP73–260]

EL PASO NATURAL GAS CO.

Availability of Staff Draft Environmental Impact Statement

MAY 8, 1974.

In the matter of Refugio-Waha pipeline project.

Notice is hereby given in the above docket, that on April 16, 1974, as required by § 2.82(b) of Commission Order No. 415–C, a draft environmental statement prepared by the Staff of the Federal Power Commission was made available for comments. This statement deals with an application by El Paso Natural Gas Company in Docket No. CP73–260 for certificate of public convenience and necessity under section 7(c) of the Natural Gas Act authorizing construction and operation of 418.5 miles of 24-inch natural gas pipeline, 5 compressor stations with a combined output of 50,716 horsepower of compression and other miscellaneous appurtenant facilities. These facilities would be located in 15 counties of the State of Texas.

This statement has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 and at its Regional Office located at 819 Taylor Street, Fort Worth, Texas 76102. Copies may be obtained from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before June 14, 1974.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to § 1.8 of the Commission's rules of practice and procedures. Petitioners must also file timely comments on the draft statement in accordance with § 2.82(c) of Order No. 415–C.

All petitions to intervene must be filed on or before June 24, 1974.

MARY B. KIDD, *Secretary.*

[FR Doc.74–10761 Filed 5–9–74;8:45 am]

[Docket No. CS73–568]

FLUOR OIL AND GAS CORP.

Notice of Redesignation

MAY 2, 1974.

By letter dated July 17 and filed on July 20, 1973, Fluor Oil and Gas Corporation advised the Commission that it changed its corporate name from Fluor Minerals, Inc., to Fluor Oil and Gas Corporation, effective June 28, 1973.

Accordingly, the temporary small producer certificate of public convenience and necessity issued to Fluor Minerals, Inc., in Docket No. CS73–568, is redesignated as that of Fluor Oil and Gas Corporation.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–10765 Filed 5–9–74;8:45 am]

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[Docket No. E-8737]

GULF STATES UTILITIES CO.

Filing of Schedule Showing Facility Charge Payments

MAY 3, 1974.

Take notice that on April 11, 1974, Gulf States Utilities Company, (Gulf States), filed a schedule showing that certain facility charge payments have been made pursuant to an interim agreement in Docket No. E-7696 between Gulf States, Central Louisiana Electric Company, Inc., Louisiana Power & Light Company, and Louisiana Electric Cooperative, Inc. According to Gulf States, this agreement, dated August 3, 1971, was accepted for filing by the Commission on August 7, 1972, and provided for the sale and purchase of the output of the Cooperative's new generating facility at New Roads, Louisiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10766 Filed 5-9-74;8:45 am]

[Docket No. CI74-94]

BLAKE HAMMAN

Further Extension of Time and Postponement of Hearing

MAY 2, 1974.

On April 26, 1974, Blake Hamman filed a motion for a further continuance of hearing and for an extension of time within which to serve testimony fixed by notice issued April 12, 1974, in the above-designated matter. The motion states that the interveners have no objection to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of Applicant's Testimony, May 30, 1974.
Hearing, June 18, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10763 Filed 5-9-74;8:45 am]

[Docket No. CP72-251]

NORTHERN NATURAL GAS CO.

Availability of Modified Draft Environmental Impact Statement

MAY 8, 1974.

In the matter of the Dallas Center Underground Storage Project.

Notice is hereby given in the above docket, that on April 15, 1974, in accordance with § 2.28(b) of Commission Order No. 415-C, a modified draft environmental impact statement prepared by the Staff of the Federal Power Commission was made available for comments. This modified statement deals with the environmental impact of an application filed by Northern Natural Gas Company in Docket No. CP72-251 for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act requesting authorization for the testing of a proposed underground gas storage field near Dallas Center, Iowa. The proposal would include the drilling of 12 injection-withdrawal wells and several observation wells, 13.8 miles of pipeline, and other miscellaneous appurtenant facilities. Comments on the draft environmental impact statement were solicited by letter dated December 10, 1973. This modified draft statement is being circulated due to changes made by the applicant in the dimensions of the storage reservoir, volume of gas proposed for injection-withdrawal and facilities required for total development. For those parties who commented on the original draft environmental impact statement, comments on the modified draft environmental impact statement will be treated as supplements to previous comments.

This modified statement has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection, both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 and at its Regional Office located in Room 1051, 610 South Canal Street, Chicago, Illinois 60606. Copies are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments or supplemental comments on the modified draft statement for the Commission's consideration. All comments must be filed on or before June 14, 1974.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to § 1.8 of the Commission's rules of practice and procedures. Petitioners must also file timely comments on the modified draft statement in accordance with § 2.82(c) of Order No. 415-C.

All petitions to intervene must be filed on or before June 24, 1974.

MARY B. KIDD,
Secretary.

[FR Doc.74-10760 Filed 5-9-74;8:45 am]

[Docket No. E-8722]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Notice of Filing

MAY 2, 1974.

Take notice that on April 5, 1974, the Pennsylvania-New Jersey-Maryland Interconnection (PJM) filed Schedule 8.01 to its Interconnection Agreement with the Cleveland Electric Illuminating Company (CEI). Schedule 8.01 provides for the delivery of fuel conservation energy by CEI for the benefit of PJM.

The proposed Schedule provides a service charge of 1.25 mills per kwh for the deliveries made by CEI. PJM's letter of April 5, 1973, which is attached to their proposed filing, states that CEI's costs for providing transmission service to PJM will exceed the charge of 1.25 mills per kwh.

No new facilities will be installed nor will any existing facilities be modified in order to supply service. The proposed Schedule will remain in effect until December 31, 1974.

Pursuant to § 35.11 of the Commission's regulations, PJM requests waiver of the notice requirements of § 35.3 and an order establishing January 1, 1974 as the effective date of the proposed Schedule.

Any person desiring to be heard or to make any protest with reference to the subject matter of this notice should on or before May 24, 1974 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become a party to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. The agreement referred to in this notice is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10770 Filed 5-9-74; 8:45 am]

[Docket No. ID-1727]

JOHN R. STEVENS

Notice of Application

MAY 3, 1974.

Take notice that on April 29, 1974, John R. Stevens (Applicant) filed an initial application with the Federal Power Commission, pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Massachusetts Electric Company, Public Utility.
Vice President, New England Power Company, Public Utility.

Massachusetts Electric Company is engaged in the generation, purchase, distribution and sale of electricity. The Company provides electric service in 145 cities and towns throughout The Commonwealth of Massachusetts covering an area of approximately 3,246 square miles.

New England Power Company is engaged in the generation, purchase, transmission, and sale of electricity at wholesale, principally to other electric utilities doing retail distribution business.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10768 Filed 5-9-74;8:45 am]

[Docket No. RP73-100]

SYLVANIA CORP.

Revised Tariff, Revised Service Agreement and Refunds Pursuant to Settlement

MAY 3, 1974.

The Sylvania Corporation (Sylvania) on April 11, 1974, tendered for filing its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its settlement agreement in this proceeding which was approved by order of the Commission issued March 18, 1974. The revised tariff, as originally filed on April 26, 1973, as approved by the March 18 order, became effective as of August 13, 1973, with the G-1 Rate Schedule rate reduced to 55.27 cents per Mcf contained on First Revised Sheet No. 4.

On April 9, 1974, Sylvania filed a Statement of Refunds made to its only jurisdictional customer, United Natural Gas Company, (United Natural) in the total amount of $35,437.58, pursuant to the settlement agreement and March 18 order. On April 18, 1974, Sylvania filed a new service agreement with United Natural to become effective as of August 13, 1973, superseding its service agreements applicable to previously effective rate schedules, as follows:

Rate Schedule G-1, dated January 1, 1948
Rate Schedule G-2, dated July 11, 1952
Rate Schedule F-1, dated December 16, 1963
Rate Schedule F-2, dated December 13, 1967

Copies of the three tendered filings have been served upon United Natural and interested State commissions, according to Sylvania's filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 17, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10771 Filed 5-9-74;8:45 am]

[Docket No. RP74-35]

UNITED NATURAL GAS CO.

Further Extension of Time and Postponement of Prehearing and Hearing

MAY 3, 1974.

On March 26, 1974, Commission Staff Counsel filed a motion for a further extension of the procedural dates fixed by notice issued February 27, 1974. The motion stated that United Natural reserved the right to file comments to this motion. A notice was issued April 3, 1974, deferring the procedural dates. On April 11, 1974, United Natural submitted a response requesting a conference with Staff. The request for a conference is a matter which may be addressed to the Staff.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of evidence by staff, June 5, 1974.
Prehearing Conference, June 11, 1974 (10 a.m.e.d.t.).
Service of Intervener's evidence, June 25, 1974.
Service of rebuttal evidence, July 9, 1974.
Hearing, July 16, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10773 Filed 5-9-74;8:45 am]

[Docket No. RP73-94]

VALLEY GAS TRANSMISSION, INC.

Further Extension of Time

MAY 3, 1974.

On April 29, 1974, Iroquois Gas Company filed a request for a further extension of time for filing prepared testimony and the rebuttal testimony as required by notice issued March 14, 1974 in the above-designated matter. The request states that there is no objection to the request by any of the parties.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of prepared testimony and exhibits by interveners, May 17, 1974.
Service of rebuttal evidence by Valley, May 31, 1974.
Prehearing Conference (Unchanged), June 11, 1974 (10 a.m. e.d.t.).
Hearing (Unchanged). To commence at the conclusion of the Prehearing Conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10774 Filed 5-9-74;8:45 am]

[Docket No. E-8575]

WESTERN MASSACHUSETTS ELECTRIC CO.

Filing of Amendment to Purchase Agreement

MAY 3, 1974.

Take notice that Western Massachusetts Electric Company (WMECO) on April 29, 1974, tendered for filing an amendment to their purchase agreement with Montaup Electric Company (Montaup) which agreement was originally filed on January 3, 1974. WMECO states that the amendment would increase Montaup's entitlements in the Woodland Road Gas Turbine Unit from 70.7547 percent to 100.0 percent for the period March 1, 1974, through April 30, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions and protests should be filed on or before May 16, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secreatry.

[FR Doc.74-10775 Filed 5-9-74;8:45 am]

[Docket No. E-8747]

WEST PENN POWER CO.

Amendment to Agreement

MAY 2, 1974.

Take notice that on April 23, 1974, Alleghany Power Service Corporation (Alleghany) tendered for filing on behalf of West Penn Power Company (West Penn) Amendment No. 4 to the Interchange Agreement between West Penn and Duquesne Light Company (Duquesne) dated February 1, 1968. Alleghany states that the said Amendment increases the demand charge for Short-term Power and Energy from $0.40 to $0.45 per kilowatt week. According to

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Alleghany, the increased charge will bring up revenues from short-term sales to an adequate level of compensation.

Alleghany requests an effective date of April 15, 1974, for said Agreement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 13, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10776 Filed 5–9–74;8:45 am]

[Docket No. ID–1726]

JOHN R. WHITE

Notice of Application

MAY 3, 1974.

Take notice that on April 11, 1974, John R. White (Applicant) filed an initial application with the Federal Power Commission, pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Pennsylvania Power Company, Public Utility.
Executive Vice President and Director, Ohio Edison Company, Public Utility.

Pennsylvania Power Company has its principal office at New Castle, Pennsylvania, and is engaged primarily in the generation, transmission, and distribution of electric energy in a portion of the Commonwealth of Pennsylvania.

Ohio Edison has its principal office at Akron, Ohio, and is engaged primarily in the generation, transmission and distribution of electric energy in a portion of the State of Ohio. Ohio Edison is a registered holding company under The Public Utility Holding Company Act of 1935, and owns all the common stock of Pennsylvania Power Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10769 Filed 5–9–74;8:45 am]

[Docket No. E–7555]

WISCONSIN MICHIGAN POWER CO.

Extension of Time and Postponement of Hearing

MAY 2, 1974.

On April 19, 1974, Staff Counsel filed a motion for a change of hearing date fixed by notice issued March 14, 1974, in the above-designated matter to June 17, 1974. On April 24, 1974, Counsel for Wisconsin Michigan Power Company (Wisconsin) filed a motion with the concurrence of the Staff and interveners to change the date of hearing to June 10, 1974.

On April 26, 1974, Wisconsin also filed a motion to extend the time for filing rebuttal testimony. The motion states that Staff Counsel and the interveners have no objection to this motion.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Rebuttal Testimony by Wisconsin, May 10, 1974.
Hearing, June 10, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10777 Filed 5–9–74;8:45 am]

[Docket No. CI74–374]

TUCKER DRILLING COMPANY, INC. ET AL.

Order Granting Intervention, Setting Hearing Date and Prescribing Procedures

MAY 2, 1974.

On January 14, 1974, Tucker Drilling Company, Inc. (Operator) et al. (Applicant), filed in Docket No. CI74–374 an application requesting issuance of a limited-term certificate of public convenience and necessity with pre-granted abandonment authority, pursuant to section 7(c) of the Natural Gas Act and the Commission's regulations thereunder, for the sale of gas to Northern Natural Gas Company (Northern) from the Page Ranch Field, Schleicher County, Texas (Permian Basin Area).

Specifically, Applicant proposes to sell to Northern approximately 16,275 Mcf per month for three years at 45.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment, and a price increase of 1 cent per Mcf during each of the second and third years of the contract.

Applicant began an emergency sale to Northern under authority of Order No. 418 on November 21, 1973.

A late petition to intervene in support of the application was filed by Northern on March 6, 1974. In support of its petition Northern states that it has an emergency gas supply situation on its system; that for a number of years Northern has been depleting its dedicated reserves at a rate faster than it can acquire new reserves, and as a result of this Northern is unable to supply the fuel requirements of its customers.

We take note that the Commission in a recent order recognized that an emergency exists on Northern's system. See Texaco, Inc., ____ FPC ____, issued December 11, 1973. We conclude, therefore, that there is an emergency on Northern's system which would warrant the issuance of a certificate if the price conforms to the public convenience and necessity.

The subject application was filed under Order No. 431[1] and therefore requires evidence to be submitted by the pipeline in the hearing hereinafter ordered (to the extent not hereinabove found to exist) (1) that it has an emergency need for such supply; (2) that it has made every reasonable effort to fill its storage field during the storage injection season; and (3) that, if curtailment is necessary on its system it has filed a plan pursuant to Section 4 of the Natural Gas Act. The proposed sale represents a sizeable volume of gas potentially available to the interstate market and due to the nation's present shortfall of natural gas supplies, it is of critical importance that emergency supplies of gas be made available to interstate pipelines that show a need for such short-term supplies in order to avoid disruption of service to their customers. While the need for such supplies is manifest where the shortfall of supplies renders service on a pipeline's system potentially unreliable, we nevertheless must meet our statutory obligations and determine whether the proposed rate to be paid for such supply is required by the public convenience and necessity criteria of the Act. *Atlantic-Refining Company* v. *Public Service Commission of New York*, 360 U.S. 378 (1960). We will therefore set this matter for hearing to establish an evidentiary record on the issues heretofore discussed. In that hearing, the record should contain evidence on whether the rate to be paid is "no higher than necessary to elicit the supply of gas" into the interstate market [*Neuces Industrial Gas Company*, 45 FPC 1224, 1227, (1971)] and whether that rate is in line with the prevailing intrastate market (Atlantic Richfield Company, ____ FPC ____, Docket No. C173–691, order issued August 30, 1973, and ____ FPC ____, order granting rehearing issued October 10, 1973). The normal market price for this supply cannot be established merely on the basis of prices agreed to by affiliates. The price evidence must be based on arm's-length negotiations and competitive bidding through non-affiliated entities.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

[1] Section 2.70 of the Commission's general policy and interpretations.

(2) The participation of Northern Natural Gas Company may be in the public interest.

The Commission orders: (A) The application for a limited-term certificate for the sale of natural gas filed in Docket No. CI74–374 is hereby set for hearing.

(B) The above-named party is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on June 18, 1974, at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicant.

(D) On or before May 30, 1974, Tucker Drilling Company, Inc., and any supporting party shall file with the Commission and same upon all parties, including Commission Staff, their testimony and exhibits in support of their petition.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, [see Delegation of Authority, (18 CFR 3.5 (d))] shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.[2]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–10772 Filed 5–9–74;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA FINANCIAL GROUP, INC.

Acquisition of Bank

The Alabama Financial Group, Inc., Birmingham, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Capitol National Bank of Montgomery, Montgomery, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 28, 1974.

Board of Governors of the Federal Reserve System, May 2, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–10842 Filed 5–9–74;8:45 am]

AMERICAN BANKCORP, INC.

Acquisition of Bank

American Bankcorp, Inc., Lansing, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of The State Bank of Perry, Perry, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 30, 1974.

Board of Governors of the Federal Reserve System, May 2, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–10840 Filed 5–9–74;8:45 am]

GREAT LAKES BANCSHARES, INC.

Order Approving Acquisition

Great Lakes Bancshares, Inc., Cleveland, Ohio (Applicant), a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent (less directors' qualifying shares) of the voting shares of The Dime Bank, Canton, Ohio (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Federal Reserve Bank of Cleveland has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank, with deposits of $6.1 million, representing 0.02 percent of the total commercial bank deposits in the State.[1] Acquisition of Bank (deposits of $30.3 million as of December 31, 1973) would increase Applicant's share of State deposits approximately 0.1 percent and would not result in any significant increase in the concentration of banking resources in Ohio. Bank, the smallest of five banks headquartered in Canton, Ohio, is the seventh largest of 14 banks in the Canton banking market,[2] controlling approximately 3.6 percent of the total deposits held by commercial banks in the market.

The single office of Applicant's sole subsidiary bank is located 114 miles southwest of Bank's closest office and it appears that there is no existing competition between them. Furthermore, it appears unlikely that any significant competition would develop between them in the future, due to the distances, their relatively small size, and the restrictions of Ohio's branching law. On the basis of the record, this Reserve bank concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area.

The financial managerial resources of Applicant, its subsidiary bank, and Bank are satisfactory, and future prospects for all are favorable. There is no evidence to indicate that the banking needs of the Canton banking market are not being adequately met. However, Applicant proposes to expand Bank's existing services, and to provide new services, such as accounts receivable billing, payroll processing, and inventory accounting. There considerations relating to the convenience and needs of the communities to be served lend some weight toward approval. It is this Reserve bank's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, as summarized above, the Federal Reserve Bank of Cleveland approves the application. The transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order, or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this Reserve bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority from the Board of Governors of the Federal Reserve System, effective April 29, 1974.

WILLIS J. WINN,
President.

[FR Doc.74–10835 Filed 5–9–74;8:45 am]

FIDELITY CORPORATION OF PENNSYLVANIA

Order Approving Acquisition of New York Urban Servicing Co., Inc.

Fidelity Corporation of Pennsylvania, Rosemont, Pennsylvania ("Fidelity"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation

[2] Commissioners Brooke, Smith, and Moody issued separate statements, filed as part of the original document.

[1] Unless otherwise indicated, all banking data are as of June 30, 1973.

[2] The Canton banking market is approximated by Stark County (except Lawrence Township and the western half of Lake Township), and portions of Mahoning, Carroll, and Tuscarawas Counties.

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Y, to acquire all of the voting shares of New York Urban Servicing Co., Inc., New York, New York ("NYUS"), a company that engages in mortgage banking activities. Applicant has also applied to engage in real property leasing activities. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a) (1), (3) and (6)(b)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 35353). The time for filing comments and views has expired, and none has been timely received.

Fidelity controls one bank, The Fidelity Bank, Philadelphia, Pennsylvania ("Bank"), which holds deposits of $1.4 billion, representing about 4 percent of the total deposits in commercial banks in the State[1] and ranks as the fifth largest bank. Fidelity's nonbanking subsidiaries engage in consumer finance, commercial finance, and credit life underwriting activities. In addition, two of Fidelity's nonbanking subsidiaries, Latimer & Buck, Inc. ("Latimer") (assets of $7.2 million as of December 31, 1972) and Trefoil Mortgage Company ("Trefoil") (assets of $11.2 million as of December 31, 1972) are engaged in mortgage banking activities. Both Latimer and Trefoil engage in the originating and servicing of mortgage loans. Bank neither originates nor services mortgage loans for its own account or for the account of others.

NYUS (assets of $0.2 million as of September 30, 1973) arranges, negotiates or acquires for the account of its seven institutional investors loans and other financing transactions secured by income-producing properties. NYUS also services[2] such loans and other financing transactions for its institutional investors. NYUS does not advance any of its own money, nor does it take an equity position in any transaction which it arranges. Based upon a June 30, 1973 mortgage servicing portfolio of approximately $510 million, NYUS ranks as the 47th largest mortgage firm in the country. NYUS derives 73 per cent of its originations from New York City and Long Island. Latimer's financing originates primarily in the Delaware Valley. While consummation of the proposed acquisition would eliminate some competition for originating loans on income-producing property between NYUS and Latimer, the amount is considered insignificant in view of the numerous competitiors in the relevant market, which is at least regional.

[1] Banking data are as of June 30, 1973.

[2] In servicing loans and financing transactions NYUS is obligated to manage the property in the event of a default by the borrower. NYUS always obtains the services of a properyty manager to actually maintain and manage any defaulted property. Under these circumstances, there is no objection to NYUS hiring an independent third party to manage property when there is a default on a transaction NYUS services.

Trefoil, Latimer and NYUS all presently operate in the nationwide market for mortgage loan servicing. Trefoil ranked 40th among the nation's mortgage banking companies in terms of servicing based upon a June 30, 1973 mortgage servicing portfolio of approximately $595 million and Latimer ranked 68th as of the same date with about $342 million in servicing. On this basis, Fidelity's subsidiaries rank as the 16th largest mortgage banking company. Upon consummation of this proposal, the combined portfolio of NYUS, Trefoil and Latimer would total about $1.4 billion, which would in the aggregate rank Fidelity's subsidiaries as 9th in the nation with about 0.3 percent of the nation's total servicing volume. In view of Fidelity's small aggregate share of the nation's total mortgage servicing volume, consummation of the acquisition would have no significant adverse effects on existing competition for servicing. The Board concludes that consummation of the proposed acquisition would have no significant adverse effects on either eixsting or potential competition in any relevant market.

NYUS also services some real property financing transactions described as sale-leasebacks. Although such sale-leasebacks do not satisfy all the conditions of the Board's real property leasing regulation, it appears that the lessor recovers its acquisition cost and cost of financing during the initial term of the lease and that generally the lessor's interest in the property terminates within fifty years. On the basis of these facts, NYUS may continue to service such existing outstanding real property transactions.[3]

Consummation of the proposed acquisition will provide for continuity of NYUS' operations after the impending retirement of the principals of NYUS. In addition, the services that Fidelity offers to its customers may be improved by the expertise now possessed by NYUS with regard to certain real estate financing techniques. There is no evidence in the record indicating that consummation of the proposed acquisition would result in undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Philadelphia.

By order of the Board of Governors,[4] effective May 3, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[3] It appears that less than 2 percent of all of the accounts serviced by NYUS involve sale-leasebacks and that such transactions account for only 10 percent of NYUS' total servicing portfolio.

[4] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns and Governor Brimmer.

[FR Doc.74-10845 Filed 5-9-74;8:45 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Denying Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to The Lufkin National Bank, Lufkin, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the second largest banking organization and bank holding company in Texas and controls 20 banks with aggregate deposits of $2.5 billion, representing approximately 7.2 percent of the total deposits in commercial banks in Texas.[1] Applicant also holds interests of between 5 and less than 25 percent in eight other banks ($178 million in deposits). Acquisition of Bank ($65.7 million in deposits) would increase Applicant's share of commercial bank deposits in Texas by 0.2 of one percentage point. In light of the facts unique to this application and when considered in the context of a trend toward concentration of banking resources in Texas, such an increase of concentration is viewed by the Board as a slightly adverse factor.

[1] All banking data, unless otherwise indicated, are as of June 30, 1973, and reflect bank holding company formations and acquisitions approved through January 31, 1974.

Bank is located in Lufkin, which is the county seat of Angelina County, the relevant banking market. Applicant's banking subsidiary closest to Bank is located in Humble, Texas, 102 miles south of Bank. Accordingly, the Board concludes that no significant existing competition would be eliminated between Bank and any of Applicant's subsidiary banks upon consummation of this proposal.

While the proposal would have no adverse effects on existing competition, the Board is concerned with the effect the proposed acquisition would have upon potential competition in the State as a whole, and more particularly within the Angelina County banking market. The Board has previously expressed its general concern with the nature of the developing banking structure in the State of Texas, including a tendency for the five largest banking organizations to seek to acquire the leading banks in the State's smaller metropolitan areas, thereby increasing the share of Statewide deposits controlled by them, and also increasing the size disparity between those organizations and the other banking organizations in the State.[2] The Board regards this proposal as an extension of that tendency.

While the effect of the proposal on banking competition and concentration in the State as a whole is of some concern to the Board, of greater significance is the effect of the proposal on competition within the relevant market. Approval of the present proposal would enable Applicant to establish itself as a significant competitor in the Angelina County banking market through the acquisition of the largest of five banks in a concentrated market. Bank holds deposits amounting to 49 percent of market deposits; these deposits, when combined with the deposits of the second largest bank in the market, constitute control of 85.7 percent of the market's total commercial bank deposits and 79.1 percent of the market's total IPC deposits in accounts of $100,000 or less.[3] In view of Applicant's present significant position in the State, the absolute size of Bank and its relative position in the market, the prospects for increased competition and a deconcentration of the Angelina County banking market would be diminished as a result of the contemplated acquisition. The proposal would solidify Bank's present significant market position while foreclosing the possibility of Bank either remaining a significant independent competitor or becoming affiliated with one of the State's smaller bank holding companies. In the circumstances of this case, the Board is unconvinced that Applicant's expansion must take the form of acquiring such a substantial competitor as Bank. There are alternative means of entry into the relevant market that would be more conducive to the promotion of competition. The future economic prospects of the area appear attractive in view of the recent population growth of the area as well as the diversified nature of its economy.[4] In this economic climate de novo entry, or acquisition of one of the smaller banks in the market, each of which is an independent banking organization, would be clearly preferable alternatives from a competitive standpoint to the instant proposal. Moreover, Applicant possesses the necessary resources for meaningful entry into the market through such alternative means.

Introduction of Applicant to the Angelina County market through either of the above methods would not only increase competition therein by introducing a new and aggressive competitor into the market, but would also have the tendency of reducing the concentration of banking resources in the market while preserving Bank as a viable competitive force in the market. In addition, the possibility would be preserved that Bank may become affiliated with one of the State's smaller bank holding companies—not an unlikely prospect in view of Bank's attractiveness for acquisition due in part to its market position. The Board views this proposal as evidence both of Applicant's intention to expand throughout the State and to acquire banks with a significant presence in those markets it seeks to enter. However, entry into this market through alternative means, de novo or acquisition of one of the smaller banks, would be consistent with Applicant's apparent intention to expand throughout the State while not having the significant adverse effects on competition in both the relevant market and in the State which are described herein.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are regarded as generally satisfactory. Moreover, there is no evidence in the record to indicate that the banking needs of the relevant market are not being met by the existing institutions. While some benefits to convenience and needs could result from Applicant's entry into the market, such benefits could be derived from entry through a vehicle other than the market's largest banking organization. Accordingly, although considerations relating to the convenience and needs of the communities to be served are consistent with approval, they do not outweigh the significant adverse competitive effects of the proposal. It is the Board's judgment that on the basis of the entire record[5] consummation of the proposed acquisition would not be in hte public interest and that the application should be and hereby is denied.

By order of the Board of Governors,[6] effective May 1, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-10838 Filed 5-9-74; 8:45 am]

[2] Board action denying the application of First International Bancshares, Inc., to acquire Citizens First National Bank of Tyler (1974 *Federal Reserve Bulletin* 43).

[3] IPC deposit data are as of June 30, 1972.

[4] Between 1960 and 1970 population in the market increased 24 percent as compared to a Statewide increase of 16.9 percent over the same period.

[5] Concurring Statement of Governor Sheehan filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Dallas.

FIRST OF BROWNFIELD CORP.

Formation of Bank Holding Co.

The First of Brownfield Corporation, Brownfield, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank, Brownfield, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 28, 1974.

Board of Governors of the Federal Reserve System, May 3, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10839 Filed 5-9-74;8:45 am]

FIRST UNITED CORP.

Formation of Bank Holding Co.

First United Corporation, Holdenville, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The First National Bank of Holdenville, Holdenville, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 27, 1974.

[6] Voting for this action: Chairman Burns and Governors Brimmer, Bucher, Holland, and Wallich. Voting against this action: Governor Sheehan. Absent and not voting: Governor Mitchell.

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Board of Governors of the Federal Reserve System, May 2, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10834 Filed 5-9-74;8:45 am]

FRANKLIN NEW YORK CORP.

Order Denying Acquisition of Talcott National Corp.

Franklin New York Corporation, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act of 1956, has applied, pursuant to section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, for the Board's approval to acquire voting shares of Talcott National Corporation ("Talcott"), New York, New York. Talcott through its subsidiaries engages in the activities of factoring, business financing, making direct consumer installment loans, secured and unsecured, to individuals; selling credit life, and credit accident and health insurance policies to those individuals; underwriting such insurance; selling to those individuals insurance on property; purchasing retail installment sales finance contracts from dealers; brokering consumer loans for the accounts of others; computer and equipment leasing; and the manufacture of trucks.[1]

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 28326). The time for filing comments and views has expired; and the Board has considered all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, a one-bank holding company, is, based upon domestic deposits, the tenth largest banking organization in New York State, and the 22nd largest nationally. Applicant controls Franklin National Bank, New York, New York ("Bank"), which holds $2.6 billion of domestic deposits.[2] Total domestic and foreign deposits of Bank approximate $3.7 billion.

Talcott, with total assets of $724 million,[3] ranked as the 17th largest finance company in the nation as of year-end 1972 and as the nation's 11th largest independent finance company based on total capital funds. It is a substantial competitor in each product market in which it engages. It is the fourth largest factor in the nation, having acquired factoring receivables of $1.1 billion during 1972, representing 7.6 percent of the industry total. In the area of business financing, Talcott made $1.4 billion in loans during the first six months of 1973 and, as of June 30, 1973, held gross outstandings of $479 million. Its consumer finance activities are substantial.

[1] Applicant proposes to terminate this activity and to modify certain insurance sales, underwriting, and leasing activities of Talcott into conformity with Regulation Y within two years of consummation of the proposed transaction.

[2] Deposit data as of December 31, 1973.

[3] Data as of December 31, 1973.

The 1970 Amendments to the Act require that the Board, in acting on an application under section 4(c)(8), consider whether the performance of a particular activity by an affiliate of a bank holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." This balancing test necessitates a positive showing of public benefits, outweighing the "possible" adverse effects of any proposed acquisition, before an application may be approved Applicant must bear this burden.

Bank and Talcott are commonly engaged in four product markets: accounts receivable financing, short term lending secured by first mortgages on income-producing property, consumer finance, and equipment leasing. Consummation of the proposal would eliminate a small amount of existing competition in each of these product markets with the greatest elimination occurring in the consumer finance product line in the New York area. In view of the fact that there is some existing competition between Bank and Talcott and that this competition could be expected to increase, the Board futher concludes that consummation of the proposal would eliminate some potential competition.

In its consideration of this application, the Board noted that Bank is the 21st largest bank in the United States. Talcott is the 11th largest independent commercial finance company and the fourth largest independent factor in the United States. Any proposed amalgamation of this magnitude is closely examined by the Board to determine whether it involves questions of concentration of resources which would be inconsistent with the intent of Congress in adopting the Bank Holding Company Act Amendments of 1970. While the Board considers the question in this case to be a marginal one, on balance the Board has concluded that this factor should be accorded some adverse weight.[4]

Bank itself has experienced an earnings record in recent years below the industry average, and has recently made a substantial shift in management policies designed to improve performance significantly. As changes in the institution's internal structure and asset composition are pursued, it is the Board's view that the acquisition of Talcott would be a complicating and diversionary factor. As the Board has previously stated on a number of occasions, a bank holding company should be a source of financial and managerial strength for its subsidiary banks. The Board finds that this proposal may constitute an undue claim on Applicant's managerial and financial resources and concludes that this represents an adverse effect to be considered under section 4(c)(8).

Section 4(c)(8) of the Act places on Applicant the burden of affirmatively demonstrating reasonably expected public benefits which outweigh the possible adverse effects described above. Applicant contends that consummation of the proposal would lead to the provision of various new services. The Board concludes that all such services are readily available in the New York metropolitan market and finds that the provision of such additional services would constitute only a minimal public benefit. Applicant further contends that consummation of the proposal would lead to various gains in efficiency and enable Applicant to more effectively compete with its competitors. The Board is not, however, persuaded that such benefits as may reasonably be expected to occur will be significant enough to outweigh the possible adverse effects involved in this proposal.

On the basis of the record the Board concludes that the possible adverse effects of consummation of the proposal are not outweighed by reasonably expected benefits to the public and that the application should be, and hereby is, denied.

By order of the Board of Governors,[5] effective May 1, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-10837 Filed 5-9-74;8:45 am]

F.S.B., INC.

Acquisition of Bank

F.S.B., Inc., Superior, Nebraska, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Farmers State Bank of Superior, Superior, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 27, 1974.

Board of Governors of the Federal Reserve System, May 2, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10844 Filed 5-9-74;8:45 am]

LOCUST GROVE BANCSHARES, INC.

Formation of Bank Holding Co.

Locust Grove Bancshares, Inc., Locust Grove, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of at least 80 percent of the voting shares of Bank of Locust Grove, Locust Grove, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 30, 1974.

Board of Governors of the Federal Reserve System, May 2, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10843 Filed 5-9-74;8:45 am]

NEW JERSEY NATIONAL CORP.

Order Approving Acquisition of a Bank

New Jersey National Corporation (Applicant), Trenton, New Jersey, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to Delaware Valley National Bank (Bank), Cherry Hill, New Jersey. The bank into which Bank is to be merged has no significance except as a means of facilitating the acquisition. Accordingly, the proposed acquisition of the successor organization (New Jersey National Bank-Delaware Valley) is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been timely received. The Federal Reserve Bank of Philadelphia, acting pursuant to delegated authority for the Board, has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the sixth largest bank holding company in New Jersey and is headquartered in Trenton. The proposed acquisition, would not alter Applicant's position among the New Jersey bank holding companies and would not result in a significant increase in the concentration of resources in the State. Applicant currently has two subsidiary commercial banks, New Jersey National Bank, Trenton and New Jersey National Bank of Princeton, with combined deposits of $661.3 million as of December 31, 1973. Both subsidiary banks are headquartered and operate primarily in the trenton commercial banking market, however, Applicant has an approved unopened office in Willingboro, on the northern fringe of the Philadelphia-Camden Market Area. This proposed full service branch is presently a loan production office. It represents the farthest southern banking office penetration of Applicant to date. It is judged that present competition between Bank and this relatively distant facility is minimal to non-existent and it is unlikely that substantial future competition would occur between Bank and this facility when converted to a full service branch.

A subsidiary of Applicant, Underwood Mortgage and Title Company (Underwood), headquartered in Irvington, New Jersey, has recently opened a de novo branch office in Moorestown, about seven miles from Bank. Although the office of Underwood is close spatially to Bank, it is not felt that this acquisition would have any significant adverse effects on existing competition. Over 122 mortgage origination alternatives would remain for borrowers.

Bank currently operates only two offices, both in the Philadelphia-Camden Market Area. The Philadelphia-Camden Market Area includes all of Philadelphia and Delaware Counties, parts of Chester, Montgomery and Bucks Counties in Pennsylvania, plus Camden County, and parts of Gloucester and Burlington Counties in New Jersey. Bank's two offices have a total of $20.1 million in deposits and rank 35th out of 53 banks in the Philadelphia-Camden Market. Bank holds about 0.1 percent of the total Philadelphia-Camden market deposits. This market is highly competitive. The top six ranked bank holding companies in New Jersey, including Applicant, are already represented in this market.

Acquisition of Bank would not give Applicant a substantial position in the relevant market and would be comparable in competitive effects to a de novo entry. Furthermore, Bank is not considered to be a likely potential entrant to other markets served by Applicant's subsidiary banks. Therefore, consummation of the proposed transaction would have no significant adverse effects on either existing or potential competition.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are regarded as generally satisfactory and consistent with approval. There is no evidence in the record that the banking needs of the area are not being met. However, it is anticipated that affiliation with Applicant will enable Bank to increase the range of services currently provided. Through Applicant's resources, Bank will also increase its effective lending capacity and its expertise in various types of commercial loans. Accordingly, convenience and needs considerations are consistent with approval. It is this Federal Reserve Bank's judgment that consummation of the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of Philadelphia approves the application, provided that the transaction not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board of Governors of the Federal Reserve System or by the Federal Reserve Bank of Philadelphia, pursuant to delegated authority.

By Order of the Federal Reserve Bank of Philadelphia, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective April 25, 1974.

[SEAL] THOMAS K. DESCH,
Vice President.

(Attest)

DONALD J. MCANENY,
Assistant Vice President and Assistant Secretary.

[FR Doc.74-10832 Filed 5-9-74;8:45 am]

RIMCO, INC.

Proposed Acquisition of Rimco Insurance

Rimco, Inc., Rangely, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain the assets of Rimco Insurance, Rangely, Colorado. Notice of the application was published on (1) December 13, 1973, in The Rangely Times, a newspaper circulated in Rangely, Colorado and (2) on December 13, 1973, in The Meeker Herald, a newspaper circulated in Meeker, Colorado.

Applicant states that the proposed subsidiary would engaged in the activity of selling as agent of a general line of insurance in a community not exceeding 5,000 in population. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System,

[5] Governor Sheehan, while concurring in the Board's action on this matter, dissents from the views expressed in this paragraph.

[6] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland and Wallich. Absent and not voting: Governor Brimmer.

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Washington, D.C. 20551, not later than May 29, 1974.

Board of Governors of the Federal Reserve System, May 1, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10833 Filed 5-9-74;8:45 am]

RYAN BANCSHARES, INC.

Formation of Bank Holding Company

Ryan Bancshares, Inc., Ryan, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The First State Bank, Ryan, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 27, 1974.

Board of Governors of the Federal Reserve System, May 2, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-10841 Filed 5-9-74;8:45 am]

UNION BANK AND TRUST COMPANY BANKS OF IOWA, INC.

Order Denying Acquisition of Assets of Bank and Acquisition of Insurance Agency

Union Bank and Trust Company, Ottumwa, Iowa ("Union Bank"), a member State bank of the Federal Reserve System and a subsidiary of Banks of Iowa, Inc., Cedar Rapids, Iowa ("Banks of Iowa"), has applied for the Board's approval pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) of the acquisition of certain assets and the assumption of certain liabilities of The First National Bank of Eldon, Eldon, Iowa ("Eldon Bank"). As an incident to the proposal, the present office of Eldon Bank would become a branch of Union Bank. As required by the Act, notice of the proposed transaction, in form approved by the Board, has been published, and the Board has requested reports on competitive factors from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

In a related matter, Banks of Iowa has applied for the Board's approval, under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, to acquire the assets of Eldon Insurance Agency, Eldon, Iowa. The proposed subsidiary would engage in the activities of (1) a general insurance agency in Eldon, Iowa, a community with a population not exceeding 5,000, and (2) the sale of insurance directly related to extensions of credit by a bank or bank related firm. Banks of Iowa also proposes to expand the lines of insurance sold to include crop hail insurance and life insurance. Such activities have been specified by the Board in § 225.4(a)(9) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Notice of this application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 8660). The time for filing comments and views has expired.

The Board has considered each of the applications and all comments received in the light of the factors set forth in each of the respective Acts.

Union Bank ($59 million deposits),[1] a subsidiary of Banks of Iowa, is the largest of five banking organizations in the Ottumwa banking market (approximated by Wapello County) and holds about 53 percent of the total commercial bank deposits in that market. As the largest banking organization in the market, Union Bank holds more than twice the amount of deposits as held by the second largest banking organization. Eldon Bank, the fourth largest banking organization in the same market, holds total deposits of $3.4 million, representing 3 percent of the market's total deposits. Consummation of the acquisition, therefore, would result in Union Bank controlling about 56 percent of the deposits, thereby furthering the already high level of concentration of banking resources in the market. In its consideration of this application, the Board regards such an increase in concentration as an adverse factor.

Union Bank operates one office in Agency, Iowa, about 10 miles northwest of Eldon, and four of its other offices are located in Wapello County within 22 miles of Eldon. Union Bank obtains loans and deposits business from the area served by Eldon Bank. As noted by the Department of Justice in comments filed with the Board, the amount of such business drawn by Union Bank from the area served by Eldon Bank is substantial when compared to the latter's overall business. Thus, meaningful existing competition between the two institutions would be permanently eliminated by the proposed transaction. Although this factor may be minimized to some extent because of the present ownership interests of directors of Union Bank in Eldon Bank, it appears also that potential competition would be adversely affected by the proposed union of the two banks since Eldon Bank would be removed as a banking alternative in the relevant market. Consummation of the proposal would reduce the number of banking alternatives available within the market from five to four, and would preclude the possibility of the Eldon Bank being acquired by others outside the market or remaining an independent organization—either of which would be preferable from a competitive standpoint to the instant proposal.

On the basis of the foregoing and all other facts in the record, the Board concludes that the proposal would increase the level of banking concentration to an undesirable level, eliminate existing competition between the institutions involved, and have significantly adverse effects on potential competition within the Ottumwa banking market. Accordingly, unless such anticompetitive effects are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the communities to be served, the statute requires denial of the application.

The financial and managerial resources of Union Bank are satisfactory and its prospects appear favorable. Although Eldon Bank has not been operated aggressively, its financial and managerial resources and prospects are generally satisfactory. Therefore, banking factors are consistent with approval of the application. Union Bank proposes to improve the present services being offered by Eldon Bank and to introduce trust and data processing services. While the proposed improvements and additions in services might serve the conveniences of the relevant area, in the Board's judgment such anticipated benefits would not be sufficient to overcome the adverse effects this proposal would have on competition in the Ottumwa banking market. Furthermore, there is no evidence in the record to suggest that the major banking needs of the Ottumwa market area are not being satisfactorily served by existing financial institutions.

On the basis of all relevant facts contained in the record, and in light of the factors set forth in the Bank Merger Act (12 U.S.C. 1828(c)), it is the Board's judgment that the anticompetitive effects of the proposed acquisition are not outweighed by considerations relating to the convenience and needs of the community to be served. The Board concludes, therefore, that the proposed transaction is not in the public interest and, accordingly, the application is hereby denied.

The concurrent application by Banks of Iowa, pursuant to section 4(c)(8) of the Bank Holding Company Act, seeks Board approval by the parent holding company of Union Bank to operate an insurance agency business on the premises of Eldon Bank. In view of the Board's denial of the application by Union Bank to acquire the assets of Eldon Bank and the fact that a bank holding company is not authorized under the Board's Regulation Y to act as an insurance agent or broker in offices other than those in which the holding company or its subsidiaries are otherwise engaged in business, the application by the parent holding company to acquire the Eldon Insurance Agency is hereby denied.

[1] Deposits for Union Bank are as of October 15, 1973, and for Eldon Bank are as of November 19, 1973. All other banking data are as of June 30, 1973.

By order of the Board of Governors,[1] effective May 3, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-10847 Filed 5-9-74;8:45 am]

WYOMING BANCORPORATION

Order Approving Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 95 percent of the voting shares of Bank of Wyoming, N.A. ("Bank"), Sheridan, Wyoming, a proposed new bank.

Notice of the application, affording opportunty for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the largest banking organization in Wyoming and controls 13 subsidiary banks with aggregate deposits of $183.5 million, representing 16.1 percent of the total commercial bank deposits in the State.[2] The acquisition of shares of Bank would not affect the concentration of banking resources in the State.

Bank is to be located in the city of Sheridan, where it will compete in a banking market comprised of Sheridan County. This market is presently served by three banks, although the Comptroller of the Currency and the Wyoming State Examiner have each granted charters for de novo banks in the market.[3] It appears from the record that the addition of two banks to the area may create a temporary condition of overbanking. However, the market's rate of growth suggests that such a condition will not be serious and will be of relatively short duration. In the Board's judgment, Applicant's de novo entry may be expected to serve the longer-run competitive interest of the market.

Applicant does not presently operate in Sheridan County, and the office of Applicant's subsidiary bank closest to Bank is located in Cody, about 160 miles west of Sheridan. Since Bank is a proposed new bank, Applicant's acquisition of Bank would not have any immediate effect on Applicant's share of commercial bank deposits in the Sheridan banking market; nor would it have any adverse effects on existing or potential competition with respect to this market. It is expected that Applicant's entry into this market will provide the area with an aggressive competitor and likely result in the deconcentration of the market's banking resources.[4] The Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as satisfactory. Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable. Considerations relating to the banking factors are consistent with approval of the application. Although it appears that the major banking needs of the community are presently being adequately served, Bank would serve as an additional source of full banking services. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Bank of Wyoming, N.A., Sheridan, Wyoming, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[4] effective May 3, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74-10846 Filed 5-9-74;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Chairman Burns.

[2] All banking data are as of June 30, 1973.

[3] The Comptroller has granted a preliminary charter to Applicant for Bank, while the State Examiner has granted a charter to Wyoming Security Bank (also to be located in the City of Sheridan), an affiliate of the largest bank in the market.

[4] The two largest banks in the Sheridan Banking market control over 96 per cent of the market's total commercial deposits.

[4] Voting for this action: Vice-Chairman Mitchell and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns and Governor Brimmer.

GENERAL SERVICES ADMINISTRATION

EXECUTIVE BRANCH POSITION

Commission on Government Procurement Recommendations

Notice is given that an executive branch position has been reached on the following Commission on Government Procurement (COGP) recommendations:

I. *Recommendation A-49:* "Initiate within the executive branch a review of procurement programs with guidance from SBA and the Office of Federal Procurement Policy with the objective of making small business participation in Government procurement more effective and assuring that small businesses have a full opportunity to compete for Government contracts."

Executive Branch Position: A review program already exists within the executive branch that provides for review of procurement programs for the purpose of improving small business participation in Government procurement. This issue was thoroughly studied by an Interagency Task Group and supported by a major consensus of Federal agencies.

II. *Recommendation B-6:* "Monitor the progress of the NSF/NBS experimental R&D incentives program and actively translate the results of the learning into practical agency application."

Executive Branch Position: Adopt and implement the recommendation. OMB has established measures to "monitor the progress of the National Science Foundation/National Bureau of Standards experimental research and development incentives program and actively translate the results of this learning into practical agency application." Periodic review and criticism of the planning and execution of the incentives program is now part of OMB's regular budget review and apportionment process for both NSF and NBS. In addition, the potential for practical application is being factored into the reviews.

III. *Recommendation B-7:* "Eliminate restraints which discourage the generation and acceptance of innovative ideas through unsolicited proposals."

Executive Branch Position: Adopt the recommendation. Implementation will include appropriate modifications to the Federal Procurement Regulations (FPR) and Armed Services Procurement Regulation (ASPR), coordinated to insure a Government-wide approach in the final regulatory issuances. Such coordination on the regulatory expression of these policies shall be required relative to future changes in either of the regulations involved.

Agency coordination and private sector comments will be requested on the draft regulation implementing the subject policies.

IV. *Recommendations D-8, 9 and 10:*

Recommendation D-8: "Authorize primary grantees use of Federal sources of supply and services when:

a. The purpose is to support a specific grant program for which Federal financing exceeds 60 percent;

b. The use is optional on the grantee, the Government source, and, in the case of Federal schedules or other indefinite delivery contracts, on the supplying contractor; and

c. The Government is reimbursed all costs."

Recommendation D-9: "Require that grantor agencies establish regulatory procedures for assuring appropriate use of the products or services and computation of total costs for Government reimbursement."

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Recommendation D–10: "Assign responsibility for monitoring implementation of this program and its socio-economic effects to the Office of Federal Procurement Policy."

Executive Branch Position: The recommendations have been rejected. There has been no new, significant evidence introduced by either the COGP or the interagency task group as justification for reinstating the use of Federal sources of supply by grantees. Further, this position is in agreement with the Administration's policy set forth by GSA in Federal Property Management Regulations (FPMR) Amendment E–125, dated November 14, 1972, discontinuing the program.

Dated at Washington, D.C., on May 2, 1974.

R. E. ZECHMAN,
Acting Associate Administrator for Federal Management Policy.

[FR Doc.74–10754 Filed 5–9–74;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, May 16, 1974, from 10 a.m. to 4 p.m., Room 5B, 1776 Peachtree Street, NW., Atlanta, Georgia. This meeting will be for the purpose of considering architect-engineering firms for open end, fixed price contracts for a one year term for work in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

The meeting will be closed to the public in accordance with the provisions set forth in Section 10(d) of Pub. L. 92–463.

L. A. SHEPPARD,
Acting Regional Administrator.

Concur:

J. E. SMITH,
Reg. Comm., PBS.

[FR Doc.74–10993 Filed 5–8–74;11:32 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR POLITICAL SCIENCE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Advisory Panel for Political Science to be held at 9 a.m. on May 30 and 31, 1974, in Room 321 at 1800 G Street NW., Washington, D.C. 20550 .

The purpose of the panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92–463.

Individuals requiring further information about this panel may contact Dr. G. R. Boynton, Program Director for Political Science Program, Room 205, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director for Administration.

APRIL 29, 1974.

[FR Doc.74–10883 Filed 5–9–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 7, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202–395–4529).

NEW FORMS

DEPARTMENT OF COMMERCE

Economic Development Administration: National Institute of Governmental Purchasing Survey on Technical Assistance Alternatives, Form ED 356Q, Single time, Sheftel, Local public purchasing officials.

National Bureau of Standards:
- Questionnaire on Standard Reference Materials for Water Analysis, Form NBS 780, Single time, Sheftel, Industrial laboratories.
- Dental Service Confirmatory Questionnaire, Form NBS 733, Annual, Caywood, Dental service providers.
- Dental Service Utilization Consumer Questionnaire, Form NBS 779, Annual, Caywood, Households nationwide.

National Oceanic and Atmospheric Administration: Fishery Products Used by Zoos and Aquariums in America, Form NOAA 88–901T, Single time, Foster, Zoos and aquariums.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: Psychological Job Stress and Coronary Heart Disease, Form CDCNIOSH 0422, Occasional, Wann, Workers.

Departmental: Levels of Care in Generalized Intermediate Care Facilities (ICF), Form, Occasional HRD/Caywood, Government agencies.

Social Security Administration: Supplemental Security Income—Public Assistance Agency Information Request and Report, Form SSA 8221 (CA), (AR), (HI), Occasional Caywood, SSI recipients of optional state supp. in California, Arizona, and Hawaii.

DEPARTMENT OF TRANSPORTATION

Departmental: Urban Corridor Carpool/Buspool Demonstration Questionnaire, Form, Single time, Foster, Auto occupants.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of the Census: Farm Machinery and Equipment, Form MA 35A, Annual, Lowry, Manufacturing establishments.

VETERANS ADMINISTRATION

Application for Predischarge Education Program (PREP), Form 22–1990P, Occasional, Caywood, Serviceman or Servicewoman.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of the Census:
- Current Business Report—Interview Record, Form CBR–1, Monthly, Collins (x).
- Current Business Report, Form CBR–2, Monthly, Collins (x).

National Oceanic and Atmospheric Administration, Comment Sheet, Form NOAA 44–8, Occasional, Evinger.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration: Resource Data for State Food and Drug Programs, Form FD 2525, Occasional, Caywood, FDA related state agencies.

Health Services Administration: Uniform Quarterly Reporting Requirements for Comprehensive Health Centers, Form HSABCHS 0429, Quarterly, Reese, Neighborhood Health Centers.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–10903 Filed 5–9–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70–5494]

ALABAMA POWER CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

MAY 3, 1974.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary company of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $100,000,000 principal amount of its First Mortgage Bonds, ------ percent Series, having a term of not less than 5 years and not more than 30 years. Alabama will decide on the terms of the bonds prior to the filing of the registration statement. The interest rate and the price, exclusive of accrued interest, to be paid to Alabama (which shall be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture, dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of June 1, 1974, which includes a prohibition until June 1, 1979 against refunding the bonds with the proceeds of funds borrowed at a lower effective interest cost.

Alabama proposes to use the proceeds from the sale of the bonds together with: (1) Cash contributions to capital of $115,000,000 by The Southern Company ($28,500,000 of which had been received during the first quarter of 1974) heretofore authorized by the Commission (Holding Company Act Release Nos. 17945 and 18340); (2) proceeds from the sale of pollution control revenue bonds to be advanced by the Town of Wilsonville, Alabama, under arrangements heretofore authorized by the Commission (Holding Company Act Release No. 18269); (3) proceeds from the sale of 350,000 shares of preferred stock (par value $35,000,000), which Alabama sold on April 18, 1974; and (4) cash on hand in excess of operating requirements, interests and dividents, to finance its 1974 construction program (estimated at $466,900,000), to pay short-term promissory notes payable in the form of bank notes and commercial paper notes incurred for such purpose, and for other lawful purposes. Alabama estimates that no additional financing will be required for construction purposes during 1974, except for the issuance and sale of short-term bank notes and commercial paper notes authorized by the Commission (Holding Company Act Release No. 18340). It is estimated no notes payable will be outstanding at December 31, 1974.

It is stated that the Alabama Public Service Commission has approved the proposed issuance and sale of the bonds by Alabama. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. A statement of the fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than May 28, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10856 Filed 5–9–74;8:45 am]

CYCLOPS CORP. ET AL.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 3, 1974.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Cyclops Corp	7–4588
Dayco Corp	7–4589
Development Corp. of America (Delaware)	7–4590
Gamble-Skogmo, Inc	7–4591
Gardner-Denver Co	7–4592
International Mining Corp	7–4593
Kansas City Southern Industries, Inc	7–4594
Leaseway Transportation Corp	7–4595

Upon receipt of a request, on or before May 18, 1974 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10855 Filed 5–9–74;8:45 am]

GOLDMAN, SACHS & CO.

Notice of Application for Exemption and Order Granting Exemption Pending Final Determination of the Foregoing Application

MAY 2, 1974.

Notice is hereby given that Goldman, Sachs & Co. ("Applicant"), a limited partnership, has filed an application pursuant to section 9(c) of the Investment Company Act of 1940 ("Act"), for an order of the Commission exempting Applicant from the provisions of Section 9(a) of the Act insofar as any ineligibility to serve or act in the capacities enumerated in section 9(a) of the Act arises out of an injunction entered in connection with an action entitled Securities and Exchange Commission v. Goldman, Sachs & Co. (United States District Court for the Southern District of New York) (the "Action"). All interested persons are referred to the application on file with the Commission for a statement of the representations therein.

Applicant is registered with the Commission as a broker and dealer in securities pursuant to section 15(b)(1) of the Securities Exchange Act of 1934 and as an investment adviser pursuant to section 203(c) of the Investment Advisers Act of 1940.

The Action arose out of the purchase and sale by Applicant of unsecured corporate promissory notes having a maturity at the time of issuance not exceeding nine months ("commercial paper") issued by Penn Central Transportation Company. The complaint in the Action alleges that Applicant failed to disclose certain information to purchasers of the commercial paper in violation of section 17(a) of the Securities Act of 1933.

On May 2, 1974, a final judgment of permanent injunction against the Applicant was entered upon the consent of the Securities and Exchange Commission and the Applicant. The judgment enjoined Applicant, directly or indirectly by use of any means or instruments of transportation or communication in interstate commerce or of the mails, from effecting the sale, in violation of the provisions of section 17(a) of the Securities Act of 1933, of unsecured corporate promissory notes having a maturity at the time of issuance not exceeding nine months issued by Penn Central Company,

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Penn Central Transportation Company (including the Trustees in Reorganization of Penn Central Transportation Company) or Pennsylvania Company. The judgment further ordered Applicant to implement, and supervise its employees' compliance with, a written statement of policy with respect to the activities of Applicant as a broker or dealer in commercial paper.

Section 9(a)(2) of the Act makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, to serve or act in the capacity of officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company.

Applicant represents that it is acting as an investment adviser of the Fund A Partnership, a registered investment company formed by Arthur Andersen & Co. as a means of investment for partners, participating principals and overseas representatives of Arthur Anderson & Co.

Section 9(c) of the Act provides that any person who is ineligible by reason of subsection (a) to serve or act in the capacities enumerated therein may file with the Commission an application for an exemption from the provisions of that subsection and further provides that the Commission shall by order grant such application, either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of subsection (a), as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicant represents that in order to avoid protracted and costly litigation Applicant consented to the granting in April 1970 of an injunction against it in connection with a tender offer by others. In September 1970 Applicant was granted an exemption by the Commission from the application of the provisions of section 9(a) of the Act by reason of such injunction. Except for that matter and the matter which is the subject of this Notice, Applicant has not applied for any other exemption from the provisions of section 9(a) of the Act.

Applicant submits that for the following reasons:

(i) The limited nature of the matters covered by the Consent Decree in relation to the matters specified in section 9(a)(2) of the Act and the purposes of Section 9(a) of the Act;

(ii) The fact that the allegations of the Commission's complaint in the Action involved novel questions of law concerning the obligations of a dealer in commercial paper with respect to which no precedent existed;

(iii) The fact that the Consent Decree was entered with the consent of Applicant for the purposes of the Action only, without admitting or denying the material allegations of the complaint and without consenting to the adjudication of any wrongdoing or liability, and with the agreement of the Commission that it would not be used as the basis for the institution thereafter of administrative proceedings by the Commission against Applicant; and

(iv) The fact that Applicant has participated with the Commission in formulating a written statement of policy with respect to its activities as a broker or dealer in commercial paper, which is substantially in the form annexed to the Consent Decree as Exhibit A, and that Applicant has agreed to implement, and supervise its employees' compliance with, such statement of policy;

the prohibitions of section 9(a) of the Act, if applicable by reason of the above-mentioned final judgment, would be unduly and disproportionately severe if applied to Applicant and asserts that it is consistent with the public interest and the protection of investors and the purposes fairly intended by the policy and provisions of section 9 of the Act for the Commission to enter an order granting this application for an exemption from the provisions of section 9(a) of the Act.

The Applicant also requests that the Commission, in consideration of the application and upon its own motion, for the reasons discussed above, grant Applicant a temporary exemption from the provisions of section 9(a) of the Act pending final determination of the application which is the subject of this Notice.

Notice is further given that any interested person may, not later than May 31, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificates) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

The Commission has considered the matter and the application for exemption pending final determination of the matter by the Commission and finds that the conduct of Applicant has been such as not to make it against the public interest or protection of investors to grant Applicant's application for exemption from the provisions of section 9(a) of the Act pending final determination by the Commission of the application which is the subject of this Notice.

Accordingly, it is ordered, pursuant to section 9(c) of the Act, that the application of Goldman, Sachs & Co. for exemption from the provisions of section 9(a) of the Act pending final determination by the Commission of the application which is the subject of this Notice, insofar as any ineligibility to serve or act in the capacities enumerated in such section arises out of the injunction referred to in the first paragraph of this Notice, be and is hereby granted, effective forthwith.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10858 Filed 5-9-74;8:45 am]

LUDLOW CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 3, 1974.

In the matter of applications of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Ludlow Corp	7-4596
L.V.O. Corp	7-4597
Reeves Brothers, Inc	7-4598
World Airways, Inc	7-4599

Upon receipt of a request, on or before May 18, 1974 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular

application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commisison by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-10857 Filed 5-9-74;8:45 am]

SOUTHEASTERN REGIONAL MANPOWER ADVISORY COMMITTEE

NOTICE OF MEETING

The Southeastern Regional Manpower Advisory Committee will meet at the Mountain View Inn, Gatlinburg, Tennessee, on May 26 and 27, 1974. Appointed by the Secretary of Labor, the Committee makes recommendations to the regional representatives of the Department of Labor's Manpower Administration and Department of Health, Education, and Welfare concerning specific manpower problems in Region IV, in the administration of the Manpower Development and Training Act. Members of the Committee are chosen from representatives of labor, management, agriculture, education, training and the public at large. The chairman is Dr. James D. McComas, Dean of Education, University of Tennessee.

The meeting on May 26 and 27 will be the terminal meeting of the Committee with the agenda primarily concerned with a projection of labor market trends and industrial development, rural manpower development and needs, and an update on the current problems, programs and activities in the manpower training field.

The meeting will open with a dinner meeting at 7 p.m., on May 26, 1974, and continue during the day of May 27, 1974, with adjournment scheduled at 4:30 p.m. The meeting will be open to the public.

Signed at Atlanta, Georgia this 30th day of April, 1974.

WILLIAM U. NORWOOD, JR.,
Assistant Regional Director for Manpower.

[FR Doc.74-10750 Filed 5-9-74;8:45 am]

TARIFF COMMISSION

[AA1921-139]

PICKER STICKS FROM MEXICO

Determination of Injury or Likelihood of Injury

MAY 6, 1974.

On February 6, 1974, the Tariff Commission received advice from the Treasury Department that picker sticks from Mexico are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-139 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on March 19, 1974. Notice of the investigation and hearing was published in the FEDERAL REGISTER of February 20, 1974 (39 FR 6571).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined that an industry in the United States is being, or is likely to be, injured [1] by reason of the importation of picker sticks from Mexico that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF CHAIRMAN BEDELL, VICE CHAIRMAN PARKER, AND COMMISSIONER LEONARD [2]

In our opinion, an industry in the United States is being injured by reason of the importation of picker sticks from Mexico that are being, or are likely to be, sold at less than fair value (LTFV) as determined by the Department of the Treasury and reported to the Tariff Commission on February 6, 1974.

We consider the industry in the United States that is being injured to consist of those facilities of U.S. firms that are devoted to the production of picker sticks, a replaceable wooden part of shuttle looms. The facilities of five firms produce the bulk of U.S. output, but a few other firms occasionally produce small numbers of sticks in facilities which for the most part are devoted to other purposes.

The Treasury Department in making its LTFV determination with respect to picker sticks imported from Mexico investigated over 92 percent of such imported picker sticks sold in the United States during the first five months of 1973. Treasury found that 100 percent of the sales it investigated were made at LTFV and that the LTFV margins are substantial. Moreover, our investigation discloses that the LTFV margins contribute significantly to the margins by which imports generally undersell domestic sticks.

U.S. imports of picker sticks, which were very small in 1970 and 1971, increased sharply in 1972 and became large in 1973. Imports as a percent of U.S. consumption were negligible during 1970-71, increased in 1972, with the beginning of imports from Mexico, and became substantial in 1973.

Among picker sticks some models are in much greater demand than others. Production of such sticks can be done on a high-volume basis at low unit cost, and orders for them are highly desired by all manufacturers. It was on nine models of such sticks that the importer generally reduced prices by approximately 22 percent in March 1973, thereby enabling the market share of imports to substantially increase in 1973 at the expense of U.S. producers. Of the picker sticks imported in 1973, nearly three-fourths were models on which the price had been reduced in March 1973.

That the reduced LTFV prices of imported sticks are the principal factor in their increased market penetration is confirmed by a significant number of purchasers of the imported sticks. Indeed, purchasers indicate that substantial orders that will directly displace domestic production have been placed recently or will be placed shortly. Moreover, further significant displacement of domestic production may follow currently-occurring evaluation of the imported sticks.

The importer maintains that the capacity of the Mexican plant is too small to threaten U.S. producers, and states that there is no plan to enlarge that capacity. Our investigation convinces us that the present capacity, if fully used, augurs an ability to capture an even larger share of the U.S. market. The full plant capacity is not required for the Mexican market and the production therefrom would be available for export to the United States. Such exports are indeed injurious and a threat to the U.S. industry if they are permitted to continue at LTFV prices. Further, the cost advantages which inspired the importer's shift to Mexico in the first place, including easy access to raw materials for wooden loom parts, constitute an ongoing invitation to expand operations there, including the manufacture of picker sticks. In addition to continuing imports, a sizeable inventory of LTFV picker sticks imported during 1972-73 remained at the end of 1973. These sticks overhang the market and, especially when added to any level of imports subsequent to 1973, constitute a depressant to U.S. prices.

On the basis of the foregoing, we conclude that an industry in the United States is being injured by reason of the importation of LTFV picker sticks.

STATEMENT OF COMMISSIONER ABLONDI

On the basis of the investigation, it is my opinion that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of picker sticks from Mexico that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

By order of the Commission:

[SEAL] G. PATRICK HENRY,
Acting Secretary.

[FR Doc.74-10797 Filed 5-9-74;8:45 am]

[1] Chairman Bedell, Vice Chairman Parker, and Commissioner Leonard determined that an industry is being injured. Commissioner Moore determined that an industry is likely to be injured. Commissioner Ablondi made a negative determination. Commissioner Young did not participate in the decision.

[2] Commissioner Moore concurs with the affirmative determination insofar as such determination relates to likelihood of injury.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON AGRICULTURE SUBCOMMITTEE ON NOISE AND WALKING AND WORKING SURFACES

Notice of Meeting

Notice is hereby given that the Subcommittee on Noise of the Standards Advisory Committee on Agriculture, established under section 7(b) of the

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Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on May 29, 1974, starting at 8:30 a.m. in Room 102 BCD, Main Labor Building, 14th and Constitution Avenue, NW., Washington, D.C. If necessary to complete its deliberations, the subcommittee will meet again on May 30, 1974, in the same location at 8:30 a.m.

The agenda provides for the discussion of a draft proposal of noise regulations to determine their applicability to agriculture. The subcommittee hopes to develop specific recommendations which will be submitted to the entire membership of the Standards Advisory Committee on Agriculture for final action.

The subcommittee welcomes written data, views, or arguments concerning occupational exposure to noise in agricultural operations, including comments on the specific proposal being considered. Such data should be submitted to the members as far in advance of the meeting as practical, but will be received, together with eight duplicate copies, by the Committee Management Officer either before or at the time of the meeting. Any such submissions will be included in the record of the meeting.

The Subcommittee on Noise consists of the same membership as the Subcommittee on Walking and Working Surfaces. If time permits, the subcommittee may continue the development of recommendations on walking and working surfaces. The subcommittee welcomes written comments on this subject, whether or not the subject is discussed at this meeting.

Persons wishing to orally address the subcommittee at the meeting concerning any of the agenda items should submit a written request to be heard to the Committee Management Officer no later than May 27, 1974. This request and other questions about the meeting may be addressed to:

Jeanne W. Ferrone
OSHA Committee Management Office
1726 M Street, NW., Room 200
Washington, D.C. 20210
Phone: (202) 961-2248, 2487

Signed at Washington, D.C., this 7th day of May, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-10792 Filed 5-9-74;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Notice of Meeting

Notice is hereby given of a meeting of the National Advisory Committee on Occupational Safety and Health established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The meeting will begin at 9 a.m. on May 31, 1974, in the Cambridge and Oxford Rooms of the Mayfair Hotel at 806 St. Charles St., St. Louis, Mo.

The agenda will include presentations and discussions related to:

1. Recommendations on Training and Education.
2. Report on NIOSH Activities.
3. Voluntary Abatement Agreements.
4. Development of Standards.
   a. Performance vs. Specification Standards.
   b. Vertical vs. Horizontal Standards
   c. Application of Construction Standards to Other Industries.

Members of the public are invited to attend the proceedings. Any written data or views concerning the subjects to be considered which are received by the Committee's Executive Secretary by May 27, 1974, together with 25 duplicate copies, will be provided to the members and will be included in the record of the meeting. Communications to the Executive Secretary should be addressed as follows:

Ms. J. Goodell, Acting Executive Secretary, National Advisory Committee on Occupational Safety and Health, Occupational Safety and Health Administration, U.S. Department of Labor, 1726 M Street NW., Room 200, Washington, D.C. 20210.

Signed at Washington, D.C., this 8th day of May 1974.

J. GOODELL,
Acting Executive Secretary.

[FR Doc.74-10997 Filed 5-9-74;10:16 am]

INTERSTATE COMMERCE COMMISSION

[Notice 505]

ASSIGNMENT OF HEARINGS

MAY 7, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after May 10, 1974.

MC 119777 Sub 266, Ligon Specialized Hauler, Inc., now being assigned continued hearing June 18, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 139206, F. M. S. Transportation, Inc., now assigned July 8, 1974, at St. Louis, Mo., is cancelled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10873 Filed 5-9-74;8:45 am]

[Notice 76]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before May 30, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitons with particularity.

No. MC-FC-75078. By order entered May 6, 1974, the Motor Carrier Board approved the transfer to South Park Motor Lines, Inc., Denver, Colo., of the operating rights set forth in Certificate of Registration No. MC-97186 (Sub-No. 4), issued November 11, 1971, to Richard H. Eshe and Lois Mae Eshe, doing business as South Park Motor Lines, Denver, Colo., evidencing a right to engage in transportation in interstate or foreign commerce in the transportation of general commodities, between specified points in Colorado. John P. Thompson and Susan E. Ayer, 450 Capitol Life Center, Denver, Colorado 80203, attorney for applicants.

No. MC-FC-75108. By order of May 3, 1974, the Motor Carrier Board approved the transfer to Elvis Schremp and Hubert J. Schremp, a partnership, doing business as Schremp Bros., R.R. No. 3, Box 245, Perryville, Mo., of the operating rights in Permit No. MC-133115 (Sub-No. 2) issued March 25, 1970 to Elvis Schremp, Hubert J. Schremp, Howard Schremp and Glennon Schremp, a partnership, doing business as Schremp Bros., R.R. No. 3, Box 245, Perryville, Mo., authorizing the transportation of expanded plastic products, laminated, from McBride, Mo. to points in Alabama, Arkansas, Arizona, California, Colorado, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, and Wisconsin.

No. MC-FC-75120. By order of May 6, 1974, the Motor Carrier Board approved the transfer to Providence Sand & Gravel Co., a corporation, Providence, R.I., of the operating rights in Certificates No. MC-111578 and MC-111578 (Sub-1) issued July 21, 1955 and December 18, 1961 respectively to Narragansett Improvement Company, a corporation, Providence, R.I., authorizing the transportation of various commodities between points in Rhode Island and described areas of Massachusetts and Connecticut. Russell B. Curnett, 826 Orleans Road, Harwich, Mass. 02645, representative for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10872 Filed 5-9-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 7, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 20, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-51146 (Sub-No. E1), filed April 18, 1974. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: D. F. Martin (same as above). This letter-notice No. MC-51146 (Sub-No. E1) embraces the filing of 53 proposal-exhibits pursuant to 49 CFR Part 1065(d)(1)(i) to eliminate the gateways of Athens, Tenn., Chicago Heights, Ill., Sibley, Iowa, South Bend and Muncie, Ind., and Marshfield, Mosinee, Wisconsin Rapids, Columbus, and Green Bay, Wis. Inasmuch as one or more of the filings seeks the elimination of the same gateway the proposals have been rearranged for clarity and ease of review of the evidence by reference to the particular gateway sought to be eliminated.

Protests challenging the qualifications for any of these filings should refer to the letter-notice number and the proposal number.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

In proposal No. 53:

(1) *Paper and paper products* (except commodities in bulk), from points in Alabama (except Mobile and points in its commercial zone as defined by the Commission, and points on and north of U.S. Highway 78, including points in the commercial zones of points on U.S. Highway 78) to points in Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia.

(2) *Materials used in the manufacture and distribution of paper and paper products* (except commodities in bulk), from points in the destination states named in (1) above, to points in the origin territory in (1) above. The purpose of this filing is to eliminate the gateway of Athens, Tenn.

In proposal No. 1:

(A) *Paper and paper products* (except drums, pails, and cans).

(B) *Cellulose products* produced or distributed by manufacturers and converts of paper and paper products (except drums, pails, and cans and commodities in bulk, in tank or hopper-type vehicles), from points in the Upper Peninsula of Michigan to points in Nebraska, Kansas, Oklahoma, Texas, Louisiana, Mississippi, Arkansas, Missouri, and South Dakota (except points north of Interstate Highway 90)

(C) *Materials, equipment, and supplies* used in the manufacture and distribution of products authorized in (A) and (B) above, except commodities in bulk, in tank or hopper-type vehicles, from points in the destination states above, to points in the origin territory.

In proposal No. 23:

(i) The *commodities* described in (A) and (B) in proposal No. 1 above, from points in the Lower Peninsula of Michigan on and north of U.S. Highway 10, running between Ludington and Bay City, to points in North Dakota and South Dakota (except points in that part of South Dakota south and east of a line beginning at the junction of U.S. Highway 16 and the Wyoming-South Dakota State line, thence east along U.S. Highway 16 to the junction of U.S. Highway 16 and South Dakota Highway 47, thence south on South Dakota Highway 47 to the Nebraska-South Dakota State line. (ii) The *commodities* described in (C) in proposal No. 1 above from the points described in the destination territory in proposal 23(i) above to points in the origin territory described in proposal 23 (i) above. The purpose of the filings in proposals Nos. 1 and 23 is to eliminate the gateway of Mosinee, Wis.

In proposal No. 2:

(A) *Paper and paper products* (except commodities in bulk), from points in the Upper Peninsula of Michigan to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, and Montana (except points north and east of a line beginning at the International Boundary line between the United States and Canada and extending south along Interstate Highway 15 to the junction of Interstate Highway 15 and U.S. Highway 87, thence southeast along U.S. Highway 87 to the junction of U.S. Highway 87 and U.S. Highway 12, thence east along U.S. Highway 12 to the Montana-North Dakota State line).

(B) *Materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), from points in the destination states above, to points in the origin territory. The purpose of this filing is to eliminate the gateway of Marshfield, Wis.

In proposal No. 21:

(A) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan to points in Washington, Oregon, Idaho, Montana, and Wyoming.

(B) *Materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), from points in the destination states above to points in the above described origin territory.

In proposal No. 48:

(A) Paper and paper products (except drums, pails, and cans, and commodities in bulk), from points in that part of Iowa north and east of a line beginning at the junction of the Iowa-Minnesota State line and U.S. Highway 65, thence south along U.S. Highway 65 to Mason City, thence east from Mason City along U.S. Highway 18 to Charles City, thence south from Charles City along U.S. Highway 218 to Iowa City, thence east from Iowa City along U.S. Highway 6 to the junction of U.S. Highway 6 and the Iowa-Illinois State line, to points in California and Oregon, and points in that part of Washington on and west of Interstate Highway 5.

(B) *Materials and supplies* used in the manufacture or distribution of paper and paper products (except drums, pails, and cans, and commodities in bulk) from points in the destination territory described in (A) above to the origin territory described in (A) above. The purpose of the filing of proposals Nos. 21 and 48 is to eliminate the gateway of Wisconsin Rapids, Wis.

In proposal No. 4:

(A) *Cellulose materials and products* (except commodities in bulk), from points in the Upper Peninsula of Michigan to points in that part of the St. Louis-East St. Louis Commercial Zone within Illinois, and points in that part of Illinois on and south of U.S. Highway 460.

(B) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (A) above (except commodities in bulk from points in the destination territory in (A) above to points in the origin territory in (A) above.

In proposal No. 42:

Cellulose materials and products, paper and paper products, and materials, equipment, and supplies used in the production of the above-described commodities (except in each instance commodities in bulk), between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Montana, Idaho, Oregon, Washington, California, Nevada, Utah, and Arizona, and points in New Mexico on and west of U.S. Highway 285.

In proposal No. 43:

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The *commodities* described in proposal No. 42 above, between points in that part of the Upper Peninsula of Michigan on and east of a line beginning at Hancock and extending south along U.S. Highway 41 to the junction of U.S. Highway 41 and U.S. Highway 141, and thence south along U.S. Highway 141 to the junction of U.S. Highway 141 and the Michigan-Wisconsin State line, on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Utah, Wyoming, Colorado, and New Mexico. The purpose of the filing of proposals Nos. 4, 42, and 43 is to eliminate the gateway of Green Bay, Wis.

In proposal No. 22:

(A) *Paper and paper products* (except drums, pails, and cans, and commodities in bulk), from points in that part of Michigan on and south of a line beginning at Ludington and U.S. Highway 10, and thence east along U.S. Highway 10 to Bay City, thence south along Michigan Highway 15 to the junction of Michigan Highway 15 and Michigan Highway 46, thence along Michigan Highway 46 to the junction of Michigan Highway 46 and U.S. Highway 25, to points in North Dakota, South Dakota, and Nebraska.

(B) *Materials and supplies* used in the manufacture or distribution of paper products (except commodities in bulk), and returned shipments of paper and paper products, from points in the above named destination states to points in the above described origin territory.

In proposal No. 47:

(i) The *commodities* described in (A) of proposal 22 above, from points in that part of Iowa on and north of a line beginning at Sioux City, thence east along U.S. Highway 20 to the junction of U.S. Highway 20 and U.S. Highway 69, thence south along U.S. Highway 69 to its junction with U.S. Highway 30, thence east along U.S. Highway 30 to the Iowa-Illinois State line, to points in South Carolina and points in that part of Florida east of a line beginning at the junction of U.S. Highway 319 and the Georgia-Florida State line thence south on U.S. Highway 319 to the Gulf of Mexico.

(ii) The *commodities* described in (B) of proposal 22 from points in the above described destination territory, to points in the above described origin territory. The purpose of the filings in proposals Nos. 22 and 47 is to eliminate the gateway of Columbus, Wis.

In proposal No. 6:

Cellulose materials and products, paper and paper products, and *materials, equipment, and supplies* used in the production and distribution of the above described commodities (except in each instance commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in the Upper Peninsula of Michigan and points in the Chicago, Ill., Commercial Zone, as defined by the Commission.

In proposal No. 9:

The *commodities* described in proposal 6 above, between points in Tennessee (except Memphis and points in its commercial zone), on the one hand, and, on the other, points in the Chicago, Ill., commercial zone as defined by the Commission, restricted against the transportation of cardboard boxes from points in Tennessee.

In proposal No. 13:

The *commodities* described in proposal No. 6 above (restricted against the transportation of pulpboard, pulpboard products, and waste paper, and further restricted against the transportation of paper and paper products originating at Florence and points in its commercial zone as defined by the Commission), between points in Kentucky, on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, as defined by the Commission.

In proposal No. 18:

The commodities described in proposal No. 6 above (restricted against the transportation of pulpboard, pulpboard products, and waste paper), between points in Indiana (except Evansville and points in its commercial zone and points in that part of Indiana north and west of a line beginning at the Illinois-Indiana State line and U.S. Highway 30, thence east along U.S. Highway 30 to the junction of U.S. Highway 30 and U.S. Highway 421, thence north along U.S. Highway 421 to the junction of U.S. Highway 421 and the Michigan-Indiana State line), on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, as defined by the Commission.

In proposal No. 28:

The *commodities* described in proposal No. 6 above (restricted against the transportation of pulpboard, pulpboard products, and waste paper between points in that part of Michigan on and south of Michigan Highway 21), (A) between points in the Lower Peninsula of Michigan (except points in Cass and Berrien Counties) on the one hand, and, on the other, points in the Chicago, Ill., commercial zone as defined by the Commission, and (B) between Watervliet, Coloma, Paw Paw Lake, and Hagar Shores, Mich., on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, as defined by the Commission.

In proposal No. 32:

The *commodities* described in proposal No. 6 above (restricted against the transportation of pulpboard, pulpboard products, and waste paper, and further restricted against the transportation of paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio), between points in Ohio, on the one hand, and, on the other points in the Chicago, Ill., commercial zone as defined by the Commission.

In proposal No. 37:

The *commodities* described in proposal No. 6 above, between points in West Virginia, on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, as defined by the Commission.

In proposal No. 41:

The *commodities* described in proposal No. 6 above, between points in Pennsylvania, on the one hand, and, on the other, points in the Chicago, Ill., commercial zone as defined by the Commission.

In proposal No. 46:

The *commodities* described in proposal No. 6 above, between points in that part of Iowa west of a line beginning at Guttenberg and extending south along U.S. Highway 52 to the junction of U.S. Highway 52 and Iowa Highway 136, thence south along Iowa Highway 136 to the junction of Iowa Highway 136 and U.S. Highway 61, thence south along U.S. Highway 61 to the junction of U.S. Highway 61 and Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Illinois State line, on the one hand, and, on the other, points in the Chicago, Ill., commercial zone as defined by the Commission.

The purpose of the filing in proposals Nos. 6, 9, 13, 18, 28, 32, 37, 41, and 46 is to eliminate the gateway of Chicago Heights, Ill.

In proposal No. 12:

(A) *Paper and paper products, cellulose bags, liners, and films* (restricted against the transportation of pulpboard, pulpboard products, and waste paper, and of commodities in bulk), from points in Kentucky (except Florence and points in its commercial zone as defined by the Commission) to points in North Dakota and South Dakota, and points in that part of Nebraska north of U.S. Highway 20.

(B) *Returned and rejected shipments and materials, equipment, and supplies,* from points in the destination territory described in (A) above to points in the origin territory described in (A) above.

In proposal No. 15:

(A) *Paper and paper products, cellulose bags, films, and liners* (except commodities in bulk) from points in Indiana (except points in the Evansville commercial zone as defined by the Commission) to points in North Dakota and South Dakota and points in that part of Nebraska north of U.S. Highway 20.

(B) Returned and rejected shipments and materials, equipment, and supplies (except commodities in bulk), from points described in the destination territory in (A) above to points in the origin territory described in (A) above.

In proposal No. 25:

(A) *Paper and paper products, cellulose bags, liners, and films* (except commodities in bulk), from points in that part of the Lower Peninsula of Michigan on and north of U.S. Highway 10 to points in Nebraska.

(B) *Returned and rejected shipments and materials, equipment, and supplies* used in the production and distribution of the above-described commodities (restricted against the transportation of commodities in bulk and further restricted against the transportation of shipments originating at the plant site and warehouse facilities of Bemis Co., at Omaha, Nebr.), from points in Nebraska to points in the origin territory described in (A) above.

In proposal No. 45:

(A) *Paper and paper products, cellulose bags, liners, and films* (except commodities in bulk) from points in that part of Iowa north and west of a line beginning at Sioux City and extending east along U.S. Highway 20 to Ft. Dodge, thence north from Ft. Dodge along U.S. Highway 169 to the Minnesota-Iowa State line to points in that part of Texas on and south of a line beginning at El Paso and extending east along U.S. Highway 80 to Ft. Worth, and thence in a southeasterly direction from Ft. Worth along U.S. Highway 287 to Port Arthur.

(B) *Returned and rejected shipments and materials, equipment, and supplies* (except commodities in bulk), from points in the destination territory described in (A) above to points in the origin territory described in (A) above.

In proposal No. 49:

(A) The *commodities* described in proposal No. 45(A) above, from points in that part of Iowa east and north of a line beginning at the junction of the Iowa-Minnesota State line and U.S. Highway 65, thence south along U.S. Highway 65 to Des Moines, thence east from Des Moines along U.S. Highway 6 to the Iowa-Illinois State line to points in that part of South Dakota north of U.S. Highway 16.

(B) The *commodities* described in proposal No. 45(B) above, from points in the destination territory described in (A) above to points in the origin territory described in (A) above.

In proposal No. 50:

(A) The *commodities* described in proposal No. 45(A) above, from points in that part of Iowa south and west of a line beginning at the junction of the Iowa-Minnesota State line and U.S. Highway 65, thence south along U.S. Highway 65 to Mason City, thence east from Mason City along U.S. Highway 18 to Charles City, thence south from Charles City along U.S. Highway 218 to Iowa City, thence east from Iowa City along U.S. Highway 6 to the junction of U.S. Highway 6 and the Iowa-Illinois State line (except those points in the above-described origin territory on and west of a line beginning at the junction of the Iowa-Minnesota State line and Iowa Highway 60, thence southwesterly along Iowa State Highway 60 to the junction of Iowa State Highway 60 and U.S. Highway 20 at the Iowa-Nebraska State line), to points in North Dakota.

(B) The *commodities* described in proposal No. 45(B) above, from points in North Dakota to points in the origin territory described in (A) above.

In proposal No. 51:

(A) The *commodities* described in proposal No. 45(A) above, (restricted against the transportation of cardboard cartons), from points in Alabama (except Mobile and points in its commercial zone as defined by the Commission, and points on and north of U.S. Highway 78, including points in the commercial zones of points on U.S. Highway 78, as defined by the Commission), to points in North Dakota and South Dakota.

(B) The *commodities* described in proposal No. 45(B) above, from points in North Dakota and South Dakota to points in the origin territory described in (A) above. The purpose of the filings in proposals Nos. 12, 15, 25, 45, 49, 50, and 51 is to eliminate the gateway of Sibley, Iowa.

In proposal No. 7:

Paper and paper products (except commodities in bulk), from points in the Upper Peninsula of Michigan to points in that part of Alabama on and north of U.S. Highway 78, Memphis, Tenn., and Mobile, Ala.

In proposal No. 19:

Paper and paper products (except commodities in bulk), from points in that part of Indiana on and north of U.S. Highway 30 to points in that part of Alabama on and north of U.S. Highway 78 and Memphis, Tenn.

In proposal No. 20:

Paper and paper products (except commodities in bulk), from points in Indiana on and north of Indiana Highway 18 to Mobile, Ala.

In proposal No. 29:

Paper and paper products (except commodities in bulk), from points in the Lower Peninsula of Michigan (restricted against the transportation of pulpboard, pulpboard products, and waste paper from points in that part of the Lower Peninsula on and south of Michigan Highway 21) to points in that part of Alabama on and north of U.S. Highway 78, Memphis, Tenn., and Mobile, Ala.

In proposal No. 33:

Paper and paper products (except commodities in bulk), from points in that part of Ohio on and north of U.S. Highway 30 (except Lockland, Hamilton, Cincinnati, Middletown, and Cleveland), to Memphis, Tenn., and Mobile, Ala.

In proposal No. 39:

Paper and paper products (except commodities in bulk), from points in Pennsylvania (except points in Washington, Greene, Fayette, Somerset, and Westmoreland Counties), to Memphis, Tenn.

In proposal No. 40:

Paper and paper products (except commodities in bulk), from points in that part of Pennsylvania on, north and west of a line beginning at the junction of the Ohio-Pennsylvania State line and Interstate Highway 80, thence easterly along Interstate Highway 80 to the junction of Interstate Highway 80 and U.S. Highway 220, thence northeasterly along U.S. Highway 220 to the junction of U.S. Highway 220 and the Pennsylvania-New York State line, to Mobile, Ala. The purpose of the filings in proposals Nos. 7, 19, 20, 29, 33, 39, and 40 is to eliminate the gateway of South Bend, Ind.

In proposal No. 3:

(A) *Paper and paper products* (except commodities in bulk), from points in the Upper Peninsula of Michigan to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina, and points in that part of New York east of New York State Highway 30.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products from points in the destination territory in (A) above, to points in the origin territory in (A) above.

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In proposal No. 5:

(A) *Paper and paper products* (except commodities in bulk) from points in the Upper Peninsula of Michigan to Evansville, Ind.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products from Evansville, Ind., to points in the Upper Peninsula of Michigan.

In proposal No. 8:

(A) *Paper and paper products* (except cardboard cartons and commodities in bulk), from points in Tennessee on and east of U.S. Highway 23, to points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Colorado, Arizona, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Missouri (except points south of U.S. Highway 66), Oklahoma (except points south of U.S. Highway 66), and points in Texas on, north and west of a line beginning at Benonine, thence west along U.S. Highway 66 to Amarillo, thence south along U.S. Highway 87 to Lubbock, thence west along Texas Highway 116 to the New Mexico-Texas State line, and points in El Paso and Hudspeth Counties, Tex.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (A) above to points in the origin territory described in (A) above.

In proposal No. 10:

(A) *Paper and paper products* (except cardboard cartons and commodities in bulk), from points in Tennessee on and east of Tennessee Highway 13, to points in North Dakota, Montana, Idaho, Washington, Oregon, California (except points south of the southerly boundaries of Santa Cruz, Santa Clara, San Joaquin, Sacramento, and Eldorado Counties), Nevada (except points south of U.S. Highway 50), Utah (except points south of Interstate Highway 80), and South Dakota (except points south of U.S. Highway 14).

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (A) above, to points in the origin territory described in (A) above.

In proposal No. 11:

(A) *Paper and paper products* (except commodities in bulk) from points in Kentucky (except Florence and points in its commercial zone as defined by the Commission) to points in Washington, Oregon, Idaho, Montana, California (except points south of Interstate Highway 80), Nevada (except points south of U.S. Highway 50), and Utah (except those points on, east and south of a line commencing at the Wyoming-Utah State line along Interstate Highway 80, thence along Interstate Highway 80 to the junction of U.S. Alternate Highway 50 at Salt Lake City, thence along U.S. Alternate Highway 50 to the junction of U.S. High-

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way 50 at or near Fork, thence along U.S. Highway 50 to the Utah-Nevada State line).

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except pulpboard, pulpboard products, and waste paper and commodities in bulk), from points in the destination territory described in (A) above, to points in the origin territory described in (A) above.

In proposal No. 14:

(A) *Paper and paper products* (except commodities in bulk), from points in Indiana (except points in the Evansville commercial zone as defined by the Commission) to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, and Montana (except points in Montana east of U.S. Highway 91).

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except pulpboard, pulpboard products, and waste paper and commodities in bulk), from points in the destination territory described in (A) above, to points in Indiana described in (A) above.

In proposal No. 16:

(A) *Paper and paper products* (except commodities in bulk), from points in Indiana (except points in the Evansville commercial zone as defined by the Commission) to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Delaware, New York (except points west of Interstate Highway 95), Maryland (except points west of Interstate Highway 95), Virginia (except points west of Interstate Highway 95), and New Jersey (except points north and west of a line beginning with U.S. Highway 22 at the Pennsylvania-New Jersey State line and extending easterly to the intersection of U.S. Highway 22 and Interstate Highway 95, and thence along Interstate Highway 95 to the New Jersey-New York State line).

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except pulpboard, pulpboard products, and waste paper, and commodities in bulk), from points in the destination territory described in (A) above, to points in Indiana described in (A) above.

In proposal No. 17:

(A) *Paper and paper products* (except commodities in bulk), from points in that part of Indiana north and east of a line beginning at the junction of the Michigan-Indiana State line and Indiana Highway 15, thence southerly along Indiana Highway 15 to the junction of Indiana Highway 15 and Indiana Highway 9, thence in a southerly direction along Indiana Highway 9 to the junction of Indiana Highway 9 and Indiana Highway 38, thence in an easterly direction along Indiana Highway 38 to the Ohio-Indiana State line, to Evansville, Ind., and points in that part of the St. Louis-East St. Louis commercial zone within Illinois and points in Illinois on and south of U.S. Highway 460.

(B) *Materials and supplies* used in the manufacture and distribution of paper products (except pulpboard, pulpboard products, and waste paper, and commodities in bulk) from points in the destination territory described in (A) above to points in the origin territory described in (A) above.

In proposal No. 24:

(A) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan to points in California, Nevada, Utah, Arizona, Colorado, New Mexico, Oklahoma, Texas, Arkansas, Louisiana, Mississippi, Kansas (except points east and north of a line extending along U.S. Highway 77 from the Nebraska-Kansas State line and extending to the intersection of U.S. Highway 77 and U.S. Highway 54 and thence easterly along U.S. Highway 54 to the Kansas-Missouri State line), and Missouri (except those points north of a line extending along U.S. Highway 66 from the Kansas-Missouri State line to the intersection of Missouri Highway 72 and thence to the intersection of Missouri Highway 72 and U.S. Highway 61 and thence along U.S. Highway 61 to the Missouri-Illinois State line).

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products from points in the destination territory described in (A) above to points in the origin territory described in (A) above. Restriction: Restricted against the transportation of pulpboard, pulpboard products, and wastepaper between points on and south of Michigan Highway 21 and the destination territory, and further restricted against the transportation of commodities in bulk.

In proposal No. 26:

(A) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan (except points in Cass, Berrien, and Van Buren Counties), to points in that part of the St. Louis-East St. Louis commercial zone within Illinois, and points in Illinois on and south of U.S. Highway 460.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products from points described in the destination territory in (A) above to points in the origin territory described in (A) above. Restriction: Restricted against the transportation of pulpboard, pulpboard products, and waste paper between points on and south of Michigan Highway 21 and the destination territory, and further restricted against the transportation of commodities in bulk.

In proposal No. 27:

(A) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan to Evansville, Ind.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products from Evansville, Ind., to points in the origin territory described in (A) above. Restriction: Restricted against the transportation of pulpboard, pulpboard products, and waste paper between points on and south of Michigan Highway 21 and Evansville, Ind., and further restricted against the transportation of commodities in bulk.

In proposal No. 30:

(A) *Paper and paper products* (except commodities in bulk), from points in Ohio (except Lockland, Hamilton, Cincinnati, Middletown, and Cleveland), to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, and points in that part of Mississippi on, west and south of a line beginning at Lakeview, Miss., extending along U.S. Highway 61 to Vicksburg, Miss., thence eastwardly along U.S. Highway 80 to the Mississippi-Alabama State line.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products from points in the destination territory described in (A) above to points described in the origin in (A) above. Restriction: Restricted against the transportation of pulpboard, pulpboard products, and waste paper, and further restricted against the transportation of commodities in bulk.

In proposal No. 31:

(A) *Paper and paper products* (except commodities in bulk), from points in Ohio (except Cleveland) on and north of U.S. Highway 35 to Evansville, Ind., and points in that part of the St. Louis-East St. Louis commercial zone within Illinois, and points in Illinois on and south of U.S. Highway 460.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products from the points described in the destination area in (A) above, to points in the origin territory described in (A) above. Restriction: Restricted against the transportation of pulpboard, pulpboard products and waste paper and commodities in bulk.

In proposal No. 34:

(A) *Paper and paper products* (except commodities in bulk), from points in West Virginia (except points south of U.S. Highway 60) to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, and points in that part of Missouri on and south of a line beginning at St. Louis, Mo., and extending along U.S. Highway 66 to Lebanon, Mo., thence south along Missouri State Highway 5 to the Missouri-Arkansas State line, and to points in Arkansas on and west of U.S. Highway 71.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (A) above to points in the origin territory described in (A) above.

In proposal No. 35:

(A) *Paper and paper products* (except commodities in bulk), from points in West Virginia on and north of U.S. Highway 33 to Evansville, Ind.

(B) *Mcterials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) from Evansville, Ind., to points

in the origin territory described in (A) above.

In proposal No. 36:

(A) *Paper and paper products* (except commodities in bulk), from points in that part of West Virginia on, north and east of a line beginning at Parkersburg and extending along U.S. Highway 50 to Grafton, thence southeast along U.S. Highway 250 to the West Virginia-Virginia State line to points in that part of the St. Louis-East St. Louis, Ill., commercial zone within Illinois, and points in Illinois on and south of U.S. Highway 460.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (A) above to points in the origin territory described in (A) above.

In proposal No. 38:

(A) *Paper and paper products* (except commodities in bulk), from points in Pennsylvania to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Missouri, Arkansas, Louisiana, Mississippi, points in that part of the St. Louis-East St. Louis commercial zone within Illinois and points in Illinois on and south of U.S. Highway 460, and Evansville, Ind.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (A) above, to points in Pennsylvania.

In proposal No. 44:

(A) *Paper and paper products* (except commodities in bulk), from points in Iowa to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, and the District of Columbia.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (A) above, to points in Iowa.

In proposal No. 52:

(A) *Paper and paper products* (except commodities in bulk), from points in Alabama (except Mobile and points in its commercial zone as defined by the Commission, and points on and north of U.S. Highway 78, including points in the commercial zones of points on U.S. Highway 78) to points in Washington, Montana (except points south and east of a line beginning at the Wyoming-Montana State line and U.S. Highway 80, thence north along U.S. Highway 80 to the junction of U.S. Highway 80 and U.S. Highway 30, thence southeast along U.S. 10 to the Montana-North Dakota State way 10, thence east along U.S. Highway line), Idaho (except points south of a line beginning at the junction of the Oregon-Idaho State line and U.S. Highway 30, thence southeast along U.S. Highway 30 to the junction of U.S. Highway 30 and U.S. Highway 30N, thence along U.S. Highway 30N to the junction of U.S. Highway 30N and U.S. Highway 91, thence along U.S. Highway 91 to the junction of U.S. Highway 91 and U.S. Highway 30 to the junction of U.S. High-Highway 26, thence along U.S. Highway 26 to the Idaho-Wyoming State line), Oregon (except points south and east of a line beginning at the junction of the California-Oregon State line and U.S. Highway 395, thence north along U.S. Highway 395 to the junction of U.S. Highway 395 and U.S. Highway 20, thence along U.S. Highway 20 to the Oregon-Idaho State line), and California (except points south of a line beginning at Moyo) thence east along California Highway 20 to the junction of California Highway 20 and Interstate Highway 80, thence along Interstate Highway 80 to the California-Nevada State line.

(B) *Materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in the destination territory described in (A) above to points in Alabama described in (A) above. The purpose of the filings in proposals Nos. 3, 5, 8, 10, 11, 14, 16, 17, 24, 26, 27, 30, 31, 34, 35, 36, 38, 44, and 52 is to eliminate the gateway of Muncie, Ind.

No. MC–95540 (Sub-No. E86), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California on and south of Interstate 8, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E104), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California to the District of Columbia. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–100666 (Sub-No. E25), filed April 11, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Paul L. Caplinger (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Albuquerque, N. Mex., to points in Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and points in that part of Kansas on and east of a line beginning the junction of the Kansas-Oklahoma State line and U.S. Highway 75, thence north on U.S. Highway 75 to its junction with U.S. Highway 50, thence east along U.S. Highway 50 to its junction with U.S. Highway 59, thence along U.S. Highway 59 to its junction with Interstate Highway 159, and thence along Interstate Highway 159 to the Kansas-Nebraska State line, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Miami, Okla.

No. MC–100666 (Sub-No. E31), filed April 15, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber*, from points in Texas (except Pineland or Silsbee and particleboard from Diboll) to points in Louisiana. The purpose of this filing is to eliminate the gateways of Irving, Pineland, and Silsbee, Tex.

No. MC–100666 (Sub-No. E35), filed April 15, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard .W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber* from points in Texas (except Pineland or Silsbee and particleboard from Diboll) to points in Florida. The purpose of this filing is to eliminate the gateways of Irving, Pineland, Silsbee, Tex., and New Orleans, La.

No. MC–100666 (Sub-No. E36), filed April 15, 1974, Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber* from points in Texas (except Pineland or Silsbee and particleboard from Diboll) to points in Gerogia. The purpose of this filing is to eliminate the gateway of Pineland and Silsbee, Tex.

No. MC–100666 (Sub-No. E37), filed April 15, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber*, from points in Texas (except Pineland or Silsbee and particleboard from Diboll) to points in Mississippi. The purpose of this filing is to eliminate the gateway of Irving, Pineland, and Silsbee, Tex.

No. MC–124211 (Sub-No. E6), filed April 8, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal feed sugar* and *dry fish meal*, from St. Louis,

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Mo., to points in Idaho, Montana, and Utah. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr.

No. MC-128383 (Sub-No. E42), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N*J* Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobile), between Oneida County Airport, Oneida County, N.Y., and Newark Airport, Newark, N.J., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC-128383 (Sub-No. E45), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between La Guardia Airport, New York, N.Y., and Oneida County Airport, Oneida County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

No. MC-128383 (Sub-No. E48), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Philadelphia International Airport, Philadelphia, Pa., and Bradley International Airport, Hartford County, Conn., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-10874 Filed 5-9-74;8:45 am]

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FRIDAY, MAY 10, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 92

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

■

PUBLIC ASSISTANCE—MEDICAID

Implementation of Social Security Amendments of 1972 and 1973

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Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC ASSISTANCE—MEDICAID

Implementation of Social Security Amendments of 1972 and 1973

Notice of proposed rule making was published June 13, 1973, at 38 FR 15580, implementing certain amendments of titles XI and XIX of the Social Security Act relating to Medicaid, enacted by Public Law 92–603 (Social Security Amendments of 1972). Certain other clarifying changes in current regulations were also included.

The specific proposals (including citation of the Public Law 92–603 sections), comments received, and changes in the final regulations are summarized below. Also indicated below are certain technical amendments required by Pub. L. 93–233, December 31, 1973.

1. *Staffing* (Sections 235, 249B, 299E (a)). The proposal specified the increased Federal matching rates for costs of personnel concerned with ADP functions, long-term care facility surveys, and family planning services. It also clarified the types of costs eligible for 75 percent matching. (§§ 205.101, 250.–120) (note: § 205.100, Single State agency, included in the proposal, has been published in final in a separate document (39 FR 9512).

Respondents requested clarification that functions, rather than titles, constitute criteria for professional positions and that both compensation and training costs of survey personnel are reimbursable at 100 precent. The first clarification will be made in guidelines, and the second has been incorporated in the regulations. A request that 100 percent compensation for surveyors be continued beyond June 30, 1974 cannot be granted in light of the statutory limit provided by section 249B.

2. *Amount, duration and scope of medical assistance* (sections 212, 230, 240, and 299E (a) and (b)). The proposal related to (a) optometrists' services; (b) repeal of the requirement for progression toward comprehensive care; (c) use of geographically limited health organizations; and (d) family planning srevices. It also specified limitations on denial of services based on diagnosis, and conditions for matching of transportation costs. (§ 249.10)

Because the current regulations, with amendments as noted above, were reprinted in entirety for purposes of clarity, some respondents commented on provisions that had not been changed, such as early screening, high quality care, clinic services and physical therapy and related services. Some of these are being changed through proposed rule making documents; others have been clarified or cannot be changed because they are required by statute.

Comments on the new provisions of the June 13 proposal and the Department's responses are:

(a) The prohibition against limitation on services based on diagnosis is very good; on the other hand, it may undercut utilization review. The regulation has been clarified to indicate that the prescription relates to arbitrary limitations, not those appropriate to medical necessity or utilization review.

(b) The requirement on optometric services should be clarified. This has been done.

(c) The provision on reimbursement of transportation costs through vendor payments is not clear. We have revised the regulation further to indicate that expenditures for transportation other than by vendor payment are matched as administrative costs, not as medical assistance.

Family planning services are currently mandated for State title XIX programs by Pub. L. 92–603, and are reimbursable at a 90 percent Federal matching rate. Regulations are being published separately and are not included in this document.

3. *Disclosure of information* (sections 249C and 299D(b)). The proposal required States to establish a procedure for disclosure of survey findings and to permit providers whose performance is evaluated an opportunity for review of reports before disclosure. (§ 250.70)

The comments either requested clarifications of detail that will be contained in guidelines or suggested additional provisions that can be accommodated under the regulations as proposed—for example, additional accessibility of survey findings. Consequently, the only changes in the regulations are clarifications of the survey findings to be made available and of the circumstances under which reports must be made available in Standard Metropolitan Statistical Areas.

The proposal also included provisions implementing section 235 of Pub. L. 92–603, relating to increased Federal matching for mechanized claims processing and information retrieval systems. The final regulations are being published in a separate document.

These final regulations include amendments to § 205.120, Statewide operation, to (a) recognize the establishment of title VI of the Act relating to services and (b) insert a cross-reference to exceptions available under title XIX of the Act.

The following technical changes required by Pub. L. 93–233 are included in these regulations:

Sections 13(a)(11), 18(e) and 18(u): Provides for continuation of buy-in agreements under the Supplementary Security Income program; coverage under the buy-in for certain mandated groups; and Federal matching for retroactive coverage even though the individual could have been enrolled in Medicare. (§ 249.41)

Section 13(a)(13): Prohibits direct payments for physicians' or dentists' services to State-supplement-only recipients (§ 249.32).

Section 18(p): Extends requirement for disclosure of ownership of intermediate care facilities (§ 249.33(a)(3)(i)).

Section 18(q): Provides for continued Medicaid coverage for certain AFDC families who no longer receive AFDC payments because of increased hours of, or increased earnings from, employment. The provisions published in this document implement the statutory requirement with respect to Medicaid State plans in Puerto Rico, the Virgin Islands, and Guam. It was implemented for other jurisdictions in the regulations published at 39 FR 9512.

Section 18(x)(1): Corrects statutory reference to Medicaid services for the medically needy (§ 249.10(a)(2)).

These amendments are technical in nature and merely reflect what is otherwise required by statute; consequently proposed rule making procedures for these amendments would serve no useful purpose and have been omitted.

Accordingly, the regulations as proposed with substantive and technical amendments have been adopted.

Chapter II, title 45 of the Code of Federal Regulations is amended as set forth below:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. Part 205 is amended by revising § 205.101 and § 205.120 to read as set forth below:

§ 205.101 Organization for administration.

(a) A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

(b) Where applicable, a State plan under title I, IV–A, X, XIV, or XVI of the act shall identify the organizational unit within the State agency which is responsible for operation of the plan, and shall include a description of its organization and functions and an organizational chart of the unit. (See also, for requirements concerning the organization for the administration of service programs, pt. 220 of this chapter as to programs under title IV–A and B of the act, and pt. 222 of this chapter as to programs under title I, X, XIV, or XVI of the act.)

(c) A State plan under title XIX of the act must:

(1) Provide for the establishment of a medical assistance unit in the single State agency which shall include the program director and other appropriate staff for participation in the development, analysis, and evaluation of the State's medical assistance program;

(2) Include a description of the organization and functions of the medical assistance unit and an organizational chart of the unit;

(3) Include a description of the kinds and numbers of professional medical personnel and supporting staff that will be used in the administration of the plan and of the responsibilities they will have; and

(4) If eligibility determinations are made by a State agency other than the

title XIX single State agency or by local agency staff under the supervision of a State agency, include a description of the staff designated by such agencies and the functions they will perform in carrying out this responsibility.

§ 205.120 Statewide operation.

(a) *State plan requirements.* A State plan under title I, IV–A, VI, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(1) It shall be in operation, through a system of local offices, on a statewide basis in accordance with equitable standards for assistance and administration that are mandatory throughout the State;

(2) If administered by political subdivisions of the State, the plan will be mandatory on such political subdivisions;

(3) The State agency will assure that the plan is continuously in operation in all local offices or agencies through:

(i) Methods for informing staff of State policies, standards, procedures and instructions; and

(ii) Regular planned examination and evaluation of operations in local offices by regularly assigned State staff, including regular visits by such staff; and through reports, controls, or other necessary methods.

(b) *Exception.* For provisions relating to organizations providing health services on a prepaid basis under title XIX, see § 249.10(a)(6)(vii) of this chapter.

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

2. Section 248.10(b)(4) is revised to read as follows:

§ 248.10 Coverage and conditions of eligibility for medical assistance.

* * * * * * *

(b) *State plan requirements.* * * *

(4) Provide, in the case of any family which was receiving assistance under the State's plan under title IV–A in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such assistance because of increased hours of or increased income from employment, that as long as a member of such family is employed, the family will continue to be eligible for medical assistance for a period of 4 calendar months beginning with the month in which the family became ineligible for assistance under title IV–A because of increased hours of employment or increased earnings, to the same extent and under the same conditions as it is furnished to the categorically needy under the title XIX plan in effect during such 4 months.

* * * * * * *

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

3. Section 249.10 is amended by revising paragraphs (a)(2)(ii), (a)(5) and (a)(6); revoking paragraph (a)(9); and adding new paragraphs (a)(9) and (a)(10). Paragraph (b) is amended by revising subparagraphs (7) and (11); and revising subparagraph (17).

§ 249.10 Amount, duration, and scope of medical assistance.

(a) *State plan requirements.*—A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Specify that at least the first five items of medical and remedial care and services, as set forth in paragraph (b)(1) through (5) of this section, will be provided to the categorically needy.

(2) Specify that, if the plan includes the medically needy, at least the following items of medical and remedial care and services will be provided to the medically needy:

(i) The first five items as set forth in paragraph (b)(1) through (5) of this section; or

(ii) (A) Any seven of the items as set forth in paragraph (b)(1) through (16) of this section; and

(B) If the plan includes inpatient hospital services or skilled nursing facility services, physicians' services to eligible individuals when they are patients in a hospital or skilled nursing facility, even though physicians' services as defined in paragraph (b)(5) of this section are not otherwise included for the medically needy.

* * * * * * *

(5)(i) Specify the amount and/or duration of each item of medical and remedial care and services that will be provided to the categorically needy and to the medically needy, if the plan includes this latter group. Such items must be sufficient in amount, duration and scope to reasonably achieve their purpose. With respect to the required services for the categorically needy (subparagraph (1) of this paragraph) and the medically needy (subparagraph (2) of this paragraph), the State may not arbitrarily deny or reduce the amount, duration, or scope of, such services to an otherwise eligible individual solely because of the diagnosis, type of illness or condition. Appropriate limits may be placed on services based on such criteria as medical necessity or those contained in utilization or medical review procedures.

(ii) Specify that there will be provision for assuring necessary transportation of recipients to and from providers of services and describe the methods that will be used.

(6) Provide that the medical and remedial care and services made available to any categorically needy individual included under the plan will not be less in amount, duration, or scope than those made available to other individuals included under the program, except that:

(i) Skilled nursing facility services may be limited to persons 21 years of age or older;

(ii) Services to persons in institutions for tuberculosis or mental diseases may be limited to persons 65 years of age or over;

(iii) Inpatient psychiatric hospital services as provided in section 1905(a)(16) of the act may be limited to individuals under age 21 (or under age 22 for individuals receiving such services immediately prior to attaining age 21), as specified in section 1905(a)(16) of the act;

(iv) Early and periodic screening and diagnosis for individuals, and treatment of conditions found, as provided in section 1905(a)(4)(B) of the act, may be limited to individuals under 21 years of age;

(v) Benefits under part B of title XVIII of the Social Security Act made available to individuals through a "buy-in" agreement or payment of the premiums, or the payment of part or all of the deductibles, cost sharing or similar charges under part B, may be limited to such individuals for whom, by virtue of such action, these benefits are included as part of the plan;

(vi) Family planning services and supplies may be limited to individuals of child bearing age (including minors who can be considered to be sexually active) who desire such services and supplies; and

(vii) Care and services which are additional to those offered under the State plan and which are made available under a contract between the State (or a political subdivision thereof) and an organization providing comprehensive health services may be limited to individuals who reside in the geographic area served by the contracting organization and elect to obtain care and services from it.

* * * * * * *

(9) With respect to individuals eligible under the plan for family planning services and supplies, provide that there shall be freedom from coercion or pressure of mind and conscience, and freedom of choice of method, so that such individuals can choose in accordance with the dictates of their consciences.

(10) Provide in the case of any State which (i) does not provide for the payment of services provided by an optometrist (other than services covered under § 248.70(a)(2) of this chapter); but (ii) at a prior period did provide for the payment of such services; that where the State plan specifically provides that "physicians' services" includes services which an optometrist is legally authorized to perform, such services shall be included as physicians' services and shall be reimbursed whether furnished by a physician or an optometrist.

(b) *Federal financial participation.*—Subject to the limitations in paragraph (c) of this section, Federal financial participation is available in expenditures for medical or remedial care and services under the State plan which meet the following definitions:

* * * * * * *

(7) *Home health care services.*—"Home health care services" in addition to the services of physicians, dentists, physical therapists, and other services and items available to patients in their homes and

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described elsewhere in these definitions, are any of the following items and services when they are provided on recommendation of a licensed physician to a patient in his place of residence, but not including as a residence a hospital, a skilled nursing facility, or an intermediate care facility:

• • • • • •

(11) *Physical therapy, occupational therapy, treatment of speech, hearing, and language disorders.* The services are defined as follows and include the use of such supplies and equipment as are necessary.

• • • • • •

(17) *Any other medical care and any other type of remedial care recognized under State law and specified by the Secretary.*—This term includes the following items in those States in which they are recognized under State law and under the circumstances, and to the extent to which, they are so recognized:

(i) (*a*) Transportation, including expenses for transportation and other related travel expenses, necessary to securing medical examinations and/or treatment when determined by the agency to be necessary in the individual case. "Travel expenses" include the cost of transportation for the individual by ambulance, taxicab, common carrier or other appropriate means; the cost of outside meals and lodging en route to medical care, while receiving medical care, and returning from a medical resource; and the cost of an attendant to accompany him, if medically or otherwise necessary. The cost of an attendant may include transportation, meals, lodging, and salary of the attendant, except that no salary may be paid a member of the patient's family.

(*b*) Transportation as defined in paragraph (b)(17)(i)(*a*) of this section is recognized as an item of medical assistance only when furnished by a provider to whom a direct vendor payment can appropriately be made by the agency. When other arrangements are made to satisfy the requirement in paragraph (a)(5) of this section, Federal financial participation is available as an administrative cost.

(ii) Services of Christian Science nurses who are listed and certified by the First Church of Christ Scientist, Boston, Mass., when these services have been requested by the patient and are provided (A) by, or under the supervision of, a Christian Science visiting nurse organization listed and certified by the First Church of Christ Scientist, Boston, Mass.; or (B) as private duty services to and individual in his own home or in a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ Scientist, Boston, Mass., when the patient requires individual and continuous care beyond that available from a visiting nurse or that routinely provided by the nursing staff of the sanatorium.

(iii) Care and services provided in Christian Science sanatoria operated by, or listed and certified by, the First Church of Christ Scientist, Boston, Mass.

(iv) Skilled nursing facility services, as defined in paragraph (b)(4)(i) of this section, provided to patients under 21 years of age.

(v) Emergency hospital services which are necessary to prevent the death or serious impairment of the health of the individual and which, because of the threat to the life or health of the individual, necessitate the use of the most accessible hospital available which is equipped to furnish such services, even though the hospital does not currently meet the conditions for participation under title XVIII of the Social Security Act, or definitions of inpatient or outpatient hospital services set forth in paragraphs (b)(1) and (2) of this section.

(vi) Personal care services in a recipient's home rendered by an individual, not a member of the family, who is qualified to provide such services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse.

• • • • • •

4. Section 249.32 is revised to read as follows:

§ 249.32 Direct payments to certain recipients for physicians' or dentists' services.

(a) *Federal financial participation.* Federal financial participation under title XIX of the Social Security Act is not available in direct payments for physicians' or dentists' services to any individual:

(1) Who is receiving assistance under the State's approved plan under title I, IV–A, X, XIV or XVI of the act, or

(2) With respect to whom supplemental security benefits are being paid under title XVI of the act, or

(3) Who is receiving or eligible for a State supplementary payment or would be eligible therefor if not in a medical institution, and who is eligible for medical assistance to the same extent as an individual described in paragraph (a)(1) or (a)(2) of this section.

(b) *State plan requirement.* A State may make direct payments for physicians' or dentists' services to any individual to whom such payments are not prohibited by paragraph (a) of this section. A State which does so must so provide in its State plan for medical assistance and must specify in its plan the conditions under which payments will be made.

(c) *Federal requirements.* Direct payments under this section are in all respects viewed as an alternative to State agency payments directly to the providers and are subject to the same conditions; for example, the State's reasonable charge schedules are applicable. Direct payments must be supported by vendor bills for services.

5. Section 249.33(a)(3)(i) is revised to read as follows:

§ 249.33 Standards for payment for skilled nursing facility and intermediate care facility services.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

• • • • • •

(3) Provide that any intermediate care facility receiving payments under the plan must supply to the licensing agency of the State full and complete information, and promptly report any changes which would affect the current accuracy of such information, as to the identity:

(i) Of each person having (directly or indirectly) an ownership interest of 10 percent or more in such facility, or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such intermediate care facility or any of the property or assets of such facility,

• • • • • •

6. Section 249.41 is revised to read as follows:

§ 249.41 Coordination of title XIX with part B of title XVIII, Social Security Act.

(a) *Requests for "buy-in" agreements.* (1) States had through December 31, 1969, to request a "buy-in" agreement for the following two groups:

(i) Individuals receiving money payments under the plan of the State approved under titles I, X, XIV, and XVI, and part A of title IV of the Social Security Act and

(ii) All individuals who are eligible to receive medical assistance under the State's plan under title XIX of the act.

(2) Effective January 1, 1974, as provided in section 1843(b) of the act, such agreements continue in effect subject to modifications necessary as a result of termination of State plans in effect prior to January 1, 1974, and establishment of a supplementary payment program under title XVI of the act.

(b) *Comparability.* Payment made by a State of premiums under title XVIII, part B of the act, whether through a "buy-in" agreement or otherwise, or provision for meeting part or all of the cost of the deductibles, cost sharing, or similar charges under part B, does not impose an obligation on the State to make comparable services available to other title XIX recipients. This provision permits the States to enter into agreements to pay the premium charges under part B or to pay the deductibles and other charges under that program without obligating themselves to provide the range of part B benefits to other individuals who are under title XIX of the act. Any State implementing this provision must amend its plan accordingly.

(c) *Federal financial participation.* (1) There will be no Federal financial participation in the monthly insurance premium under title XVIII, part B of the act which the title XIX State agency pays on behalf of nonmoney payment individuals eligible to receive medical assistance under title XIX of the act, except for those persons required to be covered pursuant to § 248.1(b)(1)(ii) of this chapter (AFDC families eligible for continued Medicaid coverage under section 209(a) of P.L. 92–603), and § 248.1(b)(3)(ii) of this chapter (persons eligible for continued Medicaid coverage despite increased income from benefits, as provided under section 249E of P.L. 92–603).

(2) There will also be no Federal financial participation for State expenditures for medical assistance after December 31, 1969, under title XIX of the act, which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of title XVII of the act. This applies to all persons who could have been covered under such program, whether on an individual basis or through the "buy-in." However, Federal financial participation will be available for such expenditures made under the requirements of § 206.10(a)(6)(ii) of this chapter regarding retroactive coverage.

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

7. Part 250 is amended by adding new § 250.70 and revising § 250.120, as follows:

§ 250.70 Disclosure of information on providers of health care services and contractors.

A State plan for medical assistance under title XIX of the Social Security Act must provide that:

(a) A procedure will be established for disclosure of pertinent findings contained in documents which result from surveys of any health care facility, laboratory, agency, clinic, or organization providing health care services, performed by State standard-setting agencies described in section 1902(a)(9) of the act for the purpose of determining eligibility of such providers to begin or continue participation in the State's medical assistance program, and of other documents described in this section. The procedure established must meet the following requirements:

(1) Documents subject to disclosure include survey reports prepared after January 31, 1973, by the survey agency, official notifications of findings prepared by the survey agency based on such reports, any pertinent parts of written statements relating to such reports and findings furnished by the provider to the survey agency, and information regarding ownership of a skilled nursing facility (as prescribed in section 1861(j)(11) of the act and 20 CFR 405.1121(a)) and of an intermediate care facility (as prescribed in § 249.33(a)(3) of this chapter).

(2) Statements listing all deficiencies in compliance with pertinent health and safety regulations, as found during survey, shall be made readily available for inspection and copying in the local public assistance office and the district office of the Social Security Administration serving the area in which the provider is located. The survey agency shall submit through the title XIX agency to the Regional Office of the Social and Rehabilitation Service a plan for making such documents available in additional public assistance offices in standard metropolitan statistical areas as necessary to provide ready access to the information for persons who are likely to utilize the provider's services.

(3) Survey reports and accurate and current ownership information shall be retained in the survey agency and made available upon request.

(4) Reports, findings, and statements shall be made available immediately upon determination of eligibility but in no case later than 90 calendar days following the completion of the survey.

(b) The single State agency will not make public any of the reports listed below, prepared after January 31, 1973, and made available by the Secretary to the State agency pursuant to section 1106(d) of the act, until the contractor or provider of services under title XVIII or XIX of the act whose performance is being evaluated by the Department has had a reasonable opportunity (not exceeding 30 days) to review such report and offer comments, pertinent parts of which shall be incorporated in the public report:

(1) Individual contractor performance reviews and other formal evaluations of the performance of carriers, intermediaries, and State agencies, including the reports of followup reviews;

(2) Comparative evaluations of the performance of such contractors, including comparisons of either overall performance or of any particular aspect of contractor operation; and

(3) Program validation survey reports and other formal evaluations of the performance of providers of services, including the reports of followup reviews. Reports made public under the provisions of this paragraph (b) shall contain no identification of individual patients, individual health care practitioners or other individuals.

§ 250.120 Staffing for administration of medical assistance programs, Federal financial participation.

Under a State plan for medical assistance approved under title XIX of the act:

(a) Federal financial participation at 75 percent is available for salary and other compensation, travel, and training costs of skilled professional medical personnel, and staff directly supporting such personnel, of the State title XIX agency or any other public agency, in the administration of the medical assistance program at the State and local level.

(1) Skilled professional medical personnel include physicians, dentists, and other health practitioners, and nurses, medical social workers, psychiatric social workers, and other specialized personnel in the field of medical care including medical administrators, hospital or public health administrators, and licensed nursing home administrators.

(2) Supporting staff include secretarial, stenographic, clerical, and other subprofessional staff directly supervised by the skilled professional medical personnel.

(3) If employed by a public agency other than the State title XIX agency (including a local agency administering the State plan in a political subdivision, and a title I, IV–A, or XVI agency that has not been designated as the title XIX agency), such skilled professional medical personnel as defined in subparagraph (1) of this paragraph and supporting staff as defined in subparagraph (2) of this paragraph are those whose duties are directly related to the administration of the medical assistance program, and are specified in a written contract or agreement with the title XIX agency for the performance of such duties.

(b) Federal financial participation at 90 percent is available for salary and other compensation, and travel costs of personnel engaged in the design, development, or installation of mechanized claims processing and information retrieval systems, and at 75 percent for salary and other compensation, travel and training costs of personnel engaged directly in the operations of such mechanized systems, when such design, development, or installation, or such operations, have been approved by the Administrator pursuant to § 250.90 of this chapter.

(c) Federal financial participation is available at 90 percent for salary and other compensation, travel, and training costs of personnel engaged in administering family planning services and supplies provided under section 1905(a)(4)(C) of the act.

(d) Federal financial participation at 100 percent is available for the period October 1, 1972, through June 30, 1974, for the compensation and training costs of personnel of the State licensing agency (designated in section 1902(a)(33)(B) of the act) who are responsible for inspecting public or private skilled nursing or intermediate care facilities to determine whether such facilities comply with health or safety standards applicable to them under the act, provided that a work plan and budget plan relative to such inspectional personnel have been approved by the appropriate regional office of the Department. Such Federal financial participation is available only for those expenditures of the State licensing agency which are not attributable to the overall cost of meeting responsibilities under State law and regulations for establishing and maintaining standards but which are necessary and proper for carrying out these regulations.

(e) Federal financial participation at 50 percent is available in the costs of all other staff employed in the administration of the State plan.

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(f) The special rates of Federal financial participation provided in paragraphs (a) through (d) of this section are available only for those portions of the time of the persons affected as are devoted to the kinds of positions or duties for which the special matching is specified under those paragraphs.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective Date: Except as otherwise specified, these regulations shall be effective July 24, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program).

Dated: March 21, 1974.

JAMES S. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

Approved: May 2, 1974.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.74-10790 Filed 5-9-74;8:45 am]

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federal register

FRIDAY, MAY 10, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 92

PART III



DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes these procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions. Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination Decisions.

Mississippi	AQ–4112
Puerto Rico	AQ–2117
Tennessee	AQ–4114
Texas	AQ–97
Washington	AQ–1108

Modifications to General Wage Determination Decisions. The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AQ–4095	Mar. 29, 1974
California:	
AQ–1094; AQ–1095	Mar. 22, 1974
Colorado:	
AQ–1097	Apr. 12, 1974
Iowa:	
AQ–101; AQ–102	Apr. 12, 1973
Kentucky:	
AQ–4063	Feb. 22, 1974
Michigan:	
AQ–3066	Dec. 21, 1973
New Jersey:	
AQ–2091	Mar. 29, 1974
Oklahoma:	
AM–3611	Aug. 25, 1971
Pennsylvania:	
AQ–2013	Aug. 17, 1973
AQ–2025	Oct. 19, 1973
AQ–2044	Feb. 22, 1974
AQ–2050; AQ–2055	Feb. 15, 1974
AQ–2078	Mar. 29, 1974
Texas:	
AQ–69	Dec. 28, 1973

Supersedeas Decisions to General Wage Determination Decisions. The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the number of the decisions being superseded.

Colorado:	
AQ–1012(AQ–1104); AQ–1013(AQ–1105)	Aug. 17, 1973
AQ–1062(AQ–1107); AQ–1063(AQ–1106)	Dec. 7, 1973
Connecticut:	
AP–803(AQ–2116)	Apr. 27, 1973
Delaware:	
AP–803(AQ–2116)	Do.
Iowa:	
AQ–8(AQ–107)	July 20, 1973
AQ–12(AQ–108)	Aug. 3, 1973
Maine:	
AP–803(AQ–2116)	Apr. 27, 1973
Maryland:	
AP–803(AQ–2116)	Do.
Massachusetts:	
AP–803(AQ–2116)	Do.
AQ–3031(AQ–3174)	Nov. 2, 1973
AQ–3038(AQ–3171); AQ–3039(AQ–3172); AQ–3040(AQ–3173); AQ–3041 & AQ–3042(AQ–3175); AQ–3043 & AQ–3044(AQ–3176); AQ–3045(AQ–3178)	Nov. 23, 1973
AQ–3071(AQ–3172)	Dec. 14, 1973
AQ–3072(AQ–3178)	Jan. 4, 1974
AQ–3083 & AQ–3084(AQ–3177)	Feb. 1, 1974
AQ–3160(AQ–3179)	Apr. 5, 1974
New Hampshire:	
AP–803(AQ–2116)	Apr. 27, 1973
New Jersey:	
AP–803(AQ–2116)	Do.
AP–846(AQ–2119)	June 8, 1973
New York:	
AP–803(AQ–2116)	Apr. 27, 1973
Oklahoma:	
AQ–22(AQ–96)	Aug. 31, 1973
Oregon:	
AQ–1079(AQ–1102)	Feb. 8, 1974
AQ–1100(AQ–1103)	Apr. 26, 1974
Pennsylvania:	
AP–803(AQ–2116)	Apr. 27, 1973
Rhode Island:	
AP–803(AQ–2116)	Do.
Texas:	
AQ–78(AQ–98)	Feb. 1, 1974
AQ–40, AQ–41(AQ–105)	Oct. 26, 1973
AQ–66, AQ–67(AQ–106)	Dec. 28, 1973

Signed at Washington, D.C., this 3rd day of May 1974.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

[AQ–106 P. 4]

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP 1—Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick—power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more; Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW–10 Caterpillar, S–18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated.

GROUP 2—Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader; Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck crane Driver; Gasoline or diesel Driven Welding Machine (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated.

GROUP 3—Fireman.

GROUP 4—Oiler.

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NEW DECISION

AQ-4112 [illegible]

STATE: Mississippi
DECISION NO.: AQ-4112
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

COUNTY: Warren
DATE: See Date of Publication

76-Mississippi-1-a

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$7.35	.30			
Boilermakers	7.13	.40	.70		.01
Bricklayers: Stonemasons	6.22				.02
Carpenters: Soft floor layers	6.30				
Cement masons	5.35	.25			
Electricians:					
Electricians	6.85		1% + .50		1/10 of 1%
Cable splicers	7.10		1% + .50		1/10 of 1%
Elevator constructors	6.13	.345	.23	2%+a&b	.015
Elevator constructors' helpers	70%JR	.345	.23	2%+a&b	.015
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	5.20				
Ironworkers	6.40	.30	.25		.04
Laborers:					
Laborers	2.60				
Mortar mixers	2.70				
Lathers	6.45				.01
Millwrights	6.90				
Painters:					
Brush; Drywall tapers; Rollers	5.05	.15			
Spray	5.55	.15			
Structural steel	5.30	.15			
Piledrivermen	6.90				
Plasterers	6.15	.25			.01
Plumbers; pipefitters	7.20			o	.05
Roofers	5.85				
Sheet metal workers	5.85	.25			
Truck Drivers:					
1½ to 5 tons	3.75				
Over 5 tons	4.40				

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 6 paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to Vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation pay credit for employee who has worked in business less than 5 years.
c. 2 paid holidays: D & F

BUILDING CONSTRUCTION

Mississippi-1-PEO 1-K

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS:						
Group A						
Engineer, operating under air pressure	$7.20	.25	.25			
Group B						
Mechanic	6.25	.25	.25			
Group C						
Asphalt plant; backhoe; blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, Crane, Derrick, Derrick car, Derrick boat, Dragline Dredge, Elevating grader, Excavator (power belt), Fork lift (5 ton & over), Hoists (2 drum in active use), Locomotive engineer. Marine engineer (chief), Master pilot, Mixer-mobile, Motor patrol and similar type equipment, Paver (21 c.f. or larger), Pile driver, Recharger, Scoop (skimmer), Scraper, Shovel, Trenching machine (over 18" bucket line width), Turnapull (Dw-10 and similar pull type scrapers), Traxcavator and similar end loaders, Welder, Welding machines and pumps (operating 2 to 6 machines), Well driller, Well point pumps	6.00	.25	.25			
Group D						
Asphalt spreader (bituminous distributor), Asphalt spreader (bituminous mixer), Backfilling machine, Conveyor, Drill (earth), Finishing machine, Fireman, Forklift (over 2 ton and less than 5 ton), Heating plant, Hoist (one drum), Marine engineers assistant, Mixer, Pay-loader and similar endloaders, Pilot, Power generating plant, Pump (concrete), Roller, Scoopmobile, Tractor (with power take-off), Trenching machine (18" or smaller bucket line width), Tugboat, Well driller (1st helper), Winch truck & tractor, small Rubber-Tired with Backhoe attachment	5.55	.25	.25			
Group E						
Air compressor, Batch scale, Deckhand, Forklift (2 ton & under), Form grader, Locomotive hostler, Mechanic helper, Motorboat (in or outboard), Oiler, Pump, Roughneck, Scowman, Tractor (w/ attachments), Welding machine	4.85	.25	.25			

Booms, including jib:
25¢ per hour above regular rate - 100 feet to and including 200 feet.
50¢ per hour above regular rate - 201 feet to and including 300 feet.
75¢ per hour above regular rate - 301 feet and above.

Operators servicing other crafts shall draw rate of pay not less than journeyman rate of craft being serviced.

NEW DECISION

STATE: PUERTO RICO
DECISION NO.: AQ-2,117

COUNTY: ISLAND WIDE
DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

11-PUERTO RICO-R-1-B

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Bricklayers	$2.00				
Carpenters	2.19				
Carpenters' helpers	1.83				
Cement masons	2.21				
Electricians	2.335				
Ironworkers:					
Reinforcing	1.93				
Laborers:					
Laborers	1.70				
Painters:					
Brush	2.00				
Plumbers & pipefitters	2.20				
Plumbers' helpers	1.95				
Terrazzo workers	2.75				
Truck drivers	1.95				
Welders	2.66				
Welders' helpers	1.80				
POWER EQUIPMENT OPERATORS:					
Bulldozer	3.40				
Crane	3.45				
Grader	3.40				
Digger, transcavator	2.15				

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NEW DECISION

STATE: Tennessee
DECISION NO.: AQ-4114
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

COUNTY: Rutherford
DATE: See Date of Publication

75-Tennessee-1-D (1-2)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$7.75	.35	.15		
A/C & Htg. Mechanics	5.00				
Bricklayers	6.43				
Carpenters	4.91				
Cement Masons	4.93				
Electricians	4.93				
Elevator constructors	6.60	.395	.26	2%+a+b	.02
Elevator constructors' helpers	70%JR	.395	.26	2%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	6.60	.35	.40		.02
Ironworkers:					
Structural, reinforcing	4.56				
Laborers:					
Unskilled	3.00				
Air tool operator	3.75				
Asphalt Raker	3.00				
Mason tender	4.00				
Lathers	5.50				
Painters, brush	6.20		.30		.05
Plasterers	6.10	.20	.20		.01
Plumbers	4.90				
Roofers	3.25				
Sheet metal workers	4.00				
Tile Setters	5.10				
Tile Setter Helpers	3.08				
Truck Drivers	2.76				
Welders - Rate for Craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.25				
Bulldozers	4.26				
Cranes	4.00				
Front end loaders	5.45				
Graders	4.53				
Paver, asphalt	3.00				
Mechanic	5.45				

AQ-4114 F. 2

75-Tennessee-1-D (2-2)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years.
Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

NEW DECISION

STATE: Texas
DECISION NO.: AQ-97
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See General Wage Determination AQ-100 for Paving & Utilities Incidental to Building Construction in Bosque, Falls, Hill & McLennan Counties)

COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan
DATE: Date of Publication

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS:					
Bell, Coryell & Falls Counties	$7.68	.30	.30		.08
Bosque, Hill & McLennan Counties	7.56	.50	.51		.02½
BOILERMAKERS	7.00	.30	.76		.02
BRICKLAYERS	7.00		.15		.03
CARPENTERS:					
Carpenters:					
Bell & Coryell Counties	6.92				
Bosque, Falls, Hill & McLennan Counties	6.34	.125			
Millwrights & Piledrivermen:					
Bosque, Falls, Hill & McLennan Counties	6.74	.125			
CEMENT MASONS	5.70				
ELECTRICIANS:					
Bosque, Hill & McLennan Counties; Parts of Bell & Coryell Counties (north of Cowhouse Creek)	7.45		1%		1/4%
Parts of Bell & Coryell Counties (south of Cowhouse Creek)	7.90		1%		.8%
ELEVATOR CONSTRUCTORS	7.20	.345	.23	2%+a+b	.015
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a+b	.015
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	5.55				
IRONWORKERS	6.765	.40	.50		.12
LABORERS:					
Unskilled	2.97				
Mason tenders	3.55				
Mortar mixers	3.55				

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DECISION NO. AQ-97

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Bosque, Coryell, Falls, Hill & McLennan Counties:					
Brush	$5.35				
Boiler pipes & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair	5.85				
Ames tools for dry walls	5.95				
Spray work & self feeding rollers	6.10				
Steam cleaning, sandblasting & hazardous work	6.45				
Bell County:					
Brush	4.40				
Tapers, floater & dry wall finishers	4.65				
Stage work; Boatswain chair	4.90				
Window jacks, Steel brushing	4.875				
Spray; Sandblasting	5.65				
PLASTERERS	6.30				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Area within a 35 mile radius of Waco, including Temple, Marlin, Clifton & Hillsboro	7.25				.02
ZONE 2 - All other areas	7.65				.02
ROOFERS:					
Slate, tile, asbestos, roofing & siding	5.35				.03
Composition, built-up, damp & waterproofing	5.20				.03
SHEET METAL WORKERS:					
ZONE 1 - Within a radius of 20 miles from the McLennan County Court House, Waco	6.70		.15	.20	.02
ZONE 2 - Over 20 miles but less than 45 miles	7.20		.15	.20	.02
ZONE 3 - Over 45 miles	7.70		.15	.20	.02
SPRINKLER FITTERS	8.50	.40	.60		.07
TRUCK DRIVERS	2.80				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

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DECISION NO. AQ-97

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
FOOTNOTES:					
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2% over 5 yrs. - 4% of basic hourly rates.					
b - Paid Holidays - A through F.					
PAID HOLIDAYS:					
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					
LINE CONSTRUCTION:					
Linemen	$8.53		1%		1/2%
Cable splicer	9.38		1%		1/2%
Lineman operator	8.53		1%		1/2%
Groundman, 1st 6 months	5.12		1%		1/2%
Groundman, 2nd 6 months	5.54		1%		1/2%
Groundman, 1 year & over	5.97		1%		1/2%
POWER EQUIPMENT OPERATORS:					
Group 1	7.13		.40		
Group 2	6.26		.40		
Group 3	5.285		.40		
Group 4	5.185		.40		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor Driven, two drums or more; Mix Mobile; High-Lifts & loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, Power Operated; Pump Crete Machine; Clam Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12; Two 125 cu. ft. Compressors; Well points, including installations

GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Fulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machine or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Fireman

GROUP 4 - Oiler

DECISION NO. AQ-97

INCIDENTAL PAVING & UTILITIES (BELL & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Air Tool Man	$2.80				
Asphalt Heaterman	2.60				
Asphalt Raker	3.25				
Batching Plant Scaleman	3.00				
Carpenter	3.25				
Carpenter Helper	2.70				
Concrete Finisher (Structures)	3.50				
Concrete Finisher Helper (Structures)	2.80				
Concrete Rubber	2.95				
Electrician	5.00				
Form Builder (Structures)	3.50				
Form Builder Helper (Structures)	3.00				
Form Setter (Paving and Curb)	3.60				
Form Setter (Structures)	3.50				
Form Setter Helper (Structures)	2.50				
Laborer, Common	2.00				
Laborer, Utility Man	2.50				
Mechanic	4.00				
Mechanic Helper	2.50				
Oiler	3.25				
Serviceman	2.25				
Pipelayer	3.25				
Pipelayer Helper	2.25				
Plumbers:					
Zone 1 - 35 mile radius of Waco, Texas including town of Temple	7.25				.02
Zone 2 - all area not included in Zone 1	7.65				.02
Powderman	3.25				
Reinforcing Steel Setter (Paving)	3.75				
Reinforcing Steel Setter (Structures)	3.50				
Reinforcing Steel Setter Helper	2.50				
Sign Erector	3.00				
Spreader Box Man	3.00				
Swamper	2.65				

DECISION NO. AQ-97

INCIDENTAL PAVING & UTILITIES (BELL & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators:					
Asphalt Distributor	$3.00				
Asphalt Paving Machine	3.25				
Bulldozer, 150 HP and less	3.25				
Bulldozer, over 150 HP	3.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & over)	4.00				
Crusher or Screening Plant Operator	3.50				
Foundation Drill Operator (Truck Mounted)	4.40				
Front End Loader (2½ CY & less)	3.25				
Front End Loader (Over 2½ CY)	3.50				
Motor Grader Operator, Fine Grade	4.00				
Motor Grader Operator	3.50				
Roller, Steel Wheel (Plant-Mix Pavements)	2.90				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.50				
Roller, Pneumatic (Self-Propelled)	2.25				
Scrapers (17 CY and Less)	3.25				
Scrapers (Over 17 CY)	3.50				
Tractor (Crawler Type) 150 HP and Less	3.00				
Tractor (Crawler Type) over 150 HP	3.25				
Tractor (Pneumatic) 80 HP and Less	2.50				
Tractor (Pneumatic) over 80 HP	3.10				
Trenching Machine, Heavy	4.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00				
Truck Drivers:					
Single Axle, Light	2.50				
Single Axle, Heavy	2.50				
Tandem Axle or Semitrailer	2.50				
Weighman (Truck Scales)	2.25				
Welder	3.50				

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NEW DECISION

STATE: Washington COUNTY: Yakima
DECISION NUMBER: AQ-1108 DATE: Date of Publication

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CARPENTERS	6.45	.50	.60		.01
CEMENT MASONS	7.00	.50	.50		.01
ELECTRICIANS	6.44	.35	1% + .40		.02
LABORERS	5.20	.50	.60		.03
PAINTERS, Brush	6.44	.21	.35		.01
PLUMBERS	7.96	.33	.85	.49	.08
ROOFERS	6.95	.20	.20		
SHEET METAL WORKERS	7.65	.32	.50		

MODIFICATION P. 1

DECISION #AQ-4095 - Mod. #2
(39 FR 11817 - March 29, 1974)
Jefferson County, Alabama

Omit:
Modification #1:
Power equipment operators:
Group C: apprentice engineer (oilers-firemen)

Add:
Modification #1:
Power equipment operators:
Group C: oilers-firemen

MODIFICATIONS P. 2

DECISION #AQ-1094 - Mod. #2
(39 FR 11004 - March 22, 1974)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Changes:					
Boilermakers	$8.30	.65	1.00	.50	.02
Elevator Constructors					
Kern County (North of Tehachapi Range)					
Elevator Constructors	9.73	.395	.26	2%+a	.02
Elevator Constructors' Helpers	70%JR	.395	.26	2%+a	.02
Painters					
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), Mono, San Bernardino (West of a line North in Trona including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	8.25	.305	.40	.30	
Structural steel and bridges; Paint burner; Taper	8.37	.305	.40	.30	
Brush swing stage (13 stories or less); Paperhanger; Sandblaster; Spray	8.50	.305	.40	.30	
Brush swing stage (over 13 stories)	8.62	.305	.40	.30	
Structural steel and bridge, swing	8.63	.305	.40	.30	
Spray sandblaster swing stage (13 stories or less); Paste machine; Special coating spray	8.75	.305	.40	.30	
Steeplejack	9.50	.305	.40	.30	
Roofers					
Inyo, Kern and Mono Counties	7.75	.30	.50		

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DECISION #AQ-1094 - (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Sheet Metal Workers					
Imperial County	$8.93	.74	1.20		
Inyo, Kern, Los Angeles (North of line between Gorman and Big Pines), and Mono Counties	8.52	.74	1.20		

DECISION #AQ-1095 - Mod. #2
(39 FR 11013 - March 22, 1974)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Changes:

Boilermakers	8.50	.65	1.00	.50	.02
Elevator Constructors					
Kern County (North of Tehachapi Range)					
Elevator Constructors	9.73	.395	.26	2%+a	.02
Elevator Constructors' Helper	70%JR	.395	.26	2%+a	.02
Painters					
Kern (Lancaster, Mohave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (West of a line North in Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	8.25	.305	.40	.30	
Structural steel and bridge; Paint burner; Taper	8.37	.305	.40	.30	
Brush swing stage (13 stories or less); Paperhanger; Sandblaster; Sprav	8.50	.305	.40	.30	

DECISION #AQ-1095 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Brush swing stage (over 13 stories)	$8.62	.305	.40	.30	
Structural steel and bridge, swing	8.65	.305	.40	.30	
Spray sandblaster swing stage (13 stories or less); Paste machine; Special coating spray	8.75	.305	.40	.30	
Steeplejack	9.50	.305	.40	.30	
Roofers					
Kern County	7.75	.50	.50		
Sheet Metal Workers					
Imperial County	8.93	.74	1.20		
Kern, Los Angeles (North of line between Gorman and Big Pines, and Mono Counties	8.52	.74	1.20		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-1097 - Mod. #1 (39 FR 1097 - April 12, 1974) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Park, Summit and Weld Counties, Colorado					
Change:					
Building Construction:					
Cement Masons:					
Remaining Counties (including Elbert County, except S. E. corner, and N. 1/2 of Park County)					
Cement masons Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25'; Power troweling and floor grinding machine	$ 6.78	.37	.80	.60	.06
Eagle and Summit Counties					
Cement masons Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25'; Power troweling and floor grinding machine	7.03	.37	.80	.60	.06
S. E. Corner of Elbert, Lake and Southern 1/2 of Park Counties					
Cement masons Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25'; Power troweling and floor grinding machine	6.43	.37	.80	.60	.06
	7.68	.37	.80	.60	.06
Cement masons Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25'; Power troweling and floor grinding machine	6.53	.37	.80	.60	.06
	6.78	.37	.80	.60	.06
Glaziers	8.04				

DECISION #AQ-1097- Mod. #1 (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PICKUPS; Helpers; Scaleman; Checkers; Spotters; Dumpmen	$ 5.30	.35	.25	.10	
DUMP TRUCKS, to and incl. 6 cu. yds.; Sweeper; Flatrack, single axle; Liquid and bulk tenkers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.40	.35	.25	.10	
DUMP TRUCKS, over 6 cu. yds. to & incl. 12 cu. yds.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Mac haul shuttle truck or bus	5.50	.35	.25	.10	
STRADDLE TRUCK; Lumber carrier; Liquid and bulk tankers, tandem axle	5.55	.35	.25	.10	
FORK LIFT, Fuel truck; Grease truck; Combination fuel and grease; Tiremen	5.60	.35	.25	.10	
DUMP TRUCKS, over 12 cu. yds., to & incl. 19 cu. yds.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid and bulk tankers, semi or combination	5.65	.35	.25	.10	
MULTI-PURPOSE TRUCK - Specialty and Hoisting	5.70	.35	.25	.10	
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid and bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo and similar type equipment	5.75	.35	.25	.10	
MECHANICS	5.80	.35	.25	.10	

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Carpenters	$6.57	.45	.45	.30	.04
Underground Carpenters	6.72	.45	.45	.30	.04
Working on creosoted materials; High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continously assigned to 1½ HP saws at jobsite	6.82	.45	.45	.30	.04

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DECISION #AQ-1097 - Mod. #1(Cont'd)

MODIFICATIONS P. 7

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DUMP TRUCKS, over 19 cu. yds. to & incl. 29 cu. yds.; Truck driver snow plow	$ 5.85	.35	.25	.10	
CEMENT MIXER, Agitator over 10 cu. yds. to and incl. 15 cu. yds.	5.90	.35	.25	.10	
DUMP TRUCKS, over 29 cu. yds. to & incl. 39 cu. yds.; Heavy duty diesel mechanics; Body men; Welders or combination men	6.00	.35	.25	.10	
CEMENT MIXER, Agitator over 15 cu. yds.	6.15	.35	.25	.10	
DUMP TRUCKS, over 39 cu. yds. to & incl. 54 cu. yds.	6.20	.35	.25	.10	
DUMP TRUCKS, over 54 cu. yds. to & incl. 79 cu. yds.	6.40	.35	.25	.10	
DUMP TRUCKS, over 79 cu. yds. to & incl. 104 cu. yds.	6.60	.35	.25	.10	
DUMP TRUCKS over 104 cu. yds.	6.80	.35	.25	.10	

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-101 - Mod. #1 (39 FR 13456 - April 12, 1974) Carro Gordo County (Mason City), Iowa Change County to Carro Gordo (Mason City)						
DECISION #AQ-102 - Mod. #1 (39 FR 13460 - April 12, 1974) Webster County (City of Fort Dodge), Iowa Change County to Webster (City of Fort Dodge)						
DECISION # AQ-4063 - Mod #3 (39 FR 7015 - February 22, 1974) Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliot, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Morgan, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington, and Woodford Counties, Kentucky. Change: Modification #1 dated April 26, 1974 to read "Modification #2."						

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-3066 - Mod. #3 (38 FR 35178 - December 21, 1973) Muskegon and Oceana Counties, Michigan						
CHANGE:						
Boilermakers	$8.83	.60	1.00	1.00	.01	
Cement masons	7.13	.32	.18		.02	
Stone masons	7.92	.25	.50			
Power Equipment Operators (Underground Construction):						
Class I	9.39	.55	.65		.05	
Class II	9.26	.55	.65		.05	
Class III	8.53	.55	.65		.05	
Class IV	7.96	.55	.65		.05	
Oiler and Firemen	7.96	.55	.65		.05	
DECISION #AQ-2,091 - Mod. #2 (39 FR 11830 - March 29, 1974) Somerset County, New Jersey						
Change:						
Laborers, Building:						
Bernardsville, Peapack, Gladstone, Far Hills, Basking Ridge, Liberty Corners, Lyons (VA Hospital)	7.05	.45	.40			
Remainder of County	6.95	.55	.55			
Marble Setters	7.80	.78	.94			
Marble Setters' Helpers	7.33	.74	.88			
Plumbers & Steamfitters	9.32	.40	.90	1.00	.15	
Omit:						
Painters schedule as originally issued						
Add:						
Painters:						
Franklin Township:						
Commercial	7.15	.65	.50			
Steel, tanks, towers, steeples, stacks and bridges	8.25	.65	.50			
Spray	8.25	.65	.50			
Remainder of county:						
Commercial	7.80	.45	.50	.10		
Exterior work exceeding 30', Interior work over 20' and structural steel under 30'	7.95	.45	.50	.10		
Spray	8.27	.45	.50	.10		
Bridges, towers and structural steel over 30'	8.40	.45	.50	.10		

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-2611 - Mod. #3 (36 FR 16769 - August 25, 1971) Tulsa County, Oklahoma Change: Modification No. one in Federal Register issued May 3, 1974 to read "Modification No. three"						

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-2013 - Mod. #3 (38 FR 22347 - August 17, 1973) Montgomery County, Pennsylvania					
Change:					
Cement Masons & Plasterers:					
Pennsburg & Pottstown	$8.305		.215		
Electricians:					
Pottsgrove, Upper Pottsgrove, Douglas and Pottstown	9.19	.33	1%		.03
Painters caulkers, cleaners	8.25	.35	.50		
DECISION #AQ-2025 - Mod. #3 (38 FR 29184 - October 19, 1973) Berks County, Pennsylvania					
Change:					
Bricklayers & Stonemasons	7.95	.45	.50		
Carpenters	7.78	.47	.40		.015
Cement Masons	8.305		.215		
Electricians:					
Marion, Tulpehocken & Bethel Twps.	8.31	.25	1%		.01
Remainder of County	9.19	.33	1%		.03
Millwrights	8.30	.47	.40		.015
Roofers:					
Albany, Maxstany and Windsor Composition & Slate	8.35	.25	.25		
Remainder of County:					
Composition, damp and waterproofers	8.725	.375	.10	d	
Precast slabs	9.525	.375	.10	d	
Slate, tile asbestos	9.175	.375	.10	d	
Sheet Metal Workers	8.43	.52	.50		
Soft Floor layers	7.78	.47	.40		.015
FOOTNOTE:					
d. Paid Holidays: Election Day and Labor Day.					

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
DECISION #AQ-2044 - Mod. #2 (39 FR 7015 - February 22, 1974) Northumberland County, Pennsylvania					
Change:					
Plumbers & Steamfitters	$8.90	.30	.40		.12
Sheet Metal Workers	8.37	.25	.30		.04
DECISION #AQ-2050 - Mod. #2 (39 FR 5938 - February 15, 1974) Schuylkill County, Pennsylvania					
Change:					
Electricians:					
North Manheim, South Manheim, West Brunswick, Wayne Washington, Pottsville, Schuylkill Haven Twps:	9.19	.33	1%		.03
Pine Grove	8.31	.25	1%		½ of 1%
Sheet Metal Workers	8.37	.25	.30		.04
DECISION #AQ-2055 - Mod. #3 (39 FR 5940 - February 15, 1974) Lancaster County, Pennsylvania					
Change:					
Electricians:					
W. Calico, E. Calico, Brecknock, E. Carl, & Caernarvon	9.19	.33	1%		.03
DECISION #AQ-2078 - Mod. #1 (39 FR 11800 - March 29, 1974) Chester County, Pennsylvania					
Change:					
Electricians:					
West Clan, West Brandywine, Honey Brook, Wallace, West Nantmeal, Warwick, South Coventy, Valley Twps. & Coatesville	$9.19	.33	1%		.03
Elevator Constructors	9.52	.395	.26	2%+a+b	.02
Elevator Constructors Helpers	6.66	.395	.26	2%+a+b	.02
Elevator Constructors Helpers (prob.)	4.76				

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AQ-69 - Mod. #3 (38 FR 35582 - December 28, 1973) Lubbock County, Texas						
Change:						
Building Construction:						
Cement masons	$5.75					
Laborers:						
Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking building and all structures and all construction laborers except those named below	3.875	.275			.01	
Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all non-metallic pipe); handling, laying and cleaning pumpcrete pipe	4.15	.275			.01	
Morter mixers, mason tenders, plasterer tenders, cement finishers tenders, lather tenders	4.075	.275			.01	
Wagon drill	4.225	.275			.01	
Blasters and powder make-up man	4.475	.275			.01	

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: El Paso
DECISION NUMBER: AQ-1104 DATE: Date of Publication
Supersedes Decision No. AQ-1012 dated August 17, 1973, in 38 FR 22322
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories) and heavy construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$ 8.47	.33	.72		
BOILERMAKERS	8.25	.30	1.00		.02
BRICKLAYERS; Stonemasons	8.12	.30	.50		.02
CARPENTERS:					
Zone I (0-30 miles from nearest basing point)	6.87	.45	.45	.30	.04
Zone II (30-60 miles from nearest basing point)	7.12	.45	.45	.30	.04
Zone III (60 miles and over from nearest basing point)	7.37	.45	.45	.30	.04
Millwrights	7.24	.45	.40	.40	.04
CEMENT MASONS:					
Cement masons	6.90	.30	.50	.60	.03
Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25' or above permanent floor, roof or solidly planked opening; All power troweling, floating or floor grinding machines	7.15	.30	.50	.60	.03
ELECTRICIANS	8.32	.32	1% + .25		.01
ELEVATOR CONSTRUCTORS	7.76	.345	.23	2% + a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2% + a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.04				
IRONWORKERS	7.75	.55	.60		.06
MARBLE SETTERS	7.14	.30	.50		
PAINTERS:					
Brush and roller; Tapers; Texture	6.50	.45	.20		.02
Paperhangers; Spray; Steel	7.05	.45	.20		.02
PLASTERERS	8.19			.50	.01
PLUMBERS; Pipefitters	7.33	.50	.50	1.17	.05
ROOFERS	7.58				
SHEET METAL WORKERS	8.47	.30	.65		.07
SOFT FLOOR LAYERS	6.60	.35	.30	.25	.03
SPRINKLER FITTERS	8.85	.40	.60		.05
TERRAZZO WORKERS	7.60	.53	.40	.25	
TILE SETTERS	7.14	.30	.50		
MARBLE, TILE AND TERRAZZO WORKERS HELPERS	5.65	.38	.20	.25	

FOOTNOTE: AQ-1104 P. 2

a. Employer contributes 4% basic hourly rate for over 5 years' service; 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

BUILDING CONSTRUCTION: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
LABORERS:					
General laborers	$ 4.75	.37	.40		.05
Underpinning and shoring 0' to 8' below working surface	4.75	.37	.40		.05
Underpinning and shoring 8' below working surface to any depth					
below working surface; Power tool operators or all mechanical, air, gas and electrical tools, incl. self-propelled buggies and cement					
finisher tenders; Pipelayers;					
Gunnite nozzlemen and sandblasters	5.03	.37	.40		.05
Laborers, preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels	5.05	.37	.40		.05
Jackhammer operator; Underpinning and shoring over 12' below working surface; Sellers and stemmers on caisson work	5.30	.37	.40		.05
Mason tenders, brick and plaster	5.35	.37	.40		.05
HEAVY AND HIGHWAY CONSTRUCTION					
Carpenters	6.57	.45	.45	.30	.04
Underground Carpenters	6.72	.45	.45	.30	.04
Working on creosoted material; High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continuously assigned to 1 1/2 H.P. saws at jobsite	6.82	.45	.45	.30	.04
Cement Masons (Construction - outside Denver Metropolitan Area)	5.98	.37	.80	.30	.06
Cement Masons (Construction - Denver Metropolitan Area)	6.13	.37	.80	.30	.06

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AQ-1104 P. 3

CO-1-TD-1-2-3-e (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 5.30	.35	.25	.10	
DUMP TRUCKS, to and incl. 6 cu. yds.; Sweeper; Flatrack, single axle; Liquid and bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.40	.35	.25	.10	
DUMP TRUCKS, over 6 cu. yds. to & incl. 12 cu. yds.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.50	.35	.25	.10	
STRADDLE TRUCK; Lumber carrier; Liquid and bulk tankers, tandem axle	5.55	.35	.25	.10	
FORK LIFT, Fuel truck; Grease truck; Combination fuel and grease; Tiremen	5.60	.35	.25	.10	
DUMP TRUCKS, over 12 cu. yds., to & incl. 19 cu. yds.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid and bulk tankers, semi or combination	5.65	.35	.25	.10	
MULTI-PURPOSE TRUCK - Specialty and Hoisting	5.70	.35	.25	.10	
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid and bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo and similar type equipment	5.75	.35	.25	.10	
MECHANICS	5.80	.35	.25	.10	

AQ-1104 P. 4

CO-1-TD-1-2-3-e (2-2)

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DUMP TRUCKS, over 19 cu. yds. to & incl. 29 cu. yds.; Truck driver snow plow	$ 5.85	.35	.25	.10	
CEMENT MIXER, Agitator over 10 cu. yds. to and incl. 15 cu. yds.	5.90	.35	.25	.10	
DUMP TRUCKS, over 29 cu. yds. to & incl. 39 cu. yds.; Heavy duty diesel mechanics; Body men; Welders or combination men	6.00	.35	.25	.10	
CEMENT MIXER, Agitator over 15 cu. yds.	6.15	.35	.25	.10	
DUMP TRUCKS, over 39 cu. yds. to & incl. 54 cu. yds.	6.20	.35	.25	.10	
DUMP TRUCKS, over 54 cu. yds. to & incl. 79 cu. yds.	6.40	.35	.25	.10	
DUMP TRUCKS, over 79 cu. yds. to & incl. 104 cu. yds.	6.60	.35	.25	.10	
DUMP TRUCKS over 104 cu. yds.	6.80	.35	.25	.10	

AQ-1104 P. 5

LABORERS (Heavy Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1:	$4.55	.37	.40		.05
GROUP 2:	4.60	.37	.40		.05
GROUP 3:	5.68	.37	.40		.05
GROUP 4:	4.70	.37	.40		.05
GROUP 5:	4472	.37	.40		.05
GROUP 6:	4.83	.37	.40		.05
GROUP 7:	4.93	.37	.40		.05
GROUP 8:	5.00	.37	.40		.05
GROUP 9:	5.13	.37	.40		.05
GROUP 10:	5.18	.37	.40		.05
(Pipelines)					
All mainline sewers; Water mains; Gas, oil or any product pipeline Pen Stocks; Siphones or drainage lines; Pipe plants and yards not in connection with highway construction.					
GROUP 1:	4.55	.37	.40		.05
GROUP 2:	5.60	.37	.40		.05
GROUP 3:	4.77	.37	.40		.05
GROUP 4:	4.79	.37	.40		.05
GROUP 5:	4.88	.37	.40		.05
GROUP 5-A:	4.93	.37	.40		.05
GROUP 6:	5.00	.37	.40		.05

Line Construction - Colorado	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	O
Cable Splicer	$ 8.98	.35	1%		3/4%	
Lineman Cableman	8.43	.35	1%		3/4%	
Journeymen Lineman	8.37	.35	1%		3/4%	
Line Equipment Operator	7.12	.35	1%		3/4%	
Line Equipment Maintenance Man	7.12	.35	1%		3/4%	
Groundmen	5.87	.35	1%		3/4%	

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LABORERS (TUNNELS)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 4.55	.37	.40		.05	
Group 2:	5.13	.37	.40		.05	
Group 3:	5.25	.37	.40		.05	
Group 4:	5.33	.37	.40		.05	
Group 5:	5.40	.37	.40		.05	
Group 6:	5.55	.37	.40		.05	
(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)						
Group 1:	5.25	.37	.40		.05	
Group 2:	5.40	.37	.40		.05	
Group 3:	5.50	.37	.40		.05	
Group 4:	5.68	.37	.40		.05	
Group 5:	5.78	.37	.40		.05	
Group 6:	5.83	.37	.40		.05	

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POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 5.60	.37	.45	.20	.03	
Group 2:	5.95	.37	.45	.20	.03	
Group 3:	6.30	.37	.45	.20	.03	
Group 4:	6.45	.37	.45	.20	.03	
Group 5:	6.60	.37	.45	.20	.03	
Group 6:	6.75	.37	.45	.20	.03	
(For work in Tunnels, Shafts, and Raises)						
Brakeman	5.75	.37	.45	.20	.03	
Motorman	6.10	.37	.45	.20	.03	
Compressor (900 CFM & Over), serving tunnels, shafts and raises	6.20	.37	.45	.20	.03	
Air Tractors; Grout machine; Gunnite machine; Jumbo form; Mechanic; Welder	6.45	.37	.45	.20	.03	
Concrete Placement Pumps 8" and Over Discharge; Mechanic-welder (heavy duty); Mucking machine and frontend loaders underground; Slusher	6.60	.37	.45	.20	.03	
Mole	7.00	.37	.45	.20	.03	

LABORERS (Heavy Construction)

GROUP 1: Minimum laborer, including caissons to 8', carrying reinforcing rods; Work on cross culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence erectors; Metal Mesh; Dowel bars; Tie bars and chairs in concrete paving; Nursery man incl. seeding; mulching and planting of trees, shrubs and flowers; Stake chaser; Gabion baskets and Reno mattresses

GROUP 2: Chuck tenders; Nippers, core and diamond drill helpers; Powderman helpers

GROUP 3: Hot asphalt laborer; Rakers; Box-tenders; Asphalt curb machines; Potman (not mechanical)

GROUP 4: Multi-plate culvert pipe; Air, gas and electric tools operators; Barco hammers; Spaders; Electric hammers; Air tampers; Cutting torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated concrete buggies; Operators of concrete saws on pavement (other than gang saws); Timber and chain saws; Stressor or stretcherman on post tension or pre-stressed concrete on or off jobsite; Tool room man and checkers; Cement finisher helper; Sandblaster helper; Concrete processing material monitor; Spotters; Signalmen; Dumpmen; Transverse concrete conveyor operator, mechanical grouters; Boring machines (air hydraulic); Automatic concrete power curbing machine; Jackhammer; Vibrators; Paving breakers; Frostproofing

GROUP 5: Any laborers performing bridge work over 40' above the ground or above a floor and working from a bos'n chair, swinging stage, life belt or block and tackle

GROUP 6: Gunniting and shotcrete helpers; Caissons over 12'; Cofferdams; Timbermen; Underpinning and shoring; Form setters and/or stringmen on roads, highways, streets and airport runways; Distributor; Placing and hooking of landing mats; Bull float (hand operated) and center expansion machines; Sandblasters; Grade checkers if required by employer

GROUP 7: Powdermen and blasters; Gunnite nozzlemen; Shotcrete operator

GROUP 8: Pipelayer on truck pipe lines in connection with highway work

GROUP 9: Wagon drills and air tracks; Jackhammer operators in caissons over 12'; Sellers and stemmers; Licensed powderman; Diamond and core drills powered by air

GROUP 10: Any work, other than on bridges, performed by laborers working from a bos'n chair, swinging stage, life belt or block and tackle as a safety requirement

LABORERS (Pipelines)

All mainline sewers; Water mains; Gas, oil or any product pipelines; Penstocks; Siphons or drainage lines; Pipe plants and yards not in connection with highway construction.

GROUP 1: Pipe plants and yards; Stringing of pipe or skids; Handling and signaling on line work

GROUP 2: Potman (not mechanical); Pipewrapper, Dopers, Jeep Holiday Detector Men, Bandage makers, Powdermen helpers

GROUP 3: Laborers working in trenches on all pipelines; Sewer, water, gas, oil, telephone conduit, pen stock, siphons, drainage lines, caulkers, yarners, fine graders, air, gas, electric and hydraulic tools, boring machines, hydraulic jacks, drills, tampers, etc.

GROUP 4: Sandblaster, powdermen and blasters, wiping of joint concrete pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

GROUP 5: (Relining Pipe)
Relining Pipe

GROUP 5-A: Mixer man

GROUP 6: Pipelayer

LABORERS (TUNNELS):

Group 1: Outside laborers

Group 2: Minimum tunnel labor, dry house man

Group 3: Cable or hose tenders, chuck tenders, concrete laborers, dumpman, whirley pumps operators

Group 4: Helpers on shotcrete, gunniting and sandblasting; Helpers, core and diamond drills; Pot tender

Group 5: Cement finisher helper, applying of concrete processing materials

Group 6: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required) and all cutting and welding that is incidental to the miner's work; Tunnel liner plate setters; Vibrator men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and core drills; Cement finisher (underground); Shotcrete operator; Gunnite nozzlemen; Sandblaster; Pump concrete placement men

(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)

Group 1: Laborers, Topmen, Bottommen, and Cagers

Group 2: Chucktenders, Concrete laborers, Whirley pumps operators

Group 3: Helpers on shotcrete, gunniting and sandblasting; Helpers on core and diamond drills; Pot tenders; Cement finisher helpers; Applying of concrete processing material

Group 4: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required); All cutting and welding that is incidental to the miner's work; Liner plate setters; Vibrator men, internal and external

Group 5: Diamond and core drill; Cement finisher (underground); Gunnite nozzlemen; Shotcrete operators; Sandblasters and pump concrete placement men

Group 6: Any employee performing work under ground from a bos'n chair, swinging stage, life belt or block and tackle

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POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Asphalt screed; Brakeman; Drill operator, smaller than William MF and similar; Helper to heavy duty mechanic and/or Welder; Tractor operator (under 70 HP), with or without attachments; Oiler

Group 2: Air compressor; Ditch witch trenching machine and similar; Equipment lubricating and service engineer; Fork lift; Haulage motorman; Operators of five or more light plants, welding machines, compressors 360 C.F.M. or less, pumps, generators; Pugmill operator; Pugmill; Pumps; Portable screening plant with or without a spray bar; Screening plants - with classifier; Self-propelled rollers - 5 tons & under; Vacuum well point system

Group 3: Asphalt plant; Backfiller; Bituminous spreader or laydown machine; Cableway signalman; Caissons drill; (William MF, similar and larger; C.M.I. and similar; Concrete finish machine; Concrete gang saws on concrete paving; Concrete mixer (less than 1 yd.); Concrete placement pumps (under 8 in.); Conveyor (handling building materials, , Distributors, bituminous surfaces; Drill, (diamond or core); Drills rigs (rotary, churn or cable tool); Elevating gradors; Engineer fireman; Fireman or tank heater, Road; Grout machine; Gunnite machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to and including 6 cu. yds.); Machine doctor mechanic; Motor grader (blade); Road stabilization machine; Roller-self-propelled-all types over 5 tons; Sandblasting machine; Single unit portable crusher-with or without washer; Tile tamper, Wheel mounted; Tractor (70 h.p. & over) (with or without attachments); Trenching machine; Welder; Winch op., on truck; Concrete batching plants

Group 4: Concrete mixer (over 1 cu. yd.); Concrete paver 34 E or similar; Concrete placement pumps (8 in. and over); Crane (50 tons and under); Hoists (2 drums); Loader - over 6 cu. yds.; Mechanic-Welder (heavy duty); Mixer-mobile; Multiple unit portable crusher - with or without washer; Pile driver; Fireman; Cable-operated crane, truck mounted, 25 tons and over; Cable operated power shovels, dragline; Clamshell, and backhoes (5 cu. yds. and under); Hydraulic backhoes, 1 1/2 cu. yds. and over); Special utility operator; Self-propelled hydrocrane; Tractor with side boom; Truck mounted hydrocrane; Scraper-single bowl under 40 cu. yds.

Group 5: Crane operator - over 50 tons; Derrick; Electric rail type tower crane; Hoist (3 drum or more); Cable-operated power shovels, draglines, clamshells and backhoes (over 5 cu. yds.); Quad nine and similar push unit; Scraper-all tandem bowls; Scraper-single bowl including pups 40 cu. yd. and over

Group 6: Cableway; Crawler or truck mounted tower crane; Wheel excavator; Climbing tower crane

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: Statewide
DECISION NUMBER: AQ-1105 DATE: Date of Publication
Supersedes Decision No. AQ-1013 dated August 17, 1973, in 38 FR 22328
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CARPENTERS	$ 6.57	.45	.45	.30	.04
CEMENT MASONS:					
Denver Metropolitan Area	6.13	.37	.80	.30	.06
Outside Denver Metropolitan Area	5.98	.37	.80	.30	.06
ELECTRICIANS:					
Adams, Arapahoe, Boulder, Clear Creek, Douglas, Eagle, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Denver, Sedgwick, Summit, Washington and Weld Counties					
Electricians	8.38	.65	1% + .16		2/10%
Cable splicers	8.63	.65	1% + .16		2/10%
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkins, Rio Blanco, Routt, San Juan and San Miguel Counties					
Electricians	8.15	.32	1%		3/10%
Cable splicers	8.40	.32	1%		3/10%
Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande Counties					
Zone 1 (Within 12 miles of Pueblo Main P. O.)					
Electricians	8.50	.32	1% + .25		1/10%
Cable splicers	9.30	.32	1% + .25		1/10%
Zone 2 (12 to 20 miles from Pueblo Main P. O.) & (0 to 12 miles from P. O. in Canon City)					
Electricians	8.90	.32	1% + .25		1/10%
Cable splicers	9.70	.32	1% + .25		1/10%
Zone 3 (20 to 40 miles from Pueblo Main Post Office)					
Electricians	9.25	.32	1% + .25		1/10%
Cable splicers	10.05	.32	1% + .25		1/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ELECTRICIANS: (Cont'd)					
Zone 4 (40 miles and over from Pueblo Main Post Office)					
Electricians	$10.00	.32	1% + .25		1/10%
Cable splicers	10.80	.32	1% + .25		1/10%
Zone 3 and 4 less than $5,000					
Electricians	6.16	.32	1% + .25		1/10%
Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park and Teller Counties					
Electricians	8.32	.32	1% + .25		.01
IRONWORKERS	7.75	.55	.60		.06
PAINTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan, Park (Northern Half), Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington and Weld Counties					
Brush	7.41	.40	.15		.01
Spray, Swing Stage	7.89	.40	.15		.01
Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas; Otero, Prowers and Pueblo Cos.					
Brush	5.53	.30			.02
Structural Steel: Spray	6.03	.30			.02
Spray Steel	6.53	.30			.02
Archuleta, Chaffee, Cheyenne, Delores, El Paso, Fremont, Gunnison, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Auray, Park (Southern half), Rio Grande, Saguache, San Juan, San Miguel and Teller Counties					
Brush	6.50	.45	.20		.02
Spray, Structural Steel	7.05	.45	.20		.02
Steel Spray	7.50	.45	.20		.02
PILEDRIVERMEN	5 97	.35	.35	.25	015

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CO-1-TD-1-2-3-e (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 5.30	.35	.25	.10	
DUMP TRUCKS, to and incl. 6 cu. yds.; Sweeper; Flatrack, single axle; Liquid and bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.40	.35	.25	.10	
DUMP TRUCKS, over 6 cu. yds. to & incl. 12 cu. yds.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.50	.35	.25	.10	
STRADDLE TRUCK; Lumber carrier; Liquid and bulk tankers, tandem axle	5.55	.35	.25	.10	
FORK LIFT, Fuel truck; Grease truck; Combination fuel and grease; Tiremen	5.60	.35	.25	.10	
DUMP TRUCKS, over 12 cu. yds., to & incl. 19 cu. yds.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid and bulk tankers, semi or combination	5.65	.35	.25	.10	
MULTI-PURPOSE TRUCK - Specialty and Hoisting	5.70	.35	.25	.10	
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid and bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo and similar type equipment	5.75	.35	.25	.10	
MECHANICS	5.20	.35	.25	.10	

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CO-1-TD-1-2-3-e (2-2)

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DUMP TRUCKS, over 19 cu. yds. to & incl. 29 cu. yds.; Truck driver snow plow	$ 5.85	.35	.25	.10	
CEMENT MIXER, Agitator over 10 cu. yds. to and incl. 15 cu. yds.	5.90	.35	.25	.10	
DUMP TRUCKS, over 29 cu. yds. to & incl. 39 cu. yds.; Heavy duty diesel mechanics; Body men; Welders or combination men	6.00	.35	.25	.10	
CEMENT MIXER, Agitator over 15 cu. yds.	6.15	.35	.25	.10	
DUMP TRUCKS, over 39 cu. yds. to & incl. 54 cu. yds.	6.20	.35	.25	.10	
DUMP TRUCKS, over 54 cu. yds. to & incl. 79 cu. yds.	6.40	.35	.25	.10	
DUMP TRUCKS, over 79 cu. yds. to & incl. 104 cu. yds.	6.60	.35	.25	.10	
DUMP TRUCKS over 104 cu. yds.	6.80	.35	.25	.10	

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LABORERS-	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1:	$4.55	.37	.40		.05
GROUP 2:	4.60	.37	.40		.05
GROUP 3:	5.68	.37	.40		.05
GROUP 4:	4.70	.37	.40		.05
GROUP 5:	4.72	.37	.40		.05
GROUP 6:	4.83	.37	.40		.05
GROUP 7:	4.93	.37	.40		.05
GROUP 8:	5.00	.37	.40		.05
GROUP 9:	5.13	.37	.40		.05
GROUP 10:	5.18	.37	.40		.05
(Pipelines)					
All mainline sewers; Water mains; Gas, oil or any product pipeline; Pen Stocks; Siphones or drainage lines; Pipe plants and yards not in connection with highway construction.					
GROUP 1:	4.55	.37	.40		.05
GROUP 2:	5.60	.37	.40		.05
GROUP 3:	4.77	.37	.40		.05
GROUP 4:	4.79	.37	.40		.05
GROUP 5:	4.88	.37	.40		.05
GROUP 5-A:	4.93	.37	.40		.05
GROUP 6:	5.00	.37	.40		.05

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LABORERS (TUNNELS)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 4.55	.37	.40		.05	
Group 2:	5.15	.37	.40		.05	
Group 3:	5.25	.37	.40		.05	
Group 4:	5.33	.37	.40		.05	
Group 5:	5.40	.37	.40		.05	
Group 6:	5.55	.37	.40		.05	
(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)						
Group 1:	5.25	.37	.40		.05	
Group 2:	5.40	.37	.40		.05	
Group 3:	5.50	.37	.40		.05	
Group 4:	5.68	.37	.40		.05	
Group 5:	5.78	.37	.40		.05	
Group 6:	5.83	.37	.40		.05	

Line Construction - Colorado	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	
Cable Splicer	$ 8.98	.35	1%		3/4%	
Lineman Cableman	8.43	.35	1%		3/4%	
Journeyman Lineman	8.37	.35	1%		3/4%	
Line Equipment Operator	7.12	.35	1%		3/4%	
Line Equipment Maintenance Man	7.12	.35	1%		3/4%	
Groundmen	5.87	.35	1%		3/4%	

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POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 5.60	.37	.45	.20	.03	
Group 2:	5.95	.37	.45	.20	.03	
Group 3:	6.30	.37	.45	.20	.03	
Group 4:	6.45	.37	.45	.20	.03	
Group 5:	6.60	.37	.45	.20	.03	
Group 6:	6.75	.37	.45	.20	.03	
(For work in Tunnels, Shafts, and Raises)						
Brakeman	5.75	.37	.45	.20	.03	
Motorman	6.10	.37	.45	.20	.03	
Compressor (900 CFM & Over), serving tunnels, shafts and raises	6.20	.37	.45	.20	.03	
Air Tractors; Grout machine; Gunnite machine; Jumbo form; Mechanic; Welder	6.45	.37	.45	.20	.03	
Concrete Placement Pumps 8" and Over Discharge; Mechanic-welder (heavy duty); Mucking machine and frontend loaders underground; Slusher	6.60	.37	.45	.20	.03	
Mole	7.00	.37	.45	.20	.03	

LABORERS

GROUP 1: Minimum laborer, including caissons to 8', carrying reinforcing rods; Work on cross culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence erectors; Metal Mesh; Dowel bars; Tie bars and chairs in concrete paving; Nursery man incl. seeding; mulching and planting of trees, shrubs and flowers; Stake chaser; Gabion baskets and Teno mattresses

GROUP 2: Chuck tenders; Nippers, core and diamond drill helpers; Powderman helpers

GROUP 3: Hot asphalt laborer; Rakers; Box-tenders; Asphalt curb machines; Potmen (not mechanical)

GROUP 4: Multi-plate culvert pipe; Air, gas and electric tools operators; Barco hammers; Spaders; Electric hammers; Air tampers; Cutting torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated concrete buggies; Operators of concrete saws on pavement (other than gang saws); Timber and chain saws; Stresser or stretcherman on post tension or pre-stressed concrete on or off jobsite; Tool room man and checkers; Cement finisher helper; Sandblaster helper; Concrete processing material monitor; Spotters; Signalmen; Dumpmen; Transverse concrete conveyor operator, mechanical grouters; Boring machines (air hydraulic); Automatic concrete power curbing machine; Jackhammer; Vibrators; Paving breakers; Frostproofing

GROUP 5: Any laborers performing bridge work over 40' above the ground or above a floor and working from a bos'n chair, swinging stage, life belt or block and tackle

GROUP 6: Gunniting and shotcrete helpers; Caissons over 12'; Coffordams; Timbermen; Underpinning and shoring; Form setters and/or stringman on roads, highways, streets and airport runways; Distributor; Placing and hooking of landing mats; Bull float (hand operated) and center expansion machines; Sandblasters; Grade checkers if required by employer

GROUP 7: Powdermen and blasters; Gunnite nozzlemen; Shotcrete operator

GROUP 8: Pipelayer on truck pipe lines in connection with highway work

GROUP 9: Wagon drills and air tracks; Jackhammer operators in caissons over 12'; Sellers and stemmen; Licensed powdermen; Diamond and core drills powered by air

GROUP 10: Any work, other than on bridges, performed by laborers working from a bos'n chair, swinging stage, life belt or block and tackle as a safety requirement

LABORERS(Pipelines)

All mainline sewers; Water mains; Gas, oil or any product pipelines; Penstocks; Siphons or drainage lines; Pipe plants and yards not in connection with highway construction.

GROUP 1: Pipe plants and yards; Stringing of pipe or skids; Handling and signaling on line work

GROUP 2: Potman (not mechanical); Pipewrapper, Dopers, Jeep Holiday Detector Men, Bandage makers, Powdermen helpers

GROUP 3: Laborers working in trenches on all pipelines; Sewer, water, gas, oil, telephone conduit, pen stock, siphons, drainage lines, caulkers, yarners, fine graders, air, gas, electric and hydraulic tools, boring machines, hydraulic jacks, drills, tampers, etc.

GROUP 4: Sandblaster, powdermen and blasters, wiping of joint concrete pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

GROUP 5: (Relining Pipe)
Relining Pipe

GROUP 5-A: Mixer man

GROUP 6: Pipelayer

LABORERS (TUNNELS):

Group 1: Outside laborers

Group 2: Minimum tunnel labor, dry house man

Group 3: Cable or hose tenders, chuck tenders, concrete laborers, dumpman, whirley pumps operators

Group 4: Helpers on shotcrete, gunniting and sandblasting; Helpers, core and diamond drills; Pot tender

Group 5: Cement finisher helper, applying of concrete processing materials

Group 6: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required) and all cutting and welding that is incidental to the miner's work; Tunnel liner plate setters; Vibrator men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and core drills; Cement finisher (underground); Shotcrete operator; Gunnite nozzlemen; Sandblaster; Pump concrete placement men

(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)

Group 1: Laborers, Topmen, Bottommen, and Cagers

Group 2: Chucktenders, Concrete laborers, Whirley pumps operators

Group 3: Helpers on shotcrete, gunniting and sandblasting; Helpers on core and diamond drills; Pot tenders; Cement finisher helpers; Applying of concrete processing material

Group 4: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required); All cutting and welding that is incidental to the miner's work; Liner plate setters; Vibrator men, internal and external

Group 5: Diamond and core drill; Cement finisher (underground); Gunnite nozzlemen; Shotcrete operators; Sandblasters and pump concrete placement men

Group 6: Any employee performing work under ground from a bos'n chair, swinging stage, life belt or block and tackle

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POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Asphalt screed; Brakeman; Drill operator, smaller than William MF and similar; Helper to heavy duty mechanic and/or Welder; Tractor operator (under 70 HP), with or without attachments; Oiler

Group 2: Air compressor; Ditch witch trenching machine and similar; Equipment lubricating and service engineer; Fork lift; Haulage motorman; Operators of five or more light plants, welding machines, compressors 360 C.F.M. or less, pumps, generators; Pugmill operator; Pugmill; Pumps; Portable screening plant with or without a spray bar; Screening plants - with classifier; Self-propelled rollers - 5 tons & under; Vacuum well point system

Group 3: Asphalt plant; Backfiller; Bituminous spreader or laydown machine; Cableway signalman; Caissons drill; (William MF, similar and larger; C.M.I. and similar; Concrete finish machine; Concrete gang saws on concrete paving; Concrete mixer (less than 1 yd.); Concrete placement pumps (under 8 in.); Conveyor (handling building materials); Distributors, bituminous surfaces; Drill, (diamond or core); Drills rigs (rotary, churn or cable tool); Elevating graders; Engineer fireman; Fireman or tank heater, Road; Grout machine; Gunnite machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to and including 6 cu. yds.); Machine doctor mechanic; Motor grader (blade); Road stabilization machine; Roller-self-propelled-all types over 5 tons; Sandblasting machine; Single unit portable crusher-with or without washer; Tile tamper, Wheel mounted; Tractor (70 h.p. & over) (with or without attachments); Trenching machine; Welder; Winch op., on truck; Concrete batching plants

Group 4: Concrete mixer (over 1 cu. yd.); Concrete paver 34 E or similar; Concrete placement pumps (8 in. and over); Crane (50 tons and under); Hoists (2 drums); Loader - over 6 cu. yds.; Mechanic-Welder (heavy duty); Mixermobile; Multiple unit portable crusher - with or without washer; Pile driver; Fireman; Cable-operated crane, truck mounted, 25 tons and over; Cable operated power shovels, dragline; Clamshell, and backhoes (5 cu. yds. and under); Hydraulic backhoes, 1 1/2 cu. yds. and over); Special utility operator; Self-propelled hydrocrane; Tractor with side boom; Truck mounted hydrocrane; Scraper-single bowl under 40 cu. yds.

Group 5: Crane operator - over 50 tons; Derrick; Electric rail type tower crane; Hoist (3 drum or more); Cable-operated power shovels, draglines, clamshells and backhoes (over 5 cu. yds.); Quad nine and similar push unit; Scraper-all tandem bowls; Scraper-single bowl including pups 40 cu. yd. and over

Group 6: Cableway; Crawler or truck mounted tower crane; Wheel excavator; Climbing tower crane

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Las Animas and Pueblo
DECISION NUMBER: AQ-1106 DATE: Date of Publication
Supersedes Decision No. AQ-1063 dated December 7, 1973, in 38 FR 33888
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories) and heavy construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$ 8.47	.33	.72		
BOILERMAKERS	8.25	.30	1.00		.02
BRICKLAYERS	7.72	.30	.50		.04
CARPENTERS	6.87	.45	.45	.30	.04
CEMENT MASONS	6.43	.37	.80	.60	.06
ELECTRICIANS:					
Zone I (0-12 miles from Post Office)					
Electricians	8.50	.32	1% + .25		1/10%
Cable splicers	9.35	.32	1% + .25		1/10%
Zone II (12-20 miles from Post Office)					
Electricians	8.90	.32	1% + .25		1/10%
Cable splicers	9.75	.32	1% + .25		1/10%
Zone III (20-40 miles from Post Office)					
Electricians	9.25	.32	1% + .25		1/10%
Cable splicers	10.10	.32	1% + .25		1/10%
Zone IV (Over 40 miles from Post Office)					
Electricians	10.00	.32	1% + .25		1/10%
Cable splicers	10.85	.32	1% + .25		1/10%
Electrical contracts less than $5,000 in Zones III and IV	6.16	.32	1% + .25		1/10%
ELEVATOR CONSTRUCTORS	7.76	.345	.23	2% + a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2% + a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.04				
IRONWORKERS:					
Structural; Ornamental and Reinforcing	7.75	.55	.60		.06
MARBLE & TILE SETTERS, Terrazzo Workers	7.60	.53	.40	.25	
PAINTERS:					
Brush	5.53	.30			.02
Structural steel; Spray	6.03	.30			.02
Spray steel	6.53	.30			.02

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
PILEDRIVERMEN	$ 5.97	.35	.35	.25	.015
PLASTERERS	8.19			.50	.01
PLUMBERS:					
Zone I (0-15 miles from P. O.)	8.50	.50	.50		.05
Zone II (15-20 miles from P. O.)	9.07	.50	.50		.05
Zone III (20-40 miles from P. O.)	9.25	.50	.50		.05
Zone IV (Over 40 miles from P. O.)	9.875	.50	.50		.05
ROOFERS	7.58				
SHEET METAL WORKERS	8.47	.30	.65		.07
SOFT FLOOR LAYERS (Las Animas Co.)	7.10	.35	.45	.30	.05
SPRINKLER FITTERS	8.85	.40	.60		.05
SOFT FLOOR LAYERS (Pueblo Co.)	6.40		.30		

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

Line Construction - Colorado	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Cable Splicer	$ 8.98	.35	1%		3/4%	
Lineman Cableman	8.43	.35	1%		3/4%	
Journeyman Lineman	8.37	.35	1%		3/4%	
Line Equipment Operator	7.12	.35	1%		3/4%	
Line Equipment Maintenance Man	7.12	.35	1%		3/4%	
Groundmen	5.87	.35	1%		3/4%	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	O
BUILDING CONSTRUCTION:						
LABORERS:						
General laborers	$4.75	.37	.40		.05	
Underpinning and shoring 0' to 8' below working surface	4.75	.37	.40		.05	
Underpinning and shoring 8' below working surface to any depth below working surface; Power tool operators or all mechanical, air, gas and electrical tools, incl. self-propelled buggies and cement finisher tenders; Pipelayers; Gunnite nozzlemen and sandblasters	5.03	.37	.40		.05	
Laborers, preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels	5.05	.37	.40		.05	
Jackhammer operator; Underpinning and shoring over 12' below working surface; Bellers and stemmers on caisson work	5.30	.37	.40		.05	
Mason tenders, brick and plaster	5.35	.37	.40		.05	
HEAVY AND HIGHWAY CONSTRUCTION						
CARPENTERS	$ 6.57	.45	.45	.30	.04	
UNDERGROUND CARPENTERS Working on creosoted material; High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continuously assigned to 1 1/2 HP saws at jobsite	6.72	.45	.45	.30	.04	
CEMENT MASONS: (Construction - outside Denver Metropolitan Area)	6.82	.45	.45	.30	.04	
CEMENT MASONS: (Construction (Denver Metropolitan Area)	5.98	.37	.80	.30	.06	
	6.13	.37	.80	.30	.06	

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CO-1-TD-1-2-3-e (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 5.30	.35	.25	.10	
DUMP TRUCKS, to and incl. 6 cu. yds.; Sweeper; Flatrack, single axle; Liquid and bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers, if used	5.40	.35	.25	.10	
DUMP TRUCKS, over 6 cu. yds. to & incl. 12 cu. yds.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.50	.35	.25	.10	
STRADDLE TRUCK; Lumber carrier; Liquid and bulk tankers, tandem axle	5.55	.35	.25	.10	
FORK LIFT, Fuel truck; Grease truck; Combination fuel and grease; Tiremen	5.60	.35	.25	.10	
DUMP TRUCKS, over 12 cu. yds., to & incl. 19 cu. yds.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid and bulk tankers, semi or combination	5.65	.35	.25	.10	
MULTI-PURPOSE TRUCK - Specialty and Hoisting	5.70	.35	.25	.10	
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid and bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo and similar type equipment	5.75	.35	.25	.10	
MECHANICS	5.80	.35	.25	.10	

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CO-1-TD-1-2-3-e (2-2)

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DUMP TRUCKS, over 19 cu. yds. to & incl. 29 cu. yds.; Truck driver snow plow	$ 5.85	.35	.25	.10	
CEMENT MIXER, Agitator over 10 cu. yds. to and incl. 15 cu. yds.	5.90	.35	.25	.10	
DUMP TRUCKS, over 29 cu. yds. to & incl. 39 cu. yds.; Heavy duty diesel mechanics; Body men; Welders or combination men	6.00	.35	.25	.10	
CEMENT MIXER, Agitator over 15 cu. yds.	6.15	.35	.25	.10	
DUMP TRUCKS, over 39 cu. yds. to & incl. 54 cu. yds.	6.20	.35	.25	.10	
DUMP TRUCKS, over 54 cu. yds. to & incl. 79 cu. yds.	6.40	.35	.25	.10	
DUMP TRUCKS, over 79 cu. yds. to & incl. 104 cu. yds.	6.60	.35	.25	.10	
DUMP TRUCKS over 104 cu. yds.	6.80	.35	.25	.10	

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LABORERS- (Heavy Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1:	$4.55	.37	.40		.05
GROUP 2:	4.60	.37	.40		.05
GROUP 3:	5.68	.37	.40		.05
GROUP 4:	4.70	.37	.40		.05
GROUP 5:	4.72	.37	.40		.05
GROUP 6:	4.83	.37	.40		.05
GROUP 7:	4.93	.37	.40		.05
GROUP 8:	5.00	.37	.40		.05
GROUP 9:	5.13	.37	.40		.05
GROUP 10:	5.18	.37	.40		.05
(Pipelines)					
All mainline sewers; Water mains; Gas, oil or any product pipeline; Fan Stocks; Siphones or drainage lines; Pipe plants and yards not in connection with highway construction.					
GROUP 1:	4.55	.37	.40		.05
GROUP 2:	5.60	.37	.40		.05
GROUP 3:	4.77	.37	.40		.05
GROUP 4:	4.79	.37	.40		.05
GROUP 5:	4.88	.37	.40		.05
GROUP 5-A:	4.93	.37	.40		.05
GROUP 6:	5.00	.37	.40		.05

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LABORERS (TUNNELS)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 4.55	.37	.40		.05	
Group 2:	5.15	.37	.40		.05	
Group 3:	5.25	.37	.40		.05	
Group 4:	5.33	.37	.40		.05	
Group 5:	5.40	.37	.40		.05	
Group 6:	5.55	.37	.40		.05	
(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)						
Group 1:	5.25	.37	.40		.05	
Group 2:	5.40	.37	.40		.05	
Group 3:	5.50	.37	.40		.05	
Group 4:	5.68	.37	.40		.05	
Group 5:	5.78	.37	.40		.05	
Group 6:	5.83	.37	.40		.05	

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 5.60	.37	.45	.20	.03	
Group 2:	5.95	.37	.45	.20	.03	
Group 3:	6.30	.37	.45	.20	.03	
Group 4:	6.45	.37	.45	.20	.03	
Group 5:	6.60	.37	.45	.20	.03	
Group 6:	6.75	.37	.45	.20	.03	
(For work in Tunnels, Shafts, and Raises)						
Brakeman	5.75	.37	.45	.20	.03	
Motorman	6.10	.37	.45	.20	.03	
Compressor (900 CFM & Over), serving tunnels, shafts and raises	6.20	.37	.45	.20	.03	
Air Tractors; Grout machine; Gunnite machine; Jumbo form; Mechanic; Welder	6.45	.37	.45	.20	.03	
Concrete Placement Pumps 8" and Over Discharge; Mechanic-welder (heavy duty); Mucking machine and frontend loaders underground; Slusher	6.60	.37	.45	.20	.03	
Mole	7.00	.37	.45	.20	.03	

LABORERS(Heavy Construction)

GROUP 1: Minimum laborer, including caissons to 8', carrying reinforcing rods; Work on cross culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence erectors; Metal Mesh; Dowel bars; Tie bars and chairs in concrete paving; Nursery man incl. seeding; mulching and planting of trees, shrubs and flowers; Stake chaser; Gabion baskets and Teno mattresses

GROUP 2: Chuck tenders; Nippers, core and diamond drill helpers; Powderman helpers

GROUP 3: Hot asphalt laborer; Rakers; Box-tenders; Asphalt curb machines; Potmen (not mechanical)

GROUP 4: Multi-plate culvert pipe; Air, gas and electric tools operators; Barco hammers; Spaders; Electric hammers; Air tampers; Cutting torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated concrete buggies; Operators of concrete saws on pavement (other than gang saws); Timber and chain saws; Stressar or stretcherman on post tension or pre-stressed concrete on or off jobsite; Tool room man and checkers; Cement finisher helper; Sandblaster helper; Concrete processing material monitor; Spotters; Signalmen; Dumpmen; Transverse concrete conveyor operator, mechanical grouters; Boring machines (air hydraulic); Automatic concrete power curbing machine; Jackhammer; Vibrators; Paving breakers; Frostproofing

GROUP 5: Any laborers performing bridge work over 40' above the ground or above a floor and working from a bos'n chair, swinging stage, life belt or block and tackle

GROUP 6: Gunniting and shotcrete helpers; Caissons over 12'; Cofferdams; Timbermen; Underpinning and shoring; Form setters and/or stringman on roads, highways, streets and airport runways; Distributor; Placing and hooking of landing mats; Bull float (hand operated) and center expansion machines; Sandblasters; Grade checkers if required by employer

GROUP 7: Powdermen and blasters; Gunnite nozzlemen; Shotcrete operator

GROUP 8: Pipelayer on truck pipe lines in connection with highway work

GROUP 9: Wagon drills and air tracks; Jackhammer operators in caissons over 12'; Bellers and stemmen; Licensed powderman; Diamond and core drills powered by air

GROUP 10: Any work, other than on bridges, performed by laborers working from a bos'n chair, swinging stage, life belt or block and tackle as a safety requirement

LABORERS(Pipelines)

All mainline sewers; Water mains; Gas, oil or any product pipelines; Penstocks; Siphons or drainage lines; Pipe plants and yards not in connection with highway construction.

GROUP 1: Pipe plants and yards; Stringing of pipe or skids; Handling and signaling on line work

GROUP 2: Potman (not mechanical); Pipewrapper, Dopers, Jeep Holiday Detector Men, Bandage makers, Powdermen helpers

GROUP 3: Laborers working in trenches on all pipelines; Sewer, water, gas, oil, telephone conduit, pen stock, siphons, drainage lines, caulkers, yarners, fine graders, air, gas, electric and hydraulic tools, boring machines, hydraulic jacks, drills, tampers, etc.

GROUP 4: Sandblaster, powdermen and blasters, wiping of joint concrete pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

GROUP 5: (Relining Pipe)
Relining Pipe

GROUP 5-A: Mixer man

GROUP 6: Pipelayer

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LABORERS (TUNNELS):

Group 1: Outside laborers

Group 2: Minimum tunnel labor, dry house man

Group 3: Cable or hose tenders, chuck tenders, concrete laborers, dumpman, whirley pumps operators

Group 4: Helpers on shotcrete, gunniting and sandblasting; Helpers, core and diamond drills; Pot tender

Group 5: Cement finisher helper, applying of concrete processing materials

Group 6: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required) and all cutting and welding that is incidental to the miner's work; Tunnel liner plate setters; Vibrator men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and core drills; Cement finisher (underground); Shotcrete operator; Gunnite nozzlemen; Sandblaster; Pump concrete placement men

(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)

Group 1: Laborers, Topmen, Bottommen, and Cagers

Group 2: Chucktenders, Concrete laborers, Whirley pumps operators

Group 3: Helpers on shotcrete, gunniting and sandblasting; Helpers on core and diamond drills; Pot tenders; Cement finisher helpers; Applying of concrete processing material

Group 4: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required); All cutting and welding that is incidental to the miner's work; Liner plate setters; Vibrator men, internal and external

Group 5: Diamond and core drill; Cement finisher (underground); Gunnite nozzlemen; Shotcrete operators; Sandblasters and pump concrete placement men

Group 6: Any employee performing work under ground from a bos'n chair, swinging stage, life belt or block and tackle

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Asphalt screed; Brakeman; Drill operator, smaller than William MF and similar; Helper to heavy duty mechanic and/or Welder; Tractor operator (under 70 HP), with or without attachments; Oiler

Group 2: Air compressor; Ditch witch trenching machine and similar; Equipment lubricating and service engineer; Fork lift; Haulage motorman; Operators of five or more light plants, welding machines, compressors 360 C.F.M. or less, pumps, generators; Pugmill operator; Pugmill; Pumps; Portable screening plant with or without a spray bar; Screening plants - with classifier; Self-propelled rollers - 5 tons & under; Vacuum well point system

Group 3: Asphalt plant; Backfiller; Bituminous spreader or laydown machine; Cableway signalman; Caissons drill; (William MF, similar and larger; C.M.I. and similar; Concrete finish machine; Concrete gang saws on concrete paving; Concrete mixer (less than 1 yd.); Concrete placement pumps (under 8 in.); Conveyor (handling building materials); Distributors, bituminous surfaces; Drill, (diamond or core); Drills rigs (rotary, churn or cable tool); Elevating graders; Engineer fireman; Fireman or tank heater, Road; Grout machine; Gunnite machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to and including 6 cu. yds.); Machine doctor mechanic; Motor grader (blade); Road stabilization machine; Roller-self-propelled-all types over 5 tons; Sandblasting machine; Single unit portable crusher-with or without washer; Tile tamper, Wheel mounted; Tractor (70 h.p. 5 over) (with or without attachments); Trenching machine; Welder; Winch op., on truck; Concrete batching plants

Group 4: Concrete mixer (over 1 cu. yd.); Concrete paver 34 E or similar; Concrete placement pumps (8 in. and over); Crane (50 tons and under); Hoists (2 drums); Loader - over 6 cu. yds.; Mechanic-Welder (heavy duty); Mixer-mobile; Multiple unit portable crusher - with or without washer; Pile driver; Fireman; Cable-operated crane, truck mounted, 25 tons and over; Cable operated power shovels, dragline; Clamshell, and backhoes (5 cu. yds. and under); Hydraulic backhoes, 1 1/2 cu. yds. and over); Special utility operator; Self-propelled hydrocrane, Tractor with side boom; Truck mounted hydrocrane; Scraper-single bowl under 40 cu. yds.

Group 5: Crane operator - over 50 tons; Derrick; Electric rail type tower crane; Hoist (3 drum or more); Cable-operated power shevels, draglines, clamshells and backhoes (over 5 cu. yds.); Quad nine and similar push unit; Scraper-all tandem bowls; Scraper-single bowl including pups 40 cu. yd. and over

Group 6: Cableway; Crawler or truck mounted tower crane; Wheel excavator; Climbing tower crane

NOTICES

17008

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Garfield, Gunnison, Mesa, Montrose and Pitkin

DECISION NUMBER: AQ-1107 DATE: Date of Publication

Supersedes Decision No. AQ-1062 dated December 7, 1973, in 38 FR 33881.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories) and heavy construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$ 8.47	.33	.72		
BOILERMAKERS	8.25	.30	1.00		.02
BRICKLAYERS; Stonemasons;					
Mesa, Montrose, Garfield, Gunnison Cos.	7.45	.45	.60	.25	.05
Pitkin County	7.45	.45	.60	.25	.05
CARPENTERS:					
P. O. basing points in the Cities of Leadville, Fort Collins, Glenwood Springs, Grand Junction, Gunnison and Montrose					
Zone I (0-30 miles from nearest basing point)	6.87	.45	.45	.30	.04
Zone II (30-60 miles from nearest basing point)	7.12	.45	.45	.30	.04
Zone III (60 miles and over from nearest basing point)	7.37	.45	.45	.30	.04
CEMENT MASONS:					
Cement masons Working with composition materials and color; Working on scaffold, swing stage or temporary platform over 25'; Power troweling and floor grinding machine	6.43	.37	.80	.60	.06
	6.68	.37	.80	.60	.06
ELECTRICIANS:					
Electricians	8.15	.32	1%		3/10%
Cable splicers	8.40	.32	1%		3/10%
ELEVATOR CONSTRUCTORS	7.76	.345	.23	2% + a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2% + a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.04				
IRONWORKERS;					
Structural; Ornamental & Reinforcing	7.75	.55	.60		.06
MILLWRIGHTS	7.24	.45	.40	.40	.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Brush and roller	$ 7.41	.40	.15		.01
Drywall finisher; Paperhangers	7.61	.40	.15		.01
Spray; Swing stage	7.89	.40	.15		.01
PLUMBERS	7.55	.50	.45	1.00	.10
ROOFERS	7.58				
SHEET METAL WORKERS	8.47	.30	.65		.07
SOFT FLOOR LAYERS	7.10	.35	.45	.30	.05
SPRINKLER FITTERS	8.85	.40	.60		.05

FOOTNOTE:

a. Employer contributes 5% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
6 Paid Holidays; A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Line Construction - Colorado	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	C
Cable Splicer	$ 8.98	.35	1%		3/4%	
Lineman Cableman	8.43	.35	1%		3/4%	
Journeyman Lineman	8.37	.35	1%		3/4%	
Line Equipment Operator	7.12	.35	1%		3/4%	
Line Equipment Maintanance Man	7.12	.35	1%		3/4%	
Groundmen	5.87	.35	1%		3/4%	

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
LABORERS:					
General laborers	$ 4.75	.37	.40		.05
Underpinning and shoring 0' to 8' below working surface	4.75	.37	.40		.05
Underpinning and shoring 8' below working surface to any depth below working surface; Power tool operators or all mechanical, air, gas and electrical tools, incl. self-propelled buggies and cement finisher tenders; Pipelayers;					
Gunnite nozzlemen and sandblasters	5.03	.37	.40		.05
Laborers, preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels	5.05	.37	.40		.05
Jackhammer operator; Underpinning and shoring over 12' below working surface; Bellers and stemmers on caisson work	5.30	.37	.40		.05
Mason tenders, brick and plaster	5.35	.37	.40		.05
HEAVY AND HIGHWAY CONSTRUCTION					
CARPENTERS	$ 6.57	.45	.45	.30	.04
UNDERGROUND CARPENTERS Working on creosoted material; High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continuously assigned to 1 1/2 HP saws at jobsite	6.72	.45	.45	.30	.04
CEMENT MASONS: (Construction - outside Denver Metropolitan Area)	6.82	.45	.45	.30	.04
CEMENT MASONS: (Construction (Denver Metropolitan Area)	5.98	.37	.80	.30	.06
	6.13	.37	.80	.30	.06

AQ-1107 P. 4

CO-1-TD-1-2-3-a (1-2)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 5.30	.35	.25	.10	
DUMP TRUCKS, to and incl. 6 cu. yds.; Sweeper; Flatrack, single axle; Liquid and bulk tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance drivers. if used	5.40	.35	.25	.10	
DUMP TRUCKS, over 6 cu. yds. to & incl. 12 cu. yds.; Flatrack tandem axle; Battery men; Mechanic helpers; Material checkers; Cardex men; Expeditors; Man haul shuttle truck or bus	5.50	.35	.25	.10	
STRADDLE TRUCK; Lumber carrier; Liquid and bulk tankers, tandem axle	5.55	.35	.25	.10	
FORK LIFT, Fuel truck; Grease truck; Combination fuel and grease; Tiremen	5.60	.35	.25	.10	
DUMP TRUCKS, over 12 cu. yds., to & incl. 19 cu. yds.; Distributor; Cement mixer; Agitator truck to & incl. 10 cu. yds.; Liquid and bulk tankers, semi or combination	5.65	.35	.25	.10	
MULTI-PURPOSE TRUCK - Specialty and Hoisting	5.70	.35	.25	.10	
HIGH BOY; Lowboy; Floats; Semi; Cab operated distributor-semi; Liquid and bulk tankers, euclid, electric or similar; Dumptor, Youngbuggy, Jumbo and similer type equipment	5.75	.35	.25	.10	
MECHANICS	5.80	.35	.25	.10	

AQ-1107 P. 5

CO-1-TD-1-2-3-a (2-2)

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DUMP TRUCKS. over 19 cu. yds. to & incl. 29 cu. yds.; Truck driver snow plow	$ 5.85	.35	.25	.10	
CEMENT MIXER, Agitator over 10 cu. yds. to and incl. 15 cu. yds.	5.90	.35	.25	.10	
DUMP TRUCKS, over 29 cu. yds. to & incl. 39 cu. yds.; Heavy duty diesel mechanics; Body men; Welders or combination men	6.00	.35	.25	.10	
CEMENT MIXER, Agitator over 15 cu. yds.	6.15	.35	.25	.10	
DUMP TRUCKS, over 39 cu. yds. to & incl. 54 cu. yds.	6.20	.35	.25	.10	
DUMP TRUCKS, over 54 cu. yds. to & incl. 79 cu. yds.	6.40	.35	.25	.10	
DUMP TRUCKS, over 79 cu. yds. to & incl. 104 cu. yds.	6.60	.35	.25	.10	
DUMP TRUCKS over 104 cu. yds.	6.80	.35	.25	.10	

AQ-1107 P. 6

LABORERS- (Heavy Construction)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP 1:	$4.55	.37	.40		.05
GROUP 2:	4.60	.37	.40		.05
GROUP 3:	5.68	.37	.40		.05
GROUP 4:	4.70	.37	.40		.05
GROUP 5:	4.72	.37	.40		.05
GROUP 6:	4.83	.37	.40		.05
GROUP 7:	4.93	.37	.40		.05
GROUP 8:	5.00	.37	.40		.05
GROUP 9:	5.13	.37	.40		.05
GROUP 10:	5.18	.37	.40		.05
(Pipelines)					
All mainline sewers; Water mains; Gas, oil or any product pipeline; Pen Stocks; Siphones or drainage lines; Pipe plants and yards not in connection with highway construction.					
GROUP 1:	4.55	.37	.40		.05
GROUP 2:	5.60	.37	.40		.05
GROUP 3:	4.77	.37	.40		.05
GROUP 4:	4.79	.37	.40		.05
GROUP 5:	4.88	.37	.40		.05
GROUP 5-A:	4.93	.37	.40		.05
GROUP 6:	5.00	.37	.40		.05

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LABORERS (TUNNELS)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 4.55	.37	.40		.05	
Group 2:	5.15	.37	.40		.05	
Group 3:	5.25	.37	.40		.05	
Group 4:	5.33	.37	.40		.05	
Group 5:	5.40	.37	.40		.05	
Group 6:	5.55	.37	.40		.05	
(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)						
Group 1:	5.25	.37	.40		.05	
Group 2:	5.40	.37	.40		.05	
Group 3:	5.50	.37	.40		.05	
Group 4:	5.68	.37	.40		.05	
Group 5:	5.78	.37	.40		.05	
Group 6:	5.83	.37	.40		.05	

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Group 1:	$ 5.60	.37	.45	.20	.03	
Group 2:	5.95	.37	.45	.20	.03	
Group 3:	6.30	.37	.45	.20	.03	
Group 4:	6.45	.37	.45	.20	.03	
Group 5:	6.60	.37	.45	.20	.03	
Group 6:	6.75	.37	.45	.20	.03	
(For work in Tunnels, Shafts, and Raises)						
Brakeman	5.75	.37	.45	.20	.03	
Motorman	6.10	.37	.45	.20	.03	
Compressor (900 CFM & Over), serving tunnels, shafts and raises	6.20	.37	.45	.20	.03	
Air Tractors; Grout machine; Gunnite machine; Jumbo form; Mechanic; Welder	6.45	.37	.45	.20	.03	
Concrete Placement Pumps 8" and Over Discharge; Mechanic-welder (heavy duty); Mucking machine and frontend loaders underground; Slusher	6.60	.37	.45	.20	.03	
Mole	7.00	.37	.45	.20	.03	

LABORERS - (Heavy Construction)

GROUP 1: Minimum laborer, including caissons to 8', carrying reinforcing rods; Work on cross culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence erectors; Metal Mesh; Dowel bars; Tie bars and chairs in concrete paving; Nursery man incl. seeding; mulching and planting of trees, shrubs and flowers; Stake chaser; Gabion baskets and Teno mattresses

GROUP 2: Chuck tenders; Nippers, core and diamond drill helpers; Powderman helpers

GROUP 3: Hot asphalt laborer; Rakers; Box-tenders; Asphalt curb machines; Potmen (not mechanical)

GROUP 4: Multi-plate culvert pipe; Air, gas and electric tools operators; Barco hammers; Spaders; Electric hammers; Air tampers; Cutting torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated concrete buggies; Operators of concrete saws on pavement (other than gang saws); Timber and chain saws; Stresser or stretcherman on post tension or pre-stressed concrete on or off jobsite; Tool room man and checkers; Cement finisher helper; Sandblaster helper; Concrete processing material monitor; Spotters; Signalmen; Dumpmen; Transverse concrete conveyor operator, mechanical grouters; Boring machines (air hydraulic); Automatic concrete power curbing machine; Jackhammer; Vibrators; Paving breakers; Frostproofing

GROUP 5: Any laborers performing bridge work over 40' above the ground or above a floor and working from a bos'n chair, swinging stage, life belt or block and tackle

GROUP 6: Gunniting and shotcrete helpers; Caissons over 12'; Cofferdams; Timberman; Underpinning and shoring; Form setters and/or stringman on roads, highways, streets and airport runways; Distributor; Placing and hooking of landing mats; Bull float (hand operated) and center expansion machines; Sandblasters; Grade checkers if required by employer

GROUP 7: Powdermen and blasters; Gunnite nozzlemen; Shotcrete operator

GROUP 8: Pipelayer on truck pipe lines in connection with highway work

GROUP 9: Wagon drills and air tracks; Jackhammer operators in caissons over 12'; Bellers and stemmen; Licensed powdermen; Diamond and core drills powered by air

GROUP 10: Any work, other than on bridges, performed by laborers working from a bos'n chair, swinging stage, life belt or block and tackle as a safety requirement

LABORERS(Pipelines)

All mainline sewers; Water mains; Gas, oil or any product pipelines; Penstocks; Siphons or drainage lines; Pipe plants and yards not in connection with highway construction.

GROUP 1: Pipe plants and yards; Stringing of pipe or skids; Handling and signaling on line work

GROUP 2: Potman (not mechanical); Pipewrapper, Dopers, Jeep Holiday Detector Men, Bandage makers, Powdermen helpers

GROUP 3: Laborers working in trenches on all pipelines; Sewer, water, gas, oil, telephone conduit, pen stock, siphons, drainage lines, caulkers, yarners, fine graders, air, gas, electric and hydraulic tools, boring machines, hydraulic jacks, drills, tampers, etc.

GROUP 4: Sandblaster, powdermen and blasters, wiping of joint concrete pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

GROUP 5: (Relining Pipe)
Relining Pipe

GROUP 5-A: Mixer man

GROUP 6: Pipelayer

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LABORERS (TUNNELS):

Group 1: Outside laborers

Group 2: Minimum tunnel labor, dry house man

Group 3: Cable or hose tenders, chuck tenders, concrete laborers, dumpman, whirley pumps operators

Group 4: Helpers on shotcrete, gunniting and sandblasting; Helpers, core and diamond drills; Pot tender

Group 5: Cement finisher helper, applying of concrete processing materials

Group 6: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required) and all cutting and welding that is incidental to the miner's work; Tunnel liner plate setters; Vibrator men, internal and external; Unloading, stopping end starting of Moran Agitator Cars; Diamond and core drills; Cement finisher (underground); Shotcrete operator; Gunnite nozzlemen; Sandblaster; Pump concrete placement men

(SHAFTS, RAISES, MISSILE SILOS AND ALL UNDERGROUND WORK OTHER THAN TUNNELS)

Group 1: Laborers, Topmen, Bottommen, and Cagers

Group 2: Chucktenders, Concrete laborers, Whirley pumps operators

Group 3: Helpers on shotcrete, gunniting and sandblasting; Helpers on core and diamond drills; Pot tenders; Cement finisher helpers; Applying of concrete processing material

Group 4: Collapsible form movers and setters, miners, machinemen and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, incl. the placement of sheeting when required); All cutting and welding that is incidental to the miner's work; Liner plate setters; Vibrator men, internal and external

Group 5: Diamond and core drill; Cement finisher (underground); Gunnite nozzlemen; Shotcrete operators; Sandblasters and pump concrete placement men

Group 6: Any employee performing work under ground from a bos'n chair, swinging stage, life belt or block and tackle

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Asphalt screed; Brakeman; Drill operator, smaller than William MF and similar; Helper to heavy duty mechanic and/or Welder; Tractor operator (under 70 HP), with or without attachments; Oiler

Group 2: Air compressor; Ditch witch trenching machine and similar; Equipment lubricating and service engineer; Fork lift; Haulage motorman; Operators of five or more light plants, welding machines, compressors 360 C.F.M. or less, pumps, generators; Pugmill operator; Pugmill; Pumps; Portable screening plant with or without a spray bar; Screening plants - with classifier; Self-propelled rollers - 5 tons & under; Vacuum well point system

Group 3: Asphalt plant; Backfiller; Bituminous spreader or laydown machine; Cableway sigealman; Caissons drill; (William MF, similar and larger; C.M.I. and similar; Concrete finish machine; Concrete gang saws on concrete paving; Concrete mixer (less than 1 yd.); Concrete placement pumps (under 8 in.); Conveyor (handling building materials); Distributors, bituminous surfaces; Drill, (diamond or core); Drills rigs (rotary, churn or cable tool); Elevating graders; Engineer fireman; Fireman or tank heater, Road; Grout machine; Gunnite machine; Hoists (1 drum); Loader (Barber Greene, etc.); Loader (up to and including 6 cu. yds.); Machine doctor mechanic; Motor grader (blade); Road stabilization machine; Rollers-self-propelled-all types over 5 tons; Sandblasting machine; Single unit portable crusher-with or without washer; Tile tamper, Wheel mounted; Tractor (70 h.p. & over) (with or without attachments); Trenching machine; Welder; Winch op., on truck; Concrete batching plants

Group 4: Concrete mixer (over 1 cu. yd.); Concrete paver 34 E or similar; Concrete placement pumps (8 in. and over); Crane (50 tons and under); Hoists (2 drums); Loader - over 6 cu. yds.; Mechanic-Welder (heavy duty); Mixer-mobile; Multiple unit portable crusher - with or without washer; Pile driver; Fireman; Cable-operated crane, truck mounted, 25 tons and over; Cable operated power shovels, dragline; Clamshell, and backhoes (5 cu. yds. and under); Hydraulic backhoes, 1 1/2 cu. yds. and over); Special utility operator; Self-propelled hydrocrane; Tractor with side boom; Truck mounted hydrocrane; Scraper-single bowl under 40 cu. yds.

Group 5: Crane operator - over 50 tons; Derrick; Electric rail type tower crane; Hoist (3 drum or more); Cable-operated power shovels, draglines, clamshells and backhoes (over 5 cu. yds.); Quad nine and similar push unit; Scraper-all tandem bowls; Scraper-single bowl including pups 40 cu. yd. and over

Group 6: Cableway: Crawler or truck mounted tower crane; Wheel excavator; Climbing tower crane

SUPERSEDEAS DECISION

STATE: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Rhode Island
DECISION NO.: AQ-2,116
DATE: Date of Publication
Supersedes Decision No. AP-803, dated April 27, 1973, in 38 FR 10580.
DESCRIPTION OF WORK: All dredging on the Atlantic Coast from the Canadian Border to the Southerly Border of the State of Maryland and tributary waters emptying into the C and D Canal, Baltimore City and Baltimore County, Maryland, but excluding Boston Harbor and the Chesapeake Bay.

Dredge-1-Atlantic

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Dipper and Clamshell Dredges					
Operators	$7.86	.25	.15	a+5%	
Engineer	7.79	.25	.15	a+5%	
Cranemen	7.56	.25	.15	a+5%	
Maintenance engineers	7.40	.25	.15	a+5%	
Welders	7.24	.25	.15	a+5%	
Tug engineer	6.79	.25	.15	a+5%	
Mates	6.72	.25	.15	a+5%	
Firemen; oilers; welders' helpers	5.93	.25	.15	a+5%	
Deckhands; tug deckhand	5.69	.25	.15	a+5%	
Rodmen; Scowmen	5.59	.25	.15	a+5%	
Hydraulic Dredges					
Levermen	7.67	.25	.15	a+5%	
Engineer; derrick operators	7.56	.25	.15	a+5%	
Maintenance engineer	7.40	.25	.15	a+5%	
Dredge carpenter; electricians, dredge blacksmith; dredge welders; boilermen	7.24	.25	.15	a+5%	
Tug engineer	6.79	.25	.15	a+5%	
Mates	6.72	.25	.15	a+5%	
Blacksmith helper; carpenter's helpers; firemen; oilers and welder's helper	5.93	.25	.15	a+5%	
Tug deckhand	5.69	.25	.15	a+5%	
Deckhands; rodmen; shoremen	5.59	.25	.15	a+5%	
Drill Boats					
Blaster	7.2575	.25	.15	b	
Driller; Machinist; welder	7.1587	.25	.15	b	
Engineer	7.1575	.25	.15	b	
Firemen	6.88	.25	.15	b	
Drill helper	6.7387	.25	.15	b	
Oiler	6.7387	.25	.15	b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Washington's Birthday and Veteran's Day.

b. Holidays: A through F; Washington's Birthday and Veteran's Day (6½) days of vacation with pay for 104 days of service; one additional day of vacation with pay for each additional 21-2/3 days of service, all in one calendar year. Employees not qualifying for vacation to receive 1 day's vacation with pay for each full 24 days of service in one calendar year.

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SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Scott
DECISION NO.: AQ-107 DATE: Date of Publication
Supersedes Decision No. AQ-3, dated July 20, 1973, in 38 FR 19641.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.05	.25	.25		.10
BOILERMAKERS	8.25	.30	1.00		.02
BRICKLAYERS - STONEMASONS	7.91	.35	.30		.02
CARPENTERS:					
Carpenters	7.46	.35	.35		.02
Piledrivermen	7.71	.35	.35		.02
Millwrights	7.97	6%	7%		6%
CEMENT MASONS	7.72	.40			
ELECTRICIANS:					
Electricians	8.30	.32	5.5%		.03
Cable splicers	8.55	.32	5.5%		.03
ELEVATOR CONSTRUCTORS	7.70	.345	.23	2%+a	.005
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a	.005
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	7.1048	.40	.65		
IRONWORKERS:					
Ornamental; Reinforcing; Structural	8.75	.40	.375		.07
LABORERS:					
Carpenter tenders; Common laborers; Mason tenders	6.25	.20	.20		.035
Concrete saw; Pipesetters; Plumber laborer; Power tools (Barco-Vibrator-Mortar mixers-Dynamite handlers-Burner, on dismantling work to be junked); Prime movers; Sand points	6.45	.20	.20		.035
Caissons, after 6' in depth	6.75	.20	.20		.035
Dynamite men	6.75	.20	.20		.035
Tunnel miners	6.75	.20	.20		.035
PAINTERS:					
Brush; Rollers	6.97	.35	.30		.08
Spray; Structural steel	7.22	.35	.30		.08
PLASTERERS	8.18				
PLUMBERS - STEAMFITTERS	8.25	.40	.35		.10
ROOFERS	8.80		.20		
SHEET METAL WORKERS	7.33	.17			.01
SOFT FLOOR LAYERS	7.46	.35	.35		.02
SPRINKLER FITTERS	8.85	.40	.60		.07
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. AQ-107

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
FOOTNOTE: a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.					
PAID HOLIDAYS: A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					
BUILDING, HEAVY & HIGHWAY CONSTRUCTION					
POWER EQUIPMENT OPERATORS:					
Group 1	$8.70	.40	.50		.08
Group 2	8.43	.40	.50		.08
Group 3	8.33	.40	.50		.08
Group 4	7.30	.40	.50		.08
Group 5	6.98	.40	.50		.08
Group 6	6.28	.40	.50		.08
TRUCK DRIVERS:					
Group 1	6.35	.35	10.00p/w		
Group 2	6.55	.35	10.00p/w		
Group 3	6.75	.35	10.00p/w		
Group 4	6.95	.35	10.00p/w		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP 1 - All hoists or steel erecting equipment
GROUP 2 - Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cable Way, Concrete Spreader (servicing two pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator, Dipper Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (two operators required), Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (two drums), Hot Paint Wrapping Machine, Cleaning and Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists
GROUP 3 - Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman and Drier, Concrete Pump, Concrete Spreader (servicing one paver), Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneau-pull and similar machines, DW-10, Hyster Winch and similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Simple Drum Hoist, Jaeger Mix and Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement and Gravel Batch Plants (one stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine and Float, Self-propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lb. cap. or working at heights above 28 ft.), Concrete Conveyors
GROUP 4 - Asphalt Booster, Fireman and Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachment, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Operator (more than one well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 or less cap.), Gypsum Pump, Conveyor over 20 HP, Fuller Kenyon Cement Pump or similar machines
GROUP 5 - Air Compressor (275 cfm or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement and Gravel Batch Plants (two or three stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled curing machine
GROUP 6 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

TRUCK DRIVERS

GROUP 1 - Drivers on 4-wheel trucks, dumpcrettes, scoopmobile 5 cu. yds. & under or less than 7½ tons, mixer trucks 3 cu. yds. & under, air compressors & welding machines, including those pulled by separate units, batch trucks, wet or dry, 2 - 34E batches or less, truck drivers' helpers, warehousemen, mechanics' helpers, greasers, firemen, drivers on dumpsters or similar equipment, mounted on 4-wheel trucks, rated 2 cu. yds. or less, and small pallet type fork lift operator & driver on pilot trucks

TRUCK DRIVERS CONTINUED

GROUP 2 - Drivers on 4-wheel trucks over 5 cu. yds. or more than 7½ tons, 6-wheel trucks, Koehring or similar dumpsters, track trucks, euclids, tournapulls, hug-bottom dumps, tournatrailers, tournarockers or similar equipment when used for transportation purposes under 9 cu. yds. or less than 13½ tons, tandems & semitrailer service trucks, mixer trucks over 3 cu. yds. & including 6½ cu. yds. fork lift, 4-wheel A-frame trucks when used for transportation purposes, 4-wheel winch trucks, pavement breakers, batch trucks wet or dry - over 2 up to & including 4 - 34E batches
GROUP 3 - Drivers on heavy equipment 9 cu. yds. or 13½ tons and/or trucks licensed for 50,000 lbs. gross up to & including 16 cu. yds. or 24 ton, such as Koehring or similar dumpsters, track trucks, semitrailer water trucks euclids, hug-bottom dumps, tournapulls, tournatrilers, tournarockers, tractortrailers, tandem A-frames, tandem winch trucks, hydro-lift trucks or similar equipment when used for transportation purposes, mixers over 6½ cu. yds., batch trucks wet or dry over 4-34E batches, single axle lowboy trailers, 6-wheel pole trailers & two-man oil distributors
GROUP 4 - Drivers on heavy equipment over 16 cu. yds. or 24 tons, such as Koehring or similar dumpsters, track trucks, euclids, hug-bottom dumps, tournapulls, tournarockers or similar equipment when used for transportation purposes and drivers on oil distributors, 1 man operation pole trailers over 6-wheels, water pulls, lowboy trailers, tandem axles or more no weight limitation, diesel and/or heavy equipment mechanics

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CARPENTERS	$6.95	.35	.30		.02
CEMENT MASONS	7.72	.40			
LABORERS:					
Carpenter tender; Common laborer	6.25	.20	.20		.035
Air spade; Asphalt kettleman; Backup man or joint man with pipelayer; Barco; Cement dumper; Center strip; Concrete saw; Form setter helper; Gas distribution men; Jackhammer; Laborer in ditch or tunnel on sewer & water main & telephone conduit; Laying & jointing of telephone conduit; Mastic asphalt mixer man, or other preparations used on joints; Mechanical tamper; Mortar mixer; Pipesetter on laterals, drain tiles, culvert pipe & storm sewer connections to catch basins, manholes or main line; Power tools; Power & hand saw (when clearing timber); Prime mover, or any mechanical device taking the place of concrete buggy or wheelbarrow; Puddlers; Reinforcing in concrete, Sand point setter; Sheeting hammer drivers, 2 man; Vibrator; Wagon & hand drill; Wire mesh	6.45	.20	.20		.035

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DECISION NO. AQ-107

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS (CONT'D):					
Asphalt raker; Dynamite man; Head form setter; string or wireline, one man; Tunnel miner or pipelayer on sewer & water main	6.75	.20	.20		.035

SUPERSEDEAS DECISION

STATE: Iowa

COUNTY: Clinton (City of Clinton & abutting municipalities)

DECISION NO.: AQ-108

DATE: Date of Publication

Supersedes Decision No. AQ-12, dated August 3, 1973, in 38 FR 21059.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.05	.25	.25		.10
BOILERMAKERS	8.25	.30	1.00		.02
BRICKLAYERS - STONEMASONS	7.60		.40		
CARPENTERS:					
Carpenters; Soft floor layers	6.84	.35	.25		
Piledrivermen	7.24	.35	.25		
Millwrights	7.97	6%	7%		6%
CEMENT MASONS	7.10		.40		
ELECTRICIANS:					
Electricians	8.30	.32	5.5%		.03
Cable splicers	8.55	.32	5.5%		.03
GLAZIERS	7.1048	.40	.65		
IRONWORKERS	8.75	.40	.375		.07
LABORERS:					
Common laborers	5.62	.30	.15		
Operator on air or power tools; mortar mixer man; any work thirty-five feet high or over; cement dumper, puddlers or vibrator man and man working with concrete pump hose; ditch work eight feet below ground level; any man working with creosote materials	5.87	.30	.15		
Cutting torch burner; caisson and cofferdam workers	5.92	.30	.15		
Bricklayer tenders	5.77	.30	.15		
PAINTERS:					
Brush	6.97	.35	.30		.08
Spray; Structural steel	7.22	.35	.30		.08
PLASTERERS	7.60		.40		
PLUMBERS - STEAMFITTERS	8.25	.40	.35		.10
ROOFERS	6.80		.20		
SHEET METAL WORKERS	7.33	.17			.01
SPRINKLER FITTERS	8.85	.40	.60		.07
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. AQ-108

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$8.70	.40	.50		.08
Group 2	8.45	.40	.50		.08
Group 3	8.33	.40	.50		.08
Group 4	7.30	.40	.50		.08
Group 5	6.98	.40	.30		.08
Group 6	6.28	.40	.40		.08

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP 1 - All hoists or steel erecting equipment

GROUP 2 - Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cable Way, Concrete Spreader (servicing two pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator, Dipper Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (two operators required), Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning and Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists

GROUP 3 - Athey, Barber-Green, Euclid or Haiss Loader, Asphalt Pug Mill, Fireman and Drier, Concrete Pump, Concrete Spreader (servicing one paver); Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull and similar machines, DW-10, Hyster Winch and similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix and Place Machine, Pipe Banding Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement and Gravel Batch Plants (one stop set-up), Seaman Pulvi-Mixer or similar machines, Blastholer Self-propelled Rotary Drill or similar Machines, Work Boat, Combination Concrete Finishing Machine and Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lb. cap. or working at heights above 28 ft.), Concrete Conveyors

GROUP 4 - Asphalt Booster, Fireman and Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Operator (more than one well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 or less cap.), Gypsum Pump, Conveyor over 20 HP, Fuller Kenyon Cement Pump or similar machines

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POWER EQUIPMENT OPERATORS CONTINUED

GROUP 5 - Air Compressor (275 c.f.m or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement and Gravel Batch Plants (two or three stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled Curing Machine

GROUP 6 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Salt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CARPENTERS & PILEDRIVERMEN	$5.91	.25			
CEMENT MASONS	5.65				
LABORERS:					
Group 1	5.50	.30	.10		
Group 2	5.25	.30	.10		
Group 3	5.00	.30	.10		
Group 4	4.85	.30	.10		
Group 5	4.75	.30	.10		

CLASSIFICATION DEFINITIONS

LABORERS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe Layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air, all work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; Drill operators of air track, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Rakers; Boxtenders; Asphalt Curb machines; Potman, not mechanical; Bull float, hand operated; Scalers; Timberman; Underpinning and shoring; Caissons over 12'; Grade checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving saw man; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Boring machines; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or prestressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers, electric drills, hammers, and jack hammers; Tree groundman; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers helpers

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborer; Rodman; Tending to carpenters; Hot asphalt labor; Strikeman on paving work

DECISION NO. AQ-108

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$6.40	.30	.30		.01
Group 2	6.25	.30	.30		.01
Group 3	6.00	.30	.30		.01
Group 4	5.80	.30	.30		.01
Group 5	5.60	.30	.30		.01
Group 6	5.30	.30	.30		.01

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP 1 - Power shovel and crane type equipment (1/2 cu. yd. and over); Central mix plant operator, concrete 5 cu. yd. and over; Dredge engineer; Dredge leverman; Concrete mixer, paver operator; Hoisting engineer, steel erection; Tractor operating scrapers in tandem; Motor patrol operator on finishing work; Master mechanic, when four or more mechanics are employed; Tow or push boat operator; Piledriver machine operator

GROUP 2 - Asphalt plant operator; Asphalt pugmill; Power shovel, crane type equipment (under 1/2 cu. yd.); Front end loader operator, all types 40 HP or over; Mechanics and welders; Tournapull operators, DW 10 and all similar equipment, over 10 cu. yd. struck capacity; All self-loading scrapers; Tractor operator, bulldozer, push cat or pulling scraper or rooter; Sideboom tractor; Churn or rotary drill operators; Trenching machine operator, Cleveland 80 or similar capacity; Self-propelled sheepsfoot roller, 100,000 pounds and over; Central mix plant operator, concrete, under 5 cu. yd.; Asphalt spreader operator; Group equipment greaser; Automatic subgrade machines, slip form paving operator

GROUP 3 - Motor patrol operator, other than finish; Asphalt roller operator, high type surfacing; Concrete curb breaking machine operator; Concrete widening machine operator; Elevating grader and Athey loader operator; Tournapull operator, DW 10 and all similar equipment, under 10 cu. yd. struck capacity; Paving breaker operator, drop or pneumatic; Spreader box operator, self-propelled or tractor-pushed; Subgrade stab. (P&H and similar sizes); Boiler operator, two or one boiler and dryer; Subgrading machine operator; Asphalt paver, back hoe under 3/8 cu. yd.

GROUP 4 - Self-propelled roller operator, other than high type asphalt; Distributor operator; Screening and washing plant operator; Spreader operator, concrete; Tank car heater, combination boiler and booster; Self-propelled vibrating compactor; Trenching machine operator; (Other) pumps on well points and deep wells for dewatering; Mechanical broom operator; Steel placing machine operator; Boat operator; Compressor operator; Concrete mixer operator, side loader; Conveyor operator; Crusher feeder operator; Finishing machine operator on concrete; Flexplane operator; Bull float operator; Form grade operator; Motor crane combination driver and oiler; Concrete curing machine operator

GROUP 5 - Boiler operator, single; Apprentice engineer or oil or mechanics helper or group greaser helper; Self-propelled tractor (pulling disc harrow or sheepsfoot roller); Welding machine operator; Pump operator, other than dredge; Boom and winch truck

GROUP 6 - Batching plant operator, dry; Front end loader, rubber tired, with backhoe attachment, under 3/8 cu. yd.; Farm tractor pulling pneumatic roller

DECISION NO. AQ-108

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS:					
Group 1	$4.65	.25			
Group 2	4.75	.25			

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS

GROUP 1 - Truck drivers, not otherwise specified; Warehousemen; Drivers on: four-wheel service trucks, bus hauling van, carry-all and winch trucks, dump crates and scoop-mobiles

GROUP 2 - Truck drivers for semi and tandem; Ready mix; Dumpster operator; Drivers on: tandem service trucks, Korking and similar dumpsters, track trucks, euclids, hug bottom drums, tournapulls or similar equipment used for transportation, pavement breakers, pole trailers, air compressors and welding machines, including those pulled by separate units

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SUPERSEDEAS DECISION

STATE: Massachusetts
DECISION NO.: AQ-3171
Supersedeas Decision No. AQ3038, dated November 23, 1973 in 38 FR 32352
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and marine construction.

COUNTY: Barnstable
DATE: Date of Publication

1-MASS-1-2-3-a (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS:						
Barnstable, Bourne, Falmouth, Mashpee, & Sandwich	$8.80	.505	.45		.005	
Remainder of County	8.955	.55	.50		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Cement masons; Cement finishers; Plasterers; Stonemasons	8.25	.60	.60		.02	
CARPENTERS; Soft floor layers	8.10	.45	.50		.02	
ELECTRICIANS:						
Electrical contracts under $12,000.00	7.25	.25	1%+.25		a	
Electrical contracts over $12,000.00	8.63	.25	1%+.25		a	
ELEVATOR CONSTRUCTORS	9.125	.345	.23	2%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	8.55	.25	.36		.02	
IRONWORKERS	7.95	.50	1.40		.03	
LABORERS (BUILDING):						
Laborers; Carpenter tenders; Cement finisher tenders; wrecking laborers	6.80	.40	.40		.03	
Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Cerbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy	7.05	.40	.40		.05	
Air track; Block pavers; Rammers; Curb setters	7.30	.40	.40		.05	
Blasters; Powdermen	7.55	.40	.40		.05	
Open air caisson; Cylindrical work & boring crew:						
Laborer; Top man	6.80	.40	.40		.05	
Helper	6.92	.40	.40		.05	
Bottom man	7.55	.40	.40		.05	
Driller	7.67	.40	.40		.05	
LATHERS	7.50	.45	.50		.01	
LEADBURNERS	8.75	.30		d	.01	
LINE CONSTRUCTION:						
Linemen	9.50	.30	1%	e		
Truck driver - groundman	7.04	.30	1%	e		
Groundmen	5.92	.30	1%	e		
Equipment operators	8.91	.30	1%	e		
MARBLE SETTERS; Terrazzo workers	8.25	.60	.50			
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS	8.50	.30	.50		.03	

AQ-3,171 P. 2

1-MASS-1-2-3-a (2-2)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Brush	$7.25	.30	.20			
Structural steel - 1' to 50'	7.75	.30	.20			
Spray	8.25	.30	.20			
PILEDRIVERMEN	8.95	.50	.50			
PLUMBERS:						
Bourne, & Sandwich	8.95	.35	.50		.05	
Remainder of County	8.15	.51	.66		.15	
ROOFERS:						
Roofers, kettlemen & Waterproofers	7.85	.25	.05			
Roofers' helpers, Class A	7.15	.25	.05			
SHEET METAL WORKERS	8.60	.45	.45			
SPRINKLER FITTERS	9.08	.40	.60		.07	
STEAMFITTERS	8.15	.51	.66		.15	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS	8.25	.60	.50			
TILE SETTERS' HELPERS	6.50	.20	.10			

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day.

FOOTNOTES:
a. Employer contributes $1.00 per journeyman Electrician per week.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years' service as Vacation pay credit.

c. 6 paid holidays: A through F.

d. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days during the 120 calendar days prior to the holiday & the regular scheduled work days immediately preceding and following the holiday.

e. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee has been employed 10 working days prior to the holiday.

AQ-3171 P. 3

MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
Shovels, cranes, truck cranes, dragglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour Boom over 185' including jib - additional $.70 per hour Boom over 210' including jib - additional $1.00 per hour Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

AQ-3171 P. 4

MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphon-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

XUM

TRUCK DRIVERS: BUILDING AND AQ-3176 P. 5 MASS - 1 - TD - 1-2-3 D
HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and tiremen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
CLASS I					
Carpentar tender, cement finisher tender, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II					
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.05
CLASS III					
Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV					
Blasters, powdermen	7.55	.40	.40		.05

AQ-3171 P. 6
37-MASS-4-p (1-2)

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derrick boats, tronching machines, mechenicel hoist pavement breakers, cement concrete pavers, dreglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers	$9.11	.55	.60	a	.02	
Booms over 150' including jib - additional $.35 per hour						
Booms over 165' including jib - additional $.70 per hour						
Booms over 210' including jib - additional $1.00 per hour						
Booms over 230' including jib - additional $1.50 per hour						
Booms over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Swinger engines	9.16	.55	.60	a	.02	
Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance	8.99	.55	.60	a	.02	

AQ-3171 P. 7
37-MASS-4-p (2-2)

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	
Oilers on scows	7.525	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day; & Veterans' Day.

XUM

SUPERSEDEAS DECISION

STATE: Massachusetts
DECISION NO.: AQ-3172
Supersedes Decisions Nos.: AQ-3039 dated November 23, 1973 in 38 FR 32356 and AQ-3071 dated December 14, 1973 in 38 FR 34566

COUNTY: Bristol
DATE: Date of Publication

DESCRIPTION OF WORK: Building Construction (Including Residential), heavy and Highway Construction and Marine Construction.

3-MASS-1-2-3-Z (1-3)

BUILDING, HEAVY & HCIHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers:					
Easton	$8.955	.55	.50		.01
Remainder of County	8.80	.505	.45		.005
Boilermakers	8.705	.50	10%		.01
Bricklayers: Cement masons: Plasterers; & Stonemasons:					
Easton, N. Easton, & S. Easton	8.45	.55	.45		.02
Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, Swansea, S. Dartmouth, & Westport	8.25	.60	.60		.02
Remainder of County	8.60	.75	.60		.04
Carpenters; Soft floor layers:					
Easton, N. Easton, & S. Easton	8.10	.45	.50		.02
Attleboro, N. Attleboro, & S. Attleboro	8.85	.50	.50		.03
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth, & S. Dartmouth	8.10	.45	.50		.02
Fall River, Freetown, Seekonk, Somerset, Swansea, & Westport	8.10	.45	.50		.02
Remainder of County	8.10	.45	.50		.02
Electricians:					
Attleboro, N. Attleboro, & Seekonk	8.65	.38	7%+.25		.02
Residential	5.25	.38	7%		.02
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth, & S. Dartmouth	8.63	.25	7%+.25		a
Residential	5.00	.25	7%+.25		a
Easton:					
Electrical contracts less than $20,000.00	7.55	4%	5%		1%
Electrical contracts $20,000.00 or more	9.15	4%	5%		1%
Residential	7.55	4%	4%+1%		1%
Fall River, Freetown, Somerset, Swansea, & Westport	8.10	4%	7%+.25	4%	3%
Remainder of County	8.90	.50	7%		1/20%
Residential	6.00	.50	7%		.05%
Elevator constructors	9.125	.345	.23	2%+b+c	.015
Elevator constructors' helpers	70%JR	.345	.23	2%+b+c	.015
Elevator constructors' helpers (Prob.)	50%JR				
Glaziers	8.55	.25	.36		.02
Ironworkers:					
Easton, Mansfield, & N. Easton	8.39	.50	1.40		.06
Remainder of County	7.95	.50	1.40		.03
Laborers (Building):					
Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers	6.80	.40	.40		.05
Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide					

AQ-3172 P. 2

3-MASS-1-2-3-Z (2-3)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Laborers (Building) Cont'd:					
core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy	7.05	.40	.40		.05
Air track; Block pavers; Rammers; Curb setters	7.30	.40	.40		.05
Blasters; Powdermen	7.55	.40	.40		.05
Open air caisson; Cylindrical work & boring crew:					
Laborer; Top man	6.80	.40	.40		.05
Helper	6.92	.40	.40		.05
Bottom men	7.55	.40	.40		.05
Driller	7.67	.40	.40		.05
Lathers:					
Attleboro, N. Attleboro	7.40	.45	.55		.01
Mansfield, N. Easton, Norton, Raynham & Taunton	7.15	.45	.55		.01
Remainder of County	7.50	.45	.55		.01
Leadburners	8.75	.30	4%	d	.01
Line Construction:					
Lineman	9.50	.30	4%	e	
Equipment operators	8.91	.30	4%	e	
Driver groundman	7.04	.30	4%	e	
Marble setters; Terrazzo workers	8.25	.60	.50		
Marble setters' helpers	6.50	.20	.10		
Millwrights	8.50	.50	.50		.03
Painters:					
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth, & S. Dartmouth:					
Brush; Roller	7.25	.30	.20		
Steel (1' to 50')	7.75	.30	.20		
Spray	8.25	.30	.20		
Remainder of County:					
Brush; Taper	7.23	.62	.20		.04
Steel	9.235	.62	.20		.04
Spray; Sandblasting	8.23	.62	.20		.04
Piledrivermen (Fall River, Freetown, Seekonk, Somerset, Swansea & Westport)	8.65	.50	.30		
Piledrivermen (Acushnet, Dartmouth, Fairhaven, New Bedford, & S. Dartmouth)	8.10	.45	.50		.02
Piledrivermen (Remainder of County)	8.95	.50	.50		
Plasterers (Easton, N. Attleboro, N. Easton & S. Easton)	7.05	.40	.40		.05
Plumbers ; Steamfitters:					
Easton	8.95	.35	.50		.05
Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Seekonk, Somerset, S. Dartmouth, Swansea, & Westport	8.15	.51	.66		.15

3-MASS-1-2-3-Z ( ) of 3)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Plumbers; Steamfitters: Cont'd					
Remainder of County	8.32	.50	.55		
Roofers:					
Attleboro, Easton	8.00	.30	.20		
Remainder of County:					
Roofers; Kettlemen	7.05	.25	.05		
Helpers, Class "A"	7.15	.25	.05		
Sheet metal workers:					
Acushnet, Assonet, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Rehoboth, Seekonk, Somerset, Swansea, & Westport	8.60	.45	.45		
Remainder of County	8.73	.45	.45		.02
Sprinkler fitters	9.08	.60	.60		.07
Terrazzo Workers' Helpers	7.40	.20	.10		
Tile Setters	8.25	.60	.50		
Tile Setters' Helpers	6.50	.20	.10		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contribution of 1.00 per journeyman Electrician per week.
b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. 6 paid holidays: A through F.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee is employed 10 days prior to the listed holidays.

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 D

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and tireman	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vacuum, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the Holiday falls.

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
LABORERS:					
CLASS I					
Carpenter tender, cement finisher tender, laborer, wrecking laborer	$6.80	.40	.40		.03
CLASS II					
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.03
CLASS III					
Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.03
CLASS IV					
Blasters, powdermen	7.55	.40	.40		.03

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MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, dragglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical heist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour Boom over 185' including jib - additional $.70 per hour Boom over 210' including jib - additional $1.00 per hour Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, groun pumps, locomotive or machines used in place thereof, portable steem generaters, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

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MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

AQ-3172 P. 7

37-MASS-4-p (1-2)

MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derrick boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, ssphalt plant (on site), concrete batching &/or mixing plant (on site), crushar plent, (on site), paving concrete mixers	$9.11	.55	.60	a	.02	
Booms over 150' including jib - additional $.35 per hour Booms over 185' including jib - additional $.70 per hour Booms over 210' including jib - additional $1.00 per hour Booms over 250' including jib - additional $1.50 per hour Booms over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Swinger engines	9.16	.55	.60	a	.02	
Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance	8.99	.55	.60	a	.02	

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37-MASS-4-p (2-2)

MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	
Oilers on scows	7.525	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day; & Veterans' Day.

XUM

MAY 10 1974 VOL 39 NO 92

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Essex
DECISION NO.: AQ-3173
DATE: Date of Publication.
Supersedes Decision No. AQ-3040, dated November 23, 1973 in 38 FR 32961
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

5-MASS-1-2-3-D (1 of 4)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$8.955	.55	.50		.01
Boilermakers	8.705	.50	10%		.01
Bricklayers; Stonemasons:					
Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant, North Andover, Peabody, Salem, Saugus, Swamscott, & Topsfield	8.91	.39	.65		.04
Remainder of County	8.80	.55	.60		.04
Carpenters; Soft floor layers:					
Gloucester, & Rockport:					
Carpenter contracts up to $100,000.00	6.25	.30	.20		
Carpenter contracts $100,000.000 to $800,000.00	7.28	.30	.20		
Carpenter contracts over $800,000.00	8.00	.30	.20		
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Newbury, Newburyport, Rowley, Salisbury & West Newbury	8.85	.50	.50		.03
Andover, Lawrence, Methuen, North Andover, & West Andover	8.43	.50	.50		.02
Remainder of County	8.60	.30	.30		
Cement Masons; Plasterers:					
Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, North Andover, Salisbury, & West Newbury	8.05	.385	.30		
Danvers, Lynn, Lynnfield, Marblehead, Middleton, Nahant, Peabody, Salem, Saugus, Swampscott, & Topsfield	8.91	.39	.65		.04
Remainder of County	8.80	.55	.60		.04
Electricians:					
Andvoer, Lawrence, Methuen, & North Andover	8.92	.25	1%+.20		.02
Lynn, Lynnfield, Nahant, Saugus, & Swampscott	9.45	.50	1%+.95		.05
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Merrimac, Methuen, Newbury, Newburyport, Rowley, Salisbury, & West Newbury	8.92	.25	1%+.20		.02
Remainder of County	8.85	.37	1%+.20		.02
Elevator Constructors	9.125	.345	.23	2%+a+b	.015
Elevator Constructors' helpers	70%JR	.345	.23	2%+a+b	.015
Elevator Constructors helpers (Prob.)	50%JR				

AQ-3173 P. 2

5-MASS-1-2-3-D (2 of 4)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Glaziers	$8.55	.25	.36		.02
Ironworkers	8.39	.50	1.40		.06
Laborers (Building):					
Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers	6.80	.40	.40		.05
Jakonammer op.; Pavement breakers; Wagon drills, Asphalt rakers; Carbide core drilling machine; Chain saw ops.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Motar mixers; Ride-on motorized buggy	7.05	.40	.40		.05
Air track; Block pavers; Rammers; Curb setters	7.30	.40	.40		.05
Blasters; Powdermen	7.55	.40	.40		.05
Open air caisson; Cylindrical work & boring crew:					
Laborer; Top man	6.80	.40	.40		.05
Helper	6.92	.40	.40		.05
Bottom men	7.55	.40	.40		.05
Driller	7.67	.40	.40		.05
Lathers:					
Beverly, Danvers, Gloucester, Hamilton, Ipswich, Lynn, Lynnfield, Salez, Saugus, Swampscott, Topsfield, and Wenham	7.15	.45	.55		.01
Remainder of County	7.50	.45	.55		.01
Leadburners	8.75	.30		o	.01
Line Construction:					
Linemen	9.50	.30	1%	d	
Equipment operators	8.91	.30	1%	d	
Driver groundman	7.04	.30	1%	d	
Groundman	5.92	.30	1%	d	
Marble Setters; Terrazzo workers-	8.25	.60	.50		
Marble Setters' Helpers	6.50	.20	.10		
Millwrights	9.13	.50	.50		.03

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5-MASS-1-2-3-d (3 of 4)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Painters:					
Essex, Gloucester, Manchester, & Rockport					
Brush	$6.20	.30			
Spray	6.65	.30			
Roller	6.50	.30			
Amesbury, Andover, Beverly, Boxford, Danvers, Georgetown, Groveland, Hamilton, Haverhill, Ipswich, Lawrence, Lynn, Lynnfield, Marblehead, Merrimac, Methuen, Middleton, Newbury, Newburyport, N. Andover, Peabody, Rowley, Salem, Salisbury, Saugus, Swampscott, Topsfield, Wenham, West Newbury,					
New Construction:					
Brush; Tapers	8.08	.62	.50		.04
Sandblasters; Spray	9.08	.62	.50		.04
Steel	8.08+f	.62	.50		.04
Piledrivermen	8.95	.50	.50		
Plasterers' Tenders:					
Lynn, Lynnfield, Nahant, Saugus and Swampscott	7.05	.40	.40		.05
Plumbers; Steamfitters:					
Andover, Georgetown, Groveland, Lawrence, Methuen and North Andover	8.99	.38	.35		.05
Lynn, Lynnfield, Nahant, Saugus and Swampscott					
Plumbers	9.85	.50	.60		.03
Steamfitters	9.76	.51	.65		.05
Remainder of County	8.97	.45	.40		.05
Roofers: Haverhill and Lawrence	6.35			e	
Remainder of County	8.00	.30	.20		
Sheet Metal Workers	8.73	.46	.45		.02
Syrinkler fitters	9.08	.40	.60		.07
Terrazzo Workers' Helpers	7.40	.20	.10		
Tile Setters	8.25	.60	.50		
Residential	6.62				
Tile Setters' Helpers	6.50	.20	.10		
Residential	5.05				

AQ-3173 P. 4

5-MASS-1-2-3-d (4 of 4)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 1% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. 6 Paid Holidays: A through F

c. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve provided the employee has worked 45 full days during the 120 calendar days prior to the holiday & the regular scheduled work days immediately preceding and following the holiday.

d. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to any 1 of the listed holidays.

e. 9 Paid Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day.

f. Employer pays $5.00 per day extra above the brush rate.

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AQ-3173 P. 5

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
LABORERS:					
CLASS I Carpenter tender, cement finisher ternder, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.05
CLASS III Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV Blasters, powdermen	7.55	.40	.40		.05

MASS - 1 - TD - 1-2-3 D

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and firemen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks; low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 13 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

AQ-3173 P. 6

MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, psving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour Boom over 185' including jib - additional $.70 per hour Boom over 210' including jib - additional $1.00 per hour Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

AQ3173 P. 7

MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Pumps (1-3 grouped), compressors; welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

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37-MASS-4-p (1-2)

MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derrick boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradells, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers	$9.11	.55	.60	a	.02	
Booms over 150' including jib - additional $.35 per hour Booms over 185' including jib - additional $.70 per hour Booms over 210' including jib - additional $1.00 per hour Booms over 250' including jib - additional $1.50 per hour Booms over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Swinger engines	9.16	.55	.60	a	.02	
Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance	8.99	.55	.60	a	.02	

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37-MASS-4-p (2-2)

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	
Oilers on scows	7.525	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day; & Veterans' Day.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampden
DECISION NO.: AQ-3174 DATE: Date of Publication
Supersedes Decision No. AQ-3031, dated November 2, 1973 in 38 FR 30357
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION 7-MASS-1-2-3-x (1-2)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$7.60	.34	.15		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Cement masons; Marble masons; Plasterers; Stone masons; Terrazzo workers; & Tile setters	9.10	.45	.40		.02	
CARPENTERS; Soft floor layers:						
Holyoke	8.63	.35	.50		.02	
Remainder of County	8.63	.35	.50		.02	
ELECTRICIANS:						
Chester, Holyoke, & that portion of Chicopee Township north of the following line: McKinstry Avenue from the Connecticut River to Gratton Street; South on Gratton to Lafayette Street; east on Lafayette to York Street; north on York to McKinstry; east on McKinstry to Grady Road & projected to the Westover Air Force fence & that area north of Westover Field	9.06	.35	11%+.20		.01	
Remainder of County	8.47	.30	11%+.15	.43	a	
ELEVATOR CONSTRUCTORS	8.09	.345	.23	4%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	4%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	8.05	.37	.45		.005	
IRONWORKERS:						
Ornamental; Reinforcing; Structural	7.81	.45	1.30		.09	
LABORERS (BUILDING):						
Fairview, Holyoke, & Williamsett north of McKinstry Avenue:						
Laborers; Wreckers	6.20	.30	.30		.05	
Mason tenders	6.45	.30	.30		.05	
Pneumatic, Electric & gasoline tool op.; Diamond head & carbide core drilling machine; Mechanical tamper; Concrete saw; Paving breaker; Chipping hammer; Jackhammer	6.45	.30	.30		.05	
Blasters	7.20	.30	.30		.05	
Open air caissons; Cylindrical work & test boring crew:						
Bottom man; Top man	7.00	.30	.30		.05	
Leader	7.50	.30	.30		.05	

BUILDING, HEAVY & HIGHWAY CONSTRUCTION AQ-3174 P. 2 7-MASS-1-2-3-x (2-2)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (BUILDING) CONT'D:						
Remainder of County:						
Laborers; Wrecking Laborers & pipelayers	6.20	.30	.25		.05	
Mason tenders; Mortar mixers; Plasterers' tenders; Cement finishers' tenders; Scaffold builders	6.45	.30	.25		.05	
Pneumatic, electric or gasoline powered tools	6.45	.30	.25		.05	
Blasters	7.20	.30	.25		.05	
Open air caissons; Cylindrical work & test boring crew:						
Bottom man; Top man	7.00	.30	.25		.05	
LATHERS	7.60	.45	.25			
LEADBURNERS	8.75	.30		d	.01	
LINE CONSTRUCTION:						
Linemen	9.41	.35	1%	e	3/8 of 1%	
Groundmen, truck driver	6.78	.35	1%	e	3/8 of 1%	
Digger operator; Tractor operator	8.78	.35	1%	e	3/8 of 1%	
MILLWRIGHTS	8.90	.30	.50		.03	
PAINTERS:						
Brush	7.70	.50	.35		.03	
Spray	9.867	.666	.466		.04	
Swing stage under 40' & steel	7.887	.50	.35		.03	
Swing stage over 40' & steel	8.20	.50	.35		.03	
PILEDRIVERMEN	8.95	.30	.50			
PLUMBERS	8.84	.45	.60	g	.01	
ROOFERS:						
Composition, damp & waterproofing	8.175	.51	.51			
Slate, tile, precast concrete	8.83	.51	.51			
SHEET METAL WORKERS	8.41	.75	.40+.42		.02	
SPRINKLER FITTERS	9.08	.40	.60		.03	
STEAMFITTERS	8.70	.57	.70	f		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. $.30 per man per week
b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. 6 paid holidays: A through F.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 9 paid holidays: A through F, provided the employee has been employed for at least days prior to the holiday and is available for work the day before and after the holiday, plus one floating holiday, Washington's Birthday, and Patriots' Day.
f. 1 paid holiday: Fourth of July
g. 1 paid holiday: Independence Day provided the employee has been employed 7 days prior to the holiday for the same employer.

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loaders-3½ yards or over, Dual Drum Paver, Automatic Grader (i. e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over.	$8.30	.45	.60	a	.05	
Rotary Drill (with mounted compressor), Compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console.	8.10	.45	.60	a	.05	
Combination Backhoe-Loader-up to 3/4 yard hoe, Bulldozers, Push Cats, Scrapers-up to 21 yards (struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton.	7.90	.45	.60	a	.05	
Asphalt Roller-under 10 ton.	7.60	.45	.60	a	.05	

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS (cont'd.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts-up to 15 feet.	$6.93	.45	.60	a	.05	
Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.	6.74	.45	.60	a	.05	
Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck and Grease Trucks with hand greasing equipment.	6.12	.45	.60	a	.05	

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

Footnotes:
a. Holidays: A through F, Veterans' Day and Columbus Day.

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
LABORERS:					
CLASS I Carpenter tender, cement finisher ternder, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.05
CLASS III Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV Blasters, powdermen	7.55	.40	.40		.05

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TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pension	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and tiremen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double bookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

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HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-3½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Grader-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine.	$8.30	.45	.60	a	.05	
Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console.	8.10	.45	.60	a	.05	
Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tireman, Pumps-16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck, Self-Propelled Hydraulic Cranes-up to 10 ton.	7.90	.45	.60	a	.05	
Asphalt Roller-up to 10 ton.	7.60	.45	.60	a	.05	

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HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.	$6.93	.45	.60	a	.05	
Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil.	6.74	.45	.60	a	.05	
Compressor (up to 315 cu. Ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat.	6.12	.45	.60	a	.05	

Footnotes:
a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving and Christmas Day.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Middlesex
DECISION NO.: AQ-3175 DATE: Date of Publication
Supersedes Decision No.: AQ-3041, dated November 23, 1973 in 38 FR 32366 and Decision No.: AQ-3042, dated November 23, 1973 in 38 FR 32372
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction and marine construction.

9-MASS-1-2-3-e (1-6)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$8.955	.55	.50		.01
Boilermkaers	8.705	.50	10%		.01
Brioklayers; Stonemasons; Ashland, Framingham, Holliston Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, & Stow	8.70	.60	.65		.04
Acton, Ashby, Ayer, Bedford, Billerica, Booboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, N. Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, Tyngsboro, W. Acton, Westford, & Wilmington	8.75	.60	.60		.04
Newton	8.60	.60	.75		.04
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Watertown, Wayland, Weston, Winchester, & Woburn	8.95	.50	.50		.04
Arlington, Cambridge, Everett, Malden, Medford, Melrose, & Somerville	8.65	.60	.70		.04
Reading, N. Reading, & Wakefield	8.91	.39	.65		.04
Carpenters; Soft floor layers: Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Sherborn, & Stow	8.50	.50	.30		.07
Arlington, Burlington, Lexington, Melross, N. Reading, Reading, Stoneham, Wakefield, Wilmington, Winchester, & Woburn	8.85	.50	.50		.03
Bedford, Concord, Lincoln, Natick, Newton, Sudbury, Waltham, Watertown Wayland, Weston, & vicinity	8.85	.50	.50		.03
Ashby, Ayer, & the entire boundaries of Ft. Devens which are the townships of Lunenburg, Shirley, Lancaster, & Harvard; Groton, Pepperell, Shirley, the entire boundaries of Shirley Industrial School, Townsend, W. Groton, & W. Townsend	8.85	.50	.50		.03
Acton, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Littleton, Lowell, Tewksbury, Tyngsboro, Westford	8.85	.50	.50		.03
Belmont, Cambridge, Everett, Malden, Medford, & Somerville,	8.85	.50	.50		.03

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9-MASS-1-2-3-E (2 of 6)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Cement masons: Bedford, Burlington, Lowell, Tyngsboro, & Westford	$8.60	.55			
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Wilmington, Winchester & Woburn	9.15	.50	.30		.05
Reading, N. Reading	8.05	.385	.30		
Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Tewksbury, Acton, Ashby, Ayer, Boxboro, Groton, Littleton, N. Acton, Pepperell, Shirley, S. Acton, Townsend, W. Acton	8.75	.60	.60		.04
Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborn, & Stow	8.70	.60	.65		.04
Newton	8.60	.60	.75		.04
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland, & Weston	8.95	.50	.50		.04
Electricians: Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington	9.09	.25	1%+.20		.02
Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley, & Townsend	8.80	.45	1%+.25		.02
Ashland, Hopkinton, Hudson, Marlboro, Stow	9.33	5%	1%+.24		.01
N. Reading	8.92	.25	1%+.20		.02
Remainder of County	9.45	.50	1%+.95		.05
Residential	5.25	.35	1%+.95		.05
Elevator constructors	9.125	.345	.23	2%+a+b	.015
Elevator constructors' helpers	70%JR	.345	.23	2%+a+b	.015
Elevator constructors' helpers (Prob.)	50%JR				
Glaziers	8.55	.25	.36		.02
Ironworkers	8.39	.50	1.40		.06
Laborers (Building): Laborers; Carpenter tender; Cement finisher tender; Wrecking laborers	6.80	.40	.40		.05
Jackhammer operator; Pavement breakers, Wagon drills, asphalt rakers, Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ridge-on motroized buggy	7.05	.40	.40		.05
Air track; Block pavers; Rammers; Curb setters	7.30	.40	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Laborers (Building); Cont'd					
Blasters; Powdermen	7.55	.40	.40		.05
Open air caisson, Cylindrical work & boring crew:					
Laborer; Top man	6.80	.40	.40		.05
Helper	6.92	.40	.40		.05
Bottom man	7.55	.40	.40		.05
Driller	7.67	.40	.40		.05
Lathers:					
Acton, Ashby, Ayer, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, Lowell, Pepperell, Tewksbury, Townsend, Tyngsboro, W. Acton, Westford, & Wilmington	7.50	.55			.01
Ashland, Bedford, Belmont, Concord, Framingham, Hollliston, Hudson, Lexington, Lincoln, Maynard, Natick, Newton, Sherborn, Stow, Sudbury, Waltham, Watertown, Wayland, & Weston	7.15	.45	.55		.01
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Stoneham, Winchester, & Woburn	7.15	.45	.55		.01
Marlboro	7.82	.40	.10		.01
North Reading	7.50	.45	.55		.01
Leadburners	8.75	.30		o	.01
Line Construction:					
Lineman	9.50	.30	1%	d	
Equipment operator	8.91	.30	1%	d	
Groundman	5.92	.30	1%	d	
Marble setters: Terrazzo workers	8.25	.60	.50		
Marble setters' helpers	6.50	.20	.10		
Millwrights	9.13	.50	.50		.03
Painters:					
Arlington, Belmont, Cambridge, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, Woburn, Reading, N. Reading					
New Construction					
Brush; Taper	8.21	.62	.50		.04
Sandblasting; spray	9.21	.62	.50		.04
Steel	8.21+e	.62	.50		.04
Repaint Alterations:					
Brush	7.56	.62	.50		.04
Sandblasting, spray	8.56	.62	.60		.04
Steel	7.56+e	.62	.60		.04

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9-MASS-1-2-3-E (4 of 6)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Painters (Cont'd)					
Residential:					
Brush; Tapes	7.56	.62	.60		.04
Spray	8.56	.62	.60		.04
Steel	7.56+e	.62	.60		.04
Ashby, Ayer, Groton, Pepperell, Shirley, & Townsend					
Brush	8.33	.50	.25		.02
Sandblasting; Spray	9.33	.50	.25		.02
Steel	8.955	.50	.25		.02
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington					
Brush; Taping	8.00	.33	.20		
Spray	8.75	.33	.20		
Paperhangers	8.00	.33	.20		
Steel	8.00	.33	.20		
All the Newtons, Acton, Ashland, Boxboro, Concord, Framingham, Holliston, Hopkinton, Hudson, Lexington, Lincoln, Marlboro, Maynard, Natick Sherborn, Stow, Sudbury, Waltham, Watertown, Wayland, Westboro, & Weston					
Brush	7.85	.35	.35		.06
Sandblasters; Spray	8.80	.35	.35		.06
Steel	8.10	.35	.35		.06
Piledrivermen	8.95	.50	.50		
Plasterers:					
Arlington, Cambridge, Everett, Malden, Medfrod, Somerville, Stoneham, Wakefeild, Winchester, & Woburn	8.10	.45	1.15		.02
Ashalnd, Framingham, Holliston, Hopkinton Hudson, Marlboro, Maynard, Natick, Sherborn, Stow	8.70	.60	.65		.04
Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, N. Acton, Pepperell, Shriley, S. Acton, Tewsbury, Townsend, W. Acton	8.75	.60	.60		.04
Newton	8.60	.60	.75		.04
Belmont, Comorod, Lexington, Lincoln, Sudburym Waltham, Watertown, Wayland, & Weston	8.95	.50	.50		.04
Bedford, Burlington, Lowell, Tyngsboro & Westford	8.60	.55			
N. Reading, Reading	8.05	.385	.30		
Plasterers' Tenders	7.05	.40	.40		.05

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9-MASS-1-2-3-D (5 of 6)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Plumbers:					
Acton, Ayer (except portion lying west of the Greenville Branch of the Boston & Main RR), Bedford, Billerica, Boxboro, Burlington, Carlsle, Chelmsford, Dracut, Dunstable, Granitoville Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford, & Wilmington	9.17	.50	.50		.02
Ashby, Ayer (portion lying West of the Greenville Branch of the Boston & Main RR), Ft. Devens, Groton, Shirley & Townsend	8.75	.30	.40	1%	.02
Ashalnd, Belmont, Concord, Framingham, Holliston, Hopkinton, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland, & Weston	9.175	.53	.55		.025
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, N. Reading Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester, & Woburn	9.85	.50	.60		.03
Roofers	8.00	.30	.20		
Sheet Metal Workers	8.73	.46	.45		.02
Sprinkler sitters	9.08	.40	.60		.07
Steamfitters:					
Acton, Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, N. Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester, & Woburn	$9.76	.51	.65		.05
Ayer (except portion lying west of the Greenville Branch of the Boston & Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Granitville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford, & Wilmington	8.59	.40	.40		.02
Ashby, Ayer (portion lying west of the Greenville Branch of the Boston & Main RR), Ft. Devens, Shirley, & Townsend	8.75	.30	.40	1%	.02
Remainder of County	8.675	.53	.55		.025
Terrazzo workers' helpers	7.40	.20	.10		
Tile Setters (except towns of Acton, Ashby, Ayer, Boxboro, Dunstable, E. Pepperell, Ft. Devens, Groton, Littleton, N. Acton, N. Pepperell, Pepperell, Chirley, S. Acton, Townsend & W. Acton)	8.25	.60	.50		

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9-MASS-1-2-3-D (6 of 6)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Tile Setters (Acton, Ashby, Ayer, Boxboro, Dunstable, E. Pepperell, Ft. Devene, Groton, Littleton, N. Acton, N. Pepperell, Pepperell, Shirley, S. Acton, Townsend, & W. Acton)	8.75	.60	.60		.04
Tile Setters' helpers	6.50	.20	.10		

PAID HOLLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:

a. Employer contributes 1% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. 6 paid holidays: A through F

c. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the Holiday and the regular scheduled work days immediately preceding and following the holiday.

d. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate.

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AQ-3175 P. 7 MASS - 1 - TD - 1-4-3 D

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and firemen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 6 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

MASS 1-LAB-2-3 K

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
HEAVY & HIGHWAY CONSTRUCTION					
LABORERS:					
CLASS I					
Carpenter tender, cement finisher tender, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II					
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.05
CLASS III					
Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV					
Blasters, powderman	7.55	.40	.40		.05

AQ-3175 P. 8 MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

AQ-3175 P. 9 MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a, 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

AQ-3175 P. 10 37-MASS-4-p (1-2)

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derrick boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers	$9.11	.55	.60	a	.02	
Booms over 150' including jib - additional $.35 per hour						
Booms over 185' including jib - additional $.70 per hour						
Booms over 210' including jib - additional $1.00 per hour						
Booms over 250' including jib - additional $1.50 per hour						
Booms over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Swinger engines	9.16	.55	.60	a	.02	
Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance	8.99	.55	.60	a	.02	

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AQ-3175 P. 11
37-MASS-4-p (2-2)

MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	
Oilers on scows	7.525	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day; & Veterans' Day.

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Norfolk
DECISION NO.: AQ-3176
DATE: Date of Publication
Supersedes Decision No. AQ-3043 dated November 23, 1973 in 38 FR 32376 and Decision No. AQ-3044 dated November 23, 1973 in 38 FR 32380
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION 11-Mass-1-2-3-V (1-3)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS:						
Bellingham, Franklin, Plainville, & Wrentham	$8.80	.505	.45		.005	
Remainder of County	8.955	.55	.50		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Cement masons; Plasterers; & Stonemasons:						
Dover, Needham, & Wellesley	8.60	.60	.75		.04	
Medfield, Medway, & Millis	8.70	.60	.85		.04	
Avon, Holbrook, Randolph, & Stoughton	8.45	.55	.45		.02	
Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood, & Wrentham	8.60	.75	.60		.04	
Braintree, Cohasset, W. Weymouth, Quincy, S. Weymouth, & Weymouth	8.70	.65	.60		.04	
BRICKLAYERS; Stonemasons:						
Brookline, & Milton	8.45	.50	.50		.04	
CARPENTERS; Soft floor layers:						
Quincy	8.85	.50	.50		.03	
Brookline, Dedham, & Milton	8.85	.50	.50		.03	
Avon, Holbrook, Randolph, & Stoughton	8.10	.45	.50		.02	
Bellingham, Franklin, Medfield, Medway & Millis	8.48	.30	.30		.025	
Dover, Needham, & Wellesley	8.85	.50	.50		.03	
Canton, Foxboro, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham	8.85	.50	.50		.03	
Braintree, Cohasset, W. Weymouth, S. Weymouth, & Weymouth	8.35	.50	.50			
CEMENT MASONS: Brookline & Milton	9.15	.50	.30		.03	
ELECTRICIANS:						
Avon, Holbrook, Randolph, & Stoughton						
Elec. contracts under $20,000.	7.55	4%	5%		1%	
Elec. contracts $20,000. or over	9.15	4%	5%		1%	
Residential	7.55	4%	5%		1%	
Plainville	8.65	.38	1%+.25		.02	
Residential	5.25	.38	1%+.05		.02	
Remainder of County	9.45	.35	1%+.95		.05	
Residential	5.25	.35	1%+.95		.05	
ELEVATOR CONSTRUCTORS	9.125	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a+b	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	8.55	.25	.36		.02	
IRONWORKERS:						
Plainville	7.95	.50	1.40		.03	
Remainder of County	8.39	.50	1.40		.06	

AQ-3176 P. 2
11-MASS-1-2-3 -v (2-3)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (BUILDING)						
Laborers, carpenter tenders, cement finisher tender, wrecking laborers	$6.80	.40	.40		.05	
Jackhammer op., pavement breaker, wagon drills, asphalt rakers, carbide core drilling mach., chain saw op., pipelayer, barco type jumping tamper, laser beam, concrete pump, mason tender, mortar mixer, ride-on buggy	7.05	.40	.40		.05	
Air track, block paver, rammer, curb setter	7.30	.40	.40		.05	
Blasters, powdermen	7.55	.40	.40		.05	
Open air caisson, cylindrical work & boring crew:						
Laborer, top man	6.80	.40	.40		.05	
Helper	6.92	.40	.40		.05	
Bottom man	7.55	.40	.40		.05	
Driller	7.67	.40	.40		.05	
LATHERS	7.15	.45	.55		.01	
LEADBURNERS	8.75	.30		c	.01	
LINE CONSTRUCTION:						
Linemen	9.50	.30	1%	d		
Equipment operator	8.91	.30	1%	d		
Driver groundman	7.04	.30	1%	d		
MARBLE SETTERS, TERRAZZO WORKERS	8.25	.60	.50			
MARBLE SETTERS' HELPERS	6.30	.20	.10			
MILLWRIGHTS	9.13	.50	.50		.03	
PAINTERS:						
Bellingham:						
Brush	7.65	.50	.50			
Steel	7.90	.50	.50			
Spray	8.65	.50	.50			
Residential						
Brush	7.45	.45	.45			
Steel	7.70	.45	.45			
Spray	8.45	.45	.45			
Dover, Medfield, Medway, Millis, Needham, & Wellesley						
Brush	7.85	.35	.35			
Steel	8.10	.35	.35			
Spray	8.80	.35	.35			
Residential						
Brush	7.00	.35	.25			
Steel	7.25	.35	.25			
Spray	7.95	.35	.25			
Remainder of County:						
New construction						
Brush, taper	8.21	.62	.50		.04	
Steel	8.21e	.62	.50		.04	
Spray	9.21	.62	.50		.04	
Repaint, Alterations & Residential						
Brush	7.56	.62	.50		.04	
Steel	7.56e	.62	.50		.04	
Spray	8.56	.62	.50		.04	
PILEDRIVERMEN	8.95	.50	.50			

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AQ-3,043 P. 3
11-MASS-1-2-3-V (3-3)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PLASTERERS: Brookline, & Milton	$8.10	.45	1.15		.02	
PLASTERERS' TENDERS: Avon, Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxboro, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon, S. Bellingham, Stoughton, Walpole, Wellesley, Westwood, Weymouth, & Wrentham	7.05	.40	.40		.05	
PLUMBERS; Steamfitters: Avon, Holbrook, Randolph, & Stoughton	8.95	.35	.50		.05	
Dover, Medfield, Medway, & Wellesley	9.175	.53	.55		.025	
PLUMBERS; Gasfitters: Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth, & Wrentham	9.85	.50	.60		.03	
ROOFERS	8.00	.30	.20			
SHEET METAL WORKERS	8.73	.46	.45		.02	
SPRINKLER FITTERS	9.08	.40	.60		.07	
STEAMFITTERS: Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville Quincy, Sharon, Walpole, Westwood, & Wrentham	9.76	.51	.65		.05	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS	8.25	.60	.50			
TILE SETTERS' HELPERS	6.50	.20	.10			

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.
b. 6 Paid Holidays: A through F.
c. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked 4/5 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.
d. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.
e. Employer pays $5.00 per day extra above the basic rate.

AQ-3176 P. 4
MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION: POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

AQ-3176 P. 5
MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I: Carpenter tender, cement finisher ternder, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II: Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.05
CLASS III: Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV: Blasters, powdermen	7.55	.40	.40		.05

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

AQ-3176 P. 6
MASS - 1 - TD - 1-2-3 D

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and tiremen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

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SUPERSEDEAS DECISION

STATE: Massachusetts
DECISION NO.: AQ3177
Supersedes Decision No. AQ-3083, dated February 1, 1974 in 39 FR 4323 and Decision No. AQ-3084, dated February 1, 1974 in 39 FR 4327
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction

COUNTY: Plymouth
DATE: Date of Publication

Building, Heavy & Highway 12-MASS-1-2-3-Y (1-4)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS:						
Lakeville, Mattapoisett, Middleboro, Rochester, & Wareham	$6.80	.505	.45		.005	
Remainder of County	8.955	.55	.50		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Cement masons; & Stonemasons:						
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater, & Whitman	8.45	.55	.45		.02	
BRICKLAYERS; Cement masons; Plasterers; & Stonemasons:						
Hingham, Hull, Scituate, & the Islands of Quincy Bay	8.70	.65	.60		.04	
Lakeville	8.60	.75	.60		.04	
Marion, Mattapoisett, Rochester, & Wareham	8.25	.60	.60		.02	
CARPENTERS; Soft floor layers:						
Duxbury, Hanover, Hingham, Hull, Marshfield, Norwell, Pembroke, Rockland, & Scituate	8.85	.50	.50		.03	
Abington, Bridgewater, Brockton, Carver, E. Bridgewater, Halifax, Hanson, Kingston, Plymouth, Plympton, W. Bridgewater, & Whitman	8.10	.45	.50		.02	
Lakeville, & Middleboro	8.10	.45	.50		.02	
Marion, Mattapoisett, Rochester, & Wareham	8.10	.45	.50		.02	
ELECTRICIANS:						
Hingham, Hull	9.45	.50	1%+.95		.05	
Residential	5.25	.35	1%+.95		.05	
Mattapoisett, Rochester & Wareham:						
Electrical contracts over $12,000.	8.63	.25	1%+.25		a	
Electrical contracts under $12,000.	7.25	.25	1%+.25		a	
Lakeville & Middleboro	8.90	.50	1%		.5%	
Residential	6.00	.50	1%		.05	
Remainder of County:						
Electrical contracts $20,000. or more	9.15	1%	5%		.5%	
Electrical contracts under $20,000.	7.55	1%	5%		.5%	
Residential	7.55	1%	5%		.5%	
ELEVATOR CONSTRUCTORS	9.125	.345	.23	2%+b&c	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+b&c	.015	
ELEVATOR CONSTRUCTORS' HELPERS, PROB.	50%JR					

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
GLAZIERS	$8.55	.25	.36		.02	
IRONWORKERS:						
Bridgewater, Brockton, Hanover, Hanson, Marshfield, Norwell, Pembroke, Rockland, Scituate, W. Bridgewater, & Whitman	8.39	.50	1.40		.06	
Lakeville, Marion, Mattapoisett, Middleboro, Rochester, & Wareham	7.95	.50	1.40		.03	
LABORERS (BUILDING):						
Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers	6.80	.40	.40		.05	
Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy	7.05	.40	.40		.05	
Air track; Block pavers; Rammers; Curb setters	7.30	.40	.40		.05	
Blasters; Powdermen	7.55	.40	.40		.05	
Open air caissons; Cylindrical work & boring crew:						
Laborer; Top man	6.80	.40	.40		.05	
Helper	6.92	.40	.40		.05	
Bottom man	7.55	.40	.40		.05	
Driller	7.67	.40	.40		.05	
LATHERS:						
Abington, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater, Whitman, & part of Middleboro	7.15	.45	.55		.01	
Hingham, & Hull	7.15	.45	.55		.01	
LEADBURNERS	8.75	.30		d	.01	
LINE CONSTRUCTION:						
Hingham:						
Linemen	9.50	.30	1%	e		
Equipment operators	8.91	.30	1%	e		
Groundman	5.92	.30	1%	e		
MARBLE SETTERS; Terrazzo workers	8.25	.60	.30			
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS	8.50	.50	.50		.03	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater, & Whitman:						
Brush; Taper (New construction)	$8.21	.62	.60		.04	
Steel (New construction)	8.21+f	.62	.60		.04	
Spray (New construction)	9.21	.62	.60		.04	
Brush (repaint,alterations,resid.)	7.56	.62	.60		.04	
Steel (repaint,alterations,resid.)	7.56+f	.62	.60		.04	
Spray (repaint,alterations, resid)	8.56	.62	.60		.04	
Marion, Mattapoisett, Rochester, & Wareham:						
Brush; Rollers; Taping	7.25	.30	.20			
Steel 1' to 50'	7.75	.30	.20			
Spray	8.25	.30	.20			
PILEDRIVERMEN:						
Marion, Mattapoisett, Rochester, & Wareham	7.85	.30	.50			
Remainder of County	8.95	.50	.50			
PLASTERERS:						
Norwell	8.10	.45	1.15		.02	
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater, & Whitman	8.45	.55	.45		.02	
PLASTERERS' TENDERS:						
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater, & Whitman	7.05	.40	.40		.05	
PLUMBERS:						
Marion, Mattapoisett, Rochester, & Wareham	8.15	.51	.66		.15	
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater, & Whitman	8.95	.35	.50		.05	
PLUMBERS; Gasfitters:						
Hingham, Hull, & Scituate	9.85	.50	.60		.03	
PLUMBERS; Steamfitters:						
Lakeville, & Middleboro	8.02	.40	.40			

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
ROOFERS:						
Abington, Bridgewater, E. Bridgewater, Halifax, Hanover, Hanson, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, & W. Bridgewater	$8.00	.30	.20			
Brockton	7.40					
Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, & Wareham:						
Roofers; Kettlemen	7.85	.25	.05			
Helpers, Class "A"	7.15	.25	.05			
SHEET METAL WORKERS:						
Marion, Mattapoisett, Rochester, & Wareham	8.60	.45	.45			
Remainder of County	8.73	.46	.45		.02	
SPRINKLER FITTERS	9.08	.40	.60		.07	
STEAMFITTERS:						
Marshfield	9.76	.51	.65		.05	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS	8.25	.60	.50			
TILE SETTERS' HELPERS	8.50	.20	.10			

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contribution of $1.00 per journeyman electrician per week.
b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. 6 paid holidays: A through F.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 7 paid holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.
f. Employer pays $5.00 per day extra above the brush rate.

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AQ-3177 P. 5

MASS - 1 - TD - 1-4-3 D

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and firemen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoretion equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

AQ-3177 P. 6

MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour						
Boom over 185' including jib - additional $.70 per hour						
Boom over 210' including jib - additional $1.00 per hour						
Boom over 250' including jib - additional $1.50 per hour						
Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers; self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

AQ-3177 P. 7

MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
CLASS I Carpenter tender, cement finisher ternder, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.05
CLASS III Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV Blasters, powdermen	7.55	.40	.40		.05

MAY 10 1974 39193 MIX

STATE: Massachusetts
DECISION No.: AQ-3178
Supersedes Decision No. AQ-3045 dated November 23, 1973 in 38 FR 32383 and Decision No. AQ-3072 dated January 4, 1974 in 39 FR 1195.
DESCRIPTION OF WORK: Building Construction, (Including Residential), heavy and highway construction, marine construction and dredging.

COUNTY: Suffolk
DATE: Date of Publication

13-MASS-1-2-3-H (1 of 2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$9.26	.60	.65		.01
Boilermakers	8.705	.50	10%		.01
Bricklayers; Stonemasons	8.65	.60	.70		.04
Carpenters; Soft floor layers	8.85	.50	.50		.03
Cement masons	9.15	.50	.30		.05
Electricians	9.45	.50	7%+.95		.05
Residential	5.25	.35	7%+.95		.05
Elevator constructors	9.125	.345	.23	2%+a+b	.015
Elevator constructors' helpers	70%JR	.345	.23	2%+a+b	.015
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	8.55	.25	.36		.02
Ironworkers: Ornamental; Reinforcing; Structural	8.39	.50	1.40		.06
Laborers (Building): Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ridge-on motorized buggy	6.80	.40	.40		.05
Air track; Block pavers; Rammers; Curb setters	7.05	.40	.40		.05
Blasters; Powdermen	7.30	.40	.40		.05
Open air caisson; Cylindrical work & boring crew:	7.55	.40	.40		.05
Laborer; Top man	6.80	.40	.40		.05
Helper	6.92	.40	.40		.05
Bottom men	7.55	.40	.40		.05
Driller	7.67	.40	.40		.05
Lathers	7.15	.45	.55		.01
Leadburners	8.75	.30		o	.01
Line Construction:					
Linemen	9.50	.30	7%	d	
Equipment operators	8.91	.30	7%	d	
Groundman-truck driver	7.04	.30	7%	d	
Marble Setters; Terrazzo workers	8.75	.60	.50		
Marble setters' helpers	6.50	.20	.10		
Millwrights	9.13	.50	.50		.03
Painters:					
Brush; New Construction	8.21	.62	.60		.04
Structural steel	8.21+e	.62	.60		.04
Spray	9.21	.62	.60		.04
Repaint alterations:					
Brush	7.56	.62	.60		.04
Structural steel	7.56+e	.62	.60		.04
Spray	8.56	.62	.60		.04

13-MASS-1-2-3-H (2 of 2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Painter; (Cont'd)					
Residential:					
Remaining portion of D. C. same as above rate for repaint alterations.					
Fall River Area:					
Brush	7.23	.62	.20		.04
Steel	9.235	.62	.20		.04
Piledrivermen	8.95	.50	.50		
Plasterers	8.10	.45	1.15		.02
Plasterers' tenders	7.05	.40	.40		.05
Plumbers	9.85	.50	.60		.03
Roofers; Waterproofers	8.85	.55	.45		.03
Sheet Metal workers	9.23	.61	.55		.04
Sprinkerl fitters	9.98	.40	.60		.02
Steamfitters	9.76	.51	.65		.05
Terrazzo workers' helpers	7.40	.20	.10		
Tile setters	8.75	.60	.50		
Tile settere helpers	6.50	.20	.10		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 1% of basic hourly rate rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.
b. 6 paid holidays; A through F.
c. 9 paid holidays; A through F, Washington's Birthday, Good Friday, & Christmas Eve provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
d. 7 paid holidays: A through F, and Bunker Hill Day, provided the employee has been employed 10 working days prior to any one of the listed holidays.
e. Employer pays $5.00 per day extra above the brush rate.

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-4-3 D

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and firemen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialised earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calender week in which the holiday falls.

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION: LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I Carpenter tender, cement finisher terneder, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II Asphalt rakers, fence and guerd rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.	7.05	.40	.40		.05
CLASS III Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV Blasters, powderman	7.55	.40	.40		.05

RH-DREDGE-1-ATL-C

DREDGING	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Dredge operator	$5.935	.225	.25	c+d		
Mates	4.05	.742	.197	c+d		
Scowmen	3.31	.742	.161	c+d		
Deckhand	3.36	.742	.163	c+d		
Tug engineer	4.10	.742	.197	c+d		
Hydraulic Dredges						
Leverman	5.47	.25	.15	a+5%		
Engineer and derrick operators	5.40	.25	.15	a+5%		
Maintenance engineer	5.29	.25	.15	a+5%		
Dredge carpenter, electricians, blacksmith, welders & boilerman	5.17	.25	.15	a+5%		
Mates	4.80	.25	.15	a+5%		
Oiler, Fireman, carpenter's helper, welder's helper & blacksmith helper	4.24	.25	.15	a+5%		
Deckhands and shoreman	4.00	.25	.15	a+5%		
Tug engineer	4.86	.25	.15	a+5%		
Tug deckhand	4.06	.25	.15	a+5%		
Drill Boats						
Engineer	6.3475	.25	.15	b		
Blaster	6.4375	.25	.15	b		
Driller; Welder Machinist	6.3487	.25	.15	b		
Firemen	6.0975	.25	.15	b		
Oiler; Drill helper	5.97	.25	.15	b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Washington's Birthday and Veterans Day.
b. Holidays: A through F; Washington's Birthday and Veterans Day (65) days of vacation with pay for 104 days of service one additional day of vacation with pay for each additional 21-2/3 days of service, all in one calendar year. Employees not qualifying for vacation to receive 1 day's vacation with pay for each full 24 days of service in one calendar year.
c. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independance Day; Labor Day; Veterans Day; Thanksgiving Day; Christmas Day.
d. One week's vacation after one year of employment.

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MAY 10 1974 39 FR

AQ-3178 P. 5
MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, dragglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoi: , cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour Boom over 185' including jib - additional $.70 per hour Boom over 210' including jib - additional $1.00 per hour Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

AQ-3178 P. 6
MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

AQ-3178 P. 7
37-MASS-4-p (1-2)

MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derrick boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers	$9.11	.55	.60	a	.02	
Booms over 150' including jib - additional $.35 per hour Booms over 185' including jib - additional $.70 per hour Booms over 210' including jib - additional $1.00 per hour Booms over 250' including jib - additional $1.50 per hour Booms over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Swinger engines	9.16	.55	.60	a	.02	
Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance	8.99	.55	.60	a	.02	

AQ-3178 P. 8
37-MASS-4-p (2-2)

MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors	$7.625	.55	.60	a	.02	
Assistant engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	
Oilers on scows	7.525	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day; & Veterans' Day.

SUPERSEDEAS DECISION

STATE: Massachusetts
DECISION NO.: AQ-3179
COUNTY: Worcester
DATE: Date of Publication
Supersedeas Decision No. AQ-3160 dated April 5, 1974 in 39 FR 12645
DESCRIPTION OF WORK: Building Construction (including residential), Heavy and Highway Construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION 14-MASS-1-2-3-b (1-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	$8.62	.47	.20		.01	
BOILERMAKERS	8.705	.50	10%		.01	
BRICKLAYERS; Cement masons; Plasterers; & Stonemasons:						
Warren	9.10	.45	.40		.02	
Hopedale, Milford, & Southboro	8.70	.60	.65		.04	
Ashburnham, Athol, E. Templeton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster, & Winchendon	8.75	.60	.60		.04	
Remainder of County	8.50	.55	.55		.02	
CARPENTERS; Soft floor layers:						
Ashburnham, Athol, E. Gardner, E. Templeton, Fitchburg, Gardner, Harvard, Leominster, Lunenburg, N. Leominster, Petersham, Phillipston, Royalston, S. Ashburnham, S. Royalston, Templeton, Westminster, & Winchendon	8.85	.50	.50		.03	
Berlin, Bolton, Clinton, Northboro, Southboro, & Westboro	8.50	.50	.30		.07	
Blackstone, Millville	7.79	.50	.35			
Hopedale, Mendon, Milford, Upton, & W. Upton	8.48	.30	.30		.025	
Hardwick, Warren, & W. Brookfield	8.63	.35	.50		.02	
Remainder of County	8.95	.40	.50		.03	
ELECTRICIANS:						
Warren	8.47	.30	1%+.15	.43	a	
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Phillipston, Princeton, Royalston, Templeton, Westminster, & Winchendon	8.80	.45	1%+.35		.02	
Remainder of County	9.33	5%	1%+.24		.01	
ELEVATOR CONSTRUCTORS	8.13	.345	.23	2%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+b+c	.015	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	8.55	.25	.36		.02	
IRONWORKERS:						
Blackstone	7.95	.50	1.40		.03	
Remaindor of County	8.39	.50	1.40		.06	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (BUILDING):						
Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers	6.80	.40	.40		.05	
Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipeleyer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy	7.05	.40	.40		.05	
Air track; Block pavers; Rammers; Curb setters	7.30	.40	.40		.05	
Blasters; Powderman	7.55	.40	.40		.05	
Open air caisson; Cylindrical work & boring crew:						
Laborer; Top man	6.55	.40	.40		.05	
Helper	6.67	.40	.40		.05	
Bottom men	7.30	.40	.40		.05	
Driller	7.42	.40	.40		.05	
LATHERS:						
Sturbridge, & Warren	7.60	.45	.25			
Clinton, Harvard, Lancaster, Leominster, Southboro, & Uxbridge	8.12	1.25	.25		.01	
LEADBURNERS	8.75	.30		d	.01	
LINE CONSTRUCTION:						
Lineman	8.08	.25	1%	e		
Equipment operator	7.17	.25	1%	e		
Driver groundman	5.41	.25	1%	e		
Groundman	5.16	.25	1%	e		
MARBLE SETTERS:						
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, Westminster	8.25	.60	.50			
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro, & Worcester	8.50	.50	.45		.02	
Warren	9.10	.45	.40		.02	
MARBLE SETTERS' HELPERS	6.50	.20	.10			
MILLWRIGHTS	9.13	.50	.50		.03	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Warren:						
Brush	$5.525	.30	.25			
Spray	7.366	.40	.3334			
Swing stage under 40 & steel	5.712	.30	.25			
Swing stage over 40 & steel	6.025	.30	.25			
Hopedale, Mendon, Milford, Southboro, Upton, & Westboro:						
Brush (New construction)	7.85	.35	.35		.06	
Brush (Repaint)	7.30	.35	.35		.06	
Steel (New construction)	8.10	.35	.35		.06	
Steel (Repaint)	7.55	.35	.35		.06	
Spray (New construction)	8.80	.35	.35		.06	
Spray (Repaint)	8.25	.35	.35		.06	
Remainder of County:						
Brush	8.33	.50	.25		.02	
Steel	8.955	.50	.25		.02	
Sandblasting; Spray	9.33	.50	.25		.02	
PILEDRIVERMEN	8.95	.50	.50			
PIPEFITTERS:						
Hopedale, & Southboro	9.175	.53	.55		.025	
Remainder of County	9.725	.35	.25		.05	
PLASTERERS' TENDERS:						
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, E. Brookfield, Grafton, Hardwick, Holden, Hopedale, Leicester, Mendon, Milford, Millbury, New Braintree, Northboro, Northbridge, N. Brookfield, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southboro, Southbridge, Spencer, Sterling, Sturbridge, Sutton, Upton, Uxbridge, Warren, Webster, Westboro, W. Boylston, W. Brookfield, Whitinsville, & Worcester	7.05	.40	.40		.05	
PLUMBERS:						
Hopedale, & Southboro	9.175	.53	.55		.025	
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Royalston, Templeton, Westminster, & Winchendon	8.75	.30	.40	4%	.02	
Remainder of County	9.225	.65	.45			
ROOFERS	9.23	.27				
SHEET METAL WORKERS	9.50	.55	.25		.05	
SPRINKLER FITTERS	9.08	.40	.60		.07	
STEAMFITTERS:						
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Royalston, Templeton, Westminster & Winchendon	8.75	.30	.40	4%	.02	
Remainder of County	9.225	.65	.45			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TERRAZZO WORKERS:						
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, & Westminster	$8.25	.60	.50			
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro, & Worcester	8.50	.50	.45		.02	
Warren	9.10	.45	.40		.02	
TERRAZZO WORKERS' HELPERS	7.40	.20	.10			
TILE SETTERS:						
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, & Westminster	8.25	.60	.50			
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro, & Worcester	8.50	.50	.45		.02	
Warren	9.10	.45	.40		.02	
TILE SETTERS' HELPERS	6.50	.20	.10			

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day.

FOOTNOTES:
a. $.30 per man per week
b. Employer contributes 4% of basic hourly rate for 3 years or more of service or 2% of basic hourly rate for 6 months to 3 years of service as vacation pay credit.
c. 6 paid holidays: A through F.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

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MASS-2-PEO-1-T 1 of 2

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Cradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loaders-5½ yards or over, Dual Drum Paver, Automatic Grader (i. e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over.	$8.30	.45	.60	a	.05	
Rotary Drill (with mounted compressor), Compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console.	8.10	.45	.60	a	.05	
Combination Backhoe-Loader-up to 3/4 yard hoe, Bulldozers, Push Cats, Scrapers-up to 21 yards (struck Load)-self propelled or tractor drawn, Fireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumocrete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton.	7.90	.45	.60	a	.05	
Asphalt Roller-under 10 ton.	7.60	.45	.60	a	.05	

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MASS-2-PEO-1-T 2 of 2

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS (cont'd.)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts-up to 15 feet.	$6.93	.45	.60	a	.05	
Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.	6.74	.45	.60	a	.05	
Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Hesters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck and Grease Trucks with hand greasing equipment.	6.12	.45	.60	a	.05	

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

Footnotes:
a. Holidays: A through F, Veterans' Day and Columbus Day.

AQ-3179 P. 7

MASS-1-PEO-1-2-3-c (1-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, ake loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks	$9.11	.55	.60	a	.02	
Boom over 150' including jib - additional $.35 per hour Boom over 185' including jib - additional $.70 per hour Boom over 210' including jib - additional $1.00 per hour Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour						
Master mechanic	9.86	.55	.60	a	.02	
Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines	8.99	.55	.60	a	.02	

AQ-3179 P. 8

MASS-1-PEO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Pumps (1-3 grouped), compressors, Welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump	$7.625	.55	.60	a	.02	
Assistent engineers (firemen)	8.31	.55	.60	a	.02	
Oilers and apprentices (other than truck cranes and gradalls)	6.75	.55	.60	a	.02	
Oilers and apprentices on truck cranes and gradalls	7.13	.55	.60	a	.02	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

MASS 1-LAB-2-3 K

HEAVY & HIGHWAY CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I Carpenter tender, cement finisher tender, laborer, wrecking laborer	$6.80	.40	.40		.05
CLASS II Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic tool op., wagon-drill op.	7.05	.40	.40		.05
CLASS III Air track Op., block pavers, rammers, curb setters	7.30	.40	.40		.05
CLASS IV Blasters, powdermen	7.55	.40	.40		.05

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TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 D

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Station wagons, panel trucks and pick-up trucks	$6.80	.485	.575	a+b		
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	6.95	.485	.575	a+b		
Three axle equipment and tiremen	7.00	.485	.575	a+b		
Four and five axle equipment	7.10	.485	.575	a+b		
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.20	.485	.575	a+b		
Specialized earth moving equipment over 35 tons	7.45	.485	.575	a+b		
Trailers for earth moving equipment, (double hookup)	7.70	.485	.575	a+b		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: NEW JERSEY COUNTY: UNION

DECISION NO.: AQ-2,119 DATE: Date of Publication
Supersedes Decision No. AP-846 dated June 8, 1973 in 38 FR 15333
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

20-NJ-1-2-3-X 1 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$ 9.202	.5803	.4974	11%	.02	
Boilermakers	8.35	8%	9% + 3%	10%	.01	
Boilermakers' helpers	7.82	8%	9% +3%	10%	.01	
Bricklayers, cement masons, plasterers & stone masons:						
Hill side Twp.	8.95	.50	.45	.50	.02	
Elizabeth, Linden, Roselle, Roselle Park & Winfield	9.45	.45	.40		.02	
Summit, Springfield, Union, New Providence, Murray Hill & Berkeley Heights	9.30	.50	.50		.02	
Remainder of County	9.45	.45	.40		.02	
Carpenters and Insulators	9.29	6%	6%		.02	
Dock builders & piledriversmen	9.36	.90	1.53	.56	.02	
Electricians:						
Plainfield	10.11	.40	.30+1%		3/4%	
Mountainside, Summit, New Providence	10.03	.40	.38+2%		%	
Remainder of County	9.49	.42	.31+1%	.95	.02	
Elevator constructors	9.10	.395	.26 + a	b+c	.015	
Elevator constructors' helpers	6.83	.395	.26+a	b+c	.015	
Elevator constructors' helpers (prob.)	4.55					
Elevator constructors modernization	8.33	.395	.26+a	b+c	.015	
Elevator constructors modernization helpers	6.25	.395	.26+a	b+c	.015	
Elevator constructors repair	7.48	.395	.26+a	b+c	.015	
Elevator constructors repair helpers	5.61	.395	.26+a	b+c	.015	
Glaziers	8.70	.70	.65	d	.02	
Ironworkers:						
Structural, ornamental, reinforcing	9.15	.64	2.11	.90	.09	
Laborers, Building:						
Springfield and Union Twps.	6.65	.50	.55			
Remainder of County:						
Laborers, air tool op., masons tenders mortar mixers, plasters' tenders	6.65	.55	.50			
Lathers:						
Scotch Plains, Westfield, New Providence N. Plainfield, Garwood Mountainside, Murray Hill, Berkeley Heights & Fanwood	6.65	.25	.25		.01	
Remainder of County	6.65	.25	.25		.01	
Lead burners	8.75	.30		e	.01	
Marble setters	7.80	.63+.15	.66+.28			
Marble setters' helpers	7.33	.59+.15	.66+.25			
Millwrights	9.54	6%	6%			

20-NJ-1-2-3-X 2 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Painters:						
Commercial	$ 7.80	.45	.50	.10		
Exterior work exceeding 3 stories in height, open structural steel under 3 stories	7.95	.45	.50	.10		
Bridges, television & radio towers, structural steel & tank over 30'	8.40	.45	.50	.10		
Spray	8.27	.45	.50	.10		
Plumbers:						
Fanwood, Netherwood, Plainfield and Plainfield Twp.	9.46	.40	.90	.85	.11	
Ashbrook, Berkeley Heights, Great Island Murray Hill, Springfield, Springfield Twp., Unionbury, Unionville, Vauxhall, Warners, Summit, Summit Twp., New Providence Twp., Chatham	9.57	.40	.90		.10	
Remainder of County	8.85	.62	.70	1.06	1%	
Roofers:						
Scotch Plains, Plainfield, Clark & Rahway:						
Composition, damp & waterproofing	9.45	.50	.325			
Slate and tile	8.625	.50	.325			
Slate and tile helper	7.55	.50	.325			
Remainder of County:						
Composition, damp & waterproof	6.82	.25	.20			
Slate, tile and asbestos	8.05	.30	.20			
Slate, tile and asbestos helpers	7.05	.30	.20			
Sheet metal workers	9.30	5%	4%		.05	
Soft floor layers	8.53	6%	5%	4%		
Sprinkler fitters	10.12	.40	.60		.07	
Steam fitters:						
Ashbrook, Berkeley Heights, Great Island Murray Hill, Springfield, Springfield Twp., Unionbury, Unionville, Chatham, Vauxhall, Warners, Summit, Summit Twp., New Providence & New Providence Twp.	9.57	.40	.90	.75	.10	
Remainder of County	8.85	5%	6%	10%		
Terrazzo workers	8.70	.78+.45	1.26			
Terrazzo workers' helpers	7.43	.475+.45	.475			
Terrazzo machine operator	7.68	.475+.45	.475			
Tile setters	8.10	.60	1.50			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

MAY 10 1974 39 FR 17060 MICROFILM

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes $8.00 per day to Annuity Fund.

b. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, and Armistice Day.

c. Employer contributes 6.4% basic hourly rate for 5 years or more of service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. One week's vacation after one year's work; two weeks' vacation after 4 years' work; 3 weeks vacation after 15 years' work.

e. Holidays: A through F, Washington's Birthday, and Good Friday providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

f. Employer contributes 100 dollars per year to an Apprentice Training Fund.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Laborers:						
Blasters	$7.60	.41	.64	a		
Finisher, rammer, paver, gunite nozzle man and stone cutter	7.45	.41	.64	a		
Timberman	7.20	.41	.64	a		
Form setter	7.15	.41	.64	a		
Sewer pipe, laser men, conduit and duct line layers	6.95	.41	.64	a		
Wagon drill op. and drill master	7.05	.41	.64	a		
Wagon drill op. helper, drill master helper, powder carrier and magazine tender	6.70	.41	.64	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter op. and such other power tools used to perform work usually done manually by laborers	7.05	.41	.64	a		
Signal man	6.75	.41	.64	a		
Wrapping and coating of all pipe	6.55	.41	.64	a		
Common laborers, landscape laborers; railroad track laborers, flagmen, traffic directors, salamander tenders, pitman and dumpmen	6.50	.41	.64	a		
Rakers and tampers on cold patch work	6.50	.41	.64	a		
FREE AIR TUNNEL WORK	Daily Rates					
Blasters	$63.77	.41	.59	a		
Skilled men (including miners, drill runners, iron men, maintenance men, conveyor men, safety miners, riggers, block layers, powder carriers, all other skilled men)	60.57	.41	.59	a		
Semi-skilled men (including miners' helpers, chuck tenders, track men, nippers, brake men, derail men, cable men, hose men, grout men, gravel men, form men, bell or signal men (top or bottom), form workers and movers, concrete workers, shaft men, tunnel laborers, caulkers' helpers, all other semi-skilled men)	59.28	.41	.59	a		
All others (including powder watchmen, change house attendants, top laborers)	55.22	.41	.59	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Armistice Day; Presidential Election Day; (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).

LABORERS, ASPHALT	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Streets:						
Head rakers	$6.50	.51	.54	a		
Rakers	6.25	.51	.54	a		
Tampers and smoothers, kettleman, painters, top shovelers and roller boys	6.10	.51	.54	a		
Plant:						
Scale mixer and burner men	6.35	.51	.54	a		
Feeders and dust men	6.10	.51	.54	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, Washington's Birthday; Armistice Day; Presidential Election Day; providing an employee works or is available for work 3 days in the work week in which the holiday falls.

BUILDING & HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Autograde - combn. subgrader, base MTL spreader & base trimmer (CMI & similar types), autograds placer-trimmer-spreader-combn. (CMI & similar types), autograde slipform paver (CMI & similar types), backhoes (all types, including all combination hoe loaders), central power plants (all types), concrete paving machines, cranes (all types including overhead & straddle travelling type), cranes (gantry), derricks (land or floating), drillmaster, quarrymaster (down the hole drill), draglines, elevator graders, engines (large diesel 1620 HP and staging pump), front end loaders (5 yds. and over), gradalls, grader, rago, helicopters (co-pilot), jack (screw air hydraulic power operated unit or console type (not hand jack or pile load test type), locomotive (large), mucking machines, pavers (21-E and over), paver (rasinous, broyhill), pavement & concrete breaker (super-hamaer), pavement breaker truck counted, piledriver, scooper (loader and shovel) koehring, shovels, tree chopper, trench machines

GROUP II: "A" frame, boring & drilling machines, brush chopper, chipper & shredder, cableways carryalls, cherry pickers (6 tons & under), concrete pump, concrete pumping system, pumperete, squeezecrete & similar types, conveyors (125' & over), econo-mobiles (hilo, lull, hyster similar type equipment), fork lifts, front end loaders (2 yde, but less than 5 yds.), grove cutting machine, heater planer, pans (letourneau, dw's ukes), pumpcrete (unit type), pumpcrete machines (squeezecrete & concrete pumping regardless of size), rollers (backtop), scrapers (letourneau, dw's ukes), side booms, squeezecrete, straddle carrier (rose & similar types), winch trucks (hoisting)

GROUP III: Aerial platform (used as hoist), hoist (all type hoists, gas, diesel, electric, air hydraulic, single and double drue, concrete, brick shaft caisson, conveyor, snorkel, roof, tugger, and house cars or any other similar type hoisting machines, portable or stationary, except Chicago boom type), elevators or house cars, roof hoist

GROUP IV: Asphalt curbing machine, asphalt plant engineer, asphalt spreaders, auto-grade tube finisher & texturing machine (CMI & similar), autograde curecrete machine (CMI & similar), autograde crub trimmer & sidewalk, shoulder slipform (CMI & aimilar types), bar bending machines (power), batchers, batching plant & crusher on site, belt conveyor systems, boilers and steam jennies (irrespective of their use), boom type skimmer machines, bridge dack finisher, car dumpers (railroad), compressor and blower type units (used indspendently or mounted on dual purpose trucks, on job site or in conjunction with hob site, in loading and unloading of concrete, cement, fly ash, instancrete, or similar type materials), concrete breaking machines, concrete finishing machines, concrete saws & cutters (ride on type), concrete spreaders hetzel, rexomatic and similar types, conveyors (under 125'), crushing machines, ditching machines (small, ditchwitch or similar), drill doctor (duties include dust collector, maintenance), dope pots (mechanical with or without pump), dumpsters, fine grade machine (large type), front end loaders (under 2 yds.), generators giraffe grinders, grader (finish only), graders and motor patrols, gunite machines (excluding nozzle), hammer vibrator (in conjunction with generator), hoppers, hopper doors (power operated), ladders (motorized), laddervator, lights (portable generating light plants), locomotive (dinky type), maintenance and repair of asphalt curbing machines, concrete finishing machines, concrete vibrators, gas buggies, leveling machines, portable generators, power saws, compressor equipment or compressor units used in connection with cement,

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BUILDING & HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS CONT'D.:

paint, insulating and acoustical sprays, plaster, curing and sandblasting (all and similar types), mechanic, mixers (excepting paving mixers), motor patrols and graders, pavers (under 21-E), pavement breakers (small, self propelled ride on type, also maintains compressor or hydraulic unit), pipe bending machine (power), pitch pump, plaster pump (regardless of size), post hole digger, rod bending machines (power), scales (power), seaman pulverizing mixer, silas, steam jennies and boilers (irrespective of theiruse), steel cutting machine (service & maintains), vibrating plants (used in conjunction with unloading, welder and repair mechanic.

GROUP V: Welding machines (gas or electric converters of any type 2 or 3 in battery), compressors (2 or 3 within a total distance of 100' constitutes a battery), welding system, mutiple (rectifiertransformer type)

GROUP VI: Bulldozer, fireman, sprinkler and water pump trucks (used on job site or in conjunction with job site), stone, spreaders, sweepers & brooms, tractors (D-8 and over), water & sprinkler trucks (used on job site or in conjunction with job site)

GROUP VII: Compressor (single), heaters (nelson or other type including propane, natural gas or flow type units), pumps (4 inch suction & over including subsersible pumps), temporary heating plant (nelson or other type including propane, natural gas or flow type units), welding machines (gas or electric converters of any type single), wellpoint system (including installation and maintenance)

GROUP VIII: Concrete spreaders (small type), fertilizing equipment and maintenance of), grease, gas, fuel and oil supply trucks, mulching equipment (operation and maintenance of), seeding equipment (operation and maintenance of), tamping machines (vibrating self propelled)

GROUP IX: Assistant engineer/oiler, mechanics helper, tire repair & maintenance

GROUP X: Water Operations: On all power boats used in conjunction with pipeline, river crossings and all types of construction: captain (power boats), tug master (power boats)

GROUP XI: Water Operations: Deckhand

GROUP XII: Pump (staging)

GROUP XIII: Rollers (grade fill or stone bare)

GROUP XIV: Helicopters (pilot/engineer)

BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
GROUP I	$10.73	7%	10%+5%	a	3%	
GROUP II	9.85	7%	10%+5%	a	3%	
GROUP III	9.65	7%	10%+5%	a	3%	
GROUP IV	8.96	7%	10%+5%	a	3%	
GROUP V	8.81	7%	10%+5%	a	3%	
GROUP VI	8.76	7%	10%+5%	a	3%	
GROUP VII	8.05	7%	10%+5%	a	3%	
GROUP VIII	8.41	7%	10%+5%	a	3%	
GROUP IX	7.60	7%	10%+5%	a	3%	
GROUP X	8.91	7%	10%+5%	a	3%	
GROUP XI	7.50	7%	10%+5%	a	3%	
GROUP XII	9.95	7%	10%+5%	a	3%	
GROUP XIII	8.41	7%	10%+5%	a	3%	
GROUP XIV	12.33	7%	10%+5%	a	3%	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE

a. Holidays, A through F plus Washington's Birthday and Presidential Election Day provided the employee works any of the three days in the five work days preceeding the holiday and the first work day after the recognized holiday.

NOTICES

POWER EQUIPMENT OPERATORS - HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION:

GROUP I: Autograde-combn., subgrader, base MTL. spreader & case trimmer (CMI & similar types), autograde placer-trimmer-spreader-combn. (CMI & similar types), autograde slipform paver (CMI & similar types), backhoes (all types, including all combination hoe loaders), central power plants (all types), concrete paving machines, cranes (all types including overhead & straddle travelling type), cranes (gantry), drillmaster, quarrymaster (down the hole drill), draglines, elevator graders, engines (large diesel 1620 HP and staging pump), front end loader (5 yds. and over), gradalls, grader, rago, helicopters (co-pilot), jacks (screw air hydraulic power operated unit or console type (not hand jack or pile load test type), locomotive (large), mucking machine, pavers (21-E and over), paver (resinous, broyhill), pavement & concrete breaker (superhammer), pavement breaker truck mounted, piledriver, scooper (loader and shovel), koehring, shovels, tree chopper, trench machines

GROUP II: "A" frame, boring & drilling machines, brush chopper, chipper & shredder, cableways, carryalls, cherry pickers (6 tons and under), concrete pump, concrete pumping system, pumpcrete, squeezecrete and similar types, conveyors (125' and over), economobiles (hilo, lull, hyster and similar type equipment), fork lifts, front end loaders 2 yds. but less than 5 yds., groove cutting machine, heater planer, pans (letourneau, dw's ukes), pumpcrete (unit type), pumpcrete machines (squeezecrete & concrete pumping machines regardless of size), rollers (blacktop), scrapers (letourneau, dw's, ukes), side booms, squeezecrete, straddle carrier (ross & similar types), winch trucks (hoisting)

GROUP III: Asphalt curbing machine, asphalt plant engineer, asphalt spreaders, autograde tube finisher & texturing machine (CMI and similar), autograde curecrete machine (CMI and similar types), autograde curb trimmer & sidewalk, shoulder slip form (CMI and similar types), bar bending machines (power), batchers, batching plant and crusher on site, belt conveyor systems, bridge deck finisher, car dumpers (railroad), compressor and blower type units (used independently or mounted on dual purpose trucks, on the job site or in conjunction with job site in loading and unloading of concrete, cement, fly ash, instancrete or similar type materials, concrete breaking machines, concrete finishing machines, concrete saws & cutters (ride on type), concrete spreaders, hetzel, rexomatic & similar types, conveyors (under 125'), crushing machines, ditching machines (small ditchwitch or similar), drill doctor (duties include dust collector, maintenance), dope pots (mechanical with or without pump), dumpster, fine grade machine (large type), concrete vibrators, skimmer machines (boom type), generators, giraffe grinders, grader (finish only), graders & motor patrols, gunite machine (excluding nozzle), hamser vibratory (in conjunction with generator), hoppers, hopper doors (power operated), laddervator, lights (portable generating light plants), locomotive (dinky type), maintenance and repair of asphalt curbing machines, concrete finishing machines, concrete vibrators, gas buggies, leveling machines, portable generators, power saws, compressor equipment or compressor units used in connection with cement, paint, insulating and acoustical sprays, plaster, curing and sandblasting (all and similar types), mechanic, mixers (excepting paving mixers), motor patrols and graders, pavers (under 21-E), pavement breaker (small, selfpropelled ride on type, also maintains compressor or hydraulic unit), pipe bending machine (power), pitch pump, front end loaders (1 yd. and over, but less than 2 yds.), post hole digger, rod bending machine (power), scales (power), seaman pulverizing mixer, silas, steam jennies and boilers (irrespective of their use), steel cutting machine (services and maintains), vibrating plants (used in conjunction with unloading, welder and and repair mechanic

POWER EQUIPMENT OPERATORS - HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION CONT'D.:

GROUP IV: Bulldozer, fireman, sprinkler and water pump trucks (used on job site or in conjunction with job site), stone spreaders, sweepers and brooms, tractors (D-8 and over), water and sprinkler trucks (used on job site in conjunction with job site

GROUP V: Compressors (single), heaters (nelson or other type including propane, natural gas or flowtype units), pumps (4 inch suction and over including subsersible pumps), temporary heating plant (nelson or other type including propane, natural gas or flow type units), pumps (diesel engine and hydraulic immaterial of power), wellpoint systems (including installation and maintenance), welding machines (gas or electric converters of any type 2 or 3 in battery), pumps (2 or less than 4 inch suction including subsersible pumps

GROUP VI: Front end loaders (under 1 yard)

GROUP VII: Helicopters (pilot/engineer)

GROUP VIII: Pump (staging)

GROUP IX: Rollers (grade fill or stone base), tractors (under D-8)

GROUP X: Tug master (power boats), captain (power boats)

GROUP XI: Compressors (2 or 3 within a total distance of 100' constitutes a battery

GROUP XII: Concrete spreaders (small type), fertilizing equipment, operation & maintenance of grease, gas, fuel and oil supply trucks, mulching equipment, operation and maintenance of seeding machines, tamping machines (vibrating, self propelled), farm tractors, conveyor loaders (not including elevator graders), fine grade machine (small type), concrete mixers (small), road finishing machines (small type), welding machines (gas or electric converters of any type-single), form line graders (small type)

NOTICES

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HIGHWAY, ROAD, STREET & SEWER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Other
GROUP I	$10.73	7%	5% + 10%	a	3%	
GROUP II	9.85	7%	5% + 10%	a	3%	
GROUP III	8.96	7%	5% + 10%	a	3%	
GROUP IV	8.76	7%	5% + 10%	a	3%	
GROUP V	8.05	7%	5% + 10%	a	3%	
GROUP VI	8.61	7%	5% + 10%	a	3%	
GROUP VII	12.33	7%	5% + 10%	a	3%	
GROUP VIII	9.95	7%	5% + 10%	a	3%	
GROUP IX	8.41	7%	5% + 10%	a	3%	
GROUP X	8.91	7%	5% + 10%	a	3%	
GROUP XI	8.66	7%	5% + 10%	a	3%	
GROUP XII	7.90	7%	5% + 10%	a	3%	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid holidays: A through F, Washington's Birthday and Presidential Election Day provided the employee works any three days in the five day work week preceding the holiday and the first work day following the holiday.

STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APR. TR.	OTHER
Power Equipment Operators:						
Cranes and derricks (land or floating), with booms (including jib), less than 140'	$11.53	7%	15%	a	3%	
Cranes and derricks (land or floating), with booms (including jib), 140' and over	12.33	7%	15%	a	3%	
A-frames, cherry pickers, elevators, permanent or temporary or any other hoisting machine regardless of motor power, fork lifts, hoists house cars, side booms	10.88	7%	15%	a	3%	
Air compressors (2 or 3 in battery), welding machines (gasoline or electric) converters of any type, 2 or 3 in battery multiple welders	9.31	7%	15%	a	3%	
Air compressors single, welding machines (gasoline electric converter of any type, single)	8.50	7%	15%	a	3%	
Firemen	8.83	7%	15%	a	3%	
Oilers	8.00	7%	15%	a	3%	
Water Operations:						
On all power boats used in conjunction with pipe line, river crossings and all types of construction work:						
Captain, tugmaster	9.25	7%	15%	a	3%	
Deckhand	7.95	7%	15%	a	3%	

Paid Holidays:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote:
a. Holidays: A through F; Washington's Birthday; Veteran's Day and Presidential Election Day.

South of the inclusive line formed by Scotch Plains, Cranford and Roselle BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Other
TRUCK DRIVERS:						
Winch Trailers Euclid, International Haversters, Wabcos, caterpiller, koehring, tractors and wagons, dumptors, straight, bottom rear and side dump, carryalls and scrapers (not self-loading), over the top, water sprinkler, trailers, water pulls, and similar types of vehicles	$6.28	a		b		
Tractor and trailer type vehicles, flat floats, I-Beam, low beds, water sprinkler, bituminous, transit-mix, road oil fuel, bottom dump hopper, rear dump, office shanty, epoxy, asphalt, agitator mix, mulching, stringer, seeding, fertilizing pole, spread, bituminous distributor, water pulls (entire unit) (tractor trailer), reel trailer, and similar types of vehicles	6.18	a		b		
Straight three-axle materials; Trucks and floats	6.18	a		b		
Straight dumps, flats, floats, pick-ups container haulers, fuel, water sprinkler, road oil, stringer head and hot pass, Bus, dumpcrete, transic-mixers, agitator mix, half-track, winch truck, side-o-matic, dynamite, powder, X-ray, welding, skid, jeep, station wagon, stringer, A-Frame, all dual purpose trucks, mechanical tail gates, batch, seeding, mulching, fertilizer, air compressor trucks (in trasoit), escort scissor, hi-lift, telescope. concrete breaker, gin pole, stone, sand, asphalt-distributor and spreader, nipper, fuel trucks (driver on fuel truck including handling of hose and nessle-entire unit), team drivers, vacuum or vac-all trucks, skid truck (debris container-entire unit), concrete mobile trucks (entire unit), beltcrete trucks, pumpcrete trucks, line trucks, reel, wreckers or tow trucks, utility, tack trucks, broyhill coal tar epoxy, little ford bituminous distributor, slurry seal truck or vehicle, thiokol track master pick-up (swamp cat pick-up), bucket loader dump, rubber tired tractor used in pulling and towing farm wagon and trailers of any discription	6.08	a		b		
	6.03	a		b		

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Other
TRUCK DRIVERS (Cont'd):						
Teamster mechanic	$6.03	a		b		
Mechanic helper	5.80	a		b		

FOOTNOTES:
a. Employer contributes $.89 per hour to a combined Health, Welfare and Pension fund.

b. Employees worked or received pay: 80 days within a year receive one week's vacation, 125 days within a year receive two weeks' vacation, 145 days within a year receive 13 days' vacation, 15 years seniority and 145 days within a year receive four weeks' vacation.

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Northern portion BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Winch Trailers	$6.14	a	.51	b+c		
Euclids, international harvesters, wabcos, caterpiller, koehring, tractors and wagons, dumptors, straight, bottom, rear and side dump, carry-alls and scrapers (not self-loading - loading over the top), water sprinkler trailers, water pulls and similar types of vehicles	6.04	a	.51	b+c		
Tractor and trailer type vehicles, flat floats, I-Beams, low beds, water sprinkler, bituminous, transit mix, road oil, fuel, bottom dump hopper, rear dump, office, shanty, epoxy, asphalt, agitator mixer, mulching stringer, seeding, fertilizing pole, spread bituminous distributor, water pulls (entire unit) (tractor trailer), reel trailer	6.04	a	.51	b+c		
Straight three axle materials: Trucks and floats	5.94	a	.51	b+c		
Straight dumps, flats, floats, pickups, container haulers, fuel, water sprinkler, road oil, stringer, bead, hot pass, bus, dumpcrete transit mixers, agitator mixer, half track, winch truck, side-o-matic, dynamite, powder, x-ray, welding, skid, jeep, station wagon, stringer A-Frame, all dual purpose trucks, trucks with mechanical tail gates, asphalt distributor, batch trucks, seeding, mulching, fertilizer, air compressor trucks (in transit), escort, scissor, hi-lift, telescope, concrete breaker, gin pole, stone, sand, asphalt distributor and spreader, nipper, fuel trucks (drivers on fuel trucks including handling of hose and nozzle - entire unit), team drivers, vacuum or vac-all trucks (entire unit) concrete mobile trucks (entire unit), expediter, beltcrete trucks, line truck, reel truck, wreakers or tow trucks, utility trucks, tack trucks	5.89	a	.51	b+c		

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS: (Cont'd)						
Helper, when required on broyhill coal tar epoxy truck, asphalt, bituminous distributor truck	$5.89	a	.51	b+c		
Drivers on broyhill coal tar epoxy trucks, littleford bituminous distributor, slurry seal truck or vehicle, thiokol trackmaster pickup (swamp cat pickup), bucket loader dump truck or any rubber tired tractor used in pulling and towing farm wagons and trailers of any description	5.89	a	.51	b+c		
Teamster mechanic	5.89	a	.51	b+c		
Mechanic helper	5.66	a	.51	b+c		

FOOTNOTES:

a. Employer contributes $67.00 per month to a Health & Welfare Fund.

b. Employees worked or received: 85 days within a year receive 1 full week's vacation, 130 days - 2 full weeks' vacation, 150 days - 15 days vacation, and 15 years of service or more and has worked 150 days receive 4 weeks' vacation.

c. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Election Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day and any new holiday proclaimed by the State of New Jersey or Federal Government except days of mourning.

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTIES: Oklahoma, Cleveland, Canadian, Lincoln and Pottawatomie

DECISION NO.: AQ-96

DATE: Date of Publication

Supersedes Decision No. AQ-22 dated August 31, 1973 in 38 FR 23735.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$7.75	.30	.50		.02
Boilermakers	7.00	.30	.76		.02
Bricklayers-Stonemasons:					
Oklahoma, Cleveland, & Canadian Cos.	7.67	.40	.35		.05
Lincoln & Pottawatomie Counties	7.40				
Carpenters:					
Northern 1/2 of Lincoln County bound on the South by Interstate 35 on the East of Highway 99:					
Carpenters	5.90				
Power Saw Operator	6.15				
Millwrights	6.35				
Piledrivermen	6.35				
Pottawatomie County and part of Lincoln County South of Turner Turnpike; the city limits of Moore in Cleveland County; all of Oklahoma County and that portion of Canadian County lying east of a line of Highway 81 (called Piedmont Road):					
Carpenters	7.40	.20			.02
Power Saw Operator	7.65	.20			.02
Millwrights	7.65	.20			.02
Piledrivermen	7.65	.20			.02
Cleveland County (except that area covered by the city limits of Moore):					
Carpenters	6.55	.20	.25		.02
Power Saw Operator	6.80	.20	.25		.02
Millwrights	6.80	.20	.25		.02
Piledrivermen	6.80	.20	.25		.02
Canadian County West of Highway 81 (called Piedmont Road):					
Carpenters	5.50	.20			.02
Power Saw Operator	5.625	.20			.02
Millwrights	5.825	.20			.02
Piledrivermen	5.825	.20			.02
Cement Masons (Lincoln, Oklahoma, Cleveland, and Canadian Counties)	7.13	.25			

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Electricians:					
ZONE I - the area within the ten mile radius of the main Post Office located in one of the cities listed as follows: El Reno, Moore, Norman, and Oklahoma City					
ZONE II - the area between the ten mile zone 1 radius to thirty mile radius of the zone 1 Post Office, except where zone 2 intercepts another zone 1 area					
ZONE III - the area outside zones 1 and 2 and within the local union area					
Electricians:					
Zone I	8.20	.30	1%+.20		1%
Zone II	8.45	.30	1%+.20		1%
Zone III	8.70	.30	1%+.20		1%
Cable Splicers:					
Zone I	8.45	.30	1%+.20		1%
Zone II	8.70	.30	1%+.20		1%
Zone III	8.95	.30	1%+.20		1%
Elevator Constructors	6.67	.17	.185	2%+a+b	
Elevator Constructors' Helpers	4.67	.17	.185	2%+a+b	
Elevator Constructors' Helpers (prob)	3.335				
Glaziers	6.46				
Ironworkers	7.74	.30	.35		.05
Laborers (Oklahoma, Canadian, Lincoln and Cleveland Counties):					
Unskilled Laborers	4.50				
Air tool operator (jackhammer, vibrator mason tenders; mortar mixers; pipelayers (concrete and clay); plasterers' tenders	4.65				
Laborers (Pottawatomie County):					
Unskilled laborers	4.05				
Air tool operator (jackhammer, vibrator) mason tenders; mortar mixers; pipelayers (concrete and clay); plasterers' tenders	4.17				
Lathers	8.00				.01
Marble masons	6.55		.20		
Painters:					
Brush	6.05	.35	.25	.15	.02
Spray under 30 feet	6.55	.35	.25	.15	.02
Spray over 30 feet	7.05	.35	.25	.15	.02
Paperhangers	7.05	.35	.25	.15	.02
Sandblaster	6.55	.35	.25	.15	.02
Smoke stacks, towers, swing stage, chair work and window jack	6.55	.35	.25	.15	.02
Plasterers (Pottawatomie County)	7.475				.01

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Plasterers (Canadian, Cleveland, Oklahoma, and Lincoln Counties)	8.00				.01
Plumbers-Steamfitters	7.70	.45	.40		.01
Roofers	6.75		.25		.04
Sheet Metal Workers	7.85	.40	.20		.05
Soft Floor Layers:					
Resilient Floor Layers	6.05	.30			
Carpet Layers	6.05	.30			
Sprinkler Fitters	8.50	.40	.60		.07
Terrazzo Workers	6.55		.20		
Terrazzo Workers' Helpers	4.80				
Terrazzo Floor Machine Man	5.00				
Terrazzo Base Machine Men	5.30				
Tile Setters	6.55		.20		
Tile and Marble Helpers:					
Experienced helpers	4.30				
Truck Drivers:					
Truck drivers for heavy equipment such as lowboys, heavy winch, and floats	5.32				
Heavy earth moving equipment such as Euclids, Mississippi wagons, 10 yards, and tail dumps	5.52				
Truck drivers and swampers, such as dump truck, flats beds, stake bodies, and 3/4 & 1/2 ton pick-up trucks	5.22				

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b. Paid Holidays A through F

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

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77-Oklahoma-1-H (1-2)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
All Crane Type equipment with 100' of boom or over (including jib), all Tower Cranes and all Cranes type equipment of 3 cu. yd. or more	$7.65	.35	.25		.07
Heavy Duty Mechanic; Welder; Crane-Hook & Overhead Monorail; Whirley; Derrick; Piledriver Engineer; Dragline; Shovel; Clamshell; Backhoe; Sideboom; Gradall; Hydro Crane; Hoists while operating 2 or more drums; Cherry picker	7.40	.35	.25		.07
Motor Patrol (Blade); (Engine H.P. 65 or more); Scraper type equipment; Tournapull; DW 10, 15, 16, 20, 21 & similar rubber-tired equipment; Euclid, TS-24 and similar; Loader Operator or Hi-Lift (Engine H.P. 65 or over); Asphalt Lay Machine; Tail Boom; Conveyor-Multiple, Panel Board Control; Power Driver Hole Digger; Trenching Machine; Fordson Tractor or like equipment with hoe or loader equipment or ditcher	7.15	.35	.25		.07
Locomotive Engineer; Boring Machine; Tug Boat; Mixer, 18 cu. ft. and over; sand Barge; Dredging Machine; Tugger; Hoist-when operating one drum; Welding machine, 3 to 6; Air Compressor, 3 to 6, 500 cu. ft. and under; Air Compressor, over 500 cu. ft. (1); pumps, Battery, 3 to 6; Forklift and similar equipment; Generator Plant Engineers, Diesel Elec; Winch Truck with A-Frame; Pumps, Battery, 3 to 6; Batch Plant Operator (Portable); Roller, all types; Elevator, building type or personnel hoist; Concrete Buster or Tamper; Heaters under jurisdiction of Op. Engrs.; Fireman; Boiler Operator; Crushing Plants; Oiler Distributor; Pulvimixer; Farm Tractor - with or without attachments; Conveyor Operator dual, continous or Belt-Bulk Handling; screed Operator; Concrete Pump; Form Grader Screening Plant; Well Point Pump Operator; Signal Man on Large Whirleys when & if required	6.90	.35	.25		.07

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77-Oklahoma-1-H

POWER EQUIPMENT OPERATORS CONT'D	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Operator for rotary drilling machines when operated from console or machine	$6.90	.35	.25		.07
Concrete mixer, with hopper less then 13 cu. ft.; Air Compressor, 500 cu. ft. & under (1 or 2); Welding Machine (1 or 2); Pump (1 or 2); Fuelman; Conveyor Operator - Single - Continous Belt Bulk Handling	6.40	.35	.25		.07
Greaser; Tilt Top Trailer Operator	6.50	.35	.25		.07
Asphalt Lay Machine Back End Man; Helpers	6.20	.35	.25		.07
Track crane oiler or Truck crane driver	6.10	.35	.25		.07

Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications.

Engineers of all classifications when working in caverns or tunnels shall receive 25¢ per hour above all the above listed rates.

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OKLAHOMA LINE CONSTRUCTION

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Linemen	$7.25		1%		1/2%
Cable splicers	7.65		1%		1/2%
Hole digger operator	6.58		1%		1/2%
Heavy equipment operator (or pole cats equivalent)	6.58		1%		1/2%
Line truck driver (winch op.)	5.95		1%		1/2%
Jackhammer man	5.43		1%		1/2%
Powdermen	6.58		1%		1/2%
Truck driver (flat bed, ton and half and under)	5.12		1%		1/2%
Groundmen	4.84		1%		1/2%

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SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Statewide
DECISION NUMBER: AQ-1102 DATE: Date of Publication
Supersedes Decision No. AQ-1079, dated February 8, 1974, in 39 FR 5152
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$7.85	.33	.60		.06
BOILERMAKERS	7.70	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (north of the City of Maupin), Washington, N-½ of Yamhill Counties	8.25	.40	.40		.03
Marion, Polk, S-½ of Yamhill Cos.	8.25	.40	.40		
Baker, Union, Umatilla, Wallowa, N-½ of Malheur Counties	8.20	.40	.30		
Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Wheeler, Wasco (incl. the City of Maupin and South thereof), and S-½ of Malheur Counties	7.55	.45	.45		.03
CARPENTERS:					
Acoustical Applicator; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	7.29	.55	.40	.35	.03
Piledriverman; Bridge, Dock and Wharf Builders	7.39	.55	.40	.35	.03
Floor Layers and Finishers; Stationary Power Saw Operators	7.44	.55	.40	.35	.03
Boom Men	7.49	.55	.40	.35	.03
Millwrights and Machine Erectors	7.54	.55	.40	.35	.03
Drywall Applicatobrs	7.24	.55	.40	.35	.03
CEMENT MASONS:					
Cement Masons	7.14	.35	.35	.20	.03
Mastic Worker; Composition Worker; Gunnite Man; Power Machinery Operator	7.29	.35	.35	.20	.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ELECTRICIANS:					
Malheur County					
Electricians	$7.95	.30	1%		1%
Cable Splicers	8.745	.30	1%		1%
Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, Wheeler Counties					
Electricians	8.05	.35	1%+.40		.02
Cable Splicers	8.855	.35	1%+.40		.02
Coos, Curry, Lincoln, Those portions of Douglas and Lane Counties lying west of a line North and south from the NE corner of Coos County to the SE corner of Lincoln County					
Electricians	8.55	.45	1%		.04
Cable Splicers	9.41	.45	1%		.04
Benton, Crook, Deschutes, Jefferson, Lane (except coast portion), Linn, Marion, Polk, S-½ of Yamhill Counties					
Electricians	8.85	.45	1%		.04
Cable Splicers	9.40	.45	1%		.04
Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington, N-½ of Yamhill Counties					
Electricians	8.40	.45	1%+.40		.02
Cable Splicers	9.15	.45	1%+.40		.02
Harney, Jackson, Josephine, Klamath, Lake, That portion of Douglas lying east of a line running north and south from the NE corner of Coos to the SE corner of Lincoln Counties					
Electricians	8.75	.45	1%		.04
Cable Splicers	9.40	.45	1%		.04
ELEVATOR CONSTRUCTORS	7.12	.345	.23	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	7.20	.26	.30	6.5%	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
IRONWORKERS:					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	$7.70	.48	.80	.25	.05
LATHERS:					
Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, Yamhill Counties	6.60	.15			.01
MARBLE SETTERS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Morrow, Sherman, Tillamook, Wasco (North of the City of Maupin), Washington, N-½ of Yamhill Counties	8.25	.40	.40		.03
Baker, Union, Umatilla, Wallowa, N-½ of Malheur, Counties	8.20	.40	.50		
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, S-½ of Malheur, Wasco (incl. the City of Maupin and south thereof), Wheeler Counties	7.00	.45	.45		.02
MASON TENDERS: (Including tenders to plasterers, bricklayers, tile setters, marble setters and terrazzo work; topping for cement finishers and mortar mixer)	6.55	.45	.50		.07
PAINTERS:					
All Counties except Malheur and Wallowa Counties					
Brush	7.46	.30	.20		.03
Spray	7.71	.30	.20		.03
High Work over 100'	7.96	.30	.20		.03
High Towers, ground to 100'	7.71	.30	.20		.03
High Towers, ground to 300'	7.96	.30	.20		.03
High Towers, ground to over 300'	8.46	.30	.20		.03
Drywall Tapers	7.14	.40	.15	.50	.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS: (cont'd)					
Malheur County					
Brush; Paperhangers	$6.56	.25	.10		.02
Steel	6.66	.25	.10		.02
Sign	6.68	.25	.10		.02
Application of toxic materials; Sandblasting; Spray	7.03	.25	.10		.02
Drywall Tapers	6.56	.25	.10		.02
PLASTERERS	7.35	.50	.60		.01
PLUMBERS; Steamfitters:					
Baker; Harney (except NW portion); Malheur Counties	7.39	.37	.40		.03
Grant (except SW corner); Morrow, Umatilla, Wallowa, Union Cos.	7.96	.33	.85	.49	.08
N-½ of Benton, Lincoln, and Linn Counties; S-½ of Tillamook and Yamhill Counties; Marion and Polk Counties	6.95	.51	.63	1.00	.08
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler, Washington, N-½ of Yamhill County, N-½ of Tillamook	7.68	.65	.75		.07
Coos, Curry, West coast portion of Douglas, Lane (City of Florence)	7.14	.41	.52	1.00	.0175
Lane (except for City of Florence); Douglas (except coast portion), Crook, Deschutes, NW portion of Harney, Northern portions of Klamath and Lake Counties, S-½ of Lincoln, Linn, Benton and Jefferson Counties, SW corner of Grant County	7.73	.41	.62		.05
Remeinder of Klamath and Lake Counties	7.26	.45	.60	.90	.075
Jackson and Josephine Counties	7.05	.44	.84	.85	.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington and Wheeler Counties					
Roofers	$7.30	.45	.55		
Handling of irritating material (coal, tar or epoxy) in unconfined area	7.80	.45	.55		
Handling of irritating material (coal, tar or epoxy) in a confined area	8.05	.45	.55		
Wallowa County	7.45				
Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, Lane, and Malheur Counties					
Roofers	7.10	.30	.10		
Spray and/or application of irritating materials in a confined area	7.60	.30	.10		
Marion, Yamhill, Polk, Lincoln, Benton, and Linn Counties	6.33	.22	.15		
SHEET METAL WORKERS:					
Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jafferson, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler and Yamhill Counties	6.94	.33	.24	.28	.02
Malheur County	7.06	.27	.20		.02
Baker, Umatilla, Union, Wallowa Counties	8.05	.32	.78	.50	
Coos, Curry, Douglas, Klamath, Lake and Lane Counties	8.19	.37	.34		.005
Jackson and Josephine Counties	6.73	.22	.30		
SOFT FLOOR LAYERS:					
All Counties except Malheur	7.485	.45	.45	b	.05
SPRINKLER FITTERS	8.85	.40	.60		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TERRAZZO WORKERS:					
Baker, Umatilla, Union, Wallowa, and N-½ of Malheur Counties	$7.53	.40	.50		
TILE SETTERS:					
Clatsop, Clackamas, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Wasco (north of the City of Maupin), Washington, Tillamook, and N-½ of Yamhill County	7.84	.35	.35	.25	
Baker, Umatilla, Union, Wallowa Counties and N-½ of Malheur Cos.	7.53	.40	.50		
Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Wheeler, Wasco, (Incl. the City of Maupin and south thereof) and S-½ of Malheur Counties	7.15	.45	.45		
TILE SETTERS' HELPERS	6.04	.25			
WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service; 2% basic hourly rate for 6 month to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.

b. 4% of all gross wages to be placed to the credit of employees with less than one year of service. 6% of employees with more than one year of service.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Cable Splicers; Leadman Pole Sprayer	$9.68	.35	1%	.10	½%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	8.74	.35	1%	.10	½%
Tree Trimmer	7.88	.35	1%	.10	½%
Line Equipment Man	7.52	.35	1%	.10	½%
Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man	6.56	.35	1%	.10	½%
Groundman; Tree Trimmer Helper	6.18	.35	1%	.10	½%
Hole Digger	5.91	.35	1%	.10	½%
DREDGING:					
Dipper Leverman:					
(a) 5 yards and under	7.89	.45	.60	.25	
(b) Over 5 yards	8.44	.45	.60	.25	
Leverman, Hydraulic	7.50	.45	.60	.25	
Assistant Engineer (Electric Generator Operator for Primary Pump; Power Barge or Dredge)	7.18	.45	.60	.25	
Assistant Engineer (Electric, Diesel, Steam, or Booster Pump); Mates and Boatmen	7.08	.45	.60	.25	
Engineer Welder; Cranemen	7.13	.45	.60	.25	
Fireman; Oiler	6.74	.45	.60	.25	
Assistant Mate (Deckhand)	6.64	.45	.60	.25	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Group 1	$6.10	.45	.50	.25	.07
Group 2	6.25	.45	.50	.25	.07
Group 3	6.40	.45	.50	.25	.07
Group 4	6.55	.45	.50	.25	.07
POWER EQUIPMENT OPERATORS:					
Group 1	6.55	.55	.85	.35	.05
Group 2	6.69	.55	.85	.35	.05
Group 3	6.79	.55	.85	.35	.05
Group 4	6.95	.55	.85	.35	.05
Group 5	6.97	.55	.85	.35	.05
Group 6	7.05	.55	.85	.35	.05
Group 7	7.11	.55	.85	.35	.05
Group 8	7.21	.55	.85	.35	.05
Group 9	7.27	.55	.85	.35	.05
Group 10	7.33	.55	.85	.35	.05
Group 11	7.35	.55	.85	.35	.05
Group 12	7.41	.55	.85	.35	.05
Group 13	7.49	.55	.85	.35	.05
Group 14	7.65	.55	.85	.35	.05
Group 15	7.81	.55	.85	.35	.05
Group 16	7.99	.55	.85	.35	.05
Group 17	8.13	.55	.85	.35	.05
Group 18	8.31	.55	.85	.35	.05
Group 19	8.45	.55	.85	.35	.05
TRUCK DRIVERS:					
Group 1	6.38	.40	.60	.30	.03
Group 2	6.63	.40	.60	.30	.03
Group 3	6.68	.40	.60	.30	.03
Group 4	6.73	.40	.60	.30	.03
Group 5	6.78	.40	.60	.30	.03
Group 6	6.88	.40	.60	.30	.03
Group 7	6.98	.40	.60	.30	.03
Group 8	7.08	.40	.60	.30	.03
Group 9	7.18	.40	.60	.30	.03
Group 10	7.35	.40	.60	.30	.03
Group 11	7.45	.40	.60	.30	.03
Group 12	7.55	.40	.60	.30	.03
Group 13	7.65	.40	.60	.30	.03
Group 14	7.75	.40	.60	.30	.03

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LABORERS

Group 1: Asphalt plant laborers; Asphalt spreaders; Batch weighman; Broomers; Brush burner and cutters; Car and truck loaders; Carpenter tender; Change-House man or dry shack man; Choke setter; Clean up laborers; Concrete laborers; Crusher feeders; Culvert, hand labor; Curing, concrete; Demolition, wrecking, and moving laborers; Driller helpers; Dumpers, Road oiling crew; Dumpmen (for grading crew); Elevator feeders; Fence builder (incl. Guard rail, Median rail, Reference post, Guide post, Right-of-way marker); Fine graders; Form strippers (not swinging stages); General laborers; Landscaping or planting laborers; Leverman on aggregate spreader (Flaherty and similar types); Loading spotters; Material yard man (incl. electrical); Pittsburgh chipper operator or similar types; Powderman helper; Railroad track laborers; Ribbon setters (incl. steel forms); Rip Rap man (hand placed); Road pump tender; Sewer labor; Skipman; Signalman; Slopers; Spraymen; Stake chaser; Stake setter; Grade checker; Stock-piler; Timber faller and bucker (hand labor); Toolroom man (at job site) Tunnel bull gang (above ground); Weigh man-crusher aggregate (when used)

Group 2: Applicator (incl. pot tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Burners; Choker splicer; Clary power spreader and similar types; Clean-up nozzleman; Greencutter (Concrete rock, etc.); Concrete power buggyman; Demolition and wrecking-charred materials; Gunite nozzleman tender; Gunite or sand blasting pot tender; Handlers or mixers of all materials of an irritating nature (incl. cement and lime); Man-hole builder; Powertool operator, incls. but not limited to: Chipping Guns; Jackhammer, Paving breakers, Post hole digger, Air, Gas, or Electric; Tampers; Vibrating screed; Vibrators (less than 4" in diameter); Post hole digger, air, gas, or electric; Ribbon setter, head; Rip rap man (head), Hand placed; Sand blasting (wet); Sewer timbermen; Timber buckers and fallers, Brush cutters (power saw); Tunnel-Muckers, Brakeman, Concrete crew, Bull gang (underground)

Group 3: Asphalt rakers; Bit grinder; Concrete saw operator; Drill doctor; Drill operator, Air tracks, Cat drills, Wagon drills, Rubber-mounted drills, and other similar types; Gunite nozzleman; High scalers, strippers and drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Powdermen; Power saw operators (Bucking and falling machantable logs); Pumpcrete nozzlemen; Sand blasting (Dry); Sewer pipe layers; Track liners, Anchor machines, Ballast regulators, Multiple tampers, Power jacks; Tugger operator; Tunnel--Chuck tenders, Nipper and Timbermen; Vibrators (4" and larger); Water blaster; Laser beam (pipe laying)

Group 4: Tunnel miners; Tunnel powderman; Laser beam (tunnel)

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including plant, crane, crusher, guardrail equipment, and trenching machine; Assistant Conveyor Operator; Crusher feederman; Deck-hand; Self-propelled scaffolding operator; Guardrail punch oiler; Pump operator, under 4"; Brakeman; Switchman; Parts man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler-Driver, 25 ton capacity or over; Crane Fireman, (all equipment except floating); A-Frame truck operator, single drum; Tugger or coffin type hoist operator; Drill helper; Auger oiler; Boatman; Fork Lift or Lumber Stacker operator (on job site); Oiler, combination guardrail machines; Temporary heating plant operator; Grade Oiler, required to check grade; Grade checker; Tar pot fireman; Tar pot fireman (power agitated); H.D. Repairman Helper; Welder's helper; Helicopter radioman (ground); Roller operator, grading of base rock (not asphalt);

Group 3: Asphalt plant fireman; Pugmill operator (any type); Truck mounted asphalt spreader, with screed; Compressor operator (any power), under 1,250 cu. ft. total capacity; Conveyor operator; Mixer box operator (C.T.B., dry batch, etc.); Cement hog; Concrete saw; Concrete curing machine (riding type); Wire mat or brooming machine; Ross carrier operator (on job site); Bucket elevator loader, Barber-Greene and similar types; Hydraulic pipe press; Pump operator (any power), 4" and over; Hydrostatic pump; Motorman; Ballast jack tamper; Bell Boy phones, etc.; Tamping machine, mechanical self-propelled; Hydrographic seeder machine, straw, pulp or seed; Broom operator, self propelled (on job site); Air Filtration equipment; Welding machine operator

Group 4: Screed operator; Compactor, including vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination mixer and compressor, gunnite work; Concrete mixer operator, single drum, under five bag capacity; Helicopter hoist operator; Floating Equipment fireman; Lull Hi-Lift operator or similar type; Fork Lift, over 5 ton; Service oiler (greaser); Hydra hammer or similar types; Pavement breaker; Pump operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion machine; Wagner Factor or similar type (without blade); Concrete batch plant quality control operator; Power Jumbo, setting slip forms, etc., in tunnels; Slip form pumps, power driven hydraulic lifting device for concrete forms; Hoist, single drum; Elevator operator; Pulva-mixer or similar types; Chip spreading machine operator; Lime spreading (on job site); Sweeper (Wayne type) self propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching machine, maximum digging capacity 3 ft. depth;

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt paver (screed man required); Asphalt burner and recon-ditioner; Pavement grinder and/or grooving machine (riding type); Cast-in-place pipe laying machine; Maginnis Internal Full Slab Vibrator; Concrete finishing machine, Clary, Johnson, Bidwell, Burgess bridge deck or similar type; Curb machine, mechanical berm, curb and/or curb and gutter; Concrete joint machine; Concrete planer; Concrete paving machine; Concrete spreader; Loaders, rubber-tired type, 2 1/2 cu. yds. and under; Rock spreaders, self-propelled

Group 7: Roller (any asphalt mix); Asphalt plant operator; Beltcrete; Pumpcrete operator (any type); Cement pump, Fuller-Kanyon and similar; Concrete pump; Grouting machine; Concrete mixer, single drum, five bag capacity and over; Tower mobile operator; A-Frame truck, double drum; Boom truck; Churn drill and earth boring machine; Hydraulic backhoe, wheeltype 3/8 cu. yd. and under with or without front end attachments 2 1/2 cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring operator or grader; Pot rammer; Ballast regulator; Ballast Tamper Multi-purpose; Track liner; Tie spacer; Shuttle car; Locomotive, 40 tons and over;

Group 8: Diesel-Electric Engineer, Plant, Crusher, Generator, Floating; Batch plant and/or wet mix, one and two drum; Generator operator; Belt Loaders, Kolman and Ko Cal types

Group 9: Bulldozer; Drill Cat Operator; Side-Boom Cat; Compactor, with blade; Concrete cooling machine; Chicago boom and similar types; Lift Slab machine; Boom type lifting device, 5 ton capacity or less; Cherry picker or similar type crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher plant; Drill doctor; Boring machine; Guardrail punch and auger (all types); Surface heater and planer; Hydraulic Backhoe, track type 3/8 cu. yd.; Loader, front end and overhead, 2 1/2 cu. yds. and under 4 cu. yds.; Hammer operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-Threading machine; Drill Doctor (bit grinder); H.D. Mechanic and welder; Machine tool operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench machine, maximum digging capacity over 3 ft. depth

Group 10: Bulldozer, twin engine (TC12 and similar); Cable plow (any type); Compactor, multi-engine; Jack operator, elevating barges; Barge operator, self-unloading; Combination H.D. Mechanic-Welder, when dis-patched and/or when required to do both; Rubber-tired dozers and pushers (Michigan, Cat, Hough type); Driller-Percussion, Diamond, Core, Cable, Rotary and similar type

POWER EQUIPMENT OPERATORS (Cont'd)

Group 11: Mixer Mobile; Concrete breaker; Crane operator, 25 tons and under; Combination guardrail machines, i.e., punch, auger, etc.; Shovel, dragline, clamshell, hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking machine (tunnel)

Group 12: Blade operator; Batch plant and/or wet mix, 3 units or more; Reinforced tank banding machine (K-17 or similar); Hoist, two or more drums; Elevating loader, Athey and similar; Piledriver (not crane type); Rubber-tired scraper, single and twin engine, single scraper, with push-pull attachments, Self-loading, paddle wheel, Auger type; Blade mounted spreaders, Ulrich and similar types; Shield operator

Group 13: Blade operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engines; Concrete paving road mixer; Derrick, under 100 tons; Hoist, stiff leg, Guy Derrick or similar, 50 tons and over; Cableway operator 25 ton and over; Crane, over 25 ton and including 40 tons; Piledriver (where deckhand required); Floating clamshell, etc., 1 cu. yd. and under, but less than 3 cu. yds.; Floating crane (derrick barge), less than 30 ton; Elevating grader, operated by tractor operator, Sierra, Euclid, or similar; Rock filling machine; Shovel, etc., 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over

Group 14: Tower crane operator; Rubber-tired scraper, with tandem scrapers, Self-loading, paddle wheel, Auger type, finish and/or 2 or more units

Group 15: Rock hound operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Auto-grader or "trimmer"; Tandem bulldozer, Quad-nine and similar; Automatic concrete slip form paver; Concrete canal lone; Cable-way, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating clamshell etc., 3 cu. yds. and over; Floating crane (derrick barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired scraper, with tandem scrapers, multi-engine; Shovel etc., 3 cu. yds. but less than 5 cu. yds.; Wheel excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley over 80 ton and including 150 ton; Floating crane (derrick barge) 80 ton but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over, Floating crane 150 ton but less than 250 ton; Wheel excavator, over 750 cu. yds. per hour; Band wagons, in conjunction with wheel excavator

Group 19: Helicopter, when used in erecting work; Floating crane 250 ton and over; Remote controlled earth moving equipment; Underwater equipment, remote or otherwise

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TRUCK DRIVERS

Group 1: Battery rebuilders; Bus or manhaul driver; Concrete buggies (power operated); Dump trucks, side, end and bottom dumps, incl. semi trucks and trains or combinations thereof: 6 cu. yds. and under; Lift jitneys, fork lifts (all sizes used in loading, unloading and transporting material on job site); Loader and/or leverman on concrete dry batch plant (manually operated); Pilot car; Solo flat bed and misc. body trucks, 0-10 tons; Truck helper; Truck mechanic helper; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water wagons (rated capacity), up to 1600 gallons

Group 2: "A" Frame or hydra-lift truck w/load bearing surfaces; Lubrication man, fuel truck driver, fireman, wash rack, steam cleaner or combinations; Team drivers

Group 3: Dump trucks, side, end and bottom dumps, including semi-trucks and trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry truck driver or leverman; Transit mix and wet or dry mix trucks: 5 cu. yds. and under; Fireman (full-time basis); Water wagons (rated capacity), 1600 to 3000 gallons

Group 4: Flaherty spreader driver or leverman; Low bed equipment, flat bed semi-trailer, truck and trailer or doubles transporting equipment or wet or dry materials; Lumber carrier driver-Straddle carrier (used in loading, unloading and transporting of materials on job site); Oil distributor driver or leverman; Water wagons (rated capacity), 3000 to 5000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit mix and wet or dry trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof, over 10 cu. yds. and including 20 cu. yds.; Transit mix and wet or dry mix trucks, over 7 cu. yds. and including 9 cu. yds.; Truck mechanic-welder-body repairman; Water wagons (rated capacity) 5000 to 7000 gallons

Group 7: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit mix and wet or dry mix trucks, over 9 cu. yds. and including 11 cu. yds.; Water wagons (rated capacity), over 7000 gallons to 10,000 gallons

Group 8: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit mix and wet or dry mix trucks, over 11 cu. yds. and including 13 cu. yds.; Water wagons (rated capacity), over 10,000 gallons to 15,000 gallons

TRUCK DRIVERS (Cont'd)

Group 9: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 40 cu. yds. and including 50 cu. yds.; Transit mix and wet or dry mix trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Helpers (hendling sacked cement add $.15 per hour)

Winch truck - takes classification of truck on which winch is mounted.

SUPERSEDEAS DECISION

STATE: Oregon

COUNTIES: Clackamas, Linn, Multnomah and Washington

DECISION NUMBER: AQ-1103

DATE: Date of Publication

Supersedes Decision No. AQ-1100 dated April 26, 1974, in 39 FR 14891

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
BRICKLAYERS:					
Linn County	$7.55	.45	.45		.03
Clackamas, Multnomah and Washington Counties	7.90	.35	.35		.02
CARPENTERS:					
Carpenter	7.29	.55	.40	.35	.03
Drywall applicator	7.24	.55	.40	.35	.03
CEMENT MASONS:					
Clackamas, Multnomah and Washington Counties	7.14	.35	.35	.20	.03
ELECTRICIANS:					
Linn County	8.50	.25	1%		.04
Clackamas, Multnomah and Washington Counties	8.40	.45	1%+.40		.02
LABORERS:					
Linn County					
Laborers	5.60	.45	.50	.25	.02
Mortar Mixers	5.75	.45	.50	.25	.02
Clackamas, Multnomah and Washington Counties					
Laborers	6.10	.45	.50	.25	.02
Mortar Mixers	6.25	.45	.50	.25	.02
PAINTERS:					
Brush	7.05	.30	.20		.03
Drywall tapers	7.14	.40	.15	.50	.06
PLUMBERS:					
Linn County	6.95	.51	.63	1.00	.08
Clackamas, Multnomah and Washington Counties	7.68	.65	.75		.07
ROOFERS:					
Linn County	6.00	.22	.15		
Clackamas, Multnomah and Washington Counties	7.30	.45	.55		
SHEET METAL WORKERS	6.94	.33	.24	.28	.02
SOFT FLOOR LAYERS	7.15	.40	.45	a	.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TILE SETTERS:					
Clackamas, Multnomah and Washington Counties	$7.24	.35	.35		
POWER EQUIPMENT OPERATORS:					
Clackamas, Multnomah and Washington Counties					
Asphalt roller	7.11	.55	.85	.35	.05
Blade, finish	7.49	.55	.85	.35	.05
Loader, 4 cu. yds., but less than 6 cu. yds.	7.81	.55	.85	.35	.05
Linn County					
Asphalt roller	6.96	.45	.60	.25	
Blade, finish	7.34	.45	.60	.25	
Loader, 4 cu. yds., but less than 6 cu. yds.	7.66	.45	.60	.25	

FOOTNOTE:

a. 4% of all gross wages to be placed to the credit of employees with less than one (1) year of service. 6% to employees with more than one (1) year of service.

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SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-98
COUNTIES: Kleberg & Nueces
DATE: Date of Publication
Supersedes Decision No. AQ-78, dated February 1, 1974, in 39 FR 4388.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See General Wage Determination AQ-100 for Paving & Utilities Incidental to Building Construction)

DECISION NO. AQ-98

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$6.905	.35	.295		
BOILERMAKERS	7.00	.30	.76		.02
BRICKLAYERS	6.63	.125	.15		.02
CARPENTERS:					
Carpenters	6.00	.27	.22		.02
Millwrights	6.69				1%
CEMENT MASONS	6.15	.15			
ELECTRICIANS:					
Electricians	7.50	.35	1%		1/2%
Cable splicers	7.625	.35	1%		1/2%
GLAZIERS (Excluding Kleberg County)	5.06		.20		
IRONWORKERS:					
Structural; Ornamental	5.54	.40	.40		.04
Reinforcing	5.435	.40	.40		.04
LABORERS:					
General laborer (any work not specifically defined herein)	3.55	.15	.10		
Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form operators, scaffolding water proofers, cement finishers	3.75	.15	.10		
Power tool operators - Includes paving buster, jackhammer, chipping gun, air tamper, barla tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers	3.75	.15	.10		
Gunnite nozzlemen	4.00	.15	.10		
Pipe wrappers & dopers	3.90	.15	.10		
Powderman or blaster	4.00	.15	.10		
LATHERS	5.70	.20	.10	1.00	.01
MARBLE SETTERS	6.03				.02
MARBLE SETTERS' HELPERS	4.02				
PAINTERS:					
Brush	$5.79	.25	.25		2/10%
Spray	6.19	.25	.25		2/10%
Sign	6.04	.25	.25		2/10%
PLASTERERS	6.85				.01
PLUMBERS-STEAMFITTERS	6.50	.15	.25		.035
ROOFERS:					
Roofers	5.125		.10		
Kettlemen	5.00		.10		
Waterproofers	5.125		.10		
Deckmen	5.125		.10		
SHEET METAL WORKERS	6.35	.15	.25		.01
SOFT FLOOR LAYERS	6.00	.27	.22		.02
SPRINKLER FITTERS	8.50	.40	.60		.07
TERRAZZO WORKERS	6.03				.02
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	4.02				
Floor machine operators	4.22				
Base machine operators	4.37				
TILE SETTERS	6.03				.02
TILE SETTERS' HELPERS	4.02				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Group 1	6.20	.15	.45		
Group 2	5.525	.15	.45		
Group 3	4.925	.15	.45		
Group 4	5.075	.15	.45		
LINE CONSTRUCTION:					
Lineman	7.57	.28	1%		1/2%
Cable splicer	7.695	.28	1%		1/2%
Groundman	4.98	.28	1%		1/2%

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP 1 - Asphalt Plant Mixer; Back Filler; Back Hoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwall); Bull Clam; Bull Dozer; Cableway; Clamshell; Crane, power operated, all types; Crusher; Derrick, power operated, all types; Dragline; Elevating Grader; Elevator, outside the building; Euclids and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pumperete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine; Tugboat (on Construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; All other equipment of similar nature coming within Heavy Equipment Class when power operated; Mechanic; Lubrication Engineer (required on grease racks and service trucks)

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flexplane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon drill; Welding Machines (3 to 6) other than electric; All other equipment of similar nature coming within Light Equipment Class when power operated

GROUP 3 - Oiler, 1st year

GROUP 4 - Oiler, 2nd year

MAY 10 1974
39 FR 17080
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SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-105
COUNTIES: Jefferson & Orange
DATE: Date of Publication
Supersedes Decisions No. AQ-40, dated October 26, 1973, in 38 FR 29784 and No. AQ-41, dated October 26, 1973, in 38 FR 29786.
DESCRIPTION OF WORK: Building (including Residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS (JEFFERSON COUNTY)	$7.35	.60	.30		.06
ASBESTOS WORKERS (ORANGE COUNTY)	7.685	.325	.30		.04
BOILERMAKERS	7.00	.30	.76		.02
BRICKLAYERS; STONEMASONS	8.11	.275	.30		.04
CARPENTERS:					
Carpenters:					
Commercial	7.815		.30		.05
Residential	7.125		.30		
Millwrights	8.605				
Piledrivermen	7.96		.30		
CEMENT MASONS	7.49				
ELECTRICIANS	8.07	.28	1%+.285		1/2%
ELEVATOR CONSTRUCTORS	4.53	.175	.20	2%+a+b	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS	7.30	.35	.60		.05
LABORERS:					
Common laborer; asphalt ironer and raker	4.81	.28	.20		.02
Carpenter tender	4.86	.28	.20		.02
Cement masons tender; air tool operator (jackhammer-vibrator)	4.91	.28	.20		.02
Mortar mixers, hod carriers & mason tender; plaster and lather tender; pipelayers, non-metallic pipe, including handling and laying pumperete pipe	5.01	.28	.20		.02
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powderman-blaster; well driller	4.81	.28	.20		.02
Machine man and nozzleman for gunniting 14" and over	5.185	.28	.20		.02
LATHERS	7.645	.30			.01

DECISION NO. AQ-105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Southern half of Jefferson County and all of Orange County:					
Brush, wood and wall paperhangers and glazier:					
Commercial	$7.60				
Residential	7.45				
Brush, steel:					
Commercial	7.65				
Residential	7.50				
Spray:					
Commercial	8.10				
Residential	7.97				
Sandblaster, power cleaning:					
Commercial	7.925				
Residential	7.71				
Brush, hot paint or creosote:					
Commercial	7.925				
Residential	7.71				
Spray, hot paint or creosote:					
Commercial	8.35				
Residential	8.24				
All time spent rigging:					
Commercial	7.925				
Residential	7.71				
Twenty-five cents (25c) per hour premium on all work from stage, chair, window jack or ledge in all classifications					
Northern half of Jefferson County:					
Brush and glazier:					
Commercial	6.925				
Residential	6.675				
Canvas and paperhangers:					
Commercial	7.175				
Residential	6.925				
Brush, steel:					
Commercial	7.10				
Spray:					
Commercial	7.35				
Residential	7.10				
PIPEFITTERS	8.11	.35	.62		.06
PLASTERERS	7.40	.32	.20		.01
PLUMBERS	8.30				.03

DECISION NO. AQ-105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Roofers	$6.69	.20	.10	.15	.03
Kettleman	5.73	.20	.10	.15	.03
Helpers	4.48	.20	.10	.15	.03
SHEET METAL WORKERS	7.79	.25	.15		.06
SPRINKLER FITTERS	8.50	.40	.60		.07
TILE SETTERS	7.25	.275	.30		.04
TRUCK DRIVERS:					
Under 1½ ton and wash, grease, fireman, fuel pump operators when used on construction	4.40				
1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69				
Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards, and when used to transport material), floats, hydraulic tail gate lifts	4.85				
Euclids (not self-loading)	4.95				
Warehousemen - material checker	4.965				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					
FOOTNOTES:					
a - 1st 6 mos. - none; 6 mos. to 3 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.					
b - Paid Holidays - A through F.					
PAID HOLIDAYS:					
A-New Years Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					
LINE CONSTRUCTION:					
Linemen	$ 8.365	.28	1%		1/2%
Groundman	73%JR	.28	1%		1/2%

DECISION NO. AQ-105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$7.915		.25		
Group 2	7.00		.25		
Group 3	6.48		.25		
Group 4	6.29		.25		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - Power Operated, all types; Draglines; Push Cat Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back-Hoe; Shovel; Crane - Power Operated, all types; Elevating Grader, Self-propelled; Hoist - motor driven, two drums or more; Mix mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or Diesel driven welding machines - 7 to 12 machines; Pumperete Machine; Drill Operator - Water Well; DW-10 Euclid; Tournapulls; Asphalt Plants; Crushing Machines and Batch-plants; Scoopmobiles; Fingerlift Operator; Well Points

GROUP 2 - Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer - less than 14 cu. ft.; Pump, Pulsometer; Truck Crane Driver; Gasoline or Diesel Driven Welding Machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

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MAY 10 1974

SUPERSEDEAS DECISION

STATE: Texas
Decision No.: AQ-106
COUNTIES: Galveston & Harris
DATE: Date of Publication

Supersedes Decisions No. AQ-66, dated December 28, 1973, in 38 FR 35574 and No. AQ-67, dated December 28, 1973, in 38 FR 35577.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See General Wage Determination AQ-100 for Paving & Utilities Incidental to Building Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$7.35	.60	.50		.06
BOILERMAKERS	7.00	.30	.76		.02
BRICKLAYERS; STONEMASONS	7.84	.325	.30		.03
CARPENTERS:					
Carpenters	7.02	.45	.30		.05
Millwrights	7.29	.45	.30		.05
Piledrivermen	7.02	.45	.30		
CEMENT MASONS:					
Harris County	6.60	.44	.37		.05
Galveston County	6.60	.44	.37		
ELECTRICIANS:					
Harris County	8.15	.25	3%		.04
Galveston County	7.97	.28	1%+.34		.03
ELEVATOR CONSTRUCTORS	7.06	.345	.23	2%+a+b	.015
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a+b	.015
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	7.36	.275	.20		.01
IRONWORKERS	7.145	.40	.50		.075
LABORERS:					
Common	4.90	.28	.20		.02
Air tool operator (jackhammer - wibrator); Mason tenders; Pipe-layers (concrete & clay); Sand-blasters; Power buggy operator	5.075	.28	.20		.02
Lather tender; Mortar mixers; Plaster tenders & hod carrier	5.175	.28	.20		.02
Well driller	5.45	.28	.20		.02
Well driller helper	5.025	.28	.20		.02
Blaster, powderman	5.325	.28	.20		.02
LATHERS (Harris County only)	7.67	.20	.15		.02
MARBLE MASONS:					
Harris County	6.78	.37		.25	
Galveston County	7.35				
PAINTERS:					
East Harris County:					
All brush painting, hand rolling and all other work other than that below	7.62				
All pneumatic and electric tools and steam cleaning	7.975				

DECISION NO. AQ-106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS (CONT'D):					
East Harris County (Cont'd):					
All tape and float on drywall	$7.745				
All paper and vinyl hanging	7.87				
All spray painting, sandblasting and waterblasting	8.015				
Steeple jack work, hot materials	8.275				
Remainder of Harris County:					
All brush painting, hand roller, steam cleaning, all pneumatic tools	6.645	.275	.30	.40	.04
All spray painting, sandblasting, waterblasting	7.02	.275	.30	.40	.04
Tape, float and drywall	6.77	.275	.30	.40	.04
Steeple jack work, hot materials	7.27	.275	.30	.40	.04
Galveston County:					
Painters	6.095	.55	.45	.665	.02
Painters on swinging stage work or using materials injurious to the skin	6.345	.55	.45	.665	.02
PIPEFITTERS:					
Harris County and that part of Galveston County west of the Trinity River	7.80	.40	.55		.043
That part of Galveston County East of the Trinity River:					
Commercial work to $50,000	7.34	.275	.30		.02
Commercial work $50,000 & over	7.75	.275	.30		.02
PLASTERERS:					
Harris County	7.40	.32	.30		.01
Galveston County	6.825	.27	.30		.05
PLUMBERS:					
Harris County	7.27	.32	.47	.30	.10
Galveston County:					
Commercial work up to $50,000	7.34	.275	.30		.02
Commercial work $50,000 & over	7.75	.275	.30		.02
ROOFERS:					
Roofers	6.69	.20	.10	.15	.03
Kettlemen	5.73	.20	.10	.15	.03
Helpers	4.48	.20	.10	.15	.03
SHEET METAL WORKERS:					
Harris County	7.585	.225	.475	.20	.025
Galveston County	7.95	.15	.25		.10
SOFT FLOOR LAYERS	6.62	.25	.10		.05
SPRINKLER FITTERS	8.50	.40	.60		.07

DECISION NO. AQ-106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TERRAZZO WORKERS:					
Harris County	6.78	.37		.25	
Galveston County	7.35				
TILE SETTERS:					
Harris County	6.78	.37		.25	
Galveston County	7.35				
TRUCK DRIVERS:					
Under 1½ tons; wash, grease, tire-man, fuel pump operation when used on construction jobs	5.05				
1½ thru 2½ tons; dump truck less than 7 yds.	5.34				
Over 2½ tons; farm tractors; fork lifts, floats	5.30				
Euclids (not self-loading)	5.60				
Warehousemen	5.24				
Material checkers; pick-up drivers	6.01				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LINE CONSTRUCTION:					
Lineman	8.305	.28	1%		1/2%
Groundmen	5.69	.28	1%		1/2%
Groundmen (1st 6 mos.)	4.15	.28	1%		1/2%
POWER EQUIPMENT OPERATORS:					
Group 1	6.95	.30	.40		.04
Group 2	6.27	.30	.40		.04
Group 3	5.83	.30	.40		.04
Group 4	5.69	.30	.40		.04

[FR Doc.74-10563 Filed 5-9-74;8:45 am]

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federal register

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WASHINGTON, D.C.

Volume 39 ■ Number 93

Pages 17087–17206

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federal register

Area Code 202 Phone 523–5240

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rules and regulations

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Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instruction 426.2]

PART 1806—INSURANCE

National Flood Insurance, Additions and Redesignations

Part 1806, "Real Property Insurance," of Subchapter A, 7 CFR Chapter XVIII is amended for expansion of this Part into Subparts A and B and to change the title of this Part to "Insurance." Part 1806 as presently shown in the CFR will be retained without change and is hereby redesignated as Subpart A; a new Subpart B entitled, "National Flood Insurance," provides regulations requiring flood insurance coverage for buildings and their contents in designated flood and mudslide prone areas. This regulation is being established to implement these provisions of the National Flood Insurance Act of 1969 as amended by the Flood Disaster Protection Act of 1973.

It is the policy of the Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. See the Secretary of Agriculture's statement setting forth the policy on public participation in rulemaking 36 FR 13804, dated July 24, 1971. In accordance with the spirit of that policy, interested parties may submit written comments, suggestions, data or arguments to the Office of the Deputy Administrator Comptroller, Farmers Home Administration, U.S. Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250, on or before June 12, 1974. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Since losses from floods have been increasing, this Subpart shall remain effective until it is amended. It is in the public interest for persons already living in flood prone areas to have an opportunity to purchase flood insurance.

Effective date. This new Subpart B will become effective May 15, 1974.

1. As amended, the title of Part 1806 is changed to read "Insurance"; its existing §§ 1806.1–1806.6 are designated as new Subpart A and Subpart B is added as follows:

Subpart A—Real Property Insurance

* * * * *

Subpart B—National Flood Insurance

Sec.
1806.21 General.
1806.22 Areas of responsibility.
1806.23 Definitions.
1806.24 Eligibility.
1806.25 Conditions.
1806.26 Coverage and premium rates.
1806.27 Acceptable policies and servicing.

Exhibit A—Coverage and Premium Rates.
Exhibit B—List of Servicing Companies.

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 38 FR 14944 (7 CFR 2.23); delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, (7 CFR 2.70).

Subpart B—National Flood Insurance

§ 1806.21 General.

(a) *Authority.* This Subpart prescribes the policies and procedures to be followed in implementing the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973. The provisions of these Acts are applicable to Farmers Home Administration (FmHA) authorities permitting financing of buildings of any type now located in or to be located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development (HUD), and any machinery, equipment, fixtures and furnishings contained or to be contained therein.

(b) *Background.* The Congress has found that annual losses throughout the nation caused by floods and mudslides are increasing at an alarming rate, largely as a result of the accelerated development and concentration of populations in areas subject to floods and mudslides. The availability of Federal funds in the form of loans, grants, guarantees, insurance and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of industrial, commercial and residential facilities.

(c) *Scope.* The National Flood Insurance Program (the program) was authorized and created because the private insurance industry has been unable to provide insurance coverage at reasonable prices for such natural disasters as floods and mudslides. Subsidized and affordable insurance has been made available under the Act through an agreement between the Federal Insurance Administration and the National Flood Insurers Association.

§ 1806.22 Areas of responsibility.

(a) *Federal Insurance Administration (FIA).* (1) Identify and publish information with respect to all areas in the country which are subject to floods and mudslides and designate those areas on Flood Hazard Boundary maps.

(2) Notify affected communities of their designations and encourage them to adopt and enforce land use and other control measures and to adopt ordinances or laws which will regulate and control construction in areas designated as having special flood or mudslide hazards.

(3) Make flood insurance available at reasonable rates in sufficient amounts, within the statutory limits, to adequately protect owners against loss to their buildings and contents when those buildings are located in or will be located in designated special flood and mudslide prone areas in communities participating in the National Flood Insurance Program.

(b) *Farmers Home Administration.* The State Director, after being notified by the FmHA National Office or FIA of designated flood or mudslide hazard areas and receiving flood hazard boundary maps identifying the hazard areas, FIA insurance rate charts, or other information concerning the program, will inform the appropriate County Supervisors and provide them the maps, rate charts, and other relevant information concerning the program in areas they serve. Permanent records indicating the date a community was notified as containing identified flood hazard areas, communities participating in the program, and communities eligible to participate but not participating in the program will be maintained in the State Office. County Supervisors will notify, in writing, those borrowers whose insurable buildings are located in designated flood or mudslide hazard areas of the availability of national flood insurance and encourage them to obtain flood insurance to protect their and the Government's financial interest.

(c) *Community.* Communities are required to participate in the National Flood Insurance Program within 1 year after notification of its formal identification as a community containing one or more special flood and mudslide prone areas, or by July 1, 1975, whichever is later, or be denied Federal financial assistance or Federally-related financial assistance for acquisition or construction purposes in such areas. Communities wishing to qualify for the program may submit a completed application to: Administrator, Federal Insurance Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

(d) *Lender.* The lender must determine whether real property is located in

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an area identified as having special flood or mudslide hazards and cannot discharge the responsibility merely by obtaining a self-certification from the applicant that the property is not located in an area having special flood hazards.

§ 1806.23 Definitions.

For the purpose of this subpart, the following definitions apply:

(a) Financial assistance means any form of direct, insured or guaranteed loan, including reamortization and assumption on new terms of any loan, any form of grant, or other form of direct or indirect assistance extended by the FmHA.

(b) Financial assistance for acquisition or construction purposes means any form of Federal financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, or substantial improvement of any building and for any machinery, equipment, fixtures and furnishings contained or to be contained in such buildings.

(c) Community means any state or political subdivision thereof, such as county, parish, township, city or other local government which has zoning and building code jurisdiction over a particular area having special flood hazards.

(d) Eligible community means a community in which the Administrator of FIA has authorized the sale of flood insurance under the program.

(e) Designated special flood or mudslide prone area means those areas in a community subject to flood or mudslide which have been identified by flood hazard boundary maps or those areas not identified by maps but where, due to emergency, the FIA Administrator has authorized the sale of flood insurance.

(f) Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland water, the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, or abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes, or tidal waves resulting from volcano eruptions or earthquakes.

(g) Mudslide or mudflow means a major occurrence involving the appearance of a large river or flow of "liquid mud" down a hillside, usually as a result of earlier brushfires followed by heavy rains over a widespread area.

(h) Flood insurance means insurance coverage for floods and/or mudslides under the program or otherwise acceptable to FIA.

(i) Building means any walled and roofed structure, other than a gas or liquid tank, that is principally above ground and affixed to a permanent site. Residential and most types of industrial, commercial, and agricultural buildings, such as lumber sheds, machinery storage sheds, grain storage bins, and silos, are included in this definition.

(j) Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the actual cash value of the structure either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.

§ 1806.24 Eligibility.

In addition to an applicant meeting the requirements for the type of financial assistance requested, the following requirements for eligibility of applicants for financial assistance for acquisition and construction purposes in designated special flood and mudslide prone areas must be met:

(a) If flood insurance is available, to be eligible after March 1, 1974, the applicant must have purchased a flood insurance policy at the time the loan or grant is closed.

(b) Applicants will not receive financial assistance in those communities that have been notified as having special flood and mudslide prone areas and where flood insurance is not available within 1 year after such notification or by July 1, 1975, whichever is later.

§ 1806.25 Conditions.

FmHA financial assistance may be extended to eligible applicants meeting the eligibility requirements of § 1806.24 of this subpart, provided the following conditions are also met:

(a) *Dwelling and multi-unit housing facilities.* (1) If the financial assistance is to buy a dwelling or multi-unit housing facility:

(i) The first floor elevation of the habitable space of the dwelling or housing unit must be above the 100-year flood level.

(ii) The housing must be served by public utilities and facilities, such as sewer, gas, electrical and water systems that are located and constructed to minimize or eliminate flood damage, or have an onsite water supply system and waste disposal system located so as to avoid impairment of such systems and contamination from the waste disposal system to the water supply system from flooding.

(2) If the financial assistance is to build or provide substantial improvement, the requirements of paragraph (a) (1) of this section must be met and all construction must meet requirements of the applicable minimum property standards.

(i) A building permit must be issued by the appropriate governing officials having jurisdiction in the area and compliance must be had with the zoning code or other established legal requirements of the area for reducing or eliminating flood or mudslide damage.

(ii) The structure must be designed and anchored to prevent flotation, collapse or lateral movement of the structure.

(iii) Construction materials and utility equipment that are resistant to flood damage must be used.

(iv) Construction methods and practices that will minimize flood damage must be followed.

(3) If the financial assistance is to make minor repairs, the conditions of paragraph (a) (1) (i) and (ii) and (2) (i), (ii) and (iii) of this section must be met or the building must have existed on the site prior to the date the area was identified as having special flood or mudslide hazards and the loan approval official must determine that the dwelling is suitable as a residence.

(4) When applications for financial assistance are received in areas identified as having special flood and mudslide hazards, the loan approval official will consider the expected severity and frequency of floods and mudslides in determining whether any housing loans should be made in the area. He should be sure, if loans are made, that the objectives of the loans can be accomplished and the Government's financial interest will be adequately protected.

(b) *Nonresidential buildings.* Construction plans and specifications for new buildings or improvements to existing buildings must comply with flood plain area management or control laws, regulations or ordinances.

(c) *Flood insurance coverage.* (1) Any property on which flood insurance is required must be covered by such insurance during its anticipated economic and useful life in an amount at least equal to its development or replacement cost (except estimated land cost), or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Program, whichever is less. However, if the financial assistance provided is in the form of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(2) The contents of a building must be insured separately from a building but coverage cannot be written on the contents of a three-walled machinery shed or similar type open building.

(3) Flood insurance shall not be required on any state owned property that is covered under an adequate state policy of self-insurance satisfactory to the Secretary of HUD, who will publish a list of states with such policies.

§ 1806.26 Coverage and premium rates.

Exhibit A sets forth limits of coverage and chargeable premium rates under the program. Insurance policies under the program can be obtained from any licensed property insurance agent or broker serving the eligible community or from the National Flood Insurers Association Serving Company (Serving Company) for the state. The Servicing Company for each state is shown in Exhibit B.

§ 1806.27 Acceptable policies and servicing.

The general acceptance of policies and servcing of insurance will be performed in accordance with subpart A of this part. Any unusual situations that may arise with respect to obtaining or servicing flood insurance should be referred to the State Director. The State Director will attempt to resolve any problems concerning the flood insurance program in the state with the Servicing Company. Flood hazard boundary maps, insurance rate tables, the insurability of specific structures, and other information concerning the program may be obtained from the Servicing Company. Difficulties in administering the program which the State Director is unable to resolve should be referred to the National Office for assistance.

EXHIBIT A—COVERAGE AND PREMIUM RATES

1. The following table sets forth the limits of coverage available under the program:

Type of structure	Structure coverage		Contents of coverage [4]	
	Subsidized	Total [3]	Subsidized	Total [3]
Single family, residential [1]	$35,000	$70,000	$10,000	$20,000
All other, residential [1]	100,000	200,000	10,000	20,000
All nonresidential [2]	100,000	200,000	100,000	200,000

[1] For Alaska, Hawaii, and the Virgin Islands, the following limits of coverage apply: Structure coverage for one family residential is $50,000 subsidized and $100,000 total coverage, and structure coverage for other residential is $150,000 subsidized and $300,000 total coverage.
[2] Includes hotels and motels with normal occupancy of less than 6 months.
[3] Coverage in amounts exceeding the subsidized limits is available only after an actuarial cost has been established and flood insurance rate may be issued.
[4] Contents of a building must be insured separately from the building. However, coverage is applicable to contents only while in an enclosed building. Therefore, coverage cannot be written on the contents of a three-walled machinery shed or a similar type open building.

2. The following table sets forth the applicable premium rates:

Type of structure	Rates per $100 of coverage (subsidized only)	
	Structures	Contents
All residential	[1] $0.25	$0.35
All nonresidential	[1] .40	.75

[1] Actuarial (nonsubsidized) rates are applicable to any structure, the construction or substantial improvement of which started after Dec. 31, 1974, or the date on which the initial rate map was issued, whichever is later, in identified areas having special flood or mudslide hazards.

This list indicates the Servicing Company offices to be contacted for information relative to the availability of coverage under the National Flood Insurance Program in each state and from which information, flood hazard boundary maps, insurance rate tables, and related material can be obtained.

ALABAMA

The Hartford Insurance Group
Hartford Building
100 Edgewood Avenue
Atlanta, Georgia 30301
Phone: (404) 521-2059

ALASKA

Industrial Indemnity Co. of Alaska
943 West Sixth Avenue
Anchorage, Alaska 99501
Phone: (907) 279-9441

ARIZONA

Aetna Life and Casualty
Suite 901
3003 North Central Avenue
Phoenix, Arizona 85012
Phone: (602) 264-2621

ARKANSAS

The Travelers Indemnity Company
103 Seventh Street
Little Rock, Arkansas 72201
Phone: (501) 375-3253

CALIFORNIA—NORTHERN

Firemen's Fund American Insurance Co.
Post Office Box 3136
San Francisco, California 94120
Phone: (415) 421-1676

CALIFORNIA—SOUTHERN

Firemen's Fund American Insurance Co.
Post Office Box 2323
Los Angeles, California 90054
Phone: (213) 381-3141

COLORADO

CNA Insurance
1660 Lincoln—Suite 1800
Denver, Colorado 80203
Phone: (303) 266-0561

CONNECTICUT

Aetna Insurance Company
Post Office Box 1779
Hartford, Connecticut 06101
Phone: (203) 523-4861

DELAWARE

General Accident F&L Assurance Corp. Ltd.
414 Walnut Street
Philadelphia, Pennsylvania 19106
Phone: (215) 238-5000

FLORIDA

The Travelers Indemnity Company
1516 East Colonial Drive
Orlando, Florida 32803
Phone: (305) 896-2001

GEORGIA

The Hartford Insurance Group
Hartford Building
100 Edgewood Avenue
Atlanta, Georgia 30301
Phone: (404) 521-2059

HAWAII

First Insurance Co. of Hawaii, Ltd.
Post Office Box 2866
Honolulu, Hawaii 96803
Phone: (808) 548-5511

IDAHO

Allied Mutual Insurance Company
Snake River Division
1845 Federal Way
Boise, Idaho 83701
Phone: (208) 343-4931

ILLINOIS

State Farm Fire & Casualty Co.
Illinois Regional Office
2309 East Oakland Avenue
Bloomington, Illinois 61701
Phone: (309) 557-7211

INDIANA

United Farm Bureau Mutual Insurance Company
130 East Washington Street
Indianapolis, Indiana 46204
Phone: (317) 263-7200

IOWA

Employers Mutual Casualty Company
Post Office Box 712
Des Moines, Iowa 50304
Phone: (515) 280-2511

KANSAS

Royal-Globe Insurance Companies
1125 Grand Avenue
Kansas City, Missouri 64141
Phone: (816) 842-6116

KENTUCKY

CNA Insurance
111 East Fourth Street
Cincinnati, Ohio 45202
Phone: (513) 621-7107

LOUISIANA

Aetna Life & Casualty
Post Office Box 61003
New Orleans, Louisiana 70160
Phone: (504) 821-1511

MAINE

Commercial Union Insurance Company
c/o Campbell, Payson & Noyes
57 Exchange Street
Box 527 Pearl Street Station
Portland, Maine 04116
Phone: (207) 774-1431

MARYLAND

U.S. Fidelity & Guaranty Company
Calbert & Redwood Streets
Baltimore, Maryland 21203
Phone: (301) 539-0380

MASSACHUSETTS—EASTERN

Commercial Union Insurance Co.
1 Beason Street
Boston, Massachusetts 02108
Phone: (617) 725-6358

MASSACHUSETTS—WESTERN

Aetna Insurance Company
Post Office Box 1779
Hartford, Connecticut 06101
Phone: (203) 523-4861

MICHIGAN

Insurance Company of North America
Room 300—Buhl Building
Griswold & Congress Streets
Detroit, Michigan 48226
Phone: (313) 963-1441

MINNESOTA—EASTERN

The St. Paul Fire & Marine Insurance Company
Post Office Box 3470
St. Paul, Minnesota 55165
Phone: (612) 222-7751

MINNESOTA—WESTERN

The St. Paul Fire & Marine Insurance Company
7900 Xerxes Avenue South
Minneapolis, Minnesota 35431
Phone: (612) 920-6600

MISSISSIPPI

The Travelers Indemnity Company
5360 Interstate 55 North
Post Office Box 2361
Jackson, Mississippi 39205
Phone: (601) 956-5600

MISSOURI—EASTERN

MFA Insurance Companies
1817 West Broadway
Columbia, Missouri 65201
Phone: (314) 445-8441

MISSOURI—WESTERN

Royal-Globe Insurance Companies
1125 Grand Avenue
Kansas City, Missouri 64141
Phone: (816) 842-6116

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MONTANA

The Home Insurance Company
8 Third Street North
Post Office Box 1031
Great Falls, Montana 59401
Phone: (406) 761–8110

NEBRASKA

Royal-Globe Insurance Companies
1125 Grand Avenue
Kansas City, Missouri 64141
Phone: (816) 842–6116

NEVADA

The Hardford Insurance
Post Office Box 500
Reno, Nevada 89504
Phone: (702) 329–1061

NEW HAMPSHIRE

Commercial Union Insurance Company
1 Beacon Street
Boston, Massachusetts 02108
Phone: (617) 725–6358

NEW JERSEY

Centennial Insurance Company
97 Main Street
Chatham, New Jersey 07928
Phone: (201) 635–6800

NEW MEXICO

CNA Insurance
518 17th Street
Denver, Colorado 80202
Phone: (303) 266–0561

NEW YORK—METROPOLITAN

Great American Insurance Company
5 Dakota Drive
Lake Success, New York 11040
Phone: (516) 775–6900

NEW YORK—UPSTATE

American Empire Insurance Company
215 Washington Street
Watertown, New York 13601
Phone: (315) 788–5000

NORTH CAROLINA

Kemper Insurance
1229 Greenwood Cliff
Charlotte, North Carolina 28204
Phone: (704) 372–7150

NORTH DAKOTA

The St. Paul Fire & Marine Insurance Company
Hamm Building
408 St. Peter Street
St. Paul, Minnesota 55102
Phone: (612) 227–9581

OHIO—NORTHERN

Commercial Union Insurance Company
1 Erieview Plaza
Cleveland, Ohio 44114
Phone: (216) 522–1060

OHIO—SOUTHERN

CNA Insurance
111 East Fourth Street
Cincinnati, Ohio 45202
Phone: (513) 621–7107

OKLAHOMA

Republic-Vanguard Insurance Group
Post Office Box 3000
Dallas, Texas 75221
Phone: (214) 528–0301

OREGON

State Farm & Casualty Company
4600 25th Avenue, NE.
Salem, Oregon 97303

PENNSYLVANIA—EASTERN

General Accident F&L Assurance Corp., LTD.
414 Walnut Street
Philadelphia, Pennsylvania 19106
Phone: (215) 238–5000

PENNSYLVANIA—WESTERN

Zurich-American Group
1665 Washington Road
Pittsburgh, Pennsylvania 15228
Phone: (412) 833–8000

PUERTO RICO

Puerto Rico Inspection & Rating Bureau
Post Office Box 1333
San Juan, Puerto Rico 00902
Phone: (809) 723–1830

RHODE ISLAND

American Universal Insurance Company
144 Wayland Avenue
Providence, Rhode Island 02904
Phone: (401) 351–4600

SOUTH CAROLINA

Maryland Casualty Company
Post Office Box 1849
Charlotte, North Carolina 28201
Phone: (704) 525–8330

SOUTH DAKOTA

The St. Paul Fire & Marine Insurance Company
Hamm Building
408 St. Peter Street
St. Paul, Minnesota 55102
Phone: (612) 227–9581

TENNESSEE

CNA Insurance
110 21st Avenue South
Nashville, Tennessee 37203
Phone: (615) 327–0061

TEXAS

The Home Insurance Company
2100 Travis Street
Houston, Texas 77002
Phone: (713) 225–0931

UTAH

CNA Insurance
518 17th Street
Denver, Colorado 80202
Phone: (303) 266–0561

VERMONT

Commercial Union Insurance Company
1 Beacon Street
Boston, Massachusetts 02108
Phone: (617) 725–6358

VIRGINIA

Insurance Company of North America
5225 Wisconsin Avenue, NW.
Washington, D.C. 20015
Phone: (202) 244–2000

WASHINGTON

Fireman's Fund America Insurance Companies
1000 Plaza 600 Building
Sixth & Stewart
Seattle, Washington 98101
Phone: (206) 587–3200

WEST VIRGINIA

U.S. Fidelity & Guaranty Company
3324 McCorkle Avenue SE.
Charleston, West Virginia 25304
Phone: (304) 344–1692

WISCONSIN

Aetna Insurance Company
5735 East River Road
Chicago, Illinois 60631
Phone: (312) 693–2500

WYOMING

CNA Insurance
518 17th Street
Denver, Colorado 80202
Phone: (303) 266–0561

Dated: May 6, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74–10953 Filed 5–10–74;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

Section 213.3102(v) is amended to state that the pay rate for Summer Aids shall be the equivalent of the highest minimum wage rate established by Fair Labor Standards Act of 1938, as amended, eliminating the use of State and local minimums in the pay of Summer Aids. In order to provide fair treatment in the rare cases in which a rate in excess of $2.00 per hour was paid in 1973 a provision is included stating that in a given location the rate of pay shall not be less than Federal agencies paid there in 1973. After 1974 pay shall be fixed only at the highest minimum established by the Fair Labor Standards Act of 1938, as amended.

Effective May 1, 1974, § 213.3102(v) is amended to read as follows:

§ 213.3102 Entire executive Civil Service.

* * * * *

(v) Temporary Summer Aid positions whose duties involve work of a routine nature not regularly covered under the General Schedule and requiring no specific knowledge or skills, when filled by youths appointed for summer employment under such economic or educational needs standards as the Commission may prescribe. A person may not be appointed unless he has reached his sixteenth but not his twenty-second birthday, or employed for more than 700 hours under this paragraph. This paragraph shall apply only to the positions whose pay is fixed at the equivalent of the highest minimum wage rate established by the Fair Labor Standards Act of 1938, as amended. However, during 1974 an agency shall not fix the pay at a rate less than that paid to Summer Aids by Federal agencies (other than the Postal Service) in the geographic area concerned in 1973.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. P. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–10985 Filed 5–10–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74–EA–23; Amdt. 39–1843]

PART 39—AIRWORTHINESS DIRECTIVES

Avco Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to revise AD 73–5–1 applicable to Lycoming VO–540 type aircraft engines.

AD 73–5–1 required replacement of connecting rod assemblies with a newer assembly so as to correct deficiencies associated with failure of the assemblies. However, since promulgation, there have been reports of failures with the new assemblies. The manufacturer has improved and tested a newer design of bearing with a higher crush.

Since this deficiency can exist or develop in engines of similar type design an airworthiness directive is being issued which will require replacement of the assemblies with the newer high crush design.

Since the foregoing deficiency has an effect on air safety, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended so as to revise AD 73–5–1 as follows:

AVCO LYCOMING. Applies to VO–540 Series engines beginning with S/N 101–43 thru 2299–43 IVO–540 series engines beginning with S/N 101–60 thru 150–60, TVO–540 Series engines beginning with S/N 101–53 thru 103–53 and TIVO–540 Series engines beginning with S/N 101–57 thru 163–57 and all engines overhauled (also known as remanufactured) by Lycoming before January 2, 1974 except the following Serial Numbers: RL–376–43, RL–483–43, RL–693–43, RL–695–43, RL–1091–43, RL–1205–43, RL–1429–43, RL–1753–43, RL–1960–43, RL–2017–43, RL–2032–43, RL–2125–43, RL–2139–43, RL–2244–43, RL–2245–43 and RL–2275–43.

Compliance required as indicated after the effective date of this AD, unless already accomplished or unless higher crush bearing P/N LW13212 has been installed in accordance with Lycoming Service Bulletins No. 303E or 303F.

To prevent failures of P/N 71947, P/N 73174, P/N 75548 and P/N LW10776 connecting rod assemblies and P/N 74450 connecting rod assembly with P/N 75547 connecting rod bearing installed in accordance with Lycoming Service Bulletins No. 303B, 303C or 303D, accomplish the following:

a. Engines with connecting rod assemblies that have accumulated 400 hours or more in service since new or overhaul must have the connecting rod assemblies replaced with new connecting rod assembly, P/N LW13422 and new connecting rod bearing P/N LW-13212, within the next 50 hours in service.

b. Engines that have connecting rod assemblies with less than 400 hours in service must have the connecting rod assemblies replaced with new connecting rod assembly, P/N LW13422 and new connecting rod bearing, P/N LW13212 prior to 450 hours in service.

c. Engines that have been modified in accordance with Lycoming Service Bulletins No. 303B, 303C or 303D must comply with items (a) or (b) above, except that the P/N 77450 connecting rod, free of any galling may be reused with P/N LW12596 connecting rod bolts and identified as assembly number LW13422.

This amendment is effective May 17, 1974.

Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 3, 1974.

ROBERT H. STANTON,
Director, Eastern Region.

[FR Doc.74–10893 Filed 5–10–74;8:45 am]

[Docket No. 74–CE–4–AD; Amdt. 39–1841]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 60 and A60 Airplanes

Amendment 39–1796, AD 74–5–5, published in the FEDERAL REGISTER on March 1, 1974, is an Airworthiness Directive (AD) applicable to Beech Models 60 and A60 airplanes (Serial Numbers P–3 through P–246) airplanes. This AD provides for replacement of the pilot's side window due to deterioration of the plexiglas or alternatively to deactivate the pressurization system. At the time AD 74–5–5 was issued the manufacturer neglected to inform the agency that two variations of the windows were available. Therefore, the AD is being revised to permit the installation of either window variation. In addition, Paragraph A of the AD is being revised to provide an acceptable method to deactivate the pressurization system.

Since this amendment is relaxatory in nature and is in the interest of safety, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), Section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–1796, AD 74–5–5 is amended in the following respects:

1. The applicability statement is amended so that it now reads as follows:

BEECH. Applies to Models 60 and A60 (Serial Numbers P–3 through P–246) airplanes now having or subsequently accruing 27 months in service from the date of the original airworthiness certification, except those airplanes having Beech P/N 60–420013–59 or Beech P/N 60–420013–652 pilot's side window installed.

2. Paragraph A of AD 74–5–5 is amended so that it now reads as follows:

(A) Effective immediately, operation with the cabin pressurized is prohibited and prior to further flight (1) deactivate the pressurization system by securing the "TEST/DUMP" switch in the "Dump" position and install a placard on the control panel adjacent to the pressurized system controls reading:

"CABIN PRESSURIZATION PROHIBITED"

and (2) insert a copy of this AD in the limitation section of the airplane flight manual.

3. Paragraph B of AD 74–5–5 is amended so that it now reads as follows:

(B) In lieu of Paragraph A (1) and (2), and prior to operation with cabin pressurization, replace existing pilot's side window with Beech P/N 60–420013–59 or Beech P/N 60–420013–652 pilot side window in accordance with Beechcraft Service Instructions No. 0594–110, or later approved revisions or any equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective May 17, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Missouri, on May 3, 1974.

GEORGE R. LACAILLE,
Acting Director, Central Region.

[FR Doc.74–10894 Filed 5–10–74;8:45 am]

[Airspace Docket No. 74–AL–5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone Hours of Operation

On March 28, 1974, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (39 FR 11432) stating that the Federal Aviation Administration proposed amendments to Part 71 of the Federal Aviation Regulations that would alter the Fort Yukon, Alaska, control zone.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No objections were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., May 23, 1974, as hereinafter set forth.

1. In § 71.171 (39 FR 354) the Fort Yukon control zone is amended by deleting the words "* * * except Sunday * * * "

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Anchorage, Alaska, on May 3, 1974.

LYLE K. BROWN,
Director, Alaskan Region.

[FR Doc.74–10895 Filed 5–10–74;8:45 am]

[Airspace Docket No. 73–SW–42]

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area

Correction

In FR Doc. 74–9406 appearing at page 14584 of the issue for Thursday, April 25,

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1974, in the fifth line of the description of the restricted area in the first column of page 14585, "Lat. 30°50'00'' " should read "Lat. 30°50'30'' ".

[Airspace Docket No. 74-SO-8]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Establishment of RNAV Route

On March 18, 1974, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (39 FR 10162) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would replace J-873R serving Columbia, S.C., to Atlanta, Ga., with new RNAV route J-869R.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

Section 75.400 (39 FR 718) is amended as follows:

1. J-873R is revoked.

2. J-869R Columbia, S.C., to Atlanta, Ga.

Waypoint name	Location	Reference facility
ZOLLY	33°47'30" N., 81°25'00" W.	Columbia, S.C.
Augusta, Ga.	33°22'48" N., 82°08'00" W.	Do.
SINCA	33°05'19" N., 83°33'03" W. 9	Augusta, Ga."

is added.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on May 7, 1974.

RAYMOND M. MCINNIS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-10896 Filed 5-10-74;8:45 am]

[Airspace Docket No. 73-EA-113]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Transition Area, Alteration

Correction

In FR Doc. 74-10409 appearing on page 16119 in the issue of May 7, 1974, the Airspace Docket number should be designated as set forth above.

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER B—EXPORT REGULATIONS

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

PART 379—TECHNICAL DATA

Miscellaneous Amendments

Export Licensing Authority Over U.S. One-Cent Coins Containing Bronze (Pennies). The Export Administration Regulations have been amended to point out that United States one-cent coins containing bronze (Export Control Commodity Nos. 68 (22) and *896(1)*) are no longer under the export licensing authority of the U.S. Department of Commerce. Such coins are under the export licensing authority of the U.S. Treasury Department.

Accordingly, § 370.10(c) is revised as set forth below:

§ 370.10 **Exports Controlled by U.S. Government Agencies Other than Department of Commerce.**

• • • • • •

(c) *One-cent coins (pennies).* Regulations administered by the U.S. Department of Treasury, Washington, D.C. 20220, govern the export of U.S. one-cent coins containing bronze (pennies) as published in the FEDERAL REGISTER (39 FR 13881). The Treasury regulations are issued under authority of section 105, Coinage Act of 1965, Pub. L. 89-81 (31 U.S.C. 395).

• • • • • •

Effective date: April 18, 1974.

General License GDTR. Before exporting technical data relating to certain materials and equipment under the provisions of General License *GTDR*, the exporter must obtain from the importer a written assurance that neither the technical data nor the direct product thereof is intended to be shipped, directly or indirectly, to a destination in Country Group Q, W, Y or Z.

The list of materials and equipment subject to this requirement for a written assurance is revised to include technical data relating to certain cameras, as follows: (1) Other high speed continuous writing, rotating drum cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.c. (Export Control Commodity No. 86140); and (2) Other 16 mm. high speed motion picture cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.c. (Export Control Commodity No. 86150).

Accordingly, § 379.4(e)(1)(iii) is revised as follows:

§ 379.4 **General license GDTR: Technical data under restriction.**

• • • • • •

(e) *Written assurance requirements—* (1) *Requirement of written assurance for certain data, services, and materials.*

• • •

(iii) • • •

(*l*) Other high speed continuous writing, rotating drum cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.c. (ECC No. 86140); and

(*m*) Other 16 mm. high speed motion picture cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.c. (ECC No. 86150).

• • • • • •

Effective date: May 17, 1974.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.74-10992 Filed 5-10-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2499]

PART 13—PROHIBITED TRADE PRACTICES

Atlantic Construction & Supply Co., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.125 *Limited offers or supply;* § 13.155 *Prices;* 13.155-5 Additional charges unmentioned; 13.155-75 Product or quantity covered; 13.155-95 Terms and conditions; 13.155-100 Usual as reduced, special, etc.; § 13.240 *Special or limited offers.* Subpart—Contracting, for sale in any form binding on buyer prior to end of three day period: § 13.527 *Contracting, for sale in any form binding on buyer prior to end of three day period.* Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 *Delaying or withholding corrections, adjustments or action owed.* Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051-20 Adequate. Subpart—Misrepresenting oneself and goods—Goods: § 13.1747 *Special or limited offers.*—Prices: § 13.1778 *Additional costs unmentioned;* § 13.1785 *Comparative.*—Services: § 13.1835 *Cost.* Subpart—Neglecting, unfairly or deceptively to make material disclosure: § 13.1857 *Instruments' sale to finance companies;* § 13.1876 *Notice of third party sale of contract;* § 13.1882 *Prices;* § 13.1886 *Quality, grade or type;* § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2000 *Limited offers or supply;* § 13.2013 *Offers deceptively made and evaded.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Atlantic Construction & Supply Co., et al., Mt. Rainier, Md., Docket C-2499, Mar. 20, 1974]

In the Matter of Atlantic Construction & Supply Co., a Corporation, and Norman Glaser, and Stuart Schulman, Individually and as Officers of Said Corporation

Consent order requiring a Mt. Rainier, Md., seller and distributor of home improvement products and services, among other things to cease misrepresenting prices as reduced or special, the savings afforded purchasers, offers as limited or restricted as to time; disparaging or refusing to sell any product or service advertised; using deceptive or misleading representations to obtain prospective purchasers; misrepresenting the price of products or services; representing prices for products or services without showing in an estimate or contract each separate item included in the price; representing prices for a complete remodeling service without disclosing the additional costs to complete the remodeling service; including misleading illustrations in advertisements; contracting for any sale in the form of legal papers binding on the buyer prior to midnight of the 3rd day; failing to furnish buyers with completed receipts or copies of contracts or notices of cancellation in the same language used in oral sales presentation; failing to inform buyers orally of or misrepresenting their right to cancel and to honor valid notices of cancellation; transferring customers' notes to other parties prior to midnight of the fifth day following the day the contract was signed; and failing to keep for two years copies of advertisements or promotional material.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Atlantic Construction & Supply Co., a corporation, its successors and assigns and its officers, and Norman Glaser and Stuart Schulman, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of home improvement products and services, or any other product or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "All Prices Reduced" or "Special" or any other word or words of similar import or meaning not set forth specifically herein, unless the price of such product or service being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such product or service was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent regular course of their business.

2. (a) Representing, orally or in writing, directly or by implication, that by purchasing any of said products or services customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price, unless such products or services have been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, orally or in writing, directly or by implication, that by purchasing any of said products or services customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said products or services in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said products or services at the compared price or some higher price.

(c) Representing, orally or in writing, directly or by implication, that by purchasing any of said products or services customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable products or services, unless substantial sales of products or services of like grade and quality are being made in the trade area at the compared price or a higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise of like grade and quality.

3. Representing, orally or in writing, directly or by implication, that any offer to sell a product or service is limited or restricted as to time or is limited or restricted in any other manner, unless the represented limitation or restriction is imposed and adhered to in good faith by the respondents.

4. Advertising, or offering for sale, any product or service for the purpose of obtaining leads to potential purchasers of different products or services, unless the advertised, or offered, product or service is capable of adequately performing its intended function and respondents maintain an adequate and readily available stock of said product and are willing and able to perform said service.

5. Disparaging in any manner, or refusing to sell, any advertised product or service.

6. Using any advertisement, sales plan or procedure which involves the use of any false, misleading or deceptive statement, representation or illustration designed to obtain leads to potential purchasers of respondents' products or services.

7. Representing, orally or in writing, directly or by implication, that any product or service is offered for sale when such is not a bona fide offer to sell said product or service.

8. Misrepresenting, orally or in writing, directly or by implication, the price, or proportionate price, of any of their products or services.

9. Representing, orally or in writing, directly or by implication, a price for any product or service unless the charge for such product or service, the quantity of material upon which such charge is based and a description of the type and grade of such material is shown as a separate item on an estimate and contract provided the purchaser.

10. Representing, orally or in writing, directly or by implication, prices for selected items of material, fixtures and labor which are available only as part of a complete remodeling service without disclosing an accurate estimate of the cost of such additional items of material, fixtures and labor normally necessary to complete the represented remodeling service.

11. Including illustrations in advertisements, unless such illustrations accurately depict the product being advertised and the quantity of the product available for the advertised price.

12. Contracting for any sale whether in the form of trade acceptance, conditional sales contract, promissory note, or otherwise which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution.

13. Failing to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right".

14. Failing, in those transactions in which a security interest in the buyer's principal residence is not or will not be retained, to furnish each buyer, at the time he signs the sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract:

NOTICE OF CANCELLATION

[enter date of transaction]
(Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security

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interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to [Name of seller], at [address of seller's place of business], not later than midnight of _____
(date)

I hereby cancel this transaction.

_____
(Date)

_____
(Buyer's signature)

15. Failing, in those transactions in which a security interest in the buyer's principal residence is not or will not be retained, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

16. Including in any sales contract or receipt any confession of judgment of any waiver of any of the rights to which the buyer is entitled under this order including specifically his right to cancel the sale in accordance with the provisions of this order.

17. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

18. Misrepresenting, directly or indirectly, orally or in writing, the buyer's right to cancel.

19. Failing or refusing to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

20. Negotiating, transferring, selling, or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

21. Failing, within 10 business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

22. Failing to retain, for a period of not less than two (2) years from the date of their last use, a copy of each advertisement and item of promotional material, including, but not limited to, each newspaper advertisement, radio or television script, direct mail advertisement and product brochure, used for the purpose of obtaining leads to prospective purchasers of respondents' products and services or in promoting the sale of respondents' products and services and a record of the number of copies disseminated and the dates and means of dissemination.

23. Failing to retain, for a period of not less than two (2) years following each price reduction or savings claim, including, but not limited to, each claim of the types described in Paragraphs 1 through 3 of this order, adequate records to substantiate each such claim.

24. Failing to produce, for the purpose of examination and copying by representatives of the Federal Trade Commission, those records required to be retained by this order.

Provided, however, that nothing contained in this order shall relieve respondents of any additional obligations respecting contracts required by federal law or the law of the state in which the contract is made. When such obligations are inconsistent, respondents can apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required the Commission, upon showing, shall make such modifications as may be warranted in the premises.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist, and a copy of the Commission's news release setting forth the terms of the order, to each advertising agency and advertising medium, such as newspaper publishing company, radio station or television station, presently utilized in the course of their business, and that respondents shall, immediately upon opening an account, deliver a copy of such order and news release to any such agency or medium with which they subsequently open an account.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to each of their agents, representatives and employees engaged in the offering for sale or sale of respondents' products or services, in the consummation of any extension of consumer credit or in any aspect of the creation, preparation or placing of respondents' advertisements and that respondents shall deliver a copy of such order to each such person whom they subsequently employ, immediately upon employing each such person, and that respondents shall secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent corporation shall forthwith deliver a copy of this order to each of its operating divisions.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in a corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with any other home improvement business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued: March 20, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74-10955 Filed 5-10-74;8:45 am]

[Docket No. C-2511]

PART 13—PROHIBITED TRADE PRACTICES

G. C. Services Corp., et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart—Simulating another or Product thereof: § 13.2218 Legal process (New). Subpart—Threatening suits, not in good faith: § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, G. C. Services Corporation, et al., Houston, Tex., Docket C-2511, Apr. 16, 1974]

In the Matter of G. C. Services Corporation, a Corporation, and Jerold B. Katz and William A. Inglehart, and Martin M. Katz, Individually and as Officers of Said Corporation

Consent order requiring a Houston, Tex., collection agency, among other things to cease using printed material which cause harassment, fear or undue embarrassment to alleged debtors receiving them or which simulates legal process; misrepresenting that past due accounts have been referred to an attorney for collection or legal action has been or is about to be instituted; or threatening to contact a debtor's employer or to institute legal processes.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents G C Services Corporation, formerly doing business as Gulf Coast Collection Agency Company, a corporation, its successors and assigns, and its officers and Jerold B. Katz, William A. Inglehart, and Martin M. Katz, individually and as officers of said corporation and respondents' representatives, agents and employees, directly or through any corporation subsidiary, division or other device, in connection with the collection of accounts in commerce, as "commerce" is defined by the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any forms, letters, or other printed materials which cause, or which respondents should know are likely to cause, harassment, fear, or undue embarrassment to alleged debtors who receive them.

2. Representing orally or in writing, or placing in the hands of others the means and instrumentalities by and through which they may represent, directly or by implication that:

(a) Past due accounts that are being or have been referred for collection to an attorney when these accounts are not being nor have they been so referred;

(b) Legal action with respect to an allegedly delinquent account has been or is about to be or may be initiated unless the respondents are able to establish that at the time the representation was made (1) legal action has been initiated or was about to be initiated, and (2) the true nature of the legal action was clearly and completely disclosed.

3. Using forms or any other items of printed or written matter which simulates legal process.

4. Representing orally or in writing that alleged debtor's employer has been notified or may be notified that any or all of the following actions have been or will be taken when no such action or actions have been or will be taken:

(a) Suit instituted against the alleged debtor to collect the alleged sum due;

(b) The alleged debtor's wages attached;

(c) The alleged debtor's wages garnished.

5. Using any means or devices for the collection of delinquent accounts from alleged debtors in circumstances where it has been brought to respondents' attention:

(a) That said debt has been paid;

(b) That said debt is being billed to an improper person;

(c) That alleged debtor is not liable to respondents' client for the reason that the client has not provided any articles, devices, services or other items of value to the alleged debtor.

(d) That materials ordered have been returned;

(e) That materials received were unordered merchandise and debtor is under no obligation to pay for such merchandise, or

(f) That there would be a defense in an action brought on the disputed debt; until such time as respondents can furnish to alleged debtor an affirmative written reply from their clients that said debt is, in fact, a just one.

6. Receiving from alleged debtors postdated checks, which will not be deposited immediately or which will be held by respondents or their representatives for more than fifteen business days after date of receipt.

It is further ordered, That respondents maintain and make available records relative to complaints received by respondents involving the acts and practices prohibited by this Order and which describe steps taken by respondents to investigate and dispose of said complaints. Said records shall be maintained for a period of six (6) months from the date such complaint is received, for inspection and copying by the Federal Trade Commission.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions and to each of its customers.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale, resulting in emergence of a successor corporation, the creation of dissolution of subsidiaries, or any other change in the corporation which affects compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondent shall, within sixty (60) days after service upon them of this Order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this Order.

Issued: April 16, 1974.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74-10956 Filed 5-10-74;8:45 am]

Title 30—Mineral Resources

CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 71—MANDATORY HEALTH STANDARDS—SURFACE WORK AREAS OF UNDERGROUND COAL MINES AND SURFACE COAL MINES

Dust Sampling, Airborne Contaminants, Asbestos Conformity and Reporting Requirements

Pursuant to the authority vested in the Secretary of the Interior under section 101 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811), to promulgate mandatory health standards transmitted to him by the Secretary of Health, Education, and Welfare, there was published in the FEDERAL REGISTER for November 7, 1972 (37 FR 23645), proposed amendments to mandatory health standards applicable to surface coal mines and to surface work areas of underground coal mines.

Interested persons were afforded a period of 45 days within which to submit written comments, suggestions, or objections to the proposed standards. A number of comments were received by the Bureau of Mines (now the Mining Enforcement and Safety Administration) and transmitted to the Department of Health, Education, and Welfare for consideration. The following amendments to Part 71 have been transmitted by the Secretary of Health, Education, and Welfare for promulgation in accordance with section 101(e) of the Act: (1) A new § 71.110–1 has been added to require more frequent dust sampling of the working environments of miners who show evidence of the development of pneumoconiosis and who have exercised their option to transfer to jobs in less dusty areas; (2) the standards for airborne contaminants in § 71.200 have been amended by substituting the 1972 American Conference of Governmental Industrial Hygienists (ACGIH) threshold limit values for such substances for the 1970 ACGIH values; (3) the noise standard (subpart D) has been amended to clarify reporting requirements and the action required by an operator of a mine in which the standard is violated.

The proposed amendment establishing a new standard for exposure to asbestos has not been transmitted for promulgation since a request was filed for a hearing on that proposed standard.

In accordance with section 101(h) of the Act, the amendments to Part 71 are effective on May 13, 1974.

Dated: May 8, 1974.

C. K. MALLORY,
Deputy Assistant Secretary of the Interior.

Part 71 is amended as set forth below:

1. The following new section is inserted in Subpart B:

§ 71.110–1 Periodic sampling; transferred miners.

At least once every 90 days, one sample of respirable dust shall be taken from the atmosphere to which each miner who has exercised his option to transfer under section 203(b) of the Act is exposed.

2. In Subpart C, § 71.200(a) is amended to read as follows:

§ 71.200 Inhalation hazards; threshold limit values for gases, dust, fumes, mists, and vapors.

(a) No operator of an underground coal mine and no operator of a surface coal mine may permit any person working at a surface installation or surface worksite to be exposed to airborne contaminants (other than respirable coal

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mine dust and respirable dust containing quartz, in excess of, on the basis of a time-weighted average, the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists in "Threshold Limit Values of Airborne Contaminants" (1972) which is hereby incorporated by reference and made a part hereof. Excursions above the listed threshold limit values shall not be of greater magnitude than is characterized as permissible by the conference. This paragraph does not apply to airborne contaminants given a "C" designation by the conference in the document. This document is available for examination at the Mining Enforcement and Safety Administration, 18th and C Streets NW., Washington, D.C.; at every Coal Mine Health and Safety District and Subdistrict Office; at the National Institute for Occupational Safety and Health, 5600 Fishers Lane, Rockville, MD; and at the Public Health Service Information Centers listed in 45 CFR 5.31. Copies of the document may be purchased from the Secretary-Treasurer, American Conference of Governmental Industrial Hygienists, Post Office Box 1937, Cincinnati, OH 45202.

* * * * *

3. Subpart D is amended by inserting the following new sections:

§ 71.302 Initial noise level survey.

On or before November 13, 1974 each operator shall:

(a) Conduct, in accordance with this subpart, a survey of the noise levels to which each miner in each surface installation and at each surface worksite is exposed during his normal work shift; and,

(b) Report and certify to the Mining Enforcement and Safety Administration and the Department of Health, Education, and Welfare, the results of such survey using the Coal Mine Noise Data Report. (See Figure 1, Part 70 of this subchapter.) Reports shall be sent to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

§ 71.303 Periodic noise level survey.

(a) At intervals of at least every 6 months, after November 13, 1974 each operator shall conduct periodic surveys of the noise levels to which each miner in each surface installation and at each surface worksite is exposed and shall report and certify the results of such surveys to the Mining Enforcement and Safety Administration and the Department of Health, Education, and Welfare, using the Coal Mine Noise Data Report Form. The interval between each survey shall not be less than 3 months. Reports shall be sent to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

(b) Where no A-scale reading recorded for any miner during an initial or periodic noise level survey exceeds 90 dBa, the operator shall not be required to survey such miner during any subsequent periodic noise level survey required by this section: *Provided, however,* That the name and job position of each such miner shall be reported in every periodic survey and the operator shall certify that such miner's job duties and noise exposure levels have not changed substantially during the preceding 6-month period.

§ 71.304 Supplemental noise level survey; reports and certification.

(a) Where the certified results of an initial noise level survey conducted in accordance with § 71.302 or a periodic noise level survey conducted in accordance with § 71.303 indicate that any miner may be exposed to a noise level in excess of the permissible noise level, the operator shall conduct a supplemental noise level survey with respect to each miner whose noise exposure exceeds this standard. This survey shall be conducted within 15 days following notification to the operator by the Mining Enforcement and Safety Administration to conduct such survey.

(b) Supplemental noise level surveys shall be conducted by taking noise level measurements in accordance with § 70.506 of this Subchapter O; however, noise level measurements shall be taken of each individual operation to which the miner under consideration is actually exposed during his normal work shift and the duration of each such exposure shall be recorded.

(c) Each operator shall report and certify the results of each supplemental noise level survey conducted in accordance with this section to the Mining Enforcement and Safety Administration and the Department of Health, Education, and Welfare using the Coal Mine Noise Data Report Form to record noise level readings taken with respect to all operations during which such measurements were taken.

(d) Supplemental noise level surveys shall, upon completion, be mailed to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

§ 71.305 Violation of noise standard; notice of violation; action required by operator.

(a) Where the results of a supplemental noise level survey conducted in accordance with § 71.304 indicate that any miner is exposed to noise levels which exceed the permissible noise levels, the Secretary shall issue a notice to the operator that he is in violation of this subpart.

(b) Upon receipt of a notice of violation issued pursuant to paragraph (a) of this section, the operator shall:

(1) Institute, promptly, administrative and/or engineering controls necessary to assure compliance with the standard. Such controls may include protective devices other than those devices or systems which the Secretary or his authorized representative finds to be hazardous in such mine.

(2) Within 60 days following the issuance of the first notice of violation of this subpart, submit for approval to a joint Mining Enforcement and Safety Administration/Health, Education, and Welfare committee, a plan for the administration of a continuing, effective hearing conservation program to assure compliance with this subpart, including provision for:

(i) Reducing environmental noise levels;

(ii) Personal ear protective devices to be made available to the miners;

(iii) Preplacement and periodic audiograms.

(iv) Those administrative and engineering controls that it has instituted to assure compliance with the standard.

(3) Plans required under subparagraph (2) of this paragraph shall be submitted to:

Division of Automatic Data Processing, Post Office Box 25407, Building 41, Denver Federal Center, Denver, CO 80225.

(c) Within 30 days following the issuance of any subsequent notice of violation of this subpart, the operator shall submit in writing:

(i) a statement of the manner in which the plan is intended to prevent the violation or

(ii) a revision to its plan to prevent similar future violations.

NOTE.—The incorporation by reference provision in this document was approved by the Director of the Federal Register on July 6, 1973.

(Sec. 101, 83 Stat. 745 (30 U.S.C. 811))

[FR Doc.74–10937 Filed 5–10–74;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—TRESPASS

Use of Pesticides

On Friday, March 24, 1972, a notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 6106). The proposal would have prohibited most uses of pesticides and chemical toxicants on National Forest System lands without written permission from the Forest Service. In addition to the Federal Register notice to the public at large, National Forest System grazing advisory boards were provided the specific opportunity to review the proposal as provided by the requirements of the Granger-Thye Act (Sec. 18, 64 Stat. 87, 16 U.S.C. 580k) and 36 CFR 231.10. All comments from advisory boards and from the public at large were considered in preparation of the regulation published below. In the regulation shown below, only that portion of the proposed regulation dealing with the subject of pesticides in general is finalized. The use of chemical toxicants for killing predatory mammals or birds and the use of chemical toxicants which cause secondary effects when used to kill other mammals, birds, or reptiles is included in the general prohibition of the regulation as finalized; however, the process for authorizing any use of such chemical toxicants will be the subject of other regulations. Further attention is called to the point that the regulation deals only with the subject of permission for applying pesticides to National Forest System lands as a requirement of the Forest Service. It in no way relieves the applicator of compliance with applicable laws and other Agency regulations relating to the use of pesticides such as the Environmental Protection Agency regulations for implementing the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

Specific changes are:

1. Elimination of paragraph (b) Chemical toxicants.

2. Elimination of paragraph (c) Exceptions for emergency use of chemical toxicants.

3. Elimination of paragraph (d)(3) Definition of chemical toxicants.

4. Elimination of paragraph (d)(4) Definition of predatory mammal or bird.

5. Elimination of paragraph (d)(5) Definition of secondary poisoning effect.

6. Elimination of paragraph (d)(6) Definition of field use.

7. Revision of paragraph (a) Pesticides to clarify that certain uses of pesticides for personal purposes or treatment of individual animals do not require authorization. Opportunity is also provided for the Forest Service to exempt other uses of a minor nature whenever the need for such exemption becomes apparent.

As so revised, the proposal is hereby adopted to read as set forth below. It becomes effective on May 15, 1974. The citation of authority remains the same as in the proposed regulation (37 FR 6106).

§ 261.17 Use of pesticides.

(a) *Pesticides.* Unless authorized in writing by the Forest Service, the use of pesticides by a person on National Forests, National Grasslands, and other lands administered by the Forest Service is prohibited. In all instances the requirements respecting the manufacture, transportation, purchase, use storage, and disposal of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and the regulations promulgated pursuant thereto, must be complied with. Written authorization by the Forest Service is not required for personal use of pesticides intended for medicinal purposes or as insect repellents, or to such uses upon an individual animal; nor is it required for uses of a minor nature as might be exempted by the Forest Service.

(b) *Definitions.* As used in this section:

(1) "Person" means any individual, partnership, association, organization, or other private entity, but does not include Governmental Agencies.

(2) "Pesticide" means any substance or mixture of substances to prevent, destroy, repel, or mitigate any insect, rodent, nematode, fungus, weed, or other form of aquatic or terrestrial plant or animal life or virus, bacteria, or other micro-organism (except bacteria, viruses, or other micro-organisms in or on living man or other animals).

ROBERT W. LONG,
Assistant Secretary for Conservation, Research and Education.

MAY 8, 1974.

[FR Doc.74–10988 Filed 5–10–74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PART 8–2—PROCUREMENT BY FORMAL ADVERTISING

PART 8–18—PROCUREMENT OF CONSTRUCTION

Procurement of Construction

On page 5326 of the FEDERAL REGISTER of February 12, 1974, there was published a notice of proposed regulatory revision of 41 CFR Parts 8–2 and 8–18, to relocate material on the procurement of construction to conform to the arrangement of Federal Procurement Regulations and to add material formerly contained in internal regulations. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

One comment was received. A newspaper association suggested that, particularly in the case of invitations to bid for small construction contracts, the regulations be amended to provide for publication of public notice(s) in a local newspaper or newspapers of general circulation in the area of the proposed construction. Since newspaper advertisements may be paid for only under written authority of the Administrator (44 U.S.C. 3702) or his duly authorized designee (5 U.S.C. 302), the placing of advertisements must be restricted to those cases where they are clearly warranted. We do not believe that small construction contracts in general warrant such special treatment. Accordingly, the revised regulations are adopted as proposed.

Effective date. These VA Regulations are effective May 13, 1974.

Approved: May 6, 1974.

By direction of the Administrator.

[SEAL] RICHARD L. ROUDEBUSH,
Deputy Administrator.

§ 8–2.205–4 [Revoked]

1. Section 8–2.205–4, Excessively long bidders mailing lists, is revoked.

2. In § 8–2.407–1, paragraph (e) is revoked.

§ 8–2.407–1 General.

* * * * *

(e) [Revoked.]

3. Section 8–18.202 is added to read as follows:

§ 8–18.202 Preinvitation notices.

An SF 19, Invitation, Bid and Award (Construction, Alteration, or Repair), or SF 20, Invitation for Bids (Construction Contract), modified as necessary to include the information required by § 1–18.202, may be used as a preinvitation notice. When so used, it will be submitted to prospective bidders at least 14 days prior to the date on which the drawings and specifications will be issued. When preinvitation notices are not used, see §§ 8–2.203–1 and 8–18.203–2.

4. Section 8–18.203–1 is revised to read as follows:

§ 8–18.203–1 Preparation of invitations for bids.

In addition to complying with the provisions of FPR 1–2.201 and 1–18.203, the following referenced provisions and clauses will be included in the invitations for bids, to the extent applicable:

(a) Small business set-asides. (§ 8–1.706–5)

(b) Aggregate award. (§ 8–2.201(f))

(c) Bid samples. (FPR 1–2.202–4)

(d) Buy American Act. (FPR 1–18.604 and § 8–18.604)

(e) Contract clauses. (FPR 1–7.6, Subpart 8–7.6)

(f) Bid guarantees. (§ 8–10.103)

(g) Performance bonds. (§ 8–10.104)

(h) Payment bonds. (FPR 1–10.105)

(i) Federal, State, and local taxes. (FPR 1–11.401–1)

(j) Liquidated damages. (FPR 1–18.110 and § 8–1.315)

(k) Revisions to prescribed forms. (FPR 1–16.401)

(l) Termination clauses. (§ 8–8.700–2)

5. Sections 8–18.203–2 and 8–18.203–3 are added to read as follows:

§ 8–18.203–2 Distribution of invitations for bids.

(a) On the issue date shown on SF 19 or SF 20, specifications, drawings, and all other material necessary to prepare a bid will be issued to each eligible prospective bidder and other agencies who request them in writing and who meet the qualifications stated in the invitation.

(b) On the issue date, two copies of the drawings and specifications for station level projects funded from construction appropriations will be furnished to the Assistant Administrator for Construction.

(c) Distribution of specifications and drawings on Central Office projects will be in accordance with that established by the Project Director.

(d) Invitations should also be sent to Chambers of Commerce, Builders Exchanges, various trade journals, and other organizations which make a practice of publishing such information for the benefit of the construction industry.

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§ 8–18.203–3 Amendment of invitations for bids.

Amendments will be sent to holders of drawings and specifications by certified mail, return receipt requested.

[FR Doc.74–10954 Filed 5–10–74;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL PROVISIONS

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE COUNSELING AND TESTING

PART 121—PROGRAMS FOR THE EDUCATION OF HANDICAPPED CHILDREN

PART 166—FINANCIAL ASSISTANCE FOR ADULT EDUCATION PROGRAMS

PART 167—SPECIAL PROJECTS AND TEACHER TRAINING IN ADULT EDUCATION

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES

PART 187—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

Miscellaneous Corrections

Pursuant to section 403(b)(1) of the General Education Provisions Act (20 U.S.C. 1221c(b)(1)), the Commissioner of Education with the approval of the Secretary of Health, Education, and Welfare makes the technical corrections set forth below to the document published in the FEDERAL REGISTER on November 6, 1973, at 38 FR 30654 (Office of Education General Provisions regulation). The corrections are of errors in the section numbers of Office of Education regulations which were to have been revoked by the document published at 38 FR 30654. Since these corrections merely rectify errors in the original document, and do not affect the substance of any regulations, proposed rulemaking procedures are unnecessary, and are dispensed with pursuant to 5 U.S.C. 553(b).

The document published at 38 FR 30654 (November 6, 1973) is corrected as follows:

1. On page 30659, the number "118.1," in each of the two places it appears, is corrected to read: "118.2."

2. On page 30659, the number "121.1," in each of the two places it appears, is corrected to read: "121.2."

3. On page 30660, the number "116.34," in the one place it appears, is corrected to read: "166.44."

4. On page 30660, the reference to lettered paragraph "(b)" of § 167.3, is corrected to be a reference to lettered paragraph "(l)" of § 167.3.

5. On page 30660, the phrase "170.6 (a)(1) and (2), and (b)," is corrected to read: "170.6(b)(1) and (2), and (c)."

6. On page 30660, the list of sections in Part 170 which are revoked (numbered paragraph 45) is amended by adding: "170.8."

7. On page 30661, under numbered paragraph 59–8, the number "181.21" is corrected to read: "187.21."

8. On page 30661, the reference "Appendix E—Procurement Standards," is deleted.

Effective date. These corrections shall become effective on May 13, 1974.

Dated: April 29, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: May 7, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare

[FR Doc.74–10979 Filed 5–10–74;8:45 am]

PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Special Allowances

Subparagraph (3) of § 177.4(c), Special Allowances, which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969" (Public Law 91–95) is amended to provide for the payment of such an allowance for the period January 1, 1974, through March 31, 1974, inclusive.

In light of the directives in the Emergency Insured Student Loan Act of 1969 with respect to the factors that the Secretary of Health, Education, and Welfare is to consider and the officials with whom he is to consult in setting the rate of the special allowance, and since a comment period would cause delay of at least 30 days, following each quarterly 3-month period, before lenders could apply for the special allowance for such period, it has been determined pursuant to 5 U.S.C. 553 that the solicitation of comment as to the rate of the special allowance for any particular quarter is both impracticable and contrary to the public interest.

Effective date. This regulatory amendment is effective on June 12, 1974.

Section 177.4(c)(3)(xix) is added as follows:

§ 177.4 Payment of interest benefits, administrative cost allowances and special allowance.

* * * * * * *

(c) * * *

(3) * * *

(xix) For the period January 1, 1974, through March 31, 1974, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of two and one-quarter percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

(Catalog of Federal Domestic Assistance No. 13.460 Guaranteed Student Loan Program)

Dated: May 2, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: May 8, 1974.

CASPER W. WEINBERGER,
Secretary of Health, Education, and Welfare.

[FR Doc.74–11030 Filed 5–10–74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Parts 133, 141]

TRADEMARKS, TRADE NAMES, AND COPYRIGHTS AND ENTRY OF MERCHANDISE

Invoices Accompanying Shipments of Books; Extension of Time

MAY 7, 1974.

On February 28, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 7799) which proposed to amend §§ 133.45(c)(2) and 141.89 of the Customs regulations pertaining to the requirement of certain information on invoices accompanying shipments of books. Thirty days from the date of publication of the notice were given for submission of data, views, or arguments pertinent to the proposed amendment.

Requests have been received for extension of the time for submission of comments. The period of submission of data, views, or arguments relating to the proposed amendments to §§ 133.45(c)(2) and 141.89, Customs regulations, is extended to May 3, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.74–10987 Filed 5–10–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 930]

CHERRIES GROWN IN CERTAIN STATES

Limitation of Handling

This notice invites written comments relative to proposed amendment of the rules and regulations established pursuant to Marketing Order 930. Such amendment would prescribe a procedure governing tree selection under the diversion provisions; permit the packing of reserve pool cherries in 30 pound capacity containers other than 30 pound metal cans when authorized by the Cherry Administrative Board; establish a handler charge for fiscal 1974–75 at 12.01 cents per pound for processing, freezing and the first 30 days storage of reserve pool cherries and set a storage charge of 5.5 cents per container for each additional month of storage; prescribe a minimum grade for reserve pool cherries; and authorize said Board to maintain a reserve fund to meet the costs of maintaining records pertaining to reserve pool cherries.

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations, 7 CFR Part 930.101–930.161), currently in effect pursuant to the applicable provisions of marketing Order No. 930 (7 CFR Part 930), regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland hereinafter referred to as "the order." This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This proposed amendment of the rules and regulations was unanimously recommended by the Cherry Administrative Board, established under said order, as the agency to administer the terms and provisions thereof. It specifies the procedure for the Board to use in supervising diversion under the order. It provides that containers other than the 30-pound new metal can may, upon approval of the Board, be used for reserve pool cherries. It proposes that reserve pool cherries meet at least the requirements of U.S. Grade B (39 FR 13551) to up-grade reserve pool cherries to make them more desirable and more marketable. It proposes to compensate handlers at the rate of 12.01 cents per pound of reserve pool cherries delivered for processing, freezing and the first 30 days storage of such cherries, and a fee of 5.5 cents per container per month for storage of such cherries thereafter. Since reserve pool expenses, such as storage of records, continue after liquidation of a reserve pool, the proposal is to establish a reserve fund, not to exceed $10,000, for use in defraying such expenses.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than June 3, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment would provide as follows:

1. Section 930.103 *Diversion* is revised to read as follows:

§ 930.103 Diversion.

Diversion shall be accomplished by leaving restricted percentage cherries unharvested: *Provided*, That such cherries shall remain on the tree until final inspection and shall not be removed from the premises other than by board approval: *Provided further*, That unless an alternate method of tree selection for diversion is requested by an applicant and is approved by the board, the trees involved with non-harvest shall be designated on a random basis by the board through its authorized representatives.

2. § 930.104 *Reserve pool requirements* is amended to read as follows:

§ 930.104 Reserve pool requirements.

(a) Reserve pool cherries shall be set aside in the form of 5 plus 1 (five pounds of raw pitted cherries combined with one pound of sugar) frozen cherries packed in new 30 pound capacity metal cans or such other 30 pound capacity containers as may be prescribed by the board. Such cherries shall be graded and certified by the United States Department of Agriculture.

* * * * * *

(c) Such cherries, for each handler who freezes cherries, shall reflect not less than the overall grade, quality and condition of the total frozen production of said handler: *Provided*, That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade "A" and the remainder not lower than proposed U.S. Grade "B" (39 FR 13551) unless otherwise exempted by the board.

(d) Such cherries, for each handler who does not freeze cherries and therefore obtains reserve pool cherries from another handler who does freeze cherries, shall reflect not less than the overall grade, quality and condition of the total frozen production of the handler who freezes such cherries: *Provided*, That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade "A" and the remainder not lower than proposed U.S. Grade "B" (39 FR 13551) unless otherwise exempted by the board.

3. Paragraph (c) of § 930.109 *Distribution of reserve pool proceeds* is revised to read as follows:

§ 930.109 Distribution of reserve pool proceeds.

* * * * * *

(c) In accordance with § 930.60 all reserve pool funds, after deductions, shall be distributed to equity holders in direct proportion to each person's equity in the total reserve pool. In the event of complete disposition of all reserve pool cherries, the board may, prior to making distribution of the resulting funds, set aside a portion of such funds, not to exceed $10,000, as a reserve to defray

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costs of storage and maintenance of records and supporting material of the pool.

* * * * *

(4) Section 930.158 *Handler compensation charge 1* is revised to read as follows:

§ 930.158 Handler compensation charge 2.

During the fiscal period ending April 30, 1975, each handler shall be compensated, as provided by § 930.58, by producers having an interest in the reserve pool, or their successors in interest: (1) at the rate of $0.1201 (12.01 cents) per pound of reserve pool cherries for receiving raw unpitted cherries, processing such cherries into the form of 5 plus 1 frozen cherries packed in new 30 pound capacity metal cans or any other 30 pound capacity as may be prescribed by the board, as specified in § 930.104(a), and for storage in a suitable freezer storage facility for 30 days from the date the reserve pool cherries are placed in such storage facility; and (2) at the rate of 5½ cents per pound container per month for storage thereafter in a suitable freezer storage facility.

Dated: May 7, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-10950 Filed 5-10-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 57]

PHYSICIAN SHORTAGE AREAS

Scholarship Grants

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to add a new Subpart W entitled "Physician Shortage Area Scholarship Grants", to Part 57 of Title 42, Code of Federal Regulations. The proposed new Subpart W is in tentative form below.

Section 784 of the Public Health Service Act authorizes the Secretary of Health, Education, and Welfare to award scholarship grants to students of medicine and osteopathy who agree to engage in the practice of primary care for a prescribed period of time (a) in a physician shortage area or (b) in such manner as to assure that of the patients receiving medical care in such practice a substantial portion will consist of migratory agricultural workers or members of their families. The purpose of the proposed new Subpart W is to establish regulations implementing section 784 of the Public Health Service Act.

Written comments concerning the proposed regulations are invited from interested persons. Inquiries may be addressed, and data, views and arguments relating to the proposed regulations may be presented in writing, in triplicate, to the Director, Bureau of Health Resources Development, 9000 Rockville Pike, Building 31, Rm. 5C02, Bethesda, Maryland 20014. All comments received in response to this notice will be available for public inspection at the Office of Grants Policy, Bureau of Health Resources Development, Health Resources Administration, 9000 Rockville Pike, Building 31, Rm. 5B34, Bethesda, Maryland 20014 on weekdays (Federal Holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m. In light of the need to publish final regulations in time to make awards from fiscal year 1974 funds for the 1974–75 school year only those comments received on or before May 28, 1974 will be considered.

It is therefore proposed to add a new Subpart W to Part 57 as set forth below.

Dated: April 25, 1974.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved May 6, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart W—Physician Shortage Area Scholarship Grants

Sec.
57.2201 Applicability.
57.2202 Definitions.
57.2203 Eligibility.
57.2204 Application.
57.2205 Priority for selection of scholarship recipients.
57.2206 Grant award.
57.2207 Amount of scholarship grant.
57.2208 Payment of scholarship grant.
57.2209 Conditions of scholarship grant.
57.2210 Failure to comply.
57.2211 Waiver or suspension.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216).

§ 57.2201 Applicability.

The regulations of this subpart are applicable to scholarship grants awarded under section 784 of the Public Health Service Act, which authorizes the Secretary to award scholarship grants to students of medicine and osteopathy who agree to engage in the practice of primary care for a prescribed period of time (a) in a physician shortage area or (b) in such manner as to assure that of the patients receiving medical care in such practice a substantial portion will consist of migratory agricultural workers or members of their families.

§ 57.2202 Definitions.

As used in this subpart, the following terms shall have the following meanings:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "School" means a public or other nonprofit school of medicine or osteopathy which provides a course of study, or a portion thereof, which leads respectively to a degree of Doctor of Medicine or Doctor of Osteopathy and which is accredited as provided in section 721(b)(1)(B) of the Act.

(d) "Scholarship grant" means the amount of money awarded to an individual by the Secretary for an academic year pursuant to section 784(a) of the Act.

(e) "Full-time student" means a student who is enrolled, or accepted for enrollment, in a school and pursuing a course of study which constitutes a full-time academic workload, as determined by the school, leading to a degree specified in paragraph (c) of this section.

(f) "Academic year" means the traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

(g) "National of the United States" means (1) a citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a)(22)).

(h) "Professional training" means the course of study leading to the degree of doctor of medicine or doctor of osteopathy, plus a period, not to exceed a total of four years, of internship and residency training.

(i) "Low-income background" as applied to any individual means that the individual comes from a family with an annual income below low-income levels developed pursuant to § 57.605(c).

(j) "The practice of primary care" means the provision of health services characterized by the delivery of first contact medicine, the assumption of longitudinal responsibility for the patient regardless of the presence or absence of disease, and the integration of the physical, psychological and social aspects of health care to the limits of the capability of the practitioner. For purposes of this section, primary care shall include the fields of general practice, family practice, general internal medicine, and general pediatrics.

(k) "Migratory agricultural worker" means a domestic agricultural migratory worker as defined in § 56.102(d).

(l) "Physician shortage area" means an area designated by the Secretary pursuant to § 57.216(a)(5) as an area having a need for and shortage of physicians.

§ 57.2203 Eligibility.

To be eligible for a scholarship grant under this subpart, the applicant must:

(a) Be a national of the United States or a permnent resident of the Trust Territory of the Pacific Islands or be in the United States, Puerto Rico, the Virgin Islands, or Guam for other than temporary purposes and intend to become a permanent resident thereof;

(b) Be a full-time student in a school located in the United States, the Trust Territory of the Pacific Islands, Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa or Guam; and

(c) Agree to engage in the practice of primary care as defined in § 57.2202(j) in accord with conditions specified in § 57.2209.

§ 57.2204 Application.

Each eligible applicant desiring a scholarship grant under this subpart shall submit an application at such time and in such form as the Secretary may prescribe.

§ 57.2205 Priority for selection of scholarship recipients.

(a) When funds determined by the Secretary to be available for scholarship grants under this subpart are insufficient to permit the awarding of scholarships to all individuals applying therefor, the Secretary shall accord priority to eligible applicants as follows:

(1) First priority for scholarship grants shall be accorded to applicants who (i) are from a low-income background as defined in § 57.2202 (i), (ii) reside in a physician shortage area and (iii) agree to return to such area and engage in the practice of primary care. For purposes of this subparagraph, an individual resides in a physician shortage area if he presently is residing in such an area or if he (or his parents) resided in such an area in the year prior to his admission to an institution of higher education.

(2) Second priority shall be accorded to applicants meeting the criteria in paragrap (a)(1) (ii) and (iii) of this section.

(3) Third priority shall be accorded to applicants meeting the criteria in paragraph (a)(1) (ii) and (iii) of this section.

(4) Fourth priority shall be accorded to other applicants.

(b) Where there are insufficient funds available to make scholarship grants to all members of any single priority grouping enumerated in paragraph (a) of this section, the following criteria will be used to accord priority within each affected priority group:

(1) Within the priority groupings specified in paragraph (a) (1) and (2) of this section, the Secretary shall rank recipients according to the degree of the severity of shortage of physicians practicing primary care in such area. Scholarship grants shall be awarded within each priority group first to applicants within that grouping from physician shortage areas with the least favorable ratio of such physicians to the population to be served.

(2) Within the priority groupings specified in paragraph (a) (3) and (4) of this section, the Secretary shall award scholarship grants within each priority group first to applicants who agree to practice primary care in a physician shortage area with a substantial portion of migratory agricultural workers in such area; second, to applicants within that grouping who agree to practice in a physician shortage area; and third, to applicants within that grouping who agree to practice in such place or places, facility or facilities, and in such manner as the Secretary finds necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons who are migratory agricultural workers or members of their families.

§ 57.2206 Grant award.

The Secretary may award scholarship grants to individuals who have been selected to receive scholarship grants in accordance with § 57.2205. Any such award under this subpart shall state the specific conditions under which the award is being made and shall indicate the distribution between funds awarded to cover the costs of tuition and fees payable to the school and funds awarded for the costs of equipment, supplies, books, and living expenses payable to the individual.

§ 57.2207 Amount of scholarship grant.

(a) The amount of the scholarship grant to any student for any academic year shall be the total of (1) the lesser of (i) $5,000 or (ii) the amount determined by the Secretary to be the cost of tuition and fees; plus (2) an allowance for equipment, supplies, books and living expenses which shall be the lesser of (i) $3,600 or (ii) the difference between $5,000 and the amount determined pursuant to paragraph (a)(1) of this section.

(b) The maximum amount of a scholarship grant during a 12-month period to any student enrolled in a school which provides a course of study longer than the traditional 9-month academic year may be proportionately increased.

§ 57.2208 Payment of scholarship grant.

The portion of a scholarship grant awarded for the costs of tuition and fees as indicated on the notice of grant award document will be paid directly to the school upon receipt of an invoice from the school. The portion of the scholarship grant awarded for the costs of equipment, supplies, books, and living expenses will be paid to the individual in equal monthly installments.

§ 57.2209 Conditions of scholarship grant.

(a) Any scholarship grant made to any individual under this subpart shall be awarded upon the condition that such individual will, following completion of his professional training, engage in the practice of primary care for a period of 12 continuous months for each academic year (i.e., 9 months) for which a scholarship grant was made, as follows:

(1) In the case of any individual selected pursuant to § 57.2205(a) (1) or (2), such practice must be in the physician shortage area to which such individual agreed to return: *Provided however*, That if the Secretary determines at the time the individual proposes to engage in the required practice that such area is no longer a physician shortage area and cannot reasonably be expected to become such an area within 2 years from such time, such practice shall, at the option of the individual be, either in any then current physician shortage area, or in such place or places, facility, or facilities, and in such manner as the Secretary finds necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons who are migratory agricultural workers or members of their families.

(2) In the case of any individual selected pursuant to § 57.2205(a) (3) or (4), such practice must be in accordance with the agreement described in § 57.2205(b)(2) (i.e., in a physician shortage area with a substantial portion of migratory agricultural workers in such area; a physician shortage area; or in such place or places, facility or facilities, and in such manner as may be necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons who are migratory agricultural workers or members of their families; as the case may be).

(b) Subject to the provision of § 57.2211(e), any individual to whom the conditions of this section apply must complete the practice required by paragraph (a) of this section within a period beginning on the date of completion by such individual of his professional training, as determined by the Secretary, and not to exceed the period of practice determined in accordance with such paragraph (a), plus 6 months.

(c) Where an individual has received scholarship grant support for four academic years, such individual shall be considered to have received scholarship grant support for only three academic years if the Secretary determines (1) that such individual has served his internship or residency in a hospital (i) which is located in a physician shortage area, or (ii) in which a substantial portion of the patients of such hospital consists of persons who are migratory agricultural workers or members of the families of such workers and (2) that while so serving such internship or residency, he has received training or professional experience designed to prepare him to engage in the practice of primary care.

(d) For purposes of paragraph (c)(2) of this section, (1) internships which will be recognized by the Secretary as providing training or professional experience designed to prepare an individual to engage in the practice of primary care are: rotating internships without a major emphasis, rotating internships with an emphasis on internal medicine, rotating internships with an emphasis on pediatrics, straight internships in internal medicine and straight internships in pediatrics; *Provided*, That such internships are approved or provisionally approved by the Council on Medical Education of the American Medical Association or the Board of Trustees of the American Osteopathic Association; and

(2) Residencies which will be recognized as providing such training or experience are those in general practice,

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family practice, general internal medicine and general pediatrics; *Provided*, That such residencies are approved or provisionally approved by the Council on Medical Education of the American Medical Association or the Board of Trustees of the American Osteopathic Association.

(e) No individual who has received a scholarship grant under this subpart may enter into an agreement with the Secretary pursuant to section 741(f) of the Act until either (1) such individual has completed the practice required by paragraph (a) of this section, or (2) the Secretary has determined that the United States is entitled to recover from such individual an amount determined in accordance with § 57.2210. In no case, however, shall a scholarship grant under this subpart be considered an educational loan for purposes of section 741(f) of the Act.

§ 57.2210 Failure to comply.

(a) Subject to the provision of § 57.2211, if any individual fails to complete the course of study or fails, within the time period set forth in § 57.2209(b), to meet the applicable conditions of practice imposed by receipt of a scholarship grant for the full number of months to which such condition is applicable, the United States shall be entitled to recover from such individual an amount determined in accordance with section 784(c)(3) of the Act.

§ 57.2211 Waiver or suspension.

(a) Any obligation of any individual under this subpart will be cancelled upon the death of such individual as documented by a certification of death, or such other official proof as is conclusive under State law, and submitted to the Secretary.

(b) Subject to the provision of paragraph (e) of this section, where an individual fails to complete the practice required by § 57.2209(a) within the period prescribed in § 57.2209(b), the Secretary may waive the obligation of such individual to repay pursuant to § 57.2210 where the Secretary determines that compliance by such individual with such obligation (1) is impossible, or (2) would involve extreme hardship to such individual and enforcement of such obligation with respect to such individual would be against equity and good conscience.

(c) For purposes of paragraph (b)(1) of this section, compliance by an individual will be deemed impossible where the Secretary determines, on the basis of such information and documentation as he may require, that the individual is permanently and totally disabled.

(d) For purposes of paragraph (b)(2) of this section, in determining whether compliance by an individual would involve extreme hardship to such individual and would be against equity and good conscience, the Secretary will take into consideration the following:

(1) The individual's present financial resources and obligations;

(2) The individual's estimated future financial resources and obligations;

(3) The reasons for the individual's failure to complete such practice within the prescribed period, such as problems of a personal nature; and

(4) The extent to which the individual is practicing his profession in a manner consistent with the purposes of section 784 of the Act.

(e) The Secretary may extend the period (prescribed in § 57.2209(b)) within which an individual must complete the practice required pursuant to § 57.2209(a) for a period not to exceed one year where the Secretary finds that (1) such individual is unable to complete such practice within such period because of a temporary physical or mental disability, or (2) completion by such individual of such practice within such period would involve extreme hardship to such individual and that failure to so extend such period would be against equity and good conscience.

[FR Doc.74-10980 Filed 5-10-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-WA-12]

ADDITIONAL CONTROL AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would expand the additional control area in the vicinity of Sault Ste. Marie, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before May 28, 1974, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would expand the Sault Ste. Marie, Mich., Additional Control Area (§ 71.163 of the Federal Aviation Regulations) as follows:

An area bounded by a line beginning at Lat. 46°48'45" N., Long. 84°33'00" W., to Lat. 46°33'00" N., Long. 85°01'40" W., to Lat. 47°00'00" N., Long. 86°25'30" W., to Lat. 47°19'40" N., Long. 86°10'10" W., thence to the point of beginning. The airspace within Canada is excluded.

The expansion of this portion of the additional control area would provide aircraft operating in the Sault Ste. Marie and Kincheloe, Mich., areas more controlled airspace for radar vectors and would improve air traffic control procedures.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 7, 1974.

RAYMOND M. MCINNIS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-10900 Filed 5-10-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SW-21]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations to alter the Harlingen, Tex., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 12, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440), the Harlingen, Tex., transition area is amended to read:

HARLINGEN, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Harlingen Municipal Airport (latitude 26°13'36" N., longitude 97°39'12" W.); within 3.5 miles either side of the Harlingen ILS localizer north course extending from the 5-mile radius zone to 11.5 miles north of the outer marker (latitude 26°18'17.7" N., longitude 97°39'28.2" W.); within 1.5 miles each side of the localizer (latitude 26°12'48" N., longitude 97°39'31" W.) back course 181° T radial extending from the 5-mile radius zone to 5.5 miles south of the localizer and within 2 miles either side of the Harlingen VOR 118° radial extending from the 5-mile radius zone to the VOR.

The amendment to the transition area will provide the necessary controlled airspace for aircraft executing the LOC (BC) RWY 36L instrument approach procedure.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX, on May 1, 1974.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.74-10897 Filed 5-10-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-WE-8]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area for El Rico Airport, Corcoran, California.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 S. Aviation Boulevard, Lawndale, California 90261. All communications received on or before June 12, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 15000 S. Aviation Boulevard, Lawndale, California 90261.

A new special instrument approach procedure (VOR/DME-A) has been developed for El Rico Airport (Pvt), Calif. The procedure turn and final approach course are developed on the Avenal, Calif. VORTAC 034° T (018° M) radial. The proposed 700 foot transition area is required to provide airspace protection for aircraft utilizing the new appoach procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (39 FR 440) the following transition area is added:

EL RICO, CALIF.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of El Rico Airport (latitude 36°02'43" N., longitude 119°38'44" W.) and within 3 miles each side of the Avenal VORTAC 034° radial, extending from the 3-mile radius area to 24 miles NE of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California, on April 29, 1974.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.74-10898 Filed 5-10-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-WE-9]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Phoenix, Arizona transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 S. Aviation Boulevard, Lawndale, California 90261. All communications received on or before June 12, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 15000 S. Aviation Boulevard, Lawndale, California 90261.

The United States Air Force has requested additional portions of 700 foot and 1,200 foot transition area. This airspace is required to provide additional controlled airspace wherein air traffic service may be provided to aircraft from Luke AFB performing instrument flight rule training.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (39 FR 440) the description of the Phoenix, Ariz. transition area is amended as follows: Add the following to the description of the 700 foot portion of the transition area "that airspace NW of Phoenix bounded by a line beginning at latitude 33°59'00" N., longitude 112°38'00" W. to latitude 33°49'00" N., longitude 112°55'00" W., thence counterclockwise via an arc of a 20-mile radius circle centered on Luke AFB to latitude 33°12'00" N., to latitude 33°14'00" N., longitude 112°45'00" W. to latitude 33°55'00" N., longitude 112°45'00" W. to point of beginning."

In the description of the 1,200 foot portion of the transition area delete longitude "112°30'00" W." in the first set of coordinates and substitute "112°39'00" W." therefor. In the last set of coordinates delete longitude "112°43'00" W." and substitute "112°52'00" W." therefor.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California, on April 29, 1974.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.74-10899 Filed 5-10-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-EA-20]

TRANSITION AREA

Proposed Alteration

Correction

In FR Doc. 74-10414 appearing in the issue of May 7, 1974, make the following correction.

On page 16156 in the 2d column, 23d line, the 4th entry should read "225°".

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

PUERTO RICO

Implementation Plans; Approval of Compliance Schedules

On May 31, 1972 (37 FR 10482), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator of the Environmental Protection Agency approved the implementation plan submitted by the Commonwealth of Puerto Rico for attainment and maintenance of national ambient air quality standards. On April 5, April 9, April 17 and September 10, 1973, proposed revisions to the approved plan were submitted by Puerto Rico in the form of compliance schedules covering sources located in the Commonwealth. Set forth

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below are proposed regulations for approval of forty-seven of these compliance schedules.

These compliance schedules were adopted by Puerto Rico after notice and public hearings in conformity with the requirements of 40 CFR 51.4 and 51.6, as certified by supporting documents submitted by the Puerto Rico Environmental Quality Board. The Administrator determined that these schedules could not be approved as originally submitted by the Commonwealth, and requested that additional information be supplied relating to the procedures employed in adoption of these schedules by the Commonwealth, and to the enforceability of their terms. This information was received by EPA on February 1 and February 12, 1974. The Administrator thereupon found these schedules to be approvable as consistent with the requirements of the Clean Air Act, 40 CFR Part 51, and Puerto Rico's approved control strategies. The Administrator therefore proposes to approve these schedules in the form of the regulation set out below.

The date indicated for final compliance in forty-six of these schedules will have passed by the time of their final approval. This fact is attributable to delays occasioned by the necessity of ministering to infirmities existing at the time of their initial submission. The Administrator believes approval of these schedules to be nonetheless desirable in order to make the incremental and final compliance dates contained therein federally enforceable. This is considered appropriate inasmuch as each schedule reflects the consensus of EPA and the Puerto Rico Environmental Quality Board as to the abatement actions to be taken, and the date by which compliance should be achieved. Failure to approve these schedules would limit EPA to enforcement of the state implementation plan, the provisions of which were immediately effective as of the date of the plan's promulgation.

Each of these schedules will, when approved, establish a new date by which the source involved must comply with the applicable emission limitation provisions of the federally-approved state implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date". In no case does this compliance date fall beyond the April 30, 1975 date established in Puerto Rico's implementation plan for attainment of primary ambient air quality standards, nor is relaxation of any emission standard involved. Achievement of ambient air quality standards by the attainment date will therefore not be jeopardized by approval of these schedules.

Copies of the forty-seven compliance schedules proposed to be approved are available for public inspection at the offices of the Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, and the Puerto Rico Environmental Quality Board, 1550 Ponce de Leon Avenue, Santurce, Puerto Rico 00910. Interested persons may participate in this rule making by submitting written comments in triplicate to Stephen Dvorkin, Attorney, Enforcement and Regional Counsel Division, in care of the Region II Office at the above address. All comments submitted no later than thirty days after the date of publication of this proposal will be considered. Receipt of comments will be acknowledged but substantive responses will not be provided. All comments received, as well as copies of the Puerto Rico implementation plan, will be available for inspection during normal business hours at the Regional Office.

(42 U.S.C. 1857c-5)

Dated: May 3, 1974.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by adding a new paragraph (c) as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) Supplemental information was submitted by the Commonwealth of Puerto Rico Environmental Quality Board on April 5, April 9, April 17, May 30, June 18 and September 10, 1973, and on February 1 and February 12, 1974.

2. A new § 52.2724 is added as follows:

§ 52.2724 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the Commonwealth, unless otherwise noted.

PUERTO RICO

Source	Location	Regulations involved	Date of adoption	Effective date	Final compliance date
1. Hormigonera Oriental, Inc.	Fajardo	5.2, 5.5	Apr. 4, 1973	Immediately	Apr. 30, 1973
2. Hormigonera Metropolitana, Inc.	Caguas	5.2, 5.5	do	do	Do.
3. Hormigoneras, Inc.	do	5.1, 5.2, 5.5	Apr. 5, 1973	do	Do.
4. Industria Alimenticia	Barceloneta	5.5, 8	do	do	Nov. 30, 1973
5. Jocarlick	Vega Baja	5.2, 5.5	do	do	Apr. 28, 1973
6. Inabon Aggregates, Inc.	Coto Laurel	5.2	do	do	Mar. 31, 1973
7. Ponce Asphalt, Inc., Santa Isabela Plant.	Ponce	5.2, 5.5, 6.1	do	do	Apr. 15, 1973
8. Cantera Diaz, Inc	Trujillo Alto	5.2	do	do	June 15, 1973
9. Inabon Asphalt, Inc	Coto Laurel	5.1, 5.2, 6.1	do	do	June 1, 1973
10. Betteroads Asphalt Corp. Plant 2.	Aguada	5.2, 6.1, 5.1	do	do	May 31, 1973
11. Hormigonera, Inc. Plant 6	Bayamon	5.2	Apr. 4, 1973	do	Mar. 30, 1973
12. Hormigonera, Inc. Plant 15	Canovanas	5.2	Apr. 5, 1973	do	Apr. 30, 1973
13. Hormigonera, Inc. Plant 7	Fajardo	5.2	do	do	Mar. 30, 1973
14. Hormigonera, Inc. Plant 5 Tempo.	Dorado	5.2	do	do	Mar. 31, 1973
15. Hormigonera Oriental, Inc	Humancao	5.2	Apr. 4, 1973	do	Apr. 30, 1973
16. Betteroads Asphalt Corp. Plant 6.	Arecibo	5.2, 5.4	Apr. 5, 1973	do	Dec. 31, 1973
17. Empress O'Neill	Manati	5.2, 5.4	do	do	July 15, 1973
18. General Electric Switchgear	Vieques	5.2, 4.1	Apr. 4, 1973	do	Mar. 16, 1973
19. Terrazas Plca, Inc	Ponce	5.1, 5.2	Apr. 5, 1973	do	June 30, 1973
20. South Caribe Aggregates, Inc	do	5.1, 5.2	do	do	June 20, 1973
21. Rexach Block, Santurce	Santurce	5.1, 5.5	Apr. 9, 1973	do	Aug. 15, 1973
22. Integrated Indnstries	Mayaguez	5.5	Apr. 8, 1973	do	Dec. 22, 1972
23. Amrex Construction Co., Inc	Cayey	5.2	Apr. 9, 1973	do	Mar. 15, 1974
24. Bloques La Plata	Toa Baja	5.2, 5.5	do	do	Apr. 30, 1973
25. Rodfall Muebles	Saint Just	5.2, 5.5	do	do	Aug. 31, 1973
26. South Caribe Aggregates, Inc	Juana Diaz	5.2, 5.5	do	do	June 30, 1973
27. Rexach Asphalt Corp	Aguadilla	5.2	do	do	May 15, 1973
28. Betteroads Asphalt Corp	Sabana Grande	5.2	do	do	Dec. 31, 1973
29. Ponce Asphalt	Ponce	5.2	Apr. 8, 1973	do	Apr. 15, 1973
30. Puerto Rico Aggregates	Caroliwa	5.2	Apr. 5, 1973	do	July 31, 1973
31. Ibec Packing Co	Mayagnez	5.5, 8	Apr. 8, 1973	do	Aug. 15, 1973
32. Rexach Concrete Corp	Garubo	5.2	Apr. 9, 1973	do	May 1, 1973
33. Omark Caribbean, Inc	Bayamon	5.1, 5.5	Apr. 8, 1973	do	Nov. 30, 1973
34. Best Contracting Corp	Rio Piedras	5.2	Apr. 5, 1973	do	Mar. 22, 1973
35. Betteroads Asphalt Corp	do	5.2	do	do	Nov. 30, 1973
36. Hormigonera, Inc	do	5.1, 5.2, 5.5	do	do	Dec. 31, 1973
37. Agregados Gurabo, Inc	Garubo	5.1, 5.2, 5.5	Apr. 8, 1973	do	Mar. 12, 1973
38. Rexach Aggregates Corp	Caguas	5.1, 5.2, 5.5	Apr. 9, 1973	do	Feb. 28, 1973
39. Quality Concre-Mix, Inc. (Sabana Seca).	Bayamon	5.1, 5.2, 5.5	do	do	June 15, 1973
40. Rexach Concrete Corp	Aguirre	5.1, 5.2, 5.5	do	do	Apr. 1, 1973
41. Eli Lilly	Mayaguez	7.3	Apr. 8, 1973	do	Dec. 31, 1974
42. Tito Castro Ready Mix	Ponce	5.1, 5.2, 5.5	July 23, 1973	do	Aug. 22, 1973
43. Puerto Rico Concrete Products	Rio Piedras	5.2	July 5, 1973	do	Aug. 30, 1973
44. Ponce Concrete Products	Ponce	5.2	do	do	Aug. 31, 1973
45. Motors and Parts Distributors	Hato Rey	5.5	do	do	July 29, 1973
46. Hormigonera, Inc	Rio Piedras	5.1, 5.2, 5.5	June 28, 1973	do	Dec. 31, 1973
47. Inabon Ready Mix	Coto Laurel	5.1, 5.2	do	do	Apr. 27, 1973

[FR Doc.74-10806 Filed 5-10-74;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 35]

[Docket No. RM74-15]

INITIAL AND SUPERSEDING ELECTRIC RATE SCHEDULES

Fixed Rate Contract Provisions; Correction

MAY 3, 1974.

In the Notice of Proposed Rulemaking, issued April 22, 1974 and published in the FEDERAL REGISTER April 26, 1974, 39 FR 14730,

Page 14730, Column three, line 3, change "June 6" to read "May 28".

On page 14730, Column three, line 13 change May 28, 1974 to read June 6, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-10906 Filed 5-10-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Size of Concern Affected by a Military Installation Closing

On March 27, 1974, there was published in the FEDERAL REGISTER (39 FR 11256) an amendment providing a method for computing a concern's size status for the purpose of receiving a Small Business Administration loan if such concern has suffered a reduction of at least 25 percent in annual receipts or employment (depending on the size standard applicable) due to the shortage of energy or materials.

It has been suggested that a comparable method of computation should be established to cover situations in which a concern has suffered such a reduction in annual receipts or employment and such reduction is determined to have been caused by the closing of a United States military installation such as a post, camp, or station. It also has been suggested that in the case of reduction caused by an installation closing, the designated method of computation should also be utilized in determining a concern's size for the purpose of bidding on Government procurement as a small business.

Accordingly, it is proposed to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations by:

1. Adding a new sentence to § 121.3-2 (b) and inserting a new sentence immediately following the first sentence of § 121.3-2(f) to read as follows:

§ 121.3-2 Definition of terms used in this part.

* * * * * *

(b) "Annual Receipts" * * * *It is further provided,* That, if, for the purpose of receiving financial assistance under a Small Business Administration program and for the purpose of bidding on Government procurement, it is determined that such concern has completed at least 3 months of its current fiscal year, its gross receipts for the completed months of its current fiscal year are at least 25 percent lower than its receipts during the corresponding months of its most recently completed fiscal year, the reduction in its receipts was primarily due to the closing of a United States military installation such as a post, camp, or station, and at least 51 percent of its annual receipts for its preceding fiscal year were the result of its business transactions with such installation or its personnel, its annual receipts for size determination purposes shall be computed by reducing its annual receipts for its most recently completed fiscal year (or its average annual receipts for its preceding 3 fiscal years) by the determined percentile.

* * * * * *

(t) * * * *It is further provided,* That, if, for the purpose of determining a concern's eligibility for financial assistance under a Small Business Administration program and for the purpose of bidding on Government procurement, it is determined that (1) a concern's employment in its most recently completed calendar quarter is at least 25 percent lower than its employment in the corresponding quarter in the preceding calendar year, (2) such reduction in employment was primarily due to the closing of a United States military installation such as a post, camp, or station, and (3) at least 51 percent of its annual receipts for its preceding fiscal year were the result of its business transactions with such installation or its personnel, its number of employees for size determination purposes shall be determined by reducing its average employment for the preceding four quarters by the determined percentile. * * *

* * * * * *

Interested parties may, on or before May 28, 1974 file with the Small Business Administration written statements of facts, opinions, or arguments concerning the proposal.

All correspondence shall be addressed to:

William L. Pellington
Director, Office of Industry Studies and Size Standards
Small Business Administration
1441 L Street, NW.
Washington, D.C. 20416

Dated: May 2, 1974.

(All Catalogue of Federal Domestic Assistance Program Numbers)

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10968 Filed 5-10-74;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice 420]

DENMARK

Validity of Passports

Denmark is added to the list of countries which have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign-issuing authority for a period of at least six months beyond the expiration date specified in the passport.

This notice amends Public Notice 375 of January 10, 1973 (38 FR 1224).

Dated: April 30, 1974.

[SEAL] BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs, Department of State.

[FR Doc.74-10940 Filed 5-10-74;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

COMPTROLLER OF THE CURRENCY'S REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE SECOND NATIONAL BANK REGION

Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Second National Bank Region will be held at Seaview Country Club, Absecon, New Jersey, on May 17-18, 1974, at 8:30 a.m.

The purpose of this meeting is to assist the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Second National Bank Region.

It is hereby determined pursuant to section 10(d) of Public Law 92-463 that the meeting is concerned with matters listed in section 552(b) of Title 5 of the United States Code and particularly with exceptions (3), (4) and (8) thereof, and is therefore exempt from the provisions of section 10 (a)(1) and (a)(3) of the Act (Public Law 92-463) relating to open meetings and public participation therein.

Dated: May 8, 1974.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.74-10986 Filed 5-10-74;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that a closed meeting of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on: Friday, May 31, 1974.

The meeting commencing at 9 a.m. will be to discuss classified matters.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 8, 1974.

[FR Doc.74-10964 Filed 5-10-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ABERDEEN AREA OFFICE, ABERDEEN, SOUTH DAKOTA

Change of Address

MAY 3, 1974.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938).

Notice is hereby given that the address of the Aberdeen Area Office of the Bureau of Indian Affairs will be changed from 820 South Main Street to 115 4th Avenue SE., Aberdeen, South Dakota 57401. This change will be effective on April 22, 1974.

LAFOLLETTE BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.74-10966 Filed 5-10-74;8:45 am]

Bureau of Land Management

[New Mexico 20273]

NEW MEXICO

Notice of Application

MAY 2, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for a 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO
T. 31 N., R. 12 W.,
Sec. 26, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.

This pipeline will convey natural gas across .667 miles of national resource land in San Juan County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above right-of-way application.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE., Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10941 Filed 5-10-74;8:45 am]

[New Mexico 20532]

NEW MEXICO

Notice of Application

MAY 3, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a 4½ inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO
T. 22 S., R. 34 E.,
Sec. 15, NE¼SW¼, W½SE¼, SE½SE¼.

This pipeline will convey natural gas across .620 mile of national resource land in Lea County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above right-of-way application.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10942 Filed 5-10-74;8:45 am]

[New Mexico 20117, NM 20260]

NEW MEXICO

Notice of Applications

MAY 2, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 6⅝ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO
T. 25 N., R. 11 W.,
Sec. 8, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼;
Sec. 17, W½NE¼.
T. 32 N., R. 12 W.,
Sec. 17, lot 8.

These rights-of-way will convey natural gas across 1.377 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to allow the public an opportunity to comment upon the filing of the above two right-of-way applications.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10943 Filed 5-10-74;8:45 am]

Bureau of Reclamation

CENTRAL NEBRASKA PUBLIC POWER AND IRRIGATION DISTRICT

Notice of Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Central Nebraska Public Power and Irrigation District Project located in Gosper County in south-central Nebraska. The statement (INT DES 74-44, dated April 23, 1974) was made available to the public on April 29, 1974.

The proposed project involves construction of additional facilities for the existing E-65 Irrigation System by the Central Nebraska Public Power and Irrigation District, hereafter referred to as the Central District, with headquarters at Holdrege, Nebraska. The district has submitted an application for a loan for irrigation system improvements and a grant for fish and wildlife enhancement under the Small Reclamation Projects Act, Public Law 84-984. The Central Nebraska Public Power and Irrigation District is a public corporation formed and chartered on July 24, 1933, under the laws of the State of Nebraska. That statute has been revised and amended and is presently defined in Section 70-601, R.R.S. Nebraska, 1943. It is within that statute that the Central Nebraska Public Power and Irrigation District is duly organized and operates.

The principal features (Exhibit B) included in the proposed E-65 System are: the Elwood Dam, two saddle dams, reservoir, and pump station; inlet-outlet canal; the enlargement of 26.6 miles of canal; the enlargement of three inverted siphons; the replacement of five metal

ment of selected control structures; the flumes with earth embankment; replace-replacement and betterment of 170 miles of distribution laterals with compacted earth lining or pipe; and cooperative acquisition and development of two wildlife management areas to be utilized as flood water storage areas. The construction of the dam is tentatively scheduled to begin in 1975 with completion anticipated in 1977. Construction of the lateral improvement program is scheduled to be performed with district funds within 10 years after the loan project is completed. The dam, reservoir, and pump station are located in Gosper County, and are about 3 miles north of Elwood, Nebraska, and approximately 1 mile west of U.S. Highway No. 283.

The environmental impact statement describes the E-65 Improvement Project and its purposes and functions and evaluates the project's impact upon the physical, biological, social and aesthetic aspects of the environment. The statement discusses the actions taken by the project to minimize or mitigate adverse project impacts and describes actions taken to provide enhancement of project effects, particularly in the area of fish and wildlife.

Public hearings will be held in the City Hall in Bertrand, Nebraska, at 9:45 a.m. on June 12, 1974, to receive views and comments from interested organizations and individuals relating to the draft environmental impact statement. Oral statements at the hearing will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference, if any, mentioned in their letter or telephone request. Any scheduled speaker not present when called will lose his privilege in the scheduled order and his name will be recalled after the scheduled speakers have finished. Requests for scheduled presentation will be accepted up to 4 p.m., June 7, 1974, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact Regional Director James M. Ingles, Bureau of Reclamation, Building 20, Denver Federal Center, Denver, Colorado, 80225, telephone (303) 234-4441, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by June 21, 1974, for inclusion in the hearing record.

Dated: May 7, 1974.

E. F. SULLIVAN,
Acting Commissioner of Reclamation.

[FR Doc.74-10890 Filed 5-10-74;8:45 am]

Office of the Secretary

[INT FES 74-21]

AUTHORIZED INITIAL STAGE OF GARRISON DIVERSION UNIT, N. DAK.

Availability of Supplement to the Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a supplement to the final environmental statement for the authorized initial stage of the Garrison Diversion Unit, North Dakota.

The environmental statement addresses comments raised by the Bureau of Sport Fisheries and Wildlife in their review of the final statement.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-9247.
Office of Assistant to the Commissioner—Ecology, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.
Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3007.
Office of the Regional Director, Bureau of Reclamation, P.O. Box 2553, Billings, Montana 59103, Telephone (406) 245-6711.
Missouri-Souris Project Office, Bureau of Reclamation, P.O. Box 1017, Bismarck, North Dakota 58501, Telephone (701) 255-4011.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 3, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-10944 Filed 5-10-74;8:45 am]

[INT DES 74-55]

PROPOSED CHARLES SHELDON WILDERNESS AREA, NEVADA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for the Proposed Charles Sheldon Wilderness Area, Nevada, and invites written comments within 45 days of this notice.

The proposal recommends that 277,200 acres of high desert habitat on the Charles Sheldon Antelope Range and the Sheldon National Antelope Refuge in Humboldt and Washoe Counties, Nevada, be designated a part of the National Wilderness Preservation System.

Copies of the draft statement are available for inspection at the following locations:

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Bureau of Sport Fisheries and Wildlife
1500 Plaza Building
1500 N.E. Irving Street
P.O. Box 3737
Portland, Oregon 97208

Headquarters
Charles Sheldon Antelope Range
Box 111
Lakeview, Oregon 97630

Bureau of Sport Fisheries and Wildlife
Office of Environmental Coordination
Department of the Interior
Room 2246
18th and "C" Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

Dated: May 7, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc. 74-10969 Filed 5-10-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[FmHA Instruction 449.2]

INSURED BUSINESS AND INDUSTRIAL LOANS

Interest Rates

Notice is hereby given by the Farmers Home Administration that the current rate of interest for insured business and industrial loans, established pursuant to 7 CFR 1842.61(b) is as follows:

a. Insured loans to private entrepreneurs will be at the rate of ten percent (10 percent). This rate will remain in effect until a change is published in the FEDERAL REGISTER.

b. The rate for guaranteed loans is as agreed upon between the borrower and lender.

Effective date. This notice shall be effective on May 13, 1974.

Dated: May 3, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.4-74-10952 Filed 5-10-74;8:45 am]

Forest Service

RADIOBIOLOGY OF NORTHERN FOREST COMMUNITIES

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement on Radiobiology of Northern Forest Communities for the Institute of Forest Genetics, USDA-FS-NCFES-FES-(Adm)-73-28.

The environmental statement concerns the implementation of research on the Radiobiology of Northern Forest Communities. Research is being conducted in a 1,440-acre forest, a 6½-acre cultivated gamma radiation field, and in the laboratory at the Institute of Forest Genetics near Rhinelander, Wisconsin, in Oneida County.

This final environmental statement was filed with CEQ on May 3, 1974.

A limited number of single copies are available upon request to Director, North Central Forest Experiment Station, Folwell Avenue, St. Paul, Minnesota 55101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.[1]

JOHN H. OHMAN,
Director, North Central Forest Experiment Station.

[FR Doc.74-10970 Filed 5-10-74;8:45 am]

Office of the Secretary

FLUE-CURED TOBACCO ADVISORY COMMITTEE

Notice of Determination

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), and after consultation with the Office of Management and Budget, the Secretary of Agriculture has determined that is is in the public interest to establish a Flue-Cured Tobacco Advisory Committee.

The purpose of this committee will be to assist the Secretary in making apportionment and assignment of inspectors and to advise and recommend to the Secretary marketing area opening dates and selling schedules for the flue-cured tobacco to be sold in each marketing area and each warehouse.

Any comments on the determination to establish this committee may be directed to J. W. York, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than May 28, 1974. All written submissions made pursuant to this notice shall be made available for public inspection at the Office of the Director, Tobacco Division, AMS, Room 501 Annex Bldg., 12th and C Streets SW., Washington, D.C., during regular business hours. (7 CFR 1.27(b).)

Dated: May 8, 1974.

JOSEPH R. WRIGHT, JR.,
Assistant Secretary for Administration.

[FR Doc.74-10951 Filed 5-10-74;8:45 am]

[1] A copy of the environmental statement is filed with the Office of Federal Register as part of the original document.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

HOMOSASSA SPRINGS, INC.

Issuance of Permit for Marine Mammals

On December 27, 1973, notice was published in the FEDERAL REGISTER (38 FR 35340), that an application had been filed with the National Marine Fisheries Service by Homosassa Springs, Incorporated, P.O. Box 8, Homosassa Springs, Florida 32647, for a permit to take two male and four female California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that, on May 3, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit to Homosassa Springs, Incorporated, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the offices of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, and the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 3, 1974,

JOSEPH W. SLAVIN,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74-10945 Filed 5-10-74;8:45 am]

SEA WORLD, INC.

Issuance of Permit for Marine Mammals

On February 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 4496), that an application had been filed with the National Marine Fisheries Service by Sea World, Incorporated, San Diego, California 92109, to take four (4) killer whales (*Orcinus orca*) for the purpose of public display at Sea World of Florida.

Notice is hereby given that, on May 7, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit to Sea World, Incorporated, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the office of the Regional Director, National Marine Fisheries Service, Northwest Region, 1700 West Lake Avenue, North, Seattle, Washington 98109.

Dated: May 7, 1974.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

[FR Doc.74-10946 Filed 5-10-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Notice of Meeting

The Interim Administrator, Alcohol, Drug Abuse, and Mental Health Administration, announces the meeting dates and other required information for the following National Advisory Body scheduled to assemble the month of June 1974:

Committee name	Date/time/place	Type of meeting and/or contact person
National Advisory Mental Health Council.	June 10-12, 9:30 a.m., conference room 14-105, Parklawn Bldg., Rockville, Md.	June 10—open. June 11-12—closed. Contact Mrs. Zella Diggs, Parklawn Bldg., room 9C-05, 5600 Fishers Lane, Rockville, Md. 20852, area code 301-443-4335.

Purpose. Reviews applications for grants-in-aid relating to research, training and instructions in the field of psychiatric disorders, and makes recommendations to the Secretary, Department of Health, Education, and Welfare, with respect to approval of applications for, and the amounts of, these grants. Advises on matters of program planning and evaluation relevant to mental health programs.

Agenda. June 10 will be devoted to discussion of NIMH policy issues. These will include current administrative, legislative, and program developments. On June 11-12, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public, in accordance with the determination by the Interim Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Public Law 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

Substantive information may be obtained from the contact person listed above.

The NIMH Information Officer who will furnish summaries of the meetings and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Technical Information, National Institute of Mental Health, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone: Area Code 301/443-3600.

Dated: April 25, 1974.

ROGER O. EGEBERG,
Interim Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.74-10972 Filed 5-10-74;8:45 am]

Office of Educattion

TEACHER CORPS CONTINUATION INSERVICE PROJECTS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Part B-1 of the Education Professions Development Act of 1965, as amended (79 Stat. 1255-1258 as amended (20 U.S.C. 1101-1107(a))), applications are being accepted jointly from institutions of higher education and local educational agencies for continuing the second year of the inservice project grant.

Applications must be received by the U.S. Office of Education Application Control Center on or before June 14, 1974.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.489. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day (as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be delivered to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will not be accepted by the Application Control Center after 4 p.m. Washington, D.C. time, on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Teacher Corps, Office of the Commissioner, Office of Education, Washington, D.C. 20202.

(20 U.S.C. 1101-1107a)

Dated: May 7, 1974.

(Catalog of Federal Domestic Assistance Number 13.489 Teacher Corps—Operations and Training)

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74-10892 Filed 5-10-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-74-276]

ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH

Designation and Delegation of Authority

Michael H. Moskow, the Assistant Secretary for Policy Development and Research, is designated as the Secretary's liaison with the Federal National Mortgage Association and is authorized to exercise the regulatory power and authority conferred on the Secretary by section 309(h) and other provisions of the National Housing Act with respect to all matters regarding the Association. The authority conferred by this delegation may not be redelegated.

(Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d); Title III of the National Housing Act, 12 U.S.C. 1716, et seq.)

Effective date. This designation and delegation is effective on May 13, 1974.

JAMES T. LYNN,
Secretary of Housing and Urban Development.

[FR Doc.74-10981 Filed 5-15-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition HS-74-2]

PORT TERMINAL RAILROAD OF SOUTH CAROLINA

Petition for Exemption

The Port Terminal Railroad of South Carolina, Charleston, South Carolina, has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-74-2, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before June 15, 1974, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

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Issued in Washington, D.C. on May 7, 1974.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.74-10947 Filed 5-10-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26679; Order 74-5-37]

CERTAIN AIR CARRIERS AND CANADIAN AIR CARRIERS

Order Regarding Trips Between the United States and Canada

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of May 1974.

On May 8, 1974 the United States and Canada executed a Nonscheduled Air Service Agreement (hereinafter referred to as the Agreement) governing nonscheduled air services between their respective territories. Charter flights between the United States and Canada by specifically designated scheduled air carriers, supplemental air carriers, and air taxi operators of the United States, as well as by specifically designated Canadian trunk, regional, charter, and small aircraft operators will henceforth be governed by this Agreement as well as by licenses and permits issued by the air transport authorities of each Government and by their applicable regulations.

In order to facilitate the movement of traffic under the Agreement and to maximize the efficiency of the regulatory processes involved, the Governments of Canada and the United States further agreed, by a supplemental exchange of diplomatic notes, to interim and transitional arrangements to be applied to implement the Agreement to the fullest extent possible pending the issuance of new or amended licenses or permits conforming to the terms of the Agreement.

Each of the Board's charter regulations, as set forth in its Economic Regulations and its Special Regulations, expressly reserves the Board's power to waive any of the various charter provisions upon a finding that such waiver is in the public interest and that there are special and unusual circumstances justifying the waiver.

Upon consideration of the Agreement between the United States and Canada, the exchange of notes attached thereto, and section 1102 of the Act, we have tentatively decided to grant all Canadian carriers presently holding foreign air carrier permits authorizing charter service appropriate waivers of Parts 212 and 214 of the Board's regulations, and to grant the U.S. carriers listed in Appendix A hereto appropriate waivers of Parts 207 and 208 of the Board's regulations, insofar as they would otherwise prevent the U.S. and Canadian carriers from operating charter services as provided for in the Agreement.[1] We will afford interested parties a period of 15 days from the date of service of this order in which to file comments on our tentative action. If no comments objecting to our tentative actions are received within this period this order will become effective as the final order of the Board.

The Agreement provides in pertinent part that neither Canada nor the U.S. may impose any requirement that prior approval be obtained for any individual flight or series of flights enplaned in the other's country by a designated carrier of such other party. Part 212 of the Board's Economic Regulations presently requires prior approval of "off-route" charter trips and certain ITC flights by Canadian air carriers whose permits require compliance with that Part. We have decided to waive section 212.4(a) with respect to all charters by Canadian carriers between the United States and Canada.[2] While the Board retains its right under the Agreement to require prior approval of United States-originating charter trips, in order to foster greater freedom of charter service within the spirit of the Agreement we have decided to extend such blanket waiver of section 212.4(a) to United States-originating charters of Canadian carriers, as well.[3]

The Agreement also provides generally that the regulations of the party in whose territory the enplanement occurs shall govern. In this connection, it provides that Canadian-originating charter flights with both "large" and "small" aircraft [4] shall be operated pursuant to Canadian Transport Commission Air Carrier Regulations governing single entity passenger or property,[5] pro rata common purpose,[6] advance booking,[7] inclusive tour,[8] and split charter [9] trips, and that U.S.-originating charters with "small" aircraft shall meet certain conditions for charterworthiness.[10]

While the types of charters which the Board has thus far seen fit to authorize are set forth in our various regulations, they do not represent the maximum use by the Board of its authority with respect to charter operations. As we have repeatedly stated, our authority to accept charters is limited only by the statutory mandate to distinguish charter services from individually ticketed services. Thus, the mere fact that the charter regulations of a particular foreign country contain different restrictions than our own does not preclude us from permitting that foreign country's rules to apply to certain operations within our jurisdiction, so long as we find that the foreign rules serve to distinguish charter service from individually ticketed service. Accordingly, we may permit the Canadian charter rules, as summarized hereinabove, to apply to air transportation to the extent necessary to implement the subject Agreement, since we tentatively find that those rules, while they differ somewhat from our own, sufficiently distinguish between charter air transportation and individually ticketed air transportation, and the waiving of our regulations to permit application of the Canadian regulations would not be detrimental to the public interest.[11] Similarly, the bilateral description of the charter authority for U.S.-originating charters with "small" aircraft is sufficiently similar to the U.S. concept of a charter to adequately maintain the distinction between charter and individually ticketed air transportation.[12] Accordingly, to the extent the Board's regulations might preclude operations which conform to the terms of the Agreement, and in order to place U.S. and Canadian carriers on an equal competitive footing, we will waive our charterworthiness requirements for the U.S. air carriers listed in Appendix A hereto and designated Canadian air carriers, with a limited exception for Canadian-originating inclusive tour charters.[13]

In this connection, in an exchange of diplomatic notes attached to the Agreement, the United States expressed certain reservations with respect to the provision in the Agreement which applies the current Canadian Transport Commission regulations with respect to Canadian-originating inclusive tour charters. The effect of these reservations is to require that the land portion of the tour provide overnight hotel accommodations at a minimum of three points at least 50 air miles apart for Air Canada and Canadian Pacific Air Lines, Limited (CP Air), and that the land portion of tours to the Continental United States by Eastern Provincial Airways (1963) Ltd., Gateway Aviation Limited, Great Lakes Airlines Limited, Harrison Airways Ltd., Nordair Ltee-Nordair Ltd., Pacific Western Airlines, Ltd., Quebecair, Transair Ltd., and Wardair Canada Ltd. (hereinafter referred to as Canadian charter carriers) provide overnight accommodations at a minimum of two places at least 50 air miles apart. The waivers granted herein to Air Canada and CP Air provide that the land portion of all inclusive tour charters operated by those carriers provide overnight accommodations at a minimum of three points at least 50 air miles apart. The foreign air carrier permits presently held by the Canadian charter carriers, however, authorize the holder to perform inclusive tour charter trips originating in Canada subject to the terms, conditions, and limitations contained in licenses to be issued by the Canadian Transport Commission authorizing the performance of such charters. Thus, the Canadian charter carriers' permit authority is broader than the U.S. reservation. However, the permits of such carriers also contain a condition that the Board may require advance approval of individual charter trips if it finds such action to be required in the public interest. Therefore, the Board finds and concludes that the public interest requires the Board to invoke the above-mentioned condition in the permits of the Canadian charter carriers. Accordingly, the Canadian charter carriers will be required to obtain advance approval from the Board for each inclusive tour charter flight originating in Canada and bound for the Continental United States in which the land portion of the tour does not provide overnight hotel accommodations at a minimum of two places other than the point of origin, such places being not less than 50 air miles from each other, unless the flight has been approved by the Canadian Transport Commission prior to the date of signature of the Agreement.[14]

The Agreement also requires the filing of certain information with the aeronautical authorities of both parties. The information required concerns charter trpis to U.S. "sun spot" destinations,[15] and certain charter flight reports. Accordingly, we shall require that one copy of each such document and each such report henceforth be filed with the Director, Bureau of International Affairs.[16]

Upon consideration of the foregoing, the Board tentatively finds that the Nonscheduled Air Service Agreement, coupled with section 1102 of the Act,[17] establishes special and unusual circumstances which warrant grant of the waivers herein, and that it would be in the public interest to grant such waivers.

Accordingly, it is ordered:

1. That waivers of the provisions of § 212.4(a) of the Board's Economic Regulations are hereby granted to foreign air carriers designated by the Government of Canada pursuant to Article III of the May 8, 1974 Nonscheduled Air Service Agreement, and who hold foreign air carrier permits authorizing them to engage in charter foreign air transportation "subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations" insofar as such provisions would require that prior approval be sought from the Board for any off-route or inclusive tour charter trip for which a Statement of Authorization is now required: *Provided, however,* That this waiver shall not apply to: (a) charter trips operated for a direct air carrier or another direct foreign air carrier for transportation of its traffic pursuant to § 212.8(a)(4-a); (b) charter trips which involve a point or points outside the territories of the United States and Canada; and (c) charter trips for which prior approval may subsequently be ordered by the Board;

2. That waivers of the provisions of Parts 212 and 214 of the Board's Economic regulations (and of such provisions of our various Special Regulations authorizing particular types of charters, to the extent that such provisions apply to foreign direct air carriers) are hereby granted to foreign air carriers designated by the Government of Canada pursuant to Article III of the Agreement, and who currently hold foreign air carrier permits authorizing charter foreign air transportation between the U.S. and Canada insofar as any provisions therein regarding charterworthiness may conflict with the charterworthiness regulations of the Canadian Transport Commission for single entity passenger, single entity property, pro rata common purpose, advance booking, inclusive tour, and split passenger charter trips of the above types which first take on board passengers and their accompanied baggage, or property, at a point or points in Canada for deboarding or reboarding in the United States, and are operated in conformity with such applicable regulations of the Canadian Transport Commission and in conformity with the Agreement: *Provided, however,* That inclusive tour charter trips operated by Air Canada and Canadian Pacific Air Lines, Limited shall also provide, on the land portion of the tour, overnight hotel accommodations at a minimum of three places other than the point of origin, such places to be no less than 50 air miles from each other;

3. That waivers of the provisions of Parts 207 and 208 of the Board's Economic Regulations (and of such provisions of our various Special Regulations authorizing particular types of charters, to the extent that such provisions apply to direct air carriers) are hereby granted to the U.S. carriers listed in Appendix A hereto [18] insofar as any provisions therein regarding charterworthiness may conflict with the charterworthiness

[1] Waiver of the charterworthiness requirements of Parts 207, 208, 212, and 214 is obviously necessary to implement the Agreement. To the extent that these parts incorporate the provisions of the Board's various Special Regulations (Parts 372, 372a, 373, and 378), we are also waiving those provisions which apply to direct air carriers and foreign direct air carriers.

[2] We also find it in the public interest to revoke Orders 73-2-27, dated February 6, 1973, and 73-3-17, dated March 7, 1973, which required certain Canadian air carriers to obtain prior approval of all charter flights obtained from U.S. carriers by exercising a right of first refusal. In light of the Agreement such requirements no longer appear to be necessary.

[3] Canadian air carriers subject to Part 212 of the Board's Economic Regulations are advised that prior-approved requirements for flights outside the scope of the Agreement, such as flights involving third-country points, will be unaffected by this waiver.

[4] Under the terms of the Agreement, "large aircraft" means aircraft having both (1) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds; and (2) a maximum authorized take-off weight on wheels greater than 35,000 pounds. "Small aircraft" consist of other than "large aircraft."

[5] The Canadian rules for single entity passenger and single entity property charters, known in Canada as "entity charters," are substantially similar to U.S. single entity charters.

[6] The pro rata common purpose group charter is quite similar in concept and structure to the Board's pro rata prior affinity and study group charter, except that the criterion of sole purpose being to get to and from a single event of a distinctive and special character is substituted for specific prior affinity requirements where a programmed educational group is not involved. Flights must be applied for at least 90 days in advance. There may be no public solicitation. The carrier may pay no commission to the charterer and a maximum of five percent to any agents of the charterer. This type of charter may not be used if another type could be used.

[7] Advance Booking charters are as provided for in Subpart F of Part 372a of the Board's Special Regulations, except that the 90-day lists filing requirements have been changed to 60 days.

[8] Inclusive tour charters are conceptually and structurally the same as those of Part 378 of the Board's Special Regulations except that no multiple-stop requirement is imposed. On the other hand, in certain respects the Canadian ITC rules are somewhat more restrictive than ours, *e.g.*, in requiring a minimum price of no less than 115 percent of the lowest scheduled round-trip fare.

[9] Split charters (including ITC's) must be for at least 40 persons and unlike the Board's rules are limited to (except for ABC's) three groups of the same type, each of at least 40 persons. No types may be commingled in each aircraft, and entity charters cannot be split.

[10] U.S.-originating charter air service with small aircraft is defined under the Agreement as commercial air transportation of traffic on a time, mileage or trip basis where the entire planeload capacity has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group.

[11] We also note that the Agreement provides that the U.S. can object if Canada substantially changes its charter rules. Thus, should the Canadian charter rules be changed in such a way as to blur the distinction between charter and individually ticketed air transportation, the Board has an avenue of redress which could lead to nonacceptance of such charters.

[12] Canadian-originating charters with both "large" and "small" aircraft are required to comply with the same Canadian rules, while U.S.-originating charters with "small" aircraft are not required to conform to the Board's detailed charter rules.

[13] This waiver, of course, does not serve to authorize the operation of aircraft by Canadian air carriers larger than that authorized in their foreign air carrier permits. By the same token, it should be noted that the waiver of our rules affecting charterworthiness does not affect our other requirements in these rules imposed on U.S. and Canadian air carriers with respect to their charter operations, such as tariff and record retention requirements. On the other hand, to the extent that operation of a particular type of charter covered by the Agreement entails functions to be performed by indirect air carriers within our jurisdiction, we would expect to waive such provisions of our Special Regulations as would otherwise prevent the indirect air carrier from performing the charter which the direct carrier is hereby authorized to perform.

[14] Since it has been further agreed that this reservation will not apply with regard to inclusive tour charters which have been approved by the Canadian Transport Commission prior to signing of the Agreement, we will not require prior approval of such flights.

[15] These are points located in the States of Hawaii, Florida, California, Arizona, and Nevada, and points in Puerto Rico and the U.S. Virgin Islands.

[16] This does not, of course, relieve Canadian carriers of the reporting requirements of Part 217 of the Board's Economic Regulations.

[17] Section 1102 requires the Board to perform its duties consistently with any obligations assumed by the U.S. in any agreement between the U.S. and a foreign country.

[18] Filed as part of the original document.

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regulations of the Canadian Transport Commission for single entity passenger, single entity property, pro rata common purpose, advance booking, inclusive tour, and split passenger charter trips of the above types which first take on board passengers and their accompanied baggage or property, at a point or points in Canada for deboarding or reboarding in the United States, and are operated in conformity with such applicable regulations of the Canadian Transport Commission and in conformity with the Agreement: *Provided, however*, That inclusive tour charter trips operated by such carriers shall also provide, on the land portion of the tour, overnight hotel accommodations at a minimum of three places other than the point of origin, such places to be no less than 50 air miles from each other;

4. That Eastern Provincial Airways (1963) Ltd., Gateway Aviation Limited, Great Lakes Airlines Limited, Harrison Airways Ltd., Nordair Ltee-Nordair Ltd., Pacific Western Airlines, Ltd., Quebecair, Transair Ltd., and Wardair Canada Ltd. shall not perform, absent prior Board approval, any inclusive tour charter trips which first take on board passengers and their accompanied baggage at a point or points in Canada for deboarding or reboarding in the continental United States (including Alaska) unless on the land portion of the tour, overnight hotel accommodations are provided at a minimum of two places other than the point of origin, such places to be no less than 50 air miles from each other; *Provided, however*, That this prohibition shall not apply to any inclusive tour charter trips which have been approved by the Canadian Transport Commission prior to the date of signature of the Agreement;

5. That requests for advance approval pursuant to paragraph 4 above shall be filed with the Board and acted upon prior to the advertising or sale of the charters to the public for which approval is requested; [18a]

6. That waivers of the provisions of Parts 212 and 214 of the Board's Economic Regulations are hereby granted to foreign air carriers designated by the Government of Canada pursuant to Article III of the Agreement insofar as any provisions therein may relate to the charterworthiness of any "small aircraft" charter trips [19] which first take on board passengers and their accompanied baggage, or property, at a point or points in the United States for deboarding and/or reboarding in Canada; *Provided, however*, That any such "small aircraft" charter trip shall be performed solely for the commercial air transportation of traffic on a time, mileage or trip basis where the entire planeload capacity of the aircraft utilized shall be engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group;

7. That any Canadian air carrier or U.S. air carrier submitting to the Canadian Transport Commission any statements, documents, or information required by the rules of the Canadian Transport Commission prior to the organization of passenger traffic for charter trips or any program of charter trips (to be operated on or after the date of signature of the Agreement) which are to first take on board charter passengers in Canada for deboarding or reboarding at any point or points in the States of Hawaii, California, Nevada, Arizona, and Florida, or a point or points in Puerto Rico or the U.S. Virgin Islands, shall (at the time of submission to the Canadian Transport Commission, or within thirty days of the effective date of this order for those materials already submitted) also submit by mail one copy thereof to the Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, marked for the attention of the Director, Bureau of International Affairs;

8. That any Canadian air carrier or U.S. air carrier submitting to the Canadian Transport Commission a Canadian Transport Commission Statement 40 which has reported thereon any charter flight performed by it (operated on or after the date of signature of the Agreement) between a point or points in Canada and a point or points in the United States utilizing aircraft having a maximum authorized take-off weight on wheels greater than 18,000 pounds, shall at the same time also submit by mail one copy thereof to the Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, marked for the attention of the Director, Bureau of International Affairs;

9. That Orders 73-2-27 and 73-3-17 are hereby revoked;

10. That this Order may be modified, amended or revoked by the Board without notice or hearing;

11. That interested persons are hereby afforded a period of 15 days from date of service to file comments on the tentative actions taken herein. The filing of comments objecting to the Board's tentative actions shall serve to stay the effectiveness of this order pending further order of the Board. However, if no such comments are received during this period, the order will become effective as the final order of the Board upon the expiration of the above period; and

12. That this order shall be served upon all Canadian holders of, and applicants for, foreign air carrier permits; the U.S. air carriers listed in the appendices hereto; the Departments of State and Transportation; and the Ambassador of Canada.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-11110 Filed 5-10-74;8:45 am]

[18a] Such requests shall be marked for the attention of the Director, Bureau of Operating Rights.

[19] See footnotes 4 and 13 supra.

[Docket No. 26668]

EASTERN AIR LINES AND OZARK AIR LINES

Route Transfer Agreement; Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on May 30, 1974, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Harry H. Schneider.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before May 16, 1974, and the other parties on or before May 23, 1974. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., May 8, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10983 Filed 5-10-74;8:45 am]

[Docket No. 26218]

FRONTIER AIRLINES, INC.

Deletion of Stillwater, Oklahoma; Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on June 6, 1974, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Milton H. Shapiro.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before May 20, 1974, and the other parties on or before May 30, 1974. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., May 7, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74-10982 Filed 5-10-74;8:45 am]

COMMISSION ON CIVIL RIGHTS

MARYLAND STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland State Advisory Committee (SAC) to this Commission will convene at 8 p.m. on May 16, 1974, in Room G-20, 6401 Security Boulevard, Baltimore, Maryland 21235.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20425.

The purpose of this meeting shall be to introduce new SAC members to the Committee, elect SAC officers and plan future programs for the Maryland SAC.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 7, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-10962 Filed 5-10-74;8:45 am]

OKLAHOMA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oklahoma State Advisory Committee (SAC) to this Commission will convene at 9 a.m. on May 17, 1974, in the El Cortez Room of the Ramada Inn West, 800 South Meridian, Oklahoma City, Oklahoma 73127.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Southwestern Regional Office of the Commission, Room 231, New Moore Building, 106 Broadway, San Antonio, Texas 78205.

The purposes of this meeting shall be (1) to plan for the release of the report entitled "Indian Civil Rights Issues in Oklahoma," (2) to discuss followup activities to this report and (3) to consider reconstituting the Oklahoma SAC.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 7, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-10963 Filed 5-10-74;8:45 am]

UTAH STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on May 23, 1974, in the Governor's Board Room, Utah State Capitol, State Street, Salt Lake City, Utah 84114.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting shall be to discuss plans for a factfinding meeting, tentatively scheduled for June, on the subject: Credit Availability for Women in the State of Utah.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 8, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-10961 Filed 5-10-74;8:45 am]

COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM

APPELLATE SYSTEM STRUCTURAL CHANGES

Notice of Hearing

MAY 6, 1974.

The Commission on Revision of the Federal Court Appellate System will hold hearings on proposals for structural change in the Federal Court of Appeals System. Administrative appeals and patent appeals will be specially considered. Proposals for improvement in the internal operating procedures of the Courts of Appeals will also be discussed.

The hearings will begin Monday at 1:30 p.m., May 20 and 1:30 p.m. Tuesday, May 21 in Room 2247, Rayburn House Office Building.

Among witnesses scheduled to appear are: Mr. Justice Tom C. Clark, Professor Charles Alan Wright of the University of Texas, Judge Harold Leventhal, Judge John Minor Wisdom, Judge Thomas Gibbs Gee, Professor Paul A. Bator of Harvard, Professor Nathaniel Nathanson of Northwestern University, Honorable Antonin Scalia, Chairman of the United States Administrative Conference, Francis Browne, Esq., Irving Kayton, Esq., Richard Kline, Esq., James Flug, Esq., and Melvin L. Wulf, Esq.

A. LEO LEVIN,
Executive Director.

[FR Doc.74-10939 Filed 5-10-74;8:45 am]

STRUCTURE AND INTERNAL OPERATING PROCEDURE

Notice of Meeting

MAY 6, 1974.

Notice is hereby given that the Commission on Revision of the Federal Court Appellate System will meet Monday, May 20, 1974, at 9:30 a.m., in Room 2247 of the Rayburn House Office Building.

The purpose of the meeting is to discuss proposals relevant to the Commission's study of the "structure and internal operating procedures of the Federal courts of appeal system," including use of central staff for the courts of appeal and possible solutions for the problems engendered by long-vacant judicial positions on the various United States Courts of Appeal.

The Commission will, in addition, further formulate plans for the second phase of its work.

The meeting is open to all interested persons.

A. LEO LEVIN,
Executive Director.

[FR Doc.74-10938 Filed 5-10-74;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from April 29 through May 3, 1974. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines, the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (June 24, 1974)

Copies of individual statements are available for review from the originating agency. Back copies will also be available from a commercial source, the Environmental Law Institute, of Washington, D.C.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Sawtooth National Recreation Area, several counties, Idaho, April 30: The statement refers to the proposed management plan for the Sawtooth National Recreation Area, which contains 754,000 acres of land. The plan proposes: the addition of as many as 877 new camping and picnicking areas; the designation of 250,000 acres as wilderness study areas; the harvesting of 900,000 board feet of timber and timber products; the phasing out of grazing in key wildlife habitat areas; and the construction of new roads and trails. The major environmental impacts will be on vegetation and soils (two volumes). (ELR Order No. 40687.)

Final

Vegetation Management, Oregon and Washington, April 30: The statement refers to the proposed use of the chemical agents 2,4-D, 2,4,5-T, 2,4,5-TP, Amitrole-T, Dicamba, and Picloram on Malheur, Umatilla, and Wallowa-Whitman National Forests. The herbicides will be used in reforestation, site preparation, utility and road right-of-way maintenance, range vegetation, and noxious weed and poison plant control. The use of the chemicals will put herbicide residues into the environment in varying amounts

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depending upon the chemical used, formulation rates, methods of application, and its fate in the environment. There is a hazard to wildlife in the altering or eliminating of its habitat (two volumes). Comments made by: EPS, USDA, HUD, DOC, HEW, COE, state and local agencies, and concerned citizens. (ELR Order No. 40698.)

FOREST SERVICE

Presidential Range, White Mountain National Forest, Coos County, N.H., April 29: Proposed is the legislative designation of the 20,380 acre Presidential Range of the Forest as units of the Eastern Wilderness System. Adverse impact will include the prohibition of timbering and public motorized access. Visitation of the area may increase (42 pages). (ELR Order No. 40681.)

Vegetation Management, Washington National Forest, several counties, Washington, April 30: The statement refers to the use of the chemical herbicides amitrole, dicamba, 2,4,5-T, 2,4-D, picloram, and silvex, on lands of the Olympic, Mt. Baker, Snoqualmie, and Gifford Pinchot National Forests. The herbicides are used for control of undesirable vegetation in crop tree release, site preparation, weeding, range vegetation, right-of-way maintenance, and noxious weed control programs. The action will result in a loss of some non-target species, as well as an adverse aesthetic (visual) impact (two volumes). Comments made by: USDA, DOC, COE, HUD, state agencies, and concerned citizens. (ELR Order No. 40696.)

SOIL CONSERVATION SERVICE

Draft

Bayou Bonne Idee Watershed, Morehouse County, La., April 30: The statement refers to a proposed project which will be constructed for watershed protection, flood prevention, drainage, and recreation. Project measures will include 202 miles of channel work with appurtenant measures; the construction of two water control structures and the modification of two others; a recreation development; and mitigation measures. Approximately 2,360 acres of land will be disturbed during construction. Habitat for deer, squirrel, rabbit and waterfowl will be lost to project measures (138 pages). (ELR Order No. 40697.)

Final

Lee Phillips Watershed Project, Lee and Phillips Counties, Ark., April 30: The proposed project consists of 78.3 miles of channel work, 19 grade stabilization structures, 1 low water weir, and the acceleration of the establishment of land treatment measures. The purposes of the project are watershed protection, flood protection, and agricultural water management. Adverse effects include disturbance to fish habitat during construction; clearing of 357 acres of woodland of which 120 acres will be replanted; and increased traffic with associated dust and noise (73 pages). Comments made by: DOD, HEW, DOI, DOT, EPA, and state agencies. (ELR Order No. 40700.)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E-201, AEC, Washington, D.C. 20545, 301-973-4241. For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, P-722, AEC, Washington, D.C. 20545, 301-973-7373.

Draft

Greenwood Energy Center, Units 2 and 3, St. Claire County, Mich., April 30: Proposed is the issuance of construction permits to the Detroit Edison Co. for Units 2 and 3 of the Greenwood Energy Center. The plant will employ two identical pressurized water reactors to produce up to 3,600 MWt and 1208 MWe (net). Future power levels of 3,760 MWt and 1,263 MWe are anticipated. Exhaust steam will be cooled in a closed cycle system incorporating a spray canal and utilizing makeup water from Lake Huron at a consumptive rate of 39,500 acre-ft. annually. Construction-related activities will occupy 1,200 of the 3,600 acres in the site. Farming, hunting and grazing on the site will be suspended. (ELR Order No. 40701.)

UF6 conversion plant, Barnwell, S.C., April 29: Proposed is the issuance of a full term special nuclear material license to Allied-Gulf Nuclear Services for the operation of a uranium hexafluoride (UF6) conversion facility as part of the Barnwell Nuclear Fuel Plant. The UF6 facility is designed to process 1500 metric tons of uranium as uranyl nitrate solution into gaseous UF6. Plutonium contaminated solid wastes will be stored by onsite burial (107 pages). (ELR Order No. 40683.)

DEPARTMENT OF DEFENSE

AIR FORCE

Contact: Dr. Billy Welch, Room 4D 873, The Pentagon, Washington, D.C. 20330, (202) OX 7-9297.

Draft

Disposal of Herbicide Orange (2), May 3: Proposed is the incineration of approximately 2.3 million gallons (including 0.86 million gallons currently at Gulfport, Miss.), of Orange herbicide in a remote area near or on Johnston Island, in the Pacific Ocean. The incineration would take place either on a specially designed vessel, or in a facility on the Island. The incineration would convert the herbicide to carbon dioxide, hydrogen chloride, and water, to be released without scrubbing. Carbon, carbon monoxide and "environmentally insignificant" amounts of unburned and pyrolyzates of the herbicide will also be released. (ELR Order No. 40722.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

Draft

Maquoketa River and Kitty Creek, Jones County, Iowa, May 2: Proposed is a flood protection project for a portion of the city of Monticello. Project measures will consist of 0.8 mile of earthen levee. Adverse impact will include the temporary commitment of 25 acres of agricultural land to borrow removal; and the permanent loss of three acres of agricultural land and one acre of bottomland timber to project purposes (Rock Island District) (64 pages). (ELR Order No. 40711.)

Ponce Harbor, P.R., May 3: Proposed is the dredging of a main channel 36' deep, from the Caribbean Sea to Ponce Harbor, and the modification and deepening of the harbor channel and turning basin. Approximately 1,043,000 cu. yds. of spoil will be dredged. There will be some adverse impact to marine biota. (Jacksonville District) (68 pages). (ELR Order No. 40723.)

Mill Creek flood control, Walla Walla, Walla Walla County, Wash., April 30: The statement refers to the impacts of continued operation and maintenance of a diversion dam, an off-channel storage reservoir, and surrounding lands which comprise the Mill Creek project. The major impact is that of poor water quality of the reservoir due to high turbidity (Walla Walla District) (53 pages). (ELR Order No. 40695.)

Final

Inland Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, May 2: The project, now approximately 87 percent complete, provides for the enlarging of the channel to 35' by 450' from the Delaware River to Pooles Island in Chesapeake Bay. Additional work includes a cutoff at a railroad crossing, a vertical lift bridge, high level bridges at Summit and Reedy Points, and development of recreational facilities. There will be some loss of wildlife habitat; turbidity and changes in salinity levels will affect some marine biota. (Philadelphia District). Comments made by: USDA, DOC, DOT, FPC, and state and local agencies. (ELR Order No. 40721.)

Grand Isle and vicinity, Lafourche County, La., May 2: The statement refers to the proposed construction of 43 miles of levee, along with appurtenant structures, along both banks of Bayou Lafourche, in order to provide protection from hurricane-induced floods. The completion of the project would encourage residential, commercial, and industrial development within the protected area, which includes 24,600 acres of biologically productive marsh (100 pages). Comments made by: USDA, DOC, HEW, DOI, DOT, EPA, and state and local agencies. (ELR Order No. 40720.)

Great Lakes Connecting Channels, Supplement (2), Chippewa County, Mich., May 2: The document is a Final statement to Draft, Supplement No. 2 filed in December 1973. The proposed action is the widening of channel bends in St. Mary's River, in order to provide safer navigation for wider vessels using the waterway. Dredging and disposal operations will damage aquatic life; recreational boating and fishing will be adversely affected; greater wave wash of larger vessels could contribute to shore erosion problems (Detroit District). Comments made by: DOC, DOT, DOI, USDA, FPC, EPA and state and local agencies. (ELR Order No. 40719.)

Beach Erosion Control, Rockaway Peninsula, N.Y., May 2: The statement refers to the beach erosion project for the Rockaway Beaches, Queens. The project consists of the placement of beach fill, which will be taken from one of two borrow areas located near the project area. There are several alternates for the proposed beach maintenance. Adverse impacts include increased turbidity due to maintenance procedures and disruption of present marine life caused by withdrawal of materials from offshore sources and subsequent placement on beaches (New York District) (50 pages). Comments made by: USDA, HEW, DOC, DOI, DOT, EPA, and state and local agencies. (ELR Order No. 40714.)

Saw Mill River, Flood Protection (2), Westchester County, N.Y., May 2: The revised draft refers to the Saw Mill River Flood protection project which consists of channel deepening and sheet piling along the existing channel alignment to contain the channel excavation. Existing channel and foundation walls would be capable of containing a design flood of 1450 cubic feet per second. Adverse impacts include the removal of vegetation in the project area, and the encouragement of further development in the newly protected flood plain. The first draft was submitted to the Council on October 10, 1973 (New York District) (67 pages). Comments made by: USDA, DOI, EPA, DOC, DOD, HEW, DOT, and state and local agencies. (ELR Order No. 40715.)

Falls Lake, Neuse River, Wake, Durham, and Granville Counties, N.C., April 30: The statement refers to the proposed construction and operation of a multi-purpose (flood control, water supply and quality control, recreation, and fish and wildlife conservation) reservoir project on the Neuse River, near Raleigh. The project will require the acquisition of 42,259 acres, of which 12,490 acres, along with 22 miles of stream, will be inundated. There will be changes in land use, as well as economic impact, potential impact to rare and endangered species, and loss of archeological sites, along other impacts (Wilmington District) (825 pages). Comments made by: EPA, AEC, HEW, DOC, USDA, and state and local agencies. (ELR Order No. 40703.)

Union City Dam, Erie County, Pa., April 30: The statement refers to the proposed construction of a 580 acre conservation pool at the existing detention reservoir. Approximately 7.4 miles of stream environment would be eliminated. Wildlife habitat would be eliminated on the inundated 580 acres, and reduced on 2,120 acres of surrounding Federal land (92 pages). Comments made by: EPA, DOI, USDA, and state and local agencies. (ELR Order No. 40702.)

Final

Galveston Harbor and Channel, Texas, May 2: Proposed is the deepening of Galveston Channel from its previous authorized depth of 36 feet to its new authorized depth of 40 feet. Spoil will be deposited in leveed areas on Pelican and Galveston Islands. Dredging activities will have adverse impact to marine biota. (Galveston District) (86 pages). Comments made by: DOC, HEW, HUD, DOI, USCG, EPA, and state and local agencies. (ELR Order No. 40718.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202-755-0940.

Final

Treatment Facilities, Onondaga Lake, Onondaga County, N.Y., May 3: The statement refers to two related projects. The first involves the expansion and upgrading of the Metropolitan Syracuse sewage treatment plant, from a 50 mgd primary treatment facility to an 86.5 mgd advanced waste treatment facility, and the construction of a new shoreline outfall to Onondaga Lake. The second involves the construction of force mains and additions and alterations to the existing West Side Pumping Station. Adverse impact will include construction disruption; the creation of a visible plume of MSSTP effluent in mixing with Onondaga Lake waters; and continued nitrogen loadings to the Lake (252 pages). Comments made by: USDA, HEW, DOI, and state and local agencies. (ELR Order No. 40724.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Proposed Coal Leasing Program, May 3: The statement refers to a program resuming nationwide coal leasing by the Bureau of Land Management, utilizing the Energy Mineral Allocation Recommendation System. The program primarily involves 65 million acres of identified coal reserves in the Northern Great Plains, and northward along the continental divide from New Mexico and Arizona through Montana. Extraction of the coal would create a wide range of social, economic, and environmental impacts. (two volumes). (ELR Order No. 40726.)

Oil and Gas Lease Sale 36, Louisiana, May 1: Proposed is the sale of oil and gas leases to 295 tracts (totaling 1,421,739.13 acres) of outer continental shelf lands Louisiana. Seventy-two tracts are situated in water depths of 200 meters or more. All tracts pose some degree of pollution risk. Each tract offered is subject to a matrix analytical technique in order to evaluate significant environmental impacts should leasing occur and subsequent oil and gas exploration ensue. The sale is tentatively scheduled for late fall, 1974. (two volumes). (ELR Order No. 40704.)

BUREAU OF RECLAMATION

Draft

Palmetto Bend Project, Jackson County, Tex., April 30: The statement refers to the Palmetto Bend Project, which is intended to provide municipal and industrial water supply and associated recreational, fish, and wildlife facilities. Project measures will include an earthfill dam, concrete spillway, multiple level river outlet works, and a dual-level outlet for municipal water releases. A total of 16,300 acres of land, including 1,000 acres of cropland and 8,300 acres of pasture, will be committed to project measures; 11,000 acres of wildlife habitat and 47 miles of fish stream habitat will be inundated. Downstream freshwater and nutrient inflow to the Lavaca-Matagorda estuarine system will be reduced by as much as 15 percent. (ELR Order No. 40694.)

Unit 2, Huntington Canyon, and Transmission Line, Emery County, Utah, May 1: Proposed is Federal approval, (because of the terms of a water sale contract), for the addition of a 415 MW coal burning generating unit to the Utah Power & Light Co.'s Huntington Station. There will also be 75 miles of 345KV transmission line constructed in conjunction with the plant. Operation of the unit would require an additional 1.4 million tons of coal annually from Deer Creek Mine. There will be emissions of particulates, sulfur dioxide. The transmission lines will interfere with deer and elk range lands. (ELR Order No. 40705.)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Draft

Proposed UL Bend National Wildlife Refuge, Phillips County, Mont., May 2: The statement refers to the proposed legislative designation of 20,893 acres of the UL Bend National Wildlife Refuge as wilderness within the National Wilderness Preservation System. Any impact would derive from protection against exploitation of the natural resources (73 pages). (ELR Order No. 40716.)

Proposed Back Bay Wilderness Area, Va., May 2: Proposed is the legislative designation of 1,950 acres of Back Bay National Wildlife Refuge in Virginia Beach as wilderness within the National Wilderness Preservation System. Any impact from the action would derive from protection against exploitation of the natural resources (57 pages). (ELR Order No. 40717.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Bay County Airport, Panama City, Bay County, Fla., May 2: The statement refers to Panama City-Bay County's proposal to install a medium intensity approach lighting system with runway alignment indicator light. Approximately 45 piles will be sunk in North Bay. Adverse impacts are danger to the retina of the eye caused by light emissions from the sequenced flasher, and short-term negative effects normally associated with construction (25 pages). (ELR Order No. 40712.)

Brookhaven Municipal Airport, Lincoln County, Miss., May 2: The project consists of the extension and levelling of a runway, and the replacing of existing low intensity lighting with new medium intensity lights. There will be minor short-term adverse effects normally associated with construction (20 pages). (ELR Order No. 40713.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Western Access Road, Kougarok to Kobuk, Alaska, April 30: The statement refers to the construction of the Western Access Road, approximately 340 miles in length, from the Kougarok Road on the Seward Peninsula to the Village of Kobuk on the Alaska mainland. Adverse impact will include the loss of vegetation, and increases in stream turbidity, and air and noise pollution (245 pages). (ELR Order No. 40693.)

103rd St., and Timuquana Road, Jacksonville, Fla., April 29: The statement refers to the proposed upgrading of 103rd Street and Timuquana Road in Jacksonville from an existing two-lane facility to a modern multilane urban facility. The project follows the existing alignment to Wescornett Boulevard then eastward on new alignment north of Manor Drive, then southeastward across Fishing Creek to Timuquana Road. Adverse impacts include increased noise levels, loss of frontage property, temporary degradation of water quality in Fishing Creek, and the displacement of 18 families and 11 businesses (55 pages). (ELR Order No. 40684.)

Twelfth Street, Detroit, Wayne County, Mich., April 29: The statement refers to the proposed widening of Twelfth Street. The southerly portion, between Fort and Howard, 0.14 mile in length and the northerly portion from south of Bagley to Fisher Freeway South Service Drive is about 0.43 miles in length. Adverse impacts include disruption of local traffic, displacement of people and businesses, and increased levels of air and noise pollution (52 pages). (ELR Order No. 40689.)

I-440, Oklahoma City, Oklahoma County, Okla., April 29: The statement refers to the proposed upgrading of existing US 66, a ground-level four-lane expressway to provide the north leg of the I-440, a six-laned freeway with full control of access through Oklahoma City. Adverse impacts are the displacement of 27 families and 12 businesses (already have been relocated), the reduction of privately owned lands and the disruption of traffic services during construction (45 pages). (ELR Order No. 40685.)

SH 288, Houston, Harris County, Tex., April 29: The statement refers to SH 288 on new location from Bellfort northward 4.5 miles to Elgin Street in the southerly portion of Houston. It is proposed as a dual-dual freeway consisting of 4 service lanes in each direction. Adverse impacts consist of small amounts of erosion and sedimentation during construction, and increased noise levels (80 pages). (ELR Order No. 40686.)

Randall Road Interchange, Thurston County, Wash., April 29: The statement proposes the replacement of a grade intersection with a new one on SR 101, a principal highway linking Puget Sound with points west and the Olympic Peninsula. The interchange will consist of 4 ramps, providing traffic movements in all directions, crossroads, with bridge structure, and a frontage road. Adverse impacts include the acquisition of 3 acres for right-of-way, displacement of 1 business, and Perry Creek and Mud Bay will receive increased run off because of the improvement (63 pages). (ELR Order No. 40682.)

Rock Springs Circumferential Rte. (Belt Loop), Wyo., April 30: The statement refers

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to the construction of a circumferential route (Belt Loop) around the developed areas lying south of the Union Pacific Railroad in Rock Springs. The length of the project is 4.1 miles. Adverse impacts include the taking of right-of-way, the displacement of people, and the increase of noise levels (47 pages). (ELR Order No. 40699.)

Final

Route 99, Stanislaus County, Calif., May 3: The proposed project is the conversion of a portion of Route 99 from four to six lanes. Total length of the project is 5.1 miles; land acquisition will total 25 acres, with 1 family and 2 businesses being displaced. Noise and air pollution will increase. Comments made by: DOI, EPA, state and local agencies, and concerned citizens. (ELR Order No. 40725.)

Penn Central and B & O Railroad Grade Separations, New Castle County, Del., May 2: The proposed safety project on Ruthby Road is the construction of 2 railroad grade separations, totalling 0.6 mile in length. Four families would be displaced by the project (50 pages). Comments made by: HUD, USDA, EPA, DOI, state and local agencies. (ELR Order No. 40709.)

Madison North and South (U.S. 81), Madison County, Nebr. April 29: The proposed project is the reconstruction of a 7.39 mile segment of U.S. Highway 81, including a proposed bypass section east of Madison. The improvements include grading, full safety sections, roadway drainage structures, and a crossing of Union Creek (47 pages). Comments made by: DOT, COE, USDA, HUD, DOI, EPA, and state agencies. (ELR Order No. 40680.)

Final

S.R. 44, Sandoval County, Sandoval County, N. Mex., May 2: The statement refers to the proposed improvement and realignment of 8.6 miles of New Mexico State Route 44 from 2.6 miles south of San Ysidro in Sandoval County. Adverse impacts include the loss of approximately 100 acres of land, displacement of 2 businesses, and increased levels of air, water, and noise pollution during construction (40 pages). Comments made by: USDA, HEW, HUD, DOI, state and local agencies, and concerned citizens. (ELR Order No. 40706.)

U.S. 52, Davidson and Forsyth Counties, N.C., May 2: The statement refers to the proposed continuation of new U.S. 52 southward from Winston-Salem on new location for 6 miles to existing U.S. 52 north of Welcome. The corridor will be a 4 lane divided highway. Adverse impacts include the displacement of 53 families and 2 businesses, siltation of creeks, and loss of 350 acres of land (85 pages). Comments made by: USDA, COE, GSA, HEW, HUD, DOI, EPA, and state and local agencies. (ELR Order No. 40708.

Lane Street, Kannapolis, Cabarrus County, N.C., May 2: The statement refers to the proposed widening of Lane St. in Kannapolis from I–85 westward to Cannon Boulevard to a four lane curb and gutter street. Project length is 2.6 miles. Adverse impacts include the taking of additional land for right-of-way and the displacement of 2 businesses (75 pages). Comments made by: USDA, COE, DOC, EPA, GSA, HEW, HUD, DOI, and State and local agencies. (ELR Order No. 40710.)

Coose Bay—Roseburg Highway, Douglas County, Oreg., May 2: The proposed project involves widening of 3.8 miles of the existing Coos Bay—Roseburg Highway from a two-lane to a four lane highway. The project will provide for four 12-foot travel lanes; an 8-foot bicycle lane; revision of three intersections and installation of a 3-phase traffic signal. Forty-four acres of land will be committed to right-of-way. Other adverse impacts of the action include loss of flora and fauna; relocation of 16 families; removal or modification of 31 structures and increased noise levels (80 pages). Comments made by: USCG, USDA, EPA, DOC, DOT, and State and local agencies. (ELR Order No. 40707.)

I–82, Yakima and Benton Counties, Wash., April 30: The project consists of the construction of a 42 miles section of I–82 from Union Gap to Prosser. Adverse impacts include the displacement of 78 families, and the increase of air and noise pollution (three volumes). Comments made by: HUD, DOI, EPA, DOC, and USDA. (ELR Order No. 40692.)

S.T.H. 70, Oneida and Vilas Counties, Wis., April 29: The proposed project is the reconstruction and realignment of S.T.H. 70 for a distance of 10.6 miles. The facility will traverse portions of the Chequamegon National Forest and the Lac du Flambeau Indian Reservation. One hundred and forty acres of timberland will be acquired for right-of-way. The facility will traverse the Squaw, Koernet and Lower Creeks. Adverse affects are loss of timberland and wildlife habitat (38 pages). Comments made by: EPA, DOI, and USDA. (ELR Order No. 40679.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Final

Archer Avenue Line, Queens, N.Y., April 29: The New York City Transit Authority has filed an application for Federal capital grant assistance to construct a rapid rail transit extension 2.5 miles in length on the Archer Avenue Line. The whole structure will be underground except for 0.2 mile. Displacements include 12 families and 11 businesses (200 employees). Increases in noise will occur (142 pages). Comments made by: DOT, EPA, DOI, HEW, USDA, and state and local agencies. (ELR Order No. 40691.)

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Draft

Pennsylvania Avenue Plan, 1974, District of Columbia, May 3: Proposed is the adoption of a comprehensive development plan for the Pennsylvania Avenue Development Area, for transmittal to Congress, and upon Congressional approval, implementation by the Corporation. The plan would encompass a 21 block area along the north side of the Avenue, from Third Street to the White House. The main objectives of the plan are to reinforce the proper development and uses of the Ave. and its adjacent area in a manner suitable to its ceremonial physical, and historic character; and to eliminate urban blight. (ELR Order No. 40727.)

The following environmental impact statements were received during the week of April 22 through April 26, 1974. Notice of these statements appeared in the May 6, 1974 FEDERAL REGISTER, and the commenting period for them began on that date. Summaries of the statements were not available at that time, however, and therefore are provided below.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331–E, Administration Building, Washington, D.C. 20250, 202–447–3965.

FOREST SERVICE

Draft

Elkhorn Planning Unit, Helena National Forest, Mont., April 22: Proposed is the implementation of a revised multiple use plan for the 95,000 acre Elkhorn Planning unit of the Helena National Forest. Planning is designed to a Level 2 intensity, for such values as timber harvest, grazing, wildlife habitat, and recreation. The unit contains 40,100 acres of inventoried roadless areas, of which 33,600 acres would remain undeveloped. 48 pages). (ELR Order No. 40628).

Final

West Fork Ranger District, Bitterroot National Forest, Ravalli County, Mont., April 26: The statement refers to a proposed revised management plan for 157,075 acres of the West Fork Ranger District of the Forest. The planning unit has been subdivided into eight smaller units which will be managed for such values as timber production, wildlife habitat enhancement, and recreational values. Of the 157,075 acres in the unit, 111,240 are inventoried as roadless. Implementation of the plan will result in management keyed to road development of 75,946 acres. The remaining 81,129 acres will continue to be managed in a roadless condition. Comments made by: EPA, DOI, USDA, state and local agencies, and concerned citizens. (ELR Order No. 40677.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN–PAP, Office of Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202–693–7166.

Draft

Starlings Creek Navigation Project, Accomacki County, Va., April 25: Proposed is the maintenance dredging of a navigation channel from Pocomoke Sound into Starlings Creek, where a turning basin will also be dredged. An estimated 55,000 cu. yds. of bottom material will be removed, and deposited offshore along Saxis Island. Adverse impact would occur to marine biota (Norfolk District) (21 pages). (ELR Order No. 40663.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

NATIONAL PARK SERVICE

Final

Transpark Road, Bighorn National Recreation Area, Mont. and Wyo., April 26: The proposal calls for the construction of a 50 mile roadway from Horseshoe Bend, Wyoming to Fort Smith, Montana including a major bridge over Dryhead Canyon. The primary purpose of the road is that of increasing access to the National Recreation Area. Adverse impacts will include increased visitor impact, scarring by construction, bisecting of a wild horse range, the loss of some archeologic values, animal road mortality, and the visual impact of fencing. The Crow Indian Reservation will be crossed by the roadway (two volumes). Comments made by: USDA, DOI, EPA, DOT, and state and local agencies. (ELR Order No. 40666.)

Draft

Proposed Buffalo National River Master Plan, several counties, Arkansas, April 26: The statement refers to the proposed master plan for the Buffalo National River. The plan includes the acquisition of 95,730 acres of land. The action will result in increased visitation to the river; approximately 330 area residents will be displaced due to the acquisition. (ELR Order No. 40669.)

Proposed Klondike Gold Rush N.P., Washington and Alaska, April 26: The statement refers to the proposed legislative designation of a national historical park of four separate units to commemorate the Klondike Gold Rush epic. The proposed park will join at the international boundary with the Canadian Klondike Gold Rush Park, creating the first Canada-United States international historical park. Impact includes the removal of land from tax rolls; temporary construction disruption; and the effects of increased visitation (two volumes). (ELR Order No. 40673.)

BUREAU OF RECLAMATION

Final

Gila Gravity Main Channel, Arizona, April 26: The statement refers to the proposed rehabilitation and improvement of the Gila Main Canal. Included would be the benching of rock cuts, modifying of wash inlet structures, and construction of new maintenance roads. Adverse impact will include the loss of a small seepage pond and some waterline habitat; disturbance to wildlife; and changes in aesthetics. Comments made by: DOI, EPA, USDA, COE, and state and local agencies. (ELR Order No. 40670.)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Draft

Bombay Hook National Wildlife Refuge, Kent County, Del., April 26: Proposed is the legislative designation of two islands, totalling 120 acres, of the Bombay Hook National Wildlife Refuge as wilderness within the National Wilderness Preservation System. The option to intensively manage for maximum wildlife production would be foregone by the action (47 pages). (ELR Order No. 40668.)

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Contact: Mr. T. R. Martin, ARA/Mex., State Department, Room 3906 A, Washington, D.C. 20520, 202–632–1317.

Draft

Tijuana River Flood Control Project, San Diego County, Calif., April 26: The statement refers to a proposed flood control project on the Tijuana River near the international boundary with Mexico. Project measures will include 300 feet of concrete lined trapezoidal channel; a 3,650 foot long energy dissipator; and 1.3 miles of levee. Adverse impact will include the loss of some riparian habitat (75 pages). (ELR Order No. 40676.)

The following statement was received by the Council on Environmental Quality on April 19, 1974, and should have appeared in CEQ's FEDERAL REGISTER listing of April 26, 1974. Because the statement was erroneously omitted, the commenting period will be calculated from April 26.

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, 615–755–2002.

Draft

Duck River Project, Supplement, April 19: The document supplements a final statement which was filed with the Council on May 8, 1972. The supplement, which was prepared in response to a court order, contains information on: the Duck River project's impact on agriculture; the costs to be paid under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; the possibility of a wildlife management area near Normandy Reservoir; and the impact of the project on future canoeing and floating recreational demands (104 pages). (ELR Order No. 40688.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.74–10948 Filed 5–10–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–32000/57]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered In Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 12, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 12, 1974.

APPLICATIONS RECEIVED

EPA Reg. No. 275–23. Abbott Laboratories, Abbott Park, North Chicago, Illinois 60064. *Dipel 150 Dust.* Active Ingredients: *Bacillus thuringiensis*, Berliner, Potency of 320 International Units per mg. (at least 0.5 billion viable spores per g.) 0.064%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 275–18. Agricultural and Veterinary Products Division, Abbott Laboratories, Abbott Park, North Chicago, Illinois 60064. *Dipel Biological Insecticide Wettable Powder.* Active Ingredients: *Bacillus thuringiensis*, Berliner, 16,000 International Units of Potency per mg. (at least 25 billion viable spores per g.) 3.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4828–UO. ABCO Inc., P.O. Box J, Irwin, Pennsylvania 15642. *GF–250 Disinfectant—Sanitizer—Deodorizer.* Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.5%; n-Alkyl (68% C12, 21% C14) dimethyl ethylbenzyl ammonium chlorides 2.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8866–EN. Arco Chemical Corporation, 4871 North 119th Street, Milwaukee, Wisconsin 53225. *Chlorine Concentrated Tablets for Swimming Pool Disinfection.* Active Ingredients: Trichlorostriazinetrione 99.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34137–R. BECO Chemical Company, Inc., 3201–C N. Alameda Street, Compton, California 90222. *BECO Pine Oil Disinfectant.* Active Ingredients: Pine Oil 80%; Soap 10%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3125–EOO. Chemagro Division of Baychem Corporation, Box 4913, Kansas City, Missouri 64120. *Dasanit+Di-Suston 4-2 Spray Concentrate Insecticide—Nematicide.* Active Ingredients: *O,O-*Diethyl *O* - [4 - (methylsulfinyl) phenyl] phosphorothioate 43%; *O,O*-Diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate 21%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3125–GOO. Chemagro Division of Baychem Corporation, Box 4913, Kansas City, Missouri 64120. *Dasanit+Di-Syston 10%—5% Granular Insecticide—Nematicide.* Active Ingredients: *O,O-*Diethyl *O* - [4 - (methylsulfinyl) phenyl] phosphorothioate 10%; *O,O*-Diethyl *S*-[2 - (ethylthio)ethyl] phosphorodithioate 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10147–GU. Birko Chemical Corporation, 5600 Brighton Boulevard, P.O Box 1315, Denver, Colorado 80201. *Birko Chemical Egg Wash Chlorinated Cleanser and Sanitizer.* Active Ingredients: Trisodium phosphate, dodecahydrate 90.83%; Sodium hypochlorite 3.22%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 7173–113. Chempar Chemical Co., Inc., 260 Madison Avenue, New York, New York 100'6. *Rozol Tracking Powder for Mice and Rats.* Active Ingredients: 2-[(p-chlorophenyl) phenylacetyl] 1,3-indandione 0.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 239–2402. Chevron Chemical Co., 940 Hensley Street, Richmond, California 94801. *Dibrom LVC 10.* Active Ingredients: Naled 15%; Aromatic Petroleum Derivative Solvent 80%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5549–TN. Coastal Chemical Corp., P.O. Box 856, Greenville, North Carolina 27834. *Coastal 2% Methomyl Insecticide Dust.* Active Ingredients: Methomyl (S - methyl - N - [(methylcarbamoyl)oxy] thioacetimidate 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4715–EUE. Colorado International Corp., 5321 Dahlia Street, Commerce City, Colorado 80022. *Best 4 Servis Brand Four-Way Hospital Disinfectant Cleaner.* Active Ingredients: Didecyl dimethyl ammonium chloride 4.25%; Tetrasodium ethylenediamine tetraacetate 1.60%; Sodium carbonate 2.00%; Sodium metasilicate, anhydrous 0.50%. Method of Support: Application proceeds under 2(b) of interim policy.

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EPA Reg. No. 3813-14. **Crouch Supply Company**, Inc., P.O. Box 906, Fort Worth, Texas 76101. *Crouch Improved Steep #2-A Liquid Acid Sanitizer Concentrate*. Active Ingredients: Phosphoric Acid 30.00%; Dodecyl Benzene Sulfonic Acid 5.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 14950-E. DAL Industrial Products, 2609 Parvia, Dallas, Texas 75212. *Dip Quick Kill Fogging Type*. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl - 3 - (2-methylpropenyl)-cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11741-A. D. W. Davies and Company, Inc., 3200 Phillips Avenue, Racine, Wisconsin 53403. *San-A-Kleen 160*. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 3772-8. **Earl May Seed & Nursery Co.**, Shenandoah, Iowa 51601. *Earl May Chlordane E. C.* Active Ingredients: Technical Chlordane 42.29%; Aliphatic Petroleum Hydrocarbons 53.71%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-OU. **Farmcraft**, Inc., 8800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Thuricide-HP 216M*. Active Ingredients: *Bacillus thuringiensis* Berliner, potency of 480 International Units (at least 600 thousand viable spores) per milligram 0.096%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 279-EITG. **FMC Corporation**, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Thiodan 1.5 Toxaphene 6 EC*. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,3-benzodioxathiepin oxide) 13.50%; Toxaphene 54.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 279-EOTU. **FMC Corporation**, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Pyrenone 50-5 W-B Intermediate For Aqueous Pressurized Insecticide*. Active Ingredients: Pyrethrins 5.0%; Piperonyl Butoxide, Technical 50.0%; Petroleum Distillate 43.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 279-EOTL. **FMC Corporation** Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Captan Terraclor 10-10 Soil Treater*. Active Ingredients: Captan N-Trichloromethylthio-4-cyclohexene1,2 - dicarboximide 10.00%; Pentachloronitrobenzene 10.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 9598-2. **Fults Chemical**, Inc., P.O. Box 239, 863 Levin Avenue, Tulare, California 93274. *Iodet Iodine Disinfectant and Detergent Sanitizer*. Active Ingredients: Nonylphenox Poly(Ethyleneoxy) Ethanol-Iodine complex (Provides 1.75% Titratable Iodine) 17.0%; Phosphoric Acid 8.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905-GAG. **Helena Chemical Company**, 5100 Poplar Avenue, Memphis, Tennessee 38137. *Hel-Dust*. Active Ingredients: *O,O*-Diethyl *O*-[3-chloro-4-methyl-2-oxo-(2*H*)-1benzopyran-7-yl] phosphorothioate 1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2907-RL. **Arch C. Heller Co., P.O. Box 88, Darby, Pennsylvania 19023.** *Home Garden Fast Insect Killer*. Active Ingredients: Tetramethrin 0.250%; Related compounds 0.034%; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl cyclopropanecarboxylate 0.106%; Related compounds 0.014%; Petroleum distillate 9.000%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2907-RA. Arch C. Heller Co., P.O. Box 88, Darby, Pennsylvania 19023. *Exo Long Distance Spray Fast Acting Wasp & Hornet Killer*. Active Ingredients: Pyrethrins 0.10%; Piperonyl butoxide, technical 0.20%; N-Octylbicycloheptene dicarboximide 0.33%; o-Isopropoxyphenyl methylcarbamate 0.50%; Petroleum distillate 83.87%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 27995-E. Henry Interdonati, Inc., 295 Northern Boulevard, Great Neck, Long Island, New York 11021. *Strychnine Alkaloid N.F.X. Powder*. Active Ingredients: Strychnine Sulfate Pentahydrate 100%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 407-GTR. Imperial Inc., P.O. Box 423, Shenandoah, Iowa 51601. *Imperial Ciodrin Insecticide Emulsifiable*. Active Ingredients: Dimethyl phosphate of alpha - methylbenzyl 3-hydroxy-cis-crotonate 14.4%; Petroleum hydrocarbons 72.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6311-G. K & E Chemical Co., 16810 Miles Avenue, Cleveland, Ohio 44128. *Klenztone Mint 7 Disinfectant Cleaner*. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 1381-5. Land O'Lakes, Inc., 2827 8th Avenue South, Fort Dodge, Iowa 50501. *Pyrenone Dairy Cattle Spray*. Active Ingredients: Piperonyl Butoxide technical 0.30%; Pyrethrins 0.03%; Mineral Oil 99.67%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1381-46. Land O'Lakes, Inc., P.O. Box 423, Fort Dodge, Iowa 50501. *Ciodrin 150 Emulsifiable Concentrate*. Active Ingredients: Dimethyl phosphate of alpha-methylbenzyl 3 - hydroxy - cis - crotonate 13.1%; Aromatic Petroleum Hydrocarbons 76.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12310-0. Misco International Chemicals, Inc., 1021 South Noel Avenue, Wheeling, Illinois 60090. *Glycol Disinfectant Deodorant Spray*. Active Ingredients: Isopropyl Alcohol 28.46%; Triethylene Glycol 10.80%; Propylene Glycol 3.0%; Paradiisobutylphenoxyethoxyethyl Dimethyl Benzyl Ammonium Chloride 0.24%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 259-LE. Missouri-Kansas Chemical Company, 1708-16 Campbell, Kansas City, Missouri 64108. *Balance Disinfectant and Cleaner*. Active Ingredients: Isopropanol 20%; Triethanolamine dodecyl benzene sulfonate 4.5%; Soap 3.5%; o-benzyl-p-chlorophenol 3.0%; o-phenylphenol 3.0%; Para-Tertiary-Amylphenol 1.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1812-ERE. Parramore & Griffin, P.O. Box 188, Valdosta, Georgia 31601. *Methomill Tobacco Dust*. Active Ingredients: Methomyl [S-methyl-N-(methylcarbamoyl)oxy] thioacetimidate 2.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 32849-G. The Pest Patrol Ltd., 4743 North 11th Street, Philadelphia, Pennsylvania 19141. *XL-100*. Active Ingredients: Diphacinone (2-Diphenylacetyl-1,3-Indandione) 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 3095-14. Pic Corporation, 28 Sylvan Street, Linden, New Jersey 07036. *Pic Mosquito Coils*. Active Ingredients: D-trans allethrin (allyl homolog of Cinerin I) 0.25%; Vegetable matter & wood fiber 65.00%; Pyrethrum constituents 32.00%; Xylene-green 0.35%; Potassium nitrate 0.90%; Sodium Benzoate 0.50%; Polyethylene Glycol 1.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 655-LNG. Prentiss Drug & Chemical Co., Inc., 363 7th Avenue, New York, New York 10001. *Prentox Encapsulated Rax Powder #A For The Formulation of A Rodenticide Bait*. Active Ingredients: Warfarin (3-(a-acetonylbenzyl)-4-hydroxycoumarin) 0.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 655-LNU. Prentiss Drug & Chemcial Co., Inc., 363 7th Avenue, New York, New York 10001. *Prentox Encapsulated Rax Powder #B For The Formulation of A Rodenticide Bait*. Active Ingredients: Warfarin (3-(a-acetonylbenbyl)-4-hydroxycoumarin) 0.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 523-TO. Roberts Laboratories, 4995 North Main Street, Rockford, Illinois 61101. *Roberts Flygon 2-E Systemic Insecticide*. Active Ingredients: Dimethoate (0,0-dimethyl S-(N-methylcarbamoylmethyl) phosphorodithioate) 23.4%; Xylene 38.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 572-EIL. Rockland Chemical Co., Inc., P.O. Box 204, Caldwell, New Jersey 07006. *Rockland Pyrenone Vegetable Garden Spray*. Active Ingredients: Pyrethrins 0.02%; Piperonyl Butoxide, technical 0.20%; Petroleum distillate 0.08%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 14416-R. Wm. Schlueter & Son, 301 Nottingham Road, Syracuse, New York 13210. *Concord Pine Oil Disinfectant*. Active Ingredients: Pine Oil 75.45%; Soap 15.19%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: May 3, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-10613 Filed 5-10-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 699]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

MAY 6, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20990-C2-MP-74, Polito Communications, Inc. (KUO606). Mod. Permit to change antenna system operating on 454.050 MHz located at 101 Walnut Street, Rochester, New York.

21058-C2-P-74, Bloomingdale Home Telephone Company, Inc. (KSJ817). C.P. to change antenna system operating on 152.72 MHz located at West side of Main Street at Smith Street, Bloomingdale, Indiana.

21306-C2-AL-74, Racom, Inc. (KCA752). Consent to Assignment of License from Racom, Inc., Assignor to Yankee Microwave Corporation, Inc., Assignee. Station: KCA752, Auburn, Maine.

21307-C2-AL-74, Northern Ohio Telephone Company (KQK723). Consent to Assignment of License from Northern Ohio Telephone Company, Assignor to General Telephone Company of Ohio, Assignee. Station: KQK723, Medina, Ohio.

21308-C2-P-74, S & H Communications (New). C.P. for a new 2-way station to operate on 152.18 MHz to be located NE of Harvester Rd., & Hwy 36, Chillicothe, Missouri.

21309-C2-P-(2)-74, Yakima County Communications (New). C.P. for a new 1-way station to operate on 158.70 MHz and 35.22 MHz to be located at Ahtanum Ridge, 4 miles South of Yakima, Washington.

21310-C2-P-74, Empire Paging Corporation (KEC933). C.P. to add antenna location #2 to operate on 454.150 MHz at 1 Strawberry Hill Court, Stamford, Connecticut.

21311-C2-AL-74, Jersey Information Center, Inc. Consent to Assignment of License from Jersey Information Center, Inc., assignor to Vineland Mobile Telephone Company, Assignee. Station: KSW209, Greenwich Township, New Jersey.

21312-C2-AP-74, Jersey Information Center, Inc. Consent to Assignment of Permit from Jersey Information Center, Inc., Assignor to Vineland Mobile Telephone Company, Assignee. Station KWH306, Salem, New Jersey.

21313-C2-P-74, General Communications Service, Inc. (KOF328). C.P. to relocate facilities operating on 158.70 MHz to be located at 4400 E. Broadway, Southern Arizona Bank Financial Center, Tucson, Arizona.

21314-C2-P-74, Williston Telephone Company (KIY790). C.P. for additional facilities to operate on 152.63 MHz located 5.75 miles, 58 degrees East of Williston, South Carolina.

21316-C2-TC-(2)-74, Communications Engineering, Inc. Consent to Transfer of Control from Mary C. Forsberg Harris, Robert Lally, Francis J. Nosek III, Transferors to Sernco, Inc. (formerly Serendipity, Inc.), a California corporation, Transferee. Stations: KWA634 and KWB404, Anchorage, Alaska.

21317-C2-P-74, Rogers Radio Communication Services, Inc. (KTS204). C.P. to add antenna location #6 to operate on 152.24 MHz located at 171 Hart Road, Batavia, Illinois.

21318-C2-P-74, Chillicothe Communications (New). C.P. for a new 2-way station to operate on 152.06 MHz to be located at Narrows Road, South of Mount Logan, Chillicothe, Ohio.

Renewal of License expiring April 1, 1974. Term: April 1, 1974, to April 1, 1979.

New Mexico

Associated Telephone Answering Service, KUO581.

Corrections

7231-C2-P-73, New Jersey Mobile Telephone Company, Inc. (KEK290). Change the location of the 454.20 MHz facility to 125 Broad Street, Elizabeth, New Jersey. Also, change the antenna system. All other particulars of operation to remain as reported on PN #643 dated April 9, 1973.

20133-C2-P-(2)-74, West Texas Rural Telephone Cooperative, Inc. (KUA223) Correct to read C.P. for two additional channels on frequencies 454.400 and 454.525 MHz for station KUA223. All other particulars to remain as reported on PN #661 dated August 13, 1973.

RURAL RADIO SERVICE

60282-C6-TC-74, Communications Engineering, Inc. Consent to Transfer of Control from Communications Engineering, Inc., Transferor to Sernco, Inc. (formerly Serendipity, Inc.), a California corporation, Transferee. Station: KXP26, Temporary-fixed.

60283-C6-P/L-74, The Mountain States Telephone and Telegraph Company (New). C.P. for a new rural subscriber station to operate on 158.01 MHz to be located 26.0 miles SSE of Point-of-Rocks, Wyoming.

POINT-TO-POINT MICROWAVE RADIO SERVICE

3549-C1-ML-74, American Telephone and Telegraph Company (KYC30). Bingham, Idaho. Mod. of License to change polarity from H to V on freqs. 3730 3810 4130 MHz towards Mud Lake, Idaho.

3550-C1-ML-74, Same (KYC29), Birch Creek, Idaho. Mod. of License to change polarity from H to V on freqs. 3770, 3850, 4170 MHz towards Atomic City, Idaho.

4009-C1-P-74, General Telephone Company of the Northwest. Inc. (KTF53), Paradise Ridge, 3.8 miles SE of Moscow, Idaho. Lat. 46°40'42" N., Long. 116°58'29" W. C.P. to add freq. 2126.8H MHz towards a new point of communication at Deary, Idaho.

4010-C1-P-74, Same (New), ½ Block South of Fifth on Oregon Street, Deary, Idaho. Lat. 46°48'01" N., Long. 116°33'12" W. C.P. for a new station on freq. 2176.8H MHz towards Paradise Ridge, Idaho.

4011-C1-P/ML-74, Hawaiian Telephone Company (KUQ93). Within the operating territory of the grantee. C.P. and Mod. of License to use portable Hewlett Packard Sweep Generators on freqs. 3700-4200. 5925-6425, and 10,700-11,700 MHz.

4012-C1-R-74, Same (KUQ93). Within the operating territory of the grantee. Application for Renewal of License for Term: May 23, 1974, to May 23, 1975.

4013-C1-AL-74, The Mountain States Telephone and Telegraph Company. Consent to Assignment of License from the Mountain States Telephone and Telegraph Company, Assignor to Navajo Communications Company, Assignee for Station KPP86—Defiance Plateau, Arizona.

4014-C1-P-74, The Offshore Telephone Company (New), Gulf of Mexico, Block 513, West Cameron Area. Lat. 28°26'04" N., Long. 93°11'53" W. C P. for a new station on freq. 2162.0H MHz towards East Cameron Block 261 on azimuth 81°21'; freq. 2178.0V MHz towards West Cameron Block 587 on azimuth 205°54'.

4015-C1-P-74, Same (WGI40), Block 261, East Cameron Area, Gulf of Mexico. Lat. 28° 28'19" N., Long. 92°54'55" W. C.P. to add freq. 2112.0H MHz towards Block 513, West Cameron on azimuth 261°21'.

4016-C1-P-74, Same (New), Block 587, West Cameron Area, Gulf of Mexico. Lat. 28° 09'39" N., Long., 93°20'47" W. C.P. for a new station on freq. 2128.0V MHz towards West Cameron Block 513 on azimuth 25°54'.

4017-C1-ML-74, American Telephone and Telegraph Company (KSA47), Cloverdale, 4.0 miles N of Wheaton (Du Page), Illinois. Lat. 41°56'05" N., Long. 88°05'57" W. Mod. of License to change polarity from H to V on freqs. 3710, 3790, 3870, 3950, 4030, and 4110 MHz towards Plato Center, Illinois, on azimuth 286°34'; from V to H on freqs. 3730, 3810, 3890, 3970, 4050, and 4130 MHz towards Plato Center, Illinois.

4018-C1-ML-74, Same (KSA48), Plato Center, (Kane) Illinois. Lat. 42°01'10" N., Long. 88°29'02" W. Mod. of License to change polarity from V to H on freqs. 3770, 3850, 3930, 4010, 4090, and 4170 MHz; from H to V on freqs. 3990, 4070, and 4150 MHz towards Cloverdale, Illinois, on azimuth 106°19'; change polarity from V to H on freq. 3830 and from H to V on freq. 4010 MHz towards Lee, Illinois on azimuth 242°15'.

4019-C1-P-74, Southern Bell Telephone and Telegraph Company (KJG22), Corner SW "E" Avenue and State Road #717 Belle Glade (Palm Beach) Florida. Lat. 26°41'02" N., Long. 80°40'56" W. C.P. to change freqs. and transmitter to 6226.9V, 6286.2V, 6404.8V MHz towards Loxahatchee, Florida, on azimuth 90°01''; change transmitter on freqs. 6226.9V and 6345.5V MHz towards Clewiston, Florida, on azimuth 286°21'.

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4020–C1–P–74, Same (KJQ23), 3.3 miles W of Loxahatchee (Palm Beach) Florida. Lat. 26°41'00" N., Long. 80°19'42" W. C.P. to change freqs. and transmitters to 5974.8V, 6034.2V, 6152.8V MHz towards Belle Glade, Florida, on azimuth 270°11'; freqs. 5974.8V, 6034.2V, and 6152.8V MHz towards West Palm Beach, Florida, on azimuth 83°55'.

4021–C1–P–74, Same (WDD43), 325 Gardenia Street, West Palm Beach (Palm Beach), Florida. Lat. 26°42'34" N., Long. 80°03'11" W. C.P. to change freq. and replace transmitter to freq. 6226.9V, 6286.2V, and 6404.8V MHz towards Loxahatchee, Florida, on azimuth 264°02'.

4026–C1–ML–74, American Telephone and Telegraph Company (KGH89), 1.8 mi. E of Eagles Mere, (Sullivan) Pennsylvania. Lat. 41°24'23" N., Long. 76°32'41" W. Mod. of License to change polarity from V to H on freqs. 6177.5, 6226.9, 6286.2, 6345.5, and 6404.8; from H to V 6197.2, 6256.5, 6315.9, 6375.2, and 6424.5 MHz towards Elimsport, Pennsylvania, on azimuth 236°39'.

4027–C1–P–74, The Ohio Bell Telephone Company (KQN77), Township Rd., 113, 2.8 miles SW of Carrell, (Fairfield) Ohio. Lat. 39°46'15" N., Long. 82°44'25" W. C.P. to change power on freqs. 5937.8H and 10915V MHz towards Columbus, Ohio on azimuth 314°30'.

4028–C1–P–74, Same (KVI38), 111 North Fourth Street, Columbus (Franklin) Ohio. Lat. 39°57'54" N., Long. 82°59'51" W. C.P. to change power of freqs. 6189.8H and 11365V MHz towards Carroll, Ohio, on azimuth 134°20'.

[FR Doc. 74–10975 Filed 5–10–74;8:45 am]

CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE PANEL 7

Notice of Meeting

MAY 2, 1974.

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the CTAC Panel 7 Committee on May 16, 1974, to be held at 2025 M Street, N.W., Washington, D.C. in Room 6331 (Conference Room). The time of the meeting is 10 a.m.

The agenda is as follows:

(1) Chairman's Report.
(2) Review of Minutes of February 20, 1974 Meeting.
(3) Review of Points Raised at Ohio Meeting April 23, 1974.
(4) Review of First Draft of Final Report.
(5) Discussion of Other Areas.
(6) Establish Milestones for Next Meeting.
(7) New Business.
(8) Establish Date, Time and Place for Next Meeting.

Any member of the public may attend or may file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. Cort Wilson, FCC, 1919 M Street, N.W., Washington, D.C. 20554—(202) 632–9797.

Dated: April 30, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc. 74–10973 Filed 5–10–74;8:45 am]

DATAPHONE DIGITAL SERVICE

Notice of Meeting

MAY 7, 1974.

A meeting has been called for 9:30 a.m., May 21, 1974 in the Commission's Offices for the purpose of obtaining clarification of AT&T's filing relating to Dataphone Digital Service (DDS). This meeting will afford an opportunity for any interested party to raise pertinent questions as an aid in the evaluation of the use of Data Under Voice, (DUV) facilities in the provision of DDS service. Representatives of the Bell System will be present to answer and discuss questions raised by the parties. Questions should be submitted in writing to

Thomas W. Scandlyn, Assistant Vice President
American Telephone and Telegraph Company
195 Broadway
New York, New York 10007

no later than May 14, 1974. Every effort should be made to limit the questions to important elements that will aid the Staff and the parties in their analysis and preparation of comments by the parties on AT & T's application for operational authority.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74–10974 Filed 5–10–74;8:45 am]

[Dockets Nos. 20030, 20031; Files Nos. BPH–8341, BPH–8472]

WAVV COMMUNICATIONS, INC. AND AVALON BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of WAVV Communications, Inc., Avalon, New Jersey, Docket No. 20030, File No. BPH–8341; Request: 94.3 MHz, #232; 3 kW (H & V); 281 feet.

Avalon Broadcasting Co., Avalon, New Jersey, Docket No. 20031, File No. BPH–8472; Requests: 94.3 MHz, #232; 3 kW (H & V); 300 feet, for Construction Permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned and described applications for construction permits.

2. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

3. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine, in light of the evidence adduced pursuant to the foregoing issue which, if either, of the applications should be granted.

4. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to apear on the date fixed for the hearing and present evidence on the issues specified in this Order.

5. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 25, 1973.

Released: May 3, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74–10976 Filed 5–10–74;8:45 am]

SELECTIVE SERVICE SYSTEM

[Temporary Instruction 613–6]

REGISTRANTS PROCESSING MANUAL

Mail-in Registration Survey

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portion of that Manual is considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER.

Temporary Instruction No. 613–6. Subject: Mail-In Registration Survey.

BYRON V. PEPITONE,
Director.

MAY 6, 1974.

[Temporary Instruction 613–6]

MAIL-IN REGISTRATION SURVEY

APRIL 29, 1974.

1. To provide State and National Headquarters with initial data by which the effectiveness of the Mail-In Registration Program can be evaluated, a one-year survey program has been established which will require quarterly reports from each local board and State Headquarters.

2. The Mail-In Registration Survey, (SSS Form 1–S (Temporary)), with format as shown in the Attachment to this Temporary Instruction shall be prepared by local boards to reflect the periods May 1–July 31, August 1–October 31, November 1–January 31, and February 1 to April 30, with the reports to be received by the State Headquarters within five days of the end of the reporting period.

3. Each State Director shall consolidate the quarterly reports from local boards within his state and prepare a state report to be received by National Headquarters, Operations Division, Attention: OOPR, on or before the 15th of the month following the end of the reporting period.

4. This Temporary Instruction will serve as the Procedural Directive for SSS Form 1–S (Temporary). State Directors will receive an initial distribution of this form in early May.

This Temporary Instruction will terminate on May 31, 1975.

BYRON V. PEPITONE.

MAIL-IN REGISTRATION SURVEY

Local Board
or State Reporting _____
Reporting Period _____ to _____
1. Number of mail-in sites _____
2. Number of mail-in cards received during period _____
3. Number of valid registrations _____
A. Not requiring follow-up _____
B. Requiring follow-up _____
4. Number of fictitious registrations _____
A. Obvious upon receipt _____
B. Determined after follow-up _____
5. Number of mail-in cards from individuals not required to be registered _____

[FR Doc.74–10949 Filed 5–10–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI74–560, etc.]

AUTHORIZATION TO SELL NATURAL GAS

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 3, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI74–560 (G–4579) F 4–16–74	HiGar Petro, Inc. (successor to Cities Service Oil Co.), 1145 North Prospect, Liberal, Kans. 67901.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Greenwood (Topeka) Field, Morton County, Kans.	[2] 18.0	14.65
CI74–560 (G–6178) F 4–16–74	HiGar Petro, Inc. (successor to The Superior Oil Co.)	do	[2] 16.0	14.65
CI74–571 (C166–726) F 4–16–74	Diamond Shamrock Corp. (successor to Skelly Oil Co.), P.O. Box 631, Amarillo, Tex. 79173.	Panhandle Eastern Pipe Line Co., acreage in Hemphill County, Tex.	[3] 18.07	14.65
CI74–574 (G–14536) B 4–12–74	Edwin L. Cox (Operator) et al., 3800 First National Bank Bldg., Dallas, Tex. 75202.	United Gas Pipe Line Co., McFaddin Field, Refugio County, Tex.	Depleted	
CI74–576 (G–14292) F 4–19–74	Amoco Production Co. (successor to Exxon Corp.), Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Mocane Gas Area, Beaver County, Okla.	19.5	14.65
CI74–578 (CI61–1265) F 4–8–74	Chace Oil Co., Inc. (successor to Southern Union Production), 313 Washington, SE., Albuquerque, N. Mex. 87106.	El Paso Natural Gas Co., San Juan Basin, Rio Arriba County, N. Mex.	[3] 28.76	15.025
CI74–582 (G–3973) B 4–19–74	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Waskom (Minnie Downs) Field, Harrison County, Tex.	Depleted	
CI74–583 (CI65–1023) B 4–12–74	Edwin L. Cox	Anadarko Production Co., Interstate Field, Morton County, Kans.	Depleted	
CI74–584 (CI63–677) B 4–18–74	Sarkeys, Inc., 1170 First National Center, Oklahoma City, Okla. 73102.	Natural Gas Pipeline Co. of America, acreage in Dewey County, Okla.	(7)	
CI74–585 A 4–22–74	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Block 306, Eugene Island Area, offshore Louisiana.	[3] 32.00	15.025
CI74–586 A 4–22–74	do	Michigan Wisconsin Pipe Line Co., Block 171, West Cameron Area, offshore Louisiana.	[3] 32.0	15.025
CI74–587 4–2–74 [4]	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79163.	Natural Gas Pipeline Co. of America, North Lovedale Field, Harper County, Okla.	[3] [5] 18.7	14.65
CI74–588 (C872–4) B 4–19–74	The Algas Co., P.O. Drawer 1579, Alice, Tex. 78332.	United Gas Pipe Line Co., Rowe Field, Jim Wells County, Tex.	Depleted	
CI74–591 (CI66–152) B 4–24–74	Eason Oil Co., P.O. Box 18755, Oklahoma City, Okla. 73118.	Columbia Gas Transmission Corp., Washington District, Kanawha County, W. Va.	Depleted	
CI74–594 (G–10842) B 4–26–74	Jean Paul Getty, Trustee, P.O. Box 1404, Houston, Tex. 77001.	Phillips Petroleum Co., Christine W. Hitch Unit, Texas County, Okla.	(8)	

[1] Subject to upward and downward Btu adjustment.
[2] Subject to upward Btu adjustment; estimated adjustment is 2.86 cents per M ft³.
[3] The Pankratz No. 1–35 Well located in Dewey County, Okla., did not qualify for connection resulting in no gas being sold or purchased therefrom.
[4] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by A.I.K. Ltd. number 2, now holder of a small producer certificate.
[5] Applicant is willing to accept a certificate conditioned to the applicable area rates.
[6] Acreage assigned to the purchaser.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[FR Doc.74–10767 Filed 5–10–74;8:45 am]

[Docket No. RI74–217]

AIKMAN BROTHERS

Notice of Petition for Special Relief

MAY 6, 1974.

Take notice that on April 25, 1974, Aikman Brothers (Petitioner), 1204 Vaughn Building, Midland, Texas 79701, filed a petition for special relief in Docket No. RI74–217, seeking a rate above the applicable area ceiling under Opinion No. 586. Petitioner seeks a price of 22.0 cents per Mcf for the sale of gas to Natural Gas Pipeline Company of America under its FPC Gas Rate Schedule No. 5 from the Zaerr Gas Unit, NW, Quinlan Field, Woodward County, Oklahoma. The petition is based upon the escalation in costs of materials, labor, and services in the oil and gas industry and the current energy crisis.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to

[2] This notice does not provide for consolidation for hearing of the several matters covered herein.

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intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10907 Filed 5-10-74;8:45 am]

[Docket No. RI74-218]

AIKMAN BROTHERS

Notice of Petition for Special Relief

MAY 6, 1974.

Take notice that on April 25, 1974, Aikman Brothers, (Petitioner), 1204 Vaughn Building, Midland, Texas 79701, filed a petition for special relief in Docket No. RI74-218 seeking a rate above the applicable area ceiling under Opinion No. 586. Petitioner seeks a price of 22.0 cents per Mcf for the sale of gas to Natural Gas Pipeline Company of America under its FPC Gas Rate Schedule No. 20 from the Ames Gas Unit, Quinlan Field, Woodward County, Oklahoma. The petition is based upon the escalation in costs of materials, labor, and services in the oil and gas industry and the current energy crisis.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 28, 1974 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10908 Filed 5-10-74;8:45 am]

[Docket No. E-8755]

CENTRAL KANSAS POWER CO., INC.

Notice of Filing of Proposed FPC Electric Tariffs

MAY 6, 1974.

Take notice that Central Kansas Power Company, Inc., (CKP) on April 30, 1974, tendered for filing a proposed change in its existing FPC Electric Tariff, together with a proposed initial rate to its existing wholesale customer for service in excess of the amount covered by such existing tariff. The proposed rate filing would increase revenues from jurisdictional sales and service by $373,776, based upon the twelve-month period ending December 31, 1973, as adjusted for known and measurable changes in its costs and revenues.

Since the present rates became effective, the Company has experienced increases in the costs of capital, labor, materials and taxes. CKP states that the proposed rates are necessary to provide the Company with a fair return on its investment so as to maintain the financial integrity of the Company and enable it to continue to provide its customers with safe and adequate service. CKP requests an effective date of June 1, 1974.

Copies of this filing were served upon the Company's only jurisdictional customer, Sunflower Electric Cooperative, and upon the State Corporation Commission of the State of Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10910 Filed 5-10-74;8:45 am]

[Docket No. CP72-15]

CITIES SERVICE GAS CO.

Notice of Petition To Amend

MAY 6, 1974.

Take notice that on April 22, 1974, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP72-15 a petition to amend further the order of the Commission issued in said docket on November 1, 1971 (46 FPC 1110), as amended July 17, 1972 (48 FPC 102), April 20, 1973 (unreported), and January 21, 1974 (51 FPC ——), pursuant to section 7(c) of the Natural Gas Act authorizing an exchange of natural gas between Petitioner and Arkansas Louisiana Gas Company (Arkla), by authorizing the construction and operation of additional points of delivery and a modification in the transportation charge paid under the exchange agreement, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

By the order issued on November 1, 1971, as amended by the orders issued July 17, 1972 and April 20, 1973, Petitioner was authorized, in order to aid Arkla in transporting natural gas from certain wells in Hemphill and Roberts Counties, Texas, and Woodward County, Oklahoma, to receive under an exchange agreement with Arkla, dated June 11, 1971, up to 10,000 Mcf per day of natural gas from three points in Hemphill County and one point in Woodward County, and to deliver to Arkla an equivalent amount of gas at points in Reno and Rice Counties, Kansas, and Caddo County, Oklahoma. Arkla was to pay a transportation charge of 6 cents per Mcf of gas, although it was not clear for which volumes of gas Arkla was to pay. Said agreement was to continue for two years from November 1, 1971, or until Arkla constructed its own facilities for transporting gas from said areas, whichever came first. The amending order issued January 11, 1974, provided for Petitioner to deliver gas to Arkla, as part of the exchange, from the MuCulloch-State Well in Hemphill County and for the parties to continue the exchange until March 31, 1978. Said order clarified that Arkla was to pay a transportation charge of 6 cents per Mcf for the volume of gas delivered only at the three Hemphill County points at which Arkla delivered gas to Petitioner.

Petitioner herein requests, pursuant to a further amendment to the June 11, 1971, exchange agreement, authority to construct and operate two additional delivery points on its pipeline in Woods and Ellis Counties, at a combined cost of $10,200, in order to receive gas from Arkla; and to operate, as an additional point of delivery, existing facilities, constructed pursuant to budget-type authority granted by the Commission order issued on November 6, 1973 (50 FPC ——), which facilities are connected to the Shaller Well in Hemphill County, in order to receive for Arkla's account Arkla's share of the production from the Shaller Well lease.

Petitioner states that Arkla has filed in Docket No. CP72-9 a petition to amend further the November 1, 1971, order by permitting Arkla to receive for Petitioner's account, pursuant to the further amendment to the June 11, 1971, agreement, the 12.5 percent interest committed to Petitioner from the McCulloch-Wright Well in Hemphill County.

Petitioner further proposes that Arkla pay to Petitioner, under said further amendment to the exchange agreement, a transportation charge of 6 cents per Mcf for each Mcf of exchange gas transported by Petitioner from all seven exchange points at which Arkla delivers gas to Petitioner after deducting therefrom the volumes of exchange gas delivered by Petitioner to Arkla at the exchange point in Caddo County, and the McCulloch-State and McCulloch-Wright exchange points in Hemphill County.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10911 Filed 5-10-74;8:45 am]

[Docket No. CP74-269]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

MAY 6, 1974.

Take notice that on April 19, 1974, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE, Charleston, West Virginia 25314, filed in Docket No. CP74-269 an application pursuant to sections 7 (b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a natural gas transmission loop replacement pipeline and an increase in the volumes of natural gas exchanged by it with Washington Gas Light Company (Washington Gas) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 8.4 miles of 36-inch transmission pipeline loop in Loudoun County, Virginia, replacing approximately 20.1 miles of existing 26-inch gas transmission pipeline, which has experienced failures during operation and testing, in the same county.[1] Applicant alleges that the capacity of the proposed line is sufficient to replace the loss in capacity due to the retirement of the 20.1 miles of pipeline and that the new capacity will be sufficient to permit the proposed increase in service to Washington Gas.

Applicant states that it was authorized by the Commission in Docket No. CP71-198 on April 26, 1971 (45 FPC 600), to provide an exchange service to Washington Gas pursuant to a letter agreement between Washington Gas and Applicant dated December 15, 1970, which agreement is on file with the Commission as Applicant's Rate Schedule X-30 in its FPC Gas Tariff, Original Volume No. 2. Applicant indicates that it receives 35,000 Mcf of gas per day from Washington Gas' subsidiary, Hampshire Gas Company, at Applicant's Lost River Compressor Station in Hardy County, West Virginia, and that Applicant simultaneously delivers equivalent volumes to Washington Gas at existing points of delivery in Washington Gas' market area. Applicant states that Washington Gas has requested that Applicant increase the existing exchange service from 35,000 Mcf of gas per day to 50,000 Mcf of gas per day. Applicant indicates that it is willing to provide the expanded service to Washington Gas and indicates that the terms and conditions of the new exchange detailed under an April 9, 1974, agreement between Applicant and Washington Gas will be identical to the existing agreement except for the volumes exchanged. The application states that no change is contemplated in the basis of Applicant's charges to Washington Gas and that the identical unit rate is maintained and applied to the proposed increase in exchange volumes.

Applicant estimates that the cost of the proposed construction, including Commission filing fees is $2,710,000, which cost will be financed by the sale of securities to Applicant's parent company, Columbia Gas System, Inc. Applicant also indicates that the estimated net debit to retirement due to the proposed retirement of the 20.1 miles of 26-inch pipeline will be $1,468,105.

Any person desiring to be heard or to make any protests with reference to said application should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to teh authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10909 Filed 5-10-74;8:45 am]

[1] The application indicates that 21,634 feet of 26-inch pipe will be removed, 32,777 feet of 26-inch pipe will be utilized in place as ground bed, and the remaining 51,458 feet of 26-inches pipe will be retired in place.

[Docket No. CP73-70]

COLUMBIA GULF TRANSMISSION CO.

Notice of Amendment to Application

MAY 6, 1974.

Take notice that on April 22, 1974, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP73-70 an amendment to its application currently pending before the Commission in said docket, which application requests a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act for authorization to exchange and transport natural gas, by proposing an additional delivery point for said exchange of natural gas and additional delivery volumes, all as more fully set forth in said amendment to the application, which is on file with the Commission and open to public inspection.

In its application Applicant proposed, pursuant to an agreement between Applicant and Amoco Production Company (Amoco), dated July 31, 1972, to take natural gas into its pipeline system for the account of Amoco at two points in Vermilion Parish, Louisiana, and to deliver said gas into the pipeline system of Florida Gas Transmission Company (Florida Gas) at the point near Judice, Lafayette Parish, Louisiana, where Applicant's pipeline and Florida Gas' pipeline intersect at a price of 0.434 cent per Mcf of gas.

Applicant states that its affiliate, Columbia Gas Transmission Corporation (Columbia), has entered into a gas purchase and sales agreement with Amoco providing for the purchase and sale for resale of 50 percent of Amoco's available gas from the Lake Boudreaux Field, Terrebonne Parish, Louisiana, provided a certificate of public convenience and necessity satisfactory to the parties is issued in this docket, as amended. Applicant further states that it has been requested to transport such gas for Columbia and intends to attach the Lake Boudreaux reserves to its existing transmission system by constructing gas purchase facilities under its budget-type authorization in Docket No. CP74-88.

In connection with said purchase and sale for resale of gas, Applicant proposes, pursuant to an amendment, dated March 7, 1974, to the exchange and transportation agreement of July 31, 1972, to transport for Amoco through Applicant's facilities the 50 percent of gas from the Lake Boudreaux Field which is not committed to Columbia and redeliver said gas to Florida Gas for Amoco's account at the Judice delivery point at a price of 2.28 cents per Mcf of gas.

Any person desiring to be heard or to make any protest with reference with said amendment should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the

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regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed petitions to intervene or protests need not file again.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10912 Filed 5-10-74;8:45 am]

[Docket No. CP74-268]

CONSOLIDATED GAS SUPPLY CORP. AND NORTH PENN GAS CO.

Notice of Joint Application

MAY 6, 1974.

Take notice that on April 18, 1974, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and North Penn Gas Company (North Penn), 76-80 Mill Street, Port Allegany, Pennsylvania 16743, filed in Docket No. CP74-268 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the joint operation and further development of the Tioga Storage Pool, Tioga County, Pennsylvania, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicants state that the Tioga Storage Pool consists of the Palmer Storage Pool (West End Tioga), which has been operated by North Penn or its predecessor in interest, Allegany Gas Company, under Commission order issued March 16, 1943 (3 FPC 943), and the Boom Storage Pool (East End Tioga), which has been operated by Consolidated or its predecessor in interest, New York State Natural Gas Corporation, under Commission Orders issued on October 27, 1942 (3 FPC 844), September 12, 1945 (4 FPC 1047), March 29, 1950 (9 FPC 620), and January 2, 1958 (19 FPC 5). Applicants state further that these storage pools are in geological communication, which fact has resulted in the migration from time to time of gas toward that portion of the pool which was being operated at a lower pressure, thereby depriving the applicant whose gas had migrated of the full turnover capability of its inventory.

In order to permit each applicant to make full use of its storage capability, Applicants propose to connect their respective pipeline facilities and to operate jointly the said portions of the Tioga Pool, pursuant to an agreement, effective January 1, 1974, although each applicant will remain in full control and ownership of all facilities which it has previously constructed and proposes to construct.

In furtherance of the above scheme, Applicants propose the following:

(1) To construct and operate approximately 2,500 feet of 8-inch pipeline to interconnect their respective pipeline facilities in the Tioga storage area, in order to maintain an open system that will equalize pressures throughout the field,

(2) To revamp their existing pipeline system to permit operation throughout both areas of the pool at 1,500 psig;

(3) To reclassify their respective base gas storage inventories in the pool from 5 million Mcf for North Penn and 4,720,225 Mcf for Consolidated to 6 million Mcf for each;

(4) To increase storage turnover capability from 5.9 million Mcf for North Penn and 6 million Mcf for Consolidated to 9 million Mcf for each.

In addition, North Penn intends to construct approximately 15,450 feet of 6-inch and 400 feet of 8-inch pipeline to connect 8 additional wells for active storage.

Applicants estimate the cost of these facilities to be $1,640,465 for Consolidated to be financed from funds on hand and funds to be obtained from Consolidated's parent corporation, Consolidated Natural Gas Company, and $851,730 for North Penn to be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10914 Filed 5-10-74;8:45 am]

[Docket No. CI74-589]

CONTINENTAL OIL CO.

Notice of Application

MAY 6, 1974.

Take notice that on April 22, 1974, Continental Oil Company (Applicant), P.O. Box 2197, Houston, Texas 77001, filed in Docket No. CI74-589 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Texas Gas Transmission Company (Texas Gas) from the Block 217 Field, Eugene Island Area, offshore, Louisiana, and delivery of said gas to Michigan Wisconsin Pipe Line Company, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of gas to Texas Gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale after the end of the emergency period for one year at 50.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot of gas, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant is willing to accept a certificate conditioned to a price of 45.0 cents per Mcf. Applicant estimates monthly deliveries of gas to Texas Gas at 30,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion, believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10913 Filed 5-10-74;8:45 am]

[Docket No. E-7769]

DELMARVA POWER & LIGHT CO.

Notice of Tendered Tariff Sheets

MAY 6, 1974.

Take notice that on April 12, 1974, Delmarva Power and Light Company (Delmarva) tendered the followir.g revised tariff sheets for filing with the Commission:

Delmarva Power & Light Company:
First Revised Leaf No. 6—FPC Electric Tariff Volume No. 4
Supplement No. 2 to Rate Schedule FPC No. 35
Delmarva Power & Light Company of Maryland:
First Revised Leaf No. 6—FPC Electric Tariff Volume No. 4

Delmarva states that this filing is being made pursuant to the Commission order of April 1, 1974, in this docket and that the changes reflected in the tariff sheets will be effective March 1, 1973, as required in that order. Delmarva states further that a revised fuel adjustment clause will be prepared and filed, as required by Ordering Paragraph (B) of the Commission's April 1, 1974 order, as promptly as such clause can be drafted and the supporting material completed. At that time, Delmarva states, the fuel adjustment clause in Supplement No. 2 to Rate Schedule FPC No. 35 will be revised and filed as well.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-10915 Filed 5-10-74;8:45 am]

[Docket No. CI74-579]

HYDROCARBON DEVELOPMENT CORP.

Notice of Application

MAY 6, 1974.

Take notice that on April 1, 1974, Hydrocarbon Development Corp. (Applicant), P.O. Box 2806, Corpus Christi, Texas 78403, filed in Docket No. CI74-579 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas in interstate commerce for Occidental Petroleum Corporation (Occidental), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in the early part of 1966, Lumar Gas Corporation (Lumar) borrowed $150,000 from Occidental for use in the construction of 8.6789 miles of 8-inch pipeline from the Lacal Field, Willacy County, Texas, to a connection with Texas Eastern Transmission Corporation's 30-inch transmission line in Hidalgo County, Texas. Under the terms of the loan agreement Lumar was to repay such monies, including interest calculated at a rate of 5½ percent per annum, to Occidental with repayment to be made at the rate of one cent per Mcf of gas transported through said 8-inch pipeline produced by Occidental, its associates, and others from leases held by them in the Lacal Field, which gas would subsequently be sold in interstate commerce.

Applicant states that it acquired the subject pipeline from Lumar and has continued to transport gas in accordance with the terms of the loan agreement between Lumar and Occidental as described above. Applicant states further that $50,000 of the loan is still due and owing Occidental. Applicant asserts that inasmuch as Occidental, its associates, and others are currently producing only 5,000 Mcf of gas per day from the Lacal Field, repayment of such indebtedness solely on the basis of the original rate of one cent per Mcf of such production transported is doubtful. Applicant, therefore, requests authorization to transport gas produced by Occidental in the Lacal Field for a transportation charge of one and one-half cents per Mcf for all gas so transported for delivery to Texas Eastern for resale in interstate commerce until such indebtedness is satisfied and for a transportation charge of one-half cent per Mcf transported thereafter, pursuant to an agreement between Applicant and Occidental dated December 29, 1972.

Applicant indicates that Occidental has filed an application in Docket No. CI74-260 requesting a limited term certificate authorizing such a sale of up to 5,000 Mcf of gas per day at 45 cents per Mcf at 14.65 psia to Texas Eastern, which gas may be delivered by Applicant for Occidental. Applicant states that it is currently transporting 4,000 Mcf of gas per day through the subject pipeline for Occidental.

Any person desiring to be heard or to make any protests with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company (United) from the Lake Hatch Field, Terrebonne Parish, Louisiana, by permitting said sale to continue for an additional year at an increased price, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

The order of May 4, 1973, authorized Petitioner to sell to United up to 2,000 Mcf of natural gas per day from the subject acreage for one year ending May 4, 1974, at a rate of 45.0 cents per Mcf at 15.025 psia, subject to upward and downwarn Btu adjustment from a base of 1,000 Btu per cubic foot of natural gas, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

Petitioner requests the Commission to amend said certificate to authorize said sale at 59.0 cents per Mcf of gas, subject to Btu adjustment, for one year commencing with the date of expiration of

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the certificate or the date on which Petitioner shall be issued and shall accept the certificate amendment as sought herein, whichever shall last occur. Applicant's amended contract with United provides that if authorization is not received prior to May 5, 1974, Applicant shall commence deliveries thereunder within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29).

Any person desiring to be heard or to make any protest with reference with said petition to amend should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20423, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10917 Filed 5–10–74;8:45 am]

[Docket No. CP74–272]

LONE STAR GAS CO.

Notice of Application

MAY 6, 1974.

Take notice that on April 22, 1974, Lone Star Gas Company (Applicant), 301 Harwood Street, Dallas, Texas 75201, filed in Docket No. CP74–272 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 18.5 miles of 8-inch pipeline extending its existing Line E–32 from a point southeast of Durant, Bryan County, Oklahoma, to Line E, east of Denison, Grayson County, Texas. Applicant further proposes to install one 400 horsepower reciprocal compressor unit at the Denison Compressor Station. Applicant states that the proposed facilities are required due to a decline in the reserves and deliverability in the Cumberland Field area which necessitate the transportation of volumes of gas from Line E to augment gas supply to the Southeast Oklahoma area. Applicant indicates that its existing pipeline system capacity is not sufficient to transport the required volumes of gas.

The application states that the proposed facilities will not be installed for the purpose of providing new service, but for the continued service of residential, commercial and industrial customers in the Southeastern Oklahoma area and that such facilities are required to provide service to these customers during the 1974–75 heating season. Applicant estimates the cost of the proposed extension of Line E–32 to be $781,261 and the compressor facilities to be $189,000, such costs to be financed with working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10918 Filed 5–10–74;8:45 am]

[Docket No. RP72–149]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of Proposed Rate Changes

MAY 6, 1974.

Take notice that on April 29, 1974 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1:

1. Eighteenth Revised Sheet No. 3A
2. Alternate Eighteenth Revised Sheet No. 3A

MRT states the said Sheets are to supersede either Substitute Seventeenth Revised Sheet No. 3A or Alternate Substitute Revised Sheet No. 3A, as may be appropriate.

MRT states that the said Revised Sheets are being filed pursuant to the provisions of its Purchased Gas Cost Adjustment Clause to its tariff to reflect rate change filing made its pipeline supplier.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10919 Filed 5–10–74;8:45 am]

[Docket No. CP74–270]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

MAY 6, 1974.

Take notice that on April 19, 1974, Natural Gas Pipeline Company (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74–270 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon its Compressor Station No. 157 in Stephens County, Oklahoma, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to abandon its Compressor Station No. 157, which consists of one 2,745 SHP compressor unit and appurtenant facilities, located on Applicant's 26-inch pipeline extending from Wise County in North Central Texas to Hutchinson County in the Texas Panhandle. Applicant states that said compressor station was placed in service on December 28, 1965, pursuant to a Commission order issued on August 13, 1965 (34 FPC 507), in order to increase by 185,000 Mcf the daily design sales capacity of Applicant's transmission system, and that that segment of Applicant's system served by Compressor Station No. 157 is now operating at reduced capacity due to decline in gas volumes from sources of supply in the general area upstream from the station. Applicant states further that the proposed abandonment will not reduce system capability of transporting scheduled new gas supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10920 Filed 5–10–74;8:45 am]

[Docket No. CP74–260]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

MAY 6, 1974.

Take notice that on March 29, 1974, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74–260 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell and deliver additional volumes of natural gas during winter months to 17 existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell and deliver 47,846 Mcf of gas per day, plus additional quantities of gas as available, to 17 existing customers who participated with Applicant in funding the development by Shell Oil Company (Shell) of certain reserves underlying nine blocks offshore Louisiana. The application states that these customers reimbursed Applicant in the aggregate approximately $36,000,000 of the $40,000,000 advanced by Applicant to Shell pursuant to an agreement dated April 19, 1971.

Under related agreements with Applicant, participating customers, in consideration for their funding, received rights to obtain from Applicant a winter service based on deliverability from the Shell reserves. These agreements provide that such service is to commence when the average deliverability of gas contracted for purchase from Shell by Applicant reached 100,000 Mcf. Sales are to be limited to 100 times the peak day amount of such service during the Winter Period and will be made to said participating customers with deliveries and sales of the subject gas to be made in proportion to their contribution in the funding and under the terms and conditions of their agreements with Applicant and a new Rate Schedule WS. A tabulation of said customers' proportionate shares of winter service daily quantity for deliveries from the Shell reserves of 51,000 Mcf per day is included as the appendix hereto.

Applicant anticipates that the Shell deliveries will attain 51,000 Mcf per day by November 1, 1974, and although the terms of the funding arrangements do not require an offer of service until daily availability reaches 100,000 Mcf, Applicant proposes to initiate such deliveries of gas to meet the customers' need for additional winter gas supply. Applicant projects that this service will commence December 1, 1974; however, the service is not to be implemented until, in Applicant's judgment, deliveries from the Shell reserves can be maintained at the level of 51,000 Mcf per day.

The application states that the proposed service would make available to participating customers 100/365 of the availability from the Shell reserves on an annual basis providing such customers with 100 day's deliverability from these reserves over a 120-day period commencing December 1 of each year. The remainder of the gas from the Shell reserves will be added to Applicant's overall gas supply.

Applicant states further that it does not propose to construct any new facilities and that flow gas from the Shell reserves will be utilized to serve customers whose needs are now supplied from storage, thus releasing storage gas for participating customers without jeopardizing current levels of service to all customers. The proposed rate for the new service is $1.03 per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

APPENDIX

Sales and Deliveries to Participating Customers based on deliveries from the Shell reserves at the level of 51,000 M ft³ [1] of natural gas per day:

DMQ–1 customers	Winter service daily quantity (thousand cubic feet) [1]
Associated Natural Gas Co	68
Illinois Power Co	1,973
Iowa Power and Light Co	304
North Shore Gas Co	2,367
Northern Illinois Gas Co	18,644
Northern Indiana Public Service Co	7,116
The Peoples Gas Light and Coke Co	16,543
City of Sullivan, Ill	13
G–1 customers	
Central Illinois Light Co	41
Kaskaskia Gas Co	24
City of Nashville, Ill	37
Peoples Natural Gas Division	60
City of Pinckneyville, Ill	46
City of Salem, Ill	76
United Cities Gas Co	70
Town of Wellman, Iowa	13
Wisconsin Southern Gas Co., Inc	451
Total	47,846

[1] Equivalent to 52,632 M ft³ on a basis of 1,000 Btu per cubic foot, of which 47,846 M ft³ is being offered for service. The remaining 4,786 M ft³ is attributable to Applicant's share of the funding program.

[FR Doc.74–10921 Filed 5–10–74;8:45 am]

[Docket No. E–8752]

NORTHERN STATES POWER CO. (MINNESOTA)

Notice of Application

MAY 7, 1974.

Take notice that on April 29, 1974, Northern States Power Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act

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seeking an order authorizing the Applicant to enter into Guaranty Agreements with Midland National Bank of Billings, Montana, guaranteeing payment of the principal and interest on borrowings by Cormorant Corporation, a Montana corporation, a wholly owned subsidiary of applicant. The principal amount of such obligations shall not exceed $1,000,000 at any one time.

Applicant is incorporated under the laws of the State of Minnesota with its principal business office at Minneapolis, Minnesota, and is engaged primarily in the electric utility business in central and southern Minnesota, southeastern South Dakota, and in the Fargo-Grand Forks and Minot areas of North Dakota.

Expenditures during 1974 for the total construction program of Applicant are estimated at $258 million, of which $239 million is for electric facilities, $11 million for gas facilities, and $8 million for heating, telephone, and general facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10922 Filed 5–10–74;8:45 am]

[Docket No. E–8751]

NORTHERN STATES POWER CO.

Notice of Firm Power Agreement

MAY 6, 1974.

Take notice that on April 26, 1974 Northern States Power Company (NSP) tendered for filing as an initial rate schedule Firm Power Agreement dated April 24, 1974 between NSP and the City of Sleepy Eye, Minnesota (Sleepy Eye).

NSP states the said Agreement provides for the sale of 200 KW of power and associated energy to Sleepy Eye for the period May 20, 1974 to May 19, 1975. The charge for such service is determined by the following rate:

1. Capacity Charge: $4260 per year per kilowatt of Billing Demand.

2. Energy Charge: 0.66¢ per kwh.

3. Fuel Clause: Adjustment of .012¢ per kwh for one-half cent increase above or decrease below 47.50¢ per million BTU and for each whole cent thereafter in the cost of fuel used in the preceding month by NSP's system.

NSP proposes an effective date of May 20, 1974 for said Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10923 Filed 5–10–74;8:45 am]

[Rate Schedule Nos. 342, et al.]

SUN OIL CO., ET AL.

Notice of Rate Change Filings Pursuant to Commission's Opinion No. 639

MAY 6, 1974.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Apr. 22, 1974	Sun Oil Co., Southland Center, P.O. Box 2880, Dallas, Tex. 75221.	342	United Gas Pipe Line Co.	Other Southwest.
Apr. 24, 1974	Gulf Oil Corp., P.O. Box 1589, Tulsa, Okla. 74102.	108	Texas Eastern Transmission Corp.	Texas gulf coast.

[FR Doc.74–10924 Filed 5–10–74;8:45 am]

[Docket No. CI74–290]

TERRA RESOURCES, INC., ET AL.

Notice of Extension of Time and Postponement of Hearing

MAY 7, 1974.

On May 1, 1974, Colorado Interstate Gas Company filed a motion for an extension of the procedural dates fixed by Order issued April 25, 1974, in the above-designated matter. The motion states that neither Staff Counsel nor the applicant has any objection to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of testimony and exhibits by applicant and supporting parties, May 13, 1974.
Hearing, May 22, 1974 (10 a.m. e.d.t.)

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10929 Filed 5–10–74;8:45 am]

[Docket No. CP66–43]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Petition To Amend

MAY 6, 1974.

Take notice that on April 19, 1974, Texas Eastern Transmission Corporation (Petitioner), P.O. BOX 2521, Houston, Texas 77001, filed in Docket No. CP66–43 a petition to amend the Commission's order issued April 29, 1966, in said docket (35 FPC 655), pursuant to section 7(c) of the Natural Gas Act, by authorizing, to the extent required, the repair or replacement of Petitioner's Staten Island, New York, LNG storage tank and connecting facilities and by deleting the rate condition imposed by ordering paragraph (G) of the order of April 29, 1966, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of April 29, 1966, among other things, authorized Petitioner to construct and operate the LNG facility on Staten Island with a total capacity of 2,040,000 Mcf and a vaporization-redelivery capability of 199,000 Mcf per day. Said order also contained the following condition in ordering paragraph (G) thereof:

(G) That Applicant shall not, in any rate proceeding, assess against any other class of service any deficiency in revenues under its Storage Service Rate Schedule below the cost of service associated with (i) the facilities proposed herein to be assigned to storage Service deliveries, plus (ii) any additional facilities which may be required to provide the Storage Service deliveries.

Petitioner states that on February 10, 1973, the LNG tank, which constituted a major, integral part of the LNG facility, was partially destroyed by fire and that at the time the fire occurred, the tank was undergoing repair and maintenance work. Petitioner now requests authorization, to the extent required, to repair or replace the LNG tank and to modify the storage capacity of the LNG facility as previously certificated. Applicant indicates that the proposed repair or replacement operations will involve the installation of a double-walled, 9 percent nickel-steel liner for cryogenic service and a permanently attached dome roof of carbon steel which has a 9 percent nickel-steel sector in the process piping area. The installation operations will be conducted within the original concrete wall and earthen berm and will occupy the same location and land area. Applicant further states that upon completion of repairs, the LNG tank will have a total storage capacity of 1,734,000 Mcf, and further that the total maximum daily delivery quantity and total storage volume under the Storage Service Rate Schedule previously authorized will be unchanged, with no reduction or abandonment of service rendered by means of such facility. The application shows that the total estimated cost of the proposed project is $21,817,000.

Further, Petitioner requests deletion of the condition imposed by ordering paragraph (G) of the order of April 29, 1966. Petitioner asserts that such condition provided in effect that Petitioner should absorb any deficiency in revenue from the operation of the Staten Island LNG facility not recovered through the Storage Service Rate Schedule. Petitioner asserts further that at the time the certificate was initially issued, the facility capacity in excess of the 1,100,000 Mcf necessary for the storage service was not required for peaking service to Petitioner's jurisdictional customers. It is stated that because of changing load patterns and gas supply conditions, all of the capacity of the Staten Island LNG facility in excess of the 1,100,000 Mcf required for the storage service is now neeeded to satisfy peak-day requirements and to provide flexibility in Petitioner's system to assure maximum utilization of its facilities and the rendering of the highest possible level of service to Petitioner's customers. Petitioner states that all customers will benefit from the use and operation of this portion of the capacity of the Staten Island LNG facility, and, accordingly, all of the costs associated therewith are properly includable in Petitioner's jurisdictional cost of service.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10930 Filed 5–10–74;8:45 am]

TOLEDO EDISON CO.

[Docket No. E–7929]

Notice of Revised Tariff Sheets

MAY 7, 1974.

Take notice that The Toledo Edison Company (Toledo) on April 30, 1974, tendered for filing service agreements with the City of Bryan, Ohio, and the village of Pemberville, Ohio, under Toledo's FPC Electric Tariff, Original Volume No. 1. Toledo states that the existing contracts (Rate Schedule FPC Nos. 7 and 17) with these two customers terminate on May 31, 1974, and that as of that date they will be served under Toledo's Tariff. An effective date of June 1, 1974, is requested.

Any person desiring to be heard or to protest said unexecuted service agreements should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of these revised tariff sheets are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10931 Filed 5–10–74;8:45 am]

[Docket No. RP74–20]

UNITED GAS PIPE LINE CO.

Order Granting Permission To Amend Suspended Rates

MAY 6, 1974.

On September 21, 1973, United Gas Pipe Line Company (United) filed in this docket proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and services by approximately $34.9 million, based upon the 12 month period ended June 30, 1973, as adjusted. By order of November 6, 1973, the Commission suspended the proposed charges until April 6, 1974, set the matter for hearing and permitted various interventions.

On February 15, 1974, as later supplemented on March 8, 1974, United filed with the Commission Substitute Fifteenth Revised Sheet No. 4, with a proposed effective date of April 6, 1974. United states in its filing that the Substitute Sheet is intended to modify those tariff sheets filed on September 21, 1973, and suspended until April 6, to reflect certain events which have occurred that materially affect the rates reflected therein. United states that the Substitute Sheet makes the following changes:

(1) The Sheet reclassifies and reallocates the fixed transmission costs in the proportions of 25 percent to demand charges and 75 percent to commodity charges in accordance with the Commission's cost allocation embodied in Order No. 671.

(2) The Sheet reflects changes in the Louisiana Severance Tax rate enacted in December 1973.

(3) The Sheet includes the current gas cost of 29¢ per Mcf as reflected in United's PGA filing in Docket No. RP72–133, which became effective January 1, 1974.

(4) The Sheet changes the surcharge adjustment of .69¢ as filed, which expired December 31, 1973, and substitutes the surcharge adjustment of 2.06¢ applicable to the period commencing January 1, 1974.

The February 15 filing was noticed on March 20, 1974, with protests and petitions to intervene due on or before April 1, 1974. On March 26, 1974, Laclede Gas Company (Laclede), previously permitted to intervene in the docket, filed a Protest which states that United's Substitute Sheet is, at least in part, a new general rate increase filing which appears to recover additional commodity charges in excess of proposed demand reductions. Laclede also asserts that there is no apparent reason to support what appears to be a redesign of rates in purported compliance with the Commission's order issued October 31, 1973, in Docket No. RP72–75 (Phase II) without a proper allocation of costs which such rates are designed to recover, and that there may be a misallocation of costs between jurisdictional and nonjurisdictional service. Laclede also takes exception to the inclusion of the effects of the Louisiana severance tax increase and increased average cost of purchased gas in an existing rate proceeding rather than in its deferred purchased gas account. Laclede urges that the Commission reject the proposed Substitute Sheet, or, in the alternative, suspend the filing for the full statutory period and set the matter for hearing. On April 1, 1974, Memphis Light, Gas and Water Division, City of Memphis, Tennessee (Memphis) filed a Protest and Petition to Intervene. Memphis was permitted to intervene in this docket by order of November 6, 1973, and therefore no further permission to intervene need be granted. Memphis also requests that the substitute tariff sheet be rejected and if not rejected, be suspended for the full statutory period of five months. In addition to making substantially the same arguments as made by Laclede, Memphis states that United's filing should reflect other determinations in Opinion No. 671 which affect the rates originally filed in this docket. Memphis states that the entire original filing should be reformed, as such reformation would reduce the unit rates originally

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filed, because, since United made its original filing, it has been determined that sales by United exceed the original estimate by 24,579,244 Mcf.

By order of March 29, 1974, the Commission, inter alia, denied United special permission to amend its rates suspended in this docket, as such amendment would relate to an increase in Louisiana severance tax, and rejected the proposed Substitute Sheet without prejudice to United refiling to reflect adjustments other than increases in Louisiana severance tax.

On April 5, 1974, United filed Sixteenth Revised Sheet No. 4 (Revised Sheet) in purported compliance with the March 29 order, reflecting the same changes previously discussed, except for the elimination of the Louisiana severance tax adjustment. Also included in the filing was a motion to make the Revised Sheet effective as of April 6, 1974, and an agreement and undertaking. The filing was noticed on April 19, 1974, with protests and petitions to intervene due on or before May 1, 1974. No further protests or petitions were received.

On April 11, 1974, United filed an Answer to Laclede's Protest stating that by virtue of action of the Commission and United subsequent to the filing of Laclede's Protest, that protest is moot except that the Revised Sheet complies with Opinion No. 671 contrary to an apparent allegation of Laclede. United states that, in any event, Laclede's objections may properly be considered in the hearing established in the docket. United urges the Commission to deny Laclede's Protest.

Our review of the April 5 filing indicates that the proposed adjustments appear to reflect the Commission's cost allocation embodied in Order No. 671. We do not believe that the other adjustments are, at least on their face, improper. While the allegations set forth in the protests of Laclede and Memphis may or may not have some basis in fact, the questions they raise are best resolved through an evidentiary hearing such as the one presently established in this docket. We therefore believe that it is in the public interest to grant United permission to amend its rates, under suspension prior to April 6, 1974, and shall permit United to place in effect, subject to refund, its Revised Sheet effective April 6, 1974.

The Commission finds: It is necessary and proper and in the public interest in carrying out the provisions of the Natural Gas Act that the Commission grant United permission to amend its rates under suspension in Docket No. RP74–20 and to accept United's amended Revised Sheet filed April 5, 1974, to be effective subject to refund, April 6, 1974.

The Commission orders: (A) Permission is hereby granted to United to amend its rates under suspension in Docket No. RP74–20.

(B) United's Revised Sheet filed April 5, 1974, designated Sixteenth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1, is hereby accepted to be effective April 6, 1974, subject to refund, pending the outcome of the hearing established in Docket No. RP74–20.

(C) The Commission Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.[1]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10933 Filed 5–10–74;8:45 am]

[Docket No. RP74–85]

WESTERN GAS INTERSTATE CO.

Notice of Change in Rate Schedule

MAY 7, 1974.

Take notice that on April 24, 1974, Western Gas Interstate Company (Western) filed with the Commission a proposed change in rates for natural gas service rendered by its Southern Division System and its Northern Division System to customers served under Original Volume No. 1 of its FPC Tariff.

Western states that its current jurisdictional rates for natural gas service rendered to customers served under Original Volume No. 1 of its FPC Tariff are deficient by some $669,538.37 annually, based on test period sales volumes from its transmission systems.

Western proposes an effective date of June 15, 1974, for said changes.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–10932 Filed 5–10–74;8:45 am]

[Docket No. CP73–329]

CHATTANOOGA GAS CO.

Notice of Technical Conference

MAY 8, 1974.

In order to effect a rapid and satisfactory resolution of the problems involving safety aspects of the operation of Chattanooga Gas Company's liquefied natural gas (LNG) facility which is the subject of the above-entitled proceeding, a technical conference to be attended by members of the Staff of the Federal Power Commission, the Office of Pipeline Safety of the Department of Transportation, and representatives of the Applicant shall be convened in this proceeding. Such meeting shall be for the purpose of establishing procedures agreeable to all concerned parties for the early return to a safe operation of the subject facility. Any interested persons, whether formal intervenors in the instant proceeding or not, are invited to attend.

Whereby, Notice is given to all interested parties that a technical conference to be presided ove: by the Commission Staff, will be convened at 10 a.m. on May 20, 1974, in a conference room of the Federal Power Commission.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11078 Filed 5–10–74;8:45 am]

FEDERAL RESERVE SYSTEM

FIDELITY FINANCIAL CORPORATION OF MICHIGAN

Acquistion of Bank

Fidelity Financial Corporation of Michigan, Birmingham, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of Fidelity Bank of Southfield, Southfield, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 31, 1974.

Board of Governors of the Federal Reserve System, May 6, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–10935 Filed 5–10–74;8:45 am]

FIRST BANC GROUP OF OHIO, INC.

Order Approving Acquisition of Bank

First Banc Group of Ohio, Inc., Columbus, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire the successor by merger to The Citizens Baughman National Bank, Sidney, Ohio ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the seventh largest bank holding company in the State, controls 14 banks with aggregate deposits of $1.1 billion, representing about 4 per cent of deposits in commercial banks in Ohio.[1] The acquisition of Bank (deposits of $36.8 million) would not significantly increase the concentration of banking resources in the State.

Bank is the largest of three banks located in the relevant banking market and controls approximately 56 percent of the total deposits in commercial banks in the market.[2] One of Applicant's subsidiary banks is located in a separate and adjacent banking market, and there is some slight existing competition between that subsidiary and Bank, but the amount of competition does not appear to be substantial. None of Applicant's other subsidiaries compete with Bank to any significant extent. Furthermore, due to the distances involved and Ohio branching laws, among other factors, it is unlikely that substantial competition would develop in the future between Bank and any banking subsidiary of Applicant. Although Bank is the largest banking organization in terms of deposits in the relevant market, there is no evidence in the record that the present proposal would alter in any significant respect the existing position of Bank. Moreover, Applicant's entry into the market de novo is unlikely since the market is unattractive for such entry as measured by the low population and deposits per banking office ratios relative to the State averages. On the basis of the record, the Board concludes that competitive considerations relating to the application are consistent with approval.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are considered to be generally satisfactory and consistent with approval of the application. Considerations relating to the convenience of the community to be served lend some support for approval of the application since Applicant plans to expand and improve the quantity and quality of Bank's services such as initiating trust services and expanding lending services. Specifically, Applicant plans to provide increased funds and managerial expertise for agricultural loans which should benefit this primarily agricultural area. It is the Board's judgment that the acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be executed (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[3] effective May 6, 1974.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.74–10936 Filed 5–10–74;8:45 am]

NATIONAL DETROIT CORP.

Acquistion of Bank

National Detroit Corporation, Detroit, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of National Bank of Dearborn, Dearborn, Michigan, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than June 3, 1974.

Board of Governors of the Federal Reserve System, May 6, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–10934 Filed 5–10–74;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

NATIONAL COUNCIL ON THE HUMANITIES ADVISORY COMMITTEE

NOTICE OF MEETING

MAY 8, 1974.

Pursuant to the Provisions of the Federal Advisory Committee Act (Public Law 92–463) notice is hereby given that a meeting of the National Council on the Humanities will be conducted at Washington, D.C., on May 23 and 24, 1974.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, NW., Washington, D.C. The morning session will convene at 9:30 a.m. on Thursday, May 23, and will be open to the public. The agenda for the morning session will be as follows:

I. Minutes of Previous Meeting
II. Reports
A. Introduction of New Members
B. Summary of Recent Business
C. Appropriation Prospects
D. Bicentennial Activities
E. Application Report
F. Gifts and Matching Funds
G. Report on Chairman's Grants
H. Science, Technology, and Human Values Program
I. Selected Project Evaluations
J. NEH Support of Foreign Nationals

Because the remainder of the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74–10978 Filed 5–10–74;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS

ARCHITECTURE AND ENVIRONMENTAL ARTS PROGRAM

Guidelines, Fiscal Year 1975

The following are guidelines for grants made under the Architecture + Environmental Arts Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadlines for the following programs are: Public Education and Awareness and Assistance to State Arts Agencies, July 1, 1974; and Professional Education and Development, January 6, 1974. Interested persons should contact Bill N. Lacy, Director, Architecture + Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506 (202) 382–6657. Only the Architecture + Environmental Arts Program Office may distribute application form.

Signed at Washington, D.C. on May 3, 1974.

FANNIE TAYLOR,
Director, Program Information.

[1] Commissioner Brooke, concurring, agrees only to the disposition of the rate filings and not to the rate design of the principles involved.

[1] All banking data are as of June 30, 1973, and reflect bank holding company acquisitions approved by the Board through March 31, 1974.

[2] The relevant banking market is approximated by Shelby County excluding McLean Township.

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Chairman Burns and Governor Brimmer.

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INTRODUCTION

The National Endowment for the Arts, an independent Federal agency, was established in 1965. The major goals of the Endowment are to make the arts more widely available to Americans, to preserve our rich cultural heritage for present and future generations, to strengthen cultural organizations, and to encourage the creative development of our nation's finest talent.

Architecture + Environmental Arts constitutes one of the Endowment's twelve program areas. The primary concern of the Architecture + Environmental Arts Program is the quality of the man-made environment. The scope of the program, especially as it relates to the "environmental arts," is subject to broad interpretation. Thus, it is useful to think of the program's operational setting as encompassing those design professions whose main function is the shaping of the physical environment—architecture, landscape architecture, urban design, city and regional planning interior design, and industrial design.

Architecture + Environmental Arts grants are available for the support of research, program development, and exploratory design studies. The National Council on the Arts has recommended that the Endowment not support the acquisition of real property, capital construction, or the renovation/modification of existing structures. *No grant requests will be considered for these purposes.* (NOTE: The Endowment has a modest program to assist museums in preserving collections of aesthetic and cultural significance. The program seeks to encourage renovation of facilities for climate control, security, and storage in existing structures. For further information write: Museum Program, National Endowment for the Arts, Washington, D.C. 20506.)

APPLICATION DEADLINES

	Application deadline	Announcement of results	Earliest beginning project date
Public education and awareness	July 1, 1974	October 1974	November 1974.
Assistance to state arts agencies	do	do	Do.
Professional education and development:			
Academic and professional research grants	Jan. 6, 1975	June 1975	July 1975.
Design fellowships	do	do	August 1975.
Services to the field	do	do	July 1975.

GENERAL INFORMATION

ELIGIBILITY

Grants may be awarded to individuals, universities, state and local governmental entities, or groups possessing nonprofit, tax-exempt status. Professional offices are not eligible for grants, but may participate as part of a team under the employment or contract of an applicant who meets the eligibility requirements.

Submissions are limited to one grant proposal per "applicant" or "applicant organization" in each program category.

Architecture + Environmental Arts grants to individuals are available on a non-matching basis for amounts up to $10,000. By statute, Endowment grants may be awarded only to individuals of exceptional talent. Generally grants are available only to citizens or permanent residents of the United States.

Grants to universities, governmental entities, and other organizations range from $10,000 to $50,000. At least one-half of the total project cost must be funded from non-Federal sources. The matching funds must be expended as a part of the funded project and during the specified grant period.

Departments or schools within a university should submit a grant request with the university acting as the "applicant organization."

Grant awards are generally for less than the maximum dollar amount listed in each grant category and rarely exceed a one-year period. Applicants are urged to budget realistically and present minimum figures for Federal support needed to achieve the purpose of the project.

By statute, Endowment support is limited to organizations meeting the following criteria:

(a) Only those organizations which meet the requirements of Title VI of the Civil Rights Act of 1964 for the duration of any project supported in whole or in part by the National Endowment for the Arts.

(b) Only those organizations in which no part of net earnings inures to the benefit of a private stockholder or individual and to which donations are allowable as a charitable contribution under Section 170(c) of the Internal Revenue Code of 1954, as amended. *A copy of an Internal Revenue Service Determination letter for tax-exempt status must be submitted with each application.*

(c) Only those organizations which compensate all professional performers, related or supporting professional personnel, laborers, and mechanics at the equivalent of the prevailing minimum compensation level on the basis of negotiated agreements which would satisfy the requirements of Parts 3, 5, and 505 of Title 29 of the Code of Federal Regulations for the duration of any project supported in whole or in part by the National Endowment for the Arts.

Generally all projects receiving funding must be performed within the 50 states, Washington, D.C., Puerto Rico, Guam, American Samoa, or the Virgin Islands.

SELECTION PROCEDURES

Architecture + Environmental Arts staff reviews all applications and refers them to an advisory committee made up of design and planning professionals. The recommendations of the committee are submitted to the National Council on the Arts, an advisory group of twenty-six Presidentially-appointed members. The National Council reviews and makes recommendations on applications to the Chairman of the National Endowment for the Arts. Applicants are notified in writing of rejection or approval of proposed projects as indicated in each category. Applicants are requested not to seek information about the status of their applications prior to this notification.

EVALUATION CRITERIA

In the evaluation of applications, particular consideration will be given to proposals that meet the following criteria:

Proposals that respond to a genuine public need.

Proposals that set forth achievable objectives and establish realistic methods of attaining those goals within the specified budget and time frame.

Proposals that are conducted by persons with professional qualifications for undertaking the intended projects.

Proposals that reveal broad support within a community (geographical, academic, or professional) and offer substantial promise of successful implementation.

Proposals in which the matching requirement consists mainly of cash contributions rather than overhead or in-kind services.

TREASURY FUND GRANTS

When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other non-federal sources of funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows non-federal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Donations to the Endowment are generally deductible for federal income, estate, and gift tax purposes.

Donations may be made to the Endowment, under its regular program guidelines, for the support of a nonprofit, tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant—such as a museum, a symphony orchestra, a dance, opera, or theatre company—or for an Endowment program, such as fellowships, touring, conferences, or workshops.

When a donation is received it frees an equal amount from the Treasury Fund, and the doubled amount is then made available to pay 50% of the project costs.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

How a Treasury Fund Grant Is Arranged:

Those interested in giving for a specific purpose should note the step by step process described below.

(1) If a project is eligible for consideration under the Architecture + Environmental Arts program guidelines, the applicant submits to the Endowment a formal application, which may include a list of potential donors.

(2) The application is reviewed first by a panel of architects and other designers and then by the National Council on the Arts and is recommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the applicant.

(3) If the grant award is approved, the applicant then requests that the donors forward their contributions to the National Endowment for the Arts accompanied by a letter specifying the restricted purpose of the gift (i.e. the name of the applicant and specific project supported.)

For further information on the Treasury Fund, contact the Architecture + Environment Arts Program, National Endowment for the Arts, Washington, D.C. 20506.

The Architecture + Environmental Arts Program encourages applicants to apply for Treasury Fund grants when applying for substantial and relatively costly projects.

BICENTENNIAL PROJECTS

The Endowment recognizes that the arts will play an important role in the celebration of our country's bicentennial. The Endowment welcomes this involvement on the part of artists and cultural organizations. The Endowment has an active interest in participating in these efforts, within funds available to it, and insofar as they are directed to professional creation and presentation of new works, improvement of artistic standards, preservation of our cultural heritage, and increasing the availability of the arts for all Americans. If funds under these guidelines are sought for projects deemed by the applicant to be related to the bicentennial, a brief description of this relationship should be made in the application.

CATEGORIES OF FUNDING

PUBLIC EDUCATION AND AWARENESS

Increased professional competence will be of limited value unless it is accompanied by an increased public sensitivity to the man-made environment, its problems, and the potential for improvement.

The physical fabric of a country can be no better than the level of awareness of its citizens. Individuals outside the design professions are called upon daily to make design-related decisions—as consumers, clients, and voters. The objective of this program is to provide information on design topics to educate the public to the importance of their role in the design process, to heighten public appreciation of the designed environment, and to supply self-help tools to individuals and groups wishing to participate directly in design projects. Grants in this category will support the development of materials and methods for communicating design awareness in a variety of ways—through textbooks, films, and tape cassettes, exhibitions, workshops, and journalistic criticism.

Priority consideration will be given to proposals that reflect a clearly identifiable audience and a well-defined means for broad dissemination. Applicants should possess substantial expertise in the specified communication medium.

Deadline: July 1, 1974. Completed applications must be postmarked no later than July 1, 1974. Announcement of results will take place by October 1974 and, as a result, project commencement dates may not be earlier than November 1974.

Eligibility. Grants may be awarded to individuals, universities, governmental entities and organizations possessing nonprofit, tax-exempt status.

Grant amounts. Matching grants to organizations generally do not exceed $30,000 with most grants for less than the maximum. Non-matching grants to individuals generally do not exceed $10,000

How to apply. Application forms may be requested from the Architecture + Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506. Individuals wishing to apply should request NEA–2 (Rev.); Organizations should request NEA–3 (Rev.).

ASSISTANCE TO STATE ARTS AGENCIES

During fiscal 1975 a limited number of grants will be offered on a pilot basis to assist state arts agencies in undertaking programs in architecture and related design fields. These grants are intended to encourage support of the design professions within the states and to stimulate design-related research possessing statewide applicability.

Deadline: July 1, 1974. Applications for submission must be postmarked no later than July 1, 1974. Announcement of results will be made in October 1974; therefore, the project commencement date may not be earlier than November, 1974. Applications for fiscal 1976 funding will be accepted throughout the year.

Eligibility. Grants are available only to the officially designated state arts agencies on behalf of themselves or for cities within their states.

Grant amounts. In general, these matching grants will not exceed $10,000.

How to apply. Application forms (OMB–A–102) may be obtained from the Architecture + Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506.

PROFESSIONAL EDUCATION AND DEVELOPMENT: ACADEMIC AND PROFESSIONAL RESEARCH GRANTS

A number of Federal funding sources currently award grants for research projects that deal with the more technical and scientific aspects of design. There are relatively few agencies, however, which provide support for projects whose major emphasis is on design as a form of artistic expression. The Endowment therefore invites research proposals from university research groups, undergraduate programs residing within professional design schools, and nonprofit, tax-exempt design organizations on subjects that will improve the processes, or the state of knowledge, concerned with the designed elements of our environment. In such requests, priority should be given to those projects that embody humanistic considerations, creative design approaches, and qualitative benefits.

Deadline: January 6, 1975. Applications for submission must be postmarked no later than January 6, 1975. Announcement of results will not be made before June 1975; thus, the project commencement date may not be earlier than July 1975.

Eligibility. The program is not open to individual applicants.

Grant amounts. Matching grants up to $20,000 with most grants for less than the maximum.

How to apply. Application forms [NEA–3 (Rev.)] may be obtained from the Architecture + Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506.

DESIGN FELLOWSHIPS

This program provides professional designers with the opportunity to undertake independent projects or studies which will further their midcareer development. The program will identify young men and women whose career goals could benefit substantially from an intensive "office sabbatical" to pursue a subject of special interest. Candidates should be sufficiently experienced in practice to possess a broad understanding of their profession. Fellowships are not intended to support further graduate work or the purchase of major items of equipment, but rather for the development of personal skills and concepts of lasting value to designers and their profession.

Applicants are asked to formulate their own fellowship programs which will be evaluated according to their potential for advancing the individual's personal development and the value of the work to the profession.

Deadline: January 6, 1975. Applications for submission must be postmarked no later than January 6, 1975. Announcement of results will not be made before June 1975. Project commencement dates may not be earlier than August 1975.

Eligibility. Applicants must be currently engaged in the professional practice in the fields of architecture, planning, landscape architecture, interior design or industrial design. They must possess a minimum of a Bachelor of Arts degree or the equivalent in the applicant's field of practice. Finally, they must hold a license if so required by the profession and must have a minimum of five years of professional practice.

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Amount of grants. Fellowships will be awarded for $10,000 each to generally cover a 6 to 12 month period.

NOTE: For tax information on fellowship grants, please consult Publication 520 (10–72), Department of Treasury, Internal Revenue Service. Copies may be obtained from local Internal Revenue Service Offices.

How to apply. Application forms [NEA–2 (Rev.)] may be requested from the Architecture + Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506. Completed applications should include the following information:

A comprehensive resumé of past experience including information on educational, professional practice, honors, travel and publications.

A description of the study to be undertaken, research objectives, anticipated benefits to the individual and the profession, and a proposed schedule of work, procedures and plans for presentation must be included within the "Project Description" (Applicant may submit material to supplement the information required on the application form.)

SERVICES TO THE FIELD

A minimum of three letters of endorsement accompanying the application attesting to the applicant's professional competence, his qualifications for executing the proposed study, and the relation of the applicant to his employing office during the fellowship period.

The Architecture + Environmental Arts Program will continue to provide assistance to those national membership organizations which serve the design professions. Proposal requests should concentrate on projects of national priority that will benefit the widest possible range of members.

Deadline: January 6, 1975. Applications for submission must be postmarked no later than January 6, 1975. Announcement of results will not be made before June 1975, thus, project commencement dates may not be earlier than July 1975.

Eligibility. Grants will be awarded only to national membership organizations representing design professionals in the fields of architecture, landscape architecture, urban design, city and regional planning, interior design, and industrial design.

Grant amounts. Matching grants up to $20,000 with most grants for less than the maximum.

How to apply. Application forms [NEA–3 (Rev.)] may be obtained from the Architecture+Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506.

NATIONAL THEME PROGRAM: CITY EDGES AND CITY OPTIONS

In fiscal year 1973 Architecture+Environmental Arts initiated a National Theme category. The first theme, City Edges, emphasized design and planning for problems relating to urban boundary conditions. City Edges grants were awarded to thirty-seven projects representing communities across the country and featuring "edges" ranging from waterfronts to highways and historic edges.

Funds for fiscal years 1974 and 1975 are being combined to support a second National Theme program entitled City Options. Grants under this program will support projects concentrating on special settings within cities that provide distinctive character and identity. Both programs have been designated bicentennial projects by the National Council on the Arts in recognition of their stated aim of promoting and preserving America's cultural heritage.

The deadline for submission of City Options applications was January 15, 1974; therefore, no City Options applications will be accepted during fiscal year 1975. During the coming year, the Architecture+Environmental Arts Program will develop the means for distributing the results of the City Edges/City Options projects and initiate plans for a future National Theme program.

The following design-related programs are non-granting activities conducted by Architecture + Environmental Arts and are included in these guidelines for information purposes only.

EXCELLENCE IN FEDERAL DESIGN

The Endowment recognizes that excellence in design-related fields should be a major concern of public agencies at all levels of government.

In May 1972 President Nixon designated the National Endowment for the Arts as the lead agency to implement the Federal Design Program. In response to the President's initiatives, the Endowment is coordinating a number of efforts to upgrade the quality of design among Federal agencies. In addition to these efforts, the Endowment is seeking to encourage "design excellence" programs by state and local governments.

While the following Endowment programs are directed at Federal agencies, they may also serve as models to state and local governments desiring to initiate their own design improvement programs. These efforts have been designated as bicentennial programs by the National Council on the Arts.

DESIGN ASSEMBLIES

In April 1973, the First Federal Design Assembly was held under the sponsorship of the Federal Council on the Arts and the Humanities and administered by the National Endowment for the Arts. Structured around the theme, "The Design Necessity," the event provided a rare opportunity for interaction between professional designers and Federal agency officials. In addition to drawing considerable professional and public attention to the importance of public design quality, the Assembly resulted in a number of actions by Federal agencies to upgrade their design standards.

The Second Federal Design Assembly will be held in October 1974. Its theme, "The Design Reality," will concentrate on elements of the design process.

FEDERAL ARCHITECTURE PROJECT

Initiated in October 1973, the Federal Architecture Project is nearing completion of a thorough study of opportunities and constraints affecting the quality of Federal architecture. In addition to a review and expansion of the 1962 *Guiding Principles for Federal Architecture*, the study has explored several major elements of architecture in the Federal realm: landscaping, interior, and urban design; architecture/engineer selection, adaptive use of older buildings, and mixed-uses in Federal facilities. Findings and recommendations of the Project will be reviewed in the Spring by members of the Federal Architecture Task Force composed of distinguished citizens and design professionals.

FEDERAL GRAPHICS

The Endowment-sponsored program to achieve graphics excellence throughout the Federal Government has gained momentum among Federal agencies. Sixteen agencies—twenty-five percent of the total number—have had their graphic materials evaluated by an expert panel, with most agencies implementing recommendations to upgrade graphics and improve communication effectiveness.

CIVIL SERVICE COMMISSION TASK FORCE

The Task Force recently reported its conclusions and recommendations on Federal recruitment, hiring, and training of design professionals. Copies of the Task Force Report, *Excellence Attracts Excellence*, are available directly from the Civil Service Commission, Washington, D.C. 20415.

ONGOING FEDERAL AGENCY EFFORTS

In conjunction with these activities, additional design-related programs are planned for the coming year. *Federal Design Matters*, a newsletter for designers and administrators, will be published periodically during Fiscal Years 1974 and 1975. The newsletter will seek to publicize Federal agency design accomplishments, as well as progress of the Federal Design Program. The newsletter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

As an outgrowth of the Civil Service Commission Task Force Report, a pilot Design Management Seminar will be held for Federal administrators in the Summer of 1974.

As a participant in continuing interagency design efforts, the Endowment is working with the Federal Prison Industries (FPI), a government corporation, to improve the design quality, manufacturing processes, and marketing potential of products manufactured by the FPI.

Another area of potential influence on the quality of public design consists of the Endowment's newly-acquired responsibility for commenting on the environmental impact statements required for all Federal or Federally-funded projects.

AREAS OF SPECIAL INTEREST

PRESERVATION THROUGH ADAPTIVE USE

The preservation of America's architectural heritage has long been a subject of major interest to the Architecture + Environmental Arts Program. While the program encourages and supports historic preservation, the primary interest is not in the preservation or restoration of individual historic structures, but rather in the sympathetic adaptation of buildings and districts to create new vitality within communities.

In keeping with this interest, the program is sponsoring staff and contractual research to examine the adaptive use potential of older structures to serve as centers of cultural, recreational, or commercial activity. Special emphasis will be placed on possible new uses for underutilized railroad stations, churches, and surplus Federal property.

The end result of these studies will be the development of appropriate resource materials for distribution to public officials, design professionals, and interested citizens.

The National Council on the Arts has designated this program as one of the Endowment's official bicentennial projects.

CULTURAL FACILITIES

At a meeting in September 1973, the National Council on the Arts adopted a resolution stating the policy of the National Endowment for the Arts regarding accessibility to the arts for the handicapped.

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The rts are a right, not a privilege. They are central to what our society is and what is can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

Architecture + Environmental Arts recognizes the necessity for the development and utilization of cultural facilities to meet the needs of an increasing public interest and participation in the arts. While the greatest needs are for financial assistance to support construction costs and professional design fees, limited resource restrict the Endowment's ability to respond to requests of this nature. The focus with respect to cultural facilities is aimed at the development, through contractual means, of publications and resource materials pertaining to the design, planning, and utilization of facilities for the arts.

Architecture + Environmental Arts-initiated research will be directed towards developing information on traditional physical settings for the arts, such as museums, galleries, and theatres, as well as exploring ways in which railroad stations and endangered old buildings can be rehabilitated and made adaptable for use by the arts. Since many facilities, housing cultural activities are of a highly specialized nature with exacting technical requirements of lighting, acoustics, air/temperature controls, security and appropriate interior environments, another important research aim is to develop publications of a technical assistance nature which will answer questions and serve as directory to consultants in this field.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (P.L. 90–480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the State and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all of the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped.

In view of the National Council on the Arts' interest in the accessibility of cultural facilities to the physically handicapped, Architecture + Environmental Arts Program will continue to develop pilot studies and resource materials pertinent to this field. The primary emphasis of these efforts will be on increasing public awareness of the need to eliminate the environmental and physical barriers facing the handicapped. In addition, resource materials will aim to provide technical assistance to architects and planners by proposing exemplary models and design solutions for making cultural facilities accessible to all people. These materials will be made available to architects, planners, government officials, arts administrators, and arts organizations.

GENERAL PROGRAMS

In order to ensure budgetary flexibility, funds have been set aside to enable the program to respond to new developments in the field of design.

SPECIAL INSTRUCTIONS FOR SUBMISSION OF APPLICATIONS

Application forms should be requested from the Director, Architecture + Environmental Arts, National Endowment for the Arts, 806 15th Street, N.W., Washington, D.C. 20506. All formal applications should be *submitted in triplicate* to the Grants Office, National Endowment for the Arts, 1425 K Street, N.W., Washington, D.C. 20506.

Inquiries regarding program interests or application content should be directed to the Architecture + Environmental Arts Program (202) 382–6657. Questions of a fiscal nature should be directed to the Grants Office (202) 382–6057.

Applications must be *postmarked* no later than the deadline date for the program for which you are applying. The Endowment regrets that because of time-consuming review procedures, applications postmarked after the appropriate deadline cannot be considered.

Although there may be more than one investigator involved in executing a proposed project, only one entity may be the legal recipient of a grant. The name of this person (or organization) should appear as the first item on the application form. This entity will be responsible for complying with all requests and regulations concerning the grant application and for informing co-investigators of the application's status.

Names and titles should be *typed or printed* beneath all signatures appearing on the application.

Selected *supplemental material* describing a project may be submitted along with the application. However, a complete summary of the project description must be contained within the space provided on the application form. It is most important that this summary present a clear and concise statement of the intent and purpose of the proposal. *No material will be returned.*

Applications must be supported by a minimum of three *letters of endorsement* pertaining to the project's desirability and to the investigator's general qualifications to undertake the project. Such letters, each in triplicate (one original, two copies), should accompany the application. Endorsement letters must be received by the deadline date.

Applicants should submit resumés for the project director and other principal investigators.

FINAL REPORTING PROCEDURES

All Endowment grantees must provide to the Endowment, within 90 days of the termination of the grant period, both a Final Expenditure Report and a Final Descriptive Report on the project undertaken with the grant.

SAMPLE APPLICATION

Information to be provided in Final Descriptive Reports will, of course, vary with the project. Grant award letters will include a paragraph specifying the information to be contained in the Final Report.

The attached sample application form is intended to provide general guidance for the presentation of budget information by organizational applicants. Regardless of the amount requested from the Endowment, applicants should provide detailed budget information in each section which applies to the proposed budget.

The individual application form is relatively self-explanatory.

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NEA-5 (Rev.) — Date Last Issued

I. APPLICANT ORGANIZATION (name and address with zip)

Nonprofit organization

PROJECT GRANT APPLICATION
NATIONAL ENDOWMENT FOR THE ARTS
WASHINGTON, D. C. 20508

II. PROGRAM UNDER WHICH SUPPORT IS REQUESTED

Architecture + Environmental Arts

III. PERIOD OF SUPPORT REQUESTED

START: 12 (MONTH) 1 (DAY) 74 (YEAR) — END: 12 (MONTH) 1 (DAY) 75 (YEAR)

IV. SUMMARY OF PROJECT DESCRIPTION (COMPLETE IN SPACE PROVIDED. DO NOT CONTINUE ON ADDITIONAL PAGES.)

Funds are requested to investigate alternative uses for a block of 19th century warehouses in the historic Coffey Street area. The study will include economic and structural feasibility as well as design concepts. The final products will include an illustrated report and a public exhibit to stimulate public and private interest in the redevelopment of the area. As indicated in the enclosed letters of support, there is a strong base of community involvement and support for this project. The successful restoration of three blocks of 19th century rowhouses adjacent to the study area provides encouragement for the implementation potential of this project.

(This sample project description is presented for the purpose of illustrating the need for conciseness and clarity of project intent.)

Sample

V. ESTIMATED NUMBER OF PERSONS EXPECTED TO BENEFIT FROM THIS PROJECT

VI. SUMMARY OF ESTIMATED COSTS (RECAPITULATION OF BUDGET ITEMS ON PAGES 3 AND 3)

	TOTAL COSTS OF PROJECT (rounded to nearest ten dollars)
A. DIRECT COSTS	
SALARIES & WAGES	$ 5,250
FRINGE BENEFITS	105
SUPPLIES & MATERIALS	4,072
TRAVEL	675
SPECIAL	
OTHER	2,792
TOTAL DIRECT COSTS	$ 12,894
B. INDIRECT COSTS	
TOTAL PROJECT COSTS	$ 12,894

VII. TOTAL AMOUNT REQUESTED FROM NEA: $ 4,447

VIII. ORGANIZATION TOTAL FISCAL ACTIVITY

	ACT. MOST RECENT FISCAL PD.	EST. FOR NEXT FISCAL PD.
A. EXPENSES	1. $	2. $
B. REVENUES GRANTS & CONTRIBUTIONS	1. $	2. $

DO NOT WRITE IN THIS SPACE

Rec. of prior year(s) project(s) [1] [2] [3] [4] PYS $ ____ CPS $ ____ Audit Report [1] [2]

SF 8 884-718 (OVER) U. S. GOVERNMENT PRINTING OFFICE : 1972 O - 484-396

IX. BUDGET BREAKDOWN OF TOTAL ESTIMATED COSTS OF PROJECT AS SUMMARIZED ON PAGE 1

A. Direct Costs

a. Salaries and Wages

DETAIL NOT REQUIRED WHEN REQUESTING $10,000 OR LESS ON A PROJECT OF $20,000 AND LESS.

Title and/or Type of Personnel	No. of Personnel	Annual or Average Salary Range	% of Time Devoted to the Project	Amount
Project Director	1	$ 10,875	30%	$ 3,625
Exec. Secretary	1	6,500	25%	1,625

MUSIC PROGRAM

Opera Guidelines for Fiscal Year 1976

The following are guidelines for grants made under Opera division of the Music Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline for this program is October 1, 1974. Interested persons should contact Walter Anderson, Director, Music Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 382–5755, for further information and application forms. Only the Music Program office may distribute application forms.

Signed at Washington, D.C. on 7 May 1974.

FANNIE TAYLOR,
Director, Program Information.

GENERAL INFORMATION

The National Endowment for the Arts in Fiscal Year 1976 (July 1, 1975–June 30, 1976) plans a program of assistance to opera companies. Although it is anticipated that total resources available for this program may not be known before the fall of 1975, the Endowment is requesting applications at this time in recognition of the need for opera companies to plan well in advance and to facilitate development and processing of applications.

DEADLINE

Applications must be postmarked no later than October 1, 1974.

The deadline will be adhered to strictly. Applications postmarked later than October 1, 1974 will not be considered under the Fiscal Year 1976 Opera Program.

Applications for opera companies meeting the eligibility criteria as set forth on page 2 may be obtained from the Music Program, National Endowment for the Arts, Washington, D.C. 20506. Project Grant Application Forms (# NEA–3/Rev.) should be requested.

The completed application forms in triplicate, and all accompanying material, in duplicate, should be returned to the Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

GENERAL PURPOSE

The purpose of this program is:

(1) To encourage and strengthen the performances of fully staged opera in all sections of the country and to improve the level of artistic quality.

(2) To broaden the repertory to include works from various historical periods with particular emphasis on the performance of American works.

(3) To provide sustained professional opportunities for American artists.

THE BICENTENNIAL CELEBRATION

The Endowment recognizes that the arts will play an important role in the next few years in the celebration of our country's bicentennial. The Endowment welcomes this involvement on the part of artists and cultural organizations. The Endowment has an active interest in participating in these efforts, within funds available to it, and insofar as they are directed to professional creation and presentation of new works, improvement of artistic standards, preservation of our cultural heritage, and increasing the availability of the arts for all Americans. If funds under these guidelines are sought for the projects deemed by the applicant to be related to the bicentennial, a brief description of this relationship should be made in the application.

While most music projects in support of the nation's bicentennial will fall into one of the regular music categories, it is possible that projects may be developed which do not readily meet the regular program guidelines. If funding levels permit, an additional grant may be considered for support of a special bicentennial project. Such grants are not expected to be awarded to all organizations meeting eligibility criteria, but will be reserved for imaginative and significant activities. It is anticipated that these grants will be on a highly competitive basis to a limited number of organizations. Further information will be forwarded concerning applications if the program is initiated.

ELIGIBILITY

By statute the National Endowment for the Arts is limited to the support of organizations which meet the following criteria:

(1) Only those organizations which compensate at the equivalent of the prevailing minimum compensation level or on the basis of negotiated agreements which would satisfy the requirements of Parts 3, 5, and 505 of Title 29 of the Code of Federal Regulations for the duration of any project support in whole or in part by the National Endowment of the Arts.

(2) Only those organizations which meet the applicable requirements of Title VI of the Civil Rights Act of 1964 for the duration of any project supported in whole or in part by the National Endowment for the Arts.

(3) Only those organizations in which no part of net earnings inures to the benefit of a private stockholder or individual and to which donations are allowable as a charitable contribution under section 170(c) of the Internal Revenue Code of 1954, as amended. Copy of Internal Revenue Service determination letter for tax-exempt status must be submitted with each application.

Assistance, further, will be limited to professional opera companies which have maintained an annual operating budget in excess of $100,000 for a minimum of three seasons and:

(1) Which have national or regional impact and (a) produce fully-staged performances with orchestra; (b) provide sufficient rehearsal time to assure performances of uniform artistic quality; and (c) are of high artistic integrity and rely primarily on their own artistic resources.

(2) Which perform annual resident seasons of no fewer than two performances each of three productions;

(3) Which perform with orchestras and choruses in rehearsal on a seasonal rather than on a pickup basis.

(4) Which serve unique needs due to geographical location or other special conditions and demonstrate high standards of performance and administration.

GRANT PERIOD

The proposed period of grant support should not begin prior to September 1, 1975. Generally, the projected grant period may not extend beyond a one-year period.

NOTICE OF APPROVAL OR REJECTION

Notice of approval or rejection will be sent as the Chairman authorizes in the summer or fall of 1975. Applicants are requested not to seek information on the status of their applications prior to notification. Funding levels will not be confirmed until Congressional appropriations are known.

GRANT AMOUNTS

Grants to opera companies will be considered in amounts within the following budget ranges:

Budget in excess of $1,000,000. Opera companies with expenditures in the 1973–1974 season in excess of $1,000,000 may request assistance of up to $150,000 in federal funds. Applicants in this category should request assitance through a combination of Program Funds and Treasury Funds with no more than $100,000 through the Program Fund. Please refer to: Methods of Funding, Option 3, page 6.

In some instances grants will be for lesser amounts; therefore, companies are urged to limit any requests for increased support above previous funding to moderate increments.

Budgets of $750,000 to $1,000,000. Opera companies with expenditures in the 1973–1974 season within this range will be considered for grants in varying amounts up to a maximum of $100,000 in federal funds.

In most instances grants will be for lesser amounts; therefore, companies are urged to limit any request for increased support above previous funding to moderate increments.

Budgets of $100,000 to $750,000. Opera companies with expenditures in the 1973–1974 season within this range will be considered for grants in varying amounts up to $60,000 in federal funds.

In most instances grants will be for lesser amounts; therefore, companies are urged to request assistance above Fiscal Year 1975 levels in moderate amounts.

Opera companies not previously receiving assistance, and which are now eligible, are asked to request only moderate amounts; that is, amounts within the scope of realistic fiscal planning.

NOTE TO ALL APPLICANTS

Grants in each category will not be considered in amounts:

(1) Exceeding the limits set forth in the above category;

(2) Exceeding 50 percent of the total cost of the project(s).

For clarification of assistance available through the Program Funds, the Treasury Fund and the Combined Program Funds and Treasury Fund Method, see "Methods of Funding," page —.

PROJECT PRIORITIES

(1) Activities which reflect high artistic standards.

(2) More opportunities for young American performers on a repertory basis.

(3) Variety in repertory, particularly the presentation of more American operas.

(4) The use of a wider variety of qualified and imaginative stage directors and conductors.

(5) Greater stress on performances in English.

(6) Activities which will increase and/or generate new funding sources.

PROJECT EXAMPLES

Although the Endowment welcomes the vitality of new programs and, under all conditions, encourages applicants to develop new sources of funds, applications first and foremost should represent the genuine needs of the applicant organizations. Accordingly, opera companies may request assistance to strengthen existing programs. Also, assistance may be requested to support the same project for more than one year. In no instance, however, should organizations attempt to extend their programs beyond their capacity to accommodate and sustain the level of proposed expansion into future seasons.

The following are examples of projects that are eligible for assistance. The National Council on the Arts has recommended that the Endowment extend first priority to applications which would provide assistance and recognition to American artists.

(1) Programs designed to reach larger and more diversified audiences than those usually served by the subscription series; i.e., improved services to local communities, such as schools, inner-city areas, parks, neighborhoods, churches, industries, etc.

(2) Quality performances and/or services (e.g., workshops, coaching), adaptable to in-school presentations. Project proposals directed to this area should include:

(a) Full description of the proposed project to include planning, program implementation and evaluation.

(b) Letters of interest from cooperating organizations involved.

(3) Projects to improve artistic direction and performance quality, including increased rehearsal time.

(4) Fees for guest stage directors and guest conductors.

(5) Professional apprentice programs in performance and/or management.

(6) Professional coaching for local or area performers.

(7) Regional touring programs, particularly to areas where live opera is not ordinarily available. Cooperative planning with state and regional arts councils as sponsoring organizations to develop concentrated regional programs.

(8) Extended seasons designed to increase the number of productions and performances. Evidence that the extension, without continuing Endowment support, would not jeopardize the company's continued existence will be required.

(9) Exploration of new ways to improve earned and contributed income, including development programs staffed by professional development personnel, and new methods of promotion to increase audiences and improve ticket sales procedures.

(10) Projects designed to improve quality of management.

(11) Increased collaboration with and/or sponsorship of programs with other performing organizations, such as professional orchestras and dance companies.

Other projects may be initiated on recommendation of the Opera Section of the Music Advisory Panel.

LIMITATIONS

(1) Applications will rarely be considered for non-specific support.

(2) Projects do not have to be new or innovative. Assistance may be requested for strengthening and continuing existing programs.

(3) The Endowment's assistance is never intended to discourage admission fees irrespective of how nominal the charge may be.

(4) The Endowment's assistance is never intended to substitute for previous local support but, instead, is designed to encourage continuing and increased local contributions.

(5) Applicants are required to limit their requests to a single application; however, requests for more than one project may be presented in the application if:

(a) The total funds sought do not exceed the maximum funding stipulated on page 3.

(b) The overall project description does not attempt to encompass all aspects of the opera company's total program.

THE NATIONAL OPERA INSTITUTE

The Endowment, through a Treasury Fund grant with matching private funds, provides substantial support to The National Opera Institute, an independent organization which offers assistance to organizations and individuals. Aiding young artists of exceptional talent through individual grants to performers, training in allied operatic professions, assisting with production of new or rarely performed operas and innovative programs in production techniques, and intercompany cooperative projects, all fall within the purview of the Institute.

Inquiries and applications for assistance from the Institute should go directly to The National Opera Institute, John F. Kennedy Center for the Performing Arts, Washington, D.C. 20566.

METHODS OF FUNDING

OPTION 1: PROGRAM FUNDS METHOD

Applicants requesting assistance from Program Funds must present evidence in the proper space provided on the application that one-half the total cost of the project will be provided by the applicant. Sources of matching funds must be identified.

Example:

Grantee receives endowment award	$20,000
Required matching by the grantee	20,000
Minimum required budget	40,000

OPTION 2: TREASURY FUND METHOD

Applicants are encouraged to use the Treasury Fund Method. See enclosed brochure.

Example:

Restricted gift(s)	$50,000
Endowment Treasury funds	50,000
Proposed award	100,000
Required matching by the grantee	100,000
Minimum required budget	200,000

OPTION 3: COMBINED PROGRAM FUNDS AND TREASURY FUND METHOD

Applicants may request assistance through a combination of funds through the Treasury Fund method and Program Funds method, but the combined amount of federal funds cannot exceed the program maximum.

Example:

Program funds	$50,000
Restricted gift(s)	25,000
Endowment Treasury funds	25,000
Combined restricted gift(s) and endowment Treasury funds	50,000
Proposed award	100,000
Required matching by the grantee	100,000
Minimum required budget	200,000

GRANT APPLICATION

THE APPLICATION FORM

Typewritten application forms must be submitted in triplicate. All essential elements of the proposal must be included in a concise project description in the space provided on the first page of the application. If additional space is needed, no more than two additional 8½" x 11" pages may be attached to each of the application forms.

If the applicant develops a multi-purpose application, please number each project separately with its own budget. For example: if the application contains three projects numbered 1, 2, 3—develop the budget numbered 1, 2, 3 to correspond with the appropriate project description. Budget detail for the individual projects should be in accordance with the categories on the application, such as: Personnel, Fringe Benefits, Supplies, etc. The budget figures appearing on the first page of the application must represent the sum of all expenses related to the projects.

The Music Staff advises applicants to study carefully, point by point, the Eligibility Criteria, Maximum Grant Amounts and Program Limitations, as described earlier, before submitting an application. Applicants are urged to retain duplicates of any materials sent to the agency.

Additional required materials:

Please forward in duplicate the following:

(1) Copy of Internal Revenue Service determination letter for tax exempt status. Although this letter may have been submitted previously, it must be submitted with each application.

(2) Audited financial statement for the most recent completed fiscal period. Unaudited financial statement is acceptable if audited statement is not available, but the audit should be forwarded when available.

(3) Total operating budget showing estimated income and expenses for the 1974–75 and 1975–76 seasons.

(4) Season brochure for 1973–74 and 1974–75.

(5) Complete representative reviews of regular performances from the past year with dates provided.

(6) Biographical sketches of artistic director and chief administrator.

(7) The supplementary information sheets completed in full. See pages 11–12.

SUPPLEMENTARY INFORMATION

The following material is required of all applicants which have not received assistance in Fiscal Year 1975 and applicants for which previously submitted information is not up to date. Please submit, in duplicate:

(1) A brief history of the organization.

(2) The number of members of the board and the executive committee.

(3) The number of times the board and the executive committees meet.

SUPPORTING STATEMENTS

The following statements are required of applicants as indicated below, in duplicate:

Statements to confirm the involvement of cooperating organizations and/or individuals must accompany all applications in the following areas:

(1) School-related proposals. The Endowment must be assured that school-related proposals have the cooperation of the appropriate officials and classroom teachers and that careful, coordinated planning for in-school concerts or educational programs has been accomplished.

(2) Programs in special areas. The Endowment must be assured that proposals for programs in special areas, such as the inner city, have the cooperation of the leaders in those areas and that businesses and other involved organizations are prepared to identify with the program plans.

The Endowment is anxious to know where and when presentations will occur, recognizing that some details must be tentative from time to time but, that in general, a well-defined proposal is under consideration.

APPLICATION REVIEW

The application, if not completed properly, will be returned to the applicant for corrections. If the corrected application is not received by the Endowment in time for processing in accordance with the deadline date, it will not be considered under the Fiscal Year 1976 appropriations. The Endowment cannot accept responsibility for delays occasioned by

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the late arrival of applications or requests which have been improperly submitted.

Incomplete application files.—If all additional required material has not been submitted, the application may be rejected.

APPLICATION PROCESSING

After an application with all necessary information has been received, the file will be reviewed as follows:

(1) The Endowment Music Staff, the Music Advisory Panel, and the National Council on the Arts successively review the application.

(2) The applicant is notified concerning final action taken by the Chairman of the Endowment.

Applications are reviewed according to the following criteria:

(1) Artistic quality;
(2) Merit of the project;
(3) Organizational stability;
(4) Capacity to achieve objectives;
(5) Professional service to the maximum constituency.

Notices of approval or rejection will be sent, as the Chairman authorizes. Applicants are requested not to seek information on the status of their applications prior to such notification. While the Endowment welcomes expressions of interest in a project, extraordinary pressures beyond direct negotiations are not helpful.

FINAL REPORTS

At the conclusion of the grant period, the Endowment requires final reports from all grantees. Reporting suggestions will accompany the grant letter. All grantees are required to submit the following in triplicate:

(1) *Final Descriptive Report.* A detailed narrative report describing what was accomplished during the grant period with NEA funds.

(2) *Final Expenditure Report.* An accounting of total expenditures and matching funds related to the project. Note: This report is to be submitted on the same form #NEA-7 (Rev. 71), used for interim cash requests. The final cash request may also serve as a final expenditure report if all income and expenditures for the project are detailed.

REPERTORY INFORMATION SHEET

Name of Organization: ----------

Date: ----------

The information requested below must be submitted before the application can be reviewed.

List repertory for the following seasons:

Productions	*Number of performances*	Attendance
1973–74:		
----------	----------	----------
----------	----------	----------
----------	----------	----------
1974–75:		
----------	----------	----------
----------	----------	----------
----------	----------	----------
1975–76:		
----------	----------	----------
----------	----------	----------
----------	----------	----------

Number of performances presented in 1973–74	Attendance
----------	Major subscription series.
----------	Other local performances.
----------	Tour or run-out performances.
----------	Children-youth performances.
----------	Aged or handicapped performances.
----------	Other performances.
----------	Workshops, lecture/demonstrations, educational or community programs.

Number of staff:	------ Total Potential Income.
------ Artistic.	Ticket sales—1973–74:
------ Administrative.	------ Number Sold.
------ Volunteer.	------ Value.
------ Capacity of Home Hall.	

	1972–73	1973–74	1974–75 (estimate)	1975–76 (estimate)
Expenses				
Income				

SUPPLEMENTARY INFORMATION SHEET

This page and all other material should be sent to Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

Name of Organization: ----------

Date: ----------

The information requested below must be submitted before the application can be reviewed.

[FR Doc.74–10960 Filed 5–10–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 8, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202–395–4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: Measurement of the Flows of Farm-Produced Capital: Additions to Dairy Herds and Beef Breeding Herds, Form, Single time, Lowry/Hulett, Cattle producers.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: Instructions for A–102 Financial Status Report and Performance Report for OEEOP Programs, Form OE 116–2, Annual, Lowry/GSA/Marcantonio, Local education agencies.

U.S. TARIFF COMMISSION

Producers' Questionnaire-Wheel Balancing Weights, Form, Single time, Evinger, Business firms producing wheel balancing weights.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service Record of Acreages Production and Disposition, Form ASCS 658, Annual, Lowry, Farm operators.

Food and Nutrition Service.

Regulations—School Breakfast and Nonfood Assistance Program and State Administrative Expenses, Form, Occasional, Lowry, State Agencies, School Food authorities.

Regulations—National School Lunch Program for Children, Form, Occasional, Lowry, State agencies, school food authorities.

Statistical Reporting Service: Nursery Sale of Fruit Trees (Calif. & Texas), Form, Annual, Lowry, Fruit tree nurseries.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: State Plan for Title III, ESEA, Form OE 4514, Annual, Lowry, State Departments of Education.

DEPARTMENT OF LABOR

Manpower Administration: Application Card, Form MA 7–40, Occasional, Caywood, Job seekers applying at State ES offices.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:

Uniform Grain Storage Agreement, Form CCC 25, Occasional, Evinger, Grain warehousemen.

Prices Paid for Sugarcane and Related Information, Form SU 128, Annual, Raynsford, Sugarcane processors, in Florida, and Louisiana.

DEPARTMENT OF COMMERCE

Bureau of the Census: Special Dwelling Listing Sheet, Current Pop. Survey, Form 11–213, Occasional, Wann.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–11047 Filed 5–10–74;8:45 am]

SMALL BUSINESS ADMINISTRATION

DISTRICT DIRECTORS ET AL.

Delegation of Authority To Conduct Program Activities in Region II; Correction

[Delegation of Authority No. 30, Region II]

Delegation of Authority No. 30—Region II published in Federal Register on March 6, 1974 (39 FR 8683), Part II, Section A, 1(2) should have read "$500,000" in lieu of "$50,000."

Dated: April 29, 1974.

WINDLE B. PRIEM,
Regional Director, Region II.

[FR Doc.74–10967 Filed 5–10–74;8:45 am]

TARIFF COMMISSION

CONSUMPTION OF KNIVES, FORKS, AND SPOONS WITH STAINLESS STEEL HANDLES

Report to the President

MAY 1, 1974.

To the President:

Pursuant to headnote 2(c) to part 2, subpart D of the Appendix to the Tariff Schedules of the United States, the U.S. Tariff Commission herein reports its determination of the apparent U.S. consumption of knives, forks, and spoons with stainless-steel handles in 1973 to have been 51,363,141 dozen pieces.

The data for each of the components used in the computation of apparent annual consumption of knives, forks, and spoons with stainless steel handles are shown in the table below.

Knives, forks, and spoons with stainless-steel handles: Shipments by U.S. manufacturers, U.S. exports, U.S. imports for consumption, and apparent U.S. consumption, 1973

[In thousands of dozen pieces]

Components	*Quantity*
Total shipments by U.S. manufacturers[1]	22,464
Exports	442
Imports for consumption	29,341
Apparent U.S. consumption[2]	51,363

[1] Includes only shipments of domestically produced products.

[2] Total shipments by U.S. manufacturers, plus imports, minus exports.

SOURCE: Shipments and exports as reported to the Tariff Commission by the domestic producers; imports compiled from official statistics of the U.S. Customs Service.

By order of the Commission.

[SEAL] G. PATRICK HENRY,
Acting Secretary.

[FR Doc.74–10959 Filed 5–10–74;8:45 am]

[TEA–W–234]

RCA CORP.

Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers and former workers of the Woodbridge, New Jersey, plant of the RCA Corp., New York, New York, the United States Tariff Commission, on May 8, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with electronic receiving tubes and components thereof known as mounts (of the types provided for in item 687.60 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before May 23, 1974.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: May 8, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74–10958 Filed 5–10–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 293 (Sub-No. 1); Northeastern Rail Investigation]

RAIL SERVICE IN THE MIDWEST AND NORTHEAST REGION

Evaluation of the Secretary of Transportation's Rail Services Report

MAY 2, 1974.

Virtually every member of the staff of the Rail Services Planning Office contributed to the accompanying report. It is a staff of which I am proud, and one which I believe to be fully capable of making a continuing contribution to the success of the railroad restructuring process. We look forward to the opportunity of working with you and your colleagues as the planning process proceeds during the forthcoming months.

Sincerely,

GEORGE M. CHANDLER,
Director.

The accompanying report is submitted pursuant to section 205(d)(1) of the Regional Rail Reorganization Act of 1973 which requires the Rail Services Planning Office to submit to the United States Railway Association its evaluation of the Report of the Secretary of Transportation entitled "Rail Service in the Midwest and Northeast Region."

There are two major themes which dominate our report.

First, both the public testimony and our own comments reflect many areas of fundamental dissatisfaction with the Secretary's report. The Secretary understandably limited his report in response to the statutory mandate to present his "recommendations with respect to the geographic zones within the region in and between which rail service should be provided." As so limited, his report has not, in our view, provided the Association with a valid statistical basis for approaching the planning of a unified rail system for a substantial part of the country—a system which the Congress has directed be designed to meet a variety of social as well as economic goals.

The second principal feature to which the Association's attention should be directed is the overwhelming public response to the opportunity to participate in the rail restructuring process. The public has demonstrated not only that it is most insistent that its views be heard, but also that it can make a valuable contribution to the planning process by supplying both vital information and ideas which are timely and imaginative.

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INTRODUCTION

The Regional Rail Reorganization Act of 1973 (Public Law 93–236; 45 U.S.C. sec. 701 and following) (the "Act") provides for the restructuring of the railroad sys-

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tem in the Midwest and Northeast Region of the United States, defined in the Act as encompassing 17 states and the District of Columbia. The Act requires that there be created, through the restructuring process, a financially self-sustaining rail system capable of providing adequate rail service in the region, while effectuating specified social, economic, and environmental goals.

The Act created, or provided for the creation of, three new entities to which reference will be made throughout this report. They are: the Rail Services Planning Office (the "Office"), created by the Act in the Interstate Commerce Commission (the "Commission"); the United States Railway Association (the "Association"), a nonprofit corporation to which is delegated the basic system planning responsibility; and the Consolidated Rail Corporation (the "Corporation"), which is to be a for-profit corporation created to operate the rail system designed by the Association.

The principal features of the restructuring process are as follows:

Within 30 days of enactment, the Secretary of Transportation was to submit a report containing his recommendations and conclusions for rail service between and within geographic zones of the region and describe the criteria used.

The Office was to hold public hearings on the Secretary's report and prepare a report containing an evaluation of the Secretary's recommendations based on the hearings and its own appraisal of the report.

Based on information and reports provided by the Secretary, the Office, and interested persons, the Association will prepare a Preliminary System Plan.

The Office will hold public hearings, and issue a report, on the Preliminary System Plan.

Based on these public hearings, comments by interested persons, and evaluation by the Office of the Preliminary System Plan, the Association will prepare a Final System Plan, and submit it to the Congress.

The Commission will prepare an evaluation of the Final System Plan.

The Congress will pass upon the Final System Plan submitted by the Association before it is implemented. If rejected by Congress, the Plan must be revised by the Association and returned to Congress for approval.

Once approved by the Congress, the Final System Plan will become the basis upon which specific rail properties of the existing bankrupt and solvent railroads in the region are to be transferred or conveyed to the Corporation or other solvent railroads to make up the restructured system or are abandoned (unless retained to provide rail services under the subsidy provisions of the Act).

The first step of this sequence was completed February 1, 1974, with the issuance of the Secretary of Transportation's report entitled, "Rail Service in the Midwest and Northeast Region" (The "DOT Report").

Principal conclusions and recommendations of the DOT Report are:

Existing interstate mainlines should be consolidated into a high volume upgraded network shared by the Corporation and other carriers in the region, with unnecessary duplicative lines and facilities downgraded or eliminated.

Local rail service requirements should be filled generally by a single carrier in a given geographic area, with rail facilities which are not financially self-sustaining being abandoned unless subsidized by state or local transportation agencies.

Rail competition should be maintained only over the interstate network from traffic centers that generate a minimum of eight daily trains traveling more than 200 miles in the same direction.

The second step in the statutory planning process was the conduct, by the Office, of public hearings providing an opportunity for interested persons to express their views on the DOT Report. Hearings were held during March in 17 cities in the region. Copies of all oral testimony and written statements have been supplied to the Association.

In issuing this report, the Office fulfills its responsibility to submit a report to the Association on the DOT Report within 120 days of enactment of the Act. In the time available to it thus far, the Office has instituted its own analysis and review of the DOT Report, and it has begun the review and evaluation of the massive amount of material that has been received to date as a result of the public hearings which have been held. The analysis of both the DOT Report and the public submissions is continuing, and public demand for an opportunity to participate in the planning process has made it necessary to schedule additional hearings at a number of locations during the next several months. So that the fruits of the continuing analysis and the results of the further hearings may be made available to the Association and the public generally, the Office plans to issue supplemental reports prior to the date of issuance of the Preliminary System Plan.

In this report we have described the public participation in the hearings held to date. We have explained in some detail the methodologies which led to certain of the basic conclusions of the DOT Report. We have described the results of our own analysis of these methodologies and of a number of assumptions upon which the DOT Report was provided. We have suggested a number of directions which might be taken by the Association in developing the Preliminary and Final System Plans. Our principal recommendations to the Association are listed at the beginning of this report; others will be found throughout the text.

It is equally important that there be a clear understanding of what we have not attempted. It was not possible in the time allotted under the Act to review every decision in the DOT Report respecting individual rail services. The record in this proceeding contains valuable, and in many instances most specific, data concerning local rail operations. Time did not permit the recital and discussion in this report of all the information received. In particular it should be noted that the discussion of the public participation which follows focuses largely upon the oral testimony taken at the hearings, and that the analysis of the written statements which have been received is still in a relatively early stage.

Finally, this report contains a brief description of what the Office plans to do between now and the issuance by the Association of the Preliminary System Plan next October. Most importantly, we wish to stress that there remains a major role for the public in the railroad restructuring process, and that continued public participation is both necessary and welcome.

Principal Recommendations

Having reviewed the DOT Report and the public testimony which has been submitted, the Office makes the following principal recommendations to the Association:

THE STATUTORY GOALS

The Association should give full consideration to the social goals enumerated in section 206(a) of the Act which time constraints prevented the Secretary from addressing in depth.

TRANSPORTATION DATA

The Association should seek more complete traffic data than was used in the Secretary's Report, ideally collecting sufficient data to develop historical trends and future traffic projections. A 1980 time horizon is suggested as reasonable for traffic projections.

The Association should give consideration to obtaining information from users of rail services and other available sources, including reliable industrial and population growth projections, and not rely solely on traffic flow data furnished by the railroads.

SYSTEM DESIGN AND ITS IMPLEMENTATION

The Association should consider lines as segments of a total system and evaluate their capabilities for contributing to overall system efficiency, rather than requiring that each line or mile of track meet a test of independent profitability.

The Association should scrutinize with great care the results of any attempt, based upon purely statistical methods, to identify particular rail facilities as redundant, and should test any such statistical conclusions in the light of the practical knowledge of those with experience in conducting railroad operations.

The Association should consider for inclusion in the system facilities which will permit the routing of through traffic around, instead of through, densely populated areas and which will permit the removal of yard and switching operations from areas where they now unduly obstruct traffic or impede rational urban development.

The Association should not limit its selection of prospective main lines to lines which are now equipped with automatic signal systems, as did the Secretary.

The Association should consider alternate means of handling freight traffic now moving over the Northeast passenger corridor between Boston, New York City, and Washington. The Final System Plan should include and provide for the improvement of routes which would make it possible to remove as much freight traffic as possible from the corridor.

The Association should give priority consideration to the selection of yard and terminal facilities needed to provide rail services in the region. This should be done in conjunction with, if not prior to, the selection of mainline routes.

The Association should recognize the problems attendant upon consolidating the services and facilities of a number of individual railroads and provide in the Final System Plan for a transition period during which the Corporation, or other acquiring railroads, can do the planning and personnel training, and make the capital improvements, necessary for implementation of the Plan.

LOCAL SERVICE

The Association should reject the Secretary's method of determining branch line viability which was based primarily—if not solely—upon the number of carloads handled.

The Association should consider whether to include certain marginal branch lines in the system. Their exclusion could result in their operation as independent short-line railroads, thus commanding a division of the joint revenues which would result in the Corporation being placed in a poorer financial position than if it had operated these lines as branches.

SYSTEM CAPACITY

The Association should scrutinize with great care the rail line capacity assumptions made by the Secretary.

In addition to the potential design capacity of a line, such other factors as grades, curvature, clearances, sidings, train mix, and maintenance requirements should be taken into account.

The Association should determine the capacity of yards and terminals, both as an end in itself and as yard capacity affects the ability of main lines to achieve their theoretical capacity.

The Association should consider the deteriorated condition of much of the rail plant in the region and include in the Final System Plan, at least temporarily, facilities sufficient to meet service needs while other facilities—perhaps potentially superior—are being upgraded to a capacity level which can provide the service required.

EQUIPMENT SUPPLY AND MAINTENANCE

The Association should give consideration to the selection of car building and car and engine repair facilities necessary to sustain the operations of the Corporation.

RAIL COMPETITION

The Association should reevaluate the Secretary's conclusions concerning competitive rail service.

The extent to which intramodal rail competition can be sustained should be addressed carefully, and consideration should be given to alternative dispositions of the properties of the railroads in reorganization which would make possible the profitable co-existence of competing rail systems in the region.

The Secretary's assumption that the ability of a particular route, point, or market to sustain competitive rail service can be determined on the basis of the number of train operations experienced in a given period should be tested with care.

The Association should consider whether the Secretary's conclusions as to what constitutes an "efficient size" train are valid, and the extent to which adjustments in those conclusions would affect his recommendations concerning the degree to which competitive rail service can be provided economically.

In determining where intramodal rail competition can be maintained, the Association should consider grouping several of the zones into which the Secretary divided the region, especially in the Northeast where the zones tend to cover small geographic areas.

JOINT USE

The Association should accept and implement the Secretary's recommendation that rail facilities be used jointly by more than one carrier wherever it is feasible and cost-effective to do so.

PASSENGER SERVICE

The Association, in making mainline selections, should consider those lines which currently carry passenger traffic, and those which have passenger service potential, in three separate categories: long-haul intercity; intermediate distance, high-density intercity; and commuter.

IMPACT UPON PROFITABLE RAILROADS

The Association should consider the competitive impact of the operations to be conducted by the Corporation upon all the surviving profitable railroads including switching and terminal companies in the region, and take steps to assure the continued viability of those carriers.

PUBLIC PARTICIPATION

The Association should scrutinize with care the material—both factual and conceptual—submitted, and to be submitted, to the Office by users of rail services, government officials at all levels, and other interested members of the public.

The Association should begin at once to devise a means for making prompt and widespread distribution of the Preliminary and Final System Plans. Otherwise effective public participation in further stages of the planning process will be impossible in view of the extremely tight statutory timetable.

Public Response to the DOT Report

The Act directs the Office not only to study and evaluate the rail service recommendations of the Secretary of Transportation in the DOT Report, but also to elicit public views on the present and future rail service needs of the region. In connection with this latter responsibility, section 205(d)(2) of the Act provides that the Office shall—

> employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason, * * * might not otherwise be adequately represented * * *.

Pursuant to that Congressional mandate, the Director of the Office appointed a Public Counsel, whose function is to provide legal representation and assistance to the public throughout the restructuring process set in motion by the Act.

In connection with its review and analysis of the DOT Report, the Office was directed by the Act to hold public hearings to solicit views and comments. Since the statutory timetable requires the Office to issue its evaluation of the Report by May 2, 1974, it was considered necessary to begin public hearings only a month after its issuance. Thus it was determined that hearings should be held in representative cities throughout the region beginning early in March. On the basis of geographic location and traveling distances from other points in the region, 17 cities were selected as hearing sites. Eight hearings were conducted during the week of March 4; eight more during the week of March 11; and one during the following week. The hearing locations, and the number of witnesses appearing at each point, were as follows:

Albany, N.Y.	160
Baltimore, Md.	142
Boston, Mass.	179
Charleston, W. Va.	50
Chicago, Ill.	195
Columbus, Ohio	266
Detroit, Mich.	200
Green Bay, Wis.	75
Hartford, Conn.	188
Indianapolis, Ind.	257
New York, N.Y.	78
Philadelphia, Pa.	185
Pittsburgh, Pa.	122
St. Louis, Mo.	181
Scranton, Pa.	207
Trenton, N.J.	138
Washington, D.C.	68

A total of 2,691 witnesses testified at the hearings, and in all 71 days of testimony were taken, resulting in a hearing record of 14,531 pages. Over 1,500 documents were submitted in lieu of oral testimony prior to the March 28 cut-off date which had to be established for submissions to be considered in the preparation of this report. Several thousand additional statements have been submitted since that time.

At each hearing location one, in most instances two, attorneys from the Public Counsel's office were assigned to represent the public. For this series of hearings the Public Counsel's permanent staff of four attorneys was supplemented by 26 other attorneys who were retained for this purpose. The Public Counsel's office attorneys supplemented the Office's other governmental and industrial liaison activities by spreading information about

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the Act and the DOT Report directly to those most immediately affected. Each hearing city was visited by at least one attorney several days prior to the scheduled hearing in order to assist the public directly and to solicit suggestions firsthand.

DISSEMINATION OF THE DOT REPORT

One factor which made effective public participation difficult was a general lack of knowledge about, and the inability to obtain copies of, the DOT Report. Section 204(b) of the Act required the Secretary to submit his report to "the Governor and public utilities commission of each State studied in the report, local governments, consumer organizations, environmental groups, the public, and the Congress." However, the broad distribution contemplated by the statute was not fully accomplished. Many witnesses, and other interested persons contacting the Office, complained that they were unable to obtain copies of the DOT Report, and particularly of Volume II containing individual zone maps. Many of those most heavily affected were not aware of the Report until informed of its existence by representatives of the Office. Even then, it often proved impossible for them to obtain copies, either from DOT or the local outlets of the Government Printing Office. To avoid a repetition of this unfortunate situation, the Association is urged to begin making plans immediately for the prompt and widespread distribution of the Preliminary and Final System Plans.

PUBLIC PARTICIPATION

Participants in these proceedings represented a cross-section of public interests including federal, state, and local governmental officials; manufacturing, wholesaling, retailing, and agricultural shippers; carriers; environmental, conservation, consumer, and passenger groups; and a variety of other diverse interests. Written statements have been received from the United States Department of Agriculture, the Department of Defense, and the Environmental Protection Agency; several States in the region; and the National Railroad Passenger Corporation (Amtrak).

The sophistication and specificity of comment varied widely, from the highly technical remarks of economists and engineers to the more general comments of other concerned citizens. Some witnesses presented detailed maps and extensive specific information regarding carload counts, tonnage, track conditions, revenue projections, and alternate modes of transportation. Others registered their general concern for the future of rail transportation in the region. Still others made valuable contributions to the development of a restructuring methodology.

Geographically, the witnesses represented the entire northeastern quarter of the United States. Participation was particularly heavy from the rural agricultural areas of Illinois, Indiana, and Ohio, Pennsylvania and New York. Various individual locations, such as the Delmarva Peninsula, the Lehigh Valley in Pennsylvania, and the Dayton, Ohio area were especially well-represented.

By far the largest group of witnesses appearing were the shippers and manufacturers who saw themselves as directly affected by the identification of potentially redundant lines contained in the DOT Report. The next largest group represented were government officials, followed by planners and agricultural shippers.

The bulk of the testimony focused on local rail service needs and problems. This testimony generally was concerned with criticizing and questioning the methodology, criteria, and conclusions contained in the DOT Report. The substance of public sentiment on these issues was: local rail needs and problems are many and serious; the social, economic, and environmental impact of rail service discontinuance in many instances would be severe; and DOT's suggested blueprint for resolving the rail crisis in the Northeast and Midwest is inadequate.

The level of participation in the hearings emphasizes the widespread and deep seated public interest in the rail planning process. The public contribution has been a valuable one to date, and the general views and comments, as well as the mass of factual material, are worthy of careful consideration. In fact, in view of the railroad data deficiencies discussed later in this report, it may well be that only through information obtained from rail users can an accurate picture be developed, even of historic rail traffic originations and terminations.

Copies of the hearing transcripts and all other written material submitted to the Office are being supplied directly to the Association. Their careful study is recommended. The Office itself has not had sufficient time to make as thorough a review of the materials submitted for the record as it would have liked to do prior to the issuance of this report. That review and analysis is continuing, and its results will be made public as soon as possible.

PUBLIC REACTION

It can fairly be said that the DOT Report left a substantial portion of those into whose hands it came either confused or angered, or both. It is to be expected that individuals taking the time and making the effort to attend a public hearing or to submit their views on a government planning proposal will be those who see their own oxen as being gored. Thus a great deal more critical than favorable comment can be anticipated in a proceeding of this kind. However, that fact of human nature does not mean that much of the misunderstanding caused by the DOT Report was unwarranted. Much of it was probably inevitable, given the form the Report took, but it could have been greatly reduced had there been included a more complete, or simpler, explanation of its purposes and methodology.

One of the questions most frequently asked members of the Office's staff was what was the effect of DOT's labeling as "potentially excess" the lines of profitable railroad. (This is a question for which a really satisfactory answer has not yet been found.) Another question often heard was why lines which carry heavy passenger traffic, and which may even be subsidized by a state or local government, were identified as potentially excess, and whether it was anticipated that freight service would be terminated on such lines even though they might be kept in operation for passengers. (The answer here apparently is that DOT showed these lines as potentially excess because the freight service did not satisfy a statistical formula. Nevertheless, DOT assumed that freight service would be operated over these lines as long as they were needed for passenger traffic.)

Another question that arose frequently was whether individual stations shown as not entitled to rail service in the DOT report, but which were located on lines not identified as potentially excess, would actually lose their service. (The answer is that this was not DOT's intention.) There was considerable public confusion also concerning application of the criteria by which individual stations and lines were determined to be entitled to, or not entitled to, continued rail service. (Since the basis for the application of these criteria on a zone-by-zone basis was not made public, it was often impossible to determine how they were applied to individual local branch lines.)

Certainly the greatest single factor that generated fear, anger, and frustration among the public was the failure of DOT to explain clearly what the report meant by classifying a particular rail line as "potentially excess". To most readers, this meant simply that a governmental decision had been made, arbitrarily and without the opportunity for public comment, that the line in question was to be abandoned. Admittedly, this was a misunderstanding, but the general outcry against such an anticipated action should convince government planners and policy makers alike that the public is not willing to accept any proposal resulting in massive abandonment of rail service while ignoring the social, environmental, and economic costs of such an action, and not providing the opportunity for full public hearings.

METHODOLOGY AND DATA BASE

Testimony on the DOT Report was generally critical of the methodology and provided enough specific data to question its accuracy. In short, the public viewed the Report with great skepticism and considered it myopic in assessing the viability of rail service on particular segments of a railroad.

More specifically, the public was highly critical of the DOT dependence on the narrowly-conceived criteria of carloads per mile. It was repeatedly suggested

that the only acceptable means of determining branch line viability is a detailed cost and revenue analysis, taking into account not only what is actually transported on a specific line, but what could be transported on a well-maintained and efficiently operated railroad.

The DOT Report's reliance upon the 1969 one percent waybill sample for evaluating interstate, long-haul service requirements and upon 1972 origination and termination carload data for branch-line evaluation drew numerous adverse comments. It was noted that these data do not reflect recent substantial increases in traffic volume, and therefore, are of questionable value. More importantly, it was continually stressed that 1972 rail traffic volume in the Northeast was critically influenced by Hurricane Agnes. Many branch lines were not operated for substantial periods and, therefore, traffic volumes for 1972 were unusually low.

Many discrepancies were cited between DOT's volume figures and information on actual shipment volume available to the shippers themselves. Numerous witnesses pointed out that waybill and carloading data inaccurately reflect origination and termination points. These data, in many cases, identify only a billing station, which may or may not be the actual origin or terminal point of the shipment. Many points, therefore, were not recommended for continued rail service although they were, in fact, the origination or termination points for a large number of shipments.

It was also pointed out that data reflecting volume, standing alone, cannot properly be used to determine the financial viability of any particular line. Witnesses in almost every state in the region pointed out particular lines which were financially viable but which had been designated as potentially excess by the DOT Report. In addition, it was shown that carload counts do not always accurately reflect even the volume of goods shipped to and from any given point. Farmers and grain elevator operators in Illinois, Indiana, and Ohio, for example, have in recent years switched from regular hopper cars to "jumbo" hopper cars, thereby reducing the number of cars shipped by 50 percent in some areas. But in almost every case, where car supply has permitted, the actual tonnage shipped has steadily increased. The same experience was reported by New England paper manufacturers, whose use of higher volume cars has resulted in increased tonnages being handled in fewer carloads.

The DOT Report was criticized also because it does not reflect the relative profitability of transporting various kinds of freight. The carload count does not differentiate between a shipment of manufactured goods and one of bulk commodities, for example, for which both the revenues received and costs incurred may be vastly different. But perhaps the most telling criticism of the DOT Report's methodology came from those witnesses who pointed out that by applying the criteria developed for use in the Report to such profitable railroads as the Detroit, Toledo and Ironton; the Akron, Cantan, and Youngstown; and the Toledo, Peoria, and Western, the result was the finding that virtually all the lines of these carriers, despite their demonstrated ability to thrive, were potentially excess.

Finally, DOT's findings and recommendations, which the public considered to be based on unacceptable methodology and criteria and inaccurate data, were challenged on the basis that in some cases: (1) the only rail segments between two viable points were recommended for discontinuance; (2) service was recommended on lines which already had been abandoned; and (3) some lines were not considered at all.

ABANDONMENT AS A CURE FOR RAILROAD PROBLEMS

The DOT Report was seen by the public witnesses as based largely on the premise that if all lines which do not make a profit are removed, the rail system will be profitable. At every hearing, the belief was voiced that the concept of large-scale abandonment as a cure for the evils of unprofitability is the wrong approach, advanced at the wrong time, and for the wrong reasons.

Certainly, it was the possibility of rail service discontinuance and abandonment which raised the greatest public furor. Witness after witness described the adverse economic, social, and environmental impact such actions would have on communities. It was contended that rail service discontinuance would result in market distortions, economic depression and social dislocations. Moreover, it was repeatedly stated that rail discontinuance is inconsistent with our national environmental and energy conservation policies. Decreased rail service would result in increased truck transport and greater consumption of scarce energy resources, more pollution, and increased pressures on land use for additional highway construction. Public sentiment was strong that these factors must be of primary importance in determining the final rail plan.

In the coal-mining areas of the region, most shippers anticipate a great increase in coal shipments as a result of the shortage of domestic petroleum and increased price of foreign oil. Also, due to the international oil situation, metropolitan areas such as Baltimore, Philadelphia, and New York anticipate an increased demand for commuter train service. In the industrial areas of upstate New York and Michigan, many new industrial parks have been located where rail service is available. In short, numerous witnesses in every state testified that increased industrial and commercial activities would provide traffic for the railroads, and that the success of these businesses depends upon rail service.

There was evidence, too, to support the concept that there is a need for some excess capacity in the rail system. The witnesses fear that by following the theory of the DOT Report to its logical conclusion, traffic could become so concentrated on a few inter-city lines that there would be no time for repair and maintenance. If a derailment or other blockage should occur, it could be possible that there would be no parallel line available over which to effect an alternate routing. Others pointed out that too much emphasis on consolidation of the present rail system would result in even more traffic having to move through already congested gateways. Shippers in southern Illinois, for example, try to avoid the Chicago gateway because of lengthy delays, and they fear that retirement of too many lines would eliminate that option. It was noted, too, that elimination of routing flexibility could seriously affect national defense needs, as concentration of traffic on a few routes would increase the possibility of successful attack or sabotage.

Concern was expressed that in identifying particular lines as potentially excess, the DOT Report gave too little consideration to the effect which possible elimination of those lines would have on the movement of through traffic in the region. Some connecting railroads testified that their ability to act as intermediaries between larger systems would be eliminated. Similarly, it was noted that the Report apparently did not consider the potential disruption of existing patterns of freight movement, and how these patterns could be revised. In brief, the witnesses questioned whether a system designed in accordance with a theory that sought to eliminate every line whose individual profitability could not be proven would be able to function as a system at all.

Also of concern to the public witnesses was the impact of excessive abandonments upon prices, and especially food prices. Estimates of the result of abandonments on the scale suggested by the DOT Report's classification of lines as potentially excess upon the price of grain ran as high as 25 cents a bushel. It was suggested, too, that the loss of rail service, and the concomitant loss of revenue, to the farmer would hinder achievement of another national goal: namely, increased food production, which is not only important as an anti-inflation measure, but is vital to the Nation's balance-of-payments posture. Many of those testifying pointed out that agricultural commodities are the country's largest (and only replenishable) export. Reduced rail service, it is argued, could not only result in decreased food production, but also in increased costs of moving these products to ocean ports.

Fuel conservation is a recent and urgent national policy, and it is believed that rail service will have a major impact upon the goal of attaining national energy autonomy by 1980. The coal producing areas of West Virginia, Pennsylvania, Ohio, and Illinois depend heavily on rail service. In most cases, the opening or reopening of mines could not be accomplished unless rail service were retained or expanded.

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Also important to the fuel conservation picture is the fact that rail service is an energy efficient mode of transportation. Estimates were submitted to the effect that rail transportation uses as much as four times less petroleum than motor carriage to move the same volume of goods the same distance.

A number of witnesses took issue with the DOT Report's assumption that alternate modes of transportation could fill in the gap if major reductions in rail service were effectuated. They argued that truck and barge facilities would be wholly unable to meet the shipping demand reflected by even the present level of rail service. Forcing reliance on motor carriage would affect the rural agricultural areas most heavily. There was evidence of a shortage of trucking capacity. Also, some witnesses characterized motor transportation as considerably more expensive (from 10 to 25 percent) and much less efficient than rail for moving bulk commodities. Estimates varied as to the number of trucks needed to replace rail service if the lines identified by DOT as potentially excess were actually abandoned, but they ran as high as two million additional truck trips annually.

The result would be an obvious increase in fuel consumption. Several local highway commissioners testified that in many cases county roads, bridges, and overpasses are unequipped to handle this heavy traffic. Many county roads are already in poor condition, and reduced rail service would cause increased road, bridge, and police expenditures, as well as increased traffic congestion in many communities.

The "Frost Law" in Illinois, which provides that no vehicle over 5 tons may travel on county roads between February 1 and May 1, would effectively isolate many rural areas of that state from any transportation mode during those months.

The DOT Report contemplates that service on the abandoned branch lines will be taken up by short-haul truck service which will connect with piggyback rail service on the remaining lines, generally at a point within 20 miles of the station losing direct rail service. However, there was little evidence to support the assumption that piggyback facilities would in fact be available, and much testimony of their inadequacy or non-existence. Clearly, if piggyback is to substitute for direct rail service in any real sense, substantial expenditures for new and improved facilities will be necessary.

SERVICE COMPLAINTS

One of the pervasive themes running through the hearings is the public's dissatisfaction with the quality of existing rail service. Witnesses complained of slow and unreliable freight and passenger service, of deteriorating facilities, of what are assumed to be arbitrary rate structures, of inadequate maintenance and few capital improvements, and—most of all—of severe shortages of freight cars.

In the grain belt of Illinois, Indiana and Ohio, for example, farmers and grain elevator operators tell of chronic shortages of railroad cars. Typical testimony indicated that 400 percent more cars were needed than were received. The car shortage is so acute that there was testimony, under oath, that a black market in hopper cars exists in Indiana. One grain shipper testified that a large exporter had offered him all the cars he wanted for "20 percent of his after tax profits". (This situation is under investigation by the Commission.)

A common viewpoint of those testifying was that the underutilization of many rail lines is caused not by lack of demand, but by poor service, and the inability to obtain cars when required. Thus, it was repeatedly urged that the initial step in the planning process be a comprehensive analysis of the existing deficiencies in the level and quality of rail service, which could then be utilized in determining which lines, given improved performance, could become profitable segments of the regional rail system.

ECONOMIC IMPACT

Another major criticism of the DOT Report in general, and of the concept of abandonment in particular, was the serious economic hardship that would be created throughout the Northeast. Many shippers who handle bulk commodities, being totally dependent on rail service, could not use truck transportation even if it were available, and the loss of rail service would force them to go out of business. Still others could turn to trucks, but only if they were willing to forfeit their competitive advantage, which could make it impossible for them to stay in business. Even the shippers who retained some, but not all, of their rail service face the loss of a portion of their markets.

Some consignees cannot obtain products by any other method than rail, because of the nature or size of the material, or both. Certain hazardous materials can only be received by rail, and some industrial shippers, including power plants, need huge pieces of machinery which are far too large to be moved by truck. Still other consignees could receive materials by truck, but their shipping facilities are geared entirely to rail service. The cost and inconvenience of shifting to truck service would be substantial, and could lead to the closing of a marginal plant and its relocation outside the region.

Local, state, and federal government officials were particularly concerned with the loss of jobs that would be caused by rail abandonment. Although total figures are difficult to estimate, abandonment of lines marked as potentially excess in the DOT Report could destroy several hundred thousand jobs, with a commensurate loss of tax revenue and increased welfare costs for the affected areas. Almost unanimously, witnesses agreed that abandonment on this scale would have a massive and disastrous effect on employment.

Even more important than the actual economic loss caused by rail abandonment would be the effect of economic retardation on an expanding economy. Hundreds of witnesses testified that their commercial and industrial expansion plans would grind to a halt without continued or improved rail service. Many industrial parks have been deliberately planned along rail lines, only to find that their rail service might now be cut off. In the midwest, hundreds of grain elevator operators are expanding their grain handling facilities in anticipation of bumper crops. Any discontinuance of rail service would seriously affect the viability of this commercial expansion and the financing upon which it is based.

Rail abandonment would also affect the programs of local and state planning agencies. Some states, such as Connecticut, have sophisticated land use plans which contemplate the clustering of industrial sites around rail facilities. Zoning decisions have been made on the assumption of continuing or improved rail service. Highway departments are basing their road construction estimates on the ability of railroads to transport more and more commuters.

PASSENGERS AND THE ENVIRONMENT

The DOT Report, by its own admission, did not consider two other major goals of the Act—the establishment of an improved high-speed rail passenger system and the attainment and maintenance of environmental standards.

All witnesses concerned with the environmental issue agreed that without the continuation and expansion of existing rail service, environmental degradation is assured. A good deal of comment concerned the Clean Air Act Amendments of 1970. Metropolitan jurisdictions such as Philadelphia, Baltimore, Boston, and especially New York are relying on growing rail service to decrease exhaust emission pollution. Without rail service, heavily urbanized states agree that they will be hard pressed to meet federal air quality standards.

Environmentalists also criticized the DOT Report for implicitly encouraging increased road and highway construction. There is no doubt that such construction would be required in some areas if rail service were lost. The cost of constructing one mile of a federal highway can be 100 times greater than the cost of constructing a mile of rail track. Furthermore, in most cases, rail rights-of-way already exist, waiting to be used. On the other hand, new highway construction is time-consuming, costly, and often produces social dislocations.

Environmentalists also pointed out that rail cutbacks will deal a serious blow to fuel conservation. The United States no longer has such extravagant petroleum resources that it can afford to encourage inefficient transportation modes.

Dismay was also expressed that the Act removed the Final System Plan from certain Environmental Policy Act requirements. Many persons expressed the hope that the Final System Plan will studiously observe the language in the Act which calls for a close scrutiny of environmental considerations.

Passenger groups were similarly concerned that DOT identified as potentially excess many lines needed for passenger service. In Baltimore, city officials agreed that reutilizing existing rights-of-way for passenger service is clearly preferable to increased highway construction or expensive rail rapid transit. Similarly New York City is anxious to increase its rail passenger service. The recent combination of high gasoline prices and long lines at the service station has caused a noticeable increase in rail passenger volume. Numerous witnesses from the New York area testified that they could not tolerate the proposed abandonment of essential commuter rail lines.

Witnesses from several areas, including Fredericksburg, Virginia, the Catskills in New York, the Poconos in Pennsylvania and Cape Cod, Massachusetts, pleaded for continued or improved rail service to carry tourist traffic. These areas experienced a slowdown of business during the fuel shortage, and the tourist industry is anxious to encourage non-auto transportation modes, not only to promote conservation, but also to reduce automobile traffic in recreation areas.

The view was also expressed that the Corporation should be required to set up commuter service on existing lines. Past experience, such as that of the Chicago and North Western railroad in Chicago, was pointed to as indicating that some commuters prefer fast and reliable rail service to the automobile.

OTHER SUGGESTIONS AND COMMENTS

Various witnesses at the hearings made suggestions which, while they do not relate directly to the rail restructuring process detailed in the Act, nevertheless are deemed worthy of reporting. Among these views and recommendations are the following:

Provision should be made for public interest, environmental, and passenger representatives on the Association Board of Director. The public interest will not be adequately represented without such membership.

Any rail service restructing should consider the needs of the handicapped, as service for handicapped persons is now inadequate.

Only a minimum amount of track should be abandoned, but that which is eliminated should be kept in a "track bank" to meet rail needs which may emerge in the future. If the rail trackage is actually removed, the rights-of-way should be transferred to the public domain, since they would be ideally suited for walking and cycle paths, horse trails, linear parks, or malls. It was noted that railroad rights-of-way often represent the only linear recreational land available for public use in urbanized areas.

The Federal Government can no longer afford to continue massive subsidization of air and highway transportation while ignoring the railroads. The railroads are currently saddled with unreasonable tax and regulatory burdens that must be remedied by Federal help. Furthermore, without substantial regulatory reform and capital subsidy programs, mere operating subsidies will be ineffective.

Regulatory policies, as administered by the Interstate Commerce Commission, should be altered either to permit less (or no) economic regulation or to treat railroads as true public utilities with guaranteed rates of return; to require necessary upkeep of rail plant; and to require the keeping of accounts which would permit the ready computation of branch line costs and revenues.

Several witnesses were of the view that rail rights-of-way should be nationalized and rail companies charged a fee for their use, like federal highways. This seems to be a reflection of the philosophy expressed in much of the testimony that rail transportation is a necessity of modern life and should be subsidized if necessary to meet the public need. "Financial viability" was criticized again and again as an improper criterion upon which to base the decision for continuation of rail service. Rather, "public need" emerged as the more appropriate benchmark for measuring rail service.

Overall, the proceedings highlighted the depth and breadth of public frustration and concern with the present state of rail services, as well as what individuals perceived to be the misguided direction of the proposed rail planning process. The overwhelming sentiment expressed during the hearings, and in the written submissions, was that the restructured rail system must consider the social, economic, and environmental needs of the local communities throughout the region. For this to happen, the public insists that the planning process should include ongoing, informed public participation.

EVALUATION OF THE DOT REPORT

The Congress, in enumerating the duties of the Rail Services Planning Office, listed as its first responsibility that it should "study and evaluate" the Secretary of Transportation's Report on rail services in the region. That Report, as required by the Act was published on February 1, 1974, and contains the Secretary's "conclusions and recommendations with respect to the geographic zones within the region in and between which rail service should be provided and the criteria upon which such conclusions and recommendations are based." The quoted language, taken from section 204 (a) of the Act, constitutes the Congressional directive pursuant to which he prepared and issued his Report.

The Secretary looked primarily to the economics of railroad service, and attempted to develop quantitative, statistical guidelines which would aid the Association in making route selection and other decisions affecting future rail service in the region. He conceded that such other statutory goals as environmental protection and job preservation were not considered in framing his recommendations, and he made it a point to urge the Association to give full consideration to these and the other factors which the Act requires be taken into account.

A stated purpose of the DOT Report was "to launch the planning process" for reorganizing and restructuring the region's rail system and "to give direction" to planning for the provision of rail service. Its objectives were to describe the existing system, to analyze capital and operating problems and possible improvements that must be realized, and to provide recommendations on restructuring and consolidation.

The DOT Report concludes that a fundamental reorganization and restructuring of the region's railroads is required if the policy directives enunciated in the Act are to be fulfilled, and that this will provide improved capital productivity and a viable financial base, leading to higher quality rail service. It finds that the interstate mainline system should be consolidated into a high volume upgraded network, coordinating operations and sharing facilities where practical; that local service requirements generally should be met by single rail carriers in a given area; and that nonprofitable rail facilities should be abandoned or subsidized. It visualizes competition on the local level as being provided by carriers of other modes, with intramodal competition retained only on the interstate network between main traffic generating centers. Its result is seen as rail financial self-sufficiency.

The DOT Report further concludes that the restructuring process can improve effectiveness of competition, balance (indirectly) federal investment among transportation modes; increase the ability of the railroads to attract investment capital; and improve operating efficiency and service quality. While stating that significant improvements can be realized in operating efficiency through increased labor and capital productivity, the Report states that "The Act does not provide any direct mechanism" for modifying "inflexible labor work rules," in which there is "one of the greatest opportunities for increasing productivity." Thus, the Report concentrates on the "development of recommendations for improving the operating efficiency of both the bankrupt and solvent railroads in the region" as the method for improving capital productivity.

This section addresses those aspects of the DOT Report relating to:

Approach taken
Sources of basic data
Methodologies used
Evaluation of assumptions and criteria

The Office believes that a thorough review of these factors will be helpful to the Association in developing a viable railroad network for the region.

It should be noted here that the discussion of the data sources and methodology used by DOT in its Report is based

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on many hours of conversation with Federal Railroad Administration staff members. They willingly gave of their time and experience, and the Office wishes to acknowledge its appreciation.

BASIC APPROACH TAKEN BY DOT

There is no question but that the DOT Report can be credited for "launching the planning process." Despite the fact that it was widely misunderstood, as indicated in the preceding section of this report, and perhaps because of the direction taken by that misunderstanding, it served to alert the public to the very real dangers which threaten the continuation of rail service in the region. The number of lines identified as "potentially excess" in the DOT Report brought home the fact that many rail services have become unprofitable, and that the possibility of a shut-down by at least some of the railroads in reorganization is a real possibility.

As indicated previously in the discussion of the public testimony, a reader of the DOT Report can only come away with the conviction that the Secretary has concluded that the basic cure for the problems of the railroads in the region is major surgery—in the form of excision. Two of his formal conclusions reinforce this interpretation. He finds that:

> In order to achieve improved productivity, the existing, highly duplicative and underutilized individual railroad interstate mainlines in the region should be consolidated into a high volume, upgraded interstate network.

and,

> The existing, highly duplicative, feeder and local service network used for local rail services should be streamlined by permitting the abandonment of rail facilities which are not financially self-sustaining.

It is unquestionably true that there are excess rail lines in the region. Some are branch lines which do not, and will not, generate enough traffic—or the right kind of traffic—to turn a profit or otherwise to justify their continued existence. Despite hardships to individual users, their retention cannot be supported through cross-subsidization by users of other parts of the rail system, nor are they important enough to the national or regional economy to warrant their receiving public subsidies. Others are routes which can be identified as carrying traffic that could be diverted to other rail lines with no diminution in service quality, and with resulting reductions in costs and increases in efficiency—that is, assuming that the available alternate routes are in good enough physical condition to carry the additional traffic.

The first question which must be asked about the approach of the DOT Report is whether large scale reductions in rail mileage will solve the problem which the Act was designed to solve—the economic ills which beset the railroad industry and which resulted in wholesale rail bankruptcies in the region. While the definitive analysis of this point has not yet been done, there are indications, at least, that abandonment of substantial amounts of rail line will have relatively little impact upon railroad profitability compared to such other factors as the high cost of terminal operations in the Northeast, labor costs, and the debilitating and expensive effects of many years of deferred maintenance. The Penn Central Trustees, in support of their previously advanced proposal to reduce their 20,000 mile system to about 15,000 miles, estimated that the 5,000 mile track reduction would result in annual savings of about $20 million. Considering that Penn Central has consistently reported annual losses in excess of $100 million, it is clear that the savings of even $20 million would go only a short way toward solving its long-range financial problems.

Even accepting the fact that a good deal of pruning of the railroad plant is called for—whether or not it will prove to be the panacea which some seem to think it will—it must be asked whether the process followed by the Secretary and described in the DOT Report is an acceptable method for determining which lines should be incorporated into a new rail system. At this point, it seems worth stressing that the task faced by the Association is not to decide which lines should be abandoned in order to improve the health of existing railroad companies. It is to select those lines, and other facilities as well, of the unreorganizable bankrupts which are to be purchased for the Corporation in order to create a self-sufficient and viable system, capable of meeting the public need for rail service and of meeting the other goals outlined in the Act.

The Secretary was not called upon to make suggestions as to which yards and terminals, and other facilities, such as car and engine shops, should be included in the basic system. Nevertheless, the location of such facilities, and especially railroad yards, is an important factor in deciding which mainline routes can be operated most efficiently. Also, and obviously, the system must include those lines that provide access to principal terminals. Perhaps not so obvious, but of vital importance nevertheless, is that lines must be included which provide access to available equipment repair facilities. The failure to take these factors into account constitutes a major flaw in the DOT Report's approach to route selection.

We must agree with those public witnesses who questioned whether there would be enough lines remaining after applying the DOT criteria to form a rail "system" at all. Efficient routes handling substantial volumes of traffic would be eliminated in favor of others which today are less direct but, largely because of their ownership, more heavily utilized. In other cases, routes which appear superficially less efficient than others, but which in fact may have more favorable grades or clearances, were listed as potentially excess. While points originating and terminating large traffic volumes may retain direct rail connections, trackage between major rail yards—equally important—is often dropped. And even if historical carload counts can be effectively used for a preliminary screening of unprofitable rail lines, it seems clear that the "thresholds" adopted by DOT, and described below, were set at unreasonably high levels. In short, the results of the DOT Report do not encourage faith in any statistical method as a basic route selection guide.

SOURCES OF BASIC DATA

The DOT Report draws on two basic sources for traffic volume data—the 1969 one percent waybill sample and 1972 carload origination and termination data supplied by Class I railroads. DOT's dependence on these data sources in developing the recommendations and conclusions warrants discussion of their application.

1969 One Percent Waybill Sample

Results of a sample of waybills collected continuously from Class I railroads are published periodically. The 1969 one percent waybill sample was used by DOT to develop origin-destination traffic flows between zones in the region. This traffic flow information was the basis for recommendations as to routes able to support competitive service.

The importance of traffic flow in the route selection process requires that additional pertinent data be collected for evaluation by the Association. The Office recommends that the traffic flow data collected cover several years in order to minimize the effect of anomalies in the traffic volume for a given year, and that waybill sample data be used with care, or supplemented with complete data or larger samples, when applied to short or low-volume lines.

1972 Carload Origins and Terminations

The carload origin and termination data, collected from the railroads for 1972, were the basis for determining which stations were to be recommended for direct local rail service. Frequently, these data do not accurately reflect the origination and termination points of the traffic. Further, data for a single year cannot provide a sufficient base for developing local service recommendations.

The 1972 carload data represent traffic at billing points, which in many cases are not the origination or termination points. We found many instances in which traffic originating at a point was not reported at that point but was included in the carload generation total for the billing point. As a consequence, the origin point was often not recommended for direct local rail service, although it actually generated sufficient traffic to satisfy the local service criteria.

A single shipper located at Yatesville, Pennsylvania in Zone 72 generated 610 carloads in 1972. Yatesville is 1.4 miles from the nearest viable rail station (Pittston). This traffic was not shown for Yatesville and, as a result, Yatesville was not recommended for service although it exceeded the "DOT Upper Criteria." (The "DOT Upper Criteria" is discussed later in this report under the heading "Development of the Local Service Network".) A shipper at Berea, Ohio, in Zone 94 generated 535 carloads in 1972. Berea is approximately 3 miles from the nearest viable rail station, but was not recommended for rail service because the traffic volume was not credited to Berea, the point of origin.

Testimony at the hearings highlighted the effects of Hurricane Agnes on the 1972 traffic data, demonstrating that this was not a typical year. The Office further believes that data for any single year will include factors skewing its traffic volume from the average. In 1973, for example, rail grain and soybean movements were significantly higher than average.

The Act requires that the future rail service needs of the region be addressed in the restructuring plan. The initiation of service by the Corporation is still at least one and one-half years away. The Corporation must be structured to meet the needs of that and subsequent future periods. The Association's traffic data, as a result, should include projected traffic demands for those periods. We suggest 1980 as being a reasonable time horizon for the Association's planning function.

The Office recommends that, in preparing the Preliminary and Final System Plans, the Association:

(1) Collect information on consignees and consignors by billing stations to facilitate the identification of actual traffic origination and termination points.

(2) Use traffic data from several years to minimize the effects of anomalies in any given year.

(3) Project future traffic requirements through 1980.

Inadvertent Errors

In reviewing testimony on stations generating sufficient traffic but not recommended for service, the Office found errors in DOT's analysis. In a number of instances, we found that a point was not recommended for service even though traffic had been properly credited to its origination point and the volume was sufficient to exceed the "DOT Upper Criteria". Two examples are Lyons Falls, N.Y., Zone 44, and Akron, N.Y., Zone 49.

The Department of Defense highlighted a similar error in Zone 131. In DOT's analysis, the traffic volume for the Joliet, Illinois, Army Ammunition Plant (AAP) was grouped with traffic for the City of Joliet, and Joliet AAP (shown as Joliet AR 1 and AR 2 on the Zone Map) was not recommended for direct local rail service. If the traffic volume had been properly credited, the Joliet AAP would have exceeded the "DOT Upper Criteria" for direct rail service from Joliet, approximately 15 miles away.

Although the Office recognizes the difficulty of avoiding errors in a study of this magnitude, the Association must take steps to minimize them in formulating the Preliminary and Final System Plans.

METHODOLOGIES

In developing recommendations for the restructured rail system, DOT evaluated:

Points recommended for direct local rail service

Potentially excess rail lines

Major interstate traffic flows

Competitive interstate rail services

Testimony presented at the hearings indicated that many witnesses were confused about the methodologies used in the analyses. This was particularly evident in the analysis of local rail service and in the designation of potentially excess rail lines.

Following is a description of each DOT methodology with critical or key decision points highlighted. Where applicable, a decision flow chart is provided.

Direct Local Rail Service

DOT's methodology for determining points recommended for direct local rail service was a two-step procedure: the first step identified major traffic centers; the second evaluated lower volume points relative to the major traffic centers (Figure 1).

The data source for this analysis was 1972 carload origination and termination information provided by the railroad companies in the region. These data, as highlighted earlier, represent the billing point for a shipment, and thus not necessarily the origination or termination point of the movement. As a result, the annual carloads originated or terminated at a particular point may not be accurate if the billing point is different from the origination point.

The methodology used in analyzing direct local rail service was:

Step 1—Identification of major traffic centers

1. Determine the annual carloads originated or terminated at each station (subject to limitations of using billing points rather than origination points).

2. Eliminate all stations originating or terminating less than 75 carloads per year.

3. Identify all stations generating 5,000 or more carloads per year as major traffic centers.

Step 2—Evaluation of lower volume points

4. For each rail line at a major traffic center, determine the distance to the nearest station which generates 75 or more carloads per year.

5. Apply "DOT Upper Criteria" to the station, using the carloads generated and the distance from the major traffic center.

6. If station does not meet criteria, repeat (5.) for the next station.

7. If station does meet criteria, station is recommended for local rail service and the line from the major traffic center to the station is considered viable.

8. For successive stations along the line, the "DOT Upper Criteria" is applied using the distance from the nearest station recommended for local rail service.

9. For branches connecting to a line considered viable (but not directly connecting to a major traffic center) the criteria is applied using the distance from the station to the junction with the viable line.

Three decision points, shown as diamonds on the decision flow chart, are critical in the methodology. These are:

Exclusion of stations generating less than 75 carloads per year

Establishment of 5,000 carload per year threshold level for major traffic centers from which lower volume points are evaluated

Application of "DOT Upper Criteria"

Their impact on recommendations of points for service should be determined by the Association.

The Office performed preliminary sensitivity analyses on these decision criteria. The results indicate that the recommendations of points for local rail service are sensitive to changes in both the "DOT Upper Criteria" and the 75-carload criteria, with the effect of the former over-shadowing the latter. The results, however, are generally insensitive to reductions in the 5,000 carload threshold in establishing major traffic centers.

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FIGURE 1

DETERMINATION OF POINTS RECOMMENDED FOR DIRECT LOCAL RAIL SERVICE
DECISION FLOW CHART

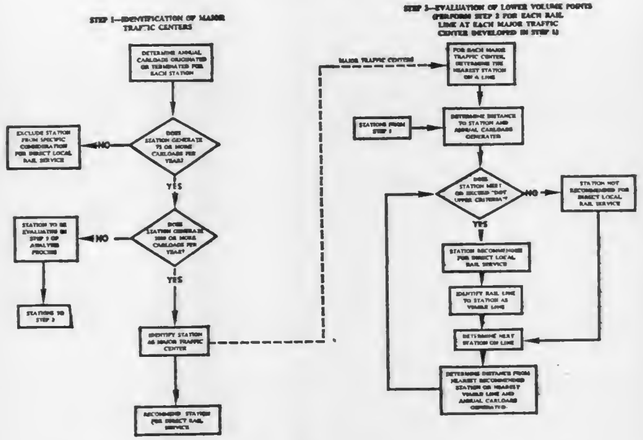
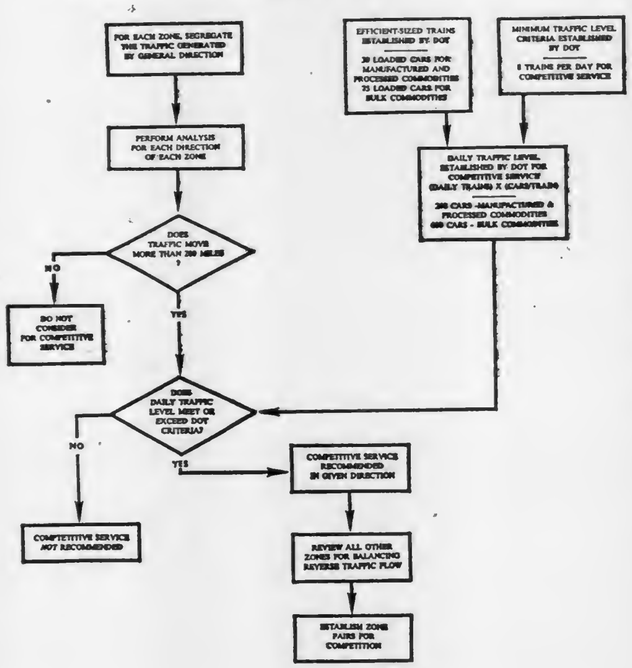


FIGURE 2

IDENTIFICATION OF ZONES WHICH SHOULD RECEIVE COMPETITIVE SERVICE
DECISION FLOW CHART



Potentially Excess Rail Lines

In DOT's methodology, a line would not be identified as potentially excess if it met any of four criteria. Basically, a line would not be excess if it were the only line serving a point or area recommended for direct rail service or if it were an alternate line which also satisfied additional criteria (Figure 2).

To be retained, a line must:

Provide the only rail connection at the;

Local Level—a line was the only line serving a station recommended for direct rail service, again subject to the limitations of using billing points rather than origination points

Feeder Level—a line was the only line connecting an area of recommended points with a mainline

Provide an alternate line at the;

Local Level—an alternate line to a station recommended for direct rail service was retained if the line also met "DOT Upper Criteria"

Feeder Level—an alternate line connecting an area to the mainline was retained if existing traffic density on the alternate line met certain minimum criteria (annual densities of 10 million gross tons for bankrupt carriers' lines or 5 million gross tons for solvent carriers' lines)

Major Interstate Traffic Flow

DOT's determination of the major traffic flows in the region was based on the 1972 carload origination and termination data and other information on existing densities on mainlines in the region, and was not based on specific criteria. The major traffic flows generally reflect the existing traffic flow pattern in the region.

Competitive Interstate Rail Service

The methodology followed by DOT in recommending zones for interstate competition is illustrated in the decision flow chart in Figure 3. The methodology used in analyzing competitive service was:

1. For each zone, determine the annual carloads originated to and terminated from other zones, grouping the other zones by general direction from the zone being evaluated.

2. Eliminate the traffic of all zones within 200 miles of the zone being evaluated.

3. Determine those directions in which sufficient traffic is handled to require eight "efficient sized" trains a day. An "efficient sized" train was defined by DOT to be 30 loaded cars for manufactured and processed commodities or 75 loaded cars for bulk commodities.

4. Evaluate other zones with sufficient traffic to satisfy the competition criteria in order to balance the traffic flows between zones selected for competitive service.

The 1969 one percent waybill sample was the data source for this analysis. The results are affected by considering only the traffic from a single zone and not aggregating the zones into groups representing economic areas. The results are

also influenced by the exclusion of extra-regional and overhead traffic in the analysis. If a zone generated traffic for destinations or received from origins outside the region, this traffic was not included in the zone's traffic flow. Similarly, intra-regional traffic passing through a zone, but not originating or terminating in the zone, was not considered in the zone's traffic flow. Inclusion of extra-regional and overhead traffic in a zone's flow might be sufficient to put the zone over the eight daily trainload competitive service threshold.

The definition of "efficient sized" trains and the establishment of the eight daily train threshold are critical elements in the competitive service methodology. These are evaluated in the following section, Assumptions and Criteria.

The Office recommends that the Association review the competitive service methodology and determine the effects of the considerations discussed above.

ASSUMPTIONS AND CRITERIA

Certain assumptions, criteria, and methodologies incorporated in DOT's Report are critical in the development of DOT's recommendations. This section addresses the Report's basic cost assumptions, the assumptions and criteria involved in developing the interstate network, and the criteria used in analyzing local rail service.

COSTS

The primary cost considerations addressed by the DOT Report are the estimates of the cost of track and roadway modernization and maintenance, and the variable costs for railroads in the region. Local rail service costs, also quite significant, are discussed separately.

In developing the total cost for a consolidated rail system, DOT estimated the cost of a major rebuilding of signalled track at $225,000 per mile, and a minor rebuilding of signalled or unsignalled track at $20,000 per mile. DOT estimated the annual cost of maintaining modernized track and roadway at $12,000 per mile for signalled track and $5,000 per mile for unsignalled track. The basic data sources for these estimates are studies performed around 1968 on the costs of maintaining track and roadway. These studies were performed prior to the issuance of the Federal Railroad Administration (FRA) track safety standards and revised cost estimates in light of these standards would be adviseable.

Modernization. Evaluation of the costs of rebuilding track and roadway requires detailed consideration of the unit costs for each major cost element. Cost estimates for subgrade and ballast, ties, rails, and signal systems must be reviewed in detail. The Office recommends that the Association determine actual costs for these major elements so that costs of upgrading lines can be considered in the selection of interstate routes in the Preliminary System Plan.

Maintenance. Maintenance costs were estimated primarily by class of track (FRA Track Safety Standards), traffic density (annual gross tons), and the percentage of the line having a high degree of curvature. The Office agrees with the general classes of variables included, but believes that the Association should strive to develop a more specific formula than DOT's for estimating the actual maintenance costs to be incurred.

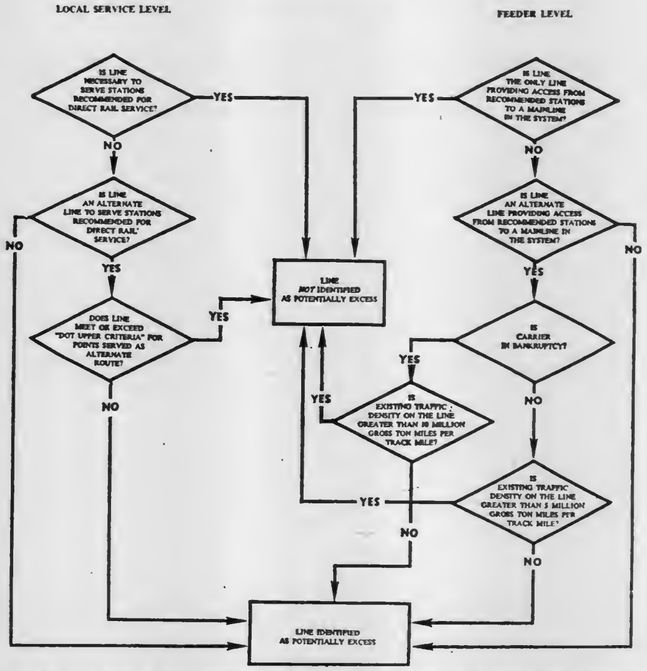
Because of the importance of rebuilding and maintenance cost estimates, the Office recommends that the Association begin immediately to determine the actual costs of rebuilding and maintaining the track and roadway in the region.

Variable costs. The DOT Report takes the position that the greatest potential for improving capital productivity lies in increasing the rate at which rights-of-way and yards are utilized, thus reducing variable costs. The Report concluded also that substantial savings would result from the consolidation of services and traffic flows.

We are in complete agreement that increases in productivity can be obtained through the improvement of yard and terminal facilities. There is probably no single area in which costs could be more quickly reduced, and service improved, than in the modernization and rationalization of terminal facilities. The DOT Report provides a vivid description of the Philadelphia terminal situation. Three major railroads, Penn Central, Reading, and Baltimore and Ohio, operate in yards and at terminals located, and in some instances constructed, in the nineteenth century. Service is provided at many small and widely scattered team tracks. Cars are delivered to shippers over decrepit tracks running down the center of city streets. Costs are high, and the service provided often very poor.

FIGURE 3

DETERMINATION OF POTENTIALLY EXCESS RAIL LINES
DECISION FLOW CHART



In the port area around Newark, New Jersey, three railroads now operate yard facilities—Penn Central, Central of New Jersey, and Lehigh Valley. None operates its yards to their design capacity, although some of them are in such poor condition that they are probably being used to the extent of their actual present capacity. Again, operating costs are high, and service is poor.

In both these situations modernization and consolidation of facilities would lead to far more efficient operation, lower costs, and far better service. The Association should look most carefully at this very fruitful field for accomplishing cost reductions and service improvements.

In line haul operations, too, there are opportunities for increased efficiencies and savings. The cost of maintaining a

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line to 60 mile per hour standards, for example, is far greater than cost of maintaining it to 30 mile per hour standards. In many markets, there is no real need for two railroads to expend the capital and maintenance dollars necessary to have two high speed lines. One such line, built and maintained on a shared cost basis, would supply both with the capacity they need at substantial cost savings. Where closely parallel lines exist (as they do, for instance, between Buffalo and Cleveland) two carriers might well share both, maintaining one to high standards for passenger and fast manifest trains, and the other at a lower standard for lower speed mineral trains or local freights. These are possibilities which should be considered by the Association as it makes its selection of facilities for the restructured regional rail system.

It must be realized that the practical time constraints on major modernization and consolidation of facilities are great enough that little of the planned consolidation will be realized on the Corporation's start-up date. An interim coordination plan must be developed by the Association to guide the Corporation's operation until the capital improvement program can be completed.

Capital costs. While cost savings can undoubtedly be generated by consolidating and improving rail facilities, this will require considerable time and substantial capital outlay. Furthermore, the condition of the physical plants now operated by the railroads in reorganization—even without taking into account the need for constructing the connections which consolidation would require—will necessitate huge expenditures just to return them to the state at which normal maintenance can be resumed. The Penn Central Trustees estimate that $600 million will be needed over a period of 6 to 8 years to restore their facilities on the 15,000 mile "core" system which they consider essential if the Penn Central is to render essential services in the region. While this is not a subject addressed in the DOT Report, the capitalization of the Corporation, and the sources of funds to rehabilitate much of the region's rail system, is a major task which the Association must face.

Development of the Interstate Network

DOT developed its recommended locations for interstate—that is, long-haul—rail services on the basis of an examination of traffic flow and line density data. Those corridors selected for interstate service, then, are simply those which were used the most heavily by the railroads in 1972. The DOT Report contains several examples of how individual rail lines within these interstate corridors might be selected, but it does not attempt to describe the entire interstate rail system for the region.

In DOT's view, existing mainline track in the region is largely under-utilized. It believes that major efficiencies can be accomplished by consolidating parallel routes and eliminating duplicative trackage from the mainline system, by downgrading some mainlines, and by the implementation of joint operating agreements.

These conclusions, in turn, are based upon a single major assumption; that is, that 30 million gross ton miles per track mile per year is a reasonable route density which can be achieved on a single track mainline with centralized traffic control.

Rail system capacity. In support of its conclusions concerning rail line capacities, the DOT Report presents theoretical engineering capacities for single and double track mainlines with automatic block signals or centralized traffic control. In our view, however, the capacity of a rail line is not readily subject to generalization. Numerous factors affect the practical capacity of a given section of track, and this is true whether or not a signal system is present. Capacity depends on grades, curves, clearances, track conditions, location and length of sidings, local switching performed, the requirement to slow down through certain populated areas, and the mix of trains operating at different speeds. Additional considerations include the need to make allowances for equipment breakdowns, delays, and necessary out-of-service periods for maintenance activities, particularly those involving the use of on-track maintenance equipment.

It must be realized, in evaluating DOT's goal of 30 million gross tons, that line capacity is more dependent upon the number of trains operated over a segment than on the accumulated gross tonnage on the line. Congestion, a limiting factor of capacity, occurs as a result of the number of trains and the mix of train speeds rather than the gross weights of the trains.

The Northeast Corridor between Washington and New York provides an example of a line in the region with a high density of trains. Despite the number of trains, the Corridor does not have a single segment which exceeds DOT's goal of 30 million gross ton miles per track mile per year, because the Corridor is multiple-track in the higher density sections. Segments of the Corridor have a broad mix of trains operating at different speeds. These include 100 mile per hour Metroliners, 80 mile per hour conventional passenger trains, commuter trains which make frequent stops, 60 mile per hour manifest freight trains, 40 mile per hour mineral trains, and local trains. We doubt that anyone is satisfied with the resulting quality of service, and certainly neither Penn Central nor Amtrak is pleased about the cost of operations in the Corridor.

The rail system capacity assumed by DOT is, of course, entirely theoretical, representing the engineering or design capacity. To achieve capacities approach those suggested by DOT would require, to say the least, a highly disciplined operation. Individual priority could not easily be given to any particular class of train; operating trains at different speeds, with the associated overtaking and passing problems, and operating trains having different schedules of stops, would be difficult if not impossible.

We recommend that the Association determine the actual practical operating capacities of lines in the region early in the planning process, and not rely upon theoretical engineering or design capacities.

Competitive service. In connection with its consideration of the interstate rail network, the DOT Report takes up the question whether particular rail routes have sufficient traffic to justify the retention or establishment of competitive rail services. In making the determination whether a particular market or transportation corridor can support more than one rail carrier, DOT established a threshold of at least eight trains per day moving at least 200 miles. The eight train figure was selected without any apparent analysis, simply on the basis of the assumption that one train in each direction twice a day for any one railroad would be sufficient to provide an acceptable level of service. Thus, where two railroads are operating in the same market, the total number of trains per day would be eight. Our discussion of the DOT method for determining whether there was enough traffic to permit operation of eight trains per day and of the 200 mile distance threshold are discussed later in this subsection.

The volume of traffic which flows between any two zones depends, obviously, upon the delineation of the zones themselves. Other analyses contained in the DOT Report, particularly that of local rail services, were performed without regard to zone boundaries. The recommendations concerning interstate rail corridors in which competition is warranted, however, are very heavily dependent upon zone definitions.

The zones do not reflect the best demarkation of concentrated traffic generating areas for analyzing interstate rail service. Since traffic flows from adjacent zones were not aggregated to evaluate the flow from a general area, and since some zones, particularly in the New England States, were quite small in size, the Office recommends that the Association evaluate various redefinitions and aggregations of zones in analyzing long-haul rail service needs.

Train size. As noted, DOT's determination of whether there should be competitive rail service in particular traffic corridors was based on its conclusion that a minimum of eight trains per day in a corridor would be necessary to support competitive service. Inasmuch as data were not readily available concerning the number of train movements, it was necessary to devise a means of proceeding from the available carload data to a determination of the number of trains moving between particular points. This, in turn, necessitated the determination of what an average or ideal train size would be.

An average train size of 30 loaded cars was used in the DOT Report in analyzing existing interstate traffic patterns. This figure was developed by adjusting the 1972 eastern district average of 38 cars per train to offset the effect of longer unit trains.

Two points deserve consideration in evaluating the 30 car average. First, DOT provided no justification for eliminating the longer unit trains and retaining the shorter, local service trains in deriving the adjusted average. Second, since the 38 loaded car average includes all types of trains, using it may result in an understatement of the average through road train size.

DOT defined an "efficient sized" train as 30 loaded cars for manufactured and processed commodities and as 75 loaded cars for bulk commodities. Because this definition may be significantly below the actual number of cars in a through train, the number of cars required to meet the eight daily trainload threshold for competitive service may in turn be understated.

Although it does not play a role in the analysis performed in the DOT Report, we think it advisable to say at least a few words about the concept of frequent, short trains as opposed to the operation of fewer and longer trains. The DOT Report describes an "efficient sized" trains as having only 30 loaded cars, but it should be emphasized that there is sharp division of opinion in the railroad industry as to whether this in fact is so. The benefits attributed to the operation of short trains include improved service, greater reliability of service, more level demands upon yard facilities, reduced train delay, and higher utilization of capital equipment resluting in higher productivity.

On the other hand, the use of short, frequent trains requires increased manpower to provide crews for the greater number of trains. In many instances, individual railroads have determined that the increased labor costs outweigh the benefits of short, frequent trains. What is in fact an efficient sized train is a dispute which can only be resolved by considering specific factors involved in particular situations.

The 200 mile distance threshold. In addition to the eight trains per day requirement, the other principal criterion applied by DOT in recommending whether competitive rail service should be provided was that the traffic generated must move at least 200 miles. In determining to use a distance threshold to aid in making the competitive service decision, the DOT reasoned that over distances where motor carrier service was truly competitive, or had the competitive advantage, there was less need for intramodal rail competition than over longer distances where intermodal competition was less effective. The source of the 200 mile threshold was the 1972 National Transportation Report which compared rail and truck costs for various lengths of haul. DOT found the rail-truck economic breakeven point—that is, the point at which the competitive advantages between rail and truck transportation on a average haul shifts—to be 200 miles.

From our review of the data in the 1972 National Transportation Report, we conclude that the rail-truck breakeven distance would more nearly approximate 150 miles. Further, a 10 percent reduction in rail costs, which might be possible with restructuring, could result in a breakeven point near 100 miles. The Association should re-evaluate the 200-mile criteria to ascertain which is the more realistic figure on which to base a planning decision.

Mainline selection. One aspect of the DOT Report's consideration of the definition of an interstate rail system upon which we feel required to touch briefly is its classification of a section of track as "mainline" only if it is equipped with automatic signals. We believe that all lines should be evaluated by the Association as potential parts of the interstate rail system, whether signalled or not. It is possible that unsignalled routes may prove to have more favorable grades, curves, or clearances, or heavier capacity bridges, and that potential routes may be found which would present viable economic operating alternatives to existing signalled lines.

Other factors affecting the zone approach. One of the deficiencies in the zone approach adopted by DOT is the fact that it takes into account only the movements of traffic from and to the points at which they were originated, terminated, or billed. In actual fact, much of the heaviest rail movement is between rail yards which are often located at some distance from actual origin and termination points. Properly located modern yards assemble large volumes of traffic coming from all directions, performing classification in low cost or less populated areas and permitting trains to run through the more heavily populated urban districts.

Modern railroading practice provides the opportunity for preblocking, straight setoffs and pickups in yards, consolidation of traffic from or to several origins or terminals, and the ability to operate trains straight through to connecting lines. The data used by DOT in its analysis fails to reflect the heavy movement between major yards. This is reflected in the fact, for example, that the DOT Report finds as potentially excess sections of the principal Penn Central line which connects its modern yards at Indianapolis and Elkhart, Indiana. The DOT Report shows the basic interstate traffic flow from between the Northeast and St. Louis as moving in a straight line. In point of fact, the traffic over the Penn Central, the major carrier in this market, moves generally from St. Louis to the railroad's Big Four Yard at Indianapolis (built in 1960) then over the Indianapolis-Crestline-Cleveland, Ohio route and proceeds east over the favorably graded "water-level" route of the old New York Central Railroad. However, a large volume moves from the Big Four Yard north to Penn Central's Robert R. Young Yard at Elkhart, Indiana (built in 1958). Important connecting lines between these essential yards and junction points are listed as potentially excess in the DOT Report.

Development of the Local Service Network

The objective of DOT's study of local rail service was to exclude nonviable branch lines from the basic structure of the new rail system. In this section of the report we discuss the methodology on which the local service decisions were based.

Carload volume. The DOT Report implies that volume of traffic generated on a branch line is the key determinant in deciding which branch lines to include or exclude from the rail network. The "DOT Upper Criteria" applied to branch lines was based on loaded cars, without regard to their loaded weights or commodities.

The weakness of a carload volume base can be highlighted by considering two lines of similar length generating like numbers of carloads. If one line has a higher loading per car, or traffic with higher rates per mile, it will be the more profitable. However, both were treated equally by the carload-based "DOT Upper Criteria." Conceivably, the carload-based criteria could allow lines with low loading or low rates to qualify for service, and exclude lines which would generate more profit with fewer cars but higher loading or higher rates.

The DOT criteria applied to local service lines were based on a study by R. L. Banks Associates, "Development and Evaluation of an Economic Abstraction of Light Density Rail Line Operations" (Banks Report). This report developed a formula for estimating the profitability of hypothetical branch lines. Revenue per carload was developed from the statistics of Class I railroads while the costs included the operating characteristics of both the Class I railroads in the east and Class II railroads encompassing the entire United States. Because of the lack of specific data relating to the operations, costs, and revenues of specific branch lines, certain assumptions and estimations had to be included in developing the formula. These are specified in the Banks Report, along with cautions that the results "cannot be fully endorsed as buttressed on sound statistical theory" and "the purpose of the study, therefore, neither is nor could be to provide precise and final standards superior to the (ICC) 34-car rule."

Nevertheless, the DOT Report established the Banks formula as the standard for measuring branch line profitability, and for determining the traffic volume necessary for breakeven operation. The statistical uncertainty in the traffic volume measurement was addressed by establishing an upper and lower carload criteria. There is a 90 percent probability that the actual breakeven point occurs between these two criteria.

By recommending direct rail service only for those lines exceeding the "Upper Criteria," DOT required at least a 90

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percent probability of profitability before recommending local rail service. For example, a 10-mile branch line in the region would require approximately 734 carloads per year to be recommended for service, although there is at least a 90 percent chance that the actual break-even figure is below 734 carloads, possibly even as low as the 400 carload range.

Because of the difficulty in developing a formula applicable to all situations, and public demands for particularized treatment of specific situations, the Office recommends that the Association evaluate local rail service on an individual basis.

75 carload threshold. Although stations generating less than 75 carloads per year were excluded from specific consideration in the local service analyses (see our discussion above under "Methodologies"), the 75 carload threshold was overshadowed by the application of the "DOT Upper Criteria." As a result of applying the DOT "Upper Criteria," direct local rail service was not recommended for any station generating less than approximately 255 carloads annually.

While stations not meeting the "DOT Upper Criteria" were not recommended to receive direct local rail service, it was DOT's intent that these stations would continue to receive direct rail service if they were located on a viable line.

Service. Other factors not considered by DOT in developing its local rail service recommendations were the effects car shortages and poor service have had on traffic volumes. Because of car shortages, many shippers who wished to ship a greater number of cars by rail were unable to do so. Because of poor service, many shippers who would have preferred to ship by rail turned to other transport modes. As a result, the traffic volume for these shippers was artificially low, which, in some cases, excluded stations from being recommended for direct local rail service. The Association should take into consideration service and car availability when applying historical carload generation figures to specific situations.

Additional required criteria. Factors not considered by DOT, but which must be evaluated before a final decision can be rendered on the viability of a branch line, include:

1. Current physical condition of the fixed plant
2. Expense required to raise the track standards to an acceptable level
3. Annual maintenance cost
4. Commodities shipped
5. Annual tonnage and carloads handled by origination and termination points.
6. Annual tonnage and carloads handled on-line or interline.
7. Cost of entire through movement of branch traffic
8. Revenue derived
9. Impact on revenues and cost if short line railroads are formed.

A railroad's base cost information can be derived using the Commission's Rail Form A on an individual basis. This will provide unit costs for the through train movement of the branch line traffic and for local or way trains, which then can be adjusted for specific traffic characteristics.

Cost and revenue comparisons that should be made are:

1. Pickup and delivery of motor carrier vs. local or way rail operations—as a portion of the entire movement
2. Over the road trucks vs. through train operation
3. Feasibility of shippers engaging in private carriage

An evaluation should also be made of the capability of trucks to haul traffic generated by the branch line as well as ascertaining the location of all Trailer on Flat Car (TOFC) loading and unloading facilities in relation to location of industries not on viable lines.

It is our opinion that this type of information is a prerequisite for a proper evaluation of the branch line problem and for determining the alternatives available to both railroads and shippers.

Potential effect of new short lines. An implied concept of the DOT Report is that any branch line not included in the Final System Plan will either have its traffic handled by another mode of transportation or the affected industry will relocate. However, the government sponsored acquisition loan proposal created by Section 403(a) of the Act might induce shippers (through a local or regional authority) to purchase the trackage of nonviable lines and form their own short line railroads. The shipper would thus become a carrier and be entitled to a percentage division of the through revenue on the entire movement. The effect of this division of revenue on the total revenue accruing to the carrier presently serving the branch would have to be determined, as would the cost of the transportation services that still would have to be performed by the line-haul carrier.

This concept needs to be explored by the Association in developing its financial plans for the Corporation.

Intermodal breakeven analysis. Comparisons used by DOT to illustrate the short haul advantages of motor carriers over rail service were premised on the following:

The estimated rail resource consumption was based on the service involved in switching loaded freight cars at a shipper's siding, moving the loaded cars to a yard, switching them into a line-haul train, and delivering empty cars to the shipper's siding.

The estimated motor carrier resource consumption was based on placement of empty trailers at the shipper's location, pickup and movement of the loaded trailers to the railroad yard, placement of the load on railroad cars, and switching those cars into a line-haul train.

Thus, motor carrier cost is simply the substitution of TOFC service for freight cars. Since transportation characteristics are not the same for all types of cars, use of TOFC would affect the overall costs to the railroad.

The services described as being performed by a motor carrier resemble what is commonly referred to as drayage—the spotting or picking up of a trailer at the shipper's or consignee's place of business and delivering it to the railroad's loading facilities. It is usually based on a contract charge per trailer or per hundredweight and includes charges for origin and destination points contiguous to the railroad facility. Outside of this area, at some mileage breakpoint, a motor carrier charge would be asesssed for substituted service.

Rail costs and rates of the TOFC Plan under which the traffic would move would be affected by such items as who supplies the trailers and flat cars and who provides pickup and delivery of trailers.

DOT assumed that TOFC ramps or crane facilities were located near the branch lines at the gathering yards. The Association must evaluate this assumption since the location of yards retained in the Final System Plan will dictate the availability of intermodel facilities.

PASSENGER SERVICE

General

The DOT Report devoted scant attention to passenger service. It simply listed present intercity and commuter routes and their patronages and made the limited recommendation that the Association should devote special attention to passenger service. The Act, however, devotes considerable attention to passenger service. Goals of the Final System Plan include the efficient movement of passengers, coordination with Amtrak, and identification of corridors in which high-speed passenger service would return substantial public benefits.

In several instances DOT's recommendations, based on freight service considerations, would significantly affect Amtrak's existing intercity routes and existing commuter service. Portions of commuter and intercity passenger routes were designated as potentially excess, and segments of Amtrak's intercity routes were recommended for downgrading. For example:

Chicago-Miami and Chicago-Tampa/St. Petersburg. The Report recommends as potentially excess two segments of the present Amtrak line between Indianapolis, Indiana, and Louisville, Kentucky. This is the only direct route over which Amtrak can operate its Chicago-Florida trains and serve both Indianapolis and Louisville. Also, Amtrak is in the process of establishing an auto-ferry service in connection with its basic passenger operations, which will have its northern terminal in the Indianapolis area. There is no suitable alternative route.

Chicago-Cincinnati. The Report recommends as potentially excess the Amtrak route between Kankakee, Illinois, and Indianapolis. Amtrak is now detouring over a reasonable alternative route by way of Logansport, Indiana, due to the condtion of the track between Kankakee and Indianapolis. The DOT Report recommends the Chesapeake and Ohio route between Cincinnati and Chicago as the primary route to be considered. Recognizing Indianapolis as an important traffic center, it suggests the Association may choose the Penn Central line which serves Indianapolis direct. The Association should give consideration to Amtrak's view that the Kankakee-Indianapolis route is the better one from a marketing standpoint.

Washington-Montreal. The Report designates as potentially excess the Central of Vermont portion of this route between Bethel and Essex Junction, Vermont. There is no alternative route which would allow Amtrak to serve Montreal via Penn Station, New York.

In addition to resolving these situations, the Association must ascertain the projected future needs for passenger and commuter service in its planning function. The Office recommends that the Association: (1) identify potentially beneficial high-speed passenger corridors; (2) project future passenger and commuter service needs; and (3) consider the retention of alternate lines for passenger service.

The Northeast Corridor

The Act requires the Final System Plan to provide for the establishment of improved, high-speed rail passenger service between Washington, New York, and Boston, consonant with the recommendations of the Secretary of Transportation in his report of September 1971 entitled "Recommendations for Northeast Corridor Transportation." That report, it should be noted, deals only with intercity passenger service, and does not include consideration of either commuter or freight movements on the corridor. These are factors which the Association must take into account.

The rail facilities in the corridor have been developed over the years to provide freight and suburban passenger service in addition to intercity passenger transportation. While none of these services is a necessary adjunct to the others, and each could be operated independently, there are significant cost savings and operating economies available from sharing the facilities. However, with increased volume and speed, interference has developed in performing freight and passenger services.

We have commented earlier on the already congested traffic conditions in the corridor, in which the problems presented by the sheer volume of traffic are aggravated by the train mix—roughly one-third each long-haul passenger, commuter, and freight, as measured in train-miles. In response to the sharply increasing passenger demand which it has recently experienced, and in expectation of increased population in the corridor (46 million in 1975, 52 million in 1985, and almost 60 million in 1995) Amtrak has recently placed equipment orders which would, it anticipates, allow it to double Metroliner service between Washington and New York within the next 16 months. It plans to go to 15 minutes scheduling of service between Philadelphia and New York City by mid-1976. Thus, it is reasonable to expect that passenger service in the Corridor will increase, and that speed requirements for Amtrak trains will continue to rise. Consequently, the compatibility of freight and passenger operations will be steadily diminished.

A goal which the Association should seek to achieve in selecting facilities for the regional rail system is the removal from the Northeast passenger corridor of as much freight traffic as possible. Clearly, all freight movements cannot be eliminated, for the corridor provides direct service to one of the most highly developed industrial and commercial areas of the nation. In 1971, Penn Central originated or terminated about 74,800 loaded cars for freight customers located on the southern half of the corridor between Washington and New York. While it would no doubt be possible to serve some of these customers from other nearby rail lines, many of them can only be served from the same tracks that are used for heavy passenger movements. The Association should undertake an analysis of how best to minimize interference with passenger trains without destroying the plant values of the customers.

If the amount of freight traffic on the Northeast corridor is to be significantly reduced, other routes for handling through shipments will have to be found, as will means for routing originating and terminating traffic away from the corridor mainline at a point as close as possible to the corridor customer's location. Some traffic would be susceptible to routing away from the corridor completely. Cars moving to many points in the South, for example, could be routed to connections with one of the several railroads serving Cincinnati, Ohio, or to the Norfolk & Western Railroad at Hagerstown, Maryland. For other traffic, alternative freight routes that closely parallel the corridor are available, provided that the necessary connections are made and the track conditions improved.

In conjunction with its consideration of how to improve rail service in the Northeast corridor, the Association should evaluate among others, the following possibilities for developing and improving alternate freight transportation routes:

Improvement of the present Baltimore & Ohio-Reading-Central Railroad of New Jersey route between Washington and New York; the construction of connections between these railroads and major yards and industrial centers on the corridor; and the construction of a connection between the B&O and the Penn Central at Perryville, Maryland.

Increased use of the Boston & Maine-Delaware & Hudson-Lehigh Valley-Reading-Baltimore & Ohio route between Boston and Washington.

Continuing the Norfolk and Cape Charles, Virginia-to-Wilmington, Delaware route which provides ample clearances for high and wide shipments which cannot move through the tunnels at Baltimore and Washington.

The establishment of a coordinated freight route around Baltimore for the use of all railroads.

Use of the Poughkeepsie Bridge-Lehigh and Hudson River route, utilizing also the so-called Trenton cut-off of the Penn Central, for traffic moving from and to New England.

Improvement of the Camden-to-South Amboy, New Jersey line and connecting Lehigh Valley and Jersey Central lines to provide an alternate route to the south and west from the Newark-Jersey City area.

ECONOMIC IMPLICATIONS

Principal economic implications of the DOT Report are: (1) substantial cost-economies by rail carriers in the Midwest and Northeast Region of the United States can be achieved by consolidating freight operations along high density routes, and (2) the burden of financing unprofitable rail lines should be shifted from the railroads and shippers in high traffic routes to local users of rail service or to the general public. DOT's proposals therefore raise fundamental issues of economic efficiency and income distribution which need to be analyzed in more detail before designing the Preliminary and Final System Plans.

This section describes how abandonment of branch lines will affect the location of economic activity and indicates how proper planning and analysis during the restructuring process will assist policy makers in applying subsidies to achieve increased efficiency in the transportation industry and social equity for persons affected by the restructuring process.

The DOT Report proposed that existing rail lines be designated potentially excess if the costs which could be avoided by not operating the branch are greater than revenues generated. Other users of the railroad or railroad stockholders are subsidizing traffic along these routes. The Report assumes that operation of branch lines having operating deficits will be continued only if higher freight rates are charged to local shippers or if a local service continuation subsidy is provided.

The direct impact of the DOT's proposal will be an increase in the cost of doing business at locations along deficit branch lines. Higher freight rates on potentially excess branch lines will have to be absorbed by local manufacturers and their employees or passed on to consumers, depending upon the demand characteristics for locally produced final products. The demand elasticity for a product depends upon the degree of competition in the industry and substitutability of similar products produced elsewhere. In agricultural areas, farmers may absorb the higher freight rates, capitalized value of farm land may decline,

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and prices of farm products may increase. Alternatively, if taxes are imposed to finance rail service continuation subsidies, the general public will share the burden otherwise borne by specific users of the service. This tax, in effect, becomes a manner of transferring income from a non-benefiting group to the residents in the area being benefited by the branch line.

Indirectly, freight rates on the restructured rail system can be reduced, railroad stockholders profits increased, and/or service improved by the amount of the cross-subsidy formerly required to keep deficit branch lines in service. Shippers, their consumers, communities having rail service under the restructured system, and the carriers will therefore benefit and attract additional economic activity.

If the criterion for financing a deficit branch line is economic efficiency, operating deficits should be financed by means of rate increases. Only the most efficient shippers and industries located along affected lines will survive. Others will be forced to relocate toward lower cost areas. The loss of businesses not able to pay higher rates or relocate must be weighed against the present cost of diverting railroad capital and labor from more efficient uses elsewhere to operations over the unprofitable branch line. Consumers will pay higher prices for products originating in such areas, but will pay lower prices for goods produced at locations along the restructured system. Alternatively, carriers, shippers, and industries along the restructured system will receive the benefits.

If the criterion is social equity, rail service continuation subsidies should be financed out of general public revenues. The availability of subsidies will discourage the attrition of population and employment along the deficit branch lines by reducing the cost of distance from these locations to the interstate mainlines. The size of these subsidies should reflect the importance attached to preventing social dislocation. Such subsidies may also help achieve environmental objectives, or protect fossil fuel sources as required by the Act.

In some cases, the increase in efficiency gained by relocation to other areas along the restructured network may be large enough to permit adequate compensation of those affected. In such situations, it may be in the public interest to provide relocation and retraining grants to affected parties rather than to provide rail service subsidies. Or, the social equity achieved in providing subsidies may be at an enormous loss of efficiency because the same subsidy might well have yielded greater benefits if used for some other purpose. Therefore, the equity criteria applied must be capable of quantifying both the costs of social dislocation and the costs of achieving specific environmental, energy, competitive, and other policy goals.

DOT used an efficiency criteria (volume of freight traffic) in determining potentially excess rail lines. In order to review the equity issues involved in rail abandonment, the Office is developing an economic profile of all areas in the region affected by potential rail abandonment based on industry Standard Industrial Classification codes.

These data, together with information received at the public hearings, will make it possible to carry out a more thorough review of the economic impacts of rail abandonment on local communities. A particular community's contribution to regional economic activity and the need of specific local industries for rail service can be ascertained from these profile data. The impact of rail service discontinuance on local employment and earnings can be estimated and compared with costs of providing continued rail service.

Rail abandonment and resulting changes in transportation costs are by no means the only economic factors influencing the location of economic activity. Population shifts, changes in consumer preference, changes in technological production processes, and development of new energy sources also influence the growth or decline of economic activity at particular locations. The process of change in the economic well-being of communities is a dynamic and fluid process and the analysis of rail abandonment must clearly take this into account. DOT's local rail service recommendations, which are based on past levels of economic activity, need to be reassessed, accounting for projected future trends in communities where rail abandonment is proposed.

Projections of economic activity for areas of the Midwest and Northeast United States have been prepared by the U.S. Department of Commerce from available Federal data sources. These area projections, which reflect needs for transport facilities in the various communities of the region, have been matched with the local service recommendations presented in the DOT Report to determine the relationship between potentially excess lines and projected growth in local population and economic activity. The analysis indicates that a large share of potentially excess track is found in areas having the highest projected growth in population and earnings up to 1980.

Many of these areas are those in which population is dense and there is substantial terminal track mileage, much of which may in fact be duplicative and thus subject to elimination with little impact upon individual rail service users. In addition, however, there are cases where all rail service available to communities with high growth rate potential is shown as potentially excess in the DOT Report.

The ability of local communities to deal with the rail service changes depends upon an assessment of each community's future growth potential. Some communities will be more capable of adjusting to changes in levels of rail service than others, and the use of rail service continuation subsidies should take this into account. The Office will include these considerations in the economic profile data base as part of its assistance to the states and local and regional transportation agencies.

COMPETITION AND COORDINATION

Competition

As reflected primarily in the anti-trust laws, the encouragement of effective competition is such a well established national objective that there appears to be no reason to discuss the underlying economic theories. It is sufficient to note that competition provides the optimal form of self-regulation, and serves as a spur to promote reasonable prices and responsible services

The conclusions of the DOT Report concerning the routes which should be served by one or more competing railroads have been considered earlier in this report. In our analysis of those conclusions, we addressed—and in some instances took issue with—the criteria which were developed by DOT to provide statistical standards for determining what rail operations might be expected to sustain competitive services and permit the competing carriers to turn a profit.

We think it is safe to assume that, by any criterion, the major markets in the region can sustain competing rail operations, provided that the facilities utilized by the competitive carriers are maintained to something approaching comparable standards. At the same time, there will no doubt be situations, even where traffic density is heavy, in which cost and other considerations will militate against the success of any attempt to promote or retain viable competitive services.

Our purpose here is not to attempt the establishment of a quantitative test for determining where competing rail services can be profitable, but to consider how different actions which the Association might take in developing the system plan could affect the ability of profitable carriers now competing for traffic in the region to remain viable, and in otherwise promoting and preserving competitive rail services.

Intramodal rail competition now exists for much of the traffic in the region. In large part it is provided by railroads which are not in reorganization competing among themselves or with the bankrupts. However, substantial areas exist in which service is provided only by railroads in reorganization. Much of Pennsylvania, New York, and southern New England is in this category, including the important transportation corridors between New York City and Buffalo and between Boston and Philadelphia.

At this stage in the planning process it is too early to know which of the bankrupt railroads will be directed by their reorganization courts to be reorganized under the Act. Thus, the rail properties that will become available to the Association for mandatory transfer to the Corporation can only be the subject of speculation.

Were all the bankrupt railroads to seek reorganization under the Act, the Association could direct that all of their properties be operated by the Corporation. The result would be a monolithic single-carrier system in a substantial portion of the region, and rail competition for traffic in that area would be eliminated. For traffic moving between the far Northeast and other portions of the region, there would still be possibilities for competition with the profitable railroads over portions of the total distance. However, the connecting railroads would have lost their independent access to major eastern markets and would be limited to interchange with the Corporation, which itself would be able to offer single-line service to and from many of the points on their lines.

As we interpret the Act, the Association has many options open to it in directing and recommending the transfer of rail properties within the region. The Act does not provide for the creation of two competing systems, but there appears to be no reason why the Association could not direct that certain rail properties be transferred to the Corporation upon the condition that they be reconveyed to another company to be operated independently. The opportunity for the Association to recommend transfer of properties of the bankrupt carriers to profitable railroads, and of profitable railroads' property to the Corporation, are specifically recognized in the Act.

The opportunity afforded by the Act is unique. It invites the development of solutions for the current railroad problem which are not constrained by historical patterns of ownership or even by the present fact of bankruptcy. The Association, in seeking the optimal solution, should be concerned not only with devising means for promoting and retaining competition, but also with assuring that the Final System Plan take into account the operations of the railroads which are not in reorganization. These carriers should not be deprived of an opportunity to compete effectively with the Corporation.

In developing the plan for restructuring rail services in the region, we recommend that the Association investigate and assess a number of alternatives. Without intending to imply this Office's specific endorsement of any one of them, several alternative approaches presented during the course of the hearings are broadly cataloged below:

One group of proposals centered around a splitting up the present Penn Central properties. They included the suggestion that the bankrupt properties be divided into eastern and western sectors, with the eastern sector having a monopoly of rail transportation in that area. It has been suggested that the viable lines of the western sector could be retained as a separate competitive system or as a segment of one of the profitable railroads, or that they could be divided for incorporation into more than one profitable railroad.

A second suggestion was a two-system Northeast with the division of Penn Central into its premerger component parts, or in some other manner, and assimilation of the viable parts by Chessie System and the Norfolk & Western.

A third approach called for development of a separate competitive system in the eastern sector, made up of the properties of the Lehigh Valley, Reading, Jersey Central, and Lehigh and Hudson River Railroads—a system operating in the East and connecting with the profitable lines in the western sector.

The foregoing suggestions are directed primarily toward the retention of competition on east-west routes. In our discussion in the preceding section, we mentioned a number of rail lines which could be combined to provide a competitive north-south route parallel to the Northeast passenger corridor. Another north-south route which we believe should be examined with care by the Association is the line of the Detroit, Toledo and Ironton Railroad, which is an effective competitor in the Detroit–Cincinnati market, but much of which is listed as potentially excess in the DOT Report.

Coordination

DOT proposed in the Report that rail facilities be operated on a coordinated basis both as a means of interjecting competitive services into particular markets, and as a means of improving capital productivity. We concur fully in that recommendation.

While some parties have pointed to the problems that would have to be faced in implementing any requirement that facilities be shared, we cannot accept the argument that such difficulties would be insurmountable. Joint use of facilities is a common practice today in the railroad industry, being seen for the most part in the granting of trackage rights. These agreements have been made purely voluntarily, and also to meet requirements imposed by the Commission as conditions to approving mergers and other transactions involving common control. It is worth noting that the Commission has long had the power, under section 1(15)(c) of the Interstate Commerce Act, to require joint use of terminals and mainline tracks for a reasonable distance beyond terminals, to meet emergency situations. Subject to proper regulatory control, there is no reason why such arrangements cannot be successful and mutually beneficial.

Joint use is not the only means of achieving coordinated rail service. Jointly-owned terminal and switching companies and even jointly-owned line-haul railroads, are common in the industry, and there may well be rail facilities which the Association should direct or recommend be jointly acquired by two or more carriers as part of the Final System Plan. Should it decide to follow this course, the Association should give consideration to establishing methods for assuring that all parties are treated fairly with respect to cost, and that the day-to-day operations are conducted on a completely impartial basis.

There now exist many agreements for joint operation and joint use of facilities between profitable railroads in the region and the railroads in reorganization. The Association should consider how best to make use of those agreements as properties of the bankrupt carriers are selected for inclusion in the Final System Plan.

ADDITIONAL CONSIDERATIONS

While the DOT Report addressed financial viability for the restructured rail system in the region, other factors must be considered by the Association in developing the Preliminary and Final System Plans.

The Department of Defense has highlighted the national security transportation requirements in the region. The transportation of fossil fuel resources must be addressed, as must the efficient use of scarce energy resources among the transportation modes. Concerns of the environmental effects of rail diversions to motor carriers were expressed by the Environmental Protection Agency, and must be dealt with, along with other environmental considerations. These are discussed in greater greater detail in this section.

NATIONAL SECURITY REQUIREMENTS

There are over 300 military installations in the region, some with unusual transportation requirements. The Department of Defense ships ammunition, explosives, and extremely heavy and large size items, many of which are difficult, if not impossible, to move other than by rail. Defense installations range from active facilities to bases which are inactive and currently have no rail transport requirements. However, external factors over which the Department of Defense has no control can change the situation drastically on short notice. Base reactivations with attending personnel and supply movements in an emergency may well tax even existing rail lines beyond their capacity. Any restructuring plan which does not take into account such emergencies could be detrimental to national security requirements.

The DOT Report did not include consideration of military requirements, with the result that lines indicated as potentially excess would preclude service to and from 20 installations if the lines were abandoned. Also several other installations met minimum traffic requirements for continued local service, but were not so indicated.

It is important that the Department of Defense prepare and maintain a comprehensive survey of its needs. Throughout planning for restructuring there must be a two-way flow of information between that Department and the Association.

Energy Resources

The Act specifies that "existing railroad trackage in areas in which fossil fuel natural resources are located" should be preserved. Nine states in the region have reserves of coal, or oil, or

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both. The DOT Report did not address this goal, but did acknowledge its existence.

Five zones (Numbers 75 and 78 in Pennsylvania, 194 in Virginia, and 195 and 197 in West Virginia) in major coal producing areas were not analyzed by DOT because of their complexity. The particular importance of the region's coal reserves and production makes it imperative that the restructuring process take them into account. The same goal prescribes that the Final System Plan be designed to provide that transportation modes be used "which require the smallest amount of scarce energy resources and which can most efficiently transport energy resources."

The planning process must evaluate locations and capacities of pipelines, waterways, railroads, and highways in the region, balancing available rail facilities against other modes to determine the intermodal mix and competitive structure that best meets these goals. Electrification of rail lines provides a potential for fuel conservation and could serve to enhance environmental quality. It should also be considered by the Association in developing the system plans.

Environment

While DOT does not pretend to consider all the goals specified for development of the Final System Plan, its approach appears incompatible with a concern for the environment. Adoption of the DOT methodology would cause large scale rail abandonments and most probably divert traffic to less energy-efficient modes. Because of the difference in capacity—carload vis-a-vis truckload—the number of trucks on the highways would have to increase significantly to handle this added traffic. A conservative estimate puts this traffic at 2 million truck loads if all the traffic originating on lines DOT labeled potentially excess were to move by truck. This possibility would cause problems for the states in meeting federal ambient air quality standards and would in some instances increase highway noise to unacceptable levels.

Use of a less energy-efficient mode would also cause greater use of scarce fuels, contrary to a national policy of fuel conservation, and possibly result in the need for extending or enlarging highways, affecting public land use. Battelle Institute has concluded in a well-known study that the transportation of goods and materials by rail results in substantially lower adverse environmental impacts. The bases for this finding are that exhaust emissions per net ton mile of freight moved are 3.76 for truck and 1.03 for railroad and that the railroads are more efficient users of land, occupying about 7 percent as much land as highway rights-of-way.

As a nation, we have become significantly more sensitive in recent years to the exploitation of our natural resources. Decisions which will most surely affect their use must be carefully scrutinized in terms of the overall impact on the level and quality of human life.

FUTURE DIRECTIONS

The Office's primary responsibility in the rail restructuring process is to assure that the Preliminary and Final System Plans prepared by the Association are responsive to the needs of the public. As we have detailed previously, the volume of public submissions greatly exceeded our most optimistic estimates and a major task has been organizing this material so that it is accessible.

As this report is issued, a major activity of the Office is the study and evaluation of the transcripts and exhibits from the public hearings and statements submitted independently. As these documents are analyzed and summarized, supplemental interim reports will be issued to the Association.

It is expected that the Office's communications with persons and states will increase. Contacts have been established throughout the region, and public hearings and less formal meetings are being scheduled during the summer months. The Office has become a focal point for public inquiries and comments. This is being encouraged, and Office personnel spend considerable time meeting with individuals and representatives of the public who are anxious to protect or promote their particular interests.

PROPOSED STUDIES

The Office will not depend entirely on what has been submitted, but will undertake independent studies in order that it may proceed on an informed basis to evaluate the extent to which the statutory goals might be achieved in any proposal. These studies and investigations will allow the Office to make independent evaluations of the elements of the Association's Preliminary and Final System Plans and to assist states and transportation authorities in determining the suitability of particular lines for subsidy.

On the latter point, the Office published on February 25, 1974, a notice of proposed rulemaking and order in Ex Parte No. 293 (Sub-No. 2), *Standards for Determining Rail Service Continuation Subsidies*. Public comments are due on or before May 3, and the Act calls for publication of the standards by July 1, 1974.

Areas the Office has under consideration for study include:

Existing and Future Rail Service Needs.—The demand for rail passenger and freight service in the region, in terms of traffic currently moving by rail and traffic which could move by rail, with projections of rail service demand to 1980.

Energy Consumption and Energy Access.—Relative fuel efficiencies of alternative transportation modes for various types of service (line-haul, pickup and delivery, and low density local service). Evaluation of energy-efficiencies of alternative modes and means of meeting transportation needs in energy producing areas.

Socio-Economic Impact.—Determination of extent of community reliance on rail service for local employment base, basic utility and emergency services, and economic development.

Environmental Considerations.—Evaluation of the air quality and noise effects of alternative transportation modes. Impact of alternative levels of rail service on community land use patterns.

Cost Analyses.—Determinations of the cost relationships of substituted motor carrier and rail services, and of the costs associated with the operations of branch lines and local service facilities.

Operational Feasibility.—Evaluation of alternative regional mainline networks in terms of operations, and economic comparisons of alternative networks. Assessments of capacity of yards and mainline routes. Determination of critical considerations in achieving coordinated service.

PUBLIC PARTICIPATION

Valuable sources of information for designing a rail system consonant with the goals set out in the Act are to be found at the local and state level. Every state in the region was represented at the public hearings, and several thoughtful state presentations have been received by the Office and passed on to the Association. The initiative for planning is with the states, many of which have already begun to compile necessary data and have issued initial studies. The Association is urged to use the talents and resources available at the state level for material on which to design the Preliminary and Final System Plans. In particular, every possible consideration should be given to the decisions of state and local governmental agencies and planning bodies which have developed rail transportation plans setting priorities for the retention of marginally profitable lines providing predominantly local service.

The Act is unique in many respects, one of which is the provision for public participation in the planning process. Contributions have come from a variety of sources, each emphasizing one or more of the statutory goals. Much of the information contained in these submissions will be useful in designing the restructured railroad plant. We are convinced that despite our best efforts to publicize the Act and its ramifications, there are still many who are unaware that a major restructuring of the region's rail network is underway.

Our evaluations, supported by the public sentiment, lead us to conclude that the many economic, environmental, and social goals specified by the Act can best be achieved through consideration of the broad range of local community needs and interests raised by state and regional transportation authorities and concerned individuals. We intend to continue our efforts to stimulate involvement by the public in the planning process. It is important that the Association assure the public that it is giving careful consideration to the hearing record and all submissions. For our part, the Office continues to stand ready to assist the public and the Association in accomplishing the considerable task set out in the Act.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10627 Filed 5-10-74;8:45 am]

[Notice 506]

ASSIGNMENT OF HEARINGS

MAY 7, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-115841 Sub 460, Colonial Refrigerated Transportation, Inc., now assigned June 13, 1974, at Columbus, Ohio is cancelled and the application is dismissed.

MC-111231 Sub 183, Jones Truck Lines, Inc., now assigned June 12, 1974, at Kansas City, Mo., is postponed indefinitely.

MC 128383 Sub 48, Pinto Trucking Service, Inc., now being assigned hearing June 3, 1974 (2 days), in Room 609, Federal Office Bldg., 911 Walnut St., Kansas City, Mo.

MC-C-8254, Hutt Transportation Co., and Cape Air Freight, Inc.,—Investigation of Operations and Revocation of Certificates, & MC-136724 Sub 1, Hutt Transportation Co., Common Carrier Application, now assigned June 3, 1974, will be held in Room 235 Federal Bldg., 85 Marconi Boulevard, Columbus, Ohio.

MC-113666 Sub 81, Freeport Transport, Inc., now assigned June 5, 1974, will be held in Room 235 Federal Bldg., Marconi Boulevard, Columbus, Ohio.

MC-127527 Sub 16, Carl W. Reagan, DBA Southeast Trucking Co., now assigned June 10, 1974, will be held in Room 235, Federal Bldg., 85 Marconi Boulevard, Columbus, Ohio.

MC-119777 Sub 277, Ligon Specialized Hauler, Inc., now assigned June 11, 1974, will be held in Room 235 Federal Bldg., 85 Marconi Boulevard, Columbus, Ohio.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10990 Filed 5-10-74;8:45 am]

[Notice 77]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 3, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75101. By order of May 7, 1974, the Motor Carrier Board approved the transfer to Muir Trucking Service, Inc., Ivanhoe, Calif., of the operating rights in Permit No. MC-126310 issued March 1, 1965 to L. E. Muir, doing business as L. E. Muir Trucking Service, Ivanhoe, Calif., authorizing the transportation of iron and steel pipe from water terminals in the San Francisco and Oakland, Calif. Commercial Zones to a plantsite at or near Hillmald, Calif. Ann M. Pougiales, 100 Bush St., San Francisco, Calif. 94104, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10969 Filed 5-10-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS

Property-Elimination of Gateway Letter Notices

MAY 8, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 23, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-730 (Sub-No. E1), filed May 1, 1974. Applicant: PACIFIC INTER-MOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil grease, paper, roofing, metal and clay products, and materials, equipment, and supplies* used or useful in the production and packing of *metal and clay products and building stone, structural steel, and heavy machinery and equipment*, between points in that part of West Virginia bounded by a line beginning at Kenova, W. Va., and extending along U.S. Highway 60 to Charleston, thence along U.S. Highway 119 to the West Virginia-Pennsylvania State line, thence along the West Virginia-Pennsylvania State line to U.S. Highway 30, thence along U.S. Highway 30 to West Virginia Highway 2, thence along West Virginia Highway 2 to West Virginia Secondary Highway 3, thence along West Virginia Secondary Highway 3 to West Virginia Highway 66, thence along West Virginia Highway 66 to U.S. Highway 30 to the West Virginia-Ohio State line, and thence along the West Virginia-Ohio State line to points of beginning, including points on the indicated portions of U.S. Highways 60 and 119, but not on the indicated portions of the other highways specified, and points in Ashtabula Lake, Geauga, Trumbull, Mahoning, Belmont, Wayne, Medina, Lorain, Ottawa, Lucas, Portage, Carroll, Jefferson, Harrison, Summit, Cuyahoga, Erie, Huron, Sandusky, and a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and acids* (except chemicals for human consumption, silicate of soda, petroleum products, liquid glue, and formaldehyde), in bulk, in tank vehicles from points in Washington and Oregon to points in Arizona. The purpose of this filing is to eliminate the gateway of points in California.

No. MC-730 (Sub-No. E2), filed May 1, 1974. Applicant: PACIFIC INTER-MOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, and *acids*, in bulk, in tank vehicles, from Henderson, Nev., to points in Texas. The purpose of this filing is to eliminate the gateway of points in Utah.

No. MC-730 (Sub-No. E3), filed May 1, 1974. Applicant: PACIFIC INTER-MOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, and *acids*, in bulk, in tank vehicles, from points in Texas to points in Nevada. The purpose of this filing is to eliminate the gateway of points in Utah.

No. MC-65941 (Sub-No. E8), filed April 21, 1974. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: George V. Thieroff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil grease, paper, roofing, metal and clay products, and materials, equipment, and supplies* used or useful in the production and packing of *metal and clay products and building stone, structural steel, and heavy machinery and equipment*, between points in that part of West Virginia bounded by a line beginning at Kenova, W. Va., and extending along U.S. Highway 60 to Charleston, thence along U.S. Highway 119 to the West Virginia-Pennsylvania State line, thence along the West Virginia-Pennsylvania State line to U.S. Highway 30, thence along U.S. Highway 30 to West Virginia Highway 2, thence along West Virginia Highway 2 to West Virginia Secondary Highway 3, thence along West Virginia Secondary Highway 3 to West Virginia Highway 66, thence along West Virginia Highway 66 to U.S. Highway 30 to the West Virginia-Ohio State line, and thence along the West Virginia-Ohio State line to points of beginning, including points on the indicated portions of U.S. Highways 60 and 119, but not on the indicated portions of the other highways specified, and points in Ashtabula Lake, Geauga, Trumbull, Mahoning, Belmont, Wayne, Medina, Lorain, Ottawa, Lucas, Portage, Carroll, Jefferson, Harrison, Summit, Cuyahoga, Erie, Huron, Sandusky, and

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Wood Counties, Ohio. The purpose of this filing is to eliminate the gateway of Dallas, W. Va., and points within 15 miles of Dallas.

No. MC–95540 (Sub-No. E27), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on and east of Florida Highway 85, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and Jackson, Tenn.

No. MC–95540 (Sub-No. E28), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Cerificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in New York. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E29), filed April 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on and east of U.S. Highway 231, to points in Kentucky. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E30), filed April 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Maryland. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E31), filed April 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd., N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Indiana. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E32), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Georgia 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on and east of a line beginning at the Alabama-Florida Boundary line, thence south along Florida Highway 197 to its junction with Florida Highway 197A, thence along Florida Highway 197A to Floridatown on Pensacola Bay, thence along Pensacola Bay to the Gulf of Mexico to points in Wyoming. The purpose of this filing is to eliminate the gateway of Tifton, Ga. and Jackson, Tenn.

No. MC–95540 (Sub-No. E45), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd., NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in North Carolina on and west of a line beginning at Corncake Inlet on the Atlantic Ocean, thence north along U.S. Highway 421 to Wilmington, N.C., thence along U.S. Highway 17 to junction with U.S. Highway 264, thence along U.S. Highway 264 to junction with North Carolina Highway 32, thence along North Carolina Highway to junction with U.S. Highway 64, thence along U.S. Highway 64 to junction with North Carolina Highway 32,. thence along North Carolina Highway 32 to junction with U.S. Highway 17, thence along U.S. Highway 17 to Elizabeth City, thence along North Carolina Highway 168 to the Virginia-North Carolina state line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E57), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212–5299 Roswell Rd. N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on and east of U.S. Highway 231, to points in Utah. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and points in Tennessee.

No. MC–95540 (Sub-No. E93), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California on and south of Interstate Highway 8, to points in New York. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E101), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Alabama. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E103), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Tifton, Ga. and Florence, Ala.

No. MC–95540 (Sub-No. E178), filed April 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen, canned preserved or prepared citrus products*, from points in Florida (except Jacksonville) to points in Massachusetts. The purpose of this filing is to eliminate the gateway of Bridgeton, N.J.

No. MC–95540 (Sub-No. E181), filed April 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Michigan. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E182), filed April 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salad dressing, canned tuna*, and *canned and preserved olives*, in vehicles equipped with mechanical refrigeration, from San Diego, California, to points in Maine. The purpose of this filing is to eliminate the gateway of the plantsite and warehouse sites of the Commercial Cold Storage, Inc., located at or near Doraville, Ga.

No. MC–100666 (Sub-No. E27), filed April 11, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber* from points in Texas (except Pineland and Silsbee and particleboard from Diboll) to points in Alabama. The purpose of this filing is to eliminate the gateways of Irving, Pineland, and Silsbee, Tex.

No. MC–112822 (Sub-No. E12), filed April 21, 1974. Applicant BRAY LINES INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine*, from the plantsites and storage facilities of Anderson, Clayton & Co., at Jacksonville, Ill., to points in Arizona, California, and New Mexico. The purpose of this filing is to eliminate the gateway of Carthage, Mo.

No. MC–112822 (Sub-No. E13), filed April 21, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from points in Montana, to points in Iowa, Missouri, and Tennessee. The purpose of this filing is to eliminate the gateway of points in Minnesota (except Minneapolis-St. Paul and points in the Minneapolis-St. Paul Commercial Zone as defined by the Commission).

No. MC–114019 (Sub-No. E5), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper, paper products* and *cartons*, from points in Wisconsin and Iowa, to Hartford City, Ind.; Fairfield and Middletown, Ohio; Sparrows Point and Baltimore, Md.; New York, N.Y., and points within 30 miles of New York, N.Y., points in that part of New Jersey, Delaware, and Maryland which are located within 30 miles of Philadelphia, Pa., points in that part of New York on and west of a line beginning at Windsor Beach, N.Y., and extending to Rochester, N.Y., thence along U.S. Highway 15 to Wayland, N.Y., thence along New York Highway 245 to Dansville, N.Y., thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to Andover, N.Y., and thence along New York Highway 17 to the New York-Pennsylvania State line, and points in West Virginia and Pennsylvania, restricted to the transportation of shipments moving from, to, or between warehouses, and wholesale, retail, or chain outlets of food business houses, or when moving from, to or between plants, or warehouses or other facilities of such food processing plants. The purpose of this filing is to eliminate the gateway of Chicago, Ill., Middletown, Ohio, and/or Hartford City, Ind.

No. MC–114019 (Sub-No. E6), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road., Chicago, IL 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Glassware, glass containers, covers, caps, accessories* for glass containers, and paper cartons, from Streator and Alton, Ill., to Sparrows Point and Baltimore, Md., New York, N.Y., and points within 30 miles of New York, N.Y., points in that part of New Jersey, Delaware, and Maryland, which are located within 30 miles of Philadelphia, Pa., points in that part of New York on and west of a line beginning at Windsor Beach, N.Y., and extending to Rochester, N.Y., thence along U.S. Highway 15 to Wayland, N.Y., thence along New York Highway 245 to Dansville, N.Y., thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to Andover, N.Y., and thence along New York Highway 17 to the New York-Pennsylvania State line, and points in West Virginia and Pennsylvania.

(b) *Glassware*, from Louisville and Newport, Ky., and Champaign and Springfield, Ill., to Sparrows Point and Baltimore, Md., New York, N.Y., and points within 30 miles of New York, N.Y., points in that part of New Jersey, Delaware, and Maryland, which are located within 30 miles of Philadelphia, Pa., points in that part of New York on and west of a line beginning at Windsor Beach, N.Y., and extending to Rochester, N.Y., thence along U.S. Highway 15 to Wayland, N.Y., thence along New York Highway 245 to Dansville, N.Y., thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to Andover, N.Y., and thence along New York Highway 17 to the New York-Pennsylvania State line, and points in West Virginia and Pennsylvania.

The authority described in (a) and (b) above, restricted to the transportation of shipments moving from, to, or between glassware manufacturing plants, or warehouses, plants, or other facilities of food packing and processing plants.

The purpose of this filing is to eliminate the gateway of points in Ohio within the territory bounded by a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 24 to Huntington, Ind., thence along U.S. Highway 224 to Van Wert, Ohio, thence along U.S. Highway 30 to Delphos, Ohio, thence along U.S. Highway 30N to Mansfield, Ohio, thence along U.S. Highway 30 to Massillon, Ohio, thence along U.S. Highway 21 to the Ohio-West Virginia State line, thence along the Ohio-West Virginia State line to the Ohio-Kentucky State line, thence along the Ohio-Kentucky State line to the Ohio-Indiana-Kentucky State lines, thence along the Indiana-Kentucky State line to the Kentucky-Indiana-Illinois State lines, thence along the Indiana-Illinois State line to the point of beginning, including points on the indicated portions of the highways specified.

No. MC–114019 (Sub-No. E7), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* and *accessories* therefor, from Muncie, Ind., to Sparrows Point and Balitmore, Md., New York, N.Y., and points with 30 miles of New York, N.Y., points within that part of New Jersey, Delaware, and Maryland, which are located within 30 miles of Philadelphia, Pa., and points in West Virginia and Pennsylvania, restricted to the transportation of shipments moving from, to, or between glassware manufacturing plants, or warehouses or other facilities of such plants, or when moving from, to, or between warehouses, plants, or other facilities of food packing and processing plants. The purpose of this filing is to eliminate the gateway of points in Ohio (including Cleveland, Columbus, and Middletown).

No. MC–114019 (Sub-No. E8), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, glass containers* and *accessories* therefor, and paper cartons used in the packing or shipping of glass containers, from Winchester, Ind., to points in Iowa, Minnesota, North

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Dakota, South Dakota, and Nebraska, restricted to the transportation of shipments moving from, to, or between glassware manufacturing plants, or warehouses or other facilities of food packing and processing plants. The purpose of this filing is to eliminate the gateway of Streator, Ill.

No. MC–117119 (Sub-No. E3), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Athens, Ala., and Bells, Humboldt, and Jackson, Tenn., to points in Colorado. The purpose of this filing is to eliminate the gateway of Springdale, Ark.

No. MC–117119 (Sub-No. E5), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except dairy products, and commodities in bulk, in tank vehicles) in vehicles equipped with mechanical refrigeration, from Athens, Ala., and Bells, Humboldt, and Jackson, Tenn., to points in Idaho, Montana, Utah and Wyoming. The purpose of this filing is to eliminate the gateway of Springdale, Ark.

No. MC–117119 (Sub-No. E7), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Athens, Ala., and Bells, Humboldt, and Jackson, Tenn., to points in Idaho, Wyoming, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway of California, Mo.

No. MC–124211 (Sub-No. E8), filed April 29, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebraska 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty cardboard and fiberboard boxes*, from points in Pennsylvania to Sioux City, Iowa and to points in Nebraska, California, and points in that part of Texas on and west of U.S. Highway 83 and on north of U.S. Highway 90. The purpose of this filing is to eliminate the gateway of the plant site and warehouse facilities of Dorsey Laboratories, division of Wander Co., in Lancaster County, Nebr.

No. MC–124211 (Sub-No. E37), filed April 29, 1974. Applicant: HILT TRUCK LINES, INC., P.O. Box 988 D.T.S., Omaha, Nebraska 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(a) *Canned goods* and *food products* (except frozen foodstuffs, commodities in bulk and meat, meat products and meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from Chicago, Ill., to points in Arizona, California, New Mexico, and Utah.

(b) *Canned goods*, (1) from points in Iowa, and points in that part of Illinois on and north of a line beginning at the Illinois-Indiana State line, thence over U.S. Highway 125 to Beardstown, Ill., thence over U.S. Highway 67 to junction of U.S. Highway 24, thence over U.S. Highway 24 to the Illinois-Missouri State line near Quincy, Ill., to points in Arizona, California, Nevada, New Mexico, and Utah; and (2) from points in Illinois south of a line beginning at the Illinois-Indiana State line, thence over U.S. Highway 36 to Springfield, Ill., thence over Illinois Highway 125 to Beardstown, Ill., thence over U.S. Highway 67 to junction of U.S. Highway 24, thence over U.S. Highway 24 to the Illinois-Missouri State line near Quincy, Ill., to points in California, Nevada, Utah, and points in that part of Arizona on, north and west of a line beginning at the Arizona-Nevada State line, thence over U.S. Highway 160 to junction U.S. Highway 89, thence south over U.S. Highway 89 to Flagstaff, Ariz., thence over Interstate Highway 17 and Arizona Highway 79 to Phoenix, Ariz., thence west over U.S. Highway 80 to the Arizona-California State line near Yuma, Ariz. The purpose of this filing in (a) and (b) above is to eliminate the gateway of Grand Island, Nebr.

No. MC–128383 (Sub-No. E26), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Greater Buffalo International Airport, Erie County, N.Y., and Washington National Airport, Gravelly Point, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Jamestown Municipal Airport, Chautauqua County, N.Y.

No. MC–128383 (Sub-No. E27), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Greater Buffalo International Airport, Erie County, N.Y., and La Guardia Airport, New York, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E30), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Washington National Airport, Gravelly Point, Va., and Clarence E. Hancock Airport, Onondaga County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E31), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Rochester–Monroe County Airport, Monroe County, N.Y., and Dulles International Airport, Fairfax and Loudoun Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E38), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Bradley International Airport, Hartford County, Conn., and Dulles International Airport, Fairfax and Loudon Counties, Va., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven, Conn.

No. MC–128383 (Sub-No. E52), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between John F. Kennedy International Airport, New York, N.Y., and Logan International Airport, Boston, Mass., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E53), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Philadelphia International Airport, Philadelphia, Pa., and Logan International Airport, Boston, Mass., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–10991 Filed 5–10–74;8:45 am]

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federal register

MONDAY, MAY 13, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 93

PART II



DEPARTMENT OF LABOR

Office of the Secretary

■

SPECIAL FEDERAL PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1974 Summer Program for Economically Disadvantaged Youth

No. 93—Pt. II——1

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Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—1974 Summer Program for Economically Disadvantaged Youth

Pursuant to section 602(a) of the Comprehensive Employment and Training Act of 1973 (Public Law 93–203, 87 Stat. 839), which authorizes the Secretary of Labor to prescribe such rules, regulations, guidelines and other published interpretations as he deems necessary to carry out the provisions of this Act, the following regulations are promulgated to facilitate the implementation at the earliest possible date of the 1974 summer program for economically disadvantaged youth, funded under Title III, section 304(a), of the Act.

These regulations shall become effective June 12, 1974.

As these regulations relate to public property, loans, benefits or contracts, they have been excepted from the application of the notice and comments provisions of the Administrative Procedure Act, 5 U.S.C. 553(a)(2). The policy of the Department of Labor as stated in 29 CFR 2.7 is not to use this exception as a basis for not giving opportunity for notice and comment. In this case, in order to effect promptly the purposes of a summer program during 1974 under the Comprehensive Employment and Training Act, it is contrary to the public interest to delay the issuance of these regulations to the extent necessary for the preparation, receipt and evaluation of the comments. Accordingly, they are not issued for comments prior to publication in their final form.

Nevertheless, although these regulations are being published in final form and are made effective June 12, 1974, it is the policy of the Department of Labor to solicit and consider comments on its regulations. Accordingly, comments will be received, just as though this document were a proposal, until June 30, 1974, after which the comments received will be evaluated and, if warranted, the regulations will be appropriately amended. Meanwhile, however, in the interest of expediting the program, these regulations shall remain in force until amended.

Interested persons are invited to submit comments, data or arguments to: Assistant Secretary for Manpower, United States Department of Labor, 6th and D Streets, N.W., Washington, D.C. 20213. Attention: Pierce A. Quinlan, Associate Manpower Administrator for the Office of Manpower Development Programs.

The new Part 97, Subpart A, which shall become effective June 12, 1974, reads as follows:

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97.1 Scope and purpose.
97.2 Definitions.
97.3 Allocation of funds.
97.4 Eligibility for funds.
97.5 Notification of intent.
97.6 Application for grants; standards for reviewing grant applications.
97.7 Application approval and disapproval.
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AUTHORITY: Pub. L. 93–203, Sec. 602(a), 87 Stat. 839, unless otherwise noted.

§ 97.1 Scope and purpose.

(a) This Subpart A contains the policies, rules, and regulations of the Department in implementing and administering the 1974 summer programs for economically disadvantaged youth funded under Title III, section 304(a), of the Comprehensive Employment and Training Act (hereinafter referred to as the Act).

(b) Programs funded under this Subpart A shall be designed by summer sponsors, defined in § 97.4, to provide summer employment and other activities and services authorized under Title I of the Act.

(c) Subpart A should be read in conjunction with Parts 94 through 98 of this subtitle. These parts, in total, comprise the regulations promulgated by the Secretary pursuant to the authority in the Act. The provisions of Part 95, however, only apply to this Subpart A as indicated in specific sections of those regulations. The administrative provisions of Part 98 shall apply to this Subpart A.

§ 97.2 Definitions.

Definitions for abbreviations and major terms used in this Subpart A may be found in Part 94 of this title. In addition:

(a) The term "EEA" means the Emergency Employment Act of 1971, as amended;

(b) The term "EOA" means the Economic Opportunity Act of 1964, as amended; and

(c) The term "Indian or native American organization" includes Indian tribes, bands, and groups, and native American groups.

§ 97.3 Allocation of funds.

(a) The funds available under this Subpart A shall be allocated to summer sponsors, defined in § 97.4, based upon the criteria set forth in paragraphs (b), (c), and (d) of this section.

(b) Allocations of funds available for summer sponsors who are prospective or actual prime sponsors under Title I of the Act shall be based on the following formula:

(1) Fifty percent of such funds shall be allocated so that each sponsor receives the same percentage of the 1974 summer funds available under this Subpart A, as it received as a percentage of the funds available for the EOA and EEA summer program in 1973;

(2) Thirty-seven and one-half percent of the funds shall be allocated based on the ratio of the number of unemployed persons in the sponsor's area in 1973 to the total number of unemployed persons in the United States in that year; and

(3) Twelve and one-half percent of the funds shall be allocated based on the ratio of the number of adults in low income families in the summer sponsor's area in 1969 to the total number of adults in low income families in the United States for that year; and

(4) No prime sponsor area shall be allocated less than 90 percent of the funds allocated to the area under the EOA and EEA summer program of 1973.

(c) (1) The total allocation to Indian and native American sponsors of programs funded under this Subpart shall be equal to the same percentage of the funds available for Indian and native American sponsors under the EOA and EEA summer program in 1973.

(2) The allocation to each eligible Indian or native American organization shall be based upon the amount of funds each Indian or native American organization received under the EOA and EEA summer program in 1973. Specifically, each Indian or native American organization shall receive the same percentage of the funds available for each organization under this Subpart A as it received as a percentage of the funds available for all Indian and native American organizations under EOA and EEA summer programs in 1973.

(d) The allocation of funds to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be based upon the criteria set forth in paragraph (c) of this section.

§ 97.4 Eligibility for funds.

Funds under this Subpart A shall be allocated by the Secretary to summer sponsors who may be:

(a) Prospective or actual prime sponsors under Title I of the Act; or

(b) Indian tribes, bands, groups, or other Indian organizations and native American organizations which received funds under the EOA and EEA summer program in 1973.

§ 97.5 Notification of intent.

An eligible summer sponsor desiring financial assistance for a program under this Subpart A shall, for the purpose of providing its notification of intent submit to the appropriate ARDM (A listing of the ARDM's and the States within each Region is contained in the FEDERAL REGISTER, Volume 39, No. 16, Part IV of January 23, 1974), the Preapplication for Federal Assistance Part I, prescribed by OMB Circular A–102. To facilitate the earliest implementation of the summer youth program, an eligible summer sponsor should file a Preapplication for Federal Assistance not later than May 31, 1974; however, a Preapplication for Federal Assistance shall not be submitted any later than June 12, 1974, unless the ARDM, for good cause, permits an extension of time.

§ 97.6 Application for grants and standards for reviewing grant applications.

(a) A program shall be undertaken under this Subpart A, upon execution of an agreement between a summer sponsor and the ARDM. Upon receipt of a Preapplication for Federal Assistance, the ARDM shall send a grant application package to each eligible summer sponsor. The grant application shall be submitted to the ARDM not later than June 15, 1974, unless the ARDM, for good cause, permits an extension of time.

(b) Each grant application shall be reviewed by the appropriate ARDM using the standards described in § 95.17 of this subtitle.

§ 97.7 Application approval and disapproval.

Each grant application shall be approved or disapproved under the provisions and conditions described in § 95.18 of this subtitle.

§ 97.8 Use of alternative sponsors and services by the Secretary.

If a grant application is not filed, or is denied, or terminated, the Secretary may make provision for the use of an alternative sponsor, or provide services himself, as described in § 95.20 of this subtitle.

§ 97.9 Content and description of grant application.

(a) The content of an application for programs funded under this Subpart A shall be identical to the content of an application for Title I programs, as set forth in § 95.14(b) of this subtitle, except that:

(1) The Program Narrative Description for programs under this Subpart A shall be in accordance with the requirements of paragraph (b) of this section, rather than in accordance with the requirements of § 95.14(b)(2)(i) of this subtitle.

(2) The Program Transition Schedule, set forth in § 95.14(b)(2)(ii) of this subtitle shall be deleted; and

(3) The Public Service Employment Occupational Summary shall be prepared as provided in paragraph (c) of this section, rather than as set forth in § 95.14(b)(2)(iv) of this subtitle.

(b) The Program Narrative Description shall consist of:

(1) A policy statement on the purpose of the program funded under this Subpart A;

(2) A statement of the goals to be accomplished;

(3) A description of the number and characteristics of the participants to be served by (i) sex and (ii) age: 14 to 15, 16 to 17, 18 to 22;

(4) A description of each program activity and service;

(5) A description of the methods to be used to recruit, select, and determine the eligibility of participants;

(6) A description of the geographical area to be served; and

(7) The Public Service Employment Program description, as applicable, and described in § 95.14(b)(2)(i)(F) of this subtitle.

(c) The Public Service Employment Occupational Summary forms shall be submitted separately for on-the-job training, for work experience, and for public service employment, as appropriate, and shall be prepared as described in § 95.14(b)(2)(iv) of this subtitle except that for on-the-job training and for work experience activities the comparison of wages shall not be included.

§ 97.10 Modification of the grant agreement; modification of the program plan.

(a) A summer sponsor desiring a modification to an existing grant agreement shall follow the procedure described in § 95.21 of this subtitle.

(b) A summer sponsor desiring a major modification as defined in § 95.22(b) of this subtitle shall submit a revised project operating plan and a narrative explanation of the proposed changes to the ARDM. The ARDM shall notify the sponsor of final approval or tentative disapproval within 10 days of receipt of the proposed modification. An appeal of such determination may be obtained through the procedures set out in Part 98 of this subtitle.

(c) A summer sponsor shall follow the procedure described in § 95.22(c) of this subtitle in making a minor modification to programs funded under this Subpart A. However, a sponsor shall show such modifications on the end of summer progress report.

(d) An ARDM may require a modification as described in § 95.22(d) of this subtitle.

§ 97.11 Basic responsibilities of sponsors.

A sponsor of a program funded under this Subpart A shall be responsible for the compliances and provisions described in § 95.31 of this subtitle.

§ 97.12 Eligibility for participation.

Each participant in a program funded under this Subpart A shall be at time of enrollment:

(a) Economically disadvantaged, as defined in § 94.4; and

(b) A youth, 14 years of age through 22 years of age.

§ 97.13 Types of manpower services available in the summer program for economically disadvantaged youth.

(a) A program funded under this Subpart A may include any activity or service specified in § 95.33 of this subtitle.

(b) The requirements for Work Experience activities, as described in § 95.33(d)(3)(ii) of this subtitle, are amended for programs funded under this Subpart A to read as provided in paragraph (c) of this section.

(c) *Work experience.* This program activity is to be designed to enhance the future employability of youth or to increase the potential of youth in obtaining a planned occupational goal.

(1) Work Experience activities for youth include part-time work for students attending school; short-term employment for out-of-school youth adjusting to a work setting and in transition from school to a job setting; short-term employment for recent graduates; and short-term or part-time employment for veterans, institutional residents and inmates under special work release agreements. In addition, it may include short-term employment while a training or job opportunity is being developed. Work Experience activities in the private for-profit sector shall be prohibited.

(2) Program outcomes for work experience participants include (i) return to school; (ii) enrollment in post secondary education; (iii) enlistment in the military services; (iv) enrollment in a manpower training activity; and (v) placement in subsidized or unsubsidized employment.

§ 97.14 Participant benefits.

(a) Participants in classroom training in programs funded under this Subpart A shall receive allowances and other benefits as described in § 95.33(d)(1)(iii) of this subtitle.

(b) Participants in on-the-job training in programs funded under this Subpart A shall receive wages and other benefits as described in § 95.33(d)(2)(iv) of this subtitle.

(c) Participants in transitional public service employment activities in programs funded under this Subpart A shall receive wages and benefits as described in § 95.33(d)(3)(iii) of this subtitle.

(d) Each participant in a work experience activity shall receive wages at a rate of pay commensurate with such factors as the types of work performed, the geographical region of the program, and the skill proficiency of the participant, provided that no participant's hourly rate of pay shall be less of whichever is the highest of the minimum wage prescribed for similar employment by State or local law or an hourly wage of $2.00 an hour. However, wages in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands shall be consistent with applicable provisions of the Fair Labor Standards Act of 1938, as amended.

(e) Participants in work experience activities shall be provided workmen's compensation and, as appropriate, other manpower services.

(f) Participants in work experience activities at Federal worksites shall be

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provided coverage by the Federal Employees Compensation Act.

§ 97.15 Sponsor review.

Each sponsor of a program funded under this Subpart A shall establish a procedure as described in § 95.37 of this subtitle for resolving any issue arising between it and a participant in a program funded under this Subpart A.

§ 97.16 Non-Federal status for participants.

Participants in a program funded under this Subpart A shall not be deemed Federal employees as provided for in § 95.38 of this subtitle.

§ 97.17 Worksite standards; safety and health requirements for participants.

(a) The placement of participants on a Federal worksite for work experience activities does not constitute Federal employment, except for purposes of the Federal Employees Compensation Act and the Federal Tort Claims Act.

(b) No participant under 18 years of age will be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see subpart E of Part 570, of this title).

(c) Participants who are 14 and 15 years of age will participate only in accordance with the limitations imposed by Sections 31–35 of Subpart C of Part 570, of this title.

(d) Participants shall be provided safe and healthful working conditions as described by the provisions of § 95.38 of this subtitle.

(e) No participant shall be compensated for more than 40 hours per week.

§ 97.18 Training for lower wage industries and relocation of industries.

No participant may be enrolled in any activity or service provided by a program funded under this Subpart A in any lower wage industry job as described by the provisions of § 95.40 of this subtitle.

§ 97.19 Sponsor contracts and subgrants.

A sponsor of a program funded under this Subpart A may enter into contracts or subgrants under the provisions described in § 95.41 of this subtitle.

§ 97.20 Cooperative relationships between sponsors and other manpower agencies.

Each sponsor shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies as described in § 95.42 of this subtitle.

§ 97.21 Reporting requirements.

(a) Each summer sponsor shall submit two reports to the ARDM: an End-of-Summer Progress Report, and a Summary of Client Characteristics Report.

(b) The End-of-Summer Progress Report (The Quarterly Progress Report Form generally used by a sponsor of a comprehensive manpower program, but labelled by the project sponsor as End-of-Summer Progress Report) will be used to summarize the accomplishments of the program. It constitutes the summer sponsor's statement of accomplishments and costs incurred and contains a certification of the correctness of the items reported. The End-of-Summer Report will be submitted not later than 30 days after the termination of the program, but in no case later than October 15, 1974.

(c) The Summary of Client Characteristics Report shall contain aggregate characteristics data on all participants in programs funded under this Subpart A. (This report is the Quarterly Summary of Client Characteristics Report regularly submitted by a sponsor of a Title I funded program, but labelled specifically for the Summer Program for Economically Disadvantaged Youth.) The summary is to be submitted to the ARDM with the End-of-Summer Progress Report appropriately marked, "Summer Program for Economically Disadvantaged Youth." The information for age characteristics on line 04 of the Summary of Client Characteristics Report shall be broken out on the back of the report by the following age groups:

(1) 14–15 years;
(2) 16–17 years; and
(3) 18–21 years.

§ 97.22 Terminal date for 1974 summer program.

No program under this Subpart A shall continue beyond October 1, 1974.

Signed at Washington, D.C., this 7th day of May, 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74–10891 Filed 5–10–74;8:45 am]

federal register

MONDAY, MAY 13, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 93

PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Low Rent Public Housing

■

SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

No. 93—Pt. III——1

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Title 24—Housing and Urban Development

CHAPTER VIII—LOW RENT PUBLIC HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-74-247]

PART 1274—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Notice was given on January 22, 1974 at 39 FR 2550 that the Department of Housing and Urban Development was proposing to amend Title 24 of the Code of Federal Regulations by adding a new Part 1274 to Chapter VIII.

The purpose of Part 1274 is to set forth the essential elements of the Section 23 Housing Assistance Payments Program—Existing Housing including, among other things, the roles and responsibilities of the Department, the local housing authority (LHA), the owner, and the eligible low-income family; the steps in applying for the Section 23 Existing Housing Program; the basis for determining the amount of housing assistance payments; and the prescribed form of contracts and other documents.

The Department has received more than 170 responses to the January 22, 1974 publication. All of these comments were seriously considered and many changes have been incorporated in these regulations as a result. The principal changes are set forth below.

The subject of the greatest number of comments was the priority to be given to applications limiting assistance to 20 percent of the units in a multifamily structure or complex. Accordingly, the changes with respect to this subject are discussed first. The remaining principal changes are discussed generally in the order in which they appear in the regulations.

1. § 1274.103(k)(2), which sets forth the priority for LHA applications limiting assistance to 20 percent of the units in a single multifamily structure or complex of five or more units has been modified so that applications for programs (a) solely for the elderly, or handicapped or (b) of 25 or fewer units shall be considered without regard to the priority. Also, the procedures relating to the application of the 20 percent priority in the selection of applications have been set forth in a new § 1274.203(b).

2. The revised regulations now provide, pursuant to a new § 1274.103(b)(2) and a new section 1.3(c) of Part I of the Annual Contributions Contract (ACC), Appendix IV, for the establishment of an account to which may be credited amounts determined by HUD to be necessary to assure that the low-rent character of the project will be maintained. Amounts may be paid out of this account, as approved by HUD, during the term of the ACC for increases reflected in the annual estimates of required annual contributions as approved by HUD.

3. The provisions permitting the continuation of housing assistance payments with respect to a unit vacated by an eligible family in violation of its lease, § 1274.103(c) and section 1.2(b) of the Housing Assistance Payments Contract (Contract), Appendix IX, have been modified to require that the owner, in order to receive such payments must, among other things, take all feasible action to fill the vacancy immediately upon learning of it.

4. § 1274.103(g) respecting responsibilities of the owner, has been modified so that an owner may contract with the LHA for the management, maintenance or operation of units leased or to be leased by eligible families, for a prescribed fee provided that: (1) it is determined by the HUD field office director that such services are not otherwise available in the locality and (2) such contract shall not shift to the LHA any of the owner's responsibilities or obligations.

5. Section 1274.103(h), respecting the responsibilities of the LHA, has been modified to require (rather than merely permit) the LHA to provide advice and guidance to eligible families in finding suitable housing, including families experiencing discrimination. The modified provision requires that such advice and guidance be provided in a manner affirmatively to further the policies of the applicable Civil Rights legislation and Executive Orders.

6. The procedures with respect to the payment by the LHA of security deposits on behalf of eligible families, as set forth in § 1274.103(j), have been clarified and a prescribed form of Security Deposit Agreement, Appendix XI, has been provided which sets forth, among other things, the terms of and procedures for repayment to the LHA.

7. The provisions respecting relocation have been modified so that, pursuant to § 1274.103(l) and Section 1.7b of the Contract, the owner of a unit occupied by other than the eligible family will not be required to undertake liability for and provide for the funding of all relocation costs if other commitments, satisfactory to HUD, have been made for the funding of such costs.

8. Pursuant to § 1274.104 and Part I of the ACC, as modified, in the event an LHA, which has an ACC for existing units under these regulations, is approved for additional units, such additional units will be incorporated into a revised Part I of the ACC. This revised Part I will cover the LHA's entire existing housing program under these regulations and will be for a term of four years from the new date of execution.

9. A new § 1272.105 and a new § 1.7 of Part I of the ACC have been added which set forth the procedures for the submission by the LHA to HUD of the prescribed forms of (1) an Initial Estimate of Required Annual Contributions (Preliminary Costs), and (2) Annual Estimates of Required Annual Contributions. These forms cover the estimated amounts for the costs of non-expendable equipment, administration, security and utility deposits and housing assistance payments.

10. A new § 1274.201(b) has been added to provide for a preapplication conference between the LHA and HUD so that HUD may assist the LHA in the preparation of its application.

11. § 1274.204(b), which sets forth the requirements relating to the expeditious leasing of units under the program, has been modified so that the failure of the LHA to demonstrate a good faith effort to adhere to it leasing schedule will be considered a basis for reduction of units by HUD.

12. The procedures for certification of family eligibility and LHA approval of leases and units have been clarified in new §§ 1274.205 (e), (f) and (g) and in a new form of Certificate of Family Participation and Lease Approval, Appendix V. The new three-part form includes: Part I, Certificate of Family Participation, which replaces the Certificate of Family Eligibility and revises, among other things, the effective period of the Certificate to 60 days from the date of issuance; Part II, Request for Lease Approval, which replaces the Owner's Offer to Lease Dwelling Unit and which is signed by the family and the owner; and Part III, the Authority Determination, in which the LHA indicates whether the proposed lease and unit are approved or disapproved and, if disapproved, whether the owner and the family may resubmit the Request to the LHA after the specified defects are corrected.

13. In accordance with the requirements of the Lead Based Paint Poisoning Prevention Act (as amended), 42 U.S.C. 4801, a new § 1274.205(e)(4)(iii) requires that each participating low-income family be given, at the time it is given its Certificate of Family Participation and Lease Approval form, information concerning the hazards of lead based paint poisoning.

14. The provisions regarding LHA inspection of units have been clarified so that: (1) pursuant to § 1274.205(g)(3), the LHA must maintain an inspection report for each inspection or reinspection of each unit prior to lease approval and (2) pursuant to § 1274.206, the LHA must inspect units under lease whenever the LHA has information, as a result of family complaints or otherwise, to the effect that the unit is not being maintained in accordance with the Contract. These inspections are required in addition to the periodic inspections.

15. The provisions respecting the contents of the owner-family lease have been modified so that pursuant to a new § 1274.205(g)(5)(iii), certain specified types of lease clauses are prohibited and pursuant to Section 1.6 of the Contract and a revised form of Lease Provision Required for Participation in the Housing Assistance Payments Program, Appendix VI: (1) certain required lease provisions have been modified or deleted in the interest of simplification and clarity and (2) the lease must specify all services and maintenance to be provided by the owner. The latter must include the items contained in the Guide for Lease Provisions for Maintenance and Security Services form, Attachment to Appendix VI, except where modifications are approved by the LHA for items which are not customarily supplied to tenants of this type of housing in the locality.

16. A new § 1274.205(g)(1) provides that LHAs shall not approve owners or managers who are listed as being disapproved for participation in HUD programs.

17. § 1274.205(1) and sections 1.5 and 1.6 (required lease provisions) of the Contract which relate to eviction, have been modified so that: (1) The owner may not evict the family unless the owner complies with the requirements of local law, the lease and the Contract eviction provision; (2) the owner must notify the family (copy to LHA) of the proposed eviction, stating the grounds and advising the family that it has 10 days (from receipt of notice) to respond to the owner and/or present objections to the LHA (in writing or in person); (3) the LHA shall authorize the eviction unless the grounds are insufficient under the lease; and (4) the LHA shall notify the owner and the family of its determination within 20 days of the date notice is received by the family.

18. A new § 1274.207 provides for HUD review of LHA operations when 30 percent of the units under Part I of the ACC have been leased.

19. The Housing Assistance Payments Contract has been simplified, modified and reorganized so that, among other things: (1) the Contract is divided into two parts; (2) the Contract will terminate pursuant to a revised Section 1.4, upon expiration or termination of the lease; and (3) LHA determinations concerning default by the owner (§ 2.5) and assignments of the Contract (§ 2.10) no longer require HUD approval.

20. The requirements and procedures respecting Equal Opportunity have been clarified and strengthened so that, among other things: (1) The responsibilities of the LHA with respect to its HUD-approved Affirmative Fair Housing Marketing Plan have been clarified in a new § 1274.205(d); (2) the LHA is required to advise minority families that they are free to seek housing in nonminority areas pursuant to a new § 1274.205(f)(1); and (3) the owner and the LHA are required to cooperate in compliance reviews and complaint investigations undertaken by the Government pursuant to Section 2.11 of the ACC and Section 2.2 of the Contract.

21. The numbering scheme of the regulations has been modified slightly in order to conform, to the extent possible, referencing in these regulations to that utilized in the corresponding HUD Section 23 Existing Housing Handbook. Under the revised numbering, the initial section in Subpart A is designated § 1272.101. and the initial section in Subpart B is designated as 1274.201. These references correspond to Handbook paragraphs 1-1 and 2-1, respectively.

The Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner has determined that the public interest would best be served by making these regulations effective immediately to avoid unnecessary delay in its implementation. Therefore, the Assistant Secretary finds that good cause exists for making these regulations effective on May 13, 1974.

Accordingly, Title 24 is amended as follows:

A new Part 1274, entitled "Section 23 Housing Assistance Payments Program—Existing Housing," is added to Chapter VIII to read as set forth hereinafter.

Subpart A—Applicability, Scope, and Basic Policies

Sec.

1274.101 Applicability and scope.
1274.102 Definitions.
1274.103 Basic policies.
1274.104 Separate project requirements.
1274.105 Submission of estimates of required annual contributions.

Subpart B—Project Development and Operation

1274.201 Preapplication.
1274.202 LHA submission of application.
1274.203 HUD review and approval of application.
1274.204 Annual contributions contract (ACC).
1274.205 Leasing from owners.
1274.206 Periodic inspection.
1274.207 HUD review of LHA program activities.
1274.208 LHA reporting requirements. [Reserved]

Appendices

[Appendices I, II, III, VII, VIII and X, which relate to internal HUD processing procedures, are not included herein, but do appear in the HUD Existing Housing Handbook]
IV. Annual Contributions Contract
V. Certificate of Family Eligibility and Lease Approval
VI. Lease Provisions Required for Participation in the Housing Assistance Payments Program
Attachment: Guide for Lease Provisions for Maintenance and Security Services—Existing Housing
IX. Housing Assistance Payments Contract
XI. Security Deposit Agreement

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 10(b) of the U. S. Housing Act of 1937 (42 U.S.C. 1410(b)); sec. 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1421(b)).

Subpart A—Applicability, Scope, and Basic Policies

§ 1274.101 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of housing assistance payments on behalf of eligible low-income families leasing privately owned, existing, decent, safe, and sanitary housing pursuant to the provisions of section 23 of the U.S. Housing Act of 1937.

(b) For purposes of this part, "existing housing" means housing whose original construction and/or rehabilitation was completed without the execution of any contract between a Local Housing Authority (LHA) and an owner for the subsequent leasing or the making of housing assistance payments for occupancy by eligible low-income families. "Existing housing" may include housing which requires minor repairs, improvements or rehabilitation to put it into decent, safe, and sanitary condition, provided that such work is performed prior to the execution of a Housing Assistance Payments Contract and without execution of any contract as described above.

(c) The policies and procedures contained herein shall apply to all section 23 projects for existing housing placed under Annual Contributions Contract after the effective date of this Part. With respect to projects placed under Annual Contributions Contracts prior to the effective date of this part, these policies and procedures may be applied if the LHA and owners of units under lease agree to do so.

(d) This part (1) covers policies and procedures relating to the roles and responsibilities of HUD, the LHA, and the owner and the application and leasing processes and (2) contains contracts, leases, and other documents.

§ 1274.102 Definitions.

(a) *Decent, safe, and sanitary housing.* For the purposes of this program, housing is considered to be decent, safe, and sanitary if a certificate of occupancy or other similar certification, if required by law, has been issued by the authorized governmental official, and if the following minimum standards are met:

(1) The housing has been determined by the LHA to be decent, safe, and sanitary within the meaning of the U.S. Housing Act based upon all pertinent factors, including, but not limited to, the following:

(i) The condition of the exterior and interior of the structure and the housing unit;

(ii) Adequacy and operating condition of sanitary facilities, which must be private, and adequacy of solid and liquid waste disposal facilities;

(iii) Adequacy and operating condition of kitchen facilities, which must (a) contain a range and refrigerator (except in localities where it is normal practice that tenants provide these items), a sink, space for storage of food and for storage of utensils and dishes, and (b) be private except where authorized as congregate housing meeting HUD requirements for such housing;

(iv) Adequacy and operating condition of heating, lighting and ventilating equipment and/or facilities;

(v) Size, number of rooms, and furnishability to accommodate adequately the size and type of family to be housed.

(2) The owner shall provide either (i) a certification from the authorized local government official or a qualified laboratory that exposed interior and exterior surfaces are free of lead based paint hazards, or (ii) a certification by the owner that those surfaces have been adequately treated or covered, all in accordance with

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the applicable HUD regulations issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801.

(3) The site shall not be subject to serious, adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank backups, sewage hazards, or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; rodent or vermin infestation; or fire hazards. The neighborhood shall not be seriously detrimental to family life, and substandard dwellings or other undesirable elements should not predominate unless there is actively in progress a concerted program to upgrade the neighborhood.

(b) *Fair market rent and gross rent.* Fair market rent is the gross rent (including utilities, ranges and refrigerators, and all maintenance and management services) for dwelling units of varying size (number of bedrooms), which, as determined at least annually by HUD, would be required to be paid in each housing market area in order to obtain privately owned, existing, decent, safe, and sanitary housing of modest (nonluxury) nature. Gross rent includes all utilities (except telephone) whether or not paid directly to the utility company by the family.

(c) *Gross family contribution.* The portion of the rent to owner payable by a family plus the utility allowance established by the LHA for any utilities (except telephone) payable directly by the family. In no event shall the gross family contribution exceed one-fourth of the family's adjusted income as defined by HUD.

(d) *Utility allowance.* An amount, determined by the LHA and approved by HUD as an allowance for the cost of tenant-purchased utilities, which is deducted from the fair market rent for purposes of determining the rent to owner and is included in the gross family contribution.

(e) *Annual contributions contract (ACC).* A written agreement between HUD and an LHA to provide annual contributions to the LHA for participation in the Housing Assistance Payments Program. (See Appendix IV.)

(f) *Housing assistance payments contract ("Contract").* A written Contract between an LHA and an owner for the purpose of providing housing assistance payments on behalf of eligible families. (See Appendix IX.)

(g) *Eligible families.* Those families determined by the LHA to meet the requirements for admission into housing assisted hereunder. Families shall not be eligible for housing assistance payments when the LHA determines that 25 percent of adjusted family income (as defined by HUD) equals or exceeds the gross rent for the unit leased. The ineligibility of such families for housing assistance payments shall not affect the family's other rights under its lease.

(h) *Certificate of family participation.* The certificate issued by an LHA to an applicant family declaring it to be eligible and stating the terms and conditions of such eligibility. (See Appendix V.)

(i) *Lease.* An LHA-approved written agreement between a private owner and an eligible family for the leasing of an existing, decent, safe, and sanitary dwelling unit. The lease shall contain the required provisions specified in the Contract.

§ 1274.103 Basic policies.

(a) *"Finders-keepers" policy.* Eligible families shall be responsible for finding decent, safe, and sanitary units on the private market so as to maximize choice. LHAs may provide assistance in finding units to those families who, for age, handicap, discrimination, or other reasons, are unable to locate suitable units. An LHA may provide housing assistance payments to an eligible family already leasing decent, safe, and sanitary housing, provided it has been issued a Certificate of Family Participation in accordance with the policies and procedures of the LHA and a completed Request for Lease Approval (Part II of Appendix V) has been submitted to the LHA.

(b) *Annual contributions.* (1) The maximum annual contribution that may be contracted for in the Annual Contributions Contract for a project shall be: (1) The total of the applicable fair market rents for all the units in the project plus (2) an allowance for the cost of administration. The allowance for the preliminary costs of administration and an amount for security and utility deposits (see § 1274.103(j)) shall be payable out of this total.

(2) A project account, which shall at no time exceed an amount equal to 10 percent of the maximum annual contribution, may be established and maintained out of amounts by which the maximum annual contributions for any years are not otherwise payable in such years. This account shall be established and maintained by the LHA or by HUD, as determined by HUD, as a specifically identified and segregated account, and payment shall be made therefrom, as approved by HUD, only for the following purposes:

(i) increases in housing assistance payments;

(ii) increases in the allowance for LHA administrative expenses;

(iii) increases in fund requirements for security and utility deposits; and

(iv) other expenditures specifically authorized or approved by the Secretary.

Any balance in this account after payment of the last annual contribution for the project shall be paid to HUD.

(c) *Housing assistance payments.* (1) The housing assistance payments will pay the owner the difference between the rent chargeable by the owner and that portion of said rent payable by the family.

(2) Housing assistance payments shall be paid to owners only for those units under lease by eligible families. If a family vacates its unit in violation of the provisions of its lease, the owner may continue to receive housing assistance payments with respect to such unit in accordance with the terms of the Contract, not beyond the term of the lease, but only if the owner (i) immediately upon learning of the vacancy, has taken all feasible action to fill it, including, but not limited to, contacting families on his waiting list, requesting the LHA to refer eligible families, and advertising the availability of the unit, (ii) has promptly (within 30 days of the date the family vacated the unit) notified the LHA of the vacancy and the reasons for the vacancy, and (iii) has not rejected, except for good cause acceptable to the LHA, any substitute family provided by the LHA.

(d) *Eligible agencies.* (1) All legally constituted LHAs created pursuant to State housing authorities laws are eligible to participate in this program. In addition, under the terms of the U.S. Housing Act, a "public housing agency" may include any State, county, municipality or other governmental entity or public body which is authorized by State law to engage in the development or administration of low-income housing or slum clearance and may, therefore, be eligible to participate in this program. The abbreviations "LHA" or "LHAs" as used herein include any governmental entity or public body as described in this paragraph.

(2) LHAs may, by agreement, cooperate with each other in carrying out their respective functions, and State laws typically provide that a locality which has no LHA can invite another LHA within the State to function within its borders.

(3) In addition to the few States that have created statewide LHAs many more have State departments or agencies authorized to administer housing and urban development legislation which qualifies them as public housing agencies under the U.S. Housing Act and authorizes them to carry out this function or to act through LHAs or other entities.

(e) *Local governing body approval.* HUD cannot approve an application for a Section 23 program unless the governing body of the locality in which the units are to be assisted has, by resolution, approved the application of the provisions of Section 23 to such locality. Once such a resolution has been enacted, it may satisfy this approval requirement for all subsequent Section 23 projects. The terms of the resolution as enacted must be examined by the LHA and HUD to determine whether it contains any restrictive language (e.g., limits the number of dwelling units or limits the program to locations which would have the effect of denying equal housing opportunities) which would require that a new resolution be passed to enable HUD to approve the proposed program.

(f) *Types of housing.* (1) Any type of existing housing which is in or may be put into decent, safe, and sanitary condition may be utilized. Such housing may include detached or semidetached dwellings, row-houses, mobile homes, or units in walk-up apartment buildings. Units in high-rise elevator buildings may not be used for families with children

unless HUD, in approving an LHA application, determines that there is no practical alternative. Congregate or single-room occupancy (SRO) housing may be used for occupancy by elderly, handicapped, or displaced families and individuals. (See the appropriate HUD requirements for guidelines and standards applicable to congregate and SRO housing.)

(2) Existing FHA insured, FmHA insured or direct loan, and VA guaranteed properties may also be utilized; however, the aggregate number of units in any Section 221(d)(3) below market interest rate (BMIR), Section 202, or Section 236 project that can be made available to families assisted through the rent supplement and/or Section 23 programs will be limited to 40 percent of the total unless written approval of HUD is obtained covering specific projects, on an exception basis, which involve: (i) the need to provide housing to persons displaced by urban renewal or other governmental action, or by natural events such as fire or flood, or (ii) vacancies of extended duration which are needed for immediate occupancy by the local authority. The housing assistance payment shall be the amount by which the rent paid by the eligible family is less than the basic or fully subsidized rent for the unit involved. In no event may a dwelling unit or the occupants thereof receive both rent supplement and Section 23 housing assistance.

(g) *Responsibilities of the owner.* The owner shall be responsible for the management, maintenance and operation of the dwelling unit. These responsibilities shall include, but not be limited to, the payment of utilities (unless paid directly by the family), insurance and taxes; performance of all ordinary and extraordinary maintenance; performance of all management functions including the selection of families (with the exception of determination and verification of eligibility for the particular dwelling unit involved, which shall be the function of the LHA); collection of rents; risk of loss from vacancies and nonpayment of rent by tenant families; preparation and furnishing of information required by the LHA under the Contract; and compliance with equal opportunity requirements. The LHA shall not provide management, maintenance or operation services except where it is determined by the HUD field office director that such services are not otherwise available in the locality. An owner may contract with the LHA for the management, maintenance, or operation of units leased or to be leased by eligible families under a contract, for a prescribed fee, provided that such contract shall not shift to the LHA any of the owner's responsibilities or obligations. Any such contract shall be approved by HUD.

(h) *Responsibilities of the LHA.* The LHA shall be responsible for review of applications submitted by families to determine eligibility for assistance; determination of amounts of housing assistance payments; issuance of Certificates of Family Participation to eligible families; prompt notification of families determined ineligible; approval of Requests for Lease Approval; execution of Housing Assistance Payments Contracts; making housing assistance payments on behalf of eligible families; reexamination of family eligibility as prescribed by HUD regulations; inspections prior to leasing and at least annually to determine that the units are maintained in decent, safe, and sanitary condition (failure to do so shall constitute a Substantial Default by the LHA under the Annual Contributions Contract); authorization of eviction; and compliance with equal opportunity requirements. The LHA shall provide advice and guidance to eligible families in finding suitable housing, including advice and guidance to families experiencing discrimination, in a manner affirmatively to further the policies of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11063.

(i) *Responsibilities of the family.* A family receiving housing assistance under this program shall be responsible for fulfilling all its obligations under both its lease with the owner and the Certificate of Family Participation issued to it by the LHA.

(j) *Security and utility deposits.* Generally, families shall be expected to obtain the funds to pay security deposits (not to exceed one month's total rent to owner) and/or utility deposits, if required, from their own and/or other private or public sources. In hardship cases where families are unable to obtain funds to pay the required amounts, the LHA may pay on behalf of the families the necessary deposits (except telephone). In order to be eligible for such assistance by an LHA, families shall be required to pay, as a first installment towards repayment of the funds advanced by the LHA an amount at least equal to the lesser of: one-twelfth of the total required security and/or utility deposits, or one month's gross family contribution (see § 1274.102(c)). The LHA will then pay the full amounts required to owners and/or utility companies. The amounts advanced by the LHA from its funds shall be recovered from the families by the LHA generally over a one-year period. Recovery shall be accomplished by adding to the family's monthly rent payment to owner an appropriate additional amount specified in the Security Deposit Agreement, shown as Appendix XI, which shall be remitted to the LHA with the owner's monthly request for housing assistance payments on the prescribed forms. Failure on the part of the family to pay such amounts shall not affect the amount of housing assistance payments otherwise payable. The amounts remitted to the LHA may be retained by the LHA in a separate fund, in accordance with appropriate HUD accounting procedures, for future payments of security and/or utility deposits as needed, or otherwise applied in accordance with those procedures.

(k) *Limitation on number of units in single structure.* (1) Section 23(c) of the U.S. Housing Act provides that no more than ten percent of the units in any single structure shall be assisted unless the LHA, because of the limited number of units in the structure or for any other reason, determines that such limit should not be applied. Where the LHA determines that the ten percent limitation should not be applied, a record of its determination shall be maintained in the LHA's permanent file, and the LHA shall notify HUD of its action.

(2) However, in approving applications for assistance HUD will give priority to those applications which would provide for housing assistance for 20 percent or less of the units in a single multifamily structure or complex of five or more dwelling units. However, applications for (i) programs solely for the elderly or handicapped or (ii) programs of 25 or fewer units shall be considered for approval without regard to such priority.

(l) *Relocation requirements.* No LHA shall approve a lease for any unit which is occupied unless (1) the occupant will continue to reside in the same unit under the LHA's Section 23 existing housing program or (2) the owner voluntarily undertakes liability for and provides for the funding of all relocation costs (see Section 1.7 of the Contract) or (3) other commitments, satisfactory to HUD, have been made for the funding of such costs.

(m) *Equal opportunity requirements.* Participation in the Section 23 Housing Assistance Payments Program—Existing Housing requires compliance by all participants with (1) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11063, and (2) all rules, regulations, and requirements issued pursuant thereto.

§ 1274.104 Separate project requirements.

All of the existing housing units administered by an LHA under the Housing Assistance Payments Program shall constitute a single project and be assigned a single project number. In the event that an LHA applies for additional existing housing units, the units, if approved, shall be incorporated into a revised Part I of the ACC which shall cover the LHA's entire Housing Assistance Payments Program for existing housing. The revised Part I shall be for a term of four years from the date of execution of the revised ACC Part I. The maximum annual contribution for the revised project shall be the sum of (a) the maximum annual contribution for the project prior to the revision plus (b) the amount approved for the additional units which shall be computed on the basis of the current fair market rents.

§ 1274.105 Submission of estimates of required annual contributions.

(a) *Initial submission.* An allowance may be provided for preliminary costs incurred by the LHA prior to the beginning of the first fiscal year. When the Annual Contributions Contract is

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executed, the LHA shall submit an Initial Estimate of Required Annual Contributions (Preliminary Costs) and an Annual Estimate of Required Annual Contributions on the prescribed forms. These forms cover the estimated amounts for the costs of nonexpendable equipment, administration, security and utility deposits, and housing assistance payments.

(b) *Subsequent fiscal year submissions.* Not earlier than 150 and not later than 90 days prior to the beginning of each subsequent fiscal year, the LHA shall submit an Annual Estimate of Required Annual Contributions, with supporting documentation for any requested changes in the amount of housing assistance payments or the allowance for the cost of administration.

(c) *Revisions of estimates.* Any of the above Estimates may be revised to reflect changes in circumstances and available data.

(d) *HUD approval.* All Estimates of Required Annual Contributions and any revisions thereto submitted by the LHA shall be subject to HUD approval.

Subpart B—Project Development and Operation

§ 1274.201 Preapplication.

(a) *Determination of need and survey of market.* The LHA shall determine whether there is a need for housing assistance for low-income families within its operating jurisdiction. If it determines there is such a need the LHA shall survey the housing market of the locality to determine whether there is a sufficient supply of units suitable for use in this program to meet all or part of this need. In determining the adequacy of the housing supply, the LHA shall estimate realistically the number and size (number of bedrooms) of units that may be available, the condition of such units, and the rents at which the units may be leased.

(b) *Preapplication conference.* A preapplication conference with the appropriate HUD field office staff, in person or by telephone, is strongly recommended to assure that an approvable application will be submitted by the LHA. The LHA should be prepared to provide evidence that there is a sufficient supply of existing housing units which may be utilized in the program proposed by the LHA in terms of size (number of units), type (elderly or non-elderly), and bedroom distribution. The LHA should also indicate whether it intends to limit assistance to 20 percent or less of the units in a structure or complex of five or more units in accordance with § 1274.103(k)(2), and if so, that there is owner interest in such a program.

§ 1274.202 LHA submission of application.

(a) *Submission of application.* (1) An application for a Section 23 existing housing program to be submitted by the LHA to the HUD field office shall be in a form prescribed by HUD and shall:

(i) Describe the results of the LHA's survey of the housing market in terms of the number, size (number of bedrooms), condition, structure type, and rents of units which may be available;

(ii) Document the need for housing assistance in terms of family incomes, housing conditions, and rent to income ratios;

(iii) Indicate the number of units, by unit size (number of bedrooms), which are to be leased by eligible families, including a separate indication of the number of units to be leased by elderly families;

(iv) Include an estimate of the cost of administration attributable to the proposed program, and provide a basis for such estimate;

(v) Provide estimates of the average gross family contribution to be paid by families (not to exceed 25 percent of estimated adjusted family income as defined by HUD) and of utility allowances for tenant purchased utilities;

(vi) Indicate whether or not the LHA intends to meet the unit limitation described in § 1274.103(k)(2) and provide an indication of owner interest;

(vii) Indicate whether the LHA has adopted and implemented an approved tenant selection and assignment plan in compliance with Title VI of the Civil Rights Act of 1964.

(2) The LHA shall submit an Affirmative Fair Housing Marketing Plan with regard to invitations of applications for and issuance of Certificates of Family Participation.

(3) HUD regulation, Project Selection Criteria (24 CFR 200.700), is not applicable; however, see § 1274.102(a)(3) for required site and neighborhood standards.

(4) Advice and assistance in the preparation of the application are available from the local HUD field office.

(b) *Income limits and rent schedules.* (1) LHAs not having previously approved income limits and rent schedules shall submit income limits and rent schedules, in accordance with applicable HUD requirements, for approval with their applications.

(2) It is the incomes from families to be housed under the proposed Housing Assistance Payments Program, not the income limits, that is more significant in enabling HUD to determine assistance requirements and the approvability of a particular application. The LHA shall, therefore, provide accurate estimates of anticipated family income and the amount (including utilities) to be paid from the incomes of families expected to be assisted. In making these estimates, the LHA should utilize such information as incomes, after deductions and exemptions, of families on updated, current waiting lists and rents being paid by tenants in other leased and non-leased units operated by the LHA, as well as incomes of families expected to be housed under the income limits established for this program.

§ 1274.203 HUD review and approval of application.

(a) *Review of application.* The HUD field office shall review the application to determine that: There is need for assistance for the number of units applied for; the estimates of the cost of administration and utility allowance are realistic and allowable by HUD; the anticipated average gross family contribution is realistic; there is no practical alternative to utilization of units in high-rise elevator buildings for families with children, if applicable; and the LHA is in compliance with all Equal Opportunity requirements. If deemed appropriate, HUD shall make adjustments in size of program, bedroom distribution, the allowance for the cost of administration, or family contributions. Such adjustments shall be accepted by the LHA in order to receive application approval. Where the LHA is found to be in noncompliance with any Equal Opportunity requirements, appropriate action to effectuate compliance shall be taken.

(b) *Selection of applications for approval.* At least every two months, each HUD office will establish a list of all applications found approvable prior to the date the office has set for establishing such list. The applications will be ranked in accordance with criteria (other than the priority to be given to applications meeting the 20 percent limitation described in § 1274.103(k)(2)) established by the office. Applications shall be selected for approval in sequence from the top of the list. When an application is reached which is neither for the elderly (or handicapped) nor for 25 or fewer units and which does meet the 20 percent limitation, the next application which does meet the 20 percent limitation, if any, shall be selected ahead of such application; but no application for an elderly (or handicapped) project or for a project of 25 or fewer units shall be denied approval by reason of selection of the application meeting the 20 percent limitation.

(c) *Approval or disapproval of application.* (1) Upon completion of its review, HUD shall notify the LHA by letter that its application: is approved; is approvable but insufficient contract authority precludes authorization of an ACC; can be approved if the LHA adopts, within 30 days, the changes required by HUD; or is disapproved. If the application is disapproved, the letter shall indicate in detail the reasons for disapproval.

(2) If the application is approved, the letter shall authorize the LHA to execute the ACC, or the revised Part I of the ACC, transmitted with the letter. The letter shall also contain the HUD-established fair market rents, by units size, for the appropriate housing market area. The LHA shall be advised that these rents represent the maximum gross rents that can be approved for individual units. The LHA shall also be advised that if all or part of the cost for utilities is to be assumed by a family, the rent to owner shall not exceed the fair market rent less an allowance for family-paid utilities (excluding telephone). The letter shall also contain a leasing schedule in accordance with § 1274.204(b).

§ 1274.204 Annual contributions contract (ACC).

(a) *Approval and term of ACC.* Following HUD field office approval of an application, an ACC in the form prescribed in Appendix IV shall be prepared and processed and be transmitted by the field office to the LHA for execution and return to the field office with appropriate documents. The annual contributions period shall be for four years as provided in Appendix IV. A longer period may be permitted at the discretion of the Secretary.

(b) *Expeditious leasing.* The ACC shall include a provision relating to expeditious leasing of units under the program. HUD will provide, in its transmittal of the ACC to the LHA, target dates by calendar quarter endings, which will specify the number of units that are expected to be leased during each quarter. These target dates wil be established so as to implement HUD policy that all units in a Section 23 existing housing program of 100 units or more must be leased by eligible families within 12 months after execution of the ACC. In the case of smaller programs, a shorter time period may be established by HUD. Failure of the LHA to demonstrate a good faith effort to adhere to this schedule will be considered a basis for reduction by HUD of the number of units and amount of HUD's annual contributions commitment.

§ 1274.205 Leasing from owners.

(a) *Public notice to low-income families.* (1) After receiving HUD approval of its application, the LHA shall make known to the public, through publication in a newspaper of general circulation as through minority media and other suitable means, the availability of housing assistance for low-income families and shall invite such families to apply for Certificates of Family Participation. Such notice shall be made in accordance with Affirmative Fair Housing Marketing Regulations, including advertising guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement, and slogan. The LHA shall send to the Equal Opportunity office in the appropriate HUD field office a statement of the methods used and a copy of the published notice(s).

(2) Families who are already on public housing waiting lists shall be notified that they must apply specifically for assistance under this program, if they wish to be considered for it. Any such family who applies for this program shall not lose its place on the public housing waiting list until it has been housed.

(b) *Public notice to owners.* The LHA shall, through publication in a newspaper of general circulation as well as through minority media, invite private owners to make dwelling units available for leasing by eligible families. Such notice shall be made in accordance with Affirmative Fair Housing Marketing Regulations, including advertising guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement and slogan. The LHA shall also (1) develop working relationships with local landlords and real estate broker associations, (2) publicize the program in such ways as to reach a maximum number of landlords and real estate brokers, (3) establish contact with civic, charitable, or neighborhood organizations which have an interest in housing for low-income families, and (4) explain fully the provisions of the program, including equal opportunity requirements, to real estate, landlord, and other groups whose members may be dealing with eligible families. The LHA shall send to the Equal Opportunity office in the appropriate HUD field office a statement of the methods used and a copy of the published notice(s).

(c) *Listing of units.* Owners interested in making their units available for use by low-income families should notify the LHA which shall establish and maintain a listing of such units, accompanied by appropriate information relating to rent, type of unit (single family housing, apartment, etc.), number of bedrooms, location, etc. Such list shall be publicly posted and otherwise made available for use by eligible families, provided that: the list is open to any private owner who wishes his rental units to be included unless the owner has been disapproved by HUD for participation in HUD programs; notice of the existence of the list and the manner in which units may be included on it is publicized by the LHA; the list is used by the LHA in such a way as to ensure that eligible families are neither directed or encouraged to rent, nor discouraged from renting, from any individual; the list contains a statement that eligible families are free to choose housing units not listed; the LHA makes efforts to develop a listing of units which will be consistent with the objectives of its HUD-approved affirmative marketing plan (see § 1274.205(d) below); and owners of listed units provide the LHA with a written assurance that their units will be made available without discrimination on the basis of race, color, creed, sex, religion, or national origin.

(d) Compliance with affirmative fair housing marketing plan. In publicizing the availability of housing assistance to low-income families and inviting owners to participate and list their units with the LHA, the LHA shall comply with its HUD-approved Affirmative Fair Housing Marketing Plan in terms of outreach to families not otherwise expected to apply for assistance and encouraging the participation of owners in non-minority concentrated areas.

(e) *Determination of family eligibility for participation.* (1) In general, low-income families should contact the LHA concerning participation in the program. If an owner is the initial point of contact, he shall refer the family to the LHA. However, regardless of whether the initial contact is with the owner or the LHA, the LHA shall be solely responsible for determining eligibility.

(2) In selecting families for participation in this program, the LHA shall comply with its HUD-approved Affirmative Fair Housing Marketing Plan and its applicable regulations establishing admission policies, including policies, if any, carrying out its responsibility for rehousing displaced families.

(3) If the applicant is determined to be eligible and is selected for participation, he shall be given a Certificate of Family Participation and Lease Approval (see Appendix V), including Part I, Certificate of Family Participation, signed by the family and the LHA.

(4) At the same time, the family shall be given the following:

(i) Copies of Lease Provisions Required for Participation in the Housing Assistance Payments Program and Guide for Lease Provisions for Maintenance and Security Services (see Appendix VI);

(ii) A copy of the form of Housing Assistance Payments Contract (see Appendix IX); and

(iii) A copy of the booklet, *Watch Out for Lead Paint Poisoning* issued by the U.S. Department of Health, Education, and Welfare and identified as DHEW Publication No. (HSM) 73-5101;

(5) The Certificate of Family Participation shall expire at the end of 60 days unless the family notifies the LHA of the unit it wishes to lease within that time period by submitting a Request for Lease Approval, Part II of Appendix V (see paragraph (f) of this section). Expiration of the Certificate shall not preclude the LHA from extending the Certificate upon its submission by the family.

(6) The LHA shall maintain a system to assure that it will be able to honor all outstanding Certificates of Family Participation within its ACC authorization.

(7) LHA records on applicant and certified families shall be maintained so as to provide HUD with racial and ethnic data.

(f) *Submission of request for lease approval.* (1) Holders of Certificates of Family Participation shall be responsible for finding suitable units. The LHA may, however, undertake to find suitable units for families requiring special assistance, such as the elderly or handicapped or families experiencing discrimination. An LHA shall advise eligible families that they are free to seek units in all areas of the LHA's jurisdiction. In particular, it shall be made clear to minority families that they are free to seek housing in nonminority areas.

(2) When a family has found a unit it wishes to lease, it shall submit to the LHA a request for Lease Approval, signed by the owner of the unit and the family, and a proposed lease. The lease shall contain all required provisions shown in Appendix VI and shall be complete except for execution and the portion of monthly lease rental which the family shall be obligated to pay to the owner.

(g) *LHA approval of lease.* (1) *Ineligible owners.* LHAs shall not approve owners or managers who are listed by HUD as being disapproved for participation in HUD programs.

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(2) *Amount of rent.* In no case shall the LHA approve a rent which is higher than the applicable HUD-established fair market rent (less the HUD-approved allowance for utilities to be paid directly by the family). It should be recognized that owners may anticipate receiving rents equal to the HUD-established fair market rents, even though the reasonable rents for their units may be less. Accordingly, an LHA shall not approve leases for units with rents that exceed rents for similar units after taking into consideration differences in location, facilities and services, and the amount required for satisfactory maintenance.

(3) *Inspection of unit.* (i) Before approving a lease, the LHA shall make appropriate inquiries to ascertain that all certifications required by law have been issued and are currently valid. In addition, the LHA shall inspect the unit, or cause it to be inspected, for compliance with all other requirements of § 1274.102(a). An inspection report shall be maintained by the LHA for each unit inspected specifying whether required certifications, if any, have been issued and the results of the inspection.

(ii) If there are defects or deficiencies which must be corrected in order for the unit to be decent, safe, and sanitary, the owner shall be advised by the LHA of the work required to be done. Before a Housing Assistance Payments Contract can be executed, the unit must be inspected to ascertain that the necessary work has been performed and that the unit is decent, safe, and sanitary. A report detailing the results of this second inspection shall be maintained by the LHA with its original report on the unit.

(4) *Relocation certification.* The LHA shall review the relocation certification made by the owner and the facts stated therein and determine to its satisfaction that the unit, if not vacant, will be vacated as a result of one of the three categories of reasons specified.

(5) *Lease requirements*—(i) *Term of lease.* The term of lease shall be for not less than one year and shall generally be for not more than one year, but may contain a provision permitting termination upon 30 days advance written notice by either party. The specified lease term, including specified renewal options, if any, shall in no case exceed three years or the term of the ACC pertaining to the lease, whichever is shorter.

(ii) *Required provisions.* The lease shall contain the required provisions specified in section 1.6 of the Housing Assistance Payments Contract. (See also Appendix VI.)

(iii) *Prohibited provisions.* Lease clauses which fall within the classifications listed below shall not be included in any owner-family leases.

(A) *Confession of judgment.* Constitutes prior consent by tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(B) *Distraint for rent or other charges.* Agreement by tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord has determined the tenant has failed to perform.

(C) *Exculpatory clauses.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representatives or agents.

(D) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(E) *Waiver of legal proceedings.* These clauses authorize the landlord to act to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(F) *Waiver of jury trial.* These clauses authorize the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(G) *Waiver of right to appeal judicial error in legal proceedings.* These clauses authorize the landlord's lawyer to waive the right to appeal for judicial error in any suit or the right to file a suit in equity to prevent the execution of a judgment.

(H) *Tenant chargeable with costs of legal actions regardless of outcome.* These clauses provide that the tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court determines that the tenant prevails in the action. This does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.

(6) *Approval of lease and execution of related documents.* If a unit which an eligible family wishes to lease is determined by the LHA to be in decent, safe, and sanitary condition, the proposed rent to owner is approvable, and the proposed lease complies with program requirements, the LHA shall return a copy of Part III of Appendix V, Authority Determination, to the owner and the family indicating approval of the lease. Attached to the form shall be (i) a copy of the proposed lease, with the portion of the monthly lease rental which the family shall be obligated to pay the owner entered onto the lease, (ii) unsigned copies of the Housing Assistance Payments Contract, and (iii) if applicable, copies of the Security Deposit Agreement, signed by the LHA. The lease shall be executed by the owner and the family and a copy of the executed lease returned to the LHA. Two copies of the Contract shall be signed by the owner, and returned to the LHA. The LHA shall execute both copies of the Contract and shall return one executed copy to the owner. The Security Deposit Agreement, if any, shall be executed by the owner and the family and an executed copy returned to the LHA.

(7) *Disapproval of lease.* If the LHA has determined that the lease cannot be approved for any reason, including the condition of the unit, it shall so notify the owner and the family using Part III of Appendix V. A copy of this notification shall be maintained in LHA files together with the original Request for Lease Approval and the inspection report relating to the unit.

(h) *Continued family participation.* A family must continue to occupy its approved unit to remain eligible for participation in the Housing Assistance Payments Program except under the following conditions. If a family (1) wishes to vacate its unit at the end of the lease term (or prior thereto but in accordance with the provisions of the lease), or (2) is required to move for reasons other than violation of the lease on the part of the family (as determined by the LHA), the family shall be given a new Certificate of Family Participation providing for housing assistance payments for occupancy of another approvable unit, if:

(i) The family provides reasonable notice (at least 30 days) to the LHA of its intention to vacate;

(ii) The LHA determines that the family is in compliance with the provisions of the lease, including provisions requiring notice to the owner, if applicable;

(iii) The LHA determines that the family continues to be eligible for such assistance;

(iv) The LHA determines that the family is meeting its obligations for repayment of security deposits, if any; and

(v) The LHA has sufficient funds under its Annual Contributions Contract.

(i) *Eviction.* The owner shall not evict any family unless the owner complies with the requirements of local law, if any, and of this paragraph. The owner shall give the family a written notice of the proposed eviction, stating the grounds and advising the family that it has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the owner. The owner must obtain the LHA's authorization for an eviction; accordingly, a copy of the notice shall be furnished simultaneously to the LHA, and the notice shall also state that the Family may, within the same time period, present its objections to the LHA in writing or in person. The LHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the lease. The LHA shall notify the owner and the family of its determination within 20 days of the date of receipt of the notice by the family, whether or not the family has presented objections to the LHA.

(j) *Inapplicability of low-rent public housing model lease and grievance procedures.* Model lease and grievance procedures established by HUD for LHA-owned low-rent public housing are not applicable to the Section 23 Housing Assistance Payments Program.

§ 1274.206 Periodic inspection.

In order to ensure that housing under lease remains in decent, safe, and sanitary condition for the duration of the Contract and the lease, the LHA shall make periodic inspections, not less than annually, to ascertain that the owner has adequately maintained the unit as required by the Contract. In addition, the LHA shall inspect the unit whenever it has information, as a result of family complaints or otherwise, to the effect that the unit is not being maintained in accordance with the Contract. In those instances where the LHA determines that the unit is not being maintained satisfactorily, the LHA shall try to resolve the problem with the owner. If the LHA is unsuccessful, it shall (a) abate payment of housing assistance until such time as the unit is brought into decent, safe, and sanitary condition, and/or (b) give the owner a 30-day notice of termination in accordance with the provisions of the Contract. The family shall be furnished a copy of the notice to the owner regarding abatement or termination, together with information regarding continued assistance. The LHA shall keep in its files copies of all inspection reports and records of actions taken pursuant to this Section.

§ 1274.207 HUD review of LHA program activities.

When 30 percent of the units under Part I of the ACC have been leased, but not later than 90 days after execution of the Part I, HUD will review the LHA's operations for compliance with the provisions of this part. Subsequent reviews will be scheduled as necessary. If additional units are added to the ACC, HUD will review the LHA's operations for compliance when 30 percent of the additional units have been leased, but not later than 90 days after execution of the revised Part I of the ACC.

§ 1274.208 LHA reporting requirements. [Reserved]

NOTE: Appendices I, II, and III, which relate to internal HUD processing procedures, are not included herein, but do appear in the HUD Existing Housing Handbook.

APPENDIX IV

ANNUAL CONTRIBUTIONS CONTRACT

This Annual Contributions Contract (ACC) is entered into as of the ____ day of _____, 19____, by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1401, et seq., which Act as amended to the date of this ACC is herein called the "Act") and the Department of Housing and Urban Development Act (42 U.S.C. 3521), and _____ (herein called the "Local Authority"), which is organized and existing under the laws of the State of _____ and is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or Projects.* The Local Authority is undertaking to provide decent, safe, and sanitary housing for families of low income (further defined as "Family" or "Families" in Section 2.2) in privately owned accommodations pursuant to Section 23 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with the persons or entities having the legal right to lease or sublease such housing ("Owners"). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the type of housing and the number and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made shall constitute a Project hereunder and shall be identified by a stated Project number.

0.2 *Part I and Part II of this Annual Contributions Contract.* (a) Certain provisions of this ACC, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing). A separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this ACC.

(b) The remaining provisions of this ACC, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this ACC.

0.3 *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Such established Fiscal Year shall be the 12-month period ending _____ of each calendar year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

Local Authority, by:

_____

The Government, by:

_____

PART I—EXISTING HOUSING PROJECT NO. ____

1.1. *The Project.* It is contemplated that the Local Authority will enter into Housing Assistance Payments Contracts ("Contracts") with respect to the following numbers and sizes of dwelling units:

Size of Unit	*Number of Units*

The Local Authority shall, to the maximum extent feasible, enter into Contracts in accordance with the numbers and sizes of units specified, but the Local Authority shall not enter into Contracts or take other actions which will result in a claim for a total Annual Contribution in respect to the Project in excess of the maximum amount stated in Section 1.3(a).

1.2. *Authorization of Actions by Local Authority.* (a) In order to carry out the Project, the Local Authority is authorized to (i) enter into Contracts, (ii) make Housing Assistance Payments on behalf of Families, and (iii) take all other necessary actions, all in accordance with the forms, conditions, and requirements prescribed or approved by the Government; Provided, however, that neither the Local Authority nor the Government shall assume any obligation beyond that provided in Housing Assistance Payments Contracts in the form approved by the Government.

(b) The term of each Contract shall be coterminous with the term of the Lease between the Owner and the Family, which term shall be for not less than one year (subject to earlier termination in accordance with its provisions) and shall generally be for not more than one year; Provided, however, that the specified Lease term, including specified renewal options, if any, shall in no event exceed three years or the term of this Annual Contributions Contract, whichever is shorter.

1.3 *Annual Contributions.* (a) Notwithstanding any other provisions of this ACC (other than paragraph (c) of this Section) or any provisions of any other contract between the Government and the Local Authority, the Government shall not be obligated to make any Annual Contributions or any other payment in respect to the Project in excess of $_____; Provided, however, that this amount shall be reduced commensurate with any reduction in the number of units pursuant to Section 1.8 of this ACC.

(b) Subject to the maximum dollar limitation in paragraph (a) of this Section, the Government shall pay Annual Contributions to the Local Authority in respect to the Project in an amount equal to the sum of the following:

(1) The amount of housing assistance payments payable during the Fiscal Year (see Section 1.4) by the Local Authority pursuant to Contracts, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government, for security and utility deposits.

(3) The allowance, in the amount approved by the Government, for preliminary costs of administration.

(4) The allowance, in the amount approved by the Government, for the regular costs of administration.

(c) Subject to the maximum amount stated in paragraph (a) of this Section, the Annual Contribution for any Fiscal Year may include such amount as the Government may determine to be necessary to assure that the low-rent character of the Project will be maintained, which amount shall be credited to an account maintained by the Local Authority or the Government as determined by the Government. To the extent funds are available in said account, the Annual Contribution for any Fiscal Year may exceed the maximum amount stated in paragraph (a) of this Section by such amount, if any, as may be required for increases reflected in the estimates of required annual contributions applicable to such Fiscal Year, as approved by the Government in accordance with Section 1.7 below. Any amount remaining in said account after payment of the last Annual Contribution with respect to the Project shall be applied by the Government as a receipt in accordance with Section 18 of the Act.

(d) The Government will make periodic payments on account of the Annual Contributions upon requisition therefor by the Local Authority in the form prescribed by the Government. Each requisition shall include certifications by the Local Authority that housing assistance payments have been or will be made only with respect to units which:

(1) are under lease by Families at the time such housing assistance payments are made except as otherwise provided in the Contracts; and

(2) the Local Authority has inspected or caused to be inspected pursuant to Section 2.7 of Part II of this ACC, within one year prior to the making of such housing assistance payments.

(e) Following the end of each Fiscal Year, the Local Authority shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution

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payable for such Fiscal Year in accordance with this Section.

1.4. *Fiscal Year.* The Fiscal Year for the Project shall be the Fiscal Year established by Section 0.3 of this ACC; Provided, however, that the first Fiscal Year for the Project shall be the period beginning with the Date of Execution and ending on the last day of said established Fiscal Year which is not less than 12 months after the Date of Execution. If the first Fiscal Year exceeds 12 months, the maximum Annual Contribution in Section 1.3(a) may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5. *Term of This ACC.* The term of this ACC with respect to the Project shall be four years beginning with the Date of Execution; Provided, however, that this ACC shall continue in effect for one additional year with respect to Housing Assistance Payments Contracts entered into at any time during the four year period.

1.6. *Federal and Local Government Approvals.* (a) The making of this ACC and the undertaking by the Government of the Annual Contributions as herein provided has been duly approved on List No. ____ for Annual Contributions Contracts.

(b) The governing body of the locality in which the dwelling units are to be located has approved the application of Section 23 of the Act to the locality, by resolution or ordinance duly adopted on ----------, 19----.

1.7. *Estimate of Required Annual Contributions.* (a) At or about the date of execution of this ACC, the Local Authority shall submit an Initial Estimate of Required Annual Contributions (Preliminary Costs) and an Annual Estimate of Required Annual Contributions. These forms cover the estimated amounts for the costs of nonexpendable equipment, administration, security and utility deposits, and housing assistance payments.

(b) Not earlier than 150 and not later than 90 days prior to the beginning of each subsequent Fiscal Year, the Local Authority shall submit an Annual Estimate of Required Annual Contributions with supporting documentation for any requested changes in the amount of housing assistance payments or the allowance for the cost of administration.

(c) Any of the above Estimates may be revised to reflect changes in circumstances and available data.

(d) All Estimates of Required Annual Contributions and any revisions thereto submitted by the Local Authority shall be subject to Government approval.

1.8. *Expeditious Carrying Out of Project.* The Local Authority shall proceed expeditiously with the housing of Families through the use of housing assistance payments. If the Local Authority fails to proceed expeditiously, the Government, by notice to the Local Authority, may reduce the Project to the number and sizes of dwelling units under Contracts with Owners as of the date of the receipt of such notice by the Local Authority, with a corresponding reduction in the maximum amount of Annual Contributions specified in Section 1.3(a).

1.9. *Date of Execution.* The Date of Execution of this ACC with respect to this Project ("Date of Execution") is ----------.

1.10. *Prior ACCs Superseded.* This Part I supersedes prior ACC Parts I, if any.

Local Authority, by:

The Government, by:

PART II—TERMS AND CONDITIONS BETWEEN LOCAL AUTHORITY AND THE UNITED STATES OF AMERICA

2.1. *Low-Income Housing Use.* The Local Authority shall use the Annual Contributions solely for the purpose of providing decent, safe, and sanitary dwellings for families of low income, hereinafter further defined as "Families."

2.2. *Definitions*—(a) *Families; Elderly Families; and Displaced Families.* (1) The term "Families" means families of low income and includes Families consisting of a single person in the case of Elderly Families and Displaced Families, and includes the remaining member of a tenant Family.

(2) The term "Elderly Families" means Families whose heads (or their spouses), or whose sole members, have attained the age at which an individual may elect to receive an old-age benefit under Title II of the Social Security Act (42 U.S.C. 301, et seq.); or are under a disability as defined in section 223 of that Act; or are handicapped within the meaning of Section 202 (12 U.S.C. 1701q) of the Housing Act of 1959, as amended.

(3) The term "Displaced Families" means Families displaced by urban renewal or other governmental action, or Families whose present or former dwellings are situated in areas as determined by the Government to have been affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster.

(b) *Project Receipts and Project Expenditures.* (1) "Project Receipts" with respect to each Project shall mean the Annual Contributions payable hereunder and all other receipts, if any, accruing to the Local Authority from, out of, or in connection with such Project.

(2) "Project Expenditures" with respect to each Project shall mean all costs allowable under Section 1.3, Part I of this ACC with respect to such Project.

(c) *Substantial Default.* For the purpose of this ACC a Substantial Default is defined to be the occurrence of any of the following events:

(1) If the Local Authority defaults in the observance or performance of the provisions of Section 2.7; or

(2) If (a) the Local Authority violates or fails to comply with any provisions of the Housing Assistance Payments Contract or fails to perform any of its obligations under such Contract, or (b) such Contract at any time is held to be void, voidable, or ultra vires, or the power or right of the Local Authority to enter into such Contract is drawn into question in any legal proceeding, or (c) the Local Authority asserts or claims that such Contract is not binding upon it for any reason, or otherwise asserts or demonstrates that it does not intend to fulfill its obligations under such Contract; or

(3) If the Local Authority fails or refuses to honor any duly issued Certificate of Family Participation in accordance with its terms; or

(4) If the Local Authority fails to comply with the requirements of Sections 2.8, 2.9, 2.10, or 2.11; or

(5) If there is any default by the Local Authority in the performance or observance of any term, covenant, or condition of this ACC other than the defaults enumerated in subsections (1) through (4) of this paragraph (c) and if such default has not been remedied within a reasonable time, not to exceed thirty days, after the Government has notified the Local Authority thereof.

2.3. *Maximum Income Limits and Rents.* (a) Subject to the approval of the Government, the Local Authority shall fix income limits for eligibility and rents after taking into consideration:

(1) The Family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the family, and

(2) The economic factors which affect the financial stability and solvency of the Projects.

(b) Income limits shall restrict eligibility to Families (as defined in Section 2.2) and shall assure the financial solvency of the Projects. Income limits and rents as fixed by the Local Authority shall meet the requirements of applicable local law.

(c) The Local Authority shall submit to the Government for its approval a schedule or schedules of income limits and rents, together with such supporting data and documents as the Government may require.

(d) The Local Authority may at any time review and revise such schedules, and shall review and revise such schedules if the Government determines that changed conditions in the locality make such revisions necessary in achieving the purposes of the Act.

2.4. *Admission Policies.* (a) The Local Authority shall duly adopt and promulgate, by publication or posting in a conspicuous place for examination by prospective tenants, regulations establishing its policies for the issuance of Certificates of Family Participation. Such regulations must be reasonable and give full consideration to its public responsibility for rehousing Displaced Families, to the applicant's status as a serviceman or veteran or relationship to a serviceman or veteran or to a disabled serviceman or veteran and to the applicant's age or disability, housing conditions, urgency of housing need, and source of income, and shall accord to Families consisting of two or more persons such priority over Families consisting of single persons as the Local Authority determines to be necessary to avoid undue hardship.

(b) The Local Authority shall promptly notify any applicant determined to be ineligible for housing assistance payments of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination. Any applicant determined to be eligible for housing assistance payments shall be given a Certificate of Family Participation or shall be notified of the date when such Certificate will be issued, insofar as such date can be reasonably determined.

2.5. *Continued Eligibility.* (a) The Local Authority shall periodically reexamine the incomes of Families for whom housing assistance payments are being made; Provided, however, that the length of time between the issuance of a Certificate of Family Participation to a Family subject to yearly reexamination and the first reexamination of such Family may be extended by not more than six months if necessary to fit a reexamination schedule established by the Local Authority.

(b) If, upon such reexamination, it is found that Family income or composition has changed, the portion of rent payable by the Family and the amount of housing assistance payment shall be adjusted accordingly.

(c) If, upon such reexamination, it is found that the income of a Family increased beyond the approved income limits for the Project, housing assistance payments for such Family shall terminate.

2.6. *Applications and Certifications.* (a) Prior to the issuance of a Certificate of Family Participation to each Family and thereafter on the date established by the Local Authority for each reexamination of the status of such Family, the Local Authority shall obtain a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary to enable the Local Authority to determine whether the Family meets the conditions of eligibility for housing assistance payments.

(b) The Local Authority shall establish policies governing the nature and extent of investigations to be made of applicants' and tenants' statements relating to their eligibility.

(c) A duly authorized official of the Local Authority shall, at times prescribed by the Government, make written certifications to the Government that each Certificate of Family Participation issued during the period covered by the certification was issued in accordance with its duly adopted regulations and approved income limits.

2.7. *Maintenance and Inspections.* (a) The Local Authority shall require as a condition for the making of housing assistance payments, that the Owner at all times maintain the Project in decent, safe, and sanitary condition.

(b) The Local Authority shall inspect or cause to be inspected dwelling units prior to commencement of occupancy by Families, and of grounds, facilities, and areas for their benefit and use, and shall make or cause to be made subsequent inspections at least annually, adequate to assure that decent, safe, and sanitary housing accommodations are being provided.

2.8. *Nondiscrimination in Housing.* (a) The Local Authority shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The Local Authority shall, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

"This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the [contractor or other] to comply therewith inures to the benefit of the United States, the said Department, and the Local Authority any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the [contractor or other.]"

(b) The Local Authority shall incorporate or cause to be incorporated into all Housing Assistance Payments Contracts a provision requiring compliance with all requirements imposed by Title VIII of the Civil Rights Act of 1968, Public Law 90-284, 82 Stat. 73, and any rules and regulations issued pursuant thereto.

(c) The Local Authority shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use or occupancy thereof, nor deny to any family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. No person shall *automatically* be excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

2.9. *Equal Employment Opportunity.* The Local Authority shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The Local Authority shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2.10. *Employment of Project Area Residents and Contractors.* The Local Authority shall comply and shall require each of its contractors and subcontractors employed in the performance of this ACC to comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations and requirements of the Government thereunder, requiring that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and that contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

2.11. *Cooperation In Equal Opportunity Compliance Reviews.* The Local Authority shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.12. *Insurance and Fidelity Bond Coverage.* (a) For purposes of protection against hazards arising out of or in connection with the administrative activities of the Local Authority in carrying out the Project, the Local Authority shall carry adequate (1) comprehensive general liability insurance, (2) workmen's compensation coverage (Statutory or voluntary), and (3) automobile liability insurance against property damage and bodily injury (owned and non-owned).

(b) The Local Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

(c) Each insurance policy or bond shall be written to become effective at the time the Local Authority becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Local Authority is subject to such risk or hadard. Such insurance and bonds shall (1) be payable in such manner, (2) be in such form, and (3) be for such amounts, all as may be determined by the Local Authority and approved by the Government, and shall be obtained from financially sound and responsible insurance companies.

(d) In connection with each policy, including renewals, for comprehensive general liability insurance the Local Authority shall give full opportunity for open and competitive bidding. The Local Authority shall give such publicity to advertisements for bids as will assure adequate competition and shall afford an opportunity to bid to all insurers who have indicated in writing to the Local Authority their desire to submit a bid and who are licensed to do business in the State. Such insurance shall be awarded to the lowest responsible bidder. The lowest bid shall be determined upon the basis of net cost to the Local Authority. Net cost, for the purposes of this subsection (d), shall mean the gross deposit premium, plus the cost of insurance against the hazards, if any, of assessments, less any anticipated dividend based on the dividend payment and assessment record of the insurer for the previous ten years. Nothing in this subsection (d) shall have the effect of requiring the Local Authority to purchase insurance from any insurer not licensed to do business in the State or to purchase insurance which involves any hazard of assessment unless insurance against such hazard is available.

(e) The Local Authority shall require that each liability insurance policy prohibit the insurer from defending any tort claim on the ground of immunity of the Local Authority from suit.

(f) The Local Authority shall submit certified duplicate copies of all insurance policies and bonds to the Government not less than forty-five days before the effective date thereof for review to determine compliance with this ACC. Unless disapproved by the Government within thirty days of the date submitted, the policies and bonds submitted shall be considered as approved by the Government.

(g) If the Local Authority shall fail at any time to obtain and maintain insurance as required by subsections (a), (b), (c), and (d) of this Sec. 2.12, the Government may obtain such insurance on behalf of the Local Authority and the Local Authority shall promptly reimburse the Government for the cost thereof together with interest at the then going Federal rate as determined pursuant to Section 2(10) of the Act.

2.13. *Books of Account and Records; Reports; Audits.* (a) The Local Authority shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the Local Authority of the Annual Contributions and other Project Receipts, if any.

(b) The books of account and records of the Local Authority shall be maintained for each Project as separate and distinct from all other Projects and undertakings of the Local Authority, except as authorized or approved by the Government.

(c) The Local Authority shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(d) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the Local Authority that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(e) The Local Authority shall incorporate or cause to be incorporated in all Contracts the following clause:

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LHA and Government Access to Premises and Owner's Records

The Owner shall permit the LHA and the Government or any of their duly authorized representatives, to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests to the LHA for housing assistance payments.

(f) The Local Authority shall not charge as a Project Expenditure the cost or expense of any audit with respect to any Project for any Fiscal Year unless (1) the Government has approved such audit, or (2) such audit is required by law, or (3) the Government has failed to furnish the Local Authority with a report of its fiscal audit of the Local Authority's books of account for such Fiscal Year within six months after the end thereof and, subsequent to a notice by the Local Authority of such failure, the Government has failed to submit its report of such audit within three months after receipt of such notice.

2.14. *General Depositary Agreement and General Fund.* (a) Promptly after the execution of this ACC, the Local Authority shall enter into, and thereafter maintain, one or more agreements, which are herein collectively called the "General Depositary Agreement," in form prescribed by the Government, with one or more banks (each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation) selected as depositary by the Local Authority. Immediately upon the execution of any General Depositary Agreement, the Local Authority shall furnish to the Government such executed or conformed copies thereof as the Government may require. No such General Depositary Agreement shall be terminated except after thirty days notice to the Government.

(b) All monies received by or held for account of the Local Authority in connection with the Projects shall constitute the General Fund.

(c) The Local Authority shall, except as otherwise provided in this ACC, deposit promptly with such bank or banks, under the terms of the General Depositary Agreement, all monies constituting the General Fund.

(d) The Local Authority may withdraw monies from the General Fund only for (1) the payment of Project Expenditures, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the Local Authority stating in proper detail the purpose for which such withdrawal is made.

(e) If the Local Authority (1) in the determination of the Government, is in Substantial Default, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this ACC or in any document or data submitted to the Government as a basis for this ACC or as an inducement to the Government to enter into this ACC, the Government shall have the right to require any bank or other depositary which holds any monies of the General Fund, to refuse to permit any withdrawals of such monies; Provided, however, that upon the curing of such Default the Government shall promptly rescind such requirement.

2.15. *Pooling of Funds under Special Conditions and Revolving Fund.* (a) The Local Authority may deposit under the terms of the General Depositary Agreement monies received or held by the Local Authority in connection with any other housing project developed or operated by the Local Authority pursuant to the provisions of any contract for annual contributions, administration, or lease between the Local Authority and the Government.

(b) The Local Authority may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the Local Authority, including any project or enterprise in which the Government has no financial interest: Provided, however, that such deposits shall be lumpsum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the Local Authority operates other projects or enterprises in which the Government has no financial interest it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depositary Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the Local Authority; Provided, however, that all deposits in such revolving fund shall be lump sum transfers from the depositaries of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The Local Authority may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(e) In no event shall the Local Authority withdraw from any of the funds or accounts authorized under this Section 2.15 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.16 *Assignment of Interest in Project to Government; Continuance of Annual Contributions.* Upon the occurence of a Substantial Default (as herein defined) with respect to any Project the Local Authority shall, if the Government so requires, assign to the Government all of its rights and interests in and to the Project, or such part thereof as the Government may specify, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this ACC until reassigned to the Local Authority. After the Government shall be satisfied that all defaults with respect to the Project have been cured and that the Project will thereafter be operated in accordance with the terms of this ACC, the Government shall reassign to the Local Authority all of the rights and interests of the Government in and to the Project as such rights and interests exist at the time of such reassignment.

2.17 *Remedies not Exclusive and Non-Waivers of Remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, LHA and/or the Government from exercising any other remedy available under this ACC or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to take any remedial action for the same or any subsequent default.

2.18. *Interest of Members, Officers, or Employees of Local Authority, Members of Local Governing Body, or Other Public Officials.*

(a) Neither the Local Authority nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any project, in which any member, officer, or employee of the Local Authority, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Authority was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Local Authority, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Local Authority and such disclosure is entered upon the minutes of the Local Authority, the Local Authority, with the prior approval of the Government may waive the prohibition contained in this subsection; Provided, however, that any such present member, officer, or employee of the Local Authority shall not participate in any action by the Local Authority relating to such contract, subcontract, or arrangement.

(b) The Local Authority shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:

No member, officer, or employee of the Local Authority, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which the Local Authority was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

(c) The provisions of the foregoing subsections (a) and (b) of this Section 2.18 shall not be applicable to the General Depositary Agreement, or utility service the rates for which are fixed or controlled by a governmental agency.

2.19. *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident Commissioner shall be admitted to any share or part of this ACC or to any benefits which may arise therefrom.

PART I—CERTIFICATE OF FAMILY PARTICIPATION

APPENDIX V—CERTIFICATE OF FAMILY PARTICIPATION AND LEASE APPROVAL

1. *Certification.* The undersigned Authority hereby certifies that the Family headed by _____ is authorized to participate in the Section 23 Housing Assistance Payments Program of this Authority. Under this program, the Authority makes housing assistance payments on behalf of participating families toward their rents for decent, safe, and sanitary dwelling units.

2. *Dwelling Unit.* If the Family finds a dwelling unit suitable to its needs, containing at least _____[1] bedrooms, and in decent, safe, and sanitary condition, it should submit to the Authority for approval Part II of this form. Request for Lease Approval, together with a proposed lease. Prior to approval of the proposed lease, the Authority will inspect the unit or cause it to be inspected.

3. *Rent.* The monthly rental provided in the lease must be determined by the Authority to be reasonable, but this rent plus the Authority allowance for any utilities payable directly by the Family shall in no case exceed $_____.[2] Under the rules and regulations of the Housing Assistance Payments Program, the Family will be obligated to pay $_____ toward the monthly lease rental; provided that this amount will be reduced by the Authority-determined allowance for any utilities to be paid directly by the Family, and such reduced amount will be specified in the lease. The amount of the Family's payment is subject to change by reason of changes in the income or composition of the Family. Pursuant to a Housing Assistance Payments Contract with an owner, the Authority will pay to the owner on behalf of the Family an amount equal to the difference between the monthly rental amount owed by the Family to the owner and the total monthly rent which the owner is entitled to receive under the lease.

4. *Authority Approval of Lease.* The Authority will notify the owner and the Family whether or not the proposed lease is approvable within _____ working days from receipt of a Request for Lease Approval. The Authority, upon issuing this Certificate, anticipates that if a lease meeting the requirements of this program is submitted for approval, the Authority will have funds available for a Housing Assistance Payments Contract with the owner; however, the Authority is under no obligation to the Family, to any owner or to any other person to approve any submitted lease, nor does the Authority incur any liability by reason of issuing this Certificate. Approval of any lease will be at the Authority's sole discretion and subject to availability of funds.

5. *Conditions.* The Family agrees to perform all its obligations under the Housing Assistance Payments Program, including the obligations to (a) provide such income information and records as may be required in the administration of the program, (b) permit inspections of its dwelling unit at reasonable times after reasonable advance notice, and (c) give at least 30 days notice to the Authority of the Family's intention to vacate the unit.

6. *Equal Housing Opportunity.* If the Family has reason to believe that, in its search for suitable housing, it has been discriminated against on the basis of race, color, creed, sex, religion, or national origin, it may file a complaint with the HUD Regional Office. Fair Housing Complaint Forms (form HUD 903) are available from this Authority.

7. *Expiration Date.* A request for Lease Approval may be submitted to this Authority no later than _____ (60 days from the date of this Certificate). If a Request is not submitted by such date, this Certificate shall expire unless extended by the Authority in writing.

_____ _____
(Date) (Name of Local Housing Authority)

By: _____
(Signature and Title)

_____ _____
(Date) (Signature of Family Representative)

_____
(Present Address)

[1] Enter the unit size, by number of bedrooms, for which the Family is eligible pursuant to the occupancy standards of the Authority.

[2] Enter the applicable fair market rent for the unit size specified in item 2.

PART II—REQUEST FOR LEASE APPROVAL

1. *Request.* The undersigned Owner and Family hereby request the _____ (Name of Local Housing Authority) to approve the attached lease for the dwelling unit located at _____ (street address and apartment number, if any) for a period of ____ months, beginning _____, 19____. The unit, consisting of ____ bedrooms, is to be leased at $_____ per month. This rent includes maintenance and other services as provided in the lease and the following utilities and appliances: (Check where applicable)

____ heat ____ electricity ____ gas ____ water ____ sewer ____ refrigerator ____ range ____ other (specify)

2. *Certification.* The Owner, by executing this Request, certifies that:

a. The most recent rent charged for the above dwelling unit was $____ per month. The reasons for the difference, if any, between this amount and the proposed rent are:

b. The specified dwelling unit is currently:
☐ Vacant and has been since before the date of this Request.
☐ Occupied by the undersigned Family.
☐ Occupied by other than the undersigned Family but the unit will be vacated prior to occupancy by the Family as a result of (1) voluntary decision of occupant, or (2) action by Owner for cause, or (3) other reasons clearly unrelated to the proposed leasing to the Family.

c. This unit is made available, managed, and operated regardless of race, color, religion, creed, sex, or national origin.

3. *Security and Utility Deposits.* The Family ☐ will ☐ will not require Authority assistance to pay security and/or utility deposits. The amount of Owner's required security deposit (not to exceed one month's rent) is $_____. The amounts of the required utility deposits are:

Deposit to _____ $_____
(Insert name of utility company)
Deposit to _____ $_____
(Insert name of utility company)

4. *Authority Determination.* The Owner and the Family understand that the Authority will notify them as to whether or not the proposed lease is approvable within the time period specified in paragraph 4 of the Certificate of Family Participation.

_____ _____
(Date) (Owner)

By: _____
(Signature)

_____ _____
(Date) (Signature of Family Representative)

_____
(Present Address of Family)

PART III—AUTHORITY DETERMINATION

(To be sent to the Owner and Family)

(Check applicable box.)

☐ 1. *Approval.* This Authority hereby approves the proposed lease between _____ (Family) and _____ (Owner) for the dwelling unit located at _____ (street address and apartment number, if any) Returned herewith are (a) the proposed lease completed by the Authority with respect to the portion of the monthly lease rental which the Family shall be obligated to pay to the Owner, and (b) two copies of a Housing Assistance Payments Contract completed by this Authority except for execution. The lease shall be executed by the Family and the Owner and a copy returned to the Authority. The Owner shall sign both copies of the Contract and return them to the Authority. The Authority will execute the Contract by the first day of occupancy specified in the lease and will immediately return an executed copy to the Owner.

Attached is a Security Deposit Agreement, signed by this Authority, which shall be signed by the Owner and the Family and a signed copy returned to this Authority.

☐ Yes ☐ No

☐ 2. *Disapproval.* The proposed lease and/or the dwelling unit are/is disapproved for the following reasons:

☐ 3. *Resubmission.* If the conditions in item 2 above are remedied, and a Request for Lease Approval is resubmitted by the Owner and the Family to the Authority by _____ (date), the lease will be approved by the Authority if it determines that the conditions have been remedied to its satisfaction. (The Certificate of Family Participation issued to the Family shall not expire before said date.)

_____ _____
(Date) (Name of Local Housing Authority)

By: _____
(Signature and Title)

APPENDIX VI—LEASE PROVISIONS REQUIRED FOR PARTICIPATION IN THE HOUSING ASSISTANCE PAYMENTS PROGRAM

"ADDENDUM TO LEASE

(Section 23 Housing Assistance Payments Program)

"The following additional Lease provisions are incorporated in full in the Lease between _____ (Lessor) and _____ (Lessee) for the following dwelling unit: _____. In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

"a. Of the total rent ($_____ per month), $_____ shall be payable by the Housing Authority (LHA) as housing assistance payments on behalf of the Lessee and $_____ shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the family income or composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Lessee and Lessor.

"b. The Lessor shall provide the following services (including security) and maintenance:

[Here specify all services to be provided by the Lessor, which shall include all services customarily supplied to tenants of this type of housing in the locality. In preparing this list, the provisions contained in form HUD-52505A, Guide for Lease Provisions for Maintenance and Security Services, shall be included except to the extent modifications are approved by the LHA.]

"c. The Lessor shall not evict the Lessee unless the Lessor complies with the requirements of local law, if any, and of this provision. The Lessor shall give the Lessee a written notice of the proposed eviction, stating the grounds and advising the Lessee that he has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Lessor. Because the Lessor must obtain the LHA's authorization for an eviction, a copy of the notice shall be furnished simultaneously to the LHA, and the notice shall also state that the Lessee may, within the same time period, present his objections to the LHA in writing or in person. The LHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The LHA shall

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notify the Lessor and the Lessee of its determination within 20 days of the date of receipt of the notice by the Lessee whether or not the Lessee has presented objections to the LHA.

"d. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

"e. This Lease has been signed by the parties on the condition that the LHA will promptly execute a Housing Assistance Payments Contract with the Lessor. Accordingly, this Lease shall not become effective unless the LHA has executed such Contract by the first day of occupancy specified in the Lease.

"Lessor _____ Lessee _____
Date _____
By _____ Date _____"

GUIDE FOR LEASE PROVISIONS FOR MAINTENANCE AND SECURITY SERVICES

The following provisions shall be included by an owner among lease provisions regarding maintenance and security services for units to be leased to families participating in a Section 23 Housing Assistance Payments Program. Subject to the approval of the LHA, items which are not customarily provided for this type of housing in the locality may be excluded.

The Lessor shall provide the following services (including security) and maintenance:

a. Custodial services (including, but not limited to, cleaning of hallways, garbage storage areas, and all common areas, and provision of an adequate supply of trash and garbage storage equipment, and/or adequate trash and garbage disposal);

b. Grounds maintenance (including, but not limited to, exterior custodial services and maintenance of lawns and outdoor plantings, including lawn cutting and reseeding);

c. Prompt response to Lessee service calls (including, but not limited to, calls with respect to refrigerators, ranges, plumbing, heating, electrical and hot water fixtures and systems, and broken, stuck, or damaged doors, screens or windows);

d. Repainting and redecorating dwelling space and non-dwelling space surfaces on the following basis: [to be specified in the lease];

e. Prompt replacement of light bulbs and other lighting equipment in common (including outdoor) areas;

f. Exterminating services on a regularly scheduled basis, as follows: [to be specified in lease];

g. Where applicable, removal of snow and ice from walkways, exterior stairs, and parking areas on a timely basis;

h. Repair of walkways and parking lot surfaces;

i. Where applicable, repair of garbage disposals, dishwashers, air conditioners, and laundry equipment;

j. Where applicable, regular maintenance and prompt repair of elevators, incinerators, compactors, and laundry equipment and facilities;

k. Security services and equipment [to be specified in the lease].

NOTE: Appendices VII and VIII, which relate to internal HUD processing procedures, are not included herein, but do appear in the HUD Existing Housing Handbook.

APPENDIX IX—HOUSING ASSISTANCE PAYMENTS CONTRACT

This Housing Assistance Payments Contract ("Contract") is made and entered into on this _____ day of _____, 19____, by and between _____; the person or entity having the legal right to lease the unit (hereinafter called the "Owner"), and _____ ("LHA"), a public body, corporate and politic, organized and existing under and by virtue of the laws of the State of _____

The Owner and the LHA agree as follows:

PART I

1.1. *Purpose of contract.* a. The LHA hereby agrees to make housing assistance payments on behalf of (*name of family*) ("Family") for the following described dwelling unit _____ ("assisted unit"), to enable the Family to lease decent, safe, and sanitary housing pursuant to Section 23 of the United States Housing Act of 1937.

b. The assisted unit is to be leased by the Owner to the Family for use and occupancy by the Family solely as a private dwelling.

1.2. *Housing assistance payments.* a. The LHA has determined that the Family can afford to pay $_____ per month toward the rent chargeable by the Owner. The LHA will pay on behalf of the Family a housing assistance payment in the amount of $_____ which represents the difference between the rent chargeable by the Owner and that portion of said rent payable by the Family. The amount of housing assistance payment and the amount of rent payable by the Family shall be subject to change by reason of changes in the Family income or composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Family and Owner. However, any increase in the amount payable by the Family shall be offset by a corresponding decrease in the amount of housing assistance payment; and any decrease in the amount payable by the Family shall be offset by a corresponding increase in the amount of housing assistance payment, but not in excess of the amount available with respect to this assisted unit out of the aggregate amount pledged in the Annual Contributions Contract (ACC) for all dwelling units under the ACC (see Section 2.3(b)).

b. Housing assistance payments shall be made by the LHA to the Owner, under the terms and conditions of this Contract, only for the period during which the assisted unit is leased by the Family under the lease for the dwelling unit approved by the LHA ("Lease"). Should the Family vacate its unit in violation of the provisions of its Lease, the Owner may continue to receive housing assistance payments in accordance with the terms of the Contract, not beyond the term of the Lease, but only if the Owner (1) immediately upon leasing of the vacancy, has taken all feasible action to fill it, including, but not limited to, contacting families on his waiting list, requesting the LHA to refer eligible families, and advertising the availability of the unit; (2) has promptly (within 30 days of the date the Family vacated the unit) notified the LHA of the vacancy; and (3) has not rejected, except for good cause acceptable to the LHA, any substitute family provided by the LHA.

c. Neither the LHA nor the United States of America, (hereinafter referred to as the "Government") has assumed any obligation whatsoever for the amount of rent payable by the Family or the satisfaction of any claim by the Owner against the Family. The financial obligation of the LHA is limited to making housing assistance payments on behalf of the Family in accordance with this Contract.

d. (1) The Owner shall submit a monthly request to the LHA for the housing assistance payment. Upon the determination of the LHA that the amount of the request is correct and that the Owner is in compliance with the provisions of this Contract, the LHA shall pay to the Owner the amount requested.

(2) If the Owner receives any excessive payment, the LHA, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(3) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years or both.

1.3. *Maintenance, operation and inspection.* a. The term "Premises", as used in this Contract, means the dwelling unit leased by the Family and areas, facilities and grounds which are for its benefit or use.

b. The Owner agrees (1) to maintain and operate the Premises so as to provide decent, safe, and sanitary housing, and (2) to provide all maintenance and services as contained in the Lease. If, at any time during the term of this Contract, the Owner fails to comply with the obligation in (1), housing assistance payments on behalf of the Family shall be wholly abated and if the Owner fails to comply with the obligation in (2), housing assistance payments on behalf of the Family shall be abated in whole or in part. Any abatement under this paragraph b shall be effective upon written notification to the Owner, and shall continue until such time as the obligation is complied with. The LHA shall promptly notify the Family of any such abatement.

c. The LHA will inspect, or cause to be inspected, at least annually, the Premises to determine that they are in decent, safe, and sanitary condition.

1.4. *Term of contract.* The term of this Contract shall be _____. The Contract shall terminate upon expiration or termination of the Lease and shall be subject to termination in accordance with the provisions of Section 2.5 of this Contract.

1.5. *Eviction.* The Owner shall not evict the Family unless the Owner complies with the requirements of local law, if any, and of this Section. The Owner shall give the Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Owner. The Owner must obtain the LHA's authorization for an eviction; accordingly, a copy of the notice shall be furnished simultaneously to the LHA, and the notice shall also state that the Family may, within the same time period, present its objections to the LHA in writing or in person. The LHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The LHA shall notify the Owner and the Family of its determination within 20 days of the date of receipt of the notice by the Family, whether or not the Family has presented objections to the LHA.

1.6. *Owner-family lease.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

"ADDENDUM TO LEASE

"The following additional Lease provisions are incorporated in full in the Lease between _____ (Lessor) and _____ (Lessee) for the following dwelling unit: _____. In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

"a. Of the total rent ($_____ per month), $_____ shall be payable by the Housing Authority (LHA) as housing assistance payments on behalf of the Lessee and $_____ shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the family income or composition, as determined by the LHA, effective as of the date stated in a notification of such change by the LHA to the Lessee and Lessor.

"b. The Lessor shall provide the following services (including security) and maintenance:

[Here specify all services to be provided by the Lessor, which shall include all services customarily supplied to tenants of this type of housing in the locality. In preparing this list, provisions contained in form HUD-52505A, Guide for Lease Provisions for Maintenance and Security Services, shall be included except to the extent modifications are approved by the LHA.]

"c. The Lessor shall not evict the Lessee unless the Lessor complies with the requirements of local law, if any, and of this provision. The Lessor shall give the Lessee a written notice of the proposed eviction, stating the grounds and advising the Lessee that he has 10 days (or such greater number, if any, that may be required by local law) within which to respond to the Lessor. Because the Lessor must obtain the LHA's authorization for an eviction, a copy of the notice shall be furnished simultaneously to the LHA, and the notice shall also state that the Lessee may, within the same time period, present his objections to the LHA in writing or in person. The LHA shall forthwith examine the grounds for eviction and shall authorize the eviction unless it finds the grounds to be insufficient under the Lease. The LHA shall notify the Lessor and the Lessee of its determination within 20 days of the date of receipt of the notice by the Lessee whether or not the Lessee has presented objections to the LHA.

"d. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

"e. This Lease has been signed by the parties on the condition that the LHA will promptly execute a Housing Assistance Payments Contract with the Lessor. Accordingly, this Lease shall not become effective unless the LHA has executed such Contract by the first day of occupancy specified in the Lease.

"Lessor _____ Lessee _____
By _____ Date _____"
Date _____

1.7. *Relocation certification.* a. The Owner hereby certifies that the dwelling unit was vacant on the date that he executed the Request for Lease Approval with the Family. If the unit was not vacant on that date, the Owner hereby certifies that it was or will be vacated (check applicable box):

☐ as a result of voluntary decision of occupant,
☐ as a result of action by Owner for cause, or
☐ for reasons clearly unrelated to leasing of the unit by the Family under the Housing Assistance Payments Program, and the Owner further certifies that the specific circumstances were as follows:

_____

This certification is made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly or willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

b. The Government has determined that satisfactory commitments have been made for the funding of relocation costs pursuant to the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970, as follows:

c. If paragraph b is inapplicable, the Owner agrees to hold harmless and to indemnify the LHA for any cost incurred under said Act in connection with vacation of said units, and the Owner further agrees that the LHA shall have the right to be reimbursed for any such costs by withholding from housing assistance payments payable to the Owner.

1.8. *Entire Agreement.* This Contract, including Part II hereof, contains the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. No changes in this Contract shall be made except in writing signed by both the Owner and the LHA.

1.9. *Legal interest.* The Owner warrants that he has the legal right to execute this Contract and to lease the dwelling unit covered by this Contract.

Local Housing Authority
_____
By: _____
Owner: ___
By: _____

SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM EXISTING HOUSING

HOUSING ASSISTANCE PAYMENTS CONTRACT—PART II

2.1 *Nondiscrimination in housing.* a. Neither the Owner nor the LHA shall, in the selection or approval of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be *automatically* excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, Public Law 90-284, 82 Stat. 73 and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to benefit of the Government, the said Department, and the LHA any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2. *Cooperation in equal opportunity compliance reviews.* The LHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.3. *Annual Contributions Contract*

a. The LHA has entered into an Annual Contributions Contract dated _____, with the Government, with respect to Project No. _____ ("ACC"), under which the Government will provide financial assistance to the LHA pursuant to Section 23 of the United States Housing Act of 1937, for the purpose of making housing assistance payments, which ACC shall be provided by the LHA to the Owner upon request.

b. The LHA hereby pledges such annual contributions payable under Section 1.3(b) (1) of Part I of the ACC to the payment of housing assistance payments pursuant to this and other Housing Assistance Payments Contracts entered into as a part of said Project.

2.4. *LHA and government access to premises and owner's records.* The Owner shall permit the LHA and the Government, or any of their duly authorized representatives, to have access to the Premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests to the LHA for housing assistance payments.

2.5. *Default by the owner.* a. A Default by the Owner under this Contract shall result if:

(1) the Owner has violated or failed to comply with any provisions of this Contract or of the Owner-Family Lease; or

(2) the Owner has failed to perform any of its obligations under this Contract or under the Owner-Family Lease; or

(3) the Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under the Owner-Family Lease.

b. Upon the determination by the LHA that a Default has occurred, the LHA may notify the Owner that the LHA is terminating the Contract effective 30 days from the date of notice, unless within that period the Owner cures any non-compliance, or initiates a course of corrective action which will cure the non-compliance within such minimum additional time as may be necessary and agreed to by the LHA. If the LHA so notifies the Owner, it shall also send a copy of such notice to the Family, together with information regarding continued assistance.

2.6. *Remedies not exclusive and non-waiver of remedies.* Any remedy provided for herein shall not be exclusive or preclude any party from exercising any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to the parties. Failure on the part of any party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive any party of the right thereafter to take any remedial action for the same or any subsequent default.

2.7. *Disputes.* a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the LHA and Owner may be submitted by either party to the U.S. Department of Housing and Urban Development field office director who shall make a decision and shall mail or

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otherwise furnish a written copy thereof to the Owner and the LHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the field office director a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of the field office director.

d. This Section does not preclude consideration of questions of law in connection with decisions rendered under paragraphs a and b of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.8. *Interest of members, officers, or employees of LHA, members of local governing body, or other public officials.* No member, officer, or employee of the LHA, no member of the governing body of the locality (city and county) in which the Premises are situated, no member of the governing body of the locality in which the LHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Premises, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising from it.

2.9. *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.10. *Nonassignability.* a. The Owner agrees that he has not made, and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract, or any of his interest therein, except with the prior consent of the LHA. The assignment by the Owner of the Contract to a limited partnership of which the Owner is the general partner shall not be considered an assignment herein.

b. For the purpose of this Section, a transfer of stock in the Owner in whole or in part by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner or any other similarly significant change in the ownership of such stock or in the relative distribution thereof in or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract. The Owner agrees to notify the LHA promptly of any such proposed action and to request the written consent of the LHA in regard thereto. The Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this paragraph on behalf of said stockholders and to bind them with respect thereto.

NOTE: Appendix X is not included herein but does appear in the HUD Existing Housing Handbook.

APPENDIX XI—SECURITY DEPOSIT AGREEMENT

1. The _____ Housing Authority agrees to pay on behalf of the family headed by _____, herein referred to as the Family, the following amounts as security deposits in connection with the leasing by said Family of a dwelling unit from _____:

(Name of Lessor)

Deposit to Lessor	$_____
Deposit to _____[1]	$_____
Deposit to _____[2]	$_____
Total amount of deposits	$_____

[1] Insert name of each utility company to which deposit is paid.

2. On or before the effective date of the lease to be entered into between the Family and the Lessor, the Family agrees to pay $_____[3] to the Housing Authority as a first installment toward repayment of the total amount for security and/or utility deposits stated in item 1 above, leaving a balance of $_____.

3. The Family agrees to repay the stated balance by paying monthly installments of $_____[4] to the Lessor acting on behalf of the Housing Authority. These payments shall begin on the first day of the second month of the lease, and they shall be in addition to the Family's regular monthly rental payments to the Lessor.

4. The Lessor agrees to collect from the Family the monthly amounts specified in item 3 above and remit them to the Housing Authority, with the understanding, however, that failure on the part of the Family to pay such amounts shall not affect the Lessor's rights to housing assistance payments otherwise payable to him by the Housing Authority.

(Signature of LHA Representative)	(Date)
(Signature of the Family Head)	(Date)
(Signature of the Lessor Representative)	(Date)

Effective date. These regulations shall be effective on May 13, 1974.

SHELDON B. LUBAR,
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.74-10876 Filed 5-10-74;8:45 am]

[3] Insert an amount equal to the lesser of (a) one-twelfth of the Total Amount of Deposits stated in Item 1 above or (b) one month's gross family contribution.

[4] Insert monthly amount to be paid by the Family, generally in the amount of one-eleventh of the balance due. However, this amount may subsequently be adjusted by the Housing Authority by reason of changes in income or rent-paying ability of the Family by amendment of this Agreement.

federal register

MONDAY, MAY 13, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 93
PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING AGENCIES

Interim Grant Regulations

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Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 35—STATE AND LOCAL ASSISTANCE

Subpart F—Grants to Designated Areawide Waste Treatment Management Planning Agencies; Grant Applications; Grants; Plan Content and Approval

INTERIM REGULATIONS

The following regulations are promulgated as interim regulations by the Environmental Protection Agency. These regulations set forth the procedures for providing grants to approved designated planning agency(ies) for the development and operation of a continuing planning process intrinsic to the development of an approvable areawide waste treatment management plan and provide criteria for the designation of management agencies to carry out the plan. The regulations also specify the supporting data needed in a grant application as well as to the content and output of the areawide plan to be developed. Due to the fact that area and agency designations are in the process of being approved and grant applications from the approved designated agencies are imminent, these regulations are hereby adopted as interim. Interested parties and government agencies are encouraged to submit written comments, suggestions or objections to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460. All comments, suggestions or objections received on or before June 27, 1974 will be considered.

The purpose of section 208 of the Federal Water Pollution Control Act Amendments of 1972 (the Act) is to encourage and facilitate the development and implementation of areawide waste treatment management plans at the local level in designated areas, and by the State outside such areas. Regulations for area and agency designations (40 CFR Part 126) were promulgated on September 14, 1973, in accordance with section 208(a) of the Act.

Section 208 establishes a mechanism for intensive water quality/waste control planning and management. Through the Federal assistance provisions, funds are provided to assist local areas in addressing in a sophisticated manner difficult urban/industrial and nonpoint source water quality problems that cannot be solved through the application of statutory base level effluent limitations.

Under the interim regulations and in accordance with sections 208(f)(1) of the Act, funds will be provided to designated local planning agencies for a period of up to 24 months to develop an initial plan for a designated area with concurrent further development of the planning process. For obligations made during FY 1974 and FY 1975, the Federal share shall be 100 percent of the eligible costs of the project.

Planning grants under section 208 of the Act will not be awarded to States for 208 planning in nondesignated areas. Funds provided under section 106 of the Act, however, may be used for this purpose.

The regulations also provide for the involvement of the States in the grant application process and in the development and review of the 208 plan. It was felt that to have a useful areawide waste treatment management plan, the local planning effort should be closely coordinated with the overall State planning effort.

In addition, the interim regulations require that the planning agency make provisions for an Areawide Planning Advisory Committee which must include representatives of the State and public and may include representatives of the U.S. Departments of Agriculture, Army and the Interior and such other Federal and local agencies as may be appropriate.

With respect to the facilities planning conducted during the development of an areawide waste treatment management plan, the regulations provide that generally such planning for construction anticipated within the five year period following approval of the plan must be accomplished within the scope of the 208 planning process and within the scope of the 208 grant assistance provided that detailed engineering shall be required only to the extent deemed necessary by the EPA Regional Administrator. However, where facilities planning has been initiated and is substantially underway at the time of award of a 208 grant, such planning may be continued and incorporated in the areawide waste treatment management planning process and plan. Where the Regional Administrator determines that Step 1 construction grant assistance should be utilized for facilities planning activities during the 208 planning process he may award Step 1 grant assistance for such facilities planning, provided that such planning does not duplicate any work funded by the 208 grant. The designated planning agency must be afforded opportunity to comment prior to award of any Step 2 or Step 3 construction grant assistance within the designated 208 area during the 208 planning process. Upon approval of the 208 plan, no construction grant assistance may be awarded within the 208 area until the project has been brought into conformity with such plan.

Effective date: May 13, 1974.

JOHN QUARLES,
Acting Administrator.

MAY 7, 1974.

Subpart F—Grants to Designated Areawide Waste Treatment Management Planning Agencies; Grant Applications; Grants; Plan Content and Approval

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AUTHORITY: Sec. 208, Federal Water Pollution Control Act Amendments of 1972.

Subpart F—Grants to Designated Areawide Waste Treatment Management Planning Agencies; Grant Applications; Grants; Plan Content and Approval

§ 35.1050 Purpose.

The purpose of section 208 of the Federal Water Pollution Control Act Amendments of 1972 is to encourage and facilitate the development and implementation of areawide waste treatment management plans at the local level. This subpart supplements the EPA general grant regulations and procedures (Part 30 of this chapter) and establishes and codifies policies and procedures for grants to an approved planning agency, upon approval of applications, for the development and operation of a continuing planning process required for the development of an approvable areawide waste treatment management plan.

§ 35.1051 Authority.

These provisions for grants to support the development and operation of an areawide waste treatment management planning process are issued under section 208 of the Federal Water Pollution Control Act Amendments of 1972.

§ 35.1052 Allocations and allotments.

(a) Upon approval of a planning area and agency designation pursuant to Part 126 of this chapter, there will be reserved, for subsequent issuance to the Regional Administrator, an amount of contract authority estimated to cover the reasonable cost of the continuing planning process for a designated area.

(b) Upon completion of review and negotiation of a grant application for the continuing planning process for a designated area, and at such time as the Regional Administrator is prepared to make a grant award, the Regional Administrator shall request an Advice of Allowance authorizing the obligation of contract authority to cover the amount of the negotiated grant agreement. In no case will a grant agreement be executed before an Advice of Allowance is issued.

§ 35.1053 Eligibility.

An applicant agency must be the agency designated by the Governor or appropriate local officials in conformance with §§ 126.11 or 126.16 of this chapter and approved by the Administrator as the official areawide waste treatment management planning agency for the area and must agree to develop a plan and a continuing planning process meeting the requirements of this subpart for the entire designated area.

§ 35.1054 Applications.

§ 35.1054–1 Preapplication Requirements.

Any agency applying for an areawide waste treatment management planning grant shall:

(a) Comply with all applicable requirements of Office of Management and Budget (OMB) Circular No. A–95.

(b) In the case of an area designated by the Governor(s), the application and supporting data shall be submitted to the State agency(ies) designated by the Governor(s) as having review jurisdiction over the planning area. In addition, in such cases in interstate planning areas, the applicant shall submit the application to the Governor of the State wherein the greatest portion of the population within the planning area resides.

(c) In the case of an area designated by the chief elected officials, the application shall be submitted directly to the appropriate Regional Administrator of EPA and the appropriate Governor(s) shall be notified of the submission.

§ 35.1054–2 Application Requirement.

Applications to EPA shall be made in triplicate on such forms as the Administrator may prescribe and shall include the following substantiating data:

(a) In the case of an area designated by the Governor(s), a statement of certification or refusal of certification submitted by the chief official(s) of the reviewing agency(ies) designated by the Governor(s) of the State(s) wherein the area is located. Each certification, or refusal thereof, shall include a statement that the State has reviewed the application and finds: (1) That the proposed work complies or does not comply with all State requirements, including any applicable 303(e) plan(s) prepared under 40 CFR Part 131; (2) that the proposed planning work program is or is not adequate and necessary to accomplish the development of a plan under Section 208; (3) that, insofar as is known, the planning will or will not duplicate any work which has been done or is being done to meet the facilities planning requirements of §§ 35.917–35.917–9; and (4) that the State either certifies or does not certify that the grant application should be approved by EPA.

(b) Evidence that all requirements of OMB Circular No. A–95 have been met.

(c) A statement by the applicant that the proposed activity is consistent with and will be in coordination with other environmental plans (which include land use plans) and has been coordinated with related planning and development that is being done under other Federal assistance programs and any State and local programs which affect the designated area.

(d) A statement by the applicant that provisions have been, or will be, made for an Areawide Planning Advisory Committee which must include repersentatives of the State and public and may include representatives of the U.S. Departments of Agriculture, Army and the Interior and such other Federal and local agencies as may be appropriate in the opinion of EPA, the State(s) and the applicant agency.

(e) A statement by the applicant that the planning process will become financially self-sustaining and provide for annual update of the plan once the initial plan is developed and approved.

(f) A work plan which contains the following:

(1) Description of the objectives and scope of the waste treatment management planning process;

(2) Description of all work performed to date which will be used in the plan development;

(3) Description of the proposed planning process which will be utilized to (i) identify and evaluate feasible measures to control point and nonpoint pollution sources, which measures may take into account all source location and review measures necessary to meet State implementation plan requirements in the area, (ii) select an integrated areawide plan to control these sources, and (iii) establish an areawide management program (including financing) for plan implementation;

(4) Description of any necessary action in the planning to be taken by agencies other than the applicant and procedures to be used in coordination of such activities. (Documentation of the acceptance by the affected responsible agency of such required work or action shall be included and presented with the work plan.);

(5) Detailed schedule showing required interrelationships of work to be accomplished and anticipated dates of completion;

(6) Detailed cost and resource budget, including work to be done under contract or by interagency agreement;

(7) Proposed disbursement schedule with specific progress milestones related to disbursements;

(8) Description of how compatibility with applicable plans prepared or in preparation under sections 209 and 303 (e) will be attained; and

(9) Description of the procedures to be followed in assuring adequate public participation during the plan development, review and adoption in accordance with Part 105 of this chapter.

(g) A statement that the planning process will develop systems for prevention of degradation of surface and ground water quality in the area in accordance with the requirements of the Act and with the applicable Federal/State water quality standards.

§ 35.1055 Revision or amendment of application.

If, in the judgment of the applicant or the EPA Regional Administrator, substantial changes have occurred which warrant revision or amendment, the application shall be revised or amended and submitted for review in the same manner as specified for the original application.

§ 35.1056 Review, certification and approval of grant application.

§ 35.1056–1 State review and certification of applications from areas designated by the Governor(s).

(a) *Intrastate planning areas.* The State reviewing agency designated by the Governor shall, within 45 days after receipt of the application, review the application and either certify or refuse to certify the application and proposed work program as set forth in § 35.1054–2(a). Upon certification or refusal thereof, the reviewing agency will either, at the applicant's direction, return the application to the applicant for forwarding of two copies to the appropriate EPA Regional Administrator, together with all certifications, or forward two copies of the application and certifications or refusals thereof to the appropriate EPA Regional Administrator. If the application is not certified, the reviewing agency shall notify both the appropriate EPA Regional Administrator and the applicant as to the specific reasons for noncertification and specify the changes which are needed for State certification of the application.

(b) *Interstate planning areas.* The applicant shall submit its application to the reviewing agency designated by the Governor of the State wherein the greatest portion of the population resides. This reviewing agency shall, within 15 days of receipt of the application, forward copies of the application to the agency designated by the Governor(s) of each other State having jurisdiction within the planning area, and shall serve as coordinator for the bi- or multi-State re-

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view. Each State shall review the application and within 45 days provide the State coordinating the review with its certification or refusal thereof as set forth in § 35.1054–2(a). The coordinating State shall within 15 days forward two copies of the application, supporting documents and all State certifications or refusals thereof to the applicant for forwarding to the appropriate EPA Regional Administrator. In the event that one or more States does not certify the application, each State refusing certification shall specify its reasons in writing and advise the applicant through the coordinating State, of the specific changes needed to gain its certification. The coordinating State, in turn, shall forward such notice(s) of non-certification to the applicant and the appropriate EPA Regional Administrator. At the request of all of the States involved and with the approval of the appropriate Regional Administrator(s), an existing, recognized, interstate agency may act in the coordinating role on behalf of those States.

§ 35.1056–2 State comments on applications from areas designated by local officials.

In all cases concerning applications in areas designated by locally elected officials, the State shall review and comment upon the application as provided for by OMB Circular A–95.

§ 35.1056–3 EPA review and approval.

(a) EPA shall not accept for review for the purpose of making a grant any incomplete application or an application unaccompanied by all State certifications or refusals thereof which have been submitted.

(b) The Regional Administrator shall review the application and supporting documentation to determine its compliance with the applicable requirements of the Act and this subpart, the suitability of the proposed programs to successfully meet the required outputs of section 208 of the Act and this subpart and the costs of the proposed program.

(c) Generally within 45 days after receiving the application the Regional Administrator shall:

(1) Award a grant to the applicant in the amount that he finds meets the requirements of § 35.1057.

(2) Notify the applicant that the grant application is deficient in one or more respects and specify in which ways the application must be modified to receive EPA approval. Copies of such notifications will be forwarded to all concerned States at the time the applicant is notified of EPA action.

§ 35.1057 Amount of grant.

For grants awarded during the fiscal years ending on June 30, 1974, and June 30, 1975, the rate of Federal assistance furnished to a grantee shall be 100 per centum of the EPA approved eligible and reasonable costs of developing or modifying an initial areawide waste treatment management plan meeting the requirements of this subpart and operating an approved planning process.

§ 35.1058 Period of grant.

Federal assistance shall be for a budget period beginning the date of execution of the grant agreement and ending the date which the plan is approved by the appropriate Regional Administrator or within 24 months, whichever period is less.

§ 35.1059 Payments.

§ 35.1059–1 Establishment of initial fund.

Payment will be made in advance to the grantee by the establishment and at least quarterly replenishment of a fund that shall be based on a negotiated amount set forth in the grant agreement and which should not exceed 10 percent of the grant amount, unless a larger initial percentage is necessary for the accomplishment of the grant objectives.

§ 35.1059–2 Request for replenishment of funds.

Requests for replenishment of funds shall be made by the grantee on such form as prescribed by the Administrator. Each request for replenishment of funds shall include a statement on the status of the project related to the approved milestones set forth in the grant application. If the project is behind schedule, the statement should identify the specific tasks that have been delayed and give the reasons for the delay.

§ 35.1059–3 Federal retention of grant funds.

In accordance with the provisions of § 30.602–1 of this chapter, an amount not to exceed 10 percent of the grant award amount may be withheld for noncompliance with a program objective, grant condition or reporting requirement.

§ 35.1060 Reports.

Within 30 days following the end of each 6 month period after the effective date of the grant, the grantee agency shall prepare and submit for review by EPA a semi-annual report of progress and expenditures as compared to the scheduling of approved milestones in the work plan. Lack of scheduled progress and other problems shall be fully explained.

§ 35.1061 Suspension and termination of grant.

In accordance with the provisions of §§ 30.902 and 30.903 of this Chapter, the Regional Administrator may suspend or terminate any grant awarded pursuant to this Subpart.

§ 35.1062 Allowable costs.

In general, eligible and ineligible costs shall be determined in accordance with § 30.701 of this Chapter and by demonstration that the type and degree of work is necessary for successful completion of the project, and that the costs are reasonable with respect to the product or service to be obtained. While costs incurred as a result of following an approved work program would generally be allowable, provided that they are not prohibited elsewhere by Federal, State or local law, regulations or rule, the costs incurred by activity related to the following shall be ineligible:

(a) All costs incurred in development of a grant application for an areawide waste treatment management planning grant.

(b) All costs incurred in sewer evaluation surveys as required under § 35.927–2.

(c) All costs incurred in detailed sewer system mapping and surveys therefor.

(d) All costs related to sewage collection systems at less than the trunk line level.

(e) All costs related to obtaining or providing information for sewer systems other than the costs of determining the following items in sufficient detail to make informed judgments on the cost effectiveness of available alternatives: tributary or service areas, routes, sizes, capacities and flows, critical control elevations required to show ability to serve tributary areas, lengths, staging, major impediments to construction, and costs of construction and operation. Data concerning lift stations shall be limited to location, size, energy requirements and capital and operating costs. (Costs of gathering and analyzing information required for economic, environmental and social evaluations shall be eligible.)

(f) All costs related to obtaining or providing treatment works other than the costs of determining the following items in sufficient detail to make informed judgments on the cost effectiveness of available alternatives: Location, site plot plan which shows adequacy of the site including provision for expansion, process flow diagram, identification of unit process, type, number and size of major units, capacities and flows, anticipated effect of treatment, staging and capital and operating costs and energy requirements. (Costs of gathering and analyzing information required for economic, environmental and social evaluations shall be eligible.)

(g) All costs of special studies for the specific benefit of individual, industrial or commercial establishments.

(h) All costs of activities which are primarily of a research nature.

§ 35.1063 Submission of the plan.

§ 35.1063–1 Plans for intrastate areas.

No later than two years after the planning process is in operation, as evidenced by award of a grant, three copies of a plan and local governmental recommendations thereon, in accordance with § 35.1064–1, shall be submitted to the Regional Administrator through the State reviewing agency along with certification of approval by the Governor of the State wherein the area is located. The certification document shall include certification that the State has reviewed the plan and:

(a) Has found the plan to be in conformance with the provisions of the State basin plan(s) and the State Program prepared under section 106, and that the plan will be accepted as a detailed portion of the State plans when approved by EPA;

(b) Has found the plan to be internally consistent with the water quality control needs of the area;

(c) Has found the plan consistent with all State and local legislation, regulations or other requirements or plans regarding land use and protection of the environment;

(d) Has found that the plan provides adequate basis for selection and designation of management agencies to be designated under section 208(c) of the Act; and

(e) Has approved the plan. If disapproval is necessary, that is if no certification of approval can be issued by the Governor due to failure of the grantee to comply with one or more of these provisions, the Governor shall notify the Regional Administrator and the grantee in writing that the plan is deficient, and specify in which ways the plan must be modified to receive State certification of approval.

§ 35.1063–2 Plans for interstate areas.

No later than two years after the planning process is in operation, three copies of the plan and local governmental recommendations thereon and one additional copy of the plan and recommendations for each concerned State shall be submitted to the reviewing agency designated by the Governor of the State wherein the greatest portion of population within the planning area resides. That agency shall act as the coordinating agency and shall forward one copy of the plan to the reviewing agency designated by the Governor of each other State wherein a portion of the planning area is located. Each State shall review the plan and shall, on behalf of that State, furnish the coordinating agency with certifications as set forth in § 35.1063–1. The coordinating State agency shall forward copies of each certification to the grantee agency and shall, at that time, forward two copies of the certifications and the plan and local governmental recommendations thereon to the appropriate EPA Regional Administrator. At the request of all the States involved, and with the approval of the Regional Administrators, an existing, recognized, interstate agency may act in the coordinating role on behalf of those States.

§ 35.1064 Areawide waste treatment management planning: Content and outputs.

The purpose of areawide planning activities is the development of a coordinated, viable, management system capable of organizing, directing, implementing and maintaining an effective program of pollution abatement and preservation of existing high quality water in areas having substantial water quality control problems.

§ 35.1064–1 Content of areawide waste treatment management plan.

Each agency receiving assistance under a grant for areawide waste treatment management planning shall develop and submit to the Regional Administrator an areawide waste treatment management plan consistent with this Subpart and the applicable requirements of §§ 35.917 to 35.917–9. The plan shall include:

(a) An identification of the anticipated municipal and industrial treatment works construction necessary to meet the requirements of Title II of the Act within the designated planning area over a twenty year period;

(b) Those portions of facilities planning in compliance with § 35.917–1(a)–(i) the costs of which are allowable under § 35.1062 for those facilities for which Step 2 or Step 3 grant assistance is expected to be awarded during the five-year period following the section 208 plan approval.

(c) The identification of required urban storm water runoff control systems;

(d) The establishment of construction priorities for treatment works for the five-year period following the year of plan approval and a proposed schedule of completion of major treatment works over the twenty-year period following submission of the plan;

(e) The establishment of a regulatory program to:

(1) Provide that waste treatment management shall be on an areawide basis and provide identification and evaluation of and control or treatment for all point and non-point sources of pollution, including inplace or accumulated pollution sources, as shall be required under guidelines published by the Administrator pursuant to sections 208 and 304(e) of the Act. (Special regulatory consideration, including land use controls, is required for sources further specified under paragraphs (g) through (l) of this section);

(2) Regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area including, as appropriate, regulation of any future increase in waste loads and sources; and

(3) Assure that any industrial or commercial wastes discharged into any publicly owned treatment works in such area must meet applicable pretreatment requirements established in the plan.

(f) The identification of those agencies necessary to (1) construct, operate, and maintain all facilities required by the plan, and (2) otherwise carry out the plan;

(g) A process to (1) identify, if appropriate, agriculturally and silviculturally related non-point sources of pollution, including runoff from manure disposal areas, and from land used for livestock and crop production, and (2) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources:

(h) A process to (1) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (2) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(i) A process to (1) identify construction activity related sources of pollution, and (2) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(j) A process to (1) identify, if appropriate, salt water intrusion into rivers, lakes and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (2) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan;

(k) A process to control the disposition of all residual waste generated in such area or imported into such area which could affect either surface or ground water quality;

(l) A process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality;

(m) The identification of all major alternative measures, including enforcement acitvities, financing, land use and other development controls and regulatory actions, administrative and management authorities and practices necessary to carry out each of the alternatives, and selection of the recommended system;

(n) The period of time necessary to carry out the plan and major alternatives, the costs of carrying out the plan and major alternatives within such time, and economic, social, and environmental impacts of carrying out the plan and major alternatives within such time;

(o) Certification of the consistency of the plan with plans prepared or in preparation under sections 209 and 303 of the Act. (Any 201 plan developed in the area or any application for a Step 1 grant for such plan received prior to the approval of the 208 plan shall require review and comments by the designated 208 agency which shall be transmitted to the State agency processing the Title II grant applications. After the section 208 plan has been approved, all 201 plans for the area that may previously have been developed shall be brought into conformance with the 208 plan.)

(p) Certification and description of public participation, in the planning process and adoption of the plan, in accordance with Part 105 of this Chapter; and

(q) Recommendations by governing bodies of local governments having responsibility for, or which would be directly affected by, implementation of the plan and having jurisdiction in the planning area as to State certification and EPA approval of the plan. In the event that a local unit of government fails to provide a recommendation within 30 days of receiving such a request from the planning agency, it shall be considered that the plan has been favorably recommended by that unit of local government.

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§ 35.1064–2 Revisions of plans.

If, in the judgment of the Regional Administrator, State Governor(s) or applicant, substantial changes have occurred which warrant revision or amendment of the approved plan, the plan shall be revised or amended and submitted for review in the same manner specified in this Subpart for the original plan.

§ 35.1065 Authority of States for nonpoint source planning in designated areas.

Whenever the Governor of any State determines (and notifies the Regional Administrator) that consistency with a Statewide regulatory program under section 303 so requires, the requirements of § 35.1064–1(g) through (l) shall be developed and submitted by the Governor to the Regional Administrator for application to all regions within such State. All requirements of such State programs shall be incorporated into each affected areawide plan. The plan shall set forth such additional local actions and programs as may be necessary for implementation of the plan developed by the State.

§ 35.1066 Designation of management agencies.

§ 35.1066–1 Intrastate planning areas.

The Governor of the State in consultation with the designated planning agency, affected local governments and following the public partication requirements set forth under Part 105 of this chapter, at the time the plan is submitted to the Administrator shall designate one or more waste treatment management agencies (which may be an existing or newly created local, regional or State agency or political subdivision) for the designated area. Such agency or agencies shall, individually or in aggregate, have adequate authority to meet the requirements to carry out the provisions of section 208(c)(2) of the Act.

§ 35.1066–2 Interstate planning areas.

The Governors of the States wherein the planning area is located shall either mutually designate one or more waste treatment management agencies as set forth in § 35.1066–1 or shall, after agreement among the Governors and the appropriate EPA Regional Administrators, individually designate one or more waste treatment management agencies within each State pursuant to the requirements of § 35.1066–1.

§ 35.1067 EPA review of plan and designation of management agencies.

§ 35.1067–1 Submittal of certified plan and designation of proposed management agency(ies).

The Regional Administrator shall not receive for the purpose of review and approval either proposed designations of management agency(ies) in the absence of a plan certified by the appropriate Governor(s) or a plan certified by the appropriate Governor(s) in the absence of proposed designations of management agency(ies).

§ 35.1067–2 Dual approval required.

The appropriate Regional Administrator shall neither approve a certified plan unless concurrently approving all designated management agencies, nor approve the designation of management agencies unless concurrently approving a certified plan.

§ 35.1067–3 Review and approval of plan.

The Regional Administrator's approval of the plan will be based upon the State(s) certification of approval and EPA's review of the submission for conformance with provisions of section 201 and 208 of the Act and the requirements of this Part and other applicable regulations. Within 120 days after receiving the submittal, the Regional Administrator shall:

(a) Notify the State(s) and the grantee of approval of the plan; or

(b) Notify the State(s) and the grantee that the submittal is deficient in one or more respects and specify the ways in which the submittal must be modified to receive EPA approval; or

(c) Notify the grantee and the State(s) that the designation of waste treatment management agencies cannot be approved, thereby delaying further consideration of the plan until such time as deficiencies in such designations are rectified.

§ 35.1067–4 Review and approval of waste treatment management agencies.

The Regional Administrator's approval will be based upon the requirements set forth in section 208(c)(2) of the Act. Within 120 days after receiving the submittal of the designations the Regional Administrator shall:

(a) Notify the Governor(s) and grantee of approval of the designations; or

(b) Notify the Governor(s) and grantee that the designation submittal is deficient in one or more respects and specify the ways in which the submittal must be modified to receive EPA approval; or

(c) Notify the Governor(s) and grantee that the plan cannot be approved until modified, thereby delaying further consideration of the designations until such time deficiencies in the plan are corrected.

§ 35.1068 Disputes.

Final determinations by the Regional Administrator concerning applicant ineligibility and final determinations by the Regional Administrator concerning disputes arising under a grant pursuant to this Subpart shall be final and conclusive unless appealed by the applicant or grantee within 30 days from the date of receipt of such final determination in accordance with the "Disputes" article of the General Grant Conditions (Article 7 of Appendix A to this Subchapter).

§ 35.1070 Annual Update of Plan. [Reserved]

§ 35.1080 Grants for Update of Plan. [Reserved]

[FR Doc.74–10977 Filed 5–10–74;8:45 am]

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TUESDAY, MAY 14, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 94

Pages 17207–17293

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federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 3—The President

PROCLAMATION 4292

National Defense Transportation Day and National Transportation Week, 1974

By the President of the United States of America

A Proclamation

The phenomenal growth of America in just two hundred short years has been directly related to the growth of our national system of transportation. Today we have the largest and most diverse transportation system in the world, and the men and women who make that system work contribute nearly twenty percent to our Nation's gross national product.

As our society continues to grow, we must ensure that the effectiveness of our transportation system keeps pace with the changing demands placed on it. Both the Federal Government and the private sector have a role to play in ensuring that effectiveness.

During the recent energy crisis, we became more aware than ever of the central, critical role our transportation system plays in meeting our social and economic needs through the efficient movement of people and goods. The quality of our life and the health of our economy require that our transportation system remain robust.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Friday, May 17, 1974, as National Defense Transportation Day, and the week beginning May 12, 1974, as National Transportation Week.

I urge the participation of Governors and other elected officials as well as the people of America to join with the Department of Transportation in observing this week as further proof of our efforts to give the Nation balanced and energy-efficient transportation.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one-hundred ninety-eighth.

Richard Nixon

[FR Doc.74-11233 Filed 5-13-74;10:09 am]

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PROCLAMATION 4293

Legal Rights for Retarded Citizens Week, 1974

By the President of the United States of America

A Proclamation

America's more than six million mentally retarded citizens face many hardships in their daily lives. Too frequently, they are even denied basic legal rights without having the means or the knowledge to protect themselves.

Retarded children, for instance, are too often deprived of the opportunities open to other children, and many mentally retarded adults are denied a free choice of a place to live.

Too many of the mentally retarded who, with proper training and encouragement, could lead healthy, productive lives in the outside world are needlessly institutionalized. Many are the victims of direct and indirect discrimination in their everyday lives.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States, do hereby proclaim the week beginning May 12, 1974 as "Legal Rights for Retarded Citizens Week", and call upon all Americans to make an added effort to accord full legal rights and individual respect and dignity to all retarded Americans not only this week, but every week of the year.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.74-11234 Filed 5-13-74;10:09 am]

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MEMORANDUM OF APRIL 23, 1974

[Presidential Determination No. 74–17]

Emergency Security Assistance for Israel

Memorandum for The Secretary of State and The Secretary of Defense

THE WHITE HOUSE,
Washington, D.C., April 23, 1974.

By virtue of the authority vested in me by Public Law 93–199, the Emergency Security Assistance Act of 1973 (hereinafter "the Act"), and by Public Law 93–240, the Foreign Assistance and Related Programs Appropriation Act, 1974 (hereinafter "the Appropriation Act"), I hereby:

A. Determine (1) that it is important to our national interest that Israel receive assistance under the Act exceeding $1,500,000,000 and (2) that obligations in excess of $1,700,000,000 of the funds appropriated by the first paragraph in Title IV of the Appropriation Act will be in the national interest;

B. Release Israel from its contractual liability to the extent of $1,000,000,000 to pay for defense articles and defense services purchased under the Foreign Military Sales Act (82 Stat. 1320, Public Law 90–629), as amended, during the period beginning October 6, 1973, and ending March 31, 1974; and

C. Determine that foreign military sales credits extended to Israel under the Act shall be in amounts not to exceed $1,200,000,000 (less amounts necessary for payment by the United States of its share of expenses of United Nations activities in the Middle East as authorized by law) repayable as to principal over a period of twenty years following a two year grace period after initial disbursement and at a rate of interest of three percent per annum, with all other terms and conditions to be in accordance with those applicable to credits extended for foreign countries under the above-cited Foreign Military Sales Act, as amended.

This memorandum shall be published in the FEDERAL REGISTER.

Richard Nixon

[FR Doc.74–11183 Filed 5–10–74;2:53 pm]

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Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Fees and Charges for Certain Federal Inspection Services

Statement of considerations. The Agricultural Marketing Act of 1946 provides for the collection of fees equal as nearly as may be the cost of the inspection services rendered under its provisions. This amendment adjusts the hourly rate for services charged by the hour under § 68.42a from $11.20 to $12.20 per hour, and makes corresponding changes in fees and charges for the inspection for quality on dry beans, dry peas, lentils, hay, straw, and hops. The fees for these quality inspections are based on an average unit of time for each service, and the increase corresponds to the increase in hourly charge. The changes are necessary due to increased costs for rent, postage, communications, travel, and salaries for Federal employees.

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of 7 CFR 68.42a prescribing fees in connection with the inspection of agricultural commodities administratively assigned to the Grain Division are hereby amended as follows:

§ 68.42a Fees and charges for certain Federal inspection services.

The following fees and charges apply to the Federal inspection services specified below:

Service	Fee or charge
Appeal inspection:	
(a) Basis original sample	(1)
(b) Basis new sample	(1)
Bean, lentil, and pea inspection (including chick peas, cowpeas, split peas, and similar commodities):	
(a) Lot inspection:	
(1) Field run (quality and dockage analysis)—per lot	$7.80
(2) Other than field run (grade, class, and quality)—per lot (In addition to the fee for analysis or grading in (1) and (2) above, a fee for sampling, checkweighing, and checkloading, if any, will be assessed at the prescribed rate.)	5.85
(b) Sample inspection:	
(1) Field run (quality and dockage analysis)—per lot	7.80
(2) Other than field run (grade, class, and quality)—per sample	5.85
Checkloading—per man-hour	[2] 12.20
Checkweighing—per man-hour	[2] 12.20
Condition examination—per man-hour	[2] 12.20
Demonstration grading—per request	[4] 190.00
Extra copies of certificates—per copy	1.00
Grade factor analysis (as defined in any official U.S. Standards) per factor	3.90
Hay and straw inspection:	
(a) Lot inspection:	
(1) For sampling and grading—per man-hour	12.20
(b) Sample inspection:	
(1) Grade only—per sample	7.80
(2) Factor analysis — per man-hour	12.20
Hop inspection:	
(a) Lot inspection:	
(1) For seed, leaf, and stem content—per lot	9.20
(2) Aphid infestation — per lot (In addition to the fee for analysis in (1) and (2) above, a charge for sampling, if any, will be assessed at the prescribed rate.)	12.20
(b) Sample inspection:	
(1) For seed, leaf, and stem content—per sample	9.20
(2) Aphid infestation — per sample	12.20
Laboratory report	1.00
Laboratory testing:	
(a) In addition to the charges, if any, for sampling or other requested service, a fee will be assessed for each laboratory analysis or test as follows:	
(1) Acetyl value	5.00
(2) Acidity—Greek	1.70
(3) Acid value—oil	2.35
(4) Aflatoxin	15.00
(5) Appearance, flavor, and odor of oils	1.10
(6) Ash	1.70
(7) Bacteria count	3.50
(8) Baking test—bread	7.50
(9) Baking test—cookies	5.00
(10) Baking test—prepared mix	3.05
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(70) Neutral oil loss	5.50
(71) Nitrogen solubility index	2.60
(72) Odor, appearance, and flavor of oil	1.10
(73) Oil content—oilseed	3.50

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Service	Fee or charge
(74) pH—Hydrogen ion concentration	1.70
(75) Peroxide value	1.75
(76) Peroxide value after 8 hours AOM	4.80
(77) Phosphorus	3.65
(78) Popping value—popcorn	1.50
(79) Potassium bromate—qualitative	.85
(80) Potassium bromate—quantitative	3.25
(81) Protein—Kjeldahl	2.05
(82) Reducing sugars	8.40
(83) Refractive index	1.20
(84) Riboflavin	6.60
(85) Rope spore count	11.10
(86) Salt content	3.50
(87) Saponification number	3.05
(88) Sieve test	2.20
(89) Smoke point	1.40
(90) Softening point	4.30
(91) Solid fat index	9.90
(92) Solubility in alcohol—oil	1.10
(93) Specific baking volume—prepared mix	3.05
(94) Specific gravity—oils	2.95
(95) Spreadfactor—cookies	5.00
(96) Test weight per bushel—other than grain	1.20
(97) Unsaponifiable matter	5.80
(98) Urease activity	2.25
(99) Viscosity—flour	5.00
(100) Viscosity — Gardner-Holdt	1.50
(101) Water soluble protein	2.50
(102) Xanthydrol test for rodent urine	2.50
(If a requested analysis or test is on the basis of a specified moisture content, a charge for an oven moisture test will also be made.)	
Lentil inspection: (See Bean inspection.)	
Minimum fee for services covered by hourly rate—a minimum fee for 2 hrs. per man, per service request, will be assessed at the applicable hour rate.	
New inspection—fees and charges to be based on services requested.	
Pea inspection: (See Bean inspection.)	
Sampling per man-hour	[1] 12.20
Special inspection service per man-hour	[2] 12.20
Split pea inspection: (See Bean inspection.)	
Standby time per man-hour	12.20
Straw inspection: (See Hay inspection.)	

The need for increases in the fees for services and the amount thereof are dependent upon facts within the knowledge of the Agricultural Marketing Service. Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking procedures on the amendments are impractical and unnecessary.

(Sec. 203, 205, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624))

This amendment shall become effective on July 1, 1974.

Done at Washington, D.C., on May 8, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-11092 Filed 5-13-74;8:45 am]

[1] The applicable grading or laboratory analysis or testing charge. Minimum fee, if any, $12.20.

[2] Applicable sampling charge, if any, plus applicable grading, or laboratory analysis or testing fee.

[3] Only one fee will be charged for these services whether performing singly or concurrently. (But see minimum fee requirement.)

[4] Plus all travel costs associated with the performance of the demonstration grading service.

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment

This document authorizes expenses of $273,470 of the Valencia Orange Administrative Committee, under Marketing Order No. 908, for the 1973–74 fiscal year and fixes a rate of assessment of $0.014 per carton of Valencia oranges handled in such period to be paid to the Committee by each first handler as his pro rata share of such expenses.

On April 26, 1974, notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 14723) regarding proposed expenses and the related rate of assessment for the period November 1, 1973, through October 31, 1974, pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The notice provided that all written data, views, or arguments in connection with the proposals be submitted by May 6, 1974. None were received. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Valencia Orange Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 908.213 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period November 1, 1973, through October 31, 1974, will amount to $273,470.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 908.41, is fixed at $0.014 per carton of Valencia oranges.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable oranges handled during the aforesaid period, (2) shipments of Valencia oranges are currently in progress, and (3) such period began on November 1, 1973, and said rate of assessment will automatically apply to all such oranges beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended: 7 U.S.C. 601–674)

Dated: May 9, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-11091 Filed 5-13-74;8:45 am]

[Valencia Orange Reg. 463, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 3–9, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 463 (39 F.R. 15278). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 908.763 (Valencia Orange Regulation 463 (39 FR 15278) are hereby amended to read as follows:

"(i) District 1: 283,000 cartons;
"(ii) District 2: 246,000 cartons;
"(iii) District 3: 196,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: May 8, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-11046 Filed 5-13-74;8:45 am]

[Lemon Reg. 637, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 5–11, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 637 (39 FR 15403). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b) (1) of § 910.937 (Lemon Regulation 637) (39 FR 15403) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period May 5, 1974, through May 11, 1974, is hereby fixed at 265,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: May 8, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-11044 Filed 5-13-74;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 74-394]

PART 523—MEMBERS OF BANKS

Amendment To Increase the Maturity of Bankers' Acceptances

MAY 8, 1974.

The Federal Home Loan Bank Board considers it advisable to amend §523.10 of the regulations for the Federal Home Loan Bank System (12 CFR 523.10) in order to increase the period to maturity permitted for bankers' acceptances used to meet the overall liquidity requirement for member institutions under § 523.11 (12 CFR 523.11). The period to maturity of bankers' acceptances eligible for short-term liquidity is unchanged. This action is taken due to recent amendments by the Board of Governors of the Federal Reserve System in part authorizing the Federal Reserve Bank of New York to buy and sell certain bankers' acceptances with maturities of up to 9 months. Accordingly, the Board hereby amends paragraphs (g) (5) (iii) and (h) (4) of said § 523.10 to read as set forth below, effective May 14, 1974.

Paragraph (g) (5) (iii) of § 523.10 is amended to increase the period to maturity of bankers' acceptances for overall liquidity purposes from 6 to 9 months and paragraph (h) (4) of § 523.10 is amended to indicate that the period to maturity of acceptances eligible for short-term liquidity remains not more than 6 months.

Since the above amendment relieves restriction, the Board hereby finds that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

1. In §523.10, paragraphs (g) (5) (iii) and (h) (4) are revised to read as follows:

§ 523.10 Definitions.

* * * * * * *

(g) * * *

(5) * * *

(iii) The remaining periods to maturity of such acceptances are not more than 9 months; and

* * * * * * *

(h) * * *

(4) Bankers' acceptances specified in subparagraph (5) of paragraph (g) of this section having a remaining period to maturity of not more than 6 months.

(Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425a, 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48, comp., p. 1071).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-11088 Filed 5-13-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-NW-9-AD; Amdt. 39-1845]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707/720 Series Airplanes

Amendment 39-1753 (FR Doc. 73-25927), AD-73-25-2, requires inspection of the series yaw damper rudder power control units for evidence of internal leakage and replacement or rework, as necessary, on Boeing Model 707/720 Series Aircraft. After issuing Amendment 39-1753, there have been numerous re-

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ports of excessive non-recoverable internal leakage in other components of the auxiliary hydraulic system. This internal leakage has been due to power control unit (PCU) transfer valves, rudder pressure regulators, bypass and relief valves, and to the tab lock stop piston in the PCU. This type of leakage decreases hydraulic power available to the rudder power control unit thereby reducing its output force and rate capability and may result in inadequate directional control for asymmetrical flight conditions. The Administrator has determined that an unsafe condition may still exist. Therefore, the AD is being superseded by a new AD that requires the inspection and rework or replacement, as necessary, of the auxiliary hydraulic system.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the FEDERAL REGISTER.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation regulations is amended by superseding Amendment 39–1753 (38 FR 33764) with the following new airworthiness directive:

BOEING: Applies to all Model 707 and 720 airplanes having 6,000 hrs., or more, time in service, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent excessive non-recoverable internal hydraulic leakage in the auxiliary hydraulic system and the possible loss of aircraft direction control at critical air speeds, accomplish the following:

PART I

(a) Part I of this AD applies to airplanes which will be used for flight crew training.

(b) Prior to further flight for crew training, and thereafter at intervals not to exceed 2,000 hours time in service from the last inspection, the airplane auxiliary hydraulic system must be inspected and replaced or reworked, as necessary, in accordance with the following:

(1) Inspect for evidence of internal leakage per the information contained in Boeing Alert Service Bulletin 3154 dated April 12, 1974, or later FAA approved revisions of Boeing Alert Service Bulletin 3154 or by an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(2) Airplanes with an auxiliary hydraulic system having internal leakage equal to or greater than 1.0 GPM but less than 3.0 GPM may not be used in training or revenue service but may only be flown in accordance with FAR 21.197 to a maintenance base for replacement or rework, as necessary, of the defective auxiliary hydraulic system components.

(3) Airplanes with an auxiliary hydraulic system having 3.0 GPM, or more, internal leakage must have the defective auxiliary hydraulic system components replaced or overhauled, as necessary, prior to further flight.

PART II

(a) Part II of this AD applies to airplanes which have not been inspected and reworked, as necessary, in accordance with Amendment 39–1753 (FR Doc. 73–25927), AD–73–25–2.

(b) Within 300 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 2,000 hours time in service from the last inspection, accomplish the following:

(1) Inspect for evidence of internal leakage and replace or rework, as necessary, per the information contained in Boeing Alert Service Bulletin 3154 dated April 12, 1974, or later FAA approved revisions of Boeing Alert Service Bulletin 3154 or by an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(2) Airplanes with an auxiliary hydraulic system having internal leakage equal to or greater than 1.0 GPM but less than 3.0 GPM may not be used in revenue service but may only be flown in accordance with FAR 21.197 to a maintenance base for replacement or rework, as necessary, of the defective auxiliary hydraulic system components.

(3) Airplanes with an auxiliary hydraulic system having 3.0 GPM, or more, internal leakage must have the defective auxiliary hydraulic system components replaced or overhauled, as necessary, prior to further flight.

For the purpose of complying with the repetitive periodic inspection requirement of this AD, the 2,000 hours time in service may be adjusted by submitting substantiating technical data through the FAA assigned maintenance inspector for the approval of the Chief, Engineering and Manufacturing Branch, Flight Standards Division, FAA, Northwest Region.

This Amendment becomes effective May 14, 1974.

The manufacturer's specifications and procedures identified and described in this Directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this Directive who have not already received these documents from the manufacturer, may obtain copies upon request to The Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at FAA Northwest Region, 9010 East Marginal Way, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c))))

Issued in Seattle, Washington on May 6, 1974.

C. B. WALK, JR.,
Director, Northwest Region.

NOTE: The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.74–11034 Filed 5–13–74;8:45 am]

[Docket No. 13699; Amdt. 39–1846]

PART 39—AIRWORTHINESS DIRECTIVES

Mitsubishi Model MU–2B Airplanes

Pursuant to the authority delegated to me by the Administrator an airworthiness directive (AD) was adopted on April 19, 1974, and made effective immediately upon receipt of the airmail letter AD as to all known United States operators of Mitsubishi Heavy Industries, Ltd., Model MU–2B and MU–2B –10, –15, –20, –25, –30, and –35 airplanes because of reported failures of flap flexible shaft inner cables that could render the flap system inoperative on Mitsubishi Model MU–2B airplanes. The AD requires inspections of the flap cables before further flight, periodic inspections thereafter, and replacement of shafts as necessary.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known U.S. operators of Mitsubishi Model MU–2B and MU–2B –10, –15, –20, –25, –30, and –35 airplanes by airmail letter dated April 19, 1974. These conditions still exist and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c); Department of Transportation Act (49 U.S.C. 1655(c))

MITSUBISHI HEAVY INDUSTRIES, LTD. Applies to Mitsubishi Models MU–2B, MU–2B–10, MU–2Z–15, MU–2B–20, MU–2B–25, MU–2B–30, and MU–2B–35 airplanes.

Compliance required as indicated, except that the airplane may be flown in accordance with § 21.197 to a base where the inspection, replacement, or modification can be accomplished.

To prevent failure of the flap flexible shaft inner cable (P/N RY25–1 or 080227–OC–97.50) and resulting jammed outboard auxiliary actuator that could render the flap system inoperative, accomplish the following:

(a) Before further flight and thereafter at intervals not to exceed 50 hours' time in service since the last inspection, inspect the RH and LH flap flexible shafts (P/N RY25–1 or 080227–OC–97.50) for frictional noise by listening for intermittent squeak while operating the flaps in both directions through their full travel, in quite surroundings.

(b) If frictional noise is heard during an inspection required by paragraph (a) of this AD, before further flight remove the clamp at W.S. 2590, if installed, and replace the affected shaft with a serviceable shaft, P/N RY25–1 or 080227–OC–9750, installed so as to establish that no bend radius throughout the shaft between W.S. 2370 and W.S. 2910 is less than 8.7 inches (220 millimeters).

(c) If no frictional noise is heard during an inspection required by paragraph (a) of this AD, before further flight, unless already accomplished:

(1) Remove the clamp at W.S. 2590, if installed;

(2) Loosen the clamp at W.S. 2910;

(3) Flex the shaft to establish that no bend radius throughout the shaft between W.S. 2370 and W.S. 2910 is less than 8.7 inches (220 millimeters); and

(4) Tighten the clamp at W.S. 2910.

NOTE: Mitsubishi MU–2 Service Bulletin No. 162, dated February 15, 1974, refers to this subject.

This amendment is effective May 14, 1974 as to all persons except those persons to whom it was made effective upon receipt of the airmail letter dated April 19, 1974, that contained this amendment.

Issued in Washington, D.C., on May 7, 1974.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.74–11033 Filed 5–13–74;8:45 am]

[Airspace Docket No. 74–EA–2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area

On page 6123 of the FEDERAL REGISTER for February 19, 1974, the Federal Aviation Administration published a proposed rule which would alter the Saranac Lake, N.Y., Transition Area (39 FR 587).

Interested parties were given 30 days after publication in which to submit written data or views. The only objection received concerned a confliction of a portion of the airspace with an Air Force training route. A small change in one set of coordinates will meet that objection and still meet the terminal area airspace needs. Further, since the change is of a minor amount, notice and public procedure thereon are unnecessary.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. July 18, 1974, except as follows:

1. Delete coordinates "44°40'00" N., 74°15'00" W." and insert in lieu thereof "44°38'00" N., 74°12'00" W.".

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c))

Issued in Jamaica, N.Y., on April 29, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Saranac Lake, N.Y. 700-foot floor transition area and by substituting the following in lieu thereof:

SARANAC LAKE, N.Y.

That airspace extending upward from 700 feet above the surface beginning at lat. 44°38'00" N., long. 74°12'00" W.; to lat. 44°40'00" N., long. 73°55'00" W.; to lat. 44°21'00" N., long. 73°50'00" W.; to lat. 44°08'00" N., long. 74°27'00" W.; to lat. 44°21'00" N., long. 74°38'00" W.; to point of beginning.

[FR Doc.74–11036 Filed 5–13–74;8:45 am]

[Airspace Docket No. 74–EA–24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the description of the Birch Hollow, Va., Transition Area (39 FR 455).

The present description is based upon the Herndon, Va. VORTAC which is being relocated. To retain the same airspace, coordinates are being substituted for the name of the relocated VORTAC.

Since this change is editorial in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective May 14, 1974, as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to alter the description of the Birch Hollow, Va. 700-foot floor transition area by deleting the phrase, "between the Martinsburg, W. Va., and Herndon, Va. VORTACs." and by substituting therefore, "between the Martinsburg, W. Va., VORTAC and Lat. 39°01'10" N., Long. 77°27'42" W.".

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on April 25, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

[FR Doc.74–11035 Filed 5–13–74;8:45 am]

[Airspace Docket No. 74–NE–12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and 700-Foot Transition Area

The name of the Presque Isle Municipal Airport, Presque Isle, Maine has been officially changed to Northern Maine Regional Airport. The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to reflect this name change in the description of Presque Isle, Maine, Control Zone (39 FR 419) and 700-foot Transition Area (39 FR 572).

Since this amendment is editorial in nature and no substantial change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In view of the foregoing, the Federal Aviation Administration having completed a review of the airspace requirements in the Presque Isle, Maine, Control Zone and 700-foot Transition Area, amends Part 71 of the Federal Aviation Regulations, effective May 14, 1974, as follows:

1. Amend § 71.171 of the Federal Aviation Regulations by amending the existing description of the Presque Isle, Maine, Control Zone by deleting the words, "Presque Isle, Maine, Municipal Airport," and inserting the words, "Northern Maine Regional Airport" in lieu thereof.

2. Amend § 71.181 of the Federal Aviation Regulations by amending the existing description of the Presque Isle, Maine, 700-foot Transition Area by deleting the words, "Presque Isle, Maine, Municipal Airport," and inserting the words, "Northern Maine Regional Airport" in lieu thereof.

(Sec. 307(a), Federal Aviation Act of 1958 (U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Burlington, Massachusetts, on April 30, 1974.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.74–11032 Filed 5–13–74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER J—RIGHT-OF-WAY AND ENVIRONMENT

PART 740—RELOCATION ASSISTANCE

Rental Replacement Housing Payments

The Federal Highway Administration hereby revises § 740.77(d) of Part 740 to change and simplify the rules governing the disbursement of rental replacement housing payments. This change reflects the procedure adopted by the Federal interagency committee which is charged with developing procedures for the uniform implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91–646, 84 Stat. 1894, (42 U.S.C. 4601 et seq.).

This change becomes effective not later than August 12, 1974. A State may adopt this change earlier if it so desires.

In consideration of the foregoing § 740.77(d) of 23 CFR Part 740 is revised to read as follows:

V 39 I 94 MAY 14 74 XUM

§ 740.77 **Rental Replacement Housing Payments to tenant-occupant for not less than 90 days who rents.**

• • • • • •

(d) Disbursement of rental replacement housing payments. The amount of the rental payment, determined as shown above, shall be paid in a lump sum, unless the displaced person who is entitled to the payment requests that it be paid in installments.

Effective date: May 3, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-11112 Filed 5-13-74;8:45 am]

Title 31—Money and Finance

CHAPTER III—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 315—REGULATIONS GOVERNING U.S. SAVINGS BONDS

Increased Annual Limitations on Holdings; Correction

MAY 9, 1974.

The date of Department Circular No. 530, Tenth Revision, as it appears in the amendment published in Part 315, 39 FR 5313, dated February 12, 1974, should be corrected to read "September 5, 1973."

THOMAS J. WINSTON, JR.,
Chief Counsel,
Bureau of the Public Debt.

[FR Doc.74-11039 Filed 5-13-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation and Dependency and Indemnity Compensation

SEVERANCE OF SERVICE CONNECTION

On page 11202 of the FEDERAL REGISTER of March 26, 1974, there was published notice of proposed regulatory change in 38 CFR 3.105 to decentralize to field stations full authority to effect severance of service connection. Also minor editorial changes not affecting benefits were made in §§ 3.105 and 3.106. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

Pursuant to such notice, written comments were received from two service organizations. These comments concurred in the proposed change. The proposed amendments to the regulations are adopted without change as set forth below.

Effective date. Section 3.105(d) is effective May 7, 1974.

Approved: May 7, 1974.

By direction of the Administrator.

[SEAL] RICHARD L. ROUDEBUSH,
Deputy Administrator.

1. In § 3.105, paragraphs (d), (e) and (f) are amended to read as follows:

§ 3.105 **Revision of decisions.**

• • • • • •

(d) *Severance of service connection.* Subject to the limitations contained in §§ 3.114 and 3.957, service connection will be severed only where evidence establishes that it is clearly and unmistakably erroneous (the burden of proof being upon the Government). (Where service connection is severed because of a change in or interpretation of a law or Veterans Administration issue, the provisions of § 3.114 are for application.) A change in diagnosis may be accepted as a basis for severance action if the examining physician or physicians or other proper medical authority certifies that, in the light of all accumulated evidence, the diagnosis on which service connection was predicated is clearly erroneous. This certification must be accompanied by a summary of the facts, findings, and reasons supporting the conclusion. When severance of service connection is considered warranted, a rating proposing severance will be prepared setting forth all material facts and reasons. The claimant will be notified at his or her latest address of record of the contemplated action and furnished detailed reasons therefor and will be given 60 days for the presentation of additional evidence to show that service connection should be maintained. If additional evidence is not received within that period, rating action will be taken and the award will be discontinued effective the last day of the month in which the 60-day period expired. (38 U.S.C. 3012(b)(6).).

(e) *Reduction in evaluation; compensation.* Where the reduction in evaluation of a service-connected disability or employability status is considered warranted and the lower evaluation would result in a reduction or discontinuance of compensation payments currently being made, rating action will be taken. The reduction will be made effective the last day of the month in which a 60-day period from date of notice to the payee expires. The veteran will be notified at his or her latest address of record of the action taken and furnished detailed reasons therefor, and will be given 60 days for the presentation of additional evidence. (38 U.S.C. 3012(b)(6)).

(f) *Reduction in evaluation; pension.* Where a reduction in evaluation is considered warranted because of a change in non-service-connected disability or employability and the lower evaluation would result in a reduction or discontinuance of pension payments currently being made, the award will be reduced or discontinued effective the last day of the month in which reduction or discontinuance of the award is approved. The veteran will be notified at his or her latest address of record of the action taken and furnished detailed reasons therefor, and the conditions under which his claim may be reopened. (38 U.S.C. 3012(b)(5)).

2. In § 3.106, paragraph (a) is amended to read as follows:

§ 3.106 **Renouncement.**

(a) Any person entitled to pension, compensation, or dependency and indemnity compensation under any of the laws administered by the Veterans Administration may renounce his or her right to that benefit but may not renounce less than all of the component items which together comprise the total amount of the benefit to which the person is entitled nor any fixed monetary amounts less than the full amount of entitlement. The renouncement will be in writing over the person's signature. Upon receipt of such renouncement in the Veterans Administration, payment of such benefits and the right thereto will be terminated, and such person will be denied any and all rights thereto from such filing. (38 U.S.C. 3106(a)).

• • • • • •

[FR Doc.74-11116 Filed 5-13-74;8:45 am]

PART 3—ADJUDICATION

Subpart A—Pension, Compensation and Dependency and Indemnity Compensation

EFFECTIVE DATES OF AWARDS; CLARIFICATION

On page 11442 of the FEDERAL REGISTER of March 28, 1974, there was published a notice of proposed regulatory development to amend § 3.401(b) to clarify certain provisions relating to effective dates of awards of increased benefits on account of dependents. In addition minor editorial changes were made in §§ 3.400 (w) and 3.401(c) and the note following § 3.401(d). Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. Section 3.401(b) is effective May 7, 1974.

Approved: May 7, 1974.

By direction of the Administrator.

[SEAL] RICHARD L. ROUDEBUSH,
Deputy Administrator.

§ 3.400 [Amended]

1. In § 3.400, the heading of paragraph (w) is amended to read as follows:

(w) *Termination of remarriage of widow (widower) (38 U.S.C. 3010 (a), (k); 38 U.S.C. 103(d)(2) and 3010(1), effective January 1, 1971; § 3.55).*

2. In § 3.401, paragraphs (b) and (c) and the Note following paragraph (d)(1) are amended to read as follows:

§ 3.401 **Veterans.**

• • • • • •

(b) *Dependent, additional compensation or pension for.* Latest of the following dates:

(1) Date of claim. This term means the following, listed in their order of applicability:

(i) Date of veteran's marriage, or birth of his or her child, or, adoption of a child, if the evidence of the event is received within 1 year of the event; otherwise,

(ii) Date notice is received of the dependent's existence, if evidence is received within 1 year of the Veterans Administration request.

(2) Date dependency arises.

(3) Effective date of the qualifying disability rating provided evidence of dependency is received within 1 year of notification of such rating action. (38 U.S.C. 3010(f))

(4) Date of commencement of veteran's award. (38 U.S.C. 3010 (f), (n)) (Other increases, see § 3.400(o). For school attendance see § 3.667.)

(c) *Divorce of veteran and wife (husband).* See § 3.501(d).

(d) • • •

NOTE.—If apportionment under §§ 3.452(c) and 3.454 is in order or payment under § 3.850(a), Personal Funds of Patients account will not be set up but difference withheld for dependents.

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[FR Doc.74-11117 Filed 5-13-74;8:45 am]

PART 17—MEDICAL

Limitations on Use of Public or Private Hospitals

On page 5211 of the FEDERAL REGISTER of February 11, 1974, there was published a notice of proposed regulatory development to amend § 17.50c to implement section 601(4)(C), title 38, United States Code, as amended by section 101(a), Pub. L. 93-82 (87 Stat. 179) pertaining to utilization of public and private hospitals for treatment of a service-connected disability or disability for which discharged. The proposed amendment provided that public and private hospitals be utilized for the care of certain eligible veterans for treatment of nonemergent conditions when Veterans Administration facilities are not feasibly available. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation.

Two letters were received. One was a request for clarification. The other correspondent considered the criteria for using community resources overly restrictive and expressed a hope that the criteria be considerably softened, or even left to the discretion of the local Veterans Administration facility director. However, the limitations contain the same language as before except that it eliminated the requirement that admission to and continuation of hospitalization in a private or public hospital must be conditions upon the existence of emergency circumstances. We believe that the continued limitations are not overly restrictive and therefore adopt the proposed regulation without change as set forth below.

Effective date. This VA regulation is effective September 1, 1973.

Approved: May 7, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
Deputy Administrator.

Section 17.50c is revised to read as follows:

§ 17.50c **Limitations on use of public or private hospitals.**

The admission of any patient to a private or public hospital at Veterans Administration expense will only be authorized if a Veterans Administration hospital or other Federal facility to which the patient would otherwise be eligible for admission is not feasibly available. A Veterans Administration facility may be considered as not feasibly available when the urgency of the applicant's medical condition, the relative distance of the travel involved, or the nature of the treatment required makes it necessary or economically advisable to use public or private facilities. In those instances where care in public or private hospitals at Veterans Administration expense is authorized because a Veterans Administration or other Federal facility was not feasibly available, as defined in this section, the authorization will be continued after admission only for the period of time required to stabilize or improve the patient's condition to the extent that further care is no longer required to satisfy the purpose for which it was initiated.

[FR Doc.74-11118 Filed 5-13-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE

PART 5A-9—PATENTS, DATA, AND COPYRIGHTS

PART 5A-54—PATENTS AND COPYRIGHTS

Transfer of Regulations

This change to the General Services Administration Procurement Regulations adds Part 5A-9, Patents, data, and copyrights, to implement recently published Part 1-9 of Chapter 1, transfers instructions from Part 5A-54 to Part 5A-9, and updates related internal GSA instructions.

1. Chapter 5A is amended to add new Part 5A-9 as follows:

Subpart 5A-9.1—Patents

Sec.
5A-9.100 Scope of subpart.
5A-9.150 Patent indemnification of Government by contractor.
5A-9.151 Other patent matters.
5A-9.152 Notice and assistance regarding patent infringement.

Subpart 5A-9.50—Copyrights

5A-9.501 General.
5A-9.502 Use and publication by the Government of copyrighted material.
5A-9.503 Contracts for use of copyrightable material.
5A-9.504 Copyright clause.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486cc).

Subpart 5A-9.1—Patents

§ 5A-9.100 **Scope of subpart.**

(a) This subpart prescribes policies and procedures to be followed on patents and related matters; prescribes contract clauses to be used; and provides for assistance in developing clauses when it is not feasible to use prescribed clauses.

(b) Patents are granted for any new and useful process, machine, manufacture or composition of matter, or any new and useful improvement thereof, (see 35 U.S.C. 101), and any new, original, and ornamental design for an article of manufacture. (See 35 U.S.C. 171.) Infringement consists of the unauthorized making, using, or selling of any patented invention. (See 35 U.S.C. 271.)

(c) The contracting officer shall observe the following, with respect to patents, in connection with contracting:

(1) Protection of the Government against patent risks in contracts.

(2) The policies and procedures in 1-9.4 in connection with contracts for experimental, developmental or research work.

(3) Assuring that the Government does not make royalty payments where the Government has acquired a royalty-free license or other patent rights which make such payments unnecessary.

§ 5A-9.150 **Patent indemnification of Government by contractor.**

To protect the Government from patent risks, each contract for supplies and services (other than research and development contracts) in an amount in excess of $5,000 shall contain the clause prescribed in this § 5A-9.150. (For Research and Development Contract clauses see § 1-9.107.)

PATENT INDEMNITY

If the amount of this contract for supplies or services is in excess of $5,000, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the performance under this contract, or out of the use or disposal by or for the account of the Government of such supplies or services. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply if: (a) the infringement results from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or services to be performed, or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; or (b) the infringement results from the addition to, or change in, the supplies furnished or services performed, which addition or change was made subsequent to delivery or performance by the Contractor; or (c) the claimed infringement is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

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§ 5A–9.151 **Other patent matters.**

Any other matters which arise in connection with patents involved in research or development contracts shall be referred to the General or Regional Counsel for advice. Complete information shall accompany such referrals.

§ 5A–9.152 **Notice and assistance regarding patent infringement.**

Each contract in an amount in excess of $10,000 shall contain a clause to ensure that the Government will be notified of claims of infringement asserted against a contractor and any of his subcontractors in connection with the performance of Government contracts, and that the Government may obtain necessary assistance from a contractor in the event of patent infringement litigation. The contract clause required is set forth in § 1–7.103–4 and as article 13 of Standard Form 32, General Provisions (Supply Contract).

Subpart 5A–9.50—Copyrights

§ 5A–9.501 **General.**

A copyright is the exclusive right to the publication, production, or sale of the rights to a literary, dramatic, musical, or artistic work, or to the use of a manufacturing or merchandising label, granted by law for a definite period of years to an author, composer, artist, distributor, etc.

§ 5A–9.502 **Use and publication by the Government of copyrighted material.**

It is the general policy of the Government that copyrighted matter will not knowingly be incorporated in publications prepared by or for the Government except with the written consent of the copyright owner.

§ 5A–9.503 **Contracts for use of copyrightable material.**

In any contract under which material subject to copyright is to be furnished, the Government should receive at least a royalty-free, nonexclusive, and irrevocable license with respect to such material first produced or composed under the contract. Except in those instances where it is desirable that copyrightable material produced under contract for the Government shall either be placed in the public domain or a copyright established in the name of the author and assigned to the Government, and except in connection with contracts for motion pictures or the production of motion pictures and affiliated activities (e.g., preparation of scripts, translations, adaptations, etc.), it shall be the policy to acquire only such license right in any copyrightable material leaving the contractor free to take out a copyright in his own name, if he so desires. In the event the contractor should incorporate copyrighted or copyrightable material already owned by the contractor or others, in the material furnished to the Government, the license should contain a provision whereby the Government is also granted a royalty-free license with respect to the material if the contractor may grant such a license without becoming liable to pay compensation because of the grant. The foregoing generally applies whether the material subject to copyright is the main item of a contract or is only incidental.

§ 5A–9.504 **Copyright clause.**

Whenever an occasion arises which requires the use of such a clause, request shall be made of appropriate legal counsel for the drafting of a suitable clause. Complete information should accompany the request.

2. Part 5A–54 is deleted.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective on April 17, 1974.

M. J. TIMBERS,
Commissioner, FSS.

[FR Doc.74–11060 Filed 5–13–74;8:45 am]

CHAPTER 5B—PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION

PART 5B–12—LABOR

PART 5B–16—PROCUREMENT FORMS

Award and Reporting of Contracts and Equal Employment Opportunity Program

This amendment of the General Services Administration Procurement Regulations (1) adds procedures applicable to the award and reporting of contracts subject to the Walsh-Healey Public Contracts Act and (2) adds updated procedures for carrying out the General Services Administration Equal Employment Opportunity Program. The amendment provides that the GSA Office of Civil Rights is responsible for the GSA Equal Employment Opportunity Program, and indicates the duties and responsibilities of various officials and organizational units associated with the program. In addition, the amendment implements the requirements of the Secretary of Labor (41 CFR Part 60–3) pertaining to employee testing and other selection procedures. Part 5B–12 is amended by the addition of new Subparts 5B–12.6 and 5B–12.8 as follows:

Subpart 5B–12.6—Walsh-Healey Public Contracts Act

Sec.
5B–12.604 Responsibilities of contracting officers.

Subpart 5B–12.8—Equal Opportunity in Employment

5B–12.800 Scope of subpart.
5B–12.803 Basic requirements.
5B–12.803–2 Equal Opportunity clause.
5B–12.803–3 Federally assisted construction contracts.
5B–12.803–9 Notice to bidders regarding preaward equal opportunity compliance reviews.
5B–12.803–50 Equal opportunity representation.
5B–12.804 Exemptions.
5B–12.804–1 General.
5B–12.804–2 Specific contracts.
5B–12.804–3 Facilities not connected with contracts.
5B–12.805 Administration.
5B–12.805–1 Duties of agencies.
5B–12.805–4 Reports and other required information.
5B–12.805–5 Compliance reviews.
5B–12.805–6 Complaints.
5B–12.805–9 Sanctions and penalties.
5B–12.805–50 Ability to comply with the Equal Opportunity clause.
5B–12.805–51 Equal opportunity considerations.
5B–12.805–52 Identification of subcontractors.
5B–12.805–53 Compliance agency.
5B–12.805–54 Furnishing information to contractors.
5B–12.807 Hearings.
5B–12.807–1 General.
5B–12.807–2 Informal hearings.
5B–12.807–3 Formal hearings.
5B–12.810 Affirmative action compliance programs.
5B–12.812 Rulings and interpretations.
5B–12.850 Validation of employment tests.
5B–12.850–1 General.
5B–12.850–2 Evidence of validity.
5B–12.850–3 Minimum standards for validation.
5B–12.850–4 Employment agencies and State employment services.
5B–12.850–5 Use of validity studies.
5B–12.850–6 Assumptions of validity.
5B–12.850–7 Continued use of tests.
5B–12.850–8 Other selection techniques.
5B–12.850–9 Compliance reviews.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 5B–12.6—Walsh-Healey Public Contracts Act

§ 5B–12.604 **Responsibilities of contracting officers.**

(a) *Notification to contractors.* Contracting officers shall furnish contractors with copies of Department of Labor W H Publication 1313, Notice of Employees Working on Government Contracts (illustrated at § 5B–16.954–1313) when awarding a contract subject to the Walsh-Healey Public Contracts Act. In addition, Form PC–16, Minimum Wage Determinations under the Walsh-Healey Public Contracts Act (copies available from Department of Labor) has been prepared by the Department of Labor to enable a contractor to ascertain the minimum wage determinations applicable to a particular contract. The Department of Labor will issue amendments to Form PC–16 as new determinations become effective. Copies of both W H Publication 1313 and PC–16 should be supplied for each of the contractor's establishments performing on contracts subject to the Walsh-Healey Public Contracts Act.

(b) *Reporting contract awards to Department of Labor.* The original and one copy of Standard Form 99, Notice of Award of Contract (illustrated at § 5B–16.901–99), shall be forwarded to the Department of Labor, Employment Standards Administration, Wage and Hour Division, Washington, DC 20210. A copy shall be retained in the procurement file. Detailed instructions for preparing Standard Form 99 are prescribed by the Department of Labor in Circular Letter No. 2–65, dated December 10, 1965.

(c) *Violations and complaints.* Information concerning possible violations of

the representations or stipulations required by the Walsh-Healey Public Contracts Act can originate from complaints of injured parties, from officers or employees of the U.S. Government, or otherwise. Any such complaints coming to the attention of the contracting officer shall be considered, together with any other relevant information that is available, in coordination with the Office of General Counsel. Reports of violations shall be prepared and submitted through the Office of General Counsel to the Department of Labor in accordance with § 1–12.604(e) of this title.

Subpart 5B–12.8—Equal Opportunity in Employment

§ 5B–12.800 **Scope of subpart.**

This subpart implements and supplements Subpart 1–12.8, Equal Opportunity in Employment of Part 1–12 of this title (which implements the rules and regulations of the Secretary of Labor, Part 60–1 of this title); implements the September 17, 1971, Order of the Secretary of Labor (36 FR 19307, October 2, 1971) regarding the validation of employment tests by contractors and subcontractors; and sets forth the GSA Contractor Equal Employment Opportunity Program procedures and requirements regarding Government contracts.

§ 5B–12.803 **Basic requirements.**

§ 5B–12.803–2 **Equal Opportunity clause.**

(a) Executive Order 11246 dated September 24 1965 (30 FR 12319), as amended by Executive Order 11375 dated October 13, 1967 (32 FR 14303), on equal employment opportunity provides for the inclusion of a clause pertaining to equal employment in each Government contract unless the contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor. The clause prescribed for use is set forth in § 1–12.803–2.

(b) The following contract forms used by GSA contain the Equal Opportunity clause:

(1) Standard Form 2–A, General Provisions, Certification and Instructions, U.S. Government Lease for Real Property (May 1970 edition), as prescribed by § 1–16.601(b).

(2) Standard Form 23–A, General Provisions (Construction Contract) (October 1969 edition), as prescribed by § 1–16.401(h).

(3) Standard Form 32, General Provisions (Supply Contract) (November 1969 edition), as prescribed by § 1–16.101(c).

(4) GSA Form 1714, Equal Opportunity Clause (February 1969 edition). This form (illustrated at § 5B–16.950–1714) is a preprinting of the Equal Opportunity clause which may be incorporated by attachment in invitations for bids and requests for proposals where Standard Forms 23–A or 32 are not used.

(5) Government bills of Lading. Section 1–12.803–7 provides that inclusion of the Equal Opportunity clause in Government bills of lading may be by reference. Comptroller General Decision B–109776 dated November 4, 1968, provides that the incorporation of the Equal Opportunity clause by reference shall be by inclusion of a provision on the Government bill of lading form (see Condition 9 on the back of the form) as follows:

> The nondiscrimination clause contained in section 202 of Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex, or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor are incorporated herein.

Government bills of lading forms which contain a Condition 9 based on Executive Orders 10925, 11114, or 11246 may be used until existing stocks are exhausted without modification of the condition.

(6) Commercial bills of lading. The reference to the Equal Opportunity clause prescribed in § 5B–12.803–2(b)(5) for use in standard Government bills of lading shall also be incorporated by attachment or reference in each of the following:

(i) Commercial bills of lading which are to be converted to Government bills of lading; and

(ii) Commercial bills of lading (including GSA Form 1642, Straight Bill of Lading-Domestic) when they cover the transportation of property of the United States Government or when the transportation charges will be paid by the Government, either directly to the carrier or to the contractor when the transportation charges are listed separately on the invoice for the property.

(7) Standard Form 253, General Provisions (Architect-Engineer Contract) (August 1970 edition), contains the Equal Employment Opportunity clause modified to read "Architect-Engineer" wherever the word "Contractor" appears in the clause set forth in § 1–12.803–2.

§ 5B–12.803–3 **Federally assisted construction contracts.**

The Equal Opportunity (Applicant) clause prescribed in § 1–12.803–4 shall be included in each lease agreement whenever the building is to be erected by the bidder subsequent to the execution of such lease.

§ 5B–12.803–9 **Notice to bidders regarding preaward equal opportunity compliance reviews.**

(a) *Nonconstruction contracts.* A notice of preaward equal opportunity compliance review for inclusion in invitations for bids and requests for proposals which may result in an award of a nonconstruction contract of $1 million or more is required by § 1–12.803–9.

(b) *Construction, repair, improvement, and lease contracting.* A notice of preaward equal opportunity compliance review for inclusion in invitations for bids and requests for proposals which may result in an award of a construction, repair, or improvement contract of $100,000 or more, or in an award of a lease contract of $100,000 or more per annum, is required as follows:

PREAWARD EQUAL OPPORTUNITY COMPLIANCE REVIEWS

As a part of the procedure for determining the responsibility of the apparent low bidder or offeror as to his ability to conform with the Equal Opportunity clause, he may be required to visit the office of the Contracting Officer to discuss his Equal Employment Opportunity Program and provide such assurances as the Contracting Officer may require.

§ 5B–12.803–50 **Equal opportunity representation.**

A statement by the bidder or offeror as to whether he has participated in any previous contract or subcontract subject to the Equal Opportunity clause (see § 1–12.805–4(b)) is included in Standard Form 19–B, Representations and Certifications (Construction Contract) (October 1969 edition), and in Standard Form 33, Solicitation, Offer, and Award (November 1969 edition).

§ 5B–12.804 **Exemptions.**

§ 5B–12.804–1 **General.**

Contracts and subcontracts exempt from the requirements of the Equal Opportunity clause are covered in § 1–12.804–1.

§ 5B–12.804–2 **Specific contracts.**

Requests for exemption from use of the Equal Opportunity clause for specific contracts or categories of contracts initiated by service or staff offices shall be submitted with a complete written justification to the Office of Civil Rights.

§ 5B–12.804–3 **Facilities not connected with contracts.**

Requests by GSA contractors and subcontractors for exemption from the Equal Opportunity clause of facilities not involved in the performance of Government contracts shall be submitted with a complete written justification to the GSA contracting officer for consideration and transmittal to the Office of Civil Rights.

§ 5B–12.805 **Administration.**

§ 5B–12.805–1 **Duties of agencies.**

(a) *GSA responsibility.* GSA is primarily responsible for obtaining compliance of contractors and subcontractors (for which it is the compliance agency) with the requirements of the equal opportunity program.

(b) *Designations.* (1) The GSA Contract Compliance Officer is the Director, Office of Civil Rights (hereinafter referred to as the Contract Compliance Officer).

(2) The GSA Deputy Contract Compliance Officer is the Deputy Director, Office of Civil Rights (Compliance) (hereafter referred to as the Deputy Contract Compliance Officer).

(3) GSA Assistant Contract Compliance Officers are the professional staff personnel of the Contract Compliance Staff, Office of Civil Rights (hereafter referred to as Assistant Contract Compliance Officers). Assistant Contract Compliance Officers are located in the Central Office and in each regional office.

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(c) *Procedures before award of contracts.* The following procedures shall be employed in connection with the award of contracts, except for paragraphs (c)(2)(i), (c)(2)(ii), (c)(2)(iii), (c)(2)(v), (c)(2)(vi), (c)(3)(i), (c)(3)(v), (c)(3)(vi), (c)(4), and (c)(5), the procedures may be waived when the contracting officer determines with the approval of the appropriate Commissioner and the Deputy Director, Office of Civil Rights (Contract Compliance), that the time limitations of a particular procurement will not permit their application, and further, provided that notice of such intention to waive the procedures is furnished at least 48 hours in advance to the Administrator and to the Director of Civil Rights. If the Administrator does not oppose the waiver, the Director of Civil Rights shall forward a copy of the notice to the Director, Office of Federal Contract Compliance (OFCC).

(1) *$10,000 and under.* The contracting officer is not required to obtain equal opportunity representations or certifications of nonsegregated facilities or to evaluate the ability of prospective contractors to comply with the Equal Opportunity clause where contracts are $10,000 and under unless the normal exemption of such contracts from the applicability of the equal opportunity program has been withdrawn by the Director, OFCC. In the event of a withdrawal, a review shall be made as provided in paragraph (c)(2) of this section.

(2) *Over $10,000 but not over $100,000.* The contracting officer, with respect to all nonexempt contracts over $10,000 but not over $100,000, shall determine whether the prospective contractor:

(i) Has executed the required Equal Opportunity representations affirmatively regarding the submission of compliance reports (see § 1–12.805–4(b)(1)) and the development and maintenance of affirmative action programs (see § 5B–12.810(c));

(ii) Has executed the Certification of Nonsegregated Facilities;

(iii) Has been debarred by reason of noncompliance with the Equal Opportunity clause;

(iv) Requires an evaluation of his ability to comply with the Equal Opportunity clause. When such an evaluation is required the appropriate Assistant Contract Compliance Officer shall be requested to obtain an evaluation based on currently available information and to inform the contracting officer of his views regarding the ability of the contractor to comply with the Equal Opportunity clause;

(v) Is able to comply with the provisions of the Equal Opportunity clause based on (i) through (iv) of paragraph (c)(2), above, (where the waiver provision in paragraph (c) has been invoked, the provisions of paragraph (c)(2)(iv) need not be applied); and

(vi) Is a responsible contractor insofar as the equal opportunity program is concerned, based on (i) through (v) of paragraph (c)(2), above. However, if the waiver provision in paragraph (c) has been invoked, the provisions of paragraph (c)(2)(iv) need not be applied.

(3) *Over $100,000.* The contracting officer, with respect to all nonexempt contracts over $100,000, shall:

(i) Follow the procedures prescribed by paragraph (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this section;

(ii) Notify the appropriate Assistant Contract Compliance Officer of the following:

(A) The impending award of each nonexempt contract;

(B) Name and address of the prospective prime contractor;

(C) Furnish the date of expiration of bids;

(D) Anticipated time of performance;

(E) Name and address of subcontractors (See § 5B–12.805–52 regarding identification of subcontractors);

(F) Whether the prospective prime contractor has, or has not, had any contracts subject to an Equal Opportunity (or Nondiscrimination) clause and filed all required compliance reports; and

(G) Whether the prospective prime contractor has agreed that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards.

(iii) Request the Assistant Contract Compliance Officer to do the following:

(A) Review the compliance status of the prospective prime contractor and the subcontractors identified pursuant to § 5B–12.805–52 on the basis of information currently available to GSA and compliance agencies. Compliance agencies shall not be requested to conduct special compliance reviews for the purpose of satisfying the review requirement of this paragraph, unless there are specific reasons to believe that the prospective contractor may not be able to comply with the Equal Opportunity clause;

(B) Arrange for preaward conferences, as necessary, and negotiate an agreement with the prospective prime contractor providing for the elimination of deficiencies;

(C) Notify the contracting officer that the prospective prime contractor has, or has not, agreed to take action to correct deficiencies and provide the contracting officer with the text of the agreement, if any, and a list of any unresolved deficiencies;

(D) Inform the contracting officer of his recommendations regarding the ability of the contractor to comply with the Equal Opportunity clause; and

(E) Notify prospective prime contractors of any unresolved deficiencies.

(iv) Direct prospective prime contractors to meet with Assistant Contract Compliance Officers to negotiate agreements providing for the elimination of unresolved deficiencies;

(v) Determine whether a prospective contractor is able to comply with the requirements of the Equal Opportunity clause (where the waiver provision in paragraph (c) has been invoked, the provisions of paragraphs (c)(3)(ii), (c)(3)(iii), and (c)(3)(iv) need not be applied); and

(vi) Determine whether the prospective contractor is a responsible contractor insofar as the equal opportunity program is concerned, and the determination shall include consideration of the findings and determinations of the Assistant Contract Compliance Officer. However, if the waiver provision in paragraph (c) has been invoked, the provisions of paragraph (c)(3)(ii), (c)(3)-(iii), and (c)(3)(iv) need not be applied.

(4) *Construction contracts over $100,000.* (i) In addition to the requirements of paragraph (c)(3), the contracting officer, with respect to all nonexempt construction contracts over $100,000, shall request the Assistant Contract Compliance Officer to arrange for and hold preaward equal employment opportunity conferences with prospective prime contractors and their designated subcontractors. The Assistant Contract Compliance Officer shall schedule the conferences at times and places that will be responsive to the needs of the contracting officer in meeting the schedule requirements of the procurement action. In the event that the Assistant Contract Compliance Officer is unable to schedule the meetings, he will consult with the contracting officer and either reschedule a mutually acceptable new time or designate an alternate from the contract compliance staff or the contracting officer's staff to conduct the meeting. At the time the prime contractor is notified to attend the conference, he shall be instructed to be prepared to submit at the conference the program (including policies and procedures) that he will employ to fulfill his contractual responsibility to achieve equal employment opportunity (based on full and effective utilization of minority manpower) as required by the Equal Opportunity clause in his contract and the contracts of his subcontractors; and appropriate requirements of the invitation for bids pertaining to home town plans, imposed plans, required goals or ranges, and other aspects of the Department of Labor Construction Program.

(ii) The failure of a bidder in connection with home town plans or imposed plans to set forth goals or ranges or to sign the appendix as required by the invitation for bids renders his bid nonresponsive to the terms of the invitation.

(5) *Supply contracts over $1 million.* The contracting officer with respect to supply contracts which may exceed $1 million, shall:

(i) Follow the procedures in § 5B–12.805–1(c)(2)(i), (ii), and (iii);

(ii) Request the Assistant Contract Compliance Officer to provide for preaward compliance reviews as required by §§ 1–12.803–9 and 5B–12.805–5(b);

(iii) After reviewing the recommendations of the Assistant Contract Compliance Officer, determine whether the prospective prime contractor (and his subcontractors subject to the review) are able to comply with the Equal Opportunity clause or carry out an acceptable program for compliance; and

(iv) Determine whether the prospective contractor is a responsible contractor insofar as the equal opportunity program is concerned, and the determination shall include consideration of the findings and determinations of the Assistant Contract Compliance Officer.

(d) *Reports on contractor deficiencies.* Assistant Contract Compliance Officers shall forward reports to the contracting officer and to the Deputy Contract Compliance Officer regarding the actions taken with respect to the deficiences of prospective contractors.

(e) *Written statements.* Where deficiences are found to exist, Assistant Contract Compliance Officers will obtain a written statement from the prospective contractor regarding the actions that will be taken to bring him into compliance.

§ 5B–12.805–4 Reports and other required information.

(a) Each nonexempt contractor and subcontractor shall file, or already have filed prior to award, information reports in accordance with § 1–12.805–4 and the printed instructions (except as provided in paragraph (b) of this § 5B–12.805–4) on Standard Form 100, Equal Employment Opportunity Employer Information Report EEO–1. In addition, such contractors and subcontractors may be required, prior to award, to furnish such other information regarding their equal employment opportunity policies and procedures as may be required by the Contract Compliance Officer (or his deputy or assistants).

(b) If a nonexempt prospective prime contractor or subcontractor has not filed a Standard Form 100 as required, the contracting officer shall supply such contractors with copies of the forms for completion and return to the contracting officer, in addition to complying with the requirements of (a), above. Contractors shall be instructed to submit a copy of the Standard Form 100 directly to the contracting officer, in order to expedite the determinations of their ability to comply with the provisions of the Equal Opportunity clause.

(c) Upon receipt of the Standard Form 100, the contracting officer shall forward it to the appropriate Assistant Contract Compliance Officer for review and recommendations regarding the prospective contractor's ability to comply with the provisions of the Equal Opportunity clause.

(d) The Assistant Contract Compliance Officer may request a contractor or Standard Form 100 for his own files.

(e) The Assistant Contract Compliance Officer may request a contractor or subcontractor to furnish a copy of any Standard Form 100 previously filed by the contractor or subcontractor.

(f) Standard Form 100 shall be submitted to GSA by the contractor within 30 calendar days after the award of the contract, and by each subcontractor subject to the reporting requirement within 30 calendar days after the award of each subcontract, if:

(1) A complete Standard Form 100 has not been submitted within 12 months preceding the date of the contract award (prime or sub); and

(2) The contractor and subcontractors concerned are employers within the definition of "employer" of the instructions to the information report, Standard Form 100.

§ 5B–12.805–5 Compliance reviews.

(a) *Definition.* A compliance review (see § 1–12.805–5) is a review designed to determine whether a prime contractor or subcontractor (also a specified prospective prime or subcontractor) maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, or national origin (see § 5B–12.805–51). Further, it is a review (including a complete listing of positions in order of progression sequence, rates of pay, and the number of incumbents by race and sex) to determine if there is any significant difference between the pattern of employment, utilization, and other opportunities enjoyed by minorities and women and those enjoyed by other members of the workforce. In addition, the review includes an analysis of the recruitment, hiring, placement, training, promotion, demotion, and other practices as appropriate for the purpose of determining if any significant differences disclosed are the result of and/or are being perpetuated by the contractor's employment practices. The review also includes an examination of the contractor's affirmative action program to determine if the contractor has eliminated all practices that create or tend to perpetuate discrepancies between minorities and women and others in the employment, utilization, and other opportunities and has instituted measures to correct employment conditions that are the result of these practices.

(b) *When required.* Compliance reviews are required as follows:

(1) Once each calendar year during the performance of any contract exceeding $100,000 where GSA is the compliance agency;

(2) In accordance with the procedures of the compliance agency where GSA is not the compliance agency;

(3) Within the 12-months period preceding the award of any nonconstruction contract exceeding $1 million, GSA shall conduct the review where it is the compliance agency and shall provide awarding agencies with reports within 30 days. Where GSA is not the compliance agency, the Assistant Contract Compliance Officer shall request the compliance agency to make the review;

(4) When requested by the Assistant Contract Compliance Officer;

(5) Preceding the award of any contract, or the approval of an ysubcontract, when requested by the Director, OFCC (see § 1–12.805–11(a)); and

(6) When otherwise requested by the Director, OFCC.

(c) *Conduct of compliance reviews by GSA.*—(1) *Responsibilities.* Compliance reviews (and follow-ups as appropriate) shall be conducted by the Assistant Contract Compliance Officer pursuant to schedules and priorities established by the Deputy Contract Compliance Officer. Advance arrangements shall be made with the contractor or subcontractor to establish a definite date and time for visiting the facilities involved. GSA Form 1950–B (Form Letter—Equal Employment Opportunity Program Review) (see § 5B–16.950–1950–B), addressed to the contractor, shall be utilized for this purpose. If time is of the essence, advance arrangements may be made by telephone.

(2) *Procedures.* Except as otherwise provided by the rules, regulations, and orders of the Secretary of Labor, compliance reviews shall be conducted, as follows:

(i) GSA Form 1953, Nondiscrimination Survey of Government Contractor (see § 5B–16.950–1953), shall be completed in conducting a compliance review. Copies of GSA Form 1953 shall be furnished to the Assistant Contract Compliance officer, the contracting officer, and the Deputy Contract Compliance Officer. The completion of GSA Form 1953 is considered to be the minimum acceptable standard for conducting the survey and whenever possible shall be supplemented with a narrative report covering items not provided for in the form;

(ii) Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through conciliation, mediation, and persuasion during the 30-day show cause period prescribed by § 60–2.2 of the rules and regulations of the Secretary of Labor;

(iii) A specific time in which to correct deficiences shall be stipulated;

(iv) The Assistant Contract Compliance Officer conducting the review shall make recommendations to the contractor or subcontractor designated to correct deficiencies in equal opportunity policies and practices. Deficiencies and recommendations for their correction shall be reported on GSA Form 1953 or as attachments thereto. Such recommendations may include, but are not limited to, elimination of segregated facilities, improvement of recruitment techniques, promulgation and dissemination of program policies, preparation of plans to merge functionally related but racially segregated lines of progression and preparation of plans to remedy the effects of all other discriminatory employment policies. Any refusal on the part of a contractor or subcontractor to correct deficiencies shall be fully reported;

(v) Before a contractor or subcontractor having deficiencies can be found to be in compliance, he must make a specific commitment, in writing, to correct such

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deficiencies within a reasonable period of time and describe the precise action that will be taken;

(vi) Notification of a contractor or subcontractor of his compliance posture shall be made by the Assistant Contract Compliance Officer. The notification shall be given after consideration of all data available, including reports relating to all of the facilities of a contractor or subcontractor (see § 1–12.805–4), and after coordinating with the contracting officer;

(vii) A multifacility contractor or subcontractor may have some facilities where equal opportunity is practiced and other facilities where it is not. When this situation prevails, the contractor or subcontractor shall not be deemed to be in compliance;

(viii) Contractor compliance with the affirmative program requirements of § 1–12.810 shall be ascertained during the review;

(ix) Recommendations for sanctions, where deemed appropriate, shall be made by the Assistant Contract Compliance Officer to the Contract Compliance Officer; and

(x) Schedules of compliance reviews and the compliance review reports shall be furnished to the Director, OFCC, by the Deputy Contract Compliance Officer.

§ 5B–12.805–6 Complaints.

(a) *Initiation.* Complaints received by GSA that pertain to the GSA program under the Equal Opportunity clause shall be referred to the Office of Federal Contract Compliance by the Deputy Director of Civil Rights (Contract Compliance) to be handled and processed in accordance with the Memorandum of Understanding between the Office of Federal Contract Compliance and the Equal Employment Opportunity Commission dated May 20, 1970. When such complaints are referred back to GSA in accordance with the Memorandum of Understanding they shall be handled in accordance with §§ 1–12.805–6 and 1–12.805–7.

(b) *Investigation.* If GSA is the compliance agency, the Contract Compliance Officer (or his deputy) shall have the complaint investigated and a complete case record developed as provided in § 1–12.805–7(b). The investigation shall include, where appropriate, a review of the pertinent personnel practices and policies of the contractor or subcontractor (see § 5B–12.805–51), the circumstances under which the alleged discrimination occurred, and other relevant factors. Within 30 days after the complaint, the case record and summary report shall be submitted to the Contract Compliance Officer with a copy of the Assistant Contract Compliance Officer.

(c) *Evaluation and further action.* The Contract Compliance Officer (or his deputy) shall determine whether there has been any violation of the Equal Opportunity clause. If additional facts are required, further investigation shall be requested.

(d) *Reports to the Director, OFCC.* Within 60 days from the receipt of a complaint, the Contract Compliance Officer (or his deputy) shall forward the case record and summary report to the Director, OFCC, as provided in § 1–12.805–7(d)(1).

(1) If it is determined that no violation has occurred, and the Office of Federal Contract Compliance concurs with the summary report, the persons concerned shall be notified of such findings by the Contract Compliance Officer (or his deputy) and the case shall be closed. If the Director, OFCC, does not concur, the Contract Compliance Officer (or his deputy) shall take such action as the Director may direct.

(2) If it is determined that there has been an apparent violation of the Equal Opportunity clause, the Contract Compliance Officer (or his deputy or assistants) shall attempt to resolve the complaint by informal means. If the complaint cannot be resolved by informal means within 30 days, the firm complained against shall be given a hearing pursuant to § 1–12.807, if requested.

§ 5B–12.805–9 Sanctions and penalties.

(a) Sanctions and penalties shall be employed as provided in § 1–12.805–9. Recommendations for sanctions and penalties shall be proposed by the Deputy Contract Compliance Officer (or an Assistant Contract Compliance Officer or hearing officer through the Deputy Contract Compliance Officer) and submitted to the Contract Compliance Officer for consideration. The Contract Compliance Officer, as appropriate, shall act on the recommendation as follows: (1) Direct that a hearing be held, if requested; (2) accept or reject the recommendation where a hearing has not been requested; and (3) accept or reject the recommendation following a hearing. Where a recommendation is accepted, it shall be forwarded to the Director, OFCC, for approval when required by § 1–12.805–9(a)(2). Referrals to the Department of Justice are subject to the provisions of § 1–12.805–9(d). § 5B–12.805–50 Ability to comply with the Equal Opportunity clause.

(b) Contracting officers are responsible for obtaining required clearances and determining whether a bidder is able to comply with the provisions of the Equal Opportunity clause. Where equal employment opportunity compliance reviews or complaints have been processed pursuant to this Subpart 5B–12.8 regarding any contractor or subcontractor, the contracting officer shall coordinate with the Assistant Contract Compliance Officer before making his determination regarding a prospective contractor's ability to comply with the Equal Opportunity clause.

(c) Where a prospective contractor appears on the list of bidders, as set forth in § 5B–12.805–50(c), contracting officers shall, prior to award, request the Assistant Contract Compliance Officer to review the ability of the bidder to comply with the Equal Opportunity clause.

(d) The Contract Compliance Officer (or his deputy) shall develop and furnish contracting officers, through the respective Assistant Contract Compliance Officers, with a list of firms or individuals who, because of questionable ability to comply with the provisions of the Equal Opportunity clause, require special consideration before contracts are awarded. This list shall be administered by the Contract Compliance Officer (or his deputy) as part of the review list of bidders established pursuant to § 5–1.310–50.

(e) In order to supplement compliance reviews, regional Quality Control Divisions, FSS, will, as requested by the Assistant Contract Compliance Officer, during preaward plant facilities surveys or contract administration visits, review the progress made by the contractor in implementing affirmative action to correct previously reported deficiencies. As a result of plant visits, the quality control representatives will report pertinent information concerning the contractor's equal employment opportunity posture, such as:

(1) Changes observed in employment patterns or practices;

(2) Evidence of segregation of facilities;

(3) Displays of equal employment opportunity notices and posters;

(4) Changes in subcontractors since award of the contract;

(5) Subcontractors meeting the criteria of the rules and regulations of the Secretary of Labor who have not been advised by the contractor of the requirement for filing the Standard Form 100, Employer Information Report, with the Office of Federal Contract Compliance;

(6) Additional information requested by the Assistant Contract Compliance Officer; and

(7) Civil disturbances, strikes, and evidence of minority group dissatisfaction.

§ 5B–12.805–51 Equal opportunity considerations.

(a) *General.* The procedures employed by a contractor in connection with recruitment, hiring, training, job assignment, and promotion are major considerations in determining if discrepancies in employment and utilization of minorities and women are the result of discrimination and the failure to take affirmative action and in determining the contractor's ability to comply with the provisions of the Equal Opportunity clause.

(b) *Recruitment practices.* (1) All applicants for employment, regardless of race, color, religion, sex, or national origin, should receive equal consideration for all available jobs in accordance with equal qualification standards.

(2) Contractor standards for minority group and women applicants should be no more stringent than for others and minority group and women applicants should be considered for all types of jobs.

(3) Applications for employment should be objectively solicited from recruitment sources which reach all members of the community regardless of race, color, religion, sex, or national origin; e.g., advertising as an equal opportunity employer through newspapers and other public news media (see § 1–12.813).

(4) Contractors should take all actions necessary to ensure that no barriers exist in the employment of minority group members and women. Such action should include, where necessary, positive steps to convince minority groups and women in the community that the contractor does provide equal opportunity. In this connection, effective communication with minority group and women's organizations, Fair Employment Committees in the community, and schools and colleges attended by minority group members should be developed.

(5) Contractors should employ procedures for handling of applicants that are compatible with equal employment opportunity. In this regard employee referrals or "walk-ins" require particular attention since these recruitment procedures are most susceptible to discrimination. Employees tend to refer friends from their own racial and ethnic backgrounds and of their own sex and, therefore, if few minority group and women workers are already employed, few minority group and women applicants are likely to be referred. With regard to "walk-ins," the entire recruitment program is strongly dependent upon the attitudes of guards and receptionists and can thus be easily frustrated.

(c) *Hiring and initial placement.* The hiring process involves three distinct operations, namely, completion of formal applications, determination of applicants' qualifications, and a determination whether to hire the applicant. Equal opportunity procedures should reflect the following:

(1) Absence of any qualifications based on race, color, religion, sex, or national origin;

(2) Administration of qualification tests fairly and without regard to race, color, religion, sex, or national origin (see § 5B–12.850);

(3) Absence of special tests for minority groups only, except for special tests designed to facilitate, rather than exclude, employment of members of minority groups; and

(4) Objective qualification standards reasonably related to the skill and promotional requirements of the contractor.

(d) *Other practices.* (1) It is possible for an employer to have a high percentage of minority group and women employees in his total work force but have the greatest number of the group assigned to duties in the lower skills. This situation may be the result of discriminatory placement or promotion policies, segregated lines of progression in the facility, or any collective bargaining arrangements impeding the movement of minority employees (see Standard Form 100 with particular attention to any attachment indicating dual local unions, i.e., two local unions of the same international union listed as bargaining units). Very often where there are dual local unions they are racially and sexually segregated. Experience has demonstrated that where racially and sexually segregated local unions exist, segregated progression lines and a system of racially and sexualy reserved positions also exist.

(2) A contractor shall not be deemed to be in compliance if he maintains facilities having racially and sexually segregated lines of progression, racially and sexualy reserved positions, departments or divisions, separate seniority lists, or racially segregated facilities (see § 1–12.803–10).

(3) Segregation or denial of equal employment opportunity by reason of collective bargaining agreements shall not be deemed to relieve a contractor of his equal opportunity obligations.

(4) Compliance requires that contractors eliminate racially segregated facilities, merge functionally related but racially and sexually segregated lines of progression, reconstitute seniority lists, districts, and lines on a nondiscriminatory basis, provide equal promotion, progression, and transfer opportunities based on nondiscriminatory qualifications alone, even to the extent of renegotiating collective bargaining agreements.

(5) Reviews should include consideration of the contractor's organizational structure, payrolls, wage rates, personnel instructions, procedures and guidelines, promotional lists and rules, job descriptions and methods of job classification, seniority lists, recall lists, and collective bargaining agreements.

(6) Management controls are indicators of the ability to comply. A contractor who was formulated and disseminated a firm policy on equal opportunity throughout his entire organization, designated a responsible official for implementation of the policy, and instituted a system of control and evaluation of the program usually can effect equal employment opportunity. On the other hand, in those instances where there is no such policy and program, no fixed responsibility and no feedback and evaluation, the possibility of coming into compliance is diminished.

(7) When dealing with prospective construction and repair contractors, contracting officers should be aware of local trades and crafts that historically have discriminated and maintained exclusionary policies. In this connection, consideration should be given to having contractors require their subcontractors to do more than obtain written assurances that their sources of recruitment hire on a nondiscriminatory basis. Contractors and subcontractors have found it necessary to locate qualified minority group individuals and refer them to their appropriate sources as apprentices or journeymen. Most construction craft collective bargaining agreements afford the contractor or subcontractor an opportunity to employ individuals for limited periods of time (7 days to 30 days) who are not members of the bargaining unit before offering such individuals for membership. Contractors or subcontractors should be directed to exercise this right where necessary to ensure an integrated work force on GSA construction and repair projects. In addition, the contractor's or subcontractor's equal opportunity programs should include encouragement of local labor organizations to demonstrate evidence of their equal opportunity policy as recited in written assurances.

(8) The provisions of this paragraph (d) are intended to complement the rules, regulations, and orders of the Secretary of Labor as set forth in OFCC Order No. 14 and the Compliance Officer's Manual.

§ 5B–12.805–52 Identification of subcontractors.

Construction contracts. Invitations for bids and requests for proposals for construction shall provide for the listing of subconstractors in accordance with the procedures prescribed by the Commissioner, PBS.

§ 5B–12.805–53 Compliance agency.

The Office of Federal Contract Compliance, Department of Labor, has assigned compliance agency responsibility according to Standard Industrial Classification Codes (SIC). The SIC assignments for GSA are as follows:

SIC Code	Industry
08	Forestry.
24	Lumber and wood products, except furniture.
25	Furniture and fixtures.
26	Paper and allied products.
48	Communications.
49	Electric, gas, and sanitary services.
509	Miscellaneous durable goods.
53	General merchandise stores.
57	Furniture, home furnishings, and equipment stores.
58	Eating and drinking places.
59	Miscellaneous retail.
65	Real estate.
67	Holding and other investment offices.
72	Personal services.
73	Business services.
75	Automobile repair, services, and garages.
76	Miscellaneous repair services.
78	Motion pictures.
79	Amusement and recreation services, except motion pictures.

GSA shall be solely responsible for the facilities assigned. Determination by GSA as to a facility's compliance with the Executive order shall, subject to OFCC approval, apply to all Federal agencies. No contracting agency shall initiate conciliation discussions or resolve deficiencies with any of the facilities assigned to GSA without first notifying the OFCC and without the participation of GSA. Problems related to GSA compliance agency assignments shall be referred to the Deputy Contract Compliance Officer for resolution with OFCC and other agencies, as appropriate.

§ 5B–12.805–54 Furnishing information to contractors.

Contracting officers, when mailing contract documents to contractors that are subject to the Equal Opportunity clause, shall include appropriate information explaining the contract requirements

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concerning submission of Employer Information Report forms, notices to labor unions or other organizations of workers, and use of required posters (see § 1–12.805–3). For this purpose, form letters have been developed for use as follows:

(a) GSA Form 1949, Notice to Prospective Bidders—Equal Opportunity Clause, may be used with invitations for Bids on Standard Form 20, Invitation for Bids (Construction Contract), or GSA Form 1467, Invitation, Bid and Award (Contract for Building Services), when bids are estimated to exceed $10,000 (see § 5B–16.950–1949).

(b) GSA Form 1950 (Form Letter—Transmittal of contract award), may be used to transmit contract awards that are subject to the Equal Opportunity clause (see § 5B–16.950–1950).

§ 5B–12.807 Hearings.

§ 5B–12.807–1 General.

Section 1–12.807–1 sets forth the four principal conditions under which a formal hearing shall be afforded to a prime contractor or subcontractor by the Contract Compliance Officer. Generally, informal hearings are convened for the purpose of determining compliance by a prime contractor or subcontractor with the terms of the Equal Opportunity clause.

§ 5B–12.807–2 Informal hearings.

The Contract Compliance Officer has designated Assistant Contract Compliance Officers to conduct informal hearings regarding contractual matters in which they are involved. Informal hearings shall be conducted in accordance with § 1–12.807–2(c).

§ 5B–12.807–3 Formal hearings.

(a) Formal hearings shall be conducted by the Contract Compliance Officer.

(b) Hearings shall be conducted (to the extent consistent with § 1–12.807) in accordance with the rules of the General Services Administration Board of Contract Appeals, as set forth in Subpart 5–60.2. When those rules are employed, pursuant to the provisions of this paragraph (b), references to the Board shall be deemed to be references to the Contract Compliance Officer (or his designee).

(c) Assistant Contract Compliance Officers, contracting officers, and other GSA personnel shall participate as may be appropriate.

§ 5B–12.810 Affirmative action compliance programs.

(a) Assistant Contract Compliance Officers shall determine whether contractors (for which they are cognizant) have established affirmative action compliance programs as required by § 1–12.810. Disagreements between an Assistant Contract Compliance Officer and a contractor shall be referred to the Contract Compliance Officer or his deputy. If the disagreement is not resolved, it is subject to § 1–12.805–10.

(b) The contractor's affirmative action program should be tailored to meet the problems disclosed in compliance reviews. It should contain documentation of the elimination of deficient employment practices and policies and specific steps, including goals and timetables, for the full and effective utilization of minority manpower.

(c) In addition to the representation prescribed by § 1–12.805–4(b)(1), each bidder or prospective prime contractor shall be required to state in his bid, or in writing at the outset of negotiations for the contract, whether he has developed and has on file at each establishment affirmative action programs pursuant to the rules and regulations of the Secretary of Labor. The statement required shall be in the form of a representation by the bidder or offeror substantially as follows:

> The bidder (or offeror) represents that (1) he [ ] has developed and has on file, [ ] has not developed and does not have on file, at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor (41 CFR Parts 60–1 and 60–2), or (2) he [ ] has not previously had contracts subject to the written affirmative action program requirement of the rules and regulations of the Secretary of Labor. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)

As provided in § 1–12.805–4(b)(1), where a bidder or offeror fails to execute the representation, the omission shall be considered a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

§ 5B–12.812 Rulings and interpretations.

The Contract Compliance Officer (or his deputy) shall advise Assistant Contract Compliance Officers and contracting officers of any rulings and interpretations of the Secretary of Labor or his designee.

§ 5B–12.850 Validation of employment tests.

(a) This section sets forth policies and procedures regarding the validation of employment tests by contractors and subcontractors subject to the provisions of Executive Order 11246, as amended, as required by the September 27, 1971, order of the Secretary of Labor (41 CFR Part 60–3, 36 FR 19307).

(b) The term "test" is defined as any paper-and-pencil or performance measure used as a basis for any employment decision. This definition includes, but is not restricted to, measures of general intelligence, mental ability and learning ability; specific intellectual abilities; mechanical, clerical, and other aptitudes; dexterity and coordination; knowledge and proficiency; occupational and other interests; and attitudes, personality, or temperment. In addition, the term "test" covers all other formal, scored, quantified, or standardized techniques of assessing job suitability; including, i.e., personal history and background requirements which are specifically used as a basis for qualifying or disqualifying applicants or employees; specific educational or work history requirements; scored interviews, biographical information blanks, interviewers' rating scales and scored application forms. The term "test" shall not include other selection techniques discussed in § 5B–12.850–8.

§ 5B–12.850–1 General.

(a) Properly validated and standardized employee selection procedures can significantly contribute to the implementation of nondiscriminatory policies, as required by Executive Order 11246, as amended. Professionally developed tests, when used in conjunction with other tools of personnel assessment and complemented by sound programs of job design, may significantly aid in the development and maintenance of an efficient work force and aid in the utilization and conservation of human resources generally. In many cases, contractors have come to rely almost exclusively on tests as the basis for making the decision to hire, promote, transfer, train, or retain with the result that candidates are selected or rejected on the basis of test scores. Where tests are so used, minority candidates frequently experience disproportionately high rates of rejection by failing to attain score levels that have been established as minimum standards for qualification.

(b) In many instances contractors are using tests as the basis for employment decisions without evidence that they are valid predictors of employee job performance. Where evidence in support of presumed relationships between test performance and job behavior is lacking, the possibility of discrimination in the application of test results must be recognized. A test lacking demonstrated validity, i.e., having no known significant relationship to job behavior, and yielding lower scores for classes protected by Executive Order 11246, as amended, may result in the rejection of many who have necessary qualifications for successful work performance.

(c) This section is designed to serve as a set of standards for contractors and subcontractors subject to Executive Order 11246, as amended, in determining whether their use of tests conforms with the requirements of the Executive order.

§ 5B–12.850–2 Evidence of validity.

(a) Contractors using tests to select from among candidates for hire, transfer, promotion, training, or retention shall have available for inspection evidence that the test is being used in a manner which does not violate § 5B–12.850–9(c).

(b) Where technically feasible, a test should be validated for each minority group with which it is used; that is, any differential rejection rates that may exist, based on a test, must be relevant to performance on the jobs in question.

(c) The term "technically feasible" as used in paragraph (b) of this subsection and elsewhere in this section means having or obtaining a sufficient number of minority individuals to achieve findings of statistical and practical significance, or having the opportunity to obtain unbiased job performance criteria. It is the responsibility of the persons claiming absence of technical feasibility to demonstrate evidence of this absence.

(d) Evidence of a test's validity should consist of empirical data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being evaluated.

(e) The presentation of the results of a validation study must include statistical and, where appropriate, graphic representations of the relationships between the test and the criteria, permitting judgments of the test's utility in making predictions of future work behavior.

§ 5B–12.850–3 Minimum standards for validation.

Empirical evidence in support of a test's validity must be based on studies employing generally accepted procedures for determining criterion-related validity, such as those described in "Standards for Educational and Psychological Tests and Manuals," published by the American Psychological Association, 1200 17th Street, NW., Washington, DC 20036. Evidence of content or construct validity, as defined in that publication, may also be appropriate where criterion-related validity is not feasible. Although any appropriate validation strategy may be used to develop such empirical evidence, the following minimum standards, as applicable, must be met in the research approach and in the presentation of results which constitute evidence of validity:

(a) Where a validity study is conducted in which tests are administered to applicants, with criterion data collected later, the sample of subjects must be representative of the normal or typical candidates group for the job or jobs in question. This further assumes that the applicant sample is representative of the minority population available for the job or jobs in question in the local labor market. Where a validity study is conducted in which tests are administered to present employees, the sample must be representative of the minority groups currently included in the applicant population.

(b) Tests must be administered and scored under controlled and standardized conditions, with proper safeguards to protect the security of test scores and to ensure that scores do not enter into any judgments of employee adequacy that are to be used as criterion measures.

(c) The work behaviors or other criteria of employee adequacy which the test is intended to predict or identify must be fully described; and, additionally, in the case of rating techniques, the appraisal forms and instructions to the raters must be included as a part of the validation evidence. Such criteria may include measures other than actual work proficiency, such as training time, supervisory ratings, regularity of attendance, and tenure. Whatever criteria are used they must represent major or critical work behaviors as revealed by careful job analyses.

(d) In view of the possibility of bias inherent in subjective evaluations, supervisory rating techniques should be carefully developed, and the ratings should be closely examined for evidence of bias. In addition, minorities or women might obtain unfairly low performance criterion scores for reasons other than supervisors' prejudice, when, as new employees, they have had less opportunity to learn job skills.

(e) Data must be generated and results separately reported for minority and nonminority groups wherever technically feasible. Where a minority group is sufficiently large to constitute an identifiable factor in the local labor market, but validation data have not been developed and presented separately for that group, evidence of satisfactory validity based on other groups will be regarded as only provisional compliance with this order pending separate validation of the test for the minority group in question. A test which is differentially valid may be used in groups for which it is valid but not for those in which it is not valid. In this regard, where a test is valid for two groups but one group characteristically obtains higher test scores than the other without a corresponding difference in job performance, test results must be applied so as to predict the same probability of job success in both groups.

§ 5B–12.850–4 Employment agencies and State employment services.

Contractors utilizing the services of any private employment agency, State employment agency or any other person, agency, or organization engaged in the selection or evaluation of personnel which makes its selections or evaluations of personnel wholly or partially on the basis of the results of any test shall have available evidence that any test used by such person, agency, or organization is in conformance with the requirements of this section.

§ 5B–12.850–5 Use of validity studies.

In cases where the validity of a test cannot be determined pursuant to § 5B–12.850–3 (e.g., the number of subjects is less than that required for a technically adequate validation study, or an appropriate criterion measure cannot be developed), evidence from validity studies conducted in other organizations, such as that reported in test manuals and professional literature, may be considered acceptable when: (a) The studies pertain to jobs which are comparable (i.e., have basically the same task elements), and (b) there are no major differences in contextual variables or sample composition which are likely to significantly affect validity.

§ 5B–12.850–6 Assumptions of validity.

(a) The general reputation of a test, its author or its publisher, or casual reports of test utility will not be accepted in lieu of evidence of validity. Specifically ruled out are: Assumptions of validity based on test names or descriptive labels; all forms of promotional literature; data bearing on the frequency of a test's usage; testimonial statements of sellers, users, or consultants; and other nonempirical or anecdotal accounts of testing practices or testing outcomes.

(b) Although professional supervision of testing activities may help greatly to ensure technically sound and nondiscriminatory test usage, such involvement alone shall not be regarded as constituting satisfactory evidence of test validity.

§ 5B–12.850–7 Continued use of tests.

(a) A contractor may be permitted to continue the use of a test which is not at the moment fully supported by the required evidence of validity. If, for example, evidence of criterion-related validity in a specific testing is technically feasible and required but not yet obtained, the use of the test may continue providing: (1) The contractor can cite substantial evidence of validity as described in § 5B–12.850–5, and (2) he has in progress validation procedures which are designed to produce, within a reasonable time, the additional data required. It is expected also that the contractor may have to alter or suspend test cutoff scores so that score ranges broad enough to permit the identification of criterion-related validity will be obtained.

(b) Contractors should provide an opportunity for retesting and reconsideration to earlier "failure" candidates who have availed themselves of more training or experience.

§ 5B–12.850–8 Other selection techniques.

Selection techniques other than tests may be improperly used so as to have the effect of discriminating against minority groups or women. Such techniques include, but are not restricted to, unscored or casual interviews, unscored application forms, and unscored personal history and background requirements not used uniformly as a basis for qualifying or disqualifying applicants. Where there are data suggesting employment discrimination, the contractor may be called upon to present evidence concerning the validity of his unscored procedures regardless of whether tests are also used, the evidence of validity being of the same types referrred to in §§ 5B–12.850–2 and 5B–12.850–3. If the contractor is unable or unwilling to perform such validation studies, he has the option of adjusting employment procedures so as to eliminate the conditions suggestive of employment discrimination.

§ 5B–12.850–9 Compliance reviews.

(a) Nothing in this section shall be interpreted as diminishing a contractor's obligation under both Title VII of the Civil Rights Act of 1964 and Executive Order 11246, as amended, to take affirmative action to ensure that applicants or employees are treated without regard to race, color, religion, sex, or national origin.

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(b) The principle of disparate or unequal treatment must be distinguished from the concept of test validation. Disparate treatment, for example, occurs where members of a group protected by Executive Order 11246, as amended, have been denied the same opportunities for hire, transfer, or promotion as have been made available to other employees or applicants. Those employees or applicants who can be shown to have been denied equal treatment because of prior discriminatory practices or policies must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, no new test or other employee selection standard can be imposed upon an individual or class of individuals protected by Executive Order 11246, as amended, who, but for this prior discrimination, would have been granted the opportunity to qualify under less stringent selection standards previously in force.

(c) A contractor regularly using a test which has adversely affected the opportunities of minority persons or women for hire, transfer, promotion, training, or retention violates Executive Order 11246, as amended, unless he can demonstrate that he has validated the test pursuant to the requirements of this section.

(d) Each contractor shall maintain, and submit upon request, such records and documents relating to the nature and use of tests, the validation of tests, and test results, as may be required under the provisions of this section and under the orders and directives issued by the Office of Federal Contract Compliance.

(e) The use of tests and other selection techniques by contractors as qualification standards for hire, transfer, promotion, training, or retention shall be examined carefully for possible indications of noncompliance with the requirements of Executive Order 11246, as amended.

(f) A determination of noncompliance pursuant to the provisions of this part shall be grounds for the imposition of sanctions under Executive Order 11246, as amended.

Subpart 5B–16.8 consisting of §§ 5B–16.804, 5B–16.851–5B–16.854, 5B–16.856, 5B–16.857 is added to Part 5B–16 as follows:

Subpart 5B–16.8—Miscellaneous Forms

Sec.
5B–16.804 Report on procurement.
5B–16.851 Request for release of classified information to U.S. Industry.
5B–16.852 Security requireents checklist.
5B–16.853 Notice of intention to make service contract.
5B–16.854 Notice of award of contract.
5B–16.856 Department of Labor notice to employees working on Government contracts.
5B–16.857 Equal opportunity in employment.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); 41 CFR 5–1.101(c).

Subpart 5B–16.8—Miscellaneous Forms

§ 5B–16.800 Scope of subpart.

This subpart prescribes miscellaneous forms, other than procurement contract forms, for use in connection with the procurement of supplies and services.

§ 5B–16.804 Report on procurement.

(a) The report on procurement required by § 1–16.804 shall be prepared on Standard Form 37, Report on Procurement by Civilian Executive Agencies. Implementing instructions appear in § 5–1.–5001.

§ 5B–16.851 Request for release of classified information to U.S. industry.

(b) GSA Form 1720, Request for Release of Classified Information to U.S. Industry, is prescribed for use in accordance with § 5B–53.204.

§ 5B–16.852 Security requirements checklist.

§ 5B–16.853 Notice of intention to make a service contract.

Standard Form 98, Notice of Intention to Make a Service Contract and Response to Notice, is prescribed for use in accordance with § 5B–12.604 when awarding a contract subject to the Walsh-Healey Public Contracts Act, and in accordance with § 1–12.805 when awarding a contract subject to the Service Contract Act of 1965.

§ 5B–16.854 Notice of award of contract.

§ 5B–16.856 Department of Labor notice to employees working on Government contracts.

Department of Labor W H Publication 1313, Notice of Employees working on Government Contracts, is prescribed for use in accordance with §§ 5B–12.604 and 1–12.905–1.

§ 5B–16.857 Equal opportunity in employment.

GSA Form 1714, Equal Opportunity Clause, is prescribed for use in accordance with § 5B–12.803–2 and is illustrated at § 5B–16.950–1714.

Effective date. These regulations are effective on the date shown below.

Dated: April 29, 1974.

JOHN F. GALUARDI,
Acting Commissioner,
Public Buildings Service.

[FR Doc.74–11061 Filed 5–13–74;8:45 am]

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60–5—WASHINGTON PLAN

Subpart D—Appendix A

EEO REQUIREMENTS

The appendix attached to the Washington Plan, which was included in invitations or other solicitations for bids on federally-involved construction contracts for projects in the Washington, D.C. standard metropolitan statistical area between June 1, 1970 and the present time, and which is to be included in all such invitations or solicitations for bids up to May 31, 1974, does not include a provision establishing quantified EEO requirements for contractors under covered contracts performed after the latest period for which an acceptable range of minority manpower utilization was provided in the solicitation from which the contracts resulted. In order to correct this omission prior to the expiration of the imposed Washington Plan and to parallel requirements contained in appendices for subsequently imposed construction industry EEO plans and Federal EEO bid conditions incorporating voluntary construction industry EEO plans, it is necessary to amend § 60–5.30 effective immediately. Notice of proposed rule making, opportunity for public participation and delay in the effective date are therefore contrary to the public interest.

Section 60–5.30 is hereby amended by adding new language to the end of paragraph 3 as follows:

§ 60–5.30 Appendix A.

* * * * * *

3. * * *

In the event that under a contract subject to this Appendix any work by a trade covered by this Appendix is performed after May 31, 1974, the determined ranges of minority group employment for the year ending May 31, 1974, shall be applicable to such work.

Effective date. This amendment is effective May 14, 1974.

Signed at Washington, D.C., this 7th day of May 1974.

PETER J. BRENNAN,
Secretary of Labor.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards.

PHILIP J. DAVIS,
Director, Office of Federal Contract Compliance.

[FR Doc.74–11114 Filed 5–13–74;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[PLO 5421]
[Idaho 7397]

IDAHO

Reservation for Proposed Forest Service Road

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights and to the provisions of existing withdrawals, the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, nor the disposal of materials under the Act of July 31, 1947, as amended, 30 U.S.C. 601–604 (1970), and reserved for the use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the Act of October 13, 1964, 16 U.S.C. 532, 533 (1970):

KANIKSU NATIONAL FOREST

BOISE MERIDIAN

T. 55 N., R. 5 W.,
Sec. 1, lots 1, 5, 6, 7;
Sec. 12, lot 2, SW¼NE¼, NW¼SE¼, SW¼SW¼;
Sec. 14, E½NE¼, N½SE¼, SW¼NE¼, SE¼NW¼;
Sec. 15, NE¼SE¼.

(A strip of land varying in width from 66 feet to 130 feet, being 33 feet to 80 feet on a side of the centerline of Hoodoo Rd., No. 2550.2, as shown on the right-of-way maps, sheets 4 through 9, dated April 26, 1973, over and across the named subdivisions).

The area described aggregates 36.32 acres, more or less, in Bonner County, Idaho.

2. The withdrawal made by this order shall not preclude agricultural entries or sales, exchanges or leases under applicable public land laws of any legal subdivisions traversed by lands withdrawn by this order: *Provided,* that any such entry, sale, exchange, or lease shall be subject to this order and to any road right-of-way easement over the lands issued by the Department of Agriculture.

JACK O. HORTON,
Assistant Secretary of the Interior.

MAY 8, 1974.

[FR Doc.74–11057 Filed 5–13–74;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC–52; Notice No. 74–6]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Sleeper Berths in Commercial Motor Vehicles

Correction

In FR Doc. 74–9583 appearing at page 14710 in the issue for Friday, April 26, 1974, make the following changes:

1. On page 14712, in the table at the top of the page, the heading of column 4 should read as set forth below:

Height measured from highest point of top of mattress (inches)[1]

2. On page 14712, in footnote 1 under the table, the word "utilities" in the first line should read "utilizes".

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Part 77]

REFUSE PILES AND WATER AND SILT IMPOUNDMENTS

Objections Filed and Hearing Requested

Pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended (91 Stat. 173; 30 U.S.C. 811(a)), there was published in the FEDERAL REGISTER for January 16, 1974 (39 FR 2004), a notice proposing that Part 77, Subchapter O, of 30 CFR Chapter I, be amended by adding paragraphs (h) and (i) to § 77.-215 and by adding §§ 77.215–1 through 77.215–4 and new §§ 77.216 through 77.-216–3. The proposed amendments pertain to refuse piles and water and silt impoundments.

Interested persons were afforded a period in excess of 45 days following publication within which to submit to the Administrator, Mining Enforcement and Safety Administration, written comments, suggestions and objections to these proposed standards, stating the grounds therefor, and to request a public hearing on such objections.

Section 101(f) of the Act directs the Secretary to publish in the FEDERAL REGISTER, as soon as practicable after the period for filing such objections has expired, a notice specifying proposed mandatory safety standards to which objections have been filed and a hearing requested.

Notice is hereby given that written objections were timely filed with the Administrator, Mining Enforcement and Safety Administration, stating the grounds for objections and requesting a hearing on the proposed paragraphs (h) and (i) of § 77.215, §§ 77.215–1 through 77.215–4, and §§ 77.216 through 77.216–3, of 30 CFR Part 77.

Pursuant to section 101(g) of the Act, the Secretary will after publication of this notice in the FEDERAL REGISTER, issue notice of the time and place at which a public hearing will be held for the purpose of receiving relevant evidence to the objections received.

C. K. MALLORY,
Deputy Assistant Secretary of the Interior.

MAY 9, 1974.

[FR Doc.74–11031 Filed 5–13–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

FROZEN CONCENTRATED APPLE JUICE

Proposed Grade Standards

A notice of proposed rulemaking to issue new United States Standards for Grades of Frozen Concentrated Apple Juice (7 CFR 52.6321–52.6332) was published in the FEDERAL REGISTER of August 20, 1973 (38 FR 22406); a second notice of proposed rulemaking was published in the FEDERAL REGISTER of January 16, 1974 (39 FR 2006). After consideration of all relevant matters pertaining to the proposals and in view of the changes which have been proposed and the changes made in response to those proposed, the U.S. Department of Agriculture desires consideration by interested parties of this third notice of proposed rulemaking to issue new United States Standards for Grades of Frozen Concentrated Apple Juice.

This new grade standard would be issued under authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090 as amended, 7 U.S.C. 1624), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover the cost of such service.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in duplicate not later than June 15, 1974, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submittals made pursuant to this notice will be available for public review at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of consideration leading to the third proposal.

There is, at present, no United States Standards for Grades of Frozen Concentrated Apple Juice.

The American Frozen Food Institute, representing a large portion of the frozen concentrated apple juice industry, requested that the Department establish U.S. Standards for Grades of Frozen Concentrated Apple Juice.

During 1972, a team established by the Department of Agriculture investigated problems associated with the marketing of apples. The report of the study group indicated that there is a potential for new product development, such as apple concentrate, and a need to improve the quality standards for apple juice.

In response to the industry request and in recognition of the report of the apple marketing team, the Department proposed, on August 20, 1973, to establish United States Standards for Grades of Frozen Concentrated Apple Juice, to facilitate the marketing of this product. A number of comments were filed on this proposal dealing mainly with the relationship between Brix (apple sugar) and the acidity of the apples, also, a request was made to clarify the product description. Changes were made as a result of these comments and a second notice of proposed rulemaking was published on January 16, 1974.

One comment was received on the second notice of proposed rulemaking. This comment requested that the product description (§ 52.6321) be modified to allow apple parts (derived from the preparation of apple products other than apple juice) to be used in the preparation of apple juice excluding liquid obtained by leaching of residual apple material (pomace) with water. The following justification for this change was given:

(1) Juice obtained from apple parts, particularly when it is blended with that from whole apples, is indistinguishable from apple juice made from 100 percent whole apples.

(2) When you press whole apples you are pressing peels and cores as integral parts of the whole apple and therefore the juice from peels and cores alone must be just as wholesome as that of the whole fruit.

(3) Many processors that have either an apple sauce or a sliced apple operation press the peels, cores, and trimmed apple material as they come from the preparation department. Such a procedure should be permitted, particularly in these times of a shortage of foodstuffs, so as not to waste any usable material.

(4) State of Pennsylvania has set up standards for cider and vinegar with the following definition of the raw material to be used; "• • • unfermented juice expressed or squeezed from apples or other fruit or portion of fruit." This wording is permitted because of an investigation of the industry whereby it was found that prompt pressing of peels and cores resulted in a juice that made a satisfactory cider and vinegar.

(5) The quality of apple used for preparing apple sauce and sliced apples is superior to that of apples used for juice. Normally apples that are used for juice are small apples below 2½ inches in diameter which yield less flavorful juice with more astringency and less sugar than juice from larger fruit. Therefore the peels and cores resulting from peeling large apples produce a juice that is of higher quality than that from whole small apples.

(6) The secret of making good quality concentrate is to us quality raw material whether that raw material is small apples or parts of larger apples. To make an arbitrary distinction between whole apples and parts of whole apples is completely unrelated to the standard of quality.

The Department after consideration of the above comments and all other relevant material agrees that the use of sound, fresh, peels, cores and trimmings should be allowed in the manufacture of apple juice.

The proposed standard is as follows:

Subpart—United States Standards for Grades of Frozen Concentrated Apple Juice

PRODUCT DESCRIPTION AND GRADES

Sec.
52.6321 Product description.
52.6322 Brix requirement.
52.6323 Grades.

FILL OF CONTAINER

52.6324 Recommended fill of container.

FACTORS OF QUALITY

52.6325 Ascertaining the grade.
52.6326 Ascertaining the rating for the factors which are scored.
52.6327 Color and clarity.
52.6328 Defects
52.6329 Flavor and aroma.

EXPLANATIONS

52.6330 Explanation of terms.

LOT COMPLIANCE

52.6331 Ascertaining the grade of a lot.

SCORE SHEET

52.6332 Score sheet.

AUTHORITY: Agricultural Marketing Act of 1946; sec. 205, 60 Stat. 1090 as amended (7 U.S.C. 1624).

Subpart—United States Standards for Grades of Frozen Concentrated Apple Juice

PRODUCTS DESCRIPTION AND GRADES

§ 52.6321 Product description.

Frozen concentrated apple juice is prepared from the unfermented, unsweetened, unacidified liquid obtained from the first pressing of properly prepared, sound, clean, mature, fresh apples, and/or parts thereof, excluding liquid obtained by leaching pomace with water. The juice is clarified and concentrated to at least 22.9 degrees Brix. The apple juice concentrate so prepared; with or without the addition of antioxidants and/or vitamins, is packed and frozen in accordance with good commercial practice and maintained at temperatures necessary for the preservation of the product.

§ 52.6322 Brix requirements.

Brix value of the finished concentrate shall be not less than the following for the respective dilution factor of frozen concentrated apple juice:

Dilution factor:	*Minimum Brix value of concentrate (degrees)*
1 plus 1	22.9
2 plus 1	33.0
3 plus 1	42.2
4 plus 1	50.6
5 plus 1	58.5
6 plus 1	66.3
7 plus 1	73.3

§ 52.6323 Grades.

(a) "U.S. Grade A" or "U.S. Fancy" is the quality of frozen concentrated apple juice which, when reconstituted according to § 52.6325(b), has the following attributes:

(1) good color and clarity;
(2) is practically free from defects;
(3) very good flavor and aroma; and
(4) scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" or "U.S. Choice" is the quality of frozen concentrated apple juice which, when reconstituted according to § 52.6325(b), has at least the following attributes:

(1) reasonably good color and clarity;
(2) is reasonably free from defects;
(3) good flavor and aroma; and
(4) scores not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of frozen concentrated apple juice that fails to meet the requirements of U.S. Grade B.

FILL OF CONTAINER

§ 52.6324 Recommended fill of container.

Recommended fill of container is not incorporated in the grades of the finished product since the fill of the container, as such, is not a factor of quality for the purposes of these grades. It is recommended that the container be filled with frozen concentrated apple juice to not less than 90 percent of the capacity of the container.

FACTORS OF QUALITY

§ 52.6325 Ascertaining the grade.

(a) The grade of frozen concentrated apple juice is ascertained by considering, in conjunction with the requirements of the respective grade, the respective ratings for the factors which are scored. The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points which may be given such factors are:

Factors	*Points*
Color and clarity	20
Defects	20
Flavor and aroma	60
Total score	100

(b) The scores for the factors of color and clarity, defects, and flavor and aroma are determined immediately after reconstituting according to label directions or other appropriate directions.

§ 52.6326 Ascertaining the rating for the factors which are scored.

The essential variations, within each scorable factor, are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example: "18 to 20 points" means 18, 19, or 20 points).

§ 52.6327 Color and clarity.

(a) (*A*) *Classification.* Frozen concentrated apple juice which has a good color and clarity may be given a score of 18 to 20 points. "Good color and clarity" means that the color is bright and transparent and of a light golden appearance, but not darker than USDA Honey Color Standards "White" designation.

(b) (*B*) *classification.* Frozen concentrated apple juice which has a reasonably good color and clarity may be given a score of 16 or 17 points. "Reasonably good color and clarity" means the color is slightly dull or slightly turbid; may be light golden to light amber in appearance but not darker than USDA Honey Color Standards "Light Amber" designation. Frozen concentrated apple juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule).

(c) (*SStd.*) *classification.* Frozen concentrated apple juice that is dull, turbid or otherwise fails the requirements of U.S. Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.6328 Defects.

(a) *General.* The factor of defects refers to the degree of freedom from sediment or other residues, dark specks, or any other defects which affect the appearance or palatability of the product.

(b) (*A*) *classification.* Frozen concentrated apple juice which is practically free from defects may be given a score of 18 to 20 points. "Practically free from defects" means that the frozen concentrated apple juice after reconstitution may have a slight amount of sediment or residue of an amorphous nature; may have not more than a trace of dark specks or of sediment or residue of a non-amorphous nature, or of any other defects; *Provided*, That all defects present do not more than slightly affect the appearance or palatability of the product.

(c) (*B*) *classification.* Frozen concentrated apple juice which is reasonably free from defects may be given a score of 16 or 17 points. "Reasonably free from defects" means that the frozen concentrated apple juice after reconstitution may have a slight amount of sediment or residue of an amorphous or non-amorphous nature, of dark specks, or of any other defects; *Provided*, That all defects present do not materially affect the

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appearance or palatability of the product. Frozen concentrated apple juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule).

(d) *(SStd.) classification.* Frozen concentrated apple juice which fails to meet the requirements for U.S. Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.6329 Flavor and aroma.

(a) *General.* The factor of flavor and aroma refers to the degree of excellence and palatability of a distinct apple juice flavor and aroma typical of apple juice that has been properly processed.

(b) *(A) classification.* Frozen concentrated apple juice which has a very good flavor and aroma may be given a score of 54 to 60 points. "Very good flavor and aroma" means that the apple juice has a fine, distinct fruity flavor and bouquet, that is free from astringent flavors, flavors due to overripe apples, oxidation, caramelization, ground or musty flavors or any other undesirable flavors and aromas; and, in addition, shall meet the following requirement:

Brix-Acid Ratio—Minium-21: 1
Maximum-53: 1

(c) *(B) classification.* Frozen concentrated apple juice which has a good flavor and aroma may be given a score of 48 to 53 points. "Good flavor and aroma" means that the frozen concentrated apple juice has a normal flavor and bouquet, may be slightly astringent; or may be slightly affected by overripe apples, carmelization, or ground or musty flavors, but is free from objectionable flavors or objectionable aromas of any kind; and, in addition, meets the following requirement:

Brix-Acid Ratio—Minimum-18:1
Maximum-60:1

Frozen concentrated apple juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule).

(d) *(SStd.) classification.* Frozen concentrated apple juice that fails to meet the requirements of U.S. Grade B may be given a score of 0 to 47 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

EXPLANATIONS

§ 52.6330 Explanation of terms.

(a) "Brix" means soluble solids of the concentrated apple juice as measured on the Refractometer, expressed as percent by weight sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C. (68° F.), but without correction for invert sugar or other substances. The Brix of frozen concentrated apple juice may be determined by any other method which gives equivalent results.

(b) "Acid" means grams of acid (calculated as malic acid) per 100 grams of concentrated juice determined by titration with a standard sodium hydroxide solution, using phenolphthalein as an indicator or any other satisfactory indicator and using an acid factor of 0.067.

(c) "Brix-Acid ratio" means the ratio of the Brix of the concentrated juice in degrees Brix to the grams of acid (calculated as malic acid) per 100 grams of concentrated juice.

(d) The USDA Honey Color Standards, referenced in § 52.6327, and information concerning procurement and use is available from:

Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250.

LOT COMPLIANCE

§ 52.6331 Ascertaining the grade of a lot.

The grade of a lot of frozen concentrated apple juice covered by these standards is determined by the procedures set forth in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (§§ 52.1 to 52.83).

SCORE SHEET

§ 52.6332 Score sheet.

Size and kind of container			
Container mark or identification			
Label			
Net contents (fluid ounces)			
Brix (degrees)			
Acid (malic grams/100 grams)			
Brix-Acid Ratio			
Factors		**Score points**	
Color and clarity	20	(A)	18–20
		(B)	[1] 16–17
		(SStd)	[1] 0–15
Defects	20	(A)	18–20
		(B)	[1] 16–17
		(SStd)	[1] 0–15
Flavor and aroma	60	(A)	54–60
		(B)	[1] 48–53
		(SStd)	[1] 0–47
Total score	100		
Grade			

[1] Indicates limiting rule.

Dated: May 8, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74–11093 Filed 5–13–74;8:45 am]

[7 CFR Part 928]

PAPAYAS GROWN IN HAWAII

Proposed Increase in Expenses

This notice invites comment relative to a proposed increase in the expenses reasonable and likely to be incurred by the Papaya Administrative Committee under Marketing Order 930 during the fiscal year 1974. The proposed increase amounts to $12,000, and the addition of this amount would increase the total of approved expenses to $375,288. The proposed action would not necessitate an increase in the current assessment rate as funds equal to the proposed increase have been allocated to the committee by the counties of Hawaii and Kauai.

Consideration is being given to the following proposal, submitted by the Papaya Administrative Committee, established under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the provisions thereof:

That the Secretary find paragraph (a) of § 928.203 *Expenses, rate of assessment, and carryover of unexpended funds* (39 FR 5184) be amended as follows:

§ 928.203 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Papaya Administrative Committee during the period January 1, 1974 through December 31, 1974, will amount to $375,288.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than May 25, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: May 9, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–11090 Filed 5–13–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–EA–27]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Weyer's Cave, Va., Control Zone (39 FR 436).

The present control zone is a part-time zone of 18 hours and based on the weather observations of Piedmont Airlines. Because of shifting schedules the zone period will vary from time to time. To preclude a need to change by a series of amendments, the description will be altered to permit change by Notice in the Airman's Information Manual.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 13, 1974 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Weyer's Cave, Virginia, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to alter the description of the Weyers Cave, Va. Control Zone by deleting the last sentence in the text and by substituting, "This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airman's Information Manual."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on April 24, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

[FR Doc.74–11037 Filed 5–13–74;8:45 am]

FEDERAL ENERGY OFFICE

[10 CFR Part 211]

SYNTHETIC NATURAL GAS FEEDSTOCK ALLOCATION

Advance Notice of Proposed Rulemaking; Public Hearing

Notice is hereby given that the Federal Energy Office will receive written comments and hold a public hearing in Washington, D.C. with respect to the allocation of petroleum feedstocks to synthetic natural gas facilities. By amendments to Part 211, issued May 1, 1974, to become effective June 1, 1974, the FEO has made clear its intention to subject Synthetic Natural Gas (SNG) feedstocks to allocation regulations. The purpose of this proceeding is to develop further a record upon which FEO may base its determination as to whether the June 1 amendments to Part 211, or some other treatment under the Mandatory Petroleum Allocation Regulations is appropriate.

The background of this proceeding and some of the issues it raises are as follows:

Available supplies of natural gas have not increased sufficiently during recent years to meet demand. This has resulted in an increased demand for alternate fuels. An alternative which has been developed by many gas distribution and transmission companies is the manufacture of SNG from petroleum products such as propane, butane, natural gas liquids, and naphtha. Currently, there are several SNG plants in various stages of operation, start-up, construction, or planning.

The January 15, 1974 Mandatory Petroleum Allocation Regulations, effective through May 31, 1974, do not provide for allocation of petroleum feedstocks to SNG plants. It is the purpose of the FEO, in promulgating the June 1 amendments to Part 211 and in holding hearings on these amendments, to clarify the status of SNG manufacturing as a use of particular feedstocks and to provide for the allocation of these feedstocks in accordance with appropriate criteria. The proposed criteria are intended to take into account the factors pertaining to the advisability of utilizing significant volumes of petroleum products for the production of SNG.

Among the relevant issues to which the interested parties to this proceeding should address themselves are the following:

(1) The effects of any proposed rule which would allocate SNG feedstocks on the basis of current requirements, without regard for other criteria;

(2) The effects of any proposed rule which would allocate SNG feedstocks on a case-by-case basis, with consideration of the following additional criteria:

(a) The availability, including source, volume, and interchangeability, of alternate SNG feedstocks;

(b) The degree to which an SNG manufacturer has curtailed supplies of natural gas to its interruptible customers;

(c) The existence, character, and effect of Federal or state natural gas curtailment plans and policies affecting the market area served by an SNG manufacturer;

(d) The existence, character, and effect of Federal or state regulatory policies respecting the utilization of SNG as a supplementary source of gas supply;

(e) The availability of alternative sources of natural gas and the extent to which a manufacturer has attempted to use such sources;

(f) The thermal efficiency, taking both distribution and the reformation process into account, of alternate uses of SNG feedstocks;

(g) The economic and technical feasibility of utilization of a particular petroleum product as a SNG feedstock, including both the economic impact on the manufacturer or distributor and the effect on cost of energy to consumers in a particular market area;

(h) The projected market growth of the utility and the projected SNG plant capacity over the period of allocation.

(i) The effect of allocation on demand for scarce petroleum products in a particular market area;

(j) The impact of an allocation decision on market area employment opportunities;

(k) The environmental impact of allocation options within a market area;

(3) The effects of restricting allocation of SNG feedstocks to customers according to established base period volumes with adjustment according to procedures specified in § 211.13, issued May 1, 1974 and effective June 1, 1974; and

(4) Any other factors or issues which are relevant to the proposed regulations for allocation of SNG feedstocks.

The public hearing in this proceeding will be held beginning at 10:00 a.m., on Tuesday, May 28, 1974 and Wednesday, May 29, 1974, at the New Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to the Executive Secretariat of the Federal Energy Office, and must be received before 5:30 p.m., e.d.s.t., Tuesday, May 21, 1974. Such a request may be delivered by hand to Room 3309, New Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday, or may be submitted by Telex, 710–822–0155. The request should identify the individual who would testify, describe the interest concerned, state, if appropriate, why the individual is a proper representative of a group or class of persons which has an interest, and provide a telephone number where the individual may be contacted through May 22, 1974.

Each person selected to be heard will be so notified by the Federal Energy Office before 5:30 p.m., e.d.s.t., May 22, 1974.

The Federal Energy Office reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

A Federal Energy Office official will preside at the hearing. It will not be a

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judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the Federal Energy Office with respect to the subject matter of the hearing will be based on all information available to the Federal Energy Office. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to the Executive Secretariat before 5:30 p.m., e.d.s.t., May 24, 1974. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether a question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be made available for inspection at the Public Reference Facility of the Federal Energy Office, Room 3130, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:30 a.m. and 5:30 p.m. Monday through Friday. Anyone may buy a copy of the transcript from the reporter.

This public hearing will be conducted under the authority of section 5 of the Emergency Petroleum Allocation Act of 1973.

The Federal Energy Office is inviting public participation in the form of written submissions as well as oral presentations. All written submissions received by the Federal Energy Office not later than 5:30 p.m., e.d.s.t., Wednesday, May 29, 1974, will be considered by the Federal Energy Office before it makes its determination in this proceeding.

Fifteen copies of all written submissions should be sent to the Federal Energy Office in Washington, D.C. All submissions should be clearly identified on the outside of the envelope and on the documents submitted by the designation "Synthetic Natural Gas Feedstock Allocation Regulations." If submitted by mail they should be addressed to the Federal Energy Office, Executive Secretariat, Box AH, Washington, D.C. 20461. If submitted by hand, they should be delivered to the Federal Energy Office, Executive Secretariat, Room 3309, The New Post Office Building, 12th and Pennsylvania Avenue, Washington, D.C.

Any information or data considered by the person furnishing it to be confidential must be so indicated and submitted in writing, one copy only. The Federal Energy Office reserves the right to determine the confidential status of the information or data and to treat it accordingly.

All comments received by May 29, 1974 and all other relevant information will be considered by the Federal Energy Office before final action is taken on the regulations.

Issued at Washington, D.C., on May 9, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

[FR Doc.74-11040 Filed 5-9-74;11:49 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 3]

RULES OF PRACTICE AND PROCEDURE

Submission of Information

Notice is hereby given that the Federal Trade Commission, pursuant to sections 5, 6, and 9 of the Federal Trade Commission Act, (38 Stat. 719, 721, 722, as amended, (15 U.S.C. 45, 46 and 49) (1970)) (hereinafter, "the Act") and the Administrative Procedure Act, 81 Stat. 54, 80 Stat. 383, (5 U.S.C. 552(a) (1) (E), 553) (1970)) is proposing a new § 3.40 to its rules of practice, 16 CFR 3.40.

The proposed rule would operate to bar the offer or introduction into evidence, as substantiation for an advertising claim, of substantiating materials which were required to be but were not timely submitted in response to Commission process under sections 6 or 9 of the Act calling for such materials. It would be applicable in any instance where the Commission, whether by an order to file a special report under section 6 of the Act, or by a subpoena issued under section 9 of the Act, requires the submission of substantiation for a representation made in advertising.

In 1971 the Commission commenced a major program, generally known as the Advertising Substantiation Program, under which advertisers have been required to submit to the Commission those materials in their possession which substantiate claims made by them in advertising. (See Resolution requiring submission of special reports relating to advertising claims and disclosure thereof by the Commission in connection with a public investigation, 36 FR 12058, amended, 36 FR 14680 (1971).) Orders requiring the submission of substantiation have been issued to dozens of advertisers, and have elicited thousands of pages of materials proffered in substantiation of numerous advertising claims. The analysis of these materials in turn has often required extensive consultation with experts both within any without the Commission in order to assess the adequacy and reasonableness of the material to substantiate the claims. Significant staff resources have been and continue to be devoted to this program.

In 1972, in the case of Pfizer, Inc., 81 F.T.C. 2.3 (1972), the Commission confirmed that it is a violation of section 5 of the Federal Trade Commission Act for an advertiser to make an affirmative representation without having a reasonable basis for making that representation at the time it is disseminated. The Commission's opinion in that case requires that an advertiser have in his possession such a reasonable basis before the representation is first made, and that he actually rely upon that basis in making the representation. Thus, when the Commission requires the submission of substantiating materials, it is seeking the submission of materials which, under Pfizer, are already required to be in the advertiser's possession, and to be relied upon by him, at the time the representation is initially made. While an advertiser may, in responding to a Commission order for substantiation, find it necessary to organize, describe or summarize various materials used by him as a basis for a representation, the basic materials nevertheless are those which should have been available and relied upon by him at the time the advertisement was first disseminated.

Notwithstanding the requirement of Pfizer, however, the Commission has encountered significant difficulties in obtaining timely and complete responses to its orders to submit substantiating materials. For example, companies asked for all tests and specific formulas have refused to submit the information in some cases. Some have submitted only conclusions when all materials relating to a test were ordered to be produced. Information has sometimes been submitted to the Commission long after the due date for the compulsory process return with no adequate reason given for the delay. Materials clearly called for by the specific terms of the orders have been withheld by companies on the ground that it was not sufficiently clear why the Commission was seeking the particular information. The nature and frequency of these past problems indicate that, in addition to the statutory penalties for failure to comply with Commission process, some further incentive is needed to ensure prompt and complete responses and, at the same time, to enable the Commission's administrative adjudications to proceed without awaiting the outcome of possible penalty proceedings in the Federal courts.

Prompt receipt of substantiating materials sought by Commission process is of great practical importance to the Commission. An investigation to determine whether an advertiser lacked a reasonable basis for the claim obviously requires that all of the actual materials in possession of and relied upon by the advertiser be fully evaluated. Without all of those materials, the investigation cannot proceed expeditiously. Therefore, the advertiser, by delay, can actually control the pace of the Commission's investigation of a possible violation of law.

Substantiating materials frequently must be analyzed by independent scientific experts. When there are delays or only partial submissions, the expert analysis either cannot go forward at all or is needlessly protracted, thereby incurring additional expense to the Commission. An incomplete submission not known by the Commission's staff to be incomplete may result in consultations with experts, and the preparation of analyses by the experts, which are then rendered inapplicable by the later submission of additional substantiating materials. The cost of expert consultations and aid are thereby multiplied. Moreover, without a complete submission of the advertiser's substantiating materials, the staff of the Commission cannot promptly and conclusively decide whether to advise the Commission that there is reason to believe that a violation, consisting of the dissemination of a claim in advertising for which the advertiser did not possess and rely upon a reasonable basis, has occurred. The many instances where there has not been timely compliance with compulsory process for substantiation have complicated the Commission's working arrangements with independent experts, led to unnecessary public expense and to delays, and have frustrated in important ways the Commission's attempt to protect the consumer, through efficient use of the Commission's resources, from exposure to unsubstantiated representations in advertising.

The proposed rule is intended to overcome these difficulties. It will enable the staff of the Commission to obtain more complete and timely evaluations of the adequacy of substantiation for a claim, and to determine more confidently whether there is reason to believe that a violation has occurred, on a timetable which is not subject to a substantial degree of control by the advertiser. The rule provides no substantive duty beyond that stated in Pfizer. The rule provides an added incentive to advertisers to make timely and complete response to Commission process calling for substantiation.

The rule prohibits a party which had been required to submit substantiation for a representation contained in an advertisement from introducing, or making an offer of proof with respect to, any materials which were required to be but were not timely submitted in response to the compulsory process. The bar on introduction or offer is for any purpose relating to an allegation that the party lacked a reasonable basis or other adequate substantiation for the representation which was the subject of the compulsory process. The rule would exclude materials only with respect to the issue of lack of reasonable basis or adequate substantiation. If a complaint, in addition to alleging that the representation lacked a reasonable basis or adequate substantiation, also alleged that a representation was false, the exclusionary provisions of the rule would not bar introductions or offers with respect to the allegation of falsity.

It is recognized that present § 3.38 of the Commission's rules of practice, 16 CFR 3.38 (1973), might be available to bar the introduction of evidence called for but not submitted in response to compulsory process, although this section has heretofore been applied with respect to orders issued in the course of adjudication and not investigation. While present § 3.38 is a sound rule of general application, the nature of the Commission's advertising substantiation program requires, and the duties imposed by Pfizer make reasonable, the imposition of a different rule with respect to the consequences of failure to respond fully and promptly to advertising substantiation orders.

By providing greater certainty as to the consequences of failing to comply in full with compulsory process, and by creating greater incentives for timely and complete responses, the proposed rule would significantly reduce the possibility of the Commission investing significant time and effort in an investigation or proceeding only to have the advertiser proffer additional substantiating materials which were called for but were not submitted initially in response to the compulsory process. While the possibility still exists under the proposed rule that untimely proffers will be made, its likelihood is significantly reduced, thereby reducing the probability of commitments of scarce Commission resources which are not fruitful. Because Pfizer requires that an advertiser have substantiating materials in his possession and that he rely upon them in making the claim, the proposed rule is a reasonable solution to the problems which have been encountered.

The rule provides two exceptions to the application of the exclusionary provision. The first exception allows a respondent to introduce materials not timely submitted if he can demonstrate that, despite the exercise of "due diligence," he could not have timely submitted the materials in response to the compulsory process. In such an instance, the advertiser, in order to make out an exception, must also have promptly notified the Commission of the existence of the material immediately upon its discovery.

The second exception does not require a showing of due diligence, and would allow the introduction of materials which so clearly, directly and substantially support the representation at issue that there no longer appears to be a genuine issue of material fact concerning the existence of a reasonable basis for the representation in question, and there is then a substantial question whether the proceeding is any longer in the public interest. While the failure by reason of lack of due diligence to submit materials called for by compulsory process might subject the advertiser to civil or criminal penalties, the existence of material satisfying this exception nevertheless should be within the cognizance of the Administrative Law Judge and the Commission so that a determination can be made whether an administrative proceeding under section 5 should be continued. While this exception deals with a remote contingency, it is deemed appropriate to ensure that the operation of the rule does not result in the conduct of adjudications as to which there is a lack of public interest.

It is proposed to add § 3.40 to Part 3 to read as follows:

§ 3.40 ------

(a) If a person, partnership or corporation, is required through compulsory process under section 6 or 9 of the Act to submit to the Commission all substantiation or documentation in support of an express or implied representation contained in an advertisement, such person, partnership or corporation shall not thereafter be allowed, in any adjudicative proceeding in which it is alleged that the person, partnership or corporation lacked a reasonable basis or other adequate substantiation for the representation, and for any purpose relating to such allegation, to introduce into the record, whether directly or indirectly through references contained in documents or oral testimony, nor to make an offer of proof with respect to, any material of any type whatsoever which was required to be but was not timely submitted in response to said compulsory process.

(b) The Administrative Law Judge shall at any stage exclude all such material, or any reference thereto, unless the person, partnership or corporation demonstrates in a hearing, and the Administrative Law Judge finds, (1) that by the exercise of due diligence the material could not have been timely submitted in response to the compulsory process, and that the Commission was notified of the existence of the material immediately upon its discovery; or, (2) that the material so clearly, directly and substantially supports the representation at issue that there no longer appears to be a genuine issue of material fact concerning the existence of a reasonable basis or other adequate substantiation for the representation and there is a substantial question whether the proceeding is in the public interest. Said findings of the Administrative Law Judge shall be in writing and shall specify with particularity the evidence relied upon. The rules normally governing the admissibility of evidence in Commission proceedings shall in any event be applicable to any material coming within the above exceptions.

Comments on the foregoing proposal may be sent to Secretary, Federal Trade Commission, Pennsylvania Avenue and 6th Street NW., Washington, D.C. 20580 on or before June 28, 1974. All comments will be entered on the public record at the above address and will be available for inspection in Room 130 at the above-mentioned address during normal business hours.

Dated: May 14, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.74-11042 Filed 5-13-74;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Office of the Secretary

ADVISORY GROUP ON ELECTRON DEVICES

Working Group Meetings

The Department of Defense Advisory Group on Electron Devices, Working Groups on Low Power Devices and Microwave Devices, will meet in closed sessions on dates indicated below at 201 Varick Street, New York, New York:

Working Group on Low Power Devices, 16 May 1974.
Working Group on Microwave Devices, 29 May 1974.

The purpose of the DoD Advisory Group on Electron Devices, and various working groups thereof, is to provide the Director of Defense Research and Engineering and the Military Departments with advice and recommendations on the conduct of economical and effective research and development programs in the field of electron devices, e.g., lasers, radar tubes, transistors, infrared sensors, etc. The group is also the vehicle for interservice coordination of planned R&D efforts.

In accordance with Pub. L. 92–463, section 10, paragraph (d), it is hereby determined that the AGED meetings concern matters listed in section 552(b) of title 5 of the United States Code, particularly subparagraph (1) thereof, and that the public interest requires such meetings be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92–463 are concerned.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 10, 1974.

[FR Doc.74–11203 Filed 5–13–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N–6003]

NEVADA

Designation of East Walker River Scenic Area

Pursuant to the authority in 43 CFR Subpart 2070, and the authorization from the Director dated December 4, 1973, I hereby designate the public lands in the following described area as the East Walker River Scenic Area:

MOUNT DIABLO MERIDIAN

T. 7 N., R. 26 E.,
Sec. 25, lots 3, 4, SW¼NE¼;
Sec. 36, N½NE¼.

T. 7 N., R. 27 E.,
Sec. 3, lot 4, SW¼NW¼, NW¼SW¼;
Sec. 4, lots 1, 2, S½NE¼, S½;
Sec. 5, S½SW¼, SE¼;
Sec. 8, SE¼SE¼;
Sec. 7, E½E½;
Sec. 8, N½NE¼, NW¼, W½SW¼;
Sec. 9, NW¼NE¼, N½NW¼;
Sec. 17, W½NW¼, NW¼SW¼;
Sec. 18, lots 2, 3, 4, 5, 7, 8, SE¼NW¼, E½SW¼, SE¼;
Sec. 19, NE¼NE¼;
Sec. 30, lot 4, N½NE¼.

T. 8 N., R. 27 E.,
Sec. 5, SE¼NW¼, NE¼SW¼;
Sec. 6, lot 1;
Sec. 8, NE¼NE¼;
Sec. 9, SW¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 15, NE¼NW¼;
Sec. 22, lot 3, N½NE¼;
Sec. 27, lots 3, 4, 5, 6, W½SW¼;
Sec. 28, lots 1, 4, 5, 8;
Sec. 33, lots 1–8 incl.;
Sec. 34, lots 6, 7, W½NW¼.

The area described aggregates 3,712.24 acres of national resource lands located along the East Walker River in Lyon County, Nevada.

The East Walker River Scenic Area is a "Class III Natural Environment Area" under the Bureau of Outdoor Recreation system of classification.

EDWARD F. SPONG,
Acting State Director, Nevada.

[FR Doc.74–11059 Filed 5–13–74;8:45 am]

[OR 12177]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

MAY 6, 1974.

The Bureau of Land Management, Department of the Interior, has filed an application, Serial Number OR 12177, for the withdrawal of public land described below, from all forms of appropriation under public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws.

The applicant desires to have the area withdrawn for the purpose of establishing a scenic corridor.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than June 11, 1974, to the undersigned officer of the Bureau of Land Management, Department of the Interior (729 NE. Oregon St.), P.O. Box 2965, Portland, Oregon 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing potential demand for the land and its resources.

After receipt of comments from interested parties, he will prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the Bureau of Land Management.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

WILLAMETTE MERIDIAN

ABERT RIM SCENIC CORRIDOR

T. 36 S., R. 21 E.,
Sec. 3, lots 2 and 3, E½SW¼, W½SE¼, SW¼NE¼, and SE¼NW¼;
Sec. 10, E½ and E½NW¼;
Sec. 11, lot 4;
Sec. 15, E½.

T. 35 S., R. 21 E.,
Sec. 1, lot 1, S½NE¼ and S½;
Sec. 2, lots 1 and 2, SE¼SE¼;
Sec. 11, lots 1, 2, 3, and 4, SE¼, E½SW¼, S½NE¼, and NE¼NE¼;
Sec. 12, NW¼, W½SW¼, NE¼SW¼, and NW¼NE¼;
Sec. 13, W½NW¼;
Sec. 14, N½, N½S½, and S½SW¼;
Sec. 15, lots 1, 2, 3, and 4, SE¼ and SE¼NE¼;
Sec. 22, lots 1 and 2, S½, NE¼, and E½NW¼;
Sec. 23, N½NW¼;
Sec. 27, lots 1, 2, 3, and 4, SW¼, W½SE¼, S½NW¼, and SW¼NE¼;
Sec. 28, E½, SE¼NW¼, and NE¼SW¼;
Sec. 33, E½;
Sec. 34, W½ and W½E½.

T. 34 S., R. 22 E.,
Sec. 6, lots 3, 4, 5, 6, and 7, SE¼NW¼.

T. 34 S., R. 22 E.,
Sec. 6, lots 2 to 8 inclusive, E½SW¼, SE¼NW¼, SW¼NE¼, and NW¼SE¼;
Sec. 7, lots 1, 2, 3, and 4, E½W½;
Sec. 18, lots 1 2, 3, and 4, E½W½, W½SE¼, and SW¼NE¼;
Sec. 19, lots 1, 2, 3, and 4, E½W½ and NW¼NE¼;
Sec. 30, lots 1, 2, 3, and 4, E½W½;
Sec. 31, lots 1, 2, 3, and 4, E½W½.

T. 34 S., R. 21 E.,
Sec. 1, lots 1, 2, and 3;
Sec. 12, lots 1, 2, 3, and 4;
Sec. 13, lots 1, 2, 3, and 4;
Sec. 24, lots 1, 2, 3, and 4;
Sec. 25, lots 1, 2, 3, and 4.

T. 33 S., R. 22 E.,
Sec. 3, lots 2 and 3, W½SE¼, SE¼NW¼, SW¼NE¼, E½SW¼;
Sec. 9, SE¼, E½SW¼;
Sec. 10, NE¼, SW¼, W½SE¼, and E½NW¼;
Sec. 15, W½W½ and, NW¼NW¼;
Sec. 16, E½, E½W½;
Sec. 20, lot 6, SE¼, SE¼NE¼, and SE¼SW¼;
Sec. 21, NW¼, N½SW¼, SW¼SW¼, W½NE¼, NE¼NE¼;
Sec. 29, W½, W½NE¼, NE¼NE¼;
Sec. 30, lots 1, 2, 3, and 4, SE¼SE¼;
Sec. 31, lots 1, 2, 3, and 4, SE¼, S½NE¼, NE¼NE¼;
Sec. 32, N½NW¼, SW¼NW¼, NW¼SW¼.

The areas described aggregate 12,284 acres, in Lake County, Oregon.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–11065 Filed 5–13–74;8:45 am]

[OR 10970]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

MAY 6, 1974.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 10970, for withdrawal of the lands described below, from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for the Sparks-Devils Lakes Recreation Area.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than June 11, 1974, to the undersigned officer of the Bureau of Land Management, Department of the Interior (729 NE. Oregon St.), P.O. Box 2965, Portland, Oregon 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination by the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The land involved in the application is:

DESCHUTES NATIONAL FOREST

WILLAMETTE MERIDIAN

T. 18 S., R. 8 E., W.M., Oregon,
Sec. 4, E½SE¼;
Sec. 9, NE¼;
Sec. 10, NW¼, SE¼;
Sec. 11, NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, S½S½, NE¼SE¼;
Sec. 12, SW¼SW¼;
Sec. 14;
Sec. 15, E½;
Sec. 22, NE¼NE¼;
Sec. 23, W½.

The area described contains approximately 2,330 acres, in Deschutes County, Oregon.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–11064 Filed 5–13–74;8:45 am]

[Wyoming 45539]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Pipeline Application

MAY 6, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Kansas-Nebraska Natural Gas Company, Inc. has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 34 N., R. 95 W.,
Sec. 26, SE¼NW¼, NE¼SW¼ and W½SE¼;
Sec. 35, NW¼NE¼.

The pipeline will convey natural gas from the Texaco Alkali Butte Unit No. 8 well in sec. 26 to existing gathering facilities in sec. 35, all in T. 34 N., R. 95 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–11058 Filed 5–13–74;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Saturday, May 25, 1974, at 9 a.m., at the Stephen Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by Public Law 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Nancy Long (Chairman), Glen Echo, Maryland
Mrs. Caroline Freeland, Bethesda, Maryland
Hon. Vladimir A. Wahbe, Baltimore, Maryland
Mr. John C. Lewis, Hamilton, Virginia
Mr. Burton C. English, Berkeley Springs, West Virginia
Mr. James G. Banks, Washington, D.C.
Mr. Joseph H. Cole, Washington, D.C.
Mr. Ronald A. Clites, LaVale, Maryland
Mrs. Mary Miltenberger, Cumberland, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. Grant Conway, Brookmont, Maryland
Mr. John C. Frye, Gapland, Maryland
Mr. Justice Douglas (Special Consultant)
Mr. Rome F. Schwagel, Keedysville, Maryland
Mr. Donald Frush, Hagerstown, Maryland
Mr. Henry W. Miller, Jr., Paw, Paw, West Virginia

The matters to be discussed at this meeting include:

1. Corps of Engineers Estuary Proposal
2. Riverview Park Development Plan
3. Land Acquisition Report
4. Review of 20th Annual Reunion Hike
5. Historical Studies Report
6. Master Plan
7. Volunteer Activities Report
8. Proposed Meeting with Maryland Bicentennial Commission

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 30 persons will be able to attend the sessions. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Associate Director, Cooperative Activities, National Capital Parks, at Area Code 202–426–6715. Minutes of the meeting will be available for public inspection two weeks after the meeting at the Office of National Capital Parks, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Dated: May 7, 1974.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc.74–10994 Filed 5–13–74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 74–108]

FLORENCE MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), the Florence Mining Company has filed a petition to modify the application of 30 CFR 75.1405 to its Florence Nos. 1 and 2 Mines and its Dias

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Mine located at Armagh, Huff, and Armagh, Pennsylvania, respectively.

30 CFR 75.1405 provides as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner states the following:

1. Petitioner's mines utilize an all-belt conveyor system to transport coal from the underground working sections to the outside coal handling facilities.

2. Use of the track haulage system is limited to transportation of men, supplies and equipment from the surface to the off-track loading point. Men, supplies and equipment may be transported from that point to the faces in vehicles capable of travelling off-track.

3. Men are usually transported on rail (on track) in self-propelled unit vehicles which are not regularly coupled and uncoupled. Off rail (off-track) personnel may be transported in self-propelled, rubber-tired vehicles or on skids pulled by self-propelled, rubber-tired tractors.

4. Supplies and equipment are normally transported on rail (on track) in "rubber/rail" vehicles, equipped with retractable rubber wheels. These vehicles are pulled on track by steel-tired electrical locomotives. By engaging the rubber wheels, the vehicles are able to operate off rail (off-track) where they are pulled by self-propelled, rubber-tired tractors. All of Petitioner's supply cars which travel off rail (off-track) are "rubber/rail" vehicles.

5. Because of the exclusive use of a belt conveyor system to transport coal, the use of automatic couplers on equipment travelling on or off rail (track) will result in a diminution of safety to the miners in Petitioner's mines.

6. Petitioner's mines are characterized by entries having a relatively tighter and narrower radius of horizontal curve and by bottom grades which are more pronounced and undulating than mines using track haulage to transport coal. The uneven bottom contours, tight horizontal curves and the fixed position of the engaged rubber wheels on rubber/rail cars travelling off-track distort the horizontal and vertical alignment needed for reliable functioning of automatic couplers and cause excessive wear to, and/or jamming of, such couplers.

7. Since coal is not transported on Petitioner's tracks, the tracks and track road beds are not constructed to carry the thirty-five to fifty ton locomotives and the ten to thirty ton coal cars typically found in mines using track haulage to transport coal. In such mines, heavy duty ballasting of the track road bed and track alignment by means of welded plates are designed to accommodate the extremely heavy locomotives and coal cars and contribute substantially to reliable functioning of automatic couplers. The lighter weight track and ballasting, designed to accommodate the relatively lighter rubber/rail supply cars in Petitioner's mines, provide less uniform horizontal and vertical alignment of automatic couplers and cause excessive wear to, and/or jamming of, such couplers.

8. In light of the conditions stated above, use of automatic couplers in Petitioner's mines would present the following hazards to safety:

a. Excessive wear to automatic couplers would result in accidental uncoupling and possible derailment.

b. Automatic couplers which become jammed or accidentally uncoupled would in almost every instance require miners to position themselves between vehicles in order to effect the proper alignment for coupling.

Accordingly, the use of automatic couplers, whether on or off track, in Petitioner's mines would result in a diminution of safety to the miners in such mines.

9. The pin-and-drawbar couplers in use in Petitioner's mines are far less susceptible to excessive wear, jamming or accidental uncoupling from uneven alignment than automatic couplers and can be manipulated with much greater flexibility. These couplers, therefore, guarantee no less than the same measure of protection which would be afforded the miners by the use of automatic couplers at the affected mines.

Petitioner respectfully requests that the Secretary modify the application of section 314(f) by relieving Petitioner of the requirement to install automatic couplers on its equipment.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 13, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 3, 1974.

[FR Doc.74-11049 Filed 5-13-74;8:45 am]

[Docket No. M 74-83]

R. AND E. COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), R. and E. Coal Corp. has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 1 Mine located at Bill Branch, Buchanan County, Virginia.

30 CFR 77.1605(k) provides as follows:

Berms or guards shall be provided on the outer bank of elevated roadways.

The alternate method which Petitioner proposes to establish in lieu of the mandatory standard is as follows:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

2. Roadway surfaces shall be kept free of debris, excessive water and snow and ice, and maintained as free as practicable of small ditches (washboard effects).

3. A traffic system should be put into use for these roads requiring that loaded vehicles have the right-of-way on the high-wall side of roads regardless of their direction of travel.

4. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs should also be posted designating passing points.

5. All equipment operators should be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

6. All haulage vehicles shall have:
(a) Original manufacturers brakes
(b) Engine or Jacobs brakes
(c) Emergency (parking) braking system.

7. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

8. A minimum width of 30 feet shall be provided and maintained, the roads shall be designated as single-lane roads.

9. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet; if visibility is obscured by brush or other materials, passing points shall not be more than 500 feet apart.

10. Where abrupt drop-offs are present along the outer banks, super-elevation shall be provided to cause the vehicles to gravitate toward the high-wall side of the road.

11. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

Petitioner further states that the alternate method outlined above will, at all times, guarantee no less than the same measure of protection afforded the miners at the Petitioner's mine by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 13, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 3, 1974.

[FR Doc.74-11048 Filed 5-13-74;8:45 am]

[Docket No. M 74-111]

R & H MINING, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), R & H Mining, Inc., has filed a petition to modify the application of 30 CFR 75.1405 to its Petersburg Mine located at Petersburg, Indiana.

30 CFR 75.1405 provides as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

To be read concurrently with § 75.1405 is § 75.1405-1 which provides as follows:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states the following:

(1) The Petersburg Mine of Petitioner has been in operation since the year 1967. Petitioner utilizes in the operation of its mine sixteen (16) haulage cars which are operated in two sets of eight (8) cars coupled together. Each set of eight (8) cars makes ten (10) round trips daily (five days each week) from the coal loading area to the bottom of the shaft for dumping. One set of cars is being dumped as the other set of cars is being loaded.

(2) The haulage cars are only uncoupled at the bottom of the shaft at the time of unloading and remain coupled during the time they are being loaded. The uncoupling is performed only by one experienced individual. This system has been used in the mine since the year 1967 and there have been no injuries. The cars are at complete rest during the uncoupling and unloading. Petitioner has used the same cars during its operation of its mine from 1967 to the present.

(3) Petitioner has attempted to locate and purchase new types of haulage cars and dump cars, equipped with the automatic coupling device, which would comply with the mandatory safety standard, but none are available. Petitioner has contacted custom machine shops to procure cars with automatic couplers but both the cost of manufacturing such cars and the length of wait for delivery of such cars are prohibitive to Petitioner. Petitioner would propose a continuation of its present system which requires a minimum of uncoupling.

(4) Petitioner would propose further training of its present experienced employee handling uncoupling. Petitioner believes that the method used by it in the operation of the mine by means of a minimum of uncoupling (only at unloading) by a single experienced employee charged with that operation only, guarantees no less than the same measure of protection provided by the mandatory safety standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 13, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 401 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 3, 1974.

[FR Doc.74-11051 Filed 5-13-74;8:45 am]

[Docket No. M 74-106]

RUSHTON MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Rushton Mining Company has filed a petition to modify the application of 30 CFR 75.1405 to its Rushton Mine located at Philipsburg, Pennsylvania.

30 CFR 75.1405 provides as follows:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner asserts that:

1. Petitioner currently utilizes link-and-pin couplers which are supplemented by two safety chains between each car.

2. Petitioner's haulage cars are of the on-track, off-track type capable of running not only on rails but also off rails when certain adjustments are made to the vehicle.

3. These haulage cars are primarily utilized to transport materials throughout the mine and consequently are utilized off-track a greater percentage of the time than on-track.

4. The subject mine has a very steep slope and an extremely uneven bottom which necessitates the use of the link-and-pin couplers for safety purposes.

5. Due to the surface condition of the mine floor the use of automatic couplers off-track would prove to be not only impractical but would result in the diminution of safety to the miners, in that said miners would be required to pass between the cars in order to line up the cars for automatic coupling on impact.

6. Because of the slope in the mine the use of automatic couplers on-track would result in the diminution of safety in that said couplers would lack any secondary system of control as is now provided by safety chains. The automatic couplers would also be more susceptible to disengaging under certain conditions.

7. The haulage cars utilized in the subject mine are neither cars moving primarily along tracks or rails, nor are they coupled and uncoupled on those rails or tracks in the normal course of routine operation.

8. Since an alternative method of achieving the purpose of said safety standard exists at the present time in the subject mine, and will afford the same measure of protection to the miners now afforded by such standard, and since the application of said standard would result in the diminution of safety to the miners, modification of said standard is required.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 13, 1974. Such requests or comments must be filed with the office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
Acting Director,
Office of Hearings and Appeals.

MAY 3, 1974.

[FR Doc.74-11050 Filed 5-13-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

PIKE NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Pike National Forest Multiple Use Advisory Committee will meet at 10 a.m. on June 15, 1974, at the Holiday Inn, 4001 N. Elizabeth, Pueblo, Colorado.

The purpose of this meeting is to discuss the status of the Advisory Committee on the Pike National Forest.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor's Office, P.O. Box 5808, Pueblo, Colorado 81002, 544-5277, ext. 321. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation:

1. To the extent that time permits interested persons may be permitted by the committee chairman to present oral statements.

Dated: May 3, 1974.

R. N. RIDINGS,
Forest Supervisor.

[FR Doc.74-11053 Filed 5-13-74;8:45 am]

ROUTT NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

MAY 1, 1974.

The Routt National Forest Grazing Advisory Board will hold their annual meeting at 10 a.m., Wednesday, May 22, 1974 at the Yampa Valley Electric Association Building, Steamboat Springs, Colorado.

Joe Rossi, Chairman of the Board said the meeting will be open to the public, adding that persons who wish to attend are requested to notify Sam Haslem at the Routt County Extension Office—879-0825. Written statements may be filed with the Board after the meeting. Oral statements and pertinent questions will be solicited at the conclusion of the business meeting.

Agenda of the session will include National Forest Land Use Planning, Management Directives for National Forest Rangelands, and other matters concerning the grazing resource of the Routt National Forest.

JOE ROSSI,
Chairman, Routt County Forest Grazing Advisory Board.

[FR Doc.74-11066 Filed 5-13-74;8:45 am]

SAN ISABEL NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The San Isabel National Forest Multiple Use Advisory Committee will meet at 10 a.m. on June 15, 1974, at the Holiday Inn, 4001 N. Elizabeth, Pueblo, Colorado.

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The purpose of this meeting is to discuss the status of the Advisory Committee on the San Isabel National Forest.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor's Office, P.O. Box 5808, Pueblo, Colorado 81002, 544-5277, ext. 321. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation:

1. To the extent that time permits interested persons may be permitted by the committee chairman to present oral statements.

Dated: May 3, 1974.

R. N. RIDINGS,
Forest Supervisor.

[FR Doc.74-11054 Filed 5-13-74;8:45 am]

CERTAIN EASTERN NATIONAL FOREST LANDS; ADDITION TO NATIONAL WILDERNESS PRESERVATION SYSTEM

Notice of Availability of Final Environmental Statement

Proposals to provide for the addition of certain Eastern National Forest Lands to National Wilderness Preservation System.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the establishment of the following wilderness area:

Name	*Statement No.*
Southern Presidential-Dry River Wilderness, White Mountain National Forest, N.H.	USDA-FS-FES (Leg.) 74-66.

This environmental statement concerns a proposal to establish the area as a unit of the National Wilderness Preservation System.

The final environmental statement was filed with CEQ on April 25, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave., SW.
Washington, D.C. 20250

USDA, Forest Service
1720 Peachtree Road, NW.
Atlanta, Georgia 30309

USDA, Forest Service
633 W. Wisconsin Ave.
Milwaukee, Wisconsin 53203

A limited number of single copies are available upon request to John R. McGuire, Chief, Forest Service, South Agriculture Bldg., 12th St. & Independence Ave. SW., Washington, D.C. 20250.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

R. MAX PETERSON,
Deputy Chief, Forest Service.

MAY 8, 1974.

[FR Doc.74-11045 Filed 5-13-74;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

INDUSTRY ADVISORY COMMITTEES

Change in Name

On March 1, 1974, there was published (39 FR 7975) a notice of establishment concerning 26 Industry Technical Advisory Committees to advise the Secretary of Commerce and the President's Special Representative for Trade Negotiations in connection with the upcoming multilateral trade negotiations.

On April 5, 1974, the charters for these committees were filed in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. II, 1972)).

As filed, the charters reflected a change in the standard name from that which was published on March 1.

Specifically, each of the committees is now named as follows: "Industry Sector Advisory Committee on (industrial sector) for Multilateral Trade Negotiations", the word "Sector" having been substituted for the word "Technical" as originally announced. The 26 industrial sectors (e.g., Aerospace Equipment) are listed in the March 1 notice.

Dated: May 7, 1974.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.74-11062 Filed 5-13-74;8:45 am]

WATCHES AND WATCH MOVEMENTS

Allocation of Duty-Free Quotas; Virgin Islands, Guam, and American Samoa

On December 28, 1973, the Departments of the Interior and Commerce published a Joint Notice announcing the rules to be used by the Departments in the allocation of 1974 calendar year quotas for duty-free entry into the customs territory of the United States of watches and watch movements assembled in the Virgin Islands, Guam, and American Samoa (38 FR 35516). This notice provided that annual quotas for calendar year 1974 would be allocated as soon a spracticable after April 1, 1974 and would be based on the following criteria:

Virgin Islands. (1) The number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1973; (2) the total dollar amount of wages subject to FICA taxes paid by such producer in the territory during calendar year 1973 to persons whose pay was attirbutable to its Headnote 3(a) watch assembly operations; and (3) the total net dollar amount of income taxes applicable to its calendar year 1973 Headnote 3(a) watch assembly operations.

In making allocations under these criteria, an equal weight of 40% was assigned to production and shipment history and to wages subject to FICA taxes, and a weight of 20% was assigned to the total net dollar amount of income taxes applicable to calendar year 1973 Headnote 3(a) watch assembly operations.

Guam. (1) The number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1973, and (2) the total dollar amount of wages subject to FICA taxes paid by such producer in the territory during calendar year 1973 to persons whose pay was attributable to its Headnote 3(a) watch assembly operations.

In making allocations under these criteria, equal weight was assigned to production and shipment history and to wages subject to FICA taxes.

American Samoa. No allocation formula is provided for American Samoa as there is only one producer in the territory.

As a temporary measure, pending announcement of final statistics to be issued by the United States Tariff Commission on total apparent United States watch consumption during 1973, and the verification of data submitted in support of individual quota applications by producers located in the Virgin Islands, Guam, and American Samoa, initial 1974 calendar year quotas were allocated to eligible producers that had received duty-free watch quotas for calendar year 1973.

Representatives of the Departments visited each quota holder in the Virgin Islands, Guam, and American Samoa during March and April 1974 to verify the data submitted in support of individual quota applications. The verification indicated that firms had been generally accurate in reporting the number of units which were entered into the customs territory of the United States during calendar year 1973 as well as the amount of wages subject to FICA taxes paid during calendar year 1973 to persons whose pay was attributable to Headnote 3(a) watch assembly operations in the territories. However, a number of errors and discrepancies were found on some of the Virgin Islands applictaions in reporting the amount of income taxes applicable to calendar year 1973 Headnote 3(a) watch assembly operations.

The number of watches and watch movements authorized for shipment on or after January 1, 1974 under initial and supplemental initial quotas previously allocated by the Departments are to be applied against the following allocations which are issued for the full calendar year 1974. Quotas of producers located in the Virgin Islands reflect (1) adjustments made as a result of the verification of the data submitted by individual applicants; (2) adjustments made pursuant to section 7 of the 1974 allocation rules relating to new entrants to whom a quota allocation was made during calendar year 1973 and who did not have a full year's operation as a basis for computation of a quota for calendar year 1974; and (3) reallocation of voluntarily relinquished quota pursuant to section 2 of the 1974 allocation rules.

VIRGIN ISLANDS

Name of firm	*Number of units*
1. Admiral Time Inc.	147,342
2. Antilles Industries, Inc.	347,723
3. Atlantic Time Products Corp.	1,200,217
4. Belair Time Corporation	146,348
5. Belmont Industries	20,139
6. Consolidated Watch Industries Ltd. (formerly Customtime Corporation)	90,000
7. Hampden Watch Co., Inc. (formerly Clinton Watch Company)	125,000
8. Master Time Company, Ltd.	249,614
9. Micro Manufacturing Corporation	125,000
10. Quality Products Company, Inc.	263,490
11. Roza Watch Corporation	289,875
12. Sheffield of St. Croix Inc. (formerly R. W. Summers Time Corporation)	54,354
13. Standard Time Company	319,881
14. Sussex Watch Corporation	112,606
15. TMX, Ltd.	417,197
16. Unitime Corporation	721,008
17. Virgiline Watch Co., Inc.	12,204
18. Watches, Incorporated	232,002

GUAM

Name of firm	*Number of units*
1. Hallmark Watch Factory Inc.	84,100
2. Jun-Lau Watch Corp.	35,821
3. Marco Watch Co., Inc.	165,323
4. Phoenix Industries, Inc.	34,754
5. Stratton Watch Corporation	59,926
6. Westminster Time Corporation	84,076

AMERICAN SAMOA

Name of firm	*Number of units*
1. Pacific Time Corp.	232,000

Assigned quotas for the Virgin Islands and Guam may be adjusted at anytime during this calendar year in the event it becomes apparent that shipments through December 31, 1974 by any firm will be less than 90 percent of the number of units allocated to it.

Dated: May 10, 1974.

SETH M. BODNER,
Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

FRED RADEWAGEN,
Acting Director, Office of Territorial Affairs, Department of the Interior.

[FR Doc.74-11204 Filed 5-13-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

TOPICAL FLUORIDE PREPARATIONS FOR REDUCING INCIDENCE OF DENTAL CARIES

Notice of Status

From time to time questions have arisen regarding the safety and effectiveness of topical fluoride preparations which have been on the market for a number of years. Certain of these preparations have been offered for use in reducing the incidence of dental caries. None of these preparations has been the subject of an approved new drug application. These preparations have been and continue to be the subject of review by the over-the-counter (OTC) Dentifrice and Dental Care Agents Review Panel and the Dental Drug Products Advisory Committee.

The Dental Drug Products Advisory Committee has completed its review of published and unpublished data and information regarding certain classes of topical fluoride preparations, as submitted to the Food and Drug Administration in response to a notice published in the FEDERAL REGISTER of April 5, 1973 (38 FR 8684), and has recommended that the topical fluoride preparations described below should be made available to the public by professional application or on a prescription basis.

The Commissioner of Food and Drugs, having considered the request of the Dental Drug Products Advisory Committee, has concluded that the following unanimous recommendations of this Committee should be made available to the public:

1. Aqueous solutions of 1 to 2 percent sodium fluoride with a pH of approximately 7.0 are safe and effective in reducing the incidence of dental caries when used according to professionally accepted methods and when applied directly to the teeth by adequately trained personnel. Other substances such as coloring and flavoring agents may be added if they do not alter the safety or effectiveness of the product.

2. Aqueous solutions of acidulated phosphate sodium fluoride with a pH in the range of 3.0 to 4.0, that yield a fluoride ion concentration of approximately 1.2 percent, are safe and effective in reducing the incidence of dental caries when used according to professionally accepted methods and when applied directly to the teeth by adequately trained personnel. Other substances such as coloring and flavoring agents may be added if they do not alter the safety or effectiveness of the product.

3. Gels of acidulated phosphate sodium fluoride with a pH in the range of 4.0 to 4.5, that yield a fluoride ion concentration of approximately 1.2 percent, are safe and effective in reducing the incidence of dental caries when used according to professionally accepted methods and when applied directly to the teeth by adequately trained personnel. Gelling agents and other substances such as coloring and flavoring that may be added must not alter the safety or effectiveness of the product.

4. Freshly prepared aqueous solutions of 8 percent stannous fluoride are safe and effective in reducing the incidence of dental caries when used according to professionally accepted methods and when applied directly to the teeth by adequately trained personnel. Other substances such as coloring and flavoring agents should not be added. Aqueous solutions of stannous fluoride are unstable and must be prepared immediately before use.

5. Aqueous solutions of 0.2 percent sodium fluoride with a pH of approximately 7.0 are safe and effective in reducing the incidence of dental caries when applied to the teeth as a rinse once a week or once every 2 weeks. Other substances such as coloring and flavoring agents may be added if they do not alter the safety and effectiveness of the product.

6. Aqueous solutions of 0.05 percent sodium fluoride with a pH of approximately 7.0 are safe and effective in reducing the incidence of dental caries when applied once daily to the teeth as a rinse. Other substances such as coloring and flavoring agents may be added if they do not alter the safety and effectiveness of the product.

7. Aqueous solutions of acidulated phosphate sodium fluoride with a pH of approximately 4.0, that yield a fluoride ion concentration of approximately 0.02 percent, are safe and effective in reducing the incidence of dental caries when applied once daily to the teeth as a rinse. Other substances such as coloring and flavoring agents may be added if they do not alter the safety and effectiveness of the product.

Old drug monographs will be developed for the preparations described above. Pending the development of these monographs, these preparations will be regarded by the Food and Drug Administration as generally recognized as safe and effective, and not misbranded, if the labeling bears adequate information for safe and effective use of these preparations in reducing the incidence of dental caries when used under professional supervision.

The recommendations of the Dental Drug Products Advisory Committee will be made available to the OTC Dentifrice and Dental Care Agents Review Panel for their consideration as to whether appropriate labeling for the consumer can be developed so that some of these preparations may be available as OTC drugs.

Published data and information regarding the safety and effectiveness of the topical fluoride preparations reviewed by the Dental Drug Products Advisory Committee have been assembled and are on display in the office of the Hearing Clerk, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, and may be seen during regular working hours, Monday through Friday.

Dated: May 6, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-11076 Filed 5-14-74;8:45 am]

Health Resources Administration

REGIONAL MEDICAL PROGRAMS AD HOC REVIEW COMMITTEE

Notice of Establishment

Pursuant to the Federal Advisory Committee Act on October 6, 1972 (Public Law 92-463, 86 Stat. 770-776) the Health Resources Administration announces the establishment by the Sec-

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retary, DHEW, on May 9, 1974, with concurrence by the Office of Management and Budget Committee Management Secretariat, of the following advisory committee:

Designation: Regional Medical Programs Ad Hoc Review Committee.

Purpose: The Committee will review applications for grants under Title IX and make recommendations to the National Advisory Council on Regional Medical Programs with respect to the approval and funding of such applications.

Authority for this committee will expire September 30, 1974.

Dated: May 13, 1974.

HAROLD MARGULIES,
Acting Administrator,
Health Resources Administration.

[FR Doc.74–11264 Filed 5–13–74;12:09 pm]

Health Services Administration

NATIONAL ADVISORY COUNCIL ON HEALTH MANPOWER SHORTAGE AREAS

Notice of Meeting and Agenda

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Administrator, Health Services Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble during the month of May 1974:

Committee name	Date, time, place	Type of meeting and/or contact person
National Advisory Council on Health Manpower Shortage Areas.	May 31, 9 a.m., Parklawn Bldg., Conference Room B, 5600 Fishers Lane, Rockville, Md.	Open—Contact Howard Hilton, Parklawn Bldg., Room 6–05, 5600 Fishers Lane, Rockville, Md. Code 301–443–4437.

Purpose: The Council is charged with establishing guidelines and regulations to improve the delivery of health care services; assigning Public Health Service personnel to areas where medical manpower and facilities are inadequate to meet the health needs of persons living in such areas; and on a nationwide basis recommending the criteria and personnel on which selection of areas are based.

Agenda: Agenda items include presentation of program Status Reports; briefing of the Council on the New Options for Billing and Collection; a discussion of designation and approval process required by Pub. L. 92–585; discussion of termination policies and procedures for sites being discontinued; and work group discussion and reports on policy recommendations.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information should contact the person listed above.

Dated: May 8, 1974.

ANDREW J. CARDINAL,
Associate Administrator for Management, Health Services Administration.

[FR Doc.74–11077 Filed 5–13–74;8:45 am]

National Institutes of Health

ADVISORY COMMITTEE TO THE DIRECTOR

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, June 17–18, 1974, Millikan Library, California Institute of Technology, Pasadena, California. This meeting will be open to the public from 9 a.m. to 5 p.m. on June 17, and from 9 a.m. to 1 p.m. on June 18 to discuss policy matters of concern to the Director, NIH. Attendance by the public will be limited to space available.

The Executive Secretary, Charles R. McCarthy, Ph.D., National Institutes of Health, Building 1, Room 224, 301–496–3471, will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: May 3, 1974.

HOWARD E. KETTL,
Deputy Associate Director for Administration, NIH.

[FR Doc.74–11025 Filed 5–13–74;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research, June 6–7, 1974, National Institutes of Health, Building 30, Conference Room 117. This meeting will be open to the public from 1 p.m. to 5 p.m. on June 6 to discuss the activities of all the laboratories of the National Institute of Dental Research. This meeting will be closed to the public from 9:00 a.m. to 5:00 p.m. on June 7 for the critique and evaluation of the National Institute of Dental Research intramural program to be reviewed by the Board of Scientific Counselors in accordance with the provisions set forth in section 552(b)6 of title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Dr. Richard C. Greulich, Director of Intramural Research, National Institute of Dental Research, National Institutes of Health, Building 30, Room 129, Bethesda, Maryland 20014 (telephone 301–496–1483) will provide summaries of meetings, rosters of committee members, and substantive program information.

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11000 Filed 5–13–74;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, June 3 and 4, 1974, National Institutes of Health, Building 31, Conference Room 4. This meeting will be open to the public from 9 a.m. to 10 a.m. on June 3 for remarks by the Scientific Director, NICHD. Attendance by the public will be limited to space available In accordance with the provisions set forth in section 552(b)6, title V, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 10 a.m. June 3 to adjournment June 4 for the critique and evaluation of the Laboratory of Molecular Aging and the Laboratory of Molecular Genetics.

Ms. Patricia Newman, Chief, Office of Research Reporting, NICHD, Landow Building, Room A–804, National Institutes of Health, 496–5133, will provide summaries of meetings and rosters of committee members.

Dr. Charles U. Lowe, Scientific Director, NICHD, Room 2A–50, Building 31, National Institutes of Health, 496–5035, will furnish substantive information.

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11002 Filed 5–13–74;8:45 am]

BREAST CANCER TREATMENT COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Breast Cancer Treatment Committee, National Cancer Institute, July 17, 1974, National Institutes of Health, Landow Building, Conference Room C–418. This meeting will be open to the public on July 17, 1974 from 9:15 a.m. to 10:30 a.m., to discuss general programs and specifications for requests for proposals concerning breast cancer treatment. Attendance by the public will be limited to space available. The meeting will be closed to the public on July 17, 1974 from 10:30 a.m. to 5 p.m., to review contract proposals in the field of treatment of breast cancer, in accordance with the provisions set forth in section 552(b)4 of title 5, U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Mary E. Sears, M.D., Executive Secretary, Landow Building, Room A–416, National Institutes of Health, Bethesda, Maryland 20014 (301/496–6773) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11007 Filed 5–13–74;8:45 am]

CANCER CONTROL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Control Advisory Committee, National Cancer Institute, June 11, 1974, National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public on June 11, 1974, from 9 a.m. to 2 p.m., to discuss the Director's Report, a review of the US–USSR Cancer Control-Centers meeting, Annual Report on the National Clearinghouse for Smoking and Health activities, and a report on the Survey of Cancer Control Activities. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 11, 1974, from 2 p.m. until adjournment to evaluate approximately 30 ongoing contracts and grants in the field of cancer control in accordance with the provisions set forth in section 552(b)4 of title 5, U.S. Code and section 10(d) of P.L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Robert L. Woolridge, Executive Secretary, Blair Building, Room 723, National Institutes of Health, Bethesda, Maryland 20014 (301/427–7993) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.314 and No. 13.825, National Institutes of Health.)

Dated: April 26, 1974.

HOWARD E. KETTL,
Deputy Associate Director for Administration, NIH.

[FR Doc.74–11020 Filed 5–13–74;8:45 am]

BOARD OF SCIENTIFIC COUNSELORS, NATIONAL CANCER INSTITUTE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Cancer Institute, June 23, 24, and 25, 1974, National Institutes of Health, Building 31, Conference Room 9. This meeting will only be open to the public on June 24, 1974 from 9 a.m. to 5 p.m., to discuss the scientific research of the Immunology Branch, Division of Cancer Biology and Diagnosis. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 23, 1974 from 7:30 p.m. to adjournment, and on June 25, 1974 from 9 a.m. to adjournment, for the critique and evaluation of the Immunology Branch, to be reviewed by the Board of Scientific Counselors in accordance with the provisions set forth in section 552(b)6 of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Nathaniel I. Berlin, M.D., Executive Secretary, Building 31, Room 3A03, National Institutes of Health, Bethesda, Maryland 20014 (301/496–4345) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.391, National Institutes of Health.)

Dated: May 7, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11016 Filed 5–13–74;8:45 am]

COMMITTEE ON CANCER IMMUNOBIOLOGY

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Committee on Cancer Immunobiology, National Cancer Institute, Wednesday, June 19, 1974, from 12 noon to 5 p.m., National Institutes of Health, Building 10, Room 4B17. This meeting will be open to the public from 12 noon to 12:30 p.m., June 19, 1974, to discuss general business. Attendance by the public will be limited to space available. The meeting will be closed to the public from 12:30 p.m. to adjournment, June 19, 1974, to review approximately 4 contract proposals in the field of tumor immunology, in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Barbara H. Sanford, Executive Secretary, Building 10, Room 4B17, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1791) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.)

Dated: May 7, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11018 Filed 5–13–74;8:45 am]

COMMITTEE ON CANCER IMMUNODIAGNOSIS

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Committee on Cancer Immunodiagnosis, National Cancer Institute, at the Cascades Meeting Center, Seminar Room, Williamsburg, Virginia on June 10th and 11th, 1974. This meeting will be open to the public on June 10, 1974 from 8:00 p.m. to 8:30 p.m., and on June 11, 1974 from 2:00 p.m. to 2:30 p.m., to discuss general business. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 10, 1974 from 8:30 p.m. to adjournment, and on June 11, 1974 from 2:30 p.m. to adjournment, to review contract proposals in the field of tumor immunology, in accordance with provisions set forth in section 552(b)4 of title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Barbara H. Sanford, Executive Secretary, Building 10, Room 4B17, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1791) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.)

Dated: May 7, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11017 Filed 5–13–74;8:45 am]

COMMITTEE ON CANCER IMMUNOTHERAPY

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the

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Committee on Cancer Immunotherapy, National Cancer Institute, Thursday, June 20, 1974, from 8:30 a.m. to 6 p.m., and Friday, June 21, 1974, from 8:30 a.m. to 2 p.m., National Institutes of Health, Landow Building, Conference Room 418C. This meeting will be open to the public from 8:30 a.m. to 1 p.m., June 20, 1974, and from 8:30 a.m. to 2 p.m., June 21, 1974, to discuss general business. Attendance by the public will be limited to space available. The meeting will be closed to the public from 1 p.m. to 6 p.m., June 20, 1974, to review approximately five contract proposals in the field of tumor immunology, in accordance with the provisions set forth in section 552(b) 4 of title 5 U.S. Code and section 10(d) of P.L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members. Dorothy Windhorst, M.D., Executive Secretary, Building 10, Room 4B17, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1791) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.)

Dated: May 7, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–11019 Filed 5–13–74;8:45 am]

COMMITTEE ON CANCER IMMUNOTHERAPY

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Committee on Cancer Immunotherapy, National Cancer Institute, Tuesday, June 4, 1974, from 12 noon to 1:30 p.m., National Institutes of Health, Building 10, Room 4B17. This meeting will be open to the public from 12 noon to 12:30 p.m., June 4, 1974, to discuss general business. Attendance by the public will be limited to space available. This meeting will be closed to the public from 12:30 p.m. to 1:30 p.m., June 4, 1974, to review approximately four contract proposals in the field of tumor immunology, in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Dorothy Windhorst, M.D., Executive Secretary, Building 10, Room 4B17, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1791) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health)

Dated: May 7, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–11063 Filed 5–13–74;8:45 am]

CONTRACEPTIVE DEVELOPMENT CONTRACT AND REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Contraceptive Development Contract Review Committee, National Institute of Child Health and Human Development, May 29, 1974, National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public on May 29 from 9 a.m. to 10:30 a.m. to discuss general business of the Committee. Attendance by the public will be limited to space available. The meeting will be closed to the public on May 29 from 10:30 a.m. to adjournment to review and discuss a contract proposal in accordance with the provisions set forth in section 552(b)4 of title 5, U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room C–603, National Institutes of Health, 496–1756, will provide summaries of meetings and rosters of committee members.

Dr. Kenneth Savard, Executive Secretary, Room B–703, Landow Building, National Institutes of Health, 496–1661, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.832, National Institutes of Health)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–10999 Filed 5–13–74;8:45 am]

DENTAL CARIES PROGRAM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Dental Caries Program Advisory Committee, National Institute of Dental Research, June 24–25, 1974, National Institutes of Health, Building 31–C, Conference Room 8. This meeting will be open to the public from 9 a.m. to 5 p.m. on June 24 and from 9 a.m. to 12:30 p.m. on June 25 to discuss research progress and plans for the first half of FY 1975. Attendance by the public will be limited to space available.

Dr. James P. Carlos, Associate Director, National Caries Program, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 528, Bethesda, Maryland 20014 (telephone 301–496–7239), will provide summaries of the meeting, rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.325 and 13.827, National Institutes of Health.)

Dated: May 3, 1974.

HOWARD E. KETTL,
Deputy Associate Director
for Administration, NIH.

[FR Doc.74–11026 Filed 5–13–74;8:45 am]

DENTAL RESEARCH INSTITUTE AND SPECIAL PROGRAMS ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Dental Research Institutes and Special Programs Advisory Committee, National Institute of Dental Research, June 25–26, 1974. National Institutes of Health, Building 31–A, Conference Room 3. This meeting will be open to the public from 9 a.m. to 12 noon on June 25 for the evaluation of the dental research institutes and centers. The meeting will be closed to the public from 1 p.m. to 5 p.m. on June 25 and from 9 a.m. to adjournment on June 26 to review grant applications in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code and section 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Dr. Emil L. Rigg, Special Assistant for Institutes and Centers, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 507, Bethesda, Maryland 20014 (telephone 301–496–7748), will provide summaries of meetings, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.325, National Institutes of Health.)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–11010 Filed 5–13–74;8:45 am]

DIAGNOSTIC RADIOLOGY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Diagnostic Radiology Committee, National Cancer Institute, June 20, 1974, National Institutes of Health, Building 31, Conference Room 3. This meeting will be open to the public on June 20, 1974, from 9 a.m. to 12 noon, to discuss project plans for Fiscal Year 1975 and to review commitments for Fiscal Year 1974 with revisions if necessary. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 20, 1974, from 1 p.m. to 3 p.m. to review four contract proposals in the field of diagnostic radiology, in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code and section 10(d) of P.L. 92–463.

Mrs. Majorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland, 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Thor J. Masnyk, Ph.D., Executive Secretary, Building 31, Room 3A06, National Institutes of Health, Bethesda, Maryland, 20014, (301/496–1591), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.)

Dated: May 7, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–11021 Filed 5–13–74;8:45 am]

EPILEPSY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological Diseases and Stroke, June 24, 1974, National Institutes of Health, Building 31–A, Conference Room 4. The entire meeting will be open to the public from 9 a.m. to 5 p.m. to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

Summaries of the meeting, rosters of committee members, and substantive program information may be obtained from the Executive Secretary, Dr. J. Kiffin Penry, Chief, Applied Neurologic Research Branch, Collaborative and Field Research, NINDS (Building 36, Room 5D–10), National Institutes of Health, Bethesda, Md. 20014, telephone 301/496–6691.

(Catalog of Federal Domestic Assistance Program No. 13.356, National Institutes of Health.)

Dated: May 3, 1974.

HOWARD E. KETTL,
Deputy Associate Director,
for Administration, NIH.

[FR Doc.74–11027 Filed 5–13–74;8:45 am]

NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, June 20–21, 1974, National Institutes of Health, Building 31C, Conference Room 7. This meeting will be open to the public from 9 a.m. to 10:30 a.m. and from 1:30 p.m. to recess on June 20, at which time administrative matters will be discussed. Attendance by the public will be limited to space available. The meeting will be closed to the public from 10:30 a.m. to 1:30 p.m. on June 20, and from 9 a.m. to adjournment on June 21, to review, discuss, and evaluate and/or rank grant applications in accordance with the provisions set forth in section 552(b)(4) of title 5, U.S. Code, and section 10(d) of Pub. L. 92–463.

The Chief, Office of Research Reporting and Public Response, who will furnish summaries of the meeting and rosters of Council members is Mr. Robert L. Schreiber, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A34, telephone 496–5717.

The Executive Secretary of the National Advisory Allergy and Infectious Diseases Council who will furnish substantive information is Dr. William I. Gay, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Westwood Building, Room 703, telephone 496–7131.

(Catalog of Federal Domestic Assistance Program No. 13–301, National Institutes of Health.)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–11008 Filed 5–13–74;8:45 am]

NATIONAL ADVISORY CHILD HEALTH AND HUMAN DEVELOPMENT COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, National Institute of Child Health and Human Development, June 24–25, 1974, National Institutes of Health, Building 31, Conference Room 6, at 9 a.m. This meeting will be open to the public on June 24 from 9 a.m. to 5 p.m. with current status reports from the Acting Director, NICHD, Associate Director for Program Services, NICHD, a presentation by a Council member, and the review of the Mental Retardation Program. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 25 from 9 a.m. to adjournment for the review of grant applications in accordance with provisions set forth in section 552(b)4 of title 5, U.S. Code, and section 10(d) of Pub. L. 92–463.

Ms. Patricia Newman, Chief, Office of Research Reporting, NICHD, Landow Building, Room A–804, National Institutes of Health, 496–5133, will furnish summaries of the meeting and rosters of Council members.

Mrs. Marjorie Neff, Executive Secretary, Room C–603, Landow Building, National Institutes of Health, 496–1756, will furnish substantive information.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–11012 Filed 5–13–74;8:45 am]

NATIONAL ADVISORY DENTAL RESEARCH COUNCIL

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, June 20–21, 1974, National Institutes of Health, Building 31–C, Conference Room 8. This meeting will be open to the public from 9:30 a.m. to 12:30 p.m. on June 20 for general discussion and program presentations. The meeting will be closed to the public from 1:30 p.m. to adjournment on June 20 and from 8:00 a.m. to adjournment on June 21, to review grant applications in accordance with the provisions set forth in Section 552(b)4 of title 5 U.S. Code and section 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mrs. Janet Lynn McMahan, Council Secretary, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C35, Bethesda, Maryland 20014 (telephone 301–496–3571), will provide summaries of meetings, rosters of committee members, and substantive program information.

Dated: April 26, 1974.

HOWARD E. KETTL,
Deputy Associate Director
for Administration, NIH.

(Catalog of Federal Domestic Assistance Program No. 13.325, National Institutes of Health.)

[FR Doc.74–11028 Filed 5–13–74;8:45 am]

NATIONAL ADVISORY ENVIRONMENTAL HEALTH SCIENCE COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, June 6–7, 1974, at 9 a.m., National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, Building 1 Conference Room. This meeting will be open to the public from 9 a.m. to 12 noon, June 6, to report on legislative and interagency activities, and to discuss NIEHS intramural and extramural program activities and budgeting plans, etc. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 6 from 1 p.m. to adjournment on June 7 to discuss and evaluate research grant applications in accordance with the provisions set forth in Section 552(b)4 of Title V, U.S. Code and section 10(d) of Pub. L. 92–463.

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Mrs. Leata B. Staff, Committee Management Officer, NIEHS, Westwood Building, Room 404, Bethesda, Maryland, 20014, (301) 496–7483, will provide summaries of meetings and rosters of committee members.

Dr. Otto A. Bessey, Executive Secretary, NIEHS, Westwood Building, Room 404, Bethesda, Maryland, 20014, (301) 496–7483, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.328, National Institutes of Health.)

Dated: April 26, 1974.

HOWARD E. KETTL,
Deputy Associate Director for Administration, NIH.

[FR Doc.74–11004 Filed 5–13–74;8:45 am]

NATIONAL ADVISORY EYE COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, on June 25, 1974, in Building 31, Conference Room 7.

This meeting will be open to the public on June 25, 1974, from 9 a.m. to 12 Noon for report by the Director, National Eye Institute, and a progress report from the National Advisory Eye Council Vision Research Program Planning Subcommittee on its review of Institute programs in the support of vision research. There will also be program reviews outlining objectives and accomplishments of the glaucoma and sensory-motor/rehabilitation programs. Attendance by the public will be limited to space available.

The meeting will be closed to the public on June 25, from 1 p.m. to adjournment for the review, discussion, and evaluation of research grant applications and research career development awards, in accordance with the provisions set forth in section 552(b)4 of title 5, U.S. Code, and section 10(d) of Public Law 92–463.

Mr. Julian Morris, Program Planning Officer, National Eye Institute, Building 31, Room 6A–27, National Institutes of Health, 496–5248, will furnish summaries of the meeting and rosters of committee members.

Substantive program information may also be obtained from Dr. George T. Brooks, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–04, National Institutes of Health, Bethesda, Maryland, 496–4903.

(Catalog of Federal Domestic Assistance Program No. 13.331, National Institutes of Health)

Dated: May 7, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11022 Filed 5–13–74;8:45 am]

NATIONAL ADVISORY GENERAL MEDICAL SCIENCES COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, June 25–26, 1974, 9 a.m., National Institutes of Health, Building 31C, Conference Room 10. This meeting will be open to the public from 9 a.m. to 5 p.m., June 25 for opening remarks; report from the Office of the Director, NIH; report of the Acting Director, NIGMS; report by the Council on their program reviews; presentation and discussion of current issues; and other business. Attendance by the public will be limited to space available. It will be closed to the public from 9 a.m. to 1 p.m. on June 26, to review research grant applications, training grant applications, and institutional fellowship applications in accordance with the provisions set forth in section 552(b)4 of title 5 U.S.C. Code for grants and contracts and 10(d) of Pub. L. 92–463.

Mr. Paul Deming, Research Reports Officer, NIGMS, Building 31, Room 4A46, Bethesda, Maryland 20014, Telephone: 301, 496–5676, will furnish a summary of the meeting and a roster of Council members.

Substantive program information may be obtained from Dr. Leo H. von Euler, Executive Secretary, Building 31, Room 4A52, Telephone: 301, 496–5231.

(Catalog of Federal Domestic Assistance Program No. 13.335, National Institute of General Medical Sciences, NIH)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11009 Filed 5–13–74;8:45 am]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources, June 27–28, 1974, National Institutes of Health, Building 31, Conference Room 9, at 9 a.m. This meeting will be open to the public from 9 a.m. to 5 p.m., June 27 and from 9 a.m. to 10 a.m., June 28, for: Discussion of Council business; reports of the Director and Assistant Director, DRR; review of the Animal Resources Program; discussion of the value of a General Clinical Research Center at a medical school; discussion of the proposed policy on the Minority Biomedical Support Program; discussion of the General Research Support Program; and, discussion of the accessibility to the capabilities of biotechnology resources. Attendance by the public is limited to space available. The meeting will be closed to the public on June 28 from 10 a.m. to adjournment for the review of grant applications in accordance with provisions set forth in section 552(b)4 of title 5 U.S. Code, and section 10(d) of Public Law 92–463.

The Information Officer who will furnish summaries of the meeting and rosters of Council members is Mr. James Augustine, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 496–5545.

The Executive Secretary, Dr. James F. O'Donnell, Assistant Director, Division of Research Resources, Building 31, Room 5B05, Bethesda, Maryland 20014, 496–1817, will provide substantive information.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.375, National Institutes of Health.)

Dated: April 26, 1974.

HOWARD E. KETTL,
Deputy Associate Director for Administration, NIH.

[FR Doc.74–11029 Filed 5–13–74;8:45 am]

NATIONAL ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES ADVISORY COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council, June 20–22, 1974, National Institutes of Health, Building 31, Conference Room 10; and a meeting of the Digestive Diseases and Nutrition Subcommittee of above Advisory Council the preceding day, June 19, 1974, National Institutes of Health, Building 31, Conference Room 2. The National Arthritis, Metabolism, and Digestive Diseases Advisory Council meeting will be open to the public from 9 am to 12:30 pm on June 20 to discuss administrative reports and closed to the public from 1:30 p.m. to 5 p.m. on June 20, 9 a.m. to 5 p.m. on June 21, 22, 1974, to review research grant applications in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code and 10(d) of P.L. 92–463. Attendance by the public will be limited to space available.

The Digestive Diseases and Nutrition Subcommittee of the above Council will meet 9 a.m. to 5 p.m., June 19, 1974, and will be closed to the public to review research grant applications in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of P.L. 92–463.

Name of person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meetings may be obtained: Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496–3583,

(Catalog of Federal Domestic Assistance Program No. 13.309, National Institutes of Health)

Dated: April 26, 1974.

HOWARD E. KETTL,
Deputy Associate Director, for Administration, NIH.

[FR Doc.74–11024 Filed 5–13–74;8:45 am]

NATIONAL CANCER ADVISORY BOARD

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, June 17–18, 1974, National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public on June 17 from 9 a.m. to 5 p.m., and on June 18 from 2 p.m. to 4 p.m. to discuss the Large Bowel Organ-Site Program; activities of various Board Subcommittees; and a report on the status of the Frederick Cancer Research Center. Attendance by the public will be limited to space available.

The meeting will be closed to the public on June 18 from 9 a.m. to 12:30 p.m., in accordance with the provisions set forth in section 552(b)5 of title 5, U.S. Code and section 10(d) of P.L. 92–463, to review preliminary operational plans with particular reference to fiscal projections, and in accordance with the provisions set forth in section 552(b)4 of title 5, U.S. Code and section 10(d) of P.L. 92–463 to evaluate grant applications.

The meeting will also be closed to the public on June 18 from 4 p.m. to adjournment, in accordance with the provisions set forth in section 552(b)5 of title 5, U.S. Code and section 10(d) of P.L. 92–463, to discuss the fiscal year 1976 budget.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meeting and roster of committee members.

Dr. Richard A. Tjalma, Assistant Director, NCI, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5854) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.312, 13.314, 13.391, 13.392, National Institutes of Health.)

Dated: May 3, 1974.

ROBERT S. STONE

[FR Doc.74–11023 Filed 5–13–74;8:45 am]

NATIONAL CANCER ADVISORY BOARD; SUBCOMMITTEE ON CARCINOGENESIS AND PREVENTION

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Subcommittee on Carcinogenesis and Prevention of the National Cancer Advisory Board, National Cancer Institute, June 16, 1974, National Institutes of Health, Building 31, C Wing, Conference Room 8. This meeting will be open to the public on June 16, 1974, from 4:00 p.m. to 4:30 p.m., to discuss any new policy considerations involving the National Cancer Program. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 16, 1974, from 4:30 p.m. to adjournment, to evaluate grant applications, in accordance with the provisions set forth in section 552(b)4 of title 5, U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Thaddeus J. Domanski, Executive Secretary, Westwood Building, Room 850, National Institutes of Health, Bethesda, Maryland 20014 (301/496–7801) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.312, 13.314, 13.391, 13.392, National Institutes of Health.)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11014 Filed 5–13–74;8:45 am]

NATIONAL CANCER ADVISORY BOARD; SUBCOMMITTEE ON DIAGNOSIS AND TREATMENT

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Subcommittee on Diagnosis and Treatment of the National Cancer Advisory Board, National Cancer Institute, June 16, 1974, National Institutes of Health, Building 31, C Wing, Conference Room 7. This meeting will be open to the public on June 16, 1974, from 4 p.m. to 4:30 p.m., to discuss any new policy considerations involving the National Cancer Program. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 16, 1974 from 4:30 p.m. to adjournment, to evaluate grant applications, in accordance with the provisions set forth in section 552(b)4 of title 5, U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Mary A. Fink, Executive Secretary, Westwood Building, Room 854, National Institutes of Health, Bethesda, Maryland 20014 (301/496–7815) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.312, 13.314, 13.391, 13.392, National Institutes of Health.)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11015 Filed 5–13–74;8:45 am]

NATIONAL LIBRARY OF MEDICINE BOARD OF REGENTS

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Board of Regents of the National Library of Medicine on June 19–20, 1974, in the Board Room of the National Library of Medicine, Bethesda, Maryland, and a meeting of the Extramural Programs Subcommittee of the Board of Regents of the National Library of Medicine on the preceding day, June 18, 1974, from 2 to 5 p.m., in Conference Room B of the Library. The meeting of the Board will be open to the public all day on June 19 for administrative reports and program and operation discussions. On June 20, the meeting will be open from 9 to 9:15 a.m. It will be closed to the public from 9:15 a.m. to adjournment, as will the entire meeting of the Subcommittee on June 18, for grant application review, in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code, and section 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

The Information Officer who will furnish summaries of both the open and closed meeting portions, a roster of Board members, and substantive program information is: Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, Room M–122, 8600 Rockville Pike, Bethesda, Maryland 20014. His telephone number is: 301–496–6308.

(Catalog of Federal Domestic Assistance Program Nos. 13.348, 13.349, 13.351—National Institutes of Health.)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–11013 Filed 5–13–74;8:45 am]

NATIONAL HEART AND LUNG ADVISORY COUNCIL

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart and Lung Advisory Council, National Heart and Lung Institute, June 20, 21, and 22, 1974, National Institutes of Health, Building 31, Conference Room 6, at 9 a.m. This meeting will be open to the public on June 20, from 9 a.m. to 2:30 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. The meeting will be closed to the public on June 20

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from 2:30 p.m. to recess, and on June 21 from 9 a.m. to adjournment on June 22 for the review of grant applications in accordance with provisions set forth in section 552(b)4 of Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463.

The Information Officer who will furnish summaries of the meeting and rosters of the Council members, is Mr. Hugh Jackson, National Heart and Lung Institute, Building 31, Room 5A20, telephone (301) 496-4236.

Dr. Jerome G. Green, Director, Division of Extramural Affairs, NHLI, Westwood Building, Room 5A18, telephone (301) 496-7416, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.346, 13.374, and 13.382, National Institutes of Health.)

Dated: May 6, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74-11011 Filed 5-13-74;8:45 am]

NATIONAL LIBRARY OF MEDICINE BOARD OF REGENTS; SUBCOMMITTEE FOR LIBRARY CONSTRUCTION

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Subcommittee for Library Construction of the Board of Regents of the National Library of Medicine, on May 30, 1974, from 9:00 a.m. to approximately 3:30 p.m., at the McGovern Allergy Clinic in Houston, Texas. The meeting will be open to the public for related Subcommittee business from 9 to 9:30 a.m. It will be closed to the public from 9:30 a.m. to adjournment for review of applications for medical library and learning resources facilities' construction, in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code, and section 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Mr. Arthur J. Broering, Deputy Associate Director for Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, telephone number: 301-496-4671, will furnish a meeting summary, a roster of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.340—National Institutes of Health.)

Dated: May 8, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74-11006 Filed 5-13-74;8:45 am]

TASK FORCE ON CARDIOVASCULAR REHABILITATION; NATIONAL HEART AND LUNG INSTITUTE

Notice of Meeting

The National Heart and Lung Institute wishes to announce the fifth meeting of the Task Force on Cardiovascular Rehabilitation. The meeting will take place on June 24 and 25, 1974, from 9 a.m. to 5 p.m., in Conference Room C418, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland. The purpose of the meeting will be to continue discussion of the recommendations of the Task Force and other pertinent matters related to Cardiovascular Rehabilitation. Attendance by the public will be limited to space available.

For further information, please call Dr. Bernard H. Doft, NHLI, Landow Building, Room A-922, telephone 496-5421.

Dated: May 8, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74-11005 Filed 5-13-74;8:45 am]

TRAUMA PROGRAM DIRECTORS

Notice of Meeting

The National Institute of General Medical Sciences will hold a Trauma Program Directors meeting on May 28, 1974. The purpose of the meeting is to review the recently published proceedings of the February 1973 Trauma Workshop, evaluate the current NIGMS research program, and to get the views of individual program directors as to suggested priorities and methods for implementation of underdeveloped areas of research. Participants will include members from the National Advisory General Medical Sciences Council, trauma research grantees, and related National Institutes of Health staff.

The meeting will be held at the National Institutes of Health in Bethesda, Maryland, Building 31A, Conference Room 4, from 9 a.m. to 5 p.m. Admission is open, but subject to limitations of space in the conference room.

For further information please contact Dr. Emilie A. Black, NIGMS, Westwood Building, Room 934, telephone (301) 496-7373.

Dated: May 3, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74-11001 Filed 5-13-74;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to Federal Advisory Committee Act, Pub. L. 92-463, that the next meeting of the National Advisory Council on Extension and Continuing Education will be held on June 6-7, 1974, at San Clemente, California. The meetings on both days will begin at 9:00 a.m. local time.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-239. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report annually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Council shall be open to the public. The agenda for the meeting will include such topics as: Title I Evaluation; legislative activities for the Council; and future working agenda. All records of Council proceedings are available for public inspection at the office of the Council's Executive Director, located in Suite 710, 1325 G Street, NW., Washington, D.C.

EDWARD A. KIELOCH,
Executive Director.

MAY 8, 1974.

[FR Doc.74-11111 Filed 5-13-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-432-DR; Docket No. NFD 192]

CALIFORNIA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11749 of December 10, 1973; and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on May 7, 1974, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of California resulting from severe storms and flooding, beginning about March 29, 1974, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of California. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11749, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238, to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert C. Stevens, HUD Region 9, to act as the Federal Coordinating Officer to perform the duties specified by Section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of California to have been adversely affected by this declared major disaster:

The County of:
Mendocino.

This disaster has been designated as FDAA-432-DR.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: May 7, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-11070 Filed 5-13-74;8:45 am]

[FDAA-433-DR; Docket No. NFD 193]

HAWAII

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11749 of December 10, 1973; and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on May 7, 1974, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Hawaii resulting from heavy rains and flooding, beginning about April 19, 1974, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Hawaii. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11749, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238, to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert C. Stevens, HUD Region 9, to act as the Federal Coordinating Officer to perform the duties specified by Section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Hawaii to have been adversely affected by this declared major disaster:

The Counties of:
Honolulu.
Kauai.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: May 7, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-11069 Filed 5-13-74;8:45 am]

[FDAA-430-DR; Docket No. NFD 194]

MISSISSIPPI

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Mississippi, dated April 18, 1974, and amended April 20, 1974, and April 26, 1974, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 18, 1974:

The County of:
Leake.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: May 7, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-11068 Filed 5-13-74;8:45 am]

[FDAA-424-DR; Docket No. NFD 195]

TENNESSEE

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Tennessee, dated April 4, 1974, and amended April 5, 1974, April 8, 1974, April 12, 1974, and April 18, 1974, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 4, 1974:

The Counties of:
Coffee.
Hardin.
Jefferson.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: May 7, 1974.

THOMAS P. DUNNE,
Administrator.

[FR Doc.74-11067 Filed 5-13-74;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Wednesday, May 29, 1974, to continue discussions on the fiscal year 1975 comparability adjustment for the statutory pay systems of the Federal Government.

In accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, it was determined by the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission, who serve jointly as the President's Agent for the purposes of the Federal pay comparability process, that this meeting of the Federal Employees Pay Council would not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.74-11109 Filed 5-13-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/58]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 15, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against who the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 15, 1974.

APPLICATIONS RECEIVED

EPA Reg. No. 1448-28. Buckman Laboratories, Inc., 1256 North McLean Boulevard, Memphis, Tennessee 38108. *BL Busan 72A.* Active Ingredients: 2-(thiocyanomethylthio)benzothiazole 60%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9461-IL. Celanese Coating Company, P.O. Box 99038, Jeffersontown, Kentucky 40299. *Devran 216 Permanent*

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Red Anti-Fouling Point. Active Ingredients: Cuprous Oxide 34.88%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34273–R. Chemical Laboratories, Spring Street, Bedford, Massachusetts 01730. *Bio-Clean Cleaner-Disinfectant-Deodorizer-Fungicide-Virucide.* Active Ingredients: Didecyl dimethyl ammonium chloride 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.0%; Sodium metasilicate, anhydrous 0.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 100–LUN. Agricultural Division, Ciba-Geigy Corporation, P.O. Box 11422, Greensboro, North Carolina 27409. *Ciba-Geigy Technical Terbutryn.* Active Ingredients: Terbutryn: 2-*tert*-butylamino-4 - ethylamino-6-methylthio-5-triazine 94%; Related Compounds 2%. Method of Support: Application proceeds under 2 (c) of interim policy.

EPA Reg. No. 100–437. Agricultural Division, Ciba-Geigy Corporation, P.O. Box 11422, Greensboro, North Carolina 27409. *Princep 80W Herbicide for Weed Control in Certain Crops.* Active Ingredients: Simazine 80%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 464–187. The Dow Chemical Company, P.O. Box 1706, 9008 Building, Midland, Michigan 48640. *Dow Esteron Four Low-Volatile Weed Killer.* Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butoxy Propyl Esters 72.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 464–347. The Dow Chemical Company, P.O. Box 1706, 9008 Building, Midland, Michigan 48640. *Dow Esteron 6E Herbicide.* Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Isooctyl Esters 94.4%. Method of Support: Application proceeds under 8(c) of interim policy.

EPA File Symbol 11694–UR. Dymon, Inc., 5747 Kessler, Shawnee Mission, Kansas 66203. *SWK–99 Low Volatile Kills Broadleaf Weeds and Woody Plants.* Active Ingredients: Isoctyl Ester of 2,4-Dichlorophenoxyacetic Acid 24.5%; Isoctyl Ester of 2,4,5-trichlorophenoxyacetic Acid 11.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11694–UN. Dymon, Inc., 5747 Kessler, Shawnee Mission, Kansas 66203. *DiBro-40 A Contact, Non-Selective Vegetation Killer for the Control of Broadleaf Weeds, Grasses and Aquatic Weeds.* Active Ingredients: Diquat dibromide (6,7-Dihydropyrido) (1,2-a:2:1'-C) pyrazidiinium dibromide 1.85%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33465–E. Fox Valley Marking Systems, Incorporated, 31W 300 West Bartlett Road, Bartlett, Illinois 60103. *Grass Stunt.* Active Ingredients: Petroleum Distillate 81.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33465–R. Fox Valley Marking Systems, Incorporated, 31W 300 West Bartlett Road, Bartlett, Illinois 60103. *Grass Kill.* Active Ingredients: Aromatic Petroleum Distillate 81.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 257–EI0. Fuld-Stalfort, Inc., 1354 Old Post Road, Havre de Grace, Maryland 21078. *No-Gro (Bromacil Weed Killer) Water Soluble Liquid.* Active Ingredients: Lithium salt of bromacil (5-bromo-3-secbutyl-6-methyluracil) 2.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905–URR. Helena Chemical Company, 5100 Poplar Avenue, Memphis, Tennessee 38137. *Helena Brand Dinitro Weed Killer 3.* Active Ingredients: Alkanolamine salts (of the Triethanolamine series) of dinoseb (2-sec-butyl-4,6-dinitrophenol) 51%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905–URE. Helena Chemical Company, 5100 Poplar Avenue, Memphis, Tennessee 38137. *Maneb 80 W Fungicide.* Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) (Manganese equivalent as metallic 16.5%) 80%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 5905–193. Helena Chemical Company, 5100 Poplar Avenue, Memphis, Tennessee 38137. *Helena Atrazine 80W.* Active Ingredients: Atrazine (2-Chloro-4-ethylamino-6-isopropylamino - s - triazine) 76%; Related compounds 4%. Method of Support: Application proceeds under 2 (c) of interim policy.

EPA Reg. No. 524–153. Monsanto Company, Agricultural Division, 800 North Lindbergh, St. Louis, Missouri 63166. *Wettable Powder Ramrod 65.* Active Ingredients: 2-chloro-N-isopropylacetanilide 65%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 707–74. Rohm & Haas Co., Independence Mall West, Philadelphia, Pennsylvania 19105. *Formula G Hyamine 3500 50%.* Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 9.0%; Sodium Carbonate 4.0%; Tetra sodium salt of ethylene diamine tetraacetic acid 2.0%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA Reg. No. 707–83. Rohm & Haas Co., Independence Mall West, Philadelphia, Pennsylvania 19105. *Formula G Hyamine 3500 80%.* Active Ingredients: n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 9.0%; Sodium Carbonate 4.0%; Tetra sodium salt of ethylene diamine tetraacetic acid 2.0%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 538–RRE. O. M. Scott & Sons, Marysville, Ohio 43040. *Scotts Pro-Turf New K–O–G TM Weed Control.* Active Ingredients: Dicamba (2-Methoxy-3,6-dichlorobenzoic acid) 0.70%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 148–1062. Thompson-Hayward Chemical Company, P.O. Box 2383, Kansas City, Kansas 66110. *Terraclor 2 Lb. Emulsifiable Concentrate.* Active Ingredients: Pentachloronitrobenzene 24.0%; Xylene 72.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 148–719. Thompson-Hayward Chemical Company, P.O. Box 2383, Kansas City, Kansas 66110. *Captan 10 Dust.* Active Ingredients: Captan 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: May 3, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74–10812 Filed 5–13–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20029; FCC 74–432]

CONTINENTAL CABLEVISION OF NEW HAMPSHIRE, INC.

Petition for Special Relief; Hearing

In re petition of Continental Cablevision of New Hampshire, Inc., Manchester, New Hampshire, for special relief.

1. On December 19, 1973, Continental Cablevision of New Hampshire, Inc., filed a "Petition for Immediate and Ex Parte Relief" alleging unlawful and unreasonable collusive conduct on the part of United Broadcasting Company, Inc., United Cable Company of New Hampshire, Inc., and New England Telephone and Telegraph Company. Continental requested that a hearing be designated to investigate the conduct of United Cable and N.E. Telco—particularly whether N.E. Telco's treatment of multiple applicants for CATV pole attachments is consistent with announced Bell System policy and this Commission's rulings. Continental's petition was treated as an informal complaint pursuant to the provisions of Section 208 of the Communications Act of 1934, as amended. By a "Notice of Complaint" dated December 20, 1973, the Chief, Domestic Rates Division, Common Carrier Bureau, advised N.E. Telco that further construction would be at its own risk, and directed it either to satisfy the complaint or to advise the Commission of its inability or refusal to do so not later than January 2, 1974. On December 31, 1973, N.E. Telco filed an answer, and United Cable filed comments on January 10, 1974. Continental filed comments regarding N.E. Telco's answer on January 17, 1974. On March 13, 1974, the Commission adopted a "Letter to Thomas W. Scandlyn et al." FCC 74–259, —— FCC 2d ——, in which it found that "the conduct of United Cable and N.E. Telco [summarized in paragraph 2 below] appears to be unduly discriminatory and anti-competitive in nature" and cautioned that "unless the aforementioned conduct is immediately terminated, appropriate action will be taken." Thereafter, additional letter comments were filed by the interested parties as follows: American Telephone and Telegraph Company on March 22; New England Telco on March 22; United Cable on March 25; and Continental Cablevision on March 28.

2. The operative facts are set forth fully in our cited letter. For present purposes, they may be synopsized as follows: both Continental and United Cable are franchised to serve portions of Manchester; however, N.E. Telco will not act on Continental's pole attachment request until it executes a pole attachment agreement, and one condition of the pole attachment agreement is Continental's acceptance of N.E. Telco's recently adopted "first-come, first-served" policy regarding "make ready" costs. Under the "first-come, first-served" principle, the first operator on a pole bears the "make ready" costs for its single attachment, and the second operator bears the "make ready" costs for the second attachment; the result is that the second applicant must pay higher costs than the first applicant. In the meantime, United Cable, allegedly pursuant to appropriate contractual provisions, is proceeding to attach wire and hardware in the portions of the city in which Continental and United Cable are franchised to compete. In the present case, the ability of United Cable to attach wire and hardware to poles not needing "make ready" work, together with the additional cost to be incurred by Continental for its "make ready" work, could have significant impact on the competitive situation between Continental and United Cable in Manchester, and it appears that Continental would suffer discrimination if the "first-come, first-served" doctrine is applied.[1]

3. As indicated, we have already found substantial indication that the conduct of United Cable and N.E. Telco is discriminatory and anti-competitive in nature. The telephone companies and United urge that the Commission has not asserted jurisdiction over pole attachment agreements.[2] However, we do have jurisdiction over cable systems and authorize their carriage of distant television signals, and we have a substantial concern that they operate on a reasonable competitive basis. The situation presented here clearly warrants a hearing to determine whether United is doing so. In the meantime, as pointed out above, further implementation of the existing contract will go far to make impossible any remedial action which the hearing may show to be necessary. We do not believe that we can permit the status quo to be changed pending the hearing, and will therefore require that it be maintained pendente lite. See United States v. Southwestern Cable Co., 392 U.S. 157 (1968).[3] Since this procedure is unusual, however, we will sua sponte expeditiously consider lifting this stay before conclusion of this proceeding. Accordingly, all parties are directed to file comments (including any supporting evidence) whether this stay should be lifted, modified or kept in effect within thirty days of the release date of this Memorandum Opinion and Order.

4. Accordingly, in view of the above, *It is ordered*, That this proceeding is designated for hearing, at a time and place to be specified in a further Order, upon the following issues:

a. To determine the facts and circumstances surrounding the offering by New England Telephone and Telegraph Company of pole attachment contracts for Manchester, New Hampshire, to (a) United Cable Company of New Hampshire, Inc., and (b) Continental Cablevision of New Hamphire, Inc.

b. To determine in light of the evidence adduced pursuant to Issue 1, above, whether the conduct of United Cable Company of New Hampshire, Inc., and New England Telephone and Telegraph Company, Inc., has been unduly discriminatory and anti-competitive in nature with respect to Continental Cablevision of New Hampshire, Inc.'s efforts to obtain a pole attachment agreement to operate at Manchester, New Hampshire.

c. To determine, in light of the conclusion reached regarding Issue 2 above, what further action is required in order to serve the public interest.

It is further ordered, That American Telephone and Telegraph Company; New England Telephone and Telegraph Company; Continental Cablevision of New Hampshire, Inc.; United Cable Company of New Hampshire, Inc.; Chief, Cable Television Bureau; and Chief, Common Carrier Bureau are made parties to this proceeding.

It is further ordered, That United Cable Company of New Hampshire, Inc., has the burden of proceeding with respect to Issue 1(a); that Continental Cablevision of New Hampshire, Inc., has the burden of proceeding with Issue 1 (b); and that Continental Cablevision of New Hampshire, Inc., has the burden of proof with respect to Issues 2 and 3.

It is further ordered, That, pending the outcome of this proceeding, United Cable Company of New Hampshire, Inc., is directed to cease additional construction of its cable television system on New England Telephone and Telegraph Company's telephone poles where access has been obtained by means of the pole attachment contract here in issue in those areas for which Continental Cablevision of New Hampshire, Inc., has also sought a pole attachment contract.

It is further ordered, That, to avail themselves of the opportunity to be heard, the parties herein, pursuant to § 1.221(e) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating their intention to appear on the date set for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the ruling as to temporary relief shall be effective on the third day, not counting Saturdays, Sundays, and holidays, after the day of release of this Opinion, provided that the ruling on temporary relief shall not be effective until judicial determination of the motion for stay in the case of any respondent which notifies the Commission within 2 days that it intends to seek judicial review and which seeks judicial review and a judicial stay within 14 days of the day of release of this opinion.

Adopted: April 17, 1974.

Released: May 3, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74–11087 Filed 5–13–74;8:45 am]

[FCC 74–402]

U.S. CABLEVISION CORP. AND NEW YORK TELEPHONE CO.

Denial of Petition

In the matter of U.S. Cablevision Corporation, Complainant and New York Telephone Company, Defendant.

1. The Commission has before it for consideration a formal complaint filed on April 27, 1972, by the U.S. Cablevision Corporation, complainant, against the New York Telephone Company (hereinafter "NYTelco"), complainant's Motion to Make Answer More Definite and Certain, and NYTelco's Answer and Motion to Dismiss the subject complaint. Complainant is the operator of a cable television system in Hyde Park, New York and successor in interest to U.S. Cablevision Corporation whose corporate name complainant retained (hereinafter all references to "complainant" refer to both the present and prior U.S. Cablevision Corp.). Complainant began subscribing to cable television channel distribution service as offered by NYTelco in its Tariff F.C.C. No. 34 on June 21, 1967. Cable television channel distribution service is a communications service provided by telephone companies whereby cable television channel distribution facilities are constructed and owned by the telephone company but used to serve subscribing cable television operators. This contrasts with cable television channel distribution provided by cable television operators themselves through Pole attachment agreements, i.e. the cable television operator owns the cable television channel distributed facilities but contracts with the telephone company so that it may attach its cables to telephone company poles for distribution purposes. On June 26, 1968 we released our decision in Docket No. 17333, General Telephone Company of California, et al., 13 FCC 2d 448, wherein we decided, among other things, that section 214 of the Communications Act was applicable to the construction and operation of cable television channel distribution facilities by a common carrier.[1]

[1] In this regard, we also note indications that United held its pole attachment contract for some time without taking significant action to assure early construction. This delay necessarily casts an additional pall on the priority asserted for United's contract.

[2] For example, although AT&T cites the Commission's public notice of August 3, 1973, regarding Docket No. 16928 (FCC 73–851, 42 FCC 2d 460), wherein the Commission announced that it had "instructed the staff to draft appropriate documents asserting jurisdiction over pole attachments," it seeks to rebut it by arguing that no such documents have been issued.

[3] See also § 76.7 of the rules, which provides in pertinent part that,

(a) On petition by a cable television system, a franchising authority, an applicant, permittee, or licensee of a television broadcast, translator, or microwave relay station, or by any other interested person, the Commission may waive any provision of the rules relating to cable television systems, impose additional or different requirements, or issue a ruling on a complaint or disputed question.

[1] Section 214(a) of the Communications Act provides, in pertinent part: "No carrier shall undertake the construction of a new line or of an extension of any line, or shall require or operate any line, or extension thereof, or shall engage in transmission over or by means of such additional or extended line, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction and operation, of such additional or extended line * * *" 47 U.S.C. 214(a).

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Thereafter, on November 12, 1968, NYTelco filed an application for a Section 214 certificate of public convenience and necessity with respect to the Hyde Park cable television channel distribution facilities.[2] Subsequently, on October 7, 1971, in Docket No. 17441, Better T.V. Inc. of Duchess County, New York, 31 FCC 2d 939, we released our decision which denied NYTelco's section 214 application because we found that in Hyde Park NYTelco had followed an unreasonable course of conduct toward cable television operators who desired to construct their own cable television systems, attempting to either induce independent cable television operators to take unwanted cable television channel distribution service from NYTelco, or to impede their construction of cable television systems until a tariff customer could be obtained and cable television channel distribution facilities constructed. In view of this misconduct by NYTelco we ordered, among other things, that NYTelco cease providing cable television channel distribution service to complainant in Hyde Park and in compliance therewith such service was wholly terminated as of June 28, 1972.

2. Complainant now contends that NYTelco constructed and operated the cable television channel distribution facilities in Hyde Park for five years without ever obtaining from the Commission a Section 214 certificate of public convenience and necessity, that NYTelco was never lawfully authorized to provide cable television channel distribution service to complainant at any time during the five year period and that, therefore, NYTelco's Tariff F.C.C. No. 34 as it relates to Hyde Park was at all times during the five year period improperly on file with the Commission and ineffective since it purported to offer a communications service which NYTelco could not lawfully provide. Accordingly, complainant alleges that NYTelco's collection of monthly and termination charges from complainant as specified in Tariff F.C.C. No. 34 constituted a violation of sections 201(b), 203(c) and 214 of the Communications Act.[3] Therefore, complainant requests, among other things, reimbursement of approximately $195,000 in monthly and termination charges paid from June 21, 1967 to June 28, 1972. Complainant further contends that even if NYTelco was lawfully authorized at all times during the five year period to provide cable television channel distribution service in Hyde Park, it would be inequitable to allow NYTelco to retain the collected tariff charges in view of NYTelco's prior unlawful conduct in Hyde Park and therefore such charges should be reimbursed to complainant. NYTelco alleges in its responsive pleading, among other things, that it was at all times during the five year period in question lawfully authorized to provide cable television channel distribution services in Hyde Park, that the charges collected were lawful charges for a lawful communications service provided to complainant under a lawful tariff, and that if the requested relief were granted it would result in a pure windfall to complainant, allowing complainant to enjoy a valuable communications service at no charge for five years.

3. We shall dismiss in part and otherwise deny this complaint for the reasons that (a) NYTelco was authorized by specific Commission orders to provide cable television channel distribution service in Hyde Park from June 26, 1968 to June 28, 1972 and therefore acted lawfully in collecting charges for such service under its properly filed and then effective tariff; (b) complainant's claim for reimbursement with respect to the one year period when service was provided prior to June 26, 1968 is barred by section 415(b) of the Communications Act and the same is true regarding a substantial portion of the time period following June 26, 1968 and (c) in any event, complainant has failed to allege sufficient facts to show that it is equitably entitled to the requested relief.

4. NYTelco provided complainant cable television channel distribution service in Hyde Park for five years, from June 21, 1967 to June 28, 1972. Contrary to the allegations of complainant, NYTelco was lawfully authorized by our specific orders to provide such service in Hyde Park for four of the five years, i.e., from June 26, 1968, the release date of our General Telephone decision, to June 28, 1972, when service was wholly terminated. In regard to the one year period when service was provided prior to our General Telephone decision, i.e., from June 21, 1967 to June 26, 1968, NYTelco was not authorized to provide service in Hyde Park. Section 214 was enacted and applicable long before NYTelco began construction and operation of the uncertified facilities in Hyde Park in mid-1967 and, therefore, NYTelco was in violation of section 214's provisions the moment it began construction and operation of the uncertified facilities in Hyde Park. Ashtabula Cable T.V., Inc. v. Ashtabula Telephone Company, 18 FCC 2d 193, 194 (1969). Further, as previously noted, NYTelco's application for a Section 214 certificate was expressly denied in our October 7, 1971 Better T.V. decision. Finally, no specific orders were issued by use during the June 21, 1967 to June 26, 1968 period such as would constitute authorization to construct and operate the Hyde Park facilities during such period. On the contrary, we expressly placed carriers on notice as early as March 1967 that any construction without prior approval might be the subject of appropriate action including the issuance of cease and desist orders. 7 FCC 2d 571 and 7 FCC 2d 575. However, this does not mean that complainant is entitled to an order directing NYTelco to reimburse tariff charges collected during the June 21, 1967 to June 26, 1968 period. On the contrary, such an order would be inappropriate because complainant's claim for such reimbursement, even if otherwise valid, is barred by section 415 (b) of the Communications Act since complainant did not file the subject complaint until April 27, 1972.[4] Section 415 also bars complainant's claim for reimbursement of tariff charges collected from June 26, 1968 to or on about May 1, 1971.

5. We believe Section 415(b) is properly applicable in this case. We indicated in Bunker Ramo Corporation v. Western Union Telegraph Company, 31 FCC 2d 449, 454 (1971), that a statute of limitations does not begin to run until discovery of the right or wrong or of the facts on which such knowledge is chargeable by law and that the running of the period of limitations may be suspended or tolled by various causes; for example, although mere ignorance will generally not toll the statute, active fraudulent concealment by a defendant will generally do so. In our opinion, knowledge of the basic facts complainant cites as supporting its claim for reimbursement, namely, that section 214 was applicable to the construction and operation of cable television channel distribution facilities and that NYTelco's construction and operation of such uncertified facilities in Hyde Park from June 21, 1967 to June 26, 1968 and thereafter was in violation of the provisions of section 214, was chargeable by law upon complainant at or near the time it began taking service from NYTelco (mid-1967). As noted earlier, section 214 was enacted long before any of the events we are here concerned with occurred. Even if such knowledge was not chargeable by law upon complainant in mid-1967, as we believe it was, it is obvious that doubts as to the applicability of section 214 to the construction and operation of cable television channel distribution facilities by NYTelco should have been put to rest on June 26, 1968 when we released our General Telephone decision. Notwithstanding our General Telephone decision, complainant waited until April 27, 1972 before filing the subject complaint. In addition, we cannot hold that the statute of limitations was tolled in view of complainant's failure to allege any facts whatsoever indicating that fraud or deceit was practiced by NYTelco upon complainant to prevent complainant from becoming aware of the basic facts upon which its claim for reimbursement is based. In view of the foregoing, it is clear that Section 415(b) is properly applicable in this case and complainant's claim for reimbursement of tariff charges collected from June 21, 1967 to June 26, 1968 (as well as June 26, 1968 to on or about May 1, 1971) is barred.

6. We shall now relate the reasons why NYTelco was authorized to provide service in Hyde Park for four of the five years that service was provided. After our General Telephone decision was released, NYTelco was obligated to take steps to obtain section 214 authorization from the Commission with respect to the cable television channel distribution facilities in Hyde Park in order to continue providing the cable television channel distribution service to complainant in Hyde Park.[5] Our June 26, 1968 General Telephone decision provided that cease and desist orders against continued operation of cable television channel distribution facilities would not be stayed unless common carriers then operating such facilities filed applications for section 214 authorization or filed pleadings containing certain specified information and any other public interest factors which might justify the granting of relief from cease and desist orders. At that time NYTelco was operating such facilities in Hyde Park. On July 5, 1968, FCC 68-715, we temporarily stayed the effectiveness of our General Telephone decision in order to give the carriers time to prepare their objections. On July 26, 1968, 14 FCC 2d 170, after reviewing carrier objections, we stayed pendente lite the effectiveness of that portion of our General Telephone decision pertaining to cease and desist orders but only insofar as cable television channel distribution facilities constructed and in operation on or before June 26, 1968 were concerned. Thus, common carriers providing cable television channel distribution service prior to the June 26, 1968 release date of our decision, such as NYTelco in Hyde Park, could continue providing such service pending appellate review of our General Telephone decision. Subsequently, the courts affirmed that decision and NYTelco, in compliance therewith, duly filed a section 214 application with respect to the cable television channel distribution facilities in Hyde Park.[6] By filing its section 214 application, NYTelco stayed the effect of our cease and desist order with respect to the operation of the Hyde Park facilities pending action upon the application. This also meant that NYTelco was authorized to continue providing cable television channel distribution service to complainant in Hyde Park pending Commission action on its application. We had ample statutory authority under sections 4(i) and 214(a) of the Communications Act to issue our orders allowing common carriers such as NYTelco to provide cable television channel distribution service even though their section 214 applications were not yet filed or if filed, not yet acted upon. Section 4(i) of the Communications Act provides that "* * * The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." 47 U.S.C. 154(i). Section 214(a) provides in pertinent part that "* * * the Commission may, upon appropriate request being made, authorize temporary or emergency service * * * without regard to the provisions of this section * * *" (our emphasis). 47 U.S.C. 214(a). A reasonable interpretation of the above quoted statutory language is that a common carrier, which may be required to obtain a section 214 certificate in order to construct and provide or continue to provide a particular communications service on a permanent basis, as in the case of NYTelco in Hyde Park, may still be lawfully authorized to provide that particular communications service on a temporary or emergency basis even though the carrier's application for a certificate has not been filed, has not been acted upon, or has even been denied by the Commission. In view of the foregoing, it is clear that NYTelco was authorized by our General Telephone decision and the related orders following that decision to provide cable television channel distribution service to complainant in Hyde Park from June 26, 1968 until such time as action was taken on its Section 214 application.

7. As already noted, our October 7, 1971 Better T.V. decision denied NYTelco's section 214 application and ordered NYTelco to cease providing cable television channel distribution service in Hyde Park. However, in order to avoid an abrupt disruption of cable television service to cable television subscribers in Hyde Park and provide for a transition period during which the subscribers could obtain other cable television service, we permitted NYTelco to continue operation of the cable television channel distribution facilities in Hyde Park for a period of 180 days from the October 7, 1971 release date, until April 10, 1972 (31 FCC 2d 968). On March 30, 1972, we extended this permission for 90 more days to June 28, 1972 (34 FCC 2d 153), by which date the cable television channel distribution service in Hyde Park was wholly terminated. Sections 4(i) and 214(a) of the Communications Act provide ample statutory authority for the issuance of these orders. Thus, even after our denial of NYTelco's section 214 application on October 7, 1971, NYTelco had our express authority to provide cable television channel distribution service to complainant in Hyde Park until such service could be terminated in an orderly manner, i.e., until June 28, 1972.

8. Since, contrary to the allegations of complainant, NYTelco was lawfully authorized to provide cable television channel distribution service in Hyde Park from June 26, 1968 to June 28, 1972, it follows that NYTelco's tariff, effective during such period, was binding on the carrier and its customer alike, and that NYTelco therefore acted lawfully in collecting the charges as specified in its tariff for the provision of service to complainant. Moreover, even if NYTelco was not lawfully authorized to provide the service during the entirety of the aforementioned period, as it was, complainant still would not be entitled to an order directing reimbursement of the collected tariff charges for the greater portion of such period, June 26, 1968 to on or about May 1, 1971, because Section 415(b) of the Communications Act bars complainant's claim. Accordingly, complainant is not entitled to an order directing reimbursement of tariff charges collected from June 26, 1968 to June 28, 1972.

9. Finally, in addition to our above reasons for our conclusion that an order directing reimbursement of collected tariff charges is inappropriate, there is still another reason supporting such conclusion. This relates to complainant's remaining contention that even if NYTelco was lawfully authorized at all times to provide cable television channel distribution service to complainant in Hyde Park it would be inequitable, in view of NYTelco's prior unlawful conduct in Hyde Park, to allow NYTelco to retain the collected charges for the Hyde Park service and so such charges should thus be refunded to complainant. We do not agree. We have already imposed appropriate sanctions against NYTelco for the misconduct we found in Better T.V. Not only did we deny NYTelco's section 214 application for permanent authorization to operate the Hyde Park facilities but we ordered that NYTelco cease and desist from providing cable television channel distribution service in Hyde Park, we denied NYTelco the undepreciated cost of the Hyde Park facilities in its rate base, and we ordered that no sale could be made of the facilities without prior Commission approval. 31 FCC 2d 967, 968. Granting the relief requested by complainant would amount to the imposition of an additional sanction on NYTelco, an action which we do not believe is warranted under the facts and circumstances of this case. Complainant has also failed to allege sufficient facts that would equitably entitle it to a reimbursement of all tariff charges it paid during a five year period during which it was receiving a valuable communications service.

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[2] F.C.C. Docket No. 18525, File No. P-C-7271.

[3] Section 201(b) provides in pertinent part: "All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful * * *." 47 U.S.C. 201(b).

Section 203(c) provides, in pertinent part: "No carrier, unless otherwise provided by or under authority of this Act, shall engage or participate in such communication unless schedules have been filed and published * * * and no carrier shall (1) charge, demand, collect, or receive a greater or less or different compensation, for such communication, or for any service connected therewith, between the points named in any such schedule than the charges specified in the schedule then in effect * * *" 47 U.S.C. 203(c). Also see n. 1.

[4] Section 415(b) of the Communications Act provides that "All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within one year from the time the cause of action accrues, and not after * * *" 47 U.S.C. 415(b).

[5] The Bell companies had previously been given notice that they were required to file appropriate tariffs under section 203(a) of the Communications Act before providing any cable television channel distribution service by our April 6, 1966 Letter Order, FCC 66-293. Petitions for Reconsideration of such Letter Order were denied. (4 FCC 2d 257 (1966)). NYTelco complied with this requirement by filing its Tariff FCC No. 34 on September 27, 1966, and by later making timely provision therein for the service provided to complainant in Hyde Park.

[6] General Telephone, et al. v. FCC, 413 F. 2d 390 (D.C. Cir. 1969), cert. denied 396 U.S. 888 (1969). See n. 2.

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10. In view of the foregoing, *it is ordered*, That complainant's Motion to Make Answer More Definite and Certain is denied and, *it is further ordered*, That complainant's formal complaint is hereby dismissed in part and otherwise is denied.

Adopted: April 16, 1974.

Released: April 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.74-11084 Filed 5-13-74;8:45 am]

[Docket No. 19660, RM-690; FOC 74-401]

INTERNATIONAL RECORD CARRIERS

Scope of Operations; Hearing

In the matter of International Record Carriers' scope of operations in the continental United States including possible revisions to the formula prescribed under section 222 of the Communications Act (38 FR 10934).

1. By Memorandum Opinion and Order released November 26, 1973,[1] the Commission specified the issues for hearing on the request of The Western Union Telegraph Company (WU) for an increase in the prescribed division of charges received by it for the landline handling of outbound and inbound international telegraph message traffic. In order to expedite the hearing, as previously ordered,[2] our November Order also provided for a two-part procedure in the conduct of the hearing: the first to determine the reasonableness of the present division of charges and the revenue requirements of WU in connection therewith; the second, if it were determined that WU was entitled to an increase, to determine whether part or all of the increase should be absorbed by the international record carriers (IRC's) or be reflected in their charges made to the public.

2. The issues upon which the hearing was ordered were:

(a) Whether the current divisions of charges between Western Union and the international record carriers for the landline handling by Western Union within the Continental United States of outbound and inbound international telegraph message traffic is unjust, unreasonable, inequitable, or otherwise not in the public interest.

(b) In connection with (a) above:

(1) What are the revenues, expenses and investment properly attributable to the landline handling by Western Union of international telegraph messages, both currently and for a reasonable future period of at least one year?

(2) On the basis of (b) (1) above, what changes, if any, in the levels and structure of the current divisions of charges are required to meet Western Union's revenue requirements for the period mentioned in (b) (1) above?

(c) What are, or will be, the effects of any increases in the divisions of charges that may be found to be required under (b) (2) above, on the revenue and rates of return of the respondent international carriers, assuming that such increases are absorbed by them?

(d) Whether the effect of any increases on the respondent international carriers is such as to warrant an increase in international public message charges to the public and, if so, the amount or amounts thereof and the effect of such increases on the volume of international message traffic and the revenues resulting therefrom both to Western Union and the respondent international record carriers.

(e) On the basis of findings and conclusions reached on the above issues, what changes, if any, in the current divisions of charges and/or charges to the public, should be prescribed by the Commission which will be just, reasonable and in the public interest?

3. We now have before us numerous pleadings filed by the carriers and the Trial Staff of the Common Carrier Bureau, seeking various forms of relief. In total, some twenty-eight separate pleadings have been filed.[3] Three of these requested extensions of time within which to file pleadings.[4] Of the remainder, six requested specific changes in issues or procedures with regard to the hearing, and the remaining nineteen were responses to the issues raised in these six. Because of this large number of pleadings, we will individually dispose of the initial substantive pleadings of each party and the procedural issues raised in subsequent filings. However, while we will consider and act upon the principal points raised in the many responsive pleadings, we will not attempt to deal with each issue that has been raised.

4. The initial pleading filed in this portion of the proceeding was by WU,[5] which principally contended that the bifurcated hearing procedure would lead to undue delay in the resolution of the issues and unfairly subject WU to additional delays in receiving the increased payments it seeks. Since § 1.106(a) (1) of the Commission's rules[6] proscribes our entertaining a petition to reconsider hearing procedures, this portion of the petition must be dismissed as unauthorized.[7] The separated Trial Staff joins WU's request to modify procedures,[8] and likewise this pleading is dismissed in part as unauthorized.

5. By contrast, three of the international carriers, Western Union International, Inc. (WUI), ITT World Communications Inc. (ITT), and TRT Telecommunications Corp. (TRT)[9] endorse the two-stage hearing as ordered, insisting that the Act (Section 222(e)(3)) gives them the right to a full hearing on the question of payouts to WU, but contending that they should not be required to present their evidence unless and until it is first determined that WU is entitled to an incerase. Since the initial pleadings on this matter are unauthorized, these responsive filings are dismissed as moot. However, in light of our expressed desire to expedite a resolution of this case, we have carefully considered the effect of the hearing procedures and have modified them as provided herein.

6. RCA Global Communications, Inc. (RCA) and ITT request us to change issue (c) as set for hearing.[10] They argue that if WU's showing in support of its claims for additional landline haul charges is to be based upon analysis of WU's financial picture only with respect to landline haul, then the international carriers' financial condition should be examined only as it bears directly on public message services (PMS), rather than overall. WU observes,[11] however, that it will submit overall financial data and requests that the inquiry include consideration of the IRC's overall financial situation.

7. Upon careful consideration, we have concluded that the impact of any increased payouts to WU should be examined for present purposes in the context of the IRC's overall financial picture. To look only to public message services would involve, in all likelihood, extensive delays for the preparation, presentation, and testing of a system of cost allocation. We recognize that the IRC's may wish to argue that their PMS rate of return is well below that of their overall return and that further costs would reduce that return even further. However, we believe it inappropriate to delay granting any necessary increases to WU while such a complex question is litigated. If the IRC's wish to pursue that argument, they may do so in a separate proceeding upon due application for increased PMS rates, should we determine that their overall operating results are such to justify their absorption of any increases granted to WU.

8. We have been requested to add twelve issues to those set for hearing by petition of WUI.[12] Each of these issues was before the Commission prior to release of the November Order and was carefully considered at that time. We are aware that WUI was placed under severe time constraints in developing the list of issues and was unable to submit supporting arguments. However, as stated above, § 1.106 of the rules limits those matters upon which petitions for reconsideration may be entertained, and this petition must be viewed as asking for reconsideration of our previous rejection of these as hearing issues. This pleading is therefore dismissed as unauthorized, as requested by the Trial Staff.[13] Further, we reiterate our desire to narrow the issues of this inquiry to the extent possible in the hope that the hearing can be brief and a decision expedited. Therefore, if we were to consider the WUI pleading on its merits, we would again deny the relief requested.

9. A final issue change, requested by TRT,[14] is the addition of free direct access to non-gateway customers by the IRC's. This question was also among those considered prior to the November Order, and therefore § 1.106 renders the pleading unauthorized. We note as well that this issue was before us earlier in 1973. At that time we suggested that the international carriers could apply for authorization to gain direct access to the hinterland.[15] No such applications have been filed, and this pleading cannot be considered a substitute.

10. In addition to the issue changes requested by the parties in this case, and treated above, a number of the pleadings[16] addressed themselves to the procedural question of whether the Commission or the Review Board was the proper forum to hear this round of pleadings. Both WUI and TRT contend that this proceeding is mixed adjudication and rulemaking rather than pure rulemaking and that § 0.365(b) of the rules[17] requires interlocutory matters in such mixed proceedngs to to be heard by the Review Board. The Trial Staff and WU, on the other hand, allege that this case is entirely rulemaking and that the pleadings are properly addressed to the Commission. The Review Board agreed with WU and the Trial Staff and, by Memorandum Opinion and Order released February 4, 1974,[18] certified all pleadings filed before it to the Commission.[19] We concur with the Review Board's decision and adopt the reasoning expressed in its Order that the Commission is the proper forum to hear interlocutory matters in this proceeding.

11. In addition to those discussed above, we are dismissing two pleadings as unauthorized under § 1.45(a)-(c) of the rules.[20] WUI's Petition to Strike dated December 13, 1973 is only authorized if considered an opposition to other pleadings. However, since the company filed such an opposition the same day, the Petition to Strike is redundant, and the pleading unauthorized. As discussed above, we are granting the relief requested on our own motion. Second, the Reply of WUI dated January 18, 1974 responds to two reply pleadings[21] and is thereby unauthorized. Since the matters raised therein are being acted upon in reference to other pleadings, we believe WUI will not be prejudiced by our failure to consider this pleading.[22]

12. As discussed above, we are dismissing the petitions asking us to reconsider the hearing issues which were before us prior to issuing our November Order. As a result, we need not discuss each issue or the objections raised in the responsive pleadings thereto.[23] We also need not reach the other procedural objections to several initial pleadings that appear in the responsive pleadings.

13. Finally, we have been concerned that the hearing procedure adopted in this case expedite a resolution of the division of tolls question. In ordering the hearing to go forward in two stages, we

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[1] 43 F.C.C. 2d 1171.

[2] 43 F.C.C. 2d 661 (Oct. 30, 1973).

[3] The Appendix below lists the pleadings now before us.

[4] We granted the motions for extensions of time filed by WUI on January 8 and February 27, 1974 by Order, FCC 74M-39, released January 10, 1974 and Order released March 1, 1974, respectively. The motion filed before the Review Board on December 22, 1973 is granted herein.

[5] Motion to Amend or Delete Issues dated November 30, 1973.

[6] "Petitions requesting reconsideration of a final Commission action will be acted on by the Commission. Petitions requesting reconsideration of a final decision of the Review Board will be acted on by the Board or certified to the Commission (see § 0.361 (b) and (c) of this chapter). Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission. A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding. Petitions for reconsideration of other interlocutory actions will not be entertained."

[7] Initially, WU also objected to the requirement that it provide projections of revenue requirements for a full year. In its Reply dated December 26, 1973, the company abandons this argument, and we thus consider moot the portions of the following pleadings which debate our forecast requirement: the oppositions to motions to Amend or Delete Issues dated December 13, 1973 filed by WUI, ITT and RCA.

[8] Motion of Trial Staff to Amend Procedures and to Oppose Deletion of Issues dated December 10, 1973.

[9] Oppositions dated December 13, 1973.

[10] Motion for Change of Issues, filed by RCA, dated December 13; Motion to Change Issues, filed by ITT, dated December 5, 1973.

[11] Western Union's Opposition to ITT Worldcom's Motion to Change Issues dated December 14, 1973.

[12] Motion to Amend Issues dated December 14, 1973.

[13] Trial Staff Opposition to WUI Motion to Amend Issues and TRT Petition to Enlarge Issues dated February 14, 1974.

[14] Petition of TRT Telecommunications Corp. to Enlarge Issues dated December 13, 1973.

[15] 40 F.C.C. 2d 1082.

[16] Oppositions of WUI and TRT dated December 13, 1973; Opposition of the Trial Staff dated December 28, 1973; Reply of Western Union dated December 28, 1973; Statement of Trial Staff dated December 27, 1973; Opposition of TRT dated January 8, 1974 and Opposition of WUI dated January 11, 1974. We note that the Motion of Trial Staff to Dismiss dated December 26, 1973 was denied by the Review Board, FCC 74R-31 (1974).

[17] "Original action on interlocutory matters. In adjudicative proceedings conducted by Administrative Law Judges (including mixed adjudicative and rulemaking proceedings), the Review Board shall take original action on the following interlocutory matters and upon any question with respect to such matters which is certified to it by the presiding officer (see § 1.291 of this chapter):

"(1) Petitions to amend, modify, enlarge, or delete issues upon which the hearing was ordered."

[18] FCC 74R-31 (1974).

[19] An exception is the Trial Staff's Motion to Dismiss, supra, note 16, which was denied. We note also that TRT's January 8 Opposition and Reply requested the Review Board, if it did not assert jurisdiction, to certify the pleadings to the Commission rather than dismissing them. This the Board granted sub silentio.

[20] "Except as otherwise provided in this chapter, pleadings in Commission proceedings shall be filed in accordance with the provisions of this section.

(a) Oppositions. Oppositions to any motion, petition, or request may be filed within 10 days after the original pleading is filed.

(b) Replies. The person who filed the original pleading may reply to oppositions within 5 days after the time for filing oppositions has expired. The reply shall be limited to matters raised in the oppositions, and the response to all such matters shall be set forth in a single pleading; separate replies to individual oppositions shall not be filed.

(c) Additional pleadings. Additional pleadings may be filed only if specifically requested or authorized by the Commission."

[21] Reply of Western Union dated December 26, and Statement of Trial Staff dated December 27, 1973, the latter of which in substance is a reply to two oppositions.

[22] WUI in its Reply dated February 28, 1974 contends that the Trial Staff's Opposition dated February 14, 1974 is untimely as it opposes pleadings filed in December before the Review Board and certified to the Commission on February 4. Since the principal argument which the Trial Staff raises, application of Section 1.106 of the Rules to certain pleadings, could only have been raised before the Commission, this pleading is timely and is granted with regard to this issue and dismissed with regard to other issues which could have been raised before the Review Board.

[23] Oppositions by TRT dated December 13, by Trial Staff dated December 28, and by WU dated December 27, 1973; and the Replies of WU dated December 26, 1973, of WUI dated January 18, and of TRT dated January 8, 1974.

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had hoped to avoid any unnecessary delay which would occur if the question of the absorption or pass through by the IRC's of all or part of any increased landline charges were litigated before a determination had been made that the landline charges were to be increased. We continue to believe this a prudent course, even though we recognize the possibility that a two-stage hearing may, ultimately, lead to greater delay than a unified procedure. However, we are persuaded that the presiding Administrative Law Judge should be given wider scope that has been previously granted him to make the determination whether to proceed in one stage or two. Accordingly, we will modify our previous Order to withdraw the prior inflexible two-stage requirement and in lieu thereof specify that the Judge should exercise his discretion, at an appropriate point in the proceeding, either to consider only the WU claim first, or to simultaneously take evidence upon the effect on the IRC's. We do not think it appropriate now to specify at what point in the proceeding such a determination should be made.

We do retain, however, the requirement that no increased landline haul charges can be collected from the international carriers until the impact of such a requirement has been fully assessed.

14. Accordingly, *it is ordered*, That the procedure for conduct of the hearing in this matter, as specified in 44 F.C.C. 2d 1171 (1973), are modified to the extent provided herein.

15. *It is further ordered*, That the pleadings numbered 1, 3, 5, 6, 9, 10, 12, 14, 18 and 25 in the Appendix below are dismissed;

16. *It is further ordered*, That the pleadings numbered 4, 8, 23 and 24 are denied to the extent provided herein and otherwise are dismissed;

17. *It is further ordered*, That the pleadings numbered 2, 7, 20 and 28 are denied;

18. *It is further ordered*, That the pleadings numbered 11, 16 and 17 are granted;

19. *It is further ordered*, That the pleadings numbered 15, 19 and 26 are granted to the extent provided herein and otherwise are denied; and

20. *It is further ordered*, That pleading numbered 22 is dismissed except insofar as granted by the Review Board.

Adopted: April 16, 1974.

Released: May 3, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX—Pleadings filed

	Date	Party	Title
1	Nov. 30	WU	Motion to Amend or Delete Issues.
2	Dec. 5	ITT	Motion to Change Issues.
3	Dec. 10	TS	Motion of Trial Staff to Amend Procedures and to Oppose Deletion of Issues.
4	Dec. 13	WUI	Opposition to Motion to Amend or Delete Issues.
5	...do.....	WUI	Petition to Strike.
6	...do.....	ITT	Opposition to Motion to Amend or Delete Issues.
7	...do.....	RCA	Motion for Change of Issues.
8	...do.....	TRT	Opposition of TRT Telecommunications Corporation to the Western Union Telegraph Company's Motion to Amend or Delete Issues.
9	...do.....	TRT	Petition of TRT Telecommunication Corperation to Enlarge Issues.
10	...do.....	RCA	Opposition to Motion to Amend or Delete Issues.
11	Dec. 14	WU	Western Union's Opposition to ITT Worldcom's Motion to Change Issues.
12	...do.....	WUI	Motion to Amend Issues.
13	Dec. 26	TS	Motion of Trial Staff to Dismiss TRT Telecommunications Corporation Petition to Enlarge Issues and Western Union International, Inc. Motion to Amend Issues.
14	...do.....	TRT	TRT Telecommunications Corporation Opposition to Motion of Trial Staff to Amend Procedures.
15	...do.....	WU	Reply of Western Union.
16	Dec. 27	TS	Statement of Trial Staff Concerning TRT Telecommunications Corporation Opposition and Western Union International, Inc. Petition to Strike.
17	...do.....	TS	Motion of Trial Staff for Extension of Time.
18	...do.....	WU	Western Union's Opposition to the Motion of TRT and WUI to Amend Issues.
19	Dec. 28	TS	Trial Staff Opposition to WUI Motion to Amend Issues.
20	Dec. 31	ITT	Reply of ITT World Communications Inc. to Opposition of Western Union Telegraph Company.
21	Jan. 8	WUI	Motion for An Extension of Time.
22	...do.....	TRT	TRT Telecommunications Corporation Opposition to Trial Staff Motion to Strike; Reply to Trial Staff and Western Union Telegraph Company's Oppositions.
23	Jan. 11	WUI	Opposition to Motion of Trial Staff to Dismiss Motion to Amend Issues.
24	Jan. 18	WUI	Reply of Western Union International, Inc.
25	...do.....	WUI	Reply of Western Union International, Inc. to Oppositions to Its Motion to Amend Issues.
26	Feb. 14	TS	Trial Staff Opposition to WUI Motion to Amend Issues and TRT Petition to Enlarge Issues.
27	Feb. 27	WUI	Motion for An Extension of Time.
28	Feb. 28	WUI	Reply to Trial Staff Opposition to WUI Motion to Amend Issues.

[FR Doc.74-11086 Filed 5-13-74;8:45 am]

[Dockets Nos. 19993; 19994]

GEORGE M. ARROYO AND JOSE A. FIGUEROA, ET AL.

Applications for Construction Permits; Hearing

In re applications of George M. Arroyo and Jose A. Figueroa, d/b as ARROYO AND FIGUEROA ASSOCIATES, Charlotte Amalie, Saint Thomas, Virgin Islands, File No. BPH-8499, Requests: 97.9 megahertz, channel No. 250; 5.78 kW (H&V); 1355 feet, and MILTON ALFRED LINDESAY, Charlotte Amalie, Saint Thomas, Virgin Islands, File No. BPH-8615, Requests 97.9 megahertz; channel No. 250; 10.155 kW(H&V); 1,453 feet, For Construction Permits:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which are mutually exclusive in that they seek the same channel in the same community.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. As amended, Arroyo and Figueroa Associates will require $46,186 to construct and operate the proposed facility for a period of one year, without revenue.[1] To meet this requirement, Jose Figueroa plans to loan the partnership $60,000, as needed. However, the loan from Mr. Figueroa does not meet the requirements of section III, page 3, paragraph 4(a) of the application form in that the loan agreement fails to state the rate of interest to be charged. In view of the foregoing, a financial issue has been designated.

4. Milton Alfred Lindesay will require $34,848 to construct and operate the proposed facility for a period of one year, without revenue.[2] To meet this requirement, Lindesay has established the availability of approximately $3,000 in cash, and has stated his intent to apply for a loan. Since no loan agreement has actually been submitted, however, the Commission cannot determine that adequate funds will be available as required. Therefore, a financial issue has been designated against this applicant as well.

5. Milton A. Lindesay has failed to indicate precisely how many members of the general public he interviewed and he has failed to state what method he used to assure that a random sample of the general public would be contacted (see question and answer 13(b) of the Primer, Supra). Accordingly, a suburban issue will be specified.[3]

[1] In itemized form, the applicant will require the following:

Equipment	$14,300
Building	2,500
Miscellaneous	3,586
Working capital requirement	16,800
Legal expenses	9,000
Total	46,186

[2] In itemized form, Mr. Lindesay's costs are as follows:

Down payment on equipment	$6,679
1st-year payments on equipment with interest	8,079
Miscellaneous	1,000
Building	1,000
Working capital requirement	18,090
Total	34,848

[3] *Suburban Broadcasters*, 20 RR 951 (1961).

6. The height and location of Milton Alfred Lindesay's tower has not yet been cleared by the Federal Aviation Administration. Accordingly, an air hazard issue has been included and the Federal Aviation Administration has been made a party to this hearing.

7. Milton A. Lindesay has failed to comply with section 1.580(c) of the Commission's rules in that he has apparently printed local notice of the filing of his application only once. An appropriate issue has been designated.

8. Several informal objections to the grant of a license to Arroyo and Figueroa Associates have been received.[4] Each letter objects to the fact that neither Arroyo nor Figueroa is a resident of Saint Thomas or ever intends to reside there. The letters, however, state no facts upon which to frame an issue. In addition, letters have been received from Milton Alfred Lindesay concerning the Arroyo-Figueroa application. The letters, although rather disjointed and non-specific, appear to state that efforts were made by one Rafi Encarnacion, who represented himself as agent for Mr. Arroyo and Mr. Figueroa, to secure a dropout agreement for a certain consideration. Mr. Lindesay appears to feel that the agent's method of contact was improper. However, the letters lack specificity and fail to state sufficient facts and allegations to warrant an issue. Accordingly, all informal objections will be denied.

9. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing in the issues set forth below.

10. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by Milton Alfred Lindesay to ascertain the community needs and interests of the area to be served and the means which the applicant proposes to meet these needs and interests.

2. To determine, with respect to the application of Arroyo and Figueroa Associates.

a. The rate of interest to be charged on the prospective $60,000 loan;

b. Whether, in the light of the evidence adduced pursuant to the foregoing issue, the applicant is financially qualified to construct and operate its proposed station.

3. To determine with respect to the application of Milton Alfred Lindesay:

a. The availability of additional funds.

b. Whether, in light of the evidence adduced pursuant to the foregoing issue, the applicant is financially qualified to construct and operate his proposed station.

4. To determine whether the application of Milton Alfred Lindesay is in compliance with section 1.580 of the Commission's rules and regulations, and, if not, the effect thereof upon the applicant's basic or comparative qualifications to be a Commission licensee.

5. To determine whether there is a reasonable possibility that the tower height and location proposed by Milton Alfred Lindesay would constitute a menace to air navigation.

6. To determine which of the proposals would, on a comparative basis, better serve the public interest.

7. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

11. *It is further ordered*, That the Federal Aviation Administration is made a party to the proceeding.

12. *It is further ordered*, That, the informal objections of Eric E. Dawson et al., are denied, and the informal objections of Milton Alfred Lindesay are denied.

13. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants respondent herein, pursuant to section 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

14. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 17, 1974.

Released: April 22, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-11085 Filed 5-13-74;8:45 am]

[4] Letters were received from Eric E. Dawson, Elmo D. Roebuck, Pedro Rodriguez, Suarez, Jr., Raymond J. Smith, Mrs. Lorraine Cox, Mrs. Nellie Greer, Ron Overrards, Fred Davis, Richard Thomas, Mrs. Sonia M. Greaux, Mrs. J. A. Ventura and Thomas Gonzales.

FEDERAL ENERGY OFFICE

CONSUMER ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Advisory Committee will hold a meeting on Tuesday, May 21, 1974 at 8:00 a.m., in Room 3000, Federal Energy Office, 12th and Pennsylvania Avenues, NW., Washington, D.C. The committee was established to advise the Administrator, FEO, on consumer aspects of interests and problems related to the policy and implementation of programs to meet the current energy crisis. The agenda for the meeting is as follows:

1. Crude oil price equalization—Evaluation and other options for consumers
2. Federal evaluation of new automobile gasoline mileages
3. Consumer Energy Act—Natural gas deregulation and FOGCO
4. FEO Conservation and Consumer Education programs
5. FEO's Office of Consumer Affairs—Progress report
6. Subcommittee organizational matters.

The meeting is open to the public; however, space and facilities are limited. Further information concerning the meetings may be obtained from Lee Richardson, Federal Energy Office, Washington, D.C. Telephone: 202-961-8576, 77.

The Chairman of the committee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Minutes of the meetings will be made available for public inspection at the Federal Energy Office, 12th & Pennsylvania Aves., NW., Washington, D.C.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-11041 Filed 5-9-74;11:48 am]

WHOLESALE PETROLEUM ADVISORY GROUP

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act. Pub. L 92-463, 86 Stat. 770) notice is hereby given that the Wholesale Petroleum Advisory Group will meet on Wednesday, May 15, 1974 at 9:30 a.m., in Room #2105 in the Cost of Living Council Auditorium, 2000 "M" Street NW., Washington, D.C. The participants at the meeting will be the members of the Wholesale Petroleum Advisory Group.

The Group was established to advise the Administrator, FEO, with direct and timely access to the technical knowledge possessed by a wide range of highly qualified independent businessmen engaged in the wholesale trade of selling heating oil, residual fuel and gasoline. The agenda for the meeting is as follows:

OLD BUSINESS

1. Price Markups.
   A. Cosignees/Commission Agents.
   B. Margin Increases.
2. No-Lead Gasoline Problems.
3. Normal Business Practices.
   A. Summer Fill.
   B. Credit Arrangements.
4. Two-Tier Pricing System.
   A. Prime Supplier.
5. Allocation Problems.
   A. Product Redistribution from Closed Outlets.

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NEW BUSINESS

1. Selection Date for Next Meeting.
2. Remarks from the Floor (10 minute rule).

The meeting is open to the public; however, space and facilities are limited.

The Chairman of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

Further information concerning this meeting may be obtained from Dino G. Pappas, Office of Policy, Planning and Regulation, Federal Energy Office, Washington, D.C. 20461. Area Code 202/961-8324. Minutes of the meeting will be made available for public inspection at the Federal Energy Office, Washington, D.C.

Issued in Washington, D.C., on May , 1974.

WILLIAM N. WALKER,
General Counsel.

[FR Doc.74-11229 Filed 5-13-74;10:08 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to 46 CFR Part 542 and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01233---	Buries Markes, Ltd.: *La Cordillera.*
01271---	Scheepvaart Maatschappij "Trans Oceaan" B.V.: *Grebbedyk, Gorredyk.*
01330---	Shell Tankers (U.K.), Ltd.: *Marinula, Kayeson.*
01354---	H. E. Hansen-Tangen: *Ranella.*
01707---	O. Ditlev-Simonsen Jr.: *Vigan.*
01719---	Unterweser Reederei G.m.b.h.: *Eckenheim.*
01843---	A. F. Harmstorf & Co.: *Samossand, Reefer Merchant, Reefer Trader.*
01876---	"Messana" Societa di Navigazione, SPA: *Francesco Crispi.*
01932---	Claudine Transport Corp.: *Claudine.*
02016---	A. L. Mechling Barge Lines, Inc.: *MBL-21T, MBL-20T, JIHCO-16, MBL-19T, JIHCO-14, Bob Fuqua, Lynn B, Craig M, Roy Mechling, Daniel Webster, Sarah Elizabeth.*
02129---	Ore Carriers, Ltd.: *Oregis.*
02167---	Sartori & Berger: *Cap Sunion.*
02194---	Compagnie Generale Transatlantique: *Astrolabe.*
02234---	Gulf Mississippi Marine Corp.: *Gulf Fleet 260.*
02341---	Koninklijke Nederlandsche Stoomboot-Maatscgappi N.V.: *Parthenon.*
02363---	Rederiet Otto Danielsen: *Erik Helleskov, Vibeke Thejlgaard.*
02889---	Showa Kaiun K.K.: *Seisho Maru.*
03256---	Upper Mississippi Towing Corp.: *Leslie Ann.*
03329---	Hudson Waterways Corp.: *Seatrain Carolina, Transglobe.*
03415---	Chiyoda Kisen K.K.: *Astoria Maru.*
03561---	Skibeaksjeselskapet "Solvang": *Kongsvang.*
03923---	Shinwa Kaiun Kaisha, Ltd.: *Juzan Maru.*
03999---	Hamilton Transport Co., Inc.: *Star Helene.*
04007---	Egon Oldendorff: *Hinrich Oldendorff.*
04014---	Del Monte Corp.: *Arctic Maid.*
04019---	Nord-Transport Strandeheim & Stensaker: *Hansa.*
04042---	Companhia de Navegaco Maritima Netumar: *Amalia, Joana.*
04046---	A/S Mosvold Shipping Co.: *Sterling.*
04055---	Missouri Barge Line Co., Inc.: *Arthur E. Snider, Nicholas Duncan.*
04173---	Foss Launch & Tug Co.: *Foss 117.*
04181---	Whitney-Fidalgo Seafoods, Inc.: *Moku.*
04235---	Bollinger & Boyd Barge Service, Inc.: *CAGC No. 1.*
04246---	Florida Panama Lines, Inc.: *Loreto, Tauros, Carlos Miguel.*
04289---	Dixie Carriers, Inc.: *B19, B24, B25, B26, B28.*
04389---	Roen Steamship Co.: *John Purves.*
04410---	Tenneco Oil Co.: *GT-115, GT-121.*
04594---	The Valley Line Co.: *MV 287.*
04880---	Oljekonsumenternas Forbund: *Oklahoma.*
04941---	Olau-Line, Ltd.: *Olau Mark, Olau Leif.*
05020---	Bamar Marine Co., Ltd.: *Abocol.*
05278---	Twin City Barge & Towing Co.: *Ellis 2007.*
05383---	Lineas Pinillos: *Lago Ercina.*
05425---	Georgia Transporters, Inc.: *GT-118, GT-116.*
05512---	Union Barge Line Corp.: *Redbird, Northern, Peace, Eastern, Goldfinch, Western, Mariner, Navigator, 325, 342, 344, 345, 349, 352, 354, 355, 357, 358, 359, 360, 362, 363, 364, 365, 601, 602, 603, 604, 605, 901, 902, 903, 904, 905, PPG-226, PPG-227, IC-15, M-3, 915, 916, 917, 918, 919, 920, 921, 922, 912, 913, 914, 906, 907, 908, 909, 910, 911, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 4903, 4904, 4905, 4906, 4602, 4907, 4901, 4902, 4801, 923, 924, 925, 926, 927, Union Barge Line Corp., Landing Boat.*
05815---	Compania Argentina de Navigacion de Ultramar S.A.: *Puerto Buitrago.*
05762---	Consolidated Edison Co. of N.Y., Inc.: *H. G. Stoot.*
06042---	Luzon Stevedoring Corp.: *Wolverine, Parkin, L-1906, LSCO Trident, Virginia City, LSCO Anzac.*
06086---	B & B Towing Co., Inc.: *MSL 51, MGL 52.*
06385---	Regency Transportation Co., Inc.: *Cedros Regent.*
06938---	Protrans Co., Inc.: *ETT 105.*
07157---	Missouri Dry Dock & Repair Co.: *MDDRC 4.*
08777---	Jebsens (U.K.), Ltd.: *Mornes.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-11098 Filed 5-13-74;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to 46 CFR Part 542.

Certificate No.	Owner/operator and vessels
01026---	Terkildsen & Olsen A/S: *Okiti.*
01011---	Aktieselskabet Det Ostasiatiske Kompagni: *Cedrela.*
01150---	Chevron Transport Corp.: *Chevron Nagasaki.*
02032---	D. B. Deniz Nakliyati T.A.S.: *Batman.*
02041---	"Dalmor" Przedsiebiorstwo Polowow Dale-Komorskich Usług Rybackich: *Denebola.*
02295---	The Great Eastern Shipping Co., Ltd.: *Jag Shanti.*
02344---	Empresa Lineas Maritimas Argentinas, S.A.: *Rio Limary.*
02416---	Boland and Cornelius, Inc.: *Sharon.*
02462---	Hellenic Lines, Ltd.: *Italia, Turkia, Hollandia, Athinai, Hellas, Livorno, Iraklion, Hellenic Leader, Hellenic Pioneer, Hellenic Destiny, Hellenic Laurel, Hellenic Splendor, Hellenic Hero, Hellenic Spirit, Hellenic Glory, Hellenic Torch.*
02507---	Union Navale: *Eldonia-Delmas.*
02877---	Nippon Yusen Kabushiki Kaisha: *Hikawa Maru, Golden Wistaria.*
03087---	Atlantic Far East Lines, Inc.: *Oceanic Constitution, Oceanic Independence.*
03256---	Upper Mississippi Towing Corp.: *Steve T, AC 1, CAGC No. 1, CAGC No. 2.*
03305---	Grand Bassa Tankers, Inc.: *Land of Liberty.*
03439---	Itaya Shosen K.K.: *Daihonshu Maru.*
03484---	Sanko Kisen K.K.: *Manhattan King.*
04126---	Jugoslavenska Linijska Plovidba, Rijeka: *Losinj, Opatija, Volosko, Senj.*
04228---	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Monthouet.*
05008---	Star Kist Foods, Inc.: *Day Island, Western King.*
05199---	Prekookeanska Plovidba: *Danilovgrad.*
05577---	Far Eastern Shipping Co.: *Kapitan Bakanov.*
05581---	Latvian Shipping Co.: *Mikhail Lomonosov.*
05822---	"Marcosa" Maritima Continental y de Comercion S.A.: *Marcoazul.*
06903---	Sun Shipbuilding & Dry Dock Co.: *Yard Hull 666.*
07791---	Sammi Shipping Co., Ltd.; *Frontier.*
07950---	Norman Offshore Services, Inc.: *NOS 4, NOS 7.*
08344---	Hammerton Shipping Co. S.A.: *Eastern River, Eastern Bridge, Cape Canaveral.*
08350---	Globtik Tankers, Ltd.: *Tundra Breeze.*
08351---	Globtik Tankers Bahamas, Ltd.: *Globtik Sun.*
08567---	A. Martinez & Cia.: *Rio Yuna.*
08611---	Evangelo Maritime Co., Ltd.: *Manolis M.*
08613---	Zodiac Marine Inc. Panama R.P.: *Regal Sky.*
08624---	Edgewater Shipping, Inc.: *Marine Hope.*
08629---	Black Gold, Ltd.: *Black Gold.*
08708---	Compania Maritima de Miramar S.A.: *Stolt Pasadena.*

Certificate No.	Owner/operator and vessels
08777---	Jebsen (U.K.), Ltd.: *Leknes, Fonnes, Mornes, Furunes.*
08833---	General Metals of Tacoma, Inc.: *French.*
08890---	Shoyu Sangyo Kabushiki Kaisha: *Fujikaze Maru.*
08895---	Koberg Corp., Ltd.: *Sukumbi.*
08911---	Compania de Navegacion Amita, S.A.: *Amita.*
08932---	Rederij van der Schoot: *Vlieree, Vliehors, Caranan, Pollendam.*
08936---	Zea Shipping Co., SA: *Agia Fotini.*
08938---	Gibraltar Shipping, Inc.: *Gibraltar Pansy.*
08939---	Trustinus Shipping, Ltd.: *Valiant King.*
08940---	Major Ned, Inc.: *Major Ned.*
08942---	N. V. Motorscheepvaartmaatschappij "Candide": *Candide.*
08946---	C. Avramides Maritime Enterprises SA/Panama: *Maritoula, Gertrude Wiener.*
08947---	J. & M. Shipping Co., Inc.: *Maurine K.*
08951---	Koram Fisheries S.A.: *No. 1 Koram, No. 2 Koram, No. 3 Koram, No. 101 Koram, No. 102 Koram, No. 103 Koram.*
08952---	Korean Tuna Ventures S.A.: *No. 1 Korbee, No. 2 Korbee, No. 3 Korbee, No. 5 Korbee, No. 6 Korbee, No. 7 Korbee.*
08954---	Wilh. Chr. Bech Rederi & Skibsmaegler-Forretning: *Henriette Bravo, Leila Bech.*
08962---	Potenza Shipping Co.: *Potenza.*
08963---	Hawke Bay Shipping Co., Ltd.: *Efthimis.*
08964---	Houlder Brothers & Co. Ltd.: *Chelwood, Sherwood.*
08965---	Seereederei MS Schauenburg Kurt Sieh & Co.: *Schauenburg.*
08969---	First United Shipping Corp.: *Western Lion.*
08972---	Varnicos Tercero Corp. S.A.: *Kriti Wave.*
08974---	Chariot Maritime Co., Ltd.: *Queen of Ampelos.*
08975---	Alcoa Marine Corp.: *Alcoa Seaprobe.*
08977---	K/S A/S Dag & Co.: *Dag Hild.*
08978---	Cayman Island Vessels, Ltd.: *Gulfrex.*
08980---	Azuma Shipping Co., Ltd.: *Toh Yo Maru.*
08983---	Occidental Shipping Establishment, Vaduz: *Odenfeld.*
08984---	Western Gulf Shipping Establishment, Vaduz: *Hagensee.*
08989---	Tern N.V.: *Santo Antonio.*
08991---	Tolani Private, Ltd.: *Prabhu Puni.*
08992---	Thira Maritime Co., Ltd.: *St. Michael.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-11097 Filed 5-13-74;8:45 am]

HOUSEHOLD GOODS FORWARDERS ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 3, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Joseph F. Mullins, Jr., Esquire
Denning & Wohlstetter
1700 K Street NW.
Washington, D.C. 20006

Agreement No. 9510-3, among the members of the Household Goods Forwarders Association of America Rate Agreement, amends Paragraph (1) of the basic agreement to permit the publication of a tariff by the Household Goods Forwarders Association of America applying on through intermodal inland to inland points traffic in the trade covered by the agreement.

By Order of the Federal Maritime Commission.

Dated: May 9, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-11096 Filed 5-13-74;8:45 am]

[Independent Ocean Freight Forwarder License No. 577]

J. M. SCHIFFINO & CO., INC.

Order of Revocation

By letter of May 3, 1974, the Federal Maritime Commission received notification that J. M. Schiffino & Co., Inc., One Broadway, New York, New York 10004 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 577 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) Section 7.04(f) (dated 9/15/73);

It is ordered, That Independent Ocean Freight Forwarder License No. 577 be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of J. M. Schiffino & Co., Inc. be and is hereby revoked effective May 3, 1974.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon J. M. Schiffino & Co., Inc.

AARON W. REESE,
Managing Director.

[FR Doc.74-11095 Filed 5-13-74;8:45 am]

UNIVERSAL ALCO LTD., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 3, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

UNIVERSAL ALCO LTD., TROPICAL SHIPPING & CONSTRUCTION CO., LTD., AND NORWEGIAN CARIBBEAN LINES

Notice of agreement filed by:

Mr. Lebron Shields
Executive Vice President
Universal Alco Limited
750 N.E. 7th Avenue
Port Laudania
Dania, Florida 33004

Agreement No. 10021-2, among Universal Alco Limited, Tropical Shipping & Construction Company, Ltd., and Norwegian Caribbean Lines, modifies the approved basic discussion agreement in the trade between Florida ports and ports in the Bahama Islands by adding a new Item 4 pertaining to the coordination of sailings of the vessels of the parties in the agreement trade, and a new paragraph to provide that equipment demurrage charges and practices agreed to by the parties will be filed with the Commission.

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By Order of the Federal Maritime Commission.

Dated: May 8, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-11094 Filed 5-13-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI74-221; RI74-134; RI73-91]

RATE CHANGES; CERTAIN COMPANIES

Hearing, Suspension of Proposed Changes, and Allowing Rate Changes To Become Effective Subject to Refund [1]

MAY 3, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Chapter I), and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI74-221..	Amoco Production Co....	587	[1] 6	Panhandle Eastern Pipe Line Co., (Wattenberg and other fields, Adams, Arapahoe, Douglas, Elbert, and Weld Counties, Colo., and Laramie County, Wyo., Colorado-Julesburg Basin Subarea) (Rocky Mountain Area).	.....	4-8-74	5-9-74	[2] Accepted.....			
	...do.....		7	...do.....	$7,996,791	4-8-74	.....	10-9-74	[3] 26.1549	[3] 45.6593	
RI74-131	Southern Union Production Co.	[4] 1	33	El Paso Natural Gas Co. (Mesa Verde and Dakota Formations, San Juan and Rio Arriba Counties, N. Mex., San Juan Basin Subarea) (Rocky Mountain Area).	[5] 11,987	4-5-74	.....	7-2-74	[3] 29.16	[3] 29.48	RI74-134.
RI74-134	...do.....			...do.....	[6] 518	4-5-74	.....	7-2-74	[6] 33.9	[6] 34.28	RI74-134.
RI74-134	...do.....	5	20	...do.....	1,221	4-5-74	.....	7-2-74	[6] 29.11	[6] 29.85	RI74-131.
RI74-134	...do.....			...do.....	([7])	4-5-74	.....	7-2-74	[6] 33.14	[6] 33.5	RI74-134.
RI74-134	...do.....	10	11	...do.....	[6] 22,253	4-5-74	.....	7-2-74	[6] 29.63	[6] 30.40	RI74-134.
RI74-134	...do.....			...do.....	[6] 206	4-5-74	.....	7-2-74	[6] 33.57	[6] 33.94	RI74-134.
RI74-134	...do.....	15	15	...do.....	[6] 5,264	4-5-74	.....	7-2-74	[6] 30.85	[6] 31.65	RI74-134.
RI74-134	...do.....			...do.....	[6] 277	4-5-74	.....	7-2-74	[6] 29.99	[6] 30.32	RI74-134.
RI74-134	...do.....			...do.....	[6] 197	4-5-74	.....	7-2-74	[6] 34.88	[6] 35.26	RI74-134.
RI73-91	Phillips Petroleum Co....	279	22	El Paso Natural Gas Co., (Hogsback Area, Sublette and Lincoln Counties, Wyo., Unita-Green River Basin Subarea) (Rocky Mountain Area).	54,082	4-8-74	.....	4-9-74	25.9482	[6] 26.7208	RI73-91.

* Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[1] Contract agreement dated Nov. 27, 1973.
[2] Accepted as of the date set forth in the "Effective date unless suspended" column.
[3] Includes upward Btu adjustment for 1,113 Btu from a base of 1,000 Btu/ft³.
[4] Considered new gas pursuant to opinion No. 639.
[5] For wells completed prior to June 1, 1970.
[6] For wells completed on or after June 1, 1970.
[7] No current deliveries.
[8] For acreage added by supplement No. 8 dated after Oct. 1, 1968, and wells completed prior to June 1, 1970.
[9] Includes a double amount of contractually due tax reimbursement.

The increase proposed by Amoco exceeds the ceiling established in Order No. 435 and is suspended for five months.

Phillips' proposed increase reflects the 2 percent increase in the Wyoming severance tax. Since Phillips' underlying rate is being collected subject to refund, the subject tax increase will be suspended for one day in that same proceeding. After Phillips has recovered tax reimbursement on past production, it shall file a rate decrease reflecting only contractually due tax reimbursement for future production.

The other proposed increases reflect the recent increase in the New Mexico severance tax which is to become effective on July 1, 1974. Southern Union's current base rates exceed the ceiling established in Order No. 435 and are being collected subject to refund. Accordingly, the tax increases are suspended for one day from July 1, 1974, in the existing proceedings.

[FR Doc.74-10905 Filed 5-13-74;8:45 am]

[Docket No. RI74-219]

GEOLOGICAL EXPLORATION CO.

Notice of Petition for Special Relief

MAY 7, 1974.

Take notice that on April 29, 1974, Geological Exploration Company, (Petitioner), P.O. Box 1644, Longview, Texas 75601, filed a petition for special relief in Docket No. RI74-219, pursuant to Order No. 482, Docket No. R-459, issued June 8, 1973, relating to flaring of natural gas. Petitioner seeks a rate of 65 cents per Mcf for the sale of casinghead gas to Texas Gas Transmission Corporation and Tennessee Gas Transmission Company from the South Hallsville Field, Panola County, Texas. Petitioner states that this gas is now being flared and wasted, and that it needs the proposed rate to justify the expenses to be incurred in such sale.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11080 Filed 5-13-74;8:45 am]

[Docket No. RP74-86]

GULF ENERGY AND DEVELOPMENT CORP.

Proposed Change in Rate

MAY 7, 1974.

Take notice that on April 26, 1974, Gulf Energy and Development Corporation (Applicant) tendered for filing a Notice of Change in Rate for the Gathering of Gas for Tennessee Gas Pipeline Company (Tennessee) under Applicant's FPC Gas Rate Schedule No. 1 to 11.17 cents per Mcf to become effective June 11, 1974. The annual increase in revenues which will result amounts to approximately $422,310 based upon the total gas volume gathered during the test period calendar year 1973, as adjusted.

Applicant's gathering facilities are located in Zapata and Starr Counties, Texas. Applicant states that it is classified as a Class C natural gas company by the Commission; that it performs a gathering service for Tennessee under said rate schedule; that it operated for about twelve years under a fixed price contract and accordingly did not seek or obtain an increased rate for such service until it obtained an increase in 1973 in Docket No. RP73-79; that in view of further increased costs and further diminished volumes it must now seek the increase in rate presently proposed. A copy of Applicant's proposal is contained in Applicant's filing which is available for inspection at the offices of the Federal Power Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11081 Filed 5-13-74;8:45 am]

[Docket No. E-7855]

NEW ENGLAND POWER CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

MAY 7, 1974.

On April 22, 1974, New England Power Company filed a motion for an extension of time for the filing of its rebuttal case and the date for the prehearing conference and hearing fixed by order issued April 10, 1974, in the above-designated matter.

On April 26, 1974, Staff Counsel filed an answer opposing the above motion but recommended a one week extension of the rebuttal date and the prehearing conference and hearing.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Rebuttal Testimony by New England Power Company, May 15, 1974.
Prehearing Conference and Hearing, May 21, 1974 (10 a.m. e.d.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11082 Filed 5-13-74;8:45 am]

[Docket No. CI74-572]

SKELLY OIL CO.

Notice of Application

MAY 7, 1974.

Take notice that on April 18, 1974, Skelly Oil Company (Applicant), P.O. Box 1650, Tulsa, Oklahoma 74102, filed in Docket No. CI74-572 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from Winkler County, Texas, to Transwestern Pipeline Company (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant has on file an application in Docket No. CI74-514 for permission and approval to abandon a sale of gas to Texaco, Inc. from its Cambell "A" Well No. 6, Winkler County, Texas. Applicant states in that application and in the instant application that as casinghead gas the production is dedicated to Texaco pursuant to a percentage of the proceeds casinghead gas contract. Applicant further states that the Texas Railroad Commission has reclassified the subject well from an oil well to a gas well in the South Kermit Field and that Texaco has advised Applicant that it is unable to take gas from the Cambell "A" Well No. 6 into its system because of a lack of capacity and inability to handle the higher pressure gas.

Applicant states that it intends to commence the sale of gas on an emergency basis to Transwestern, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for a period of one year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 Mcf of gas per day to Transwestern at 45.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot.

Applicant indicates that in furtherance of such a sale of gas it is installing, at its own expense, approximately one and one-quarter miles of pipeline to connect the subject well to Transwestern's pipeline.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-11083 Filed 5-13-74;8:45 am]

[Docket No. RI74-220]

DINERO OIL CO.

Petition for Special Relief

MAY 7, 1974.

Take notice that on April 24, 1974, Dinero Oil Co. (Petitioner), 600 Southwest Tower, Houston, Texas 77002, filed a petition for special relief in Docket No. RI74-220, pursuant to § 2.76 of the Commission's general policy and interpretations.

Petitioner seeks a price of 50 cents per Mcf for the sale of gas to Tennessee Gas Pipeline Company of America under its FPC Gas Rate Schedule No. 1 from the Chess Todd Lease, Narcisso Tract No. 4, Willacy County, Texas. The petition is based upon proposed reworking operations with respect to a previously aban-

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doned well on the subject lease, and the installation of compression facilities. Petitioner estimates that the reserves are from 100 to 150 million cubic feet, averaging 300 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11079 Filed 5–13–74;8:45 am]

FEDERAL RESERVE SYSTEM

FLORIDA BANCORP, INC.

Acquisition of Bank

MAY 8, 1974.

Florida Bancorp, Inc., Pompano Beach, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Florida Coast Bank of Coral Springs, National Association, Coral Springs, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than June 4, 1974.

Board of Governors of the Federal Reserve System, May 8, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74–11052 Filed 5–13–74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temp. Reg. F–219]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Mississippi Public Service Commission in a rate proceeding involving electric service supplied by the Mississippi Power Company (Docket No. U–2783).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

DWIGHT A. INK,
Acting Administrator of General Services.

MAY 7, 1974.

[FR Doc.74–11063 Filed 5–13–74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

BICENTENNIAL COMMITTEE OF THE NATIONAL COUNCIL ON THE ARTS

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a meeting of the Bicentennial Committee of the National Council on the Arts will be held at 9:00 a.m. on May 17 and 9:00 a.m. on May 18, 1974 in the 8th floor conference room, McPherson Building, 1425 K St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on May 17 from 9:30 until 12:00 noon on a space available basis. Accommodations are limited. During the open session, the following areas will be discussed: 1) Miscellaneous reports on developments 2) Report by Robert Kingston, Humanities 3) Report by William Blue, Director, International Activities, ARBA 4) Report by Richard Clurman, Cultural Consultant, ARBA 5) Report by Jane Shay, Special Project Assistant, "Festival USA," ARBA.

The remaining session of this meeting, May 17 from 9:00 a.m. to 5:00 p.m. and May 18 from 9:00 a.m. to noon, 1974 are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanitaries Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of January 10, 1973, these sessions, involving matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (6), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382–5871.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74–11197 Filed 5–13–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

LIST OF REQUESTS

Clearance of Reports

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 9, 1974 (44 USC 3509). The purpose of publishing this list in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Statistical Research Service, Sample Survey Concept Study Form, Singletime, Wann/Lowry, Business firms.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration, Readership Survey for Administration in Mental Health, Form ADAMMH 0506, Singletime, Lowry, Administrators of Mental Health Service Programs.

Health Services Administration, Health Services for Communicative Disorders in Low, Income Families, Form HSABCHS 0506, Singletime, Caywood, Speech and Hearing Providers and Recipients.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Survey of Current Mortgage Status, Form, Singletime, CVAD/Sunderhauf Mortgagees in 6 SMSAs.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service, Cottonseed Prices, Form CN–235, Weekly, Lowry, Cotton Gins.

Statistical Reporting Service, Acreage and Production Survey, Form, Annually, Lowry, Farmers.

VETERANS ADMINISTRATION

Study of Treatment of Drug Dependent Patients, Form 10–1471b, Singletime, HRD/Reese, Patients and former patients.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Report of Production and Disposition (Cotton), Form MQ–96, Occasionally, Evinger (x), Cotton Producers.

Application for Transfer of Acreage Due to Disaster, Form ASCS–364, Occasionally, Evinger (x), Tobacco, Cotton Producers.

DEPARTMENT OF COMMERCE

Bureau of the Census, Cotton Ginned By Counties in Which Grown, Form CAg–3, Annually, Evinger (x), Cotton Gins.

Precanvass of Gins, Crop of, Form CAg–5, Annually, Evinger (x), Cotton Gins.

Bale Weight Report of Cotton Ginned, Form CAg–4A1 thru 3, etc., Occasionally, Evinger (x), Cotton Gins.

Cotton Ginned From this Crop Prior to Mailing, Date Crop of, Form CAg–1A through CAg–1L, Annually, Evinger (x), Cotton Gins.

Maritime Administration, Establishment • • • of the Statutory Capital and Special Funds and • • • Capital Employed in Business and Net Earnings, Form Schedules A, B, C, Occasionally, Evinger (x), Subsidized Operators.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Application for Grant Assistance—Water and Sewer Facilities, Form 41401.1, etc., Occasionally, CVAD (x).

Instructions for Compliance with Title VI of the Civil Rights Act of 1964, Form 41903, Occasionally, CVAD (x).

Application for Workable Program Certification or Recertification, Form 1081, Occasionally, CVAD (x).

Community Renewal Budget Urban Renewal Program, Form 6410, Occasionally, CVAD (x).

Community Renewal Program Progress Report, Form 6430, Occasionally, CVAD (x).

Reporting Requirements for Model Cities, Form 3160.5, Quarterly, CVAD (x).

Neighborhood Development Program Application for Federal Assistance—Part A, Form 6270.1, Occasionally, CVAD (x).

Application for Code Enforcement, Application for Code Enforcement Area Data (Under Section 117 of The Housing Act of 1949, as amended), Form 6170, 6170A, Occasionally, CVAD (x).

FEDERAL RESERVE BOARD

Commercial and Industrial Bank Report of Consumer Credit, Form FR 571, Monthly, Hulett.

Dealer Cost Ratios and Maturities on Automobile Installment Loans—Finance Companies, Form FR584b, Monthly, Hulett.

Finance Companies: Finance Rates on Consumer Installment Credit, Form FR 635, 635a, 635b, 636, 636a, 636b, 644, 644a, 644b, Bi-monthly, Hulett.

RAILROAD RETIREMENT BOARD

Physician's Statement, Form G–478, Occasionally, Evinger (x).

Medical Officer's Statement, Form G–479, Occasionally, Evinger (x).

Application for Reimbursement for Hospital Insurance Services Furnished in Canada, Form AA–104, Occasionally, Evinger (x).

Railroad Report on Extra Board Employees, (Employment Benefits), Form UI–38, Occasionally, Evinger (x).

Supplemental Application for Employment Service, Form ES–1a, Occasionally, Evinger (x).

Report by Survivor Insurance Annuitant Concerning Employment, Form G–377, Occasionally, Evinger (x).

Pay Rate Report and Employers Corrected Report of Pay Rate, Form UI–1d, Occasionally, Evinger (x).

Medical Report Forms Required—Disability Determinations, Form G–3, etc., Occasionally, Evinger (x).

Report of Payments To Employee Claiming Sickness Benefits Under Railroad Unemployment Insurance Act, Form SI–5, Occasionally, Evinger (x).

Statements Regarding Marital Relationship (Applicants for Benefits Under Railroad Retirement Act), Form G–124, 124A, Occasionally, Evinger (x).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–11163 Filed 5–13–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

CANADIAN JAVELIN, LTD.

Notice of Suspension of Trading

MAY 7, 1974.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 8, 1974 through May 17, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11106 Filed 5–13–74;8:45 am]

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Notice of Suspension of Trading

MAY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 5, 1974 through May 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11103 Filed 5–13–74;8:45 am]

[File No. 500–1]

ET&T LEASING, INC.

Notice of Suspension of Trading

APRIL 30, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of ET&T Leasing, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:00 noon e.d.t., April 30, 1974 through May 9, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11102 Filed 5–13–74;8:45 am]

[File No. 500–1]

HOME-STAKE PRODUCTION CO.

Notice of Suspension of Trading

MAY 3, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 5, 1974 through May 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11099 Filed 5–13–74;8:45 am]

[70–5500]

PENNSYLVANIA ELECTRIC CO.

Proposed Issue and Sale of First Mortgage Bonds

MAY 3, 1974.

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, an electric utility subsidiary company of General Public Utilities Corporation ("GPU"), a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All inter-

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ested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Penelec proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $50,000,000 principal amount of First Mortgage Bonds, ------ percent Series due 2004. The interest rate (which will be a multiple of ⅛ of 1 percent) and the price (which will be not less than 100 percent nor more than 102.75 percent of the principal amount thereof) will be determined by competitive bidding. The bonds will be issued under a Mortgage and Deed of Trust of Penelec to Bankers Trust Company, Trustee, dated as of January 1, 1942, as heretofore amended and supplemented and as to be further amended and supplemented by a Supplemental Indenture to be dated as of June 1, 1974. The term of the issue preclude Penelec from redeeming any bonds prior to June 1, 1979, if such redemption is for the purpose of refunding such bonds with proceeds of funds borrowed at a lower effective interest cost.

The entire proceeds, excluding premium and accrued interest, realized from the sale of the new bonds ($50,000,000) together with the expected cash capital contributions aggregating $30,000,000 from GPU, internally generated cash of approximately $27,000,000 and the proceeds from the sale of additional First Mortgage Bonds, Debentures and Preferred Stock plus, on an interim basis, the proceeds of bank borrowings, will be applied to its construction program, for sinking fund purposes, and to refund at maturity Northern Pennsylvania Power Company First Mortgage Bonds due 1975. The estimated cost of Penelec's 1974 construction program is approximately $160,000,000.

The fees and expenses to be paid by Penelec in connection with the proposed issuance and sale of the Bonds are estimated to total $155,000, including legal fees of $38,000. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issue and sale of bonds by Penelec and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 29, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11104 Filed 5-13-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Notice of Suspension of Trading

MAY 7, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 8, 1974 through May 17, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 74-11105 Filed 5-13-74;8:45 am]

[File No. 500-1]

SERVISCO

Notice of Suspension of Trading

MAY 6, 1974.

The common stock of Servisco being traded on the American and Pacific Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Servisco being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 12:30 p.m. (e.d.t.) on May 6, 1974 through May 15, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11108 Filed 5-13-74;8:45 am]

[File No. 500-1]

TECHNICAL RESOURCES, INC.

Notice of Suspension of Trading

MAY 6, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Technical Resources, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from May 7, 1974 through May 16, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11101 Filed 5-13-74;8:45 am]

[File No. 500-1]

UNITED AMERICA GROUP, INC.

Notice of Suspension of Trading

MAY 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of United America Group, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2:45 p.m. (e.d.t.) on May 1, 1974 through May 10, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11100 Filed 5-13-74;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Notice of Suspension of Trading

MAY 7, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:30 p.m. (e.d.t.) on May 8, 1974 through May 17, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11107 Filed 5-13-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0170]

ASSET MANAGEMENT CAPITAL CO.

Application for a License as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (SBIC's) (13 CFR § 107.102 (1974)), under the name of Asset Management Capital Co., 1417 Edgewood Drive, Palo Alto, California 94301, for a license to operate in the State of California as an SBIC under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and principal stockholders are:

Franklin Pitcher Johnson, Jr., 1411 Edgewood Drive, Palo Alto, California 94301, President, Director, 33⅓ percent.
Catherine H. Johnson, 1411 Edgewood Drive, Palo Alto, California 94301, Secretary, Director, 33⅓ percent.
Brook H. Byers, 707 Continental Circle, Mountain View, California 94040, Vice President, Treasurer, Director.
Jeanne W. Doxsee, 439 Glenwood Avenue, Menlo Park, California 94025, Assistant Secretary.

The company will begin operations with an initial capitalization of $312,000. No concentration in any particular industry is planned. The applicant intends to make investments in small business concerns, with growth potential, located primarily within the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than May 19, 1974, submit to SBA, in writing, relevant comments on the proposed company. Any communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Palo Alto, California.

Dated: May 6, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-11056 Filed 5-13-74;8:45 am]

[Delegation of Authority No. 13-A; Amdt. 1]

DIRECTOR, OFFICE OF MANAGEMENT ASSISTANCE AND 406 PROGRAM MANAGER MASD

Delegation of Authority

Delegation of Authority No. 13-A (37 FR 24716) is hereby amended to delegate to certain positions the authority to extend or modify existing 406 contracts.

Paragraph IC is added to Delegation of Authority No. 13-A and reads as follows:

C. *Director, Office of Management Assistance and 406 Program Manager, MASD.* 1. To extend or modify existing 406 contracts providing financial assistance to public or private organizations to pay technical and management assistance to individuals or enterprises eligible for assistance section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals. Such financial assistance may be provided for projects, including without limitation:

a. Planning and research, including feasibility studies and market research;

b. The identification and development of new business opportunities;

c. The furnishing of centralized services with regard to public services and government programs, including programs authorized under section 402 of the Economic Opportunity Act of 1964, as amended;

d. The establishment and strengthening of business service agencies, including trade associations and cooperatives;

e. The encouragement of the placement of subcontracts by major businesses with small business concerns located in urban areas of high concentration of employed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns;

f. The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

* * * * * *

Effective Date: April 29, 1974.

LOUIS F. LAUN,
Acting Associate Administrator, Procurement and Management Assistance.

[FR Doc.74-11055 Filed 5-13-74;8:45 am]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON CEMETERIES AND MEMORIALS

Notice of Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Advisory Committee on Cemeteries and Memorials, authorized by section 1001, title 38, United States Code, will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C., on May 22 and 23, 1974, at 9 a.m. The meeting will be held to conduct routine business.

The meeting will be open to the public up to the seating capacity of the conference room which is about 40 persons. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Ms. Charlotte Withers in the office of the Director, National Cemetery System, Veterans Administration Central Office (phone 202-389-5211) prior to May 22, 1974.

Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting.

Oral statements and/or reports from the public will be heard only between 3 p.m. and 5 p.m. on May 23, 1974, due to the number of items on the agenda for the meeting.

Dated: May 7, 1974.

By direction of the Administrator.

[SEAL] RICHARD L. ROUDEBUSH,
Deputy Administrator.

[FR Doc.74-11115 Filed 5-13-74;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary of Labor

[Secretary of Labor's Order 8-74]

ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS ET AL.

Delegation of Authority for Rehabilitation Act Programs

1. *Purpose.* To delegate authority and assign responsibility for carrying out functions vested in the Secretary of Labor pursuant to sections 501, 502, 503, and 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112) and Executive Order 11758—Delegating Authority of the President under the Rehabilitation Act of 1973.

2. *Delegation of authority and assignment of responsibility.* a. The Assistant Secretary for Employment Standards, except as hereinafter provided, is delegated authority and assigned responsibility for:

(1) Representing the Secretary on the Interagency Committee on Handicapped Employees pursuant to section 501(a) of the Act.

(2) Representing the Secretary on the Architectural and Transportation Barriers Compliance Board pursuant to section 502 of the Act.

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(3) Carrying out those functions vested in the Secretary pursuant to section 503 of the Act and Executive Order 11758.

b. The Assistant Secretary for Administration and Management, except as hereinafter provided, is delegated authority and assigned responsibility for carrying out those functions vested in the Secretary pursuant to section 501(b) of the Act, issuing Departmental instructions and monitoring their implementation for meeting the Secretary's responsibilities under section 504 and coordinating all such activities with the Assistant Secretary for Employment Standards.

c. The Solicitor of Labor shall have responsibility for providing advice and assistance to all officers of the Department relating to the delegations of authority referred to above and applicable laws and regulations.

d. Agency Heads of the Department of Labor are responsible for implementing in their respective agencies the provisions related to Federal grants under section 504.

3. Reservations of Authority. The submission of reports and recommendations to the President and the Congress is reserved by the Secretary.

4. *Effective date.* This order is effective on March 12, 1974.

Signed at Washington, D.C., on the 12th day of March, 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74-10998 Filed 5-13-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 507]

ASSIGNMENT OF HEARINGS

MAY 9, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after May 14, 1974.

MC-C-8228, Harrison-Shields Transportation Lines, Inc.—Investigation and Revocation Of Certificates, now assigned June 17, 1974, at Columbus, Ohio, will be held in Room 235 Federal Building, 85 Marconi Boulevard.

MC 116288 Sub-44, Stephen F. Frost, now assigned June 18, 1974, at Columbus, Ohio, will be held in Room 235 Federal Building, 85 Marconi Boulevard.

MC-F-12062, Lyons Transportation Lines, Inc.—Control and Merger—Wilson Transportation Service, Inc.; and Finance Docket No. 27630, Lyons Transportation Lines, Inc., Securities, now assigned June 19, 1974, at Columbus, Ohio, will be held in Room 235 Federal Building, 85 Marconi Blvd.

MC 112304 Sub-71, Ace Doran Hauling & Rigging Co., and MC 119777 Sub-258, Ligon Specialized Hauler, Inc., now assigned June 25, 1974, at Louisville, Ky., will be held in Room 1052A Federal Building, 600 Federal Plaza.

MC 123639 Sub 155, J. B. Montgomery, Inc., now being assigned hearing June 17, 1974 (2 days), in Room 1430, Federal Bldg., 1961 Stout Street, Denver, Colo.

MC 123392 Sub 59, Jack B. Kelley, Inc., now being assigned hearing June 19, 1974 (3 days), at Denver, Colo., in Room 1430 Federal Bldg., 1961 Stout Street.

MC 95540 Sub 886, Watkins Motor Lines, Inc., MC 107515 Sub 865, Refrigerated Transport Co., Inc., now assigned hearing June 3, 1974 will be held at the Holiday Inn, Downtown, 15th & Glenarm Pl., Denver, Colo.

MC-F-11852, Neylon Freight Lines, Inc.—Control—Merscheim Transfer, Inc., MC 111231 Sub 182, Neylon Freight Lines, Inc., now assigned June 10, 1974, will be held at the Holiday Inn, 15th & Glenarm Pl., Denver, Colo.

W-381 Sub 18, Federal Barge Lines, Inc., now assigned June 3, 1974, will be held in the Moot Courtroom, St. Louis University Law School, 3642 Lindell Blvd., St. Louis, Mo.

MC 119777 Sub 276, Ligon Specialized Hauler, Inc., now assigned June 17, 1974, MC-F-11942, United Trucking Service, Inc.—Control—Harper Truck Service, Inc., now assigned June 19, 1974, MC-F-12060, Anderson Motor Service, Inc.—Purchase—Toedebusch Transfer, Inc., now assigned June 24, 1974, at St. Louis, Mo., will be held in Moot Courtroom, St. Louis University Law School, 3642 Lindell Blvd., St. Louis, Mo.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-11124 Filed 5-13-74;8:45 am]

[Rule 19, Ex Parte No. 241; 14th Rev. Exemption No. 12]

ATLANTIC AND WESTERN RAILWAY, ET AL.

Mandatory Car Service Exemption

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 391, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic and Western Railway Reporting marks: ATW
Pickens Railroad Company Reporting marks: PICK
Roscoe, Snyder and Pacific Railway Company Reporting marks: RSP
Wellsville, Addison & Galeton Railroad Corporation Reporting marks: WAG

Effective May 1, 1974, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 1, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-11119 Filed 5-13-74;8:45 am]

[No. 35944]

DRUG AND TOILET PREPARATION TRAFFIC CONFERENCE

Petition for Declaratory Order; Interpretation of Liability Limitation

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 25th day of April, 1974.

It appearing, That, on January 8, 1974, a petition was filed by the Drug and Toilet Preparation Traffic Conference requesting a declaratory order or interpretation of the liability limitation published in Released Rates Order No. MC-342 on the ground that different interpretations of the liability limitation are being applied by carriers in processing claims for loss and damage;

It further appearing, That the liability limitation reads as follows: "The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding 50 cents per pound for each article";

It further appearing, That the petition illustrates three different interpretations of the liability limitation utilizing an example of a 1,000 pound shipment of drugs consisting of 20 cases weighing 50 pounds each, with each case containing 10 bottles weighing 5 pounds each. The value of the bottles is $10.00 each. Under the assumption that five bottles were lost, the shipper files a claim for $50.00. Carrier A receives the claim and pays it in full on the theory that the shipment consisted of a single article, drugs, and the liability limitation is "50 cents per pound for each article," thus, 50 cents×1,000 pounds=$500.00 and the claim was for only $50.00. Carrier B construes the words "per article" as meaning per case and calculates the liability limitation as 50 cents×the case weight of 50 pounds=$25.00, and pays accordingly. Carrier C construes "per article" as meaning the smallest unit which can be separately identified, the bottle, and calculates the liability limitation as 50 cents×5 pounds per lost bottle=$12.50, and pays accordingly; and that petitioner contends that the interpretation applied by Carrier A is the correct one;

It further appearing, That the petition discloses a controversy or uncertainty which would warrant the entry of a declaratory order by the Commission;

Wherefore, and for good cause:

It is ordered, That the petition be, and it is hereby, granted to the extent of instituting this proceeding to determine the question presented.

It is further ordered, That any person interested in the matter which is the subject of the petition and who wishes to actively participate in further proceedings herein shall notify this Commission, by filing with the Office of Proceedings, Room 5342, 12th Street and Constitution Avenue, NW., Washington, D.C. 20423, on or before June 7, 1974, an original and one copy of a statement of his intention to participate. Thereafter, this proceeding will be set for handling under the modified procedure. The petition and statements of intention to participate, if any, will be available for public inspection at the offices of the Commission during regular business hours.

A copy of this order will be served upon the petitioner, and notice of the filing of the petition will be given to the general public by depositing a copy of this order in the Office of the Commission's Secretary at Washington, D.C., and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-11121 Filed 5-13-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 9, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before May 29, 1974.

FSA No. 42832—*Beet or Cane Sugar to St. Charles, Illinois.* Filed by Southwestern Freight Bureau, Agent (No. B-468), for interested rail carriers. Rates on sugar, beet or cane, dry, in carloads, as described in the application; also returned shipments in the reverse direction, from Hereford, Texas, to St. Charles, Illinois.

Grounds for relief—Market competition, rate relationship, returned shipments.

Tariff—Supplement 90 to Southwestern Freight Bureau, Agent, tariff 72-H, I.C.C. No. 4886. Rates are published to become effective on June 5, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-11125 Filed 5-13-74;8:45 am]

[Section 5a Application No. 112]

HIGHWAY CARRIERS TRAFFIC ASSOCIATION

Agreement Approval Application

MAY 2, 1974.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed February 22, 1974 by: Richard W. May, Executive Secretary, Highway Carriers Traffic Association, 1129 Grimmet Drive, Shreveport, LA 71107 (Attorney-in-Fact).

Agreement Involves: Organization and procedures between and among carrier by motor vehicles, members of Highway Carriers Traffic Association, relating to the joint consideration, initiation or establishment of rates, charges, rules, regulations, classifications, and practices, applicable to the transportation of freight from, to, and between all points and places in the United States.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before June 3, 1974. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved, without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-11122 Filed 5-13-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 9, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination rules (49 CFR Part 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 24, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successivley filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any must refer to such letter-notices by number.

No. MC-730 (Sub-No. E4), filed May 1, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except chemicals for human consumption, silicate of soda, petroleum products, liquid glue, and formaldehyde), in bulk, in tank vehicles, from points in Idaho to points in California. The purpose of this filing is to eliminate the gateway of points in Oregon.

No MC-730 (Sub-No. E6), filed May 1, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except chemicals for human consumption, silicate of soda, petroleum products, liquid glue, and formaldehyde), in bulk, in tank vehicles, from points in California to points in Idaho. The purpose of this filing is to eliminate the gateway of points in Oregon.

No. MC-730 (Sub-No. E8), filed April 1, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products,* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, in bulk, in tank vehicles, from points in New Mexico to points in California. The purpose of this filing is to eliminate the gateways of Gallup, N. Mex., and Clark County, Nev.

No. MC-730 (Sub-No. E19), filed May 1, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* and *acids,* in bulk, in tank vehicles, from points in Texas to points in Idaho. The purpose of this filing is to eliminate the gateway of points in Utah.

No. MC-730 (Sub-No. E20), filed May 1, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 638, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from

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points in Texas to points in Oregon (except Portland and North Portland, Oregon). The purpose of this filing is to eliminate the gateways of points in Utah and points in Idaho.

No. MC–2263 (Sub-No. E1), filed April 28, 1974. Applicant: LAUREL TRANSPORT CORPORATION, P.O. Box 438, Rio Grande, N.J. 08242. Applicant's representative: Henry W. Pfeiffer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, alcoholic beverages, dairy products as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Philadelphia, Pa., on the one hand, and, on the other, Atlantic City, Linwood, Somers Point, Sea Isle City, Strathmere, Ventnor, Margate, and Longport, N.J. The purpose of this filing is to eliminate the gateway of Ocean City, Cape May County, N.J.

No. MC–25798 (Sub-No. E16), filed April 28, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Florida 33823. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, in containers, from points in that portion of Florida on and east of a line beginning at the Florida-Georgia State line and U.S. Highway 441, thence south along U.S. Highway 441, to Orlando, thence east on Florida Highway 50 to the Atlantic Ocean, to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia (except to points in Virginia east of Interstate Highway 95), points in that portion of Tennessee beginning at the Tennessee-Georgia State line and U.S. Highway 411, thence along U.S. Highway 411 to its intersection with U.S. Highway 129, thence north on U.S. Highway 129 to Knoxville, thence north on Interstate Highway 75 to the Tennessee-Kentucky State line, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Hendersonville, N.C.

No. MC–76177 (Sub-No. E8), filed April 24, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives*, and *blasting supplies*, between points in Ohio, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of the site of the Trojan—U.S. Powder Division of Commercial Solvents Corp., located at or near Wolf Lake (Union County), Ill.

No. MC–76177 (Sub-No. E9), filed April 24, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives*, and *blasting supplies*, between points in Ohio, on the one hand, and, on the other, points in Arizona, New Mexico, and Oklahoma. The purpose of this filing is to eliminate the gateway of Site of the Trojan—U.S. Powder, Division of Commercial Solvents Corp., located at or near Wolf Lake (Union County), Ill.

No. MC–95540 (Sub-No. E23), filed April 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Georgia 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats and frozen meat products* (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Arkansas. The purpose of this filing is to eliminate the gateways of Tifton, Ga., and Florence, Ala.

No. MC–95540 (Sub-No. E48), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida, to points in Idaho. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and points in Tennessee.

No. MC–95540 (Sub-No. E84), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Jacksonville, Fla., to points in North Carolina on and west of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 221 to its junction with North Carolina Highway 194, thence along North Carolina Highway 194 to its junction with U.S. Highway 19E, thence along U.S. Highway 19E to the North Carolina-Tennessee State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–100666 (Sub-No. E26), filed April 11, 1974. Applicant: Melton Truck Lines, Inc., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Paul L. Caplinger (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the plant site of Calcasieu Paper Company at or near Elizabeth, La., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, points in that part of Arkansas on, north, and west of a line beginning at the junction of the Arkansas-Oklahoma State line and Interstate Highway 40, thence east on Interstate Highway 40, to its junction with Arkansas Highway 23 to the Arkansas-Missouri State line, and Kansas City, Mo. (2) *Paper and paper products* (except those which because of their size or weight require the use of special equipment and commodities in bulk), from the plant site of Calcasieu Paper Company, Inc., at or near Elizabeth, La., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateways of (1) plant site and storage facilities of the Weyerhaeuser Company located at or near Valliant, Okla., and (2) plant site and storage facilities of Nekoosa-Edwards Paper Company, Inc., at or near Ashdown, Ark. (Little River County).

No. MC–100666 (Sub-No. E39), filed April 18, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber* from points in Texas (except Pineland and Silsbee and particleboard from Diboll) to points in Kentucky. The purpose of this filing is eliminate the gateway of Irving, Pineland, and Silsbee, Tex.

No. MC–100666 (Sub-No. E48), filed April 21, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Composition lumber*, from points in Texas (except Pineland and Silsbee and particleboard from Diboll) to points in Tennessee. The purpose of this filing is to eliminate the gateway of Irving, Pineland, and Silsbee, Tex.

No. MC–100666 (Sub-No. E50), filed April 22, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition lumber*, from points in Texas (except Pineland and Silsbee and particleboard from Diboll) to points in Arkansas. The purpose of this filing is to eliminate

the gateway of Irving, Pineland, and Silsbee, Tex.

No. MC–105457 (Sub-No. E5), filed May 1, 1974. Applicant: THURSTON MOTOR LINES, INC., P.O. Box 10638, Charlotte, N.D. 28201. Applicant's representative: John V. Luckadoo (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household good as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in that part of South Carolina within 150 miles of Charlotte, N.C., and west of a line extending from the North Carolina-South Carolina State line along South Carolina Highway 59 to York, thence along U.S. Highway 321 to Chester, thence along U.S. Highway 21 to Columbia, and thence along South Carolina Highway 5 to Ulmers, not including points on the highways specified, on the one hand, and, on the other, those points in that part of Virginia in and east of Grayson, Smyth, and Tazewell Counties, Va. The purpose of this filing is to eliminate the gateways of (1) Charlotte, N.C., (2) Roanoke, N.C., and (3) that part of North Carolina east of U.S. Highway 29 and Winston-Salem, N.C.

No. MC–105457 (Sub-No. E7), filed May 1, 1974. Applicant: THURSTON MOTOR LINES, INC., P.O. Box 10638, Charlotte, N.C. 28201. Applicant's representative: John V. Luckadoo (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between those points in that part of Virginia in and east of Grayson, Smyth, and Tazewell Counties, Va., on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateways of (1) points in South Carolina, (2) Charlotte, N.C., and (3) Roanoke Rapids, N.C.

No. MC–112822 (Sub-No. E20), filed April 28, 1974. Applicant: BRAY LINES, INCORPORATED, P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in packages, from Casper, Wyo., to points in Florida. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC–113362 (Sub-No. E1), filed May 2, 1974. Applicant: ELLSWORTH FREIGHT LINE, INC., 310 East Broadway, Eagles Grove, Iowa 50533. Applicant's representative: Milton D. Adams, Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared frozen foods*, from Albert Lea, Minn., and points in Martin and Fairbault Counties, Minn., and Kossuth County, Iowa, to points in (1) Ohio, Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Delaware, Maryland, and West Virginia, and the District of Columbia, (2) that part of Illinois on and south of a line beginning at the Iowa-Illinois State line, thence along U.S. Highway 36 to junction Illinois Highway 54, thence along Illinois Highway 54 to U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State line, and (3) that part of Indiana on and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 24 to junction Interstate Highway 69, thence along Interstate Highway 69 to the Indiana-Michigan State line. The purpose of this filing is to eliminate the gateways of Elmore, Minn., and Eagle Grove and Webster City, Iowa.

No. MC–113362 (Sub-No. E2), filed May 2, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared frozen foods*, from Minneapolis, Minn., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Webster City, Iowa.

No. MC–114019 (Sub-No. E9), filed April 28, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bottle caps*, from points in Iowa and Wisconsin, to points in Adams County, Pa., restricted to the transportation of shipments moving from, to, or between warehouses, and wholesale, retail, or chain outlets of food business houses, or when moving from, to, or between food processing plants, or warehouses or other facilities of such plants. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–117119 (Sub-E4), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foodstuffs* (except dairy products and commodities in bulk) in vehicles equipped with mechanical refrigeration, from Athens, Ala., and Bells, Humboldt, and Jackson, Tenn., to points in Nevada. The purpose of this filing is to eliminate the gateway of Springdale, Ark.

No. MC–117119 (Sub-No. E8), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared and preserved foodstuffs*, in containers, in truckloads of 20,000 pounds minimum, from points in Florida, Georgia, and Virginia. Restriction: The authority above is restricted to the transportation of the quantities indicated, when transported from one consignor to one or more consignees. The purpose of this filing is to eliminate the gateway of Russellville, Ark.

No. MC–117119 (Sub-No. E9), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except dairy products, and commodities in bulk), in truckloads of 20,000 pounds minimum, from points in Greene County, Mo., to points in Washington (except Grandview and Kennewick), Oregon, and Nevada. Restriction: The authority above is restricted to the transportation of the quantities indicated, when transported from one consignor to one or more consignees. The purpose of this filing is to eliminate the gateway of Fort Smith, Ark.

No. MC–117119 (Sub-No. E15), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kans., to New Orleans, La., and points in that part of Texas on and east and south of a line beginning at the United States-Mexico International Boundary line near Presidio, Tex., thence along U.S. Highway 67 to its junction with U.S. Highway 90, thence along U.S. Highway 90 to the Texas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Van Buren, Ark.

No. MC–117119 (Sub-No. E17), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kans., to points in Washington, Oregon, Idaho, and Montana. The purpose of this filing is to eliminate the gateway of Hastings, Nebr.

No. MC–117119 (Sub-No. E18), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's

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representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kansas, to points in North Carolina, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateway of Springdale, Ark.

No. MC–117119 (Sub-No. E19), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, Arkansas 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kans., to points in Mississippi. The purpose of this filing is to eliminate the gateway of Fayetteville, Ark.

No. MC–117119 (Sub-No. E20), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, Ark. 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kans., to points in Alabama, Georgia, and Tennessee (except Memphis, Tenn.). The purpose of this filing is to eliminate the gateway of Springdale, Ark.

No. MC–117119 (Sub-No. E21), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite of Iowa Beef Processors at Emporia, Kans., to points in Florida. The purpose of this filing is to eliminate the gateway of Springdale, Ark.

No. MC–117119 (Sub-No. E22), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Martinsburg, W. Va., and Winchester and Timberville, Va., to points in Arizona, California, Colorado, Nevada, and New Mexico. The purpose of this filing is to eliminate the gateway of Siloam Springs, Ark.

No. MC–117119 (Sub-No. E23), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's Representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from Martinsburg, W. Va., and Winchester and Timberville, Va., to points in Idaho, Kansas, Montana, Nebraska, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of California, Mo.

No. MC–117119 (Sub-No. E25), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Washington, Oregon, and Idaho to Omaha, Nebr. The purpose of this filing is to eliminate the gateway of St. Joseph, Mo.

No. MC–127042 (Sub-No. E15), filed April 14, 1974. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant and warehouse facilities utilized by Iowa Beef Processors, Inc., at Wichita, Kans., to Sioux City, Iowa, that part of Minnesota on and south of U.S. Highway 10, and points in Lafayette, Grant, and Crawford Counties, Wis. The purpose of this filing is to eliminate the gateway of West Point, Nebr.

No. MC–128383 (Sub-No. E28), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Hopkins International Airport, Cleveland, Ohio, and Philadelphia International Airport, Philadelphia, Pa., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Jamestown Municipal Airport, Chautauqua County, N.Y.

No. MC–128383 (Sub-No. E29), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Greater Buffalo International Airport, Erie County, N.Y., and Friendship International Airport, Anne Arundel County, Md., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Jamestown Municipal Airport, Chautauqua County, N.Y.

No. MC–128383 (Sub-No. E37), filed April 26, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Broome County Airport, Broome County, N.Y., and Friendship International Airport, Anne Arundel County, Md., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Chemung County Airport, Chemung County, N.Y.

No. MC–128383 (Sub-No. E40), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Friendship International Airport, Anne Arundel County, Md., and Bradley International Airport, Hartford County, Conn., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E50), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Bradley International Airport, Hartford County, Conn., and La Guardia Airport, New York, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E51), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between Washington National Airport, Gravelly Point,

Va., and Bradley International Airport, Hartford County, Conn., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–11123 Filed 5–13–74;8:45 am]

[Notice No. 78]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 3, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–75112, By order of May 8, 1974, the Motor Carrier Board approved the transfer to Nampa Transport, Inc., Nampa, Idaho, of Certificate of Registration No. MC–121467 (Sub-No. 1) issued July 15, 1965 to Nampa Transfer & Storage, Inc., Nampa, Idaho, evidencing a right to engage in transportation in interstate commerce as described in Permit No. 1568, Second Amended, dated October 29, 1954, issued by the Idaho Public Utilities Commission. Kenneth G. Bergquist, P.O. Box 1775, Boise, Idaho, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–11129 Filed 5–13–74;8:45 am]

[Notice No. 64]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 3, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2392 (Sub-No. 96 TA), filed April 25, 1974. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 "F" Street, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representative: Keith D. Wheeler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, from Blair, Nebr., to points in Iowa, Illinois, Missouri, Kansas, Wisconsin, Minnesota, North Dakota, South Dakota, Colorado, Wyoming, and Oklahoma, for 180 days. SUPPORTING SHIPPER: Ruminant Nitrogen Products Company, R. H. Ifft, Regional Manager, P.O. Box 450, 128 South 17th Street, Blair, Nebr. 68008. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebra. 68102.

No. MC 48423 (Sub-No. 5 TA), filed April 26, 1974. Applicant: G. E. BELMORE, doing business as MOTOR TRANSIT COMPANY, 5822 N. Interstate Avenue, Portland, Oreg. 97217. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural iron or steel*, between Portland and McMinnville, Oreg., on the one hand, and, on the other hand, points on the International Boundary line (United States-Canada), in Washington, Idaho, and Montana; (2) *steel*, from points on the International Boundary line (United States-Canada) at or near Blaine and Sumas, Wash., to Seattle, Wash.; and (3) *nails*, from points on the International Boundary line (United States-Canada) in Washington and Idaho, to Portland, Oreg., for 180 days. SUPPORTING SHIPPERS: Woodbury & Company, 4851 N. Lagoon, Portland, Oreg., 97217, and Myers Pacific, Inc., 3601 NW. Yeon Avenue, Portland, Oreg., 97210. SEND PROTESTS TO: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg., 97214.

No. MC 52921 (Sub-No. 25 TA), filed April 25, 1974. Applicant: RED BALL, INC., P.O. Box 520, 317 E. Lee (Collins Bldg.), Sapulpa, Okla. 74066. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of and storage facilities utilized by American Roof Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Colorado, Kansas, Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Georgia, and Florida, restricted to traffic originating at, and destined to the named points, for 180 days. SUPPORTING SHIPPERS: Ralph L. McGee, General Traffic Manager, American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240—Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 53965 (Sub-No. 94 TA), filed April 26, 1974. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Drawer 838, Salina, Kans. 67401. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Washing, cleaning, and scouring compounds, soap and soap products, textile softeners, syrup nonmedicated, shortening, margarine, vegetable oil compound aerated, toilet preparations, and dessert preparations* (except commodities in bulk) from the plant and warehouse facilities of Lever Brothers Company, located in the Commercial Zone of St. Louis, Mo., and East St. Louis, Ill., to points in Kansas, restricted, however, to traffic originating at the above origin, for 180 days.

NOTE.—Applicant does not intend to tack the authority here applied for to another authority held by it, or to interline with other carriers. SUPPORTING SHIPPER: Lever Brothers Company, 390 Park Avenue, New York City, N.Y. 10222. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 107295 (Sub-No. 712 TA), filed April 23, 1974. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (un-

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frozen), from Princeville and Hoopeston, Ill., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, for 180 days. SUPPORTING SHIPPER: Thomas R. Boersma, Manager, Distribution Services, Joan of Arc, 2231 W. Altorfer Drive, Peoria, Ill. 61614. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, Room 414, 527 East Capitol Avenue, Springfield, Ill. 62701.

No. MC 107403 (Sub-No. 896 TA), filed April 26, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, liquid, in bulk, in tank vehicles, from Lawrenceville, Ill., to Ensley, Ala., for 180 days. SUPPORTING SHIPPER: R. W. Semler, Midwest Regional Traffic Manager, Witco Chemical Corporation, 6200 West 51st Street, Chicago, Ill. 60638. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 109551 (Sub-No. 7 TA), filed April 26, 1974. Applicant: MILLER TRUCKING, INC., 1001 South Fourth St., Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures therefor and paper cartons*, from Winchester and Richmond, Ind., into Kentucky and *rejected and returned shipments*, from points in Kentucky to Winchester and PORTING SHIPPER: Anchor Hocking Richmond, Ind., for 180 days. SUPCorporation, Broad & Main Streets, Lancaster, Ohio 43130. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 109584 (Sub-No. 154 TA), filed April 26, 1974. Applicant: ARIZONA-PACIFIC TANK LINES, 5773 South Prince Street, (P.O. Box 192), Littleton, Colo. 80120. Applicant's representative: Kenneth A. Willhite (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizing compounds*, NOI, liquid, in bulk, in tank vehicles, from Bisbee, Ariz., to Deming, N. Mex., for 180 days. SUPPORTING SHIPPER: ReChem Corp., 5001 East Washington Street, Phoenix, Ariz. 85034. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 116314 (Sub-No. 27 TA), filed April 26, 1974. Applicant: MAX BINSWANGER TRUCKING, 13846 Firestone Blvd., Sante Fe Springs, Calif. 90670. Applicant's representative: Carl H. Fritze, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Creal, Calif., to Port Hueneme, Calif., and points in the Los Angeles Harbor Commercial Zone, for 180 days. SUPPORTING SHIPPER: California Portland Cement Co., 800 Wilshire Blvd., Los Angeles, Calif. 90017. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 119669 (Sub-No. 47 TA), filed April 25, 1974. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, P.O. Box 886, Columbus, Ind. 47201. Applicant's representative: Donald W. McCameron (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site and storage facilities utilized by American Beef Packers, Inc., at or near Cactus, Tex. (Moore County), to points in Virginia, West Virginia, Maryland, District of Columbia, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Illinois, Indiana, Kentucky, Michigan, and Ohio, for 180 days. SUPPORTING SHIPPER: American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. SEND PROTESTS TO: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 124649 (Sub-No. 4 TA), filed April 26, 1974. Applicant: JOSEPH BONANNO, INC., 1 Cranford Avenue, Linden, N.J. 07036. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap metal*, in dump vehicles, from Neptune, N.J., to Torrington, Conn., and (2) *non-ferrous scrap metal*, in dump vehicles, from Waterbury, Conn., to Rahway, N.J., and Philadelphia, Pa., for 180 days. SUPPORTING SHIPPERS: Albert Bros., Inc., 225 Aurora Street, Waterbury, Conn. 06720, and Louis Abrams & Son, 11th and Railroad Avenue, Neptune, N.J. 07753. SEND PROTESTS TO: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 128219 (Sub-No. 2 TA), filed April 26, 1974. Applicant: SALVATORE T. ZIZZO, doing business as FRANKLIN TRUCK LINES, 20765 Main Street, Lannon, Wis. 53046. Applicant's representative: Salvotore T. Zizzo (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bituminous fiber pipe and conduit, plastic pipe and products, fiber vaults, and accessories* used in connection with said products, and on return *raw materials, products, and parts* used in the manufacture of said products, from West Bend, Wis., to points in Illinois, Indiana, Kentucky, Ohio, Michigan, Missouri, Iowa, and Minnesota, for 180 days. SUPPORTING SHIPPER: McGraw-Edison Co., Fibre Products Division, 2100 Northwestern Ave., West Bend, Wis. 53095. SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 128381 (Sub-No. 8 TA), filed April 24, 1974. Applicant: BLUE EAGLE TRUCK LINE, INC., P.O. Box 446, 1437 Eastwood, Highland Park, Ill. 60035. Applicant's representative: Patrick H. Smyth, 327 South LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire fighting equipment and parts and attachments* therefor when moving together with fire fighting equipment, from Northbrook, Ill., to points in the United States (except Alaska, Hawaii, Illinois, Ohio, Pennsylvania, and Louisiana), and (2) *equipment, materials, and supplies* used in the manufacture, installation, distribution, and repair of the commodities in (1) above (except commodities in bulk), from points in Alabama, Arkansas, Indiana, California, Connecticut, Georgia, Kentucky, Michigan, Montana, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin, to Northbrook, Ill., for 180 days. RESTRICTION: The transportation services authorized above are restricted to be performed under contract with General Fire Extinguisher Corporation. SUPPORTING SHIPPER: Patrick J. Carmody, Marketing Manager, General Fire Extinguisher Corporation, 1685 Sherman Road, Northbrook, Ill. 60062. SEND PROTESTS TO: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 128988 (Sub No. 47 TA), filed April 17, 1974. Applicant: JO/KEL, INC., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Upholstery and carpet tacking rims and strips, nails, adhesive cement, mechanic hand tools, and advertising materials, racks, and stands* therefor, from City of Industry, Calif., to points in Oregon, Washington, Idaho, Nevada, Arizona, New Mexico, Utah, Colorado, Wyoming, and Montana; and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described above, from points in the above-named destination states, to City of Industry, Calif., for 180 days. RESTRICTION: The operations sought herein are subject to the following conditions: Restricted against the transportation of commodities in bulk and the authority sought is further restricted to a transportation service to be performed under a continuing contract or contracts with Consolidated Foods Corporation of City of Industry, Calif. SUPPORTING SHIPPER: Consolidated Foods Corporation, 13300 East Nelson Avenue, City of Industry, Calif. 91749. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 128988 (Sub-No. 48 TA), filed April 25, 1974. Applicant: JO/KEL, INC., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th St., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment), from the facilities of Westinghouse Electric Corporation located at or near Irwin, Pa., to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada (except Arizona, California, Nevada, Oregon, and Washington), under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. SUPPORTING SHIPPER: Westinghouse Electric Corporation, RD #5 Leger Road, Irwin, Pa. 15642. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 129332 (Sub-No. 1 TA), filed April 26, 1974. Applicant: RICHARD M. BAAR, doing business as DICK BARR TRUCKING, 1445 W. Second Street, P.O. Box 828, Dickinson, N. Dak. 59601. Applicant's representative: Paul G. Kloster, P.O. Box 1097, Dickinson, N. Dak. 58601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Dickinson, N. Dak., to Plymouth, Wis., for the account of Dickinson Cheese Co. and *beer*, from Milwaukee, Wis., and Minneapolis, Minn., to Dickinson and Hettinger, N. Dak., for the account of Jerome's, Inc., for 180 days. SUPPORTING SHIPPERS: Dickinson Cheese Co., Dickinson, N. Dak. 58601, and Jerome's, Inc., Box 750, Hettinger, N. Dak. 58639. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 129516 (Sub-No. 27 TA), filed April 25, 1974. Applicant: PATTONS, INC. 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer ingredients*, in sacks, from West Sacramento, Calif., to points in Washington, Oregon, and Idaho, for 180 days. SUPPORTING SHIPPER: Wilson Geo. Meyer & Co., 318 Queen Anne Avenue North, Seattle, Wash. 98109. SEND PROTESTS TO: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 133119 (Sub-No. 52 TA), filed April 26, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from points in Florida, to ports of entry on the United States-Canada International Boundary line located in Minnesota, North Dakota, and Montana, restricted to traffic moving in foreign commerce, for 180 days. SUPPORTING SHIPPER: Scott National Company Limited, Calgary, Alberta, Canada, Archie Kisinger, Traffic Manager. SEND PROTESTS TO: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 135795 (Sub-No. 2 TA), filed April 24, 1974. Applicant: WILLIAM J. JAMES, doing business as BILL JAMES, 541 Willow Lane, Hereford, Tex. 79045. Applicant's representative: Mert Starnes, 904 Lavaca, Austin, Tex. 78701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds and feed ingredients*, between Olton, Tex., on the one hand, and, on the other, points in Colorado, Kansas, New Mexico, and Oklahoma, under a continuing contract with The Feed Barn, Olton, Tex., for 180 days. SUPPORTING SHIPPER: Larry Garvin, President, The Feed Barn, Inc., P.O. Box 518, Olton, Tex. 79064. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Hearing Plaza, Amarillo, Tex. 79101.

No. MC 135874 (Sub-No. 43 TA), filed April 25, 1974. Applicant: LTL PERISHABLES, INC., 132nd & Q Streets, P.O. Box 37468, Omaha, Nebr. 68137. Applicant's representative: Bill White, P.O. Box 37468, Omaha, Nebr. 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats*, from Denison, Iowa, to St. Paul-Minneapolis, Minn., and commercial zones; Milwaukee, Kenosha, Green Bay, and Madison, Wis., and commercial zones; and Kearney, Nebr.; and Lawrence and Topeka, Kans., for 180 days. SUPPORTING SHIPPER: World Wide Meats, Inc., Wilbur Zitzlsperger, Sales Manager, Denison, Iowa 51442. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 136397 (Sub-No. 3 TA), filed April 26, 1974. Applicant: LLOYD G. APMAN AND JOHN M. APMAN, doing business as DELWIN TRANSFER CO., 1991 No. 7th St., No. St. Paul, Minn. 55109. Applicant's representative: James F. Finley, 920 Minnesota Building, St. Paul, Minn. 55101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry tankage and dried blood*, from Whitehall, Wis., to New Brighton, Minn., with no transportation for compensation on return except as otherwise authorized, for 180 days. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Wellens & Co., Inc. SUPPORTING SHIPPER: Wellens & Co., Inc., 6700 France Avenue So., Minneapolis, Minn. 55435. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Courthouse, 110 So. 4th Street, Minneapolis, Minn. 55401.

No. MC 136897 (Sub-No. 11 TA), filed April 23, 1974. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 312, Phoenix, Ariz. 85008. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plant site of CF & I Steel Corporation at Pueblo, Colo., to points in California (except those in Kern, Santa Clara, San Diego, and Los Angeles Counties) and to points in Arizona (except points in Maricopa County), for 180 days. SUPPORTING SHIPPER: CF & I Steel Corporation, P.O. Box 316, Pueblo, Colo. 81002. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 139534 (Sub-No. 1 TA), filed April 26, 1974. Applicant: BLALOCK

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WAREHOUSE, INC., 7412 NW. 43rd Street, Bethany, Okla. 73008. Applicant's representative: G. Timothy Armstrong, 280 National Foundation Life Bldg., 3535 NW. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer* (except in bulk, in tank vehicles), restricted against the transportation of petroleum based fertilizer, from Texas City, Tex., to points in Oklahoma, for 180 days. SUPPORTING SHIPPER: Mr. James Peterson, Distr. Coordinator, Borden Chemical, Div. of Borden, Inc., 50 West Broad St., Columbus, Ohio 43215. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240—Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 139640 (Sub-No. 1 TA), filed April 25, 1974. Applicant: EQUIPMENT TRANSPORT OF MILWAUKEE, INC., 4825 North 36th Street, Milwaukee, Wis. 53208. Applicant's representative: John M. Sanderson, Jr., 5959 Dawson Court, Greendale, Wis. 53129. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Freight carts, trucks, trailers, wagons, or platform trailer trucks on drop frame flat bed trailers*, from Milwaukee, Wis., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Miller Tilt-Top Trailers, Inc., 450 South 92nd Street, Milwaukee, Wis. 53214 (James E. Steinke, Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 139668 (Sub-No. 2 TA), filed April 24, 1974. Applicant: ERNEST ALLEN, JR. AND EARL ALLEN, doing business as ALLEN COAL CO., 351 Main Street, Nelsonville, N.Y. 10516. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, N.Y. 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trap rock materials* (crushed stone), *stone aggregates, sand, and gravel*, from Danbury, Conn., to the Towns of Bedford, North Salem, Somers, Pound Ridge, Cortland, North Castle, Lewisboro (Westchester County), Southeast, Carmel, and Patterson (Putnam County), N.Y., for 180 days. SUPPORTING SHIPPER: New Haven Trap Rock Co., Div. of Ashland Oil Co., Inc., 2200 Whitney Ave., Hamden, Conn. 06518. SEND PROTESTS TO: Robert A. Radler, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 139731 TA, filed April 24, 1974. Applicant: MIDWEST ALASKA, INC., P.O. Box 511, Iron Mountain, Mich. 49801. Applicant's representative: Richard D. McLellan, 850 Michigan National Tower, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring and accessories* used in the installation of flooring, from the plant site of Horner Flooring Company at Dollar Bay, Mich., to points in Connecticut, Florida, Georgia, Iowa, Kentucky, Alabama, Maryland, Massachusetts, Missouri, New York, New Jersey, North Carolina, Oklahoma, Pennsylvania, Texas, and Virginia, for 180 days. SUPPORTING SHIPPER: Horner Flooring Company, Dollar Bay, Mich. 49922. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 139734 TA, filed April 24, 1974. Applicant: WHITAKER TRANSPORTATION COMPANY, INC., 1300 Market Street—Bay 20, Chattanooga, Tenn. 37402. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission and those injurious or contaminating to other lading) from points in Catoosa, Chatooga, Gordon, Murray, Walker, and Whitfield Counties, Ga., to Chattanooga, Tenn., restricted to traffic having a subsequent movement by freight forwarders from Chattanooga, Tenn. SUPPORTING SHIPPERS: Western Carloading Co., Inc., 1000 Chattahoochee Ave. NW., Atlanta, Ga. 30325, and Universal Carloading & Distr. Co., Inc., 345 Hudson Street, New York, N.Y. 10014. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-11126 Filed 5-13-74;8:45 am]

[Notice No. 65]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 6, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 464 TA), filed April 29, 1974. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, P.O. Box 160 (5314), Kenosha, Wis. 53140. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses and parts thereof*, when moving therewith, from Delaware, Ohio, to points in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: The Flexible Company, North Water Street, Loudonville, Ohio 44842 (Richard G. Obrecht, Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 30844 (Sub-No. 504 TA), filed April 29, 1974. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., 2125 Commercial Street, P.O. Box 5000 (50702), Waterloo, Iowa 50704. Applicant's representative: Larry L. Strickler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by retail discount stores (except foodstuffs and commodities in bulk), from New York, N.Y., to Bradley, Ill.; Columbus, Evansville, Gary, Indianapolis, Marion, Michigan City, and South Bend, Ind.; Shreveport, La.; Adrian, Battle Creek, Ferndale, Hazel Park, Holland, Jackson, Livonia, Riverview, Roseville, and Saginaw, Mich.; Charlotte, N.C.; Canton, Ohio; and Tulsa, Okla., for 180 days. SUPPORTING SHIPPER: Mangel Stores Corporation, 115 West 18th Street, New York, N.Y. 10011. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 80428 (Sub-No. 89 TA), filed April 29, 1974. Applicant: MCBRIDE TRANSPORTATION, INC., P.O. Box 430, 289 West Main Street, Goshen, N.Y. 10924. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water*, from Middleboro, Mass., to Goshen, N.Y., for 180 days. SUPPORTING SHIPPERS: (1) Dairylea, Pearl River, N.Y. and (2) Natural Spring Water Corp., 200 Park Avenue, New York, N.Y. 10017. SEND PROTESTS TO: Robert A. Radler, Officer-in-Charge, Bureau of Operations, Interstate Commerce Commission, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 94350 (Sub-No. 347 TA), filed April 29, 1974. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr., P.O. Box 1628, Greenville, S.C. 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Amusement rides* on wheeled undercarriages equipped with Hitch-ball coupler, from points in Greenville County, S.C., to points in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: Venture Ride Mfg., Inc., Route 5, Highway 14, Greer, S.C. 29651. SEND PROTESTS TO: E. E. Strotheid, District Supervisor. Interstate Commerce Commission, Bureau of Operations, Room 302, 1400 Bldg., 1400 Pickens St., Columbia, S.C. 29201.

No. MC 97357 (Sub-No. 52 TA), filed April 26, 1974. Applicant: ALLYN TRANSPORTATION COMPANY, 14011 South Central Avenue, Los Angeles, Calif. 90059. Applicant's representative: Carl H. Fritze, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed and unprocessed crushed shale rock*, in bulk, in hopper-type vehicles, between points in Garfield County, Colo., on the one hand, and, points in Orange County, Calif., on the other hand, for 180 days. SUPPORTING SHIPPER: Union Oil Company of California, Union Oil Center, Los Angeles, Calif. 90017. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations. Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 99780 (Sub-No. 38 TA), filed April 23, 1974. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 NE. Bond Street, P.O. Box 1345 (61601), Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Iowa, Illinois, Kentucky, Missouri, Indiana, and Michigan, restricted to traffic originating at the above specified origin and destined to the above specified destinations, for 180 days. SUPPORTING SHIPPER: Diamond "E" Packers, 301 S. Lake Land Blvd., Mattoon, Ill. 61938. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 103051 (Sub-No. 308 TA), filed April 25, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphoric acid*, in bulk, in tank vehicles, from points in Polk County, Fla., to points in Hillsborough County, Fla., restricted to shipments having a subsequent for hire movement by water, for 180 days. SUPPORTING SHIPPER: USAMEX Fertilizers, Inc., P.O. Box 1007, Brandon, Fla. 33511. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 123048 (Sub-No. 307 TA), filed April 29, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A; Racine, Wis. 53406. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements, agricultural machinery and accessories, attachments and parts* for agricultural implements and agricultural machinery, from Clay Center, Kans., to Ports of Entry on the International Boundary line between the United States and Canada at Noyes, Minn. and Detroit, Mich. and points in Connecticut, Delaware, Illinois, Indiana, Maine, Nebraska, Massachusetts, Missouri, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Pennsylvania, Vermont, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Allied Farm Equipment, Inc., 35 E. Wacker Drive, Chicago, Ill. 60601 (Arthur G. Bass, Sales Admin. Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 133119 (Sub-No. 53 TA), filed April 29, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14 Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts* (except commodities in bulk, in tank vehicles), from the plants and warehouses of Wilson & Co., at or near Des Moines and Cedar Rapids, Iowa; Monmouth, Ill., Logansport, Ind.; Albert Lea, Minn.; Kansas City, Kans.; Oklahoma City, Okla.; and Marshall, Mo., to ports of entry on the International Boundary line located in the state of New York, restricted to traffic moving in foreign commerce, for 180 days. SUPPORTING SHIPPER: Letovsky Brothers Limited, Aaron M. Daniels, Traffic & Distribution Manager, 5105A Fisher St., Montreal, Quebec H4T 1J8, Canada. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 No. 14 Street, Omaha, Nebr. 68102.

No. MC 134783 (Sub-No. 19 TA) (Correction), filed April 9, 1974, published in the FEDERAL REGISTER issue of April 24, 1974, and republished as corrected this issue. Applicant: DIRECT SERVICE, INC., P.O. Box 786, Dimmit Highway West, Plainview, Tex. 79072. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., Denver, Colo. 80202.

NOTE.—The purpose of this republication is to add the state of South Dakota as a destination point, which was omitted in previous publication. The rest of the application will remain the same.

No. MC 138875 (Sub-No. 19 TA), filed April 29, 1974. Applicant: SHOEMAKER TRUCKING COMPANY, 8624 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, P.O. Box 7651, Boise, Idaho 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from points in Utah, to points in Oregon, Washington, and Idaho, for 180 days. SUPPORTING SHIPPERS: American Salt Company, 3142 Broadway, Kansas City, Mo., and Leslie Salt Company, P.O. Box 364, Newark, Calif. 94560. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 139705 (Sub-No. 1 TA), filed April 29, 1974. Applicant: PROPELLEX CORPORATION, 8213 Gravois, St. Louis, Mo. 63101. Applicant's representative: Richard T. Ciottone, 611 Olive Street, Suite 1400, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, from and to owned and leased premises of Propellex Corporation in Edwardsville, Ill., to and from owned and leased premises of McDonnell Douglas Corporation in and about St. Louis County, Mo., for 180 days. SUPPORTING SHIPPER: McDonnell Douglas Corporation, P.O. Box 516, St. Louis, Mo. 63166. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

MOTOR CARRIERS OF PASSENGERS

No. MC 134361 (Sub-No. 5 TA), filed April 29, 1974. Applicant: WILDERNESS BOUND, LTD., R.D. No. 1, Box 365, Highland, N.Y. 12528. Applicant's representative: W. Norman Charles, 80 Bay Street, Glens Falls, N.Y. 12801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in all-expense round trip camping tours of more than one day's duration, restricted to the transportation of passengers between 14 and 19 years of age, inclusive in vehicles with a seating capacity not exceeding 15 passengers, including driver, and having an immediate prior movement by air, from New York, N.Y., begin-

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ning and ending at Denver, Colo.; Salt Lake City, Utah, and Seattle, Wash., and extending to points in Arizona, California, Colorado, Montana, Idaho, Minnesota, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, for 180 days. SUPPORTED BY: There are approximately 13 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Robert A. Radler, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-11127 Filed 5-13-74;8:45 am]

[Notice No. 66]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 7, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commisssion, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 19945 (Sub-No. 43 TA) (correction), filed April 15, 1974, published in the FEDERAL REGISTER issue of May 1, 1974, and republished as corrected this issue. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101.

NOTE.—The purpose of this republication is to show the entire Supporting shipper's name, which was omitted in part in the FEDERAL REGISTER. The Supporting shipper's name is *Metal Goods Division of Alcan Aluminum Corporation*, 100 Erie View Plaza, 26th Floor, Cleveland, Ohio 44114, Cliff G. Pearson, General Traffic Manager. The rest of the publication will remain the same.

No. MC 121658 (Sub-No. 5 TA), filed April 26, 1974. Applicant: STEVE D. THOMPSON, P.O. Drawer 149, 1205 Percy Street, Winnsboro, La. 71295. Applicant's representative: Lawrence A. Winkle, 4645 N. Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (1) between Jackson, Miss., and Monroe, La., serving all intermediate points: From Jackson, Miss., over U.S. Highway 80 to Monroe, La., and return (also over Interstate Highway 20 for operating convenience only); (2) between Monroe and Sicily Island, La., serving all intermediate points: From Monroe, La., over Louisiana Highway 15 to Sicily Island, La., and return; (3) between Crowville and Winnsboro, La., serving all intermediate points: From Crowville over Louisiana Highway 17 to Winnsboro, La., and return; (4) between Ft. Necessity and Winnsboro, La., serving all intermediate points: From Ft. Necessity over Louisiana Highway 4 to Winnsboro, La., and return; (5) between Ruston, La., and Delta, La., serving all intermediate points: From Ruston over U.S. Highway 80 to Delta, La., and return (also over Interstate Highway 20 for operating convenience only);

(6) Between Tallulah and Vidalia, La., serving all intermediate points: From Tallulah over U.S. Highway 65 to Vidalia, La., and return; (7) between Ferriday and Winnfield, La., serving all intermediate points: From Ferriday over U.S. Highway 84 to Winnfield, La., and return; (8) between Winnfield and Ruston, La., serving all intermediate points: From Winnfield over U.S. Highway 167 to Ruston, La., and return; (9) between Ft. Necessity and Columbia, La., serving all intermediate points: From Ft. Necessity over Louisiana Highway 4 to Columbia, La., and return; (10) between Sicily Island, La., and Jonesville, La., serving all intermediate points: From Sicily Island over Louisiana Highway 8 to junction with Louisiana Highway 124, thence over Louisiana Highway 124 to Jonesville, La., and return; (11) between Sicily Island and Ferriday, La., serving all intermediate points: From Sicily Island over Louisiana Highway 15 to Ferriday, La., and return; (12) between Monroe and Tullos, La., serving all intermediate points: From Monroe over U.S. Highway 165 to Tullos, La., and return; (13) between Harrisonburg and Whitehall, La., serving all intermediate points: From Harrisonburg over Louisiana Highway 8 to Whitehall, La., and return; (14) between Archibald and Rayville, La.: From Archibald over Louisiana Highway 137 to junction with U.S. Highway 80, thence over U.S. Highway 80 to Rayville, La. (also over Interstate Highway 20 for operating convenience only); (15) between Crowville and Delhi, La., serving all intermediate points: From Crowville over Louisiana Highway 17 to Delhi, La., and return;

(16) Between Jackson, Miss., and Ruston, La., serving all intermediate points: From Jackson, Miss., over U.S. Highway 80 (also over Interstate Highway 20 for operating convenience only) to junction with U.S. Highway 65, thence over U.S. Highway 65 to Lake Providence, thence over Louisiana Highway 2 to Bernice, thence over U.S. Highway 167 to Ruston and return; (17) between Monroe and Mer Rouge, La., serving alll intermediate points: From Monroe over U.S. Highway 165 to Mer Rouge and return; (18) between Delhi and Oak Grove, La., serving all intermediate points: From Delhi over Louisiana Highway 17 to Oak Grove, La., and return; (19) between Ruston, La., and Shreveport, La., serving all intermediate points: From Ruston, La., over U.S. Highway 80 and Interstate Highway 20 to Shreveport, La., and return, serving all intermediate points and points within the Shreveport, La., commercial zone; (20) between Bernice, La., and Minden, La., serving all intermediate points: From Bernice, La., over U.S. Highway 167 to Junction City, La., thence over Louisiana Highway 9 to Summerfield, La., thence over Louisiana Highway Alternate 2 to Haynesville, La., thence over U.S. Highway 79 to Minden, La., and return, serving all intermediate points; (21) between Bernice, La., and U.S. Highway 79, serving all intermediate points: From Bernice, La., over Louisiana Highway 2 to junction U.S. Highway 79 and return serving all intermediate points; (22) between Junction of U.S. Highway 167 and Louisiana Highway Alternate 2 and Louisiana Highway 2: From the junction of U.S. Highway 167 and Louisiana Highway Alternate 2 over Louisiana Highway Alternate 2 to Summerfield, La, thence over Louisiana Highway 9 to function Louisiana Highway 2 and return, serving all intermediate points, for 180 days.

NOTE.—Applicant presently conducts operations over routes (1) through (18) under its Sub 3 TA authority. The effect of this application is to add routes (19) through (22) to its existing operations. Applicant intends to interline at all authorized points, including Shreveport and Monroe, La., and Jackson, Miss. SUPPORTING SHIPPERS: There are approximately 93 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 126402 (Sub-No. 14 TA), filed April 29, 1974. Applicant: JACK WALKER TRUCKING SERVICE, INC., 844 Loudon Avenue, Lexington, Ky. 40508. Applicant's representative: George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising materials*, and *empty malt beverage containers* on return, from Columbus, Ohio, to Lexington, Ky., for 180 days. SUPPORTING SHIPPER: John W. Maurer, President, Bennie Robinson, Inc., West Third and Hickory Streets, Lexington, Ky. 40508. SEND PROTESTS TO: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 135457 (Sub-No. 3 TA), filed April 25, 1974. Applicant: COMMERCIAL CARTAGE CO., 3900 Reavis Barracks Road, St. Louis, Mo. 63125. Applicant's representative: Michael P. Malone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Kansas City, Kans., to points in St. Louis, Jefferson and St. Charles Counties, Mo. and St. Louis, Mo., and St. Louis commercial zones as described in Tem 30 of MF-I.C.C. No. W-7, all points within the corporate limits of St. Louis, Mo.; all points in St. Louis, Jefferson and St. Charles Counties, Mo., within a line drawn 0.5 mile south, west and north of the following line: Beginning at the Jefferson Barracks Bridge south on the Mississippi River and extending westerly beginning at Barnhart, Mo. on County Highway M to Junction U.S. Highway 21 thence northwesterly on County Highway MM to Junction U.S. Highway 30; thence northerly on County Highway W to Junction U.S. Higwhay 44; thence northerly on U.S. Highway 109 to Junction County Highway CC to Junotion U.S. Highway 40; thence northwesterly to Junction County Highway K; to Junction U.S. Highway 70; thence easterly U.S. Highway 70 to Junction County Highway C to Mississippi River; thence southerly to point of beginning:

All points within the corporate limits of East St. Louis, Granite City, Madison, Venice, Brooklyn, National City, Fairmont City, Washington Park, and Sauget, Ill.; that part of the village of Cahokia, Ill., bounded by Illinois Highway 3 on the east, First Avenue and Red-House (Cargill) Road on the south and southwest, the east line of the right-of-way of the Alton and Southern Railroad on the west, and the corporate limits of Sauget, Ill., on the northwest and north; that part of Centerville, Ill., bounded by a line beginning at the junction of 26th Street and the corporate limit of East St. Louis, Ill., and extending northeasterly along 26th Street to its junction with Bond Avenue, thence southeasterly along Bond Avenue to its junction with Owen Street, thence southwesterly along Owen Street to its junction with Church Road, thence southeasterly along Church Road to its junction with Illinois Avenue, thence southwesterly along Illinois Avenue to the southwesterly side of the right-of-way of the Illinois Central Railroad Co., thence along the southwesterly side of the right-of-way of the Illinois Central Railroad Co. to the corporate limits of East St. Louis, Ill., thence along the corporate limits of East St. Louis, Ill., to the point of beginning; and that area bounded by a line commencing at the intersection of the right-of-way of the Alton and Southern Railroad and the Madison, Ill., corporate limits near 19th Street, and extending east and south along said right-of-way to its intersection with the right-of-way of Illinois Terminal Railroad Co., thence southwesterly along the Illinois Terminal Railroad Co. right-of-way to its intersection with Illinois Highway 203, thence northwesterly along said highway to its intersection with the Madison, Ill., corporate boundary near McCambridge Avenue, thence northerly along the Madison, Ill., corporate boundary to the point of beginning, for 180 days. SUPPORTING SHIPPERS: J. D. Streett & Company, Inc., 4055 Park Avenue, St. Louis, Mo. 63110; Fisca Oil Co., Inc., 4830 Rainbow Boulevard, Shawnee Mission, Kans.; and Circo III, Inc., P.O. Box 12731, Creve Coeur, Mo. 63141. SEND PROTESTS TO: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 138875 (Sub-No. 18 TA) (Correction), filed April 10, 1974, published in the FEDERAL REGISTER issue of April 26, 1974, and republished as corrected this issue. Applicant: SHOEMAKER TRUCKING COMPANY, 8624 Franklin Road, Boise, Idaho 83705. Applicant's representative: Kent B. Power, P.O. Box 7651, Boise, Idaho 83707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber mill products and composition board*, (1) From Pendleton, Oreg., and points in Oregon within ten miles thereof, points in Baker and Union Counties, Oreg., and points in that part of Oregon on and west of U.S. Highway 97, and points in that part of Washington on and west of U.S. Highway 99, to points in that part of Idaho south of the southern boundary of Idaho County, Idaho with no transportation for compensation on return except as otherwise provided; and (2) from points in Cowlitz, Skamania, Klickitat and Yakima Counties, Wash., and points in Washington on and west of Interstate Highway 5 to points in Baker, Grant, Malheur, Umatilla and Union Counties, Oreg., for 180 days. SUPPORTING SHIPPERS: Chandler Supply Company, 1301 North Orchard, Boise, Idaho 83704; Sioux Veneer Panel Company, 1700 River Street, Boise, Idaho; Idaho Forest Products, Inc., 320 South 13th, Boise, Idaho; Kaiser-Gypsum Corporation, and 300 Lakeside Drive, Oakland, Calif. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

NOTE.—The purpose of this republication is to correct that part of the territory description to read in Part (1) as to points in that part of *Idaho* south of the southern boundary of Idaho County, Idaho, in lieu of Oregon, which was published in error.

No. MC 139566 (Sub-No. 1 TA), filed April 29, 1974. Applicant: FEDERAL ARMORED EXPRESS, INC., 910 S. Grundy Street, Baltimore, Md. 21203. Applicant's representative: Edward J. Sheppard IV, Suite 1100, Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Special nuclear material*, in armored vehicles, (1) between Erwin, Tenn., on the one hand, and, on the other, New Haven, Conn.; West Mifflin, Pa.; Lynchburg, Va.; Schenectady, N.Y.; and Sargents, Ohio, and (2) between Lynchburg, Va., and Oak Ridge, Tenn., restricted to a transportation service to be performed under a continuing contract or contracts with Edlow International Company, Washington, D.C., for 180 days. SUPPORTING SHIPPER: Mr. Samuel Edlow, President, Edlow International Company, Suite 404, 1100 17th St. NW., Washington, D.C. 20036. SEND PROTESTS TO: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 139658 (Sub-No. 1 TA), filed April 25, 1974. Applicant: HARRY POOLE, INC., 2322 Kensington Road, Macon, Ga. 31201. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Basic slag*, from points in Jefferson County, Ala., and *dolomitic limestone*, from points in Lee County, Ala., in bulk, in dump trucks, to points in Georgia in and south of Troup, Merriwether, Pike, Lamar, Monroe, Bibb, Twiggs, Wilkinson, Johnson, Emanuel, Bulloch, Effingham, and Chatham Counties, Ga., for 180 days. SUPPORTING SHIPPERS: The Georgia Marble Co., 3460 Cumberland Parkway NW., Atlanta, Ga. 30316, and Agri-Business Supply Co., Inc., 1203 8th Avenue, Albany, Ga. 31705. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 139703 (Sub-No. 1 TA), filed April 29, 1974. Applicant: DENNIS BERGER, doing business as BERGER BROS., 68 Johnson Drive, Dickinson, N. Dak. 58601. Applicant's representative: Dennis Berger (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hay balers*, from facilities of Vermeer Manufacturing Co. at or near Pella, Iowa, to points in North Dakota and South Dakota, for 180 days. SUPPORTING SHIPPER: Vermeer Manufacturing Co., P.O. Box 200, Pella, Iowa 50219. SEND PROTESTS TO: Joseph H. Ambs, Dis-

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trict Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 139712 (Sub-No. 1 TA), filed April 25, 1974. Applicant: CREAMLAND DAIRIES, INC., 1911 2nd Street NW., Albuquerque, N. Mex. 87125. Applicant's representative: Edwin E. Piper Jr., 1115 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, edible meat by-products, frozen and perishable foods, and foodstuffs and dairy products*, from Denver, Colo., to Albuquerque, N. Mex., for the accounts of Strear Foods, Inc., Denver, Colo., and Zanios Foods, Albuquerque, N. Mex., for 180 days. SUPPORTING SHIPPERS: Zanios Foods, 308 Menaul Blvd. NE., Albuquerque, N. Mex. 87125, and Strear Foods, Inc., 2500 Commanche NE., Albuquerque, N. Mex. 87107. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 139744 (Sub-No. 1 TA), filed April 26, 1974. Applicant: WADDELL FERTILIZER TRANSPORT, INC., R.R. #6, Frankfort, Ind. 46041. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from Crawfordsville, Ind., to points in Illinois, for 180 days. SUPPORTING SHIPPER: Occidental Chemical Company, 4671 SW. Freeway, P.O. Box 1185, Houston, Tex. 77001. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 139745 (Sub-No. 1 TA), filed April 25, 1974. Applicant: WILLIAMS & SONS TRUCKING COMPANY, 600 Sunnyside Lane, Atlantic, Iowa 50022. Applicant's representative: Thomas E. Leahy, Jr., 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste products* for recycling, from points in Iowa on and south of U.S. Highway 20 and on and west of U.S. Highway 63 to Chicago, Ill., and its commercial zone, and Kansas City, Mo., and its commercial zone, for 180 days. SUPPORTING SHIPPER: Williams Garage & Auto Parts, Edward K. Williams, Owner, 600 Sunnyside Lane, Atlantic, Iowa 50022. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 139754 TA, filed April 25, 1974. Applicant: SOFT DRINK CARRIERS, INC., 5820 Centre Avenue, Pittsburgh, Pa. 15206. Applicant's representative: Robert R. Wertz, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages and other soft drinks and materials, equipment, and supplies* used in the production, sale, and distribution of such beverages, between Twinsburg, Cleveland, and Akron, Ohio, on the one hand, and, on the other, points in Pennsylvania within and west of the Counties of McKean, Cameron, Clearfield, Blair, Cambria, and Somerset, for 180 days. SUPPORTING SHIPPERS: Great Lakes Canning, Inc., III Cascade Plaza, Akron, Ohio 44308; The Akron Coca-Cola Bottling Company, Suite 306, III Cascade Plaza, Akron, Ohio 44308; Quaker State Coca-Cola Bottling Co., 5722 Centre Avenue, Pittsburgh, Pa. 15206; and The Cleveland Coca-Cola Bottling Company, Inc., 3705 Carnegie Avenue, Cleveland, Ohio 44115. SEND PROTESTS TO: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 139755 TA, filed April 25, 1974. Applicant: HENRY M. KIDWELL, doing business as FRONTIER TRADING, 2420 West Court Street, Pasco, Wash. 99301. Applicant's representative: Henry M. Kidwell, 910 South 10th Pasco, Wash. 99301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings and building materials*, (1) from Watertown, S. Dak., to points in Washington and Oregon, and (2) between points in Washington and Oregon, for 180 days. SUPPORTING SHIPPER: K. J. Merson Corporation, Inc., Box 1566, Blaine, Wash. 98230. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, Seattle, Wash. 98104.

WATER CARRIERS OF PROPRETY

No. W-1276 TA, filed April 26, 1974. Applicant: F. AND F. TOWING CO., INC., 4514 Flechas Street, Pascagoula, Miss. 39567. Applicant's representative: M. C. Flechas III (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Pulpwood*, from points on the Warrior-Tombigbee and Alabama River Systems to Moss Point, Miss., for 180 days. SUPPORTING SHIPPER: International Paper Company, P.O. Box 2328, Mobile, Ala. 36601. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Bureau of Operations,, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-11128 Filed 5-13-74;8:45 am]

MOTOR CARRIER TRANSFER PROCEEDINGS

[Notice No. 79]

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC-74929. By application filed May 8, 1974, T. E. QUINN TRUCK LINES LIMITED, P.O. Box 401, Niagara Falls, Ontario, Canada, seeks temporary authority to lease a portion of the operating rights of MOTEK TRANSPORT SYSTEMS, INC. (Formerly Beaney Transport Ltd.), P.O. Box 392, Lansdale, PA 19446, under section 210a(b). The transfer to T. E. QUINN TRUCK LINES LIMITED, of the operating rights of MOTEK TRANSPORT SYSTEMS, INC. (Formerly Beaney Transport, Ltd.), is presently pending.

No. MC-FC-75152. By application filed May 7, 1974, EQUIPMENT EXPRESS LIMITED, R.R. 2, 8105 Don Mills Road, Gormley, Ontario, Canada, seeks temporary authority to lease the operating rights of LEON FRIEDMAN, C. A., Agent for Trustees and Bond Holders, doing business as L. Woods & Son Transport Limited, 5005 Irwin Ave., LaSalle, Quebec, Canada, under section 210a(b). The transfer to EQUIPMENT EXPRESS LIMITED, of the operating rights of LEON FRIEDMAN, C. A., Agent for Trustees and Bond Holders, doing business as L. WOODS & SON TRANSPORT LIMITED, is presently pending.

Dated: May 9, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-11130 Filed 5-13-74;8:45 am]

[No. MC-2880 (Sub-No. 14)]

SOMERSET BUS CO., INC.

Abandonment of Service

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 1, held at its office in Washington, D.C., on the 2nd day of May, 1974.

It appearing, That Somerset Bus Co., Inc., of Mountainside, N.J., holds a certificate of public convenience and necessity in No. MC-2880 (Sub-No. 14), authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular routes, of passengers and their baggage, and express newspapers in the same vehicle with passengers, between Piscataway, N.J., and Elizabeth, N.J., serving all intermediate points; between Plainfield, N.J., and South Plainfield, N.J., serving all intermediate points; and between South Plainfield, N.J., and Carteret, N.J., serving all intermediate points;

It further appearing, That by petition filed January 2, 1974, said carrier requests voluntary revocation of its certificate for the reason that the operations conducted thereunder are no longer profitable;

It further appearing, That the said request for revocation properly may not be given consideration until such time as the affected members of the public have been given notice thereof and an opportunity to express their positions thereon; and good cause appearing therefor:

It is ordered, That within 30 days of the service date of this order, applicant shall submit to this Commission written proof that notice of the proposed discontinuance of service together with a facsimile of this order (a) has been posted for seven consecutive days in any bus presently operated over the routes sought to be abandoned, and (b) has been published for six consecutive days in newspapers of general circulation in Piscataway, Elizabeth, Plainfield, South Plainfield and Carteret, N.J.

It is further ordered, That within 45 days of the service date of this order any person-in-interest may submit to this Commission its written statement, verified under oath, as to why it believes that the above-specified certificate should not be revoked.

It is further ordered, That further consideration of this matter be, and it is hereby, deferred until expiration of the time period for filing of written statements.

It is further ordered, That notice of the request for revocation and of this order be published in the FEDERAL REGISTER.

It is further ordered, That a copy of this order be served upon the New Jersey Department of Transportation.

By the Commission, division 1.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-11120 Filed 5-13-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COLOMBIA

Entry or Withdrawal From Warehouse for Consumption

Correction

In FR Doc. 74-10233 appearing at page 15528 of the issue for Friday, May 3, 1974, the following changes should be made:

1. On page 15528, in the third column, the second paragraph, in the first line, the effective date should read: "June 2, 1974";

2. In the same column, in the 20th line of the third paragraph, the name "Telena de Florez" should read: "Helena de Florez";

3. On page 15529 in the first column, the eighth line of the first paragraph of the letter, the effective date should read: "June 2, 1974";

4. The last two lines of the aforementioned paragraph which reads: "until 60 days following the date of publication." should read: "until July 2, 1974."

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TUESDAY, MAY 14, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 94
PART II



FEDERAL ENERGY OFFICE

■

MANDATORY PETROLEUM ALLOCATION AND PRICE REGULATIONS

Revision of Mandatory Crude Oil Allocation Program

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Revision of Mandatory Crude Allocation Program

A notice of proposed rulemaking which contained revisions to the mandatory crude allocation program found in Subpart C of Part 211 was issued on March 5, 1974 (39 FR 8633, March 6, 1974). Comments were invited from interested persons by March 20, 1974, and more than 100 comments were received by FEO. All comments, including late-filed comments where possible, have been read and considered. The amendment published herewith has been modified to take into account many of the suggestions contained in the comments. Some of the modifications are substantive in nature, but all are consistent with the policy objectives set forth in the March 5 notice.

The notice of proposed rulemaking was designed to remove disincentives to the increased production and importation of crude oil which exist under the current crude oil allocation program. The specific disincentives in the existing program concerned allocations between major oil companies, price disincentives associated with the volume of allocated crude oil, and product dislocations.

The revised crude oil program eliminates allocations between the major oil companies by limiting allocations to small and independent refiners.

With respect to price disincentives, a new § 212.94 is added which provides that refiner-sellers will sell their allocated crude oil to refiner-buyers at the refiner-seller's weighted average cost plus a 30 cents per barrel handling charge, a transportation adjustment and a gravity adjustment. FEO has eliminated the price provisions contained in § 212.88 under the existing program which permitted a refiner-seller to pass through to its customers an additional 84 cents per barrel representing an approximation of the average industry profit earned from refining a barrel of oil. Since a refiner-seller is now free to replace any crude oil which is allocated away from the seller without having such replacement crude oil subject to allocation and since there are now increased supplies of crude oil available with the lifting of the embargo, the new § 211.94 adequately compensates refiner-sellers for sales of allocated crude oil.

As noted, the existing crude oil program also created product dislocations. This has meant that crude oil was redirected away from some refiner-sellers capable of producing certain highly refined petroleum products which had the effect of reducing the production of those products. This problem was compounded by the fact that the program discouraged the replacement of the allocated crude oil by such a refiner-seller through tying allocation liability to increased crude oil availa. Under the revised crude oil program, those refiners will now be encouraged to replace the crude oil which they must sell to refiner-buyers. Through replacement, these refiners will be able to produce the needed products.

The amendment also takes into account the February 28, 1974 amendment to the allocation rules then in effect. That amendment provided that all imported crude oil supplies obtained by a refiner in excess of its estimated supplies for February 1–April 30, 1974 would not be subject to allocation.

Major Features of the New Crude Oil Allocation Program

Purchasers limited to small and independent refiners. Under the new crude oil program, small and independent refiners are entitled to receive allocations of crude oil in each allocation quarter. Small and independent refiners are defined as provided in the Emergency Petroleum Allocation Act of 1973 rather than as suggested in the notice of proposed rulemaking.

Petrochemical producers. Petrochemical producers are included within the definition of a refiner, and are thus eligible to receive allocations on the same basis as small and independent refiners. Although petrochemical producers had previously been entitled to receive 100 percent of current requirements (subject to the application of an allocation fraction) under Subpart J of Part 211, that subpart has proven to be deficient in operation and therefore will shortly be the subject of a notice of proposed rulemaking. This revised treatment of petrochemical producers guarantees that these firms will now automatically receive allocations in the same manner as all small and independent refiners. To the extent the operation of the crude allocation program would not serve to maintain petrochemical producers at the same approximate level of priority formerly assigned in Subpart J, the FEO will entertain requests for exceptions.

Fixed purchase opportunity for small and independent refiners. In each allocation quarter (the first of which commences June 1, 1974), each refiner-buyer is eligible to purchase an amount of crude oil equal to one quarter of the crude oil runs to stills of such refiner-buyer in the year 1972 less the volume of crude oil runs to stills of such refiner-buyer for the period February through April, 1974, with certain adjustments. Provision is also made for allocation of crude oil with respect to expanded or new refinery capacity since 1972.

The allocation amount for each refiner-buyer is thus a fixed amount (with adjustments for a national shortfall of crude supplies and supplies in excess of 100% refining capacity). The February through April, 1974 crude oil runs to stills were used as a floor for the fixed allocation amount, in that, in substantially all cases, this period represented a very low level of crude supplies and would indicate the worst case for a refiner-buyer's supply situation.

Fixed Share for allocating refiners. The only refiners required to make allocations of crude oil under the program would be refiners which do not qualify as small or independent refiners. A refiner-seller's allocation obligation would be basically a fixed percentage share of the total amount to be allocated to all refiner-buyers in an allocation quarter. Each refiner-seller's percentage share would be its proportional share of the reported refinery capacity of all refiner-sellers as of January 1, 1973. It is important to note that a refiner-seller's relative share of the total allocation obligation would not increase as the refiner-seller acquires additional crude oil since the percentage share is fixed by reference to an event in the past. This removes an important disincentive to import since, under the current program, until the exemption level is reached, each incremental barrel imported increased a seller's obligation to allocate.

Pricing of allocated crude oil. For sales of allocated crude oil, refiner-sellers may charge the weighted average price of all crude oil delivered to such refiner-seller during the month of the allocation sale, with adjustments for transportation and gravity. The distinctions in the calculation of the weighted average price and gravity adjustments for refiner-sellers in Districts I–IV and in District V have been retained. Refiner-sellers are also permitted to charge a 30 cents per barrel handling fee for allocation sales of crude oil.

Adjustment of 1974 runs. A refiner-buyer's volume of crude oil runs to stills for the period February through April, 1974 excludes the volume of crude oil runs to stills in such period attributable to crude oil purchased by that refiner-buyer in such period under the existing allocation program and the volume of crude oil runs to stills in such period attributable to imports of crude oil in such period in excess of the reported estimate of crude oil imports of that refiner-buyer for such period.

Adjustments for unusual or nonrecurring operating conditions. Upon application by a refiner-buyer prior to May 20, 1974, FEO may adjust a refiner-buyer's reported volume of crude oil runs to stills for the year 1972 to compensate for reductions in volume due to unusual or nonrecurring operating conditions. FEO may at any time, without application by the refiner-buyer concerned, adjust the volume of crude oil runs to stills of a refiner-buyer for the year 1972 or for the period February through April 1974, if the reported runs to stills in such period is inaccurate or not representative of normal operating conditions.

Limit of allocations to 100 percent of capacity. No allocation will be made that will result in crude oil supplies to a refiner-buyer in excess of 100 percent of refinery capacity, with adjustments for processing agreements. Allocations in a subsequent allocation quarter will be reduced by the amount by which an allocation in a previous quarter resulted in supplies in excess of 100 percent of capacity.

Requirement that refiner-buyers process allocated crude oil. Each refiner-buyer is required to process in its refineries, or have processed for its account by another refiner, any crude oil purchased under the allocation program in, or within a reasonable time following, the allocation quarter in which such crude oil was so purchased.

New and Future Refining Capacity

New refining capacity substantially completed by May 1, 1974. The FEO has provided for allocations on a basis equivalent to allocations to 1972 refining capacity, to post-1972 refining capacity, a substantial portion of the construction of which has been completed by May 1, 1973. This new refining capacity is eligible to receive allocations to bring it up to the particular refiner-buyer's 1972 supply to capacity ratio, taking into consideration supplies in excess of 1974 first quarter levels available for such new capacity.

Future refining capacity (After May 1, 1974). FEO is committed to fostering construction of new and expanded refinery capacity. To this end, the revised crude allocation program is designed to assure adequate sources of crude oil for future refinery capacity which is not substantially constructed by May 1, 1974. The revised program establishes a procedure for allocations of crude oil supplies to this type of refinery capacity.

The Emergency Petroleum Allocation Act extends only through February 28, 1975. There is no assurance that allocation auhority either in its present form or as amended will be extended beyond that date. Consequently, FEO expects that firms with expanded refinery capacity will have arranged substantial crude oil supplies aside from amounts to be allocated. However, in furtherance of FEO's desire to expand domestic capacity, particularly among small and independent refiners, provision is made in these regulations for allocation to future new and expanded facilities. FEO will establish an appropriate allocation level, endeavoring to assure supplies adequate for such facilities to operate at the national average supply-to-capacity ratio, but taking into account a series of enumerated factors to insure the viability and operability of any new facilities.

FEO will continue to review the regulations applicable to new and and expanded refinery capacity in light of world crude oil availability and access to world crude oil supplies by persons engaged in constructing new and expanded refinery capacity and is prepared to consider future changes in the rules whenever necessary to assure adequate crude oil supplies for this capacity. FEO is also prepared to review the December 1, 1973 supplier/purchaser relationships established in § 211.63 in connection with this objective.

In addition to assuring available crude oil supplies, FEO is committed to insuring that the allocation program does not unduly interfere with the distribution of products refined in new facilities. In particular, FEO is prepared to consider exceptions from allocation obligations relating to distribution of products refined at new facilities pursuant to long-term support contracts between the new refinery and wholesale purchaser-consumers where the latter participates in the financing of facilities under arrangements for delivery of refined products to wholesale purchaser-consumers for a period of 10 years or more.

Computation of and Adjustments to Allocation Rights of Refiner-Buyers

Prior to May 20, 1974, each refiner-buyer is required to report to FEO, as provided in § 211.66, its volume of crude oil runs to stills for the year 1972 and for the period February through April, 1974, reflecting the required adjustments. The FEO will then compute the quantity of crude oil which each refiner-buyer will be eligible to purchase during an allocation quarter, taking into consideration certain other adjustments.

On a continuing basis, the only adjustment provided for to a buyer's fixed allocation entitlement relates to the requirement that allocations shall not result in supplies in excess of 100% of capacity to any refiner-buyer. (Certain one-time adjustments to the allocation amounts for the quarter commencing June 1, 1974 are discussed below under "Corrections for February–April, 1974 Allocation Period.") The quantity of crude oil that a refiner-buyer is eligible to purchase in an allocation quarter will be reduced by the amount of crude oil available to the refiner-buyer in a prior allocation quarter that resulted in crude oil supplies in excess of 100 percent of such refiner-buyer's refinery capacity, except that such reduction based on crude oil supplies in any prior allocation quarter shall not be for an amount in excess of the volume of crude oil actually purchased by the refiner-buyer in that prior quarter.

Adjustment to Obligations of Refiner-Sellers

The sole adjustment to the obligation of a refiner-seller on a continuing basis in the new program is for unsold amounts in the prior allocation quarter. A similar adjustment together with a one-time adjustment for inaccurate estimates reported in the first crude oil sales period, are discussed below under "Corrections for February–April, 1974 Allocation Period." The continuing adjustment for unsold obligations of refiner-sellers provides for a carryover of unsold amounts for one allocation quarter. For example, if a refiner-seller did not sell all of his fixed percentage share of the total allocation obligation in the allocation quarter commencing June 1, 1974, the unsold amount would remain as its sales obligation in the allocation quarter commencing September 1, 1974, but would not be a sales obligation in the allocation quarter commencing December 1, 1974. In computing sales obligations for a particular allocation quarter, unsold amounts are deducted from the total allocation obligation and the balance is apportioned among refiner-sellers in accordance with the fixed percentage share of each.

Corrections for February–April, 1974 Allocation Period

Correction for unsold amounts. To the extent that a refiner-buyer classified as a refiner-seller in the February through April 1974 period did not sell its entire required amount under the buy/sell list, its purchase opportunity in the allocation quarter commencing June 1, 1974, will be reduced by that unsold amount. Similarly, refiner-sellers that were classified as such in the February–April, 1974 period will first be required to sell their unsold amounts, if any, in the allocation quarter commencing June 1, 1974.

Correction for inaccurate estimates. The quantity of crude oil that a refiner-buyer is eligible to purchase in the allocation quarter commencing June 1, 1974, will be reduced by the excess, if any, of the volume of domestic crude oil runs to stills of that refiner-buyer for the period February through April, 1974 over the reported domestic crude oil supply estimates of that refiner-buyer for such period. Such purchase opportunity will be increased by (i) the excess, if any, of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for such period and by (ii) the excess, if any, of the reported imported crude oil supply estimates of that refiner-buyer for such period over the volume of its imported crude oil runs to stills for such period. The effect of this corrective provision will be the reverse when applied to refiner-sellers. That is to say, a seller's obligation will be increased where a buyer's rights would be decreased, and vice versa. FEO has adopted these corrective provisions because of certain inequities on the first buy/sell list, which were inherent in a system based on estimates.

Computation of sales obligations in first allocation quarter. In computing the amount required to be sold by each refiner-seller in the allocation quarter commencing June 1, 1974, unsold amounts from the February–April, 1974 allocation period shall be considered the first obligation of the refiner-seller concerned.

The total of the unsold amounts shall be deducted from the total allocation obligation, and the balance shall be apportioned among all refiner-sellers in accordance with their respective fixed percentage shares. Adjustments shall then be made to the fixed percentage share amounts to reflect inaccuracies in estimates in the February–April, 1974 allocation period, as described above. To the extent that there is a net overage or shortfall as a result of these adjustments as compared to the original balance, this amount will be either credited or added to the obligations of all refiner-sellers in accordance with their respective fixed percentage shares.

Miscellaneous

Provision is made for publication of a buy-sell list, the commencement of de-

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liveries, the reporting of transactions under the program, and the conditions of sales (including new § 211.94 concerning prices). In addition, the revision deals with those situations where a refiner-buyer is unable to negotiate a transaction.

Section 211.66(f) requires that each refiner claiming the status of a small or independent refiner must submit to FEO by May 20, 1974 an affidavit setting forth the basis for its claim. FEO will review these claims and determine whether the refiner is entitled to be a refiner-buyer under the revised program.

Possible reduction of purchase opportunities. Finally, FEO may consider revision of the crude oil program in the future to reduce purchase opportunities for refiner-buyers, in subsequent allocation quarters, as the current February, 1975 termination date for the Emergency Petroleum Allocation Act approaches. Such a gradual phasing down of allocation entitlement could take the form of progressive percentage reductions of the fixed purchase opportunities in succeeding allocation quarters.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748; 38 FR 33575)

In consideration of the foregoing, 10 CFR Chapter II is revised as set out herein, effective immediately.

Issued in Washington, D.C. on May 10, 1974.

WILLIAM N. WALKER,
General Counsel,
Federal Energy Office.

1. Subpart C of Part 211 is revised to read as follows:

Subpart C—Crude Oil and Refinery Yield Control

Sec.
211.61 Scope.
211.62 Definitions.
211.63 Supplier/purchaser relationships.
211.64 Transactions under prior program.
211.65 Method of allocation.
211.66 Reporting requirements.
211.71 Mandatory refinery yield control program.

Subpart C—Crude Oil and Refinery Yield Control

§ 211.61 Scope.

(a) This subpart is applicable to all producers, refiners and others who purchase or obtain crude oil for resale, transfer or use.

(b) This subpart provides for the mandatory allocation of crude oil produced in or imported into the United States other than the first sale of crude oil exempted pursuant to the provisions of § 210.32 of this chapter.

(c) This subpart also provides a program for refinery yield control.

§ 211.62 Definitions.

For purposes of this subpart—

"Allocation quarter" means a consecutive three month calendar period which commences one month prior to the start of each calendar quarter. The first allocation quarter shall be the three-month period from June 1, 1974 through August 31, 1974.

"Crude oil runs to stills" means, in the case of a refiner other than a petrochemical producer, the total number of barrels of crude oil input to distillation units processed by a refiner and measured in accordance with Bureau of Mines Form 6-1300-M and, in the case of a petrochemical producer, the total number of barrels of crude oil input to processing units for conversion into petrochemicals.

"Future refining capacity" means, for each refiner, the sum of the capacity of its refineries not included within the definitions of refining capacity and new refining capacity and operated continuously in the normal course of such refiner's business. Future refining capacity shall be certified by the FEO.

"Independent refiner" means a refiner which (a) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to November 27, 1973, more than 70 percent of its refinery input of domestic crude oil (or 70 percent of its refinery input of domestic and imported crude oil) from producers which do not control, are not controlled by, and are not under common control with, such refiner, and (b) marketed or distributed in such quarter and continues to market and distribute a substantial volume of gasoline refined by it through independent marketers.

"New refining capacity" means, for each refiner, the sum of the capacity of its refineries not included within the definition of refining capacity and is operated continuously in the normal course of such refiner's business, a significant portion of the construction of which has been completed prior to May 1, 1974. New refining capacity shall either be certified by the FEO or be the subject of a starter allocation under Section 25 of the Oil Import Regulations (32A CFR OI Reg. 1-25).

"Petrochemical producer" means a person who manufactures petrochemicals in a petrochemical plant by processing petrochemical feedstock.

"Processing agreement" means any agreement pursuant to which an owner of crude oil agrees to have that crude oil processed or refined by another person and retains ownership in some or all of the petroleum products so processed or refined from the crude oil.

"Refinery" means an industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, residual fuel oil or petrochemicals, and shall include a petrochemical plant.

"Refiner" means a firm which owns, operates or controls the operations of one or more refineries.

"Refiner-buyer" means any small refiner or independent refiner.

"Refiner-seller" means a refiner which is not a small refiner or an independent refiner as defined in this section, except that a refiner which is not a small refiner or an independent refiner, and the refinery capacity of which consists solely of new refining capacity or future refining capacity, shall not be classified as a refiner-seller.

"Refinery capacity" means, for each refiner, the sum of the refining capacity, new refining capacity and future refining capacity of its refineries.

"Refining capacity" means, for each refinery, the capacity reported to the Bureau of Mines as of January 1, 1973, as certified by the FEO. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business since the January 1973 report to the Bureau of Mines shall be deducted from refining capacity.

"Small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day. A refiner which is a small refiner as of January 1, 1974 shall not cease to be classified as such by virtue of new refining capacity operational after January 1, 1974 or future refining capacity which results in a refinery capacity for such refiner in excess of 175,000 barrels per day.

§ 211.63 Supplier/purchaser relationships.

(a) All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program, except purchases and sales made to comply with this program: *Provided, however,* That (1) any such supplier/purchaser relationship may be terminated by the mutual consent of both parties; (2) the provisions of this paragraph do not apply to the first sale of crude oil pursuant to § 210.32 of this chapter; and (3) the provisions of this paragraph shall not apply to the seller of any crude oil if the present purchaser of such crude oil refuses, after notice by the seller, to meet any bona fide offer made by another purchaser to buy such crude oil at a lawful price above the price paid by the present purchaser.

(b) New crude petroleum may be sold to any person. Once the sale is made, the seller of such new crude petroleum shall continue to sell to that purchaser subject to the provisions of paragraph (a)(1), (2) and (3) of this section.

§ 211.64 Transactions under prior program.

(a) Any agreement for the sale or purchase of crude oil entered into as a result of the provisions of this subpart as in effect immediately prior to May 10, 1974, shall be fully performed notwithstanding any provision of this subpart as in effect on May 10, 1974.

(b) Special Rule No. 1 issued under the provisions of this subpart as in effect immediately prior to May 10, 1974, shall remain in full force and effect.

§ 211.65 Method of allocation.

(a) *Purchase opportunities of refiner-buyers.* (1) In each allocation quarter, each refiner-buyer shall be entitled to purchase an amount of crude oil equal to one quarter of the volume of crude oil runs to stills of such refiner-buyer for the year 1972 less the volume of crude oil runs to stills of such refiner-buyer for the period February through April 1974, as adjusted under the provisions of this section. If the estimated aggregate amount of crude oil to be produced in and imported into the United States in any allocation quarter is less than the aggregate amount of crude oil produced in and imported into the United States in the corresponding period of 1972, refiner-buyers for that allocation quarter shall have the amount of crude oil that they would otherwise be entitled to purchase reduced on a pro rata basis.

(2) A refiner-buyer's refinery capacity for the purposes of paragraphs (a)(6) and (c)(2) of this section and volume of crude oil runs to stills for the year 1972 and for the period February through April, 1974 shall (i) include (A) the volume of crude oil processed by another refiner for that refiner-buyer pursuant to a processing agreement and (B) the volume of crude oil processed by that refiner-buyer for a person other than a refiner pursuant to a processing agreement, and (ii) exclude the volume of crude oil processed by that refiner-buyer for another refiner pursuant to a processing agreement.

(3) A refiner-buyer's volume of crude oil runs to stills for the period February through April, 1974 shall exclude (i) the volume of crude oil runs to stills in such period attributable to crude oil purchased by that refiner-buyer in such period pursuant to the provisions of this subpart and (ii) the volume of crude oil runs to stills in such period attributable to imports of crude oil in such period in excess of the reported estimate of crude oil imports of that refiner-buyer for such period.

(4) Upon application by a refiner-buyer prior to May 20, 1974, for purposes of the calculations in paragraph (a)(1) of this section, the FEO may adjust such refiner-buyer's reported volume of crude oil runs to stills for the year 1972 to compensate for reductions in volume due to unusual or nonrecurring operating conditions. The FEO may at any time, for purposes of such calculations and without application by the refiner-buyer concerned, adjust the volume of crude oil runs to stills of a refiner-buyer for the year 1972 or for the period February through April, 1974, if it determines that such refiner-buyer's reported volume of crude oil runs to stills for such year or period is inaccurate or not representative of normal operating conditions.

(5) For purposes of the calculations in paragraph (a)(1) of this section, the volume of crude oil runs to stills of a refiner-buyer in 1972 shall be (i) increased by the volume of crude oil necessary to operate any new refining capacity of that refiner-buyer at the supply to capacity ratio at which all refineries of that refiner-buyer operated in the year 1972, taking into consideration crude oil supplies (in excess of supplies included in its February through April, 1974 crude oil runs to stills) available to that refiner-buyer for such new capacity, and (ii) decreased by the volume of crude oil runs to stills of such refiner-buyer attributable to any refining capacity which has ceased to be operated continuously in the normal course of business since December 31, 1972.

(6) No allocation shall be made under this subpart which will result in crude oil supplies in excess of 100 percent of refinery capacity to any refiner-buyer.

(7) Each refiner-buyer shall process in its refineries, or have processed for its account by another refiner, any crude oil purchased under this subpart in, or within a reasonable time following the allocation quarter in which such crude oil was so purchased.

(b) *Future refining capacity.* (1) Notwithstanding any provisions of paragraph (a) of this section to the contrary, future refining capacity of a refiner-buyer shall be eligible to receive allocations of crude oil, as hereinafter provided. Each refiner-buyer that wishes to receive an allocation under this paragraph (b) shall apply to the FEO, on forms and instructions issued by the FEO. No such application shall be made until such future capacity will become operational in the allocation quarter for which the allocation is sought. In no event shall any such application be made less than 60 or more than 90 days prior to the commencement of such allocation quarter. The FEO may specify a fixed or varying allocation amount or amounts of crude oil for such future refining capacity, and in so doing shall consider the following factors:

(i) The source and volume of anticipated crude oil supplies for such future refining capacity;

(ii) the efforts made by that refiner-buyer to obtain or locate crude oil supplies for such future refining capacity;

(iii) the projected ability of all refiner-sellers to obtain supplies of crude oil for their refinery capacity;

(iv) the economic feasibility of operating such future refining capacity absent any allocations;

(v) the extent to which such future refining capacity is designed to implement the national policies relating to protection of the environment; and

(vi) the extent to which such future refining capacity incorporates high conversion facilities and the patterns of product yield conform to the anticipated national requirements for refinery products.

(2) The FEO will endeavor to assure supplies to future refining capacity to enable such capacity to operate at the national supply to capacity ratio.

(c) *Computation of total allocation obligation.* (1) Prior to May 20, 1974, each refiner-buyer shall report to the FEO, as provided in § 211.66, its volume of crude oil runs to stills for the year 1972 and for the period February through April, 1974, which reported volume shall reflect the adjustments specified in paragraph (a)(2), (3), (4) and (5) of this section. The FEO will then compute the quantity of crude oil which each refiner-buyer will be eligible to purchase during an allocation quarter. The sum of the quantities of crude oil that all refiner-buyers are eligible to purchase for delivery during an allocation quarter shall be the total allocation obligation for refiner-sellers for such allocation quarter.

(2) The quantity of crude oil that a refiner-buyer shall be eligible to purchase under this subpart in an allocation quarter shall be reduced by the amount of crude oil available to refiner-buyer in a prior allocation quarter that resulted in crude oil supplies in excess of 100 percent of that refiner-buyer's refinery capacity, except that such reduction based on crude oil supplies in any prior allocation quarter shall not be for an amount in excess of the volume of crude oil actually purchased by that refiner-buyer under this subpart in such prior allocation quarter.

(3) The purchase opportunity of each refiner-buyer which was classified as a refiner-seller in the period February through April, 1974 and did not sell its total required quantity of crude oil in such period pursuant to the buy/sell list published by the FEO shall be reduced by such unsold amount in the allocation quarter commencing June 1, 1974.

(4) The quantity of crude oil that a refiner-buyer shall be eligible to purchase under this subpart in the allocation quarter commencing June 1, 1974, shall be (i) reduced by the excess of the volume of domestic crude oil runs to stills of that refiner-buyer for the period February through April, 1974 over the reported estimated domestic crude oil runs to stills of that refiner-buyer for such period and (ii) increased by (A) the excess of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for such period, and (B) the excess of the reported estimates of imported crude oil runs to stills of that refiner-buyer for such period over the volume of its imported crude oil runs to stills for such period.

(d) *Refiner-sellers' sales obligations.* (1) Each refiner-seller shall offer for sale crude oil, directly or through exchange, to refiner-buyers. The quantity of crude oil that each refiner-seller shall be required to offer for sale to refiner-buyers during an allocation quarter shall be equal to that refiner-seller's fixed percentage share multiplied by the total allocation obligation for the particular allocation quarter, as adjusted in this paragraph (d). A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEO. New refining capacity or future refining capacity shall not subject a refiner-seller to any increase in its fixed percentage share.

(2) The quantity of crude oil that a refiner-seller shall be required to offer for sale in the allocation quarter commencing June 1, 1974, shall be (i) increased by the excess of the volume of domestic crude oil runs to stills of that refiner-seller for the period February through April, 1974 over the reported estimated domestic crude oil runs to stills

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of that refiner-seller for such period and (ii) reduced by (A) the excess of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for such period, and (B) the excess of the reported estimates of imported crude oil runs to stills of that refiner-seller over the volume of its imported crude oil runs to stills for such period. For purposes of this paragraph (d)(2) a refiner-seller's crude oil runs to stills shall reflect the adjustments in paragraph (a)(2) of this section and include amounts sold and exclude amounts purchased under this subpart in the period February through April, 1974.

(3) In each allocation quarter, each refiner-seller that did not sell its total quantity of crude oil required to be offered for sale under this subpart in the prior allocation quarter or, in the case of the allocation quarter commencing June 1, 1974, the period February through April, 1974, shall first be required to offer for sale such unsold amount to refiner-buyers; *provided, however,* that such unsold amount in such prior allocation quarter or period shall constitute a sales obligation of a refiner-seller only for the allocation quarter immediately following such prior allocation quarter or period.

(4) In calculating the quantity of crude oil that each refiner-seller is required to offer for sale in an allocation quarter, the aggregate of the quantities of crude oil required to be sold under paragraph (d)(3) of this section shall be deducted from the total allocation obligation for such allocation quarter, and the balance shall be offered for sale by all refiner-sellers in accordance with their respective fixed percentage shares. Sales by a refiner-seller in an allocation quarter shall be deemed to be first in satisfaction of that refiner-seller's obligation under paragraph (d)(3) of this section, to the extent of such obligation, and next in satisfaction of that refiner-seller's fixed percentage share of such balance.

(5) For the allocation quarter commencing June 1, 1974, after calculation of the amount of each refiner-seller's fixed percentage share of the total allocation obligation less the quantities of crude oil required to be sold under paragraph (d)(3) of this section, the adjustments specified in paragraph (d)(2) of this section shall be made to such amount. To the extent that the aggregate of such adjusted obligations of all refiner-sellers either exceeds or is less than the total allocation obligation less such quantities under paragraph (d)(3) of this section, the adjusted obligation of each refiner-seller (exclusive of amounts required to be sold under paragraph (d)(3) of this section) shall be either reduced or increased, as the case may be, by its fixed percentage share of such excess or shortfall.

(e) *Buy-sell list.* On the first day of the allocation quarter commencing June 1, 1974, and 15 days prior to each subsequent allocation quarter, the FEO shall publish a notice for that allocation quarter listing the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity that each refiner-seller will be obligated to offer for sale to refiner-buyers. The commencement date for starting deliveries under sales agreements in an allocation quarter shall be 15 days after publication of the related notice. Any agreements for the sale or purchase of crude oil after such commencement date shall be retroactive to the starting delivery date. All deliveries must be completed or arranged for before the end of the allocation quarter.

(f) *Sale/purchase transaction report.* Within fifteen days of the publication of the notice under paragraph (e) of this section, each transaction made to comply with this program shall be reported by the buyer and seller to the FEO. This report shall identify the selling refiner and purchasing refiner-buyer and indicate the volumes of the crude oil sold or purchased.

(g) *Conditions of sale.* (1) The terms and conditions of each sale of crude oil, other than the prices, shall be consistent with normal business practices. The crude oil offered must be suitable for processing in and practical for delivery to the refiner-buyer.

(2) All crude oil transferred pursuant to this section shall be priced in accordance with the provisions of Part 212 of this chapter.

(3) Exchanges of crude oil may be utilized to comply with the purchase and sale provisions of this section.

(h) *Failure to negotiate transactions.* (1) Each refiner-buyer shall use its best effort to consummate the purchases of crude oil under this subpart from refiner-sellers prior to requesting assistance from the FEO. A refiner-buyer that is unable to negotiate a contract to purchase crude oil within 15 days of the publication of the notice specified in paragraph (e) of this section may request after the expiration of such 15 day period that the FEO direct one or more refiner-sellers to sell an acceptable type of crude oil to such refiner-buyer. Such a request must be made within 30 days of the publication of such notice. Upon such request, the FEO may direct one or more refiner-sellers which have not sold their required allocation quarter quantity to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by the FEO, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during that allocation quarter, provided that the refiner-seller or refiner-sellers have fully complied with all of the provisions of this section.

(2) Refiner-sellers which have not negotiated sales with refiner-buyers of the required volume of crude oil within fifteen days of the publication of the notice specified in paragraph (e) of this section shall notify the FEO. The FEO may then direct that refiner-seller to sell that volume to a refiner-buyer which has not obtained its total amount permitted under paragraph (a) of this section.

§ 211.66 **Reporting requirements.**

(a) All matters pertaining to the allocation of crude oil and the refinery yield control program shall be addressed to the Administrator, Federal Energy Office, P.O. Box 2885, Washington, D.C. 20013.

(b) A monthly report shall be required from refiners on forms and instructions issued by the FEO as to crude oil runs and products produced.

(c) Initial report. By May 20, 1974 each refiner shall provide the FEO with a report showing the following:

(1) Its refining capacity (as defined in § 211.62).

(2) Any new refining capacity (as defined in § 211.62) of such refiner.

(3) The volume of the crude oil runs to stills of such refiner for the period February through April 1974, taking into account, and separately specifying the amount of, the adjustments provided for in § 211.65.

(4) The volume of the crude oil runs to stills of such refiner for the year 1972, taking into account, and separately specifying the amount of, the adjustments provided for in § 211.65.

(5) Estimated runs of all domestic and imported crude oil for the forthcoming allocation quarter including (i) the volume of crude oil processed by another refiner for that refiner pursuant to a processing agreement and crude oil processed by that refiner for a person other than a refiner pursuant to a processing agreement, and excluding (ii) the volume of crude oil which that refiner processes for another refiner pursuant to a processing agreement.

(6) Such other information as the FEO may request.

(d) Quarterly report. Thirty days prior to each allocation quarter commencing after August 31, 1974, each refiner shall file with the FEO a report showing the following:

(1) The volume of crude oil runs to stills of such refiner for the most recent calendar quarter, taking into account, and specifying the amount of, the adjustments provided for in § 211.65 (a)(2).

(2) The volume of crude oil runs to stills of such refiner for the allocation quarter preceding the current allocation quarter, taking into account, and specifying the amount of, the adjustments provided for in § 211.65(a)(2)

(3) The volume of crude oil available to such refiner in the allocation quarter preceding the current allocation quarter.

(4) Estimated runs of all domestic and imported crude oil for the forthcoming allocation quarter including (i) the volume of crude oil processed by another refiner for that refiner pursuant to a processing agreement and crude oil processed by that refiner for a person other than a refiner pursuant to a processing agreement, and excluding (ii) the volume of crude oil which that refiner processes for another refiner pursuant to a processing agreement.

(5) Any change in refinery capacity since the previous report.

(6) Such other information as the FEO may request.

(e) All information required by paragraphs (c) and (d) shall identify domestic and imported crude oil and shall state the average cost to the refiner of the domestic and imported crude oil run. Such reports shall also identify amounts of crude oil produced from a stripper well lease as defined in § 210.32 of this chapter.

(f) Each refiner who claims to be a small refiner or an independent refiner shall submit to the FEO ten days prior to the allocation quarter commencing June 1, 1974, an affidavit setting forth the factual basis for its claim.

(g) Any refiner whose refinery capacity exceeds 175,000 barrels per day and who does not report as provided in paragraph (f) of this section will be deemed a refiner-seller.

§ 211.71 **Mandatory refinery yield control program.**

(a) *Purpose.* The refinery yield control program is designed to require each refiner to utilize available supplies of crude oil in a manner best suited to ensure adequate production levels of refined petroleum products and residual fuel oil which are or may be in short supply, consistent with the objectives of this chapter.

(b) *Scope.* This section applies as specified to the production of refined petroleum products and residual fuel oil from crude oil by each refiner in the United States.

(c) *Product yield controls*—(1) *Definitions.* As used in this section—

"Adjustment factor" means the percentage established by the FEO by which the base percentage yield of a particular refined petroleum product or residual fuel oil is multiplied to obtain the adjusted percentage yield of that particular product or residual fuel oil.

"Adjusted percentage yield" means the product of the base percentage yield of a particular refined petroleum product or residual fuel oil multiplied by the adjustment factor for that product or residual fuel oil.

"Base percentage yield" means the ratio expressed as a percentage, which the total number of barrels of a particular refined petroleum product or residual fuel oil produced by a refiner during a specified base period bears to the refiner's total crude runs to stills in that base period.

(2) *Adjustment of base percentage yield.* Whenever a refined petroleum product or residual fuel oil is or will be in short supply, the FEO may require refiners to adjust their base percentage yield of that product or residual fuel oil in order to increase the relative output of that product or residual fuel oil in short supply. If the FEO determines that an adjustment to the base percentage yield of a particular refined petroleum product or residual fuel oil is necessary, the FEO shall publish an adjustment factor by which each refiner must multiply its base percentage yield of that product or residual fuel oil to obtain the adjusted percentage yield of that product or residual fuel oil.

(3) *Joint compliance.* Upon approval by the FEO, two or more refiners may adjust their base percentage yield of a particular refined petroleum product or residual fuel oil on a pooled basis, such that the combined production of that product or residual fuel oil by the two or more refiners would equal the combined production of those refiners if each refiner had separately equalled or exceeded its adjusted percentage yield of that product or residual fuel oil.

(d) *Allocation of crude oil.* The FEO may adjust the quantities of crude oil allocated among refiners under § 211.65 in a manner designed to ensure desired production levels of refined petroleum products or residual fuel oil in short supply for which an adjustment factor has been established. Such adjustments shall be designed to meet the objectives of this chapter and of the Act, such that refiners which increase production in excess of their adjusted percentage yield of that product or residual fuel oil, or less than the adjusted percentage yield of that product or residual fuel oil may be allocated greater or lesser quantities of crude oil during the next allocation quarter, respectively.

§ 212.88 [Revoked]

2. Section 212.88 of Part 212 is revoked.

3. Section 212.94 is added to read as follows:

• • • • • •

§ 212.94 **Allocated crude pricing.**

(a) *Scope.* This section applies to each sale of crude oil made pursuant to the provisions of § 211.65 of this chapter, effective for sales obligations for the June 1, 1974, and subsequent allocation quarters.

(b) *Rule.* Notwithstanding the general rules described in this subpart, the price at which crude oil shall be sold when required in § 211.65 of this chapter during each month shall be in Districts I–IV the weighted average price of all crude oil delivered to a refiner-seller in that month for those Districts, and in District V, the weighted average price of all crude oil delivered to a refiner-seller in that month for that District, plus, in all Districts, a handling fee of 30 cents per barrel, any transportation adjustment as specified in paragraph (b)(1) of this section and any gravity adjustment as specified in paragraph (b)(2) of this section. Each refiner-seller making such a sale shall calculate its price under this section and shall maintain records, which shall be made available to the FEO upon request, listing the volumes and delivered prices of all crude oil delivered to its refineries during each month.

(1) Actual additional transportation expenses incurred to move the crude oil to the refiner-buyer's refinery shall be paid by the refiner-buyer. Actual transportation expenses saved as a result of moving the offered crude oil directly to the refiner-buyer's refinery shall be deducted from the selling price, if customarily included in such price.

(2) The price adjustment for gravity differential of crude oil offered for sale under § 211.65 of this chapter in Districts I–IV shall be the weighted average price for those Districts calculated under paragraph (b) of this section plus or minus 2 cents per barrel per °API that the crude oil being offered for sale under § 211.65 of this chapter is above or below the weighted average °API of estimated runs of all crude oil for the forthcoming calendar quarter for the refiner-seller in Districts I–IV, and, in District V, shall be the weighted average price for that District calculated under paragraph (b) of this section plus or minus 5 cents per barrel per °API that the crude oil being offered for sale under § 211.65 of this chapter is above or below the weighted average °API of estimated runs of all crude oil for the forthcoming calendar quarter for the refiner-seller in District V.

(c) *Calculations.* For the purpose of calculating the weighted average price of all crude oil delivered to a refiner-seller during each month, a refiner-seller shall use, for domestic crude oil, the delivered cost of all domestic crude oil at the point of purchase, plus any gathering or trucking allowance, pipeline tariffs, water transportation costs, terminalling costs and exchange differentials paid to deliver such crude oil to the refiner-seller's refineries; and, for imported crude oil, the landed cost plus any pipeline tariffs, water transportation costs, terminalling costs, exchange differentials, import fees, insurance, duty, and taxes paid to deliver such crude oil to the refiner-seller's refineries.

[FR Doc.74–11230 Filed 5–13–74;10:09 am]

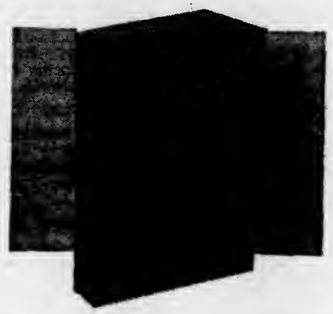
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federal register

WEDNESDAY, MAY 15, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 95

Pages 17295–17421

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federal register
Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 2770..... Pub. Law 93–274
Uniformed services, medical officers, revised pay structure
(May 6, 1974; 88 Stat. 94)

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

National Aeronautics and Space Administration

Section 213.3348 is amended to reflect the following title change: from Associate Administrator for Organization and Management to Associate Administrator for Center Operations.

Effective May 15, 1974, § 213.3348(t) is amended as set out below.

§ 213.3348 National Aeronautics and Space Administration.

* * * * *

(t) *Associate Administrator for Center Operations.*

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–11159 Filed 5–14–74;8:45 am]

Title 7—Agriculture

AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Standards for Grades of Frozen Asparagus

A notice of a proposal to amend the United States Standards for Grades of Frozen Asparagus (7 CFR 52.381–52.395) was published in the FEDERAL REGISTER of September 11, 1973 (38 FR 24910). Interested persons were given until October 31, 1973, to submit written comments concerning the proposed amendment. As a result of requests that were received, the Department, in a notice published in the FEDERAL REGISTER (39 FR 1053), extended the period of comment until February 28, 1974.

This amendment is issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624), which provides for the issuance of official U.S. Grades to designate different levels of quality for voluntary use by producers, buyers, and consumers. Official grading services are also provided under this Act upon request and upon payment of a fee to cover the cost of such services.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Statement of consideration leading to the amendment of the standards. The amendment reclassifies a unit of product with tough fiber from a "minor" to a "major" defect. Such reclassification would noticeably reduce the amount of tough fiber that would be permitted in U.S. Grade A and U.S. Grade B frozen asparagus. The request to amend the standards was formally made by the American Frozen Food Institute (AFFI).

Thirteen written responses were received, one which was from the Food and Drug Administration stating that they had no formal comment to make.

Four comments from consumers fully supported the amendment.

The AFFI (representing a substantial number of frozen asparagus packers in the United States) reaffirmed their support to the amendment and of attribute-type standards. AFFI points out that the elimination of tough fiber from the "minor" classification would reduce the maximum possible amount of tough fiber in U.S. Grade A frozen asparagus from an Acceptable Quality Level (AQL) of 15.0 to 6.5.

The American Farm Bureau Federation requested a postponement of the amendment "* * * until differences in the probable impact of these proposals on the different U.S. production areas can be thoroughly analyzed to determine whether modifications are needed in order to provide equitable treatment for all areas and to avoid a reduction in the supplies available to consumers."

The Department contends there is no useful purpose in postponing the amendment pending an anlysis of production area capabilities. Extensive studies were conducted in all producing areas prior to the revision of April, 1970. It is difficult to assure "equity" between and even within producing areas since asparagus is so sensitive to weather conditions. It seems more logical to base the grade requirements on what the market will tolerate for the respective grade, irrespective of growing area. The Department does not believe the proposed amendment will reduce overall supplies available to the consumer, even though it will reclassify product with too much tough fiber into a lower grade.

A processor of frozen asparagus contended that a portion of his 1973 pack would have been downgraded from U.S. Grade A to U.S. Grade B if the pack had been graded under the provisions of the proposed amendment.

The Department does not disagree with this statement. Undoubtedly the portion of the 1973 pack referred to did contain substantial amounts of fiber. It is the intent of the proposal to eliminate this type of product from the Grade A classification.

Five comments were received from growers and packers of asparagus in the Michigan area. Their consensus was that the amendment is discriminatory in that the revision would permit lesser amounts of tough fiber in U.S. Grade A frozen asparagus than in U.S. Grade A canned asparagus.

The standards for canned asparagus and frozen asparagus cannot be compared objectively to ascertain the effects of fiber on the final grade of the product. This situation exists because each standard treats product characteristics differently. Assuming that the raw material (fresh asparagus) has a normal distribution of imperfections—whether fiber development, pathological defects, open heads, etc.—the proposed revision would permit less fiber in the frozen product in Grades A and B than in the canned product. It would be desirable if both standards would treat fiber identically. However the Department should not disregard the request of the frozen food industry for a better product just because the canned standard is different. In fact, these differences have existed for several years. Therefore, the Department believes the interests of the frozen food industry would best be served by adopting the proposed amendment.

No additional comments were received.

After careful consideration of all relevant matters, the Department concludes that the amendment shall become effective.

Therefore, the United States Standards for Grades of Frozen Asparagus are hereby amended as proposed on September 11, 1973. The amendment is:

Table V is revised to read as follows:

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TABLE V.—*Classification of defects, character—damage*

Quality factors	Defects	Classification		
		Minor	Major	Severe
Character	Spears and tips styles:			
	In Grade A only—			
	Reasonably well developed (worse than Plate 1 but not worse than Plate 2 or 3).		×	
	In all grades—			
	Poorly developed (worse than Plate 2 or 3):			
	Seedy		×	
	Flowered			×
	Cut spears or cuts and tips style:			
	In all grades—			
	Poorly developed (worse than Plate 2 or 3):			
	Seedy	×		
	Flowered		×	
	Tough fiber development:			
	2 inches or less		×	
	More than 2 inches or woody units of any length			×
Damage	Shattered heads—broken or shattered to the extent that it is definitely noticeable.	×		
	Misshappen—badly crooked or affected in appearance by doubles or malformations.	×		
	Poorly cut—angle of cut less than 45 degrees—cut is ragged or partially cut.	×		
	Discoloration, mechanical injury, pathological or damaged by other means to the extent that the appearance and eating quality of a unit is affected:			
	Slightly	×		
	Materially		×	
	Seriously			×

For interpretative guides, see USDA illustrations of "Stages of Development in Frozen Asparagus," which are a part of this document.

Effective date. The amendment to the United States Standards for Grades of Frozen Asparagus, which have been in effect since April 8, 1970, shall become effective June 30, 1974.

Dated: May 8, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-11089 Filed 5-14-74;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Gypsy Moth and Browntail Moth

EXEMPTED ARTICLES

Correction

In FR Doc. 74-10160 appearing on page 15404 in the issue of Friday, May 3, 1974, the second line of § 301.45-2b(c) reading "have dried, pressed, waxed, lacquered," should read "have been dried, pressed, waxed, lacquered,".

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Authority of Special Inquiry Officers

Reference is made to the Notice of Proposed Rule Making which was published in the FEDERAL REGISTER on March 20, 1974 (39 FR 10436) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383) and in which there was set forth the proposed amendment of § 242.8(a) pertaining to the authority of special inquiry officers to consider, in deportation proceedings, claims for relief from deportation under Articles 32 and 33 of the Convention Relating to the Status of Refugees, as amended by the Protocol Relating to the Status of Refugees. The representation which was received in response to the proposed rule of March 20, 1974 has been considered. No change has been made in the proposed rule.

Although it has been the Service view that in deportation proceedings conducted under the present regulations special inquiry officers have authority, as an incident of determining deportability, to dispose of any contentions invoking Articles 32 and 33 of the Convention Relating to the Status of Refugees, litigants have questioned that interpretation of the regulations. In order to remove such doubts and to end unnecessary litigation, the proposed amendment to § 242.8(a) is being adopted so that such authority will be expressly stated. The adoption of the proposed amendment is not intended as a concession that in any particular situation Article 32 or 33 enlarges or adds to the rights of an alien under the immigration laws of the United States.

The proposed rule as set out below is hereby adopted:

In § 242.8(a), the first sentence is amended. As amended, § 242.8(a) reads as follows:

§ 242.8 Special Inquiry Officers.

(a) *Authority.* In any proceeding conducted under this part the special inquiry officer shall have the authority to determine deportability and to make decisions, including orders of deportation as provided by section 242(b) of the Act; to consider claims for relief from deportation under Articles 32 and 33 of the Convention Relating to the Status of Refugees, as amended by the Protocol Relating to the Status of Refugees; to reinstate orders of deportation as provided by section 242(f) of the Act; to determine applications under sections 244, 245, and 249 of the Act; to determine the country to which an alien's deportation will be directed in accordance with section 243(a) of the Act; to order temporary withholding of deportation pursuant to section 243(h) of the Act, and to take any other action consistent with applicable provisions of law and regulation as may be appropriate to the disposition of the case. A special inquiry officer shall have authority to certify his decision in any case to the Board of Immigration Appeals when it involves an unusually complex or novel question of law or fact. Nothing contained in this part shall be construed to diminish the authority conferred on special inquiry officers by the Act.

(Sec. 103, 66 Stat. 173; (8 U.S.C. 1103))

Effective date. This order shall become effective June 14, 1974.

Dated: May 9, 1974.

L. F. CHAPMAN, JR.,
Commissioner of
Immigration and Naturalization.

[FR Doc.74-11162 Filed 5-14-74;8:45 : m1

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74-WA-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Additional Control Area

Correction

In FR Doc. 74-10333 appearing at page 15383 in the issue of Friday, May 3, 1974, make the following change.

The amendment to § 71.163—"Control 1180."—on page 15384, is changed by deleting the 12th line, " radial at Lat. 39°50'00" N., Long. 70°00'00" " and substituting for it "cle centered on the Kennedy VORTAC 104".

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 10—DEFINITIONS AND STANDARDS FOR FOODS

"Safe and Suitable" Food Ingredients; General Definition

In the FEDERAL REGISTER of April 26, 1973 (38 FR 10274), the Commissioner of Food and Drugs proposed a new § 10.1 (d) (21 CFR 10.1(d)) which defines the phrase "safe and suitable" as it describes food ingredients. This phrase has been variously defined in numerous food standard regulations, and it was the intent of the Commissioner in his proposal to avoid repeating the same or similar definitions in every individual food standard in the future where it might be applicable.

Six comments were received representing one consumer, one consumer organization, one industry representative, and three trade associations. The issues raised and the Commissioner's conclusions are as follows:

1. One comment asked if the proposed 21 CFR 10.1(d) supersedes 21 CFR 121.1 and 121.3 amendments which were promulgated in the FEDERAL REGISTER of June 25, 1971 (36 FR 12093).

The Commissioner has previously concluded in 21 CFR 10.1(c) that "No provision of any regulation prescribing a definition and standard of identity or standard of quality or fill of container under section 401 of the act shall be construed as in any way affecting the concurrent applicability of the general provisions of the act and the regulations thereunder relating to adulteration and misbranding." New § 10.1(d) complements 21 CFR Parts 121 and 8, which were promulgated under sections 409 and 706 of the act, respectively, by proposing a definition that incorporates the provisions of the regulations in Parts 121 and 8 in the specific area of food standards. Therefore, the "safe and suitable" definition does not supersede 21 CFR 121.1 and 121.3.

2. One comment stated that it is inappropriate to omit from consideration the "safe and suitable" definition from future individual food standard making procedures.

The Commissioner concludes that there is no advantage to repeatedly define certain terms, such as "safe and suitable," which appear in many individual food standards. In the process of promulgating food standard regulations, all ingredients will be considered under the "safe and suitable" definition. Those ingredients which are deemed not suitable for a particular product will be excluded from the standard, as exemplified in 21 CFR 16.15, 28.1, and 36.30.

3. Two comments stated that the proposed definition is too broad to be enforceable.

The Commissioner concludes that the proposed definition has the effect of requiring that all ingredients which are deemed "safe and suitable" be generally recognized as safe (GRAS), subject to a prior sanction, or used in conformity with an established food or color additive regulation. Sections 409 (b) and (c) of the act require that the data which are submitted in support of the issuance of a food additive regulation must prove that the additive would accomplish its intended physical or other technical effect in the amount specified. Similar requirements are in effect for color additives in section 706(b) of the act. Section 121.101(b)(1) requires that the GRAS substances added to a food do not exceed the amount reasonably required to accomplish their intended physical, nutritional, or other technical effect. Therefore, the Commissioner does not agree that the proposed definition for "safe and suitable" is too broad to be enforceable, since an ingredient which is used under this definition must be safe and perform an appropriate function in the food, and cannot be used in amounts greater than necessary to achieve the desired effect in the food.

4. One comment stated that whether an ingredient performs an "appropriate" function in the food is largely a subjective evaluation, depending upon the attitudes of the person making the judgment. The comment recommended that the proposed terminology be changed from the word "appropriate" to the word "useful" in describing the function an ingredient shall perform. The comment stated that such a change would provide a more objective evaluation of functional performance.

The Commissioner disagrees with the comment and concludes that the word "appropriate" goes beyond the scope of the meaning of the word "useful" by including the connotation of "legitimate usefulness". The Commissioner further concludes that use of the word "appropriate" to describe the functional performance of an ingredient in a particular food product will promote honesty and fair dealing in the interest of consumers.

5. One comment expressed concern that certain food additives and color additives containing coal tar derivatives could be described as "safe and suitable" ingredients in future food standards. The person who submitted the comment stated that he was allergic to these ingredients and, consequently, they could not be deemed "safe" for him. The comment requested that these additives be listed on the label of the food products in which they are used.

The Commissioner has concluded that, since the label of foods must show when colors, spices, or flavorings are used, individuals are given notice that such ingredients are present, and they should exercise caution to protect themselves when they are aware of their sensitivity to certain ingredients. The food and color additives which may be permitted by food standards are regulated or certified for conditions of safe usage under regulations established pursuant to the act or are generally recognized as safe. The Commissioner does not have the authority to require the label declaration of specific colorings, spices, or flavorings. The Federal Food, Drug, and Cosmetic Act exempts spices, flavorings, and colorings, other than those sold as such, from being declared on the label by their common or usual names.

Accordingly, having reviewed the comments received and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the proposal, as set forth below.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(a), 52 Stat. 1046, as amended by 70 Stat. 919, 52 Stat. 1055; 21 U.S.C. 341, 371(a)) and under the authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That 21 CFR 10.1 be amended by adding a new paragraph (d) to read as follows:

§ 10.1 Definitions and interpretations.

* * * * * *

(d) "Safe and suitable" means that the ingredient:

(1) Performs an appropriate function in the food in which it is used.

(2) Is used at a level no higher than necessary to achieve its intended purpose in that food.

(3) Is not a food additive or color additive as defined in section 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act as used in that food, or is a food additive or color additive as so defined and is used in conformity with regulations established pursuant to section 409 or 706 of the act.

Effective date. This order shall become effective on June 14, 1974.

(Secs. 401, 701(a), 52 Stat. 1046, as amended by 70 Stat. 919, 52 Stat. 1055; (21 U.S.C. 341, 371(a).))

Dated: May 8, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-11170 Filed 5-14-74;8:45 am]

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Monensin and 3-Nitro-4-Hydroxyphenylarsonic Acid

The Commissioner of Food and Drugs has evaluated a new animal drug application (93-599V) filed by Agricultural Processing Corporation, 225 Alabama St., P.O. Box 845, Salem, VA 24153, proposing the safe and effective use of premixes containing monensin sodium and 3-Nitro-4-hydroxyphenylarsonic acid for use in manufacturing broiler chicken feed. The application is approved.

To facilitate referencing, Agricultural Processing Corporation is being assigned a code number and added to the firms listed in § 135.501(c) (21 CFR 135.501 (c)).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135e (21 CFR Parts 135 and 135e) are amended as follows:

1. Part 135 is amended in § 135.501 by adding a new code number 110 to paragraph (c), as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.	*Firm name and address*
110---	Agricultural Processing Corp., 225 Alabama St., P.O. Box 845, Salem, VA 24153.

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2. Part 135e is amended in § 135e.50 by adding thereto a new paragraph (b)(6) as follows:

§ 135e.50 Monensin: monensin sodium.

• • • • • •

(b) • • •

(6) Premix level of 11.786 grams per pound of monensic acid activity from monensin sodium with 1.063 percent 3-Nitro-4-hydroxyphenylarsonic acid; premix level of 22 grams per pound of monensic acid activity from monensin sodium with 1.98 percent 3-Nitro-4-hydroxyphenylarsonic acid has been granted: For the sponsor see code No. 110 in § 135.501(c) of this chapter.

• • • • •

Effective date. This order shall be effective May 15, 1974.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 9, 1974.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.74-11169 Filed 5-14-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD ADDITIVES

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Tetracycline Oral Veterinary

Correction

In FR Doc. 74-6136 appearing at pages 9933-9935 in the issue of Friday, March 15, 1974 make the following changes:

1. In § 135c.121(e), the table entries should be numbered from 1 to 8 consecutively.

2. In § 135c.122(e), the table entries should be numbered from 1 to 3 consecutively.

3. In § 135c.123(e), the table entries should be numbered 1 and 2 consecutively.

4. In § 135c.124(e) the table entry should be preceded by the figure 1.

5. In § 135c.125(e) the table entries should be numbered 1 and 2 consecutively.

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 17—RECORDKEEPING

Subpart A—Recordkeeping Requirements and Retention Schedules for Federal-Aid Highway Records of State Highway Departments

ELIGIBILITY FOR FEDERAL AID CRITERIA

A Federal Highway Administration (FHWA) directive, Policy and Procedure Memorandum 30-9, has heretofore set forth the Federal-aid provisions applicable to recordkeeping and retention schedules for Federal-aid highway records of State highway departments. That directive was predicated upon 23 CFR 1.30, "Records and Documents." The directive has been revised for addition to the Federal-Aid Highway Program Manual as Volume 1, Chapter 6, Section 2. Inasmuch as the Manual addition directly advises the State highway departments as recipients of Federal-aid highway funds of the necessity for recordkeeping as a condition of eligibility for Federal-aid reimbursement under the provisions of Title 23, United States Code, "Highways," those requirements are hereby published.

This matter relates to and involves agency management in a grant program within the purview of 5 U.S.C. 553(a)(2), thus general notice of proposed rulemaking is not required, and the regulations will be effective on the date of issuance set forth below.

The citation of 23 CFR 1.30 appearing in the FEDERAL REGISTER of March 21, 1974 (page 10824, Vol. 39, No. 56), with respect to Record Retention, Federal Highway Administration, in § 2.1, is amended to read: 23 CFR, Part 17.

Issued on May 6, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

§ 1.30 [Revoked]

1. Section 1.30, Title 23, CFR, is hereby revoked.

2. Part 17 of 23 CFR is added to read as follows:

Sec.

17.101 Purpose.
17.102 Applicability.
17.103 Waivers.
17.104 Definition of terms.
17.105 Retention Schedules for Federal-Aid Highway Records of State Highway Departments.
17.106 Authorization to Microfilm Records.
17.107 Microfilm Standards to be Applied.
Appendix A—Retention Schedules.

AUTHORITY: 23 USC 315, 49 USC 1655, and the delegation of 49 CFR 1.48.

§ 17.101 Purpose.

The regulations in this subpart A prescribe the recordkeeping requirements and retention schedules for State highway departments concerning the nature and extent of documentation required by the Federal Highway Administration (FHWA) for States to be eligible for Federal-aid reimbursement under the provisions of Title 23, United States Code, "Highways."

§ 17.102 Applicability.

(a) *Project-related records.* The records defined in § 17.104(a) and listed in Appendix A hereto are to be maintained or caused to be maintained by the State. Complete project documentation and maintenance of adequate records (including source data) to support a State's claim for reimbursement is the responsibility of the State highway department. These State records are subject to the provisions of this directive.

(b) *Railroad, utility or other third party project records.* Where records pertaining to Federal-aid highway matters are generated by third parties, it is the State's responsibility to clearly define the FHWA records retention requirements in agreements or subcontracts and to insure that they are complied with. Where reimbursement is requested, the costs incurred by railroads, utilities and other third parties are subject to examination and audit by the State and Federal Governments. To accomplish this, the records and accounts therefor will be made available for examination by representatives of the State and Federal Governments for a period of not less than 3 years from the date final payment has been received by the railroad, utility or other third party.

(c) *Toll facilities records.* Where Federal funds participate in a project for the construction of a toll bridge, toll tunnel, or approach to a toll facility, the State highway department shall maintain or cause to be maintained all records (including source data) set forth in Appendix A. Such records shall be retained until the facility shall have been operated on a toll-free basis for a period of at least 3 consecutive years.

(d) *State and Community Highway Safety Programs.* This directive does not apply to recordkeeping requirements of the State and Community Highway Safety Programs.

(e) *Federal records.* Federal records are those which document the Federal function of administering Federal-Aid Highway Programs. These records are maintained by FHWA offices and are not subject to provisions of this subpart A but are controlled by the authorized FHWA records schedules contained in Volume 34, Chapter IX, of the FHWA Administrative Manual.

(f) *Availability for inspection.* Records and source data maintained under §§ 17.102(a) and 17.102(b) shall be available at all reasonable times for inspection by any authorized representative of the Federal Government and copies thereof shall be furnished when requested.

§ 17.103 Waivers.

No waiver from any provision of this subpart A will be granted by the Federal Highway Administrator without full justification by the State highway department. Each written request from a State highway department for a waiver shall demonstrate that unusual circumstances warrant a departure from the prescribed minimum records retention period, procedures or techniques, or that compliance with the retention schedule would impose an unreasonable burden upon the State or contractor. The granting of a waiver is expressly reserved to the Federal Highway Administrator and shall be contingent upon his determination that the waiver requested is in the public interest.

§ 17.104 Definition of Terms.

(a) *Records.* Includes all accounts, papers, maps, photographs, or other documentary materials regardless of physical form or characteristics, made or

received by any agency, firm, or individual in connection with the transaction of Federal-aid highway business and preserved or appropriate for preservation as evidence of their organization, functions, policies, decisions, procedures, and operations or because of the informational value of data contained therein.

(b) *Retention period.* The minimum period of time records are required to be held. State highway departments may hold records for longer periods of time if they desire.

(c) *Final voucher.* Refers to the final voucher submitted by the State to FHWA with respect to a particular project.

§ 17.105 Retention Schedules of Federal-Aid Highway Records for State Highway Departments.

(a) *General.* Federal-aid project and project-related records shall be retained by State highway departments in accordance with the records retention schedule established by the Federal Highway Administrator in Appendix A. These recordkeeping requirements have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 (OMB No. 04-R2296). The schedule provides for:

(1) The standard 3 years after submission of final voucher retention period for those records which are Federal-aid project oriented.

(2) A 3 year retention period which may expire earlier than the 3 years after submission of final voucher period for certain cost accounting and fiscal type files which usually relate to more than one project and are not project oriented. The retention period for these records shall be calculated from the end of the fiscal or calendar year, as appropriate, in which an entry is made. Where there is a series of such entries involving a specific record, the retention period shall be calculated from the end of the year in which the final entry is made.

(b) *Applicability.* Compliance with the retention requirements of Appendix A does not relieve a State or contractor from retaining any records for whatever longer periods may be required by any other applicable contract clause or lawful requirement, e.g., regulations of U.S. Department of Labor or Internal Revenue Service.

(c) *Request for records disposition.* Each State shall request final clearance from the FHWA division engineer for each category of record, prior to the application of the retention provisions of Appendix A designated as "3 years from end of fiscal or calendar year, as appropriate, in which an entry is made." Such final clearance from the division engineer will be contingent upon the completion of audit and the clearance of any and all questions raised related thereto. If a claim, investigation or litigation is pending after submission of the final voucher, or payment of any amount claimed is suspended by the division engineer, the retention period will not begin until final settlement of the claim, investigation or litigation, or approval of payment for amounts suspended.

§ 17.106 Authorization To Microfilm Records.

State highway departments are authorized to use computer output microfilm or to substitute microfilm for original Federal-aid highway records in accordance with the standards prescribed in § 17.107.

§ 17.107 Microfilm Standards To Be Applied.

(a) *Original documents exclusive of computer output microfilm records.* (1) Prior to microfilming, the original documents shall be prepared, arranged, classified, and indexed so as to readily permit the subsequent location, examination, and reproduction of the photographs thereof. Any significant characteristic, feature, or other attribute of the records which photography would not clearly reflect (e.g., that the record is a copy or that certain figures thereon are in color) shall be indicated on the records at the time of such arrangement, classification, and identification. When a number of records to be microfilmed have in common such a characteristic or attribute, an appropriate notation identifying the characteristic or attribute may be indicated in a statement at the beginning of the roll of film or group of aperture cards instead of on each individual record. Any notations on the face or reverse side of any document shall be photographed and identified as forming an integral part of the original document.

(2) Each roll of film or group of aperture cards shall include a microfilm of a certificate or certificates stating that the photographs are direct and facsimile reproductions of the original records and that they have been made in accordance with prescribed instructions. Such certificate or certificates shall be executed by a person or persons having personal knowledge of the facts covered thereby.

(3) The photographic matter on each roll or group of aperture cards shall begin and end with a statement as to the nature and order of arrangement of the records reproduced, the name of the photographer, and the date. Rolls of film shall not be cut. Supplemental or retaken film, whether of misplaced or omitted documents or of portions of a film found to be spoiled or illegible or of other matter, shall be attached to the beginning of the roll or listed at the beginning of the group of aperture cards, and in such event the aforementioned certificate or certificates shall cover also such supplemental or retaken film and shall state the reasons for taking such film.

(4) All film stock shall be approved permanent-record microfilm type either perforated or unperforated, such as meets the minimum specifications of the National Bureau of Standards. (Such film stock may be identified by a manufacturer's mark, a solid triangle after the word "safety" in the edge of the film.)

(b) *Reproduction and indexing.* (1) All microfilm records shall be such that clearly readable hard copy (paper) reproductions can be made during the periods prescribed in the records schedule for the retention of the records concerned.

(2) The microfilm records shall be indexed and retained in such manner as will render them readily accessible and identifiable.

APPENDIX A—RETENTION SCHEDULES OF FEDERAL-AID HIGHWAY RECORDS FOR STATE HIGHWAY DEPARTMENTS

The project related records listed in this appendix are to be maintained or caused to be maintained by the State for the periods designated.

Project records (filed or identified by project)

Category of records	*Minimum retention period*
1. Program documents	3 years after submission of the final voucher for last project programed.
2. Project agreements	3 years after submission of the final voucher for a project.
3. Letters of authority or notices to proceed	Do.
4. Plans, specifications and estimates (PS&E)	Do.
5. Contract records, including: Performance and payment bonds, prequalifying prospective bidders, licensing contractors, advertising bids, engineer's estimates, bid openings tabulations, award of contract and concurrence, agreement estimates, anticollusion certification for force account construction, and any similar records considered necessary to document the contract.	Do.
6. 3d party contracts or agreements	Do.
7. Supplemental agreements	Do.
8. Change or extra work orders	3 years after submission of the final voucher for a project.
9. Stop and start work orders	Do.
10. Right-of-way maps, construction plans and changes — tracings — Shop drawings, working drawings—prints.	Do.
11. Project diaries and/or journals.	Do.
12. Field notes and computation books including final quantity books, sumary books or records.	Do.

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Category of records	Minimum retention period
Financial and accounting records (filed by fiscal or calendar year, as appropriate)	
1. Accounts receivable invoices, adjustments to the accounts, invoice registers, carrier freight bills, shipping orders, or other documents which detail the material or services billed on the related invoices.	3 years from end of fiscal or calendar year, as appropriate, in which an entry is made.
2. Material work order, or service order files, consisting of purchase requisitions or purchase orders for material or services, or orders for transfer of material or supplies.	Do.
3. Cash advance recapitulations, prepared as posting entries to accounts receivable ledgers for amounts of expense vouchers prepared for employees' travel and related expenses.	Do.
4. Paid, canceled, and voided checks, other than those issued for the payment of salary and wages.	Do.
5. Accounts payable records to support disbursements of funds for materials, equipment, supplies, and services containing originals or copies of the following and related documents: Remittance advices and statements, vendors' invoices, invoice audits and distribution slips.	Do.
6. Labor cost distribution cards or equivalent documents.	Do.
7. Petty cash records showing description of expenditures, to whom paid, name of person authorizing payment, and date, including copies of vouchers and other supporting documents.	Do.
Pay administration records (filed by fiscal or calendar year, as appropriate)	
1. Payroll sheets, registers, or their equivalent, of salaries and wages paid to individual employees for each payroll period; charge slips; and tax withholding statements.	3 years from end of fiscal or calendar year, as appropriate, in which an entry is made.
2. Clock cards or other time and attendance cards.	Do.
3. Paid checks, receipts for wages paid in cash, or other evidence of payments for services rendered by employees.	Do.
Procurement and supply records (filed by fiscal or calendar year, as appropriate)	
1. Stores requisitions for materials, supplies, equipment, and services.	3 years from end of fiscal or calendar year, as appropriate, in which an entry is made.
2. Work orders for maintenance and other services.	Do.
3. Equipment records, consisting of equipment utilization and status reports and equipment repair orders.	Do.
4. Expendable property records, reflecting accountability for the receipt and use of material in the performance of a contract.	Do.
5. Purchase order files for supplies equipment, materials, or services, to be used in the performance of a contract.	3 years from end of fiscal or calendar year, as appropriate, in which an entry is made.
Toll facilities	
1. Copies of statutory authorities creating study committees or similar bodies to study feasibility of toll facilities.	3 consecutive years after facility operated on toll-free basis.
2. Copies of statutory authority	Do.
3. Newspaper clippings, press releases, official statements, etc., concerning development and progress.	Do.
4. Copies of engineering and financial feasibility reports.	Do.
5. Copies of bond prospectus issued	Do.
6. Copies of trust indenture or trust agreement issued in connection with bond sale.	Do.
7. Contract award data (PR-525)	Do.
8. Copies of progress reports prepared by State or consultant during construction, including financial audit.	Do.
9. Copies of published annual reports of authority or annual audit.	Do.
10. Annual statement of source and application of funds (PR-530, 531, 532, 532 a, b, 535).	Do.
11. Annual schedules giving details of bond issues and future debt service requirements (PR-541, 542, 543, and 544).	Do.
12. Copies of monthly statements of operations giving toll revenues, operating costs, and traffic, where such data are prepared and published by the authority.	Do.
13. Copies of adopted toll schedules	Do.
14. Date of initiation or termination of tolls	Do.
Miscellaneous records	
1. General correspondence files affecting Federal-aid programs, policies, or procedures.	3 years after submission of final voucher for all Federal-aid funds pertaining to each program, or after 10 years.
2. Organization tables, charts, functional statements, and policy or procedures manuals or issuances.	3 years after submission of final voucher for last project affected, or after 10 years.
3. State internal audit reports and supporting working papers.	3 years subsequent to the year in which the report was issued.
13. Records and reports of materials used such as: Haul tickets, truck delivery tickets, weight tickets, daily water reports, daily rolling reports, and similar records.	3 years after submission of the final voucher for a project.
14. Supplies and equipment records such as: mill shipping records, bills of lading, supplier's invoices, certificate of materials for manufactured items, and similar records.	Do.
15. Inspection reports	Do.
16. Materials test reports	Do.
17. Progress and final pay estimates	Do.
18. Final construction report	Do.
19. As-built plans—tracings	Do.
20. Third party contract audit reports and related work papers.	Do.
21. Copies of contractor payrolls A-2 and weekly statements with respect to the wages paid during the preceding weekly payroll period.	Do.
Right-of-way records (filed or identified by project)	
1. Estimates of cost	Do.
2. Maps of proposed location and alternate routes.	Do.
3. Appraisal reports	Do.
4. Fee appraisal contracts	Do.
5. Negotiation reports	Do.
6. Negotiator's diary	Do.
7. Reviewing appraisers' and/or trial attorney's statements and recommendations.	Do.
8. Certificates of acquisition and cost of right-of-way.	Do.
9. Applications and supporting papers (including recordation) for lands or interest in lands acquired by the United States.	Do.
10. Relocation assistance records including public notices, hearings, requests for assistance and payments, including all supporting data such as receipted bills, or other evidence of expenses incurred.	Do.
11. Administrative settlement records	Do.
12. Disposal documents and related records	Do.
13. Property management records	Do.
Legal records (filed or identified by project)	
1. Certification and transcripts of public hearings on proposed route locations.	Do.
2. Contractor's public liability and property damage insurance.	Do.
3. Condemnation case files	Do.
4. Claim records	Do.
5. Tax records	Do.
6. Municipal agreements	Do.

[FR Doc.74-11113 Filed 5-14-74;8:45 am]

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 640—CERTIFICATION ACCEPTANCE

Secondary Road Plan Replaced

This amendment adds Part 640 to Chapter I of Title 23 of the Code of Federal Regulations.

The Federal-aid highway program is now more than 50 years old, and the State highway departments have reached a degree of maturity such that they no longer need careful and detailed scrutiny by the Federal Highway Administration (FHWA) in some areas of program administration. This is evidenced by the fact that with the help of Federal financial assistance and Federal leadership, the State highway departments have provided the United States with the world's most efficient highway system for the transportation of people, goods, and services. Over the years, the volume of individual Federal-aid projects has increased. Approximately 18,000 Federal-aid highway projects are currently underway at any given time. The State highway departments have acquired the needed statutory powers, regulations and procedures, professional staffs, expertise, and experience in decisionmaking.

Certification Acceptance is the successor to the Secondary Road Plan which applied only to projects on the Federal-aid secondary system. To some extent, Certification Acceptance makes the principle of this plan applicable to all Federal-aid systems except the Interstate System. The advantage in adopting the principle of the Secondary Road Plan is that it has already been tested and has proved to be workable and effective. The FHWA has successfully administered Federal-aid projects under the Secondary Road Plan for the past 19 years, based upon the concepts of delegation to and flexibility for State and local governments in carrying out the technical aspects of highway construction.

The new Certification Acceptance procedure will permit the Federal Highway Administrator to discharge many of his Title 23 duties, particularly those in the plan preparation and construction stages, by accepting a certification submitted by the State highway department of its performance of certain Title 23 responsibilities. It also substitutes a planned monitoring of a State's procedures for the present step-by-step review and approval of each individual project action. However, the State's program will continue to come under the close scrutiny of FHWA in comprehensive planning, research, system designation, programming, environmental protection, relocation assistance, right-of-way acquisition, civil rights, and auditing matters. Transit projects approved under 23 U.S.C. 103 (e) (4) and 142(c) are not covered by the Certification Acceptance procedures. Adequate fiscal controls will continue to be a requirement on each project under guidelines and regulations promulgated by the Federal Highway Administrator.

Although the principle of the Secondary Road Plan is being followed, projects constructed under the Certification Acceptance procedure will differ from those constructed under the Secondary Road Plan in the following respects:

(1) Projects will be subject to the requirements of many more FHWA regulations, directives, and standards or to equivalent State regulations, directives, and standards.

(2) The State's procedures for administering projects will be evaluated at least once every 3 years instead of once every 5 years.

Part 640 implements section 116 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 117) by establishing requirements for the preparation of certifications by the State highway departments and criteria for the approval thereof by the Federal Highway Administrator. The Certification Acceptance procedure is an alternative procedure to those contained in, or issued pursuant to Title 23, United States Code. Certification Acceptance procedures provide the States the option of relying upon their own laws and procedures to achieve Federal goals and objectives with a corresponding reduction in Federal engineering supervision and Federal controls over the State highway departments.

An earlier draft of this regulation and implementing instructions were widely circulated in late August and early September 1973 to State and local governments for coments through FHWA field offices, the Advisory Committee for Intergovernmental Relations' A-85 procedure, and the American Association of State Highway and Transportation Officials. Changes were made in the draft as a result of comments received from State and local officials as well as others within the Department of Transportation. In that this material is a matter relating to a grant program, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. However, since these changes were substantial and because of interest in this mat-

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ter, FHWA will be receptive to further comments and suggestions after issuance of this regulation. Comments may be submitted to the Federal Highway Administration, 400 7th Street, SW., Room 4226, Washington, D.C. 20590, Attention: CA, FHWA Docket No. 74–4, by June 14, 1974. Material thus submitted will be considered and evaluated in determining any changes to this regulation. Until such time as further changes are made, the regulation as here set forth shall remain in effect.

In consideration of the foregoing and effective May 8, 1974, Chapter 1 of Title 23, Code of Federal Regulations is amended by adding a new Part 640. This amendment is issued under the authority of 23 U.S.C. 117 and 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48.

Issued on May 8, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Sec.

640.1 Purpose.
640.3 Definitions.
640.5 Effect of State Certification Approval.
640.7 Finding of Equivalency Basis for Approval.
640.9 Content of State Certification.
640.11 Systems Actions, Program and Project Approval and Authorization.
640.13 Final Inspection and Acceptance.
640.15 Evaluation of State's Operation.
640.17 Effect of State's Noncompliance.
640.19 Rescission.

AUTHORITY: (23 U.S.C. 101(e), 117 and 315).

§ 640.1 Purpose.

The purpose of this part is to provide an alternative procedure for administering certain highway projects to be constructed with Federal fund participation in lieu of the detailed Federal Highway Administration (FHWA) procedure provided for in 23 U.S.C. 101, et seq., and regulations issued pursuant thereto which require FHWA review and approval at various stages of individual project development.

§ 640.3 Definitions.

(a) The word "administrator" means the Federal Highway Administration.

(b) The term "Certification Acceptance" is the alternative procedure which may be used for administering certain highway projects involving Federal funds pursuant to 23 U.S.C. 117.

(c) The term "State highway agency" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The word "State" should be considered equivalent to the term "State highway agency" if the context so implies.

(d) The term "State Certification" means a written statement prepared by a State highway agency, signed by its chief administrative officer and approved by the Federal Highway Administrator, setting forth the State's organization and capability and the laws, regulations, directives and standards it will use, or cause to be used, in the administration of certain highway projects.

(e) The word "project" means an undertaking by a State highway agency for highway construction, or if the context so implies, the particular portion of a highway so constructed.

(f) The word "construction" shall be as defined in 23 U.S.C. 101.

§ 640.5 Effect of State Certification Approval.

(a) Approval of a State's Certification relieves the State of compliance with Title 23, United States Code, and those requirements issued pursuant thereto with respect to all construction projects under Certification Acceptance except as otherwise provided in this part.

(b) Forest Highways, Public Lands, and Emergency Relief projects, all projects included under Sections 131, 136 and 319(b) of Title 23, United States Code, and all projects constructed under the provisions of sections 203, 204, 205, 209, 210, and 230 of the Federal-Aid Highway Act of 1973 (Pub. L. 93–87, 87 Stat. 250) may be included in a State's Certification and processed under the regulations in this part.

(c) A State may include all or part of its eligible programs or projects in the Certification submitted for approval.

(d) The Certification Acceptance procedure shall not apply to transportation planning and research (23 U.S.C. 134 and 307), highway safety (23 U.S.C., Chapter 4), those public transportation projects proposed pursuant to sections 142(a)(2), 142(c), and 103(e)(4) of Title 23, United States Code, and projects on the Interstate System, except as otherwise provided in this part.

(e) Approved Action Plans will serve to satisfy the requirements of Certification Acceptance for such preconstruction activities as are covered in the Action Plan.

(f) Approval of a State Certification does not constitute a commitment or an obligation of Federal funds.

(g) Certification Acceptance is an alternative procedure which replaces detailed FHWA procedures with inspection and monitoring of a State's operations under State laws and procedures, which must assure that adequate consideration is given to proposed highway projects and that the decisions on such projects are made in the best overall public interest. The alternative procedure recognizes the unique situation of each State and does not prescribe specific organizations or procedures. Certification approval endorses the adequacy of a State's processes for achieving Federal objectives but does not constitute approval of individual projects.

(h) Certification Acceptance as an alternative procedure does not replace the fundamental provisions of law in Title 23, United States Code, with respect to the basic structure of the Federal-aid highway program, such as the authorization of funds (23 U.S.C. 102), Federal-aid systems (23 U.S.C. 103), apportionment (23 U.S.C. 104), programs (23 US.C. 105), designation of urbanized area boundaries (23 U.S.C. 101(a)(2)), allocation of urban system funds (23 U.S.C. 150), Federal share payable (23 U.S.C. 120), and toll roads and bridges (23 U.S.C. 129). Nor are the provisions of Title 23, United States Code, conferring a benefit or privilege abrogated by the approval of a State's Certification.

(i) Nothing in this part shall affect or discharge any responsibility or obligation of the Administrator under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et seq.), Title VIII of the Act of April 11, 1968 (Pub. L. 90–284, 42 U.S.C. 3601, et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than Title 23, United States Code.

§ 640.7 Finding of Equivalency Basis for Approval.

(a) Approval of a State's Certification will be based upon a finding by FHWA that the State laws, regulations, directives, and standards establish requirements at least equivalent to those contained in, or issued pursuant to Title 23, United States Code. The statutory phrase "State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to . . . Title (23)" means State laws, etc., that, collectively, will achieve the Federal objectives in Title 23, United States Code. The statutory phrase does not mean State laws, etc., the same as or exactly like or identical to those in Title 23, United States Code, and issued pursuant thereto.

(b) Equivalency of State laws, regulations, directives, and standards with Title 23, United States Code, and requirements issued pursuant thereto shall be determined by finding the State has laws or regulations or directives or standards each of which contain requirements separately and/or all of which contain requirements collectively on:

(1) Construction and design,
(2) Competitive bidding,
(3) Payment of prevailing wages as determined in accordance with the Davis Bacon Act (40 U.S.C. 267a),
(4) Prohibition of convict labor unless the labor is performed by convicts on parole or on probation,
(5) Maintenance,
(6) Relocation of utilities,
(7) Public hearings,
(8) Construction and maintenance of ferry boats where applicable,
(9) Safeguarding the State and Federal interest in instances of irregularities,
(10) Equal employment opportunity,
(11) Control of outdoor advertising, and
(12) Control of junkyards.

(c) Equivalency of State laws, regulations, directives, and standards with Title 23, United States Code, and requirements issued pursuant thereto shall also be determined by finding that the State laws, etc., in the subject areas listed in § 640.7(b) will achieve the following Federal objectives of having Federal-aid and Federal highways constructed in a manner that will:

(1) Meet existing and probable future traffic needs,
(2) Be conducive to safety, durability, economy of maintenance and utilization by elderly and handicapped persons,
(3) Conform to the particular needs of each locality,
(4) Provide all-weather service,
(5) Provide uniform informational, regulatory and warning signs, markings, and signals that will promote the safe and efficient utilization of the highways,
(6) Provide proper safety protective devices at railroad grade crossings and drawbridges,
(7) Minimize soil erosion,
(8) Assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:
(i) Air, noise, and water pollution,
(ii) Destruction or disruption of manmade and natural resources, aesthetic values, community cohesion and the availability of public facilities and services,
(iii) Adverse employment effects, and tax and property value losses,
(iv) Injurious displacement of people, businesses and farms, and
(v) Disruption of desirable community and regional growth.
(9) Provide for public participation in the development of projects in the location and design stages,
(10) Provide for competitive bidding that will effectively secure competition and punish fraud, bribery, collusion, conspiracy or other serious offense involving violation of State or Federal criminal statutes.
(11) Provide for an equal employment opportunity program including highway construction training and skill improvement programs, and
(12) Preserve natural beauty.

§ 640.9 Content of State Certification.

The State Certification shall include the following:

(a) The name of the State highway agency and the legal authority which permits such agency to comply with Title 23, United States Code, and other applicable Federal statutes and Executive Orders.

(b) A positive statement that projects administered under Certification Acceptance will comply with all applicable Federal statutes and Executive Orders. By such statement, the Federal laws and Executive Orders so applicable are incorporated by reference.

(c) A statement of the systems, programs, phases of work and classes of projects or combinations thereof that the State is including in the Certification being submitted for approval.

(d) A description or a table of organization of the State highway agency and an outline or flow chart indicating steps in project development and assignments of responsibility.

(e) A description of the methods and control procedures the State will follow to assure compliance with State and Federal requirements in the administration of projects covered by the State Certification, including the management, operational, and financial systems within the State's organization that insure the proper control of highway construction activities, accountability of Federal highway funds and the presentation of legitimate and correct claims to FHWA.

(f) A statement of the design and construction standards applicable to Certification Acceptance procedure projects. Where the Certification refers to American Association of State Highway and Transportation Officials (AASHTO), American Society of Testing Materials (ASTM), or other published standards and procedures, or incorporates any FHWA or other Federal publication or directive, these need not be submitted.

(g) A description of the State's methods for assuring local government knowledge of and compliance with State and Federal requirements where they perform services on projects to be administered under the Certification Acceptance procedure.

(h) A statement that all projects under Certification Acceptance shall be available for review by FHWA at any time and that all project documents shall be retained and available for inspection during the plan development, and construction stages and for a 3-year period after submission of the final voucher for the project.

(i) State Certifications are to be signed by the Chief Administrative Officer of the State highway agency or the official or officials of the State charged by its laws with the responsibility for highway construction an submitted to FHWA through the FHWA division engineer by letter.

§ 640.11 Systems Actions, Program and Project Approval and Authorization.

(a) Federal-aid highway systems actions and program approval shall be administered in compliance with applicable Title 23, United States Code, requirements and in accordance with applicable current FHWA directives issued pursuant thereto.

(b) Authorization to proceed with the project or any phase of the work shall be in response to a State request and may be concurrent with or subsequent to program approval. A project agreement is to be executed on each project.

(c) During the progress of the authorized project, the State highway agency shall furnish FHWA such information as the Administrator determines necessary in administering the Federal-aid highway program under Certification Acceptance.

§ 640.13 Final Inspection and Acceptance.

(a) FHWA shall make an inspection of each physical construction project upon its completion.

(b) The State shall furnish in respect to each construction project, as soon as practicable after project completion, a confirmation that the project was completed as programmed and in accordance with the procedures and standards contained in the State's Certification, with a request for final acceptance by the FHWA. Such confirmation shall include assurance that all applicable State and Federal laws have been complied with and shall be signed by the appropriate State official. The burden shall be upon the State to show compliance and the State shall furnish, upon request, all project documents and any other information pertaining to the project as necessary for final acceptance.

§ 640.15 Evaluation of State's Operation.

(a) Evaluations of the State's operation under the Certification Acceptance procedure shall be made by FHWA.

(b) As a part of the evaluation, the existing State Certification is to be reviewed to determine its adequacy in light of this part, the statutes in effect at the time of the review, and the operational reviews made by FHWA.

§ 640.17 Effect of State's Noncompliance.

(a) The Administrator shall determine whether a State has failed to comply with State and Federal law in implementing Certification Acceptance, and the decision shall be administratively final. A final judgment rendered against the State highway agency by a State court for noncompliance with State law in this respect will be prima facie evidence of a State's failure to comply with this directive.

(b) Failure to comply with Federal or State laws may be remedial and reparable or nonremedial and irreparable. In the event the noncompliance is remedial, corrective action shall be required to protect the Federal interest. If the noncompliance cannot be remedied or corrected, the Administrator will determine the action to be taken.

§ 640.19 Rescission.

(a) The Administrator's approval of a State's Certification may be rescinded at any time if, in the Administrator's opinion, it is necessary to do so.

(b) In the event a State's Certification is rescinded, the provisions of Title 23, United States Code, and the regulations issued pursuant thereto are immediately applicable. All required approvals must be obtained on projects which have not been processed beyond the obligation stage. Projects upon which FHWA has given authorization to proceed and obligation of the Federal share has occurred shall not be affected by rescission except in unusual cases where such action is necessary to protect the Federal interest.

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(c) The Administrator shall provide the State with a written notice stating the reasons for his intention to rescind a State's Certification and the State shall have the opportunity to respond orally or in writing before a final decision is made. The Administrator's decision to rescind a State's Certification shall be administratively final.

[FR Doc.74-11217 Filed 5-14-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-78]

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

Thirteenth Coast Guard District

These amendments revise the description of the two captain of the port areas and the two marine inspection zones of the Thirteenth Coast Guard District in Part 3 of Title 33, Code of Federal Regulations.

The boundary between the marine inspection zones that is described in §§ 3.65-10(b) and 3.65-15(b) is revised to coincide with the boundary between the captain of the port areas. The eastern boundaries of the two captain of the port areas that are described in §§ 3.65-55(b) and 3.65-60(b) are revised to coincide with the eastern boundaries of the marine inspection zones. The descriptions of the two captain of the port areas, as amended by this document, are transferred to §§ 3.65-10 and 3.65-15. Accordingly, §§ 3.65-55 and 3.65-60, which contain the present descriptions of the areas, are deleted.

Since these amendments are matters relating to agency organization, they are exempt from the notice of proposed rule making requirements in 5 U.S.C. 553(b)(3)(A), and since these amendments announce an existing change in Coast Guard organization, they are effective immediately under 5 U.S.C. 553(d)(3).

In accordance with the foregoing, Part 3 of Chapter I of Title 33 of the Code of Federal Regulations is amended as follows:

1. Section 3.65-10 is revised to read as follows:

§ 3.65-10 Seattle Marine Inspection Zone and Captain of the Port.

(a) The Seattle Marine Inspection Office and the Seattle Captain of the Port Office are located in Seattle, Washington.

(b) The boundary of the Seattle Marine Inspection Zone, and of the Seattle Captain of the Port Area, starts at a point 48° 29' 35'' N. latitude, 124° 43' 45'' W. longitude and follows the international boundary eastward to the Montana-North Dakota boundary; thence southerly along this boundary to the Wyoming State line; thence westerly and southerly along the Montana-Wyoming boundary to the Idaho State line. Thence northwesterly along the Montana-Idaho boundary to 46° 55' N. latitude thence westerly to a point 46° 55' N. latitude, 123° 18' W. longitude; thence northerly to a point 47° 32' N. latitude, 123° 18' W. longitude; thence westerly along the 47° 32' N. latitude to the sea.

2. Section 3.65-15 is revised to read as follows:

§ 3.65-15 Portland, Oregon Marine Inspection Zone and Captain of the Port Area.

(a) The Portland Marine Inspection Office and the Portland Captain of the Port Office are located in Portland, Oregon.

(b) The boundary of the Portland Marine Inspection Zone, and of the Portland Captain of the Port Area, starts at the Washington coast on the 47° 32' N. latitude and follows this latitude easterly to a point 47° 32' N. latitude, 123° 18' W. longitude; thence south to the 46° 55' N. latitude; thence easterly along this latitude to the eastern Idaho State line; thence southeasterly along the Idaho State line to the Idaho-Wyoming boundary junction; thence southerly along the Idaho-Wyoming boundary to the Idaho-Utah-Wyoming boundary junction; thence westerly along the 42° N. latitude to the sea.

3. Sections 3.65-55 and 3.65-60 are deleted.

§§ 3.65-55, 3.65-60 [Deleted]

(5 U.S.C. 552; 14 U.S.C. 633); 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Effective date: These amendments are effective May 15, 1974.

Dated: May 10, 1974.

C. R. BENDER,
Admiral U.S. Coast Guard,
Commandant.

[FR Doc.74-11178 Filed 5-14-74;8:45 am]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 213—WATER RESOURCES PROJECTS

Project Deauthorization Review Program

Notice is hereby given that the regulation set forth below by the Secretary of the Army (acting through the Chief of Engineers), prescribes implementing policy and procedures pursuant to section 12 of the Water Resources Development Act of 7 March 1974 (Pub. L. 93-251). The Congress, in section 12, has directed the review of all projects which have been authorized for a period of at least 8 years without any Congressional appropriations within the last 8 years. It has further directed the Secretary of the Army, acting through the Chief of Engineers, to submit a list of projects to Congress, at least once each year, which he determines, after appropriate review, should no longer be authorized.

The regulation set forth below provides policies and proceduers for field office formulation of recommendations for submission to the Chief of Engineers. Subsequent to review of these recommendations, the Chief of Engineers will obtain the views of interested Federal departments, agencies and instrumentalities, and of the Governor of each State wherein any project on his list of recommended projects for deauthorization shall be located. These views will accompany the list submitted to Congress. Further, prior to submission of such list to Congress, the Secretary of the Army, acting through the Chief of Engineers, shall notify each Senator in whose State, and Member of the House of Representatives in whose district, a project (including any part thereof) on such list shall be located.

Since this regulation prescribes a general statement of agency policy and procedures, and since Congress has directed that this action be taken as soon as practicable, notice of proposed rulemaking and the procedures thereto are considered to be impractical and unnecessary. This regulation will become effective on May 15, 1974.

Dated: May 7, 1974.

J. W. MORRIS,
Major General, USA,
Director of Civil Works.

§ 213.100 Project Deauthorization Review Program.

(a) *Purpose.* This regulation provides policies and guidelines for first-year implementation of section 12 of the Water Resources Development Act of 1974, Pub. L. 93-251. Specifically, it provides for field office formulation of recommendations for deauthorization of selected projects, and submission of such recommendations to the Chief of Engineers in August 1974. These recommendations are to be the basis for the Chief of Engineers' first list of projects recommended for deauthorization to be submitted to Congress early in 1975.

(b) *Applicability.* This regulation is applicable to all OCE elements and field operating agencies having civil works responsibilities.

(c) *Basic policies.* (1) The first review of projects meeting the Congressional criteria for deauthorization consideration will include only those projects which reporting officers consider appropriate for deauthorization action under criteria outlined in this regulation without detail study.

(2) Field offices will solicit comments from local interests regarding proposed deauthorization action on selected projects as part of their formulation of recommendations to the Chief of Engineers. The Chief of Engineers will request comments on his recommended list from Governors and appropriate Federal department, agency, and instrumentality heads, and will notify Senators and Congressmen at the appropriate time.

(d) *Implementing guidelines.* Following are the work tasks on which the Office, Chief of Engineers is providing guidance toward meeting the completion date for field input to the Chief of Engineers' first list of recommended deauthorizations.

(1) Districts prepare a listing of all projects (active, deferred, and inactive), which meet the Congressional criteria for consideration for deauthorization action, i.e., authorized for at least eight years and having no Congressional appropriations during the past eight years. The date of March 7, 1966 is the baseline for this list. The listing should include all projects, project modifications, or separable parts of projects, identified on the CWIS Planning and Construction Schedule (Engineer Regulation 18-2-1), and others identified that missed the current listing.

(2) Districts classify projects on the above list into one of the following categories, based on the criteria given in Appendix A:

(i) Suitable for Recommendation of Deauthorization Without Further Study;

(ii) Not Suitable for Recommendation Without Further Study; or

(iii) Suitable for Recommendation of Continued Authorization.

(3) Division Engineers submit to the Office, Chief of Engineers, information copies of project listings required by paragraph (d)(1) of this section.

(4) Districts prepare updated Project Information Sheets for all active projects classified in paragraph (d)(2)(i) of this section in accordance with paragraph 7, Chapter 3, Engineer Regulation 11-2-101, insuring that information regarding the deauthorization criteria (Appendix A) is adequately addressed. For inactive and deferred projects classified in paragraph (d)(2)(i) of this section, prepare an abbreviated Project Information Sheet, as follows:

(i) *Name of project.* No change.

(ii) *Authorization.* No change.

(iii) *Location.* No change.

(iv) *Description.* No change.

(v) *Summarized financial data.* Include estimated cost and the year cost was computed, funds allotted to date, and the last year funds were allotted.

(vi) *Reasons for classification of (Deferred) (Inactive).* Cite reasons and the data classification occurred, indicating any additional changes since that time.

(5) Districts request comments from local interests on all projects classified in paragraph (d)(2)(i) of this section. Local interests should include primarily those parties responsible for items of local cooperation or otherwise directly involved in plan implementation. Determination of relevant parties from whom comments are requested should be consistent with the general policy given in paragraph (c)(2) of this section.

(6) Division Engineers submit recommendations of the reporting officers, with indorsements of the Division Engineer, Project Information Sheets and copies of comments received from local interests, to the Office, Chief of Engineers. Submissions should also be accompanied by a single page supplement to each Project Information Sheet, referencing significant comments received from local interests, summarizing the results of any other studies made, and stating conclusions which support the recommendation.

(7) Division Engineers are not to release a public notice on this action.

(e) *Submission addressee.* All submissions requested by this regulation should be sent in three (3) copies to HQDA (DAEN-CWP) Wash., D.C. 20314.

APPENDIX A—CRITERIA FOR RECOMMENDING PROJECT DEAUTHORIZATION

1. The project lacks economic justification, and it is apparent that a restudy would not develop an economically justified plan.

2. The project, as authorized, is not adequate to meet current or prospective needs, and to obtain an adequate improvement would require such substantial modifications and involve such increased costs that the Corps could not proceed without new authorization from Congress.

3. The project is generally opposed by local interests, or there is little or no prospect that the required local cooperation will be forthcoming.

4. The project, or part thereof, is no longer required because it has been accomplished by local interests or another agency, has been superseded by another project, or for any other reason.

[FR Doc.74-10971 Filed 5-14-74;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-106; Amdt. Nos. 172-26, 173-81, 174-22, 178-33, 179-13]

SHIPMENT OF HAZARDOUS MATERIALS

On March 23, 1973, the Hazardous Materials Regulations Board published a notice of proposed rulemaking, Docket No. HM-106, Notice No. 73-2 (38 FR 7470), which proposed certain amendments. Interested persons were invited to give their views and several comments were received by the Board.

The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is (1) to identify iodine pentafluoride by name as a hazardous material; (2) to authorize the shipment of iodine pentafluoride in certain packagings; (3) to make certain editorial changes which will group a number of fluoride materials presently covered in different sections into one section; (4) to delete the authorization for 10 pounds or less of certain fluoride materials to be shipped in cylinders approved by the Bureau of Explosives; (5) to delete unnecessary references to DOT-106A500 tanks; (6) to limit the requirement for a reflective exterior surface finish on DOT-51 portable tanks to only those tanks containing compressed gas; (7) to eliminate this reflective exterior surface finish requirement for other substances, such as flammable liquids; (8) to make editorial changes which clarify the reflective exterior surface finish requirements; (9) to prohibit the transportation of flammable liquids, having a Reid vapor pressure between 16 p.s.i.a. and 27 p.s.i.a. at 100° F., in certain tank motor vehicles; (10) to authorize the shipment of specific mercaptan materials and aliphatic mercaptan mixtures in DOT-51 portable tanks; (11) to authorize the shipment of sodium hydrosulfite in DOT-56 portable tanks; (12) to authorize the shipment of lithium metal wire in a DOT-12B fiberboard box with inside air-tight nonsparking metal packagings; (13) to authorize the shipment of certain alkali metal and alkali metal compounds in a DOT-19A or DOT-19B wooden box with inside air-tight metal packagings; (14) to authorize the shipment of wet zirconium metal powder in a DOT-37M nonreusable cylindrical steel overpack with an inside DOT-2S polyethylene container; (15) to change the quantity requirements for bromine authorized in MC 310 and MC 312 cargo tanks; (16) to change the cladding and lining requirements for MC 310 and MC 312 cargo tanks containing bromine; (17) to make editorial changes in DOT-105A300W tank car requirements for bromine shipments; (18) to authorize the shipment of fluosulfonic acid in MC 310, MC 311, and MC 312 cargo tanks; (19) to provide for the transportation of liquefied petroleum gas in DOT-2P and DOT-2Q containers, without safety relief devices, with slightly increased charging pressures; (20) to authorize DOT-2Q containers, with safety relief devices, as an alternate packaging for the shipment of liquefied petroleum gas; (21) to change the requirements for exemption from specification packaging, marking, and labeling for the shipment of audible fire alarm systems and fire extinguishers; (22) to require the use of safety relief devices on DOT specification multiunit tank car tanks transporting hydrogen sulfide; (23) to delete the shipping container specifications for wooden barrels and kegs made under DOT-10A, 10C, 11A, and 11B designations, and (24) to delete from certain sections the reference to these wooden barrel and keg specifications and to specification DOT-10B.

A number of comments were submitted on these proposals and each comment was given due consideration. The following is a discussion of the comments received and a statement of the changes made as a result of these comments:

Fluoride materials. A comment was directed to the proposal which grouped a number of the fluoride materials into one section. This comment questioned why the maximum quantity in one outside container was limited to 25 pounds for antimony pentafluoride for shipment by rail express (cargo aircraft). The present regulations contain this packaging weight restriction for antimony pentafluoride and since this rulemaking did not propose to change the quantity limitation, the comment regarding a higher maximum weight in one outside container for antimony pentafluoride when shipped by rail express (cargo aircraft) is not considered within the scope of the proposed action.

Flammable liquids in tank motor vehicles. A commenter requested a clarification of the proposal which requires, when necessary, interior cleaning of cargo tanks between changes in lading. He states that the present regulations only require interior cleaning of MC 330 and MC 331 tanks whereas the proposal requires the interior cleaning of

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all tanks authorized in the section. The Board has purposely amended the regulations so that this requirement is applicable to all tank motor vehicles when it is known that a change of lading may cause an unsafe condition.

Obsolete wooden barrel and keg specifications. Several commenters objected to the deletion of one specific barrel specification, namely the DOT–10B. The Board's proposal was to eliminate all of the wooden barrel and keg specifications and their authorizations for use. The commenters requested retention of this barrel specification for use in the shipment of alcohol and alcohol-water mixtures. In addition, another commenter suggested that of the two types of wooden barrels (tight and slack) one barrel specification from each type should be retained. Since no response was received to this proposal in the form of a justification to maintain any barrel specification, other than the DOT–10B, the Board has eliminated the remaining wooden barrel specifications and their authorizations from the regulations. The Board has therefore, retained only the DOT–10B specification for alcohol and alcohol-water mixtures. However, a study to change the present requirements of this specification to performance oriented requirements will be under taken by the Board.

Audible fire alarm systems. A commenter objected to the proposed burst test requirements for the pressure vessel contained within the fire alarm system. The proposal states that the pressure vessel must be designed and fabricated to withstand a pressure equal to five times its charged pressure at 130°F. The objections were based on the fact that a special permit, presently in effect, authorizes the pressure vessel of a fire alarm system to be constructed with a minimum burst pressure of 850 p.s.i.g. This minimum burst pressure of 850 p.s.i.g. is slightly less than the proposal requirements for the pressure vessel to have a burst pressure of not less than five times its charged pressure at 130°F.

Based on the satisfactory shipping experience under special permit and the fact that the pressure vessel is of a non-refillable type, the Board agrees with the commenter and has provided in this amendment that non-refillable pressure vessels must be designed and fabricated with a burst pressure of not less than four times its charged pressure at 130°F. For fire alarm systems which incorporate refillable pressure vessels, the Board requires that these vessels must have a burst pressure of not less than five times its charged pressure at 130°F.

Fire extinguishers. One commenter requested clarification of the marking requirements for fire extinguishers shipped under the proposed exemption provisions. The proposed marking requirement states that each fire extinguisher shipped under the exemption provision must be durably and legibly marked with a required statement. The purpose of the marking is to convey the fact that the fire extinguisher meets the requirements of the exemption provisions. The Board considers that a label may be recognized as a permanent part of an extinguisher. Therefore, marking of the required statement on the label would be authorized.

Several commenters objected to that portion of the proposal which requires the fire extinguisher to be designed and fabricated with a burst pressure of not less than six times its charged pressure at 70°F. when shipped. Although some of these commenters did not take exception to the existing test pressure provisions that require the extinguisher to be tested to at least three times its charged pressure a 70°F. before initial shipment, they have stated that a burst pressure of "• • • four times the normal charged pressure is adequate and provides a reasonable safety margin when coupled with good engineering design criteria." Close examination of this statement establishes the fact that the burst pressure would be only one and one-third the test pressure which the Board believes is an unacceptable margin of safety for non-specification cylinders. Even for the DOT specification 39 cylinder, a non-refillable pressure container, the burst pressure must be at least two times the test pressure. Also, the reference to "good engineering design criteria" implies certain manufacturing controls over cylinder construction which are not intended in this exemption provision.

Another commenter suggested that the exemption provision for fire extinguishers contain test pressure requirements of only two times the charged pressure at 70°F. and burst pressure requirements of only four times the charged pressure at 70°F. In support of this suggestion, the commenter indicated that a complete review of the stress conditions present in cyclinders used for stored fire extinguishers was conducted. The results of this review showed "• • • every cylinder which is currently shipped under the provisions of the existing extinguisher exemption is stressed to levels above those permitted by DOT–4B–XXX when it is tested to three times charged pressure at 70°F." This statement is construed as an admission that the sidewall strength of these cylinders is inadequate since the stress levels of the cylinders were so high. For such reasons, the Board amended § 173.306(c) to include a burst pressure requirement of six times the charged pressure as one means to assure adequate wall strength.

To act otherwise, the Board would be reducing the present requirement of three times charged pressure to two times without any showing that three times is not required. This is based on the fact that the Board has no information indicating that the present safety record is not based on a three times charged pressure test. The present test requirement of three times charged pressure was not proposed to be changed, and unless persons were not following "good engineering practices" as described above, the Board must conclude that the test requirement is valid. Further, the Board notes that although the three times and six times tests are in excess of certain cylinder specifications, where specific manufacturing controls are prescribed by the regulations, the regulation at issue is for cylinders which are otherwise exempt from specification construction requirements of the Hazardous Materials Regulations. Any manufacturer, wishing to take advantage of lower test pressures, may design fire extinguisher units to specification requirements and ship them subject to the regulations applicable to compressed gases. The end use of a packaged gaseous material does not change the gas hazard in transportation and, therefore, does not warrant special treatment for the cylinder used to contain it when considering design criteria.

There were a number of commenters who proposed that the Board consider a new specification cylinder as proposed by the Compressed Gas Association (CGA). The Board in its ongoing study of the present regulations has been working toward a consolidation of the present cylinder specifications. This study has generated favorable comment from the general public and many trade associations. It was the Board's understanding that CGA supported this objective. The addition of a new specification would appear to be directed toward proliferation, not consolidation, of the present cylinder specifications. In addition, the recommendations for the new cylinder specification are not considered within the scope of this rulemaking action.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174, 178, and 179 are amended as follows:

PART 172—LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL MATERIALS SUBJECT TO PARTS 170–189 OF THIS SUBCHAPTER

In § 172.5 paragraph (a), the list of hazardous materials is amended as follows:

§ 172.5 List of hazardous materials.

(a) • • •

Article	Classed as—	Exemption and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Add)				
Iodine pentafluoride	Cor	No exemption, 173.246	Corrosive	100 pounds.
(Change)				
Antimony pentafluoride	Cor	No exemption, 173.246	Corrosive	25 pounds.
Bromine pentafluoride	Cor	No exemption, 173.246	Corrosive	100 pounds.
Bromine trifluoride	Cor	No exemption, 173.246	Corrosive	100 pounds.
Chlorine trifluoride	Cor	No exemption, 173.246	Corrosive	100 pounds.

PART 173—SHIPPERS

1. In Part 173 Table of Contents, § 173.246 is amended; §§ 173.283, 173.284, and 173.285 are deleted as follows:

Sec.
173.246 Antimony pentafluoride, bromine pentafluoride, iodine pentafluoride, bromine trifluoride, and chlorine trifluoride.
173.283 [Deleted.]
173.284 [Deleted.]
173.285 [Deleted.]

2. In § 173.32, paragraph (a)(3) is added to read as follows:

§ 173.32 Qualification, testing, maintenance, and use of portable tanks.

(a) • • •

(3) Each uninsulated portable tank used for the transportation of compressed gases, as defined in § 173.300, must have an exterior surface finish complying with § 178.245–1(c) of this subchapter.

• • • • • •

3. In § 173.60, paragraph (a)(1) is deleted as follows:

§ 173.60 Black powder and low explosives.

(a) • • •

(1) Deleted.

• • • • • •

4. In § 173.64, paragraph (a)(3) is deleted as follows:

§ 173.64 High explosives with no liquid explosive ingredient and propellant explosives, Class A.

(a) • • •

(3) [Deleted.]

• • • • • •

5. In § 173.65, paragraphs (a)(3) and (e)(1) are deleted as follows:

§ 173.65 High explosives with no liquid explosive ingredient nor any chlorate.

(a) • • •

(3) [Deleted.]

• • • • • •

(e) • • •

(1) [Deleted.]

• • • • • •

6. In § 173.70, the introductory text of paragraph (b) and paragraph (d) are amended to read as follows:

§ 173.70 Diazodinitrophenol or lead mononitroresorcinate.

• • • • • •

(b) Diazodinitrophenol or lead mononitroresorcinate must be packed wet with not less than 40 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, with inside containers which must be bags made of at least 10-ounce cotton duck, rubber, or rubberized cloth. Each bag must be securely closed. The bags containing diazodinitrophenol or lead mononitroresorcinate must be placed in a rubber bag, rubberized cloth bag, or bag made of suitable watertight material and then placed in the barrel or drum. Any empty space in the outside bag must be filled with water and th bag securely closed. The dry weight of diazodinitrophenol in one outside container must not exceed 220 pounds and the dry weight of lead mononitroresorcinate in one outside container must not exceed 100 pounds.

• • • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE — DANGEROUS — DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVES."

• • • • • •

7. In § 173.71, paragraphs (b) and (d) are amended to read as follows:

§ 173.71 Fulminate of mercury.

• • • • • •

(b) Fulminate of mercury must be packed wet with not less than 25 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, 17H (§ 178.118 of this subchapter) metal drum (single-trip), with an inside container which must be a bag made of 4-ounce duck. Inside the bag and over the fulminate, there must be placed a cap of the same fabric and of the same diameter as the bag. The bag must be securely tied and placed in a strong grain bag. The grain bag must also be securely tied. The bag and contents must be packed in the center of the metal barrel or drum and must be entirely surrounded by not less than three inches of well-packed sawdust saturated with water. The metal barrel or drum must be lined with a heavy, close-fitting, jute bag closed by secure sewing to prevent escape of sawdust. The barrel or drum must be inspected carefully and all leaks stopped. The dry weight of fulminate in one outside container must not exceed 150 pounds.

• • • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE — DANGEROUS — DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVES."

• • • • • •

8. In § 173.72, paragraphs (b) and (d) are amended to read as follows:

§ 173.72 Guanyl nitrosamino guanylidene hydrazine.

• • • • • •

(b) Guanyl nitrosamino guanylidene hydrazine must be packed wet with not less than 30 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, 17H (§ 178.118 of this subchapter) metal drum (single-trip), with an inside container which must be a bag made of 4-ounce duck. Inside the bag and over the guanyl nitrosamino guanylidene hydrazine, there must be placed a cap of the same fabric and of the same diameter as the bag. The bag must be securely tied and placed in a strong grain bag. This grain bag must also be securely tied. The bag and contents must be packed in the center of the metal barrel or drum, and must be entirely surrounded by not less than three inches of well-packed sawdust saturated with water. The metal barrel or drum must be lined with a heavy, close-fitting, jute bag closed by secure sewing to prevent escape of sawdust. The barrel or drum must be inspected carefully and all leaks stopped. The dry weight of guanyl nitrosamino guanylidence hydrazine in one outside container must not exceed 75 pounds.

• • • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE—DANGEROUS—DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVE."

• • • • • •

9. In § 173.73, paragraphs (b) and (d) are amended to read as follows:

§ 173.73 Lead azide.

• • • • • •

(b) Lead azide, dextrinated type, or otherwise prepared to effectively control grain size, must be packed wet with not less than 20 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, 17H (§ 178.118 of this subchapter) metal drum (single-trip), with an inside container which must be a bag made of 4-ounce duck. Inside the bag and over the lead azide, there must be placed a cap of the same fabric and of the same diameter as the bag. The bag must be securely tied and placed in a strong grain bag. This grain bag must also be securely tied. The bag and contents must be packed in the center of the metal barrel or drum, and must be entirely surrounded by not less than three inches of well-packed sawdust saturated with water. The metal barrel or drum must be lined with a heavy, close-fitting, jute bag closed by secure sewing to prevent escape of sawdust. The barrel or drum must be inspected carefully and all leaks stopped. The dry weight of lead azide in one container must not exceed 150 pounds.

• • • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE—DANGEROUS—DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVE."

• • • • • •

10. In § 173.74, paragraphs (b) and (d) are amended to read as follows:

§ 173.74 Lead styphnate.

• • • • • •

(b) Lead styphnate (lead trinitroresorcinate) must be packed wet with not less than 20 percent by weight of water in specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, 17H (§ 178.118 of this subchapter) metal drum (single-trip), with an inside container which must be a bag made of rubber cloth. The lead styphnate

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within this bag should be divided into a number of smaller packages. Inside the bag and over the lead styphnate, there must be placed a cap of the same fabric and of the same diameter as the bag. The bag and contents must be packed in the center of the metal barrel or drum, and must be entirely surrounded by not less than three inches of well-packed sawdust saturated with water. The metal barrel or drum must be lined with a heavy, close-fitting, jute bag closed by secure sewing to prevent escape of sawdust. The barrel or drum must be inspected carefully and all leaks stopped. The dry weight of lead styphnate in one outside container must not exceed 150 pounds.

• • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE—DANGEROUS—DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVE."

• • • • •

11. In § 173.75, the introductory text of paragraph (b) and paragraph (d) are amended to read as follows:

§ 173.75 -Nitro mannite.

• • • • •

(b) Nitro mannite must be packed wet with not less than 40 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, with inside container which must be bags made of at least 10-ounce cotton duck, rubber or rubberized cloth. Each bag must be securely closed. These bags containing the nitro mannite must then be placed in a rubber bag, rubberized cloth bag, or bag made of suitable watertight material and then placed in the barrel or drum. Any empty space in the outside bag must be filled with water and this bag securely closed. The dry weight of nitro mannite in one outside container must not exceed 100 pounds.

• • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE—DANGEROUS—DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVE."

• • • • •

12. In § 173.76, paragraphs (b) and (c) are amended to read as follows:

§ 173.76 Nitrosoguanidine.

• • • • •

(b) Nitrosoguanidine must be packed wet with not less than 10 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, 17H (§ 178.118 of this subchapter) metal drum (single-trip) with an inside container which must be a bag made of strong cloth, which must in turn be placed in the barrel or drum. The dry weight of nitrosoguanidine in one outside container must not exceed 75 pounds.

(c) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE—DANGEROUS—DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVE."

• • • • •

13. In § 173.77, paragraphs (b) and (d) are amended to read as follows:

§ 173.77 Pentaerythrite tetranitrate.

• • • • •

(b) Pentaerythrite tetranitrate must be packed wet with not less than 40 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, 17H (§ 178.118 of this subchapter) metal drum (single-trip) with inside containers which must be bags made of at least 10-ounce cotton duck, rubber, or rubberized cloth. Each bag must be securely closed. These bags containing pentaerythrite tetranitrate must then be placed in a rubber bag, rubberized cloth bag, or bag made of suitable watertight material and then placed in the barrel or drum. Any empty space in the outside bag must be filled with water and this bag securely closed. The dry weight of pentaerythrite tetranitrate in one outside container must not exceed 300 pounds.

• • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE—DANGEROUS—DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVE."

• • • • •

14. In § 173.78, paragraphs (b) and (d) are amended to read as follows:

§ 173.78 Tetrazene.

• • • • •

(b) Tetrazene (guanyl nitrosamino guanyl tetrazene) must be packed wet with not less than 30 percent by weight of water in a specification container 5 or 5B (§§ 178.80, 178.82 of this subchapter) metal barrel or drum, 17H (§ 178.118 of this subchapter) metal drum (single-trip) with an inside container which must be a bag made of 4-ounce duck. Inside the bag and over the tetrazene, there must be placed a cap of the same fabric and of the same diameter as the bag. The bag must be securely tied and placed in a strong grain bag. This grain bag must also be securely tied. The bag and contents must be packed in the center of the metal barrel or drum, and must be entirely surrounded by not less than three inches of well-packed sawdust saturated with water. The metal barrel or drum must be lined with a heavy, close-fitting, jute bag closed by secure sewing to prevent escape of sawdust. The barrel or drum must be inspected carefully and all leaks stopped. The dry weight of tetrazene in one outside container must not exceed 75 pounds.

• • • • •

(d) Each barrel or drum must be plainly marked "INITIATING EXPLOSIVE—DANGEROUS—DO NOT STORE OR LOAD WITH ANY HIGH EXPLOSIVE."

• • • • •

15. In § 173.91, paragraph (a)(1) is deleted as follows:

§ 173.91 Special fireworks.

(a) • • •
(1) [Deleted.]

• • • • •

16. In § 173.93, paragraphs (a)(1), (b)(2), and (d)(2) are deleted as follows:

§ 173.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).

(a) • • •
(1) [Deleted.]

• • • • •

(b) • • •
(2) [Deleted.]

• • • • •

(d) • • •
(2) [Deleted.]

• • • • •

17. In § 173.108, paragraph (a)(1) is deleted as follows:

§ 173.108 Common fireworks, signal flares, hand signal devices, smoke signals, smoke candles, smoke grenades, smoke pots, and Very signal cartridges.

(a) • • •
(1) [Deleted.]

• • • • •

18. § 173.119, paragraphs (a)(5) and (a)(6) are deleted; paragraphs (b)(3), (e)(1) and (e)(3) are amended to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) • • •
(5) [Deleted.]
(6) [Deleted.]

• • • • •

(b) • • •

(3) Specification 10B (§ 178.156 of this subchapter). Wooden barrels or kegs. Authorized only for alcohol and alcohol-water mixtures.

• • • • •

(e) • • •

(1) As prescribed in paragraphs (a)(1) to (11) of this section, except spec. 17E (§ 178.116 of this subchapter). Bung labels required, for metal barrels and drums, as prescribed in paragraph (i) of this section.

• • • • •

(3) Specification MC 304, MC 307, MC 330, or MC 331 (§§ 178.340, 178.342, 178.337 of this subchapter). Tank motor vehicles. Necessary interior cleaning of the tanks must be performed between changes in lading. Each safety relief device must have a start-to-discharge pressure of not less than 25 p.s.i.g. Each tank must meet the following requirements as applicable:

(i) Bottom outlets on each specification MC 304 cargo tank must be equipped with valves conforming to the requirements of § 178.342-5(a) of this subchapter; and

(ii) Bottom outlets on each specification MC 330 and MC 331 cargo tank must be equipped with valves conforming to the requirements of § 178.337-11(c) of this subchapter. Safety relief devices on these tanks must be in accordance with specification MC 331 (§ 178.337 of this subchapter) requirements.

19. In § 173.121, paragraph (a)(1) is deleted as follows:

§ 173.121 Carbon bisulfide (disulfide).

(a) • • •
(1) Deleted.

• • • • •

20. In § 173.128, paragraph (b)(1) is deleted as follows:

§ 173.128 Paints and related materials.

• • • • •

(b) • • •
(1) [Deleted.]

• • • • •

21. In § 173.131, paragraph (a)(2) is deleted as follows:

§ 173.131 Road asphalt, or tar, liquid.

(a) • • •
(2) [Deleted.]

22. In § 173.132, paragraphs (a)(1) is amended; Note 1 is deleted as follows:

§ 173.132 Cement, liquid, n.o.s., container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, wallboard cement, and coating solution.

(a) • • •

(1) As prescribed in § 173.119, irrespective of flash point or viscosity.

NOTE 1: [Deleted.]

• • • • •

23. In § 173.141, paragraph (a)(10) is added to read as follows:

§ 173.141 Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.

(a) • • •

(10) Specification 51 (§ 178.245 of this subchapter). Portable tank. Each tank must be equipped with safety relief valves which must be in compliance with all requirements of § 173.315(i) except for paragraph (i) (9), (10), and (11). A tank must not be liquid full at 130°F.

• • • • •

24. In § 173.154, paragraphs (a) (3), (4), and (5) are deleted as follows:

§ 173.154 Flammable solids and oxidizing materials not specifically provided for.

(a) • • •
(3) [Deleted.]
(4) [Deleted.]
(5) [Deleted.]

• • • • •

25. In § 173.155, paragraph (a)(2) is deleted as follows:

§ 173.155 Bags, nitrate of soda, empty and unwashed.

(a) • • •
(2) [Deleted.]

• • • • •

§ 173.263 [Amended].

26. In § 173.163, paragraph (a)(4) is amended by deleting the following words in the first sentence: "or spec. 11A or 11B (§§ 178.160 or 178.161 of this chapter) wooden barrels or kegs,".

27. In § 173.184, paragraph (a)(1) is deleted as follows:

§ 173.184 Nitrocellulose or collodion cotton, wet, or nitrocellulose, colloided, granular, or flake, wet, or nitrostarch, wet, or nitroguanidine, wet.

(a) • • •
(1) [Deleted.]

• • • • •

28. In § 173.187, paragraph (a)(1) is amended to read as follows:

§ 173.187 Peroxide of sodium.

(a) • • •

(1) Specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with inside containers which must be air-tight metal cans.

• • • • •

29. In § 173.188, paragraph (a)(1) is amended to read as follows:

§ 173.188 Phosphoric anhydride.

(a) • • •

(1) Specification 15A, 15B, or 15C (§§ 178.168, 178.169, 178.190 of this subchapter). Wooden boxes with inside containers which must be tightly stoppered glass bottles not over 1 pound capacity each; or metal cans, not over 3 pounds capacity each, hermetically sealed (soldered) or closed with cork securely held in place by metal strap soldered in position. All inside containers must be cushioned with elastic incombustible packing materials.

(Note 1 remains the same.)

• • • • •

30. In § 173.191, paragraph (a)(1) is amended; paragraph (a)(3) is deleted as follows:

§ 173.191 Phosphorus pentachloride.

(a) • • •

(1) Specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with inside containers which must be glass or glazed earthenware containers, not over 25 pounds capacity each, cushioned with mineral packing; when inside containers are packed in the same outside container with other articles, they must be enclosed in tightly closed metal cans. Net weight of phosphorus pentachloride not over 50 pounds in each outside container.

• • • • •

(3) [Deleted.]

• • • • •

31. In § 173.195, paragraph (a)(3) is deleted as follows:

§ 173.195 Pyroxylin plastic scrap, photographic film scrap, X-ray film scrap, motion-picture film scrap, or pieces of exposed or unexposed film.

(a) • • •
(3) [Deleted.]

• • • • •

32. In § 173.201, paragraph (a)(3) is deleted as follows:

§ 173.201 Rubber scrap, rubber buffings, reclaimed rubber, or regenerated rubber.

(a) • • •
(3) [Deleted.]

• • • • •

33. In § 173.204, paragraph (a)(1) is amended; (a)(8) is added to read as follows:

§ 173.204 Sodium hydrosulfite.

(a) • • •

(1) Specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with inside glass bottles of capacity not exceeding 5 pounds each, or metal containers.

• • • • •

(8) Specification 56 (§§ 178.251, 178.252 of this subchapter). Portable tank. Authorized only for shipment in a closed transport vehicle. For rail transportation see § 174.534 of this subchapter. Not authorized for transportation by water.

34. In § 173.205, paragraph (a)(2) is deleted as follows:

§ 173.205 Sodium picramate, wet.

(a) • • •
(2) [Deleted.]

35. In § 173.206, paragraphs (a)(1) and (c)(4) are amended; paragraph (a)(11) is added to read as follows:

§ 173.206 Sodium or potassium, metallic, sodium amide, sodium potassium alloys, sodium aluminum hydride, lithium metal, lithium silicon, lithium ferro silicon, lithium hydride, and lithium aluminum hydride.

(a) • • •

(1) Specification 15A, 15B, 19A, or 19B (§§ 178.168, 178.169, 178.190, 178.191 of this subchapter). Wooden boxes must have inside air-tight metal packagings. Each inside air-tight metal packaging must have a closing device securely fastened by positive means (not friction). For shipments of lithium aluminum hydride, each inside metal packaging must not exceed 1 gallon capacity and must be securely closed, positive means not required. Each inside metal packaging containing lithium aluminum hydride must be cushioned in outside packagings with sufficient incombustible packaging material.

• • • • •

(11) Specification 12B (§ 178.205 of this subchapter). Fiberboard box. Au-

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thorized only for lithium metal in wire form. Fiberboard box must have inside nonsparking metal packaging. Each inside nonsparking metal packaging must be tin coated and sealed by rolled-on lids. The contents of each inside packaging must be coated with heavy mineral oil or petroleum and wound on a 3-inch by 3-inch nonsparking metal spool. The net weight of the contents in each inside packaging must not exceed one-fourth pound.

• • • • • •

(c) • • •

(4) Specification 51 (§ 178.245 of this subchapter). Portable tank. Each tank must have a minimum design pressure of 150 p.s.i.g. Each tank must be equipped with safety valves having a start-to-discharge pressure of 150 p.s.i.g. If a tank has exterior heating coils these coils must be welded to the tank and must be stress relieved. The material must be in molten condition when loaded and the tank must be held for sufficient time to allow the material to be completely solidified before being offered for transportation. Outage must be five percent or more at sodium fusion temperature of 208° F.

• • • • • •

36. In § 173.214, paragraphs (a)(2) and (c)(2) are deleted; paragraph (c)(4) is added to read as follows:

§ 173.214 Hafnium metal or zirconium metal, wet, minimum 25 percent water by weight, mechanically produced, finer than 270 mesh particle size; hafnium metal or zirconium metal, dry, in an atmosphere of inert gas, mechanically produced, finer than 270 mesh particle size; hafnium metal or zirconium metal, wet, minimum 25 percent water by weight, chemically produced (see Note 1), finer than 20 mesh particle size; hafnium metal or zirconium metal, dry, in an atmosphere of inert gas, chemically produced (see Note 1), finer than 20 mesh particle size.

(a) • • •

(2) [Deleted.]

• • • • • •

(c) • • •

(2) [Deleted.]

• • • • • •

(4) Specification 37M (§ 178.134 of this subchapter). Cylindrical steel overpack with inside specification 2S (§ 178.35 of this subchapter) polyethylene container. Each overpack must be constructed of at least 24-gage steel. Each packaging may not exceed a capacity of 5 gallons. Net weight of contents may not exceed 50 pounds of dry material.

• • • • • •

37. In § 173.216, paragraph (a)(2) is deleted as follows:

§ 173.216 Zirconium picramate, wet.

(a) • • •

(2) [Deleted.]

38. In § 173.245, paragraphs (a)(5) and (a)(6) are deleted as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) • • •

(5) [Deleted.]

(6) [Deleted.]

• • • • • •

39. In § 173.246, the heading, paragraph (a), and paragraph (a)(1) are amended; paragraph (a)(2) is added as follows:

§ 173.246 Antimony pentafluoride, bromide pentafluoride, iodine pentafluoride, bromine trifluoride, and chlorine trifluoride.

(a) Antimony pentafluoride must be chemically anhydrous. Materials cited in the heading of this section must be packed in specification packagings as follows:

(1) Specification 3A150, 3AA150, 3B240, 3BN150, 4B240, 4BA240, 4BW240, or 3E1800 (§§ 178.36, 178.37, 178.38, 178.39, 178.50, 178.51, 178.61, 178.42 of this subchapter). Cylinders. Each valve outlet must be sealed by a threaded cap or a threaded plug. Cylinder valves must be protected as specified for corrosive gases in § 173.301(g). No cylinder may be equipped with any safety relief device. Specification 3E1800 cylinders must be packaged in accordance with the requirements of § 173.301(k).

(2) Specification 106A500X or 110A-500W (§§ 179.300, 179.301 of this subchapter). Tanks. Authorized for iodine pentafluoride and chlorine trifluoride only. Each tank must be equipped with a valve protection cover and with solid steel plugs in place of fusible plug safety devices. No tank may be equipped with any safety relief device.

40. In § 173.247, paragraph (a)(2) is deleted as follows:

§ 173.247 Acetic anhydride; Acetyl bromide; Acetyl chloride; Acetyl iodide; Antimony pentachloride; Benzoyl chloride; Boron trifluoride-acetic acid complex; Chromyl chloride; Dichloroacetyl chloride; Diphenylmethyl bromide solutions; Pyro sulfuryl chloride; Silicon chloride; Sulfuryl chloride; Thionyl chloride; Tin tetrachloride (anhydrous); Titanium tetrachloride; Trimethyl acetyl chloride.

(a) • • •

(2) [Deleted.]

• • • • • •

41. In § 173.252, paragraphs (a)(3) and (a)(4) are amended; paragraph (a)(5) is deleted as follows:

§ 173.252 Bromine.

(a) • • •

(3) Specification 105A300W (§§ 179.100, 179.101 of this subchapter). Tank car. Each tank must have a nickel cladding material on the inside surface comprising at least 20 percent of the total thickness, or be lined with lead no less than 3/16-inch thick. Openings in tank heads to facilitate application of lead lining are authorized and must be closed in an approved manner. All closures and appurtenances which are in contact with the lading must be lead lined or must be made of metal not subject to rapid deterioration by contact with the lading. All interior welds in nickel clad tanks must be protected by pure nickel butt straps. Except as otherwise provided herein, the water weight capacity of the tank must not be more than 20,400 pounds, and the maximum quantity of liquid bromine loaded into the tank must not be more than 60,000 pounds or 300 percent of the water weight capacity of the tank, whichever quantity is less. The total quantity loaded must not be less than 98 percent of the quantity the tank is authorized to carry.

(i) A tank constructed and maintained in full compliance with the requirements of a Specification DOT-105A500W is authorized for larger capacities of bromine. However, this tank may be marked DOT-105A300W and may be equipped with manway cover plates, safety valves, venting valves, loading valves, and unloading valves that are in compliance with the requirements of a Specification DOT-105A300W tank. The water weight capacity of this tank must not be more than 37,400 pounds, and the maximum quantity of liquid bromine loaded into the tank must not be more than 110,000 pounds or 300 percent of the water weight capacity of the tank, whichever quantity is less.

(4) Specification MC 310 or MC 312 (§ 178.343 of this subchapter). Tank motor vehicles. Each tank must have a shell and head thickness of at least three-eighths inch. Each tank must have a nickel cladding material on the inside surface comprising at least 20 percent of the total thickness or be lined with lead at least 3/16-inch thick. The cladding material must conform to requirements of ASTM Specification B-162-69. The composite plate must conform to requirements of ASTM Specification A-265-69. The maximum quantity of liquid bromine loaded into the tank must not exceed 300 percent of the water weight capacity of the tank. The total quantity loaded must not be less than 98 percent of the quantity the tank is authorized to carry.

(5) [Deleted.]

42. In § 173.254, paragraph (a)(3) is deleted as follows:

§ 173.254 Chlorosulfonic acid and mixtures of chlorosulfonic acid-sulfur trioxide.

(a) • • •

(3) [Deleted.]

• • • • • •

43. In § 173.262, paragraph (a)(3) is deleted as follows:

§ 173.262 Hydrobromic acid.

(a) • • •

(3) [Deleted.]

• • • • • •

44. In § 173.263, paragraphs (a)(4), (a)(8), and (b)(1) are deleted as follows:

§ 173.263 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, sodium chlorite solution (not exceeding 42 percent sodium chlorite), and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.

(a) • • •

(4) [Deleted.]

• • • • • •

(8) [Deleted.]

(b) • • •

(1) [Deleted.]

• • • • • •

45. In § 173.265, paragraphs (a)(2) and (a)(3) are deleted as follows:

§ 173.265 Hydrofluosilicic acid.

(a) • • •

(2) [Deleted.]

(3) [Deleted.]

• • • • • •

46. In § 173.266, paragraph (d)(1) is deleted as follows:

§ 173.266 Hydrogen peroxide solution in water.

• • • • • •

(d) • • •

(1) [Deleted.]

• • • • • •

47. In § 173.268, paragraphs (d)(1) and (e)(1) are amended to read as follows:

§ 173.268 Nitric acid.

• • • • • •

(d) • • •

(1) Specification 15A, 15B, 15C, 16A, or 19A (§§ 178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with inside containers which must be glass bottles not over 5 pints capacity each, individually enclosed in tightly closed metal cans and cushioned therein with sufficient incombustible mineral material. (See paragraphs (g) and (h) of this section.)

• • • • • •

(e) • • •

(1) Specification 15A, 15B, 15C, 16A, or 19A (§§)178.168, 178.169, 178.170, 178.185, 178.190 of this subchapter). Wooden boxes with inside containers which must be glass bottles not over 5 pints capacity each. (See paragraphs (g) and (h) of this section.)

• • • • • •

48. In § 173.270, paragraph (a)(2) is deleted as follows:

§ 173.270 Phosphorus tribromide.

(a) • • •

(2) [Deleted.]

• • • • • •

49. In § 173.271, paragraph (a)(3) is deleted as follows:

§ 173.271 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) • • •

(3) [Deleted.]

• • • • • •

50. In § 173.274, paragraph (a)(4) is added to read as follows:

§ 173.274 Fluosulfonic acid.

(a) • • •

(4) Specification MC 310, MC 311, or MC 312 (§ 178.343 of this subchapter). Tank motor vehicles.

§§ 173.283—173.285 [Deleted].

51. Section 173.283 thru 173.285 are deleted.

52. In § 173.289, paragraph (a)(3) is deleted as follows:

§ 173.289 Formic acid and formic acid solutions.

(a) • • •

(3) [Deleted.]

• • • • • •

53. In § 173.291, paragraphs (a)(4) and (a)(5) are deleted as follows:

§ 173.291 Flame retardant compound liquid.

(a) • • •

(4) [Deleted.]

(5) [Deleted.]

• • • • • •

54. In § 173.295, paragraph (a)(2) is deleted as follows:

§ 173.295 Benzyl chloride.

(a) • • •

(2) [Deleted.]

• • • • • •

55. In § 173.304 paragraph (d)(3)(ii), the table is amended to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

• • • • • •

(d) • • •

(3) • • •

(ii) • • •

Type of container	Maximum capacity		Maximum charging pressure—p.s.i.g.
	Cubic inches	Gallons	
DOT-2P or DOT-2Q (see Note 1)	31.83		45 p.s.i.g. at 70° F. and 106 p.s.i.g. at 130° F. (see Note 2).
DOT-2P or DOT-2Q (see Note 1)	31.83		35 p.s.i.g. at 70° F. and 100 p.s.i.g. at 130° F.
DOT-3C or DOT-4C	3,881	16+5% tolerance	145 p.s.i.g. at 130° F.

Notes 1 and 2 remain the same.

• • • • • •

(Notes 1 and 2 remain the same.)

• • • • • •

56. In § 173.306, paragraphs (b)(6) and (c) are amended to read as follows:

§ 173.306 Exemptions from compliance with regulations for shipping compressed gas.

• • • • • •

(b) • • •

(6) Audible firm alarm systems powered by a compressed gas contained in an inside metal container when shipped under the following conditions:

(i) Each inside container must have contents which are not flammable, poisonous, or corrosive as defined under this part:

(ii) Each inside container may not have a capacity exceeding 35 cubic inches (19.3 fluid ounces);

(iii) Each inside container may not have a pressure exceeding 70 p.s.i.g. at 70° F. and the liquid portion of the gas may not completely fill the inside container at 130° F., and

(iv) Each non-refillable inside container must be designed and fabricated with a burst pressure of not less than four times its charged pressure at 130° F. Each refillable inside container must be designed and fabricated with a burst pressure of not less than five times its charged pressure at 130° F.

(c) *Fire extinguishers.* Fire extinguishers charged with a compressed gas to not more than 240 p.s.i.g. at 70°F. are exempt from specification packaging, marking, and labeling requirements when shipped under the following conditions, except that marking name of contents on outside packaging is required for shipments via carriers by water. In addition to the above exemptions, shipments via highway carriers are exempt from Part 177 of this subchapter, except § 177.817.

(1) Each fire extinguisher must be shipped as an inside packaging.

(2) Each fire extinguisher must have contents which are not flammable, poisonous, or corrosive as defined under this part.

(3) Each fire extinguisher under stored pressure may not have an internal volume exceeding 1,100 cubic inches. For fire extinguishers not exceeding 35 cubic inches capacity, the liquid portion of the gas plus any additional liquid or solid must not completely fill the container at 130°F. Fire extinguishers exceeding 35 cubic inches capacity may not contain any liquefied compressed gas.

(4) Each fire extinguisher must be designed and fabricated with a burst pressure of not less than six times its charged pressure at 70°F. when shipped.

(5) Each fire extinguisher must be tested, without evidence of failure or damage, to at least three times its charged pressure at 70°F. but not less than 120 p.s.i.g. before initial shipment. For any subsequent shipment, each fire extinguisher must be in compliance with the retest requirements of the Occupational Safety and Health Administration regulations of the Department of Labor, 29 CFR 1910.157(d), and

(6) Each fire extinguisher manufactured after January 31, 1975 and filled and shipped under this paragraph must be legibly and durably marked "This extinguisher meets all requirements of 49 CFR 173.306(c)."

(7) When specification 2P or 2Q packagings are used, paragraphs (c)(4)

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through (6) of this section are not applicable provided each packaging meets the requirements of paragraph (a)(3) of this section.

• • • • • •

57. In § 173.314, paragraph (c), Table Note 8 is amended to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

• • • • •

(c) • • •

NOTE 8: Each tank must be equipped with adequate safety relief devices of the fusible plug type having a yield temperature not over 170° F., nor less than 157° F. Each device must be resistant to extrusion of the fusible alloy and leak tight at 130° F. Each valve outlet must be sealed by a threaded cap or a threaded solid plug. In addition, all valves must be protected by a metal cover.

• • • • • •

58. In § 173.346, paragraphs (a)(5) and (a)(6) are deleted as follows:

§ 173.346 Poisonous liquids not specifically provided for.

(a) • • •

(5) [Deleted.]

(6) [Deleted.]

• • • • • •

59. In § 173.351, paragraph (a)(2) is deleted as follows:

§ 173.351 Hydrocyanic acid solutions.

(a) • • •

(2) [Deleted.]

60. In § 173.360, paragraph (a)(1) is deleted as follows:

§ 173.360 Perchloro-methyl-mercaptan.

(a) • • •

(1) [Deleted.]

• • • • • •

61. In § 173.365, paragraphs (a)(4) and Note 1, and (a)(5) are deleted as follows:

§ 173.365 Poisonous solids not specifically provided for.

(a) • • •

(4) [Deleted.]

NOTE 1: [Deleted.]

(5) [Deleted.]

• • • • • •

62. In § 173.366, paragraph (a)(2) is deleted as follows:

§ 173.366 Arsenic (arsenic trioxide) or arsenic acid (solid).

(a) • • •

(2) [Deleted.]

• • • • • •

63. In § 173.367, Note 1 following paragraph (a)(1) is deleted as follows:

§ 173.367 Arsenical compounds n.o.s., arsenate of lead, calcium arsenate, Paris green, and arsenical mixtures.

(a) • • •

(1) • • •

NOTE 1: [Deleted.]

• • • • • •

64. In § 173.369, paragraphs (a)(2) and (a)(3) are deleted as follows:

§ 173.369 Carbolic acid (phenol), not liquid.

(a) • • •

(2) [Deleted.]

(3) [Deleted.]

• • • • • •

65. In § 173.370, paragraph (a)(2) is deleted as follows:

§ 173.370 Cyanides, or cyanides mixtures, except cyanides of calcium and mixtures thereof.

(a) • • •

(2) [Deleted.]

• • • • • •

66. In § 173.371, paragraph (a)(2) is deleted as follows:

§ 173.371 Dinitrobenzol.

(a) • • •

(2) [Deleted.]

67. In § 173.373, paragraph (a)(2) is deleted as follows:

§ 173.373 Ortho-nitroaniline and paranitraniline.

(a) • • •

(2) [Deleted.]

• • • • • •

PART 174—CARRIERS BY RAIL FREIGHT

In § 174.534, paragraph (c) is added to read as follows:

§ 174.534 Portable containers or tanks.

• • • • • •

(c) Specifications 52, 53, 56, and 57 (§§ 178.251, 178.252, 178.253 of this subchapter) portable tanks must be shipped only in a rail car that provides specific facilities for bracing and tie down of these tanks. If TOFC or COFC service is utilized, tanks must be secured in trailer bodies in compliance with Bureau of Explosives' Pamphlet 6C.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

1. In Part 178 Table of Contents, §§ 178.155, 178.157, 178.160, and 178.161 are deleted.

§ 178.155 [Deleted].

2. § 178.155 is deleted.

§ 178.157 [Deleted].

3. § 178.157 is deleted.

§ 178.160 [Deleted].

4. § 178.160 is deleted.

§ 178.161 [Deleted].

5. § 178.161 is deleted.

6. In § 178.245–1, paragraph (c) is amended as follows:

§ 178.245 Specification 51; steel portable tanks.

§ 178.245–1 Requirements for design and construction.

• • • • • •

(c) Each uninsulated tank used for the transportation of compressed gas, as defined in § 173.300 of this subchapter, must have an exterior surface finish that is significantly reflective such as a light reflecting color if painted, or a bright reflective metal or other material if unpainted.

PART 179—SPECIFICATIONS FOR TANK CARS

In § 179.302 paragraph (a), the table is amended; footnote 7 is added to read as follows:

§ 179.302 Special commodity requirements for multi-unit tank car tanks.

(a) • • •

Commodity	Safety relief device	Valve protective housing	Miscellaneous
(Change)			
Hydrogen sulfide	Fusible plugs required [7].	Required [8]	(7)

[7] Safety relief devices for hydrogen sulfide must be of the fusible plug type utilizing a fusible alloy with yield temperature not over 170° F., nor less than 157° F. Each device must be resistant to extrusion of the fusible alloy and leak tight at 130° F.

This amendment is effective January 31, 1974. However, immediate compliance with the regulations, as amended herein, is authorized.

(Transportation of Explosives Act (18 U.S.C. 831–835), section 6 of the Department of Transportation Act (49 U.S.C. 1655); Title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h), and 1655(c)).

This is one of four signature pages in Docket No. HM–106; Amendment Nos. 172–26, 173–81, 174–22, 178–33, 179–13, Shipment of Hazardous Materials. Signature pages have been submitted to the Board Members for the Federal Highway Administration, the Federal Railroad Administration, and the United States Coast Guard.

Issued in Washington, D.C. on May 9, 1974.

C. R. MELUGIN, JR.,
Alternate Board Member for the Federal Aviation Administration.

ROBERT A. KAYE,
Board Member for the Federal Highway Administration.

MAC E. ROGERS,
Board Member for the Federal Railroad Administration.

W. F. REA III,
Rear Admiral, Board Member for the United States Coast Guard.

[FR Doc.74–11220 Filed 5–14–74;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73–9; Notice 5]

PART 570—VEHICLE IN USE INSPECTION STANDARDS

Response to Petitions for Reconsideration; Correction

In FR Doc. 74–7966, appearing at page 12867 in the issue of April 9, 1974, the following corrections are made:

1. In the second paragraph of the preamble, the FEDERAL REGISTER citation for the Vehicle In Use Inspection Standard is amended to read: "38 FR 23949."

2. Section 570.5(b)(1) is revised to read:

§ 570.5 Service brake system.

• • • • •

(b) • • •

(1) *Inspection procedures.* With the engine running on vehicles equipped with power brake systems, and the ignition turned to "on" in other vehicles, apply a force of 125 pounds to the brake pedal and hold for 10 seconds. Note any decrease in pedal height, and whether the lamp illuminates.

• • • • •

3. Amendment "5." concerning § 570.10(b), should read "4."

(Sec. 103, 108, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401); delegation of authority at 49 CFR 1.51)

Issued on May 8, 1974.

GENE G. MANNELLA,
Acting Administrator.

[FR Doc.74–11174 Filed 5–14–74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S. O. 1184]

PART 1033—CAR SERVICE

Central Iowa Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of May 1974.

It appearing, that, in Finance Docket No. 27637, the Central Iowa Railway Company (CIRC) was authorized to acquire and operate a line of railroad abandoned by the Chicago, Rock Island and Pacific Railroad Company (RI), extending from a connection with the RI at Hills, Iowa, to Montezuma, Iowa; that the purchase agreement between the CIRC and the RI provided for operation of the CIRC over tracks of the RI between Hills, Iowa, and Iowa City, Iowa; that an agreement governing such operations by the CIRC over the RI is being negotiated; that the RI has consented to use of its line between Hills and Iowa City by the CIRC pending disposition of the application; that operation over the aforementioned tracks of the RI by the CIRC is necessary to provide uninterrupted railroad service to shippers served by this line in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1184 Service Order No. 1184.

(a) *Central Iowa Railway Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company.* The Central Iowa Railway Company (CIRC) be, and it is hereby, authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) between Iowa City, Iowa, and Hills, Iowa, a distance of approximately 7.73 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as a pre-judgment of the application of the CIRC seeking permanent authority to operate over this line.

(d) *Effective date.* This order shall become effective at 11:59 p.m., May 10, 1974.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), 17(2)))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–11206 Filed 5–14–74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Certain Wildlife Refuges in Montana

The following special regulations are issued and are effective on May 15, 1974.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MONTANA

NATIONAL BISON RANGE

Sport fishing on the National Bison Range, Moiese, Montana, is only permitted along the portions of the Jocko River as posted. These open areas are delineated on maps available at refuge headquarters, one-half mile east of Moiese, Montana. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

NINEPIPE NATIONAL WILDLIFE REFUGE

(HEADQUARTERS NATIONAL BISON RANGE, MOIESE, MONTANA)

Sport fishing is permitted in accordance with special regulations. Entire refuge is open from July 15, until beginning of waterfowl hunting season, and before July 15, on west and north shore lines from picnic area to Allentown bridge, except central portion of north shore (nine-tenths of a mile), as posted. Entire refuge is closed during migratory waterfowl hunting season. Ice fishing is permitted after the closure of waterfowl hunting season until March 1. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

Special Regulations: Ninepipe National Wildlife Refuge

1. Off shore islands are closed to fishing and trespass.
2. Use of boats is prohibited.
3. Vehicles must be parked at designated areas.
4. Motorized travel on the ice is prohibited.
5. No ice fishing shelters may be left overnight.

PABLO NATIONAL WILDLIFE REFUGE

(HEADQUARTERS NATIONAL BISON RANGE, MOIESE, MONTANA)

Sport fishing is closed on Pablo Reservoir during the migratory waterfowl hunting season. It is open during the balance of the year, in accordance with special regulations, on the north and east shore lines from inlet canal to south end of dam as posted. Ice fishing is permitted after the closing of the waterfowl hunting season. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth, in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

Special Regulations: Pablo National Wildlife Refuge

1. Off shore islands are closed to fishing and trespass.
2. Use of boats is prohibited.
3. Vehicles must be parked at designated areas.

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4. Motorized travel on the ice is prohibited.

5. No ice fishing shelters may be left overnight.

(HEADQUARTERS NATIONAL BISON RANGE, MOIESE, MONTANA)

Sport fishing is permitted north end of Flathead Lake within the boundaries of the Waterfowl Production Area. Fishing from shore is prohibited from March 1, to July 1. All islands at the mouth of Flathead River are closed to trespass except during the waterfowl hunting season. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

Special Regulations: Northwest Montana Waterfowl Production Areas

1. Vehicle travel is permitted only on designated roads and parking areas.

MARVIN R. KASCHKE,
Refuge Manager, National Bison, Range, Moiese, Mont.

APRIL 15, 1974.

[FR Doc.74-11192 Filed 5-14-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Income Subject to Foreign Community Property Laws

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 14, 1974. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 14, 1974. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to conform the Income Tax Regulations (26 CFR Part 1) to section 981 of the Internal Revenue Code of 1954, relating to election as to the treatment of income subject to foreign community property laws, as added by section 105(e) of the Foreign Investors Tax Act of 1966 (80 Stat. 1565).

Section 981(a) provides that for any taxable year beginning after December 31, 1966, an individual who is (1) a citizen of the United States, (2) a bona fide resident of a foreign country or countries during the entire taxable year, and (3) married at the close of the taxable year to an individual who is a nonresident alien during the entire taxable year may, together with his spouse, elect for such year to treat the income which is community income under the community property laws of any foreign country in the special manner provided by section 981(b).

Section 981(b) contains special rules for dividing the community income between the husband and wife in the case of earned income, trade or business income, community income derived from the separate property of the respective spouses, and all other community income.

Section 981(c)(1) provides that an individual who was a citizen of the United States and married at the close of any taxable year beginning before January 1, 1967, to an individual who was a nonresident alien during the entire taxable year may, together with his spouse, elect, for all open taxable years beginning before January 1, 1967, for which such conditions are satisfied to have the special rules of section 981(c)(2) apply to their community income under foreign community property laws. These rules for treating the community income are generally the same as those prescribed by section 981(b) except that the community income (other than earned income, trade or business income, or community income derived from separate property) is treated as the income of the spouse who had the greater amount of gross income, determined by adding to the separate gross income the amount attributed to such spouse under section 981(b) in the case of earned income, trade or business income, and community income derived from separate property. Under conditions described in section 981(d)(3) the nonresident alien spouse is not required to join in the election under section 981(c)(1).

Either the election for post-1966 years or the election for pre-1967 years can be made for any year, at any time, so long as the year is still open. An election may be made for an open taxable year even though no return was filed for that year. If the election is exercised for any post-1966 year, the treatment provided by section 981(b) applies not only to the year of election but also to all subsequent years which are open; and, if it is made for pre-1967 years, section 981(c)(2) applies for all open years beginning before January 1, 1967. An election in respect of a pre-1967 year is not considered effective for any post-1966 year. An election for a post-1966 year is binding and may be terminated only with consent of the Director of International Operations. An election for a pre-1967 year is binding and may not be revoked. Either election is to be made by filing with the Director of International Operations a return, an amended return, or a claim for refund, accompanied by certain prescribed information.

In order to conform the Income Tax Regulations to such changes, the regulations are hereby amended as follows:

1. Section 1.911 is amended by revising subsections (c)(1)(B) and (d) of section 911 and the historical note to read as follows:

§ 1.911 Statutory provisions; earned income from sources without the United States.

SEC. 911. *Earned income from sources without the United States.* • • •

(c) *Special rules.* • • •

(1) *Limitations on amount of exclusion.* • • •

(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.

• • • • • •

(d) *Cross references.* (1) For administrative and penal provisions relating to the exclusion provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F.

(2) For elections as to treatment of income subject to foreign community property laws, see section 981.

[Sec. 911 as amended by sec. 72(b), Technical Amendments Act 1958 (72 Stat. 1660); sec. 11(a), Rev. Act 1962 (76 Stat. 1003); sec. 237(a), Rev. Act 1964 (78 Stat. 128); sec. 105(e)(3), Foreign Investors Tax Act 1966 (80 Stat. 1567)]

2. The following new sections are added immediately after § 1.972-1:

§ 1.981 Statutory provision; election as to treatment of income subject to foreign community property laws.

SEC. 981. *Election as to treatment of income subject to foreign community property laws*—(a) *General rule.* In the case of any taxable year beginning after December 31, 1966, if—

(1) An individual is (A) a citizen of the United States, (B) a bona fide resident of a foreign country or countries during the entire taxable year, and (C) married at the close of the taxable year to a spouse who is a nonresident alien during the entire taxable year, and

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(2) Such individual and his spouse elect to have subsection (b) apply to their community income under foreign community property laws, then subsection (b) shall apply to such income of such individual and such spouse for the taxable year and for all subsequent taxable years for which the requirements of paragraph (1) are met, unless the Secretary or his delegate consents to a termination of the election.

(b) *Treatment of community income.* For any taxable year to which an election made under subsection (a) applies, the community income under foreign community property laws of the husband and wife making the election shall be treated as follows:

(1) Earned income (within the meaning of the first sentence of section 911(b)), other than trade or business income and a partner's distributive share of partnership income, shall be treated as the income of the spouse who rendered the personal services.

(2) Trade or business income, and a partner's distributive share of partnership income, shall be treated as provided in section 1402(a)(5).

(3) Community income not described in paragraph (1) or (2) which is derived from the separate property (as determined under the applicable foreign community property law) of one spouse shall be treated as the income of such spouse.

(4) All other such community income shall be treated as provided in the applicable foreign community property law.

(c) *Election for pre-1967 years*—(1) *Election.* If an individual meets the requirements of subsections (a)(1)(A) and (C) for any taxable year beginning before January 1, 1967, and if such individual and the spouse referred to in subsection (a)(1)(C) elect under this subsection, then paragraph (2) of this subsection shall apply to their community income under foreign community property laws for all open taxable years beginning before January 1, 1967 (whether under this chapter, the corresponding provisions of the Internal Revenue Code of 1939, or the corresponding provisions of prior revenue laws), for which the requirements of subsection (a)(1)(A) and (C) are met.

(2) *Effect of election.* For any taxable year to which an election made under this subsection applies, the community income under foreign community property laws of the husband and wife making the election shall be treated as provided by subsection (b), except that the other community income described in paragraph (4) of subsection (b) shall be treated as the income of the spouse who, for such taxable year, had gross income under paragraphs (1), (2), and (3) of subsection (b), plus separate gross income, greater than that of the other spouse.

(d) *Time for making elections; period of limitations; etc.*—(1) *Time.* An election under subsection (a) or (c) for a taxable year may be made at any time while such year is still open, and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

(2) *Extension of period for assessing deficiencies and making refunds.* If any taxable year to which an election under subsection (a) or (c) applies is open at the time such election is made, the period for assessing a deficiency against, and the period for filing claim for credit or refund of any overpayment by, the husband and wife for such taxable year, to the extent such deficiency or overpayment is attributable to such an election, shall not expire before 1 year after the date of such election.

(3) *Alien spouse need not join in subsection (c) election in certain cases.* If the Secretary or his delegate determines—

(A) That an election under subsection (c) would not affect the liability for Federal income tax of the spouse referred to in subsection (a)(1)(C) for any taxable year, or

(B) That the effect on such liability for tax cannot be ascertained and that to deny the election to the citizen of the United States would be inequitable and cause undue harship,

such spouse shall not be required to join in such election, and paragraph (2) of this subsection shall not apply with respect to such spouse.

(4) *Interest.* To the extent that any overpayment or deficiency for a taxable year is attributable to an election made under this section, no interest shall be allowed or paid for any period before the day which is 1 year after the date of such election.

(e) *Definitions and special rules.* For purposes of this section—

(1) *Deductions.* Deductions shall be treated in a manner consistent with the manner provided by this section for the income to which they relate.

(2) *Open years.* A taxable year of a citizen of the United States and his spouse shall be treated as "open" if the period for assessing a deficiency against such citizen for such year has not expired before the date of the election under subsection (a) or (c), as the case may be.

(3) *Elections in case of decedents.* If a husband or wife is deceased his election under this section may be made by his executor, administrator, or other person charged with his property.

(4) *Death of spouse during taxable year.* In applying subsection (a)(1)(C), and in determining under subsection (c)(2) which spouse has the greater income for a taxable year, if a husband or wife dies the taxable year of the surviving spouse shall be treated as ending on the date of such death.

[Sec. 981 as added by sec. 105(e)(1), Foreign Investors Tax Act 1966 (80 Stat. 1565)]

§ 1.981–1 Foreign law community income for taxable years beginning after December 31, 1966.

(a) *Election for special treatment*—(1) *In general.* An individual citizen of the United States who meets the requirements of section 981(a)(1) and subparagraph (2) of this paragraph for any open taxable year beginning after December 31, 1966, may make a binding election with his nonresident alien spouse to have section 981(b) and paragraph (b) of this section apply to their income for such year which is treated as community income under the applicable community property laws of a foreign country or countries. Generally, the community property laws of a foreign country operate upon land situated within its jurisdiction and upon personal property owned by spouses domiciled therein. If the election is made for any taxable year, it shall also apply for all subsequent open taxable years of such citizen and his nonresident alien spouse for which all the requirements of section 981(a)(1) and subparagaraph (2) of this paragraph are met, unless the Director of International Operations consents, in accordance with paragraph (c)(2) of this section, to a termination of the election. An election under section 981(a) and this section has no effect for any taxable year beginning before January 1, 1967, for which a separate election, if made, must be made under section 981(c)(1) and § 1.981–2. For the definition of "open taxable year" see section 981(e)(2) and paragraph (a) of § 1.981–3. If the citizen and his nonresident alien spouse have different taxable years, see paragraph (c) of § 1.981–3. If one of the spouses is deceased, see paragraph (d) of § 1.981–3.

(2) *Requirements to be met.* In order for a U.S. citizen and his nonresident alien spouse to make an election under section 981(a) and this section for any taxable year and in order for the election to apply for any subsequent taxable year it is required under section 981(a)(1) that, for each such taxable year, such citizen be (i) a citizen of the United States, (ii) a bona fide resident of a foreign country or countries during the entire taxable year, and (iii) married at the close of the taxable year to an individual who is (*a*) a nonresident alien during the entire taxable year and (*b*), in the case of any such subsequent taxable year, the same nonresident alien individual to whom the citizen was married at the close of the earliest of such taxable years. If either spouse dies during a taxable year, the taxable year of the surviving spouse shall be treated, solely for purposes of making the determination under subdivision (iii) of this subparagraph, as ending on the date of such death. A citizen of the United States shall be considered as not married at the close of his taxable year if he is legally separated from his spouse under a decree of divorce or of separate maintenance. However, the mere fact that spouses have not lived together during the course of the taxable year shall not cause them to be considered as not married at the close of the taxable year. A husband and wife who are separated under an interlocutory decree of divorce retain the relationship of husband and wife until the decree becomes final.

(3) *Determination of residence.* The principles of paragraphs (a)(2) and (b)(7) of § 1.911–1 shall apply in order to determine for purposes of this paragraph whether a U.S. citizen is a bona fide resident of a foreign country or countries during the entire taxable year. The principles of § 1.871–2 through § 1.871–5 shall apply in order to determine whether the alien spouse of a U.S. citizen is a nonresident during the entire taxable year.

(4) *Manner of electing.* The election under section 981(a) and this section shall be made in accordance with the applicable rules set forth in paragraph (c) of this section.

(b) *Treatment of community income*—(1) *In general.* Community income for any taxable year to which an election under section 981(a) and this section applies, and the deductions properly allocable to such income, shall be divided between the electing U.S. citizen and nonresident alien spouses in accordance with the rules set forth in section 981(b) and subparagraphs (2) through (8) of this paragraph. Community income for this purpose means all gross income, whether derived from sources within or without the United States, which is treated as community income of the spouses under the community property laws of the foreign country having jurisdiction to determine the legal ownership of the income. A spouse has ownership of the income for this purpose if under the applicable foreign law he has a proprietary vested interest in the income.

(2) *Earned income.* Wages, salaries, or professional fees, and other amounts received as compensation for personal services actually performed, which are community income for the taxable year, shall be treated as the income of the spouse who actually performed the personal services. This subparagraph does not apply, however, to community income (i) derived from any trade or business carried on by the husband or the wife, (ii) attributable to a spouse's distributive share of the income of a partnership to which subparagraph (4) of this paragraph applies, (iii) consisting of compensation for personal services rendered to a corporation which represents a distribution of the earnings and profits of the corporation rather than a reasonable allowance as compensation for the personal services actually performed, or (iv) derived from property which is acquired as consideration for personal services performed.

(3) *Trade or business income.* If any income derived from a trade or business carried on by the husband or wife is community income for the taxable year, all of the gross income, and the deductions attributable to such income, shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of the trade or business, in which case all of the gross income and deductions shall be treated as the gross income and deductions of the wife. This subparagraph does not apply to any income derived from a trade or business carried on by a partnership of which both or one of the spouses is a member. For purposes of this subparagraph, income derived from a trade or business includes any income derived from a trade or business in which both personal services and capital are material income producing factors. The term "management and control" means management and control in fact, not the management and control imputed to the husband under the community property laws of a foreign country. For example, a wife who operates a beauty parlor without any appreciable collaboration on the part of a husband is considered as having substantially all of the management and control of the business despite the provisions of any community property laws of a foreign country vesting in the husband the right of management and control of community property; and the income and deductions attributable to the operation of the beauty parlor are considered the income and deductions of the wife. See paragraph (a) of § 1.1402(a)–8.

(4) *Partnership income.* If any portion of a spouse's distributive share of the income of a partnership of which such spouse is a member is community income for the taxable year, all of that distributive share shall be treated as the income of that spouse and shall not be taken into account in determining the income of the other spouse. If both spouses are members of the same partnership, the distributive share of the income of each spouse which is community income shall be treated as the income of that spouse. See paragraph (b) of § 1.1402(a)–8. A spouse's distributive share of such income of a partnership shall be determined as provided in section 704, and the regulations thereunder.

(5) *Income from separate property.* Any community income for the taxable year, other than income described in section 981(b)(1) or (2) and subparagraph (2), (3), or (4) of this paragraph, which is derived from the separate property of one of the spouses shall be treated as the income of that spouse. The determination of what property is separate property for this purpose shall be made in accordance with the laws of the foreign country which, in accordance with subparagraph (1) of this paragraph, has jurisdiction to determine that the income from such property is community income.

(6) *Other community income.* Any community income for the taxable year, other than income described in section 981(b)(1), (2), or (3), and subparagraph (2), (3), (4), or (5) of this paragraph, shall be treated as the income of that spouse who has a proprietary vested interest in that income under the laws of the foreign country which, in accordance with subparagraph (1) of this paragraph, has jurisdiction to determine that such income is community income. Thus, for example, this subparagraph applies to community income not described in subparagraph (2), (3), (4), or (5) of this paragraph which consists of dividends, interest, rents, royalties, or gains, from community property or of the earnings of unemancipated minor children.

(7) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). H, a nonresident alien individual and W, a U.S. citizen, each of whose taxable years is the calendar year, were married throughout 1967. H and W were residents of, and domiciled in, foreign country Z during the entire taxable year. During 1967, H earned $10,000 from the performance of personal services as an employee. H also received $500 in dividend income from stock which under the community property laws of country Z is considered to be the separate property of H. W had no separate income for 1967. Under the community property laws of country Z all income earned by either spouse is considered to be community income, and one-half of such income is considered to belong to the other spouse. In addition, such laws of country Z provide that all income derived from property held sepately by either spouse is to be treated as community income and treated as belonging one-half to each spouse. Thus, under the community property laws of country Z, H and W are both considered to have realized income of $5,250 during 1967, even though such laws recognize the stock as the separate property of H. If the election under this section is in effect for 1967, under the rules of subparagraphs (2) and (5) of this paragraph all of the income of $10,000 derived during 1967 shall be treated, for U.S. income tax purposes, as the income of H.

Example (2). The facts are the same as in example (1) except that H is the sole proprietor of a retail merchandising company and such company has a $10,000 profit during 1967. W exercises no management and control over the business. In addition, H is a partner in a wholesale distributing company, and his distributive share of the partnership profit is $5,000. Both of these amounts of income are treated as community income under the community property laws of country Z, and under such laws both H and W are treated as realizing $7,500 of such income. If the election under this section is in effect for 1967, under the rule of subparagraphs (3) and (4) of this paragraph all $15,000 of such income shall be treated as the income of H for U.S. income tax purposes.

Example (3). The facts are the same as in example (1) except that H also received $1,000 in dividends on stock held separately in his name. Under the community property laws of country Z the stock is considered to be community property; and the dividends, to be community income, one-half of such income being treated as the income of each spouse. If the election under this section is in effect for 1967, under the rule of subparagraph (6) of this paragraph, $500 of the dividend income shall be treated, for U.S. income tax purposes, as the income of each spouse.

(c) *Time and manner of making or terminating an election*—(1) *In general.* A citizen of the United States and his nonresident alien spouse shall, for the first taxable year beginning after December 31, 1966, for which an election under section 981(a) and this section is to apply, make the election by filing a return, an amended return, or a claim for refund, whichever is proper, for such taxable year and attaching thereto a statement that the election is being made and that the requirements of paragraph (a)(2) of this section are met for such taxable year. The statement must show the name, address, and account number, if any, of each spouse, the name and address of the executor, administrator, or other person making the election for a deceased spouse, the taxable year to which the election applies, and the name

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of the foreign country or countries having jurisdiction to determine the ownership of any income being treated in accordance with section 981(b) and paragraph (b) of this section. The statement must be signed by both persons making the election. Copies of any relevant community property laws of such foreign country or countries must also be submitted with the election, except that, if such laws are not in the English language, properly authenticated translations of such laws must be submitted. An election under this section may be made only for a taxable year which, on the date of the election, as defined in paragraph (b) of § 1.981–3, is open within the meaning of section 981(e)(2) and paragraph (a) of § 1.981–3.

(2) *Termination only with consent of Director of International Operations*—(i) *In general.* An election under this section for any taxable year is binding and may not be revoked. The election shall also remain in effect for all subsequent taxable years of the spouses for which the requirements of paragraph (a)(2) of this section are met and which on the date of the election are open, within the meaning of paragraph (a) of § 1.981–3, unless the election is terminated for any such subsequent taxable year or years in accordance with subdivision (ii) of this subparagraph. Any return, amended return, or claim for refund in respect of any such subsequent taxable year for which the election is in effect shall have attached thereto a copy of the statement filed in accordance with subparagraph (1) of this paragraph and an additional signed statement that for such subsequent taxable year the requirements of paragraph (a)(2) of this section are met.

(ii) *Written request to terminate required.* A request to terminate an election under this section for a subsequent taxable year or years shall be made in writing by the persons who made the election and shall be addressed to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. The request must include the name, address, and account number, if any, of each spouse and must be signed by the persons making the request. It must specify the taxable year or years for which the termination is to be effective and the grounds which justify the termination. The request shall be filed not later than 90 days before the close of the period for assessing a deficiency against the U.S. citizen for the earliest taxable year of such citizen for which the termination is to be effective. The Director of International Operations may require such other information as may be necessary in order to determine whether the termination will be permitted. A copy of the consent by the Director of International Operations to terminate must be attached to an amended income tax return for each taxable year for which the termination is effective and for which a return has previously been filed.

§1.981–2 Foreign law community income for taxable years beginning before January 1, 1967.

(a) *Election for special treatment*—(1) *In general.* For all open taxable years beginning before January 1, 1967, for which an individual citizen of the United States meets the requirements of subparagraphs (A) and (C) of section 981(a)(1) and subparagraph (2) of this paragraph, such citizen and his nonresident alien spouse may make a joint election to have section 981(c)(2) and paragraph (b) of this section apply to their income which is treated as community income under the applicable community property laws of a foreign country or countries. However, if the conditions prescribed by section 981(d)(3) and subparagraph (3) of this paragraph are met, the nonresident alien spouse is not required to join in the election and such citizen may make a separate election to have section 981(c)(2) and paragraph (b) of this section apply to such income for such taxable years. An election under section 981(c)(1) and this section shall apply to every open taxable year of such citizen and his nonresident alien spouse beginning before January 1, 1967, for which all the requirements of subparagraphs (A) and (C) of section 981(a)(1) and subparagraph (2) of this paragraph are met. It is immaterial whether such open taxable year is a taxable year subject to the provisions of the 1954 Code, the 1939 Code, or any other internal revenue law in effect before the 1939 Code. An election under section 981(c)(1) and this section has no effect for any taxable year beginning after December 31, 1966. For the definition of "open taxable year" see section 981(e)(2) and paragraph (a) of § 1.981–3. If the citizen and his nonresident alien spouse have different taxable years, see paragraph (c) of § 1.981–3. If one of the spouses is deceased, see paragraph (d) of § 1.981–3. An election under section 981(c)(1) and this section is binding and may not be revoked.

(2) *Requirements to be met.* In order for the citizen of the United States to make an election under this section, whether required to be made jointly with his nonresident alien spouse or permitted to be made separately, it is required under section 981(c)(1) that, for each taxable year to which the election applies, the citizen making the election be (i) a citizen of the United States and (ii) married at the close of the taxable year to an individual who is (a) a nonresident alien during the entire taxable year and (b), in the case of any such taxable years subsequent to the first, the same nonresident alien individual to whom the citizen was married at the close of such first taxable year. The provisions of paragraph (a)(2) of § 1.981–1 apply to determine whether a U.S. citizen making an election under section 981(c)(1) and this section is married at the close of a taxable year to an individual who is a nonresident alien during the entire taxable year.

(3) *Cases where joint election is not required.* A nonresident alien spouse is not required to join in an election under section 981(c)(1) and this section if the Director of International Operations determines in accordance with paragraph (c)(4) of this section—

(i) That an election under section 981(c)(1) and this section would not affect the liability for Federal income tax of the nonresident alien spouse for any taxable year, whether beginning on, before, or after January 1, 1967, or

(ii) That the effect of the election on the liability of the nonresident alien spouse for Federal income tax for any such taxable year cannot be ascertained and that to deny the election to the U.S. citizen spouse would be inequitable and cause undue hardship to the U.S. citizen.

If in accordance with this subparagraph the nonresident alien spouse is not required to join in the election by the U.S. citizen, the provisions of section 981(d)(2) and paragraph (e) of § 1.981–3 shall not apply so as to extend the period for assessing deficiencies or filing a claim for credit or refund for any taxable year of the nonresident alien spouse.

(4) *Manner of electing.* The election under section 981(c)(1) and this section shall be made in accordance with the applicable rules set forth in paragraph (c) of this section.

(b) *Treatment of community income*—(1) *In general.* Community income, as defined in paragraph (b)(1) of § 1.981–1, for any taxable year beginning before January 1, 1967, to which an election under section 981(c)(1) and this section applies, and the deductions properly allocable to such income, shall be divided between the U.S. citizen and his nonresident alien spouse in accordance with the rules set forth in section 981(c)(2) and subparagraphs (2) and (3) of this paragraph. The income shall be divided in such manner even though the nonresident alien spouse is not required, in accordance with paragraph (a)(3) of this section, to join in the election by the U.S. citizen.

(2) *Earned income, business income, partnership income, and income from separate property.* All community income for any taxable year to which this paragraph applies which is treated as the income of one of the spouses in accordance with section 981(b)(1), (2), or (3) and paragraph (b)(2), (3), (4), or (5) of § 1.981–1 shall be treated as the income of that spouse for purposes of this paragraph.

(3) *Other community income.* All community income for any taxable year to which this paragraph applies, other than income described in subparagraph (2) of this paragraph, shall be treated as the income of the spouse who, for such taxable year, has a greater amount of gross income than the other spouse, determined by adding to the amount of gross income which is treated as the gross income of that spouse in accordance with subparagraph (2) of this paragraph the amount of the gross income

for the taxable year which is treated as the separate income of that spouse under the community property laws of the foreign country having jurisdiction to determine the legal ownership of the income. If either spouse dies during a taxable year, the taxable year of the surviving spouse shall be treated as ending on the date of such death for the purpose of determining which spouse has the greater amount of gross income for such taxable year. Moreover, if the U.S. citizen and his nonresident alien spouse do not have the same taxable year, as defined in section 441(b) and the regulations thereunder, the periods for which the amounts of gross income are to be compared under this subparagraph are (i) the taxable year of the citizen and (ii) that period falling within the consecutive taxable years of the nonresident alien spouse which coincides with the period covered by such taxable year of the citizen. See paragraph (c) of § 1.981–3.

(c) *Time and manner of making election*—(1) *In general.* A citizen of the United States and his nonresident alien spouse or, if subparagraph (4) of this paragraph applies, such citizen alone may make an election under section 981(c)(1) and this section at any time on or after November 13, 1966, for each and every taxable year beginning before January 1, 1967, which on the date of the election, as defined in paragraph (b) of § 1.981–3, is open within the meaning of section 981(e)(2) and paragraph (a) of § 1.981–3. The election shall be made by filing a return, an amended return, or a claim for refund, whichever is proper, for each taxable year to which the election applies and attaching thereto a statement that the election is being made and that the requirements of paragraph (a)(2) of this section are met for each such taxable year. The statement must also show the information required by subparagraph (2) of this paragraph and must, where applicable, be signed by both persons making the election. Copies of the foreign community property laws which are being applied must also be submitted with the election, except that, if such laws are not in the English language, properly authenticated translations of such laws must be submitted.

(2) *Information required.* The statement described in subparagraph (1) of this paragraph must show—

(i) The name, address, and account number, if any, of each spouse,

(ii) The name and address of the executor, administrator, or other person making the election for a deceased spouse,

(iii) The taxable years to which the election applies,

(iv) The office of the district director, or the service center, where the return or returns, if any, for such taxable year or years were filed,

(v) The dates on which such return or returns, if any, were filed and on which the tax for such taxable year or years was paid, if the tax has been paid, and

(vi) The name of the foreign country or countries having jurisdiction to determine the ownership of any income being treated in accordance with section 981(c)(2) and paragraph (b) of this section.

(3) *Place for filing.* Any return, amended return, or claim for refund filed under subparagraph (1) of this paragraph in respect of any taxable year shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. (See § 1.6091–3.)

(4) *Determination that joint election is not required.* A U.S. citizen spouse entitled to make an election under section 981(c)(1) and this section for open taxable years beginning before January 1, 1967, may apply to the Director of International Operations for a determination under section 981(d)(3) that the nonresident alien spouse is not required to join in the election by such citizen. This application shall be made by filing with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, a statement setting forth the same information required by subparagraph (2) of this paragraph and such other information as is required by the Director of International Operations to justify a claim that the requirements of section 981(d)(3) and paragraph (a)(3) of this section are met. The Director of International Operations shall notify the U.S. citizen by letter of his determination with respect to the application. If the determination is that the nonresident alien spouse is not required to join in the election, a copy of the letter of determination shall be attached to each return, amended return, or claim for refund, to be filed pursuant to subparagraph (1) of this paragraph.

§ 1.981–3 Definitions and other special rules.

(a) *Open taxable years.* (1) For purposes of paragraph (a) of § 1.981–1, and paragraph (a) of § 1.981–2, a taxable year of the U.S. citizen, and the taxable year or years of his nonresident alien spouse ending or beginning within such taxable year of such citizen, shall be treated as open if the period prescribed by section 6501(a) (or section 6501(c)(4) if the period is extended by agreement) for assessing a deficiency against the citizen for his taxable year has not expired before the date of the election, determined under paragraph (b) of this section. Thus, for example, a taxable year of a U.S. citizen beginning before January 1, 1967, is open for purposes of this subparagraph if, before the election under section 981(c)(1) and § 1.981–2, such citizen has never filed a return for such year and a return was required under section 6012 without reference to section 981. For example, if a U.S. citizen spouse on a calendar year basis who has never filed a return for 1960 decides in 1975 that he wishes to make the election under section 981(c)(1) and § 1.981–2 in order to avoid being subject to tax for 1960 on his share of the community income for that year, he may in 1975 elect the benefits of section 981(c)(2) by filing an election in accordance with paragraph (c) of § 1.981–2. In such case, a taxable year or years of the nonresident alien spouse of such citizen ending or beginning within 1960 shall be treated in 1975 as an open taxable year.

(2) Subparagraph (1) of this paragraph shall apply even though the period prescribed by section 6501 for assessing a deficiency against the nonresident alien spouse for his taxable year or years ending or beginning within the taxable year of the U.S. citizen has expired before the election is made.

(3) If either spouse dies during a taxable year to which an election under § 1.981–1 or § 1.981–2 applies, the taxable year of the decedent and the surviving spouse shall be determined under this paragraph without regard to section 981(e)(4), relating to death of spouse during the taxable year. See paragraph (a)(2) of § 1.443–1.

(4) For definition of the term "taxable year", see section 441(b) and the regulations thereunder.

(b) *Date of election.* (1) For purposes of § 1.981–1 and this section the date of an election made under section 981(a) and § 1.981–1 is the date on which the return, amended return, or claim for refund required by paragraph (c)(1) of § 1.981–1 is filed.

(2) For purposes of § 1.981–2 and this section the date of an election made under section 981(c)(1) and § 1.981–2 is the date on which the returns, amended returns, or claims for refund, required by paragraph (c)(1) of § 1.981–2 are filed.

(3) For provisions treating timely mailing as timely filing, see section 7502 and the regulations thereunder.

(c) *Spouses with different taxable years.* If the U.S. citizen and his nonresident alien spouse do not have the same taxable year, as defined in section 441(b) and the regulations thereunder, the election under § 1.981–1 or § 1.981–2 shall apply to each taxable year of such citizen in respect of which the election is made and to that period falling within the consecutive taxable years of the nonresident alien spouse which coincides with the period covered by such taxable year of the citizen.

(d) *Election on behalf of deceased spouse.* Any election, statement, or request, required to be made under paragraph (c) of § 1.981–1, or paragraph (c) of § 1.981–2, by one of the spouses may, if such spouse is deceased, be made by the executor, administrator, or other person charged with the property of such deceased spouse.

(e) *Extension of period of limitations on assessment or refund*—(1) *Assessment of deficiency.* Except as provided in subparagraph (3) of this paragraph, if an election under section 981(a) and § 1.981–1, or under section 981(c)(1) and § 1.981–2, is properly made, the period within which a deficiency may be assessed for any taxable year to which the election applies shall, to the extent the deficiency is attributable to the application of such election, not expire before one year after the date of the election,

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determined under paragraph (b) of this section.

(2) *Refund of tax.* Except as provided in subparagraph (3) of this paragraph, if an election under section 981(a) and § 1.981–1, or under section 981(c)(1) and § 1.981–2, is properly made, the period within which a claim for credit or refund of an overpayment for any taxable year to which the election applies may be filed shall, to the extent the overpayment is attributable to the application of the election, not expire before one year after the date of the election, determined under paragraph (b) of this section.

(3) *Exception in case of nonelecting alien.* Subparagraphs (1) and (2) of this paragraph shall not apply to any taxable year of a nonresident alien spouse who, in accordance with paragraph (a)(3) of § 1.981–2, is not required to join in the election by the U.S. citizen spouse under section 981(c)(1) and § 1.981–2.

(f) *Payment of interest for extension period.* To the extent that an overpayment or deficiency for any taxable year is attributable to an election made under § 1.981–1 or § 1.981–2, no interest shall be allowed or paid for any period ending with the day before the date which is one year after the date of the election, determined under paragraph (b) of this section.

[FR Doc.74–11131 Filed 5–14–74;8:45 am]

[26 CFR Part 48]

SPORTING GOODS

Manufacturers Excise Tax

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by June 17, 1974. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by June 17, 1974. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed in the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) in order to conform such regulations to section 205(a) of the Excise Tax Reduction Act of 1965 (79 Stat. 240), and section 201 of Pub. L. 92–558 (86 Stat. 1173).

Section 205(a) of the Excise Tax Reduction Act of 1965 repealed all of the manufacturers excise taxes imposed on articles of sporting goods by section 4161 of the Internal Revenue Code of 1954, except the tax imposed on fishing rods, reels, creels, and artificial lures, baits, and flies. Section 201 of Pub. L. 92–558, amended section 4161 of the Code by adding a tax on certain bows and arrows, parts and accessories for bows and arrows, and quivers, effective with respect to sales made on and after July 1, 1974. In addition to conforming the regulations under section 4161 to the foregoing amendments, the regulations pertaining to the tax on fishing equipment would be expanded to provide additional guidance to persons concerned.

Proposed amendments to the regulations. In order to conform the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4161 of the Internal Revenue Code of 1954 to section 205 (a) of the Excise Tax Reduction Act of 1965 (Pub. L. 89–44, 79 Stat. 140), and section 201 of Pub. L. 92–558 (86 Stat. 1173), such regulations are amended to read as follows:

1. Subpart K of the table of contents for the Manufacturers and Retailers Excise Taxes (26 CFR Part 48) is amended to read as follows:

Subpart K—Sporting Goods and Firearms

SPORTING GOODS

48.4161(a)	Statutory provisions; imposition of tax; rods, creels, etc.
48.4161(a)–1	Imposition and rate of tax; fishing equipment.
48.4161(a)–2	Meaning of terms.
48.4161(a)–3	Parts and accessories.
48.4181(a)–4	Use considered sale.
48.4161(a)–5	Tax-free sales.
48.4161(b)	Statutory provisions; imposition of tax; bows and arrows, etc.
48.4161(b)–1	Imposition and rates of tax; bows and arrows.
48.4161(b)–2	Meaning of terms.
48.4161(b)–3	Use considered sale.
48.4161(b)–4	Tax-free sale.
48.4161(b)–5	Effective date.

FIREARMS

48.4181	Statutory provisions; imposition of tax.
48.4181–1	Imposition and rates of tax.
48.4181–2	Meaning of terms.
48.4182	Statutory provisions; exemptions.
48.4182–1	Exempt sales.
48.4182–2	Other tax-free sales.

2. Subpart K of Part 48 is amended by deleting §§ 48.4161, 48.4161–1, 48.4161–2, 48.4161–3, 48.4171, 48.4171–1, 48.4171–2, 48.4171–3, 48.4172, 48.4172–1, 48.4173, 48.4173–1 and 48.4173–2 and inserting in lieu thereof the following new sections:

SPORTING GOODS

§ 48.4161(a) Statutory provisions; imposition of tax; rods, creels, etc.

SEC. 4161. *Imposition of tax*—(a) *Rods, creels, etc.*—There is hereby imposed upon the sale of fishing rods, creels, reels, and artificial lures, baits, and flies (including parts or accessories of such articles sold on or in connection therewith, or with the sale thereof) by the manufacturer, producer, or importer a tax equivalent to 10 percent of the price for which so sold.

[Sec. 4161(a) as amended by section 205(a) of the Excise Tax Reduction Act of 1965 (79 Stat. 140), and section 201 of the Act of Oct. 25, 1972 (Public Law 92–558, 86 Stat. 1173)]

§ 48.4161(a)–1 Imposition and rate of tax; fishing equipment.

(a) *Imposition of tax.* Section 4161(a) imposes a tax on the sale of the following articles of fishing equipment (including in each case parts or accessories of such articles sold on or in connection therewith or with the sale thereof) by the manufacturer, producer, or importer thereof:

(1) Fishing rods;
(2) Fishing creels;
(3) Fishing reels; and
(4) Artificial lures, baits, and flies.

The tax applies only to those items of fishing equipment specified in section 4161 (a) and this paragraph. Therefore, other items of fishing equipment, such as fishing nets, lines, hooks, sinkers, gaffs, etc., are not subject to the tax. Furthermore, the tax applies only to those specified articles of fishing equipment that are designed or constructed for use in the sport of fishing. Accordingly, the tax does not apply to those articles which, although nominally articles that are specified in section 4161 (a), are in the nature of toys or novelties that merely simulate articles of a type referred to in section 4161 (a), and are not designed or constructed for practical use in the sport of fishing.

(b) *Rate of tax.* Tax is imposed on the sale of the articles enumerated in section 4161 (a) and paragraph (a) of this section at the rate of 10 percent of the price for which such articles are sold. For the definition of the term "price" see section 4216 and the regulations thereunder.

(c) *Liability for tax*—(1) *In general.* The tax imposed by section 4161(a) is payable by the manufacturer, producer, or importer making the sale.

(2) *Special rules.* A person who collects and sells in kit form all the materials and components necessary for the assembling of an article taxable under section 4161(a) is considered to be the manufacturer of a taxable article, and subject to tax on his sale of the kits. Anyone who supplies to another person the materials, tools, or the tools and materials, necessary for the manufacture of an article taxable under section 4161(a), with the understanding that upon completion the article will be sold to the supplier, is considered to be the manufacturer of the finished article, and not the person who actually fabricated the article.

§ 48.4161(a)–2 Meaning of terms.

(a) *Fishing rods.* The term "fishing rods" includes all articles, however, designated, that are designed or constructed for use in conjunction with a fishing reel for casting a line and hook in the sport of fishing. The term does not include any article that is neither designed for use in casting, nor suitable for such use. A so-called fishing rod "blank" is not considered to be a "fishing rod" unless the blank contains an affixed handle and reel seat, or is sold in the form of a kit that contains a rod blank, a handle, and a reel seat.

(b) *Fishing creels.* The term "fishing creels" includes all portable containers, of whatever material made, that are designed for storing and carrying fish from the time they are caught until such time as they are removed from the container for consumption or preservation. The term does not include any article primarily designed for use in the commercial fishing industry, or an article such as a collapsible wire basket designed to be hung over the side of a boat to keep fish captive and alive in the water.

(c) *Fishing reels.* The term "fishing reels" includes all mechanical and electrical devices that contain a spool for dispensing and recovering fishing line, and are designed for use with fishing rods in casting and in reeling in hooked fish in the sport of fishing. The term also includes reels designed for use with bows, in the sport of bowfishing.

(d) *Artificial lures, baits, and flies.* The term "artificial lures, baits, and flies" includes all artifacts, of whatever materials made, that are designed to be attached to a fishing line or hook to attract fish. Thus, the term includes edible material that has been processed so as to resemble an article purported to be more attractive to fish; for example, bread crumbs treated so as to simulate salmon eggs, and pork rind cut and dyed to simulate frogs, eels, or tadpoles.

§ 48.4161(a)–3 Parts and accessories.

(a) *In general.* The tax attaches with respect to part and accessories for articles specified in section 4161(a) and § 48.4161(a)–1 that are sold on or in connection with such articles, or with the sale thereof, at the same rate applicable to the sale of the basic articles. The tax attaches in such cases whether or not charges for the parts or accessories are billed separately. To be considered a part or accessory for an article specified in section 4161(a), an item must be either essential to the operation of the specified article, or be designed to directly improve the performance of the specified article, or to improve its appearance. For example, a carrying case for a fishing rod is not considered to be a part or accessory for a fishing rod, despite the fact that it is designed for use with the rod, because it is neither essential to the use of the rod, nor does it in any way improve its performance or appearance. A sale of a part or accessory which would otherwise be considered a sale "on or in connection with" the sale of an article taxable under section 4161(a), is not subject to tax if the part or accessory is sold as a replacement for an identical part or accessory being sold with the taxable article.

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof without parts or accessories that are essential for the operation or appearance of such articles, the separate sale of such parts or accessories to the same vendee will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article, even though the parts or accessories are shipped separately, at the same time or on a different date.

§ 48.4161(a)–4 Use considered sale.

For provisions relating to the tax on use of taxable articles by the manufacturer, producer, or importer thereof, see section 4218 relating to use by a manufacturer being considered a sale, and the regulations thereunder.

§ 48.4161(a)–5 Tax-free sales.

For provisions relating to the tax-free sales of articles referred to in section 4161(a) see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration;

(c) Section 4223, pertaining to special rules relating to further manufacture; and

(d) Section 4225, relating to exemption of articles manufactured or produced by Indians; and the regulations thereunder.

§ 48.4161(b) Statutory provisions; imposition of tax; bows and arrows, etc.

SEC. 4161. *Imposition of tax*—(a) * * *

(b) *Bows and arrows, etc.*—

(1) *Bows and arrows.*—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

(A) Of any bow which has a draw weight of 10 pounds or more, and

(B) Of any arrow which measures 18 inches overall or more in length,

a tax equivalent to 11 percent of the price for which so sold.

(2) *Parts and accessories.*—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

(A) Of any part or accessory (other than a fishing reel) suitable for inclusion in or attachment to a bow or arrow described in paragraph (1), and

(B) Of any quiver suitable for use with arrows described in paragraph (1),

a tax equivalent to 11 percent of the price for which so sold.

[Sec. 4161(b) as added by section 201 of the Act of Oct. 25, 1972 (Public Law 92–558, 86 Stat. 1173)]

§ 48.4161(b)–1 Imposition and rates of tax; bows and arrows.

(a) *Imposition of tax.* Section 4161(b) imposes a tax on the sale of the following articles by the manufacturer, producer, or importer thereof:

(1) Any bow that has a draw weight of 10 pounds or more;

(2) Any arrow that measures 18 inches overall or more in length;

(3) Any part or accessory (other than a fishing reel) suitable for inclusion in or attachment to a bow or arrow described in subparagraph (1) or (2) of this paragraph; and

(4) Any quiver suitable for use with arrows described in subparagraph (2) of this paragraph.

(b) *Rate of tax.* The tax is imposed on the sale of articles enumerated in section 4161(b) and paragraph (a) of this section at the rate of 11 percent of the price for which such articles are sold. For the definition of the term "price", see section 4216 and the regulations thereunder.

(c) *Liability for tax*—(1) *In general.* The tax imposed by section 4161(b) is payable by the manufacturer, producer, or importer making the sale.

(2) *Special rules.* A person who collects and sells in kit form all the materials and components necessary for the assembling of an article taxable under section 4161(b) is considered to be the manufacturer of a taxable article, and subject to tax on his sale of the kits. Anyone who supplies another person with the materials, tools, or the tools and materials, necessary for the manufacture of an article taxable under section 4161(b), with the understanding that upon completion the article will be sold to the supplier, is considered to be the manufacturer of the finished article, and not the person who actually fabricated the article.

§ 48.4161(b)–2 Meaning of terms.

(a) For purposes of the tax imposed by section 4161(b), and unless otherwise expressly indicated:

(1) *Bows.* The term "bows" includes all articles made of flexible materials, that are designed to be equipped with a string and used for the propelling of arrows in the sport of archery (target shooting), or in hunting or fishing.

(2) *Arrows.* The term "arrows" includes all articles designed or constructed to be propelled by a bow in the sport of archery (target shooting), or in hunting or fishing. The overall length of an arrow is to be measured from the point of the tip or arrow-head to the end of the arrow nock. In the case of arrows sold by the manufacturer without heads, tips, or nocks, the overall length is to include the length of the nock and head or tip that is normally used with the particular type of arrow shaft.

(b) *Parts and accessories*—(1) *In general.* "Parts and accessories" for bows and arrows include all articles (other than fishing reels) suitable for inclusion in, or attachment to, a bow or arrow of the type described in section 4061(b)(1) and paragraphs (a) and (b) of this section. Examples of parts and accessories for bows are bow handles, bow limbs, bow strings, arrow rests, bow slings, bow sights, bow levels, bow tip protectors, brush buttons, camouflaged bow covers, and all other articles designed to be attached to or included in a

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bow to assist in aiming or propelling an arrow, or to protect the bow while in use. Example of parts and accessories for arrows are arrow shafts, nocks, tips, heads, head adapters, and feathers.

(2) *General purpose materials and articles.* General purpose materials, and articles that are not specifically designed to directly improve the performance or appearance of bows or arrows, or to protect them while in use, are not considered to be "parts and accessories" for bows or arrows, even though such materials may be intended, after further processing, to be included in or attached to bows or arrows. An example of a nontaxable article that is designed for use with a bow, but is neither attached to a bow, nor serves a purpose directly related to the efficient use of a bow, is a carrying case for a bow. Examples of nontaxable general purpose materials or articles are glues and cements, feathers before they are prepared for use with arrows, and bowstring thread before it is processed into bowstrings. Arrow-shaft materials is considered to be a taxable part for an arrow, unless the manufacturer, producer, or importer can establish that the particular material is unsuitable for use in the manufacture of arrows that are subject to the tax imposed by section 4161 (b) (1) (B). In addition, the term "parts and accessories" does not include articles in the nature of expendable supplies, even though such articles are designed to be applied to, or used with, bows or arrows. Examples of such supply materials are bowstring wax, and archery powder.

(c) *Quivers.* The term "quivers" includes all articles, of whatever material made, that are designed to contain, and to provide ready access to, taxable arrows during the time an archer is engaged in target shooting, hunting, or fishing. The term does not include any article designed solely for storing or transporting arrows during times when the arrows are not in use.

§ 48.4161(b)–3 Use considered sale.

For provisions relating to the tax on use of taxable articles by the manufacturer, producer, or importer thereof, see section 4218 relating to use by a manufacturer considered a sale, and the regulations thereunder.

§ 48.4161(b)–4 Tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4161(b) see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration;

(c) Section 4223, pertaining to special rules relating to further manufacture; and

(d) Section 4225, relating to exemption of articles manufactured or produced by Indians; and the regulations thereunder.

§ 48.4161(b)–5 Effective date.

The taxes imposed by section 4161(b) are effective with respect to sales made on and after July 1, 1974.

[FR Doc.74–11218 Filed 5–14–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FLATHEAD IRRIGATION PROJECT, MONTANA

Proposed Operation and Maintenance Rates

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938), and by virtue of the authority delegated to the Commissioner of Indian Affairs to the Area Director (10 BIAM–3; 34 FR 637), and by authority delegated to the Project Engineer and to the Superintendent by the Area Director June 11, 1969, Release 10–2t, 10 BIAM 7.0 sections 2.70–2.75.

Notice is hereby given that it is proposed to revise §§ 221.16 and 221.17 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Flathead Indian Irrigation Project, Montana, that are not subject to the jurisdiction of the several irrigation districts. The purpose of the amendment is to establish the assessment rate for non-district lands of the Flathead Indian Irrigation Project for 1974 and thereafter until further notice.

It is the policy of the Department of the Interior, whenever practicable, to afford the public the opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections with respect to the proposed amendment to the Project Engineer, Bureau of Indian Affairs, Flathead Indian Irrigation Project, St. Ignatius, Montana 59865, on or before June 14, 1974.

1. Section 221.16 is amended to read as follows:

§ 221.16 Charges, Jocko Division.

(a) An annual minimum charge of $4.40 per acre, for the season of 1974 and thereafter until further notice, shall be made against all assessable irrigable land in the Jocko Division that is not included in an Irrigation District organization, regardless of whether water is used.

(b) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of two dollars and ninety-four cents ($2.94) per acre foot or fraction thereof.

2. Section 221.17 is amended to read as follows:

§ 221.17 Charges, Mission Valley and Camas Division.

(a) (1) An annual minimum charge of $4.87 per acre, for the season of 1974 and thereafter until further notice, shall be made against all assessable irrigable land in the Mission Valley Division that is not included in an Irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of pro rata per acre share of the available water up to one and one-tenth acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of three dollars and twenty-six ($3.26) per acre foot or fraction thereof.

(b) (1) An annual minimum charge of $5.77 per acre, for the season of 1974 and thereafter until further notice, shall be made against all assessable irrigable land in the Camas Division that is not included in an Irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of three dollars and eighty-six cents ($3.86) per acre foot or fraction thereof.

GEORGE L. MOON,
Project Engineer.

[FR Doc.74–11190 Filed 5–14–74;8:45 am]

[25 CFR Part 221]

FLATHEAD IRRIGATION PROJECT, MONTANA

Proposed Operation and Maintenance Rates

MAY 6, 1974.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM (32 FR 13938), and by virtue of the authority delegated by the Commissioner of Indian Affairs to the Area Director (10 BIAM–3; 34 FR 637), and by authority delegated to the Project Engineer and to the Superintendent by the Area Director June 11, 1969, Release 10–2, 10 BIAM 7.0, sections 2.70–2.75.

Notice is hereby given that it is proposed to revise §§ 221.24, 221.26, and 221.28, Subchapter T, Chapter 1, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authrity contained in the Acts of August 1, 1914 (38 Stat. 583), May 18, 1916 (39 Stat. 142), and March 7, 1928 (45 Stat. 210).

The purpose of this amendment is to establish the lump sum assessments against the Flathead, Mission, and Jocko Valley Irrigation Districts within the Flathead Irrigation Project for the 1975 season.

Since this revision will change the basic rate of operation and maintenance charges of lands within an Irrigation District, public comment and expression are deemed advisable. Accordingly, interested persons may submit written comments, suggestions, or arguments with respect to the proposed amendment to the Project Engineer, Flathead Irrigation Project, St. Ignatius, Montana, 59865, on or before June 14, 1974.

1. Sections 221.24, 221.26 and 221.28 are amended to read as follows:

§ 221.24 Charges.

Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Montana, on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929, March 28, 1934, August 26, 1936, and April 5, 1950, there is hereby fixed for the season of 1975 an assessment of $477,348.58 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 86,790.65 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.26 Charges.

Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, June 6, 1936, and May 16, 1951, there is hereby fixed, for the season of 1975 an assessment of $90,881.42 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 16,584.20 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.28 Charges.

Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Montana, on November 13, 1931, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, April 18, 1950, and August 24, 1967, there is hereby fixed for the season of 1975 an assessment of $38,338.23 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 7,473.34 acres, which does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

GEORGE L. MOON,
Project Engineer.

[FR Doc.74–11191 Filed 5–14–74;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 260]

FROZEN BLOCKS OF MINCED FISH FLESH

Availability of Draft Proposed Quality Standard

MAY 8, 1974.

A Statement of Findings and Intent relative to the processing of minced fish flesh into uniformly shaped rectangular fish blocks for further manufacture into consumer items such as portion-controlled fish sticks and portions was published in the August 19, 1972, issue of the FEDERAL REGISTER (37 FR 16808). In that notice, the National Marine Fisheries Service express findings resulting from comments received from the public and private sector on the recovery processes and utilization of minced fish. One of the significant points made repeatedly by interested parties was that the newer type minced fish blocks and end products made therefrom merited appropriate research studies including delineation of quality characteristics and product defects, and the organization of these characteristics and defects into appropriate standards of quality. Since the August 1972 notice, various research activities relating to identification, classification and organization of quality and safety attributes of minced fish have been carried out.

Notice is hereby given that a draft quality standard for frozen blocks of minced fish is on display by the National Marine Fisheries Service, Department of Commerce, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. Copies of the draft quality standard are being distributed to participants in the Department of Commerce voluntary Fishery Products Inspection and Safety Program, administered by NMFS. These participants are most directly affected by the draft quality standard.

Notice is also made of the Second Technical Seminar on Recovery and Utilization of Minced Fish to be held June 12–13, 1974, in Boston, Massachusetts, at the Boston Sheraton Hotel beginning at 9 a.m. The technical seminar is an open meeting, jointly sponsored by the National Marine Fisheries Service and the National Fisheries Institute. One of the topics for discussion at this seminar will be the draft quality standard for minced fish blocks, and inspectional needs particular to minced fish blocks.

Persons interested in obtaining copies of the draft quality standard or desiring further information about the technical seminar should contact Mr. J. R. Brooker, Fishery Products Inspection and Safety Program, National Marine Fisheries Service, Department of Commerce, NOAA, Washington, D.C. 20235. Any person who wishes to submit comments on the draft quality standard may do so on or before June 30, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.74–11195 Filed 5–14–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 10]

[CGD 73–272]

FIRST AID CERTIFICATES

Amended Licensing Regulations; Extension of Comment Period

This notice extends the period for comments to the notice, published April 2, 1974 (39 FR 12033), proposing regulations for acceptance of First Aid Certificates other than those issued by the Public Health Service.

Because of a delay in distribution of copies of the notice, certain segments of the interested public have not had sufficient time to evaluate the proposal. The Coast Guard is desirous of obtaining all possible comments before the final rule is drafted. Therefore, the comment period will be extended 30 days, and comments will be received until June 15. 1974.

Dated: May 3, 1974.

D. H. CLIFTON,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.74–11175 Filed 5–14–74;8:45 am]

[46 CFR Parts 146, 148]

[CGD 74–13]

CARRIAGE OF SOLID HAZARDOUS MATERIALS IN BULK

Proposed Changes and Transfer

The Coast Guard is considering amending the dangerous cargo regulations to transfer the requirements for the carriage of solid hazardous materials in bulk from 46 CFR 146 to 46 CFR 148 simultaneously with the transfer of the other regulations in 46 CFR 146 into 49 CFR Parts 170–189. In addition several

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changes to the existing requirements for these bulk hazardous materials are being proposed.

Written comments. Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters (G-CMC/82), Room 8234, 400 Seventh Street, SW., Washington, D.C. 20590 (Telephone 202–426–1477). Each person submitting comments should include his name and address, identify the notice (CGD 74–13), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Copies will be furnished upon payment of fees prescribed in 49 CFR 7.81.

Public Hearing. The Coast Guard will hold a hearing on 16 July, 1974 at 0930 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to attend the hearing notify the Executive Secretary at least ten days in advance of the time needed for his presentation. Written summaries or copies of oral presentations are encouraged.

Closing date for comments. All communications received before August 31, 1974 will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

In a separate document published on page 3022 of the January 24, 1974, issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation amended Title 49, Code of Federal Regulations. One of the purposes of that document was a proposal to combine 46 CFR 146 (except for § 146.29 and bulk solid hazardous materials) with 49 CFR Parts 170–189.

The purpose of this notice is to propose that the carriage of solid hazardous materials in bulk be transferred to 46 CFR 148. The carriage of solid hazardous materials in bulk by vessels is not intermodal in nature. Consequently, the requirements are being retained in Title 46 of the Code of Federal Regulations. Part 148 of 46 CFR has been chosen since this part and 149 will be transferred to Subchapter O by a separate document. Subchapter O deals with bulk carriage of hazardous materials.

Most of the existing requirements for the bulk carriage of solid hazardous materials have been retained in these proposed regulations. In some instances, however, new requirements have been introduced to be observed:

(1) prior to loading (§ 148.03–5);

(2) during transport (§ 148.03–7);

(3) as a stowage condition (§ 148.03–11); and

(4) after completion of off-loading. (§ 148.03–13) The proposals in this area are considered necessary "housekeeping" requirements associated with the carriage of hazardous materials in bulk as well as the need to observe the cargo during transit for signs of problems that could effect the safety of the vessel.

Some of the general requirements for the carriage of hazardous materials are relevant to the carriage of these materials in bulk; consequently, they have been retained.

Requirements are being proposed for ground fishmeal or scrap and several changes to the present requirements for pelletized fishmeal are being proposed. Presently only pelletized fishmeal may be shipped in bulk (see § 146.27–27); however, the Coast Guard has been allowing the shipment of ground fishmeal in bulk for several years now. The conditions for transportation have been similar to those outlined in § 146.27–27; in addition the holds had to be inerted. Recently we were appraised that processors of fishmeal have been applying a higher level of antioxidant to the meal, thereby greatly reducing the tendency toward spontaneous heating. As a result, recent shipments of ground fishmeal were made without the need to inert the hold. The temperatures recorded during these shipments gave no indication that the fishmeal was tending toward self heating, therefore, this requirement is being excluded.

Concurrent with our efforts with regard to the higher treated fishmeal, the Inter-governmental Maritime Consultative Organization (IMCO) had under discussion conditions for the proper shipment of fishmeal. IMCO recently approved conditions for the transportation of fishmeal which closely resemble those the U.S. Coast Guard had been using to approve shipments of fishmeal treated with a higher level of antioxidant; this proposal for ground fishmeal, scrap and pelletized fishmeal, is based on the new IMCO recommendations.

Requirements are being proposed for the transportation of calcined petroleum coke at a temperature exceeding 130° F. Presently, the regulations in 46 CFR 146 do not permit "hot coke" to be transported. The Coast Guard was asked to define what was meant by "hot". A similar provision prohibiting the transportation of "hot coke" appears in 49 CFR Parts 170–189, the regulations for the land carriage of hazardous materials. After discussion with the Hazardous Materials Regulations Board, whose regulations are in 49 CFR Parts 170–189, and the Bureau of Explosives it was determined that coke at a temperature exceeding 130° F, was hot. Those who petitioned the Coast Guard for a definition of "hot" were interested in shipping calcined petroleum coke, which is normally shipped above 130° F for reasons of product purity. The only concern for calcined petroleum coke above 130° F was the high temperature, that could adversely affect the ship's structure. With this in mind, shipments of calcined petroleum coke were permitted by special permit. Several shipments have been made without incident and the U.S. Coast Guard now proposes to adopt these requirements in the regulations.

The transfer of the requirements for the carriage of solid hazardous materials in bulk from 46 CFR 146 to 46 CFR 148 will be accomplished in the following manner:

1. In the Docket No. HM–112 appearing in the 24 January 1974 FEDERAL REGISTER it was proposed that all the hazardous materials regulations in 46 CFR 146.01 thru 46 CFR 146.28 be combined into 49 CFR 170–189 with the exception of the regulations for solid hazardous materials carried in bulk (substances which are loaded and carried on board a vessel without benefit of containers or wrappers and received and delivered by the vessel carrier without mark or count).

2. It was stated in the preamble of *HM–112* that at a later date a proposal would be made to transfer bulk solids hazardous materials regulations located in 46 CFR 146 to Subchapter O.

3. If the proposal in *HM–112* is adopted and those contained in this document are adopted, then in another document Parts 148 and 149 will be transferred to Subchapter O.

4. In consideration of the foregoing, it is proposed to amend Title 46 of the Code of Federal Regulation by adding Part 148—Solids in Bulk as follows:

PART 148—SOLIDS IN BULK

Subpart 148.01—General

Sec.

148.01–1 Application/Definitions.
148.01–7 Permitted Cargoes.
148.01–9 Filing of Special Petition for Special Permit.
148.01–11 Special Permits; Standard Conditions.
148.01–13 Assignment and Certification.

Subpart 148.02—Vessel Requirements

148.02–1 Shipping Papers.
148.02–3 Dangerous Cargo Manifest.
148.02–5 Report of Hazardous Materials Incidents.

Subpart 148.03—Minimum Transportation Requirements

148.03–1 General.
148.03–3 Direction and Observation.
148.03–5 Prior to Loading.
148.03–7 During Transport.
148.03–11 Stowage Conditions.
148.03–13 Completion of Off-Loading.

Subpart 148.04—Special Additional Requirements for Certain Materials

148.04–1 Radioactive Material, Low Specific Activity (LSA).
148.04–9 Fishmeal or Scrap, Ground or Pelletized; Fishmeal or Scrap, Ground and Pelletized (Mixture).
148.04–13 Metal Borings, Shavings, Turnings, Cuttings.
148.04–15 Petroleum Coke, Uncalcined; Petroleum Coke, Uncalcined and Calcined (Mixture).
148.04–17 Petroleum Coke, Calcined, at 130°F or Above.
148.04–19 Tankage, Garbage or Rough Ammoniate, Solid.
148.04–20 Sulfur.
148.04–21 Coconut Meal Pellets (Also known as Copra Pellets).

AUTHORITY: The provisions of this Part 148 issued under R.S. 4405, as amended, 4462, as amended, 4472, sec. 6(b)(1), 80 Stat. 938; (46 U.S.C. 375, 416, 170, 49 U.S.C. 1665(b)); 49 CFR 1.46(b), (35 FR 4959), unless otherwise noted. Interpret or apply sec. 3, 68 Stat. 675; (50 U.S.C. 198); E.O. 11239, July 31, 1965, 30 FR 9671, 3 CFR, 1965 Supp.

Subpart 148.01—General

§ 148.01–1 Application/Definitions.

(a) The regulations in this Part contain the conditions under which bulk shipments of solid hazardous materials may be transported on board cargo vessels or barges.

(b) For the purposes of this Part, the term "bulk" applies only to cargoes transported on board cargo vessels or barges without mark or count and which are to be directly loaded into the holds of such vessels or barges without containers or wrappers.

(c) For the purposes of this Part, the term "vessel" means a "cargo vessel or barge" which is not exempt from the provisions of 46 USC 170.

(d) For the purposes of this Part, the terms "transported" includes the various operations associated with the cargo transportation, i.e., loading, off-loading, handling, storing, stowing, carrying, etc.

(e) The term "hazardous material" is defined in Title 46 CFR 2.20–65(a). The term "hazardous materials" includes a number of specific classes, the definitions of which are contained in Title 49 CFR Parts 170–189.

§ 148.01–7 Permitted Cargoes.

(a) Only hazardous materials cargoes which are listed here may be transported on board vessels unless express authority for other cargoes is given by the Commandant in accordance with § 148.01–9 of this Part:

Aluminum nitrate
Ammonium nitrate fertilizer, formulation or mixture, containing less than 60 percent ammonium nitrate with no organic filler
Ammonium sulfate nitrate
Barium nitrate
Calcium nitrate
Charcoal briquets
Coconut meal pellets (or copra pellets)
Copra
Ferrophosphorous
Ferrosilicon
Fishmeal or scrap, ground
Fishmeal or scrap, ground and pelletized (mixture)
Fishmeal or scrap, pelletized
Guanidine nitrate
Iron mass or sponge, spent
Metal borings, shavings, turnings, cuttings
Petroleum coke, calcined, at 130°F or above
Petroleum coke, calcined and uncalcined (mixture)
Petroleum coke, uncalcined
Potassium nitrate
Radioactive material, low specific activity (LSA)
Sawdust
Sodium nitrate
Strontium nitrate
Sulfur
Tankage, garbage or rough ammoniate, solid

(b) A mixture or blend of two or more cargoes, one or more of which is listed in paragraph (a) of this section, will be treated as an unlisted cargo and specific authorization by the Commandant, in accordance with § 148.01–9, for shipment in bulk is required.

§ 148.01–9 Filing of Special Petition for Special Permit.

(a) Each petition for authorization to transport an unlisted cargo or to use alternative procedures must be submitted to the U.S. Coast Guard (GMHM), 400 Seventh St. SW., Washington, D.C. 20590, and must contain the following minimum information:

(1) The regulatory provisions involved.

(2) The justification for the proposed shipments or alternative procedure, including any reasons why the current regulations are not appropriate, why the public interest would be served by the proposal, and the basis upon which the proposal would provide an equivalent degree of safety as those shipments conducted in accordance with the current regulations.

(3) A detailed description of the proposal, including when appropriate, drawings, plans, calculations, procedures, tests results, previous approvals or permits, and any other supporting information.

(4) The chemical name, common name, hazard classification, form properties (chemical and physical), and characteristics of the materials covered by the proposal, including composition and ingredient percentages (specified by weight) if a mixture.

(5) Any relevant shipping or accident experience.

(6) A description of the vessel or vessels to be employed for the shipments and the U.S. ports to be involved.

(7) A statement or recommendation regarding any changes to the regulations which would be desirable to obviate the need for similar permission from the Commandant.

(8) Unless there is good reason for priority treatment, each proposal is considered in the order in which it is received. To permit timely consideration, proposals should be submitted at least 45 days before the requested effective date.

§ 148.01–11 Special Permits; Standard Conditions.

(a) Each person to whom a special permit is issued under the terms of § 148.01–9 shall comply with all requirements of this Part except as specifically provided by the terms of the special permit.

(b) Unless otherwise specified in the special permit, each shipment made under special permit must comply with the following:

(1) Each shipping paper issued and the dangerous cargo manifest prepared in connection with such shipment must bear the notation "CG Special Permit No. *" with the * to be filled in with the assigned special permit number.

(2) Each person to whom a special permit is issued shall furnish a summary of experience to the U.S. Coast Guard (GMHM), 400 Seventh St., SW., Washington, D.C. 20590, before the date of expiration of the permit and when any amendment to the special permit is requested. The information must include the number of shipments made, tonnage of each shipment, and what vessels and U.S. ports were involved. In addition, an immediate report must be submitted to the U.S. Coast Guard (GMHM) in the event of any casualty, accident, or damaging incident which occurs as a result of transporting solid hazardous materials in bulk under the terms of the special permit.

(3) A copy of the special permit, kept current, and any amendments thereto, must be on board each vessel while transporting solid hazardous materials in bulk under the terms of a special permit. The special permit must be kept with the dangerous cargo manifest (§ 148.02–03).

(c) Each permit is subject to suspension or revocation for cause by the U.S. Coast Guard before its expiration date.

§ 148.01–13 Assignment and Certification.

(a) The National Cargo Bureau, Inc., is authorized to assist the U.S. Coast Guard in administering the provisions contained in this Part which are applicable to the transportation of solid hazardous materials in bulk on vessels with respect to;

(1) Inspection of vessels for suitability for loading such materials in bulk,

(2) Examination of stowage of such materials loaded in bulk on board vessels,

(3) Making recommendations as to stowage requirements applicable to the transportation of such materials in bulk, and

(4) Issuing of certificates of loading, setting forth that the stowage of such materials in bulk is in accordance with the applicable regulations contained in this Part.

(b) Certificates of loading from the National Cargo Bureau, Inc., are accepted as evidence of compliance with the applicable provisions of this Part with respect to the transportation of solid hazardous materials in bulk on board vessels.

Subpart 148.02—Vessel Requirements

§ 148.02–1 Shipping Papers.

(a) Carriers may not accept for transportation nor transport by vessel in bulk any solid hazardous material listed in § 148.01–7 (a) of this Part, unless the hazardous material offered for such shipment is accompanied by a shipping paper on which the following information is shown:

(1) The shipping name of the hazardous materials as listed in § 148.01–7 (a) of this Part,

(2) The quantity of the hazardous material to be transported,

(3) The name and address of the U.S. shipper or his authorized representative, as applicable, and

(4) A certification which bears the following statement, signed by the shipper or his authorized representative:

This is to certify that the above-named hazardous material is properly named, prepared, and otherwise in proper condition

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for bulk shipment by vessel in accordance with the applicable regulations of the U.S. Coast Guard.

(b) For import shipments, the consignee must advise the carrier or foreign shipper (consignor) of the applicable U.S. Coast Guard regulations. The carrier or foreign shipper (consignor) must then furnish the information required in paragraph (a) of this section, as advised by the consignee, either on the shipping papers or dangerous cargo manifest.

(c) Shipping papers issued in connection with solid hazardous materials shipments in bulk must be kept on board the vessel along with the dangerous cargo manifest (§ 148.02–3 of this Part).

§ 148.02–3 Dangerous Cargo Manifest.

(a) Each vessel transporting solid hazardous materials in bulk under the terms of this Part must have on board a dangerous cargo manifest, kept in a conspicuous place on or near the bridge house, on which the following information is entered:

(1) Name of vessel and official number. (If the vessel has no official number, the international radio call sign shall be substituted.)

(2) Nationality of vessel.

(3) The name of the hazardous material as listed in § 148.01–7(a) of this Part.

(4) The hold(s) in which the material is being transported.

(5) The quantity of the material loaded in each hold.

(6) Date and signature of Master or person in charge to acknowledge correctness of the dangerous cargo manifest.

§ 148.02–5 Report of Hazardous Materials Incidents.

(a) A written report must be submitted to the U.S. Coast Guard (GMHM), 400 Seventh St., SW., Washington, D.C. 20590 within fifteen days of any casualty, accident, damaging incident, or personnel injury which occurs as a direct result of transporting any hazardous materials under the provisions of this Part.

(b) This report must include the following minimum information:

(1) Name of vessel (nationality), vessels' owner, charterer or person submitting report; address of vessel's owner, charterer or person submitting report;

(2) Date and time of incident;

(3) Geographic location of incident;

(4) Hazardous material(s) involved;

(5) A detailed report of the incident; events must be reported chronologically; and

(6) Emergency action taken during incident and results (if not already explained in the report).

Subpart 148.03—Minimum Transportation Requirements

§ 148.03–1 General.

The conditions specified in this Subpart apply to each bulk shipment of a solid hazardous material listed in § 148.04 of this Part.

§ 148.03–3 Direction and Observation.

Loading or off-loading of a solid hazardous material in bulk within the navigable waters of the U.S. must be conducted only under the direction and observation of a person assigned or employed for such duty by the vessel's master or his authorized representative.

§ 148.03–5 Prior to Loading.

Prior to loading any solid hazardous material in bulk on board a vessel:

(a) Each hold must be thoroughly cleaned of all loose debris and dunnage; permanent wooden battens or sheathing may remain in such holds; and

(b) Each hold and each bilge of that hold must be dry.

§ 148.03–7 During Transport.

During the transport of a solid hazardous material in bulk, the master of the vessel shall take whatever means necessary to periodically inspect such cargo to ensure that there are no undetected increases in temperature in that cargo and that no other changes in the cargo are occurring which might affect the safety of his vessel.

§ 148.03–11 Stowage Conditions.

(a) No other hazardous materials cargo may be showed in the same hold or on deck above a hold in which a solid hazardous material in bulk is loaded.

(b) No explosive Class C, flammable liquid, flammable solid, flammable or nonflammable compressed gas, organic peroxide, or extremely toxic material may be stowed in any hold adajcent to a hold in which a solid hazardous material in bulk is loaded.

(c) All explosive Class A and/or B material must be stowed longitudinally at least one hold (or an equivalent longitudinal distance if on deck) from any hold in which a solid material in bulk is loaded.

(d) Only nonhazardous, noncombustible cargo may be stowed in a hold in which a solid hazardous material in bulk is loaded.

§ 148.03–13 Completion of Off-loading.

Upon the completion of off-loading of a solid hazardous material in bulk, each hold must be thoroughly cleaned of all residue of such material.

Subpart 148.04—Special Additional Requirements for Certain Materials

§ 148.04–1 Radioactive Material, Low Specific Activity (LSA).

(a) Authorized materials are limited to the following:

(1) Uranium or thorium ores and physical or chemical concentrates or such ores;

(2) Uranium metal, natural thorium metal and alloys of these metals; and

(3) Material of low radioactive concentration, if the estimated radioactivity concentration does not exceed 0.001 millicurie per gram and the contribution from Group I material (see Title 49, Code of Federal Regulations, Parts 170 to 189, inclusive) does not exceed 1 percent of the total radioactivity.

(b) Each hold used for the transportation of any of these materials must be surveyed with appropriate radiation-detection instruments after the completion of off-loading. Such holds may not again be used for the transportation of any cargo if the radiation dose rate at any accessible surface is more than 0.5 millirem per hour and there is a significant removable radioactive surface contamination.

§ 148.04–9 Fish Meal or Scrap, Ground or Pelletized; Fishmeal or Scrap, Ground and Pelletized (Mixture).

(a) The material must contain at least 6 percent moisture by weight but not more than 12 percent moisture by weight.

(b) The material must not contain more than 18 percent fat by weight.

(c) At the time of production of the material, it must be treated with at least 400 ppm antioxidant (ethoxyquin); in the case where the material contains more than 12 percent fat by weight, it must be treated with at least 1000 ppm antioxidant (ethoxyquin) at the time of production.

(d) Shipment of the material in bulk must take place within 12 months of the date of production.

(e) The material must contain at least 100 ppm antioxidant (ethoxyquin) at the time of shipment.

(f) Each shipment of the material in bulk must be accompanied by a statement in which the shipper certifies the following:

(1) The moisture content of the material,

(2) The fat content of the material,

(3) The concentration of antioxidant (ethoxyquin) in the material in ppm at the time the material is loaded on a vessel in bulk,

(4) Date and place of production of the material, and

(5) The physical state of the material (ground, pelletized, or mixture).

(g) Temperature readings must be taken 3 times a day and recorded. If the temperature of the cargo exceeds 130° F and continues to increase, ventilation to the hold must be restricted.

§ 148.04–13 Metal Borings, Shavings, Turnings, Cuttings.

(a) *Conditions for stowage and transportation.* Metal borings, shavings, turnings and cuttings may be stowed and transported in bulk if the following conditions are met:

(1) Each hold in which the article is stowed must have a fire extinguishment system that uses carbon dioxide or an equivalent to carbon dioxide with respect to fire extinguishing capability. Temporary systems are acceptable.

(2) All wooden sweat battens, dunnage and debris must be removed from the hold before the article is loaded.

(3) During loading and transporting, the bilge of each hold in which the article is stowed or is to be stowed must be as dry as practicable.

(4) During loading, the article must be compacted in the hold as frequently as practicable with a bulldozer or means that provides equivalent surface compaction. Upon completion of loading, the article must be trimmed to eliminate peaks or mounds and compacted.

(5) Other cargo may be loaded in a hold containing the article if—

(i) The cargo to be loaded in the same hold with the article is not another hazardous material as defined in this Part or a combustible material;

(ii) The loading of the article is completed first; and

(iii) The temperature of the article in the hold is 130°F or less and has not increased within at least eight hours prior to the loading of the other cargo.

(6) During loading, the temperature of the article in the pile being loaded must be less than 130°F.

(7) Upon completion of loading, the vessel may not leave the port unless—

(i) The temperature of the article in each hold is less than 150°F and, if the temperature of the article in a hold has been more than 150°F during loading, the temperature of the article has shown a downward trend below 150°F for at least eight hours after completion of loading of the hold; or

(ii) The vessel intends to sail directly to another port that is no further than twelve hours sailing time for the vessel concerned, for the purpose of loading more of the article in bulk or to completely off-load the article, and the temperature of the article is less than 190°F and has shown a downward trend for at least eight hours after completion of loading.

(b) *Temperature of article.* For the purposes of each temperature requirement of this section, the temperature of the article is the highest temperature taken between eight and fourteen inches below the surface at ten-foot intervals over its length and width.

(c) *Duties of master or person in charge.* The following rules apply to the master or person in charge of each vessel that is loading and transporting the article:

(1) The master or person in charge of a vessel that is loading or transporting the article must ensure that the temperature of the article is taken—

(i) Before loading;

(ii) During loading, in each hold and in the pile being loaded at least every twenty-four hours and, if the temperature is rising, as often as necessary to ensure the conditions in this section are met; and

(iii) After loading, in each hold at least every twenty-four hours.

(2) During loading, if the temperature of the article in a hold is 200° F or higher, the master or person in charge of the vessel must notify the Coast Guard Captain of the Port and suspend loading until the temperature of the article is less than 190° F.

(3) After loading—

(i) If the temperature of the article is 150°F or above, the master or person in charge must notify the Captain of the Port and ensure that the vessel remains in the port area until the conditions of paragraph (a)(7)(i) of this section are met; or

(ii) In the case of a short-duration voyage to which paragraph (a)(7)(ii) of this section applies, if the temperature of the article in a hold is 190°F or above, the master or person in charge must notify the Captain of the Port and ensure that the vessel remains in the port area until the conditions of paragraph (a)(7)(ii) of this section are met.

(4) Except for shipments of the article in bulk which leave the port of loading under the conditions specified in paragraphs (a)(7)(ii) of this section, after the vessel leaves the port, if the temperature of the article in the hold rises above 149°F, the master must notify the nearest Coast Guard Captain of the Port as soon as possible of—

(i) The name, nationality, and position of the vessel;

(ii) The most recent temperature taken;

(iii) The length of time that the temperature has been above 149°F and the rate of rise, if any;

(iv) The port where the article was loaded and the destination of the article;

(v) The last port of call of the vessel and its next port of call;

(vi) What action has been taken; and

(vii) Whether any other cargo is endangered.

(5) To meet the conditions of this section, the master of a vessel that is transporting the article must ensure that each temperature taken is recorded.

§ 148.04–15 Petroleum Coke, Uncalcined; Petroleum Coke, Uncalcined and Calcined (Mixture).

The material at 130°F or above is not permitted shipment in bulk on any vessel.

§ 148.04–17 Petroleum Coke, Calcined, at 130°F or Above.

(a) The requirements of this Part do not apply to bulk shipments of petroleum coke, calcined, on any vessel when the material is less than 130°F.

(b) The material must not be loaded in cargo vessels when temperatures exceed 225°F.

(c) Other hazardous materials must not be stowed in any hold adjacent to any other hold containing this material except as stipulated in paragraph (d) of this section.

(d) In holds over tanks containing fuel or material having a flash point under 200°F, a two-to-three-foot layer of the material at a temperature not greater than 110°F must be first loaded into that hold. Only then may the material at 130°F or above be loaded into that hold.

(e) The loading of the material under the terms of this section must be as follows:

(1) For shipments in holds over fuel tanks, the loading of the two-to-three-foot layer of the material at a temperature not greater than 110°F (as required by paragraph (d) of this section) in these holds must be completed prior to the loading of the material at 130°F or above in any hold of the vessel.

(2) Upon completion of the loading requirement outlined in paragraph (e)(1) of this section, when required, a two-to-three-foot layer of the material at 130°F or above must first be loaded in each hold (including those holds, if any, already containing a layer of the material at a temperature not greater than 110°F) in which the material is to be loaded under the terms of this section.

(3) Upon the completion of the loading of the two-to-three-foot layer of the material at 130°F or above in each hold, as required in paragraph (e)(2) of this section, the normal loading of the material at 130°F or above may proceed to completion.

(f) Personnel must be warned by the Master of the vessel or his authorized representative that calcined petroleum coke loaded and transported under the terms of this section is hot and that injury due to burns is possible.

§ 148.04–19 Tankage, Garbage or Rough Ammoniate, Solid.

(a) The material must contain at least 7 percent by weight moisture.

(b) The material must not be loaded if the temperature in the material, prior to loading, exceeds 100°F.

§ 148.04–20 Sulfur.

(a) When sulfur is loaded in a deep hold with general cargo in the 'tween deck hold above the sulfur, a dust proof wooden bulkhead enclosure must be built in the hatchways from the over deck of the lower hold to the weather deck forming a tight enclosure capable of preventing sulfur dust from entering the 'tween decks during loading.

(b) Ceiling must be made tight to prevent sulfur dust from entering the bilges; any chinking necessary in the way of tank tops or bilges must be made of non-combustible material.

(c) Cowl ventilators serving the hold into which sulfur is being loaded or discharged must be blanked off to prevent circulation of air.

(d) No smoking is permitted on board the vessel and "No Smoking" signs must be conspicuously posted.

(e) If a metal chute is used it must be grounded using a flexible cable.

(f) Upon completion of loading, the sulfur must be leveled off. Any decks, bulkheads, or overheads containing sulfur dust must be swept clean or washed down.

(g) Other cargo, which is oxygen bearing, must not be stowed in the same hold with sulfur.

(h) An oxygen breathing apparatus, or proper gas mask, must be made readily available.

(i) A fire hose, preferably supplied with fresh water from a shore supply

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source, must be available at each hatch through which sulfur is being loaded.

§ 148.04–21 Coconut Meal pellets (also known as Copra pellets).

(a) Must contain at least 6 percent and not more than 13 percent moisture and not more than 10 percent residual fat contents.

(b) Must not be loaded if the temperature exceeds 120° F.

(c) Must not be stowed within 4 feet of any bulkheads subject to artificial heat.

(d) Must not be overstowed with any other cargo.

(e) A clear space of at least 1 foot must be provided between the top of the cargo and underside of deck beams.

(f) Only dry dunnage must be used.

(g) At least two layers of plank dunnage must be placed on the deck or tank tops. The first layer must be laid fore and aft and the second athwartships.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74–11176 Filed 5–14–74;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–NW–10]

CONTROL ZONE

Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Hillsboro, Oregon, Control Zone.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington, 98108. All communications received by June 14, 1974; will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108.

An RNAV Instrument Approach procedure has been established for the Portland-Hillsboro Airport Runway 20. A review of Hillsboro Control Zone airspace disclosed that an additional control zone extension is needed to contain the approach procedure within controlled airspace.

In consideration of the foregoing, the FAA proposes to amend Part 71 of the Federal Aviation Regulations as follows:

In § 71.171 (39 FR 354) the description of the Hillsboro, Oregon, Control Zone is amended to read:

HILLSBORO, OREGON

Within a 5-mile radius of Portland-Hillsboro Airport (Latitude 45°32'15" N., Longitude 122°56'46" W.); within 2 miles each side of the Newberg VORTAC 007° radial, extending from the 5-mile radius area to 8 miles south of the airport; and within 2 miles each side of the 039° bearing from the airport, extending from the 5-mile radius area to 9.5 miles northeast of the airport. This control zone will be effective during the time established in advance by a Notice to Airmen and continuously published in the Airmen's Information Manual.

(Section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Washington, on May 7, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.74–11134 Filed 5–14–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–NW–08]

TRANSITION AREA

Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Coeur D'Alene, Idaho, Transition Area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received by June 14, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108.

A new VOR approach procedure is proposed for the Coeur D'Alene Air Terminal, Coeur D'Alene, Idaho. A review of the airspace requirements for the new procedure revealed that additional 700' Transition Area airspace would be required to provide controlled airspace protection for aircraft executing the proposed procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (39 FR 440) the description of the Coeur D'Alene, Idaho, Transition Area would be amended to read as follows:

COEUR D'ALENE, IDAHO

That airspace extending upward from 700 feet above the surface within 5-mile radius of Coeur D'Alene Air Terminal (Latitude 47°46'30" N., Longitude 116°49'04" W.) and within 9.5 miles north and 5 miles south of the Post Falls VOR (Latitude 47°44'57" N., Longitude 116°56'49" W.) 073° and 253° radials extending from 6 miles east to 18.5 miles west of the VOR.

(Sec. 307(a) of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, on May 7, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.74–11135 Filed 5–14–74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

UNITED STATES SECURITIES

Issuances Bearing Facsimile Signatures of Former Secretaries of the Treasury

Pursuant to the provisions of 5 U.S.C. 301, in the issue of United States securities under the Second Liberty Bond Act, as amended, codified in Title 31, Chapter 12, United States Code, I hereby authorize the use of all stocks on hand, or in order, bearing the signature of any former Secretary of the Treasury, where (1) such securities are issued as an additional issue or under a continuing offer; or (2) such securities are to be issued pursuant to a new offer heretofore or hereafter made and stocks therefor bearing my signature are not available for timely delivery.

This authorization shall be effective immediately.

Dated: May 8, 1974.

[SEAL] WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.74–11166 Filed 5–14–74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

U.S. ARMY AVIATION SYSTEMS COMMAND

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

The U.S. Army Aviation Systems Command (AVSCOM), will conduct a meeting of the Scientific Advisory Group for Aviation Systems (SAGAS), 0900 hours, June 12, 1974 thru 1900 hours, June 13, 1974, at The Lewis Directorate, U.S. Army Air Mobility Research and Development Laboratory, Cleveland, Ohio. The meeting will consist of a tour of the facilities and discussion of classified defense information. The meeting will not be opened to the public.

Any additional information concerning the above may be obtained from Mr. B. Thomas Horace, Executive Secretary, SAGAS, Autovon 698–3821.

By authority of the Secretary of the Army.

R. B. BELNAP,
Special Advisor to TAG.

MAY 9, 1974.

[FR Doc.74–11196 Filed 5–14–74;8:45 am]

POSTAL SERVICE

POSTAL SERVICE ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that a meeting of the Postal Service Advisory Council will be held on Wednesday, June 5, 1974, in room 206, USPS Training and Development Institute, 7900 Wisconsin Avenue NW, Washington, D.C., starting at 9:30 a.m.

The Postal Service Advisory Council was established by 39 U.S.C. 206, which provides that "(t)he Postal Service shall consult with and receive the advice of the Advisory Council regarding all aspects of postal operations."

The meeting has been called for consideration by the Council of the work of the Training and Development Institute. The meeting is open to the public. Persons wishing to be present or to obtain further information on this meeting should contact Mrs. Rita Moroney, Office of the Postmaster General, room 10171, U.S. Postal Service, 475 L'Enfant Plaza West, SW, Washington, D.C. Mrs. Moroney's telephone number is 202–245–5343.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.74–11172 Filed 5–14–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S1491]

CALIFORNIA

Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 74–9204 appearing on page 14363 in the issue of Tuesday, April 23, 1974, the sixth line of the land description for Mount Diablo Meridian should read as follows:

Sec. 19, W½SE¼, NE¼SE¼, S½S½SE¼ NE¼.

BURNS DISTRICT GRAZING ADVISORY BOARD

Notice of Meeting

The Burns District Grazing Advisory Board, Oregon 2, will meet at 8 a.m. on June 11, 1974, at the Bureau of Land Management District Office, 74 South Alvord, Burns, Oregon. The meeting will be held over a 2 day period, June 11 and 12, for the purpose of inspecting wildhorse use, range and watershed conditions, and grazing management in the Andrews Resource Area.

Prior to the tour, time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Advisory Board Chairman prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration. The Advisory Board Chairman is Mr. James Sitz. Mr. Sitz may be contacted by writing a letter in care of the Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720. Telephone number 503–573–2071.

Dated: May 7, 1974.

L. CHRISTIAN VOSLER,
District Manager.

[FR Doc.74–11193 Filed 5–14–74;8:45 am]

[Serial No. I–6302 et al.]

IDAHO

Proposed Classification

Lands located in Fremont County have been examined and found suitable for State Indemnity Lieu Selection. Therefore, it is proposed to classify the following described lands as suitable for disposal through State Indemnity Lieu Selection (43 CFR 2620). The classification would be made pursuant to section 7 of the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315(f)):

BOISE MERIDIAN, IDAHO

T. 13 N., R. 41 E.,
Sec. 10, SW¼NE¼, SE¼;
Sec. 11, lots 3 and 4, NE¼SW¼;
Sec. 12, S½;
Sec. 13, E½, E½W½;
Sec. 23, SE¼SE¼;
Sec. 24, E½, E½W½, W½SW¼.
T. 13 N., R. 42 E.,
Sec. 7, lots 1, 2, 3, and 4, NW¼NE¼, NE¼NW¼, E½SW¼, SE¼;
Sec. 8, lots 1–6 inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 9, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 10, N½;
Sec. 11, W½NE¼, NW¼;
Sec. 14, NW¼, W½NE¼;
Sec. 17, all;
Sec. 18, lots 1–4 inclusive, E½, E½W½;
Sec. 19, lots 1–4 inclusive, E½, E½W½;
Sec. 20, all;

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Sec. 27, W½NW¼;
Sec. 28, N½, N½S½.
T. 14 N., R. 43 E.,
Sec. 2, lot 3.
T. 15 N., R. 43 E.,
Sec. 13, SE¼NE¼.
T. 16 N., R. 43 E.,
Sec. 31, lot 3;
Sec. 32, N½NW¼;
Sec. 33, N½, N½NE¼SE¼, NW¼SW¼ NE¼SE¼, E½SE¼NE¼SE¼, SW¼SE¼ NE¼SE¼.
T. 14 N., R. 44 E.,
Sec. 5, lots 1 and 2;
Sec. 7, lots 1, 2, 3, and 8;
Sec. 17, SE¼SW¼, S½SE¼.
T. 15 N., R. 44 E.,
Sec. 31, lot 8.
T. 16 N., R. 44 E.,
Sec. 31, E½SW¼.

The area described contains approximately 7,997.58 acres of National Resource Lands.

1. The lands are physically suitable and adaptable to the uses and purposes for which they are being classified.

2. Present and potential uses and users of the lands have been taken into consideration. The lands are in scattered locations and are not part of any integrated management area.

3. The classification is consistent with federal, State and local Government programs, plans, zoning and regulations.

4. The lands are valuable for the public purpose of transfer to the State in satisfaction of a State land grant.

5. The State and Bureau of Land Management have mutually agreed that the above described lands are suitable for disposal under the State Indemnity Lieu Selection program.

Until July 15, 1974, all persons who wish to submit comments, suggestions or objections in connection with the proposed classification may present their views to the Idaho Falls District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401.

Dated: May 7, 1974.

For the State Director.

WALTER JONES,
District Manager.

[FR Doc.74-11194 Filed 5-14-74;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-414]

ZAPATA WESTERN SHIPHOLDINGS, INC.

Notice of Application

Notice is hereby given that Zapata Western Shipholdings, Inc., has filed application dated January 21, 1974, supplemented March 20, 1974, under the Merchant Marine Act, 1936, as amended, (the Act), for operating-differential subsidy on two ore/bulk/oil vessels (to be constructed) of approximately 80,000 deadweight tons each, which are to be employed in U.S. foreign trade. Since Zapata Coastal Transport, and affiliate of Zapata Western Shipholdings, Inc., plans to operate crude oil carriers in domestic trade between Alaska and the continental United States, written permission of the Maritime Administration under Section 805(a) of the Act will be required by Zapata Western Shipholdings, Inc., if its application for operating-differential subsidy is approved.

Zapata Western Shipholdings, Inc., advises that at the present time its affiliate, Zapata Coastal Transport, does not own or charter any vessels and consequently is not engaged in domestic trades. However, Zapata Coastal Transport's immediate plans cover operation of two to four crude oil carriers from Alaska to ports on the West, Gulf or East Coasts of the United States. Therefore, Zapata Western Shipholdings, Inc. is applying for permission for its affiliate, Zapata Coastal Transport, Inc., to operate up to four tankers of from 90,000 DWT to 150,000 DWT primarily in the transportation of crude oil from Alaska to the West, Gulf or East Coasts of the United States.

Interested parties may inspect this application in the Office of Subsidy Administration, Maritime Administration, Room No. 4085, Department of Commerce Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on May 28, 1974, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Administration.

Dated: May 10, 1974.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.74-11216 Filed 5-14-74;8:45 am]

National Bureau of Standards

PROPOSED REVISION TO FEDERAL INFORMATION PROCESSING STANDARD 21—COBOL

Requests for Comments

NOTE: FR Doc. 74-10536 was published on page 16501 in the issue of Thursday, May 9, 1974. Part of this document was inadvertently omitted. For the convenience of the reader, we are republishing this document in its entirety as set forth below:

Under the provisions of Pub. L. 89-306, the Secretary of Commerce is authorized to establish uniform Federal ADP standards. A proposed revision to Federal Information Processing Standard 21—COBOL is being recommended for Federal use. It is based on the Federal adoption of the voluntary industry standard that has been developed by the American National Standards Institute. This proposed revision supersedes FIPS PUB 21 and reflects major changes and improvements to the earlier COBOL specification.

Prior to the submission of a final endorsement of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section which deals with the technical requirements of the standard. The first section is provided in its entirety in this notice.

Interested parties may obtain a copy of the technical specifications from and may submit comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, on or before August 7, 1974.

Dated: May 2, 1974.

RICHARD W. ROBERTS,
Director.

PROPOSED FEDERAL INFORMATION, PROCESSING STANDARDS PUBLICATION 21-1

Date ----------

ANNOUNCING THE STANDARD FOR COBOL

Federal Information Processing Standards Publications are issued by the National Bureau of Standards in accordance with the provisions of Pub. L. 89-306 and Executive Order 11717.

1. *Name of Standard.* COBOL (FIPS PUB 21-1).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This FIPS PUB announces the adoption of American National Standard COBOL, X3.------, as amplified herein as a Federal Standard. This revision supersedes FIPS PUB 21 and reflects major changes and improvements to the COBOL specifications. The American National Standard defines the elements of the COBOL Programming Language and the rules for their use. The standard is used by implementors as the reference authority in developing compilers and by users for writing programs in COBOL. The primary purpose of the standard is to promote a high degree of interchangeability of programs for use on a wide variety of information processing systems. Other languages, appropriate for applications that are not adequately serviced by COBOL, are being considered for adoption as Federal Standards.

4. *Approving authority.* Secretary of Commerce.

5. *Maintenance agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross index.* American National Standard X3.------, COBOL.

7. *Related documents.* a. Federal Information Processing Standards Publication 29, Procedurea For Processing Interpretations For Federal Standard COBOL. (To be published in the near future.)

b. Federal Property Management Regulation 101-32.1305-1, Implementation of Federal Information Processing Standards Publications (FIPS PUB) Into Solicitation Documents, Software Standards.

c. Federal Property Management Regulation ----------, COBOL Compiler Validation. (To be published in the near future.)

d. Federal Information Processing Standards Publication ----, Aids for COBOL Program Conversion (FIPS Pub 21 to FIPS Pub 21-1). (To be published in the near future.)

8. *Objectives.* The basic objectives in applying Federal Standard COBOL are (1) to achieve the long-recognized advantages that are inherent in the use of higher level languages, and (2) to maximize and protect program investments by making it easier and less expensive to exchange programs among different computer systems, including replacement systems.

The attainment of these objectives, from a Government-wide point of view, depends upon the widespread use of Federal Standard COBOL. Thus, the general intent of this FIPS PUB is to provide a standard language that can be used in programming information processing applications except in circumstances, discussed below, where such use would not be advantageous.

9. *Applicability.* Federal Standard COBOL will be used in programming computer applications and programs that emphasize the manipulation of characters, records, files and input/output (as contrasted with those concerned primarily with computational problem solving) which are developed or acquired for Government use. Specifically, the standard will be used for such applications whenever—

The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models, and configurations.

The program will or might possibly be run on equipment other than that for which the program is initially written.

It is anticipated that the life of the program will be longer than the life of the presently installed equipment.

The application or program is under constant review for updating of the specifications, and changes may result frequently.

The advantages of the use of this higher level language can accrue locally irrespective of interchange potential (e.g. ease of coding, ease of documentation, improved understanding, and ease of debugging).

Exceptions to the use of Federal Standard COBOL may be made when:

a. A comparative analysis shows that the advantages inherent in the use of Federal Standard COBOL are clearly offset by even greater advantages obtainable through use of an alternative language. The language selection should be made in consideration of the Government's overall objectives. Such exceptions to the use of Federal Standard COBOL shall be subject to a waiver procedure approved by the head of the agency. The special circumstances identified in paragraphs b through e below are exempted from the requirement for a waiver at the discretion of the head of an agency. See Paragraph 12, Waivers.

b. The program requirements are more economically and efficiently satisfied through the use of report generation, data base management, or text processing languages.

c. The program is to be processed on systems for which COBOL compilers are normally not developed. If, however, a COBOL compiler is available on a system other than the target system and the compiler generates object code for the target system (cross-compiler), COBOL should be used to the extent practicable.

d. The program is to be processed on systems that are in the Federal Inventory and for which a standard COBOL compiler is not available.

e. The computer installation is oriented toward the use of scientific and engineering applications in which case incidental information processing applications may be programmed in locally used languages.

Federal agencies should give special attention to ensuring that programs for applications that will or are likely to be used by organizations outside the Federal Government (i.e., state and local governments and others) are written and made available in Federal Standard COBOL, in order to provide maximum interchangeability in their use.

10. *Specifications.* Federal Standard COBOL specifications are the language specifications contained in American National Standard COBOL, X3. ------. For purposes of Federal Standard COBOL, the modules defined in X3.------ are combined into four levels (see paragraph 10.1, Levels). Additionally, minimum compiler specifications are provided herein for certain language elements contained in X3. ------ where an undefined number of repetitions is allowed in a defined syntax (see paragraph 10.2, Minimum Compiler Specifications).

10.1 Levels. The four levels of Federal Standard COBOL are identified as: Low, Low-Intermediate, High-Intermediate, and High. Each Federal Standard COBOL level is composed of either the high or low levels of the nucleus and ten of the eleven Functional Processing Modules (FPM's) defined in X3. ------. The four Federal Standard COBOL levels are reflected in the following table. The numbers in the table refer to the level within the FPM or nucleus as designated in X3.------, and a dash in the table denotes that the corresponding FPM is omitted.

	Low level	Low intermediate level	High intermediate level	High level
Nucleus	1	1	2	2
FUNCTIONAL PROCESSING MODULES				
Table handling	1	1	2	2
Sequential I-O	1	1	2	2
Relative I-O	-	1	2	2
Indexed I-O	-	-	-	2
Sort-merge	-	-	1	2
Report writer	-	-	-	-
Segmentation	-	1	1	2
Library	-	1	1	2
Debug	-	1	2	2
Interprogram communication	-	1	2	2
Communication	-	-	2	2

NOTE.—The "Report Writer" module is not mandatory in any Federal Level. However, the specifications contained in X3.------ should be used to the extent practical, consistent with the re uirements.

10.2 *Minimum compiler specifications.* The specifications contained in X3.------ include some language elements whose syntactic definition allow an unspecified number of repetitions of portions of the format. Within Federal Standard COBOL, these language elements are identified and minimum compiler specifications are provided. The purpose of defining minimum specifications for compilers for these elements is to simplify the problems of producing application programs that are portable across various systems. The success of writing a portable program often depends on the amount of effort devoted to determining the limitations inherent in all the compilers for which the program is written. The minimum specifications contained herein are not intended to be ceilings. Compilers can, therefore, be built to handle any number of occurrences of a specific language element considered desirable so long as the implementation provides the relevant minimum capabilities.

In the following list, the language elements are organized by FPM. They are listed in the order in which they appear within the module. The values in the "low" and "high" columns represent the minimum specifications for the low-level or high-level, respectively, of each module defined in X3.------. The following meanings are applicable to the entries in the "low" and "high" columns.

a. "0" indicates the feature is not available in that level of the module or that the module is null.

b. "1" indicates a minimum imposed because of subsetting within the FPM.

c. "I" indicates the feature is implementor-defined and thus minimum specifications are not appropriate.

d. "U" indicates that whatever is presented in the source program must be accepted by the compiler. This implies that, for the given language element there are known compiling techniques such that the source program is not limited in the use of the capabilities of that language element.

e. "L" indicates there may be an implementor-defined limit to the number of operands or the size of the operand or both in an ACCEPT or DISPLAY statement depending upon the specific device that is the object of the statement. Any such limitation must be described in the programmer's manual that accompanies the compiler. This specification is applicable only to low-level nucleus.

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Language element	Specifications Low	Specifications High
1 NUCLEUS:		
1.1 Identification Division:	U	U
1.1.1 Comment-entries		
1.2 SPECIAL-NAMES Paragraph:	I	I
1.2.1 Implementor-name Clauses	U	U
1.2.2 Alphabet-name Clause	2	256
1.2.3 Literal phrases in Alphabet-name Clause	0	256
1.2.4 ALSO phrases in Alphabet-name Clause	0	256
1.3 Data Description:	U	U
1.3.1 "ALL" clause literals specified in an 88-level data description entry	0	0
1.4 Qualification (number of Conditions)	0	0
1.5 ACCEPT Statement:	L	L
1.5.1 Amount of data transferred to the receiving operand		
1.6 ADD Statement:	U	U
1.6.1 Sending operands	1	1
1.6.2 Receiving operands		
1.7 ALTER Statement	1	1
1.7.1 Procedures-name phrases	0	0
1.8 COMPUTE Statement:	U	U
1.8.1 Receiving operands	L	L
1.9 DISPLAY Statement:	U	U
1.9.1 Sending operands		
1.10 DIVIDE Statement:	U	U
1.10.1 Receiving operands	1	1
1.11 GO Statement:	U	U
1.11.1 Procedure-names		
1.12 IF Statement:	0	23
1.12.1 Nested IF statements (depth of nesting)		
1.13 INSPECT Statement:	1	30
1.13.1 Conditions for TALLYING and/or REPLACING	U	U
1.14 MOVE Statement:	1	U
1.14.1 Receiving operands		
1.15 MULTIPLY Statement:	U	U
1.15.1 Receiving operands	1	1
1.16 STRING Statement:	U	U
1.16.1 Sending operands (with each delimiter)	0	16
1.16.2 Destinations	0	0
1.17 SUBTRACT Statement:	U	U
1.17.1 Sending operands	1	1
1.17.2 Receiving operands		
1.18 UNSTRING Statement:	U	U
1.18.1 Sending operands	0	13
1.18.2 DELIMITED BY phrase		
2 TABLE HANDLING:		
2.1 OCCURS Clause:	3	3
2.1.1 Nested OCCURS Clauses (dimensions of Tables)	0	12
2.1.2 KEY data-names (any combination of ASCENDING/DESCENDING)	12	
2.2 SEARCH Statement:	U	U
2.2.1 WHEN conditions	0	
2.3 SET Statement:	U	U
2.3.1 Receiving operands		
3 I-O MODULE:		
3.1 FILE-CONTROL Paragraph:	I	I
3.1.1 FILE-CONTROL entries (number of files)	1	1
3.1.2 ASSIGN implementor-names	0	0
3.1.3 ALTERNATE RECORD keys		
3.2 I-O-CONTROL Paragraph:	0	0
3.2.1 RERUN Clause	0	0
3.2.2 SAME Clause	1	3
3.2.3 File-names in single SAME clause	1	3
3.2.4 MULTIPLE FILE file-names	0	0
3.3 File Description Entry:	I	I
3.3.1 Implementor-names	U	U
3.3.2 DATA RECORDS data-names (documentation only)		
3.4 CLOSE Statement:	1	60
3.4.1 File-names		
3.5 OPEN Statement:	1	60
3.5.1 File-names	1	60
3.6 USE AFTER EXCEPTION/ERROR file-names		

[1] Although the "Report Writer" module is not mandatory in any Federal Level, if it is requested, these specifications apply.

The above minimum compiler specifications are defined for each language element independent of any interaction with other language elements. It is possible, therefore, that a given program may not compile because of total system resource limitations, even though none of the minimums has been exceeded. The considerations determining the limitations imposed on the source program will be described in the programmer's manual that accompanies the compiler.

11. *Implementation.* Implementation of Federal Standard COBOL is divided into four areas of consideration: acquisition of COBOL compilers, conformance to Federal Standard COBOL, interpretation of Federal Standard COBOL, and use of COBOL in application programs.

11.1 *Acquisition of COBOL compilers.* The provisions reflected in this FIPS publication are effective upon the date this document is approved. All COBOL compilers specified for procurement on or after the effective date must be identified as implementing one of the levels of Federal Standard COBOL. In order to allow adequate time for implementation of compilers that conform to Federal Standard COBOL, delivery of such compilers may be deferred to, but not to exceed, 18 months after the effective date of this FIPS publication. The requirements set forth in this paragraph are applicable to compilers developed in-house, compilers acquired as part of an ADP system procurement, compilers acquired by separate procurement and compilers used under an ADP leasing arrangement. These requirements are not applicable to orders placed before the effective date of this FIPS publication for compilers to be delivered subsequent to the effective date.

11.2 *Conformance to Federal Standard COBOL.* A compiler implemented in conformance to Federal Standard COBOL must satisfy at least the following requirements:

a. The implementation must include *all* of the language elements of at least one of the levels of Federal Standard COBOL.

b. The implementation must satisfy *all* of the minimum compiler requirements defined in Paragraph 10.2, Minimum Compiler Specifications.

c. The implementation must satisfy all of the requirements defined in American National Standard COBOL, X3. ------, Section I, paragraph 1.5, Definition of An Implementation of American National Standard COBOL. Any requirement stated herein that may differ from the requirements for an implementation of American National Standard COBOL take precedence over the requirements stated in X3.------

d. The implementation must provide a facility for the user to optionally specify a level of Federal Standard COBOL for monitoring his source program at compile time. The monitoring will be an analysis of the syntax used in a source program against the syntax included in the specified level of Federal Standard COBOL. Any syntax used in the source program that does not conform to that allowed by the user selected level of Federal Standard COBOL will be diagnosed. The syntax diagnosed as not conforming to the specified level will be identified to the user through a diagnostic message on the source program listing. The diagnostic message will contain, at least: (1) the identification of the source program line number in which the non-conforming syntax occurs, and (2) the identification of the level of Federal Standard COBOL that supports the syntax or that the syntax is non-standard COBOL.

In order to confirm that an implementation satisfies the requirements of a designated level of Federal Standard COBOL, validation routines (which include the Report Writer module) have been developed and approved for testing COBOL compilers. A Federal COBOL Compiler Testing Service (FCCTS) also is available to provide validating services. For further information regarding validation See FPMR ------ (see paragraph 7c) or contact:

Director, Federal COBOL Compiler Testing Service, Department of the Navy, ADPE Selection Office, Washington, D.C. 20376.

11.3 *Interpretation of Federal standard COBOL.* During the use of Federal Standard COBOL, whether implementing compilers, validating compilers or writing source programs, questions may arise from time to time as to the meaning of specific language specifications. It is desirable when this happens to apply a solution to these questions that can be used uniformly throughout the Federal Government and by all implementors of Federal Standard COBOL and the Report Writer module. To achieve this objective, a Federal COBOL Interpretations Committee has been organized. Procedures for processing interpretation of Federal Standard COBOL are provided in FIPS Publication 29 (paragraph 7a). For further information contact:

Chairman, Federal COBOL Interpretations Committee, Computer Science Section, System and Software Division, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

11.4 *Use of COBOL.* Federal Standard COBOL will be used as defined in Paragraph 9, Applicability, as soon as compilers that conform to the standard are available and acquired. It is not intended that existing programs be rewritten solely for the purpose of conforming to the standard.

Programs should, to the extent practicable, be limited to the elements of one of the specified levels of Federal Standard COBOL. It should be recognized that the use of any non-standard language elements may compromise interchangeability of programs between various systems or may complicate future conversion to a replacement system. Extensions should, therefore, be employed only when their use will result in efficiencies that clearly outweigh the difficulties they may cause. To the extent that specifications for the required extensions have already been included in the CODASYL COBOL Journal of Development, use of these specifications should minimize future conversion difficulties.

12. *Waivers.*—12.1 *Policy.* Heads of agencies are permitted to waive the requirements stated in this FIPS publication in the following circumstances. Each waiver will cover only the specific requirements of the FIPS publication related to the need for a waiver.

a. A waiver may be granted for an exception to any of the requirements stated in this FIPS publication provided it can be clearly demonstrated that there are appreciable and continuing performance or cost adavntages to be gained or that the extenuating circumstances are such that the overall interests of the Federal government are served by granting the requested waiver.

b. Special capabilities may be required to accommodate the needs of a particular application that can not be achieved through the use of Federal Standard COBOL. A waiver must be obtained before these special capabilities are specified for implementation or acquisition. Requests for waiver must clearly demonstrate an appreciable and continuing performance or cost advantage will be obtained through use of these special capabilities.

12.2 *Reporting.* Waivers granted in the acquisition of compilers will be reported to the National Bureau of Standards, with the following supporting documentation, within seven working days after approval by the head of the agency.

a. Relevant documentation considered by the head of the agency in authorizing the waiver.

b. Detailed technical specifications of the language deviations granted. In the case of deletions, exact reference to the items in X3. ------ is all that is required. In case of additions that are already developed and approved by CODASYL, exact reference to the items in the CODASYL COBOL Journal of Development is all that is required.

c. A recommendation for action by NBS concerning future development of COBOL, relative to the waiver, should be included, as appropriate.

Correspondence should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

13. *Special information.* a. Development and maintenance of the COBOL language are the responsibilities of the Programming Languages Committee of the Conference on Data Systems Languages (CODASYL), a voluntary organization comprised of interested organizations. Standardization of COBOL in the United States is in the purview of the American National Standards Institute (ANSI), X3J4 Committee. The technical specifications of American National Standard COBOL, herein adopted as a Federal Standard, are based on the specifications contained in CODASYL COBOL Journal of Development, 1973, and changes that were made to the JOD in response to X3J4 requests. The COBOL language is under continual review by the CODASYL organization for modification and extension. These changes are then reviewed by ANSI for incorporation in revised editions of ANS COBOL.

b. In the event that there is no prospect for the development of a COBOL compiler conforming to this standard for the machine used, serious consideration should be given to using the existing COBOL compiler, if available, for new or revised applications to ease the eventual conversion to a new system employing a standard COBOL compiler.

14. *Where to obtain copies of COBOL publications.* a. Federal Government activities should obtain copies of this FIPS publication from established sources within each agency. When there is no established source, purchase orders should be submitted to the General Services Administration, Specifications Activity, Printed Materials Supply Division, Building 197, Washington Navy Yard Annex, Washington, D.C. 20407. Refer to Federal Information Processing Standard Number 21–1 (FIPS PUB 21–1). Copies of American National Standard COBOL, X3. ------, accompany each copy of FIPS PUB 21–1, (Price, ------ a copy.)

b. Others may obtain copies of American National Standard COBOL, X3. ------, from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. Refer to American National Standard ------, Standard for Common Business Oriented Language (COBOL). (Price, ------ a copy. Discounts available on quantity orders.)

c. Copies of the CODASYL COBOL Journal of Development may be obtained from the Technical Services Branch, Department of Supply and Services, 5th Floor, 88 Metcalfe Street, Ottawa, Ontario, Canada K1A 0S5.

[FR Doc.74–10536 Filed 5–8–74;8:45 am]

PROPOSED FEDERAL INFORMATION PROCESSING STANDARD CODE EXTENSION TECHNIQUES IN 7 OR 8 BITS

Requests for Comments

NOTE: FR Doc. 74–10537 was published at page 16501 in the issue of Thursday, May 9, 1974. The "Draft For Coordination" was inadvertently ommitted. Therefore, for the convenience of the reader, we are republishing this document, as set forth below:

Under the provisions of Pub. Law 89–306, the Secretary of Commerce is authorized to establish uniform Federal ADP standards. A proposed standard on code extension techniques in 7 or 8 bits that is based upon the Federal adoption of voluntary industry standards which were developed by the American National Standards Institute and the International Organization for Standardization is being recommended for Federal use. This proposed standard specifies methods of extending ASCII (the American Standard Code for Information Interchange) (FIPS–1) by remaining in either a 7 bit environment or increasing to an 8 bit environment and building upon the structure of ASCII to describe

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various means of extending the control and graphic sets of the code.

Prior to the submission of a final endorsement of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section which deals with the technical requirements of the standard. The first section is provided in its entirety in this notice.

Interested parties may obtain copies of the technical specifications from, and may submit comments to, the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washing, D.C. 20234, on or before August 7, 1974.

Dated: May 2, 1974.

RICHARD W. ROBERTS,
Director.

DRAFT FOR COORDINATION

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION------

Date----------

ANNOUNCING THE STANDARD FOR CODE EXTENSION TECHNIQUES IN 7 OR 8 BITS

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949 as amended, Pub. L. 89-306 (79 Stat. 1127), and as implemented by Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 CFR (Code of Federal Regulations).

Name of standard. Code Extension Techniques in 7 or 8 Bits.

Category of standard. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies methods of extending the 7-bit code of ASCII (American Standard Code for Information Interchange) (FIPS 1), remaining in a 7-bit environment or increasing to an 8-bit environment, building upon the structure of ASCII to describe various means of extending the control and graphic sets of the code. It also describes techniques for constructing codes related to ASCII so as to allow application dependent usage without preventing the interchangeability of their data. It also describes 8-bit codes for general information interchange in which ASCII is a subset.

Approving authority. Secretary of Commerce.

Maintenance agency. Institute for Computer Sciences and Technology, National Bureau of Standards. The National Bureau of Standards will also maintain and disseminate a registery of ASCII-related 7-Bit Escape Sequences and 8-Bit Codes used by Federal agencies. Department or agency requests for code extensions may be submitted to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Cross index. a. FIPS PUB 1, Federal Standard Code for Information Interchange.

b. American National Standard X3.4-1968, Code for Information Interchange (ASCII).

c. International Standard ISO 646-1973, 7-Bit Coded Character Set for Information Processing Interchange.

d. International Standard ISO 2022-1973, Code Extension Techniques for Use with the ISO 7-Bit Coded Character Set.

e. Draft International Standard ISO/DIS 2375, Data Processing-Procedure for Registration of Escape Sequences.

Applicability. This standard is applicable to coded character situations which require control functions and/or graphic symbols that are not included in the 128 characters of ASCII, ranging from one such additional character up to extensive families of control and graphic sets, especially where interchange is required to be accomplished in an ASCII-compatible environment.

Implementation schedule. This standard becomes effective one year after the publication date of this FIPS PUB. All applicable coded character sets designed or specified after this date must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For coded character sets installed or on order prior to the effective date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids have been issued) on the effective date of this FIPS PUB.

Waiver procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to the procurement of non-conforming coded character sets will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. The waiver is not to be made until a reply from the National Bureau of Standards is received; however, the final decision for granting the waiver is a responsibility of the agency head.

Specifications. This standard adopts in whole American National Standard X3.41-Code Extension Techniques for Use With the 7-Bit Coded Character Set of ASCII, which was developed and approved by the American National Standards Institute.

Qualifications. It is not the intention of this standard that all instances of its application accommodate all of its provisions. It is not intended that any one representation be implemented to the exclusion of any other. Further, it is not intended that all applicable devices implement the full set of control functions and/or graphic representations implied by this standard. A partial implementation to meet specific requirements is acceptable provided that the coded representations of those selected control or graphic characters are in conformance with this standard.

Special information. The description of code extension techniques is contained in four interrelated sections:

a. The extension of the 7-bit code remaining in a 7-bit environment;

b. The structure of a family of 8-bit codes;

c. The extension of an 8-bit code remaining in an 8-bit environment; and

d. The relationship between the 7-bit code and an 8-bit code.

This standard provides for the addition of characters to the 128 provided by the structure of the 7-bit code in the following ways:

a. Additional single controls;

b. Additional sets of 32 control characters;

c. Additional sets of 94 graphic characters;

d. Sets of more than 94 graphic characters (multiple byte sets).

Appendices to this standard present pictorial representations of 7-bit and 8-bit code extensions, as well as technical discussions of the interaction of code extension with multiprogramming and/or multiprocessing environments, and system start-up and restart.

[FR Doc.74-10537 Filed 5-8-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COUNCIL

Notice of Meeting

Pursuant to Pub. L. 92-463, the Director, Center for Disease Control, announces the meeting date and other required information for the following National Advisory body of the National Institute for Occupational Safety and Health which is scheduled to assemble during the month of June 1974.

Committee name	Date, time, place	Type of meeting and/or contact person
Coal Mine Health Research Advisory Council.	June 3, 1974, 9 a.m. Conference Room G Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—9 a.m.-3 p.m. Closed remainder of meeting. Contact: Dr. Raymond T. Moore, NIOSH, Room 3-50, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code: 301-443-2100.

Purpose: The Council is charged with advising the Secretary, Department of Health, Education, and Welfare on matters involving or relating to coal mine health research, including grants and contracts for such research.

Agenda: From 9 a.m. to 3 p.m. on June 3, the Council will be open for discussion of progress reports on second round medical examinations under the Federal Coal Mine Health and Safety Act of 1969, presentation of certificates to retiring members, coal mine health research program for fiscal year 1975, criteria for the diagnosis of disability and death from coal workers' pneumoconiosis, pulmonary function determination cooperative program, intermediate report on use of computer in X-ray analysis. From 3 p.m. through the end of the meeting, the Council will review research grant applications and will not be open to the public, in accordance with the determination by the Director, Center for Disease Control, pursuant to the provisions of Pub. L. 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 6, 1974.

DAVID SENCER,
Director,
Center for Disease Control.

[FR Doc.74-11189 Filed 5-14-74;8:45 am]

Food and Drug Administration

ANTIEMITIC COMBINATION DRUG

Permission for To Remain on the Market

A notice was published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623) informing manufacturers of prescription drugs for human use of the future schedule for implementation of the drug efficacy study. That notice listed certain drugs, together with the justification for their medical need, which may remain on the market pending completion of scientific studies to determine effectiveness, and providing for future additions to or deletions from that list.

In the FEDERAL REGISTER of July 8, 1972 (37 FR 13489), the Food and Drug Administration published its conclusions (DESI 10598) pursuant to evaluation of a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group on Bendectin Tablets containing dicyclomine hydrochloride, doxylamine succinate, and pyridoxine hydrochloride, stating that this combination drug product was regarded possibly effective for nausea and vomiting of pregnancy. Clinical studies thus far submitted by the sponsor have not conclusively shown that this combination fulfills the requirements of § 3.86—Fixed Combination Presciption Drugs for Humans. Another study is ongoing and is expected to provide a basis for a definitive conclusion concerning the effectiveness of the combination. In view of the fact that this is the only product on the market indicated for nausea and vomiting of pregnancy, the Commissioner concludes that it may remain available pending completion and review of the studies. Accordingly, a new section is added to the list of drugs which may remain on the market (paragraph 3 of the notice of December 14, 1972, as amended), to read as follows:

XVI. ANTIEMETIC COMBINATION DRUG

A FEDERAL REGISTER announcement published July 8, 1972 (37 FR 13489) (DESI 10598) stated that Bendectin Tablets (dicylomine hydrochloride, doxylamine succinate, and pyridoxine hydrochloride) was regarded possibly effective for its recommended use in nausea and vomiting of pregnancy. Clinical studies ongoing are expected to provide a basis for a definitive conclusion concerning the effectiveness of this combination product. In view of the fact that this is the only product available indicated for nausea and vomiting of pregnancy, the Commissioner concludes that the product may remain on the market labeled as less-than-effective (possibly effective) for nausea and vomiting of pregnancy pending completion and review of clinical studies to determine its effectiveness.

Every manufacturer or distributor of such combination who intends to, but has not already begun studies required to determine effectiveness or who has begun studies but has not yet discussed the protocols with the Food and Drug Administration, is required to communicate with the Division of Neuropharmacological Drug Products (HFD-120), Office of Scientific Evaluation, Bureau of Drugs on or before July 15, 1974 to discuss and agree to undertake the studies necessary to justify continued marketing of the product.

(Secs. 505, 701, 52 Stat. 1052-1053, as amended; (21 U.S.C. 355, 371)), the Administrative Procedure Act (5 U.S.C. 553, 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 8, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-11171 Filed 5-14-74;8:45 am]

FD&C RED NO. 2 FOOD COLORING

Briefing of Food and Drug Administration Consultants and Notice of Public Meeting

In the FEDERAL REGISTER of May 14, 1973 (38 FR 12642), the Food and Drug Administration announced a meeting on FD&C Red No. 2 to be held on May 16, 1973, for the purpose of briefing an ad hoc advisory group of consultants concerning the relevant background and scientific material pertinent to the question of whether the adverse results originally obtained in gavage studies of FD&C Red No. 2 performed by the Food and Drug Administration could properly be extrapolated to humans. At that meeting, the following individuals served as ad hoc consultants:

Gloria Sarto, M.D., University of Wisconsin Hospitals, Department of Obstetrics and Gynecology, Madison, WI 53706.

Ivan Danhof, M.D., Ph.D., Professor of Physiology, University of Texas, Southwestern Medical School, Dallas, TX 75235.

Leon Golberg, Ph.D., The Institute of Experimental Pathology and Toxicology, Albany Medical College, Albany, NY 12208.

James G. Wilson, M.D., Ph. D., Children's Hospital Research Foundation, Cincinnati, OH 45229.

E. Noel McIntosh, M.D., Department of Population Science, Harvard School of Public Health, 665 Huntington Ave., Boston, MA 02115.

The data obtained by Food and Drug Administration scientists and other independent studies and views were presented. After reviewing all of these relevant materials, the consultants concluded that further studies were needed in order to establish the degree to which differences in methodology could influence the outcome of experimental work.

A study protocol was developed by the ad hoc advisory group of consultants, and it was agreed that tests following this protocol would be performed by Food and Drug Administration scientists who had performed the first study, the scientists representing the Interindustry Color Task Force, and scientists at the National Center for Toxicological Research having particular expertise in teratology and biostatistics. These studies have now been completed, and the Commissioner has determined that the results shall be presented to the same group of ad hoc consultants in order to obtain their evaluations and advice prior to the promulgation of a final regulation in this matter.

Accordingly, a meeting has been scheduled for Thursday, June 6, 1974, in Room 1813, 200 C Street SW., Washington, D.C., beginning at 9 a.m. The results of each portion of the collaborative study as well as the study in its totality, using the standard protocol as well as the relevant background scientific material will be presented initially. Other interested individuals and organizations will then have an opportunity to make presentations on this same subject. Presentations will be limited to the issue of results of studies comparing administration of the color by gavage and administration in food. Any presentations should be made by scientific experts competent in the fields relevant to this issue.

Any interested person who wishes to be assured of an opportunity to make an oral presentation at this briefing must so inform Dr. Ruth L. Kirschstein, Deputy Associate Commissioner for Science, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852 (telephone 301-443-1587), of that intention by close of business on Thursday, May 30, 1974. The volume and nature of material to be presented will determine the time allotted to each such participant making a request by that date, and this allocation will be announced at the time of the meeting. Other interested persons will be allowed to make oral presentations to the extent that time permits. Any interested persons may also present written data or views which shall be considered. Six copies of such written presentations should be addressed to Dr. Kirschstein at the address given above.

Dated: May 10, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-11257 Filed 5-14-74;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2), Pub. L. 92-463, that the next meeting of the National Advisory Council on Education Professions Development will be held on Wednesday, June 5, 1974, 9 a.m. to 5 p.m.; Thursday, June 6, 1974, 9 a.m. to 5 p.m.; and Friday, June 7, 1974, 9 a.m. to 12:30 p.m., local time, in the New York Room of the Stat-

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ler Hilton Hotel, Sixteenth Street between K and L Streets NW., Washington, D.C.

The National Advisory Council on Education Professions Development is established under section 502 of the Education Professions Development Act (Pub. L. 90–35). The Council is charged with the review of the Education Professions Development Act and of all other Federal programs for the training and development of educational personnel.

The meeting of the Council shall be open to the public. The proposed agenda includes discussion of in-service education, educational manpower forecasting, the Teacher Corps, and legislative developments related to the training of educational personnel. Records shall be kept of all Council proceedings and shall be available for public inspection at the Council office, located at 1111—20th Street, NW., Room 308, Washington, D.C. 20036.

Signed at Washington, D.C., on May 10, 1974.

JOSEPH YOUNG,
Executive Director.

[FR Doc.74–11182 Filed 5–14–74;8:45 am]

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the National Advisory Council on Adult Education will be held on June 6–7, 1974, from 9 a.m. to 4:30 p.m., and on June 8, 1974, from 8:30 a.m. to 12 noon, at the Gramercy Inn, 1616 Rhode Island Avenue NW., Washington, D.C.

The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216; (20 U.S.C. 1201)). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Action on Senate and House thrusts in adult education—H.R. 69, S. 1539, and related legislation.

Election of Council officers.

Meetings and reports of the Council's Committees on Governmental Relations, Planning and Publications, and Research.

Adult education actions within USOE—Deputy Commissioner for the Bureau of Occupational and Adult Education.

Council staffing and FY–75 budget.

Development of 309 priorities for FY–75.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 323, Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004).

Signed at Washington, D.C. on May 8, 1974.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.74–11188 Filed 5–14–74;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Notice of Renewal

I hereby determine that renewal of the Secretary's Advisory Committee on the Rights and Responsibilities of Women beyond May 3, 1974, is in the public interest in connection with the performance of duties imposed on the Department by law, that such duties can best be performed through the advice and counsel of this group, that no other committee in HEW can suitably perform these duties, and that the committee is appropriately balanced. Therefore, the committee is continued for a period of two years.

Dated: May 2, 1974.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.74–11165 Filed 5–14–74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA–430–DR; Docket No. NFD–196]

MISSISSIPPI

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Mississippi, dated April 18, 1974, and amended April 20, 1974, April 26, 1974, and May 7, 1974, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 18, 1974:

The Counties of:

Hancock Harrison
Jackson

Dated: May 8, 1974.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74–11167 Filed 5–14–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CCGD5–74–05R]

PRESIDENT'S CUP REGATTA, WASHINGTON, D.C.

Special Local Regulations

Under the authority of the Act of April 28, 1908 (35 Stat. 69) as amended, and 33 CFR 100.35, as amended, this notice promulgates special local regulations for the President's Cup Regatta. These special local regulations are established to insure the safety of life on the Potomac River at Washington, D.C., immediately before, during, and immediately after this regatta. Since these special rules must be made effective in less than 30 days to apply at the time of the scheduled event, I find that notice and public procedure on the issuance of these rules is impracticable and contrary to the public interest and that they may be made effective in less than 30 days from publication.

(a) *Location.* The area subject to these regulations is those waters enclosed by a line drawn from the southern tip of Haines Point northwards along the eastern seawall to a point 1,000 feet from the southern tip of Haines Point; thence easterly to a point 400 feet from the seawall; thence in a southerly direction to a point 1,400 feet distant, thence along a line of bearing 240° T. to the Virginia shore, upstream thence along the Virginia shoreline to the Penn Central Railroad bridge between Washington, D.C., and Arlington, Va.; thence 034° T. to the Potomac Park-Potomac River shoreline; thence along the Potomac Park-Potomac River shoreline to the southern tip of Haines Point.

(b) *Regulations.* (1) Except for participants in the President's Cup Regatta or persons or vessels authorized by the Coast Guard patrol officer, no person or vessel may enter or remain in the area specified in paragraph (a) of these regulations.

(2) The operator of any vessel in the immediate vicinity of the area specified in paragraph (a) above of these regulations shall:

(i) Stop his vessel immediately upon hearing five or more short blasts of a horn or whistle from any vessel displaying a Coast Guard emblem; and

(ii) Proceed as directed by any Coast Guard officer or petty officer.

(3) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(4) The Coast Guard patrol officer is a commissioned officer of the Coast Guard, who has been designated by the Commander, Fifth Coast Guard District.

(5) These regulations and other applicable laws and regulations are enforced by Coast Guard officers and petty officers on board Coast Guard, public, and private vessels displaying the Coast Guard emblem.

(Sec. 1, 35 Stat. 69 as amended, sec. 6(b)(1) 80 Stat. 937; (46 U.S.C. 454, 49 U.S.C. 1655 (b)(1)); 33 CFR 100.35, 49 CFR 1.46(b).)

Effective dates. These regulations are effective from 9 a.m. e.d.s.t. until 6 p.m. e.d.s.t. on June 6, 7, 8, and 9, 1974.

Dated: May 6, 1974.

ROSS P. BULLARD,
Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc.74–11177 Filed 5–14–74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26431]

AIR JAMAICA (1968), LTD.

Prehearing Conference and Hearing

In the matter of Air Jamaica (1968) Ltd., foreign air carrier permit renewal and amendment: Jamaica-New York-Montreal-London; Jamaica-Bahama-Chicago; Jamaica-Bahama-Detroit; Jamaica-Philadelpia-Toronto; Jamaica-Cayman Islands-Miami.

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on May 30, 1974, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Henry Whitehouse.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before May 28, 1974.

Dated at Washington, D.C., May 10, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74–11198 Filed 5–14–74;8:45 am]

[Docket No. 24869; Order 74–4–144]

INCREASED WESTERN HEMISPHERE PASSENGER FARES

IATA Agreements

Correction

In FR Doc. 74–10082 appearing in the issue of Friday, May 3, 1974, the application entry under Agreement CAB 24179: R–12 in the second table on page 15526 which reads "11" should read "1".

[Docket No. 25513; Agreement C.A.B. 24268; Order 74–4–142]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

Correction

In FR Doc. 74–10214, appearing at page 15522 in the issue of Friday, May 3, 1974, the first paragraph was inadvertently omitted. The omitted paragraph should read as follows:

"Issued under delegated authority, April 26, 1974."

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deptuy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–11150 Filed 5–14–74;8:45 am]

DIRECTOR, COTTON, RICE, AND OILSEEDS DIVISION, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Title Change In Noncareer Executive Assignment

By notice of September 1, 1971, FR Doc 71–12769 the Civil Service Commission authorized the Department of Agriculture to fill by noncareer executive assignment the position of Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service. This is notice that the title of this position is now being changed to Director, Cotton, Rice and Oilseeds Division, Agricultural Stabilization and Conservation Service.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–11154 Filed 5–14–74;8:45 am]

DEPARTMENT OF JUSTICE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Associate Deputy Attorney General, Office of the Deputy Attorney General, Office of the Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–11152 Filed 5–14–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary (Energy), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–11153 Filed 5–14–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner for Indian Education, Office of Education, Education Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–11157 Filed 5–14–74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Program Analysis and Evaluation, Office of the Assistant Secretary for Policy Development and Research.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–11155 Filed 5–14–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Associate Admin-

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istrator for Program Planning, Urban Mass Transportation Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-11156 Filed 5-14-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Assistant to the Administrator, Office of the Administrator, Immediate Office.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 74-11149 Filed 5-14-74;8:45 am]

DIRECTOR, OFFICE OF LEGISLATION, OFFICE OF THE ADMINISTRATOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Director, Office of Legislation, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-11151 Filed 5-14-74;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following service to Procurement List 1974, November 29, 1973 (38 FR 33038).

SERVICE

Industrial Class 7331

Mailing "overflow" requirements U.S. Department of Health, Education, and Welfare, for following offices only:
Food and Drug Administration—Rockville, Maryland
Office of the Assistant Secretary for Health—Rockville, Maryland
Alcohol, Drug Abuse and Mental Health Administration—Rockville, Maryland

Comments and views regarding these proposed additions may be filed with the Committee not later than June 14, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-11179 Filed 5-14-74;8:45 am]

PROCUREMENT LIST 1974

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(e)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITY

Class 6505

Tablets, Aspirin
6505-100-9985
6505-153-8750

SERVICE

Industrial Class 8231

Lending Library Service (Domestic Portion Only) 50 States, Washington, D.C., and the Commonwealth of Puerto Rico

Comments and views regarding these proposed additions may be filed with the Committee not later than June 14, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-11180 Filed 5-14-74;8:45 am]

PROCUREMENT LIST 1974

Notice of Proposed Additions

Notice is hereby given pursuant to section 2(e)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITIES

Class 6135

Battery for Light Marker Distress
6135-073-8939

Class 6230

Light, Marker, Distress
(No battery, no pouch)
6230-938-1778

Comments and views regarding these proposed additions may be filed with the Committee not later than June 14, 1974. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-11181 Filed 5-14-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN CYANAMID CO.

Establishment of Temporary Tolerances

American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, submitted a petition (PP 4G1453) requesting establishment of temporary tolerances for residues of the herbicide 1,2-dimethyl-3,5-diphenylpyrazolium methyl sulfate in or on barley straw at 0.5 part per million; barley grain at 0.05 part per million (negligible residue); and in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.02 part per million (negligible residue).

Subsequently, the petitioner amended the petition by increasing the proposed temporary tolerance for negligible residues in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep from 0.02 to 0.05 part per million.

It has been determined that these temporary tolerances will protect the public health. They are therefore established on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the American Cyanamid Co. name.

These temporary tolerances expire May 8, 1975.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; (21 U.S.C. 346a(j))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated: May 8, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-11133 Filed 5-14-74;8:45 am]

[OPP-32000/59]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION; DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before July 15, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after July 15, 1974.

APPLICATIONS RECEIVED

EPA Reg. No. 241-175. American Cyanamid Company, Agricultural Division, P.O. Box 400, Princeton, New Jersey 08540. *Cygon Systemic 25 Insecticide.* Active Ingredients: Dimethoate (O,O-dimethyl S-(N-methylcarbamoylmethyl) phosphorodithioate) 25.0 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 18194-R. Anscott Chemical Industries, Inc., Allwood, P.O. Box 566, Clifton, New Jersey 07012. *De-moth Liquid Moth-Proofer.* Active Ingredients: Diethyl Diphenyl Dichloroethane 19.36 percent; Related Reaction Products 2.64 percent; Petroleum Distillates 70.68 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9582-G. Associated Chemicals Corporation, 231 Oak Street, Quincy, Illinois 62301. *Two-In-One Disinfectant Cleaner.* Active Ingredients: Didecyl dimethyl ammonium chloride 4.5 percent; Tetrasodium ethylenediamine tetraacetate 2.0 percent; Sodium carbonate 1.0 percent; Sodium metasilicate, anhydrous, 0.5 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11556-UG. Chemagro Division of Baychem Corporation, Box 4913, Kansas City, Missouri 64120. *Sendran Concentrate No. 2 An Insecticide for Formulating Use.* Active Ingredients: o-Isopropoxyphenyl methylcarbamate 75.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11556-UE. Chemagro Division of Baychem Corporation, Box 4913, Kansas City, Missouri 64120. *Sendran Concentrate No. 1 An Insecticide for Formulating Use.* Active Ingredients: o-Isopropoxyphenyl methylcarbamate 75.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9143-LR. Chemscope Corporation, 1909 Hi-Line Drive, P.O. Box 10752, Dallas, Texas 75207. *Chemscope Aerosol Insecticide Pyrethrum.* Active Ingredients: Pyrethrins 0.6 percent; Technical Piperonyl Butoxide 1.4 percent; Petroleum Distillate 13.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1066-9. Cre-O-Tox Chemical Co., 2670 Broad Avenue, Memphis, Tennessee 38112. *Cre-O-Tox Chlordane 8 Concentrate.* Active Ingredients: Technical Chlordane 72.0 percent; Petroleum Distillate 21.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 682-TT. Crop King, Box 574, Yakima, Washington 98907. *Crop King ZL-C.* Active Ingredients: Ziram (Zinc dimethyldithiocarbamate) 33.0 percent; Lindane (Gamma Isomer of Benzene Hexachloride) 5.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33798-R. Dixon Brothers, 330 West 41st Street, Jacksonville, Florida 32208. *Tool Life.* Active Ingredients: Rose Oil, Petroleum solvent #10, Methyl Salicylate. Total 69.28 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11037-RR. Hacienda Enterprises 565 Charles Street, San Jose, California 95112. *Hacienda Malathion 50 percent.* Active Ingredients: Malathion 50.0 percent; Xylene 45.0 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3432-GT. N. Jonas & Co., Inc., 1919 East Boston Street, Philadelphia, Pennsylvania 19125. *"POW"—Super Chlorinator.* Active Ingredients: Sodium Dichloro-s-triazinetrione 100 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3432-GA. N. Jonas & Co., Inc., 1919 East Boston Street, Philadelphia, Pennsylvania 19125. *Maxi-Clor Stabilized Chlorine Concentrate Sticks.* Active Ingredients: Trichloro-s-Triazinetrione 99 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10462-E. Multi-Chemical Products Inc., G.P.O. Box 2380, San Juan, Puerto Rico 00936. *Diacidon F-6 Aerosol Kills Flies, Mosquitoes & Roaches.* Active Ingredients: Petroleum Distillates 58.00 percent; Piperonyl Butoxide 1.60 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1258-889. Olin Corporation, Agricultural Division, P.O. Box 991, Little Rock, Arkansas 72203. *Omacide—645 Industrial Microbiostat.* Active Ingredients: Zinc 2-pyridinethiol 1-Oxide 20 percent; 4'5-Dibromosalicylanilide 36 percent; 3,4'5-Tribromosalicylanilide 36 percent; Other brominated salicylanilides 7 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 892-EI. Pioneer Manufacturing Company, 3053 East 87th Street, Cleveland, Ohio 44104. *Pioneer Control—35 Germicidal Cleaner.* Active Ingredients: Didecyl dimethyl ammonium chloride 4.5 percent; Tetrasodium ethylenediamine tetraacetate 2.0 percent; Sodium carbonate 1.0 percent; Sodium metasilicate anhydrous 0.5 percent. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 9195-G. Royal Bond, Inc., 1919 North Broadway, St. Louis, Missouri 63102. *Royal Bond Vapocide Vaporizing Insecticide.* Active Ingredients: Petroleum Distillate 16.84 percent; N-Octyl Bicloheptene Dicarboximide 1.66 percent; Technical Piperonyl Butoxide 1.00 percent; Pyrethrins 0.50 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11656-RR. Western Farm Service, Inc., 2401 Crow Canyon Road, San Ramon, California 94583. *Toxaphene 8-E Emulsifiable Liquid.* Active Ingredients: Toxaphene (Technical Chlorinated Camphene) (Chlorine 67 percent to 69 percent) 72 percent; Aromatic Petroleum Hydrocarbons 22 percent. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: May 6, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-10984 Filed 5-14-74;8:45 am]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

NOTICE OF COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 6, 1974
Thursday, June 13, 1974
Thursday, June 20, 1974
Thursday, June 27, 1974

The meetings will convene at 10 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street, NW., Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Pub. L. 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) that the closing is necessary in order to provide the members with the opportunity to advance proposals and counter proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 5451, 1900 E Street, NW., Washington, D.C. 20415.

Dated: May 9, 1974.

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc.74-11158 Filed 5-14-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. E-8137, E-8139]

BOSTON EDISON CO.

Order Accepting Initial Rate Schedules, Initiating an Investigation Under Section 206 of the Federal Power Act and Granting Waiver of the Notice Requirements

MAY 9, 1974.

On April 17, 1973, Boston Edison Company (Edison) submitted two separate system sales agreements.[1] In Docket No.

[1] The filings were completed on Aug. 27, 1973, which is considered the official filing date.

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E–8137, the agreement provided for the sale of system capacity by Edison to Fitchburg Gas and Electric Light Company (Fitchburg) [2] and in Docket No. E–8139, Edison agreed to sell system capacity to Public Service Company of New Hampshire (PSCNH).[3]

Edison states that the sale of system capacity and related energy is as follows:

Second party	Amount of capacity (megawatts)
PSNH:	
Dec. 9, 1972–Apr. 30, 1973	100
Nov. 1, 1973–Apr. 30, 1974	40
Fitchburg:	
Dec. 9, 1972–Sept. 30, 1981	40

Edison states that the agreements provide that the amount of contracted capacity will be reduced by the ratio of the reduced capacity of the Pilgrim Unit No. 1 to such unit's net demonstrated capability. Furthermore, Edison states that whenever the Pilgrim Unit No. 1 is shut down due to scheduled maintenance, Fitchburg and PSNH will be entitled to purchase their contract capacity at Edison's NEPOOL scheduled outage rate for Pilgrim Unit No. 1 plus 2.3 mills/kWh.

Edison also states that the power purchased under the subject agreements will be wheeled to Fitchburg and PSNH over the facilities of the New England Power Company (NEPCO).[4] Edison states that the agreements provide for the charges for operation and maintenance, local taxes, insurance costs and other expenses to be the actual costs for the contract year. The billing will be on an estimated basis, with adjustments after actual costs have been determined. Finally, Edison requested a waiver of the 30 day prior notice requirements to permit an effective date of December 9, 1972.

The filing of April 17, 1973, was noticed on May 8, 1973, setting May 30, 1973, as the due date for responses. No comments protests, or petitions to intervene have been received in either docket.

Since both of the initial service contracts with PSNH have expired, no useful purpose would be served by instituting an investigation thereof in Docket No. E–8139 under section 206 of the Federal Power Act. However, our review of the agreement with Fitchburg in Docket No. E–8137 indicates inter alia, that the proposed energy charge, over-all return and the cost-basis of the rate may be excessive and therefore the proposed rates may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall institute an investigation under section 206 of the Federal Power Act in Docket No. E–8137 to determine the justness and reasonableness of the filed initial Rate Schedule, FPC No. 71. Furthermore, our review of both dockets indicates that a waiver of the 30 day notice requirement of § 35.3 of the Commission's regulations is appropriate. Accordingly, we shall accept the proposed rate schedules for filing, to become effective as of December 9, 1972, the requested effective date.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that an investigation be instituted under section 206 thereof concerning the lawfulness of Edison initial rate schedule filing in Docket No. E–8137 (FPC No. 71).

(2) The Commission finds good cause to allow Edison's requested waiver of the 30 day notice requirement to permit an effective date of December 9, 1972.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, and the Commission's rules and regulations, and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held on August 13, 1974, at 10:00 A.M., EDT, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the lawfulness of Edison's proposed rates in Docket No. E–8137.

(B) Edison shall serve its prepared testimony and exhibits in Docket No. E–8137 on or before June 18, 1974. The Commission Staff shall serve its prepared testimony and exhibits on or before July 16, 1974. Any rebuttal evidence by Edison shall be served on or before August 6, 1974.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(D) Nothing contained herein should be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(E) Edison's proposed system sales agreements, filed on April 17, 1973, in Docket Nos. E–8137 and E–8139 are accepted for filing to be effective on December 9, 1972, subject to the terms and conditions of this order.

(F) Waiver of the notice requirements under § 35.3 of the Commission's regulations to permit an effective date of December 9, 1972, is hereby granted.

(G) The Secretary shall cause prompt publication of this notice.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–11143 Filed 5–14–74;8:45 am]

[2] Designated as Boston Edison Company, Rate Schedule FPC No. 71.

[3] Designated as Boston Edison Company, Rate Schedule FPC No. 70.

[4] By letters dated May 15, 1973, and July 18, 1973, NEPCO in Docket No. E–8217, submitted for filing two separate transmission agreements covering Edison's sales.

[Project No. 2742]

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

Application of Preliminary Permit Unconstructed Project

MAY 8, 1974.

Public notice is hereby given that application for a preliminary permit was filed March 8, 1974, under the Federal Power Act (16 U.S.C. §§ 791a–825r) by Copper Valley Electric Association, Inc., Glennallen, Alaska (correspondence to: James F. Palin, Manager, Copper Valley Electric Association, Inc., Post Office Box 45, Glennallen, Alaska 99588) for proposed Project No. 2742, to be known as (Solomon Gulch Hydroelectric Project), at the outlet of Solomon Lake, Third Judicial District, State of Alaska, near the City of Valdez.

The proposed Solomon Gulch Hydroelectric Project would consist of: the principal dam, with a crest elevation of approximately 700 ft. (U.S.G.S.), to be erected at the outlet of Solomon Lake; an auxiliary dam to be located approximately 1000 feet east of the lake outlet; a steel penstock 4 feet in diameter and approximately 4400 feet in length; a powerhouse located at tidewater near the mouth of Solomon Gulch, containing two 6000 kW generating units; approximately 7.5 miles of transmission line or approximately 3.5 miles of submarine cable; and a substation located in the City of Valdez. The proposed project would allow applicant to provide lower-cost electrical energy for the growing system now served and to extend service beyond the present area. No construction is authorized under a preliminary permit.

Any person desiring to be heard or to make protest with reference to said application should on or before July 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirement of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD, *Acting Secretary.*

[FR Doc.74–11145 Filed 5–14–74;8:45 am]

[Docket Nos. RP74–22, RP74–23]

EL PASO NATURAL GAS CO. AND EL PASO NATURAL GAS CO. AND NORTHWEST PIPE LINE CORP.

Extension of Time and Postponement of Hearing

MAY 7, 1974.

On April 30, 1974, El Paso Natural Gas Company filed a motion for continuance of the procedural dates fixed by Orders issued April 22, 1974, in the above-designated matters. The motion states that Staff Counsel and all parties consent to the motion.

Upon consideration notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of further direct evidence by El Paso and Northwest, May 7, 1974.
Service of answering evidence of interveners and further answering evidence of Commission Staff to El Paso and Northwest's further direct evidence, May 21, 1974.
Service of Staff Rebuttal to intervener's answering evidence and rebuttal evidence of El Paso and Northwest, June 11, 1974.
Hearing, June 25, 1974 (10 a.m. e.d.t.).

MARY B. KIDD, *Acting Secretary.*

[FR Doc.74–11148 Filed 5–14–74;8:45 am]

[Docket No. CI73–784]

BLAKE HAMMAN

Extension of Time and Postponement of Hearing

MAY 8, 1974.

On April 26, 1974, Blake Hamman filed a motion for a continuance of the hearing and for an extension of time within which to serve testimony fixed by Order issued March 25, 1974, in the above-designated matter. The motion states that the interveners have no objection to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Applicant's Testimony, May 30, 1974.
Hearing, June 20, 1974 (10 a.m. e.d.t.).

MARY B. KIDD, *Acting Secretary.*

[FR Doc.74–11140 Filed 5–14–74;8:45 am]

[Docket No. E–8212]

MONTANA-DAKOTA UTILITIES CO.

Amendment to Application

MAY 9, 1974.

Take notice that on May 6, 1974, Montana-Dakota Utilities Company filed a letter amendment to its application pursuant to Section 204 of the Federal Power Act seeking an order extending the time period for issuing short-term Promissory Notes authorized in Docket No. E–8212 from May 15, 1974 to May 15, 1975, and the final maturity date from May 14, 1975 to May 14, 1976.

Applicant is incorporated under the laws of the State of Bismarck, North Dakota, and is engaged in the gas and electrical utility business in the States of Montana, North Dakota, South Dakota and Wyoming.

The purpose of such extension of time is to permit Applicant to postpone the sale of First Mortgage Bonds and Preferred Stock. Although Applicant has scheduled a sale of First Mortgage Bonds and Preferred Stock for October, 1974, unsettled market conditions or high interest rates may make it desirable for Applicant to defer the sale of said securities until early 1975.

Any person desiring to be heard or to make any protest with reference to said amendment to said application should on or before May 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Comission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Comission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Comission's rules. The amendment to said application is on file with the Commission and available for public inspection.

MARY B. KIDD, *Acting Secretary.*

[FR Doc.74–11138 Filed 5–14–74;8:45 am]

[Docket Nos. E–8641, E–8251, E–8169, E–8476]

NEW ENGLAND POWER COMPANY

Order Amending Suspension Period and Permitting Intervention

MAY 8, 1974.

New England Power Company (NEPCO) on February 26, 1974 tendered for filing a Petition for Emergency Relief in which it requested the acceptance of a proposed rate increase (Rate R–8) to be effective April 1, 1974. This was designated as Docket No. E–8641. Because it stated an emergency situation existed, NEPCO also requested waiver of §§ 35.13(b)(4)(i) and 35.13(b)(5)(i) to allow it to file for Rate R–8 without also filing detailed data to support its proposal. NEPCO stated such data would be filed on or before April 15, 1974.

The Commission, by its order issued March 29, 1974, stated it could not ascertain whether an emergency situation existed on the basis of the filing made by NEPCO and the responses made thereto.

Accordingly, the Commission ordered a conference to be held on April 5, 1974 at which time comments and responses from all interested parties were to be received for the Commission's review. The Commission further ordered that the proposed Rate R–8 be suspended for five months until September 1, 1974. This suspension was subject to such change as the Commission deemed appropriate after its reviews of the comments and responses received at the April 5, 1974 conference and examination of the detailed data filed by NEPCO on or before April 15, 1974. The Commission stated that the suspension period may be shortened should the Commission determine from its review of the information and data that an emergency exists. The Commission also ordered that Docket Nos. E–8641, E–8251, E–8169 and E–8476 be consolidated for purposes of hearing and decision and set procedural dates for the proceeding.

On April 5, 1974, the conference, which had been ordered in the March 29, 1974, order, was held. NEPCO stated that if the five-month suspension period for the proposed R–8 rate was not shortened, NEPCO would be unable to finance its present construction program. On April 9, 1974 NEPCO filed a "Petition for Reconsideration of Rate-8 Order at the Earliest Possible Time" in which it reasserted its position that an emergency situation exists which can only be alleviated by the immediate implementation of the Rate R–8. The NEPCO Municipal Customers [1] filed a Response to NEPCO Coverage Estimates on April 18, 1974 in which they assert that NEPCO would be able to continue financing necessary construction if the Rate R–8 were suspended until September 1, 1974. They urge the Commission not to alter the five month suspension so that adequate time be given to consider the supporting cost of service data to NEPCO's Rate R–8 filing. On April 24, 1974, the Rhode Island Consumers' Council filed an answer to NEPCO's Petition for Reconsideration in which it urges the Commission not to shorten the suspension period because it asserts NEPCO has failed to establish that an emergency situation exists requiring the extraordinary relief for which NEPCO has asked. Rhode Island Consumers' Council also filed a petition to intervene. NEPCO, on April 26, 1974, filed an Answer to the Response of the NEPCO Municipal Customers. In this Answer, NEPCO responds by stating the unfavorable position in which NEPCO's parent, New England Electric System, would be placed by having to sell a large offering of common stock in the near future to finance NEPCO's construction program and again asks for an April 1, 1974 effective date for Rate R–8. The NEPCO Municipal Customers also on April 26, 1974 filed an Initial Analysis of NEPCO Cost of Service. They contend in this pleading that the proposed rate increase is not justified by increased cost of service and that the suspension period should not be shortened.

Our review of the comments and responses received at the April 5, 1974 conference and the data filed by NEPCO on April 15, 1974 indicates that a shortened suspension period is necessary in order to allow NEPCO to continue to finance its construction program. To force NEPCO to defer its construction program could seriously impair its service reliability and increase construction costs considerably. Therefore, we will amend the suspension period for NEPCO's proposed R–8 rate to 45 days until May 15, 1974. However, we will also require NEPCO to submit within 60 days its plans for preventing a recurrence of the financial situation in which they represent themselves to be at present.

The Commission finds:

(1) The suspension period for NEPCO's proposed R–8 rate should be

[1] See Appendix A.

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amended to 45 days to become effective as of May 15, 1974, as hereinafter ordered.

(2) Participation in this proceeding of the Rhode Island Consumers' Council may be in the public interest.

(3) NEPCO should be directed to submit within 60 days information concerning its future financing as hereinafter ordered.

The Commission orders: (A) The suspension period for NEPCO's proposed R–8 Rate, previously set in the Commission's March 29, 1974, order, is hereby amended, and pending hearing and a final decision thereon, NEPCO's proposed R–8 rate is suspended for 45 days and the use thereof deferred until May 15, 1974.

(B) The Rhode Island Consumer's Council is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in its petition to intervene, and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it may be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) NEPCO is hereby ordered to submit within 60 days of the issuance of this order detailed plans for preventing a recurrence of the financial situation in which they represent themselves to be at present. Such plans shall include: (1) two year detailed projection of its revenue and expenses and capital requirements as related to facilities as proposed to be installed and proposed financings, (2) a review of tentative financing plans and statements supporting the proposition that the proposed plans are in the public interest, and (3) a review of current coverage requirements, including plans to effect such revisions as may become appropriate.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

NEPCO MUNICIPAL CUSTOMERS

NEPCO Customer Rate Committee, The Electrical Departments and Plants of the following Massachusetts Towns and Cities:

Ashburnham.	Marblehead.
Boylston.	Merrimac.
Danvers.	Middleton.
Georgetown.	North Attleboro.
Groton.	Paxton.
Hingham.	Peabody.
Holden.	Princeton.
Hudson.	Shrewsbury.
Hull.	Sterling.
Ipswich.	Templeton.
Littleton.	Wakefield.
Mansfield.	West Boylston.
Littleton, New Hampshire, The Manchester Electric Company and The New Hampshire Electric Cooperative.	

[FR Doc.74–11139 Filed 5–14–74;8:45 am]

[Docket No. E–8749]

PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Change in Rates

MAY 7, 1974.

Take notice that on April 26, 1974, Public Service Company of Oklahoma (PSCO) tendered for filing a proposed supplement to its FPC Rate Schedule 186. The proposed supplement provides for sale by PSCO of 15 MW of capacity to Associated Electric Cooperative, Inc. (AEC) for the twelve-month period June 1, 1974 to May 31, 1975.

PSCO states that the supplement is similar to Supplement No. 6 to Rate Schedule FPC 161 which provides for sale by PSCO to Kansas Gas and Electric Company, with conditions, however, limiting total annual deliveries. The maximum daily delivery may also be limited under the agreement. AEC will purchase this energy for resale to City Utilities of Springfield, Missouri. PSCO requests an effective date of June 1, 1974, for the supplement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11147 Filed 5–14–74;8:45 am]

[Docket No. E–7711]

SOUTHWESTERN ELECTRIC POWER CO.

Order Approving Settlement Agreement

MAY 9, 1974.

On December 11, 1973, Presiding Administrative Law Judge Walter T. Southworth certified to the Commission a proposed settlement agreement (Agreement) purporting to resolve outstanding issues in this docket. The history of these proceedings is involved and lengthy and merit some extended discussion.

This docket results from a filing by Southwestern Electric Power Company (SWEPCO) on February 7, 1972, cancelling its FPC Rate Schedule No. 56. Under the terms of that rate schedule, SWEPCO purchased from and exchanged with Tex-La Electric Cooperative, Inc.[1] (Tex-La) hydro-electric power and energy purchased by Tex-La from the Southwestern Power Administration (SPA). As part of that same filing, SWEPCO tendered Rate Schedule REA under which it proposed to bill the member cooperatives without any exchange of hydro power and energy purchased by Tex-La from SPA. The proposed cancellation date of Rate Schedule No. 56 and effective date of Rate Schedule REA was February 29, 1972. Tex-La intervened and protested the cancellation of Rate Schedule No. 56.

On March 8, 1972, the Commission suspended the cancellation of Rate Schedule No. 56 until further order, although the suspension period was not to extend past the five months ending August 9, 1972. Subsequently,[2] the Commission ordered an expedited hearing on the issue, denied SWEPCO's request to set aside the suspension period and accepted Rate Schedule REA for filing to become effective August 9, 1972. The hearing was held on July 10 to 13, 1972.[3]

On July 11, 1972, Tex-La filed a motion requesting the Commission to require SWEPCO to continue the three party arrangement for exchange of power as had been in operation under Rate Schedule No. 56. SWEPCO responded stating that, without prejudice to its cancellation of Rate Schedule No. 56, it had no objection to a continuation of the three party arrangement. As part of the response, SWEPCO filed a new rate schedule designated SPA/Tex-La/SWEPCO which would continue the three party arrangement of Rate Schedule No. 56, although under a different rate structure and level.

By order of August 8, 1972, the Commission accepted Rate Schedule SPA/Tex-La/SWEPCO for filing effective August 9, 1972, subject to refund and permitted the withdrawal of Rate Schedule REA.

On March 20, 1973, the Commission established dates for the service of evidence and hearing on Rate Schedule SPA/Tex-La/SWEPCO and directed the company to file updated data in support of that rate schedule.[4] The Commission Staff filed a statement of position indicating that it found the rates, charges, and conditions proposed by SWEPCO in this rate schedule to be just and reasonable. The hearing was convened on November 20, 1973, and adjourned for settlement discussions. These discussions led to the Agreement presently before us.

The major elements of the Agreement are as follows:

(1) Rates: SWEPCO and the Commission Staff accept the rates in Rate Schedule SPA/Tex-La/SWEPCO as reasonable while Tex-La agrees to contest the rates no further.

(2) Terms and Conditions: SWEPCO and Tex-La/SWEPCO as reasonable while Tex-La particularly with respect to the procedures for establishing new delivery points and to evaluate the practicality of existing delivery points. Included in these are methods of payment, schedule of charges, and the conditions for abandonment.

(3) Conditions: The parties agree that this settlement is without prejudice to positions they have taken or may take in the Court of Appeals case presently pending (Footnote 4, supra).

The rates in Rate Schedule SPA/Tex-La/SWEPCO are based on a cost of serving Tex-La by SWEPCO of $4,827,148 for the twelve months ended December 31, 1972.[5] These rates will result in a rate of return to SWEPCO of 4.20 percent.

Notice of certification of the Agreement was issued on December 18, 1973, with comments to be filed on or before January 18, 1974. No comments have been received.

Based on our review of the record and the pleadings in this docket, including the Agreement itself, we conclude that the proposed settlement represents a reasonable resolution of the issues in this proceeding, is in the public interest, and should be approved.

The Commission finds: The proposed settlement agreement in this docket, filed by the parties on December 6, 1973, should be approved and made effective.

The Commission orders: (A) The proposed settlement agreement filed by the parties on December 6, 1973, is hereby incorporated by reference, approved and made effective as of August 9, 1972.

(B) Within 30 days of the issuance of this order, SWEPCO shall file supplements to its Rate Schedule SPA/Tex-La/SWEPCO in conformity with the settlement agreement as herein approved.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against SWEPCO or any person or party.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

ATTACHMENT A

Operating expenses:

SOUTHWESTERN ELECTRIC POWER COMPANY

Cost of service for Tex-La 12 months ended Dec. 31, 1972

Operating revenues	$5,629,295
Operating expenses:	
Operation and maintenance expense	3,658,048
Depreciation expenses	665,710
Other taxes	339,410
Income taxes:	
State	1,845
Federal	162,135
Total	4,827,148
Net available return	802,147
Rate base	19,084,001
Rate of return (percent)	4.20

Source: Company's Revised Schedule No. 1.

[FR Doc.74–11141 Filed 5–14–74;8:45 am]

[Docket Nos. RP65–59, RP61–13, G–18783, G–8487, G–5258, RP67–3]

TEXAS EASTERN TRANSMISSION CO. AND TRANSCONTINENTAL GAS PIPELINE CORP.

Order Requiring Payment and Flow-Through of Refunds

MAY 9, 1974.

Texas Eastern Transmission Company (Texas Eastern) is currently retaining, pursuant to Commission order,[1] refunds due to Consolidated Gas Supply Corporation (Consolidated), Transcontinental Gas Pipeline Corporation (Transco) is similarly retaining refunds due to Consolidated pursuant to various Commission orders.[2]

On February 8, 1974, Consolidated transmitted a request that this Commission direct Texas Eastern and Transco to release to it various amounts which Consolidated alleged were due to it pursuant to the above mentioned orders. The request was noticed on April 3, 1974, with petitions to intervene or protests due on or before April 23, 1974. No petitions or protests were received. Consolidated stated that both Texas Eastern and Transco have informally expressed their willingness to pay such refunds to Consolidated and that Consolidated will in turn flow-through such refunds to its jurisdictional customers on a volumetric basis.

Our review of Consolidated's undertaking in the instant filing indicates that it satisfies the conditions in the orders involved for these refunds. Accordingly, we shall direct Texas Eastern and Transco to refund to Consolidated the amounts due and Consolidated to flow-through such refunds as hereinafter ordered.

The Commission finds: It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that the refunds which are the subject of these proceedings which are due to Consolidated be paid by Texas Eastern and Transco to Consolidated and further that such refunds be flowed-through to Consolidated's jurisdictional customers on a volumetric basis.

The Commission orders: (A) Within 30 days of the issuance of this order, Texas Eastern and Transco shall pay to Consolidated the refund monies plus interest to the date of payment in these proceedings and shall file a report with this Commission showing the principal and interest so refunded.

(B) Within 30 days of the receipt of such payments from Transco and Texas Eastern, Consolidated shall refund such payments, on a volumetric basis, to its jurisdictional customers and shall file a report with this Commission showing the principal and interest refunded to each of Consolidated's jurisdictional customers.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11142 Filed 5–14–74;8:45 am]

[Docket No. CP74–273]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

MAY 7, 1974.

Take notice that on April 24, 1974, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP74–273 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Transcontinental Gas Pipe Line Corporation (Transco) and Consolidated Gas Supply Corporation (Consolidated), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

[1] Tex-La distribution cooperative members are Bossier Rural Electric Membership Corporation, Bossier City, La.; Bowie-Cass Electric Cooperative, Inc., Douglassville, Texas; Deep East Texas Electric Cooperative, Inc., San Augustine, Texas; Panola-Harrison Electric Cooperative, Inc., Marshall, Texas; Valley Electric Membership Corporation, Natchitoches, La.; Wood County Electric Cooperative, Inc., Quitman, Texas; Upshur Rural Electric Cooperative Corporation, Gilmer, Texas; and Rusk County Electric Cooperative Corporation, Henderson, Texas.

[2] Order issued May 26, 1972.

[3] The record was certified to the Commission by Presiding Administrative Law Judge Fribourg on July 17, 1972.

[4] Rehearing denied May 14, 1973; Subsequent motions to stay the proceedings filed by Tex-La were denied on September 28, 1973 and November 16, 1973. Tex-La has petitioned the Court of Appeals for the District of Columbia Circuit for review of the Commission's orders of March 20 and May 14, 1973. *Tex-La Electric Cooperative, Inc.* v. *F.P.C.* (C.A. 73–1577, C.A.D.C.)

[5] See Attachment A.

[1] Texas Eastern Transmission Corporation, Docket No. RP65–59, 37 FPC 100 (January 16, 1967).

[2] Transcontinental Gas Pipeline Corporation, Docket No. RP61–13, 27 FPC 187 (February 2, 1962); Placid Oil Company, et al., Docket Nos. G–13183, et al., 35 FPC 477 (April 6, 1966); Placid Oil Company, et al., Docket Nos. G13183, et al., 35 FPC 984 (June 13, 1966); Sun Oil Company, et al., Docket Nos. G–8288, et al., 35 FPC 1067, (June 23, 1966) and order issued December 28, 1967 in this docket; Transcontinental Gas Pipeline Corporation, Docket No. RP67–3, 36 FPC 431 (August 12, 1966) and Order issued Dec. 28, 1966; Transcontinental Gas Pipeline Corporation, et al., Docket Nos. G–18783, et al., two Orders issued on Dec. 28, 1967 in this docket; and Atlantic Seaboard Corporation, et al., Docket Nos. G–12196, et al., 40 FPC 68 (July 12, 1968).

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Applicant proposes, pursuant to a letter agreement dated February 15, 1974, to transport approximately 8,000 Mcf at 15.025 psia of natural gas per day for Transco and Consolidated at 6.24 cents per Mcf through Applicant's existing offshore Cameron Lateral pipeline from West Cameron Block 235, offshore Louisiana, onshore to a proposed point of interconnection between Applicant's and Transco's pipeline system near Ragley, Louisiana. Construction of the facilities for the latter point of interconnection is proposed in Applicant's and Transco's joint application pending in Docket No. CP74–224, notice of which was published in the FEDERAL REGISTER on March 21, 1974 (39 FR 10661).

Applicant states that the instant transportation agreement is part of a general scheme to avoid the duplication of facilities for the transportation of natural gas purchased for resale in interstate commerce from the Block 118 and 119 Fields, East Cameron Area, offshore Louisiana. According to the letter agreement of February 15, 1974, if the volumes of gas redelivered by Applicant at the proposed Ragley interconnection are not equivalent to the volumes delivered to Applicant by Transco and Consolidated into Applicant's Cameron Lateral, such deliveries and redeliveries shall be balanced within thirty days, or such longer period as may be mutually agreeable to the parties. Other applications related to the instant proposal are as follows:

(1) A joint application in Docket No. CP74–249, notice of which was published in the FEDERAL REGISTER on April 8, 1974 (39 FR 12789), by Transco, Consolidated and Columbia Gulf Transmission Company (Columbia Gulf), for a certificate of public convenience and necessity authorizing the construction of a six-inch lateral pipeline to transport natural gas purchased or produced by various parties in the Block 118 and 119 Fields to Applicant's Cameron Lateral to be transported further, as proposed in the instant application; authorizing the exchange gas in order to enable Consolidated to transport gas committed to it from said fields eventually into its own pipeline; and authorizing the transportation of gas purchased by Applicant in the Block 118 and 119 Fields to Applicant's Cameron Lateral;

(2) An application in Docket No. CP74–265, notice of which was published in the Federal Register on ----------, 1974, (39 FR ------), by Transco for a certificate of public convenience and necessity authorizing the addition of the proposed Ragley interconnection as a delivery point from Consolidated for the exchange of gas transported, as proposed by Applicant in the instant application, for Consolidated's account;

(3) Applications for certificates of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Applicant by C & K Petroleum, Inc., et al., to Consolidated by CNG Producing Company, to Columbia Gas Transmission Corporation by Columbia Gas Development Company, and to Transco by Odeco, et al., which gas would be transported in the above described pipelines.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11144 Filed 5–14–74;8:45 am]

[Docket No. E–8025]

UPPER PENINSULA GENERATING CO.

Notice of Application

MAY 9, 1974.

Take notice that on February 19, 1974, Upper Peninsula Generating Company (Applicant), filed a Supplement and Amendment to its Application in Docket No. E–8025 with the Federal Power Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue unsecured promissory notes not to exceed $15,000,000 face value at any one time outstanding.

The Applicant is incorporated under the laws of the State of Michigan with its principal business office at Houghton, Michigan and is engaged in the generation of electric energy for sale only to Upper Peninsula Power Company and the Cliffs Electric Service Company.

The Applicant proposes to issue unsecured promissory notes, payable to such bank or banks from which the Applicant may borrow for periods not exceeding twelve months from the date of original issue or renewal thereof, as the case may be, such notes, issued either originally or upon renewal from time to time, to have maturity dates not later than July 1, 1975.

The interest rate on the Notes to be issued to commercial banks not for resale to the public will be at a rate not exceeding one-quarter of one percent over the floating prime rate in effect from time to time, meaning by "prime rate" the lowest rate at which the banks to whom the notes are payable are then making short term commercial loans to depositors.

The proceeds from the sale of the Notes will be used, pending permanent financing, to finance the buildup of its coal stock to last through the non-navigation months to finance a portion of the Applicant's construction program for the years 1974 and 1975 having an estimated cost of $18,247,300.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11137 Filed 5–14–74;8:45 am]

[Docket No. E–8762]

YORK HAVEN POWER CO.

Initial Rate Filing

MAY 8, 1974.

Take notice that on May 2, 1974 York Haven Power Company (York Haven) tendered for filing as an initial rate an Agreement for the sale and purchase of power generated by FPC License Project No. 1888. This agreement is dated April 30, 1974 between York Haven and Metropolitan Edison (Met-Ed).

York Haven states that said Agreement provides for the sale of the total power and energy from Project No. 1888 to Met-Ed on a rate based upon York Haven's costs and expenses in generating and transmitting such power and energy. York Haven further states that a copy of this filing has been mailed to Met-Ed and interested state commissions.

York Haven requests an effective date of May 1, 1974 for said Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 17, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–11146 Filed 5–14–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 10, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service; Survey to Develop School Feeding Participant's Profile, Form, Single time, Lowry, School principals and/or food service directors, students.

DEPARTMENT OF COMMERCE

Bureau of the Census; Annual Survey of Oil and Gas, Form MA–13K, Annual, Weiner, Lessees of Oil & Gas Field properties.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education; Pilot Survey of Student Attitudes, Form NIE 50–A & B, Single time, HRD/Planchon, 6th grade students in Alum Rock School.

Alcohol, Drug Abuse and Mental Health Administration; Assessment of Needs for Advanced Education of State and Local Mental Health Professional and Administrative Staffs, Form ADAMMH 0508, Single time, Caywood, Mental health profs & admin. staff of State & local mental health depts.

Health Resources Administration; Marriage and Divorce Data Use Survey, Form ----, Single time, Collins, Selected users of marriage & divorce data.

DEPARTMENT OF TRANSPORTATION

Departmental; DOT Directory of Transportation Education Programs, Form ----, Annual, Sheftel, Transportation educators in postsecondary institutions.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service; Application for Authorization to Participate in the Food Stamp Program, Forms FNS 252, 252–1, 252–3, Occasional, Sheftel, Food retailers & wholesalers & meal service organizations.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis; Survey of U.S. Travelers Visiting Canada, Form BE 536, Quarterly, Evinger, U.S. residents visiting Canada.

VETERANS ADMINISTRATION

Application for Program of Education or Training for an Individual on Active Duty; Form 22–1990a, Occasional, Caywood, Servicemen & servicewomen.

Veteran's Application for Program of Education or Training (under Chapter 34, Title 38, U.S.C.); Form 22–1990, Occasional, Caywood, Veterans.

Notice of Eligibility, Application and Enrollment Certification; Form 22–1990v, Occasional, Caywood, Veterans.

Request for Change of Program or Place of Training (Under Chap. 34, Title 38, U.S.C.); Form VA 22–1995, Occasional, Caywood, Veterans students.

Application for Educational Assistance by a Spouse, Widow or Widower; Form 22–5490w, Occasional, Caywood, Spouse, Widow or Widower.

Enrollment Certification (Under Chapters 34 or 35, Title 38, U.S.C.). Form 22–1999, Occasional, Caywood, Schools.

EXTENSIONS

DEPARTMENT OF DEFENSE

Defense Supply Agency; Department of Defense Industrial Security Survey/Inspection Report, Form DSA 1148, Occasional, Evinger (x).

SIOATH Control Record, on Order but Undelivered Report and Report of Unordered Product; Form DD 1886, Monthly, Evinger (x).

DEPARTMENT OF JUSTICE

Departmental; Application for Cancellation of Debt on Ground of Permanent and Total Disability, Form LEEP 13, Occasional, Evinger, Recipients of LEEP funds who are disabled.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Questions Concerning the NASA Technical Support Package; Form ----, Occasional, Evinger, Industrial, educational & research organizations.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–11265 Filed 5–14–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

BBI, INC.

Suspension of Trading

MAY 8, 1974.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 9, 1974 through May 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–11185 Filed 5–14–74;8:45 am]

[70–5497]

DELMARVA POWER & LIGHT CO.

Proposed Issue and Sale of Bonds at Competitive Bidding

MAY 10, 1974.

Notice is hereby given that Delmarva Power & Light Company ("Delmarva"), 800 King St., Wilmington, Del. 19899, a registered holding company and a public-utility company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which are summarized below, for a complete statement of the proposed transaction.

Delmarva proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $35,000,000 principal amount of First Mortgage and Collateral Trust Bonds, ---- percent Series due June 1, 2004. The interest rate (which shall be a multiple of ⅛ of 1 percent) and the price to be paid to Delmarva, exclusive of accrued interest, (which shall be not less than 99 percent nor more than 101.75 percent of the principal amount thereof) for the bonds will be determined by the competitive bidding. The bonds will be issued under a Mortgage and Deed of Trust, dated October 1, 1943, between Delmarva and Chemical Bank, Successor Trustee, as heretofore supplemented and as to be further supplemented by a Forty-seventh Supplemental Indenture to be dated as of June 1, 1974 which includes a prohibition until June 1, 1979 against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

It is stated that the net proceeds from the sale of the bonds will be applied toward the retirement of unsecured short-term notes issued primarily for interim financing of the construction programs of Delmarva and its subsidiary companies and for other corporate purposes. As of April 18, 1974, such short-term notes outstanding amounted to $64,100,-

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000. Delmarva estimates its 1974 construction program at $99,625,000 and contemplates the sale of additional permanent securities and unsecured short-term notes during 1974.

The declaration states that the issuance and sale of the bonds is subject to the approval of The Public Service Commission of Delaware, and indicates that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred by Delmarva in connection with the sale of the bonds will be in the aggregate amount of $114,000, which includes $38,000 for printing expenses, $10,000 for legal fees and $13,250 for accounting services.

Notice is further given that any interested person may, not later than June 3, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11186 Filed 5-14-74;8:45 am]

[812-3391]

TEMPORARY INVESTMENT FUND, INC.

Application for Exemption

MAY 8, 1974.

Notice is hereby given that Temporary Investment Fund, Inc. ("Applicant") 1730 Penn. Ave., Wash., D.C. 20006, an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for exemption from the provisions of Rule 19b-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are set forth below.

Applicant was organized on February 8, 1973, as a vehicle through which institutions can invest short-term cash reserves in a portfolio of so-called "money market" securities with maturities generally not exceeding 6 months including Treasury Bills, other obligations issued or guaranteed by the Federal Government, its agencies or instrumentalities, certificates of deposit, bankers' acceptances, commercial paper and variable amount demand master notes. Applicant's investment objectives are to seek current income and stability of principal.

Except in limited instances, it is not anticipated that Applicant will invest in securities with maturities exceeding six months, and in no event will such securities be purchased with a view to the realization of long-term capital gains. Assuming that this application is granted,, any capital gains realized by Applicant will be distributed currently.

The Comptroller of the Currency has determined that the purchase of shares of Applicant by national banks acting on behalf of their fiduciary accounts, is not contrary to applicable regulations if consistent with the purposes of the particular account and proper under the laws of the state in which the bank is located. Although Applicant is particularly designed for investment by banks, the Application states that it may be equally suitable for the investment of short-term funds held or managed by broker/dealers, investment counsellors, insurance companies, employee benefit plans, colleges, churches, charities, corporations and other institutions. However, Applicant's shares may not be purchased by individuals.

Loeb, Rhoades & Co. will serve as Administrator and Distributor of the Applicant and Provident National Bank will serve as Investment Adviser. Shares of Applicant will be sold and may be redeemed by shareholders on any business day at the net asset value per share. Net asset value will be determined once each day immediately after the declaration of dividends comprising the previous period's net income. Dividends will be declared daily and paid to shareholders monthly.

The minimum initial investment in Applicant is $100,000. Subsequent investments must be made in increments of $1,000, but an investor need not maintain any minimum investment. All funds will be invested in full and fractional shares. Shares must be paid for, and redemptions will be made, in Federal Funds. Stock certificates will not be issued unless requested in writing by a shareholder.

Rule 19b-1, as here pertinent, prohibits distributions of capital gains dividends more frequently than once a year. Applicant represents that it will generally not acquire portfolio securities with maturities exceeding six months except in limited instances, but in no case will such instruments be acquired with a view to the realization of long-term capital gains. If unanticipated circumstances in fact result in the realization of such gains, however, Applicant wishes to be in a position to distribute such gains at approximately the same time they are realized in light of Applicant's investment objective of seeking current income and its intended practice of declaring dividends daily and distributing them monthly. If such gains could not be distributed currently, Applicant's net asset value on each daily valuation day would be increased by the amount of such undistributed gain with no current benefits accruing to shareholders unless they opt to redeem.

The application alleges that the principal purposes of Rule 19b-1 are to avoid confusion of the shareholder as to what constitutes regular dividends from interest income, as opposed to capital gains; and to relieve investment company managers from pressure to realize such gains. Applicant states that such dangers are irrelevant to its operations in light of: (a) the sophistication of its shareholders; (b) the fact that Applicant explicitly disclaims any intention of seeking such gains (or, except in limited circumstances, of even acquiring securities with maturities of more than 6 months); and (c) the intention of Applicant to advise shareholders as to what portion of any distribution comprises capital gains.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 3, 1974 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether

a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11187 Filed 5-14-74;8:45 am]

[File No. 500-1]

U.S FINANCIAL INC.

Suspension of Trading

MAY 8, 1974.

The common stock of U.S. Financial Incorporated being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from May 9, 1974 through May 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-11184 Filed 5-14-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-332]

ALLIED-GENERAL NUCLEAR SERVICES, ET AL. (BARNWELL NUCLEAR FUEL PLANT)

Prehearing Conference

MAY 9, 1974.

Take notice, that in accordance with the Atomic Energy Commission's Notice of hearing pursuant to 10 CFR Part 50, Appendix D, Section B, published November 9, 1973, in the FEDERAL REGISTER (38 FR 31031), and the Special Prehearing Conference Order issued April 12, 1974, by this Atomic Safety and Licensing Board permitting intervention by Environmentalists, Inc., South Carolina Environmental Action, Inc., and Piedmont Organic Movement, as joint intervenors, a second prehearing conference to permit identification of the issues in the above-captioned proceeding, will be held on Wednesday, May 29, 1974, at 10:00 a.m. local time in the Civic Room, Palmetto Federal Savings & Loan Association, 2116 Jackson Street, Barnwell, South Carolina 29812.

It is so ordered.

Issued at Bethesda, Maryland this 9th day of May, 1974.

ATOMIC SAFETY AND LICENSING BOARD,
ROBERT M. LAZO,
Chairman.

[FR Doc.74-11160 Filed 5-14-74;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO. ET AL.

Issuance of Facility License Amendment

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located near Palo in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment permits a temporary increase in allowable conductivity of the reactor coolant.

The application for the amendment complies with the standards and requirements of the Act and the Commission's rules and regulations and the Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulation in 10 CFR Chapter 1, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment, dated May 6, 1974, (2) Amendment No. 2 to License No. DPR-49, with attachments, and (3) the Commission's related Safety Evaluation, dated May 7, 1974. All of these are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Reference Service, Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 8th day of May, 1974.

For the Atomic Energy Commission.
WALTER R. BUTLER,
Chief, Light Water Reactors Projects Branch 1-2, Directorate of Licensing.

[FR Doc.74-11161 Filed 5-14-74;8:45 am]

[Docket Nos. 50-413, 50-414]

CATAWBA NUCLEAR STATION

Availability of Partial Initial Decision on Environmental Issues

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulation in Appendix D, § A.9 and A.11, to 10 CFR Part 50, notice is hereby given that a Partial Initial Decision on Environmental Issues dated April 9, 1974, by the Atomic Safety and Licensing Board, in the above captioned proceeding involving an application by Duke Power Company for a construction permit for the Catawba Nuclear Station, Units 1 and 2, to be located in York County, South Carolina, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the York County Library, 325 South Oakland Avenue, Rockhill, South Carolina 29730.

The Partial Initial Decision is also being made available at the State Clearinghouse, ATTN: Mr. Elmer Witten, Jr., Office of the Governor, Division of Administration, Edgar A. Brown State Office Building, Columbia, South Carolina 29201 and the State Clearinghouse & Information Center, ATTN: Mr. Randolph Hendricks, 116 West Jones Street, Raleigh, North Carolina 27603.

Based on the record developed in the public hearing in the above captioned matter, the Partial Initial Decision (PID) on Environmental Issues of the Atomic Safety and Licensing Board supplements and modifies the Final Environmental Statement prepared by the Commission's Directorate of Licensing relating to the construction of the Catawba Nuclear Station, Units 1 and 2. A copy of this Final Environmental Statement is also available for public inspection at the above designated locations.

Pursuant to the provisions of 10 CFR Part 50, Appendix D, § A.11, the Final Environmental Statement is deemed modified to update the population projections in § 2.1 and supplemented to include pertinent portions of the environmental hearing record relating to anticipated transients without scram which were not addressed by the staff in the Final Environmental Statement. As required by § A.11 of Appendix D, a copy of the Partial Initial Decision by the Atomic Safety and Licensing Board and the Final Environmental Statement have been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

The Partial Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Partial Initial Decision may be reviewed by the Commission.

Single copies of the Partial Initial Decision on Environmental Issues by the Atomic Safety and Licensing Board and the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing-Regulation.

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Dated at Bethesda, Maryland this 9th day of May 1974.

For the Atomic Energy Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch No. 4, Directorate of Licensing.

[FR Doc.74-11202 Filed 5-14-74;8:45 am]

[Docket No. 50-469]

GENERAL ELECTRIC CO.

Issuance of Facility Export License

Please take notice that no request for a hearing or a petition for leave to intervene having been filed following publication of notice of proposed action in the FEDERAL REGISTER on March 1, 1974 (39 FR 7977) and the Atomic Energy Commission having found that:

(a) The application filed by General Electric Company, Docket No. 50-469, complies with the requirements of the Act, and the Commission's regulations set forth in Title 10, Chapter I, Code of Federal Regulations, and

(b) The reactors proposed by the exported are utilization facilities as defined in said Act and regulations,

the Commission has issued License No. XR-96 to General Electric Company, authorizing the export of two boiling water reactors each with a thermal power level of 2894 megawatts to the Taiwan Power Company, Taipei, Taiwan, Republic of China.

The export of these reactors to the Republic of China is within the purview of the present Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of China Concerning Civil Uses of Atomic Energy.

Dated at Bethesda, Maryland this 7th day of May 1974.

For the Atomic Energy Commission.

S. H. SMILEY,
Deputy Director for Fuels and Materials, Directorate of Licensing.

[FR Doc.74-11201 Filed 5-14-74;8:45 am]

[Docket Nos. 50-424—50-427]

GEORGIA POWER CO.

Health and Safety Hearing

Take notice that pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's regulations, and pursuant to the Commission's "Notice Of Hearing On Application For Construction Permits" dated April 26, 1973 (38 FR 10751, May 1, 1973), a public evidentiary hearing will be held before an Atomic Safety & Licensing Board (the Board) to consider the application of the Georgia Power Company (the Applicant) for construction permits for four pressurized water nuclear reactors, proposed to be built on the Applicant's property, near Waynesboro, Georgia, about 26 miles south-southeast of Augusta.

The evidentiary hearing will commence at 9:30 a.m. local time on Wednesday, May 29, 1974, and will continue from day-to-day until completed. The hearing will take place at:

City-County Municipal Building
Courtroom 603
530 Green Street
Augusta, Georgia 31902

The proposed nuclear plantsite is in Burke County, Georgia, and would be known as the Alvin W. Vogtle Nuclear Plant, Units 1, 2, 3 and 4. Each of the units is designed for initial operation at about 3411 megawatts thermal, with a net electrical output of 1100 megawatts.

The public hearing is in addition to the public hearing sessions already held in Waynesboro, Georgia on last April 16 (environmental portion of the construction permit proceeding) and in Bethesda, Maryland on May 9 (supplemental hearing on site suitability). The subject of the hearing now scheduled to start May 29 in Augusta will be the radiological health and safety issues set forth in the Commission's April 26, 1973 "Notice Of Hearing On Application For Construction Permits" (referred to in first paragraph above), specifically those set forth in the section entitled "Issues Pursuant to the Atomic Energy Act of 1954, as Amended."

Persons who have requested leave to make limited appearance statements, and who have not already done so at the April 16 or May 9 sessions, will be heard on the morning of May 29, 1974.

All interested members of the public are invited to attend the hearing.

It is so ordered.

For the Atomic Safety and Licensing Board.

Issued at Bethesda, Maryland this 10th day of May, 1974.

THOMAS W. REILLY,
Chairman.

[FR Doc.74-11200 Filed 5-14-74;8:45 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER AND LIGHT CO.

Proposed Issuance of Amendment to Facility Operating License

The Atomic Energy Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. DPR-16 which would authorize the Jersey Central Power & Light Company (the licensee) to operate the Oyster Creek Nuclear Generating Station Unit 1 (the facility) using four 8 x 8 fuel assemblies (containing U-235) and also would revise the provisions in the Technical Specifications relating to the limiting conditions for operation associated with fuel densification for the 8 x 8 fuel. The applicant is presently licensed to possess and operate its facility located in Lacey Township, Ocean County, New Jersey, at power levels up to 1930 MWt using a full core of 7 x 7 fuel assemblies (containing U-235).

The Commission has found that the application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Prior to issuance of the license amendment, the Commission's Directorate of Licensing will have (1) made the remainder of the findings required by the Act and the Commission's regulations and (2) completed a favorable Safety Evaluation on the application dated April 16, 1974.

On or before June 14, 1974, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required in 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by June 14, 1974. A copy of the petition and/or request should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For further details, see the application by Jersey Central Power and Light Company dated April 16, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ocean County Library, 15 Hooper Avenue, Toms River, New Jersey 08753. When the Safety Evaluation report to be prepared by the Directorate of Licensing on the application is available, it may be inspected at the above locations and a single copy may be obtained.

Single copies of the Safety Evaluation and proposed license amendment, when available, may be obtained by request to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

For the Atomic Energy Commission.

Dated at Bethesda, Maryland this 9th day of May 1974.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74-11199 Filed 5-14-74;8:45 am]

[Docket No. RM-50-2]

EFFLUENTS FROM LIGHT-WATER-COOLED NUCLEAR POWER REACTORS

Order Rescheduling Hearing

By previous order, the Commission determined to hear oral argument in this proceeding on May 21, 1974. Due to the press of other matters, the Commission has rescheduled the oral argument for June 6, 1974. The argument will commence at 10 a.m. at Commission Headquarters in Germantown, Maryland, and will be open to the public.

Each participant who has requested an opportunity to make a presentation will be allotted one hour. This time period shall include any questions which may be propounded by Commissioners and participants' responses thereto. No more than two persons may present argument for any single participant. Argument may be presented by counsel, by persons who testified on behalf of that participant during the proceedings, or by persons who qualified as technical interrogators during the proceedings. Participants may use all or any part of the time allotted, but may not yield any of their time to other participants.

The order of presentation shall be as follows:

AEC staff
Consolidated Utility Group
General Electric Company
State of Minnesota
Mr. Andrew Hull (limited participant)
Atomic Industrial Forum (limited participant)

It is anticipated that there will be at least one 15-minute recess during the morning session and another during the afternoon session. In addition, there will be a one-hour luncheon recess.

In view of the issuance of this order, no further notification from the Secretary concerning procedural details will be necessary.

It is so ordered.

By the Commission.

Dated at Germantown, Md., this 13th day of May 1974.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-11324 Filed 5-14-74;8:45 am]

U.S. NUCLEAR DATA COMMITTEE, BASIC SCIENCE SUBCOMMITTEE

Notice of Meeting Cancellation

MAY 13, 1974.

On April 24, 1974, 39 FR 14530, there was announced that a meeting of the Basic Science Subcommittee of the U.S. Nuclear Data Committee was scheduled for May 20, 1974, at the Lawrence Berkeley Laboratory, Berkeley, California. This meeting has been cancelled and will be rescheduled at a later date.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-11323 Filed 5-14-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 508]

ASSIGNMENT OF HEARINGS

MAY 10, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after May 15, 1974.

MC-F-12110, Arkansas-Best Freight System, Inc.—Purchase—Harry N. Nicklaus and Albert P. Nicklaus, now being assigned June 26, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-12113, Nationwide Carriers, Inc.—Purchase—Mabel Lynn Michael (Nevin H. Fiery, Executor), now being assigned July 8, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106644, Sub-165, Superior Trucking Company, Inc., now being assigned July 9, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128383 Sub-41, Pinto Trucking Service, Inc., now being assigned July 10, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128383 Sub-44, Pinto Trucking Service, Inc., now being assigned July 17, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 128383 Sub-45, Pinto Trucking Service, Inc., now being assigned July 24, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107012 Sub 182, North American Van Lines, Inc., now assigned June 19, 1974, at Seattle, Wash., is postponed indefinitely.

FF-C-52, Darrell J. Sekin & Company, Inc., and Regional International Services, Inc.—Investigation of Operations—now assigned May 20, 1974, at Dallas, Tex., is postponed indefinitely.

MC-125035 Sub 28, Ray E. Brown Trucking, Inc., application is dismissed.

MC 138926 Sub-2, Gencom, Inc., now assigned June 11, 1974, at Kansas City, Mo., is postponed indefinitely.

MC-C-8247, Eagle Trucking Company—Investigation and Revocation of Certificates—now assigned May 13, 1974, at Dallas, Tex., is postponed to May 20, 1974 (2 days), in Room 5A15-17 Federal Office Bldg., 1100 Commerce Street, Dallas, Texas.

I&S M 27312, Restructured Rates and Charges, Central States Territory, I&S M 27312 Sub 2, Restructured Rates and Charges, Indiana Motor Rate and Tariff Bureau, now assigned May 21, 1974, at Washington, D.C., is postponed to June 6, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-11211 Filed 5-14-74;8:45 am]

[No. AB-19 (Sub-No. 7)]

BALTIMORE AND PHILADELPHIA RAILROAD CO. AND BALTIMORE AND OHIO RAILROAD CO.

Proposed Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Delaware County, Pa., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished:

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 1st day of May 1974.

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By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[No. AB–19 (Sub-No. 7)]

THE BALTIMORE AND PHILADELPHIA RAILROAD COMPANY AND THE BALTIMORE AND OHIO RAILROAD COMPANY ABANDONMENT CRUM CREEK BRANCH, EDDYSTONE, DELAWARE COUNTY, PENNSYLVANIA

The Interstate Commerce Commission hereby gives notice that by order dated May 1, 1974, it has been determined that the proposed abandonment of the Crum Creek branch line of the Baltimore and Philadelphia Railroad Company and the Baltimore and Ohio Railroad Company, in Eddystone, Delaware County, Pa., a distance of 1.05 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that abandonment of this line will not have a significant impact on the environment because shippers no longer reply on rail service on this branch, and there has been no traffic moved over the line for over a year. Alternative rail transportation is located at both end points of the line. In addition, abandonment will facilitate the construction of Interstate Highway 95 in Delaware County. This action, therefore, is consistent with local and regional land use policies.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–343–6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C., 20423, on or before May 30, 1974.

[FR Doc.74–11214 Filed 5–14–74;8:45 am]

[Finance Docket No. 27546]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Proposed Acquisition and Operation of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Allamakee County, Iowa, within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 1st day of May, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[Finance Docket No. 27546]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY—ACQUIRE AND OPERATE—A LINE OF RAILROAD, POSTVILLE, ALLAMAKEE COUNTY, IOWA

The Interstate Commerce Commission hereby gives notice that by order dated May 1, 1974, it has been determined that the proposed acquisition by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of an industrial spur track in Postville, Allamakee County, Iowa, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things that, approval of this action will result in the reinstitution of rail service to one shipper in Postville, which lost rail service in 1973, when the Chicago, Rock Island and Pacific Railroad Company abandoned service to Postville. Accomplishment of this action will not require any new construction, nor will there be any effect on local land use plans or policies. Reinstitution of service to this shipper will result in the diversion of approximately 60 carloads of freight a year from motor carrier to rail transportation. This diversion should have a beneficial effect on the environment.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–343–6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 30, 1974.

[FR Doc.74–11215 Filed 5–14–74;8:45 am]

[Notice No. 17]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 10, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed on or before June 14, 1974.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC–2202 (Deviation No. 128), ROADWAY EXPRESS, INC., P.O. Box 471, Akron, Ohio 44309, filed May 2, 1974. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Muskogee, Okla., over State Highway 16 to junction of U.S. Highway 75, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Muskogee, Okla., over U.S. Highway 69 to junction U.S. Highway 266, thence over U.S. Highway 266 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction State Highway 16, and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–11209 Filed 5–14–74;8:45 am]

[Notice No. 80]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 4, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–75076. By order of May 9, 1974, the Motor Carrier Board approved the transfer to W. P. Lambert Transfer, Inc., Lancaster, S.C., of the operating rights in Certificate No. MC–107148 issued March 27, 1963, to W. P. Lambert, doing business as W. P. Lambert Transfer, Lancaster, S.C., authorizing the transportation of brick and household goods between Lancaster County, S.C., on the one hand, and, on the other, points in North Carolina. Ned Gregory, P.O. Drawer 967, Lancaster, S.C., 29720, attorney for applicants.

No. MC–FC–75107. By order of May 9, 1974, the Motor Carrier Board approved the transfer to Lorsbach Trucking, Inc., Hardin, Ill., of the operating rights in Certificate No. MC–95296 issued January 11, 1973, to Lucille C. Lorsbach, Hardin, Ill., authorizing the transportation of general commodities, with usual exceptions, over a regular route between St. Louis, Mo., and Jerseyville, Ill., and livestock, agricultural commodities, and household goods, serving points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone in connection with said regular-route operations; general commodities, from St. Louis, Mo., to Hardin, Ill., and livestock and fruit, from Hardin, Ill., and points in Calhoun County, Ill., within 15 miles, to St. Louis, Mo. Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701, attorney for applicants.

No. MC–FC–75131. By order of May 9, 1974, the Motor Carrier Board approved the transfer to A-Emergency Tow Service, Inc., Kansas City, Mo., of the operating rights in Certificate No. MC–116178 (Sub-No. 1), issued February 10, 1971, to David W. Dodson, doing business as A-Emergency Tow Service, Kansas City, Mo., authorizing the transportation of wrecked, damaged, or disabled motor vehicles and trailers, and replacement motor vehicles and trailers to points of wreck, damage, or disablement, by the use of towing equipment, between points in Iowa, Kansas, Nebraska, Oklahoma, and Missouri. Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105, attorney for applicants.

No. MC–FC–75135. By order of May 9, 1974, the Motor Carrier Board approved the transfer to R. L. Seasholtz, Inc., Pottstown, Pa., of the operating rights in Permit No. MC–22815 issued May 15, 1941 to Roy L. Seasholtz, Pottstown, Pa., authorizing the transportation of precast concrete products from Pottstown and Eddystone, Pa. to points in New Jersey and Delaware. Raymond A. Thistle, Jr., Four Penn Center Plaza, Philadelphia, Pa. 19103, attorney for applicants.

No. MC–FC–75140. By order of May 9, 1974, the Motor Carrier Board approved the transfer to Billy J. Elkins, West Terre Haute, Ind., of the operating rights in Certificate No. MC–117647 issued April 4, 1973, to George H. Germann, doing business as Germann Trucking Co., Mount Vernon, Ill., authorizing the transportation of various commodities from and to specified points and areas in Indiana, Illinois, Kentucky, Michigan, Ohio, Iowa and Wisconsin. Robert W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind., 46204, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–11210 Filed 5–14–74;8:45 am]

[No. AB–52]

NEW MEXICO CENTRAL RAILWAY CO. AND ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor;

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Torrance County, N. Mex., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 1st day of May 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[No. AB–52]

NEW MEXICO CENTRAL RAILWAY COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ABANDONMENT BETWEEN WILLARD AND CALVERT, TORRANCE COUNTY, NEW MEXICO

The Interstate Commerce Commission hereby gives notice that by order dated May 1, 1974, it has been determined that the proposed abandonment of the line of The New Mexico Central Railway Company and The Atchison, Topeka and Santa Fe Railway Company between Willard and Calvert, a distance of approximately 28 miles all in Torrance County, N. Mex., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that the environmental impacts are considered insignificant because there are no identifiable developmental plans in the area of the proposed abandonment predicated upon the availability of direct rail access. Further, the volume of traffic is minimal and declining, and alternative transportation is available over the surrounding highway system and at the trailer-on-flatcar facility located in Albuquerque, N. Mex.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–343–6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 30, 1974.

[FR Doc.74–11212 Filed 5–14–74;8:45 am]

[No. AB–10 (Sub-No. 5) and No. AB–2 (Sub-No. 6)]

NORFOLK AND WESTERN RAILWAY CO. AND LOUISVILLE AND NASHVILLE RAILROAD CO.

Abandonment of Lines

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in these proceedings, because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicants be, and they are hereby, directed to publish the appended notice in a newspaper of general circulation in Indianapolis, Ind., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 1st day of May, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[No. AB–10 (Sub-No. 5)]

NORFOLK AND WESTERN RAILWAY COMPANY ABANDONMENT OF PORTION OF MUNCIE DIVISION IN CITY OF INDIANAPOLIS, INDIANA

[No. AB–2 (Sub-No. 6)]

LOUISVILLE AND NASHVILLE RAILROAD COMPANY ABANDONMENT BETWEEN 17TH AND 10TH STREETS IN INDIANAPOLIS, MARION COUNTY, INDIANA

The Interstate Commerce Commission hereby gives notice that by order dated May 1, 1974, it has been determined that the proposed abandonments (1) by the Norfolk and Western Railroad Company of a line of

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railroad between East 10th and East 13th Streets, a distance of approximately 0.26 miles, and (2) by the Louisville and Nashville Railroad Company of a line of railroad between East 10th and East 17th Streets, a distance of approximately 3,500 feet, both in the City of Indianapolis, Ind., if approved by the Commission, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that the environmental effects are considered insignificent because no rail service has been provided over the Norfolk and Western Line since August, 1970, and there are no indentifiable prospects for a demand for service over the line in the forseeable future, and the sole shipper served by the Louisville and Nashville line will continue to have direct access to rail service over the Indianapolis Belt Railway. In addition, the abandonments are consistent with local land use plans in the involved area because they will eliminate the necessity of constructing a new railroad bridge in connection with the city's thoroughfare rehabilitation project.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission reoresentations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 30, 1974.

[FR Doc.74-11213 Filed 5-14-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 10, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 27, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-25798 (Sub-No. E29), filed May 2, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell, P.O. Box 1186, Auburndale, Fla. 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables products*, from Seabrook, N.J., to points in Florida, Georgia, and South Carolina. The purpose of this filing is to eliminate the gateway of Crozet, Va.

No. MC-30280 (Sub-No. E1), filed May 1, 1974. Applicant: WATKINS CAROLINA EXPRESS INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from those points in Georgia on and north of Interstate Highway 85 to those points in South Carolina on and north of a line beginning at the North Carolina-South Carolina State line thence along U.S. Highway 276 to junction South Carolina Highway 121, thence along South Carolina Highway 121 to junction U.S. Highway 76, thence along U.S. Highway 76 to junction South Carolina Highway 391, thence along South Carolina Highway 391 to Batesburg, thence along U.S. Highway 178 to junction U.S. Highway 78, thence along U.S. Highway 78 to Charleston. The purpose of this filing is to eliminate the gateway Greenville, S.C.

No. MC-30280 (Sub-No. E10), filed May 2, 1974. Applicant: WATKINS CAROLINA EXPRESS INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile products*, from those points in North Carolina west of a line beginning at the Tennesse-North Carolina State line, thence along U.S. Highway 321 to junction U.S. Highway 421, thence along U.S. Highway 421 to North Carolina Highway 115, thence along North Carolina Highway 115 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 52, thence along U.S. Highway 52 to the North Carolina-South Carolina State line, to New York, N.Y. The purpose of this filing is to eliminate the gateway of Gastonia, N.C.

No. MC-30280 (Sub-No. E11), filed May 2, 1974. Applicant: WATKINS CAROLINA EXPRESS INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile products*, from points in Georgia to those points in that part of Pennsylvania on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 22 to junction unnumbered highway (formerly portion U.S. Highway 22), thence along unnumbered highway through Upper Bern to junction U.S. Highway 22, thence along U.S. Highway 22 to Harrisburg, and thence along U.S. Highway 15 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Gastonia, N.C.

No. MC-30280 (Sub-No. E12), filed May 2, 1974. Applicant: WATKINS CAROLINA EXPRESS, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Norfolk, Va., to Burlington, Thomasville, Winston-Salem, Yanceyville, and High Point, N.C., and those points in that Part of North Carolina on and west of U.S. Highway 29 and within 30 miles of Danville, Va. The purpose of this filing is to eliminate the gateway of Danville, Va.

No. MC 55777 (Sub-No. E1), filed April 4, 1974. Applicant: MILLS TRANSFER CO., 47 Sycamore Street, Gallipolis, Ohio 45631. Applicant's representative: John M. Friedman, 2930 Potnam Ave., Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, (1) from points in that part of Pennsylvania on and east of U.S. Highway 15, and points on West Virginia to points in Illinois, Indiana (except South Bend), Kentucky, and Tennessee (except Johnson City), and (2) from points in Ohio on and north of U.S. Highway 40, and on and east of U.S. Highway 23, to points in Tennessee. The purpose of this filing is to eliminate the gateway of Wellston, Ohio.

No. MC-76177 (Sub-No. E22), filed April 24, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair, 2 South 32nd Street, Birmingham, Ala. 35233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives* and *blasting supplies*, between points in Alabama, Florida, and Mississippi, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of points within 15 miles of both Energy and Wolf Lake, Ill.

No. MC-95540 (Sub-No. E46), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clvde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Florida on and east of a line beginning at the Georgia-Florida State line, thence south along U.S. Highway 319 to Medart, thence along Highway 98 to Teresa on the Gulf of Mexico, to points in Alabama on and north of a line beginning at the Georgia-Alabama State line, thence west along Alabama Highway 22 to Newsite, thence along Alabama Secondary Highway 86 to Goodwater, thence along U.S. 280 to Birmingham, thence along U.S. Highway 78 to Guin, thence along U.S. Highway 278 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E47), filed April 15, 1974. Applicant: WATKINS MOTOR LINES. INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to the District of Columbia. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E58), filed April 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Delaware. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E85), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California on and south of the line beginning at Jenner on the Pacific Ocean, thence along California Highway 116 to Santa Rosa, thence along California Highway 12 to Lodi, thence along California Highway 88 to the California-Nevada State line, to points in Pennsylvania on, east, and south of a line beginning at the Pennsylvania-Maryland State line, thence north along Pennsylvania Highway 10 to Reading, thence along Pennsylvania Highway 61 to its junction with U.S. Highway 22, thence along U.S. Highway 22 to the Delaware River. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E89), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30342. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Birmingham, Ala., to points in Florida on and east of a line beginning at the Florida-Georgia State line, thence along U.S. Highway 319 to its junction with Florida Highway 369, thence along Florida Highway 369 to Crawfordsville, thence along U.S. Highway 319 to Medart, thence along U.S. Highway 98 to St. Teresa on the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E117), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212. 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from points in California, to points in Rhode Island. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E119), filed April 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from points in California on and south of Interstate Highway 8 to points in New York. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E122), filed April 22, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats, and frozen meat products*, from Jacksonville, Fla., to points in Nevada. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and points in Tennessee.

No. MC-95540 (Sub-No. E123), filed April 22, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles) from Cincinnati, Ohio, to points in Florida. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E124), filed April 22, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats and frozen meat products*, from Dade City, Fla., to points in Washington. The purpose of this filing is to eliminate the gateway of Tifton, Ga., and points in Tennessee.

No. MC-95540 (Sub-No. E125), filed April 22, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Elmira, N.Y., to points in Florida. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E180), filed April 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Dade City, Fla., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC-95540 (Sub-No. E184), filed April 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Tampa and Jacksonville, Fla., to points in Oregon. The purpose of this filing is to eliminate the gateway of Gulfport, Mississippi.

No. MC-100666 (Sub-No. E4) (CORRECTION)', filed March 25, 1974, published in the FEDERAL REGISTER April 23, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). In No. MC-100666 (Sub-No. E4); (2) *Composition boards, and materials, supplies, and accessories* incidental to the installation thereof, from the plant site of the Celotex Corporation at Marrero, La., to points in California, Idaho, Montana, Nevada, Oregon, Utah, Washing-

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ton, and points in Arizona on, north, and west of U.S. Highway 160 from the Arizona-Colorado State line to junction U.S. Highway 89; thence along U.S. Highway 89 to Flagstaff; thence along Alternate U.S. Highway 89 to Prescott; thence along U.S. Highway 89 to junction U.S. Highway 60; thence along U.S. Highway 60 to junction I–10; thence along I–10 to Arizona-California State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Kans. The purpose of this correction is to set forth the proper route description.

No. MC–100666 (Sub-No. E55), filed April 23, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May, P.O. Box 7666, Shreveport, La. 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compound joint sealer, bonding cement, and accessories* used in the installation of such products (except commodities in bulk), from Waco, Tex., to points in North Carolina. The purpose of this filing is to eliminate the gateway of the plant site of Smith Plastics, Inc., at Little Rock, Ark.

No. MC–105457 (Sub-No. E2), filed May 1, 1974. Applicant: THURSTON MOTOR LINES, INC., P.O. Box 10638, Charlotte, N.C. 28201. Applicant's representative: John V. Luckadoo (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Russell County, Ala., on the one hand, and, on the other, points in South Carolina, and (B) *General commodities* (with exceptions as specified in (A) above, and except livestock and commodities injurious or contaminating to other lading), between points in Russell County, Ala., on the one hand, and on the other, (1) points in that part of North Carolina east of U.S. Highway 29 and Winston-Salem, N.C., and (2) those points in Virginia on and east of a line beginning at the Kentucky-Virginia State Line along U.S. Highway 460 to Oakwood, Va., thence along Virginia Highway 621 to Honaker, Va., thence along Virginia Highway 80 to junction Virginia Highway 740, thence along Virginia Highway 740 to junction U.S. Highway 58, thence along U.S. Highway 58 to Damascus, Va., thence along Virginia Highway 133 to the Virginia-North Carolina State Line. The purpose of this filing is to eliminate the gateways of (1) Columbus, Ga., (2) any point in Georgia. (3) any point in that part of South Carolina within 150 miles of Charlotte, N.C., and west of a line extending from the North Carolina-South Carolina State Line along South Carolina Highway 59 to York, thence along U.S. Highway 321 to Chester, thence along U.S. Highway 21 to Columbia, and thence along South Carolina Highway 5 to Ulmers, not including points on the highways specified. (4) Charlotte, N.C., and (5) Roanoke Rapids, N.C.

No. MC–105457 (Sub-No. E6), filed May 1, 1974. Applicant: THURSTON MOTOR LINES, INC., P.O. Box 10638, Charlotte, N.C. 28201. Applicant's representative: John V. Luckadoo (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (A) between Columbia, Tenn., on the one hand, and, on the other, points in that part of Georgia on and east of a line beginning at the Georgia-North Carolina State line, thence along U.S. Highway 23 to Dillard, thence along an unnumbered Highway through Titus, Ga., to U.S. Highway 76, thence along U.S. Highway 76 to junction Georgia Highway 197, thence along Georgia Highway 197 to junction Georgia Highway 255, thence along Georgia Highway 255 to Sautee, thence along Georgia Highway 17 to Clarkesville, thence along Georgia Highway 15 to junction Georgia Highway 98 at or near Homer, thence along Georgia Highway 98 to Maysville, thence along Georgia Highway 82 to junction Georgia Highway 330, thence along Georgia Highway 330 to junction Georgia Highway 211, thence along Georgia Highway 211 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Georgia Highway 209 at or near Bogart, thence along Georgia Highway 209 to junction Georgia Highway 186, thence along Georgia Highway 186 to Bishop, thence along U.S. Highway 441, to Pearson, thence along U.S. Highway 221 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Georgia-Florida State Line; (B) between Cookeville, Tenn., on the one hand, and, on the other, points in that part of Georgia on and east of a line beginning at the Georgia-North Carolina State Line, thence along U.S. Highway 441 to junction Georgia Highway 98 at or near Homer, thence along Georgia Highway 98 to junction Georgia Highway 82, thence along Georgia Highway 82 to Jefferson, thence along Georgia Highway 11 to Gray, thence along Georgia Highway 18 to junction Georgia Highway 57, thence along Georgia Highway 57 to Irwinton, thence along U.S. Highway 441 to Braxton, thence along Georgia Highway 268 to junction Georgia Highway 149, thence along Georgia Highway 149 to junction Georgia Highway 135 at or near Willacoochee, thence along Georgia Highway 135 to junction Georgia Highway 76 to Nashville, thence along Georgia Highway 125 to Valdosta, thence along Georgia Highway 31 to the Florida-Georgia State Line;

(C) Between Murfreesboro, Tenn., on the one hand, and, on the other, points in that part of Georgia on and east of a line beginning at the Georgia-North Carolina State Line, thence along U.S. Highway 441 to junction Georgia Highway 98, thence along Georgia Highway 98 to Commerce, thence along U.S. Highway 441 to Pearson, thence along U.S. Highway 221 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Georgia-Florida State Line; and (D) between Nashville, Tenn., on the one hand, and, on the other, points in that part of Georgia on and east of a line beginning at the Georgia-North Carolina State Line, thence along U.S. Highway 23 to Dillard, thence along an unnumbered Highway through Titus, to U.S. Highway 76, thence along U.S. Highway 76 to junction Georgia Highway 197, thence along Georgia Highway 197 to junction Georgia Highway 225, thence along Georgia Highway 225 to Sautee, thence along Georgia Highway 17 to Clarkesville, thence along U.S. Highway 23 to junction Georgia Highway 15 at or near Baldwin, thence along Georgia Highway 15 to Homer, thence along Georgia Highway 98 to Maysville, thence along Georgia Highway 82 to Jefferson, thence along Georgia Highway 11 to junction Georgia Highway 142, thence along Georgia Highway 142 to Willard, thence along Georgia Highway 16 to Eatonton, thence along U.S. Highway 441 to Pearson, thence along U.S. Highway 221 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Georgia-Florida State Line. The purpose of this filing is to eliminate the gateway of points in South Carolina.

No. MC–106647 (Sub-No. E3), filed May 2, 1974. Applicant: CLARK TRANSPORT CO., INC., 13101 S. Torrence Ave., the gateway of Cedartown, Ga.; (B) Chicago, Ill. 60633. Applicant's representative: Edward E. Colt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, chassis*, and *cabs*, in secondary movements, in truckway service, from Detroit, Mich., and points in Illinois, Indiana, Iowa, Maryland, Ohio, Pennsylvania, and the District of Columbia, to points in South Dakota. The purpose of this filing is to eliminate the gateways of Chicago, Chicago Heights, Ill., or Clinton, Iowa.

No. MC–107002 (Sub-No. E1), filed April 15, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Liquid chemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from the plant site and facilities of Tenneco Chemicals, Inc., at Pensacola and Telogia, Fla., and Bay Minette, Ala., to points in Minnesota, restricted against the transportation of petroleum products from Pensacola, Fla. The purpose of this filing is to eliminate *Liquid chemicals*, in bulk, in tank vehicles, from the plant site and facilities of Tenneco Chemicals, Inc., at Pensacola and Telogia, Fla., and Bay Minette, Ala., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Hattiesburg, Miss.

No. MC–111375 (Sub-No. E2), filed April 5, 1974. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *cheese*, from Chicago, Ill., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Purpose of this filing is to eliminate the gateway of points in that part of Wisconsin south and west of a line beginning at the Wisconsin-Iowa State line near Prairie du Chien, Wis., thence over U.S. Highway 18 to the junction of U.S. Highway 12, thence over U.S. Highway 12 to the Wisconsin-Illinois State line. (b) *frozen fruits and vegetables*, from points in California to points in that part of Wisconsin south and west of a line beginning at the Wisconsin-Minnesota State line near La Crosse, Wis., thence over U.S. Highway 16 to the junction of U.S. Highway 12, thence over U.S. Highway 12 to the Wisconsin-Illinois State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–111375 (Sub-No. E3), filed April 5, 1974. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, Wis. 53704. Applicant's representative: Charles E. Dye (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Powdered milk*, when moving in the same vehicle and at the same time with a commodity subject to economic regulation under the Interstate Commerce Act, from Chicago, Ill., to Phoenix, Ariz., Portland, Oreg., Spokane, Wash., and points in California, Montana, and Wyoming. The purpose of this filing is to eliminate the gateway of points within the Eau Claire, Wis., Commercial Zone as defined by the Commission which are not within the municipal limits of Eau Claire and are located south and west of U.S. Highway 12.

(B) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C 209 and 766, from Chicago, Ill., to Los Angeles, San Francisco, and San Diego, Calif. The purpose of this filing is to eliminate the gateway of points within the Madison, Wis., Commercial Zone, as defined by the Commission, which are not within the municipal limits of Madison and are south and west of U.S. Highway 12.

(C) *Powdered milk*, when moving in the same vehicle and at the same time with a commodity subject to economic regulation under the Interstate Commerce Act, *powdered milk*, containing animal or vegetable fats ingredients, *canned creams dietary liquids, milk and cream substitutes, dessert preparations, and beverage preparations*, from Chicago, Ill., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of points within the Menomonie, Wis., Commercial Zone as defined by the Commission, which are not within the municipal limits of Menomonie, and are south and west of U.S. Highway 12.

(D) (1) *Powdered milk* when moving in the same vehicle and at the same time with a commodity subject to economic regulation under the Interstate Commerce Act (otherwise authorized), and (2) *Powdered milk*, containing animal or vegetable ingredients, *canned milk and cream dietary liquids, milk and cream substitutes, beverage and dessert preparations and ingredients thereof, and shortening* (except in D (1) and (2) commodities in bulk), from Chicago, Ill., to points in Washington, Oregon, Montana, Utah, Idaho, California, Colorado, Arizona, Nevada, New Mexico, and Wyoming. The purpose of this filing is to eliminate the gateway of points within the Madison, Wis., Commercial Zone, as defined by the Commission, which are not within the municipal limits of Madison, and are south and west of U.S. Highway 12.

(E) *Pickles, sauerkraut, and horseradish*, from Chicago, Ill., to points in Arizona. The purpose of this filing is to eliminate the gateway of points within the Eau Claire, Wis., Commercial Zone, as defined by the Commission, which are not within the municipal limits of Eau Claire and are south and west of U.S. Highway 12.

(F) (1) *Foodstuffs* (except fresh meat), and (2) *fresh meat* when moving in mixed loads with the commodities in F(1) above, from Chicago, Ill., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of points within the Fort Atkinson, Wis., Commercial Zone which are not within the municipal limits of Fort Atkinson, and are south and west of U.S. Highway 12.

No. MC–111625 (Sub-No. E1), filed April 22, 1974. Applicant: BERMAN'S MOTOR EXPRESS INC., P.O. Box 1566, Binghamton, N.Y. 13902. Applicant's representative: J. Edward Derrick (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except those requiring special equipment), from Elmira, N.Y., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut. The purpose of this filing is to eliminate the gateway of points in Broome County, N.Y.

No. MC–112822 (Sub-No. E27), filed April 28, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in packages and containers, from Wichita, Kans., to points in Arizona and New Mexico. The purpose of this filing is to eliminate the gateway of Enid and Ponca City, Okla.

No. MC–112822 (Sub-No. E28), filed April 28, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Oklahoma 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in packages and containers, from El Dorado, Kans., to points in Arizona and New Mexico. The purpose of this filing is to eliminate the gateway of Enid and Ponca City, Okla.

No. MC–113362 (Sub-No. E3), filed May 2, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Melton D. Adams, P.O. Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from Houston, Tex., to points in Minnesota, except Minneapolis, Minn. The purpose of this filing is to eliminate the gateway of points in Iowa within 15 miles of Elmore, Minn.

No. MC–113843 (Sub-No. E2), filed April 29, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Massachusetts 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as defined by the Commission from the plantsite and storage facilities utilized by Wilson & Co., Inc., at or near Cherokee, Iowa, to Richmond, Va. The purpose of this filing is to eliminate the gateway of Rochester, N.Y.

No. MC–114019 (Sub-No. E17), filed May 1, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik, 7000 South Pulaski Road, Chicago, Ill. 60629. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in Section B of the Appendix to *Modification of Permits—Packing House Products*, 46 M.C.C. 23, from points in Wisconsin and Iowa to Philadelphia, Pa., Wilmington, Del., Baltimore, Md., and Washington, D.C., restricted to the transportation of shipments moving from, to, or between warehouses, and wholesale, retail, or chain outlets of food business houses, or when moving from, to, or between food processing plants, or warehouses or other facilities of such plants. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–114045 (Sub-No. E10), filed May 3, 1974. Applicant: TRANS-COLD

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EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dessert and bakery goods toppings, frozen sauces*, and *frozen ingredients* for sauces, salad dressings, soup mixes, and soft drinks, from Wilmington and Dover, Del., to points in Arkansas. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC–114045 (Sub-No. E11), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pies* and *frozen baking products*, from Houston, Del., to points in Colorado, New Mexico, California, Oregon, Washington, Nevada, Arizona, and Utah. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC–114045 (Sub-No. E12), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dessert and bakery goods toppings, frozen sauces*, and *frozen ingredients* for sauces, salad dressings, soup mixes, and soft drinks, from Wilmington and Dover, Del., to New Orleans and Shreveport La. The purpose of this filing is to eliminate the gateway of Louisville, Ky.

No. MC–114045 (Sub-No. E13), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pies* and *frozen bakery products*, from Hartford, Norwalk, and Wethersfield, Conn., to points in Colorado, New Mexico, California, Oregon, Washington, Nevada, Arizona, and Utah. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC–114045 (Sub-No. E14), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen poultry*, including boned or boned and stuffed poultry, from Pomfret Center, Conn., to points in Arizona and California. The purpose of this filing is to eliminate the gateway of Wapakoneta, Ohio.

No. MC–114045 (Sub-No. E17), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen vegetables, and frozen berries, and frozen fish, and frozen poultry* when moving in the same vehicle with frozen fruits, vegetables and berries, from points in California to points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–114045 (Sub-No. E19), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery goods toppings*, from Wilmington and Dover, Del., to points in California, Oregon, Washington, Nevada, and Utah. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC–114045 (Sub-No. E20), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from points in California to points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–114045 (Sub-No. E21), filed May 3, 1974. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen juices and juice concentrates*, from Ventura, Anaheim, and Corona, Calif., to points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and West Virginia, restricted against the transportation of the above-specified commodities unless they are transported in mixed loads with frozen vegetables, frozen fruits, and frozen berries, or with frozen fish and frozen poultry when moving in the same vehicle with frozen fruits, frozen vegetables, and frozen berries. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–115840 (Sub-No. E1), filed April 15, 1974. Applicant: COLONIAL FAST FREIGHT, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, as encompassed by iron and steel mill products (except commodities used in or in connection with discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), from points in Florida east of U.S. Highway 331 and points in Georgia to points in Arkansas and Oklahoma. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC–115840 (Sub-No. E2), filed April 15, 1974. Applicant: COLONIAL FAST FREIGHT, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, the transportation of which because of their size or weight require the use of special equipment (except commodities used in or in connection with discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), from points in Florida east of U.S. Highway 331 and points in Georgia to points in Arkansas and Oklahoma. The purpose of this filing is to eliminate the gateway of Birmingham, Ala.

No. MC–117119 (Sub-No. E14), filed April 30, 1974. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kans., to points in Ohio, New York, Pennsylvania, New Jersey, Connecticut, Indiana, Massachusetts, West Virginia, Maryland, Delaware, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Quincy, Ill.

No. MC–127042 (Sub-No. E3), filed April 14, 1974. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk). from the plant site of and storage facilities utilized by Bird Provision Company at or near Pekin, Ill., to points in Idaho and Montana, and points in Baker and Malheur Counties, Oreg. The purpose of this filing is to eliminate the gateway of Omaha, Nebr.

No. MC–127042 (Sub-No. E6), filed April 14, 1974. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plant site and storage facilities of Blue Ribbon Beef Packing, Inc., near Le Mars, Iowa, to points in Montana. The purpose of this filing is to eliminate the gateway of West Point, Nebr.

No. MC–127042 (Sub-No. E9), filed April 14, 1974. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from West Point, Nebr., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Hospers, Iowa.

No. MC–128273 (Sub-No. E1), filed May 2, 1974. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* (A) from Savannah, Ga., and the facilities of Union Camp Corp., in Autauga County, Ga., to Chicago, Ill.; (B) from Lock Haven, Pa., to Mobile, Ala.; (C) from Franklin, Va., to those points in Tennessee on and west of U.S. Highway 45 and 45E; (D) from Memphis, Tenn., to points in Indiana, Illinois, Michigan, Wisconsin, Minnesota, Pennsylvania, New York, New Jersey, Delaware, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, and West Virginia, restricted to the transportation of traffic originating at the facilities of Kimberly-Clark Corporation at Memphis, Tenn.; and (E) from Mobile, Ala., and Moss Point, Miss., to points in Michigan, Minnesota, and Wisconsin; and (2) *paper*, from points in Talladega County, Ala., to points in Michigan, Minnesota, and Wisconsin. The purpose of this filing is to eliminate the gateway of Wickliffe, Ky.

No. MC–128383 (Sub-No. E44), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and automobiles), between John F. Kennedy International Airport, New York, N.Y., and Bradley International Airport, Hartford County, Conn., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Tweed-New Haven Airport, New Haven County, Conn.

No. MC–128383 (Sub-No. E49), filed May 1, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: General commodities (except commodities in bulk and automobiles), between John F. Kennedy International Airport, New York, N.Y., and Oneida County Airport, Oneida County, N.Y., restricted to the transportation of traffic having a prior or subsequent movement by air. The purpose of this filing is to eliminate the gateway of Schenectady County Airport, Schenectady County, N.Y.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74–11207 Filed 5–14–74;8:45 am]

[Notice No. 39]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 10, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 6607 (Sub-No. 12) (CORRECTION OF A REPUBLICATION), filed May 11, 1973, and published in the FEDERAL REGISTER issues of July 12, 1973, and May 5, 1974, and in third publication this issue. Applicant: J. J. MINNEHAN, INC., P.O. Box 433, Scarborough, Maine 04074. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, Mass. 01960. An order of the Commission, Operating Rights Board, dated April 10, 1974, and served April 23, 1974, finds, that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *corn products and blends of corn products with other sweeteners*, from Boston, Mass., to points in (a) New Hampshire, Vermont, and Rhode Island, (b) that part of Maine bounded by a line beginning at the junction of U.S. Highway 2 and the Maine State-New Hampshire-line and extending in any easterly direction along U.S. Highway 2 to Norridgewock, Maine, thence in a northerly direction along Alternate U.S. Highway 201 to junction U.S. Highway 201, thence along U.S. Highway 201 to Bingham, Maine, thence in a easterly direction along Maine Highway 16 through Milo and La Grange, Maine, to junction Maine Highway 43, thence along the western shore of the Penobscot River and Penobscot Bay to Atlantic Ocean to the Maine-New Hampshire State Line, and thence along the Maine-New Hampshire State Line to the point of beginning, and (c) that part of Connecticut on and east of a line beginning at the junction of Connecticut Highway 159 and the Connecticut-Massachusetts State Line and extending in a southerly direction along Connecticut Highway 159 to Hartford, Conn., thence in a southerly direction along Interstate Highway 91 to the junction of Interstate Highway 91 and U.S. Highway 5 thence in a southerly direction along U.S. Highway 5 to New Haven, Conn., including points on the above-described boundary lines, under a continuing contract or contracts with Amstar Corporation, of New York, N.Y., and Revere Sugar Refinery of Charlestown, Mass., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder.

The purpose of this correction is to more clearly indicate the authority granted. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 124251 (Sub-No. 33) (REPUBLICATION), filed November 12, 1973, and published in the FEDERAL REGISTER issue of December 20, 1973, and republished this issue. Applicant: JACK JORDAN, INCORPORATED, P.O. Box 689, Dalton, Ga. 30702. Applicant's representative: Archie B. Culbreth, 1252 West Peachtree St. NW., Suite 246, Atlanta, Ga. 30309. An Order of the Commission, Operating Rights Board, dated April 18, 1974, and served May 3, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of *Hydrated and calcined alumina*, dry, in bulk, from points

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in Murray County, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to clarify the commodity description. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129427 (Sub-No. 4) (REPUBLICATION), filed August 21, 1973, and published in the FEDERAL REGISTER issue of October 31, 1973, and republished this issue. Applicant: JOSEPH GEORGIANA, 26 Lafayette Street, Somerset, N.J. 08873. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. An Order of the Commission, Operating Rights Board, dated April 8, 1974, and served April 29, 1974, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *cigar boxes, books, book and record slip cases, records, record albums, corrugated containers, and pulpboard and pulpboard boxes*, between New Brunswick and Bloomfield, N.J., on the one hand, and, on the other, New Berlin, Wis., Kingsport, Tenn., and Winchester, Va., under continuing contracts with Alexander Ungar, Inc., and Harry F. Ungar Corp., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to show the addition of books as a commodity to be transported. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133363 (Sub-No. 3) (REPUBLICATION), filed September 12, 1972, and published in the FEDERAL REGISTER issue of October 5, 1972, and republished this issue. Applicant: WILLIAM T. HARRIS and THEATRIS HARRIS, a Partnership, doing business as HARRIS BROS. CO., 1317–1325 South 49th Street, Philadelphia, Pa. 19134. Applicant's representative: Morris J. Levin, 1620 I Street NW., Washington, D.C. 20006. A Decision and Order of the Commission, Division 1, dated April 8, 1974, and served April 16, 1974, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *stereo equipment, radios, sewing machines, and cabinets, parts and materials* therefor, (a) from Savannah, Ga., New York, N.Y., Los Angeles, Calif., Seattle, Wash., and Philadelphia, Pa., to the facilities of Morse Electro Products Corp., at Atlanta, Ga., New York, N.Y., Framingham, Mass., Chicago, Ill., Kent, Wash., Pacoima, Calif., and Dallas, Tex., restricted to the transportation of traffic having an immediately prior movement by water in foreign commerce, and (b) between the facilities of Morse Electro Products Corp., at Atlanta, Ga., New York, N.Y., Framingham, Mass., Chicago, Ill., Kent, Wash., Pacoima, Calif., Dallas, Tex., Lenexa, Kans., Taylor, Mich., Jessup, Md., Solon, Ohio, and King of Prussia, Pa., (2) *cabinets for stereo equipment, radios, and sewing machines*, from Birmingham, Ala., and Memphis and Nashville, Tenn., to the facilities of Morse Electro Products Corp. at Atlanta, Ga., New York, N.Y., Framingham, Mass., Chicago, Ill., Kent, Wash., Pacoima, Calif., and Dallas, Tex., and (3) *parts and materials for stereo equipment, radios, and sewing machines*, from Miami and Jacksonville, Fla., to the facilities of Morse Electro Products, Corp., at Atlanta, Ga., New York, N.Y., Framingham, Mass., Chicago, Ill., Kent, Wash., Pacoima, Calif., and Dallas, Tex.. under a continuing contract with Morse Electro Products Corp., of Brooklyn, N.Y.

The purpose of this republication is to show that the shipper's Massachusetts facilities are located in Framingham rather than Boston, Mass. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 2253 (Sub-No. 40) (NOTICE OF FILING OF PETITION TO ELIMINATE AN OFF ROUTE POINT SERVICE RESTRICTION), filed April 19, 1974. Petitioner: CAROLINA FREIGHT CARRIERS CORPORATION, Highway 150 East, P.O. Box 697, Cherryville, N.C. 28021. Petitioner's representative: W. C. Mauldin (same address as petitioner). Petitioner holds a motor common carrier certificate in No. MC 2253 (Sub-No. 40), issued February 27, 1970, authorizing transportation, over regular routes, of *General commodities* (except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kings Mountain, N.C., and New York, N.Y., serving the intermediate points of Gastonia, Belmont, Charlotte, Concord, Albemarle, China Grove, Salisbury, Thomasville, Lexington, High Point, Greensboro, Burlington, Durham, Oxford, Troy, Biscoe, Carthage, Sanford, Raleigh, Franklinton, Henderson, and Kannapolis, N.C., Richmond, Va., Baltimore and Havre de Grace, Md., Wilmington, Del., Chester and Philadelphia, Pa., and Trenton and Newark, N.J.; and the off-route points of Lincolnton, Hickory, Maiden, Newton, Mt. Holly, Statesville, Winston-Salem, Reidsville, and Chapel Hill, N.C., York, Norristown, West Chester, and Pittsburgh, Pa., Camden, Stanton, Bridgeton, Paterson, Bayonne, Jersey City, Perth Amboy, and Hoboken, N.J., Canden, Wyoming, and Houston, Del., Danville, Lynchburg, and Newport News, Va., and Salisbury and Cumberland, Md.; (a) from Kings Mountain over U.S. Highway 29 via Salisbury, N.C., to Greensboro, N.C. (also from junction U.S. Highway 29 and Alternate U.S. Highway 29 near Concord, N.C., over Alternate U.S. Highway 29 to Junction U.S. Highway 29 near China Grove, N.C., and thence over U.S. Highway 29 to Salisbury), thence over U.S. Highway 70 to Durham, N.C., thence over U.S. Highway 15 to Oxford, N.C., thence over U.S. Highway 158 to Henderson, N.C., thence over U.S. Highway 1 to Baltimore, Md., thence over U.S. Highway 40 to junction U.S. Highway 13, thence over U.S. Highway 13 to Philadelphia, Pa., thence over U.S. Highway 1 to New York, and return over the same routes; and (b) from Kings Mountain over U.S. Highway 29 to Charlotte, N.C., thence over North Carolina Highway 27 to Carthage, N.C., thence over U.S. Highway 15 to junction U.S. Highway 1, thence over U.S. Highway 1 to Henderson, N.C., thence to New York as specified above, and return over the same route; and (2) between Charlotte, N.C., and New York, N.Y., serving the intermediate and off-route points of Rocky Mount, Tarboro, Aberdeen, Fayetteville, New Bern, Wilson, Greenville, Goldsboro, and Elizabeth City, N.C., Suffolk, Portsmouth, and Norfolk, Va., and Dover, Del.; from Charlotte over North Carolina Highway 27 to Carthage, N.C., thence over U.S. Highway 15 to junction U.S. Highway 1, thence over U.S. Highway 1 to Raleigh, N.C., thence over U.S. Highway 64 to Tarboro, N.C., thence over U.S. Highway 258 to Franklin, Va., thence over U.S. Highway 58 to Norfolk, Va., thence across the Chesapeake Bay to Cape Charles, Va., thence over U.S. Highway 13 to Chester, Pa., thence across the Delaware River to junction unnumbered highway, thence over unnumbered highway to junction U.S. Highway 130, thence over U.S. Highway 130 to junction U.S. Highway 206, thence over U.S. Highway 206 to Trenton, N.J., thence over U.S. Highway 1 to New York, and return over the same route. By the instant petition petitioner seeks to eliminate the off-route points of Pittsburgh, Pa., from the above quoted restriction. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 119738 (Sub-No. 1) (NOTICE OF FILING OF PETITION TO MODIFY A COMMODITY DESCRIPTION), filed April 29, 1974. Petitioner: HAGGARD HEAVY HAULING, INC., 2100 Guinotte, Kansas City, Kans. 64102. Petitioner's representative: Louis J. Amato, 1301 Ambassador Building, St. Louis, Mo. 63101. Petitioner holds a motor *common carrier* certificate in No. MC 119738 (Sub-No. 1), issued September 27, 1973, authorizing, as pertinent, transportation, over irregular routes, *of heavy machinery and construction materials*, between points in Missouri and Kansas. By the instant petition, petitioner seeks to modify its commodity description to read: "heavy machinery, construction materials, and commodities, the transportation of which because of size or weight require the use of special equipment and related articles and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 C.F.R. 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE.

No. MC 112107 (Sub-No. 9) (CORRECTION), filed March 6, 1974, published in the FEDERAL REGISTER issue of April 24, 1974, and republished as corrected this issue. Applicant: NEW ENGLAND MOTOR FREIGHT, INC., 520 Main Street, Wallington, N.Y. 07057. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Connecticut as off-route points in connection with carrier's regular routes between Paterson, N.J., and Providence, R.I. (also between New London, Conn., and Providence, R.I.).

NOTE.—The purpose of this republication is to correct MC–F–12163 in lieu of MC–12163 which was previously published incorrectly. The purpose of this application is to convert the Certificate of Registration issued to Reliable Warehouse Company in MC–99328 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 proceeding in MC–F–12163 published in the FEDERAL REGISTER issue of March 20, 1974. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC–F–11775. (Supplemental) (J. V. McNICHOLAS TRANSFER COMPANY—CONTROL—TOM'S EXPRESS, INC.), published in the January 24, 1973, issue of the FEDERAL REGISTER on pages 2368 and 2369. The merger of Tom's Express, Inc., of Weirton, W. Va., into J. V. McNicholas Transfer Company, of Youngstown, Ohio, subject to the present republication, was authorized by order of the Commission, Appellate Division 3, dated March 21, 1974, which modified the order of the Commission, Review Board 5, dated December 17, 1973, authorizing the acquisition by J. V. McNicholas of control of Tom's Express, Inc., through the purchase of all of Tom's stock for $1,000,000. The Division, in the same order, also authorized the acquisition by Henry J. McNicholas, of control of the operating rights and property of Tom's through the merger. The Interstate operating rights of Tom's Express, Inc., to be merged into J. V. McNicholas Transfer Company are those described in certificates issued in Nos. MC–10788, MC–10788 (Sub-Nos. 3 and 4), to the extent described in the order of December 17, 1973.

No. MC–F–12185 (Correction) (McLEAN TRUCKING COMPANY—CONTROL—SOUTH TEXAS MOTOR LINES, INC.), published in the April 17, 1974, issue of the FEDERAL REGISTER on page 13828. Prior notice should be modified to read: McLEAN TRUCKING COMPANY—CONTROL AND MERGER—SOUTH TEXAS MOTOR LINES, INC., and to include applicant's attorneys: Francis W. McInerny, and Harry J. Jordan, both of 1000 Sixteenth St. NW., Washington, D.C. 20036.

No. MC–F–12210: Authority sought for purchase by (A) JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, of a portion of the operating rights of JOHN L. KERR AND G. O. KERR, JR., doing business as SHIPPERS EXPRESS, 1651 Kerr Drive, Jackson, MS 39204, and (B) JOHN L. KERR AND G. O. KERR, JR., doing business as SHIPPERS EXPRESS, purchase a portion of the operating rights of JONES TRUCK LINES, INC., and for acquisition by HARVEY JONES, also of Springdale, Ark. 72764, of control of such rights through the purchase. Applicant's attorney: A. Alvis Layne, 915 Pennsylvania Bldg., Washington, D.C. 20004. Operating rights sought to be transferred: (A) *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between Jackson, Miss., on the one hand, and, on the other, points in that part of Mississippi on and south of Mississippi Highway 4, on and west of Interstate Highway 55, and on and north of Mississippi Highway 8, except points on U.S. Highway 51 and points in their commercial zones; and (B) General commodities, except those of unusual value, Classes A and B explosives, liquid commodities in bulk, and household goods as defined by the Commission, over regular routes, between Memphis, Tenn., and Winona, Miss., serving all intermediate points, with restriction. (A) Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii), and (B) Vendee is authorized to operate as a *common carrier* in Mississippi. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC–111231 (Sub-No. 186), is a matter directly related.

No. MC–F–12212. Authority sought for purchase by DELTA LINES, INC., 333 Hegenberger Rd., Oakland, CA 94621, of a portion of the operating rights and property of RINGSBY TRUCK LINES, INC., 5773 So. Prince St., Littleton, CO 80120, and for acquisition by DELTA CALIFORNIA INDUSTRIES, 600 Montgomery St., San Francisco, CA 94111, of control of such rights and property through the purchase. Applicants' attorneys: Marshall G. Berol, 100 Bush St., 21st Floor, San Francisco, CA 94104, and Alvin J. Meiklejohn, 1660 Lincoln St., Suite 1600, Denver, CO 80203. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, between San Bernardino, Calif., and Las Vegas, Nev., between Los Angeles, and San Bernardino, Calif., between Las Vegas, and Boulder City, Nev., between Las Vegas, and Mercury, Nev., between Battle Mountain, and Tonopah, Nev., with restriction, between junction U.S. Highway 6 and Nevada Highway 47, and Silverpeak, Nev., between Beatty, Nev., and Mojave, Calif., between Tonopah, and Las Vegas, Nev., between Los Angeles, and Death Valley Junction, Calif., between junction U.S. Highway 95 and Nevada Highway 29, and Death Valley Junction, Calif., between Death Valley Junction, Calif., and Beatty, Nev., between Las Vegas, and Henderson, Nev., serving various intermediate and off-route points; *general commodities*, with exceptions over irregular routes, from Tonopah, Nev., to Manhattan, Round Mountain, Gold Point, Cuprite, Lida, Goldfield, Klondyke, Silverbeak, Blair Junction, Gilbert, Millers, and Coaldale, Nev., and points within five miles of each and return to Tonopah, Nev., over one alternate route for operating convenience only. Vendee is authorized to operate as a *common carrier* in California and Nevada. Application has been filed

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for temporary authority under section 210a(b).

NOTE.—MC-56640 (Sub-No. 33), is a directly related matter.

No. MC-F-12213. Authority sought for purchase by C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas TX 75222, of a portion of the operating rights of A. A. MARTIN TRANSPORTATION CO., INC., 194 W. First St., South Boston, MA 02127. and for acquisition by TYLER CORPORATION, 3121 Southland Center, Dallas, TX, of control of such rights through the purchase. Applicants' attorneys: Thomas E. James, P.O. Box 5976, Dallas, TX 75222, and Frank J. Weiner, 15 Court Square, Boston, MA 02108. Operating rights sought to be transferred: *Heavy machinery, and such commodities,* requiring specialized handling or rigging because of size or weight, as a *common carrier* over irregular routes, between Boston, Mass., and points in Massachusetts within 25 miles of Boston, on the one hand, and, on the other, points in New Hampshire and that part of Maine south of a line beginning at the Atlantic Ocean, 5 miles north of Cutler, Maine, and extending in a westerly direction through Machias, Bangor, and Wilsons Mills to the Maine-New Hampshire State line, between points in Maine, between points in Vermont. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-11206 Filed 5-14-74;8:45 am]

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federal register

WEDNESDAY, MAY 15, 1974
WASHINGTON, D.C.
Volume 39 ■ Number 95

PART II

OFFICE OF MANAGEMENT AND BUDGET

■

REPORT UNDER FEDERAL IMPOUNDMENT AND INFORMATION ACT

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OFFICE OF MANAGEMENT AND BUDGET

REPORT UNDER THE FEDERAL IMPOUNDMENT AND INFORMATION ACT

Hon. GERALD T. FORD,
President of the Senate,
Washington, D.C. 20510.

MAY 3, 1974.

DEAR MR. PRESIDENT: The enclosed report is submitted pursuant to the Federal Impoundment and Information Act, as amended. In accordance with that Act, the report is being transmitted to the Congress and to the Comptroller General of the United States, and will be published in the FEDERAL REGISTER.

Sincerely,

ROY L. ASH,
Director.

BUDGETARY RESERVES AS OF APRIL 20, 1974

The Apportionment and Reservation of Funds Process.—The Antideficiency Act (31 U.S.C. 665) requires, with certain exceptions, that all appropriations, funds, and contract authority be apportioned so as to: prevent obligation of funds in a manner which would require deficiency or supplemental appropriations; achieve the most effective and economical use of amounts made available; provide for contingencies; and effect savings. The Act also requires that apportionments shall be reviewed at least four times each year, and it authorizes reapportionments and the establishment of reserves. The authority granted by this Act is exercised by the Director of the Office of Management and Budget under authority delegated by the President.

Apportionments specify the amounts that may be obligated during specific time periods, usually within the current fiscal year. In some cases, specific provisions of law provide that funds should be available over a period longer than one year. In cases where the amount of contract authority available a year in advance is specified by law, a distinction is made in the accompanying report (Attachment D) between the 1974 and 1975 programs.

The practice of withholding some amounts—"reserving" them—from apportionment, either temporarily or for longer periods, is one of long-standing and has been exercised by all recent administrations as a customary part of financial management. The Antideficiency Act authorizes the withholding of funds from apportionment to provide for contingencies or to effect savings made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which the funds were made available. When funds are, by law, made available beyond the current fiscal year, they are generally not fully apportioned in the current year. The unapportioned part is withheld to be released later for use in subsequent years, as required.

In some legislative and appropriation actions, the Congress has required the withholding of specified funds. For example, the 1973 Agriculture-Environmental and Consumer Protection Appropriation Act (Pub. L. 92-399) explicitly required that an amount be placed in reserve pending an administrative determination of need. In other cases, notably the 1974 Labor-HEW Appropriations Act (Pub. L. 93-192), Congress has authorized the withholding from obligation and expenditure of specified amounts or percentages of appropriated funds. A table showing the amounts withheld under Pub. L. 93-192 is Attachment A to this report. A similar withholding was authorized by the 93d Congress in the Agriculture-Environmental and Consumer Protection Appropriation Act of 1974. The Act provided an indefinite authorization to make insured loans in the Rural Electrification and Telephone Revolving Fund as follows (dollars in millions):

	Not less than—	Not more than—
Electric loans	618	750
Telephone loans	140	200
Total	758	950

The 1974 authority to spend debt receipts to finance loan activity was apportioned at the $758 million level.

In yet another case, Congress has made funds available only upon the arrival of certain contingencies. The 1974 Supplemental Appropriations Act (Pub. L. 93-245) set aside a contingency reserve for the Interior Department's Office of Oil and Gas which is to become available only upon enactment of emergency energy legislation.

These Congressional directives are, however, the exception rather than the rule. Most reserves are established at the initiative of the Executive Branch and are based on operational knowledge of the status of specific projects or activities. For example, when a particular objective can be accomplished at less cost than had been anticipated when the appropriation was made, a reserve assures that savings can be realized and, if appropriate, returned to the Treasury. In other cases, apportionments sometimes await (1) development by the affected agencies of approved plans and specifications, (2) completion of studies for the effective use of the funds, including necessary coordination with the other Federal and non-Federal parties that might be involved, (3) establishment of a necessary organization and designation of accountable officers to manage the programs, or (4) the arrival of certain contingencies under which the funds must by statute be made available (e.g., certain direct Federal credit aids when private sector loans are not available). From time to time, reserves are established for the purpose of conforming to the requirements of other laws. An example is the Executive's responsibility to stay within the statutory limitation on the outstanding public debt.

Most, but not all, funds provided by the Congress are subject to the apportionment process. Subsection (f) of the Antideficiency Act authorizes a series of exemptions. Temporary continuing appropriations are exempt from the apportionment process (Pub. L. 93-52, as amended, Section 103). Appropriations provided under such temporary continuing appropriation acts are usually indefinite in amount. In addition, some laws establish funding arrangements which are either outside the apportionment process or require Executive determinations before they become subject to apportionment. The Federal Water Pollution Control Act of 1972 (Pub. L. 92-500), for example, vests discretion in the Administrator of the Environmental Protection Agency to allot less than the maximum amounts authorized by the Act.[1a] Under the provisions of the Act, authority to make contracts does not exist until the allotment is made. Consequently, fund availability (budget authority) exists only when allotments are made and only allotted funds move through the apportionment process. At this date, funds authorized by the Federal Water Pollution Control Act have been allotted on the following basis (dollars in billions):

Fiscal years	Authorized	Allotted	Unallotted
1973	5	2	3
1974	6	3	3
1975	7	4	3

Funding of certain housing programs of the Department of Housing and Urban Development (HUD) presents a unique situation with respect to the apportionment process. For five housing programs, the Congress provides commitment authority that allows the Secretary of HUD to sign long-term contracts requiring annual payments to specific housing units. The commitment authority is not subject to the apportionment (and thus the reserve) process since it does not represent obligational authority of a given year. Rather, it represents an authorization to enter into contracts which will result in a requirement for obligational authority (payments) in each of the years covered by the contract. Current plans anticipate that the commitments for annual payments will be some $299 million under the level made available by the Congress for four of these programs. If used, the $299 million of authority could result in outlays of up to $10 billion over the life of the contracts. As the payments under the contracts come due, they are met by annual appropriations (provided under the account "Housing payments" which also covers low-rent public housing).

[1a] Whether the discretion exists at the allotment stage or at some later stage is now before the courts.

Thus, funds are only required to meet annual payments under the contracts. They are not required at the time the contracts are signed and are made available only when actually appropriated. Since reserves are established only on the basis of fund availability, and since funds appropriated for this program are needed for making payments at an early date, no reserves have been established for the subsidized housing programs.

The amount of funds apportioned or held in reserve at any one time is heavily dependent upon events both preceding and following initial apportionment actions. Key among the predecessor events is the passage of the annual appropriation bills. Apportionments for most Federal programs are made within 30 days of enactment of the appropriation bills. The earlier in the fiscal year these apportionments occur, the greater is the chance that reserves will accompany them. Early in the fiscal year, program and project plans are incomplete and allowances need to be made for contingencies which may occur later in the year. As administrative plans are completed and other event occur during the year, the need for reserving funds diminishes. Thus, for any one fiscal year, the amount in reserve is relatively low at the beginning of the year (reflecting primarily multi-year funds), peaks 30 days after passage of most of the appropriation bills, and then steadily diminishes as the end of the fiscal year approaches.

Reserves as of April 20, 1974.—All but $3.1 billion of the $10.4 billion in reserve for 1974 is accounted for by reserve actions in three areas: Federal-aid highways ($3.4 billion), emergency security assistance for Israel ($2.2 billion which was released on April 25, 1974), and programs of the Department of Defense ($1.7 billion). Virtually all of the $6.3 billion in reserve for 1975 is in the Federal-aid highways account and other highway programs.

The reduction of $1.4 billion in budgetary reserves for 1974 reflects the completion of program and project plans since the February 4 report. Reserves have been maintained in some programs to await program development and to meet contingencies during the remainder of the 1974 program-year. In other programs, funds are being held in reserve to meet increased pay costs in the fourth quarter and thus eliminate the need for supplemental appropriations. In the case of programs which have been provided obligational authority beyond the current fiscal year, reserves have been maintained to ensure that funds will be available beyond FY 1974 as needed.

Report Required by Law.—This report is submitted in fulfillment of the requirements of the "Federal Impoundment and Information Act," as amended, which provides for a report of "impoundments" and certain other information pertaining thereto. This report lists the budgetary reserves that were in effect as of April 20, 1974.

The Antideficiency Act requires that all apportionments be reviewed at least quarterly, and that reapportionments be made or reserves be established, modified, or released as may be necessary to further the effective use of the funds concerned. Thus, in answer to item Number 5 of the Federal Impoundment and Information Act, the period of time during which funds are to be in reserve is dependent in all cases upon the results of such later review.

Attachment D lists, by agency, all accounts for which some funds are reserved. An asterisk (*) identifies those accounts added to the listing since the last report (i.e., such accounts contained no reserves on February 4, 1974). The listing:

Presents the amount currently apportioned for the fiscal year 1974;

Presents the amount in reserve as of April 20, 1974;

States whether the amount reserved will be legally available for obligation in fiscal year 1975;

Indicates the date of the reserve action and the effective date of the current reserve;

Presents a code which relates to the reason for the current reserve action, without necessarily exhausting all possible reasons; and

Presents a code which indicates the estimated fiscal, economic, and budgetary impact of the current reserve.

Codes used in the remainder of this report relating to the reasons for and estimated fiscal, economic, and budgetary impact of the reserve actions are described in Attachments B and C. The codes and footnotes listed for each entry relate to conditions which were in effect as of the date of the reserve action.

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ATTACHMENT A

1974 LABOR/HEW APPROPRIATIONS - FUNDS WITHHELD FROM OBLIGATION AND EXPENDITURE

The 1974 appropriations act for the Departments of Labor, and Health, Education, and Welfare, and related agencies (P.L. 93-192) contains the provision that "not to exceed $400 million, ... may be withheld from obligation and expenditure...." The appropriation language also specifies that no individual appropriation provision may be reduced by more than five percent. In addition, the conference report (H.R. 93-682) establishes dollar limitations for the reductions that may be made to specified programs.

The following table shows the effect of the amounts withheld from programs receiving appropriations under this act. A comparison is drawn between amounts authorized to be withheld in the conference report and actual amounts withheld, as reflected in the 1975 Budget Appendix:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health

(In thousands of dollars)

	Authorized to be withheld (conference report)	Amounts withheld (1975 Budget)	Difference
Health Services and Mental Health Administration:			
Mental health.....	26,874	9,567	-17,307
Health services planning and development 1/.....	17,509]	25,937	-16,649
Health services delivery 1/.....	2,800]		
Health manpower 1/..	22,277]		
Preventive health services.....	4,936	0	-4,936
Subtotal.....	(74,396)	(35,504)	(-38,892)
National Institutes of Health:			
National Cancer Institute.....	27,560	23,706	-3,854

1/ The 1974 activities of these programs are divided between Health Services Administration and Health Resources in the 1975 Budget Appendix.

	Authorized to be withheld (conference report)	Amounts withheld (1975 Budget)	Difference
National Institutes of Health--Cont'd:			
National Heart and Lung Institute.....	15,145	13,365	-1,780
National Institute of Dental Research.....	2,278	1,607	-671
National Institute of Arthritis, Metabolism and Digestive Diseases.....	7,972	6,486	-1,486
National Institute of Neurological Diseases and Stroke.....	6,250	5,042	-1,208
National Institute of Allergy and Infectious Diseases.....	5,700	3,596	-2,104
National Institute of General Medical Sciences.....	8,838	8,449	-389
National Institute of Child Health and Human Development.....	6,512	5,357	-1,155
National Eye Institute.....	2,081	1,684	-397
National Institute of Environmental Health Sciences.....	1,443	482	-961
Research resources.....	6,672	5,153	-1,519
John E. Fogarty International Center.....	237	0	-237
National Library of Medicine.....	877	0	-877
Subtotal.....	(91,564)	(74,927)	(-16,637)
Total, Health.....	165,960	110,431	-55,528

Education

Office of Education:			
Elementary and secondary education....	96,725	94,979	-1,746
School assistance in Federally affected areas.....	16,584	16,584	0

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	Authorized to be withheld (conference report	Amounts withheld (1975 Budget)	Difference
Office of Education--Cont'd:			
Education for the handicapped	5,325	5,325	0
Occupational, vocational, and adult education	26,354	26,354	0
Higher education	29,167	29,167	0
Library resources	8,585	3,688	-4,897
Educational development	4,487	4,487	0
Salaries and expenses	93	93	0
Total, Education	187,320	180,677	-6,643
Welfare			
Social and Rehabilitation Service:			
Grants to States for public assistance	2,500	2,500	0
Social and rehabilitation services	7,775	7,775	0
Subtotal	(10,275)	(10,275)	(0)
Office of Child Development:			
Child development	15,500	9,020	-6,480
Subtotal	(15,500)	(9,020)	(-6,480)
Total, Welfare	25,775	19,295	-6,480
RELATED AGENCIES			
Corporation for Public Broadcasting	2,500	2,250[2/]	-250
Office of Economic Opportunity	17,315	9,800[3/]	-7,515
Total, Related Agencies	18,815	12,050	-7,765
Total, HEW and Related Agencies	398,870	322,453	-76,416

2/ This withholding does not appear in the 1975 Budget Appendix.
3/ In the 1975 Budget Appendix, this figure is shown as an unobligated balance lapsing.

Attachment B

REASON FOR CURRENT RESERVE

Code	
1	"To provide for contingencies" (31 USC 665(c)(2)).
2	"To effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such (funds were) made available" (31 USC 665(c)(2)).
3	To reduce the amount of or to avoid requesting a deficiency or supplemental appropriation in cases of appropriations available for obligation for only the current year (31 USC 665(c)(1)). This explanation includes amounts anticipated to be used to absorb or partially absorb the costs of recent pay raises grant pursuant to law.
4	"To achieve the most effective and economical use" of funds available for periods beyond the current fiscal year (31 USC 665(c)(1)). This explanation includes reserves established to carry out the Congressional intent that funds provided for periods greater than one year should be so apportioned that they will be available for the future periods.
5	Temporary deferral pending the establishment of administrative machinery (not yet in place) or the obtaining of sufficient information (not yet available) to apportion the funds properly and to insure that the funds will be used in "the most effective and economical" manner (31 USC 665(c)(1)). This explanation includes reserves for which apportionment awaits the development by the agency of approved plans, designs, specifications.
6	The President's constitutional duty to "take care that the laws be faithfully executed" (U.S. Constitution, Article II, Section 3):
6a	-- Obligation at this time of the amount in reserve is likely to contravene law regarding the environment; or the amount in reserve is being held pending further study to evaluate the environmental impact of the affected projects (activities) as required by law.

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6b	-- Existing tax laws and the statutory limitation on the national debt are not expected to provide sufficient funds in the current and ensuing fiscal years to cover the total of all outlays in these years contemplated by the individual acts of Congress.
6c	-- Action taken consistent with the President's responsibility to help maintain economic stability without undue price and cost increases.
6d	-- Amount apportioned reflects the level of obligations implicitly approved by the Congress in its review of and action on the appropriation required to liquidate obligations under existing contract authority.
6e	-- Other. See footnote for each item so coded.
7	The President's constitutional authority and responsibility as Commander in Chief (U.S. Constitution, Article II, Section 2).
8	The President's constitutional authority and responsibility for the conduct of foreign affairs (U.S. Constitution, Article II, Section 2).
9.	Other. See footnote for each item so coded.
10	Not applicable or no reason required. (In most cases where a previous reserve has been apportioned in its entirety.)

Attachment C

ESTIMATED FISCAL, ECONOMIC, AND BUDGETARY EFFECT

I.	Same effect as set forth in the most recently submitted budget document, of which this item is an integral part.
II.	The reserve action will bring the budgetary impact of this program to a level nearer or equal to that contemplated in the most recently submitted budget document and contribute to the reduction of inflationary pressures.
III.	The change from the previous reserve is expected to contract the budgetary impact of this program and contribute to the reduction of inflationary pressures.
IV.	The release or reduction of the previous reserve will facilitate use and expenditure of the available funds consistent with current program needs and economic conditions in the area affected.
V.	Other. See footnote for each item so coded.
VI.	Not applicable or no explanation required. (In most cases where a previous reserve has been apportioned in its entirety.)

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SUMMARY OF BUDGETARY RESERVES

1974 Program
(Dollars in millions) 1/

Agency	Amounts as of: Sept. 30, 1973	Feb. 4, 1974	Apr. 20, 1974
Executive Office of the President	--	1	1
Funds Appropriated to the President	96	2,507	2,398 2/
Department of Agriculture	1,173	1,091	1,080
Department of Commerce	63	59	53
Department of Defense--Military	1,143	2,514	1,686
Department of Defense--Civil	1	4	5
Department of Health, Education, and Welfare	23	381	379
Department of Housing and Urban Development	456	823	467
Department of the Interior	162	219	202
Department of Justice	14	14	14
Department of Labor	--	21	21
Department of State	--	86	50
Department of Transportation	3,838	3,817	3,761
Department of Treasury	22	23	23
Atomic Energy Commission	27	--	--
Environmental Protection Agency	--	95	88
General Services Administration	258	38	38
National Aeronautics and Space Administration	2	2	--
Veterans Administration	43	--	--
Other Independent Agencies:			
National Science Foundation	4	--	--
Small Business Administration	31	31	31
All other	90	89	89
Total	7,446	11,813	10,384

1/ Details may not add due to rounding.
2/ Of this amount, $2,183 million was released on April 25, 1974.

SUMMARY OF BUDGETARY RESERVES

1975 Program
(Dollars in millions)

Agency	Amounts as of: Sept. 30, 1973	Feb. 4, 1974	Apr. 20, 1974
Department of Agriculture	---	140	140
Department of the Interior	75	190	190
Department of Transportation	---	5,994	5,995
Total	75	6,324	6,325

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As of
April 20, 1974

BUDGETARY RESERVES

(Dollars in thousands)

GENERAL NOTES

Amounts in parenthesis () indicate actions superseded by later apportionment actions.
An asterisk * indicates an account added to the list since the last report.
An account without an entry in the amount apportioned column indicates no apportionment has been made for FY 1974.

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Executive Office of the President/Funds Appropriated to the President						
Appalachian Regional Commission: Appalachian Regional Development Programs						
(209,000)	(225,000)	Yes	6/29/73	7/01/73	5,6c	I
(320,395)	(40,000)	Yes	9/12/73	9/12/73	5,6c	I
325,747	40,000	Yes	10/23/73	10/23/73	5,6c	I
Agency for International Development: Prototype Desalting Plant						
(---)	(20,000)	Yes	4/07/72	7/01/73	5	I
--- 1/	20,000	Yes	1/29/74	1/29/74	5	I
Foreign Military Credit Sales						
(78,940)	(246,060)	No	1/23/74	1/23/74	5	I
(128,940)	(196,060)	No	2/25/74	2/25/74	5	I
(150,190)	(174,810)	No	3/18/74	3/18/74	5	I
169,890	155,110	No	3/25/74	3/25/74	5	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Emergency Security Assistance for Israel						
(---)	(2,200,000) 2/	No	2/01/74	2/01/74	5	I
17,336	2,182,664 2a/	No	2/28/74	2/28/74	5	I
Council on Environmental Quality and Office of Environmental Quality						
(1,930)	(536)	No	11/07/73	11/07/73	5	I
1,980	486	No	3/12/74	3/12/74	5	I
Special Action Office for Drug Abuse Prevention: Salaries and Expenses						
(3,800)	(1,200)	No	12/26/73	12/26/73	5	I
5,000	---	NA	1/11/74	1/11/74	10	VI
Pharmacological Research						
(400)	(19,600)	No	12/26/73	12/26/73	5	I
20,000	---	NA	1/11/74	1/11/74	10	VI
Special Fund						
(1,300)	(24,700)	No	12/26/73	12/26/73	5	I
26,000	---	NA	1/11/74	1/11/74	10	VI
National Security Council						
2,502	300	No	11/16/73	11/16/73	5	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
The Inter-American Foundation: Inter-American Foundation						
(5,000)	(35,652)	Yes	6/12/73	7/01/73	4	V 3/
(5,000)	(35,735)	Yes	12/04/73	12/04/73	4	I
10,000	--- 4/	NA	1/28/74	1/28/74	10	VI 4/
Department of Agriculture						
Agriculture Research Service: Construction						
---	1,520	Yes	6/29/73	7/01/73	4,6b	I
Animal and Plant Health Inspection Service: Animal and Plant Health Inspection Service						
(317,083)	(878)	No	11/23/73	11/23/73	1	I
317,583	378	No	2/08/74	2/08/74	1	I
Animal Quarantine Station						
130	64	Yes	11/23/73	11/23/73	5	I
Extension Service: Extension Service						
201,429	3,200	No	11/23/73	11/23/73	2	I
Foreign Agricultural Service: Salaries and Expenses, Special Foreign Currency Program						
1,000	1,240	Yes	5/23/73	7/01/73	4	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Agricultural Stabilization and Conservation Service: Salaries and Expenses						
(256,626)	(2,619)	No	11/23/73	11/23/73	1	I
256,443	2,802	No	1/21/74	1/21/74	2	I
Rural Environmental Assistance Program/1973-74						
(---)	(210,500)	No 5/	1/26/73	7/01/73	6b	I
210,500 6/	---	NA	4/01/74	4/01/74	10	VI
Rural Environmental Assistance Program/1974-75						
90,000	85,000	Yes	11/23/73	11/23/73	4	I
Emergency Conservation Measures						
20,453	10,000	Yes	11/23/73	11/23/73	1	I
Water Bank Act Program						
(---)	(11,391)	Yes	1/26/73	7/01/73	6b	I
10,006	11,645	Yes	11/23/73	11/23/73	6b	I
Cropland Adjustment Program						
50,300	1,600	No	11/23/73	11/23/73	2	I
Commodity Credit Corporation: Administrative Expenses						
(---)	(497)	No	11/23/73	11/23/73	1	I
39,631 7/	269	No	12/21/73	12/21/73	1	III

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Rural Electrification Administration: Loans						
(---)	(456,103)	Yes	1/26/73	7/01/73	2,6b,6c	I
594	455,635	Yes	2/21/74	2/21/74	2,6b,6c	V 8/
Farmers Home Administration: Rural Water and Waste Disposal Grants						
(---)	(120,000)	Yes	1/26/73	7/01/73	6b,6c	I
(---)	(150,304)	Yes	11/23/73	11/23/73	6b,6c	I
30,000	120,304	Yes	12/28/73	12/28/73	6b,6c	I
Rural Housing for Domestic Farm Labor Grants						
(---)	(1,621)	Yes	1/31/73	7/01/73	5,6b	I
(750)	(1,831)	Yes	9/10/73	9/10/73	5,6b	V 9/
(1,000)	(9,081)	Yes	11/23/73	11/23/73	5,6b	I
10,081	---	NA	2/14/74	2/14/74	10	VI
Mutual and Self-Help Housing Grants						
(---)	(832)	Yes	9/22/72	7/01/73	4	I
(700)	(133)	Yes	8/22/73	8/22/73	4	I
3,832	1,001	Yes	11/23/73	11/23/73	4	I
Rural Housing Insurance Fund						
(---)	(133,000)	Yes	1/26/73	7/01/73	4	I
1,435,035 10/	---	NA	9/12/73	9/12/73	10	VI
Soil Conservation Service: Resource Conservation and Development						
24,189	4,439	Yes	11/23/73	11/23/73	4	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Watershed Planning						
13,268	535	Yes	11/23/73	11/23/73	4	I
River Basin Surveys and Investigations						
16,587	60	Yes	11/23/73	11/23/73	4	I
Watershed and Flood Prevention Operations						
169,448	17,454	Yes	11/23/73	11/23/73	4	I
Agricultural Marketing Service: Marketing Services, no-year						
(1,422)	(818)	Yes	6/11/73	7/01/73	4	I
(1,812)	(818)	Yes	9/26/73	9/26/73	4	I
1,812	1,101	Yes	1/22/74	1/22/74	4	I
Perishable Agricultural Commodities Act Fund						
(1,416)	(58)	Yes	6/11/73	7/01/73	4	I
1,460	270	Yes	12/26/73	12/26/73	4	I
Forest Service: Forest Protection and Utilization						
(3,791)	(2,128)	Yes	11/02/73	11/02/73	4	I
3,846	2,073	Yes	1/02/74	1/02/74	4	I
Construction and Land Acquisition						
(52,196)	(1,315)	Yes	11/02/73	11/02/73	5	I
53,511	---	NA	4/15/74	4/15/74	10	VI

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Youth Conservation Corps						
(6,693)	(3,307)	Yes	11/09/73	11/09/73	4	I
6,893	3,107 11/	Yes	1/11/74	1/11/74	4	I
Forest Roads and Trails and Roads and Trails for States/1974 Program						
(---)	(278,398)	Yes	3/28/73	7/01/73	4,6b,6d	I
(117,164)	(208,934)	Yes	7/16/73	7/16/73	4,6d 13/	I
(123,558)	(342,894)	Yes	11/02/73	11/02/73	4,6d	I
131,815	334,636	Yes 12/	1/23/74	1/23/74	4,6d	I
Forest Roads and Trails and Roads and Trails for States/1975 Program						
---	140,000	Yes	11/02/73	11/02/73	6d	I
Brush Disposal						
(18,657)	(26,601)	Yes	6/08/73	7/01/73	5	I
25,000	21,554	Yes	11/02/73	11/02/73	4	V 14/
Forest Fire Prevention						
275	109	Yes	6/08/73	7/01/73	4	I
Department of Commerce						
General Administration: Special Foreign Currency Program						
1,885	1,055	Yes	12/21/73	12/21/73	2	II

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Office of Assistant Secretary for Science and Technology: Scientific and Technical Research and Services						
(131,485)	(11,934)	Yes	12/27/73	12/27/73	5	I
136,823	6,796	Yes	2/15/74	2/15/74	5	I
Social and Economic Statistics Administration: 1974 Census of Agriculture						
(---)	(1,360)	Yes	11/24/72	7/01/73	2,4	I
1,360	---	NA	9/12/73	9/12/73	10	VI
Domestic and International Business: Financial and Technical Assistance, Trade Adjustment Assistance						
15,000	11,780	Yes	12/21/73	12/21/73	2	I
International Activities, Inter-American Cultural and Trade Center						
(292)	(5,067)	Yes	6/26/73	7/01/73	4,5	I
322	5,051	Yes	4/16/74	4/16/74	4,5	I
Participation in United States Expositions (Spokane Ecological Exhibition)						
(7,575)	(1,105) 15/	Yes	10/05/73	10/05/73	4,5	I
8,677	---	NA	4/10/74	4/10/74	10	VI
Office of Minority Business: Minority Business Development, no-year						
(---)	(16,768)	Yes	1/26/73	7/01/73	4,6b	I
(9,080)	(14,330)	Yes	7/24/73	7/24/73	5	I
26,752	---	NA	10/16/73	10/16/73	10	VI

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
National Oceanic and Atmospheric Administration: Operations, Research and Facilities 16/						
(---)	(31,005)	Yes	6/28/73	7/01/73	2,4,6b	I
(29,868)	(2,392)	Yes	7/19/73	7/19/73	2,4,6b	I
(30,082)	(2,178)	Yes	9/26/73	9/26/73	2,4	I
(406,694)	(2,178)	Yes	12/27/73	12/27/73	3	I
416,981	2,178	Yes	1/16/74	1/16/74	3 17/	I
Satellite Operations 18/						
(---)	(727)	Yes	6/28/73	7/01/73	5	I
727	---	NA	12/27/73	12/27/73	10	VI
Promote and Develop Fishery Products and Research Pertaining to American Fisheries						
(7,191)	(3,159)	Yes	3/29/73	7/01/73	4,5,6a	I
(7,336)	(3,111)	Yes	7/26/73	7/26/73	4,5,6a	I
7,450	3,027	Yes	12/21/73	12/21/73	4,5,6a	I
Coastal Zone Management						
5,200	6,800	Yes	12/21/73	12/21/73	4	I
National Bureau of Standards: Plant and Facilities						
---	1,850	Yes	11/24/72	7/01/73	2,4,6b	I
Research and Technical Services, no-year						
---	3,812	Yes	5/07/73	7/01/73	5,6b	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Construction of Facilities						
(---)	(740)	Yes	1/26/73	7/01/73	4,6b	I
539	231	Yes	12/21/73	12/21/73	1	I
Maritime Administration: Ship construction						
(---)	(34,000)	Yes	6/29/73	7/01/73	4	III
(9,137)	(24,863)	Yes	7/27/73	7/27/73	4	IV
304,953	5,500	Yes	12/21/73	12/21/73	2	II
Research and Development						
---	5,000	Yes	1/18/73	7/01/73	4,6b	I
State Marine Schools						
---	127	Yes	11/24/72	7/01/73	4	I
Federal Ship Financing Fund						
(2,582)	(1,446)	Yes	6/27/73	7/01/73	5	I
4,028	---	NA	10/11/73	10/11/73	10	VI
Department of Defense-Military Procurement: Missile Procurement, Army, 1973-1975						
(---)	(2,500)	Yes	2/05/73	7/01/73	4	I
163,382	---	NA	9/11/73	9/11/73	10	VI

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Procurement of Aircraft and Missiles, Navy, 1973-1975						
(---)	(13,281)	Yes	6/29/73	7/01/73	5	I
(946,747)	(13,281)	Yes	9/06/73	9/06/73	5	I
878,276	---	NA	1/28/74	1/28/74	10	VI
Aircraft Procurement, Air Force, 1972-1974						
(415,551)	(143,492)	No	9/07/73	9/07/73	5	I
368,478	---	NA	11/01/73	11/01/73	10	VI
Aircraft Procurement, Air Force, 1973-1975						
(1,076,916)	(160,556)	Yes	9/07/73	9/07/73	5	I
1,224,500	---	NA	11/01/73	11/01/73	10	VI
Shipbuilding and Conversion, Navy, 1971-1975						
(---)	(145,672)	Yes	11/24/72	7/01/73	4	I
892,655	---	NA	9/11/73	9/11/73	10	VI
Shipbuilding and Conversion, Navy, 1972-1976						
(---)	(427,212)	Yes	11/24/72	7/01/73	4	I
738,000	148,081	Yes	9/11/73	9/11/73	4	I
Shipbuilding and Conversion, Navy, 1973-1977						
(---)	(763,300)	Yes	6/29/73	7/01/73	4	I
992,000	408,512	Yes	9/11/73	9/11/73	4	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Shipbuilding and Conversion, Navy, 1974-1978						
2,711,300	826,800	Yes	1/28/74	1/28/74	4	I
Military Construction: Military Construction, Army						
(---)	(70,304)	Yes	6/27/73	7/01/73	5	I
(648,440)	(90,954)	Yes	8/16/73	8/16/73	5	I
(648,020)	(95,488)	Yes	12/27/73	12/27/73	5	I
(762,670)	(558,958)	Yes	1/18/74	1/18/74	5	I
(1,184,957)	(138,956)	Yes	1/24/74	1/24/74	5	I
1,203,724	124,579	Yes	3/22/74	3/22/74	5	I
Military Construction, Navy						
(---)	(68,133)	Yes	6/27/73	7/01/73	5	I
(385,805)	(65,858)	Yes	8/14/73	8/14/73	5	I
(334,948)	(64,674)	Yes	10/11/73	10/11/73	5	I
(336,468)	(64,754)	Yes	10/16/73	10/16/73	5	I
(336,848)	(64,774)	Yes	11/14/73	11/14/73	5	I
(338,174)	(64,439)	Yes	12/17/73	12/17/73	5	I
(412,974)	(598,931)	Yes	1/09/74	1/09/74	5	I
(650,758)	(363,047)	Yes	2/15/74	2/15/74	5	I
939,681	74,124	Yes	3/07/74	3/07/74	5	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Military Construction, Air Force						
(---)	(51,607)	Yes	6/27/73	7/01/73	5	I
(130,860)	(49,773)	Yes	7/20/73	7/20/73	5	I
(141,224)	(39,409)	Yes	8/14/73	8/14/73	5	I
(160,501)	(39,409)	Yes	10/16/73	10/16/73	5	I
(171,972)	(29,937)	Yes	1/07/74	1/07/74	5	I
(218,426)	(232,760)	Yes	1/17/74	1/17/74	5	I
(402,711)	(48,475)	Yes	2/13/74	2/13/74	5	I
431,445	19,741	Yes	3/19/74	3/19/74	5	I
Military Construction, Defense Agencies						
(---)	(58,415)	Yes	2/15/73	7/01/73	5	I
(8,000)	(58,215)	Yes	8/23/73	8/23/73	5	I
(8,957)	(56,615)	Yes	10/16/73	10/16/73	5	I
(10,277)	(54,895)	Yes	11/14/73	11/14/73	5	I
(10,277)	(53,904)	Yes	12/17/73	12/17/73	5	I
(15,133)	(49,048)	Yes	1/09/74	1/09/74	5	I
(15,133)	(46,763)	Yes	1/24/74	1/24/74	5	I
31,683	28,313	Yes	2/15/74	2/15/74	5	I
Military Construction, Army National Guard						
(---)	(102)	Yes	6/14/73	7/01/73	5	I
(3,051)	(---)	NA	8/16/73	8/16/73	10	VI
(8,943)	(29,300)	Yes	1/18/74	1/18/74	5	I
29,903	8,340	Yes	3/07/74	3/07/74	5	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Military Construction, Air National Guard						
(---)	(17)	Yes	5/29/73	7/01/73	5	I
(5,256)	(17)	Yes	9/06/73	9/06/73	5	I
(5,273)	(---)	Yes	10/23/73	10/23/73	10	VI
(9,273)	(16,000)	Yes	1/18/74	1/18/74	5	I
17,514	7,759	Yes	2/11/74	2/11/74	5	I
Military Construction, Army Reserve						
(---)	(7,109)	Yes	3/08/73	7/01/73	5	I
(25,423)	(7,109)	Yes	9/10/73	9/10/73	5	I
(29,909)	(2,623)	Yes	11/08/73	11/08/73	5	I
(34,709)	(38,523)	Yes	1/18/74	1/18/74	5	I
57,320	15,912	Yes	3/18/74	3/18/74	5	I
Military Construction, Naval Reserve						
(---)	(3,943)	Yes	5/03/73	7/01/73	5	I
(17,640)	(1,842)	Yes	8/08/73	8/08/73	5	I
(18,657)	(915)	Yes	11/08/73	11/08/73	5	I
(20,099)	(22,373)	Yes	1/14/74	1/14/74	5	I
24,469	18,003	Yes	3/14/74	3/14/74	5	I
Military Construction, Air Force Reserve						
(---)	(850)	Yes	6/20/73	7/01/73	5	I
(2,415)	(850)	Yes	9/06/73	9/06/73	5	I
(2,444)	(821)	Yes	10/23/73	10/23/73	5	I
(3,444)	(9,821)	Yes	1/18/74	1/18/74	5	I
(10,089)	(3,176)	Yes	2/01/74	2/01/74	5	I
10,858	2,407	Yes	3/29/74	3/29/74	5	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Defense Civil Preparedness Agency: Research, Shelter Survey and Marketing						
24,617	1,100	Yes	11/27/73	11/27/73	5	I
Special Foreign Currency Program: Special Foreign Currency Program, Defense, 1972-1974						
(---)	(2,477)	No	12/18/72	7/01/73	5	I
3,169	2,051	No	8/31/73	8/31/73	5	I
Special Foreign Currency Program, Defense, 1973-1975						
(---)	(400)	Yes	12/04/72	7/01/73	5	I
2,998	400	Yes	9/06/73	9/06/73	5	I
Department of Defense-Civil						
Corps of Engineers: General Investigations						
(---)	(150)	Yes	6/29/73	7/01/73	5	I
(65,084)	(150)	Yes	9/15/73	9/15/73	5 19/	II
65,267	---	NA	2/27/74	2/27/74	10	VI
Construction						
(---)	(783)	Yes	6/29/73	7/01/73	5	I
(9,100)	(333)	Yes	7/27/73	7/27/73	5	I
(9,175)	(258)	Yes	7/30/73	7/30/73	5	I
(1,114,829)	(256)	Yes	9/15/73	9/15/73	5 19/	II
1,114,937	108	Yes	4/04/74	4/04/74	5	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Flood Control, Mississippi River and Tributaries						
(---)	(750)	Yes	6/29/73	7/01/73	5	I
(151,819)	(750)	Yes	9/15/73	9/15/73	5 19/	II
(166,419)	(750)	Yes	1/26/74	1/26/74	5	I
167,169	---	NA	4/04/74	4/04/74	10	VI
Soldiers' and Airmens' Home: Capital Outlay						
2,165	612	Yes	1/04/74	1/04/74	5	I
Panama Canal: Canal Zone Government, Capital Outlay						
(---)	(700)	Yes	9/08/72	7/01/73	5	I
7,436	85	Yes	9/14/73	9/14/73	1	V 20/
Wildlife Conservation: Wildlife Conservation, Army						
(598)	(107)	Yes	6/14/73	7/01/73	1	I
606	342	Yes	1/31/74	1/31/74	1	I
Wildlife Conservation, Navy						
(60)	(8)	Yes	6/14/73	7/01/73	1	I
(69)	(22)	Yes	10/03/73	10/03/73	1	I
69	37	Yes	2/14/74	2/14/74	1	I
Wildlife Conservation, Air Force						
(124)	(40)	Yes	6/14/73	7/01/73	1	I
124	20	Yes	1/22/74	1/22/74	1	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Salaries and Expenses: Cemeterial Expenses, Army						
(14,448)	(2,053)	Yes	9/14/73	9/14/73	5	I
13,033	3,468	Yes	2/14/74	2/14/74	5	I
Department of Health, Education, and Welfare						
Health Services Administration: Health Services Delivery						
(915,869)	(2,250)	Yes	2/04/74	2/04/74	5	I
922,869	2,250	Yes	3/14/74	3/14/74	5	I
Buildings and Facilities*						
19,804	7,000	Yes	3/13/74	3/13/74	5	I
Indian Health Services						
(94,372)	(91,626)	No	11/28/73	11/28/73	5	I
185,998	---	NA	2/04/74	2/04/74	10	VI
Indian Health Facilities						
(3,482)	(848)	Yes	6/27/73	7/01/73	5	I
(34,815)	(20,593)	Yes	11/28/73	11/28/73	5	I
55,320	88	Yes	1/30/74	1/30/74	5	I
National Institutes of Health: Research Resources						
126,941	1,378	No	1/18/74	1/18/74	3	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effec (see code)
Buildings and facilities						
(1,000)	(23,701)	Yes	1/18/74	1/18/74	5	I
10,680	14,021	Yes	2/27/74	2/27/74	5	I
Alcohol, Drug Abuse, and Mental Health Administration: Mental Health						
827,193	13,194	No	1/28/74	1/28/74	1	I
Health Resources Administration: Health Services Planning and Development						
(555,997)	(6,228)	No	2/04/74	2/04/74	3	I
585,497	6,228	No	4/03/74	4/03/74	3	I
Health Manpower						
(734,635)	(5,370)	No	2/04/74	2/04/74	3	I
768,910	5,370	Yes	4/03/74	4/03/74	3	I
Assistant Secretary for Health: Office of International Health; Scientific Activities Overseas (Special Foreign Currency Program)						
(13,505)	(21,714)	Yes	1/30/74	1/30/74	4	I
16,034	21,714	Yes	3/28/74	3/28/74	4	I
Office of Education: Elementary and Secondary Education						
2,025,168	1,746	No	1/17/74	1/17/74	1	I
Higher Education, 1974-1976						
238,000	237,000	Yes	1/17/74	1/17/74	4	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Higher Education, no-year						
(---)	(1,889)	Yes	11/30/72	7/01/73	5	I
346,118	8,788	Yes	1/17/74	1/17/74	4	I
Library Resources						
163,124	4,897	No	1/18/74	1/18/74	3	I
Educational Development						
15,675	32	Yes	1/18/74	1/18/74	1	I
Educational Activities Overseas, Special foreign currency program						
(---)	(16)	Yes	4/06/72	7/01/73	5	I
2,539	---	NA	1/17/74	1/17/74	10	VI
Social and Rehabilitation Service: Research and Training Overseas						
3,700	7,490	Yes	1/18/74	1/18/74	4	I
Social Security Administration: Limitation on Salaries and Expenses (Trust fund)						
1,879,000	13,580	No	2/04/74	2/04/74	1	I
Limitation on Construction (Trust fund)						
(---)	(12,095)	Yes	4/27/72	7/01/73	4,5	I
(12,679)	(19,973)	Yes	8/21/73	8/21/73	4,5	I
(15,614)	(17,425)	Yes	11/30/73	11/30/73	4,5	I
17,646	15,393	Yes	2/04/74	2/04/74	4,5	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Special Institutions: Howard University						
9,132	11,490	Yes	1/17/74	1/17/74	4	I
Model Secondary School for the Deaf*						
3,500	803	Yes	3/05/74	3/05/74	4	I
Office of Human Development: Child Development						
419,910	6,480	No	1/18/74	1/18/74	3	I
Department of Housing and Urban Development						
Housing Production and Mortgage Credit: Non-profit Sponsor Assistance						
---	6,530	Yes	4/15/73	7/01/73	5,6b,6c	I
Community Development: Model Cities Program						
(50,055)	(100,012)	Yes	11/26/73	11/26/73	6c	V 21/
(75,055)	(75,012)	Yes	11/30/73	11/30/73	6c	IV
150,067	---	NA	4/15/74	4/15/74	10	VI
Grants for Neighborhood Facilities						
---	48	Yes	11/27/73	11/27/73	6c	I
Open Space Land Program						
(---)	(27,730)	Yes	3/08/73	7/01/73	6b,6c	I
---	55,161	Yes	11/09/73	11/09/73	6c	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Grants for Basic Water and Sewer Facilities						
(---)	(400,175)	Yes	1/26/73	7/01/73	6b,6c	I
---	401,734	Yes	11/27/73	11/27/73	6b,6c	I
Urban Renewal Fund						
(613,500)	(311,314)	Yes	11/26/73	11/26/73	6c	V 21/
(643,500)	(281,314)	Yes	11/30/73	11/30/73	6c	IV
1,526,314	---	NA	4/15/74	4/15/74	10	VI
Public Facility Loans						
(---)	(20,000)	Yes	1/26/73	7/01/73	6b,6c	I
24,888	--- 22/	NA	6/20/73	7/01/73	10	VI
Community Planning and Management: New Community Assistance Grants						
---	1,799	Yes	11/16/73	11/16/73	6c	I
Office of Interstate Land Sales Registration: Interstate Land Sales						
(1,460)	(1,981)	Yes	6/20/73	7/01/73	4	I
(1,849)	(1,379)	Yes	12/12/73	12/12/73	4	III
1,852	1,376	Yes	2/20/74	2/20/74	4	I
Department of the Interior						
Office of Territorial Affairs: Trust Territory of the Pacific Islands						
(71,550)	(800) 23/	Yes	2/02/74	2/02/74	5	I
72,350	---	NA	2/22/74	2/22/74	10	VI

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Bureau of Land Management: Public Lands Development Roads and Trails/1974 Program						
(4,000)	(8,961)	Yes	6/08/73	7/01/73	6d	I
5,205	18,961	Yes	10/03/73	10/03/73	6d	I
Public Lands Development Roads and Trails/1975 Program						
---	10,000	Yes	10/03/73	10/03/73	6d	I
Oregon and California Grant Lands						
(---)	(1,150)	Yes	6/08/73	7/01/73	4,5	I
28,750	5,243	Yes	10/02/73	10/02/73	5	II
Bureau of Indian Affairs: Road Construction/1974 Program						
57,060	20,000	Yes	9/12/73	9/12/73	6d	II
Road Construction/1975 Program						
---	75,000	Yes	9/12/73	9/12/73	6d	II
Bureau of Outdoor Recreation: Land and Water Conservation						
(208,168)	(61,422)	24/	6/08/73	7/01/73	6b	I
(297,223)	(57,568)	24/	11/03/73	11/03/73	5,6b,6d	I
(324,763)	(30,000)	24/	2/02/74	2/02/74	4,6d	I
305,463	(30,000)	24/	4/19/74	4/19/74	4,6d	I
Geological Survey: Payments from Proceeds, Sale of Water, Mineral Leasing Act of 1920						
(--- 25/)	(27)	Yes	5/06/73	7/01/73	4 26/	I
--- 25/	26	Yes	11/19/73	11/19/73	4	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Bureau of Mines: Drainage of Anthracite Mines						
200	3,575	Yes	6/08/73	7/01/73	4,5	I
Bureau of Sport Fisheries and Wildlife: Migratory Bird Conservation Account (Receipt Limitation)						
(9,000)	(981)	Yes	6/08/73	7/01/73	4	I
(12,000)	(981)	Yes	8/23/73	8/23/73	4	I
21,771	---	NA	11/02/73	11/02/73	10	VI
Federal Aid in Wildlife Restoration						
45,300	7,863	Yes	6/08/73	7/01/73	4,5	I
Federal Aid in Fish Restoration and Management						
14,565	2,339	Yes	6/08/73	7/01/73	4,5	I
National Wildlife Refuge Fund						
4,620	4,003	Yes	6/08/73	7/01/73	4,5	I
Proceeds from Sales, Water Resources Development Projects						
15	4	Yes	6/08/73	7/01/73	4,5	I
National Park Service: Parkway and Road Construction/1974 Program						
(16,338)	(34,610)	Yes	6/08/73	7/01/73	4,6d 27/	I
(16,338)	(229,610)	Yes	10/01/73	10/01/73	4,6d	II
51,183	108,115	Yes	11/02/73	11/02/73	4,6d	II

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effec (see code)
Parkway and Road Construction/1975 Program						
---	105,000	Yes	11/02/73	11/02/73	4,6d	II
Planning and Construction						
(28,100)	(14,500)	Yes	7/30/73	7/30/73	4	I
(79,675)	(14,500)	Yes	11/02/73	11/02/73	4,5	I
(79,675)	(14,500)	Yes	1/29/74	1/29/74	4,5	I
94,175	---	NA	3/11/74	3/11/74	10	VI
Operation, Management, Maintenance, and Demolition of Federally Acquired Property						
(17)	(65)	Yes	6/08/73	7/01/73	4,5	I
15	---	NA	11/02/73	11/02/73	10	VI
Bureau of Reclamation: Construction and Rehabilitation						
(16,970)	(1,055)	Yes	6/08/73	7/01/73	5	I
228,857	1,055	Yes	9/15/73	9/15/73	5 28/	I
Operation, Maintenance, and Replacement of Project Works, North Platte Project						
--- 29/	100	Yes	6/06/73	7/01/73	6e 30/	I
Upper Colorado River Basin Fund						
(9,072)	(1,390)	Yes	6/08/73	7/01/73	5	I
64,911	1,164	Yes	9/15/73	9/15/73	5	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Department of Justice						
Bureau of Prisons: Buildings and Facilities						
(---)	(36,441)	Yes	1/26/73	7/01/73	5,6b	I
45,823	13,594	Yes	9/19/73	9/19/73	5,6b	I
Department of Labor						
Employment Standards Administration: Special benefits						
284,300	20,706	No	1/17/74	1/17/74	1	V 31/
Department of State						
Acquisition, Operation, and Maintenance of Buildings Abroad						
62,484	44,521	Yes	12/31/73	12/31/73	4	I
Assistance to Refugees from the Soviet Union						
(---)	(36,500)	No	2/02/74	2/02/74	5	I
36,500	---	NA	3/15/74	3/15/74	10	VI
International Boundary and Water Commission, United States and Mexico: Construction						
15,681	4,983	Yes	12/18/73	12/18/73	5	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Department of Transportation						
Office of the Secretary: Transportation, Planning, and Research and Development						
(---)	(5,300)	Yes	6/30/73	7/01/73	4,6b	I
34,353	---	NA	9/14/73	9/14/73	10	VI
U.S. Coast Guard: Acquisition, Construction, and Improvements						
(30,946)	(10,609)	Yes	7/12/73	7/12/73	4,6b	I
(109,168)	(12,099)	Yes	9/14/73	9/14/73	4,6b	II
102,889	19,396	Yes	12/27/73	12/27/73	4,6b	II
Federal Aviation Administration: Civil Supersonic Aircraft Development Termination						
(---)	(3,575)	Yes	1/23/73	7/01/73	4,6b	I
3,600	3,033	Yes	9/10/73	9/10/73	4	I
Civil Supersonic Aircraft Development						
(---)	(2,153)	Yes	1/18/73	7/01/73	4,6b	I
800	2,755	Yes	9/10/73	9/10/73	4	I
Grants-in-aid for Airports (Airport and Airway Trust Fund)						
13,000	2,000	Yes	9/14/73	9/14/73	5	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effec (see code)
Facilities and Equipment (Airport and Airway Trust Fund)						
(---)	(207,631)	Yes	1/18/73	7/01/73	4,6b	I
293,075	261,919	Yes	9/12/73	9/12/73	4	I
Research, Engineering, and Development (Airport and Airway Trust Fund)						
(---)	(10,000)	Yes	1/18/73	7/01/73	4,6b	I
---	---	NA	9/14/73	9/14/73	10	VI
Federal Highway Administration: Highway Beautification						
(41,977)	(11,521)	Yes	6/29/73	7/01/73	4,5	I
50,000	---	NA	9/15/73	9/15/73	10	VI
Darien Gap Highway						
(---)	(545)	Yes	1/18/73	7/01/73	4,5	I
17,661	---	NA	9/14/73	9/14/73	10	VI
Highway-Related Safety Grants						
(10,459)	(7,897)	Yes	6/29/73	7/03/73	4,5	I
13,229	---	NA	9/15/73	9/15/73	10	VI
Federal-Aid Highways/1974 Program						
(1,617,000)	(2,791,841)	Yes	6/29/73	7/02/73	4,5,6a,6c	I
(4,742,497)	(3,414,149)	Yes	9/14/73	9/14/73	6a,6c	I
(4,741,018)	(3,414,619)	Yes	2/01/74	2/01/74	6a,6c	I
4,791,047	3,364,590	Yes	4/03/74	4/03/74	6a,6c	IV

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Federal-Aid Highways/1975 Program						
(6,010,000)						I
---	5,958,500 32/	Yes	2/01/74	2/01/74	4,5	I
Rail-Crossings-Demonstration Projects						
(22,322)	(3,053)	Yes	9/15/73	9/15/73	5	I
21,700	75	Yes	2/01/74	2/01/74	5	I
Territorial Highways/1974 Program						
(4,000)	(1,602)	Yes	6/29/73	7/01/73	4,6c	I
4,229	750	Yes	3/05/74	3/05/74	4,5	I
Territorial Highways/1975 Program*						
---	1,500	Yes	3/05/74	3/05/74	4,5	I
National Scenic Highways/1974 Program						
---	10,000	Yes	2/01/74	2/01/74	5	I
National Scenic Highways/1975 Program						
---	10,000	Yes	2/01/74	2/01/74	5	I
Trust Fund Share of Other Highway Programs/1974 Program						
(6,973)	(15,793)	Yes	6/29/73	7/03/73	4,5	I
(28,120)	(---)	NA	9/15/73	9/15/73	10	VI
27,993	10,000	Yes	2/01/74	2/01/74	5	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effec (see code)
Trust Fund Share of Other Highway Programs/1975 Program						
---	25,000	Yes	2/01/74	2/01/74	5	I
Forest Highways Trust Fund						
(24,000)	(47,604)	Yes	6/29/73	7/01/73	2,4,6c	I
26,000	---	NA	9/14/73	9/14/73	10	VI
Public Lands Highways						
(5,000)	(27,000)	Yes	6/29/73	7/01/73	2,4,6c	I
(5,000)	(5,000)	Yes	9/14/73	9/14/73	4,6c,6d	I
10,000	---	NA	3/05/74	3/05/74	10	IV
Right-of-Way Revolving Fund						
(48,000)	(74,782)	Yes	6/29/73	7/02/73	4,5	I
48,000	77,116	Yes	2/01/74	2/01/74	4,5	I
National Highway Traffic Safety Administration: State and Community Highway Safety						
(26,993)	(1,290)	Yes	7/02/73	7/02/73	1	I
66,771	---	NA	9/13/73	9/13/73	10	VI
Traffic and Highway Safety						
(56,068)	(2,000)	Yes 33/	9/14/73	9/14/73	5	I
86,405	2,000	Yes	1/24/74	1/24/74	5	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effe (see code)
Construction of Compliance Facilities						
(---) 34/	(9,018)	Yes	1/19/73	7/01/73	4,5	I
--- 34/	18	Yes	9/14/73	9/14/73	5	V
Trust Fund Share of Highway Traffic Safety Programs						
(16,848)	(2,580)	Yes	7/02/73	7/02/73	1,5	I
96,167	---	NA	9/13/73	9/13/73	10	VI
Federal Railroad Administration: Emergency Rail Facilities Restoration						
27,100	7,648	Yes 35/	7/27/73	7/27/73	2	I
High Speed Ground Transportation Research and Development						
(---)	(15,000)	Yes	1/19/73	7/01/73	4,6b	I
---	---	NA	9/14/73	9/14/73	10	VI
Grants to the National Railroad Passenger Corporation						
(---)	(10,000)	Yes	1/19/73	7/01/73	4,6b	I
(54,900)	(48,100)	Yes	9/13/73	9/13/73	4,6b	V 36/
103,000	---	NA	11/23/73	11/23/73	10	VI
Urban Mass Transportation Administration: Urban Mass Transportation Fund						
(941,300)	(210,853)	Yes	7/06/73	7/06/73	4,6b	I
985,550	---	NA	9/14/73	9/14/73	10	VI

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, & budgetary effect (see code)
Department of the Treasury						
Office of the Secretary: Construction, Federal Law Enforcement Training Center						
383	21,517	Yes	6/06/73	7/01/73	5	I
Bureau of Accounts: Subsidy Payment to Environmental Protection Authority						
75	1,188 37/	No	11/29/73	11/29/73	2	I
Atomic Energy Commission						
Operating Expenses						
(3,164,739)	(16,900)	Yes	9/15/73	9/15/73	5	I
(3,174,154)	(7,500)	Yes	11/19/73	11/19/73	5	I
3,181,086	---	NA	12/21/73	12/21/73	10	VI
Plant and Capital Equipment						
(48,470)	(1,830)	Yes	6/08/73	7/01/73	5	I
(637,577)	(9,750)	Yes	9/15/73	9/15/73	5	I
(637,912)	(9,400)	Yes	11/04/73	11/04/73	5	I
(643,812)	(3,500)	Yes	11/09/73	11/09/73	5	I
(645,812)	(1,500)	Yes	11/12/73	11/12/73	5	I
677,312	---	NA	1/10/74	1/10/74	10	VI

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effec (see code)
Environmental Protection Agency						
Research and Development						
(8,696)	(9,700)	Yes	10/19/73	10/19/73	5	IV
(183,612)	(3,700)	Yes	11/29/73	11/29/73	5	IV
(184,312)	(3,000)	Yes	1/29/74	1/29/74	5	IV
(184,381)	(3,000)	Yes	3/08/74	3/08/74	5	I
187,365	---	NA	4/10/74	4/10/74	10	VI
Abatement and Control						
(17,804)	(3,850)	Yes	10/19/73	10/19/73	5	IV
(266,514)	(16,850)	Yes	11/29/73	11/29/73	5	IV
(287,574)	(91,850)	38/	1/29/74	1/29/74	5	I
(288,378)	(91,350)	38/	4/10/74	4/10/74	5	I
291,528	88,200	38/	4/19/74	4/19/74	5	I
General Services Administration						
Real Property Activities: Sites and Expenses, Public Building Projects						
(---)	(22,206)	Yes	1/26/73	7/01/73	4	I
22,000	15,500	Yes	11/29/73	11/29/73	4	I
Construction, Public Building Projects						
(---)	(234,309)	Yes	1/26/73	7/01/73	2,4	I
73,653	20,803	Yes	11/29/73	11/29/73	4	I
Property Management and Disposal: Operating Expenses, Sale of Rare Silver Dollars						
(---)	(4,000)	Yes	11/30/72	7/01/73	4	I
3,400	1,386	Yes	9/05/73	9/05/73	4	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effe (see code)
Operating Expenses, Special Fund						
(---)	(850)	Yes	6/26/73	7/01/73	4,5	I
---	---	NA	8/16/73	8/16/73	10	VI
National Aeronautics and Space Administration						
Research and Development						
(---)	(2,200)	Yes	6/08/73	7/01/73	5	I
(2,860,194)	(9,300)	Yes	11/16/73	11/16/73	5	I
(2,867,294)	(2,200)	Yes	1/23/74	1/23/74	5	I
2,869,494	---	NA	3/06/74	3/06/74	10	VI
Veterans Administration						
Medical Prosthetic Research						
(---)	(3,648)	Yes	2/15/73	7/01/73	5	I
85,099	---	NA	11/23/73	11/23/73	10	VI
Construction, Major Projects						
(---)	(34,710)	Yes	6/13/73	7/01/73	5	I
114,626	---	NA	11/23/73	11/23/73	10	VI
Construction, Minor Prcjects						
(---)	(5,000)	Yes	12/20/72	7/01/73	5	I
66,685	---	NA	11/23/73	11/23/73	10	VI

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effe (see code)
Other Independent Agencies						
District of Columbia: Loans for Capital Outlay, Metropolitan Area Sanitary Sewage Work Funds						
(---)	(300)	Yes	8/07/72	7/01/73	4	I
3,900	5,300	Yes	9/05/73	9/05/73	4	I
Loans for Capital Outlay, Sanitary Sewage						
(---)	(4,285)	Yes	8/07/72	7/01/73	4	I
29,000	24,035	Yes	9/05/73	9/05/73	4	I
Loans for Capital Outlay, Water Fund						
(---)	(2,360)	Yes	8/07/72	7/01/73	4	I
8,000	7,460	Yes	9/05/73	9/05/73	4	I
Loans for Capital Outlay, Highway Fund						
11,900	5,956	Yes	9/05/73	9/05/73	4	I
Loans for Capital Outlay, General Fund						
(---)	(6,758)	Yes	1/26/73	7/01/73	4	I
176,500	29,526	Yes	9/05/73	9/05/73	4	I
Foreign Claims Settlement Commission: Payment of Vietnam and USS Pueblo Prisoner of War Claims						
9,125	7,229	Yes	7/12/73	7/12/73	5	I

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Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effec (see code)
American Revolution Bicentennial Administration: Commemorative Activities Fund						
(---)	(5,690)	Yes	11/28/72	7/01/73	5	I
4,556	3,510	Yes	2/01/74	2/01/74	5	I
National Science Foundation: Salaries and Expenses						
(56,900)	(3,500)	Yes	6/08/73	7/01/73	2	I
(620,845)	(13,900)	Yes	11/23/73	11/23/73	5	I
634,745	---	NA	12/06/73	12/06/73	10	VI
Occupational Safety and Health Review Commission: Salaries and expenses						
(4,296)	(445)	No	1/14/74	1/14/74	1,2	V 39/
4,242	445	No	2/06/74	2/06/74	1,2	V 39/
Railroad Retirement Board: Limitation on Railroad Unemployment Administration Fund						
8,578	4,822	Yes	7/01/73	7/01/73	4	I
Limitation on Salaries and Expenses						
20,830	500	No	1/18/74	1/18/74	1	I
Small Business Administration: Business Loan and Investment Fund						
(173,100)	(41,316)	Yes	6/29/73	7/01/73	2,4,6b	I
(178,100)	(48,294)	Yes	8/31/73	8/31/73	2,4	I
348,700	31,094	Yes	9/27/73	9/27/73	2,4	I

Amount apportioned	Amount in reserve	Available beyond FY 1974?	Date of reserve action	Effective date of reserve	Reason for current reserve (see code)	Estimated fiscal, economic, budgetary effec (see code)
Water Resources Council: Water Resources Planning						
(8,611)	(27)	No 40/	8/24/73	8/24/73	2	I
8,669	(27) 41/	NA	3/27/74	3/27/74	10	VI
Temporary Study Commissions: Commission on American Shipbuilding, Salaries and Expenses						
205	57	NA	12/10/73	12/10/73	2	II 42/
National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, Salaries and Expenses*						
167	165	Yes	2/25/74	2/25/74	4	I

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1/ Funds have not been apportioned pending review of plan.

2/ Funds reserved pending Presidential decisions.

2a/ This reserve was released on April 25, 1974.

3/ The amount apportioned is consistent with the limitation on the Foundation's activities according to P.L. 93-52 as amended.

4/ Funds in excess of $10,000,000 are not available in FY 1974 pursuant to P.L. 93-240.

5/ The 1973-74 Rural Environmental Assistance Program funds lapsed on December 31, 1973. The September 30 report incorrectly listed the funds as available beyond FY 1974.

6/ The funds in reserve have been apportioned pursuant to a U.S. District Court order which reinstated the 1973 REAP Program.

7/ The amount apportioned in this account is also apportioned in the Agricultural Stabilization and Conservation Service, Salaries and expenses account.

8/ The program level is above the amount reflected in the FY 1975 Budget.

9/ The amount apportioned in this account is required to finance a loan approved at the end of FY 1973.

10/ This apportionment action was inadvertently excluded from the September 30 report.

11/ The FY 1974 appropriation provides for program operation for the summer of calendar year 1974.

12/ FY 1972 contract authority in the amount of $24.6 million will lapse on 6/30/74.

13/ Code 6d was inadvertently excluded from the September 30 report.

14/ Anticipated deposits are currently estimated at $5 million more than anticipated in the budget estimates submitted to the Congress in January 1973.

15/ Funds are being held in reserve to cover operating costs during the exhibition period.

16/ This account title was changed from "Research, Development, and Facilities" on 12/31/73.

17/ The reserve is to be applied against increased pay costs when transfer authority is approved by Congress.

18/ This account was combined with the "Operations, Research, and Facilities" account on 12/31/73.

19/ Reason code 1 was incorrectly applied to the entries in the September 30 report.

20/ The reserve was made at the request of the Canal Zone Government as a contingency for possible future inspection services.

21/ The reserve action will increase the program level to a level greater than that contemplated in the most recently submitted budget document.

22/ The apportionment releasing the reserve was incorrectly excluded from the September 30 report.

23/ The apportionment of funds in reserve is temporarily deferred until sufficient information is available for implementing the new public land survey program. The new program was funded for the first time in the 1974 supplemental, (P.L. 93-245) enacted January 3, 1974.

24/ Each reserve includes $30 million of contract authority which becomes available at the first of each fiscal year and expires at the end of each fiscal year (16 U.S.C. 460L-10a); all other funds are available beyond 1974.

25/ The Department of the Interior has no present plans for the use of these funds which are available only for the development of water wells on public lands.

26/ Reason code 5 was incorrectly included in the September 30 report.

27/ Reason code 4 was inadvertently excluded from the September 30 report.

28/ Reason code 6b was incorrectly included in the September 30 report.

29/ No replacement or operation and maintenance work is currently necessary. (See footnote 30.)

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30/ 66 Stat. 754 requires that certain miscellaneous revenues be deposited in a special fund to provide for the replacement of the project works and to defray annual operating and maintenance expenses when necessary.

31/ The reserve, made at the request of the Department of Labor, does not change expected payments for benefits as estimated in the latest budget document. The reserve reflects reimbursements from other agencies in excess of the amounts estimated in the budget document. The release of the reserve would increase availability above expected needs. The reserve is available for benefit payments if required benefit payments exceed current estimates.

32/ This amount is potentially available for use under 1975 contract authority; the amount to be made available to each State for obligation in 1975 is anticipated to be announced by the Department of Transportation on July 1, 1974.

33/ The September 30 report incorrectly reported the reserve as unavailable beyond FY 1974.

34/ $9,000,000 was transferred by the 1974 Department of Transportation Appropriation Act to the Traffic and Highway Safety account.

35/ The authority for loan approval expired on June 27, 1973.

36/ The amount apportioned is the full amount legally available until action is taken on the amendment to the Rail Passenger Service Act of 1970.

37/ The reserve is required because the Congress previously provided permanent, indefinite authority (P.L. 92-500) for the subsidy payment. The funds in reserve will be written off in FY 1974.

38/ Contract authority of $75 million expires at the end of FY 1974; the balance is available beyond FY 1974.

39/ This reserve action was taken at the request of the Occupational Safety and Health Review Commission due to hiring delays. The reserve is available as a contingency against an increase in future contested citations.

40/ The September 30 report incorrectly reported the reserve as available beyond FY 1974.

41/ The funds in reserve were not needed and written off on April 8, 1974.

42/ The Commission on American Shipbuilding (authorized under the Merchant Marine Act of 1970, P.L. 91-469) was terminated on December 20, 1973. The funds in reserve that are not needed in FY 1974 will be written off.

[FR Doc.11464 Filed 5-14-74;8:45 am]

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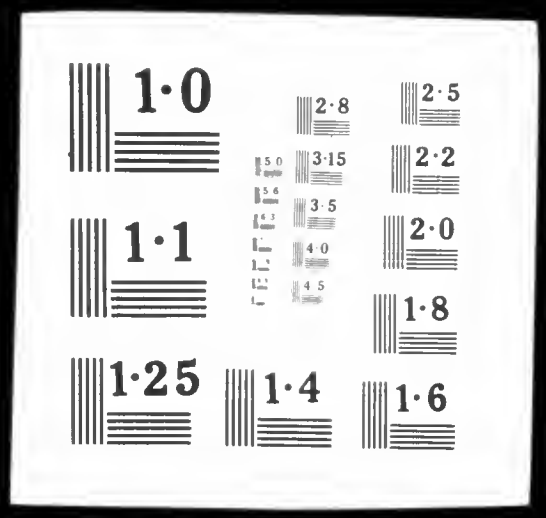
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RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100/20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.